

VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

VIRGINIA GAS AND OIL BOARD HEARING

Tuesday, October 21, 2014

Lebanon, Virginia

BOARD MEMBERS:

Bill Harris - Public Member

Bruce Prather - Gas & Oil Industry Representative

Donnie Ratliff - Coal Industry Representative

Mary Quillen - 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

Paul Kugelman - Assistant Attorney General

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

Blair Linford – Staff Member of the Division of Gas & Oil

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1 **Bradley Lambert:** Good morning. Let's begin this morning by having the Board please
2 introduce themselves. I'll begin with Ms. Surratt.

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

4 **Donnie Ratliff:** Donnie Ratliff with Alpha Natural Resources, representing coal.

5 **Bill Harris:** I'm Bill Harris, a public member. I'm from Wise County.

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

7 **Mary Quillen:** Mary Quillen, public member.

8 **Bradley Lambert:** Thank you. This morning, I would ask if you have cell phones or other
9 communication devices, please put those on vibrate or turn them off. If you have to take a call,
10 please do so out in the hall. This morning, for public comment period?

11 **Rick Cooper:** None.

12 **Item Number 1**

13 **Bradley Lambert:** We have no one signed up for public comment this morning, so we'll enter
14 into our Docket and the next item on our Docket is the First Bank and Trust, Escrow Agent for
15 the Virginia Gas and Oil Board will address the Board regarding the last two months quarterly
16 report. Good morning, gentlemen. Could you please state your name for the record?

17 **Item Number 2**

18 **C. J. Carter:** Good morning. C. J. Carter with First Bank and Trust.

19 **Jack Phelps:** Jack C. Phelps, Jr., First Bank and Trust Company.

20 **Bradley Lambert:** Good morning.

21 **Jack Phelps:** Good morning, sir.

22 **Bradley Lambert:** I understand we have some updates for the last couple months on the escrow
23 account. Would you please go ahead and walk us through those this morning.

24 **C. J. Carter:** Yes, sir. To start off, on the second page, this is ending balance as of the first
25 quarter of this year of the escrow account. I believe as you're used to seeing this same format in
26 terms of the beginning balance, showing the deposits that come into the account, interest earned,
27 the fees taken from the account, distributions per our orders. There was no audit expense. There
28 was a slight adjustment for that period ending 3/31/2014. You can see the total balance there of
29 \$28,943,706.30.

1 **Bradley Lambert:** Again, just for the record, could you go over what those adjustments were
2 please?

3 **C. J. Carter:** Yes. I will.... Actually, I apologize. I will have to, if it's okay with the
4 committee, I'll have to come back and give the details of those exact adjustments. It looks like
5 the detail, the nature of the adjustments, was left off inadvertently in this report. I apologize.

6 **Bradley Lambert:** Okay.

7 **C. J. Carter:** Moving on to the second quarter, as of 6/30/2014, you'll see the beginning
8 balance, flowing down to the deposits that came in. Again, this is a year-to-date. It's the second
9 quarter interest earned. We have fees, distributions, audit expense again is zero. The cumulative
10 adjustments at \$608.37. You see our ending balance as of 6/30/2014. Getting to the most recent
11 information as of the third quarter, you see again starting with the beginning balance, the
12 deposits going into the account, interest earned on money market CDARS, fees taken from the
13 account, distributions, the cumulative adjustment at \$650.37 and the ending balance as of
14 September 30, 2014. Most of the remainder of the report, as you're accustomed to seeing, is the
15 individual units, account details that flow into the summary pages we just discussed. It is color
16 coded and there is actually a legend at the end of the account details, if you want additional detail
17 there with regards to the color coding of the account. Following the individual details here, the
18 escrow account, moving into the unfunded units section of the report. As you can see, this is the
19 same format that we've delivered in all the previous meetings. The final section is the
20 outstanding check list. Again, it's the same format we've always presented in, with the
21 description on the right hand side and the amount on the far right hand side, any outstanding
22 checks.

23 **Mary Quillen:** Just a question on these outstanding checks. Now, is this a summary for each
24 quarter or is this a running?

25 **C. J. Carter:** This is a running, kind of cumulative....

26 **Mary Quillen:** Cumulative?

27 **C. J. Carter:** Correct.

28 **Mary Quillen:** Okay. This just is a lot more than we have seen in the past. But, this is over the
29 three periods?

30 **C. J. Carter:** Correct.

31 **Mary Quillen:** Okay.

32 **C. J. Carter:** Right. I think that would be the reasoning.

33 **Mary Quillen:** And you don't know what the problems are with...?

1 **C. J. Carter:** I would have to do a little more work to find any more of a detailed, or to provide
2 a description portion there.

3 **Mary Quillen:** Okay. We've got the dates on these of when.... The reason I'm asking these
4 questions is because, after the five year period, these unclaimed funds will revert and that's why I
5 was looking at these dates on this and the numbers of these. This is from the issue date on these
6 and some of these....

7 **C. J. Carter:** Right. We have some in 2010 which would be coming up next year.

8 **Mary Quillen:** That's what I notice. Okay. Thank you.

9 **Donnie Ratliff:** Mr. Chairman.

10 **Bradley Lambert:** Mr. Ratliff.

11 **Donnie Ratliff:** We would need to know what's returned for bad addresses and who has just
12 sent the check back and refused to cash it. But, if we've got bad addresses and these checks are
13 coming back, we need some way. Do we know that, Mr. Cooper?

14 **Rick Cooper:** Pardon me.

15 **Donnie Ratliff:** Do we know if these come back due to bad addresses or?

16 **Rick Cooper:** Actually, the bank takes care of that and I don't think any have been returned
17 since Debbie's last report, if that's your question.

18 **Donnie Ratliff:** That's the question.

19 **Rick Cooper:** None have been returned since the last report.

20 **C. J. Carter:** Right. It's my understanding that would be detailed in the description section. I
21 didn't notice any on our review.

22 **Donnie Ratliff:** But, in the past, we had had notes on there that check was returned or the payee
23 refused to cash.

24 **C. J. Carter:** Okay.

25 **Bradley Lambert:** Or the check came back with "Void" written on it.

26 **C. J. Carter:** I'll double check and make sure that there were none returned for bad addresses.
27 We'll make sure to present that in those notes in the future.

28 **Rick Cooper:** I would like to point out, generally, just for your information, since you've taken
29 this over: If Debbie, the previous Trust Officer, ever did that, they would always notify us and
30 let us know that, when she returned any checks.

1 **C. J. Carter:** Okay. Thank you.

2 **Mary Quillen:** Now, here is one that has a date on it of October 15, 2014, which is a recent
3 return.

4 **Donnie Ratliff:** I mean, there's 94,000 on here to Shea Cook.

5 **Bradley Lambert:** Didn't last month, we took care of those? Those are probably going out.
6 We disbursed, I forget the total, but that sounds pretty much right.

7 **Donnie Ratliff:** Okay.

8 **Bill Harris:** So, you're thinking maybe they just haven't been cashed yet? These are uncashed
9 checks. Is that right?

10 **C. J. Carter:** Yes. That's correct.

11 **Bill Harris:** That's the only information.

12 **Sarah Gilmer:** He's not had them very long.

13 **Mary Quillen:** Yes, because this is like.... October 8th is the date that they were issued, so they
14 probably didn't...

15 **Jack Phelps:** These are the total ones that are outstanding. They may have just been issued a
16 week or so, but they're still outstanding and we wish to report that to you.

17 **Mary Quillen:** Right, because they were only issued on the 8th of October.

18 **Jack Phelps:** But they're still outstanding according to our books.

19 **Mary Quillen:** Right. And because this is third party type situation, so you don't know when
20 they actually got to that person.

21 **Rick Cooper:** Right. Just to refresh everyone's memory, those were the ones that were mailed
22 to Shea Cook on behalf of other representatives.

23 **Mary Quillen:** Right.

24 **Rick Cooper:** So it could take a month or two to see those cashed.

25 **Mary Quillen:** Yes, when it's third party, the transaction takes longer.

26 **Bradley Lambert:** We probably didn't get the order finalized for a few days after the hearing.

27 **Rick Cooper:** Correct. So, again, if they were mailed out in October, he hasn't had time to
28 process those with individuals yet.

1 **Bradley Lambert:** Okay.

2 **Mary Quillen:** Right, because that's just been like two weeks.

3 **Bradley Lambert:** Mr. Phelps or maybe Mr. Cooper, can you give us an update on the ones
4 highlighted in green, "Do not accept monies for these wells?"

5 **Rick Cooper:** These right here have been outstanding for a long time. These are wells that
6 were drilled early on in the '90's, the unfunded wells, and we're trying to do some research on
7 these, but we've not been very successful at this time. The ones in green have been out there for
8 20 years probably. But, we are doing some continuing research on those, trying to resolve those
9 issues.

10 **Bradley Lambert:** So, what you said Mr. Cooper is those wells have not been drilled, but we're
11 showing funds in the account?

12 **Rick Cooper:** That's correct. Most of those right there were the Tidewater Region wells that
13 were done back 20 years ago. And so, it's been a little difficult to track those down, but there's
14 "Unknowns" and "Unlocatables." That's what that money was attributed to. We are trying to
15 pursue that, but we've not been successful to date.

16 **Bradley Lambert:** So, if the well hasn't been drilled?

17 **Rick Cooper:** The wells were drilled, but they never produced.

18 **Bradley Lambert:** But, we have money in the account.

19 **Rick Cooper:** Yes. That could probably be a working interest or something like that, that got
20 deposited when the account was established.

21 **Bradley Lambert:** Okay.

22 **Mary Quillen:** These small amounts here, it says, "UNLOC3, 4, and 5." What does that mean?

23 **Rick Cooper:** I'd have to do some research, but I think those would be something like....
24 "Unlocatable 1," "Unlocatable 2."

25 **Mary Quillen:** Oh, okay, because those are very small amounts.

26 **Rick Cooper:** And I would do some research and report to the Board at the next hearing, the
27 status of all these to clear this up.

28 **Bradley Lambert:** Okay.

29 **C. J. Carter:** Thank you.

30 **Bradley Lambert:** Any other questions from the Board? [No response] Anything further?

1 **C. J. Carter:** No, that's it in regards to the escrow accounts. The final page on that first handout
2 is simply a breakdown of how the funds are currently positioned and invested. You can see the
3 top part is the money market account. This is an ICS money market. Just a refresher, the ICS is
4 a service we provide that allows to kind of break the deposits up and to allow to have the FDIC
5 insurance coverage that we need. And so that balance you see and the yield. You can see that,
6 predominantly all the CDAR CD's are yielding 30 basis points. It looks like the last one that we
7 recently, that matured and we renewed, it came at a lower rate at 20 basis points. I would like to
8 propose going forward that, if there's any renewals...and that's because the one-year CDAR's rate
9 had decreased from 30 basis points to 20 basis points. As you can see, the 20 basis points now
10 matches the ICS money market rate. So, going forward, I propose that we would not roll any
11 maturing CD's into a one-year CD earning the same that we get in the ICS money market. So,
12 any maturing funds would go into the ICS money market for that reason. It's more liquid.

13 **Mary Quillen:** Okay. Well, now what is this going to do as far as being covered if these go into
14 the money market?

15 **C. J. Carter:** The money market and the CDAR's program...

16 **Mary Quillen:** By the insurance by the FDIC?

17 **C. J. Carter:** You have the same FDIC insurance coverage. They're both deposits. They're just
18 different types of deposits.

19 **Mary Quillen:** And they can be separated out so that we are covered rather than having them in
20 the CDAR's?

21 **C. J. Carter:** Yes, ma'am.

22 **Bradley Lambert:** So anything that we roll going forward will be 20 basis points?

23 **C. J. Carter:** Unless the rate structure changes. I'll get into it a little bit in a second. In a
24 portion of my handout I have a couple of ideas, a proposal that the committee perhaps should
25 consider to perhaps increase the rate of return a little bit. But, yes, if the decision is to stay in the
26 CDAR's program, it would to me make more sense to let the CD's that are maturing to roll into
27 the ICS money market because it's more liquid. You have penalties involved. You forfeit most
28 of your interest if you try to get your money out of a CDAR's CD. And, so if you're earning the
29 same rate, it just makes more sense in my opinion to put it in the ICS money market.

30 **Mary Quillen:** Okay. Well, Debbie did alert us to this the last time that she was here that the
31 maturing CDAR's would be at 20 basis points. So, we had been alerted to that. I'm still not sure
32 I understand how, if these...the reason we have these broken up into these individual CDAR's
33 accounts is because of the FDIC insurance coverage, keeping them under that benchmark. But if
34 that all rolls into the money market, are these going to be individual accounts like they are with
35 the CDAR's?

1 **C. J. Carter:** Yes, ma'am.

2 **Mary Quillen:** Okay.

3 **C. J. Carter:** They're akin to the CDAR's program, it's just money market. You can see that
4 we're already well over \$250,000 so we're already utilizing the FDIC coverage.

5 **Mary Quillen:** Okay. I just want to be sure that we're under that benchmark, the FDIC
6 benchmark, with those individual accounts in the money market.

7 **C. J. Carter:** Yes, ma'am. We are.

8 **Mary Quillen:** Okay. That clears that up. Thank you.

9 **C. J. Carter:** And the very last back page just shows what the treasury bond rates are and we
10 put this in here, I think, as Debbie probably started at some point in the past to give you an
11 illustration, an understanding, of where the treasury yields are versus the CD yields. I'll get a
12 little more to that in the second packet. I'll try to be brief, but I think the bottom line is the CD's
13 are still more attractive given the short side of the interest rate curve that you're currently
14 positioned. CD rates are still more attractive than treasury yields.

15 **Mary Quillen:** Oh, yeah. The way things are going, I would not.....I, personally, would not
16 even consider the treasury.

17 **C. J. Carter:** Okay. I'll try to be very quick here. This is just more for illustrative purposes, the
18 second handout. The first page here, I want to really quickly talk about U. S. Treasuries vs.
19 CDAR's and if there's really not much of an appetite to consider going to treasuries then we can
20 kind of skip this page a little bit. One comment I wanted to make is that perhaps one reason
21 you're seeing more of a divergence in the rates in treasuries than CDAR's CD's that is treasuries
22 are more of an international asset class that international investors can get in. CD's are
23 predominantly a domestic asset class. So, one thing that I would point to is kind of the weakness
24 in Europe. There's a lot of demand. Investment opportunities are a little bit lacking in Europe,
25 relatively speaking. So, you're seeing a lot of money kind of flow over into safe haven
26 securities. U. S. Treasuries are certainly among the best and most liquid of those environments.
27 So, until that dynamic changes, I think you're going to see CDAR's CD's being priced above
28 treasuries, but there are some pros and cons. Of course, you're probably aware of the CDAR's.
29 The early withdrawal penalties, if you try to break one of those CD's, they're very substantial.
30 You lose almost all your interest up until a certain point. Then, you kind of lose half your
31 interest for the further you go out. U. S. Treasuries are certainly more liquid, very deep liquid
32 market. But they change based on the market value. So, if you had to sell a treasury, you could
33 be getting less or more than what you paid for it. So those are all points you probably were
34 aware of. I just wanted to real quickly....

35 **Mary Quillen:** The international part is what I do not like at all.

1 **C. J. Carter:** Right.

2 **Mary Quillen:** It's too unstable, too many unknowns, too many things going on internationally
3 that I would not even.... I would not personally consider it for my money and I don't think we
4 should for anybody else's.

5 **C. J. Carter:** Understood. The next page just real quickly shows the historical treasury rates. I
6 won't really speak to that. We know where we are. We've seen some up-tick in the five year,
7 ten-year and thirty-year to some extent. We can see the treasuries on the short end of the curve,
8 the one and two-years have still remained very, very low as they have since 2009. The one thing
9 I did want to talk about real quickly is we have.....our CD investments are in the CDAR's
10 program, as you're very well aware of. There could be an opportunity to slowly move a small
11 portion out of the CDAR's into what I call, "direct traded" or "brokered" CD's.

12 The whole purpose of doing this would be to earn a higher rate than you can on CDAR's CD's.
13 CDAR's CD's, because you're with one institution depositing the money and they break it out to
14 get the insurance coverage without different banks, there's a fee they charge...the bank gets
15 charged and so you always get a lower rate than you will if you went out a bought a brokered or
16 traded CD.

17 **Mary Quillen:** What's the rate on the CD's now for the...

18 **C. J. Carter:** The brokered CD's?

19 **Mary Quillen:** Yes. Oh, you're going to get that?

20 **C. J. Carter:** Yes.

21 **Mary Quillen:** I'm sorry.

22 **C. J. Carter:** No, you're fine. That's a good question.

23 **Mary Quillen:** I didn't mean to....

24 **C. J. Carter:** It's kind of hard to see, but if you go to the next page on the far right column
25 where it says, "DTC CD Rate," you can see they're substantially above what we're currently
26 getting in CDAR's or in the treasury rates. Through the whole maturity spectrum, they're
27 substantially larger. Now, the pros and cons would be that we would have to produce a report
28 showing where our FDIC limits were per institution. So, if we did move a small portion into the
29 brokered CD market to try to get a better rate, I have the ability to look in the CDAR's program
30 and see where the FDIC insurance coverages are per institution, so I could easily make sure that
31 we stayed under that \$250,000 limit if you decided to move and go get some brokered CD's. So,
32 I just wanted to....and I would only recommend maybe going ten percent or so, kind of maybe
33 slowly moving in that direction if the committee had that appetite to do that.

1 **Mary Quillen:** One question on this. You know, we had originally set up those CDAR's that
2 they were like 6-month, one year, two years maybe. I can't remember exactly how far out it
3 went, so that they matured at different periods. I noticed that you can do this with these CD's as
4 well.

5 **C. J. Carter:** Correct. It would, functionally, work the same. I could still purchase the CD's in
6 the correct maturities that give us that ladder that we're currently used to. So, you wouldn't
7 necessarily have to go any further out than you're comfortable going out.

8 **Mary Quillen:** Okay.

9 **C. J. Carter:** I think that's a separate discussion. If you've made the decision to stay very short,
10 then that's the decision that's made. Simply illustrating that we can go out and get a few, get
11 some better rates. As some of it matures, I would put some of that money to work in the traded
12 CD market if that was something you guys were interested in.

13 **Bradley Lambert:** We do have that "unknown" out there about what disbursements may be
14 from month to month, depending on court cases and things that go on, so we really would have
15 to have some funds available pretty quickly. That's why we tried to establish, to keep some of
16 those in a position where if we were in that situation, that we could draw on those quickly for
17 disbursements without penalties. Do you see that possibility if we did transfer over to some of
18 these other CD's you're talking about?

19 **C. J. Carter:** Yes, I think that's a great point. I don't think that would affect the liquidity of
20 your investment positioning at all. Again, I would be only recommending a small amount would
21 go over there, ten or fifteen percent. And these are traded, so the market value might fluctuate a
22 little bit but we're going hold until maturity. We're never going to sell. Now, there's no early
23 withdrawal penalties with these either. And since we would likely stay very short, within one
24 year or less, even if interest rates did spike up the value is not going to change very much and
25 we're always going to get par, which is what we paid for them. And so, to answer your question,
26 I did actually look at the history of distributions. The last page, I just real quickly summarized
27 the yearly distributions out of this account from 2010 to 2013 and year-to-date 2014. As you can
28 see, we're in between roughly 1 million and I think the high was 2.6 million in 2012, in terms of
29 disbursements. So, obviously, there's some variability there, but we have currently over
30 \$3,000,000 in the ICS money market which is the most liquid, along with the CD's maturing
31 every month with a very short kind of ladder. So, unless you were expecting very massive,
32 significant distributions upcoming, I still think that you'd be fine moving a small piece of your
33 CD's, your investments out of CDAR's into brokered CD's to earn a higher rate. And, to be
34 clear, they're all FDIC insured, whether they're brokered or CDAR's.

35 **Mary Quillen:** And this, what you call the "narrow range" in the maturity ladder, would cover
36 us because that would be a month-to-month thing. So, if the pay-out were approved, it would be
37 like a month really before that actually happens as it goes through the Board process, the petition

1 and the Board approval. So, I think the ladder being narrow like that at one month maturity
2 would cover anything about that 3 million that we have in the money market.

3 **C. J. Carter:** Right. I would think so.

4 **Mary Quillen:** Okay. Thank you for this distribution. Seeing it all together here is real helpful.

5 **C. J. Carter:** Well, that was kind of behind my proposal only to move ten or fifteen percent the
6 most, perhaps, if you desire to do that.

7 **Donnie Ratliff:** Mr. Chairman.

8 **Bradley Lambert:** Mr. Ratliff.

9 **Donnie Ratliff:** On November 28th, we've got a CDAR's due that's at 4 million at 30 basis
10 points. If we took that 4 million when that comes due next month and put that in a CD for a
11 year, we get 55 basis points?

12 **C. J. Carter:** Yes, if you wanted to move all that. Now, that's a ballpark. That's a pretty
13 average rate. I'll have to go out and I can only get \$250,000 per one institution, of course. So,
14 yes, that's the rate I would expect to get.

15 **Donnie Ratliff:** And if we put it back in CDAR's it most likely will go back in at 20 basis
16 points.

17 **C. J. Carter:** It would go in at 20 basis and, again, I would rather see that go into the money
18 market versus going into a one-year CDAR CD.

19 **Mary Quillen:** That's the one that's due on November 28th?

20 **C. J. Carter:** I believe so. Yes.

