

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 MARCH 19, 2002

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12 APPEARANCES:

13 MASON BRENT, GAS & OIL INDUSTRY REPRESENTATIVE

14 KEN MITCHELL, CITIZEN APPOINTEE

15 BENNY WAMPLER, DIRECTOR OF THE DMME & CHAIRMAN

16 MAX LEWIS, PUBLIC MEMBER

17 SHARON PIGEON, COUNSEL FOR THE BOARD WITH THE ATTORNEY
18 GENERAL'S OFFICE

19 BOB WILSON, DIRECTOR OF THE DIVISION OF GAS & OIL AND ACTING
20 PRINCIPAL EXECUTIVE TO THE STAFF OF THE BOARD

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EXHIBITS:
None

****AGENDA ATTACHED

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

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

8 KEN MITCHELL: My name is Ken Mitchell. I'm from
9 Stafford County, Virginia. I am a citizen appointee.

10 BENNY WAMPLER: Sharon.

11 SHARON PIGEON: I'm Sharon Pigeon. I'm an
12 Assistant Attorney General. I'm really sitting in today.
13 I'm normally on the coal side of the industry, but I'm
14 sitting in today for Sandy Riggs who is on a much deserved
15 and well earned vacation.

16 MAX LEWIS: My name's Max Lewis. I'm from Buchanan
17 County. I'm a public member.

18 BOB WILSON: I'm Bob Wilson. I'm the Director of
19 the Division of Gas and Oil, and the principal executive to
20 the staff of the Board.

21 BENNY WAMPLER: Thank you very much. The...I'm
22 going to go ahead and call items two, three and four on the
23 agenda. The Board members for the record have reviewed these
24

1 documents and I'll identify those as soon as I call the
2 docket numbers from the last meeting. They are docket number
3 VGOB-02-02/19-1002, and all those prefixes and 1003, and then
4 1004. This regarded coalbed methane units under the Oakwood
5 Coalbed Methane Gas Field order identified as G-48, G-49 and
6 H-48.

7 The Board members were presented with a copy of a
8 letter dated April the 20th from Bob Wilson to Mr. Les
9 Arrington, wherein Ella Beavers, Tammy Hatfield Stiltner,
10 Rosa Fay Hatfield, Thomas Roy Mullins, Louie Fred Mullins and
11 Larry Ervin Mullins had claimed that they owned gas under the
12 land in the units G-48, G-49 and H-48. They were also
13 provided a copy of a letter to me from Mr. Donald R. Johnson,
14 dated March 15, 2002; and a copy of the relevant portions of
15 the transcript from the last hearing.

16 As we stated at the last hearing, we do not plan to
17 receive any further evidence. The Board was deadlocked in
18 its decision. I would now ask the Board members if there's a
19 motion.

20 Before I do that, let me just affirm for myself,
21 and I'll ask the other Board members to do the same, that
22 I've had no discussion with any of the Board members since
23 the last hearing regarding this case.

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1 MASON BRENT: I have---.

2 BENNY WAMPLER: If you'll state your name and---.

3 MASON BRENT: My name is Mason Brent. I have had
4 no discussions with any other Board member, nor anyone else
5 for that matter regarding---

6 BENNY WAMPLER: I'll affirm that as well.

7 KEN MITCHELL: My name is Ken Mitchell. I've had
8 no discussions with any attorneys, any of the claimants,
9 anyone on this...who sits on this Board. I've had no
10 discussions since we left this room.

11 MAX LEWIS: My name's Max Lewis. I have had no
12 discussions with anyone over these three units.

13 BENNY WAMPLER: I just think that's important
14 for---

15 MARK SWARTZ: Right.

16 BENNY WAMPLER: ---the record and for all of you to
17 know that we don't collude on these kinds of things. They
18 have no idea what we're about to do, but to pick up where we
19 left us last time. So, I'll ask the Board, having read the
20 material and having time to consider where we were last time,
21 is there a motion?

22 MASON BRENT: Mr. Chairman, I'd like to make a
23 motion that we approve the pooling orders as submitted.

24

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1 BENNY WAMPLER: Is there a second?

2 (No audible response.)

3 BENNY WAMPLER: Hearing no second, the motion dies.
4 Is there another motion?

5 KEN MITCHELL: Mr. Chairman, I would make a motion
6 to deny the pooling.

7 MAX LEWIS: I second it.

8 BENNY WAMPLER: Motion and second. Any further
9 discussion?

10 (No audible response.)

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

13 (Ken Mitchell and Max Lewis indicate
14 affirmatively.)

15 BENNY WAMPLER: All opposed, say no.

16 (Mason Brent and Benny Wampler indicate in the
17 negative.)

18 BENNY WAMPLER: So, we're just no decision and
19 that's where we'll leave it. We're deadlocked on a decision
20 on it.

21 The...we'll go back to number one on the agenda.
22 The Gas and Oil Board will consider a petition from Buchanan
23 Production Company for pooling of a coalbed methane unit

24

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1 under the Oakwood Coalbed Methane Gas Field I order
2 identified as ZZZ-29. This is docket number VGOB-01-12/18-
3 0994. We'd ask the parties that wish to address the Board in
4 this matter to come forward at this time.

5 MARK SWARTZ: Mark Swartz on behalf of Buchanan
6 Production Company. We'd like to dismiss this one.

7 BENNY WAMPLER: All right. Any objections?

8 (No audible response.)

9 BENNY WAMPLER: No objections. It will be
10 dismissed.

11 The next item is a petition from Buchanan
12 Production Company for creation and pooling of a sealed gob
13 unit identified as VP2SGU1, docket number VGOB-02-03/19-1008.
14 We'd ask the parties that wish to address the Board in this
15 matter to come forward.

16 MARK SWARTZ: Mark Swartz and Les Arrington for
17 Buchanan Production Company.

18 BENNY WAMPLER: The record will show there are no
19 others. You may proceed.

20 (Audience member speaks out.)

21 BENNY WAMPLER: You need to come down, if you will,
22 and sit here then.

23 (Steven Tickle sits at the table.)

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1 BENNY WAMPLER: All I need you to do now is sit
2 there and identify yourself for the record, please.

3 STEVEN TICKLE: My name is Steven Tickle. I'm
4 actually representing my father, William Tickle.

5 BENNY WAMPLER: Okay. We'll give them a chance to
6 make their presentation.

7 STEVEN TICKLE: Sure.

8 BENNY WAMPLER: You'll have an opportunity to ask
9 questions as well as the Board asking questions. We'll try
10 to make sure we get answers if you have questions.

11 BENNY WAMPLER: Les, do you have a copy of this for
12 Mr. Tickle.

13 (Leslie K. Arrington distributes exhibits.)

14 MARK SWARTZ: Okay, Les, do you want to be sworn?

15 (Leslie K. Arrington is duly sworn.)

16

17 LESLIE K. ARRINGTON

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

20 DIRECT EXAMINATION

21 QUESTIONS BY MR. SWARTZ:

22 Q. Okay, you need to state your name for us.

23 A. Leslie K. Arrington.

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1 Q. Who do you work for?
2 A. Consol Energy/CNX Gas.
3 Q. L.L.C.?
4 A. L.L.C.
5 Q. Okay. Were you the person that was in
6 charge of putting together the notice of hearing, the
7 application and the many exhibits with regard to this sealed
8 gob unit?
9 A. Yes, I was.
10 Q. Okay, you either did it yourself or you had
11 supervision over people that helped you do it?
12 A. That's correct.
13 Q. Okay. And, in fact, you signed both the
14 notice and the application, is that correct?
15 A. That's correct.
16 Q. The applicant here is Buchanan Production
17 Company?
18 A. Yes, it is.
19 Q. And Buchanan Production Company is a
20 Virginia General Partnership?
21 A. Yes, it is.
22 Q. And it has two partners that are Consol
23 Energy, Inc. and CNX Gas, L.L.C.?
24

1 A. That's correct.

2 Q. Is Buchanan Production Company authorized to
3 do business in the Commonwealth?

4 A. Yes, it is.

5 Q. Who are you requesting be the designated
6 unit...designated operator if the unit...if the unit is
7 created?

8 A. Consol Energy.

9 Q. Okay. Is Consol Energy a Delaware
10 corporation?

11 A. Yes, it is.

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

15 A. Yes, it does.

16 Q. Some considerable time ago, perhaps ten
17 years ago, did the management committee of Buchanan
18 Production Company delegate certain development and
19 management responsibilities with its assets?

20 A. Yes, it did.

21 Q. Okay. And is Consol Energy, Inc. the
22 successor today of that delegation that has gone through
23 several parties?

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1 A. Yes, it is.

2 Q. And as of today, does Consol Energy, Inc.
3 have the authority to explore, develop and maintain the
4 properties and assets of Buchanan Production Company?

5 A. Yes, it does.

6 Q. And that's one of the reasons why you're
7 seeking to have Buchanan...Consol Energy, Inc. appointed
8 designated operator?

9 A. Yes, it is.

10 Q. Have you named the respondents that you're
11 seeking to pool in the notice of hearing?

12 A. Yes, it is.

13 Q. And have you named people in addition to the
14 folks that you're seeking to pool?

15 A. Yes, I have.

16 Q. And those additional people would be some of
17 your lessors?

18 A. Yes, it is.

19 Q. Okay. And the reason for that is we're
20 seeking to do two things here today, correct?

21 A. Yes.

22 Q. First, we're trying to create a unit which
23 is shown on the map that we've passed around; and secondly,

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1 if that unit is created, then we're seeking to pool people in
2 that unit that we don't have leases from already?

3 A. That is correct.

4 Q. Okay. And the unit is depicted...red isn't
5 the best color with black here. But the unit is actually
6 this rectangle, which will be on your, as you're looking at
7 it, I guess toward the right, and it has the docket number
8 02-03/19-1008 written in it, and it's outlined in red. Les,
9 has this unit already been sealed?

10 A. Yes, it was.

11 Q. Okay. When was it sealed?

12 A. December the 1st, 2001.

13 Q. Okay. And would you like the order then, as
14 we have done in the past, to be effective at midnight of the
15 date that it was sealed?

16 A. That's correct.

17 Q. And that's stated in your---?

18 A. It is.

19 Q. ---in your papers, right?

20 A. Yes, it is.

21 Q. So, we would like it effective December the
22 1st, 2001 if this unit is created and sealed?

23 A. Correct.

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1 Q. Okay. The entries, if we just look at this
2 unit, where the unit would communicate with the BUN 1, which
3 is immediately to the west, do you see that?

4 A. Yes.

5 Q. Have those entries already been sealed?

6 A. Yes, they were.

7 Q. Okay. And then there is a main that runs
8 along...actually between the BUN 1 unit and the proposed
9 unit, right?

10 A. Correct.

11 Q. And has that main been sealed by the red
12 line that kind of takes a jog at the...would be the southwest
13 corner of the unit?

14 A. Yes, it does.

15 Q. Okay. And have you reported...we'll get to
16 that eventually, but have you reported the cost to seal this
17 unit?

18 A. We did.

19 Q. Okay. And there are already a number of
20 wells and/or...strike that. There are already a number of
21 CBM wells in this unit?

22 A. Yes. Approximately 185.

23 Q. Okay. And some of those wells have produced
24

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1 from voluntary units within Oakwood, right?

2 A. That's correct.

3 Q. And some from units that were pooled by this
4 Board?

5 A. Correct.

6 Q. And eventually we'll talk about other orders
7 that have applied to this unit that need to be addressed?

8 A. Yes, that's correct.

9 Q. Okay. But basically, to summarize for the
10 Board, we are seeking to pool a unit that has the shape of
11 the red line around this unit?

12 A. That's correct.

13 Q. And also, we have described it in both the
14 notice of hearing and the application, have we not?

15 A. Yes, we did.

16 Q. And we've given, just for example, the top
17 of the second page of the notice there is a metes and bounds
18 description of this unit, correct?

