

1 VIRGINIA:

2 IN THE COUNTY OF WASHINGTON

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5 VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

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7 VIRGINIA GAS AND OIL BOARD

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14 SEPTEMBER 22, 1999

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BENNY WAMPLER: Okay. Good morning. My name is Benny Wampler. I'm Deputy Director for the Department of Mines, Minerals and Energy, and Chairman of the Gas and Oil Board; and I'll ask the Board members to introduce themselves.

MASON BRENT: My name is Mason Brent. I'm from Richmond, and I represent the Gas and Oil Industry.

MAX LEWIS: My name is Max Lewis and I'm from Buchanan County, and I represent....I'm a public member.

SANDRA RIGGS: I'm Sandra Riggs with the Office of the Attorney General, here to advise the Board.

RICHARD GILLIAM: Richard Gilliam, Abingdon. Coal...Coal Industry Representative.

CLYDE KING: I'm Clyde King from Abingdon, a public representative.

DENNIS GARBIS: My name is Dennis Garbis. I'm from Fairfax County. I'm a public member.

BOB WILSON: Bob Wilson. I'm acting Director of the Division of Gas and Oil and Secretary/Treasurer for the Board.

BENNY WAMPLER: Thank you very much. The first item on today's agenda is the Board will receive a quarterly

1 status report from First Virginia Bank-Mountain Empire.

2 RUTH HARPER: I'm Ruth Harper from First Virginia
3 Bank. I'm taking Dale Ditz's place this morning. He had an
4 emergency in his family. His mother died on Sunday. So, I
5 am here representing the escrow agent account. The balance
6 in the account as of 8/31, the last produced report, was
7 \$3,509,273.00.

8 BENNY WAMPLER: Would you repeat that, please?

9 RUTH HARPER: \$3,000...I'm sorry. \$3,509,273.00.

10 BENNY WAMPLER: Thank you.

11 RUTH HARPER: Is there anything else that Dale
12 reports on?

13 BENNY WAMPLER: Not unless the Board members have
14 questions. I think typically...maybe the interest that it's
15 earning per month or whatever the report period might be.

16 RUTH HARPER: The income that was produced last
17 month was \$43,381.89. The other earnings came to \$9,859.55.
18 So, together it was approximately \$52-53,000.00 that came
19 in.

20 MASON BRENT: Do you have a year to date figure on
21 that?

22 RUTH HARPER: No, I do not, not on this report, but
23 I can get it to you and submit it to the Board.

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1 CLYDE KING: Any disbursements?

2 RUTH HARPER: Not last month.

3 BENNY WAMPLER: Any other questions from members of
4 the Board?

5 (No audible response.)

6 BENNY WAMPLER: We thank you very much and please
7 express our condolences to Mr. Ditz and his family.

8 RUTH HARPER: I will do so. Thank you.

9 BENNY WAMPLER: Thank you. Thank you for being
10 here. The next item on the Board's agenda is a petition from
11 Pocahontas Gas Partnership for pooling of a coalbed methane
12 unit under the Oakwood Coalbed Methane Gas Field I Order
13 identified as L-46, located in the Garden District. Excuse
14 me. This is docket number VGOB-99-07/20-0725; and we'd ask
15 the parties that wish to address the Board in this matter to
16 come forward at this time, please.

17 MARK SWARTZ: Mark Swartz and Les Arrington
18 representing the applicant.

19 BENNY WAMPLER: Okay.

20 MARK SWARTZ: Mr. Chairman, the...I would represent
21 that we consolidate for hearing, docket items two through
22 nine. The only respondent in those eight pooling application
23 is Norfolk Southern. We had originally set these for hearing

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1 in July. We're hopeful that...had been in touch with Norfolk
2 Southern's land department and had been hopeful that we could
3 reach a lease agreement with them. We're still negotiating,
4 but it has been sixty (60) days and we figure we need to, you
5 know, move on here. But we are negotiating with them. I'm
6 not certain we're going to reach an agreement, but we might.
7 I think it would save the Board's time to just consolidate
8 these units. It is somewhat confusing because they are both
9 Buchanan Production Company and Pocahontas Gas Company
10 applications but I've sorted them out. Les and I have got a
11 schedule we can go through with you that maybe focus on...on
12 the significant data that you need.

13 BENNY WAMPLER: Okay. Before we do that. If you
14 folks want to come in and sit. What I need you to do is
15 anytime that you're here on a particular case is to identify
16 yourselves. Otherwise, you're welcome to come in and sit
17 down rather than having to stand up. Is there any objections
18 to consolidating these cases?

19 CLYDE KING: What number is that?

20 BENNY WAMPLER: It will be two through nine on our
21 agenda and I'll go ahead and call the others. They all
22 proceeded by VGOB-99-07/20-07. I just called 25. The others
23 I'll call will be 26, 27, 28, 32, 33, 34 and 35. Is there

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1 any parties here that wish to address the Board in any of
2 these matters, please identify yourselves other than the ones
3 that have already come forward and have been identified.
4 (Pause) The record will show there are not any others. You
5 may proceed.

6 MARK SWARTZ: Okay. We've got some exhibits that
7 Les needs to pass out and we can proceed.

8 (Mr. Arrington passes out the exhibits. Went off
9 the record while the room was rearranged to accomodate more
10 seating area.)

11 MARK SWARTZ: Okay. Can we have Mr. Arrington
12 sworn?

13 (Witness is duly sworn.)

14

15 LES ARRINGTON

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

18 DIRECT EXAMINATION

19 QUESTIONS BY MR. SWARTZ:

20 Q. Les, these units docket items two through
21 nine include, do they not, three Pocahontas Gas Partnership
22 Oakwood I units, four Buchanan Production Company Oakwood I
23 and II units, and one Buchanan Production Company Oakwood I
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1 unit, is that correct?

2 A. That's correct.

3 Q. Okay. The only respondent with regard to
4 each of these pooling applications is Norfolk Southern, is
5 that correct?

6 A. It is.

7 Q. Have you been...has your land department
8 been negotiating with Norfolk Southern?

9 A. Yes, we have.

10 Q. Are those negotiations continuing?

11 A. Yes, they are.

12 Q. But at least as of today, you have not
13 reached a final agreement with them?

14 A. We have not.

15 Q. Okay. The...what I would like to do is go
16 through with you, first of all, the basic information that we
17 need to put in the record with regard to Pocahontas Gas
18 Partnership. Then we'll do the same for Buchanan Production,
19 and then last, we will go to the spreadsheet that you've
20 passed out today which essentially has the pertinent
21 information with regard to each of the units. So, that's
22 kind of the line up of what we'll cover.

23 First of all, with regard to units L-46, L-47 and
24
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1 L-48, are those the Pocahontas Gas Partnership pooling
2 applications?

3 A. Yes, they are.

4 Q. Okay. Is Pocahontas Gas Partnership a
5 Virginia General Partnership whose two partners are
6 Consolidation Coal Company and Conoco, Inc.?

7 A. Yes, it is.

8 Q. In those three applications, is there a
9 request that Pocahontas gas Partnership be designated unit
10 operator by the Virginia Gas and Oil Board?

11 A. Yes, it is.

12 Q. Okay. Is Pocahontas Gas Partnership
13 authorized to do business in the Commonwealth, has it
14 registered with the Department of Mines, Minerals and Energy
15 and does it have a blanket bond on file as required by law?

16 A. Yes, it does.

17 Q. The respondent in each of these pooling
18 applications is Norfolk Southern?

19 A. Yes, it is.

20 Q. Did you mail to Norfolk Southern?

21 A. Yes, we did.

22 Q. And you published as well?

23 A. Yes, we did.

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1 Q. In the event that the Board should grant
2 these pooling applications and offer a deemed to lease, or
3 offer a lease election option for people who are deemed to
4 have leased, what lease terms would you propose the Board
5 use?

6 A. A dollar per acre rental, a one-eighth
7 royalty with a five year term, rental is payable until
8 production begins.

9 Q. Okay. And this would apply only to the CBM
10 interest, not the...not the conventional gas?

11 A. That's correct, it does.

12 Q. The...each of the L-46, L-47 and L-48 units
13 are eighty (80) acre units?

14 A. Yes, they are.

15 Q. And they're being pooled as frac well units?

16 A. Yes, they are.

17 Q. Under the Oakwood I rules?

18 A. Yes.

19 Q. And do you seek by these app...these three
20 applications to pool and develop all coal seams below the
21 Tiller?

22 A. Yes, we do.

23 Q. And is the target formation basically here,
24

1 although there are other formations involved, the Pocahontas
2 three seam?

3 A. Yes, it is.

4 Q. There is an exhibit...is there an Exhibit B-
5 3 attached to each application?

6 A. Yes, it is.

7 Q. And does that set forth Norfolk Southern's
8 interest in each of the three units that we're talking about
9 here?

10 A. Yes, it does.

11 Q. And does it also show that there is
12 a...whether or not there is a need for escrow?

13 A. Yes, it does.

14 Q. And in this...in Norfolk Southern instance,
15 I don't think there's any requirement of escrow?

16 A. Well, in...in some sections of it there is.
17 But certain---

18 Q. Okay. Because they only have the coal down
19 to 800 feet?

20 A. Yes. Yes.

21 Q. Okay. So, there is an escrow?

22 A. Yes.

23 Q. Exhibit E submitted with regard---?
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1 A. Yes.

2 Q. ---to each of these three applications?

3 A. Yes, it is.

4 Q. Okay. The...now turning to the units K-9,
5 K-10, K-11 and K-12, are those both frac and active gob units
6 that you're seeking to pool under Oakwood I and Oakwood II?

7 A. Yes, they are.

8 Q. And then unit I-22, is that a unit that is
9 seek...that you're seeking to pool only as a frac unit under
10 Oakwood I?

11 A. Yes, it is.

12 Q. And is the applicant with regard to K-9, 10,
13 11, 12 and I-22 Buchanan Production Company?

14 A. Yes, it is.

15 Q. Okay. And is Buchanan Production Company a
16 Virginia General Partnership?

17 A. Yes, it is.

18 Q. Are it's two partners Appalachian Operators,
19 Inc. and Appalachian Methane, Inc.?

20 A. Yes, it is.

21 Q. And are those corporate partners wholly
22 owned indirect subsidiaries of MCN Corporation?

23 A. Yes.

24

1 Q. Is Buchanan Production Company authorized to
2 do business in the Commonwealth?

3 A. Yes, it is.

4 Q. Who is it that is requested to be...act as
5 designated operator on the Buchanan Production applications?

6 A. Consol, Inc.

7 Q. Okay. Are you an employee of Consol, Inc.?

8 A. Yes, I am.

9 Q. And what's your title?

10 A. Permit specialist.

11 Q. Have you drafted all of the...or at least
12 participated or directed the drafting of all of the notices
13 and pooling applications with regard to Buchanan Production?

14 A. Yes, I do.

15 Q. And would the same be true with regard to
16 the three Pocahontas Gas Partnership applications we've
17 previously mentioned?

18 A. Yes.

19 Q. Okay. Does Con...is Consol, Inc. authorized
20 to do business in the Commonwealth?

21 A. Yes, it is.

22 Q. Has it registered with the DMME and does it
23 have a blanket bond on file?

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1 A. Yes, it does.

2 Q. Did the management committee of Buchanan
3 Production, which is a partnership delegate to Consol the
4 authority that would explore, develop and maintain its
5 properties?

6 A. Yes, it did.

7 Q. And did Consol accept that delegation?

8 A. Yes, it did.

9 Q. And is this...are these applications been
10 made consistent with that delegation?

11 A. Yes, they are.

12 Q. What lease terms would Buchanan Production
13 propose be included in any order with regard to the deem to
14 have leased option?

15 A. A dollar per acre rental, a one-eighth
16 royalty on a five year term, with the rental payable on
17 annual basis until production begins.

18 Q. And again this would be only the terms
19 offered for a coalbed methane lease, not including
20 conventional gas?

21 A. That's correct.

22 Q. Units K-9, K-10, K-11 and K-12 are also
23 eighty (80) acre Oakwood units, are they not?

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1 A. They are.

2 Q. Okay. And they are over a portion of the VP

3 I Mine?

4 A. Yes, they are.

5 Q. And the East longwall panels in that mine?

6 A. They are.

7 Q. And there's an Exhibit G attached to each of

8 these four applications which shows the panels of the mine

9 under the units?

10 A. That's correct.

11 Q. And the...these units are expected to

12 produce coalbed methane gas under Oakwood I and Oakwood II,

13 the active field rules?

14 A. Yes, it does.

15 Q. Active gob field rules. And is there

16 an...is there also an exhibit to each of these four

17 applications specifically K-9, 10, 11 and 12 which calculates

18 the percentage of acreage in each unit in each effective

19 longwall panel?

20 A. Yes, it does.

21 Q. And the Exhibit B-3 with regard to Norfolk

22 Southern in each of these units that are sought to be pooled

23 under I and II rules would show both an interest in the unit

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1 and an interest in each longwall panel that might be relevant
2 to the application?

3 A. Yes, it does.

4 Q. Okay. And those percentages would be
5 relevant to the payment of royalty and any participation
6 options that might be elected?

7 A. Yes, it does.

8 Q. Is unit I-22 also an eighty (80) acre unit?

9 A. Yes, it is.

10 Q. But that you're seeking to pool only under
11 Oakwood I?

12 A. Yes, we are.

13 Q. With regard to all five of these
14 applications, is it the intention to develop coalbed methane
15 from coal seams below the Tiller?

16 A. Yes, it is.

17 Q. And again, is the Pocahontas Three coal seam
18 essentially the target seam here?

19 A. Yes, it was.

20 Q. There is an Exhibit G, page one which is
21 essentially a recap of cost and percentages relevant to each
22 of the active gob units, the K units, that sets forth the
23 allocated costs of the frac production, correct?

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1 A. That's correct.

2 Q. And there would be one of those for each of
3 K-9, K-10, K-11 and K-12?

4 A. Yes.

5 Q. And the costs reported with regard to I-22
6 is just for one frac well unit?

7 A. It is.

8 Q. Okay. Before we move on to the spread
9 sheet, my question...I have two more questions and that would
10 be, are the proposed development plans for the three
11 Pocahontas Gas Partnership units under Oakwood I, the four
12 Buchanan Production Company frac and gob units and the...and
13 unit I-22, in your judgment, reasonable development plans to
14 extract coalbed methane resources from the units in question?

15 A. Yes, it is.

16 Q. And through the leasing efforts and the
17 identification of owners and claimants, do you believe that
18 these development plans, if implemented, would contribute to
19 the production...the protection of the correlative rights of
20 the owners of the methane within and under these eight units?

21 A. Yes, it will.

22 Q. Okay. Turning to the spread sheet that
23 we've passed out with regard to these eight units today, does
24

1 this spread sheet essentially capture information from the
2 eight applications?

3 A. Yes, it does.

4 Q. And the first three are the PGP applications
5 and the next five are noted to be the BPC applications?

6 A. Yes, it is.

7 Q. So, in the first column, you identified the
8 unit?

9 A. Yes.

10 Q. Then we've got the VGOB number and the
11 next---?

12 A. Publication date, when it was published in
13 the Bluefield Daily Telegraph.

14 Q. And there was a mailing with regard to each
15 of these units to all of the respondents for who you had
16 addresses?

17 A. That's correct.

18 Q. And when was that mailing accomplished?

19 A. End of...on all of these it was June 18th,
20 1999.

21 Q. And the next five columns deal with standing
22 and the interest that you're trying to pool.

23 A. That's correct.

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1 Q. The first column indicates the percentage of
2 coalbed methane claims or interest leased from coal owners,
3 does it not?

4 A. Yes, it does.

5 Q. What...what is the asterisk refer to here?

6 A. In all...in all of these cases, Norfolk
7 Southern owns the coal 800 feet below the surface of the
8 railroad in that area, and in that area, we...we control a
9 hundred percent of the coal below that and that's...that's
10 the reason for the asterisk.

11 Q. Okay. Then the oil and gas leases you've
12 obtained are listed in the next column?

13 A. Yes.

14 Q. And then the following column would show the
15 unleased coal which is zero in all instances?

16 A. That's correct.

17 Q. And then the...the unleased oil and gas in
18 each of the units which is what you are trying to pool today
19 with regard to each of these units is listed in that column,
20 correct?

21 A. That's correct.

22 Q. There is a hand written notation under the
23 oil and gas leased and oil...CBM adverse oil and gas which

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1 would be the interest sought to be pooled pertaining to L-48,
2 correct?

3 A. That's correct.

4 Q. In L-48, all of the exhibits except A page
5 two have it correct, is that right?

6 A. That's correct. That is correct.

7 Q. So, B-3 and E report the number that you've
8 written here in hand, and for some reason or other, A, page
9 two, got it wrong?

10 A. That's correct.

11 Q. And you're going to file an amended A, page
12 two with regard to that to show 96.60 percent leased and 3.40
13 oil and gas interest to be pooled?

14 A. That's correct.

15 Q. The next column shows the coal lease status?

16 A. Correct.

17 Q. Then the next column identifies wells
18 drilled and/or permitted within these units?

19 A. It does.

20 Q. Okay. Then we've got permit numbers in the
21 next column?

22 A. Yes.

23 Q. And the date of issuance of those permits
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1 and the depth of the various wells?

2 A. Yes, it is.

3 Q. Okay. With regard to the PGP units L-46, L-
4 47, L-48, the cost represents the cost of one frac well in
5 each case, is that correct?

6 A. That's correct, it does.

7 Q. With regard to the BPC units K-9, K-10, K-11
8 and K-12, is that the allocated cost from Exhibit G, page two
9 which captures the total longwall costs that are applicable
10 and then uses the percentages of production attributable to
11 the unit to allocate those costs?

12 A. Yes, it is.

13 Q. Okay. And I-22, again, because it's a frac
14 unit would be the cost of one frac well, is that correct?

15 A. Yes, it is.

16 Q. Okay. And with regard to frac units,
17 regardless of whether or not there are more wells proposed
18 for the unit because of mine plans, the allocation for frac
19 production is indeed only one well?

20 A. It is.

21 Q. That's all I have with regard to
22 these...these items.

23 BENNY WAMPLER: Any questions from members of the
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1 Board?

2 SANDRA RIGGS: In the Oakwood II, the costs that you
3 have outlined here is the cost of participation percentage
4 that you use for the...to apply your percentage interest
5 against?

6 MARK SWARTZ: Right. To give you an example, just
7 take K-9, the Norfolk Southern has a 16.075 percent of unit
8 interest which once it kick...and there's two panels
9 involved, 11 and 12, and the division of interest in panel 11
10 is 2.6877. So, that...you know, that's a tract there and
11 then the panel 12 is 5.57432, which would be the same for
12 each one of these frac units. The allocation of costs takes
13 the total costs which for panel 11 are \$641,000 and change,
14 panel 12, \$419,000 and change, and then it uses the interest
15 on a percentage basis to reduce that cost down to what's
16 reported and that's true of all of these.

17 SANDRA RIGGS: So, this is the bottom line.

18 MARK SWARTZ: This is the bottom line.

19 SANDRA RIGGS: Okay.

20 CLYDE KING: Mark, I'm sorry. Nothing below...
21 everything's below 800 feet?

22 LES ARRINGTON: Okay. We do have allocated some fee
23 production there and I do have that.

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1 MARK SWARTZ: Okay.

2 LES ARRINGTON: Okay. So like in the L-46 interest,
3 Norfolk Southern, I believe, the total outstanding interest
4 is 1.9375 percent shown on Exhibit A, page two. Norfolk
5 Southern's fee interest in that unit, in that percentage,
6 will be 0.66514375 percent; and then there'll be 1.27235625
7 percent going into escrow as a conflicting claim with the
8 other coal owner.

9 BENNY WAMPLER: Are you going to share that document
10 with us?

11 (No audible response.)

12 SANDRA RIGGS: So, where they have a fee ownership,
13 there would be no need for escrow because they own the gas
14 and the coal?

15 MARK SWARTZ: Right.

16 SANDRA RIGGS: But where they only own one or the
17 other, then that proportion of their interest would have to
18 be escrowed because it's in conflict with another claimant.

19 (Les Arrington hands out exhibit.)

20 BENNY WAMPLER: Are all of these wells drilled? Are
21 these costs...what I'm going to is, are these costs the
22 actual costs?

23 LES ARRINGTON: They are all drilled. At the time I
24

1 filed the application, it was for drilling costs. It wasn't
2 for frac costs because it wasn't done at that point. The
3 drilling had been completed. And I will say that's for L-46,
4 L-47, L-48.

