

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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8  
9 AUGUST 21 2001

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11  
12 APPEARANCES:

13 MASON BRENT, GAS & OIL INDUSTRY REPRESENTATIVE

14 KEN MITCHELL, REPRESENTS THE CITIZEN INTEREST

15 CLYDE KING, PUBLIC MEMBER

16 MAX LEWIS, PUBLIC MEMBER

DENNIS GARBIS, ACTING CHAIRMAN AND PUBLIC MEMBER

17 SANDRA RIGGS, ASSISTANT ATTORNEY GENERAL

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

19 PRINCIPAL EXECUTIVE TO THE STAFF OF THE BOARD

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INDEX

<u>AGENDA AND DOCKET NUMBERS:</u>	<u>UNIT</u>	<u>PAGE</u>
1) VGOB-01-08/21-0919	VC-504484	5
2) VGOB-01-08/21-0906	N-36	16
3) VGOB-01-08/21-0907 (Combined items 3-8)	AV-109	25
4) VGOB-01-08/21-0908 (Combined items 3-8)	AW-108	25
5) VGOB-01-08/21-0909 (Combined items 3-8)	AW-109	25
6) VGOB-01-08/21-0910 (Combined items 3-8)	AX-107	25
7) VGOB-01-08/21-0911 (Combined items 3-8)	AX-108	25
8) VGOB-01-08/21-0912 (Combined items 3-8)	AX-109	25
9) VGOB-01-08/21-0913 (Combined items 9-10)	AY-107	81
10) VGOB-01-08/21-0914 (Combined items 9-10)	AY-108	81
11) VGOB-01-08/21-0915 (Combined items 11-13)	AY-113	90
12) VGOB-01-08/21-0916 (Combined items 11-13)	AY-114	90
13) VGOB-01-08/21-0917 (Combined items 11-13)	AY-115	90
14) VGOB-01-08/21-0918	Y-7	108
15) VGOB-91-04/30-0111		

3 Collective Exhibit One - Memos

4 \*\*\*\*AGENDA ATTACHED

5 DENNIS GARBIS: Good morning, Ladies and Gentlemen.

6 My name is Dennis Garbis, a public member. I'll be your  
7 chairman this morning. I'd like to start off this meeting by  
8 introduction of the members. If we could start with Mr.  
9 Mason Brent.

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

12 KEN MITCHELL: My name is Ken Mitchell. I'm from  
13 Stafford County, Virginia, and I represent the Citizen  
14 interest.

15 CLYDE KING: I am Clyde King. I'm from Washington  
16 County and I represent the public interest. Welcome to  
17 Abingdon.

18 MAX LEWIS: Max Lewis from Buchanan County, a public  
19 member.

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

22 BOB WILSON: I'm Bob Wilson. I'm the Director of  
23 the Division of Gas and Oil and the principal executive to  
24 the staff of the Board.

25 DENNIS GARBIS: Thank you.

1           HUBERT KEEN: That's the one that I need to talk to,  
2 that Bob Wilson.

3           DENNIS GARBIS: Could you wait until your...when  
4 your docket number is called and you'll have the opportunity  
5 to speak, please.

6           The first item on the agenda this morning is the  
7 Virginia Gas and Oil Board will consider a petition from  
8 Equitable Production Company for pooling of a coalbed methane  
9 unit under the Nora Coalbed Gas Field Order and identified as  
10 VC-504484, which is docket number VGOB-01-08/21-0919. We'd  
11 ask the parties that wish to address the Board in this matter  
12 to come forward.

13           JIM KISER: Mr. Chairman and members of the Board,  
14 Jim Kiser on behalf of Equitable Production Company. Our  
15 witness in this matter will be Mr. Don Hall. We do have a  
16 revised Exhibit B that I'd like to pass out before we get  
17 started.

18           COURT REPORTER: Raise your right hand.

19           (Witness is duly sworn.)

20           (Mr. Kiser passes out the exhibit.)

21           HUBERT KEEN: You fellows will have to excuse me.  
22 This is the first time that I've been in anything like this.

23           DENNIS GARBIS: Sir, what is your docket number that  
24

--

1 you're waiting for?

2 HUBERT KEEN: My docket number, well, I've got  
3 three. But the final number on it is 92-11/17-0291-01.

4 DENNIS GARBIS: What are the last four digits?

5 HUBERT KEEN: 0291.

6 MASON BRENT: 15...item 15.

7 DENNIS GARBIS: Okay, that's the last item on the  
8 agenda which will probably be at least an hour and a half to  
9 two hours from now. So, you're more than welcome to wait or  
10 if you want to go out and get a cup of coffee---

11 HUBERT KEEN: It don't concern me. I don't need to  
12 be in there. When does mine come up?

13 DENNIS GARBIS: When will that agenda item come up?

14 CLYDE KING: About noon probably.

15 DENNIS GARBIS: At least two hours. So, again,  
16 you're welcome to wait or if you want to get a cup of coffee  
17 and walk around, you're...either way. You can stay. Okay,  
18 shall we proceed, Mr. Kiser.

19

20 DON HALL

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. Hall, have you been sworn?

3 A. Yes.

4 Q. You need to state your name for the record,  
5 who you're employed by and in what capacity?

6 A. My name's Don Hall. I'm employed by  
7 Equitable Production Company.

8 Q. Do your responsibilities include the land  
9 involved in unit for 504484 and in the surrounding area?

10 A. They do.

11 Q. And are you familiar with Equitable's  
12 application filed seeking a pooling order for well number VC-  
13 504484, dated July the 19th, 2001?

14 A. Yes.

15 Q. Is Equitable seeking to force pool the  
16 drilling rights underlying the unit as depicted at Exhibit A,  
17 that being the plat to the application?

18 A. Yes.

19 Q. Does the location for this proposed well  
20 fall within the Board's order for the Nora Coalbed Gas Field?

21 A. It does.

22 Q. Now, prior to filing the application, was an  
23 effort made to contact each of the respondents and an attempt

24

--

1 made to reach a voluntary oil and gas lease with each of the  
2 respondent's made?

3 A. Yes.

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

6 A. We do.

7 Q. What is the leased interest within the gas  
8 estate?

9 A. We have 91.62% leased.

10 Q. And what is the interest leased by Equitable  
11 in the coal estate within the unit?

12 A. 100%.

13 Q. And all the unleased parties are set out at  
14 Revised Exhibit B?

15 A. They are.

16 Q. Could you explain to the Board why we  
17 prepared a Revised Exhibit B?

18 A. One of the parties on Exhibit B acquired a  
19 piece of this property from another...or acquired an interest  
20 in this property from another...one of the heirs and it  
21 should have been a 1/9th interest. There was two...two of  
22 the original eleven heirs passed away without issue. The  
23 remaining nine would have received a 1/9th interest each.

24

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1 One of those nine conveyed to Mr. Adkins a 1/11th. Probably  
2 intended to convey a 1/9th, but in actuality in the deed, he  
3 only conveyed a 1/11th. So, that left the remaining 2/99ths  
4 in the Estate of the people who conveyed that. We determined  
5 that after the application was made and did the amendment.

6 Q. Okay, and that affects the last two  
7 undivided interest owners on Tract 2 as listed on page two of  
8 three of the Exhibit B?

9 A. That's correct.

10 Q. Even though it appeared the intent of the  
11 grantor was probably to convey a 9th of whatever they had,  
12 they conveyed an 11th and that's the record title?

13 A. Right.

14 Q. So, that's the way that we're going to show  
15 it?

16 A. Right.

17 Q. And we amended...not only did we revise  
18 Exhibit B, but we also sent out a second notice to Albert C.  
19 Adkins and Eva Adkins since it did change their interest from  
20 the original mailing, correct?

21 A. That's correct.

22 Q. Is there any questions about that?

23 (No audible response.)

24

--

1 Q. Okay, how about unleased interest within the  
2 unit, are you familiar with that?

3 A. Yes.

4 Q. And the interest that remains unleased on  
5 the gas estate?

6 A. 8.38%.

7 Q. Okay, now, we're got some unknown interest  
8 owners within Tract 2. Were efforts made to determine their  
9 whereabouts and the names and addresses and whereabouts of  
10 any potential successors?

11 A. Yes.

12 Q. And reasonable and diligent efforts were  
13 made and sources checked to identify and locate these unknown  
14 heirs including primary sources such as deed records, probate  
15 records, assessors's records, treasures's records and  
16 secondary sources such as telephone directories, city  
17 directories, family and friends?

18 A. They were.

19 Q. In your professional opinion, Mr. Hall, was  
20 due diligence exercised to locate each of the respondents  
21 named in Revised Exhibit B?

22 A. Yes, sir.

23 Q. Now, are the addresses set out in Revised  
24

1 Exhibit B to the application the last known addresses for the  
2 respondents?

3 A. Yes.

4 Q. Are you requesting this Board to force pool  
5 all the unleased interest listed at Revised Exhibit B?

6 A. We are.

7 Q. Now, are you familiar with the fair market  
8 value of drilling rights in the unit here and in the  
9 surrounding area?

10 A. Yes.

11 Q. Could you advised the Board as to what those  
12 are?

13 A. A \$5 bonus, a five year, a 1/8th royalty.

14 Q. Did you gain this familiarity by acquiring  
15 oil and gas leases, coalbed methane leases and other  
16 agreements involving the transfer of drilling rights---

17 A. I did.

18 Q. ---in the unit involved here and in the  
19 surrounding area?

20 A. Yes.

21 Q. In your opinion, do the terms you have  
22 testified to represent the fair market value of and fair and  
23 reasonable compensation---

24

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1 A. They do.

2 Q. ---to be paid for drilling rights within  
3 this unit?

4 A. (No audible response.)

5 Q. Now, as to those respondents that we're  
6 pooling who have either not agreed to voluntarily lease to us  
7 or who are unknown, do you state that they be allowed the  
8 following options with respect to their ownership interest  
9 within the unit: One, participation; two, a cash bonus of \$5  
10 per net mineral acre plus a 1/8 of 8/8ths royalty; three, in  
11 lieu of a cash bonus and 1/8 of 8/8ths royalty share in the  
12 operation of the well on a carried basis as a carried  
13 operator under the statutory conditions?

14 A. Yes.

15 Q. Do you recommend that the order provide that  
16 elections by respondent be in writing and sent to the  
17 applicant at Equitable Production Company, 1710 Pennsylvania  
18 Avenue, P. O. Box 2347, Charleston, West Virginia 25328,  
19 Attention: Melanie Freeman, Regulatory?

20 A. Yes.

21 Q. And should this be the address for all  
22 communications with the applicant concerning any force  
23 pooling order?

24

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1           A.       Yes.

2           Q.       Do you recommend that the order provide that  
3 if no election is properly made by a respondent, then such  
4 respondent should be deemed to have elected the cash royalty  
5 option in lieu of participation?

6           A.       Yes.

7           Q.       Should unleased respondents be given thirty  
8 days from the date of the Board order to file their written  
9 elections?

10          A.       Yes.

11          Q.       If an unleased respondent elects to  
12 participate, should they be given forty-five days to pay for  
13 their proportionate share of the well cost?

14          A.       Yes.

15          Q.       Does the applicant expect any party electing  
16 to participate to pay in advance that share of completed well  
17 cost?

18          A.       Yes.

19          Q.       Should the applicant be allowed a hundred  
20 and twenty days following the recordation date of the Board  
21 order and thereafter annually on that date until production  
22 is achieved to pay or tender any cash bonus or delay rental  
23 becoming due under the force pooling order?

24

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1           A.       Yes.

2           Q.       Do you recommend that the order provide that  
3 if the respondent elects to participate but fails to pay  
4 their proportionate share of well costs satisfactory to the  
5 applicant for payment of those costs, then respondent's  
6 election to participate should be treated as having been  
7 withdrawn and void and such respondent should be treat just  
8 as if no initial election had been made under the order?

9           A.       Yes.

10          Q.       Do you recommend that the order provide that  
11 where a respondent elects to participate but defaults in  
12 regard to the payment of well cost any cash sum becoming  
13 payable to such respondent should be paid within sixty days  
14 after the last day on which such respondent could have paid  
15 or made satisfactory arrangements for the payment of those  
16 cost?

17          A.       Yes.

18          Q.       Okay, in this particular case, we do have  
19 several undivided interests in Tract 2 where the owners are  
20 unknown. So, do you ask that the order provide that an  
21 escrow account be created by the Board to pay for these into  
22 which all these proceeds attributable to the unknown interest  
23 and the conflicting interest on Tract 2 between the gas  
24

1 estate and the coal estate be paid?

2 A. Yes.

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

5 A. Equitable Production Company.

6 Q. Now, what's the total depth of the proposed  
7 well under the plan of development?

8 A. 2,403 feet.

9 Q. And the estimated reserves of the unit?

10 A. 500,000,000 cubic feet.

11 Q. Now, are you familiar with the well costs of  
12 the proposed unit well under the applicant's plan of  
13 development and has an AFE been reviewed, signed and  
14 submitted to the Board along with the application as Exhibit  
15 C?

16 A. Yes.

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

20 A. Yes.

21 Q. Does it represent a reasonable estimate of  
22 the well costs under the plan of development?

23 A. It does.

24

--

1 Q. Could you represent for the Board what both  
2 the dry hole cost and completed well cost for this well?

3 A. The dry hole cost is \$99,270. The completed  
4 well cost is \$208,180.

5 Q. Do these costs anticipate a multiple  
6 completion?

7 A. They do.

8 Q. Does your AFE include a reasonable charge  
9 for supervision?

10 A. Yes, it does.

11 Q. In your professional opinion, would the  
12 granting of this application be in the best interest of  
13 conversation, the prevention of waste, and the protection of  
14 correlative rights?

15 A. Yes.

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

18 DENNIS GARBIS: Any questions from any member of the  
19 Board?

20 (No audible response.)

21 DENNIS GARBIS: Do you have any other witnesses?

22 JIM KISER: No other witnesses. We'd ask that the  
23 application be approved as submitted.

24

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1           DENNIS GARBIS: Do I hear a motion?

2           CLYDE KING: So moved, Mr. Chairman.

3           KEN MITCHELL: I second it.

4           DENNIS GARBIS: I have a motion. I have a second.

5 Any other discussion? Any other questions?

6           (No audible response.)

7           DENNIS GARBIS: All in favor, signify by saying yes.

8           (All members signify yes.)

9           DENNIS GARBIS: All those not in favor, signify by

10 saying no.

11           (No audible response.)

12           DENNIS GARBIS: You have approval.

13           JIM KISER: Thank you.

14           (Mr. Kiser and Mr. Swartz confer.)

15           DENNIS GARBIS: Thank you, Gentlemen. You can get

16 his phone number and call him tonight.

17           (Everyone laughs.)

18           (Off record discussion.)

19           DENNIS GARBIS: Mr. Swartz, are you ready?

20           MARK SWARTZ: You bet.

21           DENNIS GARBIS: Looking at that agenda, there are

22 several items that appear that might be consolidated. Have

23 you considered that?

24

1                   MARK SWARTZ: Yes. What I would propose to the  
2 Board, first of all, I would note with regard to item 2,  
3 that's actually Pocahontas Gas Partnership and not Buchanan  
4 Production. So, you need to just make that note. Item 2, I  
5 would think I would need to pool by itself. Items 3 through  
6 8, I think could be conveniently combined for hearing. So,  
7 those six items could be considered together. Items 9 & 10  
8 involve essentially the same folks. So, I think we could  
9 combine 9 & 10. We could combine 11 & 12. And I think 13,  
10 14 & 15, probably we might as well just handle as stand  
11 alones. But I think combining the ones I've indicated would  
12 save us some time.

13                   DENNIS GARBIS: Any objection from any member of the  
14 Board?

15                   (No audible response.)

16                   DENNIS GARBIS: All right. I'll call item number 2.  
17 We'll take care of that one and then we'll call sequentially  
18 items 3 through 8.

19                   MARK SWARTZ: 8.

20                   DENNIS GARBIS: Take care of those, and then we'll  
21 just go on down the list.

22                   MARK SWARTZ: Okay. All right.

23                   DENNIS GARBIS: The next item the Virginia Gas and  
24

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1 Oil Board will consider is a petition from Pocahontas Gas  
2 Partnership for pooling of a coalbed methane unit under the  
3 Oakwood Coalbed Methane Gas Field I order and identified as  
4 M-36 in Buchanan County, Virginia, docket number VGOB-01-  
5 08/21-0906.

6 MARK SWARTZ: Appearing today are myself, Mark  
7 Swartz, and Les Arrington on behalf of Pocahontas Gas  
8 Partnership who is the applicant with regard to unit N-36.  
9 Les, do you want to be sworn.

10 (Witness is duly sworn.)

11

12 LESLIE K. ARRINGTON  
13 having been duly sworn, was examined and testified as  
14 follows:

15 DIRECT EXAMINATION

16 QUESTIONS BY MR. SWARTZ:

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

18 A. Leslie K. Arrington.

19 Q. Who do you work for?

20 A. Consol Energy.

21 Q. What do you do for them?

22 A. I work as gas engineer doing the permitting  
23 and pooling applications.

24

--

1 Q. Okay, did you either yourself do the notice  
2 of hearing and application and related exhibits, or cause  
3 them to be prepared under your direction with regard to the  
4 pooling application concerning N-36?

5 A. I did.

6 Q. And, in fact, you signed both the notice and  
7 the application, is that true?

8 A. Yes, I did.

9 Q. Okay. The applicant here is who?

10 A. Pocahontas Gas Partnership.

11 Q. Is Pocahontas Gas Partnership a Virginia  
12 General Partnership having two partners that are  
13 Consolidation Coal Company and Conoco, Inc.?

14 A. Yes, it is.

15 Q. Who is the applicant requesting be appointed  
16 as designated operator if the Board approves this  
17 application?

18 A. Pocahontas Gas Partnership.

19 Q. Is Pocahontas Gas Partnership authorized to  
20 do business in the Commonwealth of Virginia, has it  
21 registered with the Department of Mines, Minerals and Energy  
22 and does it have a blanket bond on file?

23 A. Yes, it does.

24

--

1 Q. Are the respondents, the people you're  
2 seeking to pool with regard to this application, listed in  
3 the notice of hearing?

4 A. Yes, they are.

5 Q. And also on B-3?

6 A. Yes, they are.

7 Q. Okay. Did we have addresses for everybody  
8 here?

9 A. Yes, we do.

10 Q. What did you do in terms of notifying people  
11 of this hearing?

12 A. It was mailed by certified mail/return  
13 receipt requested and it was mailed on July the 20th of 2001,  
14 and it was published in the Bluefield Daily Telegraph on July  
15 the 28th of 2001.

16 Q. Okay, when you published in the Bluefield  
17 Telegraph, what was published?

18 A. The notice of hearing and associated map.

19 Q. Okay. Have you filed with the Board this  
20 morning proof of publication and certification with regard to  
21 mailing?

22 A. Yes, I have.

23 Q. And that certification with regard to  
24

1 mailing would indicate when people signed for their mail or  
2 whether or not they signed for their mail.

3 A. That's correct.

4 Q. Is this a Oakwood I unit?

5 A. Yes, it is.

6 Q. It's a frac unit with one well?

7 A. It's...yes, one well.

8 Q. At this point?

9 A. At this point.

10 Q. Okay. And there's a map, a plat, Exhibit A,  
11 correct?

12 A. Yes...yes, it is.

13 Q. And that shows the location of the well?

14 A. Yes, it does.

15 Q. Is it inside the drilling window?

16 A. Yes, it is.

17 Q. So, you don't need a location exception?

18 A. That's correct.

19 Q. Okay. Have you provided a cost estimate  
20 with regard to this well?

21 A. Yes, we have. The cost estimate is  
22 \$216,356.49.

23 Q. And is there a permit for this well?

24

--

1           A.       Yes, it is.

2           Q.       The number?

3           A.       4795.

4           Q.       Was this well drilled?

5           A.       Yes, it is.

6           Q.       When?

7           A.       January the 24th of this year.

8           Q.       And what was the depth?

9           A.       2,531.30 feet.

10          Q.       Do you want to add any respondents to the

11 list today or subtract any from the list of folks that you

12 noticed?

