

1 VIRGINIA:

2 IN THE COUNTY OF WASHINGTON

3 VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

4 VIRGINIA GAS AND OIL BOARD

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9 NOVEMBER 17, 1999

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12 BOARD MEMBERS:

13 MASON BRENT

14 MAX LEWIS

15 BENNY WAMPLER, CHAIRMAN

16 SANDRA RIGGS, ASSISTANT ATTORNEY GENERAL

17 CLYDE KING

18 RICHARD GILLIAM

19 BOB WILSON, ACTING DIRECTOR OF THE DMME

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BENNY WAMPLER: Good morning. My name is Benny Wampler. I'm Deputy Director for the Virginia Department of Mines, Minerals and Energy, and Chairman of the Gas and Oil Board. We'll get started with our meeting today. I'll ask the Board members to introduce themselves.

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

MAX LEWIS: My name is Max Lewis and I'm from Buchanan County. I represent as a public member.

SANDRA RIGGS: I'm Sandra Riggs with the Office of the Attorney General here to advise the Board.

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

RICHARD GILLIAM: Richard Gilliam, coal industry representative from Abingdon.

BOB WILSON: I'm Bob Wilson. I'm acting Director of the Division of Gas and Oil, and Principal Executive to the Board.

BENNY WAMPLER: Thank you. The first item on the agenda today is a petition from Pocahontas Gas Partnership for pooling of a coalbed methane unit; docket number VGOB-99-10/19-0756, continued from October. I don't see the folks

1 here for that.

2 I'll go ahead to the next agenda item. It's a
3 petition from Columbia Natural Resources for a well location
4 exception. This is docket number VGOB-99-10/19-0763,
5 continued from October. We'd ask the parties that wish to
6 address the Board in this matter to come forward at this
7 time.

8 JIM KISER: Mr. Chairman and members of the Board,
9 Jim Kiser on behalf of Columbia Natural Resources. Our
10 witnesses in this matter will be Ms. Mary Ann Fox and Ms.
11 Becky Barnes. We'd ask at this time that they be sworn.

12 (Witnesses are duly sworn.)

13 MASON BRENT: Mr. Chairman, before we get started,
14 I'd like to recuse myself from this hearing.

15 BENNY WAMPLER: All right. No problem.

16 JIM KISER: Mr. Chairman, we're here before you
17 today seeking a location exception or a variance from C & R
18 well number 23663, which is...we're requesting the Board to
19 approve our application to drill this well a distance of
20 2,418 feet 63 inches from that reciprocal well, which is
21 a...roughly a 71 foot exception from statewide spacing. My
22 first witness will be Ms. Fox.

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MARY ANN FOX

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

DIRECT EXAMINATION

QUESTIONS BY MR. KISER:

Q. Ms. Fox, if you'll state your name for the Board, who you're employed by and in what capacity?

A. My name is Mary Ann Fox. I work for Columbia Natural Resources and I'm a law services coordinator.

Q. And your...you've previously testified before the Board on location exceptions. I think the last time being in November of 1998, at which time the Board accepted your qualifications as a expert witness in land matters?

A. Yes, that's correct.

JIM KISER: We'd once again, Mr. Chairman, offer Ms. Fox as an expert witness in those matters.

1 BENNY WAMPLER: Okay. She's accepted.

2 Q. Now, you're familiar with the application
3 that we filed in this matter and your responsibilities at C &
4 R include the lands involved here and in the surrounding
5 area?

6 A. Yes, they do.

7 Q. And you're familiar with the fact that all
8 interested parties have been notified of this hearing as
9 required by Section 4B of the Virginia Gas & Oil Board
10 regulations?

11 A. Yes.

12 Q. And those interested parties would be Pixis
13 Resources, the coal owner and Pine Mountain Oil and Gas, the
14 oil and gas owner?

15 A. Yes, Clinchfield....yes.

16 Q. And does C & R have the right to operate the
17 reciprocal well, that being 23663?

18 A. Yes.

19 Q. Now, the acreage...this is the drilling
20 ...the tract that this well is being drilled on is a 4100
21 acre coal, oil and gas tract?

22 A. Yes, Big Sandy Fuel Court. Yes.

23 Q. Right. And the surrounding units...the
24

1 acreage in the surrounding units area are...is all under
2 lease to C & R?

3 A. Yes.

4 Q. So, there are no correlative rights issues?

5 A. No.

6 Q. And prior to filing this application, you've
7 contacted both the coal, oil and gas owners to discuss this
8 location exception?

9 A. Yes, I have.

10 Q. And pursuant to those discussions, could you
11 explain for the Board in your own words why we're seeking
12 this exception?

13 A. Yes. The oil and gas lease has a coal
14 provision which provides that the coal...and it's sort...sort
15 of dominant. They have the....dictate where we have to put
16 our gas well and they are boring coal from each side and this
17 is the only place that they will allow for us to put the
18 well.

19 Q. So, this is the only location within this
20 unit that they would approve this well?

21 A. Yes.

22 JIM KISER: Nothing further of this witness, Mr.
23 Chairman.

24

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1 BENNY WAMPLER: Any questions from members of the
2 Board?

3 (No audible response.)

4 BENNY WAMPLER: Call your next witness.

5

6 BECKY BARNES

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

9 DIRECT EXAMINATION

10 QUESTIONS BY MR. KISER:

11 Q. Ms. Barnes, if you'd state your name for the
12 record, who you're employed by and in what capacity?

13 A. My name is Becky Barnes. I'm employed with
14 Columbia Natural Resources and I'm a reservoir engineer.

15 Q. And you also have previously testified
16 before the Board in a location exception matter, specifically
17 being November of last year?

18 A. That's correct.

19 Q. And your qualifications as an expert witness
20 in the area of operations and production were accepted by the
21 Board?

22 A. Yes.

23 JIM KISER: We would once again tender Ms. Barnes as
24

25

1 an expert witness in those matters, Mr. Chairman.

2 BENNY WAMPLER: She's accepted.

3 Q. Now, you're also familiar with the
4 application that we filed seeking this location exception for
5 21615?

6 A. Yes.

7 Q. And in the event that this location
8 exception would not be granted, would you project the
9 estimated loss of reserves?

10 A. They would be approximately 500,000,000
11 cubic feet of gas.

12 Q. And the total depth of the proposed well
13 under the plan of development?

14 A. 5,860 feet.

15 Q. And this depth will be sufficient to
16 penetrate and test the common sources of supply in the
17 subject formations as listed in the permit package which is
18 filed with the DGO?

19 A. Yes, that's correct.

20 Q. And is the applicant requesting that this
21 location exception cover conventional gas reserves to include
22 those designated formations from the surface to the total
23 depth drilled?

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1 A. Yes.

2 Q. And in your professional opinion, will the
3 granting of this location exception be in the best interest
4 of preventing waste, protecting correlative rights and
5 maximizing the recovery of the gas reserves underlying the
6 unit for well number 21615?

7 A. Yes.

8 JIM KISER: Nothing further of this witness, Mr.
9 Chairman.

10 BENNY WAMPLER: Any questions from members of the
11 Board?

12 (No audible response.)

13 BENNY WAMPLER: Do you have anything further?

14 JIM KISER: We would ask that the application be
15 approved as submitted.

16 BENNY WAMPLER: Is there a motion to that affect?

17 CLYDE KING: Is there anyone here?

18 (No audible response.)

19 CLYDE KING: I make a motion to approve.

20 BENNY WAMPLER: Motion to approve. Is there a
21 second?

22 RICHARD GILLIAM: I'll second.

23 BENNY WAMPLER: Motion and second. Any further
24

1 discussion?

2 (No audible response.)

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

4 (All members signify yes.)

5 BENNY WAMPLER: Opposed, say no.

6 (No audible response.)

7 BENNY WAMPLER: You have approval. Thank you.

8 JIM KISER: Thank you, Mr. Chairman.

9 BENNY WAMPLER: We'll go back to the first item on
10 the agenda is a petition from Pocahontas Gas Partnership.
11 Mr. Kiser, before I do that, is there any problem...we've got
12 three items on the December docket and we were going to see
13 if there was any urgency to have those rather than have the
14 Board come back out here if we continued to January?

15 JIM KISER: Can I check with my client and then call
16 you?

17 BENNY WAMPLER: Sure. If you'd let us know.

18 JIM KISER: Yeah, I'll let you know by the end of
19 the week.

20 BENNY WAMPLER: Okay.

21 JIM KISER: I think the one location exception, they
22 might want to do. The amended supplemental order is probably
23 ...there's no urgency. I think they want to drill that well

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1 this year.

2 BENNY WAMPLER: Check and see.

3 JIM KISER: Because it wouldn't give them much time,
4 sixteen days.

5 BENNY WAMPLER: Yeah, I doubt they'd do it anyway.

6 JIM KISER: I'll check. Okay.

7 BENNY WAMPLER: Check and see.

8 JIM KISER: Okay.

9 BENNY WAMPLER: The item on the agenda that I'm
10 calling now is a petition from Pocahontas Gas Partnership for
11 pooling of coalbed methane unit under the Oakwood Coalbed
12 Methane Gas Field Order I order identified as R-52. This is
13 docket number VGOB-99-10/19-0756, continued from October.
14 We'd ask the parties that wish to address the Board in this
15 matter to come forward at this time.

16 MARK SWARTZ: Mark Swartz and Les Arrington on
17 behalf of the applicant, Pocahontas Gas Partnership. This
18 matter was set for the October hearings and there was a
19 mistake with the notice and so we had actually noticed the
20 surface owners as a respondent. We got that straightened out
21 and that's why it's back here today.

22 BENNY WAMPLER: The record will show there are no
23 others. You may proceed.

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1 (Les Arrington hands out exhibits.)

2 MARK SWARTZ: Okay. We need to swear the witness.

3 (Witness is duly sworn.)

4

5 LESLIE K. ARRINGTON

6 having been duly sworn, was examined and testified as

7 follows:

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DIRECT EXAMINATION

9 QUESTIONS BY MR. SWARTZ:

10 Q. Could you state your name for us, please?

11 A. Leslie K. Arrington.

12 Q. Who do you work for?

13 A. Consol.

14 Q. Did you prepare or cause to be prepared the
15 notice and application and the related exhibits concerning
16 this pooling application for R-52?

17 A. I did.

18 Q. And did you, in fact, sign the notice and
19 sign the application?

20 A. Yes.

21 Q. Is this an application to pool an 80 acre
22 frac unit under the Oakwood I rules?

23 A. Yes, it is.

24

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1 Q. Have you filed today revised Exhibits B-3, E
2 and a revised tract identification, or did we file that last
3 time?

4 A. That was filed the last time.

5 Q. Okay. So, you should have in your packets
6 from last time a revised Exhibit B-3, which would show
7 a...that the respondent...respondents are Fred and Dorothy
8 McGlothlin?

9 A. Yes, it is.

10 Q. And they should also have a revised Exhibit
11 E showing Pocahontas Mining Company and the respondents
12 McGlothlin as being in conflict?

13 A. Yes, it is. That should have been in the
14 original package.

15 Q. Okay. That we gave them the last time?

16 A. Yes.

17 Q. The applicant here is Pocahontas Gas
18 Partnership?

19 A. Yes, it is.

20 Q. And Pocahontas Gas Partnership is a Virginia
21 General Partnership comprised of two partners, Consolidation
22 Coal Company and Conoco, Inc.?

23 A. Yes, it is...yes. I'm sorry.

24

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1 Q. And who it is that the applicant is
2 requesting to be designated as operator by the Board?

3 A. Pocahontas Gas Partnership.

4 Q. Is Pocahontas Gas Partnership authorized to
5 do business in the Commonwealth?

6 A. Yes, it is.

7 Q. Has it registered with DMME and does it have
8 a blanket bond on file?

9 A. Yes, it does.

10 Q. Are the respondents here Mr. and Mrs. Fred
11 McGlothlin?

12 A. Yes, it is.

13 Q. Did you mail to them?

14 A. Yes, we did.

15 Q. When?

16 A. By certified mail, return receipt requested
17 ...and just a minute.

18 Q. Looks like from what you filed, it was
19 mailed on the 21st of October, is that right?

20 A. It probably was.

21 Q. Here.

22 A. I'll get my exhibits here. Yes, it was.

23 Q. And did they sign for the mail?

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1 A. Yes, they did.

2 Q. When?

3 A. On October the 22nd.

4 Q. And have you filed the return receipt card?

5 A. Yes, I have.

6 Q. Okay. Was this notice published?

7 A. Yes, it was in the Bluefield Daily

8 Telegraph. It was published on October 26, 1999?

9 Q. Okay. Do you want to add any respondents at

10 this time?

11 A. No, we do not.

12 Q. Do you want to dismiss any?

13 A. No.

14 Q. Well, we perhaps need to dismiss Wanda Reedy

15 since we noticed her originally?

16 A. We did give them notice. That is correct.

17 Q. And she's a surface owner?

18 A. Correct.

19 Q. Okay. Okay. The interest that you're

20 seeking to pool by this application is what interest?

21 A. It's the oil and gas interest of Fred and

22 Dorothy McGlothlin and that interest is 0.7625% interest.

23 Q. Okay. It's less than one percent?

24

1 A. That's correct.

2 Q. And does the...does Pocahontas Gas
3 Partnership own or have leases with regard to other 99.2375%
4 of the oil and gas claims?

5 A. Yes, we do.

6 Q. And what's the status of the coal claims?

7 A. We have 100% of the coal interest leased.

8 Q. With regard to lease terms that you've
9 offered in obtaining the leases that you've been able to get
10 and lease terms that you would offer to the respondents here,
11 what are will those terms be?

12 A. Those terms are a standard five year term
13 lease, \$1 per acre per year for a coalbed methane lease with
14 a 1/8 royalty.

15 Q. And would you recommend those terms to the
16 Board in the event an order is entered for the deemed to have
17 leased term?

18 A. Yes, we would.

19 Q. This unit that we're seeking to pool, is it
20 an 80 acre frac well unit?

21 A. Yes, it is.

22 Q. And it's under the Oakwood I rules?

23 A. Yes.

24

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1 Q. And the plat that has been filed shows one
2 well, is that correct?

3 A. Yes, it does.

4 Q. And is it within the 300 foot offset
5 drilling window?

6 A. Yes, it is.

7 Q. So, an exception would not be required?

8 A. That's correct, it is not.

9 Q. The...have you prepared and tendered to the
10 Board as an exhibit an estimate with regard to the well
11 costs?

12 A. Yes, I have.

13 Q. And what's that amount?

14 A. \$250,046.70.

15 Q. And what's the projected depth of that well?

16 A. 2,369 feet.

17 Q. Okay. The exhibit...the revised Exhibit B-3
18 sets forth the respondents interest in this unit, does it
19 not?

20 A. It does.

21 Q. And is that the interest that the
22 respondents could use to...will be using in the course of
23 calculating royalty and also will be used by the respondents
24

1 in the event they wanted to partic...elect to participate or
2 elect to be carried?

3 A. That's correct. It is.

4 Q. Is it your opinion that the plan of
5 development as disclosed by the application and exhibits is a
6 reasonable plan to develop the coalbed methane resources
7 under this unit?

8 A. Yes, it is.

9 Q. And is it your opinion that the proposed
10 well will contribute to the protection of the correlative
11 rights of the owners of the methane within and under this
12 unit in question and lessen this unit...and lessen the
13 likelihood of physical waste and economic waste?

14 A. Yes, it is.

15 Q. That's all I have.

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

18 (No audible response.)

19 BENNY WAMPLER: Do you have anything further?

20 MARK SWARTZ: No.

21 BENNY WAMPLER: Fred and Dorothy McGlothlin are oil
22 and gas owners?

23 MARK SWARTZ: Yes.

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1 CLYDE KING: No one is here to speak?

2 MARK SWARTZ: Right.

3 BENNY WAMPLER: Okay. Is there a motion to approve?

4 MAX LEWIS: I make a motion to approve.

5 MASON BRENT: Seconded.

6 BENNY WAMPLER: Motion and second. Any further
7 discussion?

8 (No audible response.)

9 BENNY WAMPLER: All in favor, signify by saying yes?

10 (All members signify yes.)

11 BENNY WAMPLER: Opposed, say no.

12 (No audible response.)

13 BENNY WAMPLER: You have approval.

14 The next item on the agenda is a petition from
15 Pocahontas Gas Partnership for pooling of a coalbed methane
16 unit under the Oakwood Coalbed Methane Gas Field I order and
17 identified as R-37, located in the Garden District of
18 Buchanan County, docket number VGOB-99-11/17-0764. We'd ask
19 the parties that wish to address the Board in this matter to
20 come forward at this time, please.

21 MARK SWARTZ: Mark Swartz and Les Arrington.

22 BENNY WAMPLER: The record will show there are no
23 others. You may proceed.

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1 MARK SWARTZ: I would move to...that the Board
2 consider consolidating the matter that was just called with
3 next four items. So, that would be docket numbers 4, 5, 6
4 and 7. The matter that the Board just called is a first time
5 pooling application. The next four are repoolings
6 that...they've all been pooled before and we're back for a
7 modification. The units are all touching each other as a
8 group and the next four essentially involve the same parties.
9 The number of folks that are here today are here on those
10 collection of units and I think it would just be a judicious
11 use of our time to kind of put it together and give everybody
12 one full chance to air their views. I will tell you that
13 the...with regard to the repooling of the four units, the
14 reasons are as follows: With regard to S-36 and T-36, there
15 has been an ongoing debate with Mr. McClanahan about his
16 western boundary of his tract and we have replatted that
17 showing all possible variations and permutations that we have
18 been able to identify and there's going to be a
19 recommendation that we simply escrow that because we don't
20 know where that line is. So, that's why those two units are
21 back on the docket.

22 The other two are back because the interest of the
23 folks who we're seeking to pool in R-37 was just missed. We
24

1 thought we had a lease from them and we need to pool them in
2 the remaining...in the other two units. So, that's why those
3 four units are back before you, having been pooled before.

4 BENNY WAMPLER: So, are you suggesting that 3, 4, 5,
5 6, and 7 be called together?

6 MARK SWARTZ: Yes.

7 BENNY WAMPLER: Okay. Any objection to that?

8 (No audible response.)

9 BENNY WAMPLER: Hearing none, the Board will go
10 ahead and call---

11 FRANK STACY: Sir? I'm sorry. Did you say R or
12 S...you said R?

13 CLYDE KING: R.

14 BENNY WAMPLER: The one I called is R-37.

15 FRANK STACY: Thank you.

16 BENNY WAMPLER: He's suggesting that I go ahead and
17 call the other four items which he's saying are the same
18 parties involved, and if there's no objection to that, I'm
19 going to go ahead and call those so we can just get the
20 issues on the table and deal with them.

21 FRANK STACY: Okay. Thank you.

22 BENNY WAMPLER: So, we'll deal with them separately.

23 So, I'll go ahead and call the petition Pocahontas gas

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1 Partnership for pooling of coalbed methane unit identified as
2 S-36, that's docket number VGOB-98-03/24-0626-02, and also
3 the unit identified as S-37, docket number VGOB-198-04/21-
4 0649-01; unit identified as T-36, docket number VGOB-98-
5 03/24-0625-01; and unit identified as T-37, docket number
6 VGOB-98-04/21-0650-01. We'd ask the parties that wish to
7 address the Board in this matter to come forward at this
8 time.

9 (Parties come forward.)

10 KENNETH OSBORNE: Mr. Wampler?

11 BENNY WAMPLER: Yes, sir.

12 KENNETH OSBORNE: Does the Board have any objections
13 if we video record this?

14 BENNY WAMPLER: I don't have objections.

15 KENNETH OSBORNE: Thank you, sir.

16 BENNY WAMPLER: Since we have a number of people
17 that will be speaking, I just want to remind you that it will
18 be real important for us to get a good record, that you
19 identify yourself when you are talking. Okay?

20 FRANK STACY: Okay, sir.

21 BENNY WAMPLER: Each time so that the reporter will
22 be able to do that and keep a clean record.

23 (Les Arrington hands out exhibits.)

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1 MARK SWARTZ: Could you swear, David, for me,
2 please?

3 (Witness was previously sworn.)

4

5 LESLIE K. ARRINGTON

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

8 DIRECT EXAMINATION

9 QUESTIONS BY MR. SWARTZ:

10 Q. Les, I'm going to remind you that you're
11 still under oath.

12 A. Yes, sir.

13 Q. Who do you work for?

14 A. Consol.

15 Q. And are all five of these applications,
16 applications made by Pocahontas Gas Partnership?

17 A. Yes, they are.

18 Q. Did you either prepare, or supervise the
19 preparation, of the notices, applications and exhibits in
20 these five units?

21 A. I have.

22 Q. Did you sign the notices and the
23 applications for all of the units?

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1 A. Yes, I did.

2 Q. Is Pocahontas Gas Partnership a Virginia
3 General Partnership?

4 A. Yes, it is.

5 Q. Are its two partners Consolidation Coal
6 Company and Conoco, Inc.?

7 A. Yes, it is.

8 Q. Who is Pocahontas Gas Partnership requesting
9 be designated by the Board as a designated operator?

10 A. Pocahontas Gas Partnership.

11 Q. Okay. Is Pocahontas Gas Partnership
12 authorized to do business in the Commonwealth?

13 A. Yes, it is.

14 Q. Is it registered with the DMME and does it
15 have a blanket bond on file?

16 A. Yes, it does.

17 Q. Are the respondents in each of these units
18 listed in the notice of...in the two blank in the notice of
19 hearing?

