

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 DECEMBER 17, 2002

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12 APPEARANCES:

13 MASON BRENT, GAS & OIL INDUSTRY REPRESENTATIVE

14 KEN MITCHELL, CITIZEN APPOINTEE

15 DONALD RATLIFF, COAL INDUSTRY REPRESENTATIVE

16 JIM McINTYRE, CITIZEN APPOINTEE

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

19 GARY EIDE, INSPECTOR WITH THE DIVISION OF GAS & OIL

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1 BENNY WAMPLER: Good morning. My name is Benny
2 Wampler. I'm Deputy Director for the Department of Mines,
3 Minerals and Energy and Chairman of the Gas and Oil Board. I
4 appreciate all the members taking the time out. I know it's a
5 really busy time of the year, but you took time to be here. I
6 hope all of you have a Merry Christmas and a Happy New Year, and
7 to those people that will be appearing before the Board as well
8 today. I would like to start by asking you...you hopefully
9 received the minutes and the results of the hearing from the last
10 time, and see if there's any additions or corrections to those.
11 If not, I'd ask you to approve those. So, if there are not any
12 suggested changes, I'll entertain a motion---

13 DONALD RATLIFF: Mr. Chairman, I move that the minutes
14 be approved as presented.

15 KEN MITCHELL: Second.

16 BENNY WAMPLER: Motion and second. Any further
17 discussion?

18 (No audible response.)

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

20 (All members signify by saying yes.)

21 BENNY WAMPLER: Opposed, say no.

22 (No audible response.)

23 BENNY WAMPLER: They are approved. Thank you. The
24 first item on today's agenda is a petition from Columbia Natural

1 Resources, Incorporated for pooling of a conventional gas unit
2 CNR 24655, docket number VGOB-02-06/18-1038, continued from
3 November. We ask the parties that wish to address the Board in
4 this matter to come forward at this time.

5 JIM KISER: Mr. Chairman and members of the Board, Jim
6 Kiser on behalf of Columbia Natural Resources. We'd once again
7 ask that this matter be continued. But we do have the good news
8 to proffer at this point that a lease has been agreed to between
9 the parties and is being circulated at this time for signatures.
10 So, we hope to be able to withdraw both item one and item two
11 at the January 21st hearing.

12 BENNY WAMPLER: Okay, so you're requesting to
13 continue item number two as well---?

14 JIM KISER: Correct.

15 BENNY WAMPLER: ---which is VGOB-02-06/18-1039?

16 JIM KISER: Correct.

17 BENNY WAMPLER: Those will be continued, without
18 objection, until the next hearing.

19 JIM KISER: And if I might---.

20 BENNY WAMPLER: Yes.

21 JIM KISER: ---I don't want to get ahead of myself,
22 but item four on today's docket was an appeal of Mr. Wilson's
23 decision regarding CNR well number 24542. That...that can be
24 withdrawn. The parties have settled that matter.

25

1 GARY EIDE: Mr. Chairman, we have a letter withdrawing
2 that appeal.

3 BENNY WAMPLER: Okay, thank you. That's withdrawn.
4 Do you have anything further?

5 JIM KISER: Well, we're going to do something
6 different with item ten, but I'll kind of wait until we get there.

7 BENNY WAMPLER: Okay. All right. The next item on
8 the agenda is a petition from Pocahontas Gas Partnership for
9 amendment of a pooling order and authorization for disbursement
10 of escrowed funds and direct payment of royalties for tract 2
11 and 3 of coalbed methane unit P-40. This is docket number
12 VGOB-93-02/16-0330-02. We'd ask the parties that wish to
13 address the Board in this matter to come forward at this time.

14 MARK SWARTZ: Mark Swartz, Anita Tester and Les
15 Arrington.

16 (Mr. Arrington passes out exhibits.)

17 MARK SWARTZ: Do you want to go ahead and swear Anita?

18 (Anita Tester is duly sworn.)

19 MARK SWARTZ: Mr. Chairman, we have...we have been
20 here several times on this P-40 unit, and it has been continued
21 because we had some missing money at the bank level that we were
22 trying to track down. I think when we were last here, we had
23 finally gotten some records just at the last minute that Anita
24 needed to follow through on. I think we've got it...we've got

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1 it figured and balanced here. So, that's what we're...that's
2 why we've been here several times and why I think we're here today
3 to finally to disburse some funds from this unit.

4

5 ANITA TESTER

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

7 DIRECT EXAMINATION

8 QUESTIONS BY MR. SWARTZ:

9 Q. Anita, you need to state your name for me.

10 A. Anita Tester.

11 Q. Who do you work for?

12 A. CNX Gas.

13 Q. Okay. Did you prepare the spreadsheet that
14 we've distributed this morning to the Board members concerning
15 unit P-40?

16 A. Yes.

17 Q. Okay. Which tracts are we talking about
18 disbursing funds with regard to?

19 A. Tracts 2 and 3.

20 Q. 2 and 3?

21 A. Uh-huh.

22 Q. Okay. And is there a royalty split agreement
23 with regard to the conflicting owners of those tracts?

24 A. Yes.

25

1 Q. And who are the conflicting owners?

2 A. It's the Hurt McGuire heirs and Reserve Coal
3 Properties.

4 Q. Okay. And you've indicted that down at the
5 bottom of those two columns, correct?

6 A. Yes.

7 Q. And the...is their split agreement, a 50/50
8 agreement?

9 A. Yes.

10 Q. And what is the percentage...what is the bank
11 to do with the percentage that you've listed at the bottom of
12 each column?

13 A. Each owner is to receive...for Tract 2, it's
14 going to be 6.92893% of total escrow to each owner; and Tract
15 3 is 3.20742% to each owner.

16 Q. Okay. And that would be of any balances on
17 hand when the distribution is made, correct?

18 A. Yes.

19 Q. And if money should come into escrow between
20 today and the bank becoming aware of this order that they
21 received, the same percentage would apply to split those funds,
22 correct?

23 A. Yes.

24 Q. And are we also requesting that going forward

1 with regard to Tracts 2 and 3, that the Board's order allow the
2 operator to pay the Hurt McGuire heirs and Reserve Coal
3 Properties in accordance with their royalty split agreement
4 directly rather than escrowing that portion of these funds?

5 A. Right.

6 Q. And after the disbursement occurs, is it true
7 that there will continue to be an escrow account with the Board
8 with regard to the other tracts that are shown on this Exhibit?

9 A. Yes.

10 Q. Okay. So, there will still continue to be a
11 need for escrow?

12 A. Yes.

13 Q. Okay. Can you tell the Board what you've
14 done...what you've accomplished here and the comparison that
15 you've made between the bank and the royalty payment records that
16 you all maintain and how they compare?

17 A. Okay, in comparing them, the royalty checks
18 that we have sent to the bank with the bank records, we were able
19 to balance this account to the penny. There's...one problem is
20 the reason this was continued a couple of months is because there
21 is an account with the wrong VGOB number. It's the deposits made
22 in November the 25th, 2001 and December the 25th, 2001.

23 Q. Do you mean October or November?

24 A. October. I'm sorry.

25

1 Q. Okay. So, there were deposits on October the
2 25th and December the 25th, '01 that went into an account with
3 the wrong VGOB number?

4 A. Yes.

5 Q. Do you know that number?

6 A. Instead of it being...it was 93-02/10-0330.

7 Q. Okay, instead of 93-02/16-0330?

8 A. Right. So, there's an existing separate
9 account with those two checks that accumulated a little bit of
10 interest and that was the reason we finally figured out where
11 that extra dollars were coming...we thought they were missing,
12 but then we come to find out there was a separate account.

13 Q. Okay, is that separate account...are the funds
14 in that account the missing funds only or are they commingled
15 with some other funds?

