

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 AUGUST 16, 2005

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12 APPEARANCES:

12 MASON BRENT - OIL & GAS REPRESENTATIVE

PEGGY BARBAR - PUBLIC MEMBER

13

MARY QUILLEN - PUBLIC MEMBER

DONNIE RATLIFF - COAL REPRESENTATIVE

14

JIM McINTRYE - PUBLIC MEMBER

15

BENNY WAMPLER - DEPUTY DIRECTOR OF THE DMME AND CHAIRMAN

16

SHARON PIGEON - OFFICE OF THE ATTORNEY GENERAL

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BOB WILSON - DIRECTOR OF THE DIVISION OF GAS & OIL AND

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PRINCIPAL EXECUTIVE TO THE STAFF OF THE BOARD

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

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

9 PEGGY BARBAR: I'm Peggy Barbar. I work at
10 Southwest Virginia Community College, Engineering Division
11 Dean and I'm a public member.

12 MARY QUILLEN: Mary Quillen. I'm a public member.
13 I'm with the University of Virginia's Higher
14 Education...here at the Higher Education Center.

15 SHARON PIGEON: I'm Sharon Pigeon with the Office
16 of the Attorney General.

17 DONALD RATLIFF: I'm Donnie Ratliff from Wise
18 County representing the coal industry.

19 JIM McINTYRE: Jim McIntyre, Wise, Virginia. I'm a
20 public member.

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

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1 BENNY WAMPLER: The first item on today's agenda is
2 a petition from EOG Resources, Inc. for pooling of a
3 conventional gas unit PK L-15. This is docket number VGOB-
4 05-0719-1484. We'd ask the parties that wish to address the
5 Board in this matter to come forward at this time.

6 TIM SCOTT: Tim Scott for EOG.

7 PETER BACON: Peter Bacon for EOG.

8 BENNY WAMPLER: The record will show no others.
9 You may proceed.

10 TIM SCOTT: Mr. Chairman, when we first appeared
11 before the Board on this matter, we were informed that we
12 hadn't effect its notice to CNX, so we did do that. Then Mr.
13 Arrington was kind enough to provide us with some information
14 regarding the identity and whereabouts of some of the Mary
15 Lou Bolling Krowe heirs. So, those were included...that's
16 what the revised exhibits are.

17 BENNY WAMPLER: Okay.

18 TIM SCOTT: B-1, B-3 and then a signed AFE for this
19 particular unit, as well as a revised Exhibit E and they're
20 dated according to the revision date of today. That's what I
21 passed out just a little bit ago. Okay, Mr. Bacon, would you
22 raise your hand...right hand and be sworn.

23 (Peter Bacon is duly sworn.)

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PETER BACON

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

DIRECT EXAMINATION

QUESTIONS BY MR. SCOTT:

Q. Would you please state your full name?

A. Peter Bacon.

Q. And by whom are you employed?

A. EOG Resources, Inc.

Q. And what is your job description, please?

A. I'm the land manager for the Pittsburgh Division.

Q. Are you familiar with EOG's application now pending before the Board?

A. I am.

Q. And is this unit located within the Pilgrim's Knob Field?

A. Yes, it is.

Q. How many acres does this unit contain?

A. 180.

Q. Does EOG own drilling rights in this unit?

A. Yes.

Q. Are there any respondents listed on Exhibit

1 B-3 that should be dismissed from the application?

2 A. No.

3 Q. What percentage of the unit does EOG have
4 under lease?

5 A. 79.23%.

6 Q. And was notice of this hearing provided to
7 the respondents listed on Exhibit B-3?

8 A. Yes.

9 Q. And how was that effected?

10 A. By certified mail.

11 Q. By what other method?

12 A. It was published in the Bluefield Daily
13 Telegraph.

14 Q. Are there any unknown owners in this unit?

15 A. No, there are not.

16 Q. And are the last known addresses of the
17 parties respondent listed on Exhibit B-3?

18 A. Yes.

19 Q. Have you previously filed proofs of
20 publication and mail certification with the Board?

21 A. Yes.

22 Q. Is EOG authorized to conduct business in the
23 Commonwealth?

24

25

1 A. Yes, we are.

2 Q. And has it registered with the Department of
3 Mines, Minerals and Energy and does it have a blanket bond on
4 file?

5 A. Yes, we do.

6 Q. Now, with regard to reaching a voluntary
7 agreement with these parties respondent, what lease terms
8 would EOG offer these parties?

9 A. Five dollars an acre, one-eighth royalty and
10 a five year primary term.

11 Q. And is this reasonable compensation, in your
12 opinion, for such a lease in this area?

13 A. Yes, it is.

14 Q. What percentage of the oil and gas estate
15 are you seeking to pool?

16 A. 20.77%.

17 Q. And with regard to this unit, is escrow
18 required?

19 A. No.

20 Q. Are you requesting the Board to pool the
21 unleased parties listed on Exhibit B-3?

22 A. Yes, we are.

23 Q. And are you asking that EOG be named as
24

1 operator for this unit?

2 A. Yes, we are.

3 Q. And are you also asking the Board to
4 indicate that all elections by respondents be sent to EOG
5 Resources, Southpoint Plaza One, 400 Southpoint Boulevard,
6 Ste. 300, Cannonsburg, PA 15317, Attention: Peter E. Bacon,
7 Division Land Manager.

8 A. Yes, we are.

9 Q. And should all communications regarding this
10 elections be made to this address?

11 A. Yes.

12 Q. Are you also familiar with the proposed
13 development of this unit?

14 A. Yes.

15 Q. What would be the total depth of this
16 proposed well?

17 A. 5,970 feet sub-surface.

18 Q. And are you requesting that all formations
19 be pooled to the total target depth excluding coal?

20 A. Yes, we are.

21 Q. What are the estimated reserves of this
22 unit?

23 A. 300 million cubic feet.

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1 Q. And what...are you also familiar with the
2 proposed well costs?

3 A. Yes, I am.

4 Q. What is the estimated dry hole costs?

5 A. \$231,300.

6 Q. And what is the estimated completed costs?

7 A. \$369,700.

8 Q. Has an AFE been signed and presented to the
9 Board?

10 A. Yes, it has.

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

13 A. Yes, it does.

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

17 A. Yes, I do.

18 TIM SCOTT: That's all the questions I have for Mr.
19 Bacon, Mr. Chairman.

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

22 (No audible response.)

23 BENNY WAMPLER: Is the hospital leased or unleased?
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1 TIM SCOTT: It is now leased---.

2 BENNY WAMPLER: It is?

3 TIM SCOTT: ---according to Mr.---.

4 BENNY WAMPLER: Okay.

5 TIM SCOTT: ---...according to Mr. Arrington. So,
6 we did notice them.

7 BENNY WAMPLER: Okay.

8 SHARON PIGEON: So, both of these are actually
9 leased, both of these---?

10 TIM SCOTT: Yes, ma'am.

11 SHARON PIGEON: ---hospitals?

12 BENNY WAMPLER: That's a correction on the revised
13 one for today?

14 TIM SCOTT: Actually, it was not corrected, but it
15 will be corrected on the second revised in the order.

16 BENNY WAMPLER: But I'm saying you're---.

17 TIM SCOTT: Yes, sir.

18 BENNY WAMPLER: ---correcting it---.

19 TIM SCOTT: Yes, sir.

20 BENNY WAMPLER: ---now on the record.

21 TIM SCOTT: Yes, sir.

22 BENNY WAMPLER: I'm just getting that on the
23 record.

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1 TIM SCOTT: That is correct,
2 BENNY WAMPLER: You will provide a---.
3 TIM SCOTT: That is right, Mr. Arrington? Is that
4 right? I know you're not testifying, but Mary Lou Bolling
5 Krowe, that is leased to CNX?
6 LESLIE K. ARRINGTON: Yes.
7 TIM SCOTT: Yes, that's correct.
8 BENNY WAMPLER: And you'll present a revised---?
9 TIM SCOTT: Yes, sir, as soon as I get back to the
10 office.
11 BENNY WAMPLER: Other questions from members of the
12 Board?
13 (No audible response.)
14 BENNY WAMPLER: Do you have anything further?
15 TIM SCOTT: No, sir.
16 BENNY WAMPLER: Is there a motion?
17 DONALD RATLIFF: Move to approve, Mr. Chairman.
18 JIM McINTYRE: Second.
19 BENNY WAMPLER: Motion to approve and second. Any
20 further discussion?
21 (No audible response.)
22 BENNY WAMPLER: All in favor, signify by saying
23 yes.

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1 (All members signify by saying yes.)

2 BENNY WAMPLER: Opposed, say no.

3 (No audible response.)

4 BENNY WAMPLER: You have approval. We're going to
5 item three on the Board's agenda next for EOG Resources. A
6 petition from EOG Resources, Inc. appealing the decision of the Director of the
7 Division of Gas and Oil denying permit application number 7908 for operations in
8 the Garden District of Buchanan County. This is docket number VGOB-05-0816-
9 1485. We'd ask the parties that wish to address the Board in this matter to come
10 forward at this time.

11 TIM SCOTT: Tim Scott for EOG.

12 MARK SWARTZ: Mark Swartz.

13 PETER BACON: Peter Bacon for EOG.

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

16 TIM SCOTT: Mr. Chairman, we're not going to...I know Mr. Swartz
17 will be happy about this. We're not going to belabor this because we've been
18 before the Board on this very same issue on an appeal before...before the Board
19 in June. It's the position of EOG that 361.12(A) is not a statute to be read in a
20 vacuum. It is not absolute because there are other considerations to be made or
21 to be considered by the Director prior to issuing his final decision. As we
22 indicated in our last appearance before the Board, that the statute says "If the well
23 operator and the objecting coal owner is present or represented at the hearing to
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1 consider to the objections to the proposed drilling unit, would indicate to...that
2 there are other issues to be considered." We don't believe that this statute is
3 361.12(A) or 12 is not to be considered without consideration of other parts of the
4 Virginia and Gas Oil Act. It would not promote concurrent development between
5 coal owners and oil and gas operators. That's basically our position and as more
6 clearly set forth in our petition for appeal.

7 BENNY WAMPLER: Mr. Swartz?

8 MARK SWARTZ: This is somewhat of a surprise to me since I didn't
9 get a copy of this petition for appeal until this morning when I noticed it was on the
10 docket. I don't really care. But I didn't file a response because I didn't know that it
11 was appealed until today. Whether I was supposed to know, you know, and Les
12 dropped the ball and didn't send me a copy, I don't know. But I'm not raising as a
13 jurisdictional issue. We were here a month or two ago.

14 TIM SCOTT: Yeah. I'm sorry, Mark. I thought---

15 MARK SWARTZ: That's all right. I mean, our position is the same
16 as it was the last time, that the code...the relevant code provision is a coal veto.
17 That was what was intended by the legislature when the act was revised in 1990
18 and the coal company here has...has utilized that veto because the proposed well
19 is within 2500 feet of another well. That said, that's our objection. I think it should
20 be pretty clear, the rest of our arguments from the last time we were here. So, I'll
21 just simply leave it at that.

22 BENNY WAMPLER: Mr. Wilson?

23 BOB WILSON: Yes, sir. Following everybody else's lead, I'll be
24

1 very brief unless you folks wish me to expand on it.

2 BENNY WAMPLER: Well, you might...you might just give a little
3 background since we have a new board member---

4 BOB WILSON: Okay.

5 BENNY WAMPLER: ---and she wasn't here at the last one. There
6 may be a couple that weren't here at the...when we had this before.

7 BOB WILSON: I'll be glad to do that. As a matter of a fact, I think
8 we had a bare quorum the last time.

9 BENNY WAMPLER: Uh-huh, we did.

10 BOB WILSON: So, there was probably several people who weren't
11 here the time before. Island Creek and CNX Gas, Inc. or LLC, filed objections to
12 permit application for EOG Resources operations Big Vein #11-05. And, again, to
13 be relatively brief, but still expand on it a bit. Part of the objections that CNX filed
14 included surface owner objections, which they were claiming because they are
15 actually in use of the surface in these areas. Those were denied outright and no
16 hearing was held on those matters. The hearing was held on matters that the gas
17 owner brought, being that the permit would impinge on CNX's gas interest and the
18 permit sought, if granted, would impair CNX's property or statutory rights. Island
19 Creek Coal Company raised the objection, which is under 45.1-361.12(A), which
20 states, "If the well operator and the objecting coal owner is present or represented
21 at the hearing to consider the objections to the proposed drilling unit or location
22 are unable to agree upon a drilling unit or location for a new well within 2,500
23 linear feet of the location of an existing well or well for which a permit application

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1 is on file, then the permit or drilling unit shall be refused."

