

IN THE COUNTY OF WASHINGTON

VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY
VIRGINIA GAS AND OIL BOARD

AUGUST 15, 2006

APPEARANCES:

BOARD MEMBERS:

MARY QUILLEN - CITIZEN REPRESENTATIVE
PEGGY BARBAR - PUBLIC MEMBER
BILL HARRIS - CITIZEN REPRESENTATIVE
DONNIE RATLIFF - COAL REPRESENTATIVE

CHAIRMAN:

BENNY WAMPLER - DEPUTY DIRECTOR OF THE DMME AND CHAIRMAN

BOB WILSON - DIRECTOR OF THE DIVISION OF GAS & OIL AND PRINCIPAL
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BENNY WAMPLER: Okay. Good morning. We're about ready to get started. I would tell you that these are not microphones that will project our voices. These are recording devices for the stenographer over here. What we would like you to do now, if you have cell phones, please cut those off or pagers and things that disrupt the hearing. Understand that we need...we need not to have that messing up our recording. We'll call the...most of you have a copy of the agenda and we'll call those. When we're talking you'll have to...what I'll do is call the particular case and I'll ask anybody that wishes to come down and address the Board, you'll have an opportunity to do that when you hear your case called, okay.

My name is Benny Wampler. I'm Deputy Director for the Virginia Department of Mines, Minerals and Energy and Chairman of the Gas and Oil Board. I'll ask the Board members to introduce themselves starting with Ms. Quillen.

MARY QUILLEN: Mary Quillen, Director for Academic Graduate Programs for the University of Virginia here at the Southwest Center. I'm a citizen representative.

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

BILL HARRIS: I'm Bill Harris. I'm on the faculty at Mountain Empire Community College. I'm a citizen member from

Wise County.

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

BOB WILSON: I'm Bob Wilson. I'm the Director of the Division of Gas and Oil and Principal Executive to the Staff of the Board.

BENNY WAMPLER: Thank you. The first item on the agenda today is a petition from Equitable Production Company for repooling of coalbed methane unit VC-536616. This is docket number VGOB-05-1115-1532-01. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

(Donnie Ratliff enters the room.)

JIM KAISER: Mr. Chairman and Board members, Jim Kaiser representing Equitable Production Company. Again, we're going to ask that these first four items be continued. There is an agreement apparently in place in principal between the three parties. Apparently, at least one party has signed it. So, hopefully, next month we'll be able to withdraw these.

TIM SCOTT: It's on its way.

BOB WILSON: Mr. Chairman, excuse me.

BENNY WAMPLER: Mr. Wilson.

BOB WILSON: At the risk of upsetting somebody here, we've carried this one forward for six months. I would like to suggest that the Board at most give this one more shot. It's

costing us close to \$1500 a month to publish this docket now. And we've probably spent close to a \$1,000 just republishing these items for the last six months. I think we need to probably set a deadline as to when it gets wrapped up so that we can get it off the docket.

JIM KAISER: I don't have any problem with that.

TIM SCOTT: That's fine.

BENNY WAMPLER: Next month?

JIM KAISER: Yeah. Either we hear them next month or withdraw them next month.

BENNY WAMPLER: Okay. They are continued.

JIM KAISER: Do you want me to do my other housekeeping?

BENNY WAMPLER: Yes, please. The first four items on the agenda, Board members, are continued until next month.

JIM KAISER: Item number eight, which is in the middle of all of CNXs petitions, if the Board deems it okay, we could move that to the start of Equitables, which would be after seventeen, which is an EOG petition, to just kind of keep things moving.

BENNY WAMPLER: Move to after seventeen?

JIM KAISER: Yes, sir.

BENNY WAMPLER: Okay. All right.

NORMAN RASNAKE: My I object? I've got something to

do. Item eight is me.

JIM KAISER: If he's in a hurry to get out of here, I don't care.

BENNY WAMPLER: Let me try a different...different tact. Do you mind CNX having them go ahead?

MARK SWARTZ: No.

BENNY WAMPLER: Okay.

JIM KAISER: So, we'll let...then item number twenty-five 06-0516-1641-01---

BENNY WAMPLER: Yes.

JIM KAISER: ---I'd like to withdraw that one.

BENNY WAMPLER: All right.

JIM KAISER: Item number twenty-nine 06-0815-1708 I'd like to withdraw that one.

BENNY WAMPLER: All right.

AUDIENCE MEMBER: Sir?

BENNY WAMPLER: Yes.

AUDIENCE MEMBER: I didn't think you would get down that far that quickly. Twenty-nine is mine. My attorney has not got here yet. Could I look right quick, please?

BENNY WAMPLER: Can you do---?

AUDIENCE MEMBER: (Inaudible) is that part of it, please?

JIM KAISER: Yeah, I think that...they're in that

unit. But we're going to withdraw that one.

BENNY WAMPLER: He's withdrawing the petition, sir.

AUDIENCE MEMBER: Oh, okay.

BENNY WAMPLER: It's not going to be heard today.

AUDIENCE MEMBER: Okay.

JIM KAISER: Then last item thirty-two 06-0815-1711,
withdraw that one too.

BENNY WAMPLER: All right. Okay. I'm going to go
ahead and---

TIM SCOTT: Mr. Chairman---

BENNY WAMPLER: If you have an agenda ignore it for
a few minutes because what we're going to do is go to number eight.

TIM SCOTT: Mr. Chairman.

JIM KAISER: Don is not here.

TIM SCOTT: I need to ask a question. This is a
housekeeping matter for two matters that we heard last month for
Pine Mountain.

BENNY WAMPLER: Okay.

TIM SCOTT: We have achieved a 100% leasing in those
two files.

BENNY WAMPLER: Okay.

TIM SCOTT: I talked to Mr. Wilson about it. To avoid
going to the expense of having an order and then a supplemental
order and election letters go out, is it...I'm going to ask the

Board's advice on this to have these dismissed because we have a 100% leased on these two units. Is that possible?

BENNY WAMPLER: That would be the appropriate action, yes.

TIM SCOTT: Okay.

BENNY WAMPLER: Which ones are you---?

TIM SCOTT: It's 0...let's see, 1686 and 1687 from last month. We're just on the verge of getting a lease signed when we had the hearing, but we didn't want to take the chance that we would not have that done before the hearing. But we have a 100% leased now in both units.

BENNY WAMPLER: They're not on here this time, right?

TIM SCOTT: No, sir, they're not.

BENNY WAMPLER: Okay. All right.

TIM SCOTT: Okay, very good.

BENNY WAMPLER: But we'd just dismiss those from last month.

TIM SCOTT: Thank you.

BENNY WAMPLER: Okay. All right. Mark, his witness is not here to do number eight. So, we'll go ahead and have you come on down.

MARK SWARTZ: Okay.

BENNY WAMPLER: I'm sorry, sir. His witness isn't here yet, so we can't do that right now. We'll call it as soon

as we can though.

JIM KAISER: Thank you.

BENNY WAMPLER: Thank you. The next item on the agenda is a petition...this is number five, if you're looking. A petition from CNX Gas Company, LLC for a pooling of coalbed methane unit 0-76. This is docket number VGOB-06-0620-1647. We'd ask the parties that wish to address the Board in this matter to come forward at this time. Good morning.

MARK SWARTZ: Mark Swartz and Les Arrington. Actually, this one we are...we are negotiating with the respondent in terms of trying to resolve our differences. I would like to continue this again. This was filed originally in June, so we're not six months down the road.

BENNY WAMPLER: Okay. This will be continued. Any other housekeeping for yours?

MARK SWARTZ: Yes. With regard to number fourteen, we've leased everyone now between filing and today. So, that can be dismissed.

BENNY WAMPLER: Okay. That's docket number VGOB-06-0815-1695 has been dismissed.

MARK SWARTZ: That's it.

BENNY WAMPLER: All right. The next item on the agenda is a petition from CNX Gas Company, LLC for pooling of coalbed methane unit A-19. This is docket number

VGOB-06-0718-1666. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

MARK SWARTZ: Mark Swartz and Les Arrington.

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

MARK SWARTZ: You need to swear the witness.

(Leslie K. Arrington is duly sworn.)

LESLIE K. ARRINGTON

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

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Could you state your name for us?

A. Leslie K. Arrington.

Q. Who do you work for?

A. CNX Gas Company, LLC.

Q. Do you have a title?

A. Manager of environmental and permitting.

Q. And generally what do you do?

A. Well locations, permitting and the pooling applications.

Q. With regard to A-19 that we're talking about today, were you the person who either did or supervised putting together the notice, the amended notice, application, amended

application and related exhibits with regard to this?

A. Yes, I was.

Q. Okay. And, in fact, you were the person that signed the notice, the application and the affidavit of due diligence, is that correct?

A. Yes, I was.

Q. Okay. This is a force pooling application?

A. Yes, it is.

Q. Okay. Who is the applicant?

A. CNX Gas Company.

Q. Is CNX Gas Company, LLC a Virginia General Partnership?

A. Yes, it is.

Q. Okay. Is CNX Gas Company authorized to do business in the Commonwealth?

A. Yes, it is.

Q. Who is it that the applicant is requesting be appointed the Board's operator if this pooling application is approved?

A. CNX Gas Company.

Q. And in that regard, has CNX Gas Company, Limited registered itself with the Department of Mines, Mineral and Energy?

A. Yes, it has.

Q. And does CNX Gas Company, LLC have a blanket bond file as is required by law?

A. Yes.

Q. With regard to this application, this was originally set for hearing, I think, in July if I'm not mistaken---

A. Yes.

Q. ---because it has got an 0718, okay. And it was continued until today, right?

A. Yes.

Q. And in the meantime, you filed an amended notice of hearing and application, correct?

A. Yes.

Q. And so that is what should be on the Board's radar when they're looking at---

A. Yes.

Q. ---paperwork. In addition today, I think we have some revised exhibits with regard to A-19.

A. Yes, we do.

Q. You probably need to pass those out.

(Leslie K. Arrington confers with Mark Swartz.)

MARK SWARTZ: Do you have...did Anita pass those out already, the revised A-19?

BENNY WAMPLER: No.

(Leslie K. Arrington confers with Mark Swartz.)

MARK SWARTZ: Todd, could you go find Anita and tell her that we need those and get that organized. We'll proceed with the other testimony until we catch up with her.

Q. With regard to this unit, it's obvious that you have leased a substantial portion of the unit from the application---?

A. Yes, we have.

Q. ---correct?

A. Uh-huh.

Q. What have been lease terms that you have offered, in general, to the people that you have been able to lease?

A. For a coalbed methane lease, it's a dollar per acre per year with a five year paid up term and a one-eighth production royalty.

Q. Okay. And would you recommend those terms to the Board to be inserted in any order that they might enter with regard to the terms that people who were deemed to be leased would be subject to?

A. Yes, it would.

Q. Okay. The...actually, as we look at the list of amended exhibits here or revised exhibits, they all pertain to receipts and publication it looks like?

A. Yes.

Q. Okay. And that would be something...do you know whether or not those have been filed with Mr. Wilson?

A. Yes, they are.

Q. Okay. And they don't involve the substantive percent of the unit leased or those sorts of issues?

A. No. We actually had the name wrong in the notice of hearing and the application.

Q. Okay. So, basically, you filed amended notices and the Board obviously has a copy of the amended notice of hearing?

A. Yes.

Q. Okay. What did you do to notify the respondent that there was a hearing today?

A. We mailed by certified mail return receipt requested on July the 20th, 2006 and published in the Bluefield Daily Telegraph on July the 26th, 2006.

Q. Okay. And have you filed proof with regard to that mailing and with regard to that publication with Mr. Wilson?

A. Yes, we have.

Q. Okay. And essentially when we were first here, the respondents were Mark Welch and Carol Welch, correct?

A. That's correct.

Q. And you were asking to dismiss them?

A. That's correct.

Q. And to show as the sole respondent whom?

A. Eagle Coal Corporation.

Q. Okay. And that's who was renoticed?

A. Yes.

Q. And that's who you published?

A. Yes.

Q. Okay. With regard to the interest that you've been able to obtain in this unit, could you tell the Board what you've leased and what you're seeking to pool?

A. Yes. We've leased 99.1923% of the coal, oil and gas owner's claim to coalbed methane. We're seeking to pool 0.8077% of the coal, oil and gas owner's claim to coalbed methane.

Q. Have you provided a cost estimate to the Board?

A. Yes, we have.

Q. And what's the amount of that estimate?

A. \$314,753.79 to a depth of 2545.43. This well has been drilled.

Q. Okay. What's the permit number again?

A. There's two permits.

Q. Okay.

A. 6620 and 7470.

Q. Okay. This is an Oakwood I unit?

A. It is.

Q. And it's larger than we normally see?

A. Yes, it is.

Q. What's the acreage?

A. 106.48 acres and that's due to the fact that it's on the northern edge of the field where it connects to the Nora Field and it's making up the additional acreage.

Q. To cover the area?

A. Yes.

Q. Okay. How many wells are proposed on this application and where are they located?

A. Okay. The one well...the well that's in this application is drilled. It's within the drilling window. The second well, 74...permit number 7470 has not been drilled yet.

Q. Okay. The...just with regard to costs here, I was looking at your cost estimate, and, you know, this is a little higher than we normally see, the 314,000, correct?

A. Correct.

Q. I'd just direct your attention to the first three items and if you'd share those numbers with the Board.

A. Up in that area, I will first say that it was a substantially longer access road to get back in there. If you'll notice that such as the site preparation it was \$57,000. Normally, we have something like 35,000 to 40,000. Of course, since the road was much longer, gravel was a bit higher.

Q. Okay. And just for gravel, what was the number?

A. \$22,000.

Q. Okay. And that's...that's in bold, so those are actual numbers?

A. Yes...yes, those are.

Q. And then you've got an estimate for survey and permits of?

A. \$9,140. Again, we hadn't been in that area.

Q. Is it your view that the primary reason that this is of larger number than we normally see for a well cost estimate is the road and site issue?

A. Yes, it is.

Q. Okay.

BENNY WAMPLER: Let me ask a question at this time before you leave this. This is a well costs estimate for permit...for the permit number 6620, is that correct?

LESLIE K. ARRINGTON: Yes, it is.

BENNY WAMPLER: And not for 7470?

LESLIE K. ARRINGTON: No, sir.

BENNY WAMPLER: And how is 7470 involved in this case?

LESLIE K. ARRINGTON: In this case...at this point, it is not.

BENNY WAMPLER: Okay. Thank you. Go ahead.

Q. Is it your opinion that the drilling of this well, which is under consideration today, and the location and cost of this well as disclosed by the application is a reasonable plan to develop the coalbed methane under this unit?

A. Yes, it is.

Q. Okay. Is one of the reasons that you're proposing two wells is the fact that the unit is larger than we normally see...significantly larger?

A. Well, that and plus in the 80 acre...in that area we're infill drilling.

Q. I understand. But one of the additional reasons is this---?

A. Yes.

Q. ---is 25% bigger than we normally see it?

A. Yeah, it is.

Q. If we combine your leasing where you've leased over 99% of the coalbed methane claims of oil and gas owners and coal owners with the pooling order pooling Eagle Coal Corporation, is it your opinion that the correlative rights of all owners and claimants will be protected?

A. Yes, they will.

MARK SWARTZ: I believe that's all I have, Mr. Chairman.

BENNY WAMPLER: Did you find the other information?

LESLIE K. ARRINGTON: We need to let Anita explain.

MARK SWARTZ: Okay. I'm not sure we need to explain it. I was looking for some substantive exhibits and they all pertain to notice. So...which I...which I tried to indicate in talking to Les. But you have the amended notice of hearing, I know, in your packet and the additional amended items simply pertained to mailing further receipts to Eagle Coal and publication, which is stuff that we normally file with Mr. Wilson, which is why we didn't have extra copies for you all.

SHARON PIGEON: Did you say you're dismissing the Welches?

MARK SWARTZ: Yes.

SHARON PIGEON: They're the only ones?

MARK SWARTZ: They were the only ones originally. We're dismissing them and substituting Eagle Coal, who when we renoticed, that's who mailed to.

BENNY WAMPLER: Okay.

SHARON PIGEON: But we don't have anything in our packet.

MARK SWARTZ: No. That gets filed with Bob, which is why I was looking for it and we didn't have it for you.

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

BILL HARRIS: Mr. Chairman.

BENNY WAMPLER: Mr. Harris.

BILL HARRIS: Just one quick question. Les, you mentioned something about a second well and I know you did also. I'm a little confused about that.

LESLIE K. ARRINGTON: Yes.

BILL HARRIS: What...what happening---?

LESLIE K. ARRINGTON: There will be second well within this unit, which is already permitted. But at the time this was submitted, it wasn't there, and I didn't include it in it.

BILL HARRIS: So, approximately, where is it located? Do you know?

LESLIE K. ARRINGTON: No. Hopefully, it's on the map. I'm not sure if it is.

MARK SWARTZ: It's not on this map.

LESLIE K. ARRINGTON: It's not going to be on the plat.

BILL HARRIS: No, it's on it. But relative to this, I mean, could you just sort of give us an idea?

LESLIE K. ARRINGTON: I would...I would assume it's in the northeast corner because that's where my road is coming in. I believe, that is where it's at.

BILL HARRIS: Okay. So you won't have to do significant construction---?

LESLIE K. ARRINGTON: That's correct.

BILL HARRIS: ---for that one?

MARK SWARTZ: Well, I think we need to be 600 feet away too, if I'm not mistaken.

LESLIE K. ARRINGTON: That's right. I believe, it's---

MARK SWARTZ: Well, I'm just confirming that.

BILL HARRIS: Okay. Thank you.

MARY QUILLEN: Mr. Chairman, I have one question.

BENNY WAMPLER: Ms. Quillen.

MARY QUILLEN: The permit 7470 is the one that refers to this other well that is not on the plat that you said had nothing to do with this petition, is that correct?

LESLIE K. ARRINGTON: That's correct.

MARY QUILLEN: Thank you.

LESLIE K. ARRINGTON: And I do have that. I can point it out by the publication. The second well location, A-19 is down here and the second well location is to the northeast more...you can see the...see that little road that projects off the---

BILL HARRIS: There's a little fork, yeah, that projects to the right.

LESLIE K. ARRINGTON: Yeah, that's where it's at.

BILL HARRIS: Okay. Thank you.

BENNY WAMPLER: Mr. Wilson, do you have---?

BOB WILSON: Yes, sir. I have the same question I

think we have discussed before. How does the second well fit into elections on this force pooling?

MARK SWARTZ: Well, if it's not in the application, it's not in the election. So, they're getting---

BENNY WAMPLER: It's not a part of this. You would have to come back.

LESLIE K. ARRINGTON: We'd have to come back.

BENNY WAMPLER: That's why I was getting the clarification and Ms. Quillen was getting a clarification. Any other questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Do you have anything further?

MARK SWARTZ: No. Well, actually, yes. Just to observe that there is no escrow requirement.

BENNY WAMPLER: Okay. Is there a motion?

PEGGY BARBAR: Motion to approve.

BILL HARRIS: Second.

BENNY WAMPLER: Second. Any further discussion?

(No audible response.)

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

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval. The next item on

the agenda is a petition from CNX Gas, LLC for pooling coalbed methane unit G-9. This docket number VGOB-06-0718-1667. We would ask the parties that wish to address the Board in this matter to come forward at this time.

MARK SWARTZ: Mark Swartz and Les Arrington.

BEN STREET: Good morning, Ben Street. I represent Mr. McGlothlin.

MICKEY MCGLOTHLIN: Good morning.

BEN STREET: Mr. Chairman, we're going to be moving for a continuance. We broached this issue with opposing counsel last week. We really never got a chance to follow up with them. So, I'm not sure if they're objecting or if they're in agreement.

MARK SWARTZ: I don't really remember a request for a continuance.

LESLIE K. ARRINGTON: Other than your email?

BEN STREET: Yes, sir.

LESLIE K. ARRINGTON: Let's see, I emailed...I responded back, didn't I, and gave you some numbers?

BEN STREET: That was the first email. Then I responded back and said we have some clarification issues and wondered if you all would agree to continue it. I haven't heard back. That's what the other one was.

LESLIE K. ARRINGTON: Okay. I don't mind continuing it. Let me explain. You probably emailed me back either

Thursday or Friday.

BEN STREET: Yes, sir, I believe that's right.

LESLIE K. ARRINGTON: I've had no emailed since then.

MARK SWARTZ: They've moved and their network is down.

LESLIE K. ARRINGTON: So---.

BEN STREET: Okay.

LESLIE K. ARRINGTON: And that's not a problem.

BENNY WAMPLER: And your phones are down too, right?

You can't---

LESLIE K. ARRINGTON: Yes, they are.

BENNY WAMPLER: We tried that too.

LESLIE K. ARRINGTON: Yes, they have been ever since then. But they are operational today.

BEN STREET: And, Mr. Chairman, there's some minor problems I think with the exhibits that we're trying to correct and perhaps discuss an arrangement. So, if that's agreeable to, Your Honor or the Board, we'd ask that it be continued.

MARK SWARTZ: Actually...actually, I think the exhibits have been straightened out and we'll give you a set of those before you leave.

LESLIE K. ARRINGTON: Anita will review those exhibits with you before you leave. She has copy for you.

BEN STREET: Very good.

BENNY WAMPLER: Okay. So, this item is continued.

LESLIE K. ARRINGTON: Continued, yes.

MARK SWARTZ: Right.

BEN STREET: Thank you.

MICKEY McGLOTHLIN: Thanks.

MARK SWARTZ: Make sure you get those exhibits before you leave here. Actually, I'll give you my copy. Here you go.

LESLIE K. ARRINGTON: She has got an extra one.

BENNY WAMPLER: I'm going to go ahead and get Equitable now anyway to accommodate the gentleman, if that's okay.

LESLIE K. ARRINGTON: Okay.

MARK SWARTZ: Okay. All right. No problem.

JIM KAISER: Are you just going to do eight?

BENNY WAMPLER: Yes. I'm just going to do one and then bring you right back. The next item on the agenda is a petition from Equitable Production Company for pooling coalbed methane unit VC-536596. This is docket number VGOB-06-0718-1678. It's number eight, if you're looking on here. So, this is yours, if you'll come forward. We'd ask any parties that wish to address the Board in this matter to come forward at this time.

JIM KAISER: Mr. Chairman and Board members, Jim Kaiser and Don Hall on behalf of Equitable Production Company. I've got a revised set of exhibits to hand out.

BENNY WAMPLER: Okay.

(Jim Kaiser passes out revised exhibits.)

JIM KAISER: For the Board's recollection, this matter was heard last month.

BENNY WAMPLER: Let me stop you and get them to state their name for the record first. I need you to state your name for the record, please.

NORMAN RASNAKE: My name is Norman Rasnake.

BENNY WAMPLER: Norman Rasnake. Okay, ma'am?

PATSY RASNAKE: I'm Patsy Rasnake.

BENNY WAMPLER: All right. Thank you. Go ahead, Mr. Kaiser.

JIM KAISER: To refresh the Board's memory, this matter was on the docket last month. It involves Tract 6, which are different sets of the N. D. Rasnake Heirs and a couple of the Rasnake Heirs did show up. We had I think at that time almost all of them listed as unknown. Then Equitable's landman worked with the Rasnakes to try to get a complete list of all of the heirs and the work that we've done is reflected in this revised set of exhibits. Why don't you give Mr. Rasnake one of those. The Tract 6 represents .13% of the unit and .22 gross acres in the unit. We would ask that, obviously, they be allowed to address whatever concerns they have. Unless the Board deems it necessary, I don't see any reason to go back through all the

testimony. We did go ahead and do all of the testimony last month in anticipation of getting this straightened out this month.

BENNY WAMPLER: Giving the notice and everything.

JIM KAISER: Right. Give them notice first.

BENNY WAMPLER: Yes. And you've done that?

JIM KAISER: Yes.

NORMAN RASNAKE: Well, the same deal it was the other time is the runaround because right now I just got a phone call from Illinois that I've got a certified letter up there and I'm down here. I don't know what's in it. So, what am I'm going to say when I'm here. Whatever they sent me is certified. It's waiting on me in Illinois and I'm sitting down here.

PATSY RASNAKE: The last time I talked to someone, I told them...I left message because I called back and they weren't there and told them not to mail anything, we were coming down there. I did have a question about it too because on his property he has two pieces of land. His one piece 12 acres is owned on his own. When he did say he was going to...they did send a second paperwork out to him after the July meeting. They combined his other 12 acres with the other percentage of the heirs that aren't with the 12 acres. So, it had a total of 12.56 on his lease paper. But they...it has still got the same drill number on there or the same methane unit number on there. If the piece of land is further down wouldn't it have to be another methane unit number

on the paperwork and there is only one listed on the paperwork, the same one that's on here? I know if the land is far apart if you can have the same methane unit on different pieces of property.

NORMAN RASNAKE: There's four miles different between...on come from a granddad one way and one from a granddad the other way. Rasnake, S-N-A-K-E and not N-I-C-K. Told me, "Oh, we've got four signatures and we'll do it anyway." I said, "No, you won't do it. This is my land is my land. It ain't got nothing to do with what's in the estate because my land, I've been paying taxes on it since 1950." They're trying to combine my 12 acres with the half acre.

BENNY WAMPLER: Okay. We'll need to get you sworn, Mr. Hall.

(Don Hall is duly sworn.)

BENNY WAMPLER: Do you want to go ahead and try to clear that up?

JIM KAISER: Yeah. Mr. Hall, do you want to clarify what they may be talking about? I think what we're looking at is a lease in one case and a force pooling in application in another case.

DON HALL: That's correct. I think Mr. Rasnake does have some acreage other than what's in this unit that we're also trying to lease.

JIM KAISER: So, in other words, both...the acreage that would be in this unit and his acreage that's not contiguous with this unit was included in the lease offer. Whereas, the only thing that would be in the force pooling application would be the acreage that's in this unit.

DON HALL: That's correct.

JIM KAISER: Okay.

NORMAN RASNAKE: They was going to give me \$17 for 12 acres, is what my paperwork said.

PATSY RASNAKE: I think that's like a five year plan is what I...when I read it, that's the way I understood it.

DON HALL: \$17 an acre for...\$17 an acre on a five year lease is what the lease would have been.

PATSY RASNAKE: But we don't understand why both pieces of land are listed with only one methane unit to be drilled on. How can they give us that? Wouldn't they have to list another methane unit on it?

NORMAN RASNAKE: You can't...you can't drill two holes.

DON HALL: Well, this smaller tract that he's an heir in is in...is in the unit that we're dealing with now. But he owns...but he owns acreage elsewhere that we also want to lease. So, it was included as part of that lease.

JIM KAISER: See, you have two different pieces of

paper actually. You have a lease---

NORMAN RASNAKE: Yes, but you're guys are continuing stuff and the Chairman of this Committee rejected mine. I wanted to combine the two hearings. You had the hearing on the other case and not on this one. I was out in the hall talking about this heirship when they had the other one. I don't know. So, I don't know what is going on. I'm out in the cold like I was the other time.

PATSY RASNAKE: Yeah, he...he never got any original paperwork, I guess, on the 12 acres.

NORMAN RASNAKE: I never did get nothing on the 12 acres.

PATSY RASNAKE: Then when they combined it, that's when we got the sheet of paper. He never got the original one. I guess it got sent back, I don't know.

DON HALL: Which other unit are you talking about?

PATSY RASNAKE: The 12.10 acres on the other land that you're trying to---

DON HALL: What well...what unit was that? What well unit?

PATSY RASNAKE: We don't know because we never got the original paperwork. It's not listed on the second paperwork. It only lists the VC number. So---

DON HALL: We're looking at two different things.

We're looking at---

NORMAN RASNAKE: You're looking at...you're trying to sew me up with heirship and it's a clear deed to me. I'm paying the tax on it. It's my property. It has got nothing to do with heirship.

BENNY WAMPLER: Will this go into escrow?

JIM KAISER: Yes.

DON HALL: Yes,

BENNY WAMPLER: So, you know, they couldn't sew you up on it, I can tell you that, because it will be in escrow anyway.

JIM KAISER: And what maybe...maybe what we need to do is since his percentage in this unit is going to be escrowed and will be pooled, then maybe what we need to do is send him another lease that does not include this acreage and just includes the 12 acres that he owns on his own?