20 A. Yes, it is.

21 Q. And are they also listed in the Exhibits B-
22 3?

23 A. Yes, they are.

24

1 Q. And with regard to T-36 and S-36, there are
2 revised Exhibits B-3, are there not?

3 A. They are.

4 Q. Okay. The...did you mail copies....or mail
5 notices with regard to each of these five units?

6 A. We have. That was mailed on October the
7 18th, 1999.

8 Q. Did you publish?

9 A. We did. In the Bluefield Daily Telegraph on
10 October the 23rd, 1999.

11 Q. And what was published with regard to each
12 of the units?

13 A. The notice of hearing.

14 Q. All right. Have you filed today with the
15 Board copies of the return receipts and a spreadsheet showing
16 the status of all of the mailings?

17 A. We did.

18 Q. Do you want to add any respondents today?

19 A. No, we do not.

20 Q. Do you wish to dismiss any?

21 A. No.

22 Q. Okay. I'd like to turn to the interest that
23 we're going to be dealing with here. With regard to R-37---?

24

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1 A. Yes.

2 Q. ---are you seeking to pool 18.94202% of the
3 coal, oil and gas interest?

4 A. Yes, we are.

5 Q. Okay. If you turn to Exhibit B-3 in R-37,
6 let me show you here, it appears to me that we need to add
7 the word coal?

8 A. We do.

9 Q. Okay. So, will you undertake to file a
10 revised sheet?

11 A. Yes, we will.

12 Q. Okay. So, it should reflect on Exhibit B-3
13 not just oil and gas fee, but coal, oil and gas fee?

14 A. Yes...yes, it should.

15 Q. What is the status of the remainder of the
16 oil and gas claims concerning R-37?

17 A. It's under lease, and the coal underneath
18 that unit, we have a 100% of that coal leased.

19 Q. With regard to S-36, are you seeking to pool
20 87.60359 of the oil and gas claims...percent of the oil and
21 gas claims?

22 A. S-36, I needed to have filed with the Board
23 and a Revised Exhibit A, page two.

24

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1 Q. Oh, okay.

2 A. I'm sorry.

3 Q. All right. And what does that indicate that
4 you're pooling?

5 A. It indicates that we're pooling 42.82825% of
6 the coal interest and 87.34075% of the oil and gas interest.

7 Q. Okay.

8 CLYDE KING: Is that S-37?

9 BENNY WAMPLER: 36.

10 MARK SWARTZ: 6.

11 LES ARRINGTON: 6.

12 CLYDE KING: 36.

13 Q. Okay. And that you filed with the Board
14 today?

15 A. I have.

16 Q. Okay. And what is the status of the
17 remainder of the coal interest claims and the oil and gas
18 interest claims?

19 A. That is under lease.

20 Q. So, 57.17175%, for example, of the coal is
21 leased?

22 A. It is.

23 Q. And 12 plus percent of the oil and gas
24

1 interest.

2 A. It is. With a 100% of the coal interest
3 leased.

4 Q. Okay. S-37, what's the status...what needs
5 to be pooled and what has been leased for S-37?

6 A. Okay. S-37, we have a 100% of the coalbed
7 methane leased from the coal owners.

8 Q. Okay.

9 A. And we have leased 50.70604% of the oil and
10 gas interest and we're seeking to pool 49.29396%.

11 Q. Of the oil and gas?

12 A. Of the oil and gas interest, yes.

13 Q. With regard to T-36, what's the status of
14 leasing in that unit?

15 A. Okay. We have a coalbed methane lease from
16 the coal owners for a 100% and we have 74.27848% of the oil
17 and gas interest leased, seeking to pool 25.72152% of the oil
18 and gas interest and we also have a 100% of the coal leased
19 under that unit.

20 Q. Okay. With regard to T-37, what's the
21 status of the leasing?

22 A. We have 100% of the coal owners...coalbed
23 methane leased and 93.825% of the oil and gas interest,

24

--

1 seeking to pool 6.175% of the oil and gas interest.

2 Q. Okay. What lease terms would you offer
3 today to the outstanding unleased interest?

4 A. That will be a five year term lease, \$1 per
5 acre for a coalbed methane lease with a 1/8 royalty.

6 Q. And that \$1 per acre rental would be payable
7 until production commenced, correct?

8 A. Yes, it is.

9 Q. Would you recommend those terms to the Board
10 as appropriate to be inserted in the deemed to be leased
11 provision?

12 A. We would.

13 Q. In each of these five units, are we talking
14 about an 80 acre frac well unit under Oakwood I?

15 A. Yes, we are.

16 Q. And is it true that S-36, S-37, T-36 and T-
17 37 have been pooled before?

18 A. They have.

19 Q. Okay. And R-37, this is first pool?

20 A. That's correct, it is.

21 Q. And what you're seeking to pool and develop
22 would be all coal seams below the Tiller basically down to
23 the Pocahontas Three Seam, correct?

24

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1 A. That's correct.

2 Q. Is the Pocahontas Three Seam the target seam
3 of the wells, the targeted depth?

4 A. Yes, it is. Yes, it is. I'm sorry.

5 Q. With regard to the number of wells in the
6 units and whether or not any of them require a location
7 exception, does the plat for Exhibit R-37 indicate that there
8 are three wells in that unit?

9 A. Yes, it does.

10 Q. And that one of them is out of the drilling
11 window and would require a location exception?

12 A. R-37?

13 Q. Yes.

14 A. It does. I'm sorry. R-37C.

15 Q. Okay. Is it to the southern...is it to the
16 South of the drilling window?

17 A. Yes.

18 Q. Okay. S-36 has one well in it, is that
19 correct?

20 A. That's correct.

21 Q. And it's within the drilling unit?

22 A. It is.

23 BENNY WAMPLER: On R-37, you said...I believe you

24

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1 said one well is outside the drilling window.

2 LES ARRINGTON: Correct. No, there's two. I'm
3 sorry. There's two.

4 MARK SWARTZ: Oh, I'm sorry. There's two. Thank
5 you.

6 Q. Which...which two are outside?

7 A. R-37B and R-37C.

8 Q. Okay. And with regard to S-36, how many
9 wells?

10 A. One.

11 Q. And is it within the drilling window?

12 A. It is.

13 Q. S-37, how many wells?

14 A. Just a minute. I believe it is two.

15 There's two wells in it.

16 Q. And where...are they in or...in or out of?

17 A. They're inside the window.

18 Q. Okay.

19 DANNY McCLANAHAN: I would like to disagree with
20 that. There's not two wells in that unit.

21 BENNY WAMPLER: Danny, if you will identify yourself
22 for the record.

23 DANNY McCLANAHAN: My name is Danny McClanahan and
24

1 I'd like to disagree with that. There's not two wells in
2 that unit. S-367A does not exist.

3 (Swartz and Arrington confer with each other.)

4 DANNY McCLANAHAN: And you haven't even gotten the
5 S-37B showed on the map.

6 (Swartz and Arrington confer with each other.)

7 MARK SWARTZ: Les, is there a misdesignation of one
8 of the two wells shown on the plat?

9 LES ARRINGTON: Yes, there is and it should be S-
10 37B. S-37A actually...R-37C that was shown on R-37 was a
11 replacement well for S-37A.

12 DANNY McCLANAHAN: Well, it's still not there,
13 though.

14 LES ARRINGTON: That's correct, Danny, it isn't.

15 MARK SWARTZ: Is it proposed to be drilled---?

16 DANNY McCLANAHAN: Why are you showing it...what I
17 would like to know is why you showed that it's there?

18 MARK SWARTZ: Just a minute. Danny, you will have
19 an opportunity to cross examine my witnesses as will
20 everybody.

21 BENNY WAMPLER: Absolutely.

22 MARK SWARTZ: You know, if they want to testify,
23 I'll try to let them finish and, I think, you know, to move
24

1 things along, I'd like to finish the direct and they can have
2 at these folks, you know, for the rest of the day.

3 DANNY McCLANAHAN: Well, I...I'd like to go ahead
4 and break it up in single units then so that way we won't run
5 it all together and get this information confused. That way
6 we can run them off one at a time. I mean, I've got all day,
7 I don't know about you all, to take care of this matter; and
8 I believe the Linkous Horne heirs is here to stay all day,
9 too.

10 MARTHA WILLIAMS: I'm Martha Williams, heir to this
11 estate. I'm the granddaughter of Linkous Horne and I agree
12 with Danny. If you're not going to give us time to explain,
13 then break them up and do them one at a time.

14 DANNY McCLANAHAN: At one at a time. That's right.

15 BENNY WAMPLER: Well, we're going to give you time,
16 one at a time. In fact, we've called them all---

17 MARTHA WILLIAMS: Okay.

18 DANNY McCLANAHAN: Well, but he's...he's presenting
19 all of this information at one time and it's overwhelming us
20 and I mean, I don't...ain't nary one of us a lawyer. So,
21 we're...we're fighting this and doing the best we can then.

22 MARTHA WILLIAMS: That's right, Mr. Wampler.
23 We're...I'm a diabetic dietician. Danny has other interests.

24

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1 We have various careers. We're not an attorney like Mr.
2 Swartz, but we are educated enough to understand and deal
3 with this. We just...we just have interest in other fields.

4 DANNY McCLANAHAN: At one at a time.

5 MARTHA WILLIAMS: We're not...we're not legal
6 counselors. So, we'll need it broke down.

7 BENNY WAMPLER: Oh, we'll do that.

8 MARTHA WILLIAMS: Thank you.

9

10 DIRECT EXAMINATION RESUMES

11 QUESTIONS BY MR. SWARTZ:

12 Q. Mr. Arrington, can you tell the Board
13 whether or not there are two wells either already drilled or
14 proposed to be drilled in unit S-37?

15 A. There is two wells, and quite frankly,
16 that's my mistake. On S-37A, it should be S-37B.

17 DANNY McCLANAHAN: Where is it at, S-37B? Can you
18 tell me? It's not on there.

19 LES ARRINGTON: That's---.

20 DANNY McCLANAHAN: Only well they are is up there by
21 the church house, on past the church house, and that is PGP
22 S-37. There's only one well in that unit.

23 SANDRA RIGGS: They're proposing two wells in the
24

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1 unit and they're showing where the two wells will be located,
2 or are located, if they're already drilled.

3 DANNY McCLANAHAN: Well...well, by their depiction
4 on the maps, it shows the wells has already been drilled. A
5 proposed well is supposed to be showed different, ma'am.

6

7 DIRECT EXAMINATION RESUMES

8 QUESTIONS BY MR. SWARTZ:

9 Q. With regard to T-36, how many wells are
10 proposed or drilled in T-36?

11 A. There is...within that unit, there is two
12 wells, T-36 and T-36A, and quite frankly, I don't know why T-
13 36A didn't show up on this map. It is not lo...shown on this
14 map.

15 Q. Okay. But there's a second well proposed
16 for this unit?

17 A. Yes...yes, sir. I don't know what that...
18 why that didn't come out.

19 Q. Okay. And is it...is it with---?

20 DANNY McCLANAHAN: I'll tell you why. I'll...I'll
21 tell you why because it's too close to the boundary---

22 Q. And is it within, or without, of the
23 drilling unit?

24

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1 BENNY WAMPLER: Danny, I'm going to ask you to wait.
2 I'm going to let them go through and do theirs and then I'm
3 going to listen to you.
4 A. It's---.
5 Q. Or the drilling window, I mean.
6 CLYDE KING: Excuse me. Can I ask a question, Mark?
7 BENNY WAMPLER: Mr. King.
8 CLYDE KING: I'm sorry.
9 BENNY WAMPLER: Go ahead.
10 CLYDE KING: The S-37A is not S-37A then.
11 A. It'll be an S-37B, correct.
12 Q. Now, in T-36.
13 A. Yes, sir.
14 Q. Okay. Do you know whether or not the second
15 well is inside or outside of the drilling window?
16 A. It is outside the drilling window and if
17 you'll notice right where the 3B is on the plat, it says...it
18 has a tract 3B inside the square. You'll see the road
19 ending. Right at the end of that road is where the well is
20 located. I don't...I don't know why it didn't show it.
21 Q. Okay. And that would be T-3---?
22 A. 6A.
23 Q. Okay.
24

1 BENNY WAMPLER: And you're representing that as
2 a...as an existing well?

3 A. It is there. Yes, sir. I don't know why it
4 didn't show up.

5 Q. And if we turn to the cost estimate with
6 regard to this unit, it shows two permit numbers, does it
7 not?

8 A. It does.

9 Q. And drilling dates---?

10 A. Yes, it does.

11 Q. ---and depth?

12 A. Yes, sir, it does.

13 Q. Okay. So, it's on the...on the cost
14 estimate, but not on the plat?

15 A. Uh-huh. Uh-huh.

16 Q. Is that correct?

17 A. That's correct.

18 Q. Okay. With regard to unit T-37, how many
19 wells are either already drilled or proposed to be drilled in
20 T-37?

21 A. There's one well.

22 Q. Okay, is that well inside or outside of the
23 drilling window?

24

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1 A. It's in the drilling window.

2 Q. Okay. Now, with regard to the estimated

3 cost of the wells and the depth, or average depths, of the

4 wells, with regard to R-37, what is the cost that would be

5 the participation cost?

6 A. R-37, the average cost of those wells is

7 \$244,923.60.

8 Q. And the average depth?

9 A. Just a minute. 2,207 feet.

10 Q. What is the participation costs for S-36?

11 A. S-36 is \$245,015.

12 Q. And the depth?

13 A. 2,075 feet.

14 Q. S-37, what's the participation cost?

15 A. \$244,763.62.

16 Q. Is that an average?

17 A. That's the average. Yes, it is.

18 Q. What's the average depth of the wells in S-

19 37?

20 A. S-37. Average is 2,320 feet.

21 Q. Okay. T-36, what's the average cost?

22 A. \$249,444.63, average depth is 2314.35.

23 Q. T-37, what's the participation cost?

24

1 A. \$246,826.50 on 37 and its depth is 2,267.
2 Q. Okay. The target formation for all of these
3 wells is what?
4 A. Pocahontas Number Three Seam.
5 Q. And do you seek to develop gas from all of
6 the seams from the tiller on down basically?
7 A. Yes, we do.
8 Q. Okay. Today, have you filed amended plats
9 with regard...with the Board with regard to units S-36 and T-
10 36?
11 A. We have.
12 Q. And those would be in the collection of
13 exhibits for those two units that has a table of contents and
14 a list that you've given the number today?
15 A. Yes, it does.
16 Q. Okay. If we look at the plat for...we start
17 with the plat for unit T-36.
18 A. Uh-huh.
19 Q. There is a tract on T-36 identified as 3A,
20 is that Mr. McClanahan's or a portion of Mr. McClanahan's
21 tract?
22 A. Yes, it is.
23 Q. Go ahead and look at this list.
24

1 A. Okay.

2 Q. Okay. And then if we look at the revised
3 plat for S-36, does Mr. McClanahan's tract also cross over
4 into unit S-36?

5 A. Yes, it does.

6 Q. Okay. The S-36 unit, if you were to set it
7 sort of on top, it would close the tract?

8 A. Yes, it would.

9 Q. And on S-36, a portion of Mr. McClanahan's
10 tract is shown as tract 3C, is it not?

11 A. It is.

12 Q. Okay. And both of these plats have an
13 addendum?

14 A. They do.

15 Q. And is that an effort to summarize the
16 discussions mapping and history of the western line dispute?

17 A. Yes, it is.

18 Q. Okay. Now, there are also...and let's...and
19 let's stay with the revised plat to T-36. We have a tract 3A
20 and we've got a tract 3A-1, correct?

21 A. We do.

22 Q. And a 3A-2?

23 A. That's correct.

24

1 Q. And is that an effort to depict and
2 calculate the percentage in the unit for areas in dispute?

3 A. It is.

4 Q. Okay. Do you have a recommendation for the
5 Board with regard to whether or not escrow would be
6 appropriate for tracts on either side of those disputed
7 lines?

8 A. We do.

9 Q. Okay. And what's that recommendation?

10 A. We recommend that all of this interest be
11 escrowed. One, due to it's...that it's a conflicting claim
12 nobody matter who owns it, or what oil and gas owner owns it
13 with the coal owner; and number two, due to the boundary
14 dispute.

15 Q. Okay. Are you able today to certify to the
16 Board which of these collections of disputed lines is a
17 correct depiction of the deed?

18 A. I am not.

19 Q. Okay.

20 BENNY WAMPLER: The 3A-1 and 3A-2 identify the
21 disputed lines, is that correct, in the amended plat?

22 MARK SWARTZ: Well, actually, if you all could get
23 T-36.

24

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1 BENNY WAMPLER: I've got it---.

2 CLYDE KING: T? I'm sorry.

3 MARK SWARTZ: T...T as in Tom---.

4 BENNY WAMPLER: T-36.

5 MARK SWARTZ: ---36. This line that I've just
6 highlighted in blue is the first line. Okay?

7 DANNY McCLANAHAN: Let me see.

8 BENNY WAMPLER: That's the line that moves more
9 toward to the 3A tract.

10 MARK SWARTZ: Correct. Correct.

11 DANNY McCLANAHAN: Yeah.

12 MARK SWARTZ: That was the first one. In the...in
13 the addendum, that's referred to as the first line. Okay.
14 Then I've now gone to the other side of the sliver, okay, and
15 that would be the second line. Then, when we finally were
16 able to get a survey crew out there on the ground about a
17 month ago, that resulted in the dogleg and the interior line
18 that then connects with a portion of the first line. Okay.
19 So, that was the sequence here, and essentially what we're
20 reduced to here is simply reporting these are the locations
21 of disputed lines that we are aware of and the history in the
22 addendum kind of fills you in on that. And, you know, we're
23 not able to resolve that dispute and obviously you guys
24

1 aren't going to resolve it either, but from an escrow
2 standpoint, you know, we've got a disputed line and even if
3 we didn't have a conflict between the oil and gas and the
4 coal interest, which we do have, but even if we didn't, it
5 needs to be in escrow here until these folks, you know,
6 straighten out wherever that line is among themselves by
7 agreement or a judicial decree. We have calculated, you
8 know, and shown on the tract identification that was filed
9 today, you know, the acreage within those...those small
10 pieces that we've just talked about. So, you've got an
11 ability to quantify that. Although I'm not sure it really
12 matters since it needs to be escrowed, but we have done that
13 and listed the people with claims to that because obviously,
14 I mean, the folks on the other side of the line are a
15 claimant to that acreage. The...and if you look at...now
16 look at S-36, you know, a small piece of this disputed area
17 finds its way into the plat for S-36, which we have shown as
18 Tract 3C-1; and basically, it's the dogleg disputed tract
19 that finds its way into, or a portion, that finds its way
20 into the unit immediately above and it has...it also has an
21 addendum which is essentially the same summary of
22 circumstances and events.

23 At this point, I've got a few more questions of Mr.

24

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1 Arrington, but I think it makes sense to shift gears for a
2 minute just because Danny or David Miller did the work on the
3 ground here, or do you want me to finish with Les?

4 BENNY WAMPLER: Well, let me ask a question---

5 MARK SWARTZ: Okay.

6 BENNY WAMPLER: ---and I think you would probably
7 be better to finish with Les---

8 MARK SWARTZ: Okay.

9 BENNY WAMPLER: ---and then that way we can let
10 people question---

11 MARK SWARTZ: Okay.

12 BENNY WAMPLER: ---that testimony. How many wells
13 are in T-36? This plat shows one.

14 LES ARRINGTON: It shows one and---

15 BENNY WAMPLER: Do you have two permits?

16 LES ARRINGTON: I do have two permits and there are
17 two wells drilled and, again, as I said in my original
18 testimony, if you'll look right where it has on the plat the
19 tract 3B. Do you see my road going out and ending? It's
20 right there at the end of the road and why it didn't show
21 up---

22 BENNY WAMPLER: And which permit is that? Is that
23 4238 or---

24

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1 LES ARRINGTON: That will be T-36A. Just a minute.
2 I'll have to flip to that number.

3 (Mr. Arrington looks through file.)

4 BENNY WAMPLER: I think since we had some confusing
5 testimony on that, we need to get the permit number that
6 we're talking about.

7 LES ARRINGTON: T-36A is 4238. I'm sorry.

8 BENNY WAMPLER: You're referring to it as T-36A?

9 LES ARRINGTON: Yes, sir.

10 BENNY WAMPLER: And that's permit number 4238?

11 LES ARRINGTON: Yes, sir.

12 BENNY WAMPLER: Okay. You may proceed.

13

14 DIRECT EXAMINATION RESUMES

15 QUESTIONS BY MR. SWARTZ:

16 Q. Okay. Now, has the...with regard to these
17 two revised plats that we have been talking about---?

18 A. Yes.

19 Q. ---have you also filed revised tract
20 identifications?

21 A. We did.

22 Q. Okay. Let's...let's look at, for example,
23 the revised tract identifications concerning the plat T-36.

24

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1 Okay?