5 BENNY WAMPLER: So, you're saying the frac costs are
6 not included?

7 LES ARRINGTON: It's included as an estimated cost.

8 BENNY WAMPLER: Oh, they are estimated. Okay.

9 Other questions from members of the Board?

10 MASON BRENT: On...you indicated 11 and 12. I can't
11 find them and locate them on the plat of your application. I
12 can't see that you have cited on this plat here.

13 MARK SWARTZ: You mean the well?

14 MASON BRENT: The well.

15 MARK SWARTZ: Okay.

16 LES ARRINGTON: There wasn't a well actually located
17 in those units. These are longwall panels and it may be
18 located in another unit.

19 MASON BRENT: Okay.

20 BENNY WAMPLER: Does it make sense to you?

21 MASON BRENT: Yeah.

22 BENNY WAMPLER: Okay. Other questions?

23 SANDRA RIGGS: Which two are those, Les?

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1 BENNY WAMPLER: 11 and 12.

2 MARK SWARTZ: 11 and 12.

3 (Benny Wampler and Sandra Riggs confer.)

4 MARK SWARTZ: Just to make sure that we minimize the
5 confusion to the extent that there is any. If you look at
6 11, for example, as I'll just show you, there is...there is a
7 plat of the unit which is Exhibit A---.

8 BENNY WAMPLER: Right.

9 MARK SWARTZ: ---which does not show a well. But
10 there is a map of the underlying longwall panels and it does
11 show a methane production hole number 148, and my question
12 for you is whether or not that is...has been permitted as a
13 CBM well and perhaps should...should have been on the plat?

14 LES ARRINGTON: No, it has not.

15 MARK SWARTZ: Okay. All right. So, it's that
16 MPH148 is not a producing permitted CBM well?

17 LES ARRINGTON: No.

18 MARK SWARTZ: Okay. With regard to the---.

19 MASON BRENT: You're pooling the unit, but there is
20 no well on the unit.

21 LES ARRINGTON: That's correct.

22 MARK SWARTZ: That's producing. Correct. Is the
23 same true for 12...okay, 12 where, you know, the mine map

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1 does show a hole and my question for you is whether or not
2 that hole has been permitted as a CBM well?

3 LES ARRINGTON: No, it has not.

4 MARK SWARTZ: Okay. So, that's why we are not
5 showing wells on Exhibit A?

6 LES ARRINGTON: That's correct.

7 MARK SWARTZ: Okay.

8 SANDRA RIGGS: So, that's a BBH?

9 MARK SWARTZ: Correct. That's all.

10 BENNY WAMPLER: Any other questions from members of
11 the Board?

12 (No audible response.)

13 BENNY WAMPLER: Do you want to summarize your
14 request, Mr. Swartz?

15 MARK SWARTZ: Okay. I'm requesting that the Board
16 pool three Pocahontas Partnership applications for Oakwood I
17 units which would be L-46, L-47 and L-48. That the Board
18 grant Buchanan Production Company's four requests for the
19 creation of Oakwood I and II units which are K-9, 10, 11 and
20 12 and Buchanan Production Company's additional requests for
21 one...the pooling of one Oakwood I unit, which is unit I-22.

22 BENNY WAMPLER: Is there a motion to that effect?

23 MASON BRENT: Mr. Chairman, can we do all of those
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1 in one motion since it involves different entities?

2 BENNY WAMPLER: I think you can as long as...as long
3 as we distinguish what we're doing. If you prefer to
4 separate that, it won't...it won't hurt to do that. But I
5 think as long as, you know, we have a clear record that the
6 request is for the pooling of PGP L-46, L-47, L-48 for
7 Oakwood I, for Buchanan Production Company I-22 for Oakwood I
8 and K-9, K-10 and K-11 and K-12 for I and II.

9 MASON BRENT: Mr. Chairman, I move that we grant the
10 applications as submitted.

11 BENNY WAMPLER: Motion---

12 CLYDE KING: Seconded.

13 BENNY WAMPLER: Motion and second. Any further
14 discussions?

15 CLYDE KING: I have one other question, Mr.
16 Chairman.

17 BENNY WAMPLER: Yes.

18 CLYDE KING: Are these...is there anyone here from
19 the railroad, Norfolk & Southern?

20 MARK SWARTZ: No.

21 LES ARRINGTON: No.

22 BENNY WAMPLER: Okay. I have a motion and second.
23 Any further discussions?

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1 (No audible response.)

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

3 (All members signify yes.)

4 BENNY WAMPLER: Opposed say no.

5 (No audible response.)

6 BENNY WAMPLER: You have approval.

7 MARK SWARTZ: Thank you.

8 BENNY WAMPLER: The next item on the agenda is a
9 petition from Equitable Production Company. While they
10 transition, we'll stand up and break if the Board wants to a
11 minute while they reconfigure and get the folks in here.

12 (Off record.)

13 BENNY WAMPLER: Okay. The next item on the agenda,
14 the Board will consider a petition from Equitable Production
15 Company for an exception to the Roaring Fork Coalbed Gas
16 Field Order, VGOB-94-02/15-0435, and the establishment of a
17 unit for production of coalbed methane gas and coalbed
18 methane gob gas produced from the sealed gob area identified
19 as Bullitt Mine CBM Gob Unit located on the Appalachia
20 Quadrangle, docket number VGOB-99-08/17-0740; and we'd ask
21 the parties that wish to address the Board in this matter to
22 come forward at this time.

23 JIM KISER: Mr. Chairman, Jim Kiser on behalf of

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1 Equitable Production Company. Our witnesses in this matter
2 will Mr. Carlos Smith of Penn Virginia Coal Company and Mr.
3 Tim Lewis of Equitable Production Company. Before we get
4 started and I kind of explain what we're trying to do here,
5 before we get into the testimony, I'd like to pass out not
6 only Mr. Smith's resume to the Chairman and Board Members,
7 but new maps on which the only change is methane is spelled
8 correctly. We had a third party surveyor do these and they
9 spelled it methene rather than methane. So, we wanted to
10 make sure we got that corrected and we got them into the
11 record.

12 (Jim Kiser hands out exhibits.)

13 JIM KISER: I may kind of just go through the
14 exhibits first. We have an Exhibit A, which shows a outline
15 of the entire Bullitt Mine encompassing 4524.70 acres; and
16 then Exhibits One through Seven are surveys of the...of each
17 of the seven separate units that we're seeking to establish
18 in this miscellaneous petition. They're each laid out
19 individually and tied to state plane coordinates. What we're
20 seeking to do through this miscellaneous petition is to
21 except this acreage from the...essentially above drainage
22 from the Dorchester seam and above out of the Roaring Fork
23 Field...Coalbed Methane Field Rules Order in order that we
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1 don't have to drill under eighty (80) acre spacing. What we
2 intend to do, or what we hope to do under whatever order the
3 Board may issue, is to produce gob gas from the mine out of
4 the abandoned Dorchester seam in the Bullitt mine. We're
5 going to have two witnesses here today. Mr. Smith is a
6 professional engineer with Penn Virginia Coal, and then Mr.
7 Lewis who is an engineer with Equitable Production Company.

8 TIM LEWIS: Geologist.

9 JIM KISER: A geologist with Equitable Production
10 Company. I'd like to call Mr. Smith first. And, Mr. Smith,
11 if you'd...let me get these two guys sworn.

12 (Witnesses are duly sworn.)

13

14 CARLOS SMITH

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

17 DIRECT EXAMINATION

18 QUESTIONS BY MR. KISER:

19 Q. Mr. Smith, you'd note your...state your full
20 name for the record, who you're employed by and in what
21 capacity?

22 A. My name is Carlos Smith. I'm employed by
23 Penn Virginia Coal and I'm the manager of development for

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1 that company.

2 Q. Now, referring to Mr. Smith's resume, which
3 the Board members have a copy of. If you could just briefly
4 go through both your educational background and your work
5 experience.

6 A. My educational background is a Bachelor's
7 Degree from the University of Kentucky in 1978. It's Civil
8 Engineer with mining options. In '78, I began working for
9 Sigmon Enterprises as a engineer, just a regular mining
10 engineer doing surveying and mine planning and that sort of
11 thing. I worked for a number of different companies in
12 Kentucky and West Virginia and Virginia, to mention a few of
13 them, Diamond Shamrock, Falcon Coal Company, Amherst Coal
14 Company, Arch of West Virginia, (inaudible) Coal Company and
15 Penn Virginia Coal. Most of my career is spent on surface
16 mining and underground mining. I've managed mines. I've
17 basically been in charge of them for...to run them, to design
18 them, to plan them, to implement them and sometimes to close
19 them. So, I've got roughly twenty years experience in the
20 mining industry. Feel free to ask questions if you want to.

21 JIM KISER: Mr. Chairman, I'd like to submit Mr.
22 Smith as an expert witness for this particular application.

23 BENNY WAMPLER: Without objection, he's accepted.

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1 Q. Okay. Carlos, can you sort of in your own
2 words...I mean you're familiar with the Bullitt Mine,
3 correct?

4 A. Yes, I am.

5 Q. Could you kind of take us on a...both a
6 historical...give us some historical background as to the
7 mine, particularly the Dorchester seam, and then after that,
8 sort of take us on a tour giving us the make up, or set up,
9 of the mine as you know it.

10 A. Yeah, I can do that. I started working for
11 Penn Virginia Coal in 1992, in February. This mine was in
12 operation at that time, had a longwall unit and two
13 continuous miner units in it driving gate entries. Those
14 gates would have been in gob gas Unit E. I was in the mine a
15 number of times. The mine is in the Dorchester seam. It's
16 located in Appalachia, Virginia. It's roughly forty-five
17 hundred acres of territory that's been mined out. It's
18 current status is that it's closed and sealed. Westmoreland
19 Coal Company was the operator when they were a lessee of Penn
20 Virginia Coal. They went into bankruptcy several years ago
21 and went through that bankruptcy and came out of it. During
22 that time, they were required to seal the mine. The mine is
23 actually below drainage. It's not a true shaft slope mines,

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1 but it does have an air shaft at the Lindon location, which
2 is in the gob gas Unit B and on the bottom of your map, there
3 are fans...set of fan entries that exits to the outside and
4 the slope that came out to the original plan; and I can show
5 you where that's at, if you're...if you want to look at it.

6 Q. And you're referring to the Exhibit A, the
7 map of the entire mine?

8 A. Yeah, it's on Exhibit A.

9 MAX LEWIS: Is that...is that fan sealed off now?

10 A. Yeah. All the outside entries are sealed
11 with the exception of the Lindon shaft, and it has roughly 40
12 to 50 feet of water in it and they're monitoring the water
13 levels inside the mine with the shaft. The mine's twenty
14 plus years old. It started out as a continuous miner
15 operation. At one time, it had eight continuous miners
16 operating in the mine. It was converted to a longwall
17 operation and you can see the number of panels is extensive.
18 They basically mined all the longwall coal and then went
19 back to continuous miners as part of Unit D in the gob gas.
20 Next to the bottom right hand side of your map is the last
21 works that were in the mine. What you see broken out into
22 the units is an effort by Tim and I to clearly identify the
23 internal ventilation of the mine itself and the...we took a

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1 ventilation map and...that had the seals on it and basically
2 outlined these units to segregate them into smaller managable
3 blocks that you can do something with. What else would you
4 like to know?

5 Q. Are each of these...we're seeking to
6 establish seven...seven separate units through this
7 application. Are each of these units separately sealed?

8 A. As far as we can tell and to the best of our
9 knowledge they are.

10 Q. Okay. Now, to the best of your knowledge,
11 is Penn Virginia the fee owner meaning surface, coal, oil and
12 gas, coalbed methane gas of this entire forty-five hundred
13 plus acres, with the exception of a 1.38 acre tract that Penn
14 Virginia doesn't own?

15 A. Yes, it is.

16 JIM KISER: And Mr. Chairman, that is in...I
17 believe that tract is in Unit...Gob Gas Unit D; and at the
18 time we are trying to obtain a voluntary lease from the owner
19 of that 1.38 acres. Now, it will probably be...should this
20 petition be granted, it will probably be the last unit we
21 develop, and if we should not be able to obtain a voluntary
22 lease, we'd come back before the Board to...at a later date
23 to force pool that interest.

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1 BENNY WAMPLER: Was that B as in Boy?

2 JIM KISER: D as in David.

3 BENNY WAMPLER: D. Okay.

4 Q. Now, Mr. Smith, obviously you're here with
5 us today testifying. We've had extensive conversations and
6 meetings with Penn Virginia regarding the development of this
7 gob gas from the Dorchester seam. You all have received
8 notice and are well aware of what it is we would like to do
9 and have no objections to that, is that correct?

10 A. No, we have no objection.

11 JIM KISER: Nothing further of this witness at this
12 time, Mr. Chairman.

13 BENNY WAMPLER: Questions from members of the Board?

14 MAX LEWIS: Do you all own the surface, too?

15 JIM KISER: Penn Virginia does.

16 CARLOS SMITH: We do. At one point in time, we just
17 owned the Dorchester seam until last year and we purchased
18 the rest of the...a portion of this tract from Westmoreland
19 Coal Company.

20 BENNY WAMPLER: So, you own...you own all of the
21 seams below Dorchester?

22 CARLOS SMITH: Yeah, we owe it in fee now.

23 BENNY WAMPLER: Other questions of this witness?

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1 JIM KISER: And it is all under lease to Equitable
2 Production Company, with the exception of 1.38 acres.

3 SANDRA RIGGS: I don't think the Board has ever
4 created field rules that distinguish that layer. Do you know
5 what I mean?

6 JIM KISER: Uh-huh. Right.

7 SANDRA RIGGS: So, you're saying Roaring Fork would
8 stay in place below the Dorchester, but the Active Gob Field
9 Rule would be the Dorchester and up. So, you're actually
10 overlaying one Field Rule over another.

11 JIM KISER: No.

12 RICHARD GILLIAM: Or do you want to reclassify the
13 above seams as well the Dorchester seam in this request?

14 JIM KISER: Right. We want to except anything from
15 the Dorchester and above out of the Roaring Fork. We don't
16 want to...it's not an active gob. It's an abandoned---

17 SANDRA RIGGS: Sealed gob. I'm sorry.

18 JIM KISER: ---sealed gob.

19 SANDRA RIGGS: But the Roaring Fork would stay in
20 place below the Dorchester? Is that what you're saying?

21 JIM KISER: Yeah, we'd like it to in case we want to
22 drill any frac wells in there. I mean, I think you'd want it
23 to, too.

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1 and reserves. But could you just...since it's been a while,
2 could you kind of go through again both your educational and
3 work experience?

4 A. I received a Bachelor of Science in Geology
5 from Morehead State University in 1980. It's in Morehead,
6 Kentucky. I received my Master's Degree in Geology from
7 Wright State University in Dayton, Ohio in 1986. I've been
8 employed in the oil and gas industry since about mid-1981.
9 I've worked for Equitable Production Company since 1991, so
10 about eight years or a little bit over. I worked in coalbed
11 methane off and on during that time. I'm currently working
12 with the coalbed methane development in Wise County and the
13 Roaring Fork area.

14 JIM KISER: Mr. Chairman, we'd ask that Mr. Lewis
15 once again be accepted as an expert witness for the purposes
16 of this application.

17 BENNY WAMPLER: Without objection, he's accepted.

18 Q. Tim, could you go over for the Board what
19 the basic plan of development is, if we should get this
20 application granted today, how you plan to develop the gob
21 gas from the Bullitt Mine?

22 A. Well, what we would like to do is if we
23 receive each of these as units, go in and drill the well in
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1 most up depth portion of those units. That's where the gas
2 would most likely migrate to. Test that well and see what
3 type of rates we are and then based on the economics of that,
4 we could go back and have maybe, two to three wells per...per
5 unit, depending on rates, economic limits and what we see
6 there. It's really basically simple.

7 Q. So, each...the number of wells in each unit
8 will be determined upon by...the economics dictated by the
9 economics of that first well that's drilled and---?

10 A. Right. The economics and size of the units.

11 Q. Okay. And then all of this production will
12 be from the Dorchester seams and the associated strata above?

13 A. That's correct. From the Dorchester seam
14 and associated strata.

15 Q. And do you have any...I know it's...in this
16 particular case, it's probably tough, but do you...have you
17 been able to work up any production estimates?

18 A. I have, you know, played with some rough
19 estimates in here. We believe we're probably looking at
20 wells, probably in the 250-300,000,000 range of recoverable
21 reserve.

22 Q. And the average cost of these wells?

23 A. The coal costs is approximately about
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1 \$40,000; total completed wells costs, you're looking at \$65-
2 70,000 as a gross cost.

3 Q. Now, this is essentially just information
4 that we're providing for the Board. This is not a force
5 pooling application. It could be if we don't get a voluntary
6 lease and deed, we may come back, but these figures are
7 basically estimates for informational purposes only. The
8 royalty interest owner in any of these units other than the
9 small interest in Gob Gas Unit D is...to your understanding,
10 is Penn Virginia, correct?

11 A. That's correct.

12 MR. KISER: Nothing further of this witness at this
13 time, Mr. Chairman.

14 BENNY WAMPLER: What about the depth of the wells?
15 What...what...I know you're---

16 TIM LEWIS: You're probably looking at around 800 or
17 900 feet. What we'll probably do is either drill down right
18 to the mine. We don't want to drill into the mine and cement
19 our 7 inch back to the surface and then go back in and drill
20 out of that plug and drill into the gob section at that
21 point. That way, you'd protect yourself above, basically.

22 BENNY WAMPLER: Do you have the acreage within each
23 one of these units calculated?

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1 TIM LEWIS: Yes, it's listed on there. They range
2 anywhere, I think, from up 35 acres to a little bit under
3 2,000 acres.

4 JIM KISER: Yeah, they are listed on each...each
5 individual map or plat has a...has the metes and bounds
6 attached to it with the calculated acreage.

7 BENNY WAMPLER: Do you envision that any of these
8 wells, or the establishment of any of these units, would in
9 any way interfere with any future production by Penn Virginia
10 or any of the companies that may have access to the
11 coal...any coal production?

12 TIM LEWIS: Any coal production...I...I think I'd
13 have to defer to Carlos on that since he's actually working
14 the coals. But I don't...I don't foresee that.

15 CARLOS SMITH: We have some surface operators that
16 have leases above this, but we can probably work around it.
17 That's what we normally do.

18 CLYDE KING: Mr. Chairman, I have one question.

19 BENNY WAMPLER: Mr. King.

20 CLYDE KING: You mentioned the water a while ago.
21 Does this do anything to the water table in that area?

22 TIM LEWIS: Are you asking me or Carlos?

23 CLYDE KING: Which ever.

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1 TIM LEWIS: We don't plan on producing the water out
2 of the mine. We'd like to stay out of the water. So, I
3 don't...I don't think we're going to adversely affect the
4 ground water table. We're going...if you're thinking we're
5 going to draw barrels and barrels of water out of that mine,
6 no. That's not our intent at all.

7 MAX LEWIS: I think you misunderstood his question.
8 I believe he's talking about the other wells. Private wells
9 on and around that. If you get real close to it, would it
10 affect their water?

11 TIM LEWIS: I don't believe so.

12 MAX LEWIS: That's what you're talking about.

13 CLYDE KING: Right.

14 TIM LEWIS: We'll do water quality checks. But
15 we'll cement that 7 inch back to protect ground water which
16 was in that area. About 350 feet or 400 feet in depth is the
17 best ground water in that area.

18 BENNY WAMPLER: In the area...in the Unit D
19 which...an all of the other units, as I understand it, I
20 believe you stated for the record that you have the coal and
21 gas ownership, you either own it or you've leased it.

22 JIM KISER: Correct.

23 BENNY WAMPLER: In Unit D, you may...you may not.

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1 JIM KISER: There's a 1.38 acre tract in there.

2 BENNY WAMPLER: 1.38 acre tract.

3 JIM KISER: And we've identified as not being Penn
4 Virginia. They have received notice of this hearing and we
5 are attempting to obtain a lease from them at this point.

6 BENNY WAMPLER: And for the record, they're not
7 here?

8 JIM KISER: They're not here.

9 BENNY WAMPLER: There's no one come forward, just so
10 we have that documented from the record. As to the number of
11 wells in Unit D, do you have a proposal of the number of
12 wells that you would...you would drill in Unit D?

13 TIM LEWIS: At this time it's just a rough idea and
14 we...we go back...obviously, we would...we drill one well in
15 the beginning in the up tip edge trying to get the most gas,
16 you know, to see what the production is on that. Go back and
17 maybe drill two to three, possibly four wells. That is one
18 of the larger panels. Assuming...assuming the conditions are
19 right for it economically.

