

1 IN THE COUNTY OF WASHINGTON

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3 VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

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4 VIRGINIA GAS AND OIL BOARD

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8 April 19, 2005

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12 APPEARANCES:

12 MASON BRENT - OIL & GAS REPRESENTATIVE

DENNIS GARBIS - PUBLIC MEMBER

13

PEGGY BARBAR - PUBLIC MEMBER

BENNY WAMPLER - DEPUTY DIRECTOR OF THE DMME AND CHAIRMAN

14

JAMES McINTYRE - PUBLIC MEMBER

15

16 SHARON PIGEON - COUNSEL FOR THE BOARD FROM THE OFFICE OF THE  
ATTORNEY GENERAL

17

18 BOB WILSON - DIRECTOR OF THE DIVISION OF GAS & OIL AND  
PRINCIPAL EXECUTIVE TO THE STAFF OF THE BOARD

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BENNY WAMPLER: Good Morning, my name is Benny Wampler. I'm Deputy Director for the Virginia Department of Mines, Minerals and Energy and Chairman of the Gas and Oil Board. I'll ask the members of the Board to introduce themselves starting with Mr. Brent.

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

DENNIS GARBIS: My name is Dennis Garbis from Fairfax. I'm a public member.

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

PEGGY BARBAR: I'm Peggy Barbar, a public member, Southwest Virginia Community College, Dean of Engineering.

JIM McINTYRE: Jim McIntyre, public member, Wise, Virginia.

1           BOB WILSON: I'm Bob Wilson. I'm the Director of  
2 the Division of Gas and Oil, and principal executive to the  
3 staff of the Board.

4           BENNY WAMPLER: I would ask you if you have cell  
5 phones, please turn them off. They get disruptive during the  
6 hearing. So, if you'll attend to those right now, that would  
7 be a big help to us. The first item on the agenda is the  
8 Board will receive a quarterly report on the escrow account  
9 administered by Wachovia Bank Escrow Agent. Bob Wilson has  
10 passed out a balance sheet. Do you want to discuss that now,  
11 Bob?

12           BOB WILSON: Yes, sir, very briefly. As of the  
13 first of the year, we have a beginning balance of  
14 \$10,031,133.91. We received deposits of \$816,528.55 during  
15 the quarter. Interest was added in the amount of \$51,141.11.  
16 \$32,000...32,189.62 was disbursed to settlement claims  
17 during the quarter. \$30,000.00 in contract fees were  
18 removed. As you remember, these fees accumulate at the rate  
19 of \$5,000.00 per month. But they're only debited from the  
20 account twice yearly and that lands in March for this year.  
21 We had a closing balance of \$10,836,613.95. We are...as of  
22 the end of March, we had an interest rate on this account of  
23 2.66%, which is a significant improvement, of course. A year

24

1 ago we were at .92%. The account is increasing at the rate  
2 of around \$17,000.00 per month now as opposed to the  
3 approximately \$5,000.00 a month it was a year ago. So, that  
4 in a nutshell is the report. Any questions?

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

7 (No audible response.)

8 BENNY WAMPLER: Thank you, Bob. The next item on  
9 the agenda is a petition from parties to a settlement  
10 agreement for disbursement of funds from escrow and  
11 authorization for direct payment of royalties on Tract 2,  
12 unit VC-3892, docket number VGOB-99-0216-0711-01. We'd ask  
13 the parties that wish to address the Board in this matter to  
14 come forward at this time.

15 JILL HARRISON: Good morning.

16 BENNY WAMPLER: Good morning.

17 JILL HARRISON: How are you all?

18 BENNY WAMPLER: Good. How are you?

19 JILL HARRISON: Good, thank you. I'm not the  
20 petitioning party. I'm here for the respondent. So...

21 BENNY WAMPLER: Do we have a petitioning party?

22 BOB WILSON: I haven't seen them. I talked to Mr.  
23 Gray's office yesterday afternoon to make sure that he

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1 understood that he was essentially first on the agenda for  
2 today. I had earlier than that indicated to him that he  
3 certainly needed to appear before the Board. But I have not  
4 heard directly from him.

5 JILL HARRISON: I have not either. I'd be glad to  
6 provide the background information for the Board if that  
7 would be of assistance. But---

8 BENNY WAMPLER: That's fine if you'd like to go  
9 ahead and just get your statements on record and we can do  
10 that and not hold you.

11 JILL HARRISON: Okay.

12 BOB WILSON: Mr. Chairman, you might want to  
13 consider, considering this circumstance, going ahead and  
14 doing items two and three together because they're both going  
15 to be the same circumstance.

16 BENNY WAMPLER: Okay, I'll go ahead and call...call  
17 that item also. Petition from parties to a settlement for  
18 disbursement of funds from escrow and authorization for  
19 direct payment of royalties on Tract 4, unit VC-4497, docket  
20 number VGOB-00-1121-0847-01. We'd ask the parties that wish  
21 to address the Board in this matter to come forward at this  
22 time also. Just go ahead and state your name for the record.

23 JILL HARRISON: My name is Jill Harrison. I'm with  
24

1 Penn Stuart and Eskridge. This morning of the first two  
2 matters, I represent Equitable Production Company in  
3 conjunction with the request for disbursement.

4           Basically, what occurred in this matter, the Moores  
5 filed a suit against Pine Mountain Oil and Gas to determine  
6 the ownership of the coalbed methane underlying this tract of  
7 land. The parties reached a settlement agreement and  
8 consequently a document was executed in which Pine Mountain  
9 waived its interest in the coalbed methane underlying the  
10 land that is encompassed by these two units. There was  
11 another third unit that was suspended in-house. So that's  
12 not a part of this. Those funds have been taken care of.

13           But a final decree has been entered in the Circuit  
14 Court for Dickenson County dismissing this matter. The  
15 waiver agreement and settlement agreement have been executed  
16 by all parties. Consequently, I represented both Pine  
17 Mountain and Equitable in the lawsuit. Pine Mountain is  
18 completely out of it now. They've waived all of their  
19 interest. Equitable remains in it as the operator on the two  
20 units. Then Mr. Gray took the waiver agreement and that's  
21 when he has filed with the Board and requested that the funds  
22 be disbursed in conjunction with that waiver agreement.  
23 That's where we are today.

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

3           (No audible response.)

4           BENNY WAMPLER: Mr. Wilson, do you have any...  
5 anything further to add?

6           BOB WILSON: No, sir.

7           BENNY WAMPLER: Okay.

8           MASON BRENT: Mr. Chairman, I'd move that we  
9 continue these until May.

10          BENNY WAMPLER: I have a motion to continue until  
11 May.

12          PEGGY BARBAR: I'll second.

13          BENNY WAMPLER: Motion and second. Any further  
14 discussion?

15          (No audible response.)

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

18          (All members signify by saying yes.)

19          BENNY WAMPLER: Motion carries. They are continued  
20 until May.

21          JILL HARRISON: All right, well, I 'll see you all  
22 in May. Thank you very much.

23          BENNY WAMPLER: Thank you very much. The next item  
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1 on the agenda is a petition from prevailing plaintiffs for  
2 disbursement of funds escrowed on their behalf for unit P-40,  
3 docket number VGOB-93-0216-0330-01. We'd ask the parties  
4 that wish to address the Board in this matter to come forward  
5 at this time. I'll ask you folks to state your name for the  
6 record.

7 PETER GLUBIACK: Yes, good morning, Mr. Wampler.

8 BENNY WAMPLER: Good morning.

9 PETER GLUBIACK: Peter Glubiack. I represent Mr.  
10 Kyle Robinson, who is seated to my left, who is the plaintiff  
11 in an action filed in Buchanan Circuit Court which resulted  
12 in an agreed order with the other parties involved. Pursuant  
13 to the final order, which was made a part of the application,  
14 we are seeking disbursement of funds that are currently held  
15 in escrow relating to tract or unit number P-40, specifically  
16 Tract 8. There was a little bit of confusion, but we have  
17 resolved it, I think, with Mr. Wilson. At this point, Tract  
18 8 is the tract for which we are seeking disbursement. I was  
19 handed by Mr. Arrington this morning, a disbursement, and I'm  
20 sure Mr. Swartz will have his client get into it, but  
21 essentially the application, affidavit and notice were filed  
22 and we will simply ask the Court to order disbursement of the  
23 funds and a continuing disbursement directly to Mr. Robinson.

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1           BENNY WAMPLER: Mr. Swartz, do you have any  
2 comments?

3           MARK SWARTZ: Mark Swartz and Anita Duty appearing.  
4 You probably need to swear Anita.

5           (Anita Duty is duly sworn.)

6

7   ANITA DUTY

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

10   DIRECT EXAMINATION

11 QUESTIONS BY MR. SWARTZ:

12           Q.       Anita, did you look at the accounting  
13 records with regard to this tract in this unit?

14           A.       Yes.

15           Q.       What did you consider?

16           A.       All of the deposits and the interest and I  
17 came to the conclusion that the account was balanced.

18           Q.       Okay, so you basically compared the bank's  
19 records to the royalty accounting records and they agreed?

20           A.       Yes.

21           Q.       Would you tell the Board what...what this  
22 exhibit that you've passed out represents with regard to this  
23 particular application in Tract 8?

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1           A.       It's Tract 8, 8.31 acres. Total acres  
2 escrowed is 35.82, which would cause a total tract percent of  
3 escrow to be 23.1993% of the total balance in the account of  
4 159,611.69 for an estimated payout of \$37,028.84.

5           Q.       So, basically, the amount associated with  
6 Tract 8 that would be paid out in accordance with any  
7 judgment is the total amount 37,028.84, correct?

8           A.       Well, at the time of the January balance.  
9 Actually, you should use the total of the tract percent of  
10 escrow.

11          Q.       I understand.

12          A.       Okay.

13          Q.       But when you did this accounting, the total  
14 that was in the account attributable to Tract 8 that was  
15 subject potentially to being paid out was the \$37,000,  
16 correct?

17          A.       Yes.

18          Q.       Obviously, the order is not going to occur  
19 today. It's going to occur in the future. At the time of  
20 the order, are you recommending to the Board they use the  
21 percentage of escrow as a disbursement directive to the bank  
22 as opposed to a total?

23          A.       Yes.

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1 Q. Okay. And since this is not a split  
2 agreement, we have no suggestions to the Board in terms of  
3 how this is to be disbursed. We assume that they'll look at  
4 the judgment order and make the appropriate disbursement,  
5 correct?

6 A. Correct.

7 MARK SWARTZ: Okay. That's all I have, Mr.  
8 Chairman.

9 BENNY WAMPLER: Questions from members of the  
10 Board?

11 (No audible response.)

12 BENNY WAMPLER: Mr. Glubiack, I have a question.  
13 Based on the final order---?

14 PETER GLUBIACK: Yes, sir.

15 BENNY WAMPLER: ---how do...how do you suggest  
16 disbursements be made?

17 PETER GLUBIACK: Mr. Wampler, I simply would agree  
18 that this is essentially the same order that was used in the  
19 Harrison-Wyatt case, the precise...the exact language. In  
20 fact, Mr. Sexton and I drafted it, along with Mr. Hodges.  
21 So, I would assume the procedure would be that the Board  
22 would recommend disbursement, direct Mr. Wilson to prepare  
23 the order as he has done in the Harrison-Wyatt cases, and

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1 once the order has been sent out and approved and signed by  
2 you and approved by Ms. Pigeon that gets recorded and  
3 disbursed or sent to Wachovia. So, essentially my  
4 understanding of the process at this point that has been  
5 refined is that we have an order; we've asked the Board to  
6 disburse the funds attributable; Consol has given you what  
7 they think the funds are. I agree...I understand that the  
8 only accurate way to do it is to recommend that 23.1993% be  
9 disbursed of whatever is attributable to that unit.  
10 Therefore, Wachovia will have the up to the minute records.  
11 At that point, they just transfer the check.

12 BENNY WAMPLER: Any questions from members of the  
13 Board?

14 MASON BRENT: Mr. Glubiack, are you in agreement  
15 with the testimony you heard of Ms. Duty?

16 PETER GLUBIACK: Mr. Brent, I have absolutely no  
17 way of knowing. I understand their testimony is the  
18 account's balance. I've had questions about that. I'm  
19 certainly not adopting that as the gospel truth. It is all  
20 we have. We'll take it. I'm not waiving any rights. I have  
21 no idea whether it's right or not, but that's all we have  
22 now. I assume with their accounting, it's correct. I...I,  
23 like you, received these numbers the morning of the hearing.

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1 I don't have any idea.

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

4 BOB WILSON: Mr. Chairman.

5 BENNY WAMPLER: Mr. Wilson.

6 BOB WILSON: I would like to state that if this  
7 disbursement is approved, that we will need the social  
8 security number of the recipient of the disbursement. This  
9 number should be sent to the Division of Gas and Oil under a  
10 separate cover. It will not be maintained at the Division of  
11 Gas and Oil. It will be furnished to the bank.

12 PETER GLUBIACK: I understand. For purposes of the  
13 1099, we have furnished that before and we will furnish---

14 BOB WILSON: Yes.

15 PETER GLUBIACK: ---the social security information  
16 for tax purposes to Mr. Wilson---

17 BOB WILSON: Thank you.

18 PETER GLUBIACK: ---and that we understand that's a  
19 condition of disbursement.

20 BENNY WAMPLER: Anything further?

21 (No audible response.)

22 BENNY WAMPLER: Do you have anything further?

23 PETER GLUBIACK: No, sir.

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1           BENNY WAMPLER: Mr. Swartz?

2           MARK SWARTZ: The order should contain a directive  
3 that the escrow agent can stop escrowing as well---.

4           BENNY WAMPLER: For all future---.

5           MARK SWARTZ: ---or that the operator can stop  
6 escrowing.

7           BENNY WAMPLER: All future payments will be  
8 directed---.

9           MARK SWARTZ: Right.

10          PETER GLUBIACK: And I would point out, that has  
11 been done, Mr. Chairman, and it appears to be working. The  
12 other claimants are receiving monthly checks. So, apparently  
13 that system is working and it's in the order that Mr. Wilson  
14 prepares.

15          BENNY WAMPLER: For the record though, we need---.

16          PETER GLUBIACK: I understand.

17          BENNY WAMPLER: ---to make sure we have that  
18 in...thank you, Mr. Swartz. Is there a motion?

19          JIM McINTYRE: Motion to approve disbursement of  
20 funds.

21          PEGGY BARBAR: I'll second.

22          BENNY WAMPLER: Motion is seconded. Any further  
23 discussion?

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1 (No audible response.)

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

4 (All members signify by saying yes.)

5 BENNY WAMPLER: Opposed, say no.

6 (No audible response.)

7 BENNY WAMPLER: You have approval. Thank you.

8 PETER GLUBIACK: Thank you.

9 BENNY WAMPLER: The next item on the agenda is a  
10 petition---

11 BOB WILSON: Mr. Chairman, excuse me, please.

12 BENNY WAMPLER: Mr. Wilson.

13 BOB WILSON: Mr. Gray has come in, if you want to  
14 recall those numbers.

15 MR. GRAY: Mr. Wampler, excuse me, Mr. Chairman, if  
16 I could hop back in. I'm sorry, I'm late. It looks to me  
17 like you have a pretty busy day here. But if I could...I  
18 understand there has been a vote to continue. I would ask  
19 that the Board reconsider that and give me an opportunity to  
20 present what was in essence an agreed matter.

21 BENNY WAMPLER: Will the Board reconsider its  
22 motion for continuation?

23 MASON BRENT: Yes, I will, Mr. Chairman.

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1           BENNY WAMPLER: Okay, all right. We'll go ahead  
2 and call these two items. There has been testimony on  
3 record, Mr. Gray, by Ms. Harrison.

4           MR. GRAY: Yes.

5           BENNY WAMPLER: She's back, anyway. Going back to  
6 number two and three on the Board's agenda. A petition from  
7 parties for settlement agreements for disbursement of funds  
8 from escrow and authorization for direct payment of royalties  
9 on Tract 2, unit VC-3892, for docket number VGOB-99-0216-  
10 0711-01; and for Tract 4, unit VC-4497, docket number VGOB-  
11 00-1121-0847-01. We'd ask the parties that wish to address  
12 the Board in these matters to come forward at this time.  
13 State your name for the record, again, please.

14           JILL HARRISON: I'm Jill Harrison. I'm with Penn  
15 Stuart and Eskridge. At the hearing today, I represent  
16 Equitable Production Company on matters two and three.

17           MR. GRAY: I'm Gerald Gray. I represent Charlie  
18 and Audrey Moore who are the coalbed methane gas owners  
19 representing each of these petitioners.

20           BENNY WAMPLER: You may proceed.

21           MR. GRAY: Members of the Board, you have before  
22 you a repetition filed under your miscellaneous petition  
23 rules, which is supported by an affidavit and two documents,

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1 which make it clear that there has been an agreement and a  
2 release signed between the Moores, who without a doubt own  
3 the natural gas underlying their property and after some  
4 brief litigation, an agreement was reached that they also own  
5 the coalbed methane. This agreement has been signed by Pine  
6 Mountain Oil and Gas and other claimant to the coalbed  
7 methane estate and Equitable, along with my clients, and  
8 obviously what we're asking to be done is to have the escrow  
9 funds released, the escrow procedure terminated and all  
10 future royalties mailed to the owners of the coalbed methane.

11 BENNY WAMPLER: Do we have an amount?

12 BOB WILSON: I think the bank and Equitable have  
13 worked on a balance on this---

14 JILL HARRISON: I have not seen anything paperwork  
15 wise.

16 MR. GRAY: Whatever it is, once again, we simply  
17 want it sent to us.

18 BOB WILSON: Mr. Chairman, I just spoke with---

19 BENNY WAMPLER: Mr. Wilson.

20 BOB WILSON: ---Don Hall with Equitable---

21 JILL HARRISON: Don is right here.

22 MR. GRAY: Okay.

23 BOB WILSON: ---and he said that he thought that  
24  
25

1 Ms. Harrison had a balance on that.

2 JILL HARRISON: Not a current.

3 MR. GRAY: Right. I don't have the current one  
4 either. But it would---

5 BENNY WAMPLER: Well, do you have a balance as of a  
6 particular day?

7 SHARON PIGEON: Do you have a percentage?

8 BENNY WAMPLER: Yeah. We're looking at the  
9 percentage for disbursement, understand that. If you've got  
10 that, that's the key, and then it would be whatever date the  
11 order goes out it would be---

12 (Jill Harrison, Gerald Gray and Don Hall confer.)

13 JILL HARRISON: Okay, with regard to well number  
14 4497 we show the Moores net royalty interest in the unit as  
15 0.01541250, and as of 4/5/05, that came to a total of  
16 \$7,717.54 in that unit. In well number 3892, 0.006625 and  
17 that number...that amount came to \$295.46.

18 BENNY WAMPLER: As of the same date---?

19 JILL HARRISON: Yes, sir.

20 BENNY WAMPLER: ---of 4/5/05?

21 JILL HARRISON: Yes, sir.

22 BENNY WAMPLER: Okay.

23 JILL HARRISON: And that...I have an earlier email  
24  
25

1 that had the percentage numbers and those match these. These  
2 amounts are different because this was earlier.

3 BENNY WAMPLER: Do you agree with those, Mr. Gray?

4 MR. GRAY: Yes, sir.

5 BOB WILSON: Excuse me, Mr. Chairman.

6 BENNY WAMPLER: Mr. Wilson.

7 BOB WILSON: Those were net revenue interest,  
8 right, and not percentage of escrow?

9 JILL HARRISON: Net revenue interest. I do not  
10 know...I don't have percentage of interest in the unit.

11 BENNY WAMPLER: Mr. Wilson, do you have enough that  
12 you can trace it back to the order?

13 BOB WILSON: Yes, sir, we can calculate that. Mr.  
14 Chairman, I would ask, have these numbers been balanced  
15 between the payments that Equitable made and the amount  
16 that's in the bank? Are these bank numbers or are these  
17 Equitable numbers that we're getting?

18 JILL HARRISON: These appear to be...these are  
19 Equitable numbers.

20 BENNY WAMPLER: Mr. Hall, we need you to testify to  
21 this.

22 JILL HARRISON: Don, are these...these are bank  
23 numbers, aren't they? These are...I mean, these are our

24

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1 numbers of what we paid.

2           DON HALL: I don't know. I really can't testify to  
3 them. I just brought these with me.

4           JILL HARRISON: Okay.

5           DON HALL: I didn't put it together.

6           JILL HARRISON: These are...these are the numbers  
7 that show what we've paid in. We've not had, the best that I  
8 can tell that I know, a comparison between what the bank  
9 shows and what has been deposited.

10          BOB WILSON: Mr. Chairman, the reason for the  
11 question, of course, is when we draft the order, we will do  
12 it according to the percentage and we can only disburse, of  
13 course, what the bank has. So, we would either need a bank  
14 balance for you folks to accept or, in my opinion, a  
15 statement that you will accept what the bank shows when we  
16 get to that point.

17          JILL HARRISON: I don't think Equitable would have  
18 any objection to doing that.

19          MR. GRAY: Yeah, the...we're not interested at all  
20 arguing with the bank. It hasn't been the best way to  
21 (inaudible) from the numbers of I followed. But,  
22 nevertheless, we're going to be stuck with their numbers.  
23 So, we'll...we'll agree. I'll execute whatever document you

24

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1 need for me to stipulate that.

2 BENNY WAMPLER: Okay. Well, the bank...the bank  
3 rates, we agree, are low, but that's the price you pay when  
4 you have it to where you can pay out on demand.

5 MR. GRAY: Right.

6 BENNY WAMPLER: If they could make long term  
7 investments, it would be different. But any further  
8 questions from members of the Board?

9 (No audible response.)

10 BENNY WAMPLER: Is there a motion?

11 JIM McINTYRE: Motion to approve disbursement of  
12 funds.

13 DENNIS GARBIS: Second.

14 BENNY WAMPLER: Any further discussion?

15 MASON BRENT: Under discussion, Mr. Chairman,---?

16 BENNY WAMPLER: Mr. Brent.

17 MASON BRENT: ---with the stipulation that they  
18 will accept the bank's numbers at the time of disbursement?

19 BENNY WAMPLER: I believe Mr...did you stipulate to  
20 that?

21 MR. GRAY: I did stipulate that. I would also  
22 suggest that the motion ought to include a motion to  
23 terminate all future escrowing. If that was incorporated in  
24

1 that motion, that's fine.

2 BENNY WAMPLER: That would need to. And then you  
3 will need their social security numbers as well.

4 BOB WILSON: Yes, sir.

5 BENNY WAMPLER: Just for bank purposes, of the  
6 Moores, okay?

7 MR. GRAY: Yes, sir.

8 BOB WILSON: Yes, if you could, please put those in  
9 an entirely separate document to be mailed---

10 MR. GRAY: I'll do that.

11 BOB WILSON: ---to me---

12 MR. GRAY: I'll do that.

13 BOB WILSON: ---because we do not maintain those at  
14 the Division of Gas and Oil.

15 MR. GRAY: Okay, very good.

16 JILL HARRISON: I found in my file two of the well  
17 plats for the two wells. According to them, on the 3892, the  
18 Moores have 12.33% of the unit and on the other one 0.70.  
19 But that's not going to help you with what's being escrowed.  
20 So---

21 BENNY WAMPLER: We've got enough, I think, to work  
22 it out with the stipulations and everything.

23 JILL HARRISON: Right.

24

--

1           BENNY WAMPLER: I have a motion and a second. Any  
2 further discussion?

3           (No audible response.)

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

6           (All members signify by saying yes.)

7           BENNY WAMPLER: Opposed, like sign.

8           (No audible response.)

9           BENNY WAMPLER: Motion carries. Thank you very  
10 much.

11          JILL HARRISON: Thank you.

12          MR. GRAY: Thank you very much, sir. I appreciate  
13 you all accommodating my tardiness here. It looks like  
14 you've got a busy day today. I'll be happy to get out of  
15 your way.

16          BENNY WAMPLER: Have a good day.

17          JILL HARRISON: Thank you, sir.

18          MR. GRAY: Thank you.

19          BENNY WAMPLER: The next item on the agenda is a  
20 petition from CNX Gas Company, LLC for pooling of coalbed  
21 methane unit AY-140, docket number VGOB-05-0315-1413. It was  
22 continued from March. We'd ask the parties that wish to  
23 address the Board in this matter to come forward at this

24

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1 time.

2           MARK SWARTZ: Mr. Chairman, that was continued...  
3 Mark Swartz. That was continued last month. We were doing  
4 some additional title work. It is not done yet. We would  
5 respectively ask for a sixty day, because it's turning out to  
6 be quite a undertaking, continuance to come back on that one.

7           BENNY WAMPLER: That will be continued.

8           MARK SWARTZ: Great.

9           BOB WILSON: Excuse me, that was for sixty days.

10          BENNY WAMPLER: Sixty day continuation.

11          MARK SWARTZ: Yes, sir.

12          BENNY WAMPLER: The next item on the agenda is a  
13 petition from EOG Resources, Inc. for pooling of a  
14 conventional gas unit PK M-23, Garden District, Buchanan  
15 County, docket number VGOB-05-0315-1421. We'd ask the  
16 parties that wish to address the Board in this matter to come  
17 forward at this time.

18          TIM SCOTT: Mr. Chairman, I'm Tim Scott for EOG.  
19 We've...(inaudible) with another party. We're trying to get  
20 it resolved. So, we'd ask if we could get both of those  
21 matters moved to the end of the docket right before the field  
22 rule application. Mr. Kaiser said that was okay with him.  
23 He represents Equitable and Hard Rock. Is that okay?

24

--

1           JIM KAISER: Yeah, it's okay. We'd like to get  
2 twenty-five moved to twenty-seven, Mr. Chairman, if we could,  
3 and that way he can do those two right after that. That will  
4 take some time.

5           BENNY WAMPLER: For Dart, item twenty-five on ours  
6 to twenty-seven?

7           JIM KAISER: Yes, sir.

8           BENNY WAMPLER: Or following---

9           JIM KAISER: Just put that last.

10          BENNY WAMPLER: Okay, following twenty-seven.

11          JIM KAISER: Right.

12          BENNY WAMPLER: So, we're taking item...Board's  
13 item six and seven and moving it to twenty-five?

14          TIM SCOTT: Yes, sir.

15          BENNY WAMPLER: Okay.

16          TIM SCOTT: Thank you.

17          BENNY WAMPLER: Okay.

18          JIM KAISER: And move twenty-five to---

19          BENNY WAMPLER: I gotcha, to the end.

20          JIM KAISER: Right.

21          BENNY WAMPLER: ---end.

22          JIM KAISER: Right.

23          BENNY WAMPLER: I gotcha. I'll handle that. The  
24  
25

1 next item on the agenda is a petition from CNX Gas Company,  
2 LLC for pooling of coalbed methane unit BE-121, docket number  
3 VGOB-05-0419-1427. We'd ask the parties that wish to address  
4 the Board in this matter to come forward at this time.

5 MARK SWARTZ: Mark Swartz and Les Arrington.

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

8 MARK SWARTZ: Mr. Chairman, we have a collection of  
9 Middle Ridge units today, the majority of which involve a  
10 fellow by the name of Fred Gent, who we've seen before. Mr.  
11 Gent is not opposed to our pooling, but he wants to  
12 participate as a result of an order as opposed to a lease.  
13 I think it might make things move a little quicker, since  
14 you seem to have quite a docket today, to determine if there  
15 are other people, because there's only two units where we  
16 have other people...other people here, and maybe we could put  
17 these together to save some time.

18 BENNY WAMPLER: Okay. Which ones?

19 MARK SWARTZ: It would be...we actually have from  
20 eight, which is what you just called, through fifteen are all  
21 Middle Ridge units mostly involving Mr. Gent. So, if you  
22 could put those together.

23 BOB WILSON: Excuse me, Mr. Chairman. Could we ask  
24

1 the folks in the audience that if you need to have  
2 conversations to please go outside. It interferes with our  
3 court recording here. The acoustics in here are pretty good.  
4 So, every sound is picked up and it kind of overshadows our  
5 recording. Thank you.

6 BENNY WAMPLER: So, you're saying down through  
7 fifteen.

8 MARK SWARTZ: Including fifteen.

9 BENNY WAMPLER: Is that too complex, Mr. Wilson?

10 BOB WILSON: No, sir.

11 BENNY WAMPLER: Okay, I'll go ahead and call these.  
12 If you're here for these, please listen up because we'll ask  
13 you to come forward if you have an interest in these units.  
14 We're...what he's doing is we're calling all of the following  
15 units, they're all petitions from CNX Gas Company for pooling  
16 of coalbed methane units, the next one is BF-111, docket  
17 number VGOB-05-0419-1428; unit BG-111, docket number VGOB-05-  
18 0419-1429; BH-111, docket number VGOB-05-0419-1420; docket  
19 B...is that 1 or I?

20 MARK SWARTZ: I.

21 BENNY WAMPLER: ...BI-107, docket VGOB-05-0419-  
22 1431; BI-111, docket number VGOB-05-0419-1432; unit BJ-107,  
23 docket number VGOB-05-0419-1433; unit BJ-111, docket number

24

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1 VGOB-05-0419-1434. We'd ask the parties that wish to address  
2 the Board in these matters to come forward at this time.

3 MARK SWARTZ: That would be Mark Swartz and Les  
4 Arrington, again, Your Honor.

5 BENNY WAMPLER: The record will show there are no  
6 others. You may proceed.

7 MARK SWARTZ: I need to have Les sworn.

8 (Leslie K. Arrington is duly sworn.)