21 **Donnie Ratliff:** You've got another one due in December.

22 **Mary Quillen:** What are you proposing, Donnie?

23 **Donnie Ratliff:** I'm not. I just asked the question.

24 **Mary Quillen:** Okay.

25 **Bruce Prather:** What's our interest income going to be if we change this? In other words,
26 we've got annual interest income. With the CDAR's going down, I have no idea what it would
27 be if we just remained the way it is, what our interest income would be for the year. And I'd like
28 to know what you estimate the interest income would be. Seventy-six? But, now, if we don't do
29 that, what is it?

1 **C. J. Carter:** Yeah, I think to your question, it would be less than seventy-six because 20 basis
2 points would be the highest you could get unless you were willing to go further out than one
3 year. So, essentially whatever the balance was, 20 basis points would end up being....

4 **Mary Quillen:** Let's see. We've got two that are coming due in the next couple of months.

5 **C. J. Carter:** Because rates have gone down a little bit, I thought it might be appropriate to give
6 another option on the table.

7 **Bruce Prather:** Well, the thing we don't want to do is.....we've hired you people and we want to
8 always have enough money in there to pay you. In other words, we don't want this thing to run a
9 deficit, so to speak.

10 **C. J. Carter:** Understood.

11 **Jack Phelps:** Mr. Chairman, to answer Bruce's question, you've got 76,000 right now. If that
12 drops from 30 basis points to 20 basis points, you're going to get roughly fifty....you're going to
13 get two-thirds of that. That's where you're going to be.

14 **Bruce Prather:** I just wanted to clear it up.

15 **Mary Quillen:** This is just an estimated. Right here is the....83 is the estimated, so two-thirds
16 of that. It would drop.

17 **Bradley Lambert:** So, Mr. Carter, are you suggesting to the Board that we give you approval to
18 go ahead for those that are coming due in the CDAR's in November and December, to go ahead
19 and move those?

20 **C. J. Carter:** I would say up to ten percent of the total market value is something I would be
21 comfortable with as a proposal, in terms of starting. If it works well and liquidities is fine after
22 some period of time, you could consider moving that higher if you desired. So, yes, and we
23 would certainly start with the ones maturing sooner.

24 **Mary Quillen:** So, you're saying ten percent of the total?

25 **C. J. Carter:** Ten to fifteen percent of the total...and this is just a recommendation. So, we're
26 talking maybe under 4, under 5, million. If you wanted to go higher, that's certainly....

27 **Mary Quillen:** Because this one, the one that's coming due November 28th is four and the
28 December one is 3.5.

29 **C. J. Carter:** Right. So, we could take a portion of that and we try to go out and find some
30 brokered CD's at a higher rate and then we could take the remaining portion and we could roll it
31 over in the 20 basis points in the ICS money market.

1 **Mary Quillen:** Okay. And that would give us a couple of months to see how that's going and
2 then the next one isn't due until January, the first part of January.

3 **C. J. Carter:** Right. I think we have kind of three sources. We have the CDAR's. We have the
4 brokered CD's and we have treasuries. I think those are kind of the options we have at our
5 disposal, depending on where the relative rates are.

6 **Mary Quillen:** The CD's seem to me to be the best option besides the money market, but we
7 don't want so much in the money market.

8 **C. J. Carter:** Well, the money market's still.....again, you can get the FDIC coverage limits.
9 You could have up to I think 100 million is the limit.

10 **Mary Quillen:** Yes, but if we could get a little more on the CD's. Because the money market
11 we kind of are using that as our working capital for disbursements and that sort of thing. So,
12 keeping it about that level or a little more for your working capital based on what we have had in
13 disbursements in the past, up to this year up to today. Then, we could get a little higher yield
14 going with the CD's.

15 **Donnie Ratliff:** It's not little. It's more than double. I mean, if it was my money, personally, I
16 would put it....the 4 million coming up, I would put it all over into CD's.

17 **Mary Quillen:** That's what I'm saying. That's why I asked what your opinion is on that. I agree
18 with that....at least that first one. Are you saying just the first one or what about the one in
19 December? What do you think about it?

20 **Donnie Ratliff:** Let's do this. I'll make a motion that we move half the money on the CDAR's
21 account that's due in November to CD's and the other half to the money market account.

22 **Mary Quillen:** Second.

23 **Bradley Lambert:** I have a motion. Did you second Ms. Quillen?

24 **Mary Quillen:** I said, "Second."

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

27 **Board:** Yes.

28 **Bradley Lambert:** Opposed, no. [No response] And that's only for the November, that's
29 coming due in November. December we'll act upon in November, or we'll look at in November.

30 **C. J. Carter:** Understood.

1 **Donnie Ratliff:** These guys can come back if they want to, but they could report to Rick and he
2 could tell us how this worked out and then we could make a decision in December when we meet
3 on what we want to do with that one when it matures. Does that make sense?

4 **C. J. Carter:** That makes sense.

5 **Donnie Ratliff:** See what you've got and what you come up with.

6 **Bradley Lambert:** So, we can do that either way. You can either report to Mr. Cooper or
7 you're certainly welcome to come back at any time.

8 **C. J. Carter:** Okay. Wonderful. That's all the comments I have on the reports.

9 **Bradley Lambert:** Okay. Thank you. Mr. Phelps, are you going to speak about the contract?

10 **Jack Phelps:** Yes. We have talked about this and we have negotiated this and there will not be
11 a raise. We are currently, I believe, at ten basis points and we wish to stay at the ten basis points.

12 **Donnie Ratliff:** Mr. Chairman, I'll make that in the form of a motion.

13 **Mary Quillen:** Second. Absolutely, second.

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

16 **Board:** Yes.

17 **Bradley Lambert:** Opposed, no. [No response] And just for the record, last month Mr. Phelps
18 was before the Board and commented that probably First Bank and Trust did not want to renew
19 the contract and since that date, there have been additional discussions with Mr. Cooper and with
20 First Bank and Trust, Mr. Phelps and, whereas First Bank and Trust now have decided to stay on,
21 extend that contract and keep our fees at ten basis points. We appreciate you agreeing to do that.
22 I know it will make things go much simpler than having to go out at RFP for a new Escrow
23 Agent and we appreciate the work that First Bank and Trust has done over the last five years,
24 working with Rick and his staff on the escrow account and thank you for being here this
25 morning.

26 **Jack Phelps:** Thank you.

27 **C. J. Carter:** Thank you.

28 **Mary Quillen:** Thank you from the Board. We really appreciate because you're local. We like
29 that. We want to stay local and you've done just a fabulous job working with us and we really,
30 really appreciate you.

31 **Jack Phelps:** Thank you.

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Item Numbers 3 and 4

Bradley Lambert: On the agenda, we have Docket Items 3 and 4 and I have received, or Mr. Cooper has received, a letter from EQT Production Company on those Docket Items and this is from Mr. Jack Kaiser. It says, "On behalf of EQT, we would like to request a continuance on the above Docket Items due to the lack of notice information, affidavits being mailed until the November Docket." And, for the record, those are Docket Numbers VGOB-01-0619-0899-02 and Docket Item VGOB-93-0119-0309-06. So, those items will be continued until November.

Item Number 9

Bradley Lambert: For the next Docket Item, we have CNX but I understand, Mr. Swartz.... Mark? I understand that you have agreed to allow Mr. Gray to go first?

Mark Swartz: Yes, I am. But, Anita and I were just talking about maybe, Tim's only got one, too, so you might let him go first.

Bradley Lambert: Okay. We'll go ahead and let Mr. Gray come forth and then we'll let...Tim's not even in here, is he? We'll work with Mr. Scott when he comes back. Okay. So, we're going to take Docket Item Number 9. A petition from the Division of Gas and Oil - on behalf of others for Gerald Gray, Attorney for Pamela Hess, appealing the decision of the Director issued on August 14, 2014, for Informal Fact Finding Hearing 229, regarding an application from CNX Gas Company, LLC, for proposed Well AA37D, with pipeline located in the Garden District. This is Docket Number VGOB-14-0916-4056. All parties wishing to testify please come forward and be sworn.

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

Pamela Hess: I affirm.

Eddie Hess: I affirm.

Mary Quillen: Do we need a chair for Anita to come over here with you?

Mark Swartz: She wants to hide in the back on us.

Mary Quillen: Okay. Didn't want you to think we were ignoring you.

Sarah Gilmer: Ms. Webb, do you swear or affirm that your testimony is the truth, the whole truth, and nothing but the truth?

Ms. Webb: I do.

1 **Bradley Lambert:** I hope the Board has had a chance to read this appeal. It's pretty similar to
2 the one that we heard month before last. Time slips away. I forget. So, Mr. Cooper, briefly,
3 would you update us on the appeal?

4 **Rick Cooper:** I would. The objection on this well came in on April 4, 2012. We had a hearing
5 date, due to a backlog of other hearings. We had a hearing date on February 21, 2014, and a
6 decision was mailed out on August 4th of this year and Mr. Gray, on behalf of Mr. and Mrs.
7 Hess, appealed the decision that I had made. The original objection was that "measures (in
8 addition to the requirement to the water well protection stream) are necessary to protect the
9 water-bearing strata." I think Mr. Gray has since, in his appeal, taken that out. But, the appeal
10 is, "the location of the coalbed methane well or coalbed methane well pipeline will unreasonably
11 infringe on the surface owners' use of the property, provided the reasonable alternative site is
12 available within the unit." And the decision I made was that the least amount of surface damage
13 was being conducted. There's a pre-existing road that goes through there. I think the gas well
14 road goes to another location or two and there's a compressor site on that road. This proposed
15 well that we're talking about here, AA37D, the access road and pipeline, which are in the same
16 route, would be going out to the well location. The well location is not on the complainant's
17 property. I made the decision that it was the least amount of surface damage that could be done
18 and access the well. Also, one of the grounds for the well is for mine safety. It was strategically
19 located in a long-wall panel for the Buchanan Number 1 coal mine for future mining. It was
20 strategically placed in the panel. And, finally, if you've read the transcript, the well is more than
21 500 feet from the resident's house. Again, the pipeline and road are on the same route. So, a
22 portion of the road and pipeline is on the objecting party, but none of the well location is on their
23 property.

24 **Bradley Lambert:** Thank you, Mr. Cooper. Any questions from the Board for Mr. Cooper
25 before we begin?

26 **Bruce Prather:** Mr. Chairman. Rick, was that road established prior to the proposal for the
27 pipeline?

28 **Rick Cooper:** The main road that the new road and pipeline would come off of, has been in
29 since the late '90s. Now, the road and pipeline that are being proposed to the well location would
30 be a new surface disturbance. It comes off of that main road.

31 **Bruce Prather:** And, would the pipeline be either on one side of that road or down the middle?

32 **Rick Cooper:** That's correct.

33 **Bruce Prather:** Okay.

34 **Bradley Lambert:** Anything further? [No response] Mr. Gray, you may begin.

1 **Gerald Gray:** Thank you. As a preliminary matter, Mr. Chairman and members of the Board, I
2 would note that Informal Fact Finding Hearing Number 220 and 229 were held before Mr.
3 Cooper on February 21, 2014. A decision was made on Number 220 and we had a hearing on
4 that. At that hearing, the Board was unable to come to a decision to either approve or reverse the
5 decision of the Director. After that formal hearing before this Board, we received a decision
6 from Mr. Cooper on Informal Fact Finding Hearing Number 229. And, I've noted the appeal, as
7 Mr. Cooper has described. My concern is that there's apparently no policy with this Board that
8 requires a decision is to be made simultaneously, certainly in this instance, where there was one
9 Informal Fact Finding Hearing held involving two different areas of the surface that the applicant
10 proposed to disturb on my clients' property. And I understand that people who are in the
11 business of this, it's inconsequential to him, as to whether or not they have one formal hearing
12 before this Board or two. But on behalf of Mrs. Hess, I would point out that she's a private
13 citizen whose land is proposed to be disturbed by the applicant and she's been forced to incur
14 additional expenses solely because the Director did not make a decision on both items at the
15 same time. In hindsight, I believe I probably should have objected to the earlier hearing until the
16 Director had made a hearing on Informal Fact Finding Hearing 229...made a decision on 229. If
17 he had done that, we could have appeared before you just one time. It would have been less
18 inconvenient to my clients and less expensive to my client to have to be here today. That's my
19 concern that I would encourage you all in the future to adopt a policy that, when the Director
20 hears two Informal Fact Finding hearings at the same time, that he issue his decision at the same
21 time. That way, any appeal that results from that would be heard by this Board at the same time.
22 That is my concern at this point. I'll also be introducing some evidence, but let me basically
23 summarize what our position is. I believe that all of you all, with the exception of Mr.
24 Kugelman, were here at the previous hearing. I will describe, generally, the property we're
25 dealing with. This is mountain property in Buchanan County, Virginia. Ms. Hess does not own
26 the gas underlying her property and she understands that. She also understands that, under
27 Virginia law, the only protection she gets in terms of any effort on the part of the gas well
28 company to use her surface is if she can prove to someone, either Mr. Cooper or this Board or a
29 Circuit Court that the proposed use would unreasonably interfere with the use of her property.
30 And that's a statutory protection that the General Assembly enacted. It was not there in Common
31 Law. It wasn't set forth, certainly, in the Severance Deed when the gas was severed from the
32 surface. But, here we are today. We're going to present some testimony from Ms. Hess and her
33 husband that, of the 24-acre tract of land that they own and, certainly, we now recognize that the
34 well is not on the Hess property. But, our concern is the pipeline and road is coming across
35 approximately several hundred square feet of flat land on their property, the pipeline and road is
36 proposed to come onto their property. We're going to be presenting a photograph of this. I take
37 it, Mr. Cooper; we don't have a flip chart similar to the one we had in the previous hearing that
38 we can show the Board at this time?

39 **Rick Cooper:** I do.

1 **Gerald Gray:** All right. Would you mind assembling that at this time? While he's doing that, it
2 will make it easier when you hear the testimony exactly what we're talking about. Of the 24
3 acres, there's probably 3 or 4 acres that are flat on this land and the proposed use by the applicant
4 to put a pipeline and accompanying road with that pipeline will completely eliminate their ability
5 to use this portion of the property. I'll be able to demonstrate that shortly once the flip chart is up
6 there.

7 **Bradley Lambert:** Mr. Cooper, that's the same map that we have?

8 **Rick Cooper:** It's the same map that's in the permit. That is correct.

9 **Bradley Lambert:** Okay. Thank you.

10 **Rick Cooper:** I also have, for anyone's convenience, the blow up of the plat. It's the same thing
11 that's in the permit.

12 **Bradley Lambert:** Just for the Board's information, we do have a copy of that map along with
13 the plat, if you're looking at those.

14 **Gerald Gray:** Mr. Cooper, if I may, sir. The plat, is that the plat of the long-wall mine itself?
15 Is that what you're referring to?

16 **Rick Cooper:** I do not have a blow up of the plat showing the location of the well.

17 **Bradley Lambert:** Mr. Cooper, we do have a map of the long-wall panels, but we don't have a
18 location of AA37 that I can see on the one that you provided for us.

19 **Gerald Gray:** Mr. Chairman, that's not an issue for us today.

20 **Bradley Lambert:** Okay.

21 **Gerald Gray:** The only issue is the portion of their land that the pipeline and road would be
22 going across that is associated with this particular well.

23 **Mary Quillen:** I have a question. Is this above ground or buried?

24 **Mark Swartz:** The pipeline is buried.

25 **Gerald Gray:** The pipeline would be buried. The problem you understand is once that pipeline
26 is there, you can't put anything on top of that pipeline of a permanent nature. That's the basis of
27 our objection. Mr. Cooper, that map, that photograph rather, that we're looking at appear to
28 show the distance between the Hess home and the well site. Is that accurate?

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

1 **Gerald Gray:** All right. Do you have a photograph of the area that Ms. Hess is concerned
2 about that shows where the pipeline would be going across her property?

3 **Rick Cooper:** It comes off this area right through here and like this.

4 **Gerald Gray:** For the record, I'm curious. Could you mark that some way or another because a
5 transcript won't show where that is.

6 **Rick Cooper:** I can show you as depicted on what we will call Exhibit 2. So, as you see, this is
7 the location of the Hess property on the southern portion of the photo. And over on the eastern
8 portion, this is the well location. This area that you're looking at, is the Hess property. The pink
9 dotted line is the Hess property. This green line that I'm pointing to, is pre-existing road put in
10 the '90s. There's another well and there's a compressor site at the end of that location. The
11 affected property that we're talking about today is this red line. So, it would go from the pre-
12 existing road, across the property, to where the well location is.

13 **Gerald Gray:** Could we have that guy stand there for another fifteen minutes?

14 **Rick Cooper:** In the future, we may go to PowerPoint and just project these up on the screen for
15 all parties.

16 **Gerald Gray:** That would really help. We could make him Exhibit 3 while he's up there.

17 **Bruce Prather:** Rick, is that road on the south side of that creek or that drainage that goes
18 through there, or is it on the north side?

19 **Rick Cooper:** This road here? The red road?

20 **Bruce Prather:** No, the one that you're talking about.

21 **Rick Cooper:** The red road. There's a point right here that goes across a little bit of the ridge
22 line and you get out into a flat area. It goes down into a hollow on what would be the
23 southeastern portion. On the northeastern portion, it's really steep rocky terrain.

24 **Mary Quillen:** So, the proposed road off of the existing road is the red line.

25 **Rick Cooper:** That is correct, Ms. Quillen.

26 **Bradley Lambert:** Mr. Gray, it seems like the Board is cross-examining Mr. Cooper. I just
27 wanted to make sure that you're okay with this line of questioning, directed at Mr. Cooper, who
28 made the decision, instead of hearing your side of the case.

29 **Gerald Gray:** From my perspective, the Board.....we're interested in presenting the facts to the
30 Board and I have no objection to Mr. Cooper answering any questions from the Board because I
31 was very concerned when I saw the first photograph up there because it didn't show anything at
32 all that's relevant to the matter before the Board today. I appreciate the other map going up there

1 and, for the record, that's going to be Exhibit 2. Exhibit 2, as Mr. Cooper has testified, shows a
2 red line of new pipeline and road coming up to existing pipeline and road. From that, I will offer
3 some testimony from both Mrs. Hess and her husband, Eddie Hess.

4 **Bill Harris:** Let me just ask a question, Mr. Chairman.

5 **Bradley Lambert:** Mr. Harris.

6 **Bill Harris:** The existing pipeline and road. Now, the green line represents a road that's already
7 present?

8 **Gerald Gray:** That's correct.

9 **Bill Harris:** Is there a pipeline associated with that already in place?

10 **Gerald Gray:** Yes, there is.

11 **Bill Harris:** So, it's in place under or next to road? I think that was your question, but....I'm
12 sorry. It's beside?

13 **Eddie Hess:** Right here is where the pipeline comes across the map.

14 **Gerald Gray:** Eddie, you need to describe that because this is going to be transcribed. When
15 you say, "Right here," what exactly are you pointing to?

16 **Eddie Hess:** Okay. Right here is a driveway, a private driveway that goes up to a house and it
17 forks and the pipeline comes across us right along here and it goes out to the ball field.

18 **Bill Harris:** Let me ask one other question. So, you're on the far left of that? I notice two pink
19 dash property lines. They converge about where your left thumb is there. They don't end with
20 the picture?

21 **Pamela Hess:** No.

22 **Bill Harris:** So, they continue on and they just converge?

23 **Pamela Hess:** We have three little tracts of land. They all join, but we've accumulated them
24 through the years. Three separate little pieces.

25 **Mary Quillen:** But there is an existing pipeline that crosses over that road or beside it?

26 **Pamela Hess:** On out.

27 **Mary Quillen:** Beside of that road? Okay.

28 **Eddie Hess:** The pipeline starts along here and goes out to....

1 **Mary Quillen:** Okay. And, is this above ground or buried?

2 **Eddie Hess:** It's buried under the road.

3 **Mary Quillen:** Okay.

4 **Bill Harris:** So, the proposal then is to extend the pipeline back actually toward the house site,
5 but only to the red line and then that would be a proposed new road?

6 **Gerald Gray:** No, sir.

7 **Bill Harris:** I'm confused.

8 **Gerald Gray:** Maybe we can explain this better. The red line that comes from the upper right
9 area and goes downward to the left, that is the new pipeline and road that is being proposed.

10 **Bill Harris:** Okay.

11 **Gerald Gray:** Now, our objection is that right next to that road where the pipeline intersects
12 with that green existing road, that is actually a flat piece of land and putting the pipeline and the
13 road right through the middle of that would deprive their ability...that's our position...would
14 deprive them the ability to use that property for virtually anything other than growing crops or
15 trees or something of that nature.

16 **Bill Harris:** So, that's the relatively light area right at the upper curve?

17 **Gerald Gray:** That's correct.

18 **Pamela Hess:** I have photographs of that little flat. It's very small. It's triangular-shaped. It's
19 approximately 150 feet road frontage. That road has been our road for years, not a gas well road.
20 That's been my road for.....it's been in existence a long time.

21 **Mary Quillen:** So, you all maintain that green road?

22 **Pamela Hess:** The best we can. CNX also comes in and scrapes it and cuts the brush and things
23 like that and if I call and complain that the roads are getting muddy, they do come and put gravel
24 and things like that.

25 **Mary Quillen:** They provide all the gravel that goes on the road? Is that right?

