

1 VIRGINIA:

2 IN THE COUNTY OF RUSSELL:

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VIRGINIA GAS AND OIL BOARD HEARING

8

9 MAY 17, 2011

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12 BOARD MEMBERS:

13 KATIE DYE - PUBLIC MEMBER

14 BILL HARRIS - PUBLIC MEMBER

15 DONNIE RATLIFF - COAL REPRESENTATIVE

16 BRUCE PRATHER - OIL REPRESENTATIVE

17 MARY QUILLEN - PUBLIC MEMBER

18

19 **CHAIRMAN:**

20 BUTCH LAMBERT - CHAIRMAN OF THE VIRGINIA GAS & OIL BOARD

21

22 DAVID ASBURY - DIRECTOR OF THE DIVISION OF GAS & OIL AND
23 PRINCIPAL EXECUTIVE TO THE STAFF OF THE BOARD

24 DIANE DAVIS - STAFF MEMBER OF THE DGO

25 SHARON PIGEON - SR. ASSISTANT ATTORNEY GENERAL

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27

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29

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INDEX

	<u>AGENDA AND DOCKET NUMBERS:</u>	<u>UNIT</u>	<u>PAGE</u>
1			
2			
3	1) Public Comments		5
4	2) VGOB-04-0921-1336-01	535874	6
5	3) VGOB-02-0917-1072-01	BA-110	CONT.
6	4) VGOB-04-1214-1365-01	AV-127	12
7			
8	5) VGOB-01-0918-0923-02	Y26	18
9	6- VGOB-97-0218-0565-02	T-28	CONT.
10	8) VGOB-97-0218-0563-03	U-27	
	VGOB-97-0218-0564-02	U-28	
11	9) VGOB-11-0125-2899	AE-235(H-101)	CONT.
12			
13	10) VGOB-11-0419-2941	IFFH 24006	22
14	11) VGOB-110315-2928	292 VA A-34	CONT.
15	12) VGOB-09-0915-2596-01	BB-107	59
16	13, VGOB-11-0419-2940	RR 2940	37
17	26- VGOB-11-0517-2946	RR 2946	
18	29) VGOB-11-0517-2947	RR 2947	
	VGOB-11-0517-2948	RR 2948	
19	VGOB-11-0517-2949	RR 2949	
20	14) VGOB-11-0419-2932	900042	CONT.
21	15, VGOB-11-0517-2941	AY-109	78
22	19- VGOB-01-0821-0914-01	AY-108	
23	23) VGOB-04-0217-1256-01	AZ-108	
	VGOB-03-1118-1227-01	AZ-109	
24	VGOB-04-0217-1257-01	BA-108	
	VGOB-03-1216-1242-01	VA-109	
25			

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX (CONT.)

<u>AGENDA AND DOCKET NUMBERS:</u>	<u>UNIT</u>	<u>PAGE</u>
16- VGOB-11-0517-2943	G10SH	150
18, VGOB-11-0517-2944	D20SH	
24) VGOB-11-0517-2945	TTT28SH	
VGOB-10-0420-2690-01	G80SH	
25) VGOB-11-0517-2950	I30SH	WITHDRAWN
30) VGOB-11-0517-2951	821789	197
31) VGOB-11-0517-2952	900060	202
32) VGOB-89-0126-0009-75	MOD. OF FIELD RULES	47
33) VGOB-93-0216-0325-24	MOD. OF FIELD RULES	211
34) VGOB-11-0517-2953	B49 & B50	279
35) VGOB-11-0517-2954	YYY-43	287
36) UPDATE ON ESCROW ACCOUNT		297
37) MINUTES		

1 BUTCH LAMBERT: Okay. Good morning, ladies and
2 gentlemen. Feel free to take your seats. It's now
3 about ten after 9:00. It's time for us to proceed with
4 these hearing this morning. I would like to remind you
5 this morning that if you have cell phones or other
6 paging devices, if you will please turn those off or
7 put them on vibrate. If you do have to take a call,
8 I'd ask you to please take it outside. These
9 proceedings are being recorded and any conversations
10 that you may be having out in the audience will be
11 picked up by the microphones. It will make it tough
12 for our Court Reporter to transcribe those notes.
13 We'll begin this morning by asking the Board members to
14 please introduce themselves. I'll begin with Ms. Dye.

15 KATIE DYE: Good morning, I'm Katie Dye. I'm a
16 public member from Buchanan County.

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

19 BUTCH LAMBERT: I'm Butch Lambert with the Virginia
20 Department of Mines, Minerals and Energy.

21 BILL HARRIS: Good morning. I'm Bill Harris, a
22 public member from Wise County.

23 DONNIE RATLIFF: I'm Donnie Ratliff representing
24 Coal. I work for Alpha Natural Resources.

25

1 BRUCE PRATHER: I'm Bruce Prather. I represent the
2 oil and gas with the Board.

3 MARY QUILLEN: Mary Quillen, a public member.

4 BUTCH LAMBERT: Thank you. We'll begin this
5 morning with public comments. This morning I have on
6 the signup sheet Juanita Sneeuwaght.

7 JUANITA SNEEUWAGHT: Good morning.

8 BUTCH LAMBERT: Good morning. Please state your
9 name for the record.

10 JUANITA SNEEUWAGHT: Juanita Sneeuwaght, President
11 of Committee for Constitutional and Environmental
12 Justice. I wish everybody good morning here and you
13 didn't let me get finished with my writing. It's my
14 under...it's my understanding that the Gas and Oil Board,
15 the Executive Director and possibly the Chairman, I'm
16 not sure about that, whose responsibility is to uphold
17 the correlative rights of the people who own the
18 surface and possibly the gas estate as well. I rarely,
19 if ever, find this upholding for correlative rights
20 expressed during the Virginia Gas and Oil Board
21 meeting. Surface damage, tree removal, consideration
22 to crops, livestock, orchards, among other things, need
23 to be considered as rights of the property owners. Gas
24 wells may produce up to forty years or longer and they
25 may be fraced as many as twelve times during the life

1 of the well. Yeah, the surface owner pays taxes on the
2 land is liable after the gas drillers is finished and
3 moved on. I'd like you to be more cognizant and
4 expressive, if you would, of the correlative rights of
5 the land owner. That's all I have. I thank you.

6 BUTCH LAMBERT: Thank you. We're now calling a
7 petition from EQT Production for disbursement of funds
8 from escrow for unit 535874, docket number VGOB-04-
9 0921-1336-01. All parties wishing to testify, please
10 come forward.

11 JIM KAISER: Jim Kaiser and Rita Barrett on behalf
12 of EQT Production Company.

13 (Rita Barrett is duly sworn.)

14 BUTCH LAMBERT: You may proceed, Mr. Kaiser.

15

16

RITA BARRETT

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

19

DIRECT EXAMINATION

20 QUESTIONS BY MR. KAISER:

21 Q. Ms. Barrett, you're here on behalf of EQT
22 Production on this disbursement petition, is that
23 correct?

24 A. Yes.

25

1 Q. And that's for well number and unit number
2 535874?

3 A. That's correct.

4 Q. And it involves Tract 4 in that unit?

5 A. Yes.

6 Q. And are we asking for disbursement of all of
7 the proceeds attributable to Tract 4?

8 A. We are.

9 Q. And the parties have been noti...both parties to
10 this petition have been noticed of this hearing?

11 A. Yes.

12 Q. And we have the green cards from both, correct?

13 A. Yes.

14 Q. And that would be a Mr. Denver C. Barton and
15 Amanda Barton and Range Resources-Pine Mountain?

16 A. Correct.

17 Q. Okay. Does the application contain a letter
18 from Range Resources-Pine Mountain where they take care
19 of their interest?

20 A. Yes.

21 Q. And have we filed a spreadsheet in this matter
22 to inform the Board of the owner's net interest in the
23 escrow and in the unit in this...in this particular
24 matter?

25 A. We have.

1 Q. And we formed...have a filed an Exhibit EE to
2 show the acreage and interest within the unit that's
3 attributable to Tract 4?

4 A. We have.

5 Q. And we do...our spreadsheet does show a
6 discrepancy between the bank's total and the EQT total?

7 A. It does.

8 Q. Could you explain that?

9 A. Yes. The difference is the interest created at
10 the bank. Equitable's figure does not include
11 interest.

12 Q. Okay. And that difference is \$387.02?

13 A. Yes.

14 Q. And we would ask that the Board disburse to the
15 Bartons' the bank's figure, which includes the
16 interest?

17 A. Yes.

18 Q. And we ask...would we also ask that going forward
19 that the order state that EQT pay the royalty directly
20 to the Bartons?

21 A. Correct.

22 JIM KAISER: Nothing further at this time, Mr.
23 Chairman.

24 BUTCH LAMBERT: Any questions from the Board?
25

1 MARY QUILLEN: Mr. Chairman, I have just one to
2 clarify.

3 BUTCH LAMBERT: Ms. Quillen.

4 MARY QUILLEN: On the spreadsheet it's listed as
5 Tract 2, but on the docket---

6 RITA BARRETT: That...Jim has a revised spreadsheet
7 that---

8 JIM KAISER: Yeah. Sorry.

9 RITA BARRETT: I assume that got revised after the
10 application. It is, in fact, Tract 4.

11 MARY QUILLEN: Okay. Thank you. Well, the exhibit
12 has Tract 4, so it was just the spreadsheet.

13 RITA BARRETT: Yes.

14 JIM KAISER: Do you my...do you want that corrected
15 one?

16 BUTCH LAMBERT: Do you have it with you?

17 JIM KAISER: Yeah.

18 BUTCH LAMBERT: If you could just hand that to Mr.
19 Asbury.

20 (Jim Kaiser passes the exhibit to David Asbury.)

21 BUTCH LAMBERT: Any further questions from the
22 Board?

23 (No audible response.)

24 BUTCH LAMBERT: Ms. Barrett, you did state the
25 percentage, didn't you?

1 RITA BARRETT: Yes. It's...it's 3.66 acres and
2 6.23%.

3 BUTCH LAMBERT: Yeah, the split percentage, I
4 think.

5 SHARON PIGEON: The percentage to be paid to the---
6 .

7 RITA BARRETT: A 100%.

8 BUTCH LAMBERT: Yeah.

9 JIM KAISER: I'm sorry. Yeah. I apologize.

10 RITA BARRETT: A 100% of the royalty to be paid to
11 Mr. Barton, yes.

12 BUTCH LAMBERT: I thought I heard...I thought I heard
13 you Ms...okay, thank you. Any further questions?

14 (No audible response.)

15 BUTCH LAMBERT: Anything further, Mr. Kaiser?

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

18 BUTCH LAMBERT: Do I have a motion?

19 MARY QUILLEN: Motion to approve.

20 BILL HARRIS: Second.

21 BUTCH LAMBERT: I have a motion and a second. Any
22 further discussion?

23 (No audible response.)

24 BUTCH LAMBERT: All in favor, signify by saying
25 yes.

1 (All Board members signify by saying yes, but Katie
2 Dye.)

3 BUTCH LAMBERT: Opposed, no.

4 KATIE DYE: No.

5 BUTCH LAMBERT: Thank you, Mr. Kaiser. It's
6 approved.

7 JIM KAISER: Thank you.

8 BUTCH LAMBERT: Calling item three on the docket, a
9 petition from CNX Gas Company, LLC for disbursement of
10 funds from escrow for unit BA-110, docket number VGOB-
11 02-0917-1072-01. All parties wishing to testify,
12 please come forward.

13 MARK SWARTZ: Mark Swartz and Anita Duty.

14 (Anita Duty is duly sworn.)

15 BUTCH LAMBERT: You may proceed, Mr. Swartz.

16 MARK SWARTZ: Good morning. Mr. Chairman, this
17 unit or this application number three, six, seven and
18 eight are items that I have written to you and Mr.
19 Asbury about last week requesting that they be
20 continued until the June docket. We have a motion that
21 has been filed in one of the Federal cases in Abingdon.
22 The lawyers in that case and the other cases over there
23 agreed to postponed essentially an injunction hearing
24 until well they try and settle it. And if we could get
25 these postponed until June, they've been told they need

1 to deal with it by then. It would be...it would be very
2 helpful to us. I don't want to violate a Court order
3 or an agreement. Four and five we're good to go
4 because those do not involve spit agreements.

5 BUTCH LAMBERT: Okay. All right. So, item number
6 three on the docket will be continued until June.

7 MARK SWARTZ: That would be great.

8 BUTCH LAMBERT: Item six on the docket, a petition
9 from CNX Gas Company, LLC for disbursement of funds
10 from escrow for unit T-28, docket number VGOB-97-0218-
11 0565-02 will be continued until June.

12 MARK SWARTZ: Great.

13 BUTCH LAMBERT: Docket number seven, a petition
14 from CNX Gas Company, LLC for disbursement of funds
15 from escrow for unit U-27, docket number VGOB-97-0218-
16 0563-03 will be continued until June. Docket item
17 number eight, a petition from CNX Gas Company, LLC for
18 disbursement of funds from escrow for unit U-28, docket
19 number VGOB-97-0218-0564-02 will be continued until
20 June.

21 MARK SWARTZ: Thank you very much.

22 BUTCH LAMBERT: Now, we're calling docket item
23 number four, a petition from CNX Gas Company, LLC for
24 disbursement of funds from escrow for unit AV-127,
25

1 docket number VGOB-04-1214-1365-01. All parties
2 wishing to testify, please come forward.

3 MARK SWARTZ: Mark Swartz and Anita Duty.

4 BUTCH LAMBERT: You may proceed, Mr. Swartz.

5 MARK SWARTZ: Thank you.

6
7 ANITA DUTY

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

10 DIRECT EXAMINATION

11 QUESTIONS BY MR. SWARTZ:

12 Q. Anita, would you state your name for us,
13 please?

14 A. Anita Duty.

15 Q. Who do you work for?

16 A. CNX Land Resources.

17 Q. Who prepared the petition and got the notice
18 out with regard to this request for disbursement?

19 A. I did.

20 Q. And what did you do to notify the folks who
21 would receive payments that there was going to be a
22 hearing today?

23 A. Mailed by certified mail, return receipt
24 requested on April the 15th, 2011.

25

1 Q. And have you brought your certificates with
2 regard to mailing with you today so you can provide
3 those to Mr. Asbury?

4 A. I have.

5 Q. I assume this is one because we had just a
6 couple of people or one person actually that we were
7 talking about here that you probably did not publish,
8 is that correct?

9 A. That's correct.

10 Q. Okay. And this is a request to make a
11 disbursement with regard to a specific tract and what
12 tract is that?

13 A. Tract 1B.

14 Q. And will this disbursement close out the escrow
15 account or will this escrow account need to be
16 maintained?

17 A. It will need to be maintained.

18 Q. So, it's just partial?

19 A. Yes.

20 Q. And this pertains to AV-127, correct?

21 A. Yes.

22 Q. And the basis for this request is what? What
23 happened?

24 A. A Court order that adjudicated the CBM
25 ownership.

1 Q. And...and I take it that that Court order
2 determined that one side either the coal or the oil and
3 gas side owned a 100% of the CBM?

4 A. Yes.

5 Q. Have you actually seen that order and reviewed
6 it?

7 A. I have.

8 Q. Okay. And who, under the terms of that order,
9 should receive the disbursement?

10 A. Buford E. Short.

11 Q. Okay. Then if we go to the last page of the
12 petition, it looks like you've done your Exhibit A-1
13 the escrow calculation, is that correct?

14 A. Yes.

15 Q. And you've only got one percentage here, right?

16 A. Right.

17 Q. That's because it's only going to one person?

18 A. Yes.

19 Q. And the well contributing was just the one well
20 AV-127?

21 A. Yes.

22 Q. Okay. Did you...did you have a balance as of a
23 particular date that you used to make the percentage
24 calculation?

25 A. Yes, March the 31st, 2011.

1 Q. And where did you get that number?

2 A. Off a First Bank & Trust spreadsheet provided
3 by David Asbury's office.

4 Q. Okay. And as of 3/31/2011 what was the balance
5 in the escrow account for AV-127?

6 A. \$110,799.58.

7 Q. Okay. And as of that date, what was the amount
8 that would have come out if the disbursement had been
9 made on that date to Mr. Short?

10 A. \$23,753.11.

11 Q. Okay. Since March the 31st though and probably
12 before the escrow agent actually makes the disbursement
13 will other funds have found their way into this
14 account?

15 A. There will.

16 Q. Okay. And so the escrow agent should use a
17 percentage?

18 A. Yes.

19 Q. And what percentage did the escrow agent use at
20 the time the disbursement is made to determine the
21 amount of the check that should be paid to Buford E.
22 Short?

23 A. 21.4379%.

24 Q. And are you also requesting that from the date
25 that this order is entered the operator be allowed to

1 pay Mr. Short directly rather than escrowing further
2 funds?

3 A. Yes.

4 MARK SWARTZ: Mr. Chairman, I think that's all I
5 have.

6 BUTCH LAMBERT: Any questions from the Board?

7 SHARON PIGEON: David, do you have a copy of the
8 Decree in this?

9 DAVID ASBURY: I'm sorry?

10 SHARON PIGEON: Do you have a copy of the Decree in
11 this that they're referring to?

12 MARK SWARTZ: If you don't, I've got one with me
13 that you can have.

14 DAVID ASBURY: I do not think so.

15 MARK SWARTZ: I can give you one. Here you go.

16 DAVID ASBURY: Thank you.

17 BUTCH LAMBERT: Any other questions?

18 (No audible response.)

19 BUTCH LAMBERT: Anything further, Mr. Swartz?

20 MARK SWARTZ: No.

21 BUTCH LAMBERT: Do I have a motion?

22 MARY QUILLEN: Motion to approve.

23 BRUCE PRATHER: Second.

24 BUTCH LAMBERT: I have a motion and a second. Any
25 further discussion?

1 (No audible response.)

2 BUTCH LAMBERT: All in favor, signify by saying
3 yes.

4 (All Board members signify by saying yes, but Katie
5 Dye.)

6 BUTCH LAMBERT: Opposed, no.

7 KATIE DYE: I'll abstain.

8 BUTCH LAMBERT: One abstention, Mrs. Dye. Calling
9 item number five on the docket, a petition from CNX Gas
10 Company, LLC for disbursement of funds from escrow for
11 unit Y-26, docket number VGOB-01-0918-0923-02. All
12 parties wishing to testify, please come forward.

13 MARK SWARTZ: Mark Swartz and Anita Duty. We've
14 got a revised exhibit here. We'll give that out before
15 we start.

16 (Revised exhibit is passed out to the Board.)

17

18 ANITA DUTY

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

21 DIRECT EXAMINATION

22 QUESTIONS BY MR. SWARTZ:

23 Q. Would you state your name for us, Anita?

24 A. Anita Duty.

25 Q. Who do you work for?

1 A. CNX Land Resources.

2 Q. Do your job duties for CNX include
3 participating in the preparation of miscellaneous
4 petitions to seek disbursements from escrow?

5 A. Yes.

6 Q. And did you, in fact, sign the petition here?

7 A. I did.

8 Q. In a nutshell, what...what happened and what
9 needs to happen?

10 A. After the disbursement was approved, I failed
11 to notify our accounting department to quit paying
12 escrow for two months...three months actually. So, they
13 sent the payments in an error. So, all we're doing is
14 asking them to pay those owners directly and keep the
15 First Bank & Trust payments.

16 Q. And the...so first the escrow agent is being
17 asked to pay the amounts on the revised exhibits out to
18 the people or---?

19 A. Yes.

20 Q. Okay.

21 A. Pay the individuals.

22 Q. Okay. And this is a rare instance where you're
23 not asking them to use a percentage, you're asking them
24 to use a dollar figure?

25 A. Exactly.

1 Q. Okay. And on the revised exhibit, have you set
2 forth the amounts that were paid in error and the total
3 amounts that should be paid out on a per person basis
4 to disburse the funds that were paid into escrow in
5 error?

6 A. Yes.

7 Q. And after these payments are made by the escrow
8 agent there will still be an escrow requirement because
9 there will still be money on deposit, correct?

10 A. There will.

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

12 BUTCH LAMBERT: Any questions from the Board?

13 MARY QUILLEN: Mr. Chairman, I have just one
14 question for Anita. I'm just comparing the exhibit
15 that we got with the Board packet and this one. Just
16 scanning over it, do you know what the changes were?

17 ANITA DUTY: Mr. Asbury had asked us a question on
18 the check number for the February...if you'll notice
19 February and March check numbers are the same on the
20 original exhibit.

21 MARY QUILLEN: Okay. Right, right, right. I was
22 looking at numbers---

23 ANITA DUTY: That's really all.

24 MARY QUILLEN: ---and not check numbers.

25 ANITA DUTY: Yeah, that's really all it was.

1 MARY QUILLEN: Okay. Okay, thanks.

2 BUTCH LAMBERT: Okay. Any other questions?

3 (No audible response.)

4 BUTCH LAMBERT: Anything further, Mr. Swartz?

5 MARK SWARTZ: No.

6 BUTCH LAMBERT: Do I have a motion?

7 MARY QUILLEN: Motion to approve.

8 BRUCE PRATHER: Second.

9 BUTCH LAMBERT: I have a motion and a second. Any
10 further discussion?

11 (No audible response.)

12 BUTCH LAMBERT: All in favor, signify by saying
13 yes.

14 (All Board members signify by saying yes, but Katie
15 Dye.)

16 BUTCH LAMBERT: Opposed, no.

17 KATIE DYE: I'll abstain.

18 BUTCH LAMBERT: One abstention, Mrs. Dye. Calling
19 number nine on the docket, a petition from Appalachian
20 Energy, Inc. for pooling of coalbed methane unit AE-
21 235, docket number VGOB-11-0125-2899. All parties
22 wishing to testify, please come forward.

23 JIM KAISER: Mr. Chairman and Board members, Jim
24 Kaiser on behalf of Appalachian Energy. We would
25 request of the Board that this matter be continued

1 until August of this year. Mr. Henderson, President of
2 Appalachian Energy, has been corresponding with Mr.
3 Asbury. We have one unleased interest in this unit, a
4 Ms. Carol King. She recently lost her husband and we
5 just haven't really been able to...been attempting to
6 work with her since that time. We think that if we
7 continue this until August that will give us time to
8 work something out with her and then we can eventually
9 withdraw the pooling application because we will have a
10 voluntary unit.

11 BUTCH LAMBERT: Okay. Thank you, Mr. Kaiser. We
12 do have that correspondence. That will be continued
13 until August. Calling docket item number ten. The
14 Board will hear an appeal of the decision rendered by
15 the Division Director relative to the informal fact-
16 finding hearing 24006, docket number VGOB-11-0419-2941.
17 All parties wishing to testify, please come forward.

18 TIM SCOTT: Mr. Chairman, Phil and Gus Jansen for
19 Range Resources-Pine Mountain, Inc.

20 BUTCH LAMBERT: Mr. Phipps, could you please state
21 your name for the record?

22 ROGER PHIPPS: I'm Roger Phipps, surface owner of
23 the property in question.

24 BUTCH LAMBERT: Thank you.

25

1 (Phil Horn, Gus Jansen and Roger Phipps are duly
2 sworn.)

3 BUTCH LAMBERT: I think this one was continued from
4 last month because of some discussion that we were
5 having. One, over an issue with the informal fact-
6 finding that needed some corrections in that. I think
7 Ms. Davis is handing out a corrected decision by David
8 Asbury again that we need to take a look at. Also, I
9 think, Mr. Scott, you had some objections to a couple
10 of issues that we wanted to address this month as well
11 if I remember correctly.

12 TIM SCOTT: Yes, sir, that's correct.

13 BUTCH LAMBERT: Okay, Mr. Scott, if you're ready,
14 you may proceed.

15 TIM SCOTT: Well, as we stated last month, Mr.
16 Chairman, the appeal that was filed by Mr. Phipps was
17 objecting to the use of his land, the use of his
18 surface and the...we had earlier indicated this was a
19 full mineral severance back in the early part of the
20 last century that Range has attempted to accommodate
21 Mr. Phipps and that the appeal that was filed clearly
22 does not fall within the statutory objections provided
23 to a surface owner. So, that we would respectfully
24 request that the...Mr. Asbury's decision be affirmed as
25 entered.

1 BUTCH LAMBERT: Okay. If the Board members will
2 take just a few moments to look over the revised
3 decision, then we will have discussions on that
4 decision.

5 (Board members review the revised decision.)

6 BUTCH LAMBERT: Are there any questions from the
7 Board pertaining to the decision?

8 (No audible response.)

9 BUTCH LAMBERT: Mr. Phipps, do you have any further
10 that you would like to add...anything further?

11 ROGER PHIPPS: Yes, I've got a couple of things
12 that I'd like to...or just some statements to make. Of
13 course, Mr. Scott always informs me that I don't have
14 the rights to object to anything other than what's laid
15 out on a piece of paper. According to the Code 45.1-
16 361.35(B), the notice that I received from the Virginia
17 Division of Gas and Oil Section B says that I'm
18 entitled to object to one, two and four. Then Mr.
19 Scott presented the Board last month with the same Code
20 number 45.1-361.35(B). He says I'm only able to object
21 to items one, two and three, which was different from
22 the one that was presented by the Gas and Oil Board.
23 Another point that I would like to make, somewhere in
24 all of the paperwork of everything it was listed that I
25 was both the surface and the mineral owner, which to my

1 knowledge wasn't the case, and that I was just the
2 surface owner. And I'm just an individual. I'm not in
3 the gas business. I'm not in the legal business as far
4 as attorneys and so forth. One other thing that I
5 would like to point out to the Board, for the past
6 thirty-five years that I've owned the property and paid
7 taxes on it, it's in a different district than what
8 they're telling me in the paperwork here that it
9 is...that it's located. They say here that's it's
10 located in the Ervington District of Dickenson County.
11 I don't know if the Ervington District Supervisor of
12 the County is more favorable to the gas company or why
13 that would be. But my tax assessment and all of my
14 taxes has identified the property and to my knowledge
15 has always been located in the Willis District. So,
16 there's just another error that comes to the point that
17 has been done in this case. That's basically all that
18 I have to say. I respect the Board's decision in
19 whatever they do. I appreciate their time.

20 BUTCH LAMBERT: Thank you, Mr. Phipps. Mr. Asbury,
21 do you have the permit application and you can look it
22 to see what district the application states?

23 KATIE DYE: Mr. Chairman.

24 BUTCH LAMBERT: Mrs. Dye.

25

1 KATIE DYE: What time he's looking. I just have a
2 question about this. I don't know if this was handed
3 out to us as the chain of title or what. There's no
4 Deed Book and there's no page. It has always been my
5 understanding that we don't interpret the chain of
6 title. This was---

7 BUTCH LAMBERT: Was that...was that in your packet?

8 KATIE DYE: It was handed out to us last month.

9 SHARON PIGEON: It was last month. They had---

10 BUTCH LAMBERT: Oh. Oh.

11 SHARON PIGEON: ---typed the severance deed
12 language because it was a handwritten deed.

13 BUTCH LAMBERT: I recall that. Thank you. And
14 you're right, Mrs. Dye, and we don't interpret deeds.

15 TIM SCOTT: Mr. Chairman, just...I need to respond to
16 that. The reason that we provided that to the Board
17 was that the order had indicated that Mr. Phipps was
18 both the royalty owner and a surface owner. We wanted
19 to confirm and let the Board know that that was not the
20 case.

21 BUTCH LAMBERT: Yes.

22 SHARON PIGEON: And that was a lot of the
23 correction that was made in the informal fact-finding--
24 -.

25 TIM SCOTT: Yes, ma'am.

1 SHARON PIGEON: ---because all of the parties
2 agreed that that was an accurate tract.

3 TIM SCOTT: That's correct.

4 SHARON PIGEON: So, you did give us that not to...not
5 as a piece of evidence, just to confirm what you both
6 were telling us.

7 TIM SCOTT: Yes, ma'am. That is correct.

8 DAVID ASBURY: Mr. Chairman.

9 BUTCH LAMBERT: Mr. Asbury.

10 DAVID ASBURY: The permit indicates the unit
11 actually splits districts. One is the Willis District
12 and the other is the Sandlick District in Dickenson
13 County.

14 BUTCH LAMBERT: And, Mr. Phipps, you say that you
15 received notice that it was in the Ervington District?

16 ROGER PHIPPS: Yes, sir. There is my assessment
17 and that's the way it's shown. Here is from the
18 Division of Gas and Oil, the Ervington District. Here
19 was the paper that Mr. Scott presented to you folks
20 last week as Ervington District.

21 BUTCH LAMBERT: Okay.

22 TIM SCOTT: Mr. Chairman, if Mr. Phipps received
23 notice I'm really having trouble understanding the
24 relevance of the issue of which district it's in. If
25 this is the survey that was provided and the plat that

1 was recorded. I mean, I don't know that the work from
2 the Commissioner of Revenue's office is necessarily
3 flawless. So, I mean, it is obviously...everybody who
4 needs to be before the Board is here. So, I don't
5 think it's a notice issue at all.

6 BUTCH LAMBERT: You may be right, Mr. Scott. But,
7 I guess, what I'm thinking is if a property owner is
8 going to be noticed and...he should be...at least be
9 noticed of the correct location of his property and
10 where the well is going to be. He has provided the
11 notice of the informal fact-finding located in the
12 Ervington District in Dickenson County.

13 SHARON PIGEON: But he didn't raise that objection
14 at the informal fact-finding---

15 BUTCH LAMBERT: He didn't raise...that's right.

16 TIM SCOTT: That didn't come from our office
17 though, Mr...Mr. Chairman.

18 BUTCH LAMBERT: I'm not sure where it came from.
19 It's just something---

20 TIM SCOTT: He would have come from Mr. Asbury's
21 office.

22 BUTCH LAMBERT: Did this come from you, David?
23 This come out of the permit package.

24 (No audible response.)

25

1 BUTCH LAMBERT: So, the notice did come Mr. Asbury,
2 but the language is out of the permit application?

3 DAVID ASBURY: Yes, that's correct.

4 BUTCH LAMBERT: It also states the Ervington
5 District in the permit application. I understand. He
6 didn't raise that as an objection. However, if we're
7 going to review these applications either with Mr.
8 Asbury's office or before the Board, I would think that
9 the correct location should be on them.

10 TIM SCOTT: I agree.

11 BUTCH LAMBERT: Okay. Any other questions from the
12 Board?

13 DAVID ASBURY: Mr. Chairman.

14 BUTCH LAMBERT: Mr. Asbury.

15 DAVID ASBURY: If it pleases the Board, I'd like to
16 discuss the errors that my office made in the decision
17 that were corrected and handed today. There were two.
18 In the decision title, it always and during the
19 informal fact-finding hearing included Mr. Phipps as
20 the surface owner in the title of the informal fact-
21 finding conference. At the conference, there
22 were...there was not a dispute about the location of his
23 property or what his disputes were. In the writing in
24 the first decision, it was my error that included the
25 word royalty and surface owner. That has been

1 corrected to just reflect as surface owner. That was
2 the first error. And his objections were heard during
3 the testimony under 45.1-361.35(B) solely for the
4 surface owners. Mr. Phipps, do you have any objection
5 that the hearing only addressed your surface rights?
6 Is that correct? The informal fact-finding hearing?

7 ROGER PHIPPS: This was the initial hearing?

8 DAVID ASBURY: Yes, sir.

9 ROGER PHIPPS: Yes. No, I have no objection that I
10 was...I've always been just the surface owner.

11 DAVID ASBURY: Yes, sir. Thank you. And the other
12 error in the writing, it talked about cross
13 examinations. One of the more challenging things that
14 my job requires...includes the informal fact-finding
15 hearings that you're hearing today. Some of the
16 instructions that were left by the previous Director
17 included some instructions that used the term cross
18 examination. Ms. Pigeon has since corrected that
19 thought in our process at the informal fact-finding
20 hearing that it's only a question and answer session.
21 Ms. Pigeon was correct. The term cross examination was
22 incorrect in the decision. So, that has been changed
23 to just questions. The statute does not allow cross
24 examinations per say in an informal fact-finding
25 hearing, only questions. You were correct, Mr. Scott

1 and Ms. Pigeon on that issue. That also has been
2 changed in the decision.

3 BUTCH LAMBERT: Okay. Anything further, Mr.
4 Asbury?

5 DAVID ASBURY: That's all. Thank you, sir.

6 BUTCH LAMBERT: Okay. Any further discussion from
7 the Board?

8 KATIE DYE: Yes, sir, please.

9 BUTCH LAMBERT: Mrs. Dye.

10 KATIE DYE: I have a question for Mr. Phipps.
11 Did...did they meet with you and did you guys continue to
12 try to work the situation out where it would be
13 agreeable with you?

14 ROGER PHIPPS: They didn't meet. Mr. Horn did give
15 me a phone call. We talked for a few minutes. He
16 increased his momentary offering for damage only. I'm
17 not interested in damage only. I don't want the
18 liability. I have offered to sell the property, which
19 has never been offered for sale up until this time.
20 They're just totally not interested. So...and I'm not
21 interested in what they're offering. So, we're kind of
22 in a stalemate as far as that respect.

23 KATIE DYE: I understand. Would you care, sir, to
24 explain to the Board how it feels to be in your
25 position?

1 ROGER PHIPPS: Well, I just kindly got blindsided
2 with the whole thing, you know, as far as that. You
3 know, I'm living my life and doing my thing. The mail
4 lady comes by with a certified letter and sign this and
5 there's where it all begins. Of course, previous to
6 that, there may be some phone calls and so forth
7 wanting to drill the well for a small offering and then
8 for damages. Of course, even though from the initial
9 beginning it has increased close to seven times of what
10 the initial offering was. It just kind of insults you
11 as far as, you know, the initial upfront. I'm just
12 stumbling around in the dark.

13 TIM SCOTT: Mr. Chairman, I'm going to object to
14 this. The statute is clear as to what is required. I
15 object to this...this course. I object to this. This is
16 ridiculous. I understand how Mr. Phipps' feel. But
17 this is not part of the statute. Not what the Board is
18 required to do is to make a decision based on what Mr.
19 Asbury found at the informal fact-finding hearing. I'm
20 sorry, Mr. Phipps, with all due respect, we need to
21 follow the letter of the statute.

22 BUTCH LAMBERT: I have a question, Mr. Phipps. You
23 stated you pay the...I have your receipt here. You pay
24 the surface tax on your property, is that correct?

25 ROGER PHIPPS: The surface tax or---?

1 BUTCH LAMBERT: The tax on your land.

2 ROGER PHIPPS: It doesn't break it down separate.
3 It's just regular real estate tax.

4 BUTCH LAMBERT: Well, that's your land taxes. So,
5 who pays the mineral tax?

6 ROGER PHIPPS: I don't know. I have no idea.

7 TIM SCOTT: Mr. Chairman, Steinmann Development.

8 BUTCH LAMBERT: Steinmann Development owns that?

9 TIM SCOTT: Yes, sir.

10 BUTCH LAMBERT: And they pay the mineral tax to the
11 County?

12 TIM SCOTT: Yes, sir. It's separately assessed.

13 BUTCH LAMBERT: To the County? And you folks have
14 it leased from Steinmann?

15 TIM SCOTT: Yes, sir. That's correct.

16 BUTCH LAMBERT: Okay.

17 KATIE DYE: I have one more question for Mr. Scott.
18 You said---

19 TIM SCOTT: I'm not testifying.

20 KATIE DYE: But can I ask you a question based on
21 what you did say.

22 TIM SCOTT: I'm going to testify.

23 KATIE DYE: You stated you understood how he feels.
24 So, have you been a position where you've been a
25 severed surface owner?

1 TIM SCOTT: I'm not going to answer that, Mrs. Dye.

2 BUTCH LAMBERT: Well, I think that...that...those
3 questions are a little bit more than what we're here
4 for to deal with feelings. I think that this Board is
5 charged with dealing with what's in the law and the
6 regulations. That's what we're charged to do. This
7 hearing today is to either affirm or deny the informal
8 fact-finding hearing that we had from Mr. Asbury that
9 we have before us today. So, I would ask the Board to
10 direct your questions to Mr. Phipps or Mr. Scott or any
11 of his witnesses pertaining to the documentations that
12 we have in front of us relating to the informal fact-
13 finding hearing. So, do I have any more questions from
14 the Board?

15 DAVID ASBURY: Mr. Chairman.

16 BUTCH LAMBERT: Mr. Asbury.

17 DAVID ASBURY: You can determine if this is
18 appropriate or not. We received a fax yesterday from
19 Steinmann Development about the two wells. Is it
20 appropriate to read this into the testimony?

21 BUTCH LAMBERT: I think since I asked the question
22 and the answer was Steinmann pays the mineral tax, yes.
23 If you could you read that into the record, please.

24 DAVID ASBURY: All right. This is Steinmann
25 Development Company. It was received by our office by

1 fax yesterday, 5/16/11. This is in regard to VH-530145
2 and VH-530164 wells, which are the two vertical
3 horizontal wells pertaining to the case. It says,
4 "Dear Mr. Asbury: Steinmann Development Company owns
5 the coal, oil, gas and all other minerals under
6 approximately 2,000 acres located near Clincho and
7 Tarpon, Virginia as described in Dickenson County Deed
8 Book 11, page 116. The oil and gas are currently under
9 lease to EQT Production and Range Resources-Pine
10 Mountain, Inc. Range Resources-Pine Mountain, Inc. has
11 applied for permits to drill the above wells upon the
12 Steinmann lease and Steinmann has been informed that
13 the surface owner has objected to permits thus delaying
14 the drilling of the wells. As the royalty owner under
15 these wells, Steinmann Development Company hereby
16 requests the Division of Gas and Oil issue the permits
17 for the wells so they can drilled and Steinmann receive
18 its entitled royalty payments. Please provide a copy
19 of this letter to the Board members at the hearing for
20 permit objections." This was signed by James L. Sykes,
21 agent for the Steinmann Development Company.

22 BUTCH LAMBERT: Any other discussions from the
23 Board?

24 (No audible response.)

25

1 BUTCH LAMBERT: So, I'm going to call for a vote to
2 either affirm or reverse the decision of Mr. Asbury in
3 his informal fact-finding hearing. Do I have a motion?

4 DONNIE RATLIFF: I move to affirm, Mr. Chairman.

5 MARY QUILLEN: Second.

6 BUTCH LAMBERT: I have a motion and a second. Any
7 further discussion?

8 (No audible response.)

9 BUTCH LAMBERT: All in favor, signify by saying
10 yes.

11 (All Board members signify by saying yes, but Katie
12 Dye.)

13 BUTCH LAMBERT: Opposed, no.

14 KATIE DYE: No.

15 BUTCH LAMBERT: Mr. Scott---

16 KATIE DYE: With the comment that just because
17 things are legal doesn't always mean that they're
18 right.

19 BUTCH LAMBERT: Thank you for your comment, Mrs.
20 Dye.

21 TIM SCOTT: Thank you, Mr. Chairman.

22 BUTCH LAMBERT: Thank you, Mr. Phipps. Calling
23 docket item number eleven. A petition from GeoMet
24 Operating Company, Inc. for pooling of coalbed methane
25 unit 9...292 VA unit A-34, docket number VGOB-11-0315-

1 2928. I understand that we have received a letter from
2 Mr. Mullins requesting to continue that until June.

3 ROCKY STILWELL: That's correct. Yes, that's
4 correct.

5 BUTCH LAMBERT: Okay. So, that docket item will be
6 continued until June.

7 JIM KAISER: Mr. Swartz and the other attorneys
8 have agreed to let me go if that's all right.

9 BUTCH LAMBERT: It's fine with me. Is that okay
10 with you, Mr. Swartz?

11 MARK SWARTZ: It works.

12 JIM KAISER: So...and then we're going to ask to
13 combine thirteen and then twenty-six through twenty-
14 nine.

15 BUTCH LAMBERT: Thirteen and twenty-nine.

16 JIM KAISER: Thirteen and then twenty-six through
17 twenty-nine.

18 BUTCH LAMBERT: Oh, I'm sorry.

19 SHARON PIGEON: What about fourteen?

20 JIM KAISER: That's Tim.

21 BUTCH LAMBERT: Thirteen, twenty-six through
22 twenty-nine.

23 (Off record discussion.)