9

10 LESLIE K. ARRINGTON

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

13 DIRECT EXAMINATION

14 QUESTIONS BY MR. SWARTZ:

15 Q. You need to state your name.

16 BOB WILSON: Mr. Chairman, excuse me.

17 BENNY WAMPLER: Mr. Wilson.

18 BOB WILSON: I would request when we have several  
19 like this for the sake of assessing the orders later on and  
20 for the sake of some comments that we've gotten from the  
21 people who attend these things that if you could address each  
22 one, when you get to the numbers, in sequence, address one  
23 well entirely and then go to the next well and address that

24

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1 entirely.

2           MARK SWARTZ: We'll do the general testimony first  
3 and then we'll take them---

4           BOB WILSON: Yes.

5           MARK SWARTZ: ---one at a time. Normally, I do  
6 that, I think. We'll do that again.

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

8           A.       Leslie K. Arrington.

9           Q.       Who do you work for?

10          A.       CNX Gas Company.

11          Q.       And what's your position with them?

12          A.       Manager of environmental and permitting.

13          Q.       Were you in charge of putting together the  
14 notices of hearing and applications with regard to these  
15 Middle Ridge units for today?

16          A.       Yes, I was.

17          Q.       Okay. And did you sign the notices and the  
18 applications?

19          A.       Yes, I did.

20          Q.       Okay. And have you reviewed them...did you  
21 review them before they went out or did you review them  
22 before you came here today?

23          A.       Yes.

24

--

1 Q. Okay. Is it true that each one of these  
2 units is indeed a Middle Ridge unit?

3 A. Yes, it is.

4 Q. I think they're all the same size today.  
5 They're all 58.74 acres, is that correct?

6 A. That's correct.

7 Q. And in all incidences, the well is actually  
8 located in the drilling window, so we don't need to deal with  
9 any location exceptions, correct?

10 A. That's correct, yes.

11 Q. And is the plan for development for each of  
12 these units to drill one frac well in the drilling window to  
13 produce the coalbed methane from the unit?

14 A. Yes, it is.

15 Q. Okay. Who's the applicant on each of the  
16 applications?

17 A. CNX Gas.

18 Q. And is...who is it that the applicant is  
19 requesting be designated the Board's operator if these units  
20 are pooled?

21 A. CNX Gas.

22 Q. Okay. Is CNX Gas Company a limited  
23 liability company?

24

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1 A. Yes, it is.

2 Q. And is it, in essence then, a Virginia  
3 General Partnership?

4 A. Yes.

5 Q. It is a wholly owned indirect subsidiary of  
6 Consol Energy, Inc.?

7 A. Yes, it is.

8 Q. Is CNX authorized to do business in the  
9 Commonwealth?

10 A. Yes, it is.

11 Q. With regard to the designated operator  
12 issue, has CNX registered with the Department of Mines,  
13 Minerals and Energy, Division of Gas and Oil?

14 A. Yes, it has.

15 Q. Does CNX have a blanket bond on file as  
16 required by law?

17 A. Yes.

18 Q. With regard to each of these hearings today,  
19 these pooling hearings today on these units, what did you do  
20 to tell people...the people that we're seeking to pool, that  
21 there would be a hearing today?

22 A. Yeah, all of them were mailed by certified  
23 mail return receipt requested on March the 21st and...I'm

24

--

1 sorry.

2 Q. Well, let's save the mailing dates until we  
3 get to the units, okay.

4 A. Yeah.

5 Q. But all of them were mailed?

6 A. Yes, it was.

7 Q. And when you mailed, who did you mail to?

8 A. Each one of the folks listed in Exhibit B-3.

9 Q. Okay. So, if you had an address and you're  
10 listed in B-3, we mail them to them?

11 A. Yeah, that's correct.

12 Q. And did you submit to Mr. Wilson today  
13 copies of your certifications with regard to mailing?

14 A. Yes, we did.

15 Q. And copies of the return receipts and so  
16 forth?

17 A. Yes.

18 Q. What else did you do to notify people of the  
19 hearing today?

20 A. Each one of the hearing notices was  
21 published in a local newspaper.

22 Q. Okay. And we'll talk about the dates of  
23 publication in a minute. But when it was published, what was

24

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1 published in the paper?

2 A. The notice of hearing and attached location  
3 map.

4 Q. Okay. So, they could tell generally where  
5 the unit was?

6 A. Yes.

7 Q. Okay. With regard to all of these units, is  
8 it true that you do not need to add anybody today?

9 A. That's correct.

10 Q. Okay. And there is one unit where we're  
11 going to have some revision, and that's BI-107, correct?

12 A. Yes.

13 Q. And we filed with the Board today some  
14 revised exhibits?

15 A. Yes.

16 Q. And when we get to that unit, we'll be  
17 talking about dismissing some people, correct,---?

18 A. Yes.

19 Q. ---because you've leased them?

20 A. Yes.

21 Q. Yes. Okay, other than BI-107, is there any  
22 other unit in which you're going to have some dismissals?

23 A. No.

24

--

1 Q. Okay, just that one?

2 A. Just that one.

3 Q. And we'll come...we'll come back to that  
4 one. Okay, what are the lease terms that you have offered to  
5 the people that you've been able to lease in these units?

6 A. Our standard lease terms for a coalbed  
7 methane lease is a dollar per acre per year with a five year  
8 paid up term and a one-eighth production royalty.

9 Q. Okay. And are you recommending that if the  
10 Board pools any of these units by its order today, that those  
11 lease terms...those standard lease terms be incorporated in  
12 the order for people who might be deemed to have been leased?

13 A. Yes, we would.

14 Q. Okay. And with regard to each of these  
15 units, have you submitted a well estimate...a well cost  
16 estimate?

17 A. Yes...yes, we have.

18 Q. Okay. Some of the units, the wells have  
19 been drilled and some have not. We'll get to that when we're  
20 dealing with the individual units, correct?

21 A. I don't believe any of these wells have been  
22 drilled.

23 Q. Okay. Some of them have been permitted and  
24

1 some of them have not?

2 A. That's correct.

3 Q. Okay. Is it your opinion, with regard to  
4 these...with regard to these units, that the proposed plan of  
5 development, which is to drill one well per unit in the  
6 drilling window to frac that well and to produce the coalbed  
7 methane, is a reasonable plan to develop the methane in these  
8 units?

9 A. Yes, it is.

10 Q. Is it also your opinion that if you  
11 take...if the Board were to combine the leasing efforts,  
12 where you've leased the majority of each of these units, with  
13 a pooling order that it would be your opinion that the  
14 correlative rights of all owners and claimants would be  
15 protected?

16 A. Yes, it would.

17 Q. With regard to...let's start with the first  
18 one here and let's look specifically at AY...I'm sorry, we  
19 continued that one. Specifically at BE-121, do you have that  
20 one?

21 A. Yes.

22 Q. Okay. What is the well cost estimate with  
23 regard to this unit?

24

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1           A.       For BE-121, it's \$232,400.44 to a depth of  
2 2701. The permit number is 6601...6611.

3           Q.       Okay. And what is the interest that you've  
4 acquired in this unit and what is it that you're seeking to  
5 pool?

6           A.       We've acquired 100% of the coal owners'  
7 claim to coalbed methane. We have 92.935% of the oil and gas  
8 owners' claim to coalbed methane. We're seeking to pool  
9 7.065% of the oil and gas owners' claim to coalbed methane.

10          Q.       And you filed an Exhibit E with regard to  
11 conflicts and an escrow requirement---?

12          A.       We have.

13          Q.       ---in this incidence? The tracts that we're  
14 talking about that are con...potentially in conflict that  
15 need escrow are 1D as in David, and 1E as in Edward?

16          A.       That's correct.

17          Q.       And we also have an Exhibit EE, correct?

18          A.       Correct.

19          Q.       And that reflects that there are a number of  
20 tracts wherein people have reached an agreement as to how to  
21 settle their claims?

22          A.       That's correct.

23          Q.       And with regard to tracts...with regard to  
24

1 those agreements, they affect Tracts 1A, 1B, 1C, 1D, 1F and  
2 1G, is that correct?

3 A. That's correct.

4 Q. That's correct. And are you requesting that  
5 with regard to the people identified in Exhibit EE, the  
6 operator be authorized to pay them directly in accordance  
7 with their agreements rather than escrowing those funds?

8 A. That's correct, we are.

9 MARK SWARTZ: That's it for the specific testimony  
10 on BE-121.

11 BENNY WAMPLER: Questions from members of the  
12 Board?

13 (No audible response.)

14 BENNY WAMPLER: Go to your next one.

15 Q. Okay. The next one is BF-111. What is your  
16 well estimate with regard to this one?

17 A. \$227,492.32 at a depth of 2489.

18 Q. And we don't have a permit number yet,  
19 correct?

20 A. That's correct...correct.

21 Q. What have you acquired...what has the  
22 applicant acquired in this unit and what are you seeking to  
23 pool?

24

--

1           A.       We've acquired 100% of the coal owners'  
2 claim to coalbed methane; 96.4552% of the oil and gas owners'  
3 claim to coalbed methane. We're seeking to pool 3.5448% of  
4 the oil and gas owners' claim to coalbed methane.

5           Q.       And this is one of those units involving Mr.  
6 Gent, right?

7           A.       Yes.

8           Q.       And we don't have an escrow requirement?

9           A.       No.

10          Q.       And there are no split agreements?

11          A.       No.

12          MARK SWARTZ: That's all I have on that one.

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

15                   (No audible response.)

16          BENNY WAMPLER: Go to your next one.

17          Q.       BG-111, do you have that, Les?

18          A.       Yes.

19          Q.       Okay. What's your well cost estimate on  
20 this one?

21          A.       \$227,495.24 to a depth of 2489. The permit  
22 has not been issued yet.

23          Q.       Okay. And what...what have you acquired...

24

1 what has the applicant acquired and what are you seeking to  
2 pool?

3 A. Okay, BG-11, we've acquired 100% of the coal  
4 owners' claim to coalbed methane; and 98.2635% of the oil and  
5 gas owners' claim to coalbed methane. We're seeking to pool  
6 1.7365% of the oil and gas owners' claim to coalbed methane.

7 Q. And this involves Mr. Gent as well?

8 A. Yes.

9 Q. No escrow requirements?

10 A. No.

11 Q. And no split agreements?

12 A. No

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

15 (No audible response.)

16 BENNY WAMPLER: Go to your next one.

17 Q. That would be BH-111, do you got that?

18 A. Yes.

19 Q. Okay. What's your well cost estimate?

20 A. \$227,480.64 to a depth of 2489. The permit  
21 has not been issued.

22 Q. And what have you acquired and what are you  
23 seeking to pool?

24

--

1           A.       We've acquired 100% of the coal owners'  
2 claim to coalbed methane; 98.0725% of the oil and gas owners'  
3 claim to coalbed methane. We're seeking to pool 1.9275% of  
4 the oil and gas owners' claim to coalbed methane.

5           Q.       And this is another unit that involves Mr.  
6 Gent as the sole respondent?

7           A.       Yes.

8           Q.       And there are no escrow requirements?

9           A.       No.

10          Q.       No split agreements?

11          A.       No.

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

14                (No audible response.)

15          BENNY WAMPLER: Go to the next one.

16          Q.       This would be BI-107. Now, this is the one  
17 that you might want to---

18          A.       Yes.

19          MARK SWARTZ: Anita, have you passed those out yet  
20 or...we've got some revised exhibits here, which we will be  
21 giving you momentarily.

22                (Anita Duty passes out exhibits.)

23          Q.       Les, we've got some revisions to the  
24

1 exhibits that were originally filed, correct?

2 A. Yes.

3 Q. And is the reason for that is that between  
4 the time you filed this application and today's hearing,  
5 you've been able to lease some additional folks, is that  
6 right?

7 A. Yeah, that's correct. And it's shown on the  
8 Exhibit B-2.

9 Q. Okay. So, in the revised exhibits, which  
10 the Board received today, there's an Exhibit B-2 and that  
11 lists the people that you've leased and also lists the people  
12 that we're asking the Board to dismiss as respondents because  
13 they've released?

14 A. Correct...that's correct.

15 Q. And that's a two page exhibit, correct?

16 A. Yes.

17 Q. And then you have filed a revised Exhibit  
18 B-3, correct?

19 A. Correct.

20 Q. And is the only difference between the  
21 revised Exhibit B-3 and the original B-3 is that you've  
22 removed the names of the folks that you've leased?

23 A. That's correct.

24

--

1 Q. Okay. And then, obviously, the leasing has  
2 changed the percentages in terms of what you've acquired and  
3 what you're seeking to pool, so we've got a revised Exhibit  
4 A, page two, is that right?

5 A. That's correct.

6 Q. Okay, let's sort of start with that since we  
7 have that in front of us. What have...what have you, as of  
8 today, been able to acquire in terms of interest in this unit  
9 and what are we seeking to pool today?

10 A. We have leased 99.4897% of the coal owners'  
11 claim to coalbed methane; 96.0073% of the oil and gas owners'  
12 claim to coalbed methane. We're seeking to pool 0.5103% of  
13 the coal owners' claim to coalbed methane; and 3.9927% of the  
14 oil and gas owners' claim to coalbed methane.

15 Q. Okay. Have you done a well estimate with  
16 regard to this unit?

17 A. Yes, we have. It's \$238,935.65 to a depth  
18 of 2970. Permit number is 6650.

19 Q. Okay, so you do have a permit, 6650?

20 A. Yes.

21 Q. Okay. This one we have some unknowns in  
22 Tracts 3, 4 and 5, unknown addresses?

23 A. No.

24

--

1 Q. Or did that get straightened---?  
2 A. We found those addresses.  
3 Q. You found those?  
4 A. Yes.  
5 Q. Okay. So that's another difference?  
6 A. Yes.  
7 Q. Okay. And do we still have conflicts in  
8 Tracts 3, 4 and 5?  
9 A. No.  
10 Q. Okay. I don't see an amended E.  
11 (Mark Swartz confers with Anita Duty and Les  
12 Arrington.)  
13 Q. Okay, the escrow...the Exhibit E is  
14 withdrawn because the sole basis for that was the unknowns?  
15 A. Yes, it was.  
16 Q. Okay. And I believe...was there an Exhibit  
17 EE or not?  
18 A. Unh-huh.  
19 Q. There was not. Okay, so there are no split  
20 agreements?  
21 A. No.  
22 Q. So basically there is no escrow requirement  
23 and no split agreements?

24

--

1 A. Correct.

2 Q. And we need to dismiss the folks listed in  
3 Exhibit B-2?

4 A. Correct.

5 MARK SWARTZ: That's all I have.

6 BENNY WAMPLER: Questions from members of the  
7 Board?

8 MASON BRENT: Mr. Chairman.

9 BENNY WAMPLER: Mr. Brent.

10 MASON BRENT: So Exhibit E is out?

11 MARK SWARTZ: Withdrawn, yes.

12 BENNY WAMPLER: Continue.

13 Q. The next one would be BI, as in iota, 111.

14 A. Yes.

15 Q. Do you go that one?

16 A. Yes.

17 Q. Okay. What's your well cost estimate?

18 A. \$232,324.11 to a depth of 2692. Permit  
19 number is 6628.

20 Q. Hold on a second.

21 (Pause.)

22 Q. And what interest have you acquired and what  
23 are you seeking to pool?

24

1           A.       We've acquired 100% of the coal owners'  
2 claim to coalbed methane; and 96.1128% of the oil and gas  
3 owners' claim to coalbed methane. We're seeking to pool  
4 3.8872% of the oil and gas owners' claim to coalbed methane.

5           Q.       And this is another unit involving Mr. Gent?

6           A.       Yes.

7           Q.       No escrow requirements?

8           A.       No.

9           Q.       No split agreements?

10          A.       No.

11          BENNY WAMPLER: Questions from members of the  
12 Board?

13                    (No audible response.)

14          BENNY WAMPLER: Continue.

15          Q.       BJ, B as in Boy, J as in John 107.

16          A.       Yes.

17          Q.       This one what is your cost estimate?

18          A.       \$238,547.21. The depth is 2954. The permit  
19 number is 6623.

20          Q.       What have you...what have you leased or  
21 purchased and what are you seeking to pool?

22          A.       We've leased 100% of the coal owners' claim  
23 to coalbed methane; and 95.7752% of the oil and gas owners'  
24

1 claim to coalbed methane. We're seeking to pool 4.2248% of  
2 the oil and gas owners' claim to coalbed methane.

3 Q. Another unit involving Mr. Gent?

4 A. Yes.

5 Q. No escrow requirements?

6 A. No.

7 Q. And no split agreements?

8 A. No.

9 BENNY WAMPLER: Questions from members of the  
10 Board?

11 (No audible response.)

12 BENNY WAMPLER: Continue.

13 Q. The last one is B as in Boy and J as in  
14 John-111, correct?

15 A. Yes.

16 Q. What's your well cost estimate for this one?

17 A. \$232,134.64 to a depth of 2685. Permit  
18 number is 6600.

19 Q. What have you acquired and what are you  
20 seeking to pool?

21 A. We've acquired 100% of the coal owners'  
22 claim to coalbed methane; and 94.7727% of the oil and gas  
23 owners' claim to coalbed methane; and we're seeking to pool  
24

1 5.2273% of the oil and gas owners' claim to coalbed methane.

2 No escrow required.

3 Q. Okay, and no split agreements?

4 A. No.

5 MARK SWARTZ: That's all I have.

6 BENNY WAMPLER: Questions from members of the  
7 Board?

8 BOB WILSON: Mr. Chairman.

9 BENNY WAMPLER: Mr. Wilson.

10 BOB WILSON: The staff received communication from  
11 Mr. Gent, who is involved in most of these units, stating  
12 that he had no objection to the pooling.

13 BENNY WAMPLER: Do you have anything further, Mr.  
14 Swartz?

15 MARK SWARTZ: No, I don't.

16 BENNY WAMPLER: Is there a motion?

17 JIM McINTYRE: Motion to approve.

18 MASON BRENT: Second.

19 BENNY WAMPLER: Motion is second. Any further  
20 discussion?

21 (No audible response.)

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

24

--

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 CNX Gas Company, LLC for  
6 disbursement of funds from escrow and authorization for  
7 direct payment of royalties on Tract 4F, unit W-34, docket  
8 number VGOB-98-0318-0571-03. We'd ask the parties that wish  
9 to address the Board in this matter to come forward at this  
10 time.

11 MARK SWARTZ: Mark Swartz and Anita Duty.

12 JANICE COOK: Janice Cook.

13 BENNY WAMPLER: Do you have this?

14 JANICE COOK: No, I don't.

15 BENNY WAMPLER: If you will, give her a copy.

16 (Anita Duty passes out exhibits.)

17

18

19 ANITA DUTY

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

22 DIRECT EXAMINATION

23 QUESTIONS BY MR. SWARTZ:

24

--

1 Q. You need to state your name for us, again?  
2 A. Anita Duty.  
3 Q. Who do you work for?  
4 A. CNX Gas Company.  
5 Q. Is one of your duties to resolve the  
6 balances in escrow accounts when you compare them to your  
7 royalty accounting data?  
8 A. Yes.  
9 Q. Did you do that in this case?  
10 A. Yes, I did.  
11 Q. What did you actually look at and what did  
12 you find?  
13 A. I compared the royalty payment that were  
14 made to the escrow...to the escrow to make sure that they  
15 received what we paid in and everything balanced. I added  
16 the interest and the accounts balanced.  
17 Q. Okay. And this report is as of a  
18 balance...it says, "Account balance as of January the 31st,  
19 '05" ?  
20 A. Yeah.  
21 Q. So, if there have been payments since then,  
22 the balances would be...would be greater?  
23 A. Yes.

24  
25

1 Q. As of January the 31st, '05, did you perform  
2 a calculation to compare what was attributable to Tract 4F to  
3 the total amount that was in escrow with regard to this unit?

4 A. Yes.

5 Q. And what percentage was attributable to 4F?

6 A. For the entire tract, it's 24.2221% of  
7 escrow.

8 Q. Okay. And do these people have a 50/50  
9 split agreement?

10 A. Yes.

11 Q. What's one-half of that number?

12 A. 12.111.

13 Q. Okay. And then you've shown an amount as of  
14 January the 31st as a result of those percentages, correct?

15 A. Yes.

16 Q. Are you requesting that the Board disburse  
17 funds from unit...unit W-34 attributable to Tract 4F to folks  
18 who have entered into split agreements?

19 A. Yes.

20 Q. Okay. What does the red mean?

21 A. Those are just the owners that haven't  
22 signed a lease. They've signed a royalty split, but no  
23 lease.

24

--

1 Q. Okay. So, everybody on this list has signed  
2 a royalty split agreement?

3 A. Yes.

4 Q. Okay. And you've reported their percentages  
5 as well?

6 A. Yes.

7 Q. Is there someone who's going to receive this  
8 and then disburse it to these people or does the Board's  
9 escrow agent need to make checks to everyone of these people?

10 A. They'll be paid individually.

11 Q. Okay. So, the...when the disbursement is  
12 made, the individual percentages opposite everybody's name in  
13 Tract 4F would be the way the disbursement dollars are  
14 calculated?

15 A. Yes.

16 Q. Okay. Are you also asking that once the  
17 disbursement is made, that the operator be allowed to pay  
18 these people directly as opposed to escrowing their funds?

19 A. Yes.

20 MARK SWARTZ: That's all I have.

21 BENNY WAMPLER: Questions from members of the  
22 Board?

23 JIM McINTYRE: Are the remainder of the people on  
24

1 this list, they'll still be in escrow? All we're doing is  
2 releasing...would be to release...if the Board was to approve  
3 this would be to release the funds in that Tract 4F, is that  
4 correct?

5 ANITA DUTY: Just the owners in 4F that are listed.  
6 There are still some owners that have...that are still in 4F  
7 that didn't sign an agreement. So, the tract will still have  
8 some owners in there.

9 MARK SWARTZ: So, the answer is...?

10 ANITA DUTY: Just 4F.

11 MARK SWARTZ: 4A through E though is going to stay  
12 on deposit.

13 ANITA DUTY: Yes.

14 JIM McINTYRE: Right.

15 MARK SWARTZ: And some of 4F, because this is not a  
16 complete list. Not every owner has entered into a split  
17 agreement with regard to 4F.

18 ANITA DUTY: Right.

19 PEGGY BARBAR: Ms. Duty, on Exhibit A, would you  
20 verify your docket number, please?

21 ANITA DUTY: It's 97-0318---.

22 PEGGY BARBAR: Is it 97 or 98?

23 BENNY WAMPLER: We had 98 listed in the petition.

24

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1           ANITA DUTY: It's 98...right, 98. It's 98.  
2           BENNY WAMPLER: Thank you, Peggy.  
3           PEGGY BARBAR: Thank you.  
4           BENNY WAMPLER: Other questions from members of the  
5 Board of this witness?  
6           (No audible response.)  
7           BENNY WAMPLER: Ma'am.  
8           JANICE COOK: I guess this answers my question.  
9           BENNY WAMPLER: Okay, well, that's what we want to  
10 try and do. That's good. That's not a bad thing.  
11           (Laughs.)  
12           JANICE COOK: Well, I mean...okay, do I understand  
13 this, the one that's highlighted, that's what was in the  
14 escrow account?  
15           MARK SWARTZ: For this tract, yes.  
16           JANICE COOK: For that tract?  
17           MARK SWARTZ: Yeah, but that was as of January.  
18 So, there's more now.  
19           BENNY WAMPLER: Now, that other one we haven't  
20 called yet. We call and go over that one in just a minute.  
21           JANICE COOK: Oh, okay. But that's---.  
22           MARK SWARTZ: Okay. That's the next one.  
23           JANICE COOK: But what---.

24

--

1           BENNY WAMPLER: We're dealing with---.

2           JANICE COOK: ---like where everybody is listed  
3 here what amounts we're getting, that the total they get,  
4 right?

5           MARK SWARTZ: Actually, it's going to be a little  
6 more.

7           BENNY WAMPLER: As of that date.

8           JANICE COOK: Well, but, I mean---.

9           MARK SWARTZ: What they're going to do is they're  
10 going to take this percentage times whatever the balance is  
11 when they pay it out and figure it out for everybody at that  
12 time.

13           BENNY WAMPLER: So, it will be more than what's---.

14           MARK SWARTZ: So, it's going to be a slightly  
15 bigger number, but it will be this percentage of whatever is  
16 on deposit when it gets paid.

17           JANICE COOK: Okay, what time will they pay? Do  
18 you have an idea?

19           BENNY WAMPLER: As soon as we get the order  
20 drafted, within 60 days anyway.

21           BOB WILSON: We would hope to be able to get the  
22 order out within a couple of months.

23           JANICE COOK: So everybody on here---.

24

--

1           RONNIE OSBORNE: Is my name on that?

2           JANICE COOK: Well, I'm sure it is.

3           RONNIE OSBORNE: They mailed this---.

4           BENNY WAMPLER: We'll need you to state your name  
5 for the record.

6           COURT REPORTER: You'll need to state your name.

7           RONNIE OSBORNE: Oh, I'm Ronnie...I'm Ronnie  
8 Osborne. They mailed this to me in the mail. According to  
9 the lawyer, when you notarize something, all three parties  
10 are supposed to be present. How is this legal?

11          BENNY WAMPLER: I don't understand what you're---.

12          RONNIE OSBORNE: On those contracts we signed, they  
13 were mailed in the mail and it was notarized without CNX's  
14 witnesses being present.

15          BENNY WAMPLER: Mr. Swartz...I mean, that's a  
16 private agreement between you and them. The Board doesn't  
17 rule on that. I can---.

18          RONNIE OSBORNE: According to the lawyer, he told  
19 me that that was illegal to mail a contract like that in the  
20 mail.

21          BENNY WAMPLER: Mr. Swartz, do you want to respond  
22 to that?

23          MARK SWARTZ: Pretty bizarre legal advice. I mean,  
24

1 if you signed it and your signature was notarized, it's a  
2 binding contract.

3 RONNIE OSBORNE: With all three of us present?

4 MARK SWARTZ: You don't have to be together.

5 RONNIE OSBORNE: Well, that's what they told me.

6 MARK SWARTZ: Somebody is giving you some bad  
7 information.

8 RONNIE OSBORNE: Okay.

9 JANICE COOK: Yeah, I don't think---.

10 RONNIE OSBORNE: Well, I just...I just wanted to  
11 object on that because they are supposed to check me out too,  
12 but nobody did. So, I've got a complaint on me too. My wife  
13 has to sign things and she didn't sign it.

14 JANICE COOK: And I had one more question.  
15 Everything that's on here...everybody that's listed, that  
16 should be all the heirs whether they signed that agree-  
17 ment---.

18 MARK SWARTZ: No, no, no.

19 JANICE COOK: It's not.

20 MARK SWARTZ: This is only the people that's signed  
21 the agreement.

22 JANICE COOK: Okay, now what about the ones in red?

23 MARK SWARTZ: They have leases....or they don't  
24

1 have leases, I'm sorry.

2 JANICE COOK: Okay.

3 MARK SWARTZ: They signed a split agreement, but  
4 they don't have leases.

5 JANICE COOK: Okay.

6 MARK SWARTZ: It was just for our purposes. It  
7 doesn't matter to them.

8 JANICE COOK: But whether they sign the lease, will  
9 they still get paid?

10 MARK SWARTZ: If they...this is a list of everyone  
11 who signed the split agreement.

12 JANICE COOK: Uh-huh.

13 MARK SWARTZ: So, everybody on this list will get  
14 money as per these percentages.

15 JANICE COOK: Okay.

16 MARK SWARTZ: There are people that are not on this  
17 list because they didn't sign split agreements.

18 JANICE COOK: Oh, okay, I get it.

19 MARK SWARTZ: Because we can't disburse their money  
20 if they haven't agreed to it.

21 JANICE COOK: Okay, I see that. Okay, thank you.

22 BENNY WAMPLER: Mr. Osborne, can I get you back up  
23 here because you...you confused me a little bit?

24

--

1           RONNIE OSBORNE: I don't...I don't---.

2           BENNY WAMPLER: You're on here...you're on here---.

3           SHARON PIGEON: Get him sworn in.

4           BENNY WAMPLER: Go ahead and swear him in, if you  
5 will, please.

6           (Ronnie Osborne is duly sworn.)

7           BENNY WAMPLER: Ma'am, if you're through, would you  
8 mind letting him sit down there and so it will pick his  
9 testimony up?

10           (Janice Cook leaves the table.)

11           BENNY WAMPLER: I was a little confused when you  
12 said you object, because you're listed here to get money.  
13 Are you objecting to being listed?

14           RONNIE OSBORNE: I don't want it released because  
15 my wife has to sign my legal binding contracts. I told them  
16 on the phone that.

17           BENNY WAMPLER: So, you don't want your money---?

18           RONNIE OSBORNE: No.

19           BENNY WAMPLER: ---that's listed---?

20           RONNIE OSBORNE: No, sir.

21           BENNY WAMPLER: So that \$13.53 is excepted out?

22           RONNIE OSBORNE: My wife has to sign all legal  
23 binding contracts with me. I told them that on the phone.  
24

1           MARK SWARTZ: I don't represent Hurt McGuire. So,  
2 he's saying he doesn't have a binding agreement with them. I  
3 don't have a dog in that hunt. I don't care. But you need  
4 to understand Hurt McGuire is not here. They might not agree  
5 with him. I don't know.

6           SHARON PIGEON: They got noticed, right?

7           MARK SWARTZ: I imagine. I'm just saying, you  
8 know---.

9           BENNY WAMPLER: They were noticed?

10          MARK SWARTZ: ---he's raising a contract issue with  
11 somebody that's not me or my client.

12          BENNY WAMPLER: I understand that.

13          MARK SWARTZ: Okay.

14          RONNIE OSBORNE: I told the lawyer that sent me the  
15 letter that I...I had to have my wife to sign all legal,  
16 binding contracts.