19 A. Yes, it is.

20 Q. Okay. And that's something we're required
21 to give in addition to what would happen?

22 A. Yes.

23 Q. The folks that you're seeking to pool here
24

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1 are listed in exhibit B-3, are they not?

2 A. That's correct.

3 Q. And if you look at B-3, which is three
4 pages, right?

5 A. Correct.

6 Q. Does that contain the names and addresses of
7 the folks that need to be pooled to protect their rights and
8 claims in this unit?

9 A. Yes, it does.

10 Q. Okay. And everybody else that's listed on
11 the first page of the notice of hearing and is not listed on
12 exhibit B-3 are lessors of yours?

13 A. They are.

14 Q. And with regard to election rights and so
15 forth, you're not suggesting or requesting that the lessors
16 be given elections rights, correct?

17 A. No. That's correct.

18 Q. And the reason we've joined them is,
19 although the leases allows us to pool their acreage,
20 typically those leases don't allow for units of this size?

21 A. That's correct. They do not.

22 Q. And that's why we needed to join them,
23 correct?

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1 A. That's correct.

2 Q. And what is the acreage here that we're
3 talking about?

4 A. It's 1973.04 acres.

5 Q. And how does that compare to some of the---?

6 A. Excuse me, 1973.45.

7 Q. Okay, .45?

8 A. .45.

9 Q. And how does that compare to some of the
10 other sealed gob units that we have previously created and
11 pooled that are depicted on this map?

12 A. Yes. If you'll look immediately south of
13 that unit, that's the Buchanan South sealed gob unit. It was
14 1590 acres. The BUN 1 that Mark has already mentioned
15 immediately west of the unit is 1483 acres. We've formed
16 various other units through out the Buchanan No. 1 mine and
17 the VP-3 and VP-8 mine with varying sizes.

18 Q. If you'll look just all the way to the west
19 at the VP-3 sealed gob, how many acres was that?

20 A. That one was 1868.09 acres.

21 Q. Okay.

22 A. We have one in the VP-8 mine was 1716 acres.

23 Q. Okay. What did you do to notify the people
24

1 that you're seeking to pool and your lessors of this hearing
2 today?

3 A. It was mailed by certified mail/return
4 receipt requested on February the 19th of 2002. It was
5 published in the Bluefield Daily Telegraph on February the
6 25th of 2002.

7 Q. And have you filed today with the Board your
8 proofs with regard to mailing and certifications as to who
9 has already signed for the mail and so on and so forth?

10 A. Yes, we did.

11 Q. Okay. Did you also file with the Board
12 today proofs with regard to publication?

13 A. Yes, we did.

14 Q. When I look at your exhibit B-3, it appears
15 to me that you have addresses for everybody that you're
16 seeking to pool?

17 A. We did.

18 Q. So that we don't have an unlocateables
19 problem?

20 A. That's correct.

21 Q. Okay.

22 BENNY WAMPLER: Excuse me. On page three of three
23 of your listing, you show a Joseph Walker heirs as address
24

25

1 unknown.

2 MARK SWARTZ: On B-3?

3 (No audible response.)

4 MARK SWARTZ: Oh, on the proof of mailing.

5 BENNY WAMPLER: Proof of mailing. And also it
6 looks like Cloetta Bradley heirs. I'm looking at---

7 MARK SWARTZ: I'm thinking those people are leased
8 that we don't have a current address for because they're not
9 on B-3.

10 BENNY WAMPLER: I understand.

11 MARK SWARTZ: That's cool.

12 BENNY WAMPLER: Just was from the handout today and
13 I just noticed that you had two there that said address
14 unknown.

15 BENNY WAMPLER: What were their names again?

16 BENNY WAMPLER: One was Joseph E. Walker heirs and
17 the other was Cloetta, C-L-O-E-T-T-A, M. Bradley heirs, and
18 on your proof of mailing you say address unknown.

19 (Leslie K. Arrington reviews his files and confers
20 with Anita.)

21 LESLIE K. ARRINGTON: Those are...those addresses
22 unknown are leased interest, such as the Cloetta Bradley,
23 which is seen on page 38 or 40, Exhibit B. Those are leased

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1 interest. That person has passed away. We still haven't
2 come up with the proper address. I believe...I can't find
3 the other name in here. I believe that's going to be the
4 same thing for the Walkers. I cannot find that name.

5 STEVEN TICKLE: I have a question.

6 BENNY WAMPLER: Yes, sir.

7 STEVEN TICKLE: Is William Tickle a leased
8 interest?

9 LESLIE K. ARRINGTON: Yes, it is.

10 STEVEN TICKLE: When was that lease signed?

11 LESLIE K. ARRINGTON: It was...it was probably a
12 lease with Pocahontas Gas Partnership. To be able to give
13 you that date, I don't bring that information with me.

14 STEVEN TICKLE: If I'm not mistaken, it was signed
15 in 1981 and it was a ten year lease.

16 LESLIE K. ARRINGTON: Uh-huh.

17 STEVEN TICKLE: Okay. Nothing has been done that
18 I'm aware of to renew that lease, is that correct?

19 LESLIE K. ARRINGTON: I can't...I would assume that
20 that lease was held by Production. I believe that lease is
21 overtop of Hugh McRae coal.

22 STEVEN TICKLE: Okay.

23 LESLIE K. ARRINGTON: And that money would be in an
24

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1 escrow account since it is in conflict with the coal owner.

2 STEVEN TICKLE: Right.

3 LESLIE K. ARRINGTON: And if...I just assume, you
4 know, not knowing the specifics, but I would think it would
5 be held by Production and the money in escrow.

6 STEVEN TICKLE: Okay. How can we find out about
7 that?

8 LESLIE K. ARRINGTON: You---.

9 MARK SWARTZ: You could ask your dad and, you know,
10 we'll send you a copy of the lease if you'll give us your
11 address.

12 LESLIE K. ARRINGTON: Yeah. We can go back and
13 look at the specific records at the office to see what the
14 status is.

15 STEVEN TICKLE: Okay.

16 BENNY WAMPLER: On page 35 of 40, if you'll find
17 Mr. Walker...Joseph E. Walker heirs. It says address
18 unknown.

19 MARK SWARTZ: Right. That's a leased interest.

20 LESLIE K. ARRINGTON: Those are leased interest.
21 We just...you know, we haven't come up with a new address
22 yet.

23 BENNY WAMPLER: Okay. Proceed.

24

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1 Q. To go back to my question, with regard to
2 exhibit B-3 which lists the people you're trying to pool as
3 opposed to people that you already have leases from---?

4 A. Correct.

5 Q. ---is there anybody that you're trying to
6 pool that you don't have an address for?

7 A. No.

8 Q. Okay. And Mr. Wampler has pointed out that
9 there are some people that you have leases from that have
10 either moved or died that you have address issues?

11 A. That's correct. And at times we've run into
12 those problems and it takes a while to come up with a new
13 address.

14 Q. Okay. With regard to the folks, your
15 lessors that you don't have addresses for or the mail got
16 returned, that's one of the reasons you publish as well?

17 A. It is.

18 Q. Okay. And with regard to exhibit E, which
19 is an escrow exhibit, it appears to me that there is...even
20 on the first page, there is a possible owner.

21 A. That's correct.

22 Q. So, we've got a title issue that needs
23 escrow. And just looking through here on the escrow, it

24

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1 appears that from an unlocateable standpoint, I don't see any
2 addresses unknown. Is that your recollection?

3 A. There's so many on there, Mark.

4 Q. Okay. Well, let's look through them
5 together here. We've got Thelma Belcher again.

6 A. And you notice---

7 Q. And we've got an address unknown for her
8 and---

9 A. Possible owner.

10 Q. Right, and a possible owner. And I'll also
11 point out that on 15 of 15 of exhibit E, you're showing
12 William Tickle as being subject to escrow?

13 A. Right.

14 Q. So, with regard to exhibit E, would it be
15 fair to say that an escrow is required for a number of tracts
16 because of conflicting claims?

17 A. Yes, it is.

18 Q. And also with regard to Tract 11, there is a
19 possible title issue and an address unknown issue, correct?

20 A. Yes.

21 Q. And Thelma Belcher shows up again in Tract
22 45, correct?

23 A. Yes.

24

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1 Q. And we've got the same issue there from an
2 escrow standpoint?

3 A. (No audible response.)

4 Q. Do you want to add any respondents today or
5 dismiss any?

6 A. No, we do not.

7 BENNY WAMPLER: Just one more question while you're
8 on E.

9 LESLIE K. ARRINGTON: Okay.

10 BENNY WAMPLER: Where you just list Torch Operating
11 Company, you don't show...you have them listed under coal fee
12 ownership.

13 LESLIE K. ARRINGTON: Well, it's actually Hugh
14 McRae. But they own...Torch owns the CBM royalty to that
15 interest.

16 BENNY WAMPLER: To that same interest as above?

17 LESLIE K. ARRINGTON: Yes.

18 BENNY WAMPLER: Thank you.

19 MARK SWARTZ: Well, it's Hugh McRae, but the
20 interest...the CBM interest has actually been conveyed by
21 Hugh McRae to Torch.

22 BENNY WAMPLER: That's correct.

23 MARK SWARTZ: But they're both in there. That's
24

1 why Torch is listed.

2 BENNY WAMPLER: Okay.

3 Q. And you don't want to add anybody or dismiss
4 anybody today, is that---?

5 A. No.

6 Q. Okay. The production here is coalbed
7 methane production basically from the Poca III Seam on up?

8 A. That's correct. It is.

9 Q. And the...this is in...these longwall panels
10 that are depicted on the map that you passed out to today and
11 that are also shown on the map that accompanied the
12 application and the notices are in what mine?

13 A. The Buchanan No. 1 mine.

14 Q. Okay. And exhibit A-1 to the notice and to
15 the application shows the various panels in that mine that
16 are contained within the boundaries of the unit, right?

17 A. It does.

18 Q. And then on top of that it also shows the
19 tracts that we're referring to in the tract identifications
20 and that we're referring to in the other exhibits?

21 A. Yes, it does.

22 Q. So, that's kind of the key in terms of where
23 people have their ownership interest, correct?

24

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1 A. Correct.

2 Q. Okay. How many wells do you propose to use
3 for development purposes in this 1973 acre sealed gob unit?

4 A. In this unit, there's nine longwall panels.
5 We're proposing to use two wells per longwall panel.

6 Q. Okay.

7 A. For a total of eighteen wells. Within
8 there, as I said earlier, there is approximately 185 coalbed
9 methane wells.

10 Q. Okay, so out of 185 wells, you're seeking to
11 recover, if there are participants, cost with regard to one
12 in ten or about eighteen?

13 A. That's correct.

14 Q. Okay. Have you provided cost information?

15 A. Yes, I did.

16 Q. There's an exhibit C, correct?

17 A. There is.

18 Q. And is that an attempt on your part to come
19 up with an average cost that could be applied to the eighteen
20 wells?

21 A. That's what I...yes, it was.

22 Q. Okay, and the average cost that you're using
23 in this pooling is what?

24

1 A. \$136,003.22.

2 Q. Okay. And these are relatively shallow
3 compared to some wells. We're looking at...what's the depth
4 here?

5 A. Well, the wells average approximately 1652
6 feet.

7 Q. And so that accounts for the cost to some
8 extent?

9 A. To some extent. One of the...one of the
10 major things here is there is no stimulation to these wells.
11 You have...you don't have a deep production string.

12 Q. And the stimulation can be a sixty or
13 seventy thousand add on?

14 A. It is.

15 Q. So, the reason we're looking for roughly
16 \$136,000 as opposed to something around or above \$200,000 is
17 primarily stimulation and partly depth?

18 A. It is.

19 Q. Okay. Then have you re...sort of recapped
20 in a summary way, the cost that you're seeking to allocate to
21 people who might participate in this unit in an exhibit G
22 that was also submitted?

23 A. Yes, I have. The total cost that we're
24

1 seeking to recoup in here is \$2,464,557.96.