20 BENNY WAMPLER: You anticipate for Unit D that
21 \$70,000 would be your completed well costs there as well.

22 TIM LEWIS: That's their estimates now.

23 BENNY WAMPLER: Is that your estimate?
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1 TIM LEWIS: Yes, that's...that's Equitable
2 Production's estimate.

3 JIM KISER: And, of course, Mr. Chairman, if we
4 don't get them under voluntary leases, we'd have to come back
5 and this is all...we'd go through all of this again for the
6 purposes of force pooling that interest.

7 BENNY WAMPLER: I understand that. I'm...I'm just
8 dealing with some of the issues about the number of wells
9 that we may be authorizing here at this hearing if we were to
10 come back.

11 JIM KISER: You can't redo what you've already done.
12 I understand.

13 BENNY WAMPLER: If we've locked something---

14 JIM KISER: Right.

15 BENNY WAMPLER: ---without the party actually having
16 that as part of the discussion. You said Unit D would be one
17 of the last units that you plan to develop. Is that---?

18 JIM KISER: Only because right now we don't have a
19 100 percent of the rights.

20 BENNY WAMPLER: So, that's what you're---

21 JIM KISER: Right. Now, if we were to obtain a
22 lease in the next week or two, you know, I don't know how
23 that would change where it would be.

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1 BENNY WAMPLER: Would that create a problem to have
2 that unit be a provisional unit?

3 JIM KISER: I don't think so. No.

4 BENNY WAMPLER: You know, just in the event
5 that...not to hold you up.

6 JIM KISER: Right. You're trying to protect their
7 rights. I understand. All right.

8 BENNY WAMPLER: But to protect the rights so that
9 we're not...we don't have the parties here, you know.

10 JIM KISER: I understand.

11 BENNY WAMPLER: Any other questions from members of
12 the Board?

13 CLYDE KING: So, we're really exempting D in this
14 application?

15 BENNY WAMPLER: Well, we're talking about a
16 provision...what I was discussing with them is whether or not
17 we set up...they've asked for the exception, you know, from
18 the Field Rules within D, just that one unit, of whether or
19 not we'd do a provisional approval there, allowing for one
20 \$70,000 well until such time as they either work out a lease
21 with the parties or come back here for the pooling and then,
22 you know, if we approve additional wells, the parties know
23 what the costs are going to be then. Then they can...you

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1 know, can make their election as to participation and all of
2 that rather than us locking in at some other number. Does
3 that unreasonably interfere with anything that you plan to
4 do? If you need to time to talk that over, we'll take a
5 break and let you do that.

6 JIM KISER: Yeah, let me take a minute and consult
7 with my client, but---

8 BENNY WAMPLER: Does the Board understand?

9 (No audible response.)

10 (Off record.)

11 JIM KISER: Mr. Chairman, if I might, I'm not 100
12 percent sure, and I'm sure you can educate me, as to why
13 you'd want to establish...I mean, I don't think we really
14 have a problem with it, but I'm not sure as to why you'd want
15 to establish this one particular unit as a provisional unit,
16 because what we're doing here today is, you know, excepting
17 that acreage...that particular acreage out of the Roaring
18 Fork from the Dorchester and above and establishing these
19 individual units. Now, before we can do...before we could
20 drill a well in that Gob Gas Unit D, we would have to get a
21 permit and either obtain a voluntary lease from that owner of
22 that 1.38 acres or force pool them.

23 SANDRA RIGGS: I think...I think the issue as under

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1 45.1-361(20), there are a series of findings that the Board
2 has to make.

3 JIM KISER: Uh-huh.

4 SANDRA RIGGS: And what you're saying is that your
5 development hasn't progressed to the point yet that you can
6 answer all of those questions?

7 BENNY WAMPLER: You see, the issue here is typically
8 ...I mean, I see your point and that's a valid point.
9 However, typically this entire area would be provisional, and
10 maybe it should be, you know, from a standpoint---

11 JIM KISER: Right. But you've only got one royalty
12 interest there.

13 BENNY WAMPLER: ---that you have to establish...you
14 need to drill the well and establish production.

15 JIM KISER: Right.

16 BENNY WAMPLER: I was just trying to go to the one
17 and make it provisional.

18 JIM KISER: But all the rest of the units are under
19 a voluntary lease.

20 BENNY WAMPLER: I understand that and that's what I
21 was saying.

22 JIM KISER: Right. Okay.

23 BENNY WAMPLER: But still, I'm just talking about
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1 typically---.

2 JIM KISER: Okay.

3 BENNY WAMPLER: ---in dealing with the field rules.

4 You see---?

5 JIM KISER: Right. Well, we don't have a...I mean,

6 we don't have a problem with it.

7 BENNY WAMPLER: As a typical---.

8 JIM KISER: I was just trying to understand why you

9 wanted to do that.

10 BENNY WAMPLER: It was to meet the...you know, meet

11 the intent here of establishing the field rules, plus, you

12 know, making sure that we...we don't lock in something here

13 that...and I know that you're not trying to do that.

14 JIM KISER: Right.

15 BENNY WAMPLER: It's just a matter of making sure

16 that...that rather than establishing...as an alternative to

17 establishing the entire area as provisional---.

18 JIM KISER: Right.

19 BENNY WAMPLER: ---to go to that one, since that's

20 the one area where you don't have everything.

21 JIM KISER: Right. And then we can...can we have

22 language in there that---.

23 BENNY WAMPLER: Because we can't determine how many

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1 wells need to be...really be in any of these.

2 JIM KISER: Right. Right.

3 BENNY WAMPLER: Any more than you can at this point.

4 JIM KISER: Right. So, then we can make
5 that...could we make that a provisional unit and then
6 contingent upon obtaining a voluntary lease, or coming back
7 before the Board for a force pooling, then that...the
8 provisional status of that unit would be removed?

9 BENNY WAMPLER: That's what I would anticipate.

10 JIM KISER: Okay.

11 SANDRA RIGGS: Uh-huh.

12 JIM KISER: We're fine with that.

13 BENNY WAMPLER: All right. Do you have anything
14 further?

15 JIM KISER: No, I have nothing further. Mr.
16 Chairman, we'd ask that the application be approved as
17 submitted with the establishment of Gob Gas Unit D as a
18 provisional unit with that one caveat to the relief
19 requested.

20 RICHARD GILLIAM: I make a motion to approve that.

21 BENNY WAMPLER: I have a motion to approve.

22 DENNIS GARBIS: I second it.

23 BENNY WAMPLER: Motion and second. Any further
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1 discussions?

2 (No audible response.)

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

4 (All members signify yes.)

5 BENNY WAMPLER: Opposed say no.

6 (No audible response.)

7 BENNY WAMPLER: It's approved.

8 JIM KISER: Thank you.

9 BENNY WAMPLER: Thank you. Next on the agenda is a
10 petition to amend the previous order issued for Unit EH-65,
11 docket number VGOB-92-03/17-0205, the addendum filed
12 identifies the unknown heirs of Nancy Wood Hill for whom
13 funds are being escrowed in the Board's escrow account and
14 the purpose of this filing is the calculation and
15 disbursement to claimants of funds on deposit for EH-65 for
16 the heirs of Nancy Wood Hill. This is VGOB-92-03/17-0205-01.
17 We'd ask the parties that wish to address the Board in this
18 matter to come forward at this time.

19 JIM TALKINGTON: Thank you, Mr. Chairman.

20 BENNY WAMPLER: Yes.

21 JIM TALKINGTON: Jim Talkington, Vice President of
22 Virginia Gas Exploration Company, representing Virginia Gas
23 Exploration Company.

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1 BENNY WAMPLER: Were the other folks that were here
2 this morning, were they here for this? Do you know?

3 JIM TALKINGTON: Not to my knowledge.

4 BENNY WAMPLER: Okay. All right. The record will
5 show there are no others. You proceed then.

6 JIM TALKINGTON: Copies of the Minute Supplemental
7 and Affidavit as proposed disbursement of the heirs.

8 (Mr. Talkington hands out exhibit.)

9 BENNY WAMPLER: Okay. You may proceed.

10 JIM TALKINGTON: As further request to the Oil and
11 Gas Board, I've provided you with the Minute Supplemental
12 Order reflecting the changes...proposed changes. Also, an
13 amended Affidavit of the election escrowed and the
14 Supplemental Order and an owner by owner breakdown in
15 accounting of the funds currently in escrow to be disbursed.
16 Previously, the heirs of the Nancy Wood Hill Estate were
17 unknown and unlocateable to us. Since then, they have come
18 forward and provided us with the information on Exhibit B of
19 the Amended Supplemental.

20 BENNY WAMPLER: Do we have the date that this...the
21 escrow amount and interest---?

22 JIM TALKINGTON: Yes, it's on the last page of the
23 exhibits.

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1 BENNY WAMPLER: Okay.

2 JIM TALKINGTON: It is dated 7/31/99, according to
3 Mr. Ditz, the escrow agent of First Virginia. As of even
4 yesterday, he was unable to provide me up to date. This is
5 the most current that he was able to provide.

6 BENNY WAMPLER: The key is that we know what date
7 we're talking about here. So, this is through 7/3/99.

8 JIM TALKINGTON: Yes, sir.

9 SANDRA RIGGS: Is there only one tract in escrow?

10 JIM TALKINGTON: Yes, ma'am.

11 SANDRA RIGGS: So, it's the total disbursement of
12 all funds on deposit?

13 JIM TALKINGTON: Yes, ma'am.

14 BENNY WAMPLER: Any questions from members of the
15 Board?

16 (No audible response.)

17 BENNY WAMPLER: Do you have anything further?

18 JIM TALKINGTON: No, I don't.

19 BENNY WAMPLER: Is there a motion to approve
20 disbursement?

21 CLYDE KING: I so move, Mr. Chairman.

22 DENNIS GARBIS: I'll second.

23 BENNY WAMPLER: Motion and second. Any further
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1 discussions?

2 (No audible response.)

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

4 (All members signify yes.)

5 BENNY WAMPLER: Opposed, say no.

6 (No audible response.)

7 BENNY WAMPLER: You have approval. Thank you.

8 Thank you for the way you presented that. That's a very good
9 presentation on that.

10 The next item on the agenda is a petition from
11 Buchanan Production Company for pooling of a coalbed methane
12 unit under the Oakwood Coalbed Methane Gas Field I Order
13 identified as U-33. This is docket number VGOB-91-04/30-
14 0108-01. We'd ask the parties that wish to address the Board
15 in this matter to come forward at this time.

16 MARK SWARTZ: Mark Swartz and Les Arrington. This
17 is another situation where I would ask that...that you would
18 combine item number twelve on your docket with items nineteen
19 and twenty, and the reason for the request is that the
20 Virginia Department of Transportation is the only respondent
21 in all three of those applications.

22 CLYDE KING: Number ten was what?

23 BENNY WAMPLER: Number twelve was---?

24

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1 CLYDE KING: Number---.

2 RICHARD GILLIAM: Number twelve.

3 BENNY WAMPLER: Number twelve with number nineteen
4 and twenty.

5 MARK SWARTZ: Twelve, nineteen and twenty.

6 BENNY WAMPLER: Any objection to doing that from
7 members of the Board?

8 (No audible response.)

9 BENNY WAMPLER: I'll go ahead and call the other two
10 docket numbers, VGOB-99-09/22-0747 and VGOB-99-09/22-0748.
11 Do you know whether or not the folks that were here this
12 morning, are they here for either of these three?

13 MARK SWARTZ: They have left.

14 BOB LOONEY: I think they left.

15 MARK SWARTZ: We're just so effective in the
16 personal and public relations department that we have
17 addressed those issues.

18 (Les Arrington hands out exhibits.)

19

20 MARK SWARTZ: Okay. These three applications, in
21 all instances Buchanan Production is the applicant. They are
22 all for 80 acre frac units just under Oakwood I. A couple of
23 observations. The...the U-33 unit was pooled many years ago.

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1 It was pooled back in 1991. At that point, the only
2 respondent was Ashland Exploration. They were in a dispute
3 with Oxy over a Stickley lease. They both, Oxy and Ashland,
4 had leases from Stickley which they claimed granted coalbed
5 methane rights. So, Ashland was pooled. There were a number
6 of appeals. Ultimately, all of that stuff was settled.
7 Buchanan Production now has a CBM lease from Stickley. So,
8 essentially that problem has gone away. The reason it's
9 being repooled is in the process of continuing their research
10 of title and so forth, it was determined that when VDOT
11 condemned certain portions of the roadway, that you'll see on
12 the maps here. They obtained mineral rights and so it's
13 being repooled because we've discovered that VDOT has an
14 interest in the...in the unit that was pooled back in '91.
15 And, of course, VDOT has an interest in these other...in
16 these other two units as well. There are also...one of the
17 applications has a percentage error that's going to require
18 the filing of some admitted exhibits and they're noted in
19 handwriting. It's U-34, if you're look at the schedule that
20 we handed out. The correct numbers are on the schedule and
21 the...in U-34, the tract identification percentage is correct
22 with regard to Tract Three which is the problem here; and the
23 Stickley/VDOT split of interest is 25/75. The tract

24

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1 identification is correct. What happened was when the
2 calculations were done for Exhibit A, page two and Exhibit B-
3 3 for some reason or another, 25 percent was attributable to
4 VDOT's interest instead of 75. So, we've corrected that map
5 error. We will be submitting a revised B-3 which will show
6 these numbers and a revised Exhibit A, page two which will
7 show those numbers. Other than that, I think the percentages
8 in...in all respects, and numbers in all respects, in that
9 application and the other two applications are correct. We
10 haven't found any other problems. But to bring those to your
11 attention, that's why that's been changed.

12 BENNY WAMPLER: These numbers on this sheet that's
13 dated 9/21/99 are correct, the corrected numbers?

14 MARK SWARTZ: Yes...yes, they are.

15 BENNY WAMPLER: Okay.

16

17 LES ARRINGTON

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

20 DIRECT EXAMINATION

21 QUESTIONS BY MR. SWARTZ:

22 Q. Okay, Les, I'll just remind you you're still
23 under oath.

24

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1 A. Yes.

2 Q. Did you prepare the notices and the
3 applications and supervise the preparation of the exhibits
4 that have been submitted with regard to the applications
5 concerning U-32, 33, and 34?

6 A. Yes, I have.

7 Q. Okay. And you did that as an employee of
8 Consol?

9 A. Yes.

10 Q. Who is the applicant?

11 A. The applicant is Buchanan Production
12 Company.

13 Q. Okay. And is Buchanan Production Company a
14 Virginia General Partnership?

15 A. Yes, it is.

16 Q. Are it's two partners Appalachian Operators,
17 Inc. and Appalachian Methane, Inc.?

18 A. Yes, it is.

19 Q. And are those companies indirect
20 subsidiaries of MAN Corporations?

21 A. Yes.

22 Q. Is Buchanan Production Company authorized to
23 do business in the Commonwealth?

24

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1 A. Yes, it is.

2 Q. Who are you requesting in these three
3 applications to be appointed designated operator?

4 A. Consol, Inc.

5 Q. Is Consol, Inc. a Delaware Corporation
6 authorized to do business in the Commonwealth?

7 A. Yes, it is.

8 Q. Has Consol, Inc. registered with the
9 Department and does it have a blanket bond on file?

10 A. Yes, it does.

11 Q. Has the management committee of Buchanan
12 Production Company previously delegated to Consol "The
13 authority to explore, develop and maintain the properties and
14 assets of Buchanan Production Company"?

15 A. Yes, it has.

16 Q. And has Consol accepted that delegation?

17 A. Yes, it has.

18 Q. The only respondent in each of these three
19 applications is the Virginia Department of Transportation, is
20 that correct?

21 A. Yes, it is.

22 Q. Unit U-33 was previously pooled, correct?

23 A. It was.

24

--

1 Q. And the respondent at that point, the sole
2 respondent, was Ashland Exploration?

3 A. Yes, it was.

4 Q. And did that concern a dispute regarding
5 Alfa Stickley?

6 A. Yes, it did.

7 Q. Has that dispute been resolved?

8 A. Yes, it has.

9 Q. Has it been settled with Ashland?

10 A. Yes, it has.

11 Q. And has Buchanan Production Company obtained
12 a lease from the Stickley heirs with regard to CBM?

13 A. Yes, it has.

14 Q. With regard to the lease terms that you
15 would recommend be included in any order, what would those
16 be?

17 A. A dollar per acre per year, one-eighth
18 royalty, a five year term and this is payable on...as a
19 rental on an annual basis until production begins.

20 Q. And it only applies to CBM?

21 A. Yes, it does.

22 Q. Are there any discussions ongoing with VDOT
23 finally?

24

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1 A. Alfa...the Stickley heirs are negotiating
2 with VDOT and the Attorney General in Richmond at this time.

3 Q. Okay. So, there is, at least with regard to
4 this...these particular units, an effort by some of the
5 landowners to resolve issues with VDOT?

6 A. Yes...yes, it is.

7 Q. Okay. Are each of these units 80 acre
8 Oakwood units?

9 A. Yes, they are.

10 Q. And is the applications to pool in these
11 frac units under Oakwood I?

12 A. Yes, it is.

13 Q. Is...is the development plan to develop all
14 coal seams below the Tiller?

15 A. Yes, it is.

16 Q. And is the target formation again the
17 Pocahon...in general, the Pocahontas Three seam?

18 A. Yes, it is.

19 Q. In Exhibit B-3, have you set forth the
20 departments undivided percentage of interest in each of the
21 units?

22 A. Yes, we have.

23 Q. And that would be relevant to their royalty
24

1 interest...to VDOT's royalty and any participation that they
2 might opt to pursue?

3 A. Yes, it would.

4 Q. Okay. Is the plan of development that's
5 depicted in these three applications a reasonable plan to
6 develop coalbed methane?

7 A. Yes, it is.

8 Q. And will it indeed...this development indeed
9 contribute to the protection of the correlative rights of all
10 owners?

11 A. Yes, it does.

12 Q. Referring to the spreadsheet that you passed
13 out today, does it have information with regard to U-32, 33
14 and 34?

15 A. Yes, it does.

16 Q. Okay. Is the information, except for the
17 handwritten notations concerning U-34, taken directly from
18 each of the applications?

19 A. Yes, it is.

20 Q. And it's to accumulate that information and
21 present it to the Board in a schedule form?

22 A. Yes, it is.

23 Q. Okay. With regard to U-32, we're seeking to
24

1 pool what interest?

2 A. We're seeking to pool 1.03125 percent of the
3 coal, oil and gas interest.

4 Q. Okay.

5 A. We...we have a 100 percent of the coal
6 leased.

7 Q. And 98.96875 percent of the CBM leased?

8 A. Yes, we do.

9 Q. Okay. What interest are you seeking to pool
10 with regard to the U-33 application?

11 A. 1.85625 percent of the coal, oil and gas,
12 and we currently have under lease for coalbed methane
13 98.14375 percent. We have a 100 percent of the coal leased.

14 Q. With regard to U-34, what are you seeking to
15 pool and what do you have leased?

16 A. We're seeking to pool 0.028125 percent of
17 coal, oil and gas and we have leased 99.971875 percent of the
18 coal, oil and gas with a 100 percent of the coal leased.

19 Q. Now, each of these three units has multiple
20 wells in the unit, correct?

21 A. Yes, it does.

22 Q. And why is that?

23 A. Due...due to Buchanan #1 mine longwall panel
24

1 mining.

2 Q. Which is under there?

3 A. Yes, it is.

4 Q. And ultimately, we will probably be back
5 here to pool this as...under Oakwood II?

6 A. We certainly will.

7 Q. Okay. The cost, though, with regard
8 to...that are assigned to each of these units as a
9 participation cost factor. Could you tell the Board how
10 those are calculated?

11 A. Yes, those are averaged. The total cost you
12 see there is the average cost for the wells within those
13 units and you'll note that some wells...some units have more
14 wells than others and that's just due to the mining.

15 Q. Okay. And the costs you're seeking on these
16 frac applications to allocate as a participation cost is the
17 average cost, or the cost of one average well in each unit?

18 A. That's correct, it is.

19 Q. That's all I have with regard to these three
20 applications.

21 BENNY WAMPLER: Could you go into the multiple wells
22 in Oakwood I, a discussion on them?

23 LES ARRINGTON: Yes. We...we have drilled the frac
24

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1 wells ahead of...way ahead of mining and, at this time, just
2 removing the frac gas at this point. The mining hasn't
3 developed...developed up along our proposed areas at this
4 point.