17          SHARON PIGEON: How is your property titled?

18          RONNIE OSBORNE: Ma'am?

19          SHARON PIGEON: How is your property---?

20          RONNIE OSBORNE: It's heirship.

21          MARK SWARTZ: That's why it's just him.

22          RONNIE OSBORNE: But any legal, binding contracts  
23 since '91 my wife has to sign them.

24

--

1           SHARON PIGEON: Why since '91?  
2           RONNIE OSBORNE: Mental.  
3           SHARON PIGEON: Why since '91?  
4           RONNIE OSBORNE: I had a mining accident.  
5           SHARON PIGEON: Okay.  
6           (Benny Wampler and Sharon Pigeon confer.)  
7           BENNY WAMPLER: Any members of the Board have  
8 questions? I mean, he's asking to have his taken out of this  
9 pot and that's what we'll do. As far as---.  
10          MARK SWARTZ: It's fine with us.  
11          BENNY WAMPLER: ---we're concerned, the other party  
12 is not here.  
13          RONNIE OSBORNE: Well, I mean, that's all I know to  
14 do to be legal because, you know, she has to sign---.  
15          BENNY WAMPLER: We're...we're fine.  
16          RONNIE OSBORNE: Okay.  
17          BENNY WAMPLER: We'll do that.  
18          JIM McINTYRE: Mr. Chairman.  
19          RONNIE OSBORNE: Thank you.  
20          JIM McINTYRE: How does that affect...we're being  
21 asked to approve disbursement of funds on the highlighted  
22 section here and Hurt McGuire and Mr. Osborne have a  
23 disagreement. Hurt McGuire is in this yellow. How does that  
24

1 effect that?

2 BENNY WAMPLER: It's just another party that's...  
3 well, let me let Mr. Swartz answer that instead of me  
4 answering it.

5 MARK SWARTZ: It's going to reduce their share by  
6 an amount equal to what he's not getting.

7 JIM McINTYRE: Okay.

8 MARK SWARTZ: So, you're going to have to...when  
9 you issue the order, it's math. It's not going to change any  
10 of the percentages. You just need to double the percentage  
11 in that column, Mr. Wilson, and deduct that from the 24...you  
12 understand. I mean, it's just math. But it's twice.

13 BENNY WAMPLER: Other questions from members of the  
14 Board?

15 (No audible response.)

16 BENNY WAMPLER: Do you have anything further, Mr.  
17 Swartz?

18 MARK SWARTZ: No, I do not.

19 BENNY WAMPLER: Is there a motion?

20 BOB WILSON: Mr. Chairman.

21 BENNY WAMPLER: Mr. Wilson.

22 BOB WILSON: Once more, we need to state that we  
23 need the social security numbers of each recipient filed with

24

--

1 the Division of Gas and Oil under a separate cover, please,  
2 so we can furnish it to the bank.

3 MARK SWARTZ: That's their job.

4 BENNY WAMPLER: For those of you that are here, did  
5 you hear Mr. Wilson, he needs under a separate letter, your  
6 social security so he can...he's not going to keep it. He'll  
7 send it on to the bank so that they can pay it out. They're  
8 paying it out by social security number. So, you'll need to  
9 give him a handwritten note or typed note or whatever you  
10 want to do, a signed document with your social security  
11 number, so that you can get your money if you're in this...in  
12 this pool here. Is there a motion?

13 JIM McINTYRE: Motion to approve disbursement of  
14 escrowed funds.

15 DENNIS GARBIS: Second.

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

18 (No audible response.)

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

21 (All members signify by saying yes.)

22 BENNY WAMPLER: Opposed, say no. You have  
23 approval.

24

--

1           BOB WILSON: Mr. Chairman, just for clarification--  
2 -. .

3           BENNY WAMPLER: Mr. Wilson.

4           BOB WILSON: ---for purposes of drafting the order,  
5 that was Ronnie Osborne that pulled out, is that correct?

6           BENNY WAMPLER: That was Ronnie Osborne. The next  
7 item on the agenda is a petition from CNX Gas Company, LLC  
8 for disbursement of funds from escrow and authorization for  
9 direct payment of royalties on Tracts 1C, 1D, 1F and 1G, unit  
10 W-35, docket number VGOB-98-0324-0627-02. We'd ask the  
11 parties that wish to address the Board in this matter to come  
12 forward at this time.

13           MARK SWARTZ: Mark Swartz and Anita Duty.

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

16

17                                   ANITA DUTY

18                                   DIRECT EXAMINATION

19 QUESTIONS BY MR. SWARTZ:

20           Q.       State your name again, please.

21           A.       Anita Duty.

22           Q.       Who do you work---?

23           JANICE COOK: We're with that same one.

24

--

1           BENNY WAMPLER: Okay.

2           JANICE COOK: Will we get another paper or not?

3           BENNY WAMPLER: It's the same one. It's on the  
4 back, the second sheet.

5           PEGGY BARBAR: Second page.

6           JANICE COOK: Okay, so I don't need to come then.

7           BENNY WAMPLER: Okay. Go ahead, Mr. Swartz.

8           Q.       Who do you work for?

9           A.       CNX Gas Company.

10          Q.       And among your other duties, is one of your  
11 duties to reconcile royalty payments with bank statements for  
12 escrow accounting?

13          A.       Yes.

14          Q.       Did you do that with regard to W-34?

15          A.       Yes, I did.

16          Q.       And have you given the Board a spreadsheet  
17 with regard to a disbursement from escrow concerning people  
18 who have executed split agreements?

19          A.       Yes.

20          Q.       And what...what documents did you look at  
21 and compare and what were your conclusions?

22          A.       I compared the payments that were sent to  
23 the escrow agent and compared to their ledgers and everything

24

--

1 balanced.

2 Q. Okay. And were you focusing on a particular  
3 tract for disbursement?

4 A. Tract 1G.

5 Q. Okay. So, Tracts 1A, B, C, D, E and F funds  
6 associated with those tracts are going to remain on deposit?

7 A. Yes, and 1H.

8 Q. Okay, and 1H as well, which is down at the  
9 bottom, correct?

10 A. Yes.

11 Q. And with regard to 1G, has everybody in 1G  
12 signed a split agreement or are there some people who have  
13 not?

14 A. There's still some that have not.

15 Q. Okay. So, the folks that are listed on the  
16 Exhibit you've given the Board today with regard to 1G are  
17 only the people who have signed split agreements?

18 A. Correct.

19 Q. What is...what was the date on which you did  
20 this balance...I mean, as when you did the balance?

21 A. January the 31st, 2005.

22 Q. So, if there has been additional royalty  
23 payments since then, and there probably have, the balance

24

--

1 would probably be greater as we sit here today?

2 A. Yes.

3 Q. But at least as of the 31st of '05, what  
4 were the dollars on deposit associated with Tract 1G and the  
5 people on the list that you've tendered today?

6 A. Just for Tract 1G was \$15,756.57.

7 Q. Okay. And for each person on your list,  
8 you've listed their percentage?

9 A. Yes.

10 Q. And the dollars as of January the 31st?

11 A. Yes.

12 Q. And in terms of entering an order here, are  
13 you recommending to Mr. Wilson and the Board that they use  
14 the percentages at the time of the disbursement to calculate  
15 from scratch the dollars and cents attributable to each  
16 person who is going to receive a disbursement?

17 A. Yes.

18 Q. Okay. And are you also asking that once  
19 that happens, once there is a disbursement and an order  
20 entered, that you be allowed to pay these people...that the  
21 designated operator be allowed to pay these people directly?

22 A. Yes.

23 MARK SWARTZ: Okay. I think we probably need to

24

--

1 have Mr. Osborne let us know if he wants out of this as well.

2 BENNY WAMPLER: He said any of them. He left the  
3 room.

4 MARK SWARTZ: Oh, okay. All right, well, let's---

5 BENNY WAMPLER: So, we'll take him out based on  
6 his---

7 MARK SWARTZ: Let's take him out of this one.

8 BENNY WAMPLER: ---prior testimony.

9 PETER GLUBIACK: Mr. Chairman. What Mr. Swartz has  
10 done, I have a question about the other A, B, C, D, E, F up  
11 to G tracts in that unit. I represent Mr. Rowe. I was just  
12 want to make sure that I've got something---

13 BENNY WAMPLER: If you'll come up and just state  
14 your name for the record and when we get finished we'll let  
15 you do that.

16 PETER GLUBIACK: Good morning, Mr. Chairman, again.  
17 My name is Peter Glubiack and I represent Mr. Dewey Rowe who  
18 is on both of those tracts, I believe, 1A through E and 1A  
19 through F. I just wanted to be clear, from what I  
20 understand, and from the procedure that Mr. Swartz is going  
21 through here, that there is no agreement with...there is  
22 no...nothing on the table with regard to disbursal of those  
23 tracts attributable to...sub tracts attributable to Dewey

24

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1 Rowe?

2 BENNY WAMPLER: I don't see him on here. Is he on  
3 here?

4 MARK SWARTZ: No.

5 BENNY WAMPLER: No. So, it's understood that---.

6 PETER GLUBIACK: Well, he's on that list, but it's  
7 not...it's not highlighted from what I can see. He's on  
8 Tracts A, B, C, D---.

9 BENNY WAMPLER: He's not on the list is what I'm  
10 telling you.

11 SHARON PIGEON: He's on disbursement on 1A.

12 ANITA DUTY: Yeah.

13 BENNY WAMPLER: I mean...well, that's not what  
14 we're dealing with though.

15 PETER GLUBIACK: Well, that's what I want to make  
16 sure. It's unclear when you see these spreadsheets what's  
17 being ordered. What's being ordered is strictly what has  
18 been highlighted.

19 BENNY WAMPLER: Well, I'll let you ask him later.  
20 Go ahead, Mr. Swartz, through your testimony and then  
21 we'll...we'll let you ask him for the record. But it's my  
22 understanding of it, we're only dealing with what is  
23 highlighted in 1G at the present time.

24

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1 Q. Is your request, given your testimony today,  
2 limited to Tract 1G?

3 A. Yes.

4 BENNY WAMPLER: Did you have anything further?

5 MARK SWARTZ: No.

6 PETER GLUBIACK: That's fine. Thank you.

7 BENNY WAMPLER: Okay. Questions from members of  
8 the Board?

9 (No audible response.)

10 BENNY WAMPLER: Mr. Wilson, of course, here again  
11 you need social security numbers for individuals---

12 BOB WILSON: Yes, sir.

13 BENNY WAMPLER: ---for disbursement.

14 BOB WILSON: And I would point out that, assuming  
15 I've got a proper document in front of me here, the  
16 application actually mentions Tracts 1C, 1D, 1F and 1G.

17 BENNY WAMPLER: Yeah, I've called those.

18 MARK SWARTZ: Right.

19 BENNY WAMPLER: But they're only dealing with 1G.  
20 That was clarified---

21 MARK SWARTZ: Correct.

22 BENNY WAMPLER: ---here today for the record,  
23 right?

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1           MARK SWARTZ: Right.

2           BENNY WAMPLER: Is there a motion?

3           JIM McINTYRE: Motion we approve the disbursement  
4 of funds.

5           MASON BRENT: Second.

6           BENNY WAMPLER: Second. Any further discussion?  
7 (No audible response.)

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

10           (All members signify by saying yes.)

11           BENNY WAMPLER: Opposed, say no.  
12 (No audible response.)

13           BENNY WAMPLER: You have approval.

14           MARK SWARTZ: Thank you all.

15           BENNY WAMPLER: We'll take a ten minute break and  
16 come back. Equitable Production Company will be getting set  
17 up.

18           (Break.)

19           BENNY WAMPLER: The next item on the agenda is a  
20 petition from Equitable Production Company for creation and  
21 pooling of conventional gas unit V-536721, docket number  
22 VGOB-05-0419-1435. We'd ask the parties that wish to address  
23 the Board in this matter to come forward at this time. Go  
24

1 ahead and state your name.

2 JIM KAISER: Jim Kaiser and Don Hall on behalf of  
3 Equitable Production Company.

4 BENNY WAMPLER: Mark, go ahead with---.

5 MARK SWARTZ: Oh, okay.

6 BENNY WAMPLER: I'm just going to go ahead and get  
7 it called.

8 MARK SWARTZ: Okay. Your Honor, we...at the  
9 request of Mr. Wilson, Anita is here to supplement the record  
10 very briefly with regard to CBM unit BB-33. There's a  
11 conflict between some of the documents and Bob needed that  
12 resolved to help him enter a supplement order. Anita, could  
13 you get that...get that issue to supplement?

14 ANITA DUTY: Okay, for unit BB-33, when we  
15 initially force pooled it and then a Board order was issued  
16 we...on Exhibit E we had Tracts...well, let me find my tract.  
17 We had Tract 2 listed as having a royalty split agreement.  
18 It was Consolidation coal owner and oil and gas and Coal  
19 Mountain. It has come to my attention that we don't actually  
20 have a royalty split that way. So, we have to put it on the  
21 Es where it needs to go to escrow. So, on the supplemental  
22 order I moved it to the E and took it off the EE and Bob just  
23 wanted me to clarify that there's no royalty split there

24

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1 anymore or never was one.

2 BENNY WAMPLER: What was that docket number?

3 ANITA DUTY: It's VGOB-04-0817-1318.

4 BOB WILSON: And the questions was whether or not  
5 this needed to come back on as an agenda item or if we can  
6 just take care of it in testimony here. Basically, it's  
7 another attempt to make sure that the supplement order and  
8 the original order and application all agree.

9 BENNY WAMPLER: What about...what about notice?

10 MARK SWARTZ: Well, I guess to my way of thinking,  
11 it protects Coal Mountain as opposed to not. So---

12 SHARON PIGEON: You're saying you don't have an  
13 agreement that you said, before you did have?

14 MARK SWARTZ: We did...we mistakenly represented  
15 that we had a split agreement with them. We do not. We need  
16 to escrow those funds. I mean, they had notice of the first  
17 hearing. They could have showed up and said we don't have a  
18 split agreement. It was a mistake that we caught. So, I  
19 don't see a notice issue here. We're not changing anything  
20 that affects them.

21 BENNY WAMPLER: We need notice and get back on the  
22 docket next time.

23 MARK SWARTZ: Okay. I mean, can't you just put it  
24

--

1 on the docket? We don't need to file an application---

2 BOB WILSON: We can...we can put it...yes, I can  
3 put it on the docket---

4 MARK SWARTZ: And then we'll just mail to them and  
5 tell them---

6 BOB WILSON: ---if notice is mailed.

7 MARK SWARTZ: And we'll just mail to them, right.

8 BENNY WAMPLER: If you...if you correct the notice  
9 issue.

10 MARK SWARTZ: Not a problem, okay, great.

11 BENNY WAMPLER: Okay. All right.

12 TRULA POWERS: Could I have that explained what  
13 they just did to Tract 2 on that unit?

14 COURT REPORTER: What is your name, ma'am?

15 TRULA POWERS: Trula Powers.

16 BENNY WAMPLER: Actually, what they did didn't mean  
17 a thing. They're going to have to notice it and come back.

18 TRULA POWERS: Okay.

19 BENNY WAMPLER: It was what they tried to do and  
20 that was probably just a waste of your time.

21 TRULA POWERS: Okay, okay. Thank you.

22 BENNY WAMPLER: We're now discussing docket number  
23 VGOB-05-0419-1435.

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1 address of some of the parties that we have leased. And, we  
2 also have the pin numbers that are...to each tract that are  
3 now required by certain counties, for purposes of recording  
4 the orders, I put those pin numbers in the exhibit.

5 Q. And those are the only changes?

6 A. Yes, sir.

7 Q. Okay. Are you familiar with the application  
8 Equitable filed seeking establishment of a unit here in the  
9 pooling of any...any unleased interest, which is dated March  
10 the 18th, 2005?

11 A. Yes, sir.

12 Q. Does Equitable own drilling rights in the  
13 unit involved here?

14 A. We do.

15 Q. Prior to filing the application, were  
16 efforts made to contact each of respondents named in Exhibit  
17 B and an attempt made to work out a voluntary lease  
18 agreement?

19 A. Yes, sir.

20 Q. Was the interest of Equitable under lease in  
21 the unit present?

22 A. We have 97.16% after it was leased.

23 Q. Are all the unleased parties set out in  
24

1 Exhibit B-3?

2 A. They are.

3 Q. And what is the interest in the unit that  
4 remains unleased?

5 A. 2.84%.

6 TRULA POWERS: Excuse me, what percent was that,  
7 sir?

8 JIM KAISER: 2.84%.

9 TRULA POWERS: 2.84.

10 Q. Okay. And in this particular unit, we do  
11 not have any unknown interest owners, is that correct?

12 A. That's correct.

13 Q. And in your professional opinion, was due  
14 diligence exercised to locate each respondents named in  
15 Exhibit B?

16 A. It was.

17 Q. And are the addresses set out in revised  
18 Exhibit B, the last known addresses for the respondents?

19 A. Yes.

20 Q. Are you requesting this Board to force pool  
21 all unleased interest listed at Exhibit B-3?

22 A. We are.

23 Q. Are you familiar with the fair market value  
24

1 of drilling rights in the unit here and in the surrounding  
2 area?

3 A. Yes.

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

6 A. We pay a five dollar bonus on a five year  
7 term with a one-eighth royalty.

8 Q. In your opinion, does the terms you've just  
9 testified to represent the fair market value of and fair and  
10 reasonable compensation to be paid for drilling rights within  
11 this unit?

12 A. They do.

13 Q. Now, as to those respondents who have not  
14 voluntarily agreed to lease and remain unleased and are  
15 listed at Exhibit B-3, do you agree that they be allowed the  
16 following statutory options with respect to their ownership  
17 interest within the unit: 1) participation, 2) a cash bonus  
18 of five dollars per net mineral acre plus a one-eighth of  
19 eight-eighths royalty, 3) in lieu of a cash bonus and one-  
20 eighth of eight-eighths royalty, share in the operation of  
21 the well on a carried basis as a carried operator under the  
22 following conditions: Such carried operator should be  
23 entitled to the share of production from the tracts pooled  
24

1 accruing to his interest exclusive of any royalty or  
2 overriding royalty reserved in any leases, assignments  
3 thereof or agreements relating to of such tracts, but only  
4 after the proceeds applicable to his share equal a)300% of  
5 the share of such cost applicable to the interest of the  
6 carried operator of a leased tract or a portion thereof; or  
7 b) 200% of the share of such cost applicable to the interest  
8 of the carried operator of a unleased tract or portion  
9 thereof?

10 A. Yes.

11 Q. Do you recommend that the order provide that  
12 elections from our respondents be in writing and sent to the  
13 applicant at Equitable Production Company, 1710 Pennsylvania  
14 Avenue, Charleston, West Virginia 25328, Attention: Melanie  
15 Freeman?

16 A. Yes.

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

20 A. It should.

21 Q. Do you recommend that the order provide that  
22 if no written election is properly made by a respondent then  
23 such respondent should be deemed of electing the cash option  
24

1 in lieu of participation?

2 A. Yes.

3 Q. Should unleased respondents be given 30 days  
4 from the date that they receive the Board order and their  
5 election letter to actually file the written elections?

6 A. Yes.

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

10 A. Yes.

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

14 A. We do.

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

20 A. Yes, sir.

21 Q. Do you recommend the order provide that if  
22 the respondent elects to participate, but fails to pay the  
23 proportionate share of well cost satisfactory to the

24

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1 applicant for payment of those costs, then their election to  
2 participate should be treated as having been withdrawn and  
3 void and respondent should be treated as if no initial  
4 election had been filed under the force pooling order, in  
5 other words deemed to of leased?

6 A. Yes, sir.

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

13 A. Yes.

14 Q. Okay. This is a conventional gas well, we  
15 do not have any unknown or unlocateable interest owners  
16 within the unit. So the Board does not need to establish an  
17 escrow account, is that correct?

18 A. That's correct.

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

21 A. Equitable Production Company.

22 Q. And what is the total depth of the proposed  
23 well under the plan of developments?

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1 A. 6245 feet.

2 Q. What are the estimated reserves for this  
3 unit?

4 A. 250 million cubic feet.

5 Q. Are you familiar with the well costs?

6 A. Yes.

7 Q. Has an AFE been reviewed, signed and  
8 submitted to the Board as Exhibit C to the application?

9 A. It has.

10 Q. Was the AFE prepared by an engineering  
11 department knowledgeable in the preparation of AFEs and  
12 knowledgeable in regard to well costs in this particular  
13 area?

14 A. Yes.

15 Q. And in your opinion, does the AFE represent  
16 a reasonable estimate of the well costs?

17 A. It does.

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

20 A. The dry hole costs would be \$208,251.  
21 Completed well cost is \$427,598.

22 Q. Do these costs anticipate a multiple  
23 completion?

24

1 A. They do.

2 Q. Does your AFE include a reasonable charge  
3 for supervision?

4 A. Yes.

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

9 A. Yes.

10 JIM KAISER: Nothing further of this witness at  
11 this time, Mr. Chairman.

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

14 (No audible response.)

15 BENNY WAMPLER: Mrs. Powers, do you have a comment?

16 TRULA POWERS: Yes. I would like to say that my  
17 name is Trula Powers and I am here to represent myself and my  
18 husband, Leonard Powers, and I have a power of attorney to do  
19 that with. I do object to continuing with the drilling of  
20 these wells because true ownership of Unit 2 has not been  
21 brought forth. My husband and his sister owns this property.

22 I have some evidence I would like to enter into evidence for  
23 you showing that even back in 1948, the land that is now

24

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1 claimed to be Missouri I. Kaiser property was thought to  
2 be.....belonged to John Powers, my husband's dad. They  
3 thought they owned it and until 19...until 1994, when the  
4 well...another well was drilled near that, until there were a  
5 lot of deed searches that came up and, in fact, on the  
6 first...the first plot that was drawn up by EREC also shows  
7 my husband and his...the rest of the heirs as owners to that  
8 property. And I also have that with me that I would like to  
9 enter as evidence. So, we went to the Clerk and the  
10 Treasurer in 1994 and they said this...apparently this land  
11 wasn't taken possession of. It was deeded back in 1911. And  
12 so my husband's family thought that they owned all of this  
13 property until we went...until we went into force pooling of  
14 the last well. When there were some deed searches and this  
15 deed was found, this was always Powers property. This was  
16 always John M. Powers property. And I would like to submit  
17 this. This is a lease made by Clinchfield Coal Corporation  
18 back in 1948, which is property that was...is now the Don  
19 Owens property, which is actually property, I think, Number  
20 One. It's David Powers property now. But...in fact, this  
21 was David Powers' grandfather that leased this to Clinchfield  
22 Coal Corporation. And it says that on the east of the land  
23 is John Powers, on the south of the land is John Powers, on

24

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1 the west of the land is John Powers. This is 1948. This was  
2 always considered to be John M. Powers property. And so when  
3 we went to talk to the Treasurer and the Clerk, they said the  
4 best thing you can do is file a quitclaim deed which we did,  
5 my husband and his sister, which were the last heirs of J. H.  
6 Powers, the last living grandchildren of J. H. Powers. They  
7 filed a quitclaim deed. They set us up a tax number. I also  
8 have this years tax form and our canceled check for the  
9 payment. We've been paying taxes on this since 1994. We  
10 have...we've been paying the taxes. So, if anybody wants to  
11 find out who owns that property, all you have to do is go to  
12 the Clerk's office, find the...the deed and you'll find the  
13 quitclaim deed that was filed in 1994.

14 BENNY WAMPLER: Now, are you talking of Tract 3?

15 TRULA POWERS: I'm talking of Tract 2.

16 BENNY WAMPLER: Tract 2.

17 TRULA POWERS: Yes, sir. It's the Missouri I.  
18 Kaiser tract.

19 BENNY WAMPLER: Is the well proposed to be drilled  
20 on Tract 2?

21 TRULA POWERS: On Tract 2, yes, sir.

22 DON HALL: No, the well is on Tract 1.

23 BENNY WAMPLER: Tract 1, I couldn't tell.

24

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1           TRULA POWERS: I'm sorry, I stand corrected. I  
2 thought it was on Tract 2.

3           BENNY WAMPLER: Of course, the Board doesn't really  
4 need to see your deeds or anything because we're not going to  
5 make any determination on ownership. The whole purpose of  
6 this would be to escrow the dispute. That is the purpose of  
7 having that provision to pool.

8           TRULA POWERS: Well, should we not hold this up  
9 until...until ownership is cleared, sir?

10          BENNY WAMPLER: The whole purpose of the law was so  
11 that that wouldn't happen. They can go forward. The law was  
12 so that the ownership of the coalbed methane itself was  
13 determined. You're talking about the ownership of the land--  
14 -.

15          TRULA POWERS: Exactly.

16          BENNY WAMPLER: ---not the coal...but are you also  
17 claiming ownership of coalbed methane?

18          TRULA POWERS: Absolutely.

19          DON HALL: This is a conventional well.

20          BENNY WAMPLER: I'm sorry, I'm saying...I knew  
21 that, but I'm saying coalbed---.

22          TRULA POWERS: And the gas...and the gas. We do  
23 claim ownership of the gas.

24

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1           BENNY WAMPLER: --and the gas, is what I meant to  
2 be saying.

3           TRULA POWERS: Right.

4           BENNY WAMPLER: Yes.

5           (Benny Wampler and Sharon Pigeon confer.)

6           TRULA POWERS: It seems like possession is nine-  
7 tenths of the law, and we can show that we've been paying  
8 taxes since 1994 on this land. And I would just like to  
9 quote a U. S. Supreme Court ruling back in 1972, which was  
10 concerning fundamental civil rights. Lynch versus Household  
11 Finance, "The right to liberty is inseparable from the right  
12 to property." They also noted, "One cannot exist without the  
13 other." And I...I just think it's wrong that this can go  
14 forward when there is definitely a legal dispute on this  
15 land. This property has been put up twice for sale for  
16 delinquent taxes supposedly, but they had it confused with  
17 another M. I. Kaiser property. We have stopped that both  
18 times from...from happening. The last time there was  
19 supposed to be a hearing, that was back in 19...2000, which I  
20 also have information here, there was supposed to be a  
21 hearing. By the time we saw it in the paper, we only had two  
22 days we would have had to get from Idaho to...to Virginia.  
23 So, we called to find out concerning this. Nobody showed up

24

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1 for...for the hearing.

2           BENNY WAMPLER: Under...under the...the law for  
3 conventional wells, they have to show 25% interest that they  
4 have. They've shown that, 38%. The rest, you have...I mean,  
5 to me, you've proven that we've got a conflict here. They've  
6 represented no conflict. So, we...you know, they have to  
7 deal with something here, but it doesn't stop them from going  
8 forward. It would take the Court of law to do that. It  
9 won't be the Board because the Virginia law allows them to go  
10 forward.

11           TRULA POWERS: I understand that. Well, maybe that  
12 could be arranged.

13           BENNY WAMPLER: Do you understand what I'm saying--  
14 -?

15           TRULA POWERS: I understand, sir.

16           BENNY WAMPLER: ---the Virginia Law allows them to  
17 go forward with the...with the well.

18           TRULA POWERS: I do understand that because we've  
19 been through this before.

20           BENNY WAMPLER: Right. Right. But they do---.

21           TRULA POWERS: Yes, sir.

22           BENNY WAMPLER: But you have established that we  
23 have a conflict here and they haven't proposed an escrow and  
24

1 that's something that you...you know, you'll have to make a  
2 decision on what you're going to do here.

3 TRULA POWERS: So, there...there will be an  
4 es...escrow concerning this?

5 BENNY WAMPLER: I don't know what they're going to  
6 do. They may with...may continue, may withdraw or whatever.  
7 It's up to them.

8 DON HALL: Our records indicate that the Missouri  
9 Kaiser heirs on Tract Number 2, we have all of those heirs  
10 leased. And I don't think we should escrow people that we  
11 have leased as...that own the property.

12 TRULA POWERS: But, sir, have you...have you  
13 checked the ownership?

14 JIM KAISER: Yes.

15 TRULA POWERS: Have you checked?

16 JIM KAISER: Yeah.

17 DON HALL: Yes. We do title opinions.

18 TRULA POWERS: You have checked and they are  
19 paying the taxes on the property?

20 JIM KAISER: Yeah, our examination shows that  
21 these Missouri Kaiser heirs that we have listed as owning  
22 this tract, in the undivided interest that they own, as being  
23 the correct ownership.

24

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1           TRULA POWERS: Where would you get that  
2 information, sir? From them directly?

3           JIM KAISER: From the Dickenson County---.

4           DON HALL: Tax ID numbers are on there.

5           JIM KAISER: Yeah, the Tax ID numbers are on there.

6           TRULA POWERS: You got that from a Tax ID number?

7           JIM KAISER: Yeah.

8           TRULA POWERS: Oh, I see.

9           JIM KAISER: I mean, I think what we got here is a  
10 case where...and this dispute goes back to the 90's. I mean,  
11 they came before us with this same thing when we were having  
12 these hearings at the 4-H center. You know, they need to  
13 file a declaratory judgement against the Missouri Kaiser  
14 heirs to determine who owns this property and then once  
15 that's determined, we'll...we'll be glad...if it's determined  
16 that you own it, we'll be glad to pay you. But if we escrow  
17 this, then we're telling our lessors, who we did...who we did  
18 title on it and determined that they owned it and took a  
19 lease from, that maybe they don't own it. We can't do that.

20           TRULA POWERS: When...when did you lease from them,  
21 sir?

22           DON HALL: Over the last several years, we leased  
23 to them.

24

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1           TRULA POWERS: Oh, since '94, probably?

