

VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

VIRGINIA GAS AND OIL BOARD HEARING

Tuesday, February 18, 2013

Lebanon, Virginia

**BOARD MEMBERS:**

Bruce Prather – Gas & Oil Industry Representative

William Harris – Public Member

Rita Surratt – Public Member

**APPEARANCES:**

Bradley Lambert – Chairman of the Virginia Gas & Oil Board

Rick Cooper – Director of the Division of Gas & Oil and Principal Executive to the Staff of the Board

Matthew Gooch – Assistant Attorney General

Diane Davis – Staff Member of the Division of Gas & Oil

Sarah Gilmer – Staff Member of the Division of Gas & Oil

## Agenda Items

<u>Item Number</u>	<u>Docket Number</u>	<u>Unit/Well</u>		<u>Page</u>
1	Public Comments			1
2	Update from Escrow Agent - First Bank & Trust Company – Debbie Davis			4
3	VGOB-04-1116-1363-03	VC-504248	(Continued)	12
4	VGOB-04-0817-1325-03	VC-505241	(Continued)	12
5	VGOB-01-0821-0919-03	VC-504484	(Continued)	12
6	VGOB-09-0317-2490-01	AV-135	(Approved)	13
7	VGOB-92-0721-0240-04	W-20	(Approved)	16
8	VGOB-91-1119-0161-04		(Approved)	25
9	VGOB-05-1018-1504-01		(Approved)	26
10	VGOB-92-0721-0244-02	VP6SGU	(Approved)	28
11	VGOB-93-0316-0342-03		(Approved)	35
12	VGOB-96-0116-0530-02	V-28	(Approved)	41
13	VGOB-98-0324-0627-09	W-35	(Continued)	44
14	VGOB-13-1217-4029		(Continued)	68
15	VGOB-14-0121-4030	V-530126	(Approved)	70
16	VGOB-14-0121-4031	V-530350	(Approved)	74
17	VGOB-14-0121-4032	V-530377	(Approved)	76
18	VGOB-14-0121-4033	V-530378	(Approved)	79
19	VGOB-14-0218-4034	V-530386	(Approved)	82
20	VGOB-14-0218-4035	VC-530383	(Approved)	85
21	Update of Board and Division activities from the staff			89
22	Review and Approval of December 2013 Minutes			90

1 **Bradley Lambert:** Folks if you will take your seats it is time for us to begin our proceedings  
2 here today. I know the room is really open and if you have trouble hearing just speak up we will  
3 try to keep our voices as loud as we can today. I think everybody should have a microphone up  
4 at the Board Members. But again, if anybody has trouble hearing, just let us know and we will  
5 try to speak up as loud as we can. If you have any communication devices on you this morning  
6 cell phones, pagers, other devices that may make a noise, if you would please turn those off or at  
7 least put them on vibrate. We ask that if you must take a call, please do so out in the hall. These  
8 proceedings are being recorded and we need to be able to hear all that is going on today. So  
9 thank you for that. At this time, I would like to welcome Matt Gooch from the Attorney  
10 General's Office in Richmond. Matt will be representing the AG's office with us today. I will  
11 ask that the other Board Members please introduce themselves beginning with Ms. Surratt.

12 **Rita Surratt:** I'm Rita Surratt, I'm a public member from Dickenson County.

13 **Matthew Gooch:** Matt Gooch, Office of the Attorney General.

14 **Bradley Lambert:** And I am Butch Lambert with the Department of Mines, Minerals and  
15 Energy.

16 **William Harris:** I'm Bill Harris a public member and I'm from Wise County.

17 **Bruce Prather:** I'm Bruce Prather. I represent the oil and gas industry on the Board.

18

19 **Item Number 1 - Public Comments**

20 **Bradley Lambert:** Thank you ladies and gentlemen. At this time we will begin our  
21 proceedings and the first item on the docket is we will receive public comments. The first person  
22 I have signed up is Ms. Sneeuwjagt. Good morning Ms. Sneeuwjagt. Would you please state  
23 your name for the record?

24 **Juanita Sneeuwjagt:** Good morning. I am Juanita Sneeuwjagt. I'm President of the  
25 Committee for Constitutional and Environmental Justice. I just wanted to say welcome to Mr.  
26 Gooch...Gooch. I need you to pronounce your name for me.

27 **Matthew Gooch:** Gooch...like Goochland County. If you have ever been to central Virginia.

28 **Juanita Sneeuwjagt:** Goochland County...okay. Welcome we are happy to see you and hope  
29 you will enjoy being here with us.

30 **Matthew Gooch:** Thank you.

1 **Juanita Sneeuwjagt**: And I realize that your role is to advise the Board on legal matters. So I  
2 thank you for that and please be cognizant to fact that the people who have correlative rights  
3 involved here with these matters so... welcome. Someone just suggested to me a few minutes  
4 ago that I make a recommendation and I do know that the Board Members are appointed by the  
5 Governor for six-year terms but this thought has come up before and is that we should give some  
6 thought and perhaps some discussion with those who do these type things that a member be  
7 appointed to the Board full-time or part-time to search for unknowns and unlocatables. And  
8 often times, ah...when I hear the operator's saying we can't find those...I usually can find them  
9 pretty easily and I do that by telephone book, by tax records, etcetera...etcetera. So it's just a  
10 suggestion that I am throwing out that ah...and whoever you suggest that I discuss this  
11 with...with others. I think that would be a very helpful thing. And because if we don't find  
12 those people, when disbursements are made then it's my thought and my understanding that  
13 eventually that money will escheat to the State of Virginia. So many people do not know that  
14 they have money in an escrow account, say if their heirs or they've moved away and that sort of  
15 thing. So I hope you like my idea anyway there it is and uh...I think you and you have a good  
16 day.

17 **Bradley Lambert**: Thank you Ms. Sneeuwjagt. Ken Osborne....Mr. Osborne, would you  
18 please state your name for the record?

19 **Kenneth Osborne**: Yes sir. My name is Kenneth Osborne. I'm from Roanoke, Virginia. I am  
20 one of the Linkous Horne and O. H. Keene heirs and welcome Mr. Gooch. I think I got that right.

21 **Matthew Gooch**: Thank you.

22 **Kenneth Osborne**: Today I know they are having a hearing on I think it is W-35 or W-34. I'm  
23 going to object to the disbursements of funds from the unit W-35. Docket number VGOB-98-  
24 0324-0627-09. The O. H. Keene heirs have interest in units W-34 and W-35. The DGO and the  
25 Board have continued to disburse money from the escrow accounts including those which my  
26 family have interests in without any proof that all the production attributed to the units have been  
27 paid in accordance with the pooling orders. Issues with the recording and to the failure of the  
28 DGO and the Board to monitor these accounts were discovered back in 1997. When some large  
29 claimant's petitions for disbursements, the DGO and the Board agreed to approve the  
30 disbursements only if the attorney for the claimants dropped the orders for accounting and agreed  
31 to release them of their liability. In 2010, a test audit conducted by Robinson, Farmer and Cox,  
32 which was funded by money in the escrow found that five out of six randomly selected accounts  
33 audited for that period between January 2000, through December 2009, had errors in the  
34 accounts balance and that given the high error rate additional testing will not yield any  
35 acceptable error rate even if no more errors were found. Of course the owners of these accounts  
36 don't care about the statistics or acceptability error rates. All they care about is if their account is  
37 correct. Random audit of accounts does not say anything about the accounts not audited. Since

1 2010, there has been over \$230,000, charged to the escrow account for an audit that we are yet to  
2 see the results of. Additionally, there has been no attempt to audit deposits made from 1990 to  
3 2000, or after 2009. Instead of halting disbursements and requiring a complete accounting, DGO  
4 and the Board simplified disbursement petitions moving the required signed affidavits.  
5 Information pertaining to the wells and production covered by the disbursements and dropped  
6 any required proof of accounting for even reconciliation...reconciliation I'm sorry. Pooling  
7 order is essential and a contract between the Board as agent for the state on behalf of all owners  
8 in the unit leased and unleased and the operators. Without this order the gas cannot be legally  
9 produced regardless of 99.99% of the interest was leased. The state agrees to pool the interest of  
10 all parties so that the operator can produce the gas from which the state receives benefits and in  
11 return the operators retains 7/8 of the production and promises among other things to comply  
12 with the conditions of the order including placing royalties due to those they claim or are in  
13 conflict and unknowns in the state maintained escrow accounts as stated in the order. Chairman  
14 Lambert and Director Cooper signs off on these contracts and orders. Owners of these funds  
15 have no idea how payments are made to them, if productions from all wells attributed to the units  
16 as paid and received nothing but a check when money is disbursed. The owners have a  
17 responsibility expectations that the state who entered into this agreement on behalf of...on their  
18 behalf is protecting the interest. The Board and the DGO have failed to do that and I believe  
19 they should be held accountable for their actions. And again, I am going to object to the  
20 proposed disbursement of W-35. Thank you all.

21 **Bradley Lambert:** Thank you Mr. Osborne. I know we had some folks come in later, is there  
22 any other public comments from the audience? Good morning Ms. Guilliams, would you please  
23 state your name for the record?

24 **Martha Guilliams:** Martha Guilliams, Salem, Virginia, an heir to the Linkous Horn estate.  
25 Um...I do object to disbursement of funds from W-35 because we know that these funds are  
26 not...we know that these escrow accounts are not correct. Therefore, we don't...we really do  
27 not know if the amount of disbursements are being...what they are...they...these need to be re-  
28 done or properly the amounts. Um...we do know that there are several list...people listed as  
29 unknowns that could be contacted. Ah...that also needs to be done. And...but very firmly I  
30 have to object to any money being disbursed from these escrow accounts for  
31 future...ah...drilling of these wells. Because they are taking in the profits they take twice their  
32 expenses. Or I know there was a debate over taking three times. But I don't feel that is  
33 was...would be right on any terms to deduct money from the escrow accounts which have  
34 already been established to fund drilling of new wells. I think that's coming up in number  
35 fourteen today.

36 **Bradley Lambert:** Anything further Ms. Guilliams?

37 **Martha Guilliams:** I think that's all for right now.

1 **Bradley Lambert**: Thank you.

2 **Martha Guilliams**: Thank you.

3 **Bradley Lambert**: Any others?

4 **Ronnie Osborne**: I'm Ronnie Osborne. I've got one question on ah...like the 80 acres when  
5 they drill the well here beside the property line, who polices over when they...when they angle  
6 them wells out a little bit?

7 **Bradley Lambert**: Mr. Osborne we are not here to answer your questions dealing with that. I'll  
8 ask that you contact Mr. Cooper and set up a time to meet with him and he will discuss that with  
9 you.

10 **Ronnie Osborne**: Okay. Thank you.

11 **Bradley Lambert**: Thank you. Any others?

12 **Shirley Keene**: Good morning.

13 **Bradley Lambert**: Good morning Ms. Keene. Would you please state your name for the  
14 record?

15 **Shirley Keene**: Shirley Keene and ah...I'm here today because when this escrow fund was set  
16 up it was supposed to be set up with interest bearing accounts with no activity. And every month  
17 we come in here and we hear bank fees taken out of the escrow account. And I do have a major  
18 problem with that because when the law was set up was for no activities and then if they are  
19 going to take money out of the escrow account to drill wells inside the mines I've got a major  
20 problem with that. And I want it to be known that I am totally objecting to any activity in the  
21 escrow account. There's people that's not found um...different things going on with that escrow  
22 account that's got to be stopped. And I'm here today to make an objection to anything coming  
23 out of that account...any activity at all coming out of the account until it is fixed straight. Thank  
24 you.

25 **Item Number 2**

26 **Bradley Lambert**: Thank you Ms. Keene. Our next item on the docket is the Board will now  
27 hear the quarterly/year-end report by the First Bank and Trust Agent for the Virginia Gas and Oil  
28 Board. Ms. Davis, would you please come forward. Good morning.

29 **Debbie Davis**: Good morning. I'm Debbie Davis. I am with First Bank and Trust Company.  
30 I'm here to present the fourth quarter report. If you will turn under tab one, I have the fourth  
31 quarter summary showing a beginning balance as of 9/30 of \$28,088,221.69. Deposits for  
32 royalty and working income received total \$515,155.34. Interest earned was \$19,560.34. The

1 escrow agent fees were \$7,068.39. Distributions per orders was \$218,263.32. There was no  
2 audit expenses and there was an adjustment of two cents. The ending balance was  
3 \$28,397,605.64. If you will turn to the next page I went ahead and completed a summary for the  
4 year of 2013. We received deposits for 2013 for \$1,757,554.71. Interest earned was \$78,572.78.  
5 Escrow fees were \$27,928.64. Distributions made totaled \$1,035,885.45. There were audit  
6 expenses paid out totaling \$12,314.45. There was an adjustment made for \$1,436.45, and this I  
7 went back and researched because you had asked me to the last time that I was here. There were  
8 checks deposits received from CNX and I didn't catch it as I was depositing but there were two  
9 checks with the same check number, and so I actually had put it on my spreadsheet and deposited  
10 it in one month. It wasn't returned until the next month from the Federal Reserve showing that  
11 for whatever reason there were checks printed with the same account number. So I had to take  
12 those monies back out because we did not receive that deposit. So that's the reason for the  
13 adjustment because on one month it showed it went in and the next month I had to show that it  
14 went back out.

15 **Bradley Lambert**: Okay. So you received two checks for the same amount with the same  
16 check number...

17 **Debbie Davis**: For the same well.

18 **Bradley Lambert**: Okay. Sorry for the same well. Okay.

19 **Debbie Davis**: Yes. They were identical checks and CNX wasn't really for sure why that  
20 occurred and like I say I was not either. So...but I did bring it to their attention that...

21 **Bradley Lambert**: So you brought it back out were those refunded to CNX?

22 **Debbie Davis**: No. Because I never actually received them.

23 **Bradley Lambert**: Okay. I've got you. Thank you.

24 **Debbie Davis**: So...and that's where the adjustment showed because I had credited one month  
25 and I needed to bring it back out the next month. But there was no monies sent back to CNX  
26 because I never actually received those funds.

27 **Bradley Lambert**: This is the issue that we talked about the month before last?

28 **Debbie Davis**: Yes.

29 **Bradley Lambert**: I follow you now. Thank you.

30 **Debbie Davis**: Your welcome.

31 **Bradley Lambert**: Mr. Harris?

1 **William Harris**: I think I understand. There were two deposits in your mind. The same  
2 amount...at the time you weren't aware that they were duplicates?

3 **Debbie Davis**: I didn't pay attention to the check number, no.

4 **William Harris**: So when the Federal Reserve caught this and sent it back, then one of those  
5 actually wasn't paid to the bank.

6 **Debbie Davis**: One was valid, one was not. Yes.

7 **William Harris**: Okay...okay. Thank you.

8 **Debbie Davis**: Any other questions? [No response] Under tab two, again just as normal I show  
9 you the outstanding checks that we have. Either they have been returned with an incorrect  
10 address and we've not been able to find one...actually I think Ms. Bailey may have even passed.  
11 I think that was brought to our attention. Some just have never ever been cashed. So after the  
12 issue date of five years those will be escheated to the State of Virginia.

13 **Bradley Lambert**: That five years...I know that's the bank...

14 **Debbie Davis**: That's the state rule.

15 **Bradley Lambert**: I was contacted not long ago that says that their rule was one year. Where  
16 did you get your five year information?

17 **Debbie Davis**: That was what I've always been aware of that the Virginia escheatment is five  
18 years and Tennessee is four. So if it has changed, I am not aware of that. But I will go back and  
19 look.

20 **Bradley Lambert**: And I will check into it further. I was just made aware of that from the  
21 Department of Accounts saying the escheatment now in Virginia is one year. So I will work  
22 with you and Rick and we will see if we can get to the bottom of it as to what that date actually  
23 is.

24 **Debbie Davis**: Okay. Yes because it would have just recently changed.

25 **Bruce Prather**: When does this interim start?

26 **Debbie Davis**: The issue date of the check.

27 **Bruce Prather**: Okay. Alright.

28 **Debbie Davis**: And it will go five years from that date. But like I say I will research that as  
29 well.

1 **Bradley Lambert**: Okay. Thank you Ms. Davis.

2 **Debbie Davis**: You're welcome. Under tab three is just the monthly break-down through  
3 December of each well showing the deposits, the money market interest, CDARS interest, our  
4 fees, distributions, audit costs and corrections. And the last two pages under that tab of course  
5 are the unfunded wells that have been established and no escrow monies have been received yet.  
6 I know the VGOB staff have been working with the producers and clearing those up for some  
7 that have maybe expired or are no longer valid to go ahead and get them off the list. So it has  
8 been shortened.

9 **Bradley Lambert**: How are we doing on that Mr. Cooper?

10 **Rick Cooper**: We are doing real good. We still lack a few to verify but we have cleaned up the  
11 list quite a bit last year. And we hope to finish that within the next month or two, to do the  
12 research, make sure that they're not valid and that they need to be expired.

13 **Debbie Davis**: Finally under tab four we show the break-down of investments of funds. In the  
14 money market as of 12/31 there was \$2,797,767.56. That number has since grown because I  
15 know we like to keep it around three million, with deposits that occurred right at the first of  
16 January. The next section totaling \$4,440,000.00, those are actually six month CDARS that have  
17 an annual yield of twenty basis points. The next section totaling \$21,160,000.00, those are one  
18 year CDARS that have an interest rate of 30 basis points. And we are showing estimated income  
19 of an annual income to be \$77,956.00. Behind that I have shown you all the U. S. Treasury  
20 Bond rates and you will note that you are still getting a better rate for the short-term if you know,  
21 we do decide at some point to take these out a little bit further then we could still have the  
22 security of our United States and could get a higher rate like the three year is seventy basis  
23 points.

24 **Bradley Lambert**: From your prospective, are you hearing anything as far as interest rates from  
25 the Federal Treasury?

26 **Debbie Davis**: They still seem to be sort of flat at this time. Like I say the short-term, they are  
27 just not moving. We are seeing some of the longer term things rise in rates. So you know, that  
28 would be an option at some point maybe we could present maybe some of this twenty-five  
29 million, you know, maybe if we took a block of it and went out a few longer years to get a better  
30 rate that would still leave quite a bit liquid in the interim.

31 **Bradley Lambert**: I guess the only concern we have, if we went out three years and of course a  
32 lot of issues going on now with the escrow account, what would be the penalty if we had to go  
33 further than the three million that we try to keep liquid?

1 **Debbie Davis**: Okay. And like I say, maybe we could set up a proposal and kind of give you  
2 the thoughts on that.

3 **Bradley Lambert**: That would be good.

4 **Debbie Davis**: C. J. Carter he was unable to come, he had it scheduled in January and he already  
5 had commitments for February and could not make it today.

6 **Bradley Lambert**: Sure if you could put together that proposal for us we would certainly be  
7 willing to take a look at it and make some decisions.

8 **Debbie Davis**: Okay. That would be great.

9 **Bradley Lambert**: Okay.

10 **Debbie Davis**: One other thing I did want to address today, it has been brought to my attention  
11 again about the issue of us requesting W-9s. I have checked with multiple people within the  
12 bank and also we just went through a Federal Reserve Audit. So the Federal Reserve has been  
13 with us for the past two to three weeks. We are required to have that W-9 and I will not make  
14 disbursements without a W-9.

15 **Bradley Lambert**: A W-9 only and nothing else?

16 **Debbie Davis**: If they can provide me a social security number and guarantee that the social  
17 security number is valid. I have to have that for reporting. I know comments were maybe made  
18 that that was just an internal process that is not true. The Federal Reserve stated that we are  
19 required by regulations to know our customers and if you go into set up a checking account, a  
20 savings account, safety deposit box, a CD you have to give them your social security number.  
21 So that falls upon us too. I know there's been some mention of maybe doing a back-up  
22 withholding. If I try to go that route then it's going to be up to me and my department to try and  
23 locate and get a W-9 from that person. I feel that would not be correct as I don't know the  
24 families or you know, how to go about that. How many Debbie Davis's might there be out there.  
25 You know, I could choose the wrong one. And I just...I'm not willing to take on that liability  
26 for me or the bank and speaking with the Federal Reserve they said I'm doing the right thing on  
27 requiring a social security number. That they would have issue if I wasn't.

28 **Bradley Lambert**: Thank you for looking into that for us. We appreciate that.

29 **Debbie Davis**: You are welcome. Is there any other questions or concerns?

30 **Bradley Lambert**: There is one other issue, Mr. Cooper I was going to hold this off until later in  
31 the hearing but I think since Ms. Davis is here it would probably be a good time to have some  
32 discussions with her. It was brought to our attention that Wachovia has since found about

1 \$4,400, in their accounts that's due the escrow account that didn't transfer over to First Bank. I  
2 think that I am understanding that right. Is that right Mr. Cooper?

3 **Rick Cooper**: Yes. What they sent to us is \$4,441.54, that they've found in an account but they  
4 have no way to tie it to a docket number they just said they have this amount of money in the  
5 account. They cannot verify what docket number it goes into and they forwarded us a check for  
6 \$4,441.54, for us to put into the escrow account and I guess that it is up to the...that is what we  
7 are trying to determine today where to put that and how to handle that. They have no records of  
8 where it came from or where it should go. So...and they've made that pretty clear to me. They  
9 have no records on that subject.

10 **Bradley Lambert**: I think that's just a reflection on the errors that Wachovia was making in the  
11 escrow account when it was transferred over to First Bank and Trust. Just another error on their  
12 part that we continue to clean up from those old Wachovia accounts. So I guess the discussion  
13 with Ms. Davis and I have the question for you is if that check is deposited would it make more  
14 since to spread that out over all the accounts or would it make more since to set up an individual  
15 account for that money in hopes of sometime down the road when we finish our upcoming audit  
16 that we have planned, that we may locate where that money is supposed to go. I am asking  
17 recommendations from you. The Board is going to have to vote on it as a whole.

