

IN THE COUNTY OF RUSSELL

VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY
VIRGINIA GAS AND OIL BOARD

MARCH 16, 2010

APPEARANCES:

BOARD MEMBERS:

PEGGY BARBER - PUBLIC MEMBER
KATIE DYE - PUBLIC MEMBER
DONNIE RATLIFF - COAL REPRESENTATIVE
BILL HARRIS - PUBLIC MEMBER

CHAIRMAN:

BUTCH LAMBERT - CHAIRMAN OF THE VIRGINIA GAS & OIL BOARD

DAVID ASBURY - DIRECTOR OF THE DIVISION OF GAS & OIL AND
PRINCIPAL EXECUTIVE TO THE STAFF OF THE BOARD
DIANE DAVIS - STAFF MEMBER OF THE DGO

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BUTCH LAMBERT: Good morning, ladies and gentlemen. It's nine o'clock. It's time to begin. First off, this morning I would ask that if you have pagers or cell phones please turn those off or on vibrate. We are recording these proceedings and those interfere with our recording. Also, I'd ask you to please keep your talking to a minimum. We are...again, these microphones are very sensitive and they pick up conversations that are going on in the audience and it's hard to get those minutes transcribed with a lot of background noise. So, if you must take a call or have a conversation, please go outside. We'd appreciate that. At this time, I'd ask the Board members to please introduce themselves, and I'll begin with Ms. Barber.

PEGGY BARBER: Good Morning. Peggy Barber, Dean of Workforce Development Continuing Education, Southwest Virginia Community College. A Public member from Tazewell County.

KATIE DYE: Good Morning, I'm Katie Dye and I'm a public member from Buchanan County.

SHARON PIGEON: I'm Sharon Pigeon with the office of the Attorney General.

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

DONNIE RATLIFF: I'm Donnie Ratliff. I work for

Alpha Natural Resource, representing the coal.

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

BUTCH LAMBERT: Thank you. At this time, we'll enter into public comments. The Board will receive public comments and the first to sign up is Ronnie Osborne.

RONNIE OSBORNE: Good Morning. I'm Ronnie Osborne. You told me to go have a meeting with David Asbury and I had that meeting. They're showing that I've got a 50/50 contract. What do I need to do to see the specific contract that they're using?

BUTCH LAMBERT: Mr. Asbury ought to be able to help you with that as well.

RONNIE OSBORNE: I need to know exactly which specific contract that they're using because I got two in the mail and I signed one. But I need to know exactly which one they're using or if they're trying to use both.

BUTCH LAMBERT: Again, if you will arrange a time to meet with Mr. Asbury, he will go over that with you.

RONNIE OSBORNE: I don't have to go through the Board?

BUTCH LAMBERT: No, sir. These...the Board don't---

RONNIE OSBORNE: Do they...do they---?

BUTCH LAMBERT: We don't have copies of those contracts and we---.

RONNIE OSBORNE: Well do they give...they don't give the Board copies of the contracts that they sign...50/50's?

BUTCH LAMBERT: No, we do not see those unless we specifically ask for them and this Board hasn't asked to see those contracts.

RONNIE OSBORNE: I gave the Board a copy of both contracts that I signed. I gave---.

BUTCH LAMBERT: You did. You gave those months ago, I recall.

RONNIE OSBORNE: You all didn't ask them to show which one they was using?

BUTCH LAMBERT: No, sir. This Board did not ask.

RONNIE OSBORNE: All right. Thank you.

BUTCH LAMBERT: Catherine Jewell.

CATHERINE JEWELL: I've handed out two things there. One is a...and I really don't have enough handouts, so just if every other person could look at it and make sure that David gets one. I'm sorry, budgets you know, not enough to make the printing. First thing you have there is a follow-up, and we've been doing this, I guess this is my third time, in horizontal conventional wells for Range

Resources and that's an update on production reported to the DGO from the horizontal coalbed methane wells at Range. You will see there on that handout that basically the first 30 days appears to be the highest production for the well. Either it peaks in the production during the first months which represents anywhere from 1 to 31 days of production or the second month. In the fourth quarter reported in 2008, Range Resources reported that they had completed 9 horizontals to the Huron Shale and 1 horizontal to Berea. Range stated in that report that the 7 horizontal Huron Shales that are currently in production, the initial production rates, have averaged 1.1 mmcfs per day. The monthly production data reported on the DGO website for these 14 wells can be seen on the graph and charts that you have. The data reported for the 7 wells that were online for the fourth quarter report does not look to be consistent with the initial production of 1.1 mmcf per day average reported in the report. So, either something is wrong here, either they are under...the reporting figures are incorrect or Range's 1.1 mmcf is incorrect. If you add 1.1 mmcf and 30 days you'd have close to what, 33 mmcfs. You know, what you would have on a 30 day period. And as you can see, maybe the first day blew a 1.1 mmcf, but you don't have anywhere like this in the monthly production. And to state

you have an average for 7 wells just doesn't quite seem right. Of the 14 wells shown on the graph and chart, 5 of these don't have any data after May or June 2009. For some reason, I don't know maybe they've just not been reported, it's not in the data base. And 6 of these wells report no production in July 2009. The reason why I bring this up is because horizontal wells involve a tremendous amount of resources used in drilling the wells including millions of gallons of fresh water obtained from water ways of the Commonwealth, tanker trucks of sand used for fracing the wells and undisclosed amounts of chemicals that are used in the fracing and drilling process. Additionally, these wells generate millions of gallons of waste that require safe disposal somewhere in the Commonwealth. And we have heard a generalized testimony as to the benefits of horizontal wells and given that this Board has approved 30 to 50 of these wells, I think it's time to obtain testimony what is exactly involved in the drilling of these, the specifics involoved, how productive they really are and the expectancy of these wells. As you can see from these charts, after the first...the first month might not be a full 30 days, but after the first 30 days you see a decline. And how long is the expected life of these well. I just, you know, the Board has many duties and obligations and one of which is to

protect the resources and to you know make sure that these wells are...you know when you are drilling it's not a waste of these resources. You have people who are being pooled into these units and I think they need to have a good idea of what's out there and what their risks are involved.

Post production charges, the second sheet, is a study I conducted on post production charges for CNX, and this is a force pooled unit. The charges range...go from February 2001 to, let's see, September 2009. Now, CNX has...sells their gas to various different things, one is to their dryers, one it to the utilities and those other places. This specific data is for the gas sold to the pipeline. And the study was conducted on actual royalty checks from the wells in the Oakwood field. Payment data used...let's see, according to the statements made by CNX on their website and annual reports, vertical wells in Virginia are fraced but do not need to be...do not need processing as a gas is pipeline ready. Okay, that's what they're own website and in their quarterly reports claim. So, we have a large amount of post production charges here and I'm not too sure what they are. But I think some of the post production charges are actually operating costs. There is a difference. In this handout, I do want to note this same type of study could have been done on any of the

royalty checks that have been escrowed. You know, anything could have...with what the DGO has, this study could have been done. The handouts here show what the Dominion index price is for each month, the gas selling price reported in this statement, the owners gross deductions for taxes, deductions for transportation, actual paid statement amount paid per mmbtu after deductions, amount paid per mmbtu deducted from the stated sell price, the percent deducted from the gross and the amount that would have been due to the forced pooled parties if the Board had not changed the pooling orders in 1992 to allow for the post productions to remove the market price requirement, that is the final one in there is a one-eighth royalty calculated from the market price. So, if we quickly go through this and I think I've highlighted some of those. We can see that in 2001, and I don't have January so I apologize for that, in 2001 we have an actual payment of \$170.00 and we have a gross royalty that should have been \$311.00. We have an average price deducted from the Dominion price of 45.2%. In 2002, we have \$183.64 that's actual paid, a gross royalty that should be expected of \$369.00 and the average percent deduction was 50.2%. In 2003, we have actual paid of \$241.00, gross royalties of \$477.00 and a percentage difference of 49.5%. In 2004, we have an actual payment of \$328.00, a gross

royalty of \$531.00 and a difference of 38.2%. In 2005, we have a actual payment of \$354.00, gross royalty of \$639.00 and a percentage difference of 44.3%. In 2006, and this is a different well but the same type proceedings...same type of calculations here, we had an actual payment of \$1,793.00, a gross of \$2,528, that's what should have been paid. And a difference of 29.1%. And you can see for 2007-2008, actually we are getting closer in those years. In 2009, we are sort of heading back the other way. Anyway, this data will show...does show the dollar amount taken per mmbtu, which is something you all have been asking for. It also shows done as a representation of percent. Now your percent is always going to be higher where your gas prices are lower and it gets lower where your gas prices are higher. Now, you're free to hang on to this or do whatever you want with it but anyway that's that. And the...you know, what's been mentioned before is the regulations for that 2516100 and that's the regulations that say the allowable costs which may be shared and pooled gas or oil operations, states the unit operator of a pooled unit may share all reasonable costs of operating the unit including a reasonable supervisory fee and with other participating/non-participating operators. And you know, I can't tell you a number of times I've heard this Code referred to at these

Board meetings and at Committee meetings to be applied to royalty owners and this Code right here does not apply to royalty owners. I will state again, a non-participating operator, according to the law, according to the Code, is a carried interest operator, okay? It's very different from a royalty owner, so I just want to put that in there.

