

1 VIRGINIA:

2 IN THE COUNTY OF WASHINGTON

3 VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

4 VIRGINIA GAS AND OIL BOARD

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9 APRIL 16, 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 CLYDE KING, PUBLIC MEMBER

18 DENNIS GARBIS, PUBLIC MEMBER

19 SANDRA RIGGS, COUNSEL FOR THE BOARD WITH THE ATTORNEY

20 GENERAL'S OFFICE

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

22 PRINCIPAL EXECUTIVE TO THE STAFF OF THE BOARD

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INDEX

AGENDA AND DOCKET NUMBERS:

UNIT

PAGE

1) Report from the escrow agent		
2) VGOB-03/19-1014	Johnson #1	withdrawn
3) VGOB-02-04/16-1015 (Combined 3-6)	W-2	17
4) VGOB-02-04/16-1016 (Combined 3-6)	W-3	17
5) VGOB-02-04/16-1017 (Combined 3-6)	X-2	17
6) VGOB-02-04/16-1018 (Combined 3-6)	X-3	17
7) VGOB-02-04/16-1020	Z-7	29
8) VGOB-02-04/16-1021	F-17	37
9) VGOB-02-01/15-0998-01	Y-2	withdrawn
10) VGOB-02-04/16-1023 (Combined 10-12)	AZ-111	45
11) VGOB-02-04/16-1024 (Combined 10-12)	BA-111	45
12) VGOB-02-04/16-1025 (Combined 10-12)	BA-112	45

EXHIBITS:

None

****AGENDA ATTACHED

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

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

8 KEN MITCHELL: My name is Kenneth Mitchell. I'm
9 from Stafford County, Virginia. I am a citizen appointee on
10 the Board.

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

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

15 CLYDE KING: My names is Clyde King from Abingdon,
16 a public member.

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

20 BENNY WAMPLER: And the record will reflect that
21 Dennis Garbis is here and he just stepped away for a minute.

22 The first item on the agenda...well, let's do a
23 little housekeeping. Mr. Wilson, I believe you said that the
24

1 number two item on the agenda has been withdrawn.

2 BOB WILSON: Yes, sir. The staff received a letter
3 from the attorneys for Dart Oil and Gas stating that all the
4 parties to the pooling had reached an agreement and,
5 therefore, the pooling wouldn't be necessary. They were
6 withdrawing the item.

7 BENNY WAMPLER: So, item two is withdrawn.

8 (Mr. Garbis entered the room.)

9 CLYDE KING: We introduced you anyway.

10 DENNIS GARBIS: Thank you.

11 BENNY WAMPLER: Item two is withdrawn. There's a
12 request to combine some of the Board's agenda items, three,
13 four and five...well, actually it's three, four, five and
14 six. There's a request to combine those when we get to them.
15 And number nine has been withdrawn?

16 MARK SWARTZ: Correct.

17 BENNY WAMPLER: That's the Y-2. And a request to
18 combine ten, eleven, and twelve on the agenda. So, with
19 that, we'll go back to the first item on the agenda which is
20 a quarterly report on the board escrow account; and Mr.
21 Wilson, you've distributed a copy and you're going to discuss
22 that with us now.

23 BOB WILSON: Yes. The balance in the escrow

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1 account as of close of business the month of March was
2 \$6,352,499.53. That reflects deposits from the quarter of
3 \$112,730.67; interest earned \$26,528.10; and disbursements
4 totaling a \$180,518.62.

5 If you'll remember from the last quarterly report,
6 that there was some carryover in the disbursement. We had
7 actually withdrew some disbursements in the previous quarter
8 that hadn't been paid until this quarter. So, the \$180,000
9 number actually reflects all of the money that was physically
10 paid out of the account and not just the ones that were
11 approved here in the last quarter.

12 As in past reports, the fees of \$5,000 per month
13 are shown on the account overview, but they have not been
14 withdrawn. They're withdrawn on a semi-annual basis. So,
15 they haven't been withdrawn yet. They're not reflected in
16 the final total.

17 Our earnings during this quarter were an astounding
18 1.74% rate and we'll discuss that more in detail later.

19 If you'll look at the second letter in your handout
20 that I gave you there, we're also having a change made to the
21 account. The bank is doing this. Basically what has
22 happened is they are dropping the current vehicle in which
23 our money is carried which was a commercial high performance
24

1 money market fund, investment fund. They're discontinuing
2 that and replacing it with what's called the Government
3 Advantage Account. It's largely the same thing, as I
4 understand, so far as performance is concerned. But it's
5 aimed more at government accounts and it certainly meets all
6 the requirement for government investing and this sort of
7 thing. The major difference that we're going to see is going
8 to be in the method of posting the interest. The interest
9 will still accrue as it does now; however, it will be posted
10 in arrears as of the statement date as opposed to as of the
11 end of the month, which we're now getting it posted. So,
12 we'll probably have one month recording which we won't see
13 interest just while they catch up with this new accounting.
14 It doesn't affect the actual accrual. It merely affects the
15 reporting.

16 The current rates that are shown in this letter
17 here are the rates...the historical rates since December of
18 last year. They projected a 1.73% rate for March which
19 differs only slightly from the 1.74 we were getting in the
20 other account. And again, this is, from my standpoint,
21 pretty much a bookkeeping thing. They're just discontinuing
22 one vehicle and moving into the other.

23 The last letter in your handout there, after some
24

1 questions we had earlier, mainly from Mr. Garbis, we had the
2 bank check into some possible other vehicles for getting a
3 little better return for the account. Basically, what they
4 have done here is shown us the various other things that are
5 available in a non-managed secure account which has as its
6 bottom line the preservation of the principal of the account,
7 which, of course, is what we have to do. We have to at least
8 preserve the principal. We cannot put any of that at risk.
9 As you can see, what they're showing here is that the
10 Government Advantage, which is what they have us in now, is
11 the highest thing that they're showing in the table. They
12 also said that if we wanted to go into the process of
13 determining necessary liquidity of the account and this sort
14 of thing and if we wanted to get into a managed account, they
15 could possibly point us to something like that. But we're
16 moving into something that has management fees if we do that.
17 We're also moving into something that would require some
18 active management from us.

19 So, as it turns out right now, according to what is
20 presented here, it would be immediately available to us,
21 we're in the best thing that's available there. I would
22 leave it to you folks to decide if you want to delve further
23 into managed accounts or anything like that to try to get a
24

1 better return.

2 That's the extent of the report. We...we're still
3 pretty much the same as we've been for the last several
4 months insofar as our working relationship is concerned. Our
5 disbursements don't happen as quickly as we would like them
6 to. But, unfortunately, that's as much as a problem with our
7 process and our direction as it is the bank. In fact, I'd
8 say it's probably pretty much that. So, we're working on
9 trying to get that straightened out. We may actually try to
10 put together a little guidance document of how we prepare
11 these things so that we can move it along and enable the bank
12 to get the instruction and cut the check and that sort of
13 thing they have to do.

14 Any questions for me or that I can carry back to
15 the escrow agent, I'd be glad to entertain?

16 MASON BRENT: I don't have any questions. I'd just
17 as soon stay away from speculative investment decisions.

18 CLYDE KING: Amen.

19 BENNY WAMPLER: Yeah. I think we're in...what I
20 think that we apparently have achieved here by the question
21 was the highest yield with the least risk, you know, or no
22 risk account.

23 KEN MITCHELL: Mr. Chairman, I have a question.

24

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1 BENNY WAMPLER: Mr. Mitchell?

2 KEN MITCHELL: I may have difficulty explaining
3 this because all three documents are dated April the 15th. I
4 was going to go by the date, but at this point, they're all
5 the same thing. But I'm going to bring your attention to
6 this document right here. I'm going to call it document one
7 because I don't have a better name of it. It lists February,
8 January and December, a three month yield.

9 BOB WILSON: Yes. This is the letter...this is a
10 letter that actually announces the change in the account.

11 KEN MITCHELL: Right. And then...but I also want
12 to bring your attention, and I'm going to call this document
13 two because it's the 15th of April also, at the bottom of
14 document two, it lists the annual percentage yield January,
15 February and March. So, it's a similar comparison, but it's
16 not a good comparison because it lists January, February and
17 March on document two, but December, January and February on
18 document one.

19 But let me...let me bring your attention to the
20 January on document one right here. On document one, Bob.

21 BOB WILSON: Yes.

22 KEN MITCHELL: Document one shows January 1.71%.
23 Going back to the old account, which is on document two at

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1 the bottom of the page, it shows 1.78%. On document one in
2 February, it shows 1.64. On document two at the very, very
3 bottom of the page it shows 1.74.

4 So, the...the...to me we're getting a lesser...
5 we're getting less. I mean, assuming that his numbers are
6 correct. Assuming the numbers he supplied are correct, we're
7 getting a lesser percentage.