2 A. Uh-huh.

3 Q. And if we go to tract 3A, that shows Mr.
4 McClanahan as a surface owner, does it not?

5 A. It does.

6 Q. Okay. And does it also show Mr. McClanahan
7 as...as an oil and gas claimant?

8 A. It does.

9 Q. Okay. With regard 3A-1, what is the line up
10 on that conflict area?

11 A. Well, again, Danny McClanahan is a surface
12 owner and oil and gas claimant there. However, it could
13 either be Linkous Horne heirs or the Thomas Stilwell heirs
14 oil and gas.

15 Q. And with regard to coal?

16 A. The coal under all of these tracts is
17 McGuire/Hurt heirs.

18 Q. Okay. But the Linkous Horne heirs, if my
19 memory serves me correctly, dispute that McGuire and Hurt
20 owns the coal as well?

21 A. That's correct. Oh, I'm sorry. Yes.

22 Q. Okay. So, that would also be in conflict?

23 A. It could be.

24

--

1 Q. So, that is disclosed by the tract...all of
2 those claims are disclosed in tract...in regard to tract 3A-
3 1, correct?

4 A. Well, the coal interest is not shown as a
5 conflict there.

6 Q. Right.

7 A. It is shown as Hurt/McGuire, but they have
8 made that claim.

9 Q. Okay. And have you done the same for tract
10 3A-2?

11 A. We did.

12 Q. And then if we were to look at the tract IDs
13 for the revised plat and revised tract IDs for S-36, would we
14 find the same kind of discussion of claims and claimants?

15 A. Yes, you would.

16 Q. Okay.

17 BENNY WAMPLER: We want a revised plat reflecting
18 the wells.

19 LES ARRINGTON: Yes, I've already noted that.

20 Q. The last two things. Is it your opinion
21 that the development, as depicted on the various plats and
22 describing your testimony, is a reasonable plan to develop
23 the coalbed methane for all owners and claimants under these
24

1 five units?

2 A. Yes, it is.

3 Q. And would you recommend the same to the
4 Board as a reasonable plan of development to protect
5 correlative rights of all folks and prevent physical and
6 economic waste?

7 A. Yes, we would.

8 MARK SWARTZ; That's all I have of Les.

9 BENNY WAMPLER: Danny?

10 DANNY McCLANAHAN: Okay. My name is Danny
11 McClanahan again. I'd like to address the Board. First off,
12 I would like to ask, is this a standard form for them to fill
13 out here? Is that standard?

14 BENNY WAMPLER: It's not something that the Board
15 prescribes.

16 DANNY McCLANAHAN: Well, what...well, the reason
17 being is I've been told before that they don't have to
18 certify plats for the force pooling. Well, what...what
19 bothers me is on S-37 and T-37, if you'll go down to line six
20 and read that, it states that they're submitting certified
21 maps by a certified engineer. Also, on over in there, it
22 will show on number seven the same thing on those two units.
23 Now, on T-36 and S-36, those numbers don't say anything

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1 about a certified engineer. The two aforementioned wells has
2 got certified plat maps and I want to know why the Board is
3 letting these people approach them with maps that hasn't been
4 certified? And as he stated, me and this engineer has
5 surveyed my property and they're depicting it as taken from
6 deeds, as in before they had it showed as surveyed and it
7 hadn't never been. So, you know, they're moving this around
8 to their discretion. I believe when we touched on that in
9 June, Mark kind of just went on by that when you asked him to
10 explain that to you. He went ahead and told that they came
11 forth with these exhibits for 36...T-36 and S-36, showing my
12 interest. This was the only record that they presented
13 before the Board in June.

14 BENNY WAMPLER: Danny, we need you to cross examine
15 the witness. Really, you're...you're...you've gone into
16 testifying and what we really need is to have you cross
17 examine Les Arrington on his testimony to keep this record
18 straight.

19 DANNY McCLANAHAN: Okay. I want to know how...Les,
20 why they're showing my property as not being surveyed when
21 yourself was out there and they surveyed it.

22 LES ARRINGTON: We did not actually survey your
23 property, Danny. We located points and fence lines.

24

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1 DANNY McCLANAHAN: You run a ring all the way
2 around my property and tied it in to another point. So---.

3 LES ARRINGTON: We did not...we did not survey your
4 property. We surveyed what we found in the field. As you
5 know, that was what we were looking for is corners and
6 information and our maps depict exactly what we did find in
7 the field and what has been shown in the past.

8 DANNY McCLANAHAN: Who...and who helped you find
9 that in the field?

10 LES ARRINGTON: Why, you---.

11 DANNY McCLANAHAN: You was trying to point trees
12 out to this man here that didn't even pertain to my deed. I
13 had to go to the library and get a tree...a book on tree
14 identification where it calls for the...let me see...I can't
15 remember the name of the tree, but there's only two of those
16 in my holler and Les is wanting him to shoot down this fence
17 and that fence and down that fence. Now, if you get a survey
18 crew out there and tie into one point and start setting up
19 and running down my line, that's surveyed. It woodn't taken
20 from deeds. I...you know, I...I don't know how you break
21 that down. You've got a crew that spends two days out there
22 surveying my line. Now, they're saying that they took from a
23 deed description. I can't go along with that.

24

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1 BENNY WAMPLER: Do you---?
2 MARK SWARTZ: That's not a question.
3 BENNY WAMPLER: This...is this the map you're
4 talking about---?
5 DANNY McCLANAHAN: Yes.
6 BENNY WAMPLER: ---that they...the plat that they
7 produced?
8 DANNY McCLANAHAN: Yes.
9 BENNY WAMPLER: And you're saying that's a surveyed
10 plat and he's---?
11 DANNY McCLANAHAN: That is a surveyed plat.
12 BENNY WAMPLER: And Mr. Arrington, you're saying
13 that's not a surveyed plat?
14 DANNY McCLANAHAN: Well, Dave Miller, did you survey
15 that?
16 DAVID MILLER: Do you want me to---?
17 MARK SWARTZ: That's fine.
18 DAVID MILLER: We did...we did perform survey and
19 work in the field on it, as you know.
20 DANNY McCLANAHAN: And then they're still showing it
21 different. Like I said, I've come before the Board before
22 and the first...June the 15th, complained about these lines
23 as showing surveyed when they weren't. That falls back on
24

1 that location title search and stuff like that. I figured
2 the thirty some thousand dollars they keep charging. That's
3 another question on down the line as to how they can keep
4 double charging for that location and title on one plat.
5 Sure, they can do it on one plat, but for each well have to
6 pay that \$30,000. I don't think that's right. You know,
7 we're getting...we're getting charged double for location and
8 title on that. Can you...I mean, I still can't...I haven't
9 got an answer as to that.

10 You all was asking why these wells is not on there
11 because they're within...they're outside of the limits.
12 They're too close to the boundaries of the line. That's
13 another question. I thought all of the plats...is this the
14 plat or just the little going in on the inside?

15 BENNY WAMPLER: Are you asking Les to---?

16 DANNY McCLANAHAN: Is the whole plat, this one
17 right here?

18 LES ARRINGTON: The production unit is the
19 outside---

20 DANNY McCLANAHAN: I'm not asking about the
21 production unit. I'm asking about the plats. Plat maps
22 period.

23 MARK SWARTZ: Hold it. It's a map. You've got it

24

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1 in your hand.

2 DANNY McCLANAHAN: Well...well, that's what I'm
3 saying. The law states that you're supposed to show all
4 existing wells in the scope of that plat and there's more
5 than just one well not showed on this plat for T-36A. As you
6 can see, like he showed you before at the end of that road
7 there is where the well was. At the end of this road,
8 there's a well. At the end of this road, there's a well.
9 You know, this right here by them not doing that it...it
10 helps them in making your all's decision as to if that's
11 against other people's rights because it's too close to the
12 line. It's drawing more off from that line than it would be
13 off from my unit.

14 BENNY WAMPLER: Danny, that's why that window is
15 there. They have to identify any well that's in that window.

16 DANNY McCLANAHAN: But they didn't.

17 BENNY WAMPLER: They did through testimony.

18 DANNY McCLANAHAN: You know, they is...they is a lot
19 of questions here, Benny, still...like I say, I've been
20 through here since June trying to get this done and I'd like
21 to bring that back up.

22 You all ordered me into this order in the force
23 pooling, T-36 and S-36 in June. I have you on record as

24

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1 saying they presented maps and I've got the minutes...they
2 didn't present maps. Right here is the only thing they
3 presented to you all at the Board on the 15th and it has got
4 the percentages down. It has got me owning all of their
5 property, claiming all of their gas rights and that wasn't
6 right. They presented this and then they never showed no
7 maps. I'm the only one that showed maps at the June 15th
8 hearing. I wasn't aware...like I say, I'm not a lawyer. I
9 wasn't aware I had to enter it into evidence. I thought
10 everything that was said here was on the record.

11 BENNY WAMPLER: It is on the record.

12 DANNY McCLANAHAN: Well, the didn't...they did not
13 enter in there. All right. They first changed the maps on
14 T-36A. That was the revision that they say they made.

15 BENNY WAMPLER: Wait just a second. Are you
16 finished with cross examine of Les because that's what we
17 need to...we need to get that finished.

18 DANNY McCLANAHAN: Oh, I'm finished on that part.
19 Yes.

20 BENNY WAMPLER: Okay. And---.

21 DANNY McCLANAHAN: And they still...you know, I
22 still haven't gotten an answer when I asked this man. They
23 surveyed my property.

24

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1 BENNY WAMPLER: Well, he's going to call him as his
2 next witness.

3 DANNY McCLANAHAN: Okay.

4 BENNY WAMPLER: And then you can ask him questions.
5 Let me see if any of these other folks have questions of Mr.
6 Arrington before we move off that.

7 KENNETH OSBORNE: Mr. Wampler, I'm Kenneth Osborne.
8 I'm one of the Linkous Horne heirs. Just to start with, not
9 changing the subject, but I do feel Mr. McClanahan is
10 entitled to an answer which he hasn't...like he said, he
11 hasn't got an answer yet.

12 KENNETH OSBORNE: I'd like to know why the
13 modification in this unit S-37.

14 LES ARRINGTON: S-37?

15 KENNETH OSBORNE: Uh-huh.

16 LES ARRINGTON: I just need to flip back through my
17 notes.

18 KENNETH OSBORNE: All right.

19 LES ARRINGTON: I've got---.

20 (Mr. Arrington looks through his notes.)

21 LES ARRINGTON: The reason for the modification on
22 T-37---.

23 MARK SWARTZ: S.

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1 LES ARRINGTON: I'm sorry. S-37, was again, as we
2 stated in the R-37 unit. We left out the J. P. Royal and G.
3 W. Gillespie Estate thinking we had a lease on that interest
4 and that's the reason it has been repooled.

5 KENNETH OSBORNE: So, is the plat maps right on
6 that?

7 LES ARRINGTON: Let me look.

8 (Mr. Arrington looks through his notes.)

9 LES ARRINGTON: Okay. S-37, the actual property
10 locations, if that's what your question is, is correct. The
11 only problem on that plat is...as Mr. McClanahan stated, is
12 the S-37 well was permitted. S-37A, I'm sorry. That well
13 was permitted and we just couldn't get things worked out on
14 S-37A and we did permit another well, which I will revise the
15 plat and submit that.

16 KENNETH OSBORNE: This well, is this going to be S-
17 37B?

18 LES ARRINGTON: Yes, sir, it is.

19 KENNETH OSBORNE: And this is going to reflect on
20 the plat map?

21 LES ARRINGTON: It will.

22 KENNETH OSBORNE: Well, this is a question I guess
23 a lot of people in here is answering now, or asking now, and
24

1 it's considered as the Pine Ridge Road. We'd like to know
2 who give Consol or Pocahontas Partnership permission to cut
3 the right-of-way in half and set a well in there? There was
4 a letter submitted to Consolidated Coal Company, a registered
5 letter, asking for an explanation of who, in fact, gave them
6 permission to cut the right-of-way in half and set the well
7 there and they asked very nicely with a fifteen day notice
8 reply and it has been well over a couple of months and I
9 haven't received any notice, any word or anything.

10 LES ARRINGTON: First of all, I don't remember the
11 letter; and second of all, I believe if you visited the well
12 S-36 and have seen what has been done there, that existing
13 right-of-way is open and in...and in much better shape than
14 it was. If you have a problem with how it is open, I will
15 certainly take care of it. That right-of-way is open.

16 KENNETH OSBORNE: That's not the question. That's
17 not the question. Number one, I'm sure we have a receipt
18 where the letter was sent. But what I'm asking is who give
19 permission to cut that right-of-way in half and put a well
20 there?

21 LES ARRINGTON: Sir, that right-of-way is open at
22 this time.

23 KENNETH OSBORNE: That's not question I'm asking.

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1 I'm asking who give permission?

2 MARK SWARTZ: Well, you're asking a question that
3 says who gave permission to cut the right-of-way in half and
4 he's telling you it's not cut in half.

5 CLIFFORD OSBORNE: Excuse me. I'm Clifford Osborne.

6 KENNETH OSBORNE: Let me simplify that. Who give
7 permission to put a well there?

8 CLIFFORD OSBORNE: There's a gate up on that right-
9 of-way. It's been ordered to be taken down by the State
10 Police where Consol put up there and the gate is still there.

11 BENNY WAMPLER: Sir, you need your name for the
12 record, please.

13 CLIFFORD OSBORNE: I did. My name is Clifford
14 Osborne.

15 BENNY WAMPLER: Thank you, sir.

16 CLIFFORD OSBORNE: The State Police went up there
17 and took the deed to show the right-of-way belongs to us and
18 the gate was there and the order that they would take the
19 gate down. Consol put the gate up and it's still there.
20 It's locked. You cannot get through it. The gate is locked.

21 BENNY WAMPLER: Can you hear...can you hear any of
22 that?

23 (Court Reporter indicates she is having trouble
24

1 hearing.)

2 BENNY WAMPLER: You're going to...if you're going to
3 say something, you need to come forward where we can get it
4 recorded.

5 CLIFFORD OSBORNE: My name is Clifford Osborne.

6 BENNY WAMPLER: Let me ask you a question. Does it
7 pertain to this well?

8 CLIFFORD OSBORNE: It's on this right-of-way. It
9 has got the right-of-way blocked, our right-of-way.

10 MARY KEENE: There's a well in the middle of it.

11 CLIFFORD OSBORNE: The well is in the right-of-way.
12 Down below the gas well, there's a gate across the road.
13 Consol put the gate up. My sister took the deed and the
14 State Police up there and they ordered Consol to take the
15 gate down and the gate was still up and locked and that's
16 about all I've got to say.

17 BENNY WAMPLER: Thank you.

18 RONNIE OSBORNE: I'm Ronnie Osborne. He says
19 that---.

20 BENNY WAMPLER: We need you to come over here. We
21 can't...these are not...these microphones---.

22 RONNIE OSBORNE: Okay. I'm Ronnie Osborne and he
23 said the right-of-way is open. It is opened, but it's moved.

24

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1 Whose property is it on now?

2 DANNY McCLANAHAN: That's a valid question.

3 LES ARRINGTON: The right-of-way is open. There's
4 an existing right-of-way down by our well. It is open and in
5 better shape and the gate that he's speaking of, I...I'm
6 aware of that gate. However, that is a Consolidation Coal
7 Company problem. That was done years ago.

8 MARY KEENE: No, it wasn't.

9 CLIFFORD OSBORNE: No, it was not.

10 LES ARRINGTON: We had...we had nothing...the gas
11 operations had nothing to do with the gate. That's at the
12 bottom of the right-of-way.

13 CLIFFORD OSBORNE: There was a gate put up last
14 summer.

15 KENNETH OSBORNE: Mr. Arrington, what I'm asking you
16 is who give you...who give them permission to do anything
17 there? That's just a simple question.

18 LES ARRINGTON: We...yes, sir. And we purchased a
19 well site at that location from the surface owner of
20 that...of that piece...of that tract.

21 MARY KEENE: May I ask a question?

22 KENNETH OSBORNE: Who's the surface owner?

23 LES ARRINGTON: At this...just a minute. I can't
24
25

1 tell you.

2 MARY KEENE: Ain't we a surface owner when we own
3 the right-of-way?

4 BENNY WAMPLER: Folks, let me tell you. We
5 can't..we can't run a hearing this way. I mean, I...we want
6 to hear what you have to say, but we have to get...we need
7 to...we still can't hear you.

8 MARY KEENE: I'm Mary Keene and ain't we a surface
9 owner?

10 BENNY WAMPLER: I can hear you. I want to explain.
11 I can hear...it's not that I can't hear you. It's that they
12 can't get it on record. Okay?

13 MARY KEENE: Well, we're a surface owner if we own
14 the road.

15 BENNY WAMPLER: Go ahead and state your name.

16 MARY KEENE: Mary Keene. And if we don't own the
17 surface, how do we own the right-of-way? That's only simple.

18 FRANK STACY: Mr. Chairman, may I---?

19 MARY KEENE: And you told him he owned the gas when
20 we owned the gas and don't that cause confliction?

21 BENNY WAMPLER: We haven't...we haven't...we haven't
22 told him that at all.

23 MARY KEENE: Last...in June?
24
25

1 BENNY WAMPLER: No. He's a claimant.

2 SANDRA RIGGS: No, he's a claimant to the gas. But
3 that doesn't---

4 MARY KEENE: Well, that's what I...that's what I
5 want to find out.

6 SANDRA RIGGS: There's no determination over
7 ownership.

8 BENNY WAMPLER: The courts will have to determine
9 ownership just as the courts will have to determine who owns
10 the land.

11 KENNETH OSBORNE: Mr. Wampler?

12 BENNY WAMPLER: Yes, sir.

13 KENNETH OSBORNE: I think I asked a fairly
14 reasonable question. Now, for a matter of this importancy, I
15 mean, they should be able just to go to their records right
16 there and give me a name of who they purchased this from. I
17 mean---

18 LES ARRINGTON: We looked it up. I didn't have it
19 right on my memory there.

20 KENNETH OSBORNE: Okay.

21 LES ARRINGTON: It was Arlin Osborne. We did
22 purchase a well site from him.

23 MARK SWARTZ: It's in the application.

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1 LES ARRINGTON: And it's in our permit application.

2 MARK SWARTZ: No, it's in this pooling.

3 LES ARRINGTON: And it's in here. The surface owner
4 is in here. We did purchase the well site from them. They
5 have a right-of-way down through there. That right-of-way is
6 open and looks a whole lot better than what we...what it was
7 when we got there. I did visit that site prior to that well
8 being drilled.

9 RONNIE OSBORNE: My point was, though, it has been
10 moved. It has been moved.

11 DANNY McCLANAHAN: It's the right-of-way over there
12 on somebody else's property and if the people that owned that
13 property wants to stop them, they can stop them from using
14 that right-of-way because they put the well in the middle of
15 the right-of-way.

16 BENNY WAMPLER: Let me explain to you now. Those
17 are property issues, outside the jurisdiction of this Board,
18 just like the lease dispute. We can't solve those for you.
19 The courts have to solve those kinds of disputes if you can't
20 work them out among yourself. The Board...you know, I can
21 sympathize with you and all of that, but we can't solve those
22 kinds of problems for you.

23 MARTHA WILLIAMS: My name is Martha Williams, Salem,
24

1 Virginia, and heir to this estate and I just want to ask Mr.
2 Arrington. When you do these...when you purchase these well
3 sites, do you not go to the courthouse and look up these
4 deeds and find out the right-of-ways and all of this thing?

5 LES ARRINGTON: Yes, ma'am, we do.

6 MARTHA WILLIAMS: Okay. Then if you did this one,
7 you know Arlin Osborne did not own the Pine Ridge Road. If
8 you have been to the Grundy Courthouse like we have and
9 pulled up this deed. So, are you saying that you went ahead
10 and purchased this well site from Arlin Osborne knowingly
11 that he did not own it?

12 LES ARRINGTON: The surface owned...is owned by
13 Arlin Osborne.

14 MARTHA WILLIAMS: I'm talking about this 15 foot
15 right-of-way, the Pine Ridge, that is designated in these
16 deeds and named out the Pine Ridge Road?

17 MARK SWARTZ: I'm...you know---.

18 MARTHA WILLIAMS: All I want you to do is tell the
19 Board that you went ahead and purchased this well site,
20 knowing that it did not belong to Mr. Osborne.

21 MARK SWARTZ: You know, we can spend the entire day
22 arguing title, permit issues and all of this sort of stuff.
23 We can spend the whole day doing it, and no offense to you

24

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1 all, but you don't have jurisdiction over those issues. I
2 mean, the statute specifically---

3 MARTHA WILLIAMS: That's determined by the courts.

4 MARK SWARTZ: ---says that you are not to resolve
5 title issues. I mean, we've had that...we've come up a lot.
6 If they are permitting or compliance issues here, you know,
7 they need to be over at the Division of Gas and Oil. I mean,
8 I...you know, it's not...it's not something you can do
9 anything about.

10 MARTHA WILLIAMS: We can spend years coming down
11 here having you change these maps every time we come to get a
12 force pooling because there's a disagreement over the
13 boundaries. We don't have that time. We're taking days off
14 from work. We need to get this settled and we're kind of
15 tired of driving down here. This is like a two and a half
16 hour drive each way.

17 BENNY WAMPLER: Ma'am, the proposal before the Board
18 has been here that they can't resolve the title. Therefore,
19 they're asking to pool all interest so that all of the
20 interest is in there. And then---

21 MARTHA WILLIAMS: That's true, Mr. Wampler.

22 BENNY WAMPLER: Okay. So, you under...I want to
23 make sure you understood that.

24

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1 KENNETH OSBORNE: Okay. Mr. Wampler, that's to pool
2 all interest in the force pooling, right?