Affidavits for due diligence, your own regulations, that is for that 25160-40, says that....well, actually the Virginia Board Regulations requires that each application includes an affidavit demonstrating that due diligence was used to locate and serve persons according to Section 45.136.19 of the Code of Virginia and for that 25160-40. This is not a certificate of service. So, your own regulations say that you require an affidavit and I've not seen them lately. I think they used to be in there but I havent seen them lately. All they have is a certificate of service and signed. Affidavit is notarized. And usually affidavits don't have...to the best of my knowledge this is reasonable. I mean, if you were in Alabama, you don't sign to the best of my knowledge, you sign this as true and accurate. And if you're caught that it's not true and accurate, if you forgot to include somebody there's a civil penalty of \$5,000.00 and you lose your license for five years. Yeah, so, anyway that's Alabama, one of them

southern states. Anyway, permits and pooling, I just want to make some general comments here. It is my understanding that permits are required before any well is drilled or any conversion of a well or drilling unit or change in status. I think that's what...we can agree that's what the Act says. If notice requirements have not been met and pooling when needed approved, permits cannot be issued. That's the law. Okay, that's .29 in the law. All right. If pooling is not approved before drilling or conversion I believe that's called trespassing on the gas estate. That's the whole purpose of the pooling thing here. This is why the order is pooling goes first then permits. You give them the right to basically trespass on the people who are being force pooled. You are saying its not trespass, we're giving you the right to go on they're property. Go on they're property in the sense that you're taking they're gas. You cannot issue a permit and then come around and force pool. And that was well understood at the early part of this Act. I mean, there's questions raised in a lot of those statements, you know, we can't do it because we don't have a pooling order. And now we have permit applications and pooling orders. Let's see, and you know if we go back to .22 it tells you basically what's supposed to be deposited in escrow. And it's worth a read. And it also says a petition, you know,

for disbursing and showing included detailed accounting of all funds deposited in escrow that are subject to the proposed disbursement. It is just it's not, I've not seen it and I know that you all haven't requested it. That's it. I'll give you copies of this for what it's worth. Thank you.

BUTCH LAMBERT: Mr. Asbury.

DAVID ASBURY: Mr. Chairman, I'd like to do additional research to the Exhibit 2 that Ms. Jewell sent out and I'd like copies of the actual selling price statement and the actual statements that were used in column two.

CATHERINE JEWELL: Sure.

DAVID ASBURY: If you would provide those.

CATHERINE JEWELL: I will provide you and you make the copies, okay?

DAVID ASBURY: I'll be glad to.

CATHERINE JEWELL: All right.

DAVID ASBURY: Thank you.

BUTCH LAMBERT: Peter Glubiak.

PETER GLUBIACK: Thank you, Mr. Lambert and members of the Board. My name is Peter Glubiack. My office is near Richmond, Virginia. I'm an attorney representing clients periodically before the Board. I'm here this morning just

to make a couple of general comments. I intend to follow up a couple of issues with miscellaneous petitions and I hope to get on the Docket in April but it may not be until May. The first item I wanted to mention that I think that is important to point out is that there are a series of four bills which have been essentially passed by the General Assembly which will go into effect at various times in the near future. The most significant of which I think in terms of your business, your day to day business, is variously House Bill and Senate Bill, House Bill 1179, Delegate Phillips Bill and Senator Pucketts' Bill which indicates there is now a statutory presumption. Contrary to what my belief has been for the past five years, although the Board's position has been to the contrary, I think that the law has been clear. Now, with the passage of this presumption I think its crystal clear. I think this Board needs to pay attention to that. I think the Board needs to analyze the implications of that and I think there needs to be some very significant change in the way business is conducted. I'm here today, I'm going to make a comment on one of the items that is on the agenda later, but it is my position that with the passage of this presumption a great deal of the matters that come before you as supposed conflicts are no longer conflicts. I think you can take

care of a lot of your work overload, and I'll be the first to admit your work load is tremendous. If the Statute says that severance deed is a coal only severance deed, there is no conflict. That is, it will be shortly the law of the Commonwealth of Virginia. And I'm here this morning to tell you that you have the authority to determine that there are no conflicts. Equitable, CNX, the various other gas operators to come in, business in the past 18 years has been if we say there is a conflict there's a conflict. Well, I'm here to tell you that as of next month this legislation is supposedly passing with emergency provisions that will go into effect immediately. It doesn't wait until July 1st. As of next month, maybe the April meeting this will be law and a great deal of which...of the cases that come before you allege these conflicts are not conflicts. I think you have the right and quite frankly the responsibility to ask the operators to prove that there is a conflict. If a matter comes before you on a force pooling application and the Equitables, and the CNXs and the Ranges of the world say there is a conflict, take our word for it, I think you need to do better. You need to ask for documents, you need to say where is the conflict. I want to see the conflict before we take somebody's money and we put it in an escrow account that becomes increasingly difficult to get out I

think you need to make a determination at the outset. And you are authorized to make that, the statute says you can. And it's my position that you should. And I intend to pay attention and if necessary to take this Board on and show that you have the ability to determine there is a conflict or there is not a conflict at the outset.

A couple of other brief items, SGU-3, the largest GOB unit, I believe, in the Commonwealth of Virginia is not being escrowed. Now, I happen to know because I asked, the money is not vanishing. The money is being held in suspense by CNX and probably others. But this has been going on upwards of 4 years. I was here when it happened. The Board voted not to repool. It hasn't been repooled. There is a supplemental order that is needed. Right now, as we sit, my understanding is there is hundreds and hundreds of thousands that are being held, presumably being taken good care of by Ms. Duty and her staff, but the fact is that ought to be money that is in escrow. You know, that needs to be done. That's the largest gob unit. You let them set up this gob unit. You ought to take them to task. Make them put that money where the Commonwealth Board this charge with responsibility will take on.

One other item I intend to bring back next month or the month after is for the fifteen, seventeen, eighty

thousand, whatever number of claimants there are that you're responsible for and you are the fiduciaries for the money that's been placed in escrow what I'd like to understand is there is, if you look at some of the checks that people are getting, especially lately, the average pricing is between 3 and 4 mmcf. If you go on CNX's website and you look at their information, you'll be told and obviously some of this is puffery, they're proud and they want to tell their shareholders what good businessmen they are, they are hedging contract prices at \$8 and \$9 mmcf. What's being paid? Are the people that you're responsible being paid \$3 mmcf, when the smart people of the world, the larger lessors, the Levisa's and Buchanan Realties of the world, are they getting paid \$8 on their gas, on their royalty? I don't know. Is it being averaged? It maybe should be. But at this point I don't think that's the case. I have checks that I have seen with the lowest possible price is what the royalty is being determined on. I think that needs to be investigated. Is there an average? How are they determining what pricing schedule they're using? It's a very difficult system. They average many prices but they're website if you look on it it says in many cases proudly they're hedge contracts are \$8.60 when the average market rate is down in \$3 and \$4 mcf. Who is getting the benefit of that? And I'm

here to tell you I'm pretty sure its not the escrow claimants.

And finally, my last comment today is with the passage of this presumption, which I think is a tremendous step forward, and we have Senator Puckett and Delegate Phillips to thank for it, the practice of the operators and the coal companies going around shoving split agreements in front of people and telling them you got to sign here if you ever want to see your money has got to stop. It's awfully damn close to fraud if its not fraud. There's a presumption that's going to be in the statute that says that if you're great grandfather severed coal and coal only then you own the gas. And someone coming to your door and knocking on your door and shoving an agreement that you don't understand in front of you that says here split here, we'll help you get 50% of your money while practically speaking the way the statute is set up that may be true, the fact is that's not right. That's not the law. The law is you, the landowner, if you're ancestors severed only coal you own the gas. I think that was settled five years ago with the Harrison v. White case but the Board's position has been contrary. Now I think that's been trumped. There is a statute that's going to go into effect. It will be in effect at the April meeting and I'd ask you to consider that strongly. When you

get these disbursal petitions, you know, what are the circumstances behind these split agreements? I think they are unconscionable and in my opinion they need to stop. And I thank you for your time and hope to be back next month.

BRUCE LAMBERT: The next item on the agenda is a petition from EQT Production Company for funds and authorization to direct payment on 1-A portion of Tract 2, unit VC-702966, docket number VGOB-94-0816-0467-01. All parties wishing to testify please come forward.

JIM KAISER: Mr. Chairman, Jim Kaiser and Jon York for EQT Productions.

BRUCE LAMBERT: Just a second, we need to...sir, can we get you closer to a microphone and you'll need to state your name for the record?

RICK EDWARDS: My name is Rick Edwards. I'm here on behalf of Leonard Powers.

BRUCE LAMBERT: Okay. Thank you. Mr. Kaiser, you may proceed.

(Jon York and Rick Edwards are duly sworn.)

JIM KAISER: Mr. Chairman and Board members, we are here today pursuant to an application that was filed seeking disbursement of some escrowed money from Tract 2 in the unit for 72966. We were...I was told by some Equitable folks in Pittsburgh last night at about six o'clock that we may need

to refile this petition because apparently Mr. Powers has purchased his sister's interest, is that correct?

RICK EDWARDS: Yes. Well, it was a gift.

JIM KAISER: So, anyway I guess our percentages don't include that so I guess we'll ask that this be continued and refile it then.

BUTCH LAMBERT: Do you want to continue until April?

RICK EDWARDS: Okay. If I may, I have some stuff here that Mr. Powers has written for me to say for him and he would like for me to read it today.

BUTCH LAMBERT: Since it's going to be continued---

JIM KAISER: We might want to continue it until May.

RICK EDWARDS: Well, he's come clear across country to try to work on this matter and it's a little inconvenient for him to be here in May. So you know, it's going to be the same thing then.