8 He didn't give us a December...he gave us a March
9 on document two and a December on document one. I was
10 concerned there's no real good comparison.

11 Item number two is the vehicle that they want
12 us...that they're requesting that they put us in or
13 requesting that we approve. Is that vehicle designed around
14 First Union. Is it their vehicle or is it another vehicle?

15 BOB WILSON: Yes. That, as I understand it, is
16 their vehicle.

17 KEN MITCHELL: Is their vehicle?

18 BOB WILSON: Their Government Investment Fund
19 vehicle, yes.

20 KEN MITCHELL: Okay.

21 BOB WILSON: Again, as I understand it, is
22 basically still a money market account. But it's aimed more
23 toward government accounting necessity and this sort of

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1 thing.

2 KEN MITCHELL: Well, no, and no offense to the
3 people that wrote these documents, it would be a big feather
4 in their hat if we take our 6.39 million dollars and put it
5 into their vehicle. I'm...I don't want to look a gift horse
6 in the mouth. But I've done it for years. I think I've had
7 to do it for years. I think...and now let me bring you over
8 to document number three, which is the big square box with
9 all the institutional listings on it. They show a wonderful
10 1.81 on the market yield under Government Advantage, which is
11 the very first one listed. But when you look over here on
12 document one and document two, there are no 1.8s with the
13 exception of the December rating in document one.

14 To me, he's showing a rosy picture here comparing
15 it with Evergreen and ninety-one day U.S. T Bill and Federal
16 Fidelity Institutional and a ninety day bank CD. I'm not
17 sure that I personally...and I'm just speaking for me only.
18 I'm one vote. I can't help you or hurt you. But I'm not
19 sure that we're getting a good bang for the buck. That's
20 just me speaking.

21 BOB WILSON: If you'll notice on your document one,
22 they do give a projected for March of 2002, which is 1.73,
23 which is equivalent...essentially equivalent to 1.74 that

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1 they list on our statement in your document. And his
2 statement was that they expect these rates to continue to
3 climb. They are projecting that these rates continue to
4 climb this year, although not extensively. But I can request
5 more documentation on these rates and things of that sort
6 if---

7 KEN MITCHELL: I...can I ask you, Bob, on that?
8 When he calls on document one, the first sentence in the last
9 paragraph, he says, "The projected yield for March of 2002 is
10 1.73%." However, when you go back to document two at the
11 very, very bottom of the page the 1.73 is not as good as any
12 of the previous 1.78, 1.74 and 1.74. He's showing us a great
13 projection, but it's lower than three months. Am I...if I'm
14 saying something wrong or if I'm misquoting something, I'll
15 stand to be corrected. I---

16 SANDRA RIGGS: I would guess that they're doing,
17 there are statutory requirements for what they need to do in
18 order to meet for government funds. And what they've done is
19 created a separate fund so that they don't have to manage the
20 total money market account to meet the statutory
21 requirements. In other words, they're putting all their
22 government clients over into investments that meet the
23 statutory requirements instead of in the larger fund that's
24

1 commingled with commercial clients, probably. So what they
2 can...I would say the yield is somewhat dictated by what
3 those funds are invested in or how they manage those funds
4 and there are more restrictions on government funds than
5 there would be commercial funds. Is that why they've split
6 that money market out into two separate accounts, one for
7 their government clients and one for their commercial
8 clients?

9 BOB WILSON: I did not get an explanation on that.
10 Basically, it was my understanding from talking to them that
11 they have discontinued that commercial money market account
12 and this is what they moved our collateral into. As to
13 whether they actually split off and created a second one for
14 the commercial, I couldn't say.

15 SANDRA RIGGS: Okay.

16 KEN MITCHELL: Bob, just me personally, I'd like to
17 see some more information on that. I also would like to see
18 why they...why they insist that it be in a First Union
19 facility. Why isn't there another one out there that still
20 has a non-management fee and...I mean, we're paying them
21 \$15,000 every six months. So, we're paying them \$30,000 and
22 we're giving them 6.39 million to investment in whatever
23 vehicle that they invest in.

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1 BOB WILSON: I can certainly get that information.

2 DENNIS GARBIS: Mr. Chairman.

3 DENNIS GARBIS: Mr. Garbis?

4 DENNIS GARBIS: Yeah. If...first off, I'd like to
5 thank you very much for your response. I mean, I think
6 you've provided information here that's interesting.

7 Just looking at this, my...and I don't know the
8 restraints of what the government requires as far as where
9 you can invest it. But my...my reaction to seeing ninety day
10 notes, obviously if you increase that to one eighty or one
11 year, maybe I'd...maybe I would go for twenty-four or at the
12 most a thirty-six month CD. I think you would see the rates
13 would probably double, if not be two and a half times as
14 much. But I don't know the, you know, the constraints that
15 you're working with. I mean, how liquid...obviously, what
16 based on what I've seen here, the requirement for liquidity
17 isn't all that much based on what the withdrawal rate is that
18 I've seen.

19 SANDRA RIGGS: In the past, I think what the Board
20 did when it was the prior escrow agent, these guys were being
21 more conservative. Didn't we split it 50/50 and we had one
22 50% longer term investments and projecting based on what
23 disbursements are? I think the Board made a decision to

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1 split...to split it up and put some of the money into longer
2 term investments.

3 DENNIS GARBIS: Yeah. I don't know that. I mean,
4 just by what I've seen, maybe that needs to be changed to 75%
5 longer term anywhere from one eighty to, you know, twenty-
6 four to thirty-six months and then the balance in ninety
7 days. If that's within the constraints of what, you know,
8 the law allows us. That's just a suggestion.

9 SANDRA RIGGS: That was...that was at a time when
10 we really didn't have any trending for what disbursements
11 were going to look like. I mean, people were anticipating
12 there could be a Court decision one day and we would empty
13 this account out and we would need that kind of liquidity and
14 that's not the way it's developed. But there probably is
15 flexibility for the Board to make some decisions on how much
16 has to be liquid and how far out you want to go in terms of
17 longer term investments. But the statutory requirements on
18 where you can put the money are not negotiable and I can get
19 that statute for you so that you can see what the guidelines
20 are in terms of what they can invest in.

21 BENNY WAMPLER: That would be if you get the terms
22 from the bank for all of these so that we can make a decision
23 like that. Make an informed decision.

24

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1 DENNIS GARBIS: I mean, it looks like the
2 withdrawal rate is in the 5%.

3 BENNY WAMPLER: Yeah.

4 DENNIS GARBIS: So, I mean, if you were at, you
5 know, 15 or 20% absolute liquidity within a ninety day period
6 and you probably have that much to get it out at any rate---

7 BENNY WAMPLER: Right.

8 DENNIS GARBIS: ---and then the balance in
9 something longer term. It might make a difference. Well, I
10 know it would make a difference. But I don't know the
11 constraint of what the law allows us to do.

12 KEN MITCHELL: Mr. Chairman, can I make one final
13 statement---

14 BENNY WAMPLER: Sure. Mr. Mitchell?

15 KEN MITCHELL: ---and I'll sit back quietly, or at
16 least I'll try. The...the..Virginia has always been a
17 conservative state from an investment prospective. All
18 counties...all cities and towns are restricted in reference
19 to how risky they can go into. When I say the word how
20 "risky," that's a very strong word because there is no how
21 risky when you're investing county funds or---

22 BENNY WAMPLER: Right.

23 KEN MITCHELL: ---even state funds. There are a
24
25

1 lot of restrictions and there are a lot of things...and like
2 I said, I'd love to see them, Sandra, by all means.

3 SANDRA RIGGS: Uh-huh. I'll pull that.

4 KEN MITCHELL: But I think...I think what we have
5 to look at, you know, this isn't Orange County, California
6 where they gave away the bank, you know. Many of you will
7 remember that and they just went millions and millions into
8 the hole. But I think what we need to do is give a good
9 investment for the funds, which I think will increase the
10 fund and, you know, make everybody happy. But I think that's
11 what Dennis is looking at and I think that's what I'm looking
12 at is to get a good return for the investment. Our county...
13 our county buys and sells on a daily basis and I realize
14 that's too much...that's too much management for what we want
15 to do. But the return is better than a 1.6 or a 1.7%.

16 BENNY WAMPLER: Any other questions or comments?

17 (No audible response.)

18 BENNY WAMPLER: So, do you have direction on what
19 you need to do? If you don't---

20 BOB WILSON: I think so. My...my understanding is
21 the Board would like to get more information on these
22 possibilities. Number one, why is this in a First Union
23 vehicle as opposed to looking at some other lucrative

24

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1 vehicle? We need more information on the rate projections
2 that he has shown and we need to get some terms for what we
3 could expect if we split the account into liquid and non-
4 liquid portions and try to go for longer term investments.
5 If I understand that correctly, I'll be happy to get that
6 information.