13          A.       No, we do not.

14          Q.       Okay. Let's turn to your interest in the

15 unit and the interest that you're seeking to pool. If you

16 would look at Exhibit A, page 2, would you tell the Board

17 about the status of coalbed methane interest in this unit?

18          A.       Yes. We have leased 99.985% of the coal,

19 oil and gas, coalbed methane interest; seeking to pool 0.015%

20 of the coal, oil and gas, coalbed methane interest; and

21 there's 100% of the coal leased beneath this unit.

22          Q.       Now, could you tell the Board what the

23 typical lease terms you have offered to the 99% of the folks

24

1 that you've been able to lease in this unit?

2 A. Our standard lease terms are a \$1 per acre  
3 per year bonus for a coalbed methane lease and a 1/8th  
4 royalty.

5 Q. And what's the term?

6 A. Five years.

7 Q. Would you recommend those provisions to the  
8 Board as provisions that would be appropriate to include in  
9 the Board's order with regard to the terms that would  
10 afforded people who were deemed to have been leased?

11 A. Yes, we would.

12 Q. Okay. Now, this, as I indicated a moment  
13 ago, is an Oakwood I unit, correct?

14 A. That's right.

15 Q. How many acres?

16 A. 80.

17 Q. And what seams are going to be in  
18 production?

19 A. All seams from below the Tiller to the red  
20 and green shells.

21 Q. Okay. Is it your opinion that the  
22 development plan disclosed by the application and the  
23 exhibits and with particular...in particular Exhibit A, is a  
24

1 reasonable plan to develop the methane res...coalbed methane  
2 resource within unit N-26?

3 A. Yes, it is.

4 Q. And would you recommend that plan to the  
5 Board as a way to protect...a reasonable way to protect the  
6 correlative rights of all owners including the respondents  
7 here?

8 A. Yes, it is.

9 Q. Is escrow required in this unit?

10 A. No, it is not.

11 Q. Okay. So, folks would be able to pay the  
12 royalties directly?

13 A. Correct.

14 Q. The last thing I would like to cover with  
15 you. There's...on Exhibit B-3, there is a column net acres  
16 in unit for every person and also an interest in unit for  
17 every person, correct?

18 A. That's correct.

19 Q. So, if a person wanted to determine the  
20 interest that they had in this 80 acre frac unit, they would  
21 take their interest in unit times 12 1/2% royalty interest,  
22 correct?

23 A. That's correct.

24

--

1 Q. And that would give them their royalty or  
2 division interest in the unit?

3 A. That's correct it would.

4 Q. And if they were interested in determining  
5 what it might cost to participate as an operator in this  
6 unit, they would take the same interest in unit times the  
7 estimated costs and that would be the amount of the check  
8 that they would be required to initially deposit?

9 A. Correct.

10 Q. And that would also be relevant to  
11 their...then to their working interest that they would have  
12 acquired?

13 A. That's correct, it would.

14 Q. The same percentage would also be used to  
15 determine carried interest?

16 A. Yes, it would.

17 Q. That's all I have.

18 DENNIS GARBIS: Any question from any member of the  
19 Board?

20 MASON BRENT: One question. What's the estimated  
21 production?

22 LESLIE K. ARRINGTON: 125 to 550 MMCF.

23 MASON BRENT: 125 to 550.  
24  
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1           DENNIS GARBIS: Any other questions?  
2           (No audible response.)  
3           DENNIS GARBIS: Do you have any other witnesses, Mr.  
4 Swartz?  
5           MARK SWARTZ: No. I'm done.  
6           DENNIS GARBIS: You're done?  
7           MARK SWARTZ: Yes.  
8           DENNIS GARBIS: So, you would ask---.  
9           MARK SWARTZ: I would ask that the Board approve the  
10 application based on the testimony of Mr. Arrington.  
11           DENNIS GARBIS: Thank you.  
12           KEN MITCHELL: Mr. Chairman, I would make a motion  
13 for approval.  
14           DENNIS GARBIS: We have a motion for approval. Do  
15 we have a second?  
16           MASON BRENT: Second.  
17           DENNIS GARBIS: We have a second. Any further  
18 discussion?  
19           (No audible response.)  
20           DENNIS GARBIS: All those in favor of yes, signify  
21 by saying yes.  
22           (All members signify yes.)  
23           DENNIS GARBIS: All those opposed, by saying no.

24  
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1 (No audible response.)

2 DENNIS GARBIS: You have approval. Mr. Swartz, I'll  
3 go ahead and read the items 3 through 8---

4 MARK SWARTZ: Okay.

5 DENNIS GARBIS: --sequentially and then you can go  
6 and explain as you see fit.

7 MARK SWARTZ: And while you're doing that I'm going  
8 to get Les started passing out the exhibits---

9 DENNIS GARBIS: That's fine.

10 MARK SWARTZ: ---because you'll have quite a few.

11 (Mr. Arrington passes out exhibits.)

12 DENNIS GARBIS: Item number 3 is the Virginia Gas  
13 and Oil Board will consider a petition from Pocahontas  
14 Partnership for pooling of a coalbed methane unit under the  
15 Middle Ridge I Coalbed Methane Gas Field order, identified as  
16 AV-109, located in the Hurricane/New Garden District,  
17 Buchanan and Russell Counties, Virginia. This is docket  
18 number VGOB-01-08/21-0907.

19 Item number 4, which would be in this group, will  
20 be a petition from Pocahontas Gas Partnership for pooling of  
21 a coalbed methane unit under the Middle Ridge I Coalbed  
22 Methane Gas Field order identified as AW-108, located in the  
23 New Garden/Hurricane District, Buchanan and Russell Counties.

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1 This is docket number VGOB-01-08/21-0908.

2           Agenda Item number 5, the Board will consider a  
3 petition from Pocahontas Gas Partnership for pooling of a  
4 coalbed methane unit under the Middle Ridge I Coalbed Methane  
5 Gas Field order identified as AW-109, located in the New  
6 Garden District, Russell County, Virginia. This is docket  
7 number VGOB-01-08/21-0909.

8           Also included would be, agenda item number 6, the  
9 Board will consider a petition from Pocahontas Gas  
10 Partnership for pooling of a coalbed methane unit under the  
11 Middle Ridge I Coalbed Methane Gas Field order and identified  
12 as AX-107, located in Russell County, Virginia, docket number  
13 VGOB-01-08/21-0910.

14           Also included would be, item number 7...agenda item  
15 number 7, the Board will consider a petition from Pocahontas  
16 Gas Partnership under the appropriate section for pooling of  
17 a coalbed methane unit under the Middle Ridge I Coalbed  
18 Methane Gas Field order and identified as AX-108. This is  
19 docket number VGOB-01-08/21-0911.

20           And the last item that we'll consider under this  
21 group will be, the Board will consider a petition from  
22 Pocahontas Gas Partnership under the appropriate section of  
23 pooling of a coalbed methane unit under the Middle Ridge I  
24

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1 Coalbed Methane Gas Field order rules and identified as AX-  
2 109. This is docket number VGOB-01-08/21-0912.

3 All those interested in participating in this  
4 matter come forward at this time.

5 MARK SWARTZ: Mark Swartz and Les Arrington for the  
6 applicant, Pocahontas Gas Partnership.

7 DENNIS GARBIS: And if we can have these two  
8 gentlemen here...if you gentlemen would be kind enough to  
9 identify yourselves and be sworn in, please.

10 HENRY BROWN: Henry Brown, the heirs of Jacob  
11 Fuller.

12 TIVIS BROWN: I'm Tivis Brown. I'm an heir of the  
13 Jacob Fuller tract of land.

14 COURT REPORTER: Would both of you raise your right  
15 hands? Raise your right hand.

16 (Witnesses are duly sworn.)

17 DENNIS GARBIS: Thank you. Okay, do you want to  
18 start, Mr. Swartz?

19 MARK SWARTZ: I need to wait for Les---.

20 DENNIS GARBIS: Okay, that's fine.

21 TIVIS BROWN: Mr. Swartz--.

22 DENNIS GARBIS: Excuse me, gentlemen, which dockets  
23 are you particularly interested in?

24

--

1           TIVIS BROWN: The Jacob Fuller tract of land. They  
2 furnished part of my...part of the heirs with several tracts  
3 and only furnished me with four, and let's see, how many did  
4 they furnish you with?

5           HENRY BROWN: I've got that. I've got six of  
6 them...seven, I guess. We're in 10...AX-108, 109, 107, I  
7 guess that would...107, 108, 109.

8           DENNIS GARBIS: AX-108 and 109. That's number 7 and  
9 8.

10           (Ms. Riggs and Mr. Garbis confer.)

11           DENNIS GARBIS: Excuse me, sir, did you say AX-107?  
12 I heard you say 108 and 109.

13           HENRY BROWN: And 107.

14           DENNIS GARBIS: And 107, thank you.

15           TIVIS BROWN: AW-109, AV-109...I'm only furnished  
16 with four. He was furnished with about six or seven.

17           DENNIS GARBIS: We'll call you at the appropriate  
18 time.

19           SANDRA RIGGS: You have six?

20           (Mr. Brown reviews his documents.)

21           HENRY BROWN: I have six of them.

22           DENNIS GARBIS: Okay, that's all of them because  
23 we're only...at this time, we're only considering six items.

24

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1 So, if you have six, if they're all included in here,  
2 then---.

3 HENRY BROWN: Okay, I have AW-109, AV-109, AX-107,  
4 AX-109, AW-108, and---.

5 TIVIS BROWN: AY-113.

6 HENRY BROWN: That's not the right...that's just the  
7 one that they sent.

8 DENNIS GARBIS: Between...I believe between the two  
9 of you, you have an interest in all the six items that we're  
10 going to discuss now.

11

12

13 LESLIE K. ARRINGTON

14 DIRECT EXAMINATION

15 QUESTIONS BY MR. ARRINGTON:

16 Q. Les, I'm going to remind you that you're  
17 still under oath?

18 A. Yes, sir.

19 Q. Okay. You need to state your name again.

20 A. Leslie K. Arrington.

21 Q. Who do you work for?

22 A. Consol Engineer as a gas engineer.

23 Q. Okay, did you either prepare or cause to be  
24

--

1 prepared the notices and applications and related exhibits  
2 with regard to these six units that we're going to be talking  
3 about?

4 A. Yes, I did.

5 Q. And did you, in fact, sign the notices and  
6 the applications with regard to all of these six units?

7 A. Yes, I did.

8 Q. Who is the applicant in each instance?

9 A. Pocahontas Gas Partnership.

10 Q. Is that a Virginia General Partnership?

11 A. Yes, it is.

12 Q. Are the two partners Consolidation Coal  
13 Company and Conoco, Inc.?

14 A. Yes, it is.

15 Q. In each application, who is it that you are  
16 requesting designated the Board's operator?

17 A. Pocahontas Gas Partnership.

18 Q. Is Pocahontas Gas Partnership authorized to  
19 do business in the Commonwealth?

20 A. Yes, it is.

21 Q. Does it have a blanket bond on file and has  
22 it registered with the Department of Mines, Minerals and  
23 Energy?

24

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1           A.       Yes, it has.

2           Q.       Are the respondents in each of these units,  
3 meaning the people that you're seeking to pool, listed in  
4 both the first paragraph of the notice of hearing and again  
5 at Exhibit B-3?

6           A.       Yes, they are.

7           Q.       Okay. Now, let's look at B-3 for a moment.  
8 Are there people in Exhibit B-3, it looks there are, for  
9 whom you did not have addresses?

10          A.       There is.

11          Q.       Okay. So, when it comes...when escrow is an  
12 issue, there...because we have some unlocatable folks, escrow  
13 would be required, correct?

14          A.       That's correct.

15          Q.       And just as an example, if you look at Tract  
16 3, number 4...number 2A1, you do not have an address for  
17 Virgie Corral?

18          A.       That's right.

19          Q.       Now, with regard to the folks that you have  
20 addresses for in each of these units, in each of these six  
21 units, what did you do in terms of notifying people that you  
22 have addresses for?

23          A.       We mailed by certified mail/return receipt

24

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1 requested and it was on July the 21st, 2001, and it was also  
2 published in the Bluefield Daily Telegraph on July the 26th  
3 of 2001.

4 Q. Okay, was there a mailing for each of these  
5 six units as you've just stated and publication for each of  
6 the six units as you've just stated?

7 A. Yes, there was.

8 Q. Okay, was the publication for each of these  
9 units on the same date?

10 A. No, it wasn't.

11 Q. Why don't you run through that for us?

12 A. Okay, docket number 908, publication was on  
13 July the 30th, 909 it was July the 30th, 910 it was July the  
14 30th, 911 was July the 28th, and 912 was July the 28th.

15 Q. Okay. And have you this morning filed  
16 certificates of publication with regard to each of those six  
17 publications with the Board?

18 A. Yes, we have.

19 Q. And what was published when you published?

20 A. The notice of hearing and associated  
21 location map.

22 Q. And the publication, obviously, was intended  
23 as a back up for the mailing, but also to give notice to  
24

1 people that you did not have addresses?

2 A. That's correct.

3 Q Okay, have you filed this morning your  
4 certificate with regard to mailing?

5 A. Yes, we have.

6 Q. You have one of those certificates in front  
7 of you at the moment?

8 A. Yes, I did.

9 Q. For which unit?

10 A. AV-109.

11 Q. Okay. Was Tivis Brown given notice or  
12 mailed notice?

13 A. On AV-109, it appears so.

14 Q. Okay, look at the certification first and  
15 not the green cards. Look...go back to your list.

16 A. Okay.

17 Q. Okay. Does it list him?

18 A. It does list him on July the 23rd.

19 Q. Okay. And when does it indicate it was  
20 mailed to him?

21 A. On...well, actually the date listed here  
22 says July the 20th. Our copying machine broke down. It was  
23 July the 21st.

24

--

1 Q. Okay.

2 A. And this was...he picked it up on July the  
3 23rd.

4 Q. Okay. So, you got a receipt back that he  
5 signed for on July the 23rd?

6 A. We do.

7 Q. Okay. And if went through each one of these  
8 units, there would be a similar list of who you mailed to,  
9 right?

10 A. That's correct.

11 Q. The certificate of mail number from the post  
12 office?

13 A. Uh-huh.

14 Q. And whether or not they signed for it?

15 A. That's correct.

16 Q. And as we work through these, we'll look at  
17 each on of them?

18 A. That's correct.

19 Q. Going back to the...some general questions  
20 that we can ask. Obviously, you have leased different  
21 percentages in each one of these units and we'll get to that  
22 in a minute....

23 A. Okay.

24

1 Q. ....But in general, with regard to folks  
2 that you have been able to obtain coalbed methane leases  
3 from, what have been the terms that you have agreed on?

4 A. Our standard terms are a \$1 per acre a year  
5 for a coalbed methane lease with a five year term and a 1/8th  
6 royalty.

7 Q. Okay. Each of these units is in what field?

8 A. The Middle Ridge.

9 Q. And the acreages will vary from unit to unit  
10 to some extent?

11 A. They will. They will.

12 Q. So, we'll have to do that on a unit by unit  
13 basis?

14 A. AV-109 is 51.15 acres.

15 Q. Okay. Are the rest of them 58.7?

16 A. Until we get to there, I just don't know.

17 Q. Okay. So then repeat what AV-109 is?

18 A. 51.15.

19 Q. Okay. Is that one of the boundary acres?

20 A. Yes, it is.

21 Q. Or boundary units?

22 A. Uh-huh.

23 Q. Okay. With regard to these units, you are  
24

1 seeking to produce from the Jawbone on down if the Jawbone is  
2 below drainage, correct?

3 A. That's correct.

4 Q. Okay. And there's a plat...exhibit A  
5 attached to each one of these units?

6 A. It is.

7 Q. And does that plat show one well in each of  
8 these six units?

9 A. It will.

10 Q. Okay. So, if you'd look at any one, there  
11 would be one well located in each plat?

12 A. That's correct.

13 Q. And with regard to these six units, is it  
14 true that each of the six wells is within the drilling window  
15 so that we don't have to be talking about drilling  
16 exceptions?

17 A. Yes, they are.

18 Q. All right. Let's start working through  
19 these one at a time with regard to the specifics and let's  
20 start with docket number 3, AV-109, okay.

21 A. Okay.

22 Q. Let's look at your standing in terms of what  
23 interest you've acquired and what interest you're seeking to

24

--

1 pool and the way to do that would be to look at Exhibit A,  
2 page 2.

3 A. Okay.

4 Q. Go ahead and tell the Board where you're  
5 standing.

6 A. AV-109, we have 100% of the coalbed methane  
7 interest leased from the coal owner, and 95.204% from the oil  
8 and gas owner. We're seeking to pool 4.796% of the coalbed  
9 methane interest from the oil and gas owner.

10 Q. Okay. You've got an Exhibit B-3 attached,  
11 correct?

12 A. Yes, sir.

13 Q. And you've stated in your Exhibit B-3 the  
14 interest of each person that you're seeking pool on a  
15 percentage basis in the unit, correct?

16 A. We have.

17 Q. And so with regard to AV-109, for example,  
18 if a person wanted to figure out what their potential royalty  
19 interest in this unit would be, they would take their  
20 interest in unit times 12 1/2% and that would give them their  
21 share of the royalty in the unit, correct?

22 A. Yes, it would.

23 Q. If a person wanted to figure our what it  
24

1 would cost to become a partner in the well in AV-109, would  
2 it be true that they would take their percentage interest in  
3 unit times the well cost and that would be deposited required  
4 to become an operator?

5 A. That's correct, it would.

6 Q. And lastly, would they use the same  
7 percentage to calculate the carried interest multiplier?

8 A. They would.

9 Q. Have you prepared an Exhibit C with regard  
10 to AV-109?

11 A. Yes, we have. For well AV-109, it's permit  
12 number was 4905. It was issued on March...in March...on  
13 March the 13th of this year. It was drilled April the 17th  
14 of this year to a total depth of 2,429.04 feet, with an  
15 estimate cost of \$218,226.18.

16 Q. Now, I take it that this has not been fraced  
17 and completed as yet?

18 A. I can't answer that.

19 Q. You have an Exhibit E with regard to this  
20 unit, correct?

21 A. Yes, we do.

22 Q. And we've already talked about the fact that  
23 there are some unlocatable folks, correct?

24

--

1 A. That's correct there are.

2 Q. Are there also conflicting ownership issues?

3 A. Yes, it is.

4 Q. Okay. With regard to what tract? What

5 tracts?

6 A. Tract 3.

7 Q. It looks like just Tract 3.

8 A. Uh-huh.

9 Q. Now, let's turn to docket item number 4,

10 which is AW-108, okay. Let's start with Exhibit A---.

11 DENNIS GARBIS: Excuse me, Mr. Swartz.

12 MARK SWARTZ: Yes.

13 DENNIS GARBIS: Do either of you two gentlemen have

14 a specific question regarding this item number 3 since---?

15 TIVIS BROWN: I'd like item number 3 explained out

16 to us, sir.

17 DENNIS GARBIS: You'd like item number 3 explained?

18 TIVIS BROWN: Yes, sir.

19 DENNIS GARBIS: Do you have a specific question that

20 you would like an explanation of?

21 TIVIS BROWN: I may have after the...after it's

22 explained out to us. I worked in the coal business over

23 here, but I'm little bit in the dark on gas and oil. But I

24

1 do understand and I feel that some irregularities does exist  
2 in this to the fact that I was only mailed out four  
3 applications here, four tracts, where my cousins and other  
4 heirs got six. I'm entitled to the same. He says that due  
5 diligence was carried out in each one of these. I would like  
6 to know why I just got four and they got six. I'm an heir in  
7 all of this the same as the rest of my cousins.

8 DENNIS GARBIS: Did you get AZ-109?

9 TIVIS BROWN: I got AX-107, AW-108, AW-109 and AV-  
10 109, and AX-109 and AY-113 I did not get.

11 DENNIS GARBIS: AY-113, that's not part of this  
12 group that we're discussing now.

13 TIVIS BROWN: Well, you said there was six parts of  
14 it. I don't know what...I just got four parts of it.

15 MARK SWARTZ: Well, we're taking them one at a time  
16 and our records show that he signed for AV-109. We're going  
17 to do these one at a time in terms of mailing.