26 **Pamela Hess:** Most of it. Yes. But I maintain most of it. It's my road. It's been there for as
27 long as I can remember. The little flat that we're talking about. If you notice, that is in the
28 middle of my property. The last time we were here, they wanted to put in a road at the western-
29 most end of my property which they did. You all ruled on that. This is in the middle of my
30 property, not far from my home. But, the little flat is only approximately 150 frontage onto the

1 road, triangular-shaped, goes back approximately 50-75 feet to a point and, if they put in a road
2 and a pipeline across there, what have I got? How wide's your road? How wide? 20 feet?

3 **Gerald Gray:** Pam, I'm going to ask you.....I've got a couple of photographs here. One has a
4 red ribbon on a tree to the left and there's a person standing back there. That's your husband?

5 **Pamela Hess:** Yes.

6 **Mark Swartz:** I'd like to tender an objection. I think we're offering evidence that was not
7 available to Mr. Cooper when he made his decision we need to limit ourselves to what they...

8 **Pamela Hess:** He walked this, sir. He walked this with me.

9 **Mark Swartz:** To what they presented to him at the hearing.

10 **Gerald Gray:** My response to that, Mr. Chairman, would be that, at my request, following the
11 hearing, Mr. Cooper went to the property and viewed it. He had an opportunity then to learn
12 from Ms. Hess that her primary concern regarding this particular proposed pipeline was where it
13 would come across that flat area. He learned that at his site visit. I did request that, if he made
14 the site visit, that whatever he learned at the site visit would, in fact, be documented some way or
15 another. I haven't seen any documentation of that. In response to Mr. Swartz's objection, this
16 was in fact part of the evidence available to Mr. Cooper before he rendered his decision. So, I
17 would ask the Board to consider the evidence I'm about to present as well as the testimony of Mr.
18 and Mrs. Hess.

19 **Bill Harris:** Let me ask one question prior to that. Could we ask Mr. Cooper if that made any
20 change in your decision? In other words, if going to the property, you realized that this is not the
21 way it appeared when it was first presented? That would change what you said to us, but what
22 was your result after the visit?

23 **Rick Cooper:** As Mr. Gray indicated, I did walk the location and it did have a bearing. I took
24 that into consideration, but as far as any alternative routes, this was the least surface damaging
25 route that you could take. The north side of that is very steep, rocky terrain. You can say it's
26 cliff line. There's a hollow on the right side that is in between the Hess property and this well
27 and it was in my determination that this was the least damaging route to take and the property
28 was not being utilized for any other resources at this time.

29 **Bradley Lambert:** Mr. Cooper, as far as Mr. Swartz's objection, would you take a look at those
30 photographs and tell the Board whether or not those are the areas you, in fact, looked at that
31 helped you make your decision?

32 **Rick Cooper:** Yes, sir. I will. From the location here of two photos, what I see is CNX had
33 flagged the location of the road off the pre-existing road and, yes, I agree with that. That is the
34 location that we walked out to the well. I'm not sure what else I can say other than that, but this

1 would be the location where it comes off the pre-existing road, which would be this location
2 where the red and green line intersect.

3 **Bradley Lambert:** So, you will affirm.....wait a minute. You just talked about one photograph.
4 We've got two there. You confirm that the one photograph that shows intersection is the area
5 that you viewed when you went out to the site?

6 **Rick Cooper:** That is correct. And the other photo just appears to be a road along the same pre-
7 existing road to where the well would start. It really doesn't go out the ridge line any at all.

8 **Bradley Lambert:** So, you can't tell from that second photograph if you saw that area when you
9 were out there or not?

10 **Rick Cooper:** Well, it's really hard to determine without the pre-existing flag.

11 **Pamela Hess:** It should be on there, I think. Is it not on that one? Way up at the end of the
12 photograph this way. Maybe you can't see it. One of them did. I know this one does. But, I just
13 took these photographs to show you how small the little flat is. And, also, if I could interject
14 here.

15 **Gerald Gray:** If you'll hold on just for a second, Pam. The question is whether the area shown
16 on both these photographs is an area that Mr. Cooper looked at when he was out at your
17 property. Both of these were taken in the same area.

18 **Pamela Hess:** Different angle. One is shooting from a different direction.

19 **Bruce Prather:** Rick, is this flat area you're talking about, is it an acre or 3/4 of an acre. How
20 big is it?

21 **Rick Cooper:** From her dimensions, the dimensions she had given there, what were your
22 dimensions, Ms. Hess?

23 **Mary Quillen:** 175 going to a point

24 **Pamela Hess:** 162 x 80

25 **Rick Cooper:** You figure that's less than a quarter of an acre, about an eighth of an acre.

26 **Bruce Prather:** Well, see...205 feet square is an acre?

27 **Gerald Gray:** 220. I had this drawing out here.

28 **Bradley Lambert:** Ladies and gentlemen of the Board, let's get back on the question, or the
29 objection that Mr. Swartz raised and Mr. Gray's response. Again, Mr. Cooper, I would ask you
30 to verify the photographs of what you saw when you were out there and which photograph did
31 you actually see?

1 **Rick Cooper:** The two photos that have been presented here are just different angles. It is just
2 showing the junction point (as depicted on Exhibit 2) where the red line comes off the green line;
3 off the pre-existing road that has been established for several years.

4 **Bradley Lambert:** The second question to you, Mr. Cooper, is when did you make the site
5 visit? Before or after the hearing?

6 **Rick Cooper:** After the hearing. I visited the location after the hearing, but before the decision.

7 **Bradley Lambert:** Okay. I just want to be clear for the record that you do agree that both of
8 those photographs are the areas you looked at when you were out in the field?

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

10 **Bruce Prather:** Rick, is there any drainage areas that goes through that small area? Does a
11 drainage area intersect that, cut that little piece of acreage?

12 **Rick Cooper:** That pre-existing little pond is where they actually put the road drainage. It's
13 been there for a period of time. It looks like it's a small area, probably dimensions 10 feet by 20,
14 something like that.

15 **Bruce Prather:** How wide is that creek? Six feet?

16 **Rick Cooper:** Well, it's really not a creek. This is actually just a hollow that drains down
17 through there. There's no creek in this particular area.

18 **Bruce Prather:** Okay. Between the road and this, is there a creek?

19 **Rick Cooper:** Between the road being permitted or the pre-existing road? I don't understand
20 the question.

21 **Bruce Prather:** Well, the green road area, is there a creek that's between the green road and the
22 other side of that white area?

23 **Rick Cooper:** There is not.

24 **Bruce Prather:** Okay.

25 **Bradley Lambert:** Okay. Let's get back on track. We got off track again. Thank you, Mr.
26 Cooper.

27 **Paul Kugelman:** Paul Kugelman, from the Attorney General's Office. I've been talking with
28 the Chairman. 45.1-361.36 says, "No petition for appeal may raise any matter other than matters
29 raised by the Director or as the Petitioner put in issue, either by application or objection," and it
30 goes on. My understanding is the issue raised before you at the hearing and that's before the
31 Board now is whether the location of the pipeline and associated road unreasonably infringes on

1 your surface owner use. If that evidence goes to that issue, I would recommend that the
2 Chairman overrule your objection, but if it does not go to that issue.....and I'm unclear right now.
3 If it doesn't go to that issue, then the objection should be sustained. Now, what's the purpose of
4 the evidence?

5 **Gerald Gray:** The purpose of the evidence is to show that the proposed location of the pipeline
6 and affiliated roadway unreasonably interferes with the landowner's use of her surface property,
7 surface interests. And, as Mr. Cooper has simply in his evidence or testimony.....Mr. Cooper has
8 indicated that I requested a field visit after the Informal Fact Finding Hearing and he did that,
9 made that part of his record. He took photographs, viewed the property and understood that the
10 objection of the Hess' at that time included the location of the pipeline roadway as it came across
11 this small flat area out of a third, maybe less, of an acre. So, that would be my response. And
12 he's already indicated that because he has a photograph of it and he indicated by responses to
13 questions, his answers to the questions, that the photographs I propose to introduce are, in fact,
14 photos of the area where the pipeline and roadway would be coming across a flat area next to an
15 existing road. My response would be it is a part of the record, even though it wasn't formally
16 incorporated. But, he's indicated he considered it when he rendered his decision.

17 **Rick Cooper:** One thing I would like to point out there, Mr. Chairman. At the time of the visit,
18 there were no photographs taken. I did not take any photographs of any of that area.

19 **Paul Kugelman:** Did you use the photographs in rendering, in reaching your conclusion?

20 **Rick Cooper:** I did not.

21 **Paul Kugelman:** Mr. Swartz, do you have anything to say? Do you have any response, sir? I
22 think you ought to have an opportunity since you posed the objection.

23 **Mark Swartz:** I think the issue is whether or not there was evidence of unreasonable
24 interference at the hearing or on the subsequent site visit. Now that we've had Mr. Cooper
25 indicate he walked the existing road and these are photographs of an existing road that he saw, as
26 far as I'm concerned, there's no harm, no foul. I don't care, but I think we should know and it
27 should be in this record that those photographs were not at the hearing.

28 **Paul Kugelman:** Okay. So, with that, you withdraw the objection?

29 **Mark Swartz:** Right.

30 **Paul Kugelman:** Thank you, sir. You can go ahead. I appreciate it.

31 **Bradley Lambert:** Now, we got over the photographs and we're going to accept those
32 photographs. You can continue, Mr. Gray.

33 **Gerald Gray:** All right. I'm going to offer the photographs as...it would be 3 and 4.

1 **Rick Cooper:** Exhibit 3 and 4.

2 **Gerald Gray:** Ms. Hess, would you take these around to have them mark these, please?

3 **Bradley Lambert:** Sarah, would you please mark them and let the Board view those? Okay,

4 now, if we're going to send in another photograph, I'm going to have to....

5 **Pamela Hess:** It's the same photograph. This just had a defect in the print, a line.

6 **Bradley Lambert:** Okay. Mr. Gray, you may continue please.

7 **Gerald Gray:** I'm sorry. I missed that exchange between the two of you.

8 **Bruce Prather:** We were just looking at your map there. What I was thinking about is the

9 pipeline, as proposed, goes right through the middle of your little flat area.

10 **Gerald Gray:** That is correct.

11 **Pamela Hess:** Yes, it is. Exactly.

12 **Bruce Prather:** And it's only about a half an acre.

13 **Pamela Hess:** And it's gone.

14 **Bruce Prather:** Could that thing be moved a little bit to the north in there?

15 **Gerald Gray:** From our position, it could be, quite frankly. But, that would be a question that

16 Mr. Swartz and his client could answer.

17 **Bruce Prather:** I understand that.

18 **Gerald Gray:** We believe that it could be and that would certainly satisfy us.

19 **Pamela Hess:** Actually...

20 **Gerald Gray:** Let's proceed. Ms. Hess, in addition to the photographs that you've taken.... I'm

21 going to ask Mr. Hess. Your name is Eddie Hess?

22 **Eddie Hess:** Leonard E. Hess.

23 **Gerald Gray:** All right. And you have been sworn to testify truthfully in this hearing today?

24 **Eddie Hess:** I affirm.

25 **Gerald Gray:** Yes, sir. I have a drawing that is described. As I understand it, this drawing is a

26 drawing that you did to demonstrate to the Board the area across which the pipeline is proposed

27 to be put on your wife's property. Is that correct?

1 **Eddie Hess:** Correct.

2 **Gerald Gray:** All right. We may offer this as Exhibit Number 5.

3 **Bradley Lambert:** Sarah, before you mark that, can we see that please? Mr. Swartz, would you
4 object to this going into the record?

5 **Mark Swartz:** Mr. Cooper didn't have that either. This is the first time any of us have seen it.

6 **Bradley Lambert:** That's right. I would agree. Mr. Gray, we're not going to accept this one.
7 This wasn't part of the Informal Fact Finding Hearing.

8 **Gerald Gray:** Who's making that ruling, sir?

9 **Bradley Lambert:** I am. We haven't seen this. This is not part....

10 **Gerald Gray:** The basis of it is...

11 **Bradley Lambert:** That's not part of the Informal Fact Finding Hearing. It's new evidence.

12 **Paul Kugelman:** Sarah, what we need to do is mark that as rejected and put it in the record as
13 rejected, please.

14 **Gerald Gray:** My response will be that this is a drawing that we're offering to aid the Board in
15 understanding exactly what that piece of property is. I would request, quite frankly, that this
16 Board go to the property and look at it. There's no substitution for actually being on the ground
17 and looking at what we're talking about here. That drawing is being offered, Mr. Chairman and
18 members of the Board, to aid you in determining whether or not the proposed use by the
19 applicant of their surface would unreasonably infringe on their use of the surface, for no other
20 purpose. It certainly was not part of the record but, on the other hand, in terms of anything that's
21 been presented before. But, on the other hand, same as the photographs, depict what actually is
22 there and was seen by Mr. Cooper. This drawing does exactly the same thing. It's intended to
23 aid the Board in determining what the facts are. That's the sole purpose for this.

24 **Bradley Lambert:** Mr. Kugelman.

25 **Paul Kugelman:** Thank you, Mr. Chairman. I think this will help with this proceeding in
26 moving it along. This is an appeal. The record is fixed. The information that you put before the
27 Board needs to be introduced to Mr. Cooper for his consideration and then, if you don't like his
28 decision, based on the record that he was given, that's the information that the Board gets to see.
29 So, I appreciate the invitation to go see the property. I would advise against that because it's
30 going outside the record. That's my concern and that's my advice to the Board.

31 **Gerald Gray:** If I may respond. It's not outside the record because in the record at the hearing,
32 I specifically requested that the Director make his view of the property part of the record and

1 these photographs are part of the record, even though they weren't shown to him. He actually
2 saw the property.

3 **Paul Kugelman:** But, those are introduced now.

4 **Gerald Gray:** Right. I understand that. This drawing does exactly the same thing, Mr.
5 Chairman. This drawing is intended to aid the Board in seeing exactly what Mr. Cooper saw
6 when he went to the property. The drawing itself....

7 **Paul Kugelman:** Who drew it?

8 **Gerald Gray:** Mr. Hess just testified he drew it.

9 **Paul Kugelman:** Okay.

10 **Gerald Gray:** I thought you heard that.

11 **Paul Kugelman:** I'm just making the record clear, sir.

12 **Gerald Gray:** Yes, sir.

13 **Paul Kugelman:** And my understanding, based on your representation earlier, is that you
14 wanted to introduce what Mr. Cooper saw.

15 **Gerald Gray:** Right.

16 **Paul Kugelman:** He didn't draw the drawing.

17 **Gerald Gray:** Whether he drew it or not, he saw the area and this drawing simply assists the
18 Board in deciding what it was.

19 **Paul Kugelman:** Mr. Gray, okay. I appreciate the discussion, but I'm really trying to move it
20 forward. It's an appeal. It's been marked and identified and Mr. Lambert's made his decision on
21 the Exhibit. So, I was just trying to, hopefully, put a context to the proceedings so that we can
22 move forward and not try to keep going to add stuff.

23 **Gerald Gray:** Once again, I'm responding to your legal advice that appears to be based on your
24 belief that the site visit was not part of the record. And my argument to you is that it was part of
25 the record because it was....

26 **Paul Kugelman:** If it was part of the record, then we could see it here without going there.

27 **Gerald Gray:** Pardon.

28 **Paul Kugelman:** If it's part of the record, we should be able to see it here without going
29 anywhere.

1 **Gerald Gray:** I would disagree because without going to the same place the Director went, you
2 don't know what that part of the record consists of and that's why I believe it's important.

3 **Mark Swartz:** Part of the problem with this drawing.....we have topo maps that are in the
4 record. If you look at page 36 of 112, it is a topo map and I think you should have it. It's 36 of
5 112.

6 **Bill Harris:** We have a 51 of 112, but 36....

7 **Bradley Lambert:** I think it's 35.

8 **Bill Harris:** Oh, yeah.

9 **Bradley Lambert:** The topo map is 35.

10 **Mark Swartz:** Go to 36, which also has topo lines on it.

11 **Bradley Lambert:** We have that one.

12 **Mark Swartz:** This sort of relates to my objection to this Exhibit that was, this drawing that
13 was not at the hearing. We have a topo map that was at the hearing that was available, several
14 topo maps actually, that were available to Mr. Cooper and you can see where the existing road is
15 on that map, consistent with the photograph that's on the board up there. You can see where the
16 new road and pipeline is proposed and you can see those in relation to the topo and you can see
17 the flat areas and the not flat areas on that topo map which Mr. Cooper had available to him. So,
18 the second part of my objection to that drawing is the topo maps were in evidence and show
19 what's flat, what's not flat, what's uphill, what's downhill, where stuff drains. That was available
20 to him. He was there to see that. But, I mean, to submit a hand-drawing subsequent to a hearing
21 that may or may not be consistent with the topo maps that were in evidence at the hearing is also
22 inappropriate. So, that's the second part of my objection.

23 **Bradley Lambert:** Well, I think we've already decided or already ruled that we will not accept
24 that hand-drawn map as part of the record since it wasn't presented at the Informal Fact Finding
25 Hearing. Mr. Swartz, I do agree that the topo maps that we have in our packet are much more
26 accurate than the hand-drawn map and those we can rely upon. So, folks, if we can just move on
27 from what we are at that point.

28 **Gerald Gray:** I do appreciate Mr. Swartz locating that because he is correct. A topo map more
29 accurately depicts the physical features. It doesn't show everything that's there, but it does tell
30 you, generally, the area that we're dealing with here. Ms. Hess, how much land do you own in
31 this area around your house?

32 **Pamela Hess:** In total?

33 **Gerald Gray:** Yes, in total.

1 **Pamela Hess:** In total, I have around 24 acres in all.

2 **Gerald Gray:** And, of that 24 acres, how much of that land is flat?

3 **Pamela Hess:** Approximately 3 or 4 and it's not flat flat. It's usable, relatively flat. It's usually
4 from how they strip mine and they flatten it out a little bit. But, it's not totally flat. I only have
5 approximately 4 acres of usable flat land. That's my objection.

6 **Gerald Gray:** And the area that the gas company proposed to run a pipeline and an
7 accompanying road with, how does it fit in that flat area next to the existing road?

8 **Pamela Hess:** If you look, it's directly in the middle of my property line there.

9 **Gerald Gray:** And, with respect to the flat area next to the road, does it divide that in half?

10 **Pamela Hess:** Exactly. Or it will just take almost all of it. I don't know how wide a road and a
11 pipeline is, but I think it's what? 20 feet or more? How wide is a gas road?

12 **Gerald Gray:** What is your understanding as far as....

13 **Pamela Hess:** How wide is a gas road, a pipeline? Does anyone know?

14 **Bruce Prather:** 10-15 feet.

15 **Gerald Gray:** Ms. Hess, how will putting the pipeline and the road that goes with that pipeline?
16 How will that interfere with your ability to use that property?

17 **Pamela Hess:** Well, I cannot put any house, mobile home, any structure on that little piece of
18 flat. It will be of no benefit to me or to my heirs, my descendants or anyone in the future. It will
19 depreciate the value of my land. My house is near that and you know that it's going to depreciate
20 the value of my existing home.

21 **Gerald Gray:** What is the land on both sides of this little flat? What does it look like? If the
22 pipeline and road were relocated to either side of that flat that's there, would that unreasonably
23 interfere with your use of the property?

24 **Pamela Hess:** Well, I really can't say. If it's moved on the side near my home, I have a pond
25 and a spring.

26 **Gerald Gray:** All right. How about on the other side?

27 **Pamela Hess:** On the other side, I don't really know how that would impact unless just the
28 traffic. Because should I get into where the other?

29 **Gerald Gray:** No. But, in any event, the area that you're concerned about protecting is the
30 triangle-shaped area next to the existing road?

1 **Pamela Hess:** Yes.

2 **Gerald Gray:** Is that accurate?

3 **Pamela Hess:** Correct.

4 **Gerald Gray:** That's all the questions I have for Ms. Hess.

5 **Bradley Lambert:** Any questions from the Board for Mr. Gray or his witnesses?

6 **Bruce Prather:** I've got one question.

7 **Bradley Lambert:** Mr. Prather.

8 **Bruce Prather:** According to CNX's drawing here, they have the pipeline and the road right up
9 against either a drop-off or a hill, one or the other. It looks like it's up against a drop-off. So, are
10 they on the edge of your property in here? In other words, I think that triangle area you're
11 talking about is like this.

12 **Gerald Gray:** She can't see that from here, sir. Can you...?

13 **Bruce Prather:** I can't see it, either. I think the triangle area you're talking about is this.

14 **Pamela Hess:** I told you all at the beginning I'm not good on topographical maps. That's why I
15 have photographs.

16 **Bruce Prather:** Where you've got flat ground here is where these contours are further apart.

17 **Mary Quillen:** Yes.

18 **Bruce Prather:** So, it would be real steep going right down through here. Here it's fairly level
19 and then, see, it's pretty steep on the north side of that pipeline. That's really steep right there.
20 Here's where your flat is, is up here and back that way. That's your flat ground in here and the
21 other thing is this topo sheet's right. See this little line right here? That's that creek they were
22 talking about, that drainage.

23 **Mary Quillen:** That's a little spring, probably.

24 **Bruce Prather:** Apparently, there's something running from here and then it goes back out that
25 way.

26 **Pamela Hess:** I really can't understand it. That's why I have to go by photographs. I just can't.

27 **Bruce Prather:** If this thing is right, they're about as far out of your flat ground as they can get
28 without really either going down a hill or up a hill.

29 **Pamela Hess:** But, they will be taking the flat. There's not that much left.