3 BENNY WAMPLER: Yes.

4 KENNETH OSBORNE: That means escrow account?

5 BENNY WAMPLER: That's right.

6 KENNETH OSBORNE: And that means deposit X amount of
7 dollars into escrow account?

8 BENNY WAMPLER: Right. The proceeds from the well.

9 KENNETH OSBORNE: I've...yes, sir. I've been having
10 a little trouble. I mean, I've been probably three months
11 now trying to get an accurate figure on these escrow accounts
12 and as of right now, the accurate figure I have is zero. I
13 just...I don't understand if they're making deposits in these
14 escrow accounts, then where is the money?

15 BENNY WAMPLER: Well, if you have specific wells
16 that you're interested in, I think we certainly...if there's
17 money on deposit and it's a producing well, we can get access
18 to those records.

19 KENNETH OSBORNE: I think we went that route,
20 haven't we, Mr. Wilson?

21 BOB WILSON: Yes. We inquired about Mr. Osborne's
22 interest...I'm not certain of the date. It was probably
23 about a month and a half ago the last time we inquired about
24

1 that and at that time the balance in that account was zero.

2 BENNY WAMPLER: Okay. Mr. Arrington, do you want
3 to---?

4 LES ARRINGTON: Yes, sir. That money is in suspense
5 awaiting a final number...percentage number to be put on
6 deposit with these supplemental orders and we do have the
7 money. But, you know, I...we can't...we don't know what
8 number to use. So...now, we do have a set of numbers here to
9 use now and it will be put on deposit just as soon as we have
10 an order to deposit it with.

11 BENNY WAMPLER: Do you understand that?

12 KENNETH OSBORNE: No, sir, I don't.

13 LES ARRINGTON: Sure. There has been so many
14 percentages that...at this...and I think it's only S-36. It
15 may be T-36 also. S-36 I can speak to. That money is
16 suspended, awaiting a final supplemental order to be drafted
17 and given to the bank; and once that's done, then whatever
18 money we've had in suspense will be deposited with the bank.

19 SANDRA RIGGS: In order to calculate the royalty,
20 they need to tie down these percentage interests because they
21 don't know what percentage interest to deposit in that
22 because this is in the process of being amended. With those
23 changing, they can't tie down the numbers. Do you see what

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1 I'm saying? They're waiting for this order and this
2 additional work that has been done here in order to be able
3 to apply that and come up with the dollar amount that needs
4 to go on deposit.

5 BENNY WAMPLER: Okay. You had a question.

6 FRANK STACY: Yes, sir. Mr. Chairman, I'm Frank
7 Stacy. I'm here on behalf of some of the Linkous Horne
8 heirs. If need be, there is several Linkous Horne heirs
9 here. As a matter of fact, I'd go as far as saying everyone
10 mentioned on the docket. I do have a couple of questions I
11 would like to address with the applicants. The monies that
12 you've not submitted, you say you're going to submit. There
13 has been no money submitted so far, is that correct?

14 LES ARRINGTON: That's correct. There hasn't been.

15 FRANK STACY: Okay.

16 LES ARRINGTON: Just as soon as this order is
17 entered, we'll do that.

18 FRANK STACY: Okay. And interest on the monies, I
19 assume they're going to come on line with it? That's a
20 question.

21 LES ARRINGTON: That money is in a suspense account.
22 I don't know the exact particulars about that account.

23 FRANK STACY: Okay. Who is controlling the money
24

1 currently?

2 LES ARRINGTON: In this case, it's Conoco, our
3 partner.

4 FRANK STACY: Okay. So, in other words, the
5 applicant is using the money currently themselves that should
6 be in escrow?

7 LES ARRINGTON: That money is in a suspense account.
8 No, sir, it's not being used.

9 FRANK STACY: Okay. And you...you have some records
10 to show that it is in a suspense account? Could you give us
11 a dollar figure, please?

12 LES ARRINGTON: No, sir, I can't. I don't...I
13 certainly wouldn't have that with me.

14 FRANK STACY: Okay. Okay. So, no idea on the
15 escrow amount? On which permits have you all made
16 modifications in relation to, for clarification if I may, S-
17 36, T-36, S-37, and T-37? I understood that you made some
18 modifications. Which particular permits were modified?

19 LES ARRINGTON: Permits---?

20 FRANK STACY: Okay. I'm sorry. The applications
21 that you've submitted.

22 LES ARRINGTON: Are you talking about the pooling
23 that we done?

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1 FRANK STACY: Yes, sir, on the pooling.

2 LES ARRINGTON: Okay. We have modified...we have
3 modified the S and T-36 on, I believe, this is our first
4 occasion. Mr. McClanahan modified it on the first occasion.
5 And R...the other ones once, with the exception of R-37.

6 FRANK STACY: Okay. Has everybody been notified of
7 the modifications and have they been advertised?

8 LES ARRINGTON: Yes, sir, they have.

9 FRANK STACY: Okay. Have they been advertised with
10 the modifications?

11 LES ARRINGTON: They have.

12 FRANK STACY: Including the lines you just showed to
13 the Board that had been moved, that has been advertised?

14 LES ARRINGTON: It certainly has. It was---.

15 FRANK STACY: It's not on the map that I have, is
16 that correct?

17 LES ARRINGTON: That's correct, it is not. On S and
18 T-36, that's correct.

19 FRANK STACY: Okay. Now, I'm confused. If the
20 Linkous Horne heirs have been notified that it has been
21 changed, yet it's not on the dockets we have, how did you
22 notify us---?

23 LES ARRINGTON: We---.

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1 FRANK STACY: ---that the line was changed?

2 LES ARRINGTON: We...we noticed that there was a
3 modification being made to the S and T-36.

4 FRANK STACY: Okay. You noticed it, but you
5 notified, you said, and I haven't seen the notification.
6 That's what I'm not sure of.

7 LES ARRINGTON: The publication was part of
8 our...the publication is S and T-36, that was part of the
9 exhibits that was presented to the Board and you're certainly
10 welcome to those.

11 BENNY WAMPLER: I think he has copies.

12 FRANK STACY: Pardon me?

13 BENNY WAMPLER: You have copies. That's what they
14 gave you.

15 FRANK STACY: No...I do?

16 BENNY WAMPLER: I don't know. I'm asking you.
17 Didn't...I thought he gave you a copy of what he gave the
18 Board.

19 LES ARRINGTON: That's...that's part of...I'm sorry.
20 I wasn't...

21 FRANK STACY: Okay. So, we're just now receiving
22 this, or I should already have this? I'm sorry.

23 DANNY McCLANAHAN: Yeah, this is the same thing we
24

1 got.

2 LES ARRINGTON: No, sir.

3 MARK SWARTZ: He should already have the plat.

4 FRANK STACY: Pardon me?

5 LES ARRINGTON: He has got the initial plat, Mark.

6 MARK SWARTZ: Right.

7 LES ARRINGTON: Yeah.

8 MARK SWARTZ: It shows a different line.

9 LES ARRINGTON: It shows a different line.

10 FRANK STACY: Okay. He has the initial...this is

11 the modification, is that correct, sir?

12 LES ARRINGTON: Now, that is the line...the

13 map...the line that's shown on the map is the...is the middle

14 line on the exhibits there that you...that I just gave you.

15 FRANK STACY: That you just gave me?

16 LES ARRINGTON: Yes, sir.

17 FRANK STACY: All right. And you have advertised it

18 in the paper with the changes? Is that what you're saying?

19 LES ARRINGTON: We advertised that line---.

20 FRANK STACY: That's on this?

21 LES ARRINGTON: What I advertised in the paper---.

22 FRANK STACY: Is on the previous?

23 LES ARRINGTON: ---was this unit being...coming up

24

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1 for a modification, T-36 and S-36.

2 FRANK STACY: All right.

3 LES ARRINGTON: That plat was not published.

4 FRANK STACY: I'm asking the Board if you modify...I
5 know in the coal fields. I'm not sure in the oil and gas.
6 If you modify an application, don't you have to readvertise
7 that there's an amendment or a modification to the
8 application?

9 BENNY WAMPLER: That's what they've done.
10 They...they advertised that they were going to come---

11 FRANK STACY: Okay.

12 BENNY WAMPLER: ---to the Board and make a
13 modification.

14 SANDRA RIGGS: For that drilling unit.

15 BENNY WAMPLER: For that drilling unit.

16 SANDRA RIGGS: That 80 acre drilling unit. You're
17 talking about individual tract lines within the drilling
18 unit.

19 FRANK STACY: Right. They're saying they're
20 changing the tract line now, is that correct---?

21 SANDRA RIGGS: Well---.

22 FRANK STACY: ---if I understood Mr. Swartz? He
23 was showing you that they were moving the tract lines.

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1 MARK SWARTZ: Actually, what we're saying is, we
2 don't know where the line is and we're show...we're showing
3 you the options that we have been presented with and
4 suggesting that it needs to be escrowed. So, I'm not moving
5 a line. I'm telling you I don't know where that line should
6 be.

7 FRANK STACY: Well, sir, I guess, my question is, if
8 don't know the facts of where the line is which could be
9 certified...I mean, surveyed and certified, how can you put
10 in a well with an accurate location and how can you go ahead
11 and escrow the monies into an account if you keep adjusting
12 the line and not submitting surveyed...certified surveys?
13 You can hold the escrow moneys as long as you want to, to use
14 yourself to put into future operations. So, it's unfair to
15 the heirs for you not to submit certified maps and not to
16 designate the locations and not to escrow the money as soon
17 as you receive it.

18 MARK SWARTZ: Okay. Is that a question or a---?

19 FRANK STACY: Yes, sir, that's a question.

20 MARK SWARTZ: Okay. I'll take it---.

21 FRANK STACY: Can you submit certified maps and do
22 you submit certified maps---?

23 MARK SWARTZ: I'll take...I'll take it in pieces.

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1 FRANK STACY: All right, sir.

2 MARK SWARTZ: As I have said over and over again, we
3 cannot certify that western line of the McClanahan tract for
4 the reasons set forth in the addendum. It needs to be
5 settled by a lawsuit or an agreement between the parties on
6 either side of that line. I have no power to make that
7 happen. So, I cannot certify that line because we don't know
8 where it is. If that line dispute needs to be resolved, it
9 needs to be resolved by the property owners. I don't have
10 control of that.

11 With regard to the money, the production allocated
12 to this unit is an identifiable number. Once we have an
13 order from the Board that quantifies the percentages, because
14 we're adding the Royals here...Gillespie here, the money is
15 determined, the escrow agent will get an order saying accept
16 money with regard to this tract and it can be paid regardless
17 of where that line is. I think that's the collection of
18 questions you asked and that's my answer.

19 FRANK STACY: The only question I have, and not
20 directly a question for the Board, but I want you to take it
21 into consideration in your decision. If they don't know
22 where the lines are at and they're not sure who owns it, but
23 they're wanting to pool it, the Board has no way of knowing

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1 that the proper people are here to defend themselves. I
2 mean---.

3 SANDRA RIGGS: They know who the owner on this side
4 is and the owner on this side is and both of those people
5 have been named as a party to these proceedings. They just
6 don't know which way it shifts.

7 DANNY McCLANAHAN: No, ma'am, they haven't. The
8 Stilwell heirs on the western boundary is not here. They
9 weren't added into this.

10 (Mr. Swartz and Mr. Arrington confer with each
11 other.)

12 SANDRA RIGGS: They're leased.

13 MARK SWARTZ: We have a lease.

14 DANNY McCLANAHAN: Well, if they're leased, though,
15 how can...you know, if they're leased, it wouldn't matter
16 where my line is. He's saying that I'm...I'm in conflict
17 with the Stilwell heirs as to that line on the western
18 boundary of my property when they've already leased. So, it
19 really don't matter to them. They surveyed that out and---.

20 MARK SWARTZ: It matters to the Stilwells.

21 DANNY McCLANAHAN: Yes, sir. It would be on the
22 western part of my property line, the Stilwells do own that
23 property on that side and your argument is, you know, that

24

--

1 we've got to come to a decision as to that and you all have
2 already surveyed it. You know, they've already leased to
3 you.

4 MARK SWARTZ: But that doesn't determine what part
5 of the money they're entitled to vis a vis you and your
6 claims. I mean, the fact that we have a lease from them is
7 why they're not here because we don't have to force pool
8 people we have leases from, but that doesn't mean that they
9 don't have, you know, money at stake here with regard to the
10 location of this line.

11 DANNY McCLANAHAN: Well, that's also another concern
12 of mine. I'd like to know how you can lease property off of
13 somebody that Hurt/McGuire already claims he owns the gas
14 rights on? That's the reason there's a conflicting claim and
15 you're unable to pool that.

16 MARK SWARTZ: Actually, Hurt/McGuire claims they own
17 the coal.

18 DANNY McCLANAHAN: Well, who is the conflicting
19 claimant on the gas then, why they got all of the people down
20 there on conflicting claims in that...those orders, the
21 Stilwell heirs, Mr. Linkous Horne heirs, me, myself, Mitchell
22 Counts and them...how come they can do that if there's not a
23 conflicting claim? Who is the conflicting claimant over all
24

1 of this? Hurt/McGuire.

2 MARK SWARTZ: Well, I'm telling you, we're
3 identifying them as a coal owner.

4 DANNY McCLANAHAN: Well, who...that's what I'm
5 asking you, Mark. Is who is the conflicting claimant? If
6 there's nobody else conflicting, the Stilwells own their gas,
7 the Linkous Horne owns their gas and Mitchell Counts and them
8 owns their gas. Who is the conflicting claimants?

9 MARK SWARTZ: The problem is that if somebody owns
10 all the coal, or takes the position that they own all of the
11 coal, and other...a collection of other people contend they
12 own the oil and gas, all of that money is in conflict. All
13 of that is a conflicting claim. The wrinkle here in regard
14 to these units is the Linkous Horne heirs claim that they own
15 your gas. You claim you own their gas.

16 DANNY McCLANAHAN: Yeah, but what...I'm...that's not
17 what I questioned you.

18 MARK SWARTZ: Well, I'm just answering your
19 question. But what the problem here is and the responses I
20 think you were indicate...you did say that the McGuire and
21 Hurt heirs were claiming oil and gas and they're not. I
22 mean, their interest is shown as a coal...a coal owner.
23 There's an argument between them and Linkous Horne heirs as
24

1 to who owns the coal. There's an argument between a whole
2 bunch of folks here with regard to the oil and gas interest
3 and that puts all of this money in conflict.

4 DANNY McCLANAHAN: My question is, though, the coal
5 owner...that's the reason you all are being able to force
6 pool this is because the coal owner claims the rights to the
7 gas and oil more or less. You all are not depicting it in
8 here.

9 MARK SWARTZ: Well, we also have leases from other
10 oil and gas owners.

11 DANNY McCLANAHAN: Well, that's what I asked you.
12 How can...if they're in conflicting claims...it shows right
13 there in the papers, how can they lease something that we're
14 not showing who owns the property, who owns the gas rights?

15 MARK SWARTZ: If you have a claim, you can lease
16 that claim.

17 BENNY WAMPLER: It's just like you would be able to
18 lease---

19 DANNY McCLANAHAN: Well, how could...how could...I'm
20 claiming it. What would they do if I claim it and I...I
21 elect to be a participating operator on a carried basis?
22 Would they take my percentage on the carried basis and escrow
23 that until it's decided?

24

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1 MARK SWARTZ: Right. That's correct.

2 SANDRA RIGGS: Uh-huh.

3 BENNY WAMPLER: Yes. That's right. That's what has
4 to be because there's no determine...no determination of
5 ownership.

6 DANNY McCLANAHAN: Well, on this...on the...on
7 listing me as a conflicting claimant, I'd like to enter into
8 evidence T-36, the first well in that unit.

9 SANDRA RIGGS: Are we through with---?

10 BENNY WAMPLER: Let me...let me hold you because he
11 has...he has got another witness to call. Okay.

12 DANNY McCLANAHAN: Oh, okay.

13 (Ms. Riggs confers with Mr. Wampler.)

14 BENNY WAMPLER: Yeah, I'm...as I said, I'm going to
15 let you all...if you have a case to put on, I'm going to let
16 you do that.

17 DANNY McCLANAHAN: Okay. Go ahead.

18 BENNY WAMPLER: But I'm...I'm trying to finish with
19 this witness and then we'll go to the next to the next
20 witness and then we'll listen you have a case to put on.
21 Okay.

22 MARTHA WILLIAMS: I'm Martha Williams and I would
23 just like to clear one thing up. You can look it up in the
24

1 records, Mr. Arrington or Mr. Swartz, we don't claim the
2 rights to the coal. The Linkous Horne heirs, we have
3 not...there's no place in these records that I have that we
4 have listed coal and gas...methane gas, coalbed and so on.
5 We have no place in any of these packets that I have that we
6 claim the coal. Maybe I have overlooked it. I don't see
7 well. You know, if you have, if you would point that out to
8 me.

9 MARK SWARTZ: I've been permitting hearings before
10 Mr. Fulmer over at the Division of Gas and Oil where the
11 Linkous Horne heirs have said they don't believe Hurt/McGuire
12 owns the coal over, over and over again. So, that's where
13 it's coming from.

14 MARTHA WILLIAMS: Well, you didn't write that in the
15 packets that you sent to my house.

16 RICHARD OSBORNE: Well, I'm Richard Osborne and you
17 haven't proved that to us yet that we don't own it.

18 MARK SWARTZ: That's the basis for the statement I
19 made.

20 BENNY WAMPLER: See, that's why it is all being
21 escrowed. I mean, that's exactly why it needs to---.

22 RICHARD OSBORNE: That's the whole point. That's the
23 whole point.

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1 BENNY WAMPLER: Okay.

2 RICHARD OSBORNE: Okay. Why can't these fellows
3 right here come up with the....who did they lease it from,
4 when they leased it and let us know when...I...they ain't
5 proved nothing to me.

6 MARK SWARTZ: Because---.

7 MARTHA WILLIAMS: Or shouldn't we be written in
8 these packets as maybe potential coal owners or...or
9 claimants or so on like Danny is to the gas?

10 SANDRA RIGGS: You're already listed as a claimant
11 to the coalbed methane gas and that's what's---.

12 MARTHA WILLIAMS: I'm talking about the coal. We're
13 not talking about the coalbed methane.

14 SANDRA RIGGS: Well, this Board doesn't regulate the
15 coal. It only...we're only talking about coalbed methane gas
16 and you're already---.

17 DANNY McCLANAHAN: And gas.

18 FRANK STACY: Oil and gas.

19 SANDRA RIGGS: ---listed as a claimant to the
20 coalbed methane gas.

21 MARTHA WILLIAMS: So, then when Mr. Swartz makes
22 this statement, he should delete the coal? Is that what
23 you're saying?

24

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1 SANDRA RIGGS: Coal owners and gas and oil owners
2 are potential claimants to coalbed methane. So, you list
3 both.

4 MARTHA WILLIAMS: But you're saying that you have no
5 control over the coal. So, then when Mr. Swartz makes the
6 statement, he should just delete the coal and say the gas and
7 oil.

8 SANDRA RIGGS: When you're named in a pooling
9 application, you're named as a claimant to the coalbed
10 methane gas regardless of whether you do it as a coal owner
11 or as a gas owner.

12 CLYDE KING: This Board only hears for gas and oil.

13 MARTHA WILLIAMS: Okay. That's my...that's my
14 answer. So, then what you're saying is Mr. Swartz should
15 just delete the word coal.

16 MARK SWARTZ: Whatever.

17 MARTHA WILLIAMS: Okay.

18 SANDRA RIGGS: No. No, that's not what I'm saying.

19 RICHARD OSBORNE: And I feel like we need to delete
20 the word coalbed methane.

21 SANDRA RIGGS: The statute sets out---.

22 RICHARD OSBORNE: It's a natural gas.

23 SANDRA RIGGS: Well, that's set by statute. That's
24

1 not up to Mr. Swartz. The gas and oil act says we don't know
2 who owns coalbed methane gas. There has not been a court
3 decision. Until that decision is made, we're going to name
4 all potential claimants and that includes gas owners and coal
5 owners and if they're in conflict, the money will be escrowed
6 to protect those rights until they go into Court and prove
7 what it is they own and that's why this Board does not have
8 jurisdiction to make these ownership decisions. You're going
9 to have to take that issue to a Court of competent
10 jurisdiction and that's the Circuit Court in the county where
11 the property is located. Then when you get that Court order
12 and come here and prove that you own either the coal or the
13 gas and that that ownership prevails over coalbed methane,
14 this Board will disburse the money that it's holding to the
15 proper property. But this Board cannot decide who that
16 proper party is.

17 RONNIE OSBORNE: But it can decide that the money
18 will be put in the bank instead of zero (inaudible).

19 SANDRA RIGGS: Exactly. That it can do. As we get
20 the---

21 RONNIE OSBORNE: We don't know where the money is
22 at. How can they disburse it?

23 RICHARD OSBORNE: That's it. They don't know where
24

1 the money is at. They don't have no figures.

2 BENNY WAMPLER: Well, the money will be moved into
3 escrow whenever the Board issues an order. This has been a
4 disputed order for almost a year now.