BENNY WAMPLER: I think that's what is confusing him. You tried...it's not before the Board. But what they tried...Mr. Rasnake, what they're...what they're saying they did is when they sent you a lease that they were offering you to sign with them, nothing before us, they combined all of your acreage. They can't do that coming here, okay, and they're not...they're not presenting that to us to have that combined.

NORMAN RASNAKE: Well, this is why I'm objecting to it. If I sign it, then I've done gave away my 12 acres when I'm

giving away the half acre. There's a difference. One is from Granddad Rasnake and one is from Granddad McCoy.

BENNY WAMPLER: Well, they're saying that's two different units.

NORMAN RASNAKE: Not according to my papers. My papers say that they tied them both together.

BENNY WAMPLER: But that was a lease they were offering you and not...not trying to deal with a pooling before the Board. That's two different things.

NORMAN RASNAKE: Well, that's what I'm talking about, a lease too. I don't want sign a lease on both of them together. I want a...the leases have got to be separate. They're---

BENNY WAMPLER: They just offer...they just said they would give you a separate lease for each one. They just told the Board that.

NORMAN RASNAKE: Well, do you agree that you're going to change that from---

JIM KAISER: Yes, sir. In fact, I was just informed by the landman that's handling this well...do you want him to do the testifying?

BENNY WAMPLER: Let's get him sworn in.

(Gabriel Rasnake is duly sworn.)

COURT REPORTER: State your name, please.

GABRIEL RASNAKE: Gabriel Rasnake, land agent for

Equitable Production Company.

JIM KAISER: Gab, can you explain what you just told me and why the confusion may exist here?

GABRIEL RASNAKE: First off it was...he's correct on what the...that 12.10 acres being sent with this 0.64 acres and then afterwards, after I had talked with his daughters, there was a lease sent out for just this and that's what he was talking about that the certified package that he just---

JIM KAISER: That's the package that he has up there that he hadn't received.

BENNY WAMPLER: You've mailed that and it was just for---

GABRIEL RASNAKE: Right.

BENNY WAMPLER: ---that one?

JIM KAISER: It was a separate lease to cover just this acreage. So, we'll be glad to separate them out.

DON HALL: I guess we already have.

JIM KAISER: We already have, I guess.

GABRIEL RASNAKE: That's what we did.

NORMAN RASNAKE: Does any of you'uns want to speak?

(No audible response.)

NORMAN RASNAKE: If you want to speak, come on down here. I'll get up. I'm able to get up.

(No audible response.)

JIM KAISER: And then the acreage that...the unit that the 12 acres would be in is still developing and we're, you know, trying to lease that and then eventually at some point, if it doesn't get leased, we'll be back before you to pool it. So, it will be two separate units and two leases and/or two separate pooling orders.

BENNY WAMPLER: They'll be another case before the Board. He's saying they're not trying to do---.

NORMAN RASNAKE: Then on this case is...see the other case I don't have no gas rights. On this case, the mineral rights belonged to the Rasnakes. They don't belong to some company. This is why I've (inaudible) skinny little dab and they're going to get all of the gas out of there and give us a .8 or some stuff where we should be like a 50/50 deal. If they're getting our gas, they should pay us for the gas.

BENNY WAMPLER: Well, the 50/50 deal usually comes up with a private agreement between you and...you and whoever the other...the coal owner, if you're the gas owner, or something like that. The Board doesn't get involved in that.

NORMAN RASNAKE: That's what I'm talking about. They're trying to sneak it through now and not even negotiate with the gas owners. They're bringing it in front of you and want to lease to drill the well and they haven't even talked to the family yet.

BENNY WAMPLER: Well, I understand they did that after the last hearing when you pointed that out.

NORMAN RASNAKE: Well, some of them is here. I don't know why they're here for then if they're trying to find out what is going on. I still yet don't know what's going on. I'm lost. I've been down here twice and I don't know no more than I know before I came down here the first time.

PATSY RASNAKE: I did have a question for you. On the original paperwork they gave us, the percentage that they had on there was .0130 and now on the paperwork it says .0021.

DON HALL: It's divided up among more people now, I think.

PATSY RASNAKE: Okay. Is that how they do it then?

DON HALL: Yeah.

PATSY RASNAKE: We thought it was only going to be divided against the original seven.

BENNY WAMPLER: Did the rest of you hear that?

(No audible response.)

BENNY WAMPLER: He said it was divided up among more people because they identified additional parties from the least hearing.

PATSY RASNAKE: Okay. So, it's not the original seven---?

JIM KAISER: Yeah. There was a whole bunch of

additional people. Yes, ma'am.

PATSY RASNAKE: ---children that's divided into the grandchildren now too?

JIM KAISER: Right.

NORMAN RASNAKE: I object to that. That's illegal. Dad only had seven kids and should only be split one-seventh for each heirship. One kid...I've got three kids and I'm alive. I get one share and my three kids get no share. The other ones have got more kids and more kids and it just keeps splitting, splitting and splitting down here and I get one-sixtieth of a deal.

BENNY WAMPLER: I don't know anything about that. You know, all we're...all we're interested in is making sure that everybody that had a right to have notice had notice. All that other...the other things that you're mentioning are things that are outside the jurisdiction of this Board, sir.

NORMAN RASNAKE: Well, I thought the Board was supposed to control these doods and no let them just drill where they want to.

BENNY WAMPLER: Well, that's a different matter. That is from the Gas and Oil Inspector where they drill and that can come before the Board. But we haven't heard any objection to where they're drilling. We're hearing objections about---.

NORMAN RASNAKE: You've hearing...you've been hearing from me. I objected last July and I'm objecting now. I don't

want no holes drilled on my land.

BENNY WAMPLER: Are you drilling his land?

DON HALL: No.

BENNY WAMPLER: No, see. They're not drilling on your land.

NORMAN RASNAKE: They're not drilling now. That's the second one coming up that they tried to attach to this first one.

BENNY WAMPLER: No, they're not. They have to come back here again for that. That's what I'm trying to make you understand. They have to come back here again for the other...for the, what is it, 12 acres or something like that?

PATSY RASNAKE: 12.10.

BENNY WAMPLER: 12...whatever. They'll be back again. They can't just do that here with combining those two units. They've agreed to that.

NORMAN RASNAKE: Well, I still yet...my question is about the gas. If we own the gas, I don't see why we don't get more of the money out of what's coming out of the ground.

BENNY WAMPLER: Well, I don't know who owns the coal. Do you know? Do we've got it here?

PATSY RASNAKE: Standard Banner.

NORMAN RASNAKE: We own the coal---.

PATSY RASNAKE: Standard---.

NORMAN RASNAKE: ---because we own all the mineral rights under...under this land.

BENNY WAMPLER: Well, obviously, some other people think they do to, Standard Banner Coal.

NORMAN RASNAKE: Everybody thinks they own everything they have.

JIM KAISER: Tract 6, Pine Mountain.

BENNY WAMPLER: So, that would be something that you would need to---.

NORMAN RASNAKE: Yeah. Arguing with the coal company just like I'm arguing with the gas company. They've got no right to take the coal out neither. The mineral rights have not been sold on it.

BENNY WAMPLER: But you need to understand, if we can make you understand, this Board cannot decide who owns the mineral. We don't make those kinds of decisions. The Courts do that and not us. We don't have the juris...the authority to do that. The General Assembly leaves that with the Courts. I understand that you would be arguing that, but maybe not. Maybe they would sign a 50/50 agreement with you. I don't know. But you would have to resolve that kind of issue in Court.

NORMAN RASNAKE: Well, I guess, I'll just have to go to Court then.

BENNY WAMPLER: This Board is about trying to protect

your interest by having it in a pool until that is decided is what we're about and getting everyone identified that may have, you know, a right to any money from that.

NORMAN RASNAKE: Okay. I guess then, I'll just have to go to the Commonwealth and see what the Judge will say.

BENNY WAMPLER: Yes, sir. On a dispute about mineral, that's...that's what you would have to do if you can't resolve it, you know, working with them one on one.

NORMAN RASNAKE: Yeah. Well, I guess, that will be what I'll have to do then. I'll just have to get me a lawyer and let the Commonwealth settle it.

BENNY WAMPLER: Okay. Thank you.

NORMAN RASNAKE: Thank you very much, sir.

BENNY WAMPLER: Do you have anything further?

JIM KAISER: Yes, Mr. Chairman. We'd ask that the application be approved with the revised set of exhibits.

BENNY WAMPLER: Is there a motion?

MARY QUILLEN: Motion to approve.

BENNY WAMPLER: Excuse me one second. Okay, come to order, please. The different numbers that you had, I don't think we did have that in the record. She brought up the fact that you had different percentages. If you'll do that before---.

DON HALL: Well, once we...once we...this new exhibit---.

JIM KAISER: It's not going to change the leased and
unleased.

DON HALL: No, it's not---.

JIM KAISER: It's not going to change the leased and
unleased. It's just going to change the interest of all of those
heirs within that tract.

SHARON PIGEON: Well, I had different numbers written
down from the last time. Would you go ahead and put that in?

JIM KAISER: Okay. Mr. Hall, at this time, what is the
percentage under lease within the gas estate within the unit?

DON HALL: We have 96.5575% leased.

JIM KAISER: And what percentage of the gas is
unleased?

DON HALL: 3.4425%.

JIM KAISER: And in the coal estate, what percentage
of the unit is under lease?

DON HALL: 100%.

JIM KAISER: Okay. Thank you.

BENNY WAMPLER: Thank you very much.

JIM KAISER: Again, I'd ask that the application be
approved with the revised set of exhibits.

BENNY WAMPLER: Is there a motion?

MARY QUILLEN: Motion to approve.

BENNY WAMPLER: Is there a second?

PEGGY BARBAR: Second.

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

(No audible response.)

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

(All Board members signify by saying yes, but Donnie Ratliff.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval.

DONNIE RATLIFF: I abstain, Mr. Chairman.

BENNY WAMPLER: One abstention, Mr. Ratliff. The next item on the agenda, we're going back to CNX here, number nine, is a petition from CNX Gas Company, LLC for pooling of coalbed methane unit BL-111. This is docket number VGOB-06-0815-1690. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

MARK SWARTZ: Mark Swartz and Les Arrington.

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

MARK SWARTZ: Mr. Chairman, I would like to incorporate Mr. Arrington's testimony with regard to the applicant and operator, standard lease terms and his employment from the first matter that he testified in.

BENNY WAMPLER: That will be incorporated.

LESLIE K. ARRINGTON

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Les, you need to give us your name again.

A. Leslie K. Arrington.

Q. I'll remind you that you're still under oath.

A. Yes.

Q. You don't have revised exhibits here, correct?

A. No.

Q. Okay. Were you the person that signed the notice of hearing and application with regard to BL-111?

A. Yes, I was.

Q. And was the application and notice and related exhibits you had prepared by yourself personally or under your supervision?

A. Yes, they were.

Q. Okay. What kind of unit is this?

A. It's a Middle Ridge. It's 58.74 acres.

Q. How many wells are proposed?

A. One.

Q. Is it a frac well?

A. Yes, it is.

Q. Where is it located in relation to the drilling window?

A. It's within the drilling window.

Q. Okay. Have you provided a cost estimate with regard to this well?

A. Yes, we have. It's \$265,359.19 to a depth of 2727. The permit number is 7439.

Q. Was it just recently permitted?

A. I believe, from the number.

Q. Okay. The reason I ask is permit number wasn't in the application---

A. Yes.

Q. ---so I'm guessing.

A. Yes.

Q. Okay. All right. The...would you tell the Board what interests you've been able to acquire in this unit from coal owners and oil and gas owners and what it is you're seeking to pool?

A. We've leased 92.0327% of the coal, oil and gas owner's claim to coalbed methane. We're seeking to pool 7.9673% of the coal, oil and gas owner's claim to coalbed methane.

Q. Okay. And what did you do to advise the respondents that you've named in the notice of hearing that there was going to be a hearing today?

A. We mailed by certified mail return receipt July the 7th...July the 14th, 2006 and we published in the Bluefield Daily Telegraph on July the 19th, 2006.

Q. And did you file proofs with regard to publication and certificates with regard to mailing with Mr. Wilson?

A. Yes, we have.

Q. Okay. Do you wish to add anybody as a respondent today?

A. No.

Q. Do you wish to dismiss either of the respondents you've named---

A. No.

Q. ---or I should any of the respondents?

The...as I review the paperwork you filed, I do not see an escrow requirement. Is that true?

A. That's correct.

Q. Is it your opinion that drilling a frac well in this Middle Ridge unit in the drilling window is a reasonable way or reasonable plan to produce coalbed methane from and under this unit?

A. Yes, it is.

Q. And if you combine a pooling order with the leasing efforts that you've been successful in leasing somewhat

more than 92% of the unit, is it your opinion that the correlative right of all owners and claimants would be protected?

A. Yes, they would be.

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

BENNY WAMPLER: Questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Anything...anything further?

MARK SWARTZ: No.

BENNY WAMPLER: Is there a motion?

DONNIE RATLIFF: I move to approve, Mr. Chairman.

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

BILL HARRIS: Second.

BENNY WAMPLER: Second. Any further discussion?

(No audible response.)

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

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval.

MARK SWARTZ: Thank you.

BENNY WAMPLER: Next is a petition from CNX Gas Company, LLC for pooling of coalbed methane unit G-12. This is docket number VGOB-06-0815-1691. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

MARK SWARTZ: Mark Swartz and Les Arrington.

BENNY WAMPLER: The record will show no others, you may proceed.

MARK SWARTZ: I'd like to incorporate Mr. Arrington's testimony with regard to the applicant and the operator, standard lease terms and his employment, if I could.

BENNY WAMPLER: That will be incorporated.

LESLIE K. ARRINGTON

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

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

A. Leslie K. Arrington.

Q. I'll remind you that you're still under oath.

A. Yes.

Q. This is a pooling application, correct?

A. Yes, it is.

Q. Unit G-12 is what kind of a unit?

A. 80 acre Oakwood.

Q. How many wells are you proposing?

A. One.

Q. And this one is located outside the window?

A. Yes, it is.

Q. Why is that?

A. I believe, this is an old BBH well that we have converted to a CBM.

Q. Okay. Have you provided a well cost estimate with regard to this well?

A. Yes, I have.

Q. And what is that?

A. It's \$289,822.38. The depth is 2,034 feet. The permit number is 7422.

Q. And with regard to this unit, what interests have you been able or the applicant...has the applicant been able to acquire and what interests are you seeking to pool?

A. We're acquired 64.4206% of the coal, oil and gas owner's claim to coalbed methane. We're seeking to pool 35.5794% of the coal, oil and gas owner's claim to coalbed methane.

Q. Have you listed all of the people that you're seeking to pool as respondents in the notice of hearing and then again in Exhibit B-3?

A. Yes, we have.

Q. You don't want to add anybody?

A. No.

Q. You don't want to dismiss anyone?

A. No.

Q. What did you do to notify the people that you've listed as respondents that we have a hearing today?

A. We've mailed by certified mail return receipt on July the 14th, 2006. We published in the Bluefield Daily Telegraph on July 19, 2006.

Q. And did...have you filed the certificate of publication that you get from the newspaper with Mr. Wilson?

A. Yes.

Q. And have you filed your certificate with regard to mailing with him as well?

A. Yes.

Q. Is it your opinion that drilling one frac well in this 80 acre unit is a reasonable way to produce coalbed methane from the unit?

A. Yes, it is.

Q. And is your opinion that if you combine a pooling order with the leasing activities that you've succeeded in leasing that you will, in effect, protect the correlative rights of all owners and claimants to the coalbed methane?

A. Yes, it will.

Q. That's all I...and lastly, no escrow requirement?

A. No.

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

BENNY WAMPLER: Questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Is there a motion?

MARY QUILLEN: Motion to approve.

PEGGY BARBAR: I'll second.

BENNY WAMPLER: And second. Any further discussion?

(No audible response.)

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

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval. Next is a petition from CNX Gas Company, LLC for pooling of coalbed methane unit N-74. This is docket number VGOB-06-0815-1692. We'd ask the parties that wish to address the Board in this matter to forward at this time.

MARK SWARTZ: Mark Swartz and Les Arrington.

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

MARK SWARTZ: I'd like to incorporate Mr. Arrington's testimony from the first hearing that he testified in with regard to the applicant, the operator, standard lease terms that he's recommending and his employment.

BENNY WAMPLER: That will be incorporated.

LESLIE K. ARRINGTON

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

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

A. Leslie K. Arrington.

Q. I'll remind you that you're under oath.

A. Yes.

Q. Okay. Now, with regard to this unit, we've got some revised exhibits which are being passed out.

A. Yes.

Q. Okay. What kind of unit is this?

A. It's an Oakwood...no, it's a Nora.

Q. Okay. And it contains how many acres?

A. 58.66.

Q. Okay. There's...how many wells are proposed?

A. One.

Q. And where is that well located?

A. It's within the drilling window.

Q. Okay. And is it also a frac well?

A. Yes.

Q. Have you listed all of the respondents that you're seeking to pool in the notice of hearing and then again in Exhibit B-3?

A. Yes, we did.

Q. Do you want to add any people or subtract any people today? In giving revised exhibits, it looks like you do.

A. Yes. We do want to dismiss one that we've leased shown in---

Q. Okay. If we look at Exhibit B-2, having you identified that person?

A. Yes, we have.

Q. Okay. And who is it that you have leased that you would like to dismiss?

A. Russell Stiltner, Jr.

Q. Okay. And when you filed this application, you didn't have a lease from him yet?

A. That's correct.

Q. Okay. Is there anyone else besides Mr. Stiltner that you want to lease or that you want to dismiss?

A. No.

Q. Obviously, you want a lease, yes?

A. Yeah.

Q. Okay. And by dismissing Mr. Stiltner, have you then submitted a revised Exhibit B-3 to delete his name?

A. We have.

Q. Okay. Are the people who remain on the revised Exhibit B-3, which shows a revision date of 8/10/06, are those the folks that you're actually seeking to pool today?

A. Yes, it is.

Q. Okay. And in looking at Exhibit A, page two, which is the last of the revised exhibits, would you tell the Board what interests, as of today, you've been able to lease or acquire and what interests you are seeking to pool?

A. Yeah. We've acquired 99.4375% of the coal, oil and gas owner's claim to coalbed methane. We're seeking to pool 0.5625% of the coal, oil and gas owner's claim to coalbed methane.

Q. Okay. Have you...what did you do to advise the respondents that we were going to have a hearing today?

A. We mailed by certified mail return receipt on July the 14th, 2006. We published in the Bluefield Daily Telegraph on July the 20th.

Q. Have you filed the certificate of publication that you get from the newspaper with Mr. Wilson?

A. Yes, we have.

Q. And have you also filed your affidavits and proofs with regard to mailing with Mr. Wilson?

A. Yes, we have.

Q. Have you provided a cost estimate?

A. Yes. \$207,431.45 to a depth of 2377. The permit number is 7370.

Q. And it looks like this has been drilled?

A. Yes, it has.

Q. Okay. Now, this one we've got an escrow requirement for conflicts, is that correct?

A. That's correct. Tract 2, 3A and 3B.

Q. And that escrow requirement is reflected in Exhibit E that you have tendered to the Board with the application?

A. Yes, it is.

Q. Is it your opinion that drilling one frac well in the drilling window of this Nora unit is a reasonable plan and way to develop the coalbed methane under this unit?

A. Yes, it is.

Q. And is it your opinion that if you combine the leases that you've been able to obtain with the pooling order here, affecting roughly a half of a percent, that the correlative rights of all owners and claimants in this unit will be protected?

A. Yes, they will be.

MARK SWARTZ: That's all I have.

BENNY WAMPLER: Questions from members of the Board?

BOB WILSON: Mr. Chairman.

BENNY WAMPLER: Mr. Wilson.

BOB WILSON: Your Exhibit A, page two indicates that you're pooling coal owners and oil and gas owners. Your Exhibit B-3 only lists oil and gas ownership...unleased oil and gas ownership.

LESLIE K. ARRINGTON: I believe that should only be oil and gas owners. That's what it appears. It should only be oil and gas.

MARK SWARTZ: So, what you are saying is the revised Exhibit B-3 is indeed correct?

LESLIE K. ARRINGTON: Yes.

MARK SWARTZ: And the A, page two---?

LESLIE K. ARRINGTON: A, page two is---.

MARK SWARTZ: ---is wrong?

LESLIE K. ARRINGTON: Right.

MARK SWARTZ: So, we need to straighten out revised A, page two.

BENNY WAMPLER: What about your E...Exhibit E? Russell Stiltner is no longer a conflicting claimant.

MARK SWARTZ: Well, I would think he would stay in conflict.

BENNY WAMPLER: I'm just asking if he stays there.

LESLIE K. ARRINGTON: Yes. Russell Stiltner will---.

BENNY WAMPLER: He will stay?

LESLIE K. ARRINGTON: Uh-huh.

BENNY WAMPLER: Okay. All right. Questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Is there a motion?

PEGGY BARBAR: Motion to approve.

BENNY WAMPLER: Is there a second?

BILL HARRIS: Second.

BENNY WAMPLER: Second. Any further discussion?

(No audible response.)

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

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval. Next is a petition from CNX Gas Company, LLC for pooling of coalbed methane unit N-76. This is docket number VGOB-06-0815-1693. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

MARK SWARTZ: Mark Swartz and Les Arrington.

PHILLIP JUSTICE: I'm Phillip Justice.

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

MARK SWARTZ: Mr. Chairman, I'd like to incorporate Mr. Arrington's testimony from the initial hearing that he testified in today with regard to the applicant and operator, standard lease terms and his employment.

BENNY WAMPLER: That will be incorporated.

LESLIE K. ARRINGTON

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

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

A. Leslie K. Arrington.

Q. I'll remind you that you're still under oath.

A. Yes.

Q. Okay. What kind of unit is in 76?

A. Nora. It has 58.66 acres.

Q. How many wells are proposed to be drilled here?

A. One.

Q. And where is it located?

A. Within the drilling window.

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

A. Yes, it is.

Q. What did you do to notify folks that we would have a hearing today?

A. We noticed by certified mail return receipt requested on July the 14th and published in the Bluefiled Daily Telegraph on July the 20th.

Q. Have you filed the certificate of publication that you get from the newspaper along with your certificates with regard to mailing with Mr. Wilson?

A. Yes, we did.

Q. Okay. Do you wish to dismiss any people today?

A. Yes, we do.

Q. Have you identified them in a revised Exhibit B-2?

A. Yes, we have.

Q. And does that require...has that caused some revisions as well?

A. Yes. The Exhibit B-3 and Exhibit A-2.

Q. Okay. Let's look at Exhibit B-2 with regard to dismissals. You've got a number of people identified in Exhibit B-2. Is that correct?

A. Yes, we do.

Q. And then in the far right hand corner you've got a reason for dismissal listed?

A. Correct, as leased.

Q. And in all instances, with regard to the people that you're requesting...by listing them in Exhibit B-2 that they be dismissed as respondents in all instances is the explanation or reason for dismissal that you've been able to get a lease from?

A. Correct.

Q. Okay. Has...have you then modified the revised Exhibit B-3, which shows a revision date of 8/10/06, to delete the people that you've got leases from the list of folks

that you need to pool?

A. Correct. We do.

Q. Okay. And then lastly, have you refigured the interest that you need to pool and filed a revised Exhibit A, page two?

A. Yes, we have.

Q. Okay. And now, as of today...well, at least as of, you know, shortly before this hearing, would you tell the Board what you've been able to acquire by lease or purchase and what it is you're actually seeking to pool today?

A. We've leased 94.4385% of the coal, oil and gas owner's claim to coalbed methane. We're seeking to pool 5.5615% of the coal, oil and gas owner's claim to coalbed methane.

Q. Okay. Have you provided a cost estimate with regard to the proposed well?

A. Yes. It's \$274,077.85 to a depth of 2369. The permit number is 5777.

Q. Okay. And is this well already drilled?

A. Yes.

Q. And if you wanted to figure out the amount of a check that you would have to write to participate in this unit, how would you do that?

A. The far right hand column indicates your percentage of interest.

Q. And that would be in Exhibit B-3?

A. Yeah, Exhibit B-3.

Q. Okay.

A. The percentage of interest, you would multiple that times the estimated cost of the well and that would be your percentage that you would have to pay up to participate.

Q. With your election?

A. With your election.

Q. Okay. And it would be the same calculation that you would go through to determine what your carried number would be and then you would multiple that?

A. Yes.

Q. Okay. And if you wanted to get some feel for what your royalty interest would be, you would take the percent of the unit in your...opposite your name in that last column and you multiple that times twelve and a half percent and that would give you your royalty interest?

A. Yes.

Q. Is it your opinion that if you combine the leases that you have been successfully in obtaining, roughly 95% of the unit, with the outstanding interest that remain, that all of the correlative rights of all the owners, whether leased or not, would be protected?

A. Yes, it would be.

Q. Okay. Is it your opinion that it is a reasonable method to produce gas...coalbed methane gas from this unit to drill a coalbed methane frac well in the drilling window of this Nora unit?

A. Yes.

MARK SWARTZ: That's all I have.

BENNY WAMPLER: Questions from members of the Board?

(No audible response.)

MARK SWARTZ: I take that back. We need to address escrow.

BENNY WAMPLER: You've got some address unknowns in here.

MARK SWARTZ: Well, we've got a couple. We've got an Exhibit E. So, we've got some traditional conflicts, right, in---?

LESLIE K. ARRINGTON: Yes.

MARK SWARTZ: ---in Tracts 1 and 5?

LESLIE K. ARRINGTON: Yes.

MARK SWARTZ: And then we have a couple of unknown addresses in Tract---

LESLIE K. ARRINGTON: 4.

MARK SWARTZ: And that is all I have.

BENNY WAMPLER: Yes, sir.

PHILLIP JUSTICE: Mr. Chairman, we're not here to

dispute anything. We're wanting to put on the record that as far as the C. C. Woods' Heirs, which are unleased, for Charlie Childress, Vernie Childress Hunt, Ethel Miers, Carl Childress, Rachel Childress, Nancy Doris, Ruel Ratliff and Nell Ratliff want to participate.

MARK SWARTZ: You can tell them or I can tell them.

BENNY WAMPLER: You can tell them.

MARK SWARTZ: Okay. You will get an order from the Board in the mail---

PHILLIP JUSTICE: Yes.

MARK SWARTZ: ---or those folks will.

PHILLIP JUSTICE: And we are here to...and I explained that, and we are here. They want it on the record that we are participating.

MARK SWARTZ: And just to tell you---

PHILLIP JUSTICE: And if it will make things shorter as far as the very next one, it's the same group, number thirteen, then that would conclude my business.

MARK SWARTZ: Okay. And---

BENNY WAMPLER: Okay. And we'll---

MARK SWARTZ: ---that's great to know that, but I just...to kind of give you a heads up---

PHILLIP JUSTICE: Yeah. We'll get an order after they---

MARK SWARTZ: Well, the only way---

BENNY WAMPLER: The Board will issue an order.

MARK SWARTZ: The only way you can participate is to do it in the window that the Board order gives you with a check.

PHILLIP JUSTICE: Yeah. Forty days.

MARK SWARTZ: So, you know, this is a heads up that you're coming and we understand that---

PHILLIP JUSTICE: Right.

BENNY WAMPLER: The Board order will stipulate the time frame you have to make an election and I understand you just...you want on record for this and for the one that you're---

PHILLIP JUSTICE: And for the next one, if---

MARK SWARTZ: No problem.

PHILLIP JUSTICE: ---can get in on it for that one and that would conclude my---

BENNY WAMPLER: That will be incorporated into the next one.

LESLIE K. ARRINGTON: No problem.

PHILLIP JUSTICE: Thank you all.

MARK SWARTZ: Good to you see you again.

BENNY WAMPLER: Thank you. Other questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Is there a motion?

MARY QUILLEN: Motion to approve.

PEGGY BARBAR: I second.

BENNY WAMPLER: Second. Any further discussion?

(No audible response.)

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

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval. Next is a petition from CNX Gas Company, LLC for pooling of coalbed methane unit N-77. This is docket number VGOB-06-0815-1694. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

MARK SWARTZ: Mark Swartz and Les Arrington.