16 A. No, it's just those two with some interest.

17 Q. Okay. So, this incorrect account number
18 will...that account will actually close when this money comes
19 out?

20 A. Right. And I talked to Bob Wilson about it and
21 he's aware of the fact there are still...at one time, we
22 trans...there was...that account was in existence. I guess
23 around...I can't remember the exact date, but they transferred
24 a lump sum into this account. Well, somehow these two checks

1 got back into the wrong account again. But I've just included
2 in here to make it balance, you know, with interest and
3 everything.

4 Q. Okay, and the Board order needs to indicate
5 then though that the balance in the 93-02/10, is it---?

6 A. Uh-huh.

7 Q. ----0330 account needs to be placed into this
8 account...into this, meaning the 0330 account, so it can be
9 balanced?

10 A. Yes.

11 Q. And the disbursements made?

12 A. Yes.

13 Q. Okay. And when that happens, the incorrect
14 account ought to have a zero balance and can be closed?

15 A. Yes.

16 Q. Okay. Do you have anything else you want to
17 tell the Board with regard to what you've done here?

18 A. (No audible response.)

19 Q. You have to answer out loud.

20 A. No.

21 BENNY WAMPLER: Questions from members of the Board?

22 (No audible response.)

23 BENNY WAMPLER: So, the deposits that went in on
24 10/25/01 and 12/25/01 went into 93...let me make sure I've got

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1 the number correct that it went into, 93-01/21-0330?

2 ANITA TESTER: 02/10.

3 BENNY WAMPLER: 02/10?

4 ANITA TESTER: Uh-huh.

5 BENNY WAMPLER: Okay.

6 ANITA TESTER: Instead of 16 it's 10.

7 BENNY WAMPLER: Right. It should have gone into 16

8 and---?

9 ANITA TESTER: Uh-huh.

10 BENNY WAMPLER: ---we're going to close out the 02/10
11 account?

12 ANITA TESTER: Yes.

13 BENNY WAMPLER: Okay.

14 ANITA TESTER: The only way I can really make it
15 balance is if I took the interest that accumulated and added it
16 to...just kind of put it into this one, because I couldn't come
17 out with the right amount doing them separate.

18 BENNY WAMPLER: Right.

19 MASON BRENT: Mr. Chairman, what needs to be done to
20 make that happen, to make that transfer out?

21 BENNY WAMPLER: With the Board order, that would
22 actually clarify---.

23 MASON BRENT: Clarify.

24 BENNY WAMPLER: ---that that was---.

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1 MASON BRENT: Will take be incorporated in this---?
2 BENNY WAMPLER: It would be in this order.
3 MARK SWARTZ: I would expect that it would, yes.
4 MASON BRENT: Okay.
5 SHARON PIGEON: Just directing the escrow agent to
6 transfer---.
7 BENNY WAMPLER: Directing the escrow agent in closing
8 out the other account is the way I understand---.
9 MARK SWARTZ: Right.
10 BENNY WAMPLER: ---what you're requesting. And
11 that's what we handle in this order and the order would be
12 instructions---.
13 MASON BRENT: Right.
14 BENNY WAMPLER: ---in other words, to the escrow
15 agent.
16 BENNY WAMPLER: Any other questions?
17 (No audible response.)
18 BENNY WAMPLER: Do you have anything further?
19 MASON BRENT: No, I do not.
20 BENNY WAMPLER: Is there a motion?
21 KEN MITCHELL: Mr. Chairman, I would move for approval
22 of the disbursement of the escrowed funds in reference to Tracts
23 2 and 3.
24 BENNY WAMPLER: Is there a second?

1 DONALD RATLIFF: Second.

2 BENNY WAMPLER: Motion and second. Any further
3 discussion?

4 (No audible response.)

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

6 (All members signify by saying yes.)

7 BENNY WAMPLER: Opposed, say no.

8 (No audible response.)

9 BENNY WAMPLER: You have approval. The next item on
10 the agenda is a petition from Buchanan Production Company for
11 pooling of a coalbed methane unit AY-100, docket number
12 VGOB-02-12/17-1104. We'd ask the parties that wish to address
13 the Board in this matter to come forward at this time.

14 MARK SWARTZ: Mark Swartz and Les Arrington.

15 BENNY WAMPLER: Les, do you want to b sworn?

16 (Leslie K. Arrington is duly sworn.)

17

18

19

20 LESLIE K. ARRINGTON

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

22 DIRECT EXAMINATION

23 QUESTIONS BY MR. SWARTZ:

24 Q. Les, you need to state your name for us.

25

1 A. Leslie K. Arrington.

2 Q. Who do you work for?

3 A. CNX Gas Company.

4 Q. Okay. Did you either prepare, or have
5 prepared under your direction, the notice of hearing and
6 application with regard to the pooling application concerning
7 AY-100?

8 A. Yes, I do...yes, I did.

9 Q. Okay. And did you sign both the notice of
10 hearing and the application yourself?

11 A. Yes, I did.

12 (Mr. Swartz confers with Mr. Arrington.)

13 Q. Who is the applicant here?

14 A. Buchanan Production Company.

15 Q. And Buchanan Production Company is a Virginia
16 General Partnership, correct?

17 A. It is.

18 Q. And it has two partners, and those partners are
19 Consol Energy, Inc. and CNX Gas, L.L.C., is that correct?

20 A. Yes.

21 Q. Is Buchanan Production Company authorized to
22 do business in the Commonwealth?

23 A. Yes, it is.

24 Q. Who is it that the applicant is requesting be

1 designated the operator in the event the Board approves this
2 application?

3 A. Consol Energy.

4 Q. Okay. Now, Consol Energy is a corporation,
5 correct?

6 A. It is.

7 Q. And its actual name is Consol Energy, Inc., I
8 think?

9 A. It is.

10 Q. Is that a Delaware Corporation?

11 A. Yes, it is.

12 Q. Okay. And is Consol Energy, Inc. authorized
13 to do business in the Commonwealth, has it registered with the
14 Department of Mines, Minerals and Energy and does it have a
15 blanket bond on file as required?

16 A. Yes, it does.

17 Q. Some considerable time ago, and I'm talking in
18 terms of probably ten or twelve years ago, is it true that
19 Buchanan Production Company delegated the responsibility to and
20 authority to explore, develop and maintain its properties and
21 assets and that that delegation has now fallen or come to Consol
22 Energy, Inc.?

23 A. Yes, it has.

24 Q. And Consol has accepted that dele...

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1 designation?

2 A. Yes, it has.

3 Q. The respondents here, have you identified all
4 of them in the notice of hearing?

5 A. Yes, we have.

6 Q. And have you...what have you done to notify
7 them?

8 A. We mailed by certified mail/return receipt
9 requested on November the 15th of 2002; and published in the
10 Bluefield Daily Telegraph on November the 20th of 2002.

11 Q. And have you submitted proofs with regard to
12 the mailings and with regard to the publication to the Board
13 today?

14 A. Yes, we have.

15 Q. When you published, what was it that was
16 published?

17 A. We published the notice of hearing and the
18 attached location exhibit.

19 Q. The...the documents that you have handed out
20 to the Board this morning, in addition to the publication and
21 mailing information, shows that there's a Revised Exhibit B-3,
22 is that correct?

23 A. It does.

24 Q. Okay. In terms of what has changed on Exhibit

25

1 B-3, the revised exhibit from the original, what has changed?

2 A. The heading on it. We had it incorrectly

3 listed on the heading of it. We corrected just the heading.

4 Q. Okay.

5 A. No names or percentages were changed.

6 Q. The original Exhibit B-3 said...Exhibit B-3

7 gave the unit and the docket number and it said, "List of all

8 owners/claimants", correct?

9 A. Correct.

10 Q. And what has been changed to...this is the only

11 change---?

12 A. Right.

13 Q. ---is "List of unleased owners/claimants",

14 which is what Exhibit B-3 normally addresses?

15 A. Should be, uh-huh.

16 Q. Other than that, you don't have any amendments?

17 A. No, we do not.

18 Q. Okay. Do you want to add any people as

19 respondents?