5 MARY KEENE: May I speak once again? If they've got
6 one deed telling them they own the coal and they know they
7 own the coal by that one deed, and we got one deed that tells
8 us we own this gas and all of this minerals, then that deed
9 is as good as their deed.

10 SANDRA RIGGS: Well, I think, you go back and
11 examine---

12 MARY KEENE: Without us having to go to court.

13 SANDRA RIGGS: No, you examine the chain of title to
14 see whose conveyance takes priority.

15 DANNY McCLANAHAN: That's right.

16 MARY KEENE: See, they can take the coal without
17 taking us to Court. They can take---

18 SANDRA RIGGS: Well, you can take them to court.

19 MARK KEENE: ---gas without taking us to court.

20 SANDRA RIGGS: If you don't think they own it, you
21 can take them to court.

22 MARY KEENE: Well, we know that they don't own it
23 and they know they don't own it.

24

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1 SANDRA RIGGS: Well, then you need to go into court
2 to prove that is all we're saying here.

3 MARY KEENE: And then that other little thing
4 you'uns talking about who pumped the gas. See, when
5 you're...you're borderline like they was talking about the
6 line, the papers plainly tells you they pull 80 acres of
7 minerals out of that grounds. Okay. If they're right on the
8 line, they're going to pull 40 acres off of the Stilwell
9 heirs and they're going to pull 40 acres of gas off of the
10 Horne heirs. Is that the way that goes when they're right on
11 the line?

12 SANDRA RIGGS: That's reg...that's regulated by the
13 field rules.

14 DANNY McCLANAHAN: Spacing.

15 SANDRA RIGGS: The field rules...well, spacing has
16 been superseded in the Oakwood by the Oakwood I and Oakwood
17 II Field Rules. So, you look to the Field Rules for those
18 ...for those spacing requirements.

19 DANNY McCLANAHAN: So, it allows them to put it
20 within a 150 feet of the boundary lines on either?

21 SANDRA RIGGS: 300 feet unless they have an
22 exception and they have to apply for that exception.

23 DANNY McCLANAHAN: Well, when they apply for an
24

1 exception like that, do they have to notify---?

2 SANDRA RIGGS: That's through the permit.

3 DANNY McCLANAHAN: ---everybody?

4 SANDRA RIGGS: That's through the permit and
5 everybody gets notice of that permit application through the
6 permitting process.

7 KENNETH OSBORNE: Mr. Wampler?

8 BENNY WAMPLER: Yes, sir.

9 KENNETH OSBORNE: I'm sorry. I have to go back to
10 this escrow account still again.

11 BENNY WAMPLER: That's all right.

12 KENNETH OSBORNE: But...okay. You're saying...or
13 they're saying before money can be put into that account,
14 there has to be what from the Board?

15 BENNY WAMPLER: They need an order, a supplemental
16 order...we'll have to have an order pending today's hearing
17 decision.

18 DANNY McCLANAHAN: Right.

19 KENNETH OSBORNE: Uh-huh.

20 BENNY WAMPLER: There has to be an order. Following
21 that, there will be an supplemental order that will order
22 that money...order the escrow agent to establish the account
23 and the money moved into it.

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1 KENNETH OSBORNE: Okay. Is what I'm understanding
2 right now, as of this time, there has not been any
3 supplemental ...supplementary order on any of these wells at
4 this time?

5 LES ARRINGTON: There has been some supplemental
6 orders issued. However, we know that the interest in that
7 was subject to change due to this boundary dispute. We went
8 ahead and...well, I did that. I suspended that money so it
9 wouldn't go in there as a wrong amount...as a wrong amount.
10 I didn't...if you would like, we'll put it in on the old
11 amount...on the old interest.

12 KENNETH OSBORNE: In other words...in other words,
13 we're back to...back to...back to---

14 FRANK STACY: Square one.

15 KENNETH OSBORNE: ---no money is in the account,
16 right?

17 LES ARRINGTON: To my knowledge, there's not and
18 it's due to this ongoing conflict.

19 RICHARD OSBORNE: Well, how do we know that you
20 ain't going to pocket some of our money.

21 LES ARRINGTON: Sir, if you want---

22 MARK SWARTZ: You don't need to respond to that.

23 FRANK STACY: Mr. Chairman, if I may?

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1 RICHARD OSBORNE: I would like you to answer that
2 question. How are we going to know that?

3 FRANK STACY: In regard to this, if they have a
4 supplemental order to put the money in to escrow, they have a
5 choice of whether or not to submit the money, is that---?

6 CLYDE KING: No.

7 FRANK STACY: Okay.

8 BENNY WAMPLER: That's a violation of the Board
9 order.

10 FRANK STACY: So, did I understand him to say that
11 they were currently violating that order?

12 BENNY WAMPLER: That seemed to be what he said.

13 FRANK STACY: Okay, sir.

14 KENNETH OSBORNE: Yes.

15 FRANK STACY: I just wanted to make sure.

16 LES ARRINGTON: Well, I...you know, if you all
17 ordered me to go ahead and have them to start doing it on
18 that last supplemental order, we can do that.

19 BENNY WAMPLER: I think we did. I think we already
20 did that with that order.

21 LES ARRINGTON: Okay. Okay.

22 KENNETH OSBORNE: Well, if you don't mind me asking,
23 does that order pertain to which unit, if you...if you know?

24

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1 DANNY McCLANAHAN: T-36 and S-37.

2 BENNY WAMPLER: I don't know without research.

3 BOB WILSON: One of the units to you.

4 BENNY WAMPLER: It's certainly a matter of record.
5 I can say that.

6 FRANK STACY: Mr. Chairman, I would ask---

7 BENNY WAMPLER: But we'll check...we'll check all
8 four of these and we'll follow up on that.

9 KENNETH OSBORNE: Is...is there a particular time
10 limit as to when a well goes into operation to the time that
11 it comes up in front of the Board for the money to be ordered
12 to go into escrow account, and then a time limit from that
13 order to when they're supposed to put it in an account and
14 produce? Can I get the time limit?

15 SANDRA RIGGS: It's all set out in the pooling
16 order.

17 BENNY WAMPLER: It will be right in the order
18 itself.

19 KENNETH OSBORNE: What does a particular order
20 dictate now as far as the time element?

21 SANDRA RIGGS: Once the pooling order is entered,
22 the parties have thirty days from the time of recording
23 within which to make their elections; and you have the four

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1 elections...three elections, you know, to participate, be
2 carried, sell or lease. Then, once the elections are made,
3 the operator will file an affidavit with the Board, and in
4 that affidavit, they certify who made what elections. And
5 that's how you tie down who within the unit of the claimants
6 are participating, who is carrying, who is leased, who is
7 deemed to be leased, and then you know who the working
8 interests are versus the royalty interest. At that point,
9 that final...that supplemental order will also reflect the
10 percentage interest that Les is talking about, which then
11 dictates how much money goes into the account. So the escrow
12 agent knows how much of what's being deposited for that unit
13 belongs to the individual tracts within that unit. And what
14 he's saying is because that boundary keeps moving, those
15 percentages keep moving and they can't tell the escrow agent
16 of the money for this unit, x-dollars belongs to this tract,
17 these particular owners---

18 DANNY McCLANAHAN: Until we get it settled.

19 SANDRA RIGGS: ---because that keeps shifting
20 around. Do you see what I'm saying?

21 Then once that happens, they have a hundred and
22 twenty...I think it's a hundred...there's a copy of the
23 proposed order attached right to the application.

24

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1 KENNETH OSBORNE: A hundred and twenty days.

2 SANDRA RIGGS: A hundred and twenty days from that,
3 then, to...provided the well is in production and there's
4 money to be escrowed.

5 KENNETH OSBORNE: Like I said, we're not lawyers,
6 okay, so at this point right now, I mean, what action should
7 be taken to stop this...I'm just going to refer to it as the
8 bouncing of the boundary line? I mean, what actions can
9 be---?

10 BENNY WAMPLER: Well, what they're proposing today
11 is to stop that by pooling everybody and bringing it in, and
12 then the order...they're asking the Board to approve an order
13 that goes ahead and says, okay, we have a boundary dispute
14 here. We can't resolve it, therefore, we're asking you to
15 include everybody there and it would go into escrow until
16 such time as that boundary dispute is resolved. Whenever
17 that is resolved, that money can come out of escrow, if that
18 and the conflicting claim can be resolved.

19 KENNETH OSBORNE: The question I'm asking is, what
20 is the steps to take to resolve this boundary dispute? I
21 mean, does that have to be taken in front of---?

22 BENNY WAMPLER: That will be something that you all
23 could resolve.

24

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1 SANDRA RIGGS: You all need to sit down and work out
2 an agreement with an agreed line, or you're going to have to
3 litigate.

4 DANNY McCLANAHAN: Our line is not in dispute. It's
5 between the Stilwells and myself.

6 SANDRA RIGGS: Okay. Who...wherever that dispute
7 is---

8 DANNY McCLANAHAN: As far as the line goes right
9 now, I'm in no disagreement with this line that they show
10 here.

11 BENNY WAMPLER: Okay.

12 DANNY McCLANAHAN: And they didn't survey, they say.
13 I went down there and I walked step by step with them, and
14 they did survey my property, you know. I'm in agreement with
15 the western boundary line and the other line at the top now,
16 you know. There's no dispute over that as far as that's
17 concerned. I mean, you all can conclude that now. I mean,
18 I'm in agreement with the way you all drew that map up.

19 MARK SWARTZ: This doesn't necessarily resolve it,
20 though, because I don't have the same thing from the
21 Stilwells.

22 BENNY WAMPLER: We understand that.

23 KENNETH OSBORNE: If the dispute, or whatever,
24

1 between Mr. McClanahan and the Stilwells, and it doesn't
2 involve us. I mean, you know, who is to step in for us and
3 say okay, look, this doesn't involve them. These two parties
4 need to situate this, and...because what I'm saying, that is
5 the hold up on the money that's supposed to go in the escrow
6 account for us because of this issue.

7 SANDRA RIGGS: Is the whole account...the whole unit
8 is being suspended? Is that what you're saying?

9 DANNY McCLANAHAN: Well, how come they didn't call
10 the Stilwell people over here today then when that line
11 says...that line is in question? How come they didn't give
12 notice to the Stilwell people?

13 BENNY WAMPLER: They're under lease.

14 DANNY McCLANAHAN: Well, if they're under lease,
15 they shouldn't...I'm okay with this, they should be okay with
16 that line. I'm not---

17 SANDRA RIGGS: But the Board can't---

18 DANNY McCLANAHAN: ---in dispute with the
19 Stilwells.

20 SANDRA RIGGS: The Board can't adjudicate that. It
21 has no jurisdiction over this property boundary.

22 DANNY McCLANAHAN: I'm not asking you all to. I'm
23 not arguing with the Stilwells. I'm arguing with Pocahontas

24

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1 Gas Partnership.

2 BENNY WAMPLER: To answer your question, that money
3 needs to go into the account, into the escrow account.

4 KENNETH OSBORNE: Yes, sir.

5 BENNY WAMPLER: Without question, okay.

6 KENNETH OSBORNE: Okay. And without stirring
7 anymore up that's already going, is there any kind of penalty
8 that goes along with where they haven't had the money in
9 there, any kind of back...what would be interest, or
10 anything, that goes along with that where the money...the way
11 I see it, if the money is in this escrow account, this is...
12 if I'm not mistaken, this is the interest bearing account,
13 right?

14 BENNY WAMPLER: Uh-huh.

15 KENNETH OSBORNE: Now, let's say that money should
16 have been in there six months ago, a year ago, we're looking
17 at a year of interest lost. Now is there anything---?

18 BENNY WAMPLER: I'll go ahead and tell you it's my
19 opinion that they should deposit that money with the interest
20 that that money would have earned.

21 KENNETH OSBORNE: Thank you, sir.

22 CITIZEN: It's in suspension, right?

23 BENNY WAMPLER: Yes, ma'am?

24

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1 SHELBY DESKINS: My name is Shelby Deskins and my
2 father-in-law owns his land. I mean, there's no...he owns
3 land and I own, and he's been told that they're putting money
4 in the bank for him because he's the only one owns it, but
5 he's not been able to find it. His name is Roscoe Deskins.
6 Can they tell me where his'un's at?

7 BENNY WAMPLER: Well, now, Mr. Wilson will be able
8 to work with you if you give him your phone number when we
9 finish here today and identify that, if it's in this part or
10 wherever it is, if it's part of this or what have you. He'll
11 be able to identify that for you.

12 SHELBY DESKINS: Okay.

13 BENNY WAMPLER: Thank you. Okay, call your next
14 witness.

15 MARK SWARTZ: I've got one question for Les.

16

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LES ARRINGTON

20 QUESTIONS BY MR. SWARTZ:

21 Q. Are there different requirements for well
22 plats in the permitting process than there are for plats in
23 the pooling process?

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1 A. On our...yes, there is.

2 Q. That's all I wanted to know.

3 A. Okay.

4 MARK SWARTZ: My next witness will be David Miller.

5

6 DAVID MILLER

7 having been duly sworn, was examined and testified as

8 follows:

9

DIRECT EXAMINATION

10 QUESTIONS BY MR. SWARTZ:

11 Q. You've been sworn?

12 A. Yes.

13 Q. Could you state your name?

14 A. David Miller.

15 Q. Who do you work for?

16 A. Authorized Land Surveying and Engineering.

17 Q. Okay. Do you work under contract with

18 Consol, Inc. and Pocahontas Gas Partnership?

19 A. Yes.

20 Q. Did you prepare a map that's been submitted
21 to the Board today that shows a line, or several lines of the
22 McClanahan tract and some things that you were able to find
23 on the ground?

24

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1 A. Yes, I did.

2 Q. Okay. Did you also assist in preparing the
3 addendum to the plats to T-36, or assist by providing
4 information that was used in the preparation of the addendum
5 to the plats that were filed today concerning T-36 and S-36?

6 A. Yes, I did.

7 Q. When we look at the plat, let's take...let's
8 take T-36, it shows three lines for the western boundary,
9 correct?

10 A. Yes, it does.

11 Q. Did you...were you...have you been involved
12 in this mapping and platting of the McClanahan tract from the
13 very beginning?

14 A. Yes, I have.

15 Q. What's the problem with the line, the
16 western line, or the McClanahan tract lines, that makes it so
17 difficult to pin it down?

18 A. The deed description is a very vague and
19 general description that has no metes and bounds.

20 Q. Is it possible to plat the deed description?

21 A. No, it's not.

22 Q. So it doesn't have calls and directions and
23 distances?

24

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1 A. No, it doesn't.

2 BENNY WAMPLER: Mark, let me stop you a second.
3 Folks, we've got...there's noise going on and it's very
4 difficult for the lady to transcribe for us. Try to
5 cooperate with us on that, please.

6 MASON BRENT: Mr. Chairman, I'm having a hard time
7 hearing because there's a lot of communication going over
8 here. So, if you all would, please be quiet so I can hear
9 the testimony.

10 RONNIE OSBORNE: I didn't think I was talking that
11 loud.

12 BENNY WAMPLER: Go ahead.

13 Q. The first...the line that is furthest to the
14 West in T-36, and I'll color that blue. The furthest line to
15 the West, is that the initial boundary line that was
16 established?

17 A. Yes, it was.

18 Q. Can you tell the Board how that was
19 established?

20 A. After reading the deed description, it was
21 very vague. I went to Mr. McClanahan's house on the...in the
22 first stage and met with him. I asked him about the property
23 and my understanding was that the property went up...his

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1 property is in the forks of the hollow.

2 DANNY McCLANAHAN: That's exactly right.

3 A. My understanding at that time was it goes up
4 one fork to the back line and then comes down the other fork.
5 That's the way I understood it and that's the way I depicted
6 it on the map.

7 Q. Did you have a conversation with Mr.
8 McClanahan back in 1997, roughly---

9 A. No.

10 Q. ---where he told you where he believed this
11 western line was located?

12 A. That's what...that's the way I understood
13 him to say, that it went up the hollow to the back line.

14 Q. As drawn on the map for T-36 that was
15 submitted today, the westernmost line, was that where Mr.
16 McClanahan, back in 1997, indicated to you he believed his
17 property line to be?

18 A. That's the way I understood it.

19 Q. What happened subsequently that caused you
20 to question whether or not that's where the line should be?

21 A. We had a dispute of the property owner on
22 the South side of the property and we found a Locust tree
23 that had been marked, that the property owners were claiming

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1 as a corner, and we found a fence line leading from that
2 Locust tree, going down the spur.

3 Q. Okay. If we look at the westernmost line
4 that I've colored blue here, that intersects a tract 2-B,
5 correct?

6 A. Right.

7 Q. And was finding...did finding this Locust in
8 the other property issues and the fence line cause you to
9 believe that the line should be moved to the east?

10 A. Yes, it did.

11 Q. To where the easternmost line is?

12 A. Yes, it did.

13 Q. I've put an X here, is that where you found
14 the locust that you thought might be a corner?

15 A. Yes, it is.

16 Q. And if---

17 A. Yes.

18 Q. And at that point, did you try to make that
19 corner work with the deed descriptions?

20 A. Yes, we did.

21 Q. And was that what generated, what I'll call,
22 the eastern line?

23 A. Yes, it is.

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1 Q. During this period of time, from 1997 up
2 until the present, were you able to get on Mr. McClanahan's
3 property to do a survey, or to take...do a field survey with
4 a survey crew?

5 A. Until recently, it was my understanding that
6 he didn't want anybody on the property.

7 Q. When was the first time you were able to get
8 on him property with a survey crew?

9 A. October the 8th, 1999.

10 Q. So, about a month ago?

11 A. Right.

12 Q. Were you with that survey crew?

13 A. Yes, I was.

14 Q. And did they do a survey in the sense of
15 mapping and certifying a survey, or did they do something
16 called a field survey?

17 A. We did a field survey.

18 Q. Could you use this map that you've prepared,
19 and we've passed around today, to describe to the Board what
20 you did and what you found, and how you've established the
21 line that has a dog leg?

22 A. I met with Mr. McClanahan on the 8th, and
23 Mr. Arrington. Mr. McClanahan and I and Mr. Arrington walked

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1 this western line, and we got ideas from both parties on what
2 we should locate and how things should look. Mr. McClanahan
3 helped point out some trees and some corners, and we located
4 fence lines and trees and corners. And based on that
5 information, that's how we came up with the map that you see
6 in front of you.

7 Q. And the points that you were able to locate
8 on the ground that you felt were relevant to the line are
9 depicted on this map?

10 A. Yes, they are.

11 Q. For example, if we start at the south end of
12 the west line, there's a circle at the intersection of the
13 tracks and we've got a locust tree. Is that the locust you
14 spoke about earlier?

15 A. Yes, it is.

16 Q. Then that line proceeds from there along a
17 fence line?

18 A. Yes, it does.

19 Q. How did you establish the dog leg?

20 A. The dog leg, that area is really unclear.
21 We found a twenty inch ash that Mr. McClanahan pointed out to
22 me, and we also found a dogwood and sourwood up on a spur in
23 this general area, and that's how that line was created.

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1 Q. And then once you got to the twenty inch
2 ash, was there more fence line?

3 A. Below the twenty inch ash, the fence line
4 started again and went to the forks of the hollow.

5 Q. And you used that fence line?

6 A. Yes.

7 Q. Does the deed...do the deed descriptions
8 go...the McClanahan deeds and then going back in time, do
9 they make reference to, or provide for the dogwood?

10 A. Not clearly, no.

11 Q. So that's a guess based on what you found on
12 the ground?

13 A. Yes, it is.

14 Q. At the present time, is the map that you've
15 been using and you prepared, is that the best guess you have
16 at the present time as to the location of that line?

17 A. Yes, it is.

18 Q. Are there things about this line that are
19 open... still open to debate?

20 A. Yes. Where the dog leg is at, it could
21 move. I mean, like it's been said before, it would have to
22 be cleared up by an agreement between Mr. Stilwell and
23 ...between the Stilwell heirs and Mr. McClanahan.

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1 MARK SWARTZ: That's all I have of David.

2 BENNY WAMPLER: Thank you. Cross Examination.

3 DANNY McCLANAHAN: Well, where he says right there
4 being vague on the dog leg, it's not vague. I've got the
5 deed right here and it calls for it running up the hollow and
6 with the right hand hollow to an ash. Then from the ash, it
7 says straight up the left hand hill, and I produced...I
8 produced the deed and gave it to him that day and pointed out
9 that it said from the ash straight up the hill to that
10 dogwood and sourwood. So, I can't see where he could say
11 there was a discrepancy there.

12 DAVID MILLER: Well, there's two ashes and the deed
13 descriptions are very old, Danny.

14 DANNY McCLANAHAN: Well, like I said, though, I
15 gave...in the field, I gave you all the benefit of the doubt
16 and I took the least one away because the other ash tree is
17 on up the hollow, am I correct?

18 DAVID MILLER: Let me answer the question. I
19 can't...by the evidence we found in the field, it does go up
20 the hill, you're right, but I can't determine exactly where
21 does it go up the hill.

22 DANNY McCLANAHAN: It has to go up the hill from
23 the ash to the sourwood and the dogwood.

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1 DAVID MILLER: That is correct, but how do I
2 know....the trees that we found were not marked. So, how
3 would I know if I found the right ash.

4 DANNY McCLANAHAN: Well, there's only two ash trees
5 up in that hollow. I mean, it's either choice, one would be
6 in my favor and the other would be in your all's favor, which
7 I took the latter one.