2 We convened the hearing on May the 17th, 2005. This was an
3 informal hearing under the administrative processes act in which our objective is
4 to try to reach an agreement between the parties to the dispute, failing that, the
5 law requires the Director of the Division of Gas and Oil to issue a decision. That
6 decision, of course, is appealable to this Board, which is why we're here today.
7 Your decision in turn, would be appealable to Circuit Court. The testimony we
8 heard at the hearing was relatively brief. You have copies of it there in your
9 package, I believe. The...in the matter of the permit, if issued, impinging on CNX's
10 gas interest or impairing their property or statutory rights. The arguments that
11 were made under this, again, were quite brief, but basically the gas owner, being
12 CNX, is basing its argument on the fact that they had under their lease rights to
13 use the surface. They claimed exclusive rights to use the surface in that area.
14 EOG produced similar documents showing that they had similar rights under their
15 leases to use the surfaces. We, of course, do not interpret leases and
16 agreements and this sort of thing. But it appeared that both of these documents
17 were giving both of these operators the right to use the surface in pursuit of the
18 mineral that they had the right to develop there. In that case, I denied the gas
19 owner objections in my opinion.

20 The coal owner objection, which I just read to you, however, is an
21 entirely different story. As I did in the last hearing, I'll read basically my decision
22 paragraph here. "Section 45.1-361.12(A) is very straightforward and unequivocal.
23 It does not require the objecting coal owner to provide explanation or justification
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1 and does not allow for any discretion on the part of the Director. Simply put, the
2 statute requires that in the absence of an agreement between the coal and the
3 applicant regarding a well location within 2500 feet of any existing well, the permit
4 shall be denied." Based on that, I denied the permit, which brought us to this
5 appeal today. During the hearing, our informal hearing, the objecting coal owner
6 stated that there were no alternate locations to be considered. That's about all I
7 have. I'll be glad to answer any questions.

8 BENNY WAMPLER: Before we do that, do either of you have any
9 clarification or any---?

10 TIM SCOTT: Mr. Bacon?

11 BENNY WAMPLER: ---other statements?

12 PETER BACON: Yeah. We have...after the June decision, we have
13 retained outside Counsel and we will be filing a challenge to the coal veto statute
14 as soon as, I guess, the final order from that hearing is issued. Counsel has just
15 asked me to make sure that I get on record that as far as I can tell, Consol and its
16 subsidiaries have objected to 100% of any permit application that we have filed
17 where they had the ability to exercise the coal veto. Notwithstanding the fact that
18 other operators in the area, in the immediate area, are being cooperated with. We
19 have never been given a reason as to why they are objecting despite efforts on
20 our part to try and work something out with them either contractually or
21 operationally. We don't know what their concerns are. They won't tell us. Our
22 general Counsel called their general Counsel a couple of weeks ago just as a
23 courtesy call, I think, to advise them that we intended to file a challenge to

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1 the...because we just don't have any other alternative. We don't know what the
2 problems are. I think, as a result of that phone call, we did get a meeting with
3 Claude Morgan, the vice president, last Friday. That meeting was...I was not in
4 attendance, but I'm told was uneventful. We still don't understand what the
5 concerns are and we've not been given any explanation of what we might do to
6 mitigate their concerns. The problem has been exacerbated a little bit in that, I
7 guess, the coal and the gas divisions of CNX are going to be split and Claude has
8 told us that he has...although he has been the guy that I think has been opposing
9 these, he...from what he told us, he's no longer the guy that would be the person
10 that would...we would talk to about these things.

11 So, we don't know at this point, who we're supposed to talk to over
12 there. So, we're just...we're just at a loss. So, that's more...these comments are
13 more parenthetical than anything else. Most of our arguments have already been
14 made last time, but we just wanted to get this on the record.

15 BENNY WAMPLER: Thank you. Do you have any responses?

16 MARK SWARTZ: If the legislature had wanted to graft a good faith
17 and fair dealing restriction on this statute, they would have put one in there. I
18 mean, it's a veto. I mean, there's lots of statutes that say you cannot withhold
19 your consent unreasonably or you have to, you know, demonstrate some basis to
20 withhold. You have to have...you know, this statute does not have any limitation
21 on that. The assumption that Mr. Wilson engaged in when he made his decision,
22 it's the same assumption I'm proceeding on. If the legislature had wanted to limit
23 the coal veto, they know how to do it. You know, they've limited all kinds of other

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1 things. There's a way to do it. It wasn't done here. It's an absolute veto.

2 BENNY WAMPLER: Okay. For the Board members, just to reframe
3 what we're...what we're doing here is we're hearing the appeal of the Gas and Oil
4 Director's decision to deny based on the coal owner's objection. Questions from
5 members of the Board? Ms. Quillen?

6 MARY QUILLEN: Is Island Creek currently...do they currently have
7 a well...an operating well on that particular site?

8 MARK SWARTZ: No. But there is a well within 2500 feet of this
9 application. That's the...that's the problem that they're encountering. It's not that
10 they're drilling a well right next to another well. It's they're locating a well that is
11 less than 2500 feet from another well. As I sit here today, it may be someone
12 else's well. I don't---

13 MARY QUILLEN: That was my question. Whose well is this one
14 that's 2500 feet?

15 MARK SWARTZ: Do you know off hand? Do you?

16 PETER BACON: I don't know.

17 TIM SCOTT: Isn't it Hard Rock?

18 MARY QUILLEN: So, someone already has a well that's within 2500
19 feet of this location?

20 MARK SWARTZ: You ought to be able to tell from the permit.

21 BOB WILSON: Mr. Chairman.

22 BENNY WAMPLER: Mr. Wilson?

23 BOB WILSON: According the permit application, they are actually
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1 multiple wells. Most of them are CNX wells. They are mostly coalbed methane
2 wells as opposed to the type of well that EOG is proposing, which is a
3 conventional well.

4 MARY QUILLEN: Is conventional well.

5 BOB WILSON: However, the statute does not differentiate.

6 MARY QUILLEN: Right.

7 BOB WILSON: It basically says that any well within 2500 feet. And
8 they...here in this particular application are showing actually four wells within 2500
9 feet and a couple of others that are just beyond that one.

10 BENNY WAMPLER: Okay, other questions?

11 (No audible response.)

12 BENNY WAMPLER: Is there a motion?

13 JIM McINTRYE: I make a motion to uphold the Director's decision.

14 DONALD RATLIFF: Second.

15 BENNY WAMPLER: Motion is seconded. Any further discussion?

16 (No audible response.)

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

18 (All members signify by saying yes.)

19 BENNY WAMPLER: Opposed, say no.

20 (No audible response.)

21 BENNY WAMPLER: You have unanimous approval.

22 TIM SCOTT: Thank you.

23 BENNY WAMPLER: The next item on the agenda, the Board on its
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1 own motion will receive testimony concerning a requested amendment to the
2 Beatrice Mine Seal Gob Area Field Rules in the Garden District of Buchanan
3 County. This is docket number VGOB-96-0618-0545-01. We'd ask the parties
4 that wish to address the Board in this matter to come forward. This is item number
5 two on the Board's agenda for today.

6 MARK SWARTZ: Mark Swartz and Les Arrington.

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

9 MARK SWARTZ: When we were here last, we spoke some about a
10 problem that had surfaced in our dealings with Mr. Wilson's office concerning
11 permitting new wells above the Beatrice sealed gob area, just to refresh the
12 memory of those folks that were here and to bring people who weren't here up to
13 speed. There is a...there is a mine, a closed inactive sealed mine called the
14 Beatrice Mine. Several years ago, we petitioned to have the sealed area of the
15 Beatrice Mine essentially converted into a field and so that the container, that is
16 the empty space in the Beatrice Mine is considered, at least for purposes of the
17 Beatrice Field Rules Order, to be a pool of gas that can be developed.

18 The Board essentially laid the Oakwood grid over the top of that
19 mine and some of the grid units...and we have a map that Anita has just passed
20 out. Some of the Oakwood 80 acre grid areas are completely within the red line
21 of the Beatrice sealed gob area and some are partial. There was testimony at the
22 time that the field rules were considered and ultimately implemented as to the
23 likely volume of gas in the void spaces in the sealed area of the mine. And that

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1 number was then divided by the number of units and partial units to get a volume
2 that could be extracted per 80 acre unit and essentially we've been doing that for
3 some time now. When the Oakwood...when the Beatrice Mine Field Rules were
4 created, at least initially, there were a lot of vertical ventilation holes that were
5 used to degas the mine in place already, which were, obviously, communicating
6 with the void space. There's a provision in the code that allows you to convert a
7 vertical ventilation hole pretty simply to a permitted well and a number of those
8 were converted. There was also a piggyback provision, which is not relevant
9 today, but I think is a nice feature of the Beatrice Field Rules, once you have
10 produced 350 million cubic feet of gas from any given well, which would be
11 attributable to the unit in which the well was located, you could then petition the
12 Board to allow you to add an additional unit to be produced out of that well hole,
13 so that you didn't need to drill, you know, a well in each unit and there was less
14 surface disturbance and was certainly more economical as well.

15 What has happened now is that CNX Gas, and I'm sure other
16 operators eventually, is interested in developing the coalbed methane in the coal
17 seams above the Beatrice Mine, which is...which is in the Pocahontas 3 Seam,
18 correct?

19 LESLIE K. ARRINGTON: Uh-huh.

20 MARK SWARTZ: And when we filed our first permit application and
21 we were kind of look...I'm not even sure we filed it yet or we were just talking
22 about it, I guess.

23 LESLIE K. ARRINGTON: Yeah.

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1 MARK SWARTZ: Then we were looking at the Beatrice order.
2 When the Beatrice order was drafted, there was a chart included that was in all of
3 the Oakwood orders and I have a feeling that it was just cut and pasted into that
4 order and none of us really thought about it at the time, that suggests to a person
5 reading the Beatrice Field Rules that they were intended potentially to apply to all
6 of the coal seams including those above the Pocahontas 3 Seam.

7 The reason that we brought this up last month, now to kind of cut to
8 the chase as to why we're here today, is to encourage the Board to in a simple as
9 straight forward way as possible to send a message that the Beatrice Field Rules
10 were indeed only intended to apply to the production of gas from the sealed gob
11 area, which of course is consistent with this 350,000 cubic...million feet allowable.
12 And, you know, you have to...we have to give notice to people. So, the reason
13 that it didn't happen last month was because the Board published the notice in the
14 paper in the meantime telling people who might be interested in this issue that
15 there was a going to be a hearing today and that they could...that they could show
16 up. Obviously, there is not a great ground swell of interest since Mr. Arrington
17 and I seem to be it today.

18 To conclude, my recommendation would simply be possibly enter
19 literally a one paragraph supplemental order, which simply expresses that the
20 rules were intended to...by the Board to apply only to the production of coalbed
21 methane from the Beatrice sealed gob area. I think that would solve the problem.
22 So that being said, that's where I think we are and---

23 BOB WILSON: Mr. Chairman, could---?
24
25

1 MARK SWARTZ: ---that's what we would like to see.

2 BENNY WAMPLER: Mr. Wilson?

3 BOB WILSON: I'm going to throw a small monkey wrench in. I
4 reviewed the transcript last night actually and there are two references in here that
5 kind of negate what we had assumed. On page nineteen of the---

6 BENNY WAMPLER: Does Mr. Swartz...excuse me, do you have this
7 transcript?

8 MARK SWARTZ: Nobody gives me anything.

9 BOB WILSON: I've tried to keep this stuff from him.

10 MARK SWARTZ: They just sort of figured, well, he'll react.

11 BOB WILSON: If he reads it, he just causes trouble.

12 BENNY WAMPLER: Since we're...since we're going to refer to it, we
13 probably ought to...ought to let him see it.

14 BOB WILSON: Actually, this...this actually, apparently, took place in
15 two hearings. It was heard once and then carried forward to another hearing. But
16 the original hearing of the item...if you look on page nineteen of the transcript that
17 begins item one...the next item on today's agenda, etc., the thicker of the two.