20 A. No.

21 Q. Do you want to dismiss any?

22 A. No.

23 Q. Now, this particular unit, AY-100, is a Middle

24 Ridge unit, is that correct?

1 A. It is.

2 Q. And the plat gives the acreage?

3 A. 58.78 acres.

4 Q. And there's a drilling window?

5 A. Yes, it is.

6 Q. And where is the proposed well, or the existing
7 well, located in relation to that window?

8 A. Within it.

9 Q. How many wells are proposed?

10 A. One.

11 Q. And this would be...this proposed well would
12 be a frac well, correct?

13 A. Yes.

14 Q. And it would...and it would propose to produce
15 from the Jawbone on down if the Jawbone is below drainage?

16 A. Correct.

17 Q. Have you submitted a cost estimate with regard
18 to this well?

19 A. Yes, we have. The estimated cost is
20 \$223,997.90 to be drilled to an estimated depth of 2,727 feet.

21 Q. And do you have a permit yet?

22 A. Yes, we do. It's permit number 5474, issued
23 August the 16th of 2002.

24 Q. And I take it this well has not been drilled

1 yet?

2 A. No, it has not.

3 Q. What are...let's turn for a moment to Exhibit
4 A, page two, to the original application.

5 A. Yes.

6 Q. And if you could, could you explain to the Board
7 what interests you've been able to acquire or lease and what
8 interest remains outstanding that need to be pooled?

9 A. Yes. We have 100% of the coal leased, I think
10 below drainage basically; 100% of the coal owners' claim to
11 coalbed methane. We have 89.9543% of the oil and gas owners'
12 claim to coalbed methane. We're seeking to pool 10.0457% of the
13 oil and gas owners' claim to coalbed methane.

14 Q. And what terms have you offered to the folks
15 in general that you've been able to lease?

16 A. Our standard lease terms for a coalbed methane
17 lease is a dollar per acre per year with a five year paid up term,
18 basically that's a rental, with a one-eighth production royalty.

19 Q. And would you recommend those terms to the
20 Board to be inserted in any order it might enter with regard to
21 folks who are deemed to have been leased?

22 A. Yes, we are.

23 Q. With regard to the need for escrow, if we look
24 at Exhibit B-3, it appears that with regard to Tract 1-C there's

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1 an address unknown. Do you see that?

2 A. Yes, it is.

3 Q. And that would require escrow, correct?

4 A. Correct. There's addresses unknowns and
5 conflicting claims.

6 Q. And then when we get further on, page five of
7 six, there's some additional folks with addresses unknown who
8 would require escrow and also at page six of six, do you see that?

9 A. Yes. Yes, it is.

10 Q. So, there is a need to escrow because of the
11 inability to locate several people and that need is disclosed
12 in Exhibit B-3, correct?

13 A. Correct.

14 Q. And then there's also attached an Exhibit E,
15 which is a list of the owners who you can find but that are
16 actually in conflict?

17 A. That's correct.

18 Q. And so there would be a further requirement
19 with regard to Tract 1-A, 1-B, 1-C and 1-D to escrow to anticipate
20 conflicting claims?

21 A. That's correct.

22 Q. Okay. And then lastly with regard to escrow
23 issues, there's also an Exhibit EE, correct?

24 A. Yes.

25

1 Q. And that discloses that certain people whose
2 funds might authorize be subject to escrow because of conflicts
3 have entered into fee...or entered into royalty split
4 agreements, correct?

5 A. That's correct.

6 Q. And so are you requesting that with regard to
7 Exhibit EE, that the folks listed there with regard to Tract 1-A
8 receive their royalty payments directly from the operator
9 without a need to escrow?

10 A. That's correct, they are.

11 Q. Is it your opinion that the plan of development
12 that's disclosed for this unit by the packet, the application
13 and the exhibits, is a reasonable plan to develop coalbed methane
14 under this Middle Ridge unit?

15 A. Yes, it is.

16 Q. Is it your opinion that between the leases that
17 you have obtained and the pooling, if the order is granted, that
18 the...that all of the owners or claimants having correlative
19 rights will be protected in this unit?

20 A. Yes, they will.

21 Q. That's all I have.

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

24 (No audible response.)

25

1 BENNY WAMPLER: Is there a motion?

2 MASON BRENT: Mr. Chairman, I move that we grant the
3 application as submitted.

4 DONALD RATLIFF: Second.

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

7 (No audible response.)

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

13 We're honored to have the Chief Deputy Attorney General here.
14 I hope you don't mind me doing this, Elizabeth. Elizabeth
15 McClanahan. It's a honor to have you here today. I'll ask the
16 Board members to introduce themselves just so you'll get an idea
17 of who's up here starting with Mr. Mitchell.

18 KEN MITCHELL: I am Kenneth Mitchell from Stafford
19 County, Virginia. I am an citizen appointee or one of the
20 citizen appointees on this Board.

21 MASON BRENT: I'm Mason Brent from Richmond. I
22 represent the Gas and Oil Industry.

23 SHARON PIGEON: I'm Sharon Pigeon with the office of
24 the Attorney General.

1 DONALD RATLIFF: Donald Ratliff from Wise County,
2 representing the coal operators.

3 JIM McINTYRE: Jim McIntyre, Wise Virginia. I'm a
4 citizen representative.

5 GARY EIDE: I'm Gary Eide. I'm sitting in for Bob
6 Wilson who couldn't be here.

7 BENNY WAMPLER: Good to have you here.

8 ELIZABETH McCLANAHAN: Thanks. It's good to be here.

9 BENNY WAMPLER: The next item on the agenda is a
10 petition from Pocahontas Gas Partnership for a modification of
11 a prior pooling order for coalbed methane unit BA-112, docket
12 number VGOB-01-04/16-1025-01. We'd ask the parties that wish
13 to address the Board in this matter to come forward at this time.

14 MARK SWARTZ: Mark Swartz and Les Arrington.

15 BENNY WAMPLER: Mr. Swartz, do you have a copy of Mr.
16 Rasnake's letter, James Rasnake? The Board was given a copy of
17 this this morning. It was received by the office in Abingdon,
18 Gas and Oil office, yesterday.

19 MARK SWARTZ: Mr. Rasnake never communicates with me.
20 He always sends you stuff and apparently relies on you to give
21 it to me.

22 BENNY WAMPLER: Well, you have it now. I'll give you
23 a few minutes to read it. Hopefully, we can address it.

24 (Board members confer while Mr. Swartz reviews the

1 letter.)

2 MARK SWARTZ: Okay, we can come back to that. We're
3 certainly prepared to address that.

4 BENNY WAMPLER: Okay. You may proceed.

5

6 LESLIE K. ARRINGTON

7 DIRECT EXAMINATION

8 QUESTIONS BY MR. SWARTZ:

9 Q. Les, you're already sworn, right?

10 A. That's correct.

11 Q. Okay, you need to state your name again.

12 A. Leslie K. Arrington.

13 MARK SWARTZ: This application, Mr. Chairman, is
14 identical to the application that we made when this pooling was
15 approved except for one modification. If you'll look at the
16 tract plat map that's submitted as Exhibit A, you'll see that
17 we're dealing with a Middle Ridge unit of 58.74 acres. You'll
18 see up in the right hand corner of the unit that's within the
19 hash marks, there's a tract that has a 10 with a box on it and
20 that's Tract 10. When we pooled this unit, somehow we managed
21 to pool it with this plat showing that tract, showing the number
22 10 on that tract, but not identifying it in the tract
23 identifications, okay? So, if you look at the tract
24 identifications, the change that has occurred is that we've added

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1 a Tract 10, which indicates the results or fruits of our title
2 work. I have a title opinion with me this morning with regard
3 to this small tract. And so the submission today is essentially
4 to submit a revised tract identification page to identify the
5 owners of that tract.