24 MARY QUILLEN: What happened to number twelve?

25 BUTCH LAMBERT: He's going---

1 JIM KAISER: We're just going to move it back and
2 do all of those in order.

3 MARY QUILLEN: Oh, oh, oh, okay. Okay, okay, okay.

4 SHARON PIGEON: I don't understand how you got all
5 this accommodation.

6 JIM KAISER: Because I have done it in the past for
7 them.

8 SHARON PIGEON: That hardly...that's hardly matters.

9 JIM KAISER: To use the Latin term that you're
10 familiar with, it's called quid pro quo.

11 SHARON PIGEON: (Inaudible).

12 BUTCH LAMBERT: Are you going to combine all of
13 them and do them all at once?

14 JIM KAISER: Yes, sir.

15 BUTCH LAMBERT: Okay. We're calling docket item
16 thirteen, a petition from Range Resources-Pine
17 Mountain, Inc. for the establishment of a 320 acre
18 provisional drilling unit RR-2940, docket number VGOB-
19 11-0419-2940. And we're calling docket item twenty-
20 six, a petition from Range Resources-Pine Mountain,
21 Inc. for the establishment of a 320 acre provisional
22 unit RR 2946 for the drilling horizontal conventional
23 gas well, docket number VGOB-11-0517-2946. Calling
24 docket item twenty-seven, a petition from Range
25 Resources-Pine Mountain, Inc. for the establishment of

1 a 320 acre provisional drilling unit RR 2947 for the
2 drilling of horizontal conventional gas well, docket
3 number VGOB-11-0517-2947. Calling docket item twenty-
4 eight, a petition from Range Resources-Pine Mountain,
5 Inc. for the establishment of a 320 acre provisional
6 drilling unit RR 2948, docket number VGOB-11-051-2948.
7 Calling docket item twenty-nine, a petition from Range
8 Resources-Pine Mountain, Inc. for the establishment of
9 a 320 acre provisional drilling unit RR 2949, docket
10 number VGOB-11-0517-2949. All parties wishing to
11 testify, please come forward.

12 JIM KAISER: Mr. Chairman, Jim Kaiser, Phil Horn
13 and Gus Jansen for Range Resources-Pine Mountain.

14 BUTCH LAMBERT: You may proceed, Mr. Kaiser.

15

16

PHIL HORN

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

19

DIRECT EXAMINATION

20 QUESTIONS BY MR. KAISER:

21 Q. Mr. Horn, if you'd state your name for the
22 record, who you're employed with and in what capacity?

23 A. My name is Phil Horn. I'm employed by Range
24 Resources-Pine Mountain, Inc. as the land manager.

25

1 Q. Now, in regards to the five units that we're
2 seeking to establish here, the first unit was continued
3 from April for a notice issue, is that correct?

4 A. That's correct.

5 Q. And we have taken care of that?

6 A. That's correct.

7 Q. With publication?

8 A. That's correct.

9 Q. And the other four units were slated for
10 hearing today and would it be your testimony that all
11 parties entitled to notice under 361.19 have been...that
12 being all oil, gas and coal owners have been notified
13 of these hearings?

14 A. That's correct.

15 JIM KAISER: Nothing further of this witness, Mr.
16 Chairman.

17 BUTCH LAMBERT: Any questions from the Board?
18 (No audible response.)

19 BUTCH LAMBERT: You may continue, Mr. Kaiser.
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GUS JANSEN

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

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

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

A. My name is Gus Jansen. I'm employed by Range Resources-Pine Mountain, Inc. as the manager of geology.

Q. And you have consistently been Ranges' witness on the establishment of these units?

A. That is correct.

Q. And you have again today prepared a package of information to further illustrate the testimony that you're going to provide?

A. That is correct.

Q. And would you go through that testimony at this time, please?

A. Yes. Again, if the Board will refer to the handout that I provided you, we'll start with Exhibit AA. Again, this is a view of the area with the five proposed units that we're seeking to...for approval today. Those are the ones outlined in red and each of those have been numbered according to the dockets with

1 the identifying members. The green units are units
2 that have been previously approved by the Board in the
3 past. Today in these areas we've only drilled one of
4 these units. This is an area that we acquired from
5 Chesapeake Energy last year and this area will continue
6 the development of this area in exploring again with
7 the horizontal drilling program. Again, we're seeking
8 these additional units to continue this testing of the
9 various formations. These...again, they're located
10 northwest of most of our previous drilling down in the
11 Nora Field. This will allow Range to expand our
12 exploration and development activities in this area.

13 Exhibit BB, again, is a schematic view of the
14 provisional unit, which is designed to provide
15 flexibility and accommodate testing of the multiple
16 potential gas producing formations with a variety of
17 geologic structures and characteristics. For example,
18 this design allows for Range lateral orientation as
19 well as potential surface locations, which are limited
20 due to the steep topography typically found in the
21 area. Again, the dimensions are shown on here, the 320
22 acre unit, with a maximum lateral with a 300 foot
23 setback of 4,431 feet.

24 Exhibit CC, again, it goes into just the additional
25 guidelines that would be utilized in the development of

1 the horizontal drilling program. Again, the dimensions
2 are stated there. This provides additional criteria
3 that will be implored to protect the existing and
4 future well development as well as facilitate the
5 planned horizontal drilling to maximize the resource
6 recovery. This loss will protect correlative rights
7 with the 300 foot interior window and the 600 foot
8 standoff for the adjacent grid and from adjacent
9 horizontal wells. Also, there will be a provision here
10 for a 600 foot distance between existing vertical wells
11 that have already been drilled in the area. Again,
12 this will maximize the resource development by allowing
13 multiple wells and laterals in all formations and allow
14 for a surface location to be in or out of the unit as
15 long as production is limited to the unit area inside
16 the interior window.

17 Exhibit DD, again, is an illustration of a typical
18 horizontal well plan. In this example, the target is a
19 Devonian Shale Zone. It depicts the vertical well hole
20 section and the current section and finally the lateral
21 portion of the well, which will be drilled and
22 completed from which the gas will be produced. The
23 horizontal drilling is subjected to the current DGO
24 regulations, specifically the casing requirements
25 displayed on Exhibit BB. I'd like to point out that

1 the surface casing plan is designed to protect the
2 fresh water zone as well as the ground water zones and
3 the coal protection casing will isolate any coal seams,
4 which will allow for the safe develop of the coal
5 resources in the future.

6 And in summary, Exhibit EE is the benefit of the
7 horizontal drilling and why Range and other operators
8 in Virginia as well as other areas around the United
9 States continue to pursue horizontal drilling. This
10 technology maximizes the production and allows
11 production otherwise found uneconomic. Range also has
12 provided information in the past related to a vertical
13 well production versus the horizontal wells and the
14 Lower Huron Shale is an example. Another key point is
15 it allows for the resource development in areas
16 otherwise inaccessible due to the topography of the
17 cultural restraints. Finally, multiple wells in a
18 single pad results in less impact to the coal resources
19 and less surface disturbance and allows for common
20 facilities such as access road, pipelines and
21 production equipment to minimized.

22 JIM KAISER: Nothing further at this time of this
23 witness, Mr. Chairman.

24 BUTCH LAMBERT: Any questions from the Board?
25

1 MARY QUILLEN: Mr. Chairman, I have just one
2 question.

3 BUTCH LAMBERT: Ms. Quillen, on these wells that
4 have been approved, were these...just to refresh my
5 memory, were these all horizontals?

6 GUS JANSEN: Yes, these were all horizontal units
7 that had been previously approved.

8 MARY QUILLEN: Okay. And you said that you had
9 drilled one?

10 GUS JANSEN: Right. We have only drilled one of
11 those and it's the one down to the furthest to the
12 southeast, which is actually in the edge of the Nora
13 Field.

14 BRUCE PRATHER: That 2655?

15 GUS JANSEN: Actually, I believe it's the 2313.

16 BRUCE PRATHER: Oh, okay. It's the one above that.

17 MARY QUILLEN: Oh, above that. Yeah, okay. Okay.

18 BRUCE PRATHER: Okay. Okay.

19 MARY QUILLEN: That one is drilled.

20 GUS JANSEN: All of these units, the previously
21 approved units and the proposed units are part our
22 (inaudible) development plans.

23 MARY QUILLEN: And these are all clustering into
24 much larger?

25 GUS JANSEN: Right.

1 MARY QUILLEN: Okay.

2 BUTCH LAMBERT: Any other questions?

3 (No audible response.)

4 BUTCH LAMBERT: Anything further, Mr. Kaiser?

5 JIM KAISER: Yes, Mr. Chairman. We'd ask that the
6 five applications be approved as submitted.

7 BUTCH LAMBERT: Do I have a motion?

8 MARY QUILLEN: Motion to approve.

9 BRUCE PRATHER: Second.

10 BUTCH LAMBERT: I have a motion and a second. Any
11 further discussion?

12 (No audible response.)

13 BUTCH LAMBERT: All in favor, signify by saying
14 yes.

15 (All Board members signify by saying yes.)

16 BUTCH LAMBERT: Opposed, no.

17 (No audible response.)

18 BUTCH LAMBERT: Thank you, Mr. Kaiser. Those are
19 all approved.

20 JIM KAISER: Thank you. Mr. Chairman, I also...I
21 just have one more on the docket and fellow Counsel has
22 agreed to let me go forward with that one, if it's okay
23 with you all, and that's number thirty-two.

24 BUTCH LAMBERT: It's fine with us if that's okay
25 with the rest of Counsel.

1 JIM KAISER: This is Jim Kaiser day to be GOB.

2 (Laughs.)

3 SHARON PIGEON: I hope that's in the record because
4 I'm going to be bringing that up to you. You've had
5 your day.

6 JIM KAISER: That's all right. If that's the only
7 one I get, that's fine.

8 SHARON PIGEON: That's right.

9 BUTCH LAMBERT: Calling docket item thirty-two, a
10 petition from Range Resources-Pine Mountain, Inc. for a
11 modification of the Nora Coalbed Gas Field to allow the
12 drilling of one additional well in units 67AE, 67AF,
13 67AG, 68AE, 68AF, 71AF, 71AG, 72AG, 73AA, 74Y, 74Z,
14 77Z, 78Y, docket number VGOB-89-0126-0009-75. All
15 parties wishing to testify, please come forward.

16 JIM KAISER: Mr. Chairman, again, Jim Kaiser, Phil
17 Horn and Gus Jansen on behalf of Range Resources-Pine
18 Mountain.

19 BUTCH LAMBERT: You may proceed, Mr. Kaiser.
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PHIL HORN

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

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. All right, Mr. Horn, in this particular case, we are seeking to...for permission to drill one additional well in thirteen CBM units, is that correct?

A. That's correct.

Q. And have all oil, gas and coal owners in these thirteen units been notified as required by statute?

A. Yes, they have.

Q. And in this particular case, we do have some unknowns, right?

A. That's correct.

Q. And did we publish in order to perfect notice to them?

A. Yes, we did.

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

BUTCH LAMBERT: Any questions from the Board?
(No audible response.)

BUTCH LAMBERT: You may continue, Mr. Kaiser.

1 GUS JANSEN

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

4 DIRECT EXAMINATION

5 QUESTIONS BY MR. KAISER:

6 Q. Mr. Jansen, again, you have been Range
7 Resources-Pine Mountains technical witness on any
8 increased density applications, is that correct?

9 A. That is correct.

10 Q. And in...for today's hearing you have prepared a
11 packet of information again to further illustrate the
12 testimony that you're going to provide?

13 A. That is correct.

14 Q. Could you go ahead and go through that with the
15 Board at this time?

16 A. Yes. Again, if the Board will refer to the
17 packet handed out, Exhibit AA is a map view of the Nora
18 CBM Field with the grid units highlighted in grey,
19 which represent previously approved increased density
20 units in front of the Board. The green units are the
21 proposed...the thirteen proposed units that we have today
22 before you. You'll also note that on the eastern edge
23 of the field you'll see where we are sort of...see the
24 boundary between the 80 acre Oakwood Field also in
25 there and there has been some increased density

1 approved in those areas also. This does give you a
2 general overview of what has been done in the past.

3 Exhibit BB is a similar view, plain view, where the
4 increased density drilling has occurred to date in the
5 Nora Field. The yellow dots in the little squares
6 indicate that drilling has been done in the past by EQT
7 or by Range Resources who is our partner in the
8 majority of these areas. Range has only three units
9 that we have drilled up in our Haysi Field in amongst
10 the thirteen units that we're approving...seeking
11 approval for today.

12 Exhibit CC is a close up view again of the thirteen
13 units in question today. You can see the three units
14 that have been identified as well as the offsetting
15 units that have been approved. It just gives you a
16 little better view and ties back to the units.

17 Exhibit DD, again, we've heard testimony many times
18 in front of the Board here about the benefits of
19 increased density drilling. We're dealing again with a
20 low pressure reservoir regime here in the coalbed
21 methane. We have...it has been demonstrated increase the
22 fracturing by the increased density wells will help to
23 promote this gas flow at low pressure. The increase
24 density will also decrease the dewatering timeframe to
25 allow production to increase at a faster rate of the

1 wells and it will also increase the recovery factor of
2 the reservoir. So, again, this production will be
3 achieved faster and more economically. What you see in
4 this graph, this is a cumulative graph of the 183
5 wells, which Range has an interest in the Nora Field
6 where increased density drilling has occurred to date
7 from the period of 2006 through 2011. The blue line
8 represents the first well that was drilled in each of
9 those units and the mengta or redish colored line
10 represents the increased density wells in the
11 corresponding units on a cumulative basis. As you can
12 see here, the increased density well has very...has had a
13 negative impact into the first well. But we've also
14 been able to basically double the production on a
15 global view of all of these wells. There will be
16 variations between individual wells, but on an
17 cumulative basis of all the 182 cases that we've
18 evaluated here. You basically see that we're getting a
19 similar production. We're also seeing this production
20 come on faster as I've stated before and the benefits
21 of this drilling.

22 So, in summary again, the benefits of the increase
23 drilling will benefit the working interest owners, the
24 royalty owners of the estate by maximizing the
25 production and it will promote the conservation of gas

1 resources and prevent waste by more effectively
2 extracting the resources. It allows for facilities
3 such as roads, pipelines and etcetera to help minimize
4 the environmental impact. Again, we have no
5 correlative right issues within these proposed units.

6 Q. So, Mr. Jansen, then there's obviously between
7 you and EQT partners in this endeavor the decision has
8 been made that the incremental production achieved from
9 a second well is a good use of capital moving forward?

10 A. That is correct.

11 JIM KAISER: Okay. Thank you.

12 BUTCH LAMBERT: Any questions from the Board?

13 DONNIE RATLIFF: Mr. Chairman---

14 MARY QUILLEN: I have just one question. On
15 Exhibit DD, this is the 183 units in the Nora Field?

16 GUS JANSEN: That is correct.

17 MARY QUILLEN: It says it's from...is this the number
18 that you have drilled to date is 183?

19 GUS JANSEN: That's a 18---

20 MARY QUILLEN: That's the total?

21 GUS JANSEN: That's the total cumulative impact of
22 all the infill increased density drilling that has been
23 done in the Nora Field.

24 MARY QUILLEN: And so on DD, of course that doesn't
25 show all of the Nora Field. So, those yellow dots in

1 that are just those that have been I guess recently
2 drilled or just in that---?

3 GUS JANSEN: Yes, those..those yellow dots are the
4 183 wells---.

5 MARY QUILLEN: That's part of those 183?

6 GUS JANSEN: Yes, that's correct.

7 MARY QUILLEN: It's just that it's not on this---?

8 BRUCE PRATHER: Well, you---.

9 GUS JANSEN: Yeah. There's very little that has
10 been done down in the...there has been a view in the
11 Roaring Fork Field, which is separate from this area.

12 MARY QUILLEN: Okay. Okay.

13 BRUCE PRATHER: You have one well on every one of
14 these units that you're asking for a second well?

15 GUS JANSEN: That is correct. I failed to mention
16 that. The thirteen units we have already drilled the
17 initial well in each of those thirteen units. That is
18 correct.

19 BRUCE PRATHER: Okay. Okay.

20 MARY QUILLEN: Okay.

21 BRUCE PRATHER: I didn't see the yellow dots.

22 MARY QUILLEN: It wasn't on the green ones. That
23 was our---.

24 GUS JANSEN: Right.

25

1 MARY QUILLEN: ---question. Bruce finally got to
2 it for me. Thank you. Thank you.

3 BUTCH LAMBERT: Any other questions?

4 DONNIE RATLIFF: Mr. Chairman.

5 BUTCH LAMBERT: Mr. Ratliff.

6 DONNIE RATLIFF: Mr. Horn testified that all
7 persons with interest have been notified. Are there
8 any active mines under these wells?

9 PHIL HORN: I will let Mr. Jansen. He's more of a
10 coal man than I am.

11 GUS JANSEN: To my knowledge, I do not believe
12 there are any active...there is an active surface mine,
13 which is in the reclamation phase only at this time,
14 which may be impacted by a couple of these units, but I
15 don't think at this time there's any active coal
16 removal going on around any of these units.

17 BUTCH LAMBERT: Mr. Jansen, in the future, I think
18 what...some time we'd ask...back to Mr. Ratliff's question,
19 we'd ask that mine mapping be attached when we're...we
20 see these applications for drilling. If you could
21 start...continue supplying those to us.

22 GUS JANSEN: Okay. Again, I don't think there was
23 any active...any active mining. Are you talking about
24 any abandoned and active mining?

25 BUTCH LAMBERT: Yes. Uh-huh.

1 GUS JANSEN: In both...both cases?

2 BUTCH LAMBERT: Yes. Anything that---?

3 GUS JANSEN: Because there have been...there are
4 several seams that have been...have abandoned mining
5 underneath it.

6 BUTCH LAMBERT: Just for the Board's information,
7 if you could give us---.

8 GUS JANSEN: And I can file a map---.

9 BUTCH LAMBERT: And we like to see those not for
10 this Board's benefit but just so that we can work out
11 agency at the Division of Mines to coordinate and make
12 sure that we're---.

13 GUS JANSEN: I understand.

14 SHARON PIGEON: Well, also for the Board's benefit.

15 BUTCH LAMBERT: In addition to the Board's benefit,
16 I might add. Just for safety and we like to coordinate
17 with the activities with our Division of Mines. Thank
18 you. We appreciate that.

19 GUS JANSEN: We can do that.

20 BUTCH LAMBERT: Any other questions from the Board?

21 KATIE DYE: I have one question, please, Mr.
22 Chairman.

23 BUTCH LAMBERT: Mrs. Dye.

24 KATIE DYE: In looking at your first paragraph of
25 your application, the only well that you mentioned is

1 74Z. But all of the people that are listed here did
2 receive notice?

3 SHARON PIGEON: It's actually the notice sheet and
4 not the application.

5 JIM KAISER: Yes, ma'am. I have all of the green
6 cards here if you'd like to see them.

7 KATIE DYE: So, that was just at typographical
8 error that you didn't include them all in your first
9 paragraph.

10 JIM KAISER: Yeah.

11 PHIL HORN: That's the one that has got the
12 unknowns, I think.

13 JIM KAISER: Okay. Yeah, that's the...that's the...I
14 don't see where she's talking about.

15 PHIL HORN: The front page.

16 JIM KAISER: Oh, here.

17 PHIL HORN: Yeah, the front page.

18 (Jim Kaiser and Phil Horn confer among themselves.)

19 JIM KAISER: Okay. Yeah, that's our publication
20 notice and that's the unit that had the unknowns in it.

21 KATIE DYE: Okay.

22 JIM KAISER: Everybody else received the actual
23 notice. I have the green cards. We had just out of
24 this...out of these entire thirteen units, we just had
25 one unclaimed, a Mr. Everett Bailey.

1 BUTCH LAMBERT: Any further questions from the
2 Board?

3 (No audible response.)

4 BUTCH LAMBERT: Anything further, Mr. Kaiser?

5 JIM KAISER: We...Mr. Chairman, we'd ask that the
6 application be approved as submitted and Mr. Jansen has
7 agreed to supplement it with the mine maps that you've
8 asked for.

9 BUTCH LAMBERT: Thank you. Do I have a motion?

10 KATIE DYE: Motion to approve with those
11 supplemented mine maps.

12 BRUCE PRATHER: Second.

13 BUTCH LAMBERT: I have a motion and a second. Any
14 further discussion?

15 (No audible response.)

16 BUTCH LAMBERT: All in favor, signify by saying
17 yes.

18 (All Board members signify by saying yes.)

19 BUTCH LAMBERT: Opposed, no.

20 (No audible response.)

21 BUTCH LAMBERT: Thank you, Mr. Kaiser.

22 JIM KAISER: Thank you.

23 BUTCH LAMBERT: We're going to take about a fifteen
24 minute break. We'll resume at 10:30.

25 (Break.)

1 BUTCH LAMBERT: Okay, ladies and gentlemen, it's
2 time for us to get started back. We're calling item
3 number twelve on the docket. A petition from CNX Gas
4 Company---

5 MARK SWARTZ: Is it twelve?

6 ANITA DUTY: He's going to continue it.

7 MARK SWARTZ: He's going to continue it.

8 BUTCH LAMBERT: Oh, okay.

9 ANITA DUTY: He's going to continue fourteen.

10 TIM SCOTT: I'm continuing fourteen. I'm sorry.

11 BUTCH LAMBERT: Okay. Okay, Mr. Scott, if you...no,
12 that's okay. You have...you're going to address one.

13 TIM SCOTT: Fourteen.

14 BUTCH LAMBERT: Fourteen, okay.

15 TIM SCOTT: I'm sorry.

16 BUTCH LAMBERT: Okay. Calling item fourteen on the
17 docket, a petition from Range Resources-Pine Mountain,
18 Inc. for a well location exception for proposed well
19 900042, docket number VGOB-11-0419-2932. Mr. Scott.

20 TIM SCOTT: Mr. Chairman, we're going to ask that
21 this be continued until June. We have been working
22 with the coal operator and have finally come to an
23 agreement as to the location of this well. We didn't
24 have ample time to notice the party's respondent. So,
25 we'd ask that it be continued until June.

1 BUTCH LAMBERT: Okay. Thank you, Mr. Scott. That
2 will be continued unit June. Now, we're calling docket
3 item number twelve. A petition from CNX Gas Company,
4 LLC for repooling of coalbed methane unit BB-107. This
5 sis docket number VGOB-09-0915-2596-01. All parties
6 wishing to testify, please come forward.

7 MARK SWARTZ: Mark Swartz and Anita Duty.

8 TOM PRUITT: Tom Pruitt, attorney in Grundy, and
9 James Rasnake.

10 BUTCH LAMBERT: Good morning.

11 TOM PRUITT: Good morning.

12 BUTCH LAMBERT: Good morning.

13 (James Rasnake is duly sworn.)

14 (Exhibits are passed out.)

15 BUTCH LAMBERT: Okay, Mr. Swartz, for the record,
16 we...the Board has received a letter of objection. I'd
17 like to take a minute to read that letter. It says,
18 "Dear Mr. Lambert: Please accept this letter as my
19 objection to the above-referenced pooling application.
20 My name is Peggy Rasnake. I am the widow of Mike
21 Rasnake. I am the owner of all oil and gas and other
22 minerals except coal on Tracts 10, 11 and 13 in the
23 above-referenced permit application. I own Tracts 13
24 and 16 in fee simple. My husband, Mike Rasnake,
25 departed this life on December the 17th, 2010. Upon his

1 death, I became vested with 100% ownership in the said
2 tracts. I wish to object to this pooling application
3 for the following reasons: 1) The probable destruction
4 of coal under Tracts 13 and 16 by fracturing of the
5 coal seams. 2) An actual physical survey should be
6 submitted to determine if wells BB-107 is actually
7 within the BB-107 unit grid. 3) A line item detail of
8 the actual cost of this well should be submitted if the
9 well has already been drilled. 4) All other reasons as
10 provided for in the Virginia Gas and Oil Act. 5) Prior
11 royalty payments are caught up and suspended royalty
12 payments reinstated to me by the applicant CNX has
13 suspended payments of royalty to me since December of
14 2010 without any type of formal notification nor any
15 explanation." To read that into the record by...signed
16 by Peggy Rasnake.

17 TOM PRUITT: Mr. Chairman, for the record, I
18 represent Mrs. Rasnake. Mr. James Rasnake at my side
19 is the administrator of the estate of Mike Rasnake, her
20 husband.

21 BUTCH LAMBERT: Thank you, Mr. Pruitt.

22 BUTCH LAMBERT: You may proceed, Mr. Swartz.

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ANITA DUTY

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

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Anita, would you state your name for us, please?

A. Anita Duty.

Q. Who do you work for?

A. CNX Land Resources.

Q. This is an application to repool a unit and in that regard what is...what is your job title?

A. Pooling supervisor.

Q. Okay. And did you either prepare or cause to be prepared under your supervision the documents with regard to this repooling?

A. Yes.

Q. And you signed...you, yourself, signed the notice and the application, is that correct?

A. Yes.

Q. What did you do to notify people that there was going to be a hearing today?

A. I mailed by certified mail return receipt requested on March the 18th, 2011. I published the

1 notice and location map in the Bluefield Daily
2 Telegraph on March the 29th, 2011.

3 Q. And in that regard, have you brought with you
4 today your certificates with regard to mailing and the
5 proof of publication that you got from the newspaper to
6 provide those to Mr. Asbury?

7 A. Yes.

8 Q. Do you wish to add any people as respondents
9 today?

10 A. No.

11 Q. Do you wish to dismiss any?

12 A. Yes, we do.

13 Q. And there's probably a---?

14 A. Well, we don't really dismiss them. We're just
15 changing...we previously identified Tracts 16 as being
16 owned by Peggy Rasnake. It's actually owned by Douglas
17 Lowe.

18 Q. Okay.

19 A. So, we're just changing...kind of changing...
20 dismissing her and putting him in there.

21 Q. With regard to that tract?

22 A. With that tract, yes.

23 Q. Okay. So, the revised exhibits that you've
24 provided to the Board today, obviously, the tract ID
25 would change because of what you've just described?

1 A. Yes.

2 Q. Has Exhibit A, page two changed because you
3 have leased parties since this was originally pooled?

4 A. We had previously identified the Mike Rasnake
5 tract, which is now Peggy Rasnake as being unleased.
6 But it is actually leased.

7 Q. Okay. So, that would be the explanation---?

8 A. Yes.

9 Q. ---for why Exhibit A, page two has changed?

10 A. Yes.

11 Q. And while we're on that topic, as of...as of
12 today, what interest has the operator acquired in this
13 unit and what are you seeking to pool?

14 A. We have acquired 96.2704% of the coal, oil and
15 gas claim. We're seeking to pool 3.729%...7296% of the
16 coal, oil and gas claim.

17 Q. And that comes the revised exhibit that you
18 provided to the Board today?

19 A. Yes.

20 Q. Okay. And have you also provided an Exhibit B-
21 2, which shows the changes in identification and
22 ownership?

23 A. Yes.

24 Q. Okay. And, finally, we've shown the change
25 with regard to Exhibit B-3 as well?

1 A. Yes.

2 Q. This is a...is what kind of a unit?

3 A. This is a Middle Ridge 58.78 acre unit.

4 Q. And the cost estimates that were submitted with
5 the application contemplated two wells, correct?

6 A. Yes.

7 Q. And in that regard, as it turned out, one of
8 the wells cannot be drilled?

9 A. That's correct.

10 Q. Okay. So, let's refer to the plat. If you
11 could tell the Board what...what is blocking a second
12 well here.

13 A. There's just no...there's no location because of
14 that, I guess, it's a subdivision or just a...I don't
15 know if that's actually a subdivision.

16 Q. Well, there's a ton of lots---

17 A. Yes.

18 Q. ---along the road.

19 A. Yes.

20 Q. And you've got the existing well down in the
21 southwest corner of the unit, correct?

22 A. Yes.

23 Q. And you'd have to be in the drilling window and
24 600 feet away?

25 A. That's right.

1 Q. So, it's not going to work out?

2 A. Right.

3 Q. So, which well cost then are we talking about
4 with regard to the exhibits that you've provided?

5 A. BB-107A is the only one that we will...that we
6 will use.

7 Q. Okay. In that...in that regard the estimated
8 depth of that well?

9 A. 2,622.18 feet.

10 Q. Okay. Your exhibit has got---

11 A. Well, that's the actual.

12 Q. Okay. So, the actual depth of the well as
13 drilled is what?

14 A. 2,622.18 feet. We included the original cost
15 that was in the original pooling, which was an
16 estimate, but now it's an actual.

17 Q. Okay. And what...what is the...what's the cost
18 then?

19 A. \$309,449.71.

20 Q. And that's just the one well that we're talking
21 about and that's the cost of that well?

22 A. Yeah. And that's still the estimate.

23 Q. Okay.

24 A. It's not---

25 SHARON PIGEON: Could you repeat that?

1 A. \$309,449.71.

2 Q. And this unit will require that an escrow
3 account continue to be maintained, correct?

4 A. Yes.

5 Q. And what tracts?

6 A. Tract 15.

7 Q. Okay. And there are no split agreements?

8 A. No.

9 Q. Okay. With regard to the folks that the
10 operator has not managed to enter into an agreement
11 with, what would be the lease terms that you would
12 offer to them?

13 A. Five dollars per acre per year with a five year
14 paid up term and a one-eighth royalty.

15 Q. Okay. And that's for CBM?

16 A. Yes.

17 Q. The applicant here...I've done (inaudible)
18 before, but just to reconfirm this, the applicant is
19 CNX Gas Company, LLC, correct?

20 A. Yes.

21 Q. And the previous Board order appointed CNX as
22 the operator?

23 A. Yes.

24

25

1 Q. And CNX has complied with the bonding
2 requirements and other requirements to do business in
3 the Commonwealth as an operator, is that correct?

4 A. Yes.

5 Q. Is it...is it your view that the existing well is
6 a reasonable way to develop coalbed methane from within
7 this unit?

8 A. Yes.

9 Q. And if you combine a revised pooling order with
10 the leasing and acquisition efforts that have been
11 successful on the part of CNX, is it your opinion that
12 the correlative rights of all owners and claimants will
13 be protected?

14 A. Yes.

15 Q. Have you had interaction with Peggy Rasnake
16 either directly or through her Counsel with regard to
17 payment out of this unit and, in fact, other units?

18 A. Yes.

19 Q. And what is it that she has requested in terms
20 of payment?

21 A. As---?

22 Q. In terms of how many checks does she want?

23 A. She has requested that she get two separate
24 checks.

25

1 Q. Okay. And just in general, what would be the
2 reason for that request?

3 A. Pending litigation.

4 Q. She's afraid to cash one check because it might
5 constitute a waiver on---?

6 A. Yes.

7 Q. ---to certain tracts?

8 A. Yes.

9 Q. But she feels comfortable cashing checks with
10 regards to other interest and that's why she has
11 requested that the checks be divided?

12 A. Yes.

13 Q. And is that something that you've agreed to do
14 as operator?

15 A. Yes. Well, and just one other I guess thing to
16 put on record, we...we were aware that Mike Rasnake
17 passed away. But we weren't actually notified as far
18 as, you know, our paperwork to get anything updated.
19 So, that's the reason behind, you know, suspending
20 those payments. It wasn't because we...I mean, we knew
21 that he was deceased and that we needed to bring that
22 forward. But we were never officially notified and
23 sent paperwork.

24 Q. And you have been now?

25 A. And we have, yes.

1 Q. So, you're able to clear that?

2 A. Yes.

3 Q. And---?

4 A. And we actually did send her a check last
5 month, but they were...the two checks were combined and
6 this month we're going to separate them and pay her
7 what she is owed from last month and this month.

8 BUTCH LAMBERT: So, what happened to the first---?

9 A. So, we are straightening that out.

10 BUTCH LAMBERT: So, what happened to the first
11 check?

12 A. It will be...she sent it back.

13 BUTCH LAMBERT: Okay.

14 A. And we are going to just reissue it the way she
15 wants it.

16 MARK SWARTZ: I think that's all I have.

17 BUTCH LAMBERT: Any questions from the Board?

18 MARY QUILLEN: Mr. Chairman, I have just---.

19 BUTCH LAMBERT: Ms. Quillen.

20 MARY QUILLEN: ---one question for Anita. So, her
21 main objection was in the way that the...she was
22 receiving the payment and not anything to do with the
23 actual payments?

24 ANITA DUTY: I wasn't aware of that objection until
25 this morning. So, I---.

1 A. That is the cost that was included when we
2 originally pooled this unit in 2009. So, it would have
3 been an estimated...it has not been updated to current.

4 Q. So, we don't know then what the actual cost of
5 this existing well is in this repooling application?

6 A. No. We always include the original to make it
7 fair for any additional participation elections. That
8 they get the same election option that was given the
9 first time.

10 Q. With regard to that point, are your
11 applications ever updated to actually show what the
12 actual cost is so that people electing to participate
13 in a well are deducted the actual cost and not the
14 estimate?

15 A. They aren't updated in the application, but if
16 you are a participator you would receive a monthly
17 statement.

18 Q. So, what is deducted from the participator, the
19 actual cost of the well or the estimate that is shown
20 in this repooling?

21 A. The initial payment would be based on the
22 estimate and then any month thereafter would be based
23 on the actuals.

24 Q. And it will be ultimately adjusted so that the
25 actual is the deduction to the participant?

1 A. Yes.

2 TOM PRUITT: I am handing to this witness, Mr.
3 Chairman, something that the Board will have a little
4 bit later on. But it is a final decree from the
5 Circuit Court in Russell County concerning the
6 litigation that is ongoing. Our interest today is to
7 make sure that any payments received by Mrs. Rasnake
8 are not wrapped up in the litigation because it would
9 amount to a waiver of her claims in that case. Mrs.
10 Rasnake has certain tracts that separate from that
11 litigation.

12 Q. Are you familiar with that case, Ms. Duty? Do
13 you know that it has been tried and a decree has been
14 rendered by the Circuit Court?

15 A. Yes.

16 Q. And do you know that that case affects four
17 separate tracts within the Jacob Fuller Estate?

18 A. I do.

19 Q. Are either...are any of those four tracts
20 royalties produced from wells located on any one of
21 those four tracts? Are they included in this
22 application or this repooling?

23 A. They are not.

24 TOM PRUITT: That satisfies our requirement with
25 regard to item five, Mr. Chairman.

1 BUTCH LAMBERT: Five.

2 SHARON PIGEON: Tom, have you provided a copy of
3 that final decree to the Division?

4 TOM PRUITT: We will be..we will be today. We have
5 four or five other applications that directly affect
6 that case.

7 SHARON PIGEON: Thank you.

8 BUTCH LAMBERT: Okay. Mr. Pruitt, did you say that
9 satisfied five?

10 JAMES RASNAKE: I think he meant to say item four.

11 MARK SWARTZ: I think he meant three.

12 BUTCH LAMBERT: I thought so.

13 TOM PRUITT: I misspoke. I'm sorry.

14 MARK SWARTZ: It was an odd number though.

15 TOM PRUITT: It was an odd number and oddly said as
16 well. That's all I have of this witness.

17 BUTCH LAMBERT: Okay. Thank you, Mr. Pruitt. Any
18 questions from the Board?

19 MARY QUILLEN: Mr. Chairman. Just to clarify, you
20 were saying this...this tract and that tract, but you
21 never addressed any tract numbers. You know, we can't
22 understand...I mean, you were conversing with her. We
23 don't have that information.

24 TOM PRUITT: I under...I understand. The lawsuit
25 affects four separate tracts within the Jacob Fuller

1 Estate. My purpose for asking Ms. Duty the questions I
2 asked were to establish the record here today that she
3 is not receiving a check from any one of those four
4 tracts because we don't want it.

5 MARY QUILLEN: But those tracts, we don't have any
6 reference to that here in what we're addressing.

7 TOM PRUITT: I understand. I intend...we will be
8 addressing those four tracts specifically later today
9 and I have a copy of that decree for you.

10 MARY QUILLEN: But what I'm saying is this
11 particular item, that doesn't...isn't relevant to this
12 particular item that we are discussing now. That's
13 what I'm trying to clarify.

14 TOM PRUITT: Only to the extent that we needed
15 clarification on the record that it did not affect the
16 four tracts of the suit. She has testified the check
17 that Mrs. Rasnake is receiving or will receive---

18 MARY QUILLEN: But that isn't relevant to this
19 particular item, is that correct, Anita?

20 ANITA DUTY: That order does not affect this unit.

21 MARY QUILLEN: Okay. Okay. That's what I was
22 trying to clarify.

23 TOM PRUITT: And that's what we needed.

24

25

1 MARY QUILLEN: When it affects it, we'll have that
2 in front of us. But right now what we want to do is
3 clarify what is in front of us in this particular item.

4 TOM PRUITT: Yes. And my purpose was to establish
5 that it wasn't relevant to this.

6 MARY QUILLEN: I understand that.

7 TOM PRUITT: Okay.

8 MARY QUILLEN: But when it is relevant is when it's
9 the time to bring it forward because---

10 TOM PRUITT: Yes, ma'am.

11 MARY QUILLEN: ---we don't have that information.
12 Okay, thank you.

13 SHARON PIGEON: Tom, when you do bring that
14 forward, will you have the same tract numbers as we
15 have in the Board application or will be different
16 ones?

17 TOM PRUITT: We will...we will have the tracts
18 identified by acreage, which is what the Court decree
19 does. We will also have them laid out on the grid so
20 that you can see the actual grids when we bring it
21 forward.

22 SHARON PIGEON: So, we'll be able to look at it,
23 but we probably would be looking at different
24 identification markers?

25 TOM PRUITT: Yes.

1 BUTCH LAMBERT: Mr. Swartz, anything further?

2 MARK SWARTZ: If you look at the tract IDs that you
3 have for Tract 10, 11, 12 and 13 you can see that they
4 are really tiny. You know, 10 is .75 acres. 11 is,
5 you know, a quarter of an acre and so forth. The
6 tracts in the litigation that Mr. Pruitt is talking
7 about, to sort of get to your question, are 68 acres,
8 25 acres, 51 acres and 75 acres. I mean, they are...
9 definitely that litigation addressed different tracts.
10 These are little bitty tracts as you can tell from the
11 plat map here. They are...there's no overlap. Correct,
12 Anita?

13 ANITA DUTY: Yes.

14 MARK SWARTZ: Okay.

15 TOM PRUITT: Our concern was that any of those
16 fractional interest would have come out of the 68 acres
17 or the 75 acres.

18 BUTCH LAMBERT: You're just establishing a record.

19 TOM PRUITT: And the witness has done that for us
20 today.

21 BUTCH LAMBERT: Okay. Thank you, Mr. Pruitt.
22 Anything further, Mr. Swartz?

23 MARK SWARTZ: That's all I have.

24 TOM PRUITT: Thank you.

25 BUTCH LAMBERT: Anything further, Mr. Pruitt?

1 TOM PRUITT: No.

2 BUTCH LAMBERT: Any questions...any further questions
3 from the Board? Do I have a motion?

4 MARY QUILLEN: Motion to approve.

5 BRUCE PRATHER: Second.

6 BUTCH LAMBERT: I have a motion and a second. Any
7 further discussion?

8 (No audible response.)

9 BUTCH LAMBERT: All in favor, signify by saying
10 yes.

11 (All Board members signify by saying yes, but Katie
12 Dye.)

13 BUTCH LAMBERT: Opposed, no.

14 KATIE DYE: I'll abstain.

15 BUTCH LAMBERT: One abstention, Mrs. Dye. Thank
16 you, folks.

17 MARK SWARTZ: We have...before you call this, just to
18 suggest something. I think we have an agreement with
19 Mr. Pruitt to put number fifteen, which would be the
20 next item together with nineteen---

21 BUTCH LAMBERT: With which, I'm sorry?

22 MARY QUILLEN: With what?

23 MARK SWARTZ: With nineteen, twenty, twenty-one and
24 twenty-two and twenty-three, I guess. Right, Tom?

25 ANITA DUTY: Yeah.

1 TOM PRUITT: (Inaudible).

2 BUTCH LAMBERT: Twenty---.

3 MARK SWARTZ: They're essentially the same
4 litigation that we started talking about. Do you want
5 me to give you those numbers again?

6 BUTCH LAMBERT: Yes, please.

7 MARK SWARTZ: Okay. We're on fifteen, I think.

8 BUTCH LAMBERT: Yes.

9 MARK SWARTZ: Okay. So, we're going to start with
10 that one and then we've got the same...essentially the
11 same issues in nineteen, twenty, twenty-one, twenty-two
12 and twenty-three. If you could put those...if you could
13 call those together and do it once.