18 **Debbie Davis**: Right.

19 **Rick Cooper**: And I will point out here that this would be any accounts that were established as  
20 of December 31, 2009, and going forward. Nothing after that.

21 **Debbie Davis**: I guess my recommendation right off would be to maybe treat that...that it was  
22 interest earned that was just not credited properly and spread that out amongst every account that  
23 was brought over as of 12/31/2009. I think that would be the easiest.

24 **Bradley Lambert**: I understand if we did it that way what if in our upcoming audit that we plan  
25 for, we find the discrepancy for that exact amount of money and how would we....

26 **Debbie Davis**: Well and I mean that...I guess we could set up a separate well and hold that  
27 monies and then I guess hope that we do find it.

28 **Bradley Lambert**: Mr. Swartz, I am sure that you have a comment.

29 **Mark Swartz**: Unintended consequences, you know, if you spread that across accounts as of  
30 2009, and we have made disbursements since 2009, the interest that would be attributed to  
31 accounts that have been paid would not have been paid. So virtually every disbursement that has  
32 been made and I assume this would apply to all companies. It would be slightly incorrect and a  
33 slight underpayment and you would have to go back and revisit...you know, I would certainly

1 make an effort to try and figure out where these funds should have gone first because it's going  
2 to create a nightmare if you just spread it across accounts as of that date.

3 **Bradley Lambert**: Well my first thought was...

4 **Debbie Davis**: Let's just hope that the upcoming audit does not show a difference of more than  
5 the \$4,400 and...

6 **William Harris**: Yeah. Mr. Chairman in light of the upcoming audit I would almost  
7 recommend putting it in a separate account holding it until the audit is complete. I don't know  
8 what you do with it then but...

9 **Bradley Lambert**: Well that was going to be my recommendation to the Board is that we do  
10 that until the audit but I wanted to hear from Ms. Davis too since she is the escrow agent.

11 **William Harris**: It is easier for us to say to just put it in a separate account.

12 **Debbie Davis**: Right. And I guess you know, the next thing would be okay do you want me to  
13 put it into earned interest or do you want me to just leave that amount?

14 **William Harris**: Does your earn interest...that gets distributed over all of the monies that are in  
15 there?

16 **Debbie Davis**: It does.

17 **William Harris**: It doesn't go into a separate pot?

18 **Debbie Davis**: No. It doesn't. It gets distributed...

19 **William Harris**: I mean you know how much it is but...

20 **Debbie Davis**: Right.

21 **Bradley Lambert**: How big of a process would it be to set up an individual account for that  
22 money in an earned interest account?

23 **Debbie Davis**: I mean, I would just actually add an extra well down and...

24 **Bradley Lambert**: A fictitious well number and...

25 **Debbie Davis**: Well yeah and maybe just put Wachovia on it. "Wachovia Unknowns." And  
26 hold it there. I guess it would kind of be like you know, these last ones on the spreadsheet under  
27 tab three, to maybe just set it up that way and know not to...you know, there wouldn't be any  
28 other funds accepted from any producers to go into that. It would just be held separately.

1 **Bradley Lambert**: Okay. Any other discussion from the Board? Okay. We have two options I  
2 think before the Board that we need to take a vote on. One of them would be to accept a check  
3 to Wachovia and distribute it among all the accounts or set up a separate individual account, an  
4 interest bearing account and hold that money until the upcoming audit is completed hopefully we  
5 could find where the money came from. Any other discussion or any other recommendations  
6 from the Board Members?

7 **Bruce Prather**: I think that is the only thing we have left to do is put it in a separate account and  
8 wait until the audit is done. If we put this in an interest bearing account and give it to all of these  
9 other people then it's been basically said, you are going to have to go back to all of those former  
10 people that have gotten money out of the escrow account and put money in would be paying ten  
11 cents to half the people that have received money.

12 **William Harris**: Well I'm not opposed to doing that actually, but we need to...when you go to  
13 audit that everybody is going to [inaudible]

14 **Bruce Prather**: Yeah I think the thing about it is to just wait until the audit is over with and  
15 then we can discuss it more in detail.

16 **Bradley Lambert**: Ms. Surratt any comments?

17 **Rita Surratt**: No. But I like the idea of putting it separate and waiting until after the audit.

18 **Bradley Lambert**: Do I have a motion?

19 **William Harris**: I'll make a motion that we ask Ms. Davis to ask the bank to set up a separate  
20 account for these monies from Wachovia and in an interest bearing account and hold that at least  
21 until after the audit and then we will decide what to do with it at that time.

22 **Bradley Lambert**: Do I have a second?

23 **Bruce Prather**: Rick in their transmission of the four thousand dollars did they give you any  
24 ideas to where this came from?

25 **Rick Cooper**: No. They just incidentally ran upon this money. When they found it they did not  
26 have any history or the legacy of where it came from. They just had it in the account. I believe  
27 that Wachovia used to set up monies in a checking account when they did disbursements they  
28 would take monies out of that checking account and pay the disbursements and this was money  
29 that was left over in that account but it's not attributed to any particular docket.

30 **Bruce Prather**: Okay.

31 **Bradley Lambert**: Again, I call for a second.

1 **Rita Surratt**: I second.

2 **Bruce Prather**: I'll second.

3 **Bradley Lambert**: I have a second. Any other discussion? [No response] All in favor signify  
4 by saying yes.

5 **Board**: Yes.

6 **Bradley Lambert**: Opposed no. [No response] Thank you Ms. Davis if you will take care of  
7 that matter and set up a separate interest bearing account for those funds and hopefully during the  
8 audit we will be able to locate where the money was supposed to have gone.

9 **Debbie Davis**: Okay. Is there any other questions or concerns?

10 **Bradley Lambert**: Any other questions from the Board? Thank you Ms. Davis.

11 **Debbie Davis**: Thank you.

12 **Item Number 3**

13 **Bradley Lambert**: The next item on the docket is a petition from EQT Production Company,  
14 for the disbursement of escrowed funds and authorization for direct payment of royalties on  
15 behalf of Eva Mae Adkins for her interest in Tract 3 in Drilling Unit Number VC-504248,  
16 Kenady District, Dickenson County, Virginia. This is Docket Number VGOB-04-1116-1363-03.  
17 At the company's request that docket item has been continued until March.

18

19 **Item Number 4**

20 **Bradley Lambert**: We are calling Docket Item Number 4. A petition from EQT Production  
21 Company, for the disbursement of escrowed funds and authorization for direct payment of  
22 royalties on behalf of Eva Mae Adkins for her interest in tracts 1 and 3 for Drilling Unit Number  
23 VC-505241, Kenady District, Dickenson County, Virginia. Docket Number VGOB-04-0817-  
24 1325-03. At the request of the company that docket item is continued until March.

25

26 **Item Number 5**

27 **Bradley Lambert**: We are calling Docket Item Number 5. A petition from EQT Production  
28 Company, for the disbursement of funds and authorization for direct payment of royalties on  
29 behalf of Eva Mae Adkins in Tract 2 in Drilling Unit VC-504484, Kenady District, Dickenson

1 County, Virginia. Docket Number VGOB-01-0821-0919-03. At the request of the company that  
2 docket item is continued until March.

3 **Item Number 6**

4 **Bradley Lambert:** We are calling Docket Item Number 6. A petition from CNX Gas  
5 Company, LLC, for the disbursement of escrowed funds deposited with the Board's Escrow  
6 Agent attributable to Tract 3B as depicted upon the annexed Exhibit A-1 and this is an  
7 authorization to begin paying royalties directly to the parties Coal Creek Coal Company, Betty  
8 Lou Garrison Stump, Donald Eugene Jackson, and Lester George Beaver. Docket Number  
9 VGOB-09-0317-2490-01. All parties wishing to testify, please come forward.

10 **Mark Swartz:** Mark Swartz and Anita Duty.

11 **Bradley Lambert:** Good morning.

12 **Mark Swartz:** Anita could you state your name for the record please?

13 **Anita Duty:** Anita Duty.

14 **Sarah Gilmer:** Do you swear or affirm that your testimony is the truth the whole truth and  
15 nothing but the truth?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** Who do you work for?

18 **Anita Duty:** CNX Land, LLC.

19 **Mark Swartz:** Do you have a title?

20 **Anita Duty:** Pooling Supervisor.

21 **Mark Swartz:** In your job as Pooling Supervisor do you have responsibilities with regard to  
22 disbursements?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** And in this instance with regard to AV-135, were you responsible for preparing  
25 the petition and the related exhibits?

26 **Anita Duty:** Yes.

27 **Mark Swartz:** Did you have people working under you to do that?

28 **Anita Duty:** I do.

1 **Mark Swartz**: And did you in fact sign...yourself sign the petition?

2 **Anita Duty**: Yes.

3 **Mark Swartz**: And what we have here with regard to Docket Item 6 is a petition for a  
4 disbursement from coalbed methane unit AV-135, is that correct?

5 **Anita Duty**: Yes.

6 **Mark Swartz**: And we are asking for a partial disbursement?

7 **Anita Duty**: It is.

8 **Mark Swartz**: So the account would have to be maintained by the escrow agent even after the  
9 disbursement occurs?

10 **Anita Duty**: Yes.

11 **Mark Swartz**: And are we also asking the permission of the Board as operator to pay the folks  
12 who are receiving these disbursements directly after the order is entered?

13 **Anita Duty**: Yes.

14 **Mark Swartz**: Okay. In regard to this disbursement, did you undertake an examination of the  
15 deposits that the operator made and compare those deposits with the checks that were cut by the  
16 operator to the deposits that were booked by the banks?

17 **Anita Duty**: We did.

18 **Mark Swartz**: And when you made that comparison, what did you learn.

19 **Anita Duty**: All the checks were accounted for.

20 **Mark Swartz**: Okay. So every deposit that you made you were able to find in the bank's  
21 records?

22 **Anita Duty**: We were.

23 **Mark Swartz**: Okay. Have you provided the Board with a table that shows the disbursements  
24 that you are proposing the order to authorize?

25 **Anita Duty**: Yes.

26 **Mark Swartz**: And that's at Table 1?

27 **Anita Duty**: Yes.

1 **Mark Swartz**: Or it is called Table 1. And the tract at issue is which tract?

2 **Anita Duty**: Tract 3B.

3 **Mark Swartz**: And the reason for this disbursement is what?

4 **Anita Duty**: A 50/50 royalty agreement.

5 **Mark Swartz**: Okay. And have you actually seen that agreement?

6 **Anita Duty**: I have.

7 **Mark Swartz**: And have you used the 50/50 distribution when you prepared Table 1?

8 **Anita Duty**: Yes.

9 **Mark Swartz**: Okay. Who are the folks that would be receiving these disbursements, and what  
10 percentage of the amount of deposit at the time of disbursement is made should the escrow agent  
11 use to calculate the dollars?

12 **Anita Duty**: Betty Lou Garrison and Coal Creek Coal Company should each receive 2.381% of  
13 the escrow account. Donald Eugene Jackson and Coal Creek should each receive 1.7857%.  
14 Lester Beaver and Coal Creek should also receive an additional 1.7857%.

15 **Mark Swartz**: And I note that on Table 1 as requested by the Board in the past, you indicate the  
16 wells that have contributed to this account and what are those wells?

17 **Anita Duty**: AV-135 and AV-135A.

18 **Mark Swartz**: And have you provided the Board with updated Exhibits E with regard to  
19 conflicts and EE with regard to split agreements?

20 **Anita Duty**: Yes.

21 **Mark Swartz**: That's all I have with regard to this petition.

22 **Bradley Lambert**: Do I have any questions from the Board? [No response] Anything further  
23 Mr. Swartz?

24 **Mark Swartz**: No.

25 **Bradley Lambert**: Do I have a motion?

26 **William Harris**: Motion for approval.

27 **Bruce Prather**: Second.

1 **Bradley Lambert:** I have a motion and a second. Any further discussion? [No response] All in  
2 favor signify by saying yes.

3 **Board:** Yes.

4 **Bradley Lambert:** Opposed no. [No response] Thank you Mr. Swartz, that is approved.  
5

6

6 **Item Number 7**

7 **Bradley Lambert:** We are calling Docket Item Number 7. A petition from CNX Gas  
8 Company, LLC, for the disbursement of escrowed funds heretofore deposited with the Board's  
9 Escrow Agent attributable to Tracts 1 & 1A as depicted upon the annexed Exhibit A-1. This is  
10 Docket Number VGOB-92-0721-0240-04. All parties wishing to testify, please come forward.

11 **Mark Swartz:** Mark Swartz and Anita Duty.

12 **Bradley Lambert:** You may proceed Mr. Swartz.

13 **Mark Swartz:** Thank you. We have...ah...we tried to upload a revised exhibit to your system  
14 yesterday but you were closed which is okay it was President's Day. But we have hard copies of  
15 that because you may not have it.

16 **Anita Duty:** Well we did upload this.

17 **Mark Swartz:** Right.

18 **Anita Duty:** But this we couldn't get changed.

19 **Mark Swartz:** Okay. But since we are going to be talking about that we thought that you  
20 needed to have it in hand.

21 **Bradley Lambert:** Okay.

22 **Mark Swartz:** State your name for us again Anita.

23 **Anita Duty:** Anita Duty.

24 **Mark Swartz:** And who do you work for?

25 **Anita Duty:** CNX Land, LLC.

26 **Mark Swartz:** And as part of your responsibilities and your employment with that company to  
27 prepare the petitions and exhibits regarding disbursements?

28 **Anita Duty:** Yes.

1 **Mark Swartz**: And did you supervise the preparation of this petition and the related exhibits?

2 **Anita Duty**: I did.

3 **Mark Swartz**: And did you in fact sign the petition?

4 **Anita Duty**: I did.

5 **Mark Swartz**: And we are here today in this particular instance with regard to docket item  
6 seven pertaining unit W-20. Is that Correct?

7 **Anita Duty**: Yes.

8 **Mark Swartz**: And are we requesting a partial disbursement?

9 **Anita Duty**: Yes.

10 **Mark Swartz**: And in that regard what tracts are we going to be talking about or tract?

11 **Anita Duty**: Tract 1 and 1A.

12 **Mark Swartz**: Alright. And after this disbursement will the escrow agent be required to  
13 maintain the escrow account pertaining to W-20?

14 **Anita Duty**: Yes.

15 **Mark Swartz**: And but with regard to the people that are scheduled or slated to receive this  
16 particular disbursement are we also asking permission from the Board to pay them directly in the  
17 future?

18 **Anita Duty**: We are.

19 **Mark Swartz**: Okay. Have you provide...or did you in conjunction with this undertaking  
20 compare the checks that the operator had written into the escrow account to the deposits booked  
21 by the bank?

22 **Anita Duty**: We did.

23 **Mark Swartz**: Okay. And you've given I think the Board today an updated reconciliation?

24 **Anita Duty**: Yes.

25 **Mark Swartz**: And when you made the comparison, were you able to account for all of the  
26 deposits, all of the checks that the operator cut to be deposited?

27 **Anita Duty**: Yes.

1 **Mark Swartz**: They all made it into the account?

2 **Anita Duty**: They did.

3 **Mark Swartz**: The problem is that there was some additional money that made it in the account  
4 that we didn't pay?

5 **Anita Duty**: Correct.

6 **Mark Swartz**: And the total amount of that is what?

7 **Anita Duty**: \$4,134.77

8 **Mark Swartz**: Okay. And those....and that \$4,134.77 is a result of two deposits, correct?

9 **Anita Duty**: Yes.

10 **Mark Swartz**: And when were they made?

11 **Anita Duty**: September 1993 and October 1993.

12 **Mark Swartz**: Okay. Twenty some years ago.

13 **Anita Duty**: Yeah.

14 **Mark Swartz**: Twenty some years ago. Have you been in contact with the DGO and with  
15 banks with regard to trying to figure out the genesis of this money?

16 **Anita Duty**: Yes.

17 **Mark Swartz**: And have you to date been able to figure out where it came from?

18 **Anita Duty**: No.

19 **Mark Swartz**: Alright. Is it your belief or opinion at this point that where ever this money  
20 came from, it did not come from the operator and it does not belong in this escrow account.

21 **Anita Duty**: Correct.

22 **Mark Swartz**: Okay. So are you asking that the Board order in this instance, direct the bank to  
23 remove the sum of \$4,134.77 from this account before it makes any of the disbursements that we  
24 are asking be made?

25 **Anita Duty**: Yes.

26 **Mark Swartz**: Otherwise the dollars would be wrong.

1 **Anita Duty**: Correct.

2 **Mark Swartz**: And we leave it to the Board as to what this should be called but I'm thinking it  
3 is similar to what the...you know...it might want to go into an account similar to the last motion  
4 or a motion that Mr. Harris made earlier today so that when we have the audit we can hopefully  
5 identify these funds but they did not come from this operator?

6 **Anita Duty**: Right.

7 **Mark Swartz**: Okay. Now having dealt with that, have you provided the Board with a revised  
8 Exhibit A1 or table with regard to the disbursements?

9 **Anita Duty**: Yes.

10 **Mark Swartz**: And does the total...the fifty thousand dollars, does that reflect the four thousand  
11 and change going somewhere else?

12 **Anita Duty**: It does.

13 **Mark Swartz**: Okay. Was that why this was re-done?

14 **Anita Duty**: Yes.

15 **Mark Swartz**: Okay. And obviously the escrow agent is not going to use the dollars in the last  
16 column but this is approximately what the amount would be?

17 **Anita Duty**: Yes.

18 **Mark Swartz**: The ah....does table....Exhibit A1....does that specify the names of the folks who  
19 are to receive the disbursements and does it give the percentages that the escrow agent should  
20 use to apply to the balance on the day that the escrow disbursement is made?

21 **Anita Duty**: Yes.

22 **Mark Swartz**: And could you identify the people and the percentages for the Board?

23 **Anita Duty**: For Tract 1 Torch Oil and Gas Company, should receive a total of 11.0873%.  
24 Mary Bartrum, Thelma Kline, Mamie Cook and Frances Stern should each receive 2.7718%.  
25 For Tract 1A, Torch Oil and Gas Company, should receive a total of 0.2231%, Mary Bartrum,  
26 Thelma Kline, Mamie Cook and Frances Stern should each receive 0.0558%.

27 **Mark Swartz**: And again the order should direct the escrow agent to make the disbursement  
28 that's actually stated again on Exhibit A1 into another account before these disbursements are  
29 made?

1 **Anita Duty**: Yes.

2 **Mark Swartz**: Okay. And have you provided the Board with regard to W-20 with revised  
3 escrow and split agreement exhibits?

4 **Anita Duty**: Yes.

5 **Mark Swartz**: That's all I have.

6 **Bradley Lambert**: I'm sorry Mr. Swartz I did not hear your last question. Something about  
7 split agreements?

8 **Mark Swartz**: My last question was have we provided you all with revised Exhibit E on  
9 conflicts and a revised Exhibit EE on split agreements? And her answer I think was yes.

10 **Anita Duty**: Yes.

11 **Bradley Lambert**: So that's what you are trying to upload but couldn't with revised Exhibit E?

12 **Anita Duty**: No we wanted to revise the table to remove that...to change the beginning balance  
13 to subtract the four thousand dollars. And I don't think we can do that anyway. I think we have  
14 to ask Diane to change it.

15 **Mark Swartz**: A1.

16 **Diane Davis**: [Inaudible]

17 **Rick Cooper**: That will be something I think our office will take care of internally we would  
18 have to do that if the Board approves it.

19 **Bradley Lambert**: So I guess, is that where the discrepancy in the A1 that you have submitted  
20 to us versus the revised exhibit? As a result of the four thousand dollars and difference in split  
21 agreements or...I'm a little bit confused here maybe it's just me but...

22 **Anita Duty**: Just the balance. We subtracted the four thousand dollars from the beginning  
23 balance if you look at the....well I guess the table...well I don't know if the table shows you the  
24 beginning balance.

25 **Mark Swartz**: The table did not show the fifty thousand in what you have on your computer.  
26 And the only difference...all of the percentages everything was the same except we put a balance  
27 in.

28 **Anita Duty**: So the dollar...the estimated dollars will be different.

29 **Bradley Lambert**: Okay.

1 **Anita Duty**: I guess the table that is created from the system doesn't show you the beginning  
2 balance we have to actually put the beginning balance in it for it to give you an estimated dollar.

3 **Mark Swartz**: You will notice that the people are the same and the percentages are the same the  
4 dollar amounts in the last column are different because we put a balance.

5 **Diane Davis**: One of the differences is they broke each Torch out so if you add up all of Torch's  
6 interests together on one it would total what he is saying.

7 **Mark Swartz**: Right.

8 **Anita Duty**: But the system makes you do it this way. I mean...

9 **Diane Davis**: So I just...it took me a minute to find the eleven something so the percentages did  
10 not change. It was just the dollar amount.

11 **Bradley Lambert**: Just the dollar amount.

12 **Mark Swartz**: Right.

13 **Diane Davis**: Yes. And that's not the dollar amount even that will be paid but what they wanted  
14 to submit was removing that four thousand and some dollars so we will instruct if you approve  
15 this, Debbie to remove that before she pays it.

16 **Bradley Lambert**: If we instruct the escrow agent to remove that by approving this order then  
17 we have another four thousand dollars that's hanging out there somewhere that....

18 **Diane Davis**: That is true. My last...may I tell you what my last suggestion was?

