

VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

VIRGINIA GAS AND OIL BOARD HEARING

Tuesday, February 19, 2019

Lebanon, Virginia

BOARD MEMBERS:

Bradley Lambert – Chairman

Bill Harris – Public Member

Bruce Prather – Oil and Gas Industry Representative

Donnie Rife – Public Member

Mary Quillen – Public Member

Rita Surratt – Public Member

APPEARANCES:

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

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

Sally Ketron—Staff Member of the Division of Gas & Oil

Paul Kugelman, Jr.—Senior Assistant Attorney General

Prepared by: Margaret Linford

Agenda Items

<u>Item Number</u>	<u>Docket Number</u>	<u>Page</u>
1	Public Comments	1
2	Escrow Quarterly Report	1
15	Appeal of Director's Decision VGOB 18-1120-4191 (Continued)	8
14	VGOB 19-0219-4200 (Approved)	33
12	VGOB 18-1016-4188 (Approved)	39
13	VGOB 18-1120-4192 (Approved)	42
3	VGOB 19-0219-4198 (Approved)	46
4	VGOB 19-0219-4199 (Approved)	49
5	VGOB 95-0620-0507-02 (Approved)	54
6	VGOB 07-0515-1926-01 (Approved)	65
7	VGOB 96-0116-0530-08 (Approved)	69
8	VGOB 96-0116-0531-03 (Approved)	75
9	VGOB 04-1214-1368-04 (Approved)	77
10	VGOB 05-1018-1507-04 (Approved)	81
11	VGOB 05-1018-1508-02 (Approved)	84
16	Board & Division Activities from the Staff - Escrow disbursement update.	89
17	Board Review of November 2018 Minutes (Approved)	90

1 **Bradley Lambert:** Good morning, ladies and gentlemen. It's after 9:00 and it's time to begin
2 our proceedings, this morning. I'd like to remind you that if you have cell phones or other
3 communication devices, to please put those on vibrate. These proceedings are being recorded
4 and we would prefer not to be interrupted by phone calls and phones ringing. We'll begin, this
5 morning, by asking the Board members to please introduce themselves. I'll begin with Ms.
6 Surratt.

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

8 **Paul Kugelman:** Paul Kugelman, with the Virginia Attorney General's Office.

9 **Bradley Lambert:** I'm Butch Lambert, the Deputy Director for the Department of Mines,
10 Minerals and Energy.

11 **Donnie Rife:** I'm Donnie Rife, public member from Dickenson County.

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

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

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

15 **Audience member:** I can't hear you.

16 **Paul Kugelman:** If you can't hear, there's assisted devices up here for people who are having a
17 hard time hearing.

18 **Rick Cooper:** Can you hear now?

19 **Paul Kugelman:** Can you hear us okay, now? Okay. Great.

20 **Item Number 1**

21 **Bradley Lambert:** Thank you, ladies and gentlemen, for the introduction. The next item on our
22 docket is the Board will now receive public comment. If there's anyone wishing to provide
23 public comment, please come forward at this time. I don't have anyone signed up.

24 **Item Number 2**

25 **Bradley Lambert:** The next item on our docket is the First Bank and Trust Company, Escrow
26 Agent for the Virginia Gas and Oil Board, will appear to address the Board on the Quarterly/End
27 of Year Report. Good morning.

28 **Jody Maney:** I have Jack with me, as well. This is our End of the Year Report, so this is the end
29 of December 2018. We'll start out on the second page, with the agenda. We'll go through the 4th

1 Quarter Report, the outstanding check list, as well, and the account details, as of 12/31/2018. On
2 Page 3, this is our summary for the 4th Quarter, so this is the end of the year. We had a
3 beginning balance of \$10,185,236.63. We had deposits, for the Quarter, of \$61,815.52. Interest
4 earned of \$54,746.45. Fees of \$4,264.53. Distributions paid out for the Quarter-\$276,768.63, for
5 an ending balance of 12/31/2018 of \$10,020,765.44. If you'll look on the year-to-date column,
6 the total distributions for the year, for 2018, was a little over \$1.83 million. The next several
7 pages is the outstanding check list. This is all of the outstanding checks, as of December 31 and
8 they're totaled by each individual person. Then, on Page 54, that gives you the total breakdown,
9 by gas company. So, there's a total of \$170,000 outstanding.

10 **Donnie Rife:** How much?

11 **Jody Maney:** \$170,000, on Page 54. On Page 55, is the check escheatment page. For 2019,
12 there's a total of \$2,782 to escheat. These are checks that have been written that are over five
13 years old, now.

14 **Bradley Lambert:** Ms. Maney, when will that be escheated?

15 **Jody Maney:** Those are due November 1.

16 **Bradley Lambert:** Thank you. Do those checks go directly to Treasury?

17 **Jody Maney:** Yes.

18 **Bradley Lambert:** Because, apparently, there's people in Treasury that don't know that they're
19 receiving money from the Gas and Oil Board.

20 **Jody Maney:** It's filed under First Bank and Trust, at this point, but we probably need to file it
21 under the Virginia Gas and Oil Board account number, if you have an account number set up.

22 **Bradley Lambert:** That would help. Yes. We've had a lot of discussion on escheatment money,
23 during this year's General Assembly and, apparently, it come to our attention that the Treasury
24 didn't know they were already receiving money.

25 **Jody Maney:** There's not been a lot of money escheated.

26 **Bradley Lambert:** I understand, but somebody should know that, yes, we've already...

27 **Jody Maney:** Yes.

28 **Rick Cooper:** Mr. Chairman, I did want to point out that Ms. Gilmer has sent out letters to all
29 these people that's potentially getting escheated, trying to contact them one more time. So, we
30 have sent out letters to all these people to let them know that the checks will be escheated, trying
31 to cash those in.

32 **Bradley Lambert:** Thank you.

1 **Jody Maney:** The next page is just some general notes on the escheatment process. Unclaimed
2 property is all tangible and intangible personal property that has remained unclaimed by its
3 owner for an extended period of time. Property becomes unclaimed when the holder, the bank,
4 the gas company, has not had contact with the owner for a specified period of time. This is five
5 years, in our case.

6 **Bradley Lambert:** Let me ask another question, Ms. Maney. There's just been a lot of back and
7 forth over the funds, in the last couple months. Even those accounts that have had monies going
8 into them, on a regular basis, where we still have checks have not been cashed, or no W-9's, does
9 that fit in this category?

10 **Jody Maney:** If they have not had contact with the person that owns the money, in five years,
11 then yes.

12 **Bradley Lambert:** Okay.

13 **Donnie Rife:** Do we have a balance on that?

14 **Bradley Lambert:** We do. Do you remember what it is, Rick?

15 **Rick Cooper:** On which account?

16 **Bradley Lambert:** There was two accounts.

17 **Donnie Rife:** Everything that was considered unclaimed.

18 **Rick Cooper:** So, unknown that checks have been written, or have not been written, I guess is
19 the question.

20 **Bradley Lambert:** There's two different pots of money. That was the biggest thing we were
21 having to try to explain to folks during the session. They wanted all the monies to be escheated
22 and they didn't make a difference between checks that have been written or
23 unknown/unlocatables. So, there's a couple different pots of monies, here.

24 **Rick Cooper:** So, to help you, as Ms. Maney has reported, there's \$170,000 where checks have
25 been written and not cashed. So, what we estimate that there is \$3.4 million in the remaining \$10
26 million, that's unknown/unlocatable monies.

27 **Donnie Rife:** Okay. Could we have a breakdown of each county where this money is?

28 **Rick Cooper:** We do know which county and which company those are attributed to. Yes, we
29 do.

30 **Donnie Rife:** Because I know they was trying to pass a bill. I don't know if they got it done, or
31 not, where any unclaimed fund would go to the heart of Appalachia.

1 **Rick Cooper:** I don't think that passed. I think the bill failed.

2 **Bradley Lambert:** It failed.

3 **Donnie Rife:** Good. Because I think that money should go back to the counties in which the gas
4 was drilled.

5 **Rick Cooper:** Right. So, we do have a pretty good estimate of how much money there is and
6 what county and what company it's attributed to. So, we do know that.

7 **Donnie Rife:** I think that's where the money belongs.

8 **Mary Quillen:** Mr. Chairman, just one clarification, there. When they're saying that all of this
9 money needs to be in one account, but if checks have not been written, there's no way of putting
10 it into an account with the accounts where checks have been written.

11 **Rick Cooper:** You are correct, Ms. Quillen. The way it's currently structured, you are correct.

12 **Mary Quillen:** Yes, and do they not understand that?

13 **Bradley Lambert:** We were having a difficult time of explaining how the Gas and Oil Board
14 works with unknown/unlocatables and checks that haven't been cashed. I think we got over that
15 hump.

16 **Mary Quillen:** Good. I mean that seems...

17 **Rick Cooper:** So, it's a bit more complicated than what a lot of people think it is, Ms Quillen.

18 **Mary Quillen:** Right.

19 **Bruce Prather:** Mr. Chairman, do you know exactly how many checks we're talking about?
20 The last time I checked there was 800 plus. How many are there, now? Have you got any idea?

21 **Jody Maney:** That have not been cashed?

22 **Bruce Prather:** Yes. Would it be up above 1,000?

23 **Jody Maney:** It would be close, probably.

24 **Bruce Prather:** The last time I checked, it was 830, or something like that. That's been six
25 months ago.

26 **Jody Maney:** It would be close. You start on Page 4 and go through Page 54 of uncashed
27 checks.

28 **Mary Quillen:** That's what I was going to say. Averaging out how many pages? You've got...

1 **Bruce Prather:** It's been increasing, instead of decreasing.

2 **Jody Maney:** Yes, but the amount of checks have been increasing, as well. There's a lot of
3 checks on here, for a penny, that people haven't cashed, as well. If you look on Page 54, William
4 Tickle. He has \$46,000 that's not been cashed. That goes back to October 2016.

5 **Bruce Prather:** Is he one of these unlocatables, or do you know who he is?

6 **Jody Maney:** I don't know who he is. The gas company has, apparently, sent me a W-9 for this,
7 so they have had contact with him, at some point, to get a W-9.

8 **Mary Quillen:** He's got three right there.

9 **Jody Maney:** Three large checks. Yes.

10 **Mary Quillen:** Fairly significant checks.

11 **Donnie Rife:** Are you trying to tell me we cannot find William Tickle?

12 **Rick Cooper:** No, he is found. He just hasn't cashed the check.

13 **Jody Maney:** He just hasn't cashed the checks.

14 **Paul Kugelman:** We know where he is. The money's been sent to him. He just doesn't want to
15 cash the checks.

16 **Donnie Rife:** You're kidding.

17 **Paul Kugelman:** No, sir. We are not.

18 **Jody Maney:** But, that's \$46,000 of the \$170,000 that's outstanding, right now.

19 **Donnie Rife:** If anybody ever went to have a "Come to Jesus" meeting with him and tell him
20 what he's got waiting on him.

21 **Bruce Prather:** Does he think he's entitled to more? Is that...?

22 **Jody Maney:** I don't know.

23 **Rick Cooper:** So, again, just to let you all know. Before these people are escheated, we always
24 make another attempt to try to let them know before it's escheated. Some do come forward.
25 Some do not. We always, 60-90 days prior, send them a certified letter, letting them know what's
26 going on.

27 **Bradley Lambert:** Do you get return receipts on most of those?

1 **Rick Cooper:** We do. On most, we do. Some of them, that we've got bad addresses, we've sent
2 a second letter back out, again. You sent out 200 and some, in the Fall, right? 220, or so? Some
3 of those came back. Then, we sent out a second round of those. So, we've been pretty successful
4 on some of those. Some of the people did respond, on that particular list.

5 **Jody Maney:** Also, it is a requirement that we have to send out letters, at least 60 days in
6 advance, before we escheat any money to the State. Our reports are due on November 1, of each
7 year.

8 **Bradley Lambert:** So, will you work with, Mr. Cooper, with Ms. Maney, to get that account
9 numbers? Are you needing account numbers, or identify that that's Gas and Oil Board, instead of
10 First Bank and Trust?

11 **Jody Maney:** Yes, we will work together to get that.

12 **Rick Cooper:** We can do that.

13 **Jody Maney:** If you don't already have a number.

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

15 **Jody Maney:** Any other questions on the escheatment process? The next several pages are the
16 funded units. Remember this is only as of December. This is a monthly report, so this is all of
17 our December numbers for each account, the beginning balance, any deposits we received for the
18 month, interest earned, fees deducted, any distributions for December, and our ending balance.
19 The total balance is on Page 71. So, we have \$9,982,000 in the funded units. Then, the remainder
20 is in the "No W-9" list. So, these are people that have not submitted a W-9 to us. I think this was
21 part of the discussion on the escheatment process, as well.

22 **Donnie Rife:** If they don't submit a W-9, there's no help for them, is there?

23 **Jody Maney:** If they would send me their W-9, we would write them a check.

24 **Bradley Lambert:** Ms. Maney, if I recall, was it last Quarter, or the Quarter before, there was
25 some discussion that you were going to go back and talk with your legal representatives on that
26 process and if there was any...

27 **Jody Maney:** And I think we had discussed that this, possibly, would have been considered five
28 years, have been in the accounts for five years, and also unlocatable people. So, we know who it
29 belongs to. We just haven't been able to get in contact with them. The gas companies haven't
30 been able to get in contact with them. So, if this has been in the account for five years, this could
31 potentially be escheated to the State, as well.

32 **Bradley Lambert:** Okay. Those are some of the questions we had to try and address, as well.

1 **Donnie Rife:** If we can get this money to go back to the counties, can we write these people a
2 letter, Mr. Cooper, and thank them for their donation to their county?

3 **Rick Cooper:** When we get that far along, we can address those items. We can address those
4 items, when we get that far along. Yes.

5 **Bradley Lambert:** Keep in mind that takes legislation, for us to be able to do that.

6 **Paul Kugelman:** They can write the letters. It just won't mean anything.

7 **Donnie Rife:** They'll just ignore it, anyway.

8 **Audience member:** Can I say something?

9 **Bradley Lambert:** No, sir. Not at this time.

10 **Arnold Bailey:** The statement made was not funny.

11 **Bradley Lambert:** Not at this time, sir. Thank you. You may continue.

12 **Jody Maney:** So, the total of the "No W-9's" is \$39,669.03. On Page 83, the annual
13 distributions for 2018, the income has been \$331,000. Distributions is a little over \$1.3 million.
14 Since First Bank and Trust has been the Escrow Agent, the total distributions is a little over \$29
15 million. That's a lot of money. The next page is the summary of investments. You have a little
16 over \$10 million that is in a money market account, earning 2.3% interest. So, your total
17 estimated income is \$230,000. The last page is our rate comparisons. This gives you the seeders
18 rate, the treasury rates, and the brokered CD rates, going out from one month all the way to three
19 years. It gives you a comparison of November 2018 numbers to February 11. Any questions?

20 **Bradley Lambert:** Questions from the Board?

21 **Bruce Prather:** Have we reached the point, now, to where the money coming in is meeting the
22 money we're giving out? I mean, is the monthly income, coming in to the royalty owners.... It
23 looks to me like it's matching what we're giving out. So, it's not going to get much below this, is
24 it? Unless the escheating thing takes place.

25 **Jody Maney:** Unless we escheat money that's been in the account. Right now, your annual
26 income is \$230,000, where the distributions for the Quarter is \$276,000.

27 **Bruce Prather:** Essentially, it's not going down very much, not at this point in time.

28 **Jody Maney:** Not tremendously. But, the deposits for the Quarter, from the gas company, was
29 only \$61,000 and the interest earned was \$54,000. Any other questions?

30 **Bradley Lambert:** Thank you, Ms. Maney. We appreciate your time.

1 **Jody Maney:** Thank you.

2 **Item Number 15**

3 **Bradley Lambert:** We're going to skip around on our agenda a little bit. Our attorney is going
4 to have to leave us soon and there's a couple items we want to get to while he's still here. So,
5 we're going to jump down to Item Number 15 on the docket. This is a petition from the Division
6 of Gas and Oil, on behalf of others, for Arnold Bailey appealing the Decision of the Director,
7 issued on August 21, 2018, for Informal Fact Finding Hearing Number 1007. All parties wishing
8 to testify on this appeal, please come forward. Good morning gentlemen.

9 **Sarah Gilmer:** Mr. Reeves and Mr. Akers, do you swear and affirm that your testimony is the
10 truth, the whole truth, and nothing but the truth?

11 **Chuck Akers:** I do.

12 **Larry Reeves:** I do.

13 **Sarah Gilmer:** I'm sorry. I don't know your name. What is your name?

14 **David Church:** David Church.

15 **Sarah Gilmer:** Mr. Church and Mr. Bailey, do you swear and affirm that your testimony is the
16 truth, the whole truth, and nothing but the truth?

17 **Arnold Bailey:** I'll affirm. I don't swear. It's against my religious convictions to swear.

18 **David Church:** I do.

19 **Paul Kugelman:** You'll affirm that you'll tell the truth today, sir?

20 **Arnold Bailey:** Sir?

21 **Paul Kugelman:** You will affirm that you'll tell the truth, today, sir?

22 **Arnold Bailey:** Yes.

23 **Paul Kugelman:** Okay. Thank you.

24 **Arnold Bailey:** I'll affirm that, now.

25 **Paul Kugelman:** I appreciate it. I just wanted to make it clear. Thank you.

26 **Arnold Bailey:** How do you pronounce your name?

27 **Paul Kugelman:** Kugelman.

1 **Bradley Lambert:** Okay. Gentlemen, I would like to remind you that, before this Board, we can
2 only hear the testimony that you gave at the Informal Fact Finding. We can't accept any new
3 testimony, or any new evidence that you may wish to present. Is that understood? Mr. Cooper,
4 would you kind of give us some background history?

5 **Rick Cooper:** I would. So, originally, this permit was permitted in 2015 and it was renewed in
6 2017. Then, in May 2018, they did a modification to notify some new findings. They found some
7 new people to notice, Mr. Bailey being one of those. We had the hearing on July 31 of last year
8 and I sent the decision out and it was appealed to the next Board hearing. Then, Mr. Bailey had
9 some sickness that he could not appear. That's where we are, today. So, he objected that the
10 operations plan for the sediment erosion control was not adequate, or not effective and measures
11 in addition to the requirement of the wells water protection string are not adequate. Location of
12 the coalbed methane pipeline would unreasonably infringe on the use of the property. Going
13 through the permit, I see nothing wrong with the sediment erosion control. There's no unusual
14 circumstances. There's no red zones. For you all that don't know what red zones are, it's things
15 that we, as a regulatory agency, define of any safety factors for citizens or anybody in the area.
16 So, we have no red zones. So, I saw nothing wrong with the sediment erosion control. As far as
17 the water protection string, the company is going to set a minimum 300 feet of 7-inch casing.
18 They'll cement that to the surface, a minimum of 2,629 feet of 4.5-inch casing to the surface.
19 There is no water wells within 1,320 feet of the well. We will require the company to do an
20 analysis of that and submit that. So, I saw no problem with that. I saw no evidence that presented
21 an alternative use of the property. I guess if it is a deed or title issue, that's something that has to
22 be contested in circuit court. So, I made the decision to approve the modification.

23 **Bradley Lambert:** Thank you. Any questions of Rick, before we continue?

24 **Bruce Prather:** Rick, have any of the water wells in the area had any pollution?

25 **Rick Cooper:** No, they have not. Within a quarter of a mile, there's not any. We've had no
26 degradation or pollution in any of the wells in that general area. No, sir, we have not.

27 **Bradley Lambert:** Any others? [No response] Mr. Bailey, I'll turn it over to you, to present
28 your case, please.

29 **Arnold Bailey:** First of all, I would like to say that I have never received a copy of this permit
30 package. I never received one. I've never been offered one. His Fact Finding is incorrect in
31 several areas of it, of what was discussed. It's ambiguous towards the gas company. It's negative
32 to me. Also, they used my words. I can't control what the postal service does, or don't. I said I
33 didn't pick up one card, concerning this well. That was one that they sent me and they called me
34 and told me, which I appreciate that. They called me and told me when it would be, so I didn't go
35 pick that one up. They took that and construed it as I refused to pick it up and I did not, sir. Now,
36 we'll go to this, right here. The operation of soil and erosion control is not active, or effective. It's
37 not because they go in there and they run dozers and things. When they unload them on the

1 ground, they shake them. Dirt and stuff goes off the tram. They cut new roads. They disturb the
2 surface. They use our timber and stuff to try to make their wind breaks, or whatever. In doing
3 this, they bring other pollutants from other properties and things. It's so close on the lines, there.
4 Of course, they don't have an accurate survey of the property lines. They've got one little square
5 there. They go up and drive a stake in the ground. The engineer, do this and do that. That's not a
6 proper certified survey of the property and the division lines. They're in and out, on that. They
7 destroy timbers, corners. A lot of the trees and things are listed as property lines. When they
8 destroy these things, you don't have them anymore. They can't put them back because they don't
9 take time. I'll try to stick to the.... Also, in the Fact Finding, they keep saying I'm just a land
10 owner. I contend, today, and I firmly believe that I own the coal, oil and gas.

11 **Tim Scott:** Object.