18 TIVIS BROWN: Well, I'd like to ask the Board to put  
19 it in their records that under mailings, if they're going to  
20 go this route, I only received four if they mailed them out  
21 one at a time.

22 DENNIS GARBIS: Mr. Swartz, could you double check  
23 to make sure that, in fact, the mailing was sent?

24

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1           BOB WILSON: Mr. Chairman, I've reviewed the  
2 Affidavit of Due Diligence here. Each file has a green card  
3 from the post office showing that the package was received.  
4 However, as I understand the green card, all of these unit  
5 applications were mailed out in one single package. So, we  
6 can verify that Mr. Brown signed for a package. But I guess  
7 we have a problem verifying exactly what was in that package.

8           TIVIS BROWN: If they're going to take this route  
9 and say that I received them all, I'd ask that they be mailed  
10 out one at a time because I did not receive but four. My  
11 reputation, I don't think, is at stake nowhere. I'm a  
12 Christian man. I don't tell lies. I only received four.

13           DENNIS GARBIS: Sir, by the fact that you're  
14 here...I mean, you've registered basically a complaint, if  
15 you will. The Board recognizes that and I'm sure if there's  
16 any paperwork that you need to receive from Mr. Swartz, they  
17 will...they will ensure that you'll get it. I mean, if, in  
18 fact, that you are missing some pieces. That will not  
19 interfere at all with your rights. I mean, your rights  
20 whether are...you have the rights and if you're a legitimate  
21 landowner that...that would be...that will be taken care of.

22           TIVIS BROWN: I've got some other questions that I  
23 would like to ask.

24

--

1           DENNIS GARBIS: Well, why don't we continue forward.  
2 I mean unless it pertains to this specific...let Mr. Swartz  
3 go through and---.

4           TIVIS BROWN: Yes, sir.

5           DENNIS GARBIS: ---and then at the end, if either  
6 one of you have any questions, we'll give you ample time to  
7 ask any questions that you might have. Yes, sir.

8           HENRY BROWN: I have one question here. You know,  
9 as far as sending out, Pauline Brown, they have her down here  
10 as Pauline Brown. Her daughter which is McKinley...Hubert  
11 McKinley Brown, his daughter, she has not been included in  
12 none of these. They've got a hold of Pauline. So, that's  
13 Vicky Lynn's mother. So, they should be able to get a hold  
14 of her.

15           TIVIS BROWN: (Inaudible).

16           DENNIS GARBIS: Well, if you have some additional  
17 information, perhaps you can share that with Mr. Arrington.  
18 I'm sure he'd be very glad to help out and take that  
19 information.

20           HENRY BROWN: I looked on these. I can talk to him  
21 about, you know, who to get in touch with to get a hold of  
22 her and mail her.

23           DENNIS GARBIS: I'm sure he'll appreciate that. Mr.

24

--

1 Swartz, would you be kind enough to reconvene and continue.

2 MARK SWARTZ: Right.

3

4 DIRECT EXAMINATION RESUMES

5 QUESTIONS BY MR. SWARTZ:

6 Q. Mr. Arrington, what was your staff expected  
7 to do with regard to mailing here?

8 A. Yes. For what's one the green card, there  
9 should have been a copy of each one of those applications in  
10 each package, you know, and things can happen. We could have  
11 miss putting a copy of an application in an individual  
12 package.

13 Q. Okay. And it's also possible that somebody  
14 who gets something from you loses part of it?

15 A. It, you know---.

16 Q. We're talking possibilities.

17 A. Possibilities are there.

18 Q. What were your instructions to your staff  
19 with regard to mailing with regard to these six units?

20 A. Everyone gets one.

21 Q. Okay. And as far as you know, your staff  
22 followed your directions?

23 A. And from the information supplied to me from  
24

--

1 the staff, it was done.

2 Q. Okay.

3 A. Now, you know, things---

4 Q. Things happen?

5 A. Things happen.

6 Q. Okay. And in any event, both of the  
7 gentlemen that are here this morning signed for some package  
8 that you mailed them with regard to these items?

9 A. That's correct.

10 Q. With regard to docket item 108, AW-108,  
11 which is 0908, the size of this unit is 58.7?

12 TIVIS BROWN: Which 108 are you talking about? AW-  
13 108 or AX-108?

14 MARK SWARTZ: AW-108.

15 Q. What's the size of this unit?

16 A. 58.7.

17 Q. Okay. Let's go to Exhibit A, page 2, and  
18 let us know what interest you've acquired and what interest  
19 you're seeking to pool?

20 A. Yes. We've acquired 100% of the coal  
21 owners, coalbed methane interest. We have 85.217% of the oil  
22 and gas owners, coalbed methane interest. We're seeking to  
23 pool 14.783% of the oil and gas interest.

24

--

1 Q. Okay. And with regard to this unit, you  
2 have some address...some folks for which...for whom you do  
3 not have addresses, correct?

4 A. That's correct.

5 Q. You have listed an interest in unit for each  
6 person you're seeking to pool?

7 A. We have.

8 Q. And have you provided an Exhibit C with  
9 regard to well costs?

10 A. Yes, we have. It was for well number AW-  
11 108, permit number 4938, issued on April the 19th of 2001,  
12 drilled on May the 22nd, 2001, total depth 2,424.90 feet, at  
13 an estimated cost of \$204,673.33.

14 Q. Okay. Does this unit require escrow by  
15 reason of conflicting claims as well?

16 A. Yes, it does.

17 Q. Okay. And the tracts that would...accounts  
18 should be set up for are 1B only?

19 A. Yes.

20 Q. Okay. And the escrow again is for two  
21 reasons: Some folks have not been located and there is a  
22 coal, oil and gas conflict here?

23 A. That...it is.

24

--

1 Q. Okay. With regard to unit AW-109, is this a  
2 58.7 acre unit?

3 A. Yes, 58.7.

4 Q. Okay. And your...the interest you've  
5 acquired and are seeking to pool in this unit are shown on  
6 Exhibit A, page 2 as what?

7 A. We have leased 100% of the coal owner's  
8 coalbed methane interest. We're seeking to pool...we have  
9 leased 79.045% of the oil and gas interest; and we're seeking  
10 to pool 20.955% of the coalbed methane interest from the oil  
11 and gas owner.

12 Q. Okay. Again, we've got an Exhibit B-3,  
13 which shows some folks as unlocatable, but sets forth a  
14 percentage for everyone in the interest in unit column?

15 A. Yes, it does.

16 Q. Did you provide a well cost estimate with  
17 regard to AW-109?

18 A. Yes. Its permit number is 4939. It was  
19 issued on April the 19th of 2001, drilled on June the 10th of  
20 2001 to a depth of 2,653.80 feet, estimated cost is  
21 \$212,510.90.

22 Q. And, again, we've got an Exhibit E with  
23 regard to escrow and in this unit we're also talking about  
24

1 Tract 1B, correct?

2 A. That's right.

3 Q. For conflicting claims and by reason of some  
4 folks being unlocatable?

5 A. That's correct.

6 Q. Here in addition to 1B we have an escrow  
7 requirement for Tract 2, which is simply a conflict issue?

8 A. Uh-huh.

9 Q. And Tract 3, which is also a conflict issue?

10 A. That's correct.

11 Q. With regard to unit AX-107, is this a 58.7  
12 acre unit?

13 A. It should be. Yes.

14 Q. And it's shown on the plat, correct?

15 A. Yes, that's correct.

16 Q. Turning to Exhibit A, page 2, what are you  
17 seeking to pool...what have you acquired and what are you  
18 seeking to pool in this unit?

19 A. Okay, on AX-107, we have leased 100% of the  
20 coal owner's coalbed methane interest. We have leased  
21 98.82289% of the oil and gas, coalbed methane interest and  
22 we're seeking to pool 1.17711% of the coalbed methane  
23 interest from the oil and gas owner.

24

--

1 Q. You've got an Exhibit B-3 here, correct?

2 A. Yes.

3 Q. And on that exhibit you've listed all the  
4 folks you're seeking to pool and a percentage of their  
5 interest in unit appears for everybody, right?

6 A. It does.

7 Q. And it also discloses that there are some  
8 folks that you do not have addresses for?

9 A. That's correct. It does.

10 Q. And so that would be a reason for escrow in  
11 Tract 1A, correct?

12 A. Right.

13 TIVIS BROWN: When was this AX-107 drilled?

14 MARK SWARTZ: If you'll give me a minute, I'll tell  
15 you.

16 TIVIS BROWN: I'm sorry, sir.

17 Q. Okay. And so we are...in terms of  
18 unlocatables, we have some in 1A on Exhibit B, we have some  
19 on Tract 1B as well?

20 A. Yes.

21 Q. Okay. Have you done a well cost estimate  
22 with regard to this well?

23 A. Yes, we have. For AX-107, it's permit  
24

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1 number is 4976. It was issued on May the 30th of 2001. It  
2 was drilled on June the 21st of 2001 to a depth of 2,384.10  
3 feet at a cost of \$205,523,49.

4 Q. Give me the depth again.

5 A. 2,384.10 feet.

6 Q. Okay. Have you got---?

7 SANDRA RIGGS: I'm sorry. I missed that depth.

8 It's different than what's shown on the AFE.

9 MARK SWARTZ: Right. It was estimated. This is the  
10 actual depth.

11 LESLIE K. ARRINGTON: That's the actual depth.

12 SANDRA RIGGS: 2---.

13 MARK SWARTZ: It's 2,384.1.

14 SANDRA RIGGS: Thank you.

15 Q. You've got an Exhibit E here?

16 A. Yes, we do.

17 Q. And in addition to the issue we raised with  
18 regard to escrow for folks that could not be located, we've  
19 also got a conflict escrow required---?

20 A. That's correct.

21 Q. ---with regard to Tract 1A, correct?

22 A. Right.

23 Q. We've got a conflict in 1B?

24

--

1 A. Yes.

2 Q. We've have conflicts in 2B and 4A, is that  
3 correct?

4 A. That's correct.

5 Q. With regard to AX-108, this is also a 58.7  
6 acre Middle Ridge unit, correct?

7 A. It should be, yes.

8 Q. Okay. The plat so indicates, does it not?

9 A. Yes, it does.

10 Q. Okay. What is the interest that you've  
11 acquired in this unit and the interest that you're seeking to  
12 pool?

13 A. Okay, AX-109, we have 100% of the coal  
14 owners coalbed methane interest leased. We have 60.81497% of  
15 the oil and gas, coalbed methane interest leased. We're  
16 seeking to pool 39.18503% of the coalbed methane interest  
17 from the oil and gas owners.

18 Q. You've got an Exhibit B-3 with regard to  
19 unit AX-108, correct?

20 A. Yes, I do.

21 Q. And on that, have you listed all of the  
22 folks you're seeking to pool?

23 A. Yes, we did.

24

--

1 Q. And have you listed a percentage interest in  
2 unit for each of them?

3 A. Yes, we have.

4 Q. And does Exhibit B-3 show that some of the  
5 folks you're seeking to pool, their addresses are unknown?

6 A. Yes, it is.

7 Q. Okay. So, from the standpoint of escrow for  
8 folks that have unknown addresses or are unlocatable, we  
9 would be would be talking about Tract 1B, correct?

10 A. Yes.

11 Q. 1F, right?

12 A. Yes.

13 Q. Have you prepared a cost estimate with  
14 regard to---?

15 CLYDE KING: Are you at AX-108?

16 MARK SWARTZ: Uh-huh.

17 LESLIE K. ARRINGTON: Yes, sir.

18 MARK SWARTZ: Yes.

19 Q. With regard to the well in AX-108?

20 A. Yes, it's permit number 4961. It was issued  
21 on May the 9th of 2001. It was drilled on May the 29th of  
22 2001 to a total depth of 2,472.60 feet, at an estimate cost  
23 of \$205,599.91.

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1 Q. You've also got an Exhibit E dealing with  
2 escrow, correct?

3 A. Yes, we do.

4 Q. And you have a conflict requiring escrow in  
5 Tract 1B?

6 A. Yes.

7 Q. There's also a conflict in Tract 1F,  
8 correct?

9 A. Yes.

10 Q. And there are also conflicts in ownership  
11 between coal, oil and gas in Tracts 1D and 2B, is that  
12 correct?

13 A. That's correct.

14 Q. Turning to---

15 SANDRA RIGGS: 1B or D?

16 MARK SWARTZ: 1B.

17 LESLIE K. ARRINGTON: B.

18 MARK SWARTZ: I'm sorry, 1D as in David and 2B as in  
19 boy.

20 Q. Turning to AX-109, which is the last unit in  
21 this collection.

22 A. Okay.

23 Q. Is this also a 58.7 acre Middle Ridge unit?  
24

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1           A.       Yes, it is.

2           Q.       Let's turn to Exhibit A, page 2 with regard  
3 to the interest you've acquired and the interest you're  
4 seeking to pool.

5           A.       AX-109, we have 100% of the coal owner's  
6 coalbed methane interest. We have 92.11% of the oil and gas  
7 interest. We're seeking to pool 7.89% of the oil and gas  
8 interest.

9           Q.       There's an Exhibit B-3 with regard to this  
10 unit, correct?

11          A.       Yes...yes, it is.

12          Q.       Okay. And in that, you've listed each of  
13 the respondents, correct?

14          A.       Yes, we have.

15          Q.       And you've shown a percentage representing  
16 their interest in the unit for each person you're seeking to  
17 pool?

18          A.       Yes, we have.

19          Q.       I note in Tract B, there is at least one  
20 address unknown. Do you see that?

21          A.       Yes.

22          Q.       For Tract 1B then, would it be true that  
23 there needs to be an escrow for folks that are unlocatable at

24

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1 this point?

2 A. Yes, it is.

3 Q. Have you done a well estimate with regard to  
4 the well in AX-109?

5 A. Yes, we have. It's permit was 4937, issued  
6 on April the 19th, 2001, drilled on June the 3rd of 2001 to a  
7 depth of 2,470.10 feet, at a cost of \$205,572.43.

8 Q. And then you've got an Exhibit E as well  
9 here---?

10 A. Yes, we do.

11 Q. ---with regard to AX-109, which appears to  
12 require escrow for the additional reason of a conflict  
13 between coal, oil and gas ownership for Tract 1A, as in  
14 Apple, 1B as in boy, 2A, as in apple, 2B, as in boy, and  
15 Tract 3, is that correct?

16 A. That's correct.

17 Q. With regard to these six units, is it your  
18 opinion that the development plan to develop the coalbed  
19 methane in these Middle Ridge units as shown in the  
20 applications and as shown on the plat, and as discussed with  
21 regard to the wells, is a reasonable plan to develop coalbed  
22 methane from under these units?

23 A. Yes, it is.

24

--

1 Q. And is the...are these applications, in your  
2 opinion, a means to protect the interest of all person's  
3 having correlative rights within these six units?

4 A. Yes, it is.

5 Q. And does this...do these applications under  
6 West Virginia law allow development to proceed to produce gas  
7 attributable to the leases, the vast majority of the leases  
8 that you've obtained in these six units?

9 A. It will protect them in Virginia, yes,

10 Q. Did I say West Virginia?

11 A. You did.

12 DENNIS GARBIS: Yes, you did.

13 MARK SWARTZ: I have boundary issue sometimes.

14 Q. And lastly, would you recommend these...that  
15 these units be pooled as a reasonable means of producing the  
16 gas and protecting the interest of all concerned?

17 A. Yes, it will.

18 Q. Okay. That's all I have of this witness and  
19 I'm done.

20 DENNIS GARBIS: Mr. Brown, did you get that answer  
21 that you were looking for as far as the depth of the well.  
22 Did you hear the answer to that?

23 TIVIS BROWN: No, I'm hard of hearing.

24

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1           DENNIS GARBIS: I am, too. It was approximately  
2 2,400 feet.

3           TIVIS BROWN: Okay. I have some questions I'd like  
4 to ask.

5           DENNIS GARBIS: Certainly. Go ahead and ask.

6           TIVIS BROWN: A lot of these wells, part of them I  
7 don't have, but part of them was drilled in May and April.  
8 None of them was drilled on this property, right?

9           LESLIE K. ARRINGTON: To my knowledge, they were  
10 not.

11          TIVIS BROWN: You platted them for a certain---

12          LESLIE K. ARRINGTON: Yeah.

13          TIVIS BROWN: ---for a certain plat back in May and  
14 April.

15          LESLIE K. ARRINGTON: That's correct.

16          TIVIS BROWN: How did you guys justify coming in  
17 later and never having asked us for a coal and gas methane  
18 lease or anything and trying to pool this? I want an answer  
19 to that.

20          MARK SWARTZ: We were...excuse me. Are you done?

21          TIVIS BROWN: We've never been asked for a coal  
22 methane gas lease on this property.

23          MARK SWARTZ: Well, sir, I was here once before with  
24

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1 you where you testified that you told representatives of my  
2 client that you would not lease to them under any  
3 circumstances when they approached you for a lease and then  
4 complained that they hadn't come back to you. Do you  
5 remember that?

6 TIVIS BROWN: Sir, since you brought that up, that  
7 was on the tract that we own solely. We own all mineral  
8 rights and everything, which this Board seen fit to let you  
9 go ahead and get our methane gas from the company wells that  
10 was plated and permitted on our property.

11 MARK SWARTZ: So, are you telling the Board  
12 today---?

13 TIVIS BROWN: This here is a different situation.

14 MARK SWARTZ: Okay, are you telling the Board today  
15 that you're willing to lease your interest in these units?

16 TIVIS BROWN: I say we've never been asked and I  
17 want to know why.

18 MARK SWARTZ: Well, are you taking back what you  
19 said to my representatives last time, which was "under no  
20 circumstances would you lease to them"?

21 TIVIS BROWN: That's a different...that's a  
22 different...we own all this other property, not this. We  
23 don't own the coal under this. That's a different situation.

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DIRECT EXAMINATION RESUMES

QUESTIONS BY MR. SWARTZ:

Q. Mr. Arrington, do you know whether...what would your procedure in your office be with regard to these six units with regard to leasing unleased interest.

A. Our general procedure is that each individual tract that we come upon such as the Jacob Fuller, the owners in that tract are offered a lease for that tract. Not per unit, but for that tract.

Q. Okay, would---?

A. And it's general...it's a standard mail out. We find...we get addresses and we mail leases by certified mail.

Q. Would it be your expectation, based on your standard procedure and based upon the fact that you have addresses for this gentleman...an address for this gentleman, that he would have been mailed a lease at some point as a Jacob Fuller heir?

A. I would have expected it, yes.

MARK SWARTZ: That's all I have.

TIVIS BROWN: Cousin Earl, do you remember having been mailed a gas lease on the Jacob Fuller tract of land on

1 this particular part we're talking about today?

2 HENRY BROWN: No, I have not.

3 DENNIS GARBIS: Is your contention that you never  
4 received any correspondence from---

5 TIVIS BROWN: To the best of my knowledge. I've  
6 received a lot of papers. I wouldn't want to tell nothing  
7 that's untrue, but to the best of my knowledge, we never  
8 received any papers asking for a lease on this tract of land.

9 DENNIS GARBIS: But perhaps you did receive  
10 something? Maybe you did and maybe you didn't?

11 TIVIS BROWN: It's possible we could have received  
12 them in some other papers, but we weren't aware that we were  
13 heirs in this for a long time. If we've ever received any  
14 papers for a lease on this, I don't remember it.

15 DENNIS GARBIS: Would you be willing to sit down  
16 with Mr. Arrington and discuss perhaps some ideas on how you  
17 two could get together? Is there any reason why you wouldn't  
18 want to sit down with them?

19 TIVIS BROWN: No...no reason whatsoever.  
20 Furthermore, in the order and findings and what they asked  
21 for it tells...it said you could come before this Board on  
22 the 21st. They write up and send to me what they're going to  
23 get from the Board to start with. It looks to me like that I

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1 don't have no business over here.

2           DENNIS GARBIS: Well, you have a right to negotiate  
3 up to thirty days after the Board makes a decision. So, you  
4 can negotiate with them---.