19 **Bradley Lambert**: Certainly.

20 **Diane Davis**: If you would give us until the next Board meeting we will check with the other  
21 operator's that had accounts at that time and see if they issued check numbers in that range and if  
22 they can come up with the money. I don't have time this month, if they did I would present that  
23 to the Board or have Rick present it. If not, then you've got another whole problem that I don't  
24 know what you do with it but...

25 **Rick Cooper**: I will point out this is in 1993, so there wasn't that many accounts in 1993, so if  
26 we can find it, it would be much easier than the thousand accounts that we have now. I don't  
27 know what the number was at that time but I would think....

28 **Mark Swartz**: Sixty.

29 **Anita Duty**: Sixty.

1 **Rick Cooper**: Sixty. So it might be easier to find.

2 **Diane Davis**: I think we have a very good chance of finding it.

3 **Mark Swartz**: Well it is probably EQT, I mean they were the only other operator at that time.

4 **Diane Davis**: Yeah. That's what I am guessing.

5 **Rick Cooper**: Yes.

6 **Diane Davis**: Well Virginia Gas, did they not have something?

7 **Anita Duty**: No we kind of have tried to find it our self. Like internally look at the accounts  
8 and see which ones are large enough to have had a deposit that big.

9 **Diane Davis**: But we will be happy to, if the Board so desires and gives us a month to do so, we  
10 will see if we can find where this four thousand dollars should be.

11 **Bradley Lambert**: I think, if I heard Mr. Swartz correctly, he wanted this out of the account  
12 before the disbursements were made.

13 **Mark Swartz**: Right.

14 **Diane Davis**: Well we can instruct.

15 **Mark Swartz**: Right I mean just set it aside.

16 **Diane Davis**: Yeah. We can instruct Debbie to deduct this amount before payment. Just like  
17 we do on an exact payment.

18 **Bradley Lambert**: And what's she going to do with it?

19 **Diane Davis**: Just leave it there until we tell her where to move it.

20 **Anita Duty**: Instead of using the balance plus the four thousand use the balance minus the four  
21 thousand.

22 **Diane Davis**: That's not a problem is it?

23 **Debbie Davis**: It would be the point of instead of what balance I am showing.

24 **Bradley Lambert**: Could you come back up Ms. Davis? Since she is testifying Sarah you might  
25 want to swear her in.

26 **Sarah Gilmer**: Do you swear or affirm that your testimony is the truth the whole truth and  
27 nothing but the truth?

1 **Debbie Davis**: Yes.

2 **Bradley Lambert**: Thank you.

3 **Debbie Davis**: The only thing I would do would be take my normal ending balance that I would  
4 be paying from and deduct the four thousand and make my calculations from that dollar amount.

5 **Diane Davis**: And put a notation out there for us.

6 **Debbie Davis**: Right.

7 **Mark Swartz**: Well you need to tell her to do that in the order.

8 **Diane Davis**: We will. We will.

9 **Mark Swartz**: But then we will know that the account will still have that four thousand in it but  
10 why it's there.

11 **Debbie Davis**: Right. And then once they discover where that money goes, they will send me  
12 over a request to move those monies from there to wherever.

13 **Rick Cooper**: And I would point out if we could not find out where the monies went we would  
14 bring it back before the Board the next meeting then the Board would have to determine what to  
15 do with that money.

16 **Debbie Davis**: And maybe we could put that in the "Wachovia Unknown" account.

17 [Laughter]

18 **Diane Davis**: I think we can have a very good chance of finding which account it goes in.

19 **Bradley Lambert**: Okay.

20 **Diane Davis**: And if it happens to go into an account that has had a disbursement we will have  
21 to ask them to come back and....

22 **Mark Swartz**: And the best thing about this is this is probably some other operator's problem.  
23 I'm just thrilled.

24 [Laughter]

25 **Diane Davis**: Oh you are so lucky.

26 **Bradley Lambert**: Do I have any questions from the Board? [No response] Anything further  
27 Mr. Swartz?

28 **Mark Swartz**: No other than to just recap some things.

1 **Bradley Lambert**: Yes. I think we need to do that.

2 **Mark Swartz**: What is...if this is approved what should happen when these disbursements to  
3 the folks that Anita has identified are made, you should use the percentages in either Exhibit A1  
4 because they are the same. And that percentage should be applied to the balance on hand on the  
5 day the disbursements are made minus \$4,134.77, and that would be in the order so we know  
6 why that calculation should occur and then my understanding is that the DGO will let us know in  
7 a month hopefully, whether or not they've been able to identify those two deposits and I share  
8 their optimism. I don't think it should be a problem. I think there's a good chance they ought to  
9 be able to do it.

10 **Bradley Lambert**: Okay. Any other questions or discussions from the Board? [No response]  
11 Does everyone understand what the motion would be? And Mr. Cooper next month we will hear  
12 an update of where this four thousand dollars is supposed to be.

13 **Rick Cooper**: Yes sir.

14 **Diane Davis**: Or not.

15 **Bradley Lambert**: Okay. Do I have a motion from the Board?

16 **William Harris**: Well I'll try to make this motion. I move that we approve the petition with the  
17 amount of \$4,134.77, removed from the original balance and the payout based on the  
18 percentages stated in the application with the payout be made on the remaining balance. I'm not  
19 sure if I clarified that.

20 **Mark Swartz**: That works.

21 **Bradley Lambert**: That should work Mr. Harris.

22 **William Harris**: And the removed amount will be held until sometime that we find the right  
23 owners.

24 **Bradley Lambert**: Do I have a second?

25 **Bruce Prather**: I'll second.

26 **Bradley Lambert**: I have a second. Any further discussions? [No response] All in favor  
27 signify by saying yes.

28 **Board**: Yes.

29 **Bradley Lambert**: Opposed, no. [No response] Thank you Mr. Swartz that is approved. Ladies  
30 and Gentlemen we are going to take about a ten minute break and we will resume back at ten  
31 after ten.

1 **Item Number 8**

2 **Bradley Lambert:** Thank you ladies and gentlemen. It is now time to call these proceedings  
3 back to order. Next we are calling Docket Item Number 8. A petition from CNX Gas Company,  
4 LLC, for the disbursement of escrowed funds heretofore deposited with the Board's Escrow  
5 Agent as depicted upon the annexed Exhibit A-1. Docket Number VGOB-91-1119-0161-04.  
6 All parties wishing to testify, please come forward.

7 **Mark Swartz:** Mark Swartz and Anita Duty.

8 **Bradley Lambert:** You may proceed Mr. Swartz.

9 **Mark Swartz:** Thank you. Anita, state your name for us please.

10 **Anita Duty:** Anita Duty.

11 **Mark Swartz:** Who do you work for?

12 **Anita Duty:** CNX Land, LLC.

13 **Mark Swartz:** And is one of your job responsibilities pertain to escrow accounts?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** And petitions to add or withdraw sums from those accounts?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** With regard to the BUNE 1 application or petition that you filed here pretty  
18 straight forward issue. What happened and what is it that we are asking for?

19 **Anita Duty:** After a disbursement had already taken place our accounting department sent two  
20 more checks to the account on behalf of these folks so we needed to break their money out and  
21 pay them the exact dollar amount.

22 **Mark Swartz:** Have you provided the Board with an Exhibit that identifies that amount?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** Okay. You've got a disbursement table correct?

25 **Anita Duty:** Yes.

26 **Mark Swartz:** It sets forth some specific amounts in the right hand column.

27 **Anita Duty:** Yes.

1 **Mark Swartz**: And are you asking for an order paying out those specific amounts. Do you  
2 want it to come back to the company or the people that you have identified?

3 **Anita Duty**: To the people identified on the exhibit.

4 **Mark Swartz**: Okay. So the board order here should provide the dollar amounts and all. I will  
5 get to that in a minute. So if you would go through the tracts and the people that should receive  
6 the disbursement and then the specific dollar amount they should receive.

7 **Anita Duty**: For Tract 11A Torch Oil and Gas Company, and CNX Gas Company, should each  
8 receive \$62.43. For Tract 11B Torch Oil and Gas Company, and CNX Gas Company, should  
9 each receive \$48.72. For Tract 12 Ira Mutter should receive \$153.74. For Tract 13A Fern  
10 Ducaster should receive \$7.07. And for Tract 13C Monta Mutter should receive \$0.30.

11 **Mark Swartz**: That's all I have Mr. Chairman.

12 **Bradley Lambert**: Questions from the Board? [No response] Anything further Mr. Swartz?

13 **Mark Swartz**: No.

14 **Bradley Lambert**: Do I have a motion?

15 **William Harris**: Motion for approval.

16 **Bruce Prather**: Second.

17 **Bradley Lambert**: I have a motion and a second. Any further discussion? [No response] All in  
18 favor signify by saying yes.

19 **Board**: Yes.

20 **Bradley Lambert**: Opposed, no. [No response] Thank you Mr. Swartz that is approved.

21

22 **Item Number 9**

23 **Bradley Lambert**: We are calling Docket Item Number 9. A petition from CNX Gas  
24 Company, LLC, for refund of escrow payments deposited with the Board's Escrow Agent, and  
25 vacate the Board's Order of February 7, 2006, as all individuals have voluntarily leased. Docket  
26 Number VGOB-05-1018-1504-01. All parties wishing to testify, please come forward.

27 **Mark Swartz**: Mark Swartz and Anita Duty.

28 **Bradley Lambert**: You may proceed Mr. Swartz.

1 **Mark Swartz**: Thank you. Anita will you state your name for us again?

2 **Anita Duty**: Anita Duty.

3 **Mark Swartz**: Who do you work for?

4 **Anita Duty**: CNX Land, LLC.

5 **Mark Swartz**: And is one of your job responsibilities with them to attend to issue pertaining to  
6 disbursements and payouts and pay-ins to escrow accounts?

7 **Anita Duty**: Yes.

8 **Mark Swartz**: Okay. With regard to AY-96 this unit was originally pooled?

9 **Anita Duty**: Yes.

10 **Mark Swartz**: Because there were unleased parties?

11 **Anita Duty**: Yes.

12 **Mark Swartz**: Since it was originally pooled, have you leased everybody?

13 **Anita Duty**: We have.

14 **Mark Swartz**: So it's now a voluntary unit?

15 **Anita Duty**: It is.

16 **Mark Swartz**: And are you asking the Board to vacate the pooling order that was entered in  
17 February of 2006, and close this escrow account and pay the balance back to CNX?

18 **Anita Duty**: Yes.

19 **Mark Swartz**: That's all I have.

20 **Bradley Lambert**: Any questions from the Board? [No response] In Table 1 Mr. Swartz, so the  
21 amount would be \$454.04?

22 **Mark Swartz**: Assuming that no more payments get there.

23 **Anita Duty**: They should have it on hold.

24 **Mark Swartz**: She thinks it is on hold so that is probably accurate.

25 **Bradley Lambert**: Okay. Any other questions? [No response]

26 **Anita Duty**: It would be the balance at the time of disbursement.

1 **Bradley Lambert**: Okay Mr. Cooper in using that accounting system and looking at this would  
2 you concur that this is correct?

3 **Rick Cooper**: Yes. I would concur that this is correct.

4 **Bradley Lambert**: Okay. Do I have a motion from the Board?

5 **William Harris**: Motion for approval.

6 **Bruce Prather**: Second.

7 **Bradley Lambert**: I have a motion and a second. Any further discussion? [No response] All in  
8 favor signify by saying yes.

9 **Board**: Yes.

10 **Bradley Lambert**: Opposed, no. [ No response] Thank you Mr. Swartz that is approved.

11 **Mark Swartz**: Thank you.

12

13

### **Item Number 10**

14 **Bradley Lambert**: We are calling Docket Item Number 10. A petition from CNX Gas  
15 Company, LLC, for refund of escrow payments deposited with the Board's Escrow Agent.  
16 Reimburse overpayment of funds deposited with the Board's Escrow Agent attributable to unit  
17 VP6SGU to CNX Gas Company, LLC, as depicted upon the annexed Exhibit A-1. Docket  
18 Number 92-0721-0244-02. All parties wishing to testify, please come forward.

19 **Mark Swartz**: Mark Swartz and Anita Duty.

20 **Bradley Lambert**: You may proceed Mr. Swartz.

21 **Mark Swartz**: Thank you. Anita your name again.

22 **Anita Duty**: Anita Duty.

23 **Mark Swartz**: Who do you work for?

24 **Anita Duty**: CNX Land, LLC.

25 **Mark Swartz**: And is one of your job responsibilities to deal with issues that arise pertaining to  
26 escrow accounts?

27 **Anita Duty**: Yes.

1 **Mark Swartz**: In summary fashion before we get into the matter, what in essence happened  
2 here that you are seeking to correct?

3 **Anita Duty**: We had tied the production for two wells to this sealed gob incorrectly.

4 **Mark Swartz**: Okay. And what were the two wells that were being included that should not  
5 have been?

6 **Anita Duty**: P3D and R3C

7 **Mark Swartz**: Okay. And when you say they shouldn't have been, would it be fair to say that  
8 neither the...that the production from these two wells was not actually from within this sealed  
9 gob unit?

10 **Anita Duty**: It was not.

11 **Mark Swartz**: Okay. And they were tied however in your computer to the unit and the  
12 production was being booked into that unit?

13 **Anita Duty**: Yes.

14 **Mark Swartz**: Would that have then cause people who were receiving payments pertaining to  
15 royalty interests in the unit to be overpaid?

16 **Anita Duty**: They would have.

17 **Mark Swartz**: Okay. So in essence we are going to have a recoupment issue because people  
18 were overpaid?

19 **Anita Duty**: Yes.

20 **Mark Swartz**: And we're going to have a withdraw issue?

21 **Anita Duty**: Yes.

22 **Mark Swartz**: Could you then with regard to...well actually let's look at your table here.  
23 Okay. With regard to the dollar amounts and the payment involved could you tell the Board  
24 what needs to happen here?

25 **Anita Duty**: We are asking for a refund of \$136,130.21. But that is as of January 17<sup>th</sup>.

26 **Mark Swartz**: And if you look at...I think it is the very last page of the paperwork that the  
27 Board has. If everything is in the same order as I have it, there is a current recoup exhibit at the  
28 very end. Is that where the number you've reported has come from?

29 **Anita Duty**: Yes.

1 **Mark Swartz**: Okay. And so essentially...strike that...does the current recoup exhibit account  
2 for the funds that were attributable to production from P3D and R3C? Does that capture those  
3 funds that should not have been included in this escrow account?

4 **Anita Duty**: Yes. But we have been recouping that probably for a year or so now. But it is just  
5 like we will never get there because of the amount.

6 **Mark Swartz**: So the amount that needs to come out to recoup that overpayment or that  
7 erroneous payment and then balance this escrow account is the \$136,130.21?

8 **Anita Duty**: Yes.

9 **Mark Swartz**: Okay. And should that check come out to CNX as a recoupment?

10 **Anita Duty**: Yes. It should.

11 **Mark Swartz**: Okay. That's all I have.

12 **Bradley Lambert**: Mr. Cooper can you verify that P3D and R3C, is not in VP6SGU, in the  
13 sealed gob unit?

14 **Mark Swartz**: It is P as in Paul, 3D as in David, and R Robert 3 C as in Charles.

15 **Rick Cooper**: Yes they are not. The question I would have are these people escrowed in those  
16 two wells? Does this money go back into those two wells or are the people...

17 **Anita Duty**: Where it actually belongs?

18 **Rick Cooper**: Yes.

19 **Anita Duty**: No.

20 **Rick Cooper**: So there is nobody escrowed in those units?

21 **Anita Duty**: We've already...we've already cleaned up internally where those payments for  
22 those two wells should have gone.

23 **Rick Cooper**: Okay.

24 **Anita Duty**: And moved those over. And we've already re-paid that.

25 **Rick Cooper**: You've paid those people out of that account and closed those accounts?

26 **Anita Duty**: I don't even think there was one...direct pay.

27 **Bradley Lambert**: That was P instead of T?

1 **Anita Duty**: It is P.

2 **Bradley Lambert**: P Paul

3 **Mark Swartz**: P as in Paul 3 D David and then R Robert 3 C Charles.

4 **Bradley Lambert**: Okay. I've got it. So just to be clear and to follow up on Mr. Cooper's  
5 important question, those people in those two wells are fully paid. They were not short changed  
6 in anyway and you are caught up on with those folks?

7 **Anita Duty**: Those have been corrected and applied where they needed to...where it needed to  
8 go.

9 **Bradley Lambert**: Okay. Can you verify that Mr. Cooper?

10 **Diane Davis**: I'm trying.

11 **Rick Cooper**: It may take a second to verify that.

12 **Diane Davis**: I'm just making sure there is no docket they are 100% leased is what you are  
13 telling me. Correct?

14 **Anita Duty**: I'm not saying they are 100% leased, I'm saying that they are being paid.

15 **Diane Davis**: Those people are leased.

16 **Anita Duty**: We can work together afterword if you want me to give you more information.

17 **Diane Davis**: I think Rick and I spoke about this and one of the things that we would like would  
18 be your future petitions to say if this money is going to be deposited back into a different docket  
19 account or not. And if not, why? Just so we know up front without a lot of digging. Correct?

20 **Rick Cooper**: We did have that conversation.

21 **Diane Davis**: I'm waiting on my computer.

22 **Bradley Lambert**: Ms. Davis if you could work with Anita and verify that if there is a  
23 discrepancy would you please bring it back before the Board next month?

24 **Diane Davis**: I will.

25 **Bradley Lambert**: Mr. Harris

26 **William Harris**: Can I...well....since we are going to...are we going to continue this? Is that  
27 what you are saying?

1 **Bradley Lambert**: No. We are going to ask for a motion to approve but if when Ms. Duty  
2 works with Ms. Davis and they find a discrepancy in the testimony, they will bring it back before  
3 the Board next month.

4 **William Harris**: Okay.

5 **Mark Swartz**: Well the simple question would be and I don't know how hard it is for you to get  
6 to your database but if those two units aren't pooled, we've got an answer right now.

7 **Diane Davis**: That's right.

8 **Rick Cooper**: That's what we are checking.

9 **Bradley Lambert**: That's what she's checking Mr. Swartz.

10 **Mark Swartz**: We might even know that in a few minutes.

11 **Diane Davis**: Yes.

12 **William Harris**: I'm just a little confused as to where the money comes from. Are you saying  
13 that this has been overpaid to people?

14 **Anita Duty**: We set up a division of interest for VP6 which includes maybe...you know, I don't  
15 know how many people but the people that have an interest in VP6 are not the same people that  
16 have an interest in the area where P3D and R3C are located. So the wrong people had  
17 production applied from these wells and payments that those wells weren't even in their area.

18 **William Harris**: Okay so that means folks have been paid that shouldn't have been paid or paid  
19 more than they should have been paid?

20 **Anita Duty**: They were paid their share of the production of those two wells and they should not  
21 have been.

22 **Mark Swartz**: They were overpaid. Okay. Let me...

23 **William Harris**: What I am saying is where is this money coming from?

24 **Mark Swartz**: It came from production associated with wells that were not in the VP6 sealed  
25 gob unit. So the money should never have gotten into this account and the production should not  
26 have been into this account. It should have been paid to other folks who did not have an interest  
27 in VP6 sealed gob unit. So the money went into this unit, people received overpayments in this  
28 unit because there was more production going into the unit than should have gone. So it's an  
29 overpayment issue and the money needs to come back out of this account and to these....people  
30 were overpaid that needs to be reconciled.

1 **William Harris**: Well I guess I still have the question as to where does the money actually  
2 come from then? Isn't somebody else going to be shorted this amount down the line  
3 somewhere?

4 **Mark Swartz**: They are not going to be shorted.

5 **Anita Duty**: Well the people that should have shared in the production of P3D and R3C is what  
6 we were discussing about making sure they were paid. To make sure we applied that production  
7 where it should have gone.

8 **William Harris**: So there's...okay.

9 **Mark Swartz**: But they're not....those wells the production from those two wells is not in this  
10 unit so to the extent that we need to account for that production it's in another...it's either in a  
11 voluntary unit or a pooled unit. Anita is thinking that it is voluntary but we are not sure.

12 **Diane Davis**: It is. It is voluntary.

13 **Bradley Lambert**: It is voluntary.

14 **Diane Davis**: There is nothing on our escrow account sheet nor on the unfunded page. So it  
15 must be 100% leased and internally [inaudible]

16 **Anita Duty**: I didn't think there was but I wasn't 100% sure.

17 **Bradley Lambert**: I guess Mr. Harris what the testimony is that this account is overpaid and  
18 there's \$136,130.21, more in that account than is supposed to be there. So what Mr. Swartz is  
19 asking to approve is this order and that money will be taken out of that account and paid back to  
20 CNX.

21 **Mark Swartz**: To be distributed to the folks that we have voluntary units with to square up with  
22 them if we haven't already. But we probably have but she's not...you know...we aren't...we  
23 don't have the answers to everything that could possibly be asked but I think we have probably  
24 squared up with those people and we are asking for the money back for us because it was  
25 essentially paid twice. But to the extent that we haven't and we owe them we are certainly going  
26 to account to those people in those voluntary units.

27 **Bruce Prather**: Over how long of a period has this error been in effect?

28 **Mark Swartz**: What's the date of that order the VP6 gob unit? Probably from the beginning I  
29 am thinking.

30 **Anita Duty**: Yeah. It was always an issue and I think that we found it when we were working  
31 on the...these wells came up on the audit list and I think that's the reason that we found it.

1 **Mark Swartz**: So what's the date of the first deposit?

2 **Anita Duty**: 1998.