12 **Arnold Bailey:** I'm speaking. I am speaking, sir.

13 **Bradley Lambert:** He can object.

14 **Arnold Bailey:** He can object all he wants to, but I'm speaking. I'm sorry.

15 **Bradley Lambert:** I understand...

16 **Arnold Bailey:** I object to him.

17 **Bradley Lambert:** Wait a minute, Mr. Bailey. This is a formal proceeding. We are not going to
18 go forward and let you and Mr. Scott argue back and forth. You're telling your story to this
19 Board and we're to make a decision, one way or the other. We've got to hear the evidence. He
20 has the right to object. I can allow him and his objection to stand, or I can let you two continue.
21 For this instance, Mr. Scott, I understand where he's going and I understand your objection, but
22 let's let him talk.

23 **Arnold Bailey:** I have a right to state my opinion.

24 **Tim Scott:** Just note the objection, Mr. Chairman.

25 **Bradley Lambert:** Go ahead.

26 **Arnold Bailey:** Okay. What they say about protecting the water--their analysis of what springs.
27 Potable water is water that you can drink and is incorrect. They've not walked the property, so
28 they say, to determine where the wells and things in the vicinity and what they're saying is
29 untrue. I've been on the property. I own it. Where they're saying there's no wells, no springs, or
30 nothing, is incorrect. They say they've not been on the property and they've not walked it.

31 **Bradley Lambert:** Mr. Bailey, you are taking exception, that there is a well adjacent to their
32 proposed well. How far is that well? In your opinion, how far is a well drilled that they haven't
33 referenced, or that Mr. Cooper hasn't mentioned that they...?

1 **Arnold Bailey:** Approximately.... I'm going to say 1,800 foot from where they propose to put
2 this well down. They say they ain't been on the property, so therefore, they can't examine it. Mr.
3 Reeves, here, made that statement.

4 **Bradley Lambert:** May I stop you, right there. Just a minute. Mr. Cooper, is one of those
5 wells...?

6 **Rick Cooper:** So, our regulations require that they sample anything 1,320 feet within the area.
7 That would be outside the parameters that's the requirements that they would have to check.

8 **Bradley Lambert:** Okay. Thank you. Go ahead, Mr. Bailey.

9 **Arnold Bailey:** There is no public water to replace what they destroy on this property. Also,
10 where they're proposing to put this well, they could put it, easily, off. They're trying to split the
11 property line, yet they don't have a true, real, accurate boundary survey.

12 **Bradley Lambert:** Mr. Bailey, from the information in the package that we have, it appears to
13 me and I'll ask Mr. Cooper to verify. I believe the well is on Highlands property. Is that correct?

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

15 **Arnold Bailey:** Every bit of it?

16 **Bradley Lambert:** The well...yes, sir. It's being drilled on...

17 **Arnold Bailey:** That's not what they're proposing. There, again, Mr. Chairman, I do not have a
18 copy of the permit package, for this particular well. The information that I'm going by is stuff
19 where the gas companies have got on my other properties. I'm not trying to vary away from what
20 we've talked about. Sent me packets and things and force pooled me. I never got a penny of
21 money out of these things, but I'm going to try to stick with the program. Okay? I'm going to try
22 the best I can. What you've got to understand, this is personal to me. I know to you all it's just the
23 Board. I understand that. To them, it's just a gas company doing what they usually do. So, either
24 way.... Anyway, what they do is they put it where their little hand-drawn map is, it will be on. It
25 says part of it will be on us. I own one-third, undivided interest in this property. Okay? So, my
26 interest could be anywhere. If they're going to put it and, also, the pipeline. They sent a little
27 hand-drawn thing. It's not accurate. The pipeline they say they're going to survey it, afterwards.
28 How can you do it, if you don't know whose property you're surveying. You've got two different
29 properties. It's not a true survey. I don't care what they say. Anyway, they're taking property. I
30 bought this property to have somewhere that I could go deer hunting, fishing...not fishing. I'm
31 sorry. Deer hunting, squirrel hunting, whatever I wanted to do...even ginseng. But, they're
32 destroying properties, depriving people and even the animals. They're depriving, they're
33 upsetting squirrels, everything in the book, where their normal habitats is, where these wells and
34 things. Not only that, there's no provisions in here to take care of the coal. I contend that I own
35 the coal. There's no provisions in there.

1 **Bradley Lambert:** Wait. Mr. Bailey, this Board can't address any issues of ownership. Again, I
2 think Mr. Cooper pointed out, in his Informal Fact Finding and we'll have to reiterate what he
3 says. We can't adjudicate property rights or mineral rights. That's a civil matter you have to take
4 up with the court.

5 **Arnold Bailey:** I understand that, sir. I understand that. Still, in this Board giving them a permit,
6 then you are a part of it, saying that they own it. That's going in and tearing everything all to
7 pieces. If they don't have a permit, they can't go in. They should not have a permit until this thing
8 is settled, legally. I intend to pursue it, sir.

9 **Bradley Lambert:** That's your right.

10 **Arnold Bailey:** Also, would it be out of question for me to ask for a list of everybody here,
11 everybody on the Board, your names, individual addresses? I have to give mine and each one of
12 these fellows. I intend to pursue it.

13 **Bradley Lambert:** You're welcome to that information.

14 **Arnold Bailey:** No doubt I'll lose, today. There's no question about it. It's sad for Southwest
15 Virginia. I'm trying to leave this State. I was born and raised here and I just got to the point with
16 all this stuff, I don't like it. It's sad that a man can't have a piece of property without people just
17 coming up and boring it out and not fairly dealing with you. This gentleman called me at my
18 house, out of the blue, started in on me. I have a sick wife. I'm not well, myself. Started in on me,
19 "We're going to put a well on your property. I want to know who all else owns it." I said, "How
20 did you get my number?" "I Googled it." I said, "Google the rest of them." I informed them to
21 stay off of it until this thing is settled. I intend to pursue legal matters. I'm not going to quit.

22 **Bradley Lambert:** You have that right.

23 **Arnold Bailey:** I understand that, sir.

24 **Bradley Lambert:** Any questions of Mr. Bailey, from the Board?

25 **Arnold Bailey:** I could go on and on about his Fact Finding thing. Mr. Cooper did not give a
26 true Fact-Finding. I'll look him in the face and tell him he didn't.

27 **Bradley Lambert:** Mr. Church, do you have anything to add to this hearing?

28 **David Church:** Yes. Mr. Cooper. Is that correct?

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

30 **David Church:** Okay. Did you ever find out about the fracking we talked about?

31 **Rick Cooper:** The fracturing?

1 **David Church:** Yes.

2 **Rick Cooper:** The well will be, hydraulically fractured, yes.

3 **David Church:** Now, did you check about the damage that it will do to the coal, about deep
4 mining? It will destroy the coal.

5 **Bradley Lambert:** Mr. Church, I've got to stop you. That's not part of this hearing. We don't
6 need to hear that. It's not part of the evidence that we have before us.

7 **David Church:** That's why I was asking did he have any evidence of it.

8 **Bradley Lambert:** I understand, but that's not part of what's before this Board, for our hearing.

9 **Arnold Bailey:** Mr. Lambert, I want to say this thing. I'm going to try to adhere to this, as close
10 as I can. My house is busted all to pieces, over some wells. Not far from my house, it busted all
11 to pieces. You cannot deal with these people. They won't deal with you. I can sit down and deal
12 with somebody and do it right, but it busted my house all to pieces. Now, I'm sitting over there
13 with a house and it busted all to pieces.

14 **Tim Scott:** Mr. Lambert, this is not relevant.

15 **Arnold Bailey:** I'm going to pursue that, too. I object to you, sir.

16 **Bradley Lambert:** Thank you, Mr. Bailey. Mr. Scott, we'll hear from you.

17 **Tim Scott:** Yes, sir. Mr. Akers, please for the record, your name, by whom you're employed,
18 and your job description.

19 **Arnold Bailey:** Speak up. I can't hear you.

20 **Chuck Akers:** He was just asking my name, Mr. Bailey. It's Charles Akers. I'm Director of
21 Land at EnerVest Operating. I work in Abingdon, Virginia.

22 **Tim Scott:** And, you participated in the preparation of this permit application. Is that right?

23 **Chuck Akers:** Yes, sir. I did.

24 **Tim Scott:** And, you had previously testified in front of Mr. Cooper, your water protection and
25 sediment control plan. Is that in compliance with statute?

26 **Chuck Akers:** Yes, that is correct.

27 **Tim Scott:** And, that has been approved before. Is that correct?

28 **Chuck Akers:** Yes, it is typical of our oil and gas operations.

1 **Tim Scott:** What's your water protection? Mr. Cooper said he would like for you to go on the
2 record.

3 **Chuck Akers:** We're planning to set it at 300 feet of depth.

4 **Tim Scott:** What type of casing do you use?

5 **Chuck Akers:** We'll be setting 7-inch casing, at a depth of 300 feet.

6 **Tim Scott:** Okay. Then, there has been some question about the type of surveying that was
7 done. Was the plat...

8 **Arnold Bailey:** I object.

9 **Tim Scott:** Was the plat in compliance with regulations, Mr. Akers?

10 **Chuck Akers:** Yes, the plat was in compliance with regulations. Yes.

11 **Arnold Bailey:** I object to that.

12 **Tim Scott:** What's the area of disturbance?

13 **Bradley Lambert:** Mr. Arnold, I let you go ahead and continue, while he was objecting and let
14 you continue, so let's let him continue.

15 **Arnold Bailey:** Okay. Would you please note my two objections?

16 **Bradley Lambert:** Yes, sir. Noted.

17 **Chuck Akers:** According to our calculations, the proposed disturbance on Mr. Bailey's surface
18 is .2 acres.

19 **Tim Scott:** Okay. That's all I have for Mr. Akers.

20 **Arnold Bailey:** I object to that.

21 **Bradley Lambert:** Noted. As far as your water protections string, is that 300 feet below the
22 lowest-producing water zone, or 300 feet from the surface?

23 **Chuck Akers:** 300 feet from the surface.

24 **Bradley Lambert:** Okay. Thank you. Any questions from the Board?

25 **Bruce Prather:** Is this well down a drainage?

26 **Larry Reeves:** No, it's on top of the ridge.

27 **Arnold Bailey:** Mr. Lambert.

1 **Bradley Lambert:** I'm going to come back to you, Mr. Bailey. Hold on. Any other questions
2 from the Board?

3 **Bruce Prather:** Would water wells be down a drainage? Would that be where the potable water
4 wells are?

5 **Chuck Akers:** Yes, if there was any. There's no wells, or any...

6 **Bruce Prather:** If the well is drilled above the drainage, you're not going through the same
7 formation. You're not going through the same water zones.

8 **Rick Cooper:** So, I would point out, Mr. Prather, that they also run 2,600 feet of casing.

9 **Bruce Prather:** And they cement it back to the surface.

10 **Rick Cooper:** They cement it back to the surface, on these. They do. Yes.

11 **Bruce Prather:** I mean, most of the water wells in the Appalachian area are down a drainage,
12 where you've got so little bit of grass and of gravel and stuff. That's where you get.... That's
13 where most of the houses are and that's where most of the wells are drilled, is down at the
14 drainage of these valleys. Consequently, if you're drilling up on top of a mountain, you probably
15 will never intersect the water zones down at drainage. I mean, if you're drilling down at drainage
16 and going through their water zone, then you've got a problem. You know, you've got to protect
17 it.

18 **Arnold Bailey:** I object.

19 **Bradley Lambert:** Noted. No, sir. Mr. Prather has not completed, yet.

20 **Arnold Bailey:** I'm sorry.

21 **Bruce Prather:** This is the way it is.

22 **Larry Reeves:** That's part of our survey. We do a lot of survey work in the prescribed radius.
23 We check to see if there's any surface water, any springs, any wells, any public use in the area.
24 That's part of our survey. If we would discover something, then we would adjust our spacing
25 plan.

26 **Bradley Lambert:** Mr. Akers, what was the closest well that you identified in your survey?

27 **Chuck Akers:** The closest residence that we could find was further than 2,500 feet away.

28 **Bradley Lambert:** The closest residence, but Mr. Bailey testified that there is a well 1,800 feet.
29 You didn't survey out that far. Correct? No need to because you are well within the area. Any
30 other questions for Mr. Scott or his witnesses, from the Board? [No response] Okay, Mr. Bailey.
31 We'll come back to you.

1 **Arnold Bailey:** Okay. First of all, their protection of the water, how can they prove that this
2 works? Concrete busts. How can they prove that this protection works? Has anybody ever been
3 down in there to see?

4 **Bradley Lambert:** Mr. Akers, would you like to address that?

5 **Chuck Akers:** Yes, sir. We will do a bond survey of the well, to make sure that we have
6 adequate cement all the way to the surface.

7 **David Church:** Can I answer something?

8 **Bradley Lambert:** Could you explain... Sorry, sir.

9 **David Church:** That's all right.

10 **Bradley Lambert:** Could you explain how that bond survey works?

11 **Chuck Akers:** Generally. It's not my expertise in my job. Once we've cemented the surface and
12 we give it adequate time to cure, we'll go back in and run a tool that can detect, from top to
13 bottom, can detect any voids or omissions between the wall of the hole and the casing. It can
14 detect those.

15 **Bradley Lambert:** Now, Mr. Church, do you have something?

16 **David Church:** What Mr....How do you pronounce your name right?

17 **Bruce Prather:** My name is Bruce Prather.

18 **David Church:** Prather. I'm sorry. As he was talking about the water. If the well's up here and
19 the water seam's down here, it shouldn't mess with it, but the fracturing. How far does that
20 travel? When you fracture that, it travels along the line of the rocks and stuff and it fractures it
21 miles away.

22 **Bradley Lambert:** Mr. Akers just explained how their cementing works and they run a tool.

23 **David Church:** Do they run the cement for miles, when they fracture it?

24 **Bradley Lambert:** That's not part of the process. Again, Mr. Church, I hate to keep cutting you
25 off, but that's not part of the hearing. I'm sorry.

26 **David Church:** Well, I know that, sir.

27 **Bradley Lambert:** You're talking about coal seam. That's not part of this hearing.

28 **David Church:** Me and him, we've talked about it.

1 **Bradley Lambert:** I'm sure you have, but I've got to keep coming back to you. Coal seam
2 fracturing is not part of this hearing and we're just not going to hear it.

3 **David Church:** When are we going to make it?

4 **Bradley Lambert:** Whenever you want to. If you have an objection of a well, then bring it
5 back, but that's not part of this hearing. I'm sorry. Mr. Bailey, do you have something else?

6 **Arnold Bailey:** You've cut me off two or three times, here, sir. I wanted to address their
7 statements about different things. I understand you think I'm a crack pot, or...

8 **Bradley Lambert:** No, sir. I do not. We're just hearing the evidence.

9 **Arnold Bailey:** That's all right. Now, I want to gather my thoughts. It's hard to do, but anyway,
10 I want to go back. Mr. Reeves, here, testified they hadn't been on the property at the Fact Finding
11 Hearing. Now, how did they go over the property and determine they weren't no water springs,
12 or no water, on it? He testified that they hadn't been on the property at no time. Did you not
13 testify that in the Fact Finding? You sure did. It's not in this. He testified that...

14 **Bradley Lambert:** Gentlemen, Mr. Church, we're going to stop this. If you keep interrupting
15 and talking to him and not to us, we're going to quit and you'll lose your case. We've got to be
16 able to understand both sides and hear both sides. I apologize for saying that, but we have to
17 make a decision.

18 **David Church:** I apologize to you, sir. It's just that he said he didn't.

19 **Arnold Bailey:** Can I continue, now?

20 **Bradley Lambert:** Yes, sir. If you can ask Mr. Church to please be quiet and let you continue.

21 **Arnold Bailey:** I believe he will. Their checking of the water, around and about, he testified in
22 the Fact Finding that he had not been on the property. I notified them to stay off. Anyway, let
23 me.... That's incorrect. Then, too, how do they know? How did they do a little square survey, if
24 they didn't get on the property? It shows to be on it. Now, if they didn't get on it, then their field
25 survey is wrong. Once again, I know I'm coming back to the survey, but surveys are most
26 important, you know. They claim they're going to come back and survey where they're going to
27 put the pipeline and they're building the road. No doubt, they've done built the road. I've not been
28 up there, but I'm heading there. I've been sick. I'm going to head up there. Excuse me. But,
29 anyway, I know you're getting bored by me.

30 **Bradley Lambert:** No, sir.

31 **Arnold Bailey:** I'm trying to address these items the best I can. Anyway, I still say no doubt
32 what they say they think is safe, but it's not. Protect our water, you know. Good, potable water. I
33 think every one of you know what potable water is. That's drinking water that you can drink,

1 without having to be purified, or whatever. So, there again, even just getting up there and drilling
2 this well is going to disturb a lot of land. Once again, I would like to have a copy of that
3 particular well site. I've never been offered one. Now, I reiterate, one more time, sir. If they sent
4 cards for me to pick it up, I did not receive them. Now, my intention in the Fact Finding Hearing
5 was to explain and tell the truth that I did not pick up one and I don't have it. I think Mr. Cooper
6 asked her had they got the card back, during the Fact Finding. You said, "No." I mean, you said,
7 "No." You had, or you hadn't? You didn't know, at that time. I'm sorry. Anyway, I mean to talk
8 to you, sir. I'm sorry. Anyway, I explained the reason I didn't pick that one up was simply
9 because Ms. Fields had called and told me when the hearing was. Okay? So, I see no need going
10 over there and picking that up, if that was all it was and I appeared that day, sir. So, there again, I
11 have not avoided. I can't help what the postal system does, or don't do, if stuff is sent out. I hope
12 that's the end of that. I hope that settles that. I would still like to have a copy of it. I really would,
13 today.

14 **Bradley Lambert:** Mr. Cooper, do we have a...?

15 **Rick Cooper:** I believe the day of the hearing I gave him a copy of that, but I would be glad to
16 give him another copy. It's not a problem.

17 **Arnold Bailey:** I object to that.

18 **Rick Cooper:** Pardon.

19 **Bradley Lambert:** The certified receipt return.

20 **Rick Cooper:** We can give him a copy of the certified receipt.

21 **Bradley Lambert:** No, that he did receive it.

22 **Rick Cooper:** Go ahead, Ms. Ketron.

23 **Sally Ketron:** The United States Postal Service says that it was unclaimed, that he received
24 notice and it was unclaimed. Then, it was then returned back to EnerVest.

25 **Arnold Bailey:** Which one?

26 **Sally Ketron:** I can show that. For the modification.

27 **Arnold Bailey:** I'm talking about the permit package, I guess, Ms. Ketron. The well permit
28 package.

29 **Bradley Lambert:** Did you receive a copy of the modification that we're hearing, today?

30 **Arnold Bailey:** Yes. I picked it up.

31 **Bradley Lambert:** Okay.

1 **Arnold Bailey:** If there's any doubt what I'm saying, please ask me again, to explain it to you. I
2 did not receive a copy of this permit application package. I've got a ton of them things laying
3 over there in my house. I didn't try to go forward, but I have not received one, as of today. I
4 haven't had time to study this thing. They did not offer me. Mr. Cooper, you all did not offer me
5 a copy. I'm sorry. I should address you all. They did not offer me (neither did the gas company) a
6 copy of this permit, particular 87, permit package...in person, or mail. I can't pick something up
7 if I don't have it.

8 **Paul Kugelman:** Mr. Cooper, when was the original permit issued?

9 **Rick Cooper:** The original permit was issued in 2015. They did not construct it. They renewed
10 it in 2017, did not construct it. Then, upon prior to construction, they found a couple of people
11 they had not noticed and they did the modification to notice the people and that's how Mr. Bailey
12 got involved. They sent the application and the modification to Mr. Bailey.

13 **Paul Kugelman:** Is there anything in the modification that's not in the prior applications?

14 **Rick Cooper:** No.

15 **Paul Kugelman:** Thank you.

16 **Bradley Lambert:** The modification contains all the information that's in the permit.

17 **Rick Cooper:** Correct.

18 **Arnold Bailey:** Mr. Lambert, one of my objections to this was they run an application for this
19 well in a newspaper. That wasn't properly addressed in the Fact Finding. They run a permit and
20 didn't give the specific land, or the specific people that they was putting this on.

21 **Bradley Lambert:** Mr. Bailey, are you talking about the...?

22 **Arnold Bailey:** 87 well we're discussing, now.

23 **Bradley Lambert:** The permit, or this modification?

24 **Arnold Bailey:** Permit. Period. That's where I noticed it, where they was running it in the paper.
25 That's when I filed an objection.

26 **Bradley Lambert:** Would that have been, Mr. Cooper, the modification that we're here about,
27 today, or the original permit?

28 **Rick Cooper:** So, I'm not sure what Mr. Bailey.

29 **Bradley Lambert:** I'm not either. I'm confused.

30 **Rick Cooper:** I'm not sure.

1 **Arnold Bailey:** I'll explain it to you one more time.

2 **Paul Kugelman:** Let's let him clear it up, sir. Nobody's cutting you off, but we need to be able
3 to hear from other people to get there.

4 **Arnold Bailey:** All right. Okay.

5 **Paul Kugelman:** We want to understand your side.