BENNY WAMPLER: The record shows no others. You may proceed.

MARK SWARTZ: I'd like to incorporate, if I could, Mr. Arrington's prior testimony with regard to the applicant, operator, standard lease terms and his employment.

BENNY WAMPLER: That will be incorporated?

LESLIE K. ARRINGTON

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

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

A. Leslie K. Arrington.

Q. And I'll just remind you that you're under oath.

A. Yes, sir.

Q. What kind of a unit is this?

A. It's a Nora 58.66 acres.

Q. How many wells are proposed?

A. One.

Q. Where is it located in relation to the window?

A. Within the window.

Q. Did you provide a cost estimate for this well?

A. Yes, we did. It's \$224,121.08 to a depth of 2,143 feet. The permit number is 5758...5778.

Q. And what did you do to notify the people we were going to have a hearing today?

A. We mailed by certified mail return receipt July the 14th and published in the Bluefield Daily Telegraph on July the 21st.

Q. And have you filed the certificate of publication that you get from the newspaper with Mr. Wilson?

A. Yes, we have.

Q. And have you filed your proofs with regard to who you mailed to and the cards and so forth with Mr. Wilson as

well?

A. Yes, we have. Uh-huh.

Q. I see some revised exhibits with regard to N-77 and, in general, is the reason for that that you've been able to lease some more people?

A. Yes, it is.

Q. Okay. Let's turn to those revised Exhibits. There's an Exhibit B-2.

A. Yes.

Q. And does B-2 list folks that you would like to dismiss?

A. Yes, it does.

Q. Okay. And in all cases for the people listed in Exhibit B-2, is the reason for dismissal the fact that between the time that you filed this application and today you've been able to lease them?

A. Yes, we did...yes.

Q. Okay. And then have you also got an Exhibit B-3 that you've revised to subtract or delete the people that you've leased between filing the application and today?

A. Yes.

Q. Okay. Do you want to add anybody today? We're talking about dismissing people. Do you want to add anybody today?

A. No.

Q. Okay. Is the listing in B-3 then the final list in terms of who you're seeking to affect by pooling?

A. Yes, it is.

Q. Okay. And have you then recalculated then the outstanding interest that you're seeking to pool in Exhibit A, page two?

A. Yes, it is.

Q. And is this one of those instances where one the interest that you're seeking to pool on the coal side and the oil and gas side are not the same?

A. Correct.

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

A. We've acquired 94.3743% of the coal owner's claim to coalbed methane and we've acquired 94.3317% of the oil and gas owner's claim to coalbed methane. We're seeking to pool 5.6257% of the coal owner's claim to coalbed methane and 5.6683% of the oil and gas owner's claim to coalbed methane.

Q. And with regard to escrow you filed an Exhibit 3...Exhibit E. Is that still accurate?

A. Yes. Tract 3 and 4.

Q. And, actually, Tract 3 is because of what we call traditional conflicts?

A. Yes.

Q. And 4 is not because there's a conflict, but because you've got an unknown address?

A. It's got their address unknown.

Q. Okay. So, that would be the two tracts and the reasons?

A. Yes.

Q. Is it your opinion that if you combine the leasing efforts that you've been successful with a pooling order pooling the interests that you've described here, the percentages...outstanding percentages, that all people who claim interests to the coalbed methane in this unit would be protected?

A. Yes.

Q. And is it your opinion that a reasonable way to develop the coalbed methane gas under N-77 would be to drill a frac well in the window in the unit?

A. Yes.

MARK SWARTZ: That's all I have.

BENNY WAMPLER: Questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Is there a motion?

DONNIE RATLIFF: I move to approve, Mr. Chairman.

MARY QUILLEN: Second.

BENNY WAMPLER: Motion to approve and a second. Any

further discussion?

(No audible response.)

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

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval. The next item on the agenda is a petition...well...a petition...a petition from CNX Gas Company, LLC for pooling of a coalbed methane unit O(-2). This is VGOB-06-0815-1696. We'd ask the parties that wish to address the Board in this matter to come forward at this time. It's number fifteen on the Board's---

MARK SWARTZ: Mark Swartz and Les Arrington.

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

LESLIE K. ARRINGTON

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. What kind of a unit is this?

A. Oakwood 80 acre.

Q. Okay. And we do not have revised exhibits with regard to this?

A. No.

Q. Okay. How many wells are you proposing to drill?

A. One.

Q. And where is it located?

A. Let's see...within the drilling window.

Q. Okay. And is it a frac well?

A. Yes, it is.

Q. What did you do to notify the respondents that you've listed in the notice of hearing and in Exhibit B-3 and other people who might be interested that we were going to have a hearing today?

A. Yes. It was mailed by certified mail return receipt on July the 14th, 2006. It was published on July the 22nd, 2006 in the Bluefield Daily Telegraph.

Q. And did you file a certificate of publication that you get from the newspaper with Mr. Wilson?

A. Yes, we did.

Q. And have you filed your certificates and proofs, copies of the cards and so forth with Mr. Wilson as well to document mailing?

A. Yes, we have.

Q. Okay. What interests have you been able to acquire in this unit and what are you seeking to pool?

A. We've acquired 79.8453% of the coal, oil and gas

owner's claim to coalbed methane. We're seeking to pool 20.1547% of the coal, oil and gas owner's claim to coalbed methane.

Q. And have you filed a cost estimate?

A. Yes, we have. It's \$238,122.10 to a depth of 2,441 feet.

Q. It looks like you may not have a permit yet.

A. No.

Q. Okay. Which, hopefully, would mean you haven't drilled the well?

A. That's correct.

Q. Okay. With regard to escrow, is there a traditional escrow requirement for conflicts?

A. Yes. For Tract 2A and 2B.

Q. And you've disclosed that in your Exhibit E that you filed with the application?

A. Yes, we have.

Q. Is it your opinion that the...if you combine the leasing efforts that you've succeeded in with a pooling order pooling the folks identified in the notice of hearing and Exhibit B-3, that the correlative rights of all owners and complainants to coalbed methane would be protected?

A. Yes, they will be.

Q. Is it your opinion that drilling a frac well in the drilling window of this Oakwood 80 acre unit is a reasonable

way to produce coalbed methane from the unit?

A. Yes, it is.

Q. Is it...is it true that you do not want to add any respondents today or dismiss any respondents today?

A. Correct.

MARK SWARTZ: That's all I have.

BENNY WAMPLER: Questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Is there a motion?

MARY QUILLEN: Motion to approve.

PEGGY BARBAR: Second.

BENNY WAMPLER: Second. Any further discussion?

(No audible response.)

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

(All Board members signify by saying yes, but Donnie Ratliff.)

BENNY WAMPLER: Opposed, say no.

DONNIE RATLIFF: I abstain, Mr. Chairman.

BENNY WAMPLER: One abstention, Mr. Ratliff. The next item is a petition from CNX Gas Company, LLC for a modification of Oakwood I Field Rules to allow drilling of an additional well. This is docket number VGOB-93-0216-0325-10. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

MARK SWARTZ: Mark Swartz and Les Arrington.

BENNY WAMPLER: The record will show---.

DONALD JOHNSON: Mr. Wampler, if you'll get us a minute, sir.

BENNY WAMPLER: Yes. That why I was looking behind me.

(Donald Johnson and Andrew Cecil come forward.)

BENNY WAMPLER: State your name for the record, please.

DONALD JOHNSON: Mr. Wampler, I'm Donald R. Johnson, attorney in Roanoke, Virginia. I represent Pocahontas Mining, Limited Liability Company.

BENNY WAMPLER: And is that you---?

DONALD JOHNSON: With me is Mr. Andrew W. Cecil, professional engineer from Tazewell, Virginia.

BENNY WAMPLER: Thank you. Mark, I believe you have an additional gentleman here.

MARK SWARTZ: He's observing right now.

BENNY WAMPLER: Okay.

MARK SWARTZ: If we...if we need him, we'll swear him in.

BENNY WAMPLER: All right. You may proceed.

MARK SWARTZ: I'd like to incorporate Mr. Arrington's testimony with regard to CNX Gas Company, LLC and its status in

the Commonwealth and the registration with the DMME and his employment.

BENNY WAMPLER: That will be incorporated.

LESLIE K. ARRINGTON

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Mr. Arrington, this application asks the Board to do what?

A. To allow us to drill a second well within the Oakwood Field 80 acre units with the area depicted on the exhibits.

Q. Okay. There's an Exhibit A-1 attached to the notice of hearing and the application, correct?

A. Yes, it is.

Q. And that sort of outlined the area that we're going to be talking about today?

A. Yes. That area is the far eastern... southeastern area of the Oakwood Field.

Q. And you've passed out a map today---

A. Yes, I have.

Q. ---and provided Mr. Johnson with one. I don't know if that's orange or what that color is, but---

A. Yes.

Q. It's not trendy orange. What is that?

A. It's---

Q. Is it the colored?

A. The color, yes.

Q. The bright color?

A. Yes.

Q. Okay. And more to the point, you've got infill number nine here. Do you see that on the...on the Exhibit A-1?

A. That's correct.

Q. This is the ninth time that we've been here seeking to do this.

A. Correct.

Q. Okay. And have you depicted a couple of areas that we've been before the Board on the map that you've passed out today and colored those areas to indicate additional areas where we already have infill drilling programs going on?

A. That's correct.

Q. Okay. And could you briefly summarize...hold up the map and show the Board and the people that are here today what we've...what areas the Board has approved for infill drilling in the past, not just what we're asking about today?

A. Yes. All of the...all of the areas that's kind of in the steepled colored area have been approved previously. All of the area that we have some type of control in would be the

areas that we're coming to seek infill drilling.

Q. Okay. And the little dark dots on this...on this map, are those actually wells?

A. They are.

Q. Okay. The...there are some graphs on this map, correct?

A. Yes, it is.

Q. Okay. And what, in general, do those graphs show with regard to the effect of infill drilling on existing wells and on new wells?

A. What the graphs are essentially showing is as we do the infill drilling, we're getting increased production with the second well that we've put in within that unit. Not only on the second well, but on the old wells.

Q. Okay. To just sort of focus on that, I'll just pick one of the charts, let's do the purple area in the middle here.

A. Yes.

Q. Okay. Are the grey...is the grey graph the first set of wells?

A. Yes, it is.

Q. And is the purple the second?

A. Yes, it is.

Q. What happens to the production from the grey or

first set of wells after you drill the second well depicted in purple?

A. If you'll notice, that it increases and up to or about the same amount as the original wells are producing.

Q. Okay. And if we compare---

A. I mean, the new wells.

Q. And if we compare how quickly the second wells get up to speed, compared to the first wells, what's the comparison?

A. It's moving up quicker.

Q. And further?

A. Yes.

Q. Is the reason that you've asked the Board, and now this is the ninth time, to allow for infill drilling, the principal reason, that is what the production results that are shown on this map?

A. Yes, it is.

Q. Okay. The...there are a couple of restrictions or limitations that we live with or anyone, frankly, that does infill drilling in this area has to live with and what...where does these wells have to be located in relation to the drilling window?

A. With the additional well, it needs to be within

the drilling window.

Q. Okay. Inside of it?

A. Inside, yes.

Q. Okay. And is there a distance limitation between two wells in the unit?

A. 600 feet.

Q. And have you been observing that in the additional wells that you have drilled?

A. Yes, we are.

Q. Okay. And your request today is to be allowed to continue with the infill drilling program in the brightly colored area?

A. Yes, we are.

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

BENNY WAMPLER: Questions from members of the Board?

MARY QUILLEN: Mr.---

BILL HARRIS: Mr. Chairman. Go ahead. I'll defer to her.

BENNY WAMPLER: Ms. Quillen.

MARY QUILLEN: I just have one question for Mr. Arrington. In this reddish, orange area, are there wells in everyone of these?

LESLIE K. ARRINGTON: Not yet.

MARY QUILLEN: There are not...there are no wells at

all?

LESLIE K. ARRINGTON: There is a few wells around the edges of it.

MARY QUILLEN: Around...okay.

LESLIE K. ARRINGTON: But no.

MARY QUILLEN: But not in the interior part of it?

LESLIE K. ARRINGTON: No. We're working toward that.

BENNY WAMPLER: Mr. Harris.

BILL HARRIS: Actually, that was my question. I call it terra cotta, I guess, because that's probably the nearest thing to me anyway. So, you...but the question is, I guess, you don't know what the experience is so far with one well in these in some of these?

LESLIE K. ARRINGTON: In this area, we have wells on the eastern side...the western side and we also have wells on the eastern side. But on the eastern side, those wells are drilled on the statewide spacing.

BILL HARRIS: And when you say he eastern side, that's shown here?

MARK SWARTZ: Off the map.

LESLIE K. ARRINGTON: Kind of off the map.

BILL HARRIS: Off the map. Oh, so not in that section, okay.

LESLIE K. ARRINGTON: Right.

BILL HARRIS: And your experience there is that those wells are typical of other wells that we see in the---?

LESLIE K. ARRINGTON: Yes, sir, they area.

BILL HARRIS: So, by adding an additional well you would expect a performance similar to what you shown in the---?

LESLIE K. ARRINGTON: We certainly hope so.

BILL HARRIS: ---in the graph.

LESLIE K. ARRINGTON: Yes, sir.

BILL HARRIS: Thank you. Thank you, Mr. Chairman.

BENNY WAMPLER: Other questions?

MARY QUILLEN: Mr. Chairman.

BENNY WAMPLER: Ms. Quillen.

MARY QUILLEN: I have one additional question. In each of these units, are you anticipating drilling two wells or---?

LESLIE K. ARRINGTON: Yes...yes, ma'am, we are.

MARY QUILLEN: At the same time or---?

LESLIE K. ARRINGTON: We would hope so, yes.

MARY QUILLEN: Okay. So, that will reduce your costs?

LESLIE K. ARRINGTON: Yes, we hope.

MARY QUILLEN: Thank you.

BENNY WAMPLER: Mr. Johnson.

CROSS EXAMINATION

QUESTIONS BY MR. JOHNSON:

Q. Mr. Arrington, are you a licensed professional engineer?

A. No, I'm not.

Q. Are you a petroleum geologist?

A. No, I'm not.

Q. Are you a geologist?

A. No, sir.

Q. With respect to the application, you talked about all of the various units that the Board or the various field rule modifications that the Board has approved and, I believe, on your exhibit there's a list of them.

VGOB-93-0216-023-25...0325-01. It goes all the way down to 08, is that correct?

A. It does.

Q. And those units are shown on these are... those modified field rule areas are shown on the exhibit that you've shown to the Board, is that correct?

A. Yes.

Q. Can you advise the Board and me whether or not there have been any Board orders issued as to any of those field...field areas that the Board has approved?

A. Yes. On all of those areas they have been

approved.

Q. Have there been any Board orders issued with regard to any of them?

A. I don't think I have those at hand. They have been approved by the Board.

Q. I asked you, have there been any Board orders issued with regard to any of those field areas?

MARK SWARTZ: Well, you know, issued...when the Board makes an---

DONALD JOHNSON: Executed! Presented! Signed!

MARK SWARTZ: Well, then change the question, Mr. Johnson.

DONALD JOHNSON: Okay.

Q. Signed! Tendered!

BENNY WAMPLER: Gentlemen.

Q. Recorded! Any of those things?

A. No, there hasn't

Q. With regard to the proposed unit area, which I believe is ten, although, I guess, nine is somewhere else, but ten, I think you testified to this profound reddish colored area. I think you've already testified that there's several units within that area that have no wells in them. Is that correct?

A. That's correct.

Q. And you're asking the Board to modify the field

rules at this time, is that correct?

A. We are.

Q. To allow two wells per unit, is that correct?

A. That's correct.

Q. And you have no experience with regard to the units where there are no wells? You have no production, you don't know what they've done and what their production rate is or anything, is that correct?

A. (No audible response.)

Q. Have you drilled them?

A. Not...we haven't drilled in that area.

Q. And you're asking the Board to modify the field rules and allow infill drilling when there is no wells in the units that are shown without...without dots, is that correct?

A. That's correct.

Q. With regard to my client, Pocahontas Mining, Limited Liability Company, the units that they share in this area that's shown in red are you generally familiar with where they are on this map? Where the Pocahontas Mining Company units either...I think all of them are partial units.

A. They would be.

MARK SWARTZ: I'm going to object to that question. As far as I know, Pocahontas Mining, Limited Liability Company has no units in this area.

DONALD JOHNSON: We don't. But we have interest in a bunch of them.

BENNY WAMPLER: Sustained.

MARK SWARTZ: If you want to ask him about leases, that will be---.

DONALD JOHNSON: No, I wanted to...

Q. Do you know which units in this red area Pocahontas Mining, Limited Liability Company has an interest in as a leased owner?

A. I do not have a property map with me.

Q. Okay. Are you aware of any wells that include units where Pocahontas Mining, Limited Liability Company owns an interest in the pooled area or a unit area? Are you aware of any wells having been drilled in those units?

A. Within the red area?

Q. Yes, sir.

A. I...without a map with me, I can't answer that.

Q. So your answer is, you don't know?

A. No.

Q. I'm I correct that you have testified that you are asking the Board to allow you to drill two units in each...I mean, two wells in each unit, is that correct?

A. We are.

Q. And you're also asking the Board to continue to

require you to drill within the window of 300 feet, is that correct?

A. For the additional well.

Q. Okay. Are you proposing to drill within the windows on these...in these units or are you not?

A. With the additional well, we are.

Q. Okay. So, when you drill the first well, what is your intention with regard to the window?

A. The first well may or may not be within the window.

Q. And would you have to...would you have to go to the inspector and request a modification?

A. Yes, we would.

Q. And then with respect to the second well, your intention is to drill within the window regardless of where the first well is?

A. That's correct.

BENNY WAMPLER: What spacing between the two wells do you propose?

LESLIE K. ARRINGTON: A minimum of 600.

Q. The statewide pooling distance for coalbed methane wells is what?

A. Ask the question again, please.

Q. Hum?

A. The question again, please.

Q. What is the statewide pooling requirement in the code for coalbed methane wells?

MARK SWARTZ: There's no statewide pooling requirement. There's a spacing requirement.

DONALD JOHNSON: A spacing requirement, excuse me.

MARK SWARTZ: Okay.

A. It's a 1000 feet.

MARK SWARTZ: Are you sure of that?

A. No.

DONALD JOHNSON: I think he's right.

Q. In your application for this request for a modification, where in that application is a description of the pool or pools included in the field based on geological and technical data including boundaries of the pool or pools infill shown...shown in accordance with the Virginia Coordinate System of 1927 as defined in Chapter 17, Section 55-8...-287 et seq. of the Code...of Title 55 of the Code of Virginia? Have you provided that information in your application?

A. No.

Q. Have you...the...have you in your application provided the boundary of the pool or pools and the fills located by taking the measured distance in feet from the unit to the nearest 2.5 minute longitude line to the east and the nearest 2.5

minute longitude line to the north...latitude line to the north
on the 7.5 minute 1:24,000 topographic map with a...with a
notation of the 7.5 minute topographic map name and series?

A. The Oakwood units are identified. Are they
identified in the manner that you requested? No.

Q. Okay, thank you. Have you stated the total
amount of acreage to be included in the order?

A. I did not state the total acreage. I did,
again, it's shown on the Exhibit A-1.

Q. Did you take into consideration in the unit
application or does it in anywhere state or confirm that you have
met the requirements of Section 45.1-361.20(C) of the Code?

A. No.

Q. Mr. Arrington, with regard to the...this
exhibit map, you have shown on here where your company has, in
fact, proceeded with infill drilling, is that correct?

A. We do.

Q. How many infill wells have you drilled since the
Board first approved your applications for infill drilling? The
initial application, I guess, that would number one on this list
on here. How many...how many infill wells have you drilled
pursuant to that?

A. I would...just, again, this will be an
estimate---

Q. That's all I can ask.

A. ---an estimate of more than a 100.

Q. Thank you.

DONALD JOHNSON: That's all the questions I have.

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

REDIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. The little squares on this map, who created those squares or how were those squares created?

A. That was originally created in the original Oakwood Field.

Q. And if I'm not mistaken, the original Oakwood order was back in '89 or '90.

A. Yes. But there was an additional... additional one in '93, which extended the field to that point.

Q. To the east?

A. To the east. Of which, there was a description given at that point.

Q. But is it your recollection...strike that. How long have you been involved with coalbed methane issues from the standpoint of production and from the standpoint of regulation in front of this Board?

A. Fifteen years.

Q. Okay. Were you around and present in person when the Oakwood rules were...at hearings when the Oakwood Rules were first implemented?

A. Yes, I was.

Q. Okay. Who created those Oakwood Rules?

A. Oxy---.

Q. Well---?

A. ---and the Board.

Q. ---in terms...in terms of entering an order, who created them?

A. Well, it was Oxy and CNX.

Q. Okay. And then the Board entered an order---?

A. Yes.

Q. ---implementing them?

A. That's correct.

Q. Covering hundreds of thousands of acres?

A. Correct.

Q. This map that you've submitted today, in terms of identifying unit, are those units created by this Board?

A. Yes, they are.

Q. Are they described in maps maintained by Mr. Wilson---?

A. Yes, they are.

Q. ---at the Division of Gas and Oil? You're not creating field rules here?

A. No.

Q. You're not extending the field?

A. No.

Q. In effect, you're asking that this Board change one of its prior orders with regard to how many wells are allowed per unit in the Oakwood Rules with regard to the number nine area?

A. That's correct.

Q. And that's all you're asking?

A. Yes.

MARK SWARTZ: That's all I have.

BENNY WAMPLER: Mr. Johnson.

RE CROSS EXAMINATION

QUESTIONS BY MR. JOHNSON:

Q. Mr. Arrington, isn't it true that what you're trying to do or what you're asking the Board to do is to double the number of wells in the Oakwood Field or in the Sections that you are requesting?

MARK SWARTZ: I'll stipulate to that. Two is double one.

Q. I'd like for you to answer the question.

MARK SWARTZ: I'm stipulating...I'm stipulating.

Q. And you are asking this Board to modify those rules, is that correct?

A. Yes.

Q. And you're asking this Board to modify the rules in accordance with the rules and regulations that the Board has established, is that correct?

A. That's correct.

Q. With regard to these various applications that you've made, each time you have come before the Board you have asked the Board to modify each specific area, is that correct?

A. We have.

Q. You have never come before the Board to ask for a modification of the Oakwood Field Rules for the entire field, is that correct?

A. No, sir.

Q. How much of the Oakwood Field is still left that could be later modified?

A. I don't have that. I don't know.

Q. Are there areas left?

A. Yes, there are.

DONALD JOHNSON: That's all the questions I have.

BENNY WAMPLER: Questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Just for the Board's information, an

open discussion here, what Mr. Johnson was doing was going down 4:VAC25161-50 of the Board's rules and asking questions if that information is contained in the application. You had some affirmative and some negative as far as the response to those questions. Here, again...I mean, open discussion with the Board members. I'll be happy to pass these around and take your time and look at them.

BOB WILSON: Mr. Chairman.

BENNY WAMPLER: Mr. Wilson.

BOB WILSON: While we're doing that, may I make one other observation?

BENNY WAMPLER: You may.

BOB WILSON: I hope I've understood this correctly. I believe, in the past when the approval has been granted for drilling additional wells within the units, all wells drilled after that order have been required to be within the drilling window. It's my understanding from the initial order that any wells to be drilled outside the drilling window would have to come back before the Board with a plan for protecting correlative rights of the adjacent units, which is why I think the Board has consistently required all wells subsequent to approval to be within the window.

BENNY WAMPLER: That's correct.

MARY QUILLEN: Mr. Chairman, I have a question---

BENNY WAMPLER: Ms. Quillen.

MARY QUILLEN: ---for Mr. Wilson. You're saying...regarding the question I asked previously about the two wells and he said, "Yes, they were going to drill two wells." Then later on, he responded that one...that the first well may or may not be within the window. You're saying that if this order is issued then all of those wells must be drilled within the window---?

BOB WILSON: In order to be...excuse me.

MARY QUILLEN: ---unless he comes back with individual requests to drill outside the window?

BOB WILSON: In order to be consistent with prior orders that been approved by this Board, yes. All wells subsequent to the approval would have to fall within the window, otherwise, they would have to come back before the Board. That would not be subject to the inspector's authority to issue an exception for drilling outside of the window. Where two wells fall within the same unit, subject to the orders, any well that's outside the interior window would have to come back before the Board.

MARY QUILLEN: And that's...and it couldn't be a modification like he's requesting here? It would have to be individual requests?

BOB WILSON: Yes, ma'am, as I understand it. Again,

in order to be consistent with prior actions.

MARY QUILLEN: Right. Could I ask another question for Mr. Arrington?

BENNY WAMPLER: Yes, ma'am. Ms. Quillen.

MARY QUILLEN: Mr. Arrington, in relation to the question I asked previously, would you come back before the Board to request an exception if you did want to drill outside of the window?

LESLIE K. ARRINGTON: We certainly will. You know, due to topography restraints and property restraints at times we're going to have them outside the drilling windows.

MARY QUILLEN: Right. Sure. That's all my questions.

MARK SWARTZ: I just need to make---

BENNY WAMPLER: Mr. Swartz.

MARK SWARTZ: ---a comment as well so that silence is not subsequently interpreted as agreement. I'm not sure I agree...my recollection is the same as Mr. Wilson's. But I will tell you that if an order is entered that says what he is saying, we will abide by that order as we would abide by any order. But my recollection was, under the Oakwood Rules as originally passed in '89 or '90, Mr. Wilson has the authority to grant location exceptions without requiring any operator to come to the Board on the first well---

BENNY WAMPLER: That's true.

MARK SWARTZ: ---which is...which is where Mr. Arrington was coming from and where I'm coming from. You know, I haven't looked at the records on all of these hearings specifically with the question, you know, it's on his screen clearly. I'm not...I don't remember that. So, I'm just saying, I don't know where we are on that in the past. But if that's the order that's coming from this Board, you know, we're going to comply with it. But I just wanted to indicate that I don't share the same memory that Mr. Wilson does.

BOB WILSON: Well, I'm older than you, so mine is better than yours. But---

(Laughs.)

MARK SWARTZ: That's the nicest thing I've heard today with the age thing. Anyway, just so that...because I think there's some confusion on that perhaps.

MARY QUILLEN: Right. Well, I'm relatively new to the Board, which you know, and this has not been a case that we have had presented to the Board and I needed clarification.

BENNY WAMPLER: We haven't had...we have not had it where, you know, you don't have any wells in the unit, you know, for the entire proposal. That's true.

MARY QUILLEN: Right.

BOB WILSON: Mr. Chairman.

BENNY WAMPLER: Mr. Wilson.

BOB WILSON: Just by a way of brief recap, when the original request was made for drilling additional wells within the unit where one well already exists, if though of you who were here remember, there were a number of proposals brought in and looked at as to how to handle those wells if you were allowed to drill them anywhere within the drilling window... outside the interior window. The Board was not comfortable with any of those methods of protecting correlative rights from the adjacent units. So, the resulting decision was that in so long as, and only in so long as, those two wells could fall within the interior window the Board would approve it. And we...I think we have actually corrected some of your applications that came in subsequent to that to state...to make sure that that was the way the order was to read. It was a matter that the Board was not comfortable that they were properly protecting correlative rights if anything fell outside the window when multiple wells were being drilled. The...the---

MARK SWARTZ: I'm not arguing the second well. I just have a different perhaps recall on the first one.

BOB WILSON: The rule still stands and I do still grant locations outside the window. A witness in an earlier one that we had here today for pooling that was converting from a BBH hole, which will prevent the extra disturbance of drilling the excess

wells and this sort of thing. So, that one will be granted. In this procedure, I think we've pretty much restricted it to being within the window or coming back before the Board.

MARK SWARTZ: Yeah. And my short answer to that is we'll abide by the order. It's up to you all to design the order. When we see that, you know, we'll abide by it.

BENNY WAMPLER: Do you have a copy handy of the rules for the Board?

MARK SWARTZ: No. I mean, my position on that is---

BENNY WAMPLER: Well, I'm going to hand you these and I'm going to ask you to address it.

MARK SWARTZ: You can just---

DONALD JOHNSON: I can share my copy, Mr. Wampler.