3 **Mark Swartz**: When?

4 **Anita Duty**: January 1998.

5 **Mark Swartz**: 1998. January 1998.

6 **William Harris**: Okay.

7 **Anita Duty**: Oh 93.

8 **Mark Swartz**: 93 sorry.

9 **Anita Duty**: I can't see.

10 **Mark Swartz**: January 93?

11 **Anita Duty**: Yes.

12 **Rick Cooper**: Mr. Chairman for the record we do verify that we have no accounts set up for  
13 those two wells.

14 **Bradley Lambert**: Okay. Makes it easier.

15 **Rick Cooper**: It makes it easier. We have no accounts set up for those two wells.

16 **Bradley Lambert**: Any other questions Mr. Harris?

17 **William Harris**: No I think I'm okay.

18 **Bradley Lambert**: Any other questions from the Board? [No response] Anything further Mr.  
19 Swartz?

20 **Mark Swartz**: No.

21 **Bradley Lambert**: Do I have a motion?

22 **William Harris**: Motion for approval.

23 **Bruce Prather**: Second.

24 **Bradley Lambert**: I have a motion and I have a second. Any further discussion? [No response]  
25 All in favor signify by saying yes.

26 **Board**: Yes.

1 **Bradley Lambert**: Opposed, no. [No response] Thank you Mr. Swartz that is approved.

2 **Mark Swartz**: Thank you.

3 **Bradley Lambert**: We are calling Docket Item Number 11. A petition from CNX Gas  
4 Company, LLC, for refund of escrow payments deposited with the Board's Escrow Agent, and  
5 vacate the Board's Order of August 27, 1993, this is Docket Number...

6 **Rick Cooper**: Mr. Chairman, if I could I may have misspoke there. There is an R3 account set  
7 up. R3C would be in the R3 account would it not?

8 **William Harris**: Is this the previous item?

9 **Rick Cooper**: On the previous item. There's an R3 account that has \$14,737.99 in it, R3.

10 **Diane Davis**: Yeah see I put R3C. I apologize.

11 **Rick Cooper**: So we do have an account for R3. So ABC would be in that same unit.

12 **Mark Swartz**: We are still willing to get with you afterwards to address that.

13 **Bradley Lambert**: Let's go ahead and amend that motion for approval just to add that Ms. Duty  
14 will work with Ms. Davis to make sure that those accounting balances are correct and if not then  
15 we can bring it back next month.

16 **Mark Swartz**: That's great.

17 **Bradley Lambert**: Okay.

18 **William Harris**: That's fine. Yeah, I will amend my motion to include that verbage.

19 **Bradley Lambert**: All in favor of the amended motion signify by saying yes.

20 **Board**: Yes.

21 **Bradley Lambert**: Opposed, no. [No response] Thank you.

22

23

### **Item Number 11**

24 **Bradley Lambert**: Now we will continue on to Docket Item Number 11. A petition from CNX  
25 Gas Company, LLC, for refund of escrow payments deposited with the Board's Escrow Agent,  
26 and vacate the Board's Order of August 27, 1993, as all individuals have voluntarily leased.  
27 Docket Number VGOB-93-0316-0342-03. All parties wishing to testify, please come forward.

28 **Mark Swartz**: Mark Swartz and Anita Duty.

1 **Bradley Lambert**: You may proceed Mr. Swartz.

2 **Mark Swartz**: Anita, state your name for us again.

3 **Anita Duty**: Anita Duty.

4 **Mark Swartz**: Who do you work for?

5 **Anita Duty**: CNX Land, LLC.

6 **Mark Swartz**: And are part of your job responsibilities requests for disbursements from  
7 escrow?

8 **Anita Duty**: Yes.

9 **Mark Swartz**: And in this instance do we now have a voluntary unit because everyone has been  
10 leased or their interests have been acquired?

11 **Anita Duty**: Yes.

12 **Mark Swartz**: And this unit was previously pooled because it wasn't voluntary?

13 **Anita Duty**: Correct.

14 **Mark Swartz**: It was pooled back in August of 1993. Correct?

15 **Anita Duty**: Yes.

16 **Mark Swartz**: And are you asking the Board to vacate that order and direct the escrow agent to  
17 disburse the funds on deposit to the operator?

18 **Anita Duty**: Yes.

19 **Mark Swartz**: And have you provided a table with regard to that...with regard to the funds on  
20 disbursement at least as of the date that you did your accounting and that's table one. Right?

21 **Anita Duty**: Yes.

22 **Mark Swartz**: And the only thing that is being escrowed was Tract 2?

23 **Anita Duty**: Um...three and six.

24 **Mark Swartz**: I'm sorry. Two tracts three and six. Okay.

25 **Anita Duty**: Yeah.

26 **Mark Swartz**: And the amount at the time of the exhibit was what amount?

1 **Anita Duty**: \$73,972.05.

2 **Mark Swartz**: Okay. And that amount may or may not have changed because of the charges or  
3 interest.

4 **Anita Duty**: Yes. Correct.

5 **Mark Swartz**: Okay but it is certainly ballpark.

6 **Anita Duty**: Yes.

7 **Mark Swartz**: And so that's the nature of your request. Vacate the order and disburse the funds  
8 to CNX?

9 **Anita Duty**: Yes.

10 **Mark Swartz**: That's all I have.

11 **Bradley Lambert**: Ms. Duty you testified that there were two tracts but we only have one tract  
12 on our information. Tract number two...

13 **Anita Duty**: Well that's what I said I must have....I've got ah...my exhibits not the same. This  
14 is the one...I think this is the one that you and I corrected together. I think this is....that's...I've  
15 got the wrong one in my file.

16 **Bradley Lambert**: Diane, the question was she testified that they were disbursing from two  
17 tracts but we only have one tract with our information.

18 **Diane Davis**: Okay. Let me look at the EE and see. I would have to go back. I cannot  
19 remember. I would have to go back and look at the prior disbursement or the prior petition  
20 before I could answer your question and if you want me to look at that while you proceed I will  
21 be glad to do that. It will take me a couple of minutes to pull it up. Or if you want to take a four  
22 minute break or five minute break. [Inaudible]

23 **Mark Swartz**: We've got it.

24 **Bradley Lambert**: The dollar amount matches our information it is just that she testified two  
25 tracts, we've only got one tract and that's tract two.

26 **Anita Duty**: Yeah it's just tract two.

27 **Diane Davis**: I'm pretty sure it is.

1 **Anita Duty**: The problem is that we did a revision on that table. That's the one that we talked  
2 about that we revised the table and it still shows that there is two tracts I guess we didn't go back  
3 in and change that.

4 **Diane Davis**: Right. You took it off of the second table but didn't go back up to the top and  
5 delete from the...

6 **Anita Duty**: Yeah. That was me trying to do it myself.

7 **Diane Davis**: What they did was they originally listed the two tracts up at the top but then when  
8 they did the table and we realized it and you deleted one line because it shouldn't have been  
9 there, it should have been just the one tract. Right?

10 **Anita Duty**: We deleted one. Yeah. Isn't that just part of what you fill in when you create the  
11 table? And we didn't go back in and change it to say one tract.

12 **Diane Davis**: Once you pass that part up there....and I probably should have picked up on that.

13 **Anita Duty**: But I don't do it enough to know.

14 **Mark Swartz**: And what we are looking at to confirm that is in Exhibit E revised as of July 10,  
15 2002, that shows one tract in escrow containing how many acres?

16 **Anita Duty**: 2.44.

17 **Mark Swartz**: Okay.

18 **Bradley Lambert**: Okay. Mr. Cooper have you verified through your review of these orders  
19 have you verified the amount that they are requesting?

20 **Rick Cooper**: I have not. Diane?

21 **Diane Davis**: No. Because what it will be if you are asking for it all back it will change if there  
22 has been any more money in there and they are asking to vacate the account to correct it. So it  
23 will be whatever it is at the time Debbie pays it out.

24 **Bradley Lambert**: So Ms. Duty, at what time did you reconcile to come up with the  
25 \$73,972.05?

26 **Anita Duty**: December 2013.

27 **Bradley Lambert**: And what are the wells contributing?

28 **Anita Duty**: R42.

29 **Bradley Lambert**: Any other questions from the Board?

1 **William Harris**: Let me ask a question, I hate to keep hashing these things. I'm a little  
2 confused on the time line here. We are saying in 1993 is when the order was written and the  
3 well was first drilled. There were people at that time that had leased or that were pooled and so  
4 this has been producing....

5 **Mark Swartz**: That were pooled. That were pooled.

6 **William Harris**: That were pooled. Okay. Sorry. But this has been producing for twenty  
7 years....

8 **Mark Swartz**: Right.

9 **William Harris**: And those folks have never been paid because their money was in escrow.

10 **Mark Swartz**: Because their money was in escrow, right.

11 **William Harris**: And now they have leased?

12 **Mark Swartz**: Now they have leased, so we have a 100% voluntary unit. Okay?

13 **William Harris**: Okay.

14 **Mark Swartz**: And there is no reason for the unit....

15 **William Harris**: The continuance of the escrow.

16 **Mark Swartz**: There is no....right....because it is now a voluntary unit.

17 **Anita Duty**: The primary reason for vacating the order was that the terms that was  
18 negotiated...it's a Norfolk Southern lease, are a little bit different than the normal...

19 **William Harris**: Oh okay. I'm just amazed that in twenty years of production that somebody  
20 let themselves pooled and not...

21 **Mark Swartz**: No...no. They....that happens all the time. I mean, we have tons of accounts  
22 that are twenty years old, I mean, this is...I think it is unusual...what you are seeing is unusual  
23 that people lease to us twenty years later.

24 **William Harris**: Later.

25 **Mark Swartz**: Right. But it's Norfolk Southern so...

26 **Anita Duty**: It was just an amendment. They had just missed certain areas in there in the lease  
27 and they amended it to include everything in Buchanan County or I mean they've done like a  
28 cover-all lease.

1 **William Harris**: So it just went back retroactive to...well not retroactive but well in the since  
2 that their money now becomes available to them through a lease or whatever.

3 **Mark Swartz**: Right. What happens is that it comes back to us and then it goes to them.

4 **Diane Davis**: Mr. Chairman the balance as of January is \$74,232.33.

5 **Mark Swartz**: But you know it is strange but it's strange because they leased not...you know,  
6 we have tons of escrow accounts that are twenty years old.

7 **William Harris**: Oh yeah...yeah. I've noticed from the accounts. Yeah.

8 **Anita Duty**: We had a lease from them prior, they just...there were certain areas that we hadn't  
9 developed that weren't included in the lease. And then just recently probably the last two years  
10 they just did an amendment to cover everything that way they don't have to worry about missing  
11 pieces here. So that's the only reason it's kind of a weird...

12 **Mark Swartz**: Well I think the original lease with them though did post date ninety-three as  
13 well. I don't think we had a lease with them in the beginning and then we had a lease and we  
14 missed some of these so it's...my guess is we didn't even have that lease in ninety-three at all  
15 with them. This is sort of a clean-up issue with Norfolk Southern.

16 **Bradley Lambert**: It's all Norfolk Southern, correct?

17 **Anita Duty**: They're the only unleased person right.

18 **Bradley Lambert**: Okay. Mr. Cooper....

19 **Rick Cooper**: Yes. This well R-42 there are several wells in that unit and it was drilled in 2002.  
20 So it wasn't drilled in 1993 it was drilled in 2002.

21 **Bradley Lambert**: So if that's the case, how do we have a Board Order dated 1993?

22 **Rick Cooper**: It was part of the gob. It was probably established during the...it is a gob unit.

23 **Mark Swartz**: It is allocated panel production. So that's why we've got money going way  
24 back.

25 **Rick Cooper**: That is correct.

26 **Bradley Lambert**: Okay.

27 **Mark Swartz**: Yeah.

28 **Anita Duty**: Allocated for that entire panel all the way.

1 **Rick Cooper**: Correct. It is allocated from the panel, not from that particular well.  
2 **Anita Duty**: Not just that particular well.  
3 **Bradley Lambert**: Not that well.  
4 **Rick Cooper**: Yes.  
5 **Bradley Lambert**: The panel not the well. Okay. Thank you. Any further questions from the  
6 Board? [No Response] Do I have a motion?  
7 **William Harris**: I'll move for approval.  
8 **Bruce Prather**: I'll second.  
9 **Bradley Lambert**: I have a motion and a second. Any further discussions? [No Response] All  
10 in favor signify by saying yes.  
11 **Board**: Yes.  
12 **Bradley Lambert**: Opposed, no. [No response] Thank you Mr. Swartz that is approved.

13  
14 **Item Number 12**

15 **Bradley Lambert**: We are calling Docket Item Number 12. A petition from CNX Gas  
16 Company, LLC, for the disbursement of escrowed funds heretofore deposited with the Board's  
17 Escrow Agent attributable to Tracts 1 & 5 as depicted upon the annexed Exhibit A-1. This is  
18 Docket Number VGOB-96-0116-0530-02. All parties wishing to testify, please come forward.  
19 **Mark Swartz**: Mark Swartz and Anita Duty.  
20 **Bradley Lambert**: You may proceed Mr. Swartz.  
21 **Mark Swartz**: Thank you. Anita you need to state your name for us again.  
22 **Anita Duty**: Anita Duty.  
23 **Mark Swartz**: Who do you work for?  
24 **Anita Duty**: CNX Land, LLC.  
25 **Mark Swartz**: Do your job responsibilities include dealing with issues pertaining to  
26 disbursements from escrow?  
27 **Anita Duty**: Yes.

1 **Mark Swartz**: Did you supervise the preparation of this petition and the related exhibits?

2 **Anita Duty**: Yes.

3 **Mark Swartz**: And this pertains to drilling unit V28, right?

4 **Anita Duty**: Yes.

5 **Mark Swartz**: Did you do a reconciliation of deposits that the operator made over the years and  
6 compare those checks that the operator wrote for deposit to the deposits booked by the banks?

7 **Anita Duty**: Yes.

8 **Mark Swartz**: And when you did that, were you able to reconcile them?

9 **Anita Duty**: We were.

10 **Mark Swartz**: Did you find a deposit for every check that the operator issued?

11 **Anita Duty**: We did.

12 **Mark Swartz**: And you did that reconciliation through what date?

13 **Anita Duty**: October 31, 2013.

14 **Mark Swartz**: And did you find that accounting for a 2001 disbursement and bringing it  
15 forward there was a slight difference between what you all had paid and accounted for in a  
16 disbursement and what the bank showed as the balance?

17 **Anita Duty**: Yes.

18 **Mark Swartz**: And what was the difference?

19 **Anita Duty**: \$25.71.

20 **Mark Swartz**: And since it is a plus I assume that you are saying the bank had \$25.71, more  
21 than was paid in even accounting for the 01 disbursement?

22 **Anita Duty**: Yes.

23 **Mark Swartz**: Okay. Have you provided the Board with a disbursement table?

24 **Anita Duty**: Yes.

25 **Mark Swartz**: And how many tracts are we talking about?

26 **Anita Duty**: Two.

1 **Mark Swartz**: And is it a partial disbursement?

2 **Anita Duty**: It is.

3 **Mark Swartz**: So the escrow account would need to be maintained after the disbursements are  
4 made?

5 **Anita Duty**: Yes.

6 **Mark Swartz**: Okay. Are you asking the Board to allow you as operator to pay the folks who  
7 are receiving disbursement directly in the future?

8 **Anita Duty**: Yes.

9 **Mark Swartz**: Using Table 1 could you tell the Board who it is that we've proposed to receive  
10 the disbursements and the percentages that the escrow agent should use when making those  
11 disbursements?

12 **Anita Duty**: For Tract 1 Roscoe Deskins, Jr. should receive 2.6893%, Calvin Deskins should  
13 also receive 2.6893%, Torch Oil and Gas Company, should receive a total of 5.3786%. For  
14 Tract 5, CNX Gas Company, should receive 4.2675%, and Torch Oil and Gas Company, should  
15 receive 4.2675%.

16 **Mark Swartz**: And the wells contributing to this account?

17 **Anita Duty**: V-28A and V-28B.

18 **Mark Swartz**: And the reason for this request appears to be a royalty split agreement. Is that  
19 correct?

20 **Anita Duty**: Yes.

21 **Mark Swartz**: And have you actually seen that agreement?

22 **Anita Duty**: I have.

23 **Mark Swartz**: Is it a 50/50 agreement?

24 **Anita Duty**: Yes.

25 **Mark Swartz**: And I note that's what you used to prepare Table 1. Correct?

26 **Anita Duty**: Yes.

27 **Mark Swartz**: That's all I have Mr. Chairman.

28 **Bradley Lambert**: Any questions from the Board. [No response] Anything further Mr. Swartz?

1 **Mark Swartz**: No.

2 **Bradley Lambert**: Do I have a motion?

3 **William Harris**: Motion for approval.

4 **Bruce Prather**: Second.

5 **Bradley Lambert**: I have a motion and a second. Any further discussion? [No response] All in  
6 favor signify by saying yes.

7 **Board**: Yes.

8 **Bradley Lambert**: Opposed, no. [No response] Thank you Mr. Swartz that is approved.

9

10

### **Item Number 13**

11 **Bradley Lambert**: We are calling Docket Item Number 13. A petition from CNX Gas  
12 Company, LLC, for the disbursement of funds held by the escrow agent for Tract 1G, Unit W35,  
13 and the payment of royalties directly for the parties identified in Exhibit A-1. Docket Number  
14 VGOB-98-0324-0627-09. All parties wishing to testify, please come forward.

15 **Mark Swartz**: Mark Swartz and Anita Duty.

16 **Kenneth Osborne**: Kenneth Osborne, heir to O. H. Keene and Linkous Horn.

17 **Sarah Gilmer**: Mr. Osborne, do you swear or affirm that your testimony is the truth the whole  
18 truth and nothing but the truth?

19 **Kenneth Osborne**: I do.

20 **Sarah Gilmer**: Ms. Guilliams, are you planning to speak?

21 **Martha Guilliams**: Maybe. I don't know.

22 **Sarah Gilmer**: Do you swear or affirm that your testimony is the truth the whole truth and  
23 nothing but the truth?

24 **Martha Guilliams**: Yes.

25 **Sarah Gilmer**: Mr. Osborne, do you swear or affirm that your testimony is the truth the whole  
26 truth and nothing but the truth?

27 **Ronnie Osborne**: I affirm.

1 **Bradley Lambert**: You may proceed Mr. Swartz.

2 **Mark Swartz**: Anita will you state your name for us again?

3 **Anita Duty**: Anita Duty.

4 **Mark Swartz**: Who do you work for?

5 **Anita Duty**: CNX Land, LLC.

6 **Mark Swartz**: And did we receive a request from the Board to file a petition with regard to W-  
7 35?

8 **Anita Duty**: Yes.

9 **Mark Swartz**: And did we do that?

10 **Anita Duty**: Yes.

11 **Mark Swartz**: And in...with regard to the petition that you filed pertaining to W-35, what is it  
12 that we are asking the Board to do today?

13 **Anita Duty**: To disburse [inaudible] and royalty agreements.

14 **Mark Swartz**: Okay. And we have a table that summarizes what we are asking the Board to do  
15 today. Correct?

16 **Anita Duty**: Yes.

17 **Mark Swartz**: And that would be Table 1.

18 **Anita Duty**: Yes.

19 **Mark Swartz**: Okay. And it lists folks that we propose would receive disbursements and it  
20 gives percentages. Correct?

21 **Anita Duty**: Yes.

22 **Mark Swartz**: And the basis or the reason underlying this request for disbursement is what?

23 **Anita Duty**: Royalty agreements.

24 **Mark Swartz**: Okay. And have you seen those agreements?

25 **Anita Duty**: Yes.

26 **Mark Swartz**: Are they all 50/50 agreements?

1 **Anita Duty**: Yes.

2 **Mark Swartz**: And have you used 50% to make the calculations that are showing on Table 1?

3 **Anita Duty**: Yes.

4 **Mark Swartz**: What tracts are we talking about here?

5 **Anita Duty**: Tracts 1E and 1G.

6 **Mark Swartz**: And like the other units that we've talked about today in terms of disbursements,  
7 did you attempt to reconcile the deposits or the checks that the operator cut over the years for  
8 deposit to the deposits received by the bank?

9 **Anita Duty**: I did.

10 **Mark Swartz**: And have you attached a reconciliation that shows what you did in that regard?

11 **Anita Duty**: Yes.

12 **Mark Swartz**: And this reconciliation is through what date?

13 **Anita Duty**: December 31, 2013.

14 **Mark Swartz**: Okay. So just a month and half ago?

15 **Anita Duty**: Yes.

16 **Mark Swartz**: Have you at the end of the reconciliation accounted for prior disbursements from  
17 this account?

18 **Anita Duty**: Yes.

19 **Mark Swartz**: And then have you used those to back into a difference between the deposits  
20 made and the balance on hand?

21 **Anita Duty**: Yes.

22 **Mark Swartz**: And what's the difference?

23 **Anita Duty**: \$112.63

24 **Mark Swartz**: Okay. And that's a negative number?

25 **Anita Duty**: It is.

26 **Mark Swartz**: Which would suggest that the banks fees exceeded the interest earned?

1 **Anita Duty**: Yes.

2 **Mark Swartz**: Okay. But in the process of doing the reconciliation, were you able to locate  
3 every check and account for it as a deposit?

4 **Anita Duty**: I was.

5 **Mark Swartz**: Okay. So the records are square. The bank received all of the monies that  
6 you've paid.

7 **Anita Duty**: They did.

8 **Mark Swartz**: And now going back to the table I would ask you to....before the escrow agent  
9 makes the payments in your Table 1 does a recoupment number need to be accounted for?