18 Look on page nineteen, you'll see the testimony from Claude Morgan states that
19 this is..."For this, we are proposing that this would cover all seams below the tiller
20 down." So, that's why that ended up in the order. Also, on page...let me see if I
21 can relocate it here. Page thirty-two of the same transcript, a person who
22 addressed the Board asked the question, "Anything below the tiller, is that what
23 you said?" Mr. Morgan, "Anything below the tiller, down through and including the
24

1 Pocahontas #1, which lies somewhere around 100 to 150 feet below the
2 (inaudible)" transmission there. So, actually, the Board received testimony that it
3 resulted in the order including all coal from the tiller down.

4 I...again, I don't want to throw this out as something to try to derail
5 this. I personally support this particular application because I think without some
6 method of going forward, there is going to be gas left in the ground and that's not
7 what we are about. But I do think this is...kind of negates an assumption that I
8 personally had made earlier that the order was made to look like the rest of the
9 Oakwood Field order by mistake. And---

10 BENNY WAMPLER: We said...we said...we announced we're here
11 to clear up inconsistencies. I think notice is okay.

12 BOB WILSON: Let me...let me state for the Board too, for this
13 transcript, the vast majority of the material in the transcript has to do with number
14 one, there was a gentleman that already had a well in the...producing unit in this
15 Beatrice mine. There was a lot of conversation about that. Secondly, about what
16 Mr. Swartz mentioned earlier, the allocation of resources to the various units.
17 That took up a tremendous amount. Other than that, this is the only time you're
18 going to see this particular mention of the coal seams to which it actually applies.
19 I think that's probably what we're concerned with here today was to figure out how
20 or if we can make that available...that production available from the bypassed
21 coals above the (inaudible).

22 PEGGY BARBAR: What's the date of this testimony that was---?

23 BOB WILSON: I'm sorry?

24

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1 PEGGY BARBAR: What's the date of this testimony that you've
2 made us copies of?

3 BOB WILSON: I was afraid you were asking me that. That would
4 have been on June the 18th of 1996, the first one,---

5 PEGGY BARBAR: I was just curious.

6 BOB WILSON: ---and August of 1996 for the second one.

7 BENNY WAMPLER: And you can tell that by the docket number,
8 right?

9 BOB WILSON: Actually, I was looking at the order itself.

10 SHARON PIGEON: Which is in our material here?

11 BENNY WAMPLER: Right.

12 DONALD RATLIFF: Mr. Chairman.

13 BENNY WAMPLER: Mr. Ratliff?

14 DONALD RATLIFF: Les, the...does Consol control seams above the
15 Pocahontas?

16 LESLIE K. ARRINGTON: As far as the coalbed methane, yes...yes,
17 actually---

18 DONALD RATLIFF: Does it...does it leach from vertically from seam
19 to seam? I know it will come horizontally.

20 LESLIE K. ARRINGTON: Are you talking about the coalbed
21 methane?

22 DONALD RATLIFF: Yes.

23 LESLIE K. ARRINGTON: Only in the areas that may possibly have
24

1 been longwalled or---.

2 DONALD RATLIFF: If we have breakage?

3 LESLIE K. ARRINGTON: Right. In the other areas, no. That's
4 essentially what we're here about is the other.

5 DONALD RATLIFF: If this was addressed for gob gas, why was the
6 other seams so important to Mr. McClanahan and Mr. Ratliff...Wyatt Ratliff? What
7 was their concern? Do you remember?

8 LESLIE K. ARRINGTON: Well...yeah...I don't recall exactly. But in
9 the areas that at that time we were concerned with, one, we were concerned with
10 the entire boundary. We just...we were new in this area and we didn't know
11 anything about the title and mapping, number one. Number two, at that point, we
12 were mainly concerned with the areas that had been longwall mined here. We
13 knew Pocahontas #3 seam was our major concern. Now, we're developing out
14 and finding out, "hey, wait a minute, there's as much gas in the other seams as
15 there is in the 3 seam." So, in all of these areas that have not been longwall
16 mined persay, or retreat mining, there's possibly a lot of additional gas in the
17 upper seam, excluding the Pocahontas #3 seam, maybe I should say. In those
18 others, you wouldn't have any upper strata breakage. You just don't have any
19 subsidence persay.

20 MARY QUILLEN: Do these---?

21 BENNY WAMPLER: Ms. Quillen?

22 MARY QUILLEN: ---folks, McClanahan, do they have an interest in
23 these upper seams?

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1 MARK SWARTZ: I don't recall Mr.---.

2 LESLIE K. ARRINGTON: Or was he on the Board?

3 BOB WILSON: Mr. Chairman.

4 BENNY WAMPLER: Mr. Wilson?

5 BOB WILSON: Again, just from the review of the transcript, I think

6 Mr. McClanahan's major concern was with the boundaries of the field because if

7 they shifted just a bit, they would have effected his...some property that he has

8 interest in. He was mostly concerned, it seemed to me in the transcript, with

9 making sure that the boundaries were not going to be something fungible that

10 could move from time to time.

11 MARY QUILLEN: So, his---?

12 BENNY WAMPLER: In thirteen in particular.

13 BOB WILSON: Yes.

14 MARY QUILLEN: His concern was the surface?

15 BOB WILSON: No...no, ma'am. His concern was with his gas

16 interest, but in a different unit...in a unit

17 that---.

18 MARY QUILLEN: Oh, okay.

19 BOB WILSON: ---was not included in this boundary.

20 MARY QUILLEN: Okay.

21 BENNY WAMPLER: It would have been a unit that would be---.

22 MARY QUILLEN: On this---.

23 BENNY WAMPLER: ---like over here.

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1 MARY QUILLEN: Oh, okay.

2 BENNY WAMPLER: Outside the boundary of this unit.

3 MARY QUILLEN: Okay, adjacent to the...okay.

4 BOB WILSON: And, again for reference, Mr. Ratliff at that time
5 owned a well that I don't believe even penetrated the mine actually. I don't
6 believe it got that deep. But he was actually producing gas from a unit within this
7 outline and selling that gas at that time through Virginia Gas Company to local
8 residences. He was concerned that the allocation that was going to be placed on
9 the...on each well was going to affect his ability to produce and sell that gas.
10 There was testimony given that showed that at the rate he was producing and
11 selling gas, it would last him seventy years under that allocation. But that was his
12 major concern was that there was going to be some sort of restraint of his ability to
13 produce. Again for reference, that well has been converted to a water well. It's no
14 longer producing gas.

15 DONALD RATLIFF: And, Mr. Chairman, he has since testified
16 before this committee, that's where that information came from when he...when
17 Wyatt testified two or three months ago. Is that correct?

18 BOB WILSON: Yes, sir. Part of that, he did say that he was no
19 longer producing the well---

20 DONALD RATLIFF: Right.

21 BOB WILSON: ---and that he was converting it to a water well. We
22 have since completed that operation in-house to transfer that...to release the
23 permit to be used as a water well. I think we've actually released his bond

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1 already. So, he's no longer in the gas business.

2 BENNY WAMPLER: Mr. Swartz?

3 MARK SWARTZ: I'm just trying to scan this transcript real quick
4 here. Just...if you could give me...bear with me---.

5 BENNY WAMPLER: Let's take...let's just take a five minute Board
6 recess and you can scan that.

7 (Break.)

8 BENNY WAMPLER: Mr. Swartz, have you had the opportunity to
9 look at the transcript?

10 MARK SWARTZ: I had a leisurely, you know, opportunity to look at
11 the transcript. I have a couple of parts of the transcript that I would like to bring to
12 your attention. I would like to preference that with...with just this observation. I
13 think Mr. Wilson in his...in his comments indicated that, you know, his goal, and I
14 assume he was speaking as the Director, was to make sure that...
15 although it might even be a personal preference, but was to make sure that---

16 BENNY WAMPLER: He's not allowed to have a personal
17 preference.

18 BOB WILSON: That's right. I gave up all my personal preferences
19 when I took this job.

20 MARK SWARTZ: Was to...was to make sure that if there was gas in
21 the ground that was being skipped, you know, or being missed, that we had a
22 mechanism to allow people to get it if they wanted to go get it. So, with that in
23 mind, you know, I think we have a problem as we look at the rule now, it may be

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1 leaving gas in the ground, the Field Rule, and we need to figure out some...some
2 way to...if that's true, some way to solve that problem.

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6 When I...when I looked through these two transcripts, there's just
7 three parts of the transcripts that I kind of wanted to bring to your attention and I'm
8 going to do it a little bit, I think, in reverse order. But if you look at transcript
9 pages, which is the shorter transcript, ninety-six through ninety-nine, and what I'm
10 particularly interested...the only reason I'm telling you ninety-six is because
11 it's...this transcript is actually...this comment that I'm making begins sort of at the
12 bottom of ninety-six. But if you would...if you would turn to roughly the middle of
13 ninety-seven, I'm just pointing out to the Board that, in theory, one hole could
14 drain this container if you pulled on that hole hard enough and long enough and to
15 prevent unfair drainage, meaning a unit or a well in one quarter...corner
16 essentially draining everybody's gas. This solution was to go with allowables. I
17 think this is the first time this Board has ever used allowables, just to kind of focus,
18 you know, at least where I was coming from. Then if you go to the bottom of the
19 next page, another concern that we were talking about was...actually the middle of
20 the page, "The idea being, again, it's a sealed container. What's a reasonable
21 number of wells to produce a sufficient amount of gas over some reasonable
22 period of time so that you're not loading costs into the unit and passing those
23 potentially to people I guess that would be unfairly so that the unit would make

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1 economic sense." We've kind of got the reverse situation here and what we
2 suggested to you all that you needed to consider was that it would be
3 unreasonable, from an economic standpoint, if there had to be a well in every one
4 of these 80 acre units because from a physics standpoint, or a geology
5 standpoint, wells have a capability of draining a much larger area than an 80 acre
6 unit. So, our proposal, as I recall it, was if you have allowables, you should
7 develop some means of permitting an operator with a well in one unit to take the
8 30 million allowable assigned to that unit, to voluntarily pool another unit in the
9 mine or in this area, and this is the key here, it doesn't have to be contiguous. It
10 could be anywhere. What we've had in the past when we have stacked
11 allowables, we've skipped entire units. So, you know, to look at this conceptually
12 as some kind of drainage, well, you know, if it was traditional drainage and you
13 weren't dealing with the intervening unit, it would just be horrible, you know,
14 because essentially if you had a well, you know, let's take a well in the center here
15 and you skipped to the four corners, essentially, you would be draining the gas of
16 the folks in between, if you were looking at this as a formation, or a horizon, and
17 those people wouldn't be included in the economic benefit. So, I think, you know,
18 the operations that we have followed, you know, when we piggyback wells and
19 that we're allowed to skip and they don't have to be contiguous, I think confirms
20 the concept that this was...we were looking at the void space and we were looking
21 at draining the void space. Just to illustrate that, I don't think I was the only one
22 who had this in mind, I think it was...I know it was Mr. Harris, but let me find his
23 comment here. I think it's at thirty-four of the thicker transcript. Yeah, down at the

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1 bottom of thirty-four, Mr. Harris, who was a Board member at that time, "One of
2 the...of course, you're aware of the concerns we're faced with is that, what do
3 people who live in various areas, as I understand this basically, could be a big
4 bladder." Again, he's looking at the void space, I think, and clearly understood
5 that. "The whole thing could be a big 77 times 80 acre unit. I wrote the numbers
6 down in total. But anyway it's just a bladder full of gas. So wherever you punch
7 this hole, you're going to get a certain amount of gas and a certain amount of
8 pressure or whatever. One of the concerns we're faced with now is how to, if you
9 start drilling in one section that is going to drain gas from other places...", and so
10 on and so forth. The...and then just to make an observation without going into the
11 testimony, Claude Morgan was the fellow who testified with regard to gas in place
12 to begin with and gas in place, his estimate after mining, and he was essentially
13 testifying in the sense that once you mine, you liberate 75% of the gas. If you
14 start with 1.6 bcf of gas and that assumption is correct, based on their experience,
15 you're going to have this left. Well, he was looking at the Pocahontas #3 seam.
16 You know, that's the only seam that has been mined. So, my reread of this, and
17 revisit of this, it seems to me that the transcript isn't as clear as I would like it to
18 be. But I think Mr. Wilson and Mr. Arrington have shared in practice, you know,
19 the same view that we're draining the void space. We've all implemented, you
20 know, the well space on that. Now, there is a desire to produce gas, which is
21 going to be stranded above that void space. We'd like to address that issue. The
22 problem that you need to recall in any kind of fix, if that happens, we're not going
23 to be able to put in the piping to segregate the stream here probably. So, you're

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1 not contemplating putting in, you know, one well and segregating the production
2 between seams above the sealed gob and the sealed gob. So, we're talking
3 about a new well, which is not going to go to P...Pocahontas 3. So, you need to
4 bear in mind that we're not going to be commingling production from the sealed
5 gob area with these new wells. From an engineering standpoint, it gets somewhat
6 complex and it also from a regulatory standpoint, it gets complex. So, that's not
7 what we have in mind. I don't know if that helps or not.