BENNY WAMPLER: I'll...I'll share my copy. I'll get it back without a fight.

(Laughs.)

DONALD JOHNSON: Thank you, Mr. Wampler, for your consideration.

BENNY WAMPLER: You're welcome.

MARK SWARTZ: Yeah. I mean, where I'm coming from is we have an Oakwood order that was issued in '89 or '90. It has been modified several times in several major respects in '92 or '93. Most recently, the pool, the boundaries...I mean,

actually, the edge of this is the Oakwood Field boundary to the east. I mean, all of this stuff is in, you know, the orders on record on the state maps and, you know, is before you. I mean, it's not like if we were creating or extending a field, we would have to give you a boundary. This is the Oakwood boundary to the east that you established. So, I guess, my response is to the extent that, you know, you need to know what the pool is, it's in the order that created the Oakwood Field. If you need to know where the eastern boundary is shown on the map it's in the order that extended the boundary to the east. So, I believe, that the Board orders before today include all of that information because you've declared it to be the case for this. The only thing we're in front of you on is to identify the units in which we want to drill two wells and we've identified units you created by coloring them on you map basically. The only thing we're asking for is, can we drill two wells in those units instead of one? So, I think we have given, you know, in reality all of the information that you need to reasonably address this because you have, in fact, as a Board provided the...filled in the rest of blanks. So, my response to this, Mr. Wampler, is yeah I read this, but...and I'm aware of it, but the reason we don't give you this information is it has already been determined. You know, these are the shape of the units. You know, these are the...this is the grid. This is the boundary. I mean, that's my response to this.

BENNY WAMPLER: Do you have anything further, Mr. Johnson?

DONALD JOHNSON: Yes, sir. I hope...I hope that the Board will allow me to present some evidence and make some comments with regard to what has happened and what we've presented. I have Mr. Andrew W. Cecil I'd like to put on the stand.

BENNY WAMPLER: Will you swear him in, please?

(Andrew W. Cecil is duly sworn.)

ANDREW W. CECIL

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

DIRECT EXAMINATION

QUESTIONS BY MR. JOHNSON:

Q. Mr. Cecil, briefly for the Board, please state your name, where you reside and your occupation, sir.

A. I'm Andrew Cecil. I'm a professional engineer and land surveyor in Tazewell, Virginia.

Q. Are you a licensed professional engineer?

A. Yes.

Q. Are you a licensed land surveyor in the Commonwealth?

A. Yes.

Q. How long have you been a licensed engineer?

A. Twenty-one or twenty-two years.

Q. What about surveyor?

A. Twenty years.

Q. With regard to Pocahontas Mining, Limited Liability Company, how long have you been its consulting mining engineer and surveyor?

A. Twenty-one years.

Q. With respect to the area...I believe you have prepared a map that shows the area that concerns Pocahontas Mining, Limited Liability Company within the area of the proposed field rules, is that correct?

A. That's correct.

DONALD JOHNSON: I'd like to present this to the Board as our exhibit.

BENNY WAMPLER: Okay. That will be an exhibit.

DONALD JOHNSON: Mark, if you need to...I don't have extra copies of that. But that shows the outline of the area.

BENNY WAMPLER: That's Pocahontas Mining Company, LLC Exhibit A.

DONALD JOHNSON: Yes, sir. Thank you...thank you, Mr. Wampler. Before I show this to the Board, I want to ask Mr. Cecil about it briefly.

Q. Mr. Cecil, where have you identified the areas where Pocahontas Mining has units that include its properties?

How have you shown this on the map?

A. There is a green crosshatched showing the units affected.

Q. All right. Have you located all of the wells on the Pocahontas Mining Company property and adjoining properties where...where a pooled unit involving Pocahontas Mining Company is involved in this general area?

A. Have I located the wells?

Q. Yes, the wells.

A. The wells shown on the map are probably accurate up until about April of this year.

Q. And they show the wells that you're aware of?

A. Right. That have been drilled and are in production.

Q. All right. With respect to that crosshatched area, which is the area that involves this application, what wells are shown on...in that area?

A. There are no wells.

Q. What is the closest well to the area that's shown in the crosshatched area that's located on the Pocahontas Mining Company property?

A. Well, the S-53 well is close and the T-52 well is close.

Q. Approximately, how close are they?

A. To the green hatch area?

Q. Yes, sir.

A. Both within about 2,000 feet.

Q. About 2,000...are they closer than 1500 feet?

A. No, I don't think so.

DONALD JOHNSON: All right. I'd like to submit this to the Board as Pocahontas Mining Exhibit 1...Exhibit 1?

BENNY WAMPLER: A.

DONALD JOHNSON: A.

Q. Mr. Cecil, with regard to the crosshatched area as far as coal, what has been leased in the crosshatched area as far as coal?

A. We have the Red Ash, Jawbone and Tiller seams leased. We also have Pocahontas 3 and Pocahontas 4 leased.

Q. Are there other seams above the Pocahontas 4 and between the tiller seam that are unleased?

A. For coal mining.

Q. For coal mining?

A. Yes.

Q. What seams are those or are there many?

A. There are many.

Q. All right. As far as coal seams above the Red Ash seam of coal, what seams are there in that Red...in that crosshatched area that are unleased?

A. Well, specifically within the crosshatched area, it would be difficult for me to say, Don. But the other seams above the Red Ash are the (inaudible), the Kennedy, Big Fork and all of those have potential to be in that area and they are unleased.

BENNY WAMPLER: They are unleased?

ANDREW W. CECIL: Unleased. We are the operator.

Q. I have asked Mr. Arrington with regard a provision...have you examined the application of CNX Gas Company with respect to this particular request?

A. Yes.

Q. Does the application have a description of the pool or pools included in the field based on geologic and technical data including the boundaries of the pool or pools and field shown in accordance with the Virginia Coordinate System of 1927 as defined in Chapter 17, Section 55-287 et seq. of the...of title 55 of the Code of Virginia as shown on the state plain coordinate system?

A. No.

Q. Can you tell the Board what would have to be done with regard to the exhibit that's with the application in order to indicate that information? What...what would they have to do?

A. Well, they would just have to comply with, you know, the statutes of the Board and place the information on the

exhibit.

Q. It's not there, is that correct?

A. It's not there.

Q. All right. The...does the application show the boundary of the pool or pools in the field and taking into consideration the measured distance in feet from the unit to the nearest 2.5 minute longitude line to the east and the nearest 2.5 minute latitude line to the north and the 7.5...on the 7.5 minute 1:2...1:24,000 topographic map with a notation of the 7.5 minute topographic map name and series?

A. No.

Q. Does the application state the amount of acreage to be included in the order?

A. No.

Q. Does the application submit any evidence to establish or modify the unit or units for coalbed methane gas will meet the requirements of 45.1-361.20(C)?

A. Okay, read 20(C), please.

Q. Okay. Let's see...okay. This says, "In establishing or modifying a drilling unit for coalbed methane gas wells, or in order to accommodate the unique characteristics of coalbed methane development, the Board shall require that drilling units conform to the mine development plan, if any, and

if requested by the coal operator, well spacing shall correspond with mine operations, including the drilling of multiple coalbed methane wells on each drilling unit."

A. Well, the unleased coal seams on the property effectively make the landowner the operator and in that regard we have not been consulted.

Q. Does the application indicate that any...does the application indicate any reference with regard to coalbed methane development with respect to coal?

A. I beg your pardon?

Q. Does the application show any...make any reference with regard to coal mining or coordinating with coal or make any reference to any waivers by any coal operators?

A. Not...not that I've seen, no.

Q. Okay. The application itself...does the application requests two wells in each unit or multiple wells?

A. It does not specify two wells. The application says...is asking to amend the field rules to allow more than one. Two is not specifically delineated---

Q. Okay.

A. ---which means three or four are possible.

Q. All right. Do you know approximately or can

you tell the Board approximately how many acres of coal are disturbed with regard to the penetration of a single seam of coal by a well bore?

A. How many acres?

Q. Yes, sir.

A. Probably about a quarter of an acre in a single seam.

Q. Okay.

A. As far as the mining regulations is the proximity, probably about a quarter of an acre.

Q. Does...what is the...what is the distance...in an 80 acre unit, what is the distance of the size approximately? Do you know what that is or have I asked you a questions that you're not prepared to answer?

A. Probably 8...the outer drilling window?

Q. Yes, sir.

A. A little over 1800 feet in square.

DONALD JOHNSON: Okay. That's all the questions I have. Does the Board have any?

BENNY WAMPLER: Any questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Mr. Swartz.

CROSS EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Do you have the application in front of you, Mr. Cecil?

A. Yes, sir.

Q. Do you see paragraph number six of the application?

A. Right.

Q. Could you read that to the Board?

A. The title is "Formation Subject to Application: All coalbeds and coal seams below the tiller seam down to the Red and Green Shells."

Q. What's the next sentence say?

A. "See Oakwood Field...", is that a...I've got a fax copy. Is that an I or a 1?

Q. It's a Roman Numeral I.

A. Okay. "See Oakwood Field I Rule OGCB3-90, as amended."

Q. What was OGCB?

DONALD JOHNSON: Virginia Oil and Gas Board.

A. It's the Oil and Gas Board.

Q. Did you lawyer just tell you that or did you know that?

A. Well, it's stated over here somewhere.

Q. No. My question was real simple. I heard your lawyer say what it was to you and I'm wondering if you're repeating what he told you or you actually knew that.

A. I'm repeating what he...I'm repeating what he told me.

Q. Okay.

A. But it does say it---.

Q. What does 3-90 refer to?

A. I have no clue.

Q. Have you ever read OGCB3-90?

A. I have not.

Q. Do you now if OC...OGCB3-90 gives boundaries of the Oakwood Field?

A. I have no clue.

Q. Do you know if it describes the pool? In other words, the coal seams within the pool?

A. I don't know.

Q. Okay. Look at the...look at the map. Do you have this...this map handy? Could you look at this for a second? You've got one. I just want to direct you---.

A. Okay.

Q. Do you know if the eastern boundary of this map is, in fact, the eastern boundary of the Oakwood Field?

A. I don't know.

Q. Do you know what happened in VGOB order 93-0216?

A. No, sir.

Q. Do you know if that Oakwood order 93-0216-0325 extended the Oakwood Field to the east and that it extended the boundary to what's depicted on this map?

A. I've stated I don't know.

Q. Okay. Do you know if the little squares on this map that Mr. Arrington provided the Board today and the little squares on Exhibit A-1 to the application are, in fact, Oakwood units mapped by the Gas and Oil Board?

A. Do I know that?

Q. Yeah.

DONALD JOHNSON: Mapped by the Oil and Gas Board.

Excuse me.

MARK SWARTZ: Right.

A. I don't know.

Q. Okay. You apparently understood the acreage that was in issue well enough to do a map for the Board today?

A. Right. I knew...I knew where the units were based on the map that we have.

Q. Do you all have that...so in this...so you were from the materials that you got from CNX able to say, well, these are the Oakwood units in which PMC has acreage?

A. Well, yes and no. Part of the information you see here comes from our own information. The units shaded in green came from---

Q. From the application?

A. ---what's stated right here at the top.

Q. Okay. And those are state units?

A. I assume they are.

Q. Okay. And what...I guess, what I'm saying to you is you could tell from this application because they identified units and the description of what they were seeking to affect, you could go to a map, it's readily available and you could say, okay, here is the area they're area talking about do we...or does PMC have any acreage in that area?

A. Right. I've done that right here.

Q. You're not suggesting that PMC has everything you've shaded in green that they own that?

A. No, those are...those are just the units.

DONALD JOHNSON: It's the boundary line shown on there, Mr. Swartz.

Q. Well, you've colored eight 80 acre units, which, I guess, would be 640 acres green, right?

A. Right.

Q. You're not representing to the Board that PMC has all the oil and gas or all of the coal---?

DONALD JOHNSON: I'll stipulate...I'll stipulate that there's a boundary line shown right...right along those units. We'll stipulate to that.

MARK SWARTZ: Well, I guess, I---.

DONALD JOHNSON: Mr. Swartz, we'll stipulate to that.

MARK SWARTZ: Thank you. But I wasn't asking about boundaries. I was asking him whether or not this was intended to send a message to this Board that PMC owns the 640 acres either coal or oil and gas or both that's cross marked green?

A. Did you say that was the intention?

Q. Correct.

A. No, it's not the intention.

Q. Okay. How much---?

DONALD JOHNSON: We'll stipulate, Mr. Swartz, that there's a boundary line shown on that exhibit.

Q. How much...how many acres does PMC own in any of these units? Can you tell us that today?

A. I cannot tell you that today.

Q. I mean, are some of these units PMC's interest dominus I mean, could they have like less than an acre?

A. Nope...no.

Q. Okay. What's the most that PMC has in any of these units?

A. Well, I've already stated that I don't know what the acreage is.

Q. What's the least?

A. Again, I have not calculated the exact acreage in each unit affected by this proposal.

Q. Have you ever heard the expression "tail wagging the dog"?

A. Today?

Q. Before today?

A. Not today.

Q. Do you know what means, in general?

A. Just what do you have on your mind here? I don't know.

Q. Well, if PMC---

DONALD JOHNSON: We'll stipulate to that. Go ahead.

Q. If PMC had 2 acres in one of these 80 acre units, would you...and was seeking to prevent a second well, would that be an example of kind of a "tail wagging the dog" situation to you?

A. It's a silly question.

DONALD JOHNSON: Give him a silly answer.

A. How big is the dog and how big is the tail?

Q. The tail is 2 acres and the dog is 78 acres.

A. Well, let me ask you this, do we or do we not have rights through the Oil and Gas Board?

DONALD JOHNSON: Don't get into a debate with him.

Q. Let me just ask you this, do you think it's fair for people who might have a 2 acre interest in an 80 acre unit to just say the 78 acre owners cannot develop? Do you think that's fair?

A. I think it depends on the circumstances.

Q. So, if it was somebody other than PMC it

wouldn't be fair, but if it's PMC it is fair? I mean, what are the circumstances that would make that fair?

A. I don't know. I mean, your---

DONALD JOHNSON: I don't know what this line of questioning has to do with this field application.

A. ---hypothetical questions are as worthless as the answers they invoke. So, if you would give me specifics, we'll try to give you a specific answer.

Q. Is there any mining in this area?

A. We have an idle mine in that area.

Q. Okay. Who has that mine?

A. It's currently leased to Jewell Smokeless.

Q. Do you know whether or not CNX regularly deals with Jewell Smokeless?

A. I imagine they do, yes.

Q. And do you know the coal operators who have mine plans have a right to notice of well locations and have a right to object and have all sorts of distance limitations? Do you understand that?

A. Yeah...yes, they do.

Q. Okay. In addition to this idled mine that Jewell Smokeless has, are there any mining permits on file?

A. No active permits.

Q. You're not arguing that...with the idea that a second well creates beneficial interference and more production over a short period of time, you're not arguing that engineering principal, are you?

A. I don't think I have, no.

MARK SWARTZ: That's all I have.

DONALD JOHNSON: I've got a few questions of follow up.

REDIRECT EXAMINATION

QUESTIONS BY MR. JOHNSON:

Q. Mr. Cecil, Mr. Swartz made a little...some statements in here about little tiny 2 acre units. Can you go through there and show the approximate percentage of each unit that PMC has? Just approximate it.

A. Right.

Q. Because Mr. Swartz has made a big deal out of little units and how it's insignificant and how we've somehow tried to mislead this Board. It's obvious on here, is it not correct, that there's a boundary line shown on this plat?

MARK SWARTZ: Before...before we get to an answer, I would object that it is unfair for a witness when I asked him to

quantify ownership in these individual units to tell me that he doesn't know and then for this attorney to ask him on redirect the same question and get an answer. I mean, he had his chance.

BENNY WAMPLER: I assume you object to that.

MARK SWARTZ: You bet.

BENNY WAMPLER: I sustain that.

DONALD JOHNSON: Mr. Wampler, just like they say in Court, the document speaks for itself, this map speaks for itself.

Q. Mr. Cecil, when you prepared this map you used and drew it up using the various units that have been established by the Board in these Oakwood Field Rules, is that correct?

A. That's right.

Q. And there have not been any well applications filed by CNX with respect to any of these areas, is that correct?

A. I don't recall any.

Q. The green crosshatched area?

A. Right. I don't recall any.

Q. How many different units are on the plat that include acreage owned by Pocahontas Mining?

A. 8.

Q. 8. And those are all shown on this plat, is that correct?

A. Yes.

Q. I think you've already testified that you've also attempted to show the wells that are close by that are near this...that are located on the Pocahontas Mining---

A. Right.

Q. ---Company property. And you've also shown some wells that are pooled with Pocahontas Mining property located just to the east of this application.

A. West.

Q. West, excuse me. West of the application.

A. Right.

DONALD JOHNSON: That's all the questions I have.

BENNY WAMPLER: Any questions from members of the Board?

BILL HARRIS: Mr. Chairman.

BENNY WAMPLER: Mr. Harris.

BILL HARRIS: I do have one. Mr. Cecil, the map that you've presented, I'm having...when I looked at that, I had trouble superimposing that on our grid and I don't know if it's because the letters and numbers that we have are just really tiny by...out of necessity because of the size...the overall size. But where does those acres fit in for the map that we have? Can

you kind of give us an idea where they lie?

ANDREW C. CECIL: Okay.

BILL HARRIS: So, they actually go to that eastern edge
or---?

(Board members confer with each other.)

BILL HARRIS: Okay. I think...I think I have that now
from other Board members here.

BENNY WAMPLER: Other questions?

ANDREW C. CECIL: It's just---.

BILL HARRIS: Thank you.

ANDREW C. CECIL: ---towards the top of this---.

BILL HARRIS: Yeah. I think the other Board
members---.

MARY QUILLEN: Yeah, we've identified it.

ANDREW C. CECIL: All right.

BILL HARRIS: The top row down two and then...or down
three and then over two or something like that.

MARY QUILLEN: You can see it better right here.

BENNY WAMPLER: Mr. Swartz, do you have any summary?

MARK SWARTZ: No.

BENNY WAMPLER: Mr. Johnson.

DONALD JOHNSON: I've got some summary. If Mr. Swartz

wants to go first since it's his application.

BENNY WAMPLER: He...he said he didn't have any.

MARK SWARTZ: I'm just going to stand on what you've heard.

DONALD JOHNSON: There's...there's several things going on here and I want to address them all if the Board...if the Board will allow me. The first...the first thing that I want to address with the Board is the fact that this Board has failed to issue any orders on any of the applications shown in the upper lefthand corner of the map that Consol has presented to you. I believe that this Board should not proceed with this process. I submit to you that you should not proceed with this process until you've issued orders. The legal processes in the Commonwealth with respect to the Gas and Oil Board are to the effect that there can be no appeal unless there's an order. What has happened, based on the testimony that Mr. Arrington has presented, is over a hundred wells have been drilled with no order, item one.

The next thing is, you know, we pulled out the rules of this Board. I've asked Mr. Arrington and Mr. Cecil with respect to Section 25-160-50 of the rules. Specifically, we looked at Section 5(C) in its entirety. Then we looked at...under Modification of Drilling Units we looked at item seven

and item nine of that section also and asked questions about those provision with regard to the application. Now, what is the response of me being able to show that the applications don't meet the requirements? It is, well, the Board understands. The Board knows how to address these issues. The Board can take all of its information. Mr. Wilson and the Board can figure it all out. Mr. Cecil, if he wants to spend a few days, he can figure it all out. What is the purpose of the application? It is notify the public. It is to notify the owners. If it takes the Board and Mr. Cecil a long time to figure it out because of all of its prior rulings that may or may not be recorded, if it takes that long, then what is the purpose of these rules. It's not to inform the Board. It's to inform the public and the owners as to what the application is all about. The Board established these rules. Yes, they also established the Oakwood Field Rules. I was here. It was...it was a very simply process. But the Board established the Oakwood Rules. The Board also established these rules, which required what goes in and an application. If they aren't there, then I believe that the application is improperly filed. They aren't there. It's admitted. They aren't there. How can the Board proceed on the application which is improperly drawn? I don't believe the Board can. I don't believe the Board should

be issuing orders or issuing rulings when it can't produce orders on the past...over the past year with regard to issues that are statements or evidence in this case.

The issue with regard to drilling of gas wells...multiple gas wells is always the same and that is gas wells penetrate coal, gas wells create areas in mines where there can't be any mining because there's a well there. Gas wells create problems. What is being requested is to multiple those problems. If you have a gas well in every unit, then you've got one problem. If you have a gas well...two gas wells in every unit, you have two problems. So, that's the coal prospective. It's very simple. It doesn't require a whole lot of thought. It would be great if you all were mining engineers. But it's very simple as to what...as to what coal operations are and how they are affected by gas.

With respect to...with respect to what's going on here, the application says that it is an application for infill drilling. Everyone refers to this as infill drilling. What does that mean, ladies and gentlemen? It means that gas wells are being drilled in an our area where there is already a well. Here, they come here to you and say, we don't care what we have done in the past because we've done zero. We want you to permit

us to change the rules with regard to this area. Change them profoundly and before any wells are drilled, allow for two wells to be drilled. Mr. Arrington even spoke up and said we might even save some money by drilling two wells at once. This is not an infill drilling application. It is an application to change the field rules in this...in this area as they have done in other areas and it's an application based on no technical presentation to this Board. Mr. Arrington showed you graphs. Okay, he pointed to a couple of graphs. They're nice. They're right here. There is a couple of graphs. He said that's our evidence. I asked him what his technical background is, he has none. He's not certified in anything except he can tell you that these graphs...what these graphs tell him. I submit to you that there has been no technical presentation to the Board.

Profoundly, I think the Board is moving too quickly, moving without...moving along and granting applications and not getting orders entered so that they those who are affected by them can exercise their legal rights. Moreover, this Board has been asked to allow drilling in an area...to allow infill drilling in an area that has only a few wells in it. We...we submit to you that this application should be denied for all of the reasons that I have stated and that at the minimum a new application should

be filed with this Board, which meets the legal requirements established by the Board and not for CNX's ability and not for the Board's ability, not even for Pocahontas Mining Company's ability, but for the ability of those people who are being served with this Board order and...or Board application and the people who the order of publication is applicable to. Thank you.

BENNY WAMPLER: Thank you, Mr. Johnson. Any further questions from members of the Board or comments?

DONALD RATLIFF: Mr. Chairman.

BENNY WAMPLER: Mr. Ratliff.

DONALD RATLIFF: Mr. Wilson, if we approve this application as presented have we taken away any of the legal rights? They still have to come through the permitting process for each well?

BOB WILSON: That's correct.

DONALD RATLIFF: The coal company still has its veto power?

BOB WILSON: That's correct.

DONALD RATLIFF: Mr. Chairman, I move that we approve this project.

BENNY WAMPLER: I have a motion to approve.

MARY QUILLEN: Second.

PEGGY BARBAR: I second.

BENNY WAMPLER: And a second. Any further discussion?

(No audible response.)

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

(All members signify by saying yes.)

BENNY WAMPLER: You have unanimous approval. Thank you.

DONALD JOHNSON: I hope you all will issue this order promptly. I think...I think you all have...I think what has gone on with the lack of orders is something that needs to be addressed by this Board.

BENNY WAMPLER: We're going to take a ten minute recess.

(Break.)

BENNY WAMPLER: We'll go ahead and call the meeting to order. The next item on the agenda is a petition from EOG Resources, Inc. for pooling of conventional gas unit PK M-25. This is docket number VGOB-06-0815-1697. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

TIM SCOTT: Tim Scott and Dave Perkinson for EOG

Resources.

BENNY WAMPLER: Get him sworn.

(David W. Perkinson is duly sworn.)

DAVID W. PERKINSON

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

DIRECT EXAMINATION

QUESTIONS BY MR. SCOTT:

Q. Mr. Perkinson, would you state your full name, please?

A. Yes. David W. Perkinson.

Q. And by whom are you employed?

A. EOG Resources.

Q. And would you please tell the Board what your job description is?

A. Landman.

Q. And are you familiar with and participate in the filing of this application before the Board?

A. Yes, I did.

Q. Is this unit located in the Pilgrim's Knob Field?

A. Yes.

Q. Which is an established field with the Board,
is that correct?

A. Right.

Q. And what unit do we have here?

A. Unit PK M-25.

Q. And according to the rules, this unit contains
a 180 acres, is that right?

A. Yes.

Q. Okay. Does EOG have drilling rights in this
unit?

A. Yes.

Q. And are there any respondents listed...
actually there's one respondent listed on B-3 that should be
dismissed from this application?

A. Yes.

Q. There are respondents---?

A. No, no.

Q. ---to be dismissed, is that right?

A. No.

Q. Okay. What percentage of this unit does EOG
have under lease?

A. 99.99%.

Q. So, that would leave us a .01% unreleased, is that right?

A. Uh-huh, yes.

Q. How was notice affected to the respondent listed on Exhibit B-3?

A. By certified mail.

Q. What other means was used by EOG? Was it published in the newspaper?

A. Yeah. The Bluefield Daily Telegraph.

Q. And what date was that published?

A. July the 20th, 2006.

Q. Are there any unknown parties in this unit?

A. No.

Q. Okay. Have proofs of publication and mail certification been filed with the Board?

A. Yes.

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

A. Yes.

Q. And is there a blanket bond on file with the department?

A. Yes, there is.

Q. What percentage of this unit is EOG seeking to pool?

A. It's .01%.

Q. Now, as far as negotiations with the party respondent listed on Exhibit B-3, are those...you're still attempting to reach an agreement, is that right?

A. Yes.

Q. And in the event you would reach an agreement, what would be the terms offered to Hard Rock?

A. One-eighth royalty, five dollars an acre per bonus for a five year term.

Q. Okay. Do you consider this to be fair compensation for a lease in this area?

A. Yes.

Q. Is there an escrow requirement for this particular unit?

A. No.

Q. And you are requesting the Board to pool those parties listed on Exhibit B-3, is that right?

A. Yes.

Q. And are you also requesting that EOG be named as operator for this unit?

A. Right.

Q. What address should be used for the communication if they're sent to this applicant?

A. Okay. It's EOG Resources, Inc., Southpoint Plaza One, 400 Southpoint Boulevard, Ste. 300, Cannonsburg, Pennsylvania 15317, Attention: Flavious Smith, Landman.

Q. Okay. And should all communications be sent to this address?

A. Yes.

Q. Okay. What's the total depth of this well, Mr. Perkinson?

A. Okay. It's 3,360 feet.

Q. Now, as far as pooling formations, you're asking for anything from the surface to the target depth to be pooled, is that right?

A. Yes.

Q. But you're excluding coal seams?

A. Uh-huh.

Q. Okay. What are the estimated reserves of this unit?

A. 300 mmcf.

Q. And what's the dry hole costs for this unit?

A. Okay. It's \$234,500.

Q. And the completed costs?

A. \$401,000.

Q. Now, was an AFE filed with the application?

A. Yes.

Q. And that was signed by EOG's engineering department, is that correct?

A. Yes. Yeah, Michael McCowan.

Q. Okay. Does this AFE include a reasonable charge for supervision?

A. Yes, it does.

Q. And, in your opinion, would the granting of this application prevent waste and protect correlative rights?

A. Yes.

TIM SCOTT: That's all the questions I have, Mr. Wampler.

BENNY WAMPLER: Any questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Do you have anything further?

TIM SCOTT: No, sir.

BENNY WAMPLER: Is there a motion?

MARY QUILLEN: Motion to approve.

BENNY WAMPLER: Is there a second?

PEGGY BARBAR: Second.

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

(All members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval.

TIM SCOTT: Thank you.

DAVID W. PERKINSON: Thank you.

BENNY WAMPLER: Go back to number eight on the agenda.

Next is a petition from Equitable Production Company for pooling of coalbed methane unit VC-536596. This is docket number VGOB-06-0718-1678. It's number eight. Is that where you said to go to or not?

JIM KAISER: No, we did that one.

MARY QUILLEN: We did that one.

BENNY WAMPLER: Oh, that's right.

JIM KAISER: That was the one with the Rasnakes.

BENNY WAMPLER: Never mind.

JIM KAISER: So we go to eighteen.