10 **Anita Duty**: Yes.

11 **Mark Swartz**: Okay. Tell the Board about that.

12 **Anita Duty**: We had brought a petition to the Board to re-pool this unit and one of the tracts that  
13 we included on the re-pooling was a tract that we had previously disbursed between Hurt-  
14 McGuire and Daisy Burke. And when we re-pooled the unit we realized that they should have  
15 been shown as a title conflict not only to CBM but to actually who owns the oil and gas. So that  
16 payment should have probably never took place. So whenever the re-pooling was approved our  
17 accounting department went back in...only back into what we had on live system because we've  
18 had so many third party administrators and things like that, and re-deposited like a \$29,000.00  
19 deposit in March of 2012, as a result of that re-pooling. Which included just a partial repayment  
20 of the money that was paid out to Daisy Burke and to Hurt-McGuire. So what we are asking, in  
21 order for us to recoup that money internally and book that against the dollar amounts that Daisy  
22 Burke had already been paid, is to just have that tract held internally in our accounts so that we  
23 can make up that \$40,000 that was paid out to her. Rather than have it in an escrow account  
24 because we really can't automatically recoup it that way....systematically. If the money is in one  
25 place and we are trying to recoup internally we can't do the two.

26 **Mark Swartz**: And is that accounted for on Table 1?

27 **Anita Duty**: It is.

28 **Mark Swartz**: Okay. And what entry would that be?

29 **Anita Duty**: Tract 1E.

30 **Mark Swartz**: Okay. And that's the \$27,781.90?

31 **Anita Duty**: Yes.

1 **Mark Swartz**: And that pertains to the recoupment that will occur over time with regard to that  
2 payment?

3 **Anita Duty**: Right. We want to take the entire tract 1E out of escrow and recoup that internally.

4 **Mark Swartz**: Because it has already been paid?

5 **Anita Duty**: We've already paid her. Right.

6 **Mark Swartz**: Okay. And the rest of the payments on Table 1 are then payments that will be  
7 made to third parties for royalty interests not recoupment?

8 **Anita Duty**: Correct.

9 **Mark Swartz**: Okay. With regard to Tract 1G then who would receive the payments that you  
10 are proposing and what percentages should the escrow agent use?

11 **Anita Duty**: Nellie Maynard should receive 0.0618%, Danny Elder and Robert Elder should  
12 receive 0.0167%, Joseph Horn 0.3005%, and Hurt McGuire Land Trust a total of 0.3956%.

13 **Mark Swartz**: We've got two pages but there actually one of them is a dollar amount pay out.  
14 Table 1...let's go back....let's start over.

15 **Anita Duty**: Alright, start over.

16 **Mark Swartz**: So the first page of Table 1...

17 **Anita Duty**: For Tract 1G these people are ones that have already been paid out from a prior  
18 disbursement and we didn't put the escrow account on hold again and their money went back  
19 into the account after a disbursement was made. So that is the Nellie Maynard 0.0618%, Danny  
20 Elder and Robert Elder is 0.0167%, well actually it should be exact dollar amounts.

21 **Mark Swartz**: Well let's get it right then.

22 **Anita Duty**: Alright sorry. These are exact dollar amounts that they should be paid. Nellie  
23 Maynard \$18.49, Danny Elder and Robert Elder \$5.00, Joseph Horn \$89.94, and Hurt McGuire  
24 \$118.41.

25 **Mark Swartz**: And the reason for these payments is after the Board's order authorizing a prior  
26 disbursement to these people, the operator paid some additional royalties to them into this  
27 account.

28 **Anita Duty**: Yes.

29 **Mark Swartz**: And are these the exact amounts of the subsequent royalty payments?

1 **Anita Duty**: Yes. Exact dollars.

2 **Mark Swartz**: And so these dollars...exact dollars, need to come out to these I guess it's five  
3 people. Correct?

4 **Anita Duty**: Correct.

5 **Mark Swartz**: Before the distribution is made on a percentage basis on this second piece of  
6 Table 1.

7 **Anita Duty**: Correct. Yes.

8 **Mark Swartz**: And the second piece of Table 1 actually says "Pay the Percentage." Correct?

9 **Anita Duty**: It does.

10 **Mark Swartz**: Okay. And just to stay with this for a moment, is the disbursement on the first  
11 page of Table 1 a dollar amount payment that needs to be made to CNX or is it a percentage  
12 payment?

13 **Anita Duty**: They are all dollar payments.

14 **Mark Swartz**: Okay. So to correct that testimony as well or to clarify that testimony with  
15 regard to payment for Tract 1E to CNX as a recoupment issue.

16 **Anita Duty**: Yes.

17 **Mark Swartz**: What is the amount that should be paid to CNX?

18 **Anita Duty**: \$27,781.90.

19 **Mark Swartz**: And that payment should also be made before we get to the percentage payments  
20 on the following page of Table 1?

21 **Anita Duty**: Yes.

22 **Mark Swartz**: Okay. Then what are the percentage payments that you're requesting to royalty  
23 owners on the second piece of the table?

24 **Anita Duty**: For Margie Dye and Tammy Boyd Street they should each receive 0.9663%,  
25 Patricia Horton should receive 0.2612%, Nancy Stilwell 4.7011%, Wesley Perkins and Tania  
26 Hess 2.3506%, Martha Smith and Sarah Day 4.7011%, Tamatha Bednar 1.9588%, and Hurt  
27 McGuire Land Trust a total of 22.959%.

28 **Mark Swartz**: And the wells that have contributed to this account are which wells?

1 **Anita Duty**: W-35A and W-35B.

2 **Mark Swartz**: As to the disbursement to the folks that you have given the percentages for are  
3 you requesting permission to pay their royalties to them directly in the future?

4 **Anita Duty**: Yes.

5 **Mark Swartz**: That's all I have.

6 **Bradley Lambert**: A couple of questions, how come we are just now paying out the dollar  
7 amount for Table 1?

8 **Anita Duty**: We were just now coming back to file the petition to fix it.

9 **Bradley Lambert**: I guess I'm a little bit confused on why we are paying a dollar amount on  
10 this table versus the percentages that we normally do and why are we doing it right now within  
11 this order?

12 **Anita Duty**: When we were working on this disbursement, when we were reconciling with our  
13 accounting, they were the ones that told us that they had continued to pay those four people into  
14 the escrow account after the disbursement was made. Sometimes they don't...if we tell them  
15 that we have a disbursement approved usually what I do when I go back is tell them we have  
16 these disbursements approved, place those First Bank and Trust parties on hold. So the checks  
17 don't cross in the mail. And then what they should do is carve out the people that you know,  
18 were approved that day once we get the order. But sometimes they...they don't place it on hold  
19 exactly when, you know, when we ask them to and one more payment will go to the escrow  
20 account that includes their interest and it shouldn't have. So that's the reason we are fixing the  
21 payment for the dollar amount payout because they know exactly what dollar belongs to what  
22 person. And then after those disbursements happen then we can do people that have never been  
23 paid out before and do their royalty splits.

24 **Bradley Lambert**: Okay. So these people on Table 1, after you make these payments they will  
25 be paid directly from that point forward?

26 **Anita Duty**: Well they are actually being paid directly right now. We just got...one more check  
27 went before we got it stopped from the last disbursement. They had been approved for  
28 disbursement earlier.

29 **Bradley Lambert**: And they are already on direct pay.

30 **Anita Duty**: They are already on direct pay but they did notify the ...our accounting department  
31 notified us that they are due that additional amount of money out of the escrow account.

1 **Bradley Lambert**: Okay. Now my next question goes back to Daisy Burke and the \$27,781.90,  
2 Ms. Burke has already been paid out, is that correct?

3 **Anita Duty**: She was paid out several years ago. Yes.

4 **Bradley Lambert**: So how come the \$27,000.00, was continued to be paid into her?

5 **Anita Duty**: When we re-pooled the unit, we came back with that tract that she was paid out of  
6 and the title department saying now there is a conflict to oil and gas, not only a CBM conflict but  
7 an oil and gas conflict. So we should have technically never paid it out based on the royalty  
8 agreement because it didn't take care of the title issue. So what should have happened is that we  
9 paid back 100% of that money back into the account.

10 **Bradley Lambert**: I guess the only concern here and Mr. Harris raised this a minute ago is that  
11 Ms. Burke received her full accounting and is not being penalized in any way?

12 **Anita Duty**: That's why we need to recoup the...that's why we need that money back so  
13 whatever production that she is due monthly can come off of that \$27,000.00. And we are doing  
14 the same thing with Hurt-McGuire, we are recouping that other half from them. But we can't do  
15 it when part of the money is here and part of the...and what we are trying to recoup against is  
16 internal.

17 **Bradley Lambert**: Okay.

18 **Anita Duty**: That's why we are kind of...if we could systematically do it and just take one E  
19 out of the escrow account and internally take care of it then...

20 **Bradley Lambert**: I guess the only question in front of the Board...the only concern we have is  
21 that Ms. Burke is not being affected in any way. She is still receiving her full accounting and has  
22 not been penalized for a mistake that was made early on from your accounting.

23 **Anita Duty**: No. We are not asking her to pay the money back we are just not paying her  
24 anything additional.

25 **Bradley Lambert**: But that's my point exactly. We're not paying anything to her, anything  
26 additional, is she paid up from what she is supposed to be?

27 **Anita Duty**: No. She was paid over I mean I think sixty some thousand.

28 **Rick Cooper**: \$61,467.23.

29 **Mark Swartz**: And we have yet to recoup...we've recouped all of that except the \$27,000.00.

30 **Anita Duty**: Well...

1 **Mark Swartz**: Otherwise you would be asking for more is my assumption or no?

2 **Anita Duty**: Well that's all that we've repaid back into the account. We didn't repay all of it  
3 back from the beginning of time.

4 **Mark Swartz**: Okay.

5 **Bradley Lambert**: Mr. Prather.

6 **Bruce Prather**: Well the thing that gets me about it is the Board didn't make the mistake CNX  
7 made the mistake and it would appear to me that this is a one party issue. In other words, if you  
8 overpaid this lady you should be able to take her to court and get the money back. I'm not so  
9 sure that the escrow account should be the place to reimburse you. I've never ran into this before  
10 but...

11 **Anita Duty**: Well that money was actually...the money that was attributable to her interest.  
12 That's the only reason we are asking for that piece back.

13 **Bruce Prather**: Yeah. I understand that but the Board didn't make a mistake.

14 **Anita Duty**: No. We re-deposited it again. We had already deposited the sixty thousand  
15 dollars, now we are redepositing....we redeposited a portion of it.

16 **Bruce Prather**: Okay.

17 **Bradley Lambert**: I just go back to my previous statement, Ms. Burke, she will be made whole  
18 and she will not be penalized in any way. No money is coming back out of her account but she  
19 is being paid everything that she is supposed to be paid, or has been paid all that she is supposed  
20 to be paid up to this point?

21 **Anita Duty**: Well she shouldn't have been paid to start with but she was.

22 **Bradley Lambert**: Well let's talk about why she shouldn't have been paid.

23 **Anita Duty**: She had a royalty agreement with Hurt-McGuire when we originally had this unit  
24 set up. We were showing Hurt-McGuire owning the coal and Daisy Burke owning the oil and  
25 gas. Well what was missed when we did the re-pooling in our title there was a cloud on title  
26 throughout I guess a severance deed throughout the chain of title. That should have always been  
27 showing as Daisy Burke or I can't remember the other party. So in reality we should have never  
28 paid according to that agreement unless they took care of that cloud. But we did. So what our  
29 accounting department did is they went back to whatever we have currently like a live system  
30 and reversed and rebooked it back and that's where the \$27,000.00 deposit came from. Because  
31 what they do internally they look at it like well we're paying...we're starting from scratch. So  
32 whatever money accumulated we need to repay it. Just like we do on any other we change

1 acreages or anything like that. They don't know that we've already paid Daisy Burke out they  
2 just know that we're reversing and rebooking to where it is a whole new division of interest.

3 **Bradley Lambert**: What's Ms. Burke's position? She is not here to address it so....

4 **Anita Duty**: Well I mean she believes that she should still be paid and we've explained it to her  
5 and her sons and I know they've visited the DGO office. I mean, we've been on the phone with  
6 them too so....

7 **Bradley Lambert**: Ms. Davis.

8 **Diane Davis**: Mr. Chairman this is...I agree with Anita, I don't disagree with the petition that  
9 they have in now but there's a couple of things that we wanted to point out. This has been a very  
10 trying process for us and we did put together a little comment page Jim Lovett and myself. Back  
11 in the '06 as she said Daisy Burke and Hurt-McGuire were paid out on a 50/50 agreement which  
12 gave both of them \$61,467.33, and removed them from escrow. They came back and did an '07  
13 re-pooling and when they did that they put Daisy Burke back into the escrow account. They put  
14 her acreage back in but at that time no money. And I believe during that time period they have  
15 been recouping some of the money and slowly putting it in. What they are saying now on the  
16 '07 re-pooling was that there was a conflict or a cloud on title on the gas estate. Okay. But they  
17 did put them back on the E which would put their acreage back into the escrow account.  
18 Without putting the money back into the escrow account we could not proceed with a  
19 disbursement because you would be paying out on an increased acreage and less money because  
20 again you are talking about a pretty large...it is 35.83 acres. So to fix their problem I think one  
21 of two things has to happen. There's a lot here that I could read to you but I think they've told  
22 most of it. You can do what they are saying, you know, except you need to keep in mind they  
23 now have Daisy Burke and Garden Realty on...if you will look at your EE you will see that they  
24 are listed as a conflict which is...I'm going to be quite honest and say I have never seen...I  
25 understand why don't misunderstand me but I have never seen the Board approve an order that  
26 they know that there is a conflict on and that show up on the EE because all conflicts are on the  
27 E for escrowing we know. So you can either approve it recognizing that or your other option is  
28 to say no you say this acreage is in there put the money back in and go on. But my concern is  
29 that I have never seen an EE reflect a cloud on title or anything. Had they not put them back in,  
30 in the re-pooling I probably wouldn't even have seen this. Right?

31 **Anita Duty**: I mean we have to put the tract somewhere.

32 **Diane Davis**: I know. I acknowledge that.

33 **Anita Duty**: I mean if it's not going to...because if you put it on the E then you would expect it  
34 to be included in the account. Which it's not going to be, so...do we make up a totally different  
35 exhibit or do we put it on the E? I mean I guess that was our....we have to put it somewhere.

1 **Diane Davis**: Right.

2 **Anita Duty**: Because if you put it on the E you expect it to be escrowed.

3 **Diane Davis**: And I expected it to be escrowed because the '07 put them back in there.

4 **Anita Duty**: But we are asking to take them back out and recoup that \$60,000.00, internally.  
5 Because we can't recoup against something that we don't have. If we don't have that  
6 \$27,000.00, we could never, you know, subtract off the production that applies to it.

7 **Diane Davis**: But I guess I kind of agree with Mr. Harris and Mr. Prather if it was your all's  
8 error...don't hit me...but if it was your all's error why not correct it and proceed forward. I  
9 mean...I just don't see how you can...the Board can knowingly have a conflict that they're  
10 aware of that was put on...paid out and then put back on in '07 and let it just be handled  
11 internally. I guess....

12 **Bradley Lambert**: Well that makes it even more complicated.

13 **Diane Davis**: Pardon me?

14 **Bradley Lambert**: That point makes it even more complicated that Daisy Burke and Garden  
15 Realty shows up in the EE.

16 **Diane Davis**: Yeah and I don't know what to do with that. I mean I understand that they've got  
17 to do something with it and I'm not trying to be difficult but they're the ones that came back and  
18 did the '07 re-pooling and that's why the '08 never got paid is we caught that in the '08 the  
19 acreage was higher than...included the acreage that we had already paid out and the money  
20 wasn't there. So in my opinion when they did that '07 re-pooling and put those people back in  
21 they should have put that money back in. That's what I think but that's just my opinion. Then  
22 you wouldn't be here...they would have to collect it internally how I don't know. But that's...

23 **Bruce Prather**: Mr. Chairman, does Mr. Gooch have an opinion on what the Board's  
24 responsibility is for errors that are made by companies and they want reimbursed through the  
25 escrow account?

26 **Matthew Gooch**: I don't know the answer to that off the top of my head. I apologize. That's  
27 something that I can look into but I'm certainly not going to give you...shooting from the  
28 headbands without being prepared.

29 **Bruce Prather**: Well I'm sure we want some sort of legal opinion whether or not we can do  
30 this.

31 **Matthew Gooch**: I would be happy to look into it for the Board.

1 **Bradley Lambert:** I guess I was following pretty good I think until we came up with the item.  
2 Ms. Davis threw that one in here on us.

3 **Mark Swartz:** Here's the problem. Roughly \$120,000.00, came out of the escrow account  
4 when there was a title conflict and shouldn't have been paid. If we put...CNX put \$120,000.00,  
5 back into the account we would be here asking for that \$120,000.00, to come out to us so that we  
6 could recoup against it. I mean...you see where I'm coming....it's just...it's how do you want  
7 us to handle that event so that it can square up.

8 **William Harris:** Well but see...

9 **Mark Swartz:** I mean...well that's....

10 **William Harris:** Squaring up to me and that's what Mr. Prather said if it was your all's error  
11 then going forward why are other people having to pay for that? Because that's what it looks  
12 like.

13 **Mark Swartz:** Well my question is who's paying for it? We pay for it. We overpaid people we  
14 didn't underpay people. I mean no one....the only victim at the moment is CNX and the question  
15 is from an accounting stand point how do we satisfy the Board that the money...the appropriate  
16 amount of money went in and out of this escrow account for that tract. And what Anita is  
17 proposing is a solution, well if that solution doesn't work I mean...if the Board's preference is  
18 that we pay more in but take more out to balance the account we are good with that as well.  
19 We're just trying to square up a disbursement that should not have been made.

20 **William Harris:** Without going to the folks that it was made to and asking....

21 **Mark Swartz:** No...no we are going because we are recouping from them. We're not  
22 getting....we're not saying we are going to sue you to get it back we are saying to them we owe  
23 you money in the future and we are going to recoup over time against those amounts.

24 **William Harris:** Against the future. Okay.

25 **Bradley Lambert:** What you are saying Mr. Swartz, let me see if I understand this correctly.  
26 The disbursement should not have been made because in 2008 there was a cloud on title?

27 **Mark Swartz:** There was a cloud on title on the oil and gas side so that the royalty split  
28 agreement between Hurt-McGuire and Daisy Burke was an incomplete agreement. Because  
29 there was Garden Realty was a claimant so we had what we thought was a split agreement that  
30 resolved the conflict. We made a payment which we shouldn't have made because there is no  
31 agreement with Garden Realty who also had a claim to the oil and gas side. So we paid Hurt-  
32 McGuire and I am assuming we've already probably recouped from them or made pretty good  
33 progress on that.

1 **Anita Duty**: Yeah.

2 **Mark Swartz**: And then we also have a payment to Daisy Burke that we're trying to recoup  
3 against but it is going more slowly since her interests are smaller. We need to square up with  
4 regard to that and how we do it is up to you but we've overpaid people we haven't underpaid  
5 people. We are recovering from Hurt-McGuire so we are not here quarreling about that  
6 but...and their interest is not in conflict so we know we are going to be good to go with them.  
7 But with regard to the other piece, you know, we're just trying to get that squared up so that the  
8 escrow account is in balance with regard to that piece so that in the event Garden Realty and if  
9 they vindicate their claim the money will be there for them. I mean...and it's...I don't care how  
10 you do this but I think there was a misunderstanding here that if we put more money in we are  
11 going to take more out. The question is does that piece of the conflict balance in the escrow  
12 account? And how that balances you know we are open to the solution but you just need to  
13 know that Anita's solution pays in less but takes out less. To the extent that you want us to pay  
14 in more to balance the entire half of that at this point we can do that but we will then need to be  
15 able to get that out so that we can recoup it.

16 **Bradley Lambert**: I'm not sure that we were suggesting, at least I didn't hear a suggestion that  
17 you pay more into it.

18 **Mark Swartz**: Well but that's...I sort of felt like we were headed there and I'm not saying that  
19 in a bad way but I'm just saying the important thing is that this account be squared. There are  
20 multiple ways to get to a solution and the extent that there's some other suggestions as to what  
21 you want us to do. You know, we're open to that.

22 **Bradley Lambert**: So we still have the cloud on title that has not been cleared up.

23 **Mark Swartz**: Correct.

24 **Anita Duty**: And it existed all along. It existed from the very beginning of time. And it just  
25 wasn't...

26 **Mark Swartz**: Picked up.

27 **Anita Duty**: It picked up and then the original pooling.

28 **Bradley Lambert**: CNX didn't pick it up in the original pooling when the money was paid out  
29 and then you discovered the cloud on title, went to recoup the \$27,000.00, that was paid into but  
30 since there is that cloud on title out there, and I go back to my original concern, is Ms. Burke still  
31 going to receive what she is due?

32 **Diane Davis**: She's not due anything right now because of the cloud on title. So they're going to  
33 recoup that money from any payments that should have been.

1 **Anita Duty:** Any future royalties. We are going to subtract that \$60,000.00, from any future  
2 royalties until we get to zero.

3 **Diane Davis:** From anywhere.

4 **Mark Swartz:** From anywhere.

5 **Diane Davis:** From any account they are going to recoup any money that they were going to pay  
6 Daisy Burke to get their money back because she should not have been paid and then they are  
7 saying to us there is a cloud on title and they are going to handle it internally for that tract. Am I  
8 correct? The coal is okay but the oil and gas still has a cloud on title. So what they did...

