

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 APRIL 18, 2000

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12 BOARD MEMBERS:

13 MASON BRENT

14 SANDRA RIGGS, ASSISTANT ATTORNEY GENERAL

15 BENNY WAMPLER, CHAIRMAN

16 MAX LEWIS

17 CLYDE KING

18 BOB WILSON, DIRECTOR OF THE DIVISION OF GAS & OIL

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\*\*\*\*\*ATTACHED IS A COPY OF THE AGENDA

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

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

8           SANDY RIGGS: I'm Sandy Riggs. I'm with the Office  
9 of the Attorney General and sit as counsel to the Board.

10          MAX LEWIS: My name is Max Lewis. I'm from Buchanan  
11 County, a public member.

12          CLYDE KING: My name is Clyde King. I'm from  
13 Abingdon, and welcome, and I'm a public member.

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

17          BENNY WAMPLER: The first item on today's agenda,  
18 the Board will receive a quarterly status report, and it's  
19 our first report from First Union National Bank as our escrow  
20 agent, and Mr. Don Ballinghoff is here to address the Board.

21          DON BALLINGHOFF: Good morning, everyone. My name  
22 is Don Ballinghoff. I work out of our specialized  
23 administration group in the Philadelphia office of First  
24

1 Union Bank. I'm in the corporate trust division. I'll be  
2 handling, you know, the escrow type accounts for companies  
3 that require a little bit of special handling as opposed to  
4 directly just putting money into escrow. They require a  
5 little bit more sub-accounting and that's why it is located  
6 here in our Philadelphia office. Patrick Dixon is our  
7 government banker for this area. He handles...he actually  
8 handles the funds, if you will, the deposit...the maintenance  
9 of the account and I handle the record keeping side of it for  
10 the Board.

11           As this is my first Board meeting, forgive me if  
12 I'm not tuned into what exactly the information that you're  
13 looking for. Hopefully, you know, next quarter I'm sure I'll  
14 be able to get right to the information you're looking for,  
15 but is there a general idea of the information that you're  
16 looking for from us so I can---

17           BENNY WAMPLER: I think if you'll start with how the  
18 transfer has gone to date and how your...how the money is  
19 coming...how, in your view, the money is coming in---

20           DON BALLINGHOFF: Okay.

21           BENNY WAMPLER: ---and how it's being reported and  
22 what our balance is at this time.

23           DON BALLINGHOFF: Sure.

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1           BENNY WAMPLER: Interest that has accrued, charges  
2 that have gone to that.

3           DON BALLINGHOFF: Okay. I guess I'll start with the  
4 charges. We have not levied any charges to this point  
5 against the account. I think it's only fair that I had come  
6 here and met with everyone to make sure everything is running  
7 smoothly in your eyes, as well as ours, before it was  
8 reasonable to extract any fees from the account. So...so, to  
9 date, I have not pulled any fees out of the escrow account  
10 for our services.

11           Conversion, we feel went fairly smoothly. We did  
12 receive the records from First Virginia, I guess, sometime  
13 late in January, or early in February, which was a little bit  
14 behind on our conversion schedule. We had those completed  
15 and we've completed the input of subsequent months from the  
16 various parties to the escrow account.

17           In some cases, we are receiving direct wire  
18 deposits, right from Conoco. Conoco right now is sending  
19 money directly and putting it into the account. The balance  
20 of the groups are forwarding checks just with a statement  
21 listing what particular VGOB number that the monies are to be  
22 applied to and they're coming in the form of a check. So,  
23 we're getting large bundles of checks from the various

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1 producers, if that's the right term to use.

2           We've received everything up through the end of  
3 March and we have all the checks deposited and I do think we  
4 have almost everything reconciled. We're still in the  
5 process of reconciling as we were a month behind. We're  
6 still about a month behind in our reconciliation, matching  
7 deposits to the actual data base. So, we're in the process  
8 of getting up through March the 31st on that and I anticipate  
9 having that done by the next couple...in the next week or so,  
10 by the end of April.

11           The only account so far expresses a annual rate is  
12 about 6.01%, which we think is a very competitive rate so  
13 far. The total escrow balance is approximately 3.8 million  
14 dollars at this point. Receiving deposits of approximately  
15 \$130,000 a month from the producers, and interest is  
16 approximately \$18,000 a month average for the past three  
17 months. So, that kind of gives a fair overview of the status  
18 of the account.

19           BENNY WAMPLER: Let me ask you one other question.

20           DON BALLINGHOFF: Yes, sir.

21           BENNY WAMPLER: Obviously, one concern that we have  
22 is whenever we have parties that are ready to get their money  
23 out, come to an agreement or whatever means that has come.

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1           DON BALLINGHOFF: Yes.

2           BENNY WAMPLER: It's kind of crunch time then to  
3 make sure that the reconciliation and everything occurs  
4 immediately with...or as soon as possible back and forth with  
5 the operator or producing company. Are you prepared to...to  
6 deal with that kind of anomaly that comes in and says, okay,  
7 we---?

8           DON BALLINGHOFF: We...we have dealt...we have dealt  
9 with a few of those. As I said, we've not fully completed  
10 our reconciliation. So, I do think there's still some manual  
11 intervention that's required between us and the individual  
12 producer, and in some cases we have to go back and do a  
13 little bit of research just to see if it was a conversion  
14 issue, if it was...you know, or if we, for whatever reason,  
15 did not appropriately allocate that fund to that particular  
16 record. So, that's one of the items that we're hoping to  
17 finish up in the next week or so is that complete tying in of  
18 each deposit to the deposit into the data base.

19           CLYDE KING: Mr. Chairman?

20           BENNY WAMPLER: Mr. King.

21           CLYDE KING: Could you give us a printout of what  
22 your...a report each month?

23           DON BALLINGHOFF: Absolutely. Yes. I do forward  
24

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1 that to the Board.

2 CLYDE KING: Do you have anything today?

3 DON BALLINGHOFF: I do not have my computer with me,  
4 but I'll be certainly glad to forward that directly if you'd  
5 like. If you want to give me---.

6 CLYDE KING: I think that would be important to  
7 receive that every month.

8 DON BALLINGHOFF: Yeah. I...on a monthly basis  
9 I...I send a---.

10 BENNY WAMPLER: Bob is receiving that on a---.

11 CLYDE KING: Oh, you are?

12 BOB WILSON: We...we get those reports in to the  
13 Division of Gas and Oil now and we'll be happy to have them  
14 at the Board hearing on a regular basis, and if you have  
15 questions between hearings, I'll be glad to see if we can  
16 answer those for you.

17 DON BALLINGHOFF: I'll be---.

18 CLYDE KING: I think that will be good if we saw  
19 those.

20 DON BALLINGHOFF: Yes, we do that. We send...what  
21 we do is we send an Excel format actually down. We take and  
22 extract from our...our data base and confer it into an Excel  
23 format just so it's a little bit more workable within

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1 the...within Bob's world. They can kind of manipulate it and  
2 sort it and extract it as they please. So, we think it's a  
3 little more user friendly that way as opposed to going into  
4 our large main frame type of system. So, I'll be glad to  
5 forward those...bring additional copies...we do that once a  
6 month. So, it's a monthly report. So, I can bring perhaps  
7 the previous three months when we next meet, presumably  
8 sometime in early summer, late spring. I'll be glad to bring  
9 those in a...I'll bring...I'll bring several---

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

12 (No audible response.)

13 BENNY WAMPLER: Bob, have you had a chance to talk  
14 with Mr. Ballinghoff about the...some of the discrepancies  
15 recently been brought to your attention?

16 BOB WILSON: Briefly. We spoke just before the  
17 hearing started.

18 BENNY WAMPLER: Okay.

19 BOB WILSON: The problems that we have seen and one  
20 of the first requests, I guess, that we've had from an  
21 operator for information on the accounts, the accounts as...  
22 Mr. Ballinghoff provided us with a...or the operator with a  
23 spreadsheet that had a record of the...a conversion amount

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1 that was brought over from First Virginia plus the monthly  
2 entries that were made for January, February and March. The  
3 operator brought it to my attention that these accounts, or  
4 these amounts, did not balance with the checks that had been  
5 deposited. I spoke with Mr Ballinghoff just a few minutes  
6 ago and he indicates that the figures that are in that  
7 spreadsheet represent just the interest that has been  
8 attributed to that account on the amount that was brought  
9 forward from First Virginia, except for one check, I believe,  
10 and correct me if I'm wrong, Les, that was deposited in March  
11 that actually matches with the amount that the---

12 DON BALLINGHOFF: That is correct. Yes, sir. That  
13 is correct.

14 BOB WILSON: Okay. We have...I'm not sure what the  
15 problem is as far as getting the amount tallied in from the  
16 previous months and this is...the problem that was with  
17 PGP/Conoco and there are representatives here from them  
18 today. We might want to get them to come up and see what the  
19 situation is on that.

20 BENNY WAMPLER: Okay. Do you have anything that you  
21 want to add to the discussion just so that they know, you  
22 know, before they leave what kind of problems that we're  
23 trying to reconcile because, obviously, if we're ready to pay

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1 out, we want to be able to tell you everything that's needed  
2 to do that as well.

3 DON BALLINGHOFF: Yes, sir. Yes, sir.

4 LESLIE K. ARRINGTON: I think...I think the interest  
5 thing may have answered some of the questions.

6 DON BALLINGHOFF: Okay. May I come...I'm just going  
7 to sit down next to you.

8 LESLIE K. ARRINGTON: Sure.

9 BENNY WAMPLER: Les, if you will just state your  
10 name for the record.

11 LESLIE K. ARRINGTON: My name is Les Arrington. I'm  
12 with Pocahontas Gas and Consol. I have here---.

13 DON BALLINGHOFF: Yes. Right.

14 LESLIE K. ARRINGTON: We're looking at the  
15 information that he has supplied to me to balance the account  
16 and since he has answered the question of...that was the  
17 interest only.

18 DON BALLINGHOFF: Yes, sir.

19 LESLIE K. ARRINGTON: Well, for us to balance the  
20 accounts, we also need from him the check amounts that he's  
21 showing going into that, that...that amount.

22 DON BALLINGHOFF: That's correct. That's correct.

23 LESLIE K. ARRINGTON: So, you know, if he can do  
24

1 that, I think we can go ahead and balance the accounts at  
2 that point.

3 DON BALLINGHOFF: Yeah. And that's what I'm...I'm  
4 going to do. I'm going go back...when I go back into the  
5 office---

6 LESLIE K. ARRINGTON: Okay.

7 DON BALLINGHOFF: ---I will go ahead and provide  
8 that additional information to you---

9 LESLIE K. ARRINGTON: Okay.

10 DON BALLINGHOFF: ---as far as the deposits going  
11 in. What I'll need to do is I'll need...I'll just go back to  
12 the files and pull the actually---

13 LESLIE K. ARRINGTON: Okay. That will...we can do  
14 those then.

15 DON BALLINGHOFF: ---...for the month based on those  
16 VGOB numbers. I'll be glad to get that finished this week  
17 for you, if that's---

18 LESLIE K. ARRINGTON: I don't think we need anything  
19 else.

20 DON BALLINGHOFF: ---within your time frame.

21 BENNY WAMPLER: Okay.

22 BOB WILSON: I have a fairly general question  
23 related to this.

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1                   BENNY WAMPLER: Bob?

2                   BOB WILSON: Is this a...is there an intrinsic  
3 problem that keeps these things from being deposited on...or  
4 from being recorded on a monthly basis. We get, of course,  
5 requests to...from the individuals who are involved in this  
6 escrow account to find out how much money they have in the  
7 account, or is in the account, and if we're only getting  
8 interest amounts, why...why were checks not deposited or not  
9 recorded?

10                  DON BALLINGHOFF: Right. That's something I'll have  
11 to look at it because they are deposited and they are  
12 credited to the VGOBs. It should...it should have shown on  
13 this extraction. That is being done on a monthly basis.

14                  BENNY WAMPLER: You don't anticipate that being a  
15 problem once you get the---?

16                  DON BALLINGHOFF: I don't anticipate that being  
17 a...I think, and this is certainly by no means an excuse, but  
18 I think as we become a little more acclimated to, I think,  
19 how this information is forwarded to us, we'll become a  
20 little bit more adept just as each...as each provider has  
21 their own format of how they report this to it.

22                  BENNY WAMPLER: Right.

23                  DON BALLINGHOFF: You know, some we get direct

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1 wires, some...some list the VGOB right there. Some operators  
2 we have to call up and find out what VGOB it is. So, I think  
3 once we get a better feel for how it's going to be reported  
4 and I develop a bit of a rapport, I think with each company,  
5 I will be better able to anticipate their needs and I'll be  
6 able to somehow, you know, make sure this thing runs a little  
7 bit smoothly.

8           BENNY WAMPLER: You understand from our standpoint  
9 that when someone calls Mr. Wilson, if it's one of the folks  
10 here that has been pooled, then they want...you know, they're  
11 looking to know what...how much is in my account attributed  
12 to me---?

13           DON BALLINGHOFF: I absolute...I absolutely---.

14           BENNY WAMPLER: ---and he needs an ability to do  
15 that?

16           DON BALLINGHOFF: I absolutely do understand that  
17 and that's...because that's one...that's one...that's one of  
18 the top items we have on our to-do list is to bring...to make  
19 sure we're all reconciled to the original statements. We ran  
20 a little bit---.

21           CLYDE KING: Ah...excuse me.

22           DON BALLINGHOFF: We ran a little bit behind, you  
23 know, because we were behind the one month on the conversion.

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1 It took an extra month.

2 BENNY WAMPLER: Sure.

3 DON BALLINGHOFF: So, I don't want to say we forced  
4 that, but we kind of...we...I'll say we hurried ourselves  
5 trying to get the money invested and working for all of the  
6 operators and all the depositors. We don't want it just to  
7 sit idly by and not...not working for them. So, we did put  
8 all the money and then through...how should I say, through  
9 the statements, rebuilt the history in our data base. I  
10 think, you know, this is a problem that we will eliminate now  
11 that we are caught up. We have everything inputed. We do  
12 have a couple of reconciliation issues and I think this is  
13 clearly one of them. You know, there's no...no disputing  
14 that fact and we do have to go back and clean some of these  
15 things up and I will work with each operator, you know, in  
16 doing so. I think we definitely need to go back with each,  
17 on an operator by operator basis, to make sure we have all  
18 the records that agree with theirs, you know.

19 BENNY WAMPLER: Okay. Mr. King?

20 CLYDE KING: How long does it take to get a check  
21 from Les to you? Can you not wire transfer those?

22 LESLIE K. ARRINGTON: The Conoco side is. The  
23 Consol side is not. That's coming in in checks.

24

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1           CLYDE KING: My...my question would be January,  
2 February and March, has that money being drawing interest  
3 since those times and---?

4           DON BALLINGHOFF: Yes, sir.

5           PATRICK DIXON: Absolutely.

6           DON BALLINGHOFF: Yes. We...we have...as we receive  
7 the monies, we've put them into the escrow to earn interest.  
8 What we then have gone back and done is taken the...you  
9 know, the statements that accompanied the checks or the stub  
10 or however it's reported and then input those into the master  
11 data base. We're in the process now of making sure that  
12 there's a one to one relationship between deposits, or  
13 statements, and our records, and that's something we're  
14 working on right now.

15           CLYDE KING: Well...excuse me, Mr. Chairman.

16           BENNY WAMPLER: Go ahead, Mr. King.

17           CLYDE KING: But, you know, there are First Union  
18 Banks close by, I guess. Is there one close by you up there?

19           LESLIE K. ARRINGTON: I don't know. I don't know.

20           CLYDE KING: Okay. Those things could be deposited  
21 in the local bank, couldn't they?

22           PATRICK DIXON: If you had an appropriate deposit  
23 ticket, it sure could...it sure could.

24

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1           CLYDE KING: And then that would immediately get it  
2 in your...drawing interest.

3           DON BALLINGHOFF: Yes, sir. That's correct.

4           CLYDE KING: Am I...am I correct?

5           DON BALLINGHOFF: That's correct, sir. Yes. And  
6 we're doing that as...as we---

7           CLYDE KING: I think that's important because we  
8 deal with these folks that are being pooled and they're very  
9 much interested in their money making money for them---

10          DON BALLINGHOFF: Absolutely.

11          CLYDE KING: ---until they're able to draw it out.

12          DON BALLINGHOFF: Absolutely. And as we receive  
13 these checks, that's...you know, we put them right in.  
14 Absolutely. But, like I said, on the Conoco side, we're  
15 doing the direct deposit and they're going right into the  
16 account.

17          PATRICK DIXON: Well, let me make one observation,  
18 if I might. My name is Patrick Dixon. An important piece to  
19 the...having an accurate reconciliation, obviously, would be  
20 to have the record of that deposit with...with the check or  
21 the wire itself. If we do approach a procedure which would  
22 separate the check from the detail and it goes to a branch,  
23 one our local branches, I would almost fear maybe a little  
24

1 bit of mishandling there. So, I'm not saying that we  
2 shouldn't look into that, but I think that's one fear we  
3 should try to address, or one concern to have in front of us,  
4 before we approach that procedure.

5           DON BALLINGHOFF: And as we do on the Conoco side,  
6 what...they'll...they'll put the money in, and I'll will get  
7 on a monthly basis their series of statements, and we'll go  
8 back and tie the deposit to the statement deposits daily,  
9 which is a little more time consuming, but I think for the  
10 benefit of all the people with pooled interest, you know,  
11 they're getting their money right away and the operator is  
12 getting their interest right away. It's a little bit more  
13 work on our side to do it that way, but that's not...it's not  
14 a significant higher amount of work. As long as it's  
15 controlled through a central point, which is, you know, my  
16 office. I'm getting all the statements and I'm just tying it  
17 to a bank statement. So, much like we all would do with our  
18 checkbooks is how we're...how we're approaching it.

19           BENNY WAMPLER: On a quarterly basis, we'd be  
20 interested any problems you've encountered and things like  
21 that so that we may---

22           DON BALLINGHOFF: Sure.

23           BENNY WAMPLER: ---communicate, you know, if  
24  
25

1 there's anything that we're creating as far as the order of  
2 the...into escrow or any problems that you see---.

3 DON BALLINGHOFF: Right.

4 BENNY WAMPLER: ---that money is not coming into an  
5 account or something like that that has not been---.

6 DON BALLINGHOFF: Yes, I...yes. And I...you know, I  
7 wanted to make sure, you know, I had a complete reconciliation  
8 and tying in with everybody before I, you know, would even  
9 approach the issue of saying here's...here's what we need to  
10 do, because it might be something in my shop and I don't  
11 think it's fair to approach someone and say here's how we  
12 should do it when I don't have my house in order. So, at  
13 this point, you know, I don't really have anything until I  
14 think I speak with each one individually.

15 Perhaps one item that I think may be possibly bring  
16 up is I know when we had met with Bob's group out in Big  
17 Stone Gap, one of the services we agreed to do would be to  
18 track...would be to monitor these at a tract level. What we  
19 would need, I guess, from the providers is...is a break down  
20 at that level. But, you know, right...right now we get,  
21 here's the VGOB number and here's our deposit, and we  
22 don't...we don't have that particular detail, this is Tract  
23 1A, this is Tract 6. We're prepared to...you know, we have

24

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1 the data base built to accommodate that sort of reporting,  
2 but what I think we need to do as we move down the road is,  
3 you know, develop some sort of systematic way that that  
4 information gets transferred over to us either, you know, be  
5 it the monthly statements or be it a monthly report of some  
6 sort, just provide us with that and then we're fully prepared  
7 to go ahead and take it down to that tract level, you know,  
8 as we agreed to do for Bob and his group.

9           LESLIE K. ARRINGTON: I don't...I'm not sure, but I  
10 thought our tract...our check detail that came with it had it  
11 broken down by tract.

12           DON BALLINGHOFF: Does it?

13           LESLIE K. ARRINGTON: I believe it does.

14           DON BALLINGHOFF: Okay. Okay.

15           LESLIE K. ARRINGTON: If it doesn't---.

16           DON BALLINGHOFF: Yeah, I'll let you know.

17           LESLIE K. ARRINGTON: Sure.

18           DON BALLINGHOFF: Maybe I...maybe we're just...we're  
19 just misreading these and that's some---

20           BENNY WAMPLER: Well, some may and some may not,  
21 too. You know, I mean, depending on---

22           DON BALLINGHOFF: Some...some...yeah...yeah,  
23 I...yeah, you know.

24

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1           BENNY WAMPLER: That's the kind of thing we need  
2 feedback on at your next quarterly meeting.

3           DON BALLINGHOFF: Yeah, I...you know, I definitely  
4 don't want to say they don't if...you know your statements  
5 far better than I do at this point.

6           LESLIE K. ARRINGTON: Yeah, I thought they...they  
7 were broken down by tracts.

8           DON BALLINGHOFF: But I will certainly let you  
9 know---.

10          LESLIE K. ARRINGTON: Okay.

11          DON BALLINGHOFF: ---maybe at some point off line I  
12 can contact you.

13          LESLIE K. ARRINGTON: Sure.

14          DON BALLINGHOFF: I'll fax you a copy and if you  
15 can, maybe, you know, point out---.

16          LESLIE K. ARRINGTON: We can do that.

17          DON BALLINGHOFF: Like I said, you know...as we get  
18 a feel for, you know, how...how your statements look and how  
19 Buchanan's look and how Conoco's---.

20          LESLIE K. ARRINGTON: Uh-huh.

21          DON BALLINGHOFF: ---look and how all...you know,  
22 how Virginia Gas and Oil looks, you know, we'll get a  
23 better...and we'll better able to interpret this and, you  
24

1 know, service you in a manner that we are required and you're  
2 expecting us to service you. So---

3 LESLIE K. ARRINGTON: Okay.

4 SANDRA RIGGS: Well, I think what we've started  
5 doing in the order itself, in the pooling order, and I've  
6 asked Diane to include with the Supplemental Order the  
7 paragraph that talks about escrow from the original pooling  
8 order. But we're identifying those tracts that would be  
9 subjected to escrow. So when you get the pooling order,  
10 you'll know whether there's one tract, two tracts, three  
11 tracts and what the tract numbers are.

12 DON BALLINGHOFF: Correct.

13 SANDRA RIGGS: So, immediately you can set up the  
14 sub-accounts and then anticipate that you'll be receiving  
15 deposits for however many tracts---

16 DON BALLINGHOFF: Right.

17 SANDRA RIGGS: ---the order says will be subject to  
18 deposit. Now, that comes off of the exhibits, but we've  
19 tried to extract that and put it into the order itself so  
20 it's real clear which tracts are going to be escrowed.

21 DON BALLINGHOFF: Right.

22 BENNY WAMPLER: He's doing that. But the problem is  
23 he needs it coming from the companies---

24

--

1           SANDRA RIGGS: Well---.

2           BENNY WAMPLER: ---with the identification on it.

3           DON BALLINGHOFF: Right. On a monthly basis, you  
4 know, I will get...I will get a check for \$300 for this VGOB.  
5 Now, I don't...you know, I would like...I would like to know  
6 is that \$100, 100, 100, is it---.