8 DAVID MILLER: See, I can't make that decision. It
9 has to be an agreement between the McClanahans and Stilwells.
10 I can't make that decision. That's a decision that has to
11 be made---

12 DANNY McCLANAHAN: But I was just referring to you
13 saying it was vague. I mean, it could have been either one
14 of them. If that's the case, why don't you depict that on
15 those maps?

16 DAVID MILLER: I'm showing the other ash tree.

17 DANNY McCLANAHAN: You're not showing it on the
18 permits, though, the permitted maps.

19 DAVID MILLER: Well, we're not showing any of the
20 corners on the permitted maps, and I don't have anything to
21 do with the permit maps.

22 DANNY McCLANAHAN: Well, I was under the
23 understanding that you had something to do with the first map

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1 on T-36, the surveying of that.

2 DAVID MILLER: I hadn't...the mapping, I didn't
3 produce...I didn't make the permit maps.

4 DANNY McCLANAHAN: Who made the permit maps?

5 DAVID MILLER: The gas operations.

6 DANNY McCLANAHAN: Well, that's what I was wanting
7 to know, who did the engineering on it, because on the first
8 pool, the T-36, Virginia 9803240625, they got maps in there
9 that shows that they were surveyed. That's, you know, what
10 brought the whole matter up before because they showed it
11 surveyed and it wasn't. Who done those maps? And by law, by
12 them showing them as solid lines, they're not...you know,
13 they're not going by the regulations, sir. Can you tell me
14 who done those maps, besides just Pocahontas Gas, Claude
15 Morgan, or who done this, and they certified them.

16 DAVID MILLER: I don't understand exactly what
17 you're asking. Who---?

18 DANNY McCLANAHAN: This T-36, the first well plat
19 was put in here with this first map right here, I thought...I
20 thought Mr. Short said that you done this.

21 DAVID MILLER: Okay, you're talking about the first
22 line?

23 DANNY McCLANAHAN: This one right here.

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1 DAVID MILLER: Yeah, I did the mapping on the first
2 line.

3 DANNY McCLANAHAN: Well, how come you depicted that
4 as being actually surveyed?

5 DAVID MILLER: I didn't depict it as being actually
6 surveyed.

7 DANNY McCLANAHAN: Well, right here it is, solid
8 lines, and in the rules and regulations, you're supposed to
9 show it as solid...broken lines.

10 DAVID MILLER: Let me answer your question. I
11 provide Pocahontas Gas with my best guess of where I thought
12 this line was at. I gave them that information. They put it
13 on that map as a solid line. I had nothing to do with it.

14 DANNY McCLANAHAN: Well, let me ask Mr. Arrington
15 then. How come you all showed that a solid line, as actually
16 being surveyed when it wasn't?

17 LES ARRINGTON: In that case...instance right there,
18 we were in error showing it as surveyed. We were basing that
19 upon the information that you gave, you personally gave to
20 Mr.---

21 DANNY McCLANAHAN: I'll have to disagree with you
22 because I was out of town in '97, was in Arkansas working. I
23 had just recently came back to town and got all this and

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1 started doing this research in January of this year. I have
2 never met with no engineer or nobody to say anything as to my
3 property lines in '97, '96 or anything.

4 BENNY WAMPLER: Anything further on this?

5 KENNETH OSBORNE: Mr. Arrington---

6 MARK SWARTZ: We're done with Mr. Arrington.

7 KENNETH OSBORNE: What about you, Mr. Swartz? Unit
8 S-37 here shows exhibit 5-B, Linkous Horne heirs surface. On
9 the map, it shows Exhibit 5-B and some arrows pointing, but
10 if you go back in to what I guess I would call the ledgers in
11 this, it has us listed several times as oil and gas owners,
12 but it doesn't show us anywhere in the breakdown of surface
13 owners, but on page one, tract identification, Exhibit 5-B
14 shows Linkous Horne heirs surface. I mean, why weren't we
15 listed in here as the surface owners?

16 SANDRA RIGGS: This is the tract identification
17 sheet that you're looking at that goes with the plat---

18 KENNETH OSBORNE: Uh-huh.

19 SANDRA RIGGS: --to identify the legend for the
20 tract numbers and they just divide out the ownership. When
21 you look back here at the exhibits that are attached, those
22 are in accordance with the gas and oil law to identify the
23 conflicting claims by showing who the gas and oil owners are

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1 and who the coal owners are. If the gas and oil and the coal
2 have been severed from the surface, you would pick up who the
3 severed estate is vested in, not the surface owner. Now if
4 you owned fee simple title, where you owned all three, you
5 wouldn't be listed as a surface owner. You'd be listed as a
6 coal owner and as a gas owner because those are the two
7 estates that are in conflict. I know that's very confusing.

8 You can own surface only. You can own surface and
9 gas. You can own surface and coal. You can own surface,
10 coal and gas. It depends on your severance deeds and what
11 estates have been severed. So, the way you're listed in the
12 Exhibit B-3 and Exhibit E, the estates listed there are the
13 coal estate and the gas and oil estate. They're not dealing
14 with surface there, but on the plat, they are dealing with
15 surface, because you need to know who the surface owner on
16 the tracts to be disturbed are. Does that help any?

17 BENNY WAMPLER: Danny.

18 DANNY McCLANAHAN: I asked a question a while ago,
19 if this was a standard application right here. Is this
20 standard? It's not?

21 BENNY WAMPLER: We don't have an application that
22 they fill out.

23 DANNY McCLANAHAN: Well, nobody never did answer
24

1 my---.

2 BENNY WAMPLER: That's the rules and regulations.

3 DANNY McCLANAHAN: Nobody never did answer my
4 question as to that question there as to why...and all these
5 other pooling orders that they state, like in S-37, number
6 six, attached hereto Exhibit A, Exhibit 1-A, A-1, tract
7 identification for Exhibit A. The tract shows the size and
8 shape of units and boundaries of tracts within the unit. The
9 tract identification page shows a percentage of acreage in
10 each tract. The plat is certified by a licensed professional
11 engineer and is attested to by Mr. Arrington.

12 Now, on T-36 and S-36, line six don't say that.
13 Why on all these other force poolings they say that it's done
14 by a licensed engineer and then they're not doing it on my
15 two tracts.

16 SANDRA RIGGS: Because I guess it was on all the
17 others, certified.

18 DANNY McCLANAHAN: No, it wasn't. I got the map.
19 Do you see any certification on T-36?

20 SANDRA RIGGS: Well, they don't say it in those two,
21 do they, that it is?

22 DANNY McCLANAHAN: They don't say it, but that's
23 what I'm questioning, is why on all these other pooling

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1 orders, they say these maps are professionally...by
2 professional engineers, but on my two only, they say it don't
3 have to be by engineering.

4 BENNY WAMPLER: Les.

5 MARK SWARTZ: We didn't say it didn't have to be.
6 We showed up today with certified plats.

7 BENNY WAMPLER: I'm just asking him to respond. He
8 can respond any way he wants to respond.

9 MARK SWARTZ: The response is we showed up with
10 certified plats today. You have them. You have them.

11 DANNY McCLANAHAN: No, we don't. Can you show me a
12 certification mark on T-36?

13 MARK SWARTZ: We just handed you guys the exhibits
14 for T-36 and S-36, which contain certified plats and a two
15 page addendum.

16 DANNY McCLANAHAN: Oh, it is certified now. Okay.
17 How come this is different from the papers that you all sent
18 us in the mail. These right here that they presented to you
19 all today, we were not afforded these in the papers that they
20 presented to us in the notice. These S-36, T-36 and all
21 that, this is different than what they sent to us, notifying
22 us. So, how can we prepare ourself for something that you
23 brought over here today and we've got different maps.

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1 Right here, Mr. Wampler, I'll show you what they
2 sent us in the mail.

3 BENNY WAMPLER: We have it.

4 DANNY McCLANAHAN: Well, right here is what they're
5 trying to present to the Board today. Now, that's different
6 altogether.

7 BENNY WAMPLER: That's different based on the
8 testimony, though, that you heard today.

9 DANNY McCLANAHAN: That's right, but how come they
10 sent us...why didn't they send...send this with...in these
11 right here?

12 BENNY WAMPLER: You can ask them that.

13 DANNY McCLANAHAN: Well, how come you all didn't
14 send them, Les, like that?

15 MARK SWARTZ: Since I drafted the stuff, I can tell
16 you, because you wouldn't let us put a survey crew on your
17 property---

18 DANNY McCLANAHAN: No, sir, I got---

19 MARK SWARTZ: We were working on these lines up
20 until the last minute and we filed these applications, and
21 we're not comfortable certifying these maps because we wanted
22 the best information we could when we showed up here today.

23 DANNY McCLANAHAN: All right.

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1 MARK SWARTZ: That's why the two maps are not
2 certified that came with these two exhibits. As you will
3 recall from the testimony, we got on for the first time on
4 the eighth of October. We were working on these maps the
5 next week. I mean, this isn't information we've had for a
6 long period of time and we wanted to make sure before we
7 certified yet another map, we could pinpoint whether or not
8 we'd be able to stand behind the line; and clearly we filed
9 the addendum here to tell you we cannot stand behind that
10 line, and that's why it was done the way it was done.

11 DANNY McCLANAHAN: Are you saying---?

12 MARK SWARTZ: Normally, we would submit a certified
13 plat, but you've heard about the problems today and that's
14 why it was done. So, that's the answer to your question.

15 DANNY McCLANAHAN: You're saying that I wouldn't let
16 you on my property. Until recently I never said nothing
17 about that before. If I'm not mistaken, I've got a letter
18 here that I sent giving you all permission to be on my
19 property, but not without my being present.

20 MARK SWARTZ: And what's the date of that letter,
21 Danny?

22 DANNY McCLANAHAN: I'll have to find it here.

23 BENNY WAMPLER: Do you have another question?
24
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1 DANNY McCLANAHAN: Yes.

2 BENNY WAMPLER: In the meantime, let me take another
3 question.

4 KENNETH OSBORNE: On the Oakwood Unit S-37, back to
5 this Exhibit 5-B again, I wonder why they're just showing
6 arrows instead of boundary lines on that?

7 BENNY WAMPLER: Which exhibit are you referring to?

8 KENNETH OSBORNE: S-37.

9 SANDRA RIGGS: The plat?

10 BENNY WAMPLER: The plat?

11 KENNETH OSBORNE: The plat.

12 BENNY WAMPLER: Exhibit A?

13 KENNETH OSBORNE: Yes, sir.

14 BENNY WAMPLER: Now, ask the question again.

15 KENNETH OSBORNE: Why is it just showing arrows on
16 there instead of boundaries?

17 BENNY WAMPLER: Why is it just showing tracts?

18 KENNETH OSBORNE: Yes, sir. See, that refers back
19 to, again...and I mean I understood what she said a minute
20 ago, but it refers back to Linkous Horne surface, and Beulah
21 Osborne surface.

22 BENNY WAMPLER: Mr. Arrington.

23 LES ARRINGTON: On that tract 5-B that he's
24
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1 referring to, I'm not here prepared to talk about that
2 surface interest. I think that's what he's referring to
3 there. I...you know, I don't know the in depth of that tract
4 5-B, other than it's Linkous Horne oil and gas interests.
5 You know, there's numerous tracts on these plats and I do not
6 know the particulars, other than that is Linkous Horne oil
7 and gas interest. You know, I---.

8 DANNY McCLANAHAN: Okay. I've got a certified
9 letter here giving them permission to survey my property. I
10 sent it out on October 5th, 1999, but that still goes back to
11 the first maps that you all presented. In T-36, you all
12 showed them as being surveyed when they wasn't. And in the
13 regulations, it states that they're supposed to show deed
14 lines taken from deed descriptions with a broken line and
15 lines actually surveyed as solid lines. That...to me, it
16 falls in their cost per well on location and title, that
17 enables them to charge for it being surveyed, would be my
18 imagining, you know, what I would imagine. But, I still
19 haven't got a answer as to why, you know, they showed that
20 when it clearly states any engineer that's supposed to be
21 doing this work for them is supposed to be aware of the law
22 just like anybody else is.

23 BENNY WAMPLER: Mr. Arrington said on record that it
24

1 was in error.

2 DANNY McCLANAHAN: Well, how come they kept
3 submitting this in the force poolings on S-36, kept
4 submitting it in error, and the Board has overlooked that
5 just like you told me---

6 BENNY WAMPLER: Danny, now hold it. The Board is
7 not overlooking anything. That's why you're here today.
8 That's why...the Board has not overlooked any of this.

9 DANNY McCLANAHAN: Well, all right.

10 BENNY WAMPLER: That's why we're having this hearing
11 today.

12 DANNY McCLANAHAN: I'd like to call into evidence
13 T-36, permit for T-36.

14 BENNY WAMPLER: Permit. Now, wait a minute. We're
15 here for---

16 DANNY McCLANAHAN: Force pooling. Well, this is my
17 way of showing my evidence. Without me being able to show
18 these, to show on down...all the way down the line that
19 they're wrong, there's no way I can present my case clearly.
20 In the first permit...and they said their title researchers
21 did not show me...showed me as only a surface owner. I'd
22 like to present.

23 BENNY WAMPLER: We finished...let me make sure we

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1 finished the cross examination of this witness. I want to
2 get that off the table. I'm just trying to keep a clean
3 record here, Danny. If this goes to court, it'll be
4 important to have that.

5 Does anybody have any questions, members of the
6 Board, anybody have questions of this witness.

7 (No audible response.)

8 BENNY WAMPLER: Okay. You can proceed.

9 DANNY McCLANAHAN: Okay. I'd like to introduce into
10 evidence the T-36 well permit. When Mr. Swartz told you in
11 June 15th, that their title researchers showed me as a
12 surface owner only, I want to know why their title searchers
13 showed me as a gas and oil owner. Then from that time on...I
14 tried to explain that to you all on June the 15th, and you
15 all kept running around it...why they showed me that and then
16 they backed up and changed me to just a surface owner.

17 SANDRA RIGGS: Danny, you came before the Board and
18 you make a claim as a gas and oil owner, and you've been
19 added---.

20 DANNY McCLANAHAN: I didn't have to before then,
21 though, ma'am.

22 SANDRA RIGGS: But you've been added. You are
23 listed as a gas and oil claimant.

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1 DANNY McCLANAHAN: All right. I was listed as a gas
2 and oil claimant, but it's not...it don't say that right here
3 in this, you know.

4 SANDRA RIGGS: It says it in the pooling order.

5 DANNY McCLANAHAN: Why didn't they put me in the
6 first beginning, when they showed right here, ma'am, that I
7 was a gas and oil owner within the drilling unit. As you can
8 see, this well is way away. It's nowhere on my land. So,
9 they still informed me in that eighty acre unit that I had a
10 percentage in it.

11 BENNY WAMPLER: This is...now what do you have here?
12 You have---

13 SANDRA RIGGS: He has a permit.

14 BENNY WAMPLER: You have a permit.

15 DANNY McCLANAHAN: Yes, sir.

16 BENNY WAMPLER: Okay.

17 DANNY McCLANAHAN: They've identified me as a gas
18 and oil owner in this permit, but yet, they was allowed to
19 leave me out of the force pooling.

20 SANDRA RIGGS: No, you were named as a claimant in
21 the force pooling.

22 DANNY McCLANAHAN: After...after I came to the Board
23 and told you all that they left me out.

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1 SANDRA RIGGS: Well, what would have happened if
2 you'd been left out and you were truly a gas and oil owner?

3 DANNY McCLANAHAN: What would have happened?

4 SANDRA RIGGS: Yeah.

5 DANNY McCLANAHAN: I didn't have the chance to make
6 my proper elections.

7 SANDRA RIGGS: No. You'd have---.

8 DANNY McCLANAHAN: And by the way, they is doing
9 this as a claimant, you know, is a little different than a
10 owner.

11 SANDRA RIGGS: No, Danny. The reason they come here
12 and name you as a claimant and compulsory pool you is so that
13 you would not have a lawsuit against them.

14 DANNY McCLANAHAN: Right. But they didn't do that,
15 though.

16 SANDRA RIGGS: If they don't name you, then your
17 remedy is you have a trespass action against them for
18 damages.

19 DANNY McCLANAHAN: Well, we're not---.

20 SANDRA RIGGS: It's for their protection, not for
21 yours.

22 DANNY McCLANAHAN: I understand that, ma'am, but
23 what I'm trying to do is distinguish why...ask Mr. Arrington

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1 and Mr. Swartz why their people showed me as a gas and oil
2 owner in permit number T-36.

3 BENNY WAMPLER: Can you answer that, Les?

4 LES ARRINGTON: Could I see that?

5 DANNY McCLANAHAN: That was sent to me by Mr.
6 Fulmer. Right there, it's marked red there, I believe.

7 LES ARRINGTON: I think...I believe in this one, and
8 I'm pretty sure of the facts here, we had a title opinion of
9 that tract and that title opinion is...it does, as Danny
10 says, shows the Linkous Horne heirs as the mineral owner; and
11 at that time, when we drafted those tract IDs the same
12 mineral owner, we did in error, label him as the surface oil
13 and gas owner. And in fact, we should have only listed---

14 DANNY McCLANAHAN: Without them---. Oh, excuse me.

15 LES ARRINGTON: And we should have only listed
16 surface. And when I go down through those tract IDs,
17 noticing the persons, I try to notice everybody that I feel
18 needs proper noticing. I notice that it was showing Danny as
19 a possible oil and gas owner, and I noticed it. Well, then
20 we went back and researched that, back to the mineral, and as
21 we know, in the State of Virginia, the mineral does not
22 ...does include oil and gas. I changed it at that point,
23 going into our pooling period. I noticed the proper...what

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1 we felt was the proper people, the Linkous Horne heirs and
2 gave them notice in the pooling.

3 DANNY McCLANAHAN: But I don't think they should...
4 they made the decision their self here. They showed me once
5 as being that, they should show me the same way all the way
6 through.

7 BENNY WAMPLER: You're suggesting they can't change
8 anything they start out with, Danny. That's not the purpose
9 of doing any----.

10 DANNY McCLANAHAN: Well...no, I'm not suggesting
11 that.

12 BENNY WAMPLER: Well, I'm not trying to put words in
13 your mouth, but that's what that would indicate to me, let me
14 say that.

15 DANNY McCLANAHAN: Well, their title...they had
16 people done title research on this to begin with, am I right?
17 Did you not have people do title research on T-36 well
18 permit, Mr. Arrington? Mr. Swartz?

19 MARK SWARTZ: We have title on your tract, yes.

20 DANNY McCLANAHAN: Did you have someone do it on T-
21 36?

22 MARK SWARTZ: Right.

23 DANNY McCLANAHAN: How come they named me...those
24

1 lawyers or ever who you had doing that title search named me
2 as a gas and oil owner?

3 MARK SWARTZ: The title opinion---

4 DANNY McCLANAHAN: How come?

5 MARK SWARTZ: The title opinion I've seen does not
6 name you as a mineral owner.

7 DANNY McCLANAHAN: How come it's in this?

8 MARK SWARTZ: It's was a mistake. He just told you.

9 DANNY McCLANAHAN: I don't feel like it was a
10 mistake, because you all backed up and changed this when they
11 force pooled it, after Mr....the Linkous Horne heirs has got
12 them a lawyer. Then you backed up and started leaving me
13 off.

14 BENNY WAMPLER: Well, Danny, I want to tell you
15 that's really irrelevant to what we're hearing today. It
16 really is because you're being...you've being included here.

17 DANNY McCLANAHAN: Well, no...well, I was included
18 June the 15th. I was included into force pooling with a map
19 that they figured that was the most recent map of my property
20 was for T-36. I'd like to enter this into evidence...it was
21 drawn up May 20th, 1999. I'd like to show this to you, the
22 map.

23 MARK SWARTZ: I would like to tender an objection to
24

1 all this mapping proposals and---

2 DANNY McCLANAHAN: Well, it's all relevant.

3 MARK SWARTZ: Let me...just let me finish my
4 sentence.

5 Unless I'm mistaken, he has told us he's in
6 agreement with the line. We're concerned that it may not be
7 accurate. Why are we spending all this time when he's told
8 us what line he agrees with. We've mapped it. We've platted
9 it for you all and we're just saying we lack certainty with
10 regard to that. You'll probably need to escrow. So, I mean,
11 I would object to going over...I mean, we've heard about this
12 since June, going over and over and over the maps. I think
13 we have a map that he likes and we need to move on.

14 DANNY McCLANAHAN: I have to agree with that right
15 now. I will agree they have a map, but my reason being I
16 want to show the Board that they are doing things wrong.
17 Like I say, in this permit number for T-36A, May the 20th...
18 you see this map here, Mr. Wampler? That's the map they
19 showed. That's different than what's in T-36 force pooling
20 maps.

21 BENNY WAMPLER: And they've admitted that.

22 DANNY McCLANAHAN: All right. But look here, when
23 ...this was done in May and they didn't revise this map, make

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1 this map revision until June.

2 BENNY WAMPLER: Okay.

3 DANNY McCLANAHAN: I mean, what's the deal? This
4 right here in T-36A should have had the first map to begin
5 with on this one. Then they could have done this. But, it's
6 plain and clear that they put this in a permit without it
7 being revised.

8 BENNY WAMPLER: And I think the record will show,
9 and you'll have to verify that whenever you called and
10 questioned that, we've been pursuing that and they've been
11 constantly seeking to update that.