5           TIVIS BROWN: I'm not...the other part that I want  
6 to bring up is the part that comes in too, they mention their  
7 cost of the well. Well, they went ahead and drilled these  
8 wells and now they come up and if I read and determine what  
9 they've got wrote up here and the law...they quote the law  
10 here that we'd have to be responsible for part of the costs  
11 and the drilling of the wells and making it marketable, which  
12 they went ahead and drilled their own wells. I don't know  
13 whether they had this in mind...this property in mind when  
14 they drilled the well or not. But now here three or four  
15 months later, after they get their wells drilled, they want  
16 to pool our methane gas through their well that they've  
17 already drilled and want us to share a part of the cost for  
18 the drilling and marketable price of the gas. I object to  
19 that.

20

21           SANDRA RIGGS: The wells were drilled pursuant to a  
22 permit that was issued by the Division of Gas and Oil.  
23 Before they can produce gas out of that well, they have to

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1 control the gas within...the coalbed methane, which is the  
2 coal and the gas within the drilling unit that this Board has  
3 already established. This Board said that well will drill  
4 this 80 acres. You've got to go out and get voluntary  
5 agreements with everybody within this 80 acres. If you  
6 can't, then you've got to come back to us for a pooling,  
7 okay? And that was established by the Middle Ridge Field  
8 Rules where this Board established what the...what the  
9 drilling units were going to look like. They don't control  
10 which tracts fall within that drilling unit. They only  
11 control where the well gets set. Then they have to go out and  
12 find out who...who has interest within that drilling unit and  
13 if they don't control all of that interest, they have to come  
14 to this Board to make sure that everybody in that drilling  
15 unit has an opportunity to share in the well. Now, you get  
16 options through the Board order and you've received these  
17 orders in the past in other drilling units where you can  
18 choose to participate, you can be carried, or if you do  
19 nothing, you lease or you can elect to lease. You have  
20 different options. The only time the cost which they  
21 incurred in drilling the well becomes a factor is if you  
22 choose to participate by buying a working interest in that  
23 well, by becoming their partner. I don't know if that's

24

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1 something you're considering or not. But the testimony has  
2 said you would take your percentage interest in the drilling  
3 unit and you would multiply that times the cost of the well  
4 if you want to become a working interest partner and that  
5 would be the deposit. If you want to lease, you don't put up  
6 any money. The only time you...the only time the cost of the  
7 well becomes relevant to you is if you choose to participate  
8 or be carried. Is that...do you understand the options and  
9 what that number is for? That's an estimated cost and if  
10 anybody participates in that well, the operator is required  
11 by the Board order to actually substantiate the actual cost  
12 of drilling the well and change that from an estimate to an  
13 actual cost.

14 TIVIS BROWN: Well, what about if you don't decide  
15 to become a participating member?

16 SANDRA RIGGS: Well---.

17 TIVIS BROWN: Do you still pay?

18 SANDRA RIGGS: No, you do not.

19 TIVIS BROWN: Well, I choose not to myself.

20 HENRY BROWN: I have a question on that---.

21 SANDRA RIGGS: You get a royalty which is a 1/8th  
22 royalty and if you're a leased party, you receive a royalty.  
23 You're not a partner. You don't have a working interest.

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1 You have a royalty interest and you put up no money.

2 TIVIS BROWN: We're not a leased party.

3 SANDRA RIGGS: Well---

4 TIVIS BROWN: We may get escrowed, but we're not a  
5 leased party.

6 SANDRA RIGGS: Well, you will be a leased party  
7 under the pooling order if the Board approves this pooling  
8 order.

9 HENRY BROWN: I have one question on that right  
10 there, you know. If each individual here had, say, that they  
11 want to become a partnership---

12 SANDRA RIGGS: Right. They want to either---

13 HENRY BROWN: ---and that they do not, would it be  
14 feasible for them to send out blank forms to each individual  
15 to sign it with their signature whether they do want to  
16 become a participant or they do not?

17 SANDRA RIGGS: When the Board sends out its order,  
18 there's a paragraph in there that says as a party to these  
19 proceedings you have the following rights: To participate,  
20 and if you choose to participate, this is what you've got to  
21 do. To be carried, if you want to be carried, this is what  
22 you've got to do. If you want to be leased, this is what  
23 you've got to do. If you do nothing, you'll be deemed to be

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1 leased. You've got a period of time established by the Board  
2 order within which to let the operator know which of those  
3 options you wish to elect. If you choose to participate,  
4 then you've got a fixed period of time within which to  
5 calculate the cost of participation and send them a check.  
6 And all of that is spelled out in the Board order. So, when  
7 you get the Board order, you read through the election  
8 options, make your choice as to which one you wish to elect  
9 and depending on whether you elect to participate, you've got  
10 to send money. If you elect to be carried, you don't put up  
11 money. If you elect to be leased, you don't put up money.  
12 Does that make sense?

13 HENRY BROWN: Yes, it does. That makes sense.

14 SANDRA RIGGS: Okay.

15 HENRY BROWN: That's clear, you know. But we will  
16 receive a document on that?

17 SANDRA RIGGS: You will receive an order from the  
18 Board and in there, there is a whole section of that order  
19 that spells out each of these options and what you have to do  
20 and the time within that you have to do it in order to make  
21 your choice as to which way you want to go. Now, once you  
22 let them know, they have to file notice with the Board as to  
23 which of these parties have elected to participate, which

24

--

1 have elected to be carried, which have elected to lease, and  
2 which have done nothing, and therefore, under the law are  
3 deemed to have leased their interest.

4 HENRY BROWN: Okay, and then on the document, let's  
5 say I've got six documents, if I want to participate in three  
6 of them, I can and three I don't have to, you know, to be  
7 leased?

8 SANDRA RIGGS: Exactly. It's unit by unit.

9 HENRY BROWN: Of certain wells of certain sections  
10 of land I want to participate in that, that's my...you know,  
11 my option to do whichever I elect?

12 SANDRA RIGGS: Exactly. And you take your percent  
13 of interest for that unit as spelled out on the Exhibit B,  
14 interest in the unit, there's a percentage there, and you  
15 multiple that times the cost of the well, which is why  
16 they've got to come up with the cost, and that would be your  
17 share of that participation. That would be the amount of the  
18 check.

19 HENRY BROWN: And then if I decided to do it, I  
20 would have to pay my part then, right?

21 SANDRA RIGGS: Within the time set forth in the  
22 Board order. I think it's forty-five days---

23 MARK SWARTZ: It's forty-five days.

24

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1           HENRY BROWN: Forty-five.

2           SANDRA RIGGS: ---you have to do that. And if you  
3 had questions in terms of calculating that, you could get  
4 with the operator and they could help you figure out  
5 exact...that your calculation is correct.

6           MARK SWARTZ: What Sandra has been telling you  
7 about is attached to each one of these things. There is  
8 a---

9           HENRY BROWN: Well, you know, everything you had a  
10 minute ago is not in mine. I bet you we can look on there I  
11 won't have...everything is not here.

12           MARK SWARTZ: I don't agree with that. But I'm  
13 prepared to compare. They mail me the same time they mail to  
14 you.

15           HENRY BROWN: Well, I know. Just I like I said,  
16 it's supposed to be there. But it isn't there?

17           MARK SWARTZ: What I was suggesting to you, sir---

18           SANDRA RIGGS: It's two separate documents. One's  
19 the notice and the other is the application.

20           MARK SWARTZ: What's she's just explaining to you on  
21 election options, there's this form attached to everyone of  
22 the ones you've got, that has...this is to participate and  
23 that tells you how to do that. This is to be leased and this

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1 is to be carried. So, the three options that she has been  
2 talking to you about are spelled out---

3 HENRY BROWN: On this here, okay.

4 MARK SWARTZ: ---in here. Now, the Board's order  
5 is never exactly like what we propose. But it's real close,  
6 okay. So, what she has just said to you is in writing here  
7 if you want to study it.

8 TIVIS BROWN: I've got another question for the  
9 Board. Who oversees this escrow money and sees that it's put  
10 in the account regularly and on time?

11 SANDRA RIGGS: The escrow agent is selected by the  
12 Board and that's First Union Bank, and they file periodic  
13 reports with the Division of Gas and Oil that are on file in  
14 the Abingdon office and Bob can probably explain what the  
15 reporting process is better me.

16 BOB WILSON: We...first of all we...by contract, we  
17 solicit an agent to handle the escrow money. We solicit  
18 contract proposals from financial institutions that are  
19 capable of handling these amounts of money and the last time  
20 we issued a call for contracts, First Union National Bank got  
21 that contract and they are the agent that's charged with  
22 handling all of this money and accounting for it to us. They  
23 report to us on a monthly basis just after the first of every

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1 month. They tally up all of the deposits they've received  
2 the month before, all the interest they have applied to the  
3 account and we get a docket by docket accounting of every  
4 account that's in that escrow account on a monthly basis. We  
5 get a twice yearly report on any payouts that have been made  
6 from that. The only way payouts can be made is through  
7 either a Court order that settles the disputed claim or an  
8 agreement between the disputing parties. We can't go in and  
9 get that money out without a Board order. The Bank will not  
10 release any of that money to anybody without a Board order.  
11 That's how it's managed independently. We...we administer  
12 the account, but the bank manages it.

13 DENNIS GARBIS: Do you have any additional  
14 questions? Does that answer all your questions?

15 HENRY BROWN: On the monthly basis, how would we go  
16 about getting a copy of how much money has been appropriated  
17 to that account?

18 BOB WILSON: What you can do at any time is call the  
19 Division of Gas & Oil and give us the docket numbers that  
20 you're interested in and we can give you the amount for the  
21 preceding month that we have reporting for. Now, that amount  
22 will probably be the amount for that unit, not the amount  
23 that's attributed to your interest or to your tract. We'll  
24

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1 give you the total amount that's in escrow for that  
2 particular unit and then you can go back in using this data  
3 and calculate how much of that would be attributable to your  
4 account if it were settled. But the amount that is in each  
5 individual...under each individual docket number, we can give  
6 to you at any time; and as I said, it would speed the process  
7 up if when you call you could give us these docket numbers  
8 and we can go into the computer system and read the numbers  
9 off to you.

10 HENRY BROWN: Okay, one other question, you  
11 said...say, if I had \$5 or \$15 or what's in there, say, at  
12 the end of the year on those documents, if I requested to  
13 draw that out, I would have to go through the Board here to  
14 get it, right.

15 BOB WILSON: Right. What you would have to do is  
16 either have a Court order which satisfies the conflict of  
17 interest which is why it's being escrowed in the first place,  
18 because the coal and the coalbed methane consti...and the oil  
19 and gas ownership constitute a conflict of interest in there.  
20 That's why it's going into the escrow account. So, what you  
21 would have to do would be to petition the Board either with a  
22 Court order which has settled that disputed claim or a  
23 settlement that you have arrived at with the other

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1 conflicting parties. You bring that before the Board and  
2 both parties attest to the fact that they have come to an  
3 agreement to split that interest. Then and only then can you  
4 get that money out if the Board approves that split.

5 HENRY BROWN: Okay, now the conflict of interest,  
6 what are you saying, that I own the gas or do you own it?

7 SANDRA RIGGS: Well, in Virginia, under the law---.

8 HENRY BROWN: We own it.

9 SANDRA RIGGS: ---there has not been a resolution  
10 yet as to who owns coalbed methane gas. The conflict is  
11 between the coal owner and the gas and oil owner as to who  
12 owns the coalbed methane. So, since there isn't a decision,  
13 the way the statute is set up until that is resolved the  
14 money will be held in escrow and whoever prevails will be  
15 entitled to that money.

16 HENRY BROWN: Money.

17 SANDRA RIGGS: And it's because the gas has been  
18 severed away from the coal and it's in two separate  
19 ownerships and there's no resolution as to which owns it.  
20 What has been happening before the Board for most of the  
21 distributions is the coal owner gets with the gas and oil  
22 owner and they say we don't want to go to Court and litigate  
23 this. We'll enter into an agreement and we'll split 50/50,  
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1 60/40, whatever their negotiation is and then they come back  
2 to the Board and they've said we've settled this. We want  
3 out money out. The gas owner is going to take 50% of it.  
4 The coal owner is going to take 50% of it. Based on that, by  
5 the statute, the Board is authorized to make a disbursement.  
6 Only two ways can the Board make a disbursement, either the  
7 Court settles the issue as to who owns the coalbed methane,  
8 coal or gas and oil, or the two parties sit down and settle  
9 it between themselves. If the Board is presented with either  
10 of those scenarios, then it's authorized to disburse the  
11 money attributable to that conflicting claim.

12 BOB WILSON: I think you mentioned earlier, one of  
13 you, that you had a tract in which owned the coal and gas and  
14 oil. If that's the case, that will not go into escrow.

15 TIVIS BROWN: That was me.

16 BOB WILSON: There should not be any conflict on  
17 that. That should be paid directly to you. So, there will be  
18 no application process for that.

19 SANDRA RIGGS: It's only where the coal is owned  
20 separately by different people than the gas and oil that you  
21 end up or where there's a claimant that we don't know their  
22 address or their identity is unknown. Now, that goes into  
23 escrow until such time as they can be located.

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1           TIVIS BROWN: Well, where that pooling, where you  
2 own your mineral rights and all, how is that supposed to be  
3 reported to the Gas and Oil Board?

4           SANDRA RIGGS: Well, it depends on what minerals you  
5 own.

6           TIVIS BROWN: We own all of it.

7           SANDRA RIGGS: Are you saying you own the coal and  
8 you own the gas and oil?

9           TIVIS BROWN: Yes, ma'am.

10          SANDRA RIGGS: Well, they...the unit operator, the  
11 applicant, before they come here they research title and  
12 that's how...on the exhibits here, there's a list of coal  
13 owners and then there's a list of gas and oil owners on a  
14 tract by tract basis. When you look at your tract and you  
15 look under who owns the gas, if they're one and the same,  
16 then there's no escrow because there is no conflict. If  
17 one...if however, based on their title search, the coal is  
18 owned differently than the gas and oil, then that's what  
19 creates the conflict and that's what requires the escrow.

20          MARK SWARTZ: If you own the coal and oil and gas,  
21 you get a check every month that says what it's for. If you  
22 don't, if you only own half of one part of that, it goes to  
23 the escrow agent, the check does, with the detail in terms of

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1 what it was for.

2           TIVIS BROWN: They just escrowed ours a  
3 couple...pooled it rather than escrow because we owned the  
4 gas, oil and everything. So, far we've not got no check.  
5 I'd like to ask a question of how they determine where these  
6 wells are pre-drilled and then they decide to get gas off of  
7 somebody else's place, how did they determine what percentage  
8 they're getting off of them.

9           SANDRA RIGGS: The Board has already established the  
10 drilling unit. So, when the plat is prepared, it's the  
11 percentage that's your tract...percentage of acres that's  
12 your tract represents against the whole. So, if it's an 80  
13 acre tract and you own one acre, it's 1/80th. You own 1/80th  
14 of that drilling unit. So, you take the number of  
15 acres...mineral acres that you have within the tract and  
16 that's how they compute that.

17           TIVIS BROWN: Well, the question I was asking,  
18 though, see, these wells have done been in operation for over  
19 a year where they was going to draw the gas off of our place,  
20 when...how did...how would you determine how much gas they've  
21 got off our place before they asked to pool it.

22           SANDRA RIGGS: Well, the testimony was that they  
23 just drilled these wells and they haven't gone into  
24

1 production yet.

2 TIVIS BROWN: No, they...we're talking about...we  
3 was talking about them places where we own the gas, oil and  
4 everything and about two months ago, they decided they wanted  
5 the Board to give them the right to pool our gas off our  
6 place where we own all the mineral rights and everything.

7 BOB WILSON: There is a lag time between the  
8 production and the time the checks come out because there are  
9 independent meter readings involved and this sort of thing to  
10 determine the amount gas that has been produced. At any time  
11 you're interested in how much gas has been produced from a  
12 particular well, again, you can contact the Division of Gas  
13 and Oil because we get records of that delayed the same way  
14 that you get paid. We don't get them immediately because  
15 there's a process involved. But we can...we can furnish you  
16 with information on how much gas has been produced from an  
17 individual well at most any time and, as a matter of a fact,  
18 on---

19 TIVIS BROWN: I have them records. I've done picked  
20 them up.

21 BOB WILSON: Yes. Yes. That's the sort of thing  
22 that we have gotten for you before, that we can get it most  
23 any time. We can also provide you with a lot of the

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1 information you need relative to specific units and the  
2 percentages and how they're figured, we can do that research  
3 in the Division of Gas and Oil and provide you with that  
4 information on a specific basis and let you know when a well  
5 started producing and that sort of thing. We don't have all  
6 that information with us, obviously, here because it's in a  
7 data bank. But we'll be glad to provide you with that  
8 information at any time you need it from the Division of Gas  
9 and Oil.

10 TIVIS BROWN: Yeah, I've been over there two times  
11 and they've done provided me with information.

12 DENNIS GARBIS: Are there any questions? Any  
13 additional questions, gentlemen?

14 TIVIS BROWN: No, I don't believe on my part that I  
15 have any more.

16 DENNIS GARBIS: Are you satisfied? Have you had  
17 your day in court?

18 TIVIS BROWN: Yeah, I was concerned about the...you  
19 know, the costs and personal things, if you was not a  
20 participating member and the Board clarified that for me.

21 DENNIS GARBIS: Mr. Swartz, do you have a petition?

22 MARK SWARTZ: I just have one question of Mr.  
23 Arrington.

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1 take care of the leasing procedures, right of way,  
2 acquisitions. Anything that requires acquisitions.

3 Q. Because of questions with regard to leasing  
4 and discussions, do you...have you implemented, I mean, quite  
5 some time ago, a procedure between the land folks like Scott  
6 Hodges and yourself, and if you have, could you tell the  
7 Board what you require of them before you come over here?

8 A. Yes. Several times, as you know, we've come  
9 over and we've ran into these situations. I said, hey, guys  
10 I have to have something in my files that tells me these  
11 people were contacted or this was done. So, they...when I  
12 filed the application, if there is unleased parties, I give  
13 them a copy of that, which is basically thirty days before  
14 the hearing. Then they give me a memo back saying okay, here  
15 is the individuals and this is what we offered them or this  
16 is the standard lease that we offered them. I have here the  
17 copies from Scott and...well, and Jerry Boothe who also works  
18 for Scott, the information that I used to prepare not only my  
19 application but to follow up if there's any changes. And  
20 generally, when there's changes, we give you a revised  
21 exhibit where they've actually leased some of the unleased  
22 owners.

23 Q. I want you to just read part of the August  
24

1 second memo from Scott to you into the record. If you would  
2 read the second sentence.

3 A. Yes. It says, "Each of the heirs were  
4 offered our standard oil, gas and coal seam gas Lease by mail  
5 out."

6 Q. Okay. The other memo from Jerry Boothe to  
7 Scott, you've got a copy of it, it starts with the  
8 sentence...what does it say?

9 A. It says, "The following individuals were  
10 contacted and offered a oil, gas and coalbed methane lease."

11 Q. Okay. And then would you check for Tivis's  
12 name on there?

13 A. Yes, it was. Tivis's name was on here.  
14 Now, one...one thing as I flip through this list here, and  
15 Tivis may be able to recall this, we offered a lease under  
16 Ellen Brown heirs, I believe also, and I don't, Tivis, maybe  
17 that's how they contacted you, was part of the Ellen Brown  
18 heirs.

19 TIVIS BROWN: Well, we sold...we sold out that part.

20 LESLIE K. ARRINGTON: Okay.

21 TIVIS BROWN: Like I said, it could have been in  
22 that, but as far as them---

23 LESLIE K. ARRINGTON: And it may have been in that  
24

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1 group.

2 TIVIS BROWN: Beside...as far as them offering to  
3 lease off of us in a separate lease for this here...where  
4 they're wanting to escrow today, we never received one.

5 Q. From the information, from the memo that  
6 you've got from Mr. Boothe, how many of the Jacob Fuller  
7 heirs were your land people able to lease?