1 **Bruce Prather:** They're going to take some of it. If all you've got in there is 3/4 or 1/2 an acre...

2 **Pamela Hess:** It's gone.

3 **Bruce Prather:** Well, they're not going to take it all.

4 **Pamela Hess:** What can I put there, though?

5 **Bruce Prather:** Pardon.

6 **Pamela Hess:** What could I put there? Could I put a home?

7 **Bruce Prather:** The only way that I've ever seen that you can consider these type of disputes,
8 they've got to pay you surface damage for the damage you have there. And, if the surface
9 damage is not suitable for you, then you can take them to court.

10 **Gerald Gray:** If I may respond to that, Mr. Prather. There's been no proposal by anyone that
11 surface damages be paid.

12 **Bruce Prather:** Okay.

13 **Gerald Gray:** I want you to understand that. Second of all, the position of Ms. Hess is that
14 when....well, first of all, do you own property above the dotted line there? Does any of your
15 land...above the pink-dotted line?

16 **Pamela Hess:** That is the last place that they took the right-of-way. That's another flat.

17 **Gerald Gray:** The thought is that your property actually ends with that dashed pink line. Is that
18 accurate?

19 **Pamela Hess:** No.

20 **Gerald Gray:** But, it is accurate for one of your tracts of land.

21 **Pamela Hess:** This is a little tract. This is a little tract and then on up.

22 **Gerald Gray:** So, you own land above that, in other words?

23 **Pamela Hess:** This is what they ruled on the last time. This right here.

24 **Gerald Gray:** Okay. And, so your concern is that this area right next to the road, that's flat, you
25 won't be able to use it after the pipeline goes through. Is that what you're saying?

26 **Pamela Hess:** Right. Exactly.

27 **Bradley Lambert:** Any other questions from the Board? [No response] Mr. Swartz.

28 **Mark Swartz:** I don't have questions, but I want to have some discussion when he's done.

1 **Bradley Lambert:** All right. I think he's completed.

2 **Gerald Gray:** You don't have any other questions.

3 **Mark Swartz:** I don't have questions of your folks, but I have a presentation I would like to
4 make when you are finished.

5 **Bradley Lambert:** Go ahead, Mr. Swartz.

6 **Mark Swartz:** I have some larger copies of maps. This is from the permit.

7 **Bradley Lambert:** Are these maps in our packet?

8 **Mark Swartz:** Yes, this is the larger copy. This is page 35, 36.

9 **Bradley Lambert:** Page 35, yes.

10 **Mark Swartz:** This is the hard copy.

11 **Bradley Lambert:** For the record, the map that Mr. Swartz just handed out is the same map that
12 we have in our packet, page 35.

13 **Mark Swartz:** I've got a copy of the photograph that's up there, but we've put some lines on it
14 just to configure it to the topo map and page 36. It shows the property. It shows the roads. It
15 has the property lines. They're different colors, but....

16 **Gerald Gray:** Mark, how old is this topo map?

17 **Mark Swartz:** What?

18 **Gerald Gray:** How old is this topo map?

19 **Mark Swartz:** I don't know. This was printed on the 20th, but the map. They date it when you
20 print them. The map in the permit package.....a couple of observations that I would have....

21 **Bradley Lambert:** Mr. Swartz, before you start, can we clarify just one item that on your map,
22 that doesn't appear to me to be on the map that's on the Exhibit easel. There's a pink line running
23 from AA37D directly west through the Timothy Null property. Do you know what that might
24 be?

25 **Mark Swartz:** The green line?

26 **Bradley Lambert:** No, sir. It's a pinkish-red line, running west from....

27 **Mark Swartz:** That's the road.

28 **Gerald Gray:** That's the road? That's already a road?

1 **Mark Swartz:** Well, that's the proposed road.

2 **Mary Quillen:** Oh, that's the proposed road.

3 **Bradley Lambert:** Oh, I'm sorry. Okay.

4 **Mark Swartz:** That line is this line.

5 **Gerald Gray:** Okay.

6 **Mark Swartz:** That's the existing road. The green line that Mr. Cooper was talking about. This
7 is the proposed road over to the well site.

8 **Gerald Gray:** You would agree that it's inaccurate by describing this to be owned by Timothy
9 Null when, in fact, it's owned by Pamela Hess. Correct?

10 **Mark Swartz:** Help me out here.

11 **Paul Kugelman:** Okay, then. So, what is this?

12 **Mark Swartz:** That's a non-event, I believe.

13 **Paul Kugelman:** And what I meant to the Board by "this" is this is the proposed...he's got a line
14 here. I don't know....

15 **Bradley Lambert:** There's a line running northwest or north-south.

16 **Pamela Hess:** We don't have that....

17 **Bradley Lambert:** That's what we're trying to clarify what that might be.

18 **Mark Swartz:** If you look at your topo map, Mr. Kugelman, see the orange line on the topo
19 map?

20 **Paul Kugelman:** Yes.

21 **Mark Swartz:** That's an existing road that the red road is going to connect to. The road you just
22 asked me about.

23 **Paul Kugelman:** The north-south one?

24 **Mark Swartz:** The north-south one is the orange road on the topo map which is an existing
25 road.

26 **Paul Kugelman:** Okay. And the gas pipe's not going on that?

27 **Mark Swartz:** I'm sorry.

1 **Paul Kugelman:** And the gas line is not going on that road?

2 **Mark Swartz:** No, it's going over to the blue line.

3 **Paul Kugelman:** Okay. So, it's going east.

4 **Mark Swartz:** It's going basically east to west.

5 **Paul Kugelman:** Okay. Thank you. I appreciate that.

6 **Mark Swartz:** Okay. That's fine. When I said it's a non-event, we're not permitting that.

7 That's an existing road, that orange road.

8 **Paul Kugelman:** Right.

9 **Mark Swartz:** And the point that I would make then, if we....

10 **Rick Cooper:** Mr. Chairman, we're having trouble picking up all the conversations on the

11 recording, if you could point that out.

12 **Bradley Lambert:** Ms. Quillen, Mr. Prather.

13 **Mary Quillen:** Sorry.

14 **Bradley Lambert:** Thank you. Go ahead, Mr. Swartz.

15 **Mark Swartz:** Let's go back to page 36, then, of your packet, which is a topo map but it has

16 overlaid on it the well location and the proposed location of the pipeline and the road and it

17 shows them in relation....if you go over toward AA37D, you'll see that there is, just before you

18 get to the green property line that sort of runs from the southeast to the northwest at a slight

19 angle. Before you get to that, you'll see there's a little bit of a flat there on the topo map, and you

20 can see that we have pushed our road and pipeline to the north of that little flat area and we are

21 actually about 30 feet downhill from that. And then you can see that we've tried to skirt that as

22 we come around to connect to the existing road. And you can also see that on the photographs,

23 the one that Mr. Cooper had, which is on the easel and then the one that I've got, which is the

24 same satellite view of that. And my point is that you can clearly see where the Null's home is,

25 their property and their buildings, and so forth. They're roughly 518 feet, I think, according to

26 Mr. Cooper's measurements.

27 **Gerald Gray:** Null? You mean Hess?

28 **Mark Swartz:** Yes, I'm sorry.

29 **Gerald Gray:** It's Null on the topo. That's why I was asking when was this made.

1 **Mark Swartz:** Roughly 518, 513 feet south of the well location. But there's nothing else.
2 There's no use of this property anywhere else. I mean, if you look at the intersection where the
3 proposed road intersects the existing road, there's nothing there. I mean, there's been no use of it.
4 Based on the topo map, it doesn't show a flat area. I mean, it shows, these topo lines are 20 feet
5 each. It shows, basically, that it's either up or down there. There is no island of flat space but,
6 most certainly, and most clearly, there's no use of that property. So, when Mr. Cooper decided
7 that the location of this proposed road and pipeline to the north and downhill side of the flat
8 space that's shown as you get close to AA37 and then continuing on that slope to get to the blue
9 or existing road, that that was a reasonable place to put this road that would have a minimum
10 impact on the appellants. It appears to me that that is a conclusion that can be defended and is
11 reasonable given the topo maps and the information that you have. I would also point out that
12 I've been confronted a bit with a moving target here in trying to react to these objections.
13 Initially, when we showed up at the hearing, the appellants were telling me that we had put the
14 well in their back yard. They showed me a photograph of a tree and they were saying, "That's
15 where you're going to put our well." So, we had a big discussion about the fact that not this well
16 or the other well that we were talking about were on their property. So then, all of a sudden, we
17 got distracted. Well, we've got to have some objection and it's the road. The objection that Ms.
18 Hess made and filed, which is page 64 of 112, her last paragraph she said, "Of the approximately
19 23 acres I own, only about two and a half acres are flat." Today, she's telling us she's got four
20 acres of flat land. I didn't hear anything at the hearing in front of Mr. Cooper about flat land,
21 whether these roads intersect it or were proposed to intersect. The flat land I was hearing about
22 was at the top of the ridge over close to AA37 and, obviously, in the flat area that's shown on the
23 topo map, which is where their house and other out buildings are located. I would also point out
24 that a benefit of locating this road and pipeline where it is, is that any run off or water from that
25 area is draining the other side of the ridge. It's not draining toward their property. So, that is a
26 material benefit as well. It's not necessarily an interference with use, but it's a good thing to have
27 it on the other side of the hill. I would, in conclusion, say that I think the aerial photographs
28 taken with the topo maps, the location of the underground mining, and you can actually tell from
29 the map about where this would be in the long wall panel, the D gas well. But, there's also a map
30 that was available to Mr. Cooper of existing underground mine works. This was located...about
31 2/3 of the unit was actually in mine works and this was located consistent with that, trying not to
32 penetrate those existing mine works. Taking all things into consideration, I think that Mr.
33 Cooper made a reasonable decision when he concluded that this location did not constitute an
34 unreasonable use in light of all the things he thought about of the appellant's surface. So, I
35 would respectfully request that you not second guess him. Clearly, there was a reasonable basis
36 for the decision he made and I ask you to affirm his decision.

37 **Mary Quillen:** Mr. Chairman, I have just one question for Mr. Swartz. Looking at this map and
38 these topo lines are 20 feet, or contour lines, I'm sorry, are spaced 20 feet and it looks like this
39 2,700 and the one where the proposed line is at, looks like the second contour line over would be
40 720. Is that correct?

1 **Mark Swartz:** Well, actually, it would be 2,740, I think. Do you see where the "T" in "Null,
2 Timothy, et?" I think that that line that runs through the sort of bottom of the "et" there is the
3 2,740 line because it's kind of going uphill.

4 **Mary Quillen:** Oh, okay.

5 **Bruce Prather:** Well, is this contour interval 40 feet instead of 20?

6 **Mark Swartz:** 20. There's two lines. If you count up from 2,700, there's two lines to get to the
7 "et."

8 **Mary Quillen:** Okay. Right here. I see it. It's just very faint. So, it's about 40 feet.

9 **Mark Swartz:** Because it's two lines. Correct.

10 **Mary Quillen:** Okay.

11 **Mark Swartz:** And then if you look below that, you see the little "x" with the 2,853? That's an
12 uphill sort of.

13 **Mary Quillen:** So, you're proposed road is 40 feet below. Is that what you're saying?

14 **Bruce Prather:** Looks like it would be about 10 feet below this little flat in here.

15 **Mark Swartz:** It's 20-30 feet below the flat. It's downhill until you get to the last little bit. So,
16 we're over the north side of that hill by 20-30 feet until you get just about to the intersection.

17 **Mary Quillen:** Okay. You can see that contour line coming around there because it kind of
18 comes up in the word "Timothy" and then goes back down.

19 **Mark Swartz:** Right. The elevation where that existing orange road intersects the proposed red
20 road, I don't know what the elevation of that is. I can't tell from this map.

21 **Mary Quillen:** So, this is fairly steep there because these contour lines are extremely close
22 together.

23 **Mark Swartz:** Right. Especially to the north. It's quite steep.

24 **Bill Harris:** Mr. Chairman.

25 **Bradley Lambert:** Mr. Harris.

26 **Bill Harris:** I have a question about the maps that we have. What was just handed to us, I guess
27 from Mr. Swartz, is different than what Mr. Cooper put out in terms of showing the proposed
28 road, unless I'm misreading something. The green line that shows the road that comes from their
29 house, goes up, curves and goes to the west, that has a little crown in it and the red proposed road
30 is below that crown and, in fact, comes through what looks like the clear area. I can go point it

1 out if I need to, but the map that we got from Mr. Swartz shows the proposed road coming across
2 the top of that green line where it rounds and goes south and then going straight across closer to
3 the well site. So, which one was actually being considered, if I might ask? Do you all
4 understand the difference that I'm....I can go up and point it out if you want. I guess I'm
5 confused as to what road and, of course, it's proposed, but....

6 **Rick Cooper:** I believe that what you've pointed out Mr. Harris is on the photo that Mr. Swartz
7 gave out. One little area right here. This little area here where there's a little triangle, the road
8 considered goes on out through here, this pipeline. So, actually, that may be the curve you're
9 talking about. This little dotted line is a pre-existing road and it continues on out toward the
10 compressor site.

11 **Bill Harris:** Can I show you on the map?

12 **Bruce Prather:** I see it, now.

13 **Rick Cooper:** Right here.

14 **Bill Harris:** Yes, that curve. Now, your map shows the proposed road taking off before....I'm
15 going south to north on the green existing road. It takes off to the east or toward the northeast
16 before we reach the curve at the top.

17 **Rick Cooper:** I do understand. I would say that the well depiction that is in the permit
18 application is a more accurate depiction than what I have here.

19 **Bill Harris:** There's a....to me, there's a significant difference in where the road....

20 **Rick Cooper:** You're correct. The one in the permit is the more accurate depiction of the road
21 location.

22 **Mary Quillen:** That broken line indicates the existing road on this.

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

24 **Mary Quillen:** So, this would be the green road coming right up through here.

25 **Bill Harris:** On that map, the green road is the....

26 **Mary Quillen:** The green road would be this one right here.

27 **Bill Harris:** Yes.

28 **Bruce Prather:** See where this bend is here? On his it kind of starts way down here.

29 **Bill Harris:** I'm thinking it's that dotted line is his and....the reason I ask the question is, whether
30 or not that was the appropriate place or the best place, I was thinking if we pushed it out of the

1 flat spot, but what you've handed us....I'm sorry. What Mr. Swartz has handed us really shows
2 that it's at the edge of that flat area rather than through the center, in the upper edge of it rather
3 than through the center of it. This map shows that it's through the center. Again, do I need to...?
4 I mean, I can go up and point out.

5 **Rick Cooper:** No, I understand what you're saying Mr. Harris. Again, what I would say is the
6 permit is a more accurate depiction of where the road is located.

7 **Bill Harris:** And the permit is what you've handed us.

8 **Rick Cooper:** Yes.

9 **Bradley Lambert:** Is this the permit?

10 **Mark Swartz:** That's taken off of that.

11 **Bradley Lambert:** Off the permit?

12 **Mark Swartz:** Now, you'll notice there are even topo lines on this map if you look carefully.

13 **Mary Quillen:** Right.

14 **Bill Harris:** Yes.

15 **Mark Swartz:** We tried to overlay everything. To cut Mr. Cooper some slack, I think what's up
16 on the easel is a demonstrative exhibit that he colored in by hand. Am I right? I mean, you drew
17 that line on there?

18 **Rick Cooper:** No. That's not correct.

19 **Mark Swartz:** How did you get that line there?

20 **Rick Cooper:** Mr. Linford? You might have to swear Mr. Linford in to....

21 **Mark Swartz:** We're going to blame him, huh?

22 **Rick Cooper:** He's the I-T man. You have to swear him in.

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

25 **Blair Linford:** Yes.

26 **Mark Swartz:** My question for you is, I guess, the red line that doesn't quite intersect the green
27 line. How did that get on there? What did you do to put that on there?

1 **Blair Linford:** I extracted that data from the drawing file that was given to our Division as part
2 of the permit package. It is directly from the plat.

3 **Mark Swartz:** Okay.

4 **Blair Linford:** I made no modifications to it other than just the styling of it, but the location is
5 exactly as it's shown on the plat.

6 **Mark Swartz:** Okay. And how about the green line?

7 **Blair Linford:** The green line, I believe, was GPS data that our inspectors collected out in the
8 field. So, it may not be accurate.

9 **Mark Swartz:** That would account for the fact that the lines don't touch.

10 **Blair Linford:** Yes.

11 **Mark Swartz:** That they came from two different places.

12 **Blair Linford:** Yes.

13 **Mark Swartz:** Okay. Would you agree with me, however, that the map or the photograph and
14 overlay which shows the farm and is on the easel and the location of the well which is curled
15 over, but the location of the well and those lines, that that is an attempt to show in a
16 demonstrative way those features and how they relate to each other?

17 **Blair Linford:** Yes.

18 **Mark Swartz:** And would you agree with me that the topo map that was part of the permit
19 package and the other maps that were part of the permit package would be more accurate in the
20 sense that they actually align one with the other and do not come from different data sources?

21 **Blair Linford:** Could you repeat that?

22 **Mark Swartz:** You're telling me that the reason the pink line and the green line don't intersect is
23 because they come from different data sources.

24 **Blair Linford:** Correct.

25 **Mark Swartz:** And would you suspect, or maybe you don't know, that the mapping, the
26 location maps that were prepared as part of the permits package probably came from the same
27 data sources?

28 **Gerald Gray:** I'll object to that. I don't see how there's any way that this gentleman would
29 know the answer to that question. Furthermore, he's been asked to testify and I don't believe he's
30 been sworn.

1 **Mark Swartz:** He was sworn.

2 **Gerald Gray:** I'm sorry.

3 **Bradley Lambert:** She just...

4 **Gerald Gray:** But, I know what you want him to say, but I don't see how he can answer that
5 question. How would he possibly know?

6 **Paul Kugelman:** I guess you could cure that with a foundational question.

7 **Mark Swartz:** You deal with maps all the time that you get from operators?

8 **Blair Linford:** Yes.

9 **Mark Swartz:** And you actually make maps from time to time?

10 **Blair Linford:** Yes. We combine multiple data sources.

11 **Mark Swartz:** Would you agree that the practice in the industry would be to make sure that
12 your data is congruent? That's it's all in relation to the same data points when you're making a
13 map?

14 **Blair Linford:** We make every effort to make it as accurate as possible, but when you're dealing
15 with multiple data sets, there can be different levels of accuracy.

16 **Mark Swartz:** I understand, but would you agree with me that the job of someone in an oil and
17 gas company or the job of someone in your position, you're dealing with maps, is to try to
18 exercise some caution and care to make sure that your data works well and fits together?

19 **Blair Linford:** Yes.

20 **Mark Swartz:** And would you assume that the practice in the industry of every operator you
21 deal with would make their maps that way?

22 **Gerald Gray:** I object to that. First of all, there's been no foundation laid as to what he would
23 know what their practice is. You haven't even established that. He's asking him to speculate.

24 **Mark Swartz:** I understand, but this man deals with operators every day. He deals with their
25 maps every day. Why would he not know?

26 **Bradley Lambert:** Can you ask your question a different...?

27 **Mark Swartz:** My question was, based on your experience and the maps that you get from
28 operators, the maps that you make, your ability to make maps, is it your experience that
29 competent people, when they're drawing these sorts of maps try to make sure that the data points
30 they're using are congruent so that they get a reasonably accurate map?

1 **Gerald Gray:** Objection, once again. I don't see how this witness could possibly know that.

2 **Mark Swartz:** I think he does that for a living.

3 **Bradley Lambert:** I'm going to overrule because he should know that in dealing with maps
4 every day and...

5 **Paul Kugelman:** Is this a DMME product?

6 **Bradley Lambert:** No, it's not.

7 **Paul Kugelman:** Okay.

8 **Bradley Lambert:** It's not a DMME product. This is a company product. So, I will let you ask
9 that question and you may answer.

10 **Blair Linford:** I believe that those of us that work with maps, that deal with surveying and
11 creating these maps, we make every effort possible to make the maps as accurate as possible for
12 the purpose for which they're going to be used.

13 **Mark Swartz:** Okay. Let's just take this map as an example.

14 **Bradley Lambert:** Which map, Mr. Swartz, are you?

15 **Paul Kugelman:** For the record, could you identify it please?

16 **Rick Cooper:** Exhibit 7

17 **Paul Kugelman:** Thank you, sir.

18 **Mark Swartz:** I'm sorry.

19 **Rick Cooper:** Exhibit 7.

20 **Mark Swartz:** Okay. Taking Exhibit 7, for example. From Exhibit 7, it would appear that
21 several things have been put together to make a composite. Would you agree with me?

22 **Blair Linford:** Yes.

23 **Mark Swartz:** That it looks like there's a satellite photo?

24 **Blair Linford:** Yes.

25 **Mark Swartz:** And it looks like there's an underlying topo map?

26 **Blair Linford:** Yes.

27 **Mark Swartz:** And it looks like there are property lines?

1 **Blair Linford:** Yes.

2 **Mark Swartz:** Pipelines and roads?

3 **Blair Linford:** Yes.

4 **Mark Swartz:** So, whoever did this drawing would have been expected, if they were doing a
5 competent job, to coordinate a satellite photo with a topo map, with drawings of existing roads,
6 property lines and try to put all of that together in a consistent way?

7 **Blair Linford:** Yes.

8 **Mark Swartz:** And that would be what you would do if you were going to make this kind of a
9 map?