8 BENNY WAMPLER: Still within the 80 acre unit?

9 MARK SWARTZ: Right.

10 BOB WILSON: It was my understanding from the conversations that
11 we had had earlier and the applications that were being prepared that, and please
12 correct me on this if I'm wrong, either one of two situations would have occurred if
13 this is approved, either a new well would be drilled that would not penetrate the
14 P3 seam and the overlying coals would be stimulated and produced as in areas
15 that are not being mined or some existing former ventilation wells would be
16 plugged back such that they are only open above the mine. Those seams would
17 be, again, produced through the usual frac or stimulation wells. But it would be
18 entirely separate. I think that is one concern that we need to address. I'm not
19 sure what the spread between the mined area and the overlying seams are but to
20 make sure that there is no communication between those two forms of production
21 because, of course, everything in the mine is allocated or to be allocated. If
22 you're producing that, along with this other, then basically you're taking out gas
23 that's subject to a different rule. But the way I had envisioned it was that if we can

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1 come to some sort of way of doing this, that basically the overlying seams, the
2 non-disturbed seams, would just be subject to Oakwood I Field Rules.

3 MARK SWARTZ: Which they already are.

4 BOB WILSON: Right.

5 MARK SWARTZ: I mean, this was a carve out. I mean, this...you
6 know, the Oakwood I doesn't cover sealed gob. So, this...the Beatrice Mine...the
7 Oakwood Rules didn't apply to production from the Beatrice Mine period. So, we
8 needed Field Rules that would apply to that. So, it's not...the Oakwood Rules are
9 still in place. The problem is the Beatrice Field Rules, as drafted, appear to
10 conflict with the existing Oakwood Rules. I mean, that's it in a nutshell.

11 BOB WILSON: And supercede it, I think.

12 MARK SWARTZ: Right.

13 BENNY WAMPLER: Would you envision drilling through Poca 3
14 and through the sealed gob and into lower seams?

15 MARK SWARTZ: So far that hasn't been an
16 economic---

17 BENNY WAMPLER: We're clearly not addressing that here.

18 MARK SWARTZ: No, we're not. And we don't have an intention of
19 doing that.

20 LESLIE K. ARRINGTON: And the only case that we would possibly
21 go to the 3 seam is there are some larger blocks. We would like to have possibly
22 drilled those larger blocks for the 3 seam. Quiet honestly, I believe I...as I do
23 them, I would object to doing that. But they won't attempt to do that.

24

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1 BENNY WAMPLER: So---

2 MARK SWARTZ: Of course, then they're not penetrating the sealed
3 gob.

4 LESLIE K. ARRINGTON: That's right. It would not be penetrating
5 the sealed gob, that's right.

6 MARK SWARTZ: I mean, he would have to look at that permit
7 application and do something with it. I can see him, he's like, "oh, man, it's a
8 Mylodol moment," you know.

9 BENNY WAMPLER: Well, just so the Board's aware, Les, I'll just
10 direct the question to you and your attorney can protect you as he needs to, but
11 your company is looking at drilling down through Poca 3 in a number of
12 situations... not here in specifically, but in a number of situations to get at the floor
13 gas issue that occurs in the mining, and there is a floor gas issue there. So, you
14 know, in order to make it safer, and obviously to capture the gas as well, they've
15 done that. That's why I'm probing on the record this whole issue regarding this
16 particular order while we're here. I realize things can change, but---

17 MARK SWARTZ: Well, the mechanics of what I think you're talking
18 about...you know, Les, you need to straighten me out here, but when we drill a
19 frac well, we drill through the seam and below it for a whole bunch of reasons,
20 okay. Les, if you were to drill a new well into the Beatrice Mine sealed gob, would
21 there be any reason that you can think of to drill through the mine?

22 LESLIE K. ARRINGTON: No. Not---

23 MARK SWARTZ: I mean, it's a completely different issue, I think.

24

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1 LESLIE K. ARRINGTON: That's right. Not in the...where there has
2 been mining.

3 MARK SWARTZ: Where there is a void space is what you're
4 saying?

5 LESLIE K. ARRINGTON: Right, right. I'll give you a for example
6 unit. If you'll look on your map of well Q-23, in the bottom south kind of in the
7 southeastern area of Q...unit Q-23. Well, in that unit you would want to frac the 3
8 seam.

9 MARK SWARTZ: K-20 is another good example, right?

10 LESLIE K. ARRINGTON: Yes. Yeah, that would be the best one.

11 BENNY WAMPLER: So, Mr. Swartz, can you frame your request.

12 MARK SWARTZ: What I think would be the simplest way to do this
13 would be for the Board to state that the Beatrice Mine Field Rules are intended to
14 apply only to wells which produce from the sealed...communicate with and
15 produced from the sealed gob. I mean, I think that's...you know, I think that was
16 the intention. That's certainly going, you know, currently and going forward would
17 be, you know, our intention. If you limit that, then the Oakwood Rules would just
18 apply to the overlying strata. I mean, we won't have to tinker, you know, any
19 further with it. You know, to alert you to an issue that Mr. Wilson raised, which is
20 always on everybody's screen, I guess, but the statute says that coalbed gas is
21 gas that's produced from a coal seam associated strata. The statute...I think the
22 definition was intentional to avoid arguing about where gas that's in a given coal
23 seam might be coming from because we could be dancing on the head of that pin

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1 for ever. So, basically, I think, you know, the way the statute was enacted, the
2 legislature made a choice that they weren't going to go down that path. So,
3 essentially if you state that the intention of the Beatrice Rules regulate wells which
4 communicate...you know, which are drilled into and communicate directly with the
5 sealed gob area, you've solved your problem because then the Oakwood Rules
6 apply to the seams above and as long as you're in a seam above, given the
7 definitions and you're producing from that seam, you're okay. I mean, to get
8 back to your issue.

9 BOB WILSON: How much separation do you have between the
10 mine area and the coal...the first coal that you would routinely expect to stimulate,
11 do you know that?

12 LESLIE K. ARRINGTON: 150.

13 BOB WILSON: 150 feet?

14 LESLIE K. ARRINGTON: Yeah, because if we drill a 100 foot
15 rathole, I'd still possibly have 50 feet and it's going to vary some. I've already
16 been looking at that. Now, again as Mark said, we'd like for it to be for the areas
17 in direct communication with the void because there are areas that we could
18 stimulate the 3 seam within the boundary.

19 BENNY WAMPLER: I guess...I guess the one thing, just to put out
20 here on the record, is to avoid any appearance that this is an attempt to get it to
21 work around the cap. I'd like for you to address that.

22 MARK SWARTZ: Well, you know, to go back to this. I mean, the
23 Board came up with the cap and allowables I did during these hearings.

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1 BENNY WAMPLER: Right. Exactly.

2 MARK SWARTZ: My client was in favor of a cap at that time and did
3 not oppose it. Mr. Ratliff, you know, the guy who had been out there poaching
4 forever, was adamantly opposed to a cap. You know, so we have never had a
5 problem with a cap. We come back here once we get to 350, you know, to get
6 your permission to combine allowables, we've been doing that. So, I mean,
7 we're...you know, this cap issue, you know, is not something that we've historically
8 had a problem with ever. We're not seeking any change in that.

9 BENNY WAMPLER: So, what we're dealing with here, just a
10 clarification for the Board members, is that we treat this...recognizing the
11 testimony, that we treat this today as modifying the previous field order...clarifying
12 and modifying the previous order that it will apply from this day forward only to the
13 Beatrice sealed gob area, and that everything... any other drilling down to and
14 including the Poca 3 seam will be handled under the Oakwood Field Rules that
15 are in place. Is that accurate?

16 MARK SWARTZ: I think so.

17 LESLIE K. ARRINGTON: I think so.

18 BENNY WAMPLER: You're shaking your head yes?

19 MARK SWARTZ: Yeah.

20 BOB WILSON: Mr. Chairman.

21 BENNY WAMPLER: Mr. Wilson?

22 BOB WILSON: Can I ask one other question? Should there be a
23 consideration since there are probable proposals to drill into the P3 seam for
24

1 setback restrictions on any well that can be stimulated in that P3 seam if it...if they
2 do drill these blocks...large blocks in the inside?

3 DONALD RATLIFF: Mr. Chairman. When you say setback, you're
4 talking about distance between?

5 BOB WILSON: Distance from the well to the mined area, yes, sir.

6 BENNY WAMPLER: From well or the frac?

7 BOB WILSON: Well---

8 BENNY WAMPLER: The issue would be the frac. I mean, if you're
9 really trying to protect it, you'd have to go to the frac.

10 BOB WILSON: That's why you would---

11 BENNY WAMPLER: You' have an engineering...well, sure. I mean,
12 but typically you'd be talking about your engineering frac would have...should stay
13 X feet away from the sealed gob area. I'm making Mr. Swartz's side, but anyway
14 that's real issue.

15 MARK SWARTZ: There's reality and then there's theory.

16 BENNY WAMPLER: I understand. I mean, you can move it far
17 enough away that it's not...not an issue about theory.

18 MARK SWARTZ: What's the setback in the Oakwood Drilling
19 Window? Is it 300 feet?

20 BOB WILSON: 300 feet.

21 MARK SWARTZ: I don't know the answer to that.

22 BENNY WAMPLER: Do you have any suggestions, Mr. Wilson?

23 BOB WILSON: No, sir. I just posed the question.

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1 BENNY WAMPLER: The map that we were handed, for clarification,
2 the red area is the outline is the sealed gob area?

3 LESLIE K. ARRINGTON: That was the original boundary, yes.

4 BENNY WAMPLER: And just---?

5 BOB WILSON: Excuse me, excuse me. I'm sorry.

6 BENNY WAMPLER: ---for the Board's clarification, what Mr. Wilson
7 is raising is within that sealed gob area there are areas that are not mined out,
8 okay? That's... that's what we are talking about now for just clarification. Go
9 ahead, Mr. Wilson.

10 BOB WILSON: Yeah, not only on the edges, but in the...within the
11 mined area, like the P-20 unit---

12 BENNY WAMPLER: Yeah.

13 BOB WILSON: ---and the other 20 unit.

14 BENNY WAMPLER: Right, that's what I mean. Anywhere in that
15 sealed area.

16 BOB WILSON: You folks have a pretty good body of information
17 relative to how much the wells communicate in these areas where you've drilled
18 multiple wells per unit. Do you have any information in that that would give a
19 decent answer to how far you need to stay away from that mined out area?

20 LESLIE K. ARRINGTON: No, I...no, I don't. I don't know that we do
21 have.

22 BENNY WAMPLER: Let me ask a different question. Is there any
23 problem if we...if we go without exception, anything in the sealed is Beatrice and
24

1 anything above that is Oakwood and no exception to the...in other words, you've
2 got the cap, you've got the capability of combining and etcetera, is that a
3 problem?

4 LESLIE K. ARRINGTON: I'm think...are you asking me like...for
5 instance unit K-20, are you saying, for instance, in that unit that we not frac the 3
6 seam? Is that what I heard you say?