2 Q. For the wells?

3 A. Well, that's actually the total cost.

4 Q. Okay. All right. And that's comprised of
5 two components? I'm sorry.

6 A. Yes, it is. Eighteen wells which was a cost
7 of \$2,448,057.96, and the cost of some of the seals was
8 \$16,500.

9 Q. Okay. Now, are there areas of this mine
10 that are still being mined?

11 A. Yes, it is. If you'll look due east or
12 right to the right of the proposed unit, you'll see one...one
13 longwall panel that has been mined and then a portion of the
14 next one. That is the existing area where Buchanan No. 1 is
15 mining presently.

16 Q. Okay. And if you come to the southwest of
17 the unit that we're proposing today---?

18 A. Uh-huh.

19 Q. ---and you come over to Trace Fork. Do you
20 see that?

21 A. Yes.

22 Q. Is that where the shaft is that gets into
23 the mains that the miners enter the mine?

24

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1 A. Well, actually that's where the coal comes
2 out now.

3 Q. Okay.

4 A. They have put in a new portal for the men,
5 which is up on...up on the northeastern portion of the one
6 longwall panel we've spoke to.

7 Q. Okay. So, in the mining that continues, the
8 men come on the northeast of the panel that's shown as mined,
9 right?

10 A. Uh-huh.

11 Q. But the coal is coming out near Trace Fork?

12 A. Yes, it is.

13 Q. And that's why you have not....if you kind
14 of look carefully at the map, you can see that the main from
15 Trace Fork actually continues unsealed and unabated all the
16 way over to the area that you continue to mine?

17 A. Yes. That's correct.

18 Q. Continued mining...can I assume that
19 continued mining requires that you monitor pressures in the
20 sealed gob areas?

21 A. Yes, it does.

22 Q. Okay. And that you have enough wells in
23 place to contain and control that pressure?

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1 A. That's correct.

2 Q. Okay. And that's why you've asked for
3 eighteen wells here---?

4 A. That's correct.

5 Q. ---if there's a margin of safety built in?

6 A. Well, the additional wells within there that
7 we don't flow at most times are your marginal safety.

8 Q. Okay. So, you're going to keep some of
9 those additional wells available as a backup?

10 A. We sure...we sure do.

11 Q. So, you'll keep those permits in place and
12 you may produce if you need to from those?

13 A. That's correct.

14 Q. But you're not out seeking to allocate any
15 of those costs?

16 A. No.

17 Q. Okay. With regard to prior orders, have you
18 tried to catalog for Sandra and for the Board, for her
19 convenience and for the Board, applications and orders that
20 have applied to units within this sealed gob unit?

21 A. Yes, we did as exhibit F.

22 Q. Okay. There are a number of units listed
23 with regard to exhibit F. The first seven listed were

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1 ultimately withdrawn and no order was entered, correct?

2 A. I believe that's correct. Yes.

3 Q. And then the balance, there were actually
4 pooling orders entered?

5 A. Yes.

6 Q. And it's our request that the...that any
7 order entered by the Board here creating this unit and
8 pooling this unit would then supercede these prior orders and
9 that they should be mentioned by name---?

10 A. That's correct.

11 Q. ---to keep a clean trail here?

12 A. Yes.

13 Q. Okay.

14 BENNY WAMPLER: While you're over at that section,
15 before you lay all of that on top of it,---.

16 MARK SWARTZ: Okay.

17 BENNY WAMPLER: ---go to the next page, your G-1
18 again, if you will.

19 MARK SWARTZ: Okay.

20 BENNY WAMPLER: Exhibit G, page one.

21 MARK SWARTZ: Right.

22 BENNY WAMPLER: You have cost columns there, cost
23 per well. Under that you have for the two wells, the two gob

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1 wells which you stated for the record times nine. But then
2 you got mine seals still under cost per well and it's the
3 same as it is over in your sub-total.

4 LESLIE K. ARRINGTON: It was only one cost there
5 that we're allocating to it.

6 BENNY WAMPLER: All right. I'm just thinking if
7 you had somebody for the one well. You're actually---

8 MARK SWARTZ: That's the total for the unit.

9 BENNY WAMPLER: You're doing the total unit---

10 LESLIE K. ARRINGTON: Total for the unit. Yes.

11 BENNY WAMPLER: ---is what you're adding in.

12 MARK SWARTZ: Actually, you could cross out the
13 cost---

14 LESLIE K. ARRINGTON: I gotcha.

15 BENNY WAMPLER: I think so, yeah. Just so that we
16 don't have confusion that that's added to that cost per well.

17 Q. But that \$16,500 is the total sealing cost,
18 right, Les?

19 A. It was.

20 Q. Okay. And that reflects, if you look at the
21 west and east sides of the proposed unit where it's connected
22 to those...well, on the left to the BUN 1 and on the right to
23 the new area of mining, there's a seal in every---

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1 A. Entry.

2 Q. ---entry, correct?

3 A. Yes, there is.

4 Q. And also in the main, in the southwest
5 corner, there's a seal and---?

6 A. It is, yes.

7 Q. And the total cost of that work is the
8 16,500?

9 A. Yes, it is.

10 BENNY WAMPLER: Thank you for that clarification.

11 Q. And essentially what you've done there is
12 you've built block walls underground?

13 A. Cinder block walls, yes.

14 Q. Okay, and you also...I'm not going to dig it
15 out, but you also have submitted an exhibit EE, correct?

16 A. We have.

17 Q. And that's a list of the folks that you
18 would have to escrow but for the fact that they've entered
19 into royalty sharing or royalty splitting arrangements that
20 allows them to be paid directly?

21 A. That's correct.

22 Q. And there's not an insignificant list of
23 folks that have done that?

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1 A. That's correct.

2 Q. Okay, and exhibit D, which we haven't
3 referred to, although we've talked some about lessors.
4 Exhibit D is a list of the folks that you have leases from
5 that you're not seeking to pool, but that you've noticed in
6 terms of creating the unit?

7 A. It is.

8 Q. And we've talked about when it was sealed
9 and when we would like the order to be effective?

10 A. Correct.

11 Q. The last thing I would ask...I mean, it's
12 obvious that you have, when we look at exhibit B-3, that you
13 have leased the vast majority of the interest in this unit,
14 correct?

15 A. Yes, we have.

16 Q. But with regard to folks that you've not
17 been able to lease as yet, what would the terms that you
18 would be prepared to offer that you've offered to other folks
19 in the unit?

20 A. Yes. Our standard coalbed methane lease is
21 a \$1 per acre per year with a five year paid up term with a
22 1/8 royalty. Within this unit, we've leased 99.6006% of the
23 coalbed methane interest; and 97.7164% of the oil and gas

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1 interest; and we're seeking to pool 0.3994% of the coal
2 interest; and 2.2836% of the oil and gas, coalbed methane
3 interest.

4 Q. And that's what either the coal claims or
5 oil and gas claims of the folks listed in exhibit B-3 add up
6 to?

7 A. That's correct.

8 Q. Is it your opinion that the plan that's
9 disclosed by the application and the exhibits is a reasonable
10 plan to develop sealed gob gas from this 1973 acre unit?

11 A. Yes, it is.

12 Q. And based on the title work and the leasing
13 and the pooling application, is it your recommendation to the
14 Board that this plan represents a reasonable way to protect
15 all the owners and claimants to make sure that they get their
16 fair share of production out of this unit?

17 A. Yes, it is.

18 Q. That's all I have.

19 BENNY WAMPLER: Any questions from members of the
20 Board?

21 (No audible response.)

22 BENNY WAMPLER: Did you have any questions? I know
23 you have a question that you want a validation that your
24

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1 lease is still in effect.

2 STEVEN TICKLE: Right.

3 BENNY WAMPLER: And Mr. Arrington has agreed to get
4 with you on that---.

5 STEVEN TICKLE: Right.

6 BENNY WAMPLER: ---and do that.

7 STEVEN TICKLE: Okay. Well, I also have questions
8 about the amount of escrow concerned, okay, and how we get
9 information on that.

10 BENNY WAMPLER: Okay. Go ahead and ask your
11 question.

12 STEVEN TICKLE: Well, that's just it. I don't know
13 how to get information, okay, and haven't been able to get
14 any in the past. Okay, the problem is when the original
15 lease was signed with my father in 1981, the gentleman that
16 worked for Consolidated that did the lease with him was a Mr.
17 Woods. Okay, and apparently Mr. Woods died from cancer or
18 something years ago. But he led my father to believe that he
19 was going to get a percentage of this royalty from the escrow
20 account and receive a monthly check through out his lifetime,
21 okay, and since none of that has happened.

22 BENNY WAMPLER: Do you want to address that?

23 LESLIE K. ARRINGTON: I just...you know, I'll just
24
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1 have to go to the office and check. See what the records are
2 and see if maybe he had done a royalty split. You know, I
3 don't bring that information with me, so I can't be a 100%
4 sure on that specific interest.

5 BENNY WAMPLER: Regarding any money that has been
6 in escrow, if it's showing up in the bank, then our escrow
7 agent, Mr. Wilson, would be able to get you that information
8 at our Gas and Oil office in Abingdon, okay?

9 STEVEN TICKLE: Right. I'll have...yeah, he
10 explained that to me earlier. I'll have to go home and get
11 my maps and find out where we're concerned with.

12 BENNY WAMPLER: Did you have anything further?

13 STEVEN TICKLE: No, sir.

14 LESLIE K. ARRINGTON: And as soon as we get back to
15 the office, we'll check on that and have someone call Mr.
16 Tickle. So, it's not---.

17 STEVEN TICKLE: Okay.

18 LESLIE K. ARRINGTON: That's the first I've heard
19 of it.

20 MARK SWARTZ: I'm thinking that we're probably
21 talking '91 instead of '81.

22 STEVEN TICKLE: Oh.

23 MARK SWARTZ: There's no way that Ron was---.

24

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1 STEVEN TICKLE: Yeah, you're possibly right there.

2 MARK SWARTZ: There's no way that Ron was out here
3 twenty years ago.

4 STEVEN TICKLE: That is correct.

5 MARK SWARTZ: I'm just guessing in terms of timing
6 of all of this.

7 STEVEN TICKLE: Yeah, you're right. I made a
8 mistake. I'm sorry.

9 MARK SWARTZ: I think it would be the early '90s
10 and possibly the late '80s.

11 BOB WILSON: One question, Mr. Chairman.

12 BENNY WAMPLER: Mr. Wilson.

13 BOB WILSON: Will you be identifying the eighteen
14 wells that you're going to be using in this unit for
15 inclusion in the Board order?

16 LESLIE K. ARRINGTON: Well specific. Since there's
17 several more...there's several wells within that unit that
18 are producing and it's hard telling which wells that
19 you'll...you only want to keep the wells that's producing
20 good gas. It's hard to---

21 BOB WILSON: Is that a no?

22 LESLIE K. ARRINGTON: Well, I can go back and I can
23 give you some numbers out of the 185. I can give you some

24

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1 numbers. But that's the reason I didn't identify them.
2 Because what we'll do, we'll keep shutting in the wells, you
3 know, as they get bad...bad wells. We'll keep shutting them
4 in. It's hard telling which well will go...not be good. At
5 this time, we are producing more wells out of there than just
6 the eighteen...then eighteen. That's the reason I done it
7 that way.

8 MASON BRENT: Roughly, how many of them of 185 will
9 be in addition to the eighteen?

10 LESLIE K. ARRINGTON: Again---.

11 MASON BRENT: Do you have a feel for that?

12 LESLIE K. ARRINGTON: No, sir, I don't. And, you
13 know, I'm just going back on the other sealed areas. When I
14 come and ask for, you know, one well or two wells of panel,
15 we do have additional wells within those units producing and
16 it varies. At times you may shut in because the gas is not
17 good. But you regulate that according to the pressure that's
18 on the mine seals. At no time does gas production take over
19 mine safety. All those wells are kept for that major
20 purpose.

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

23 (No audible response.)