10 **Blair Linford:** Yes.

11 **Mark Swartz:** And that would be what you would expect a company to do if they were
12 submitting this kind of a map?

13 **Blair Linford:** Yes.

14 **Mark Swartz:** That's all I have from a foundation standpoint.

15 **Bill Harris:** May I return to my original question because the question is, what we are showing
16 on the board is different than what we were handed.

17 **Mark Swartz:** And we totally agree with you.

18 **Bill Harris:** But, what I'm saying is, which one was considered in terms of the rejection by Mr.
19 Cooper of their objection. I don't mean to complicate it, but what I'm trying to say is that we're
20 to determine if...Mr. Cooper made the decision and we're to determine if that's the appropriate
21 decision based on the information that we've received. We aren't supposed to second guess him,
22 but at the same time, we need to see the same information, see the same Exhibits that he saw.
23 But, what I'm saying is that even the map that he presented and the map that you presented are
24 different.

25 **Mark Swartz:** I think, unless I've short-circuited somewhere, I think we just put that question,
26 somebody just put that question to Mr. Cooper and he said that this map was likely more
27 accurate than that. In terms of the intersection issue, you're right.

28 **Bradley Lambert:** I specifically asked Mr. Cooper if this was the permit map.

29 **Paul Kugelman:** Oh, that's right.

30 **Mark Swartz:** That's what I thought.

1 **Bradley Lambert:** Mr. Cooper, is this? The permit map that's marked Exhibit 7?

2 **Rick Cooper:** No, it is not part of the actual permit. It is not.

3 **Bradley Lambert:** Okay.

4 **Gerald Gray:** Thank you for the clarification.

5 **Bruce Prather:** Mr. Chairman.

6 **Gerald Gray:** I'll object to that photograph being considered by this Board.

7 **Rick Cooper:** Mr. Chairman, if you could, Mr. Linford had a comment.

8 **Blair Linford:** I just want to point out that I agree with Mr. Harris' assessment that there are
9 some discrepancies on this map. They do not completely match up.

10 **Bradley Lambert:** Mr. Linford, why is that? Why is Exhibit 7 different from the Exhibit that
11 we have on the easel in front of us?

12 **Blair Linford:** If you compare Exhibit 7 to Exhibit 6, on Exhibit 7 you can see the proposed
13 road as two parallel red lines. That matches a portion of the road on Exhibit 6, which is in red
14 and then at the intersection it becomes two parallel red lines once again. The road that is in
15 orange on Exhibit 6, I would believe was a road that had existed sometime in the past, but if you
16 compare the location of that road to the aerial photos on Exhibit 7, it would actually pass through
17 the house that is shown there on the aerial photograph. So, I do not believe that orange road on
18 Exhibit 6 currently exists. The road that is the two parallel red lines is the existing road. And, if
19 you look at Exhibit 7, the pink line going a little bit farther to the north that seems to join into the
20 east-west running portion of the road. I believe that it's not shown on the map, as far as a key,
21 what that line represents. I would believe that would be the proposed pipeline. But, at that
22 portion right there where it goes through the "et. al.," right under the "y" of "Timothy," through
23 the "et. al.," the proposed road is not shown at that location. It's actually the parallel red line
24 curving toward the south. And, based on the photographs, I didn't go to the location, but the
25 flags are actually at the location where the parallel red lines are on Exhibit 7. Then the proposed
26 road would be passing through that flat area on the ridge there.

27 **Mary Quillen:** So, you're saying that this one up here. I'm confused. Is that Exhibit 6 that's on
28 top there?

29 **Gerald Gray:** That's two.

30 **Rick Cooper:** Two.

31 **Bradley Lambert:** Mr. Linford, either Exhibit 7 or 6 doesn't show that line that is northeast to
32 "et. al." as passing through that flat area. You're saying that it will.

1 **Bruce Prather:** It's at least ten or fifteen feet down over the hill.

2 **Gerald Gray:** Just to clarify, Exhibit 7 is not a part of the permit package. Correct?

3 **Blair Linford:** Correct.

4 **Gerald Gray:** I'm going to object to this Board even considering that, then, because the Board
5 was quite strenuous in rejecting my proposed drawing and I agree it's not done by professionals
6 who make a living doing it, but you all wouldn't even consider that. Here you are looking at a
7 map that would purportedly be part of the permit package. Now, we learn that it's not part of the
8 permit package and it has inaccuracies. I would object to the Board even considering that.

9 **Bradley Lambert:** Mr. Gray, I tend to agree with you.

10 **Mary Quillen:** Was Exhibit 6 part of the....?

11 **Mark Swartz:** Yes. It's page 36, I think.

12 **Gerald Gray:** Exhibit 6 is a topo map.

13 **Mary Quillen:** Well, now, I've got page 36.

14 **Mark Swartz:** 35. I'm sorry.

15 **Mary Quillen:** Okay. 35.

16 **Bradley Lambert:** So, we do have...

17 **Mark Swartz:** Exhibit 6 is a hard copy of page 35.

18 **Bradley Lambert:** Mr. Swartz is correct. The hard copy we have labeled as Exhibit 6 is page
19 35 in our package. They do match up.

20 **Mary Quillen:** Okay. Exhibit 6 is page 35 of the packet, right?

21 **Bradley Lambert:** That's correct.

22 **Mary Quillen:** Okay. Thank you. And that is part of the permit package, correct?

23 **Mark Swartz:** Correct. Mr. Cooper had that when he...

24 **Mary Quillen:** This is not a part of the permit package?

25 **Mark Swartz:** Correct. It is not.

26 **Mary Quillen:** Okay. Then, I think we should leave it.

27 **Bruce Prather:** If you're going off of this map...

1 **Mary Quillen:** And this, it's going to have to be this one right here, Exhibit 6, which is page 35.

2 **Bruce Prather:** If we're going off Exhibit 6 then your sheet here is correct.

3 **Mark Swartz:** I understand.

4 **Bradley Lambert:** Mr. Swartz, do you have anything further?

5 **Mark Swartz:** I do not.

6 **Bradley Lambert:** Are there any further questions from the Board for either Mr. Gray or Mr.
7 Swartz?

8 **Gerald Gray:** I didn't get the gentleman's name who had the hat on.

9 **Blair Linford:** Blair Linford.

10 **Gerald Gray:** Linford, okay.

11 **Bradley Lambert:** Blair, for the record, could you state your full name and position with the
12 agency?

13 **Blair Linford:** My full name is Charles Blair Linford. I'm an inspector for the Division of Gas
14 and Oil with the Department of Mines, Minerals and Energy.

15 **Gerald Gray:** And, have you been to the scene that's depicted on Exhibit 2?

16 **Blair Linford:** No, I have not.

17 **Gerald Gray:** You indicated in response to questions from Mr. Swartz that some of the data
18 relied upon in Exhibit 2 to show the location of the proposed gas well pipeline and its
19 intersection with the current pipeline was based on GPS coordinates. Is that accurate?

20 **Blair Linford:** Please repeat the question. I was interrupted.

21 **Gerald Gray:** Okay. Sorry. In response to questions from Mr. Swartz, in an effort to explain
22 this discrepancy that the Board members have perceived, you offered the explanation that the
23 location of the proposed gas well pipeline and its intersection with the existing pipeline, some of
24 the data relied upon was GPS data?

25 **Blair Linford:** For the green line, that is correct.

26 **Gerald Gray:** Okay. And that GPS data came from the folks who actually went to the field
27 with Mr. Cooper?

28 **Blair Linford:** No. It's data that we have been collecting over the past several years.

1 **Gerald Gray:** Okay. Is it fair to say that the depiction shown on Exhibit 2 accurately shows the
2 flat area across which the proposed gas well pipeline will come as it intersects with the pre-
3 existing pipeline?

4 **Blair Linford:** Yes. The existing road can be seen in the aerial photographs there. So, if you
5 rely on that rather than the green line, then you can better see where that intersection actually is
6 located.

7 **Gerald Gray:** So, the photograph itself accurately shows where the road is.

8 **Blair Linford:** Yes.

9 **Gerald Gray:** I understand that. And the red line accurately shows where the pipeline and
10 associated roadway would come across the flat and intersect with the pre-existing pipeline. Is
11 that...?

12 **Blair Linford:** Yes. The red line is the information that was submitted to us on the plat in a
13 digital format, in the AutoCAD DWG file.

14 **Gerald Gray:** Okay. And you got that from the applicant, itself?

15 **Blair Linford:** Yes.

16 **Gerald Gray:** You didn't make that up.

17 **Blair Linford:** No.

18 **Gerald Gray:** Okay. That's all the questions I have for Mr. Linford. I would have some
19 observations, Mr. Chairman.

20 **Bradley Lambert:** I have a question for Mr. Linford. Mr. Linford, in your position as a gas and
21 oil inspector, were you the inspector that reviewed this permit application?

22 **Blair Linford:** I was not.

23 **Bradley Lambert:** Okay. And is today the first time you have seen this information?

24 **Blair Linford:** I assisted Mr. Cooper by helping to create the maps that were used in the
25 hearing, that are presented.

26 **Bradley Lambert:** Was the information that you used to create that map out of the permit
27 application?

28 **Blair Linford:** Yes, it was.

29 **Bradley Lambert:** And what information out of the permit application did you use to create
30 that map?

1 **Blair Linford:** I used the plat drawing file to get the property boundaries and the location of the
2 proposed road, the red line.

3 **Bradley Lambert:** In what format did the company submit that information to the Division of
4 Gas and Oil?

5 **Blair Linford:** In an AutoCAD DWG file.

6 **Bradley Lambert:** Is that how we normally receive that type of information?

7 **Blair Linford:** Yes.

8 **Bradley Lambert:** Okay. So, you took that information out of the permit and made Exhibit 2
9 for Mr. Cooper?

10 **Blair Linford:** Correct.

11 **Bradley Lambert:** Thank you.

12 **Mark Swartz:** I have a couple more questions.

13 **Bradley Lambert:** Mr. Swartz.

14 **Mark Swartz:** If we were going to make the green line and the pink line on Exhibit 2 touch,
15 would we move the green line up on the photograph to where it looks like the road is, to make it
16 touch, as opposed to moving the pink line?

17 **Blair Linford:** Yes.

18 **Mark Swartz:** So, basically, we are going to fix these data points and make them consistent
19 with the satellite photo. Is this sort of whitish area indicative of where the existing road is?

20 **Blair Linford:** Yes. And that's part of our practice, as well, in creating those lines for those
21 roads. We get general data from the GPS which can have an accuracy of, plus or minus, 20 feet
22 or more. On occasion, where I know there are inaccuracies, I'll go in and manually move that
23 line to match what's shown on an aerial photograph.

24 **Mark Swartz:** And, basically, what the aerial photograph is saying here is that there is already
25 an existing road on the flat that we saw in the pictures that were shown to us earlier, in this little
26 flat area where the road is.

27 **Blair Linford:** Yes.

28 **Mark Swartz:** And, to the extent Exhibit 2 needed to be fixed to make the red line to the well
29 touch the existing green line road, you would move that up...

30 **Gerald Gray:** Excuse me. The green line is not the road. He's already testified to that.

1 **Blair Linford:** If we were to adjust the location of the green line, we would look at the
2 photograph to see where the existing road is actually located and adjust that line to match.

3 **Mark Swartz:** Because the photograph is going to be a more accurate depiction of where the
4 road is than the GPS coordinates.

5 **Blair Linford:** In general, that's correct.

6 **Mark Swartz:** At least, in this particular instance.

7 **Blair Linford:** Yes.

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

9 **Bradley Lambert:** Any questions from the Board of any of the witnesses? Mr. Harris?

10 **Bill Harris:** I'm still confused. Let me just approach that Exhibit 2 and let me tell you what my
11 confusion is. We're saying that the....in fact, if I'm here, I can actually see the road that's sort of
12 around the green line as it comes through. The proposed road is the orange or red one that comes
13 off toward the east or northeast from that one. I guess what we've been doing on that end is
14 thinking that it was at the best location. Of course, we aren't on the scene and we thought if it
15 came up and met the top of this green line rather than going right through that flat area....the one
16 we discounted, the number 7, actually shows the road doing that. Where is the pipeline? Is the
17 pipeline going to go across the top of this because I think the Exhibit 6 that we have shows the
18 proposed road and shows, I guess, the proposed pipeline. It appears that the proposed pipeline
19 will come up through here at the top of this rounded area and actually go straight across, but the
20 road doesn't do that. The road comes out through the middle of this. In my mind, I'm trying to
21 see is there a different location that, if the pipeline is coming across the top, straight across the
22 top of this "Y" that's there, is there any reason why the road wouldn't parallel that?

23 **Mark Swartz:** The problem is you haven't moved the green road.

24 **Bill Harris:** Okay. Now, I can actually see....

25 **Gerald Gray:** The green is not the road. The green is the pipeline, right?

26 **Mark Swartz:** Green is the existing road. You need to move the existing green road up into the
27 white area. It's already up there.

28 **Bill Harris:** Well, I see a road on the map that's actually right across here and then goes down.

29 **Mark Swartz:** The inspector has just told us that, if we wanted to make those lines touch, we
30 would move the green up the hill onto the white area, which is where the road is shown in the
31 satellite picture. So, it's already up there.

1 **Bill Harris:** But, we're also told that the photograph is evidence, itself, and there's the road. I
2 can see the road right here and it curves...

3 **Mark Swartz:** Well, you're turning before....the road doesn't turn where your finger turns. You
4 follow the green...

5 **Bill Harris:** You're saying the road is actually up in this area.

6 **Mark Swartz:** Yes. I'll just come up there.

7 **Bruce Prather:** Is that green on that?

8 **Gerald Gray:** Excuse me.

9 **Mark Swartz:** The road follows...

10 **Gerald Gray:** Mr. Chairman, I don't know quite...

11 **Bradley Lambert:** Gentlemen, gentlemen....please. Wait. We're trying to record and I'm sure
12 that Sarah's having a hard time getting three people at once.

13 **Gerald Gray:** I think Sarah's going to enjoy this, actually. Exhibits 3 and 4 are photographs
14 taken of the precise area that's flagged and shows where the pipeline is coming through. I don't
15 know if the Board members have seen those photographs, yet. I would like them to look at those
16 photographs.

17 **Bradley Lambert:** Three and four?

18 **Gerald Gray:** Yes.

19 **Bradley Lambert:** Yes, sir. We saw those.

20 **Gerald Gray:** Did they get passed around?

21 **Bradley Lambert:** Yes, they were.

22 **Gerald Gray:** Okay. Good.

23 **Bruce Prather:** Where are those photographs on our maps?

24 **Eddie Hess:** May I show you?

25 **Pamela Hess:** Did you see these?

26 **Eddie Hess:** Okay. I'm going to explain this real quick. Actually, this road that's right here is
27 supposed to come up here.

28 **Gerald Gray:** Eddie, why don't you try to turn that around.

1 **Eddie Hess:** And right here is the flat that we were talking about and one picture was taken
2 from this side and she took one picture from here, back that way. She was trying to catch the top
3 of her house to show you how close it was. Did that explain?

4 **Bruce Prather:** Well, supposedly, there's a road on those pictures. Is there a road up in that
5 flat?

6 **Pamela Hess:** No.

7 **Eddie Hess:** The road is right here.

8 **Bruce Prather:** Okay.

9 **Bill Harris:** You can look at the photograph and actually see the road.

10 **Eddie Hess:** That road has been there. I've lived up there forty years and it was before me.

11 **Bradley Lambert:** Okay, ladies and gentlemen. Members of the Board, I think that we have
12 discussed at length issues that are really not before us in Informal Fact Finding. We wasted a lot
13 of time talking about maps, locations of roads and maps that weren't really a part of what we
14 specifically had addressed to us in the Informal Fact Finding. So, I'd like to bring us back to
15 exactly what was in Informal Fact Finding, in addition to the photographs that Mr. Gray
16 presented to us, that we agree are photographs of the area and Mr. Cooper observed when he was
17 out in the field. We have Mr. Cooper testifying to that. The question before us is that the
18 proposed road move 15-20 feet north, south, east or west that we have depicted on Exhibit 2,
19 would interfere with the use of Mr. and Mrs. Hess' land, the road and the pipeline. That's the
20 question we have before us, based upon the testimony that we have in the Informal Fact Finding
21 Hearing. So, without getting outside that little realm that we're supposed to be considering, I
22 would ask the Board are there any more questions from the Board relating specifically to the
23 Informal Fact Finding evidence that's been presented to us?

24 **Bill Harris:** Well, if I might just comment. In all due respect, we're being asked to look over
25 Mr. Cooper's shoulder to see if it was an appropriate decision, based on the road and pipeline.
26 My concern is that I still don't know where the proposed road and pipeline is and I know we've
27 testified that Number 7 has been rejected. Number 6 shows that....and, again, I guess the road
28 goes through that, what appears to be a flat area. I'm just trying to make sure that what I'm
29 looking at as the proposed road is, indeed, the proposed road. That was what my concern was in
30 going up to the map and actually pointing to locations.

31 **Bradley Lambert:** And, I think Mr. Harris, if I might add that Exhibit 6 which is the topo map
32 of well locations and the road, even though it is small on the topo map and hard to read. We
33 have agreed that that is part of the permit package as the accurate location of a proposed road and
34 pipeline.

1 **Bill Harris:** So, if I might be very specific. So, the Timothy Null...even though that might not
2 be correct...but the "et. al." that's on Exhibit 6, there is a reddish-orange line that goes through
3 the "et.al." The red line that goes through the "t" and the "a" in "et.al." that is the proposed road
4 location. Is that my understanding?

5 **Bradley Lambert:** That's the road location as presented in the permit application topo map.

6 **Bill Harris:** So, it's basically perpendicular to that orange road. I mean, it takes off to the right.
7 If you were driving up the orange road it would take off to the right.

8 **Bradley Lambert:** Yes.

9 **Bill Harris:** Okay. Under the "m" under "Timothy" there is another red line that almost
10 underscores the last part of the word, "Timothy." Now, is that the proposed pipeline?

11 **Bradley Lambert:** I would have to ask Mr. Cooper if he could please clarify.

12 **Rick Cooper:** You would be correct. Yes.

13 **Bill Harris:** Okay. Again, we're asking about use of the property. Was there not an opportunity
14 to move the road to parallel the pipeline? In other words, that would clear up or, at least,
15 preserve more of that flat area that we show the proposed road going through. Is my question
16 clear or do I need to...? In other words, the pipeline is coming from the left, is coming from the
17 west going across and then parallels the red proposed road. Where the red proposed road comes
18 off of the existing road, it looks like it is in the center of a flat area. Could that road have
19 been...? Because I wasn't there to look at it, could that road have been moved northwest to come
20 right under the "m?" In other words, could you not have gone up the orange road further and
21 then turned back along the pipeline route there for preserving that little flat area or more of that
22 flat area?

23 **Bradley Lambert:** Okay, Mr. Harris.

24 **Mary Quillen:** In other words, the road would follow the pipeline. The proposed road would
25 follow the pipeline.

26 **Bill Harris:** The road would go up the orange road and then actually do a hard right and back on
27 itself to parallel where the pipeline is coming through.

28 **Bradley Lambert:** Okay. Thank you, Mr. Harris. I appreciate that, but we will not be voting
29 on whether or not to require the company to move the road. We have to consider what's in the
30 Informal Fact Finding. Now, if Mr. and Mrs. Hess would....let me ask you this. Not as
31 recommending or encouraging Mr. Swartz to move his road. But, following along Mr. Harris'
32 question. If they were to move that road to be with the pipeline, would you have an objection to
33 that? Again, keeping in mind, this Board cannot require them or we will not be requiring them to

1 move the road. We're just going to be voting on whether or not your land will be affected by
2 both locations.

3 **Eddie Hess:** By joining both together, that would only be one problem instead of two problems
4 on the same piece of land.

5 **Pamela Hess:** It would eliminate one problem.

6 **Bradley Lambert:** So, your response would be you would still have an objection?

7 **Pamela Hess:** Probably.

8 **Mary Quillen:** On the objection, it specifies the well pipeline.

9 **Gerald Gray:** Right, but there's a road that's affiliated with it.

10 **Mary Quillen:** But, it doesn't specify road. It only says, "Pipeline."

11 **Gerald Gray:** If they would move the road over to where the pipeline is, that would eliminate
12 almost all of the passing over the flat area.

13 **Mary Quillen:** But, what I'm saying....in the information coming from the Fact Finding
14 Hearing, it says, "Location of the coalbed methane well or coalbed methane well pipeline will
15 unreasonably infringe on the surface owner's use of the surface." It doesn't address the road. My
16 question is can we address the road because it's not in this. It's just the pipeline.

17 **Paul Kugelman:** The petition for appeal on paragraph four actually does mention the associated
18 road, ma'am.

19 **Gerald Gray:** Thank you.

20 **Mary Quillen:** I'm sorry. Repeat that.

21 **Gerald Gray:** It does include the road. The petition for appeal includes the road.

22 **Mary Quillen:** Excuse me. Would you please repeat that?

23 **Paul Kugelman:** Yes, ma'am. I'm sorry. On paragraph four of the petition for appeal, it says,
24 "The Director erred in finding the proposed coalbed methane well pipeline location and
25 associated road will not unreasonably infringe."

26 **Mary Quillen:** Okay. Well, I'm looking at the wrong thing, then. I'm just taking from the
27 objection to the permit that was made.

28 **Paul Kugelman:** Oh, you're going back to this. Where were you looking on there?