6 We're not pooling those people and didn't intend to
7 pool them the first time around because we have a lease from them.
8 So, it's a...I guess, kind of a housekeeping matter as opposed
9 to affecting their interest in this unit. When the percentages
10 of the various tracts were calculated in the beginning, you know,
11 we got them right because we had Tract 10 on the map. We just
12 didn't identify the folks.

13 Now, with regard to the Exhibit B-3, for example, there
14 are some changes there because we've continued to lease. So,
15 there are people that are, from a due diligence standpoint, I
16 figured as long as we're coming back here, that there are some
17 omissions from Exhibit B-3 today if you compared it to the one
18 that was submitted back in March or April of 2001, and that is
19 solely because of our leasing activities. And...so, I would
20 propose to you, Mr. Chairman, that we do not really need to repool
21 this unit because nothing is happening to anybody that we pooled,
22 and we would just like to be allowed to file these revised
23 exhibits and that we have a housekeeping order coming from the
24 AG and you all that straightens out the information with regard

1 to Tract 10.

2 Now, getting to the point that you raised, what caused
3 us to...or alerted us to the fact that we had not identified the
4 owners of Tract 10 was a letter that we got, which was addressed
5 to Mr. Arrington, back in August of this year and a copy was sent
6 to Mr. Wilson. In that letter, and you may have that, Mr.
7 Arrington...Mr. Rasnake indicated that we hadn't identified
8 Tract 10. He was absolutely right. That's why we're here, to
9 fix that.

10 He also claimed, as he has claimed many times in the
11 past, to have an oil and gas interest in a tract. Mr. Rasnake
12 definitely has oil and gas interest in certain tracts that he
13 has either purchased or come to through his various members.

14 With regard to this roughly half-acre tract, you know,
15 I have a title opinion from Altizer, Walk & White, I know
16 personally from my own research with regard to his title that
17 I've done in the past because we've been here in the past on this,
18 that, you know, he does have some oil and gas interest pertaining
19 to the Jacob Fuller heirs, and then in other interest situations,
20 he does not. The title opinion dated January the 10th, 2002,
21 that we have obtained from David Altizer out of Tazewell, as part
22 of our due diligence, pertains specifically to the Ronald Hess
23 tract. I do not see any reference in this title opinion to Mr.
24 Rasnake having an interest...I mean, our Mr. Rasnake, James

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1 Rasnake, having an interest in this tract. He shows the surface,
2 oil and gas estate, he meaning Mr. Altizer, as being in Ronald
3 R. Hess.

4 So, my response to the letter is that we don't agree
5 with Mr. Rasnake that he has an ownership of record interest in
6 this unit. Now, he has asserted a claim, and he did that
7 previously. We have booked him as making a claim as a carried
8 owner, because when he wrote to us in August, you know, even
9 though we don't think he owns it, you know, we're carrying him
10 currently as electing to go carried, which causes a conflict in
11 this unit, or in this tract.

12 Now, I will tell you that if you look at Exhibit E to
13 the original application, Tract 10...well, Exhibit E to this
14 application, Tract 10 is actually in conflict with Buck Horn Coal
15 Company and Ronald Hess. If we look at EE, they do not currently
16 have a split agreement. So, this tract is going to be escrowed
17 for a conflict anyway. Obviously, until he backs into his
18 carried interest, you know, that's not going to be a problem
19 either. But we are booking this as a carried interest claim that
20 Mr. Rasnake will back into at some point that's going to have
21 to be addressed by the other owners. But we are not prepared
22 to amend our records with regard to the fruits of our labor in
23 terms of identifying owners on Tract 10. We don't think he's
24 an owner. But I'm telling you that he has claimed that he has,

1 as you already know, and that we're carrying...we're booking that
2 as a carried interest option.

3 BENNY WAMPLER: One thing specifically he raises in
4 the letter, if you're prepared to address, I'd like to have you
5 address, is that he's comparing the Exhibit A and Exhibit B and
6 saying that there's discrepancies.

7 MARK SWARTZ: But he's giving you, you know, an
8 Exhibit B to a completely different unit that's located somewhere
9 else. You know, if I had known that he had written to you guys
10 yesterday, you know, I could have brought my overall file with
11 regard to him that maps the various tracts that he has an interest
12 in and that he claims an interest in and I could give you a little
13 better indication of where FF is. But, you know, it is a long
14 ways from this unit. Do you know, Les?

15 LESLIE K. ARRINGTON: FF-22?

16 MARK SWARTZ: Right.

17 LESLIE K. ARRINGTON: It's kind of northwesterly of
18 this unit.

19 MARK SWARTZ: Go ahead.

20 LESLIE K. ARRINGTON: When I got...when we
21 seen...when we got this August the 12th letter, one of the reasons
22 that we went ahead and drafted this application was in
23 anticipation of something similar to this. However, I expected
24 to get a letter from him and say, "Hey, wait a minute, you didn't

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1 show me. You need to include me." If it had have gotten it to
2 us, you know, a day earlier, the Exhibits would have included
3 him as a conflicting owner.

4 MARK SWARTZ: Claimant.

5 LESLIE K. ARRINGTON: Claimant. However, our title
6 records do not indicate that he's an owner, has any ownership
7 in Tract 10. That's the reason he was not included. Again, if
8 we had have gotten this letter, we would have put it in there
9 as a conflicting claimant. We can simply revise our exhibits
10 to include him as a claimant.

11 MARK SWARTZ: I think the order will take care of that.

12 BENNY WAMPLER: You're agreeing to include him today?

13 MARK SWARTZ: Well, of course.

14 BENNY WAMPLER: Do you have anything further?

15 MARK SWARTZ: No.

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

18 (No audible response.)

19 BENNY WAMPLER: Is there a motion?

20 MASON BRENT: Mr. Chairman, I move that we grant the
21 application.

22 KEN MITCHELL: I second the motion.

23 BENNY WAMPLER: Motion and second. Any further
24 discussion?

25

1 (No audible response.)

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

3 (All members signify by saying yes.)

4 BENNY WAMPLER: Opposed, say no.

5 (No audible response.)

6 BENNY WAMPLER: You have approval . The next item on
7 the agenda is a petition from Columbia Natural Resources,
8 Incorporated.

9 MARK SWARTZ: Thank you all and Merry Christmas.

10 BENNY WAMPLER: Thank you and Merry Christmas. Thank
11 you very much. Merry Christmas, Anita and Les.

12 A petition from Columbia Natural Resources,
13 Incorporated, for a well location exception for proposed well
14 825091. This is docket number VGOB-02-12/17-1105. We'd ask
15 the parties that wish to address the Board in this matter to come
16 forward at this time.

17 JIM KISER: Mr. Chairman and members of the Board, Jim
18 Kiser on behalf of Columbia Natural...Columbia Natural
19 Resources. Our witness in this matter will be Mr. Todd Tetrick.
20 I'd ask that he be sworn at this time. While you're doing that,
21 I'd like to pass out some exhibits for this matter and for the
22 matters following.

23 MASON BRENT: Mr. Chairman, before we get started I'd
24 like the record to reflect that I recuse myself from this matter.

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1 BENNY WAMPLER: Thank you.
2 (Todd Tetrick is duly sworn.)
3 (Jim Kiser distributes exhibits.)
4 BENNY WAMPLER: Can you spell your name?
5 TODD TETRICK: Last name?
6 BENNY WAMPLER: Last name.
7 TODD TETRICK: T-E-T-R-I-C-K.
8 JIM KISER: This is actually the same exhibit. We've
9 just put the different well number on each one. It will pertain
10 to both of these.
11 (Jim Kiser continues to distribute exhibits.)
12 BENNY WAMPLER: The record will show there are no
13 others. You may proceed.
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TODD TETRICK

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

DIRECT EXAMINATION

QUESTIONS BY MR. KISER:

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

A. I'm Todd Tetrick. I'm a drilling engineer with Columbia Natural Resources.

Q. And you have previously testified before the Virginia Gas and Oil Board and your qualifications as a expert witness in the area of operations and production has been accepted by the Board?