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1 BENNY WAMPLER: Do you have anything further?
2 MARK SWARTZ: No.
3 BENNY WAMPLER: Is there a motion?
4 KEN MITCHELL: Mr. Chairman, I make a motion for
5 approval.
6 BENNY WAMPLER: A motion to approve, is there a
7 second?
8 MASON BRENT: Second.
9 BENNY WAMPLER: Motion and second. Any further
10 discussion?
11 (No audible response.)
12 BENNY WAMPLER: All in favor, signify by saying
13 yes.
14 (All members signify by saying yes.)
15 BENNY WAMPLER: Opposed, say no.
16 STEVEN TICKLE: No.
17 BENNY WAMPLER: The Board, you can't vote. Sorry.
18 I understand...I understand you object. But they have
19 approval.
20 STEVEN TICKLE: Well, I'm learning.
21 BENNY WAMPLER: The pooling would protect your
22 interest. You are included in here and, you know, we don't
23 know about whether you had a split agreement that would pay
24

1 you.

2 STEVEN TICKLE: Right.

3 BENNY WAMPLER: But they're supposed to check that
4 out for you. Thank you very much.

5 The next item on the agenda is a request from...a
6 petition from Buchanan Production Company for pooling of a
7 coalbed methane unit under the Oakwood Coalbed Methane Gas
8 Field I order identified as L-37. This is docket number
9 VGOB-02-03/19-1009. We'd ask the parties that wish to
10 address the Board in this matter to come forward at this
11 time.

12 MARK SWARTZ: Mark Swartz and Les Arrington.

13 BENNY WAMPLER: The record will show there are no
14 others. You may proceed.

15

16 LESLIE K. ARRINGTON

17 DIRECT EXAMINATION

18 QUESTIONS BY MR. SWARTZ:

19 Q. Les, you're still under oath, okay?

20 A. Yes.

21 Q. Who do you work for?

22 A. Consol Energy.

23 Q. Did you prepare or cause to be prepared

24

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1 under your supervision the notice of hearing, the application
2 and the related exhibits with regard to the pooling
3 application for L-37?

4 A. Yes.

5 BENNY WAMPLER: Who does he work for?

6 MARK SWARTZ: He can't seem to decide.

7 LESLIE K. ARRINGTON: No, it's Consol Energy and
8 CNX Gas Company, L.L.C. They keep me confused on that.

9 BENNY WAMPLER: I couldn't resist.

10 MASON BRENT: That's not unique to the industry.

11 LESLIE K. ARRINGTON: It is. It's beginning...it's
12 tough.

13 BENNY WAMPLER: I'm sorry, Mark.

14 MARK SWARTZ: That's all right.

15 Q. Who's the applicant here?

16 A. The applicant is Buchanan Production
17 Company.

18 Q. And who is it that you're requesting, if the
19 unit is pooled, be the operator?

20 A. Consol Energy.

21 Q. Inc.?

22 A. You're about to confuse me.

23 Q. Consol Energy, Inc., right?

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1 A. Yes. Yes, it is.

2 Q. Okay. Buchanan Production Company is a
3 Virginia General Partnership?

4 A. Yes, it is.

5 Q. It has two partners?

6 A. Yes, it does.

7 Q. And those partners are Consol Energy, Inc.
8 and CNX Gas Company, L.L.C.?

9 A. That's correct.

10 Q. Okay. BPC is authorized to do business
11 here?

12 A. Yes, it is.

13 Q. And the person or company that you're
14 requesting to be the designated operator, Consol Energy,
15 Inc., is a Delaware corporation?

16 A. Yes.

17 Q. It is registered with the DMME, has a
18 blanket bond on file and is authorized to do business in the
19 Commonwealth, is that correct?

20 A. That's correct.

21 Q. Some ten years or so ago, is it true that
22 Buchanan Production Company delegated the authority to
23 explore, develop and maintain its properties and assets in
24

1 Virginia to a third party?

2 A. That's correct.

3 Q. Is Consol Energy, Inc. the successor to that
4 delegation today?

5 A. Yes, it is.

6 Q. And that's why you're asking that they
7 be...it be the designated operator?

8 A. That's correct.

9 Q. Have you listed all the folks you're seeking
10 to pool in the notice of hearing?

11 A. That's correct.

12 Q. And have you listed them again at exhibit B-
13 3?

14 A. Yes.

15 Q. Have you...what have you done to notify
16 these people of today's pooling hearing?

17 A. We mailed it by certified mail/return
18 receipt requested on February the 15th of 2002; and we
19 published in the Bluefield Daily Telegraph on February the
20 22nd of 2002.

21 Q. And are you filing proofs with the Board at
22 the present time with regard to mailing and with regard to
23 publication?

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1 A. Yes.

2 Q. Do you want to add or subtract any
3 respondents from the pooling hearing today?

4 A. No.

5 Q. This unit that we're talking about, is it an
6 Oakwood I unit?

7 A. Yes, it is.

8 Q. And so we're talking about an 80 acre unit?

9 A. Yes.

10 Q. Coalbed methane production from basically
11 the Pocahontas III up?

12 A. Yes, it is.

13 Q. One well here?

14 A. Yes, it is.

15 Q. Is it in the drilling window?

16 A. Yes, it is.

17 Q. And it has been permitted as 4585, correct?

18 A. That's correct.

19 Q. What's the estimate that you've provided to
20 the Board with regard to the cost of this well?

21 A. \$196,608.29. It was drilled to a total
22 depth of 2,325 feet. It was drilled on June the 12th of
23 2000.

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1 Q. And the interest that you have obtained and
2 are seeking to pool here are set forth on exhibit A, page
3 two, correct?

4 A. Yes, it is.

5 Q. Could you summarize that for the Board?

6 A. Yes. We're seeking to pool 0.00195% of the
7 coal, oil and gas interest beneath this unit. We have 100%
8 of the coal leased below the unit.

9 Q. In terms of claims or interest in CBM,
10 you've got 99.99805% of both the coal owners and oil and gas
11 owners leased?

12 A. That's correct.

13 Q. There is no escrow required?

14 A. No, there isn't.

15 Q. Is it your opinion that the plan of
16 development that's disclosed by the application and the
17 related exhibits is a reasonable plan to develop coalbed
18 methane from a frac well producing from unit L-37?

19 A. Yes, it is.

20 Q. And by way of the leases that you've entered
21 into with, you know, 99% plus of the folks here and pooling
22 the remaining percentage of the folks in this unit, is it
23 your opinion that the development plan will concurrently
24

1 protect the correlative rights of all claimants and owners?

2 A. Yes, it does.

3 Q. For the folks that you've leased and for the
4 folks that you have not been able to lease, what would be the
5 lease terms that you would offer?

6 A. For a coalbed methane lease, our standard
7 lease is \$1 per acre per year with a five year paid up term
8 with a one-eighth royalty.

9 MARK SWARTZ: That's all I have, Mr. Chairman.

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

12 KEN MITCHELL: Two questions, Mr. Chairman.

13 BENNY WAMPLER: Yes, Mr. Mitchell.

14 KEN MITCHELL: Just for me personally. I'm not
15 sure that's it a great matter here. But under the drilling
16 depth, you show 2295 feet of drilling and that was based at
17 \$14.75 a foot. Then you show 23 foot of 15 inch drilling at
18 \$26 a foot.

19 LESLIE K. ARRINGTON: Surface...there's just a
20 conductor...short conductor drilled down and set.

21 KEN MITCHELL: Okay. And so that...so that's the
22 difference there.

23 LESLIE K. ARRINGTON: Just a bit different, yes.

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1 KEN MITCHELL: Okay. And also in the right, it
2 said the well was drilled in June, but did not produce until
3 October. What...can you explain the four month time frame?

4 LESLIE K. ARRINGTON: Yeah. We're...at times we're
5 kind of slow at getting them from drilled to production.

6 KEN MITCHELL: Okay. Okay, I didn't know if they
7 just---

8 LESLIE K. ARRINGTON: No.

9 KEN MITCHELL: ---took four months to drill it or
10 drilled it and---

11 LESLIE K. ARRINGTON: We get it drilled and then it
12 sets there for stimulation and pipeline.

13 KEN MITCHELL: Okay.

14 LESLIE K. ARRINGTON: And at times it does take us
15 a while to get there.

16 KEN MITCHELL: Okay.

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

19 (No audible response.)

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

22 MARK SWARTZ: No.

23 BENNY WAMPLER: Is there a motion?

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1 KEN MITCHELL: Mr. Chairman, I make a motion for
2 approval of the pooling.

3 BENNY WAMPLER: Is there a second?

4 MAX LEWIS: Second.

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

7 MARK SWARTZ: Just so there's no confusion, they
8 actually...I'm not sure you understand. They sat on this
9 well for a year and a half.

10 LESLIE K. ARRINGTON: And at times---

11 MARK SWARTZ: Not four months.

12 KEN MITCHELL: Oh, I'm sorry.

13 MARK SWARTZ: Okay. I just wanted to...you know,
14 it was a really long time. And that's not usual that we get
15 these...we have drilling commitments that we have to honor
16 even though we may not have a gathering system, a pipeline to
17 them. So, to preserve our lease, we'll drill it, pay delay
18 rentals or honor the lease terms to make sure that we keep
19 that lease alive by drilling...I mean, there's all sorts of
20 things that drive the program that may not be on your screen.
21 But this...I didn't want you to think it was four months.
22 It was a year and a half.

23 LESLIE K. ARRINGTON: And at times---

24

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1 KEN MITCHELL: A year and a half.

2 MARK SWARTZ: Or more because we're, you know...
3 it's 2002.

4 LESLIE K. ARRINGTON: Yeah. If you recall back,
5 was it last year or some time, we came with several...we came
6 in with several units because we had finally laid pipeline
7 more beginning of the month.

8 MASON BRENT: As I recall, there was a spike in the
9 market at the time.

10 LESLIE K. ARRINGTON: I believe that could have had
11 something---

12 MARK SWARTZ: Well, you could speculate that that
13 was driving it. But I just wanted to make sure...because you
14 said four months and that kind of took me aback.

15 BENNY WAMPLER: I had a motion and a second. Any
16 further discussion?

17 (No audible response.)

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

20 (All members signify by saying yes.)

21 BENNY WAMPLER: Opposed, say no.

22 (No audible response.)

23 BENNY WAMPLER: You have approval.

24

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1 The next item on the agenda is a petition from
2 Buchanan Production Company for pooling of a coalbed methane
3 unit under the Middle Ridge I Coalbed Methane Gas Field order
4 identified as AY-99. This is docket number VGOB-02-03/19-
5 1011. We'd ask the parties that wish to address the Board in
6 this matter to come forward at this time.

7 MARK SWARTZ: Mark Swartz and Les Arrington.

8 BENNY WAMPLER: We have some other folks that are
9 going to come up and join you. Give him a copy, if you
10 would. If you will, state your name for the record, please.

11 TERRY SANDERS: Terry Sanders.

12 BENNY WAMPLER: You may proceed.

13

14 LESLIE K. ARRINGTON

15 DIRECT EXAMINATION

16 QUESTIONS BY MR. SWARTZ:

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

19 A. Yes.

20 Q. I want to take another stab at who you work
21 for.

22 A. Consol Energy and CNX Gas Company, L.L.C.

23 Q. This is a pooling application?

24

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1 A. Yes, it is.

2 Q. And this one is in the Middle Ridge I?

3 A. It is.

4 Q. Who's the applicant?

5 A. Buchanan Production Company.

6 Q. And Buchanan Production Company is a

7 Virginia General Partnership, is that right?

8 A. Yes, it is.

9 Q. It has two partners who are Consol Energy,

10 Inc. and CNX Gas Company, L.L.C., is that correct?

11 A. That's correct.

12 Q. Is Buchanan Production Company authorized to

13 do business in the Commonwealth?

14 A. Yes, it is.

15 Q. Who is Buchanan...the applicant requesting

16 be appointed as designated operator if this application is

17 approved?

18 A. Consol Energy.

19 Q. Back in the early 1990s, did Buchanan

20 Production Company delegate to a third party the authority to

21 explore, develop and maintain its properties and assets in

22 Buchanan County?

23 A. Yes, it did.

24

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1 Q. And has that delegation ultimately found its
2 way into the hands of Consol Energy, Inc.?