12 MARK SWARTZ: Well, we corrected---.

13 DANNY McCLANAHAN: What I'm asking, though, is how
14 can they put something in a permit that hasn't even been
15 revised. They put it in a permit in May when it hasn't been
16 revised until June.

17 MARK SWARTZ: Well, as you well know, Mr.
18 McClanahan, there were...in consultation with Mr. Fulmer, if
19 I'm not mistaken, all the permitting maps regarding these
20 units were modified. In response to your complaints, I
21 believe in August, and filed, and you got copies of them.
22 So, I mean, if we're...I mean, we're still going on and on
23 and on, you know.

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1 DANNY McCLANAHAN: Yeah, here they are, Mr. Swartz.

2 MARK SWARTZ: Those permitting issues were addressed
3 ...I didn't know that you were involved or aware of it, but
4 they were addressed in Mr. Fulmer's office. We found out
5 what he felt was appropriate and we complied.

6 DANNY McCLANAHAN: That's what I want to know, how
7 can you submit a permit application to the Board, or to the
8 Virginia Gas and Oil Board on May the 20th, when this wasn't
9 ...the order wasn't handed down until June the 15th and they
10 didn't revise the map until June the 22nd. It's already on
11 the map, May the 20th. That's my question.

12 MARK SWARTZ: And we have explained the genesis of
13 the three lines over and over and over, and they're on all
14 these maps.

15 DANNY McCLANAHAN: The lines is not...my question,
16 the validity of the map that's in T-36A when it hadn't been
17 revised until June. Can nobody even answer that?

18 BRENDA JUSTUS: Can I say something? I'm one of the
19 Linkous Horne heirs. I'm Brenda Justus.

20 COURT REPORTER: You need to come forward, ma'am.

21 BENNY WAMPLER: She can't hear you.

22 BRENDA JUSTUS: Well, he just said that they know
23 Linkous owns...heirs owns the gas and the minerals. Why do
24

1 we have to go to court and prove it instead of putting the
2 money they owe us in escrow account?

3 BENNY WAMPLER: Because there's no determination of
4 who owns the mineral, this coalbed methane in Virginia, until
5 the court decides that, ma'am, or until the mineral owners,
6 coal owners, gas and oil owners come together...come to some
7 kind of agreement. I mean, that's the options you can have.
8 A court of competent jurisdiction has to decide it, or the
9 people that own the mineral have to get together and come to
10 an agreement.

11 DANNY McCLANAHAN: Well, I feel like I ain't got
12 nothing else to say. I might as well leave. I feel like you
13 Board members is not going to help me, or these people, in
14 any way, because you're plainly letting these people violate
15 the law. I know they can make revisions, but how can they...
16 like I said, on that one map there, how can they put it in a
17 permit application in May when the map hadn't been revised
18 until June? It violated the law right there. They put a map
19 in there that wasn't even revised.

20 MARK SWARTZ: Well, my response to all this, and
21 this is the last thing I'm going to say about these surveys.

22 Mr. McClanahan, in my opinion, sucker-punched us when he
23 located the first line. He moved it as far to the West as

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1 any of the mapping that's ever occurred, which gave him the
2 biggest piece of the action in the unit that he's ever going
3 to see.

4 DANNY McCLANAHAN: I ain't moved nothing. You all
5 are the ones that moved it.

6 MARK SWARTZ: And the problem here was, we couldn't
7 get on the property to survey it. He had a map, but he
8 wouldn't share it with us, and when he located the line, he
9 gave himself the biggest piece of ground he could. And to my
10 way of thinking, this mapping issue, which has been a devil
11 of a time for us, is a self inflicted injury on his part
12 because he gave us a line that was indefensible and we didn't
13 know the difference at that point.

14 DANNY McCLANAHAN: No. Yeah, I would disagree with
15 you there. I did provide a map.

16 MARK SWARTZ: We subsequently learned that that's
17 the case, but that's all I have to say in this and you can
18 talk the rest of the day about these maps, but that's my view
19 of what happened.

20 DANNY McCLANAHAN: Well, how can...what about these
21 percentages that you all produced to the Board in June the
22 15th depicting me as owning not only my percentage in my
23 tract of land, you showed that I owned Linkous Horne heirs'

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1 percentage in that. Then you all trying to tell me that the
2 maps that they recorded, the order they recorded in September
3 have different maps and have different percentages than what
4 they presented to you all in June.

5 BENNY WAMPLER: Danny, that's all of record. Is
6 there anything further? Do you have anything?

7 FRANK STACY: Yes, sir, please. I have a problem
8 with, and a couple of questions, if I may ask, without
9 bouncing around here a little bit. They mentioned earlier,
10 and I realize that you all don't review the coal and I can
11 appreciate that part. I know there's a dispute between the
12 coal and the gas, and I understand the pooling is a result of
13 that. Just a question that I have and I haven't been able to
14 get an answer on it. I don't know if they can answer that
15 today or not, but how long has Hurt/McGuire owned the coal?
16 Do you all know that off hand? I mean, you've done the
17 title.

18 MARK SWARTZ: We could...if you give me your name
19 and address, I can mail you the severance deed.

20 FRANK STACY: Okay, sir. Thank you.

21 MARK SWARTZ: My recollection is it's back in the
22 1800s, but...do you know?

23 DAVID MILLER: It's going to be probably late 1800s

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1 to the early 1900s.

2 FRANK STACY: Okay.

3 MARK SWARTZ: But if you...before we leave today, if
4 you'll give me your name and address, we'll get...we'll mail
5 you a copy of the severance deed that we rely on. Then you
6 can look at it in relation to your chain.

7 FRANK STACY: All right, sir. Another question that
8 I had was, Mr. Swartz had...I realize the force pooling and
9 all these applications. Has there been a genuine effort, or
10 an ongoing effort, to work at a lease, or purchase, with the
11 heirs, or has this just been devised to be able to go ahead
12 and do the well and force the money into pools? In other
13 words, have you all made efforts on each one of these wells
14 to contact the Linkous Horne heirs to negotiate a lease? I'm
15 not aware of it, so can you tell me?

16 MARK SWARTZ: Not on every pooling, but on the
17 original pooling, there would have been an effort to mail a
18 lease and/or contact all of the heirs. I mean, I personally
19 recall being at permitting hearings when there were even more
20 people than there are here today.

21 FRANK STACY: Yes, sir.

22 MARK SWARTZ: I don't know if you were there or not.

23 FRANK STACY: I was at a couple. Yes, sir.

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1 MARK SWARTZ: But some of the folks actually had
2 their lease...the leases that were sent to them with them.
3 So I know that there was an initial effort, but not every
4 time.

5 FRANK STACY: Okay. Well, I guess that's my
6 question. I do know that you all made an effort on the
7 initial well. I guess my question is, have you all made any
8 effort on any additional wells to work out an agreement on
9 those wells, or did you just do it on the original?

10 LES ARRINGTON: On the original pooling is when it
11 would have been, or the original well application.

12 FRANK STACY: The original well?

13 LES ARRINGTON: Yes, sir.

14 FRANK STACY: So you've made no efforts on the
15 additional wells, is that correct?

16 LES ARRINGTON: No, sir. We wouldn't, but we would
17 still stand by our original offer. I mean, that's...that is
18 our standard lease form.

19 DANNY McCLANAHAN: As far as me, they haven't
20 approached me neither as far as trying to lease my rights off
21 me. Before we conclude, I still have---.

22 MARK SWARTZ: Well, I'm not sure this gentleman was
23 done.

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1 DANNY McCLANAHAN: Oh, I'm sorry.

2 FRANK STACY: That's okay.

3 MARK SWARTZ: Are you?

4 FRANK STACY: On the surveying, I notice in your
5 cost for each well, you do have, as Mr. McClanahan mentioned
6 earlier, a \$30,000 cost for engineering. And you said you
7 were doing the field surveys. Is there any particular reason
8 for not doing certified surveys, or why you attribute such a
9 significant amount of money to the surveys?

10 LES ARRINGTON: Okay. It just says, I believe...let
11 me just get to the page. The location, title---

12 DANNY McCLANAHAN: Location, title.

13 LES ARRINGTON: That location, title and surveying
14 and other, that covers our construction cost, our title work
15 that we have done on the property, permit, surveying for the
16 well location. That includes stone on the prop...on the well
17 site, you know, and that's the reason that dollar figure you
18 see there.

19 FRANK STACY: Okay. In other words, you did a
20 summary.

21 LES ARRINGTON: Yes, sir, we did.

22 FRANK STACY: Do we have the right to see an audit
23 of the cost attributed to, being that the money---

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1 SANDRA RIGGS: What the Board...let me explain how
2 this works.

3 FRANK STACY: Okay.

4 SANDRA RIGGS: That's the cost that they say that
5 the well...estimate that the well will cost that's being
6 drilled.

7 FRANK STACY: I understand.

8 SANDRA RIGGS: Okay. If you participate---

9 FRANK STACY: Willingly or unwillingly?

10 SANDRA RIGGS: No.

11 FRANK STACY: Okay.

12 SANDRA RIGGS: If you participate, you have the
13 right to make certain elections. You can participate in the
14 working interest.

15 FRANK STACY: Yes, ma'am.

16 SANDRA RIGGS: Or you can be carried. If you do any
17 of those two things, you become their partner in the
18 development of this well, in which event, you share these
19 costs.

20 FRANK STACY: Correct.

21 SANDRA RIGGS: If you don't participate and you
22 lease, then you're a royalty interest---

23 FRANK STACY: Correct.

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1 SANDRA RIGGS: They have to pay all of these costs.
2 You don't pick up any of those costs. So what the order
3 says is, if any person elects to participate or be carried,
4 then the operator, once the well is drilled, must file with
5 the Board actual, not estimated costs, but actual costs.

6 FRANK STACY: Okay.

7 SANDRA RIGGS: But if nobody participates, they're
8 paying it all anyway. It becomes irrelevant. Does that make
9 sense to you?

10 FRANK STACY: It does, except for it appeared to me,
11 and I may be wrong, it appeared to me that the monies for the
12 construction is paid out of the escrow.

13 SANDRA RIGGS: No.

14 BENNY WAMPLER: No.

15 SANDRA RIGGS: None of these costs come out of the
16 escrow.

17 FRANK STACY: It is not deducted prior to the escrow
18 royalty?

19 SANDRA RIGGS: The royalties are paid---.

20 BENNY WAMPLER: The royalty rate of pay is set by
21 law.

22 FRANK STACY: I guess what I'm asking, royalty rate
23 based on gross or net profit?

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1 MARK SWARTZ: Neither.

2 FRANK STACY: Neither? Okay, how---?

3 MARK SWARTZ: If you look at the order...have you
4 got one of the applications with you?

5 FRANK STACY: Yes. Yes, I read that. She's
6 referring to Article 9 where you have three choices to
7 elect.

8 MARK SWARTZ: But it describes how the royalty is
9 cal...is to be calculated.

10 FRANK STACY: Right.

11 SANDRA RIGGS: You go under cash bonus provision.

12 FRANK STACY: I saw that. Yes, ma'am.

13 MARK SWARTZ: It says that they are to take twelve
14 and a half percent of the net proceeds received for the sale,
15 okay.

16 FRANK STACY: Yes.

17 MARK SWARTZ: Multiply that times the individuals
18 percentage and...which is called a division of interest, and
19 it says the net proceeds shall be the actual proceeds
20 received less all post production costs. Now the well
21 drilling cost that we just talked about is a production cost.
22 So you can never deduct that in calculating royalty.

23 FRANK STACY: Okay.

24

1 MARK SWARTZ: And the post production costs are kind
2 of described in here as including gathering compression,
3 getting the gas, compressing it, treating it, transporting it
4 and marketing it.

5 FRANK STACY: Okay.

6 MARK SWARTZ: So the well costs, the frac costs, the
7 building, the location costs do not come into play when
8 royalty is calculated. It's only costs from the well head
9 downstream.

10 SANDRA RIGGS: To market.

11 MARK SWARTZ: So to answer your royalty question,
12 you take the gross proceeds, you deduct the post production
13 costs, you take twelve and a half percent of that and that's
14 the royalty.

15 BENNY WAMPLER: Do you have anything further?

16 KENNETH OSBORNE: If I fade away from what I'm
17 getting at, let me apologize in advance. A question was
18 asked a minute ago about have they approached any of the
19 heirs individually or whatever about...and make an agreement
20 with them. I think the ones that the guy stated a dollar per
21 year per acre, and like I said, I'm not trying to fade away
22 from what we're talking about, but I remember a article came
23 out in the paper that said since 1987 there was \$217,000,000

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1 in methane pulled out of this area. But from findings that
2 we found of last year, that the production was over three
3 trillion cubic feet of gas and according, if they do sell by
4 their figure, which they say two dollars and sixty-seven
5 cents per cubic foot, you multiply...well, two dollars and
6 sixty-seven cents multiplied by three trillion, that's...I
7 can't phantom...I cannot phantom what, eight trillion means.

8 DANNY McCLANAHAN: They're only saying they're
9 paying two thirty-six per thousand cubic feet is what they're
10 saying.

11 KENNETH OSBORNE: But with that, and in closing, I
12 have nothing else to say. That's...I mean, the offers that
13 they're making us and what they're pulling out---

14 DANNY McCLANAHAN: Ridiculous.

15 KENNETH OSBORNE: ---eight trillion dollars, I
16 cannot phantom that much money as to an offer of a dollar per
17 year per acre. Thank you all.

18 DANNY McCLANAHAN: On this location, title, et
19 cetera, if that's for the location and stuff, I can
20 understand, like I said once before, how they could charge
21 that once, but twice on each individual well, they sho...the
22 price should change on that. I'm sure some of that goes for
23 the site, gravel and stuff, but as far as the location and

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1 title, the price should drop down after the first well has
2 been drilled. It's like the production and compression
3 costs, it's the same on every permit that I've seen, contract
4 hauling, contract services. What's that for, Les, contract
5 services? Can you answer that?

6 LES ARRINGTON: Different...different types of...we
7 have numerous contractors that work for us.

8 DANNY McCLANAHAN: Well, what are they doing? Are
9 they making the locat..are they grading out the site or what?

10 LES ARRINGTON: Danny, I can't...without having my
11 exact information in front of me on contract services, we
12 have...as you said, we have contract haulers. We've got
13 contractors out there doing numerous things. You've kind of
14 caught me off guard on that very question.

15 DANNY McCLANAHAN: Well---

16 LES ARRINGTON: They do many different operations
17 for us. That's all we use is contractors.

18 DANNY McCLANAHAN: Well, am I not correct that we
19 come before the Board to, you know, discuss this today, he
20 should have had that information with him because we are
21 allowed to ask about these production costs per well and he's
22 not prepared. You know, that's...then on this...like I say,
23 on the contract haulers and contract services, it's the exact
24

1 number every time. And the same on the location and title.
2 Then right below that, miscellaneous, same price every time.

3 BENNY WAMPLER: As Ms. Riggs said, those are
4 estimates, Danny. If you were to participate, actually share
5 in the well costs, that's not the actual---

6 DANNY McCLANAHAN: But...well, that's what...well,
7 okay. So, in other words, if I agree to be a participating
8 operator on a carried basis, this 249...\$249,400.44 is going
9 to change?

10 BENNY WAMPLER: It could.

11 SANDRA RIGGS: Once the well is drilled, they would
12 have---

13 BENNY WAMPLER: This is an estimate. The actual
14 cost could go up or down.

15 SANDRA RIGGS: ---to give you a actual...not an
16 estimated, but an actual cost for that particular well.

17 DANNY McCLANAHAN: Well, I could probably go along
18 with that price on one well, but as in the other wells, the
19 cost would have to go down because they're not having to do
20 the title research, the location and stuff because that's
21 already done. If they put fifty wells in, in that one plat,
22 you know, it's...you know, it keeps estimating that cost. I
23 don't think they should be allowed to do that.

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1 MARK SWARTZ: Well, let's look at R-37, there are
2 three wells. Every one of them is on a different tract, so
3 you're going to do a minimum of three titles for a well
4 location. There are three different locations that need to
5 be built, blasting, grading, road into the location. I mean,
6 it doesn't go down. It could go up.

7 DANNY McCLANAHAN: I could understand it if the work
8 would change, but after you've done the title research on the
9 whole plat, I don't think you should be able to charge for
10 that again because you've done done on this map right here,
11 there might be four or five different people in this plat
12 right here. You might do one on mine and one on everybody
13 else's, but you're still charging for the same thing and it's
14 done been done one time.

15 MARK SWARTZ: The title in the estimate is the title
16 on the tract that the well is drilled on, because the last
17 thing you want to do is drill a well on a tract you don't
18 have the lease on or don't have an agreement. So, I mean,
19 that's---

20 KENNETH OSBORNE: Now that was kind of confus---

21 DANNY McCLANAHAN: I feel like it is, too. And like
22 I say, you all can do what you want to from here out. I'm
23 going to leave it to the courts.

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1 MARK SWARTZ: In the last comment on costs, there
2 are three wells in...let's take R-37, for example, the cost
3 that we are seeking to allocate is the cost of one of those
4 three wells, not \$750,000, you know, but two hundred and
5 forty and change, because this is a frac unit. We've been
6 through this with the Board in the past, and the Board was
7 not comfortable with more than one frac unit being charged to
8 participate. We found that a reasonable approach, so even
9 though there are three wells here, the participation cost in
10 this unit is predicated on one well. I think that's
11 important.

12 BENNY WAMPLER: Do you have anything further?

13 MARK SWARTZ: No.

14 BENNY WAMPLER: In your request to the Board, do you
15 want to offer that you will pay the money into escrow, plus
16 interest?

17 LES ARRINGTON: Yes, we do.

18 SHIRLEY KEENE: Before the closing, I would like to
19 say something. I'm Shirley Keene. I'm one of the Linkous
20 Horne heirs. And to save the Board time dragging us out here
21 time after time after time, people missing work, these people
22 want this gas, let them pay for the gas. We know we own it.
23 They know we own it. Let them buy that gas and leave us all
24

1 alone. That...if I want something from you, I'm going to
2 come and pay for that.

3 BENNY WAMPLER: Ma'am, the way the law is set up,
4 there's not a determination of ownership and that's why we
5 have escrow. It's not that simple.

6 SHIRLEY KEENE: Well, they are now. They had a
7 court case about a week ago or so.

8 BENNY WAMPLER: That didn't have a thing to do with
9 this, though.

10 SHIRLEY KEENE: And we own the gas. We own the
11 minerals. Now, let them buy it or shut them gas wells down
12 and leave us alone.

13 BENNY WAMPLER: Well, I wish it were that simple for
14 you, but it's not and I'm sorry about that.

15 MARY KEENE: I'd like to say one more thing. Why
16 does the Gas and Oil Board rule for them when they're
17 supposed to consulting us for what they're getting? And
18 today, see, we're out here to try to settle this, and they're
19 hiding behind you people and they ain't discussing nothing
20 with us. They're letting you discuss what they're supposed
21 to discuss with us, they're letting you do it and pushing us
22 out. I don't know why you people would have to discuss
23 anything that was between us and them, gas and oil. I mean,

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1 it's like---.

2 CLYDE KING: Mr. Chairman.

3 BENNY WAMPLER: Mr. Keene.

4 CLYDE KING: Ma'am, there are three members of this
5 Board that are consumer representatives that are supposed
6 to---.

7 MARY KEENE: Owners of Consol?

8 CLYDE KING: Right. We are here to try to help
9 resolve the problem between the production of the gas and
10 selling it.

11 MARY KEENE: So the reason you're here helping---.

12 CLYDE KING: No. Let me finish, ma'am.

13 MARY KEENE: ---them is because you're owners, too.

14 CLYDE KING: And we're here to try to help see that
15 you get your part, which is what you own, and try to do it
16 equally and fair to everybody.

17 MARY KEENE: Yeah, but we've been here two years and
18 we ain't got nothing yet. Even my water has been messed up.

19 CLYDE KING: We have to go according to the law of
20 the Commonwealth.

21 MARY KEENE: And I was supposed to had water, they
22 was supposed to been working on it and I ain't got it. So,
23 how many of you are on the...how many of you own a percentage

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1 in Consol?

2 CLYDE KING: I don't.

3 BENNY WAMPLER: I'd say none of them.

4 MARY KEENE: Well, then you'ns don't...you'ns
5 shouldn't have to defend them.

6 BENNY WAMPLER: Ma'am, what we're doing is enforcing
7 the law, and they have...they have a right to come before the
8 Board and what we're doing here today---

9 MARY KEENE: I know, but we got a right, too. But
10 they should be discussing what they're taking from us with
11 us.

12 BENNY WAMPLER: If this application is approved, if
13 it does anything, it protects your interest.

14 MARY KEENE: It ain't protected me so far.

15 BENNY WAMPLER: I'm sorry.

16 MARY KEENE: It ain't protected us so far.

17 BENNY WAMPLER: Well, it is. The money will be into
18 an escrow account and whenever that ownership is finally
19 resolved, that money will come to you.

20 RICHARD OSBORNE: We've been hearing that escrow for
21 years and there's no figures or nothing.

22 BENNY WAMPLER: Well, that's going to change.

23 RICHARD OSBORNE: When?
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1 BENNY WAMPLER: As soon as this order goes through.