BENNY WAMPLER: I had...I had written it in and then

marked it out and didn't look at my mark. A petition from Equitable Production Company...strike that. A petition from Equitable Production Company for a well location exception for proposed well V-504594. This is docket number VGOB-06-0815-1698. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

JIM KAISER: Mr. Chairman and Board members, Jim Kaiser and Don Hall on behalf of Equitable Production Company. Mr. Hall was sworn in earlier on item number eight. The first two items we have are location exceptions and we have exhibits to pass out for both of those.

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

(Don Hall passes out exhibits.)

DON HALL

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

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

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

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

A. They do.

Q. Are you familiar with the application we filed seeking a location exception for well V-504594?

A. Yes.

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

A. They have.

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

A. It's owned by the Town of Coeburn. Equitable Production has a lease from the Town of Coeburn.

Q. Okay. We're seeking an exception from one well here and that being well V-504020?

A. Yes.

Q. Are there any correlative rights issues involved in this request?

A. No.

Q. And all of the land underlying the unit for that well is also owned by the Town of Coeburn?

A. Yes.

Q. And subject to the same lease?

A. Yes.

Q. Okay. Now, in conjunction with the exhibit that you've prepared and passed out to the Board, could you explain why we're seeking this location exception?

A. I'm showing that 4594 as shown on red on exhibit. Do you see two other wells with radius around them, with circles around them? Those are 2500 foot radius which anything outside of those circles would be a legal location. There's a location to the east that's not on this because it currently is not permitted is the reason we don't put it on it. But it's on the U. S. Forest Service BLM Tract and it's specifically spotted on their property. They tell us where we've got to put it. The reason...one of the reasons this location is where it is, it's from a topographic standpoint. As you can see from the contours around it, especially to the west and the north of this particular well, it's very steep, almost straight up and down. If we moved it beyond the two blue radius or blue circles that you on see on the map, we would be falling with the circle of the other well that's a BLM, which I should have put on this plat, but I didn't because it wasn't permitted. But the only legal spot for this

well would be down near the forks of the creek to the...almost due north of where the well is. Obviously, from looking at the terrain that's much too steep for the location. But this location is spotted there to maintain some spacing from the 4596, which is to the east. That's not on this map. Again, like I said, if you check the spacing from all three wells, that would throw us down near the forks of the creek to the north of the well.

Q. In the event this location exception were not granted, would you project the estimated loss of reserves?

A. 200 million cubic feet.

Q. What's the total depth of this proposed well?

A. 4,022 feet.

Q. Are you asking that...requesting that this location exception cover convention gas reserves to include the designated formations from the surface to the total depth drilled?

A. Yes.

Q. In your opinion, would the granting of this location exception be in the best interest of preventing waste, protecting correlative rights and maximizing the recovery of the gas reserves underlying the unit for V-504594?

A. Yes.

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

BENNY WAMPLER: Questions from members of the Board?

MARY QUILLEN: Mr. Chairman.

BENNY WAMPLER: Ms. Quillen.

MARY QUILLEN: I have just one question. Mr. Hall, exactly where is this located? I see where it says "National". Is this National Forest...the Jefferson National Forest?

DON HALL: Yes. It's south of Coeburn.

MARY QUILLEN: South of Coeburn?

DON HALL: Yeah. Southwest of Coeburn.

JIM KAISER: Southwest of Coeburn.

DON HALL: Yeah.

MARY QUILLEN: Out toward the Flatwoods?

DON HALL: No actually it's back toward the High Knob direction.

MARY QUILLEN: Oh, okay. Okay, okay.

DON HALL: Yeah.

BENNY WAMPLER: Other questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Do you have anything further?

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

BENNY WAMPLER: Is there a motion?

PEGGY BARBAR: Motion to approve.

MARY QUILLEN: Second.

BENNY WAMPLER: Second. Any further discussion?

(No audible response.)

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

(All members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval. Next is a petition from Equitable Production Company for a well location exception for proposed well V-501836. This is docket number VGOB-06-0815-1699. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

JIM KAISER: Mr. Chairman and Board members, again, Jim Kaiser and Don Hall on behalf of Equitable Production Company.

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

DON HALL

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Mr. Hall, do your responsibilities with Equitable include the land involved here and the surrounding area?

A. It does.

Q. Are you familiar with the application we filed seeking a location exception for V-501836?

A. Yes.

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

A. They have.

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

A. Equitable actually owns the oil and gas underlying this unit. It's not leased from anyone. We actually own it.

Q. Right. And we're seeking an exception from two different wells, those being numbers P-348 and P-347, correct?

A. Yes.

Q. Are there any correlative rights issues there?

A. No.

Q. Now, you've prepared another exhibit for this hearing for the Board and it's quite busy. Could you go through that for the Board and explain why we're seeking this exception and, I guess, in particular note the area that you've got outlined there in pink, I guess, it is?

A. Again, the wells that we're receiving a location exception from is P-348, which is the northern most well and 347, which is the eastern most well, but I put other wells on this exhibit to indicate with the 2500 foot radius around these wells to indicate where the spot for a legal location would fall. I've highlighted that in the red or pink highlight. As you can see, a state road goes through the property. There's a number of (inaudible). Of course, to the south of that road is a large flat area, which would be great for a well location. But that's in the process of being subdivided. So, we could not find any place within the legal location area there that we could stay away from houses and stay out of the areas that are going to be subdivided. So, that's the reason we ended up putting the well where it is.

Q. So, really the only place you could go would be to the southwest and you just stated why you can't do that?

A. Yeah.

Q. In the event this location exception were not granted, would you project the estimated loss of reserves?

A. 400 million cubic feet.

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

A. 5666 feet.

Q. Are you requesting the location exception cover convention gas reserves to include the designed formations from the surface to the total depth drilled?

A. Yes.

Q. In your opinion, would the granting of this location exception be in the best interest of preventing waste, protecting correlative rights and maximizing the recovery of the reserves underlying this unit?

A. Yes.

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

BENNY WAMPLER: Questions from members of the Board?

MARY QUILLEN: Mr. Chairman, I have one question.

BENNY WAMPLER: Ms. Quillen.

MARY QUILLEN: Are these other...these surrounding wells, these are all conventional wells also?

DON HALL: Yes.

BENNY WAMPLER: Other questions?

(No audible response.)

BENNY WAMPLER: Do you have anything further?

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

BENNY WAMPLER: Is there a motion?

MARY QUILLEN: Motion to approve.

BILL HARRIS: Second.

BENNY WAMPLER: Any further discussion?

(No audible response.)

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

(All members signify by saying yes, but Donnie Ratliff.)

BENNY WAMPLER: Opposed, say no.

DONALD RATLIFF: I abstain, Mr. Chairman.

BENNY WAMPLER: One abstention, Mr. Ratliff. Next is petition from Equitable Production Company for coalbed methane unit VC-537060. This is docket number VGOB-06-0815-1700. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

JIM KAISER: Mr. Chairman, Jim Kaiser and Don Hall.

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

DON HALL

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Mr. Hall, do your responsibilities include the land involved in this unit and the surrounding area?

A. Yes.

Q. Are you familiar with Equitable's application seeking a pooling order for EPC well number VC-537060, which was dated July the 14th, 2006?

A. Yes.

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

A. They do.

Q. Prior to filing the applications, were efforts made to contact each of the respondents listed at Exhibit B and an attempt made to work out a voluntary lease agreement?

A. Yes.

Q. And what is the interest of Equitable under lease in the gas estate in the unit?

A. We have 0% of the gas estate leased.

Q. And what is the interest under lease to Equitable in the coal estate in the unit?

A. We have 92.68% of the coal estate leased.

Q. Are all unleased parties set out at Exhibit B-3?

A. Yes.

Q. And so the portion of the gas estate that's unleased is 100%, correct?

A. Yes.

Q. And a portion of the coal estate that's unleased is 7.32%?

A. That's correct.

Q. Okay. Now, this is the...the gas estate again involves a familiar character in these proceedings, the Yellow Popular Lumber Company.

A. That's correct.

Q. And, again, you've continued...we've testified numerous occasions about what efforts have been made to locate

any possible shareholders or owners of that interest?

A. Yes, we've been looking for them for quite sometime. They disappeared in the early...in the late '20s.

Q. In your professional opinion, has due diligence been exercised to locate each of the respondents named---

A. Yes.

Q. ---in this application?

A. Yes.

Q. Are the addresses set out in Exhibit B to the application the last known addresses for the respondents?

A. They are.

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

A. Yes.

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

A. Yes.

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

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

Q. Did you gain your familiarity by acquiring oil and gas leases, coalbed methane leases and other agreements

involving the transfer of drilling rights in the unit involved here and the surrounding area?

A. Yes.

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

A. Yes.

Q. Now, as to...actually, we have got an adverse oil and gas lessee and we have an unleased...the coal estate. So, as to those parties listed at Exhibit B-3, do you agree that they be allowed the statutory options with regard to their interest within the unit: 1) Participation; 2) a cash bonus of five dollars per net mineral acre plus a one-eighth of eight-eighths royalty; or 3) in lieu of a cash bonus and one-eighth of eight-eighths royalty share in the operation of the well on a carried basis as a carried operator under the following conditions: Such carried operator shall be entitled to the share of production from the tracts pooled accruing to his or her interest exclusive of any royalty or overriding royalty reserved in any leases, assignments thereof or agreements relating thereto of such tracts, but only after the proceeds applicable to that

share equal, A) 300% of the share of such costs applicable to the interest of the carried operator of a leased tract or portion thereof; or B) 200% of the share of such costs applicable to the interest of a carried operator of an unleased tract or portion thereof?

A. Yes.

Q. Do you recommend that the order provide that elections by any respondents be in writing and sent to the applicant at Equitable Production Company, 1710 Pennsylvania Avenue, P. O. Box 2347, Charleston, West Virginia 25328, Attention: Leslie Smith, Regulatory?

A. Yes.

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

A. Yes.

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

A. Yes.

Q. Should the unleased respondents be given 30

days from the date that they receive the Board order to file their written elections?

A. Yes.

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

A. Yes.

Q. Does the applicant expect any party that elects to participate to pay in advance that party's share of actual completed well costs?

A. Yes.

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

A. Yes.

Q. Do you recommend that the order provide that if a respondent elects to participate but fails to pay their proportionate share of well costs, then their election to participate should be withdrawn and void and such respondent should be treated as if no initial election had been filed, in

other words, deemed to have leased?

A. Yes.

Q. Do you recommend that the order provide that where a respondent elects to participate but defaults in regard to the payment of well costs, any cash sum becoming payable to that respondent from the applicant be paid within 60 days after the last date on which such respondent could have made their payment of well costs?

A. Yes.

Q. Let's see, in this particular case, the Board needs to establish an escrow account---?

A. That's correct.

Q. ---to cover the proceeds from---?

A. Tract 1.

Q. ---just Tract 1, correct?

A. Yes.

Q. Okay. And who should be named operator under the force pooling order?

A. Equitable Production Company.

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

A. 2513 feet.

Q. The estimated reserves for the unit?

A. 230 million cubic feet.

Q. Are you familiar with the wells costs for this particular well?

A. Yes.

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

A. It has.

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

A. Yes.

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

A. The dry hole costs is \$128,592 and the completed well costs is \$315,901.

Q. Do these costs anticipate a multiple completion?

A. Yes.

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

A. It does.

Q. In your professional opinion, would the

granting of this application be in the best interest of conservation, the prevention of waste and the protection of correlative rights?

A. Yes.

MR. KAISER: Nothing further of this witness, Mr. Chairman.

BENNY WAMPLER: Questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Do you have anything further?

JIM KAISER: We'd ask that the application be approved as submitted.

BENNY WAMPLER: Is there a motion?

MARY QUILLEN: Motion to approve.

PEGGY BARBAR: Second.

BENNY WAMPLER: Second. Any further discussion?

(No audible response.)

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

(All members signify by saying yes, but Donnie Ratliff.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval.

DONALD RATLIFF: I abstain, Mr. Chairman.

BENNY WAMPLER: One abstention, Mr. Ratliff. Next is a petition from Equitable Production Company for establishment and pooling of conventional gas unit V-536798. This is docket number VGOB-06-0815-1701. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

JIM KAISER: Mr. Chairman, again, Jim Kaiser and Don Hall. We've got a revised exhibit. The only changes it's going to reflect are some address changes.

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

DON HALL

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Mr. Hall, again, your responsibilities include the land involved here in this unit and the surrounding area?

A. Yes.

Q. Are you familiar with Equitable's application

seeking to establish a unit and pool any unleased interest in the unit for EPC well V-536798, which was dated July the 14th, 2006?

A. Yes.

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

A. We do.

Q. Again, the only reason we have a revised B and B-3 is because we do have...we did some find some changes in the addresses?

A. Yeah. We had...the correct zip code for Bristol Tennessee because they had put Virginia on the exhibits, so we corrected it.

Q. That was the only thing?

A. Yeah.

Q. Okay. And prior to filing the application, were efforts made to contact each of the respondents listed in Exhibit B and an attempt made to work out a voluntary lease agreement?

A. Yes.

Q. Okay. What is the interest under lease to Equitable in this unit?

A. We have 89.39% leased.

Q. Are all unleased parties set out at B-3?

A. They are.

Q. So, the percentage remaining unleased is 10.61?

A. That's correct.

BENNY WAMPLER: Let me ask you while you're on that. On B-3 you have a Bruce Stidham, Coeburn, Virginia. Do you have more than that?

DON HALL: That's...that's all we can come up with. Evidently, he has been accepting it. They have been...he has been getting the mail.

SHARON PIGEON: It's being delivered that way?

DON HALL: Hum?

SHARON PIGEON: It's being delivered that way?

DON HALL: Yeah.

BENNY WAMPLER: And he's returning it?

DON HALL: Pardon.

BENNY WAMPLER: He's refusing to accept it?

DON HALL: No, I think he has accepted it.

BENNY WAMPLER: He has accepted it?

DON HALL: Yeah.

BENNY WAMPLER: Okay. All right.

JIM KAISER: Yeah.

BENNY WAMPLER: I was just checking. Proceed.

Q. With that being said, we don't have any unknown entities in this...respondents in this unit, right?

A. Right.

Q. Okay. And are they addresses set out to Exhibit B to the application, the last known addresses for the respondents?

A. Yes.

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

A. We are.

Q. Again, are you familiar with the fair market value of drilling rights?

A. Yes.

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

A. A five year term, a five dollar bonus with a one-eighth royalty.

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

A. They do.

JIM KAISER: Now, Mr. Chairman, at this time I'd ask

that the Board consider incorporating the testimony previously taken in item number 1700 regarding the election options afforded any unleased parties and the different times and responsibilities that go along with those options.

BENNY WAMPLER: They will be incorporated.

Q. Okay, Mr. Hall, this being a conventional well and not having any unknown or unlocateable parties, the Board does not need to establish an escrow account?

A. That's correct.

Q. And who should be named operator under the force pooling order?

A. Equitable Production Company.

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

A. 6212 feet.

Q. The estimated reserves for this unit?

A. 150 million cubic feet.

Q. Are you familiar with the well costs for this well?

A. Yes.

Q. Has an AFE been reviewed, signed and submitted to the Board?

A. It has.

Q. Does it represent a reasonable estimate of the well costs, in your opinion?

A. Yes.

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

A. The dry hole costs is \$252,151 and the completed well costs is \$466,194.

Q. Do these costs anticipate a multiple completion?

A. They do.

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

A. Yes.

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

A. Yes.

JIM KAISER: Nothing further of this witness, Mr. Chairman.

BENNY WAMPLER: Questions from members of the Board?

BILL HARRIS: Mr. Chairman.

BENNY WAMPLER: Mr. Harris.

BILL HARRIS: Actually, just an observation on your...I guess, we could go to Exhibit B...well, it's not really question. I just find it interesting, curious, I guess, that the Luther B. Stidham Heirs that none of those folks leased and---

JIM KAISER: We've pooled them on previous occasions.

DON HALL: On other occasions, we've pooled them. They're just not interested in leasing. Actually, they have told us that they...if you'll look at page three of the exhibit---

BILL HARRIS: Is this the new one that you handed out?

DON HALL: Yeah. It says, "or David Stidham and Bruce Stidham, if the deeds are recorded."

BILL HARRIS: Yes.

DON HALL: Some of these...some of these other Stidham Heirs have told us that the property has been conveyed to these two people, but there has never been any deeds recorded. So, we're notifying the owners of the record, who are the ones that...in the early part of this. But if and when the deed is ever recorded, I guess, these other two guys are going to own it. So, we're trying to cover our bases both ways there.

JIM KAISER: So, we could go from a lot of heirs to two heirs if they would just record the alleged deeds or provide

us---.

BENNY WAMPLER: Other---.

JIM KAISER: ---with a recorded copies.

BILL HARRIS: I have another question also.

BENNY WAMPLER: Mr. Harris.

BILL HARRIS: Far be it from me to question economies and this sort of thing. But did you say the reserve was a 150?

DON HALL: Yeah.

BILL HARRIS: And this depth is what 6---?

DON HALL: Yeah.

BILL HARRIS: I mean, this seems like a lot of money to spend.

DON HALL: Well, it does, but---.

BILL HARRIS: I mean, is the---.

DON HALL: ---at \$8 gas, I guess, it's economical.

BILL HARRIS: The economics gas now days, I guess, is...makes it...well, hum, okay. That's it.

BENNY WAMPLER: Other questions from members of the Board? Do you have anything further?

JIM KAISER: Mr. Chairman, we'd ask that the application be approved as submitted with the revised B and B-3 Exhibit.

BENNY WAMPLER: Is there a motion?

PEGGY BARBAR: Motion to approve.

MARY QUILLEN: Second.

BENNY WAMPLER: Second. Any further discussion?

(No audible response.)

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

(All Board members signify by saying yes, but Donnie Ratliff.)

BENNY WAMPLER: Opposed, say no.

DONNIE RATLIFF: I abstain.

BENNY WAMPLER: You have approval. One abstention, Mr. Ratliff. Next is a petition from Equitable Production Company for pooling of coalbed methane unit VC-536664, docket number VGOB-06-0815-1702. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

JIM KAISER: Mr. Chairman, Jim Kaiser and Don Hall, again, on behalf of Equitable Production Company.

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

DON HALL

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Mr. Hall, do your responsibilities include the land involved here and the surrounding area?

A. They do.

Q. Are you familiar with the application we filed seeking to pool any unleased interest in the unit for EPC well VC-536664, dated July the 14th, 2006?

A. Yes.

Q. Now, does Equitable own drilling rights in the unit involved here?

A. We do.

Q. And prior to the filing of the application, were efforts made to contact each of the respondents and an attempt made to work out a voluntary lease agreement?

A. Yes.

Q. What is the interest under lease to Equitable within the gas estate in this unit?

A. We have 99.98% leased.

Q. And the interest under lease to Equitable within the coal estate in this unit?

A. 98...99.98%.

Q. So, there isn't any conflicting claimants?

It's a fee mineral tract?

A. No. Right.

Q. Or a fee mineral unit, I think it is. So, the interest in the gas and coal estates that remains unleased is 0.02%?

A. Yeah, that's correct.

Q. Okay. We don't have any unknown entities in this unit either, do we?

A. No.

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

A. Yes.

Q. Are the addresses set out in Exhibit B to the application, the last known addresses for the respondents?

A. They are.

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

A. Yes.

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

A. Yes.

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

A. A five dollar bonus with a five year term with a one-eighth royalty.

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

A. They do.

JIM KAISER: Again, Mr. Chairman, we'd ask that the Board consider incorporating the testimony regarding the election options afforded any unleased parties that was previously taken with hearing number 1700.

BENNY WAMPLER: They will be incorporated.

Q. Okay, Mr. Hall, we've already established that we don't need an escrow account for this unit. Who should be named operator under the force pooling order?

A. Equitable Production Company.

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

A. 2300 feet.

Q. And the estimated reserves for the unit?

A. 230 million cubic feet.

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

A. It has.

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

A. Yes.

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

A. The dry hole costs is \$134,316 and the completed well costs is \$358,808.

Q. Do these costs anticipate a multiple completion?

A. Yes.

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

A. Yes.

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

A. Yes.

JIM KAISER: Nothing further of this witness, Mr. Chairman.

BENNY WAMPLER: Questions from members of the Board?

BOB WILSON: Mr. Chairman.

BENNY WAMPLER: Mr. Wilson.

BOB WILSON: Exhibit B-3 indicates gas estate only. I believe, according to testimony and the application, you're pooling gas estate and the coal estate?

JIM KAISER: I got you.

(Jim Kaiser hands an exhibit out.)

BOB WILSON: I thought I had called on that.

JIM KAISER: (Inaudible).

BOB WILSON: No, sir.

DON HALL: Didn't I get it attached to that?

JIM KAISER: Hum?

DON HALL: Did it not get attached to the application?

JIM KAISER: Yeah, we didn't have gas and coal. We just had gas.

BENNY WAMPLER: So, what did you give us?

JIM KAISER: I gave you a revised B-3 to reflect the gas and coal estate. In other words, we don't have a conflicting claim here in Tract 2. It's a fee mineral tract and it's unleased as to both estates.

BENNY WAMPLER: I just wanted it on the record. Thank you. Other questions?

JIM KAISER: A typo.

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

(No audible response.)

BENNY WAMPLER: Do you have anything further?

JIM KAISER: Mr. Chairman, we'd ask that the application be approved as submitted with a revised B-3?

BENNY WAMPLER: Is there a motion?

MARY QUILLEN: Motion to approve.

BILL HARRIS: Second.

BENNY WAMPLER: Second. Any further discussion?

(No audible response.)

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

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval. Next is a petition from Equitable Production Company for establishment and pooling of conventional gas unit V-536778. This is docket number VGOB-06-0815-1703. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

JIM KAISER: Mr. Chairman and Board members, again,

Jim Kaiser and Don Hall.

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

(Don Hall passes out revised exhibits.)

BENNY WAMPLER: Just for everybody's interest, we're going to go until about 1:00 and give the other people time to get away at lunch and have their lunch over with so that we might get in and out in an hour. So, we'll break from about 1:00 until 2:00 depending on where we are with this. You may proceed.

JIM KAISER: Mr. Hall, before we get started, can you explain what the revision are to these exhibits that you just passed out?

DON HALL: We found some additional addresses since the initial exhibit.

JIM KAISER: So, we found...some people in the original application that we were showing as being unknown and unlocateable we found addresses for?

DON HALL: Yeah.

JIM KAISER: Okay. But we haven't picked up any additional leases or anything?

DON HALL: No.

JIM KAISER: Okay.

DON HALL

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Are you familiar with the application that we filed seeking the establishment of the unit and to pool any money...any unleased interest for EPC well V-536778, dated July the 14th, 2006?

A. Yes.

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

A. Yes.

Q. And prior to the filing of the application, were efforts made to contact each of the respondents and an attempt made to work out a voluntary lease agreement?

A. Yes.

Q. What is the interest of Equitable under lease in this unit?

A. We have 95.93562% leased. To correct a question you just asked, we do have some...leased people that we've leased since the last---

Q. Oh, you do?

A. Yes. They're listed in---

Q. And that's reflected in this revised Exhibit B?

A. Yeah. It's reflected B-2.

Q. B-3?

A. Dismissed in B-2.

Q. Okay. So, all the new leases you picked are reflected as dismissed---?

A. Right.

Q. ---from the jurisdiction of the Board as leased parties in B-2, right?

A. That's correct.

Q. Okay. So...and all the unleased parties that still exist are set out in revised Exhibit B-3?

A. That's correct.

Q. And what interest remains unleased in the unit?

A. 4.06438%.

Q. All right. We do still have some unknown respondents in this unit, is that correct?

A. Yes.

Q. And you've made reasonable and diligent efforts to identify and locate these unknown heirs and are continuing to make those efforts?

A. Yes.

Q. In your professional opinion, has due diligence been exercised to locate each of the respondents named?

A. Yes.

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

A. They are.

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

A. Yes.

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

A. Yes.

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

A. Five dollar bonus with a five year term with a one-eighth royalty.

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

A. They do.

JIM KAISER: Again, Mr. Chairman, we'd ask that the Board consider incorporating the testimony regarding the

election options previously taken in item 1700.

BENNY WAMPLER: They will be incorporated.

Q. Mr. Hall, in this particular case, the Board does need to establish an escrow account for Tract 9 where we still have some unknowns, is that correct?

A. Yes.

Q. And who should be name operator under any force pooling order?

A. Equitable Production Company.

Q. And what's the total depth of this proposed well here?

A. 5475 feet.

Q. How much?

A. 5475 feet.

Q. I think that might be different than what we have in the application.

BENNY WAMPLER: That's what...that's the contract footage 5475.

JIM KAISER: I looked at 5395 in the application.

BENNY WAMPLER: The AFE had---

DON HALL: The AFE has got 5475.

JIM KAISER: Okay.

BENNY WAMPLER: So, you just amended on record here.

JIM KAISER: Amended it on record, yeah.

Q. And the estimated reserves for the unit?

A. 400 million cubic feet.

Q. Has an AFE been reviewed, signed and submitted to the Board?

A. It has.

Q. In your opinion, does it represent a reasonable well cost?

A. Yes.

Q. What is the dry hole costs and completed well costs for this well?

A. The dry hole costs for this well is \$240,808 and the completed well costs is \$464,147.

Q. Do these costs anticipate a multiple completion?

A. They do.

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

A. Yes.

Q. In your professional opinion, would the granting of this application be in the best interest of

conversation, the prevention of waste and the protection of correlative rights?

A. Yes.

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

BENNY WAMPLER: Questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Do you have anything further?

JIM KAISER: We'd ask that the application be approved as submitted with the revised exhibits.

BENNY WAMPLER: Is there a motion?

MARY QUILLEN: Motion to approve.

BILL HARRIS: Second.

BENNY WAMPLER: Second. Any further discussion?

(No audible response.)

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

(All Board members signify by saying yes, but Donnie Ratliff.)

BENNY WAMPLER: Opposed, say no.

DONNIE RATLIFF: I abstain, Mr. Chairman.

BENNY WAMPLER: Mr. Ratliff abstains. You have approval.

DON HALL: Thank you all.

BENNY WAMPLER: Thank you. Next is a petition from Chesapeake Appalachia, LLC for establishment and pooling of conventional gas unit 825947. This is docket number VGOB-06-0815-1704. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

JIM KAISER: Mr. Chairman and Board members, Jim Kaiser on behalf of Chesapeake Appalachia, LLC. Our witnesses in this matter will be Mr. Dennis Baker and Mr. Stan Shaw. We'd ask that they be sworn at this time.

(Dennis Baker and Stan Shaw are duly sworn.)

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

JIM KAISER: Mr. Wilson, do you want to mention the letter that has been sent out on this well? Our one unleased party has already elected to participate.

BOB WILSON: Yes. Again, I assume, just for the record with the...Mr. Justice appeared earlier, we received a letter from Buchanan Realty Company, LLC stating that they would like to announce their intention to participate in the well if pooling is approved. I think they're well aware that they have to wait for the order to come out. For the record.

BENNY WAMPLER: Okay. Thank you. You may proceed.

JIM KAISER: All right. Are we ready to go? We'll start with Mr. Baker.

DENNIS R. BAKER

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

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Mr. Baker, if you could state your name, who you're employed by and in what capacity?

A. My name is Dennis Baker. I'm employed by Chesapeake Appalachia as Senior Land Representative.

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

A. Yes, they do.

Q. Are you familiar with Chesapeake's application seeking to establish a drilling unit and pool any unleased interest in that unit for well number 825947, which was dated July the 14th, 2006?

A. Yes, I am.

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

A. Yes.

Q. And prior to the filing of the application, were efforts made to contact each of the respondents and an attempt made to work out a voluntary lease agreement?

A. Yes.

Q. What's the interest under lease to Chesapeake within the unit?

A. At the time of application, we had 94.107729% leased.

Q. And that would still be accurate at this time?

A. The same interest leased.

Q. All right. And you're familiar with the unleased interest within the unit?

A. Yes.

Q. And what percentage is that?

A. Unleased is 5.892271%.

Q. And are all unleased parties set out at Exhibit B-3?

A. Yes.

Q. And we do not have any unknown respondents

within this unit, is that correct?