JIM KAISER: April is fine then. It doesn't matter. I mean, I don't know that---.

BUTCH LAMBERT: If there has been a---.

JIM KAISER: I guess we can get it filed by...the deadline for April is this Friday. I guess, we can maybe

talk to you afterwards and get a copy of the Deed of Gift or whatever it is and try to get it filed by April then.

BUTCH LAMBERT: If there has been a change in the tracts then he will have to refile his petition. So, we will have to reschedule it.

RICK EDWARDS: Yes, okay.

BUTCH LAMBERT: But if you have a statement from Mr. Powers and you would like to read it in the record that will be fine. We'll accept that.

RICK EDWARDS: I sure would.

BUTCH LAMBERT: Go ahead.

RICK EDWARDS: "I, Leonard Oscar Powers, do hereby certify that I give Rick Edwards my permission to speak for me to the Board. To the Board, this is in reference to Tract 2 and Tract 3 in well VC-2966. I, Leonard O. Powers, do certify that I say...what I say is true to the best of my knowledge. I have been trying for the past 16 years to have Sandy Proctor Powers Strickfadden's name removed from Tract 2, my 46 acres 100%, my land. My younger brother, Calvin L. Powers, Sr. was deed 10 acres more or less while he was married to his first wife. After their divorce, the land was sold. This left him with about 1/5th interest while leaving my oldest brother J. H. Powers, my sister Bonnie Powers Kaiser and me 1/4th interest. In 1975, my sister had

her part deeded to her. My brother, J. H. Powers had Sandy's name placed on the deed because she was Calvin's wife. As Sandy could claim any part of our land, a Judge could allow her $\frac{1}{2}$ of $\frac{1}{5}$ th which equals $\frac{1}{10}$ th of Calvin's interest. In 1976, Calvin had a heart attack. Then in 1977, he was almost killed in an explosion. I drove him to an attorney's office where he Willed all his property in the state of Idaho to his wife Sandy and their daughter. He Willed his interest in our land in Virginia to his son, Calvin L. Powers Jr and his daughter, Teresa Powers Edwards. I, Leonard O. Powers, do certify that I signed his will as a witness. The Will was locked in the attorney's safe in 1977. In 1978, Sandy divorced Calvin. Calvin did not attend the divorce hearing. She took everything that she wanted. Sandy sold their home and used the Will to keep all the money. All law books I can find states this is the end of the marriage. In 1982, four years after their divorce, my oldest brother James passed away. James had told me and others that he wanted me to will or deed his three nephews his interest in our land, 20 acres each, to Adrienne Powers, Calvin Powers, Jr and Johnny Edwards. I wrote each a Will and mailed a copy to each. The originals are in Idaho. They were to have the land surveyed and pay taxes and then I would deed the land to them. It was not to be sold. It was

my father John Powers' wish that James and Calvin would have their part on the south of Hardin Branch and west of Route 600 and my sister and I would have our part east of Route 600. In 1986, I deeded Calvin his 50 acres more or less south of Hardin Branch and west of Route 600. Calvin deeded me his 1/3rd of James' property. Ben Sutherland Erex wrote a letter to Bob Powell that Calvin had deeded me his 1/3rd of his interest in my 46 acres and Bonnie had not. Bob Powell sent Bonnie Lee's papers, then Bonnie made a deed of gift to me for her 1/3rd of my 46 acres in 1994. She then testified at the August Board meeting that I, Leonard Powers, owned 46 acres 100%. There cannot be any law that would allow an ex-wife to have 1/2 or any part of any ex-husband's real property four years after the divorce. Virginia Law states that a couple has to be married 7 years and 10 months or more before the property can be divided. Under 7 years and 10 months their property is separate property. An EQT attorney informed me that attorney, James Kaiser, is their title attorney and he can remove Sandy Proctor Powers Strickfadden's name listed for 1/6th of my 46 acres. I am requesting that the Board's Assistant General have attorney James Kaiser remove her name from my property today, March 16, 2010 and have the escrow released to me for Tract 2, well VC-2966 100%. I have traveled 2,500 miles to

meet with Attorney James Kaiser, but so far he would not meet with me. He removed my name from Tract 3, VC-2966 and replaced my name with approximately 17 names and I have never heard of 15 of them. In August 1994, I filed a quit claim deed for the 46 acres more or less. The deed on record states 45 acres and 28 poles, more or less. August 4, 2009, my 15 years of paying taxes on tax 18771 was up. I certify that I own Tract 3 100% by the quit claim deed adverse property and the Virginia Unclaimed property law. Attorney James Kaiser should have already read the materials proving that he has misplaced the names on Tract 3, tax number 18771, ID number 17101B. Those names belong on M. I. Kaiser (inaudible) tract approximately two miles south of V-2966, map 2746, ID 125B-2487 45 acres, not 45 acres and 28 poles. I, Leonard O. Powers, do request that Attorney James Kaiser state to the Board today, March 16, 2010, that he will remove the names that which was placed in Tract 3, VC-2966, and place my name as 100% owner and place the names he has there on M. I. Kaiser tract two miles south where Elona Bailey started paying the back taxes in 1998 and is still paying taxes on M. I. Kaiser tract. Attorney James Kaiser should correct this mistake before the June Board meeting. I want to thank the Board for allowing time to have this injusticed mistake corrected. I cannot afford and I am not

able to keep doing EQT's title searches for them.

Respectfully yours, Leonard O. Powers."

BUTCH LAMBERT: So, it will be continued---.

JIM KAISER: I didn't even know there was a dispute on Tract 3. So based upon that, I think we need to continue this until at least May.

BUTCH LAMBERT: We'll continue it until May. Thank you.

(Off record discussion.)

BUTCH LAMBERT: That docket item will be continued until May. Calling the next item on the docket it item number ten, a petition from EQT Production Company for disbursement of funds from escrow and authorization for direct payment of royalties for Tract 1, unit VC-536825, docket number VGOB-07-0116-1862-01. All parties wishing to testify please come forward.

JIM KAISER: Jim Kaiser and Jon York on behalf of EQT Productions. Mr. York, has been sworn, I guess.

COURT REPORTER: Yes.

JONATHAN YORK

DIRECT EXAMINATION

QUESTIONS BY JIM KAISER:

Q. Mr. York, we're here today to ask the Board

to disburse some monies in escrow for the unit for VC-536825. In particular, Tract 1, is that correct?

A. Yes.

Q. And the owner....there is a royalty split agreement in Tract 1 between David, Paul and Faye Wright and Pine Mountain Oil and Gas is that correct?

A. Yes.

Q. A 75/25 split?

A. Yes.

Q. And have we reconciled the banks numbers with our numbers?

A. Yes, we have.

Q. And are they in agreement?

A. Yes.

Q. And have we provided the Board with a spreadsheet showing that they're in agreement?

A. Yes, we have.

Q. And in particular, do these numbers reflect what's in escrow as of 12/31/09?

A. Yes.

Q. And we particularly direct the Board's attention to the next to the last column on the right showing the owners percentage in escrow?

A. Yes.

Q. And have all parties been notified of this hearing?

A. Yes, they have.

Q. And are you asking the Board to disburse the monies in escrow through 12/31/09 as reflected on this spreadsheet that we've just passed out?

A. Yes.

Q. And you're also asking that they going forward disburse any royalties due that we be allowed to disburse directly to the interest owners in the percentages as depicted on the spreadsheet?

A. Yes.

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

BUTCH LAMBERT: Questions from the Board?

KATIE DYE: Mr. Chairman, I have a question.

BUTCH LAMBERT: Mrs. Dye.

KATIE DYE: In looking at this agreement, it looks like it was signed April 2, 2007. So, why wasn't this ever escrowed?

JIM KAISER: Excuse me? There must have been money in escrow before the agreement. It looks like the well was pooled in January 2007.

KATIE DYE: And then on line in July of 2007.

JIM KAISER: It went on line in July of 2007?

KATIE DYE: Uh-huh.

JIM KAISER: How do you know that?

KATIE DYE: Just information. I was just checking on it because I was curious about it.

JIM KAISER: I don't know then. Well, for whatever reason its in escrow its coming out now.

KATIE DYE: But you know, it...it looks to me like it should have never been escrowed in the first place and then why is it taking it so long for it to be disbursed? I guess, I'm just curious.

JIM KAISER: Yeah, we'll call Mr. Phil Horn.

(Phil Horn is duly sworn.)

PHIL HORN: Mr. And Mrs. Wright, I met them at a hearing back in 2007 about the time the well was drilled, and they wanted to do a split agreement. We entered into a split agreement and they...Equitable had set it up where this was not to be escrowed and they accidentally escrowed it anyway. It was not listed on Exhibit E. And then Mr. Wright called me several months ago and said she had not received any payment and then we checked into it and found out that it was an oversight. So then we went ahead....Equitable went ahead and got it on the docket.

KATIE DYE: Thank you.

SHARON PIGEON: Does this complete this tract or do we need to keep that sub-account going on?

JIM KAISER: Tract 1 would be complete, but there is other escrow in the unit.

SHARON PIGEON: Just close that out.

BUTCH LAMBERT: Ms. Dye, do you have any questions?

KATIE DYE: Yes, just one other question. In looking at your plat, in my application I have two and both of them just show the proposed well. So, is that where the well actually went?

JIM KAISER: Yeah, I assume that would be the final plat.

BUTCH LAMBERT: I have a question. Ms. Dye asked about having two different plats. Why do we have two different plats with different dates?