3 A. Yes, it has.

4 Q. And that's why you're seeking that Consol
5 Energy, Inc. be appointed the operator?

6 A. That's correct.

7 Q. Is Consol Energy, Inc. a Delaware
8 corporation?

9 A. Yes.

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

13 A. Yes, it does.

14 Q. Okay. Have you listed the folks that you're
15 seeking to pool in both the notice of hearing on the first
16 page, again, in exhibit B-3?

17 A. Yes, we have.

18 Q. Okay. Do you want to add or subtract any
19 people from that list?

20 A. No.

21 Q. And what did you do to let this people
22 know...the people that you're seeking to pool that we're
23 going to have a hearing today?

24

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1 A. It was mailed by certified mail/return
2 receipt requested on February the 15th of 2002. It was
3 published in the Bluefield Daily Telegraph on February the
4 23rd of 2002.

5 Q. And have you filed proofs with regard to
6 mailing and publication today with the Board?

7 A. Yes, we have.

8 Q. This unit...strike that. You don't want to
9 add or dismiss any respondents today?

10 A. No.

11 Q. Okay. This unit is a...a middle Ridge unit
12 is a little different acreage than what we've dealing with
13 today and the plat reports the acreage, right?

14 A. At 58.78 acres.

15 Q. Okay. And we're talking about how many
16 wells?

17 A. One.

18 Q. And is it in or outside the drilling window?

19 A. It would be in.

20 Q. Okay, now this well is not permitted yet?

21 A. I believe it is permitted. It just has
22 been.

23 Q. It just has been, okay.

24

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1 A. I believe.

2 Q. But it certainly hasn't been drilled?

3 A. No.

4 Q. Have you provided the Board with an estimate
5 with regard to drilling costs?

6 A. Yes, I have. The estimated cost is
7 \$208,426.11, to be drilled to a total depth of 2650 feet.

8 BENNY WAMPLER: Repeat the total depth.

9 A. 2650 feet. I believe you'll notice it's not
10 on the bottom of the well cost.

11 Q. But if you add the drilling, that's how you
12 get that?

13 A. Yes, it is.

14 Q. The...this well would be a frac well to
15 produce coalbed methane, right?

16 A. Yes, it will.

17 Q. And if the Jawbone is below drainage, it
18 would be from the Jawbone on down?

19 A. Yes, it will be.

20 Q. The...have you leased all of the tracts
21 except tract...have you leased a 100% of the folks in all of
22 the tracts except for Tract 3?

23 A. That's correct.

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1 Q. Okay. And in Tract 3, you have obtained a
2 number of leases, have you not?

3 A. Yes, we have.

4 Q. But there are four people in that family
5 that you have not been able to lease?

6 A. That's correct.

7 Q. Okay. In Tract 3, you have obtained leases
8 from, it looks like, eighteen of the family members, correct?

9 A. I believe so.

10 Q. And you have not leased four of the family
11 members?

12 A. Correct.

13 Q. The interest of the family that you've
14 leased as opposed to the interest in the unit is what
15 percentage?

16 A. 84...84.524%.

17 Q. Okay. And the interest of the family that
18 collectively owns tract...the surface and other interest in
19 Tract 3 that is unleased is what percentage?

20 A. 15.476.

21 Q. Okay. And let's go to exhibit A, page two
22 to see what you...what is leased and unleased in the unit in
23 its entirety.

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1 A. Yes. Within that 58 acre unit, we have 100%
2 of the coal interest, coalbed methane interest leased and we
3 have 85.5768% of the oil and gas interest leased. We're
4 seeking to pool 14.4232% of the oil and gas interest.

5 Q. Okay. You don't need to pool the coal
6 interest at all?

7 A. No.

8 Q. Okay. Is escrow...would escrow be required
9 here?

10 A. Yes, it will.

11 Q. And have you provided an exhibit in that
12 regard?

13 A. Yes, we have.

14 Q. And that would be exhibit E?

15 A. Yes.

16 Q. And the tracts...or tract that we were
17 talking about would be only Tract 3?

18 A. Correct.

19 Q. And there's a conflict there between
20 Harrison Wyatt and the oil and gas fee?

21 A. Yes, it...yes, it is.

22 Q. Okay. Is it your opinion that the plan of
23 development in this Middle Ridge frac unit that's disclosed

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1 by the application and the exhibits is a reasonable plan to
2 develop coalbed methane under this unit?

3 A. Yes, it is.

4 Q. And have you, either by leasing people or by
5 filing this pooling application, sought to protect the
6 correlative rights of all owners and claimants to the coalbed
7 methane that you propose to produce?

8 A. Yes, we have.

9 Q. Okay. And would you then recommend this...
10 approval of this application to the Board?

11 A. Yes, we would.

12 MARK SWARTZ: That's all I have.

13 BENNY WAMPLER: Questions from members of the
14 Board?

15 (No audible response.)

16 BENNY WAMPLER: Mr. Sanders, did you have any
17 questions?

18 TERRY SANDERS: Yes, I sure do. My concern is the
19 cemetery. The way the road is going by the cemetery, it's
20 going right beside of it. I'm talking like within two to
21 three feet of the fence. I've asked them to sit that over
22 twelve feet or more. I have no more response from them. I
23 was supposed to have got e-mailed. I got nothing.

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1 BENNY WAMPLER: Let me just stop you. Now, as I
2 understand the well permit was just issued, is that correct?
3 BOB WILSON: Yes.
4 BENNY WAMPLER: Did you have an...did you object to
5 the issuance of the well permit?
6 MARK SWARTZ: A cemetery is not in this unit.
7 TERRY SANDERS: I didn't speak to none of them.
8 BENNY WAMPLER: The cemetery is not in the unit?
9 MARK SWARTZ: Right.
10 BENNY WAMPLER: Okay.
11 LESLIE K. ARRINGTON: But it would have been
12 along...I think where Benny is coming from, the cemetery
13 would be along the access road. Is that where you're---?
14 BENNY WAMPLER: Yes.
15 LESLIE K. ARRINGTON: It was.
16 BENNY WAMPLER: That's where he's talking---.
17 LESLIE K. ARRINGTON: We have...I think he has been
18 talking to Jerry Boothe. Is that not right, Terry?
19 TERRY SANDERS: Yes. That's correct.
20 LESLIE K. ARRINGTON: Okay. And have you...was
21 it...were you not supposed to meet him out in the field?
22 TERRY SANDERS: No, no meeting nowheres.
23 LESLIE K. ARRINGTON: There wasn't one scheduled

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1 back in December?

2 TERRY SANDERS: That was back in December. He said
3 he wanted to go over it and walk over it with me, yes. But
4 when it come up to it, I told him that it would not do no
5 good.

6 LESLIE K. ARRINGTON: Okay. So, there wasn't---?

7 TERRY SANDERS: No. He would not get me a specific
8 reason that he would move the road over.

9 LESLIE K. ARRINGTON: Right. But I understand
10 there was a meeting or...at least that meeting and maybe
11 another one that wasn't---.

12 TERRY SANDERS: Not none others that I know of.

13 LESLIE K. ARRINGTON: Okay. You know, we'll
14 certainly arrange to get something out there and look at
15 that. I don't have a problem with doing that.

16 BENNY WAMPLER: Okay.

17 TERRY SANDERS: Okay, and another thing, too. The
18 way they're bringing the gas out from the back to the back is
19 across this tract. That's how a tract got out unless they
20 fold and go another way.

21 MAX LEWIS: Are you talking about the pipeline?

22 TERRY SANDERS: Pipelines and all. They have got
23 cross Lee Martin. I have asked for royalty on that. That's

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1 what I'm asking for is just royalty. I'm not wanting to
2 lease my land out for what they want. If I let them have
3 royalty, then they've got the access to get in there. That's
4 fine. But I've also found out too, and it don't state in my
5 papers nowheres, they pay \$2500 per well site, a \$1 per foot
6 for line being laid, that's not...I don't have no information
7 on it. I'd like for that to be brought up.

8 BENNY WAMPLER: You're making those statements for
9 the record. Let me tell you, this Board has no jurisdiction
10 over those kinds of issues that you're bringing up.
11 That's...that's---

12 TERRY SANDERS: Okay, can you explain to me...can
13 you explain to me what they do do then?

14 BENNY WAMPLER: I don't know. It's private
15 agreements that they make with individuals about damages and
16 certainly, I'm sure they talked to you about that. Those are
17 private agreements that they make with individuals depending
18 upon whether they're putting a pipeline or power lines or
19 whatever they've putting in over property. I would guess
20 that they probably have some standardization to it. But also
21 they would...it would vary, I would imagine, depending upon
22 where they're crossing and whether or not they're cutting
23 good timber or what they're doing.

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1 TERRY SANDERS: Right.

2 BENNY WAMPLER: That's beyond our jurisdiction,
3 understand that.

4 TERRY SANDERS: If they go the route they're saying
5 they're going the timber is not a whole lot there to get in.
6 But the road to where they've got to make a right turn on to
7 go to the other tract, there's a few timbers through there.
8 But they've got to also cut lower because if they don't,
9 they're going to be on Lee again because the line runs right
10 through there. So, that far...they can drop down from that
11 part there and come in the lower part and push the road right
12 up...right under the cemetery and make a good one and there's
13 not much there to go through. But I can understand, they're
14 wanting to follow the road because it's a easier route. My
15 concern is them heavy machineries. They're not pushing no
16 350 John Deere's through there. I mean, we're talking about
17 twelve, fifteen foot blades on these jokers, four and five
18 ton buckets. A lot of vibration comes from them
19 ground...from them equipments. You get close to the
20 cemetery, you don't know if a tombstone is going to fall
21 over. You don't know if a vibration is cause the graves to
22 collapse. There's a lot of issues there.

23 BENNY WAMPLER: Well, I think he has agreed to meet

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1 with you and talk with...discuss possible relocation of the
2 road. The place to...the best place to interact on those
3 kinds of things is in the permitting process with Mr. Wilson.
4 When applying for a permit, you get notice of that
5 application if it's coming on your property. That's the best
6 place to interact with that.

7 TERRY SANDERS: Okay.

8 BENNY WAMPLER: In the future...just so you know in
9 the future. If you have property that's being disturbed in
10 any form or fashion, you get involved with the permitting
11 process right up front. If you object to whatever happens
12 there, Mr. Wilson ultimately make a decision on that unless
13 the two parties agree, then it does come before the Board.
14 But it has to go through that process first.

15 TERRY SANDERS: I don't quite understand that. I'm
16 lost there now.

17 BENNY WAMPLER: Well, I'm just talking about if you
18 have land---

19 TERRY SANDERS: Right.

20 BENNY WAMPLER: ---that has a disturbance
21 proposed---

22 TERRY SANDERS: Right.

23 BENNY WAMPLER: ---by a permit, that the proper
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1 venue to deal with that is through Mr. Wilson's office. He's
2 the gas and oil inspector for the Commonwealth of Virginia.
3 The Board hears---

4 TERRY SANDERS: Okay.

5 BENNY WAMPLER: ---appeals of his decisions. But
6 we can't...we can't deal with things that are outside of our
7 jurisdiction. It's outside the jurisdiction of the law and
8 regulation when you're talking about private agreements for
9 damages and et cetera.

10 TERRY SANDERS: Okay. Then what about the royalty
11 then? Does that...where does that stand at?

12 BENNY WAMPLER: The only royalty we deal with is
13 royalty that's subject to pooling, you know. And they
14 are...I believe you're included in the---

15 MARK SWARTZ: Right. He's got a---

16 BENNY WAMPLER: ---pooling application.

17 MARK SWARTZ: He's got a 1.1095 interest in this
18 unit.

19 TERRY SANDERS: Yes.

20 BENNY WAMPLER: Now, that money goes in to an
21 escrow account, you know, once this application is approved.
22 If the Board approves it here today, it will go to the
23 escrow agent appointed by our Board. You'll be able to track
24

1 that money in that. If there's...you can get it out in one
2 of...at least one of two ways. That is come to an agreement
3 with the other parties as to the split of the money or go to
4 court and get a resolution on who owns the gas.