7           SANDRA RIGGS: Are you getting a royalty statement  
8 attached to it?

9           DON BALLINGHOFF: In some...in some cases, yes.

10          SANDRA RIGGS: Well, the royalty statement will  
11 break it down. That's where the breakout is. But the  
12 problem you...the problem you run into is that the---

13          LESLIE K. ARRINGTON: It should be on there. But if  
14 it's not, just let us know.

15          DON BALLINGHOFF: Yeah. Yeah, I will certainly do  
16 that.

17          SANDRA RIGGS: ---code for the tract on the royalty  
18 statement may not be the same number. They use a different  
19 code so that you can't always tell that Tract 2 in the  
20 pooling order is Conoco's tract number whatever, you know.

21          BENNY WAMPLER: Whatever.

22          SANDRA RIGGS: So, you've got to be able to tie  
23 those.

24

--

1           DON BALLINGHOFF: Right. And, you know, these are  
2 very detailed statements.

3           LESLIE K. ARRINGTON: They are.

4           DON BALLINGHOFF: I'm very impressed with the level  
5 of detail that you provide. There's a lot of meat on those  
6 bones. It's a very, very intricate statement and, you know,  
7 I guess I'm a little bit naive in the workings of the...of  
8 your lines of business and as we move down the road, I think  
9 I'll become more acclimated to your environment and as we do  
10 that, I think, you know, this will be a smoother and smoother  
11 process. To this point, I think we've done a, you know, a  
12 fairly good job. Is it a 100% clean and perfect? No, I  
13 cannot promise you that it's a 100% accurate right at this  
14 moment. When we get it there, absolutely. You know, like I  
15 said, we anticipate having this completely done by the end of  
16 the month. So, when we go ahead and move into the next  
17 month's deposit, you know, I feel we will be 100% on track.  
18 I just think, you know...even this small discussion here, I  
19 think, has opened lines of communication very well.

20           LESLIE K. ARRINGTON: Okay. Sure.

21           DON BALLINGHOFF: So, I think, you know, I need to  
22 do that with everybody and as...our first priority was  
23 getting the conversion done and getting the data loaded and  
24

1 now I think we're ready for what I'll call phase two and that  
2 is, you know, building the rapport, balancing and  
3 making...getting everyone at a level of comfort that this  
4 thing is up and running and perfect the way, you know, it  
5 should be.

6 BENNY WAMPLER: Any other questions from members of  
7 the Board? Bob?

8 BOB WILSON: Mr. Chairman, correct me if I'm wrong,  
9 please, but I believe there are probably certain things that  
10 we could administratively ask the operators to do such as  
11 make sure they include the VGOB numbers on all of the checks  
12 and this sort of thing without having to...I think we can do  
13 this as a way of executing the Board orders that have already  
14 been given without...just do this administratively, am I  
15 correct in that?

16 BENNY WAMPLER: Yes. That's why I was asking him as  
17 he...as he goes back for the next quarterly report, if he'll  
18 point out the problems that he's...you know, that he's  
19 encountering and if he has made an attempt made to work back  
20 and forth through the operator. If it's a matter of  
21 interpretation, then as he says---

22 DON BALLINGHOFF: And---

23 BENNY WAMPLER: ---as he interacts, he can resolve  
24

1 those. But the ones that go beyond that---.

2 DON BALLINGHOFF: Right.

3 BENNY WAMPLER: ---if you have loose ends that need  
4 to be taken care of---.

5 DON BALLINGHOFF: Right.

6 BENNY WAMPLER: ---if you'll report that to us---.

7 DON BALLINGHOFF: I will do that.

8 BENNY WAMPLER: ---we should be able to take care of  
9 that.

10 DON BALLINGHOFF: Like I said, I want to be a 100%  
11 certain of my position---.

12 BENNY WAMPLER: Right. We understand that.

13 DON BALLINGHOFF: ---before I were to present  
14 something to the Board. I'd rather take full responsibility  
15 as opposed to, you know, pushing any blame towards the  
16 operator. It may be my interpretation problem.

17 BENNY WAMPLER: Sure.

18 DON BALLINGHOFF: So, I certainly don't want  
19 to...didn't want to do that at this point.

20 BENNY WAMPLER: Well, this is your first report and  
21 you've gone through a big transfer here. So...you know, and  
22 it sounds like next...next quarter we'll be well on track.

23 (Don Ballinghoff, Patrick Dixon and Leslie K.  
24  
25

1 Arrington confer with each other.

2           DON BALLINGHOFF: Like I said, as we get a little  
3 more accustomed, I think this will be a very smooth...smooth  
4 process.

5           BENNY WAMPLER: We thank you for your time.

6           DON BALLINGHOFF: It was a pleasure.

7           PATRICK DIXON: Thank you.

8           LESLIE K. ARRINGTON: Benny, I have...I have one  
9 more question.

10          BENNY WAMPLER: Mr. Arrington?

11          LESLIE K. ARRINGTON: On...on the old accounts, the  
12 First Virginia accounts, who is going to be responsible for  
13 balancing those accounts? Is it going to be these guys or  
14 are we going to get the information from Bob from where they  
15 copied all the files?

16          BENNY WAMPLER: I'll let Mr. Ballinghoff answer  
17 that. Everything was moved in---.

18          DON BALLINGHOFF: I think that...I think that will  
19 be something that...that should fall into my world. I  
20 don't...I don't think we can fully ask First Virginia to go  
21 back...we may...we may need...we may need their assistance  
22 going back and pulling some history.

23          LESLIE K. ARRINGTON: Okay. I...I was just curious.

24

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1           DON BALLINGHOFF: But going forward, how the  
2 conversion was done, actually it was not done by a file,  
3 actually. It was done...they provided us with actual paper  
4 printouts.

5           LESLIE K. ARRINGTON: Okay.

6           BENNY WAMPLER: Everything was moved over to them.  
7 If there's...you know, if there's some---

8           LESLIE K. ARRINGTON: Okay.

9           BENNY WAMPLER: ---something that we need to deal  
10 with there, we'll try to deal with it. But essentially---

11           LESLIE K. ARRINGTON: And...and we can get a co---

12           BENNY WAMPLER: ---we should be able to go to Mr.  
13 Ballinghoff and his group to answer anything that needs to be  
14 answered.

15           LESLIE K. ARRINGTON: Okay.

16           DON BALLINGHOFF: Yes. We have...we have the actual  
17 amount that First Virginia gave to us out of conversion. So,  
18 for your particular VGOB numbers, they gave us a dollar  
19 amount.

20           LESLIE K. ARRINGTON: They gave you a dollar amount,  
21 but did they give you a printout of, this amount was  
22 deposited in January of 1995?

23           DON BALLINGHOFF: No, sir. I do not have that---

24

--

1           LESLIE K. ARRINGTON: That's my question.

2           DON BALLINGHOFF: Okay. Yeah, I do not have that  
3 level of detail. I have---.

4           CLYDE KING: That's important, too.

5           LESLIE K. ARRINGTON: It is to me.

6           CLYDE KING: I think it would be to me if it was my  
7 money.

8           DON BALLINGHOFF: Yeah. So, I think in those  
9 instances, yes, we may have to have a three way type of  
10 interaction.

11          LESLIE K. ARRINGTON: Okay.

12          DON BALLINGHOFF: But I do have...I do have...I do  
13 have the conversion balance.

14          BENNY WAMPLER: And you have the contacts with them  
15 to get whatever you need?

16          DON BALLINGHOFF: I will...I will---.

17          BENNY WAMPLER: If you have any difficulty with  
18 that, if you will let Mr. Wilson know.

19          DON BALLINGHOFF: Yes, I will. I will work through  
20 Mr. Wilson in order to find out the right people there to  
21 contact.

22          BENNY WAMPLER: All right. Thank you very much.

23          PATRICK DIXON: Thank you.

24

1           DON BALLINGHOFF: All right. It was a pleasure.  
2 Thank you.

3           BENNY WAMPLER: The next item on today's agenda the  
4 Board will consider a petition from Pocahontas Gas  
5 Partnership for pooling of a coalbed methane unit identified  
6 as M-43. This is docket number VGOB-00-04/18-0789. We'd ask  
7 the parties that wish to address the Board in this matter to  
8 come forward at this time.

9           MARK SWARTZ: Mark Swartz and Les Arrington.

10          AUDIENCE MEMBER: What unit number was that?

11          BENNY WAMPLER: It's docket number VGOB-00-04/18-  
12 0789, unit number M-43.

13                   (Leslie K. Arrington distributes exhibits.)

14          MARK SWARTZ: Okay. Do you want to raise your hand  
15 for us?

16                   (Witness is duly sworn.)

17

18                                   LESLIE K. ARRINGTON

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

21   DIRECT EXAMINATION

22 QUESTIONS BY MR. SWARTZ:

23           Q.       State your name for the record, please.

24

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1 A. Leslie K. Arrington.

2 Q. Mr. Arrington, who do you work for?

3 A. Consol, Inc.

4 Q. This first application today is...who is the  
5 applicant?

6 A. Pocahontas Gas Partnership.

7 Q. And it pertains to Unit M-43, is that  
8 correct?

9 A. That's correct.

10 Q. And this is pooling application to pool  
11 that...that Oakwood unit under the Oakwood I rules, correct?

12 A. That's correct.

13 Q. Okay. Is Pocahontas Gas Partnership a  
14 Virginia General Partnership?

15 A. It is.

16 Q. And are its two partners Consolidation Coal  
17 Company and Conoco, Inc.?

18 A. Yes, it is.

19 Q. Does the application request that Pocahontas  
20 Gas Partnership be designated by the Board as the unit  
21 operator?

22 A. Yes, it does.

23 Q. Is Pocahontas Gas Partnership authorized to  
24

1 do business in the Commonwealth of Virginia, has registered  
2 with the Department of Mines, Minerals & Energy and does it  
3 have a blanket bond on file?

4 A. Yes, it does.

5 Q. Did you prepare, or were the...either  
6 prepare personally, or direct the preparation of, the Notice  
7 of Hearing and application and exhibits here?

8 A. Yes, we did.

9 Q. Okay. And you signed the Notice of Hearing  
10 and the application?

11 A. Yes, I did.

12 Q. Are the respondents listed on the Notice of  
13 Hearing on the two section?

14 A. Yes, it is.

15 Q. And are they listed again at Exhibit B-3?

16 A. Yes, they are.

17 Q. And to the extent that you have addresses  
18 for the respondents, are they listed in Exhibit B-3?

19 A. Yes, they are.

20 Q. Tell the Board what you did with regard to  
21 mailing and publication?

22 A. It was mailed by certified mail/return  
23 receipt requested on March the 17th and it was published on

24

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1 March the 21st in the Bluefield Daily Telegraph.

2 Q. Today do you wish to add any people as  
3 respondents or subtract any?

4 A. No, we do not.

5 Q. Okay. Let's look at Exhibit A, page two,  
6 with regard to this unit, and that indicates that the  
7 percentage of coal leased is 100%?

8 A. That's correct.

9 Q. And the percentage of the coalbed methane  
10 leased from coal owners and oil and gas owners is reported on  
11 the spreadsheet that you've handed out to the Board today.  
12 Is that correct?

13 A. It is.

14 Q. And what is the amount of...or the  
15 percentage of interest of coalbed methane that you've been  
16 able to lease from the coal operators and then from the oil  
17 and gas...I'm sorry, the coal owners and then from the oil  
18 and gas owners?

19 A. 99.95785%.

20 Q. And that's true with both interests?

21 A. That is correct.

22 Q. And what interest are you seeking to pool by  
23 this application today?

24

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1 A. 0.04215% on the coal, oil and gas interest.

2 Q. Okay. Have you offered leases to the  
3 people...to the 99.95% of the people that you...that you have  
4 reach agreements with?

5 A. Yes, we did.

6 Q. And what are...in general, what are the  
7 lease terms that you've been offering?

8 A. Our general terms are a one-eighth royalty,  
9 a dollar per acre per year for a coalbed methane lease, with  
10 a five year paid up term.

11 Q. And once production starts, what happens to  
12 the...the annual rental?

13 A. It ceases with royalty payments.

14 Q. Okay. So, the royalty payments of one-  
15 eighth, or 12 1/2%, take the place of that?

16 A. That's correct.

17 Q. Okay. And would you recommend to the Board  
18 that in the event this unit is pooled that their Order  
19 contain in the election section those terms as the deemed to  
20 have lease terms?

21 A. Yes, we do.

22 Q. Now, this eighty acre unit is in the Oakwood  
23 I Field, correct?

24

--

1           A.       That's correct.

2           Q.       And this application seeks to pool and  
3 produce from all...coalbed methane gas from all seams from  
4 the Tiller on down?

5           A.       That's correct. It does.

6           Q.       And there's a plat in this packet that you  
7 submitted today and it appears that you're proposing one  
8 well?

9           A.       We did.

10          Q.       And is that well in the drilling window?

11          A.       Yes, it is.

12          Q.       Okay. Has that well already been drilled?

13          A.       Yes, it has.

14          Q.       And the permit number is reflected on your  
15 summary exhibit?

16          A.       Yes, it does, 4282.

17          Q.       The date that it was issued?

18          A.       August the 5th of '9...1999.

19          Q.       And have you provided the Board with either  
20 the actual cost or an estimate with regard to that well?

21          A.       Yes, we did. The estimated cost of these  
22 wells are still being worked on. It's \$252,141.42, to a  
23 total depth of 2,525 feet.

24

25

1 Q. Okay. In Exhibit B-3, on the right hand  
2 column there's...there's a column entitled interest in unit.

3 A. That's correct.

4 Q. Do you see that?

5 A. Yes.

6 Q. And is that the percentage that people  
7 ...that royalty will be paid using...using that percentage?

8 A. Yes, it is.

9 Q. And is that the percentage that folks would  
10 use when they were considering whether or not to participate  
11 or be carried or making elections?

12 A. It would be.

13 Q. Okay. Now, as we continue on here, is  
14 there...is there also an...is there a requirement that escrow  
15 be occurring in this...in this unit?

16 A. No, there is not.

17 Q. Okay. So, there's no Exhibit E?

18 A. No.

19 Q. Is there a requirement and Exhibit E would  
20 address conflicting claims, correct?

21 A. That's correct, it would.

22 Q. Are there any unidentified folks or folks  
23 for whom you don't have addresses at this point?

24

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1 A. No.

2 Q. So, there's...there's no requirement at all  
3 for escrow as far as you know at this point?

4 A. No.

5 Q. Okay. Is the plan that is shown on the  
6 plats and described in the application, to drill a coalbed  
7 methane well in the drilling window in this unit to produce  
8 from the...coalbed methane from the Tiller on down, do you  
9 feel that that, in your opinion, is a reasonable plan of  
10 development to produce the coalbed methane under and within  
11 this unit?

12 A. Yes, we do.

13 Q. Okay. And through your efforts of due  
14 diligence in leasing to identify owners and reach agreements  
15 with them, do you feel that the plan you proposed here to the  
16 Board is a reasonable plan to produce gas for all of the  
17 owners and to the extent that they have conflicting claims,  
18 to protect the money until their claims is resolved?

19 A. Yes, we do.

20 MARK SWARTZ: That's all I have.

21 BENNY WAMPLER: Any questions from members of the  
22 Board?

23 (No audible response.)

24

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1           CLYDE KING: I move we approve.

2           BENNY WAMPLER: Okay, I have motion to approve.

3           MASON BRENT: I second.

4           BENNY WAMPLER: Second. All in favor, signify by  
5 saying yes.

6           (All members signify yes.)

7           BENNY WAMPLER: Opposed, say no.

8           (No audible response.)

9           BENNY WAMPLER: You have approval. The next item on  
10 the agenda is the Board will consider a petition from  
11 Pocahontas Gas Partnership for pooling of a coalbed methane  
12 unit identified as Q-48. This is docket number VGOB-00-  
13 04/18-0790; and we'd ask the parties that wish to address the  
14 Board in this matter to come forward at this time.

15           MARK SWARTZ: Mark Swartz and Les Arrington on  
16 behalf of Pocahontas Gas Partnership.

17           BENNY WAMPLER: The record will show there are no  
18 others. You may continue.

19           MARK SWARTZ: Mr. Wampler, I would also suggest to  
20 the Board, obviously it's up to you all, but Q-49 essentially  
21 has the same folks in it and is a...is an adjoining unit. I  
22 think it would make sense to combine for hearing the  
23 docket...the item that you just called with the next one.

24

--

1           BENNY WAMPLER: Okay. I'll go ahead and call that  
2 unless there's any objection from members.

3           (No audible response.)

4           BENNY WAMPLER: We'll also...we're going to combine  
5 and call two at the same time. This will be a petition from  
6 Pocahontas Gas Partnership for pooling of a coalbed methane  
7 unit identified as Q-49, docket number VGOB-00-04/18-0791;  
8 and we'd ask the parties that wish to address the Board in  
9 this matter to come forward.

10          MARK SWARTZ: Mark Swartz and---

11          CHARLIE KEEN: Do I come up there?

12          BENNY WAMPLER: Yes, sir. Right here, please.

13          MARK SWARTZ: Mark Swartz and Les Arrington, again,  
14 on behalf of Pocahontas Gas Partnership.

15          BENNY WAMPLER: At this time, all we need you to do  
16 is state your name for the record.

17          CHARLIE KEEN: Charlie Keen. I'm representing Terry  
18 Keen.

19          BENNY WAMPLER: Okay. That's fine.

20          JOSEPH PAUL HORN: Okay.

21          BENNY WAMPLER: Okay. And you all just be seated.

22          (Leslie K. Arrington hands out exhibits.)

23          CHARLIE KEEN: Really, on...on Terry's here...on  
24  
25

1 this one here, all he wanted, he didn't understand this is  
2 what it was.

3 BENNY WAMPLER: Okay, well, hopefully when we go  
4 through here, we'll try to...we'll try to get that resolved.  
5 Okay. So, you...right now we'll let them go ahead and  
6 present what they're going to present to the Board and we'll  
7 give you an opportunity to ask any questions. So, we'll want  
8 to make sure you do understand it.

9 CHARLIE KEEN: Okay. Okay. I appreciate it.

10

11 LESLIE K. ARRINGTON

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

14 DIRECT EXAMINATION

15 QUESTIONS BY MR. SWARTZ:

16 Q. Okay, Mr. Arrington, I'll remind you that  
17 you're under oath from the last hearing. I'll ask you to  
18 state your name again.

19 A. Leslie K. Arrington.

20 Q. With regard to units Q-4...Q-48 and Q-49,  
21 did you either prepare the Notices and applications and  
22 exhibits yourself or cause them to be prepared under your  
23 direction?

24

--

1 A. Yes, I did.

2 Q. And did you sign the Notice of Hearing and  
3 the application with regard to both of these units?

4 A. Yes, I did.

5 Q. Are the respondents that you're seeking to  
6 pool listed on the Notice of Hearing on the first page and  
7 then listed again in the...in the application under Exhibit  
8 B-3?

9 A. Yes, they are.

10 Q. You only had an address for...well, let's  
11 look at...let's look at Q-48 and look at your certification  
12 on Notice and your mailing. You mailed to Joseph Paul Horn,  
13 who is apparently here today?

14 A. We did.

15 Q. Okay. And he signed for that mail?

16 A. Yes.

17 Q. And the rest of the folks are listed as  
18 address unknown, is that correct?

19 A. That's correct.

20 Q. And are all of the folks listed that you're  
21 seeking to pool in the...in the Notice and again in Exhibit  
22 B-3?

23 A. Yes, they are.

24

--

1 Q. In addition to the mailing that we've just  
2 talked about, did you also publish?

3 A. Yes, we did.

4 Q. And tell us about that?

5 A. It was published in the...for Unit Q-48 was  
6 published in the Bluefield Daily Telegraph on March the 21st;  
7 and for Unit Q-49, it was published on March the 21st and we  
8 did notice that in the publication in the actual Notice page,  
9 we had a...had left one name out. We changed...fixed that  
10 Notice and republished it on March the 25th.

11 Q. Okay. And let's look at the publication now  
12 with regard to Q-49? When was the...did you have to  
13 publish---

14 A. That's...that's...that's the one we  
15 republished---

16 Q. Okay.

17 A. ---is Q-49.

18 Q. Okay. And...so, they were both published  
19 initially on the March the 21st and Q-49 was republished as  
20 you've noted?

21 A. It was on...it was.

22 Q. Okay. And Q...with regard to Q-49, you've  
23 also submitted a Certificate of Notice, have you not?

24

--

1           A.       We did.

2           Q.       Okay.  And you have listed the folks for  
3 whom you had addresses and to...to whom you were able to  
4 direct mail and then you've also listed the folks that you  
5 didn't have addresses for?

6           A.       We did.

7           Q.       Okay.  Do you know whether or not your land  
8 people attempted to obtain addresses for these folks?

9           A.       They did.

10          Q.       And what did...what did they do?

11          A.       Well, he...he did attempt to obtain---?

12          Q.       He, who?

13          A.       Mr. Kelly Lee, who happens to be here with  
14 us today.  He attempted to get most of the addresses for  
15 the...I forget the lady's name now.  Just a minute.  Lilly B.  
16 Osborne.  I'm sorry.

17          Q.       Okay.  And her heirs---?

18          A.       Lilly B. Osborne heirs' addresses from Mr.  
19 Paul Horn.

20          Q.       Okay.  And was unable to obtain them from  
21 him?

22          A.       That's correct.

23          Q.       Okay.  Do you know whether or not your land  
24

1 agent though, did have discussions with Mr. Horn?

2 A. Yes, he did.

3 Q. Do you know whether or not Mr. Horn was  
4 offered a lease?

5 A. He was...yes, they offered a lease.

6 Q. Okay. And what was his response?

7 A. No.

8 Q. Wasn't interested?

9 A. No, wasn't...wasn't interested in a lease.

10 Q. Did Mr. Horn indicate whether or not he was  
11 representing just himself or also representing the rest of  
12 the heirs when you had discuss...when your land people had  
13 discussions with him?

14 A. The family.

15 Q. Okay. Let's go to the applications then.  
16 Are both of these applications, do they each concern an  
17 eighty acre unit?

18 A. They do.

19 Q. Okay. And that would be an eighty acre unit  
20 in the Oakwood Field?

21 A. Yes, it is.

22 Q. Okay. And their...they seek to pool those  
23 eighty acre units as frac units only under Oakwood I?

24

--

1           A.       They do.

2           Q.       Okay.  And how many wells are proposed for  
3 each of the units?

4           A.       One.

5           Q.       And in both cases, is the well that's to be  
6 drilled, or has already been drilled, located within or  
7 without the drilling window?

8           A.       Both of them were within.

9           Q.       Okay.  The...are there permits for the  
10 wells?

11          A.       Yes, there are.  Q-48 it's permit 4407,  
12 issued December the 8th, 1999; and for well W-49, permit  
13 number 4500, issued on March the 16th, 2000.

14          Q.       Okay.  Are either of those wells drilled?

15          A.       No.

16          Q.       So, they're both proposed at this point?

17          A.       Yes.

18          Q.       Okay.  And they're...the dollars and cents  
19 that you've reported in the...in the applications then and  
20 again on the summary sheet would be estimates?

21          A.       They are.

22          Q.       Okay.  What's...what's the estimate for each  
23 of the wells?

24

--

1           A.       For Q-48, it's \$233,614, drilled to a total  
2 depth of approximately 2,090. For well Q-49, it's  
3 \$247,497.80, drilled to approximate depth of 2,390 feet.

4           Q.       Okay. And that would be...include the cost  
5 of fracing as well?

6           A.       Yes, it does.

7           Q.       Let's go...let's look at the interest that  
8 you've been able to lease and the interest that you haven't  
9 been able to lease in both of these units. If we start with  
10 Q-48 and we look at Exhibit A, page two, what's the  
11 percentage of coal that you've been able to lease?