7 BENNY WAMPLER: Well, if you do, you're going to be...you're
8 going to be treated as sealed gob.

9 BOB WILSON: You---.

10 LESLIE K. ARRINGTON: For the allocated production?

11 BENNY WAMPLER: For the allocated production.

12 BOB WILSON: In other words, you would have to meter P 3
13 separately---

14 BENNY WAMPLER: You'd have to meter separate for those you did
15 that?

16 LESLIE K. ARRINGTON: We do that anyhow.

17 BENNY WAMPLER: Well...and you'd be capped on that.

18 LESLIE K. ARRINGTON: Unless we came back?

19 BENNY WAMPLER: Unless you came back.

20 LESLIE K. ARRINGTON: I don't think...it's just...I don't have a
21 problem with that.

22 BOB WILSON: In other words, this would be a situation where you
23 would be producing only from the P3, you wouldn't be producing P3 and the

24

--

1 seams above it.

2 LESLIE K. ARRINGTON: Oh, oh, okay. No, I---.

3 BOB WILSON: Because if you did that, you would have to meter
4 those two separately.

5 LESLIE K. ARRINGTON: No, we can't do that.

6 BOB WILSON: That's what I thought.

7 LESLIE K. ARRINGTON: I'm sorry. I misunderstood. No.

8 MARK SWARTZ: No, the only way to do that, you could frac the P3,
9 produce your 350...in K-20 I'm talking about, you could frac the P3, produce your
10 350, step back up, plug the well and frac the upper seams. You know, you could
11 use the same old toys. I mean, I guess you could do that is what he's suggesting.

12 LESLIE K. ARRINGTON: But the economics for that wouldn't be---.

13 MARK SWARTZ: I understand. Well, in the ever present concept in
14 my life is get what you can get on any given day, okay. It sounds like there's a
15 hangup on that issue and we need to...and we---.

16 BENNY WAMPLER: It's a correlative rights issue.

17 MARK SWARTZ: Right. And we need to...and maybe, you know, if
18 and when it becomes an issues, you know, we'll have to come back and deal with
19 it. I mean, I don't...I don't think there's any easy answer to that. But...but I will say
20 from just, and I think this is a fairly objective comment...I mean, if you look a K-20
21 and Q-23, maybe you just want to carve those two units out because what's the
22 difference between K-19 and K-20, next to none. So, the people in K-20, you
23 know, are going to benefit from the Oakwood Field Rules...I'm sorry, the people in

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1 K-19 are going to benefit from the Oakwood Field Rules and you would be able to
2 frac all the seams, K-20 or not. Maybe if we want to address that issue today,
3 maybe we want to back out, you know, R-22, Q-23 and K-20 as just
4 obvious...maybe even P-26, as obvious exceptions. I don't know.

5 DONALD RATLIFF: Mr. Chairman.

6 BOB WILSON: Mr. Chairman. Excuse me. No, please go ahead.

7 BENNY WAMPLER: Mr. Ratliff?

8 DONALD RATLIFF: That was specifically part of Mr. McClanahan's
9 concern in the transcript that we would change the boundary.

10 BENNY WAMPLER: Right. Yeah, I certainly wasn't suggesting
11 changing the boundaries. I think there's...we have a sealed unit here that we've
12 dealt consistently with. I think we're better off to leave that as is myself. That's
13 just me.

14 BOB WILSON: Mr. Chairman.

15 BENNY WAMPLER: Mr. Wilson?

16 BOB WILSON: May I offer, since there are relatively few units that
17 are even available to the P3 penetrated, that the order possibly be tailored as Mr.
18 Swartz said, insofar as the overlying seams are concerned and then any well that
19 reaches to penetrate and stimulate the P3 has to come back before the Board with
20 engineering support to demonstrate that it is not going to intervene with the
21 allocated resources.

22 BENNY WAMPLER: I mean, that's where I was going to begin with.
23 They had a problem with that. That's why we wrapped back around. Their
24

1 problem may be getting Les now to---.

2 MARK SWARTZ: Well, it's better than no.

3 BENNY WAMPLER: That's what I mean.

4 MARK SWARTZ: Yeah, yeah.

5 LESLIE K. ARRINGTON: That's right. That's right.

6 MARK SWARTZ: You know, it's a moving hill here, you know.

7 LESLIE K. ARRINGTON: Well, as I sit here and look at the map, I

8 would only anticipate ten to twelve units that would have that scenario in it. So, I

9 don't see---.

10 MARK SWARTZ: Get them together and make one

11 trip---.

12 LESLIE K. ARRINGTON: Yeah.

13 MARK SWARTZ: ---or maybe two trips instead of one.

14 LESLIE K. ARRINGTON: I don't see that...okay.

15 BENNY WAMPLER: And understand the entire focus of the

16 discussion is on the correlative rights. You understand that?

17 LESLIE K. ARRINGTON: Yeah, sure.

18 MARK SWARTZ: Oh, yeah.

19 LESLIE K. ARRINGTON: Sure.

20 BENNY WAMPLER: And that's what we have to protect.

21 LESLIE K. ARRINGTON: Absolutely.

22 MARK SWARTZ: You know, we can't, as we sit here, design a frac

23 to meet your needs. I don't mean that in a bad way.

24

1 BENNY WAMPLER: I don't expect not...I don't expect it.

2 MARK SWARTZ: I mean, I just...you know, we don't know the
3 answer to that question.

4 BENNY WAMPLER: Any further questions?

5 LESLIE K. ARRINGTON: That...that would work.

6 BENNY WAMPLER: Other questions or concerns from members of
7 the Board? Does everybody understand what we were saying?

8 (No audible response.)

9 BENNY WAMPLER: Is there a motion?

10 DONALD RATLIFF: So moved, Mr. Chairman.

11 PEGGY BARBAR: I'll second.

12 BENNY WAMPLER: Motion and second to modify the previous
13 order to create the Beatrice Sealed area and then also allow the strata
14 under...above that to be the 80 acre Oakwood Field Rule. Motion and second.
15 Any further discussion?

16 (No audible response.)

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

18 (All members signify by saying yes.)

19 BENNY WAMPLER: Opposed, say no.

20 (No audible response.)

21 BENNY WAMPLER: You have approval.

22 BOB WILSON: Mr. Chairman.

23 BENNY WAMPLER: Mr. Wilson?

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1 BOB WILSON: May we continue the trend we had set earlier and
2 make this effective as of approval today rather than waiting on the order?

3 (Benny Wampler and Sharon Pigeon confer.)

4 BENNY WAMPLER: Is all the Board members in favor of doing
5 that? If you do, please say yes.

6 (All members signify by saying yes.)

7 BENNY WAMPLER: Any opposed?

8 (No audible response.)

9 BENNY WAMPLER: Effective today. The next item on the agenda,
10 the Board will receive corrective testimony from CNX Gas Company, LLC
11 regarding previously pooled unit I-16, docket number VGOB-04-0316-1272. We'd
12 ask the parties that wish to address the Board in this matter to come forward at
13 this time.

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

16 (Mark Swartz, Anita Duty and Leslie K. Arrington confer.)

17 MARK SWARTZ: Do you want to swear Les?

18 (Leslie K. Arrington is duly sworn.)

19 (Anita Duty passes out revised exhibits.)

20

21 LESLIE K. ARRINGTON

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

23 DIRECT EXAMINATION

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1 QUESTIONS BY MR. SWARTZ:

2 Q. Do you want to state your name for us?

3 A. Leslie K. Arrington.

4 Q. Who do you work for?

5 A. CNX Gas Company, LLC.

6 Q. Why are we here on I-16 today?

7 A. On I-16 and I-17---

8 Q. I think he only called I-16.

9 A. Okay. On I-16, our Exhibit A, page two, the percentages
10 were incorrect. We need to get those percentages corrected. We have
11 presented a new Exhibit A, page two, giving our correct percentages, all the
12 names that was in the original document are correct. It was just that our Exhibit A,
13 page two, was incorrect.

14 Q. The math was wrong?

15 A. Yes.

16 Q. Okay. And the Board should have an Exhibit A, page two,
17 that shows a revision of 7/7/05?

18 A. Yes.

19 Q. Okay. And what is the coal interest that you were seeking
20 to pool on this corrected exhibit for I-16?

21 A. Yes, we're seeking to pool 18.68571% of coal interest and
22 18.12381% of the oil and gas interest.

23 Q. Okay. And this Exhibit A, page two, is consistent with all
24
25

1 the other exhibits, it's just that the math was wrong on this one?

2 A. That's correct.

3 MARK SWARTZ: Okay. That's all I have on this correction.

4 BENNY WAMPLER: Questions from members of the Board?

5 BOB WILSON: Mr. Chairman.

6 BENNY WAMPLER: Mr. Wilson?

7 BOB WILSON: I'd point out that the major reason this came back
8 was because the testimony was wrong as well. When we were reviewing the
9 orders that came in, we were trying to get all the numbers to match and had
10 problems doing that. So, we all decided that the best thing to do was to come
11 back and start over.

12 BENNY WAMPLER: Have we done that?

13 BOB WILSON: I think so.

14 BENNY WAMPLER: Okay. Is there a motion?

15 DONALD RATLIFF: So moved, Mr. Chairman.

16 MASON BRENT: Second.

17 BENNY WAMPLER: Motion for approval and second. Any further
18 discussion?

19 (No audible response.)

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

21 (All members signify by saying yes.)

22 BENNY WAMPLER: Opposed, say no.

23 (No audible response.)

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1 BENNY WAMPLER: You have approval. The next item on the
2 agenda is the Board will receive corrective testimony from CNX Gas Company,
3 LLC regarding previously pooled unit U...unit I-17, docket number VGOB-04-
4 0316-1273. We'd ask the parties that wish to address the Board in this matter to
5 come forward at this time.

6 MARK SWARTZ: Mark Swartz and Les Arrington, again.

7 BENNY WAMPLER: The record will show no others. You may
8 proceed.

9

10 LESLIE K. ARRINGTON

11 DIRECT EXAMINATION

12 QUESTIONS BY MR. SWARTZ:

13 Q. You need to state your name,

14 A. Leslie K. Arrington.

15 Q. Who do you work for?

16 A. CNX Gas Company.

17 Q. And why are we back here today on I-17?

18 A. Again, the same as I-16, we had some incorrect
19 percentages given at the hearing for I-17 and we have corrected them, submitting
20 a new Exhibit A, page two. On Exhibit A, page two, it indicates that we're seeking
21 to pool 11.625% of the coal interest and 11.32738% of the oil and gas interest.

22 Q. And the revision date on the corrected exhibit is?

23 A. July the 7th, 2005.

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1 MARK SWARTZ: Okay. That's all we have, Mr. Chairman.
2 BENNY WAMPLER: Questions from members of the Board?
3 (No audible response.)
4 BENNY WAMPLER: Is there a motion?
5 JIM McINTYRE: Motion to approve.
6 MASON BRENT: Second.
7 BENNY WAMPLER: Motion to approve and second. Any further
8 discussion?
9 (No audible response.)
10 BENNY WAMPLER: All in favor, signify by saying yes.
11 (All members signify by saying yes.)
12 BENNY WAMPLER: Opposed, say no.
13 (No audible response.)
14 BENNY WAMPLER: You have approval. Any housekeeping for the
15 remaining?
16 MARK SWARTZ: We know that we want to continue W-8, I guess,
17 right, Les?
18 LESLIE K. ARRINGTON: Yes. Uh-huh.
19 BENNY WAMPLER: That's number ten on the Board's agenda.
20 MARK SWARTZ: Just out of curiosity, is anybody here on X-8?
21 BENNY WAMPLER: Anyone here for X-8?
22 LESLIE K. ARRINGTON: X-8? Excuse me, sir, are you here for X-
23 8?
24
25

1 (Leslie K. Arrington speaks to someone in the audience.)

2 BENNY WAMPLER: You're welcome to stay, but I thought that that
3 was one you were interested in. So, it's going to be continued until next
4 month...or to when?

5 LESLIE K. ARRINGTON: October. I won't be able to make the
6 September hearing.

7 BENNY WAMPLER: Continued until October. Thank you.

8 (Leslie K. Arrington speaks to someone in the audience.)