8 A. To date, they've leased twenty-four.

9 Q. Okay. So, they've made some progress?

10 A. Yes, they have.

11 MARK SWARTZ: That's all I would add in that regard.

12 CLYDE KING: Mr. Chairman, I have a question.

13 DENNIS GARBIS: Sure.

14 CLYDE KING: We've heard Les state that you mail out  
15 these things and maybe they say they didn't get them but you  
16 mailed a group in one envelope. Is there any paper trail to  
17 indicate exactly who was sent in what envelope and when---?

18 LESLIE K. ARRINGTON: Well, again, as I stated there  
19 a while ago, some of those packages I believe he said he  
20 had---

21 TIVIS BROWN: That right there is...right there is  
22 the one I got.

23 LESLIE K. ARRINGTON: I believe there should have  
24

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1 been six in each one, you know.

2 TIVIS BROWN: They got a brown one.

3 LESLIE K. ARRINGTON: As they went through and put  
4 them together, you know, we all could---

5 CLYDE KING: Wouldn't that be a good idea to know  
6 that?

7 LESLIE K. ARRINGTON: We could have missed those,  
8 you know, as you picked them up.

9 TIVIS BROWN: If the Board would care to look, what  
10 she got back there wouldn't go in this pack that I've got  
11 here, I don't believe. I---.

12 CLYDE KING: It just seems to me, Les, that it would  
13 be simpler and quit some of the problems that are involved if  
14 you had...it would take a little more postage to send it---.

15 LESLIE K. ARRINGTON: A little more postage because  
16 each package, whether it's one or six, I mean, granted...but  
17 each package is more than \$6 now. So, you know---

18 CLYDE KING: Well, I mean, is there some paper trail  
19 to say what was in that envelope?

20 LESLIE K. ARRINGTON: Well, again, you know, you  
21 have the copies laying there and you go through, you're  
22 picking them up and putting them in that package. You know,  
23 there's always that chance of human error of missing that.

24

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1 And I'm not going to say that we didn't.

2 TIVIS BROWN: I withdraw anything that I might have  
3 said because I realize, like he said, there could be human  
4 error. But I did not get but four.

5 DENNIS GARBIS: Yes, go ahead.

6 KEN MITCHELL: Mr. Chairman, just a suggestion, and  
7 I'm not trying to dictate anything, but my suggestion is that  
8 any multi-faceted mail out would have a major cover letter as  
9 a letter of transmittal. I've done them myself. I've done a  
10 lot of filings with the federal government and I'll put a  
11 letter of transmittal that says, "You are receiving one, two,  
12 three, four, five, six and seven. If you have not received  
13 these, please call us or contact us." I think a letter of  
14 transmittal...I'm just saying for the future. Obviously,  
15 this is water under the bridge, or spilled milk, or whatever  
16 you want to call it. But to me, I'm just suggesting that a  
17 letter of transmittal telling the applicant you are receiving  
18 these seven items or these nine items or these thirteen  
19 items. At least he would have the option to take the cover  
20 letter and use it right on top in big letters "Letter of  
21 Transmittal" in big letters, if you don't receive these seven  
22 items, contact us at so and so, I think would have solved  
23 what we were experiencing here today. Just a suggestion.

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1           LESLIE K. ARRINGTON: Okay.

2           CLYDE KING: And that would have a return/receipt  
3 requested.

4           LESLIE K. ARRINGTON: They do have.

5           TIVIS BROWN: Yes, sir, I signed a return/receipt,  
6 but I did not receive but four copies.

7           MAX LEWIS: Did you state that in your---?

8           TIVIS BROWN: Sir?

9           MAX LEWIS: Did you state that whenever you  
10 contacted them that you received that?

11           TIVIS BROWN: No. No, sir, you have to sign for  
12 your letter before you get it and took it home before I  
13 opened it.

14           DENNIS GARBIS: Do you have any further witnesses,  
15 Mr. Swartz?

16           MARK SWARTZ: No, I do not.

17           DENNIS GARBIS: Are there any additional discussion  
18 or questions from the members of the Board?

19           ADA HORN: I would like to say something. I'm not  
20 sworn in.

21           COURT REPORTER: You have to come down here.

22           DENNIS GARBIS: Would you like to come down, ma'am,  
23 and be sworn, please?

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1 (Ms. Horn comes down front and is duly sworn.)

2 COURT REPORTER: State your name, please.

3 ADA HORN: Ada Horn.

4 DENNIS GARBIS: Yes, ma'am. You'd like to make some  
5 comments.

6 ADA HORN: Yes, I would. I am Audrey Blankenship  
7 ...a heir. My mother expired and I am her only child. So, I  
8 am here in behalf of her.

9 DENNIS GARBIS: Okay.

10 ADA HORN: First of all, I...you know, I have never  
11 been here before and they are a lot of errors in this. I  
12 don't know if---

13 LESLIE K. ARRINGTON: I'm not aware of them. If  
14 you...just make a list.

15 ADA HORN: Okay. All right. My mother, she...well,  
16 my grandmother, she has been dead for several years and she  
17 is Mary Ellen Brown Perkins Smith, and she is of the Ellen  
18 Fuller heirship. Okay, they totally excluded her when they  
19 were, you know, making up this property. But, anyway, they  
20 have said her heirs would only receive my uncle's share,  
21 which is not so, and his name was Tolbert Brown and he also  
22 died.

23 DENNIS GARBIS: If you have information, I'm sure  
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1 Mr. Arrington would be glad to receive that information to  
2 make sure that he's accurate and what he produces for the  
3 Board and for his records.

4 ADA HORN: Then I need to talk to him, you know,  
5 outside of the Board.

6 DENNIS GARBIS: Yes, you can do that at any time.

7 (Mr. Swartz informs Ms. Horn how to contact them.  
8 Off record discussion.)

9 DENNIS GARBIS: Mr. Swartz, do you have any other  
10 witnesses?

11 MARK SWARTZ: No.

12 DENNIS GARBIS: Are there any questions from any  
13 member of the Board?

14 (No audible response.)

15 DENNIS GARBIS: No questions. Do you have a  
16 petition? What would you request---?

17 MARK SWARTZ: We would request that the Board  
18 approve the six combined applications in the Middle Ridge  
19 Field.

20 DENNIS GARBIS: We have a petition. Could we have a  
21 motion?

22 MASON BRENT: Mr. Chairman, I'd move that we approve  
23 the applications as submitted.

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1           DENNIS GARBIS: We have a motion. Do we have a  
2 second?

3           CLYDE KING: Second.

4           DENNIS GARBIS: We have a motion and second. Any  
5 additional discussion or questions?

6           (No audible response.)

7           DENNIS GARBIS: All those in favor, signify by  
8 saying yes.

9           (All members signify yes.)

10          DENNIS GARBIS: Those opposed, say no.

11          (No audible response.)

12          DENNIS GARBIS: Approved. Let's take a ten minute  
13 break.

14          (Break.)

15          DENNIS GARBIS: We're back on the record. Let's  
16 reconvene. The next two items we will hear will be agenda  
17 items nine and ten. Mr. Swartz, is that correct?

18          MARK SWARTZ: Right.

19          DENNIS GARBIS: The Virginia Gas and Oil Board will  
20 consider a petition from Pocahontas Gas Partnership under the  
21 appropriate section for pooling of a coalbed methane unit  
22 under the Middle Ridge I Coalbed Methane Gas Field order and  
23 identified as AY-107, located in the New Garden/Hurricane

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1 District, Russell County, Virginia. This is docket number  
2 VGOB-01-08/21-0913. Additionally, we'll hear agenda item  
3 number ten, which is a petition from Pocahontas Gas  
4 Partnership under the appropriate section for pooling of a  
5 coalbed methane unit under the Middle Ridge I Coalbed Methane  
6 Gas Field order and identified as AY-108, located in Russell  
7 County. This is docket number VGOB-01-08/21-0914. We'd ask  
8 the parties that wish to address the Board in this matter,  
9 please come forward at this time.

10 MARK SWARTZ: Mark Swartz and Les Arrington.

11 DENNIS GARBIS: Proceed.

12

13

14 LESLIE K. ARRINGTON

15 DIRECT EXAMINATION

16 QUESTIONS BY MR. SWARTZ:

17 Q. Les, you're still under oath?

18 A. Yes, sir.

19 Q. What's your name?

20 A. Leslie K. Arrington.

21 Q. Who do you work for?

22 A. Consol Energy.

23 Q. What do you do for them?

24

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1 A. Gas engineer.

2 Q. Okay, did you either yourself prepare the  
3 notice of hearing...notices of hearing and applications and  
4 exhibits or cause them to be prepared under your direction  
5 with regard to units AY-107 and AY-108?

6 A. Yes, I did.

7 Q. Okay, did you sign...you, yourself, sign the  
8 notices, the applications and the well cost estimates for  
9 both of these units?

10 A. Yes, I did.

11 Q. Okay. Have you listed the people that you  
12 are seeking to pool both in the notice of hearing and in the  
13 Exhibits B-3?

14 A. Yes, I did.

15 Q. Do you want to add anybody or subtract  
16 anybody?

17 A. No.

18 Q. Who is the applicant?

19 A. Pocahontas Gas Partnership.

20 Q. And in both instances, who is it that the  
21 applicant is requesting be designated as the Board's operator  
22 if these units are pooled?

23 A. Pocahontas Gas Partnership?

24

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

3 A. Yes, it is.

4 Q. Is it authorized to do business in the  
5 Commonwealth, has it registered with the Department of Mines,  
6 Minerals and Energy, and does it have a blanket bond on file?

7 A. Yes, it does.

8 Q. Did you mail to the respondents to the  
9 extent you have their addresses?

10 A. Yes, we did. We mailed by certified  
11 mail/return receipt requested on July the 20th and 21st of  
12 2001. AY-107 was published in the Bluefield Daily Telegraph  
13 on July the 28th of 2001 and AY-108 was published July the  
14 27th of 2001.

15 Q. And when you published what appeared in the  
16 paper?

17 A. The notice of hearing and associated  
18 location map.

19 Q. Okay. Have you filed with the Board this  
20 morning certificates with regard to publication and with  
21 regard to mailing?

22 A. Yes, we have.

23 Q. Both of these units are Middle Ridge I Frac  
24

1 units, correct?

2 A. Yes, they are.

3 Q. And you're proposing one well in each unit?

4 A. Yes, we are.

5 Q. In both cases, that one well is inside the  
6 drilling window and does not require a drilling exception, is  
7 that true?

8 A. That's correct.

9 Q. And the Middle Ridge units produce coalbed  
10 methane from the Jawbone, if it is below drainage, on down,  
11 correct?

12 A. That's correct.

13 Q. And is that your intention here?

14 A. Yes, it is.

15 Q. Have you been able to lease significant  
16 portions of the acreage in these two units?

17 A. Yes, we have.

18 Q. And what have the terms that you've  
19 been...that you've offered when you've been successful in  
20 leasing?

21 A. Our standard lease terms are a \$1 per acre  
22 per year for a coalbed methane lease with a five year paid up  
23 term and a 1/8th royalty.

24

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1 Q. Okay, and would you recommend those terms to  
2 the Board to incorporate into any pooling order?

3 A. Yes, I would.

4 Q. Are both of these units, if you look at the  
5 plats, 58.7 acres?

6 A. Yes, they are.

7 Q. Okay. Now, let's turn to AY-107 and let's  
8 look at Exhibit A, page two.

9 A. Yes.

10 Q. And tell the Board what interest you've  
11 acquired and what interest you're seeking to pool?

12 A. We've acquired 100% of the coal owner's  
13 coalbed methane interest and 98.016% of the oil and gas  
14 owner's coalbed methane interest. We're seeking to pool  
15 1.984% of the oil and gas owner's interest.

16 Q. And then in Exhibit B-3, you've listed the  
17 names of the folks that you're seeking to pool, correct?

18 A. That's correct.

19 Q. And you've set forth their percentage  
20 interest in the unit in question as well?

21 A. That's correct.

22 Q. And one of the persons that you're seeking  
23 to pool in Tract 2B has an unknown address, is that correct?

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1 A. That's correct.

2 Q. So, we're going to have an escrow with  
3 regard to that?

4 A. That's correct.

5 Q. Have you provided a well cost estimate with  
6 regard to well AY-107?

7 A. Yes, we have. Its permit was 4978, issued  
8 on June 1, 2001. It was drilled on June 27 of 2001, to a  
9 depth of 2,352 feet, at a cost of \$205,000...\$205,523.49.

10 SANDRA RIGGS: Could you give me the depth again,  
11 please?

12 A. 2,352 feet.

13 Q. You've also got an Exhibit E here and it  
14 appears from reviewing that, that in addition to the unknown  
15 or unlo...I'm sorry the unlocatable issue that we just spoke  
16 about, you also have a conflict in three tracts, is that  
17 right?

18 A. That's correct.

19 Q. So, the escrow agent would need to set up  
20 sub accounts for Tract 1A as in apple, 1B as in boy, and 2B  
21 as in boy, is correct?

22 A. That's correct.

23 Q. Turning to AY-108, if you go to Exhibit A,  
24

1 page two, and tell the Board what interest you've acquired  
2 and what interest you're seeking to pool?

3 A. Yes. We've leased 100% of the coal owner's  
4 coalbed methane interest, and 97.223% of the oil and gas  
5 owner's coalbed methane interest. We're seeking to pool  
6 2.777% of the oil and gas owner's interest.

7 Q. And in Exhibit B-3, have you listed the  
8 names of all of the respondents?

9 A. Yes, we have.

10 Q. And, again, we've got an address unknown in  
11 this unit?

12 A. We do.

13 Q. And with regard to each person that you're  
14 seeking to pool, have you set forth their percentage interest  
15 in the unit?

16 A. Yes, we have.

17 Q. And that percentage interest would be what  
18 they would use to estimate royalty, to estimate their  
19 participation costs and to estimate their carried interest  
20 multiplier?

21 A. That's correct.

22 Q. Have you provided a well cost estimate with  
23 regard to well AY-108?

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1           A.       Yes, I have. Its permit number is 5002. It  
2 was issued on June the 26th of 2001. It has not been drilled  
3 to date. Estimated depth is 2,500 feet, at an estimated cost  
4 of \$205,523.49.

5           Q.       We've got an Exhibit E as well with regard  
6 to unit AY-108, correct?

7           A.       That's correct.

8           Q.       And this shows that in addition to the  
9 unlocatable matter as a basis for escrow, there's also a  
10 conflict, correct?

11          A.       That's correct.

12          Q.       And conflict here would require sub-accounts  
13 for Tracts 1B as in boy, 1F as in Frank, 1G as in George, 1H  
14 as in Henry, 1I as in Iota, 1K as in kept, 1M as in Michael,  
15 2A as in apple, 2B as in boy, and 2C as in Charles, correct?

16          A.       That's right.

17          Q.       And then also here we have some of the  
18 conflicting owners have decided to resolve their conflict by  
19 a split agreement, correct?

20          A.       That's correct.

21          Q.       So, we've got an Exhibit EE, which tells us  
22 the names of folks and the tracts that they're in who have  
23 resolved their conflict by agreement and who may be paid

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1 directly consistent with the terms of their agreement?

2 A. That's correct, it is.

3 Q. Okay, is it your opinion that the  
4 development plans for these two units, as shown by the  
5 applications and the exhibits, and in particular the plats,  
6 is a reasonable plan to develop the coalbed methane under  
7 these two units?

8 A. Yes, it is.

9 Q. And do these plans protect the rights of all  
10 folks having correlative rights, both the people that you've  
11 been able to lease from and the people you're seeking to  
12 pool?

13 A. Yes, it does.

14 MARK SWARTZ: That's all that I have and I would ask  
15 that the Board approve these two applications.

16 DENNIS GARBIS: Any question from any member of the  
17 Board?

18 KEN MITCHELL: I have one question. It's under the  
19 Affidavit of Due Diligence if I could touch base with you on  
20 that. One of the people you have sent it to is an Irene  
21 Coleman. I think the document shows an Irene Coleman under a  
22 Castlewood Road and the document, I presume, from the post  
23 office shows no such street. Was that just a misnomer  
24

1 on...someone gave you an address and it wasn't the  
2 appropriate address or---?

3 LESLIE K. ARRINGTON: That's all I can say. Someone  
4 gave us an address somehow.

5 KEN MITCHELL: Okay. I was curious why it was no  
6 such address and we had an address.

7 LESLIE K. ARRINGTON: Well, we have a person that  
8 just sits there at the telephone and that's all they do is  
9 call and get addresses. So---.

10 KEN MITCHELL: Yeah, ironically, 22407  
11 Fredericksburg is actually South Stafford County. So, I will  
12 ...I'll go back and try to see if I can find it. But I was  
13 kind of surprised when it said no such street.

14 LESLIE K. ARRINGTON: Uh-huh.

15 KEN MITCHELL: Okay.

16 DENNIS GARBIS: We have a request. Do we have a  
17 motion?

18 CLYDE KING: So moved.

19 KEN MITCHELL: Second it.

20 DENNIS GARBIS: We have a motion. We have a second.  
21 Any further discussion?

22 (No audible response.)

23 DENNIS GARBIS: All those in favor, signify by  
24

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1 saying yes.

2 (All members signify yes.)

3 DENNIS GARBIS: All those opposed, say no.

4 (No audible response.)

5 DENNIS GARBIS: Approved. The next item. We'll

6 take agenda items number 11 and 12. Is that correct, Mr.

7 Swartz, we'll do 11 and 12---?

8 MARK SWARTZ: Right.

9 DENNIS GARBIS: ---and then individually take 13,  
10 14 & 15.

11 Agenda item number 11, Virginia Gas and Oil Board  
12 will consider a petition from Pocahontas Gas Partnership for  
13 pooling of a coalbed methane unit under the Middle Ridge I  
14 Coalbed Methane Gas Field order, identified as AY-113,  
15 located in the New Garden District, Honaker Quadrangle,  
16 Russell County, Virginia. This is docket number VGOB-01-  
17 08/21-0915.

18 Agenda item number 12, the Board will consider a  
19 petition from Pocahontas Gas Partnership under section 45.1  
20 for pooling of a coalbed methane unit under the Middle Ridge  
21 I Coalbed Methane Gas Field order and identified as AY-114,  
22 located in Russell County, Virginia. This is docket number  
23 VGOB-01-08/21-0916.

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1           We ask the parties that wish to address the Board  
2 at this time, please come forward.

3           MARK SWARTZ: Mark Swartz and Les Arrington. Mr.  
4 Chairman, it occurs to me that there's probably no good  
5 reason not to add AY-115 to the mix since we don't have...it  
6 doesn't look there's anybody else here that's going to  
7 participate in this particular event.

8           DENNIS GARBIS: That's item number 13?

9           MARK SWARTZ: Correct.

10          DENNIS GARBIS: All right. Is there any objections  
11 from any member of the Board to include that?

12          (No audible response.)

13          DENNIS GARBIS: All right. Let me go ahead and call  
14 that out. The Board will consider a petition from Pocahontas  
15 Gas Partnership for pooling of a coalbed methane unit under  
16 the Middle Ridge I Coalbed Methane Gas Field order and  
17 identified as AY-115, located in Russell County, Virginia.  
18 This is docket number VGOB-01-08/21-0917. So, this will take  
19 in three agenda items.

20          MARK SWARTZ: Mark Swartz and Les Arrington also  
21 appearing on AY-115.

22          (Mr. Arrington passes out exhibits.)

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LESLIE K. ARRINGTON

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Okay, Les, you're still under oath?

A. Yes, sir.

Q. You need to state your name again.

A. Leslie K. Arrington.

Q. Who do you work for?

A. Consol Energy as a gas engineer.

Q. These three units that we're going to be talking about are all Middle Ridge I frac units, is that correct?

A. That's correct.

Q. Each of these three units has 58.7 acres?

A. It does.

Q. Who is the applicant?

A. Pocahontas Gas Partnership.

Q. Is that a General...a Virginia General Partnership?

A. Yes, it is.

Q. Are the two partners in Pocahontas Gas Partnership Consolidation Coal Company and Conoco, Inc.?

A. Yes, it is.

1           Q.       In each of these three instances, is the  
2 request that...is the request made that the Board appoint  
3 Pocahontas Gas Partnership as its designated operator?