9 **Mark Swartz:** It is only half of the problem.

10

11 **Diane Davis:** Right. So when they did their '07 re-pooling they've placed her back on there,  
12 placed all of them back on there because of cloud on title. Put their acreage back into escrow  
13 then they come along and ask for a disbursement in '08 which we would not approve because the  
14 '08 would have had us paying people out less money than they should have gotten. Because you  
15 had an increase in acreage the money didn't go back in. Now I'm not saying that the petition  
16 that they had here wouldn't fix it, but I just wanted to point out that I had never seen...when we  
17 know there is a cloud on title I have never seen that show up on an EE and I question that. And  
18 that's the biggest issue for me. If the Board is okay with that okay but it has not to my  
19 knowledge ever happened before and you are aware of the fact that there is a cloud of title and  
20 it's been in the Board and it's been out of the Board and in the Board and out so...I don't know  
21 what you need to do but I wanted you to be aware of the fact that it was on the EE and that it was  
22 placed back in escrow when they re-pooled.

23 **Bradley Lambert:** Well again I guess I misstated when I said that Ms. Burke's been paid all  
24 that she was due, it's been placed in escrow everything that she is supposed to be due. She's not  
25 losing here, that's the concern of the Board. Ms. Burke is not being penalized and is not losing  
26 any of the royalties that she might be due.

27 **Mark Swartz:** Correct.

28 **Diane Davis:** No because they are going to hold them internally.

29 **Bradley Lambert:** Well that's another question.

30 **Anita Duty:** Well anytime that something like that happens and it is our mistake, I mean we're  
31 not going to go sue the landowner. We're not going to tell them to give us the \$60,000.00, back,  
32 all we are going to do is just hold future royalties until we get that number back down to zero.  
33 That's just...

1 **Mark Swartz**: That's what you do.

2 **Anita Duty**: That's what we do, I mean, now the big like Hurt-McGuire I mean, they get royalty  
3 checks every month well the recoupment will go a lot quicker. But you know, with just a  
4 normal...just a regular landowner we don't sue them for repayment or anything we just recoup  
5 from future royalties and that's all we are going to do with the \$27,000.00, put that back  
6 internally so they can work with each other.

7 **Bradley Lambert**: Okay. So my next question is Ms. Burke is well aware of what is going on  
8 and you all are in contact with her. Has she been by our gas and oil office?

9 **Anita Duty**: Her son.

10 **Rick Cooper**: Her son has. She is about 94 years old so her son has contacted me several times.

11 **Bradley Lambert**: And you've had these discussions with him?

12 **Rick Cooper**: I had to explain to him that they are recouping the money and there would be no  
13 future payments until something is resolved.

14 **Anita Duty**: And our title supervisor has explained to him the cloud on title and provided him a  
15 copy of the deed and the language that caused the cloud. I mean...we've offered for him if he  
16 wants to come up there and talk to us, I mean...

17 **William Harris**: Let me ask about this cloud on title. I'm not a legal person but I assume that  
18 means that you really can't pay her any more money until that is satisfied. Is that correct?

19 **Mark Swartz**: Or Garden. There are two people that claim they own the oil and gas estate.  
20 That's the problem.

21 **William Harris**: Yes.

22 **Mark Swartz**: And we don't...their titles are....they each have a title to oil and gas and they're  
23 in conflict and they each have an argument. We own the oil and gas based on their chain of title.  
24 There are two claims to the same tract.

25 **William Harris**: Yes. Okay.

26 **Diane Davis**: So when this comes back will you put it back into...when you collect all of the  
27 monies will you come back and put it back into escrow?

28 **Mark Swartz**: Well we don't have to put the Hurt-McGuire piece back in.

29 **Anita Duty**: I don't know if we will ever get there.

1 **Mark Swartz**: Say what?

2 **Anita Duty**: I don't know if we will ever get there. I mean \$60,000.00, is a lot to recoup from.

3 **Mark Swartz**: I understand. But I mean it is going to have to be...if Garden Realty wins the  
4 dispute it is going to have to be replaced to the extent that it hasn't been recouped is the answer  
5 to that question.

6 **Anita Duty**: Right.

7 **Mark Swartz**: And I guess what I'm seeking is you know, I hear you say this is a  
8 solution....what Anita is proposing is a solution that works but that you don't like the fact that  
9 we're showing the solution on Exhibit EE. And my response to that is if this works I don't care  
10 if we put it on Q, okay. What do we need to do to be done with this? Because we've been back  
11 a good bit and we need to finish this.

12 **Bradley Lambert**: Yes we've had this one several months.

13 **Mark Swartz**: Right. And it is tricky and that's why we've had it for a long time but I mean  
14 it's you know, what is it that needs to happen here for us to you know, be done with this piece of  
15 this escrow.

16 **Diane Davis**: And I guess the other comment that I will make and I'll shut up is I know this  
17 account was established for CNX, okay? It's a VGOB number CNX petition but keep in mind  
18 CNX really did not pay out this money. The Board paid it out at the request of CNX, so it  
19 actually was you know, a Board payment. Just keep that in the back of your mind.

20 **Bradley Lambert**: Well it was a Board payment based upon information related to the Board.

21 **Diane Davis**: Right...right.

22 **Bradley Lambert**: It wasn't exactly just a Board payment.

23 **Mark Swartz**: I don't think that changes anything. I mean you were asked to do something and  
24 based on what we all thought at that point you did what you thought was the right thing and it  
25 turns out it...

26 **Anita Duty**: Well we did too. When we...

27 **Mark Swartz**: Right. No...

28 **Anita Duty**: We sure wouldn't have paid it if we didn't think we should have.

29 **Bradley Lambert**: Mr. Prather let me go back to your question, are you asking that we hold off  
30 on this one until we get a legal opinion?

1 **Bruce Prather**: I would like to see something like that. I mean obviously you know, we can  
2 talk about this until we are blue in the face but I don't see any solution to it unless legally, what  
3 is the responsibility of the Board in a situation like this. I don't know.

4 **Bradley Lambert**: Okay. Mr. Gooch do you understand the issue?

5 **Matthew Gooch**: I think I do.

6 **Bradley Lambert**: Okay.

7 **William Harris**: Do we need to hear from the other folks? They've taken their time to come.

8 **Bradley Lambert**: We are. Are all three going to speak or one at a time? State your name for  
9 the record please, Ronnie.

10 **Ronnie Osborne**: Ronnie Osborne. Does that affect any of the other escrow in that the tax, I  
11 mean the...the interests on any of the other escrow?

12 **Bradley Lambert**: I'm not sure I understand your question.

13 **Ronnie Osborne**: They pay out something they ain't supposed to pay out does that affect the  
14 escrow in that unit? Does that affect the interest?

15 **Bradley Lambert**: It would certainly affect the overall amount in the...

16 **Ronnie Osborne**: That's what I am talking about.

17 **Bradley Lambert**: In the account.

18 **Ronnie Osborne**: I know you all are going to ask for an audit. Why can't we get a forensic  
19 audit?

20 **Bradley Lambert**: I'm not sure even what that term means Mr. Osborne. I don't know what a  
21 forensic audit means.

22 **Ronnie Osborne**: Well I'm going to ask our delegates and stuff. We actually need...

23 **Bradley Lambert**: Well we're not no, Mr. Osborne, we're not going there. We're not going to  
24 talk about audits or anything. We are talking about this docket item right now. So if you have  
25 any comments on this docket item we will take that, other than that we're not taking comments  
26 on the audit.

27 **Ronnie Osborne**: Well I just sat here and listened to...

28 **Bradley Lambert**: Well we're not talking about an audit right now Mr. Osborne, we're talking  
29 about this docket item.

1 **Ronnie Osborne**: That's fine...that's fine....that's fine, I'm just asking. I'm not being smart.

2 **Bradley Lambert**: I'm not either I'm just saying that this is the docket item that we are  
3 concerned with. We are not discussing audits. Does anybody else need to speak?

4 **Martha Guilliams**: I just have a couple of questions to ask. I'm Martha Guilliams for the  
5 record. Who is this Tammy you've listed unknown Nellie Maynard, Bobby Elder, Danny Elder,  
6 Thad Horton, Margie Dye but I don't...I'm just interested to know who Tammy is?

7 **Mark Swartz**: Tammy Boyd Street?

8 **Martha Guilliams**: Tammy Boyd Street, okay.

9 **Anita Duty**: An heir of Ivory Horn.

10 **Martha Guilliams**: Yes she is. I know who she is now but I did not hear what you said. You  
11 said Boyd something...I didn't. And in addition to others, all of the charges for this um...I mean  
12 I have seen...what are they? You know, you've got to pay for the expenses of getting it to the  
13 well head...to the consumer all of these list of charges which takes a humungous percent of the  
14 royalties for the people. I wonder what...I just want to know what percentage does the coal  
15 owner pay? Like for Hurt-McGuire? If you are going to...if I were to sign a split agreement  
16 with Hurt-McGuire today, you would be charging me all of these 3 ½% whatever. I want to  
17 know what the coal owner pays as his expense?

18 **Anita Duty**: I don't know.

19 **Martha Guilliams**: You don't know?

20 **Anita Duty**: That's...

21 **Martha Guilliams**: You know what I pay. You know what I would pay. You know what  
22 Tammy and Margie and Danny and these guys are paying.

23 **Anita Duty**: No I don't. That's not my job. I don't know that.

24 **Martha Guilliams**: Then where do I find that answer? I need...I would like to find...

25 **Anita Duty**: I mean I don't know if anybody would tell you what somebody else's...

26 **Bradley Lambert**: Folks... folks I am going to interrupt you again. We are here for one  
27 particular docket item and that's what we are going to receive testimony on.

28 **Martha Guilliams**: I understand that Mr. Chairman but I do...I think this is well pertaining to  
29 that. Anyone in the family and you know we've had plenty of them that have signed the split  
30 agreements, they have all of these expenses that come out.

1 **Bradley Lambert**: I understand post production costs Ms. Guilliams.

2 **Martha Guilliams**: Right and I just want to know what post production charge that the coal  
3 owner pays.

4 **Bradley Lambert**: Well I don't think that either this Board or Ms. Duty or Mr. Swartz can  
5 answer that question at this time. The Board certainly can't answer that question.

6 **Martha Guilliams**: Okay. Then just...I would like to know where I would find that answer?

7 **Mark Swartz**: If you were getting a royalty check it would be on the check.

8 **Martha Guilliams**: It would be...my share would be on the royalty check but Hurt-McGuire's  
9 will not show on my statement.

10 **Mark Swartz**: And there's would be on their check. I mean...

11 **Martha Guilliams**: I know I just want to know what percentage they are paying?

12 **Mark Swartz**: I don't know.

13 **Martha Guilliams**: I see these checks all the time, and I stack...you know, I have a stack so  
14 high and then I see this humungous check for Hurt-McGuire.

15 **Mark Swartz**: Okay.

16 **Martha Guilliams**: And it does not balance out. Believe me I have...we have tried.

17 **Mark Swartz**: The leases have provisions in them with regard to those kinds of things. I mean,  
18 you know, in theory everyone who has a lease could have a slightly different agreement. I don't  
19 know.

20 **Bradley Lambert**: I think that's a fair answer. Again, we need to move on. I appreciate your  
21 comments Mr. Osborne, do you have anything pertaining to this particular docket item?

22 **Kenneth Osborne**: Mr. Chairman, I don't agree with Mr. Swartz. CNX is not the only victim  
23 in this particular case. I've got some hand-outs and I'm sorry I don't have for everyone if I could  
24 ask Ronnie to approach the Board and hand these out.

25 **Bradley Lambert**: Sure. We will share.

26 **Kenneth Osborne**: Mr. Swartz I have one for you.

27 **Mark Swartz**: Okay.

1 **Kenneth Osborne**: I have one for the Board and I have one for Rick and...and again I  
2 apologize for not having one for everyone. I am objecting today to the disbursement of W-35. I  
3 know this, the hearing today is pertaining to W-35 but now the unit W-34 nor W-35 have had  
4 any royalty payments made since 6/2012. Only the northern section of this unit are in the Buch 1  
5 SGU2. The lower halves of the active CBM wells that are not included in this sealed gob unit,  
6 therefore one of the...ah...one would accept...expect the deposits would be made for monthly  
7 production attributed to the unit. I got curious about this and I started checking. This unit from  
8 January 2001 through January 2014, the unit had many months with no royalties deposits and  
9 other months where large deposits were made none of which looked to be consistent with the  
10 production. And if you look at the exhibits there, Unit W-35 and W-35B was originally pooled  
11 in March of 1998, as Docket Number 98-0324-0627. The unit was pooled for production of frac  
12 gas, short-hole gas, panel gas and unsealed gob gas. The O. H. Keene tract was wrongly  
13 assigned someone else and as a result my family and myself never received notice. According to  
14 the information online, the original unit was assigned interest in the following panels which  
15 include many wells in each panel. Pooling applications show some of the wells while the  
16 applications for other units including in this panel showed additional wells. The wells are not  
17 part of Buch 1 SGU2 so payments should have been made on these wells. Thirteen east panels  
18 3.6684...I'm sorry 3.6684% of the panel W-35A, X-35B shows on 0572 for unit X-34, X-35A,  
19 Y-35E. Y-34C shows on 0572 for unit X-34, Y-34B, Y-34E shows on 0572 for unit X-34 on Z-  
20 34D. Z-34F shows on 0572 for unit X-34, Z-34C shows on 0572 for unit X-34, AA-35B shows  
21 on 0572 for unit X-34, AA35A. On 14 east panel 8.10321% of that panel W-35B and X-35D  
22 show on 0572 for unit X-34. X-35C shows on 0572 for unit X-34, Y-35D. Y-35C shows on  
23 0572 for unit X-34, Y-35B shows on 0572 for unit X-34, Z-35D. Z-35C shows on 0572 for unit  
24 X-34, Z-35B shows on 0572 for unit X-34. Z-35A shows on 0572 for unit X-34, AA-35E shows  
25 on 0572 for unit X-34, AA-35D. AA-35C shows on 0572 for unit X-34. 15 east panel 0.4068%  
26 of the panel X-36D, Y-36E, Y-36B show on 0572 for unit X-34. Y-36 shows on 0572 for unit  
27 X-34. Z-36B shows on 0572 for unit X34. Z36 shows on 0572 for unit X-34. Z36A and AA-  
28 36C, December of 2004, the unit was pre-pooled and mapped for the O. H. Keene tract. In this  
29 application, two panels were added to the northern portion of the unit. So in addition to the  
30 interest in panels above, the unit was assigned interests in the following panels or unidentified  
31 wells. Panel 5 east, 0.54807% of the panel unnamed wells in units P-34, P-35, Q-34, Q-35, R-  
32 34, R-35, S-34, S-35, T-34, T-35, U-34, U-35, V-34, V-35, and well W-35. Six east panel  
33 0.28983% and unnamed wells in P-35, P-36, Q-35, Q-36, R-35, R-36, S-35, S-36, T-35, T-36, U-  
34 35, U-36, V-35, V-36, W-35, and W-36. The northern section of W-35 and W-34 is currently in  
35 Buch 1 SGU2. That's 08-1118-2367. On April 2011, the unit was re-pooled, interest was shown  
36 in the above panels but again no information was provided as to the wells contribution to the unit  
37 even though wells attributed to the unit have been producing for over a decade. It appears that  
38 all of the operator knows what wells are in which panels and when production to the frac wells in  
39 the unit stopped and the unit began producing from panels, short-holes, unsealed gobs for SGU.  
40 To put it simple, the owner's do not know what wells are attributed to their interests and during

1 what period of time we have no way of checking as to the accuracy of the money disbursed.  
2 Since the DGO and the Board does not require the operator to provide any of this information,  
3 one is tempted to conclude that now the DGO nor the Board maintain any records as to which  
4 wells contributed to what units. What portions of each well contributed during any given month  
5 and when the operator's which is between the types of production covered in the pooling order.  
6 Since the Board is the guardian of the escrow account, which I and my family have an interest,  
7 I'm requesting that you provide us with a break-down of each unit which we have an interest in.  
8 S-35, and that's VGOB 0681, S-36 is 0626, S-37 is 04...I'm sorry, 0649, T-36 is 0625, T-37 is  
9 0650, W-34 is 0571, W-35 is 0627, and Buch1 SGU2 is 3627. A list of all wells that have  
10 contributed or contributed to these units percentages of production is attributed to the units for  
11 each month for each well. The date in which production for each well was re-assigned to the  
12 different units and anything else that would allow us to check the production attributed to our  
13 interest in these units. I'm objecting to any disbursements because I mean...today just...now I  
14 haven't been here for a while, most Board members know me, I've been here a number of years  
15 objecting to the disbursements and with all due respect, today it disturbs me terribly of all of the  
16 mistakes overpayments that we have heard and I don't see how you can allow any disbursements  
17 especially to this....and this I know today we are covering W-35, and this involves W-35, W-34.  
18 But I've also...the other research that I am finishing up on it...it's on all of our wells. And  
19 again, I ask no disbursements to any of these wells until the proper paperwork is presented and  
20 we have notice of the changes. I respectfully ask for this.

21 **Bradley Lambert**: Any other comments? Questions from the Board?

22 **William Harris**: How much of this information is available from Mr. Cooper's office?

23 **Rick Cooper**: In regard to what?

24 **William Harris**: In regards to miss...from what I am hearing you are saying wells are  
25 misplaced?

26 **Kenneth Osborne**: Yes sir.

27 **William Harris**: That when you look at the history of these that some wells it should have been  
28 in...what just X-34 were...and I am misquoting you but X-34 appeared and X-35 or whatever.  
29 So...what I hear him saying is that the wells that are contributing to wells that are recorded  
30 aren't correctly listed.

31 **Kenneth Osborne**: Not only that Mr. Harris, the ah...the months that the wells produce but no  
32 payment into the escrow.

33 **Rick Cooper**: If the question is can we verify if just for example, if W-34 is in the W-34 unit,  
34 yes we can.

1 **William Harris**: Now...now he read a whole list of wells that were misplaced and...

2 **Bruce Prather**: They would know if the wells were misplaced.

3 **William Harris**: And that's what...I mean and...

4 **Mark Swartz**: I know he read a whole list of stuff and we don't bring all of our files here, but I  
5 am looking at a plat map for W-35. There are two frac wells in W-35. They are south of the  
6 sealed gob unit. So they are not in the sealed gob unit. I mean, so the records that you have  
7 would demonstrate that there are two frac wells in that unit, because I assume you have the same  
8 plat that I've got, that are below the boundary the southern boundary of the sealed gob unit that  
9 he is complaining about. And a portion of W-35 is in a sealed gob unit and a portion south of the  
10 part that's in the sealed gob unit has two frac wells in it that would be paid independently and  
11 accounted for independently of the sealed gob unit. Now, did I bring all of that with me? No, I  
12 did not. But I mean I can tell from what little information I have available to me today, that W-  
13 35 the northern portion is in the sealed gob unit and there are no frac wells in that unit that are  
14 being paid as far as I can tell. And there are two frac wells in unit W-35 south of the sealed gob  
15 that would be paid to the owners of W-35 independent of that. So it's subject to two orders and  
16 two sets of accounting.

17 **Bruce Prather**: Are there independent wells in all of these other gob units? That he talked  
18 about, are there just regular CBM wells in these other units? I think that might be the problem.

19 **Anita Duty**: Well I think maybe the problem is that whenever you have panels that run through  
20 those units, when you look at a check detail you see every well that contributes to that panel and  
21 then you see your allocated percent that your unit contributes to the panel and that's...you are  
22 going to see all of those wells even those wells that aren't in your unit.

23 **Bruce Prather**: Yeah. But that doesn't mean those wells were in that gob unit.

24 **Anita Duty**: Well I am talking about if he is looking at the account W-35 and he's seeing all of  
25 these different wells listed, and because it's just W-35, doesn't mean that you're not getting  
26 production all the way down the panel. That's getting allocated back. All of the production for  
27 every well that produces that crosses that W-35 is included on that payment.

28 **Bruce Prather**: Okay.

29 **Martha Guilliams**: Anita, we've known about these wells for a while we've just did not have  
30 any proof so we didn't know what it was because David Asbury before he left, told us that we  
31 had interests in these wells. And then he just left and nothing was ever done with it.

32 **Bradley Lambert**: Ladies and gentlemen, this is not new, we've been hearing this for two years  
33 now.

1 **Martha Guilliams**: You probably have but we've never had any satisfaction for it.

2 **Bradley Lambert**: I know for the last year and a half when Mr. Asbury was here, this Board  
3 asked that you folks meet with Mr. Asbury to try and get some answers and I know we were  
4 there. I know that he asked for one more meeting which folks didn't attend that meeting, so  
5 we're going to ask one more time that if you all will set a meeting up with Mr. Cooper we will  
6 try to work out every one of those issues that you addressed and see if we can get to some  
7 conclusion for you Mr. Osborne and see...

8 **Ronnie Osborne**: Well if I had known that Asbury had a meeting set up I would have been  
9 there.

10 **Martha Guilliams**: It wasn't set up for everybody Ronnie. Mr. Asbury set that meeting up with  
11 Paul Osborne. And Paul was there.

12 **Bradley Lambert**: Well I don't know about that. I know he met a couple of times.

13 **Martha Guilliams**: He met with us over at the Bonanza several times, but the meeting you're  
14 talking about...

15 **Bradley Lambert**: Let's just go from starting anew here today, I'm going to ask that you folks  
16 one more time, meet with Mr. Cooper and set up a time to come down to our office and meet  
17 with Mr. Cooper. There will be no more coming to the Bonanza on Saturdays and Sundays for  
18 meetings. That's just not going to happen again.