2           DON HALL: Uh-huh.

3           JIM KAISER: Her remedy is in Court.

4           DON HALL: I think we had some leased in '94.

5           TRULA POWERS: I under...I think I do understand  
6 that, sir, that the remedy is in Court and that it probably  
7 needs to go to Court. But I felt that we---

8           JIM KAISER: And if we're paying...if it's  
9 determined that she owns it and we've paid the wrong people,  
10 then she's got an action against them to get the money back  
11 from them.

12           TRULA POWERS: Sir, can you give me that tax  
13 number?

14           JIM KAISER: Yeah, it's 188771.

15           BENNY WAMPLER: Why don't you look at what she's  
16 paying tax on there and explain that.

17           TRULA POWERS: Where did...where did you get that?

18           DON HALL: She's paying tax on a setup date, I  
19 think is what she was saying, on a quitclaim deed.

20           TRULA POWERS: See this...this is this last year's  
21 taxes.

22           BENNY WAMPLER: There's two people paying taxes on  
23 that tract now.

24

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1           SHARON PIGEON: So, the county is collecting double  
2 taxes?

3           JIM KAISER: Yeah, they'd be glad to do that.

4           TRULA POWERS: Could I have...could I have the tax  
5 number?

6           JIM KAISER: Yeah. It's on your---.

7           TRULA POWERS: Well, it will be on my...it will be  
8 on mine.

9           JIM KAISER: Yes, ma'am, 18771.

10          TRULA POWERS: 18771. I need to know, does the  
11 Board need any of the...of the evidence that I have in my---?

12          BENNY WAMPLER: Maybe or maybe not. Can you look  
13 and verify that she's paying taxes on that same tract of  
14 land?

15          JIM KAISER: I don't know.

16          BENNY WAMPLER: And I'll just tell you where I'm  
17 going, if you can, then you've got an escrow situation.

18          TRULA POWERS: Okay. This is on our 40...other 46  
19 acres that is also included in with this....this what you're  
20 doing, the pooling that you're doing now. We also have...  
21 this Tract 3 is us, I think. Leonard Powers is Tract 3.

22          JIM KAISER: Yeah, you're Tract 3.

23          TRULA POWERS: Okay. Yeah, we're also Tract 3 and  
24

1 that's one of these others is listed. But this one is...this  
2 is the M. R...M. I. Kaiser property right here, which shows  
3 the tax number of the canceled check along with the tax...the  
4 tax paper.

5 (Jim Kaiser, Don Hall confer with Trula Powers.)

6 JIM KAISER: Yeah, we say it's 41.87 acres---?

7 TRULA POWERS: Right.

8 JIM KAISER: But see that's the Missouri Kaiser  
9 area---.

10 TRULA POWERS: Right.

11 JIM KAISER: ---tax 18771.

12 TRULA POWERS: Uh-huh.

13 JIM KAISER: This is 46 acres, which is what your  
14 Tract number 3 is.

15 TRULA POWERS: Yeah, I know. And this is it. This  
16 is that 46 acres. But they have it listed up there...also  
17 this one is a 46. But that...but actually the...the deed  
18 states it as 45 acres and so many poles or whatever. It's  
19 better than 45 acres. So, I guess, they probably rounded it  
20 to 46 is what they did. But this one is to my husband and  
21 his sister, Bonnie C. Kaiser.

22 JIM KAISER: Well that's who made...that's who they  
23 made the quitclaim deed to, right?

24

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1           TRULA POWERS: Exactly. Uh-huh. That's a  
2 quitclaim deed.

3           JIM KAISER: Well, anybody can make a quitclaim  
4 deed.

5           SHARON PIGEON: Anybody can make any of these  
6 deeds. That's not going to be helpful for us.

7           TRULA POWERS: And also...again, I have things here  
8 that shows that this land belonged to my husband's father  
9 back in 1948. It's on a lease from Clinchfield Coal  
10 Corporation. It was on...it's on Clinchfield maps. It was  
11 on the Clinchfield maps when...when the last well was drilled  
12 up on the...the...the Don Owens property.

13                   (Jim Kaiser and Don Hall confer.)

14           TRULA POWERS: This...this was...this was from the  
15 last...the last well that was drilled on there that...that  
16 was pooled in 1994. And this states that this was the  
17 Leonard Powers and other heirs. Tract 3 is the same as the  
18 Tract 2 on that one. But this one was Tract 3 on the other  
19 one.

20           DON HALL: I think that plat was corrected later.  
21 There was a mistake in the plat. (Inaudible.)

22           TRULA POWERS: It was, yes, I agree. It was  
23 changed later when...when the...when...somehow they found

24

--

1 this deed that nobody knew anything about. You know, my  
2 husband's family knew nothing about. I'm sure his father  
3 probably would have remembered something from way, way, back  
4 when that...that it was deeded but it was never taken  
5 possession of, never, and that was what the...the Clerk told  
6 us. It has never been taken possession of. So, since it  
7 wasn't the best thing you can do, since you two are the last  
8 heirs to J. H...the J. H. Powers' property, the best thing  
9 you can do is to do a quitclaim deed, and that's what we did.  
10 That's what they did at the time and we've been paying taxes  
11 on it ever since. And we had assumed that it was the same  
12 thing. Clinchfield Coal Corporation was...was going on the  
13 fact that it was...was John Powers' land all that time it was  
14 on it was...it was on their maps. It was on their maps in  
15 1994. It's probably off by now because when they  
16 found...when they found the Missouri Kaiser deed, then it  
17 probably got changed. But it was on the Clinchfield maps  
18 even that that belonged to John Powers, Leonard's father.

19 DON HALL: I think what she's referring to is  
20 adjoiners in a lease...oil and gas lease that refers to John  
21 Powers. Clinchfield owns the coal on the John Powers' tract.  
22 It probably just referred to that as the---

23 TRULA POWERS: Oh this...this is the one, this one

24

--

1 that I'm showing you that this is always been believed to be  
2 the John Powers property. See, this is a lease that  
3 Clinchfield Coal Corporation made with Floyd Powers and Aley  
4 Powers, that's...that's the grandparents of David Powers that  
5 owns this property right there now. But they were bounded on  
6 the east, south and west by John Powers and...and the one on  
7 the south is this Missouri Kaiser tract of land. Even in  
8 1948, it was believed by Clinchfield Coal Corporation, it was  
9 believed by W. F. Powers and Aley Powers to believe...to be  
10 that. This is...this is on the lease in 1948 that that  
11 property belonged to John Powers. And the whole family  
12 believed it belonged to John Powers until 1994 when they find  
13 this...this deed, Missouri Kaiser deed.

14 BENNY WAMPLER: Mr. Kaiser, did you do the  
15 research? Have you studied these deeds?

16 JIM KAISER: We did the title. It has probably  
17 been some time ago. I don't have it with me. I mean, we've  
18 looked at this fairly extensive, and like I said, this goes  
19 back ten years or more. I mean, obviously, if she goes...if  
20 she files a declaratory judgement action, or quiet title  
21 action, or whatever in Dickenson Circuit Court, we'll have to  
22 defend our title, and we're certainly willing to do that.  
23 Normally...well, we'll have...we've got legal problems if we

24

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1 agree to escrow this with the people...with our lessors.

2           TRULA POWERS: I believe that these people, these  
3 heirs that you have down here, I think they do not have any  
4 interest in this property. When it was...it was put up for  
5 sale in 1998. When they put it up for sale, we called to see  
6 if it was going to be sold. They said, no. You've been  
7 paying the taxes regularly. There's no taxes on this, so it  
8 will not be sold. Then in 2000, it was put up for sale again  
9 and this was supposedly for delinquent taxes. There were no  
10 delinquent taxes. But there was supposed to be a meeting...a  
11 hearing. We wouldn't have had time to get there. So we  
12 called the Chancery that was appointed by the Court to take  
13 care of this. And I called him and talked to him and he  
14 said...I asked him who...who showed? I was curious, you  
15 know, if...if these people really are going to claim this or  
16 if they want this property. Nobody showed. It would have  
17 been sold by now had my husband and I not stopped it twice.  
18 I have a...I also have a letter on file that I had sent to  
19 the 9th District Court when that was trying to be sold. I  
20 sent a letter to them and they sent me back a letter saying  
21 that they was keeping my letter on file. I told them that it  
22 has been...they've tried to sell it twice for delinquent  
23 taxes and there's no delinquent taxes against it. And so I

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1 have a letter here saying that they...that they...they're  
2 keeping that letter on file in case it comes up again or is  
3 needed to be brought forth again.

4 BENNY WAMPLER: Well, understand, we're not going  
5 to make any decision on ownership. That's not the  
6 Board's---

7 TRULA POWERS: I understand that's not your job.

8 BENNY WAMPLER: ---that's not our job. I'm going  
9 to ask our attorney to advise the Board on...on...from a  
10 standpoint of what actions we have available to us. I  
11 mean...

12 SHARON PIGEON: Well, this woman has documentation  
13 that she has paid taxes on this property and that's a record  
14 document that should have been disclosed in a good title  
15 search. There's a quitclaim deed apparently on file that  
16 should have been disclosed in the good title search. So, it  
17 appears that there's a conflict on Tract 2 and that should be  
18 escrowed. You have the option of continuing it and offering  
19 the parties the opportunity to come back with their title  
20 searches. But right now her evidence is as good as yours on  
21 your title work.

22 TRULA POWERS: I believe that this would have been  
23 sold. These people who are listed here as heirs to M. I.

24

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1 Kaiser, they did not...the have not shown up at any of these  
2 meetings. They...it would have been sold if we would not  
3 have gotten a quitclaim deed somebody else would own the  
4 property now. It would not...it wouldn't---

5 JIM KAISER: Okay.

6 TRULA POWERS: ---still be there.

7 JIM KAISER: We don't have any problem with the  
8 Board ordering escrow on Tract 2. We just want to make sure,  
9 we're clearly on the record opposing it and standing by our  
10 title. And then, you know, we can work with Ms. Powers and  
11 see if there is a resolution to this that doesn't involve a  
12 Circuit Court action.

13 BENNY WAMPLER: Okay. Is there a motion?

14 MASON BRENT: So moved, Mr. Chairman.

15 BENNY WAMPLER: Moving to approve with escrow.

16 MASON BRENT: With escrow, yes, sir.

17 DENNIS GARBIS: Second.

18 JIM McINTYRE: Second.

19 BENNY WAMPLER: Motion is second. Any further  
20 discussion?

21 (No audible response.)

22 BENNY WAMPLER: All in favor sig---

23 TRULA POWERS: Can you tell me what just happened?  
24  
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1           BENNY WAMPLER: All in favor, signify by saying  
2 yes.

3           (All members signify by saying yes.)

4           BENNY WAMPLER: Opposed, say no.

5           (No audible response.)

6           BENNY WAMPLER: You have approval. We just  
7 approved the application. We required them to escrow Tract  
8 2.

9           TRULA POWERS: Approved the application.

10          SHARON PIGEON: This tract will be escrowed. The  
11 funds will be escrowed.

12          BENNY WAMPLER: It will go into escrow. They'll  
13 work---.

14          TRULA POWERS: The funds for that tract will be  
15 escrowed?

16          BENNY WAMPLER: They're agreeing to work with you  
17 to try to resolve the issue.

18          TRULA POWERS: Okay.

19          JIM KAISER: Until we get it resolved.

20          TRULA POWERS: Fair enough. Fair enough.

21          BENNY WAMPLER: (Inaudible) time to come back  
22 before the Board.

23          TRULA POWERS: Fair enough.

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1           BENNY WAMPLER: The next item on the agenda is a  
2 petition from Equitable Production Company for pooling of  
3 coalbed methane unit VC-504886. This is docket number VGOB-  
4 05-0419-1436. We'd ask the parties that wish to address the  
5 Board in this matter to come forward at this time.

6           JIM KAISER: Mr. Chairman and members of the Board,  
7 Jim Kaiser and Don Hall, again, on behalf of equitable  
8 production. We have a set of revised of exhibits on this  
9 well also.

10           BENNY WAMPLER: Thank you, Mrs. Powers.

11           TRULA POWERS: Thank you, sir.

12           (Don Hall passes out exhibits.)

13           BENNY WAMPLER: Let the record show no others. You  
14 may proceed.

15           JIM KAISER: Mr. Chairman and members of the Board,  
16 the only revision on this revised set of exhibits is to  
17 add...again, to add the pin numbers as now required by  
18 Dickenson County.

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DON HALL

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

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

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

Q. And are you familiar with the...Equitable's application seeking to pool any unleased interest in this unit, which was dated May the 18th, 2005?

A. Yes.

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

A. We do.

Q. Prior to filing the application, were efforts made to contact each of respondents and an attempt made to work out an agreement regarding the development in the unit involved?

A. Yes.

Q. Well, actually in this particular case, the only unleased interest is the unknown heirs of Albert Hackney. So, the percentage...and that's a fee mineral

1 tract, I believe, isn't it?

2 A. Yes.

3 Q. The interest of Equitable in the gas and  
4 coal estate leased at this time?

5 A. We have 92.94% leased.

6 Q. And the unleased party is set out at B-3?

7 A. Yes.

8 Q. And what is the interest that remains  
9 unleased that's in the unknown heirs of Albert Hackney?

10 A. 7.06%.

11 Q. Now, were efforts made and sources checked  
12 in order to identify and locate the Albert Hackney heirs,  
13 including primary sources such as deed records, probate  
14 records, assessor's records, treasurer's records, and  
15 secondary sources such as telephone directories, city  
16 directories, family and friends?

17 A. Yes.

18 Q. In your professional opinion, was due  
19 diligence exercised to try to locate the unknown heirs of  
20 Albert Hackney?

21 A. It was.

22 Q. And are the addresses set out in Exhibit B  
23 of the application, the last known addresses for respondents?

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1 A. They are.

2 Q. Are you requesting this Board to force pool  
3 the unleased interest as listed in Exhibit B-3?

4 A. Yes.

5 Q. Again, are you familiar with the fair market  
6 value of drilling rights in the unit here and in the  
7 surrounding area?

8 A. Yes.

9 Q. You know, we've got another one of these,  
10 don't we?

11 A. Yeah, there's two of them.

12 Q. Which one is that one? Let's combine them.  
13 That's my fault.

14 A. Do you want them now?

15 JIM KAISER: Yeah. Can we stop and ask you to call  
16 another docket number and combine it? We have two units that  
17 are only pooling the unknown heirs of Albert Hackney.

18 BENNY WAMPLER: What is it?

19 JIM KAISER: It's...it is 1439-1253-6476.

20 BENNY WAMPLER: Okay. We'll go ahead and call the  
21 petition from Equitable Production Company for pooling  
22 coalbed methane well unit VC-536476, docket number VGOB-05-  
23 0419-1439. Do you want the...your testimony to be the same  
24

1 for that...for this point?

2 DON HALL: Excep---.

3 JIM KAISER: Well, we're going to back up to the  
4 percentages if we could. I appreciate it---.

5 BENNY WAMPLER: Well, I meant---.

6 JIM KAISER: ---Mr. Chairman. I apologize I didn't  
7 pick that up earlier.

8 Q. Okay. Now Mr. Hall, let's go back to the  
9 docket number that Chairman Wampler just called which is VC-  
10 536476, docket number 05-0419-1439. And could you state the  
11 percentages of the gas and coal estates that are under lease  
12 for this particular unit?

13 A. In that particular unit, it's 97.74% leased.

14 Q. And the unleased percentage?

15 A. 2.226.

16 Q. Okay. And that, again, is the only unleased  
17 interest and it's a fee mineral tract and is represented...or  
18 it's owned by the unknown heirs of Albert Hackney?

19 A. That's correct.

20 BENNY WAMPLER: Okay. And then from here forward,  
21 we'll distinguish when the testimony is different.

22 BENNY WAMPLER: Okay.

23 Q. Mr. Hall, you're familiar with the fair  
24

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1 market value of drilling rights in both of these units?

2 A. Yes.

3 Q. Can you advise the Board as to what those  
4 are?

5 A. We pay a five dollar bonus on a five year  
6 term with a one-eighth royalty.

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

11 A. Yes.

12 JIM KAISER: At this time, Mr. Chairman, in  
13 particular, since we're dealing with a unknown interest at  
14 this time, the...I would like to incorporate the testimony  
15 regarding the election options afforded unleased parties and  
16 their time lines and ramifications in making those elections  
17 that was previously taken in...taken just in VGOB-05-0419-  
18 1435 to be incorporated for the purposes of these two  
19 hearings.

20 BENNY WAMPLER: That'll be incorporated.

21 Q. Mr. Hall, we do need to establish an escrow  
22 account for these two units?

23 A. Yes.

24

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1 Q. And that would be for...one of them is  
2 Tract...what tracts would it be?

3 A. In VC-504886, that's Tract 4. And I didn't  
4 print out an exhibit on the other one.

5 Q. And the other...and VC-536476 would be Tract  
6 2?

7 A. That's correct. I've got the exhibits for  
8 those three.

9 Q. And who should be named operator under any  
10 order?

11 A. Equitable Production Company.

12 Q. Okay. And let's just deal with these one  
13 unit at a time. Now, we're on the AFE and the reserve  
14 estimates and the depth and that sort of stuff. So, we're  
15 going to start with 504886. Can you tell me what the  
16 proposed depth for that well is?

17 A. 2352 feet.

18 Q. And the estimated reserves for that well?

19 A. 300 million cubic feet.

20 Q. And did we file an AFE as Exhibit C to the  
21 application?

22 A. Yes.

23 Q. And are you familiar with it and was it  
24

1 prepared by an Engineering Department..Department  
2 knowledgeable in preparation of AFEs and knowledgeable in  
3 regard to well costs in this area?

4 A. Yes.

5 Q. In your opinion, does it represent a  
6 reasonable estimate of the well costs?

7 A. It does.

8 Q. Okay. The dry hole costs and completed well  
9 cost for 504886?

10 A. The dry hole cost is \$119,538. Completed  
11 well cost is \$276,028.

12 Q. And do these costs anticipate a multiple  
13 completion?

14 A. They do.

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

17 A. Yes.

18 Q. All right. Now, let's go back to VC-536476.

19 A. Should I handout these exhibits first?

20 Q. Yeah. Again, just pin numbers?

21 A. Just pin numbers.

22 Q. Revised exhibits on this unit again just pin  
23 numbers.

24

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1 (Don Hall passes out the exhibits.)

2 Q. Okay. And the proposed total depth for this  
3 well?

4 A. It's 2382 feet.

5 Q. And you've reviewed the AFE?

6 A. Yes.

7 Q. It was attached to the application as  
8 Exhibit C?

9 A. Correct.

10 Q. Can you state the dry hole costs and  
11 completed well costs for this well?

12 A. Dry hole cost is \$125,211. Completed cost  
13 is \$281,881.

14 Q. And, in your professional opinion, would the  
15 granting of this application, or these applications, be in  
16 the best interest for conservation and prevention of waste  
17 and the protection of correlative rights?

18 A. Yes.

19 JIM KAISER: No further questions of this witness  
20 at this time, Mr. Chairman.

21 BENNY WAMPLER: Questions from members of the  
22 Board?

23 (No audible response.)

24

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1           BENNY WAMPLER: Do you have anything further?

2           JIM KAISER: We'd ask that both the applications be  
3 approved as submitted with the revised exhibits to reflect  
4 the pin numbers.

5           BENNY WAMPLER: Is there a motion?

6           JIM McINTYRE: Motion to approve.

7           DENNIS GARBIS: Second.

8           BENNY WAMPLER: Second. Any further discussion?

9           (No audible response.)

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

12          (All members signify by saying yes.)

13          BENNY WAMPLER: Opposed, say no.

14          (No audible response.)

15          BENNY WAMPLER: You have approval. The next item  
16 on the agenda is a petition from Equitable Production Company  
17 for pooling of coalbed methane unit VC-502974, docket number  
18 VGOB-05-0419-1437. We'd ask the parties that wish to address  
19 the Board in this matter to come forward.

20          JIM KAISER: Mr. Chairman, again, Don Hall and Jim  
21 Kaiser for Equitable Production Company. We do have some  
22 revised exhibits, which reflect at least one additional  
23 lease, I guess.

24

--

1 (Don Hall passes out revised exhibits.)

2 BENNY WAMPLER: Let the record show there are no  
3 others. You may proceed.

4

5 DON HALL

6 DIRECT EXAMINATION

7 QUESTIONS BY MR. KAISER:

8 Q. Well, this is in Buchanan County or else we  
9 don't have pin numbers.

10 A. We had a Exhibit B.

11 Q. We had a---.

12 A. Exhibit B-2?

13 Q. Yeah. Before we start in the testimony,  
14 let's go through the revised exhibit package. Also, on Tract  
15 2 of Exhibit B under Kathy and Joseph Williams we have...is  
16 that the lease you picked up?

17 A. Yes, and it was an corrected address.

18 Q. Corrected address and an additional lease  
19 since the application was filed.

20 A. Which is reflected in B-2.

21 Q. Which is reflected in B-2?

22 A. That's correct. That's all.

23 Q. And that's all?

24

--

1 A. Uh-huh.

2 Q. All right. Mr. Hall, are you familiar with  
3 the application we filed seeking a pooling order and pooling  
4 the unleased interest in the unit for EPC well number VC-  
5 502974, which was dated March the 18th, 2005?

6 A. Yes.

7 Q. Does Equitable own drilling rights in the  
8 unit involved here?

9 A. We do.

10 Q. Prior to filing the application, were  
11 efforts made to contact each of the interest owners within  
12 the unit and an attempt made to work out a voluntary lease  
13 agreement with them?

14 A. Yes.

15 Q. What's the interest at this time of...after  
16 the additional lease of Equitable in the gas estate?

17 A. We now have 77.444153% leased.

18 Q. Okay. And the percentage of the coal estate  
19 under lease to Equitable?

20 A. 100%.

21 Q. And are all unleased parties set out in your  
22 revised Exhibit B-3?

23 A. They are.

24

--

1 Q. And are you familiar with the ownership of  
2 drilling parties....of the drilling rights of parties other  
3 than Equitable underlying this unit?

4 A. Yes.

5 Q. What's the percentage of the gas estate that  
6 remains unleased?

7 A. 22.555847%.

8 Q. Again, that's after the Williams lease?

9 A. Correct.

10 Q. And the coal estate is 100% leased?

11 A. That's correct.

12 Q. Okay. We don't have any unknown interest  
13 owners in this particular unit?

14 A. Pardon?

15 Q. We don't have any unknown interest owners in  
16 this unit?

17 A. No.

18 BENNY WAMPLER: I'm sorry, I just don't see that in  
19 the revised exhibit, did you?

20 SHARON PIGEON: I don't think it is a revised  
21 Exhibit. I think they changed---.

22 BENNY WAMPLER: You just changed it, but you didn't  
23 give us the revised.

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1           SHARON PIGEON: They just changed the address on  
2 the leased.

3           JIM KAISER: We changed it right there at the  
4 bottom.

5           BENNY WAMPLER: Okay. All right. It didn't change  
6 the percentages. Would you...would you have him restate  
7 those?

8           JIM KAISER: Sure.

9           Q.       The coal estate has always been a...at the  
10 time of the hearing and, obviously, at the time of the  
11 application obviously, now is 100% leased. The gas estate at  
12 the time of the application was 74.78% leased to Equitable.  
13 Since the application was filed we picked...you continued to  
14 do due diligence and you picked up one additional lease.  
15 What is the percentage in the gas estate that's now under  
16 lease to Equitable?

17           A.       77.444153%, if you'll look at the bottom of  
18 page 2, Exhibit B.

19           Q.       It should be properly reflected. Okay. And  
20 we don't have any unknown interest owners in this unit?

21           A.       No.

22           Q.       Okay. And are the addresses that are set  
23 out in the revised Exhibit B to the application, the last  
24

1 known addresses for the respondents?

2 A. Yes.

3 Q. And are you requesting this Board to force  
4 pool all the unleased interests there listed at revised  
5 Exhibit B-3?

6 A. We are.

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

10 A. Yes.

11 Q. Would you advise the Board as to what those  
12 are?

13 A. We pay a five bonus on a one-eighth royalty  
14 on a five year term.

15 Q. And, in your professional opinion, does the  
16 terms you just testified to represent fair market value of  
17 and fair and reasonable compensation to be paid for drilling  
18 rights within this unit?

19 A. They do.

20 JIM KAISER: Again, Mr. Chairman, I'd ask that the  
21 election...the statutory election option testimony previously  
22 taken in 05-0419-1435 be incorporated.

23 BENNY WAMPLER: That will be incorporated.

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1           Q.       Mr. Hall, we do have conflicting claims  
2 between oil, gas and coal in Tracts 2 and 3 of this  
3 particular unit. So, the Board does need to create an escrow  
4 account for any proceeds that are attributable to those  
5 interests?

6           A.       That's correct.

7           Q.       Okay. And who should be named operator  
8 under any force pooling order?

9           A.       Equitable Production Company.

10          Q.       And what's the total depth of this well  
11 under the plan and development?

12          A.       2210 feet.

13          Q.       Estimated reserves for the unit?

14          A.       150 million cubic feet.

15          Q.       And, again, are you familiar with the AFE  
16 that was filed and submitted as Exhibit C to the application?

17          A.       Yes.

18          Q.       Could you state for the Board what the dry  
19 hole costs and completed well costs?

20          A.       The dry hole cost is \$125,901. And the  
21 completed well cost is \$293,823.

22          Q.       Do these costs anticipate a multiple  
23 completion?

24

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1 A. They do.

2 Q. Does an AFE include a reasonable charge for  
3 supervision?

4 A. Yes.

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

9 A. Yes.

10 JIM KAISER: No further questions of this witness,  
11 Mr. Chairman.

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

14 MASON BRENT: Mr. Chairman.

15 BENNY WAMPLER: Mr. Brent.

16 MASON BRENT: Has this well been permitted yet?

17 DON HALL: It's been applied for.

18 MASON BRENT: And it's not within the drilling  
19 window?

20 DON HALL: That's correct.

21 MASON BRENT: Is it, in fact, within this unit?

22 DON HALL: Yes.

23 BENNY WAMPLER: It's real close. Other questions?  
24  
25

1 (No audible response.)

2 BENNY WAMPLER: Do you have anything further?

3 JIM KAISER: Mr. Chairman, we'd ask that the  
4 application be approved as submitted with our revised  
5 exhibits.

6 BENNY WAMPLER: Is there a motion?

7 JIM McINTYRE: So moved.

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

10 DENNIS GARBIS: Second.

11 PEGGY BARBAR: Second.

12 BENNY WAMPLER: Second. Any further discussion?

13 (No audible response.)

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

16 (All members signify by saying yes.)

17 BENNY WAMPLER: Opposed, say no.

18 (No audible response.)

19 BENNY WAMPLER: You have approval. The next item  
20 on the agenda is a petition from Equitable Production Company  
21 for pooling coalbed methane unit VC-535632, docket number  
22 VGOB-05-0419-1438. We'd ask the parties that wish to address  
23 the Board in this matter to come forward at this time.

24

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1 (Parties come forward.)

2 BENNY WAMPLER: All right. State your name for the  
3 record, please.

4 MARY MAYES: My name is Mary Mayes. I also  
5 represent my husband. I have power of attorney. He is in a  
6 nursing facility at this time. And my concern with this  
7 well, at this time, is that I have boundaries of property  
8 listed in the Tract 2 and since we were in Northern Virginia  
9 for the last two years, Standard Banner owns this particular  
10 tract that this well is on. But ours is Tract number 2.  
11 Standard Banner leased the property of this...as you see  
12 where the well goes, it is with liens to Rapoca Energy.  
13 Therefore, on returning home, we found that Rapoca Energy has  
14 taken off the boundary here of our property in like 200...or  
15 2,250 feet of our property line here. We have not had time  
16 to have this property surveyed properly because we just  
17 received this, I guess, about a month ago. And we did not  
18 realize that our boundary lines exceeded farther than what  
19 they do. Maybe even to exceed the like 3500 feet where  
20 Rapoca had mined on us. And as you can see in the Tract 2,  
21 we owned the gas and we nee...we haven't had time to  
22 negotiate a lease with Equitable because we just haven't...we  
23 didn't know anything about it. So, I guess what I'm asking

24

1 for, I don't know if it would make a difference, is maybe a  
2 60 day extension so I could consult with an attorney and also  
3 to see if I can get this property of mine surveyed so we  
4 would know where the exact lines are.

5 BENNY WAMPLER: We'll go ahead and hear their  
6 testimony and then we'll...we'll see what we think we have.

7 MARY MAYES: All right.

8 BENNY WAMPLER: Mr. Kaiser, you can proceed.

9 JIM KAISER: Again, it will be...why don't you go  
10 ahead and swear Mr. Wishoun in first.

11 (Keith Wishoun is duly sworn.)

12 JIM KAISER: We'll start with Mr. Hall.

13 DON HALL

14 DIRECT EXAMINATION

15 QUESTIONS BY MR. KAISER:

16 Q. Mr. Hall, you're familiar with the  
17 application we filed seeking to pool this one unleased  
18 interest in this unit?

19 A. Yes.

20 Q. And does Equitable own drilling rights in  
21 the unit involved here?

22 A. We do.

23 KEITH WISHOUN

24

--

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

3 DIRECT EXAMINATION

4 QUESTIONS BY MR. KAISER:

5 Q. And, Mr. Wishoun, we'll go to you real  
6 quick. Prior to filing of the application, did you contact  
7 the Mayes and attempt to work out a voluntary lease agreement  
8 with them?