A. Yes.

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

A. Yes.

Q. And are you familiar with the application that we filed seeking a location exception for well number 825901?

A. Yes.

Q. Have all interested parties been notified as required by Section 4(B) of the Virginia Gas and Oil Board regulations?

A. Yes.

Q. At this time, would you indicate for the Board

1 the ownership of the oil and gas underlying the unit for well
2 number 825901?

3 A. The oil and gas owner is Buchanan Energy
4 Company and they own 100%.

5 Q. Does CNR have the right to operate the
6 reciprocal well, that being the well that we're seeking the
7 exception from?

8 A. Yes.

9 Q. Are there any correlative rights issues?

10 A. No.

11 Q. Now, Mr. Tetrick, in conjunction with the
12 exhibit that we just passed out to the Board, would you explain
13 why we're seeking this location exception?

14 A. There's a coal seam that you can see on the
15 exhibit, the shaded area, that Buchanan Energy Company has
16 requested that we maintain our well locations below that outcrop.
17 From the existing well 24917, that was the location I had selected
18 in the field due to the terrain and the location of the coal
19 outcrop.

20 Q. So, the coal owner in this case, Buchanan
21 Energy, has requested that we stay out of a particular outcrop
22 area and then the only other location in order to capture the
23 reserves underlying this unit that would be available because
24 of topographic concerns, the location would be virtually

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1 impossible to build, is that correct?

2 A. Yes.

3 Q. And in the event this location exception were
4 not granted, would you project the estimated loss of reserves
5 that result in waste?

6 A. Yes. 400 million cubic feet.

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

9 A. 5195...5,195 feet.

10 Q. Will this be sufficient to penetrate and test
11 the common sources of supply in the subject formations?

12 A. Yes.

13 Q. Is the applicant requesting that this location
14 exception cover conventional gas reserves to include the
15 designated formations from the surface to the total depth
16 drilled?

17 A. Yes.

18 Q. In your professional opinion, would the
19 granting of this location exception application be in the best
20 interest of preventing waste, protecting correlative rights and
21 maximizing the recovery of gas reserves underlying the unit for
22 825901?

23 A. Yes.

24 JIM KISER: Nothing further of this witness at this

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1 time, Mr. Chairman.

2 BENNY WAMPLER: Questions from members of the Board?

3 (No audible response.)

4 BENNY WAMPLER: You've actually been to the

5 site---?

6 TODD TETRICK: Yes, sir.

7 BENNY WAMPLER: ---and looked at the proposed

8 relocation? I did that for Don because we always ask Don that.

9 I wouldn't want to let him down.

10 TODD TETRICK: Yes, sir, I have been there.

11 JIM KISER: Equal protection there.

12 BENNY WAMPLER: Any questions from members of the

13 Board?

14 (No audible response.)

15 BENNY WAMPLER: Do you have anything further?

16 JIM KISER: Mr. Chairman, we'd ask that the

17 application be approved as submitted.

18 BENNY WAMPLER: Is there a motion>

19 DONALD RATLIFF: So moved.

20 BENNY WAMPLER: I have a motion for a approval. Is

21 there a second?

22 JIM McINTYRE: Second.

23 BENNY WAMPLER: Motion and second. Any further

24 discussions?

1 (No audible response.)

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

3 (All members signify by saying yes.)

4 BENNY WAMPLER: Opposed, say no.

5 (No audible response.)

6 BENNY WAMPLER: You have approval. The next item on
7 the agenda is a petition from Columbia Natural Resources,
8 Incorporated, for a well location exception for proposed well
9 825070. This is docket number VGOB-02-12/17-1106. We'd ask
10 the parties that wish to address the Board in this matter to come
11 forward at this time.

12 JIM KISER: Mr. Chairman and members of the Board, Jim
13 Kiser and Todd Tetrick, again, on behalf of Columbia Natural
14 Resources. This well is a mirror image of---

15 MASON BRENT: Mr. Chairman, before we start, I'd like
16 the record to reflect that I once again recuse myself.

17 BENNY WAMPLER: Thank you, Mr. Brent. That will be
18 reflected.

19 JIM KISER: This location exception is a mirror image
20 of the one that we just did. It's again a Buchanan Energy Company
21 unit in an outcrop situation. You have your exhibit that we
22 passed out. It's the same exhibit, but if you'll look to the
23 north of 25091 you'll see the proposed location for 25070. With
24 that being said, we'll start our testimony.

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TODD TETRICK

DIRECT EXAMINATION

QUESTIONS BY MR. KISER:

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

A. Todd Tetrick. I'm a drilling engineer with Columbia Natural Resources.

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

A. Yes.

Q. And you're familiar with the application that we filed seeking a location exception for 825070?

A. Yes.

Q. Have all interested parties been notified as required by Section 4(B) of the Virginia Gas and Oil Board regulations?

A. Yes.

Q. Would you indicate for the Board the ownership of the oil and gas underlying the unit for this well?

A. It's owned by Buchanan Energy Company, 100% of the mineral.

Q. And, again, does CNR have the right to operate the reciprocal wells in this incident, the reciprocal well in which we're seeking an exception from?

1 A. Yes.

2 Q. That being 24728?

3 A. Yes.

4 Q. Are there any correlative rights issues?

5 A. No.

6 Q. And, again, would you explain for the Board in
7 conjunction with the exhibit that we handed out, the reasons why
8 we're seeking this exception, which as I've earlier stated are
9 exactly the same as the reasons for 24901?

10 A. Again, if you look at the exhibit from well
11 24728, there's not a location 2500 feet away that would stay below
12 the coal outcrop. The terrain is also a factor in the location.

13 Q. So, again, in this case, the coal owner,
14 Buchanan Energy Company, basically selected this location?

15 A. Yes.

16 Q. In the event the location exception were not
17 granted, would you estimate the loss of reserves resulting in
18 waste?

19 A. Yes. 400 million cubic feet.

20 Q. And the total depth of the proposed well under
21 the plan of development?

22 A. 5,530 feet.

23 Q. And are you requesting that the location
24 exception cover conventional gas reserves to include the

1 designated formations from the surface to the total drilled?

2 A. Yes.

3 Q. In your professional opinion, would the
4 granting of this location exception being the best interest of
5 preventing waste, protecting correlative rights and maximizing
6 the recovery of gas reserves underlying 825070?

7 A. Yes.

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

10 BENNY WAMPLER: Have you been to this location?

11 TODD TETRICK: Yes, sir.

12 BENNY WAMPLER: Under your...on your Exhibit map you
13 list the Buchanan Energy Company and you have percentages under
14 there. Before it said Buchanan Energy 100% underneath there.
15 This time you're breaking out acreage. My map has 80.71 acres
16 at 71.62% of the 112.69 acres.

17 TODD TETRICK: The adjoining mineral tract is also
18 Buchanan Energy Company. I think it was just broken up as a per
19 unit.

20 JIM KISER: There's actually two tracts in this unit.
21 They're both Buchanan Energy.

22 BENNY WAMPLER: I just wanted to get it clarified.
23 This location is in Tract 96?

24 JIM KISER: Correct.

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1 BENNY WAMPLER: The relocation to approve, the
2 exception location that you're requesting is in 96?

3 JIM KISER: Correct.

4 TODD TETRICK: Yes, sir.

5 BENNY WAMPLER: Okay. Any questions from members of
6 the Board?

7 (No audible response.)

8 BENNY WAMPLER: Do you have anything further?

9 JIM KISER: Mr. Chairman, we'd ask that the
10 application be approved as submitted.

11 DONALD RATLIFF: Mr. Chairman, I move that the
12 application be approved.

13 BENNY WAMPLER: I have a motion. Is there a second?

14 KEN MITCHELL: Second.

15 BENNY WAMPLER: Motion and second. Any further
16 discussion?

17 (No audible response.)