JIM KAISER: My guess would be one is a preliminary plat and the other one is as real plat, just like every other well that's drilled.

BUTCH LAMBERT: The one dated 11/3/06 is the preliminary?

JIM KAISER: Preliminary, yes, sir.

BUTCH LAMBERT: Any other questions from the Board?

DAVID ASBURY: Mr. Chairman?

BUTCH LAMBERT: Mr. Asbury.

DAVID ASBURY: I wanted to be clear, the escrowing is still required. There are nine individuals shown on Exhibit E of the original order, so escrowing is still required.

SHARON PIGEON: For Tract 1?

BUTCH LAMBERT: For Tract 1?

DAVID ASBURY: No, not for Tract 1, but there are others.

JIM KAISER: Right, there is still escrow in the unit, but that will complete the sub-unit or the sub whatever they call it.

BUTCH LAMBERT: Anything further, Mr. Kaiser?

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

BUTCH LAMBERT: Do I have a motion?

KATIE DYE: Motion to approve.

PEGGY BARBER: Second.

DONNIE RATLIFF: Second.

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

(No audible response.)

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

(All members signify by saying yes.)

BUTCH LAMBERT: Opposed, no.

(No audible response.)

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

JIM KAISER: Thank you.

BUTCH LAMBERT: The next item on the docket is item 3, a petition from CNX Gas Company, LLC for disbursement of funds from escrow and authorization for direct payment of royalties for portion of Tracts 1 and 4, unit DD-28, docket number VGOB-01-0918-0921-01. All parties wishing to testify please come forward.

MARK SWARTZ: Mark Swartz and Anita Duty.

(Anita Duty is duly sworn.)

BUTCH LAMBERT: You may proceed, Mr. Swartz.

ANITA DUTY

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

DIRECT EXAMINATION

QUESTIONS BY MARK SWARTZ:

Q. Anita, you need to state your name for us.

A. Anita Duty.

Q. Who do you work for?

A. CNX Land Resources.

Q. And with Regard to the item that the Chairman just called, a disbursement from DD-28, what are your job duties that involve this application?

A. Prepare the disbursement balance and reconcile the account.

Q. And we're talking here about a disbursal of a portion of escrowed funds?

A. Yes.

Q. And not only is it just a portion of the funds escrowed for this unit, but it's also just a portion of two tracts?

A. Yes.

Q. Okay. So, an escrow requirement is going to continue beyond today?

A. Yes.

Q. And we were here last month and an issue arose with regard to royalty owners who had entered into the split agreement, but had not returned W-9s, correct?

A. Yes.

Q. And Mr. Asbury requires that we have W-9s from people so 1099s can be sent to them when disbursements are made, correct?

A. Yes.

Q. And basically we can't disburse funds out

of escrow to people who have entered in the split agreements unless they provide a W-9?

A. That's correct.

Q. So, between last month and this month, did you extract from the disbursement list and the math the people from whom we do not have W-9s?

A. Yes.

Q. So, the difference between what we are seeking...the list of participants last month and this month are excluded the people that have not provided W-9s?

A. Yes, but we also have some additional... well, this list that we added.

Q. Okay, okay.

A. So, that's why...that's the reason for an amended notice.

Q. And so we've highlighted the people that we don't have W-9s from in the amended exhibit so that the Board knows who they are---?

A. Yes.

Q. ---and who has been removed, and if you compare the sort of, I guess, purple colors or pink/purple to the spreadsheet at the end we would notice that those folks are not named in the spreadsheet at the end?

A. That's correct.

BUTCH LAMBERT: Mr. Swartz?

MARK SWARTZ: Yes?

BUTCH LAMBERT: We don't have exhibits with pink colors.

MARK SWARTZ: Oh, okay. Do you want us to read those in so you know who they are?

BUTCH LAMBERT: Would you, please?

ANITA DUTY: Well, it says pending receipt of W-9 on there in the last column.

MARK SWARTZ: Oh, it does say. If you look---

BUTCH LAMBERT: Okay, all right. I found it.

PEGGY BARBER: Are they grey lighted?

ANITA DUTY: Uh-huh.

PEGGY BARBER: They're grey lighted on it.

MARK SWARTZ: Oh, they're grey. And they should say pending receipt of W-9 though. All right. Sorry. Is that--.?

BUTCH LAMBERT: That's fine.

MARK SWARTZ: I just wanted to make sure that you could tell. What are the---

SHARON PIGEON: They just don't have colors. So, if you referred that it won't make a good record, sorry.

Q. So, that the people that would be removed there would be a notation in the far right hand column,

pending receipt of W-9s?

A. Yes.

Q. The two tracts that we're talking about here are which two tracts?

A. Tract 1 and Tract 4.

Q. And did the folks that you are seeking to disburse to have they signed split agreements?

A. Yes.

Q. Are they 50/50 agreements?

A. Yes.

Q. Have you actually seen them?

A. I have.

Q. Okay. With regard to Tract 1 and 4, would you tell the Board what analysis you performed in comparing records and what records were available to you?

A. I compared the CNX check deposits to the banks ledger sheet to make sure all the deposits were accounted for.

Q. And when you made the comparison between what you had sent to the escrow agent and what they acknowledged they had received, did those records agree?

A. Yes, they were in balance.

Q. And did you do this analysis as of a date ascertain?

A. December 31, 2009.

Q. Okay. So, the dollars and cents figures on here are as of that date?

A. Yes.

Q. When the...if the Board approves this disbursement request, is it your request that the Board uses percentage as opposed to dollars?

A. Yes.

Q. So, the percentage should be applied at the time the disbursement is made?

A. Yes.

Q. And also are you requesting that after this disbursement is made the operator be allowed to pay the people to who disbursements are made based on this application to pay them directly in the future so there's no future escrow for them?

A. Yes.

Q. And the people that are pending, the W-9s, we are going to have to actually come back with new percentages for them?

A. We will.

Q. Okay, as we do that. Is it your intention at the moment to wait until we have all of them so we make one trip?

A. Yes, if that's okay. The majority, anyway.

Q. Okay. We're not going to come back one at a time?

A. No.

Q. Okay. Good. With regard to the spreadsheet, there's a coal owner identified with regard to Tract 1 that would be receiving a disbursement, is that correct?

A. Yes.

Q. Who is that?

A. It's actually Torch Oil and Gas Company.

Q. Okay, but they're the coal owner?

A. Yes.

Q. And what percentage should the escrow agent use when the disbursement to Torch is made?

A. 12.6349%.

Q. And that's the percentage that's reported in the owners percent of escrow at 50% column?

A. Yes.

Q. And then have you listed the folks under the Katherine Hilton heirs oil and gas...the oil and gas claimants who should be receiving a 50% disbursement as well?

A. Yes.

Q. And opposite everyone's name on that list on Exhibit A to the revised application have you listed a percentage for everyone?

A. I have.

Q. And is that what the escrow agent should use to make those disbursements to those people?

A. Yes.

Q. And with regard to the folks on Exhibit A that are listed as oil and gas owners on Tract 1, you do have W-9s for them?

A. We do.

Q. Okay. Moving to Tract 4, who receives the coal disbursement or the coal piece of the split?

A. Coal Mountain Mining Company.

Q. And what percentage should be used?

A. 26.3895%

Q. And have you listed the individual oil and gas heirs from whom you have W-9s who would be receiving disbursements at this time under the G. W. Sisk Heirs oil and gas?

A. Yes.

Q. And for each person or persons listed there, because sometimes apparently they're husband and wife, have you listed a percentage the escrow agent should

use?

A. I have.

MARK SWARTZ: I believe that's all I have, Mr. Chairman.

BUTCH LAMBERT: Questions from the Board?

DONNIE RATLIFF: Mr. Chairman.

BUTCH LAMBERT: Mr. Ratliff?

DONNIE RATLIFF: Help me a little bit. When you show two names out of one 4,536%, where is the rest of these people? And you've got one listed out of heirship one out of 9,072 and there's two, and then there's five that's got 1/120. Where's the other 115?

ANITA DUTY: Where are you---?

DONNIE RATLIFF: On Exhibit EE. I mean, if you've got 4,000 people in heirship and we see two, where is the rest of them, I guess, is what I'm asking? Are they not---?

ANITA DUTY: If you take the Exhibit E and the Exhibit EE you've got 100% of the heirship.

BUTCH LAMBERT: You've got all of them?

ANITA DUTY: There's something a little different on this Exhibit EE. There's a...one of the owner's died, Maria Sisk, and she had a royalty split agreement but some of the owners that inherited her interest didn't. So, we could only pay her for the portion that they inherited, not

the actual portion they owned. So, that kind of made this a little... that's the reason for the note underneath there from Maria Sisk. It's a little different. We actually have the Exhibit B that has all the ownerships.

DONNIE RATLIFF: All the information...I'm glad we didn't see that.

ANITA DUTY: Now, if you take the two E and EE and put them together that's 100% of the heirship.

DONNIE RATLIFF: That's all.

BUTCH LAMBERT: Ms. Duty, on Exhibit E, page 1 of 4, you list Torch Oil and Gas and I thought I heard you testify they own 16 some percentage, but I don't see a percentage listed here or on---

ANITA DUTY: It's because 100% of the tract isn't being released. I do the math on the spreadsheet, but on Exhibit EE I leave it blank because its not 100% of what Torch owns. So, it's kind of...that would cause confusion with some of the payouts in the past. So, I make sure the Exhibit A is exactly what's going to be paid.