6 **Rick Cooper:** So, Mr. Bailey was notified that there was a modification of this particular well
7 and he received, according to the Postal Service, the package was mailed to the Post Office, but
8 it was not picked up. It was returned back to EnerVest. So, I'm not sure what the question is, to
9 be honest.

10 **Bradley Lambert:** Can we go back and look at the original permit and see if that was picked
11 up?

12 **Rick Cooper:** So, it probably wouldn't because the modification noticed him because they had
13 left him off the original permit. The permit hasn't been built or drilled. The modification was
14 correcting that deficiency.

15 **Bradley Lambert:** Okay. Gotcha. Now, I think I understand better, now.

16 **Arnold Bailey:** Mr. Lambert, if I didn't receive a slip, card, whatever, from the Postal Service,
17 to pick this last whatever they call that... a modification, or whatever they call it...how could I
18 know to go pick it up? That's what I'm saying. I don't know what he's calling modification. I
19 don't know what he's saying, but I don't have it. You can't go to the Post Office and pick up
20 something that the Postal Service don't deliver. That's what I'm trying to say. Once again...

21 **Bradley Lambert:** I'm trying to understand. Let me ask you one other question. If you didn't
22 receive notification of this, what we're here, today, then you must have picked up the notice of
23 the hearing that we're having, today, or the Informal Fact Finding.

24 **Arnold Bailey:** Once again, sir, I've got the newspaper at the house. I'll get it. I'll be glad to mail
25 you a copy of it. The way that I become aware that they was going to run a ad in the paper, the
26 local paper, that they was getting a permit, trying to get a permit to put Well Number 87 down in
27 that general area. Okay? They didn't list no landowners. They used a great big, long thing where
28 they come by, years ago. I don't know. Maybe I don't speak plain. I'm sorry, sir. Once again, that
29 was one of my objections to this. In the Fact Finding, it was not addressed. What I'd said about
30 not picking it up was twisted around. Once again, do you understand what I'm saying?

31 **Bradley Lambert:** Yes, I do.

32 **Arnold Bailey:** If I send you a certified letter, okay...

1 **Bradley Lambert:** That's what we're trying to get to.

2 **Arnold Bailey:** And you don't get a thing from the Postal Service to pick it up, how would you
3 know to go get it?

4 **Paul Kugelman:** I understand, sir. Can I ask you a question? You said that you got a copy of
5 the well permit modification.

6 **Arnold Bailey:** Now, what is a well permit modification?

7 **Paul Kugelman:** Earlier, you testified that you had received it.

8 **Arnold Bailey:** This is what I picked up from the Post Office. Does that look like a permit
9 application? I don't know what you're talking about.

10 **Paul Kugelman:** I don't know, sir. I don't know what's in there.

11 **Arnold Bailey:** I don't know what you're calling a modification. I'm done, then, okay.

12 **Paul Kugelman:** Mr. Cooper, when did you give Mr. Bailey the permit application?

13 **Rick Cooper:** The day that we had the hearing, he had the same issue and I gave him a copy of
14 it, at that time.

15 **Paul Kugelman:** Did he ask for a continuance, at the Informal, to review the application?

16 **Rick Cooper:** He did not.

17 **Arnold Bailey:** Mr. Cooper is telling false. I did not get a copy of that big old permit
18 application.

19 **Paul Kugelman:** How do you know how big it is, sir, if you've never seen it?

20 **Arnold Bailey:** Hey. I've got other ones at my house that I've picked up in the past.

21 **Paul Kugelman:** So, based on prior experience, you know that that could not be the application.

22 **Arnold Bailey:** Amen.

23 **Paul Kugelman:** Are you willing to let us look at what you have?

24 **Arnold Bailey:** Yes, I don't care. See whatever you want to see.

25 **Paul Kugelman:** I just want to look at it.

26 **Bradley Lambert:** While Mr. Kugelman's looking at that, let me come back to Mr. Scott and
27 Mr. Reeves. In reading the testimony from the Informal Fact Finding, Mr. Reeves, you testified

1 that the pipeline would not be on his property. Is that correct? But, you did testify that the road
2 would be in and out.

3 **Larry Reeves:** The road is very close to the property line.

4 **Bradley Lambert:** Did you not say the road was going in and out?

5 **Larry Reeves:** Yes.

6 **Bradley Lambert:** Okay. With that being the case, and if I'm looking at the survey, or the plat,
7 and it shows one property ownership one, two, and three, but it doesn't show four, as him being a
8 surface owner, where the road is going in and out on his surface. Why was that left out?

9 **Larry Reeves:** The tract identification that's attached with the plat just has the mineral tracts
10 listed. It doesn't have per se the individual surface owners listed. It's just the three mineral tracts
11 within which that well unit is going to be producing.

12 **Arnold Bailey:** Mr. Lambert, may I approach the Board with this?

13 **Larry Reeves:** Property ownership is shown on the plat...just on the plat.

14 **Arnold Bailey:** I'll show you this, right here, by regular mail.

15 **Bradley Lambert:** We have a copy of that.

16 **Arnold Bailey:** Okay.

17 **Larry Reeves:** Did that answer your question?

18 **Bradley Lambert:** Yes, it did. Thank you. Let me just clarify. Looking at the map, it's really,
19 really close, but the well is not on Mr. Bailey.

20 **Chuck Akers:** Yes. Correct.

21 **Bradley Lambert:** If you're looking at it, it's...

22 **Chuck Akers:** It's on the adjacent property. Yes.

23 **Bradley Lambert:** Pretty close to the line.

24 **Chuck Akers:** There's some disturbance on Mr. Bailey, however, though.

25 **Arnold Bailey:** Did the Board members see this? The other Board members?

26 **Bradley Lambert:** We have.

27 **Chuck Akers:** For the road and part of the well site location construction.

1 **Bradley Lambert:** Part of it will be on Mr. Bailey. How much of it would you estimate?

2 **Chuck Akers:** The surveyors put together and exhibit for us and we're showing, roughly, .2
3 acres.

4 **Bradley Lambert:** .2, just for the well site. Not including the road that meanders?

5 **Chuck Akers:** Road disturbance included.

6 **Bradley Lambert:** Road disturbance included. Okay. Thank you.

7 **Chuck Akers:** That exhibit is not included in that.

8 **Bradley Lambert:** Okay.

9 **Arnold Bailey:** Mr. Lambert, that survey is not a true, accurate field survey.

10 **Bradley Lambert:** Okay, Mr. Bailey. You made that statement. I'm going to have to ask you do
11 you have a true and accurate survey?

12 **Arnold Bailey:** Do I have one?

13 **Bradley Lambert:** Yes, sir.

14 **Arnold Bailey:** Yes, sir.

15 **Bradley Lambert:** Do you have it with you?

16 **Arnold Bailey:** No, sir. But, they show me one and I'll show them mine.

17 **Bradley Lambert:** That's what we're going by.

18 **Arnold Bailey:** That's not. Sir, that is not a survey of all this right here. The road and all that
19 stuff is not. They haven't surveyed it.

20 **Paul Kugelman:** Mr. Bailey, did you tender your survey, during the Informal Fact Finding?

21 **Arnold Bailey:** No, sir. They didn't theirs, neither.

22 **Bradley Lambert:** Yes, they have, sir.

23 **Arnold Bailey:** A certified survey? Where?

24 **Bradley Lambert:** We have it.

25 **Arnold Bailey:** What is that? One little square, there? I can go drive a stake down.

26 **Bradley Lambert:** No, sir. It's one entire unit that they have surveyed the unit and they have
27 surveyed the surface owners of the properties.

1 **Arnold Bailey:** Where's that at?

2 **Bradley Lambert:** It's in the permit package.

3 **Arnold Bailey:** Once again, I don't have that permit package, sir.

4 **Bradley Lambert:** But, if you're contending that their survey is wrong, by looking at whatever
5 map.

6 **Arnold Bailey:** According to this.

7 **Bradley Lambert:** Okay. You made that contention. Now, you're saying that that's wrong. You
8 have a true and accurate survey. We can't make that call. This Board cannot make that call, on
9 property rights. I'm sorry. That's a civil matter.

10 **Arnold Bailey:** How can you all give them permission to go on my property and you can't
11 decide nothing?

12 **Bradley Lambert:** Because they have presented evidence that you have not.

13 **Arnold Bailey:** Have they presented the whole survey of this?

14 **Bradley Lambert:** Yes, sir, they have.

15 **Arnold Bailey:** Of the road and everything?

16 **Bradley Lambert:** Yes, sir, they have.

17 **Arnold Bailey:** I would like to see that.

18 **Bradley Lambert:** It's in the permit application.

19 **Arnold Bailey:** I do not have a copy of the permit application.

20 **Bradley Lambert:** Mr. Cooper has testified before this Board that he had furnished it.

21 **Arnold Bailey:** Mr. Cooper is falsely testifying, as well as some more of his Fact Finding
22 hearing.

23 **Bradley Lambert:** Do you stand by your testimony, Mr. Cooper?

24 **Rick Cooper:** Our records indicate the day of the hearing, Mr. Bailey said he did not give a
25 copy. At the end of that, I gave him a copy of the modification.

26 **Arnold Bailey:** Can I? Did not.

27 **David Church:** He did not.

1 **Bradley Lambert:** Was anyone with you, Mr. Cooper, when...?

2 **Rick Cooper:** I don't have any witnesses. No, sir. I do not.

3 **Bradley Lambert:** Any questions from the Board? [No response] Mr. Scott, do you have
4 records that you did provide a copy of the permit application, or modification?

5 **Tim Scott:** [Inaudible]

6 **Bradley Lambert:** But, you've seen it, but it was not picked up.

7 **Tim Scott:** Yes.

8 **Arnold Bailey:** Would he speak up, please? I can't hear him.

9 **Tim Scott:** I'm sorry, Mr. Bailey. It's right here, Mr. Chairman. Part of the package.

10 **Arnold Bailey:** I object.

11 **Tim Scott:** USPS tracking.

12 **Bradley Lambert:** Mr. Bailey, did you receive other documents from the company?

13 **Arnold Bailey:** By regular mail.

14 **Bradley Lambert:** By regular mail?

15 **Arnold Bailey:** That's what I'm showing you, right here.

16 **Bradley Lambert:** Can I ask why you refused to pick up that one?

17 **Arnold Bailey:** Because I was not furnished a slip, card, whatever you call it, from the Postal
18 Service. I can't help what they mailed out. I did not receive it. I could send stuff out to you and
19 you don't get nothing to go pick it up by. Is that your fault?

20 **Bradley Lambert:** No, sir.

21 **Arnold Bailey:** It ain't my fault on this, neither.

22 **Bradley Lambert:** Mr. Church.

23 **David Church:** I'd like to shed some light on this. Mr. Bailey lives in Tennessee part of the time
24 and Virginia part of the time and me or his sister picks up his mail. Maybe she picked it up and
25 didn't see it, didn't tell him, but that could be the possibility on that.

26 **Arnold Bailey:** Not aware of it and I still would like to have a copy today, here, in front of this
27 Board.

1 **Bradley Lambert:** We can take care of that. How long would it take you to do that, Mr.
2 Cooper?

3 **Rick Cooper:** We can print it off and it can be right off the printer.

4 **Bradley Lambert:** It's 10:00. Let's take a break, for about ten minutes. Would that be enough
5 time?

6 **Rick Cooper:** Yes.

7 **Arnold Bailey:** I'd like to request a continuance of this hearing until a later date, until I have
8 time to study this packet. I haven't had sufficient time, sir.

9 **Tim Scott:** Obviously, we object to that, Mr. Chairman.

10 **Arnold Bailey:** Speak up, sir. I'm sorry. I couldn't hear you.

11 **Tim Scott:** We object to any continuance.

12 **Paul Kugelman:** I'm going to try to help out.

13 **Arnold Bailey:** I object to his testimony, too.

14 **Bradley Lambert:** We're done with objections, folks. We're not going to have anymore.

15 **Paul Kugelman:** I would like to say, sir...

16 **Arnold Bailey:** Yes, sir. What did you say?

17 **Paul Kugelman:** I'm trying to speak.

18 **Arnold Bailey:** Go ahead.

19 **Paul Kugelman:** This is an appeal.

20 **Arnold Bailey:** Right.

21 **Paul Kugelman:** No new evidence is coming in, today. This is a review of what was already
22 tendered. I want to make sure I understand. You did not tender any kind of title work at the
23 Informal hearing. Is that correct?

24 **Arnold Bailey:** No, and neither did they.

25 **Paul Kugelman:** Sir, I'm not asking you to tell me what they did. I'm asking you to answer what
26 you did. Are we clear?

27 **Arnold Bailey:** Gotcha.

1 **Paul Kugelman:** Did you bring any title work to the Informal hearing?

2 **Arnold Bailey:** No, sir.

3 **Paul Kugelman:** Did you bring any survey work to the Informal hearing?

4 **Arnold Bailey:** No, sir. More than what they sent me, by regular mail.

5 **Paul Kugelman:** Okay.

6 **Arnold Bailey:** May I say something, please?

7 **Paul Kugelman:** Absolutely.

8 **Arnold Bailey:** Once again, sir...

9 **Paul Kugelman:** You don't need to repeat anything. We have heard you.

10 **Arnold Bailey:** I'm not here to argue with you, today. That's not my intention. It's not my
11 intention, today. Once again, I did not receive...

12 **Paul Kugelman:** Nobody's saying that you have, sir. Nobody is saying that you have.

13 **Arnold Bailey:** Mr. Cooper said I did.

14 **Paul Kugelman:** Excuse me. Nobody is contesting that you didn't receive the card.

15 **Arnold Bailey:** Okay.

16 **Paul Kugelman:** Nobody is saying that you didn't get it, by mail, except for the fact that there is
17 now a wrinkle because your sister and Mr. Church picked it up.

18 **Arnold Bailey:** My sister is dead. When that thing supposedly come out, she died.

19 **Paul Kugelman:** I apologize for your loss. I'm sorry for your loss. Who was picking up your
20 mail, at this time?

21 **Arnold Bailey:** Church, when I weren't there.

22 **Paul Kugelman:** Okay.

23 **Arnold Bailey:** Did you receive anything like that?

24 **David Church:** No, sir.

25 **Arnold Bailey:** Okay. I ain't...

26 **Paul Kugelman:** What I'm getting at.... It is my turn. It is my turn, Mr. Bailey.

1 **Arnold Bailey:** Go right ahead.

2 **Paul Kugelman:** And, then we're going to take a break. It's Mr. Kugelman. I'm the lawyer for
3 the Board.

4 **Arnold Bailey:** Okay.

5 **Paul Kugelman:** This is an appeal. There's no new evidence coming in. This is just looking at
6 what's already been looked at.

7 **Arnold Bailey:** All right.

8 **Paul Kugelman:** So, if you hadn't put a survey in, you hadn't put any title work in, you hadn't
9 put anything that suggests that you have mineral rights, that was the time to do it. Now is not that
10 time. I'm just trying to make sure you understand where we are. We're reviewing Mr. Cooper's
11 decision, based on the information that he had.

12 **Arnold Bailey:** May I say something?

13 **Paul Kugelman:** No, sir. You've had enough time. I'm just telling you.

14 **Arnold Bailey:** When I come to that Fact Finding, I thought it was a Board hearing.

15 **Paul Kugelman:** Okay. I'm just...

16 **Bradley Lambert:** Even so, Informal Fact Finding or the Board hearing, you should have had
17 those documents. We're going to take about a ten minute break, while we're getting a copy of that
18 permit application.

19 [Break]

20 **Bradley Lambert:** Mr Scott, I'm going to turn back to you, for one final time, before we raise
21 the issue for a vote. Do you have anything to add?

22 **Tim Scott:** No, your Honor.

23 **Bradley Lambert:** Thank you.

24 **Tim Scott:** We would ask that Mr. Cooper's decision be affirmed.

25 **Bradley Lambert:** Questions from the Board? Remaining questions from the Board?

26 **Arnold Bailey:** I couldn't hear him. I'm sorry.

27 **Tim Scott:** I'm just asking Mr. Chairman to affirm the decision of the Director.

1 **Bradley Lambert:** Any further questions from the Board? [No response] I'll remind the Board
2 that why we're here, today, is to review the decision from Mr. Cooper, the Director of the Gas
3 and Oil, and make a decision, based solely upon the information that was provided in the
4 Informal Fact Finding and the testimony that we've heard here, today.

5 **Arnold Bailey:** May I ask for a continuance, to give me time to look this over? I'm in receipt of
6 it, now, for the first time. I ask for a continuance of the Board, until a later date.

7 **Paul Kugelman:** Practically speaking, in this moment, it makes no difference because it wasn't
8 anything that was introduced, or couldn't have been introduced at the hearing. You're just
9 reviewing what's already been provided. The Board has a couple of options, here. I just need to
10 cover the waterfront, Mr. Scott.

11 **Tim Scott:** Yes, sir.

12 **Paul Kugelman:** The Board could affirm Mr. Cooper's decision. It can reverse Mr. Cooper's
13 decision. It also has the option of remanding the matter to Mr. Cooper, for further consideration.
14 That's the range of options that the Board has.

15 **Bradley Lambert:** And, remanding it would be based upon allowing Mr. Bailey time to review
16 the application and come back before the Board. Is that correct?

17 **Paul Kugelman:** I believe, rather than me fully developing what it could be for, I think the
18 Board may want to hear from both parties, quickly, to see what would be considered on remand.
19 Mr. Cooper, as well. Yes, part of it could be give Mr. Bailey and Mr. Church time to review that
20 and come back. And, the Board could further limit the remand to the issues raised in the initial
21 objections, unless you can point to something in the application that brings something new to
22 light.

23 **Bradley Lambert:** So, Mr. Scott. I think Mr. Scott would be the right person. If we were to
24 remand it back and give Mr. Bailey another month to review, would there be anything new in
25 that application that wasn't brought up before this Board?

26 **Tim Scott:** No, sir. There would not.

27 **Bradley Lambert:** Mr. Cooper, in your opinion, would there be anything new, any new
28 evidence in the application, that wasn't brought up at the Informal Fact Finding, that could come
29 before this Board, as the result of an extension to allow Mr. Bailey time to review?

30 **Rick Cooper:** No, sir. It would be the same objections, with the same results.

31 **Bruce Prather:** Mr. Chairman.

32 **Bradley Lambert:** Mr. Prather.

1 **Bruce Prather:** Would any of your leases be affected by this extension?

2 **Chuck Akers:** No. We are the owner of the oil and gas under this tract.

3 **Arnold Bailey:** I am the owner of it.

4 **Bradley Lambert:** Anything further from the Board? [No response] At this time, I'll ask for a
5 motion to either affirm Mr. Cooper's decision, or to deny the decision, or to remand a decision
6 and allow Mr. Bailey additional time to review the permit modification.

7 **Donnie Rife:** Mr. Chairman, based on the information that we have in front of us, that's the only
8 thing that we can actually work off of. I would have to agree with Mr. Cooper, but in all fairness,
9 I would like to give Mr. Bailey the opportunity to look over this and come back in a month. I
10 don't think there's going to be any changes. There's not going to be any differences.

11 **Bradley Lambert:** Mr. Kugelman, let me ask this, before we ask for a second of your motion. If
12 we allow Mr. Bailey additional time to review the application, there are still only three things
13 that he can object to. Would anything in his review require, or allow, this Board to reconsider
14 new information raised?

15 **Paul Kugelman:** I've had some technical difficulties. If you can let me see the statute for the
16 review...

17 **Bradley Lambert:** I'm sorry.

18 **Paul Kugelman:** You're fine. Under Virginia law, 45.1-365.35, sub-section B, "the only
19 objections to permits or permit modifications that may be raised by surface owners are: (1) the
20 operation plan for soil erosion and sediment control is inadequate and not effective; (2) there are
21 not measures necessary to protect fresh water-bearing strata...." Where's three?

22 **Bradley Lambert:** Mr. Cooper mis-numbered them.

23 **Rick Cooper:** I did not mis-number three. He did not object to the safe operations. He only
24 objected to three of the four.

25 **Paul Kugelman:** Oh, I see. So, these are the objections that he raised in the Informal.

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

27 **Paul Kugelman:** Okay. So, "the location of the coalbed methane well would unreasonably
28 infringe..." It's my understanding, based on Mr. Bailey's own testimony, and Mr. Church's own
29 testimony.... I'm saying this is my recollection that they did not ask for any continuance of the
30 Informal.

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

1 **Paul Kugelman:** Is that right, sir? Mr. Bailey? It's a yes or no question, sir. Did you ask for a
2 continuance at the Informal Hearing?

3 **Arnold Bailey:** I don't recall, sir.

4 **Paul Kugelman:** Okay. Mr. Church, did you?

5 **David Church:** I didn't, actually.

6 **Paul Kugelman:** You didn't ask for one?

7 **David Church:** No.

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

9 **Arnold Bailey:** Mr. Lambert, when he's done, can I speak, please?

10 **Bradley Lambert:** Just a second, please.