14 BUTCH LAMBERT: We can.

15 MARK SWARTZ: Great.

16 BUTCH LAMBERT: Item fifteen in the docket is a
17 petition from CNX Gas Company, LLC for the pooling of
18 coalbed methane unit AY-109, docket number VGOB-11-
19 0517-2941. Calling docket item nineteen, a petition
20 from CNX Gas Company, LLC for repooling of coalbed
21 methane unit AY-108, docket number VGOB-01-0821-0914-
22 01. Calling docket item number twenty, a petition from
23 CNX Gas Company, LLC for repooling of coalbed methane
24 unit AZ-108, docket number VGOB-04-0217-1256-01.
25 Calling docket item twenty-one, a petition from CNX Gas

1 Company, LLC for repooling of coalbed methane unit AZ-
2 109, docket number VGOB-03-11181227-01. All parties
3 wishing to testify, please come forward.

4 MARY QUILLEN: There's two more.

5 BUTCH LAMBERT: Oh, twenty-two, I'm sorry. I need
6 to call one more twenty-two.

7 MARY QUILLEN: Twenty-two and twenty-three.

8 BUTCH LAMBERT: A petition from CNX Gas Company,
9 LLC for repooling of coalbed methane unit BA-108,
10 docket number VGOB-04-0217-1257-01. All parties
11 wishing to testify, please come forward.

12 BILL HARRIS: I think twenty-three also.

13 MARY QUILLEN: And number twenty-three.

14 BUTCH LAMBERT: Twenty-three, another one? Thank
15 you, Mr. Harris.

16 BRUCE PRATHER: I'm not sure...he said twenty-three.

17 MARY QUILLEN: Yeah, he said...you said twenty-three,
18 didn't you?

19 MARK SWARTZ: Yes.

20 BRUCE PRATHER: Okay.

21 BILL HARRIS: Twenty-three.

22 BUTCH LAMBERT: Okay. A petition from CNX Gas
23 Company, LLC for repooling of coalbed methane unit BA-
24 109, docket number VGOB-03-1216-1242-01.

25

1 (Sandy Miller, Sheila Hale and Patricia Hurt are
2 doing sworn.)

3 BUTCH LAMBERT: Mr. Swartz, you may proceed.

4 MARK SWARTZ: What I would like to do to avoid
5 complete chaos, okay, what I thought I would do is go
6 through the basic information that pertains to item
7 fifteen, address the title issue that we're all going
8 to have so that everybody has an opportunity to get
9 into that title issue. Then I'm assuming that that
10 title issue will essentially be the same for the rest
11 of the applications so we can do that once and then
12 I'll take each of the applications but for the title
13 issue and I'll move through them so that we have sort
14 of a plan. Does that...does that make sense?

15 BUTCH LAMBERT: Well, let's just get into it and
16 see.

17 MARK SWARTZ: Okay. All right. Anita, we're going
18 to start with the basic information that we need to put
19 on the record and then we'll get to the title issues
20 with regard to docket item fifteen.

21 ANITA DUTY: Okay.

22 MARK SWARTZ: Okay.

23

24

25

1 ANITA DUTY

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

4 DIRECT EXAMINATION

5 QUESTIONS BY MR. SWARTZ:

6 Q. With regard to docket item fifteen, I'm going
7 to ask you some basic questions and try to incorporate
8 a little bit of testimony. But you need to state your
9 name for us again.

10 A. Anita Duty.

11 Q. Who do you work for?

12 A. CNX Land Resources.

13 Q. And what do you do for them?

14 A. I'm pooling supervisor.

15 Q. Okay. What did you do to notify people that we
16 would be having a hearing today with regard to pooling
17 pertaining to AY-109?

18 A. Mailed by certified mail, return receipt
19 requested on April the 15th, 2011. I published the
20 notice and location map in the Bluefield Daily
21 Telegraph on April the 23rd, 2011.

22 Q. Okay. And in that regard, have you brought
23 with you your certificates concerning mailing and your
24 proof of publication today and do you intend to deliver
25 them to Mr. Asbury's office?

1 A. I have.

2 Q. Okay. Do you want to add any people as
3 respondents today with regard to AY-109?

4 A. No.

5 Q. Do you want to dismiss any people?

6 A. No.

7 Q. Okay. This is a Middle Ridge unit, correct?

8 A. It is.

9 Q. How many acres?

10 A. 58.7.

11 Q. How many wells?

12 A. Two.

13 Q. And are they both in the drilling window?

14 A. Yes.

15 Q. Okay. With regard to those wells have you
16 provided cost and other information pertaining to those
17 wells?

18 A. Yes.

19 Q. And what's the total cost of both wells?

20 A. \$632,694.97.

21 Q. And then taking them one at a time in any
22 order, would you tell us about the cost of each well
23 and the...whether or not there's a permit and the depth?

24 A. Well AY-109 estimated cost \$257,898.67,
25 estimated depth 2,679 feet and permit number 5,001.

1 AY-109A \$374,796.30, the estimated depth 2,650 feet and
2 the permit number 10,174.

3 Q. Okay. And those are both frac wells?

4 A. Yes.

5 Q. Okay. Have you provided the Board with an
6 Exhibit A, page two showing what interest you've
7 acquired and what you're seeking to pool?

8 A. Yes.

9 Q. And what interest has the applicant acquired in
10 this unit?

11 A. A 100% of the coal owner's claim to CBM. We're
12 seeking to pool 9...oh, no, we've acquired 97.0698% of
13 the oil and gas owner's claim. We are seeking to pool
14 2.8302% of the oil and gas owner's claim.

15 Q. Okay. Is this unit going to require escrow?

16 A. Yes.

17 Q. And what tracts---

18 A. Tract 1B.

19 Q. Okay. And are there several reasons why the
20 escrow would be required?

21 A. Yes.

22 Q. And what are those reasons?

23 A. For...mainly for just a title conflict at this
24 point.

25

1 Q. Okay. And the conflict is between generally
2 whom?

3 A. It will be with...hold on. Just a second. Buck
4 Horn Coal...well, Gent Enterprises and James Rasnake.

5 Q. Okay. And then there's also...and that is a
6 title conflict?

7 A. Yes.

8 Q. Okay. And---?

9 A. As far as we're concerned.

10 Q. And presumably Gent Enterprises would say
11 there's no problem and they own it and Mr. Rasnake
12 would say there's no problem and that he owns it?

13 A. Correct.

14 Q. Okay. And that's...that's the reason that
15 there's a title issue?

16 A. Yes.

17 Q. Okay. This pertains to 75 acre tract, does it
18 not?

19 A. Yes.

20 Q. Okay. And you've shown that in Exhibit E?

21 A. Yes.

22 Q. And if the...if that title conflict gets resolved
23 it appears that there's a split agreement that then
24 would solve the escrow problem that would otherwise
25 occur because of a conflict?

1 A. Yes.

2 Q. But...and you have provided the Board in addition
3 to Exhibit E with regard to the title issue and escrow
4 requirement issue, you've also provided the Board with
5 an Exhibit EE, correct?

6 A. Yes.

7 Q. And that shows all of the tracts affected by
8 split agreements?

9 A. Yes.

10 Q. Including potentially Tract 1B if the title
11 issue gets resolved, correct?

12 A. Buck Horn has an agreement with both parties.
13 So, regardless of the outcome they're still entitled to
14 50%.

15 Q. Okay. And you've referred to the agreement
16 between Mr. Rasnake...James Rasnake and Buck Horn in your
17 Exhibit E---?

18 A. Yes.

19 Q. ---sort of in the middle there, correct?

20 A. Yes.

21 MARK SWARTZ: Okay. I'd like to incorporate
22 Anita's testimony with regard...from the prior hearing
23 with regard to standard lease terms and with regard to
24 CNX's as an operator in the Commonwealth.

25 BUTCH LAMBERT: Accepted.

1 MARK SWARTZ: Thank you.

2 BUTCH LAMBERT: Accepted.

3 MARK SWARTZ: Thank you.

4 Q. Anita, is it your testimony that the two frac
5 wells, both in this instance, both of which are located
6 in the drilling window are a reasonable way to produce
7 CBM from this unit?

8 A. Yes.

9 Q. And is it your further testimony that if you
10 combine a pooling order pooling the respondents here
11 with the leasing efforts that you've been successful
12 with the correlative rights of everybody would be
13 protected?

14 A. Yes.

15 Q. And then the last question I have have you
16 reviewed and have you had your title lawyers review the
17 final decree in the *Rasnake versus Smith* case?

18 A. Yes.

19 Q. And is the problem here that you're being told
20 that the 75 acre tract that we're addressing in this
21 unit was not fully addressed by the Court in this
22 lawsuit?

23 A. Yes.

24 Q. That's what you're being told.

25 A. That's our opinion

1 Q. That's what you're being told.

2 A. Yes.

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

4 BUTCH LAMBERT: Any questions from the Board?

5 (No audible response.)

6 BUTCH LAMBERT: Mr. Pruitt, before you begin, I
7 need to get the ladies to state their names for the
8 record, please.

9 SANDRA MILLER: Sandra Miller.

10 SHEILA HALE: Sheila Hale.

11 PATRICIA HURT: Patricia Hurt.

12 BUTCH LAMBERT: Thank you. Mr. Pruitt, you may
13 proceed.

14 TOM PRUITT: Thank you, Mr. Chairman.

15

16 CROSS EXAMINATION

17 QUESTIONS BY MR. PRUITT:

18 Q. Ms. Duty, you testified that two wells are
19 projected for this unit, is that correct?

20 A. They're already drilled, yes.

21 Q. The first well that was drilled was it under
22 the current field rules for this unit or previous field
23 rules?

24 A. I would say it was under the statewide spacing,
25 if I remember.

1 Q. And for the purpose of election, that well
2 would have paid out by now and the property owner would
3 have been receiving the working and the royalty
4 interest, isn't that correct?

5 A. Possibly. It depends on the election if it's
6 carried or participated.

7 Q. If we combine the new well expenses with the
8 old well expenses as this application requires, that
9 will delay the payment to the property owner, won't it?

10 A. No.

11 Q. Won't they have to wait until the second well
12 is paid out if they participate on a carried basis of
13 200%?

14 A. It would be well by well. Yeah, that is
15 correct. You're right.

16 Q. So, then the previous wells that have been in
17 production for a number of years that were drilled
18 under the old field rules that have paid out or close
19 to paying out would be combined with this new expense
20 and any payout would be delayed by combining these
21 expenses, wouldn't it?

22 MARK SWARTZ: Actually, she agreed with you, but
23 gave you an answer which was not consistent with what
24 you've just said.

25

1 A. It's on a well by well basis. If it's carried
2 participation, you reach it per well.

3 Q. So, then your testimony is that participating
4 property owners would be receiving a check for the
5 first well while still waiting to pay out the second
6 well?

7 A. Yes.

8 Q. Okay.

9 MARK SWARTZ: Well, you need to say carried
10 probably, Tom, because it would...I think that's what
11 you're talking about, but you're saying participating.
12 It would be clearer.

13 Q. Let me...let me hand to you a letter that was
14 delivered to the Board. It's a letter dated October
15 the 31st, 2001. I would like to ask you if you have
16 seen that letter.

17 A. I may have, but I don't...I don't remember.

18 Q. It's in your packet. I'd like to ask you a
19 couple of questions from that letter.

20 BUTCH LAMBERT: Mr. Pruitt, is that in the packet
21 that you passed out to the Board?

22 TOM PRUITT: It is in each Board member's packet,
23 Mr. Chairman.

24 BUTCH LAMBERT: Okay. Thank you.

25 MARY QUILLEN: Where is it located?

1 TOM PRUITT: It's an October the 31st, 2001 letter.
2 It should be the second---

3 MARY QUILLEN: Is it in the first section or the
4 last section?

5 TOM PRUITT: It should be the second document.

6 MARY QUILLEN: In this one?

7 TOM PRUITT: It should be in front of that.

8 MARY QUILLEN: In this first section?

9 (No audible response.)

10 Q. I'll ask you, Ms. Duty, if you would please
11 read that letter to yourself because I have certain
12 questions.

13 A. Okay.

14 Q. The date of this letter is October the 31st,
15 2001. You can see that at the top of the letter. Does
16 that pre-date any drilling of wells on this unit?

17 A. No.

18 Q. Certain rules were in existence at the time
19 this letter was written?

20 A. Yes.

21 Q. And this letter puts your company on notice..the
22 predecessor, your company, Pocahontas Gas Partnership
23 on notice, does it not, that Mr. Rasnake claims an
24 interest in the 75 acre tract?

25 A. Yes.

1 Q. And the 75 acre tract is the tract from
2 which...well, it's the tract we're here about today?

3 A. Yes.

4 Q. It also informs your company that Mr. Rasnake
5 has been advised of two permit applications, but that
6 he has received no notice and requests notice doesn't
7 he?

8 A. Yes.

9 Q. And that he elects to participate on a carried
10 basis for any of the units affected by that tract?

11 A. Yes.

12 Q. To your knowledge, was any notice of any
13 activity on the 75 acre tract ever provided to Mr.
14 Rasnake after this letter was sent?

15 A. I would say no.

16 TOM PRUITT: You had testified previously about the
17 final decree in the Circuit Court of Russell County,
18 which has now been provided to the Board and is part of
19 their packet. The Decree speaks for itself. But, Mr.
20 Chairman, I will say that four tracts were addressed by
21 the Court, the title in four tracts. The case had 99
22 defendants. An order of publication seeking to adjoin
23 unknown parties and those names were taken from pooling
24 applications of which Mr. Rasnake had notice. Now, the
25 75 acre tract is a problem for us and for CNX. For CNX

1 because we received no notice from them. For us
2 because we have to now go back and retry the 75 acre
3 tract. That's why we're before you today...it's part of
4 the reason that we're before you today.

5 Q. So, with regard to this decree, Ms. Duty, there
6 is no dispute with respect to the decree as it
7 addresses the other three tracts, the 68 acre, the 25
8 acre and the 51.25 acre, is there?

9 A. No.

10 Q. The Board also has its procession three deeds
11 of indenture that are on long paper and they're
12 included in your packet, Ms. Duty. Those are deeds by
13 which any ownership in the methane beneath these tracts
14 are petitioned between Buck Horn Coal, James Rasnake,
15 Mike Rasnake, which is Lucy Rasnake's ex-husband,
16 and...Peggy Rasnake's husband and Lucy Blankenship, a
17 third party. Are you familiar with those petition
18 deeds?

19 A. I am.

20 Q. And to your knowledge, if the plaintiff's in
21 that case are ultimately shown to own the methane and
22 the gas beneath the 75 acre tract, will those deeds
23 then divide the ownership between Buck Horn Coal and
24 the plaintiffs that I just named to the exclusion of
25 any other property owner?

1 A. And would that---.

2 MARK SWARTZ: Is there a reason why they're not
3 signed?

4 TOM PRUITT: These are in effect. (Inaudible).

5 ANITA DUTY: I do have a copy...I do have copies.

6 MARK SWARTZ: Okay. So, there are some that are
7 signed?

8 TOM PRUITT: Yes.

9 ANITA DUTY: I do have them.

10 TOM PRUITT: They're on record.

11 MARK SWARTZ: Okay. Well, you didn't ask her.

12 TOM PRUITT: She has those. You're right. You're
13 right.

14 Q. With regard to the wells that have been
15 drilled, is there an escrow for the production from
16 those wells?

17 A. Which tract are we talking about...are we talking
18 about the 75 acres.

19 Q. Yes.

20 A. Yes.

21 Q. There's an existing escrow account for all
22 production to-date the wells that were drilled?

23 A. Well 109A this is a new pooling. So, the Board
24 will open the account with a Board order.

25

1 Q. With regard to the wells that were drilled
2 under the previous field rules, they were in production
3 for a number of years weren't they?

4 A. Yes.

5 Q. Was there any escrow of the production from
6 those wells during those years?

7 A. This unit did not require pooling until today,
8 so no.

9 Q. In light of the notice letter that I just
10 handed you to you from Mr. Rasnake in 2001, he is a
11 claimant as a result of that letter and pooling would
12 have been required, wouldn't it?

13 A. Yes.

14 Q. But no pooling was done?

15 A. It doesn't appear it was.

16 Q. Will there be a pooling of the royalties from
17 the existing wells for all production to-date as well
18 as any pooling from future productions?

19 MARK SWARTZ: That's why we're here. I mean, this
20 is a pooling application.

21 TOM PRUITT: It's unclear whether it will go back
22 and pool the old royalties under the old field rules.

23 A. It absolutely will. Any time we repool a unit,
24 it goes back to the beginning.

25

1 Q. And does that include the wells that produce
2 under the previous field rules?

3 A. It was permitted that way, but it will go
4 back...it will be at the Middle Ridge 58.70 acre unit
5 allocation.

6 Q. So, your testimony today is that there will be
7 an escrow account that will account all methane coming
8 off a tract from the time the well was first drilled
9 and first produced and up until the second well was
10 drilled and it also produces?

11 A. There will be an escrow account established for
12 Tract 1B---.

13 Q. I'm not sure that's---.

14 A. ---if this is approved by the Board.

15 Q. I'm not sure that answered my question. Will
16 that escrow account include moneys from the past
17 production under the old field rules?

18 A. At the time AY-109 was permitted, the Middle
19 Ridge Field did not exist. But the royalties will be
20 paid based off the Middle Ridge unit as it exists today
21 and it will go back from the beginning of production
22 and the only tract that we're asking for escrow is 1B.

23 Q. Who received the moneys from the first well
24 that produced under the old field rules on the 75 acre
25 tracts? Who received the royalties?

1 A. I would say Buck Horn and Gent Enterprises.

2 Q. So, the royalties were paid out despite the
3 notice letter from Mr. Rasnake?

4 A. It appears, yes.

5 Q. And your testimony is that those moneys dollar
6 for dollar will be made up and added to the existing
7 royalty account?

8 A. The Gent Enterprise...the Buck Horn piece will
9 not be put back in escrow because they're entitled to
10 50% regardless, but the other 50% will be. We don't
11 need to recover that from Buck Horn.

12 Q. There's also included within the packet of
13 information that the Board has a Board record from a
14 previous hearing that discusses these very tracts. I'm
15 only interested in the last three pages of that record
16 and close the rest for context. But I'll direct your
17 attention to page 70 to 172, specifically, the comments
18 between Ms. Riggs and Mr. Swartz where the Board at
19 that time required an escrow of moneys from these
20 wells. Will the payment of escrow...my question to you
21 is this. Will the payment into escrow by CNX also
22 account for all loss income or interest from the
23 previous payments as...so that the escrow account
24 reflects what it would have reflected had the parties

25

1 received their moneys from day one and have been put in
2 before the Board to hold?

3 A. I don't know the answer to that.

4 TOM PRUITT: I have nothing further of this
5 witness. Thank you, Ms. Duty.

6 BUTCH LAMBERT: Any questions from the Board?

7 MARY QUILLEN: Mr. Chairman, I have just one
8 question for Anita. Going back to what you said about
9 Buck Horn. Is this a 50/50?

10 ANITA DUTY: Yes.

11 MARY QUILLEN: Okay. And that is the reason that
12 Buck Horn is entitled to the 50?

13 ANITA DUTY: Yeah. They have an agreement with
14 Gent Enterprises---

15 MARY QUILLEN: Exactly.

16 ANITA DUTY: ---and with Mr. Rasnake. So,
17 regardless of the outcome they're still due their 50%.

18 MARY QUILLEN: So, it's just the other 50% that is
19 in dispute?

20 ANITA DUTY: Yes.

21 SHARON PIGEON: Anita, do you know when the first
22 well was drilled?

23 ANITA DUTY: It looks like 2001.

24 BUTCH LAMBERT: Mr. Swartz, do you have anything
25 further?

1 MARK SWARTZ: What hearing was...what unit was this
2 transcript from?

3 TOM PRUITT: I believe it's the 72 acre that that
4 hearing addresses. On the back of the notice letter,
5 it has units for a 72 acre. However, all...the 68 acre,
6 the 75 and the 72 were all addressed, I believe it was
7 AZ-112 or BA-112.

8 SHARON PIGEON: Do you have the docket number that
9 this was---?

10 TOM PRUITT: I can get that for you. I don't have
11 it on that exhibit. I thought I had it written at the
12 bottom.

13 MARK SWARTZ: So, you think it's either AZ-112 or
14 BA-112?

15 TOM PRUITT: I do.

16 MARK SWARTZ: Okay.

17 TOM PRUITT: With the proviso that it addresses
18 three of the tracts, 68.75 and 72. So, it will be on
19 those units.

20 DONNIE RATLIFF: Mr. Chairman, I think they're
21 listed on the bottom of page 72. That's the only place
22 that I see them referred to.

23 SHARON PIGEON: Is that the same one or the one
24 before it? I think it must be the next one.

25

1 MARY QUILLEN: Yeah, there's three...three VGOB
2 numbers here.

3 BILL HARRIS: But if you read the context of that,
4 I think that's referring to---

5 SHARON PIGEON: The next one.

6 BILL HARRIS: ---something that was done
7 previously. I think they're moving on to something
8 else and just happened to mention three---

9 DONNIE RATLIFF: Those three?

10 SHARON PIGEON: Yes.

11 BILL HARRIS: I may be wrong.

12 SHARON PIGEON: I think you're right the way it
13 sounds here.

14 DAVID ASBURY: Do you know about what time frame?

15 MARK SWARTZ: 2002. I don't have a really clear
16 recollection of that.

17 DAVID ASBURY: 2002?

18 MARK SWARTZ: Yeah.

19 TOM PRUITT: The point, three of the four tracts
20 are resolved. The 75 acre tract was discussed in that
21 hearing and the point that Ms. Riggs was Mr. Rasnake
22 was discussed...his claims were discussed featuring the
23 escrow. That's why we want to be make sure that the
24 escrow is recharged with every dollar that should have
25 been put in there.

1 BUTCH LAMBERT: I think Ms...that's exactly what Ms.
2 Duty testified to.

3 MARK SWARTZ: That's what she keeps saying, yeah.

4 TOM PRUITT: She...she has. She has done a good job
5 attempting to answer my questions, but I asked her one
6 that she wasn't sure about we're due interest as well,
7 all of the property owners. If we're...if we're deemed
8 not to be the owners and these people are, they're due
9 interest on that amount as well.

10 BUTCH LAMBERT: Did I...I don't think I heard you
11 ask...did you ask her that question? I'm sorry.

12 MARK SWARTZ: She said she didn't know the answer
13 to that question. But I can remind you that when we
14 pay in to replenish accounts typically we tender
15 interest and, I mean, she has given you accountings as
16 recently as couple of months ago where that has
17 happened. She's not saying that she knows for sure.
18 But, I mean, that seems to be the practice and I'm sure
19 you've seen it.

20 BUTCH LAMBERT: That's correct. We have had
21 testimony before that that did include interest.

22 TOM PRUITT: Just a summary statement from our
23 position. It may close out a lot of these issues. We
24 don't object to the repooling of these wells. We think
25 a repooling is required on all four of the tracts

1 because notice was given and the original listing of
2 property owners and percentage on all four of the
3 tracts are substantially wrong. We believe that an
4 escrow should have been aside on this one and the
5 repooling is the way to cure that so long as the
6 money...all of the money goes back into escrow. We think
7 that the well cost of second well should not be born by
8 the first well if the first well is, in fact, paying
9 out. And you'll notice in that notice letter Mr.
10 Rasnake elected to participate. So, that is a real
11 issue and not a speculative issue. For the record, I
12 would like to say at this repooling Mr. Rasnake elects
13 to participate as does Peggy Rasnake, who is also our
14 client. We will follow that up with letters if
15 necessary. Lucy Blankenship is also a client. To the
16 extent that she hasn't leased, she also elects to
17 participate.

18 MARK SWARTZ: Okay. Just to sort of straighten
19 this up, I think there's a number of docket items
20 here. But this is actually, the one that we've started
21 with, number fifteen, is a pooling. It's a from square
22 one pooling. The rest of the ones that you've put
23 together, Mr. Chairman, are repoolings. So, to the
24 extent that you were referring this is a repooling,
25 this is a...everybody is going to get an election in this

1 because it's the first time that it has been pooled.
2 So, I mean, your concern---

3 TOM PRUITT: This is the one that's being pooled
4 the first time.

5 MARK SWARTZ: Right. So, your concern in that
6 regard is kind of a non-issue. That's going to happen
7 with regard to fifteen.

8 TOM PRUITT: Every other one---

9 MARK SWARTZ: With regard to balance of them, we
10 have...you know, we have repoolings. To the extent the
11 lineup has changed, obviously, those people who did not
12 have an election are going to get another election. I
13 mean, that's policy. So, I'm not pushing back on that.
14 But I want to make it clear, this is a pooling
15 from...this is a step-one pooling, item number fifteen.
16 The rest amount today are repoolings.

17 BUTCH LAMBERT: Okay. I understand. Okay,
18 anything further either, Mr. Swartz or Mr. Pruitt.

19 TOM PRUITT: If we're taking evidence one time with
20 regard to all of these, then I must ask Ms. Duty if
21 her---

22 BUTCH LAMBERT: Well, I'm going to call for a vote
23 on fifteen.

24 TOM PRUITT: All right. And then we're going to
25 quickly run through the others that has been called.

1 MARK SWARTZ: And I...I don't think you are here on
2 fifteen are you?

3 SHEILA HALE: No.

4 MARK SWARTZ: Okay. I just want to make sure.
5 Okay, cool.

6 BUTCH LAMBERT: Okay, that's why I wanted to get a
7 vote on fifteen and then we can run through the other
8 as they have been called.

9 MARK SWARTZ: Okay.

10 BUTCH LAMBERT: Are there any further discussions
11 from the Board on docket item number fifteen?

12 DAVID ASBURY: Mr. Chairman.

13 BUTCH LAMBERT: Mr. Asbury.

14 DAVID ASBURY: Ms. Davis did find the docket...April
15 of 2002 was when it was for.

16 BUTCH LAMBERT: April of 2002, okay. Okay. If
17 there's nothing further, do I have a motion on item
18 fifteen?

19 MARY QUILLEN: Motion to approve.

20 BRUCE PRATHER: Second.

21 BUTCH LAMBERT: I have a motion and a second. Any
22 further discussion?

23 (No audible response.)

24 BUTCH LAMBERT: All in favor, signify by saying
25 yes.

1 (All Board members signify by saying yes, but Katie
2 Dye.)

3 BUTCH LAMBERT: Opposed, no.

4 KATIE DYE: I'll abstain.

5 BUTCH LAMBERT: One abstention, Mrs. Dye.

6 SHARON PIGEON: Mr. Chairman, just as a correction
7 to what Mr. Asbury said. That April, 2002 docket was
8 not the pooling. We just clarified that it was not
9 originally pooled. That was the application.

10 MARK SWARTZ: Right.

11 BUTCH LAMBERT: Our next item that has already been
12 called is item number nineteen, which is VGOB-01-0821-
13 0914-01. Do we have the same issues here with...in
14 relation to owners that we just discussed in number
15 fifteen?

16 TOM PRUITT: Yes, Your Honor.

17 BUTCH LAMBERT: Anything---?

18 TOM PRUITT: This is part of the 75 acre tract that
19 was part of that lawsuit.

20 BUTCH LAMBERT: Okay, Mr. Swartz, would you like to
21 proceed and tell us what we're looking at here
22 differently than we're looking at in item fifteen other
23 than this one is the repooling.

24

25

1 ANITA DUTY

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

4 DIRECT EXAMINATION

5 QUESTIONS BY MR. SWARTZ:

6 Q. This is a repooling and it pertains to a title
7 conflict regarding the 75 acre tract that we started
8 talking about. To just sort of crystalize Mr. Pruitt's
9 and my dispute, I think, and then he can argue with me
10 if I've got it wrong, our...I want you to listen to this
11 and then at the end say that I've got it right or argue
12 with me. It's going to be in the nature of a question.

13 A. Okay.

14 Q. Our title lawyers, who are not me, are telling
15 CNX that Gent Enterprises, for example, on the tract
16 IDs that you have was apparently not a party to the
17 litigation.

18 TOM PRUITT: That's right.

19 Q. And that the title...CNX's title lawyers are
20 saying they have a claim in the chain of title and you
21 need to pool them. So, that's...that's the issue from
22 our standpoint on the 75 acres with regard to this
23 particular unit AY-108, is that correct?

24 A. That we need to pool them?

25 Q. That we need to repool---

1 A. Okay. Show them as a---.

2 Q. We need to repool this to make sure that we've
3 got them in conflict, okay, and then we need to escrow
4 that money?

5 A. Yes.

6 Q. Is that...is that the issue that we're here on
7 today with regard to this repooling?

8 A. Yes.

9 Q. Okay. And if I haven't stated it right,
10 obviously, you've got your chance.

11 A. No, you've done fine.

12

13

CROSS EXAMINATION

14 QUESTIONS BY MR. PRUITT:

15 Q. Ms. Duty, a couple of questions, if I may. The
16 questions that I asked you previously about the
17 existing wells and the earlier field rules, they also
18 apply to this particular unit, don't they?

19 A. They do.

20 Q. And are your answers the same as the answers
21 you gave me before, mainly, that the escrow will be
22 fully recharged for all production from the time the
23 first well, regardless of the field rules, from the
24 time the first well was placed on this unit?

25

1 A. For the tracts that are included on the Exhibit
2 E.

3 Q. I'm I correct that you do not know whether
4 interest will be added to the escrow at this time?

5 A. Most likely it will. I mean, I
6 just---

7 Q. Is it fair to say it's the intent of your
8 company to make sure that the parties are made whole?

9 A. It is.

10 Q. This repooling is necessary because of the
11 title dispute, I think.

12 A. Yes.

13 Q. And the title dispute also exists with regard
14 to the other three tracts, does it not, the 25 acre,
15 the 68 acre and the 72 acre?

16 A. I don't think we have a problem with those.

17 Q. You're okay with the Court's ruling on those
18 three tracts, is that correct?

19 MARK SWARTZ: Did you misspeak? I thought it was
20 68, 25 and 51. There---

21 A. 25, I think. The two tracts.

22 TOM PRUITT: The 51.25 was originally 72.

23 MARK SWARTZ: Okay.

24 TOM PRUITT: So, I looked at it on the map.

25 MARK SWARTZ: Okay.

1 TOM PRUITT: I did misspeak. Mr. Chairman, I'm
2 sorry, it's the same...the same tract.

3 MARK SWARTZ: Let me put the question to her again.
4 I think the question he meant to ask was you don't
5 have...CNX does not have a problem with the outcome of
6 the lawsuit as being a complete outcome concerning the
7 68 acre, 25 acre and 51 acre tracts? Is that true?

8 ANITA DUTY: That is.

9 MARK SWARTZ: The only problem that your title
10 lawyers are raising pertains to another tract, a 75
11 acre tract, is that correct?

12 ANITA DUTY: Yes.

13 Q. The existing Board orders and the poolings on
14 the other tracts are in dispute with the Court's order
15 at this time, aren't they?

16 A. We are currently working on having those
17 amended internally at this point.

18 Q. Will they not be repooled as well as the
19 abstractor's report?

20 A. It's my opinion that if they are...I guess, not
21 just my opinion, but through some of our talks I think
22 what we will do is any of the ones that were...that Mr.
23 Rasnake was properly notified, we will just amend the
24 orders and give him his interest as far as the Court

25

1 order goes. The ones he was not notified of, we will
2 redo those from the beginning.

3 Q. But if they're not repooled, then Peggy Rasnake
4 and her children will not have the opportunity to
5 participate with the Board findings, will they?

6 A. I think it is our legal opinion that if they
7 didn't elect the first time they don't get a second
8 chance.

9 Q. And the pooling orders the first time listed
10 them as owning approximately 4% of those tracts when,
11 in fact, the Court said they owned 48%?

12 A. I understand. We're going to amend those to
13 update their interest.

14 Q. Are you aware that Mr. Rasnake and the other
15 plaintiffs in that lawsuit do not object to bringing in
16 the Gent Enterprise and they have actually filed with
17 the Court to bring them in and to litigate the title on
18 the 75?

19 A. I wasn't aware of that.

20 MARK SWARTZ: Well, until you told us this morning.

21 TOM PRUITT: That's all I have.

22 SHARON PIGEON: I thought that case was concluded.

23 TOM PRUITT: The 75 acre case is a slander of title
24 action that is brought and CNX's attorneys petitioned
25 the Court to bring Gent Enterprises into that action.

1 We have not opposed that. It will affect the Court's
2 ruling on this 75 acre tract. I have nothing further
3 of Ms. Duty.

4 BUTCH LAMBERT: Any questions from the Board?

5 (No audible response.)

6 BUTCH LAMBERT: Anything further, Mr. Swartz?

7

8 RE CROSS EXAMINATION

9 QUESTIONS BY MR. SWARTZ:

10 Q. The only thing, Anita, this is a little
11 different than the last one. Just so it's clear on the
12 record. Mr. Rasnake, does not have a split agreement
13 with Gent, correct?

14 A. No.

15 Q. So, if the title outcome here was that Gent
16 owned it, no split agreement would apply as far as you
17 know, correct?

18 A. Right. That has...this is still Buck Horn.

19 Q. As to Mr. Rasnake?

20 A. Yes.

21 Q. But Buck Horn has a split agreement with Gent,
22 is that what you're saying?

23 A. Yes. And Mr. Rasnake, both parties.

24

25

1 Q. Okay. So, either way, Buck Horn's interest is
2 at 50. The question is whether the other 50 goes to
3 Mr. Rasnake or Gent on---?

4 A. Exactly.

5 Q. ---this AY-108?

6 A. Yes.

7 MARK SWARTZ: Okay. That's all I have.

8 BUTCH LAMBERT: Any discussion from the Board?

9 (No audible response.)

10 BUTCH LAMBERT: Do I have a motion?

11 MARY QUILLEN: Motion to approve.

12 BRUCE PRATHER: Second.

13 BUTCH LAMBERT: I have a motion and a second. Any
14 further discussion?

15 DONNIE RATLIFF: Mr. Chairman, we're voting on one
16 item, right?

17 BUTCH LAMBERT: On nineteen.

18 MARY QUILLEN: Nineteen.

19 BRUCE PRATHER: Nineteen.

20 BUTCH LAMBERT: All in favor, signify by saying
21 yes.

22 (All Board members signify by saying yes, Katie
23 Dye.)

24 BUTCH LAMBERT: Opposed, no.

25 KATIE DYE: I'll abstain.

1 BUTCH LAMBERT: One abstention, Mrs. Dye. That's
2 approved. Now, our discussion will turn to item number
3 twenty that has been called.

4 MARK SWARTZ: I think the next one is the AZ-108.
5 But Anita is looking for her file. I think we've
6 got...we might have some revisions on that. No
7 revisions, okay.

8

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

12 DIRECT EXAMINATION

13 QUESTIONS BY MR. SWARTZ:

14 Q. Okay, with regard to docket item number twenty,
15 Anita, okay.

16 A. Uh-huh.

17 Q. The...did you mail and publish?

18 A. I did.

19 Q. Okay. Do you want to add any respondents?

20 A. No.

21 Q. Do you want to dismiss anybody?

22 A. No.

23 Q. Have you provided Mr. Asbury with your proof of
24 publication and your certificates with regard to
25 mailing?

1 A. Yes.

2 Q. Okay. Now, this one we have Mr. Rasnake in
3 this again, correct?

4 A. Yes.

5 Q. And we have Gent Enterprises?

6 A. Yes.

7 Q. But now we also have James P. Blankehship oil
8 and gas, correct?

9 A. Uh-huh. Yes.

10 Q. And this, for example, Tract1D shows a title
11 conflict and it has been...and James P. Blankenship's
12 title would be in conflict with Rasnake and others?

13 A. Yes.

14 Q. Okay. And that's part of the reason why we're
15 in here repooling AZ-108, is that correct?

16 A. Yes.

17 Q. Okay. And just to sort of cover what the
18 standing in this unit is, you've leased...I think have
19 CBM leases from a 100% of the coal owners, correct?

20 A. Yes.

21 Q. And what are you seeking to pool on the oil and
22 gas side?

23 A. 56.3841%.

24 Q. And you have the balance of that leased?

25 A. Yes.

1 Q. And we have a title conflict actually in this
2 unit in a number of tracts, correct?

3 A. It's all due to the 75 acre dispute.

4 Q. Okay. It does not involve the 68 acre, the 25
5 acre or 51 acre tracts that were involved in the
6 lawsuit that we've been talking about, just the 75?

7 A. Just the 75.

8 Q. And you're...and you're requesting to the extent
9 that you haven't already escrowed money with regard to
10 that 75 acre tract pertaining to this unit, you want to
11 be able to do that and you need an order to allow you
12 to do that?

13 A. Yes.

14 Q. Are there also some split agreements here that
15 you've identified in Exhibit AA?

16 A. Yes.

17 Q. And do we again have Buck Horn Coal and Mr.
18 Rasnake and Gent Enterprises as parties to split
19 agreements?

20 A. Yes.

21 Q. How about the James P. Blankenship?

22 A. Yes.

23 Q. Okay. So, they're in the split agreement mix
24 as well?

25 A. Yeah.

1 MARK SWARTZ: I'm just trying to help you out
2 there.

3 TOM PRUITT: Well, I agree.

4 ANITA DUTY: Thanks for the compliment.

5 MARK SWARTZ: A double. It was awesome.

6 TOM PRUITT: Mr. Chairman, just...I made a mistake
7 earlier on something that I declared to the Board.
8 Just to make clear, Mike Rasnake died. His widow is
9 Peggy Rasnake. I misspoke. His two children from a
10 previous marriage are Bobby Lee Rasnake and Donna Jean
11 Whitt. All of those people are clients, as well as
12 Lucy Blankenship and James Rasnake. All of those
13 people want to represent to you that they elect
14 participate on all of these matters. Nothing further.

15 JAMES RASNAKE: Carried.

16 TOM PRUITT: On a carried basis.

17 BUTCH LAMBERT: Is that all you have, Mr. Pruitt?

18 TOM PRUITT: It is, Your Honor.

19 BUTCH LAMBERT: Anything further, Mr. Swartz?

20 MARK SWARTZ: Yeah. I understand Mr. Pruitt's
21 representations with regard a participation or being
22 carried. But, you know, the Board order is going to
23 give people that opportunity and time limits and so
24 forth. So, I mean, it's going to be headed your way

25

1 and you need that...my advice would be to respond, you
2 know, at that point. (Inaudible)---

3 TOM PRUITT: We call that belt and suspenders, Mr.
4 Chairman. I'm being careful here.

5 SHARON PIGEON: We want to make sure that you do
6 get the suspenders on when you get the letter.

7 TOM PRUITT: That's correct.

8 BUTCH LAMBERT: Yeah, I understand.

9 ANITA DUTY: I just to make sure that you know that
10 we're going to be looking for your letter. That today
11 is not going to get that covered.

12 TOM PRUITT: I suspect you will pay closer
13 attention to my letter than whoever paid attention to
14 the previous letter from Mr. Rasnake.

15 ANITA DUTY: Well.

16 MARK SWARTZ: We will give it the attention it
17 merits. How is that?

18 SHARON PIGEON: Okay.

19 BUTCH LAMBERT: Anything further?

20 MARK SWARTZ: No.

21 BUTCH LAMBERT: Any discussions from the Board?
22 (No audible response.)

23 BUTCH LAMBERT: Do I have a motion?

24 MARY QUILLEN: Motion to approve.

25 BRUCE PRATHER: Second.

1 A. Yes.

2 Q. And it pertains to AZ-109?

3 A. Yes.

4 Q. Do you have any revised exhibits with regard to
5 this?

6 A. I need to go see.

7 Q. Okay.

8 A. Yes.

9 (Anita Duty and Mark Swartz confer while exhibits
10 are passed out.)

11 Q. Anita, with regard to this while Michelle is
12 passing out the revised exhibits, this is a Middle
13 Ridge unit, is that correct?

14 A. Yes.

15 Q. And how many wells are in this unit?

16 A. One.

17 Q. Okay. Do we have the same 75 acre tract that
18 we've talked about previously today?

19 A. We do.

20 Q. Okay. And if we look at the Exhibit E, for
21 example, you probably need to be looking at revised
22 Exhibit E. But just to sort of get the Board focused
23 again, we have some title conflicts between Gent
24 Enterprises and James Rasnake, correct?

25 A. Yes.

1 Q. Buck Horn Coal is also in this unit?

2 A. Yes.

3 Q. And...

4 MARK SWARTZ: Did you get a copy?

5 TOM PRUITT: We did not get a copy.

6 MARK SWARTZ: Do you have an extra?

7 ANITA DUTY: No. Can somebody share so they can
8 have a copy?

9 (A copy is given to Tom Pruitt.)