9 A. Yes.

10 DON HALL

11 DIRECT EXAMINATION RESUMES

12 QUESTIONS BY MR. KAISER:

13 Q. Okay. And Mr. Hall, what is the interest of  
14 Equitable within the gas estate in the unit?

15 A. We have 99.57% of the unit leased.

16 Q. And the interest under lease within the coal  
17 estate?

18 A. 100%.

19 Q. And Rapoca is the coal lessee?

20 A. Yes.

21 Q. In this...in both Tract 1 and Tract 2 in the  
22 unit and Tract 3?

23 A. Yes, that's correct.

24

--

1 Q. So, underlying the entire unit of the coal  
2 lessee?  
3 A. Right.  
4 Q. Okay. And the unleased parties, that being  
5 Mr. And Mrs. Mayes, they're set out in Exhibit B-3?  
6 A. Yes.  
7 Q. And what percentage remains unleased?  
8 A. .43%.  
9 Q. 0.43%?  
10 A. Yes.  
11 Q. Okay. We don't have any unknown parties in  
12 this unit?  
13 A. No.  
14 Q. Are the addresses set out in Exhibit B to  
15 the application, the last known addresses for the  
16 respondents?  
17 A. Yes.  
18 Q. Are you requesting this Board to force pool  
19 all unleased interest listed at Exhibit B-3?  
20 A. We are.  
21 Q. Again, could you advise the Board as to fair  
22 market value of drilling rights in this unit and in the  
23 surrounding area?

24

1           A.       We pay a five dollar bonus, five year term  
2 and a one-eighth royalty.

3           Q.       And, in your opinion the terms, do the terms  
4 you just testified to represent the fair market value of and  
5 fair and reasonable compensation to be paid for drilling  
6 rights within this unit?

7           A.       They do.

8           JIM KAISER:   Again, Mr. Chairman, we'd ask that  
9 the..unless Mrs. Mayes wants to hear it, that the election  
10 testimony that was taken in the matter number 1435 be  
11 incorporated?

12          BENNY WAMPLER:   That will be incorporated.

13          Q.       Okay. This particular unit, we do have a  
14 conflicting claim under Tract 2.

15          A        Yes.

16          Q.       So we do need...the Board does need to  
17 establish an escrow account for Tract 2?

18          A.       That's correct.

19          Q.       And what's the total depth of the proposed  
20 well?

21          A.       2476 feet.

22          Q.       Estimated reserves for the unit?

23          A.       300 million cubic feet.

24

--

1 Q. Are you familiar with the AFE that we filed  
2 and attached as Exhibit C to the application?

3 A. Yes.

4 Q. State both the dry hole costs and completed  
5 well costs for this well.

6 A. The dry hole cost is \$111,736. And the  
7 completed well cost is \$276,113.

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

10 A. They do.

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

13 A. Yes.

14 Q. And, in your professional opinion, would the  
15 granting of this application be in the best interest  
16 preventing waste for conservation and the protection of  
17 correlative rights?

18 A. Yes.

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

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

23 (No audible response.)

24

25

1           BENNY WAMPLER: Mr. Kaiser, do you understand what  
2 Mrs. Mayes is talking about as far as the property issue?

3           JIM KAISER: Well, it sounds like maybe she's got a  
4 complaint with the coal lessee. I know that...well, Mr. Hall  
5 maybe can address this and/or...and we'll be glad to try to  
6 negotiate a lease with her right now, you know, right after  
7 the hearing. Mr. Wishoun is here and I guess he sent her  
8 a...well, he's testified that he's sent her a proposed lease.  
9 We do have a well that we want to drill, a proposed well  
10 that will actually be on your tract and maybe Mr. Hall can  
11 talk about that.

12           DON HALL: Yes. Well, Mr. Wishoun, I guess, has  
13 been working with Mrs. Mayes and has been talking to Mrs.  
14 Mayes about another well that we have in an adjacent unit  
15 that would...would fall on the...on...actually on her lease  
16 or on her property. But that was...came up after this well  
17 was staked.

18           JIM KAISER: Well, we would like to get a voluntary  
19 lease from her if we could and we could dismiss this  
20 application. But the...the other stuff is kind of like it  
21 was a problem with Rapoca and not us. We don't have anything  
22 to do with the coal.

23           MARY MAYES: I have a question.

24

--

1           JIM KAISER: Sure.

2           MARY MAYES: The amount of royalty that I receive  
3 from this well would be altered if I own more property, you  
4 think?

5           JIM KAISER: Yeah, if you had a survey done that  
6 showed that, for whatever reason, your western boundary of  
7 your prop...your tract was over more into this unit  
8 then...then your royalty would be greater. Your...your  
9 royalty is based on your pro-rata...it's one-eighth of your  
10 pro-rata share of the unit.

11          MARY MAYES: Uh-huh.

12          JIM KAISER: Which right now, is just .43%.

13          MARY MAYES: Exactly.

14          JIM KAISER: But, obviously, it will be a larger  
15 pro-rata share if we get a lease and can drill the well...the  
16 unit to the east, which the well would actually be on your  
17 property. In order to be able to do that, we'd have to have  
18 a lease because these force pooling orders don't give us any  
19 surface rights or anything, so.

20          MARY MAYES: I understand that.

21          JIM KAISER: Okay.

22          BENNY WAMPLER: Did you understand what they're  
23 doing, Ms. Mayes?

24

--

1                   MARY MAYES: Uh-huh.

2                   BENNY WAMPLER: Okay. Do you have any further  
3 questions?

4                   MARY MAYES: No, I just...just have a...I feel like  
5 I haven't had adequate time to really look over the lease  
6 because, I guess, Keith...Mr. Wishoun is aware that I had a  
7 neighbor who represented me and said he was heirship to my  
8 property back in February 2004 while we were in Northern  
9 Virginia. And he also said he was heirship and he wanted to  
10 know all the financial status of our property. And he had  
11 every intention, I would assume with false pretense, to get  
12 information from the gas company. So, therefore, I wasn't  
13 contacted until approximately....three weeks ago, Keith?

14                   KEITH WISHOUN: I think it was around the 8th or  
15 9th something like that, the beginning of March.

16                   MARY MAYES: About three weeks ago, about a lease  
17 at all.

18                   BENNY WAMPLER: Let me go ahead and get you sworn  
19 in and just affirm what you've said. You don't have to  
20 repeat anything.

21                   MARY MAYES: Thank you, sir.

22                   (Mary Mayes was duly sworn.)

23                   BENNY WAMPLER: Do you understand that if you do  
24

1 get a survey and that, you know, you show more interest and  
2 everything and sign a lease that that will just mean that the  
3 money won't have to go into escrow---

4 MARY MAYES: Right.

5 BENNY WAMPLER: ---and here what they are doing is  
6 escrowing that to protect you while you do whatever you need  
7 to do with that? If the Board approves this, that's what it  
8 would be doing.

9 JIM KAISER: Yeah, we definitely want to get a  
10 lease with you, ma'am.

11 BENNY WAMPLER: Do you have anything further, Mr.  
12 Kaiser?

13 JIM KAISER: Mr. Chairman, we'd ask that the  
14 application be approved as submitted.

15 BENNY WAMPLER: Is there a motion?

16 JIM McINTYRE: So moved.

17 PEGGY BARBAR: I'll second.

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

20 (No audible response.)

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

23 (All members signify by saying yes.)

24

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1           BENNY WAMPLER:    Opposed, say no.

2           (No audible response.)

3           BENNY WAMPLER:    You have approval.   Thank you.

4   The next item on the agenda is a petition from Columbia  
5   Natural Resources for creation and pooling of conventional  
6   gas unit 825309, docket number VGOB-05-0419-1440.   We'd ask  
7   the parties that wish to address the Board in this matter to  
8   come forward at this time.

9           JIM KAISER:    Mr. Chairman and Board members, Jim  
10   Kaiser, Robert Kennon and Lynette Greene on behalf of  
11   Columbia Natural Resources, LLC.   I'd ask that my two  
12   witnesses be sworn at this time.

13           (Robert Kennon and Lynette Greene are duly sworn.)

14           BENNY WAMPLER:    Let the record show there are no  
15   others.   You may proceed.

16

17                                   LYNETTE GREENE

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

20                                   DIRECT EXAMINATION

21   QUESTIONS BY MR. KAISER:

22           Q.       Ms. Greene, if you would state...we'll start  
23   with Ms. Greene.   If you'd state your name for the record,

24

--

1 who you're employed by and in what capacity.

2 A. My name is Lynette Greene. I'm a senior  
3 Land Representative for Columbia Natural Resources.

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

6 A. Yes.

7 Q. And are you familiar with CNR's application  
8 seeking to establish a drilling unit and pool any unleased  
9 interest for CNR well number 825309, which was dated March  
10 the 18th, 2005?

11 A. Yes.

12 Q. And does CNR own drilling rights in the unit  
13 involved here?

14 A. Yes.

15 Q. And prior to filing the application, I guess  
16 in this situation, was a two tract unit---

17 A. That's correct.

18 Q. ---and on Tract 2, the oil and gas is owned  
19 by the Emilou Bowman and Crowe Estate and is actually under  
20 lease to CNX Gas Company. And prior to the filing of this  
21 application, in the interim period, you have...or somebody  
22 with your office, I guess more specifically, maybe Kathy  
23 Watson has contacted the folks at CNX, maybe more

24

--

1 specifically Les Arrington, and talked to them about working  
2 out some sort of agreement on this well?

3 A. Yes.

4 Q. Okay. So, the percentage that's  
5 leased...that's under lease to Columbia at this time is?

6 A. 57.757.

7 Q. Okay. And the percentage that's unleased?

8 A. 42.242.

9 Q. Okay. And that unleased...the unleased  
10 portion is set out at Exhibit B-3?

11 A. Correct.

12 Q. And we don't have any unknown entities in  
13 this unit?

14 A. No.

15 Q. And the addresses set out in Exhibit B to  
16 the application are the last known addresses for the interest  
17 owners within the unit?

18 A. Correct.

19 Q. And you're requesting the Board to force  
20 pool all unleased interest listed at Exhibit B-3?

21 A. Yes.

22 Q. Now, are you familiar with the fair market  
23 value of drilling rights in the unit here and in the

24

--

1 surrounding area?

2 A. Yes.

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

5 A. A five dollar bonus, five year term and a  
6 one-eighth royalty.

7 Q. And, in your professional opinion, do the  
8 terms you just testified to represent the fair market value  
9 of and fair and reasonable compensation to be paid for  
10 drilling rights within this unit?

11 A. Yes.

12 Q. Now, Mr. Chairman, again, I'd like to...even  
13 though it's a different entity, I'd like to piggyback  
14 the...incorporate the election testimony or do you think we  
15 need to go through it again?

16 BENNY WAMPLER: No. It's in the law anyway.

17 JIM KAISER: All right. Les is pretty familiar  
18 with it.

19 BENNY WAMPLER: It will be incorporated.

20 JIM KAISER: Thank you.

21 Q. We do not have any...again, we do not have  
22 any unknown parties so we do not need to establish an escrow  
23 account for this well, correct?

24

--

1 A. That's correct.

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

4 A. Columbia Natural Resources, LLC.

5 JIM KAISER: That's all I have of this witness at  
6 this time, Mr. Chairman.

7 BENNY WAMPLER: Questions from members of the  
8 Board?

9 (No audible response.)

10 BENNY WAMPLER: Call your next witness.

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ROBERT KEENON

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

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Mr. Keenon, who are you employed by and in what capacity?

A. I am a Senior Petroleum Engineer in the engineering department at Columbia Natural Resources, LLC.

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

A. They do.

Q. And you're familiar with the plan of development?

A. Yes.

Q. And what's the total depth of the proposed well?

A. 5,660...5,665 feet.

Q. And is the applicant requesting the force pooling of conventional gas reserves, not only to include designated formations, but any other formations excluding coal formations which may be between those formations designated from the surface to the total depth drilled?

1 A. Yes.

2 Q. What are the estimated reserves for this  
3 unit?

4 A. 400 million standard cubic feet.

5 Q. Are you familiar with the well costs?

6 A. Yes.

7 Q. Did we prepare an AFE and submit it to the  
8 Board as Exhibit C to the application?

9 A. Yes.

10 Q. And, in your opinion, does it represent a  
11 reasonable estimate of the well costs?

12 A. Yes.

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

15 A. Estimated dry hole costs are \$251,438.  
16 Completed well costs, including well line, are \$476,502.

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

19 A. They do.

20 Q. Does your AFE include a reasonable charge  
21 for supervision?

22 A. Yes.

23 Q. And, in your professional opinion, would the  
24

1 granting of this application be in the best interest of  
2 conservation, the prevention of waste and the protection of  
3 correlative rights?

4 A. Yes.

5 JIM KAISER: Nothing further of this chair...of  
6 this witness at this time, Mr. Chairman.

7 BENNY WAMPLER: Questions from members of the  
8 Board?

9 MASON BRENT: It looks like on your AFE, you may  
10 have a little conflicting information on the depth of your  
11 well.

12 JIM KAISER: Yeah, remember that?

13 ROBERT KEENON: Yes. And this is not an uncommon  
14 appearance. It has to do with the way the different systems  
15 kind of feed the information. If you're talking about the  
16 information at the upper right hand corner, that's really  
17 just a computer feed. Really, that kind of dates back to the  
18 geologists first prediction whenever they created the G-plat  
19 for the location. As we go out and survey, we get a better  
20 or an estimated or a revised elevation. The depths are  
21 adjusted accordingly. In addition, it's reviewed by our  
22 drilling engineer. Sometimes they like a little extra  
23 drilling pocket or something below what may have been

24

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1 forecasted. So, it's not uncommon to see slight disparities.  
2 What I normally try to go by, are the actual contract  
3 drilling footages which what we'll we're spending dollars for  
4 and what we anticipate to go to.

5 MASON BRENT: Kind of like that number 8, at the  
6 beginning of your well---

7 ROBERT KEENON: That does pop up from time to time.

8 BENNY WAMPLER: Will you clarify it in your...on  
9 your plat, you have well number CNR 25309.

10 JIM KAISER: Yeah, we need to put an 8 in front of  
11 that too. We're going to go with 8s. We've made a firm  
12 decision to go with 8.

13 ROBERT KEENON: And we have---

14 JIM KAISER: (Inaudible.)

15 ROBERT KEENON: ---we have contacted our surveyors  
16 to try to prevent this problem from occurring again in the  
17 future. It's just everywhere or every time that we think we  
18 have it solved, it seems to pop somewhere else.

19 BENNY WAMPLER: Other questions?

20 (No audible response.)

21 BENNY WAMPLER: Do you have anything further?

22 JIM KAISER: Mr. Chairman, we ask that the  
23 application be approved as submitted.

24

--

1           BENNY WAMPLER: Is there a motion?

2           DENNIS GARBIS: Motion to approve.

3           MASON BRENT: I second.

4           JIM McINTYRE: I second.

5           BENNY WAMPLER: Second. Any 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. Thank you. The

13 next item on the agenda is a petition from Hard Rock

14 Exploration for pooling of a conventional gas unit HRVAE #10,

15 docket number VGOB-05-0419-1441. We'd ask that the parties

16 that wish to address the Board in this matter to come forward

17 at this time.

18          JIM KAISER: Mr. Chairman and members of the Board,

19 Jim Kaiser on behalf of Hard Rock Exploration. Our witnesses

20 in this matter will be Mr. Jim Talkington as to land matters

21 and Mr. Jim Stephens as to operations and the AFE. We'd ask

22 at this time, that these two witnesses be sworn.

23           (Jim Talkington and Jim Stephens are duly sworn.)

24

--

1           BENNY WAMPLER: Let the record show there are no  
2 others. You may proceed.

3           JIM KAISER: We'll start with Mr. Talkington.

4

5                                   JIM TALKINGTON

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

8                                   DIRECT EXAMINATION

9 QUESTIONS BY MR. KAISER:

10           Q.       If you could state your name for the record,  
11 who you're employed by and in what capacity?

12           A.       Jim Talkington, Landman for Hard Rock  
13 Exploration.

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

16           A.       Yes, they are.

17           Q.       And are you familiar with the application  
18 that Hard Rock filed seeking to pool any unleased interest in  
19 this unit? The drilling has already been established. This  
20 is a Pilgrims Knob?

21           A.       Yeah.

22           Q.       It's a Pilgrims Knob unit, 180 acre unit.  
23 So, we filed the application to pool any unleased interest,

24

--

1 correct?

2 A. Correct.

3 Q. And does Hard Rock own drilling rights  
4 within this unit involved here?

5 A. Yes, they do.

6 Q. Prior to filing the application, did you  
7 make attempts to contact each of the respondents---

8 A. Yes, I have.

9 Q. ---owning an interest in the unit and an  
10 attempt to work out a voluntary lease agreement with them?

11 A. Yes, I have.

12 Q. All right. What is the interest of Hard  
13 Rock Exploration under lease within the unit at this time?

14 A. 64.54%.

15 Q. Okay. And are you familiar with the  
16 ownership of drilling rights of parties within the unit other  
17 than Hard Rock?

18 A. Yes, I am.

19 Q. And what percentage is unleased at this  
20 time?

21 A. 35.46%.

22 Q. Okay. And are all our unleased parties set  
23 out at Exhibit B-3?

24

--

1 A. Yes, they are.

2 Q. And we do not have any unknown folks in this  
3 unit, do we?

4 A. No.

5 Q. So, in your professional opinions...opinion  
6 was due diligence exercised to locate each of respondents  
7 named in Exhibit B?

8 A. Yes, it was.

9 Q. And are the addresses set out in Exhibit B,  
10 the last known addresses for the respondents?

11 A. Yes, they are.

12 Q. And are you requesting the Board to force  
13 pool all the unleased interest as listed at Exhibit B-3?

14 A. Yes.

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

18 A. Yes, I am.

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

21 A. A five dollar bonus, five year term, one-  
22 eighth royalty.

23 Q. And let's talk just for a minute about  
24

1 your...the unleased parties particularly in...we have  
2 Tract...Tract 1 is a Ritter lease, which is a Hard Rock  
3 lease. Tract 2 is a EOG lease, and I guess it's my  
4 understanding that there is an agreement between those two  
5 companies as to the development of this area. And, I guess,  
6 Mr. Stephens can address that?

7 A. Yes.

8 Q. That's Tract 2 and Tract 3. In Tract 4 and  
9 5, which we call the Rife/Weller tracts, you've contacted  
10 each of these respondents and are...have made and are  
11 attempting to make a attempt to obtain a voluntary lease?

12 A. Yes, sir.

13 (Jim Kaiser confers with Jim Talkington.)

14 Q. Okay. So, in your opinion, do the terms  
15 you've testified to regarding the fair market value of and  
16 fair and reasonable compensation to be paid to any unleased  
17 parties, that it's your testimony that those amounts are fair  
18 and reasonable?

19 A. Yes, sir.

20 JIM KAISER: Again, Mr. Chairman, if I could  
21 incorporate the election testimony.

22 BENNY WAMPLER: That will be incorporated.

23 Q. Do you recommend that any elections by  
24  
25

1 respondents be in writing and sent to the applicant at Hard  
2 Rock Explorations, Inc., P.O. Box 13059, Charleston, WV  
3 25360, Attention: Jim Stephens, Regulatory?

4 A. Yes.

5 Q. And we don't need to establish an escrow  
6 account for this well, is that correct?

7 A. That's correct.

8 Q. And who should be named operator under any  
9 force pooling order?

10 A. Hard Rock Exploration, Inc.

11 JIM KAISER: No further questions of this witness  
12 at this time, Mr. Chairman.

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

15 (No audible response.)

16 BENNY WAMPLER: Call your next witness.

17

18

19 JIM STEPHENS

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

22 DIRECT EXAMINATION

23 QUESTIONS BY MR. KAISER:

24

--

1 Q. Mr. Stephens, if you'd state your name, who  
2 you're employed by and in what capacity?

3 A. I'm Jim Stephens, Hard Rock Exploration,  
4 Vice President of Operations.

5 Q. And before we get into your operational  
6 testimony, was I correct in stating that as far as the oil  
7 and gas lessee, EOG, on Tracts 2 and 3 there's...do have an  
8 agreement with them---?

9 A. We are---.

10 Q. ---or in the process of an agreement?

11 A. ---in the process of an agreement with EOG.

12 Q. Okay. And what's the total depth of the  
13 well under your plan of development?

14 A. 5400 feet.

15 Q. And the estimated reserves for the unit?

16 A. 300 million cubic feet.

17 Q. Now, are you familiar with the AFE, in fact,  
18 did you actually prepare it yourself, review, and sign it?

19 A. Yes, I did.

20 Q. And was it attached as Exhibit C to the  
21 application?

22 A. Yes, I did.

23 Q. And did you...does your AFE represent a  
24

1 reasonable estimate, in your opinion, of the well costs?

2 A. Yes, it is.

3 Q. And could you state for the Board the dry  
4 hole costs and completed well costs?

5 A. The dry hole cost is \$180,060. Completed  
6 well cost will be \$414,369.

7 Q. And do these costs anticipate a multiple  
8 completion?

9 A. Yes, they do.

10 Q. And is there a reasonable charge for  
11 supervision included in the AFE?

12 A. Yes.

13 Q. And, in your professional opinion, would the  
14 granting of this application be in the best interest for  
15 conservation and prevention of waste and the protection of  
16 correlative rights?

17 A. Yes.

18 JIM KAISER: Nothing further of this witness at  
19 this time, Mr. Chairman.

20 BENNY WAMPLER: Questions from members of the  
21 Board of this witness?

22 (No audible response.)

23 BENNY WAMPLER: Do you have anything further?  
24  
25

1           JIM KAISER: We'd ask that the application be  
2 approved as submitted.

3           BENNY WAMPLER: Is there a motion?

4           JIM McINTYRE: Motion to approve.

5           DENNIS GARBIS: Second.

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

8           (No audible response.)

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

11           (All members signify by saying yes.)

12           BENNY WAMPLER: Opposed, say no.

13           (No audible response.)

14           BENNY WAMPLER: You have approval. The next item  
15 on the agenda is a petition from EOG Resources. This is  
16 going to 26 on the...I think, or did I say we'd go back to 6  
17 and 7? We need to go back to 6 and 7 here?

18           JIM KAISER: Yeah. You'll now have 6, 7, 26 and 27?

19           BENNY WAMPLER: Right. 6 and 7 is next. The next  
20 item on the agenda is a petition from EOG Resources  
21 Incorporated for pooling of a conventional gas unit PK M-23,  
22 docket number VGOB-05-0315-1421. We'd ask the parties that  
23 wish to address the Board in this matter to come forward at  
24

1 this time.

2 TIM SCOTT: Mr. Chairman, I'm Tim Scott. I  
3 represent EOG Resources. Mr. Bacon?

4 PETER BACON: I'm Peter Bacon and I'm the Land  
5 Manager for EOG Resources.

6 JOHN JOHNSTON: I'm John Johnston. I'm the Division  
7 and Exploration Manager for EOG Resources.

8 BENNY WAMPLER: We'll go ahead and get you sworn  
9 in.

10 (Peter Bacon and John Johnston are duly sworn.)

11 BENNY WAMPLER: Let the record show there are no  
12 others. You may proceed.

13 TIM SCOTT: Mr. Chairman, when we were here the  
14 last time, Mr. Harris asked that we provide a well plat that  
15 showed tract identification. About 3:00 o'clock this  
16 morning, I remembered I was supposed to do that. So, I went  
17 to my office this morning. Now, these are not part of the  
18 evidence, but for informational purposes, and I'll pass these  
19 out to the Board members.

20 (Tim Scott passes out the exhibits.)

21 BENNY WAMPLER: Jim, are you in on this one or are  
22 you just waiting?

23 JIM KAISER: No, I guess we're in the next one. Is  
24

--

1 this number six?

2 TIM SCOTT: This is six.

3 JIM KAISER: Six? No, I'm not in six.

4 PETER BACON: You're the next one.

5 JIM KAISER: I'm---.

6 TIM SCOTT: You're the next one.

7 BENNY WAMPLER: Yeah, I was just making sure.

8 TIM SCOTT: Mr. Chairman, the...I've passed out  
9 some revised exhibits. During the course of the title  
10 examination, we had notified...this would have been under  
11 Tract 3 shown on the revised Exhibit B, the possible oil and  
12 gas lessee as Island Creek but after speaking with Mr.  
13 Kaiser, who represents Hard Rock, we determined that there is  
14 some interest leased from C. L. Ritter to Hard Rock and that  
15 there was an agreement that since they had received notice  
16 prior on other tracts in here, that notice was not going to  
17 be an issue for this hearing. But we've revised those  
18 exhibits to reflect that leased ownership in Hard Rock. Is  
19 that correct, Mr. Kaiser?

20 JIM KAISER: That's correct. We waived notice  
21 based upon their assertion and they would revise their  
22 exhibits to show that ownership.

23 BENNY WAMPLER: State your name for the record.

24

--

1           JIM KAISER: Oh, I'm sorry. I'm Jim Kaiser on  
2 behalf of Hard Rock Explorations.

3           BENNY WAMPLER: Thanks.

4           TIM SCOTT: I will sit down in a minute, I  
5 promise. The last time we were before the Board, Mr. Bacon  
6 did testify and we do have a new witness today, Mr. Johnston.  
7 And I would like for him to continue addressing technical  
8 matters and I'd like him to give a background...some  
9 background information about his work history and his  
10 education and what he knows about this particular area we're  
11 at.

12           JOHN JOHNSTON: My name is John Johnston. I'm a  
13 Division Exploitation Manager for EOG Resources. I've been  
14 working in the oil and gas industry since 1981. I worked  
15 this area in Southwest Virginia in the Appalachian basin  
16 since 1987. So, I've been familiar with the oil and gas  
17 industry in a whole...as a whole.

18           TIM SCOTT: Okay. We'll start with Mr. Bacon.

19

20   PETER BACON  
21 having been duly sworn, was examined and testified as  
22 follows:

23   DIRECT EXAMINATION

24

--

1 QUESTIONS BY MR. SCOTT:

2 Q. And you've been sworn?

3 A. Uh-huh.

4 Q. What did you...would you state your name,  
5 please?

6 A. Peter Bacon.

7 Q. And by whom are you employed?

8 A. EOG Resources, Inc.

9 Q. And what is your job description, Mr. Bacon?

10 A. I am the land manager for the Pittsburgh  
11 division.

12 Q. And are you familiar with the EOG's  
13 application now pending before the Board?

14 A. Yes, I am.

15 Q. Is this unit located within the Pilgrims  
16 Knob Field?

17 A. Yes, it is.

18 Q. And what unit number is it?

19 A. Unit PK M-23.

20 Q. Does it contain 180 acres?

21 A. Yes, it does.

22 Q. And does EOG own drilling rights in this  
23 unit?

24

--

1 A. Yes.

2 Q. Are there any party...parties respondent  
3 listed on the...in the application who should be dismissed at  
4 this time?

5 A. No.

6 Q. What percentage of the unit does EOG have  
7 under lease?

8 A. 65.33%.

9 Q. And how is notice affected to the parties  
10 respondent on the application?

11 A. By certified mail and by notice of  
12 continuance by certified mail.

13 Q. Okay. We'll get into that right now, Mr.  
14 Bacon. At the last hearing, we asked for a continuance  
15 because we had discovered an additional tract located within  
16 the unit, is that correct?

17 A. Yes.

18 Q. And that was Norfolk Southern Railway---?

19 A. Yes.

20 Q. --is that correct? And then notice was  
21 affected to them by certified mail?

22 A. Yes, that's correct.

23 Q. Okay. By what other means was notice  
24

1 affected to the parties respondent?

2 A. Notice to the hearing was published.

3 Q. In what newspaper?

4 A. On February 18th, in the Bristol Herald  
5 Courier.

6 Q. Okay. Are there any unknown owners in this  
7 unit?

8 A. No.

9 Q. Okay. And have you filed proofs of  
10 publication and affidavit of publication with the Board?

11 A. Yes.

12 Q. Is EOG authorized to conduct business in the  
13 Commonwealth of Virginia?

14 A. Yes, it is.

15 Q. And has it registered with the Department of  
16 Mines, Minerals and Energy and does it have a blanket bond on  
17 file?

18 A. Yes, it does.

19 Q. In the event you could reach a voluntary  
20 agreement with the parties respondent set forth on Exhibit B,  
21 what lease terms would be offered to those parties?

22 A. Five dollars an acre, one-eight royalty and  
23 a five year primary term.

24

--

1 Q. Does that, in your opinion, represent a  
2 reasonable compensation for lease rights in this area?

3 A. Yes, it does.

4 Q. What percentage of the oil and gas estate  
5 are you seeking to pool?

6 A. 34.67%.

7 Q. With regard to this unit, is there an escrow  
8 requirement?

9 A. No.

10 Q. Are you requesting the Board to pool the  
11 unleased parties listed on Exhibit B?

12 A. Yes, we are.

13 Q. Are you also requesting that EOG be named  
14 operator for this unit?

15 A. Yes, we are.

16 Q. If...in the event of the elections as  
17 provided by statute, what address should be used for those  
18 elections and to whose attention should those elections be  
19 directed?

20 A. It should be sent to EOG Resources, Inc.,  
21 South Point Plaza One, 400 South Point Blvd., Ste. 300,  
22 Cannonsburg, Pennsylvania 15317, to the attention of Peter  
23 Bacon, Division Land Manager.

24

--

1 Q. And should all communications regarding this  
2 unit be addressed to you at that address?

3 A. Yes.

4 TIM SCOTT: Okay. That's all the questions I have  
5 for Mr. Bacon.

6 BENNY WAMPLER: Questions from members of the  
7 Board?

8 (No audible response.)

9 BENNY WAMPLER: Okay, you may proceed.

10

11 JOHN JOHNSTON

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

14 DIRECT EXAMINATION

15 QUESTIONS BY MR. SCOTT:

16 Q. And, Mr. Johnston, you've been sworn,  
17 correct?

18 A. Yes.

19 Q. Would you please state your name, occupation  
20 and by whom you're employed?

21 A. John Johnston, Division Exploration Manager  
22 for EOG Resources, Inc. in Pittsburgh, Pennsylvania.

23 Q. Are you...I'm sorry, go ahead.

24

--

1           A.       In the Pittsburgh, Pennsylvania.

2           Q.       Okay. Are you familiar with the pooling

3 application filed by EOG, which is pending before the Board?