7 BENNY WAMPLER: I believe you have validation on
8 that.

9 BOB WILSON: Okay. That's all I have.

10 BENNY WAMPLER: The next items on the agenda, we
11 have a request to combine three, four, five and six on the
12 Board's agenda item. I'll call those as request from...a
13 petition from Buchanan Production Company for pooling of a
14 coalbed methane unit under the Oakwood Coalbed Methane Gas
15 Field I Order. The first one is identified as W-2, docket
16 number VGOB-02-04/16-01...I'm sorry, -1015. The second one
17 is W-3, docket number VGOB-02-04/16-1016. The next one is X-
18 2, docket number VGOB-02-04/16-1017. And finally X-3, docket
19 number VGOB-02-04/16-1018. We'd ask the parties that wish to
20 address the Board in these matters to come forward at this
21 time.

22 MARK SWARTZ: Mark Swartz and Les Arrington.

23 (Witness is duly sworn.)

24

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1 BENNY WAMPLER: The record will show there are no
2 others. You may proceed.

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8

LESLIE K. ARRINGTON

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

11

DIRECT EXAMINATION

12 QUESTIONS BY MR. SWARTZ:

13 Q. Okay, Les, can you state your name for us,
14 please?

15 A. Leslie K. Arrington.

16 Q. Who do you work for?

17 A. Today?

18 Q. Today.

19 A. CNX Gas.

20 Q. L.L.C.?

21 A. L.L.C.

22 Q. Okay. And were you instrumental in either
23 preparing yourself, or having prepared under your direction,

24

--

1 the four applications that we've combined here for pooling
2 hearing?

3 A. Yes, I was.

4 Q. Okay. And, in fact, you've signed each of
5 the notices and each of the applications yourself, is that
6 correct?

7 A. That's correct.

8 Q. Who is the applicant on these four units?

9 A. Buchanan Production Company.

10 Q. And Buchanan Production Company is a
11 Virginia General Partnership?

12 A. Yes, it is.

13 Q. And it has two partners, one is CNX Gas,
14 L.L.C. and the other is Consol Energy, Inc., is that correct?

15 A. That's correct.

16 Q. Is Buchanan Production Company authorized to
17 do business in the Commonwealth?

18 A. Yes, it is.

19 Q. Who is it that the applicant, Buchanan
20 Production Company, is requesting be designated as the
21 Board's operator if these applications are approved?

22 A. Consol Energy, Inc.

23 Q. And Consol Energy, Inc. is a Delaware
24

1 Corporation, is that correct?

2 A. Yes...yes, it is.

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

6 A. Yes, it does.

7 Q. Now, sometime ago, and I'm talking about the
8 early '90s, did the management committee of Buchanan
9 Production Company grant or delegate authority to third
10 parties to explore, develop and maintain its properties and
11 assets?

12 A. Yes.

13 Q. And as time has passed, has that delegation
14 eventually come down to Consol Energy, Inc.?

15 A. Yes, it has.

16 Q. Okay. And so Consol has shouldered those
17 responsibilities to manage the assets of Buchanan Production
18 Company?

19 A. Yes.

20 Q. And that's the reason for the request?

21 A. Correct.

22 Q. Now, these are...all four of these units are
23 Oakwood I units, correct?

24

--

1 A. That's correct.

2 Q. They all contemplate that there would be one
3 frac well?

4 A. Correct.

5 Q. They contemplate development from the tiller
6 seam of coal on down?

7 A. Correct.

8 Q. And they're all standard 80 acre units?

9 A. Yes, they are.

10 Q. And in each instance the well location is
11 within the drilling window, is that correct?

12 A. Yes, it is.

13 Q. Okay. There are amended exhibits with
14 these...with each of these units, correct?

15 A. That's correct.

16 Q. And they are contained within the exhibit
17 packet that you passed out to the Board today?

18 A. Yes, it is.

19 Q. Is it...is it fair to assume that the reason
20 for the amendment of the substantive exhibits B-2, B-3 and A,
21 page two, is because you've been able since you filed to
22 lease more folks?

23 A. Yes. There's four individuals we'd like to
24

1 dismiss. Scotty Carter Boyd, Nancy Cook, Marshall Boyd and
2 Franklin Clevinger.

3 Q. Okay. And those dismissals...strike that.
4 Is it true that the respondents are the same in each of these
5 four units?

6 A. Yes, they are.

7 Q. So, that a request for a dismissal with
8 regard to those four folks, and I'll repeat that, Scotty
9 Carter Boyd, Nancy Cook, Marshall Boyd and Franklin
10 Clevinger, would be that they would be dismissed from all
11 four of the units?

12 A. Yes.

13 Q. Have you obtained leases from them? Is that
14 reason?

15 A. Yes, we have.

16 Q. Okay. And then that, of course, then shifts
17 the percentages and so forth and that's why we have some of
18 the amended exhibits, right?

19 A. Yes.

20 Q. Okay. Why don't you pass them out? And
21 have you prepared today some notes that summarize the...some
22 of the relevant matters that we usually discuss concerning
23 these four units?

24

--

1 A. Yes, we have.

2 Q. And the sheet that Anita is passing out,
3 which is the summary sheet concerning group one, which would
4 include these four units,---?

5 A. Yes.

6 Q. ---have you updated the percentages and
7 other information there so that you capture the information
8 from the amendments as opposed to the original information?

9 A. Yes, we have.

10 Q. Okay. And then there's one handwritten
11 change because we caught a depth issue?

12 A. Correct. We did, on W-2.

13 Q. Okay. Now, what did you do with regard to
14 these four units to notify the respondents of the hearing
15 today?

16 A. Yes. We mailed it by certified mail/return
17 receipt requested on March the 15th of 2002, and I believe we
18 published them all in the Bluefield Daily Telegraph. W-2
19 unit published on March the 26th of 2002; the W-3 unit
20 published March the 25th; the X-2 March the 25th; and the X-3
21 on March the 23rd of 2002 in the Bluefield Daily Telegraph.

22 Q. And when you published these things, what
23 did you publish?

24

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1 A. The notice of hearing and related relocation
2 map.

3 Q. And within the documents or the exhibits
4 that you've provided to the Board today, have you included
5 your certifications with regard to mailing, copies of return
6 receipts and the publisher's certificate with regard to
7 publications?

8 A. Yes, we did.

9 Q. Okay. Do you want to add any respondents
10 today?

11 A. No.

12 Q. What lease terms have you offered, in
13 general, to the folks that you've been able to lease and
14 would you be prepared to offer to the folks that you still
15 haven't obtained leases from?

16 A. Yes. For our standard coalbed methane
17 lease, it's a one-eighth royalty, a \$1 per acre per year for
18 a coalbed methane lease and a five year paid up term.

19 Q. And would you recommend those terms to the
20 Board with regard to any folks that might ultimately be
21 deemed to have been leased?

22 A. Yes, we would.

23 Q. And if I'm not mistaken, I think you have
24

1 permits for each of these wells, correct?

2 A. Yes, we do.

3 Q. And it looks like that they've all been
4 drilled?

5 A. Yes, they have.

6 Q. Okay, let's take them one at a time here.

7 With regard to W-2, you've got an amended Exhibit B-2, a
8 revised B-3 and a revised Exhibit A, page two, correct?

9 A. That's correct. Uh-huh.

10 Q. What interest are you seeking to pool in W-
11 2?

12 A. We're seeking to pool 10.027% of the coal,
13 oil and gas, coalbed methane.

14 Q. And also the coal, correct?

15 A. Yes.

16 Q. So the coal, oil and gas interest---?

17 A. Of the coal, oil and gas, yes.

18 Q. Okay. And how much have you leased in W-2?

19 A. 89.973%.

20 Q. Of all the claims?

21 A. Yes.

22 Q. How much of the coal is leased?

23 A. A 100%.

24

--

1 Q. Okay. Tell the Board whether or not escrow
2 is required?

3 A. No, it is not. We have addresses for all of
4 the respondents.

5 Q. Okay. And the rest of the information
6 pertains to the well, correct?

7 A. That's correct.

8 Q. And with that change to 2371, have you
9 corrected that information?

10 A. We did.

11 Q. Okay. Just to alert the Board to what we've
12 changed. If you look at the well cost exhibit for this unit,
13 W-2, there was for some reason that we can not explain, it
14 showed total depth of 1671.1, correct---?

15 A. Correct.

16 Q. ---which is obviously an error? And if you
17 add the contract drilling footages together, you come up with
18 the number that we've reproduced?

19 A. Yes. It was 2371.

20 Q. Okay.

21 A. That's the depth that was reported on the
22 completion report.

23 Q. Okay. Now, with regard to W-3. Again, we
24

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1 have amended exhibits which we've passed out to the Board
2 today, correct?