MARK SWARTZ: To make that clearer than mud, let me ask you this. If we zeroed out Tract 1 with the escrow Torch would receive their share of 16.15%, correct? I mean, that would zero that account out, correct?

ANITA DUTY: That's not the escrow perentage

though.

MARK SWARTZ: I understand, okay.

ANITA DUTY: Okay, yes.

MARK SWARTZ: But the escrow percentage that's coming out to them is less than than because there's still money in that tract?

ANITA DUTY: Yes.

MARK SWARTZ: Does that help, or no?

BUTCH LAMBERT: Sort of, kind of.

MARK SWARTZ: Well--.

BUTCH LAMBERT: Well, she testified that they had a percentage, but you don't list them.

DAVID ASBURY: Mr. Chairman?

BUTCH LAMBERT: Mr. Asbury.

DAVID ASBURY: If I may, the Exhibit is taking a portion of the acreage that was escrowed out. It all goes back to the acreage that was escrowed. Torch probably has more acreage still in escrow and this only relates to the acreage that's being disbursed under a split agreement. They still have acreage remaining in the unit and in the tract. And that's why their percentage is not 100% of what they own.

MARK SWARTZ: Let me try one more way. Anita---

BUTCH LAMBERT: I think I follow it now on Exhibit

A, I see that you've stated the percentage there. Maybe that's where I got it confused.

MARK SWARTZ: Right. If Torch had a split agreement with every oil and gas owner the 12.635% would be larger and would agree with the other exhibit. Because they haven't... don't have a split agreement, right?

ANITA DUTY: Right.

MARK SWARTZ: ---with every person who is a conflicting claimant with them we can't disburse that entire escrow for that entire tract? I'm sorry this has taken so long to get to the bottom line but that's the problem, that's why those numbers don't agree. Because we don't have split agreements with everybody so some of that Torch interest has to stay in escrow.

BUTCH LAMBERT: Okay, I follow you.

MARK SWARTZ: Sorry, it took so long.

BUTCH LAMBERT: I'm sorry. Thank you. Any other questions from members of the Board?

KATIE DYE: Mr. Chairman.

BUTCH LAMBERT: Mrs. Dye.

KATIE DYE: I just have a general questions for my own knowledge. When we are doing these disbursements, should all the wells that are shown that are contributing to that escrow account should they all be shown on the plat?

DAVID ASBURY: Could you ask that again?

KATIE DYE: I'm sorry. When we are doing these disbursements and for example it may say you know we have three wells contributing to that account or that unit, should all of those wells be shown correctly on the plat that is included in this application?

DAVID ASBURY: The production from all the wells should be included in the escrow account. Now, the plat is...depending on what plat is shown, as far as the original plat with the order itself, those wells may not be shown because of the original order and its timing. There could be additional wells that have come online after the plat was and the order was recorded. They bring back what the original recording was. But we do insure that production in all the unit wells are included in the escrow for disbursement.

KATIE DYE: But we don't require a current plat for the application, if I understand you correctly?

MARK SWARTZ: Right, but you do require that we tell you what wells are contributing to the escrow and if you look at the end of Exhibit AA on all of these disbursements it always says what they are. So, this actually, even though DD 28 was a subsequent well, and 28-A is contributing to this. So, there are two wells in the

money.

KATIE DYE: Right.

MARK SWARTZ: But there's just isn't a map---

KATIE DYE: But there's only one shown on the plat,
I guess.

MARK SWARTZ: Except I can tell you that DD-28A is
in that unit.

ANITA DUTY: This unit was originally pooled in
2001. So, if DD-28A wasn't online as of 2001, the pooling
plat that was recorded in the order would not have DD-28 on
it. And I don't know if...I mean, I don't think we should
go back and amend a plat that was in an order that has been
recorded.

DAVID ASBURY: That's totally up to the Board, but
we're follow...legally, and Ms. Pigeon may speak to this,
but we're following the original order that was recorded in
a disbursement. We do insure that additional wells of
production are included in escrow. But in so far as legal
document, we're following a legal document through the
system.

PEGGY BARBER: That's a little misleading to have a
plat in here that's, you know, not reflecting what we're
looking at. So, I think that she's trying to say. You are
looking for things that are not there so why include it if

its not up to date. What's the purpose of putting it in there? I mean, it appears to be something that's not correct unless you know these various explanations ahead of time.

MARK SWARTZ: Well, if we didn't have an indication on the escrow exhibit that we were disbursing for two wells, you know, I would agree it was a problem. I mean, if you look at this it is clear there are two wells in this unit and we are including the revenue from both of them and we were ordered to indicate on this exhibit in the past by the Board what wells were in play and we've done that, I believe, on every unit today.

DAVID ASBURY: If it makes it clearer for the Board, that's the decision the Board can make.

BUTCH LAMBERT: Well, if we receive or if we ask for an additional plat showing all the wells for this particular purpose, we wouldn't be modifying the original order, would we? Just as an exhibit.

DAVID ASBURY: An informational exhibit, no. No, you wouldn't. But it would be a matter of whether the Board would like that exhibit recorded with the disbursement against the original order.

ANITA DUTY: You want it just as a handout, not made part of the actual order?

BUTCH LAMBERT: Well, that's my thinking. Not to go back and modify the original order, just to have it as an exhibit, if that's the wishes of the Board.

ANITA DUTY: Well, even the order...even the disbursement order includes this entire package. If you put the original plat and tract ID order in it makes it easier for David to go back and make sure that the acreage from the previous application that was filed or previous disbursement order that the acres are in balance and that nothing has changed since the time that we brought it last time.

DAVID ASBURY: The informational plat may be of help.

BUTCH LAMBERT: I'll ask for input from the rest of the Board whether or not they think that that as an exhibit would be helpful.

DONNIE RATLIFF: As long as it's noted on the disbursement page and it lets us know that both wells are contributing to the escrow account. I mean, as long as we had the information, it wouldnt matter to me which way we had it whether it was in the plat or by statement but that they acknowledge that both DD-28 and DD-28A are in this number. I don't know that---

KATIE DYE: Just a further comment, when we look at some more of the applications, we see plats that shows a lot

of wells on there that are not contributing. And you know I was just wondering if that was confusing people that was receiving these disbursement orders. You know, it's confusing to look at if you're saying that we've got three wells attributing but then your plat may show six or seven more.

MARK SWARTZ: Well, I guess I'm having trouble with a plat showing six or seven wells in a split agreement and all of the production not being in the plat. You need to tell me which one of the one's that we've submitted today shows that?

KATIE DYE: I think I was looking at maybe number eighteen.

BUTCH LAMBERT: I've not called that item yet. We'll just refer to it as informational piece.

KATIE DYE: Look at the plat in application number eighteen. And there may be information here that I don't understand. I was just trying to understand that. And then when we look at the well contribution to the escrow account would show two.

(Mark Swartz and Anita Duty confer among themselves.)

Q. With regard to the example, that we're discussing the S-35, okay?

A. Uh-huh.

Q. Is it your understanding as we sit here today that this unit S-35 is over a gob area now?

A. Yes.

Q. Okay. And it shows a number of wells, does it not?

A. Yes.

Q. And what have you captured in Exhibit A when you show S-35A and S-35B?

A. The ones that were producing at the time it was an individual unit.

KATIE DYE: Tell me again. I'm sorry I didnt understand that.

ANITA DUTY: Those two are the wells that were producing when that was an individual unit because you are only allowed to do the two. But this is in a sealed gob area now and there are other wells that exist there, but not as the same type of production.

KATIE DYE: I just needed to understand because if I had been one of these escrowed people that was receiving the disbursement and I had looked at this plat, I'd think you know why am I not receiving income from all of these wells.

ANITA DUTY: Well, and actually the production from all of those wells are from within the sealed gob now because

that production type changed in that area.

MARK SWARTZ: Okay, let me take another stab at this just to make sure that it's clear.

Q. When you produce from an 80 acre unit you are allowed to have two wells?

A. Yes.

Q. And while that production frac from this 80 acre unit continued those wells were S-35A and S-35B, correct?

A. Yes.

Q. At the point in time that this converted into a gob unit, the escrow would have changed?

A. Yes, there is a brand new account set up.

Q. Right. So, the money that has been produced subsequent to the creation of the gob unit from all of the wells, the larger number of wells, would not have been escrowed in this, correct?

A. Correct.

MARK SWARTZ: Does that help or not?

KATIE DYE: It helps.

Q. SO, if we came back with a split agreement on the gob we would see the balance of the well subsequent to the conversion from a frac production to a gob production, is that---?

A. Yes.

KATIE DYE: So, if I understand, once you gave to a gob, then you would see the production from all of these wells except A and B?

MARK SWARTZ: Right. The disconnect between...good question. But the disconnect on S-35 between all of the wells on the plat and then identifying the wells on the spreadsheet is there's two different kinds of production and the two wells that have frac production are the subject of this disbursement request and the balance of the wells or even these wells after it was converted to gob there's not an escrow disbursement request at the moment. So, that's why there are only two on the Exhibit A and there are a lot more on the plat.

KATIE DYE: But these folks would also have an interest in the gob unit, am I correct?

MARK SWARTZ: Right. The problem is that the split agreement for the gob unit might involve a lot of additional people that---

ANITA DUTY: The royalty split agreements have already been taken care of because of the sealed gob was created after this. So, we've picked those up as the sealed gob got...when it got approved. So, now we're going back and cleaning up the individual units because there's no more

money being deposited in these accounts because it doesn't produce as a frac unit anymore.

KATIE DYE: So, if we are looking at this according to the disbursement today the only two things that apply is A and B?