4           A.       Yes.

5           Q.       Did you participate in determining the costs

6 and etc. associated with the this well?

7           A.       Yes.

8           Q.       Okay. Are you familiar with the total depth

9 of the well?

10          A.       Yes.

11          Q.       And are you requesting the Board to pool oil

12 and gas reserves from the surface to the depth...the target

13 depth excluding coal?

14          A.       Yes.

15          Q.       What are the estimated reserves of this

16 unit?

17          A.       300 million cubic feet.

18          Q.       And are you familiar...and I just asked you

19 a minute ago, you are familiar with the well costs, is that

20 right?

21          A.       That's correct.

22          Q.       And what's the estimated dry hole costs?

23          A.       \$231,300.

24

1 Q. And what's the completed well costs?  
2 A. Completion costs would be \$138,400.  
3 Q. Has an AFE been submitted to the Board that  
4 was signed?  
5 A. Yes.  
6 Q. And did you participate in preparing the  
7 AFE?  
8 A. Yes.  
9 BENNY WAMPLER: Excuse me just a second. Mr.  
10 Wilson, do you have that? We don't have it.  
11 BOB WILSON: Yes.  
12 TIM SCOTT: Just now.  
13 BENNY WAMPLER: Okay.  
14 TIM SCOTT: Just now.  
15 BENNY WAMPLER: So, you're checking to verify---.  
16 BOB WILSON: Yes...yes. If you could please, if you  
17 would put in the testimony your total cost of the completed  
18 well as opposed to just the completion cost. It would be---.  
19 A. Okay, total costs \$369,700.  
20 Q. Does the AFE also include a reasonable  
21 charge for supervision?  
22 A. Yes.  
23 Q. And would the granting of this application  
24

1 prevent waste, promote conservation and prevent the...and the  
2 protection of correlative rights?

3 A. Yes.

4 TIM SCOTT: That's all the questions I have for  
5 Mr. Johnston.

6 BENNY WAMPLER: In the future, we will need those  
7 AFEs with the application because people would be coming to  
8 the hearing trying to make a decision. They need time to do  
9 that. We don't have anybody here today appearing. So, it's  
10 not a big problem.

11 TIM SCOTT: Well, the...the AFE is the same AFE,  
12 it's just that it's not signed. It is...it is with the  
13 application.

14 BENNY WAMPLER: Okay, we don't have it at all.

15 (Sharon Pigeon confers with Benny Wampler.)

16 BENNY WAMPLER: The old one, okay. All right.

17 TIM SCOTT: Any...any questions, Mr. Chairman?

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

20 (No audible response.)

21 BENNY WAMPLER: Do you have anything further?

22 TIM SCOTT: No, sir.

23 BENNY WAMPLER: Is there a motion?  
24  
25

1           JIM McINTYRE:    Motion to approve.

2           PEGGY BARBAR: I second.

3           BENNY WAMPLER:    Motion is second.  Any further  
4 discussion?

5           (No audible response.)

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

8           (All members signify by saying yes.)

9           BENNY WAMPLER:    Opposed, say no.

10          (No audible response.)

11          BENNY WAMPLER:    You have approval.

12          TIM SCOTT:    Thank you.

13          BENNY WAMPLER:    The next item on the agenda is a  
14 petition from EOG Resources, Inc. for pooling a conventional  
15 gas unit PK K-18, docket number VGOB-05-0315-1426 continued  
16 from March.  We'd ask the parties that wish to address the  
17 Board in this matter to come forward at this time.

18          TIM SCOTT:    Tim Scott for EOG Resources.

19          PETER BACON:    Peter Bacon and John Johnston.

20          JIM KAISER:    And Jim Kaiser for Equitable  
21 Production Company.

22          BENNY WAMPLER:    Let the record show there are no  
23 others.  You may proceed.

24

--

1           TIM SCOTT: Mr. Chairman, as the Board will recall,  
2 this matter was continued from the March docket regarding a  
3 notice issue. It involved, of course, Equitable Production  
4 who was the named respondent in the application. The...there  
5 has been some communication between the parties as recently  
6 as about an hour ago and we still haven't been able to reach  
7 an agreement. There are some issues regarding---

8           JIM KAISER: My...our position or Equitable's  
9 position is that we still don't have their...we're trying to  
10 get to where we want to get to, but we still don't have some  
11 material information, some data that we would need in order  
12 to make an informed reasoned decision as to whether or not  
13 we'd want to directly participate, be carried or you know  
14 work out some sort of assignment or be deemed to lease or  
15 whatever. I don't know if I need to get into the specifics  
16 of that or not but---

17           TIM SCOTT: Well, our position, and I guess just  
18 in response to Mr. Kaiser's statement, is that we, you know,  
19 did make an offer to Equitable and I guess we were sort of in  
20 a position of not bargaining against ourselves so we're  
21 waiting for a response. And now we're on the eve of another  
22 hearing and...and nothing's been resolved, so we

23 were...obviously, they have issues and you know we're...we'd

24

--

1 like to go forward with this, but Mr. Kaiser informed me that  
2 he would want a continuance pending further negotiation with  
3 the...with Equitable. And our position was to find out what  
4 the pulse of the Board was before we went into testimony.  
5 We've already provided proof of publication and proof of  
6 certification...or mailing from the last time before this  
7 issue was...was raised. And, of course, you know, Mr. Bacon  
8 is here to answer any questions of Mr. Kaiser, as well as his  
9 attempts to reach a voluntary agreement with Equitable if  
10 that's what the Board's pleasure would be.

11 BENNY WAMPLER: Well, maybe Mr. Kaiser needs to  
12 tell us what his objections are.

13 JIM KAISER: Well, first of all, I was under the  
14 understanding five minutes ago that they were going to try to  
15 dismiss us. Apparently, they've changed their mind on that.  
16 I would have like to have known that. But our problem is---  
17 .

18 TIM SCOTT: I apologize, I just knew it too.

19 JIM KAISER: Our problem is we came to the last  
20 hearing and got the continuance under the pretense that there  
21 would be some dialogue. I guess, there is a misunderstanding  
22 that the dialogue was to start with my client. When we  
23 didn't hear anything...my client called me on March the 30th

24

--

1 and said you know, "what's going on, have you heard anything  
2 from anybody at EOG, we haven't heard from them." I said,  
3 "no." I said, you know, "if you haven't heard from them, you  
4 call them." So last, I guess, I don't know and maybe Peter  
5 can talk about this, Thursday or Friday, I think it was Mike  
6 Canich with my client called them asking for some  
7 information, a part of it being monthly operating cost which  
8 they did come to an agreement on. But the other key  
9 component, or material information, that my client needs to  
10 make an informed decision...we're talking...don't forget  
11 we're talking about 35% of the unit here, not 2% or 3%, would  
12 be (inaudible) rates and they weren't able at this time to  
13 provide us with that information. I assumed that maybe  
14 they'll be able to in the future so my idea was, which I  
15 thought we agreed to, was to let them...they agreed to  
16 dismiss us from this pooling, let them go forward with  
17 pooling everybody else, they can still get their permit, they  
18 can drill their well which is their primary concern. I guess  
19 they have lease obligations... contractual obligations and we  
20 understand that and sympathize with that. And then, if we  
21 haven't worked a voluntary agreement, they can come back, at  
22 which time they're ready to produce the well and then pool us  
23 then, and our...and then we'd be subject to the statutory

24

--

1 elections afforded us. But if...if...if they're not going to  
2 dismiss us then, you know, we're going to request another  
3 continuance.

4 BENNY WAMPLER: Thoughts?

5 JIM KAISER: If we don't get it, then we're pretty  
6 much hamstrung because at that point we're subject to the  
7 order and they're not under any obligation to work out any  
8 sort of voluntary agreement with us at all.

9 BOB WILSON: Can you dismiss a party that's already  
10 been identified as be...is requiring pooling?

11 JIM KAISER: If both parties agreed to it, I don't  
12 know why you couldn't. But, apparently, they're not  
13 agreeing to it.

14 SHARON PIGEON: Well, if the party is here and can  
15 testify to that, I think that is accurate, yes.

16 TIM SCOTT: Mr. Chairman, could we have about five  
17 minutes?

18 BENNY WAMPLER: Sure.

19 TIM SCOTT: Yes, I'm sorry, go ahead.

20 PETER BACON: Should I give a...discussion?

21 TIM SCOTT: Well, I think if we're going to...if  
22 we're going to go through the whole testimony, we'd have to  
23 do that...so, I think...well, you know, I need about five

24

--

1 minutes with my client, if that would be okay, please?

2 BENNY WAMPLER: Okay. We'll take a five minute  
3 break and let you do that.

4 (Break)

5 BENNY WAMPLER: Bob distributed minutes of the last  
6 meeting and I'll ask if there's any comments or corrections  
7 to those.

8 (No audible response.)

9 BENNY WAMPLER: If there are no comments or  
10 corrections to the Board minutes, then I'd ask for a motion  
11 to approve.

12 DENNIS GARBIS: So be it.

13 BENNY WAMPLER: Motion to approve. Is there a  
14 second?

15 JIM McINTYRE: Second.

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

18 (All members signify by saying yes.)

19 BENNY WAMPLER: You have approval.

20 (Off record).

21 BENNY WAMPLER: Okay, folks, if I can get your  
22 attention, we're going to go back on record here and let  
23 these gentlemen tell us what...what they have concluded if

24

--

1 anything.

2           TIM SCOTT: We have concluded. The...we've agreed  
3 to continue it...this matter until May. And Mr. Bacon would  
4 like, on the record, to tell the Board what efforts he has  
5 made, even though we've continued, so it will become part of  
6 the record. Okay. Is that all right with you Mr. Kaiser?

7           JIM KAISER: Yeah, that's fine.

8           PETER BACON: Just...it will be very brief, but I  
9 just.....but part of my level of frustration here is back in  
10 February of...February the 23rd of this year, we sent a offer  
11 letter for Equitable to participate in this well and we sent  
12 it to an address that was given to us on a business card of  
13 their regional director of the land department. That letter  
14 came back to us as not being a correct address and so on  
15 March 8th, we sent them another certified letter inviting  
16 them to participate in this well, and there was some back and  
17 forth between our attorneys whether or not they were given  
18 adequate notice. But at the hearing last month, we met in  
19 the hall, and at Mr. Kaiser's request, we postponed this  
20 until this hearing this month and we were given assurances by  
21 Mr. Kaiser that they're...Equitable's vice president of land  
22 would be contacting me to work this thing out. And we never  
23 heard a word from Equitable. The first I ever heard from

24

--

1 Equitable was yesterday on this matter. Apparently, one of  
2 their people contacted me by phone on, I think, Tuesday of  
3 this...late...what's today?

4 TIM SCOTT: Today is Wednesday.

5 PETER BACON: Tuesday. Yesterday. I guess he  
6 contacted me Friday of last week. I was out of town. I  
7 returned his call on Monday, yesterday. That was the first  
8 time I had ever talked to anybody at Equitable from...from  
9 the last month's hearing. And I left the conversation with  
10 the vice president that I talked to over there last night  
11 under the assumption that we had worked this out. That they  
12 needed one piece of information that I gave it to them and he  
13 said it was his understanding that that would be all they  
14 needed to make their decision. And it wasn't until this  
15 morning that I found out that they needed more information.  
16 So that's...that's the level of my frustration on it but  
17 we'll go ahead and continue till next week...or next month.

18 BENNY WAMPLER: Okay. That matter is continued.  
19 We're going to leave 25 till last on the Board's... going  
20 through your folders so we'll go to 26 next. That's a  
21 petition from EOG Resources Incorporated for pooling of  
22 conventional gas unit PK L-16, docket number VGOB-05-0419-  
23 1443. We'd ask the parties that wish to address the Board in  
24

1 this matter to come forward at this time.

2 TIM SCOTT: Tim Scott, EOG Resources. Peter Bacon  
3 and John Johnston.

4 BENNY WAMPLER: Let the record show there are no  
5 others. You may proceed.

6 TIM SCOTT: Mr. Wampler, the...when we were going  
7 over these files this morning, it was determined that the AFE  
8 that had been filed with the application was not the correct  
9 AFE. So, we have revised it. Unfortunately, the Hampton Inn  
10 didn't have a copying machine that I could make multiple  
11 copies. But I will provide those to the Board.

12 BENNY WAMPLER: We can look at it.

13 TIM SCOTT: I will provide those to the Board. It  
14 was a matter of change of target depth. It's a little  
15 blurry. I'll get better copies for the Board as well.

16 (Board members review the AFE.)

17 BENNY WAMPLER: Okay, you may proceed.

18

19 PETER BACON

20 DIRECT EXAMINATION

21 QUESTIONS BY MR. SCOTT:

22 Q. Mr. Bacon, would you state your name, your  
23 occupation and by whom you're employed?

24

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1           A.       My name is Peter Bacon. I'm the division  
2 land manager for EOG Resources in Pittsburgh.

3           Q.       And what...are you familiar with EOGs  
4 application now pending before the Board?

5           A.       Yes, I am.

6           Q.       Is this unit located within the Pilgrims  
7 Knob Field?

8           A.       Yes, it is.

9           Q.       And what unit number is it, please?

10          A.       PK L-16.

11          Q.       Does this unit contain 180 acres?

12          A.       Yes, it does.

13          Q.       And does EOG own drilling rights in this  
14 unit?

15          A.       Yes, it does.

16          Q.       Are there any respondents listed as unleased  
17 on Exhibit B who should be dismissed from the application?

18          A.       No.

19          Q.       And what percentage of the oil and gas does  
20 EOG have under lease?

21          A.       72.06%.

22          Q.       How was notice...the notice of this hearing  
23 provided to the respondents listed on Exhibit B?

24

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1           A.       By certified mail.

2           Q.       Was notice affected by any other means?

3           A.       Notice of the hearing was published.

4           Q.       And when was that published?

5           A.       March the 24th, 2005 in the Bristol Herald  
6 Courier.

7           Q.       Okay. Are there any unknown owners in this  
8 unit for parties whose addresses are unknown?

9           A.       Yes.

10          Q.       Okay. And they are listed on Exhibit B to  
11 the application?

12          A.       Yes.

13          Q.       And you have tried to locate these parties?

14          A.       Yes.

15          Q.       And did you use telephone books, etc., to  
16 locate these parties?

17          A.       Yes, and I talked to some family members.

18          Q.       Okay. Have you filed proof of publication  
19 and affidavits of mailing with the Board as to this  
20 particular unit?

21          A.       Yes.

22          Q.       And is EOG authorized to conduct business in  
23 the Commonwealth?

24

1 A. Yes.

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

5 A. Yes.

6 Q. If you reached a voluntary agreement with  
7 the unleased parties respondent, what terms would you offer  
8 them?

9 A. \$5 an acre, a one-eighth royalty for a five  
10 year primary term.

11 Q. And do you...would you consider that to be a  
12 reasonable value of lease rights in this area?

13 A. Yes.

14 Q. What percentage of the oil and gas estate  
15 are you seeking to pool?

16 A. 27.94%.

17 Q. With regard to this unit, is there an escrow  
18 requirement?

19 A. Yes.

20 Q. And have you submitted an Exhibit E which  
21 sets forth the interest in the tracts affected, wherein, the  
22 parties whose interest should be escrowed?

23 A. Yes.

24

--

1 Q. Are you requesting the Board to pool any  
2 unleased parties listed on Exhibit B?

3 A. Yes.

4 Q. Are you requesting that EOG be named  
5 operator for this particular unit?

6 A. Yes.

7 Q. And when the parties are provided with their  
8 statutory elections, where should those elections be  
9 forwarded and to whom?

10 A. They should be forwarded to EOG Resources,  
11 Inc., South Point Plaza One, 400 South Point Boulevard, Ste.  
12 300, Cannonsburg, Pennsylvania 15317 to the attention of  
13 Peter E. Bacon, Division Land Manager.

14 Q. And should this be the address for all  
15 communications with you as the operator?

16 A. Yes, it should.

17 TIM SCOTT: Okay. Those are the only questions I  
18 have for Mr. Bacon.

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

21 (No audible response.)

22 BENNY WAMPLER: Call your next witness.

23 TIM SCOTT: Okay.

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JOHN JOHNSTON

DIRECT EXAMINATION

QUESTIONS BY MR. SCOTT:

Q. Mr. Johnston, would you state your name, occupation and by whom you are employed?

A. John Johnston, occupation is Division Exploration Manager for EOG Resources, Pittsburgh Division.

Q. And you are familiar with the application now pending before the Board?

A. Yes.

Q. Are you familiar with the total depth of this proposed well?

A. Yes.

Q. And what would that be?

A. 5200 feet.

Q. Are you requesting the Board to pool oil and gas reserves from the surface to the total depth, excluding coal?

A. Yes.

Q. What are the estimated reserves for this particular unit?

A. 300 million cubic feet.

Q. And are you familiar with the well costs for

1 this proposed well?

2 A. Yes.

3 Q. What are the...what is the estimated dry  
4 hole costs?

5 A. Estimated dry hole costs is \$220,775.

6 Q. What's the estimated total well costs?

7 A. \$355,200.

8 Q. Has an AFE been provided to the Board?

9 A. Yes.

10 Q. And did you participate in preparing the  
11 AFE?

12 A. Yes.

13 Q. Does the AFE also include a reasonable  
14 charge for supervision?

15 A. Yes.

16 Q. In your opinion, would the granting of this  
17 application promote conservation, prevent waste and protect  
18 correlative rights?

19 A. Yes.

20 TIM SCOTT: Those are my questions for Mr.  
21 Johnston.

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

24

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1 (No audible response.)

2 BENNY WAMPLER: Anything further, Mr. Scott?

3 TIM SCOTT: No, sir.

4 BENNY WAMPLER: Is there a motion?

5 (Sharon Pigeon and Benny Wampler confer.)

6 BENNY WAMPLER: You did say that you'd get us...get

7 Mr. Wilson a signed AFE more legible or is that---?

8 TIM SCOTT: Yes, sir, I will. Yes, sir, I will.

9 BOB WILSON: A legible copy.

10 TIM SCOTT: A legible copy on all of those, Mr.

11 Wilson, I will.

12 BENNY WAMPLER: Okay. Is there a motion?

13 JIM McINTYRE: So moved.

14 BENNY WAMPLER: Motion for approval.

15 DENNIS GARBIS: Second.

16 BENNY WAMPLER: Second. Any further discussion?

17 (No audible response.)

18 BENNY WAMPLER: All in favor, signify by saying

19 yes.

20 (All members signify by saying yes.)

21 BENNY WAMPLER: Opposed, say no.

22 (No audible response.)

23 BENNY WAMPLER: You have approval. The next item

24

1 on the agenda is a petition from EOG Resources, Inc. for  
2 creation and pooling of a conventional gas unit Big Vein Well  
3 #11-05. This is docket number VGOB-05-0419-1444. We'd ask  
4 the parties that wish to address the Board in this matter to  
5 come forward at this time.

6 TIM SCOTT: Tim Scott for EOG Resources, Peter  
7 Bacon and John Johnston.

8 (Tim Scott passes out an exhibit.)

9

10

PETER BACON

11

DIRECT EXAMINATION

12 QUESTIONS BY MR. SCOTT:

13 Q. Okay, Mr. Bacon, would you state your name,  
14 please?

15 A. Peter Bacon.

16 Q. By whom are you employed?

17 A. EOG Resources, Inc.

18 Q. And what is your job title?

19 A. Land Manager of the Pittsburgh Division.

20 Q. Are you familiar with EOG's application now  
21 pending before the Board?

22 A. Yes, I am.

23 Q. Does this particular unit, is it located in  
24

25

1 an established field?

2 A. No. It would be on the state wide spacing.

3 Q. Okay, what...how many acres does this unit

4 contain?

5 A. 112.69 acres.

6 Q. And does EOG have drilling rights in this

7 unit?

8 A. Yes.

9 Q. Are there any respondents listed on Exhibit

10 B who should be dismissed from the application?

11 A. No.

12 Q. And what percentage of the unit does EOG

13 have under lease?

14 A. 96.1%.

15 Q. How was notice provided to the respondents

16 listed on Exhibit B?

17 A. By certified mail.

18 Q. Was notice affected by any other means?

19 A. Notice of the hearing was published in the

20 March 24, 2005 Bristol Herald Courier.

21 Q. Okay. Are there any unknown owners in this

22 unit?

23 A. No.

24

1 Q. Have you filed proofs of publication and  
2 affidavit of mailing to the Board?

3 A. Yes.

4 Q. Is EOG authorized to conduct business in the  
5 Commonwealth?

6 A. Yes, we are.

7 Q. And is there a bond filed with the  
8 Department?

9 A. Yes.

10 Q. If in the event you were able to reach a  
11 voluntary agreement with the parties respondent, what would  
12 that be?

13 A. Five dollars an acre, one-eighth royalty for  
14 a five year primary term.

15 Q. In your opinion, do these terms represent a  
16 reasonable value for lease rights in this area?

17 A. Yes, they do.

18 Q. What percentage of the oil and gas estate  
19 are you seeking to pool?

20 A. 3.9%.

21 Q. And with regard to this unit, is there an  
22 escrow requirement?

23 A. No.

24

--

1 Q. Are you requesting the Board to pool any  
2 unleased parties listed on Exhibit B?

3 A. Yes.

4 Q. Are you requesting that EOG be named  
5 operator for this unit?

6 A. Yes.

7 Q. In the event if the application is approved  
8 and elections are sent to the parties respondent, what  
9 address should be used and to whose attention should those  
10 communications be directed?

11 A. It should be sent to EOG Resources, Inc.,  
12 South Point Plaza One, 400 South Point Boulevard, Ste. 300,  
13 Cannonsburg, Pennsylvania 15317 to the attention of Peter  
14 Bacon, Division Land Manager.

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

18 A. Yes.

19 TIM SCOTT: That's all I have for Mr. Bacon.

20 BENNY WAMPLER: Questions from members of the  
21 Board?

22 (No audible response.)

23 BENNY WAMPLER: Call your next witness.

24

--

1                   TIM SCOTT:   Okay.

2

3                                   JOHN JOHNSTON

4                                   DIRECT EXAMINATION

5 QUESTIONS BY MR. SCOTT:

6                   Q.       Mr. Johnston, would you state your name,  
7 please?

8                   A.       John Johnston.

9                   Q.       And by whom are you employed?

10                  A.       EOG Resources, Inc.

11                  Q.       And in what capacity?

12                  A.       I'm the Division and Exploration Manager.

13                  Q.       Are you familiar with the pooling  
14 application now before the Board?

15                  A.       Yes.

16                  Q.       And are you familiar with the total depth of  
17 this proposed well?

18                  A.       Yes.

19                  Q.       And what would that be?

20                  A.       5,450 feet.

21                  Q.       Are you requesting the Board to pool oil and  
22 gas reserves between the surface and the target depth  
23 excluding coal?

24

--

1           A.       Yes.

2           Q.       What are the estimated reserves of this  
3 unit?

4           A.       300 million cubic feet.

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

7           A.       Yes.

8           Q.       What is the estimated dry hole costs?

9           A.       \$224,000.

10          Q.       And what is the estimated completed well  
11 costs?

12          A.       \$360,500.

13          Q.       Has EOG provided a signed AFE to the Board?

14          A.       Yes.

15          Q.       And does this AFE also include a reasonable  
16 charge for supervision?

17          A.       Yes.

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

21          A.       Yes.

22               TIM SCOTT: Those are the only questions I have for  
23 Mr. Johnston.

24

1           BENNY WAMPLER: Questions from members of the  
2 Board?  
3           (No audible response.)  
4           BENNY WAMPLER: Do you have anything further?  
5           TIM SCOTT: No, sir. I'd just ask that the  
6 application be approved as submitted.  
7           BENNY WAMPLER: Is there a motion?  
8           JIM McINTYRE: Motion to approve.  
9           DENNIS GARBIS: Second.  
10          BENNY WAMPLER: Motion to approve and second. Any  
11 further discussion?  
12          (No audible response.)  
13          BENNY WAMPLER: All in favor, signify by saying  
14 yes.  
15          (All members signify by saying yes.)  
16          BENNY WAMPLER: Opposed, say no.  
17          (No audible response.)  
18          BENNY WAMPLER: You have approval. Thank you.  
19          TIM SCOTT: Thank you very much.  
20          PETER BACON: Mr. Chairman, the last...last time we  
21 were here, you did tell me about the signed AFE, and I  
22 promise you the next time we'll have them, and you'll have a  
23 right to scold me if I don't.

24

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1           BENNY WAMPLER: Okay, thank you. Okay, the last  
2 item on the agenda is a petition from Dart Oil and Gas  
3 Corporation for establishment of field rules for drilling of  
4 conventional wells in the Abbs Valley and Northern Tazewell  
5 County, VGOB-05-0419-1442. We'd ask the parties that wish to  
6 address the Board in this matter to come forward at this  
7 time. I understand you have to set up for that.

8           BOB WILSON: Mr. Chairman, yes, I believe they are  
9 all outside and we do have to do some set up before we can  
10 get started.

11          BENNY WAMPLER: So if you need to stand up, stand  
12 up.

13           (Off record.)

14          BENNY WAMPLER: Okay, we'll let you go through your  
15 testimony and then we may have other people that wish to  
16 speak. I, again, remind you to speak loudly so that everyone  
17 can hear you.

18           (Robert Powell, Richard Hinkley, Glenn Phillips and  
19 Tom O'Neill are duly sworn.)

20          JIM KAISER: Have you already called it?

21          BENNY WAMPLER: You may proceed.

22          JIM KAISER: Mr. Chairman and Board members, Jim  
23 Kaiser on behalf of Dart Oil & Gas Corporation. We will have  
24

1 four witnesses in this hearing to establish the Abbs Valley  
2 Field. In order of their presentation...then I'll introduce  
3 them in order of their presentation. First, it will be Mr.  
4 Tom O'Neill and Mr. Glenn Phillips, Mr. Bob Powell and then  
5 Mr. Dick Hinkley. We'll start with Mr. O'Neill. We'll ask  
6 him to give a brief summary of his educational background and  
7 his work experience. He will be testifying primarily as to  
8 the geology of the field.

9           TOM O'NEILL: My name is Tom O'Neill. I'm  
10 currently the manager of the Appalachian Region for Dart Oil  
11 & Gas. I have a Bachelor of Arts and a Bachelor of Science  
12 and Geology for the University of Minnesota. I've been in  
13 the industry practicing as a geologist for 31 years.

14           My prior employers were Texaco, Inc. I was a co-  
15 owner of Lexco Exploration for 10 years. I worked for  
16 Equitable Resources, and 9 years of that, I was Vice  
17 President of Exploration. Then I've been working for Dart  
18 Oil & Gas. I have work experience in the Gulf Coast in the  
19 Illinois Basin, Cumberland Plateau and the Appalachian Basin.  
20 So, pretty much I've worked everything in the Eastern United  
21 States.

22           I'm a member of the America Association of  
23 Petroleum Geologists. I'm also a member of the American

24

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1 Institute of Professional Geologists and I am a certified  
2 professional geologist. I've been a past expert witness to  
3 this Board, the Virginia Gas and Oil Board, and to the  
4 Kentucky Department of Mines and Minerals, the Oil and Gas  
5 Board.

6 I'm responsible for interpreting the geology in the  
7 Abbs Valley Field. It was my concept in the first place that  
8 brought Dart here to drill in the Abbs Valley area. I choose  
9 the well sites and I'm basically responsible for the project.

10 Now, this first slide is a regional map of the Abbs  
11 Valley area. You can see the Abbs Valley Gas Field  
12 identified right here. This located in the northeastern tip  
13 of Tazewell County. This is Tazewell County from the  
14 northeastern tip that's where it's located. It's on trend  
15 with Upper Weir Sand Development from the north and it's also  
16 on trend with Lower Weir, Upper Berea and Lower Berea Sand  
17 Development from the south and southeast. The Upper Weir is  
18 the primary producing formation in this field to the north of  
19 Abbs Valley, the Ashland...the Ashland-Clark Gas Field. The  
20 Pilgrim's Knob Field to the west in Buchanan County, Virginia  
21 is primarily productive from the Berea.

22 We're going to talk about this type log next just  
23 to the south of the Abbs Valley Gas Field. This is the well  
24

1 that I just pointed out, the Consolidated Gas #12642, was a  
2 dry hole, drilled back in 1980. You see here an electric  
3 log. It has got a gamma ray on the left side and density on  
4 the right side. This log continues on over to here so you  
5 can see it. It surpassed 4600 feet in depth. On a gamma ray  
6 log to the far left side, would be a clean gamma ray,  
7 therefore, like a clean limestone or a clean sandstone, and  
8 to the far right side would be a very shelly or a very shelly  
9 sandstone or limestone.

10           The Upper Weir sand located right here at 4,000  
11 feet in this well approaches very closely the clean side like  
12 some of the Big Lime does. That would be considered a clean  
13 sandstone. And you can see on the others, the Lower Weir,  
14 the Upper Berea and the Lower Berea are much closer to this  
15 shell line on the eastern side. So, they're...they're  
16 considered poorly developed and very shelly, but still  
17 present as a...as a identifiable unit.

18           This is a seismic line across the Abbs Valley Gas  
19 Field. You can see it's oriented on the northwest to the  
20 southeast, crosses the structure, and this would be then the  
21 Abbs Valley Gas Field. Big Lime in blue, at one point this  
22 end of the Big Lime was attached to this end. This is what  
23 we call a thrust anticline. The Big Lime and the

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1 whole...this whole section of rock here was pushed up in this  
2 direction. This is a thrust fault and it broke off the  
3 section right here and separated it from where it was  
4 attached down here.