3 A. That's correct.

4 Q. And this...what interest are you seeking to
5 pool in W-3?

6 A. In W-3, we're seeking to pool 10.00982% of
7 the coal, oil and gas, coalbed methane.

8 Q. And what have you leased?

9 A. We've leased 89.99018% of the coal, oil and
10 gas, coalbed methane. We have 100% of the coal leased below
11 this unit.

12 Q. And escrow's not required here either?

13 A. No.

14 Q. Correct?

15 A. Correct.

16 Q. And then you've reported the well
17 information on the summary sheet as well, correct?

18 A. Yes, we have.

19 Q. With regard to X-2, okay, you've got...I
20 don't have the...yes, I do. With regard to X-2, we've got
21 three revised substantive of exhibits, correct?

22 A. Correct.

23 Q. And what are we seeking to pool...what
24

1 interest and what percentage are we seeking to pool in X-2?

2 A. We're seeking to pool 7.154% of the coal,
3 oil and gas, coalbed methane interest. We have leased
4 92.846% of the coal, oil and gas, coalbed methane interest.
5 We have a 100% of the coal leased beneath this unit; and also
6 in this unit, there's no escrow required.

7 Q. And then the summary exhibit then sets forth
8 the well name and permit numbers---?

9 A. Yes.

10 Q. ---and the other information regard to the
11 well, correct?

12 A. Yes, it does.

13 Q. Okay. And lastly, with regard to unit X-3,
14 again, we've got some amended exhibits, correct?

15 A. Correct.

16 Q. And those have been passed out to the Board
17 today and are B-2, B-3 and Exhibit A, page two, correct?

18 A. Correct.

19 Q. What are we seeking to pool in unit X-3?

20 A. X-3, we're seeking to pool 3.426% of the
21 coal, oil and gas, coalbed methane interest; and we have
22 leased 96.574% of the coal, oil and gas, coalbed methane
23 interest. We have leased a 100% of the coal beneath this
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1 unit, and there's no escrow required in this unit also.

2 Q. And, again, with regard to CBM well X-3,
3 you've reported here the summary information that we usually
4 give to the Board pertaining to the well?

5 A. That's correct.

6 Q. Okay. Is it your opinion that the
7 development plans for these four units there are disclosed by
8 the application and the related exhibits represent a
9 reasonable plan to develop coalbed methane from within and
10 under these units?

11 A. Yes, it does.

12 Q. And is it your recommendation to the Board
13 that the Board approve these applications as a method and a
14 means of protecting the correlative rights of all owners and
15 claimants to the coalbed methane?

16 A. Yes, we do.

17 Q. That's all I have.

18 BENNY WAMPLER: Questions from members of the
19 Board?

20 CLYDE KING: I move we approve.

21 BENNY WAMPLER: I have a motion to approve. Is
22 there a second?

23 DENNIS GARBIS: I second.

24

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1 BENNY WAMPLER: Second. Any further discussion?

2 (No audible response.)

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

5 (All members signify by saying yes.)

6 BENNY WAMPLER: Opposed, say no.

7 (No audible response.)

8 BENNY WAMPLER: You have approval.

9 MARK SWARTZ: We need to take a time out for just a
10 couple of minutes if we can.

11 BENNY WAMPLER: Okay. We'll take a five minute
12 break.

13 (Off record.)

14 BENNY WAMPLER: Okay, the next item on the agenda
15 is a petition from Buchanan Production Company for pooling of
16 a coalbed methane unit under the Oakwood Coalbed Methane Gas
17 Field I order identified as Z-7. This is docket number VGOB-
18 02-04/16-1020. We'd ask the parties that wish to address the
19 Board in this matter to come forward.

20 MARK SWARTZ: Mark Swartz and Les Arrington.

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

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LESLIE K. ARRINGTON

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

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Les, I'm going to remind you you're still under oath, okay.

A. Yes.

Q. Who do you work for at 9:44?

A. CNX Gas, L.L.C.

Q. Okay.

A. And it's Company, L.L.C.

Q. Okay. Who's the applicant with regard to this application?

A. Buchanan Production Company.

Q. Did you either prepare the applications and related documents or have them prepared under your supervision?

A. Yes, I did.

Q. Okay. And have you signed personally both notice and the application?

A. Yes, I have.

Q. And this application seeks to pool an

1 Oakwood I unit, right?

2 A. Yes, it does.

3 Q. And from the plat, we can tell that there's

4 one well proposed and it's actually in the drilling window?

5 A. Yes, it is.

6 Q. Okay. Because this would be an Oakwood I

7 unit, you're contemplating production of coalbed methane gas

8 from the Tiller Seam on down through the use of one frac

9 well, right?

10 A. Yes.

11 Q. Okay. This well has been drilled?

12 A. Yes, it has.

13 Q. It has a permit number---?

14 A. 4945.

15 Q. -03?

16 A. -03. We've done three modifications to it.

17 Q. Okay. What is your estimate with regard to

18 actual cost combined with proposed costs?

19 A. Our costs are \$99,272.18, drilled to total

20 depth of \$2,062.90 feet.

21 Q. And what interest are you seeking to pool

22 here?

23 A. We have 100% of the coal, coalbed methane

24

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1 interest leased and we have 93.7875% of the oil and gas,
2 coalbed methane interest. We're seeking to pool 6.2125% of
3 the oil and gas, coalbed methane interest and we have a 100%
4 of the coal leased beneath this unit.

5 Q. Okay.

6 A. This unit does require escrow due to one
7 address unknown and conflicting claims.

8 Q. And so you've got Exhibit E as part of the
9 application?

10 A. Yes. Yes, we do.

11 Q. And have some folks entered into split
12 agreements here?

13 A. Yes, there has.

14 Q. And are they identified in Exhibit W?

15 A. Yes, they are.

16 Q. So, although...so the order ultimately would
17 request provide that people whose money would otherwise be
18 escrowed that their split agreements be honored and that they
19 be...we'd be allowed to pay them directly?

20 A. Yes.

21 Q. The...what did you do to notify the appli
22 ...the respondents here?

23 A. We published it in the Bluefield Daily
24

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1 Telegraph on March the 22nd of 2002. It was mailed
2 by...well, it wasn't mailed.

3 Q. It wasn't mailed?

4 A. But it would have been mailed on March the
5 15th.

6 Q. And when you published, what did you
7 publish?

8 A. The notice and associated location map.

9 Q. Now, Howard and Tiller were huge landowners
10 in this part of the worlds, correct?

11 A. Yes, they were.

12 Q. And from time to time, there are unconveyed
13 interest that turn up, correct?

14 A. Yes, there is.

15 Q. And so we see this fairly often in pooling
16 applications. I mean, if you kept track over the years. And
17 what we've got here is an unconveyed, or reserved interest,
18 into the Howard and Tiller Estates which have not been
19 accounted for, you know, more than a 100 years.

20 A. That's correct.

21 Q. And that's why you're unable to mail or
22 identify them?

23 A. That's correct.

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1 Q. Okay. Okay, who is the applicant requesting
2 be appointed as designated operator?

3 A. Consol Energy, Inc.

4 Q. Okay. Buchanan Production Company is a
5 Virginia General Partnership, right?

6 A. Yes, it is.

7 Q. It has two partners that are Consol Energy,
8 Inc. and CNX Gas, L.L.C.?

9 A. That's correct.

10 Q. Buchanan Production Company is authorized to
11 do business in the Commonwealth?

12 A. Yes, it is.

13 Q. Consol Energy, Inc. is a Delaware
14 Corporation authorized to do business in the Commonwealth,
15 which has registered with the Department of Mines, Minerals
16 and Energy and has filed a blanket bond, is that correct?

17 A. That's correct.

18 Q. In the early '90s, did Buchanan Production
19 Company delegate the responsibility to explore, develop and
20 maintain its properties and assets to third parties?

21 A. Yes, it did.

22 Q. And at this present time is Consol Energy,
23 Inc. the person that has...or the company that has accepted
24

1 that delegation of responsibility?

2 A. Yes, it has.

3 Q. And is that why Consol Energy, Inc. is
4 seeking to be appointed or Buchanan Production Company is
5 seeking to have Consol Energy, Inc. appointed as designated
6 operator?

7 A. Yes.

8 Q. Have you listed all of the respondents in
9 your notice?

10 A. Yes, we did.

11 Q. Can I assume that you do not want to add or
12 subtract any respondents today?

13 A. That's correct.

14 Q. And your notice has been solely by
15 publication for the reasons expressed?

16 A. Yes, it was.

17 Q. What lease terms would you offer in the
18 event that heirs stepped forward, and would you recommend to
19 the Board be asserted in their order to deal with the matter
20 of deem to have been leased?

21 A. Our standard coalbed methane lease is \$1 per
22 acre per year for a coalbed methane lease with a five year
23 paid up term and one-eighth royalty.