19 **Martha Guilliams**: That doesn't bother me.

20 **Bradley Lambert**: So what you need to do is come back down to the office and set up a  
21 meeting with Mr. Cooper and Ms. Davis to try and answer every one of those questions that you  
22 had on where those wells are located and we have those in our system and we can pull them up  
23 immediately and look at them. They are GPS wells so they will be accurate.

24 **Kenneth Osborne**: Mr. Chairman, again this was ah...this was pooled in March 1998, and it  
25 was assigned to the wrong people. We never to this day, we never received notice that this was  
26 assigned to the wrong people and...

27 **Bradley Lambert**: We'll have those records as well. We can check those too.

28 **Kenneth Osborne**: Again, that's why I'm objecting to any disbursements from this, until these  
29 matters are cleared up.

30 **Bradley Lambert**: Well I don't think we're going to have a disbursement here today because  
31 the Board has asked Mr. Gooch to look into the legal side of this and come back with an answer  
32 so we don't plan on. I don't think we will, we'll vote here in a minute. But I don't think we will

1 have any action on W-35 today. That's unfortunate we've been dealing with this for two years  
2 trying to get this behind us but hopefully this time we will get it resolved.

3 **Kenneth Osborne**: Mr. Chairman, one more thing that I would like to ask Mr. Gooch and if I'm  
4 wrong about it, I apologize in advance. But if you don't ask the question then you can't get the  
5 answer. Unless I'm reading it wrong if the state deems a person leased, if I'm reading it right the  
6 operators can't go back and add and get a split agreement with them. Is that true? I need to  
7 know this answer, if you could check on that. I've already talked to...

8 **Matthew Gooch**: Sir I provide legal advice to the Board, I don't give legal advice to the public.

9 **Kenneth Osborne**: Okay.

10 **Bradley Lambert**: Mr. Osborne if you will address that question to me, I will discuss that with  
11 our representative from the AG's office and see if we can find you an answer.

12 **Kenneth Osborne**: I apologize Mr. Chairman. I would like if you could get me an answer if the  
13 state deems a person leased, the operator cannot go back and get an agreement, split agreement  
14 with them.

15 **Bradley Lambert**: I understand you say you've already talked to Mr. Cooper about that.

16 **Kenneth Osborne**: Yes sir I did.

17 **Bradley Lambert**: And Mr. Cooper did you have an answer?

18 **Rick Cooper**: I told him that I would get back to him on that.

19 **Bradley Lambert**: Okay. Anything else on this?

20 **William Harris**: If I may just make one other comment. I don't mean to stir the pot.

21 **Bradley Lambert**: Mr. Harris. That's alright Mr. Harris.

22 **William Harris**: I'm not sure if disbursements have already been made from the... you all  
23 would probably know more than I would because there are so many of these.

24 **Kenneth Osborne**: Yes they have.

25 **William Harris**: But I really honestly believe that based on what I've seen from the company so  
26 far, if there have been errors, then they have made an effort to go back and correct those errors.  
27 That's what we've been seeing all morning and previous cases before us. So I honestly feel that  
28 if you all had been wronged and it is found that you all do own property that you have not been  
29 paid for, I really think that you all will get reimbursed for that. I mean that's my honest feeling  
30 because I do believe the companies are trying to make that correct for everybody. So I'm not

1 going to say that's not an issue because it certainly is an issue if you are not getting money you  
2 are supposed to get but if it turns out that you didn't get money that you were supposed to get, I  
3 feel pretty sure that the company will back up and take care of it. I can't speak for them, just  
4 from what I've seen.

5 **Kenneth Osborne**: Well the issue too is that production is...there's no deposits in the escrow  
6 account.

7 **Bradley Lambert**: Okay. Where we are then Mr. Osborne if you will contact Mr. Cooper and  
8 we'll set up another meeting. Hopefully this will be productive and Mr. Cooper will be able to  
9 answer your questions for you. As far as the docket item, since we have asked the Attorney  
10 General's office for an opinion, I think it is best that we continue this item until...Mr. Gooch two  
11 months? A month?

12 **Matthew Gooch**: Sure. A month is fine.

13 **Bradley Lambert**: A month is fine. We will continue this one until March.

14 **Ronnie Osborne**: Do I have to come up here and object every time for every well or one like  
15 today [Inaudible]

16 **Bradley Lambert**: No you will have to show up every time Mr. Osborne.

17 **Ronnie Osborne**: Every time?

18 **Bradley Lambert**: Yes sir.

19 **Ronnie Osborne**: Okay. [Inaudible]

20 **Bradley Lambert**: Okay. So that docket item will be continued until March.

21

22

#### **Item Number 14**

23 **Bradley Lambert**: Now we are calling the Board's on its own motion will re-consider the prior  
24 petition for creation of a sealed gob unit for Buchanan NO. 1 SGU4, Docket Number 13-1217-  
25 4029. All parties wishing to testify, please come forward.

26 **Kenneth Osborne**: Mr. Chairman, I'm sorry to interrupt. I need to find out because I may not  
27 be...need to be here but on this SGU4, I haven't seen a plat map or anything on the...is that in  
28 any way near or affecting any of our wells W-34, W-35 or any of the other ones?

29 **Bradley Lambert**: I can't answer that Mr. Osborne.

1 **Kenneth Osborne**: I was asking you if you wouldn't mind to address Mr. Swartz if he has the  
2 answer.

3 **Mark Swartz**: Anita has an answer.

4 **Anita Duty**: It doesn't. It's to the east of the sealed gob that you are involved with.

5 **Kenneth Osborne**: Okay. Thank you.

6 **Bradley Lambert**: The Board brought this back before the Board actually to discuss the mine  
7 seals and whether or not those seals should be charged back to the gas operations. And in  
8 discussions that I've had with our Division of Mines, and that's why it is coming back because of  
9 discussions after the Board approved this. It appears that since the last mine fire at Buchanan  
10 there was a required change to ventilation plans and these seals were created in the way that they  
11 were because of the change of ventilation plans and not as we heard testimony as a result of...to  
12 facilitate production of gas out of Buchanan for that area. So I wanted it to come back before the  
13 Board for us to have further discussions. So that is where we are. Mr. Swartz can you respond  
14 to...

15 **Mark Swartz**: I wasn't...you know when you put a docket item on this let's look here I'm sort  
16 of left guessing as to why we might be here. And we had a guess and I spoke with Chairman  
17 Lambert briefly before the meeting started today and I said "is this a mine seal issue"? And he  
18 told me yes. And I'd had a chance to think about that some and if it turned out that that was the  
19 issue, I would...I ask the Chairman if I can have perhaps a thirty day extension because really  
20 what I would like to look at is what the mine ventilation plan would look like in that mine if we  
21 were not producing gas from that mine. Because if a mine ventilation plan in this mine would be  
22 different than what we currently have, because we would be allowed to mix mine air generally  
23 with gases we were ventilating it. I want to look at the relative costs of that and if it turns out  
24 that there is a cost difference that's an increase in cost because we are producing gas, I would  
25 like to quantify that, bring that back...come back here in a month with maps and show you what  
26 the difference is, if there's not a difference, if it turns out that this plan was solely because of an  
27 explosion and it is a safety issue only. I want to know that. But if there is a additional cost for  
28 further seals to produce quality methane from this area, that is, that pertains solely to production  
29 of gas, I would like to come back to you with maps and data to show that. And if there isn't, we  
30 will have that answer as well. So if I can have 30 days to inquire of engineering I would  
31 appreciate it.

32 **Bradley Lambert**: Is the Board agreeable for a 30-day extension?

33 **Board**: Yes.

34 **Bradley Lambert**: Okay. We will extend that to March.

1 **Mark Swartz**: And I have one other issue. It's just a quick question, who do we talk to about  
2 problems with e-forms, entering data, is there someone that we should...I don't want to burden  
3 you with that, but we have six or seven things that we need some help on.

4 **Bradley Lambert**: Mr. Cooper can help with that. He can set down with our IT folks.

5 **Mark Swartz**: I figured that it was an IT issue but...okay.

6 **Bradley Lambert**: Mr. Cooper can arrange that with our IT folks to work those out.

7 **Mark Swartz**: Okay, great.

8 **Anita Duty**: Well I don't know if they need to have like a priority, because I know that every  
9 time that we've brought this up in the past it is like...well they're busy right now so we've...you  
10 know, so I don't know if that is something that you can kind of help with. Because we have to  
11 do a lot of things especially these disbursements that are just because...to make it work.

12 **Bradley Lambert**: Do they know...do you all know what their issues are?

13 **Diane Davis**: I know some of them, yes sir.

14 **Bradley Lambert**: Okay. If you will let them know what the issues are then I'll work with our  
15 IT and get our IT [Inaudible]

16 **Mark Swartz**: My guess is that the IT needs a little bit of a push. It's not you all.

17 **Bradley Lambert**: Okay. We will take care of that for you.

18 **Mark Swartz**: Great.

19 **Bradley Lambert**: Thank you.

20 **Anita Duty**: Thank you.

21 **Bradley Lambert**: I hate to do this to Range Resources, but we are going to break for lunch.  
22 We'll resume at one o'clock.

23

24

### **Item Number 15**

25 **Bradley Lambert**: Okay. It is time to call our proceedings back to order. We are calling  
26 Docket Item Number 15. A petition from Range Resources Pine-Mountain, for a Well Location  
27 Exception for Well Number V-530126. Docket Number VGOB-14-0121-4030. All parties  
28 wishing to testify, please come forward.

1 **Tim Scott**: Tim Scott, Gus Janson and Phil Horn for Range Resources-Pine Mountain, Inc.

2 **Sarah Gilmer**: Do you swear or affirm that your testimony is the truth, the whole truth and  
3 nothing but the truth?

4 **Gus Janson**: Yes I do.

5 **Phil Horn**: Yes I do.

6 **Bradley Lambert**: You may proceed Mr. Scott.

7 **Tim Scott**: Mr. Horn please state your name, by whom you are employed and your job  
8 description.

9 **Phil Horn**: My name is Phil Horn, I'm the Land Manager for Range Resource-Pine Mountain,  
10 Inc., and one of my job descriptions is to get wells permitted and drilled.

11 **Tim Scott**: You are familiar with this application, is that correct?

12 **Phil Horn**: Yes I am.

13 **Tim Scott**: And are you also familiar with the ownership of the minerals underlying this  
14 particular unit. Is that right?

15 **Phil Horn**: That is correct.

16 **Tim Scott**: Are those owners set out on Exhibit B?

17 **Phil Horn**: Yes they are.

18 **Tim Scott**: Now, during when we filed the application, we had provided the Board with the  
19 application and Exhibit B that has been revised. Is that correct?

20 **Phil Horn**: Yes. There are several owners in here. We had some unknowns and we've in the  
21 mean time we've found them.

22 **Tim Scott**: Okay. And we've sent them applications and notices. Is that right?

23 **Phil Horn**: Correct.

24 **Tim Scott**: Okay. And we are going to upload the revised Exhibit B by the end of the week. Is  
25 that correct?

26 **Phil Horn**: That is correct.

27 **Tim Scott**: Okay. Who operates the wells by which the Well Location Exception is sought  
28 today?

1 **Phil Horn**: V-530350 is a well set for permit that hadn't been drilled yet. It would be operated  
2 by Range Resources and 531603 is operated by our partner EQT Production Company.

3 **Tim Scott**: But in this particular case Range is both the owner and operator. Is that correct?

4 **Phil Horn**: That's correct.

5 **Tim Scott**: Okay. And how was notice of this hearing provided?

6 **Phil Horn**: By certified mail and also by publication in *The Dickenson Star* on January 1, 2014.

7 **Tim Scott**: And we have provided all of the proofs of mailing and proof of publication to the  
8 Board. Is that right?

9 **Phil Horn**: Yes you have.

10 **Tim Scott**: Okay. That's all I have for Mr. Horn.

11 **Bradley Lambert**: Any questions from the Board? [No Response] Anything further Mr. Scott?

12 **Tim Scott**: No sir. Mr. Janson.

13 **Bradley Lambert**: You may proceed.

14 **Tim Scott**: Mr. Janson, your name, by whom you are employed and your job description please.

15 **Gus Janson**: My name is Gus Janson, employed by Range Resource-Pine Mountain, Inc., as the  
16 Manager of Geology.

17 **Tim Scott**: And you're familiar with this application, is that correct?

18 **Gus Janson**: That is correct.

19 **Tim Scott**: And please tell the Board why we are seeking a well location exception today for  
20 this particular unit.

21 **Gus Janson**: Yes. I've handed out to the Board Exhibit H2. This has also been uploaded onto  
22 the E-Forms site. The proposed well is shown in the red circle the 530126, with the red circle  
23 and the green stippled area. This shows the location to the offsetting wells in the area. This well  
24 has been positioned due to the steep terrain and the topographic constraints resulting in  
25 maximum recovery of the natural gas resources relationship to the existing offsetting wells. The  
26 nearest feasible location meeting state-wide spacing requirements identifies approximately 800  
27 feet to the southeast. In the event that this well is not drilled approximately 104.88 acres of  
28 reserve would be stranded.

29 **Tim Scott**: What's the proposed depth of this well?

1 **Gus Janson**: 5,184 feet.

2 **Tim Scott**: And what would be the potential loss of reserves if this application is not granted  
3 today?

4 **Gus Janson**: 525 million cubic feet of gas.

5 **Tim Scott**: And in your opinion, if the application is granted today, it would prevent wastes,  
6 protect correlative rights, and promote conservation, is that also correct?

7 **Gus Janson**: That is correct.

8 **Tim Scott**: That's all I have for Mr. Janson.

9 **Bradley Lambert**: Any questions from the Board? [No response] Mr. Janson, how come you  
10 couldn't move it to the southeast?

11 **Gus Janson**: We could. As I said we could move it further away but you will lose...you will  
12 have additional stranded acres left in there if we do that. There will be other areas left in there  
13 that would not be recovered.

14 **Bradley Lambert**: Okay.

15 **Gus Janson**: To get to that location.

16 **Bradley Lambert**: Any other questions from the Board? [No response] Anything further Mr.  
17 Scott?

18 **Tim Scott**: That's all I have Mr. Chairman.

19 **Bradley Lambert**: Do I have a motion?

20 **William Harris**: Motion to approve.

21 **Bruce Prather**: Second.

22 **Bradley Lambert**: I have a motion and a second. Any further discussion? [No response] All in  
23 favor signify by saying yes.

24 **Board**: Yes.

25 **Bradley Lambert**: Opposed, no. [No response] Thank you Mr. Scott that is approved.

26

27

1 **Item Number 16**

2 **Bradley Lambert:** We are calling Docket Item Number 16. A petition from Range Resources-  
3 Pine Mountain, for a Well Location Exception for Well Number V-530350. Docket Number 14-  
4 0121-4031. All parties wishing to testify, please come forward.

5 **Tim Scott:** Again, Tim Scott, Gus Janson and Phil Horn for Range Resources-Pine Mountain,  
6 Inc.

7 **Bradley Lambert:** You may proceed Mr. Scott.

8 **Tim Scott:** Thank you sir. Mr. Horn again, your name, by whom you are employed and your  
9 job description?

10 **Phil Horn:** Phil Horn, Land Manager for Range Resources-Pine Mountain, Inc., and getting  
11 wells permitted and drilled is one of my job responsibilities.

12 **Tim Scott:** So you are familiar with this application. Is that correct?

13 **Phil Horn:** Yes I am.

14 **Tim Scott:** Are you also familiar with the ownership underlying this unit?

15 **Phil Horn:** Yes I am.

16 **Tim Scott:** And I believe we found additional owners. Correct?

17 **Phil Horn:** It is the same scenario as we had on 530126, we just did. We found these people  
18 after we originally applied back in the January hearing.

19 **Tim Scott:** But they were notified by certified mail with the application notice. Is that correct?

20 **Phil Horn:** That is correct.

21 **Tim Scott:** Okay. So we will provide a revised exhibit to the Board. We will upload that. Is  
22 that correct?

23 **Phil Horn:** That is correct.

24 **Tim Scott:** Who will operate Well Number V-530126?

25 **Phil Horn:** Range Resources-Pine Mountain, Inc. would.

26 **Tim Scott:** And again in this situation Range is both an owner and an operator. Is that correct?

27 **Phil Horn:** That is correct.

1 **Tim Scott**: As far as the notice of this hearing was provided to those parties listed on Exhibit B.  
2 How was that affected?

3 **Phil Horn**: By certified mail and also publication in *The Dickenson Star* on January 1, 2014.

4 **Tim Scott**: And we provided proof of publication and notice of mailing to the Board. Is that  
5 right?

6 **Phil Horn**: Yes you have.

7 **Tim Scott**: That's all I have for Mr. Horn.

8 **Bradley Lambert**: Questions from the Board? [No response] You may continue Mr. Scott.

9 **Tim Scott**: Thank you. Mr. Janson, your name by whom you are employed and your job  
10 description please.

11 **Gus Janson**: Gus Janson employed by Range Resource-Pine Mountain, Inc., as the Manager of  
12 Geology.

13 **Tim Scott**: And you are familiar with this application. Is that correct?

14 **Gus Janson**: I am.

15 **Tim Scott**: And why are we seeking a Well Location Exception today?

16 **Gus Janson**: Again if the Board will refer to Exhibit H2 you will see the location of proposed  
17 well 530350. You will note that this is an offset to the well that we just had in front of the  
18 Board, the 530126. Again, we are trying to maximize recovery of the natural gas resources in  
19 this area, but do to the steep terrain and topographic constraints we need to have this exception  
20 today. And the nearest locations for the 530350 well are approximately 1100 feet to the  
21 northwest. Which again, would result in approximately 106.41 acres of reserves being stranded  
22 if we drill at this location.

23 **Tim Scott**: What's the proposed depth of this well?

24 **Gus Janson**: 5,060 feet.

25 **Tim Scott**: And what's the potential loss of reserves if the application is not approved today?

26 **Gus Janson**: 525 million cubic feet of gas.

27 **Tim Scott**: And in your opinion, if this application is granted it would prevent waste, protect  
28 correlative rights, and promote conservation. Is that correct?

29 **Gus Janson**: That is correct.

1 **Tim Scott**: That's all I have for Mr. Janson.

2 **Bradley Lambert**: Any questions from the Board? [No response] Anything further Mr. Scott?

3 **Tim Scott**: That's all I have Mr. Chairman.

4 **Bradley Lambert**: Do I have a motion?

5 **William Harris**: Motion for approval.

6 **Bruce Prather**: Second.

7 **Bradley Lambert**: I have a motion and a second. Any further discussion? [No response] All in  
8 favor, signify by saying yes.

9 **Board**: Yes.

10 **Bradley Lambert**: Opposed, no. [No response] Thank you Mr. Scott that is approved.

11

12

### **Item Number 17**

13 **Bradley Lambert**: We are calling Docket Item Number 17. A petition from Range Resources-  
14 Pine Mountain, for a Well Location Exception for Well Number V-530377. Docket Number  
15 VGOB-14-0121-4032. All parties wishing to testify, please come forward.

16 **Tim Scott**: Tim Scott, Gus Janson and Phil Horn for Range Resource-Pine Mountain, Inc.

17 **Bradley Lambert**: You may proceed Mr. Scott.

18 **Tim Scott**: Thank you, Mr. Chairman. Mr. Horn, by whom you are employed and your job  
19 description please.

20 **Phil Horn**: My name is Phil Horn. I am employed by Range Resources-Pine Mountain, Inc., as  
21 Land Manager.

22 **Tim Scott**: Are you familiar with this application?

23 **Phil Horn**: Yes I am.

24 **Tim Scott**: Are you familiar with the ownership of minerals underlying this unit?

25 **Phil Horn**: Yes. I am.

26 **Tim Scott**: Are those owners set out on Exhibit B to this application?

1 **Phil Horn**: Yes they are.

2 **Tim Scott**: Who operates the wells to which the Well Location Exception is sought today?

3 **Phil Horn**: 537557 and VH-530086 are operated by EQT Production Company, our partner. V-  
4 530378 is the proposed well that will be operated by Range Resources-Pine Mountain, Inc.

5 **Tim Scott**: Okay. And in this case, again, Range is both an owner and an operator. Is that  
6 correct?

7 **Phil Horn**: That is correct.

8 **Tim Scott**: How was notice of this hearing provided to the parties listed on Exhibit B?

9 **Phil Horn**: By certified mail.

10 **Tim Scott**: And we've provided proof of mailing to the Board. Is that correct?

11 **Phil Horn**: That is correct.

12 **Tim Scott**: That's all I have for Mr. Horn.

13 **Bradley Lambert**: Any questions from the Board? [No response] You may continue Mr. Scott.

14 **Tim Scott**: Thank you Mr. Chairman. Mr. Janson, by whom you are employed and your job  
15 description please.

16 **Gus Janson**: My name is Gus Janson. I am employed by Range Resources-Pine Mountain, Inc.,  
17 as the Manager of Geology.

18 **Tim Scott**: Are you familiar with this application. Is that right?

19 **Gus Janson**: I am.

20 **Tim Scott**: And please tell the Board why we are seeking a Well Location Exception for this  
21 particular well today.