12          A.       100%.

13          Q.       What is the percentage of coalbed methane  
14 that you've been able to lease from coal owners?

15          A.       100%.

16          Q.       Okay. And what's the percentage of coalbed  
17 methane claims and interest you've been able to lease from  
18 oil and gas owners?

19          A.       For Unit Q-48, it's 91.8625%; and for Unit  
20 Q-49, it's 79.43751%.

21          Q.       Okay. And with regard to those units, what  
22 interest are you seeking to pool today?

23          A.       We're seeking to pool for the Q-48 unit  
24

1 8.1375% of the oil and gas interest, and for Unit Q-49,  
2 20.56249%.

3 Q. Stated the other way around, in Unit Q-48,  
4 roughly 92% of the owners of the oil and gas want the coalbed  
5 methane developed and have entered into agreements to allow  
6 you to do that?

7 A. That's correct.

8 Q. And with regard to Q-49, roughly 80% of the  
9 owners of the oil and gas have entered into agreements with  
10 you all and have sought the coalbed methane to be developed?

11 A. That's correct.

12 Q. And in the coal...on the coal side, 100% of  
13 the coal claimants to the coalbed methane have...are in favor  
14 of development and have indicated that by signing leases or  
15 other agreements?

16 A. Yes, that's correct.

17 Q. With regard to both of these applications,  
18 is there...who is the applicant?

19 A. Pocahontas Gas Partnership.

20 Q. And who is it that's being requested that if  
21 the Board were to approve these applications be designated to  
22 act as unit operator?

23 A. Pocahontas Gas Partnership.

24

--

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

3 A. Yes, it is.

4 Q. Are the two partners in that partnership  
5 Consolidation Coal Company and Conoco, Inc.?

6 A. Yes.

7 Q. Has Pocahontas Gas Partnership been  
8 authorized to do business in the Commonwealth, and is it  
9 registered with the Department of Mines, Minerals and Energy,  
10 and does it have a blanket bond on file?

11 A. Yes, it does.

12 Q. Do you wish to dismiss any people...any  
13 persons that you've listed as respondents or to add any  
14 today?

15 A. No, we do not.

16 Q. As we indicated at the outset, this is an  
17 eighty acre unit, one frac well per unit seeking to produce  
18 coalbed methane from the Tiller on down, is that correct?

19 A. That's correct.

20 Q. With regard to Q-48, in terms of...if you'd  
21 turn to Exhibit B-3, the folks that you're seeking pool are  
22 listed on Exhibit B-3, correct?

23 A. Yes, they are.

24

--

1 Q. And to the extent you have addresses,  
2 they're listed, and to the extent you don't, you say that you  
3 don't have them?

4 A. That's correct.

5 Q. The last column talks about an interest in  
6 unit. Do you see that?

7 A. Yes, it is.

8 Q. So for purposes of people understanding  
9 ...respondents understanding what their royalty interest  
10 might be in this unit with regard to production for this  
11 unit, would that interest in unit percentage be the number  
12 that they should pay attention to?

13 A. Yes, it is.

14 Q. And so essentially it would be...that would  
15 be the percentage that they would apply to the 12 1/2% to get  
16 it down to a royalty percentage for their claim?

17 A. That's correct.

18 Q. Okay. Also, with regard to a choice that  
19 maybe they want to participate or be carried, this is the  
20 same percentage that they would use?

21 A. Yes, it is.

22 Q. Now, with regard to Unit Q-48, is...is  
23 escrow necessary for unknowns?

24

--

1 A. That's...yes, it is.

2 Q. Okay. Is escrow also required in Q-48  
3 because of conflicting claims?

4 A. Yes, it is.

5 Q. Okay. And essentially, it looks like Hurt  
6 McGuire Land Trust claims the coal, and then we have a number  
7 of respondents and other folks who claim the oil and gas?

8 A. That's correct.

9 Q. Okay. And are those conflicting claim  
10 escrow requirements set forth in Exhibit E to the  
11 application?

12 A. Yes, they are.

13 Q. Okay. And would it be your expectation then  
14 that in the event this unit...this Unit Q-48 was pooled, that  
15 the escrow agent that we heard from earlier today would be  
16 receiving attributable to these claims?

17 A. Yes, it would.

18 Q. Until the people either settle or a lawsuit  
19 was resolved?

20 A. That's correct.

21 Q. Turning to Q-49, is there also an Exhibit B-  
22 3 in Q-49?

23 A. Yes, there is.

24

--

1 Q. And again, does that list...Exhibit B-3,  
2 does that list the folks that you're seeking to pool?

3 A. Yes, it does.

4 Q. And does it state their interest in the unit  
5 as a percentage?

6 A. Yes, it does.

7 Q. Which again would be relevant to royalty and  
8 participation or carried interest?

9 A. That's correct.

10 Q. Basically, to break this down, let's take  
11 Sidra Moore for example. For her to calculate her royalty  
12 interest in the unit she would take 7.44375% times 12.5% and  
13 that would her royalty interest?

14 A. That's correct.

15 BENNY WAMPLER: Lets take Mr. Horn and Mr. Keen---.

16 MARK SWARTZ: Okay.

17 BENNY WAMPLER: ---as an example.

18 Q. If you go down to page two of this, we've  
19 got the Tract 3J, the 2.1 acre tract?

20 A. That's correct.

21 Q. Let's go back to the map for a second. This  
22 would be Tract 3J, which is over on what would be the  
23 Southwest corner of the eighty acre unit?

24

--

1           A.       Uh-huh.

2           Q.       And Tract 3J is partly in the unit and  
3 partly outside of the unit?

4           A.       That's correct, it is.

5           Q.       And the part that's in the unit is how many  
6 acres?

7           A.       The part that's in the unit that he's in is  
8 1.05 acres, but his portion---.

9           Q.       Right.

10          A.       Mr. Horn's portion of that would be 0.158  
11 acres.

12          Q.       Okay. Let's back up.

13          A.       Okay.

14          Q.       We've got a 2.21 acre tract---.

15          A.       I'm...that's correct.

16          Q.       ---in total.

17          A.       Uh-huh.

18          Q.       Okay. And of that entire acreage in the  
19 tract that he has an interest in, only 1.105 acres of that  
20 tract is actually in this eighty acre unit?

21          A.       Well, what that...what the interest in this  
22 tract they have there, they only have a 1/2 interest in that  
23 tract.

24

1 Q. I understand.

2 A. So that tract is actually 2.21 acres and  
3 he...their interest is 1.105 acres.

4 Q. Okay. Well, let's...let's back up again.  
5 Is the---?

6 BENNY WAMPLER: It's 1/7 as it's listed here in  
7 this---.

8 A. Yes, sir. Okay. See they only own ½ of the  
9 oil and gas.

10 Q. Right. I understand. But I'm trying to get  
11 to the acreage in the unit or out of the unit so that  
12 they---.

13 A. Okay.

14 Q. ---understand that the entire tract is not  
15 inside of this unit.

16 A. Right.

17 Q. So, if it has 2.2 acres in it, only part of  
18 it is in here. If it has got 4...I mean, what's...what's the  
19 acreage of this tract?

20 A. This tract...of 3J?

21 Q. Right.

22 A. Is 2.21 acres.

23 Q. Okay. And of the 2.21 acres, 1.1 is in the  
24

1 unit?

2 A. No.

3 Q. Okay.

4 A. The 2.21 acres is the entire area of this  
5 tract. Now, Hurt McGuire owns  $\frac{1}{2}$  of the oil and gas of that  
6 tract.

7 Q. Okay.

8 A. And they own  $\frac{1}{2}$  of the oil and gas.

9 Q. Okay.

10 A. So their interest is 1.105 acres of that  
11 tract.

12 Q. Okay. So that's the Lilly B. Osborne's  
13 total interest before it went to her heirs---

14 A. That's correct.

15 Q. ---which was  $\frac{1}{2}$  of that?

16 A. That's correct.

17 Q. And now you've...what you're reporting here  
18 is the...there were seven heirs, apparently. So, they're  
19 each entitled to  $\frac{1}{7}$  of it?

20 A. That's correct.

21 Q. Okay. Now, I'm going to ask you this one  
22 more question---

23 A. Okay.

24

--

1 Q. ---because...just one more time because I  
2 asked you a 150 two times and I think we're at a mental block  
3 here.

4 A. Okay.

5 Q. Okay. When I look at the tract index---.

6 A. Yes.

7 Q. Okay. Or tract ID.

8 A. Okay.

9 Q. For 3J---.

10 A. Correct.

11 Q. ---it's showing 2.21 acres.

12 A. That's correct.

13 Q. Is that acreage the entire tract or just the  
14 part that's in this unit?

15 A. It's just the part that's within that unit.

16 Q. Okay. Okay. So, the tract is bigger than  
17 2.21 acres?

18 A. That's correct.

19 Q. And what you're reporting on B-3 pertains  
20 only to the acreage in the unit and the interest in that  
21 acreage?

22 A. That's correct, it does.

23 Q. Okay. And then once you come across to it,  
24

1 you're going to look now at what Mr...let's just take Joseph  
2 Paul Horn. If he wanted to figure out what his part of the  
3 1/8 royalty was---

4 A. Uh-huh.

5 Q. ---he would take .19732%, which is in this  
6 interest in unit column---?

7 A. That's correct.

8 Q. ---times the 1/8 royalty, which is the same  
9 as 12 1/2% and whatever that number is would be his royalty  
10 interest?

11 A. That's correct.

12 Q. If he wanted to participate in this unit, he  
13 would make the same calculation, okay, the percentage in  
14 interest in unit times the 12 1/2% and multiple that times the  
15 dollars estimated---

16 A. Of two...yes, sir, of the \$24---

17 Q. ---of the \$247,000 and that would be the  
18 amount of the check that he would have to tender---

19 A. Yes.

20 Q. ---into escrow basically?

21 A. That's correct. His percentage of interest  
22 times that cost. That's correct.

23 Q. Right. If he wanted to participate?  
24  
--

1           A.       Correct.

2           Q.       If he wanted to be carried, it would be the  
3 same calculation, but it would be multiple?

4           A.       That's right.

5           Q.       And the same information as reported in both  
6 Q-48 and Q-49 to do that kind of a calculation?

7           A.       It would be.

8           Q.       With regard to Q-49, obviously, there's  
9 again a requirement of escrow because of unlocateable folks?

10          A.       It would be. And conflicting claims.  
11 That's correct.

12          Q.       All right. And then we've got a conflicting  
13 claim requirement of escrow and you've got an Exhibit E that  
14 addresses that?

15          A.       That's correct.

16          Q.       And again, or it may not be the only  
17 conflict, but certainly Hurt McGuire has a coal claim again  
18 and apparently Pocahontas Mining also has some coal in this  
19 unit?

20          A.       That's correct.

21          Q.       Is it your opinion that the proposed  
22 development, which is to drill one coalbed methane well in  
23 each of these units and frac that to produce coalbed methane  
24

1 from the Tiller on down, is a reasonable way to produce the  
2 coalbed methane gas under these two units?

3 A. Yes, we do.

4 Q. And do you believe...is it your opinion,  
5 based on the due diligence and the research you've done on  
6 the title and all of leases that you've obtained, 92% roughly  
7 in one unit and 80% roughly in the other unit, that this is a  
8 reasonable way to protect the interest of all of the  
9 claimants and to set aside any money that there is a conflict  
10 with regard to where the folks are unlocated?

11 A. That's correct it is.

12 MARK SWARTZ: That's all I have.

13 BENNY WAMPLER: Could you go back to Q-49 and do the  
14 same question scenario that you did for Mr. Terry Keen as you  
15 did for Mr. Horn just so that they both can hear it?

16 MARK SWARTZ: Okay.

17 BENNY WAMPLER: Hear that and have a better  
18 understanding of how that works. He's in 3C.

19 KELLY LEE: Can I make a comment? Can I make a  
20 comment?

21 BENNY WAMPLER: State your name.

22 KELLY LEE: Kelly Lee. I'm the independent land  
23 agent contracted with Consol. Last night, Terry Keen and I

24

--

1 worked out an agreement with his lease by phone and tomorrow  
2 evening I have an appointment to meet him and his wife when  
3 they get off work at the residence to take care of the lease  
4 agreement on there.

5           MARK SWARTZ: I'm prepared to answer your question,  
6 but I think it's helpful to know that.

7           KELLY LEE: I just wanted to mention that for the  
8 record.

9           BENNY WAMPLER: Okay. All right. I think that may  
10 news to his father.

11           CHARLIE KEEN: Well, no, now Terry called me last  
12 night and said that Kelly offered to settle with him, but he  
13 ain't got nothing in writing and he's...the one reason he  
14 wanted me to come down here is if it would be too late for  
15 him to do anything about it if they went ahead and passed it  
16 because he ain't got nothing...see, they ain't never come and  
17 talked to Terry. Right?

18           KELLY LEE: I...I talked to Terry one time at your  
19 house about this and I didn't get a chance to meet with Terry  
20 and his wife both at the same time. I have met...which is  
21 why I got back with him last night and explained everything  
22 to him and it was just a little mistake on my part. I didn't  
23 make the return visit to meet with him and his wife. We

24

--

1 never did get it arranged.

2 BENNY WAMPLER: Okay, Mr. Swartz, rather than go  
3 into that, then perhaps I'll ask you a different question.  
4 Does anything here in this proceeding today prevent the lease  
5 occurring subsequent to any order of the Board?

6 MARK SWARTZ: No.

7 CHARLIE KEEN: Well, what I wanted to ask you if...  
8 the only thing he wants, or wants me to say, is if him and  
9 Kelly settles this, you know, he don't want to do nothing. I  
10 mean, you know---?

11 BENNY WAMPLER: I understand.

12 CHARLIE KEEN: ---but he don't want to...say, like  
13 if Kelly don't come and talk to him and don't sign nothing or  
14 don't give him no papers, then he wants to know if it's too  
15 late for him to do anything about it then? That's the reason  
16 he wanted---.

17 SANDRA RIGGS: What will happen is an order of the  
18 Board will be prepared based on whatever decision the Board  
19 makes today. If they decide to approve these applications, a  
20 copy of that order will get mailed out to everybody whose  
21 interest is being pooled. That order will give those  
22 unleased parties an opportunity to select anyone of the  
23 option set forth in the...in the order. You can participate,

24

--

1 be carried or lease. You've got thirty days from the time  
2 you get that order to make your election and notify them.  
3 So, you've got from now until when the order is issued and  
4 recorded, plus thirty days to make your election. If you  
5 don't get a lease signed within that, which will probably be  
6 almost a sixty day period, then you still have the ability to  
7 do under the order whatever you choose to do, whichever  
8 election you choose to make. So, you can...you can pursue  
9 both courses of action simultaneously, but you just have to  
10 make sure that if you do...if you choose to go under the  
11 Board order instead of a voluntary lease with the operator,  
12 that you do it within the time frame set forth in the order  
13 when you get it.

14 CHARLIE KEEN: Well, he was going to...he was going  
15 to settle with Kelly, I reckon now. But, see, what he was  
16 worried about if he don't...if he don't...see, ain't got  
17 nothing. He ain't never come and talked to him. Right?

18 KELLY LEE: What's that?

19 CHARLIE KEEN: You ain't never talked to him about  
20 this? You ain't talked with Terry?

21 KELLY LEE: Yeah, I talked with him once before out  
22 at your house while he was working on the shed.

23 CHARLIE KEEN: Well, that was about a different  
24  
25

1 thing, wasn't it? It wasn't on this one.

2 KELLY LEE: No, it was about this one. It was about  
3 this one.

4 CHARLIE KEEN: He hadn't never got this one then.

5 KELLY LEE: Pardon?

6 CHARLIE KEEN: He hadn't never gotten this one then.  
7 Nobody ain't speak---

8 KELLY LEE: I...I explained to him the lease, that I  
9 wanted to get a hold of him on there at his house about the  
10 property, of his oil and gas ownership, there at his house  
11 when we were discussing that day out there at your shed when  
12 you all was working on it.

13 CHARLIE KEEN: Well, anyway, Terry wants to...well,  
14 he's going to go ahead and settle with him now from what he  
15 told me. But---

16 SANDRA RIGGS: Well, if that should fall through, he  
17 can still pursue his rights under the Board order.

18 CHARLIE KEEN: Well, that's all he wanted to know.

19 SANDRA RIGGS: As long as he does it within the time  
20 frame given in the order.

21 CHARLIE KEEN: Well, yeah...well. Well, that's...  
22 that's what he wanted to know if he...if he didn't get  
23 nothing in writing, then he could go ahead...I mean, if he'd

24

--

1 just lose out on everything, you know, or he could still  
2 follow---.

3           SANDRA RIGGS: If he does absolutely nothing, then  
4 under the terms of the Board order he would be deemed to  
5 lease and he'd still get a 1/8 royalty, his percent interest  
6 times the 1/8 royalty for the drilling unit. So, there's no  
7 way you ever completely lose out. If you don't enter into a  
8 voluntary agreement, then the Board Order establishes your  
9 agreement for you.

10           CHARLIE KEEN: Okay. I reckon now he...he decided  
11 to settle with Kelly on what him and Kelly agreed on. But  
12 he...he didn't have nothing in writing and he was afraid that  
13 if he went ahead and let this pass, you know, and didn't say  
14 nothing about it, then he might be too late for him to do  
15 anything about it. That's...that's the only concern he has  
16 got.

17           BENNY WAMPLER: He won't be...he will not be.

18           CLYDE KING: It's never too late.

19           BENNY WAMPLER: He'll be okay.

20           SANDRA RIGGS: No. Well, it's---.

21           BENNY WAMPLER: After...Mr.---

22           CHARLIE KEEN: Well, okay. Well, that's all...  
23 that's all the concern now that he had.

24

--

1           MAX LEWIS: Well, certain times it's too late.

2           SANDRA RIGGS: Well, you get locked into a choice.

3           MAX LEWIS: Yeah.

4           SANDRA RIGGS: Yeah.

5           BENNY WAMPLER: Mr. Horn, did you have---?

6           CLYDE KING: You maybe locked into a choice, but  
7 you're not never too late.

8           JOSEPH PAUL HORN: Well, yeah, at first I never was  
9 asked to give an address for any of my siblings, straight up  
10 front. I've not seen no deal on them trying to, you know,  
11 get some kind of an agreement out of me. They talked a few  
12 times wanting to drill on our land, but we decided that we  
13 didn't really want it tore up, the timber and things of that  
14 nature. Besides I've got water on my land, one of the last  
15 remaining places in our area that has got a well that's  
16 producing, you know, even in drought time. I'm concerned  
17 about my water getting sunk or destroyed, and my land, I  
18 didn't want it messed up. But they keep asking for...this is  
19 Pocahontas Gas Partnership and they want oil, too. Why won't  
20 they take that out of the contract? They said they never  
21 found no oil there, but if they find it a million years from  
22 now, they still got the right to it. So, I want that took  
23 out of mine. If I've got...if I'm forced into this, they

24

--

1 want the coal...the methane, which they might have the right  
2 to get, they ain't nothing I can do to stop them, it don't  
3 seem like. But I think the oil thing needs to be taken out  
4 of this, for me anyway, and my brothers and sisters because  
5 we're not agreeing, you know. And we might be forced into  
6 it, but if they want the gas, they ought to ask for the gas.  
7 I think they ought to pay the people a little more for it,  
8 is my opinion, because if I drop a dollar on that floor, I  
9 can't pick it up and half of it belongs to somebody else  
10 because I can't pick it up, but you can reach down there and  
11 get it and get half of it, you're just going to give me 1/8%  
12 after you pick that dollar back up, then you've got \$.92 of  
13 my dollar that I dropped. That's way I see it. I don't want  
14 my land messed up. I don't want my water messed up. I don't  
15 want to give my oil rights up because they want the gas.  
16 There might not never be a drop of oil found there, but  
17 that's just... that ain't right, not to me.

18 BENNY WAMPLER: Well, your lease term they're  
19 offering you can include your oil rights as well.

20 JOSEPH PAUL HORN: Well, they say gas and oil, gas  
21 and oil.

22 SANDRA RIGGS: He wants the coalbed methane  
23 specifically or---.

24

--

1           BENNY WAMPLER: He wants...yeah.

2           MAX LEWIS: Have they offered you any damages for  
3 your property?

4           JOSEPH PAUL HORN: No, they've not messed it up yet.  
5 I'm pretty lucky about keeping them off of it so far. You  
6 know, it's---.

7           CLYDE KING: Where...where is your property on this  
8 map?

9           JOSEPH PAUL HORN: Well, they're drilling right at  
10 the edge of Q-4---.

11          CLYDE KING: Which---?

12          JOSEPH PAUL HORN: ---...Q-48.

13          BENNY WAMPLER: Q-49 and Q---.

14          JOSEPH PAUL HORN: Q-48 and Q-49. They'll be  
15 on...it will be on the edge of my land on both places. But  
16 there, you know, like might be a mile or so apart between the  
17 wells.

18          MAX LEWIS: What about the roads?

19          JOSEPH PAUL HORN: Huh?

20          MAX LEWIS: Roads and pipeline, did you---?

21          JOSEPH PAUL HORN: Yeah, I don't...we decided we  
22 don't want no pipelines running across it. But they said  
23 they don't have to do it to get it, you know. They're just  
24

1 going to be sucking it out from the backside. So...and I've  
2 got water near where they're getting ready to drill one of  
3 the wells. I've got a spring, but they say that don't count  
4 because I'm not using it. But we used it for cattle and  
5 things when I was growing up. It's still water.

6 BENNY WAMPLER: Well, you understand, nothing we do  
7 here today during the term of the Board's order taking...  
8 taking its course prevents you from continuing to negotiate  
9 for your private lease agreement?

10 JOSEPH PAUL HORN: Yeah, but be a little honest  
11 about things, man might can negotiate. Well, you're going to  
12 have to tell me the truth.

13 SANDRA RIGGS: Well, the Board order if...when it  
14 gets entered will be coalbed methane specific. It will just  
15 be the coalbed methane gas.

16 JOSEPH PAUL HORN: And if they destroy my water in  
17 this process---?

18 SANDRA RIGGS: Those are permitting issue outside  
19 the jurisdiction of this Board. I thought I heard them say  
20 they already have permits for this well.

21 JOSEPH PAUL HORN: Yeah, I know they---.

22 SANDRA RIGGS: You would have---.

23 JOSEPH PAUL HORN: Yeah, they're getting ready to  
24  
25

1 start.

2           SANDRA RIGGS: This Board is merely...is merely  
3 looking at the pooling of the gas, the coalbed methane gas  
4 interest. Whatever deal you cut with them voluntarily is  
5 between the two of you. But all this Board is hearing today  
6 is an application to pool coalbed methane gas only; not oil,  
7 just coalbed methane. And that's all the Board order will  
8 deal with is coalbed methane gas.

9           JOSEPH PAUL HORN: Well, every time they send you a  
10 paper, they got gas and oil on it.

11           SANDRA RIGGS: Well, you have the choice of whether  
12 to enter into their agreement or whether to go through the  
13 Board on the Board's order and the Board's order will be  
14 coalbed methane gas only.

15           JOSEPH PAUL HORN: All right. Well, I say there  
16 ain't nothing you can do except wait it out, huh?

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

19           (No audible response.)