5 BENNY WAMPLER: Do you have a mine plan on file with
6 the office?

7 LES ARRINGTON: Yes, sir, we do.

8 BENNY WAMPLER: That would reflect this for these
9 wells?

10 LES ARRINGTON: I would suppose we do, you know.
11 We...we...I'm sure we have to have a mine plan within a year
12 ahead and this is certainly within that.

13 BENNY WAMPLER: Do you agree to insure that we do?

14 LES ARRINGTON: Yes, I will.

15 MARK SWARTZ: Well, when the permit applications
16 were filed, Les, wouldn't the ordinary course of mine plan be
17 submitted to get the location exceptions?

18 LES ARRINGTON: I...I file a plan...a copy of it
19 with Tom's office.

20 MARK SWARTZ: Right. So, I mean, in the ordinary
21 course, there should be a plan on file with regard to each of
22 these wells?

23 LES ARRINGTON: They do have a copy of that.

24

--

1 BENNY WAMPLER: That's what I was asking.

2 LES ARRINGTON: Yeah, Tom's office.

3 MARK SWARTZ: Right. But I mean it's more of a
4 permitting---?

5 LES ARRINGTON: I thought you meant down your way.

6 BENNY WAMPLER: No. No, I meant with the Gas and
7 Oil Board.

8 LES ARRINGTON: No. No, Tom does have that.

9 BENNY WAMPLER: I wanted to make sure it was on
10 file.

11 MARK SWARTZ: Right.

12 SANDRA RIGGS: We're within one year of mining on
13 all three of these?

14 LES ARRINGTON: On these three.

15 BENNY WAMPLER: Other questions from members of the
16 Board?

17 (No audible response.)

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

20 MARK SWARTZ: No.

21 BENNY WAMPLER: Do I have a motion for approval?

22 MASON BRENT: So moved.

23 DENNIS GARBIS: I'll second.

24

1 BENNY WAMPLER: Motion and second. Any further
2 discussions?

3 (No audible response.)

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

5 (All members signify yes.)

6 BENNY WAMPLER: Opposed, say no.

7 (No audible response.)

8 BENNY WAMPLER: You have approval. In your note
9 you, requested to combine items thirteen through sixteen, I
10 believe, saying that there was---?

11 MARK SWARTZ: Seventeen. I may have mistyped that
12 note.

13 BENNY WAMPLER: That's okay. Thirteen through
14 seventeen are the same parties?

15 MARK SWARTZ: Thirteen through sixteen are identical
16 parties. Seventeen has the same parties as thirteen through
17 sixteen plus a couple.

18 BENNY WAMPLER: Okay. What's the best way to do it?

19 MARK SWARTZ: I would say do them all together
20 because they're related, or we can do the four that are
21 identical. I mean, whatever. But it makes sense to me since
22 the people...the same people are in those to do them all at
23 once.

24

--

1 BENNY WAMPLER: Okay. We'll call all...thirteen
2 through seventeen.

3 CLYDE KING: Thirteen through seventeen?

4 BENNY WAMPLER: Through seventeen. Yes, sir. We're
5 going to go ahead...this is a petition from Pocahontas Gas
6 Partnership for pooling of a coalbed methane unit under
7 coal...Oakwood Coalbed Methane Gas Field Order and identified
8 as AA-44, docket number VGOB-99-09/22-0741, BB-44, docket
9 number VGOB-99-09/22-0742, CC-44, VGOB-99-09/22-0743, DD-44,
10 docket number VGOB-99-09/22-0744, and EE-44, docket number
11 VGOB-99-09/22-0745. We'd ask the parties that wish to
12 address the Board in these matters to come forward at this
13 time.

14 MARK SWARTZ: Mark Swartz and Les Arrington.

15 BENNY WAMPLER: Do you folks need a break while
16 they're passing these out or keep going?

17 (Members indicate to keep going.)

18 (Bob Looney, Les Arrington and Mark Swartz hands
19 out exhibits.)

20

21 LES ARRINGTON

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

24

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1 DIRECT EXAMINATION

2 QUESTIONS BY MR. SWARTZ:

3 Q. Les, I'll remind you that you're under oath.

4 A. Yes.

5 Q. Okay. In these...with regard to these five
6 units thirteen through seventeen, who is the applicant?

7 A. Pocahontas Gas.

8 Q. And what is your relationship to Pocahontas
9 Gas here?

10 A. I'm employed by Consol, Inc. as a permit
11 specialist for Pocahontas Gas.

12 Q. Okay. Is Pocahontas Gas Partnership a
13 Virginia General Partnership?

14 A. Yes, it is.

15 Q. Are it's two partners Consolidation Coal
16 Company and Conoco, Inc.?

17 A. Yes, it is.

18 Q. Who is...who is being requested to be
19 appointed as the Board's designated operator with regard to
20 each of these applications?

21 A. Pocahontas Gas.

22 Q. Okay. Is Pocahontas Gas Partnership
23 authorized to do business in the Commonwealth?

24

1 A. Yes, it is.

2 Q. Has it registered with the Department and
3 does it have a...and does it have a blanket bond on file?

4 A. Yes, it does.

5 Q. Okay. Now, the names of the people that
6 you're seeking to pool are listed in the notices and also in
7 Exhibit B-3, correct?

8 A. They are.

9 Q. And with regard to applications to pool AA-
10 44, BB-44, CC-44 and DD-44, are they exactly the same
11 respondents?

12 A. Yes, it is.

13 Q. And then with regard to EE-44, we have the
14 same respondents and we have a few additional folks as well?

15 A. That's correct.

16 Q. Okay. With regard to MMM that we've been
17 before the Board before with MMM, have we not?

18 A. We have.

19 Q. Okay. Can you tell the Board whether or not
20 there are any on going discussions with MMM at this time?

21 A. To my understanding, negotiations have
22 started again with our Pittsburgh office.

23 Q. In terms of trying to work something out
24

1 with them?

2 A. Right. We're...we are not directly involved
3 in it.

4 Q. Okay. But there is some effort---?

5 A. Yes, it is.

6 Q. ---to reach a voluntary agreement?

7 A. Yes, it is.

8 Q. Okay. The...these units are all...are they
9 all frac units?

10 A. Yes, they are.

11 Q. Under the Oakwood I?

12 A. Yes.

13 Q. Okay. So, they would be 80 acres?

14 A. Yes.

15 Q. What seams are we talking about here?

16 A. All...all coal seams below the Tiller Seam.

17 Q. Okay. And in general what would be the
18 target seam?

19 A. In general, the Pocahontas Number Three
20 Seam.

21 Q. Okay. Does Exhibit B-3 set forth the
22 interest of each of the respondents in the unit in question?

23 A. Yes, it does.

24

1 Q. Okay. Turning to your schedule here, your
2 spreadsheet, are each of the five units listed there?

3 A. Yes, they are.

4 Q. Okay. Is this a first time pooling for each
5 of them?

6 A. Yes, it is.

7 Q. Okay. When...when was...was a notice
8 published?

9 A. In the Bluefield Daily Telegraph on August
10 the 26th, 1999.

11 Q. Okay. And when was notice mailed to the
12 respondents?

13 A. August 20th, 1999.

14 Q. Okay. With regard to each of the five
15 units, could you go through and indicate from the schedule
16 what...what interest you're seeking to pool by each of the
17 applications?

18 A. Okay. The interest to be pooled by
19 the...for AA-44 is 8.95 percent of the coal, oil and gas.
20 Now, within that unit, we do have a 100 percent of the coal
21 leased. For BB-44, we're seeking to pool 1.3125 percent of
22 the coal, oil and gas. Again, a 100 percent of the coal is
23 leased. For CC-44, we're seeking for 1.4875 percent of the

24

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1 coal, oil and gas with a 100 percent of the coal leased. DD-
2 44, 1.6875 percent of the coal, oil and gas with a 100
3 percent of the coal leased. EE-44, 2.0875 percent of the
4 coal, oil and gas with a 100 percent of the coal leased.

5 Q. With regard to the cost in the last column,
6 is that an average cost or a single well cost?

7 A. The single well cost.

8 Q. And that's what's seeking to be allocated
9 from a participation standpoint?

10 A. Yes, it is.

11 Q. With regard to the...to the spreadsheet, are
12 each of the numbers reported in these various columns taking
13 directly from the various applications?

14 A. Yes, it is.

15 Q. So, it's just a summary of that information?

16 A. Yes.

17 Q. Would you recommend that the Board approve
18 these applications...each of these applications as indicating
19 a reasonable plan for the development of the coalbed methane
20 resources under each of these units?

21 A. Yes, we would.

22 Q. And is it your opinion that the well
23 development and coalbed methane development that's depicted
24

1 in each of these applications, or projected in each of these
2 applications, is a reasonable way to protect the correlative
3 rights of all owners of the methane, not just the folks who
4 are being pooled?

5 A. Yes, we do.

6 Q. That's all I have.

7 BENNY WAMPLER: Any questions from members of the
8 Board?

9 (No audible response.)

10 MARK SWARTZ: Let me add something regarding escrow.

11 BENNY WAMPLER: Yes.

12 Q. Les, could you refer to the prior exhibit
13 you passed out and also one supplemental item that we need to
14 submit?

15 A. Yes. On the 8 ½ X 14 sheet I passed out
16 earlier, you'll see it listed on there as---

17 Q. It's the coal owner issues?

18 A. There is some escrowing differences here
19 because some of the owners only own the Pocahontas Number
20 Three seam and MMM owns all other coal seams and the oil and
21 gas and you'll notice on my spreadsheet that I've given you,
22 you'll see on there a section that says P3 Harman Section,
23 well, that's the amount of percentage that will be held in
24

1 escrow that is in conflict with MMM; and then you'll notice
2 over there in the final column, it says percent to
3 be...percent in conflict. That's the amount of the total
4 that will be held in escrow for MMM and the coal owner. Now,
5 there is one correction that we've come up with on EE-44.
6 That total...the MMM total there, we're reflecting 2.0875
7 percent, that is the total interest that is adverse. That's
8 two tracts. That's where the second part...the second group
9 Mark was referencing at the beginning of the hearing that
10 there was some additional people in. So, that...that figure
11 is not correct. The correct figure there should be for MMM
12 fee ownership should 0.063175...725 percent.

13 SANDRA RIGGS: Would you say that again slow?

14 BENNY WAMPLER: Repeat, please.

15 A. Okay. 0.0631725 percent and what that
16 reflects is their fee ownership in Tract Number Two. There
17 was two tracts here. Tract Number Three would be held a 100
18 percent as conflicting ownership.

19 Q. Is that the only correction you need with
20 that exhibit?

21 A. That is the only...that is the only
22 correction.

23 BENNY WAMPLER: You probably noticed in your file
24

1 that MMM had requested a continuance and that was denied. I
2 talked to the folks there. They've been trying to sell this
3 property for some time, almost a year now and they said the
4 reason for a continuance was that they're trying to sell the
5 property. They thought they would be able to sell the
6 property. No real fix on when that could be and I didn't
7 feel like that this...any action the Board would take
8 regarding this would interfere with any subsequent owner
9 anyway. This would all be of record. They would have that
10 information available to them and I told them that on the
11 phone, just for your information.

12 SANDRA RIGGS: Les, the Exhibit Es to each of these
13 petitions breaks out the escrow tracts and the percentage to
14 be escrowed. They don't change, do they?

15 LES ARRINGTON: We have them listed just as...as
16 they're listed on the B-3. But there is a percentage to be
17 apply to it, but I didn't know how to put that on there to
18 show that percentage.

19 MARK SWARTZ: That's why we have the---.

20 LES ARRINGTON: That's the reason I've done it this
21 way. I didn't know how to put that on...on that sheet to
22 make it more simple.

23 SANDRA RIGGS: So, when we get ready for
24
25

1 disbursement, we won't be using the Exhibit E, we'll be using
2 something else?

3 LES ARRINGTON: Probably. I believe that will be
4 correct.

5 MARK SWARTZ: I mean, the Exhibit E holds...the
6 number you've got holds more money than needs to be held?

7 LES ARRINGTON: Say that again.

8 MARK SWARTZ: The Exhibit E shows some fee---?

9 LES ARRINGTON: Yes, it does.

10 MARK SWARTZ: --that's in conflict.

11 SANDRA RIGGS: Right.

12 MARK SWARTZ: I mean, it...yeah, so it---.

13 SANDRA RIGGS: That's what I'm trying to reconcile.

14 So, what we normally use Exhibit E for is to track the
15 escrow account and that's not going to be the case in these.

16 LES ARRINGTON: In those. You know, I wasn't for
17 sure how to try to reflect that on there.

18 BENNY WAMPLER: One thing we need to do is get this
19 into the record as an Exhibit then so that we can tie to the
20 two together. Okay?

21 SANDRA RIGGS: Yeah.

22 MARK SWARTZ: Well, that's...I mean, that's why we
23 offered it. I mean, we offered it in the other one as an

24

--

1 exhibit and we're using it in this hearing.

2 BENNY WAMPLER: I understand, but I'm not sure we
3 got it labeled as such.

4 MARK SWARTZ: Oh, okay.

5 BENNY WAMPLER: So, I want to tie---

6 SANDRA RIGGS: To the order.

7 BENNY WAMPLER: ---that to the order. Okay?

8 SANDRA RIGGS: An exhibit to the order.

9 MARK SWARTZ: Okay. Okay. Well, do you want to
10 call this---

11 BENNY WAMPLER: E-1 or something like...I mean, I
12 don't know.

13 MARK SWARTZ: Well, let's call it Exhibit...Exhibit
14 E-2 or something. How about Exhibit E-2 so, we know we got a
15 supplement to Exhibit E?

16 (No audible response.)

17 BENNY WAMPLER: Okay. Anything further?

18 MARK SWARTZ: No.

19 BENNY WAMPLER: Any other questions from members of
20 the Board?

21 (No audible response.)

22 BENNY WAMPLER: All the additional parties that
23 you're planning to add in EE-44 are listed in the Exhibit E?

24

--

1 LES ARRINGTON: Yes. Yes, they are. That's all
2 noted. There was no parties to be added. There was just
3 add---.

4 MARK SWARTZ: We've...we've noticed. I mean, it's
5 got the right list.

6 BENNY WAMPLER: Okay. I meant where you said the
7 same parties plus some others rather than the---.

8 MARK SWARTZ: Right. And I guess maybe I misspoke,
9 but, you know, we weren't...we had noticed it in an
10 appropriate way and I was just trying to compare these for
11 you.

12 BENNY WAMPLER: Okay. All right. Is there a
13 motion?

14 CLYDE KING: I so move, Mr. Chairman.

15 DENNIS GARBIS: I second.

16 BENNY WAMPLER: Motion to approve and second. Any
17 further questions?

18 (No audible response.)

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

20 (All members signify yes.)

21 BENNY WAMPLER: Opposed, say no.

22 (No audible response.)

23 BENNY WAMPLER: You have approval. The next item on
24
25

1 the agenda is a petition from Buchanan Production Company for
2 pooling of a coalbed methane unit under the Oakwood Gas Field
3 I order identified as R-35. This is docket number VGOB-99-
4 09/22-0746. We'd ask the parties that wish to address the
5 Board in this matter to come forward at this time.

6 MARK SWARTZ: Mark Swartz and Les Arrington. While
7 we're finding the set of exhibits, you might want to look for
8 the scheduled notes for September 22, 1999 others
9 because...because it has R-35 as the first entry.

10 (Bob Looney hands out exhibits.)

11 MARK SWARTZ: You know why we're...we filed
12 this...these exhibits with...with the DGO and we try to file
13 them early enough so that they could potentially make it into
14 your packets. I mean, can we dispense with...with
15 these...bringing these to hearings because we filed them with
16 the DGO or should we continue to do this. I mean---

17 SANDRA RIGGS: They're not in the packet.

18 MARK SWARTZ: They're not in your packet?

19 LES ARRINGTON: They're not.

20 BENNY WAMPLER: They're not in our packets.

21 MARK SWARTZ: Okay. All right.

22 BENNY WAMPLER: So, I don't know when---

23 LES ARRINGTON: See, I try to get them in a
24
25

1 week...one week prior to the hearing.

2 BENNY WAMPLER: That may be after she has mailed the
3 packet and I made the copies.

4 MARK SWARTZ: Oh, okay. All right. So, we need to
5 keep bringing them. That's fine.

6 BENNY WAMPLER: I mean, if we can coordinate that,
7 certainly that's...that's fine. But we'd have to have them
8 early enough so that...because the Board wants fairly---

9 MARK SWARTZ: Well, maybe we'll find out---

10 BENNY WAMPLER: We're trying to get the Board the
11 material at least a week in advance of the hearing.

12 MARK SWARTZ: Right.

13 LES ARRINGTON: Okay. So, you...you're going a week
14 ahead?

15 BENNY WAMPLER: Yes.

16 LES ARRINGTON: I'm trying to get it in a week
17 ahead.

18 MARK SWARTZ: Maybe we need to find out when it goes
19 out and try to meet that deadline so that you get it---

20 LES ARRINGTON: I'll try to do it.

21 MARK SWARTZ: You know, it'll just save a little of
22 bit of aggravation.

23 BENNY WAMPLER: Yeah, I mean, you know, we certainly

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1 have no interest in causing you to make additional copies of
2 anything. But we need it there timely so that the Board can
3 have the package prior to the hearing.

4 MARK SWARTZ: Right.

5 LES ARRINGTON: Okay.

6 MARK SWARTZ: Well, we'll find out when they mail
7 and try to meet that deadline. Okay.

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LES ARRINGTON

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

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Les, I'll remind you you're still under oath.

A. Yes.

Q. The I-30...I'm sorry, the R-35 application is for a frac unit under Oakwood I?

A. That's correct, it is.

Q. Has multiple wells in it?

A. Yes, it does.

Q. Does that mean it's over a mine?

A. Yes, the Buchanan Number One Mine.

Q. Okay. And is it still ahead of mining?

A. Yes, it is.

Q. When would you anticipate the mining would potentially reach this area?

A. Approximately four years.

Q. Okay. So, it's quite a ways ahead of mining?

A. Yes.

1 Q. Okay. The applicant here is Buchanan
2 Production Company?

3 A. Yes, it is.

4 Q. Did you participate in drafting the notice,
5 the application and supervise the preparation of the
6 exhibits?

7 A. Yes, I did.

8 Q. And, in fact, you signed those documents?

9 A. I have.

10 BENNY WAMPLER: Could I...on the notice for
11 September the 22nd hearing, the others charts that you have,
12 it says, "No notice there."

13 LES ARRINGTON: Yeah.

14 BENNY WAMPLER: Could you...while we're on notice,
15 could you talk about that?

16 LES ARRINGTON: Yes. Yes. You'll noticed it says
17 on my notice page of it, it says, "D. C. Rake heirs, devisee,
18 successors and/or assigns." That was back probably in the
19 1800s. We don't have that.

20 MARK SWARTZ: And B-3, you'll notice that the
21 address is listed as unknown. So, the way that we have
22 attempted to give notice here is the publication and this is
23 one of those occasionally instances where we just don't have
24

1 an address and we did not mail.

2 BENNY WAMPLER: I just want to get it on---.

3 MARK SWARTZ: Right. No. I mean, and that's why
4 we...you know, whoever prepared this summary was assuming
5 mailing because we normally do and when we looked at it we
6 wanted to alert you to the fact that we did not mail.

7 BENNY WAMPLER: Okay.

8 Q. As long as we are talking about that. The
9 publication was...what did you publish, Les?

10 A. Yes, we published the notice of hearing in
11 the Bluefield Daily Telegraph on August the 28th, 1999.

12 Q. And that was the entire notice of hearing
13 and the accompanying map, correct?

14 A. Yes, it was.

15 Q. Okay. And you filed that information with
16 the DGO and the Board?

17 A. We have.

18 Q. Okay.

19 BENNY WAMPLER: Can I interrupt you one more time?

20 MARK SWARTZ: Sure.

21 BENNY WAMPLER: Could you go ahead and tell us what
22 efforts you've made to identify these...these heirs?

23 LES ARRINGTON: We...we've checked the courthouse
24

1 records looking for the D. C. Rake heirs and we...we did not
2 find anything there.

3 BENNY WAMPLER: Have you talked to the people in the
4 area that...where this is...the land is located?

5 LES ARRINGTON: We certainly have done that, a lot.
6 I'd like to comment on that just a little. This R-35,
7 originally where this D. C. Rake is shown, originally it was
8 shown as a fee tract to Yukon Pocahontas, and in continuing
9 to try to update our records, we discovered that was not a
10 fee tract. That's the reason we're here today.