5           This yellow reflector indicates the Weir Sandstone.  
6 You can see that it's broken off right here, which basically  
7 underlies the Outcrop edge of the Big Lime. I do want to  
8 point out the Outcrop. This is at the surface. The Big  
9 Limestone, which in much of Virginia is buried at a  
10 significant depth. It does occur at the surface on the Abbs  
11 Valley anticline. This is a northern boundary of it and this  
12 is a southern boundary. When we get into describing how the  
13 field is defined, this is an important place because that's  
14 where the Weir Sandstone and the Berea Sandstones have been  
15 cut off going to the north.

16           Also, you can see the dry hole that we talked  
17 about. It's located right here. It's off the seismic line.  
18 This is the #1 Carter, which we drilled on the anticline a  
19 couple of years ago. We drilled it right at the edge of the  
20 outcrop of the Big Lime to the south.

21           This is a structure map drawn on top of the Upper  
22 Weir Sand. That clean sand that I showed you on the dry  
23 hole, which is located right there. A couple of things to  
24

1 notice on this structure map. The contour interval on the  
2 north side of this fault. This fault, by the way, is where  
3 the Upper Weir was cut off that I showed you on the seismic  
4 line. The contour interval north of that is a 100 foot  
5 contour. You can see from minus 1900 to minus 2000. Contour  
6 interval on the southern side is 500 feet from 0 to minus 500  
7 and minus a 1000. So a significantly different contour  
8 interval. It indicates this is a much, much stronger  
9 structural deformation than this one.

10           From the top of the Dry Fork anticline down to the  
11 base of this incline, it's about 480 feet in this Ashland-  
12 Clark gap field. On the Abbs Valley anticline from the top  
13 of the anticline down to the dry hole is greater than 2100  
14 feet. So, it's a significantly different size of structure.  
15 This is a much larger structure, therefore, much greater  
16 fracturing...fracture enhancement from the greater structure  
17 deformation.

18           The other thing I wanted to point out is  
19 this...this light blue area right here, that's the Outcrop of  
20 the Big Lime that I mentioned earlier on the seismic line.  
21 Then as you go away to the south or to the west, that Big  
22 Lime plunges below the surface and you're dropping down the  
23 anti-cline.

24

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1           You can also see the 200 acre grid that we're  
2 proposing for the Abbs Valley Gas Field. The four boundaries  
3 of this...of this grid are defined as such. The northern  
4 boundary follows that fault that cuts off the Weir and the  
5 Berea on the anticline that I showed you on the seismic line.  
6 The eastern boundary is the state line between Virginia and  
7 West Virginia. The western boundary is at this...just past  
8 this Outcrop of the Big Lime as I mentioned. Big Lime is at  
9 the surface...is no longer at the surface. It's plunging.  
10 So, we know this anticline is plunging to the west. So,  
11 that's why we cut it off there right past the outcrop of the  
12 Big Lime. Then to the south, we chose a just up dip of this  
13 dry hole. That's where this line came from. So, basically  
14 this was defined entirely on structure...the structural  
15 definition of this Abbs Valley Gas Field outline.

16           BENNY WAMPLER: Your Carter well is on the west  
17 here?

18           TOM O'NEILL: The Carter well is right here.

19           BENNY WAMPLER: It's right there.

20           TOM O'NEILL: I forgot to mention that this is a  
21 seismic line that we looked at.

22           BENNY WAMPLER: Okay.

23           TOM O'NEILL: And the Carter well is actually  
24  
25

1 drilled off the line, but it was projected in from here to  
2 there. And as I mentioned, it was drilled right on the edge  
3 of the Big Lime Outcrop to the south.

4           This is a slide that shows if the wells were  
5 drilled in the center of the grid pattern, just to get you a  
6 fill of what the well spacing would be like. Of course, the  
7 spacing we have now is a 1250 foot radius, which would be a  
8 2500 foot offset between wells. From center to center,  
9 east/west or north/south on these grids, the spacing would be  
10 roughly 2950 feet. From diagonal directions, it would be  
11 about roughly 4175 feet, that's what the spacing would be to  
12 center of grid to center of grid. Now, this can't always be  
13 accomplished for topographic reasons or other things.  
14 Sometimes you just need to have a minimum spacing. This  
15 minimum spacing is defined by a well basically in the center  
16 of the grid with the well space...the closest spacing would  
17 be on the...it's a 300 foot offset inside this grid boundary  
18 and that's 1775 feet, but for simplicity we're asking for  
19 1800 feet as the minimum spacing. In comparison, the minimum  
20 spacing for the Pilgrims Knob Gas Field was 1750 feet for a  
21 180 acre grid.

22           JIM KAISER: Mr. Chairman, that's all at this time  
23 of Mr. O'Neill's testimony. If you would like to entertain  
24

1 questions before we move on to the next witness, which will  
2 be Mr. Phillips, or if you just want to do it all at the end  
3 of the testimony or however you want to do it.

4 BENNY WAMPLER: Any questions from members of the  
5 Board?

6 JIM McINTYRE: I have a question---.

7 BENNY WAMPLER: Mr. Garbis...excuse me.

8 JIM McINTYRE: The distance between those windows  
9 is that 600 feet and you've got a 300 foot offset shown  
10 on...?

11 TOM O'NEILL: The distance between here and here?

12 JIM McINTYRE: Yeah.

13 TOM O'NEILL: Yes, that will be 600 feet.

14 JIM McINTYRE: Okay.

15 BENNY WAMPLER: Mr. Garbis.

16 DENNIS GARBIS: How did you arrive at the number of  
17 200 acre grid spacing? How did you...what was the thought  
18 processes for that?

19 TOM O'NEILL: Yeah, we're going to get into that in  
20 great detail. So, if you could...if your question---.

21 JIM KAISER: That would probably really---.

22 TOM O'NEILL: ---not answered then we can ask it  
23 again. But he should be...Dick Hinkley will get into that in  
24

1 great detail.

2 DENNIS GARBIS: Okay.

3 BENNY WAMPLER: Other questions?

4 (No audible response.)

5 BENNY WAMPLER: Call your next witness.

6 JIM KAISER: We'd ask...we'd call Mr. Glenn  
7 Phillips, who will talk about the work that he did in  
8 surveying the Abbs Valley Gas Field.

9 GLENN PHILLIPS: I'm Glenn Phillips. I live here  
10 in Abingdon. My educational background is I have a B. S. in  
11 Civil Engineering and Technology from Bluefield State  
12 College. An Associate degree in Civil and Mining Tech from  
13 Wytheville and Southwest Virginia Community Colleges. I'm  
14 licensed as a land surveyor in Virginia, West Virginia and  
15 Kentucky. My role in this is was simply to prepare the  
16 Exhibit A and the legal description describing the grid.

17 My experience background is that I began surveying  
18 in 1968 as an artillery survey specialist in the U. S. Army  
19 in Vietnam...South Vietnam. I came back and started to  
20 school. I worked off and on. I was a transit man for  
21 Pocahontas Land Corporation, Norfolk Southern's Land Holding  
22 Company. In the late '70s, I was a project engineer and  
23 assistant property manager for Clinchfield Coal Company. The

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1 early '80s, I was manager of coal lands for Virginia Iron  
2 Coal and Coke. VP Land Holding Company, VICC Land Company  
3 and Vice President of the parent company VP of land of A & R  
4 Coal. For the last 17 years, I've been with my firm, Glenn  
5 F. Phillips and Company, P. C. We do primarily oil and gas  
6 and coal work. I do a lot of plats for oil and gas and  
7 coalbed methane wells and some pipeline work.

8           Given the perimeters...given the structural  
9 perimeters that Mr. O'Neill just discussed, the outline of  
10 the field was pretty well established just by the structure.  
11 My task was to make an Exhibit A, which I have here, and  
12 write the legal description that would uniquely identify this  
13 place on the face of the earth. So, we have used State Plane  
14 Coordinates  
15 ...Virginia State Plane Coordinates, NAD27, South Zone, and  
16 simply started at that point. There's a gap there just  
17 northeast of the little community of Abbs Valley and followed  
18 that...follow the Big Lime and crashed it into the state  
19 line. There was...there's long lines at the state line there  
20 and we had a little bend there so you can see...there's one  
21 short course and then gone southeastern to the southeast line  
22 and back to the beginning. Not only do we have the  
23 structural requirements for putting it here, but it lines up

24

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1 very nicely with the plane metric features. It lines up very  
2 nicely with the topography.

3           Let's look at the next slide. And the outline is  
4 pretty...pretty light. These are the tracts taken from the  
5 tax maps and you can see that also...and for the same reason,  
6 the properties line up very nicely with the grids. They're  
7 either running with this northeast/southwest trend or they're  
8 perpendicular to it. So, it's a nice, clean efficient layout  
9 as far as covering this field.

10           That's...that's all. That was my total role was to  
11 make the map and write the legal description that's  
12 incorporated into the documents.

13           JIM KAISER: Right. The map he's talking about is  
14 Exhibit A to the application and the legal description is  
15 included in the application that was filed in this matter. I  
16 guess we'll take questions for Mr. Phillips now.

17           BENNY WAMPLER: Is there any questions from members  
18 of the Board?

19           (No audible response.)

20           BENNY WAMPLER: We'll wait until we hear it all.  
21 Go on to the next witness.

22           JIM KAISER: Our next witness will be Mr. Bob  
23 Powell. He's going to...I'm actually going to have a few  
24

1 questions for him. He's going to talk about the leasehold  
2 interest within this 8600 acre field and that's what it is,  
3 about 8627 acres, and talk about our efforts regarding notice  
4 prior to having this hearing today.

5

6

7

BOB POWELL

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

10

DIRECT EXAMINATION

11 QUESTIONS BY MR. KAISER:

12 Q. Bob, if you could just briefly go through  
13 your work experience and background for the Board.

14 A. Yes. My name is Bob Powell from Kingsport,  
15 Tennessee. I've been a professional landman for Dart Oil &  
16 Gas for the past 5 or 6 years. I have 32 years as a  
17 professional landman with 15 years in the Appalachia working  
18 in this...Virginia and Kentucky areas.

19 I'm responsible for the leasing and right-of-way  
20 for Dart Oil & Gas in the Abbs Valley prospect in Tazewell  
21 County, Virginia plus other prospects. I am a member of the  
22 American Association of Professional Landmen and the  
23 Appalachian Association of Professional Landmen. This has

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1 been my project as far as land work from the beginning in  
2 2001.

3 Q. Okay, Bob, as you know, we were required to  
4 by statute to provide notice to oil and gas owners within  
5 this 8600 acre field. How did you go about determining those  
6 owners?

7 A. We checked the Commissioner of Revenue's  
8 office in Tazewell County, Virginia and took the list that  
9 they had and coupled it with the grantor records in the  
10 county clerk's office and grantoring each tract to see if it  
11 had been sold in the past 13 ½ months to see if any property  
12 had been sold. The Commissioner of Revenue office, it was  
13 good for January the 1st, 2004. So, that's why we went to  
14 the County Clerk's office and ran forward the records  
15 to...you know, to see who might be a new owner that wasn't  
16 listed.

17 Q. And I think your title of due diligence  
18 revealed roughly 600 different people?

19 A. Yes, it did.

20 Q. And we noticed these 600 people?

21 A. Yes, we did.

22 Q. And what were our results from this notice?

23 A. Out of 600 notices sent out, we had 50 that  
24

1 went unclaimed and we had 7 where there was no card or packet  
2 returned to our offices.

3           Q.       Of course you know this, but you didn't  
4 actually do this, my office actually published notices, as I  
5 guess the Board probably did also under their statutory  
6 requirement, in the Bluefield Daily Telegraph, which would  
7 determine was the paper of the largest circulation that would  
8 effect this area rather than using the Coalfield Express or  
9 the Bristol paper. We thought we'd get better coverage here  
10 as far as publication notice. We have filed the results of  
11 our notice with Mr. Wilson and his office.

12           Now, let's talk about...we've got a typo on our  
13 slide here. It actually should be 8627.21, which is  
14 reflected in the application, is the total area of the field  
15 that we're proposing. Bob, can you talk about what  
16 percentages we've obtained leasing on in that...within that  
17 8627 and talk a little bit about your continuing efforts and  
18 future plans?

19           A.       Yes. We've leased approximately 66.13% of  
20 the acreage in that grid. We have been constantly contacting  
21 land owners within the grid for the past three or four years  
22 trying to lease more. I've talked to a couple of people  
23 today and we'll probably get a couple more leases after

24

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1 today, you know, fairly soon. But we're on an ongoing effort  
2 to get to everybody. Of course, we start with the larger  
3 tracts and, you know, the smaller tracts, the 1, 2 or 5 acre  
4 tracts, we don't get to those until we actually will get  
5 inside our well unit and start to actually drill a well in  
6 one of the...in one of the units. Then we'll contact the  
7 smaller tracts at that time.

8           JIM KAISER: Mr. Chairman, I don't have anything  
9 further of this witness at this time. If the Board has  
10 anything---

11           BENNY WAMPLER: Questions from members of the  
12 Board?

13           (No audible response.)

14           BENNY WAMPLER: Go on to your...through your  
15 presentation.

16           JIM KAISER: All right. Last, our engineer Mr.  
17 Hinkley, Dick, if you'd introduce yourself and, again,  
18 briefly go through your education and your work experience  
19 and then we'll get on to your slides.

20           RICHARD HINKLEY: Again, my name is Richard  
21 Hinkley. I'm the manager of engineering and operations for  
22 Dart Oil & Gas, and I'm also the District Manager for our  
23 Michigan region. I have a Bachelor of Science degrees in  
24

1 geology and civil engineering from Michigan State University.  
2 I've spent 25 of my 26 years in the oil and gas industry at  
3 Dart Oil & Gas. I've worked in a variety of engineering and  
4 geologic functions of the company. I've been involved in  
5 many...in many of our drilling of our wells, the drilling  
6 operation and the design, the completion operation and  
7 design, supervision, and all those sort of things. I've also  
8 done reserve and economic evaluations. I've specialized in  
9 secondary recovery operations where I've designed four water  
10 floods and then implemented those water floods. I've also  
11 functioned for the company as regulatory and environmental  
12 compliance manager. I have been before this Board before,  
13 the Virginia Gas and Oil Board, and I've testified on several  
14 occasions before the supervisor of wells in the State of  
15 Michigan. I've also with the State of Michigan, I worked on  
16 a...with the Department of Environmental Quality. I was on a  
17 mineral well advisory committee where they were working on  
18 promulgating rules for mineral wells. I'm also a member of  
19 the Society of Petroleum Engineers.

20 I want to touch...go back a little back on this  
21 particular slide. This is the one that Glenn talked about.  
22 Not only does this grid fit the...the geology and the  
23 orientation for the reservoir, but this particular grid, if

24

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1 you will notice, it will take in small tracts that would not  
2 be...be a part of the unit if we stayed with the state 2500  
3 foot diameter well spacing. For example, if I drilled a well  
4 right in the center of that particular grid, you can see  
5 there would be many small grids that would not be  
6 incorporated into that circle. We believe that this grid and  
7 the orientation, along with the geology, protects the  
8 correlative rights of the individuals in the area.

9           I'll go on to...so, my job here was to try to  
10 answer your question, why we picked the 200 acre grid? So, I  
11 did a couple of different things. I looked at offsetting  
12 fields and we looked at this Ashland-Clark Gap Field and we  
13 were able to get some information from the atlas of major  
14 Appalachian Gas plays and we used those perimeters from that  
15 publication and that calculated a drainage radius for the  
16 Upper Weir in the Ashland-Clark Gap. Again, this is the  
17 Upper Weir section that Tom talked about, the clean sand.  
18 And based on that calculation, we converted it from a radius  
19 to a square. Based on that calculation, on an average, the  
20 wells in the Clark Gap Field are draining the Upper Weir  
21 section at roughly 166 acres.

22           Then go to the next slide. Then look...as Tom  
23 testified, we also have some Lower Weir and some Berea Pay.

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1 We looked at the Pilgrims Knob Gas Field, which is to the  
2 northwest of our Abbs Valley Field. In that field, we  
3 noticed that the spacing was set at a 180 acres with a 300  
4 foot offset. So, you know, based on that, that's where we  
5 came up with a 300 foot offset for our squares and we just  
6 determined that, at least a non-fractured reservoir, it  
7 appeared from this Board and from the testimony supplied that  
8 a 180 acres would drain the Berea, again, in a non-fractured  
9 situation.

10 We then looked at...we've run some flow and  
11 production...and pressure tests in two of our wells. Tom  
12 pointed out the Carter #1 and the Valley Farms #1. We had a  
13 reservoir engineering firm to conduct that data where we did  
14 some flow testing and measured pressures. From there, they  
15 were able to generate different production forecasts based on  
16 different well spacings. This curb is cut off in order to  
17 make it so you can actually read it and make sense of it.  
18 All of these curves actually converge way up at about 2 ½  
19 million cubic feet per day, but we cut that off. So, all  
20 these curves actually run way up there and then drop down and  
21 you can see, here's the 80 acre on is the far left one and  
22 the 640 acre unit is the far right one. What this curve  
23 shows, it shows a classic hyperbolic decline, which is very

24

1 indicative of a fractured reservoir. These are the type of  
2 declines that you see. They drop off rapidly and then  
3 flatten out. Then also, as you can see, as the unit size  
4 gets larger, the curves become flatter.

5           We'll go to the next one. This next curve, since  
6 we're focusing on 200 acres, this is the 200 acre production  
7 forecast that was on the previous slide. But then we  
8 superimposed on that production data from two wells that we  
9 were able to find in the Clark Gap Field. And this, again,  
10 we show this just to show the difference between a non-  
11 fractured reservoir versus a fractured reservoir. Again, you  
12 see the hyperbolic decline. In the non-fractured reservoir,  
13 you see more of a linear decline. It starts out at a much  
14 lower initial production rate. It goes out much further.  
15 You can notice that the commutative production then in this  
16 fractured reservoir, we're going to get all this production  
17 up through here. This area under the curve represents the  
18 cumulative production. We get all of that production in a  
19 much...in a much faster time period. It looks these...in  
20 this particular case, these curves look like they intercept  
21 at around 70 to 75 months, which is close to 6 years and at  
22 about 50 to 60 mcf.

23           This is...we just did an analysis of the 200 acre  
24

1 grid versus the current state spacing, which is, of course,  
2 again, the 1250 foot radius. If you convert that into a  
3 square, that's roughly a 143 acres in that grid. If we  
4 stayed with the state spacing, we would need to drill 60  
5 wells to drain the reservoir. In the 200 acre spacing, we  
6 would...we would reduce that by roughly 25%. We would need  
7 44 wells to do the same thing. The 16 fewer wells,  
8 obviously, prevents waste, would have less surface damage and  
9 environmental impact by having 25% fewer wells.

10           We looked at some economics and the net present  
11 value and what we did with this curve is we normalized it to  
12 640 acres so we were looking at an apples and apples  
13 comparison. In that case, we look at these different  
14 well...you got on the horizontal or X axis, you have well  
15 spacing in acres. On the Y axis, you have net present value  
16 per acre, that's per 640 acres and it's in thousands of  
17 dollars. So, if you look at this, at 200 acres we're roughly  
18 on a net present value basis, this is roughly \$7,000 per  
19 acre. We have a couple of these things that are slightly  
20 higher than this, but they are well within the major of error  
21 to make this calculation.

22           The next slide, we've taken that same table from  
23 the previous one and put in tabular form. You can see that  
24

1 the net present value for 200 acres is roughly 4.4 million.  
2 At 280 acres, it's roughly a little over 4.6 million. The  
3 difference between those numbers is a \$150,000 difference.  
4 That's within 3%. Again, any of these...any of these are  
5 between 200 and this 320. All of these are within about 3%,  
6 which is well within the margin of error to make that  
7 calculation. That calculation again is based on those  
8 production forecasts that we looked at earlier on the  
9 different acres and the production forecast that corresponded  
10 to those acres.

11 BENNY WAMPLER: The 417,000, is that what you're  
12 talking about, the life of the well?

13 RICHARD HINKLEY: No, those production forecasts  
14 that we had in the previous slide. We used those production  
15 forecasts to generate those net present values.

16 BENNY WAMPLER: Okay.

17 JIM KAISER: Yeah, they're based on the Ashland-  
18 Clark wells and the two Dart wells.

19 RICHARD HINKLEY: Right. The next slide, so this a  
20 summary slide. I'm going to paraphrase this. This is  
21 basically what we're asking for, we're asking that  
22 the...establishing the boundaries of the pool as it was set  
23 forth in Exhibit A and designated in the pool underlying such

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1 lands. We're designating the lands described herein as set  
2 forth in Exhibit A as the Abbs Valley Gas Field. We refer to  
3 it as Abbs Valley. We're establishing rules regarding the  
4 number of wells that may be drilled per unit. We're  
5 establishing...asking for 200 acres, the number of acres to  
6 be included in each of the unit for the production of gas  
7 within Abbs Valley in the form of a square. We're  
8 establishing rules for Abbs Valley regarding the shape and  
9 the size of the units. We're establishing the minimum well  
10 spacing of 1800 feet. We're providing that the Virginia Gas  
11 and Oil Inspector may grant well location exceptions in the  
12 200 acre drilling unit in Abbs Valley provided by the Code.  
13 The next slide. Joining all interest within the drilling  
14 unit established hereby so that each of the owners within the  
15 drilling unit shall share in the production from the wells  
16 based on their proportionate share of the acreage that's  
17 within the units. Providing that the wells, these are the  
18 wells that we have currently drilled, but not produced, the  
19 Abbs Valley Farm #1, the Carter #1, the French #1, the  
20 Johnson #1 and the Johnson #2, herein as the state line  
21 spacing wells permitted and/or drilled pursuant to the Code.  
22 Be incorporated within the permit units of Abbs Valley.  
23 That the wells therein be located to be approved as properly  
24

1 permitted wells to each of the respective drilling units for  
2 the production of gas. The granting of a location exception  
3 pursuant to the rules for Abbs Valley, excuse me, the Johnson  
4 #1, which is located within the 300 foot boundary in the Abbs  
5 Valley grid. Providing that the order be issued herein to be  
6 effective the date of the hearing and granting other such and  
7 further relief that may be appropriate based upon the  
8 evidence presented at the hearing.

9 BENNY WAMPLER: You're proposing one well per unit?

10 RICHARD HINKLEY: That's right.

11 BENNY WAMPLER: 44 units that you're creating here?

12 RICHARD HINKLEY: That's correct.

13 BENNY WAMPLER: Are the...all the wells listed in  
14 Valley Farm, etc., are they all in a unit currently as we saw  
15 on the previous slide?

16 RICHARD HINKLEY: Right. If you could back  
17 exactly...we can go back---.

18 JIM KAISER: Actually, the Johnson #2 has been  
19 permitted, but not drilled.

20 RICHARD HINKLEY: Right. We'll go back to that  
21 slide and point those out again.

22 JIM KAISER: They are all actually inside the  
23 interior window with the exception of---.

24

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1           RICHARD HINKLEY: Right. They're with...they're  
2 within that 300 foot boundary as Jim mentioned except for  
3 the---.

4           BENNY WAMPLER: And what are you saying about the  
5 Johnson well, Jim?

6           JIM KAISER: We---.

7           RICHARD HINKLEY: This well right here is...is  
8 outside...it's not...it's between the grid and the 300 foot  
9 boundary. It does not fit within that enter window as the  
10 other wells do. This is the well that we've permitted but  
11 not drilled. We've drilled this one and we've drilled these  
12 two wells and then we drilled the John...we actually drilled  
13 this one first. The...we then drilled the Johnson, the  
14 Valley Farms and the French we drilled last fall.

15           JIM KAISER: We're asking that the field rule order  
16 grant Mr. Wilson the right to grant location exceptions in  
17 the permitting process similar to the other field  
18 rule...field rules...rule orders that we have and also to  
19 grant an exception on the Johnson 1 since it is the one well  
20 of the four that had been drilled that's not in the...doesn't  
21 fit the structural definition of the definition of a field as  
22 we have asked to have it established.

23           BENNY WAMPLER: Questions from members of the  
24

1 Board? Mr. Garbis.

2 DENNIS GARBIS: Yes. I noticed on your Ashland-  
3 Clark Gap drainage area that the average porosity is a 11%.  
4 What is the average porosity in this field?

5 RICHARD HINKLEY: I defer that to Tom. Do you have  
6 that right off hand?

7 TOM O'NEILL: Actually, there's a wide variety and  
8 it's part of the reason we define it strictly as structure.  
9 In the 3 wells that we have, we have three significantly  
10 different sand situations and porosity situations. The  
11 Carter #1 has very little sand porosity. It's mostly  
12 fractured siltstone and shell. The Valley Farms has porosity  
13 approaching, oh, 20%. The #1 Johnson has porosity in order  
14 of 14%. But the permeabilities are significantly different  
15 within the different types of sands. The Johnson sands are  
16 very, very dirty. They're the Lower Weir and the Lower  
17 Berea. The Valley Farms was the Upper Weir and then the  
18 Carter was just kind of on the edge of sand deposition, but  
19 it had the fractures to go with it. So, it's...it's not a  
20 consistent thing. What's consistent about this area is that  
21 it's a very large structure that kind of defines the  
22 potential there.

23 DENNIS GARBIS: What's the average depth of the

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1 well that you anticipate drilling in this area?

2           RICHARD HINKLEY: Around 3500 feet, possibly 4000  
3 feet.

4           DENNIS GARBIS: Did you consider directional  
5 drilling or horizontal drilling?

6           RICHARD HINKLEY: We have at great length discussed  
7 directional drilling. In fact, I was at a directional  
8 drilling school last week. So, that's certainly under  
9 consideration with our company. Some of the problems that  
10 we're concerned about, and maybe Tom wants to touch  
11 base...touch on that a little bit, is the possibility that  
12 this zones may be busted up a little bit and actually  
13 thrust. We've got these small...potentially small faults  
14 that, you know, that...that splinter off of the main one and  
15 that it's certainly going to have to be well thought out to  
16 be able to define where those reservoirs sit. It's just not  
17 going to be a situation where we can go down and kick off and  
18 just go out in a certain direction and guarantee that we'll  
19 actually stay within that reservoir.

20           DENNIS GARBIS: Is the average thickness...that  
21 used as an example here Ashland-Clark, you're stating here 26  
22 feet, do you have...of these three formations here, what's  
23 the average thickness, so we can begin to compare apples and  
24

1 apples of them?

2           TOM O'NEILL: Yeah, that's...again, that's hard.  
3 On the Valley Farms, because it has the Upper Weir pay,  
4 that's... that's about what the pay is in the Upper...or in  
5 the Valley Farms. On the Johnson, it's much...much thicker  
6 sands. But, again, it's...it's a very high shell content.  
7 So, the thickness is much greater. But, actually, it's a  
8 much poorer well. Then on, of course the Carter there,  
9 there's, you know, just a foot or twp of what you might call,  
10 you know, sand pay.

11           RICHARD HINKLEY: So, what we have here is we have  
12 this Berea section down in here. We have the Upper Weir here  
13 and somewhere in between with the Carter.

14           TOM O'NEILL: Right.

15           DENNIS GARBIS: Do you anticipate that the  
16 pressures are going to be approximately the same of, you  
17 know, 500 or 600 pci?

18           RICHARD HINKLEY: It would be...pressure in the  
19 Carter was, if I recall, 602. The pressure in the Valley  
20 Farms is 598. We did not run pressures in the Johnson.

21           BENNY WAMPLER: Mr. Phillips, did you prepare the  
22 map that's underlying that identifying...is that identifying  
23 mineral owners?

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1           GLENN PHILLIPS: No, sir, that's just the property  
2 owners tax maps.

3           BENNY WAMPLER: Just property owners, okay.

4           GLENN PHILLIPS: I made this exhibit to go along  
5 with the legal description and this certain information was  
6 taken from this map. You can see it's on a topographic base.  
7 It was taken from the AutoCAD drawing and this power point  
8 slide was made. That has...that has the property ownership  
9 strictly from the property tax map.

10          JIM KAISER: But the underlying depiction is the  
11 different tracts?

12          GLENN PHILLIPS: Yes, sir, those are the tracts.

13          JIM McINTYRE: But you have 44 wells...of those 44  
14 wells, you have, someone said 600 land owners in there?

15          JIM KAISER: Well, to fully develop the field,  
16 there's 44 squares, 44 200 acre grids.

17          JIM McINTYRE: Yeah. But those however many people  
18 that own land in there then would...would all...you'd split  
19 it by the 44 wells? I mean, all 44 wells would be---?

20          JIM KAISER: They would...they would all receive  
21 their pro-rata share of their acreage within that they own  
22 within---.

23          JIM McINTYRE: Right.

24

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1           JIM KAISER: ---each 200 acre square---.

2           JIM McINTYRE: Right.

3           JIM KAISER: ---as the wells are drilled.

4           BENNY WAMPLER: If they own the mineral.

5           JIM KAISER: If they own the mineral, that's  
6 right... well, if they own the oil and gas. No coal here.  
7 We're out of the coal fields.

8           JIM McINTYRE: But your wells on that northern tier  
9 would all produce the wells on the southern tiers probably?