A. That's correct.

Q. And are the addressees set out in Exhibit B to the application the last known addresses for the respondents?

A. Yes.

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

A. Yes.

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

A. Yes, I am.

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

A. A five dollar per acre consideration, a five year term with a one-eighth royalty.

Q. In your opinion, do the terms you've just testified to represent fair and reasonable compensation to be paid for drilling rights within this unit?

A. Yes.

JIM KAISER: Again, Mr. Chairman, with your permission, I'd like to incorporate the election option testimony taken previously in item 1700.

BENNY WAMPLER: That will be incorporated.

Q. Mr. Baker---?

BENNY WAMPLER: Before you do that, will you affirm that?

Q. Do you agree with the incorporation of that testimony, Mr. Baker?

A. Yes.

Q. Okay. I'm sorry. We don't have to establish an escrow account for this well, is that correct?

A. That's correct.

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

A. Chesapeake Appalachia, LLC.

JIM KAISER: That's all I have of this witness at this time, Mr. Chairman.

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

BENNY WAMPLER: Call your next witness.

STAN SHAW

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

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Mr. Shaw, could you state for the Board who you're employed by and in what capacity?

A. My name is Stan Shaw. I'm employed by Chesapeake Appalachia as a reservoir engineer.

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

A. Yes.

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

A. 5,755 feet.

Q. And the estimated reserves?

A. 400 million cubic feet.

Q. Are you familiar with the well costs for this well?

A. Yes.

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

A. Yes.

Q. In your professional opinion, does that AFE represent a reasonable estimate of the well costs?

A. It does.

Q. Could you state for the Board both the dry hole

costs and completed well costs for this well?

A. Dry hole costs are \$275,116 and completed well costs are \$532,154.

Q. Do these costs anticipate a multiple completion?

A. Yes.

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

A. It does.

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

A. Yes.

JIM KAISER: Nothing further of this witness, Mr. Chairman.

BENNY WAMPLER: Questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Do you have anything further?

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

BENNY WAMPLER: Is there a motion?

DONNIE RATLIFF: So moved, Mr. Chairman.

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

PEGGY BARBAR: Second.

BENNY WAMPLER: Second. Any further discussion?

(No audible response.)

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

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval. We go to number twenty-six now because twenty-five was withdrawn. Next is a petition for Appalachian...from Appalachian Energy, Inc. for pooling coalbed methane unit AE-166. This is docket number VGOB-06-0815-1705. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

JIM KAISER: Mr. Chairman, in this case, it will be Jim Kaiser, Jim Talkington and Frank Henderson on behalf of Appalachian Energy. I've got revised exhibits to pass out.

BENNY WAMPLER: All right.

(Jim Talkington and Frank Henderson are duly sworn.)

(Jim Kaiser passes out exhibits.)

BENNY WAMPLER: The record will show no others. You

may proceed.

JIM KAISER: Yeah, before...yes, sir, before we begin let me explain why you've got the revised exhibit. We inadvertently when we filed the application on the 16th of July showed some entities who were unleased on the gas estate side being leased on the coal estate side and that was wrong. So, this will reflect those changes and the correct percentages of the gas estate and coal estate that are unleased.

BENNY WAMPLER: All right. No other changes, just to correct that?

JIM KAISER: Right.

BENNY WAMPLER: Okay.

JIM KAISER: I'll start with Mr. Talkington.

JIM TALKINGTON

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

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

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

A. Jim Talkington, land agent for Appalachian Energy.

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

A. Yes, sir.

Q. Are you familiar with the application seeking a pooling order for this well?

A. Yes.

Q. And does Appalachian Energy, Inc. own drilling rights in this unit?

A. Yes, they do.

Q. And prior to filing the application, were efforts made to contact each of the respondents and an attempt made to work out a voluntary lease agreement?

A. Yes, they were.

Q. Okay. Now, based upon our new set of exhibits, which do include B, B-3 and E.

(Jim Kaiser confers with Jim Talkington.)

Q. Could you state for the Board the percentage of the gas estate that is under lease to Appalachian Energy at this time?

A. 89.24%.

Q. And the percentage of the coal estate that's under lease?

A. 90.02.

Q. Okay. And all unleased parties are set out at revised Exhibit B-3?

A. Yes.

Q. Okay. So, the percentages of the...the percentage of the gas estate that remains unleased at this time is 10.76%?

A. That's correct.

Q. And the percentage of the coal estate that remains unleased is 9.98%?

A. Correct.

Q. Okay. Amazingly enough, we do not have any unknown respondents in this unit, is that correct?

A. That's correct.

Q. In your professional opinion, was due diligence exercised to locate each of the respondents named in Exhibit B?

A. Yes, it was.

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

A. Yes, they were.

Q. Are you requesting this Board to force pool all unleased interest as listed at the new revised Exhibit

B-3?

A. Yes, we are.

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

A. Yes.

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

A. Five dollar bonus with a five year term with a one-eighth royalty.

Q. In your opinion, do the terms you've just testified to represent the fair and reasonable compensation to be paid for drilling rights in this unit?

A. Yes.

JIM KAISER: Again, if Mr. Talkington agrees to the testimony that taking earlier, we'd ask the Board to consider incorporating that testimony regarding election options afforded any unleased parties.

A. Yes.

BENNY WAMPLER: Do you agree with those?

A. Yes, sir.

BENNY WAMPLER: That will be incorporated.

Q. Okay. And in accordance with our revised set of exhibits, Mr. Talkington, we do need the Board to establish

an escrow account for Tract 2 of the unit, is that correct?

A. That's correct.

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

A. Appalachian Energy, Inc.

JIM KAISER: That's all I have for this witness, Mr. Chairman.

BENNY WAMPLER: Questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Call your next witness.

FRANK HENDERSON

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

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Mr. Henderson, if you would state for the Board who you're employed by and in what capacity?

A. Frank Henderson, President of Appalachian Energy.

Q. And you're familiar with the application we filed seeking a pooling order here?

A. Yes.

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

A. 1902 feet.

Q. And the estimated reserves for the unit?

A. 250 million.

Q. And you're familiar with the AFE that has been prepared, reviewed, signed and submitted to the Board as Exhibit C?

A. Yes.

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

A. Yes.

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

A. The dry hole costs \$157,150. The completed well costs \$352,468.

Q. Do these costs anticipate a multiple completion?

A. Yes.

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

A. Yes.

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

A. Yes.

JIM KAISER: Nothing further of this witness, Mr. Chairman.

BENNY WAMPLER: Questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Do you have anything further?

JIM KAISER: Mr. Chairman, we'd ask that the application be approved as submitted with the revised set of exhibits.

BENNY WAMPLER: Is there a motion?

DONNIE RATLIFF: So moved, Mr. Chairman.

BENNY WAMPLER: Motion to approve.

BILL HARRIS: Second.

BENNY WAMPLER: Second. Any further discussion?

(No audible response.)

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

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval. Next is a petition from Appalachian Energy, Inc. for pooling of coalbed methane unit AE-169. This is docket number VGOB-06-0815-1706. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

(Jim Kaiser passes out revised exhibits.)

JIM KAISER: Again, Mr. Chairman, it will be Jim Kaiser, Jim Talkington and Frank Henderson on behalf of Appalachian Energy, Inc.

BENNY WAMPLER: You just handed us revised exhibits.

JIM KAISER: Sir?

BENNY WAMPLER: You just handed us a---.

JIM KAISER: Yeah. These revised exhibits, it's the exact same revision that you saw on AE-166. Again, we had people respondents listed as being unleased on the gas estate side and leased on the coal estate side, which was incorrect. So, these revised exhibits will reflect the correct status of those...lease status of those folks and the correct percentages leased and unleased.

BENNY WAMPLER: Proceed.

JIM TALKINGTON

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Mr. Talkington, again, do your responsibilities include the land involved in this unit and the surrounding area?

A. Yes, they do.

Q. Are you familiar with the application that we filed seeking to pool any unleased interest in the unit for this well?

A. Yes, I am.

Q. Does Appalachian Energy, Inc. own drilling rights in the unit involved here?

A. Yes, they do.

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

A. Yes.

Q. At this time, what is the interest of Appalachian Energy, Inc. under lease in the gas estate within the

unit?

A. 84.42%.

Q. And the percentage of the coal estate that's under lease?

A. 87.86%.

Q. Okay. So, that will...are all unleased parties set out in Exhibit B-3?

A. Yes, they are.

Q. The revised Exhibit B-3?

A. Yes.

Q. And...so, the interest of the gas estate that remains unleased at this time is 15.58%?

A. That's correct.

Q. And the interest in the coal estate that remains unleased at this time is 12.14%?

A. That's correct.

Q. Again, it does not appear that we have any unknown interest owners?

A. No, we don't.

Q. And are the addresses set out in revised Exhibit B the last known addresses for all of the respondents?

A. Yes, they are.

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

A. Yes, we are.

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

A. I am.

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

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

Q. In your opinion, do the terms you've just testified to represent the fair and reasonable compensation to be paid for drilling rights within this unit?

A. Yes, they do.

JIM KAISER: Again, if Mr. Talkington agrees with the testimony taken earlier and the Board will allow it, we ask that we incorporate the testimony taken in hearing item number 1700 regarding the election options afforded any unleased parties.

A. I agree.

BENNY WAMPLER: Those will be incorporated.

Q. Okay. And, again, we do not need to...no wait a minute. We do need to. In this particular unit, the Board

needs to establish an escrow account to escrow proceeds attributable to Tracts 5,6 and 7, is that correct?

A. That's correct.

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

A. Appalachian Energy, Inc.

JIM KAISER: Nothing further of this witness, Mr. Chairman.

BENNY WAMPLER: Questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Call your next witness.

FRANK HENDERSON

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Mr. Henderson, do your responsibilities include the land involved here and the surrounding area?

A. Yes, sir.

Q. What's the total depth of this proposed well?

A. 2,245 feet.

Q. And the estimated reserves for this unit?

A. 250 million.

Q. Are you familiar with the well costs for this well?

A. Yes.

Q. An AFE has been reviewed, signed and submitted to the Board as Exhibit C?

A. Yes.

Q. In your opinion, does this AFE represent a reasonable estimate of the well costs?

A. Yes.

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

A. The dry hole costs \$143,869 and the completed well costs \$356,475.

Q. Do these costs anticipate a multiple completion?

A. Yes, they do.

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

A. Yes.

Q. In your professional opinion, would the granting of this application be in the best interest of conservation---?

A. Yes, it will.

Q. ---the prevention of waste and the protection of correlative rights?

A. Yes.

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

BENNY WAMPLER: Questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Do you have anything further?

JIM KAISER: Mr. Chairman, we'd ask that the application be approved with the revised set of exhibits.

BENNY WAMPLER: Is there a motion?

DONNIE RATLIFF: So moved, Mr. Chairman.

BENNY WAMPLER: Motion to approve.

BILL HARRIS: Second.

BENNY WAMPLER: Any further discussion?

(No audible response.)

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

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval. Next is a petition

from Daugherty Petroleum, Inc. for establishment and pooling of conventional gas unit DPI 1772, docket number VGOB-06-0815-1707. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

(Speakers come forward.)

BENNY WAMPLER: I'd ask everyone to introduce themselves starting with Mr. Kaiser.

JIM KAISER: Mr. Chairman, Jim Kaiser on behalf of Daugherty Petroleum. My witnesses in these matters and two more here later on the docket will be Ms. Monica Francisco and Mr. Brent Camp.

BENNY WAMPLER: Sir, would you identify---?

STEVE MINOR: My name is Steve Minor. I'm a member of the Virginia State Bar. I am here today on behalf of the land owner Allender and Browning, LLC. We have a small factual point to raise in connection with this application.

BENNY WAMPLER: Okay. We'll let him go forward and let you raise that. You may proceed.

JIM KAISER: I'd ask that Ms. Francisco and Mr. Camp be sworn at this time.

(Monica Francisco and Brent Camp are duly sworn.)

MONICA FRANCISCO

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

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Monica, could you state your name for the Board, who you're employed by and in what capacity?

A. I'm Monica Francisco, Vice President of the land department at Daugherty Petroleum.

Q. Now, you have not previously testified before the Board. I guess, first of all, Daugherty Petroleum is authorized to do business in Virginia and does have a blanket bond on file with the DGO, is that correct?

A. Yes.

Q. Okay. And since you haven't testified before, could you just briefly go over some of your work experience and educational background with the Board?

A. Certainly. I graduated from Lincoln Memorial University with a degree in business. I worked for Evan Energy running title, acquiring leases and pipeline. I worked for Consol running title in Buchanan and Russell County. I've been with Daugherty Petroleum for three years.

Q. Okay. Do your responsibilities include the

land involved here in this unit and the surrounding area?

A. Yes.

Q. And are you familiar with Daugherty's application seeking the establishment of a unit and the pooling of any unleased interest in that unit and that being the unit for DPI 1772, which was dated July the 14th, 2006?

A. Yes.

Q. Now, does Daugherty own drilling rights in the unit involved here?

A. Yes.

Q. And prior to the filing of the application, were efforts made to contact each of the respondents having an interest in the unit and an attempt made to work out a voluntary lease agreement with them?

A. Yes.

Q. And what is the interest under lease to Daugherty in the unit...within the gas estate in the unit at this time?

A. 68.40%.

Q. And are all unleased parties set out at Exhibit B-3?

A. Yes.

Q. So, that means that the interest that remains unleased within the unit is 31.60%?

A. Yes.

Q. Which is represented by Tracts 1,2 and 3, which are the Allender and Browning tracts, correct?

A. Yes.

Q. Okay. We don't have any unknown respondents within this unit, correct?

A. Yes.

Q. So, the addresses set out in Exhibit B to the application are the last known addresses for the respondents?

A. Yes.

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

A. Yes.

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

A. Yes.

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

A. Five dollar bonus, five year term, one-eighth royalty.

Q. In your opinion, do the terms that you just

testified to represent the fair market value of and the fair reasonable compensation to be paid for drilling rights within this unit?

A. Yes.

JIM KAISER: Now, if Ms. Francisco agrees and the Board will allow it, I would again like to incorporate the testimony taken previously in item 1700 regarding the statutory election options afforded any unleased parties or if Mr. Browning and his attorney would like me to go through them again, I'd be happy to.

STEVE MINOR: No.

JIM KAISER: Okay.

BENNY WAMPLER: Do you accept those terms?

MONICA FRANCISCO: Yes.

BENNY WAMPLER: Yes?

JIM KAISER: In this particular---.

SHARON PIGEON: We need an oral answer.

BENNY WAMPLER: I need you to say yes.

MONICA FRANCISCO: Oh, yes. I thought I did.

BENNY WAMPLER: Thank you. That will be incorporated.

Q. The Board does not need to establish an escrow account for this well, correct?

A. Yes.

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

A. Daugherty Petroleum. Do you want the address?

Q. No, that's fine.

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

BENNY WAMPLER: Any questions from members of the Board of this witness?

(No audible response.)

BENNY WAMPLER: Call your next witness.

BRENT CAMP

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

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

A. I'm Brent Camp. I'm Vice President of geology for Daugherty Petroleum.

Q. I think probably many years ago you did testify before the Board maybe on behalf of Equitable.

A. I have.

JIM KAISER: I don't know if the Board...would you like to hear Mr. Camp's work experience or---

BENNY WAMPLER: I'm probably the only one here that has heard it. So, it would probably be good to.

JIM KAISER: Okay. Yeah.

Q. If you would go over...if you kind of go through your educational background and experience for me.

BENNY WAMPLER: Except Mr. Wilson, of course.

A. I've got a Bachelor's of geology degree from the University of Kentucky. I begin working in Virginia in 1977 for Equitable Resources in the Nora Field when there was probably less than 50 wells in the field at the time. I was on the team that developed coalbed methane in the Nora Field. I met before this Board for the first spacing units for the coalbed methane. I permitted the first disposable Class II D disposal well in Virginia. At Evan Energy, I supervised and oversaw the construction and design of pipeline from Harlan County through Lee County down to Rogersville. So, I've been involved in Virginia for quite a long time.

Q. And what is the total depth of the proposed well under the plan of development here, that being 1772?

A. The total depth is expected to be 5850.

Q. And the estimated reserves for this unit?

A. 300 million cubic feet.

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

A. Yes, I am.

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

A. Yes.

Q. In your professional opinion, do those costs represent a reasonable estimate?

A. Yes, they do.

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

A. The dry hole cost is \$217,621.25. The completed well costs would be \$399,166.25.

Q. Do these costs anticipate a multiple completion?

A. Yes, they do.

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

A. Yes, it does.

Q. In your professional opinion, would the

granting of this application be in the best interest of conservation, the prevention of waste and the protection of correlative rights?

A. Yes, it would.

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

BENNY WAMPLER: Questions from members of the Board?

MARY QUILLEN: Mr. Chairman, I have a question.

BENNY WAMPLER: Ms. Quillen.

MARY QUILLEN: Could you repeat the reserves?

BRENT CAMP: 300 million.

BENNY WAMPLER: Other questions?

BILL HARRIS: Yes, Mr. Chairman.

BENNY WAMPLER: Mr. Harris.

BILL HARRIS: I just have a question about the well location plat that we have. Just a point of information, within the plat itself, not the external stuff, it talks about Kentucky state plain coordinates. Where...where are we located here?

JIM KAISER: That should say Virginia. If you look down...if you look down in the legend it says---

BILL HARRIS: Yeah...yeah...yeah. I was saying...in the rest of it it does say Virginia.

JIM KAISER: It says Virginia in the legend. But, yeah, the---.

BILL HARRIS: I was just curious.

JIM KAISER: That's a mistake.

BILL HARRIS: And they are different numbers. That was why I asked the question because Virginia...well, there's...well, I presume Kentucky does have a state plain coordinate system. Is it not aligned with ours in such a manner that the numbers are---?

JIM KAISER: Gosh, that's something I couldn't tell you. Do you know?

BRENT CAMP: I believe they are two separate systems.

BILL HARRIS: Systems. Even when they butt up, they don't...I mean, there's no common reference at that point other than, you know, this---.

BRENT CAMP: There's probably some kind of a program that can convert from one to the other.

BILL HARRIS: Yeah, yeah. But this is in Virginia, I guess is what I'm asking.

BRENT CAMP: Yes.

JIM KAISER: Yes, sir. Lee County, Virginia. I would direct you to the legend and then we can file a corrected

plat that takes that information in the lower lefthand corner off there.

BENNY WAMPLER: So that's not showing the state line there? You're not at the state line?

BRENT CAMP: No.

JIM KAISER: No, these aren't anywhere near the state line.

BRENT CAMP: What I would say, just speaking off the cuff, is some companies, coal companies and the like, like to see the Kentucky Plains Coordinates also because they reference off of that.

JIM KAISER: Yeah. So, we'll do whatever you want. If you want us to...if that's okay or we can remove them.

BENNY WAMPLER: A corrected plat.

BOB WILSON: Yeah. When I get one for the permit application, I don't want that on there.

JIM KAISER: Okay.

SHARON PIGEON: I don't think we should have it on there.

BENNY WAMPLER: Yeah, right. Other questions?

(No audible response.)

BENNY WAMPLER: Do you have anything further?

JIM KAISER: Not at this time, Mr. Chairman.

BENNY WAMPLER: Is there a motion?

SHARON PIGEON: Mr. Minor.

BENNY WAMPLER: I know. You said you wanted to make a statement.

STEVE MINOR: Yes. I can bring this small fact out through Mr....question and answer with Mr. Browning. But if the Chairman will permit, I would describe that point and then---

BENNY WAMPLER: Go ahead and do that.

STEVE MINOR: ---go ahead if there's any need for any questioning. Mr. Browning, on the plat attached to the application, is the owner of parcels of one, two and three. The western boundary...the western most parcel shows a jagged boundary. Mr. Browning would testify that his understanding of the shape of the boundary on that side is a straight line roughly on the dimension of what's shown in---

BENNY WAMPLER: So the jagged part shouldn't be there?

STEVE MINOR: This part, right. He's also got from his neighbor, Mr. Palmer, who is the owner of the blue map. He has a homemade overlay of the wells including the well to the north and west. So, this is the 1772 property and this the 741 well

to the north and west. And you can see from Mr. Palmer's homemade overlay a different straight line boundary such that part of the circle of the acreage that's sought to be pooled by this application, there's another...the boundary extends so there's another land owner who is unaccounted for in this application by a small sliver in the northwest part of this circle.

BENNY WAMPLER: Show me 772 on there again.

STEVE MINOR: 772 is right here.

BENNY WAMPLER: Okay.

STEVE MINOR: 741 or 1741 is up here. The boundary shown on 741 is this straight line---

BENNY WAMPLER: Right.

STEVE MINOR: ---which does not correspond with this jagged line here. So, it's somewhere along this way is the way the boundary goes, to Mr. Browning's understanding, and the difference has the effect on this application in the sense that there is a small sliver between where this boundary intercepts...north/south boundary intercepts the east/west boundary that allows a bit of this acreage of whoever the next owner is to the west to be included in the property that is sought to be made a part of 1772.

BENNY WAMPLER: Okay. We'd ask you to address that.

JIM KAISER: Yeah. We have talked with Mr. Minor and Mr. Browning out in the hallway earlier today regarding this. Basically, stated that, you know, that it is a homemade map, but it may very well be correct. We have a certified well plat. What we'd like to do with both their approval and the Board's approval would be to go forward with what we have today and then take that information and give it to Daugherty's surveyor. If it turns out that they're correct then, obviously, we'd ask that this application be dismissed and we'd file an application to repool this unit or to pool this unit with the correct boundaries and correct information or you'd rather, we can just continue it, I guess.

BENNY WAMPLER: I think we'd rather continue it than to do that. So, that's...with the Board's nod that's what we will do and let you work that out and then that way you don't have to represent testimony. You don't have to show back up if this is correct.

JIM KAISER: If this is correct?

BENNY WAMPLER: Yes.

STEVE MINOR: That's all that we had to say about this. We have nothing...no other evidence on the next one.

ROBERT PALMER: I got something to bring up.

BENNY WAMPLER: I need...I need your name for the record.

ROBERT PALMER: Robert Palmer. I'm the owner of the 134 acres.

MR. BROWNING: He's the one...he's the one that's got the blue map.

JIM KAISER: He's the owner of Tract 6.

ROBERT PALMER: Wherever you people go in and you mine or you take and drill a well you cut timber, okay, and you never let the landowner know, who owns the property, as to who gets the timber and someone else comes in and hauls your timber off. The last well you dug on my...you drilled on my property there is about 5 acres there that was disturbed. The timber was cut. I go down there and I find out that the timber had been hauled off. They don't know who hauled it off. Now, that is ridiculous. I think someone in the state should be responsible for holding these companies responsible for making sure that the land owner gets reimbursed for his timber.

BENNY WAMPLER: Well, you're suppose to get notice that they're putting a well there---.

ROBERT PALMER: And they don't tell you...they start drilling a well and no one ever notified me when they was going

to drill the well or nothing.

BENNY WAMPLER: And it was on your property?

ROBERT PALMER: It was on my property. Right here is...the well number was 755.

JIM KAISER: Mr. Chairman, that well was drilled by Daugherty's predecessor and interest, Evan Energy, and not by Daugherty.

ROBERT PALMER: Daugherty had the contract on it at the time. Daugherty is paying the dividends on the---

JIM KAISER: I stand corrected.

BENNY WAMPLER: Well number 755?

ROBERT PALMER: 755.

JIM KAISER: 1755.

MONICA FRANCISCO: 1755.

ROBERT PALMER: I go down there and I said, "Where is the timber at?" They said, "Someone hauled it off." I said, "Who?" "I don't know."

BENNY WAMPLER: But you never received notice of the well?

ROBERT PALMER: I never received notification as to when they was going to start drilling or nothing. I think this is ridiculous.

BENNY WAMPLER: Of course, that's not subject today's hearing, but it is of interest to us to have that information.

ROBERT PALMER: That's the reason why I can down here.

BENNY WAMPLER: Mr. Wilson.

BOB WILSON: I think the pertinent question would be, did he get notified of the permit application?

BENNY WAMPLER: That's what I was---.

ROBERT PALMER: I got notified of the permit application. But when they was going to start drilling the well to take and disturb the land, no one notifies me.

BENNY WAMPLER: Well, the law and regulation require you to be noticed of the permit application and you have specific rights to object in that permit application that's set out in law and regulation. As far as to what each stage of how they're going to conduct the work, there's nothing that we have authority over to require subsequent notices, if that makes sense to you. I mean---.

ROBERT PALMER: No, it doesn't make any sense. It sounds like somebody is just putting the shaft to someone.

BENNY WAMPLER: Well, I mean, you can talk to your legislature, sir. I mean, this is what...our law covers initial notice to you regarding the permit. If it's on your land, then

you have...you do have a say so on your land within the permit area as far as we're concerned. Outside of that, you know, that's you and them or you and the Courts.

BILL HARRIS: Mr. Chairman, let me just ask a question. I mean, he brought up an interesting point about the timber. I know we've never addressed that and that actually doesn't...probably doesn't...just out of curiosity, what happens traditionally in these cases? I mean, what normally happens? Surely that timber is not just open for grabs...I mean, up for grabs for anybody who just comes along. I mean, what...what...is there a procedure for that?

BOB WILSON: Our regulation requires that timber that's cut on our permitted sites be handled in one of two ways. It's either it can be actually cut up and used as sediment control in what we refer to as brush barriers, on steep terrain, it's one of the best methods of sediment control; or it has to be stacked out for future use. Now, we do not control that future use. We do not determine if the operator...many times the operators pay expenses, which include the cost of the timber. They then dispose of the timber as they want to. Other operators make deals with the landowners. We have absolutely nothing to do with the actual handling of that timber other than how it is handled during

the site construction. To reiterate what Mr. Wampler was saying, the purpose of notification of the permit application is to basically put the land owner on notice that these actions are going to take place on their property and give them the opportunity to be involved if they want as to how those operations are to take place.

ROBERT PALMER: What is someone supposed to do after he gets a permit? Go down every day to find out...to see if...drive twenty-five or thirty miles every day just to see when they're going to start?

BOB WILSON: Again, we have no control over that.

ROBERT PALMER: See that's...that's the thing right there that bothers me. At the price of gasoline, a fellow can't afford to drive it too many times for what you get out of it.

BENNY WAMPLER: We just don't have any jurisdiction on that part of it, sir.

ROBERT PALMER: Okay. Okay, thank you.

BENNY WAMPLER: So, everybody is in agreement to continue this?

JIM KAISER: Well,---.

BENNY WAMPLER: You're not---?

JIM KAISER: ---I'd like to ask that the Board

conditionally approve this application on the chance that this plat is correct and then that way we don't have to come back and redo any testimony or anything else. We can condition it upon a letter or some sort of agreement signed by myself and Mr. Minor that it turns out that this plat is correct.

STEVE MINOR: The affected party is the missing party. So, I---.

JIM KAISER: If there is one.

STEVE MINOR: If there is one, yeah. So, I can't say other than Mr. Browning doesn't disagree with that manner of proceeding. But whether the Board does is another matter.

(Board members confer.)

BENNY WAMPLER: I mean, I'm still in the mood of continuing it until it's resolved because we don't have a...we have a dispute here. As you mentioned, we don't have...you know, you don't have to bring your witnesses back. We already have testimony---.

JIM KAISER: That's fine.

BENNY WAMPLER: ---on record---.

JIM KAISER: That's fine.

BENNY WAMPLER: ---if it's correct and you agree to that, something in writing, you don't have to come back and we'll

go from there. Otherwise...and we can...we can just vote on it next month.

JIM KAISER: That's fine.

STEVE MINOR: I understood you've already continued some of the applications related to this---.

BENNY WAMPLER: Withdrew one.

STEVE MINOR: ---vicinity.

JIM KAISER: Well, we withdrew 1773, the location exception, because we're going to move it to a legal location, which will change the unit. So, we withdrew the force pooling and we'll come back next month on that.

BENNY WAMPLER: Okay. This is...this is continued until next month.

BOB WILSON: Mr. Chairman.

BENNY WAMPLER: Mr. Wilson.

BOB WILSON: Could I suggest...the same thing that we talked about earlier today. Question how long they think it's going to take to get this resolved. If they think they can reasonably do it by next month, if not, let's put it further down the road. If they think they can reasonably get it done by next month, yeah, I think that would be great to bring it back next month.