10 Q. So, we have the 75 acre tract that we've been
11 talking about and we have essentially the same folks
12 but a couple of new folks, correct?

13 A. Yes.

14 Q. Okay. And to sort of not only focus on the 75
15 acre tract, but also focus on the effect of the Court
16 order that Mr. Pruitt and I've been talking about on
17 and off, is it true that AZ-109 does not involve the 68
18 acre, 25 acre and 51 acre tracts that were addressed by
19 the Court order that we've been talking about?

20 A. Yes.

21 Q. Okay. Did you provide notice to people that
22 might be interested in this hearing today?

23 A. I did.

24

25

1 Q. Did you write certified mail to the folks that
2 you've identified in the two portion of the notice of
3 hearing?

4 A. Yes.

5 Q. And have you brought with you and are you
6 filing with Mr. Asbury copies of your certificates with
7 regard to mailing?

8 A. Yes.

9 Q. Did you also publish?

10 A. Yes.

11 Q. When?

12 A. April the 25th, 2011.

13 Q. And in what paper?

14 A. Bluefield Daily Telegraph.

15 Q. Okay. And have you or are you about to provide
16 Mr. Asbury with your proof of publication in that
17 regard?

18 A. Yes.

19 Q. Do you want to add anybody or dismiss anybody
20 from the list?

21 A. No.

22 Q. Okay. You've got some revised exhibits though
23 and what went on there?

24 A. Actually, I think we did do a B-2. It looks
25 like in the application we had identified Mr. Rasnake

1 as owning...or the 75 acre tract being affected in Tract
2 1K and it does not. So, we want to remove him from
3 that tract.

4 Q. Okay. So, you had him in Tract 1K, but it
5 turns out that the 75 acre tract does not---?

6 A. Did not apply there.

7 Q. Did not spill over into that tract?

8 A. That's correct.

9 Q. And that's your---?

10 TOM PRUITT: For the record, we do not object to
11 that.

12 Q. And then that would have changed---?

13 A. The Tract ID---.

14 Q. ---other exhibits?

15 A. ---and everything---.

16 Q. Everything had to change---?

17 A. Yes.

18 Q. ---because of that? And that's the reason for
19 the revised exhibits?

20 A. Yes.

21 Q. Okay. As long as we're add it though, let's
22 take a look at Exhibit A, page two to give the Board an
23 indication of what your interests are and what you're
24 seeking to pool. Tell the Board what you've acquired
25

1 in this unit as of...as of filing these revised exhibits
2 and what you're seeking to pool.

3 A. We've acquired 100% of the coal owner's claim,
4 54.4773% of the oil and gas owner's claim and we are
5 seeking to pool 45.5227% of the oil and gas owner's
6 claim.

7 Q. This unit was originally pooled in '03,
8 correct?

9 A. Yes.

10 Q. And is there an escrow account already
11 established for this unit?

12 A. Most likely, yes.

13 Q. Okay. But what you're talking about escrowing
14 here to deal with the title issues that have arisen is
15 the claims that are in conflict so that the escrow
16 account receives those funds, correct?

17 A. Yes.

18 Q. And the tracts that need to be in escrow on
19 this repooling with regard to this application are
20 which tracts?

21 A. 1A, 1B, 1C, 1D, 1E, 1F, 1G, 1H, 1I, 1J, 1K, 1L,
22 1M, 1N, 1O, 1P, 1Q, 1R, 2K, 2L, 2N, 2O, 2P and 2Q.

23 Q. And to the extent that any of the claimants in
24 those tracts subjected to escrow would be entitled to
25 funds depending on how these title conflicts work out,

1 the intention will be to have enough money in escrow to
2 meet that---?

3 A. Yes.

4 (Anita Duty and Mark Swartz confer.)

5 MARK SWARTZ: That's all I have.

6 BUTCH LAMBERT: Any questions from the Board?

7 (No audible response.)

8 BUTCH LAMBERT: Mr. Pruitt.

9 TOM PRUITT: Thank you, Mr. Chairman.

10

11

CROSS EXAMINATION

12 QUESTIONS BY MR. PRUITT:

13 Q. Ms. Duty, will you be required to add
14 additional moneys to the escrow in order to meet the
15 obligations that Mr. Swartz just questioned you about?

16 A. Yes.

17 Q. Do you know how much you will be required to
18 add?

19 A. No.

20 Q. Will you be adding a sufficient amount to cover
21 interest and all moneys necessary to bring the parties
22 back to status quo as if the escrow had been property
23 set to begin with?

24 A. Yes.

25

1 Q. If I ask you the same questions with regard to
2 this docket number as I had the previous docket number
3 that we talked about today, would your answers be the
4 same?

5 A. Yes.

6 TOM PRUITT: Nothing further, Mr. Chairman.

7 BUTCH LAMBERT: Okay. Any questions from the
8 Board?

9 MARY QUILLEN: Mr. Chairman, I have---.

10 BUTCH LAMBERT: Ms. Quillen.

11 MARY QUILLEN: ---just one question. This is also
12 a 50% Buck Horn?

13 ANITA DUTY: In some of the tracts, yes.

14 MARY QUILLEN: Okay.

15 ANITA DUTY: We've had them noted it.

16 MARY QUILLEN: Right.

17 ANITA DUTY: They will appear on both exhibits.

18 MARY QUILLEN: Yeah. I've got it right here.

19 BUTCH LAMBERT: Anything further, Mr. Swartz?

20 MARK SWARTZ: Not for me, but I think that they may
21 have.

22 SHEILA HALE: Well, I don't even know what I'm
23 doing. But I'm going to say we own 15 acres in
24 that---.

25 SHARON PIGEON: Give us your name for the record.

1 SHEILA HALE: Sheila Hale.

2 BUTCH LAMBERT: Okay.

3 SHEILA HALE: And we have not been notified about
4 any of these hearings. Any...none of this that is going
5 on until three weeks ago and we got a hearing to appear
6 over here today. So, that's...you know, that's the
7 reason that we appeared. This is my sister Sandra.

8 BUTCH LAMBERT: Do you have the receipts?

9 ANITA DUTY: Excuse me?

10 BUTCH LAMBERT: They were saying they weren't
11 notified. Do you have the receipts of notification?

12 ANITA DUTY: No, they're saying they weren't
13 notified of the Circuit Court case. I think that's
14 what you all are saying. They were notified of this
15 and that...I think that's kind of CNX's opinion too. I
16 think that's what Tom will be clearing up.

17 PATRICIA HURT: Well, I was never...I'm Patricia
18 Hurt. I was never notified of when you was having a
19 Board meeting. I'm the executor for Otis Fields. He's
20 in this. In August of 2004 he died. I did notify them
21 of the death and I have sent executor papers. I have
22 sent everything they asked. I got certified. I got
23 every deed an everything done. I did everything they
24 asked, but they never did release any...after he died,
25 the money was never released to his heirs. So, it was

1 already in pool, but I never could find out when you
2 were having a meeting to bring this because I
3 couldn't...I called and tried to talk to them. I went to
4 the office in Bluefield and I couldn't get any
5 response. So, until I got this letter, I didn't know
6 to come here and have...and I didn't know about his case
7 either, Mr. Rasnake. We were not notified of, you
8 know, litigation being brought against us over that
9 title and stuff like that. We believe that we own the
10 gas and the coal and the way that it was set up. With
11 all our heart, we believe that.

12 SHARON PIGEON: Ma'am, what was your last name?

13 PATRICIA HURT: Hurt. Patricia Hurt.

14 SHARON PIGEON: He died in 2004.

15 PATRICIA HURT: Right.

16 SHARON PIGEON: He was listed personally on the
17 original pooling application---.

18 PATRICIA HURT: Right.

19 SHARON PIGEON: ---in 2003. So, he would have
20 received the notice and not...not anyone else on his
21 behalf.

22 PATRICIA HURT: Well, as the executor, I never seen
23 the letter if---.

24

25

1 SHARON PIGEON: He was alive then. That's what I'm
2 saying. He didn't pass until after this first original
3 pooling had already taken place.

4 PATRICIA HURT: The original pooling took place
5 when?

6 SHARON PIGEON: In 2003.

7 PATRICIA HURT: 2003.

8 SHARON PIGEON: His address is listed on that as
9 Otis J. Fields.

10 PATRICIA HURT: Now, that's my brother.

11 SHARON PIGEON: Okay.

12 PATRICIA HURT: I'm talking about Otis G. Otis
13 Garnett Fields.

14 SHARON PIGEON: Okay. Otis Garnett Fields, HC
15 65---.

16 PATRICIA HURT: That is...I'm the executor. That's
17 my dad.

18 SHARON PIGEON: ---Box 120, Rowe, Virginia.

19 PATRICIA HURT: Yeah. That no longer exists. I
20 gave them the new address. I gave them executor
21 papers. I've give everything that they've asked. I
22 don't remember if I sent...I think I did send a copy of
23 the death certificate. I did everything that I was
24 asked to do. I had trouble getting them to respond
25 back to me.

1 ANITA DUTY: I think I can clear this up.

2 BUTCH LAMBERT: I think you might answer my
3 questions, so go ahead.

4 ANITA DUTY: All right. I think maybe the
5 confusion is between the Circuit Court case and before
6 the Board. This is the only time there was a notice
7 given to you all after that original pooling order that
8 pooled your father. We were aware that he...that he
9 passed away in 2004. I know there was some...there was
10 some time differences there getting the survey done and
11 I was aware of that. Well, we had...the mapping
12 department had to go in and map those...map the survey.
13 About the time that they were finished, we got notified
14 of this Court case. So, we couldn't move forward and
15 pay that because we knew that this...that those...that your
16 tract would have been affected. So, we had to just
17 completely stop any payment on any tract that was
18 affected by the order. So, we did have your survey.
19 We did get our mapping updated. That's the reason that
20 you were notified in here because we would...you know,
21 we've got those individual tracts mapped the way that
22 Mr. Fields' Will had asked for it to be mapped
23 according to the survey. But the problem was that that
24 Court order came about the same time that we were in
25 the process of doing that.

1 MARK SWARTZ: And originally were you paying Mr.
2 Fields?

3 ANITA DUTY: We were paying Mr. Fields and then he
4 subdivided all the property out to his children and we
5 did receive the survey and we did have that mapping
6 updated. But now as it stands, we're showing that it's
7 tracts in conflict with, you know, what his Will and
8 the survey had with the 75 acre tract---

9 MARK SWARTZ: Mr. Rasnake.

10 ANITA DUTY: ---that is part of this suit, yes.

11 TOM PRUITT: Mr. Chairman, a lot of water has gone
12 under the bridge since I first said this today. I need
13 to say it again. All four of those tracts were a part
14 of the litigation in Circuit Court. We took every
15 official document that we had notice of and grouped all
16 of the property owners together as defendants. We had
17 99 defendants and we published. The Court also
18 required us to go back and send additional publication.
19 Now, we want these people to be involved and we want
20 them to have their day in Court with regard to the 75
21 acres. So, we are not blocking that. The 75 acre
22 tract, however, because Mr. Rasnake after sending his
23 notice letter got nothing back, that's why...where we are
24 with regard to the 75 acre. We've got to go back and
25 retry it the second time with these additional people.

1 MARK SWARTZ: Well, Mr. Fields was in the pooling
2 order for this unit that was recorded in the
3 Courthouse, you know. So, I mean---.

4 SHARON PIGEON: In 2003?

5 MARK SWARTZ: Right.

6 BUTCH LAMBERT: Well, I guess where we are, as I
7 understand it, I think you explained it so that I know
8 where we are there has been no action on this unit
9 since the original pooling order in 2003. That's why
10 these folks have not been notified or anything because
11 nothing has happened until today under this repooling,
12 which they have now been notified to be here for this
13 repooling order.

14 TOM PRUITT: Correct.

15 BUTCH LAMBERT: But there's the issue of the 75
16 acres, which---.

17 ANITA DUTY: Overlays their property.

18 BUTCH LAMBERT: Oh---.

19 SHARON PIGEON: Which is still pending in Court.

20 BUTCH LAMBERT: Uh-huh.

21 SHEILA HALE: Well, I called CNX gas three weeks
22 ago and spoke to I think it was an Anita and she said a
23 Barbara would call me back and explain all of this
24 stuff to me. I called three times and I never did
25 receive a response back from anybody.

1 SHARON PIGEON: Well, have you understood what
2 we've talked about today.

3 SHEILA HALE: I think so.

4 SHARON PIGEON: We're talking about two different
5 processes. This is an administrative process before
6 this Board and there's litigation involving the Circuit
7 Court. So, you have received the notice about this
8 Board hearing that you should have received. You're
9 here. The prior one in 2003 went to your father. He
10 was still alive.

11 SHEILA HALE: No, that was...that different...that's
12 somebody else.

13 SHARON PIGEON: All right.

14 PATRICIA HURT: And I wish to state that I do wish
15 to participate in all of the meetings and know what's
16 going on.

17 BUTCH LAMBERT: Are...is there any discussion from
18 the Board on this issue?

19 MARY QUILLEN: Mr. Chairman, just one thing that
20 I'd like to clarify with Anita. This notice and it's
21 listed...she is listed on the Exhibit E and this is the
22 first time that there has been an action since the
23 original person was listed, correct, and noticed?

24 ANITA DUTY: Yes, if we're talking about Mr.
25 Fields.

1 MARY QUILLEN: Right. Fields, yes.

2 ANITA DUTY: Mr. Fields had a royalty split
3 agreement with Buck Horn. So, prior---

4 MARY QUILLEN: Right.

5 ANITA DUTY: ---to his death he was being paid. I
6 know that Ms. Hurt's issue was that they wanted the
7 royalties to be paid the way that his Will---

8 MARY QUILLEN: Right. So, there's no action that
9 has been taken since that time and that's the reason
10 this is the first time that she has been listed as
11 being noticed and on the (inaudible), is that correct?

12 ANITA DUTY: Yes. That is correct.

13 MARY QUILLEN: Thank you.

14 MARK SWARTZ: If you look at the docket number, it
15 has a 1F to it, which is...which means this is the first
16 time that we've been back. Just as a way of confirming
17 it.

18 BUTCH LAMBERT: Any further discussion?

19 (No audible response.)

20 BUTCH LAMBERT: Anything further, Mr. Swartz?

21 MARK SWARTZ: No.

22 BUTCH LAMBERT: Anything further, Mr. Pruitt?

23 TOM PRUITT: No.

24 BUTCH LAMBERT: Do I have a motion?

25 MARY QUILLEN: Motion to approve.

1 BRUCE PRATHER: Second.

2 BUTCH LAMBERT: I have a motion and a second. Any
3 further discussion?

4 (No audible response.)

5 BUTCH LAMBERT: All in favor, signify by saying
6 yes.

7 (All Board members signify by saying yes, but Katie
8 Dye.)

9 BUTCH LAMBERT: Opposed, no.

10 KATIE DYE: I'll abstain.

11 BUTCH LAMBERT: One abstention, Mrs. Dye. Thank
12 you, folks. That's approved. Now, we're moving to
13 item twenty-two that has been called.

14 (Exhibits are passed out.)

15 BUTCH LAMBERT: I think she gave us the wrong ones.
16 You gave us the wrong ones.

17 ANITA DUTY: Yeah, that's the next one. So,
18 just---

19 BUTCH LAMBERT: Just hold it.

20 SHARON PIGEON: Just put it aside.

21 ANITA DUTY: Yeah. There's nothing for the BA-108.

22 BUTCH LAMBERT: Okay.

23 MARY QUILLEN: There's not one for this one?

24 ANITA DUTY: Yeah, wait a minute.

25 (Exhibits are passed out.)

1 regard to both item twenty-two and item twenty-three
2 both have a 01 after them?

3 A. Yes.

4 Q. Which would indicate this is the first time
5 that we've come back since '04 with regard to item
6 twenty-two and since '03 with regard to twenty-three,
7 correct?

8 A. Yes.

9 Q. Okay. Did you mail notices to the respondents
10 listed on your notice of hearing and in your Exhibits
11 B-3 with regard to both docket items twenty-two and
12 twenty-three to give people notice that there was going
13 to be a hearing today?

14 A. Yes.

15 Q. When did you do that?

16 A. April the 15th, 2011 for both.

17 Q. And did you also publish for both?

18 A. Yes.

19 Q. When did the publications occur?

20 A. For BA-108 it was April the 25th, 2011 and BA-
21 109 it was April the 22nd, 2011.

22 Q. Okay. And have you...do you have proofs of
23 publication that you get from the newspaper with regard
24 to both of those events and also your certificates with
25 regard to mailing to file with Mr. Asbury today?

1 A. Yes.

2 Q. Okay. Do you want to add anybody as a
3 respondent to either one of these units?

4 A. No.

5 Q. How about dismissing anybody?

6 A. No.

7 Q. Let's go to the revisions. With regard to BA-
8 108, what changed that required these revisions?

9 A. We had an incorrect percentage on Tract 3C on
10 the tract ID.

11 Q. Okay. And so that's the only change with
12 regard to the tract ID and then the rest of the
13 exhibits would also change, I would imagine?

14 A. Yes. But I think we had one of the 75 acre
15 tracts incorrectly shown here too. So, we corrected
16 that out.

17 Q. You straightened that out?

18 A. Yes.

19 Q. Okay. Now, with regard to both BA-108 the
20 repooling and BA-109 the repooling, is it true that
21 both of these units pertain to issues that have arisen
22 with regard to the 75 acre tract that we've been
23 talking about?

24 A. Yes.

25

1 Q. Okay. And that they're...and that both of these
2 units are going to require escrow with regard to title
3 conflicts and other reasons perhaps, but certainly with
4 regard to title conflicts within that 75 acre tract?

5 A. Yes.

6 Q. Is it also true that the judgment that we've
7 been talking about, the Circuit Court judgment that
8 affected other tracts, the 68 acre tract and the 25
9 acre tract and a 51 acre tract and essentially awarded
10 the interest in those tracts to Mr. Rasnake, none of
11 those three tracts are involved in any way in these two
12 units, is that correct?

13 A. That's correct.

14 Q. Okay. And are you requesting that the Board
15 repool these to include Mr. Fields' heirs and to
16 straighten out the tract identifications as you have
17 done in your revised exhibits and to allow escrow to
18 occur so that we have sufficient funds with regard to
19 the dispute that has arisen with regard to the 75 acre
20 tract to anticipate whatever outcome might have
21 occurred?

22 A. Yes.

23 MARK SWARTZ: That's all I have.

24 BUTCH LAMBERT: Mr. Pruitt.

25 TOM PRUITT: Thank you, Mr. Chairman.

1 CROSS EXAMINATION

2 QUESTIONS BY MR. PRUITT:

3 Q. Ms. Duty, couldn't Mr. Fields' incorrect
4 percentage change have been handled in-house as you
5 proposed to do with the other three tracts involved in
6 the Rasnake lawsuit?

7 A. No.

8 Q. Because of the change in the percentage of
9 ownership?

10 A. No, because of the change in the percent of
11 unit for the tract as a whole. His tract was
12 subdivided.

13 Q. And his percentage ownership or percentage
14 within the unit changed as a result of that a repooling
15 was necessary?

16 A. No.

17 Q. Obviously, I'm not understanding. Would you
18 say it again, please?

19 A. What did you ask me?

20 Q. I'm asking, how did the incorrect percentage
21 change in Mr. Fields' property require a repooling of
22 this tract? Why did it require that?

23 A. Due to the 75 acre tract, the Court order.

24 Q. Because of the lawsuit?

25 A. Yes.

1 Q. So---?

2 PATRICIA HURT: I thought you had it in escrow
3 before you all ever had the lawsuit. I mean, from 2004
4 on---.

5 BUTCH LAMBERT: Ma'am...ma'am, I have to ask you to
6 just hold your thoughts and let me Pruitt finish.

7 PATRICIA HURT: I'm sorry.

8 TOM PRUITT: You can do it after me.

9 Q. So, as a result of the lawsuit, this repooling
10 is required?

11 A. Yes. And at the same time we mapped the survey
12 that was provided by Ms. Hurt to divide the property.
13 There's more than one reason for it.

14 Q. If I ask you the questions with regard to this
15 unit that I asked you with regard to the previous
16 units, would your answers be the same?

17 A. Yes.

18 TOM PRUITT: Thank you. That's all, Mr. Chairman.

19 BUTCH LAMBERT: Now, Ms. Hurt, did you have a
20 question?

21 PATRICIA HURT: Yes, starting August of 2004, you
22 said that there was pooling in 2003. In July of 2004,
23 dad did receive a royalty check. But from August of
24 2004 there was never another one. So, apparently
25 everything went into escrow in 2004 the money because

1 we never did receive anything. But he was still
2 receiving it from...you said 2003. Okay, he was still
3 receiving...I've got a copy of the check at home. He was
4 still receiving...he received it July of 2004. He died
5 August 2004. Then there was never another one. So,
6 I'm just asking you what...why...you said you didn't pool
7 it until the lawsuit. Once we were notified of the
8 death, we placed that...any owners that were currently
9 getting paid, we placed them on hold until we received
10 documentation to change it. Like I said earlier, I
11 think there was some conversations with...I think you
12 talked mostly to Sherry Scott about this.

13 PATRICIA HURT: Right.

14 ANITA DUTY: We had a copy of the Will and I guess
15 it was...our mapping department, I don't know if it
16 required or you just provided a copy of the survey and
17 we had that map. Like I said, those two...we didn't put
18 the money in escrow. We just put it on hold entirely
19 because your...Mr. Fields was getting paid directly
20 from day one because he had a royalty split agreement
21 with Buck Horn. So, rather than sending the money to
22 escrow, we just put it on a hold waiting for
23 documentation.

24 PATRICIA HURT: So, you're saying as of today it's
25 still on hold---?

1 ANITA DUTY: For more than---.

2 PATRICIA HURT: ---until today---?

3 ANITA DUTY: Yes.

4 PATRICIA HURT: ---if you all agree to pool it, it
5 goes in pool starting today, but you had it on hold all
6 of these years?

7 ANITA DUTY: We had it on hold, yes, to update for
8 your father's...the Will, to subdivide the property.
9 Now, we're are---.

10 PATRICIA HURT: But---.

11 ANITA DUTY: It's kind of...there's two reasons now.
12 There's two things that's kind of crossing each other.
13 We have that situation where we put that on hold. We
14 were updating the mapping. Then at the same time, we
15 had this Court order that we knew was pending. So,
16 even though we knew and we had your property map, we
17 could not place that on paper because we knew there was
18 a Court order that affected those payments.

19 BUTCH LAMBERT: Okay. Ms. Duty, so that...I think to
20 help us all understand it, after he passed away that
21 money was held until you received proper notification
22 of who to be paid and now that this is...that we're
23 repooling this, those funds will now be placed into the
24 pool?

25

1 ANITA DUTY: We will go back from the beginning of
2 time regardless of what, you know, her father was paid
3 for at the beginning..you know, to his royalty split
4 agreement go back to the beginning and pay at least
5 half of it---.

6 BUTCH LAMBERT: Put that into escrow.

7 ANITA DUTY: ---depending on the agreement with
8 Buck Horn.

9 BUTCH LAMBERT: Into the escrow account. Okay, do
10 you understand, Ms. Hurt?

11 PATRICIA HURT: Yes, I understand that.

12 BUTCH LAMBERT: Okay.

13 PATRICIA HURT: I understand what you're saying
14 about it. I just didn't understand, you know, the time
15 frame from the time that he died. I did provide..within
16 that first year, I provided all of the information to
17 you all. When I talked to Sherry, one time she told me
18 that they was releasing the money and then they didn't.
19 All of the family was mad at me because I told them
20 that they were. I just never could deal with them.

21 BUTCH LAMBERT: Mr. Swartz, anything further?

22 MARK SWARTZ: Nothing.

23 BUTCH LAMBERT: Mr. Pruitt, anything further?

24 TOM PRUITT: No, sir.

25 BUTCH LAMBERT: Any discussion from the Board?

1 (No audible response.)

2 BUTCH LAMBERT: Do I have a...now, before I call for
3 a motion. Twenty-two and twenty-three we're dealing
4 with the same issues and we---?

5 MARK SWARTZ: Correct.

6 BUTCH LAMBERT: ---can call for a vote on twenty-
7 two and twenty-three?

8 MARK SWARTZ: Right. I feel like we're done with
9 those.

10 TOM PRUITT: Yes. One moment, please.

11 DAVID ASBURY: Mr. Chairman, while they're talking,
12 can I ask CNX a question?

13 BUTCH LAMBERT: Mr. Asbury.

14 DAVID ASBURY: When we have a person who is
15 deceased, what records are required from those
16 individuals to put them...either continued or payment
17 into escrow or pay directly so that we will know what
18 you require as a gas producer? What records?

19 ANITA DUTY: Our legal department requires us to
20 have a document that is recordable. We would have...we
21 would ask for a copy of the death certificate and if
22 there was a Will. If there wasn't a Will, we would ask
23 that one of the...the heirs that have...has interest in the
24 property fill out an affidavit of heirship that we can

25

1 record at the Courthouse where the property was
2 located.

3 DAVID ASBURY: Okay, a death certificate and an
4 affidavit of heirship?

5 ANITA DUTY: Affidavit of heirship or a Will.

6 DAVID ASBURY: Or a Will?

7 ANITA DUTY: Well, in most cases, we would have the
8 affidavit of heirship filled out that reflects the
9 Will. I think that's how...how we do it.

10 MARK SWARTZ: Lest you be misled an apparently
11 simple answer to a very---

12 SHARON PIGEON: By that simple answer.

13 MARK SWARTZ: ---complicated question. In this
14 particular instance, when you implemented the Will and
15 they provided you with a survey petitioning the land,
16 correct?

17 ANITA DUTY: The survey came, I think, sometime
18 later. Was it like a year later maybe?

19 PATRICIA HURT: Yes.

20 ANITA DUTY: Okay.

21 MARK SWARTZ: Okay.

22 PATRICIA HURT: Because an attorney told me that I
23 didn't need to have a survey and have all of that done.
24 That you all had everything you needed. I was told
25 that. I waited a year. I couldn't get any response

1 from you. So, I just hired the surveyor and had it
2 surveyed. I did send you that. Still no response from
3 you'uns. So, it's real hard dealing with you all. We
4 can send you all all of the paper, but you can't give
5 me no feedback. You could have sent me a letter when
6 you said about the litigation and let us all know.

7 ANITA DUTY: That...I mean, that wasn't...that would
8 have been Mr. Pruitt. We did not file the suit.

9 PATRICIA HURT: Well, we needed to know.

10 TOM PRUITT: We would have sent you one had we
11 known.

12

13

REDIRECT EXAMINATION

14 QUESTIONS BY MR. SWARTZ:

15 Q. Let's stay with survey. So, you get the
16 survey, okay. You get the survey. Your mapping
17 department tries to put it into the unit and what
18 happens?

19 A. We get the Court order.

20 Q. Well, with regard to the mapping, let's just
21 stay with the mapping.

22 A. Okay. I'm sorry.

23 Q. So, you get a survey from them---.

24 A. Yes.

25

1 Q. ---that allegedly affects the petition as a
2 result of the Will.

3 A. Yes.

4 Q. And you try to put that survey into your
5 mapping and what happens?

6 A. It affects the surrounding properties.

7 Q. And the percentages change?

8 A. And the percentages change.

9 Q. And the acreage changes?

10 A. Yes.

11 Q. So...I mean, one of the other things that we're
12 doing today is we're intergrading...and I just wanted...it
13 sounds like it ought to be that as simple as it was
14 just described to your answer to Mr. Asbury a moment
15 ago, but the problem is sometimes when you implement
16 that simple answer the boundaries changed and the
17 percentages have slightly changed. So, have you tried
18 to rectify the acreages and percentages on this trip as
19 well with regard to both of these units?

20 A. Yes.

21 MARK SWARTZ: Okay. That's the only thing that I
22 wanted to offer with regard to it.

23 TOM PRUITT: Mr. Chairman, in light of what was
24 just offered, if you look at the plat on this unit, BA-
25 109. The upper right hand edge that shows Tract 3F and

1 3E, those two tracts are attributed to the 75 acre and
2 Mr. Rasnake is listed there. We don't believe that he
3 has any ownership interest in that. The boundary line
4 leans away from...from the unit...from the unit there. So,
5 those percentages may change that again.

6 ANITA DUTY: We corrected that in the tract ID. We
7 realized that. In the exhibits.

8 MARK SWARTZ: In the revised exhibits.

9 TOM PRUITT: Okay.

10 MARK SWARTZ: Okay.

11 ANITA DUTY: Thank you.

12 BUTCH LAMBERT: Do we get the new tract?

13 ANITA DUTY: In this BA-109.

14 MARK SWARTZ: The revised exhibits that you have
15 straightened that out.

16 SHARON PIGEON: But you didn't give us a new
17 tracking.

18 MARK SWARTZ: With a tract ID.

19 ANITA DUTY: The plat---

20 BUTCH LAMBERT: Not a new...not a new map. The plats
21 are new.

22 ANITA DUTY: ---is still good. It's just who we
23 identified as the owner was wrong on the tract ID.

24 SHARON PIGEON: Okay. So, what we saw was correct,
25 but it was just labeled wrong?

1 MARK SWARTZ: Correct.

2 SHARON PIGEON: All right.

3 ANITA DUTY: Well not labeled wrong, but on the
4 tract identification we had the 75 acre tract shown as
5 an or and we took that out. The 3F and 3...that's still
6 good.

7 BUTCH LAMBERT: Okay. Okay. I understand. Okay,
8 anything further?

9 (No audible response.)

10 BUTCH LAMBERT: I'm going to call for a vote on
11 item...docket item twenty-two and twenty-three.

12 DONNIE RATLIFF: So moved, Mr. Chairman. I move to
13 approve.

14 BUTCH LAMBERT: Do I have a second?

15 MARY QUILLEN: Second.

16 BUTCH LAMBERT: A motion and a second. Any further
17 discussion?

18 (No audible response.)

19 BUTCH LAMBERT: All in favor, signify by saying
20 yes.

21 (All Board members signify by saying yes, but Katie
22 Dye.)

23 BUTCH LAMBERT: Opposed, no.

24 KATIE DYE: I'll abstain.

25

1 BUTCH LAMBERT: One abstention, Mrs. Dye. Thank
2 you, folks. It's approved.

3 TOM PRUITT: Mr. Chairman, one final matter. The
4 Circuit Court has a motion before it to vacate the
5 pooling orders on the other three tracts because
6 they're substantially wrong as to the ownership. The
7 Court may refer us back to the Board or Board may on
8 its own motion do that. But our attempt is to have
9 those tracts repooled and have our parties elect with
10 their correct ownership interest.

11 BUTCH LAMBERT: I understand. Thank you, Mr.
12 Pruitt.

13 TOM PRUITT: Thank you.

14 BUTCH LAMBERT: Ladies and gentlemen, we're going
15 to break for lunch and we'll plan on being back at
16 1:30.

17 (Break.)

18 BUTCH LAMBERT: Okay, ladies and gentlemen, it's
19 time for us to start back. At this point, we're
20 calling, I think, docket item sixteen. A petition from
21 CNX Gas Company, LLC for the creation and pooling of a
22 320 acre conventional horizontal provisional drilling
23 unit, docket number VGOB-11-0517-2943. All parties
24 wishing to testify, please come forward.

25

1 MARK SWARTZ: Mark Swartz and Anita Duty and Ian
2 Lucas.

3 COURT REPORTER: What's your name?

4 IAN LUCAS: Ian Lucas.

5 (Ian Lucas is duly sworn.)

6 BUTCH LAMBERT: You may proceed, Mr. Swartz.

7 MARK SWARTZ: Thank you. In the interest of saving
8 time, but confusing everyone at the same time, this
9 unit, the testimony from Ian will be essentially
10 comparable in the very...because they're five of these
11 units. So, if you could look...if you could look ahead
12 and maybe call seventeen, eighteen---

13 ANITA DUTY: Twenty-four.

14 MARK SWARTZ: ---and twenty-four, we could sort of
15 do them all at once and we have withdrawn twenty-five.

16 BUTCH LAMBERT: Did you say withdraw twenty-five?

17 MARK SWARTZ: We have already done that. I wrote
18 to you last week.

19 BUTCH LAMBERT: Oh, it's probably...wait a minute.
20 It's probably---

21 SHARON PIGEON: I have a yellow sticker on it. I
22 think that tells me that.

23 MARK SWARTZ: Or I could pretend I hadn't and
24 surprise Mr. Sexton who had objected, you know, who
25 didn't come because I---

1 BUTCH LAMBERT: You're right.

2 MARK SWARTZ: Okay.

3 BUTCH LAMBERT: I have that.

4 SHARON PIGEON: As attractive as that would be to
5 me. No, I think...

6 (Laughs.)

7 MARK SWARTZ: Probably need to stand by it, huh,
8 okay.

9 BUTCH LAMBERT: Docket item twenty-five, a petition
10 from CNX Gas Company, LLC for creation and pooling of a
11 conventional horizontal drilling unit, docket number
12 VGOB-11-0517-2950 will be withdrawn. Okay. We're also
13 calling petition...docket item seventeen, a petition
14 from CNX Gas Company, LLC for the creation and pooling
15 of a 320 acre conventional horizontal provisional
16 drilling unit, docket number VGOB-11-0517-2944. Also
17 calling docket item eighteen, a petition from CNX Gas
18 Company, LLC for the creation and pooling of a 320 acre
19 conventional horizontal provisional drilling unit,
20 docket number VGOB-11-0517-2945. And...that was it,
21 right?

22 MARK SWARTZ: Twenty-four.

23 MARY QUILLEN: Twenty-four.

24 BRUCE PRATHER: Twenty-four.

25

1 with regard to the production and so forth. Let's
2 pass...pass everything out so that you've got everything
3 that you need.

4 A. All right.

5 (Exhibits are passed out.)

6 BUTCH LAMBERT: Okay, Mr. Swartz, now that we're
7 totally confused, you may proceed.

8 MARK SWARTZ: Okay. I'll see if I can either help
9 or make it worse.

10 Q. Okay. Anita, I'm going to remind you that
11 you're still under oath and ask you if you participated
12 either by doing the work yourself or by supervising the
13 work with regard to the notices, the applications and
14 the exhibits pertaining to these shale well
15 applications that we're going to be talking about now.

16 A. Yes.

17 Q. Did you in all cases provide written notice to
18 the respondents?

19 A. Yes.

20 Q. By mail?

21 A. I did.

22 Q. Okay. And do you have proofs with regard to
23 mailing for each of these applications that you're
24 going to be filing with Mr. Asbury today?

25 A. Yes.

1 Q. In addition to mailing, did you also publish?

2 A. Yes.

3 Q. And was the notice and the map, CNX map, for
4 each of these matters published in a newspaper of
5 general circulation?

6 A. It was.

7 Q. And have you brought with you today for...so you
8 can provide them to Mr. Asbury, the certificates of
9 publication that you got from the newspaper?

10 A. Yes.

11 Q. With regard to these...this collection of units,
12 do we need to dismiss any respondents today?

13 A. No.

14 Q. Do we need to add any?

15 A. No.

16 Q. Okay. Do all of these applications pertain to
17 what I'm going to call shale wells?

18 A. Yes.

19 Q. And by that we're talking about wells that
20 start out vertically but then make a turn to enter a
21 shale producing horizon?

22 A. Yes.

23 Q. And do they all pertain to the Huron?

24 A. Yes.

25

1 Q. Okay. The first I think four...the first three
2 that we're going to be dealing with are new
3 applications to create a unit...a provisional unit and
4 pool it, correct?

5 A. Yes.

6 Q. And then the last one that we're going to be
7 talking about is one that was...we created a unit and
8 pooled it a while back, but we're talking about adding
9 a leg---?

10 A. Yes.

11 Q. ---to that unit, correct?

12 A. Yes.

13 Q. Okay. Do you have revised appli...revised
14 exhibits with regard to...I'm going to go to item sixteen
15 and we're going to start with that one in terms of
16 specific testimony. With regard to docket item
17 sixteen, do we have any revisions?

18 A. Yes, we do.

19 Q. Okay. And those are---?

20 A. B-3 and a plat.

21 Q. Okay. And the...what changed on the plat?

22 A. There were some wells within 2500 feet that
23 weren't identified on the...in the legend area there.

24 Q. Okay. So, the...because we always list the
25 bearing and distances?

1 A. Yes.

2 Q. And so the list is...on the revised exhibit is a
3 complete and accurate list and the first exhibit left
4 off a couple?

5 A. Yes.

6 Q. Correct?

7 A. Yes, that's right.

8 Q. Okay. And a revised Exhibit B-3, I think you
9 said?

10 A. Yes.

11 Q. Okay. And that was actually missing from the
12 packets, correct?

13 A. Yes.

14 Q. And we've already talked about the revised
15 plat.

16 A. And we also...I don't know if we were showing the
17 oil and gas leases by Appalachian Energy and Range. We
18 may not have had that...well, if it was missing we would
19 not have had that before.

20 Q. Okay. Right. Now, with regard item sixteen,
21 you're asking that the Board actually create a unit and
22 you've provided a plat that shows that unit, correct?

23 A. Yes.

24

25

1 Q. and what you've done is you've taken, as we've
2 seen in the past, four Oakwood 80s, sort of the
3 framework, correct?

4 A. Yes.

5 Q. And combined it into a 320 acre drilling unit,
6 correct?

7 A. Yes.

8 Q. And on the plat, whether we're looking at the
9 revised plat or the original plat, you're showing the
10 location of the...of the...I'll get the right one here.
11 You're showing the location of the wellbore at the
12 surface, correct?

13 A. Yes.

14 Q. And that is the dot that has the 750 foot
15 radius around it, correct?

16 A. Yes.

17 Q. And then the line from that dot, which is in
18 the southeast sort of corner of the drilling window
19 that you've drawn there that...then there's a line that
20 runs in a north and slightly west direction and is that
21 to show the proposed horizontal leg of the well?

22 A. It is.

23 Q. Okay. And then you're showing a point at which
24 it would terminate?

25 A. Yes.

1 Q. And is the intention to have the entire
2 producing leg within the drilling window that you've
3 shown here?

4 A. Yes.

5 Q. Okay. And you've...and then we've also...there's a
6 legend sort of parallel to the leg, the horizontal leg,
7 which says what?

8 A. No wells drilled within 2500 feet of the leg
9 reached the Huron.

10 Q. Okay. So, that...and that's just to indicate
11 that there's no interference from other wells less than
12 2500 feet away in the Huron?

13 A. Yes.

14 Q. Okay. The...have you provided the Board with an
15 estimate of allowable costs?

16 A. Yes.

17 Q. Okay. And what...what is that estimate?

18 A. \$1,448,290.

19 Q. And this...this well cost includes stimulation or
20 fracing does it not?

21 A. I think so. Yes.

22 Q. And there's \$204,000 in the estimate for that?

23 A. Yes.

24

25

1 Q. And because this is a conventional...this is a
2 conventional gas, we don't have any escrow requirements
3 here...I mean, we've found everybody---?

4 A. That's correct.

5 Q. ---that we needed to know about, so we don't
6 have any conflicts, correct?

7 A. Correct.

8 Q. Okay. And you've provided us with a listing of
9 the percentages held by the folks that we're seeking to
10 pool, correct?

11 A. Yes.

12 Q. And what's the interest that the applicant has
13 acquired in this proposed provisional unit?

14 A. We've acquired 89.44% of the oil and gas. We
15 are seeking to pool 10.56%.

16 Q. Okay. And what are the lease terms that your
17 company has been offering to the folks that you've been
18 able to lease in these kinds of units?

19 A. Five dollars per acre per year with a five year
20 paid up term and a one-eighth royalty.

21 Q. Okay. And that would apply to conventional gas
22 in this situation?

23 A. Yes.

24 Q. Okay. The applicant here is CNX Gas Company,
25 correct?

1 A. Yes.

2 MARK SWARTZ: I'd like to incorporate Anita's
3 testimony with regard to their compliance with the
4 requirements to be an operator in the Commonwealth, if
5 I could.

6 BUTCH LAMBERT: Accepted.

7 MARK SWARTZ: Thank you.

8 Q. And this application as to the others propose
9 that if the unit is created and it's pooled that CNX
10 would be the operator?

11 A. Yes.

12 Q. With regard to this unit, G...I'm sorry, G-10
13 shale, is it your opinion that this is...this horizontal
14 well that's proposed here is a reasonable way to try
15 and develop that horizon?