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

19 (All members signify by saying yes.)

20 BENNY WAMPLER: Opposed, say no.

21 (No audible response.)

22 BENNY WAMPLER: You have approval.

23 JIM KISER: Thank you.

24 BENNY WAMPLER: Merry Christmas. Thank you.

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

3 A. Yes.

4 Q. And are you familiar with the application that
5 we filed seeking a location exception for well V-535460?

6 A. Yes.

7 Q. Have all interested parties been notified as
8 required by Section 4(B) of the Virginia Gas and Oil Board
9 regulations?

10 A. They have.

11 Q. Would you indicate for the Board the ownership
12 of the oil and gas underlying the unit for well number V-535460?

13 A. Pine Mountain Oil and Gas owns 100%.

14 Q. Does Equitable have the right to operate the
15 reciprocal wells in which we're seeking the exception?

16 A. Yes, we do.

17 Q. And there's two of those?

18 A. Yes.

19 Q. P-32 and P-408?

20 A. That's correct. Yes.

21 Q. Are there any correlative rights issues?

22 A. No.

23 Q. Would you explain for the Board in conjunction
24 with the plat that we filed as Exhibit A to the application, which

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1 will serve as our exhibit in this matter, why we are seeking this
2 location exception?

3 A. Well, as you can see from the plat, we've got
4 the two reciprocal wells in which we're getting exceptions from
5 are 408 and P-32. But in addition to those two wells, we have
6 three other wells that surround this 5460 well. There's no
7 place...no place in the middle of these wells that we can legally
8 get 2500 feet from all the wells. If we get 2500 feet from the
9 two reciprocal wells, then we're too close to another well. So,
10 in effect, there's really no legal location in this area.

11 Q. So, in other words, without this location
12 exception the reserves underlying this particular unit would
13 essentially be left there and result in waste?

14 A. That's correct.

15 Q. In the event that this location exception were
16 not granted, what would the estimated loss of reserves be for
17 this unit?

18 A. 450 million cubic feet.

19 Q. And what is the total depth of the proposed well
20 under the plan of development?

21 A. 5578 feet.

22 Q. And is the applicant requesting this location
23 exception cover conventional gas reserves to include the
24 designated formations from the surface to the total depth

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1 drilled?

2 A. Yes.

3 Q. In your professional opinion, would the
4 granting of this location exception be in the best interest of
5 preventing waste, protecting correlative rights and maximizing
6 the recovery of the gas reserves underlying the unit for
7 V-535460?

8 A. Yes.

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

11 BENNY WAMPLER: Have you been to the location, Mr.
12 Hall?

13 DON HALL: No, I haven't. I didn't feel it was
14 necessary since we can't get a legal location anyway.

15 BENNY WAMPLER: I didn't want to let you down.
16 Questions from members of the Board?

17 (No audible response.)

18 BENNY WAMPLER: Do you have anything further, Mr.
19 Kiser?

20 JIM KISER: Mr. Chairman, we'd ask that the
21 application be approved as submitted.

22 BENNY WAMPLER: Is there a motion?

23 JIM McINTYRE: I make a motion that the application
24 be approved as submitted.

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1 DONALD RATLIFF: I second.

2 BENNY WAMPLER: Motion and second. Any further
3 discussion?

4 (No audible response.)

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

6 (All members signify by saying yes.)

7 BENNY WAMPLER: Opposed, say no.

8 (No audible response.)

9 BENNY WAMPLER: You have approval. The next item on
10 the agenda is a petition from Equitable Production Company for
11 pooling of a coalbed methane unit VC-504510. This is docket
12 number VGOB-02-12/17-1108. We'd ask the parties that wish to
13 address the Board in this matter to come forward at this time.

14 JIM KISER: Mr. Chairman and members of the Board, Jim
15 Kiser and Don Hall once again on behalf of Equitable Production
16 Company. We're pleased at this time to announce that we'll ask
17 that this application be withdrawn in that we have obtained a
18 voluntary lease since the time of filing the application from
19 all the unleased parties.

20 BENNY WAMPLER: Very good. Thank you. The next item
21 on the agenda is a petition from Equitable Production Company
22 for pooling of a coalbed methane unit VC-502832, docket number
23 VGOB-02-12/17-1109. We'd ask the parties that wish to address
24 the Board in this matter to come forward at this time.

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1 JIM KISER: Mr. Chairman and members of the Board,
2 again, Jim Kiser and Don Hall on behalf of Equitable Production
3 Company. Mr. Hall at this time is passing out a very revised
4 Exhibit B.

5 (Don Hall distributes the exhibit.)

6 JIM KISER: Their computer system was down yesterday.
7 We did pick up some additional leases in this unit too. Because
8 of that fact, the revisions at this point are made, I think, in
9 hand, aren't they, Don?

10 DON HALL: Yes.

11 JIM KISER: And what we will do is as soon as the system
12 is back up, hopefully, I guess, today or tomorrow, provide Sharon
13 with a neater copy of the revisions. At least this will suffice
14 to provide the Board with the changes.

15

16 DON HALL

17 DIRECT EXAMINATION

18 QUESTIONS BY MR. KISER:

19 Q. Mr. Hall, if you could again, state your name,
20 who you're employed by and in what capacity.

21 A. My name is Don Hall. I'm employed by Equitable
22 Production Company as district landman.

23 Q. And do your responsibilities include the land
24 involved here?

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1 A. They do.

2 Q. And are you familiar with Equitable's
3 application seeking a pooling order for EPC well number
4 VC-502832, which was dated November the 15th, 2002?

5 A. Yes.

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

9 A. Yes.

10 Q. Does Equitable own drilling rights in the unit
11 involved here?

12 A. We do.

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

17 A. They was.

18 Q. And at the time of the filing of the
19 application, what was the interest of Equitable within the gas
20 estate in the unit?

21 A. At the time of the filing of the application,
22 it was 78.42 percent. But this revised exhibit will reflect that
23 it's now 83.97%.

24 Q. Okay, so, you've...since the filing of the

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1 application, you've continued to attempt to reach a voluntary
2 agreements with the unleased parties and obviously have been
3 successful to the extent of about 5%. If you could take the
4 revised exhibit and point out the newly leased parties for the
5 Board, please.

6 A. On page seven of the exhibit, you'll see in not
7 very legible handwriting, Kennie O'Dell Kiser and Alma
8 Simmerley, both have leased since the filing of the application
9 and we're dismissing them.

10 Q. And the interest of Equitable in the coal
11 estate at the time of the filing of the application?

12 A. A 100%.

13 Q. Okay. Now, all the parties who remain
14 unleased within the gas estate are set out in revised Exhibit
15 B?

16 A. Right.

17 Q. And you're familiar with the ownership of the
18 drilling rights of parties other than Equitable underlying this
19 unit?

20 A. Yes.

21 Q. And what is the percentage of the gas estate
22 that remains unleased at this time?

23 A. As reflected in this revised exhibit, it's
24 16.02...or 16.03%.

1 Q. So, 16.03% of the gas estate remains unreleased?

2 A. Right.

3 Q. Now, during these leasing efforts, were
4 efforts to determine if individual respondents were living or
5 deceased or their whereabouts; and if deceased, were efforts made
6 to determine the names, addresses, and whereabouts of the
7 successors to any deceased individual respondents?

8 A. Yes.

9 Q. In this particular application, we do...in
10 this particular unit, we do have some unknown interest owners,
11 is that correct?

12 A. We have some unknown addresses, yes.

13 Q. Yeah, unknown---.

14 A. Unlocateable.

15 Q. Unlocateable/unknown?

16 A. Yeah.

17 Q. And were reasonable and diligent efforts made
18 and sources checked to identify and locate any unknown people
19 including primary sources, such as deed records, probate
20 records, assessors's record, treasurer's records, secondary
21 sources such as telephone directories, city directories, family
22 and friends?