ANITA DUTY: Right. That is the only thing that is contributing to the frac production, yeah.

KATIE DYE: That makes a much clearer mud.

MARK SWARTZ: Well, there's an explanation for the number of wells in there. Okay. Back to---

BUTCH LAMBERT: Have we cleared up the question, Ms. Dye? Are you satisfied?

KATIE DYE: Yes, I understand what she's talking about now.

BUTCH LAMBERT: On the question of showing the wells in the unit that are...are we okay with that as being listed on the disbursement or---

KATIE DYE: I'm not sure that it wouldn't be confusing to the people receiving these. I don't know. I would leave that probably to the discretion to the Board as a whole.

BUTCH LAMBERT: I guess, that's what I'm asking for your opinion so we can either move on or does the Board feel like they need that map as an exhibit showing the wells that

are being---?

KATIE DYE: I think it would offer clarification to the people receiving these disbursement to have what the plats showing that we are disbursing funds, for example, A and B as opposed to receiving that plat and maybe thinking they should receive disbursement from every well. And then like here, we're only showing one well. And I don't know.

BUTCH LAMBERT: Ms. Barber, do you have further comments?

PEGGY BARBER: Well, in the number three case, we were talking about that being the plat that was submitted with the order. Is this the plat that was submitted with this order? I think that with the comments that have been made I am clear about it but I agree with Katie, that if you don't have those comments in your head you'll get somewhat confused.

BUTCH LAMBERT: Mr. Harris?

BILL HARRIS: I am sort of neutral on that. I think it helps with the explanation. Also, I'm not sure that up front I'm not sure how much information this would give us but since those wells aren't being included there. But I'm sort of neutral on that. I think if the explanation is there I think that's to me very important to there. I don't know about the plat being as useful to me for you know what I look

at.

BUTCH LAMBERT: Mr. Ratliff?

DONNIE RATLIFF: I agree with Mr. Harris.

BUTCH LAMBERT: Looks like we're split and I get to make the---

DAVID ASBURY: Mr. Chairman.

BUTCH LAMBERT: Mr. Chairman, one comment, please. When these disbursements are being brought to the Board, one of the things that the staff does is it goes back to the original order and the original information provided in that order or supplemental orders. So, the legal tract...legal title of these orders as recorded is important so that we can follow them and we do deal with this. And it has been misunderstood by those who have researched some of this that if there's a single tract that is producing in a single unit that that's carried...that if there's individuals in escrow that that is carried for that single unit until such time that a gob unit is created. Then payments stop in that single unit. And that single unit then loses its identity into the sealed gob unit. That's why some investigations have shown that payments hadn't gone into these single units for several months. They weren't supposed to because those units became sealed gob units and they lost their single unit identity.

BUTCH LAMBERT: Could you explain that again and just a little bit louder? The air conditioner is on and---.

DAVID ASBURY: What we try to do is we go back and look at each disbursement unit and if it's a single unit, single 80 acre unit, it has an identity. And payments go into that identity in that single unit as escrow. Once a sealed gob unit is created, that single unit then becomes part of a larger body of acreage and the single unit loses its identity as far as gas production from that and it becomes part of the sealed gob unit. So, a lot of times individuals have investigated payments into units and have found that those payments have stopped for 18 months or longer and thought that payments were not being made by the gas operator. It's true that the payments stopped but the reason they stopped for that single unit is because those payments are now reported in the combined sealed gob unit. So, in a disbursement situation, individuals in that single unit would have a disbursement from the single unit payment up until the time that sealed gob was created as well as their acres proportionate share of the total sealed gob unit.

BUTCH LAMBERT: So, Mr. Asbury, what you're saying is that explanation you just gave us is the misunderstanding that we read about in the paper and heard about of units not receiving payments for up to 18 months. Those had been

converted to gob units and the payments were acutally going into the gob unit and not the single unit?

DAVID ASBURY: Yes, sir.

BUTCH LAMBERT: Okay.

DAVID ASBURY: Some, not all, but most.

BUTCH LAMBERT: Okay, thank you. Now, we're back to the question of showing the wells. Ms. Duty, I think the Board will ask just for an exhibit just to show the wells.

ANITA DUTY: But not include it in the mailing?

BUTCH LAMBERT: No, just bring it forward as an exhibit before the Board for their information.

MARK SWARTZ: Can we use the existing plats so we don't have to do another drawing?

BUTCH LAMBERT: Yeah, I think we'd do that. We need to keep it that way but just attach an exhibit as a handout for information for the Board.

DONNIE RATLIFF: Suggestion, Mr. Chairman.

BUTCH LAMBERT: Mr. Ratliff?

DONNIE RATLIFF: As we do these, we talk to one company at the table and everybody else is doing their own thing. Perhaps the Board needs to send out a letter of suggestions to all the participating gas companies. I know we ask for relative underground mines around a well and we've got one company that provides it and everybody else is kind

of neutral to it. So, perhaps we need a list of suggestions and reminders of what the Board would like to see on particular cases like this and others.

BUTCH LAMBERT: I'll work with Mr. Asbury and we'll prepare that letter on behalf of the Board.

DONNIE RATLIFF: Thank you.

PEGGY BARBER: I just have one more question.

BUTCH LAMBERT: Ms. Barber?

PEGGY BARBER: When David...Mr. Asbury, when you say that the well loses its identity when you have the gob wells in place, how does the person that has an interest in that well know that, you know, there's no more royalties coming from that well? Is there a process where they're notified or do they just know that they are moving into a gob area?

ANITA DUTY: When we create the sealed gob unit that overlies all these units, everybody gets notice of that.

PEGGY BARBER: Okay.

ANITA DUTY: Everybody that has an interest in the sealed gob.

PEGGY BARBER: Just like they do everything else?

ANITA DUTY: Yes.

DAVID ASBURY: If it was a single unit.

ANITA DUTY: And then there's a map that overlays the grid...well, it's underneath, so you can see which grids

are now included in the sealed gob area.

MARK SWARTZ: And it is different, because when you create a sealed gob area even if you have a lease from someone the lease generally would not allow you to create a large sealed gob so you have to give your lessors notice that you are creating the unit---.

PEGGY BARBER: That's what I thought.

MARK SWARTZ: So, when Anita said you know everybody gets a notice she really meant it. I mean, everyone would be noticed that we would be doing this. Also, I'm thinking they're royalty statements would show that the unit on the tract, if I'm not mistaken.

ANITA DUTY: It still shows the individual well.

MARK SWARTZ: Right. Oh, it still shows the individual well so they would---?

ANITA DUTY; Yes.

MARK SWARTZ: Okay. Assuming that well continues to produce in the gob well.

PEGGY BARBER: I just wanted to clarify that. I thought that was the process.

DAVID ASBURY: The thing that the gas owner is consistent throughout all the process is the acreage that they own, that doesn't change. That is the consistent key for any and all calculation.

BUTCH LAMBERT: Okay. Mr. Ratliff?

DONNIE RATLIFF: I hate to drag this on. You're going to have to serve dinner today, I think. Is there a way when we stop putting escrow into individual wells because they've now become a part of the sealed gob unit that we can put a -X or some number on it so that immediately when we look at it we know what happened to that well. The day that we stop making contributions into escrow for that well and it becomes part of the sealed gob area can we put some kind of identification on it so that it jumps out to everybody and everybody uses the same -X or whatever is appropriate?

MARK SWARTZ: Well, the problem you're going to have with that is you can turn wells on and off in a sealed gob as long as you have permitted wells, okay. So, you know, until a well is plugged and abandoned, it theoretically has...I would be a little hesitant---

DONNIE RATLIFF: I understand.

MARK SWARTZ: ---to implement a rule that, you know, is still capable of production and if you produce from it you need to meter it. I understand what you're addressing but I'm not sure that until a well is plugged and abandoned we can really go there.

DONNIE RATLIFF: I understand.

BUTCH LAMBERT: Mr. Ratliff, I might can address

that a little bit. The Board knows that DMME and DGO has been working on a GIS database to identify wells where we can locate those wells and tie them to a unit and tie them to a docket number. We're also exploring ways through our database to be able to identify gob wells with a unique identifier that won't have anything to do with what they're presenting, but we'll have it as Board information that we will be able to look at that quickly and identify it as a gob unit.

DONNIE RATLIFF: Okay.

BUTCH LAMBERT: We're getting closer. We're still about a month away from doing that, but we're working on it.

DONNIE RATLIFF: Okay.

DAVID ASBURY: Good question.

BUTCH LAMBERT: Now, I forgot where we were.

MARK SWARTZ: I think you decided that she should bring an exhibit showing you know the old plat showing the well locations and we understand that and we've made a note of that. And I think now we're back to whether or not you want to approve the disbursement although I'm not sure.

BUTCH LAMBERT: I think I had asked for questions from the Board and that's when we got into this discussion. So, is there any further questions from the Board?

DONNIE RATLIFF: Move to approve.

BILL HARRIS: Second.

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

(No audible response.)

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

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

BUTCH LAMBERT: Opposed, no.

KATIE DYE: Abstain.

BUTCH LAMBERT: One abstention, Ms. Dye. Thank you Mr. Swartz. It's approved. Okay, we're going to take about a five minute...ten minute recess and then we'll start back.

(Break.)

BUTCH LAMBERT: Okay, ladies and gentlemen, it's time to resume. The next item on the docket is item thirteen. A petition from CNX Gas Company, LLC for disbursement of funds from escrow and authorization of direct payment of royalties for Tracts 2B, 2C, 4G in unit V-36, docket number VGOB-98-0324-0638-03. All parties wishing to testify, please come forward.