5 TERRY SANDERS: Okay. Why is the money going to
6 escrow to start with?

7 BENNY WAMPLER: They have to escrow people that
8 will not voluntarily lease with them.

9 TERRY SANDERS: Well, what about the ones that have
10 signed?

11 MARK SWARTZ: Well, no, there's a coal conflict.

12 TERRY SANDERS: What about the ones that have
13 signed? Their money is going to royalty too on this part
14 into escrow.

15 MARK SWARTZ: There's a coal conflict.

16 BENNY WAMPLER: There's conflict with the coal
17 owners as to who owns the gas. That's what I was talking
18 about go to court and have the court determine who owned the
19 gas---.

20 TERRY SANDERS: Okay. They're trying to---.

21 BENNY WAMPLER: ---the coal company or the gas
22 company.

23 TERRY SANDERS: Right. They're just trying to
24

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1 determine who owns the gas, the coal man or us, right?

2 BENNY WAMPLER: No. They're just pool...the escrow
3 provision allows them to not have to make that determination,
4 but pool the money until that determination is made or until
5 such time as the parties agree.

6 TERRY SANDERS: Okay, give me the reason why that
7 could be legal rights.

8 BENNY WAMPLER: Why what could be---?

9 TERRY SANDERS: Why would that be legal? I mean,
10 that don't sound right.

11 BENNY WAMPLER: That was a provision that's in the
12 Virginia law to encourage development of the coalbed methane.

13 TERRY SANDERS: Okay. And I was told that if this
14 coal company, which is the Wyatts, if he...if we would split
15 our part with him 50/50, that it would not go into escrow.
16 He would get 50% of it and we'd get 50% of it. Is that
17 correct?

18 BENNY WAMPLER: Any kind of any agreement like that
19 that can be made with the coal owner and the gas owners---.

20 TERRY SANDERS: Right.

21 BENNY WAMPLER: ---it would not go into escrow.

22 TERRY SANDERS: Well, if it turned out he was the
23 legal owner of the gas, why would he sign his rights away? I

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1 mean, he knows he's the owner of the coal, right?

2 BENNY WAMPLER: I don't know anything about it. I
3 mean, I...based on the records here, that's what it's
4 showing, yes.

5 TERRY SANDERS: Well, he's the owner of the coal.
6 That's what my papers says. He should know if he's the owner
7 of the gas, which I have found out a little bit different
8 about that. But we'll (inaudible) later.

9 BENNY WAMPLER: Well, that's the conflict. It's
10 not resolved for the Commonwealth as a whole, okay.

11 TERRY SANDERS: Right. We'll carry that---.

12 BENNY WAMPLER: There have been Supreme Court
13 decisions in some states determining who that owner is.

14 TERRY SANDERS: Okay.

15 BENNY WAMPLER: But not in Virginia.

16 TERRY SANDERS: Right. If they buy coal rights out
17 within so many years, is there a limit on that?

18 BENNY WAMPLER: I'm not sure I understand the
19 question.

20 TERRY SANDERS: Okay, if say, for instance, he
21 bought out the...leased out the coal rights, not buy them
22 out, leased them out, can they be a limit on that of how many
23 years can be set?

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1 BENNY WAMPLER: I think that's all...you're talking
2 private agreements, you know, that an individual can
3 determine like you could if you owned it.

4 TERRY SANDERS: Right.

5 BENNY WAMPLER: If you own it, you can...you can
6 make those determinations.

7 TERRY SANDERS: Okay. Then I'm going to have to go
8 higher than what I am here to get legal things done?

9 BENNY WAMPLER: You'd have an avenue of going to
10 court if you couldn't come to an agreement with the coal
11 owner.

12 TERRY SANDERS: Okay. That's---.

13 BENNY WAMPLER: And that would be to get a remedy
14 of who owns the gas. I assume that's what you're talking
15 about.

16 TERRY SANDERS: Right. Yes.

17 BENNY WAMPLER: Yes. This Board does not make that
18 determination.

19 TERRY SANDERS: Okay.

20 BENNY WAMPLER: The provision in the Virginia law
21 allows this money to be placed in escrow to protect your
22 interest until that determination was made or until there's
23 an agreement of parties. Does that help you some?

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1 TERRY SANDERS: Some, but not what I want to hear.

2 BENNY WAMPLER: I understand. I understand.

3 MARK SWARTZ: Well, Landon Wyatt has demonstrated
4 that he will pretty much agree to 50/50 with all comers. You
5 could cut a deal with him probably tomorrow if you wanted to.
6 I mean, he has been here all the time getting money out of
7 escrow. Beyond that, you know, it's I guess litigation...I
8 mean, he's also in litigation with some other people. But,
9 you know, he's over here regularly settling claims.

10 TERRY SANDERS: Well, that's what I'm not going to
11 do. I'm not going to cut no deal with him.

12 MARK SWARTZ: Well, I understand. So then your
13 alternative is court, which is what Mr. Wampler was talking
14 about.

15 BENNY WAMPLER: Yes. That's the reason I said
16 that.

17 MARK SWARTZ: Which is a title issue. I mean,
18 you've got to litigate your deed versus his and see who...see
19 who the court thinks owns the coal.

20 TERRY SANDERS: Okay. Then I need to contact Don
21 Johnson back again. All right.

22 BENNY WAMPLER: Well, I hope that helps, you know,
23 at least for you to understand the---.

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1 TERRY SANDERS: Not really. Honest, no, it
2 doesn't. I mean, I...to me, I don't understand what this is
3 for really then. I mean, you know, it was supposed to be
4 to hear me and what I've got to say is nothing concerned to
5 the Board. So, why call the Board?

6 BENNY WAMPLER: Well, to make sure that you're
7 properly pooled. That you're the individual that needs to be
8 in the pooling---

9 TERRY SANDERS: Right.

10 BENNY WAMPLER: ---and to insure that the record is
11 proper and correct.

12 TERRY SANDERS: But you....if you don't get the
13 signature, I mean, what good is that?

14 BENNY WAMPLER: If you don't get what?

15 TERRY SANDERS: If you don't get my signature or
16 the others, what good is that?

17 BENNY WAMPLER: Well, it is a provision in law that
18 allows the pooling to occur and for the drilling activity and
19 production to go forward.

20 TERRY SANDERS: How about...what about the land
21 then?

22 BENNY WAMPLER: Well, on the land, that's...you're
23 talking about---

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1 TERRY SANDERS: I mean, see, I'm talking about the
2 top surface now.

3 BENNY WAMPLER: Right. On the surface, that's
4 under the permitting provision. That's what I was trying to
5 explain to you earlier.

6 TERRY SANDERS: Okay.

7 BENNY WAMPLER: If they're disturb...have any
8 surface disturbance, there's a Virginia law and regulation
9 that deals with that and it's specific as to the surface
10 owner's rights to objections, okay? It's specific in there.
11 Mr. Wilson can go over that with you. But any time they're
12 permitting any disturbance on your land, then you will have
13 an avenue through the permitting process to interact with
14 that.

15 TERRY SANDERS: Well, how are they going to drill
16 the wells then? I mean, there's a portion that is going to
17 be mine.

18 MARK SWARTZ: Get a permit.

19 BENNY WAMPLER: They get a permit. They get a
20 permit through Mr. Wilson. You're noticed if you are a land
21 owner. You get a notice that they've applied. When you get
22 that notice, you've got a certain number of days that you can
23 file an objection to that. You can go to the office---.

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1 TERRY SANDERS: Okay. Now, I understand. Right.

2 BENNY WAMPLER: ---and look at what they're
3 proposing. He or his staff will discuss with you what the
4 proposal is. You'll have an avenue there to interact with
5 the permit application, okay.

6 TERRY SANDERS: Right. Okay, now I understand.

7 BENNY WAMPLER: Now, that is for the permit.

8 TERRY SANDERS: Yes.

9 BENNY WAMPLER: And this Board is dealing with only
10 objections from his decision---

11 TERRY SANDERS: Right.

12 BENNY WAMPLER: ---and the pooling issues that
13 we're talking about.

14 TERRY SANDERS: So, in other words, they can't do a
15 thing until I get that papers.

16 MARK SWARTZ: The permit has already been issued.

17 BENNY WAMPLER: This permit for this land has been
18 issued.

19 TERRY SANDERS: Where is it at in my part? I've
20 not got one.

21 LESLIE K. ARRINGTON: I'll have to go back and
22 check. I did not bring my well file with me to be able to
23 see whether you received that copy or what the proper issues
24

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1 were on---.

2 TERRY SANDERS: No, the only thing I've got is the
3 lease papers---.

4 LESLIE K. ARRINGTON: Right.

5 TERRY SANDERS: ---when it first started out and
6 then this summons papers. I've got them,

7 LESLIE K. ARRINGTON: I'll have to look back. I
8 didn't bring that with me, the well file itself.

9 TERRY SANDERS: Okay.

10 BENNY WAMPLER: But if they're crossing your...
11 disturbing your property for this permit that we're talking
12 about having been issued here, then they had an obligation to
13 notice you and you have a right to object.

14 TERRY SANDERS: Okay.

15 BENNY WAMPLER: Anything further?

16 (No audible response.)

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

19 (No audible response.)

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

22 MARK SWARTZ: No.

23 BENNY WAMPLER: Is there a motion?
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1 MASON BRENT: Mr. Chairman, I'd move that we grant
2 the application.

3 KEN MITCHELL: I second.

4 BENNY WAMPLER: Motion and second. Any further
5 discussion?

6 (No audible response.)

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

9 (All members signify by saying yes.)

10 BENNY WAMPLER: Opposed, say no.)

11 (No audible response.)

12 BENNY WAMPLER: You have approval. Thank you very
13 much. The next item on the agenda is a petition from
14 Equitable Production Company for pooling of a conventional
15 gas well identified as V-502526, docket number VGOB-02-03/19-
16 1012. While they come up and get ready, we'll take a five
17 minute recess.

18 (Recess.)

19 BENNY WAMPLER: I've already called the agenda
20 item. The record will show there are no others. You may
21 just announce who you are and proceed.

22 JIM KISER: Mr. Chairman and members of the Board,
23 Jim Kiser on behalf of Equitable Production Company. Our
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1 witness in this matter will be Mr. Don Hall. We'd ask that
2 he be sworn at this time.

3 (Don Hall is duly sworn.)

4 JIM KISER: If you'll...during the break, I passed
5 out a revised exhibit B, which we'll get to in a minute,
6 which reflects the current status of the leased status of the
7 interest within the unit.

8

9 DON HALL

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

12 DIRECT EXAMINATION

13 QUESTIONS BY MR. KISER:

14 Q. Mr. Hall, if you'd state your name for the
15 Board, who you're employed by and in what capacity?

16 A. My name is Don Hall. I'm employed by
17 Equitable Production Company as District Landman.

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

20 A. Yes.

21 Q. And you're familiar with Equitable's
22 application for the establishment of a drilling unit and the
23 seeking of a pooling order for EPC well number V-502526---?

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1 A. Yes.

2 Q. ---which was dated February the 15th, 2002?

3 A. Yes.

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

6 A. Yes.

7 Q. Now, prior to filing the application, were
8 efforts made to contact each of the respondents in an attempt
9 made to work out a voluntary lease agreement with each of the
10 interest owners within the unit?

11 A. They were.

12 Q. Okay, now at the time of the filing of the
13 application, what was the leased interest of Equitable within
14 the unit?

15 A. At the time of the filing of the
16 application, it was 89.87%.

17 Q. Okay, now subsequent to the filing of the
18 application, you've continued to attempt to reach an
19 agreement with the unleased respondents in the original
20 exhibit B to the application, that being Cecil Robinette and
21 the Cema Corporation?

22 A. That's correct.

23 Q. And since that time, as reflected in the
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1 revised exhibit B, which has been passed out to the Board,
2 you were able to obtain a voluntary oil and gas lease from
3 the Cema Corporation?