24

--

1 Q. The...I'm not sure that we covered the
2 well...what's the well depth here?

3 A. Yes, we did.

4 Q. Did we? Okay. Okay. The...is it...is it
5 your opinion that the development plan disclosed by the
6 application and the exhibits specifically one frac well in
7 this unit to develop gas from the Tiller on down is a
8 reasonable plan of development for this unit?

9 A. Yes, it is.

10 Q. Is it your recommendation to the Board that
11 the Board pool this unit and include these unknown or
12 unlocateable people so that production can proceed and yet
13 everyone who has claims or interest in the unit will be
14 protected?

15 A. Yes, it is.

16 Q. Okay. That's all I have.

17 BENNY WAMPLER: Questions from members of the
18 Board?

19 KEN MITCHELL: Mr. Chairman, I have one technical
20 question. It doesn't concern the well per se, but it
21 concerns procedure.

22 BENNY WAMPLER: Go ahead, Mr. Mitchell.

23 KEN MITCHELL: When I...when I looked at item four
24

1 and item seven, on the very last page of item four on
2 your...on your notary of due diligence and item seven on the
3 last page, which is the notary of due diligence, the same
4 notary signed it. She signed it the same date, but yet she
5 gave two different dates as her commission expiration. I
6 know there's a simple explanation somewhere. Item four shows
7 her commission expiring 11/30/02. That's the last page of
8 item four. Item seven, which we're working on right now
9 shows her expiration expiring 11/30/05, but she signed them
10 on the same date. And I realize they're renewable every six
11 years, but ironically she signed these the same date. I know
12 there's a great logical explanation. But I just thought you
13 might mention it to her.

14 LESLIE K. ARRINGTON: I will.

15 BENNY WAMPLER: Any other questions or comments?

16 (No audible response.)

17 KEN MITCHELL: I move for approval.

18 DENNIS GARBIS: I second it.

19 BENNY WAMPLER: Motion to approve and a second.

20 Any further discussions?

21 (No audible response.)

22 BENNY WAMPLER: All in favor, signify by saying

23 yes.

24

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1 (All members signify by saying yes.)

2 BENNY WAMPLER: Opposed, say no.

3 (No audible response.)

4 BENNY WAMPLER: You have approval. The next item
5 on the agenda is a petition from Buchanan Production Company
6 for pooling of a coalbed methane unit under the Oakwood
7 Coalbed Methane Gas Field II order identified as F-17. This
8 is docket number VGOB-02-04/16-1021. We'd ask the parties
9 that wish to address the Board in this matter to come forward
10 at this time.

11 MARK SWARTZ: Mark Swartz and Les Arrington.

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

14

15 LESLIE K. ARRINGTON

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

18 DIRECT EXAMINATION

19 QUESTIONS BY MR. SWARTZ:

20 Q. Les, you need to state your name for the
21 record.

22 A. Leslie K. Arrington.

23 Q. Who do you work for?

24

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1 A. CNX Gas Company, L.L.C.

2 Q. Are you here on behalf of the applicant

3 today?

4 A. Yes, I am.

5 Q. And who's the applicant?

6 A. Buchanan Production Company.

7 Q. Did you either prepare or caused to be

8 prepared under your supervision the notice, application and

9 related documents with regard to this pooling application?

10 A. Yes, I did.

11 Q. And you, in fact, signed both the notice and

12 the application?

13 A. Yes, I did.

14 Q. This is an application under Oakwood II,

15 correct?

16 A. It is.

17 Q. So, we're going to be talking about panel

18 production from multiple longwall panels?

19 A. That's correct.

20 Q. And we're going to be talking about

21 production from those panels on an active gob basis under

22 Oakwood II?

23 A. That's correct.

24
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1 Q. The...have you listed all of the respondents
2 in both the notice and Exhibit B-3?

3 A. Yes, we have.

4 Q. Were you able to mail to them?

5 A. Yes, we were.

6 Q. And when did you mail?

7 A. We mailed it on March the 15th of 2002 by
8 certified mail/return receipt requested. It was also
9 published in the Bluefield Daily Telegraph on March the 22nd
10 of 2002.

11 Q. Did you get receipts back from these folks?

12 A. Just to check and make sure. Yes, we did.

13 Q. Okay. And you've filed those with the
14 Board?

15 A. Yes, we did.

16 Q. And you've also filed proof of publication
17 with the Board?

18 A. Yes, we have.

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

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

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

24

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1 A. No, we do not.

2 Q. What interest are you seeking to pool?

3 A. We're seeking to pool 22.675% of the coal,
4 oil and gas, coalbed methane interest. We have leased
5 77.325% of the coal, oil and gas, coalbed methane interest.

6 Q. Have you actually had lease negotiations
7 with these folks over the years?

8 A. Yes, we have.

9 Q. And have never been able to reach terms with
10 them?

11 A. That's correct.

12 Q. And their history since we've been pooling
13 them with some considerable regularity lately, correct?

14 A. Correct.

15 Q. And their history has been to participate?

16 A. Yes, it is.

17 Q. What is the well cost on this unit?

18 A. The well...the unit cost---.

19 Q. I'm sorry. The allocated unit cost?

20 A. The allocated unit cost is \$219,309.77.
21 Now, that's allocating one well for three longwall panels.

22 Q. Now, let's go...let's look at that as long
23 as we've started down that path. If you look at Exhibit B-3,
24

1 let's start with that, which is a peace of paper that's
2 sideways in your...in your packet. For each...for the
3 coalbed methane claims under the coal estate and the oil and
4 gas estate you've got...you report the acres in the unit,
5 right?

6 A. Yes.

7 Q. And then a total percent of the unit?

8 A. Yes.

9 Q. And that total percent of the unit would be
10 the percentage that these folks would use if they wanted to
11 participate?

12 A. Yes.

13 Q. So, they would take the 22.6750% times the
14 allocated cost to get a participation dollar?

15 A. That's correct.

16 Q. With regard to royalty, though, we have
17 allocate production to individual longwall panels, is that
18 correct?

19 A. That's correct.

20 Q. And so for each panel that affects this
21 particular 80 acre unit, we have a separate column and an
22 interest expressed?

23 A. That's correct.

24

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1 Q. So, from a royalty standpoint the last or
2 the three right hand columns on Exhibit B-3 would pertain to
3 royalty?

4 A. It would.

5 Q. Now, let's go to Exhibit, page one, which
6 looks like this. Tell the Board what you've done here.

7 A. What I've shown there is there is four
8 longwall panels in the VP-1 mine, number two, three and four
9 east panels, and I'm allocating one well per longwall panel
10 to remove the gas from that area. And I have associated
11 costs listed for each panel and then I've allocated it
12 according to the longwall panel length and width in doing
13 that multiplication and coming up...if you notice at the
14 bottom, you'll see each panel. For F-17, the four east
15 panel, the three east panel, the two east panel and its
16 associated costs with the total cost for the F-17 unit of
17 \$219,309.77.

18 Q. Now the allocation, let's just go up to the
19 four east longwall allocation. Is it true that what you have
20 done is calculated the total area of the entire panel?

21 A. Yes.

22 Q. And then placed the acreage or area of the
23 panel in the various units and done the math to get the

24

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1 percentage...the allocation percentage?

2 A. Yes, we did.

3 Q. Okay. And for example here, in the four
4 east longwall panel, that's being allocated among six units?

5 A. Yes, it is.

6 Q. And the other panels are allocated as
7 indicated?

8 A. Yes, they are.

9 Q. So, can you tell the Board whether or not
10 you actually have more wells in these panels than one?

11 A. No, I do not. This is an old mine area.

12 Q. Okay. This is...you've got one per
13 panel---?

14 A. Yes.

15 Q. ---and it's not the typical situation where
16 we've got the dozen?

17 A. No, it is not. These are actually new
18 drilled wells.

19 Q. Okay. That you're going to be producing
20 ...that you know you're going to be producing?

21 A. That's correct.

22 Q. Okay. Is escrow required here?

23 A. I'll have to look. Well, no, it is not.

24

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1 Q. Okay. Because we know who the folks are?
2 A. That's right.
3 Q. Okay. And we know where they are?
4 A. Yes, we do.
5 Q. Okay. The well cost estimate is what?
6 A. The well cost or the unit cost?
7 Q. Yeah. The unit cost---?
8 A. 219---.
9 Q. ---is the 219 we've talked about?
10 A. Yes.
11 Q. And that's...and that...and the percentages
12 would be as described on B-3---?
13 A. Yes.
14 Q. ---times that number?
15 A. Uh-huh.
16 Q. Okay. Let me see here. And what lease
17 terms would you request that the Board insert in its order
18 with regard to the deemed to have been leased provision?
19 A. Our standard coalbed methane lease terms are
20 a \$1 per acre per year, with a five year paid up term, with a
21 one-eighth production royalty.
22 Q. Okay. Is it your opinion that the
23 development plan for the active gob under this unit as
24

1 disclosed by this application is a reasonable...reasonable
2 method to produce coalbed methane?