16 A. Yes.

17 Q. And is it your test...further testimony that if
18 the Board were to issue a pooling order pooling the
19 folks that you've listed as respondents and you've
20 combined that with the leasing and acquisition efforts
21 of the applicant that the correlative rights of
22 everyone in this unit would be protected?

23 A. Yes.

24 MARK SWARTZ: Okay. That's all I have of
25 Anita...Anita on this one.

1 BUTCH LAMBERT: Any questions from the Board?

2 BRUCE PRATHER: Mr. Chairman, I've got one
3 question.

4 BUTCH LAMBERT: Mr. Prather.

5 BRUCE PRATHER: On our Exhibit B-3 here, it says
6 that Watkins Branch development claims a total of 100%
7 of the oil and gas in the CBM, but 31.5952 was leased
8 before the purchase. How is that going to affect
9 the...the...I guess, the...you said there was no escrow. So,
10 I assume what you're doing is this is either going to
11 go to Court or what?

12 ANITA DUTY: Actually, the prior owners before he
13 purchased the...I guess they were probably 15 different
14 heirs that owned the property. And some of the heirs
15 had leased to CNX prior to him purchasing the entire
16 tract. So, we're really only pooling the piece that
17 remains unleased.

18 BRUCE PRATHER: Oh, okay.

19 ANITA DUTY: So, it's not the...he owns a 100% of it.

20 BRUCE PRATHER: Yeah.

21 ANITA DUTY: But as far as what we're going to
22 pool, we're only pooling what was---

23 BRUCE PRATHER: I thought...I thought you might
24 be...have a Court problem here with this thing.

25 ANITA DUTY: No, that...no, we're good there.

1 BRUCE PRATHER: Okay.

2 BUTCH LAMBERT: Any other questions?

3 (No audible response.)

4 BUTCH LAMBERT: You may continue, Mr. Swartz.

5

6 IAN LUCAS

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

9 DIRECT EXAMINATION

10 QUESTIONS BY MR. SWARTZ:

11 Q. Ian, I need you to state your name for the
12 record, please.

13 A. Ian Lucas.

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

16 A. Certainly.

17 Q. Okay. Who do you work for?

18 A. I work for CNX Gas Company.

19 Q. And do you have a job title?

20 A. I am. I'm a senior geologist.

21 Q. And what office do you typically work out of?

22 A. I work out of Jane Lew, West Virginia office.

23 Q. Okay. Could you tell us where you got your
24 college training?

25

1 A. Sure. I did my undergraduate studies. I got
2 my B.S. in geology from Fort Lewis College in Durango,
3 Colorado. I moved back originally from outside of
4 Pittsburgh. I move back to the area where I seek...found
5 employment and since did graduate studies at West
6 Virginia University pending graduation hopefully this
7 summer. So, we'll keep our fingers crossed there.

8 Q. And the degree that you think you've finished
9 and hope to get this summer would be in what?

10 A. That would be my Master of Science in geology.

11 Q. Okay. And when did you get your degree...your
12 college degree? When did you graduate?

13 A. I graduated in 2002.

14 Q. Okay. While you were going to college, did you
15 work at all in the oil and gas industry?

16 A. I did. I served as an internal for a small
17 company called Douglas Oil and Gas out of Pittsburg for
18 a couple of years.

19 Q. Okay. And then after you graduated and you got
20 your college degree, what did you do?

21 A. After moving back to the Pittsburgh area, I
22 came into employment fulltime with Dominion Exploration
23 and Production out of Indiana, Pennsylvania. I had
24 worked for Dominion E & P until we were recently...I was
25 transferred in 2004 to Jane Lew from our Indiana office

1 and then we were since acquired by Consol Energy and
2 then merged with CNX Gas as of one year ago today.

3 Q. So, since graduating from college, you've
4 worked for either Dominion or CNX up until the present?

5 A. This is correct.

6 Q. Okay. What has...what is your involvement at the
7 present time with regard to decisions concerning
8 drilling such as this...this horizontal unit that we're
9 talking about right now, the G-10, the shale unit?

10 A. My primary responsibility is mapping and
11 formation evaluation as well as prospect dedication. I
12 do have some involvement as far as the engineering
13 aspects as well. But my primary responsibilities again
14 are prospect generation through geology.

15 Q. Okay. And this unit...this particular unit that
16 we're talking about right now a unit that you're
17 familiar with?

18 A. Yes.

19 Q. Okay. Let's look at the plat map that you've
20 handed out. The Board should have a collection of
21 exhibits like this for each one of these units and
22 there should one in there, the second page would be G-
23 10 shale sort of at the grid system and we'll skip pass
24 that because the Board is well aware of what that is.
25 But if we got to the plat here, I want to talk to you

1 for a moment about that. What is the approximate depth
2 of the Huron here?

3 A. The vertical depth of the Huron at this
4 location is 6375 feet.

5 Q. Okay. And is that the target formation here?

6 A. Yes, it is.

7 Q. Okay. And is the idea to start a well at the
8 location shown on the plat and at least for some period
9 of time start drilling the straight down?

10 A. This is correct.

11 Q. And then to turn the well?

12 A. Correct.

13 Q. And how long does it...how much distance would
14 you cover...I mean, you're...let's assume that you're
15 starting at the dot that's very close to the drilling
16 window in the southeast corner.

17 A. Yes.

18 Q. Roughly, what would the offset from that point
19 at the surface be to the north in terms of where the
20 wellbore would enter the Huron?

21 A. With our typical build rate of a 10 degree per
22 100 foot, you're looking at around 575 foot of offset.

23 Q. Okay. So, the actual point at which this
24 wellbore would enter the Huron, the formation that it's

25

1 intended to produce from would be almost 600 feet north
2 and a little west of the wellbore on the surface?

3 A. Assuming average build rate, yes.

4 Q. Okay. And the point being as we get further on
5 here, there's actually one of these units where the
6 surface location of the well is outside the
7 drilling---

8 A. Correct.

9 Q. ---but because of that offset the production
10 wouldn't begin until we're in the drilling window,
11 correct, and we'll see that later?

12 A. Yes.

13 Q. Okay. And the...this well, the G-10 well, it...the
14 horizontal well...the horizontal leg is anticipated to be
15 how long?

16 A. The anticipated lateral length is 2,525 feet.

17 MARK SWARTZ: Okay. And let me ask the Board to
18 refer to...to sort of anticipate this, let me see if I
19 can find...where's the map on the last one, number
20 twenty-four. If you could locate your packet that
21 would have a plat for item...docket item twenty-four,
22 it's the G-80 shale well that was pooled earlier. As
23 long as we're on the topic of the wells and the
24 locations, you should have a map that has a...has
25 actually three legs. This is the...this is a

1 modification of the plat that you saw when we actually
2 created and pooling the G-80 unit.

3 Q. Do you have that in front of you now, Ian?

4 A. Yes.

5 Q. Okay. One of the...actually, the last docket
6 that we're going to be talking about today, you've
7 got...when this was originally pooled, the censure line,
8 the smaller leg was what was approved, correct?

9 A. Yes.

10 Q. And the idea is to drill one, and depending on
11 how that goes, possibly two additional legs, is that
12 correct?

13 A. This is correct.

14 Q. And is your ex...is your intention with regard to
15 the G-10 unit that if this well proves out that you
16 might want to drill an additional leg for two legs
17 within the window on an offset basis?

18 A. Possibly, yes.

19 Q. Could you share with the Board why it is you're
20 proposing an additional leg in the G-80 unit and are
21 alerting them to the possibility that you might be
22 interested in doing that in the unit that we're talking
23 about at the moment, the G-10 unit? What's the
24 engineering and what's the point of that?

25

1 A. The G-80 turned out to be a suitable position
2 in order to test some theories that we have on spacing
3 between wells and how to maximize our...you know, our
4 reserve drainage as well...basically, there's...when you're
5 spacing like we have in order to test all of our
6 leaseholds they're quite far apart. So, now we're kind
7 of taking the next step to say okay now that we've
8 tested a few wells and, we've had, you know, favorable
9 results, we basically want to go back into say all
10 right based upon those results in units that exist with
11 infrastructure in place and everything else now can we
12 look at it from an engineering prospective on basically
13 reserve drainage and how can we stimulate these
14 correctly in order to in future space these as best
15 possible.

16 Q. This suggests to me an idea that we've heard
17 about from one of the witnesses, you know, in the
18 audience here, Jeremy. But this suggests to me that
19 maybe you're trying to benefit from some interference.
20 Is that...is that one of the things that you have in mind
21 here?

22 A. Well, interference...interference can be good and
23 can be bad, but the idea of getting interference
24 definitely answers questions too. If you have
25 interference you know that you're basically overlapping

1 some of your stimulated fracture network versus if you
2 spaced too far and you see nothing, okay, you know, you
3 didn't interfere but now where do you need to come to
4 in order to interfere. Yes, interference answers
5 questions. From a production standpoint, we don't
6 believe that interference is necessarily bad either
7 though, you know, you may be basically, I don't want to
8 say wasting capital, but too much interference and now
9 you're over draining the same rock. However, a little
10 bit is good because you want that overlap in order to
11 maximize that drainage potential you have within your
12 reservoir. In seeing that, I think it becomes more of
13 a production issue on how you produce it as to not
14 damage one well or the other so that they're both
15 equally productive for you.

16 Q. I think...how many of these drilling wells did
17 you all drill within...I think it's within the last year
18 that you've been looking at these?

19 A. That's correct. We drilled five.

20 Q. Okay. So, you have at least five provisional
21 wells that you've got to see data on?

22 A. Yes.

23 Q. Okay. And, obviously, the...all of the units
24 that we're going to be talking about today, the shale
25 well units remain provisional units?

1 A. Yes.

2 Q. I know there's a Board committee trying to
3 address the design of horizontal CBM units and at the
4 same time perhaps the design of horizontal conventional
5 units. Are you on the committee?

6 A. I am.

7 Q. Would you...would you expect that at some point
8 in the foreseeable future in maybe the next year or two
9 years we will have a much better handle on what an
10 appropriate unit size ought to be for these kinds of
11 wells?

12 A. Our current plan is to provide some supporting
13 evidence and kind of an argument to the Board in order
14 basically talk about where we've been and what we
15 recommend for going forward practice, yes.

16 Q. And all of these five unit remain provisional
17 because we're not sure where we...where we or the Board
18 needs to be at this point and we're still sort of
19 testing the horizon and developing data to know better
20 where to go?

21 A. Yes.

22 Q. Okay. And with regard to, since we kind of
23 skipped ahead to the G-80 unit, you're not...we're not
24 proposing in G-80 that we drill both of these? The

25

1 idea is we're going to drill one or the other and see
2 how that goes, but we're not sure which one.

3 A. Correct.

4 Q. Okay. And the idea with regard to G-10 and the
5 other three that we're creating units for today would
6 be depending on what kind of results we're getting from
7 the original leg, we may well be doing something like
8 we're showing in G-80---?

9 A. Yes.

10 Q. ---or not?

11 A. Correct.

12 Q. Okay. Let's go to the next slide on the G-10
13 unit because we're basically going to have this same
14 slide with regard to all of these, correct?

15 A. Yes.

16 Q. And this Board is pretty familiar with
17 horizontal wells, so I'm not going to spend any time
18 with this. If they have questions, they can certainly
19 ask you. But let's skip to the next one. And we've
20 got...this is a slide of a typical exploration horizontal
21 design, right?

22 A. Correct.

23 Q. Some of the wells that the...the horizontal wells
24 that CNX has drilled in the past actually go down and

25

1 penetrate the target formation and go a little further
2 down---?

3 A. Yes.

4 Q. ---to create sort of a sump?

5 A. Actually, yes and no. It depends on your
6 target formation---.

7 Q. Okay.

8 A. ---on whether a sump is needed versus just a
9 data point.

10 Q. Okay. Okay. And in this...with regard to the
11 shale wells that we're talking about today, is this
12 design what you're going to do is what you're going to
13 do in these wells slightly different?

14 A. It varies from well to well.

15 Q. Okay.

16 A. And that's basically based upon your...how the..
17 all the data you have in that field where...you know,
18 I'll go back to the G-80 quickly. We're offsetting an
19 existing well. It's not necessary in that case to
20 drill a pilot well to find exactly where my Huron is,
21 my thickness, my depth and such in order to line up my
22 horizontal targets right next to one that I just
23 drilled. So, I'm okay there. However, in a...what I'll
24 call a step out well or what have you and not one
25 offset away. In that case, I may propose to drill the

1 pilot well simply in order to give myself the data in
2 order to have a target to shoot for my horizontal
3 drilling.

4 Q. So, in some instances if you have multiple
5 wells, the expect...the fair expectation would be that
6 the second well or the additional wells would not
7 establish the target formation by drilling through
8 it---?

9 A. Correct.

10 Q. ---and it would make the turn before they got
11 to it?

12 A. Correct.

13 Q. Okay. Let's talk a little bit too about
14 production and frac. Anita indicated that there is
15 money in the cost estimate for these wells...for this
16 well and we'll see it in the other wells as well for
17 fracture and stimulation, correct?

18 A. Yes.

19 Q. Is this wet or dry or what kind of plan do you
20 have to stimulate these wells?

21 A. The Lower Huron is considered an under pressure
22 dry shale reservoir hereby we avoid putting any sort of
23 water or fluids on that...on that resource due to the
24 fact that because of the low pressure and it being dry

25

1 you won't get those back. So, we utilize an open hole
2 packer system with a straight gas frac on these wells.

3 Q. Okay. And what you're fracing though, are you
4 able to isolate the frac to the Huron and you're not
5 fracing up the hole?

6 A. Oh, no, we are. We're separated, yes.

7 Q. Okay. So, you have an ability to frac the
8 target formation?

9 A. Correct.

10 Q. Independent of---?

11 A. Yes.

12 Q. ---other things that you might encounter?

13 Okay, then the next slide and we'll see this with
14 regard to all of these units is an indication that we
15 have...already have different size of units and when we
16 get with the Board in terms of trying to create
17 building blocks to make appropriate units we might even
18 have perhaps 20 acre units or 30 acre units that we're
19 going to be putting together. But at this point, we
20 don't have that?

21 A. Correct.

22 Q. Okay. The benefits of horizontal drilling,
23 we've covered that a number a times with the Board. I
24 think they're aware of some of the advantages to
25 surface disturbance and so forth. But I do want to

1 talk a minute about your last slide. We have
2 essentially the same slide with regard to all of the
3 shale units that we have today, right?

4 A. Yes.

5 Q. Okay. This...you...your company only has five
6 wells. So, you have a limited amount of data.

7 A. Yes.

8 Q. Okay. Is this reserve estimate here based
9 on...in part on the data that you developed?

10 A. Yes and no.

11 Q. Okay. Why don't you tell the Board where
12 this...where this curve comes from?

13 A. The reserve estimate that were provided to me
14 in order to evaluate the prospects to determine the
15 viability and economics and such. A lot of this
16 particular reserve estimates were based on log
17 analysis...some specialty log analysis, but log analysis
18 none the less and then any available outside production
19 that was...that could be used was tied back into these
20 reserve estimates. However, though the original
21 prognosis and such were based on these reserve
22 estimates, you know, we are in the course of tying our
23 actual productions back to the estimates that we
24 initially established for the economic viability of the

25

1 project and finding, you know, not a bad match so far,
2 but we're quite early in our production life too.

3 Q. Okay. I'm interested in the bottom here. It
4 would seem to me in context and perhaps you can explain
5 this, you know, assuming a 20% recovery or a 30%
6 recovery would assume a very conservative recovery
7 rate.

8 A. Yes.

9 Q. I mean, is there a reason why...driven by what
10 you know about this formation or what you don't know,
11 why the percentage of the recoverable reserves
12 percentages appear to be so low in this estimate?

13 A. Again, this is providing me for analysis but I
14 would...I would base the fact on you would want to be
15 conservative in the early estimations of a project if
16 you're going to...if you're going to expend all that
17 capital you've got to air on the side of caution and be
18 conserve and if it fits at those numbers then hopefully
19 if your numbers are better you obviously have a
20 worthwhile project.

21 Q. So, would it be fair to say that your view is
22 that even at a 30% recovery rate if that...if that works
23 out these wells make economic sense?

24 A. Yes.

25

1 Q. And to sort of jump ahead, Ian, so that I can
2 kind of offer you up to the Board for further
3 questions. Obviously, we're talking about the same
4 type...the same formation and the same type of well, we
5 have different plats and so forth, but essentially the
6 same concept with regard to each of these provisional
7 units so that essentially...so basically except for the
8 plat, the data that you've provided for each...each unit
9 is identical?

10 A. Correct.

11 MARK SWARTZ: Okay. That's all I have at this point
12 of Ian.

13 BILL HARRIS: I have---.

14 BUTCH LAMBERT: Mr. Harris.

15 BILL HARRIS: ---two or three questions if you
16 don't mind.

17 MARK SWARTZ: Great.

18 BILL HARRIS: Let's go to the last one, the reserve
19 estimate. I'm not sure about on the bottom there what
20 that access is. Is that...it's not labeled as the
21 others. You know, there's probability and frequency.
22 Is this the actual production? See I don't see an
23 actual...I don't see a title for that axis.

24 IAN LUCAS: I believe the lower X axis would be
25 your total gas in place volume.

1 BRUCE PRATHER: Gas in place is not recoverable.
2 That's the amount of gas in the reservoir. You never
3 get a 100% out.

4 IAN LUCAS: I would agree with that. Yeah, it's
5 what's there and not necessary what you'll get.

6 BRUCE PRATHER: Yeah. That's...that's...you know, if
7 the log was reading primary porosity then it would be
8 the amount of gas in that reservoir and then subject to
9 a decline curve or a percentage recovery factor. So,
10 the gas in place will not all be recovered.

11 IAN LUCAS: That's correct.

12 BRUCE PRATHER: Okay.

13 BILL HARRIS: Okay. Okay, that's...but that's
14 explain that. I have another question also. Back to
15 the Exhibit A under G-80 the one that had the sort of
16 pitched fork looking drilling pattern. I think I
17 heard...I think I heard Mr. Swartz say just in sort of
18 concluding with you, all of the...if they...if all three
19 were to be drilled they all target the same horizon, is
20 that correct?

21 (No audible response.)

22 BILL HARRIS: Do you kind of guess what distances
23 might exist between those legs?

24 IAN LUCAS: We have been in discussion of that and
25 myself as a geologist and some of our engineers from

1 both reservoir and completions have been in discussion.
2 We're looking anywhere between 6 to 1,000 right
3 now...600, excuse me, 600 to 1,000 feet. And, again, it
4 comes back to, you know, what the question is that you
5 want to answer and exactly how to go about that.

6 BILL HARRIS: So, if you drill the center one---?

7 IAN LUCAS: Yes.

8 BILL HARRIS: ---and then drill let's say the upper
9 one to the north of that that curves around you should
10 be able to tell, I think, from that maybe if you're too
11 close and if you need to drill the other one further
12 away or closer or something based on those results? I
13 mean---.

14 IAN LUCAS: Correct.

15 BILL HARRIS: So, that would...because the assumption
16 is, I guess, the shale is pretty much uniform for the...I
17 mean, there are lot of assumptions because, you know,
18 you can't see underground or whatever, but---.

19 IAN LUCAS: Right. Agree. But, yeah, you do
20 assume some---.

21 BILL HARRIS: But you wouldn't just go blindly and
22 let's just do two more or whatever.

23 IAN LUCAS: No. I would drill one and then
24 absolutely evaluate before you resulted to the next.

25

1 BILL HARRIS: Okay. I think that was it for me. I
2 think it was. Thank you.

3 BRUCE PRATHER: Mr. Chairman, I've got a question.

4 BUTCH LAMBERT: Mr. Prather.

5 BRUCE PRATHER: On the...I guess, it's GASH1 with the
6 forks, on these wells on your completion on your
7 original well you could bring those...those balloon
8 packers up pretty close to the edge of where the well
9 is. But on these with the bow in it, can you bring
10 those packers around a curve like this or where your
11 stages end at the top up here and not go around the---?

12 IAN LUCAS: Could you still accomplish it within
13 that turning part of the lateral, is your question?

14 BRUCE PRATHER: Yeah. Yeah.

15 IAN LUCAS: Yes. There's quite a bit of
16 flexibility in that packer system.

17 BRUCE PRATHER: Okay. You could set it in there?

18 IAN LUCAS: Yes.

19 BILL HARRIS: Is there a difference then in...because
20 don't you do...when you come down in a curve, is there
21 any difference in going out...well, you're going out and
22 down at the same time.

23 BRUCE PRATHER: You're going out and down.

24 BILL HARRIS: Okay. Okay. There was a...yeah, I'm
25 sorry. A little additional complication there.

1 BRUCE PRATHER: No, I was just wondering if maybe
2 you have to limit your stages because of that curve in
3 that---?

4 IAN LUCAS: If you got too extreme on the build,
5 than yes. However, I think we would design in a way
6 that it would be...we could accommodate the packer system
7 because if I couldn't actually set one there to
8 complete the chances of me actually being able to get
9 through that zone to get to TD would be minimal too.

10 BRUCE PRATHER: Yeah. Well, what I thought was
11 maybe you were thinking that the wells were too close
12 up here right where the three wells are and you were
13 just going to stay back to where the bend was and have
14 all three of them parallel it. I mean, that's just
15 what I was thinking you might be doing. But if you
16 could come around that curve, it's the best thing to
17 do.

18 IAN LUCAS: That's true.

19 MARY QUILLEN: Mr. Chairman, I just have one
20 question---.

21 BUTCH LAMBERT: Ms. Quillen.

22 MARY QUILLEN: ---about the curve. Now, these two
23 have a different degree of the curve, the one on the
24 north and the one on the...well, the right and the left.
25 Is that done for a reason or---?

1 IAN LUCAS: At this point, it is not. These
2 are...this is still a proposed stage of these laterals.
3 We haven't gone through our final engineering design,
4 if you will.

5 MARY QUILLEN: So, they may or may not be the same
6 degree of a curve?

7 IAN LUCAS: That's correct. In order to get to
8 that window, you may actual have different build
9 angles.

10 MARY QUILLEN: These. Uh-huh.

11 BRUCE PRATHER: Yeah.

12 MARY QUILLEN: Okay.

13 IAN LUCAS: To give you then the spacing that you
14 want by the time you're at your completeable zone.

15 BRUCE PRATHER: Yeah.

16 MARY QUILLEN: Right. Uh-huh.

17 BUTCH LAMBERT: Any other questions?

18 DONNIE RATLIFF: Mr. Chairman.

19 BUTCH LAMBERT: Mr. Ratliff.

20 DONNIE RATLIFF: If we approve this, are we
21 approving the opportunity for you to drill all three or
22 would you have to come back on the second?

23 MARY QUILLEN: Legs.

24 BRUCE PRATHER: Or third one...or third one.

25

1 IAN LUCAS: At this point, we're only proposing the
2 one well. That's correct. That's how I would state
3 it.

4 MARK SWARTZ: We're going to see how it goes.

5 DONNIE RATLIFF: So, the other two is proposed?

6 MARY QUILLEN: The one that---.

7 MARK SWARTZ: Yeah.

8 IAN LUCAS: Yeah, just the one.

9 DONNIE RATLIFF: Because the AFE only reflects
10 enough money for one---.

11 MARK SWARTZ: Correct.

12 MARY QUILLEN: Right. Just for the one---.

13 MARK SWARTZ: And part of it..part of the reason is
14 they're not sure which of the two proposed ones that
15 they're going to wind up building either. So, this is
16 to get permission to do another leg in the G-80 unit.
17 That's the purpose of that. That has been created and
18 pooled before. Now, we're asking can we go back and do
19 another leg. With regard to the rest of them, we're
20 proposing the legs that are shown but we're alerting
21 you, you know, that we may be back and just simply
22 bringing that to your attention.

23 MARY QUILLEN: Yeah. That original leg has already
24 been drilled in G-80, correct?

25 IAN LUCAS: Correct.

1 MARY QUILLEN: And you're asking approval for one
2 of these, but not specific which one---?

3 IAN LUCAS: Well, I am favoring the southwest, but
4 we're still evaluating it---.

5 MARY QUILLEN: ---or are you asking for two of
6 them?

7 IAN LUCAS: ---as far as getting the maximum
8 lateral per that unit that's allotted with the build
9 angles that we need and such. So, yes, we're...we're
10 only going to do one upon---.

11 MARY QUILLEN: Okay. Okay. Okay.

12 IAN LUCAS: That's correct.

13 DAVID ASBURY: This is your...this your well that's at
14 the Harman Junction, is that correct, below Grundy?

15 ANITA DUTY: Yes.

16 DAVID ASBURY: Okay.

17 SHARON PIGEON: Someone...someone.

18 IAN LUCAS: I think geographically---.

19 ANITA DUTY: (Inaudible).

20 IAN LUCAS: ---I'm still learning.

21 DAVID ASBURY: I'd ask that you would explain the
22 formation of stimulation again and what you anticipate here
23 just to be clear of what you're using to stimulate it and
24 why.

25 IAN LUCAS: Okay.

1 DAVID ASBURY: I heard a piece of that and I would
2 like to hear the full testimony.

3 IAN LUCAS: We...once we drill the well, we run what we
4 call an open hole packer system and we hang that packer
5 system off in the cased interval. That gives us our
6 isolation to that formation so that we are not, you know,
7 fracing anything else uphole. The fluid...now, how that
8 system works versus a typical cement with cas...cemented
9 casing where you would go in a perf your chosen intervals,
10 this works a little differently in that those holes are
11 already lined up. We just open them open them up one stage
12 at a time. We typically will run an equal staged equal
13 spaced stages. You can run anything. We have been trying
14 fourteen per lateral and then we just equally space them.
15 So, basically, you do one stage and you drop a...it's bomb
16 baffle system, if you're familiar with casing programs,
17 then that opens up the next port and you just keeping
18 working your way back. The fluid or the medium of choice
19 is straight nitrogen gas for the reasons that we do not
20 want to put water on the formation and the gas is an
21 energizing fluid in that it's a pressured gas thereby flow
22 back is a lot easier because we want to retrieve that
23 before we can go to pipeline. So, we choose to use the
24 straight nitrogen gas frac in an open hole packer port
25 system.

1 DAVID ASBURY: And this differs greatly from that we
2 hear and read in the papers about hydraulic fracing in the
3 Marcellus in Pennsylvania or West Virginia where millions
4 of gallons of water are used. This is only a gas nitrogen
5 frac.

6 IAN LUCAS: This is correct. Zero water.

7 BRUCE PRATHER: Do you have to use a little bit of acid
8 to break it down with?

9 IAN LUCAS: No, not in the shale.

10 BRUCE PRATHER: You're breaking it right down---?

11 IAN LUCAS: Because we have no cement---

12 BRUCE PRATHER: Okay.

13 IAN LUCAS: ---we don't even need to acidize. This is
14 correct.

15 BRUCE PRATHER: Okay. Okay.

16 MARY QUILLEN: And you're using this for all...all
17 three of these that we're considering?

18 IAN LUCAS: All four, yes.

19 MARY QUILLEN: Four...four. Excuse me, all four.

20 IAN LUCAS: That's correct. Consistent frac
21 stimulation planned.

22 MARY QUILLEN: Okay.

23 DAVID ASBURY: Thank you.

24 BUTCH LAMBERT: Any further questions from the
25 Board?

1 SHARON PIGEON: Mark, on your application for
2 docket item 2943 we've got a list of CBM permit numbers
3 on that. That...we don't usually get that. That's not
4 the permit number for this particular unit. So, is
5 there a reason that we have that? We don't have it on
6 here. Mark or---?

7 ANITA DUTY: Because there aren't any.

8 SHARON PIGEON: ---Anita?

9 ANITA DUTY: Because there aren't any. Those
10 are...they're just existing permits that are issued
11 within that...the combination of the four units.

12 SHARON PIGEON: Well, normally what we...normally
13 what we get there is a permit for the unit that we're
14 looking at today and not what's out there.

15 ANITA DUTY: Well, there's not any because we're
16 asking for permission to establish the unit first and
17 then if they get...if we get the permission here then
18 they will go to permit.

19 SHARON PIGEON: So, these CBM permit numbers really
20 aren't relevant with what we're doing?

21 MARK SWARTZ: They're...they're only relevant to the
22 2500 foot---.

23 SHARON PIGEON: To the---?

24 MARK SWARTZ: Yeah. Correct.

25 SHARON PIGEON: ---conditions only?

1 MARK SWARTZ: Correct. But we're required to put
2 that on the plat---

3 SHARON PIGEON: On the plat. It's not usually on
4 the application.

5 MARK SWARTZ: That's why it's listed there.

6 ANITA DUTY: If you would prefer that we didn't put
7 them in there, I will definitely do that.

8 SHARON PIGEON: Well, on the plat I think they
9 should be there. But here is where I look to find the
10 permit number for this unit.

11 ANITA DUTY: All right.

12 SHARON PIGEON: And that's what's usually there.
13 It's what's there on number twenty-four where you have
14 a permit number on that one and you want to
15 (inaudible). So, I think it's a little inconsistent.

16 ANITA DUTY: It's the only one that's actually
17 already drilled and permitted. The rest of them are
18 proposed.

19 SHARON PIGEON: Yeah, that one should have the
20 permit number. It's these CBM permit numbers that has
21 got me a little turned around.

22 ANITA DUTY: We'll leave that out..we'll leave them
23 out from now on.

24 SHARON PIGEON: You can put them on the plat.

25 BUTCH LAMBERT: Any other questions?

1 (No audible response.)

2 BUTCH LAMBERT: Anything further, Mr. Swartz?

3 MARK SWARTZ: I'd like to kind of move on to the
4 couple of units that, hang on, just in case they see
5 anything different. We've already covered notice and
6 those issues. But there are a few things particular to
7 the other units that I do want to take a moment to
8 cover with Anita. I think it won't take...take very long
9 here. Okay, we've done...we've done docket item sixteen.

10

11 ANITA DUTY

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

14 DIRECT EXAMINATION

15 QUESTIONS BY MR. SWARTZ:

16 Q. Let's move to seventeen, Anita. And with
17 regard to this one, I'd like to know what it is...what
18 interest you've acquired in this unit in the D-20 shale
19 unit and what interest you're seeking to pool?

20 A. We've acquired 78.4349% of the oil and gas and
21 we are seeking to pool 21.5651%.

22 Q. Okay. And you've provided us with a list...an
23 Exhibit B-3 and we have a well cost estimate for this
24 unit as well. What's the cost estimate for the D-20
25 shale horizontal well?

1 A. \$1,525,494.90.

2 Q. Okay. We also show...set aside of a portion of
3 that for completion and stimulation, correct?

4 A. Yes.

5 MARK SWARTZ: Okay. Now, although the plat
6 here...let's look at this plat for a minute. This...this
7 is an example of what I think I was talking to Ian
8 about. So, I'm going to shift you for a moment.

9

10 IAN LUCAS

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

13 DIRECT EXAMINATION

14 QUESTIONS BY MR. SWARTZ:

15 Q. Ian, if you'll look at the plat for
16 unit...provisional unit D-20 shale, you're going to see
17 that the surface location of the wellbore here is
18 actually a little north of the drilling, do you see
19 that?

20 A. Yes.

21 Q. And given the scale of this map, do you have an
22 opinion as to whether or not at the point at which this
23 well enters the Huron if the wellbore will be south of
24 the drilling window?

25 A. This is correct.

1 Q. Okay. So, that 5 or 6...that nearly 600 foot
2 offset on the bend ought to do the trick here?

3 A. Absolutely.

4 Q. Okay. And with regard to D-20 shale, would it
5 also be your expectation, again assuming that this
6 first leg works, to add a second leg?

7 A. Yes.

8 Q. Okay. And would you like to be able to do that
9 without coming...obviously, we would have to talk to Mr.
10 Asbury about that, but without coming back to the Board
11 for permission to do a second?

12 A. Sure.

13

14 ANITA DUTY

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

17 DIRECT EXAMINATION

18 QUESTIONS BY MR. SWARTZ:

19 Q. Okay. Let's see if there's anything else here.
20 Anita, going to your exhibits, there's no escrow
21 requirement, correct?

22 A. Correct.

23 Q. And we have no title conflicts?

24 A. No.

25

1 MARK SWARTZ: Okay. I think that's all I have on
2 D-20 then. I would then move on to TTT-28.

3 Q. And, Anita, with regard to this one, what have
4 you...what interest have you acquired and what are you
5 seeking to pool?

6 A. We've acquired 88.3469% of the oil and gas.
7 We're seeking to pool 11.6531%.

8 Q. Okay. And in this unit, you've located
9 everyone that you need to locate, correct?

10 A. Yes.

11 Q. So, we don't have any escrow requirement for
12 unknowns or unlocateables?

13 A. No.

14 Q. And, obviously, we don't have any conflicts?

15 A. Correct.

16 Q. The cost estimate for the first well in TTT-28
17 is what?

18 A. \$1,469,831.

19 Q. And, again, we've got money in there for
20 stimulation and completion, correct?

21 A. We do.

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IAN LUCAS

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

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Okay. Ean, with regard to this one, looking.. directing your attention to the plat, this one we've got the surface location of the vertical wellbore and the end of the horizontal leg both are in the..within the drilling window?

A. Yes.

Q. Okay. And, again, with regard to this, depending on whether or not your initial leg works for you, would it be your expectation that you would like to have..would like to drill a second leg in this window?

A. Yes.

Q. But, obviously, until we get some production results and so forth, you're not going to know..you're not going to have the answer to that?

A. Correct.

Q. You'd just like the opportunity to do that if it works?

A. Yes.

1 not your expectation is...this drawing is barely uniform
2 within the wells that you proposed or is this also a
3 test to determine that?

4 A. It's also a test to determine that. We're
5 limited on our data and we again make assumptions as we
6 go. It's going to vary from the area of the field to
7 the area of the field. So---.

8 Q. So, you expect there will be a variance?

9 A. Absolutely.

10 MARK SWARTZ: Okay. That's all I have.

11 BILL HARRIS: Okay. Thank you.

12 BUTCH LAMBERT: Do I have a motion on sixteen,
13 seventeen, eighteen and twenty-four?

14 MARY QUILLEN: Motion to approve.

15 BRUCE PRATHER: Second.

16 BUTCH LAMBERT: I have a motion and a second. Any
17 further discussion?

18 (No audible response.)

19 BUTCH LAMBERT: All in favor, signify by saying
20 yes.

21 (All Board members signify by saying yes, but Katie
22 Dye.)

23 BUTCH LAMBERT: Opposed, no.

24 KATIE DYE: I'll abstain.

25

1 descriptions is to get wells drilled and
2 permitted...permitted and drilled.

3 Q. Are you familiar with this application?

4 A. Yes, I am.

5 Q. Did you participate in the preparation of the
6 application did you not?

7 A. Yes, I did.

8 Q. And you're familiar with the acreage included
9 within this unit?

10 A. Yes, I am.

11 Q. And the owners of the coal, oil and gas are
12 listed on Exhibit B, is that right?

13 A. That's correct.

14 Q. Now, the wells from which this well location
15 exception is sought, who operates those wells?

16 A. Range Resources-Pine Mountain, Inc.

17 Q. And so we don't have any other operators, is
18 that right?

19 A. That's correct.

20 Q. And how was notice of this hearing provided to
21 the parties listed on Exhibit B?

22 A. By certified mail.

23 Q. And we've provided proof of our mailing to the
24 Board, is that right?

25 A. That's correct.

1 TIM SCOTT: That's all I have for Mr. Horn.

2 BUTCH LAMBERT: Any questions from the Board?

3 (No audible response.)

4 BUTCH LAMBERT: You may continue, Mr. Scott.

5 TIM SCOTT: Thank you

6

7

GUS JANSEN

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

10

DIRECT EXAMINATION

11

QUESTIONS BY MR. SCOTT:

12

Q. Mr. Jansen, please state your name, by whom
13 you're employed and your job description.

14

A. My name is Gus Jansen. I'm employed by Range
15 Resources-Pine Mountain, Inc. as the manager of
16 geology.

17

Q. Are you familiar with this application, is that
18 correct?

19

A. That is correct.

20

Q. And please tell the Board why we're seeking a
21 well location exception today?

22

A. Yes. The Board has been handed out an Exhibit
23 AA, which shows the location of proposed well 821789
24 in the center of the map outlined in red. This well
25 location is...it has been selected at this location as

1 it's the only reasonable topographic location available
2 to drill this well. In the event to get a legal
3 location, we would have to move the well to the
4 northwest and it would be in a steep slope area. In
5 the event we're not able to drill the well at this
6 location, we would have approximately 106.75 acres of
7 stranded acreage.

8 Q. What's the...what's the target depth of this
9 well?

10 A. The proposed depth of the well is 5,885 feet.

11 Q. And if the application is not granted, what's
12 the potential loss of reserves?

13 A. 350 million cubic feet of gas.

14 Q. And if the application is granted, it would
15 protect the correlative rights, promote conservation
16 and prevent waste, is that correct?

17 A. That is correct.

18 TIM SCOTT: That's all I have for Mr. Jansen.

19 BUTCH LAMBERT: Any questions from the Board?

20 (No audible response.)

21 BUTCH LAMBERT: Anything further, Mr. Scott?

22 TIM SCOTT: That's all I have, Mr. Chairman.

23 BUTCH LAMBERT: Do I have a motion?

24 MARY QUILLEN: Motion to approve.

25 BRUCE PRATHER: Second.

1 BUTCH LAMBERT: A motion and a second. Any further
2 discussion?

3 (No audible response.)

4 BUTCH LAMBERT: All in favor, signify by saying
5 yes.

6 (All Board members signify by saying yes.)

7 BUTCH LAMBERT: Opposed, no.

8 (No audible response.)

9 BUTCH LAMBERT: Thank you, Mr. Scott. It's
10 approved. Calling docket item thirty-one, a petition
11 from Range Resources-Pine Mountain, Inc. for pooling of
12 horizontal conventional gas unit 900060, docket number
13 VGOB-11-0517-2952. All parties wishing to testify,
14 please come forward.

15 TIM SCOTT: Tim Scott representing Range Resources-
16 Pine Mountain, Inc. Phil Horn and Gus Jansen
17 testifying on behalf of Range Resources-Pine Mountain,
18 Inc.

19 (Exhibits are passed out.)

20 BUTCH LAMBERT: You may proceed, Mr. Scott.

21 TIM SCOTT: Thank you, sir.

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PHIL HORN

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

DIRECT EXAMINATION

QUESTIONS BY MR. SCOTT:

Q. Mr. Horn, again, state your name, by whom you're employed and your job description.

A. My name is Phil Horn. I'm land manager for Range Resources-Pine Mountain, Inc.

Q. And you're familiar with this application, is that right?

A. Yes, I am.

Q. And this is a provisional unit that was established by the Board, is that correct?

A. That's correct.

Q. And that was done today, is that right?

A. That's right.

Q. Now, we just passed out some revised exhibits to the Board. We've provided a revised Exhibit A only to the extent that we've changed the tract identification, is that correct?

A. That's correct.

Q. Otherwise, the plat did not change, is that right?

A. That's right.

1 Q. We've also provided an Exhibit B, a B-3 and an
2 E, is that right?

3 A. That's correct.

4 Q. And during your title search you determined
5 that there was an oil and gas severance, is that
6 correct?

7 A. That's correct.

8 Q. And so we have made an effort to locate those
9 individuals, is that right?

10 A. That's right.

11 Q. Okay. Now, as far as this unit is concerned,
12 are we going to dismiss anybody from B-3 today?

13 A. No.

14 Q. And how much of this unit do you have under
15 lease presently?

16 A. 98.06%.

17 Q. And how was notice of this hearing provided?

18 A. By certified mail and also it was published in
19 the Dickenson Star on May the 3rd, 2011.

20 Q. And we did say that we had some unknowns, is
21 that right?

22 A. And I've given Mr. Asbury an affidavit.

23 Q. Okay. So, that sets out your due diligence
24 efforts, is that right?

25 A. Correct.

1 Q. In your opinion, was due diligence exercised?

2 A. Yes.

3 Q. Okay. And we've provided our proof of
4 publication and mail certification to the Board, is
5 that right?

6 A. That's correct.

7 Q. And Range Resources-Pine Mountain is authorized
8 to conduct business in the Commonwealth?

9 A. That's correct.

10 Q. Have a blanket bond on file, is that right?

11 A. That's right.

12 Q. Now, if you were able to reach an agreement
13 with the parties listed on Exhibit B-3 who are not
14 leased to Range Resources, what would those terms be?