20           BENNY WAMPLER: Do you have anything further, Mr.  
21 Swartz?

22           MARK SWARTZ: No.

23           CLYDE KING: Mr. Chairman, I have some questions---.

24

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1           BENNY WAMPLER: Mr. King?  
2           CLYDE KING: ---about Q-49.  
3           BENNY WAMPLER: Okay.  
4           CLYDE KING: Are these houses that people are living  
5 in that are shown on here? That's the most piece of property  
6 I've seen with that many houses on it and this one over here  
7 has none whatsoever, Q-48.  
8           LESLIE K. ARRINGTON: Okay, on Q-49, I believe that  
9 house in 2F, that house does exist.  
10          CLYDE KING: Right. 2C?  
11          LESLIE K. ARRINGTON: 2F. That house does exist and  
12 then the houses all North or, I'm sorry, East of the road you  
13 see going through the unit---.  
14          CLYDE KING: Uh-huh.  
15          LESLIE K. ARRINGTON: ---all of those houses do  
16 exist. We purchased the tract that well Q-49 is on.  
17          CLYDE KING: You purchased the tract where the well  
18 is?  
19          LESLIE K. ARRINGTON: Yes, we did.  
20          MAX LEWIS: The surface?  
21          LESLIE K. ARRINGTON: Yes, we did.  
22          BENNY WAMPLER: Does that answer your question, Mr.  
23 King?  
24

1           CLYDE KING: Have you had any problem with the  
2 drilling of the well? Has that bothered any of the  
3 properties that you know of?

4           JOSEPH PAUL HORN: No. They've not drilled yet.

5           CHARLIE KEEN: The only thing Terry was worried,  
6 see, there's nobody never come---.

7           CLYDE KING: This well has been drilled---?

8           LESLIE K. ARRINGTON: No.

9           SANDRA RIGGS: Uh-huh.

10          BENNY WAMPLER: No.

11          CLYDE KING: ---hasn't it?

12          LESLIE K. ARRINGTON: No.

13          MAX LEWIS: No.

14          BENNY WAMPLER: It has been permitted.

15          CLYDE KING: Oh.

16          JOSEPH PAUL HORN: No. They just (inaudible).

17          CHARLIE KEEN: ---and talk to him and all he  
18 was...I reckon now Terry was going to agree with Kelly up  
19 here. Him and Kelly...Kelly, I think, was supposed to come  
20 Thursday or something, wasn't you?

21          KELLY LEE: Yeah, Thursday evening.

22          CHARLIE KEEN: And...and he was going to try to  
23 settle with him. But see, as far as anybody coming and  
24

1 talking to Terry, now, Terry says nobody never come and  
2 talked to him. So, he...he...and when he reads this, he  
3 don't even know what...what it means. A lot of the words  
4 when you go back to a dictionary, it ain't in a dictionary.  
5 You'd either have a word processor or something other to find  
6 the word to what they mean and that's the reason that he says  
7 if him and Kelly can't settle and Kelly won't write him out  
8 something to, you know, in writing, then if it's too late for  
9 him to do...you know, to do anything about this. That's...  
10 that's all he wanted to...that's all he wanted.

11 BENNY WAMPLER: Do you understand that it would not  
12 be too late for him to do something?

13 CHARLIE KEEN: Yeah. Yeah. Well, that's all he  
14 wants to know.

15 BENNY WAMPLER: Anything further from members of the  
16 Board?

17 MASON BRENT: Mr. Chairman, I just had one question  
18 for Mr. Horn, if I may.

19 BENNY WAMPLER: Mr. Brent?

20 MASON BRENT: Roy Rogers and William Ray Horn, are  
21 they relatives of yours?

22 JOSEPH PAUL HORN: Brothers.

23 MASON BRENT: Brothers? Do you know where they are?

24

--

1           JOSEPH PAUL HORN: Yeah.

2           MASON BRENT: Because we show here address unknown.

3           BENNY WAMPLER: That's what he's saying that he  
4 hadn't been asked how to get in touch with them earlier. Do  
5 you have their addresses that you can give them?

6           JOSEPH PAUL HORN: No, I don't have their addresses.  
7 But they're getting ready to put Q-48 right above my  
8 brother's house where he lives in that trailer. So, it's  
9 hard to believe that they couldn't hardly find him.

10          KELLY LEE: I was unaware until two days that that's  
11 who lived in that trailer on that tract of ground. I made  
12 several attempts at that trailer just to find out who lived  
13 there and we never could locate anybody. One of the other  
14 landowners in the area informed that one of the Horns lived  
15 there. I'm not sure which one it is.

16          JOSEPH PAUL HORN: Roy Rogers, he's in Danville,  
17 Virginia. So, I don't know exactly what his address and box  
18 number is. So...but if you all are going to pool this and  
19 put the royalties in the bank, why can't you just send it to  
20 the royalty...the ones that are supposed to receive it if  
21 you've got an address? Can you do that?

22          MARK SWARTZ: Is there somebody else we could  
23 contact to tract these people down who actually knows their  
24

1 addresses?

2                   MAX LEWIS: Looks to me like that that's their job  
3 to do it, they could contact most...about everybody if  
4 they're living...if they're living.

5                   JOSEPH PAUL HORN: Well, they've got their names.

6                   MARK SWARTZ: Kelly, do you want to come here for a  
7 minute?

8                   MAX LEWIS: I think they just get the majority of  
9 what they need and then just let the rest go a lot of times.  
10 They don't try to get everybody.

11                   MARK SWARTZ: Swear him under oath.

12                   (Witness is duly sworn.)

13

14

15

16

KELLY LEE

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

19

DIRECT EXAMINATION

20 QUESTIONS BY MR. SWARTZ:

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

23                   A.        Kelly Walter Lee.

24

--

1 Q. Who do you work for?

2 A. I'm an independent contractor with  
3 Consolidation Coal Company.

4 Q. Okay. And how long have you been a  
5 contractor for Consol?

6 A. Since January of '97.

7 Q. Have you had contact before today with Mr.  
8 Joseph Paul Horn?

9 A. Yes, I have, on about three occasions.

10 Q. Okay. Have you asked him before today for  
11 the addresses of the people listed in B through G?

12 A. Yes, I have.

13 Q. Has he refused to give you that information?

14 A. Yes, he did.

15 Q. That's all I have.

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

18 MAX LEWIS: Well, really, when it comes right down  
19 to it, it's not his responsibility to give you those  
20 addresses.

21 KELLY LEE: Well, his...the taxes all go directly to  
22 Paul and they're in care of him. None of the other heirs in  
23 here have any property listings. No phone that are

24

--

1 identifiable, you know, through the phone book or the  
2 computer Internet search. When I talked to Paul about it, I  
3 explained to him why we were talking to him at that time. We  
4 had proposed some surface work on his property and he had  
5 informed me that they had...the heirship had talked it over  
6 and they didn't want the gas company on their property and  
7 there was no need to contact them, that they weren't going to  
8 do anything with me. I asked several of the people that live  
9 around the area if they knew exactly where I could locate  
10 these people and all I was given was general directions like  
11 somewhere out in East Virginia, or I think they live over in  
12 Bandy, or something like that. You know, I was unable to get  
13 any definite idea how to come about them. Of course, several  
14 of the sisters being women, it's a lot harder to locate women  
15 because most of their information is in the husband's name.  
16 But I made a due diligent effort to...by contacting boundary  
17 owners and so forth and none of them were able to give me any  
18 information that I could use.

19 MARK SWARTZ: And you also did the record room?

20 KELLY LEE: Right. There's no...absolutely no  
21 records in the record room on them. The things...I searched  
22 the records. I couldn't find any agreements or anything on  
23 them to where I could get a county or anything where they

24

--

1 were notarized.

2                   CLYDE KING: So, you feel sure that none of them  
3 live in Buchanan County?

4                   KELLY LEE: Well, like I say, now the other day by  
5 happenstance, I happened to find out that one of the Horn  
6 brothers was living on the Ratliff property down...I believe  
7 it's the Ratliff property on the...that sits down at the  
8 bottom of the hill on this...near the Q-49 locate...or Q-48  
9 location. Excuse me. They say...they said that one of the  
10 Horns lived there and I'm not sure which one it is. But I'd  
11 made...we'd been several times to that trailer trying to  
12 identify who owned that property and we never could find  
13 anybody home. It wasn't...you know, it didn't appear that  
14 anybody even lived in it at the time. So, it was a---.

15                   CLYDE KING: Where is that exactly in comparison to  
16 the well?

17                   MARK SWARTZ: Q-49.

18                   KELLY LEE: Q-48.

19                   CLYDE KING: It's Q-49 isn't it?

20                   KELLY LEE: No, the trailer in question is on Q-48.  
21 The trailer is approximately where the spring is and the  
22 spring branch written out there. The trailer sits  
23 approximately about the G on that spring.

24

--

1           MARK SWARTZ: On the spring?

2           KELLY LEE: Yeah, in the word spring. Yeah,  
3 that's...that's an approximate location of the trailer.

4           BENNY WAMPLER: Other questions?

5           (No audible response.)

6           BENNY WAMPLER: Do I have a motion?

7           MASON BRENT: Mr. Chairman, I move that we grant the  
8 applications as submitted.

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

11          CLYDE KING: Is this for both---?

12          BENNY WAMPLER: For both...both units, Q-48 and Q-  
13 49.

14          CLYDE KING: Mr. Chairman, I...I have nothing at all  
15 against the number 48, but I just am so concerned about all  
16 of the housing around on 49. But you did buy this  
17 property---?

18          KELLY LEE: Yes.

19          CLYDE KING: ---where the well is going to be?

20          KELLY LEE: Yes.

21          LESLIE K. ARRINGTON: Yes. That...just a point  
22 about that piece of property. All of those houses are above  
23 us on the ridge where that road that you see on there is  
24

1 going on a steep...a pretty steep decline and we are down  
2 below the majority...well, all of the houses. There's  
3 no...there are no houses.

4 CLYDE KING: So, the well site is below?

5 LESLIE K. ARRINGTON: We're well...yes, we're below  
6 the houses that you see on there.

7 JOSEPH PAUL HORN: I don't know---.

8 MAX LEWIS: Have you all talked to him about where  
9 the pipelines is going to run on his property?

10 LESLIE K. ARRINGTON: There...there is no surface  
11 disturbances planned for his property whatsoever.

12 BENNY WAMPLER: Are you talking about Mr. Horn,  
13 right?

14 MAX LEWIS: Yeah, Mr. Horn.

15 LESLIE K. ARRINGTON: Mr. Horn.

16 CLYDE KING: I second the motion, Mr. Chairman.

17 BENNY WAMPLER: The motion and second. Any further  
18 discussions?

19 (No audible response.)

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

21 (All members signify yes.)

22 BENNY WAMPLER: Opposed, say no.

23 (No audible response.)

24

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1           BENNY WAMPLER; You have approval. Thank you.

2           CLYDE KING: Please let us know if you hear...have  
3 any problem with housing prop...your property where houses  
4 are?

5           CHARLIE KEEN: Well, I sure do appreciate it.

6           BENNY WAMPLER: The next item on the agenda is a  
7 petition from Buchanan Production Company for pooling of a  
8 coalbed methane unit identified as S-32. This is docket  
9 number VGOB-99-07/20-0729-01. We'd ask the parties that wish  
10 to address the Board in this matter to come forward at this  
11 time.

12           MARK SWARTZ: Mark Swartz and Les Arrington. Mr.  
13 Wampler, I would suggest that the Board consider combining  
14 these...this item with the next two items. The only  
15 respondent in all three of these pooling applications is VDOT  
16 and they're all contiguous.

17           BENNY WAMPLER: Okay. Without any objection, I'll  
18 go ahead call the others. The...we'll also call a petition  
19 from Buchanan Production Company for pooling of a coalbed  
20 methane unit identified as T-32, docket number VGOB-99-07/20-  
21 0730-01; and a petition from Buchanan Production Company for  
22 pooling of a coalbed methane unit identified as U-32, docket  
23 number VGOB-99-09/22-0747-01. We'd ask the parties that wish  
24

1 to address the Board in these matters to come forward at this  
2 time.

3 MARK SWARTZ: Mark Swartz and Les Arrington again.

4 (Leslie K. Arrington distributes exhibits.)

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. Okay, Les, I'm going to remind you that  
11 you're still under oath from the previous hearings. Okay?

12 A. Yes, sir.

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

14 A. Leslie K. Arrington.

15 Q. Who do you work for?

16 A. Consol.

17 Q. Okay, these three applications, the  
18 applicant is Buchanan Production Company, is that correct?

19 A. That's correct.

20 Q. And in all three of the applications  
21 Buchanan Production Company is seeking to pool one  
22 respondent, and who is that?

23 A. Virginia Department of Transportation.

24

--

1 Q. Have you mailed to VDOT?  
2 A. Yes, we did.  
3 Q. And have you filed proof with regard to, or  
4 certification with regard to mailing this morning?  
5 A. Yes, we did.  
6 Q. And have they signed for their mail as they  
7 always do?  
8 A. Yes, they did.  
9 Q. Okay. Have you also published?  
10 A. Yes, we did.  
11 Q. Okay.  
12 A. Just a minute and I'll get to that. It was  
13 published in the Bluefield Daily Telegraph on March the 21st  
14 for all three units.  
15 Q. And these...these three applications are  
16 under the Oakwood I and Oakwood II rules, is that correct?  
17 A. Yeah, that's correct.  
18 Q. Okay. And if the Board were to look at the  
19 last page of any of the...of these three applications, it's  
20 pretty obvious that...that we're into the producing from a  
21 panel situation?  
22 A. That's...that's correct, we are.  
23 Q. So, basically we're...although we're pooling  
24

1 them under Oakwood I and Oakwood II, the production is  
2 primarily going to be Oakwood II production, at least it  
3 looks like, at this point?

4 A. It is now.

5 Q. Okay. And have you listed in your  
6 spreadsheet a listing of the wells in the panels, the one  
7 East panel and the two East panel, their permit numbers and  
8 the dates that they were drilled that correspond to the  
9 Exhibit G map?

10 A. We did.

11 Q. Okay. And then you've...the depth, I would  
12 imagine, it that an average depth that you're reporting?

13 A. It is.

14 Q. And an average cost?

15 A. We did.

16 Q. Okay.

17 A. It's average.

18 Q. And this is...and if we look to the second  
19 from the last page of any of the applications, you've done an  
20 allocation of cost to the various units that are affected by  
21 these panels and then extracted from that on a percentage  
22 basis the costs that would be attributable to each of these  
23 three units on an allocated basis?

24

--

1 A. We did.

2 Q. Okay. And the calculations essentially set  
3 forth in Exhibit G, page one, to each of these applications?

4 A. It is.

5 Q. Okay. Now, in situations where Buchanan  
6 Production Company is the...is the applicant, who is that in  
7 each of these applications are you seeking to have the Board  
8 appoint as the designated operator?

9 A. Consol, Inc.

10 Q. Okay. Buchanan Production Company is a  
11 Virginia General Partnership, is it not?

12 A. Yes, it is.

13 Q. And the two partners in Buchanan Production  
14 Company are Appalachian Operators, Inc. and Appalachian  
15 Methane, Inc., is that correct?

16 A. That's correct.

17 Q. And Buchanan...and those two partners are  
18 now indirect subsidiaries of Consol Energy, Inc., correct?

19 A. That's correct.

20 Q. Okay. Has Buchanan Production Company  
21 delegated responsibility for its properties and assets from a  
22 management and development standpoint to Consol, Inc.?

23 A. Yes, it has.

24

--

1 Q. And Consol, Inc. has accepted that  
2 delegation?

3 A. They have.

4 Q. And that's the reason for the request that  
5 Consol, Inc. be designated the operator if these are  
6 approved?

7 A. Yes, it is.

8 Q. Okay. As I stated earlier, this is an  
9 application under Oakwood I and Oakwood II, but all of the  
10 units are eighty acre units, is that correct?

11 A. Yes, they are.

12 Q. And obviously, we don't have drilling window  
13 concerns because we have production of longwall panels?

14 A. That's correct.

15 Q. Okay. The respondent in each instance  
16 is...is the Virginia Department of Transportation, correct?

17 A. That's correct.

18 Q. And is...is VDOT's interest set forth in  
19 Exhibit B-3 to each of these applications?

20 A. Yes, it is.

21 Q. Okay. And is escrow required with regard to  
22 any of these applications?

23 A. Just a minute.

24

--

1 Q. It looks like it is.  
2 A. It is.  
3 Q. So, let's...let's start with S-3..S-32.  
4 Okay?  
5 A. S-32.  
6 Q. Right here. In S-32, you've submitted an  
7 Exhibit E?  
8 A. Yes, we have.  
9 Q. Which addresses the need for escrow between  
10 conflicting claimants, correct?  
11 A. Yes, it is.  
12 Q. And as it turns out, VDOT is not...their  
13 money is not going to be escrowed?  
14 A. It isn't.  
15 Q. It is not?  
16 A. It is not.  
17 Q. Okay.  
18 A. That's being worked on between the two  
19 parties.  
20 Q. Okay. The...are there any unknowns in the  
21 S-32 unit as far as you know?  
22 A. No, there's not.  
23 Q. So, the only escrow would be from a  
24

1 conflicting claim standpoint?

2 A. That's correct.

3 Q. With regard to T-32, again we've got Exhibit  
4 B-3 which shows the VDOT interest, correct?

5 A. Yes.

6 Q. And there's a requirement for escrow which  
7 is described at Exhibit E?

8 A. It is.

9 Q. Okay. Any un...unknowns or unlocateables in  
10 T-32?

11 A. No.

12 Q. With regard to U-32, again VDOT has a  
13 minimum interest in the unit, correct?

14 A. That's correct.

15 Q. Set forth in Exhibit B-3?

16 A. That's correct.

17 Q. And it looks like escrow pertaining to  
18 conflicting claims is also required in U-32?

19 A. That's correct.

20 Q. And your Exhibit E sets forth your  
21 understanding of what needs to be escrowed and why?

22 A. It does.

23 Q. Are there any unknowns or unlocateables in  
24

1 U-32 that would also be another reason to escrow?

2 A. No.

3 Q. Okay. Is the...with regard to these three  
4 applications, is it your opinion that the plan that has been  
5 proposed to develop methane through the extraction from the  
6 longwall panels, is that a reasonable plan to extract methane  
7 from under these units and the units that adjoin them and  
8 then allocate that production to the various owners and  
9 claimants?

10 A. Yes, it is.

11 Q. And to the extent that the various owners  
12 and claimants are in conflict, does Exhibit E in each  
13 instance reflect a reasonable way to protect those funds  
14 until they either settle their claims among themselves or  
15 resolve them by litigation?

16 A. That's correct.

17 Q. That's all I have.

18 BENNY WAMPLER: Questions from members of the Board?

19 (No audible response.)

20 BENNY WAMPLER: Why did you have the Deskins' heirs  
21 listed in E...Exhibit E.

22 LESLIE K. ARRINGTON: Okay. The question has come  
23 up several times and what that is, the Richard Deskins' heirs

24

--

1 there was numerous own...coal, oil and gas owners there and  
2 Island Creek purchased one of the coal owner's interest,  
3 which made them a conflicting owner with a certain group of  
4 oil and gas owners who didn't own...at that point, didn't own  
5 any coal. And then there was another interest that was  
6 purchased by part of the coal, oil and gas owners and then  
7 Island Creek came in and bought their...that coal interest,  
8 which in turn made two separate interest of conflicting  
9 owners. That's the reason we're having to show two different  
10 groups.

11 MARK SWARTZ: You've got this problem with some  
12 other units, too?

13 LESLIE K. ARRINGTON: Yes...yes, sir. Has in  
14 numerous times.

15 BENNY WAMPLER: Other questions from members---?

16 MASON BRENT: I do.

17 BENNY WAMPLER: Mr. Brent?

18 MASON BRENT: Could you take me through one of these  
19 Exhibit Gs, page one, and help me understand that?

20 LESLIE K. ARRINGTON: Okay. For each longwall panel  
21 you'll notice---

22 BENNY WAMPLER: Which one are you on?

23 LESLIE K. ARRINGTON: Exhibit G, T-32, is the one  
24

1 I'm using.

2 MASON BRENT: T-32?

3 LESLIE K. ARRINGTON: Uh-huh. Okay. And I'll just  
4 go through it from the very top of the sheet and down...down  
5 through it. And you'll notice I show the one East longwall  
6 panel and I'm showing twelve frac wells.

7 MASON BRENT: Okay.

8 LESLIE K. ARRINGTON: What I've done to come up with  
9 that average well cost of \$233,415, I took each one of the  
10 wells and I went through the cost for each well and it's...  
11 each total depth of each one of them and I've done an average  
12 and that's what that well cost is. That's the average cost  
13 per well.

14 MASON BRENT: Okay, but now that well cost, the  
15 233,415---

16 LESLIE K. ARRINGTON: Yes, sir.

17 MASON BRENT: ---you show back on S-32---

18 LESLIE K. ARRINGTON: I do.

19 MASON BRENT: ---as the---

20 LESLIE K. ARRINGTON: That's the average cost for  
21 all twelve wells. In that panel Exhibit G...if you'll look  
22 for Exhibit G on the first longwall panel---

23 MARK SWARTZ: The map.

24

--

1           MASON BRENT: Okay.

2           LESLIE K. ARRINGTON: The map. Okay, if you'll look  
3 at the longwall panel, the furthest one to the West or left,  
4 that's the average cost for the wells within that longwall  
5 panel.

6           MASON BRENT: Okay.

7           LESLIE K. ARRINGTON: Now, each one of these units  
8 that we're pooling today are within that longwall panel.

9           MASON BRENT: Except you use the...back on...if I  
10 recall correctly, on S-32, you use the 233,415 as the  
11 estimated well cost.

12          LESLIE K. ARRINGTON: We did. Yes, sir. That's  
13 correct.

14          MASON BRENT: And then on these other two you use  
15 the 237,099?

16          LESLIE K. ARRINGTON: 237, I believe...okay, on the  
17 two East panels, now a portion of that panel is also  
18 included. A very small portion of that panel is also  
19 included in the well cost. That's the reason I had to show  
20 that. So, each one of these should have a well...average  
21 well cost of 1DWE for the one East panel of \$233,415 and  
22 should have one also for the two East panel of \$237,099.  
23 That's the average cost of all the wells in each panel.

24

--

1           MASON BRENT: Okay. All right. I'm with you.

2           MARK SWARTZ: I think the confusion perhaps, and I  
3 had the same problem, is you don't repeat the calculation for  
4 the second panel that you did for the first one, Les.

5           BENNY WAMPLER: Right.

6           LESLIE K. ARRINGTON: Okay. Okay.

7           MARK SWARTZ: I think that's---.

8           MASON BRENT: Yeah.

9           MARK SWARTZ: Okay.

10          BENNY WAMPLER: Any other questions? Does that  
11 answer your question?

12          MASON BRENT: I'm just a little slow.

13          BENNY WAMPLER: Well, that's the way it's  
14 calculated.

15          (Leslie K. Arrington and Mark Swartz confer.)

16          MARK SWARTZ: He has got it on there.

17          BENNY WAMPLER: It's under well cost. Yeah, he saw  
18 it.

19          MASON BRENT: Yeah.

20          BENNY WAMPLER: Other questions?

21          (No audible response.)