JIM KAISER: We've only got until Friday.

BILL HARRIS: Yeah, because there's...there would be a notice issue, wouldn't there, if this involves another person? I mean, you have to have a minimum amount of time to notify those people.

BENNY WAMPLER: So, do you want to continue it until October?

(Jim Kaiser, Steve Minor, Monica Francisco and Mr. Browning confer.)

BENNY WAMPLER: Just cut the record.

(Off record.)

BENNY WAMPLER: It's continued until September. All right. It's 1:00 o'clock. Board, do you want to break for lunch?

JIM KAISER: I could do these next two in ten minutes. Come on.

BENNY WAMPLER: The next person will want to do theirs in ten.

JIM KAISER: Well, no, the next one will take a little longer than ten minutes.

BENNY WAMPLER: Yeah, right. Let's just break for lunch.

(Lunch.)

BENNY WAMPLER: Okay. We'll call the meeting to order. We're back on record. The next item on the agenda is a petition from Daugherty Petroleum, Inc. for establishment of pooling...establishment and pooling of conventional gas unit DPI 1774. This is docket number VGOB-06-0815-1709. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

JIM KAISER: Mr. Chairman and Board members, Jim Kaiser, Monica Francisco and Brent Camp on behalf of Daugherty Petroleum. I do...I've got another revised exhibit. What happened on this one, on the total percentage leased on the one we filed with the application, it said 99.6 and we didn't round it up so that...it needs to say 99.69, so that the unleased percentage 0.31 would add up to 100.

(Jim Kaiser hands out revised exhibits.)

BENNY WAMPLER: Okay. You may proceed.

MONICA FRANCISCO

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Okay. Ms. Francisco, do your responsibilities

include the land involved here and the surrounding area?

A. Yes.

Q. Are you familiar with Daugherty's application seeking to establish a unit and pool any unleased interest for DPI well number 1774, which was dated July the 14th, 2006?

A. Yes.

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

A. Yes.

Q. And prior to the filing of application, were efforts made to contact each of the interest owners in the unit and an attempt made to work out a voluntary lease agreement with each of them?

A. Yes.

Q. And what is the interest under lease to Daugherty within the unit at this time?

A. 99.69%.

Q. And are all unleased parties set out at Exhibit B-3?

A. Yes.

Q. So, the interest at this time that remains unleased is 0.31%?

A. Yes.

Q. And we don't have any unknown respondents in the unit, correct?

A. Correct.

Q. And the addresses set out in revised Exhibit B to the application are the last known addresses for the respondents?

A. Yes.

Q. Are you requesting this Board to force pooling all unleased interest as listed at Exhibit B-3?

A. Yes.

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

A. Yes.

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

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

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

A. Yes.

JIM KAISER: If Ms. Francisco agrees, Mr. Chairman, I'd like to incorporate the election...statutory election option testimony taken in...previously in the hearing 1700.

BENNY WAMPLER: Do you agree?

A. I do, yes.

Q. And we do not need to establish---?

BENNY WAMPLER: That will be incorporated.

Q. ---account for this unit, correct?

A. Correct.

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

A. Daugherty Petroleum.

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

BENNY WAMPLER: Questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Call you next witness.

BRENT CAMP

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Mr. Camp, what is the proposed depth of the

well?

A. 5670.

Q. And the estimated reserves for the unit?

A. 300 million cubic feet.

Q. Are you familiar with the well costs for this

well?

A. Yes, I am.

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

A. Yes, it has.

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

A. Yes, it does.

Q. Could you state both the dry hole costs and completed well costs, please?

A. Yes. The dry hole costs is \$209,127.25. The completed well costs is \$388,926.25.

Q. Do these costs anticipate a multiple completion?

A. Yes, they do.

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

A. Yes, it does.

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

A. Yes, it would.

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

BENNY WAMPLER: Questions from members of the Board?

BILL HARRIS: I have a question---

BENNY WAMPLER: Mr. Harris.

BILL HARRIS: ---about the dry hole costs. Could you state that again, the dry hole and then the completed?

BRENT CAMP: Well, the dry hole cost would be anticipating that the hole was dry. On the AFE, you can see a total down there, you'll see the 338.

BILL HARRIS: Right. Yeah.

BRENT CAMP: That's considering that you go ahead and do a completion job and do all that work and then deem it dry. If you deem it dry at the point of drilling it and logging it and determine that you don't want to go on for completion then it's the 209.

BILL HARRIS: Where is the 209?

BENNY WAMPLER: Right up here.

MARY QUILLEN: It's in the middle of the matrix.

BILL HARRIS: Ah, okay, yes. Total drilling?

BENNY WAMPLER: Yes.

BILL HARRIS: I see. Thank you.

BENNY WAMPLER: Other questions?

BILL HARRIS: One other comment.

BENNY WAMPLER: Sure, Mr. Harris.

BILL HARRIS: The plat, again, has the Kentucky coordinates listed.

JIM KAISER: Right. They all do. We'll get all of those corrected.

BILL HARRIS: Yeah. That's it for me.

BENNY WAMPLER: Any other questions?

(No audible response.)

JIM KAISER: Do you have anything further?

(No audible response.)

JIM KAISER: We'd ask that the application be submitted with the revised Exhibit B and then the revised plat to follow.

BENNY WAMPLER: Is there a motion?

MARY QUILLEN: Motion to approve.

BILL HARRIS: Second.

BENNY WAMPLER: Second. Any further discussion?

(No audible response.)

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

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval. Next is a petition from Daugherty Petroleum, Inc. for establishment and pooling of conventional gas unit DPI 1775. This is docket number VGOB-06-0815-1710. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

JIM KAISER: Again, Mr. Chairman, Jim Kaiser, Monica Francisco and Brent Camp. I'm passing out a revised plat and mineral interest sheet and Exhibit B. What changed here was when we originally filed it we Tract 7 as being, I believe, a Johnny Robins. It turned out that it was actually (inaudible).

(Jim Kaiser passes out revised exhibits.)

MARY QUILLEN: So, this George Robins has no---.

JIM KAISER: No interest in the unit.

MARY QUILLEN: Okay.

BENNY WAMPLER: You may proceed.

JIM KAISER: George Robins. I'm sorry, I thought it was Johnny.

MONICA FRANCISCO

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Ms. Francisco, do your responsibilities include the land involved here and the surrounding area?

A. Yes.

Q. Are you familiar with the application we filed seeking to establish a unit and pool any unleased interest---

A. Yes.

Q. ---for well 1775?

A. Yes.

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

A. Yes.

Q. And prior to the filing of application, were efforts made to contact each of the parties owning an interest

in the unit and an attempt made to work out a voluntary lease agreement?

A. Yes.

Q. And then what is the interest under lease to Daugherty in the unit at this time?

A. 60.34%.

Q. And are all unleased parties set out at Exhibit B-3?

A. Yes.

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

A. 39.66%.

Q. And we don't have any unknown parties in the unit, correct?

A. Correct.

Q. And are the addresses set out in revised Exhibit B to the application the last known addresses for the respondents?

A. Yes.

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

A. Yes.

Q. Are you familiar with the fair market value of

drilling rights in this unit?

A. Yes.

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

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

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

A. Yes.

JIM KAISER: Again, Mr. Chairman, we'd ask that, if Ms. Francisco agrees, that we incorporate the election option testimony.

BENNY WAMPLER: Do you agree?

A. Yes.

BENNY WAMPLER: That will be incorporated.

Q. The Board does not need to establish an escrow account for this unit, correct?

A. Correct.

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

A. Daugherty Petroleum.

JIM KAISER: That's all I have of this witness, Mr. Chairman.

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

BILL HARRIS: Well, I have a question. Excuse me, yes.

BENNY WAMPLER: Mr. Harris.

BILL HARRIS: Where is this in relation to the case that we just did, the well 1774?

MONICA FRANCISCO: It is to northeast.

BILL HARRIS: To the...so is there any, what's the word, contiguous area that I could like compare these or...it's to the east?

BENNY WAMPLER: Northeast.

MONICA FRANCISCO: To the northeast.

BILL HARRIS: Northeast. Okay. I guess, one of my concerns and, again, I look at the map, there's a latitude and longitude reference up here in the corner. It's the same on both even though the state plain numbers are different. Is that...I don't know enough about that GPS system. But it's, you know, longitude 83° 0' 0" latitude 36° 50' 0" and that's the same as for these. I'm not sure what I'm looking at.

MONICA FRANCISCO: I have a map. Would you like a map to see where these are located?

BILL HARRIS: Well, what I really wish I had done was gone to the car and gotten my map of Virginia just to find out where these are located. I know they're in Lee County or near Lee County. But is there something that---

MONICA FRANCISCO: They are in Lee County, yes.

BILL HARRIS: I guess, I'm just curious about how close those are.

BRENT CAMP: The wells are probably in the range of 2500 to 3000 feet apart.

BILL HARRIS: Apart?

BRENT CAMP: Yeah.

JIM KAISER: Well, it had better be at least 2500 feet apart.

MONICA FRANCISCO: Yeah, at least 2500.

BILL HARRIS: Yeah, they have to be...yeah, let's hope they're at least that. There's nothing serious about it. I was just curious as to what...as to how they lay together.

DONNIE RATLIFF: The longitude and latitude can't be the same.

BENNY WAMPLER: Unh-huh.

BILL HARRIS: Okay. Don't worry about it. Thank you.

BENNY WAMPLER: You are going to correct these plats anyway?

(No audible response.)

BILL HARRIS: Yeah, the Kentucky reference.

BENNY WAMPLER: Other questions?

(No audible response.)

BENNY WAMPLER: Call your next witness.

BRENT CAMP

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Mr. Camp, what is the proposed depth of the well?

A. Projected TD is 5770.

Q. And the estimated reserves for the unit?

A. 300 million cubic feet.

Q. Are you familiar with the well costs?

A. Yes, I am.

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

A. Yes.

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

A. Yes, it does.

Q. And state both the dry hole costs and completed well costs for this well?

A. The dry hole costs is \$212,582.25. The completed well costs is estimated to be \$393,351.25.

Q. Do these costs anticipate a multiple completion?

A. Yes, they do.

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

A. Yes, it does.

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

A. Yes, it would.

JIM KAISER: Nothing further of this witness, Mr. Chairman.

BENNY WAMPLER: Questions from members of the Board?

(No audible response.)

JIM KAISER: Do you have anything further?

JIM KAISER: We'd ask that the application be approved as submitted with the corrected plat to follow taken off the Kentucky state plain coordinate information.

BENNY WAMPLER: And you're going to check the longitude and latitude of the corner, the question that has come up on that as well?

(No audible response.)

BOB WILSON: Excuse me. Mr. Chairman.

BENNY WAMPLER: Mr. Wilson.

BOB WILSON: I believe, if I understood the question on the latitude and longitude properly, those are just the nearest lines to that particular well site.

BILL HARRIS: The nearest major lines?

BOB WILSON: Yeah.

BILL HARRIS: Yeah, I noticed after I asked him the question that the actual wells have a lat and longitude that's different. I mean, those do vary somewhat. So, this is like a reference to the next...to the main lines that are on the---

BOB WILSON: It's reference to the nearest major latitude and longitude lines on the topographic sheets.

BILL HARRIS: Okay.

BOB WILSON: And if you'll see there---

JIM KAISER: And then it lists the distances either north or west of---

BOB WILSON: And if you'll see there are measurements...there are measurements beside each of those that tell how far that well actually is away from---

BILL HARRIS: Oh, from that reference point. From that intersection of those. Okay, yeah. See, again, this is just my ignorance of the---

BOB WILSON: Sure.

BILL HARRIS: ---use of those.

BENNY WAMPLER: He was questioning that both wells had the same thing on it is the reason---

BILL HARRIS: Yeah, thank you.

JIM KAISER: If they're both the same distance north and west, then you would probably have a problem.

BILL HARRIS: Yeah.

JIM KAISER: But since they're not---

BOB WILSON: Yeah.

BILL HARRIS: This is stating a reference point, which is the intersection of those two lats and longs and then the---

BOB WILSON: Exactly.

BILL HARRIS: ---distance...okay. Again, I wasn't sure how to read that map. Okay, thank you.

BENNY WAMPLER: Is there a motion?

MARY QUILLEN: Motion to approve.

DONNIE RATLIFF: Second.

BENNY WAMPLER: Any further discussion?

(No audible response.)

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

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval. Thank you.

JIM KAISER: Thank you.

BENNY WAMPLER: Thirty-two is withdrawn. Next is a petition from GeoMet Operating Company appealing a decision by the Director of the Division of Gas and Oil to deny permit issuance subsequent to Informal Fact Finding Conference 18606. This is docket number VGOB-06-0815-1712. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

TOM MULLINS: Thank you, Mr. Chairman. Tom Mullins and Ben Street along with Jeff Taylor, Tim Blackburn, Ertel Whitt

here today.

BENNY WAMPLER: Welcome.

TOM MULLINS: Thank you.

BOB WILSON: Mr. Chairman.

BENNY WAMPLER: Mr. Wilson.

BOB WILSON: While everybody is getting organized here, I'd like to recognize and distribute to the Board a letter that I received yesterday from Mr. A. George Mason, Jr., attorney-at-law as representative of LBR Holdings, LLC, addressing this particular item. I'll pass a copy of this out to the Board members and to the counsels.

(Bob Wilson passes out the letter.)

TOM MULLINS: Mr. Chairman, while everybody is reading that letter, I've got copies of all of the exhibits that were tendered before the Director we would like to hand one out to each one of the Board members for their---

BENNY WAMPLER: Okay. That will be good.

(Tom Mullins passes out exhibits.)

BENNY WAMPLER: Mr. Swartz, I'm not sure we got you identified for the record.

MARK SWARTZ: I'm here representing Consol Energy Coal Operations and Island Creek Coal Company.

BENNY WAMPLER: Let's just go ahead while the Board members are still looking at some materials and have you just tell us who you are and who you represent, if you don't mind. Mr. Street, we'll start with you.

BEN STREET: Sure. I'm Ben Street. I represent the respondents.

TIM BLACKBURN: I'm Tim Blackburn. I'm with T Engineering and consultant for GeoMet Operating.

JEFF TAYLOR: I'm Jeff Taylor. I'm the project manager for GeoMet in Virginia and West Virginia operations.

JOEY STEVENSON: I'm Joey Stevenson, the land manager for GeoMet Operating Company, Inc.

ERTIL WHITT, JR.: I'm Ertil Whitt, Jr. I'm consulting engineer for LBR Holdings, LLC.

BENNY WAMPLER: Let me get you to state your name and who you're with, please.

JOHN HOLLINGSHEAD: John Hollingshead, GeoMet Operating Company or (inaudible). I'm sorry.

BENNY WAMPLER: I think we've got everybody here, Mr. Mullins.

TOM MULLINS: All right. Is the Board ready...I'll go, I guess, by way of presentation first.

BENNY WAMPLER: Yes.

TOM MULLINS: We'll go from there as to whatever else we may need to go.

BENNY WAMPLER: All right.

TOM MULLINS: Of course, we're here today on an appeal from the Director's decision denying a permit for the drilling of the well unit B-43. The grounds of that denial was the lack of a specific signed consent to stimulate document in regards to the stimulation of this coalbed methane well. Basically in a nutshell, there are two reasons why we...it's our position that this Board should not require a separate signed consent to stimulate document.

The first position is the lease by which Island Creek Coal Company claims any interest in this coal. It specifically provides that the gas estate is to be developed by the Rogers interest holders. There is no restriction or restraint in that right of development. That lease was signed in 1962. To apply the Gas and Oil Act of 1990 to that lease would, in effect, impair that contractual rights vested in the Rogers folks for the development of that gas estate. To hold otherwise, would to negate a contractually agreed upon position. That lease is in the handouts. I think it is Exhibit One.

The second issue is a little bit of a technical issue. It involves a definition of what a gas operator is...excuse me, a coal operator is. Under the reg...under the statute 45.1-361.29(F), permits for coalbed methane gas wells require a signed consent from the coal operator. That is a defined term under the statute. The definition of a coal operator means, "Any person who has the right to operate or does operate a coal mine." It's more than just having a lease on the specific coal underground because a coal owner, which is also a defined term, includes the word lease. You can own it or lease and be deemed a coal owner. So, a coal operator means someone who has "...the right to operate or does operate a coal mine."

Now, the coal mine in question is the VP4 mine. The VP4 mine, as folks know, has not been operational for a number of years. In fact, the permit boundaries of that include only 90 acres. They do not have a right to mine the coal underneath unit B-43. Since they do not have the right to mine the coal under B-43, they can't be deemed a coal operator for the purposes of obtaining a consent to stimulate. Now, we have maps here, which we intend to submit into evidence, showing the area which is currently under permit or license and the distance of that from the well, which shows that the permitted boundary is 19,378 feet

from the well. So, basically in a nutshell, Island Creek does not have the right nor can it withhold a consent to stimulate. It is not a coal operator as that term is defined under the Act.

And I guess just as a matter of reference, I'll point out Virginia Code Section 45.1-181, which states, "It is unlawful to mine coal without a permit." If it's unlawful to mine coal without a permit governing a particular area, you don't have the right to mine the coal. It's pretty cut and dry. We don't need a consent to stimulate from Island Creek Coal Company. They do not have a permit. They don't have the right to mine coal in this section nor are they mining coal in this area. So, as a matter of law, we do not need any consent to stimulate this coal seam from Island Creek Coal Company.

We have a copy of the map obtained from the DMME, which shows the current boundaries of what has been permitted by Island Creek. It's basically what you have seen there. It's this outlined area. This map was submitted March the 13th of 2006. So, I guess, initially from a legal standpoint, the first question is, is Island Coal Company even a proper party as a coal operator? They may be a coal owner as a lessee of the coal, but they're not a coal operator from whom consent to stimulate must be obtained.

This is the same map that you have, just on a larger

scale. It's easier to read. That is a blown up version of what are in the Department's own files because this in the Department of Mine, Minerals and Energy's own records. Since the coal operator definition is very plain and the statutes are very plain of when someone has the right to mine coal. You have to have a permit and a license to mine coal. They have neither on this property and because of that there is no need nor requirement to have a consent to stimulate this coal or this coal...excuse me, coalbed methane well from Island Creek or any of their related entities. I don't know if there's anybody that has any evidence to the contrary of this. But if not, I think that's the legal question this Board should consider initially.

Would you like a copy of the big map to be admitted as an exhibit?

BENNY WAMPLER: That's...that's your choice really.

TOM MULLINS: Well, let's give you one.

BENNY WAMPLER: Okay. We'll take it. It will be like A-1 since the other is A.

TOM MULLINS: Yes, sir. That smaller map can be designated whatever the Board deems an appropriate exhibit number to be.

BENNY WAMPLER: It currently has on it "Rogers 198

Exhibit A". Is that---?

TOM MULLINS: Okay. That will be---.

BENNY WAMPLER: And this will be just A-1 if that's---.

TOM MULLINS: We have Mr. Blackburn who has gone over to the DMME office and looked at the permit files for that, if the Board wants any testimony as to what was found concerning this issue. We still have, of course, the lease issue, which is a separate matter. But this is stamped with the DMME stamp. I mean, it came from your Agency's offices.

BENNY WAMPLER: Well, I guess, you raised the first question of whether or not we move past the...and we haven't heard from Mr. Wilson, of course, but whether or not the...your challenge in the definition of coal operator in this situation.

TOM MULLINS: I'm challenging the definition of coal operator and also that if the Board were to find for some reason that Island Creek were to fall within that definition, that we already have those rights from the Rogers folks. Mr. Whitt is here today to tell us that they are in favor of not only the drilling of the well and granting the permit, but for GeoMet to stimulate the coal seam. We don't...we don't need the consent of Island based upon the lease documents, which predate the Oil

and Gas Act.

BENNY WAMPLER: Let me go ahead and let Mr. Wilson put his information into evidence.

BOB WILSON: For one thing, I would like to say that the argument regarding the definition was not put into play in the Informal Hearing and, therefore, was not considered in the decision that was rendered here. Section 45.1-361.36 says, "No petition for appeal may raise any matter other than matters raised by the Director for which the petitioner put into issue either by application or by objections, proposals or claims made and specified in writing at the Informal Fact Finding Conference." I put that out mainly to explain why that is not addressed in the decision at all. It's the Board's decision as to how to go forward on this. I have no problem one way or other.

That aside, this---

MARK SWARTZ: Just to---

BOB WILSON: Excuse me.

MARK SWARTZ: Just to...I would raise that same issue that you can't have a hearing in his office and then get a decision and then come on a appeal and argue issues that he didn't have a chance to address. I think that's just gone. I mean, I don't think you can raise an issue on appeal that was not addressed in

your, you know, objections at the hearing in your evidence. So, my position is, there's not some option here. There was no argument before today about what that definition meant and whether it had any relevance to this case. So, my position is that's not a ground for appeal. I just thought I would get that on the record. I'm done with that.

BENNY WAMPLER: Sure.

BOB WILSON: Okay. The---

TOM MULLINS: Do you want me to respond to that issue now or wait?

BENNY WAMPLER: Let's let him get his...let's let him get his...I'll be happy to have everybody---

TOM MULLINS: I apologize.

BENNY WAMPLER: We'll make sure everybody has an equal opportunity.

TOM MULLINS: I apologize.

BOB WILSON: Come on, he got me started now. I'm going to get finished and I'm going to go on home while you guys finish this up.

I received a letter from Joey Stevenson from GeoMet stating that...among other things, that they had had tremendous difficulty in communicating with the...what I will refer to as

Consol Coal interest insofar as gaining consent to stimulate were concerned and in the letter questioning the need for a consent to stimulate because of reservations made in the original coal lease. These were the items that were brought before me. Mr. Stevenson had requested that I issue the permit based his request in the letter. I replied to him and denied that issuance and I also informed him that he had two choices. He could either request an Informal Fact Finding Conference to find the factual basis for that decision or he could appeal it...being an aggrieved permit applicant, he could have appealed it directly to the Board. They chose to go through the Informal process in order to, I think, exhaust their due diligence possibilities.

To shorten the situation here, basically, the arguments that we heard at the Informal Conference that were relevant to the issuance of the permit. It had to do with the reservation clause in their coal lease which states, "Excepting and reserved through the Lessors the right and privilege of searching for oil and gas and other mineral or products and removing the same when and wherever found. The rights and privilege excepting and reserved to Lessor shall be exercised with due regard for the operations of the Lessee hereunder and in such a manner as to not to materially interfere with or affect

the mining operation of Lessee." The arguments made boil down to the fact that this clause in the lease to the coal company reserved to LBR Holdings the right to develop all other minerals in a manner that would be...not be interfered with by coal operations as well.

Evidence submitted at the Informal Hearing included acknowledged that a consent to stimulate was required and that even went insofar as to say that if the necessity for consent to stimulate interfered with the fulfilment of the terms of the farmout agreement that renegotiation could take place. It seemed to anticipate the fact that that was necessary.

Considering the relevant materials that were presented at the Informal hearing, I did determine to continue to deny the permit until such time as a consent to stimulate was submitted. I did not consider the reservation clause in the coal lease to be sufficient grounds for determining the consent to stimulate was unnecessary.

BENNY WAMPLER: Any questions from Mr. Wilson at this point?

(No audible response.)

BENNY WAMPLER: You may---

TOM MULLINS: Okay. Just in response, the farmout

agreements that the Director has spoken about did not have in them as a party Island Creek Coal Company or anybody else. Island Creek could not have gained any rights by virtue of the oil and gas leases, the farmout leases and any assignments. The only rights they have are their rights that they got directly from LBR. The agreement between Equitable and LBR vested no rights in Island Creek. Island Creek wasn't a party. LBR was a party. They're here to grant the consent to stimulate and they want the coal seam stimulated. Island Creek could not gain nor lose anything to an agreement for which they were not a party to. So, to deny the permit application on the grounds that or terms in a farmout agreement or a lease agreement between parties unrelated to Island Creek is, I submit, without basis. The only rights that Island Creek can claim and draw upon are the lease agreements that they have with LBR. They don't gain any rights from anybody else. That lease agreement, the only documents from which they claim rights from predates the Oil and Gas Act and because of that, they can climb no higher than the terms in that agreement, not these other agreements, in that agreement.

As far as the issue on what's subject to appeal, what's subject to appeal is the denial of the permit for failure to have a consent to stimulate. The position below was a consent to

stimulate was not required and that's the position here.

The coal operator question is one, I think, that goes to the jurisdiction of whether the permit can be denied when somebody is not a coal operator. I don't think it can be denied. Just because somebody has a coal company and a coal mine going somewhere in the Commonwealth doesn't make them a coal operator throughout the Commonwealth. They've got to have a permit for an active mine going on the property which is the subject. If you look at it, that's the purpose behind the consent to stimulate and limiting it only to a coal operator and not expanding it beyond to the coal owner status. Coal owners can neither withhold nor grant the consent to stipulate unless there's no active mining there. The coal owner here is LBR Holdings.

So, with that said, I don't know if the Board wants me to go ahead and present evidence or if you want to---.

BENNY WAMPLER: I think you probably should, I mean, because, you know, regardless this could go up for appeal, right?

TOM MULLINS: Right.

BENNY WAMPLER: So, we probably ought to treat it that way and get a record.

TOM MULLINS: It will probably a de novo appeal though.

BENNY WAMPLER: I understand...I understand that.

Well, it will be, I'm sure.

TOM MULLINS: All right. I'd like to call Mr. Blackburn.

(Tom Blackburn is duly sworn.)

TOM MULLINS: Mr. Chairman, we incorporate the testimony that was given below before the Director. I don't intend to sit here for a couple of hours and replot that.

BENNY WAMPLER: We're not asking you to do that. You can certainly incorporate that. That applied to everybody... all parties here.

TIM BLACKBURN

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

DIRECT EXAMINATION

QUESTIONS BY MR. MULLINS:

Q. Just to, I guess, refresh the Board's mind, would you please state your full name?

A. Tim Wesley Blackburn.

Q. What do you do for a living, sir?

A. I'm a professional geologist.

Q. And how long have you done that?

A. For fifteen years. Ten years prior to that

I've been a partner and operated T Engineering Company doing mining consultant and mine planing. In recent years, I've been doing coalbed methane work in development with GeoMet Operating.

Q. All right, sir. Did you go to school?

A. I've got a Bachelor of Science Degree in microbiology from the University of Kentucky and another Bachelor of Science degree in geology from Moorehead State University.

Q. Okay. And who are...what's your employment history if you would, please?

A. Since 1977, I've been a partner with T Engineering Company.

Q. Okay. Now, did you go by the Department of Mines, Minerals and Energy offices in Big Stone Gap, Virginia?

A. Yes, several times.

Q. And did you specifically look at the permit file for the VP4 mine?

A. I did.

Q. Could you just indicate to the Board by your hands about how big that permit file is?

A. Several bread boxes full. But lots of files, lots of history with that mine, of course.

Q. And is that...to your knowledge, based upon

your review of that file, is that an active mine?

A. Active in terms of coal production?

Q. Producing coal, yes.

A. No.

Q. When was the last time it produced any coal?

A. The records I found, the last coal production was a little bit of a conflict, but either 1982 or 1983 depending on which piece of information you want to take.

Q. Is that mine currently in idle status?

A. Yes.

Q. Okay. And does that mine...have they...have they operators of that mine gotten licenses renewed yearly, as is required, for the continuation of that mine?

A. They have continually got licenses for the surface facilities as far as I can determine.

Q. Okay. Did you...were you able to find any licenses or permits for underground mining?

A. The last mine license that I could determine was for underground mining was 1993.

Q. All right. Now, I'd like to show you a document and ask you to identify that document, please.

A. It's a copy of a license to operate a mine for

VP4.

Q. Okay. What's the time period for which that license was issued?

A. It was issued July the 25th, 2005, expiration date is July the 22nd, 2006.

Q. All right. And does that license indicate what it was for or what purposes the license was being issued for?

A. From my review, the best I can tell, the last several years it has been issued for reclamation only.

Q. Okay. Does that actually indicate it on this license itself is that it was issued for reclamation only?

A. Yes.

TOM MULLINS: I'd like to have that...I apologize for not having the appropriate number of copies. I'd like to have that admitted as evidence.