15 A. Thirty dollars per acre for a five year paid up
16 lease that provides a one-eighth royalty.

17 Q. And is that a fair compensation for a lease in
18 this area?

19 A. In my opinion, yes.

20 Q. And what's percentage of the oil and gas estate
21 that we're seeking to pool today?

22 A. 1.94%.

23 Q. And there is an escrow requirement, is that
24 right?

25 A. That's correct.

1 Q. And there's an escrow requirement, is that
2 right?

3 A. That's correct.

4 Q. We submitted an Exhibit B or an Exhibit E, is
5 that right?

6 A. That's right.

7 Q. And what tract or tracts are subjected to
8 escrow?

9 A. Tract 2.

10 Q. And what's the percentage of the unit which is
11 subjected to escrow?

12 A. 1.94%.

13 Q. So, you're asking the Board to pool the parties
14 listed on Exhibit B-3, is that right?

15 A. That's right.

16 Q. And also that Range Resources be named
17 operator, is that also correct?

18 A. That's correct.

19 Q. Now, if we send out...if the application is
20 approved today and we send out our order providing for
21 the elections, what would be the address used for
22 making any elections?

23 A. Range Resources-Pine Mountain, Inc., P. O. Box
24 2136, Abingdon, Virginia 24212.

25 Q. Would that be address of all communications?

1 A. Yes, it would.

2 TIM SCOTT: Okay. That's all I have for Mr. Horn.

3 BUTCH LAMBERT: Any questions from the Board?

4 (No audible response.)

5 BUTCH LAMBERT: The revised Exhibit B---.

6 TIM SCOTT: Yes, sir.

7 BUTCH LAMBERT: ---I think we heard testimony that
8 the percentages have been changed. But in looking at
9 the revised Exhibit and the one that we received
10 originally the percentages different.

11 TIM SCOTT: I think what happened, Mr. Chairman,
12 was we had a...we had a misstatement as to who the
13 parties were to be listed on Exhibit B. But I believe
14 that total is now...you took leases from the wrong
15 parties, is that correct, Mr. Horn?

16 PHIL HORN: That's correct.

17 TIM SCOTT: So, the parties that are now listed on
18 Exhibit B-3 are the correct parties to be pooled.
19 Those individuals do not own the oil and gas. So, we
20 have taken leases that were from the improper parties.
21 So, our statement that 99.93% of the unit is leased is
22 incorrect. It is---.

23 SHARON PIGEON: You've leased some outside of the
24 unit.

25

1 TIM SCOTT: Yes...yes, ma'am. Those are people who
2 are not in...who are not oil and gas owners in this unit.
3 The actual configuration...the total of Tract 2 remains
4 the same acreage. That did not change. It's Tract---

5 SHARON PIGEON: So, some of these folks listed on
6 here...on the original Exhibit B actually don't have an
7 ownership interest? That's what you've concluded now?

8 TIM SCOTT: Yes, ma'am, that's correct.

9 PHIL HORN: The southern three are now part of
10 Tract 2. I know it's kind of confusing. But there
11 were four parties involved we thought and one of them
12 owned his gas and the other three did not. But you can
13 compare the two.

14 SHARON PIGEON: But they got notice of this? So,
15 if they have any disagreement---

16 TIM SCOTT: Yes, ma'am.

17 SHARON PIGEON: ---about it they could show up
18 today and tell us?

19 TIM SCOTT: Right. But the revised Exhibit B and
20 B-3 are absolutely correct. Is that right, Mr. Horn?

21 PHIL HORN: That's correct.

22 TIM SCOTT: Yes.

23 BUTCH LAMBERT: Any---

24

25

1 MARY QUILLEN: So, the percentages...the leased and
2 unleased percentages is what changed and then those
3 names but the total acreage remained the same?

4 TIM SCOTT: Yes, ma'am.

5 MARY QUILLEN: Okay. I gotcha.

6 BUTCH LAMBERT: Any other questions?

7 BUTCH LAMBERT: Anything further, Mr. Scott?

8 TIM SCOTT: That's all I have for Mr. Horn.

9

10

GUS JANSEN

11

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

13

DIRECT EXAMINATION

14

QUESTIONS BY MR. SCOTT:

15

Q. Mr. Jansen, your name, by whom you're employed
16 and your job description.

17

A. My name is Gus Jansen. I'm employed by Range
18 Resources-Pine Mountain, Inc. as the manager of
19 geology.

20

Q. Are you familiar with this application?

21

A. Yes, I am.

22

Q. And what's the proposed depth of this well?

23

A. 9,327 feet.

24

Q. And estimated reserves?

25

A. 1 bcf.

1 Q. And your name is actually signature to the AFE,
2 is that right?

3 A. That is correct.

4 Q. So, you participated in the preparation of the
5 AFE?

6 A. Yes, I did.

7 Q. Are you familiar with the well costs for this
8 unit?

9 A. Yes, I am.

10 Q. What's the estimated dry hole cost?

11 A. \$762,495.

12 Q. And the completed well cost?

13 A. \$1,396,895.

14 Q. And I just asked if you participated in the
15 preparation of the AFE, is that right?

16 A. That is correct.

17 Q. And does this AFE include a charge for
18 supervision?

19 A. Yes, it does.

20 Q. Do you consider that to be reasonable?

21 A. Yes.

22 Q. So, if the Board grants our application, it
23 would be in the best interest of conservation, the
24 prevention of waste and the protection of correlative
25 rights, is that right?

1 A. That is correct.

2 TIM SCOTT: That's all I have for Mr. Jansen.

3 BUTCH LAMBERT: Any questions from the Board?

4 (No audible response.)

5 BUTCH LAMBERT: Anything further?

6 TIM SCOTT: That's all I have, Mr. Chairman.

7 BUTCH LAMBERT: Do I have a motion?

8 MARY QUILLEN: Motion to approve.

9 BRUCE PRATHER: Second.

10 BUTCH LAMBERT: A motion and a second. Any further
11 discussion?

12 (No audible response.)

13 BUTCH LAMBERT: All in favor, signify by saying
14 yes.

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

17 BUTCH LAMBERT: Opposed, no.

18 DONNIE RATLIFF: I'll abstain, Mr. Chairman.

19 BUTCH LAMBERT: One abstention, Mr. Ratliff. Thank
20 you, Mr. Scott. It's approved.

21 TIM SCOTT: Thank you.

22 PHIL HORN: Thank you.

23 BUTCH LAMBERT: Okay, calling docket item thirty-
24 three, a petition from GeoMet Operating Company, Inc.
25 for a modification of the Oakwood I Coalbed Methane

1 Field order to allow for a combination of coalbed
2 methane units B-49 and B-50 to create 186.26 acre unit,
3 docket number VGOB-93-0216-0325-24. All parties
4 wishing to testify, please come forward.

5 TOM MULLINS: Good afternoon.

6 BUTCH LAMBERT: Good afternoon.

7 TOM MULLINS: My name is Tom Mullins along with
8 Pebbles Burgess. We represent GeoMet. I'll let
9 everybody else introduce themselves, Mr. Chairman.

10 DONALD R. JOHNSON: Donald R. Johnson. I represent
11 Pocahontas Mining Limited Liability Company. With me
12 is Andrew W. Cecil, a professional engineer.

13 JOHN HOLLINGSHEAD: My name is John Hollingshead.
14 I work as a reservoir engineer with GeoMet out of our
15 Hoover...our Birmingham, Alabama office. It's a pleasure
16 to be with you.

17 TIM BLACKBURN: Tim Blackburn with T Engineering.
18 We're consultants for GeoMet.

19 DALLAS NESTLE: Dallas Nestle, GeoMet, project
20 manager.

21 BUTCH LAMBERT: You may proceed, Mr. Mullins.

22 TOM MULLINS: Thank you, sir.

23 BUTCH LAMBERT: Well, let's see. Now, wait...hang on
24 just a minute. I believe we need to get some people
25 sworn before we...before we do that.

1 (Dallas Nestle, John Hollingshead, Tim Blackburn
2 and Andrew W. Cecil are duly sworn.)

3 BUTCH LAMBERT: Now, Mr. Mullins, you may proceed.
4 Thank you.

5 TOM MULLINS: Thank you. Mr. Chairman, just by way
6 of introduction the...or explanation of why we're here
7 and what we're asking for, these are two state line
8 border units that given the evidence that you're going
9 to hear it's our opinion it will be impractical to
10 develop absent combining the units. If you combine the
11 units...and the reason for that impracticality is going
12 to involve some issues that the Board traditionally
13 hasn't allowed in and that is West Virginia wells.
14 There's some West Virginia wells right next to these
15 units that...I understand the Board traditionally hasn't
16 let us have that information in and that's fine. But
17 as part of the reservoir engineer's testimony, it's
18 going to impacted about what the development can be in
19 the units, the economics of the two units standing
20 alone and that is the reason why we're here today to
21 ask for the combining of the units. Then we're asking
22 to pool the units there if the Board grants that
23 relief. So, that's why we're here and that's...that's
24 sort of to orient the Board of where we're going and

25

1 why we're going there. My first witness will be Mr.
2 Hollingshead.

3

4

JOHN HOLLINGSHEAD

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

7

DIRECT EXAMINATION

8

QUESTIONS BY MR. MULLINS:

9

Q. Would you please state your name?

10

A. John Hollingshead.

11

Q. What do you do for a living?

12

A. I work as a reservoir engineer for GeoMet.

13

Q. And I know you have testified before this Board

14

on prior occasions but it has been many years ago.

15

Would you give them a brief background as to your

16

education and experience in the field of engineering

17

and reservoir engineering?

18

A. I have approximately twenty-four years as a

19

petroleum engineer. Probably I'd say the last twelve

20

years at least have been exclusively in reservoir

21

engineering. I graduated from the University of

22

Alabama in 1983 receiving a B.S. Degree specializing in

23

petroleum. I am also a licensed professional engineer

24

in the State of Alabama.

25

1 Q. All right, sir. Are you familiar with the
2 request that GeoMet has made to combine the Oakwood
3 Field units B-49 and B-50?

4 A. Yes.

5 Q. Okay. And have you done an analysis as to why
6 that request is being made from a production and
7 reserve standpoint?

8 A. Yes.

9 Q. Could you explain to the Board why it is the
10 position of GeoMet that it is more feasible to combine
11 these two units to create an 86 acre unit than it is to
12 have them develop individually?

13 A. I believe, you know, contained in this
14 documentation that we'll probably go...have more detail
15 in a minute is that the drilling costs of a single
16 well---

17 Q. First, let me orient the Board. Are you
18 talking about Exhibit A to the application?

19 A. Yes.

20 Q. Okay. And that is the plat showing the
21 combined units, is that correct?

22 A. Right.

23 Q. All right. And the dotted line would be the
24 drilling window within the combined units if the Board
25 were to grant that relief?

1 A. Right.

2 Q. And the approximate well spot that is on that
3 plat is approximately where the dividing line is now as
4 between B-49 and B-50, is that true?

5 A. That is correct.

6 Q. Okay. Go ahead.

7 A. Okay. Prior to combining these units, the
8 breakdown between the two units was pretty much as
9 follows. B-49 there was approximately 24.19 acres. In
10 B-50 was approximately 62.7 acres. It is my opinion
11 that trying to place a well in a 24 acre unit would
12 just not be visible to do so. Our AFE cost that is
13 attached to this application for a single well is
14 approximately \$466,000.

15 Q. But first, and this is not anything to do with
16 your testimony, but the Board is...only has open before
17 it the application for combining---

18 A. Okay.

19 Q. ---the unit. The AFE is actually in the next
20 docket item. It's available to the Board, but it's not
21 part of this application.

22 A. Okay.

23 Q. They can certainly refer to it if they want to
24 and we encourage them to do that. But that was part of
25 the basis of your analysis, is that correct?

1 A. It is.

2 Q. Go ahead.

3 A. I guess basically what the bottom is that to
4 optimize our drilling dollars, it makes more sense to
5 combine the two units together. It is more closely
6 related to what the standardized 80 acre established
7 field rules that exist in the field at this time. So,
8 that was pretty much the basis of why it is my opinion
9 that these units should be combined.

10 Q. Now, in your opinion, given the economics and
11 given the size of the unit of the existing B-49, would
12 there be any intention on the part of GeoMet to ever
13 drill and develop unit B-49?

14 A. No.

15 TOM MULLINS: Okay. As a matter of reference for
16 the Board, the Board may not recall this, unit B-49 was
17 pooled by GeoMet back in 2006. That has not been
18 developed. The reason that it has not been developed
19 is that unit economically didn't make sense given the
20 size. So, there has been a prior pooling of that unit
21 that has died and that's the reason for it. It's not
22 economically feasible. That would be stranded gas.

23 Q. Now, you...when you did your reservoir analysis
24 on the drainage, you had how many wells to rely upon in

25

1 the surrounding area to come to your opinion that the
2 drainage would not be sufficient in unit B-49?

3 A. Virginia wells?

4 Q. You can tell us Virginia wells.

5 A. There's actually only about three wells that
6 are in this area that could be used as analog of our
7 expectations of what production would be in the area.

8 Q. Now, you also had available to you information
9 from wells other locations. How many other location
10 wells did you have?

11 A. There's probably at least four, five or six
12 wells along the state line.

13 Q. Okay. In your opinion as a reservoir engineer,
14 was that data sufficient for you to be able to come to
15 a conclusion as to the drainage of these two units
16 separately and together?

17 A. Yes.

18 Q. Now, insofar as unit B-50, and this may be
19 something that you're not in a position to testify to,
20 that may be something that Mr. Blackburn can testify
21 to, are there any other topographic features or other
22 things that would inhere to the benefit of drilling
23 both the well and combining the units together or do
24 you know? You may not know. I'm not asking you a
25 question that you don't---

1 A. No. I think that would be a question that
2 Dallas---

3 Q. Dallas Nestle or---

4 A. ---would be better---

5 Q. ---Tim Blackburn could answer?

6 A. Right.

7 Q. Okay. And is it your opinion that a well
8 drilled somewhere in the approximate location as shown
9 on Exhibit A would as fairly as possible given these A
10 symmetrical unit shapes fairly as possible drain and
11 develop and protect the correlative rights of the unit
12 and the gas owners in the combined units?

13 A. Yes.

14 Q. Okay. Now, that's not to say that the drainage
15 is going to be...it's an A symmetrical unit. You can
16 only do the best you can, is that correct?

17 A. That is correct.

18 Q. Okay. And in your opinion, is this the best
19 you can?

20 A. It is.

21 TOM MULLINS: Okay. You may answer any questions
22 that either the Board or opposing Counsel may have.

23 MARY QUILLEN: Mr. Chairman, I've got a question.

24 BUTCH LAMBERT: Ms. Quillen.

25

1 MARY QUILLEN: Not having the whole map to look at,
2 I'm having a little bit of trouble. This broken line
3 across through here is this little odd shaped unit
4 here, right?

5 JOHN HOLLINGSHEAD: That is correct.

6 MARY QUILLEN: And this one is the B-49 and then
7 the B-50 is down here below it?

8 DAVID ASBURY: No. They're side by side.

9 DONNIE RATLIFF: Yeah, they're east and west.

10 JOHN HOLLINGSHEAD: East and west. If you took
11 where the well location is, that is very close to the
12 boundary line between the B-49 and the B-50 units.

13 TOM MULLINS: Mr. Chairman, I believe will hand out
14 some plats that are really more anticipated for the
15 pooling if that will help.

16 BUTCH LAMBERT: Okay.

17 (Exhibits are passed out.)

18 BUTCH LAMBERT: That helps. Thank you.

19 TOM MULLINS: It may help the Board visualize what
20 we're asking.

21 MARY QUILLEN: Okay. So, this is the 40...this one
22 is the B-49 and this is the B-50.

23 JOHN HOLLINGSHEAD: That is correct, yes.

24 MARY QUILLEN: Okay. So, you're expanding to the
25 east then to make that---?

1 JOHN HOLLINGSHEAD: That is correct. The B-50 unit
2 would be to the---.

3 MARY QUILLEN: ---80 whatever---?

4 JOHN HOLLINGSHEAD: It would be to the east of the
5 B-49 well.

6 MARY QUILLEN: Okay. Okay.

7 TOM MULLINS: I know---.

8 MARY QUILLEN: And the proposed well is right here
9 on what used to be the old...right here?

10 JOHN HOLLINGSHEAD: The boundary line, yes, between
11 the two.

12 MARY QUILLEN: Okay.

13 BUTCH LAMBERT: So, actually what you're doing is
14 taking, if I'm looking at this correctly, parts of unit
15 C-49 and C-50, B-50 and B-49?

16 TOM MULLINS: No. We're just taking B-49 and B-50
17 and putting them together. Taking away the dividing
18 line and making it one unit.

19 BUTCH LAMBERT: So, the shaded line that we're
20 looking at inside this is actually the unit?

21 SHARON PIGEON: The window. This is the window.

22 TOM MULLINS: The new drilling window within the
23 new unit.

24 MARY QUILLEN: Okay.

25

1 SHARON PIGEON: This is the drilling window, the
2 proposed one.

3 MARY QUILLEN: One additional question. Is
4 there...would you foresee drilling a second unit...second
5 well in this unit?

6 JOHN HOLLINGSHEAD: At this time, no.

7 MARY QUILLEN: Okay.

8 JOHN HOLLINGSHEAD: Under current price conditions,
9 I would...it just would not make feasible sense.

10 DONALD R. JOHNSON: Does the Board have any other
11 questions?

12 BILL HARRIS: Let me ask one other question.

13 DONALD R. JOHNSON: Certainly.

14 BILL HARRIS: It's actually related to the well
15 location. Just from a geometry point of view, this
16 thing looks like a horizontal well would be great just
17 running through there. I don't think the length is
18 appropriate or whatever and I have no idea how this
19 drainage and all flows. I'm sort of surprised where it
20 is though. It looks like there's more space...again,
21 from a geometry point of view and not from a geologic,
22 it looks like there be more space in the B-50 if you
23 moved it to the east.

24 JOHN HOLLINGSHEAD: Right.

25

1 BILL HARRIS: Maybe even the distance of that 750
2 foot radius or something like that. It looks like that
3 would---.

4 JOHN HOLLINGSHEAD: Well, I think that you've got a
5 sheet a while ago that was handed out that's going to
6 have topography on there.

7 BILL HARRIS: Yes.

8 JOHN HOLLINGSHEAD: So, there's absolutely some
9 issues...I mean, this is pretty rugged terrain.

10 BILL HARRIS: Well, yeah, I realize that.

11 JOHN HOLLINGSHEAD: And also there is some issues
12 that one of the...one of the other people could probably
13 elude to, but I know that there are issues relative to
14 the coal mining---.

15 BILL HARRIS: Yes.

16 JOHN HOLLINGSHEAD: ---and working with them and
17 where...where they would like us to spot the well. So,
18 those are two things that we have to take into
19 consideration of where we're actually trying to place
20 this well.

21 SHARON PIGEON: Plus if you move further east you
22 wouldn't necessarily draining all the way to the end of
23 the proposed new unit because you're right between
24 those two boundaries.

25 JOHN HOLLINGSHEAD: Right. Exactly.

1 TOM MULLINS: And the well spot is only approximate
2 because, you know, we don't...we don't even have a unit
3 yet.

4 BRUCE PRATHER: Mr. Chairman.

5 BUTCH LAMBERT: Mr.---

6 JOHN HOLLINGSHEAD: Yeah. Yeah.

7 SHARON PIGEON: You may be back for infill
8 drilling.

9 TOM MULLINS: That's right.

10 BUTCH LAMBERT: Mr. Prather has a question.

11 BRUCE PRATHER: Mr. Chairman---

12 DONALD R. JOHNSON: Does any...does the Board have
13 any other questions?

14 BUTCH LAMBERT: Yes, sir. Just hang on a minute,
15 Mr. Johnson.

16 BRUCE PRATHER: I've got one.

17 BUTCH LAMBERT: We have several questions.

18 DONALD R. JOHNSON: You just let me know when
19 you're ready. Thank you.

20 BUTCH LAMBERT: We will.

21 BRUCE PRATHER: This is for the Chairman. Butch,
22 do we have res porosity agreements with the State of
23 Virginia regarding where these wells are established?

24 BUTCH LAMBERT: No, sir, we don't and they won't
25 talk to us about it.

1 area where you're talking about locating the well, is
2 that correct, currently applied for?

3 A. I think that is correct.

4 Q. Okay. The...are you familiar with the area
5 within the two units that is occupied by Pocahontas
6 Mining's acreage?

7 A. The ones shown on Exhibit A, they should be
8 shown and marked as item or tract...item number two under
9 the Tract 64. In the combined unit, it is showing
10 combined 32.78 acres or 38% of the combined acreage or
11 combined unit I should say.

12 Q. Okay. It's...there's a tract that...in the B-50
13 unit that lies to the east of that unit and is part of
14 that unit, is that correct?

15 A. Could you restate that again?

16 Q. There is...there is a tract belonging to
17 Pocahontas Mining, which is on the eastern side or
18 portion of the B-50 unit as it's now constituted that
19 belongs to Pocahontas Mining, is that correct?

20 A. That would be...is that eastern or western side?

21 Q. It would be the eastern side of B-50.

22 A. Okay.

23 TOM MULLINS: It's on both sides.

24 A. Yes. There's actually two tracts, but I do
25 recognize the tract that you are showing or mentioning.

1 Q. And how many acres of Pocahontas Mining Land is
2 located in the B-50 unit?

3 A. It appears to be 32.78 acres.

4 Q. Okay. And how many acres are---?

5 A. In both?

6 Q. And what's the combined acreage in the B-50
7 unit? Just that B-50 unit and not the combined units,
8 but the B-50 unit.

9 A. 29.7 acres. In B-50 PMC has 29.7 acres. That
10 constitutes 47.85% of the B-50 unit.

11 (Donald R. Johnson and Andrew W. Cecil confers.)

12 Q. All right. If you...if you look at this Exhibit
13 A, the PMC acreage that's shown on there it's shown as
14 30...it says 38%, is that the total acreage in the
15 combined unit?

16 A. It is.

17 Q. And do you know what the...what the percentage of
18 Pocahontas Mining's acreage is in the B-50 unit is?

19 A. It is 47...it's 22 or 29.7 acres or 47.85%.

20 Q. Okay. So, if Pocahontas...if a well is drilled
21 in the B-50 unit, Pocahontas' percentage would be
22 slightly over 47%, is that correct?

23 A. That is correct.

24

25

1 Q. And let's talk a little bit about the B-49
2 unit. How much acreage of Pocahontas Mining is located
3 in the B-49 unit?

4 A. 2.94 acres.

5 Q. And what is the percentage of ownership of
6 Pocahontas in the B-49 unit?

7 A. 12.87.

8 Q. Okay. And looking at it as a combined...if the
9 application is approved and the units are combined,
10 what is the total percentage that Pocahontas would have
11 from both if 49 and the 50?

12 A. It would be 38%.

13 Q. Okay. When you talked about there were
14 representative wells and they're located in Virginia,
15 where...what units are those wells located in that you
16 were referring to?

17 A. I do not have a map or the unit numbers on me.

18 Q. Where the wells that you were talking about
19 GeoMet wells?

20 A. No. They were CNX wells.

21 Q. Okay. The other wells that you looked at that
22 are along the boundary line, were those wells that we
23 not in Virginia were those...are those wells GeoMet wells
24 or CNX wells or other company's wells?

25 A. They were GeoMet wells.

1 Q. Okay. Is there...as far as the unit acreage that
2 comprises the Virginia acreage in the B-50 and the
3 Virginia acreage in the B-49, what...what is that
4 acreage? What is the acreage that's in B-50 and what
5 is the acreage that's in B-49?

6 A. The total---?

7 Q. Yeah, the total and then each one if you could
8 give that to me.

9 A. There's 24.19 acres in B-49 and 62.07 in B-50
10 for a combined acreage of 86.26 combined.

11 Q. The...would you just generally describe what the
12 West Virginia line is in terms of the Virginia/West
13 Virginia line in terms of its...its, you know, topography
14 and it runs through the units. Is it a straight line
15 or is it a trail looking line? How would you describe
16 it?

17 A. Very non-linear. It's definitely crooked.

18 Q. Very good.

19 ANDREW W. CECIL: Squiggly.

20 A. Yeah.

21 Q. Okay. What is the...what is the drainage that
22 you have determined from a single well? How many
23 linear feet from the wellbore will a well drain
24 typically in this area?

25

1 A. Ideally or typically the wells that we have
2 where they are uniformed 80 acre wells, we feel like
3 they are a single well can adequately drill that 80
4 acres.

5 Q. It can drain the 80 acres?

6 A. Right.

7 Q. How many feet across is an 80 acre unit?

8 A. Oh, let's see.

9 TOM MULLINS: That may be a question more
10 appropriate for the surveyor and the geologist than it
11 is the reservoir engineer.

12 DONALD R. JOHNSON: Okay.

13 BUTCH LAMBERT: Ms. Pigeon said Mr. Asbury could
14 probably answer that real quickly.

15 SHARON PIGEON: How many acres across is an Oakwood
16 unit?

17 BUTCH LAMBERT: How many feet across an 80 acre
18 unit?

19 SHARON PIGEON: Width wise.

20 BUTCH LAMBERT: I think Mr. Blackburn has his scale
21 out.

22 ANDREW W. CECIL: It's about 1860 plus.

23 JOHN HOLLINGSHEAD: Yeah.

24 SHARON PIGEON: Okay, we got a consensus working.

25 TIM BLACKBURN: 1866.

1 Q. Mr. Hollingshead, as far as drainage...typical
2 drainage, wells don't drain in squares, they drain in
3 circles. Is that a correct statement generally
4 speaking?

5 A. That is...that is correct.

6 TOM MULLINS: Objection. There's already an order
7 of record establishing the Oakwood Field, which
8 establishes both unit size and drainage for that
9 purpose.

10 BUTCH LAMBERT: You're correct, Mr. Mullins.
11 That's established in the field rules.

12 DONALD R. JOHNSON: That's very true, Mr. Wampler.
13 My point is that---

14 BUTCH LAMBERT: Wait a minute. Oh.

15 (Laughs.)

16 DONALD R. JOHNSON: Wampler.

17 BUTCH LAMBERT: I think we're done for this day.

18 (Laughs.)

19 DONALD R. JOHNSON: Sorry. I apologize.

20 BUTCH LAMBERT: You've already lost, Mr. Johnson.

21 (Laughs.)

22 ANDREW W. CECIL: I'm switch...I'm switching sides.

23 DONALD R. JOHNSON: I hope...maybe Mr. Wampler would
24 have had a different opinion. Okay. Yeah, the point
25 is well taken that the units were established in

1 squares and mainly to make sure that everyone gets
2 paid. But the reality of that is that drainage is more
3 in a circular pattern. In fact, the Board in other
4 units...you know, units that aren't field rules---

5 TOM MULLINS: Objection. If he's going to testify,
6 let's put him under oath.

7 SHARON PIGEON: That's okay.

8 DONALD R. JOHNSON: Yeah, I will testify. I will...I
9 will do that---

10 SHARON PIGEON: I think we need to have him
11 (inaudible).

12 DONALD R. JOHNSON: I'll make that presentation
13 someday. Thank you.

14 BUTCH LAMBERT: Mr. Johnson, can I ask...I'm not sure
15 where you're going with this and what your point is
16 going to be that you're asking for. Can you summarize
17 exactly what your position is going to be and why
18 you're asking these---?

19 DONALD R. JOHNSON: Okay. Yes. Yes, I'll be glad
20 to. The place that my client starts, and I think you
21 can...you can look at what...the evidence that we have put
22 forth now just on cross examination is the fact that my
23 client would be damaged by combining these units
24 because it would dilute my client's percentage in the
25 total...total unit area. It's also our position that a

1 well is not going to be located in the B-49 because
2 of...because of just the drainage in the area and that
3 we...we believe that these units were properly
4 established by the Board and that to take two units and
5 germander them to my client's detriment is something
6 that we must stand up for and must, you know, object
7 to. We think the whole idea of taking two units and
8 because they are trumpicated by a boundary line...a pre-
9 established boundary line that that shouldn't be the
10 reason to combine units, which is going to effect the,
11 you know, correlative rights of the parties that were
12 originally established by the Board's initial order. I
13 think that's...that's our point, Mr. Lambert. That's why
14 we object to this and believe that...you know, the units
15 should stay as they are and that the...that the gas
16 companies to find locations that are within the
17 boundaries of those units or not drill them instead of
18 benefiting other land owners to the detriment of my
19 client.

20 BUTCH LAMBERT: Mr. Johnson, you said you did not
21 think or you do not believe that a well would be
22 drilled in B-49. Why would you...why do you think that?

23 DONALD R. JOHNSON: I believe that the testimony
24 will show that there's already wells that are near that
25 boundary line to the extent that...you know, that they're

1 so close that there's not going to be any drilling
2 there. The drilling in West Virginia preempts the
3 drilling in 49 and that drilling was done by GeoMet.

4 BUTCH LAMBERT: Are you saying that it's your
5 belief that the wells in West Virginia are already
6 draining B-49?

7 DONALD R. JOHNSON: Yes, sir, absolutely.

8 BUTCH LAMBERT: Okay.

9 DONALD R. JOHNSON: And they are draining B-50 to
10 an extent. It's...I think there was already...someone said
11 earlier, you know, they're drilling them...they're coming
12 up against the line. The rules are different in West
13 Virginia. It's easier to get permits or whatever. You
14 know, these wells are going to be drilled. You know,
15 I---

16 TOM MULLINS: I object to it being easier in West
17 Virginia. I've practiced some in West Virginia. I'm
18 not going to concede that it's easier.

19 BUTCH LAMBERT: Well, usually...usually we don't
20 allow any kind of testimony---

21 DONALD R. JOHNSON: I do...I practice in West
22 Virginia too. I practice in West Virginia too. I
23 mean, you know, but...but it is a fact that the wells are
24 drilled along this boundary line between the two
25 states. I think when the...when the Board established

1 this field and engineers came in here and talked about
2 what Mr. Hollingshead said, he said, yeah, you know,
3 one well ought to drain 80 acres. You know, that was
4 the presumption that was made at that time. Whether
5 it's now...I know there has been a lot of retreading and
6 backing off from that position because, you know, dense
7 drilling may in some instances improve production. But
8 that was the conclusion that was reached. When they
9 set this up, you know, they've got this trail that runs
10 across the top of a mountain and these units ended up
11 being up against that trail. But the reality...the
12 reality of what's physically on the ground, I think the
13 Board has to make note, even though it's not...it's not
14 your jurisdiction as to those...how it got done, but the
15 fact that it is done and it is there does impact what
16 happens in Virginia and what can and cannot be done by
17 gas companies. When the gas company goes on its own
18 and drills a well in West Virginia and then says, well,
19 we're going to have to combine these units so we can
20 drill and actually somehow suck this acreage up in
21 Virginia even though it's being drained. That's...I
22 think that's the whole point. I think if we...when we
23 saw this and looked at the West Virginia prospective it
24 became very clear what...what problems this generated for
25 my client Pocahontas Mining who is a...you know, who is a

1 landlord in the center of all of this and a land owner
2 in the center of all of this. You know, I think my
3 client would be detrimentally harmed by the combination
4 of these units in terms of percentages when checks are
5 written. We still don't know where this well is going
6 to end up being drilled.

7 BUTCH LAMBERT: Mr. Johnson, do you know if your
8 client is reaping any benefits from any wells that's
9 drilled in West Virginia right now?

10 DONALD R. JOHNSON: We're not. The Rogers'
11 property extends into West Virginia. There may be
12 other land owners over there, but the Rogers' property
13 does extend into West Virginia. My client's land does
14 not in this area.

15 BUTCH LAMBERT: So, your client's property stops at
16 the border?

17 DONALD R. JOHNSON: Yes, sir.

18 BUTCH LAMBERT: But there's wells on the other side
19 of the border.

20 DONALD R. JOHNSON: Yes.

21 BUTCH LAMBERT: So, my question is is your client
22 reaping any benefits from---?

23 DONALD R. JOHNSON: The answer...economic benefit,
24 the answer is no.

25 ANDREW W. CECIL: They're draining us.

1 DONALD R. JOHNSON: We're being drained.

2 TOM MULLINS: Can I respond?

3 BUTCH LAMBERT: Can I...can I make a comment first
4 and then you respond?

5 (No audible response.)

6 BUTCH LAMBERT: So, wouldn't it...wouldn't it make
7 much more sense to drill a well where you client can
8 reap the benefits rather than let it come from West
9 Virginia where you can't reap any benefits?

10 DONALD R. JOHNSON: Well, it's our position that
11 the well can be drilled in B-50 where it ought to be
12 drilled and not combine these and, you know, prevent
13 the...you know, pre...and if you combine them you diminish
14 my client's interest in the well because I believe a
15 well can be drilled in B-50 and we'll have Mr. Cecil
16 talk about that a little bit. But that's what needs to
17 happen is a well needs to be drilled in B-50 and we're
18 trying...what we're here to say is we don't believe that
19 combining the two...two units to make one combined unit
20 is justified and it certainly doesn't protect my client
21 at all. It diminishes what my client would receive.

22 BUTCH LAMBERT: Let me ask you one question, Mr.
23 Mullins, and then you---

24 TOM MULLINS: Sure.

25

1 BUTCH LAMBERT: ---can go ahead. You don't by any
2 chance...known of your folks have a map showing that
3 line, do you?

4 TOM MULLINS: We do.

5 TIM BLACKBURN: We do.

6 TOM MULLINS: We do have a plat that shows the
7 location of the GeoMet wells, I believe.

8 BUTCH LAMBERT: No, I'm talking about the line
9 between B-49 and B-50. I don't think we have it.

10 TOM MULLINS: Oh, yeah. That's shown in the...that's
11 a shadow line on the top of the first topographic map
12 on top of the---.

13 BUTCH LAMBERT: Oh, I'm sorry. I found it. Yes.
14 So, you---?

15 DONALD R. JOHNSON: And we have...we have a map that
16 shows all the wells and the two units together---.

17 TOM MULLINS: Yeah.

18 DONNIE RATLIFF: ---that we'll ask to be
19 introduced.

20 TOM MULLINS: When the Oakwood field was created,
21 three were units that didn't conform by necessity
22 because they bounced up against the state line. To say
23 that those (inaudible) and can't be changed ignores the
24 reality of it and that is if you do not change and
25 allow a modification when it's needed you're going to

1 damage correlative rights. If you allow production of
2 these two combined units, I wish to point out that PMC
3 owns some acreage in the B-49 unit. They're asking you
4 to strand that gas so they can get higher percentages
5 in the B-50 unit and sacrifice their acreage and Lon
6 Rogers acreage in the B-49 acre unit so they can make
7 more money. If you could draw units around property
8 boundaries, you would get a 100%. If people could do
9 that and germen around acreage, that would certainly
10 maximize everybody's return. What, unfortunately, this
11 situation is we've got a border unit that's A
12 symmetrical no matter what anybody here does. It will
13 never be symmetrical. If this...if a well is not drilled
14 in a combined unit and the Board were to consider West
15 Virginia wells pretty soon it will never be economical
16 to drill a well in the combined units because if we
17 don't ignore the state line pretty soon the reservoir
18 will be drained from West Virginia and there will never
19 be a Virginia well in those combined units. I submit
20 to you GeoMet did pool the B-49. This Board approved
21 it in 2006, but it was never developed because it was
22 not economical. If you...as each year passes it will
23 become less economical to the point that will never be
24 economical. That's what this objection ignores. The
25 evidence before the Board is that the correlative

1 rights are best protected by getting as close as we can
2 to an 80 acre unit and allow us to produce that
3 combined well. They will get paid their percentage of
4 the combined unit and they have interest in both units.

5 BUTCH LAMBERT: Okay. Let's...Mr. Mullins, let's
6 continue with your side of this, if you have other
7 witnesses that you'd like to present before we get into
8 arguments from both sides.

9 TOM MULLINS: I do. All right.

10

11

TIM BLACKBURN

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

14

DIRECT EXAMINATION

15 QUESTIONS BY MR. MULLINS:

16 Q. Mr. Blackburn, would you please state your
17 name?

18 A. Tim Wesley Blackburn.

19 Q. And you have been previously sworn, is that
20 correct?

21 A. Yes.

22 Q. What do you do for a living, sir?

23 A. I'm a professional geologist and project
24 manager for T Engineering.

25 Q. And what do you do specifically for GeoMet?

1 A. We do various things, well permitting,
2 surveying services and geologic services and so forth.

3 Q. And you are familiar with the application that
4 GeoMet has filed to combine B-49 and B-50, is that
5 correct?

6 A. Yes.

7 Q. And you also were kind enough to prepare some
8 plats, which I've handed out to the Board really for
9 the pooling in case we got that far, but are also
10 relevant here, is that correct? Do you have those
11 plats in front of you?

12 A. I do.

13 Q. All right. And hopefully they're all in the
14 same order.

15 A. Let's hope.

16 Q. The first plat that I have says topographic
17 location map. Could you explain to the Board what that
18 map shows and what it means?

19 A. This, of course, is..it has a title that shows
20 topographic map showing the well spot in relation to
21 the proposed boundary and combined unit as well as
22 showing the two internal units being B-49 and B-50.

23 Q. Are you familiar with the topographic features
24 in this area?

25 A. Most of it, yes.

1 Q. All right. And how would you describe the area
2 topographically?

3 A. It's another situation where we have some
4 drilling opportunities along the ridgeline as far as
5 being able to build a location. There may be some
6 locations along the stream valley. Those are
7 complicated or possibly complicated by mining. But I
8 guess to sum it up, it's the top or it's the bottom,
9 the in between is steep and for the most---

10 Q. Non-economical for the most part?

11 A. It would be tough, yes.

12 TOM MULLINS: Okay. And do we want to..Mr.
13 Chairman, do we want to label these in any particular
14 way?

15 BUTCH LAMBERT: If we could, since we're going to
16 use them for this particular petition, let's label
17 those AA.

18 TOM MULLINS: AA.

19 Q. Okay, the next one, which I have, it says
20 "Jawbone Works Shown in Blue", which we will reference
21 as BB. Could you explain what that shows?

22 A. This is (inaudible) map showing...it's our latest
23 information from Jewell Smokeless who is actively
24 mining in the area. This shows the projection of one
25 of their actually contract miners, which is Calico,

1 showing the bottom left here are those projections.
2 Like I said, this is the latest thing that we have.
3 These mine plans change regularly. So, there may be
4 other mining in the area that may come along at a later
5 point.

6 BUTCH LAMBERT: Now, Mr. Blackburn, you may or may
7 not know this, is those...those headings that are being
8 developed going toward the northeast is that the active
9 part of the mines?

10 TIM BLACKBURN: These are all projected...projection.
11 There's nothing active---

12 BUTCH LAMBERT: Those are all projected. Okay,
13 thank you.

14 TIM BLACKBURN: ---in this vicinity further down to
15 the south, to our knowledge.

16 BUTCH LAMBERT: Okay. All right, thank you.

17 Q. And the next one, which is CC and listed as
18 "Mineral Ownership Map", what does that show?

19 A. It shows the surrounding units, the boundary
20 lines and adjacent ownership in relation to our
21 proposed combined units and well spots.

22 Q. Okay. Basically, who owns the mineral?

23 A. Yes.

24 Q. The next Exhibit DD, which says "Tiller Works"?

25

1 A. Again, the latest mine plans that we have from
2 Jewell Smokeless, this is a...the projections that we
3 have in the Tiller seam, which underlies the Jawbone,
4 showing mining that they have planned and are
5 conducting currently to our knowledge. At the time
6 that this map was given to us, the active mining was
7 slightly to the south. It has been some time since it
8 has been updated. So, that's something that maybe as
9 will go on through the process we'll have updated maps
10 as needed.

11 BUTCH LAMBERT: Mr. Blackburn, have you had any
12 discussion with Jewell on their anticipated mining
13 works in that Tiller seam?

14 TIM BLACKBURN: We have to the extent of...I guess,
15 in the general terms. They are developing the Tiller
16 as far as we know. As I said, it's something that as
17 mine plans change regularly and we'll be communicating
18 with them further as we get hopefully closer to the
19 permitting stage.

20 BUTCH LAMBERT: Those projected works that you have
21 there, those are kind of not the normal plans if you're
22 looking at mine plans where they have cut off in a few
23 places or two. Would you expect...from your knowledge in
24 talking to them, would you expect them to advance that
25 one section further into unit B-50?