9 BENNY WAMPLER: That's item...Board's item number ten is
10 continued until October. Do you have anything...any other housekeeping?

11 MARK SWARTZ: Let's...let's continue X-8 as well. It's also in the
12 VP8 mine.

13 BENNY WAMPLER: Until October?

14 MARK SWARTZ: Yes.

15 MARY QUILLEN: Which one is that?

16 BENNY WAMPLER: It's number eleven...ten and eleven are
17 continued until October.

18 MARK SWARTZ: And between now and then, we will also get you
19 some mine maps of the panels in those two units, which we did not include in what
20 you had today. But we've got some title issues as well. But you'll get some follow
21 up maps that were not included.

22 BENNY WAMPLER: Okay. The next item on the agenda is a
23 petition from CNX Gas Company, LLC for pooling of a coalbed methane unit BG-

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1 118, docket number VGOB-05-0816-1486. We'd ask the parties that wish to
2 address the Board in this matter to come forward at this time.

3 MARK SWARTZ: Mark Swartz and Les Arrington.

4 BENNY WAMPLER: The record will show no others. You may
5 proceed.

6

7 LESLIE K. ARRINGTON

8 DIRECT EXAMINATION

9 QUESTIONS BY MR. SWARTZ:

10 Q. Les, I'm going to remind you that you're under oath.

11 A. Yes, sir.

12 Q. Would you state your name again for us?

13 A. Leslie K. Arrington.

14 Q. Who do you work for?

15 A. CNX Gas Company, LLC.

16 Q. What do you do for them?

17 A. Manager of environmental and permitting.

18 Q. And the notice of hearing and the application and related
19 exhibits, were those either prepared by you personally or under your supervision?

20 A. Yes, they were.

21 Q. Okay. Did you sign the notice of hearing?

22 A. Yes, I did.

23 Q. And did you also...were you also the fellow that signed the
24

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1 application and the well cost estimate?

2 A. Yes, I was.

3 Q. Okay. And did you prepare the well cost estimate?

4 A. Directed it.

5 Q. Okay. Is...the applicant here is CNX Gas Company, LLC?

6 A. Yes, it is.

7 Q. And is CNX Gas Company, LLC a Virginia General

8 Partnership?

9 A. It has...it is now wholly owned by CNX Gas Corporation.

10 Q. Okay. Is it still a part...a Virginia General Partnership?

11 A. No.

12 Q. Okay. Do you know what it is?

13 A. No, I don't.

14 Q. Okay.

15 A. Sorry.

16 Q. But it remains...whatever it is, okay, it remains a wholly

17 owned, indirect subsidiary...or I guess it would be a direct subsidiary now of

18 Consol Energy, Inc.?

19 A. Yes, at this point.

20 Q. Okay. Is...has CNX been authorized to do business in the

21 Commonwealth?

22 A. Yes, it has.

23 Q. And who does this application seek to have appointed as

24

1 the Board's designated operator?

2 A. CNX Gas Company.

3 Q. Okay. What has happened recently that causes you to be
4 unable to answer the question as to whether or not CNX Gas Company, LLC is a
5 Virginia General Partnership?

6 A. At this point, CNX Gas Corporation has been carved out of
7 Consol Energy and is going through being put out there as a---

8 Q. Gas company?

9 A. ---gas company on its own. We're still working...I mean, it's
10 still developing.

11 Q. And we're going to be back here in the foreseeable future
12 to get the names squared away with the Board?

13 A. Yes, sir, we will.

14 Q. Okay. As we have done many times in the past.

15 A. We have.

16 Q. Is CNX Gas Company, LLC, a company that's
17 authorized to do business in the Commonwealth and the Company
18 that has registered with the DMME?

19 A. Yes, it is.

20 Q. And is CNX a company that has a blanket bond
21 on file with regard to reclamation and other issues with the
22 DMME?

23 A. Yes, it is.

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1 Q. Okay. Have you listed in the notice...both
2 the notice of hearing and the Exhibit B-3, the names and
3 addresses of the...of the respondents?

4 A. Yes, we have.

5 Q. And what did you do to tell the respondents
6 that there was going to be a hearing today?

7 A. We mailed by certified mail, return receipt
8 requested. That was mailed on July the 15th, 2005; published
9 in the Bluefield Daily Telegraph on July the 21st of 2005.

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

11 A. No.

12 Q. Do you want to dismiss any?

13 A. Well, on BG-118, we have submitted revised
14 documents.

15 Q. Okay.

16 A. And there is a Exhibit B-2, dismissing
17 parties due to being leased.

18 Q. Okay.

19 A. The revised Exhibit B-3 indicates that being
20 person being dismissed and then the revised Exhibit A, page
21 two, is correcting the percentages.

22 Q. Okay. So, Exhibit B-2 that was filed or was
23 passed out this morning, on unit BG-118 actually seeks to

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1 dismiss one of the respondents because there has been a
2 lease?

3 A. Yes, a lease.

4 Q. And who was that person?

5 A. I'll have to look. Lola Whited.

6 Q. Okay. And other than dismissal of Lola
7 Whited for the reason you've just expressed, is there anybody
8 else you want to dismiss?

9 A. No.

10 Q. Okay. And you've already said you don't
11 want to add anybody?

12 A. That's correct.

13 Q. Okay. And that lease, of course, changed
14 some of the percentages and some of the listings?

15 A. Yes.

16 Q. So, you've changed Exhibit B-3, in the
17 revised exhibit---?

18 A. Correct.

19 Q. ---to eliminate her name?

20 A. That's correct.

21 Q. And in your percentages, Exhibit A, page
22 two, the percentage that you're seeking to pool has gone down
23 somewhat?

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1 A. Yes.

2 Q. Okay. What...what interest have you
3 acquired as of today and what interest are you seeking to
4 pool?

5 A. From...we've leased 96.0078% of the coal
6 owner's claim to coalbed methane and 95.6046% of the oil and
7 gas owner's claim to coalbed methane. We're seeking to pool
8 3.9922% of the coal owner's claim and 4.3954% of the oil and
9 gas owner's claim.

10 Q. Okay. Have you filed an estimated well cost
11 with regard to this unit?

12 A. Yes, sir.

13 Q. What's that amount?

14 A. \$244,668.53 to a depth of 2652.

15 Q. Okay. Now, that estimated well cost, this
16 is a Middle Ridge unit, right?

17 A. Yes, it is.

18 Q. So, we're talking about drilling one frac
19 well in this unit?

20 A. Correct.

21 Q. And in this particular instance, the plat
22 shows that that frac well is to be located in the window?

23 A. Yes. 58.74.

24

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1 Q. Acres in the unit?
2 A. Yes.
3 Q. Okay. And what is the estimated depth?
4 A. 2652.
5 Q. Okay, and I take it you don't have a permit
6 yet?
7 A. No.
8 Q. Okay. The...there's an escrow requirement,
9 correct?
10 A. Yes. For 4, 6A and 6B.
11 Q. And that's because of conflicts?
12 A. Yes.
13 Q. And then we've got a title issue on Tract 2,
14 which would be an escrow?
15 A. Yes.
16 Q. Correct?
17 A. Uh-huh.
18 Q. And we've got an unknown address in Tract 6,
19 which is a further reason for escrow?
20 A. Yeah. I show Tract 4 also.
21 Q. Okay.
22 DONALD RATLIFF: I think the charts is wrong.
23 MARK SWARTZ: Yeah, yeah.
24

1 Q. Okay. So, the unknowns are just...just the
2 Tract 6, right?

3 A. Yes.

4 Q. Okay.

5 A. Yeah. Okay.

6 Q. All right. Did you file your notices with
7 regard to...or your proofs of mailing with Mr. Wilson today?

8 A. Yes, we have.

9 Q. And did you also file with him the proofs of
10 publication that you received back from the newspaper?

11 A. Yes, we have.

12 Q. And when you publish in the newspaper, what
13 is it that you publish?

14 A. The notice of hearing and the attached
15 location map.

16 Q. Okay. So, it would be an actual notice of
17 hearing that the Board has in front of it and the location
18 map and the larger map?

19 A. Yes.

20 Q. Okay. What lease terms have you offered to
21 the people...being offering to the people that you have been
22 lease in this unit?

23 A. For a coalbed methane lease, it's a dollar
24

1 per acre per year, a five year paid up term and a one-eighth
2 production royalty.

3 Q. Okay. And would you recommend those terms
4 to the Board to be inserted in any order it might enter with
5 regard to folks who might be deemed to have been leased?

6 A. Yes, we would.

7 Q. Okay. And this is a frac well?

8 A. Yes, it is.

9 Q. Okay. And it's proposed under the Middle
10 Ridge rules?

11 A. Yes.

12 Q. And we're talking about one well?

13 A. Yes.

14 Q. Okay. Is it your opinion that the plan for
15 development for this particular unit BG-118, as disclosed by
16 the application and related exhibits, which is to drill one
17 frac well, is a reasonable plan to develop the coalbed
18 methane resource under this unit?

19 A. Yes, it is.

20 Q. And is it your further opinion that if you
21 take the leasing activities that the applicant has engaged in
22 and been successful and then combine that with a pooling
23 order effecting the few response that we have listed here,
24

1 that between the leases and a pooling order the correlative
2 rights of all the owners and all the claimants to the coalbed
3 methane in this unit would be protected?

4 A. Yes, it would.

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

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

8 (No audible response.)

9 BENNY WAMPLER: Can you tell me on Tract...on your
10 dismissal, you show Lola Whited Miller...under your original
11 application, you show Lola Whited, address unknown. Is that
12 the same person?

13 LESLIE K. ARRINGTON: Yes, it is.

14 BENNY WAMPLER: Other questions?

15 (No audible response.)

16 BENNY WAMPLER: Do you have anything further?

17 MARK SWARTZ: No.

18 BENNY WAMPLER: Did you say yes or no?

19 MARK SWARTZ: I said no, but I...oh, there are
20 other address unknowns in that tract. So, it's still
21 requires escrow. I just wanted to check that.

22 BENNY WAMPLER: Is there a motion?

23 DONALD RATLIFF: Mr. Chairman. You're showing
24

1 conflicts on Tract 2.

2 LESLIE K. ARRINGTON: Actually, that is a title
3 conflict.

4 MARK SWARTZ: It's a title issue.

5 LESLIE K. ARRINGTON: Title issue versus
6 conflicting claims.

7 BENNY WAMPLER: Any other questions?

8 SHARON PIGEON: Are you saying that doesn't require
9 escrow?

10 MARK SWARTZ: No, it does. If you look---

11 LESLIE K. ARRINGTON: It does.

12 MARK SWARTZ: ---at B-3, there's a title issue in
13 Tract 2---

14 LESLIE K. ARRINGTON: Yes.

15 MARK SWARTZ: ---on the...on one side of the title.

16 So, that's just a title issue, but it requires escrow for
17 Tract 2. Then on a conflicts, which is what is addressed by
18 Exhibit E, there is not a conflict in Tract 2. It's a title
19 issue, which is the point that---

20 SHARON PIGEON: Exhibit E is suppose to list
21 everything that's required to be escrowed. That's what we
22 have on Exhibit E. Is that your point?

23 LESLIE K. ARRINGTON: Okay. I gotcha.

24

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1 DONALD RATLIFF: It did not come out in testimony.
2 You skipped over it.
3 BENNY WAMPLER: So, we request a revised Exhibit E.
4 MARK SWARTZ: Right, right.
5 LESLIE K. ARRINGTON: Okay.
6 BENNY WAMPLER: You're agreeing to provide that?
7 LESLIE K. ARRINGTON: Yes, sir.
8 BENNY WAMPLER: Is there a motion?
9 DONALD RATLIFF: Move to approve, Mr. Chairman.
10 MR. McINTRYE: Second.
11 BENNY WAMPLER: Motion is seconded. Any further
12 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 CNX Gas Company, LLC for
21 pooling of coalbed methane unit U-4, docket number VGOB-05-
22 0816-1487. We'd ask the parties that wish to address the
23 Board in this matter to come forward at this time.

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1 MARK SWARTZ: Mark Swartz and Les Arrington.