29 **Mary Quillen:** Right here. The objection to the permit.

1 **Paul Kugelman:** He's just quoting the statute there.

2 **Gerald Gray:** He is correct.

3 **Mary Quillen:** Here it says just the well.

4 **Eddie Hess:** Mr. Lambert, may I say something?

5 **Gerald Gray:** Say it to me first.

6 **Paul Kugelman:** How many petitions for appeal did you file, sir?

7 **Gerald Gray:** I filed one on 2/20 and one on 2/29. This is the 2/29.

8 **Paul Kugelman:** Are those both within the ten days?

9 **Gerald Gray:** To respond, the problem is there was on Informal Fact Finding Hearing and two
10 separate decisions, resulting in two separate hearings appealed before this Board.

11 **Paul Kugelman:** I'm talking about the issue we're hearing about today.

12 **Gerald Gray:** Right. I filed one petition.

13 **Paul Kugelman:** There were two different petitions for appeal filed or just one?

14 **Gerald Gray:** One from 2/29.

15 **Paul Kugelman:** Okay.

16 **Gerald Gray:** That's the one we're here on today.

17 **Paul Kugelman:** Right. Okay.

18 **Bill Harris:** It is listed twice. It seemed to me when I looked through the PDF file that we had,
19 that that appeal petition showed up twice. I assumed that it was just a copy of the first.

20 **Gerald Gray:** I think I faxed and mailed it.

21 **Bill Harris:** So, we probably have each then.

22 **Gerald Gray:** Right.

23 **Bill Harris:** It's part of that same document, but they are the same document. Okay.

24 **Bradley Lambert:** Any other questions or concerns from the Board? [No response] Again, let
25 me bring this back to what we're originally here for. That's the review of the Informal Fact
26 Finding decision made by Mr. Cooper as to whether or not there will be an infringement on

1 property rights from Mr. and Mrs. Hess by location of the proposed road and the proposed
2 pipeline to Well AA37D. Do we have any other questions from the Board?

3 **Gerald Gray:** Mr. Chairman, if there are no further questions, I would like to make a final
4 argument.

5 **Bradley Lambert:** You may, Mr. Gray.

6 **Gerald Gray:** Mr. Chairman and members of the Board, Mr. Swartz has argued to you that you
7 don't have the ability to determine that the proposed location of the pipeline and its road would
8 unreasonably infringe with the use of the property by Ms. Hess because "there is no use of the
9 property demonstrated by the appellants." I will point out to you that the law does not require
10 that the property owner demonstrate to you at this moment what their proposed use is or what
11 use they're making of it at this time. The only issue before you is whether or not the Director
12 accurately determined that the location of the pipeline and roadway would not unreasonably
13 infringe on the rights of the surface owner. Whether or not any use is being made of it at this
14 time or is contemplated is not within the purview of the statute and that's not your responsibility
15 to make a decision. Mr. Swartz also recommended to you all, in fact he told you, that you did
16 not have the right to second guess Mr. Cooper. Let me point out that, by statute, your role is to
17 determine whether or not he was correct. So, I would disagree strongly with the claim that your
18 responsibility is not to second guess Mr. Cooper. Your responsibility is to determine whether or
19 not, based on the facts, whether or not the proposed pipeline and roadway would unreasonably
20 infringe with the surface. You are not to concern yourselves with whether or not it hurts Mr.
21 Cooper's feelings or whether or not Mr. Cooper, you are "second guessing" him. That's not what
22 you're doing. You are an appellant Board, in essence, and you're determining what the facts are.
23 Now, I agree that the legislature hasn't given you any guidance about what it means to
24 unreasonably infringe. We have to show that it would unreasonably infringe. The legislature
25 didn't give you any guidelines. There's no regulations that have been adopted. I would submit to
26 you that when the landowner, a landowner in Buchanan County, Virginia, who doesn't have
27 much flat land at all, has a little, teeny piece of it and that doesn't mean a hoot to the gas
28 company. I understand that. But, as a landowner myself and as some of you all are, you know
29 what land is like around here. Flat land, as small as it is, is very precious. So, I would ask that
30 you reverse the decision. Mr. Lambert asked a very good question about the different locations
31 of the roadway and that certainly would be appropriate, but as has accurately been pointed out,
32 that's not the issue before you today. The issue before you today is whether or not the applicant's
33 proposed use of the surface of Mr. and Mrs. Hess would unreasonably interfere with their use of
34 the property. I would ask that you reverse his decision and that will give the gas company....it
35 won't put them out of business. It will give them the opportunity to relocate that roadway just a
36 few feet off of their tiny piece of flat land. That's all we're asking you to do.

37 **Bradley Lambert:** Mr. Swartz.

1 **Mark Swartz:** The position at the Informal Fact Finding Hearing was not "move it a few feet.
2 It will be okay." The position was "move it off of our land entirely." So, what we're hearing
3 today is this ostensibly reasonable offer to move it a few feet and it would be okay. Send them
4 back to the drawing board. The objection that was filed, which was in your permit packet says,
5 "There is no need to have a roadway, pipeline, or gas well on my property." That was their
6 position at the hearing. It wasn't a compromise. It was like, "Get off of this land." So, that's
7 what he was confronted with. That's my first point. My second point is the statute requires the
8 Director, when he's entertaining this kind of an objection, to make a judgment as to whether or
9 not, in his opinion, what is proposed constitutes an unreasonable infringement. That's a
10 judgment call. That was the judgment call that he made. He talks about it in his decision. When
11 I talk to you about appellate courts or appellate tribunals do not second guess the people who
12 make the first decision, I absolutely mean that. There are tons of Supreme Court cases in the
13 Commonwealth of Virginia, in West Virginia, or wherever else I've practiced. Wisconsin, where
14 I started out. I've been everywhere. I can't get along so I have to keep moving. But, there is no
15 doubt that an appellate court cannot overturn a lower decision or an appellate body cannot
16 overturn a lower tribunal's decision simply because they might have made a different decision.
17 So, the opportunity isn't if I had heard this, I would have done something different. That's not
18 the question. The question is when you look at what he did, at what Mr. Cooper did, is it so
19 unreasonable that no unbiased, competent person doing his job could have possibly reached that
20 decision. That's what you need to decide, that the decision he made was so clearly wrong that he
21 blew it. If he didn't make a decision that was clearly inappropriate under the circumstances and
22 clearly wrong, he's entitled to have that stand. Now, I'm coming back to my first point. The
23 circumstance he was confronted with was, "I don't want any of this on my property" not, "I want
24 this on my property at some other location." It was like, "Get off! Go away!" Under those
25 circumstances, what was proposed with the data that we have in the record, was his choice a
26 reasonable choice and, clearly, it was.

27 **Gerald Gray:** Mr. Chairman, for the record, as we attorney's like to say, I'm going to object to
28 the argument that Mr. Swartz just made. I would recommend that this Board consult with its
29 counsel as to what standard it applies. I would also suggest that you should avoid Mr. Swartz's
30 characterization of this as a personal attack on Mr. Cooper. If this Board rules that his decision
31 was incorrect, that's not a personal attack on Mr. Cooper. The suggestion that Mr. Cooper is
32 entitled to have his decision approved by you, I think, is highly improper. Nevertheless, I would
33 recommend....I would defer to the advice of your counsel, who understands what your role is as a
34 citizen and industry Board, appointed by the Governor, to determine the issue precisely that's
35 before you.

36 **Bradley Lambert:** Mr. Gray, your comments we'll take, but I'm going to overrule your
37 objection. This Board has heard several Informal Fact Finding and I think we do know what our
38 role is and we have overturned the Division Director's decision in some instances. I think we're
39 well aware of what our duty should be without having to confer with our counsel. So, you're

1 overruled. Anything further from the Board? Any questions further from the Board? [No
2 response] At this time, I'll call for a motion.

3 **Donnie Ratliff:** I'll move to affirm the Director's decision.

4 **Bradley Lambert:** I have a motion to affirm. Do I have a second? [No response] Hearing no
5 second, motion has failed and Mr. Cooper's decision...this Board takes no action, so it's affirmed.
6 Thank you.

7 **Rick Cooper:** Mr. Lambert, we had made the recommendation earlier that since Mr. Scott had
8 only one item, that he go in front of Mr. Swartz. I just wanted to bring that back to your
9 attention. It's your call.

10 **Bradley Lambert:** I'll let Mr. Swartz confirm or deny.

11 **Mark Swartz:** I'll confirm that.

12 **Bradley Lambert:** Mr. Scott.

13 **Item Number 8**

14 **Bradley Lambert:** We're calling at this time Docket Item Number 8. A petition from Range
15 Resources-Pine Mountain, Inc., for pooling of Well VH-530353. Docket Number VGOB-14-
16 1021-4057. All parties wishing to testify please come forward.

17 **Tim Scott:** Tim Scott, Gus Janson, Phil Horn for Range Resources-Pine Mountain, Inc.

18 **Bradley Lambert:** Good morning....almost afternoon. Rick, I think we're running out of
19 battery power.

20 **Rick Cooper:** Wally, we're out of battery power here.

21 **Bill Harris:** Actually, number two also is out. We're not complaining about that. We're not
22 objecting to the battery being dead.

23 **Rick Cooper:** So, for clarity, everyone knows that this will not go across the PA system right
24 now. Until he actually brings batteries, you'll have to speak very loudly and we'll be okay.
25 However, it doesn't have anything to do with the transcript.

26 **Bradley Lambert:** You may proceed, Mr. Scott. Have we sworn in our witnesses, Sarah?

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

29 **Phil Horn:** Yes, I do.

1 **Gus Janson:** Yes, I do.

2 **Bradley Lambert:** You may proceed, Mr. Scott.

3 **Tim Scott:** Good morning, Mr. Chairman. Mr. Horn, would you please state your name, by
4 whom you are employed and your job description?

5 **Phil Horn:** My name is Phil Horn. I'm employed by Range Resources-Pine Mountain, Inc., as
6 Land Manager. One of my job descriptions is to get wells permitted and drilled.

7 **Tim Scott:** Are you familiar with this application?

8 **Phil Horn:** Yes, I am.

9 **Tim Scott:** How many acres does this unit contain?

10 **Phil Horn:** 220 acres.

11 **Tim Scott:** Range has a good percentage of this unit under lease. Is that correct?

12 **Phil Horn:** That's correct.

13 **Tim Scott:** Are there any parties/respondents listed on Exhibit B3 that we're going to dismiss
14 today?

15 **Phil Horn:** No, not based on our revised exhibits we filed.

16 **Tim Scott:** Okay. Would you please explain?

17 **Phil Horn:** We did...we leased one party after we originally filed and then we determined that
18 we did not need to force pool ACIN and or EQT so we've changed that also.

19 **Tim Scott:** Okay.

20 **Phil Horn:** So, it should just be one person that's under lease.

21 **Tim Scott:** We'll get to this in a minute, but all parties/respondents required to be notified were
22 notified. Is that right?

23 **Phil Horn:** That is correct.

24 **Tim Scott:** Okay. What percentage of the unit does Range have under lease presently?

25 **Phil Horn:** 92.81 percent.

26 **Tim Scott:** And we sent notice of this hearing by certified mail. Is that correct?

27 **Phil Horn:** That's correct.

1 **Tim Scott:** And what other notice was affected to inform the parties of this hearing today?

2 **Phil Horn:** The hearing was published in *The Coalfield Progress* on September 26, 2014.

3 **Tim Scott:** Okay. So, we don't have any unknowns in this unit. Is that right?

4 **Phil Horn:** That is correct.

5 **Tim Scott:** And we previously provided proof of publication, mail certification with the Board.
6 Is that right?

7 **Phil Horn:** Yes, you have.

8 **Tim Scott:** Range is authorized to conduct business in the Commonwealth. Is that right?

9 **Phil Horn:** Yes, Range is.

10 **Tim Scott:** And there is a blanket bond on file?

11 **Phil Horn:** That's correct.

12 **Tim Scott:** And, if you were able to reach an agreement with the parties listed on Exhibit B3,
13 what lease terms would you offer?

14 **Phil Horn:** \$25 per acre per five-year paid up lease that provides a one-eighth royalty.

15 **Tim Scott:** Do you consider that to be reasonable compensation for a lease in this area?

16 **Phil Horn:** Yes, I do.

17 **Tim Scott:** Now, you indicated earlier that we have in excess of 90 percent of the unit under
18 lease. Is that right?

19 **Phil Horn:** That's correct.

20 **Tim Scott:** And what percentage of the oil and gas estate is Range seeking to pool today?

21 **Phil Horn:** 7.19 percent.

22 **Tim Scott:** And we don't have an escrow requirement. Is that right?

23 **Phil Horn:** That's correct.

24 **Tim Scott:** And you're requesting the Board to pool the un-leased parties listed on Exhibit B3?

25 **Phil Horn:** That's correct.

26 **Tim Scott:** And also that Range be named as the operator for this unit. Is that right?

1 **Phil Horn:** That is right.

2 **Tim Scott:** Now, if the Board grants our application today and we send out election letters, what
3 would be the address used for making any elections under an order entered by the Board?

4 **Phil Horn:** Range Resources-Pine Mountain, Inc; P. O. Box 2136, Abingdon, VA 24212.

5 **Tim Scott:** Is that the address for all communications regarding this order?

6 **Phil Horn:** That's correct.

7 **Tim Scott:** That's all I have for Mr. Horn.

8 **Bradley Lambert:** Questions from the Board? Mr. Horn, on a lot of occasions previously, we
9 see that ACIN is usually leased. Any reason why they're unleased this time?

10 **Phil Horn:** This particular tract, I think I explained. ACIN is leased to EQT and the lease
11 expired, but there's a disagreement as to how much acreage is being held by that lease. So, in the
12 past, sometimes it's inside of a square that they are not disputing is not unleased. If it's outside of
13 the squares, then EQT claims to have it leased and ACIN claims it is not leased. So, that's what
14 you're seeing sometimes we force pool ACIN and EQT and sometimes we don't. But this
15 particular tract was an old Steinman tract that ACIN happens to own now, but it was under a
16 1972 Steinman lease.

17 **Bradley Lambert:** And, so that's why we're seeing ACIN or EQT?

18 **Phil Horn:** Well, the revised Exhibit should not have ACIN or EQT, that were uploaded
19 yesterday, I believe. Right, Tim?

20 **Tim Scott:** Yes, sir. That's right.

21 **Phil Horn:** What I handed out today should overrule that.

22 **Bradley Lambert:** I see it. It's here.

23 **Phil Horn:** We determined that the young man that helped me didn't realize that this was a
24 Steinman tract originally it was leased. He thought it was either/or between EQT and ACIN.

25 **Bradley Lambert:** Okay.

26 **Tim Scott:** But notice was properly given. Is that correct?

27 **Phil Horn:** Yes.

28 **Tim Scott:** Okay.

1 **Bradley Lambert:** Any other questions from the Board? [No response] You may continue,
2 Mr. Scott.

3 **Tim Scott:** Thank you, Mr. Chairman. Mr. Janson, your name, by whom you're employed and
4 your job description please.

5 **Gus Janson:** My name is Gus Janson, employed by Range Resources-Pine Mountain, Inc., as
6 the Manager of Geology.

7 **Tim Scott:** And you participated in the preparation of this application. Is that right?

8 **Gus Janson:** I did.

9 **Tim Scott:** Are you familiar with the proposed depth of this well?

10 **Gus Janson:** Yes. This is a horizontal well, proposed depth of 9,800 feet.

11 **Tim Scott:** And you're also familiar with the estimated reserves of this unit. Is that right?

12 **Gus Janson:** Yes.

13 **Tim Scott:** What would that be?

14 **Gus Janson:** The estimated reserves would be 1.2 bcf of gas.

15 **Tim Scott:** I believe you also signed the AFE that was filed as Exhibit C to our application. Is
16 that right?

17 **Gus Janson:** I did.

18 **Tim Scott:** So, you're familiar with the well costs?

19 **Gus Janson:** I am.

20 **Tim Scott:** What's the proposed estimated dry hole cost for this well?

21 **Gus Janson:** \$638,596.

22 **Tim Scott:** And estimated completed well cost?

23 **Gus Janson:** \$1,578,010.

24 **Tim Scott:** Okay. And, as I indicated earlier, we provided an AFE as Exhibit C to our
25 application. Is that right?

26 **Gus Janson:** That is correct.

27 **Tim Scott:** And you also signed that AFE. Is that correct?

1 **Gus Janson:** I did.

2 **Tim Scott:** Does the AFE include a charge for supervision?

3 **Gus Janson:** It does.

4 **Tim Scott:** Do you consider that charge to be reasonable?

5 **Gus Janson:** Yes, I do.

6 **Tim Scott:** And, in your opinion, if the Board grants our application today, would it be in the
7 best interest of conservation, prevention of waste and promote and protect correlative rights?

8 **Gus Janson:** Yes, it would.

9 **Tim Scott:** That's all I have for Mr. Janson.

10 **Bradley Lambert:** Questions from the Board?

11 **Mary Quillen:** I have just one question. On the application, did you say that the depth of this
12 was 9,800?

13 **Tim Scott:** Ms. Quillen, I put 9,400. Apparently, my eyes are going, but the well depth is
14 9,800.

15 **Mary Quillen:** Also, in the estimated cost in the application doesn't....

16 **Tim Scott:** Also incorrect, Ms. Quillen.

17 **Mary Quillen:** Okay. What's on the AFE is the correct?

18 **Tim Scott:** Yes, ma'am. Home run today.

19 **Mary Quillen:** Okay. Thank you. Sorry about that.

20 **Tim Scott:** No, it's okay. I appreciate it.

21 **Bradley Lambert:** Any other questions from the Board? [No response] Anything further, Mr.
22 Scott?

23 **Tim Scott:** No, sir.

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

25 **Tim Scott:** If you've got a dish of crow, I'll eat it.

26 **Mary Quillen:** Motion to approve.

27 **Bruce Prather:** Second.

1 **Bradley Lambert:** Ms. Quillen, did you have a motion?
2 **Bruce Prather:** She motioned. I second it.
3 **Bradley Lambert:** Oh, I'm sorry. I have a motion and a second. Any further discussion? [No
4 response] All in favor signify by saying yes.
5 **Board:** Yes.
6 **Bradley Lambert:** Opposed no.
7 **Donnie Ratliff:** I'll abstain, Mr. Chairman.
8 **Bradley Lambert:** One abstention, Mr. Ratliff. Thank you.
9 **Tim Scott:** Thank you.

10 **Item Number 5**

11 **Bradley Lambert:** We're calling Docket Item Number 5. A petition from CNX Gas Company,
12 LLC, for the escrow payments heretofore deposited with the Board's Escrow Agent to reimburse
13 overpayment of funds deposited with the Board's Escrow Agent attributable to unit VP8SGU3 to
14 CNX Gas Company, LLC, and the disbursement of escrowed funds heretofore deposited with the
15 Board's Escrow Agent attributable to Tracts 8A, 8C, 9A, 14E and 14F as depicted in the annexed
16 Table 1 and authorization to begin paying royalty payments directly to the parties to the CBM
17 deed between Harrison-Wyatt, LLC, and Danny Carlos Blankenship; Harrison-Wyatt, LLC, and
18 Ralph Reedy; Harrison-Wyatt, LLC, and Delmar Kyle Meadows and Harrison-Wyatt, LLC and
19 David Meadows. Docket Number VGOB-06-0321-1598-03. All parties wishing to testify
20 please come forward.
21 **Mark Swartz:** Mark Swartz and Anita Duty.
22 **Bradley Lambert:** Have you been sworn?
23 **Sarah Gilmer:** Do you swear or affirm that your testimony is the truth, the whole truth and
24 nothing but the truth?
25 **Anita Duty:** Yes.
26 **Bradley Lambert:** You may proceed, Mr. Swartz.
27 **Mark Swartz:** Anita, would you state your name for us, please?
28 **Anita Duty:** Anita Duty.
29 **Mark Swartz:** Who do you work for?

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

2 **Mark Swartz:** And are you responsible as part of your job for petitions for disbursement from
3 escrow with regard to CNX operated wells?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** This particular petition that we have in front of us today concerns a sealed gob
6 unit, right?

7 **Anita Duty:** It does.

8 **Mark Swartz:** And we can tell from the VGOB number that this unit was created by the Board
9 in 2006.

10 **Anita Duty:** Yes.

11 **Mark Swartz:** And would it be fair to say that this unit has been fraught with a fair amount of
12 difficulties over the years?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** For example, Mr. Sheffield had an attorney, Peter Glubiak at that time filed at
15 least one, possibly two, petitions to modify that '06 order?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** And the Board, as I recall, refused to act on those?

18 **Anita Duty:** Correct.

19 **Mark Swartz:** It sort of slipped into limbo for a period of time?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** And we were back here in 2012 to make some progress, I think, to re-pool?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** Is that a yes?

24 **Anita Duty:** Re-pooled in 2011.

25 **Mark Swartz:** 2011. Okay. So, we were successful in re-pooling and....

26 **Anita Duty:** Modifying the prior order.

27 **Mark Swartz:** Modifying the 2006 order, eventually, in 2011?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** Okay. And, then ultimately, did we get a supplemental order that was then
3 congruent with the new Title information and the new modification?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** When was that supplemental order entered?

6 **Anita Duty:** February 21, 2014.

7 **Mark Swartz:** Okay. So, February of this year.

8 **Anita Duty:** Yes.

9 **Mark Swartz:** And that supplemental order would have required you to mail?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** To everyone?