23 A. Yes.

24 Q. And in your professional opinion, was due

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1 diligence exercised to locate each of the respondents named in
2 the Exhibit B?

3 A. They was.

4 Q. Now, are the addresses set out in revised
5 Exhibit B to the application the last known addresses for the
6 respondents, to the best of our knowledge?

7 A. Yes.

8 Q. Are you requesting this Board to force pool all
9 the unleased interest listed at the revised Exhibit B?

10 A. Yes.

11 Q. Now, are you familiar with the fair market
12 value of drilling rights for the unit here and in the surrounding
13 area?

14 A. Yes.

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

16 A. A five dollar bonus, five year term and a
17 one-eighth royalty.

18 Q. Did you gain your familiarity by acquiring oil
19 and gas leases, coalbed methane leases and other agreements
20 involving the transfer of drilling rights in the unit involved
21 here and in the surrounding area?

22 A. Yes.

23 Q. And in your professional opinion, do the terms
24 you have testified to represent the fair market value of and the

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1 fair and reasonable compensation to be paid for drilling rights
2 within this unit?

3 A. They do.

4 Q. Now, as to those respondents at revised Exhibit
5 B who remain unleased, do you recommend that they be allowed their
6 statutory options regarding their elections as force pooled
7 parties being: One, participation; two, a cash bonus of five
8 dollars per net mineral acre plus a one-eighth of eight-eighths
9 royalty; or three, in lieu of the cash bonus and one-eighth of
10 eight-eighths royalty be a carried interest?

11 A. Yes.

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

17 A. Yes.

18 Q. Should this be the address for all the
19 communications with the applicant concerning any force pooling
20 order?

21 A. It should.

22 Q. Do you recommend that the order provide that
23 if no election is properly made by a respondent, then such
24 respondent should be deemed to have elected the cash royalty

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1 option in lieu of participation?

2 A. Yes.

3 Q. Should all unleased respondents be given 30
4 days from the date of the execution of the Board order to file
5 their written elections?

6 A. Yes.

7 Q. If an unleased respondent elects to
8 participate, should they be given 45 days to pay the applicant
9 for their proportionate share of the well costs?

10 A. Yes.

11 Q. Does the applicant expect any party electing
12 to participate to pay in advance that party's share of completed
13 well costs?

14 A. Yes.

15 Q. Should the applicant be allowed a 120 days
16 following the recordation date of the Board order and thereafter
17 annually on that date until production is achieved to pay or
18 tender any cash bonus becoming due under the order?

19 A. Yes.

20 Q. Do you recommend that the order provide that
21 if a respondent elects to participate but fails to pay that
22 respondent's proportionate share of well costs satisfactory to
23 the applicant for payment of those costs, then their election
24 to participate shall be treated as having been withdrawn and

25

1 void, and such respondent should be treated just as if no initial
2 election had been filed under the force pooling order, in other
3 words, deemed to have leased?

4 A. Yes.

5 Q. Do you recommend the order provide that where
6 a respondent elects to participate but defaults in regard to the
7 payment of well costs, any cash sum becoming payable to that
8 respondent be paid within 60 days after the last date on which
9 such respondent could have paid or made satisfactory arrangement
10 for the payment of those well costs?

11 A. Yes.

12 Q. In this particular unit, we have both
13 unlocateable interest owners and we have conflicting claimants,
14 so does the Board need to establish an escrow account into which
15 all costs or proceeds attributable to these interest can be held
16 until such time as the folks are found or the conflicting claim
17 is resolved to the operator's satisfaction?

18 A. Yes.

19 Q. And who should be named operator under any
20 order?

21 A. Equitable Production Company.

22 Q. Now what is the total depth of the well under
23 the applicant's plan of development?

24 A. 2440 feet.

1 Q. And the estimated reserves for the unit?
2 A. 500 million cubic feet.
3 Q. Are you familiar with the well costs for this
4 well?
5 A. Yes.
6 Q. Was an AFE reviewed, signed and submitted to
7 the Board as Exhibit C to the application?
8 A. It was.
9 Q. Was the AFE prepared by an engineering
10 department knowledgeable in the preparation of AFEs and
11 knowledgeable in particular to well costs in this area?
12 A. Yes.
13 Q. In your opinion, does this AFE represent a
14 reasonable estimate of the well costs for the proposed well under
15 the plan of development?
16 A. It does.
17 Q. Could you state for the Board at this time both
18 the dry hole costs and the completed well costs?
19 A. The dry hole costs are \$83,199 and the
20 completed well costs would be \$211,780.
21 Q. And do these costs anticipate a multiple
22 completion?
23 A. They do.
24 Q. Does your AFE include a reasonable charge for

1 supervision?

2 A. Yes.

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

7 A. Yes.

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

10 BENNY WAMPLER: Questions from members of the Board?
11 (No audible response.)

12 BENNY WAMPLER: Do you have anything further?

13 JIM KISER: Mr. Chairman, we'd ask that the
14 application be approved as submitted with the caveat that we will
15 submit a type written revised Exhibit B to reflect the additional
16 interest that we have got under lease since the time of the filing
17 of the application.

18 BENNY WAMPLER: Is there a motion?

19 DONALD RATLIFF: So moved.

20 BENNY WAMPLER: Motion for approval.

21 MASON BRENT: Second.

22 BENNY WAMPLER: Any further questions?

23 (No audible response.)

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

25

1 (All members signify by saying yes.)

2 BENNY WAMPLER: Opposed, say no.

3 (No audible response.)

4 BENNY WAMPLER: You have approval. Mr. Kiser?

5 JIM KISER: Mr. Chairman, if we might, we do have one
6 other item that we would like to address the Board on today. Once
7 again, it will be on behalf of Equitable Production Company. We
8 have met with the DGO, with both Mr. Wilson and Mr. Eide on this
9 issue.

10 Equitable is planning to drill some, or would like to
11 drill some horizontal CBM wells in 2003. In order to do that,
12 what we would like to do, the first two wells, one will be drilled
13 in existing units in the Nora Coalbed Gas Field and the other
14 one will be drilled in existing units in the Oakwood Coalbed Gas
15 Field.

16 At this time, we have some information that we would
17 like to pass out to the Board regarding this project. But our
18 purpose in holding you over today is to request that the Board,
19 in the January docket on their own motion, place two items on
20 there on our behalf. The first one would be a request to...for
21 a modification of the existing field rules in the Nora Coalbed
22 Gas Field and request to set up provisional drilling units for
23 the purposes of these horizontal CBM wells; and then the second
24 matter would be the same request for the Oakwood Coalbed Gas

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1 Field.

2 BENNY WAMPLER: We're not formally on the agenda to
3 take any action on this per say. But I would ask you to amplify
4 for the Board why you would request that we do that on our motion
5 rather than you.

6 JIM KISER: Because we're not seeking the
7 establishment of new field rules. This would be a modification
8 of existing field rules in both cases. So, there has been...the
9 parties involved have been previously notified, you know, when
10 the original set of field rules were established.

11 BENNY WAMPLER: So, in your legal opinion, there's not
12 a notice...there won't be a notice issue here from the
13 standpoint---?

14 JIM KISER: Correct.

15 BENNY WAMPLER: ---of individual notice being
16 required?

17 JIM KISER: Correct. And in furtherance of our
18 request, in this particular...these first two particular
19 instances, the Nora well is completely on Pine Mountain/
20 Clinchfield property, and the Oakwood is completely on the Rogers
21 property. What we propose to do is, you may see him going through
22 the packages, is in Nora, we'll take four, you know, basically
23 60 acre units...58.77 acre units and combine them in a
24 provisional drilling unit and then in the...you know,

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1 essentially establish a 240 acre unit; and then in the Oakwood
2 Field, the same thing, except for, obviously, it will be a 320
3 acre unit.