MARK SWARTZ: Mark Swartz and Anita Duty.

BUTCH LAMBERT: You may proceed, Mr. Swartz.

ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MARK SWARTZ:

Q. Anita, you need to state your name for us.

A. Anita Duty.

Q. I'll remind you that you are still under oath.

A. Okay.

Q. This is a disbursement request?

A. Yes.

Q. Is it...will this disbursement request if granted close out the escrow?

A. No.

Q. So, there would still be an escrow after these payments?

A. Yes.

Q. Would it close out or completely disburse the tracts that we're talking about?

A. It would.

Q. Okay. But there would be money for other tracts remaining?

A. Yes.

Q. Did you do an escrow accounting for purposes

for this distribution?

A. Yes.

Q. And have you attached that as Exhibit A?

A. I have.

Q. What date was that good as of?

A. December 31, 2009.

Q. What did you do to prepare this?

A. Compare the checks that were sent to the escrow agent with our ledger sheet to make sure they were all accounted for.

Q. Okay.

A. And they were in balance.

BUTCH LAMBERT: Ladies and gentlemen, I ask you to please refrain from the talking. We can hear you up here and the mics are picking up your conversations and that's getting mixed in with our recording. So, if you must talk please go outside. We thank you.

Q. And when you compared your records and the bank's records were they in agreement?

A. They were.

Q. Have you listed on your Exhibit A the three tracts which partial...from which complete disbursements are to be made?

A. Yes.

Q. And have you identified the coal owner and the oil and gas owner that would receive the disbursements?

A. I have.

Q. Are these all 50/50 agreements?

A. Yes.

Q. Have you seen the agreements?

A. Yes.

Q. Have you reported in the owner's percent of escrow column, the percentage that the escrow agent should use to make the disbursements?

A. Yes.

Q. And the escrow agent should use that rather than the dollars?

A. Yes.

Q. And after these disbursements are made, is it your request that you be allowed to pay these folks directly rather than escrowing the funds?

A. Yes.

MARK SWARTZ: That's all I have.

BUTCH LAMBERT: Questions from the Board?

SHARON PIGEON: Mark, did you say these were going to close out these sub-accounts?

MARK SWARTZ: The tract accounts, yes.

PETER GLUBIACK: Mr. Chairman, could I interrupt for

just a second?

BUTCH LAMBERT: No, sir. I'm asking questions from the Board. Hang on just a second. Any questions from the Board? Anything further, Mr. Swartz?

MARK SWARTZ: No.

BUTCH LAMBERT: Mr. Glubiack?

PETER GLUBIAK: I had missed....Mr. Chairman, I apologize, we're on V-36. I had spoken with Mr. Swartz earlier, I have an objection to disbursement on Tracts V-36... unit V-36, Tracts 4G and 2C. They are currently the subjected to litigation regarding the split agreement and I ask the Board not to disburse those. Mr. Swartz had indicated to me that...I had spoken to him earlier. One of the individuals a Mr. Mack Osborne, who is the owner of tract 4G is here today. We have asked for CNX to rescind the split agreements and we are in active litigation on those two tracts in unit V-36, Tract 2C and Tract 4G.

MARK SWARTZ: I have a comment and a couple questions for Anita.

BUTCH LAMBERT: Mr. Swartz.

Q. Anita, have you spoken with Mr. Osborne in advance of today's hearing?

A. Yes.

Q. How did you talk to him?

A. What do you mean?

Q. By telephone?

A. Oh, yes.

Q. Not in tone of voice but by telephone?

A. By telephone.

Q. Did you have more than one conversation with him?

A. I know for sure I had one.

Q. Okay. When you spoke with him was he in favor of this?

A. Yes. I actually told him I would try to get on the one that had the most money in it and then the one with the lesser amount I would do it the next month, but it just so happened that I got them both on this time.

Q. Okay. And I take it you have not spoken with Martha Stilwell?

A. No.

Q. Okay. And the comment that I would have for the Board, obviously and then perhaps Peter mispoke, but we can't rescind split agreements. I mean, he asked you I think to have us rescind the agreements. You know, we receive them and try to act on them. You know, I understand, I think what Peter is saying is that there's litigation about the validity of the agreement and now we're being told by someone who had

wanted the disbursement that he doesn't want the disbursement. I'm not sure I really have a dog in that hunt. I think that Hurt McGuire might be pretty interested in this but I guess they are a party to the litigation. So, regardless of what you do with Mr. Glubiack's objection and his client's objections, I would certainly request that you make the first disbursement on 2B so that Virginia Stilwell's money is not held up. And I think it's just a complete judgement call as to what you want to do with Peter's request. Do you want to honor that or not, I am not really objecting one way or another.

PETER GLUBIAK: I think that's an accurate statement, Mr. Lambert. Mr. Osborne, who is seated to my left, contacted me in September of last year. We sent a letter to CNX demanding to see copies of it rescinding it before it had been implemented. We have received no comment on it. It is subject to litigation with regard to Herb McGuire and I simply indicated to Mr. Swartz this morning that pursuant to Mr. Osborne's request an active litigation with Ms. Stilwell that disbursements not take place on tracts 2C and 4G in the V-36. Obviously, that's your call. I think it's...as Mr. Swartz has indicated, I'm not sure there's any harm. The client is here and I'm representing the client in the other matter that you don't disburse. If

it turns out that I'm wrong and the Court orders it disbursed then so be it. But I think at this point, I have a client here who is indicating his desire not to, and you can certainly ask him, not to have the disbursement take place. He feels like the circumstances surrounding his split agreement were not proper and is seeking to have that split agreement overturned.

BUTCH LAMBERT: Mr. Osborne, do you affirm what Mr. Glubiack has just told the Board?

MACK OSBORNE: Yes, sir.

(Mack Osborne is duly sworn.)

BUTCH LAMBERT: So, I'll ask you again, Mr. Osborne, since you've been sworn. Do you affirm what Mr. Glubiack just explained the Board?

MR. OSBORNE: Yes, sir.

BILL HARRIS: Mr. Chairman, let me just ask a question.

BUTCH LAMBERT: Mr. Harris.

BILL HARRIS: We do have a signed split agreement?

PETER GLUBIACK: Yes, sir.

BILL HARRIS: That---?

PETER GLUBIACK: I think the facts and circumstances surrounding it are questionable, but I have a signed...I got a copy...I requested a copy in October. Mr. Osborne, not me,

was sent a copy of it in December of this year. No other activity took place. I was not actually aware of this conversation with Ms. Duty. I don't know when it took place. But as of October 27th in a letter to CNX, I asked that the agreement be rescinded and that a copy be sent to me and I have not received anything from them.

BILL HARRIS: And the legal action you spoke of or the litigation was subsequent to that?

PETER GLUBIACK: Is a litigation seeking to determine the ownership of the gas including the validity of the split agreement.

BILL HARRIS: So that was after the split agreement?

PETER GLUBIACK: Yes. Yes.

SHARON PIGEON: Has it been filed with the Court?

PETER GLUBIACK: Yes.

SHARON PIGEON: And Herb McGuire has been served? So, they are aware of it?

PETER GLUBIACK: Yes, Hurt McGuire has responded. Mr. Whitesell represents them.

BUTCH LAMBERT: You, by any chance, wouldn't have copies of those letter that you could submit to the Board?

PETER GLUBIACK: I have a copy of the rescision letter and I have a copy of Mr. Osborne's agreement to retain me to seek it. But I can certainly show you a copy of that.

I'm looking for a bailiff, but you don't have a bailiff.

BUTCH LAMBERT: Questions from members of the Board?

(No audible response.)

BUTCH LAMBERT: So, that I understand, Mr. Glubiack and Mr. Swartz, you're okay if the Board proceeded to disburse from unit 2B---?

PETER GLUBIACK: Yes.

BUTCH LAMBERT: But you are requesting not to disburse from 2C and 4G?

PETER GLUBIACK: Yes.

PATRICIA STILWELL: I have a question.

BUTCH LAMBERT: Ma'am, you'll have to come forward and be sworn...state your name and be sworn.

(Patricia Stilwell is duly sworn.)

PATRICIA STILWELL: My name is Patricia Stilwell. I am power-of-attorney for Nancy Stilwell for the Linkous Horn Heirs and O. H. Keen Heirs. I think this V-36 is part of O. H. Keen's. I need to verify to see if it is.

ANITA DUTY: It's not. O. H. Keen is W-34 and W-35 only.

PATRICIA STILWELL: Okay, if it has got Cliftons on it, it should be all seven of them...all seven wells. If Guster Clifton is on those, we are the same kin...my mother is the same kin that he is on that piece of property, on the

O. H. Keen side.

ANITA DUTY: Guster Clifton owns a tract by himself in this unit.

PATRICIA STILWELL: He shouldn't. All of it should be together.

SHARON PIGEON: Does he own anything on the tract we are talking about for disbursement?

ANITA DUTY: No.

SHARON PIGEON: Okay. That is not being disbursed today.

PATRICIA STILWELL: Okay, I just wanted to make sure.

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

MARK SWARTZ: No.

BUTCH LAMBERT: Mr. Glubiack, do you have anything---?

PETER GLUBIACK: Could we point out, Mr. Lambert, as long as we are on the subject, there's no sense in doing this again, item number nineteen on the docket V-37, which is the adjacent unit, we have the same objection to Tract 3-A, unit V-37, the owner being Mr. Mack Osborne whom you've just heard from. The same objection.