4           A.       Yes, it is.

5           Q.       Okay. Is Pocahontas Gas authorized to do  
6 business in the Commonwealth?

7           A.       Yes, it is.

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

10          A.       Yes, it does.

11          Q.       Did you either personally, or under your  
12 direction, cause the notices of hearing, the exhibits and the  
13 applications to be prepared?

14          A.       Yes, I did.

15          Q.       And did you, in fact, sign each of the  
16 notices of hearing, the applications and the well cost  
17 estimates?

18          A.       I did.

19          Q.       Okay. Have you listed the names of the  
20 people that we are seeking to pool in both the notices of  
21 hearing and the respective Exhibits B-3?

22          A.       Yes, I did.

23          Q.       Do you want to add anybody as a respondent  
24

1 today or subtract anybody?

2 A. No.

3 Q. Okay. What did you do to notify the people  
4 for whom you had addresses?

5 A. Okay, in each instance, it was mailed by  
6 certified mail/return receipt requested on July the 20th and  
7 21st. It was published in the Bluefield Daily Telegraph for  
8 AY-113 on July the 27th of 2001, AY-114 on July the 27th of  
9 2001, and AY-115 July the 26th 2001.

10 Q. And today have you filed Certificates of  
11 Publication with the Board.

12 A. Yes, we have.

13 Q. And have you also filed certifications with  
14 regard to the mailings?

15 A. Yes, I have.

16 Q. When you published, what got published in  
17 the paper?

18 A. The notice of hearing and associated  
19 location map.

20 Q. You have been able to lease quite a few  
21 folks in all three of these units, correct?

22 A. Yes, we have.

23 Q. With regard to the people that you've been  
24

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1 able to lease, what have the typical lease terms been?

2 A. Yes. Our standard lease terms is a \$1 per  
3 acre per year with a five year paid up term for a coalbed  
4 methane lease and a 1/8th royalty.

5 Q. Now, these terms you've just quoted are only  
6 for coalbed methane, if you were also conventional, it would  
7 be a different rental?

8 A. That's correct.

9 Q. Would you recommend these coalbed methane  
10 lease terms to the Board for inclusion in any order it might  
11 enter with regard to folks who are deemed to be leased?

12 A. Yes, we would.

13 Q. As we stated earlier, each of these unit is  
14 a 58.7 acre Middle Riddle Ridge Frac unit, correct?

15 A. That's correct.

16 Q. Each application contemplates one well per  
17 unit, right?

18 A. It does.

19 Q. And our...in all instances, the well is  
20 located in the drilling?

21 A. Yes, it is.

22 Q. So, we don't need any exceptions?

23 A. That's correct.

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1           Q.       Let's start with some specifics regarding  
2 AY-113, okay.  If we go to Exhibit A, page one, could you  
3 tell the Board what you've acquired and what you need to  
4 pool?

5           A.       Yes.  On AY-113, we have leased from the  
6 coalbed methane...the coal owner 52.2657% and 53.4866% of the  
7 oil and gas owner's interest.  We're seeking to pool 47.7343%  
8 of the oil owner's coalbed methane interest, and 46.5134% of  
9 the oil and gas owner's interest.

10          Q.       Now, in Exhibit B-3, you've listed all the  
11 respondents, correct?

12          A.       Yes, we have.

13          Q.       And with regard to the coal ownership, could  
14 you tell the Board how that ownership is divided somewhat  
15 differently in this unit?

16          A.       Yes, this coal ownership is listed  
17 by...instances of coal above the P-9...P-9 seam and below.  
18 This is the one that, as we get further a long into the  
19 development of it, we'll have to come up with a percentage of  
20 ownership...production ownership within that well.

21          Q.       We'll have to get...probably get Mr. Morgan  
22 back over here to allocate gas content between seams to make  
23 some kind of allocation, I would imagine?

24

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1           A.       Well, actually I have that and I don't think  
2 I have it with me. I left it on Anita's desk.

3           Q.       Okay. But we'll be back to do that, I would  
4 imagine.

5           A.       Or we can provide it to the Board.

6           Q.       To the Board, okay. But we do have a  
7 differentiation...a cutoff of the P-9 seam above and below?

8           A.       We do.

9           Q.       Okay. With regard to...if you turn to page  
10 two of six also in Exhibit B-3, we've seen this problem  
11 before, I think, but we have some...in the Middle Ridge  
12 Field, but we have some title issues as well.

13          A.       We do. That's correct.

14          Q.       Could you tell the Board about that?

15          A.       Yes. There was a title...I call it a title  
16 error in transfer ownership from one party to the other. So,  
17 we really can't determine who the owners are. We've listed  
18 everybody we think it could be.

19          Q.       And that's why you've got an or?

20          A.       Yes, it is or. I think it's one of three  
21 parties.

22          Q.       It could be that the Strouth or the Corn  
23 heirs or the Keene heirs?

24

--

1 A. Correct.

2 Q. And that's on the oil and gas side?

3 A. The oil...yes, sir.

4 Q. So, with regard to escrow for unit AY-113,  
5 just looking at Exhibit B-3, we have some folks that you've  
6 been unable to locate?

7 A. That's correct.

8 Q. So, there would be...that would be one  
9 reason to escrow?

10 A. Uh-huh.

11 Q. Correct?

12 A. Correct.

13 Q. We have some unresolved clouds on title with  
14 regard to the oil and gas fee, correct?

15 A. That's correct.

16 Q. And that would be another reason to escrow?

17 A. Uh-huh.

18 Q. And it also looks like we have some  
19 conflicts, correct?

20 A. That's correct.

21 Q. And that will be addressed...the conflicts  
22 at least will be addressed in Exhibit E?

23 A. Right.

24

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1 Q. Okay. Have you provided a well cost  
2 estimate with regard to well AY-113?

3 A. Yes, I have. AY-113, its permit number  
4 5000. It was issued on June the 26th of 2001. It was  
5 drilled July 5th on 2001 to a depth of 2,562.85 feet, at a  
6 cost of \$215,773.48.

7 Q. Okay, now with regard to Exhibit E, that  
8 shows specifically the tracts that are in conflict and/or  
9 have a title issue?

10 A. That's correct. It does.

11 Q. And so sub-accounts for title issues and  
12 conflicts need to be set up for Tracts 2, 3A as in apple, 3B  
13 as in boy, 4, 5, correct?

14 A. Uh-huh.

15 Q. And then also with in there, there are some  
16 tracts that have the further need for escrow because of  
17 unlocatable issues?

18 A. That's correct.

19 Q. Now, let's turn to unit to AY-114, okay.

20 A. Yes, sir.

21 Q. Let's go to Exhibit A, page two, and tell us  
22 what you've been able to lease here and what you need to  
23 pool?

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1           A.       Yes. We've been able to lease 51.39% of the  
2 coal owner's coalbed methane interest, and 79.8436% of the  
3 oil and gas coalbed methane interest. We're seeking to pool  
4 48.61% of the coal owner's coalbed methane interest; and  
5 20.1564% of the oil and gas coalbed methane interest.

6           Q.       Directing your attention to Exhibit B-3 for  
7 AY-114, it looks like we have the same division of coal above  
8 and below the P-9 seam that we just talked about, right.

9           A.       Yes, that's correct.

10          Q.       And we also have some folks who are not  
11 located at this point?

12          A.       That's correct.

13          Q.       And we also have in Tract 2, for example,  
14 the unresolved title issue?

15          A.       That's correct.

16          Q.       So, a very similar title situation to what  
17 we just looked at?

18          A.       Yes, it was.

19          Q.       Have you provided a cost estimate for AY-  
20 114?

21          A.       Yes, I have. Its permit number is 4954. It  
22 was issued May the 2nd of 2001, drilled June the 22nd of  
23 2001. Total depth is 2,292.39 feet, at a cost of

24

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1 \$208,653.97.

2 Q. And you've got an Exhibit E here?

3 A. Yes, we do.

4 Q. And the Exhibit E requires escrow for the  
5 tracts identified for three reasons: Conflict between coal,  
6 oil and gas?

7 A. Correct.

8 Q. Title issues?

9 A. Correct.

10 Q. And unlocatables?

11 A. Correct.

12 Q. And the tracts that we're talking about are  
13 2 and 5?

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

15 Q. Now, with regard to the third of these units  
16 AY-115, if you'll look at A, page two, what have you leased  
17 and what are you seeking to pool?

18 A. Yes, we've leased 100% of the coal owners'  
19 coalbed methane interest and 99.8807% of the oil and gas  
20 interest. We're seeking to pool 0.1193% of the oil and gas  
21 owner's coalbed methane interest.

22 Q. And the group of people that you're seeking  
23 to pool is set forth on B-3, correct?

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1 A. Yes, it is.

2 Q. And this is an instance where you weren't  
3 able to mail, you were just able to publish?

4 A. That's correct.

5 Q. Have you provided a well cost estimate with  
6 regard to AY-115?

7 A. Yes, we did. It was permit number 4669. It  
8 was issued July 31 of 2000, drilled January the 17th of 2001.  
9 The depth was 2,353.15 feet, at an estimated cost of  
10 \$212,919.22.

11 Q. And with regard here to escrow, we have the  
12 ...we have the unlocatable and unknown issue that's disclosed  
13 by B-3, correct?

14 A. That's correct.

15 Q. And then we've got a conflict that's  
16 disclosed in Exhibit E coupled with a depending on how title  
17 is resolved. So, basically, if H. C. Bostic turns out to own  
18 the oil and gas fee, there's no conflict and you can pay. If  
19 the Strouth heirs turn out to own the oil and gas, then there  
20 is a conflict?

21 A. That's correct.

22 Q. So, to anticipate that hop of the ball  
23 there, you're going to need to escrow with regard to that  
24

1 issue, correct?

2 A. That's correct.

3 Q. I notice when I'm looking at Exhibit E, that  
4 the tract is not identified. And we're talking about tract  
5 four, are we not?

6 A. Yes. We'll submit a revised---

7 Q. A revised to straighten that out.

8 MR. SWARTZ: That's all I have. No, I take that  
9 back.

10 Q. Mr. Arrington, is it your opinion that the  
11 plans to develop...have to do this?

12 A. Yes, it is.

13 Q. That the plans to develop the coalbed  
14 methane resource under these three units represent a  
15 reasonable method to develop the methane?

16 A. Yes, it is.

17 Q. And is it your recommendation that the Board  
18 pool these units to protect the correlative rights of both  
19 the folks you've leased from and the folks who need to be  
20 pooled?

21 A. Yes, it is.

22 MARK SWARTZ: That's all I have. I'm sorry, sir.

23 DENNIS GARBIS: Do you have any further witnesses?  
24  
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1           A.       No.

2           DENNIS GARBIS: Any questions by any member of the  
3 Board?

4           KENNETH MITCHELL: One question.   Item number 12,  
5 which is AY-114.

6           MARK SWARTZ: Okay.

7           KENNETH MITCHELL: You're seeking to pool, and I'm  
8 going to approximate it at 48.6% of the coal interest.  Is  
9 there any reason that...I'm used to seeing smaller  
10 percentages, three percent, four percent.  Forty-eight  
11 percent is one of the larger ones I've seen here.  Is there a  
12 reason that 48% has not been signed or is not accounted for  
13 without force pooling?

14          LESLIE ARRINGTON: You'll have to give me a minute.

15          KENNETH MITCHELL: Okay.

16          LESLIE ARRINGTON: Yes, sir.  On this unit, for  
17 instance, this is one unit where we have gone in and we  
18 didn't have, I'll say, a carte blanc coal lease out there.  
19 We had to go in and find who all the coal owners are.  So we  
20 didn't have a coal leasehold out there and we didn't know who  
21 all the owners were.  If you'll look at tract one, you're  
22 starting to get into an area, tract one on the plat is  
23 Buckhorn Coal Company and that's one of our major lessors.

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1 Then you're starting to get out of an area where we really  
2 didn't have a coal ownership and now we're starting to get  
3 over in areas where there's smaller tracts and we really...  
4 we're having to lease individual owners. And if you'll  
5 notice tract four, it shows as John H. Dye heirs and if  
6 you'll notice there, we've leased to date a 40% interest in  
7 that tract. We're going out...we're trying to lease the  
8 individuals and it's just...we're starting to get on the  
9 fringes of what we had, and that's what you're starting to  
10 see now.

11 CLYDE KING: Jim Dye has 22%.

12 LESLIE ARRINGTON: John H. does.

13 CLYDE KING: John H. Dye has 22% interest in the  
14 coal.

15 MARK SWARTZ: 47.

16 DENNIS GARBIS: 47%.

17 MAX LEWIS: 47.67.

18 LESLIE ARRINGTON: On the John H. Dye. Now, maybe  
19 there might be something listed...let me look here. Okay.

20 Now, John H. Dye...you're looking at Exhibit B-3?

21 CLYDE KING: Right.

22 LESLIE ARRINGTON: And you're looking at tract  
23 number---.

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1           CLYDE KING: Exhibit B-3, right.

2           LESLIE ARRINGTON: Yeah, it's just broken down.

3           MARK SWARTZ: To go back to Mr. Mitchell's question  
4 there. When we started...at least these companies started  
5 our development, we were in something called the Oakwood  
6 Field.

7           LESLIE ARRINGTON: Uh-huh.

8           MARK SWARTZ: It was about 100,000 acres. And I  
9 would guess that we, the coal companies, Island Creek and  
10 Consolidation Coal, probably had three-quarters of that  
11 acreage leased before we even started. And what...to put it  
12 in a better perspective, this Middle Ridge Field is to the  
13 south of the Oakwood Field, and is really in an area where  
14 neither of the coal companies or their subsidiaries had a  
15 significant mining presence, so we're really starting from  
16 scratch. And the advantage that we had, that you often see,  
17 is we had all the major coal properties leased before we even  
18 started, so we were only picking up bits and pieces. In  
19 Middle Ridge, we get further away from Oakwood. We're really  
20 in virgin territory and we are running down everybody because  
21 we had no pre-existing position, which accounts for a lot  
22 more loose ends and we're trying to pick it up but we just  
23 ...we're starting from zero here. I mean, I don't know if

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1 that helps or not.

2 DENNIS GARBIS: Any other questions?

3 CLYDE KING: Which might be an advantage.

4 MARK SWARTZ: I don't know.

5 CLYDE KING: Starting all over.

6 MARK SWARTZ: We wouldn't be doing it if it wasn't  
7 worth doing, but it is a situation where we have no acreage  
8 position to begin with.

9 DENNIS GARBIS: Any further comments?

10 (No audible response.)

11 DENNIS GARBIS: And your position is?

12 MARK SWARTZ: We would request at this time that the  
13 Board consider granting the three applications that we have  
14 combined here, AY-113, 14 and 15.

15 DENNIS GARBIS: Do I hear a motion?

16 KENNETH MITCHELL: As a request from a Board member,  
17 could I request that we vote on these separately rather than  
18 all three at once. I have questions on number twelve. I  
19 have reservations, I should say.

20 DENNIS GARBIS: Any discussion on that? Any problem  
21 with any of the Board members doing that?

22 (No audible response.)

23 DENNIS GARBIS: All right. Why don't we take them  
24

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1 in order? We'll vote first on agenda item number 11 which is  
2 VGOB-01-08/21-0915. Do I hear a motion?

3 MASON BRENT: So moved.

4 DENNIS GARBIS: I hear a motion. Do I hear a  
5 second?

6 CLYDE KING: Second.

7 DENNIS GARBIS: Any further discussion?

8 (No audible response.)

9 DENNIS GARBIS: All those in favor, signify by  
10 saying yes.

11 (All members signify yes.)

12 DENNIS GARBIS: Nos.

13 (No audible response.)

14 DENNIS GARBIS: It's approved. Agenda item number  
15 12, which is docket number VGOB-01-08/21-0916. Do I hear a  
16 motion?

17 MASON BRENT: So move.

18 CLYDE KING: Second.

19 DENNIS GARBIS: There's a motion, a second. Any  
20 further discussion?

21 (No audible response.)

22 DENNIS GARBIS: All those in favor, signify by  
23 saying yes.

24

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1 (All members signify yes with the exception of  
2 Kenneth Mitchell.)

3 DENNIS GARBIS: Those not in favor, signify by  
4 saying no.

5 KENNETH MITCHELL: No.

6 DENNIS GARBIS: We have one no. That item is  
7 approved.

8 Item number...agenda item number 13, which is  
9 docket number VGOB-01-0821-0917. Do I hear a motion for  
10 approval on that?

11 CLYDE KING: So move.

12 MASON BRENT: Second.

13 DENNIS GARBIS: There's a motion. There's a second.  
14 Any further discussion?

15 (No audible response.)

16 DENNIS GARBIS: All those in favor, signify by  
17 saying yes.

18 (All members signify yes.)

19 DENNIS GARBIS: Any opposed?

20 (No audible response.)

21 DENNIS GARBIS: No opposition, item is approved.

22 Moving on to the next item, which is item number 14, agenda  
23 item number 14. Virginia Gas and Oil Board will consider a

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1 petition from Buchanan Production for pooling of coalbed  
2 methane unit under the Oakwood Coalbed Methane Gas Field I  
3 Order and identified as Y-7, located in the Prater distract,  
4 Vansant quadrangle, Buchanan County, Virginia; docket number  
5 VGOB-01-08/21-0918. Those interested in presenting matters  
6 before the Board at this time?

7 MARK SWARTZ: Mark Swartz and Les Arrington.

8

9 LESLIE ARRINGTON

10 DIRECT EXAMINATION

11 QUESTIONS BY MR. SWARTZ:

12 Q. Les, you're still under oath.

13 A. Yes, sir.

14 Q. Your name again?

15 A. Leslie K. Arrington.

16 Q. Who do you work for?

17 A. Consol Energy as a gas engineer.

18 Q. This application is made by Buchanan

19 Production Company, correct?

20 A. That's correct.

21 Q. Buchanan Production Company is a Virginia  
22 general partnership?

23 A. That's correct.

24

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1 Q. Up until June of this year, Appalachian  
2 Operator's, Inc. and Appalachian Methane Inc. were the  
3 corporate partners in Buchanan Production Company, is that  
4 correct?

5 A. That's correct.

6 Q. And do we understand that there are new  
7 partners, but we are unable to share their identity with the  
8 Board today?

9 A. That's correct.

10 Q. But is it your understanding that the new  
11 partners are still wholly owned indirect subsidiaries of  
12 Consol Energy, Inc.?

13 A. That's correct.

14 Q. Is Buchanan Production Company authorized to  
15 do business in the Commonwealth?

16 A. Yes, it is.

17 Q. Who is Buchanan Production Company, the  
18 applicant, requesting be appointed as designated operator?

19 A. Consol Energy.

20 Q. Is Consol Energy a Delaware corporation?

21 A. Yes, it is.

22 Q. Is it authorized to do business in the  
23 Commonwealth?

24

--

1 A. Yes, it is.

2 Q. Has it registered with the Department of  
3 Mines, Minerals and Energy, and does it have a blanket bond  
4 on file as required by law?

5 A. Yes, it does.

6 Q. Okay. Did some time...some considerable  
7 time ago, the management committee of Buchanan Production  
8 Company delegate to Consol, Inc., the predecessor of Consol  
9 Energy, Inc., the authority to explore, develop and maintain  
10 the properties and assets of Buchanan Production Company?

11 A. That's correct?

12 Q. And did Consol, Inc. and now Consol Energy,  
13 Inc. accept that delegation and undertake to act as  
14 professional manager?

15 A. It did.

16 Q. And that's why you're here today?

17 A. Yes, it is.

18 Q. Have you listed the respondents with regard  
19 to this pooling application in both the notice and Exhibit B-  
20 3?

21 A. Yes, we did.

22 Q. Do you want to dismiss or amend to add any  
23 respondents today?

24

--

1 A. No.

2 Q. What did you do to notify the respondents?

3 A. We published it in the Bluefield Daily  
4 Telegraph on July 26th of 2001.

5 Q. And have you filed proof of publication  
6 today with the Board?

7 A. Yes, we have.

8 Q. When you published, what did you publish?

9 A. The notice of hearing and an associated  
10 location map.

11 Q. And the reason you published was because of  
12 the Howard and Tiller heirs, which is a recurring problem in  
13 this part of the world, right?