12 **Anita Duty:** Yes.

13 **Mark Swartz:** And did you do that?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** Okay. And when did you do the mailings? Does April ring a bell?

16 **Anita Duty:** Yes. April. I'm sorry.

17 **Mark Swartz:** And have you actually filed those or lodged those mailings electronically with
18 the Board?

19 **Anita Duty:** Yes.

20 **Mark Swartz:** Okay. So, they're of record and they can look at them?

21 **Anita Duty:** Yes.

22 **Mark Swartz:** Okay. And to sort of put the supplemental order in perspective, when this unit
23 was pooled in 2006, what was the number with regard to acres that were going to be subject to
24 escrow in 2006 when it was originally?

25 **Anita Duty:** 585.596 acres.

26 **Mark Swartz:** And when the supplemental order was entered in February of this year and we
27 dealt with leases and tracts and so forth, what was the amount that would be subject to escrow?

1 **Anita Duty:** 226.9323.

2 **Mark Swartz:** Less than half of what we had originally estimated?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** Traditionally, or historically, when does the operator start paying money into
5 escrow in relation to the entry of a supplemental order?

6 **Anita Duty:** After the supplemental order is entered.

7 **Mark Swartz:** And why would that be important?

8 **Anita Duty:** Because things change between the time the order's issued and the supplemental.

9 **Mark Swartz:** Can you tell the Board whether or not the then Director required your company
10 to make a substantial deposit into escrow before the supplemental order was entered?

11 **Anita Duty:** Yes, I can.

12 **Mark Swartz:** Who was the Director then?

13 **Anita Duty:** David Asbury.

14 **Mark Swartz:** Did you object to that?

15 **Anita Duty:** We did.

16 **Mark Swartz:** But that was to no avail and you were required to make a deposit, right?

17 **Anita Duty:** Correct.

18 **Mark Swartz:** And, in fact, you made two rather huge deposits?

19 **Anita Duty:** We did.

20 **Mark Swartz:** If you look at the Exhibit J that you submitted with the petition for disbursement
21 today, when did you make those deposits that Mr. Asbury required you to make?

22 **Anita Duty:** There's a little bit of history with the original deposit from April 2010. When we
23 sent that check in, it was rejected by the Escrow Agent because there wasn't an account set up yet
24 because there was no proper order in place. So, eventually, it did go to the account after the re-
25 pooling order was issued, which was in May 2011 and that amount was \$292,713. Then, the
26 following month on June 30, we deposited another \$581,959.60.

27 **Mark Swartz:** And both of those deposits obviously were well in advance of the supplemental
28 order?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** And, in effect, you deposited roughly twice what you should have?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** And is part of the relief you're seeking today to get a refund of the over-deposit?

5 **Anita Duty:** Yes, we are.

6 **Mark Swartz:** And, is the other thing that you're seeking today a disbursement to some folks
7 who have....I always want to call them split-agreements, but I think because Harrison-Wyatt's
8 involved, it's actually deeds.

9 **Anita Duty:** It is.

10 **Mark Swartz:** Okay. And those are the two reasons we're here today?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** Have you prepared and logged with the Board online an Exhibit where you took
13 the Exhibit E from the original pooling and compared it to the supplemental order to show how
14 the acreage changed and what tracts were affected?

15 **Anita Duty:** I did not. No, I did not.

16 **Mark Swartz:** Okay. Do you have a copy of that with you?

17 **Anita Duty:** I do.

18 **Mark Swartz:** Okay. Could you pass that out to the Board so we can discuss that? What
19 number do you want to assign to this demonstrative exhibit?

20 **Bradley Lambert:** One.

21 **Mark Swartz:** One? Okay. Anita, is Exhibit 1 a comparison on a tract-by-tract basis of the
22 initial Board order that created the unit and pooled it and the supplemental order that was
23 entered...actually, it should be 2014.

24 **Anita Duty:** Yes, that's the Board order. I'm sorry.

25 **Mark Swartz:** It was re-pooled in 2012 and the supplemental order was 2014.

26 **Bradley Lambert:** Do we need to make that correction on?

27 **Mark Swartz:** The supplemental order was actually 2014, but bear in mind that the Board order
28 on which it was based was 2012, so it's half right.

1 **Paul Kugelman:** I'm just trying to make sure I understand the procedural posture here. So, in
2 '06 when the original pooling order was granted by the Board for how many acres?

3 **Mark Swartz:** 4,000 probably.

4 **Paul Kugelman:** 4,000, roughly?

5 **Anita Duty:** The total acreage of the whole, entire unit? It's like 4,500 acres.

6 **Paul Kugelman:** Okay. 4,500 acres, roughly. And, in 2012...I thought it was '11...2012 there
7 was an amended pooling order?

8 **Anita Duty:** Well, there never was a valid Board order because of objections with John
9 Sheffield and things like that or corrections that needed to be made and there was actually, I
10 guess, at one of the hearings at the end of 2010 that told us that we needed to come and get this
11 fixed even though we had tried before to come and fix it and it died for lack of motion. So, it's
12 kind of like this sat here forever with no action.

13 **Paul Kugelman:** So, did that impact the 2006 order or just the amended?

14 **Mark Swartz:** I'm sorry.

15 **Paul Kugelman:** What Ms. Duty was talking about objections. Was that to the 2012 order or
16 the 2006 order?

17 **Mark Swartz:** There were objections to the 2006 order in a whole bunch of ways. I mean one
18 of the objections was that this was an enormous petition, hundreds of pages. So, when we
19 mailed the order and the petition, we mailed four to a page. We got an objection from Mr.
20 Sheffield that the notice to him wasn't.....this has been a nightmare.

21 **Paul Kugelman:** I don't want to re-litigate it. I'm just trying to get an understanding.

22 **Mark Swartz:** So, it dragged on forever and there were efforts made by and, I think it wasn't
23 just Mr. Sheffield and I think Mr. Glubiak had other people as well. There were efforts made to
24 modify that '06 order where....

25 **Paul Kugelman:** But the '06 order was entered.

26 **Mark Swartz:** It had been entered, but there were subsequent efforts to modify it.

27 **Paul Kugelman:** Okay. And that happened in 2012.

28 **Mark Swartz:** As early as '10, I believe.

29 **Anita Duty:** In 2010, we tried to modify it and it died.

30 **Paul Kugelman:** But, when did it actually get modified?

1 **Anita Duty:** What we were trying to do is make corrections because Mr. Sheffield had pointed
2 out that we left out some oil and gas...

3 **Paul Kugelman:** So, you were trying to correct defects. I'm just trying to get...

4 **Mark Swartz:** When did we fix that? Your timeline.

5 **Anita Duty:** The hearing was held May 20, 2008, and on that day it died for lack of motion.
6 I've got copies of the minutes.

7 **Paul Kugelman:** So, nothing happened that day?

8 **Anita Duty:** Nothing happened that day and then not until we were asked to re-file that petition.
9 There was a motion approved at the May 2010 hearing to require the operator to re-pool the unit.
10 Then, we actually ended up filing that petition and the order was filed January 13, 2011.

11 **Mark Swartz:** But, to get to your actual question, when was it re-pooled? That order?

12 **Anita Duty:** The re-pooling order was entered September 18, 2012.

13 **Paul Kugelman:** That was for how many acres?

14 **Mark Swartz:** It would still have been...

15 **Paul Kugelman:** 4,500-ish?

16 **Mark Swartz:** Correct.

17 **Paul Kugelman:** Okay.

18 **Mark Swartz:** But, what the supplemental order, which was entered in February of this year
19 and mailed in April of this year did, was it took the escrowed acres and corrected the escrow.

20 **Paul Kugelman:** To how many acres?

21 **Mark Swartz:** It went from...Anita?

22 **Anita Duty:** It's on this exhibit. 585.596 to 226.9323.

23 **Mark Swartz:** There's a total at the bottom of both columns.

24 **Paul Kugelman:** Oh, I see.

25 **Anita Duty:** And we're not talking about total....you're asking us total acreage for the sealed gob
26 and maybe you're more focused on the escrowed acres, not the total sealed gob acres.

27 **Paul Kugelman:** Right. I get that. So, the escrowed acres in the '06 order was less than 4,500
28 acres?

1 **Anita Duty:** The escrowed acres in 2006 was 585.596.

2 **Paul Kugelman:** I gotcha. Okay. That's where my slip was.

3 **Anita Duty:** Escrowed acres, not...

4 **Paul Kugelman:** I gotcha. Thank you. I apologize for taking up all our time.

5 **Bradley Lambert:** Let me clear up one thing about the important piece that we need to make a
6 point here is that the Director at that time required you, by letter, to go ahead and put money into
7 that account.

8 **Mark Swartz:** That is absolutely correct.

9 **Bradley Lambert:** I mean, that's...

10 **Mark Swartz:** We didn't want to because we felt it would be wrong.

11 **Anita Duty:** We knew this was going to happen because it was based off of a 40 percent
12 number. It was 40 percent of what we thought the total acres would have been.

13 **Paul Kugelman:** And the payments were made when? What years?

14 **Anita Duty:** The original that was actually accepted by the Escrow Agent was May 2011, the
15 check that we wrote in April 2010.

16 **Paul Kugelman:** Okay. So, the Escrow Agent accepted in May 2011.

17 **Anita Duty:** Once that Board order was issued because, I guess, they felt at that time...because
18 it had been so many years that we just go ahead and open the account.

19 **Mark Swartz:** If you look at the Exhibit J, there were two checks and it shows the deposit
20 dates. One was May 31, 2011, \$292,000, and change, and then one was June 30, 2011.
21 \$581,000, and change. Those were the checks that we didn't want to submit because we knew
22 they would be wrong in advance of squaring away the supplemental order. That's why we have
23 the refund problem. Moving forward, because I think this is important, in terms of this chart that
24 we have provided you. The supplemental order that...when the Board enters a supplemental
25 order, we are required as operator to provide that supplemental order to all of the people
26 involved in the unit that have been pooled, that have a stake in the unit. So, when the 2014
27 supplemental order was entered, we mailed that to everybody so people got notice of what we
28 summarized here. We actually have five or six copies of the Exhibit E's. So, that in April of this
29 year, people in these tracts in this unit learned that, for example, according to the original Board
30 order, Tract 2A would have been subject to escrow in its entirety and when we filed the
31 supplemental order, it was not required to be escrowed and so forth. So, all of the folks who had

1 a dog in the hunt with regard to these various tracts got a copy of that supplemental order four or
2 five months ago.

3 **Paul Kugelman:** Now, what's the basis for taking them out of the escrow? Suddenly, you
4 realized there was no conflict of ownership or...?

5 **Anita Duty:** Well, it looks like most of the acreage was a conflict with Harrison-Wyatt and
6 Island Creek Coal Company and Island Creek Coal Company is like part of us.

7 **Paul Kugelman:** It's subsidiary?

8 **Anita Duty:** Right. What we had to do is go and analyze the deeds to make sure of the dates
9 because we've got different points in time where companies have transferred over and eventually
10 came into CNX as a royalty interest. So, most all the ones that are resolved were the Island
11 Creek/Harrison-Wyatt tracts. I can give you a copy of the....

12 **Paul Kugelman:** I'm just trying to understand what the basis for this resolution is.

13 **Anita Duty:** It should have never been there to start with and the problem was we didn't get to
14 the point where we had a Board order and a supplemental order where we re-look at the title and
15 re-look at everything.

16 **Paul Kugelman:** I understand that. I'm just trying to understand how this 2006 order that noted
17 a conflict. I understand it morphed and changed.

18 **Anita Duty:** We never had a supplemental that said this is what you pay to the escrow account.
19 We were told by Mr. Asbury, you need to pay something because it's been sitting here so long.

20 **Paul Kugelman:** I guess I'm just....

21 **Mary Quillen:** So, it was a verbal thing that, more or less.

22 **Anita Duty:** We have emails and things like that....

23 **Mary Quillen:** But, it wasn't actually an official supplemental order.

24 **Anita Duty:** There never was until February of this year.

25 **Mary Quillen:** Okay.

26 **Mark Swartz:** We have had instances CNX is told to do things by the Director, from time to
27 time, and that has been an ongoing thing for 25 years or something. And sometimes I get a call
28 from her saying, "I really don't want to do this. Would you talk to them?" Okay. We had quite
29 an argument about this, but the Director is the Director and, ultimately, if you can't persuade
30 them to do something different....occasionally, I have the same problem with this guy. You have

1 to do what they tell you. That's what happened here. We had a directive to do this. We argued
2 at length.

3 **Mary Quillen:** I can remember this ongoing issue that has gone on for all of these years and...

4 **Mark Swartz:** Well, it's not as often as it used to be.

5 **Mary Quillen:** Right. That's true.

6 **Mark Swartz:** But, occasionally, we had something a week or two ago where Mr. Cooper
7 wanted us to do something and they, ultimately, got me involved and we took care of it. I think I
8 sent Sarah an email at 5:15 at night because she wanted something. That's not unusual. The
9 problem here was this involved, roughly, a half a million dollars that shouldn't have gone into the
10 account in the first instance.

11 **Mary Quillen:** Right.

12 **Paul Kugelman:** Is it fair? I'm sorry. Go ahead, ma'am.

13 **Mary Quillen:** This money has been sitting in this account and it has been drawing interest all
14 of this time since, what's the dates on that?

15 **Mark Swartz:** We're just trying to get the money back. We are not trying to get interest.

16 **Anita Duty:** 2011.

17 **Mary Quillen:** I've got it right here. So, it went in. These checks that you deposited in 2010
18 and 2011...that's been sitting in escrow.

19 **Mark Swartz:** Correct.

20 **Mary Quillen:** So, what you're asking is just the initial amount that was deposited, not the
21 interest.

22 **Mark Swartz:** Well, it's not all of it because some of it belonged in escrow and needs to stay
23 there. So, you'll notice that the two amounts total way more than a half a million dollars.

24 **Mary Quillen:** Right. Almost a million.

25 **Mark Swartz:** Right. Some of those initial deposits are going to stay. We're not seeking to get
26 it back and, to the extent that the money that we were ordered to pay that we shouldn't have paid,
27 we're not looking to try to figure out what the interest on it is. We're just leaving it in the
28 account.

29 **Mary Quillen:** So, just the actual deposits.

30 **Mark Swartz:** As of that date, what piece of those deposits shouldn't have gone in.

1 **Anita Duty:** The account is actually in, what we call a recoupment status right now because
2 after that supplemental order was issued there have been no deposits into that account. Once we
3 received that supplemental order and they analyzed it, they realized that we're over-paying that
4 account by twice.

5 **Mary Quillen:** Right.

6 **Anita Duty:** So, there's been no deposits in there. There won't be any deposits in there until we
7 recover that \$503,000.

8 **Mary Quillen:** Okay. That was my question. How is this going to work on this? The ones that
9 should be in there, there's no problem with that, these others that are listed that...

10 **Anita Duty:** But, at this point where we've over-paid it so much, there will be no deposits there
11 until....I mean, there are 200 and some wells there but that production won't be there for a while.

12 **Mary Quillen:** Okay.

13 **Bradley Lambert:** Do you have a question, Mr. Kugelman?

14 **Paul Kugelman:** I am just flatly confused. I will admit it.

15 **Mark Swartz:** The reason I sort of went through all of this and this chart is to demonstrate to
16 the Board that we told the people in this unit by mailing them a supplemental order in April of
17 this year that these adjustments had been made to the escrow account in acreages. And, to my
18 knowledge, I'll ask Anita. Has anyone contacted you since April, because we're now six months
19 ago, and said, "We have an issue with this?"

20 **Anita Duty:** No.

21 **Paul Kugelman:** Was anybody noticed of the hearing today that might be involved in this?

22 **Mark Swartz:** We noticed the people who are receiving disbursements.

23 **Paul Kugelman:** Okay, but that doesn't cover.

24 **Mark Swartz:** We've got a couple of copies of...

25 **Anita Duty:** I think I have five of each.

26 **Mark Swartz:** Keep one for us and give them three or four.

27 **Donnie Ratliff:** Mr. Chairman.

28 **Bradley Lambert:** Mr. Ratliff.

29 **Donnie Ratliff:** Mark, this is acreage and not percentage, right?

1 **Mark Swartz:** Correct.

2 **Anita Duty:** This is the original 2006 Exhibit E. This is the exhibit that tells us what to escrow.

3 **Paul Kugelman:** Right.

4 **Anita Duty:** And, then what I've done is take and then compare that to the 2014 Exhibit E to tell
5 us what we need to escrow. Then, what I've done is gone down through here and shown all the
6 tracts that were on the previous Exhibit and are no longer on the Exhibit. We're starting at Tract
7 2F. We've eliminated all this acreage all the way....

8 **Paul Kugelman:** Right. I understand. That reflects a difference in the orders that exist now and
9 existed in 2006. Do I have that right?

10 **Anita Duty:** Right. And your acreage you are originally paying in on is over 500 acres and now
11 you're only paying 226...228.

12 **Paul Kugelman:** I don't need this if you want them back. I appreciate you explaining that.

13 **Anita Duty:** I'm trying to figure how to explain them.

14 **Mark Swartz:** Is the Exhibit you just passed out, which I think you would call Exhibit 2, is that
15 the underlying document that you used to prepare Exhibit 1?

16 **Anita Duty:** Yes, it is. That was 2.

17 **Mark Swartz:** And did you notify, if you look at your tables in terms of disbursements, did you
18 notify by mail the people with split agreements that we're seeking to disburse to of the hearing
19 today?

20 **Anita Duty:** I did.

21 **Mark Swartz:** And you filed those, I assume?

22 **Anita Duty:** We did.

23 **Mark Swartz:** And if we would skip ahead to Tables 1 and 2.

24 **Anita Duty:** We did load the revision yesterday to change that tract number.

25 **Mark Swartz:** Right. We'll talk about that. If we look at 17 of 74 is Table 1. That's the Table
26 that pertains to the refund. Correct?

27 **Anita Duty:** Yes.

28 **Mark Swartz:** And, for some reason or other, the person that prepared that had it in as Tract 2F,
29 which is just wrong.

1 **Anita Duty:** Right.

2 **Mark Swartz:** And did you re-load this Table on with a different tract number?

3 **Anita Duty:** We did. We just substituted "999." We didn't realize that...

4 **Mark Swartz:** It's better than "666," right?

5 **Anita Duty:** Right. Or 2F.

6 **Mark Swartz:** So, on the e-Forms system the Table has been re-loaded. 2F has disappeared as
7 the identifier and just put in "999" to make sure that it was an odd number that no one would
8 confuse for another tract. Correct?

9 **Anita Duty:** Correct.

10 **Mark Swartz:** Okay. And have you quantified the refund amount, not including interest, that
11 should be refunded by reason of the acreage changes in terms of escrow requirement?

12 **Anita Duty:** Yes.

13 **Mark Swartz:** And what is that amount?

14 **Anita Duty:** \$509,788.25.

15 **Mark Swartz:** And is that an amount that the Escrow Agent should pay before making the
16 disbursements that are identified in Table 2, which we're going to talk about in a minute?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** Okay. So, Table 1 is a dollar amount disbursement?

19 **Anita Duty:** It is.

20 **Mark Swartz:** And Table 2, if we just skip ahead, is a disbursement that would zero out a
21 couple of tracts and represent a partial payment out of a couple of other tracts. Correct?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** And Harrison-Wyatt is on one side of all of these disbursements. Correct?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** Looking at Table 2, could you summarize for the Board....let me back up here.
26 What is the basis for this disbursement request?

27 **Anita Duty:** CBM Deeds between the coal and oil and gas owners.

1 **Mark Swartz:** And it's been Harrison-Wyatt's custom not to enter into a split agreement or
2 contract, but to rather actually make a deed.

3 **Anita Duty:** Yes.

4 **Mark Swartz:** Have you seen those deeds for these people?

5 **Anita Duty:** I have.

6 **Mark Swartz:** And do they basically transfer title on a 50/50 basis to the CBM royalties?

7 **Anita Duty:** It does.

8 **Mark Swartz:** And have you used 50/50 as reported on the chart to make the division?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** What tracts are you asking for a disbursement, to what people and what
11 percentage should the Escrow Agent use?

12 **Anita Duty:** For Tract 8A, Danny Carlos Blankenship and Harrison-Wyatt should each receive
13 0.9928% of the escrow account. For Tract 8C, Ralph Reedy and Harrison-Wyatt should each
14 receive 0.023 %. For Tract 9A, Ralph Reedy and Harrison-Wyatt should each receive 0.2743%
15 of the escrow account. For Tract 14E, Gilmer Meadows and Harrison-Wyatt should each receive
16 0.873%. For Tract 14F, David Meadows and Harrison-Wyatt should each receive 1.735%.

17 **Mark Swartz:** Okay. Looking at Table 2, it looks like Tract 8A will still have an escrow
18 balance after these disbursements. Correct?

19 **Anita Duty:** Yes.

20 **Mark Swartz:** It looks like 8C will not.

21 **Anita Duty:** I think it will still have a balance. It's a portion.

22 **Mark Swartz:** How about 9A?

23 **Anita Duty:** Yes. It's a portion, also.

24 **Mark Swartz:** Just a portion. 14E?

25 **Anita Duty:** It's total.

26 **Mark Swartz:** Okay. So, that tract piece would be zeroed out.

27 **Anita Duty:** It will go away.

28 **Mark Swartz:** And 14F. Will that have a balance or will that tract component be zeroed out?

1 **Anita Duty:** That tract will be zero.