11 **Paul Kugelman:** I mean, it's the Board's pleasure, as to how it wants to proceed. As I review the
12 objections that were made, from what I understand the record to be, there was no objection
13 interposed for the absence of receiving information, or a request for a continuance. A remand
14 may not be fruitful. It may not be an allocation of resources because, based on the objections,
15 there's no new information that, in my view.... That's for the Board to consider. In my view,
16 there's nothing here, in conjunction with the absence of a request for continuance for not having
17 information, there's no basis to send it back to give information. In my view, the Board would
18 make a well-founded decision, if it decided not to remand it because, based on the objections
19 posed and the absence of a request for a continuance that these are the only objections that Mr.
20 Cooper would have to consider on the remand. There's nothing here that's in the well permit
21 package. In other words, Mr. Bailey's objections rest on everything he was able to bring in the
22 hearing, in the first place.

23 **Arnold Bailey:** Sir, I can't pronounce your name.

24 **Paul Kugelman:** It's okay.

25 **Arnold Bailey:** May I say something? If all the objections are not in it, I have objected to his
26 Fact Finding and all the issues I objected to are not in there. Therefore, that's the reason I
27 appealed it because his Fact Finding is inaccurate. I asked for a copy of the tape, that day.
28 Instead, he sent me his Fact Finding decision. You all looked at it. So, by not allowing me a
29 month to go over this, you're denying me due process. That's all I've got to say.

30 **Paul Kugelman:** Mr. Bailey, I don't make any decisions. I'm the lawyer. I just advise the Board,
31 as to their options.

32 **Arnold Bailey:** I understand. You're advising them.

1 **Paul Kugelman:** Yes, sir.

2 **Arnold Bailey:** Not me.

3 **Paul Kugelman:** I can't.

4 **Arnold Bailey:** I don't want you to. Okay? That's what I told him.

5 **Paul Kugelman:** No love lost. I appreciate it.

6 **Bruce Prather:** Mr. Chairman, since this well's not drilled on his surface, doesn't that have a lot
7 to do with our decision because if the well's not on him, his surface is covered by another
8 mineral interest, which you people have. Since the well isn't drilled on him, there's a possibility
9 that you wouldn't even trespass on him. Is that a possibility?

10 **Chuck Akers:** I guess I wouldn't categorize it as a trespass.

11 **Bruce Prather:** I know, but I'm saying this is what he's saying, that you're trespassing on him.
12 Since the well's not drilled on him, is there any other way you can get into it, to get into your
13 well?

14 **Chuck Akers:** [Inaudible]

15 **Bruce Prather:** Okay.

16 **Tim Scott:** It's actually going to be on an old logging road that already exists, but it was going
17 to be enhanced. That was the reason for picking this location. That's reflected on the document
18 provided to the Board.

19 **Arnold Bailey:** I'm sorry. I can't hear. I don't understand. He needs to speak a little louder and
20 clearer, please.

21 **Tim Scott:** The reason for that particular location was an old logging road that was going to be
22 enhanced to minimize surface disturbance. It's already there.

23 **Bradley Lambert:** Okay. Let's get back. Mr. Rife has made a motion to...

24 **Arnold Bailey:** Sir, the old logging roads weren't there.

25 **Bradley Lambert:** No, sir. We're done with you all.

26 **Arnold Bailey:** Okay.

27 **Bradley Lambert:** I have a motion from Mr. Rife that we remand it and give Mr. Bailey 30
28 days to review the application, but as our attorney has pointed out that we're still going to be
29 looking at what information has been made available to us, in the Informal Fact Finding. So, we

1 won't be able to hear any new evidence, other than to allow Mr. Bailey to review the application.
2 That's the motion before us. Do I have a second?

3 **Mary Quillen:** Second.

4 **Bradley Lambert:** I have a motion and I have a second. All in favor signify by saying yes.

5 **Board:** Yes.

6 **Bradley Lambert:** All opposed, say no.

7 **Bradley Lambert:** No. Okay. Given the vote of the Board, we're going to remand this one and
8 give Mr. Bailey 30 days to review the permit application. We won't hear any new evidence when
9 we come back in, maybe, March, maybe, April. We'll come back in April. Mr. Bailey, I'm going
10 to remind you that we won't hear any new evidence, only what you provided in the Informal Fact
11 Finding hearing. Good luck.

12 **Tim Scott:** Mr. Chairman, this is not a remand.

13 **Bradley Lambert:** Continue. Yes. I'm sorry, Mr. Scott. You're correct.

14 **Arnold Bailey:** Can I ask a question?

15 **Bradley Lambert:** You've won, Mr. Bailey. I wouldn't go any further. I wouldn't continue, Mr.
16 Bailey. You won. Okay? We're done. Thank you, gentlemen. I appreciate it.

17 **Tim Scott:** Thank you.

18 **Arnold Bailey:** Appreciate it.

19 **Item Number 14**

20 **Mary Quillen:** We're still going to be just a little bit out of order with the items on the agenda.
21 We're going to go to Docket Item 14, on the agenda. A petition from EnerVest Operating, for an
22 exception to statewide spacing. Unit V-530555. Docket Number VGOB 19-0219-4200. All
23 those wishing to speak to this agenda item please come forward.

24 **Tim Scott:** Tim Scott, Gus Janson, Aaron Anderson for EnerVest Operating, LLC.

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

27 **Gus Janson:** I do.

28 **Aaron Anderson:** I do.

1 **Mary Quillen:** You may proceed.

2 **Tim Scott:** Thank you. Mr. Anderson, please state your name, by whom you're employed, and
3 your job description.

4 **Aaron Anderson:** I'm Aaron Anderson, employed by EnerVest Operating, LLC, as an
5 Associate Land Man.

6 **Tim Scott:** And you're familiar with this application. Is that correct?

7 **Aaron Anderson:** That's correct.

8 **Tim Scott:** You're also familiar with the ownership of the minerals in and underlying this unit.
9 Is that right?

10 **Aaron Anderson:** That's correct.

11 **Tim Scott:** And, who operates the well from which the location exception is sought, today?

12 **Aaron Anderson:** EnerVest Operating, LLC.

13 **Tim Scott:** I believe EnerVest is both an owner and a participant. Is that correct?

14 **Aaron Anderson:** That's correct.

15 **Tim Scott:** And, how was notice of this hearing provided to the parties listed on Exhibit B?

16 **Aaron Anderson:** By certified mail.

17 **Tim Scott:** And you provided proof of mailing to the Board. Is that correct?

18 **Aaron Anderson:** That's correct.

19 **Tim Scott:** That's all I have for Mr. Anderson. Mr. Janson, please state your name, by whom
20 you're employed, and your job description, please.

21 **Gus Janson:** My name is Gus Janson, employed by EnerVest Operating, LLC, as a Geology
22 Advisor.

23 **Tim Scott:** And, you participated in the preparation of this application. Is that right?

24 **Gus Janson:** I did.

25 **Tim Scott:** Would you please tell the Board why we're seeking a well location exception for this
26 well, today?

27 **Gus Janson:** Yes. If it's the Board's pleasure, this is a little bit unusual from our typical well
28 location exception. This is related to a Department of Energy test well that we are planning to

1 drill. If the Board would like some background on that, I would be willing to provide you a brief
2 background of that and then, go into the exception, if that's what you all would prefer.

3 **Mary Quillen:** That would be great. Thank you.

4 **Gus Janson:** So, back in 2017, EnerVest and Virginia Tech entered into a partnership, to seek a
5 funding opportunity that was offered by the Department of Energy. In January 2018, there was a
6 series of projects. Six projects received, approximately, \$30,000,000, cost shared research for
7 development of unconventional oil and natural gas recovery. This project was designed to
8 address critical gaps in our understanding of the reservoir behavior and also the well completion
9 strategies. These projects will all help us to master the oil and gas development of these type of
10 rising shale environments. We're targeting some of the older shales and different formations
11 outside of the Devonian shale, which has been typically developed here, in Virginia. So, all six
12 of these projects represent a critical component of DOE's portfolio. They're seeking to advance
13 the economic viability, environmentally-sound development of domestic unconventional oil and
14 gas resources. Some of the efforts that will be part of this project would be improving the
15 understanding of the processes involved in the resource development. We're going to be seeking
16 to advance technologies and engineering practices to insure these resources are developed
17 efficiently, with minimal environmental impact and risk. Also, a key goal is to increase the
18 supply of U.S. oil and natural resources, and enhancing natural energy dominance. So, the
19 specific project was awarded in the partnership to Virginia Tech and EnerVest is titled Field
20 Laboratory for Emerging Stacked Unconventional Plays in Central Appalachia. So, as stated
21 before, this will investigate and characterize the resource potential for multi-play production
22 from unconventional reservoirs within the Nora gas field in Southwest Virginia. Hopefully, the
23 benefits and the completion strategies for lateral wells and unconventional Lower Huron Shale
24 will also be an integral part of this project. So, as I stated before, we're going to be doing two
25 pieces of research, here--one related to the Lower Huron Shale completion technology and also
26 evaluating and quantifying potential benefits of deeper formations within the Nora field. So,
27 hopefully, we will produce some research-driven, industry-proven best practices to prudently
28 develop these resources. The funding that's out there is, right now, we've received \$8,000,000
29 towards this project, from the Department of Energy. There will be another \$3,146,000 cost
30 share, provided by Virginia Tech and EnerVest, to get this project done. That's sort of the
31 background of why we're here today for this specific well. Now, I'll go into why we're seeking
32 this well exception. For this project, we've identified a site with a suitable location to support
33 these two project goals that we have put forth here, today. There has been an extensive
34 evaluation process with DOE and Virginia Tech to reach a consensus on this location.
35 Obviously, this site does not meet the current, state-wide spacing regulations of 2,500 feet. So,
36 that's why we're here seeking the exception, today. At this point, I'd like to point out that we have
37 no completion planned for the current producing zones of the off-setting well, which is also
38 operated by EnerVest, as we've stated, the 530124. If you refer to your package, in Exhibit K,

1 you'll see the location of the proposed well--the 530555, which will be this test well and the off-
2 setting well--the 530124. They're relatively close and we understand that.

3 **Mary Quillen:** And, the 124 is EnerVest?

4 **Gus Janson:** That's also operated by EnerVest.

5 **Mary Quillen:** Okay.

6 **Gus Janson:** We do control the minerals in this area.

7 **Bruce Prather:** How deep is that well?

8 **Gus Janson:** The existing well? The existing well is through Berea Formation. It's,
9 approximately, 4,500 feet deep.

10 **Bruce Prather:** Okay. It's shallow.

11 **Donnie Rife:** How deep is the other well?

12 **Gus Janson:** The proposed well that we would be drilling will be testing the entire section of
13 sediment in Southwest Virginia, targeted depth of approximately 16,000 feet.

14 **Bruce Prather:** That's going to basement.

15 **Gus Janson:** It's going to the basement rock. Yes, that's correct.

16 **Bruce Prather:** Okay.

17 **Gus Janson:** As I stated, we're not going to be evaluating any of the existing formations that
18 have been, historically, produced in Southwest Virginia...only looking at some characterization
19 of the Lower Huron to aid in the future. There will be a future horizontal well drilled in this same
20 general area. This well will be planned to use as a monitoring well for the completion technique
21 that's applied to that shale well. In a separate well application, we'll come back in front of the
22 Board for that, at some point in the future.

23 **Mary Quillen:** So, just to be clear, you don't expect this particular well to be producing.

24 **Gus Janson:** It will not be producing from any of the same formations that are currently being
25 produced in the 530124. We will be targeting deeper formations, unexplored. We have no idea
26 what the completion may be there, until we get the well drilled and tested, but that's where the
27 completion will be focused on this well.

28 **Mary Quillen:** You mentioned that there were six designated wells that were going to be
29 funded. Will they be here, in Southwest Virginia?

1 **Gus Janson:** Those were six DOE projects. They were across the United States, where they had
2 their \$30,000,000 of funding available. So, this was one of those six projects.

3 **Mary Quillen:** Okay. This is one of the six. Okay.

4 **Bruce Prather:** Gus, what's the closest basement test to this, in the area?

5 **Gus Janson:** The closest wells that have been drilled to basement in this general area, or
6 Southwest Virginia, are over in the valley and ridge that were drilled back in the 1980's, as part
7 of some of the major oil and gas companies... I think one of them was Arco, there was one by
8 Shell. Nothing has been done in the Nora Field. We've tested part of this sediment down to
9 around 7-8,000-foot zone.

10 **Bruce Prather:** How close is the old, original thing? Is it 20,30 miles away?

11 **Gus Janson:** The old test well?

12 **Bruce Prather:** Yes.

13 **Gus Janson:** It's probably over 15, or 20, miles away.

14 **Bruce Prather:** Okay. So, this is strictly wildcat.

15 **Gus Janson:** That's correct.

16 **Bill Harris:** Mr. Chairman. Just a quick question.

17 **Bradley Lambert:** Sure.

18 **Bill Harris:** When I look at the plat, I see the 530124. I don't see the V. I see a line. I see 595
19 feet and then I have 1,250 feet. There's a little bend in the line, there. Is that where the well is? I
20 can't see an actual location for that other well. I see the circle and I guess I can envision.

21 **Gus Janson:** I don't know if it's showing up well on your copy, there. The 530555. There's a
22 little red circle, right down below that.

23 **Bill Harris:** I don't have that.

24 **Gus Janson:** It's just west of that 595 feet symbol.

25 **Bill Harris:** Okay. Let me just do tell you. The arm that points out toward about 9,10 o'clock,
26 has a slight bend in it...about where the contour line is. Is that about where you're talking about?

27 **Gus Janson:** Yes, sir. We're 595 feet from that off-setting well.

28 **Bill Harris:** Okay. And the 1,250 reference is from that point?

1 **Gus Janson:** The 1,250 is from the center of the proposed well. That would be... It's a unit, that
2 would be established for this well under state-wide spacing.

3 **Bill Harris:** Okay. So, we're 595 feet from the 530124, then.

4 **Gus Janson:** Correct.

5 **Bill Harris:** Okay. Got it. Thank you.

6 **Gus Janson:** Again, as part of this project, will be to reserves characterizations will be a
7 significant goal in this research project, by drilling this test well. So, this will be the critical first
8 step in identifying new potential resources and will, ultimately, require revisiting the established
9 field rules for horizontals and vertical wells, if we continue development in any of these new
10 deep formations. So, the results of this well and, likely subsequent request, will lay the
11 groundwork for preventing resource waste, protecting correlative rights, as well as promoting
12 future conservation efforts, within the State of Virginia. That's a quick summary of where we
13 pertain to be with this well and our asking for an exception.

14 **Mary Quillen:** Just one other quick question. You expect that the other, additional wells will be
15 horizontal?

16 **Gus Janson:** The second part of this project is a horizontal.

17 **Mary Quillen:** Oh, it is established? It is.

18 **Gus Janson:** It is part of this project. This two-fold project is characterization of the geologic
19 reservoirs out there and is also going to be used as a monitoring well, to monitor the completion
20 of the Lower Heron, horizontal well.

21 **Mary Quillen:** Any questions?

22 **Bruce Prather:** Will this just have one horizontal leg?

23 **Gus Janson:** Yes. That's the plan, at this point.

24 **Mary Quillen:** Any other questions for Mr. Janson? [No response]

25 **Tim Scott:** That's all I have for Mr. Janson.

26 **Donnie Rife:** Pretty impressive project.

27 **Tim Scott:** That's all I have. We would just ask that the application be approved.

28 **Mary Quillen:** Is there a motion to approve the well location exception?

29 **Donnie Rife:** Motion made for approval, Ms. Chairman.

1 **Bill Harris:** I'll second.

2 **Mary Quillen:** I have a motion and a second to approve the well location exception. All those
3 in favor, respond by saying, "Aye."

4 **Board:** Aye.

5 **Mary Quillen:** Opposed? [No response] Any abstentions? [No response] Your motion has
6 passed. Thank you.

7 **Item Number 12**

8 **Mary Quillen:** Okay. We're going to, then, skip back over to Item Number 12 on the agenda.
9 Item Number 12. A petition from EnerVest Operating, LLC, for pooling of Unit VC-535443.
10 Docket Number VGOB 18-1016-4188. This was continued from our November meeting. All
11 those wishing to speak to this, please come forward.

12 **Tim Scott:** Tim Scott, Gus Janson, and Aaron Anderson, for EnerVest Operating, LLC.

13 **Mary Quillen:** You may continue.

14 **Tim Scott:** Thank you. Mr. Anderson, again, your name, by whom you're employed, and your
15 job description, please.

16 **Aaron Anderson:** Aaron Anderson. I'm employed by EnerVest Operating, LLC, as an
17 Associate Land Man.

18 **Tim Scott:** And, you're familiar with this application. Is that correct?

19 **Aaron Anderson:** I am.

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

21 **Aaron Anderson:** 58.76

22 **Tim Scott:** And, EnerVest is both an owner and a lessee, in this unit. Is that correct?

23 **Aaron Anderson:** That's correct.

24 **Tim Scott:** Are we going to dismiss any parties respondent, listed on Exhibit B3, today?

25 **Aaron Anderson:** Not at this time.

26 **Tim Scott:** How was notice of this hearing provided to parties respondent on Exhibit B3?

27 **Aaron Anderson:** By certified mail, with return receipt requested.

1 **Tim Scott:** Have we provided proof of our mailing, to the Board?

2 **Aaron Anderson:** That is correct.

3 **Tim Scott:** And, do we have any unknown owners in this unit?

4 **Aaron Anderson:** No, sir.

5 **Tim Scott:** Is EnerVest authorized to transact business in the Commonwealth?

6 **Aaron Anderson:** Yes.

7 **Tim Scott:** And, is there a blanket bond on file with the Department?

8 **Aaron Anderson:** There is.

9 **Tim Scott:** If you're able to reach an agreement with the party respondent, what would the terms
10 be?

11 **Aaron Anderson:** \$25 per acre, for a 5-year paid-up lease, with a 1/8 royalty.

12 **Tim Scott:** Do you consider that to be reasonable compensation for a lease in this area?

13 **Aaron Anderson:** Yes, sir.

14 **Tim Scott:** And, what percentage of the unit does EnerVest have under lease, presently?

15 **Aaron Anderson:** 61.11%

16 **Tim Scott:** And, you just testified some of that is fee-simple ownership. Is that correct?

17 **Aaron Anderson:** That's correct.

18 **Tim Scott:** What percentage are we seeking to pool, today?

19 **Aaron Anderson:** 38.89

20 **Tim Scott:** And, with regard to this unit, is there an escrow requirement?

21 **Aaron Anderson:** No, sir.

22 **Tim Scott:** Are you asking the Board to pool the parties listed on Exhibit B3?

23 **Aaron Anderson:** That's correct.

24 **Tim Scott:** And, you're also requesting that EnerVest be named the operator for this unit. Is that
25 also correct?

26 **Aaron Anderson:** That's correct.

1 **Tim Scott:** And, when the election letters go out, if the Board grants our application, today,
2 what address should be used for making any elections, under an order entered by the Board?

3 **Aaron Anderson:** That's going to be EnerVest Operating, LLC; 408 W. Main Street; Abingdon,
4 VA 24210. Attn: Chuck Akers, Land Manager.

5 **Tim Scott:** And, would that be the address for all correspondence, with regard to the order
6 entered by the Board?

7 **Aaron Anderson:** Yes.

8 **Tim Scott:** That's all I have for Mr. Anderson.

9 **Mary Quillen:** Any questions for Mr. Anderson, from the Board? [No response]

10 **Tim Scott:** Thank you. Mr. Janson, again, your name, by whom you're employed, and your job
11 description, please.

12 **Gus Janson:** My name is Gus Janson, employed by EnerVest Operating, LLC, as a Geology
13 Advisor.

14 **Tim Scott:** And, you're familiar with this application. Is that correct?

15 **Gus Janson:** I am.

16 **Tim Scott:** What is the proposed depth of this well?

17 **Gus Janson:** The proposed depth is 2,650 feet.

18 **Tim Scott:** And, what are the estimated reserves for this particular unit?

19 **Gus Janson:** The estimated reserves are 900 million cubic feet of gas.

20 **Tim Scott:** You also are familiar with the proposed well cost?

21 **Gus Janson:** I am.

22 **Tim Scott:** What's the estimated dry hole cost?

23 **Gus Janson:** The estimated dry hole cost is \$172,700.

24 **Tim Scott:** What's the completed well cost?

25 **Gus Janson:** The completed well cost is \$411,800.

26 **Tim Scott:** In your opinion, if the Board grants our application, today, would it prevent waste,
27 promote conservation, and protect correlative rights?

1 **Gus Janson:** Yes, it would.

2 **Tim Scott:** That's all I have for Mr. Janson.

3 **Mary Quillen:** Any questions from the Board for Mr. Janson?

4 **Bill Harris:** Ms. Chairman, let me just. If we look at the plat and this is just my shortcoming...
5 If we look at the plat that we have, I notice a square with a "2" in it and a square with a "1" in it.
6 Is that just a property?

7 **Aaron Anderson:** Property is a square. Yes, that Tract 2 up there is a square.

8 **Bill Harris:** Okay. That's all. I was just kind of curious. Thank you.

9 **Mary Quillen:** Any other questions from the Board? [No response] You may continue.

10 **Tim Scott:** That's all I have, Madame Chairman. I would ask that the application be approved.