4 We'll be prepared in January to, you know, make a
5 presentation as to the technology of this and the impact and the
6 land issues, and address any questions the Board may have at that
7 time. But this, at least, gives you a little bit of a background
8 information as to what the plan is. Like I said, we have...I
9 had at least one meeting that I'm aware of with the DGO folks
10 and been consulting with them and the coal people are obviously
11 very interested in this. There's less surface disturbance, less
12 disturbance to the coal. It's...we see it anyway as a win/win
13 for all the various estate owners.

14 BENNY WAMPLER: Any Board---?

15 JIM KISER: It's being done in West Virginia on a
16 fairly regular basis.

17 BENNY WAMPLER: Oh, no.

18 (Laugh.)

19 JIM KISER: For whatever that's worth.

20 (Laugh.)

21 BENNY WAMPLER: Yeah. That's a bad thing to say.
22 I'm just kidding.

23 DON HALL: It's actually being done by Consol in West
24 Virginia.

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1 JIM KISER: Yeah.

2 BENNY WAMPLER: Does the Board members have any
3 questions or concern about the Board listing this on its own
4 motion for next month's agenda, which is what we've been
5 requested to do? In other words, we would publish it on our
6 motion that we're going to entertain a modification to field
7 rules and provisional drilling units requests from Equitable
8 Production Company.

9 KEN MITCHELL: I have one question, Mr. Chairman.

10 BENNY WAMPLER: Mr. Mitchell.

11 KEN MITCHELL: The estimated time lines, Jim, are
12 they...are they looking at next year's scenario? Is this---?

13 DON HALL: Yeah, we're looking at---.

14 KEN MITCHELL: The reason I ask all the estimated time
15 lines are dated 2002.

16 JIM KISER: It should say---.

17 DON HALL: It should be 3.

18 JIM KISER: Well, from---.

19 DON HALL: Well, the---.

20 KEN MITCHELL: December---.

21 JIM KISER: From the hearing forward, it should be 3,
22 right.

23 KEN MITCHELL: I...okay, I presume from December on
24 it would be 200---?

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1 JIM KISER: The last...the last three should be 3.
2 DON HALL: Yeah.
3 KEN MITCHELL: Just a note.
4 DON HALL: Just another computer glitch.
5 (Laugh.)
6 BENNY WAMPLER: Any other questions on that?
7 (No audible response.)
8 BENNY WAMPLER: Thank you.
9 MASON BRENT: Mr. Chairman, I would just with regard
10 to the notice, I would just feel better if our counsel concurred
11 with that---.
12 BENNY WAMPLER: Request?
13 MASON BRENT: ---...with that interpretation.
14 SHARON PIGEON: I can't concur with that without doing
15 some research into that, quite frankly. I'm not---.
16 MASON BRENT: Well, that's fine. Just between now
17 and---.
18 BENNY WAMPLER: The time we have to do the
19 notice---.
20 MASON BRENT: ---create the agenda for the next
21 meeting, if counsel could---.
22 BENNY WAMPLER: What's that, tomorrow?
23 (Laugh.)
24 JIM KISER AND DON HALL: Friday.

1 BENNY WAMPLER: Friday.

2 JIM KISER: Friday.

3 (Laughs.)

4 SHARON PIGEON: Sharon has nothing to do.

5 (Laughs.)

6 JIM KISER: I might...I might note for whatever its
7 worth that there is precedent for the Board doing this.

8 BENNY WAMPLER: Yes, we have.

9 JIM KISER: So---.

10 SHARON PIGEON: You could send that to me if you'd
11 like.

12 JIM KISER: Well, it's not something that I would
13 have.

14 SHARON PIGEON: But I will, yes.

15 JIM KISER: And I think in that case, it was actually
16 the creation of a new field and not the modification of the
17 existing one. So, my argument there would be this would be less
18 obtrusive from a notice standpoint, if at all, than that would
19 have been.

20 BENNY WAMPLER: Subject to us not having opinion
21 otherwise, we'll do that.

22 JIM KISER: Thank you. I appreciate that. Thank
23 you.

24 BENNY WAMPLER: We wish you a Merry Christmas---.

1 JIM KISER: You to.

2 BENNY WAMPLER: ---and a Happy New Year.

3 JIM KISER: Thanks everybody for their time and I know
4 this is a tough week to get everybody here.

5 BENNY WAMPLER: I've got another item I want to talk
6 about a little bit. Ms. McClanahan was in here earlier, Chief
7 Deputy for the Attorney General. She and I have been
8 corresponding some trying...as we all are in the state government
9 dealing with budget cutbacks and everything else. I'm sorry
10 she's not here to hear this. But I was going to say in her
11 presence that Sharon, I see her myself, working to 6:00 and 7:00
12 o'clock at night every night.

13 MASON BRENT: What a life.

14 SHARON PIGEON: Thank you.

15 (Laugh.)

16 BENNY WAMPLER: We generally cut the lights and argue
17 over who cuts the copier off. But, anyway, you know, she's
18 putting a lot of hours in and really can't...just can't get a
19 lot of the...everything that needs to be done.

20 So, we've talked about a proposal that the applicants
21 would present the direct order for consideration for review. In
22 back and forth discussions, what we have agreed to is that we
23 will propose at the January meeting, draft orders for the
24 Board...a formal order for the Board to...various types of orders

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1 for the Board to concur with this as guidance to the folks that
2 come before us. We would then give a couple weeks after the
3 January hearing for people that have appeared before the Board,
4 counsel for the people who have appeared before the Board before,
5 to comment on those draft form of orders; and then in the February
6 meeting we would propose...we would have received those
7 comments, share that with the Board and propose a final form of
8 order, various types of orders. For example, supplemental
9 orders, including orders for pooling orders, all types that come
10 before the Board, field rules, etc. That we would then ask you
11 to adopt or approve, I guess I should say, as guidance, those
12 forms of orders. Starting with the February hearing and
13 subsequent hearings, we would ask that form of order be used by
14 all applicants. That they would fill out everything, send it
15 in to us and then we would review that rather than having to create
16 it all times. I think if we provide a form of order, I guess
17 since you're here, I'll just ask, that should not create an undue
18 burden should it?

19 JIM KISER: I don't have any problem with that at all.
20 No.

21 BENNY WAMPLER: We would...we would hope that we go
22 to electronic and paper copy to begin with and maybe even get
23 to where we can do electronic transfers totally until it's
24 finally approved and sent out. That would be our goal. We've

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1 got...we have the software package that will compare word for
2 word any changes that are made. So, you know, that will help
3 as well just to quickly verify that, you know, it is a, in fact,
4 a formal order that the Board approves at that time. So, that's
5 just kind of a briefing to you what we have planned. Do you...is
6 there any comment or do you think that's workable at this point,
7 having not seen the various and what have you?

8 MASON BRENT: I think that's very positive. I've
9 often wondered why there was not a system form of
10 presentation---

11 BENNY WAMPLER: Right.

12 MASON BRENT: ---amongst all the operators.

13 JIM KISER: We don't have...certainly have any
14 problems with it. It's not going create any undue burden on the
15 applicant. I might add that Sharon, considering her staffing
16 situation, I think has done an excellent job, you know, of getting
17 these things out. So, if this speeds it up even more, that's
18 great.

19 BENNY WAMPLER: That's what we hope it will do, that's
20 for sure. I guess that concludes the hearing for the day. Gary,
21 do you have anything?

22 GARY EIDE: No.

23 BENNY WAMPLER: I appreciate you being here. Do you
24 all get or do you have you---?

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1 GARY EIDE: I'll give them out at the end of the
2 meeting. I'll give them out.

3 BENNY WAMPLER: Okay. Travel vouchers. Merry
4 Christmas and Happy New Year. Thank you very much.

5 MASON BRENT: Thank you.

6

7

8 STATE OF VIRGINIA,

9 COUNTY OF BUCHANAN, to-wit:

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

14 Given under my hand and seal on this the 9th day of
15 January, 2003.

16

NOTARY PUBLIC

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18 My commission expires: August 31, 2005.

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