22          BENNY WAMPLER: Do you have anything further?

23          MARK SWARTZ: No.

24

--

1           BENNY WAMPLER: Is there a motion?

2           CLYDE KING: Are we taking them one each or all  
3 three of them?

4           BENNY WAMPLER: We'll take all three.

5           CLYDE KING: I move we approve them.

6           BENNY WAMPLER: Is there a second? Is there a  
7 second?

8           MAX LEWIS: Second.

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. Thank you.

14          MARK SWARTZ: Thank you all.

15          BENNY WAMPLER: Do you want to take a ten minute  
16 recess while we change---?

17          CLYDE KING: That sounds like a great idea.

18          BENNY WAMPLER: Let everybody stand up and stretch.  
19 (Recess.)

20          BENNY WAMPLER: Okay, the next item on the agenda,  
21 the Board will consider a petition from Equitable Production  
22 Company for pooling of a coalbed methane unit identified as  
23 VC-3614. This is docket number VGOB-00-04/18-0796; and we'd  
24

1 ask the parties that wish to address the Board in this matter  
2 to come forward at this time.

3 JIM KISER: Mr. Chairman and members of the Board,  
4 Jim Kiser on behalf of Equitable Production Company. Our  
5 witnesses in this matter will be Mr. Troy Gieselman and Mr.  
6 Martin Puskar.

7 BENNY WAMPLER: Would you have them sworn in,  
8 please?

9 (Witnesses are duly sworn.)

10 BENNY WAMPLER: The record will show there are no  
11 others. You may proceed.

12

13 TROY GIESELMAN

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

16 DIRECT EXAMINATION

17 QUESTIONS BY MR. KISER:

18 Q. Mr. Gieselman, if you'd state your name for  
19 the record, who you're employed and in what capacity?

20 A. Troy Gieselman. I'm a company landman for  
21 Equitable Production Company.

22 Q. And do your responsibilities include the  
23 land involved for the unit for VC-3614 and in the surrounding

24

--

1 area?

2 A. Yes, they do.

3 Q. And are you familiar with Equitable's  
4 application seeking a pooling order for EPC well number VC-  
5 3614, dated March the 16th, 2000?

6 A. Yes.

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

10 A. Yes.

11 Q. And does the location proposed for well  
12 number VC-3614 fall within the Board's order for the Nora  
13 Coalbed Gas Field?

14 A. Yes.

15 Q. Now, prior to filing the application, were  
16 efforts made to contact each of the respondents and an  
17 attempt made to work out an agreement made regarding the  
18 development of the unit involved?

19 A. Yes.

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

22 A. Yes.

23 Q. What is the interest of Equitable in the gas  
24

1 estate within the unit?

2 A. 97.06% leased.

3 Q. And what is the interest of Equitable in the  
4 coal estate within the unit?

5 A. 100% leased.

6 Q. Now, are all unleased parties set out in  
7 Exhibit B to the application?

8 A. Yes, they are.

9 Q. And are you familiar with the ownership of  
10 the drilling rights of parties other than Equitable  
11 underlying this unit?

12 A. Yes.

13 Q. And what is the interest within the gas  
14 estate that remains unleased?

15 A. 2.94%.

16 Q. Now, were efforts made to determine if any  
17 individual respondents listed in Exhibit B were living or  
18 deceased or their whereabouts, and if deceased, were efforts  
19 made to determine the names and addresses and whereabouts of  
20 any successors to any deceased individual respondents?

21 A. Yes, sir.

22 Q. And were reasonable and diligent efforts  
23 made, and sources checked to identify and locate any unknown

24

--

1 heirs to include primary sources such as deed records,  
2 probate records, assessor's records, treasurer's records and  
3 secondary sources such as telephone directories, city  
4 directories, family and friends?

5 A. Yes.

6 Q. In your professional opinion, was due  
7 diligence exercised to locate each of the respondents named  
8 in Exhibit B?

9 A. Yes.

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

12 A. Yes.

13 Q. Are you requesting this Board to force pool  
14 all unleased interest listed in Exhibit B?

15 A. Yes.

16 Q. Okay. Now, are you familiar with the fair  
17 market value of drilling rights in the unit here and in the  
18 surrounding area?

19 A. Yes.

20 Q. Could you advise the Board as to what those  
21 are?

22 A. A five year lease, a \$5 bonus, a 1/8  
23 royalty.

24

--

1           Q.       Did you gain this familiarity by acquiring  
2 oil and gas leases, coalbed methane leases and other  
3 agreements involving the transfer of drilling rights in the  
4 unit involved here and in the surrounding area?

5           A.       Yes.

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

10          A.       Yes.

11          Q.       Okay. Now, as to respondents listed at  
12 Exhibit B who have not voluntarily agreed to lease, should  
13 the Board issue a force pooling order in this matter, do you  
14 agree that they should be allowed the following options with  
15 respect to their ownership interest within the unit - one,  
16 participation; two, a cash bonus of \$5 per net mineral acre  
17 plus a one-eighth of eight-eighths royalty; three, in lieu of  
18 a cash bonus and one-eighth of eight-eighths royalty share in  
19 the operation of the well on a carried basis, as a carried  
20 operator under the following conditions: Such carried  
21 operator shall be entitled to the share of production from  
22 the tracts pooled accruing to his interest exclusive of any  
23 royalty or overriding royalty reserved in any leases,

24

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1 assignments thereof or agreements relating thereto of such  
2 tracts, but only after the proceeds applicable to his share  
3 equal, (A) - 300% of the share of such costs applicable to  
4 the interest of the carried operator of a leased tract or  
5 portion thereof; or (B) - 200% of the share of such costs  
6 applicable to the interest of a carried operator of an  
7 unleased tract or portion thereof?

8 A. Yes.

9 Q. Do you recommend the order provide that  
10 elections by a respondent be in writing and sent to the  
11 applicant at Equitable Production Company, 1989 East Stone  
12 Drive, Kingsport, Tennessee 37660, Attention: Rita  
13 McGlothlin-Barrett, Regulator?

14 A. Yes.

15 Q. And for the time being should this be the  
16 address for all communications with the applicant concerning  
17 any force pooling order?

18 A. Yes, it should.

19 Q. Do you recommend that the order provide that  
20 if no written elections is properly made by a respondent,  
21 then such respondent shall be deemed to have elected the cash  
22 option in lieu of participation?

23 A. Yes, I do.

24

--

1           Q.       Should the force pooled parties be given  
2 thirty days from the date of the Board order to file their  
3 written elections?

4           A.       Yes.

5           Q.       And if an unleased respondent elects to  
6 participate, should they be given forty-five days to pay the  
7 applicant for their proportionate share of well costs?

8           A.       Yes.

9           Q.       Does the applicant expect that party  
10 electing to participate to pay those costs in advance?

11          A.       Yes.

12          Q.       Should the applicant be allowed a hundred  
13 and twenty days following the recordation date of the Board  
14 order, and thereafter, annually on that date, until  
15 production is achieved to pay or tender any cash bonus  
16 becoming due under the order?

17          A.       Yes.

18          Q.       Do you recommend that if a respondent elects  
19 to participate, but fails to pay their proportionate share of  
20 well costs satisfactory to the applicant for payment of said  
21 costs, then respondents election to participate should be  
22 treated as having been withdrawn and void and such respondent  
23 should be treated just as if no election had been filed, in  
24

1 other words, deemed to have leased?

2 A. Yes.

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

10 A. Yes.

11 Q. Do you recommend that the order provide that  
12 if respondent refuses to accept any payment, including any  
13 payment due under the order, or any payment of royalty, or  
14 cash bonus, or said payment could not be paid to a party for  
15 any reason, or there's a title defect in respondent's  
16 interest, or there are unknown forced pooled parties, or in  
17 the event of conflicting claims to the coalbed methane, that  
18 the operator pay into an escrow account created by this Board  
19 all costs or proceeds attributable to the conflicting  
20 interest and the other interest mentioned above, where  
21 they'll be held for the respondent's benefit until such funds  
22 can be paid to the party by either order of the Board or  
23 until the conflicting claim is resolved to the operator's

24

--

1 satisfaction?

2 A. Yes.

3 Q. And who should be named the operator under  
4 any force pooling order?

5 A. Equitable Production Company.

6 JIM KISER: Nothing further of this witness at this  
7 time, Mr. Chairman.

8 BENNY WAMPLER: Any questions from members of the  
9 Board of this witness?

10 (No audible response.)

11 BENNY WAMPLER: Call your next witness?

12

13 MARTIN PUSKAR

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

16 QUESTIONS BY MR. KISER:

17 Q. Mr. Puskar, would state your name for the  
18 Board, who you are employed by and in what capacity?

19 A. Martin Puskar. I work at Equitable  
20 Production Company and I'm a Petroleum Engineer.

21 Q. And do your responsibilities include the  
22 land involved in this unit and in the surrounding area?

23 A. Yes.

24

--

1 Q. And are you familiar with the applicant's  
2 proposed plan of development for this well?

3 A. Yes.

4 Q. What's the total depth of the proposed well?

5 A. The total depth is 2,397 feet.

6 Q. And this will be sufficient to penetrate and  
7 test any common sources of supply in the subject formations?

8 A. Yes.

9 Q. And what are the estimated reserves of the  
10 unit?

11 A. We've estimated reserves at 400,000,000  
12 cubic feet.

13 Q. Are you familiar with the well costs for the  
14 proposed well?

15 A. Yes.

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

18 A. Yes, it has.

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

22 A. Yes.

23 Q. In your professional opinion, does this AFE  
24

1 represent a reasonable estimate of the well costs under the  
2 plan of development?

3 A. Yes, it does.

4 Q. Could you state for the Board what both the  
5 dry hole costs and the completed well costs would be?

6 A. The dry hole costs are \$88,063 and the  
7 completed well cost is estimated at \$176,800.

8 Q. Do these costs anticipate a multiple  
9 completion?

10 A. Yes, they do.

11 Q. And does your AFE include a reasonable  
12 charge for supervision?

13 A. Yes, it does.

14 Q. Mr. Puskar, in your professional opinion,  
15 will the granting of this application be in the best interest  
16 of conservation, the prevention of waste and the protection  
17 of correlative rights?

18 A. Yes.

19 JIM KISER: Nothing further of witness at this  
20 time, Mr. Chairman.

21 BENNY WAMPLER: Any questions from members of the  
22 Board of this witness?

23 (No audible response.)

24

--

1           BENNY WAMPLER: Do you have anything further?

2           JIM KISER: We'd ask the application be approved as  
3 submitted.

4           SANDRA RIGGS: Who is the new contact person for  
5 EPC---?

6           JIM KISER: On the elections?

7           SANDRA RIGGS: ---for purposes of filing elections?

8           JIM KISER: Rita McGlothlin-Barrett,

9           SANDRA RIGGS: Barrett? B---?

10          JIM KISER: Barrett. B-A-R-R-E-T-T. I'll make a  
11 copy of that for you. McGlothlin is capital M, little C,  
12 capital G...have you got that anywhere?

13          SANDRA RIGGS: No.

14          JIM KISER: G-L-O-T-H-L-I-N hyphen Barrett, B-A-R-R-  
15 E-T-T.

16          SANDRA RIGGS: Okay.

17          JIM KISER: I'll send all of that to you, Sandy.  
18 And this will probably be the last month where that address  
19 will be good, too. It will be switched to Big Stone Gap, I  
20 think, in May.

21          SANDRA RIGGS: Okay.

22          CLYDE KING: Big Stone Gap?

23          JIM KISER: (Indicates affirmatively.)

24

--

1           CLYDE KING: Going to be next door neighbors then.

2 I move we approve, Mr. Chairman.

3           BENNY WAMPLER: We have a motion to approve. Is  
4 there a second.

5           MASON BRENT: Second.

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

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. The next item on  
14 the agenda is the Board will consider a petition from  
15 Equitable Production Company for pooling of a coalbed methane  
16 unit identified as VC-4363, docket number VGOB-00-04/18-0797;  
17 and we'd ask the parties that wish to address the Board in  
18 this matter to come forward at this time.

19           JIM KISER: Mr. Chairman, Jim Kiser, again on behalf  
20 of Equitable Production Company. I do have a new Exhibit B.

21           (Jim Kiser distributes a new Exhibit B.)

22           JIM KISER: Our witnesses again will be Mr.  
23 Gieselman and Mr. Puskar.

24

--

1                   BENNY WAMPLER: Okay, the record will show there  
2 are---.

3                   (Member of the audience asks which number was  
4 called. She is told that the one she is here on will be heard  
5 later.)

6                   BENNY WAMPLER: Okay, the record will show there are  
7 no others. You may proceed.

8

9

10   TROY GIESELMAN

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

13   DIRECT EXAMINATION

14 QUESTIONS BY MR. KISER:

15                   Q.       Mr. Gieselman, again state your name for the  
16 record, who you're employed and in what capacity?

17                   A.       Troy Gieselman. I'm a landman with  
18 Equitable Production Company.

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

21                   A.       Yes, they do.

22                   Q.       And are you familiar with Equitable's  
23 application seeking a pooling order for EPC well number VC-

24

--

1 4363, which was dated March the 16th, 2000?

2 A. Yes.

3 Q. Is Equitable seeking to force pool the  
4 drilling rights underlying the drilling unit as depicted at  
5 Exhibit A to the application?

6 A. Yes.

7 Q. And does the location proposed for this well  
8 VC-4346 fall within the Board's order for the Nora Coalbed  
9 Gas Field?

10 A. Yes.

11 Q. Now, prior to filing the application, were  
12 efforts made to contact each of the respondents and an  
13 attempt made to work out an agreement made regarding the  
14 development of the unit involved?

15 A. Yes.

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

18 A. Yes, they do.

19 Q. Okay, let's...we've got a revised Exhibit B  
20 that we passed out. Let's state the interest that Equitable  
21 had under lease in the gas estate at the time of application  
22 and now as of the time of the hearing with the...point out  
23 the one additional lease that we acquired?

24

--

1           A.       All right. At the time of application, the  
2 interest under lease was 81.72%, and then we just received a  
3 new lease in this morning, which is on page two of ten, Mary  
4 Elizabeth McCoy.

5           Q.       That would be very last name on that page?

6           A.       The very last name on the page.

7           Q.       Undivided interest within Tract 3?

8           A.       And with her...with her lease, now  
9 Equitable's interest in the unit is 81.775% leased and  
10 she...she is owner of oil and gas and the coal and her  
11 interest has changed on both...on both Exhibits.

12          Q.       So, those figures, the percentage under  
13 lease, which is now 81.775, which leaves an unleased interest  
14 of 18.225 that would be applicable to both the gas estate and  
15 the coal estate?

16          A.       That's correct.

17          Q.       Okay.

18                 (Jim Kiser confers with Troy Gieselman.)

19          Q.       Okay. And were efforts made to determine if  
20 the individual respondents were living or deceased or their  
21 whereabouts, and if deceased, were efforts made to determine  
22 the names and addresses and whereabouts of the successors to  
23 the deceased individual respondent?

24

--

1 A. Yes.

2 Q. And were reasonable and diligent efforts  
3 made, and sources checked to identify and locate unknown  
4 heirs including primary sources such as deed records, probate  
5 records, assessor's records, treasurer's records and  
6 secondary sources such as telephone directories, city  
7 directories, family and friends?

8 A. Yes.

9 Q. In your professional opinion, was due  
10 diligence exercised to locate each of the respondents named  
11 herein?

12 A. Yes.

13 Q. Are the respondents set in Exhibit B to the  
14 application the last known addresses for the respondents?

15 A. Yes.

16 Q. Are you requesting the Board to force pool  
17 all the unleased interest listed at Exhibit B as passed out  
18 today?

19 A. Yes.

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

24

1 A. Yes.

2 Q. Now, are you familiar with the fair market  
3 value of drilling rights in the unit here?

4 A. Yes, I am.

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

7 A. A five year lease, a 1/8 royalty, a \$5  
8 bonus.

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

13 A. Yes, sir.

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

18 A. Yes.

19 JIM KISER: Now, Mr. Chairman and members of the  
20 Board, as to the election options that are afforded any  
21 parties that are forced pooled by Board order and as to the  
22 various time frames within which they have to respond to  
23 those elections and pay any costs should they decide to

24

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1 participate, we'd ask that the Board incorporate testimony  
2 that we took earlier in the hearing docketed VGOB-00-04/18-  
3 0796.

4 BENNY WAMPLER: That will be incorporated.

5 JIM KISER: Thank you.

6 Q. Mr. Gieselmann, do we need to have the Board  
7 to establish an escrow account in this case because of an  
8 unknown interest?

9 A. I don't believe that there any conflicting  
10 claimants in this case.

11 Q. But there is an unknown interest?

12 A. Oh, unknown interest. Yes, sir.

13 Q. Okay. So...and there...any---.

14 A. Excuse me.

15 Q. ---costs or proceeds attributable to that  
16 interest will be paid into that escrow account?

17 A. Yes. Yes.

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

20 A. Equitable Production Company.

21 JIM KISER: Nothing further of this witness at this  
22 time, Mr. Chairman.

23 BENNY WAMPLER: Any questions from members of the  
24

1 Board of this witness?

2 (No audible response.)

3 BENNY WAMPLER: Call your next witness?

4

5 MARTIN PUSKAR

6 having been duly sworn, was examined and testified as

7 follows:

8 QUESTIONS BY MR. KISER:

9 Q. Mr. Puskar, again state your name for the  
10 Board, who you are employed by and in what capacity?

11 A. Martin Puskar, Equitable Production Company  
12 and I'm a Petroleum Engineer.

13 Q. And do your responsibilities, again, include  
14 the land involved in this unit?

15 A. Yes, they do.

16 Q. And are you familiar with the proposed plan  
17 of development for VC-4363?

18 A. Yes.

19 Q. And what is the proposed depth for that  
20 well?

21 A. The proposed depth is 2,310 feet.

22 Q. And the estimated reserves for the unit?

23 A. 400,000,000.

24

--

1 Q. And are you familiar with the costs for the  
2 proposed well under the plan of development?

3 A. Yes.

4 Q. Was an AFE reviewed, signed and submitted to  
5 the Board as Exhibit C to the application?

6 A. Yes.

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

10 A. Yes, it has.

11 Q. In your professional opinion, does this AFE  
12 represent a reasonable estimate of the well costs?

13 A. Yes, it does.

14 Q. Could you state both the dry hole costs and  
15 the completed well costs for the Board?

16 A. The dry hole costs are \$101,409 and the  
17 completed well cost are estimated \$179,600.

18 Q. And do these costs anticipate a multiple  
19 completion?

20 A. Yes, they do.

21 Q. And does your AFE include a reasonable  
22 charge for supervision?

23 A. Yes, it does.

24

--

1           Q.       In your professional opinion, will the  
2 granting of this application be in the best interest of  
3 conservation, the prevention of waste and the protection of  
4 correlative rights?

5           A.       Yes, it does.

6           JIM KISER: Nothing further of witness at this  
7 time, Mr. Chairman.

8           BENNY WAMPLER: Any questions from members of the  
9 Board?

10           (No audible response.)

11           BENNY WAMPLER: Do you have anything further?

12           JIM KISER: We'd ask the application be approved as  
13 submitted.

14           MAX LEWIS: I notice on here you have a lot of  
15 unleased property here. Do you...did they give a reason why  
16 they wouldn't lease this?

17           TROY GIESELMAN: Yes, sir. Actually, there was one  
18 group of individuals that were speaking on behalf of the  
19 majority of these folks and their attorneys in Buchanan  
20 County, and they indicated that it wasn't worth their time.

21           MAX LEWIS: To lease it...it wasn't worth their time  
22 to lease it?

23           TROY GIESELMAN: Right. It wasn't worth their time.

24

--

1 The interest in the unit so small they figured that  
2 the...the income benefit would---

3 MAX LEWIS: Did you all try to contact them  
4 individually, too?

5 TROY GIESELMAN: Yes, sir. Every...every individual  
6 received a lease and was spoken to.

7 CLYDE KING: So, H.A. Street was speaking for all of  
8 them?

9 TROY GIESELMAN: I don't know if it was H.A. or---

10 CHARLES GANDEE: Benjamin.

11 TROY GIESELMAN: ---Benjamin Street.

12 MAX LEWIS: Yeah. I know them all.

13 CLYDE KING: Yeah.

14 TROY GIESELMAN: Yes, sir.

15 CHARLES GANDEE: They all have their lease in hand  
16 because I took them up to the office. (Inaudible. Talking  
17 from back in the audience.)

18 TROY GIESELMAN: Would you like...would you like Mr.  
19 Gandee to come down and---?

20 JIM KISER: Do you want to have Charlie to come  
21 down---?

22 MAX LEWIS: Yeah.

23 BENNY WAMPLER: I think we need to get on record.  
24  
25

1           JIM KISER: Yeah, get him sworn in and get him on  
2 the record.

3           CLYDE KING: I didn't think attorneys ever refused  
4 to---

5           JIM KISER: Well, they apparently set up a meeting  
6 with him and then refused to meet with him.

7           CLYDE KING: Yeah.

8           MAX LEWIS: You can't get him hushed when you get  
9 him started.

10          CLYDE KING: That sounds normal.

11

12          JIM KISER: Yeah. Do you want to swear him, Mr.  
13 Wampler?

14          BENNY WAMPLER: Yes, please.

15                 (Witness is duly sworn.)

16

17                                 CHARLES GANDEE

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

20   DIRECT EXAMINATION

21 QUESTIONS BY MR. KISER:

22           Q.         Charlie, could you state your name for the  
23 Board, who you're employed and in what capacity?

24

--

1           A.       My name is Charles Gandee. I'm an  
2 independent landman working through Equitable.

3           Q.       And was this particular well, that being VC-  
4 4363, were you responsibility...was your responsibility the  
5 acquisition of leases from the unleased parties?

6           A.       Yes. Uh-huh.

7           Q.       And did you set up a meeting with...well,  
8 let's go back. First of all, did you contact and get a lease  
9 in the hands of each of these unleased parties?

10          A.       Yes.

11          Q.       And did you actually set up a  
12 meeting...through your contacts, did one of the Street  
13 individuals state to you that he was representing the  
14 interest of most, if not all of those folks, and did you upon  
15 that set up a meeting with him at their law offices?

16          A.       Yes.

17          Q.       And could you tell the Board in your own  
18 words what transpired from there?

19          A.       I talked with Benjamin and he wanted me to  
20 bring...to drop H.A.'s, Nick's, his, the trustees, there was  
21 five of them that I dropped off at the office to Benjamin.  
22 One of them we just received today in the mail. I have  
23 mailed out all of them that's out of state and we're going

24

1 to...we're getting them in as we...as we talk, you know. I  
2 think Benjamin...I think they're going to all sign within the  
3 next week or so. But he...he indicated that, you know, it  
4 really wasn't worth his time because it's such a small  
5 interest that they have. But he talked like that he would go  
6 ahead and sign and David did, too. That's it.

7 BENNY WAMPLER: Anything further?

8 (No audible response.)

9 BENNY WAMPLER: Is there a motion?

10 CLYDE KING: It's not going to affect us pooling it,  
11 is it (inaudible)?

12 MAX LEWIS: No.

13 JIM KISER: No. We'll just dismiss them out  
14 through the Supplemental Order.

15 CLYDE KING: I move we approve, Mr. Chairman.

16 BENNY WAMPLER: We have a motion to approve. Is  
17 there a second?

18 MASON BRENT: Second.

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

21 (All members signify yes.)

22 BENNY WAMPLER: Opposed, say no.

23 (No audible response.)