4 A. That's correct.

5 Q. Okay, so all the unleased parties are set
6 out in our revised exhibit B, and that would be Cecil and
7 Charlene Robinette, which is Tract 5?

8 A. Yes.

9 Q. Okay, so now as of the time of the hearing,
10 what would be the percentage of the unit under lease and what
11 would be the percentage of the unit that remains unleased?

12 A. We have 95.27% of the unit leased, which
13 leaves 4.73% unleased.

14 Q. Okay. And we've been able to identify
15 everybody within the unit? There aren't any unknown parties?

16 A. No.

17 Q. Okay. In your professional opinion, was due
18 diligence exercised to locate each of the respondents named
19 in exhibit B?

20 A. Yes.

21 Q. Now, are the addresses...excused me, revised
22 exhibit B. Now, are the addresses set out in revised exhibit
23 B to the application the last known addresses for the

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1 respondents?

2 A. Yes.

3 Q. Are you requesting this Board to force pool
4 all unleased interest as listed at revised exhibit B?

5 A. Yes.

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

9 A. Yes.

10 Q. Could you advise the Board as to what those
11 are?

12 A. A \$5 bonus, a five year term and 1/8
13 royalty.

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

18 A. Yes.

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

23 A. They do.

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1 Q. Okay. Now, based on the one respondent who
2 has not voluntarily agreed to lease, do you recommend that he
3 be allowed the following options with respect to their
4 ownership interest within the unit. One, participation; two,
5 a cash bonus of \$5 per net mineral acre plus a 1/8 of 8/8
6 royalty; three, in lieu of the cash bonus and 1/8 of 8/8
7 royalty, a share in the operation of the well on a carried
8 basis as a carried operator under the following conditions:
9 Such carried operator shall be entitled to the share of
10 production from the tracts pooled accruing to his interest
11 exclusive of any royalty or overriding royalty reserved in
12 any leases, assignments thereof or agreements relating
13 thereto of such tracts, but only after the proceeds
14 applicable to his share equal - A) 300% of the share of such
15 cost applicable to the interest of a carried operator of a
16 leased tract or portion thereof; or B) 200% of the share of
17 such cost applicable to the interest of the carried operator
18 of an unleased tract or portion thereof?

19 A. Yes.

20 Q. Do you recommend the order provide that
21 elections by respondents be in writing and sent to the
22 applicant at Equitable Production Company, 1710 Pennsylvania
23 Avenue, Charleston, West Virginia 25328, Attention: Melanie

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1 Freeman, Regulatory?

2 A. Yes.

3 Q. And should this be the address for all
4 communications with the applicant concerning the force
5 pooling order?

6 A. It should.

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

11 A. Yes.

12 Q. Should unleased respondents be given 30 days
13 from the date the order is executed to file their written
14 elections?

15 A. Yes.

16 Q. And if an unleased respondent elects to
17 participate, should they be given 45 days to pay for their
18 proportionate share of well costs?

19 A. Yes.

20 Q. Should the applicant be allowed a 120 days
21 following the recordation date of the Board order and
22 thereafter annually on that date until production is achieved
23 to pay or tender any cash bonus becoming due under any force
24

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1 pooling order?

2 A. Yes.

3 Q. Do you recommend that the order provide that
4 if a respondent elects to participate but fails to pay their
5 proportionate share of well costs satisfactory to the
6 applicant for payment of such costs, then their election to
7 participate shall be treated as having been withdrawn and
8 void?

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 costs, any cash sum becoming
13 payable to that respondent be paid within 60 days after the
14 last date on which such respondent could have paid or made
15 satisfactory arrangements for the payment of those costs?

16 A. Yes.

17 Q. This a conventional well. So, we don't have
18 a conflicting claimant situation. We don't have any unknown
19 or unlocateable interest owners within the unit. So, in this
20 particular case, the Board does not need to establish an
21 escrow account, is that correct?

22 A. That's correct.

23 Q. And who should be named the operator under
24

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1 any force pooling order?

2 A. Equitable Production Company.

3 Q. And what is the total depth of this proposed
4 well?

5 A. 5363 feet.

6 Q. Okay. And is the applicant requesting the
7 force pooling of conventional gas reserves not only to
8 include any designated formations in the permit application,
9 but any other formations excluding coal formations which may
10 lie between those formations designated from the surface to
11 the total depth drilled?

12 A. Yes.

13 Q. What are the estimated reserves for this
14 unit?

15 A. 600,000,000.

16 Q. Now, are you familiar with the well costs
17 for the proposed well under the plan of development?

18 A. Yes.

19 Q. And was an AFE reviewed, signed and
20 submitted to the Board as exhibit C to the application?

21 A. It was.

22 Q. And was this AFE prepared by an engineering
23 department knowledgeable in the preparation of AFEs, and in
24

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1 particular, knowledgeable to well costs in this area?

2 A. Yes.

3 Q. In your professional opinion, does the AFE
4 as submitted represent a reasonable estimate under the plan
5 of development?

6 A. It does.

7 Q. Could you state for the Board both the dry
8 hole costs and the completed well costs for 502526?

9 A. The dry hole costs are \$152,830. The
10 completed well costs is \$277,601.

11 Q. Do these costs anticipate a multiple
12 completion?

13 A. They do.

14 Q. Does your AFE include a reasonable charge
15 for supervision?

16 A. Yes.

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

21 A. Yes.

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

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1 BENNY WAMPLER: Questions from members of the
2 Board?

3 (No audible response.)

4 KEN MITCHELL: Just a procedural question, Mr.
5 Chairman.

6 BENNY WAMPLER: Mr. Mitchell.

7 KEN MITCHELL: Will we need an affidavit of due
8 diligence? The reason I say that is under item number...
9 Tract #5 on your exhibit B was the unleased one. Maybe I'm
10 wrong. Maybe there should have been some designation that
11 you all contacted him.

12 JIM KISER: Oh, we took testimony from Mr. Hall
13 that he did.

14 KEN MITCHELL: Okay. Just normally, we receive an
15 affidavit of due diligence showing...showing that you've
16 mailed out...you know, showing the receipts from the post
17 office that you---

18 JIM KISER: Oh, you're talking about an affidavit
19 of mailing. Yeah, that should be in your file.

20 KEN MITCHELL: I don't see it. Maybe I'm...maybe
21 I'm missing it or---

22 JIM KISER: Are you talking about...to make sure
23 they received a copy of the pooling order...pooling

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1 application?

2 KEN MITCHELL: Yes, sir. The one where you make
3 copies of the actual post office receipt.

4 JIM KISER: Right. I've got them right here.

5 BENNY WAMPLER: We didn't have them in the file.

6 JIM KISER: Huh?

7 SHARON PIGEON: They're not here.

8 KEN MITCHELL: There's none in here...there's none
9 in there.

10 JIM KISER: They're not in the file?

11 BENNY WAMPLER: We do not have them.

12 KEN MITCHELL: No, sir.

13 BOB WILSON: We do have one in the file, the office
14 file here, which we received on March the 13th.

15 BENNY WAMPLER: Well, that satisfies what he's
16 looking for.

17 JIM KISER: I've got my copy here if you'd like to
18 look at it. Then I've got the return green cards here.

19 KEN MITCHELL: Could I see that?

20 JIM KISER: Sure.

21 (Ken Mitchell reviews the proofs of mailings.)

22 JIM KISER: Since it's a conventional and you're
23 actually not only pooling any unleased interest but you're

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1 actually establishing the unit, we do notice everybody
2 whether they're leased or unleased, not just the unleased
3 people like we do on a CBM well. That would be an affidavit
4 of mailing. The affidavit of due diligence, I don't think
5 the statute or regulations---

6 BENNY WAMPLER: Well, you did a due diligence by
7 testimony.

8 JIM KISER: Right. By testimony, right.

9 BENNY WAMPLER: But he had a very good question
10 there on...you know.

11 JIM KISER: Right. Since it wasn't in your files.

12 BENNY WAMPLER: It wasn't in our files. We didn't
13 have it.

14 JIM KISER: But you do have it.

15 BOB WILSON: Yes. As I say, we received it on
16 March the 13th, which was last year. So, this was well after
17 the mailing.

18 JIM KISER: So, for whatever reason, it didn't make
19 in the file.

20 BOB WILSON: Yeah. Which is not unusual that we
21 would get after the mailing.

22 JIM KISER: Well, we're required to file it with
23 you a week before the hearings.

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1 BOB WILSON: Correct.

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

4 (No audible response.)

5 BENNY WAMPLER: Is there a motion?

6 MAX LEWIS: I make a motion that we approve as
7 presented.

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

10 KEN MITCHELL: Second.

11 BENNY WAMPLER: Any further discussion?

12 (No audible response.)

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

15 (All members signify by saying yes.)

16 BENNY WAMPLER: Opposed, say no.

17 (No audible response.)

18 BENNY WAMPLER: You have approval. The next item
19 on the agenda is a petition from Equitable Production Company
20 for a well location exception for proposed well V-502673.
21 This is docket number VGOB-02-03/19-1013. We'd ask the
22 parties that wish to address the Board in this matter to come
23 forward at this time.

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1 JIM KISER: Again, Mr. Chairman and members of the
2 Board, Jim Kiser on behalf of Equitable Production Company.
3 Our witness again will be Mr. Hall.

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DON HALL

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DIRECT EXAMINATION

8 QUESTIONS BY MR. KISER:

9 Q. Mr. Hall, if you'd again state your name for
10 the Board, who you're employed by and in what capacity?

11 A. My name is Don Hall. I'm employed by
12 Equitable Production Company as District Landman.

13 Q. And do your responsibilities again include
14 the land involved for this unit and in the surrounding area?

15 A. Yes, they do.

16 Q. And you're familiar with the application
17 that we filed seeking a location exception for well V-502673?

18 A. Yes, sir.

19 Q. And have all interested parties been
20 notified as required by Section 4B of the Virginia Gas and
21 Oil Board regulations?

22 A. They have.

23 Q. And that would be Penn Virginia Oil and Gas
24

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1 and Penn Virginia Coal?

2 A. Correct. Penn Virginia Operating Company.

3 Q. Penn Virginia Operating. Yeah, they've
4 changed their name, too. Would you indicate for the Board
5 the ownership of the oil and gas underlying the unit for well
6 V-502673?

7 A. Penn Virginia owns a 100%.

8 Q. Okay. Does Equitable have the right to
9 operate to reciprocal wells which we are seeking the
10 exception, that being 147 and 120?

11 A. Yes, we do.

12 Q. And are there any correlative rights issues?

13 A. No.

14 Q. Okay, Mr. Hall, we don't have a exhibit
15 prepared for this particular hearing because we're going to
16 use the plat that we submitted with the application as such.
17 So, using that plat and discussing the reciprocal...the two
18 reciprocal wells, could you explain for the Board why we are
19 seeking this location exception?

20 A. This location for this well was chosen by
21 Penn Virginia. This is where they wanted us to drill it so
22 as not to impact their mining operations.

23 Q. And they're the royalty owner in the units
24

1 for the reciprocal wells?

2 A. That's correct.

3 Q. In the event this location exception were
4 not granted, would you project the estimated to reserves
5 resulting in waste?

6 A. 400,000,000 cubic feet.

7 Q. And what's the total depth of the proposed
8 well under the plan of development?

9 A. 5389 feet.

10 Q. Are we requesting that this location
11 exception covering conventional gas reserves to include
12 designated formations as noted in the permit application from
13 the surface to the total depth drilled?

14 A. Yes.

15 Q. In your opinion, would the granting of this
16 location exception be in the best interest of preventing
17 waste, protecting correlative rights and maximizing the
18 recovery of gas reserves underlying the unit for V-502673?

19 A. It would.

20 Q. Nothing further of this witness at this
21 time, Mr. Chairman.

22 BENNY WAMPLER: Questions from members of the
23 Board.

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1 MASON BRENT: Did you not include an AFE for this
2 well?