11 **Mary Quillen:** Do I hear a motion to approve this application?

12 **Donnie Rife:** Motion made for approval, Madame Chair.

13 **Bill Harris:** I'll second that.

14 **Mary Quillen:** We have a motion and a second. All those in favor, respond by saying, "Aye."

15 **Board:** Aye.

16 **Mary Quillen:** Opposed, no. [No response] Abstentions? [No response] You have your
17 approval.

18 **Tim Scott:** Thank you, Madame Chairman.

19 **Item Number 13**

20 **Mary Quillen:** Agenda Item Number 13. A petition from EnerVest Operating, LLC, for pooling
21 of Well No. VCI-530561. Unit VCI-530561. Docket Item VGOB 18-1120-4192. All those
22 wishing to speak to this item, please come to the...

23 **Tim Scott:** Tim Scott, Gus Janson, and Aaron Anderson for EnerVest Operating, LLC.

24 **Mary Quillen:** Please continue.

25 **Tim Scott:** Thank you. Mr. Anderson, again, your name, by whom you're employed, and your
26 job description, please.

1 **Aaron Anderson:** Aaron Anderson, employed by EnerVest Operating, LLC, as an Associate
2 Land Man.

3 **Tim Scott:** And, you're familiar with this application. Is that correct?

4 **Aaron Anderson:** I am.

5 **Tim Scott:** And, how many acres does this unit contain?

6 **Aaron Anderson:** 58.72

7 **Tim Scott:** And, again, EnerVest is both an owner and a lessee in this unit. Is that right?

8 **Aaron Anderson:** That's correct.

9 **Tim Scott:** Are we going to dismiss any parties respondent, as listed on Exhibit B3, today?

10 **Aaron Anderson:** No, sir.

11 **Tim Scott:** How was the notice of this hearing provided to the parties listed on Exhibit B3?

12 **Aaron Anderson:** Certified mail, with return receipt requested.

13 **Tim Scott:** And, you provided proof of mailing to the Board. Is that right?

14 **Aaron Anderson:** That's correct.

15 **Tim Scott:** Do you have any unknown owners in this unit?

16 **Aaron Anderson:** No, sir.

17 **Tim Scott:** This is a unit that contains Yellow Poplar Lumber Company acreage. Is that correct?

18 **Aaron Anderson:** That's correct.

19 **Tim Scott:** And, we have provided, as a part of our application, an affidavit, which indicates
20 that we notified, why we notified them, and also plats that indicate this unit is within that Yellow
21 Poplar acreage. Is that correct?

22 **Aaron Anderson:** Yes, sir.

23 **Tim Scott:** Now, as far as that particular, what's the percentage that's included within that, from
24 this unit, Mr. Anderson? It's relatively small. Is it not?

25 **Aaron Anderson:** It is. It's 1.49%.

26 **Tim Scott:** Okay. And, it's depicted on that plat. Is that correct?

27 **Aaron Anderson:** That's correct.

1 **Tim Scott:** And, is EnerVest authorized to conduct business in the Commonwealth?

2 **Aaron Anderson:** Yes.

3 **Tim Scott:** And, is there a bond on file, with the Department?

4 **Aaron Anderson:** There is.

5 **Tim Scott:** If you're able to reach an agreement with the party listed on Exhibit B3, what lease
6 terms would you offer?

7 **Aaron Anderson:** That would be \$25 per acre for a 5-year paid up lease, with a 1/8 royalty.

8 **Tim Scott:** And, as a result, what percentage of the unit does EnerVest have under lease, or is
9 an owner?

10 **Aaron Anderson:** 98.51%

11 **Tim Scott:** Again, this does include tracts in which EnerVest has a fee-simple interest. Is that
12 correct?

13 **Aaron Anderson:** That's correct.

14 **Tim Scott:** What percentage are you seeking to pool, today?

15 **Aaron Anderson:** 1.49%.

16 **Tim Scott:** And, you do not have an escrow requirement. Is that right?

17 **Aaron Anderson:** No, sir.

18 **Tim Scott:** And, you're asking the Board to pool the unleased parties listed on Exhibit B3?

19 **Aaron Anderson:** That's correct.

20 **Tim Scott:** And that EnerVest be named the operator for this unit. Is that also correct?

21 **Aaron Anderson:** That's correct.

22 **Tim Scott:** Someone making an election, under any order, what would be the address used?

23 **Aaron Anderson:** That would be EnerVest Operating, LLC; 408 W. Main Street; Abingdon,
24 VA 24210. Attn: Chuck Akers, Land Manager.

25 **Tim Scott:** And, that should be the address for all communications regarding this unit. Is that
26 right?

27 **Aaron Anderson:** That's correct.

1 **Tim Scott:** That's all I have for Mr. Anderson.

2 **Mary Quillen:** Any questions for Mr. Anderson, from the Board? [No response] You may
3 continue.

4 **Tim Scott:** Thank you. Mr. Janson, one more time, your name, by whom you're employed, and
5 your job description, please.

6 **Gus Janson:** My name is Gus Janson, employed by EnerVest Operating, LLC, as a Geology
7 Advisor.

8 **Tim Scott:** And you participated in the preparation of this application. Is that correct?

9 **Gus Janson:** I did.

10 **Tim Scott:** Are you familiar with the proposed depth of this proposed well?

11 **Gus Janson:** Yes, I am. The proposed depth is 2,430 feet.

12 **Tim Scott:** And what are the estimated reserves for this unit?

13 **Gus Janson:** The estimated reserves are 925 million cubic feet of gas.

14 **Tim Scott:** And, are you also familiar with the proposed well cost?

15 **Gus Janson:** I am.

16 **Tim Scott:** What's the estimated dry hole cost?

17 **Gus Janson:** The estimated dry hole costs are \$164,200.

18 **Tim Scott:** And, the completed well cost?

19 **Gus Janson:** The completed well cost is \$427,850.

20 **Tim Scott:** In your opinion, if the Board grants our application, today, would it prevent waste,
21 promote conservation and protect correlative rights?

22 **Gus Janson:** Yes, it would.

23 **Tim Scott:** That's all I have for Mr. Janson.

24 **Mary Quillen:** Any questions for Mr. Janson, from the Board? [No response] You may
25 continue.

26 **Tim Scott:** That's all I have, Madame Chairman. I'd ask that the application be approved.

27 **Mary Quillen:** Do I hear a motion for approval?

1 **Donnie Rife:** Motion for approval, Madame Chair.

2 **Bill Harris:** Second.

3 **Mary Quillen:** We have a motion and a second, for approval. All those in favor respond by
4 saying, "Aye."

5 **Board:** Aye.

6 **Mary Quillen:** Opposed no. [No response] Abstentions. [No response] Your request has been
7 approved.

8 **Tim Scott:** Thank you, Madame Chairman. I have one more. Not with them.

9 **Item Number 3**

10 **Mary Quillen:** We're going back to the original part of the agenda, Item Number 3.

11 **Sarah Gilmer:** Mr. Smith, do you swear and affirm that your testimony is the truth, the whole
12 truth, and nothing but the truth?

13 **Conley Smith:** I do.

14 **Tim Scott:** Madame Chairman, today it's Tim Scott for Diversified Southern Production and
15 Conley Smith, testifying on behalf of the company.

16 **Mary Quillen:** Welcome. Thank you.

17 **Rick Cooper:** One second, please.

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

20 **Joey Stumbo:** I do.

21 **Mary Quillen:** A petition from Diversified Southern Production, to enter an order transferring
22 the right to operate all units listed in the application that were established by Board Order, as
23 well as any petitions currently pending before the Board, from EQT Production Company to
24 Diversified Southern Production, LLC. Docket Number VGOB 19-0219-4198. Anyone wishing
25 to speak to this item please come forward.

26 **Tim Scott:** Tim Scott, Conley Smith and Mr. Stumbo are here to testify, today, on behalf of this
27 matter.

28 **Bill Harris:** What was the other name? I'm sorry.

1 **Tim Scott:** Stumbo.

2 **Mary Quillen:** Thank you.

3 **Tim Scott:** Mr. Smith, would you please state your name, by whom you're employed, and your
4 job description, please?

5 **Conley Smith:** My name is Conley Smith. I'm employed by Diversified Southern Production,
6 LLC.

7 **Tim Scott:** What's your position there?

8 **Conley Smith:** I'm the Land Manager.

9 **Tim Scott:** And, you're familiar with this application. Is that correct?

10 **Conley Smith:** Yes, I am.

11 **Tim Scott:** So, what we're asking today is that EQT has authorized the transfer of units that are
12 listed on Exhibit G. Is that correct?

13 **Conley Smith:** Yes.

14 **Tim Scott:** And, pursuant to your purchase agreement, what was the effective date of that
15 agreement?

16 **Conley Smith:** It was on, or about, July 18, 2018.

17 **Tim Scott:** And, Equitable has provided written approval for this transfer. Correct?

18 **Conley Smith:** Correct.

19 **Tim Scott:** And, that's been provided in our application that we submitted to the Board. Is that
20 right?

21 **Conley Smith:** Yes.

22 **Tim Scott:** And, the relief is authorized. Is that correct?

23 **Conley Smith:** Yes.

24 **Tim Scott:** And, we ask the Board to enter an order transferring operatorship from EQT
25 Production to Diversified Southern Production, LLC. Is that also correct?

26 **Conley Smith:** Correct.

27 **Tim Scott:** That's our testimony, Madame Chairman.

1 **Mary Quillen:** Any questions for Mr. Smith, from the Board?

2 **Donnie Rife:** Where are you located?

3 **Conley Smith:** I work out of the Pikeville, Kentucky office.

4 **Mary Quillen:** Any other questions for Mr. Smith? [No response] You may continue.

5 **Tim Scott:** That's all I have, Madame Chairman.

6 **Mary Quillen:** For the whole...?

7 **Tim Scott:** Yes, ma'am.

8 **Rick Cooper:** Ms. Chairman, I would add, for the Board's benefit, all permits have all been
9 transferred. These are the remaining Board items that we're transferring from EQT to
10 Diversified. That's our final piece of the puzzle to complete that project.

11 **Mary Quillen:** Do you know, approximately, how many there are?

12 **Rick Cooper:** Do you know, Sarah? About 300, I think.

13 **Mary Quillen:** It's significant.

14 **Rick Cooper:** There was about 1,000 permits, just to let you know.

15 **Mary Quillen:** Any other questions or comments from the Board? [No response] Do I hear a
16 motion to approve these transfers?

17 **Donnie Rife:** Motion made, Madame Chairman.

18 **Bill Harris:** I'll second.

19 **Mary Quillen:** We have a motion and second. All those in favor, respond by saying, "Aye."

20 **Board:** Aye.

21 **Mary Quillen:** Opposed no. [No response] Abstentions. [No response] Your request has been
22 granted. It is approved.

23 **Tim Scott:** Thank you for moving me up. I appreciate it, very much.

24 **Mary Quillen:** You're quite welcome. I'm filling in and multi-tasking, here.

1 **Item Number 4**

2 **Mary Quillen:** We'll go back to the regular order of the agenda and Item Number 4. A petition
3 from Summit Appalachia Operating, LLC, to enter an order transferring the right to operate all
4 units listed in this application that were established by Board Order, as well as any petitions
5 currently pending before the Board, from ARP Mountaineer Production, LLC (ATLAS) to
6 Summit Appalachia Operating, LLC. Docket Number VGOB 19-0219-4199. All those wishing
7 to speak to this item, please come forward.

8 **Bradley Ratliff:** Madame Chairman, I'm Brad Ratliff, on behalf of Summit Appalachia
9 Operating, LLC, and with me, I have Mr. Patrick Noble, Vice-President.

10 **Mary Quillen:** Noble?

11 **Patrick Noble:** Yes, ma'am.

12 **Mary Quillen:** N-O

13 **Patrick Noble:** B-L-E

14 **Jeffrey Cooper:** Jeffrey Cooper.

15 **Mary Quillen:** Cooper. Okay. We know how to spell that.

16 **Sarah Gilmer:** Mr. Noble, Mr. Cooper, do you swear and affirm that your testimony is the
17 truth, the whole truth, and nothing but the truth?

18 **Patrick Noble:** I do.

19 **Jeffrey Cooper:** I do.

20 **Mary Quillen:** You may continue.

21 **Bradley Ratliff:** Thank you, Madame Chairman. Mr. Noble, could you state your name and
22 employer?

23 **Patrick Noble:** My name is Patrick Noble. I'm employed by, in this case, Summit Appalachia
24 Operating Company, LLC.

25 **Bradley Ratliff:** And, what is your role at Summit Appalachia, sir?

26 **Patrick Noble:** I'm the Vice-President of Land.

27 **Bradley Ratliff:** And, are you familiar with the application before the Board here, today?

28 **Patrick Noble:** I am.

1 **Bradley Ratliff:** Did you assist or prepare that application?

2 **Patrick Noble:** I did.

3 **Bradley Ratliff:** And, are you asking for a change of the unit operators, previously mentioned
4 here, from ARP Mountaineer Production, LLC, to Summit Appalachia Operating Company?

5 **Patrick Noble:** That's correct.

6 **Bradley Ratliff:** And, are you asking for a transfer of the rights to operate all units, as
7 designated on Exhibit G to the application submitted to the Board?

8 **Patrick Noble:** Yes, I am.

9 **Bradley Ratliff:** Madame Chairman, I believe that's all the information that the Board should
10 need. Please answer any questions the Chairman has.

11 **Patrick Noble:** Sure.

12 **Mary Quillen:** Any questions from the Board?

13 **Bruce Prather:** Madame Chairman, I have one. Who drilled these wells, originally?

14 **Patrick Noble:** Mr. Cooper can speak to that better. I believe GeoMet drilled the majority of
15 them, if not all of them.

16 **Bill Harris:** We're just wondering what the ARP...

17 **Bruce Prather:** We're familiar with GeoMet.

18 **Patrick Noble:** ATLAS Energy bought these wells from GeoMet. Then, ATLAS changed their
19 name, but the affiliate company that owned and operated these wells was ARP Mountaineer
20 Production, LLC. We, recently, entered into a purchase and sale agreement with ATLAS, for
21 these wells and some others.

22 **Donnie Rife:** Everything you've acquired is in Buchanan County?

23 **Patrick Noble:** Yes, that's correct.

24 **Mary Quillen:** Just for our information, could you give us a little information about Summit?
25 We're not familiar and could kind of get to know each other.

26 **Patrick Noble:** Absolutely. As I stated, my name is Patrick Noble. I go by "Pat." I've been in
27 the business about 15 years. I, originally, started in the Illinois base and I've worked in Virginia,
28 West Virginia, Pennsylvania, Kansas, Missouri. Through just working in the industry, I met the
29 gentleman who founded Summit. His name is Michael Muncy. He's got 20+ years of experience.
30 Engineering is his background. His biggest experience was running the division of an equity-

1 backed company that drilled a bunch of, I believe, Hanesville wells in East Texas, Louisiana,
2 several thousand feet deep, several thousand foot laterals. That company monetized. He made
3 some money and went out and founded Summit. Like I said, we met each other. We were
4 looking for opportunities to start our own company. We did that and this is our first acquisition.
5 We purchased these wells, like I said, from ATLAS Energy. They changed their name to Titan
6 Energy, so we've got about 48 wells in Virginia, 300 and some odd, in West Virginia, and
7 slightly under 300, in Alabama. All of these wells are coalbed methane wells. As far as the Board
8 is concerned, with the wells under your jurisdiction, Jeff Cooper was the production foreman. He
9 remains the production foreman, after the sale. I believe everyone came over in the transition,
10 except for one person and then, later on, another person left to take another job with Diversified.
11 He was just here. We kept the field team on. Just very briefly... I don't want to bore the Board,
12 but our plans for this are, essentially, just to run it properly. Obviously, we're going to follow all
13 the rules, all statutes, all regulations, but ATLAS didn't devote any resources to these wells. Our
14 plan is and, again, Jeff could fill you in a little better. We're going to start a workover program,
15 very shortly. What we want to do is just the simple blocking and tackling of keeping the
16 production up and we'll go from there. Right now, new drills aren't economic. That certainly will
17 be in our plans, if and when drilling new wells becomes something that will be economic for us.
18 Until that time, we simply want to maintain the wells, fix what's broken, and keep our production
19 as flat as we can.

20 **Mary Quillen:** These wells... Are these all located in Buchanan County?

21 **Patrick Noble:** Yes, ma'am.

22 **Mary Quillen:** And, you do plan to produce from all of these wells. Right now, that's your main
23 focus...not new drilling, or...

24 **Patrick Noble:** Correct. New drilling is not anything that we're opposed to, but it's not on our
25 radar.

26 **Mary Quillen:** Okay. Approximately, how many wells? I can see there is a significant number.
27 Approximately, how many are there?

28 **Patrick Noble:** I believe there are 48.

29 **Mary Quillen:** 48. Okay. And, you are going to be the person on-site?

30 **Jeffrey Cooper:** Yes, ma'am. My title is Senior Production Foreman, but I'm, pretty much,
31 Operations Manager, overseeing daily operations of the project here, in Virginia and West
32 Virginia. We do have 48 operational wells in Buchanan County, with the compression station
33 that we operate in Buchanan County. So, we have very good production in that location and, like
34 he said earlier, working with Summit, they came in so far and, in the past two months, I've spent
35 more money with these guys than I did with ATLAS, in four years.

1 **Mary Quillen:** Because we have not actually seen much from them.

2 **Jeffrey Cooper:** Yes, ma'am. That's correct.

3 **Mary Quillen:** And, we're very familiar with the original...the GeoMet. We hope that you all
4 are going to be successful and you can revitalize all of this, in the production because, obviously,
5 this region.... We need this kind of industry and we welcome you to Virginia. We are looking to
6 see great things from you and to revitalize this, particularly, the economy in Buchanan County. I
7 can't think of any other questions. Where is your base of operations?

8 **Jeffrey Cooper:** Our base operations is Cedar Bluff.

9 **Mary Quillen:** Oh, okay. Excellent! Good. We like to know that you're on-site and not an
10 absentee.

11 **Jeffrey Cooper:** Yes, we're on-site.

12 **Mary Quillen:** Because I think that's a mistake in a lot of cases that have come. You know, you
13 have people that don't have those roots, or based in that operating area, so we like to see...

14 **Jeffrey Cooper:** Probably 90% of our employees are Buchanan County residents.

15 **Mary Quillen:** Excellent!

16 **Jeffrey Cooper:** Where we operate from, so our core operation is in that area of McDowell
17 County, Buchanan County. We can throw a rock across the line.

18 **Mary Quillen:** Right. Those in West Virginia are in Southern West Virginia.

19 **Jeffrey Cooper:** They are. So, we operate on the State line of Virginia/West Virginia.

20 **Mary Quillen:** Right. Well, we appreciate you coming. We appreciate getting to know you and
21 we look forward to working with you. You are going to be with them, on all of their...

22 **Bradley Ratliff:** Certainly hope so, ma'am.

23 **Mary Quillen:** Yes.

24 **Donnie Rife:** He's a rebel.

25 **Mary Quillen:** Pardon.

26 **Donnie Rife:** He's a rebel.

27 **Mary Quillen:** Exactly. So, that speaks well for you.

28 **Bradley Ratliff:** Well, thank you, very much.

1 **Mary Quillen:** Any other questions?

2 **Bruce Prather:** Madame Chairman.

3 **Mary Quillen:** Yes.

4 **Bruce Prather:** Did you guys obtain quite a bit of undrillable acreage, in Buchanan County?

5 **Patrick Noble:** Not that I am aware of.

6 **Bruce Prather:** I was kind of thinking that GeoMet drilled up most of the stuff they had, in
7 Buchanan County.

8 **Patrick Noble:** Again, I'm a land guy. I'm not the engineer, or geologist. As far as I understand,
9 most of our new drills, such that they would be, are probably more in-field drilling.

10 **Bruce Prather:** I mean, we used to see their maps and things and it didn't look like they had
11 very much acreage left to drill.

12 **Donnie Rife:** For new drilling.

13 **Bruce Prather:** Particularly, in Virginia.

14 **Jeffrey Cooper:** I worked with GeoMet, pretty much in the beginning, and I've been in the
15 same building for three different companies, which I'm very fortunate. We farmed out through
16 Equitable, GeoMet.

17 **Bruce Prather:** I do recall that.

18 **Jeffrey Cooper:** That's how we did our drilling, through a farm-out agreement. Equitable, as
19 you just talked to these guys before us, it turned into Diversified. That's all on the Rogers lease.
20 If we drilled in Virginia, we would probably have to enter into another farm-out agreement. We
21 don't have anything. Like Pat said earlier, our core drilling will be in West Virginia, just because
22 it's on property that we have. It would be in-field drilling. We have a potential of 60 wells that I
23 gave these guys, when they bought us, that we can do, as far as in-field drilling, that would give
24 us production. But, what he said earlier, we have about 60 workovers that we're going to do, that
25 we know what our production would give us back, as far as not going out and exploring, if you
26 will. So, we're going to take care of those 60 workovers, that we know what our production
27 would be and give it back to our investors. Then, once that's established, I'm sure we'll look at
28 those other options.

29 **Mary Quillen:** It sounds like you all have a very, very workable plan and we wish you the very
30 best. We look forward to working with you, in any way that we can.