24

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1           BENNY WAMPLER: You have approval. Thank you. The  
2 next item on the agenda is a petition from Equitable  
3 Production Company for pooling of a coalbed methane unit  
4 identified as VC-4362, docket number GOB-00-04/18-0798. We'd  
5 ask the parties that wish to address the Board in this matter  
6 to come forward at this time, please.

7           JIM KISER: Mr. Chairman and members of the Board,  
8 Jim Kiser on behalf of Equitable Production Company again.  
9 Again, we've got the new Exhibit B, which...what's this one  
10 got the same lady?

11           TROY GIESELMAN: It's the same lady.

12           JIM KISER: Okay, with the same interest that we've  
13 picked up the additional lease on.

14           (Jim Kiser confers with Troy Gieselman.)

15           JIM KISER: I probably should have combined this  
16 one, Mr. Chairman.

17           BENNY WAMPLER: It's not too late. Which one are  
18 you wanting to go to?

19           JIM KISER: The one we just did.

20           SANDRA RIGGS: Oh.

21           MASON BRENT: It is too late.

22           JIM KISER: It is too late.

23           CLYDE KING: Oh.

24

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1           BENNY WAMPLER: That's too late.

2           JIM KISER: But I don't think we've got exactly the  
3 same people. I don't see that. It can't be because the  
4 percentages are different.

5           TROY GIESELMAN: Well, their interest in the unit is  
6 smaller is why.

7           JIM KISER: Okay. All right. Mr. Gieselman, again,  
8 will be our first...interest...we do have the one unknown,  
9 witness in this matter.

10

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

14                           DIRECT EXAMINATION

15 QUESTIONS BY MR. KISER:

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

18           A.        Yes. Troy Gieselman. I'm a landman for  
19 Equitable Production Company..

20           Q.        And are you familiar with our application  
21 seeking a pooling order for EPC well VC-4362, which was dated  
22 March the 16th, 2000?

23           A.        Yes, sir.

24

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1 Q. And, in fact, are the parties that own  
2 either interest in the oil and gas estate or coal estate  
3 within this unit the exact same parties that own those  
4 interests, but in different amount in this unit as VC-4363?

5 A. Yes, sir, I believe that's correct.

6 Q. And we're seeking to force pool the drilling  
7 rights underlying this drilling unit as depicted at Exhibit  
8 A?

9 A. Yes.

10 Q. And the location falls within the Board's  
11 order for the Nora Coalbed Gas Field?

12 A. Yes.

13 Q. Now, prior to filing the application, you  
14 made an effort to contact each of the respondents and an  
15 attempt was made to work out an agreement regarding the unit?

16 A. Yes.

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

19 A. Yes.

20 Q. And the interest of Equitable in the gas  
21 estate within the unit?

22 A. 99.94% leased.

23 Q. And the interest Equitable within the coal  
24

1 estate?

2 A. 99.94% leased.

3 Q. So, both the oil and gas estate and coal  
4 estate the unleased interest amounts to 0.06%?

5 A. That's correct.

6 Q. And all the unleased parties are set out in  
7 Exhibit B?

8 A. Yes, they are.

9 Q. Okay. We still have the one unknown owner.  
10 Was an effort made to locate him including primary sources  
11 such as deed records, probate records, assessor's records,  
12 treasurer's records and secondary sources such as telephone  
13 directories, city directories, family and friends?

14 A. Yes, sir.

15 Q. And, again, in your professional opinion,  
16 was due diligence exercised to locate each of the respondents  
17 named herein?

18 A. Yes.

19 Q. Now, are the addresses set out in Exhibit B  
20 to the application the last known addresses for the  
21 respondents?

22 A. Yes, they are.

23 Q. And are you requesting this Board to force  
24

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1 pool all unleased interest listed in Exhibit B?

2 A. Yes.

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

6 A. Yes.

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

9 A. A five year lease, a \$5 bonus, a 1/8  
10 royalty.

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

15 A. Yes.

16 JIM KISER: Mr. Chairman and members of the Board,  
17 again, we'd ask that the testimony previously taken in Board  
18 item number eight today regarding the elections, the options,  
19 the time afforded to make those elections be incorporated for  
20 purposes of this hearing.

21 BENNY WAMPLER: That will be incorporated.

22 Q. And, Mr. Gieselman, once again, do we  
23 need...there are no conflicting claims between the oil and  
24

1 gas estate and coal estate in this unit, but we do have the  
2 one unlocateable interest owners. So, does the Board need to  
3 set a escrow account for cost or proceeds attributable to  
4 that interest to be paid into it?

5 A. Yes, sir, I think that would be a good idea.

6 Q. And who should be named the operator under  
7 the force pooling order?

8 A. Equitable Production Company.

9 JIM KISER: Nothing further of this witness at this  
10 time, Mr. Chairman.

11 BENNY WAMPLER: Any questions of this witness?

12 (No audible response.)

13 BENNY WAMPLER: Call your next witness?  
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MARTIN PUSKAR

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

QUESTIONS BY MR. KISER:

Q. Mr. Puskar, again state your name, who you are employed by and in what capacity?

A. Martin Puskar. I'm employed by Equitable Production Company and I'm a Engineer.

Q. And you're familiar with the plan of development for this proposed well?

A. Yes.

Q. And what is the total depth of that well?

A. The total depth is 2,213 feet.

Q. And the estimated reserves?

A. 400,000,000 cubic feet.

Q. And are you familiar with the well costs for the proposed well?

A. Yes, I am.

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

A. Yes, it has.

Q. Was it prepared by an engineering department knowledgeable in the preparation of AFEs and knowledgeable in

1 regard to well costs in this particular area?

2 A. Yes.

3 Q. In your professional opinion, does it  
4 represent a reasonable estimate of the well costs?

5 A. Yes, it does.

6 Q. Could you state for the Board at this time  
7 both the dry hole costs and the completed well costs?

8 A. The dry hole costs are \$93,186 and the  
9 completed well costs are \$168,400.

10 Q. And do these costs anticipate a multiple  
11 completion?

12 A. Yes, they do.

13 Q. And does your AFE include a reasonable  
14 charge for supervision?

15 A. Yes.

16 Q. In your professional opinion, will the  
17 granting of this application be in the best interest of  
18 conservation, the prevention of waste and the protection of  
19 correlative rights?

20 A. Yes.

21 JIM KISER: Nothing further of witness at this  
22 time, Mr. Chairman.

23 BENNY WAMPLER: Any questions from members of the  
24

1 Board?

2 MASON BRENT: Just one.

3 BENNY WAMPLER: Mr. Brent?

4 MASON BRENT: Is this within the window? It's hard  
5 for me to tell on this plat.

6 JIM KISER: It's close. If it's not, then they'll  
7 apply for a location exception through the permit process.

8 BOB WILSON: I believe this one is within the  
9 window.

10 MASON BRENT: It is? Okay.

11 BENNY WAMPLER: Anything further?

12 JIM KISER: We'd ask the application be approved as  
13 submitted, Mr. Chairman.

14 BENNY WAMPLER: Is there a motion?

15 MASON BRENT: I so move.

16 BENNY WAMPLER: A second?

17 MAX LEWIS: I second.

18 BENNY WAMPLER: Motion and second. Any further  
19 discussions?

20 (No audible response.)

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

22 (All members signify yes.)

23 BENNY WAMPLER: Opposed, say no.

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1 (No audible response.)

2 BENNY WAMPLER: You have approval. The next item on  
3 the agenda is a petition from Equitable Production Company  
4 for pooling of a coalbed methane unit identified as VC-4489.  
5 This is docket number VGOB-00-04/18-0799; and we'd ask the  
6 parties that wish to address the Board in this matter to come  
7 forward at this time. Just state your name for the record,  
8 please, if you will.

9 CYNTHIA L. CARICO: I'm Cynthia L. Carico.

10 JERRY WAYNE CARICO: I'm Jerry Wayne Carico.

11 ROCKY ANTHONY McCOWAN: Rocky Anthony McCowan.

12 BENNY WAMPLER: You may proceed.

13

14 TROY GIESELMAN

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

17 DIRECT EXAMINATION

18 QUESTIONS BY MR. KISER:

19 Q. Mr. Gieselman, if you would, please again  
20 state your name, who you're employed and in what capacity?

21 A. Troy Gieselman. Landman for Equitable  
22 Production Company.

23 Q. And do your responsibilities include the  
24

25

1 land involved in the unit for VC-4489?

2 A. Yes, sir.

3 Q. And are you familiar with Equitable's  
4 application seeking a pooling order for EPC well VC-4489,  
5 which was dated March the 16th, 2000?

6 A. Yes.

7 Q. And is Equitable seeking to force pool the  
8 drilling right...rights underlying the unit as depicted at  
9 Exhibit A, that being the plat to the application?

10 A. Yes.

11 Q. And does the location proposed for well  
12 number VC-4489 fall within the Board's order for the Nora  
13 Coalbed Gas Field?

14 A. Yes, it does.

15 Q. Now, prior to filing this application, were  
16 efforts made to contact each of the unleased parties and an  
17 attempt made to work out an agreement regarding the  
18 development of the unit?

19 A. Yes.

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

22 A. Yes.

23 Q. What is the interest of Equitable in the gas  
24

1 estate within the unit?

2 A. 91.03% leased.

3 Q. And the interest of Equitable in the coal  
4 estate?

5 A. It's 100% leased.

6 Q. Okay. And the unleased parties are set out  
7 in Exhibit B to the application?

8 A. Yes, they are.

9 Q. And what is the interest in the gas estate  
10 that remains unleased?

11 A. 8.97%.

12 Q. Okay. We don't have any unknown heirs.  
13 Okay. In your professional opinion, was due diligence  
14 exercised to locate each of the respondents named herein?

15 A. Yes.

16 Q. And to the best of your knowledge, are the  
17 addresses set out in Exhibit B to the application the last  
18 known addresses for the respondents?

19 A. Yes.

20 Q. Are you requesting the Board to force pool  
21 all unleased interest listed in Exhibit B?

22 A. Yes.

23 Q. Now, are you familiar with the fair market  
24

1 value of drilling rights in the unit here and in the  
2 surrounding area?

3 A. Yes.

4 Q. Could you advise the Board as to what those  
5 are?

6 A. A five year lease, a \$5 bonus, a 1/8  
7 royalty.

8 Q. And in your professional opinion, do the  
9 terms you have testified to represent the fair market value  
10 of and the fair and reasonable compensation for drilling  
11 rights to be paid within this unit?

12 A. Yes.

13 JIM KISER: Mr. Chairman and members of the Board,  
14 we'd ask again that the testimony regarding the election  
15 options and the time afforded to make those and the  
16 obligations in accordance therewith that was taken in item  
17 number eight earlier today be incorporated into this hearing.

18 BENNY WAMPLER: It'll be incorporated.

19 Q. Okay. Mr. Gieselman, does the Board need to  
20 establish an escrow account in this case because of  
21 conflicting claimants between the oil and gas estate and the  
22 coal estate into which all cost or proceeds attributable to  
23 those conflicting claims would be paid until such time that  
24

1 the conflicting claim is resolved or the Board orders the  
2 payment of those proceeds?

3 A. Yes.

4 Q. And who should be named the operator under  
5 any force pooling order?

6 A. Equitable Production Company.

7 JIM KISER: Nothing further of this witness at this  
8 time, Mr. Chairman.

9 BENNY WAMPLER: Any questions from members of the  
10 Board of this witness?

11 (No audible response.)

12 BENNY WAMPLER: Do you folks have any questions  
13 either one of this witness?

14 ROCKY ANTHONY McCOWAN: Not of him.

15 BENNY WAMPLER: Okay. Call your next witness?

16

17 MARTIN PUSKAR

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

20 QUESTIONS BY MR. KISER:

21 Q. Mr. Puskar, could you state who you're  
22 employed by and in what capacity?

23 A. Martin Puskar. Equitable Production  
24

--

1 Company, a Petroleum Engineer.

2 Q. And you're familiar with the proposed plan  
3 of development for this well?

4 A. Yeah.

5 Q. What's the total depth of the proposed well?

6 A. The total depth is 2,418 feet.

7 Q. And what are the estimated reserves?

8 A. 400,000,000 cubic feet.

9 Q. And you're familiar with the well costs for  
10 this well?

11 A. Yes, I am.

12 Q. And has a AFE been reviewed, signed and  
13 submitted to the Board as Exhibit C?

14 A. Yes, it has.

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

18 A. Yes.

19 Q. In your professional opinion, does this AFE  
20 represent a reasonable estimate of the well costs under the  
21 plan of development?

22 A. Yes, it does.

23 Q. Could you state for the Board at this time  
24

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1 both the dry hole costs and the completed well costs for VC-  
2 4489?

3 A. The dry hole costs are \$81,318 and the  
4 completed well costs is \$157,232.

5 Q. Okay. And do these costs anticipate a  
6 multiple completion?

7 A. Yes, they do.

8 Q. And does your AFE include a reasonable  
9 charge for supervision?

10 A. Yes, it does.

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

15 A. Yes.

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

18 BENNY WAMPLER: Okay. Now, I want to make sure I  
19 get your all's questions. I start with you. What questions  
20 do you have?

21 ROCKY ANTHONY McCOWAN: First of all, I'd like to  
22 know who decides where they put these wells and why they can  
23 come this close to your property when they have...when they

24

--

1 have access to hundreds of acres? If they put this well down  
2 here, they would leave my property alone.

3 BENNY WAMPLER: Put down out of the...out of this  
4 unit, you mean?

5 ROCKY ANTHONY McCOWAN: Yeah. If they moved 100  
6 feet to the right and 280 feet down, they would miss mine and  
7 Jerry Carico's property. So, why do they pick a point to  
8 where they can go on to someone's else's property and take  
9 their gas?

10 BENNY WAMPLER: Do you want to address that?

11 JIM KISER: Well, Martin can probably address that  
12 better than anybody.

13 MARTIN PUSKAR: The actual locations are basically  
14 ...are picked by our geologists in...in Kingsport and  
15 what...the way they go about it is based on...on what they  
16 estimate that all the depths of the coal seams are going to  
17 be and---

18 ROCKY ANTHONY McCOWAN: The coal seam depth is going  
19 to be the same regardless of where this well is located at.  
20 This well is on this strip right here. I'm familiar with  
21 this area. I live right here. If this...if this well is  
22 drilled right her on this strip, the coalbed is not going to  
23 move.

24

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1           MARTIN PUSKAR: No, they're not---.

2           JIM KISER: Well, if I may interject, there's  
3 a...this is in the Nora Coalbed Gas Field where they've got a  
4 whole lot of wells drilled and there's a general plan of  
5 development and I think probably in the large part, and  
6 correct me if I'm wrong. that the...these wells are spaced in  
7 accordance to maximize the recovery of gas in accordance with  
8 where the other wells are drilled. In other words, they try  
9 to maintain the proper spacing, not only to comply with State  
10 statutory and regulatory requirements, but also to  
11 efficiently recover the reserves. In other words, you don't  
12 want to put two straws in one glass so to speak. So, what  
13 they're trying to do is...is not only comply with the Field  
14 Rules as they've been set up by the Virginia Gas and Oil  
15 Board under their mandate from the State, but also to comply  
16 with internal economics so that they're not wasting either  
17 drilling capital or the gas reserves that are...that are  
18 there to be produced. In other words, my guess is if we had  
19 an overall picture of the Nora Field, there's probably  
20 another well right down here or planned or a proposed well  
21 right down here, et cetera, et cetera. See, these are all  
22 set out on a fifty-eight acre squares.

23           BENNY WAMPLER: Draw...draw him a check...if you

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1 will draw him the checker board it's set up so that he can  
2 see that, the Field Rule. Just...I mean, just to---.

3 TROY GIESELMAN: I might have a map actually.

4 BENNY WAMPLER: I did...okay. If you do, show it.

5 TROY GIESELMAN: I might have a map that shows---.

6 JIM KISER: Yeah, that will help.

7 TROY GIESELMAN: This is the grid system that's set  
8 up.

9 JIM KISER: Let me show that to him.

10 TROY GIESELMAN: We're allowed to put one in each  
11 grid.

12 MARTIN PUSKAR: Each block and then within each  
13 block is the...is the interblock for which the well needs to  
14 be---.

15 ROCKY ANTHONY McCOWAN: Where is this well at?  
16 Right here?

17 MARTIN PUSKAR: Yeah. Yeah. In other wise...so  
18 really it...we...in order to, one, keep the costs to a  
19 minimum and where the exact location with that well NR-75,  
20 we're very close to it and the way the terrain lays in there  
21 and everything---.

22 ROCKY ANTHONY McCOWAN: But that's not our problem  
23 as far as maximizing your cost or your expenses. That's...  
24

1 that's the gas company's problem.

2 MARTIN PUSKAR: Right.

3 ROCKY ANTHONY McCOWAN: Why should...why should you  
4 be able to come in and take our gas just to help your bottom  
5 line?

6 JIM KISER: Because there are other people who do  
7 want to participate in this and they represent the majority  
8 of the interest and their rights have to be protected, too.

9 ROCKY ANTHONY McCOWAN: Well, the people is  
10 one...one person. These are not people. This is a  
11 corporation. This is a huge corporation that owns basically  
12 half of Wise County.

13 JIM KISER: Well, because they're a corporation,  
14 they don't have any rights?

15 ROCKY ANTHONY McCOWAN: No. But you said it's  
16 people.

17 JIM KISER: Well---.

18 TROY GIESELMAN: Angela Salyers entered into a  
19 voluntary lease agreement.

20 ROCKY ANTHONY McCOWAN: Uh-huh.

21 TROY GIESELMAN: She is very interested in  
22 eventually receiving her proportionate share of this unit.

23 MARTIN PUSKAR: You know, because really in future  
24

1 development, too, you know, there may be, you know,  
2 like...like Mr. Kiser was saying, wells in each one of  
3 these...you know, potentially in each one of those blocks.

4 ROCKY ANTHONY McCOWAN: There's not one in this  
5 block right here beside of it yet?

6 MARTIN PUSKAR: Not yet, no.

7 ROCKY ANTHONY McCOWAN: So if this well would just  
8 moved to right here in this block, it would leave my gas  
9 rights alone, it would leave Jerry's gas rights alone. You  
10 wouldn't have to pool...you would have a 100%.

11 TROY GIESELMAN: Well, eventually there's going to  
12 be a well there anyway.

13 MARTIN PUSKAR: Yeah.

14 JIM KISER: And, I think it probably would leave  
15 yours alone if they moved down to the Southeast, but I'm not  
16 sure it would leave Jerry's alone. I'm not sure he could  
17 move it far enough because he comes in the unit here.

18 TROY GIESELMAN: Does...does the---?

19 ROCKY ANTHONY McCOWAN: And then the only contract  
20 I've ever seen from Equitable, it included surface  
21 disturbance wherever that they wanted to go across my land  
22 and I did not agree with that. I talked to them on the phone  
23 about that. That was not right. There is a little bit that

24

--

1 I didn't even want the gas taken off of. They were going to  
2 come across the surface anywhere they wanted to, do any  
3 disturbance they wanted to.

4 BENNY WAMPLER: No, the permit hasn't been issued  
5 yet, is that right?

6 BOB WILSON: That's correct.

7 JIM KISER: Well, let me address that. If it was a  
8 standard oil and gas lease, which I assume it was, any  
9 standard oil and gas lease either expressly, or impliedly,  
10 allows for reasonable and necessary use of the surface to  
11 extract and produce the gas. My guess is that in this  
12 particular case and, Troy, you may be able to tell me, or  
13 Charlie, or whoever, I doubt they would need to come on to  
14 your surface.

15 TROY GIESELMAN: Let me see that typo map there.  
16 And that might have everything to do with it.

17 JIM KISER: Now, a force pooling order does not  
18 grant the operator any surface rights. Okay? But an oil  
19 and gas lease does and that's what you're...that's what  
20 you're talking about.

21 TROY GIESELMAN: It appears to me that they can  
22 access the well from the South and they would not have to  
23 come across your property. Did they say they were going to

24

--

1 come on your property?

2 ROCKY ANTHONY McCOWAN: No, but I---.

3 TROY GIESELMAN: If...if---.

4 ROCKY ANTHONY McCOWAN: ---basically just read the  
5 contract. That's what the contract states.

6 JIM KISER: Well, the lease says they can. Yeah.  
7 That's...that's a standard---

8 TROY GIESELMAN: Okay. You're---

9 ROCKY ANTHONY McCOWAN: I mean, you know, if I sign  
10 a contract with a company that says that they can do  
11 something. They may not do it right now, but sooner or later  
12 if they need it, they're going to use it.

13 TROY GIESELMAN: Mr...is it Mr. McCowan, Rocky  
14 McCowan?

15 ROCKY ANTHONY McCOWAN: Yes.

16 TROY GIESELMAN: What I'll do is go back to the  
17 office and see...just confirm that their access is coming in  
18 from the South. It appears from this map that it is. If  
19 that's the case, then we could put a clause in your lease  
20 which would prevent our use of your surface without your  
21 written consent. Would that...would that satisfy you?

22 ROCKY ANTHONY McCOWAN: No. What would satisfy me  
23 is if you would just move this well to right here.

24

--

1           BENNY WAMPLER: He wants you out of that unit.

2           TROY GIESELMAN: Well, like I said, Mr. McCowan,  
3 there's probably going to be another well drilled to the  
4 South. If this is a decent...if this ends up being a  
5 commercial producer---.

6           ROCKY ANTHONY McCOWAN: Oh, I'm just...now, that's  
7 just my opinion. I know this...how many of these things gets  
8 turned down, a very few?

9           BENNY WAMPLER: Well---.

10          ROCKY ANTHONY McCOWAN: On these...on the pools. I  
11 mean, what percentage gets---?

12          BENNY WAMPLER: Pooling is a protection, actually,  
13 that is afforded to the operator to come in and protect their  
14 interest really so that they're not involved in a trespass.  
15 I mean, just to get to the bottom line. That's...that's the  
16 basis of it. The purpose of sitting up the grid system that  
17 they're showing you, the Field Rules, is the Board's attempt  
18 made to make sure that they're not draining you without  
19 paying you. In other words, and that's to have equity there  
20 and in the state...in the statewide if you...if you can just  
21 follow me and I know it's not good for the record, so don't  
22 get a smile, but in a statewide system you have a system with  
23 circular units and you could...you could get...if you

24

--

1 lived...if you had property in here, you were left out.  
2 Under the grid system, no one gets left out. But it does  
3 prevent them---

4 JIM KISER: Because they're squares.

5 BENNY WAMPLER: ---from drilling. The law allows  
6 that. And what we do here is...as was said, we're not  
7 granting any surface rights at all under this. It's just  
8 pooling everyone's interest if there's a not a complete  
9 agreement to that of the ownership until that ownership is  
10 decided.

11 JIM KISER: As opposed, for instance, in the State  
12 of Kentucky where they drill wells without having either a  
13 100% of the unit under lease or a force pooling order and  
14 they just---

15 ROCKY ANTHONY McCOWAN: What's the difference?

16 JIM KISER: ---escrow the...your rights are being  
17 protected better, in my opinion, in this situation. You're  
18 going to get...I mean, you...it's not like you're not going  
19 to be paid for your...for the gas that's produced from your  
20 property. I'm not saying that's the case in Kentucky either.  
21 But I'm saying it's not under any kind of State order.

22 TROY GIESELMAN: In this...in this...now, that I  
23 look a little closer at the plat, I realize what they're

24

--

1 doing is they're setting up next to an existing...an older  
2 well.