3 A. Yes, it is.

4 Q. And are you requesting that the Board pool
5 these companies that you've listed as respondents to allow
6 development to proceed and to protect...and at the same time
7 protect the correlative rights of all claimants and owners?

8 A. Yes, we are.

9 Q. That's all I have.

10 BENNY WAMPLER: Did you cover the ownership
11 information, the percentages?

12 MARK SWARTZ: Oh, I may not have. Well, I think I
13 did.

14 LESLIE K. ARRINGTON: Yes.

15 MARK SWARTZ: But we'll do it again.

16 LESLIE K. ARRINGTON: We're seeking to pool---.

17 BENNY WAMPLER: She has confirmed it. I was
18 looking at something else at the time.

19 MARK SWARTZ: No problem.

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

22 (No audible response.)

23 CLYDE KING: I move we approve.

24

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1 BENNY WAMPLER: Motion to approve. Is there a
2 second?

3 KEN MITCHELL: Second.

4 BENNY WAMPLER: I have a motion and a second. Any
5 further 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. Item nine is
13 withdrawn. We had a request to combine ten, eleven and
14 twelve and you have...if you'll flip your summary sheet, ten,
15 eleven and twelve summary sheet that has been passed out.
16 I'll go ahead and call those.

17 This is a combined request for three petitions from
18 Pocahontas Gas Partnership for pooling of a coalbed methane
19 unit under the Middle Ridge I, Coalbed Methane Gas Field
20 Order identified, the first one, as AZ-111, docket number
21 VGOB-02-04/16-1023; the next one is BA-111, docket number
22 VGOB-02-04/16-1024; and finally BA-112, docket number VGOB-
23 02-04/16-1025. We'd ask the parties that wish to address the

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

2 MARK SWARTZ: Mark Swartz and Les Arrington.

3 BENNY WAMPLER: We...I'll also call the Board's
4 attention to the fact that we have a letter that was
5 addressed to me from Mr. James Rasnake objecting to these
6 applications. Do you have the letter, Mr. Swartz---?

7 MARK SWARTZ: Yeah.

8 BENNY WAMPLER: ---and accompanying documentation?
9 Okay.

10 (Distributes exhibits.)

11

12 LESLIE K. ARRINGTON

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

15 DIRECT EXAMINATION

16 QUESTIONS BY MR. SWARTZ:

17 Q. Mr. Arrington, you need to state your name
18 for the record.

19 A. Leslie K. Arrington.

20 Q. You're still under oath, right?

21 A. Yes.

22 Q. Who do you work for?

23 A. CNX Gas Company, L.L.C.

24

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1 Q. I think it's CNX Gas, L.L.C. Are you sure
2 there's a company?

3 A. CNX Gas Company, L.L.C.

4 Q. Okay. I know they keep me confused.

5 CLYDE KING: What's it going to be next time?

6 DENNIS GARBIS: Swartz Gas Company.

7 MARK SWARTZ: Ain't going to happen.

8 Q. Who's the applicant on these three
9 applications?

10 A. Pocahontas Gas Partnership.

11 Q. Okay. Now, is Pocahontas Gas Partnership a
12 Virginia General Partnership?

13 A. Yes, it is.

14 Q. Are its two partners Consolidation Coal
15 Company and Consol Energy, Inc.?

16 A. Yes, it is.

17 Q. Okay. Who are...who is the applicant
18 requesting be designated the Board's operator?

19 A. Pocahontas Gas Partnership.

20 Q. Okay. Is PGP or Pocahontas Gas Partnership
21 authorized to do business in the Commonwealth?

22 A. Yes, it is.

23 Q. Has it registered with the Department of
24

1 Mines, Minerals and Energy and does it have a blanket bond on
2 file as required by law?

3 A. Yes, it does.

4 Q. Have you listed all of the respondents in
5 the notice of hearing and in Exhibit B-3?

6 A. Yes, we did.

7 Q. Okay. And to the extent that you had
8 addresses for those folks, did you mail to them?

9 A. Yes, we did.

10 Q. And when was that?

11 A. We mailed on March the 15th of 2002. And
12 the unit AZ-111 was published in the Bluefield Daily
13 Telegraph on March the 27th. BA-111 was published March the
14 26th and BA-112 March the 27th.

15 Q. Do we have a summary sheet for---?

16 A. Yes, we have.

17 Q. You've got it, okay. Are the...do you wish
18 to add any respondents or subtract any today?

19 A. Well, we do...would like to dismiss several
20 parties.

21 Q. Have you passed out a group two summary
22 exhibit to the Board today?

23 A. Yes. It was the second sheet attached and
24

1 it has a group and persons that we would like to dismiss.

2 Q. Okay. You probably need to read those into
3 the record.

4 A. Okay. Sure. Geneva Cotsmire, Della
5 Meadows, Margaret Kleffman, Doris Smith, James Massie, Ruby
6 and Leroy Lester, Gladys Puckett, Mary Keen, William Earl
7 Richardson, Nelson Richardson, Alice Marie Musick, Betty
8 Doty, Violet Dunn, Ellen Fletcher, Betty Nuckles, Richard E.
9 Rose and Arcel Rose.

10 Q. And why is that you're seeking to dismiss
11 these folks?

12 A. We either leased them or purchased it. I
13 assume we've leased those interests.

14 Q. Okay. And Exhibit B-2, the additional
15 exhibit that we've submitted today, would be a list of those
16 folks?

17 A. Yes, it is.

18 Q. Okay. And then we've revised Exhibit B-3,
19 E, EE and A, page two because we've got percentage changes
20 here because of these additional leases?

21 A. That's correct.

22 Q. Okay. Did you publish as well?

23 A. Yes.

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1 Q. Okay. And you've provided the publication
2 and the mailing information in the additional exhibits that
3 you've given to the Board?

4 A. Yes, we did.

5 Q. Right?

6 A. Uh-huh.

7 Q. And so to the extent that there are return
8 receipt cards, the Board has them and then there's a
9 spreadsheet listing, you know, the dates of mailing and
10 address data and so forth?

11 A. That's correct.

12 Q. Okay. With regard to all three of these
13 units is a fact that there is escrow required, correct?

14 A. Yes, that's correct, it is.

15 Q. Okay. And in each of these units, there are
16 also some split agreements?

17 A. There is.

18 Q. And so when the Board drafts its orders, it
19 needs to be sensitive to the fact that there are folks whose
20 interest would be authorized to be escrowed who have reached
21 agreements that allows us to pay them directly?

22 A. That's correct.

23 Q. Okay. These units are Middle...all three of
24

1 them are Middle Ridge units, correct?

2 A. That's correct.

3 Q. And all three of them contained 58.74 acres,
4 is that correct?

5 A. That's correct.

6 Q. And in the event the Jawbone Seam is below
7 drainage, the production here would be coalbed methane gas
8 from the Jawbone on down?

9 A. That's correct.

10 Q. Okay. With regard to the wells, we're
11 proposing one well per unit, correct?

12 A. That's correct.

13 Q. And the plats here indicate that each of
14 these wells is actually within the drilling window?

15 A. That's correct.

16 Q. And the well information, have you
17 summarized that in your group two exhibit for the Board?

18 A. Yes, we have.

19 Q. Okay. Why don't you go through the units
20 one at a time and advise the Board the interest that we're
21 seeking to pool and what we've obtained.

22 A. Okay. In each one of these units, we have a
23 100% of the coal leased for the coalbed methane; and also

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1 have a 100% of the coal leased below this unit. We have
2 96.6817% of the oil and gas, coalbed methane leased in AZ-
3 111. We're seeking to pool 3.3183% of the oil and gas,
4 coalbed methane interest in AZ-111. In BA-111, we have 100%
5 of the coal owners, coalbed methane interest leased and
6 97.93840% of the oil and gas, CBM leased. We're seeking to
7 pool 2.0616% of the oil and gas interest, coalbed methane
8 interest. We have a 100% of the coal leased beneath this
9 unit. BA-112, we have a 100% of the coal leased and a 100%
10 of the coal owner CBM leased. We have 64.23807% of the oil
11 and gas owners, coalbed methane interest and we're seeking to
12 pool 35.76193% of the oil and gas, coalbed methane.

13 Q. And what terms have you offered the folks
14 that you've obtained leases from and would you be prepared to
15 lease additional outstanding interest for?

16 A. Yes. Our standard coalbed methane lease is
17 a \$1 per acre per year with a five year paid up term with a
18 one-eighth production royalty.

19 Q. And you would ask, I take it, that the Board
20 insert those terms in any order it might enter with regard to
21 pooling these units?