BENNY WAMPLER: All right. That will be Exhibit B.

Q. All right, sir. I'd like to show the map that I've already shown to the Board, which is the map stamped as being received in the Department of Mines, Minerals and Energy on May the 13th, 2006 and ask you whether that map depicts the current boundaries in which the license or permit is current on the VP4 mine property?

A. Yes, it does.

TOM MULLINS: Okay. I'd like to have this admitted as Exhibit C.

MARK SWARTZ: I don't really need to see those. It's okay.

BENNY WAMPLER: That will be admitted as Exhibit C.

Q. And based upon the information contained in the current map that we just admitted as Exhibit C, did you or your company prepare the map which we've handed out as Exhibit A showing the current permit boundaries of VP4 in relation to Rogers Well 198, which is the well for B...unit B-43?

A. Yes, we did.

Q. And to the best of your knowledge and belief, is that an accurate representation of the positions of both the boundary...permit boundary as well as the well itself?

A. Yes.

Q. Does any part of the permit boundary touch unit B-43?

A. No.

Q. Okay. Are you aware of any other mining permit or mining license for Island Creek Coal Company for unit B-43?

A. Not for Island Creek Coal, no.

TOM MULLINS: Okay. I believe that's all I have for this witness, Mr. Chairman.

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

BENNY WAMPLER: Mr. Swartz?

MARK SWARTZ: No.

BENNY WAMPLER: Call your next witness.

TOM MULLINS: All right. Mr. Whitt.

(Ertel L. Whitt, Jr. is duly sworn.)

ERTIL L. WHITT, JR.

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

DIRECT EXAMINATION

QUESTIONS BY MR. MULLINS:

Q. Would you please state your full name, sir?

A. Ertel L. Whitt, Jr.

Q. And what do you do for a living, sir?

A. I'm a professional engineer.

Q. Who do you work for?

A. Various clients, but in this case LBR Holdings, LLC.

Q. All right, sir. Have you on behalf of LBR

Holdings, LLC made an enquiry as to the potential mining of the coal by Island Creek Coal Company under unit B-43?

A. I'm aware of those requests being made.

Q. Has any response been received?

A. We have not received any mining plan. A formal letter was sent out by the manager of LLC. Nearly a year ago, we did get the promise of a response as far as a mining plan, but we have not received that.

Q. As engineer for the LBR group, are you aware of any mine plans underneath unit...insofar as the deep coal, anything that Island Creek Coal Company may have an interest in, are you aware of any mine plans for the coal underlying unit B-43?

A. No.

Q. Are you aware of any permit or license granted to Island Creek Company for mining of the coal underneath unit B-43?

A. No.

Q. On behalf of LBR, have you reviewed the April, 1962 coal lease?

A. Yes, I have.

Q. Is there any provision in that coal lease that requires Island Coal Company to give permission LBR to explore

for gas?

A. No.

Q. Do you need to get permission on behalf of LBR to drill for and produce gas from that property from Island Creek Coal Company?

A. Not from Island Creek.

Q. In fact, does the lease not specify that LBR has the right to do those things?

A. Yes, it does.

Q. Could you tell the Board what your understanding of those rights are?

A. Well, there's a---

Q. If you need to refer to the lease, which is Exhibit 1.

A. ---specific clause in the lease in Exhibit 1...I have it marked in my copy.

Q. I apologize. You can use my copy or if you need to get your copy, that's fine.

A. Let me do that, please.

Q. All right. Let's start at the top...I think the copy I have it's page three. I don't know what page you're on. It looks like you may have a different font.

A. Yeah, mine's a slightly different version. But it is under the heading of "Exemptions and Reservations to the Lessors".

Q. And the copy that's recorded and which we submitted to the Board, it's on top of what is page three of that document.

A. Right.

Q. Would you tell the Board and direct the Board's attention to the language that allows LBR to produce the gas regardless of what Island Creek Coal Company may want?

A. At about...apparently at about a third of the way in the paragraph and on that copy near the top of the page---

Q. Is it starting "Excepting and Reserved to Lessors"?

A. Yes. But then if you drop down the page to item number 4, it says, "The right and privilege for searching for oil, gas and other minerals or products and removing the same when and wherever found."

Q. All right, sir. Now, is there any other provision of that lease that impacts that? I guess, one of the things that we need to point out, of course, you can't do that

in a way that will interfere with mining operations, ongoing operations of Island Creek Coal?

A. That's correct.

Q. Okay. Now, the other agreements that were mentioned by the Director, the equitable gas lease and the farmout agreement have references to consent to stimulate that LBR and those lessees of LBR had in them. What were the purposes of putting that language in those leases?

A. In the lease to Equitable?

Q. Yes, sir.

A. In the lease to Equitable, we granting them the sole and exclusive right to stimulate for coalbed methane. There...I'm not sure what other clauses you're referring to. That's the one that comes to mind on stimulation.

Q. Did...did...okay. Let me ask you this. Was there a concern by the Lessees that there be some language in there concerning stimulation? In other words, did the gas operators want something in there to prevent them for being liable for any loss or vented gas?

A. Well, the loss and vented gas, yes. There was a clause added in the CBM lease that...in the event that mining occurs on the property, then they would not be held responsible

for collecting the vented gas for or compensating LBR Holdings, LLC for that lost gas or vented gas.

Q. Are you aware of anything in any agreement concerning this unit, B-43, anything that LBR is granted to anybody that would require Island Creek Coal Company to grant a consent to stimulate the coal seam?

A. No.

Q. Is it a right, from your review of the lease agreement between Island Creek and LBR, a right reserved exclusively unto LBR or the Rogers folks?

A. Yes, it is.

Q. And, of course, it's...we've made this argument, but the lease predates the Gas and Oil Act.

A. By several years.

Q. Would you mind reading from the Island Creek Coal lease beginning at the Excepting and Reserved line in the lease that you had mentioned to us? Read clause one. "Excepting and Reserved to the Lessors"

A. Okay. "Excepting and Reserved to the Lessors:
(1) The entire ownership and control of all the leased premises, and the coal, stone, sand, water, timber, oil, gas and other minerals and products therein or thereon, for the purposes...for

all purposes (except those hereinbefore expressly set forth as leased to the Lessee), including the rights and the privileges of using, selling and otherwise disposing of, all of the surface thereof (but the sale of surface shall be subject to all rights and privileges of the Lessee thereunder)..."

Q. That's as far as I need.

A. Okay.

Q. Was there any gas rights expressly leased to Island Creek Coal Company in that lease?

A. No.

Q. And that clause limits only those things that were expressly granted to Island Creek, is that correct?

A. Exactly.

Q. And none of that was expressly granted to Island Creek Coal Company?

A. That's correct.

Q. It was also not...not just not expressly granted, it was specifically reserved unto---?

A. Specifically.

Q. ---LBR, was it not?

A. That's correct.

TOM MULLINS: I don't believe I have any other

questions of this witness, Mr. Chairman.

BENNY WAMPLER: Mr. Swartz.

MARK SWARTZ: Yeah, I have a couple.

CROSS EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Mr. Whitt, could you...in this packet of stuff that we got today that we're dealing with, the coal lease, the first document. Could you maybe find that? Okay. The coal lease is between Lon Rogers and, I guess, that would have been his wife---

A. Yes.

Q. ---and Island Creek Coal Company, right?

A. That's correct.

Q. Would those folks have been predecessors and interest of LBR Holding, the---

A. Yes.

Q. ---folks that you now work for?

A. Yes.

Q. Okay. And would you agree that this is a coal lease?

A. Yes.

Q. And that it gives...gave to Island Creek certain opportunities to mine coal?

A. That's correct.

Q. Okay. Let's look at what it says about mining here. Just staying on the first page, coming down a little bit under "Witnesseth".

BENNY WAMPLER: Mr. Swartz, help the Board find where you're referring to.

MARY QUILLEN: Where is that?

MARK SWARTZ: Okay. It's the stuff that Mr. Mullins gave you. It has like a list on the front page. The coal lease is literally the next page. It has got a big X.

TOM MULLINS: Exhibit 1.

MARK SWARTZ: I'm going to be talking with Mr. Whitt about literally the bottom below the X---

BENNY WAMPLER: Just trying to get everybody to where they can follow.

MARK SWARTZ: ---to start with. That's cool. That's all right.

MARY QUILLEN: Thank you.

Q. If you would kind of...have you got that, Mr.

Whitt?

A. Yes, I do.

Q. Okay. If you come down under "Witnesseth", I guess, it would be the seventh line, sort of in the middle of that seventh line it says, "The Lessors hereby lease...". Do you see that?

A. Yes.

Q. Okay. "The Lessors hereby lease, let, and demise unto the Lessee for the period of five (5) years from the date hereof, the sole and exclusive right and privilege of mining and removing all of the coal from all of the seams of coal underlying the Raven or Red Ash..." Would that be the deep coal or is that absolutely all of the coal including the shallow coal?

A. Well, the Red Ash is right at drainage in this area?

Q. Okay. So, it's the drainage and below drainage?

A. Yes.

Q. Okay.

A. Yes.

Q. And somebody else presumably you could lease the above drainage coal to somebody else, if you haven't already?

A. In fact, it has been done. Yes.

Q. Is that Jewell?

A. Yes.

Q. Okay. Would you agree with me that this language though that we've just read says that it gives "the sole and exclusive right and privilege of mining the coal to the Lessee"?

A. Yes.

Q. Were you here, and I know you were, but I want you to confirm on the record, were you here when Mr. Mullins was talking about the statutory definition of a coal owner or operator in terms of who is it that has right to consent?

A. Yes.

Q. Okay. Do you remember him saying that the statutory definition would include "Any person who has the right to operate or does operate a coal mine."?

TOM MULLINS: Objection. That calls for a legal conclusion based upon---

Q. Do you recall him saying that?

TOM MULLINS: Excuse me. Let me get my objection---

BENNY WAMPLER: I'm going to overrule the objection and let him answer the question.

TOM MULLINS: Okay.

Q. Do you recall him saying that?

A. Yes.

Q. Okay. Does it sound like the predecessors of your client gave up any rights to mine this coal or to operate a mine in this coal by the language of this lease?

TOM MULLINS: Objection. You can't take one phrase on page one of a...ever how many...fourteen or fifteen lease and ask what the rights vested into a coal operator are and who a Lessors are. That's an unfair question.

BENNY WAMPLER: I sustain that. You can ask it a different way.

Q. Show me in this lease limitations upon the exclusive right to mine that's granted on the first page that give...that reserves to the Lessors a right to mine coal.

A. I don't think that it does. But it also...the lease also provides that Island Creek operate in a legal manner. There is no permit or any license to mine.

Q. Okay. Let's talk about that. Are you familiar with the definition that talks about who is an operator or a coal owner in the Virginia Gas and Oil Act? I mean, is that something---

A. I've read them, yes.

Q. Okay. Would you agree that if the legislature...strike that. Having read the Gas and Oil Act and having read the Board's rules and regulations and the Department of Gas and Oil...or the Division of Gas and Oil's rules and regulations, are you familiar with the concept that sometimes the laws and regulations say, if you have a permit, this is the situation?

TOM MULLINS: Objection, Judge. Number one, he's asking...what statute and what regulation? We're talking in general, are you aware that there can be regulations that say this or say that? If he has got a regulation or a statute that he wants to point him to, that's fine. He's asking him to express an opinion, it sounds to me like, about statutory interpretation and regulatory interpretation. I object to that.

BENNY WAMPLER: I'll sustain that.

Q. Would you agree that the word "permit" is not a synonym for the word "right"?

A. I'm not sure I'm qualified to answer that question.

Q. Well, you...you've spoke English your whole life.

A. Well---

TOM MULLINS: Objection to the tenor of the question.

MARK SWARTZ: I think that's a proper question.

BENNY WAMPLER: I'll overrule it.

Q. You're an English speaking person and you've spoke English your whole life, right?

A. Yeah.

Q. You know what a synonym is?

A. Yes.

Q. Would you agree with me, just as a matter of conversation between people who have spoken English for a long period of time, that "permit" would not normally be recognized as a synonym for "right"?

A. Yes.

Q. Let's go now to the bottom...let me count for you guys now. I'm thinking it would be the third...actually, it's the top of the third page of the lease. So, counting the one you've just been on, skip the next one and it will be on the third page. Is this the page that Mr. Mullins had you read some things from?

A. Yes, it is.

Q. Okay. And he had you read the number one that's

in parenthesis up at the top, right?

A. A portion of that, yes.

Q. Right. And then, I think, earlier in your testimony, you talked about the four that's in parenthesis sort of in the middle there.

A. That's correct.

Q. Okay. And then something...I'm not sure that he had you read...do you see down at the bottom of this sort of laundry list here? The last item is a nine in parenthesis.

A. Yes.

Q. And I'm just going to read that and my questions will be, have I read it correctly? "Provided, however, that the rights and privileges excepted and reserved to Lessors under items (1) through (9) above" I guess this is really (10) if it was going to be numbered "shall be exercised with due regard for the operations of Lessee hereunder and in such manner as not materially to interfere with or affect mining operations of Lessee and the exercise of the rights herein demised to it." Have I read this correctly?

A. Yes.

Q. Okay. Is it...would you agree that fracking of coal seams could have an affect on future mining in those seams?

TOM MULLINS: Objection. That goes beyond the issue on appeal. The issue is whether there's a consent to stimulate and that's the limited issue before this Board. The damage to the coal seam is not on appeal before this Board.

BENNY WAMPLER: Where are you going with?

MARK SWARTZ: The consent to stimulate...maybe everybody knows this, so I don't need to go there. Here's where I'm going. The reason we have a consent to stimulate provision in our law is because the coal industry insisted on it because the coal operators who have a right to mine coal...mine coal wanted to have some...feel like they had some control over what was done in seams before they got there to mine. So, I think it's highly relevant. If we have a lease agreement, which has the kind of provision that I've just read, which limits other reservations and we have a law that was designed to give coal operators or people who have the right to mine coal a consent to stimulate or veto, I think it's perfectly relevant.

BENNY WAMPLER: I sustain the objection.

MARK SWARTZ: That's all I have of this guy.

TOM MULLINS: Mr. Chairman, I'd like to hand out copies of Code Section 45.1-181. It talks about the requirement to have a permit. It actually states it's unlawful mine without a

permit.

(Tom Mullins passes out the statute.)

TOM MULLINS: Mr. Chairman, I know that you all probably get tired of having to read sections from the Gas and Oil Act. But I have the definitional section of the Gas and Oil Act, as well as the permit and regulation section, if the Board members would like to have those to look at right now.

(Tom Mullins passes out Gas and Oil Act sections.)

TOM MULLINS: I don't have any other questions of Mr. Whitt.

MARK SWARTZ: Me neither.

TOM MULLINS: And I'm ready to, I guess, state my case over again or I would like to.

BENNY WAMPLER: That's fine. Do you have anything to put on, Mr. Swartz?

MARK SWARTZ: Is that like a closing?

TOM MULLINS: Yes, sir,

MARK SWARTZ: I'd kind of like to make some remarks, if I could.

TOM MULLINS: Of course, I'll object. If he's not the coal operator, he doesn't have standing to give argument. But I'm assuming the Board will let him give argument.

BENNY WAMPLER: We're going to let him give an argument.

TOM MULLINS: I understand. Well, for my argument. What the Board has before it today is an issue in this particular well whether a consent to stimulate document separately signed by Island Creek Coal Company is required. Our position is put out by both the evidence submitted at the hearing, the test...at the Informal Conference, excuse me, and here today, as well as the exhibits submitted at the Informal Conference and here today is that it doesn't for two reasons.

The first reason is that the statute, the definitional statute, contains a provision in it which says, "A coal operator means any person who has the right to operate or does operate a coal mine." That has to be read in regards to the specific unit. You can't say if somebody operates a coal mine in Lee County they can object to coal they have under lease in Buchanan County. It has to be in regard to the property in which we are speaking and this is unit B-43. They either have to be actually mining that property or they have to have a permit to mine that property. Of course, if they're mining it without a permit, they may be guilty of unlawful mining. But they have to be doing one or the other on that property. Island Creek is doing neither. They do not

have a permit. The evidence, the only evidence before this Board, is that the permit boundaries extend, as indicated on the maps submitted, it's the 90 acres surrounding the surface structures of the old VP4 mine works. Mine works that will never be reopened since the last production of coal was in 1983, I believe. They have no mine plans. They have no permits. They have no license for the area, which is B-43. There is no requirement that they consent to stimulate this coal seam. They do not fall within the definition for this unit of a coal operator.

The statute that I handed out concerning the requirements states that it is unlawful to mine coal. We can talk about synonyms and anonyms and homonyms all we want to. The statute says that it is unlawful. It's part of the Gas and Oil Title...excuse me, the Department of Mines, Minerals and Energy Title 45.1-182. It is unlawful. That means you don't have the right to do it. If you don't have the right to do it, you don't fall within the definition of a coal operator. That's very straight forward language. There's no wiggle room there. They don't have the area licensed or permitted. There's no mine plans. There's nothing. They do not have to consent to stimulation.

The second thing...the second point is the lease. The

lease language speaks for itself. It's a lease dated April the 12th, 1962. It's Exhibit One as we've submitted. It reserves unto the Rogers folks the right to produce the gas. It gives no rights to Island Creek Coal Company for restricting that in anyway, hampering that, or in anyway obstructing that. The statute passed in 1990 cannot impair these vested both contractual and property rights. To do so, would be unconstitutional. Not only is it unconstitutional, the statute that we're talking about 45.1-361.29, the permitting statute, specifically has a provision in it that allows this Board and the Director to look at lease language to determine whether a consent to stimulate is contained within that lease language. Our argument to you is it is. We have the right to produce. Back in 1962 there wasn't a lot of talk around here about consents to stimulate coal seams for gas production. It was a term not contemplated by anybody. However, what was contemplated was the development of gas. That was specifically excepted and reserved into the Rogers folks. They made it plan that they had the right and they were keeping the right and Island Creek could not interfere with the right to develop that gas. Now, by a subsequent statute, what would happen in this case is you're saying no matter what this lease says, we're not going to let you

produce this gas in the manner we want you to produce it because in 1990 there was a statute passed that invalidates your agreement of 1962 with Island Creek Coal Company. The Gas and Oil Act was not meant...excuse me, specifically states it's not to impair vested and existing contractual rights between the parties that are at issue.

So, the lease language and, again, the subsequent gas leases, farmout agreements, those are red herons. The only rights Island Creek has is what they got and they don't have that right. They do not have the right to either grant nor withhold a consent to stimulate. The Rogers folks have that. And based upon both the lease language, based upon the permit boundaries, it's our request that the Board grant the permit that's at issue for unit B-43. Thank you.

BENNY WAMPLER: Thank you. Mr. Swartz.

MARK SWARTZ: I've been doing this for a long time and I continue to enjoy the inventiveness of my opposition and people in general who come up with really amazing ideas at times. As a student of human nature and human affairs over the years, because I have talked to a lot of people over the years, there's something that I always look for that I think is highly persuasive of how people really feel and that is what are they telling people

that they're in business with or their employees or others about the topic that might come up later in litigation. We have...luckily, we have some pretty direct discussion of what GeoMet and Equitable thought about the consent to stimulate before we got in these appeals and objections and so forth. If you can sort through what they gave you today, because this was all stuff that Mr. Wilson had, it's Exhibit Fourteen. It's the second from the last document. It's called a farmout agreement. It looks pretty small print. It kind of looks like---

BENNY WAMPLER: Right behind the last long sheet, the 8 1/2 by 14 sheet.

MARK SWARTZ: Now, this farmout agreement, I guess it was Exhibit Fourteen at the festivities before Mr. Wilson, but the farmee is GeoMet who is here today appealing. This was an agreement between Equitable who had a lease from the Rogers/LBR Holdings and were, you know, subleasing that or farming that out to GeoMet. If you would go to the bottom of page nine of this agreement, and I'm going to direct attention to a little...to a capital E in parenthesis at the bottom of nine and then we'll kind of carry over onto the next page. When GeoMet was taking this farmout agreement from Equitable, it's obvious that the consent to stimulate was on their screen and this was what they had to

say about it and I think Mr. Wilson actually quoted some of this in his decision because he found it pretty pertinent as well. "Consent to Stimulate: FARMEE and FARMOR recognize that FARMEE" that's GeoMet, "will not be able to proceed with well permit applications to the Virginia Division of Gas and Oil until it obtains the prior written consent to stimulate coal formations from the current coal owner and operator/lessee (if any) on the Farmout lands lying within the Commonwealth of Virginia. In the event, FARMEE determines after exhausting all commercially reasonable diligent and prudent efforts, it will be unable to fulfill the development obligations contained herein due to its inability to obtain such consents from the necessary parties, it shall immediately notify FARMOR...", and then there's sort of workout provision. This agreement was made August the 16th of '04. I would suggest to you that when GeoMet entered into this agreement with Equitable it knew what it was required to provide or obtained under the West Virginia Gas and Oil Act and it talked about it in a very clear way. Now, in front of Mr. Wilson on this appeal, we're hearing something completely different. I would suggest to you that this an admission that they understood what this statute meant and that their understanding of what this statute meant in 2004 was the same understanding that I have and

the same understanding that Mr. Wilson had when he wrote his decision. It says if you have a right to operate a mine, you have a right to consent or not consent to the stimulation of the coal seams that are leased to you. There is a huge difference between having a permit and a right. If our legislature felt like they wanted to make this a permitting provision, they would have put it in here because we have provisions in our law and in our regs that if you have a permit X, Y or Z happens and if you don't have a permit to mine coal, it doesn't. I mean, we have...for example, increased density wells. If we're in front of this Board asking for increased density wells, the Virginia Gas and Oil Act says you've got to have a permit on file and it has to be consisted with your mining operations under your permit. I mean, the legislature knows what a permit is, it knows what a right is, it knows what ownership is. The definition that...you know, it's an ingenious argument, but, you know, the definition of coal operator is "Any person who has the right to operate or does operate a coal mine." Mr. Whitt, you know, stepped right up to the plate and said the coal lease gives Island Creek Coal Company the right to operate a mine period. That satisfies this statute. The reason the consent to stimulate is in our law is because of coal concern that stimulation of commercial coal seams is an

important idea and not that coal was arguing or argues today that stimulation of coal seams per say renders them not merchantable or unmineable or is a problem, but it can be a problem. This consent was in there to give coal an opportunity to do just what Island Creek has done here and that's to not consent.

This has nothing to do with the location of mines or mine permits. The statute with regard to what do you need to submit in a permit package says that if you're within 750 of the well bore and you propose to stimulate that coal, you've got to have a consent. I mean, that's it. So, I think the statute is pretty darn clear. I think that we have written admissions that the position that GeoMet is taking today is disingenuous with regard to what they think this actually means.

Lastly, I am really troubled by and serious about you...you know, there is a provision in our law also which says if you're going to argue something in front of...you know, if you're going to argue something...if you want to argue something on appeal, you've got to argue it below. I mean, you should have given Mr. Wilson an opportunity to comment on all of your contentions. If you didn't want to make a contention in front of him, don't come to the Board then later and say, "Oh, you should have considered this." They waived it. I mean, they didn't

raise it in front of him this definitional argument that they're making today and it's off the table as far as I'm concerned. Whether or not you take it off the table, I still think it's specious, but, you know, I don't think you have to go there today.

And I think that's it. Yes.

BENNY WAMPLER: Thank you.

TOM MULLINS: May I have the last word since it's our application?

BENNY WAMPLER: I'll let you do that. We're not going to keep going back and forwards---

TOM MULLINS: Yes, sir.

BENNY WAMPLER: ---but I'll let you make a rebuttal.

TOM MULLINS: Thank you, sir. One of the arguments made was the farmout agreement complied with West Virginia law concerning the consent to stimulate. I think that's very important.

MARY QUILLEN: He misspoked.

TOM MULLINS: Not it's not a misspeak. This lease covers property in McDowell County West Virginia and Buchanan County and had to govern and comply with the laws of both states. So, I would point out to you that the consent to stimulate language insofar as West Virginia law doesn't have anything to do with

what's going on...going about here today. Again, what's in the farmout is spurious. It doesn't have anything to do with Island Creek. They get no rights from the farmout agreement. They're not a party to it.

In the lease agreement, they were given the right to mine. If you get a lease, you can't go out face up a mine. When you get a lease, that's your first step in getting the right to mine coal in Virginia. You have to do all of the preliminary studies, the engineering plans and get a permit. So, the legislature is deemed to know what it's talking about when it enacts statutes and the right to mine coal is pretty unambiguous. There are several things you have to do to have the right to mine coal and the statute I handed out to you suggests that one of them is get a permit. It's unlawful or you don't have the right to mine coal without a permit.

In our permit package we have submitted to the Director the consent to stimulate from the Rogers folks. So, you have a signed consent to stimulate from the Rogers group in the packet.

Insofar as the issue on appeal, the issue on appeal is the consent to stimulate issue, which is what we're here about and that's what we're arguing about. I think it's jurisdictional and I think the Board has to address it whether Island Creek is

a coal operator or not. I don't think that's something that is waiveable. I think it can be raised even if the Board were to determine it is being raised for the first time on appeal. I think it has to be addressed by this Board and it should be addressed. I think it's an important issue because the consent to stimulate issue can hamstring lots of folks for people that have idled and/or mines that are going to be abandoned that they are holding, particularly in this situation, thousands of acres up with a 90 acre permit. That's what we're talking about, thousands of acres tied up with a 90 acre permit. That's not right.

I think that is an excellent reason for this Board to deem Island Creek Coal Company not to be the operator, a coal operator underneath unit B-43.

BENNY WAMPLER: Well, certainly, you know, from my standpoint, I don't think that we can ignore the statute that says that we can't consider things that weren't considered at the Informal. I think that's binding. Our attorney can speak to that. But we...this Board has consistently not allowed additional inform...you know, evidence to be entered that wasn't entered into and different...and even additional arguments. We let you go through the arguments, but, you know, just, you know,

to have them on record. But I don't believe that we can make that decision here under the...under the law.

SHARON PIGEON: I think you're right.

BENNY WAMPLER: So, you know, what we're are deciding here today is whether or not to uphold the Director's decision or to overturn it based on the evidence that you've heard. With that, do you have questions? If not, is there a motion?

DONNIE RATLIFF: One quick question, Mr. Chairman. I didn't have time to read the entire lease. I assume there's minimum royalties in this?

ERTIL L. WHITT, JR.: Yes.

DONNIE RATLIFF: Is Island Creek paying minimum royalties---?

ERTIL L. WHITT, JR.: Yes.

DONNIE RATLIFF: ---on this spot of coal?

ERTIL L. WHITT, JR.: Yes.

BENNY WAMPLER: Any other questions or comments?

(No audible response.)

BENNY WAMPLER: Is there a motion?

DONNIE RATLIFF: I move that we uphold the Director's decision.

MARY QUILLEN: Second.

BENNY WAMPLER: And second. Any further discussion?

(No audible response.)

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

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval. Thank you,
gentlemen.

TOM MULLINS: Thank you.

BENNY WAMPLER: We have a couple...Board members, we
have a couple more items we need to take care of. These two items
won't take that long.

(Board members confer.)

BENNY WAMPLER: Do you have a...folks, we're still
under order here. We're trying to do some business. Thank you
for coming.

TOM MULLINS: Thank you, sir.

BENNY WAMPLER: The minutes from the last meeting have
been distributed. Any comments or questions? If not, I'll ask
the Board---

DONNIE RATLIFF: I move they be approved as presented,
Mr. Chairman.

BENNY WAMPLER: Motion to approve.

BILL HARRIS: Second.

BENNY WAMPLER: Second. Any further discussion?

(No audible response.)

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

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: We have approval. And then, I guess, finally is the public comment period. Is there anyone here that would like to make a public comment?

(No audible response.)

BENNY WAMPLER: Hearing none. Mr. Wilson, do you have anything further?

BOB WILSON: No, sir.

BENNY WAMPLER: Any Board member have anything further?

(No audible response.)

BENNY WAMPLER: Thank you very much. The hearing is closed.

STATE OF VIRGINIA,

COUNTY OF BUCHANAN, to-wit:

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

Given under my hand and seal on this the 12th day of September, 2006.

NOTARY PUBLIC

My commission expires: August 31, 2009.