3 MARTIN PUSKAR: Yeah.

4 TROY GIESELMAN: It's probably a conventional---.

5 MARTIN PUSKAR: It's a twin to what we call ANR-75.

6 So, all the access will be basically---.

7 JIM KISER: The same.

8 TROY GIESELMAN: It's already in place. In other  
9 words---.

10 MARTIN PUSKAR: It's already in place.

11 TROY GIESELMAN: ---if there's not a road on you  
12 now, there won't be. The same thing with the pipeline.

13 MARTIN PUSKAR: Because they'll come  
14 basically...it's right next this existing well and we'll use  
15 the existing access, you know, to get there and everything  
16 and there won't be any other...really any other disturbance  
17 necessary for this...for this well.

18 JIM KISER: And, Mr. McCowan, to be honest with you  
19 I'm going to assume at some point, we'll probably going to be  
20 seeing you again because they're going to want to drill the  
21 well in the grid to the West of this well.

22 TROY GIESELMAN: To the West.

23 JIM KISER: So...which will take you in the rest of  
24  
25

1 your tract. In other words, you know, one over here  
2 somewhere.

3 TROY GIESELMAN: If you don't execute a lease, then  
4 we'll see you again. Otherwise---

5 JIM KISER: In this unit.

6 TROY GIESELMAN: ---it won't be necessary. And,  
7 again, that's all depending on how this 4489 well turns out.

8 BENNY WAMPLER: See, we don't have the ability, you  
9 know, to go directly back to your question, to stop them from  
10 drilling the well in the unit. They have a right to...you  
11 know, the law gives a right to drill the well.

12 ROCKY ANTHONY McCOWAN: I just wanted to state my  
13 opinions on it.

14 BENNY WAMPLER: That's fine. Well, and hopefully  
15 ...hopefully we can help you---

16 JIM KISER: And if you want...you know, if you want  
17 us to send a land guy back out and negotiate different terms  
18 in your lease, then they'll be more than happy to do that.

19 ROCKY ANTHONY McCOWAN: Have them call me.

20 JIM KISER: Okay.

21 CLYDE KING: Mr...how far...your property is up  
22 here, isn't it?

23 ROCKY ANTHONY McCOWAN: Uh-huh.

24

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1           JIM KISER: It's on the...yeah, the western---.

2           TROY GIESELMAN: The western.

3           JIM KISER: ---boundary of the unit over here.

4           CLYDE KING: How far is it from where the well is  
5 going to be?

6           JIM KISER: Well---.

7           TROY GIESELMAN: This is an inch to four hundred---.

8           JIM KISER: ---it's a one inch to four hundred.  
9 So, we're looking at about---.

10          TROY GIESELMAN: Probably about a quarter of a mile.

11          CLYDE KING: 400 to 500 feet isn't it?

12          TROY GIESELMAN: About a quarter of a mile.

13          JIM KISER: No, it's more than that.

14          CLYDE KING: A quarter of a mile?

15          JIM KISER: About 1,200 feet to his boundary line.

16          CLYDE KING: Do you have any water on the property?

17          ROCKY ANTHONY McCOWAN: No, the coal mines has  
18 already sunk it. My dad has got a well on his property.  
19 It's right here.

20          (Unidentified) McCOWAN: (Rocky's father speaks from  
21 the audience): We've got a well and two big ponds on it.

22          ROCKY ANTHONY McCOWAN: The pond and a creek running  
23 right down through right here.

24

1           CLYDE KING: Where's that on the map?  
2           MAX LEWIS: Show us on this map here.  
3           CLYDE KING:     Where is it on the map?  
4           ROCKY ANTHONY McCOWAN: Our pond is right here in  
5 this corner. The head of Mead Creek runs right down right  
6 beside of where they are going to put this well in at.  
7           BENNY WAMPLER: The Northwest corner.  
8           TROY GIESELMAN: It appears to me on this  
9 topographic map that we would be topographically lower in  
10 elevation. Would be below. Is that...is that right?  
11          ROCKY ANTHONY McCOWAN: You'd be below us. Uh-huh.  
12          TROY GIESELMAN: It's hard to tell on this very  
13 small scale, but it looks like we would be below your water.  
14          BENNY WAMPLER: Okay. Do you folks have questions?  
15          CYNTHIA L. CARICO: Yes, sir. We too were also  
16 concerned with the lease. It was too cumbersome. It was too  
17 broad. It...so, that's why we refused to sign the lease. I  
18 don't foresee that we would ever sign a lease at this point.  
19 We were concerned about the pooling...the force pooling. We  
20 do not want our surface interrupted in any way. Like Mr.  
21 McCowan, we're concerned that later on down the road they may  
22 want to go across our land or put something on our land. But  
23 with the force pooling, we will not...it does not give

24

--

1 anybody rights?

2 SANDRA RIGGS: Not surface rights.

3 BENNY WAMPLER: No.

4 CYNTHIA L. CARICO: Okay. And will it name and  
5 specify this specific well? In other words, within this  
6 quadrangle, or window, with a lease, they could have put...as  
7 best I could tell they put any amount of wells in it.

8 SANDRA RIGGS: It will attach that plat and  
9 authorize them to drill that well at that location.

10 CYNTHIA L. CARICO: So, it would be very specific?

11 SANDRA RIGGS: Yes.

12 CYNTHIA L. CARICO: Okay.

13 TROY GIESELMAN: Ms...is it Carico?

14 CYNTHIA L. CARICO: Carico, yes.

15 TROY GIESELMAN: Carico. I don't know how familiar  
16 you are with Equitable and its operations, but we do go to  
17 great lengths to work with our lessors and our landowners to  
18 make sure that if it is necessary to use any portion of your  
19 surface that you have, say, into where roads and pipelines  
20 go. In this case, like we said, it appears as though it  
21 won't be necessary to be on any portion of your surface. But  
22 if you did elect to sign a lease, you know, we would work,  
23 you know, with you as far as the terms or concerns to get to

24

--

1 a...give you the right to specify exactly where any of the  
2 operations are if they impact your surface or just deny any  
3 surface use whatsoever.

4 JIM KISER: In addition to that, it's adequately  
5 compensating you for any damage.

6 TROY GIESELMAN: Right.

7 CYNTHIA L. CARICO: Well, we were also concerned  
8 about it being more than just coalbed methane. It includes  
9 several hydrocarbons on the lease itself.

10 JIM KISER: Right.

11 CYNTHIA L. CARICO: Whereas this is strictly a  
12 coalbed methane. It also covers...the lease covered the full  
13 eight acres. All that's used in this quadrangle is what,  
14 2.23 acres?

15 JIM KISER: Right.

16 TROY GIESELMAN: Uh-huh.

17 CYNTHIA L. CARICO: I'm also a little bit confused.  
18 The way I understand, there's a conflict as to who does own  
19 the coalbed methane.

20 JIM KISER: Yes.

21 CYNTHIA L. CARICO: And according to the lease, the  
22 money would be paid directly to us, but by not signing the  
23 lease, it goes into an escrow account because there is a  
24

1 conflict?

2           JIM KISER: It would go into the escrow account  
3 either way. It makes---

4           SANDRA RIGGS: Either way.

5           CYNTHIA L. CARICO: Oh, even with a lease?

6           JIM KISER: Yeah. Right.

7           CYNTHIA L. CARICO: Even with us signing it?

8           SANDRA RIGGS: When you sign a lease, and I haven't  
9 seen the lease, but generally you warrant that you own the  
10 property. If for any reason, there's reason for the operator  
11 to believe that there is a con...there are conflicting  
12 claims, which in the case of coalbed methane where you have  
13 severance of the coal from the gas and oil, there's always  
14 that conflict because there has been no decision in Virginia  
15 with respect to who owns the coalbed methane, whether it's  
16 the coal owner or the gas and oil owner. In all of those  
17 cases, generally the lease will say that the operator has the  
18 right to suspend payments, or internally escrow, or whatever.  
19 Well, under the Gas and Oil Act, they can't internally  
20 escrow. They have to place it into the...if there's a  
21 pooling order in place for that unit, they must put it in the  
22 Board's escrow account. So rather than internally suspending  
23 or escrowing, they would send it on to the escrow account.

24

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1           CYNTHIA L. CARICO: Okay. So either way, lease or  
2 the force pooling---?

3           SANDRA RIGGS: The only way they wouldn't...would  
4 internally hold those monies is if there were no pooling  
5 order and it was a totally voluntary unit, everybody in the  
6 unit entered into a voluntary lease and there was no escrow  
7 account set up for that unit, then there may be an internal  
8 account pursuant to the lease terms. But if they've come  
9 before the Board and ask the Board to impose a pooling order,  
10 the pooling order pools all of the interest within the  
11 drilling unit. It sets up an account for the drilling unit  
12 and it names the operator and instructs that operator to  
13 place on deposit in the escrow account all funds attributable  
14 to the interest of either unknown or unlocateable claimants  
15 or conflicting claimants and they have to do that unit wide.  
16 They can't do it part...part way. Do you see what I'm---?

17           CYNTHIA L. CARICO: And the State of Virginia will  
18 make the final decision? Will they---?

19           SANDRA RIGGS: The Courts will.

20           CYNTHIA L. CARICO: The Courts will?

21           SANDRA RIGGS: Through litigation.

22           JIM KISER: Well, they may eventually. What we're  
23 finding is a lot of the conflicting claimants are, instead of

24

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1 waiting for the Courts to make a decision, are going in and  
2 making their own settlements between them---.

3 SANDRA RIGGS: Agreements. Yeah.

4 JIM KISER: ---own agreements, voluntary agreements  
5 between each other, to split it fifty/fifty, or whatever. In  
6 other words, you could contact Coastal and as the coal  
7 claimant and try to work out some sort of split of that money  
8 with them, you know, under a voluntary...under a private  
9 contract.

10 SANDRA RIGGS: If the gas and oil owner and the coal  
11 owner get together and decide we don't want to litigate it  
12 and we'll just settle it right now. We're going to split it.  
13 However, you decide to split it and you come back to the  
14 Board and tell them you've reached an agreement and you want  
15 your money out of escrow and based on that voluntary  
16 agreement, the Board can disburse.

17 BENNY WAMPLER: And we've done that in cases before.

18 TROY GIESELMAN: But that's something that's worked  
19 out between the oil and gas owner and the coal owner.

20 (Inaudible)

21 JIM KISER: And then you come back before the Board,  
22 as Ms. Riggs said, and then they can order disbursement of  
23 that money if the...everybody is in agreement and they're

24

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1 okay with the agreement.

2 CLYDE KING: You've already leased, though, from the  
3 coal owner?

4 JIM KISER: Yes, in this case.

5 TROY GIESELMAN: We lease both parties not knowing  
6 how the Court case is going to end up. In this case, the  
7 coal owner has already leased---

8 JIM KISER: Well, also and trying to avoid these  
9 hearings.

10 TROY GIESELMAN: Right.

11 SANDRA RIGGS: Well, before they could come before  
12 us, they would have to try to reach a voluntary agreement  
13 with the parties and that's to give you an opportunity to  
14 negotiate these kinds of terms you're talking about.

15 JERRY WAYNE CARICO: Well, I want...this young man  
16 here, you know, said about Angie Salyers, you know. She told  
17 me she was...they were going to take it anyway is the reason  
18 she signed, you know. The rights, you know...the lease  
19 rights. She said they're going to take it anyway and, you  
20 know, it seems like it's going to be true, you know. They're  
21 going to take it anyway. But that's one reason she signed.  
22 And about the two wells close together, about two straws in  
23 one cup, that's what it is down there, I think. Right beside

24

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1 of---

2 TROY GIESELMAN: Well, no, sir. Actually it's not.  
3 This is an ANR-75 is a deep...deep well.

4 JERRY WAYNE CARICO: Yeah.

5 TROY GIESELMAN: It's producing from lower strata.

6 JERRY WAYNE CARICO: Another thing, should I have  
7 got royalties off of that because it's real close to my  
8 property line, you know, according to that grid right there  
9 and that's an old well?

10 TROY GIESELMAN: We'd have to go back and see how  
11 far actually this well is.

12 JERRY WAYNE CARICO: You know, what I mean, it's  
13 almost...it's real close.

14 TROY GIESELMAN: I think it's 1,200 foot units.

15 JIM KISER: My guess is that's probably 500 foot  
16 spacing.

17 MARTIN PUSKAR: Yeah, that's probably it and an old  
18 one because it was drilled years ago.

19 TROY GIESELMAN: It depends on the year that it was  
20 drilled. The statute have changed.

21 JIM KISER: It was drilled---

22 JERRY WAYNE CARICO: But the wells are going to be  
23 real close together, you know.

24

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1           TROY GIESELMAN: Right. One is producing from very  
2 deep and one is producing from very shallow.

3           JIM KISER: I guess it was drilled in the '70s,  
4 under 500 foot spacing.

5           JERRY WAYNE CARICO: Okay.

6           TROY GIESELMAN: The coal seams are very shallow.

7           JERRY WAYNE CARICO: In this contract that they come  
8 around and wanted us to sign, they say it's old, it's real  
9 old. Why don't they make them come up with a good decent  
10 contract if people can read and understand without signing  
11 every right you've got away? Because that first contract we  
12 got, if we'd signed it, you'd have water rights, you'd have  
13 everything. I mean, you just might as well not even---

14           JIM KISER: No, you have limited water rights.

15           JERRY WAYNE CARICO: You ought to pay the, you know,  
16 property tax on my land. I mean, really, if I sign it  
17 because, you know, you all more or less own it under that old  
18 contract because really you sign everything away. You have  
19 nothing left, I mean, really as far as I can see. They going  
20 to be only well in that grid?

21           JIM KISER: That's only...you're only allowed one  
22 well.

23           JERRY WAYNE CARICO: Oh, one well.

24

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1           TROY GIESELMAN: One coalbed methane well.

2           JERRY WAYNE CARICO: Okay. Then you're going to

3 come on up there and put another one in later on if that one

4 is good?

5           SANDRA RIGGS: In another unit.

6           TROY GIESELMAN: In a different grid.

7           MARTIN PUSKAR: Well, it would be in the next...be

8 the next grid, yeah.

9           JIM KISER: It would be in the next grid over.

10          JERRY WAYNE CARICO: In another unit. Okay.

11          TROY GIESELMAN: Here's how the...I don't know if

12 you got a close look at the map.

13          JERRY WAYNE CARICO: Yeah, we...we got...we got one

14 of them.

15          TROY GIESELMAN: Okay.

16          JERRY WAYNE CARICO: I've looked at that there,

17 yeah. And another thing that I'd like to ask the Board, you

18 know, the cost of the well is \$157,000, more or less, or

19 something like that.

20          TROY GIESELMAN: Right.

21          JERRY WAYNE CARICO: It's supposed to be good for

22 two years. What kind of moneys are we going to be able to

23 get off of 2.3 acres, you know?

24

1           JIM KISER: What do you mean supposed to be good for  
2 two years?

3           JERRY WAYNE CARICO: Well, that's why we didn't want  
4 it. The well was supposed to be to them for two years is  
5 what in con...what was the last thing I seen. It could go on  
6 for longer than that.

7           JIM KISER: Oh, your lease was maybe for two years.  
8 That was just a primary term. These coalbed methane wells  
9 will produce probably between twenty and thirty years.

10          MARTIN PUSKAR: Yeah.

11          JERRY WAYNE CARICO: Okay, but what monies would  
12 people be getting. Say if you own two acres of land and they  
13 own the other big percentage, what money? Would it be \$6 a  
14 month, \$2 a years?

15          SANDRA RIGGS: Well---.

16          TROY GIESELMAN: It depends how good the well is,  
17 but what it really depends on is whether or not an agreement  
18 is reached with the coal company on the splitting of the  
19 royalties. Remember there's a conflicting claim---

20          JERRY WAYNE CARICO: Well, you know, that's not  
21 going to happen because, you know, the coal company is---

22          TROY GIESELMAN: It has happened before.

23          JERRY WAYNE CARICO: Well, but the coal company is  
24  
25

1 going to take everything they can, you know. I mean, that's  
2 common sense, you know.

3 TROY GIESELMAN: Well, they're not getting anything  
4 either.

5 SANDRA RIGGS: It's going into escrow.

6 TROY GIESELMAN: There's...there's being escrowed  
7 too.

8 JIM KISER: It's going into escrow.

9 TROY GIESELMAN: So, it's in their interest---

10 JERRY WAYNE CARICO: But when it's over with,  
11 they're going...you know, they're going to get it all, you  
12 know, more or less, you know.

13 TROY GIESELMAN: We don't know---

14 BENNY WAMPLER: Well---

15 SANDRA RIGGS: Well, they can't unless they go into  
16 Court and win or they reach an agreement with you.

17 BENNY WAMPLER: Go through your Exhibit and answer  
18 his question about...I mean, the best you can and how the  
19 interest...how the money would be calculated.

20 TROY GIESELMAN: It...it would benefit them too as  
21 well. And like I said, it has happened before, but whether  
22 they'll do it, you know, I don't know.

23 JIM KISER: Mr. Carico, if you look at the Exhibit B

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1 the royalty is 12 1/2%.

2 JERRY WAYNE CARICO: Right.

3 JIM KISER: So, you would receive...if...if either  
4 the Court decides that the gas estate owns the coalbed  
5 methane, you being a gas owner and/or you were to work out  
6 some sort of an agreement with Coastal as to coal owner, then  
7 your proportionate share of that one-eighth royalty for your  
8 interest within the unit would be 3.79%. Now, as to what  
9 that would calculate to in real dollars, it depends upon a  
10 lot of things. It depends upon the volume of gas that's  
11 sold. It depends upon the price of that gas.

12 JERRY WAYNE CARICO: Okay. But on an average, I  
13 mean, you're going to put \$157,000 in a hole in the ground.  
14 What kind of revenue do you plan on getting out that? That's  
15 going to be pretty high. It's going to be a lot more than a  
16 \$157,000, you know, within---

17 SANDRA RIGGS: Four hundred.

18 JIM KISER: Well, obviously, they hope that they get  
19 a reasonable return on their investment.

20 JERRY WAYNE CARICO: Yeah. (Inaudible) way up  
21 there. Yeah.

22 JIM KISER: I don't know what their target rate is.

23 MARTIN PUSKAR: Well, typically to get...it takes  
24  
25

1 probably, I want to say, anywhere, probably, four to six  
2 years of production before that well generates enough...on  
3 the average, before that well generates enough revenue to  
4 make up for that \$157,000. It takes that long to get your  
5 money back at your initial investment.

6 JERRY WAYNE CARICO: Then why do you drill it for  
7 then? I mean---.

8 MARTIN PUSKAR: Well, then you have...then have...if  
9 the life of the well is thirty years, then you've got the  
10 next twenty-four years of...you know, it's like paying off a  
11 car. Once it's paid off, you can run it for as long as you  
12 want. But that's the...you know, the ultimate revenue that  
13 you look for.

14 JERRY WAYNE CARICO: Well, I didn't think the life  
15 of a well would be thirty years. I mean, I...you know.

16 MARTIN PUSKAR: Oh, yeah. Yeah.

17 JIM KISER: Oh, yeah. Some of them are longer than  
18 that.

19 MARTIN PUSKAR: Yeah. I mean---.

20 MAX LEWIS: Some of them is forty years or forty-  
21 five.

22 MARTIN PUSKAR: Yeah. I mean...and really, you  
23 know, coalbed methane is...is relatively a new...a new source

24

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1 of production that most of this stuff in Virginia is probably  
2 less than fifteen years old and a lot of those wells, you  
3 know, are...the original wells that we've ever drilled are  
4 still producing. I mean, and, you know, right now the  
5 estimate is...is maybe twenty-five to thirty years is the  
6 life of the well. But---

7 MAX LEWIS: Are you talking about in a coalbed  
8 methane?

9 MARTIN PUSKAR: Right. I mean, but really the...the  
10 test is kind of unknown. Some wells...some wells may have a  
11 lot less life time, others may have, you know, forty or fifty  
12 years or something like that. I mean---

13 JIM KISER: The first ones were drilled, when, in  
14 '91...'89?

15 MARTIN PUSKAR: '89.

16 JIM KISER: So, there's just an eleven year history,  
17 and correct me if I'm wrong, but I think the coalbed wells  
18 are different from conventional wells and then on a  
19 conventional well, your production pretty much starts  
20 to...you know, you'll get your highest production up front  
21 and then it will pretty much start to decline along a curve.  
22 Whereas coalbed wells actually the production increases---

23 TROY GIESELMAN: With time.

24

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1           JIM KISER: ---for a period of time before it levels  
2 out and then it starts to decrease.

3           JERRY WAYNE CARICO: So, if you sign a five year  
4 lease, you more or less sign a thirty or forty year lease?

5           JIM KISER: Well, in a lease situation, a  
6 lease...you have a primary term and secondary term. The  
7 primary term is the amount of time that the company has to  
8 actually drill the well to kick it into the secondary term.  
9 The lease remains in effect as long as the well is  
10 commercially producing, or if it's shut in, they pay shut in  
11 royalties or shut in payments to keep it in effect. So,  
12 you're signing a five...if you're signing a five year lease,  
13 that lease will either expire at the end of five years if  
14 there's no production, or will continue for as long as there  
15 is production.

16           JERRY WAYNE CARICO: Okay, so it may be a forty year  
17 lease when she actually signs?

18           JIM KISER: Yeah.

19           JERRY WAYNE CARICO: You don't get to go back and  
20 sign it again after five years or negotiate, you know, if  
21 it's a good well?

22           JIM KISER: Unh-unh.

23           JERRY WAYNE CARICO: Okay.

24

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1           CLYDE KING: But you still get the same percentage?

2           JIM KISER: Yeah. The one-eighth continues as long  
3 as it's commercial production.

4           JERRY WAYNE CARICO: And another thing, I was just  
5 curious, you know. I've been here this morning and, you  
6 know, it's pretty interesting. But I noticed, you know, all  
7 the gas companies and all the coal companies that all of  
8 these up on the 80 or 90% and the landowners only own, you  
9 know, two, three, four or five acres. How do they come up  
10 with that grid to where they come in there? Do you know what  
11 I mean? Just...I was just curious.

12           JIM KISER: Are you talking about the lease  
13 percentage?

14           JERRY WAYNE CARICO: Yes. Yeah.

15           JIM KISER: We're going try to get a 100% of it  
16 leased so we don't have to come before the Board, so that we  
17 have a voluntary unit.

18           JERRY WAYNE CARICO: Yeah, but everyone of them I've  
19 heard this morning is, you know, most of the companies  
20 own...you know, the coal companies, or whatever, own 80 or  
21 90%, you know, or more.

22           JIM KISER: That's percent they've been able to get  
23 under lease.

24

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1           JERRY WAYNE CARICO: But it seems like they just  
2 come right in on landowners right at the very edge of it,  
3 just the very edge. Just enough to barely bump them to where  
4 you have no...we have no rights then because you all own all  
5 of it. Where 90%, we have no rights to---.

6           TROY GIESELMAN: You do have rights. That's why  
7 we're...that's why we're here. You can actually participate  
8 in the well.

9           JIM KISER: You could actually become a working  
10 interest owner. That's one of your elections.

11           JERRY WAYNE CARICO: Well, see, I don't ain't got  
12 that much, you know. I can't do that, you know, where---.