31 **Patrick Noble:** I appreciate Sally's and Sarah's help, very much.

1 **Mary Quillen:** I can tell you they are God-sent.

2 **Patrick Noble:** They are super.

3 **Mary Quillen:** Yes. They really are.

4 **Donnie Rife:** They are talented, at their jobs.

5 **Mary Quillen:** They really are.

6 **Patrick Noble:** And very nice and patient with people who don't know what they're doing.

7 **Mary Quillen:** But, they'll whip you into shape. I promise you.

8 **Patrick Noble:** Yes, ma'am.

9 **Mary Quillen:** Any other questions? [No response] Thank you, so much. Welcome. We look
10 forward to seeing you.

11 **Donnie Rife:** We need to entertain a motion.

12 **Mary Quillen:** Yes. Do I have a motion that we approve this transfer of operations?

13 **Donnie Rife:** Motion made for approval.

14 **Bill Harris:** I will second that.

15 **Mary Quillen:** We have a motion and a second. All those in favor, respond by saying, "Aye."

16 **Board:** Aye.

17 **Mary Quillen:** Opposed no. [No response] Abstentions. [No response] You have your approval.

18 **Patrick Noble:** Thank you, very much.

19 **Item Number 5**

20 **Mary Quillen:** We'll go to, back I think in the right order, Item Number 5, on the agenda. A
21 petition from Pocahontas Gas, LLC, for (1) re-pooling to revise interests consistent with those
22 determined by re-mapping; (2) to include anticipated production under Oakwood II Field Rules
23 after longwall panel isolation; and (3) to allow for an include production from additional wells
24 drilled to de-gas coal in advance of mining. Unit M41. Docket Number VGOB 95-0620-0507-
25 02. All those wishing to speak to this item, please come forward.

26 **Mark Swartz:** Mark Swartz.

27 **Mary Quillen:** Mr. Swartz.

1 **Kelli Berry:** Kelli Berry.

2 **Sarah Gilmer:** Ms. Berry, do you swear and affirm that your testimony is the truth, the whole
3 truth, and nothing but the truth?

4 **Kelli Berry:** I do.

5 **Mary Quillen:** You may continue.

6 **Mark Swartz:** Okay. I gave you all a map of a portion of a mine and the longwall panels. This
7 unit that we're talking about, right now, and the next one, L41, we're asking to be allowed to
8 develop gas out of longwall panels, out of both of these units. That's why they're being re-pooled.
9 I thought it would be helpful for you to have that, as we refer, in this first one, and then in the
10 second one. You'll see the panels run from east to west. North is the top, okay? In the first unit,
11 the one that we're talking about, now, I believe there are three panels actually intersect this unit.

12 **Kelli Berry:** That's correct.

13 **Mark Swartz:** The M41 unit. Then, in the L41 unit, which will be the next item on the docket,
14 there's just one panel. The top one intersects that, at the moment. So, with that in mind, that map
15 is going to be relevant, as we get down the road, here. Kelli, this Unit M41, was originally
16 pooled in 1995. Correct?

17 **Kelli Berry:** That's correct.

18 **Mark Swartz:** And, when it was pooled, in 1995, it was pooled under Oakwood I?

19 **Kelli Berry:** Yes, that's correct.

20 **Mark Swartz:** And, there are a number of frack wells in the unit, at present?

21 **Kelli Berry:** Yes, there are.

22 **Mark Swartz:** And, you have listed those in your application?

23 **Kelli Berry:** Yes.

24 **Mark Swartz:** And, there may be some additional wells drilled, as mine development
25 continues?

26 **Kelli Berry:** Yes.

27 **Mark Swartz:** At present, have the longwall panels that are shown on the map, that we've given
28 to the Board, have those panels been isolated?

29 **Kelli Berry:** No.

1 **Mark Swartz:** Okay. But, it's coming in the foreseeable future?

2 **Kelli Berry:** Yes.

3 **Mark Swartz:** So, one of the reasons that we are here, today, on M41, is to re-pool it, under
4 Oakwood II?

5 **Kelli Berry:** Yes.

6 **Mark Swartz:** So that once the longwall panels are isolated, we can start producing from the
7 wells that are located within the various panels.

8 **Kelli Berry:** Yes.

9 **Mark Swartz:** Okay. In addition, you've indicated that we're back because of re-mapping.

10 **Kelli Berry:** Yes.

11 **Mark Swartz:** And, that's true of this unit and the next one.

12 **Kelli Berry:** Yes.

13 **Mark Swartz:** The re-mapping here is not so much the lines have been moved, or there have
14 been disputes about lines. What's really happened is we have better technology and we get better
15 title information.

16 **Kelli Berry:** Yes.

17 **Mark Swartz:** And, has the re-mapping caused percentages and acreages to change?

18 **Kelli Berry:** Yes.

19 **Mark Swartz:** With that in mind, then, to the extent that we have respondents whose acreages
20 have changed and whose percentages have changed, those folks are going to have to be provided
21 an opportunity to participate, again.

22 **Kelli Berry:** Yes.

23 **Mark Swartz:** Because that's changed, with regard to Oakwood I.

24 **Kelli Berry:** Yes.

25 **Mark Swartz:** And, obviously, since Oakwood II is a new participation opportunity, there will
26 be a chance to participate under Oakwood II, as well.

27 **Kelli Berry:** Yes.

1 **Mark Swartz:** And, we'll get to those numbers in a bit. Okay. What did you do to tell people we
2 would be having a hearing, today, on the Oakwood II issue?

3 **Kelli Berry:** We mailed a notice of hearing to everyone on the application, as well as published
4 the notice of hearing.

5 **Mark Swartz:** Okay. So, when did you mail?

6 **Kelli Berry:** December 19, 2018.

7 **Mark Swartz:** When you mailed, did you mail the notice, the application, and the relevant
8 exhibits?

9 **Kelli Berry:** Yes.

10 **Mark Swartz:** Then, when you published, what paper did you publish in?

11 **Kelli Berry:** The Virginia Mountaineer

12 **Mark Swartz:** When did that publication occur?

13 **Kelli Berry:** December 27, 2018

14 **Mark Swartz:** I think this was, originally, set for the January docket.

15 **Kelli Berry:** It was.

16 **Mark Swartz:** Do you want to add any respondents to the list of respondents that you have in
17 the notice and the application?

18 **Kelli Berry:** No.

19 **Mark Swartz:** Do you want to dismiss anybody?

20 **Kelli Berry:** No.

21 **Mark Swartz:** So, the list is good to go.

22 **Kelli Berry:** Yes.

23 **Mark Swartz:** The operator...you all keep changing your name, right?

24 **Kelli Berry:** Yes.

25 **Mark Swartz:** Okay. Who is the applicant, at this point, on the application?

26 **Kelli Berry:** Pocahontas Gas, LLC.

1 **Mark Swartz:** And, is Pocahontas Gas a Limited Liability Company, organized under the laws
2 of the Commonwealth of Virginia?

3 **Kelli Berry:** Yes.

4 **Mark Swartz:** Is it registered with the DMME and the DGO?

5 **Kelli Berry:** Yes.

6 **Mark Swartz:** Does it have a blanket bond on file?

7 **Kelli Berry:** Yes.

8 **Mark Swartz:** And, is it, in general, authorized to do business in the Commonwealth?

9 **Kelli Berry:** Yes.

10 **Mark Swartz:** Okay. Who do you work for?

11 **Kelli Berry:** CNX Land, LLC.

12 **Mark Swartz:** And, do you service the pooling and drilling operations for Pocahontas Gas,
13 LLC?

14 **Kelli Berry:** Yes.

15 **Mark Swartz:** And, you're authorized to do that?

16 **Kelli Berry:** Yes.

17 **Mark Swartz:** With regard to this application, you've provided an Exhibit B. Correct?

18 **Kelli Berry:** Yes.

19 **Mark Swartz:** Does Exhibit B update the acreages and the percentages?

20 **Kelli Berry:** Yes.

21 **Mark Swartz:** In response to the re-mapping?

22 **Kelli Berry:** Yes, it does.

23 **Mark Swartz:** Okay. Then, in addition, you have provided information commencing at Page 25
24 of the PDF, with regard to average cost per well in the various panels. Correct?

25 **Kelli Berry:** Yes.

26 **Mark Swartz:** When I look at the average costs here, compared to what wells currently cost....
27 For example, PDF Page 25, the average cost per well, in the east panel, is under \$200,000.

1 **Kelli Berry:** Yes.

2 **Mark Swartz:** That's dramatically less than what wells currently cost.

3 **Kelli Berry:** That's correct.

4 **Mark Swartz:** So, we know that these frack wells were drilled 10-15 years ago. Is that correct?

5 **Kelli Berry:** Yes.

6 **Mark Swartz:** Would the same be true, then, if we look at the 5 East panel and the 6 East
7 panel?

8 **Kelli Berry:** Yes.

9 **Mark Swartz:** And, you have summarized the participation costs that are relevant to the
10 application, for Oakwood II, at PDF Page 28. Right?

11 **Kelli Berry:** Yes.

12 **Mark Swartz:** And, you have a re-cap for each of the three panels.

13 **Kelli Berry:** Yes.

14 **Mark Swartz:** What you have done, in terms of allocation, when the panels are isolated and
15 they start to produce, you have a percentage under an allocation column for each one of the units
16 that the longwall panel crosses. Correct?

17 **Kelli Berry:** Correct.

18 **Mark Swartz:** And, is that allocation percentage, the percentage of the acreage that is actually
19 in each of the units?

20 **Kelli Berry:** No.

21 **Mark Swartz:** Okay. Where does that come from?

22 **Kelli Berry:** That is the percentage of the acreage, on a unit-by-unit basis, which contributes to
23 the panel, as a total.

24 **Mark Swartz:** So, there are "x" number of acres in the panel. Then, you have figured out how
25 many acres in the panel are in M38, for example.

26 **Kelli Berry:** Correct.

27 **Mark Swartz:** And you put that over the total acres and that produces what generates 1.6622%.

28 **Kelli Berry:** That's correct.

1 **Mark Swartz:** And, when the panel is producing gas and you're measuring the gas that the
2 panel is producing, you use that percentage to allocate the production to Unit M38?

3 **Kelli Berry:** That's correct.

4 **Mark Swartz:** In addition, we also use that percentage and apply that percentage to the total
5 well cost, to get the participation expense. If someone in M38 wanted to participate, this would
6 be the piece of the development cost that M38 would require, on a participation basis. Correct?

7 **Kelli Berry:** Correct.

8 **Mark Swartz:** So, on the last column, you've got cost allocation. \$25,602.80 is the piece of the
9 total development cost allocated to M38, based on the allocation percentage?

10 **Kelli Berry:** Correct.

11 **Mark Swartz:** And, have you done that for each of the three panels?

12 **Kelli Berry:** Yes.

13 **Mark Swartz:** Okay. Then, at the end, you have a re-cap and you have totaled up the allocated
14 cost for all three panels, for Unit M41. Correct?

15 **Kelli Berry:** Yes.

16 **Mark Swartz:** And, that's \$697,000 and change.

17 **Kelli Berry:** There is a revision to that, as there were wells drilled that were not provided to me.

18 **Mark Swartz:** Okay. Those are recent wells.

19 **Kelli Berry:** Yes. 2018 wells.

20 **Mark Swartz:** Okay. Why don't you hand those to Rick and we can pass those around. I can see
21 you've given estimates per panel, but what I'm interested in is the exhibit and Page 1, that looks
22 like that. In that, because you have captured wells drilled in, what, 2017 and 2018, that weren't
23 originally included?

24 **Kelli Berry:** Correct.

25 **Mark Swartz:** When you add those in, it takes the total allocated to M41, to what number?

26 **Kelli Berry:** \$870,243.06.

27 **Mark Swartz:** Okay. That cost allocation, then, would mean if someone has 10% of the unit,
28 they would have to contribute \$87,000 and change to participate.

1 **Kelli Berry:** Correct.

2 **Mark Swartz:** So, they use their percentage of the unit, times the cost allocated to the unit, to
3 get to a participation cost.

4 **Kelli Berry:** Correct.

5 **Mark Swartz:** And, everyone in this unit is going to have an opportunity to participate.

6 **Kelli Berry:** Yes, sir.

7 **Mark Swartz:** So, everybody listed in B3 would get that chance and the order would so
8 provide.

9 **Kelli Berry:** Yes.

10 **Mark Swartz:** Because this has been pooled before, we don't have to completely start from
11 scratch. Ms. Chairman, I think that is all I have on the re-pooling for M41.

12 **Mary Quillen:** Any questions from the Board?

13 **Bruce Prather:** Madame Chairman, could you tell me what the scale is, on the map you gave?

14 **Mark Swartz:** I don't know, off the top of my head.

15 **Bruce Prather:** Also, what do little red slashes across the...?

16 **Kelli Berry:** Those are wells that have been plugged.

17 **Bruce Prather:** Been plugged.

18 **Kelli Berry:** Yes, sir.

19 **Bruce Prather:** Okay. What are little squares?

20 **Kelli Berry:** Those are the newer gob wells that have been drilled. The squares around the
21 green?

22 **Bruce Prather:** No, they're little squares, by themselves.

23 **Bill Harris:** But, they have green in them.

24 **Bruce Prather:** Yes, they have green in them.

25 **Kelli Berry:** Okay. Those are the gob wells.

26 **Bruce Prather:** Okay.

27 **Mark Swartz:** That are going to be producing, out of the panel.

1 **Kelli Berry:** Yes.

2 **Bruce Prather:** And, this M41, if they continue on this panel, it will be a gob well, pretty quick
3 then, won't it?

4 **Kelli Berry:** Yes.

5 **Bruce Prather:** Is CNX the operator for Pocahontas Land? Is that the way your relationship is?

6 **Kelli Berry:** Pocahontas Gas is the operator for the unit.

7 **Bruce Prather:** The people are doing the work...CNX.

8 **Kelli Berry:** CNX Land. Yes.

9 **Bruce Prather:** Yes.

10 **Mary Quillen:** So, CNX... They are still in existence, but you are separate from CNX, now.
11 Correct?

12 **Kelli Berry:** Yes.

13 **Mary Quillen:** So, you're operating independently. Is it like a contract, or that type of thing?

14 **Bruce Prather:** Yes.

15 **Mary Quillen:** Okay. Gotcha.

16 **Mark Swartz:** In terms of the scale, I'm just guessing. It's, at least, one inch equals 800. It
17 might even be more.

18 **Bruce Prather:** Against 800?

19 **Mark Swartz:** At least. Rick, what's the dimension of the square? Do you know, off the top of
20 your head, of an 80-acre square?

21 **Bill Harris:** I was going to ask. These are 80-acre...?

22 **Mark Swartz:** Right. These are 80 acres.

23 **Rick Cooper:** I do not.

24 **Mary Quillen:** There's also black circles, on this.

25 **Kelli Berry:** Yes. The solid black circles are frack wells.

26 **Mary Quillen:** They are the frack wells. Okay.

1 **Mark Swartz:** To kind of anticipate a discussion that we're going to have in the next unit, if you
2 look at L41, which is sort of in the middle, here, you'll see that one of the longwall units just gets
3 into L41, just gets into the southern piece of it. Above that, you've got the black dots in L41, so
4 we're going to have a situation where we have frack wells producing in this unit, which are
5 allocated under Oakwood I. If you all approve this application, then we're going to have the
6 wells in the 6 East panel contributing production to that 6 East panel, which is partially in L41.
7 So, the L41 owners are going to receive a piece of that longwall production, which is going to be
8 allocated, as well. So, they're going to receive revenue from both sources.

9 **Mary Quillen:** Yes. Okay. That was the next question. Will these people who are in that same
10 L41, are they going to get...?

11 **Mark Swartz:** They're going to get revenue from both sources.

12 **Mary Quillen:** They're going to get revenue from everything that's operating in L41.

13 **Mark Swartz:** Right. If you look at M41, it looks like, just based on this map, that the
14 production going forward is going to be limited to...

15 **Kelli Berry:** All of the frack wells have been plugged.

16 **Mark Swartz:** So, it's going to be all gob gas.

17 **Mary Quillen:** Right.

18 **Mark Swartz:** Under Oakwood II. And, eventually, that may be true with L41. At least, for the
19 foreseeable future, that will not be true. They'll benefit from both kinds of production.

20 **Bruce Prather:** To date, you haven't had any problems with the longwalls going through the
21 frack wells?

22 **Mark Swartz:** No, we have not.

23 **Bruce Prather:** We had a guy, this morning, talking about how fracking was screwing up his
24 CBM.

25 **Mark Swartz:** We've been at this a while. You two may remember this because you've been
26 here almost as long as I have, or maybe longer. I don't know. In the very beginning, '89, Island
27 Creek did a frack in a longwall panel that was being mined. Well, Oxy did it for them, but they
28 put fluorescent sand in the frack sand, instead of regular sand.

29 **Mary Quillen:** Oh, to track it.

30 **Mark Swartz:** So, they frack the well and it, obviously, fracked a coal seam. They were close
31 enough to mining, so they mined through that frack and they got down there with black lights
32 and they brought Rick's predecessor and Benny Wampler, at that point, and union

1 representatives, and so forth, and went down there with black lights and you could see the sand
2 glowing in the seam where the frack had occurred. But, to prove that you could mine through,
3 safely, a fracked coal seam and that you could, then, sell the colorful sand along with the coal.
4 So, we spent a lot of time. Pocahontas Gas did the same sort of exercise to demonstrate that
5 fracking coal seams was not going to be a structural problem, in terms of mining, or emergent
6 ability problems. So, I heard him say that, but I think that's been put to rest for...

7 **Bruce Prather:** I was just thinking him up as some example.

8 **Mary Quillen:** And that long ago, too. People tend to think that this is just something brand
9 new that you're doing, but this is a long time ago.

10 **Mark Swartz:** We've been mining fracked coal seams for almost 30 years, now.

11 **Mary Quillen:** Right.

12 **Mark Swartz:** And selling the coal.

13 **Mary Quillen:** You should have spoken up when...

14 **Mark Swartz:** Well, I have to resist that temptation.

15 **Mary Quillen:** I'm sure you did.

16 **Mark Swartz:** Butch would have been all over me. It's interesting because, back then, it was a
17 big topic that was hotly debated. Ultimately, the proof is in the pudding. Find a way to try it out
18 and see what happens.

19 **Mary Quillen:** And, technology has just exploded, over those 30 years to now. Everything
20 looks very primitive that you were doing.

21 **Mark Swartz:** That's the problem with the mapping, here.

22 **Mary Quillen:** Exactly.

23 **Mark Swartz:** The pencil lines were causing us all kinds of problems.

24 **Bruce Prather:** I think the thing that's really proof was that the sand stays within the coal seam.

25 **Mark Swartz:** Right.

26 **Bruce Prather:** As long as you can prove that, then there's no problems with it.

27 **Mark Swartz:** It was interesting, but that was the kind of demonstration that, I think, got us
28 over the hurdle here, in terms of demonstrating: (a) it was not going to create a safety hazard for
29 miners, which was a huge concern; and (b) it wasn't going to sterilize coal. That was an
30 unknown, or an argument back in the late '80's.

1 **Mary Quillen:** Any other questions from the Board? [No response] Mr. Swartz?
2 **Mark Swartz:** Nothing further.
3 **Mary Quillen:** Do I hear a motion to approve the request for the re-pooling?
4 **Bill Harris:** So moved.
5 **Donnie Rife:** Second, Madame Chairman.
6 **Mary Quillen:** We have a motion and a second. All those in favor, respond by saying, "Aye."
7 **Board:** Aye.
8 **Mary Quillen:** Opposed no. [No response] Abstentions. [No response] You have approval, sir.
9 **Mark Swartz:** Thank you.

10 **Item Number 6**

11 **Mary Quillen:** Agenda Item 6. A petition from Pocahontas Gas LLC, for (1) re-pooling to
12 revise interests consistent with those determined by re-mapping; (2) to include anticipated
13 production under Oakwood II Field Rules after longwall panel isolation; and (3) to allow for and
14 include production from additional wells drilled to de-gas coal in advance of mining. Unit L41.
15 Docket Number VGOB 07-0515-1926-01. All those wishing to speak, please come forward.
16 **Mark Swartz:** Mark Swartz and Kelli Berry.
17 **Mary Quillen:** You may continue.
18 **Mark Swartz:** Kelli, would you state your name for us, please?
19 **Kelli Berry:** Kelli Berry.
20 **Mark Swartz:** Who are you here on behalf of?
21 **Kelli Berry:** Pocahontas Gas, LLC.
22 **Mark Swartz:** Who do you work for?
23 **Kelli Berry:** CNX Land, LLC.
24 **Mark Swartz:** And, this is a re-pooling?
25 **Kelli Berry:** Yes.

1 **Mark Swartz:** What did you do to tell people we were going to have a re-pooling hearing, with
2 regard to L41?

3 **Kelli Berry:** We mailed, by certified mail a notice to all the owners and, also, published the
4 notice of hearing.

5 **Mark Swartz:** When did you mail?

6 **Kelli Berry:** December 19, 2018.

7 **Mark Swartz:** And, did you send the notice to all of the respondents listed in the notice of
8 hearing on the application?