14 A. That's correct.

15 Q. Did you also mail?

16 A. Yes, we did.

17 Q. Who did you mail to?

18 A. We mailed to the....Harris Crumpton, let me  
19 check to make sure, by certified mail/return receipt  
20 requested. Let me make sure we did.

21 (Witness reviews file.)

22 A. Yes, we did.

23 Q. Did he sign for his mail?

24

--

1 A. He did.

2 Q. Okay. As long as we're looking at Exhibit  
3 B-3, is there a percentage listed opposite the name of  
4 everyone they're seeking to pool?

5 A. Yes, it is.

6 Q. And that percentage would be used by them to  
7 calculate or estimate royalty, participation cost or carried  
8 interest?

9 A. It is.

10 Q. Okay. What is your...what is the  
11 applicant's interest in this unit that it already has  
12 acquired and is...and the interest that it is seeking to  
13 pool?

14 A. We have leased 100% of the coalbed methane  
15 interest from the coal owner and 87.675% of the coalbed  
16 methane interest from the oil and gas owner. We're seeking  
17 to pool 12.325% of the coalbed methane interest from the oil  
18 and gas owner.

19 Q. Now, this unit, if you go back to the map  
20 here, this is an 80 acre unit under the Oakwood Field Rules,  
21 correct?

22 A. It is.

23 Q. And you're seeking to pool it under Oakwood  
24

--

1 I as a frac?

2 A. That's correct.

3 Q. How many wells are proposed?

4 A. One.

5 Q. Where is it located in relation to the  
6 window?

7 A. It's inside the drilling window.

8 Q. Have you prepared a well cost estimate?

9 A. Yes, we have. This is permit number 4881.  
10 It was issued on February 21st of 2001. It was drilled on  
11 May 9th of 2001, to a total depth of 2,444.60 feet, at an  
12 estimated cost of \$206,122.29.

13 Q. This unit requires escrow, correct?

14 A. It does.

15 Q. And there need to be sub-accounts for tracts  
16 four and six because of conflicts?

17 A. It is.

18 Q. And tract six needs to be escrowed because  
19 of unknowns and Unlocatables?

20 A. That's correct.

21 Q. In addition, is this a situation where you  
22 have a...several of the people in conflict have entered into  
23 a royalty split agreement?

24

--

1           A.       Yes, and listed on Exhibit EE.

2           Q.       Okay. So, those folks who would otherwise  
3 be in conflict have resolved their differences and have  
4 agreed to be paid in an acceptable and agreeable way so their  
5 money does not have to be escrowed?

6           A.       That's correct.

7           Q.       The pool that is sought to be produced here  
8 would be from the Tiller on down, is that correct?

9           A.       Yes, it is.

10          Q.       And what are the lease terms that you've  
11 offered the folks, in general, that you've been able to  
12 acquire leases from?

13          A.       Our standard coalbed methane lease is a \$1  
14 per acre per year with a five year paid up term and a 1/8th  
15 royalty.

16          Q.       And is that what you would recommend to the  
17 Board here?

18          A.       Yes, it is.

19          Q.       Now, I would ask you whether or not the  
20 application and the exhibits, in particular the Exhibit A of  
21 the plat, show what, in your opinion, is a reasonable plan to  
22 develop the coalbed methane under this 80 acre Oakwood I  
23 unit?

24

--

1 A. Yes, it is.

2 Q. And if the Board were to approve this, would  
3 it be your opinion that both the people that we leased, as  
4 well as the unleased folks who you're seeking to pool, that  
5 their correlative rights would be protected?

6 A. Yes, it would be.

7 MR. SWARTZ: That's all I have, and I would move  
8 that...or would ask that the Board approve this application.

9 DENNIS GARBIS: Do you have any further witnesses?

10 MARK SWARTZ: No, I do not.

11 DENNIS GARBIS: Any questions or discussions  
12 from---?

13 MASON BRENT: I just have one question. Just one  
14 question...issue. I believe I brought it up a year or more  
15 ago. I notice here today that your estimated production, you  
16 said earlier 1.25 to 550, and I think you meant 125.

17 LESLIE ARRINGTON: 125, I did.

18 MASON BRENT: To 550?

19 LESLIE ARRINGTON: Yes.

20 MASON BRENT: I believe a year or so ago, I just  
21 made the observation that that's a pretty big range---.

22 LESLIE ARRINGTON: Yes, sir.

23 MASON BRENT: ---for estimated production. And at  
24

--

1 the time, I believe your explanation was that you didn't have  
2 enough experience with these units yet to determine that.  
3 Today you've testified in a roughly 51 acre unit and then a  
4 58 acre unit, and now an 80 acre unit---

5 LESLIE ARRINGTON: That's correct.

6 MASON BRENT: ---that the estimated production is  
7 125 million to 550 million.

8 LESLIE ARRINGTON: And I have somewhat of an  
9 explanation in the reason that thing is so wide range. We  
10 have wells in particular, and not just in this Y-7 area, Y-8  
11 area. We have wells over there that will do 250 a day and we  
12 have wells in that very same block may do 30 and 40 a day.  
13 And that's the reason I leave it that wide a range, because  
14 we go in to drill these wells, you don't know what they're  
15 going to do. Up in the PGP area, for instance, another  
16 example up there, we went into the one area, we're just  
17 getting in there, getting started real well. We've got a  
18 well that's doing 500 a day. Every well around that unit and  
19 associated to that, even near it, the most it's doing is 150  
20 a day. So, to be able to put it tighter, pull that tighter,  
21 I'd really be afraid to because, you know, it is truly an  
22 estimate.

23 MASON BRENT: You're talking in terms of rate of  
24

1 production.

2 LESLIE ARRINGTON: Per day, that's correct.

3 MASON BRENT: As opposed to reserves.

4 LESLIE ARRINGTON: Well, rate of production, you  
5 know, if you go through and start doing those calculations,  
6 it is going to be a big range and that's the reason I do  
7 continue to leave it as it is. You know, and if you want me  
8 to try to bring it close together, you know, maybe I can, but  
9 then, too, I may be out of range, too. And that's the reason  
10 I leave it where it is.

11 MASON BRENT: I just think at some point as matter  
12 of interest, it would be good to have you come report to us--  
13 -.

14 LESLIE ARRINGTON: Sure, I have no---.

15 MASON BRENT: ---historical experience.

16 LESLIE ARRINGTON: I have no problem with that.

17 CLYDE KING: How far apart are those things, like  
18 you had---?

19 LESLIE ARRINGTON: Oh, that? Well, that's on the  
20 northeastern fringes of the Pocahontas Gas project and this  
21 area is kind of getting on the southwestern areas of it.  
22 But, we have experienced quite a bit of those ranges for  
23 some, you know, some structural reason. I don't know, but it

24

--

1 is there.

2           MASON BRENT: The only reason I ask, and this may be  
3 somewhat of a stretch, but it is of interest to the state, I  
4 think, to take into consideration the reserves that are  
5 there, you know, if we're going to go through this process of  
6 pooling people and go through that whole rigmarole, it  
7 certainly seems to me that it's of interest to know what's  
8 there that we're---

9           LESLIE ARRINGTON: And to further on that, we  
10 started developing again, which it's all basically the same,  
11 again in the Pocahontas region, a portion down into the  
12 southeastern area of our project, and we started developing  
13 that and we finally had to leave it because it was an area of  
14 80 times...1600 acres, and we started in the north,  
15 developing to the south and we were only getting in the north  
16 like a 100 a day, and by the time we got down to the southern  
17 portion of that we're getting seven or eight a day. And it  
18 is, you know, I guess develop to see what you are going to  
19 have.

20           MASON BRENT: Thank you.

21           DENNIS GARBIS: Any other questions? Any other  
22 discussion?

23           (No audible response.)

24

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1           DENNIS GARBIS: We have a request. Do we have a  
2 motion?

3           CLYDE KING: So move.

4           DENNIS GARBIS: Do we have a second?

5           KENNETH MITCHELL: Second.

6           DENNIS GARBIS: We have a motion and second. Any  
7 further discussion?

8           (No audible response.)

9           DENNIS GARBIS: All those in favor, signify by  
10 saying yes.

11           (All Board members signify yes.)

12           DENNIS GARBIS: All those opposed, signify by saying  
13 no.

14           (No audible response.)

15           DENNIS GARBIS: The item is approved. The last  
16 item.

17           MARK SWARTZ: We need to find our friend.

18           (Off record. Mr. Arrington leaves to try and find  
19 Mr. Keen.)

20           DENNIS GARBIS: Why don't I go ahead and read the  
21 item. This is agenda item number 15, Virginia Gas and Oil  
22 Board will consider a petition from Buchanan Production  
23 Company for dismissal of certain respondents heretofore  
24

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1 pooled disbursements from escrow regarding tract four, and  
2 authorization for direct payment for royalties for a coalbed  
3 methane unit identified as Y-8, located in the Prater  
4 District, Vansant quadrangle, Buchanan County, Virginia, and  
5 previously pooled under dockets VGOB-91-04/30-0111, VGOB92-  
6 1/17-0291, and VGOB-92-11/17-0291-01. We ask the parties  
7 that wish to address the Board in this matter come forward at  
8 this time.

9           MARK SWARTZ: Mark Swartz and Les Arrington. Did he  
10 really leave?

11           BOB WILSON: Yes.

12           MARK SWARTZ: Let me tell Les then.

13           (Mr. Swartz leaves the room to find Mr. Arrington.)

14           (Off record.)

15           BOB WILSON: Could I bring up a topic that the  
16 Board needs to consider and we can go ahead and get that out  
17 of the way?

18           DENNIS GARBIS: Certainly. Yeah, sure.

19           BOB WILSON: We need to decide if again this year we  
20 want to meet at the Breaks Interstate Park for our October  
21 hearing. This is a decision that the Board itself needs to  
22 make. We are...the reason we need to address it now is  
23 number one, we need to make the arrangements if you wish to

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1 do that; and number two, the petitions that come in for that  
2 have to designate that as the place of the hearing. So, we  
3 need to decide that this week if we can. We would entertain  
4 anything the Board wants to do. We'll take it under  
5 consideration.

6 DENNIS GARBIS: One of the things that Mr. Wampler  
7 had mentioned to me was that apparently in your...do you have  
8 some sophisticated software that you would like to show us  
9 there in Big Stone where you have like the---

10 SANDRA RIGGS: GPS.

11 DENNIS GARBIS: Yeah, or---

12 SANDRA RIGGS: Layering.

13 DENNIS GARBIS: Yeah, the layering.

14 BOB WILSON: The GIS systems.

15 DENNIS GARBIS: The three dimensional...I mean, that  
16 might...I don't know exactly what that would involve getting  
17 out there to see it. But I mean that's a possibility we  
18 could combine with some other things.

19 BOB WILSON: Well, yeah, actually, that would be the  
20 second part of the request is if we're going to meet at...if  
21 we decide to meet at the Breaks, or even if not for that  
22 matter, do you wish to combine this with a field outing of  
23 any sort as we have done occasionally in the past? We could  
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1 either go to Big Stone to look at the GIS system that they  
2 developed there. We can look at stuff in the field, again,  
3 at your discretion. But the major decision we need to make  
4 now is whether we're actually going to meet at the Breaks.  
5 And I can, if you'd like to think about it, poll each of you  
6 individually later on as to whether you want to combine the  
7 October meeting with any sort of a field trip or outing.

8 DENNIS GARBIS: Well, why don't we...why don't we  
9 take care of this item since we've got Mr. Swartz back. You  
10 all can think about it. Maybe we can discuss it amongst  
11 ourselves after the meeting. Proceed.

12 MARK SWARTZ: Mr. Arrington, in an effort to exhibit  
13 due diligence, was out in the parking lot looking for Hubert.  
14 You know, I just wanted to show you he would go to any  
15 length.

16 DENNIS GARBIS: We certainly appreciate that.

17 MARK SWARTZ: Les---.

18 DENNIS GARBIS: You should be complimented in the  
19 degree of which you...your enthusiasm just overwhelms me.

20 MARK SWARTZ: Do you have some stuff you need to  
21 pass out?

22 LESLIE K. ARRINGTON: Yes.

23 (Off record discussion while Mr. Arrington hands  
24

--

1 out the exhibits.

2                   MARK SWARTZ: There are several things that we want  
3 to do here and I would just indicate to the Board that this  
4 is...this unit has been pooled in the past. So, we're not  
5 here to pool it, but we're here to do some title cleanup and  
6 we're also here to get some money out of escrow. Is that  
7 right, Les?

8                   LESLIE K. ARRINGTON: That's correct.

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LESLIE K. ARRINGTON

DIRECT EXAMINATION

QUESTIONS BY MR. ARRINGTON:

Q. I'm just going to remind that you're still under oath.

A. Yes, sir.

Q. We need your name, again?

A. Leslie K. Arrington.

Q. And this...in this particular instance on Y-8, we're here with regard to Buchanan Production Company, correct?

A. That's correct.

Q. In no particular order, why don't you start walking the Board through the three reasons that we're here.

A. Okay. To be quite honest with you, Mr. Keen who was here is probably the person that created us finding these problems. He did a royalty split agreement with Mr. Wyatt and when he started calling, saying I've done a royalty split agreement, I own this tract, we discovered that the Mary Lester heirs were not, in fact, the owners as we...it had been shown for years through...on our division orders. This well has been in production for years. And through cleaning it up, once he told us that, we go back and start

1 finding what the problems are and we have, hopefully, we have  
2 it corrected through all the corrections we have submitted in  
3 this application and on the spreadsheet.

4 Q. Okay, so, we are...let's just start with the  
5 people you've noticed, okay.

6 A. Yes.

7 Q. The first group in the notice up to Hubert  
8 and Evelyn Keen, that first group, you're noticing those  
9 people because they were previously pooled and it turns out  
10 they don't have an ownership interest in the unit, correct?

11 A. That's correct.

12 Q. Okay. And you are then noticing Hubert and  
13 his wife, I assume?

14 A. That's correct.

15 Q. Keen, correct?

16 A. Correct.

17 Q. And you're noticing them because there's  
18 going to be an escrow disbursement?

19 A. That's correct.

20 Q. And then also in the relief sought, you'll  
21 notice there's...there's also a request to dismiss some other  
22 people?

23 A. That's correct. That...they were originally  
24

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1 shown in, I believe, two tracts and now they're only going to  
2 be shown in one tract.

3 Q. The James E. Watkins, et al, folks?

4 A. That's correct. Right.

5 Q. Now, have you submitted to the Board today a  
6 revised...or in this application, a revised Exhibit B-3?

7 A. We have.

8 Q. Okay. And let's look at that for a minute.  
9 Okay, we've got the...what you have done here apparently is  
10 you have straightened out the fact that the Mary Lester heirs  
11 are only in Tract 1, correct?

12 A. That's correct.

13 Q. Okay. And we continue to have the problem  
14 with the Harold and Tiller heirs, correct?

15 A. It is. Uh-huh.

16 Q. Do you want to tell the Board what the  
17 difficulty with Howard and Tiller is in this part of the  
18 world just in a nutshell?

19 A. In a nutshell, it was many years ago. We  
20 just haven't been able to track that interest.

21 Q. But Howard and Tiller own perhaps a 100,000  
22 acres or more out here?

23 A. Yes, or more.

24

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1 Q. And there are a couple of gaps in their  
2 title which no one, you know, over hundreds of years has ever  
3 been able to straighten out?

4 A. That is correct.

5 Q. And this is one of those Howard and Tiller  
6 problems that we see periodically, correct?

7 A. That's correct.

8 Q. And they are...I mean, this is a situation  
9 where we really do have someone who was just unidentified and  
10 unknown?

11 A. That's correct.

12 Q. And it accounts for a pretty significant  
13 interest in this unit?

14 A. It does.

15 Q. On...again, on the oil and gas side, if I'm  
16 not mistaken?

17 A. Yes.

18 Q. Okay. So, in a nutshell with regard to  
19 title, what you are asking is that the Board amend the prior  
20 orders to show that the people who need to be pooled in Tract  
21 1 are as identified on Exhibit B-3 as of July 16th, '01,  
22 correct?

23 A. That's correct.

24

--

1 Q. And to show the Howard and Tiller heirs,  
2 which I'm sure we probably showed from the beginning?

3 A. Yes, we did.

4 Q. And that that...those are the folks that  
5 need to be pooled, correct?

6 A. That's correct.

7 Q. And then in addition, to dismiss the W. R.  
8 and Mary Lester heirs, the devisees, successors, or assigns,  
9 including Eva Singleton, Audrey Boyd Perkins, Clayton  
10 Perkins, Martinet and Virginia Boyd, correct?

11 A. That's correct.

12 Q. And to show that Hubert and Evelyn Sue Van  
13 Keen have an interest in the unit?

14 A. That's correct.

15 Q. But obviously will get subject to a split  
16 agreement?

17 A. That's correct.

18 Q. Okay. Now, with regard to the split  
19 agreement, have you filed...yes, you have. There's an  
20 Exhibit EE, correct?

21 A. Correct.

22 Q. And that pertains to Tract 4?

23 A. That's correct.

24

--

1 Q. And it's an agreement between Harrison  
2 Wyatt, LLC?

3 A. Uh-huh.

4 Q. And Landon Wyatt was here...he's still here.

5 A. Yeah.

6 Q. Okay. And Hubert Keen was here earlier?

7 A. Yes, he was.

8 Q. Okay. And what we're trying to do here is  
9 pay out money that was deposited in escrow, correct?

10 A. Correct.

11 Q. And you brought a spreadsheet with regard to  
12 that?

13 A. I did.

14 Q. And then to also get a Board order  
15 authorizing the operator to pay these folks directly in the  
16 future?

17 A. That's correct.

18 Q. Now, let's...let's spend some time with the  
19 spreadsheet because there is...you know, it doesn't balance,  
20 but go through what you've done and where you are and what  
21 the problem.

22 A. Okay, the royalty split will involve Tract 4  
23 on our docket number and previously it was Tract #2, but both

24

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1 times it was 11.61 acres. The tract balance as of July the  
2 25th was \$9,883.92. While if you'll notice there's some  
3 notes on the bottom of this. We had...we couldn't account  
4 for...on October the 25th of '94, there was a \$10 discrepancy  
5 on what we said was deposited versus what the bank said.  
6 Then on July the 25th of '96, from one ledger sheet to the  
7 next ledger sheet, there was a \$1.13 error. So, you know, we  
8 didn't know quite how to handle that. That's the reason it's  
9 noted on the bottom. I started one time to bring a second  
10 spreadsheet just that would not...that wouldn't have that \$10  
11 and that \$1.13 in it, but I really didn't know what to do.  
12 So, that's what you have here.

13 Q. So, basically if you look at---?

14 SANDRA RIGGS: The banks records are \$11.13 less  
15 than what your records are?

16 LESLIE K. ARRINGTON: Yes, ma'am.

17 MARK SWARTZ: In terms of what we've deposited.  
18 Now, in terms of what we think we deposited. So, there would  
19 be some earnings associated with that as well, which we have  
20 no way of accounting for.

21 LESLIE K. ARRINGTON: Right, that's correct.

22 MARK SWARTZ: But, you know, our records show that  
23 we wrote them checks, you know, for...well, the one check for

24

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1 \$10 more.

2 LESLIE K. ARRINGTON: Correct.

3 MARK SWARTZ: And then when we look at their ledger,  
4 there's the \$1.13 that we just can't account for and we just  
5 need to bring your attention that, you know, there is this  
6 mistake which...or these two mistakes that we cannot resolve.  
7 So, the amount coming out will zero out this account, but we  
8 need to alert you to the fact it's \$11.13 less than we  
9 think---

10 LESLIE K. ARRINGTON: Yeah. Or, you know, we could  
11 have a mistake. But we couldn't find anything...we tried to  
12 match it up and we could not.

13 MARK SWARTZ: I mean, our records show that that's  
14 the amount of our check.

15 LESLIE K. ARRINGTON: That's right. So, you know,  
16 that's---

17 DENNIS GARBIS: So, will the individual get more  
18 money...you put more money in?

19 MARK SWARTZ: We think we put...well, we put \$10  
20 more in and we've found some transfer from one ledger sheet  
21 to the next bank error. So, in point of fact, there's \$10 we  
22 think we put in which is not going to come out because the  
23 bank is saying it's not in there.