22 A. Yes, we would.

23 Q. Okay. Is it your opinion that the plans
24

1 disclosed by the various exhibits here represent a reasonable
2 method to develop the coalbed methane gas from these Middle
3 Ridge units?

4 A. Yes, it is. One additional comment, we
5 would also like to dismiss David Blankenship. He was listed
6 on the Exhibit B-2 and he is not an owner.

7 Q. Okay. And he was omitted from the group two
8 exhibit?

9 A. Yes, it was.

10 Q. But he's in the B-2?

11 A. He's listed on the B-2---.

12 Q. Okay.

13 A. ---as not an owner, though.

14 Q. Are there any other folks that you want to
15 dismiss at this point?

16 A. No.

17 Q. Is there anybody you want to add?

18 A. No.

19 Q. Okay. Is it your recommendation to the
20 Board that they approve these three petitions, pooling
21 applications, to protect the correlative rights of all owners
22 and claimants?

23 A. Yes, it is.

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1 Q. Have you had discussions with Mr. Rasnake in
2 the past with regard to his claims?

3 A. I have not.

4 Q. Have you exchanged correspondence with him?

5 A. Yes, we have.

6 Q. Okay. Have you...do you have a title lawyer
7 that you generally work with?

8 A. Yes, we do.

9 Q. Who is that?

10 A. It's David Altizer with the firm Altizer,
11 Walk and White in Tazewell, Virginia.

12 Q. Okay. And did you request that Mr. Altizer
13 and his firm specifically look at some of Mr. Rasnake's
14 claims?

15 A. Yes, we did.

16 Q. And this has been an ongoing issue, by that
17 I mean it surfaced in December or January of this year?

18 A. It actually surfaced in December and I
19 requested David Altizer take a...revisit some documents that
20 we were given by...actually by Mr. Wilson. We had him review
21 that and he gave us a letter on January the 10th. From that
22 letter, we drafted these applications.

23 Q. Okay.

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1 A. That's where we're at today.

2 Q. Just to put this in perspective. If we look
3 at Mr. Rasnake's letter, he is apparently claiming about a
4 48% interest, correct?

5 A. In the Jacob Fuller Heirs, yes.

6 Q. Okay. And if we look at, just take AZ-111
7 for example, we're showing him at page four of eight on
8 Exhibit B-3.

9 A. Uh-huh.

10 Q. Let me see, actually I probably need to go
11 with a revised exhibit. So, let's look at the stuff that was
12 passed out today.

13 A. On the bottom of page two.

14 Q. Okay. In the revised exhibit, the 4/11
15 Exhibit B-3, James Rasnake is listed at the bottom of page
16 two now.

17 A. Yes.

18 Q. And we're showing what percentage in the
19 unit?

20 A. Well, we're showing percentage in the
21 unit---.

22 Q. Well, let's just start with that.

23 A. Okay. Yeah, 0.0552%.

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1 Q. Okay. Now, to compare apples to apples, if
2 we...if we look at his letter, he's saying tract...go to the
3 application. The tract that we're talking about is a tract
4 that, when we look at the plat, it's this little triangle
5 down in the corner here, Tract 1G---

6 A. Yes.

7 Q. ---is the portion of this larger tract that
8 intersects in the example we're using, AZ-111. Mr. Rasnake
9 is in his letter saying I've got a 48% interest in that
10 tract.

11 A. That's correct.

12 Q. I mean, that's---

13 A. That's what he's saying.

14 Q. ---the sum and substance of what he's
15 saying. And it is your position that he has what interest in
16 that tract?

17 A. Okay. It's 1.8519%.

18 Q. In that tract?

19 A. In that tract.

20 Q. Okay. Because it was 1.75 acres of that
21 tract in this unit?

22 A. Correct.

23 MARK SWARTZ: At this point, I'd like to take the
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1 unusual step of testifying. So, I guess you have to put me
2 under oath.

3 (Mark Swartz is duly sworn.)

4 MARK SWARTZ: My name is Mark Swartz. I'm an
5 attorney. I have an office in Abingdon, Virginia. I have
6 reviewed underlying title documents with regard to Mr.
7 Rasnake's claims on numerous occasions. I have acquired
8 copies of title documents pertaining to his claims. I have
9 reviewed in detail Mr. Altizer's title opinions, but I've
10 also reviewed the documents that those title opinions were
11 predicated upon.

12 Mr. Rasnake makes a collection of claims pertaining
13 to...to simplify this, basically three parcels, a 68 acre
14 tract, a 75 acre tract and 72 acre tract. We have been here
15 before with regard to the 68 and 75 acre tracts and today
16 we're dealing with the 72 acre tract.

17 To give you a feel for where these are located, the
18 three units that we're here on today are AZ-111, BA-111 and
19 BA-112 and I've sort of outlined them in yellow. They
20 intersect in various...to various extent, a 72 acre tract.
21 The one that we're talking about right now, AZ-111, just
22 catches this little triangle corner. When we get to BA-112
23 you're see that it's a much more significant portion of the
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1 unit.

2 The tracts that we have been here with regard to
3 before are over to the west and more in the area of AX-108,
4 109 and so forth. The tracts to the west were dealt with in
5 a chancery action in a partition case. The tracts that we're
6 involved with today in my...well, in my opinion, were not
7 addressed because they just simply weren't in the partition
8 action. I'm going to talk a little more about the partition
9 action and the 72 acre tract in a moment. But it is
10 important to recall, as we go forward here, that the
11 partition action had one outcome with regard to Mr. Rasnake's
12 mother and the 72 acre tract which was not, in my opinion,
13 part of the partition action would have a completely
14 different outcome with regard to Mr. Rasnake's mother and
15 other people that he has sought to acquire interest from.

16 The chancery action was commenced, and I have the
17 paperwork that Mr. Rasnake obtained from Richmond because
18 it's actually on file there, was commenced because the Jacob
19 Fuller Heirs, some of them received deeds during their Dad's
20 lifetime and he essentially did some estate planning while he
21 was alive. But two of the heirs, William T. Fuller and Laura
22 Fuller, did not get their shares while Jacob Fuller was
23 alive. I don't recall whether or not W. T. Fuller was a

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1 minor, but Laura was certainly a minor at the time that this
2 partition action was commenced. The partition action...Mr.
3 Rasnake argues that the partition action dealt with all of
4 Jacob Fuller's interest in oil and gas and coal that he owned
5 at the time he died. That's what Mr. Rasnake says.

6 The chancery action, however...the chancery action
7 dealt with a collection of parcels and these are actually the
8 maps from 1917 or so that were filed with the Court as part
9 of the chancery action. The tracts and the lands that were
10 at issue in the chancery action that were divided between
11 Laura Fuller and W. T. Fuller are depicted on this map. When
12 we...and we have platted these...this tract that was divided
13 on our Oakwood...on our Middle Ridge grid system. So, we
14 know pretty much where this is and we know that the lands
15 that were divided in the chancery action were over here and
16 are not in the 72 acres.

17 Now, what Mr. Rasnake has contended, and what we
18 have spent a fair amount of time trying to determine, is
19 whether or not the chancery action dealt with interest beyond
20 those depicted on this map. Having reviewed the map, having
21 reviewed the Court's several orders to the commissioners, the
22 Court actually ordered the commissioners divide the lands
23 that I've just shown on the map into two parcels and then the
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1 Court had them convey those to Laura and W. T. Fuller. Let
2 me find that portion of the chancery order. Okay, the
3 commissioners on 10th day of December, 1917 reported to the
4 Circuit Court for Russell County and gave the descriptions of
5 Tracts 1 and 2, which I've just shown you the map of those
6 tracts, and gave the metes and bounds description of those
7 two tracts and said "we laid off and allotted to Laura Fuller
8 lot number one." So, we have a defined tract that was
9 allotted to Laura Fuller. It goes on and says "we laid off
10 and allotted to W. T. Fuller lot number two." The outcome of
11 the chancery case was to partition known lands and allot
12 them. There is no order beyond that. So, what happened in
13 point of fact was if Jacob Fuller owned additional interests
14 in real estate when he died beyond those mapped as I just
15 showed you and as divided in this chancery action, those went
16 to his heirs generally, okay.

17 It appears that there was a concern that Mr.
18 Fuller, from the record, and I'll get to that in a minute,
19 that Jacob Fuller had additional interests which were not
20 covered in toto by this partition action. There is an
21 unrecorded deed which Mr. Rasnake has given us, and I mean
22 unrecorded, that purports to transfer other interests not
23 covered in the partition action. There are a couple of

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1 problems with this deed. One, it's unrecorded. Two, none of
2 the signatures are notarized, authenticated or acknowledged.
3 So, if you try to record this deed, the Court...the agency
4 that accepts documents for recording would not accept it
5 because it doesn't meet the prerequisites. There is no
6 underlying factual basis with delivery, you know, all of
7 these sorts of things. So, I've got essentially a deed that
8 I know wasn't recorded, I know the signatures weren't
9 authenticated because it looks to me like I've got the whole
10 things, or acknowledged, and that purports to accomplish what
11 Mr. Rasnake would love to see. But it just...you can't get
12 there from here. So, it's my opinion that this deed, because
13 it can't be recorded, it's not lodged of record, it's not
14 authenticated, is a incomplete document of, unfortunately, no
15 consequence from his standpoint.