13           TROY GIESELMAN: You have 3% of the unit---.

14           JIM KISER: As far as how much of your land is in  
15 the unit that's set up by the Field Rules, by the 58.77 acre  
16 squares. If this is a good well and we come over to this  
17 grid, you're going to have...more of your eight acres will be  
18 in that one. Do you see what I'm saying?

19           TROY GIESELMAN: You'll be in this grid. You'll be  
20 in that grid.

21           JIM KISER: As Ms. Riggs explained, the reason the  
22 Board set up this square grid pattern is to make sure that  
23 there isn't any uncompensated acreage.

24

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1           TROY GIESELMAN: If you have circles you're going  
2 end up with the piece that---

3           JERRY WAYNE CARICO: Yeah, I seen that a while ago.  
4 I didn't...you know, that's the first I'd heard of that  
5 circle.

6           TROY GIESELMAN: If you have a circle, then there's  
7 going to be somebody left out because the circles don't  
8 (inaudible).

9           JIM KISER: There may be some left out.

10          TROY GIESELMAN: It's likely the---

11          BENNY WAMPLER: The percentages that you heard  
12 mentioned is what they have under lease versus what they have  
13 unleased. Do you understand that? It's not the percentage  
14 of the unit per se. It's what they've...it boils down to  
15 that, but they're trying to get a 100%...a 100% of coal  
16 and---

17          JERRY WAYNE CARICO: Yeah. But it looks to me like,  
18 you know...excuse me.

19          BENNY WAMPLER: I understand.

20          JERRY WAYNE CARICO: They just come in there and  
21 they just make sure that they got the biggest...they own the  
22 biggest percentage and then they go in there and just barely  
23 get a little bit, you know, and then they force you in to  
24

1 pooling with them.

2 JIM KISER: No, actually under the CBM statute, you  
3 don't have to have any interest.

4 MAX LEWIS: Yeah, that's right.

5 SANDRA RIGGS: They could have 1% and still come in  
6 here and pool the---

7 BENNY WAMPLER: They don't have---

8 JERRY WAYNE CARICO: Virginia---

9 SANDRA RIGGS: ---other 99% under law.

10 JIM KISER: You don't have to have any.

11 BENNY WAMPLER: You don't have to have any, in fact.

12 JERRY WAYNE CARICO: Well, I thought the biggest...  
13 the more that was in it, you owned the less...you know, the  
14 more power you have.

15 JIM KISER: No.

16 SANDRA RIGGS: No.

17 JERRY WAYNE CARICO: Oh, you don't?

18 JIM KISER: No.

19 BENNY WAMPLER: Under the statute, they don't have  
20 to have any percentage. They can just drill.

21 JIM KISER: Now, on a conventional well, you have to  
22 have 25% under lease---

23 BENNY WAMPLER: Right.

24

--

1           JIM KISER: ---but not on a coalbed methane well.

2           JERRY WAYNE CARICO: Oh, I didn't know that now. I  
3 thought you had to have, you know...okay. I didn't know  
4 that.

5           BENNY WAMPLER: Under the law, they don't.

6           JIM KISER: But I think you'll find that Equitable  
7 consistently has a higher percentage under lease than any of  
8 the other operators.

9           TROY GIESELMAN: And I apologize that you...that you  
10 even had to come here today. I wish we could have taken care  
11 of this way before it came...before you had to come here.

12           JERRY WAYNE CARICO: Well, it has...it has been  
13 interesting, I think. But, I mean, like I said, that's one  
14 reason that Angie, you know, signed was...going to have to  
15 sign anyway, you know, more or less. You either sign or  
16 you're forced pooled, one.

17           CYNTHIA L. CARICO: And I...if I understand this  
18 right, since coalbed methane is under conflict, nobody is  
19 going to get any money, anyway. It's going to sit until  
20 either we make an agreement, which we believe with all our  
21 heart we are the full owners of the gas, we believe that it  
22 as being two separate things.

23           JIM KISER: We agree.

24

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1           BENNY WAMPLER: Unless you have an agreement or a  
2 Court order, that's true. There's not---

3           SANDRA RIGGS: Since they're operators, they agree  
4 too.

5           CYNTHIA L. CARICO: So, you agree.

6           JIM KISER: Yeah. We agree 100% with you.

7           BENNY WAMPLER: As to the Court making any decision,  
8 right now there's nothing before any Court that I'm aware of  
9 in Virginia to make that decision. There may be one that's  
10 pending somewhere. But...is there a case pending? I think  
11 most of those were settled out, even. But until someone  
12 brings a suit to determine ownership, there's no active move  
13 is what I was going to tell you, to even determine it by a  
14 Court. It would take someone---

15           CYNTHIA L. CARICO: Oh. So it...so it's going on  
16 for a hundred years.

17           BENNY WAMPLER: It would take someone to initiate a  
18 lawsuit to make a determination.

19           SANDRA RIGGS: I think the feeling was that...you  
20 heard the escrow agent say there's, what, 3.8 million dollars  
21 now in escrow? That when the moneys build up to a point that  
22 they were significant enough that it was worth the while to  
23 somebody to do it, some of these larger owners, that they

24

--

1 would probably go in and seek a determination. But instead  
2 of that happening, what happened is, they turned around and  
3 negotiated these split agreements that we're talking about  
4 and came in and pulled the money out that way. Rather  
5 than---

6 JIM KISER: It minimizes their risk rather than  
7 rolling the dice all or nothing.

8 SANDRA RIGGS: Yeah. They'd rather have fifty  
9 percent of something than zero per...you know, than no  
10 percent if they lost in Court. So, what's...what's happened  
11 in a lot of these cases that we've seen distributions out of  
12 escrow is...well, all of them to date, have been based on  
13 settlement agreements between the coal owner and the gas and  
14 oil owner.

15 JIM KISER: Not to mention the cost of litigating  
16 that issue.

17 SANDRA RIGGS: Yeah.

18 JIM KISER: Because whoever loses is going to appeal  
19 it (inaudible).

20 CLYDE KING: Actually what happened years and years  
21 ago, these coal companies didn't think there was any value in  
22 this gas. They pumped it out in the air. Now, it's  
23 valuable---

24

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1           TROY GIESELMAN: There wasn't a value to it at that  
2 time, I guess, is what the problem was. It was a nuisance to  
3 their mining.

4           BENNY WAMPLER: Yes.

5           JIM KISER: You know, it was a safety factor.

6           JERRY WAYNE CARICO: A danger, yeah.

7           JIM KISER: Yeah.

8           BENNY WAMPLER: Does that answer...does that at  
9 least get the questions? I don't know that it answers, but  
10 that's probably a bad...bad way to put it. Does it---?

11          JERRY WAYNE CARICO: But there's a lot of things  
12 that I just don't understand, you know. But, I guess, it's,  
13 you know, answered a lot of questions. I've still got some.  
14 Maybe later on, you know.

15          JIM KISER: Yeah. I'll give you a card of mine  
16 and---.

17          JERRY WAYNE CARICO: Okay.

18          JIM KISER: ---when you've got questions, feel free  
19 to call me and Troy.

20          TROY GIESELMAN: The same here. And if you...if you  
21 are at all interested in executing a lease, then we'll work  
22 out those terms that you all were concerned about regarding  
23 whatever you use regarding the surface and the disturbance.

24

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1 (Max Lewis and Jim Kiser are carrying on a private  
2 conversation.)

3 JERRY WAYNE CARICO: Yeah, we don't want nobody on  
4 our property now, you know.

5 TROY GIESELMAN: You've made that clear, and I think  
6 that we can give you a lease, you know, where we can take  
7 care of that situation, where we can guarantee you that we  
8 won't use it. That will just pool it like we're doing here.

9 ROCKY ANTHONY McCOWAN: You know, that don't make  
10 sense how any company could take no percent of something and  
11 get a 100% of it just by giving somebody else 12% for their  
12 part, to me.

13 SANDRA RIGGS: Well, you have a choice under the  
14 pooling order to...you can participate by paying your share  
15 of the cost to drilling the well and then you get your share  
16 of the profits from the well.

17 ROCKY ANTHONY McCOWAN: You've got a choice of how  
18 you're forced to do it?

19 SANDRA RIGGS: You got...you have three elections, I  
20 think under the pooling order. You can either be...  
21 participate by paying your proportionate cost of the well.  
22 In which event you get seven-eighth...your part of the seven-  
23 eights, not the one-eighth; or you can be carried, which

24

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1 means you put no money up, but there's a penalty associated  
2 with that. They get to recover more before your profit kicks  
3 in. But then, you're participating.

4 JIM KISER: Once the...they recover a certain  
5 percentage of the cost, then you get seven-eighths instead  
6 one-eighth.

7 SANDRA RIGGS: Seven-eighths instead of one-eighth.  
8 If you don't want to take any risk and you don't want to pay  
9 any money, you just want rent on...on the gas, then that's  
10 when you get the one-eighth.

11 JIM KISER: And royalty.

12 BENNY WAMPLER: But the law...the law was fashioned  
13 to encourage the development of the gas rather than to cause  
14 the parties to have to wait until all these issues about  
15 ownership was resolved in Court. So...so that development  
16 would, in fact, occur. I mean, that...that decision was  
17 made.

18 JIM KISER: Yeah. It's a significant resource. It  
19 provides tax revenue for the state, jobs---.

20 SANDRA RIGGS: And what was happening is as the  
21 mining progressed, it was just being vented into the  
22 atmosphere and creating environmental problems, and I think  
23 there was a sense that it was better to save it and sell it

24

--

1 and pay everybody proportionally, set up a system where  
2 everybody benefitted from it, than it was to vent it into the  
3 atmosphere and create that kind of environmental detriment.  
4 So, you know, there were a lot of issues addressed in the  
5 statute. The reason for why the statute is set up the way it  
6 is.

7 CLYDE KING: The coal...the gas may be worth more  
8 than the coal was worth originally.

9 BENNY WAMPLER: Anything further?

10 (No audible response.)

11 BENNY WAMPLER: Does the Board have any other  
12 questions?

13 (No audible response.)

14 BENNY WAMPLER: Do you have anything further?

15 JIM KISER: Mr. Chairman, we'd again ask that the  
16 application be approved as submitted.

17 BENNY WAMPLER: Is there a motion?

18 CLYDE KING: So moved.

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

21 MAX LEWIS: Are you all clear on this item?

22 JERRY WAYNE CARICO: Yeah, more or less, I guess. I  
23 mean, it's got to be...it's going to be done any...more or

24

--

1 less anyway. You know, it's...it's...you know.

2 CLYDE KING: You're going to be protected.

3 JERRY WAYNE CARICO: By the law or...by the law?

4 JIM KISER: By the order.

5 CLYDE KING: By the order.

6 JERRY WAYNE CARICO: By the order?

7 BENNY WAMPLER: Or your lease terms that you

8 negotiate.

9 JIM KISER: Or your lease terms, if you do decide to

10 lease. Yeah.

11 JERRY WAYNE CARICO: I don't think we'll sign. We

12 probably won't sign.

13 JIM KISER: I mean, they'll...they'll bend on some

14 of those terms. I mean---

15 JERRY WAYNE CARICO: Because every time I've ever

16 signed anything, I always wished I hadn't.

17 JIM KISER: I've been there.

18 MAX LEWIS: You better watch what you...you better

19 watch you say there in front of her.

20 JERRY WAYNE CARICO: Well, that's true too.

21 BENNY WAMPLER: Okay. I've got a motion.

22 JERRY WAYNE CARICO: I was telling the truth.

23 BENNY WAMPLER: Do I have a second?

24

1           CLYDE KING: Yeah. Time.

2           BENNY WAMPLER: Is there a second?

3           MASON BRENT: Second.

4           BENNY WAMPLER: Motion and second. Any further  
5 discussions?

6           (No audible response.)

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

8           (All members signify yes.)

9           BENNY WAMPLER: Opposed, say no.

10          (No audible response.)

11          BENNY WAMPLER: You have approval. Thank you. I  
12 hope that helps a little bit.

13          (Troy Gieselman and Jim Kiser gives Cynthia L.  
14 Carico and Jerry Wayne Carico a card and talks to them a  
15 second.)

16          SANDRA RIGGS: Do we have any more?

17          BENNY WAMPLER: Yeah, we've got one more. The next  
18 item on the agenda is a petition from Equitable Production  
19 Company for pooling of a coalbed methane unit identified as  
20 VC-4411. This is docket number VGOB-00-04/18-0800; and we'd  
21 ask the parties that wish to address the Board in this matter  
22 to come forward at this time.

23          JIM KISER: Mr. Chairman, Jim Kiser again on behalf

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1 of Equitable Production Company. I don't know how you  
2 announced that well. Diane had it in there as 4411. It  
3 actually should be 4441. In the Publication Notice and the  
4 Notice of Hearing that we sent to---

5 BENNY WAMPLER: Correction to VC-4441?

6 MAX LEWIS: Yeah.

7 JIM KISER: Yes, sir.

8 BENNY WAMPLER: Okay.

9 MAX LEWIS: That's what it says on this here.

10 BENNY WAMPLER: Uh-huh.

11 JIM KISER: And that's how the Publication Notice  
12 was made and how the Notice of Hearings went out to the  
13 unleased parties, which I think is only the...is Consol as  
14 the gas lessee on that one tract.

15 TROY GIESELMAN: Right.

16 JIM KISER: Mr. Morgan whom we never see anymore.

17 BENNY WAMPLER: The record will show there are no  
18 others. You may proceed.

19

20 TROY GIESELMAN  
21 having been duly sworn, was examined and testified as  
22 follows:

23 DIRECT EXAMINATION

24

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1 QUESTIONS BY MR. KISER:

2 Q. Mr. Gieselmann, reminding you that you're  
3 under oath. Would you again state your name for the record,  
4 who you're employed and in what capacity?

5 A. My name is Troy Gieselmann. I'm a landman  
6 for Equitable Production Company..

7 Q. And are you familiar with the application  
8 that we filed seeking a pooling order for this well, which  
9 was dated March the 16th, 2000?

10 A. Yes, I am.

11 Q. And we're seeking to force pool the drilling  
12 rights underlying the unit as depicted at Exhibit A, that  
13 being the plat to the application?

14 A. Yes.

15 Q. And does the location proposed for well  
16 number VC-4441 fall within the Board's order for the Nora  
17 Coalbed Gas Field?

18 A. Yes.

19 Q. Now, prior to filing the application, were  
20 efforts made to contact each of the unleased respondents and  
21 an attempt made to work out an agreement regarding the  
22 development of the unit?

23 A. Yes.

24

25

1 Q. Does Equitable own drilling rights within  
2 the unit involved here?  
3 A. Yes.  
4 Q. And what is the interest of Equitable within  
5 the gas estate?  
6 A. 95.11% leased.  
7 Q. And the coal estate?  
8 A. It's the same, 95.11% leased.  
9 Q. Okay, and all unleased parties are set out  
10 in Exhibit B?  
11 A. Yes.  
12 Q. And you're...the interest in the gas and  
13 coal estate that remains unleased it 4.89%?  
14 A. That's correct.  
15 Q. Okay. And in your professional opinion, was  
16 due diligence exercised to locate each of the respondents  
17 named in Exhibit B?  
18 A. Yes.  
19 Q. And the addresses set out in Exhibit B to  
20 the application, the last known addresses for the  
21 respondents?  
22 A. Yes.  
23 Q. Are you requesting the Board to force pool  
24

1 all the unleased interest listed in Exhibit B?

2 A. Yes.

3 Q. And are you familiar with the fair market  
4 value of drilling rights in the unit here and in the  
5 surrounding area?

6 A. Yes.

7 Q. And could you advise the Board as to what  
8 those are?

9 A. A five year lease, a \$5 bonus, and a one-  
10 eighth royalty.

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

15 A. Yes.

16 JIM KISER: Now, Mr. Chairman, at this time we'd  
17 once again like to incorporate the testimony taken regarding  
18 elections that were...that was taken in item number eight  
19 earlier today.

20 BENNY WAMPLER: That will be incorporated.

21 Q. Okay, and Mr. Gieselman, we don't have any  
22 conflicting claimants or any unknown interest owners within  
23 this unit. So, in this particular case, the Board does not  
24

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1 need to set up a escrow account. Is that correct?

2 A. Correct.

3 Q. And who should be named the operator under  
4 the force pooling order?

5 A. Equitable Production Company.

6 JIM KISER: Nothing further of this witness at this  
7 time, Mr. Chairman.

8 BENNY WAMPLER: Any questions of this witness from  
9 members of the Board?

10 (No audible response.)

11 BENNY WAMPLER: Call your next witness?

12

13 MARTIN PUSKAR

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

16 QUESTIONS BY MR. KISER:

17 Q. Mr. Puskar, again testify as to what your  
18 name is, and who you are employed by?

19 A. Martin Puskar. I'm employed by Equitable  
20 Production Company and I'm a Petroleum Engineer.

21 Q. And you're familiar with the proposed plan  
22 of development for this well?

23 A. Yes.

24

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1 Q. And what's the total depth of that...of the  
2 well?

3 A. 1,705 feet.

4 Q. Estimated reserves?

5 A. 400,000,000.

6 Q. Are you familiar with the AFE?

7 A. Yes, I am.

8 Q. And you're familiar with well costs in this  
9 area and the AFE has been reviewed, signed and submitted to  
10 the Board as Exhibit C?

11 A. Yes.

12 Q. And was this AFE prepared by an engineering  
13 department knowledgeable in the preparation of AFEs and  
14 knowledgeable in regard to well costs in this area?

15 A. Yes.

16 Q. And in your opinion, does the AFE represent  
17 a reasonable estimate of the well costs for this well?

18 A. Yes, it does.

19 Q. Could you state both what the dry hole costs  
20 and the completed well costs for this well are?

21 A. The dry hole costs are \$87,256 and the  
22 completed well cost is \$227,849.

23 Q. \$227,849 for a 1,700 foot well. Could you  
24

1 explain that to the Board and why that's roughly \$60,000 more  
2 than the other wells?

3 A. The biggest item in this AFE is the pipeline  
4 costs. We're probably a mile or better from, or over a mile  
5 from the existing gathering system and we've got almost  
6 \$69,000 just in potential pipeline costs. That's where  
7 the...probably the biggest item is that and---

8 Q. Everything else is pretty much the same as  
9 they've seen in the other four applications we've submitted?

10 A. Predominately. The only other item would be  
11 the...there was some significant surface damages that we were  
12 anticipating in this well, also.

13 Q. So, this is a step-out well as we say?

14 A. Yes.

15 JIM KISER: Okay. Is there any questions regarding  
16 that or---

17 (No audible response.)

18 JIM KISER: There's 6,200 feet of gathering line.

19 Q. Okay, and do these costs anticipate a  
20 multiple completion?

21 A. Yes, they do.

22 Q. And does your AFE include a reasonable  
23 charge for supervision?

24

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1           A.       Yes.

2           Q.       In your professional opinion, will the  
3 granting of this application be in the best interest of  
4 conservation, the prevention of waste and the protection of  
5 correlative rights?

6           A.       Yes.

7           JIM KISER: Nothing further of this witness at this  
8 time, Mr. Chairman.

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

11           (No audible response.)

12           BENNY WAMPLER: Do you have anything further?

13           JIM KISER: We'd ask that the application be  
14 approved as submitted.

15           BENNY WAMPLER: Is there a motion?

16           MAX LEWIS: I make a motion we approve it.

17           BENNY WAMPLER: Motion to approve.

18           CLYDE KING: Second.

19           BENNY WAMPLER: Second. Any further discussions?

20           (No audible response.)

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

22           (All members signify yes.)

23           BENNY WAMPLER: Opposed, say no.

24

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1 (No audible response.)

2 BENNY WAMPLER: You have approval. Thank you.

3 TROY GIESELMAN: Thank you.

4 BENNY WAMPLER: Members of the Board, Bob wanted to  
5 bring up a couple of matters. To respond to some of your  
6 questions previously.

7 BOB WILSON: Yeah, a couple of things that I was  
8 asked to follow and report on from the March hearing. In the  
9 matter of the Appeal of the Director's decision in which the  
10 Board confirmed the decision, but allocated sixty days for  
11 stay on the permit to give time to the parties to negotiate.  
12 I talked to both parties in that. As of now the company  
13 says that they have made recent contacts between attorneys on  
14 this issue and have very recently made a counter proposal to  
15 the last offer that was on the table. I talked to the  
16 individual landowner involved, Mr. Hall, who says as of  
17 yesterday he had not received any communication on this thing  
18 one way or the other and he was under the impression that  
19 since he had made the final...the last offer that was on the  
20 table, that it was up to the company to respond to him.  
21 Apparently they are doing that, but as of now nothing has  
22 been done. There have been no direct contacts, no real  
23 negotiations on that. When I called the landowner, he

24

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1 requested that I ask the Board that...requested that if the  
2 company makes no offer in this sixty day period, or if they  
3 fail to negotiate, or show interest in negotiation, and the  
4 sixty days are up without any action at all, will the Board  
5 revisit that decision? I'm presenting a question.

6 BENNY WAMPLER: Well, the Board decided the  
7 issue...decided to up hold the Inspector's decision on the  
8 permit and the sixty days was to encourage them to try to  
9 work some things out as to reasonableness of location, not as  
10 to whether or not they do it.

11 SANDRA RIGGS: Price.

12 BENNY WAMPLER: Not as to whether or not they do it.

13 BOB WILSON: Okay. So a sufficient answer would be  
14 that the Board will take no further action on this and the  
15 Division of Gas and Oil has a scheduled date to lift the stay  
16 on that permit and that would go ahead as ordered presumably.

17 CLYDE KING: I thought they promised...pretty well  
18 promised us they would...Mark pretty much said that they  
19 would come to some sort of an agreement.

20 BENNY WAMPLER: No, not an agreement. They've---.

21 SANDRA RIGGS: Well, he said they've made a counter  
22 offer to the attorneys.

23 CLYDE KING: Oh, but he hasn't gotten that counter  
24

1 offer?

2           BOB WILSON: He has not, apparently. The...the  
3 contact so far have been between attorneys and Mr. Hall, the  
4 landowner, has not even been advised.

5           SANDRA RIGGS: They must be between attorneys. When  
6 you're represented by counsel, they're prohibited from  
7 contacting him directly. So, Mark must work through his  
8 attorney. He can't work directly with him, by law.

9           BOB WILSON: And apparently his...his attorney has  
10 not notified him of any of these proceedings.

11           CLYDE KING: He had an attorney with him, didn't he?

12           BENNY WAMPLER: Yes.

13           BOB WILSON: Yeah.

14           BENNY WAMPLER: Is there anything else?

15           BOB WILSON: Okay. One other item from that same  
16 hearing. Do you remember a Ms. Dobie White who was  
17 interested in having the road to the cemetery taken care of  
18 and you asked me to check it out?

19           CLYDE KING: Uh-huh.

20           BOB WILSON: I have not been able to reach her over  
21 the last two weeks. I've called several times. I'll  
22 continue to do that to make sure she has been satisfied on  
23 that. I also told her to call me if she was not. So, I

24

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1 think we can assume that that has been taken care of. But I  
2 will continue to try to contact her. That's all I have.

3 BENNY WAMPLER: Anything further?

4 (No audible response.)

5 BENNY WAMPLER: Thank you. Happy Easter to  
6 everyone.

7

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9 STATE OF VIRGINIA,

10 COUNTY OF BUCHANAN, to-wit:

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

15 Given under my hand and seal on this the 2nd day of  
16 May, 2000.

17 NOTARY PUBLIC

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19 My commission expires: August 31, 2001.

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