11 BENNY WAMPLER: Okay. You may proceed. I'm sorry
12 for interrupting you.

13 MARK SWARTZ: That's fine.

14 Q. Buchanan Production is a Virginia General
15 Partnership?

16 A. Yes, it is.

17 Q. It has two partners, Appalachian Methane and
18 Appalachian Operators?

19 A. That's correct.

20 Q. And those two partners are indirect
21 subsidiaries of MCN Corporation?

22 A. That's correct.

23 Q. Is Buchanan Production Company authorized to
24

1 do business in Virginia?

2 A. Yes, it is.

3 Q. Who are you...who are you asking be the
4 designated operator if the Board approves this application?

5 A. Consol, Inc.

6 Q. Has Consol been delegated certain authority
7 by Buchanan Production Company to explore, develop and
8 maintain its assets?

9 A. Yes, it has.

10 Q. And Consol has accepted that?

11 A. It has.

12 Q. The respondents here are essentially an
13 heirship?

14 A. Yes, it is.

15 Q. And you have as you have just indicated been
16 unable to bring these...this heirship down to the present
17 time and identify any living heirs?

18 A. That's correct.

19 Q. Are you going to continue to try to
20 determine...locate these people?

21 A. We sure...yes, we will.

22 Q. Okay. The interest of the heirship is
23 pretty substantial, is it not?

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--

1 A. Yes, it is.

2 Q. Okay. What...what is the interest that

3 you're seeking to pool by this application with reference to

4 your exhibit here?

5 A. 50.25 percent of the oil and gas interest.

6 Q. Okay. And is that interest going to be

7 subject to escrow?

8 A. Yes, it is.

9 Q. It's in conflict?

10 A. Yes, it is, with the coal owner.

11 Q. Okay. The unit here is an 80 acre Oakwood I

12 unit?

13 A. Yes, it is.

14 Q. And what seams are you seeking to develop?

15 A. All coal seams below the Tiller Seam.

16 Q. Exhibit B-3 sets forth the percentage

17 interest, does it not?

18 A. Yes, it does.

19 Q. And that would be relevant to the royalty

20 that's going to be escrowed and the...and any participation

21 interest that might ultimately occur?

22 A. Yes, it does.

23 Q. Is the plan that's depicted in this

24

1 application, the plat and the other information, in your
2 judgment, a reasonable plan to extract the coalbed methane
3 under this unit in advance of mining?

4 A. Yes, it is.

5 Q. And will this...the approval of this
6 application serve to protect the correlative rights and set
7 aside the funds for this heirship as well as the...the other
8 people that you've been able to identify?

9 A. Yes, it is.

10 Q. The well costs here with regard to R-25, can
11 you tell the Board how that was calculated?

12 A. Yes. We...at this time we've got...we have
13 four frac wells within this unit and what's shown there is
14 the average costs of those four wells of \$214,374.17.

15 Q. And the cost that you would assign as a
16 participation cost is that an average number?

17 A. Yes, it is.

18 Q. Not the total cost?

19 A. Correct.

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

21 BENNY WAMPLER: Here again, is the mine plan on file
22 with the Gas and Oil office?

23 LES ARRINGTON: I believe this...I believe that one
24

1 also is. I gave them a big map. I'm not sure how far it
2 reached over there. I did give them a big map.

3 BENNY WAMPLER: Will you assure us that you will
4 make sure that that's on file with the office?

5 LES ARRINGTON: I will.

6 BENNY WAMPLER: Any questions from members of the
7 Board? Mr. Garbis.

8 DENNIS GARBIS: Am I to understand that 50.25
9 percent...in other words, the D. C. Rakes heirs are not
10 locateable?

11 LES ARRINGTON: Well, we...we know who the surface
12 owners are, but we...the D. C. Rakes heirs, when they somehow
13 or another reserved the oil and gas back in the 1800s, we
14 just...we haven't been able to trace that back.

15 MARK SWARTZ: A common scenario here in this...in
16 Virginia and West Virginia, the coal gets severed, the
17 surface is sold and then the seller reserves the oil and gas
18 and people forget they own it. Okay. And that's what has
19 happened here. We can trace the coal title. We can trace
20 the surface title, but this reservation of an oil and gas
21 interest, not tied to coal, not tied to a surface has gotten
22 lost in the shuffle of a hundred and some years and
23 it's...and it's not real common, but it happens enough so

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1 that...I mean, we see this pretty regularly where we've got
2 reservation of an interest that is unaccountable.

3 LES ARRINGTON: I will say again this interest was
4 shown as a fee interest to Yukon/Pocahontas for quite some
5 time and through continuing to work on it, we've---

6 BOB LOONEY: May I comment on it?

7 LES ARRINGTON: Yeah.

8 BOB LOONEY: I think, too, they weren't local
9 natives or natives of the Buchanan County area, D. C. Rakes.
10 From the records I have checked and maybe come in maybe
11 buying property for timber and just happened to get...and
12 then they sold out and left out. So, we don't know where---

13 BENNY WAMPLER: Would you state your name for the
14 record, please?

15 BOB LOONEY: Bob Looney with Consol.

16 BENNY WAMPLER: Thank you, Mr. Looney.

17 DENNIS GARBIS: Thank you.

18 BENNY WAMPLER: Any other questions?

19 (No audible response.)

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

22 MARK SWARTZ: No, I don't.

23 BENNY WAMPLER: Is there a motion to approve?
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1 DENNIS GARBIS: Motion.

2 MASON BRENT: I second.

3 BENNY WAMPLER: Motion and second. Any further
4 discussions?

5 (No audible response.)

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

7 (All members signify yes.)

8 BENNY WAMPLER: Opposed, say no.

9 (No audible response.)

10 BENNY WAMPLER: You have approval. Let's take a few
11 minutes break.

12 (Off record.)

13 BENNY WAMPLER: Okay. The item on the agenda is a
14 petition from Equitable Production for pooling of a coalbed
15 methane unit identified as VC-3901, docket number VGOB-99-
16 09/22-0749. We'd ask the parties that wish to address the
17 Board in this matter to come forward at this time.

18 JIM KISER: Mr. Chairman and members of the Board,
19 Jim Kiser on behalf of Equitable Production Company. Our
20 witnesses in this matter will be Dennis Baker and Mr. Bob
21 Dahlin. I'd ask that they be sworn at this time.

22 (Witnesses are duly sworn.)

23 BENNY WAMPLER: The record will show there are no
24

1 others. You may proceed.

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DENNIS R. BAKER

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

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DIRECT EXAMINATION

7 QUESTIONS BY MR. KISER:

8 Q. Mr. Baker, would you state your name for the
9 record, who you're employed by and in what capacity?

10 A. My name is Dennis R. Baker. I'm employed by
11 Equitable Production Company as Senior Landman.

12 Q. And do your responsibilities include the
13 land involved here and in the surrounding area?

14 A. Yes, they do.

15 Q. Are you familiar with Equitable's
16 application seeking a pooling order for EPC well number VC-
17 3901, which was dated August 18th, 1999?

18 A. Yes, I am.

19 Q. Now, as I go through your testimony, and do
20 you understand and can we make clear to the Board, that
21 anytime I use the term "respondent" in relation to this
22 particular hearing, I will be referring to the gas and CBM
23 lessee Buchanan Production?

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1 A. Yes. Yes.

2 Q. And is Equitable seeking to force pool the
3 drilling rights underlying the unit as depicted at Exhibit A?

4 A. Yes, we are.

5 Q. And does this location that's proposed for
6 well number VC-3901 fall within the Board's order for the
7 Nora Coalbed Gas Field?

8 A. Yes, it does.

9 Q. Now, prior to filing your application, were
10 efforts made to contact the respondent in an attempt to work
11 out a format agreement regarding the development of the
12 unit?

13 A. Yes.

14 Q. Okay. Does Equitable own drilling rights in
15 the unit involved here?

16 A. Yes, we do.

17 Q. What is the interest of Equitable in the gas
18 estate in the unit?

19 A. The interest leased to Equitable is 94.06
20 percent.

21 Q. And the interest leased to Equitable in the
22 coal estate?

23 A. The same interest in the coal estate, 94.06
24

1 percent.

2 Q. Okay. Any unleased parties or the CBM and
3 Gas lessee for the remaining 5.94 percent is set out in
4 Exhibit B?

5 A. Yes.

6 Q. Okay. Are you familiar with the ownership
7 of drilling rights of parties other than Equitable underlying
8 this unit?

9 A. Yes, I am.

10 Q. And what percentages would those be?

11 A. The interest in the gas estate as well as
12 the coal estate remaining unleased to Equitable is 5.94
13 percent of the unit.

14 Q. Okay. And are the addresses set out in
15 Exhibit B to the application the last known addresses for
16 the...for all respondents?

17 A. Yes, it is.

18 Q. And are you requesting the Board to force
19 pool all unleased interest as listed in Exhibit B?

20 A. Yes.

21 Q. And are you familiar with the fair market
22 value of drilling rights in the unit here and in the
23 surrounding area?

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1 A. Yes, I am.

2 Q. Could you advise the Board as the what those
3 are?

4 A. A \$5 per acre consideration, for a five year
5 term, and one-eighth of eight-eighth royalty.

6 Q. Did you gain this familiarity and knowledge
7 and opinion by acquiring oil and gas leases, coalbed methane
8 leases and other agreements involving the transfer of
9 drilling rights in the unit involved here and in the
10 surrounding area?

11 A. Yes.

12 Q. Mr. Baker, in your professional opinion, do
13 the terms you have testified to represent the fair market
14 value of and the fair and reasonable compensation to be paid
15 for drilling rights within this unit?

16 A. Yes.

17 Q. Now, as to the respondents...respondent
18 listed in Exhibit B who remains unleased to Equitable, do you
19 agree that they should be allowed the following options with
20 respect to any ownership interest within the unit: one,
21 participation; two, a cash bonus of \$5 per net mineral acre
22 plus a one-eighth of eight-eighths royalty; or three, in lieu
23 of such cash bonus, a one-eighth of eight-eighths royalty

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1 share in the operation of the well on a carried basis as a
2 carried operator on the following conditions: They shall be
3 entitled to the share of production from the tracts pooled
4 accruing to their interest exclusive of any royalty or
5 overriding royalty reserved in any leases, assignments
6 thereof or agreements relating thereto of such tracts, but
7 only after the proceeds applicable to their share equal - (A)
8 300 percent of the share of such costs applicable to the
9 interest of a carried operator of a leased tract or portion
10 thereof; or (B) 200 percent of the share of such costs
11 applicable to the interest of the carried operator of an
12 unleased tract or portion thereof?

13 A. Yes.

14 Q. Do you recommend the Board order provide
15 that elections by respondent be in writing and sent to the
16 applicant at Equitable Production Company, P. O. Box 1983,
17 Kingsport, Tennessee, Attention: Dennis R. Baker?

18 A. Yes.

19 Q. And should this be the address for all
20 communications with the applicant concerning any force
21 pooling order?

22 A. Yes, it is.

23 Q. Do you recommend that the order provide that
24

1 if no written elections is properly made by a respondent,
2 then such respondent shall be deemed to have leased and
3 elected to cash royalty option in lieu of participation?

4 A. Yes.

5 Q. Should any unleased respondent be given
6 thirty days from the date of the Board order, or the
7 recording of the Board order, to file written elections?

8 A. Yes.

9 Q. If the unleased respondent elects to
10 participate, should they be given forty-five days to pay the
11 applicant for their proportionate share of well costs?

12 A. Yes.

13 Q. And do you expect that party to pay in
14 advance that proportionate share of well costs?

15 A. Yes, we do.

16 Q. Should the applicant be allowed a hundred
17 and twenty days following the recordation date of the Board
18 order, and thereafter annually on that date, until production
19 is achieved to pay, or tender cash bonus, becoming due under
20 order?

21 A. Yes.

22 Q. Do you recommend that if the respondent
23 elects to participate, but fails to pay the their

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1 proportionate share of well costs satisfactory to the
2 applicant for payment of such costs, then their election to
3 participant should be treated as having been withdrawn and
4 void and it should be treated as having made no initial
5 election under the order, in other words, deemed to have
6 leased?

7 A. Yes.

8 Q. Do you elect that...if the...that the order
9 provide that...do you recommend that the order provide that
10 where a respondent elects to participate, but defaults in
11 regard to the payment of well costs, any sum becoming payable
12 should be paid within sixty days after the last date on which
13 such respondent could have been paid or made satisfactory
14 arrangements for the payment of the those costs?

15 A. Yes.

16 Q. Mr. Baker, do we have any unknown parties in
17 this unit or any conflicting claimants in this unit?

18 A. No, we do not.

19 Q. So, therefore, we do not need to set up a
20 escrow account?

21 A. No. It will not be necessary.

22 Q. Who should be named the operator under the
23 force pooling order?

24

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1 A. Equitable Production Company.

2 JIM KISER: Nothing further of this witness at this
3 time, Mr. Chairman.

4 BENNY WAMPLER: Any questions from members of the
5 Board of this witness?

6 (No audible response.)

7 BENNY WAMPLER: Call your next witness.

8

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10 ROBERT A. DAHLIN, II

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

13 DIRECT EXAMINATION

14 QUESTIONS BY MR. KISER:

15 Q. Mr. Dahlin, state your name for Board, who
16 you are employed by and in what capacity.

17 A. My name is Robert A. Dahlin, II. I'm
18 employed by Equitable Production Company, as a Production
19 Specialist.

20 Q. And you have previously testified before the
21 Board on many occasions?

22 A. That's correct.

23 Q. And do your responsibilities include the
24

25

1 land involved here and in the surrounding area?

2 A. Yes, it does.

3 Q. Now, are you familiar with the proposed plan
4 of exploration and development of the unit involved here?

5 A. Yes.

6 Q. What's the total depth of the well under the
7 plan of development?

8 A. 2,357 feet.

9 Q. And this will be sufficient to penetrate and
10 test the common sources of supply?

11 A. Yes, it will.

12 Q. What are the estimated reserves of this
13 unit?

14 A. 400,000,000 cubic feet.

15 Q. And are you familiar with the well costs for the proposed well
16 under the plan of development?

17 A. I am.

18 Q. Was an AFE reviewed, signed and submitted to the Board as
19 Exhibit C to the application?

20 A. Yes.

21 Q. Was this AFE prepared by an engineering department
22 knowledgeable in the preparation of AFEs and knowledgeable in regard to well costs in this
23 particular area?

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1 A. Yes.

2 Q. In your professional opinion, does the AFE represent a reasonable
3 estimate of the well costs for the proposed well under the plan of development?

4 A. Yes, it does.

5 Q. Could you state at this time both the dry hole costs and completed
6 well costs connected with VC-3901?

7 A. The dry hole costs are \$101,253, with the completed well cost of
8 \$181,600.

9 Q. And do these costs anticipate a multiple completion?

10 A. Yes, it does.

11 Q. And does AFE include a reasonable charge for supervision?

12 A. Yes.

13 Q. In your professional opinion, Mr. Dahlin, will the granting of this
14 application be in the best interest of conservation, the prevention of waste and the
15 protection of correlative rights?

16 A. Yes, it would.

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

18 BENNY WAMPLER: Any questions from members of the Board?

19 (No audible response.)

20 BENNY WAMPLER: Do you have anything further?

21 JIM KISER: Mr. Chairman, we'd ask that the application be approved as
22 submitted

23 MAX LEWIS: I make a motion that we approve the application.

24

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1 CLYDE KING: Second.

2 BENNY WAMPLER: Motion and second. Any further discussions?

3 (No audible response.)

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

5 (All members signify yes)

6 BENNY WAMPLER: Opposed, say no.

7 (No audible response.)

8 BENNY WAMPLER: You have approval. The next item on the agenda is a
9 petition from Equitable Production Company for pooling of a coalbed methane unit under
10 the Nora Coalbed Gas Field identified as VC-4079. This is docket number VGOB-99-
11 09/22-0750; and we'd ask the parties that wish to address the Board in this matter to come
12 forward at this time, please.

13 JIM KISER: Mr. Chairman and members of the Board, Jim Kiser, again, on
14 behalf of Equitable Production Company. Our witnesses in this matter will again be Mr.
15 Baker and Mr. Dahlin.

16 BENNY WAMPLER: The record will show there are no
17 others. You may proceed.

18

19 DENNIS R. BAKER

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

22 DIRECT EXAMINATION

23 QUESTIONS BY MR. KISER:

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1 Q. Okay, Mr. Baker, again state your name, who
2 you are employed by and in what capacity?

3 A. My name is Dennis R. Baker. I'm employed by
4 Equitable Production Company as Senior Landman.

5 Q. And do your responsibilities include the
6 land involved here and in the surrounding area?

7 A. Yes, they do.

8 Q. And you are familiar with Equitable's
9 application seeking a pooling order for EPC well number VC-
10 4079, dated August 18th, 1999?

11 A. Yes, I am.

12 Q. And are we seeking to force pool the
13 drilling rights underlying the unit as depicted at Exhibit A
14 to the application?

15 A. Yes.

16 Q. Or is Equitable seeking to? Now, when you
17 look at Exhibit A, Mr. Baker, real quickly you'll see that
18 the proposed location is outside the interior window, is that
19 correct?

20 A. Yes, it is.

21 Q. And that we...at the time Equitable applies
22 for a permit on this well, we will also seek through that
23 permit process a location exception?

24

--

1 A. Yes, that's correct.

2 Q. And does the location proposed for well
3 number VC-4079 fall within the Board's order for the Nora
4 Coalbed Gas Field?

5 A. Yes, it does.

6 Q. Now, prior to the filing this application,
7 did you make an effort to contact each of the respondents in
8 an attempt to work out an agreement regarding the development
9 of the unit involved?

10 A. Yes, we did.

11 Q. Now, does Equitable own drilling rights in
12 this unit?

13 A. Yes, we do.

14 Q. And the interest of Equitable in the gas
15 estate?

16 A. The interest leased to Equitable in the gas
17 estate is 96.53 percent.

18 Q. And the interest of Equitable in the coal
19 estate?

20 A. The interest leased to Equitable in the coal
21 estate is 100 percent.

22 Q. Okay, so all unleased parties are set out in
23 our Exhibit B?

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1 A. Yes, they are.

2 Q. And the only unleased party is Tract Three,

3 Mr. J. H. Duty?

4 A. Yes.

5 Q. Okay. Now, subsequent to the filing of the

6 application, did you continue to attempt to reach an

7 agreement with him?

8 A. Yes, we did.

9 Q. And you were not successful

10 A. No.

11 Q. Okay. So, what will be the unleased

12 interest in the gas estate that remains?

13 A. The unleased portion will be 3.47 percent of

14 the unit.

15 Q. And in your professional opinion, was due

16 diligence exercised to locate each respondent named herein?

17 A. Yes.

18 Q. Now, are the addresses set out in Exhibit B

19 to the application the last known addresses for all of the

20 respondents?

21 A. Yes.

22 Q. Are you requesting this Board to force pool

23 all unleased interest listed in Exhibit B?

24

1 A. Yes.

2 Q. Okay. And are you familiar with the fair
3 market value of drilling rights in this unit here and in the
4 surrounding area?

5 A. Yes, I am.

6 Q. Could you advise the Board as to what those
7 are?

8 A. A five \$5 per acre consideration, a five
9 year term, one-eighth of eight-eighths royalty.

10 Q. And you give this testimony and make this
11 representation based upon your familiarity of acquiring oil
12 and gas leases, coalbed methane leases and other agreements
13 involving the transfer of drilling rights here and in the
14 surrounding area?

15 A. Yes.

16 Q. In your professional opinion, do the terms
17 you've testified to represent the fair market value of and
18 the fair and reasonable compensation to be paid for drilling
19 rights within this unit?

20 A. Yes.

21 JIM KISER: Mr. Chairman, at this time, we'd like
22 to incorporate the testimony taken from VGOB docket number
23 99-09/22-0749 regarding the election options and time to make

24

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1 those elections that was offered in the previous hearing be
2 incorporated into this hearing.

3 BENNY WAMPLER: They'll be incorporated.

4 Q. Mr. Baker, we do have a conflicting claimant
5 here on Tract Three. Mr. Duty owns the gas estate and
6 Pittston owns the coal estate, is that correct?

7 A. Yes, it is.

8 Q. So, we do need to correct an escrow account
9 into which all costs or proceeds attributed to that
10 conflicting interest be held for the respondents benefit
11 until such funds can be paid to the party by order of the
12 Board, or until the conflicting claim is resolved?

13 A. Yes.

14 Q. And who should be named the operator under
15 the force pooling order?

16 A. Equitable Production Company.

17 JIM KISER: That's all I have of this witness at
18 this time, Mr. Chairman.

19 BENNY WAMPLER: Any questions of this witness from
20 members of the Board?

21 (No audible response.)