3 JIM KISER: We don't on location exception
4 applications.

5 MASON BRENT: Why not?

6 JIM KISER: Because the purpose of the AFE is to
7 provide information to the unleased parties to make a
8 decision as to whether or not they want to participate. In
9 this particular case, we're not force pooling anybody.

10 BENNY WAMPLER: All the gas and surface is owned by
11 either Penn Virginia Operating Company or Penn Virginia Oil
12 and Gas Corporation?

13 MR. HALL: That's correct.

14 KEN MITCHELL: Mr. Chairman.

15 BENNY WAMPLER: Mr. Mitchell.

16 KEN MITCHELL: One question. The well located
17 north, 10020, I believe it's designated on the plat and the
18 well located, I guess, southwest and I assuming that...yeah,
19 it is a north/south map. Are both of those presently
20 producing active cubic feet of coalbed methane?

21 DON HALL: They're producing wells, yes. No
22 they're not coalbed methane wells.

23 KEN MITCHELL: I'm sorry. They're---.

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1 JIM KISER: They're conventional wells.

2 DON HALL: Conventional.

3 KEN MITCHELL: Conventional. Okay, I'm sorry. I'm
4 sorry. They are conventional. But they're both producing at
5 this present time.

6 DON HALL: That's correct.

7 KEN MITCHELL: Is the purpose of the exception is
8 to maybe increase production? I mean, is this...is this the
9 primary reason for the exception or---?

10 DON HALL: The exception...the purpose of the
11 exception is to put it where the coal company wants it as far
12 as their mining plans is concerned. This is close to being a
13 normal spacing for another well. I mean, as you step out and
14 drill offset wells to existing wells, 2500 feet is normal
15 spacing. But in this case, since the coal company said you
16 can't put it at this location that would be a legal distance,
17 they chose this spot and that's why we're asking for an
18 exception from the Board.

19 KEN MITCHELL: Okay.

20 JIM KISER: And without that, then you would lose
21 the gas underlying this part of the property. In other
22 words, you wouldn't be able to produce it.

23 MASON BRENT: It looks like the...it looks like the
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1 well is right on the property line between---.

2 JIM KISER: Appears to be right on a surface line
3 there, right?

4 DON HALL: It is on the surface line.

5 JIM KISER: So, the answer to your question, no
6 Penn Virginia does not own all the surface. You can see the
7 surface tract there.

8 DON HALL: Right.

9 JIM KISER: But once again, on location exception
10 you're not required to notice surface owners.

11 BENNY WAMPLER: Well, the reason I was asking, we
12 had an exhibit B that said location exception. It listed
13 Penn Virginia Operating Company, L.L.C. and then it listed
14 Penn Virginia Oil and Gas Corporation. But it didn't...
15 didn't distinguish...it didn't say surface. It didn't
16 say---

17 JIM KISER: I'm sorry. Well, Penn Virginia Oil and
18 Gas Corp is the oil and gas owner and Penn Virginia operating
19 is the coal owner. And under the notice sections of the
20 statute and regulations, you're required to notice coal, gas,
21 oil and mineral owners and not surface owners.

22 BENNY WAMPLER: Right. I just wanted to get that
23 for the record. Anything further?

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1 JIM KISER: We'd ask that the application be
2 approved as submitted, Mr. Chairman.

3 MAX LEWIS: I make a motion that we approve it.

4 BENNY WAMPLER: I have a motion to approve. Is
5 there a second?

6 KEN MITCHELL: Second.

7 BENNY WAMPLER: Any further discussion?

8 (No audible response.)

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

11 (All members signify by saying yes.)

12 BENNY WAMPLER: Opposed, say no.

13 (No audible response.)

14 BENNY WAMPLER: You have approval.

15 The next item is a petition from Equitable
16 Production Company for a modification of a pooling order for
17 unit VC-508899, docket number VGOB-02-01/15-1000-1. We'd ask
18 the parties that wish to address the Board in this matter to
19 come forward at this time.

20 JIM KISER: Mr. Chairman and Board Members, Jim
21 Kiser again on behalf of Equitable Production Company. I
22 don't know whether or not we're going to need Mr. Hall on
23 this. I'm going to try to do this one on my own. But if you
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1 need the testimony from him, we'll be...he's here to provide
2 it.

3 Let me refresh everybody's memory on this
4 particular well and some of the folks may not have been here
5 at the January hearing. But this is one of the CBM wells up
6 on the Rogers's lease that you all are probably somewhat
7 familiar with. In Tract 2, if you'll turn to your
8 application to modify, on the day before, I guess on January
9 the 14th, the day before the hearing that was conducted on
10 January the 15th, we were informed that the...while
11 Equitable's land department was attempting to acquire a
12 lease, both an oil and gas and coalbed methane lease from the
13 undivided interest held by Plum Creek Timber Company, which
14 is a very minute interest as you'll see in Tract 2 of this
15 unit, while they were attempting to acquire that lease, it
16 was discovered by Plum Creek's land people that that tract
17 had been apparently inadvertently included in a lease that
18 had already been granted to other parties. So, we
19 immediately, on that Monday, sent out by certified mail,
20 notification to those two parties who were identified as CBM
21 lessees to us. Those being Geo Met Operating, Inc. and
22 Highland Resources, Inc. Then we came before the Board and
23 asked that we be allowed to go ahead with the force pooling
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1 of the other interest...of all the interest under the idea
2 that Equitable's people were negotiating with Geo Met and
3 Highland for either an assignment of that minute interest or
4 a format or some sort of agreement where they would convey
5 this interest over to Equitable with the caveat that if it
6 didn't happen, we would come back before you to modify the
7 prior order, which was recorded on February the 8th of this
8 year.

9 We are back today because we're still trying to
10 negotiate that. Mr. Hall may have more information on that
11 than I do. But my understanding is that it's still an
12 amiable, doable process. It just hadn't been apparently a
13 front burner for either company because it's such a minute
14 interest. I think probably where they are now is maybe
15 talking about swapping some leases or, you know, some...some
16 areas of common interest. In that sense, they have...we did
17 notice them again of today's hearing. They received that
18 notice on February the 15th. I've had communications with
19 people other than Mr. Hall, in Equitable land department in
20 Charleston, indicating that representatives from both of
21 these lessees who we're adding as pooled parties today were
22 well aware of this hearing and were okay with it. And I
23 guess what we're going to do on a going forward basis if this

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1 modification is accepted by the Board is if we...obviously,
2 if we do not work something out, then they'll receive their
3 statutory rights as any other force pooled was. And if we
4 do, then we'll...if we do get an assignment or a format or
5 some sort of lease swap, then we'll take them out in the
6 supplemental process, dismiss them through the supplemental
7 order process.

8 BENNY WAMPLER: So, you're adding Geo Met
9 Operating, Inc. and Highland Resources, Inc.---?

10 JIM KISER: Right.

11 BENNY WAMPLER: ---is the modification?

12 JIM KISER: Right. As CBM lessees to the Plum
13 Creek Timber Company's undivided interest in Tract 2, which
14 we forced pooled the last time. We forced pooled Plum Creek.
15 We didn't get their lessee.

16 BENNY WAMPLER: I understand.

17 MASON BRENT: And if you work, then you'll come
18 back and take them out?

19 JIM KISER: No. We can actually dismiss them out
20 through the supplemental order process.

21 BENNY WAMPLER: They won't have to come back. Any
22 questions from members of the Board?

23 KEN MITCHELL: One question, Mr. Chairman.

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1 BENNY WAMPLER: Mr. Mitchell.

2 KEN MITCHELL: The number of unleased people is
3 quite a few here. Is there---?

4 JIM KISER: We pooled them the last time, the
5 interest in Tract 1, right.

6 KEN MITCHELL: Okay. So, they were pooled at the
7 last meeting?

8 JIM KISER: Well, in January. Not the last meeting
9 but in January.

10 KEN MITCHELL: Right. I was there...I remember
11 this specific item coming up.

12 BENNY WAMPLER: Right. They pooled those and they
13 pooled the Plum Creek Timber Company.

14 KEN MITCHELL: Right.

15 BENNY WAMPLER: It was unleased. And what they did
16 is that they have lessees of Plum Creek now that they had to
17 go back and pick up that they just found out right the day
18 before or---.

19 JIM KISER: The day prior to the January hearing.

20 BENNY WAMPLER: ---the day prior the January
21 meeting. So, now they have that---.

22 KEN MITCHELL: Okay.

23 BENNY WAMPLER: ---and they're asking to modify the

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1 January order to incorporate these two CBM lessees.

2 JIM KISER: You stated it better than I did, I
3 think, much more sequentially anyway.

4 DON HALL: He summarized it pretty well.

5 JIM KISER: Yeah.

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

8 KEN MITCHELL: Mr. Chairman, I'll go back to my
9 original statement.

10 BENNY WAMPLER: Sure.

11 KEN MITCHELL: I don't see an application of due
12 diligence, an affidavit of due diligence.

13 BENNY WAMPLER: Does Bob have that?

14 JIM KISER: Do you got it again?

15 BOB WILSON: We have. We received one, yes.

16 KEN MITCHELL: Okay. If you say it, Bob, we've
17 received them, I have no problem.

18 BOB WILSON: Yeah. These are not due at the same
19 time that the applications are. So, sometimes they don't
20 make the mailing that you folks get. So, we usually have
21 them in the files.

22 JIM KISER: This is the first time I can ever think
23 of in ten years that they haven't been in there. That's good

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1 that you picked that up, though.

2 BENNY WAMPLER: They usually are. Yeah,
3 definitely. I appreciate you picking that up. Anything
4 further?

5 KEN MITCHELL: Mr. Chairman, I make a motion for
6 approval.

7 BENNY WAMPLER: Motion for approval. Is there a
8 second?

9 MASON BRENT: Second.

10 BENNY WAMPLER: Motion is seconded. Any further
11 discussion?

12 (No audible response.)

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

15 (All members signify in the affirmative except Max
16 Lewis.)

17 BENNY WAMPLER: Opposed, say no.

18 (Max Lewis indicated in the negative.)

19 BENNY WAMPLER: You have approval.

20 JIM KISER: Thank you.

21 BENNY WAMPLER: The last item on the agenda is a
22 petition from Dart Oil and Gas Corporation for pooling of a
23 conventional gas well unit identified as Johnson #1. This is
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1 docket number VGOB-03/19-1014. We'd ask the parties that
2 wish to address the Board in this matter to come forward at
3 this time.

4 BOB WILSON: Mr. Chairman, I received a call from
5 Dart stating that they have discovered some problems with
6 this particular unit that may cause them to have to move the
7 well which would change their pooling percentages. They have
8 asked that I request the Board to have this continued until
9 the next hearing.

10 BENNY WAMPLER: Until the next hearing?

11 BOB WILSON: Yes, sir.

12 BENNY WAMPLER: Any objection?

13 KEN MITCHELL: Do you need a formal motion on that?

14 BENNY WAMPLER: If he's presenting that to the...
15 they've asked him to present that to us today to continue it
16 to the next hearing. So, unless there's an objection, we'll
17 continue it.

18 KEN MITCHELL: No objection.

19 BENNY WAMPLER: It shall be continued. Do you have
20 any other business, Mr. Wilson?

21 BOB WILSON: No, sir.

22 BENNY WAMPLER: Does the Board have anything
23 further?

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1 (No audible response.)

2 BENNY WAMPLER: Thank you very much. I appreciate
3 it.

4 JIM KISER: Thank you.

5 DON HALL: Thank you.

6 BENNY WAMPLER: The hearing is concluded.

7

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9 STATE OF VIRGINIA,

10 COUNTY OF BUCHANAN, to-wit:

11 I, Sonya Michelle Brown, Court Reporter and Notary
12 Public for the State of Virginia, do hereby certify that the
13 foregoing hearing was recorded by me on a tape recording
14 machine and later transcribed by me personally.

15 Given under my hand and seal on this the 25th day
16 of March, 2002.

17 NOTARY PUBLIC

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19 My commission expires: August 31, 2005.

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