24

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1           MASON BRENT: Was your account drafted for the  
2 amount of the check?  
3           LESLIE K. ARRINGTON: Yes.  
4           MARK SWARTZ: Right. Yes.  
5           LESLIE K. ARRINGTON: I'm pretty sure it was.  
6           KEN MITCHELL: Mr. Chairman---.  
7           CLYDE KING: Then they got the money.  
8           MARK SWARTZ: Right. But we don't...you know, we  
9 don't have control over their accounting---.  
10          LESLIE K. ARRINGTON: Right.  
11          MARK SWARTZ: ---and we're just trying...we always  
12 try to reconcile our accounts to theirs. This one we  
13 just---.  
14          LESLIE K. ARRINGTON: Their ledger---.  
15          MARK SWARTZ: This is where we are.  
16          LESLIE K. ARRINGTON: Their ledger sheet shows \$261  
17 and ours shows \$271.  
18          KEN MITCHELL: Mr. Chairman, question.  
19          DENNIS GARBIS: Yes.  
20          KEN MITCHELL: This items goes back to '94?  
21          LESLIE K. ARRINGTON: Yes, sir.  
22          KEN MITCHELL: Wasn't that under the previous  
23 banking? We're with First Union now, but it was under the  
24

1 previous---

2 CLYDE KING: Yeah.

3 MARK SWARTZ: Yeah, it was First Virginia.

4 KEN MITCHELL: Yeah, right.

5 MARK SWARTZ: Right.

6 BOB WILSON: Bank of Tazewell at that time.

7 KEN MITCHELL: Because we've changed accounts, I  
8 don't see any way that the previous bank would ever rectify  
9 this mistake.

10 CLYDE KING: It did balance, didn't it, when you  
11 transferred it to First Union, or didn't it?

12 MARK SWARTZ: Well, that's a relative term, okay.

13 LESLIE K. ARRINGTON: I'll leave that to Bob.

14 MARK SWARTZ: I mean, I don't know what their  
15 accounts balanced or not balanced. I mean, what we try to do  
16 every time we're here is we try to reconstruct what we had  
17 paid and compare it to what they say they got. Normally...I  
18 mean, you know, we've been here before, we're right on with  
19 them. This was just the situation where we...you know, we  
20 back checked our \$271.29 and that's what we gave them. And  
21 it...I'm assuming it went into some other account. But, you  
22 know, we have no way of dealing with that.

23 DENNIS GARBIS: Well, I think we need to be

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1 accurate. I mean, we need to try to resolve that one way or  
2 another. I mean, we've got be accurate within a penny. I  
3 mean, that's somebody else's monies. We can't really deviate  
4 from that at all. I mean, we have got to find where  
5 that...even it's one penny, then I believe we need to make  
6 every effort to try to...that's...some how we need to make an  
7 adjustment or whatever with First Virginia, I believe...well,  
8 of course, First Virginia is probably not going to have too  
9 much interest at this point. But---

10 BOB WILSON: That's probably an understatement.

11 DENNIS GARBIS: Yeah.

12 BOB WILSON: And, I believe, that---

13 CLYDE KING: But you've got records to show you paid  
14 it?

15 BOB WILSON: I believe this goes back actually to  
16 the Bank of Tazewell at that point in time.

17 LESLIE K. ARRINGTON: I believe in '94, it would.

18 BOB WILSON: So, this is three banks back.

19 And...you know, we can pursue it. I don't know---

20 DENNIS GARBIS: Yeah, I don't have any suggestions  
21 of how to do it. But, I mean, it's...there has to be  
22 a...well, number one, we've got to get the closure for the  
23 item, clean it up some way...and the other thing is that we

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1 don't really have high expectations of having everything down  
2 to the penny then. Just don't want to subject ourself to  
3 that, I don't believe.

4 LANDON WYATT: My I say something, Mr. Chairman?

5 DENNIS GARBIS: Yeah, if you'd like to come down.

6 LANDON WYATT: I'll accept the deviation as my  
7 share. I mean, that's too little money over the number of  
8 years that's been involved.

9 DENNIS GARBIS: Would you like to identify yourself,  
10 sir?

11 LANDON WYATT: I'm sorry. I'm Landon Wyatt, manager  
12 of Harrison and Wyatt, LLC. Excuse me. I just offer that.  
13 It's just such a small amount of money to spend time trying  
14 to resolve.

15 CLYDE KING: That would settle the situation,  
16 wouldn't it? Wouldn't it?

17 DENNIS GARBIS: Well, I understand, but we have a  
18 bigger picture to look at. We've got to look at everything  
19 unless we have---.

20 LANDON WYATT: I just offer that as a resolution.

21 DENNIS GARBIS: I mean, if you all will accept this  
22 amount of money in this particular case, that solves one  
23 problem. But, again, I think we're looking at a larger  
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1 problem, you know, potentially for, you know, other people  
2 that we're going to have the same problem with. We've got to  
3 be accurate down to with the penny.

4 LESLIE K. ARRINGTON: But that brings in to make  
5 that...these type of problems to go away, you're going to  
6 have to do these similar deal with every unit that's in there  
7 because you're not going to find it otherwise.

8 DENNIS GARBIS: Well, if that's...I mean, so be it  
9 if somebody is willing to compromise. But our standards have  
10 got to be a 100%. I mean, we've got---

11 LESLIE K. ARRINGTON: I understand.

12 DENNIS GARBIS: I mean, that's the only way we can  
13 do business other than balance, that's correct.

14 MARK SWARTZ: Well, we needed to, you know,  
15 affirmatively bring it to your attention that when you zero  
16 out the bank's account, we think it's not a 100% of what  
17 should be coming...I mean, we need to bring that...the order  
18 is going to say this is what's there and this is what needs  
19 to come out. But we needed to bring to your attention, you  
20 know, this is one of those instances...I think this is only  
21 the second time that we have been unable to reconcile and I  
22 think the other time was something different. But we need to  
23 tell you that and that's...you know, we just...we just have

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1 no where to go here.

2 KEN MITCHELL: Mr. Chairman, could I ask a question  
3 to Mr. Swartz?

4 (No audible response.)

5 KEN MITCHELL: Mr. Swartz, would Consol be willing  
6 to donate, and I use the word donate, \$11.13 to rectify a  
7 mistake that was made seven years ago?

8 MARK SWARTZ: You know, I could probably dig in my  
9 pocket to do that. I can't really speak for my client. But  
10 I would be willing to consider donating from my firm to solve  
11 this problem. But I don't want to start a precedent that,  
12 you know, we're...that my client, and I realize it's not a  
13 lot of money, is standing behind mistakes that the bank...you  
14 know, at least it looks like the bank may---

15 KEN MITCHELL: But the only thing I'm saying, Mr.  
16 Swartz, is that...is that you have obviously tried to rectify  
17 the problem. You have obviously tried to rectify the mistake  
18 with the bank. At some point, the bank---

19 MARK SWARTZ: We don't have a bank to rectify it  
20 with.

21 KEN MITCHELL: Right. Right. I know we're going  
22 back to several banks. But I'm saying in a case like this to  
23 make it truly like...you know, like our chairman said, to

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1 really make this rectify it to where it's a 100% correct, I  
2 think if someone, you know, would donate the \$11.13, not to  
3 be a precedent setter, but to solve the problem here, to me  
4 that would rectify this one and then we can look at future  
5 problems and check with our banker or the previous bank of  
6 future problems.

7           CLYDE KING: Well, you're talking about previous  
8 bank. How long have you known about this?

9           MARK SWARTZ: Since we did this spreadsheet a month  
10 ago.

11           CLYDE KING: I mean, how in the world are we going  
12 to find out where it actually came from?

13           MASON BRENT: I don't think you---.

14           BOB WILSON: Generally, from my observation, the way  
15 these accounts are working, the only way you're ever likely  
16 to find that would be to run a spreadsheet like that on every  
17 unit that has been handled since '94 and do a backward audit  
18 on this in order to find where that \$10 is. Now, we have  
19 seen...had instances where either one of two things. Either  
20 a payment has come in to the bank and somebody has misread a  
21 docket number and got it in the wrong account. We've had it  
22 come in where the wrong docket number has been placed on the  
23 document being deposited and it got put in the wrong account.

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1 We've managed, I think, to keep those straight in the short  
2 term. But to go back to 1994 and chase down that \$10, we  
3 would have to do, I believe, a full accounting on every  
4 account that we had from this time back to the---

5 DENNIS GARBIS: You'll spend \$10,000 trying to find  
6 \$10.

7 MARK SWARTZ: Well, you may not because depending on  
8 the bank's bookkeeping, this \$10 may have never landed on the  
9 bank. I mean, there's no guarantee that it landed in this  
10 escrow account. You know, well, we've seen before...we have  
11 seen instances where they have completely blown an allocation  
12 of a check. We could then (inaudible) it. So, when we go  
13 back into the bank's record, we find them in the wrong  
14 account, we move it over, we deal with it. Here it is  
15 possible...I mean, this check went into this account, just  
16 the wrong amount. I mean, it's possible that the escrow  
17 account never received that \$10 in any way, shape or form.  
18 So, you could do what you're talking about and not find it.  
19 I mean, you could or you might not.

20 MASON BRENT: It could have been an in balance  
21 between the banks and it was written off.

22 MARK SWARTZ: Right. Exactly. Yeah, it's just---

23 DENNIS GARBIS: Well, at least I think we have some  
24

1 resolution. If the gentleman is willing to accept that,  
2 that's good. I will have to say, speaking for myself, that I  
3 am concerned that we do set a precedent where we have parties  
4 that I believe are honest come before you and say look  
5 here...this is what we did. We've identified the problem.  
6 We have a cancelled check...did I hear you say you have a  
7 cancelled check stating that---?

8 LESLIE K. ARRINGTON: That's what our records show.  
9 Now, again, as you said this was what seven years ago. I  
10 have to depend on our accountants to say this is what it is  
11 and that's what I've done to try to balance it.

12 DENNIS GARBIS: Well, I mean, there's several issues  
13 here. Again, I'm concerned about the accuracy and I  
14 appreciate the fact that you're going to these extremes to  
15 obtain the accuracy, but at the same time, we have to have  
16 rigid standards because it's people's money. So, we have to  
17 have...we've got to try to make every effort to account, you  
18 know, a 100% down to the penny. So, I'm not so sure that I  
19 agree to have them...it's chump change, I understand.

20 CLYDE KING: There's no point of spending that much  
21 money and effort.

22 DENNIS GARBIS: And...yeah, that's right. I mean,  
23 sometimes, you know, we're...you've got to cut your loses at  
24

1 some point. You can't spend \$10,000 trying to find \$10  
2 because that doesn't make sense. So---

3 LESLIE K. ARRINGTON: The one problem that can be  
4 corrected, but it will take some work, but not the kind of  
5 work we're talking about is that transfer from one ledger  
6 sheet to the other. I mean, it's just simply a typographical  
7 error that someone made and it was in who, Tazewell Bank---

8 MARK SWARTZ: The bank made a \$1.13 mistake.

9 LESLIE K. ARRINGTON: Yeah. They go from one page  
10 to the next page and it was a \$1.13 difference and we have  
11 seen that in several occasions. It's been quite some time  
12 since we brought one to your attention. Those type of  
13 errors, you know, someone maybe could flip through the ledger  
14 sheets quickly and find those. But this \$10 error it's going  
15 to take these spreadsheets to find those.

16 DENNIS GARBIS: I think the important issue is that  
17 the gentleman is willing to accept what you're...well, what  
18 we're offering him---

19 LESLIE K. ARRINGTON: Yeah.

20 DENNIS GARBIS: Yeah, what the spreadsheet shows,  
21 which is \$4,941.96. I believe that's between Mr. Keen and  
22 Mr. Wyatt.

23 LESLIE K. ARRINGTON: Yes.

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1           DENNIS GARBIS: So, each of you will get this  
2 amount?

3           LESLIE K. ARRINGTON: Yes, that's correct.

4           BOB WILSON: I spoke with Mr. Hubert Keen earlier  
5 today and Mr. Keen asked that I let the Board be aware of the  
6 fact that he is in total agreement with this settlement on  
7 Tract 4 with Mr. Wyatt's firm.

8           DENNIS GARBIS: Well, that being the case, then  
9 should we...we have a petition here, should we vote on that?  
10 Did I hear a---?

11          CLYDE KING: Yes, I think so.

12          DENNIS GARBIS: Did I hear a motion?

13          CLYDE KING: I so move.

14          KEN MITCHELL: Do we have a second?

15          DENNIS GARBIS: We have a motion and a second. Any  
16 further discussion?

17                 (No audible response.)

18          DENNIS GARBIS: Any comments?

19          CLYDE KING: Are we legal, Sandy?

20                 (Ms. Riggs indicates in the affirmative.)

21          CLYDE KING: Okay.

22          MAX LEWIS: Are you going to read the motion?

23          DENNIS GARBIS: Well, the motion is that the Board  
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1 will consider a petition from Buchanan Production Company for  
2 dismissal of certain respondents heretofore pooled, the  
3 respondents, I presume, are Mr. Wyatt and Mr. Keene? Those  
4 are the respondents?

5 MARK SWARTZ: Well, Mr. Keen wasn't. But Mr. Landon  
6 Wyatt's firm was.

7 DENNIS GARBIS: Okay, well, I mean, through Mr.  
8 Wilson. We're being generous this morning. So, for a  
9 dismissal of certain respondents heretofore pooled,  
10 disbursements from escrow regarding tract 4 and authorization  
11 for direct payment of royalties for a coalbed methane unit  
12 identified as Y-8, located in Buchanan County, Virginia and  
13 pooled under dockets VGOB-91-04/30-0111, VGOB-92-1/17-0291  
14 and VGOB-92-11/17-0291-01.

15 CLYDE KING: Right.

16 DENNIS GARBIS: So, we had a motion and a second.  
17 All those in favor, signify by saying yes.

18 (All members signify yes.)

19 DENNIS GARBIS: All opposed, signify by saying no.

20 (No audible response.)

21 DENNIS GARBIS: That will be petition as  
22 granted...as approved.

23 MARK SWARTZ: Thank you very much.

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1           DENNIS GARBIS: That ends today's activity.

2           SANDRA RIGGS: And that approval of the disbursement  
3 is based on the number shown in the spreadsheet prepared by  
4 the unit operator as being the current account balances at  
5 the bank.

6           CLYDE KING: Will we have this correction at the  
7 next meeting? Have one of these that will be corrected?

8           MARK SWARTZ: It is...I mean, it is corrected.

9           CLYDE KING: Yeah. That was taken care of.

10          MARK SWARTZ: It's already built in.

11          CLYDE KING: Okay.

12          MARK SWARTZ: The number reflects the ledger error  
13 and the short. Okay.

14          DENNIS GARBIS: So, getting back to what...are we  
15 off the record now?

16          BOB WILSON: Well, we need this on the record, I  
17 guess.

18          DENNIS GARBIS: We need to have it on the record,  
19 okay, fine. So, on the record, we'll discuss the October  
20 Board hearing as to whether we desire to be at the Breaks  
21 Interstate Park or Big Stone Gap or Abingdon, Virginia or---.

22          MARK SWARTZ: Virginia Beach.

23          DENNIS GARBIS: (Inaudible), Virginia. That's a  
24

1 good idea, have you all come up there in our parts.

2 MASON BRENT: Mr. Chairman, I'll just give you my  
3 two cents. The Breaks is a lovely place particularly in  
4 October, but I think I've been there now four times and all  
5 it does to me is add another hour and fifteen minutes to my  
6 five hour drive. So, I'd just soon move East. That's my two  
7 cents.

8 DENNIS GARBIS: Mr. King, do you have something---.

9 CLYDE KING: I enjoy going to Breaks, also.  
10 However, it takes time for all of us. But I...I'm a little  
11 intrigued about the thing over at Big Stone Gap. Would that  
12 take us out of the way too far? That's another hour from  
13 here or an hour and a half.

14 DENNIS GARBIS: How far is it to Big Stone Gap?

15 BOB WILSON: About an hour.

16 SANDRA RIGGS: Hour four lane.

17 CLYDE KING: Four lane.

18 BOB WILSON: Hour and twenty minutes.

19 CLYDE KING: The roads are better.

20 (Board members confer among themselves.)

21 CLYDE KING: It suits me. Stay here.

22 KEN MITCHELL: Big Stone Gap.

23 DENNIS GARBIS: Big Stone Gap. Max, what do you  
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1 think in regards to this matter?

2 MAX LEWIS: I say we meet right here.

3 DENNIS GARBIS: You want to get away from Buchanan  
4 County.

5 CLYDE KING: Big Stone's away from Buchanan County.

6 MARK SWARTZ: This is Washington County. He is away  
7 from Buchanan.

8 DENNIS GARBIS: Yeah, I know. Well, I guess I could  
9 add to what Mason said. I've been there now seven or eight  
10 times. It is beautiful and the only reason why I would...I  
11 would consider going out there if there was something really  
12 constructive that we would learn and would assist us, you  
13 know, in our duties, then I would certainly be in favor of  
14 that.

15 CLYDE KING: How many...how many of us have ever  
16 been to Big Stone Gap?

17 DENNIS GARBIS: I've never been there.

18 CLYDE KING: Me neither.

19 DENNIS GARBIS: I could find it on a map.

20 BOB WILSON: Well, excuse me. I would suggest that  
21 if we're considering Big Stone, that you would make a second  
22 day of it for the tour and the presentation and such because  
23 we can't be guaranteed that we're not going to have a day  
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1 full and I believe we're going to have a pretty heavy agenda  
2 through out the fall this year from what I understand. So,  
3 we would...if we decided to do something at Big Stone or any  
4 place else, we would probably do that on the Monday afternoon  
5 preceding the Board hearing.

6 MASON BRENT: Then it would be up to each member as  
7 to whether they want to go or not.

8 CLYDE KING: Yeah.

9 BOB WILSON: And, yeah...again, I can poll you folks  
10 individually on that and see if we want to do something like  
11 that.

12 CLYDE KING: You're saying---.

13 MAX LEWIS: I'd like to make a motion that we meet  
14 here.

15 MASON BRENT: I'll second that motion that we meet  
16 here and have the trip to Big Stone Gap as another day or a  
17 day before event that members can sign up for.

18 CLYDE KING: Do you agree with changing your motion  
19 having a day before or day after in Big Stone?

20 MASON BRENT: That doesn't need to be part of my  
21 motion. I just second his---.

22 MAX LEWIS: (Inaudible).

23 DENNIS GARBIS: So, we have a motion that we have  
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1 the October hearing here in Abingdon. We have a motion. We  
2 have a second. All those signify, by saying yes.

3 (All members signify yes.)

4 DENNIS GARBIS: I guess we have approval. All those  
5 not in favor, signify by saying no.

6 (No audible response.)

7 CLYDE KING: I'd still like to go to Big Stone  
8 sometime.

9 BOB WILSON: Again, if it's satisfactory to  
10 everybody, we'll give everybody a chance to think about this  
11 and then I will call each of you individually and see if  
12 there's sufficient interest. Last year, we set up a tour and  
13 it kind of fell through at the last minute because other  
14 people had commitments and weren't able to make it. I think  
15 maybe if I talk to you on an individual basis, then we'll  
16 decide that and we'll let you know obviously in plenty of  
17 time on that.

18 DENNIS GARBIS: No Breaks this year. They have  
19 Christmas in October---.

20 BOB WILSON: No Breaks.

21 DENNIS GARBIS: ---over there in the Breaks.  
22 That's when they closed earlier (inaudible). It kind of got  
23 me in the Christmas spirit early. Anything else?

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(No audible response.)

DENNIS GARBIS: Thank you very much.

1 STATE OF VIRGINIA,

2 COUNTY OF BUCHANAN, to-wit:

3 I, Sonya Michelle Brown, Court Reporter and Notary  
4 Public for the State of Virginia, do hereby certify that the  
5 foregoing hearing was recorded by me on a tape recording  
6 machine and later transcribed by me personally.

7 Given under my hand and seal on this the 13th day  
8 of September, 2001.

9

NOTARY PUBLIC

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My commission expires: August 31, 2005.

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