22 BENNY WAMPLER: Call your next witness.

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ROBERT A. DAHLIN, II

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

DIRECT EXAMINATION

QUESTIONS BY MR. KISER:

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

A. Robert A. Dahlin, II. I'm employed by Equitable Production Company, as a Production Specialist.

Q. And you're familiar with the land involved in this unit and in the surrounding area?

A. Yes.

Q. And you're familiar with the plan of development for this unit?

A. I am.

Q. What's the total depth well?

A. 1,962 feet.

Q. And what are the estimated reserves for this unit?

A. 350,000,000 cubic feet.

Q. Now, are you familiar with the well costs for this initial well under the plan of development?

A. Yes, I am.

1 Q. And you prepared an AFE that has been
2 reviewed, signed and submitted by you to the Board?

3 A. That's correct.

4 Q. Was this AFE prepared by an engineering
5 department knowledgeable in the preparation of the AFE's and
6 knowledgeable in regard to well costs in this area?

7 A. It was.

8 Q. Does this AFE, in your professional opinion,
9 represent a reasonable estimate of the well costs for the
10 proposed well under the plan of development?

11 A. Yes, it does.

12 Q. Could you state for the Board both the
13 dryhole cost and completed well cost for VC-4079?

14 A. The dry hole costs are \$93,385; with
15 completed well costs of \$193,000.

16 Q. And do these costs anticipate a multiple
17 completion?

18 A. Yes, it does.

19 Q. Does your AFE include a reasonable charge
20 for supervision?

21 A. Yes, it does.

22 Q. In your professional opinion, will the
23 granting of this application be in the best interest of
24

1 conservation, the prevention of waste and the protection of
2 correlative rights?

3 A. Yes, it would.

4 JIM KISER: Nothing further of this witness at this
5 time, Mr. Chairman.

6 BENNY WAMPLER: Any questions from members of the
7 Board of this witness?

8 (No audible response.)

9 BENNY WAMPLER: Do you have anything further?

10 JIM KISER: We'd ask that the application be
11 approved as submitted.

12 BENNY WAMPLER: Is there a motion?

13 MAX LEWIS: I make a motion we approve it.

14 BENNY WAMPLER: Motion to approve.

15 MASON BRENT: Seconded.

16 BENNY WAMPLER: Seconded. Any further discussion?

17 (No audible response.)

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

20 (All members signify yes.)

21 BENNY WAMPLER: Opposed, say no.

22 (No audible response.)

23 BENNY WAMPLER: You have approval. Thank you.

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1 JIM KISER: Thank you.

2 BENNY WAMPLER: The last item on today's agenda
3 is...Jack Davis was going to be here and he's either in the
4 area or...or on his way. I had...that's my fault because I
5 told him we would probably be afternoon. I told him to be
6 here at 1:00. If you'd like, I can go ahead and cover this
7 with you in general. I believe that...he just gave me a
8 copy. He had copies for all members of the Board. I think
9 maybe Sandy has a copy. But...do you have a copy?

10 SANDRA RIGGS: (Indicates negatively.)

11 BENNY WAMPLER: You don't have a copy.

12 SANDRA RIGGS: Share it down this way.

13 BENNY WAMPLER: This is the evaluation and award
14 criteria that we had on the escrow agent and the request for
15 proposal was mailed out to Powell Valley National Bank, Lee
16 Bank & Trust, First Virginia Bank, First Union National Bank,
17 Black Diamond Savings Bank and the Escrow Document Services
18 for Lawyers Incorporated.

19 DENNIS GARBIS: What was that last one?

20 BENNY WAMPLER: It's Escrow Document Services for
21 Lawyers Incorporated. It's in Denver, Colorado. Just
22 searching for anyone that was in to it.

23 DENNIS GARBIS: (Inaudible).

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1 BENNY WAMPLER: We had a...we had an evaluation team
2 that consisted of the Director of the Division of Gas and
3 Oil, the Department's comptroller, so to speak; the auditor
4 for the Department and the head of the General Services, Jack
5 Davis that was going to be here. They went through these
6 criteria and made an evaluation. The current escrow agent,
7 when you factor in cost would win the award. Okay, when you
8 factor in cost. There was...as you know, and I'm just
9 speaking very frankly, we've had a number of issues with the
10 current escrow agent. The runner up, and the costs are
11 higher, the costs for the...let me see if I can find that
12 one. It's First Union. I'm trying to get their costs. You
13 got the copy. Okay. Sixty minimal...minimal annual fee is
14 \$60,000. They have said they would track everything the way
15 that, you know, that the Board needs it tracked or order to
16 make disbursements. Sub account levels and all of those
17 kinds of things. The current escrow agent has, as you know,
18 worked through a process whereby they...they are now
19 providing the information, but we've had a struggle in the
20 process in getting there. There would be, obviously, some
21 transition issues here. As you took the information that the
22 current escrow agent is tracking and trying to transition
23 that to a new escrow agent. And I guess the bottom line is

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1 going to be...I was trying to get you the cost of the current
2 escrow agent and what their bid entailed. I believe it was
3 40,000, but I'm not sure, versus 60,000 minimum.

4 CLYDE KING: What was the transitional cost, Benny?

5 BENNY WAMPLER: That's going to be one...just
6 depending on the number of hours it takes to...for the
7 transition to get all of this information over in...keyed
8 into their computers. They have said that they can
9 definitely do that. You know, it's going to be one of those
10 where you'll have an up swing in costs, but, you know, you
11 should level off after you get the initial account set up.

12 MAX LEWIS: You're saving, I think...you'll save
13 more enough on the...your costs than you would to do the
14 transition, I'm sure.

15 BENNY WAMPLER: I think the...the---

16 MAX LEWIS: \$20,000 less.

17 DENNIS GARBIS: Mr. Chairman?

18 BENNY WAMPLER: Did we have specific criteria...
19 where are the criteria of that...that we published in the
20 RFP?

21 SANDRA RIGGS: There's the evaluation sheets from
22 the Committee and I have a copy of each of their proposal
23 here if you want to take some time maybe review those since
24

1 we don't have copies for everybody.

2 BENNY WAMPLER: That's fine.

3 DENNIS GARBIS: What are the criterias one, two,
4 three, four, five?

5 SANDRA RIGGS: Here's the RFP itself.

6 BENNY WAMPLER: Yeah, that's what I'm going to go
7 over with them---.

8 SANDRA RIGGS: And here's the two proposals that
9 came in that were---.

10 BENNY WAMPLER: What we said is that the agent shall
11 establish one interest bearing account in the name of the
12 Board for the purpose of investing the funds. The account
13 will be further divided into unit subaccounts which will be
14 designated by a VGOB number issued by the Board and each sub
15 account will be further divided into royalty funds, interest
16 funds, working interest funds, interest funds attributable to
17 the unit from the overall investment of the principal escrow
18 account and escrow sub account. The principal escrow account
19 will be invested and managed by the agent. The agent shall
20 receive and accept for deposit all funds paid by the unit
21 operators and costs associated with the well unit paid by
22 participating owners consistent with a supplemental orders
23 from the Board into the escrow sub account. The agent shall
24

1 not accept or hold for deposit any funds from unit operators
2 or participating owners for which there is not been
3 established a sub account by order of the Board or for which
4 there is not referenced VGOB number issued by the Board. The
5 agent shall deposit the revenue of any escrow account in a
6 collateralized account and shall invest the revenue of the
7 principal escrow account balance over \$100,000 in obligations
8 of the U.S. Government, U.S. Treasury bills and/or other
9 investments with prior approval from the Board. The agent
10 shall reinvest any income earned on the above securities as
11 soon as possible and at no additional investment transaction
12 charge. The agent shall be responsible for wiring down...pay
13 down amounts to institutions on the due date and shall be
14 responsible for sending advises or confirmations to
15 appropriate parties within two to three business days
16 thereafter and so ordered by the Board. The agent shall not
17 co-mingle the funds pertaining to these accounts established
18 pursuant to any resulting contract with the Board with any
19 other business the agent may have direction over. The agent
20 shall provide accounting in accordance with the supplemental
21 order for a unit upon a request for the withdrawal funds as
22 been applied for by an applicant. The accounting is to be
23 included but is not limited to the amount of deposits

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1 received the interest attributed to the sub account and the
2 amount of fees with drawn for the maintenance of the sub
3 account. To the extent possible fees shall come from
4 interest earned.

5 The agent shall further account for the amount of
6 funds attributable to any conflicting interest subject to a
7 request for withdrawal of funds less escrow account fees.

8 The agent shall not disburse any funds without an order from
9 the Board directing him to do so. The agent shall submit to
10 the Board and be responsible for all federally required forms
11 including, but not limited to the 1099 reporting. The agent
12 shall submit to the Board a written account status, report
13 each month by unit sub accounts which shall include all sub
14 accounts which have zero balances and report itemizing the
15 checks drawn from escrow every six months by sub account.

16 The agent shall provide electronic access on a view only
17 basis to the staff of the Board to all sub accounts. The
18 agent shall maintain a searchable database containing the
19 information as submitted with the checks for deposit so that
20 the search may be conducted by well, unit, tract or owner.

21 The agent shall be available to meet with the Board on a
22 quarterly basis. The agent shall accept and consolidate all
23 information and funds transferred from current agents

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1 according to the section of the RFP that talked about
2 transition.

3 And then we went into hours of operation and a
4 number of things like that. But, you know, we believe that
5 that clearly articulates what we felt...we've all felt like
6 that needs to be carried out. These...these two firms have
7 said that they...they're the top firms and have said that
8 they could do that.

9 DENNIS GARBIS: Mr. Chairman, I'm somewhat concerned
10 that perhaps we might be a little unfair to First Virginia
11 because this has been an evolutionary process. I mean, I
12 don't know that we had everything really defined. We went
13 through this last...I forget the case number of the people
14 that came before us. But, I mean, we didn't have everything
15 really specifically spelled out. I don't know that we're
16 being totally fair to those guys because now obviously we
17 know a little better and we've progressed and we know more
18 about what we want. So, I don't know that those specific
19 requirements were known to First Virginia Bank. In addition
20 to which I might add that FVB obviously is a Virginia Bank.
21 First Union is a North Carolina Bank. We need to keep
22 charity at home, I guess, plus the \$20,000. So, I guess, I'm
23 saying I that I think that we ought to say with FVB.

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1 BENNY WAMPLER: The...you know, just for
2 clarification, the initial request for proposal was not as
3 detailed specific because this has been an evolution process.
4 The issue that you'll recall the Board had, I guess, was
5 performance of the current contract. There was some non-
6 performance issues that were brought to the attention of Mr.
7 Ditz and others throughout that. So, you know, here again,
8 just bringing that before the Board for its consideration.
9 We certainly, at the department level, will go with which
10 ever one the Board deems is the most appropriate to go with.
11 But that's...that's not as detailed of a report I'm certain
12 as Mr. Davis would have presented. But it hopefully gives
13 you an overview of what are. He has...he and others
14 had...did review past Board meeting minutes to look at
15 concerns that we've had and things like that.

16 CLYDE KING: Mr. Chairman, we're talking about a
17 \$20,000 difference between the two?

18 BENNY WAMPLER: Well, it's hard to tell. I used
19 that number. The...let me...let me be more specific and try
20 to grab...grab a hold of what they really said. They...what
21 they said was that their base fee account will be one-tenth
22 of one percent of market value. After two years, the
23 percentage may be subject to adjustment and calculated on
24

1 changes by...in the CPI.

2 CLYDE KING: One percent of what now?

3 BENNY WAMPLER: One-tenth of one percent of market
4 value at any point in time.

5 DENNIS GARBIS: And that would be payable to the
6 bank on a monthly basis?

7 SANDRA RIGGS: A monthly charge.

8 BENNY WAMPLER: Yes.

9 SANDRA RIGGS: It depends on whether you have a
10 declining balance or an increasing balance, I would say,
11 because it's not tied to service. It's tied to funds on
12 deposit.

13 BENNY WAMPLER: And they said that any conversion of
14 existing accounts to get to this system would be at a rate of
15 \$100 per hour. The...First Union said \$7,500 for the
16 conversion. Additional time would be \$70 per hour inclusive
17 per account. Monthly fees \$7 per dedicated primary and back
18 up account administrator, management reporting, account
19 maintenance, statement generation, deposits, tax reporting
20 and system support. Their weekly filed transmission would be
21 \$25 per transmission. Investment wire transfers would be
22 \$35. Confirmations to parties would \$2.50 per confirmation.
23 A minimum annual fee \$60,000.

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1 CLYDE KING: And we're still talking about a
2 transition charge, too, aren't we?

3 SANDRA RIGGS: For both of them really.

4 MAX LEWIS: \$7,000 and something, they said.

5 CLYDE KING: Oh, are both of them going to have a
6 transition---.

7 SANDRA RIGGS: Because First Virginia has to convert
8 these to the sub account process.

9 BENNY WAMPLER: They would have...they would have to
10 set up on this new system. Either one of them would have to
11 do that.

12 CLYDE KING: Do we have any idea what the difference
13 would be from that?

14 BENNY WAMPLER: Not the way it's broken out because
15 they don't estimate the number of hours. One says flat
16 \$7,500, the other says \$100 per hour. First Union said
17 \$7,500 and First Virginia or First Virginia of Mountain
18 Empire said \$100 per hour.

19 DENNIS GARBIS: Can you...can you negotiate in this
20 process or you saying what it is, is what it is? You can't
21 further negotiable between the two?

22 BENNY WAMPLER: We could talk about those kinds of
23 issues. Yes, get back with them because whether or not to
24

1 specifically delineate them. Yes.

2 SANDRA RIGGS: I think they have.

3 DENNIS GARBIS: Go back to them. Give me your best
4 and final offer. Get them up some more.

5 CLYDE KING: Well, I agree we have had a lot of
6 problems, but I think a lot of it was the problems with
7 the...that developed over the years. I'd like to see it stay
8 with a Virginia Company, also.

9 SANDRA RIGGS: I think the Virginia Company cannot
10 give us electronic access which was one of the requirements
11 in the RFP. They don't have that capability to view---

12 BENNY WAMPLER: Yeah, they put not up to that.

13 SANDRA RIGGS: Yeah, they've got not applicable
14 marked because they can't give electronic access to view the
15 accounts, the sub accounts.

16 DENNIS GARBIS: You mean on line?

17 SANDRA RIGGS: Right. First Union could. So,
18 that---

19 BENNY WAMPLER: First Union can.

20 SANDRA RIGGS: ---was one difference.

21 DENNIS GARBIS: Do we have to use that? I mean, who
22 needs to have access to that?

23 SANDRA RIGGS: I guess---

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1 DENNIS GARBIS: In front of the worldwide webb?

2 SANDRA RIGGS: Well, we get inquiries constantly
3 from people wanting to know how much money is on deposit for
4 their particular interest...for their...and right now all we
5 can tell them is how much is on deposit for the total unit.
6 You can't look...and then you've got to call up the escrow
7 agent by phone and they have to tell you. You can't access
8 it to...to determine those amounts.

9 DENNIS GARBIS: But if he has a sub account and set
10 it up on a monthly or quarterly basis and somebody calls you
11 can say well as of last month, I have this much on deposit.

12 BENNY WAMPLER: Yeah, you can do that.

13 SANDRA RIGGS: Right now it has to be done by phone.
14 We can't access it.

15 RICHARD GILLIAM: When you call them, is there a
16 charge for that every time you make a request or is that
17 a---?

18 DENNIS GARBIS: Everything with a bank is a charge.

19 SANDRA RIGGS: They don't describe it as a separate
20 charge.

21 DENNIS GARBIS: Who?

22 RICHARD GILLIAM: Virginia bank.

23 BENNY WAMPLER: First Virginia.

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1 SANDRA RIGGS: First Virginia. It would just be the
2 personal time involved in taking the call, calling and coming
3 back and calling back to the request as opposed to being able
4 to pull it up while you're talking to them on the phone and
5 telling them---

6 CLYDE KING: How often...theoretically, how often
7 would that happen? How many phone calls would that mean?
8 Would you have any idea?

9 SANDRA RIGGS: Constantly. It's constant.

10 CLYDE KING: What?

11 SANDRA RIGGS: A lot. It's very constant, people
12 asking that question. That's handled through the Division of
13 Gas and Oil. Diane Davis takes those phone calls.

14 DENNIS GARBIS: But I would think rather than take
15 the time to be up on the net, you'd be better off with a
16 monthly printout. It would be quicker from efficiency
17 standpoint just to have the spreadsheet there and look up.
18 Put the person on hold, look it up, you have \$3,868 and so
19 much cents.

20 SANDRA RIGGS: You can do it that way. As of a date
21 certain.

22 DENNIS GARBIS: Yeah.

23 BENNY WAMPLER: Mr. Brent?

24

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1 MASON BRENT: I really don't think that today I
2 could make an intelligent vote on this. I'd like to have a
3 recaption of the responses and what I would also like to see
4 is the recommendation from those of you that have to interact
5 with the bank, with the escrow agent, as just strictly a
6 recommendation as to which way you think we ought to go.

7 BENNY WAMPLER: Yeah.

8 MASON BRENT: I mean, you guys have got to work with
9 it, not me. So, that's what I would like to see. So, if I
10 have to vote today, I'd have to sustain.

11 BENNY WAMPLER: Okay. All right. We'll put it on
12 the agenda for next month and get that information for you.
13 Is that acceptable?

14 MASON BRENT: And a recommendation from those
15 that---.

16 BENNY WAMPLER: I understand.

17 CLYDE KING: And try to...could we get that filed
18 before our next meeting?

19 BENNY WAMPLER: We'll get the recap sheet out to you
20 right away. And like I say, Mr. Davis may have that with
21 him. I just---.

22 SANDRA RIGGS: Well, that's the other alternative.
23 What time is it now? We could---.

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1 BENNY WAMPLER: It's 12:00.

2 SANDRA RIGGS: No?

3 RICHARD GILLIAM: No.

4 BENNY WAMPLER: I don't think we're going to have
5 everything they'll want.

6 SANDRA RIGGS: Okay.

7 BENNY WAMPLER: Okay. Because they want a
8 recommendation, too, as well. So, we'll mail that to you
9 right away. We'll mail the recap sheet to you and then we'll
10 have a recommendation for you based on the---.

11 DENNIS GARBIS: I'd go back to them if there's
12 something that's more negotiable. Everything's negotiable.

13 CLYDE KING: Everything's negotiable.

14 DENNIS GARBIS: Almost everything.

15 BENNY WAMPLER: All right. The next month's
16 meeting...the next month's meeting is at the Breaks.
17 Any...do you have anything?

18 (No audible response.)

19 BENNY WAMPLER: Thank you very much.

20 MASON BRENT: Thank you.

21 (After the meeting was adjourned, Mr. Danny
22 McClanahan comes up to the Board and wishes to speak to
23 them.)

24

1 BENNY WAMPLER: Mr. King. He wants to talk to us.

2 CLYDE KING: Oh, okay.

3 DANNY McCLANAHAN: My name is Danny McClanahan and I
4 had a meeting with the Board June 15th and the Board ordered
5 them to add me into the original force pooling for T-36 and
6 S-36. Well, they have done that, but they've took and
7 recorded this...both...both of those in the courthouse with
8 different maps. I want to know how they done that and these
9 is even maps that hasn't even been certified by an engineer.
10 Would you like to look at them here?

11 BENNY WAMPLER: Yeah. I'll pass them to the Board
12 and look at them.

13 (Danny McClanahan hands out the papers.)

14 DANNY McCLANAHAN: No, that's the original order
15 there that they...recorded Thursday is when they recorded
16 these. Now, I have the original pooling orders with the
17 original maps that I should have been included on, and as you
18 can see, those maps hasn't even been certified. They was
19 changed, my property lines, as I've stated once before. And
20 Mr. Fulmer was supposed to look into this and I've had to
21 force him into doing everything that the Board has told him
22 to do.

23 (Members look at the documents.)

24

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1 DANNY McCLANAHAN: I realize that they are going to
2 make...try to make a revision on those maps in the next
3 month's meeting, but I want to know and question the Board as
4 to how they can record something that hasn't even come before
5 the Board before.

6 SANDRA RIGGS: Well, they didn't do the recording.
7 The Gas and Oil Board drafts the application in accordance
8 with the testimony they're given at the hearing and those are
9 recorded by the staff for the Board. The operator doesn't
10 have anything to do with the recording of the orders. Now,
11 you were the applicant at the hearing before the Board
12 and---

13 DANNY McCLANAHAN: Yes, ma'am.

14 SANDRA RIGGS: And you asked to be added to the
15 pooling.

16 DANNY McCLANAHAN: Yes, ma'am.

17 SANDRA RIGGS: And the original...as I understand
18 it, the original plat did not show you because you're a
19 surface owner.