2 **Mark Swartz:** Okay. So, the Escrow Agent should use the percentages that you have just given
3 for each of the recipients that you have identified for each tract that you have identified and
4 apply that percentage to the balance on hand at the time the distribution is made, assuming the
5 refund has already been made?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** So, on a moving forward basis, if additional funds come in, that percentage will
8 still work?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** If the motion to make these disbursements is approved today, are you asking for
11 permission as the operator to pay these people identified on Table 2 directly rather than
12 continuing to escrow their funds?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** And there are numerous wells contributing to the escrow account from this 4,500
15 acres and that's why you have not listed them?

16 **Anita Duty:** Correct.

17 **Mark Swartz:** The last thing I would have, just in summary, because we've already talked
18 about it, you did do a deposit and check comparison. Did you not?

19 **Anita Duty:** We did.

20 **Mark Swartz:** And, amazingly, I think this one came out incredibly close. What was the
21 difference?

22 **Anita Duty:** A penny.

23 **Mark Swartz:** Obviously, there's some wiggle room there because of fees and interest but, in
24 terms of what was put in compared to what's on hand, there's a penny difference.

25 **Anita Duty:** Yes.

26 **Bradley Lambert:** And what was that date, Ms. Duty?

27 **Anita Duty:** I'm sorry.

28 **Mark Swartz:** The date on the comparison.

29 **Anita Duty:** July 31, 2014.

1 **Bradley Lambert:** Thank you. Anything further, Mr. Swartz?

2 **Mark Swartz:** No.

3 **Donnie Ratliff:** Mr. Chairman.

4 **Bradley Lambert:** Mr. Ratliff.

5 **Donnie Ratliff:** November 10, 2010, above Chart 1. It's on the bottom of 13 of 13.

6 **Mark Swartz:** It's on what page?

7 **Donnie Ratliff:** It's on the bottom of 13 of 13. Is that date the date of that you calculated the
8 \$509,788?

9 **Mark Swartz:** I really don't know what page.

10 **Donnie Ratliff:** It's page number 16 for you.

11 **Mark Swartz:** Okay. Page 16.

12 **Donnie Ratliff:** At the bottom, it's got a date.

13 **Bradley Lambert:** I see it. I understand what you're talking about. It would be on page 16 in
14 the application.

15 **Mark Swartz:** Okay.

16 **Donnie Ratliff:** Does that date go with the chart?

17 **Anita Duty:** That's the tract ID that was included in the order, in the supplemental. Is that what
18 you're saying? The Tract ID?

19 **Bradley Lambert:** No. November 10, 2010.

20 **Bill Harris:** What is at the bottom of that Tract ID page.

21 **Anita Duty:** That goes with the Tract ID. That's the date of the final Tract ID.

22 **Donnie Ratliff:** That's when that was prepared. Thank you.

23 **Bradley Lambert:** Ms. Duty, I thought I heard you testify and I was talking with Mr. Kugelman
24 and I apologize for that, that I didn't hear all of your testimony. But, I thought you testified that
25 Tract 9A, you were giving some percentages that would be left in the unit, but your Tract ID
26 says, "Total Acreage." Could you just clear that up just a little bit for me? Again, I apologize I
27 didn't hear the entire testimony. When you were going through the percentages of the tracts for
28 9A, I thought you said that it would be total paid out. Was that correct?

1 **Anita Duty:** No, 9A is a portion. 14E and 14F would be paid out completely.

2 **Bradley Lambert:** Okay.

3 **Anita Duty:** The others are portions.

4 **Bradley Lambert:** Okay. Thank you.

5 **Bill Harris:** Just a quick question, for clarification. Table 2, that first column, "Fractional
6 Ownership in Tract." That's what you're referring to? And, if we look down to....for instance,
7 8A has 1/4 for each of the Blankenship and Harrison-Wyatt. When we get down to 14E, 14F,
8 those areas are blank so that lets us know that that's 100 percent or that all of the....I'm confusing
9 myself, now asking you a question.

10 **Mark Swartz:** I will say you were right. You have confused yourself. Yes, you're correct.

11 **Bill Harris:** Okay.

12 **Anita Duty:** Because there's no need for a fractional owner if it's not like an heirship or
13 something like that.

14 **Bill Harris:** I guess what I was what do we look for when we look in that Table to see that
15 that....if there's no fraction there, then it's a...

16 **Anita Duty:** There's an Exhibit E and Exhibit EE that actually has those tracts with the
17 individual names there. That's a good indication that it is 100 percent.

18 **Bill Harris:** Okay.

19 **Mark Swartz:** Another indication, just looking at this chart, because I think this would be
20 helpful for the future, maybe not. If you look at the first column, "Fractional Ownership in
21 Tract," in that column between the squares, there's a total acreage.

22 **Bill Harris:** For instance, 8A is 18.15.

23 **Mark Swartz:** And it's 3.99 for 14E and then you'll see when it comes over to the next column,
24 net acreage ownership. It reports that number and that's a way to see that they've each got an
25 undivided 100 percent that they're splitting on a 50/50 basis.

26 **Bill Harris:** Of that 3.99.

27 **Mark Swartz:** At least, for this Table, that's a way to zero in on that's 100 percent going out.

28 **Bill Harris:** Yes. Okay. Thank you.

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

1 **Mark Swartz:** No.

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

3 **Donnie Ratliff:** Motion to approve, Mr. Chairman.

4 **Bill Harris:** Second.

5 **Bradley Lambert:** I have a motion and I have a second. Any further discussion? Ms. Quillen.

6 **Mary Quillen:** I just want to clarify on this, are we voting on just these disbursements or are we
7 clarifying on the total disbursements, including that refund to CNX?

8 **Bradley Lambert:** It would be both, the refund and the disbursements.

9 **Bill Harris:** The original petition actually had three items so I would assume the refund of the
10 escrow payments, disbursement of escrow funds and then authorization to begin paying going
11 forward.

12 **Mary Quillen:** Right.

13 **Bill Harris:** So, those are the three things that motion would cover.

14 **Mary Quillen:** Right. So, that's....

15 **Mark Swartz:** Correct.

16 **Bradley Lambert:** Thank you, Ms. Quillen. I have a motion and a second. Any further
17 discussion? [No response] All in favor signify by saying yes.

18 **Board:** Yes.

19 **Bradley Lambert:** Opposed, no. [No response] We've got two more items and it's after
20 twelve. Are we okay to finish those two?

21 **Mark Swartz:** I would love to finish those two.

22 **Bradley Lambert:** How about the Board? Are we okay to go ahead and finish these?

23 **Board:** Yes.

24

25

Item Number 6

26 **Bradley Lambert:** We're calling Item Number 6, which is a petition from CNX Gas Company,
27 for the disbursement of escrowed funds heretofore deposited with the Board's Escrow Agent

1 attributable to Tract 1E. This is Docket Number VGOB-05-0315-1415-02. All parties wishing
2 to testify please come forward.

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

4 **Bradley Lambert:** You may proceed, Mr. Swartz.

5 **Mark Swartz:** Anita, you're still under oath.

6 **Anita Duty:** Yes.

7 **Mark Swartz:** Please state your name for us again.

8 **Anita Duty:** Anita Duty.

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

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

11 **Mark Swartz:** Do part of your duties include preparing petitions for disbursement and related
12 exhibits?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** And we're here today to make a partial disbursement with regard to the escrow
15 account for drilling unit AZ123. Correct?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** And, the reason for this disbursement request is that we have royalty split-
18 agreements?

19 **Anita Duty:** Yes.

20 **Mark Swartz:** And, have you actually seen those?

21 **Anita Duty:** Yes.

22 **Mark Swartz:** And are they 50/50 agreements?

23 **Anita Duty:** They are.

24 **Mark Swartz:** And have you prepared a Table predicated upon those agreements for the tract
25 that they affect?

26 **Anita Duty:** Yes.

27 **Mark Swartz:** And that you have identified as Table 1.

1 **Anita Duty:** Yes.

2 **Mark Swartz:** And who would be receiving disbursements from Tract 1E and what percentage
3 should the Escrow Agent use to make those disbursements?

4 **Anita Duty:** Swords Creek Land Partnership and Linda Keen should each receive 1.6374% of
5 the escrow account.

6 **Mark Swartz:** And the Escrow Agent should use those percentages and apply them to the
7 balance on deposit at the time the disbursement is made. Correct?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** And are you asking for permission to pay these folks directly in the future?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** And, here, because we have a limited number, you've identified the wells that
12 are producing royalty income into the escrow account, with regard to this tract and others?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** Did you do a comparison of your royalty checks with the bank's deposits over
15 time?

16 **Anita Duty:** I did.

17 **Mark Swartz:** And when you did that, it was as of what date?

18 **Anita Duty:** July 31, 2014.

19 **Mark Swartz:** And did you find all of the checks that you had issued as operator actually found
20 their way in as deposits?

21 **Anita Duty:** We did.

22 **Mark Swartz:** Okay. Then, when you compared the total deposits and fees and interest and so
23 forth, how close was the account to what you had put in?

24 **Anita Duty:** It was over \$2.56.

25 **Mark Swartz:** I think that's all I have, Mr. Chairman.

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

28 **Mark Swartz:** No.

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

2 **Mary Quillen:** Motion to approve.

3 **Bruce Prather:** Second.

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

6 **Board:** Yes.

7 **Bradley Lambert:** Opposed no. [No response] Thank you, Mr. Swartz. That's approved.

8 **Item Number 7**

9 **Bradley Lambert:** We're calling Docket Item Number 7. A petition from CNX Gas Company,
10 LLC, for the disbursement of escrowed funds heretofore deposited with the Board's Escrow
11 Agent, attributable to Tract 1C as described upon the annexed Table 1; and authorization to
12 begin paying royalties directly to the parties to the royalty split agreement between Swords
13 Creek Land Partnership and Linda Keen. Docket Item Number VGOB-03-1118-1226-02. All
14 parties wishing to testify please come forward.

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

16 **Bradley Lambert:** You may proceed, Mr. Swartz.

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

18 **Anita Duty:** Anita Duty.

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

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

21 **Mark Swartz:** And is part of your job responsibility to prepare petitions for disbursement and
22 related exhibits?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** And we're here to seek a partial disbursement from the escrow account for
25 drilling unit AX124. Correct?

26 **Anita Duty:** Yes.

27 **Mark Swartz:** And what's the reason you're making this request?

28 **Anita Duty:** A royalty agreement.

1 **Mark Swartz:** And have you seen those agreements or that agreement?

2 **Anita Duty:** Yes.

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

4 **Anita Duty:** Yes.

5 **Mark Swartz:** Have you prepared a Table to disburse?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** If we go to page 5, you show it pertains to Tract 1C. Is that correct?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** And who would receive the payments and what percentage should the Escrow
10 Agent use?

11 **Anita Duty:** Swords Creek Land Partnership and Linda Keen should each receive 1.6087% of
12 the escrow account.

13 **Mark Swartz:** Okay. And the Escrow Agent should apply that percentage at the time the
14 disbursement is made?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** And the escrow account is going to need to remain in existence because this is
17 just a partial?

18 **Anita Duty:** Right.

19 **Mark Swartz:** And you've identified the wells on Table 1 that have been producing royalty
20 revenue into the escrow account.

21 **Anita Duty:** Yes.

22 **Mark Swartz:** Did you do a comparison of the checks that the operator wrote for deposit to the
23 deposits booked by the various escrow agents?

24 **Anita Duty:** I did.

25 **Mark Swartz:** And when you did that, were you able to account for all of the checks?

26 **Anita Duty:** Yes.

27 **Mark Swartz:** And when you compared just deposits to a balance as of a date, what was the
28 difference, if any?

1 **Anita Duty:** It was over \$3.80.

2 **Mark Swartz:** What date was that?

3 **Anita Duty:** July 31, 2014.

4 **Mark Swartz:** And are you requesting, if this application is approved, the ability to pay these
5 folks who are receiving the disbursement directly in the future?

6 **Anita Duty:** Yes.

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

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

10 **Mark Swartz:** No.

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

12 **Mary Quillen:** Motion to approve.

13 **Bruce Prather:** Second.

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

16 **Board:** Yes.

17 **Bradley Lambert:** Opposed no.

18 **Donnie Ratliff:** I'll abstain, Mr. Chairman.

19 **Bradley Lambert:** One abstention. Mr. Ratliff. Thank you, ladies and gentlemen.

20 **Item Number 10**

21 **Rick Cooper:** Got more.

22 **Bradley Lambert:** Should we call it a day?

23 **Rick Cooper:** Me.

24 **Bradley Lambert:** Well, you better hurry.

25 **Rick Cooper:** Are you ready for me to speak?

1 **Bradley Lambert:** Yes. The Board will now receive an update from the Divisions activities
2 from the Staff.

3 **Rick Cooper:** I've got a couple of items. One thing I did want to point out to the Board that,
4 working with all of the other DMME people, DGO has now implemented the API/US Well
5 Identification Numbers. There were only two States in the US that actually did not have API
6 Numbers, Virginia and Kentucky, and we have since incorporated that. All 10,000 permits we
7 have now have the API/US Well Identification Number. Moving forward, all the permits will
8 have that, too. So, that's been a good, giant leap for us to comply with a lot of things that the
9 other states have been doing for 40 or 50 years. I just wanted to tell everyone. We get a lot of
10 FOIA's for that kind of information. I wanted to point that out to the Board.

11 The other item I wanted to bring up today is our ongoing effort to try to close some of these
12 accounts. We have been working with CNX and have identified 12 or 13. I guess we need to go
13 through these one at a time and, if you all approve it, we'll reimburse these dollars back to CNX
14 and we'll close these accounts. As you can see, the first one, Z49, is just working interests and
15 all the conflicts have been resolved, so there is no reason for that account. Lease payments, I
16 should say, have been corrected by Ms. Duty. Those are lease payments that were initially
17 deposited in there. The \$15.55.

18 **Anita Duty:** The payments that he is referring to....the majority of them were payments that
19 were made based on the Board order where we pay \$5 an acre per year with a five-year paid up
20 term. Some of those monies were still left in those accounts when the account was no longer
21 necessary.

22 **Bradley Lambert:** Mr. Cooper, you're asking the Board to approve closing these accounts?

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

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

25 **Mary Quillen:** Motion to approve.

26 **Bruce Prather:** Second.

27 **Bradley Lambert:** I have a motion and a second. Any further discussion? [No response]
28 Based upon the information Mr. Cooper has supplied and reasoning for closing the accounts, all
29 in favor signify by saying yes.

30 **Board:** Yes.

31 **Bradley Lambert:** Opposed no. [No response] Thank you, Mr. Cooper. Next.

32 **Rick Cooper:** So, did that close all the accounts?

1 **Bradley Lambert:** It closed those accounts that you have provided us.

2 **Rick Cooper:** We've got one more item. Ms. Duty is here. It's a bit more complex, but there
3 was an order that was established and there is some money in this account. There's \$29,732. It's
4 BA-109. This order was established a few years ago when Mr. James Rasnake had a case before
5 the courts and they had pooled his interest. Since that time, the court ruling has overturned the
6 ownership, and ruled that Mr. Rasnake does not own this property. So, the pooling is no longer
7 necessary. CNX is entitled to their refund.

8 **Anita Duty:** Currently, there is a....we've been working with Mr. Cooper on a list of outstanding
9 orders and BA-109 is one of the ones where we needed a Board order. Once we got it, the only
10 reason that we had re-pooled that unit was because of James Rasnake. Now that that decision
11 has been overturned....because we had re-deposited money into the account and everything for
12 his claim. Which, I can work with him closer and give him more detail if he wants that.

13 **Paul Kugelman:** Are the orders part of the record?

14 **Rick Cooper:** Yes. We do have the court order as part of the record. Yes, we do.

15 **Paul Kugelman:** That's all I wanted to know.

16 **Anita Duty:** The original order and the order where it was reversed.

17 **Rick Cooper:** Yes, we do.

18 **Bill Harris:** Just a quick question. Had money been paid to him or this is money that was put in
19 the escrow?

20 **Anita Duty:** Originally, the properties that he was claiming had already resolved their conflict
21 but once his claim came back into play, we had to re-deposit those monies that were paid out to
22 the individuals that had already resolved amongst themselves because of his claim.

23 **Mary Quillen:** And, that was in escrow?

24 **Anita Duty:** Correct. We had already vacated this order. This order wasn't even....

25 **Rick Cooper:** It's been a vacated order. I'm not sure the date on that, to be very honest.

26 **Bill Harris:** I guess what I'm asking, you have paid him \$5,000 and, now, that shouldn't have
27 happened?

28 **Anita Duty:** We did not pay him money. We put money aside in the escrow account depending
29 on what would have happened.

30 **Bill Harris:** Okay.

1 **Rick Cooper:** And, for the Board's information, Mr. Rasnake has been involved in several other
2 units, too. For this unit, the courts ruled that he had no ownership in it. However, he has
3 ownership and is entitled to monies in several other units. Several others.

4 **Anita Duty:** There were four tracts involved in his suit and he prevailed on three of the tracts
5 and one of the tracts he did not, the 75 acre.

6 **Bradley Lambert:** Okay, Mr. Cooper. While Mr. Kugelman is reviewing the court order, do
7 you have anything further?

8 **Rick Cooper:** I guess what I am saying is: We need to reimburse this money back and close this
9 account. It's \$29,732.81.

10 **Bradley Lambert:** Okay. Anything further?

11 **Rick Cooper:** No.

12 **Donnie Ratliff:** I'll make that motion, Mr. Chairman, that we reimburse the money and close the
13 account.

14 **Bill Harris:** Second.

15 **Bradley Lambert:** I have a motion and a second. Any further discussion?

16 **Paul Kugelman:** I'm reading as fast as I can, Mr. Chairman.

17 **Bill Harris:** Can I ask Mr. Cooper another question? I don't want to take us off track.

18 **Bradley Lambert:** Sure.

19 **Bill Harris:** The first thing you mentioned about the well number or the well identification.
20 Can you tell us a little more about that AP...? Whatever that code?

21 **Rick Cooper:** What the API/US Well Identification Number is, it's a uniform code that's used
22 not just in the United States, but it's used all over the world. So, Virginia and Kentucky, for
23 whatever reason, had chosen not to do that. Kentucky has those numbers. Actually, there's an
24 association (and I apologize for not knowing what the acronym means), but I have met Ms.
25 Bailey who runs the IHS out of Denver, Colorado. She was in our office one day last week and I
26 worked with other people on this, also. I've worked with all the operators. All the operators
27 probably have established their own numbering system. If you work any place besides Virginia,
28 you have to do that. Everyone requires you to report that number. So, this is also good because
29 we have signed a memo of agreement with the Department of Environmental Quality on doing
30 some joint inspections on future items. Part of the guidelines for this was that the companies
31 have to report API numbers. The numbering system is pretty unique and you can tell pretty well.

32 **Bill Harris:** That's not what I asked. If you have that number that tells you what state?

1 **Rick Cooper:** We do and I can provide that to you all by email. It actually breaks it down. It's
2 a 12-digit number and it breaks it down from, based on the State Code. I think Virginia's is 45
3 and every county has a code and I can send you the letter that identifies all that. For your
4 information, it's right here.

5 **Bill Harris:** I was just curious as to...

6 **Rick Cooper:** It breaks it down from the state, the county code and then you have a unique
7 number right in the middle. A lot of companies use the permit code. We use our file number.
8 We'll be using a 5-digit number and it's very distinguishable. Nobody else can duplicate that.
9 We have total control of that. The last two digits on that particular item would be if you do
10 multi-laterals out of a hole or you do some type of different than the original hole. Say, if you do
11 a horizontal piece and a horizontal wedge, it would be a -01, -02.

12 **Bill Harris:** So, are we going to get those numbers in addition to our standard VGOB numbers?

13 **Rick Cooper:** You all will probably never see these numbers but some people sitting on the
14 Board are familiar with what I'm talking about and I just wanted to tell you all in the event you
15 have a conversation about it. We do have that database established. It is on e-Forms. You can
16 download all 10,000 of those.

17 **Bill Harris:** So these are, specifically, well numbers not....

18 **Rick Cooper:** It's API Well Numbers. That's correct. It really has nothing to do with the
19 Board.

20 **Bill Harris:** Okay. Good.

21 **Bruce Prather:** Is this similar to West Virginia's?

22 **Rick Cooper:** The only difference between Virginia and West Virginia is we base our middle
23 numbers off of the file number and West Virginia uses a permit number. We're identical to the
24 other 48 States.

25 **Bruce Prather:** Okay.

26 **Bradley Lambert:** Okay. Thank you, Rick. Our attorney has looked over the court order and it
27 looks to be in order, so I have a motion and I have a second. All in favor of disbursement signify
28 by saying yes.

29 **Board:** Yes.

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Item Number 11

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Bradley Lambert: Opposed no. [No response] The final item on the agenda is the review of our September 2014 Minutes and approval. Is there any additions or corrections that need to be made to those minutes? [No response]

Donnie Ratliff: Move to approve the minutes, Mr. Chairman.

Bill Harris: Second.

Bradley Lambert: I have a motion to approve and a second. All in favor signify by saying yes.

Board: Yes.

Bradley Lambert: Do I have a motion to adjourn?

Donnie Ratliff: I'll make that motion, Mr. Chairman.

Bill Harris: Second.

Bradley Lambert: I have a motion and a second. All in favor signify by saying yes.

Board: Yes.

Bradley Lambert: Thank you, ladies and gentlemen.