16 The title to the 72 acre tract was not addressed in
17 the chancery action probably because before Jacob Fuller
18 died, now we're coming back...I'm sort of making the full
19 circle to get back to what's the story on this tract because
20 it wasn't in the partition action. My guess as to why it
21 wasn't in the partition action is because I know that Jacob
22 Fuller, before he died, sold the property. So, the 72 acres
23 he made...he actually made a deed while he was alive and

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1 reserved the mineral, the oil and gas minerals. So, my
2 opinion based on the collection of documents that are
3 available to me, and I have seen nothing new...I mean, I
4 reviewed the stuff that we got the other day. I've seen
5 nothing new. My opinion is, the chancery action only
6 partitioned the described property. The unrecorded deed is
7 of no effect because it can't be recorded. It's not
8 acknowledged. You know, you can't get there from here.
9 There was an out conveyance by Mr. Fuller of everything...of
10 the 72 acre tract minus an oil and gas reservation which went
11 in general to all of his heir including Laura Fuller.

12 Mr. Altizer has reviewed all of this stuff as well
13 and has given an opinion to my client that what I have just
14 represented to you, it's also his opinion with regard to this
15 particular tract. I think David and I had some disagreements
16 with regard to partition action. But, you know, we're on the
17 same page with regard to what happened with the 72 acre
18 tract.

19 So, the long and short of that is, the interest
20 that we're reporting in these applications and we've used the
21 example from the first application that we're dealing with,
22 the percentage at the bottom of page two, you know, 1.8% or
23 whatever is Mr. Rasnake's undivided interest coming down

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1 through his mom, okay, to him regarding to the reservation of
2 oil and gas in the 72 acre tract. Mr. Rasnake's only claim
3 of a larger interest would be the unrecorded deed, and I
4 acknowledge, you know, there's a piece of paper that says
5 that. But you've got some pretty severe hurdles to overcome.
6 So, our position is that the title of record in the county
7 is consistent with what we're reporting in the exhibits that
8 we've given you today and it does not show record title of
9 some 48% interest in this.

10 So, my response, and this is with regard to all
11 three of these units...I mean, Mr. Rasnake makes the
12 same...and then the stuff that...Les has pointed out to me,
13 the stuff that...I will make one other observation. When Mr.
14 Rasnake writes to the Board, he never writes to us. So, in
15 spite of the fact that I have met with him, spent, you know,
16 hours with him at night going over title documents, you know,
17 that...you know, I've had conversations with him, that he has
18 been at Board meetings and we've talked, you know, he sends
19 stuff to Mr. Wilson and you'll notice that, you know, he
20 clearly knows where I am because he has been to my office,
21 you know. But there's no cc to me or no cc to Les. So, you
22 know, we get this stuff because Bob's, you know, hip to the
23 drill and figures when he gets a letter from Rasnake, he

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1 probably needs to fax it to us. And we got, you know,
2 another packet of documents, most of which frankly we've seen
3 before, which Mr. Rasnake has, you know, tried to record...
4 and this is pretty amazing. In amongst these, on March 29th,
5 you know, he has tried to record...to carry some of these
6 documents from one county to another and has, you know, tried
7 to record this...oh, amazingly he talked somebody into
8 recording apparently this unacknowledged deed and it was
9 recorded as of March the 26th, '02, in Russell County. So, I
10 guess, the Clerk wasn't, you know, alert. Anyway, that's
11 where we are on the title.

12 If we felt that Mr. Rasnake had a demonstrable
13 interest on the order of magnitude that he has, we would have
14 reported that in our title documents. That's all I have.

15 BENNY WAMPLER: Thank you, Mr. Swartz. I guess the
16 first comment I have is that the Board doesn't make title
17 determination. The Board seeks to insure due diligence in
18 making sure people are aware and acknowledged and I see that
19 in all three of these that the people that he has listed here
20 were noticed. They're not here today.

21 MARK SWARTZ: Correct.

22 BENNY WAMPLER: You know, the information that he
23 has presented specifically is saying that you would have us

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1 approve the applications with the ownership that you've
2 submitted in order to deny them of full ownership interest.
3 Of course, here again, that's not up to this Board to grant
4 or take away. That's up to a Court of law. If, in fact, you
5 folks do that and trespass, there are laws that will deal
6 with that and that's an action he would need to bring and not
7 action this Board would take. But we do appreciate, you
8 know, the---

9 MARK SWARTZ: Well, I need to tell you that sort of
10 to show due diligence. I mean, I'm showing that to you to
11 that we've done our homework.

12 BENNY WAMPLER: I understand. I understand. Well,
13 we would have had that question for sure. Are there
14 questions from members of the Board?

15 SANDRA RIGGS: So, in the order, should the Board
16 choose to approve, we need to acknowledge his claim that
17 there's a conflict? If you go to disburse later---

18 MARK SWARTZ: Well, this money is going to be
19 escrowed.

20 SANDRA RIGGS: Well, I know.

21 MARK SWARTZ: So, he's going to have duke this out
22 at some point.

23 SANDRA RIGGS: It could...there's no way that it
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1 could be disbursed without first having the title
2 determination for any...not necessarily for his interest, but
3 other interests that it would encroach on. What I'm thinking
4 is in the order somehow you need to acknowledge this title
5 conflict, you know, and require it be resolved before
6 disbursements are made.

7 MARK SWARTZ: Right.

8 BENNY WAMPLER: Right. Yeah, I think...I think---.

9 CLYDE KING: That's very important.

10 MAX LEWIS: I think we should.

11 BENNY WAMPLER: I think we should. That's what I
12 was trying to get at that that's something that is a dispute
13 that would have to be resolved in the Court of law. I think
14 we've recorded in the order---.

15 MARK SWARTZ: You know, as luck would have it, you
16 know, this is a little easier for you guys, I think, because
17 he's in these units even under our analysis.

18 BENNY WAMPLER: Right.

19 MARK SWARTZ: So, it's not a situation that we had
20 before where was you're not even here.

21 SANDRA RIGGS: It's an allocation issue.

22 MARK SWARTZ: Right. It's an allocation issue as
23 opposed to a you're in or an out issue, which makes, I think,

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1 a little easier for all of us.

2 KEN MITCHELL: Motion for approval, Mr. Chairman.

3 BENNY WAMPLER: Move to approve.

4 MAX LEWIS: With those stipulations?

5 BENNY WAMPLER: With that stipulation?

6 KEN MITCHELL: With the provisos that our legal
7 counsel advised.

8 BENNY WAMPLER: Is there a second?

9 MASON BRENT: I second. The motion is second.

10 BENNY WAMPLER: Any further 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 (No audible response.)

17 BENNY WAMPLER: We have unanimous approval. One
18 final item that I have, going back to the last Board hearing.
19 Following the last Board hearing where we had a two to two
20 vote, Mr. Swartz had written Mr. Wilson a letter regarding
21 these three items, VGOB-02-02/19-1002, VGOB-02-12/19-1003,
22 and VGOB-02-02/19-1004. Mr. Swartz, on April the 1st, wrote
23 to Mr. Wilson saying, "In light of the Gas and Oil Board's

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1 actions/inaction regarding the referenced pooling application
2 at the February and March, 2002 Board Hearing, the applicant
3 Pocahontas Gas Partnership advises the Board that it hereby
4 voluntarily withdraws said applications."

5 I just bring that before the Board, I guess, in
6 order to approve a final order that would, in fact, show that
7 those were withdrawn. Is that acceptable to the Board?

8 (All Board members indicate affirmatively.)

9 BENNY WAMPLER: We have everyone acknowledging that
10 it is. So, that...the order will reflect they're withdrawn.

11 MARK SWARTZ: Great.

12 BENNY WAMPLER: Do you have anything, Mr. Wilson?

13 BOB WILSON: No, sir.

14 BENNY WAMPLER: Does any members of the Board have
15 anything?

16 (No audible response.)

17 BENNY WAMPLER: Thank you very much.

18 MARK SWARTZ: Thank you all.

19 BENNY WAMPLER: Appreciate it. The hearing is
20 closed.

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22 STATE OF VIRGINIA,

23 COUNTY OF BUCHANAN, to-wit:

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

5 Given under my hand and seal on this the 3rd day of
6 May, 2002.

7 NOTARY PUBLIC

8 My commission expires: August 31, 2005.
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