20 DANNY McCLANAHAN: I'm not...no, ma'am. I want to
21 reiterate that, too. This is the first well in that plat. I
22 want to know why their people showed me as a gas owner, 18
23 point something percent, then the force pooling, they left me
24

1 out. That's what I'm saying. You all added me in, but you
2 can plainly see the same people that they've had do these
3 deed researches showed me as a potential owner with my
4 percentage in that, but they left me off the force pooling.

5 SANDRA RIGGS: Now, you came---

6 DANNY McCLANAHAN: Now, the maps is what I'm...
7 this---

8 SANDRA RIGGS: You came before the Board and asked
9 to be added and the Board granted that request.

10 DANNY McCLANAHAN: Yes, ma'am. I asked to be added
11 into these...these original ones. Would you like to see the
12 maps, ma'am?

13 SANDRA RIGGS: And that's happened.

14 DANNY McCLANAHAN: No, it has not happened, ma'am.
15 Like..if you'll look at the differences in the maps, it has
16 changed my property line. This is S-36. They're even
17 certified. Those maps you're looking at there is not even
18 certified by an engineer, ma'am.

19 SANDRA RIGGS: I'm looking at your name in the
20 pooling, Danny McClanahan, as an oil and gas claimant.

21 DANNY McCLANAHAN: Look at the map. I'm not worried
22 about that. They've changed my percentage is what I'm
23 saying, ma'am.

24

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1 SANDRA RIGGS: Well, this Board doesn't define
2 title. If there's a title dispute---

3 DANNY McCLANAHAN: Well, let me tell you something.
4 All right. Do you got the laws right there in front of you?
5 Do you want me to tell you...let me see.

6 SANDRA RIGGS: I have them right in front of me.

7 DANNY McCLANAHAN: Additional responsibilities of
8 the Director, the Board.

9 SANDRA RIGGS: Okay. Which section are you
10 referring to?

11 DANNY McCLANAHAN: Let me find it right here. 45.1-
12 361(8).

13 SANDRA RIGGS: Okay.

14 DANNY McCLANAHAN: Go to B8 and see what your all's
15 responsibilities is.

16 SANDRA RIGGS: Are you talking violations and
17 penalties? Is that section you're looking at?

18 DANNY McCLANAHAN: No, ma'am. Additional
19 responsibilities of the Board.

20 SANDRA RIGGS: 45.1-361(8)?

21 DANNY McCLANAHAN: Excuse me. 15, ma'am.

22 SANDRA RIGGS: Thank you. Okay.

23 DANNY McCLANAHAN: Go to B8.

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1 SANDRA RIGGS: Okay.

2 DANNY McCLANAHAN: What's your...read that out loud,
3 please to the Board.

4 SANDRA RIGGS: "Collect data, making investigations,
5 inspections, examine property, leases, papers, books, records
6 and require provide for the keeping of records and the making
7 of reports."

8 DANNY McCLANAHAN: Now, I have you on record as
9 telling me you all didn't do that such of thing.

10 SANDRA RIGGS: I said we don't make title
11 determinations.

12 DANNY McCLANAHAN: That's right. Well, I got it
13 right here now where it said that you all didn't have to---.

14 SANDRA RIGGS: It does not give the Board
15 jurisdiction to adjudicate title to real property.

16 DANNY McCLANAHAN: Well, I'm not asking you to do
17 that. I'm asking you to investigate my problem and to look
18 at the deeds and the permitting activities that Mr. Fulmer is
19 clearly not doing. Don't...it does say that you can make
20 investigations?

21 SANDRA RIGGS: Article Two governs the Board, not
22 Mr. Fulmer.

23 DANNY McCLANAHAN: Well, how come...how come that

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1 says additional responsibilities of the Board?

2 SANDRA RIGGS: Of the Board.

3 DANNY McCLANAHAN: That's you all, is it not?

4 SANDRA RIGGS: Well, Mr. Fulmer is under Article
5 Three for permitting. Now, which...the Board examines
6 evidence presented to it right here at this hearing.

7 DANNY McCLANAHAN: Well, it says...it...let me see
8 what...let me look at it here now how it says that. "Collect
9 data, make investigation and inspections." Now, what does
10 inspection mean, ma'am? Could you define that for me? Can
11 you make an inspection sitting here in this office?

12 SANDRA RIGGS: Based on the evidence presented in an
13 formal hearing.

14 DANNY McCLANAHAN: Okay.

15 SANDRA RIGGS: For pooling, you're under 45.1-
16 361(21-22).

17 DANNY McCLANAHAN: I understand the pooling. Ma'am,
18 I understand the pooling stuff. I'm...I'm questioning the
19 discrepancy in the maps. You all ordered them to enter me
20 into those original force poolings with original maps. Well,
21 they recorded this and entered me into it with different
22 maps.

23 SANDRA RIGGS: We didn't order them to do it. The
24

1 Board did it.

2 DANNY McCLANAHAN: Well, the Board ordered. I do
3 know---.

4 SANDRA RIGGS: The Board entered an order adding you
5 as a party in this unit as a claimant.

6 DANNY McCLANAHAN: Well, how come they changed the
7 maps, though, ma'am? It's not the original force pooling
8 maps.

9 (Benny Wampler confers with Sandra Riggs showing
10 her the difference in the maps.)

11 SANDRA RIGGS: I understand what he's saying.

12 DANNY McCLANAHAN: Well, how come they're going to
13 bring this---.

14 SANDRA RIGGS: Because you didn't present any...any
15 plats to us at the hearing. We---.

16 DANNY McCLANAHAN: Yes, ma'am, I did. Yes, ma'am.

17 SANDRA RIGGS: You presented certified plats at the
18 hearing?

19 DANNY McCLANAHAN: I showed you and you told me that
20 was Mr. Fulmer's department and that he would check into it,
21 which he never did.

22 SANDRA RIGGS: Well, I'm confused.

23 DANNY McCLANAHAN: Well, I've got the minutes right
24

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1 here if you want to go back and look over them.

2 SANDRA RIGGS: You presented exhibits at the hearing
3 of the Board on the pooling of this unit---?

4 DANNY McCLANAHAN: Yes, ma'am, I showed them maps to
5 you all on June 15th.

6 SANDRA RIGGS: And you moved them into evidence and
7 they were made part of the record of this proceeding?

8 DANNY McCLANAHAN: Yes, ma'am. Yes, ma'am.

9 SANDRA RIGGS: Well, if that's the case, I'll go
10 back and review the transcripts, and if there are exhibits
11 moved into evidence that are different from these exhibits,
12 we can examine those.

13 DANNY McCLANAHAN: Well, all it was...all it said
14 was that I was ordered to be included in those.

15 SANDRA RIGGS: And that's all this does is offer to
16 you the ability to make one of four elections.

17 DANNY McCLANAHAN: I have that...I do know that,
18 ma'am. But how come they can change the maps?

19 SANDRA RIGGS: The maps were the maps presented---.

20 DANNY McCLANAHAN: Well, it's not reflect---.

21 SANDRA RIGGS: ---at the hearing that were made a
22 part of those proceedings. It's the only thing that was
23 presented to the Board that outlines your interest as a
24

1 claimant within this division.

2 DANNY McCLANAHAN: I tell you what...well, we...you
3 all referred back to the docket number on the force...well,
4 you all got those.

5 SANDRA RIGGS: 626 for unit S-36---.

6 DANNY McCLANAHAN: T-36 and S-36. You added me into
7 those original poolings which should reflect the same maps
8 that's in there, not these other maps.

9 SANDRA RIGGS: We modified the original pooling
10 order to name you as a claimant within the drilling unit---.

11 DANNY McCLANAHAN: That's right.

12 SANDRA RIGGS: ---and to afford to you one of the
13 three elections provided by statute.

14 DANNY McCLANAHAN: That's right.

15 SANDRA RIGGS: And you have thirty (30) days from
16 the recording of the order---.

17 DANNY McCLANAHAN: Well, I know that, ma'am. I
18 do...I know this.

19 SANDRA RIGGS: Okay.

20 DANNY McCLANAHAN: But how...what I'm asking the
21 Board is how they've changed those maps, ma'am, that was in
22 the original force pooling?

23 SANDRA RIGGS: So, you're contesting the validity of
24

1 the plats?

2 DANNY McCLANAHAN: Yes, ma'am.

3 SANDRA RIGGS: It is the only issue that you have
4 with regard to the orders?

5 DANNY McCLANAHAN: Well, it's taking away from my
6 percentage in those pooling units, which my percentage
7 in...which should be...in the original force pooling for T-36
8 is 18.3875 percentage. Now, they've dropped it down to where
9 they changed those maps to 14.55000. So, they're taking away
10 from my interest there. I don't think the Board ordered them
11 to do that, did they?

12 SANDRA RIGGS: Well, and that comes back to my
13 original statement that says, nothing in this pooling order
14 adjudicates what interest you have in the drilling unit.
15 That's the operator's representation of what their title
16 search shows. But that certainly can be contested at any point
17 in time.

18 DANNY McCLANAHAN: Well, I contested that over here
19 June the 15th and it was supposed to have been taken care of
20 and Mr...like I say, before Mr. Fulmer hasn't taken care of
21 it.

22 SANDRA RIGGS: Mr. Fulmer, doesn't have anything to
23 do with drafting these orders. These orders---.

24

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1 DANNY McCLANAHAN: Well, how come Diane---?
2 SANDRA RIGGS: She takes them---.
3 DANNY McCLANAHAN: ---recorded that over there,
4 ma'am, with the different maps in it, though?
5 SANDRA RIGGS: These orders---.
6 DANNY McCLANAHAN: It's coming...that's problem.
7 They're going to revise those maps in October. They're
8 wanting to come to the Board and repool it.
9 SANDRA RIGGS: Okay.
10 DANNY McCLANAHAN: With those maps that's in those
11 orders for me right there. Well, what I...my question is, if
12 they're coming to the Board next month to change those maps,
13 how can they record them maps in the courthouse last week
14 when it ain't even been before the Board for them to change
15 it?
16 BENNY WAMPLER: Now, your issue...if you talked to
17 me about this on the phone.
18 DANNY McCLANAHAN: That's...this...that's same---.
19 BENNY WAMPLER: Your issue gets to be that you've
20 got a thirty (30) day time frame in which you have to make---
21 .
22 DANNY McCLANAHAN: Well, I know I have that. But my
23 issue was...I am worried about if I sign and make my
24

1 election, that I'm saying that those maps are okay.

2 BENNY WAMPLER: That's what I'm trying to help you,
3 Danny, to say that...you told me that you've got this clock
4 running, you're know they're coming back, you've got a issue
5 about the maps here. So, you're saying that---?

6 DANNY McCLANAHAN: Well, still I...I still haven't
7 had nobody answer why they can put them maps in this pooling
8 order that wasn't in that first pooling order to start with.
9 I should have been added in with those first original maps.

10 SANDRA RIGGS: Well, that's why I thought you were
11 seeking a modification of the original pooling order to add
12 yourself in.

13 DANNY McCLANAHAN: That's what I wanted, added in to
14 those...did you look at the maps, ma'am, on T-36 and S-36,
15 the old units?

16 SANDRA RIGGS: No.

17 DANNY McCLANAHAN: I was supposed to be added into
18 them, not these other---.

19 SANDRA RIGGS: But you weren't.

20 DANNY McCLANAHAN: No, I'm not. Right there, you're
21 looking at it the different maps, ma'am.

22 SANDRA RIGGS: But you weren't added then, so you
23 petitioned the Board. Well, you didn't file a petition, but

24

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1 you just came here and asked the Board to amend the pooling
2 orders to name you as a claimant so that you would have a
3 right of election.

4 DANNY McCLANAHAN: Right.

5 SANDRA RIGGS: And the Board agreed to do that.

6 DANNY McCLANAHAN: Right.

7 SANDRA RIGGS: And the Board agreed to do that.

8 DANNY McCLANAHAN: Right.

9 SANDRA RIGGS: And modify the original pooling
10 orders to name you as a claimant---.

11 DANNY McCLANAHAN: Right.

12 SANDRA RIGGS: ---and offer to you a right of
13 election.

14 DANNY McCLANAHAN: Right. Right. Well, can you not
15 see the difference in the maps, ma'am? Them maps that you're
16 looking at right now with the broken lines are not the
17 original maps in the force pooling. That's what I'm trying
18 to say to you. I should have been added into the original
19 force pooling, which they slipped these other maps in there
20 and they ain't even...they're wanting to modify that next
21 month and they ain't even had a chance to modify it. But
22 they...yet the Board or the Director over there let them
23 record those maps as being just and true.

24

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1 SANDRA RIGGS: Well, the purpose of the plat in the
2 pooling application is to depict the drilling unit that's
3 subjected to the pooling.

4 DANNY McCLANAHAN: Well, it's not---.

5 SANDRA RIGGS: And you're in disagreement with the
6 percentage of interest, is that...is that what you're saying
7 that when they added you and came up with the revised maps,
8 that they miscalculated your percentage of interest?

9 DANNY McCLANAHAN: That's right. Nobody asked...
10 nobody asked for a revision of those maps in July...in June
11 the 15th meeting, ma'am. I was supposed to be added into the
12 original force pooling with the original maps that's in those
13 force pooling units.

14 SANDRA RIGGS: What is the difference, Benny, the
15 broken lines or---?

16 DANNY McCLANAHAN: You can't see the difference?

17 SANDRA RIGGS: Well, I'm looking. I'm trying to
18 see.

19 BENNY WAMPLER: The solid lines and broken lines, is
20 that---?

21 DANNY McCLANAHAN: Well...well, not really made
22 correctly neither. There's a big six differential in those
23 maps, ma'am. Okay, here's the original one---.

24

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1 SANDRA RIGGS: Right. And here's the---.

2 DANNY McCLANAHAN: Can you not see the difference in
3 the line there, ma'am?

4 SANDRA RIGGS: Is this the line we're talking about?

5 DANNY McCLANAHAN: Yes, ma'am. Yes, ma'am.

6 SANDRA RIGGS: Okay. So, there's a---.

7 DANNY McCLANAHAN: All right. Look at T-36 and look
8 at the difference in it. All right. It shows it more
9 better. All right. Now, look at this line. Now, look at
10 this line.

11 RICHARD GILLIAM: Well, they shifted the unit there.

12 DANNY McCLANAHAN: You better believe it!

13 SANDRA RIGGS: Well, is it the unit that shifted or
14 the tract that shifted?

15 DANNY McCLANAHAN: The unit it looks like to me.
16 They've shifted my property line.

17 RICHARD GILLIAM: Which is...which is your unit?

18 SANDRA RIGGS: Both. He has two units. So, it's
19 this---.

20 RICHARD GILLIAM: What numbers are yours?

21 DANNY McCLANAHAN: The big...the biggest one in
22 there. I guess it's 3A or 3 something...2B.

23 RICHARD GILLIAM: There's a 3A, 3B---.

24

1 DANNY McCLANAHAN: To me, I think I've got a valid
2 argument there. I mean, when you all wanted them to add me
3 in to the original pooling with those maps, you know, it's
4 clear to me they added me into the pooling, but they've
5 changed the maps and changed the percentage it should be.
6 And you did mention to me at the June 15th meeting
7 that...that it wasn't your knowledge that there was no
8 criminal acts involved in this. If you'll look at 45.1-
9 361(8), you will see that they are...anybody violating any
10 permit, any regulation or any type of this article here is a
11 Class I misdemeanor and you...well, you're the Assistant
12 Attorney General. You are the one that's supposed to
13 prosecute these people in the proper Circuit Court.

14 SANDRA RIGGS: Where do you see that?

15 DANNY McCLANAHAN: B.

16 SANDRA RIGGS: Okay.

17 DANNY McCLANAHAN: You told me it was---.

18 SANDRA RIGGS: That's on enforcement you're talking
19 about?

20 DANNY McCLANAHAN: Yes, ma'am. You told me it was
21 up to me to do that to take that to the Circuit Court when it
22 plainly shows that if there's a violation and I've proved
23 that there's a violation, you're supposed to take it before
24

1 the Court in the name of the Commonwealth.

2 SANDRA RIGGS: Well, I'm not the Attorney General.
3 It's Mark Hurley in Richmond.

4 DANNY McCLANAHAN: Well, you're...well, you're
5 supposed to be on a legal---

6 SANDRA RIGGS: I'm an Assistant. Right.

7 DANNY McCLANAHAN: ---capabilities to tell these
8 people what to do and how to do.

9 BENNY WAMPLER: Well, Danny, your issue is
10 that...you've raised the issue of the maps...clearly raised
11 the issue of the maps---

12 DANNY McCLANAHAN: That's exactly right.

13 BENNY WAMPLER: --- from the original order to the
14 order that you have now before you to make an election.

15 DANNY McCLANAHAN: Well, even...even, Mr. Wampler,
16 Mark told us the last time that their title searches didn't
17 think that I owned my gas and oil rights. Well, as you can
18 see in the original T-36 well...did you see the percentage?
19 They...they had me in there as a gas and a oil owner. Then
20 when they pooled and all the other wells, they lefted me out
21 until I come over here to the Board. So, to me, they're in
22 violation by just dropping me off.

23 BENNY WAMPLER: So, what we'll do is for next

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1 hearing since you're on the hearing next time---.

2 DANNY McCLANAHAN: I think. I haven't got notice of
3 it yet.

4 BENNY WAMPLER: Is he on the hearing the next time?

5 LES ARRINGTON: No, we'll have to do that in
6 November.

7 BENNY WAMPLER: November?

8 DANNY McCLANAHAN: Well, it's...I've got---.

9 LES ARRINGTON: I didn't get that docket until---.

10 DANNY McCLANAHAN: Well, I just go this right here
11 and Mr. Fulmer and you all told me, let me see if this is the
12 right one, that it would be in October.

13 DANNY McCLANAHAN: I've got so much paper work here,
14 it's hard...hard for me to keep up with. It says "...while
15 correct plats was submitted after the June hearing, it does
16 appear that we still need to seek modification of the pooling
17 order T-36 and S-36 to correct the percentage contained
18 within each unit. We will file applications for such
19 modifications for the October meeting." Now, he's standing
20 here telling me that it's going to be till November.
21 It's...it's hard for me to believe...you've got a certified
22 engineer certify...that ain't even certified the map there
23 that you all are wanting to let them record in the

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1 courthouse, which it clearly states it has got to be a
2 certified engineerer to be certified maps. And I've got a
3 paper here, that if they get to change those lines to what
4 they are, that means that they're in violation from the first
5 maps that they sent in. They're filing incorrect permits,
6 plats and maps in the permits.

7 BENNY WAMPLER: Well, that's...that's assuming
8 that...you're going under the assumption that they can't make
9 a correction to---.

10 DANNY McCLANAHAN: No, I'm not going on it. They
11 can make a correction. I do...I am aware of that. But it's
12 supposed to be brought before the Board before they can do
13 that.

14 BENNY WAMPLER: Right. That's what I'm...that's
15 what I'm trying to get at.

16 DANNY McCLANAHAN: But if they do make that next
17 month, or ever when, that means that all of this other
18 information that they've submitted to you before was
19 incorrect, which to me they're not going by the regulations
20 and the laws, which it states right there in that one Article
21 Fifteen or Eight that admits Class I misdemeanor. They could
22 be fined up to \$10,000 a day for each day until it is took
23 care of and I've got those figures there on one of them. It

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1 would be over \$4,810,000 and if they change the lines, it
2 will go to October, it could be \$6,300,000 if they would be
3 assessed what the law would deem it. And I was under the
4 assumption the Board was supposed to collect...protect each
5 person's individual collective rights and such and right now
6 I just feel like I haven't got no help from nobody. They're
7 doing anyway they want to do and changing everything the way
8 they want to change it without going through proper channels
9 or proceedings. It's not right.

10 BENNY WAMPLER: We have a little technical issue
11 here about dealing with this today because it's not on the
12 agenda today. Do you understand that up front?

13 DANNY McCLANAHAN: I do know that.

14 BENNY WAMPLER: We've got another technical issue
15 that you've got a clock running...I mean, you raised the
16 point. You've made...you know, you've made your point.
17 You've got a clock running that would say that you have
18 to...in order to---

19 DANNY McCLANAHAN: I've got to make my election in
20 thirty (30) days from last Thursday?

21 BENNY WAMPLER:: Or appeal to the Circuit Court to
22 preserve your rights.

23 DANNY McCLANAHAN: Right.

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1 BENNY WAMPLER: That's...that's kind of a dilemma
2 we're in, looking at whatever options that are available to
3 you and to us.