9 **Kelli Berry:** Yes.

10 **Mark Swartz:** And, mailed to them, did you send a notice of hearing, the application, and the
11 exhibits?

12 **Kelli Berry:** Yes.

13 **Mark Swartz:** When you published, what newspaper did you publish in?

14 **Kelli Berry:** *The Virginia Mountaineer.*

15 **Mark Swartz:** When did that publication occur?

16 **Kelli Berry:** December 27, 2018.

17 **Mark Swartz:** I think you probably would have published the notice and a map. Correct?

18 **Kelli Berry:** That's correct.

19 **Mark Swartz:** Okay. Do you want to add any respondents, today?

20 **Kelli Berry:** No.

21 **Mark Swartz:** Do you want to dismiss any?

22 **Kelli Berry:** No.

23 **Mark Swartz:** This is a very similar application to the one we just dealt with, with regard to
24 M41. Correct?

25 **Kelli Berry:** It is.

26 **Mark Swartz:** And, in fact, the map that we passed out earlier has this unit and the same
27 longwall panel that affects these units on it.

1 **Kelli Berry:** Yes.

2 **Mark Swartz:** It's the longwall panel 6 East, right?

3 **Kelli Berry:** That's correct.

4 **Mark Swartz:** And, that's the one that's the top one. Okay. That will extend, when isolated, that
5 will contribute some panel production to L41. Correct?

6 **Kelli Berry:** Correct.

7 **Mark Swartz:** As we discussed before, with regard to the earlier application, there will be panel
8 production, but there will also continue to be frack well production in this unit.

9 **Kelli Berry:** That's correct.

10 **Mark Swartz:** The reasons, here, for the re-pooling are, again, re-mapping. Is it the same issue,
11 here? The technology and the information's better?

12 **Kelli Berry:** Yes.

13 **Mark Swartz:** Does your Exhibit B3 provide the new acreages and the new percentages?

14 **Kelli Berry:** Yes.

15 **Mark Swartz:** Then, we've got a request to allow production under Oakwood II and to include
16 additional wells in the Oakwood II production.

17 **Kelli Berry:** Yes.

18 **Mark Swartz:** Okay. This unit was originally pooled in 2007.

19 **Kelli Berry:** Yes.

20 **Mark Swartz:** And, it was pooled as a frack unit?

21 **Kelli Berry:** Yes.

22 **Mark Swartz:** And, it's been producing as a frack unit.

23 **Kelli Berry:** It has.

24 **Mark Swartz:** Is this Panel 6 getting close to isolation?

25 **Kelli Berry:** I'm not sure.

26 **Mark Swartz:** It looks like it's down the road a bit, doesn't it?

27 **Kelli Berry:** Yes. It's in the future.

1 **Mark Swartz:** But, it's the next panel?

2 **Kelli Berry:** Yes.

3 **Mark Swartz:** You can sort of see the progression.

4 **Kelli Berry:** Yes.

5 **Mark Swartz:** And, we're doing this so that once it's isolated, you can allocate production and
6 produce under Oakwood II

7 **Kelli Berry:** Yes.

8 **Mark Swartz:** Have you provided a list of your permits? Right?

9 **Kelli Berry:** Yes.

10 **Mark Swartz:** We have a plat in your application, which shows the locations of those wells.

11 **Kelli Berry:** Yes.

12 **Mark Swartz:** We talked about Exhibit B. You've got the same average well cost exhibit. This
13 one is...

14 **Kelli Berry:** I included the frack well costs that were submitted with the original pooling, as
15 well as the...

16 **Mark Swartz:** Okay. So, this was the '07 estimate. Right?

17 **Kelli Berry:** Yes.

18 **Mark Swartz:** Page 27 of your original application.

19 **Kelli Berry:** Yes.

20 **Mark Swartz:** Then, you have done a revised exhibit that's been passed out to the Board, today.
21 So, if we go to Page 28, that has been revised and the total allocable to L41 has changed from
22 \$103,000 and change to \$138,134.53.

23 **Kelli Berry:** That's correct.

24 **Mark Swartz:** And, that's because you've added wells drilled since the original.

25 **Kelli Berry:** Correct.

26 **Mark Swartz:** Once again, as we discussed in regard to the re-pooling of M41, this chart,
27 Exhibit M, Page 1, does a couple of things. Under the allocation column, it tells us what piece of
28 the production from the longwall panel goes to each of the units.

1 **Kelli Berry:** Yes.

2 **Mark Swartz:** And, that same percentage also gives an owner, or a respondent, the percentage
3 that they would use to calculate their unit's piece. For example, L37's piece of the cost allocation
4 is \$2,266.98.

5 **Kelli Berry:** Correct.

6 **Mark Swartz:** So, if someone in L37 wanted to participate, they'd be talking about \$227, right?

7 **Kelli Berry:** Yes.

8 **Mark Swartz:** So, this does two things. It tells us the allocation production number and it tells
9 us the cost allocation to participate.

10 **Kelli Berry:** Correct.

11 **Mark Swartz:** I believe, Madame Chairman, that's all I have on L41.

12 **Mary Quillen:** Any questions from the Board? [No response] Do I have a motion for approval,
13 for the re-pooling of this item.

14 **Donnie Rife:** Motion made for approval, Madame Chair.

15 **Bill Harris:** I'll second.

16 **Mary Quillen:** We have a motion and a second. All those in favor, respond by saying, "Aye."

17 **Board:** Aye.

18 **Mary Quillen:** Opposed no. [No response] Abstentions. [No response] You have approval.

19 **Mark Swartz:** Thank you.

20 **Mary Quillen:** It is noon and lunch has been delivered, so we will take a break to do lunch.
21 When we return, we'll come back with Agenda Item 7. Do we need to take an hour?

22 **Mark Swartz:** We will come back as soon as you want us.

23 **Rick Cooper:** We can eat in 30 minutes, if that's what you're asking.

24 **Mary Quillen:** I think 30 minutes would probably work, if it works for everybody.

25 **Item Number 7**

26 **Mary Quillen:** We're back on the record with Agenda Item Number 7. A petition from
27 Pocahontas Gas LLC, for (1) the disbursement of escrowed funds heretofore deposited with the

1 Board's Escrow Agent, attributable to Tracts 3, 3A, and 14, as depicted upon the annexed table;
2 and (2) authorization to begin paying royalties directly to the listed Walter L. Keen Estate, CNX
3 Gas Company, LLC, Cindy C. Cline, Donald William Ford, Jack C. Ford, James Keith Ford,
4 Eunice Forsley, Judy Ann Hicks, James Elwood Keen, and Kell & Linda Vandyke. Unit V28.
5 Docket Number VGOB 96-0116-0530-08. Anyone wishing to speak to this item, please come
6 forward.

7 **Mark Swartz:** Mark Swartz and Kelli Berry.

8 **Mary Quillen:** You may continue.

9 **Mark Swartz:** State your name for us, please.

10 **Kelli Berry:** Kelli Berry.

11 **Mark Swartz:** And, who are you here, on behalf of, today?

12 **Kelli Berry:** Pocahontas Gas, LLC.

13 **Mark Swartz:** And, this is a request for disbursement?

14 **Kelli Berry:** Yes.

15 **Mark Swartz:** And, we have some revised exhibits, or amended exhibits. Have they been
16 passed out, yet, or not?

17 **Kelli Berry:** Not yet.

18 **Rick Cooper:** Let me help you, there, ma'am.

19 **Mark Swartz:** In your petition, Kelli, you gave the reasons why we're seeking a disbursement.
20 Right?

21 **Kelli Berry:** Yes.

22 **Mark Swartz:** And, those reasons are, first of all, we've got some CBM, or oil and gas, owners
23 who are entitled under the Act to 100% of the royalties. Right?

24 **Kelli Berry:** Correct.

25 **Mark Swartz:** And, also, there was a court case and you've attached a copy of that decision.
26 Correct?

27 **Kelli Berry:** Yes.

1 **Mark Swartz:** So, we've got CBM gas claimants, under the Act, and we've got a court case.
2 We've given notice to conflicted coal owners, a long time ago, and in previous petitions, they've
3 been dismissed. Correct?

4 **Kelli Berry:** Correct.

5 **Mark Swartz:** When you filed this, you provided a Table 1, which was a "Pay exact dollar
6 amount" table, and a Table 2. Today, you've given the Board amended versions of both of those
7 tables. Correct?

8 **Kelli Berry:** Correct.

9 **Mark Swartz:** So, you should use these versions that we passed out, today, as we discuss this
10 further. In addition, you neglected to include your Exhibit EE and we've given that to the Board,
11 today, as well.

12 **Kelli Berry:** Correct.

13 **Mark Swartz:** Okay. Getting to the point, then... Have you provided, in Table 1, a list of people
14 that are to receive a specific dollar amount?

15 **Kelli Berry:** Yes.

16 **Mark Swartz:** And, for each person in the amended Table 1, person or company, you have
17 given their name and their address. Correct?

18 **Kelli Berry:** Yes.

19 **Mark Swartz:** Then, you have given the amount that they are to receive, the amount of the
20 check that the Escrow Agent is supposed to cut. And, they all get the same, \$57.14.

21 **Kelli Berry:** Correct.

22 **Mark Swartz:** Okay. After those payments are made, the Escrow Agent should be ordered to go
23 to Table 2.

24 **Kelli Berry:** Correct.

25 **Mark Swartz:** In Table 2, have you provided a further list of people? And we need to refer to
26 the amended list, now. A further list of people that are to receive percentage disbursements.

27 **Kelli Berry:** Yes.

28 **Mark Swartz:** And, the folks that are to receive percentage disbursements are James Elwood
29 Keen, right?

30 **Kelli Berry:** Yes.

1 **Mark Swartz:** And, you've given his mailing address?

2 **Kelli Berry:** Yes.

3 **Mark Swartz:** Then, the Walter Keen Estate.

4 **Kelli Berry:** Yes.

5 **Mark Swartz:** And, you've provided the affidavit, as part of your application, authorizing that
6 to go to Mr. Cook. Right?

7 **Kelli Berry:** That's correct.

8 **Mark Swartz:** Then, lastly, there's also a percentage payment to be made to Kell & Linda
9 Vandyke. Right?

10 **Kelli Berry:** Yes.

11 **Mark Swartz:** And, you provided mailing instructions for all three of those folks. And, you
12 provided in, I guess it would be the third column from the right-hand side of the page, the
13 percentage that the Escrow Agent should use in making those disbursements.

14 **Kelli Berry:** Yes.

15 **Mark Swartz:** For example, with regard to Mr. James Elwood Keen, after the Table 1
16 disbursements are made, the Escrow Agent should be ordered to multiply 3.1105% times the
17 balance on hand, and that will generate the check that goes to James Elwood Keen.

18 **Kelli Berry:** And, they need to deduct the amount paid to the owners on Table 1.

19 **Mark Swartz:** Right beforehand.

20 **Kelli Berry:** Yes.

21 **Mark Swartz:** Right. But, after they've made those deductions, then they use, for example,
22 James Elwood Keen, 3.1105% times the balance that's left.

23 **Kelli Berry:** Yes.

24 **Mark Swartz:** And, that's his amount.

25 **Kelli Berry:** Yes.

26 **Mark Swartz:** And, the good news, then, once the Table 1 disbursements are made and the
27 Table 2 disbursements are made, if we look at your revised Exhibit E, which is Page 10 in the
28 PDF that we all have, that will zero out the escrow account and we'll be done.

1 **Kelli Berry:** Yes.

2 **Mark Swartz:** We provided the revised EE, today. Let's go to Exhibit J, the escrow account
3 reconciliation. The purpose of this exercise is to locate all the checks that the various operators
4 paid.

5 **Kelli Berry:** Yes.

6 **Mark Swartz:** And, then look for corresponding deposits in the records of the various Escrow
7 Agents.

8 **Kelli Berry:** Correct.

9 **Mark Swartz:** In this instance, I think although it's a very long list, it looks like you were able
10 to find a deposit for every check.

11 **Kelli Berry:** Yes.

12 **Mark Swartz:** Then, you did a reconciliation to kind of do your math and compare that to what
13 the Escrow Agent was showing. Right?

14 **Kelli Berry:** Yes.

15 **Mark Swartz:** And, you made a comparison with the November 2018 First Bank and Trust
16 statement.

17 **Kelli Berry:** Yes.

18 **Mark Swartz:** When you compared your calculation to what the balance was, according to the
19 Escrow Agent, there was a difference. Correct?

20 **Kelli Berry:** Yes.

21 **Mark Swartz:** And, the Escrow Agent had slightly less than you were coming up with?

22 **Kelli Berry:** Yes.

23 **Mark Swartz:** What was that amount?

24 **Kelli Berry:** \$25.72.

25 **Mark Swartz:** In doing your calculation and making the comparison, you dealt with six prior
26 disbursements.

27 **Kelli Berry:** Yes.

1 **Mark Swartz:** Then, it looks like there was a deposit added to deal with the Keen divorce
2 issues that we've been dealing with for these many years. Right?

3 **Kelli Berry:** Yes.

4 **Mark Swartz:** The good news, here, is if these disbursements are made, we will have zeroed
5 out this account.

6 **Kelli Berry:** That's correct.

7 **Mark Swartz:** Okay. I think that's all I have, Madame Chairman.

8 **Mary Quillen:** Just one question. On that James Elwood Keen, that \$342.83 was paid in error.

9 **Kelli Berry:** No. The \$342.83 is the total of the amount that will be paid, on Table 1.

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

11 **Kelli Berry:** Because those were the heirs of John Ford, who deeded their interest to James
12 Elwood Keen.

13 **Mary Quillen:** Okay. So, that was from that first deduction of paying the amount. Then, the
14 second payment to him, then, is that percentage.

15 **Kelli Berry:** Yes.

16 **Mary Quillen:** It will continue, then, getting on the percentage?

17 **Kelli Berry:** Yes.

18 **Mark Swartz:** Right.

19 **Mary Quillen:** Okay. Just wanted to clarify that. Also, clarify just for the record, that this check
20 to Walter L. Keen Estate, in care of Angela Bailey, this check will be written to the Estate, in
21 care of her, and it will be mailed to Shea Cook.

22 **Kelli Berry:** Yes.

23 **Mary Quillen:** Correct?

24 **Mark Swartz:** Yes, and if you look at Page 31 of your PDF, there is the authorization to do
25 that.

26 **Mary Quillen:** Yes. I just wanted that on the record.

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

28 **Mary Quillen:** Very good. Any questions from the Board? [No response] You may continue.

1 **Mark Swartz:** I'm finished.
2 **Mary Quillen:** Do I hear a motion to approve this disbursement?
3 **Donnie Rife:** Motion made for approval, Madame Chair.
4 **Bill Harris:** I'll second.
5 **Mary Quillen:** We have a motion and a second for approval. All those in favor, respond by
6 saying, "Aye."
7 **Board:** Aye.
8 **Mary Quillen:** Opposed no. [No response] Abstentions. [No response] Approval for the escrow
9 to be disbursed.

10 **Item Number 8**

11 **Mary Quillen:** Agenda Item Number 8. A petition from Pocahontas Gas LLC, for (1) the
12 disbursement of escrowed funds to Tract 13, as depicted upon the annexed table directly to the
13 following parties: Walter L. Keen Estate. (Inactive unit, royalties currently being paid under
14 VP2SGU, Docket #VGOB 02-0319-1008). Unit V29. Docket Number VGOB 96-0116-0531-03.
15 All those wishing to speak to this item, please come forward.

16 **Mark Swartz:** Mark Swartz and Kelli Berry

17 **Mary Quillen:** You may continue.

18 **Mark Swartz:** Thank you. Kelli, who are you here, on behalf of, today?

19 **Kelli Berry:** Pocahontas Gas LLC.

20 **Mark Swartz:** This is another request for disbursement?

21 **Kelli Berry:** Yes.

22 **Mark Swartz:** At the present time, there's no revenue coming out of this unit, anymore.
23 Correct?

24 **Kelli Berry:** That's correct.

25 **Mark Swartz:** And, the royalties are currently being paid under the VP2 Sealed Gob Unit.
26 Right?

27 **Kelli Berry:** That's correct.

1 **Mark Swartz:** To really cut to the chase, here, and make this hearing as quick as possible, to
2 help Donnie run with his life, we're talking about \$0.11.

3 **Kelli Berry:** Yes, we are.

4 **Mark Swartz:** Okay. So, let's go to Table 1, which is the disbursement page. That's at PDF
5 Page 5. We're asking the Board to approve a disbursement of \$0.11 to Walter L. Keen Estate,
6 care of Angela Bailey. Again, this would be mailed to Shea Cook. Right?

7 **Kelli Berry:** Correct.

8 **Mark Swartz:** And, the reason we're asking for that is the next page, which is Exhibit E, PDF
9 Page 6. That will close out this escrow account.

10 **Kelli Berry:** It will.

11 **Mark Swartz:** Okay. So, that's the point of this. We have done an Exhibit J and made those
12 calculations, but the bank is showing a balance of \$.11. That's all I have on this one.

13 **Mary Quillen:** Any questions from the Board? [No response] Do I have a motion to approve
14 disbursements of these escrow funds?

15 **Donnie Rife:** Motion made to approve them to put a \$0.50 stamp on a check that's \$0.11 value,
16 Chair.

17 **Bill Harris:** I'll second that.

18 **Mary Quillen:** We have a motion and a second. All those in favor, respond by saying, "Aye."

19 **Board:** Aye.

20 **Mary Quillen:** Opposed no. [No response] Abstentions. [No response] Motion carries. You
21 have approval.

22 **Bill Harris:** Just as a...and I know I ask this all the time. Will they actually write a check for
23 \$0.11.

24 **Mark Swartz:** Oh, yes.

25 **Bill Harris:** Will they not add like a dollar to it, to at least make it...

26 **Mary Quillen:** Nope.

27 **Mark Swartz:** It's too late for that. The bank's going to lose money, on this one, but they'll
28 probably find a way to add it somewhere else, in an inventive way.

1 **Bruce Prather:** Do you ever make it a yearly, instead of a monthly disbursement, so you have
2 more than \$1.00?

3 **Mark Swartz:** Well, the problem is there's no revenue coming into this, anymore. It's all under
4 a Sealed Gob Unit, so it wouldn't work, here.

5 **Donnie Rife:** After the \$0.11, it closes out anyway. Right?

6 **Kelli Berry:** Yes.

7 **Donnie Rife:** Okay. Good enough.

8 **Item Number 9**

9 **Mary Quillen:** Next item on the agenda, Number 9. A petition from Pocahontas Gas LLC, for
10 (1) the disbursement of escrowed funds to Tracts 1F, 1G, & 2, as depicted upon the annexed
11 table; and (2) authorization to begin paying royalties directly to the listed recipients; (3)
12 Dismissal of coal owner(s): H-W Financial LLC (Formerly Harrison-Wyatt, LLC). Unit BF100.
13 Docket Item Number VGOB 04-1214-1368-04. All those wishing to speak to this item, please
14 come forward.

15 **Mark Swartz:** Mark Swartz and Kelli Berry.

16 **Mary Quillen:** You may continue.

17 **Mark Swartz:** Thank you. Kelli, state your name for us, again.

18 **Kelli Berry:** Kelli Berry.

19 **Mark Swartz:** Who are you here, on behalf of?

20 **Kelli Berry:** Pocahontas Gas LLC.

21 **Mark Swartz:** And, this is another request for disbursement?

22 **Kelli Berry:** Yes.

23 **Mark Swartz:** And if we go back to the actual basis for the relief, it looks like the reason is
24 we've got CBM owners awarded relief, under Case 16254. Right?

25 **Kelli Berry:** Yes.

26 **Mark Swartz:** And, so it's the outcome of a lawsuit that's driving this request?

27 **Kelli Berry:** Yes.

1 **Mark Swartz:** And, the lawsuit determined that those folks, or the judgment determined that
2 those folks are entitled to 100% of the royalties.

3 **Kelli Berry:** Correct.

4 **Mark Swartz:** You've previously given notices to coal owners and we haven't received any
5 evidence back from them, within the 45-day period, suggesting that they have some basis for a
6 claim. Right?

7 **Kelli Berry:** Correct.

8 **Mark Swartz:** Then, if we go to Table 1, it's a pretty extensive list. Correct?

9 **Kelli Berry:** Yes.

10 **Mark Swartz:** It's slightly more than three pages.

11 **Kelli Berry:** Yes.

12 **Mark Swartz:** This Table 1 is a percentage disbursement?

13 **Kelli Berry:** Yes.

14 **Mark Swartz:** And, in Table 1, have you listed the names of all persons and companies and/or
15 estates who are to receive disbursements?

16 **Kelli Berry:** Yes.

17 **Mark Swartz:** And, have you supplied a mailing address for each person, company, or estate?

18 **Kelli Berry:** Yes.

19 **Mark Swartz:** And, in the second column from the right-hand side, have you given a
20 percentage in the row for each person, company, or estate?

21 **Kelli Berry:** Yes.

22 **Mark Swartz:** And, should the Board's Escrow Agent be instructed to use that percentage in the
23 second column from the right-hand side, for each person, company, or estate, multiply that times
24 the balance on hand at the time the disbursement is made, to generate the dollar figure to be paid
25 to that person, or company?