10          JIM KAISER: I don't know that.

11          JIM McINTYRE: He said it was in the Big Lime zone,  
12 right?

13          TOM O'NEILL: No, the...no. The Big Lime is what  
14 outcrops at the surface and actually is water bearing. The  
15 Big Lime on the anticline is not considered prospective.  
16 There may be some as you get down off of the anticline, some  
17 Big Lime litic traps. So...as again, we kind of focus on the  
18 structural aspect because the stratigraphy changes  
19 throughout. But...so, again, on the top, you're not going to  
20 find any Big Lime pay. On the flanks, you may. So,  
21 therefore, the out...you know, the Big Lime is a significant  
22 producer in Virginia. So, you can get some significant  
23 upside there. Also, it depends on what package of sand or  
24

1 how thickness of a sand package you have. The Johnson #1 is  
2 actually down structural from the Valley Farms #1 and the  
3 Carter #1. It has got a lot more sand. It's more shelly and  
4 less permeable. But the gas in place is much higher on the  
5 Johnson 1 than the others. It's just going to come out very  
6 slowly because of the permeability.

7 JIM McINTYRE: Why is that, because the gas on top  
8 migrated or it has been exposed---

9 TOM O'NEILL: I'm sorry, why is what?

10 JIM McINTYRE: Your Big Lime should be a pay...a  
11 big pay---

12 TOM O'NEILL: Oh, it's because...it's because the  
13 Big Lime is at the surface and it's with the fractured lime  
14 and it's...it's a water bearing formation there. There's an  
15 underground creek at the top of the Valley. So, it's  
16 just...you know, it has been exposed to water. So, whatever  
17 gas was trapped long ago has escaped in the Big Lime. But  
18 below the Big Lime, you've got shells that seal the reservoir  
19 from the Weir and the Berea or whatever. So those are  
20 trapped.

21 BENNY WAMPLER: If the Board approves this, of  
22 course, it's 44 units, we're not...and I'm saying this just  
23 for people here, it does not necessary...it does not mean

24

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1 you'll necessarily drill 44 wells. What is your...what is  
2 your reasonable plan drilling say over the next 5 years  
3 number of wells in this area?

4 TOM O'NEILL: Well, for one thing, what we're in  
5 the processing of doing now, is we're about to shoot some  
6 seismic to help confirm this structure. This particular  
7 structure is more broad to the east and gets more tight to  
8 the west. But we plan on drilling two wells actually in the  
9 West Virginia side in May, and then we've got 4 more planned  
10 for this year on the Virginia side, once the field rules are  
11 done, and then we'll probably drill 6 to 10 wells per year is  
12 our plan for the next several years.

13 BENNY WAMPLER: Do you have field rules in West  
14 Virginia?

15 TOM O'NEILL: No, we do not.

16 BENNY WAMPLER: Drilling on the statewide spacing  
17 at this time?

18 TOM O'NEILL: Well, in the shells, we're drilling  
19 basically the same spacing that we have here. Of course, in  
20 West Virginia, there's a law of capture. But we're...we are  
21 incorporating the smaller tracts into voluntary pooling in  
22 West Virginia so that...you know, the correlative rights  
23 issue.

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1           JIM KAISER: We're establishing basically roughly  
2 200 acre units along lease lines since it's early capture.

3           BENNY WAMPLER: Other questions from members of the  
4 Board?

5           DENNIS GARBIS: Yes. What is the general  
6 availability of pipeline infrastructure?

7           TOM O'NEILL: We actually just recently bought, two  
8 months ago, just outside of the Virginia line, a pipeline  
9 that connects---

10          RICHARD HINKLEY: Right at the top of here. It's  
11 right in there some place.

12          JIM KAISER: Right there.

13          TOM O'NEILL: It connects to Dominion's Gas Field  
14 to the north and the Bluefield gas to the south. We're in  
15 the process...we've already put out bids for some pipeline to  
16 connect to that line. That's adequate for not large volumes.  
17 Although, there's room to grow that market potentially. The  
18 next significant line for us to get the gas out...I mean,  
19 actually part of the reason for the delay in the development  
20 of the field since we began with Carter a couple of years ago  
21 is about...we have to build up a line of about 25 miles to  
22 tie into the Columbia line that takes it into the D.C.  
23 market. But this acquisition for this pipeline just east of

24

--

1 us give us the ability to start producing gas and that's what  
2 we wanted to do, which helps you then be able to drill more  
3 wells and eventually get the volumes high enough to build a  
4 bigger line.

5 BENNY WAMPLER: Mr. Wilson, do you have any  
6 questions or comments?

7 BOB WILSON: Yes, sir, I've had the privilege of  
8 seeing much of this material in the past with the permitting  
9 of the wells and lead up to establishing field rules. From  
10 my prospective, this is an extremely well thought out field  
11 plan. It's defined entirely by known geology. It's defined  
12 on its southeast side by a dry hole, which pretty much  
13 indicates where your limits of production are going to be. I  
14 think field rules are extremely important in this part of the  
15 country in order to allow significant lead way as to where  
16 wells are located. There are groundwater issues here. There  
17 is significant groundwater resources here that they have to  
18 work around in order to get their wells in the ground.  
19 They've done an excellent job with doing that up to now.  
20 This field rules gives them the lead way to locate those  
21 wells in most opportune situations. It also guarantees that  
22 every owner within the...whatever grid is defined will get  
23 paid if that well is drilled within their grid. I know for a

24

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1 fact there were a number of alternative scenarios looked at  
2 relative to setting up these grids, none of which were  
3 particularly satisfactory in being inclusive in getting  
4 everybody into a position where they would be paid for wells  
5 drilled. I find it to be a very well put together, very well  
6 thought out plan, which I would support.

7 BENNY WAMPLER: Any other questions or comments  
8 from members of the Board?

9 DENNIS GARBIS: Mr. Chairman.

10 BENNY WAMPLER: Mr. Garbis.

11 DENNIS GARBIS: My...I guess my reaction is I'm  
12 somewhat concerned about the size of the spacing. But other  
13 than that, I'd like to hear...we've got a lot of people here  
14 today. I'd like to hear what the general public has to say.

15 BENNY WAMPLER: Do any of you wish to make a  
16 comment?

17 FRANK HARRIS: I have a question.

18 BENNY WAMPLER: I need you to come down, please.  
19 We have to get everything on the record. If I could get one  
20 of you to let him sit down near a microphone and make sure  
21 he's picked up.

22 BOB POWELL: Here you go.

23 BENNY WAMPLER: If you will, state your name for  
24

1 the record, please.

2 FRANK HARRIS: I'm Frank Harris from Hampton,  
3 Virginia. My question is, how did you establish the names of  
4 the wells, like the Carter 1 and 2, the French and the Valley  
5 Farms?

6 TOM O'NEILL: That would be the surface tract that  
7 the original well spot was drilled upon. The Carter #1 was  
8 drilled on the Carter property. Valley Farms was drilled on  
9 the Valley Farms. The French on the French. So, there's  
10 more tracts involved, but it's the surface property, the  
11 physical location of the wells.

12 FRANK HARRIS: So, it's the owner's property, is  
13 that the title of your tracts you're saying? The owner of  
14 the property is what I'm asking you.

15 RICHARD HINKLEY: Yes. Yeah, the surface owner.

16 TOM O'NEILL: Right, surface owner. Right.

17 BENNY WAMPLER: Where they put the well.

18 JIM KAISER: At the actual well bore.

19 BENNY WAMPLER: Not necessarily on the tract, you  
20 understand, but---.

21 RICHARD HINKLEY: Correct.

22 BENNY WAMPLER: ---actually where they physically  
23 locate the well.

24

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1           TOM O'NEILL: It's pretty much an industry standard  
2 is the way that's done.

3           FRANK HARRIS: Okay. That's all.

4           BENNY WAMPLER: Thank you. Other questions?

5           DENNIS GARBIS: Somebody better say something.

6           JENNY STEVENS: Yeah, I have a couple.

7           COURT REPORTER: Your name, please.

8           JENNY STEVENS: My name is Jenny Stevens. I have a  
9 couple of questions to the geologist. When you take the  
10 oil...I mean, the gas, I'm sorry...when you take the gas out,  
11 is there any chance of like the ground displacing the  
12 sinkholes?

13           TOM O'NEILL: No. Actually, the way the gas is  
14 stored, it...well, as an example, a block of concrete would  
15 be a very good gas reservoir. It's highly porous. These  
16 rocks at subsurface are significantly consolidated such that  
17 it's solid rock. They're very, very tiny pores where this  
18 gas comes out. There will be no effect at all on the surface  
19 in terms of any settling or anything like this. This is very  
20 similar to getting gas out of concrete at 2000 feet. It's  
21 very similar to that.

22           JENNY STEVENS: And also, I'm not familiar at all  
23 any with gas production, but what environmental impact would  
24

1 the wells make and the pipe...I'm familiar with pipelines  
2 because where I live in Florida, they just put a big pipeline  
3 across the whole state, and I, you know, am aware of the  
4 dangers of that. But I'm just curious of the environmental  
5 hazards. Groundwater was mentioned.

6 TOM O'NEILL: Do you want to touch on that, Dick?

7 JENNY STEVENS: They do have community water  
8 through there.

9 RICHARD HINKLEY: Really, the biggest impact is the  
10 actual drilling location itself. We may take up to a couple  
11 of acres...acre and a half to two acres to actually be able  
12 to move a drilling rig on. That's well protected. We line  
13 the pit. So, any fluids that come out of the well at the  
14 time we're drilling are caught in a lined...plastic lined pit  
15 and disposed of through state regulations. We meet whatever  
16 the state...you know, whatever we get approval to dispose of  
17 that water. These wells don't produce any significant water  
18 to speak of. So, you really don't have a lot of liquid  
19 production from these wells. It's just strictly the gas  
20 production. There's really no environmental risk or  
21 groundwater risk with gas production.

22 BENNY WAMPLER: Talk about why...tell her why  
23 that's not a groundwater risk how the well is developed.

24

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1           RICHARD HINKLEY: The...well, I wish I had a little  
2 drawing. But you go...when you drill a well, you drill a  
3 well and we're going to protect the groundwater by drilling a  
4 hole and then running casing, steel casing, in a cementing  
5 that casing in the ground that...in the very string that  
6 we'll run will be a surface casing to protect any groundwater  
7 as we go through it. These are air drilled. So, there's no  
8 fluid or anything evading and it's just air drilling as you  
9 drill down through it. You cement that often and protect it.  
10 In this particular case, we've actually designed a couple of  
11 additional strings that we could run in case we run into any  
12 other unusual things because as Tom has pointed out, it's  
13 thrust, it's faulted. We see some of these faults as we're  
14 drilling down through them. So, we're able to set casing  
15 strings at different intervals. We have, you know, some  
16 flexibility in doing that to protect, you know, any sort of  
17 groundwater or surface water that we run this casing through.

18           JENNY STEVENS: Then I had one more question about  
19 the surface owner. If you did choose a piece of property  
20 to drill, is that a...would you mind explaining to all of us  
21 the contract? I mean, the type of things and are you bonded?  
22 Are your people bonded? They're not going to come in there  
23 and go back and go hunting on the weekend or something like  
24

1 that or the kind of things like that?

2 RICHARD HINKLEY: Are you talking about the lease?

3 Is that what---

4 JENNY STEVENS: No, no, the people...like if  
5 (inaudible) that surface owner where you do not have a well  
6 established, what kind of contract would you have for the  
7 surface owner to protect their land?

8 BOB POWELL: Do you want me to answer that?

9 TOM O'NEILL: Yeah, if you will.

10 BOB POWELL: You know, what we do for people that--  
11 -.

12 BENNY WAMPLER: State your name if you will just  
13 to---

14 BOB POWELL: I'm Bob Powell, the landman for Dart  
15 Oil & Gas in Appalachian Region. What we do, we have  
16 contracts and we're out there and we've been going into the  
17 units, when we decide to drill the well for smaller tracts,  
18 and what we do is for the people we're not going to drill on  
19 those very small tracts, we don't really intend to get on the  
20 land, we have a non-development clause, which means that we  
21 can pool in their interest in the gas, but not use the  
22 surface without their written permission. Before we could  
23 ever come in and use the surface, we'd have...you know, have  
24

1 to get your written permission and we do this on all the  
2 smaller tracts. We usually lease the bigger tracts because  
3 that's the actual...you know, it just makes more sense. Then  
4 as we target in wells, we go to the smaller tracts and try  
5 and lease them as we...as we target in where we're going to  
6 drill. But, yes, we have all kinds of clauses of no hunting  
7 and fishing clauses and things like that.

8 JENNY STEVENS: Okay.

9 BOB POWELL: And really no trespassing without your  
10 written permission.

11 JENNY STEVENS: Okay, thank you.

12 TOM O'NEILL: In fact, I would like to just add one  
13 thing. In terms of actually locating a well, as much as I  
14 like to think geology is an exact science, it isn't But, you  
15 know, moving it at 100 feet or 200 is...you know, is  
16 acceptable. The one thing about this particular grid  
17 spacing, it gives us the ability to be as flexible as the  
18 land owner...any land owner as possible because we can  
19 literally move that well maybe more than a couple of 100 feet  
20 and still...still get...you know, get to the gas that we need  
21 to and really accommodate the landowner.

22 JENNY STEVENS: Thank you.

23 BENNY WAMPLER: Other comments or questions? State  
24

1 your name, please.

2           VERONICA DAUGHERTY: I'm Veronica Daugherty. In  
3 reference to the comment that was just made, how do you  
4 select where you will be drilling the smaller wells and  
5 select a tract? In doing so, will you be putting in a  
6 roadway or how involved are these smaller wells?

7           TOM O'NEILL: Let's look at some of the wells that  
8 we already have or some of the property outlines to just give  
9 you a sense. Generally, where the smaller tracts are located  
10 are right against the road. You can see here, there's a  
11 bunch of small tracts, there's a bunch of small tracts in  
12 here. The problem ...some of them...some of them are smaller  
13 than an acre even. As Dick mentioned, we might need an acre  
14 or two to build a location. We generally try to never drill  
15 a small tract because...I mean, it could be the whole tract  
16 and this is where somebody is living. I mean, it's not  
17 something that you do. With a block as big as this, let's  
18 say this particular one has a bunch of small tracts up here,  
19 you know, we're going to be putting the wells back here on  
20 the bigger tracts. You're going to drain that block, is what  
21 we're saying. So, you know, we're not going to focus or  
22 drill a well in the town limit or something like that. We're  
23 going to be---

24

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1                   VERONICA DAUGHERTY: But you will be putting in a  
2 roadway or---?

3                   BENNY WAMPLER: Yeah, talk about your roads and the  
4 pipelines.

5                   VERONICA DAUGHERTY: ---lines and that type of  
6 thing?

7                   TOM O'NEILL: Well, generally, like for instance,  
8 on the French well we drilled, Mr. French lives right here, I  
9 guess, on the northern part of his property. There's a  
10 blacktopped paved road that comes up to the property.  
11 There's a cul-de-sac right there.

12                   VERONICA DAUGHERTY: Yes, sir, I'm familiar with  
13 it.

14                   TOM O'NEILL: Okay, so then from there, we talked  
15 to Mr. French, you know, before we ever said we're going to  
16 put a road on your property. He leased it to us. So,  
17 he...he wanted the gas developed. We went and talked to him  
18 and said, "You know, we've got get a well up here...up on the  
19 hillside. How do you want us to get there?" He said,  
20 "Well," he said, "just come straight on through this cul-de-  
21 sac and come on up here and bend it around." So, we  
22 cut...you know, we built him a road that he can use. So,  
23 we're trying to accommodate people's desires. We're not

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1 going to go in there and just say, we're going to put a road  
2 right through a garden or, you know, things like that. We're  
3 just not going to do that.

4 VERONICA DAUGHERTY: So, you do work with the  
5 property owners?

6 TOM O'NEILL: Absolutely.

7 VERONICA DAUGHERTY: I have another question too.

8 JIM KAISER: Let me just interrupt you just for a  
9 minute. As a matter of state regulation, any additional new  
10 wells that are drilled in this field would have to be  
11 permitted and you'll get notice and anybody whose surface is  
12 disturbed, or will be disturbed, or is slated to be disturbed  
13 will get notice and you have a procedure there if you don't  
14 like what we're doing where you can object to the permitting  
15 and that sort of thing. So, you're protected in that sense.

16 VERONICA DAUGHERTY: I have another question. On  
17 the lease, when you do sign and lease the right, you know,  
18 for the gas, is...that is for the lifetime of the gas that is  
19 there. Well now, should I decide to sell the property, am I  
20 also selling the rights or can I maintain the rights to that?

21 JIM KAISER: Yeah, you can except and reserve the  
22 oil and gas---.

23 VERONICA DAUGHERTY: I can reserve the property?  
24

1           JIM KAISER: ---or any estate that you want to when  
2 you sell the property.

3           VERONICA DAUGHERTY: Okay. And number three, then  
4 I'll be quiet, what is the procedure now from this point for  
5 us to...will we be getting in the mail the leases or---?

6           BOB POWELL: Well, at this point, what...you know,  
7 I don't know how big your tract is or where it's located at  
8 this point, but what we try to do is we try to...any big  
9 tract of, you know, 20 acres or above, we like to go ahead  
10 and get a lease on it. If you'll give me your name, I'll  
11 definitely get a lease out to you in the mail or I have  
12 people that actually stay up in Bluefield and work up there,  
13 somebody...a local fellow and a couple of other guys that  
14 take the leases and we can get a contract out to you at any  
15 time if you're interested in leasing.

16           VERONICA DAUGHERTY: But you will contact us then?

17           BOB POWELL: Yes. And what it is, if, say Mr.  
18 O'Neill, picks a grid up there, we have a number, say grid 33  
19 and wants to do well unit 33, well, if you're in that well  
20 unit, we'll try to contact everybody in that well unit that  
21 has not leased at this period and offer them a lease and give  
22 them an opportunity to...to lease to us before we come in and  
23 drill a well.

24

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1           VERONICA DAUGHERTY: Do you have a time line on  
2 that about when this should be completed?

3           TOM O'NEILL: Well, we don't...the question was  
4 asked, how many wells we plan on drilling per year? I said,  
5 6 to 10. We're trying to gather more information. Of the 3  
6 wells that we drilled there, there are 3 different wells.  
7 So, we're learning as we're going. That effects the time  
8 frame. Also, depending on the pipeline accessibility. You  
9 know, as I mentioned, if we get a lot of gas, we've got to go  
10 north 20 miles. So, there's a lot of things involved that  
11 would affect the time frame. But...so within a few years, I  
12 guess, is when we would try to have this thing developed.  
13 But it could be a couple years longer than that.

14           JIM KAISER: But if you want to lease right now,  
15 Bob can talk to you as soon as we're done here.

16           BOB POWELL: I'll take your name.

17           VERONICA DAUGHERTY: All right, thank you.

18           BENNY WAMPLER: Thank you.

19           TOM O'NEILL: Sure.

20           BENNY WAMPLER: Other questions or comments?

21           JENNY STEVENS: I just have one. Do I have to come  
22 down there again?

23           BENNY WAMPLER: I'm sorry, yes. We'll wait until  
24

1 he finishes. Go ahead, sir. State your name for the record.

2 ROSCOE MATNEY: I'm Roscoe Matney. I own a postage  
3 stamp size of 15 acres. We have a good well on that, a good  
4 water well, which is something really nice in that area. My  
5 question is, will this water well be checked before you drill  
6 near it for production of water so that we'll know if---?

7 RICHARD HINKLEY: I'm not sure exactly what you  
8 mean by checking.

9 JIM KAISER: We're required by---.

10 ROSCOE MATNEY: ---gets 10 gallons a minute or 9  
11 gallons a minute? We want to make sure we keep that well in  
12 production.

13 RICHARD HINKLEY: We could...we could certainly do  
14 that.

15 ROSCOE MATNEY: We have two---.

16 JIM KAISER: We're required to do it depending on  
17 the distance it is from the well.

18 ROSCOE MATNEY: Oh, you're required to do that?

19 RICHARD HINKLEY: Right.

20 BOB WILSON: Not to that extent.

21 JIM KAISER: Huh?

22 BOB WILSON: Not...you're not required to flow test  
23 it or anything like that.

24

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1           JIM KAISER: No.

2           BOB WILSON: You're required to test it for  
3 quality.

4           TOM O'NEILL: Water quality.

5           BOB WILSON: You're required to test it for  
6 quality.

7           JIM KAISER: For quality, correct.

8           RICHARD HINKLEY: I was going to say, we'll  
9 certainly run a chemical analysis so we can set a baseline as  
10 to what the quality of the water is.

11          JIM KAISER: And we'll provide that to you.

12          ROSCOE MATNEY: Okay, and how about flow testing?

13          RICHARD HINKLEY: We could flow test it. I don't  
14 have a problem with doing that.

15          ROSCOE MATNEY: We were told it had 9 gallons per  
16 minute. We have two small houses on that area. So, we just  
17 don't want to lose that well. Without water, you're hurting.

18          JIM KAISER: I understand that.

19          ROSCOE MATNEY: The next question probably, if you  
20 own mineral...if you have mineral rights on that property,  
21 will we be notified shortly of that so we know what to plan  
22 on.

23          TOM O'NEILL: I'd have to see where it is. I mean-

24

1 --.

2 ROSCOE MATNEY: Okay.

3 TOM O'NEILL: I mean, there...as I mentioned, we  
4 plan on 4 more wells this year on the Virginia side. I'm not  
5 sure where it's located. But if it's in one of those, it  
6 will be this year, and if not, it could fall into our next  
7 year plans. I'm just not sure. But you can get with Mr.  
8 Powell and he can find out where it is and we can give you a  
9 sense, I guess.

10 ROSCOE MATNEY: Okay.

11 JIM KAISER: Yeah, let me try to kind of summarize  
12 that again. The plan...the ongoing consistent day to day  
13 plan is to try to, no matter where they are, lease to bigger  
14 tracts that aren't currently under lease within the 8600 acre  
15 field. Then the rest of the leasing would take place on a  
16 unit by unit basis as the wells are planned.

17 ROSCOE MATNEY: Okay, we did notify the company on  
18 the map that we had a water well to make sure that you knew  
19 we had a good well. I will get with you on that.

20 BOB POWELL: We have to...yeah, we have to check  
21 all of those within, what a 1000 feet, Mr. Wilson?

22 BOB WILSON: 750.

23 JIM KAISER: 750.

24

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1           BOB POWELL: 750 feet.

2           BENNY WAMPLER: Thank you, Mr. Matney.

3           JENNY STEVENS: You answered it. He answered it.

4           BENNY WAMPLER: Okay. Any others?

5           DENNIS GARBIS: I have one last question.

6           BENNY WAMPLER: Mr. Garbis.

7           DENNIS GARBIS: On the...I'm concerned about the

8 amount of gas left behind. Obviously, if you looked at one

9 extreme reading when you've drilled one well, I mean, it

10 would take you a long time to get everything out. So, I

11 noticed...I don't know if you've done any...run any numbers

12 or calculations on how long it's going to take or what would

13 be the proper spacing to optimize what we're able to get out

14 in a reasonable length of time. In other words, if you went

15 down to a 150 acre spacing versus the 200, if that...if that

16 would be able to perhaps increase getting 90% and increase

17 that to maybe 95%. So, obviously, the greater the spacing

18 there's concern on my part how much you're going to leave

19 behind. I don't want to leave anything behind. I want to

20 get every last bit that we can. If we can drill a hole,

21 let's make it worth our while. So, I don't know if you've

22 done any...put any thought into that or what...what routine

23 you go through to optimize.

24

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1                   RICHARD HINKLEY: Well, I'd ask that question. I  
2 think we have put a lot of thought into it. Certainly with  
3 this Upper Weir section, we were able to run those  
4 calculations and we believe, based on those calculations,  
5 that if we get a unit that's too small, you can see for  
6 number one, that the net present value drops off quiet a bit.  
7 So, the value to everybody, including Dart and all the  
8 royalty owners will drop. The...the...you also have...if you  
9 get the wells too small, you potentially have interference  
10 between wells. You have competing wells then trying  
11 to...you're talking about trying to drain everything. Well,  
12 then you get too small and then you get wells competing with  
13 each other to drain everything. That would be a correlative  
14 rights issue then to do that. You also have additional  
15 wells...the additional wells cause more waste and we believe  
16 that based on the information that we have from the Clark Gap  
17 Field and the Pilgrims Knob order, that we think, again, in a  
18 non-fractured reservoir, we're looking at that 160 or 170 or  
19 180 range. As Tom has testified, based on that structure  
20 map, we believe that this reservoir is broken up enough that  
21 we can produce at a greater...at a greater distance away from  
22 that well bore and efficiently drain...that's why we really  
23 picked the 200 acres. It's slightly greater than the 180.

24

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1 Based on the structural deformation, we believe we can drain  
2 that. We think---.

3 DENNIS GARBIS: What were the reserves...did  
4 somebody do some calculation of the reserves that are there  
5 for the total 41 units?

6 RICHARD HINKLEY: Not on the total 41 units. I can  
7 go well by well. The Carter, our projected reserves there  
8 are roughly a bcf. That's based on that flow and pressure  
9 data. The Valley Farms based on that flow and pressure data  
10 are probably in the half a million to three-quarter million  
11 range. The...we did volumetric calculations on the Berea.  
12 As Tom pointed out, it's a very thick section. I mean, we've  
13 got a couple 100 feet...180 to 200 feet of sands there. But  
14 they're very...they're almost a...they're filled with clay.  
15 We run some x-ray diffraction data on some of the cuttings  
16 and we know that it's filled with clay. So it certainly  
17 infects the permeability, and while you can calculate that  
18 volumetrically, I think it was several bcf that you can  
19 calculate volumetrically, probably realistically over...a  
20 realistic time frame, you're not going to produce, you know,  
21 several bcf out of that type of reservoir. It's too shelly.

22 TOM O'NEILL: Yeah, it would be  
23 really...realistically less than a half. The initial gage

24

--

1 would just...not too small because of that low perm nature of  
2 the reservoir.

3           RICHARD HINKLEY: What we have not been able to  
4 calculate across that whole grid because of the different  
5 reservoirs, we're not seeing the same reservoir in the same  
6 well bore. So, until we can do our...do our seismic  
7 acquisition and interpret the seismic and drill some more  
8 wells to get a better feel of how these...how these different  
9 sand bodies fall, we really can't make those calculations.

10           DENNIS GARBIS: I have no further questions, Mr.  
11 Chairman.

12           BENNY WAMPLER: Any other questions?

13           (Someone speaks out from the audience.)

14           BENNY WAMPLER: We need you to come down, sir.

15           COURT REPORTER: You need to come down here, sir.

16           BENNY WAMPLER: Come down. We have to have you  
17 come down, please. State your name for the record, please.

18           GARY HARRIS: My name is Gary Harris. I'm from  
19 Frees, Virginia. In total...it was a quick question. In  
20 total, how many wells do you intend to drill this year?

21           RICHARD HINKLEY: Right now on the books we have 4.

22           GARY HARRIS: 4?

23           RICHARD HINKLEY: But, again, as Tom pointed out a  
24

1 lot of that's going to---.

2 GARY HARRIS: (Inaudible) our name then be---.

3 RICHARD HINKLEY: We have not dilated the 4 yet.  
4 What we're waiting on really is this seismic data. We're in  
5 the process of, hopefully, within the next three or four  
6 weeks we're going to shoot some additional seismic lines and  
7 then it will take another month or so or a month and a half  
8 to interpret those. Then from that point, Tom will pick some  
9 locations, and we'll permit them and then go from there. But  
10 we certainly intend to drill, you know, based on our plans  
11 right now---.

12 GARY HARRIS: At least 4.

13 RICHARD HINKLEY: ---are 4 wells by the end of this  
14 year.

15 GARY HARRIS: Okay, thanks a lot.

16 RICHARD HINKLEY: I'm going to have to point---.

17 TOM O'NEILL: And I would like to add one thing.  
18 That's subject to rig availability also because what we're  
19 finding, we've got a rig coming in that's going to drill our  
20 first two on the West Virginia side. We will lose that rig  
21 and there's a lot of people drilling a lot of wells. So,  
22 there's...you know, we're going to be competing for the rigs  
23 that are available. But assuming we can get those rigs back,  
24

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1 and we think can, the drilling companies tell us we can, then  
2 we'll drill 4 more.

3 BENNY WAMPLER: You contract for all of that, of  
4 course.

5 TOM O'NEILL: That's right.

6 BENNY WAMPLER: A lot of people don't understand  
7 that.

8 RICHARD HINKLEY: That was one of the reasons why  
9 we had to drill in the fall last year because that was when  
10 the rig became available again, everybody was using it until  
11 then.

12 BENNY WAMPLER: Other questions?

13 (No audible response.)

14 BENNY WAMPLER: Do you have anything further?

15 JIM KAISER: Mr. Chairman, we'd ask that the  
16 application be approved as submitted.

17 BENNY WAMPLER: Is there a motion by any Board  
18 member or further questions?

19 DENNIS GARBIS: I move to approve.

20 BENNY WAMPLER: Is there a second?

21 JIM McINTYRE: Second.

22 BENNY WAMPLER: Motion is second. Any further  
23 discussion?

24

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1 (No audible response.)

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

4 (All members signify by saying yes.)

5 BENNY WAMPLER: Opposed, say no.

6 (No audible response.)

7 BENNY WAMPLER: You have approval. Thank you.

8 BENNY WAMPLER: Thank you all for your patience.

9 JIM KAISER: Thank you.

10 RICHARD HINKLEY: Thank you.

11 BENNY WAMPLER: We appreciate it. You've been very  
12 kind to be quiet.

13

14

15 STATE OF VIRGINIA,

16 COUNTY OF BUCHANAN, to-wit:

17 I, Sonya Michelle Brown, Court Reporter and Notary  
18 Public for the State of Virginia, do hereby certify that the  
19 foregoing hearing was recorded by me on a tape recording  
20 machine and later transcribed under my supervision.

21 Given under my hand and seal on this the 11th day  
22 of May, 2005.

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NOTARY PUBLIC

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2 My commission expires: August 31, 2009.

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