4 DANNY McCLANAHAN: Well, my main concern is the
5 violations. They're blantly violating the law everyday
6 and they're getting away with it, nobody to help a concerned
7 citizen as me or anybody else that comes before the Board or
8 even approaches Tom Fulmer. They're not helping me. I mean,
9 you all wanted them to check into the brush barriers. His
10 answer to that...he met with me, I believe, it was twenty-
11 three days later and told me that they'd check into it and
12 then on September the 7th, he sent me a memorandum that he
13 had already sent to the gas companies on January the 28th of
14 '98. Well, now, he sends me a memorandum and to me he should
15 be sending this memorandum out in a way of second notice to
16 the operators for violating this, these laws on the brush
17 barriers and the sediment control. Which right now on my
18 property, they come in and made them shuffle a few stumps
19 around. The brush barriers is not by the law. They're not
20 going by the law. They're not placing them the way they're
21 supposed to be. I've had two inspectors in there that said
22 they was ll right and then Tom came over and told them
23 to...they had to clean it up. Two weeks later they come in

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1 and started getting ready to drill. I called another
2 inspector in and he called Mr. Fulmer and they shut them
3 down, made them move the drill off and then they
4 attempted...I don't say that they did. They attempted to
5 correct the problem, but they didn't. It's...all of this
6 stuff, like I say, it's going on every day.

7 When they construct those brush barriers, they're
8 supposed to be constructed in such manner that any
9 concentrated flow of water goes into adequately protected
10 outlet or channel. They're not doing that.

11 When you've got inspectors that's not really
12 adhering to the law or making these people go by the law, how
13 can the Commonwealth...people with the Commonwealth feel safe
14 about it being done right?

15 DENNIS GARBIS: Mr. Chairman?

16 BENNY WAMPLER: Mr. Garbis.

17 DENNIS GARBIS: Maybe perhaps since we're going to
18 be out that way next month, maybe we can go and take a look
19 at specifically what he's talking about?

20 BENNY WAMPLER: Okay. That's fine. We'll do that.
21 We'll arrange that in October.

22 DANNY McCLANAHAN: Like I said there in that one,
23 you know, it does state that you all can make inspections,

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1 look at records, deeds, books---.

2 DENNIS GARBIS: Well, that's what we're going to do.
3 We'll go out there next month and take a look at it.

4 DANNY McCLANAHAN: Now, like I say, on those right
5 there that they recorded Thursday, if I was to make my
6 election I'm the same as saying that that's all right which
7 it's not right, the percentage. It would not be right.

8 DENNIS GARBIS: Mr. Chairman, can we temporarily
9 hold in advance this clock that's running against him until
10 we kind of get this sorted out?

11 BENNY WAMPLER: That's what I was trying to search
12 for, if there's a way. Right now the only way we can do that
13 if he appeals to the Circuit Court because we don't have it
14 formally before us. I don't know. Mr. Swartz, do you got
15 any brain storm in what you could do?

16 MARK SWARTZ: Well, I guess, I'm not real
17 sympathetic, period, but I may have a solution. But I want
18 to make a comment for the record. This Board, in my opinion,
19 should insist that people that come before it file an
20 application in writing for the relief that they seek and pay
21 their money because what we're hearing here today is a moving
22 target. I mean, I don't know what number was in play in this
23 man's mind at any given point in time and all I can tell you

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1 is that we...you know, we know what our numbers are, but we
2 don't have a number to even react to. It will never get
3 closure here and, you know, a problem with entertaining
4 people that just walk in off the street and not saying you
5 really need to file something in writing so that we can
6 document and record what your position is and what you claim
7 your tract looks like, what you claim the maps looks like.
8 Then we would have a record that I could react in a
9 constructive way, and frankly under the circumstances here, I
10 can't. I mean, other than to say that we revised the plats
11 and we'll be here in November and we'll be able to explain
12 all of that. We had people out on the ground that he was
13 showing the property lines that he participated in changing
14 these maps and he comes in here and accuses us of criminal
15 activity.

16 DANNY McCLANAHAN: Well---

17 MARK SWARTZ: So, you know, we'll be back in
18 November. We'll have our witnesses and we'll deal with that.

19 But the comment that I would like to make to the Board is
20 that we really have a procedure for people to file
21 applications in front of the Board to modify preexisting
22 pooling orders and so on and so forth. We were perfectly
23 willing to accommodate him as a claimant, but I think what

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1 happens, if we don't hold our, you know, hold to the
2 regulations and require stuff in writing, then we get into a
3 moving target situation. We don't know what he wanted the
4 day he arrived on our doorstep and it would be important to
5 know that.

6 DANNY McCLANAHAN: Well---

7 MARK SWARTZ: Since we're going to be back here...I
8 didn't interrupt you. Since we're going to be back here in
9 November, and the reason we're going to be back is because
10 when we...when we added him to the unit, the percentages
11 changed for some reason another, you know, a light bulb did
12 not go off that we needed to get the Linkous Horn heirs back
13 here as respondents because all of the percentages and the
14 whole unit changed. So, that's why we're going to be back in
15 November. I don't care, you know...and I don't think we
16 care, since we're going to be back in November and we can
17 give him another election right in November, I suppose. You
18 know, I don't really care about this. I'm not feeling real
19 accommodating, but on the other hand, you know, who cares
20 since we're going to be back and you're going to have another
21 order. He's going to have another opportunity to participate
22 when that November order gets entered. But, you know, the
23 concern I have is...is more toward we need to know in writing
24

1 what people that come before this Board want. I can't walk
2 in here and explain to you without paperwork what I would
3 like to have happen. You know, we don't ask a lot of people,
4 but we need the committee to insist on it because, in other
5 words, you'll never have any closure here.

6 DANNY McCLANAHAN: Well, Mr. Swartz, I thought that
7 I had that remedied June the 15th by being added into those
8 original force pooling.

9 MARK SWARTZ: And now you're complaining about the
10 percentage that was assigned to you when we did the mapping.

11 DANNY McCLANAHAN: That's exactly right.

12 MARK SWARTZ: And what I'm saying is you should have
13 showed up in June and told us this is the percent I think I
14 have in this unit.

15 DANNY McCLANAHAN: No. No, no, no, no. All I came
16 before the Board was to be added into the original force
17 pooling orders with the original percent would be added into
18 that.

19 MARK SWARTZ: I'm not going to get into a
20 (inaudible).

21 DANNY McCLANAHAN: What I'm saying that's...we done
22 that before, you know.

23 BENNY WAMPLER: Well, Danny, here is the way it's
24
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1 going to be. In November, you'll have another month of
2 election---

3 DANNY McCLANAHAN: Well, I can...I can in writing
4 have it for next month, I have time to send it into the Board
5 and have it before October?

6 BENNY WAMPLER: I'm not sure you did.

7 DANNY McCLANAHAN: I think...there was so many days.

8 BENNY WAMPLER: Yeah, you have so many days and
9 I---

10 DANNY McCLANAHAN: That's right. I believe if I
11 can---

12 SANDRA RIGGS: Thirty (30) days before the hearing.

13 DANNY McCLANAHAN: Thirty (30) days before the
14 hearing?

15 SANDRA RIGGS: The deadline---

16 JIM KISER: Was Friday.

17 SANDRA RIGGS: ---was Friday.

18 BENNY WAMPLER: Was Friday.

19 DANNY McCLANAHAN: Friday?

20 BENNY WAMPLER: This past Friday.

21 JIM KISER: The deadline was September the 17th.

22 DANNY McCLANAHAN: Well, I can not understand why
23 they send me papers telling me that I'm going to be at this
24

1 meeting in October and they're not going to be. Now, they're
2 telling that I'm going to be in November. I just keep
3 getting the run around and put off and put off. I was four
4 months trying to get to the Board over here with this map.
5 Now, I'm getting...I just keep getting the run around. I
6 just cannot understand how you all can do this.

7 SANDRA RIGGS: To get before the Board, all you have
8 to do is follow the regulations and petition with the
9 Board---.

10 DANNY McCLANAHAN: Well, the only reason I wanted to
11 come over here is to show you...you the Board, that they've
12 changed the maps and they wasn't told to change no maps in
13 that force pool. All they was told to do was add me into the
14 original force pooling order. They added me, but they added
15 different maps than what was in the original force pooling.

16 DANNY McCLANAHAN: We understand that and we'll...
17 when we...when they come back in November, when they come
18 before the Board or you can come before the Board, we will
19 investigate the map issue.

20 DANNY McCLANAHAN: Well, my legal...like I say, I
21 feel like if I sign those papers or make any kind of an
22 election with those that they've put in the courthouse, I'm
23 the same as saying it's okay, which it's clear that they've

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1 changed the property lines and you all did not order them to
2 add me into that force pooling with those maps. That's what
3 I'm trying to say. I mean, to me they broke the law right
4 there. You all ordered them to add me into the force pooling
5 of the T-36 and S-36.

6 BENNY WAMPLER: Danny, right or wrong, those maps
7 that were included in that...in that docketed item were maps
8 they presented at that hearing in June to the Board and were
9 included in that order and supported as such.

10 DANNY McCLANAHAN: Well, right there they are then,
11 S-36 and T-36.

12 BENNY WAMPLER: Okay. Now, right or wrong, that's
13 ...that's how that took place and that's why those got
14 recorded. Now--.

15 DANNY McCLANAHAN: Well, they never presented no
16 maps before the Board neither.

17 BENNY WAMPLER: That was in the packet that the
18 Board had in June.

19 DANNY McCLANAHAN: The maps was?

20 BENNY WAMPLER: Yeah, it wasn't something they've
21 put in there...that's what I've been trying to say. It
22 wasn't something they put in there.

23 DANNY McCLANAHAN: Well, which...what...Mr. Wampler,
24

1 which maps was in that then order? I didn't have no maps
2 that showed that you all had anything in there.

3 BENNY WAMPLER: These weren't...these maps weren't
4 included after the Board's hearing and that's what I heard
5 you suggesting to today, that they put them in after the
6 hearing.

7 DANNY McCLANAHAN: Yes, sir.

8 BENNY WAMPLER: And what I'm telling you is that was
9 what...that was...as far as I know, and we can certainly
10 reconcile that, that was part of the record that this Board
11 heard in June.

12 DANNY McCLANAHAN: Well, it was...no. Like I say, I
13 I've got the minutes of the meeting right here and
14 they...they never modified nothing.

15 SANDRA RIGGS: They came with revised exhibits
16 naming you as a party.

17 BENNY WAMPLER: And the maps were there.

18 SANDRA RIGGS: Remember the Exhibit E that named
19 you?

20 DANNY McCLANAHAN: Yes, ma'am, I've got those, too.

21 SANDRA RIGGS: Because you didn't have any exhibits
22 to go to the pooling order and they furnished them at the
23 hearing to the Board and handed them out when they went

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1 around and that's what got attached.

2 DANNY McCLANAHAN: But they wasn't no map, though,
3 ma'am. It was just...what is it?

4 SANDRA RIGGS: The exhibit showing the percentages?

5 DANNY McCLANAHAN: On the force pooling you've got,
6 E, as you all keep coming back to the claimants and stuff.
7 Is what E or whatever it is for---

8 BENNY WAMPLER: Exhibit E.

9 DANNY McCLANAHAN: Okay. Exhibit E.

10 SANDRA RIGGS: That shows the percentages.

11 DANNY McCLANAHAN: Well, that's all they
12 showed...but they didn't have the maps, though, ma'am.

13 SANDRA RIGGS: Well, in terms of the election
14 the---

15 DANNY McCLANAHAN: No, that...in the ones that----

16 SANDRA RIGGS: Exhibit E is what you're talking
17 about.

18 DANNY McCLANAHAN: Well, and the ones that they gave
19 me didn't have my percentage in it. They just showed that
20 they would add me to that.

21 BENNY WAMPLER: I don't...you know, I don't know.

22 DANNY McCLANAHAN: Well, I will have them with me
23 when...the next time I come.

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1 BENNY WAMPLER: Okay. All right.

2 DANNY McCLANAHAN: That they gave me. The ones that
3 they gave me over there.

4 BENNY WAMPLER: But we---.

5 SANDRA RIGGS: For purposes of this hearing, because
6 his appeal rights expire in the thirty (30) days from the
7 date of recording of this order and his right to election
8 expires thirty (30) days from the day of---.

9 DANNY McCLANAHAN: How come...what I'm saying though
10 is, it took them three months to come up with stuff you all
11 ordered them in June...June 15th.

12 SANDRA RIGGS: They don't...I keep telling you, they
13 don't come up with this stuff. The Board drafts these
14 orders, not the operator.

15 DANNY McCLANAHAN: I understand that.

16 SANDRA RIGGS: They came to the hearing just like
17 you and left here just like you. After that, it shifts to
18 the Board to do these orders, not the operator.

19 DANNY McCLANAHAN: Right. Well, how come the Board
20 changed those maps is what I keep...I'm wanting to know why
21 the Board, or Diane, ever what her last name is, changed
22 those maps from the original force pooling?

23 DENNIS GARBIS: We'll find out. I mean, we---.

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1 SANDRA RIGGS: That was the most recent plat on file
2 with...with the Board with regard to---.

3 DANNY McCLANAHAN: Well...well, okay, I brought that
4 up once before. There was S-36 and T-36 and it's got solid
5 lines showing that they was actually surveyed and now you,
6 the Board, is going to let them bring a broken line map that
7 shows they was taken from deed descriptions only and they are
8 trying to say those last ones were correct where the first
9 ones show that they actually surveyed it.

10 BENNY WAMPLER: Danny, what I'm saying is to you
11 that we'll require reconciliation of these maps when this
12 comes before the Board in November. At that time, you will
13 have election rights. Now, what we're being very careful
14 about is because we don't really have this before us today.
15 You have before you---.

16 DANNY McCLANAHAN: Right. Thirty (30) days to make
17 my election.

18 BENNY WAMPLER: ---thirty (30) days to make your
19 election on that particular recorded set of records. Okay.
20 This other set of records can be reconciled and replace
21 these. Do you understand that? But to preserve your right,
22 to really legally preserve your right, you would have to
23 appeal to Circuit Court. You would have to perfect an appeal
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1 during that thirty (30) days because it is an order of the
2 Board that been recorded. Now, that's what we're dealing
3 with.

4 DANNY McCLANAHAN: All right. Well, let me ask Ms.
5 Riggs, if I feel like they've violated the law and which, you
6 know, clearly something is going on here, would I have to
7 write a letter to the Attorney General because it states
8 there in the law that...if it's...there's a violation,
9 they're the ones...Attorney is supposed to bring the matter
10 to the Circuit Court in the name of the Commonwealth?

11 SANDRA RIGGS: On behalf of the Board or behalf of
12 the division. Not on behalf of claimants within the unit.
13 If you want to go to Circuit Court on these, you will have to
14 take an appeal of these orders to Circuit Court.

15 DANNY McCLANAHAN: Well, so the Board itself is
16 saying that they're not admitting that these people is
17 violating no kind of law?

18 SANDRA RIGGS: I don't think we have heard that
19 issue or have made any decision on that issue. And with
20 regard to pooling, there's not even an requirement that there
21 be a plat in the order to begin with. You're...the plat
22 regulations pertain to permitting applications. With regard
23 to pooling, all you're doing is naming potential claimants to
24

1 the gas, making sure they got notice of the pooling, pooling
2 all interest and all claimants---

3 DANNY McCLANAHAN: Right.

4 SANDRA RIGGS: ---giving them a right to make
5 certain elections. When you...which includes a right to
6 participate. Well, in order to participate, if you don't
7 agree with their number, you can send them the check based on
8 your numbers.

9 MARK SWARTZ: Right. That's right.

10 DANNY McCLANAHAN: Well, T-3...T-36 well, you've got
11 the map there, as Mr. Swartz said their attorneys, or ever
12 what, just searches these deeds and determined that I was
13 just a surface owner. If you'll look at T-36 well permit,
14 they wasn't even on my property or nowheres close to my
15 property. They showed my correct percentage of the gas in
16 that well.

17 SANDRA RIGGS: Well, if that's your...they have one
18 position and you have another. The only way that's going to
19 get resolved is by title determination, which this Board
20 can't do. In the meantime, pending resolution of the title
21 to the property, you have your position and they have their
22 position. Their position doesn't compromise you. You can
23 still take the position that your percentage is whatever and

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1 if you want to participate, cut a check for that amount, that
2 percentage amount of the participating costs, and you can
3 participate. It all goes into escrow anyway---

4 DANNY McCLANAHAN: Right.

5 SANDRA RIGGS: ---until such time as these title
6 issues get resolved by---

7 DANNY McCLANAHAN: Well, when the title issues gets
8 resolved after they've recouped their money for the wells,
9 does...does just one-eighth they still go into escrow or do
10 all the money go in?

11 SANDRA RIGGS: One-eighth of everything goes into
12 escrow. They don't care who gets that money.

13 DANNY McCLANAHAN: Well, I understand that. But
14 after they---

15 SANDRA RIGGS: It's amongst the plaintiffs.

16 DANNY McCLANAHAN: ---recoup that \$240,000 for the
17 production, does that mean they still get to keep getting the
18 seven-eighths money?

19 SANDRA RIGGS: If they are the only participants and
20 they've got the working interest, that's correct.

21 DANNY McCLANAHAN: Okay. All right. That's...I
22 guess I won't be able to do nothing until November then. You
23 know, it's---

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1 SANDRA RIGGS: Well, you can elect...you can elect
2 to make your election---

3 DANNY McCLANAHAN: You know, as far as I'm---

4 SANDRA RIGGS: ---and when you do it, contest the
5 percentage and say that you make claim to whatever your
6 percentage is based on what---

7 DANNY McCLANAHAN: Well---

8 SANDRA RIGGS: ---ever document.

9 DANNY McCLANAHAN: ---like I say, I didn't get on
10 the agenda to come before the Board today, but I do want it
11 made...duly appointed that I have made that to you all right
12 today, that I'm contesting everything that they've done.
13 They even...Mark said that they've had people up there, got
14 witnesses saying that I said them lines was correct. I ain't
15 never told nobody or never met with nobody on my property
16 lines.

17 MARK SWARTZ: Well, you'll hear all about in
18 November. We'll have them here.

19 DANNY McCLANAHAN: Well, okay. That's...you know,
20 that's...that's all I can do and I hope...I hope that I
21 can...by November, I will try to obtain me a lawyer to help
22 represent me because I feel like...I really feel like you all
23 are not doing nothing for me. I really do. And I'd like to

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1 make a request of where this part...if you recorded that,
2 well, I would like to have a copy of the minutes on my part
3 of it.

4 COURT REPORTER: You'll have to contact the
5 Division...Department of Mines, Minerals and Energy to get a
6 copy of it.

7 DANNY McCLANAHAN: Well, see, they're burying me in
8 paperwork again trying to do that...like I said before, you
9 know, I'm aware of a charge for copies of this and that, you
10 know. I've stated it several times I'm out of work and it's
11 hard to fight something like this right here when you ain't
12 got the money to be doing that.

13 BENNY WAMPLER: Well, if you're just interested in
14 the portion of your testimony of today---

15 DANNY McCLANAHAN: That's exactly what I'm
16 interested in.

17 BENNY WAMPLER: ---that would...that would probably
18 fall in the category that you can have that without cost.

19 DANNY McCLANAHAN: Right.

20 BENNY WAMPLER: Okay. Bob, if you'll take care of
21 that. I don't know that. But it probably would because
22 there's a certain number of sheets that are free.

23 DANNY McCLANAHAN: Five pages or something like
24

1 that, I believe.

2 BENNY WAMPLER: Something. Whatever...whatever that
3 works out.

4 SANDRA RIGGS: These are your..these are you
5 materials?

6 DANNY McCLANAHAN: Yeah, I do...I know. I want to
7 make sure I keep a hold of them.

8 CLYDE KING: Are we adjourned?

9 BENNY WAMPLER: Yes.

10

11 STATE OF VIRGINIA,

12 COUNTY OF WASHINGTON, to-wit:

13 I, SONYA MICHELLE BROWN, Court Reporter and Notary
14 Public for the State of Virginia, do hereby certify that the
15 foregoing hearing was recorded by me on a tape recording
16 machine and later transcribed by me personally.

17 Given under my hand and seal on this the 5th day
18 of October, 1999.

19 NOTARY PUBLIC

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21 My commission expires: August 31, 2001.

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