1 TIM BLACKBURN: Mr. Lambert, I'm not really sure.
2 I see the notch, for instance, that you're probably
3 looking at there. My best guess at this point there's
4 a probably a well there that they're mining around. As
5 far as coal thicknesses and so forth, to advance that
6 one northward, I don't know. But certainly---

7 BUTCH LAMBERT: Well, the reasons that I'm asking
8 those questions, if you know if there's plans on
9 developing in that area what impact could that have on
10 where you locate the well?

11 TIM BLACKBURN: Well, as you see, again, based on
12 our latest information, our well spot is out of that
13 vicinity as far as any plans. For further mining other
14 than this, I don't know at this point. Hopefully, this
15 will be a suitable location for them.

16 BUTCH LAMBERT: And the same with...looking back at
17 BB in your Jawbone works that's even closer than your
18 Tiller workings, which could possibly have an impact on
19 well locations, is that correct?

20 TIM BLACKBURN: It's possible.

21 BUTCH LAMBERT: We don't know that at this point
22 until you get updated mine projections from---

23 TIM BLACKBURN: No, sir.

24 BUTCH LAMBERT: Okay, thank you.

25

1 Q. All right, the next plat, which is listing
2 Jawbone, Red Ash and Tiller works, which we'll label as
3 EE, could you explain that?

4 A. As stated, it's a combination map showing the
5 three seams. As you'll note there's, I guess, one
6 other exhibit that we'll look at. This well will
7 likely penetrate abandoned Red Ash mine works. This
8 shows the combined mining with the Jawbone...the Tiller,
9 Jawbone and Red Ash. As you see, most of this area
10 mined out in the Red Ash.

11 Q. All right, sir. And the Exhibit FF, is that
12 the Red Ash?

13 A. It is.

14 Q. Okay. And that shows the prior mine workings
15 in the Red Ash seam?

16 A. It does. In all likelihood we will probably...we
17 plan to hit a mine void and conduct a casing program
18 (inaudible). The mining has been so intense in this
19 area. That's likely what we'll do.

20 Q. All right, sir. Now, GeoMet...the well spot that
21 is shown in all of these plats is an approximate well
22 spot?

23 A. Yes.

24

25

1 Q. That will move based upon mining concerns and
2 topographic concerns and other concerns as well if this
3 gets approved and we end up permitting the well?

4 A. Yes. There's one other complication in this
5 particular area. There's a couple of houses that are
6 served by a spring. That's one reason that this
7 location is where it is to avoid interruption of that
8 water source.

9 BUTCH LAMBERT: So, looking at AA again, you're...if
10 that's the approximate well location, which in this
11 exhibit shows it right on the line, so the other
12 concerns mining and topographical could change that
13 over into B-50 very easily, is that correct?

14 TIM BLACKBURN: I would think so, yes.

15 BUTCH LAMBERT: Or it could stay in B-49 too, is
16 that---?

17 TIM BLACKBURN: We have a series...typically we will
18 have a series of options for well locations as far as
19 where we can build the location and we'll pick the
20 mode. But this is one kind of in the middle of the
21 whole mix.

22 BUTCH LAMBERT: By looking at the topo map you
23 could...you could easily move it in B-50. The terrain
24 looks pretty good over in B-50 just adjacent to where
25 your well is being proposed.

1 TIM BLACKBURN: I'm sorry?

2 BUTCH LAMBERT: The terrain and your topographical
3 map in AA looks...it's pretty reasonable in B-50 adjacent
4 to the proposed well, is that correct?

5 TIM BLACKBURN: Well, it does especially along the
6 ridge tops. It is better. There's a...I can't quote the
7 approximate thickness. But there is a significant
8 sandstone in that area that is beneath the ridgelines
9 that does produce some really steep terrain until you
10 get down into the stream valleys.

11 BUTCH LAMBERT: Okay.

12 TOM MULLINS: I don't have anything else for Mr.
13 Blackburn.

14 BUTCH LAMBERT: Any questions from the Board?

15 MARY QUILLEN: I have just one question---

16 BUTCH LAMBERT: Ms. Quillen.

17 MARY QUILLEN: ---for Mr. Mullins. On this Exhibit
18 B, how many of these...I believe there's twenty-six. I
19 just counted them. How many of these folks are located
20 in B-49 and how many in B-50?

21 TOM MULLINS: Are you talking about the homes?

22 MARY QUILLEN: No, these owners. Sorry. Exhibit
23 B.

24 TOM MULLINS: I don't know the answer to that.

25 MARY QUILLEN: Oh, okay. Okay.

1 TOM MULLINS: I don't know if my Co-Counsel knows
2 the answer to that.

3 PEBBLES BURGESS: I might be able to if you'll
4 bring it over here.

5 SHARON PIGEON: She needs the file.

6 (Tom Mullins and Pebbles Burgess confers.)

7 TOM MULLINS: Can we get back to that and let her
8 look at it and we'll come back to that?

9 MARY QUILLEN: Sure. Sure. I mean, I was just
10 curious to see how many people would be affected.

11 PEBBLES BURGESS: I can answer it.

12 TOM MULLINS: Okay. She says she can answer it.

13 PEBBLES BURGESS: The reason most of...there's a
14 significant number is that you have the St. Clair
15 Heirship and that's several people strong.

16 MARY QUILLEN: Right.

17 PEBBLES BURGESS: Obviously, you've got the
18 Pocahontas Mining is in both sides. LBR is on both
19 sides. So, that splits it. The only difference is is
20 you've got this little G. W. St. Clair Heirs tract and
21 that would encompass...that would only be in B-50.
22 That's on that side. So, the folks in here that are
23 listed that are part of that heirship would only be in
24 B-50 with all others being in both. The G. W. St.
25 Clair Heirs, if you look on Exhibit B and B-3 in the

1 pooling application, it will tell you exactly which
2 ones those people are.

3 SHARON PIGEON: I have a question that maybe you
4 can answer or maybe not. But I notice that we have
5 this one address unknown for John Douglas Hawkins and
6 St. Clair, but it is leased to CNX. Did you ask them
7 if they knew where this person was?

8 PEBBLES BURGESS: Yes, ma'am, we did. They replied
9 with an answer that was not in compliance with our
10 title report. So that information different. Our
11 title report did not have them listed as unlocated.

12 SHARON PIGEON: Okay. I just wanted to make sure
13 we didn't leave that option on the table if we could
14 help.

15 PEBBLES BURGESS: No, ma'am, we've explored that
16 one as well.

17 SHARON PIGEON: Good. Thank s.

18 BUTCH LAMBERT: Mr. Johnson, do you have any
19 questions for Mr. Blackburn?

20 DONALD R. JOHNSON: I've got just one question.

21

22 CROSS EXAMINATION

23 QUESTIONS BY MR. JOHNSON:

24 Q. Mr. Blackburn, what is the...what is the distance
25 from the...you know, this proposed not yet applied for

1 well location? What is the distance from it to the...to
2 the end of the boundary of the B-50 well...the B-50 unit
3 going west to east? What is the greatest distance?

4 TOM MULLINS: You're just talking about across a
5 straight line?

6 DONALD R. JOHNSON: Yeah, across...yeah, a straight
7 line.

8 A. This straight line going to the east
9 approximately...I'll stress approximately, 1860 feet to
10 the east and where the very approximately to the west
11 probably 1500.

12 Q. Is the...is the proposed well location right in
13 the center between the two units? Is that where it is
14 or is it to one side or the other?

15 A. Well, it's...the well spot right now is of course
16 as we've discussed on the boundary between the former
17 B-49 and B-50 unit. Does that---?

18 Q. Yeah.

19 A. Okay.

20 Q. And is the distance from there to the...to
21 each...to the sides of each of those units going east to
22 west and then west to east is it the same?

23 A. No.

24 Q. What's the reason for that?

25

1 A. Mostly the state line. I don't...well, of
2 course, obviously, depending on where you measure up
3 and down that north or south line it's going to be
4 different. At that particular location it's just a
5 state line cutting it off.

6 DONALD R. JOHNSON: I have no other questions of
7 this witness.

8 BUTCH LAMBERT: I have one for Mr. Blackburn. I
9 think that GeoMet has been in before for well location
10 exceptions before this Board. Is that correct? Do you
11 recall?

12 TIM BLACKBURN: Yes.

13 BUTCH LAMBERT: And what's...and Mr. Asbury can
14 answer it, if you don't know I'll ask him, what's the
15 typical well location exception distance that this
16 Board has allowed for GeoMet?

17 TIM BLACKBURN: A location outside of the drilling
18 window is what we're talking about. Is that---?

19 BUTCH LAMBERT: Well, just a typical well location
20 exception when you come before the Board to ask us for
21 an exception that has already been approved.

22 TIM BLACKBURN: Okay. You're talking about to
23 drilling outside the window is that what---?

24 BUTCH LAMBERT: Yes. Yes.

25

1 TIM BLACKBURN: Okay. I'm trying to think back on
2 some recent ones. Some of them have been in the order
3 of 50 feet. I'm going to say probably a 100 feet or so
4 would be my best estimate.

5 BUTCH LAMBERT: And what's...why was...why do we
6 usually allow you a well location exception?

7 TIM BLACKBURN: I think all of them with the
8 exception of maybe...I can think of one or two, but all
9 of them were mining related. There was a couple where
10 some severe topography problems that we asked for
11 location exceptions and were granted.

12 BUTCH LAMBERT: So, typically it's between 50 and a
13 100 feet that we've granted you a well location
14 exception?

15 TIM BLACKBURN: Yeah, I would think so.

16 BUTCH LAMBERT: Okay. Any other questions from the
17 Board?

18 SHARON PIGEON: We have seen...not necessarily from
19 GeoMet, but we have seen the occasional well location
20 exception where the location was positioned right close
21 to the outside line. It has been approved.

22 DAVID ASBURY: Mr. Chairman.

23 BUTCH LAMBERT: Mr. Asbury.

24 DAVID ASBURY: Mr. Cecil may know about mine
25 development on the PMC property. Does the document

1 that presented with the Jawbone or Tiller mine works
2 does that agree with projections that you're familiar
3 with on the PMC property?

4 ANDREW W. CECIL: Well, as you well know, Mr.
5 Asbury, projections will change almost monthly.

6 DAVID ASBURY: Sure.

7 ANDREW W. CECIL: I know that Jewell Smokeless has
8 aspirations of mining in all of these areas, but the
9 exact projections are a working progress almost
10 monthly. You know, they're...in both of those seams,
11 particularly in the Tiller seam, there are a number of
12 benches that they mine to make it economical. As the
13 Tiller seam trends to the north, the distance between
14 the mine splits and tends to spread. So, there's
15 always a burning question as to how far to the north
16 can they continue to mine because of the amount
17 antiburden between those two splits. If the antiburden
18 is a couple of feet, they will probably continue to
19 mine. Once the antiburden gets up to 5 or 6 feet they
20 may rethink their position.

21 DAVID ASBURY: Okay.

22 ANDREW W. CECIL: So, you know, their projections
23 are their wish lists, you know, whether or not they can
24 achieve that. Projections, I know in the Tiller seam,
25 are years in advance. I know currently where they're

1 mining in the Tiller seam and these projections are
2 years, years down the road as are the Jawbone
3 projections. If these are the Calico projections Mr.
4 Varney probably has another 15 years or 16 years on his
5 sublease agreement and the projections that we're
6 seeing here are in the furthest reaches of his sublease
7 area. So, they're going to be mined...we're looking at
8 mining 10 or 12 years in the future.

9 TOM MULLINS: Objection unless there's a foundation
10 laid for his knowledge of what mining plans for Calico
11 mining are.

12 BUTCH LAMBERT: You're correct, Mr. Mullins.
13 Sustained.

14 DAVID ASBURY: The other question that was asked
15 and Mr. Cecil was right on point is, and I was working
16 on another piece of the docket, the 80 acre distance is
17 1866 or 67 feet that we use for the Oakwood 80. The
18 exact number is 1866.7 feet.

19 BUTCH LAMBERT: Thank you, Mr. Asbury. I guess the
20 issue with...with the well location and the reason that I
21 asked so many questions dealing with underground mining
22 is because that's what our agency including this Board
23 is charged to do to protect miner safety as well as get
24 these wells drilled and that's why I questioned so
25 heavily about mine projections and well locations in

1 addition to combining the units. So, just for
2 information and thank you Mr. Asbury for that
3 interjection that you had. But, you know, we have to
4 be concerned about miner safety. As you folks know,
5 we've had a recent cut into a well that we almost lost
6 a lot of lives over. So, we have to be real concerned
7 about that. That's why that's it's very important to
8 hear testimony about well location and mine
9 projections. So, thank you for that. Anything
10 further, Mr. Mullins? Any---?

11 TOM MULLINS: Just very briefly from Mr. Nestle
12 about the economics.

13
14 DALLAS NESTLE
15 having been duly sworn, was examined and testified as
16 follows:

17 DIRECT EXAMINATION

18 QUESTIONS BY MR. MULLINS:

19 Q. Would you please state your name?

20 A. Dallas Nestle.

21 Q. And what do you do for a living, sir?

22 A. I'm the project manager for the Virginia/West
23 Virginia operations for GeoMet.

24 Q. Is one of your duties to decide and recommend
25 which units get developed and which wells get drilled?

1 A. It is.

2 Q. And have you looked at independently developing
3 unit B-49 and independently developing B-50?

4 A. We have.

5 Q. And what were the conclusions that you came to
6 as project manager as far as the development of these
7 two separate units?

8 A. Because of the A typical shape of the units and
9 the small acreage, we felt like it would not be
10 economical to drill two wells. Because of the
11 combination of the both, they are roughly 86 acres that
12 we could fully develop the two by drilling one well
13 rather than two. It just didn't make sense to drill
14 two if...we probably wouldn't do it. If we had to drill
15 two wells to develop these two because of the small
16 acreage, we probably wouldn't do it and we would put
17 our money elsewhere.

18 Q. And under current development plans, would you
19 drill a well solely in B-49?

20 A. No.

21 Q. And under current development plans, would you
22 drill a well solely in B-50?

23 A. No.

24 Q. And is it GeoMet's position that the only way
25 it can develop these two wells economically is to have

1 these two units combined for a unit composed of B-49
2 and B-50?

3 A. These current pricing conditions that is our
4 best path forward.

5 TOM MULLINS: Thank you.

6 BUTCH LAMBERT: Any questions from the Board?

7 (No audible response.)

8 BUTCH LAMBERT: Mr. Johnson.

9

10 CROSS EXAMINATION

11 QUESTIONS BY MR. JOHNSON:

12 Q. To what extent did you take into consideration
13 the drainage of wells approximate to the B-49 unit as
14 far as your conclusions regarding the economics of
15 drilling in B-49?

16 A. Well, obviously, spacing is important. Even
17 though they may be across the state line we don't want
18 to drill one well on top of another so that we can get
19 adequate drainage.

20 Q. Is the...is the B-49 unit as it is situate in
21 Virginia already being drained by other wells?

22 TOM MULLINS: Objection, beyond the scope of this
23 gentleman's proffered expertise. He's...I've not
24 submitted him as an expert in reservoir drainage.

25

1 BUTCH LAMBERT: Yeah, I'll...I'll overrule that
2 question. Ask it another way.

3 DONALD R. JOHNSON: All right.

4 Q. The wells that you have considered with regard
5 to well 49...or unit 49B, how close is the nearest well
6 to this proposed well that sort of sets on the border
7 between the two units? What's the nearest well to it?
8 How far away? Do you know that?

9 A. I don't have the exact footage, but it's spaced
10 adequately enough for drainage and not too closely
11 spaced that we won't get a good recovery of the
12 reserves.

13 Q. All right. And if you moved the well to the...if
14 you moved this proposed well that hadn't been
15 permitted, if you move it slightly to the west say a
16 100 feet or 200 feet is it then too close for purposes
17 of drainage?

18 A. The well placement comes from our reservoir
19 group and geology group as far as the optimal spacing
20 between the wells. So, they will give us a proposed
21 spacing. We'll look at it from the surface topography
22 and T Engineering looks at it from the well mine plans
23 and with all those...if they all fit, then we can spot a
24 well based on all of those different criterias.

25

1 Q. What is the existing criteria for well spacing
2 that your company believes is optimal in this area of
3 the world?

4 A. I'd probably have to defer that to Mr.
5 Hollingshead as far as optimal spacing between wells.

6 JOHN HOLLINGSHEAD: Ideally---.

7 TOM MULLINS: You're not on the witness stand.

8 JOHN HOLLINGSHEAD: I'm sorry.

9 SHARON PIGEON: Pick me.

10 Q. Mr...I assume you did hear Mr. Hollingshead
11 testify that he believed that an 80 acre unit could be
12 adequately drained by one well, is that correct?

13 A. That's...I believe that's what he said.

14 Q. Okay. With regard to the B-50 unit, are there
15 any...any wells that you consider might interfere with
16 drilling the well in the B-50 unit?

17 TOM MULLINS: Objection on the...I don't know that I
18 understand the question. Is it economically,
19 geographically, topographically or drainage? I'm not
20 sure I understand the question. Statewide spacing
21 objections, I don't---.

22 BUTCH LAMBERT: I think it was more, if I...if I'm
23 wrong, Mr. Johnson, correct me, but I think it is
24 economic question as to where he want to locate it so

25

1 he can drain the...get the maximum drainages. Is that
2 correct?

3 DONALD R. JOHNSON: Yes.

4 Q. As far as you're being able to adequately drain
5 the well for purposes...or drain the acreage for purposes
6 of your economics, are there any wells that would
7 interfere with that in the B-50 unit?

8 TOM MULLINS: Objection. That question should have
9 been asked to Mr. Hollingshead. He's the reservoir
10 engineer. Mr. Nestle gets the information for well
11 placement from Mr. Hollingshead either take that into
12 consideration. He's asking him a question of a person
13 not offered for that purpose. That was a question that
14 should have been asked to either Mr. Blackburn or Mr.
15 Hollingshead or both.

16 BUTCH LAMBERT: Mr. Mullins, it would appear to me
17 that Mr. Nestle should have some kind of information
18 along that lines to be able to make the call whether or
19 not it's economics or not.

20 TOM MULLINS: He may be...he may have the information
21 about where they recommend the well spot to be, but
22 that's not his question as I understood it. His
23 question is how is the drainage pattern for this well
24 spot as...if you take into account this other well over
25 here. He wasn't asking economics. He was saying how

1 is going to drain B-50. That was his question as I
2 understood it. If I'm wrong, I stand to be corrected.
3 That's what I understood him to ask.

4 BUTCH LAMBERT: I think I understood him, and I
5 could be wrong too, Mr. Johnson can correct both us,
6 but I understood from the economics standpoint is there
7 other wells in B-50 that could impact the economics of
8 this well being proposed. Did I understand it---?

9 DONALD R. JOHNSON: Yes.

10 A. Are there other wells in B-50 unit
11 currently---?

12 Q. Or adjoining it?

13 A. Well---.

14 TOM MULLINS: Objection, if it's---.

15 BUTCH LAMBERT: Well, I think I stated it and then
16 he rephrased my question.

17 DONALD R. JOHNSON: Let him...let him answer---.

18 TOM MULLINS: If he's asking---.

19 DONALD R. JOHNSON: Mr. Chairman, if he will answer
20 your question then maybe I can pose another one.

21 BUTCH LAMBERT: Okay. Let me ask---.

22 A. Ask me one more time?

23 BUTCH LAMBERT: Are there any wells in B-50 at this
24 time that would hinder the economics of drilling a well
25 that's being proposed?

1 A. No. We do not have wells in the B-50 unit.

2 BUTCH LAMBERT: Okay. Thank you.

3 Q. Are there...are there any...does any other operator
4 have any wells in the B-50 unit?

5 A. No.

6 DONALD R. JOHNSON: I think...that's all we have.

7 BUTCH LAMBERT: Any questions from the Board?

8 (No audible response.)

9 BUTCH LAMBERT: Anything further, Mr. Mullins?

10 TOM MULLINS: We rest.

11 BUTCH LAMBERT: Okay. Mr. Johnson.

12 DONALD R. JOHNSON: I'm going to call Mr. Andrew W.
13 Cecil, Jr...excuse me, you're not a Jr.

14 ANDREW W. CECIL: Sr.

15 DONALD R. JOHNSON: He's a Sr.

16

17 ANDREW W. CECIL

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

20 DIRECT EXAMINATION

21 QUESTIONS BY MR. JOHNSON:

22 Q. Mr. Cecil, you've already sort of testified
23 here trying to answer a question from Mr. Asbury.

24 Would you briefly...and I believe you've testified before
25

1 the Board and maybe not in recent history, but you
2 have.

3 A. Yes.

4 Q. Briefly, go over your background as far as your
5 education, your work that you do as an engineer and as
6 a surveyor and also your relationship with Pocahontas
7 Mining and your relationship with its lessees,
8 specifically its coal leases?

9 A. All right. I'm a 1977 graduate of Virginia
10 Tech in Civil Engineering. I began my career actually
11 in the mining and production and in the mining business
12 with Jewell Ridge Coal Corporation mining this very
13 property. We were a lessee at the time at Jewell
14 Ridge. In 1981, I began a consulting career assisting
15 lessors, lessor engineer and I assist lessors in the
16 management of their resources including coal and gas.
17 I've been working as a consultant for Pocahontas Mining
18 for about twenty-five years on this very property and
19 have a relationship with all of the people mining on
20 the property that has reached back into the '70s. So
21 about thirty-four years of working with Jewell
22 Smokeless and other operators on mining this very
23 property.

24 Q. And with regard to surveying, what is your
25 licensure in surveying?

1 A. Virginia and West Virginia.

2 Q. Okay.

3 A. And engineering is Virginia, West Virginia,
4 Kentucky, Tennessee and North Carolina.

5 Q. Okay. Mr. Cecil, you have in answer to a
6 question or an inquiry from Mr. Asbury, you talked
7 about the mining as far as your testimony here. Is...is
8 that your testimony here as well as do you have
9 anything else to add about the mining that you think is
10 significant?

11 A. Yes. Again, in my experience of mining on this
12 property dates back to 1977 mining the same property
13 and the same very seams that we're talking about here
14 today. As far as the projections of Jewell Smokeless
15 and Calico, Calico is mining on our property as a
16 sublease...subleasee of Jewell Smokeless. I review their
17 projections and change the mining plans in a continuing
18 basis, almost weekly or monthly. So, I'm well aware
19 of...you know, how quickly the changes can occur in these
20 projections.

21 Q. Okay. Specifically with regard to the proposed
22 area that GeoMet has put before the Board as a
23 potential location and other locations within the B-50
24 unit area, are there other locations that you find

25

1 comparably either better or as good as the location
2 that GeoMet has spotted?

3 A. From the topographic mapping submitted by
4 GeoMet and the topographic mapping shows the unit
5 outline of the mining projections and topography, there
6 are places but it's in B-50 and B-49 that are
7 topographically equal if not superior to the one that
8 they've conveniently proposed on the---

9 TOM MULLINS: Objection to the characterization
10 conveniently located. It's just a slant.

11 A. Sorry.

12 BUTCH LAMBERT: Yeah, overruled.

13 A. Yes, there are.

14 Q. Where are they on the map that has been
15 introduced as a GeoMet exhibit?

16 A. Well, I'd have to...I'd have to show you.

17 Q. Okay. This is Exhibit A. Is that it? Yeah.

18 A. I'm looking at these.

19 Q. Okay, that one. Okay---

20 A. Are these exhibits?

21 Q. Yes. Can you...can you place an X in the
22 locations where you think the topography is as good or
23 better than the proposed location that is within unit
24 B?

25

1 BUTCH LAMBERT: Which...Mr. Johnson, which exhibit
2 are you asking him to refer to?

3 DONALD R. JOHNSON: That's what we're---.

4 A. It's Exhibit---

5 DONALD R. JOHNSON: We've got Exhibit blank on
6 that. It's the one that...I don't know which one it is.

7 TOM MULLINS: I think it's---

8 MARY QUILLEN: Those were all labeled during the
9 testimony.

10 TOM MULLINS: ---EEE...excuse me, EE, I think is the
11 one that they have in their hand.

12 ANDREW W. CECIL: EE?

13 TOM MULLINS: I believe so. That's the one that
14 shows the Jawbone, Red Ash and Tiller.

15 DONALD R. JOHNSON: Okay, EE. Mr. Cecil is going
16 to circle the spot.

17 A. These are topographically...at least
18 topographically equal on the outside of the mining
19 projections as shown on the map.

20 DONALD R. JOHNSON: We'd like to move to introduce
21 this as Pocahontas Mining Exhibit 1.

22 TOM MULLINS: I have some questions when it's my
23 turn.

24 DONALD R. JOHNSON: Well, do you want me to...does
25 the Board want to look at this first---

1 BUTCH LAMBERT: Absolutely.

2 DONALD R. JOHNSON: ---and then we'll let Mr...let
3 Mr. Mullins cross examine him.

4 (The Board reviews the exhibit.)

5 BUTCH LAMBERT: So, Mr. Cecil, why did you pick the
6 location in B-49 if we're...if your concern if we combine
7 units they're going to drain B-50 and you're not going
8 to get the same...I don't...I'm confused here.

9 ANDREW W. CECIL: Part of their testimony was that
10 there are topographic limitations to drilling in both
11 of those units.

12 BUTCH LAMBERT: No, I think I asked the question
13 could it be moved and Mr. Blackburn said, yeah, we do
14 get well location exceptions.

15 SHARON PIGEON: I guess what he's asking you is are
16 you trying to demonstrate an objection to the location
17 of the well itself or to the combination of the units?
18 These are actually two different issues and we're just
19 kind of mushing it all together.

20 ANDREW W. CECIL: Well, we're making an objection
21 that...I understood them to say that there was some
22 topographic limitations as to their ability to locate
23 site...sites in both units. That's what that is
24 addressing.

25

1 BUTCH LAMBERT: I understand. But if you mark...if
2 we...if they choose to drill in either one of those
3 locations that you circled then the unit won't get
4 properly drained and there will be stranded acres or
5 the one in B-49 you drill will interfere with, and I
6 don't have it in front of me, but the unit just below
7 it. So, just picking for topographic issues, I don't
8 think that that's what they're here for today.

9 ANDREW W. CECIL: Well, that was attempting to
10 answer. I understood that they said there were
11 topographic limitations.

12 BUTCH LAMBERT: Okay, we'll get back to that side
13 and repose that question in just a minute. Anything
14 further, Mr. Johnson?

15 DONALD R. JOHNSON: Yes, sir.

16 Q. Mr. Cecil, at my request, did you attempt to
17 prepare a plat that showed the locations of all of the
18 wells in the area, the units that we're talking about
19 today, as well as the property boundaries for
20 Pocahontas Mining and the other properties in that...that
21 participate in these two units?

22 A. Yes.

23 DONALD R. JOHNSON: And would you...just for purposes
24 of identification, state the...state who...what...what
25 the...what the exhibit says as far as its...well, let me

1 just...let me just...give me the copies and I'll hand it
2 out. I'm going to propose this exhibit as Pocahontas
3 Mining Exhibit 2 and ask Mr. Cecil to explain what's on
4 the plat and then I'll ask that it be introduced. It's
5 probably the best way to go about it.

6 ANDREW W. CECIL: Go ahead and give them a copy and
7 then I'll---

8 DONALD R. JOHNSON: Yeah.
9 (Exhibit is passed out.)

10 TOM MULLINS: Mr. Chairman, for purposes of the
11 record, I would...it depends on the Board's inclination,
12 that shows information from West Virginia that the
13 Board has traditionally not admitted into evidence.
14 That's the basis...I understand the Board may want to
15 overrule me, but I need to make the objection.

16 BUTCH LAMBERT: Well, this Board is not going to
17 consider anything north of that line. We never have
18 before.

19 SHARON PIGEON: And we're not 100% sure what is
20 being shown south of that line.

21 BRUCE PRATHER: Well, I have a question.

22 BUTCH LAMBERT: Mr. Prather. If GeoMet's economics
23 is based on this location that's out on the boundary
24 line between these two units, I assume that you've

25

1 looked at these locations before that he has presented
2 and they don't fit your economics. Is that correct?

3 TOM MULLINS: That is correct.

4 BRUCE PRATHER: Then what are we doing?

5 TOM MULLINS: He's putting on his case.

6 BUTCH LAMBERT: Mr. Johnson, would you like to
7 explain the exhibit?

8 DONALD R. JOHNSON: Yes. What this exhibit shows
9 is all of the wells that are drilled in the area. It
10 projects the units into West Virginia as...you know, as
11 if they were, you know, squares and shows them in
12 Virginia and the portion in West Virginia. It shows
13 the state line and it shows the X that's on this plat
14 that's kind of a cross X is the proposed location. It
15 shows the Pocahontas Mining property pretty plainly on
16 the plat as to where it's located in reference to the
17 two units. It clearly shows the West Virginia
18 boundary. Mr. Cecil, how did you go about obtaining
19 all of the information that's on the plat?

20 ANDREW W. CECIL: Well, the Virginia information we
21 already in our files. The West Virginia information we
22 obtained through the West Virginia Division of Gas.

23 BUTCH LAMBERT: And what's the relevance of the
24 West Virginia information?

25

1 DONALD R. JOHNSON: Well, it's clearly relevant
2 with regard to the drainage that is being discussed
3 today. The reason that the...that there is...that GeoMet
4 is taking the position that it's not economical to
5 drain...I mean, to produce gas from the...or to drill a
6 well on the B-49 unit, Mr. Chairman, that reason is
7 because there is a well already in what would have
8 been...if you go across the boundary line would have been
9 in the B-49 unit. It is very close to the center of
10 what would have been that unit and is right on the
11 state line. It is...I can ask Mr. Cecil how far away it
12 is. But it is very close to the center of the unit...of
13 what would have been the unit and is at the top of this
14 truncated unit. The wells that GeoMet is concerned
15 about are wells that GeoMet itself drilled. That to me
16 is the irony of this whole presentation is that we're
17 really having to respond to issues that were created by
18 GeoMet and now comes back and says well we can't do
19 this and we can't do that. That's what the relevance
20 is. I realize that you can't do anything in West
21 Virginia. But if it's wells drilled in West Virginia
22 that created the problems, I think the Board should
23 take notice of it and consider it along with the other
24 evidence presented. It's just a reality. It's the
25 reality of the reason that these units were

1 prepared...were formed in the first place is to try to
2 assure that the...that all of the gas is adequately
3 drained and all of the property owners are adequately
4 protected. And---.

5 SHARON PIGEON: But doesn't that support their
6 argument that we need to have this well here because
7 the gas is being taken out of the Virginia side by
8 those West Virginia wells? And, obviously, West
9 Virginia wells are not subjected to the same field
10 rules that we have in Virginia.

11 DONALD R. JOHNSON: Absolutely. The fact that the
12 wells drilled in West Virginia were drilled by GeoMet
13 and adequately drained the 49 tract by their own
14 testimony. I think that should be considered. It has
15 been testified that---

16 SHARON PIGEON: Did they testify to that?

17 TOM MULLINS: Objection. I...we never testified that
18 a West Virginia well drained B-49.

19 DONALD R. JOHNSON: No, your test...you had a witness
20 who testified that one well in the center of an 80 acre
21 grid drained the 80 acre grid. That evidence was
22 presented.

23 TOM MULLINS: That's why we have our proposed well
24 placement where it is.

25 DONALD R. JOHNSON: So---

1 SHARON PIGEON: Well, that is our field rules. So,
2 I think we can take judicial notice of that.

3 DONALD R. JOHNSON: ---the...I think the plat...you
4 know, the plat demonstrates that...and, in fact, there is
5 a well, you know, not that far from the West Virginia
6 state line just above the B-50 unit. But the reason
7 that this is being proposed or it's our...it's our
8 contention is that...is that, you know, the acreage has
9 already been drained in the 49 unit and this is being
10 done...combining this is to take care of a problem that
11 was created by the operator and is not...is unfair to my
12 client because their acreage has already been drilled
13 in the B-49 but the acreage in B-50 has not.

14 SHARON PIGEON: What about everyone else in B-49?

15 DONALD R. JOHNSON: I believe it's only Rogers.

16 SHARON PIGEON: And?

17 DONALD R. JOHNSON: I think Rogers...Rogers has all
18 of the property not owned by Pocahontas Mining with the
19 exception of a little area that the St. Clair owned
20 just to the east of the Pocahontas Mining tract on B-
21 50.

22 SHARON PIGEON: So, what about their correlative
23 rights?

24 DONALD R. JOHNSON: If you look at what's going on,
25 everybody...everybody is being protected by the drainage

1 that's occurred in...as far as the B-49 nobody is being
2 protected south of the West Virginia except...except the
3 owner who also owns both sides of the West Virginia
4 border, which is Rogers.

5 BUTCH LAMBERT: Anything further, Mr. Johnson?

6 DONALD R. JOHNSON: That's all we have. We'd move
7 to introduce this plat as an exhibit.

8 BUTCH LAMBERT: We'll accept it. Any questions
9 from the Board?

10 (No audible response.)

11 BUTCH LAMBERT: Mr. Mullins.

12 TOM MULLINS: Yes.

13

14 CROSS EXAMINATION

15 QUESTIONS BY MR. MULLINS:

16 Q. Mr. Cecil, are you reservoir engineer?

17 A. No, sir.

18 Q. Do you have any experience in petroleum
19 development?

20 A. No, sir.

21 Q. Have you done an economic analysis of the
22 development of either unit B-49 or B-50?

23 A. No, sir.

24 Q. And is your testimony about well placement
25 based upon your review of a topographic map?

1 A. I beg your pardon?

2 Q. Is your testimony about alternative well
3 placements based upon your review of a topographic map?

4 A. Well, my alternate well placements have more to
5 do with, you know, making sure that we get adequate
6 production from B-50 and B-49. The two alternate sites
7 that I showed were topographically friendly locations
8 in my view to get that done.

9 Q. So, the well placement was to enhance the PMC
10 recovery?

11 A. No. The well placement was to show that wells
12 could be drilled in both units.

13 Q. Okay. Do you remember your Counsel agreeing
14 that B-49 would not be an economically productive unit
15 standing alone?

16 A. No.

17 Q. Okay. If he had said that in part of his
18 presentation to this Board about thirty minutes ago,
19 would that change your opinion as to the fact that
20 there's a well location that's suitable in B-49?

21 A. It wouldn't change my opinion because of the
22 distance between the topographic location that I
23 proposed and the distance between the existing wells in
24 West Virginia that we're all trying to avoid.

25

1 Q. And you make that suggestion without knowing
2 the economics, correct?

3 A. I make that suggestion based on the topographic
4 locations shown on your alls versus the more favorable
5 topographic location that is located to the
6 southeastern portion of the B-49 unit.

7 Q. So, going back to my testimony, your
8 alternative locations were proposed based upon the
9 topographic map that was submitted?

10 A. Not...not entirely.

11 Q. Okay. I'm confused about both of your answers.

12 A. Okay.

13 Q. But in any event, the proposed location that
14 you made, as indicated on Exhibit...PMC Exhibit 1, that
15 would require this Board to grant an exception as well
16 would it not?

17 A. Yes, it would.

18 Q. And would that impact the potential correlative
19 rights of the unit holders in unit C-49?

20 A. I couldn't say.

21 Q. You don't know?

22 A. I don't know.

23 Q. Okay. Is that because you're not a reservoir
24 engineer and you don't know the drainage patterns?

25

1 A. No, I'm not a reservoir engineer. I'm just
2 basing it on, you know, the 1800 acre units that if
3 drill a well in the center by the testimony that has
4 previously been made then one well in the center will
5 drain an 80 acre unit, which is a radius of about...this
6 exceeds 900 feet.

7 TOM MULLINS: I don't have any other questions.

8 BUTCH LAMBERT: Any questions from the Board?

9 (No audible response.)

10 SHARON PIGEON: Where is the exhibit that he had
11 with all the---?

12 BUTCH LAMBERT: Where is the other exhibit?

13 DALLAS NESTLE: That was the one...David gave it to
14 me and it made its way back around. Sorry.

15 BUTCH LAMBERT: But we had another exhibit.

16 SHARON PIGEON: We had two exhibits from---.

17 DIANE DAVIS: We got it. We need that one back.

18 BUTCH LAMBERT: Is that one 1 or 2?

19 DAVID ASBURY: This is 2 and that should be 1.

20 SHARON PIGEON: I just wanted to make sure that we
21 didn't have the same number.

22 BUTCH LAMBERT: Any further questions from the
23 Board?

24 (No audible response.)

25

1 BUTCH LAMBERT: Anything further, Mr. Mullins, or
2 anything further Mr.---?

3 TOM MULLINS: Not unless you want argument. I
4 don't...given the hour I don't want to really do it.

5 (Laughs.)

6 BUTCH LAMBERT: Do I have a motion?

7 MARY QUILLEN: Motion to approve.

8 BRUCE PRATHER: Second.

9 BUTCH LAMBERT: I have a motion and a second. Any
10 further discussion?

11 (No audible response.)

12 BUTCH LAMBERT: All in favor, signify by saying
13 yes.

14 (All Board members signify by saying yes.)

15 BUTCH LAMBERT: Opposed, no.

16 (No audible response.)

17 BUTCH LAMBERT: That will be approved.

18 TOM MULLINS: Thank you, Judge..Mr. Chairman.

19 DONALD R. JOHNSON: You've gone from Mr. Wampler to
20 Judge now.

21 BUTCH LAMBERT: Oh. Well---.

22 SHARON PIGEON: (Inaudible).

23 BUTCH LAMBERT: ---I really think Mr. Wampler is a
24 compliment. Thank you.

25

1 DONALD R. JOHNSON: That's only...that only reflects
2 how long it has been since I've been before the Board.

3 BUTCH LAMBERT: Okay. We're calling docket item
4 number thirty-four. It's a petition from GeoMet
5 Operating Company, Inc. for pooling of coalbed methane
6 unit B-49 and B-50, docket number VGOB-11-0517-2953.
7 All parties wishing to testify, please come forward.

8 TOM MULLINS: Mr. Chairman, Tom Mullins and Pebbles
9 Burgess from the Street Law Firm on behalf of GeoMet.

10 DONALD R. JOHNSON: Mr. Lambert, with regard to
11 Pocahontas Mining, we would ask that the Board consider
12 the objections that we made in the previous hearing and
13 accept our testimony for purposes of our objection to
14 this application. That's all we have, if the Board
15 will allow us to do that.

16 BUTCH LAMBERT: We'll accept your objections.

17 DONALD R. JOHNSON: Thank you. Thank you very
18 much.

19 BUTCH LAMBERT: Thank you.

20 (Donald R. Johnson and Andrew W. Cecil leave the
21 table.)

22 BUTCH LAMBERT: You may proceed, Mr. Mullins.

23 TOM MULLINS: I'd like to call...first I'd like to
24 ask the Board if I could incorporate Mr. Blackburn's

25

1 testimony as to the plats and the mining issues and so
2 forth so that I do not have to plow that ground twice.

3 BUTCH LAMBERT: We'll accept that.

4 TOM MULLINS: I'd like to call Mr. Dallas Nestle,
5 please.

6

7

DALLAS NESTLE

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

10

DIRECT EXAMINATION

11 QUESTIONS BY MR. MULLINS:

12 Q. You've already been introduced, but would you
13 please state your name for the record for this
14 application?

15 A. Dallas Nestle.

16 Q. And what do you do for a living again?

17 A. I am the project manager for GeoMet Operating
18 Company.

19 Q. And are you familiar with a pooling application
20 for the combined unit B-49 and B-50?

21 A. Yes, I am.

22 TOM MULLINS: Is there some way we want to
23 reference that unit that it has been combined, Mr.
24 Chairman? It's not something that I have thought

25

1 about. I'm willing to listen to Mr. Asbury if he has a
2 suggestion.