2 BENNY WAMPLER: The record will show no others.

3 You may proceed.

4 MARK SWARTZ: We've got actually have two...two
5 more Oakwood 1 units, you might consider calling them at the
6 same time, V-4...I'm sorry, V-3 and V-4.

7 BENNY WAMPLER: V-3 and V-4, okay. I'll also call
8 a petition from CNX Gas Company, LLC for a coalbed methane
9 unit V-3, which is docket number VGOB-05-0816-1488; and also
10 V-4, docket number VGOB-05-0816-1489. We'd ask the parties
11 that wish to address the Board in these matters to come
12 forward at this time. That's seven, eight and nine on the
13 Board's agenda.

14 MARK SWARTZ: Mark Swartz and Les Arrington on
15 those as well.

16 BENNY WAMPLER: The record will show no others.
17 You may proceed.

18

19 LESLIE K. ARRINGTON

20 DIRECT EXAMINATION

21 QUESTIONS BY MR. SWARTZ:

22 Q. Les, you need to state your name again.

23 A. Leslie K. Arrington.

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1 Q. And I'm going to remind you that you're
2 still under oath.

3 A. Yes, sir,

4 Q. Who do you work for?

5 A. CNX Gas Company, LLC.

6 Q. And what do you do for them?

7 A. I'm manager of environmental and permitting.

8 MARK SWARTZ: Mr. Chairman, I would like to
9 incorporate Mr. Arrington's testimony with regard to what he
10 does for CNX, CNX's status as applicant and the request of
11 CNX be the designated operator, their status with the
12 Commonwealth and...to expedite these three.

13 BENNY WAMPLER: That will be incorporated.

14 MARK SWARTZ: Thank you.

15 Q. Mr. Arrington, did you prepare, or have
16 prepared under your direct supervision, the notices, the
17 applications and exhibits...related exhibits with regard to
18 these three pooling applications?

19 A. Yes.

20 Q. Okay. Just to sort of focus the Board here,
21 one of the pooling applications, and specifically V-4, there
22 was an amended notice of hearing and some amended exhibits
23 and they should really be attending to that as opposed to the
24

1 original?

2 A. That's correct. They should be.

3 Q. Okay. And I'm sure that it's in their
4 packet, but that's the one they should focus on, correct?

5 A. Yes.

6 Q. Okay. And in addition, with regard to all
7 three of these units, we have some amendments that were
8 passed out the Board this morning, which slightly changed the
9 tract identifications, I believe.

10 A. It did. It was just for clarifications on
11 certain interest within those individual units.

12 Q. Okay. It was...it was to meet your needs to
13 keep track of people---?

14 A. It was.

15 Q. ---and royalty interest, I take it?

16 A. Yes, it was. Uh-huh.

17 Q. Is that correct?

18 A. Yes, it was.

19 BENNY WAMPLER: What was the clarification?

20 A. I believe it's under the Levisa tracts. Is
21 that not correct? Under the Levisa Coal Company tracts. Let
22 me get to...yes, if you'll look, for instance V-4, if you'll
23 look at Tract 1, it says, "Levisa Coal Company Tract 29."

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1 It's the coal interest. Then if you'll look at Tract 2A, it
2 says, "Levisa Coal Company and others, Tract." We had to go
3 through there and separate different tracts because there was
4 different ownership in some Levisa tracts. We originally had
5 it, of course, Levisa Coal Company originally. That's
6 basically the reason.

7 Q. And that was the reason for the revision?

8 A. Yes.

9 Q. And it was only the Levisa interest that
10 required those changes?

11 A. Yes.

12 Q. Okay. With regard to these three
13 applications, you obviously have been able to lease quite a
14 bit of the coal claims and the oil and gas claims, correct?

15 A. We have.

16 Q. Okay. What lease terms have you offered the
17 folks that you have been able to lease?

18 A. Our standard coalbed methane lease is a
19 dollar per acre per year with a five year paid up term with a
20 one-eighth production royalty.

21 Q. And would you recommend those as the terms
22 that the Board employ in any order they might issue with
23 regard to folks who are deemed to have been leased?

24

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1 A. Yes, we would.

2 Q. Okay. Are all three of these applications
3 pertaining to Oakwood 1 units?

4 A. Yes, they are.

5 Q. And are they all 80 acre units?

6 A. Yes.

7 Q. Is the plan of development in each case to
8 drill one well in the drilling window of the units?

9 A. Yes, it is.

10 Q. Okay. Have you provided well estimates with
11 regard to each of the units?

12 A. Yes, we have.

13 Q. Okay. Let's start with U-4 and take a
14 minute to look at that. What is your well cost estimate for
15 U-4?

16 A. For U-4 is \$244,662.30 to be drilled to a
17 depth of 2510 feet. It's permit number 6828.

18 Q. And what have you been able to lease or
19 acquire in regard to U-4 and what is it that you're seeking
20 to pool today?

21 A. We've leased 100% of the coal owner's claim
22 to coalbed methane and 44.1389% of the oil and gas owner's
23 claim to coalbed methane. We're seeking to pool 55.8611% of

24

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1 the oil and gas owner's claim to coalbed methane.

2 Q. Have you listed the respondents in both the
3 notice of hearing and Exhibit B-3 with regard to the
4 application concerning unit U-4?

5 A. Yes, we have.

6 Q. Okay. What did you do to notify them and
7 others of the hearing today?

8 A. We mailed by certified mail, return receipt
9 requested on July the 15th, 2005 and published in the
10 Bluefield Daily Telegraph on July the 21st, 2005.

11 Q. And have you filed your certificates and
12 proofs with regard to both mailing and publication with Mr.
13 Wilson?

14 A. Yes, we have.

15 Q. Okay. The...do you wish to dismiss any
16 respondents today?

17 A. No.

18 Q. Do you wish to add any?

19 A. No.

20 Q. Is there an escrow requirement?

21 A. Yes, for Tract 1, 5A and 5B.

22 Q. Okay. And is that because of conflicts?

23 A. Yes.

24

--

1 Q. Have any of the folks that would otherwise
2 have their money escrowed entered into voluntary
3 agreements...voluntary royalty split agreements?

4 A. Yes, there has been.

5 Q. Okay. And you filed an Exhibit EE, which
6 lists the people that have entered into royalty split
7 agreements, correct?

8 A. Yes, we have. That's correct, we have.

9 Q. And those are some of the people in Tracts
10 1, 2, 3 and 4, is that correct?

11 A. That's correct.

12 Q. And are you requesting if the Board pools
13 this unit, they authorize the operator to pay the folks
14 listed in Exhibit EE directly rather...in accordance with
15 their written split agreements, rather than requiring that
16 their funds be escrowed?

17 A. That's correct, we are.

18 Q. Okay. With regard to V-3, again, have you
19 filed a well cost estimate?

20 A. Yes, we have.

21 Q. And what's that amount?

22 A. \$235,760.19 to a depth of 2266. Permit
23 number is 6817.

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1 Q. And what interest have you been able to
2 acquire and what are you seeking to pool with regard to V-3?

3 A. We've acquired 98.3674% of the coal owner's
4 claim to coalbed methane and 98.3674% of the oil and gas
5 owner's claim to coalbed methane. We're seeking to pool
6 1.6326% of the coal, oil and gas owner's claim to coalbed
7 methane.

8 Q. There's an escrow requirement because you
9 have an address unknown in Tract 2, is that correct?

10 A. Yes.

11 Q. And then you also have conflicts in Tract 2
12 requiring escrow?

13 A. Yes.

14 Q. And there are some of the royalty owners who
15 have entered into split agreements, correct?

16 A. Yes.

17 Q. And you've filed---

18 A. Tracts 1 and 3.

19 Q. Okay. And you've filed an Exhibit EE with
20 regard to those folks?

21 A. Yes, we have.

22 Q. And with regard to the people listed on
23 Exhibit EE in unit V-3, are you requesting that if the Board
24

1 enters an order, they allow you to pay those folks directly
2 in accordance with their split agreements as opposed to
3 escrowing their royalties?

4 A. Yes, we do.

5 Q. Okay. Then moving on to unit V-4, now this
6 is the one where you've got the amended notice and amended
7 exhibits.

8 A. Correct, uh-huh.

9 Q. What is your well cost estimate with regard
10 to V-4?

11 A. \$244,696.75 to a depth of 2524. Permit
12 number is 6829.

13 Q. And have you listed the folks that you're
14 seeking to pool in the amended notice of hearing and the B-3?

15 A. Yes, we have.

16 Q. Okay. And what did you do to let those
17 people know that there was going to be hearing today?

18 A. The amended notice was mailed on July the
19 26th, 2005 and published July 29, 2005.

20 Q. And have you filed those proofs and
21 certifications with Mr. Wilson?

22 A. Yes, we have.

23 Q. Okay. Do you want to dismiss anybody?

24

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1 A. No.

2 Q. Do you want to add anybody as a respondent
3 to V-4?

4 A. No.

5 Q. What interest have you been able to acquire
6 and what are you seeking to pool with regard to unit V-4?

7 A. We have 99.5437% of the coal owner's claim
8 to coalbed methane lease. 63.9243% of the oil and gas
9 owner's claim to coalbed methane. We're seeking to pool
10 0.4563% of the coal owner's claim to coalbed methane and
11 36.0757% of the oil and gas owner's claim to coalbed methane.

12 Q. With regard to escrow here, you've got folks
13 with addresses unknown to 2B and 4, correct?

14 A. Yes.

15 Q. And you have conflicts in 2A, 2B, 3A and 4?

16 A. Yes.

17 Q. And have some of the folks in this unit
18 entered into split agreements?

19 A. Yes.

20 Q. With regard to what tracts?

21 A. 1, 2A, 2B, 3B and 3C.

22 Q. And are you requesting that the Board if
23 they enter a pooling order, authorize the operator to pay the
24

1 folks who have entered into split agreements directly as
2 opposed to escrowing their funds in accordance with the terms
3 of their split agreements?

4 A. Yes, we do.

5 Q. Okay. The...as we indicated in the
6 beginning, each of these units is an 80 acre Oakwood unit
7 with one well, right?

8 A. That's correct.

9 Q. Is it your testimony that that is a
10 reasonable development plan for the coalbed methane in these
11 three units?

12 A. Yes, it is.

13 Q. Is it also your opinion that if you coupled
14 the pooling order, if one is entered here, with your leasing
15 efforts, that the correlative rights of all claimants and
16 owners in these three units would be protected?

17 A. Yes, it would be.

18 MARK SWARTZ: That's all I have.

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

21 (No audible response.)

22 BENNY WAMPLER: Is there a motion?

23 MR. McINTRYE: So moved.

24

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1 BENNY WAMPLER: I have a motion for approval. Is
2 there a second?

3 MASON BRENT: Second.

4 BENNY WAMPLER: Second. Any further 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. Thank you. Mr.
12 Swartz, are you...are you all going to stick around for a
13 while?

14 MARK SWARTZ: I think...yeah.

15 BENNY WAMPLER: We'll get with you for a little bit
16 after the hearing.

17 MARK SWARTZ: Okay.

18 BENNY WAMPLER: We'll go ahead and let Equitable
19 Production set up. We'll take a five minute recess.

20 (Break.)

21 BENNY WAMPLER: Okay. We're back on the record.

22 The next item on the agenda is a petition from Equitable
23 Production for creation and pooling of conventional gas unit

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1 V-502028. This is docket number VGOB-05-0816-1492. We'd ask
2 the parties that wish to address the Board in this matter to
3 come forward at this time.

4 MR. KAISER: Mr. Chairman and Board members, Jim
5 Kaiser and Don Hall on behalf of Equitable Production
6 Company. We'd ask that Mr. Hall be sworn at this time.

7 (Don Hall is duly sworn.)

8 BENNY WAMPLER: The record will show no others.
9 You may proceed.

10 DON HALL: I passed out---.

11 MR. KAISER: Yeah. Everybody should have a set of
12 revised exhibits. It will include a B, B-2, B-3 and an E.

13

14

DON HALL

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

17

DIRECT EXAMINATION

18 QUESTIONS BY MR. KAISER:

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

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

23 Q. And do your responsibilities include the
24

25

1 land involved in this unit and the surrounding area?