2 RICHARD OSBORNE: Well, there you go, see. That's
3 another put off.

4 MARY KEENE: After two years---.

5 BENNY WAMPLER: Well, it will be with interest. So,
6 it's not...there'll be no loss of anything.

7 KENNETH OSBORNE: Mr. Wampler?

8 BENNY WAMPLER: Yes, sir.

9 KENNETH OSBORNE: If I may ask, what kind of time
10 frame are we looking at for this order to go through?

11 SANDRA RIGGS: The orders get entered within about
12 thirty days---.

13 KENNETH OSBORNE: Thirty days.

14 SANDRA RIGGS: ---by the time they're drafted and
15 get recorded, and they have seven days from the time it's
16 recorded to mail the copies out to everybody that's entitled
17 to make their elections.

18 BENNY WAMPLER: And the time to---.

19 SANDRA RIGGS: It runs about forty-five days. But,
20 I mean, they don't necessarily have to wait to deposit those
21 monies. They can go on and voluntarily put those monies in,
22 which they've indicated they'll do.

23 BENNY WAMPLER: They said they would do that.

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1 KENNETH OSBORNE: So we're looking at about forty-
2 five days.

3 SANDRA RIGGS: For this order to get processed.
4 They'll get drafted immediately and start through the...
5 through the...they got to get recorded in Buchanan...Buchanan
6 County.

7 BENNY WAMPLER: Ma'am, do you understand we can't
8 determine ownership. We can't make a determination.

9 MARY KEENE: I'm not saying you determined
10 ownership.

11 BENNY WAMPLER: We would be---.

12 MARY KEENE: I'm saying you know we own it and they
13 know we own it, and I---.

14 BENNY WAMPLER: I don't know you own it.

15 MARY KEENE: ---don't see why we even have to
16 discuss this with you all.

17 BENNY WAMPLER: I don't...I don't know you own it
18 and this Board doesn't know you own it.

19 MARY KEENE: They should be contacting us, the
20 individual, and sitting down and talking to us and telling us
21 what they're doing, and not hide behind one another's coat
22 tail.

23 RICHARD GILLIAM: One thing this does, if I own a
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1 piece of property, I can go in and drill a well and I could
2 siphon off your gas and everybody's around you. This whole
3 thing has been set up to protect the surrounding property
4 owners---.

5 MARY KEENE: Well, it ain't protecting us.

6 RICHARD GILLIAM: Well, it can happen. I mean, if
7 this well was drilled that's come through this Board...I
8 mean, we don't make a lot of decisions here. It's all very
9 regulated. There's a bunch of regulations, a bunch of laws,
10 and we're just here to see...to pass on those and make
11 sure...you know, review these things and make sure that, as
12 best of our ability, that's properly done after it goes
13 through the division. And if we didn't do this and anybody
14 could go put...Mr. McClanahan could go put a well down and
15 pull everybody's oil and gas around there right out of all
16 the property.

17 MARY KEENE: Well, yeah, that's true. It's what
18 everybody is already doing.

19 RICHARD GILLIAM: That's what this thing was really
20 set up for. In addition to the fact, there's this dispute in
21 the State about ownership of the coalbed methane gas. That's
22 unresolved. We can't do anything about that. I assume
23 there's probably an action interstate. Is there not an

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1 action?

2 SANDRA RIGGS: There's nothing pending, no.

3 RICHARD GILLIAM: So, until that's resolved...but
4 what you can do is get together with the other owners, other
5 oil and gas owners---

6 MARY KEENE: You don't know about the other suit.

7 RICHARD GILLIAM: This is different from...you
8 talking about this one here?

9 MARY KEENE: No. I'm talking about this one that's
10 in the paper I got.

11 RICHARD GILLIAM: That's a different issue.

12 BENNY WAMPLER: Doesn't have anything to do with it.

13 MARY KEENE: I know it. I even had...that means
14 we're all heirs, each and every one of us is; and each and
15 every one of us should be set down and not...not hide. I
16 mean, they's nobody comes by our home and sets down and tells
17 us that this is this and this is that. Each time we come out
18 here, we have to come out here and we try to explain what we
19 know, but all we get is a run around and most of the time we
20 get, you know...it's like we don't know anything. But we do
21 know what we own.

22 RICHARD OSBORNE: And here's another day wasted.

23 MARY KEENE: Yeah. And the same old thing today

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1 just like it's been through two years, their rights and ours
2 nothing.

3 KENNETH OSBORNE: One other thing, might I request
4 could we get a copy of the deed that they've got showing
5 where Hurt/McGuire owns that. If I leave a copy of our names
6 and addresses with you all, could you all get us a copy of
7 that? Would that be a problem? And one other thing, I need
8 to make a change in my address and I'm sure Mr. Wilson
9 remembers, I've submitted a change of address three times and
10 it's still...it still reflects my old address on here, on
11 this mailing list.

12 BENNY WAMPLER: That they're sending out, or that
13 we're sending out?

14 KENNETH OSBORNE: Well, the last stuff I got, it
15 went to the wrong address, which I had spoke to Mr. Wilson
16 and about a month or two months before that I put a change of
17 address in.

18 BENNY WAMPLER: You got the correct address?

19 BOB WILSON: Yes.

20 FRANK STACY: Mr. Chairman, when the time comes
21 available, I would like to make a closing remark.

22 BENNY WAMPLER: You can go ahead and do that now.

23 FRANK STACY: All right, sir. Mr. Chairman, on
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1 behalf of the Linkous Horne heirs, I would like to state a
2 couple of things for the record. We do have a problem, which
3 I realize you all have addressed today, that the money is not
4 being put in the pool, which you said you were going to
5 address.

6 We have a problem with the fact that you have
7 submitted an order and they are in violation. Nothing has
8 been done about it. We would like to have that issue
9 addressed, if you would, please.

10 We have a problem with the fact that the heirs have
11 lost control...or to be able to negotiate their own rates. I
12 realize the force pooling, the law dictates the rate that can
13 be put into effect, but it has appeared to us that, through
14 the various wells, they have not made a genuine effort to
15 approach the owners, or potential owners, to negotiate a
16 lease or rate. They're just going by the law to force us
17 into what the law allows and that's it.

18 They also have the ability to certify and find out
19 who the land owners are by the courthouse and the deeds and
20 engineers. It seems, or it appears, that they're doing
21 everything in-house. I don't see why they can't go to an
22 outside independent source to resolve the disputes between
23 the owners, so that the escrow can be resolved. I don't know

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1 if that's your all's place to address that issue or not, but
2 it seems as though they do need to get some outside firms to
3 certify who the owners are, property owners I'm referring to.
4 I realize the gas is a different issue.

5 The heirs are opposed to, and I realize this
6 doesn't affect the pooling, but as Board members, while you
7 are all together, the heirs are opposed to any construction
8 or production of any of the past, present or future wells
9 being put in without efforts being made to negotiate an
10 individual lease or purchase with the individual heirs. And
11 that's all my closing remarks. Thank you.

12 KENNETH OSBORNE: If I may add one more thing, Ms.
13 Ruth Keene here, she's listed on the paper, but as to this
14 day, she says she has never received any paperwork whatsoever
15 and you might want to check and see if they've got her listed
16 as address unknown.

17 LES ARRINGTON: We do have.

18 RUTH KEENE: You want my address now?

19 LES ARRINGTON: Sure.

20 BENNY WAMPLER: Thank you.

21 MARTHA WILLIAMS: I'm Martha Williams, once again.

22 I think Frank has pretty well said this for everyone, and I
23 do...I realize that they're doing what the law allows and

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1 this is a problem...but I do have to say one thing, that in
2 this whole thing, there's no protection for the people, and
3 that's my concern. I do hope the Board will take that into
4 consideration.

5 BENNY WAMPLER: Thank you. Do you have anything
6 further?

7 MARK SWARTZ: No.

8 BENNY WAMPLER: Okay. We have the consolidation of
9 cases. I suggest in any motion to approve, that there be an
10 order to deposit the money, with interest, back to the
11 original date, to do that within fifteen days.

12 RICHARD GILLIAM: I make that motion.

13 CLYDE KING: Second.

14 BENNY WAMPLER: Motion to approve with that
15 stipulation, and second. Any further discussion?

16 (No audible response.)

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

18 (All members signify yes.)

19 BENNY WAMPLER: Opposed, say no.

20 (No audible response.)

21 BENNY WAMPLER: You have approval. The next item on
22 the agenda is a petition from Buchanan Production Company.

23 They seek to combine drilling unit allowables for production

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1 from a sealed gob area of Beatrice Mine, docket number VGOB-
2 99-11/17-0765. We'd ask the parties that wish to address the
3 Board in this matter to come forward at this time.

4 MARK SWARTZ: I'm not sure the motion was in the
5 form that I would have expected. Maybe I misheard or
6 misunderstood.

7 SANDRA RIGGS: It was a motion to approve, with a
8 stipulation that the---

9 MARK SWARTZ: Oh, there was a motion to approve. I
10 didn't hear the motion.

11 BENNY WAMPLER: There was a motion to approve the
12 consolidated cases, with the stipulation that the monies be
13 deposited retroactive to the first day, with interest, within
14 fifteen days from today.

15 MARK SWARTZ: I had a hearing loss in the first part
16 of the sentence.

17 BENNY WAMPLER: It happens.

18 MARK SWARTZ: Les Arrington and Mark Swartz with
19 regard to the Buchanan Production Company petition concerning
20 a combination of units over the Beatrice Mine.

21 BENNY WAMPLER: Les, you've been previously sworn.
22 Let the record show there are no others. You may proceed.

23 MARK SWARTZ: This...this...I guess we'd call it a
24

1 miscellaneous petition. I'm not sure here---

2 BENNY WAMPLER: That's what you referred to it as.

3 MARK SWARTZ: We have brought this because when
4 the---

5 BENNY WAMPLER: Hold on a second, Mark. She is
6 having difficulty. Folks, I'm going to have to ask you to
7 step in one of the side rooms, if you will. The recorder is
8 not able to pick up the message here.

9 Go ahead, Mark.

10 MARK SWARTZ: In the...we were here back in...well,
11 it started in June of '96, and there was an order entered by
12 the Board in November of '96, and you all created units,
13 sealed gob units, over the Beatrice Mine, and there were
14 allowables of 350,000,000 set for each unit. There was a
15 request that we be allowed to produce multiple unit
16 allowables through a limited number of wells.

17 We were going to have to drill a lot of wells to do that and
18 as we either reached agreements, or did title and pooled
19 them, we would...we would want to be able to do that. And
20 the Board put a caveat on that saying, if you're going to
21 produce, or stack allowables through a given unit, and wells
22 within a given unit, you need to come back to us and tell us
23 what you have in mind and get our...essentially get our

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1 permission to do that. That's what this miscellaneous
2 petition concerns. I'm going to have Les pass out some maps
3 as we're linking some units and talk to you about it. I'm
4 not sure that we need a lot of testimony, but Les has an
5 ability to answer questions with regard to production and so
6 forth today. Since we've never done this before, just
7 thought I'd kind of walk you through it and then if you've
8 got questions, we're certainly here to try to respond as best
9 we can.

10 I think if you flip to the petition, paragraph
11 five, the status of units under consideration really kind of
12 summarizes what we're talking about here. The...the map that
13 you have locates the various units that we're talking about.
14 First, we're talking about combining a portion of T-17,
15 which is in the Beatrice Mine, with S-18; and then we're
16 talking about combining U-21 and a portion of...I'm sorry,
17 let me go back here, T-17...a portion of T-17 and S-18.
18 Right?

19 LES ARRINGTON: Uh-huh.

20 MARK SWARTZ: And the reason we're doing a portion
21 there, if you look at the map, and I assume the map Les gave
22 you is the same as the bigger one I've got, there's a red
23 boundary around the Beatrice mine and only a portion of unit
24

1 T-17...the T-17 unit is the yellow one over here, is in
2 the...is in the Beatrice field rule area. And what we've
3 done is, we've prelimiteded, or calculated, the part of it
4 that's in there, multiplied that piece of the unit times the
5 allowables. We're not seeking the full three-fifty, we're
6 seeking the three-fifty pro-rated to the acreage that's
7 actually in there.

8 The T-17 unit was previously pooled by the Board,
9 and I think there was a modification that didn't get an 01
10 number, but it was pooled for frac wells in that unit and for
11 production from the VP-8 mine, which is just to the south of
12 the Beatrice mine for active gob areas of the VP-8 mine. So,
13 we've got a unit that we force pooled, but it did not allow
14 sealed gob production, so we're back here to...and we noticed
15 all these folks to tell them we're going to be asking the
16 Board to be allowed to produce from a sealed gob and
17 attribute to your unit. The rest of the units are all
18 voluntary units, so that we have lease agreements. We have
19 not had to pool them. We don't need any relief from a
20 pooling standpoint, but with regard to T-17, as I've
21 described it, it was pooled essentially to service another
22 mine, and we need permission to produce from a sealed gob
23 from that.

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1 With regard to the other ones, we need your
2 permission to stack allowables under the Beatrice order. So
3 basically, to just kind of follow through then; 5-A, we're
4 seeking to put a portion of T-17, a pro-rated amount of the
5 allowables together with S-18, to stack it. We're seeking to
6 combine U-21 and T-21, which are full eighty acre units and
7 then we're seeking to combine B-21 and S-21; B-21 being a
8 partial unit. You can see the boundary cutting through it.

9 So the relief we're asking for today is two things:
10 One, that we be allowed to produce from the sealed gob and
11 allocate to previously pooled unit T-17; and with regard to
12 the rest of the units, simply that we be allowed to combine
13 allowables and produce.

14 Les has kind of looked at the production if you
15 want to talk to him about that, or maybe I'll just let him
16 give you sort of an overview of the kind of production we're
17 seeing on other wells that we've been producing.

18 BENNY WAMPLER: Give us some testimony on that.

19 MARK SWARTZ: Okay.

20 LES ARRINGTON: Out of the present wells---.

21 MARK SWARTZ: Where are they?

22 LES ARRINGTON: In particular, in the T-17 unit...in
23 the T-17 unit, there's two wells within that unit and

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1 presently we're producing approximately three hundred and
2 fifty MCF a day out of those wells. And if you do those
3 calculations, the original production for that unit would
4 have been a 107,000,000, a one hundred and seven MCF. So
5 we're fast approaching that one hundred and seven, and if we
6 add this three hundred and fifty MMCF to it, I believe that
7 will add approximately three more years life to those two
8 wells. Again, that S-18, for example, that we're proposing
9 to add to it, that's a completely voluntary unit. The only
10 units that we don't have, that's not voluntary is the T-17,
11 of which was originally pooled.

12 We do have...and we have permitted wells in the B
13 and U-21 units. We have two wells permitted there and we're
14 just...quite frankly, we're just beginning production in
15 those two units.

16 We don't...at this point, since I was coming in for
17 the T-17 to do that, seeing the production from that one,
18 felt that it was just prudent to go ahead and piggyback the
19 other two units.

20 BENNY WAMPLER: Based on production that you've seen
21 out of the others?

22 LES ARRINGTON: On our...yes, sir.

23 BENNY WAMPLER: Any questions from members of the
24

1 Board? Do you anticipate this coming up over and over, or do
2 you think this---?

3 MARK SWARTZ: Yes. It looks like---.

4 BENNY WAMPLER: I mean, I'm trying to see if there's
5 a different problem that we have. Is the problem that we
6 have that we've capped production?

7 MARK SWARTZ: I don't know why you all did this. I
8 mean, I think the options on the table were that we would
9 certainly tell you if we were going to do it, or were we to
10 come back and talk to you about it. And the options, since
11 this is the first time we've ever done this, was to get us
12 back. What I'm hearing from you is the typical well will
13 produce the allowable in something less than three years.

14 LES ARRINGTON: Correct, that's what we're seeing.

15 MARK SWARTZ: And that's...so it's not an immediate
16 issue, but we're going to be back, you know, with some
17 regularity on that kind of period.

18 BENNY WAMPLER: What's a reasonable allowable?

19 MARK SWARTZ: Well, I think we've established that.
20 I mean, I'd be reluctant to get into that without getting
21 Claude back here. I think we...I think what we did was we
22 calculated, and I think...I didn't see any set forth in the
23 order. We tried to calculate the remaining, recoverable

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1 reserves in the mine and divided it by the number of units
2 and that, I think, is how we zeroed in on the three hundred
3 and fifty.

4 BENNY WAMPLER: It was. I mean, we had testimony
5 from Claude that set that.

6 MARK SWARTZ: So I think...you know, I think
7 that---.

8 BENNY WAMPLER: What you're saying is it's proven
9 that your recovery is better than you previously estimated.

10 SANDRA RIGGS: Not over the total sealed gob, but
11 off of these particular wells.

12 BENNY WAMPLER: That's what I'm saying, per well,
13 where we cap per well, but it's just for...you anticipate---

14 MARK SWARTZ: No, it's per unit.

15 SANDRA RIGGS: Per unit was the three fifty.

16 BENNY WAMPLER: Per unit. I didn't mean per well...
17 per unit.

18 MARK SWARTZ: It really...I think you're asking me
19 two questions. I have no reason to suspect that the
20 allowables we set need to be changed, and I'm not sure that
21 the production really exceeds our expectations either. I
22 mean, we knew we were going to get pretty good production
23 here because of the Ratliff well. So---

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1 BENNY WAMPLER: I was seeing if we had a different
2 problem than the one you were addressing.

3 MARK SWARTZ: And the problem...I think the problem
4 was we needed to have allowables to make sure that everybody
5 got their share of the gas, and I think we need to stay with
6 that. I don't know how to put a band-aid on. Do we need to
7 come back, or how often do we need to come back, or how do we
8 notify you. I mean, I---.

9 BENNY WAMPLER: Well, right now you come back each
10 time you encounter this situation.

11 MARK SWARTZ: We're...we're comfortable with that.

12 BENNY WAMPLER: Okay. Anything further?

13 MARK SWARTZ: No.

14 BENNY WAMPLER: Questions from members of the Board?

15 SANDRA RIGGS: So, in the unit that you have
16 borrowed the MMCFs from, there will be no wells in those
17 units?

18 MARK SWARTZ: In all probability, yes, that's
19 correct.

20 SANDRA RIGGS: But even if there is, it will cap out
21 at the 700 for the combined units?

22 MARK SWARTZ: If they were two full units?

23 SANDRA RIGGS: Right, or proportionate part thereof.

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1 MARK SWARTZ: Right. Right. So...but the idea is
2 to not use as many wells.

3 SANDRA RIGGS: Right.

4 CLYDE KING: Cut your number of wells.

5 MARK SWARTZ: Les didn't show the pools...this map,
6 you see there's nothing in S-21 and there's nothing in S-18,
7 and that's...the idea is to be allowed to produce those
8 allowables from some other unit's well.

9 SANDRA RIGGS: And pay the royalties back as if
10 there were a well there.

11 MARK SWARTZ: Correct.

12 LES ARRINGTON: Right.

13 MARK SWARTZ: Basically, we've got wells that can
14 continue to produce for a long, long period of time, but we
15 would have to shut them in at three hundred and fifty if we
16 didn't do this.

17 CLYDE KING: This is a three year deal?

18 MARK SWARTZ: It's...it's about how long it takes us
19 to produce point three five MCF through one well.

20 BENNY WAMPLER: From this particular sealed gob?

21 MARK SWARTZ: Right. Which is still pretty good
22 production.

23 BENNY WAMPLER: Anything further?

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1 (No audible response.)

2 BENNY WAMPLER: Do you have anything further?

3 MARK SWARTZ: No.

4 CLYDE KING: Move we approve.

5 BENNY WAMPLER: Motion to approve. Is there a
6 second?

7 MASON BRENT: I second.

8 BENNY WAMPLER: Motion and second. Any further
9 discussion?

10 (No audible response.)

11 BENNY WAMPLER: All in favor, signify by saying yes.
12 (All Board members signify yes.)

13 BENNY WAMPLER: Opposed, say no.

14 (No audible response.)

15 BENNY WAMPLER: You have approval. Do you have
16 anything on the agenda next month?

17 MARK SWARTZ: We have one case, S-46. My guess is
18 if we could arm wrestle you into a retroactive order, if
19 we're successful, we could work with January, if that would
20 help.

21 BENNY WAMPLER: Well, we'll see. We may have to
22 have it anyway. I was just trying to not run the Board
23 members around.

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1 MARK SWARTZ: But I mean, if you're down to two or
2 three, we can come but it...do whatever is prudent and we can
3 live with it.

4 BENNY WAMPLER: Thank you.

5 MARK SWARTZ: Thank you for crossing the desert with
6 us this morning.

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10 STATE OF VIRGINIA,

11 COUNTY OF BUCHANAN, to-wit:

12 I, Sonya Michelle Brown, Court Reporter and Notary
13 Public for the State of Virginia, do hereby certify that the
14 foregoing proceeding was recorded by me on a tape recording
15 machine and later reduced to typewritten form under my
16 supervision; that I was duly sworn by the Court to accurately
17 and correctly take down and transcribe the said proceedings;
18 that the foregoing is a true and correct transcript of the
19 said proceedings; that I am neither Counsel for nor related
20 to any of the parties hereto and have no interest in the
21 matter whatsoever.

22 Given under my hand and sealed on this the 30th day
23 of November, 1999.

24

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NOTARY PUBLIC

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2 My commission expires: August 31, 2001.

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