22 **Gus Janson**: Certainly. Again, if the Board will refer to Exhibit H2. You will see the location  
23 of the well 530377. This one is a little bit different. This is something that the Board may not  
24 have seen very often, but this is in an area where Range and EQT our partner, we've developed  
25 the lower huron and the big lime formations with horizontal drilling in the area. In an attempt to  
26 recover the remaining reserves in this stacked paved formation which we've talked about in the  
27 past there are other producing zones in this area and we would like to try to attempt to recover  
28 those reserves. Again, due to the topographic restraints, would position this well to hopefully  
29 maximize the recovery of all those resources. And that's why we are here today requesting this

1 exception approval for the vertical wells as well as the two wells that are producing from the big  
2 lime horizontally. This well proposed will only go through the berea formations and will not be  
3 producing this well from the lower huron going forward vertically. We feel like we have  
4 accomplished most of those reserves through those horizontal wells at this point.

5 **Tim Scott**: What is the proposed depth of this well?

6 **Gus Janson**: The proposed depth is 4,641 feet.

7 **Tim Scott**: And again the potential loss for reserves if this application is not approved today.

8 **Gus Janson**: 525 million cubic feet of gas.

9 **Tim Scott**: If this application is approved, will it prevent waste, protect correlative rights, and  
10 promote conservation. Is that correct?

11 **Gus Janson**: That is correct.

12 **Tim Scott**: That's all I have for Mr. Janson.

13 **Bradley Lambert**: Mr. Janson, so you are going to be producing from both the big lime and the  
14 lower huron on this well?

15 **Gus Janson**: This vertical well will not be producing from the lower huron. It will be  
16 producing from the big lime though. We are asking for an exception from the horizontal big  
17 lime wells that fall within the 2500 foot radius of the wells.

18 **Bradley Lambert**: Oh. Okay. Any other questions from the Board?

19 **Rick Cooper**: If I may, I would like to ask a question.

20 **Bradley Lambert**: Mr. Cooper.

21 **Rick Cooper**: What's your vertical distance between the bottom of this hole and the lower  
22 huron?

23 **Gus Janson**: Vertical distance is approximately 1100 feet.

24 **Rick Cooper**: Thank you.

25 **Bradley Lambert**: Any other questions? [No response] Anything further Mr. Scott?

26 **Tim Scott**: That's all I have Mr. Chairman.

27 **Bradley Lambert**: Do I have a motion?

28 **William Harris**: Motion to approve.

1 **Bruce Prather**: Second.

2 **Bradley Lambert**: I have a motion and a second. Any further discussion? [No response] All in  
3 favor signify by saying yes.

4 **Board**: Yes.

5 **Bradley Lambert**: Opposed, no. [No response] Thank you Mr. Scott that is approved.

6

7

### **Item Number 18**

8 **Bradley Lambert**: We are calling Docket Item Number 18. A petition from Range Resources-  
9 Pine Mountain, Inc., for a Well Location Exception for Well Number V-530378. Docket  
10 Number VGOB-14-0121-4033. All parties wishing to testify, please come forward.

11 **Tim Scott**: Tim Scott, Gus Janson, and Phil Horn for Range Resources-Pine Mountain, Inc.

12 **Bradley Lambert**: You may proceed Mr. Scott.

13 **Tim Scott**: Thank you Mr. Chairman. Mr. Horn, one more time, your name, by whom you are  
14 employed and your job description please.

15 **Phil Horn**: My name is Phil Horn. I am employed by Range Resources-Pine Mountain, Inc. I  
16 am the Land Manager and one of my job descriptions is to get wells permitted and drilled.

17 **Tim Scott**: Are you familiar with the ownership of the minerals underlying this unit?

18 **Phil Horn**: Yes I am.

19 **Tim Scott**: And those owners are listed on Exhibit B. Is that right to the notice?

20 **Phil Horn**: Yes they are.

21 **Tim Scott**: Who operates the wells to which the Well Location Exception is sought today?

22 **Phil Horn**: V-530377 is a well that Range Resources will permit and drill, we've just got the  
23 exception location just approved. V-530085 is a permitted well that has not been drilled and  
24 operated by Range. And the other two horizontal wells are operated by EQT Production  
25 Company, our partner.

26 **Tim Scott**: Okay. Range is an owner and an operator in this unit. Is that right?

27 **Phil Horn**: That is correct.

1 **Tim Scott**: And we've provided notice of this hearing today to the parties listed in Exhibit B. Is  
2 that correct?

3 **Phil Horn**: That is correct.

4 **Tim Scott**: How was that done?

5 **Phil Horn**: By certified mail.

6 **Tim Scott**: And we provided proof of mailing to the Board. Is that right?

7 **Phil Horn**: Yes we have.

8 **Tim Scott**: Okay. That's all I have for Mr. Horn.

9 **Bradley Lambert**: Any questions from the Board?

10 **Bruce Prather**: Mr. Chairman, I have a question.

11 **Bradley Lambert**: Mr. Prather.

12 **Bruce Prather**: On the one horizontal well I see that it's a big lime it's VH-163 or something  
13 like that. Are you going to produce the big lime too in your well?

14 **Gus Janson**: Yes.

15 **Bruce Prather**: Okay. You don't think you will have interference with their horizontal well?

16 **Gus Janson**: I don't think we will based on the studies we've done in the past and when we  
17 developed the horizontal units we set that outline to being 600 feet away from producing vertical  
18 wells and we are outside that distance.

19 **Bruce Prather**: Okay...okay.

20 **Phil Horn**: This is kind of a test to see we will drill close to our horizontal legs which we never  
21 have done. Is that right?

22 **Gus Janson**: Yes.

23 **Bruce Prather**: Well you've got their horizontal leg right here.

24 **Phil Horn**: Right.

25 **Bruce Prather**: Right.

26 **Bruce Prather**: So you're...it looks like you are 600 feet away from their horizontal leg.

1 **Phil Horn**: There is a table on the back of the plat Bruce that shows the distance from that.

2 **Bruce Prather**: Yeah. Okay.

3 **Phil Horn**: It's about 26 feet away.

4 **Bradley Lambert**: Any other questions? [No response] Anything further Mr. Scott.

5 **Tim Scott**: Mr. Janson, your name, by whom you are employed and your job description please.

6 **Gus Janson**: My name is Gus Janson. I am employed by Range Resources-Pine Mountain, Inc.,  
7 as the Manager of Geology.

8 **Tim Scott**: And you are familiar with this application, is that correct?

9 **Gus Janson**: Yes I am.

10 **Tim Scott**: And you also participated in preparation of the application. Is that also correct?

11 **Gus Janson**: Correct.

12 **Tim Scott**: Please tell the Board why we are seeking a Well Location Exception for this  
13 particular well today.

14 **Gus Janson**: Again, if the Board will refer to Exhibit H2 you will see the location of the  
15 proposed well 530378, and we have the same situation here as we had in the previous well. In  
16 fact, we are actually off-setting the 530377 proposed vertical well. It's also been an exception  
17 and again we have the same factors going on here. We have horizontal wells drilled in the  
18 vicinity which are producing from both the big lime and the lower huran as well as a proposed  
19 vertical well that we are seeking exception from. The proposed well that we are planning to drill  
20 today is also located on a coalbed methane existing pad so we can minimize the amount of  
21 disturbance and utilize that site there, rather than disturb more area and have utilization of those  
22 existing facilities. That also did prevent us from moving that well a little bit further to the  
23 southeast to get a legal location there.

24 **Tim Scott**: What's the proposed depth of this well Mr. Janson?

25 **Gus Janson**: The proposed depth is 5,927 feet.

26 **Tim Scott**: And the potential loss of reserves?

27 **Gus Janson**: 550 million cubic feet of gas.

28 **Tim Scott**: If the Board approves our application today, it would prevent wastes, promote  
29 conservation and protect correlative rights. Is that correct?

1 **Gus Janson**: That is correct.  
2 **Tim Scott**: That's all I have for Mr. Janson.  
3 **Bradley Lambert**: Any discussion from the Board? [No response] Do I have a motion?  
4 **William Harris**: Motion to approve.  
5 **Bruce Prather**: Second.  
6 **Bradley Lambert**: I have a motion and a second. Any further discussion? [No response] All in  
7 favor signify by saying yes.  
8 **Board**: Yes.  
9 **Bradley Lambert**: Opposed, no. [No response] Thank you folks, that is approved.

10

11

**Item Number 19**

12 **Bradley Lambert**: We are calling Docket Item Number 19. A petition from Range Resources-  
13 Pine Mountain, Inc., for a Well Location Exception for Well Number V-530386. Docket  
14 Number VGOB-14-0218-4034. All parties wishing to testify, please come forward.

15 **Tim Scott**: Tim Scott, Gus Janson and Phil Horn for Range Resources-Pine Mountain, Inc.

16 **Bradley Lambert**: You may proceed Mr. Scott.

17 **Tim Scott**: Thank you Mr. Chairman. Mr. Horn, please state you name, by whom you are  
18 employed and your job description.

19 **Phil Horn**: My name is Phil Horn. I am employed by Range Resources-Pine Mountain, Inc., as  
20 Land Manager.

21 **Tim Scott**: You are familiar with the ownership of the minerals underlying this unit. Is that  
22 correct?

23 **Phil Horn**: Yes I am.

24 **Tim Scott**: Are those owners set forth on Exhibit B to the notice?

25 **Phil Horn**: Yes they are.

26 **Tim Scott**: And who operates the well from which the Well Location Exception is sought  
27 today?

1 **Phil Horn**: Range Resources-Pine Mountain, Inc.

2 **Tim Scott**: And in this particular case, Range is again both an owner and an operator. Is that  
3 right?

4 **Phil Horn**: That is correct.

5 **Tim Scott**: Okay. We've notified the parties listed on Exhibit B of this hearing. Is that right?

6 **Phil Horn**: That is correct.

7 **Tim Scott**: And how was that notice done?

8 **Phil Horn**: By certified mail.

9 **Tim Scott**: And we've provided proof of mailing to the Board. Is that right?

10 **Phil Horn**: Yes you have.

11 **Tim Scott**: Okay. That's all I have for Mr. Horn.

12 **Bradley Lambert**: Any questions from the Board? [No response] You may continue Mr. Scott.

13 **Tim Scott**: Thank you. Mr. Janson, your name, by whom you are employed and your job  
14 description please.

15 **Gus Janson**: My name is Gus Janson, employed by Range Resources-Pine Mountain, Inc., as  
16 the Manager of Geology.

17 **Tim Scott**: And are you familiar with this application?

18 **Gus Janson**: Yes I am.

19 **Tim Scott**: And did you participate in the preparation of the application?

20 **Gus Janson**: Yes I did.

21 **Tim Scott**: Please tell the Board why we are seeking a Well Location Exception for this  
22 particular well today.

23 **Gus Janson**: Yes. Again if the Board will refer again to Exhibit H2, you will see the location of  
24 the proposed well 530386. Again, this location has been positioned at this point due to  
25 topographic constraints. We are not able to move that site any further to the southeast down that  
26 steep ridge and get a viable location. In the event that we are unable to drill at this location,  
27 approximately 112.41 acres of reserves would be stranded and the nearest location that meets the

1 requirements for state-wide spacing would be approximately 2500 feet to the southwest which in  
2 essence would be a whole other well site at that point and time.

3 **Tim Scott**: What's the proposed depth of the well?

4 **Gus Janson**: Proposed depth is 5,666 feet.

5 **Tim Scott**: And the potential loss of reserves?

6 **Gus Janson**: 525 million cubic feet of gas.

7 **Tim Scott**: And if the application is granted today in your opinion would it prevent waste,  
8 promote conservation and protect correlative rights?

9 **Gus Janson**: Yes it would.

10 **Tim Scott**: That's all I have for Mr. Janson.

11 **Bradley Lambert**: Questions from the Board? [No response] Anything further Mr. Scott.

12 **Tim Scott**: No. That's all I have Mr. Chairman.

13 **Bradley Lambert**: Do I have a motion?

14 **William Harris**: Motion to approve.

15 **Bruce Prather**: I'm going to have to abstain myself from this one.

16 **Rita Surratt**: I'll second.

17 **Bradley Lambert**: I have a motion and a second. Any further discussion? [No response] All in  
18 favor signify by saying yes.

19 **Board**: Yes.

20 **Bradley Lambert**: Opposed, no.

21 **Bruce Prather**: I abstain.

22 **Bradley Lambert**: One abstention Mr. Prather. Thank you folks, that is approved.

23

24

25

26

1 **Item Number 20**

2 **Bradley Lambert:** We are calling Docket Item Number 20. A petition from Range Resources-  
3 Pine Mountain, Inc., for Pooling of Well Number VC-530383. This is CBM Unit BM-93.  
4 Docket Number VGOB-14-0218-4035. All parties wishing to testify, please come forward.

5 **Tim Scott:** Tim Scott, Gus Janson, and Phil Horn for Range Resources-Pine Mountain, Inc.

6 **Bradley Lambert:** You may proceed Mr. Scott.

7 **Tim Scott:** Thank you Mr. Chairman. Mr. Horn, one more time, your name, by whom you are  
8 employed and your job description.

9 **Phil Horn:** Phil Horn, Land Manager for Range Resources-Pine Mountain, Inc.

10 **Tim Scott:** You are familiar with this application, is that correct?

11 **Phil Horn:** Yes I am.

12 **Tim Scott:** And this unit is located in the Nora coalbed gas field. Is that right?

13 **Phil Horn:** That is correct.

14 **Tim Scott:** How many acres does this unit contain?

15 **Phil Horn:** 58.77.

16 **Tim Scott:** And Range has a significant portion of this unit under lease or happens to be the  
17 minerals underlying this tract. Is that right?

18 **Phil Horn:** That is correct.

19 **Tim Scott:** Are we going to dismiss any respondents today?

20 **Phil Horn:** No we are not.

21 **Tim Scott:** And as far as the respondents listed on Exhibit B3, have you attempted to reach an  
22 agreement with those individuals?

23 **Phil Horn:** Yes we have.

24 **Tim Scott:** How was notice of this hearing provided to the parties that are listed on Exhibit B?

25 **Phil Horn:** By certified mail and also publication in *The Bluefield Daily Telegraph* on January  
26 23, 2014.

27 **Tim Scott:** We don't have any unknowns in this unit. Is that right?

1 **Phil Horn**: That is correct.

2 **Tim Scott**: And we provided proof of publication and mail certification to the Board. Is that  
3 right?

4 **Phil Horn**: Yes you have.

5 **Tim Scott**: Range is authorized to conduct business in the Commonwealth. Is that correct?

6 **Phil Horn**: That is correct.

7 **Tim Scott**: And a blanket bond is on file.

8 **Phil Horn**: That's right.

9 **Tim Scott**: If you were to reach an agreement with the party listed on Exhibit B3, what terms  
10 would you offer?

11 **Phil Horn**: \$25 per acre for a five year paid up lease, provides for a 1/8 royalty.

12 **Tim Scott**: Okay. Would you consider this to be fair and reasonable for a CBM lease in this  
13 area?

14 **Phil Horn**: Yes I do.

15 **Tim Scott**: What percentage of the gas estate does Range have under lease presently?

16 **Phil Horn**: 98.46%.

17 **Tim Scott**: And this does again reflect the fact that Range does have fee simple interest in some  
18 of the minerals under that tract. Is that right?

19 **Phil Horn**: That is correct.

20 **Tim Scott**: And what percentage of the coal estate does Range have under lease?

21 **Phil Horn**: 100%.

22 **Tim Scott**: What percentage are you seeking to pool today?

23 **Phil Horn**: 1.54%.

24 **Tim Scott**: And we don't have an escrow requirement. Is that right?

25 **Phil Horn**: That's correct.

26 **Tim Scott**: And you are asking the Board to pool the parties listed on Exhibit B3. Is that right?

1 **Phil Horn**: That is correct.

2 **Tim Scott**: And also are you requesting that Range be named the operator for this unit?

3 **Phil Horn**: Yes we are.

4 **Tim Scott**: And if the Board grants our application today, and election letters are sent out, what  
5 should be the address used for response to any election made by that party?

6 **Phil Horn**: Range Resources-Pine Mountain, Inc., Post Office Box 2136, Abingdon, Virginia  
7 24212.

8 **Tim Scott**: And is this the address for all communications?

9 **Phil Horn**: Yes.

10 **Tim Scott**: That's all I have for Mr. Horn.

11 **Bradley Lambert**: Any questions from the Board? [No response] You may continue Mr. Scott.

12 **Tim Scott**: Thank you Mr. Chairman. Mr. Janson, your name, by whom you are employed, and  
13 your job description please.

14 **Gus Janson**: My name is Gus Janson. I am employed by Range Resources-Pine Mountain, Inc.,  
15 as the Manager of Geology.

16 **Tim Scott**: And Mr. Janson did you participate in preparation of this application?

17 **Gus Janson**: I did.

18 **Tim Scott**: Are you familiar with the proposed well depth of this unit?

19 **Gus Janson**: Yes.

20 **Tim Scott**: And what would that be?

21 **Gus Janson**: The proposed well is 3,340 feet deep.

22 **Tim Scott**: And you are also familiar with the estimated reserves. Is that right?

23 **Gus Janson**: Yes.

24 **Tim Scott**: And what would that be?

25 **Gus Janson**: The reserves would be estimated at 500 million cubic feet of gas.

26 **Tim Scott**: Now we've attached an AFE as Exhibit C to our application. Is that right?

1 **Gus Janson**: That is correct.

2 **Tim Scott**: And it reflects the cost of this proposed well. What's the estimated dry hole cost?

3 **Gus Janson**: \$143,681.00.

4 **Tim Scott**: And the estimated completed well cost?

5 **Gus Janson**: \$415,319.00.

6 **Tim Scott**: And again, you participated in the preparation of the AFE. Is that right?

7 **Gus Janson**: That is correct.

8 **Tim Scott**: Does the AFE include a charge for supervision?

9 **Gus Janson**: Yes it does.

10 **Tim Scott**: Do you consider that charge to be reasonable?

11 **Gus Janson**: Yes.

12 **Tim Scott**: And in your opinion if this application is granted today it will prevent wastes,  
13 promote conservation and protect correlative rights. Is that correct?

14 **Gus Janson**: That is correct.

15 **Tim Scott**: That's all I have for Mr. Janson.

16 **Bradley Lambert**: Any questions from the Board? [No response] Anything further Mr. Scott?

17 **Tim Scott**: That's all I have Mr. Chairman.

18 **Bradley Lambert**: Do I have a motion?

19 **William Harris**: Motion to approve.

20 **Bruce Prather**: Second.

21 **Bradley Lambert**: I have a motion and a second. Any further discussion? [No response] All in  
22 favor signify by saying yes.

23 **Board**: Yes.

24 **Bradley Lambert**: Opposed, no. [No response] Thank you folks that is approved.

25 **Tim Scott**: Thank you very much.

1 **Gus Janson**: Thank you.

2 **Bradley Lambert**: Thank you all.

3

4

**Item Number 21**

5 **Bradley Lambert**: At this time the Board will receive an update of the Board and Division  
6 activities from the staff.

7 **Rick Cooper**: I guess what I want to report to the Board is the RFP the Request for Proposal for  
8 the upcoming audit, I have talked to our Office of General Services, and they have assured me  
9 that we will have something at the next hearing for you all to look at and approve in regard to the  
10 upcoming audit.

11 **Bradley Lambert**: Rick, I would ask that if you get that soon the RFP if you would just go  
12 ahead and e-mail it to the Board Members so they can have it for review before the hearing.

13 **Rick Cooper**: I will do that.

14 **Diane Davis**: May I ask one question please? This has to do with notice when they do a petition  
15 in front of the Board. Under the law section 45.1-361.19 says that any person that applies for a  
16 hearing in front of the Board pursuant to blah blah blah blah, shall simultaneously with the filing  
17 of such application provide notice by certified mail return receipt to each gas or oil owner, coal  
18 owner, mineral owner, having an interest underlying the tract which is the subject of the hearing.  
19 My question there is on a disbursement order, do they just have to notify those people affected  
20 by the disbursement?

21 **Bradley Lambert**: That's what we've been doing in the past.

22 **Diane Davis**: Yeah. I just wanted to make sure I was right on that.

23 **Bradley Lambert**: I think that was a decision long ago that was all we needed to notify was  
24 those persons involved in the disbursement.

25 **Diane Davis**: I couldn't remember the decision. Okay. No problem. I just wanted to make sure  
26 that I was right.

27 **Bradley Lambert**: Well that's...as I recall the opinion we had a long time ago unless you think  
28 something has changed.

29 **Diane Davis**: Well no I just wanted to make sure that I was doing it right. When I was checking  
30 notice and I was looking and comparing that you know, they notified four people when there's  
31 more in the unit. It doesn't really affect them but...

1 **Bradley Lambert**: Right.

2 **Diane Davis**: I just wanted to make sure that I was reading that section correctly. I didn't want  
3 to do something wrong. No more than usual.

4 **Bradley Lambert**: Any other items Mr. Cooper? [No response]

5

6

**Item Number 22**

7 **Bradley Lambert**: Okay. The last on our list are the minutes from the December 2013 meeting.  
8 Has everyone had a chance to review those? Are there any additions or modifications that we  
9 need to make to those minutes? [No Response] If not, may I have the motion to approve?

10 **William Harris**: I move that we approve the December 2013 minutes.

11 **Bruce Prather**: Second.

12 **Bradley Lambert**: I have a motion and a second. All in favor signify by saying yes.

13 **Board**: Yes.

14 **Bradley Lambert**: Opposed, no. [No response] Thank you ladies and gentlemen. That  
15 completes our hearings for today. Do I have a motion to adjourn?

16 **William Harris**: I guess I will make that motion.

17 **Bruce Prather**: I'll second.

18 **Bradley Lambert**: All in favor, signify by saying yes.

19 **Board**: Yes.

20 **Bradley Lambert**: Thank you ladies and gentlemen. We are adjourned for the day.

21