2 A. They do.

3 Q. Now, are you familiar with...are you
4 familiar with Equitable's application seeking to establish a
5 unit and pool any unleased interest for EPC well number V-
6 502028, which was dated July the 15th, 2005?

7 A. Yes.

8 Q. And is Equitable seeking to force pool the
9 drilling underlying the unit as depicted at Exhibit A, that
10 being the plat to the application?

11 A. Yes.

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

14 A. We do.

15 Q. And prior to filing the application, were
16 efforts made to contact each of the respondents owning an
17 interest within the unit and an attempt made to work out a
18 voluntary lease agreement with each of those respondents?

19 A. Yes.

20 Q. Now, at the time we filed the application,
21 what was the percentage of the unit that we had under lease?

22 A. We had 75.049668% leased.

23 Q. And as depicted in your revised Exhibit
24

1 package, on B, B-2 and B-3, since July the 15th you've
2 continued to attempt to reach a lease agreement with the
3 unleased parties and have picked up some additional leases?

4 A. That's correct. They're listed in B-2.

5 Q. As dismissed parties?

6 A. As dismissed parties. We now have 79.17267%
7 leased.

8 Q. And are all the existing unleased parties
9 set out at revised Exhibit B-3?

10 A. Yes.

11 Q. And what percentage is now unleased in the
12 unit?

13 A. Now unleased is 20.82733%.

14 Q. Okay, we do have some unknown interest
15 owners in Tract 4 of the unit. Were reasonable and diligent
16 efforts made and sources checked to identify and locate these
17 unknown heirs including primary sources such as deed records,
18 probate record, assessor's records, treasurer's records and
19 secondary sources such as telephone directories, city
20 directories, family and friends?

21 A. Yes.

22 Q. In your professional opinion, was due
23 diligence exercised to locate each of the respondents named

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1 in Exhibit B?

2 A. Yes.

3 Q. Are the addresses set out in revised Exhibit
4 B, the last known addresses the respondents?

5 A. They are.

6 Q. And are you requesting this Board to force
7 pool all unleased interest as listed at revised Exhibit B-3?

8 A. Yes.

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

12 A. Yes.

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

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

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

21 A. They do.

22 Q. And as to the respondents listed at revised
23 Exhibit B-3 who remain unleased, do you agree that they be

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1 allowed the following statutory options with respect to their
2 ownership interest within the unit: 1) Participation; 2) a
3 cash bonus of five dollars per net mineral acre plus a one-
4 eighth of eight-eighths royalty; or 3) in lieu of a cash
5 bonus and one-eighth of eight-eighths royalty share in the
6 operation of the well on a carried basis as a carried
7 operator under the following conditions: Such carried
8 operator shall be entitled to the share of production from
9 the tracts pooled accruing to his interest exclusive of any
10 royalty or overriding royalty reserved in any leases,
11 assignments thereof or agreements relating thereto of such
12 tracts, but only after the proceeds applicable to his share
13 or her share equal, A) 300% of the share of such costs
14 applicable to the interest of the carried operator of a
15 leased tract or portion thereof; or 200% of the share of such
16 costs applicable to the interest of a carried operator of an
17 unleased tract or portion thereof?

18 A. Yes.

19 Q. Do you recommend that the order provide that
20 any elections by respondents be in writing and sent to the
21 applicant at Equitable Production Company, 1710 Pennsylvania
22 Avenue, Charleston, West Virginia 25302, Attention: Melanie
23 Freeman, Regulatory?

24

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1 A. Yes.

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

5 A. It should.

6 Q. Do you recommend that the order provide that
7 if no written elections was properly made by a respondent,
8 then such respondent should be deemed to have elected the
9 cash option in lieu of participation?

10 A. Yes.

11 Q. Should unleased respondents be given 30 days
12 from the date that they receive the recorded Board order to
13 file their written elections?

14 A. Yes.

15 Q. If an unleased respondents elects to
16 participate, should they be given 45 days to pay the
17 applicant for their proportionate share of well costs?

18 A. Yes.

19 Q. Does the applicant expect any party electing
20 to directly participate to pay in advance that party's share
21 of completed well costs?

22 A. We do.

23 Q. Should the applicant be allowed a 120 days
24

1 following the recordation date of the Board order and
2 thereafter annually on that date until production is
3 achieved, to pay or tender any cash bonus or delay rental
4 becoming due under the force pooling order?

5 A. Yes.

6 Q. Do you recommend that the order provide that
7 if a respondent elects to participate but fails to pay their
8 proportionate share of well costs, then respondent's
9 elections to participate should be treated as having been
10 withdrawn and void and such respondents should be treated
11 just as if no initial election had been filed under the
12 order, that is deemed to have leased?

13 A. Yes.

14 Q. Do you recommend that the order provide that
15 where a respondent elects to participate but defaults in
16 regard to payment of well costs, any costs...any cash sum
17 becoming payable to that respondent be paid within 60 days by
18 the applicant after the last day on which the respondent
19 could have paid for the payment of those well costs?

20 A. Yes.

21 Q. We do have to establish...the Board needs to
22 establish an escrow account for Tract 4 of this unit because
23 of the unknown interest, is that correct?

24

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1 A. That's correct.

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

4 A. Equitable Production Company.

5 Q. And what's the total depth of the proposed
6 well?

7 A. 5759 feet.

8 Q. And the estimated reserves for the unit?

9 A. 300 million cubic feet.

10 Q. Now, are you familiar with the well costs
11 for this well?

12 A. Yes.

13 Q. Has an AFE been reviewed, signed and
14 submitted to the Board as Exhibit C?

15 A. It has.

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

20 A. Yes.

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

23 A. It does.

24

1 Q. Could you state for the Board both the dry
2 hole costs and completed well costs for this well?

3 A. The dry hole costs is \$254,722 and the
4 completed well costs is \$480,436.

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

7 A. They do.

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

10 A. It does.

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

15 A. Yes.

16 MR. KAISER: Nothing further of this witness at
17 this time, Mr. Chairman.

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

20 (No audible response.)

21 MR. KAISER: Mr. Chairman, if I might, we need to
22 point out that on Exhibit E in your revised exhibit package,
23 which is the escrow, with the unknown parties in Tract 4. If

24

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1 you look at the bottom line item where it says, "Total Gas
2 Estate" under interest within the unit, we didn't...she
3 didn't put a percent on that and that decimal actually needs
4 to move over two places so that it's 6.901997 rather than
5 .06. So, we can submit a revised one of if you just want to
6 move the decimal yourself. Whatever your pleasure is.

7 BOB WILSON: Mr. Chairman. If you could send to me
8 an email correction, I can insert it into the official file.

9 BENNY WAMPLER: Do you have anything further?

10 MR. KAISER: No, not at this time other than we'd
11 ask that the application be approved as submitted with the
12 revised exhibits and with the further revision of Exhibit E
13 to Mr. Wilson.

14 BENNY WAMPLER: Is there a motion?

15 MR. McINTRYE: Motion to approve.

16 PEGGY BARBAR: I'll second.

17 BENNY WAMPLER: Second. Any further discussion?

18 (No audible response.)

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

21 (All members signify by saying yes, but Donald
22 Ratliff.)

23 BENNY WAMPLER: Opposed, say no.

24

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1 DONALD RATLIFF: I'll abstain, Mr. Chairman.

2 BENNY WAMPLER: One abstention, Mr. Ratliff. You
3 have approval. The next item on the agenda is a petition
4 from Equitable Production Company for a well location
5 exception for proposed well V-536393, docket number VGOB-05-
6 0816-1493. We'd ask the parties that wish to address the
7 Board in this matter to come forward at this time.

8 JIM KAISER: Again, Mr. Chairman and members of the
9 Board, Jim Kaiser and Don Hall on behalf of Equitable
10 Production Company.

11 BENNY WAMPLER: Mr. Hall has been previously sworn.
12 There are no others. You may proceed.

13

14

DON HALL

15

DIRECT EXAMINATION

16 QUESTIONS BY MR. KAISER:

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

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

21 Q. And, again, do your responsibilities include
22 the land involved in this unit and in the surrounding area?

23 A. Yes.

24

--

1 Q. Are you familiar with the application we
2 filed seeking a location exception for well V-536393?

3 A. Yes.

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

7 A. They have.

8 Q. Would you indicate for the Board the
9 ownership of the oil and gas underlying the unit for well
10 number V-536393?

11 A. Pine Mountain Oil and Gas owns 75.37% and
12 Chan and Peggy Barton own 24.63%.

13 Q. And we're seeking an exception from one
14 well, which is V-505371. Does have the right to operate that
15 well?

16 A. We do.

17 Q. And are there any correlative rights issues?

18 A. No.

19 Q. Now, Mr. Hall, in conjunction with the
20 exhibit that you prepared and just passed out to the Board,
21 could you explain the different reasons that we're seeking
22 this exception?

23 A. The exhibits that you have in front of you
24

1 has 5371 and 5372 have...the circles around those represent a
2 2500 foot radius around those wells indicating the
3 spacing...the statewide spacing distance. As you can see,
4 536393...536393 falls within...well within that circle from
5 5371, which we're requesting the exception from. To be in a
6 legal location area, it would be...have to be northeast near
7 the intersection of the Ellen Henderson highway Rt. 80 and
8 the road comes back toward the Abner Gap school. That area
9 is fairly populated with houses and there's no place there
10 that we could get a location that would have been far enough
11 away from houses. We wanted to stay out of that community
12 there plus the road is pretty steep on both sides there. In
13 addition to that, we could probably...we probably could go
14 on...beyond Rt. 80, but we have a...our geologist had a
15 geological feature that they don't want to go north of Rt. 80
16 with this well. There's a fault line through the particular
17 area that they're trying to...trying to test there. They
18 wanted us to stay south of Rt. 80 as well.

19 Q. And that designation of Abner Gap school,
20 that's not actually a school any more is it?

21 A. No, it's...it was a school years ago. But
22 it has most recently been a dwelling. But I don't think...
23 there's nobody living in it at the present time.

24

--

1 Q. And in the result this location exception
2 were not granted, would you project the estimated loss of
3 reserves resulting in waste?

4 A. 400 million cubic feet.

5 Q. And the total depth of the proposed well?

6 A. 5980 feet.

7 Q. And are you requesting that this location
8 exception cover conventional gas reserves to include the
9 designated formations in your permit application from the
10 surface to the total depth drilled?

11 A. Yes.

12 Q. In your opinion, would the granting of this
13 location exception be in the best interest of preventing
14 waste, protecting correlative rights and maximizing the
15 recovery of the gas reserves underlying the unit for
16 V-536393?

17 A. It would.

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

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

22 (No audible response.)

23 BENNY WAMPLER: Do you have anything further?
24

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

3 BENNY WAMPLER: Is there a motion?

4 JIM McINTYRE: Motion to approve.

5 PEGGY BARBAR: Second.

6 BENNY WAMPLER: Motion to approve and second. Any
7 further discussion?

8 (No audible response.)

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

11 (All members signify by saying yes.)

12 BENNY WAMPLER: Opposed, say no.

13 (No audible response.)

14 BENNY WAMPLER: You have approval. Thank you.

15 DON HALL: Thank you.

16 BENNY WAMPLER: The last item that I have for us to
17 cover is the minutes from the July the 19th Board meeting.
18 All of those have been previously mailed. If there are no
19 addendum to that, I'd ask for a motion to approve.

20 DONALD RATLIFF: So moved, Mr. Chairman.

21 BENNY WAMPLER: Motion to approve.

22 JIM McINTYRE: Second.

23 BENNY WAMPLER: Second. Any further discussion?
24
25

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. Mr. Wilson, do
8 you have anything further?

9 BOB WILSON: No, sir.

10 BENNY WAMPLER: That concludes today's hearing.
11 Thank you.

12 STATE OF VIRGINIA,
13 COUNTY OF BUCHANAN, to-wit:

14 I, Sonya Michelle Brown, Court Reporter and Notary
15 Public for the State of Virginia, do hereby certify that the
16 foregoing hearing was recorded by me on a tape recording
17 machine and later transcribed under my supervision.

18 Given under my hand and seal on this the 15th day
19 of September, 2005.

20

21 NOTARY PUBLIC

22

23 My commission expires: August 31, 2009.

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