26 **Kelli Berry:** Yes.

27 **Mark Swartz:** Then, in the future, you're asking the Board to allow the operator to pay all of
28 these folks listed in Table 1, directly?

1 **Kelli Berry:** Yes.

2 **Mark Swartz:** And, as I said, there were a little over three pages. The last page identifies the
3 well contributing and it was just the one, BF100, well.

4 **Kelli Berry:** Yes.

5 **Mark Swartz:** Going forward, if you go to PDF Page 11, we've got an Exhibit E, so we're still
6 going to have to have an escrow account.

7 **Kelli Berry:** Yes.

8 **Mark Swartz:** And, this kind of explains that?

9 **Kelli Berry:** Yes.

10 **Mark Swartz:** I'm assuming there's an Exhibit EE, as we look down through here. EE starts at
11 PDF Page 28 and continues for quite some time. EE tells us if these disbursements are made, this
12 is how people are going to be paid, moving forward?

13 **Kelli Berry:** Correct.

14 **Mark Swartz:** Then, we've got an Exhibit J that you did. Correct?

15 **Kelli Berry:** Yes.

16 **Mark Swartz:** First of all, did you look for all of the checks that the various operators had paid?

17 **Kelli Berry:** Yes.

18 **Mark Swartz:** Then, you went looking for corresponding deposits.

19 **Kelli Berry:** Yes.

20 **Mark Swartz:** And, you've got two different kinds of outcomes, here. The highlighted stuff
21 indicates differences that you can't account for.

22 **Kelli Berry:** Yes.

23 **Mark Swartz:** For example, if you look at 4/25/2008, we've got a check that was written for
24 \$1,016.57 and we've got a deposit of \$1,021.44.

25 **Kelli Berry:** Yes.

26 **Mark Swartz:** And they don't match and you can't figure out why not.

27 **Kelli Berry:** Right.

1 **Mark Swartz:** Okay. If you go just up above that same page, on J, you've got some stuff in
2 brackets.

3 **Kelli Berry:** Yes.

4 **Mark Swartz:** For example, you've got two checks, April 5, 2007, April 25, 2007, and if you
5 add those together, you come up with the one deposit of April 30.

6 **Kelli Berry:** Yes.

7 **Mark Swartz:** So, anything in those dark brackets, you've been able to figure out and account
8 for.

9 **Kelli Berry:** Yes.

10 **Mark Swartz:** But, anything highlighted, as the example we've given (fortunately there isn't a
11 lot of that), you just can't account for that.

12 **Kelli Berry:** Correct.

13 **Mark Swartz:** At the end of Exhibit J, you've done your usual accounting calculation.

14 **Kelli Berry:** Yes.

15 **Mark Swartz:** And, in this instance, the bank has slightly more than you calculated.

16 **Kelli Berry:** Yes.

17 **Mark Swartz:** By how much?

18 **Kelli Berry:** \$15.12.

19 **Mark Swartz:** We've got an affidavit, with regard to mailing to coal owners. Correct?

20 **Kelli Berry:** Yes.

21 **Mark Swartz:** And a receipt from Harrison-Wyatt. We obviously gave notice a lot more than
22 45 days ago.

23 **Kelli Berry:** Yes.

24 **Mark Swartz:** And, then we've got a copy of the order you've attached. That commences at
25 Page 52.

26 **Kelli Berry:** Yes.

27 **Mark Swartz:** I believe that's all I have, Madame Chairman.

1 **Mary Quillen:** Just to clarify, all of these lists of the recipients of the funding, you have
2 addresses that is either to them, or a trust. None to a third party?

3 **Kelli Berry:** No. Going directly to individuals.

4 **Mary Quillen:** Very good. Thank you. Do you have anything else?

5 **Mark Swartz:** No.

6 **Mary Quillen:** Do I have a motion to approve disbursement of these escrowed funds?

7 **Donnie Rife:** Motion made for approval, Madame Chair.

8 **Bill Harris:** Second.

9 **Mary Quillen:** We have a motion and a second for approval. All those in favor, respond by
10 saying, "Aye."

11 **Board:** Aye.

12 **Mary Quillen:** Opposed no. [No response] Abstentions. [No response] The motion is approved
13 for disbursement of these escrowed funds.

14 **Mark Swartz:** Thank you.

15 **Item Number 10**

16 **Mary Quillen:** The next item is Agenda Item 10. A petition from Pocahontas Gas LLC, for (1)
17 the disbursement of escrowed funds attributable to a portion of Tracts 2A & 2B, as depicted
18 upon the annexed table; and (2) authorization to begin paying royalties directly to the listed
19 recipients; and (3) Dismissal of coal owner(s): H-W Financial LLC (Formerly Harrison-Wyatt,
20 LLC). Unit BF101. Docket Number VGOB 05-1018-1507-04. All those wishing to speak to this
21 item, please come forward.

22 **Mark Swartz:** Mark Swartz and Kelli Berry.

23 **Mary Quillen:** You may continue.

24 **Mark Swartz:** Kelli, state your name for us, again.

25 **Kelli Berry:** Kelli Berry.

26 **Mark Swartz:** Who are you here, on behalf of?

27 **Kelli Berry:** Pocahontas Gas LLC.

28 **Mark Swartz:** And, is that to pursue a petition for disbursement?

1 **Kelli Berry:** Yes.

2 **Mark Swartz:** And, the reasons for this disbursement request are, it's looks like you've got an
3 outcome of a lawsuit and you've attached a copy of that judgment.

4 **Kelli Berry:** Yes.

5 **Mark Swartz:** It looks like that is the only reason. And, we've also got some prior mailings to
6 coal owners and dismissals that were just referenced.

7 **Kelli Berry:** Yes.

8 **Mark Swartz:** It looks like you prepared a Table 1, again.

9 **Kelli Berry:** Yes.

10 **Mark Swartz:** Table 1, here, starts at PDF Page 5. In Table 1, which goes for two full pages
11 and a partial third page, in that Table 1, have you identified by name all persons, companies, or
12 trusts that are to receive a payment?

13 **Kelli Berry:** Yes.

14 **Mark Swartz:** For each person, company, or trust, have you given a mailing address?

15 **Kelli Berry:** Yes.

16 **Mark Swartz:** And, this is a percentage disbursement?

17 **Kelli Berry:** Yes.

18 **Mark Swartz:** And, in the second column from the right-hand side of the table, you've given a
19 percentage in the row for each and every person, company, or trust.

20 **Kelli Berry:** Yes.

21 **Mark Swartz:** And, that's the percentage the Escrow Agent should apply, by multiplying that
22 times the balance on hand when the checks are cut and that will generate the right number for
23 each recipient.

24 **Kelli Berry:** Correct.

25 **Mark Swartz:** Okay. And, at the end of Table 1, you indicate where the monies come from, or
26 the royalties have come from. Where is that?

27 **Kelli Berry:** Well BF101.

28 **Mark Swartz:** We're going to continue to escrow funds in this account. Right?

1 **Kelli Berry:** Yes.

2 **Mark Swartz:** And, you've given us an updated Exhibit E, that starts at Page 8.

3 **Kelli Berry:** Yes.

4 **Mark Swartz:** It looks like Exhibit E ends on Page 56 and Exhibit EE commences on Page 57.

5 **Kelli Berry:** Yes.

6 **Mark Swartz:** And, EE is the road map, going forward.

7 **Kelli Berry:** Correct.

8 **Mark Swartz:** It indicates how people would be paid in the future, if this petition is approved.

9 **Kelli Berry:** Yes.

10 **Mark Swartz:** Part of this petition is a request to pay the people listed on Table 1 directly.

11 Then, we have, I'm assuming, a reconciliation somewhere. At PDF Page 96, we've got Exhibit J.

12 Correct?

13 **Kelli Berry:** Yes.

14 **Mark Swartz:** Once again, did you look for all royalty payments?

15 **Kelli Berry:** Yes.

16 **Mark Swartz:** Look for deposits?

17 **Kelli Berry:** Yes.

18 **Mark Swartz:** And, it looks like you were able to account for everything.

19 **Kelli Berry:** Yes.

20 **Mark Swartz:** You did have some combination deposits, in the beginning, but you were able to

21 sort through that and those balanced out.

22 **Kelli Berry:** Yes.

23 **Mark Swartz:** Then, you did your math to compare your conclusion, with regard to what ought

24 to be on hand, to the bank's and a miracle occurred. Right?

25 **Kelli Berry:** It did.

26 **Mark Swartz:** What was that?

27 **Kelli Berry:** It balanced.

1 **Mark Swartz:** Zero difference.

2 **Kelli Berry:** Yes.

3 **Mark Swartz:** Okay. Then, we've got proof of mailing and receipt to the coal companies that
4 were, previously, dismissed and their signature cards. We've got a copy of the judgment order.
5 Right?

6 **Kelli Berry:** Yes.

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

8 **Mary Quillen:** Any questions from the Board? [No response] Anything else?

9 **Mark Swartz:** No.

10 **Mary Quillen:** Do we have a motion for approval for disbursement of the escrowed funds?

11 **Donnie Rife:** Motion made to approve the miracle, Madame Chair.

12 **Bill Harris:** Second.

13 **Mary Quillen:** We have a motion and a second for approval. Respond by saying, "Aye."

14 **Board:** Aye.

15 **Mary Quillen:** Opposed no. [No response] Abstentions. [No response] Motion carries. You
16 have approval.

17 **Item Number 15**

18 **Mary Quillen:** The next item on the agenda, Number 15. A petition from Pocahontas Gas LLC,
19 for (1) the disbursement of escrowed funds for portions of Tracts 1A, 1B, 1D, 1E, 1F, 1G, & 1H;
20 and (2) authorization to begin paying royalties directly to the list included on the petition; and (3)
21 Dismissal of Coal Owner(s): Tazewell Coal and Gas Company. Unit BG102. Docket Number
22 VGOB 05-1018-1508-02. All those wishing to speak to this item, please come forward.

23 **Mark Swartz:** Mark Swartz and Kelli Berry.

24 **Mary Quillen:** You may continue.

25 **Mark Swartz:** State your name for us.

26 **Kelli Berry:** Kelli Berry.

27 **Mark Swartz:** Who are you here, on behalf of?

1 **Kelli Berry:** Pocahontas Gas LLC.

2 **Mark Swartz:** And, is this another petition requesting disbursement?

3 **Kelli Berry:** Yes.

4 **Mark Swartz:** In this instance, the factual basis, we've got some royalty split agreements.
5 Right?

6 **Kelli Berry:** Yes.

7 **Mark Swartz:** Have you actually seen those?

8 **Kelli Berry:** Yes.

9 **Mark Swartz:** And, are they 50/50 agreements?

10 **Kelli Berry:** Yes, they are.

11 **Mark Swartz:** And, have you used the 50/50 agreements in drafting your Table 1?

12 **Kelli Berry:** Yes.

13 **Mark Swartz:** We also have some gas claimants.

14 **Kelli Berry:** Yes.

15 **Mark Swartz:** So, we've got two reasons: split agreements and gas claimants, under the Act.

16 **Kelli Berry:** Correct.

17 **Mark Swartz:** Then, once again, you've given notice, in the past, to conflicting coal owners.

18 **Kelli Berry:** Yes.

19 **Mark Swartz:** And, you've requested that they give you their evidence, if any, of a claim within
20 45 days of the notice.

21 **Kelli Berry:** Yes.

22 **Mark Swartz:** And, have you received anything from them?

23 **Kelli Berry:** Other than those stated, with royalty splits, above...no.

24 **Mark Swartz:** Okay. With regard to the royalty splits, to the extent that you have a royalty split
25 agreement from a coal owner, with regard to a portion of the unit, then that split agreement
26 would control and they would receive their share under the terms of that split agreement. But, to

1 the extent there are portions of the unit they don't have split agreements on, we're seeking that
2 they be dismissed.

3 **Kelli Berry:** Correct.

4 **Mark Swartz:** Did you prepare a Table 1?

5 **Kelli Berry:** Yes.

6 **Mark Swartz:** That starts at PDF Page 7 and goes on for a number of pages, up through PDF
7 Page 40.

8 **Kelli Berry:** Yes.

9 **Mark Swartz:** And, on Table 1, have you provided a list of the names of all persons,
10 companies, or estates that you are asking to be paid?

11 **Kelli Berry:** Yes.

12 **Mark Swartz:** And, for each person, company, or estate, have you provided a mailing address?

13 **Kelli Berry:** Yes.

14 **Mark Swartz:** Is this a percentage disbursement?

15 **Kelli Berry:** Yes.

16 **Mark Swartz:** In the second column from the right-hand side of Table 1, have you provided a
17 percentage for each person, company, or estate?

18 **Kelli Berry:** Yes.

19 **Mark Swartz:** And, that's the percentage that the Escrow Agent should use to multiply times
20 the balance on hand on the day the checks are being cut, to determine the amount of each check.

21 **Kelli Berry:** Correct.

22 **Mark Swartz:** And, at the very end of Table 1, you have an indication of where the royalty
23 money came from. Where was that?

24 **Kelli Berry:** Well BG102.

25 **Mark Swartz:** And, you've provided the Board, starting at PDF Page 41 with an Exhibit E,
26 which would be the escrow requirement, going forward.

27 **Kelli Berry:** Correct.

28 **Mark Swartz:** Then, if we look down here....

1 **Mary Quillen:** I have just one question. I noticed on several of those, they have a zero balance.
2 Is there some way that the people are notified that they're not entitled to anything?

3 **Kelli Berry:** Generally, that is because of the acreage of the tract. This disbursement...all the
4 same individuals sort of repeated, over and over.

5 **Mary Quillen:** It may be on another tract. They're in another tract.

6 **Kelli Berry:** Yes.

7 **Mary Quillen:** Okay.

8 **Kelli Berry:** Even though they may get no disbursement, per se, for one interest, they should get
9 it somewhere else.

10 **Mary Quillen:** Right. I just wondered how that was handled, in case someone...

11 **Bill Harris:** To follow up on her.... If that were the case, though, that they were only listed once
12 and had zero, do they get a letter that says...?

13 **Kelli Berry:** They do.

14 **Bill Harris:** Or, they don't get a check that says, "0.00."

15 **Kelli Berry:** They do not create a check for that, but they are notified.

16 **Mary Quillen:** Okay. Very good.

17 **Rick Cooper:** So, let me correct the record for that. If it is on the table, to disburse, and they're
18 showing zero, we round up to a penny and disburse them. If they are shown on Table 1, they do
19 get a check for one penny.

20 **Mary Quillen:** Even if they are...

21 **Rick Cooper:** If they are shown on Table 1 as a disbursement, it says, "0.00246," or whatever
22 their percentage, we round up to a penny, to get them off the account.

23 **Mary Quillen:** Okay. That's if they're not listed on another one of the...

24 **Rick Cooper:** If they're shown, on Table 1, as due a disbursement, per tract. If they're shown on
25 Table 1, in a tract, showing a disbursement, it's a very, very small amount that doesn't round to a
26 penny, we round up to a penny, to be able to disburse them.

27 **Mary Quillen:** Okay.

28 **Rick Cooper:** Because it would take, on ten-thousandths of a share, it would take many years.

1 **Mary Quillen:** Right.

2 **Rick Cooper:** So, you could never disburse the amount. So, to clear the books, we round up to a
3 penny.

4 **Mary Quillen:** Okay.

5 **Mark Swartz:** So, we all got a different answer. They get a notice because they get a check,
6 which is the better answer, actually. It does a lot of things. It clears the escrow account, but it
7 also tells people...

8 **Rick Cooper:** Yes.

9 **Mary Quillen:** Yes. Okay. Very good. Thank you.

10 **Mark Swartz:** In the interim, I found where Exhibit EE starts. It's at Page 170. Exhibit EE,
11 once again, would be the going forward plan.

12 **Kelli Berry:** Correct.

13 **Mark Swartz:** If these disbursements are made, this is how we pay, moving ahead.

14 **Kelli Berry:** Yes.

15 **Mark Swartz:** And, also, it would eliminate the people on Table 1 from Exhibit E and put them
16 on EE, as receiving payments.

17 **Kelli Berry:** Yes.

18 **Mark Swartz:** Okay. Then, Exhibit J starts at 277. It looks like you were able to, having found
19 all royalty payments, you were able to find a deposit for every payment.

20 **Kelli Berry:** Yes.

21 **Mark Swartz:** Then, when you did your math, we got another awesome result, here. Your
22 number is the same as the bank's.

23 **Kelli Berry:** Correct.

24 **Mark Swartz:** So, when you did your calculations to estimate the balance, you came up with a
25 number equal to the November 2018 First Bank and Trust balance.

26 **Kelli Berry:** Correct.

27 **Mark Swartz:** Then, we have a supplemental affidavit of mailing, with regard to Tazewell Coal
28 and Gas Company. We've got a receipt that they signed for, as well as Harrison-Wyatt, in terms
29 of requesting dismissal of those companies.

1 **Kelli Berry:** Yes.

2 **Mark Swartz:** I think that's all I have, Madame Chairman.

3 **Mary Quillen:** Any questions from the Board? [No response] Do I have a motion?

4 **Donnie Rife:** Motion made for approval, Madame Chair.

5 **Bill Harris:** Second.

6 **Mary Quillen:** We have a motion and a second, to approve disbursement of funds to all of those
7 listed. All those who approve, respond by saying, "Aye."

8 **Board:** Aye.

9 **Mary Quillen:** Opposed no. [No response] Abstentions. [No response] You have approval.

10 **Mark Swartz:** Great. Thank you.

11 **Mary Quillen:** That's the last item on the agenda.

12 **Rick Cooper:** You've got me, next.

13 **Mary Quillen:** Oh, yes. We do.

14 **Item Number 16**

15 **Mary Quillen:** Number 16. The Board will receive an update on the Board and the Division.

16 **Rick Cooper:** A lot of this is re-hashing what Ms. Maney said earlier, but we keep a continuous
17 record of this. As you can see, over on the right-hand column, We track this by quarter and by
18 year, since the coal dismissal in July 2015. That would be that far right-hand number. We have
19 disbursed over \$20,000,000 out. I don't have the current total of checks, but I know we have
20 written, or I should say Jody Maney has written, more than 14,000 checks. So, as you can see,
21 today, what we went over today is probably close to 500, or 1,000, today, if you see all the
22 people that's on there. One thing I did want to point out. I try to mention it every meeting. I know
23 Mr. Rife had pointed out some legislative actions, to get some of these monies, but to the best of
24 our ability, we have accounted that there's \$3.4 million in unknown/unlocatable, to be disbursed
25 out sometime in cloud on title. Those are legal issues, \$2.4 million. There's a little over \$4
26 million left in the coal dismissals that can come out, as we're doing today. It could take a while to
27 get some of those out. They're pretty complicated. That's all I have.

28 **Donnie Rife:** Good job.

29 **Mary Quillen:** Thank you.

Item Number 17

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

Mary Quillen: The last number that we have to address are the meetings. This was the November meeting. Do I have a motion for approval?

Donnie Rife: I wasn't here, so I'll have to sit down.

Rita Surratt: I'll make the motion.

Mary Quillen: We have a motion. Second?

Bill Harris: I guess it was for approval.

Mary Quillen: Yes, for approval.

Bill Harris: I'll second that.

Mary Quillen: We have a motion and a second. All those in favor, respond by saying, "Aye."

Board: Aye.

Mary Quillen: Opposed no. [No response] Abstentions. [No response] Minutes are approved. We can adjourn. Do we need a motion to adjourn?

Rick Cooper: I have one question. Are you going to mention the next meeting?

Mary Quillen: Yes.

Mary Quillen: Because I believe there are only four or five items, so far for a March meeting, more than likely, it will be an April meeting. So, if for some reason, he's flooded.

Rick Cooper: The time period has already exceeded.

Mary Quillen: Oh, has it expired? It will definitely be in April, then. If, for some reason, that doesn't come to fruition, he will notify all of us and it will be a May meeting.

Donnie Rife: We've sure come a long way since 2015.

Mary Quillen: Oh, yes.

Donnie Rife: A long, long way.

Mark Swartz: Actually, we've come a long way since September 1990.

Mary Quillen: Yes. Remember those two-day meetings?

Mark Swartz: We were meeting at the Bristol Library, two-three days. Twelve-hour meetings.

Donnie Rife: I'm glad I missed that.

- 1 **Mark Swartz:** It was exhausting.
- 2 **Mary Quillen:** Yes. Then, we started at the Higher Ed Center, for several years. It was
3 scheduled ahead of time, two-day meetings. Sometimes, they ran (the one-day meetings) until
4 5:00 or 6:00.
- 5 **Rick Cooper:** Could I point out one thing before you adjourn?
- 6 **Mary Quillen:** Yes.
- 7 **Rick Cooper:** In the last meeting, last October, the Virginia Oil and Gas Association, Mr.
8 Harris was recognized as the longest serving Board member on the Gas and Oil Board--27 years.
9 He was recognized for that fact.
- 10 **Mark Swartz:** We go back to the 4-H Club.
- 11 **Bill Harris:** Oh, yeah. Out in Abingdon.
- 12 **Mark Swartz:** I think that's where we started.