3 BUTCH LAMBERT: I think that we'll refer to Mr.
4 Asbury on that.

5 DAVID ASBURY: We would like it combined. I don't
6 have a suggestion.

7 TOM MULLINS: B-49.5?
8 (Laughs.)

9 DAVID ASBURY: Why not B-4950 or 4,950...4950.

10 BUTCH LAMBERT: 49/50?

11 TOM MULLINS: Okay. That suits me.

12 DAVID ASBURY: That's fine. At least it's
13 traceable.

14 Q. Are you familiar with the application?

15 A. I am.

16 Q. And how many acres are there in this combined
17 unit?

18 A. 86.26.

19 Q. And is this a unit located in the Oakwood
20 Field?

21 A. Yes, it is.

22 Q. And what is proposed will be Rogers well 516?

23 A. Correct.

24 Q. And the approximate well site is indicated on
25 the plat attached to the application?

1 A. It is.

2 Q. Does GeoMet have drilling rights in this unit?

3 A. They do.

4 Q. To your knowledge, are there any parties
5 respondent listed on Exhibit B-3 who should be
6 dismissed today?

7 A. No.

8 Q. What is the percentage of the coal ownership
9 that GeoMet has under lease?

10 A. 57.69%.

11 Q. And the gas ownership?

12 A. 3.2675%.

13 Q. And was notice perfected as required by statute
14 for the folks that are entitled to receive notice?

15 A. Yes, it was.

16 Q. And we've handed an affidavit to Mr. Asbury and
17 we also have the publication certifications that we
18 will submit post-hearing, correct?

19 A. That is correct.

20 Q. Is GeoMet authorized to do business in
21 Virginia?

22 A. They are.

23 Q. And does it have a bond file as required?

24 A. Yes.

25

1 Q. What terms does GeoMet offer those who
2 voluntarily enter a lease agreement with them?

3 A. Twenty dollars per acre for a five year paid up
4 lease with a one-eighth royalty.

5 Q. And in your opinion and experience in the gas
6 industry in this area, is that a fair and reasonable
7 lease term?

8 A. It is.

9 Q. What is the percentage of the oil and gas
10 estate that GeoMet is seeking to pool?

11 A. 56.7325%.

12 Q. And the coal estate?

13 A. 42.31%.

14 Q. And are there any unknown or unlocateable
15 owners?

16 A. Yes.

17 Q. And which tract?

18 A. That is Tract 3.

19 Q. And what is the total percentage to be escrowed
20 due to the unknown and unlocateable owners?

21 A. .089792%

22 Q. Okay. I believe that was what was identified
23 earlier as John Douglas Hawkins and St. Clair, is that
24 correct?

25 A. That is correct.

1 Q. All right, sir. And has an Exhibit E been
2 filed in connection with this application showing the
3 conflicting owners?

4 A. Yes.

5 Q. Okay. Are there any parties whose interests
6 are in dispute?

7 A. Yes.

8 Q. And are those Tracts 1 and 4?

9 A. Yes, that's correct.

10 Q. And the total percentage to be escrowed due to
11 the conflicting owners for these tracts, is that
12 14.4225?

13 A. Yes, it is.

14 Q. And, again, Exhibit E has been attached to the
15 application showing that as well?

16 A. That's correct.

17 Q. Okay. Is GeoMet requesting that the Board pool
18 the unleased interest in this unit?

19 A. Yes, we are.

20 Q. And to whose attention should correspondence be
21 sent?

22 A. Joseph Stevenson, Land Manager, GeoMet
23 Operating Company, 5336 Stadium Trace Parkway, Suite
24 206, Birmingham, Alabama.

25

1 Q. And did...are you familiar with the estimated
2 well cost prepared and filed with the application?

3 A. Yes.

4 Q. What is the proposed depth of this well fort
5 his combined unit?

6 A. 2300 feet.

7 Q. And the estimated reserves?

8 A. 906.89 million standard cubic feet.

9 Q. And the well completion costs?

10 A. \$466,231.

11 Q. And the dry hole costs?

12 A. \$227,533.

13 Q. And that estimated well costs was attached as
14 an exhibit to the application, is that correct?

15 A. Yes, it was.

16 Q. Okay. Does the estimate include a reasonable
17 charge for supervision of the drilling of the well?

18 A. Yes.

19 Q. And in your opinion, would the granting of this
20 application promote conservation, protect correlative
21 rights and prevent waste?

22 A. Yes, it would.

23 TOM MULLINS: I have no other questions.

24 BUTCH LAMBERT: Any questions from the Board?

25

1 MARY QUILLEN: Mr. Chairman, I have just one
2 question for Mr. Mullins. Could you repeat the
3 percentage of ownership to be escrowed?

4 SHARON PIGEON: I think you gave it to us in two
5 numbers.

6 TOM MULLINS: Two pieces. I'm hoping I added it
7 together. If I did, this will be easy.

8 SHARON PIGEON: Mrs. Dye has it here for you. It's
9 on page sixteen of your Exhibit E.

10 TOM MULLINS: The total percentage to be escrowed
11 14.512292.

12 MARY QUILLEN: I only heard one of those parts of
13 it. I wanted to double check. Thank you.

14 TOM MULLINS: Thank you.

15 BUTCH LAMBERT: Any other questions from the Board?
16 (No audible response.)

17 BUTCH LAMBERT: You may continue, Mr. Mullins.

18 TOM MULLINS: That's all I have with incorporating
19 the testimony of Mr. Blackburn.

20 BUTCH LAMBERT: Okay, thank you. Do I have a
21 motion?

22 MARY QUILLEN: Motion to approve.

23 BRUCE PRATHER: Second.

24 BUTCH LAMBERT: I have a motion and a second. Any
25 further discussion?

1 (No audible response.)

2 BUTCH LAMBERT: All in favor, signify by saying
3 yes.

4 (All Board members signify by saying yes.)

5 BUTCH LAMBERT: Opposed, no.

6 (No audible response.)

7 BUTCH LAMBERT: Thank you, Mr. Mullins. It's
8 approved. Calling item thirty-five on the docket, a
9 petition from GeoMet Operating Company for pooling of
10 coalbed methane unit YYY-43, docket number VGOB-11-
11 0517-2954. All parties wishing to testify, please come
12 forward.

13 TOM MULLINS: Tom Mullins and Pebbles Burgess from
14 the Street Law Firm on behalf of GeoMet. It's getting
15 a little late in day. I had to think who I was
16 representing. Mr. Dallas Nestle and Tim Blackburn will
17 also be testifying. First, I would like to call Mr.
18 Blackburn. Change pace.

19

20 TIM BLACKBURN

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

23 DIRECT EXAMINATION

24 QUESTIONS BY MR. MULLINS:

25 Q. Would you please state your name?

1 A. Tim Wesley Blackburn.

2 TOM MULLINS: Mr. Chairman, I'd like to incorporate
3 his prior testimony as to his credentials and his work
4 for GeoMet.

5 BUTCH LAMBERT: Accepted.

6 Q. Did you...are you familiar with unit YYY-43?

7 A. Yes.

8 Q. And did you prepare or have prepared under your
9 supervision plats showing various mining and
10 topographic features?

11 A. Yes.

12 Q. And you've handed those out and they are in a
13 particular order. If I could, I'd like to ask you to
14 go over those first being the topographic location map
15 which will label as AA. Could you explain to the Board
16 what that is?

17 A. It's simply a topographic map showing the unit
18 boundary and the well spot for this particular well.

19 Q. And that well spot is an approximate well spot?
20 It's not a---?

21 A. That is.

22 Q. Okay. And the next one, which we will call BB
23 that is labeled "Red Ash Works"?

24 A. This shows the proposed well spot and unit in
25 relationship to the Red Ash mine works, which again

1 this is another blank one. There are no mine works in
2 here in the Red Ash. No firm mining plans or
3 projections at this time.

4 Q. The next exhibit, which we'll label as CC, this
5 mineral ownership map?

6 A. This exhibit shows the YYY-43 unit, the well
7 spot in relation to surrounding units and ownerships
8 and boundary.

9 Q. The next exhibit, which we'll DD which is
10 listed "Jawbone Works Shown in Blue and Red Ash Works
11 Shown in Red"?

12 A. That's correct. As you see the well spot in
13 relationship to the Jawbone work in particular these
14 are active mine works active in that they're being
15 ventilated as part of an active mine section. You see
16 the well spot, this is in a location consistent with a
17 mining plan. This mining has been abandoned.

18 Q. Which mining has been abandoned? I didn't see
19 that. I'm sorry.

20 A. Pardon?

21 Q. Which mining---

22 A. The Jawbone mining shown in this main right
23 here that has been stopped. Again, we'll go through
24 the process of coordinating with Jewell Smokeless as we
25 get further into the permitting procedure.

1 Q. And which area, I'm sorry, I did not catch, is
2 being actively ventilated?

3 A. Yes.

4 Q. Which part?

5 A. Just this...the entire area right here.

6 Q. Oh, okay. And the last Exhibit EE, is that a
7 blow up of the unit showing just the Jawbone works?

8 A. It is.

9 TOM MULLINS: That's all the questions I have of
10 Mr. Blackburn.

11 BUTCH LAMBERT: Any questions from the Board?

12 BILL HARRIS: Let me just ask one and I guess this
13 is obvious. Is this on the state line? Nowhere on in
14 any of these does it say Virginia, West Virginia,
15 Virginia or Kentucky, Virginia---?

16 DONNIE RATLIFF: Bradshaw---.

17 MARY QUILLEN: That's state line.

18 BILL HARRIS: Well, but I'm supposed to from
19 Bradshaw coordinates. I'm not being smart with you,
20 but I'm just saying it would be nice if...and I guess
21 it's obvious, but it would be nice if we said Virginia
22 on the left and West Virginia or wherever on the right.

23 TOM MULLINS: We can do that.

24 TIM BLACKBURN: We can do that. That would be
25 nice.

1 Q. Are you familiar with the application for unit
2 YYY-43?

3 A. Yes.

4 Q. And what size is this unit?

5 A. 26.02 acres.

6 Q. This is an Oakwood unit?

7 A. It is.

8 Q. And it's for Rogers well 180?

9 A. Yes.

10 Q. Does GeoMet have drilling rights for this unit?

11 A. Yes, we do.

12 Q. And are you aware of any parties listed on
13 Exhibit B-3 that need to be dismissed?

14 A. No.

15 Q. What is the percentage of coal ownership that
16 GeoMet has under lease?

17 A. 50.19%.

18 Q. And the gas ownership?

19 A. 37.6425%.

20 Q. And was notice sent as required by statute?

21 A. Yes, it was.

22 Q. And we just handed in the affidavit showing
23 mailing by certified mail that we have for filing post
24 hearing the publication from the newspaper of general
25 circulation, is that correct?

1 A. That is correct.

2 Q. Is GeoMet authorized to do business in the
3 Commonwealth of Virginia?

4 A. Yes, they are.

5 Q. And does it have a bond on file?

6 A. Yes, it does.

7 Q. And the lease terms that GeoMet offers folks
8 that lease, what are those?

9 A. Twenty dollars per acre for a five year paid up
10 lease with a one-eighth royalty.

11 Q. And is it still your opinion that this is fair
12 and reasonable lease terms?

13 A. Yes, it is.

14 Q. And you're seeking to pool 62.3575% of the oil
15 and gas estate, is that correct?

16 A. That is correct.

17 Q. And 49.81% of the coal estate?

18 A. That is correct.

19 Q. And there are some unlocateable...unknown and
20 unlocateable owners, is that true?

21 A. Yes.

22 Q. And is that Tract 2?

23 A. Yes, it is.

24 Q. And the total percentage to be escrowed for
25 unknown owners is 49.81%?

1 A. That's correct.

2 Q. And Exhibit E has been prepared and attached to
3 the application to document that?

4 A. Yes.

5 Q. And also there are in Tracts 1...I may be getting
6 ahead of myself. Are there folks whose interest are in
7 dispute in this---

8 A. Yes.

9 Q. ---application? And is that Tracts 1, 2 and 3?

10 A. Yes, it is.

11 Q. Okay. And is that a total of 62.3575%?

12 A. It is.

13 Q. And that, again, is listed on Exhibit E?

14 A. Yes.

15 Q. And is GeoMet requesting that the Board pool
16 the unleased interest in this unit?

17 A. Yes.

18 Q. And should the information and correspondence
19 be sent to Joseph L. Stevenson at 5336 Stadium Trace
20 Parkway, Ste. 0206, Birmingham, Alabama 35244?

21 A. Yes, it is.

22 Q. And did you assist in the preparation of the
23 estimated well costs for this well?

24 A. I did.

25 Q. The total depth?

1 A. 2172 feet.

2 Q. And the estimated reserves?

3 A. 864 million.

4 Q. And the well completion costs?

5 A. \$451,489.

6 Q. And the estimated dry hole costs?

7 A. \$221,572.

8 Q. And is there...as an attachment, is that broken
9 down as Exhibit C to the application?

10 A. Yes.

11 Q. Does that estimated well cost include a charge
12 for supervision?

13 A. It does.

14 Q. And is it your testimony that the granting of
15 this application would promote conservation, protect
16 correlative rights and prevent waste?

17 A. Yes.

18 TOM MULLINS: That's all I have.

19 BUTCH LAMBERT: Any questions from the Board?

20 BRUCE PRATHER: Mr. Chairman, I've got one
21 question.

22 BUTCH LAMBERT: Mr. Prather.

23 BRUCE PRATHER: On the property as outlined on the
24 lease map here, I assume all of these LBR Holding
25 properties that you have leases on those---?

1 TOM MULLINS: We do.

2 BRUCE PRATHER: ---that are in West Virginia?

3 TOM MULLINS: We do.

4 BRUCE PRATHER: Okay. Thank you.

5 BUTCH LAMBERT: Any other questions?

6 (No audible response.)

7 BUTCH LAMBERT: Anything further, Mr. Mullins?

8 TOM MULLINS: No, sir.

9 BUTCH LAMBERT: Do I have a motion?

10 MARY QUILLEN: Motion to approve.

11 BRUCE PRATHER: Second.

12 BUTCH LAMBERT: A motion and a second. Any further

13 discussion?

14 (No audible response.)

15 BUTCH LAMBERT: All in favor, signify by saying

16 yes.

17 (All Board members signify by saying yes.)

18 BUTCH LAMBERT: Opposed, no.

19 (No audible response.)

20 BUTCH LAMBERT: Thank you, Mr. Mullins. It's

21 approved.

22 TOM MULLINS: Thank you, Mr. Chairman, and members

23 of the Board.

24 BUTCH LAMBERT: Mr. Asbury, can you give us a very

25 brief update on the escrow activities.

1 DAVID ASBURY: Yes, sir, Mr. Chairman. With the
2 Board's summary description, you can see the activity
3 through April 30, 2011 for the escrow account for the
4 second quarter. Our first quarter of April beginning
5 balance was \$20,744,357. We had an ending balance of
6 \$26,245,337, which included disbursements of
7 \$709,190.80 for the month of April. That brought our
8 total year-to-date disbursements to \$968,509.

9 BUTCH LAMBERT: Which will go down this month.

10 DAVID ASBURY: As of last night, we've added
11 another \$335,000 to this quarter's disbursements. So,
12 year-to-date and there are three disbursements today,
13 we will exceed 1.3 million dollars by the end of the
14 second quarter of this year. That's...as you folks have
15 approved, there's an increase of activity in Court
16 decisions and split agreement decisions. That's all
17 the testimony to the Board's activities and approval.
18 The gas companies has brought those disbursements for
19 the Board and the staff of the Board.

20 SHARON PIGEON: It doesn't look like we've had that
21 million plus dollars that CNX is holding as an
22 extensions. That doesn't look that has been paid into
23 it. Is that right?

24

25

1 DAVID ASBURY: That's correct. That order has not
2 been provided the Board or staff after multiple
3 attempts.

4 BUTCH LAMBERT: Mr. Asbury, could you prepare a
5 letter for the Board Chairman's signature to CNX
6 requiring them to submit that to the escrow agent?

7 DAVID ASBURY: Yes, sir, I will.

8 BUTCH LAMBERT: Thank you.

9 DAVID ASBURY: Part B is an update of costs
10 relative to the escrow account. This is mainly a
11 tracking in the accounting of our costs related to the
12 ongoing efforts of our hourly folks and then the audit
13 costs and review of the detailed audit. For April, the
14 hourly work invoices total \$7,468. We're continuing to
15 track that against agent fees and interest income. As
16 you'll see on the Board's approval last month the
17 financial investment plan from First Bank & Trust the
18 investment will go up and the net income again will be
19 positive as it was for the first quarter and it will be
20 positive unless incur expenses that we don't anticipate
21 right now for the year-to-date and set quarter. I
22 would make the Board aware we've had communications
23 from one law firm indicating they are interested in
24 trying the arbitration route for one or more of their
25 clients. They...that information was just requested from

1 the staff this week and the formal request has not been
2 provided or come before the Board for arbitration. But
3 as far as we know today, it is their intention to
4 pursue arbitration for one or more of their clients in
5 Buchanan and/or Tazewell County.

6 BUTCH LAMBERT: Thank you, Mr. Asbury. Mr.
7 Prather, could you give us a quick update on the
8 meetings that you have been chairing on provisional
9 units?

10 BRUCE PRATHER: The committee meetings?

11 BUTCH LAMBERT: Yes, sir.

12 BRUCE PRATHER: Okay. We've...the first meeting that
13 we had, which was a couple of months...a couple of months
14 ago or three months ago, I guess, the industry
15 representatives and the committee representatives
16 reviewed and defined or tried to define the extent of
17 non-gas fields in the Commonwealth with the focus on
18 the counties of Southwest Virginia. Basically what we
19 did, we went over the provisional units that are in
20 effect at the present time and we started pairing down
21 to where we had 40 acre units and had those extended
22 out for a ways in which they would still equal the 320,
23 which would be eight 40 acre units. The industry
24 didn't take to that very well. They wanted those units
25 to even be smaller. So, our meeting that we had

1 yesterday, I told our...I requested that they go back and
2 figure out which unit size or what tract size would be
3 sufficient that they could work with and that they
4 could agree to as far as their companies were
5 concerned. They came yesterday and they came up with
6 these 20 acre tracts. The reason they wanted the 20
7 acre tracts, they said that when they have these big
8 internal leases that are big that the smaller that unit
9 size is the more flexibility they have. One of the
10 problems with it is that the unit is so small that
11 there's a possibility that you could get outside of the
12 unit. We talked quite a bit about that. Basically
13 what they want us to do is look at this 20 acre unit.
14 We agreed that we would try to put this into effect.
15 What we're going to do now is David and I are going to
16 get together and we're going to come up with some sort
17 of a paper that we can present back to the committee
18 members, plus the fact that I would like to have some
19 sort of a legal opinion on this thing. In other words,
20 are we doing is it in conflict with any laws that are
21 presently on the books of the State of Virginia. So,
22 if David and I can get this paper together, we would
23 like to have somebody, either Ms. Pigeon or whoever the
24 person would be, take a look at what we're presenting
25 and make sure the thing is legal otherwise there's no

1 sense going any further with it. But anyway, they also
2 wanted to change the offset provisions to 300 feet.
3 So, we're talking about 20 acre units with the 300 foot
4 offset. They said they weren't a bit concerned about
5 interference or anything else. As far as I'm
6 concerned, as long as there's no adjacent property
7 owner that has a problem with them, which we get the
8 correlative rights on, I really don't care what they
9 do. If they think their economics will do on 20 acres
10 and it doesn't affect anybody else, I mean, I don't
11 know how we can make it any better. The only other
12 thing about it is that they said that they would help
13 us prepare a map, which would be a digital map, since
14 all of these companies have got digital controls of a
15 lot of their mapping and this, that and the other and
16 they could make us a digital map of the State of
17 Virginia based on the state plain coordinates. So, we
18 wouldn't have to have anybody with the State prepare
19 this map. The only thing about it is that if we're
20 going to make it this small and that's what they want
21 to do, then you're probably going to have one of these
22 maps for each one of these formations. So, you're
23 going to have a combination of maybe eight or ten of
24 these maps that are based on the state plain

25

1 coordinates. You know, it will take some time to
2 manage this thing. It's going to be pretty cumbersome.

3 BUTCH LAMBERT: In your opinion, Mr. Prather, do we
4 need to continue with the...approving provisional units
5 or should we wait until your committee is completed?
6 It's what---

7 BRUCE PRATHER: Well, I think...I think basically if
8 I knew right here that what we were talking about was
9 totally legal, I could say we could probably just do
10 away with the provisional units. But we've got
11 to...we've got provisional units anyway. So, they're
12 going to interfere with whatever system we put up. So,
13 you know---

14 BUTCH LAMBERT: You don't see any conflict with the
15 Board to continue with the provisional units at this
16 point?

17 BRUCE PRATHER: Not...well, the Board is going to
18 have to adopt this. In other words, kind of how we
19 were planning this thing, we were going to have it
20 done...the presentation would be made to the committee
21 members, I think, the later part of June. Is that what
22 it was, David?

23 DAVID ASBURY: Yes, sir, June the 27th.

24 BRUCE PRATHER: Yeah. Then we were going to get
25 our legal opinion. And I think it's on the August

1 meeting, the industry was going to make a dog and pony
2 show along with everything else strictly for the Board
3 to look at this thing to make a decision as well if we
4 want to adopt this. So, that's...that's kind of way it
5 has been going along.

6 DONNIE RATLIFF: A 20 acre unit would be how wide
7 and how long?

8 BRUCE PRATHER: I don't know. I can---

9 DONNIE RATLIFF: I mean, what are they talking
10 width wise?

11 BRUCE PRATHER: Width wise?

12 DONNIE RATLIFF: You said---

13 BRUCE PRATHER: Well, it would be 20 acre squares.
14 Well, I've got a map here, I think.

15 DAVID ASBURY: What I remember, Mr.---

16 BRUCE PRATHER: You got one in your...I've got yours.

17 DAVID ASBURY: You've got the exhibits in there.

18 BRUCE PRATHER: Yeah.

19 DAVID ASBURY: Mr. Ratliff, what---?

20 BRUCE PRATHER: Yeah, here's what they're talking
21 about.

22 DAVID ASBURY: ---they talked about yesterday as an
23 initial phase is just to establish a 20 acre grid from
24 which units can be designed.

25

1 BRUCE PRATHER: Yeah. Would you like me to pass
2 this around to everybody?

3 DAVID ASBURY: Sure. Sure. There should be copies
4 for every...enough for all of the Board members.

5 BRUCE PRATHER: Oh, in here?

6 DAVID ASBURY: Yes, sir.

7 BRUCE PRATHER: Oh, I didn't know that. Here you
8 go. I assume you want me to give these out.

9 DAVID ASBURY: You're the Chairman of the
10 committee.

11 (Exhibit is passed out.)

12 DAVID ASBURY: This does include the exhibits that
13 were discussed at yesterday's meeting.

14 BUTCH LAMBERT: Anymore?

15 DAVID ASBURY: Do I have any more?

16 BILL HARRIS: Do you need any more?

17 DAVID ASBURY: No, we're good.

18 DONNIE RATLIFF: I think we're okay.

19 BRUCE PRATHER: Okay. We're still going to have
20 one problem with any system that we use and that is
21 when they come in and say that we're going to drill a
22 2,000 foot lateral and they only drill due to say
23 drilling conditions or whatever, they can only drill
24 1500 feet. So, here you are with the royalty owners
25 that have been told the thing is going to be out there

1 2,000 feet and it's only 1500. You know, it's...it goes
2 to the same thing that there may be some stranded
3 acreage. The smaller the unit is the less chance of
4 stranded acreage. That's one of the benefits.

5 BUTCH LAMBERT: Mr. Prather, what was the
6 discussion on the drainage for that horizontal leg?

7 BRUCE PRATHER: Which was that?

8 BUTCH LAMBERT: Well, I'm looking at...well, this is
9 tentative, with a 300 foot offset. That's not what was
10 talked about is it? It was 20 acres?

11 BRUCE PRATHER: Yeah.

12 BUTCH LAMBERT: Okay.

13 BRUCE PRATHER: Yeah, this one here would be the
14 one that we're talking about. This one was done by
15 Equitable and then we have another one done by Range
16 Resources. I asked them to take a...to come up with a
17 concept that they could live with. It really was
18 rather strange in one respect and that is that if they
19 have a conclusion because they all came back with the
20 same system.

21 BUTCH LAMBERT: Okay. I guess the plan is another
22 meeting and then in August we'll have a presentation
23 before the Board?

24 BRUCE PRATHER: If...you know, if we get everything
25 done, yes.

1 BUTCH LAMBERT: Okay.

2 BRUCE PRATHER: That would be our---.

3 DAVID ASBURY: Mr. Chairman, in the minutes,
4 there's two request that staff is going to provide to
5 the Board. We can do it here if you'd like. One of it
6 is the committee asked staff to seek technical
7 assistance in establishing a survey grade grid map on
8 the NAD 83 coordinate system. This 20 acre grid, the
9 committee is asking that DMME establish that grid for
10 the committee and the board beginning with a point in
11 Lee County and to far western point of Virginia and
12 provide an initial grid of these 20 acre units for most
13 of Southwest Virginia now, but it could be extended
14 statewide. That's a recommendation from the committee
15 through staff to the Board for that assistance. The
16 second piece from the committee they asked staff, as
17 Mr. Prather just said, to seek a review and advice
18 regarding the exhibit and pooling language from the
19 Attorney General's office to ensure that the language
20 conforms with current statutory and regulatory
21 standards and enhancements that may be recommended for
22 the structure of the language in the first draft. So,
23 those are the two things that the committee asked staff
24 to bring before the Board to get assistance. And at

25

1 this time, as you know, DGO does not have its technical
2 person to do a survey. We'd have to ask DMME help.

3 BUTCH LAMBERT: And we can probably find the
4 resources to do that.

5 BRUCE PRATHER: I mean, if not, we probably could
6 get somebody like Range Resources to do it on their
7 computer. They've got a digital---

8 DAVID ASBURY: Well, this is...this request is
9 physically doing it in the field to tie down the actual
10 point.

11 BRUCE PRATHER: Yeah.

12 DAVID ASBURY: The USGS location.

13 BUTCH LAMBERT: And they need a point to get it
14 started.

15 DAVID ASBURY: Yes.

16 BUTCH LAMBERT: I understand.

17 DAVID ASBURY: So as to begin the NAD 83 system.

18 BUTCH LAMBERT: We could probably assist with that.

19 DAVID ASBURY: Okay, sir.

20 BUTCH LAMBERT: Anything further?

21 (No audible response.)

22 BUTCH LAMBERT: Just a reminder that the meeting
23 date has been changed for next month. That the meeting
24 will be on June the 14th.

25

1 BRUCE PRATHER: I got one other thing that I would
2 like to bring up. Butch and I and Mary were talking at
3 noon that the DMME and the State of Virginia into a
4 financial problem right now. I asked Butch if he had
5 problems financing any of his people to assist us in
6 the escrow and even this project here, as far as that's
7 concerned. He said that he was having these
8 difficulties. I made the suggestion that maybe what
9 the Board should do since we've got \$700,000 or
10 \$800,000 interest from that escrow account since who he
11 is hiring or whatever the position is going to be of
12 benefit the Board, why could the Board subsidize this
13 position somewhat or somehow?

14 DAVID ASBURY: Are you speaking of the Board
15 support position that was just hired to---?

16 BUTCH LAMBERT: In addition to.

17 DAVID ASBURY: In addition to.

18 BRUCE PRATHER: In addition to it, yeah.

19 DAVID ASBURY: Okay.

20 MARY QUILLEN: And this...to do in a contract in a
21 part-time contract position and that would
22 probably...with 30 hours or less and Chairman Lambert
23 recommended 30 hours and get around any benefits. But
24 you also don't have to advertise for...if you do it by
25 contract and it can be approved much more easily.

1 BRUCE PRATHER: I mean, I kind of envisioned this
2 as being maybe a temporary stop gap.

3 MARY QUILLEN: Right.

4 BRUCE PRATHER: But, you know, we can assist you.
5 It's going to help our...us in the long run.

6 DAVID ASBURY: Well, if I may,---.

7 BUTCH LAMBERT: Jump in.

8 DAVID ASBURY: ---and there's different views of
9 where we are. We...DMME did approve the division to
10 offer a Board support position that we advertised and
11 we received 65 applications for. We interviewed 9
12 folks. That Board support position is supposed to or
13 envisioned that the employee work profile meets the
14 requirements for what the Board is putting into place
15 with the escrow account...the monitoring of the escrow
16 account and the working of the escrow account and
17 having the disbursements ready and changing the process
18 of Board orders and disbursements from the downstream
19 to have everything done after the Board meeting to have
20 it done at the time of the meeting. The three hourly
21 folks who are starting with 2009 and going back to
22 2000, the Board support position that was just hired
23 was envisioned to take 2010 and take it and continue it
24 going forward with the Board. That's how the employee
25 work profile was designed. It's a new position. It's

1 new functions for the most part, more than 50% of its
2 new function, is to do the things that was envisioned
3 with First Bank & Trust as far as the enhanced
4 monitoring of the escrow account and enhanced
5 relationship and the accounting type of management of
6 the account. That Board support position was hired by
7 DGO and is...the successful candidate was Sharon Hagy.
8 Sharon has not been able to step into the Board
9 position because we have not been successful in getting
10 the approval to hire or replace her existing position
11 with the Division, which is a critical division for
12 what we do in DGO for client assistance, our E-form
13 systems and she had taken a combined workload when we
14 moved to the Lebanon office from Abingdon and
15 it's...we've looked at trying to rewrite and reschedule
16 some things. But what Sharon does with the Division
17 has been critical to the point that we have not been
18 able to say okay start your new job. We've been trying
19 to train and move as we could as time allowed. But she
20 has a current job with the Division that we can't just
21 let go to step into the new position. So, that's...if
22 the Board would...I guess this would just...there's a
23 thought. This is a position that was advertised for
24 two years. If the Board wants to fund that position,
25 which is 85% or 90% of what she will be doing is for

1 the Board. There's only 5% or 10% of client assistance
2 for the Division side of this. Her position that she
3 was hired is 85% or 90% strictly for Board work.

4 SHARON PIGEON: What do you mean by that?

5 MARY QUILLEN: Well, the Division---

6 DAVID ASBURY: I'm sorry?

7 SHARON PIGEON: Board work, what duties are we
8 talking about?

9 DAVID ASBURY: Again, it was...it's duties dealing
10 with the escrow agent, monitoring of the escrow
11 accounts, more timely filing and recordation of orders
12 and disbursements and having things done for the Board.
13 Client forward request for the Board. Client
14 assistance for the Board. We've had as you can imagine
15 an influx of request for a certification of records
16 with the Federal lawsuit that's going on and those type
17 of things. All of that's---

18 SHARON PIGEON: A lot of that could not be funded
19 from the escrow account. Is that what you're
20 proposing?

21 DAVID ASBURY: I'm sorry?

22 SHARON PIGEON: A lot of that could not be funded
23 from income on the escrow account. Is that what you're
24 proposing? Maybe I...because the Board has not budget.
25 How is the Board going to pay any of that?

1 BUTCH LAMBERT: It will have to be funded from the
2 interest of the account if we do that.

3 DAVID ASBURY: Interest income.

4 BRUCE PRATHER: Yeah.

5 SHARON PIGEON: We can't pay for some of those
6 duties. I mean, it would be extraordinarily narrow to
7 use interest from that escrow account.

8 BUTCH LAMBERT: No, we...the answer to your question
9 is no the Board interest could not pay for any of or
10 part of that position. That's a DMME position.

11 DAVID ASBURY: That's correct.

12 BUTCH LAMBERT: It could not.

13 DAVID ASBURY: That's what I'm saying. 85%...80%
14 or 85% of it I've got the EWT that we did. The portion
15 that would be division I agree should not be paid for
16 the Board...or by the Board.

17 MARY QUILLEN: Could I clarify just one thing,
18 David? You were saying that it's...she has...she has a job
19 that's a Division job. Is that correct?

20 BUTCH LAMBERT: That's correct. The DMME now is
21 paying that position.

22 MARY QUILLEN: Right. But if she leaves that
23 position, does the freezing hire or the freeze on
24 hiring affect that job that you could not hire someone
25 to replace her?

1 BRUCE PRATHER: That's the problem.

2 BUTCH LAMBERT: That's...that's correct.

3 DAVID ASBURY: The position---

4 MARY QUILLEN: Okay. So, yeah, that's where the
5 problem is hiring somebody in-house to do the new
6 position and then you lose that---

7 BUTCH LAMBERT: Well, in two...in two years we're
8 going to lose that position at DMME because that's
9 only...the position was only approved by the Governor and
10 Secretary's office for a two year position.

11 SHARON PIGEON: The new one.

12 BUTCH LAMBERT: The new one that---

13 BRUCE PRATHER: And then not fund it.

14 BUTCH LAMBERT: And then not fund it after that,
15 that's correct.

16 MARY QUILLEN: So, what is...when does the two
17 years...when is the two years up?

18 DAVID ASBURY: April of---

19 BUTCH LAMBERT: April of 2013.

20 MARY QUILLEN: Oh. So, that's a long time.

21 DAVID ASBURY: Well, again, we're struggling with
22 that and it has been...we have defended the position.
23 I'm in the process of rewriting and defending Sharon's
24 existing position now. The point that I'd like to make
25 is if we would have hired outside and Sharon would not

1 have been the successful candidate that person would
2 have been in place with Sharon doing her normal job.

3 MARY QUILLEN: Right. Well, why not look at it
4 this is hire a part-time person that the Board could
5 approve and it be strictly until...it would be limited
6 until April of 2013 if, you know, we continue to need
7 that assistance. You can't do that?

8 DAVID ASBURY: The position that Sharon took
9 doesn't allow her to step back into the position that
10 she's leaving from.

11 MARY QUILLEN: Oh. So, she has already resigned
12 from her current position.

13 BUTCH LAMBERT: It wouldn't a matter of resigning.
14 She just accepted the two year temporary position and
15 after two years she's out of a job.

16 DAVID ASBURY: Unless...unless it's approved as a
17 full-time position.

18 BRUCE PRATHER: That's a problem.

19 MARY QUILLEN: So, that...yeah.

20 BUTCH LAMBERT: So, right now---.

21 DONNIE RATLIFF: She knew that going in?

22 BUTCH LAMBERT: She knew that going in.

23 DAVID ASBURY: All the candidates were made aware
24 of that as they interviewed.

25

1 BUTCH LAMBERT: So, to get back to Mr. Prather's
2 suggestion, there are things though like recordation of
3 orders and doing those kinds of things that we could
4 temporary through the Board hire us a contract person
5 to help with those duties until you get Sharon up to
6 speed where she needs to be. It would give you
7 some---

8 SHARON PIGEON: How are you going to pay for those?

9 BUTCH LAMBERT: Well, this Board would have to vote
10 to pay for it out of the interest on the escrow
11 account.

12 SHARON PIGEON: That's not---

13 DAVID ASBURY: The---

14 SHARON PIGEON: ---an appropriate use of that
15 money. That...those duties have been handled by the
16 Division historically and to now say, well, you know,
17 we've got something going on over here, I think you're
18 going to have a legal problem with that.

19 BUTCH LAMBERT: Well...well, I wouldn't think so
20 because we've hired three contract people who---

21 SHARON PIGEON: To audit. Very specifically to
22 audit the escrow account.

23 MARY QUILLEN: Specifically for the audit.

24

25

1 DAVID ASBURY: Well, I...it's my humble opinion that
2 the Board has the authority and...the statutory authority
3 to employ or hire staff to do their work. How it's---?

4 SHARON PIGEON: They do. But they don't have a
5 budget? There's no question they have the authority.
6 They don't have any money. The money is escrow money.

7 BUTCH LAMBERT: Well, if you use that argument, we
8 shouldn't be paying contract laborers...three contract
9 laborers then.

10 SHARON PIGEON: We're paying them to audit the
11 escrow account.

12 BUTCH LAMBERT: No. No, they're not auditing the
13 escrow account.

14 SHARON PIGEON: Well, they're doing audit work---.

15 BUTCH LAMBERT: No. No, they're---.

16 SHARON PIGEON: ---in support of the audit.

17 BUTCH LAMBERT: ---just...they're just doing a---.

18 DAVID ASBURY: A detailed review of accounts.

19 BUTCH LAMBERT: ---review and data input entry.
20 They're not doing an audit.

21 SHARON PIGEON: Of the escrow account.

22 BUTCH LAMBERT: Of the escrow account. But they're
23 not doing an audit.

24

25

1 SHARON PIGEON: Well, it's all related to the
2 escrow account at the request of the auditor of the
3 escrow account.

4 BUTCH LAMBERT: Well, to use your argument, if this
5 Board doesn't have the authority to hire and doesn't
6 have a budget, then we shouldn't have done that. We
7 shouldn't have hired three---

8 SHARON PIGEON: Well, it's not just my argument.
9 It's one that was passed up the line at the time that
10 we were considering doing what we were doing with the
11 audit clerks.

12 BUTCH LAMBERT: What do you mean passed up the
13 line?

14 SHARON PIGEON: Up the...my line of authority to the
15 AG's office. I was advised that that was the consensus
16 from the people who considered it. We didn't get a
17 formal opinion. You know, if you want to go that
18 route, that's something that you can request. But
19 using the money from the interest paid on the interest
20 account is very limited to use that money.

21 DAVID ASBURY: So, what action could the Board
22 take, Ms. Pigeon, to request or secure funds for moneys
23 in addition to budget costs that the Board's fees are
24 not covering?

25

1 SHARON PIGEON: The General Assembly should be
2 giving you some money. You know, that's where the
3 money should be coming from.

4 BUTCH LAMBERT: No, we can't get money...this Board
5 can't get funding from the General Assembly.

6 SHARON PIGEON: You're not going to be able to
7 freely deep into the escrow account. Recording orders
8 and responding furor requests are Division---.

9 BUTCH LAMBERT: No, I think if the Board even
10 considered that it would have to be a very limited job
11 description of what that position would be doing. It
12 would not be furor requests.

13 DONNIE RATLIFF: Well, would you not be in line if
14 we follow the recommendation of the public auditor on
15 the...is that not basically the duties that you're
16 talking about what they're recommending that we should
17 be doing?

18 BUTCH LAMBERT: Yeah. That's...that's correct.

19 DAVID ASBURY: May I, Mr. Chairman? Under 361.14
20 meetings of the Board, notice, general powers and
21 duties and this is part B: "The Board shall the power
22 necessary to execute and carry all of its duties
23 specified in this chapter. The Board is authorized to
24 investigate and inspect such records and facilities as
25 necessary and proper to perform its duties under this

1 Chapter. The Board may employ such personnel and
2 consultants as may be necessary to perform its duties
3 under this Chapter."

4 BUTCH LAMBERT: But it doesn't say where the
5 funding comes from.

6 SHARON PIGEON: It's unfunded mandate. I mean, you
7 see them all the time.

8 BUTCH LAMBERT: Yeah.

9 SHARON PIGEON: There's no question that you have
10 the authority. You have...the Board has very broad
11 authority.

12 BUTCH LAMBERT: Yeah. It doesn't address funding
13 though.

14 SHARON PIGEON: (Inaudible).

15 DAVID ASBURY: So, how do we bridge that gap?

16 KATIE DYE: Is there any way that you could...I don't
17 know about fees or anything there, an increase in fees.

18 BUTCH LAMBERT: Well, that was discussed before
19 last year in the General Assembly about an increase in
20 fees to fund a Board position and---.

21 SHARON PIGEON: It didn't happen.

22 BUTCH LAMBERT: ---got struck down. It didn't
23 happen.

24 KATIE DYE: It got struck down.

25

1 DAVID ASBURY: Would it...would it be appropriate for
2 the Board to make a motion if they...if approved draft a
3 resolution from the Board requesting the Director of
4 DMME to seek funding for positions for additional work
5 for the Board?

6 SHARON PIGEON: Aren't some of your fees set by
7 reg? You could consider a reg amendment and that way
8 you wouldn't have to go through the General Assembly.
9 That might be your best bet.

10 (Board members confer among themselves.)

11 BUTCH LAMBERT: Okay. We'll continue this
12 discussion. We'll be here all night talking about
13 this. One last one item that we have. Has everyone
14 had a chance to review the minutes?

15 (No audible response.)

16 BUTCH LAMBERT: Any additions or corrections?

17 (No audible response.)

18 BUTCH LAMBERT: Do I have a motion to approve?

19 DONNIE RATLIFF: So moved, Mr. Chairman.

20 MARY QUILLEN: Motion to approve. Second.

21 SHARON PIGEON: Everybody is in favor.

22 BUTCH LAMBERT: All right everybody is in favor.

23 This hearing is adjourned. Thank you everybody for
24 your time.

25

1 STATE OF VIRGINIA,
2 COUNTY OF BUCHANAN, to-wit:

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

8 Given under my hand and seal on this the 15th day
9 of June, 2011.

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NOTARY PUBLIC

My commission expires: August 31, 2013.
Reg # 186661