BUTCH LAMBERT: Any questions from the Board?

(No audible response.)

BUTCH LAMBERT: I think we have a request before us to disburse 2B and withhold 2C and 2G pending litigation. Do I have a motion?

DONNIE RATLIFF: Mr. Chairman.

BUTCH LAMBERT: Mr. Ratliff.

DONNIE RATLIFF: Withhold 2C and 4G, is that correct?

BUTCH LAMBERT: 2C and 4G, I'm sorry I was looking at the wrong...you're correct.

DONNIE RATLIFF: I so move, Mr. Chairman.

BILL HARRIS: I second.

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

(No audible response.)

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

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

BUTCH LAMBERT: Opposed, no.

KATIE DYE: Abstain.

BUTCH LAMBERT: One abstention, Ms. Dye. Thank you Mr. Swartz and Mr. Glubiack.

PETER GLUBIACK: Mr. Lambert, I missed the actual motion. What did you approve?

BUTCH LAMBERT: The motion was to approve disbursement from 2B, withhold disbursement from 2C and 4G.

PETER GLUBIACK: I thought that. Thank you, sir.

SHARON PIGEON: Mr. Swartz, was your application modified by the testimony? Did you amend your application?

MARK SWARTZ: No. I think---

SHARON PIGEON: I wasn't sure. I thought that we had that restated that way but you---

MARK SWARTZ: I just really didn't have...I have enough things that I can fight with people about that I didn't want to take this on and I felt Mr. Glubiack was making a valid point and I got out of his way. But I'm not sure I amended my application.

BUTCH LAMBERT: The next item on the docket is item fourteen, a petition from CNX Gas Company LLC for disbursement of funds from escrow and authorization for direct payment of royalties for a portion of Tract 1-B, Unit U-36, docket number VGOB-98-0421-0648-03. All parties wishing to testify please come forward.

MARK SWARTZ: Mark Swartz and Anita Duty.

BUTCH LAMBERT: You may proceed, Mr. Swartz.

MARK SWARTZ: I've got a couple of revisions.

ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MARK SWARTZ:

Q. Anita, could you state your name for the record, please?

A. Anita Duty.

Q. And the revised exhibit that you passed out, let's just sort of start with that. Have you corrected some addresses in that exhibit?

A. Yes. Some of the W-9s had updated addresses.

Q. Okay. So, you've updated some addresses and in addition have you indicated, I guess on page two is the only one, that we've got a missing W-9?

A. Yes.

Q. And so that person who's been extracted from the payout exhibit?

A. Yes.

Q. Okay. And are those the only changes with regard to EE?

A. Yes.

Q. The address changes and the---?

A. Yes.

Q. The W-9 issue? Okay. Now, moving on to the spreadsheet that you've submitted for U-36, we're talking

about one tract?

A. Yes.

Q. And which tract is that?

A. Tract 1-B.

Q. And are you disbursing a portion of 1-B?

A. Yes.

Q. Okay. So, that...that 1-B tract would still have some balance remaining in escrow?

A. Yes.

Q. And, obviously, U-36 would have other reasons to be escrowed?

A. Yes.

Q. Okay. With regard to 1-B, however, have you seen split agreements from the people that you are proposing receive disbursements?

A. I have.

Q. And are they 50/50 agreements?

A. Yes.

Q. And on the coal side, who would be receiving the disbursement?

A. Hurt McGuire land trust.

Q. And their percentage that the escrow agent should use would be what percentage?

A. 0.4463%.

Q. Okay. And then with regard to the oil and gas claimants who participated in the split agreement, have you listed their individual names?

A. Yes.

Q. And opposite their name have you listed a percentage for each one of them which actually in this instance is the same percentage?

A. Yes.

Q. Was this the account balances that you're reporting here and the calculations you did with regard to percentages were they as of a date ascertain?

A. Yes, December 31, 2009.

Q. And to do the calculations and look at the balances, what records did you have available and what analysis did you do and what did you find?

A. I compared CNX's checks that were sent to make sure that Wachovia's ledgers...not Wachovia, the escrow agents ledger sheets balanced.

Q. Okay.

A. And they were in balance.

Q. And if this disbursement is approved, are you requesting that you be...that the operator be allowed to pay these people subject to this disbursement request directly rather than escrowing future funds?

A. Yes.

Q. And if we ever get a W-9 from, well, we hope we will, from the person in the revised Exhibit EE then we're going to have to come back to deal with a new percentage for that person?

A. Yes.

Q. And have you indicated on Exhibit A the wells that are in the production that's being distributed here?

A. Yes.

Q. And what three wells are those?

A. U-36, U-36A and U-36B.

Q. This is a rare occasion where all three of them are on the plat.

A. Wow, yeah.

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

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Anything further, Mr. Swartz?

MARK SWARTZ: No.

BUTCH LAMBERT: Do I have a motion?

DONNIE RATLIFF: Motion to approve.

BILL HARRIS: Second.

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

(No audible response.)

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

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

BUTCH LAMBERT: Opposed, no.

KATIE DYE: Abstain.

BUTCH LAMBERT: One abstention, Mrs. Dye. Thank you Mr. Swartz. It's approved. The next item on the docket is item fifteen. A petition from CNX Gas Company LLC for disbursement of funds from escrow and authorization for direct payment of royalties for a portion of Tract 1-A, unit T-37, docket number VGOB-98-0421-0650-04. All parties wishing to testify please come forward.

MARK SWARTZ: Mark Swartz and Anita Duty.

KENNETH OSBORNE: Kenneth Osborne, Linkous Horn Heir.

PATRICIA STILWELL: Patricia Stilwell for Nancy Stilwell.

RONNIE OSBORNE: I'm Ronnie Osborne for the Linkous Horn heirs. On mine, I've done asked the Board not to disburse any of my escrows until these contracts have been verified and you all ordered it a while back. Do I need to

protest this or just let it go until you all decide or what?

(Ronnie Osborne, Patricia Stilwell and Kenneth Osborne are duly sworn.)

BUTCH LAMBERT: Mr. Osborne, we'll get to your question in just a minute. Mr. Swartz, you may proceed.

MARK SWARTZ: Could I have your name please, ma'am?

PATRICIA STILWELL: Patricia Stilwell. I'm Nancy Stilwell's daughter--.

MARK SWARTZ: Okay.

PATRICIA STILWELL: ---one of the Linkous Horn Heirs and O. H. Keen Heirs.

ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MARK SWARTZ:

Q. Anita, with regard to this...we had some revised exhibits, have you passed those out?

A. Yes.

Q. And could you summarize for the Board what the revisions are?

A. It's the same changes in the previous one. Address---

Q. Address?

A. --corrections, yes.

Q. And in this one though we've got W-9s from the folks that we are talking about disbursements?

A. Yes.

Q. So, that's not an issue?

A. Right.

Q. Okay. Did you do, with regard to T-37, an analysis to prepare Exhibit A?

A. Yes.

Q. What documents did you review and what did you determine?

A. Compared CNX's payment records to the escrow agents ledger sheets to make sure all the deposits were accounted for and they were in balance.

Q. Okay. And did you do that as a particular ...as of a particular date?

A. December 31, 2009.

Q. Okay. And is the request to disburse a portion of one tract in T-37?

A. Yes.

Q. So, the escrow account would be to continue even this disbursement request was approved?

A. Yes.

Q. Both for the tract and the unit?

A. Yes.

Q. And have you on Exhibit A indicated the well that's been contributing to the escrow account?

A. Yes, T-37.

Q. And it's shown on the plat that you submitted?

A. Yes.

Q. And have you listed the coal owner that is to receive the proposed disbursement and the eight people that have oil and gas claims that would receive the disbursement?

A. Yes.

Q. And have you seen the split agreements that the coal company and the oil and gas owners that are proposed to receive disbursements there, have you seen the split agreements that they've signed?

A. I have.

Q. And did they provide for a 50/50 split?

A. Yes.

Q. If this disbursement was approved, what percentage would Hurt McGuire receive?

A. 8.3255%.

Q. Okay. And then you've got the individuals on the oil and gas side that have signed split agreements and have you indicated opposite each of their names the

percentage that the escrow agent should apply to pay them?

A. Yes.

Q. And are you requesting that if this disbursement is approved and these folks are paid that you be allowed to pay them in the future directly?

A. Yes.

MARK SWARTZ: That's all I have.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Mr. Osborne?

RONNIE OSBORNE: I would like to ask them if my name is one of the names on there to be receiving checks?

MARK SWARTZ: We're not requesting that you be paid.

RONNIE OSBORNE: All right. On any of them?

BUTCH LAMBERT: The exhibit that we have---.

RONNIE OSBORNE: On any of them? On the O. H. Keen or Linkous Horn?

ANITA DUTY: No.

MARK SWARTZ: No.

RONNIE OSBORNE: That's all I need to know.

KENNETH OSBORNE: I would request that the Board not disburse any money until several things. Mainly, number one, paperwork is correct. This is something that I've brought up several times. I can't...apparently nobody's going to do

anything about it. So, I mean, if it means me to continue to come here and bring it up I will continue to come here and bring it up. To start with, the gob unit paperwork, the Linkous Horn Heirs, they have all of our wells in this gob unit. The Linkous Horn heirs never received notice that our wells were going to be in the gob unit. Sorry, I don't have an exhibit to give out to everybody. This is the original gob unit. It does list O. H. Keen heirs, which is us, and there is only two wells on the O. H. Keen, W-34 and W-35, and I'm yet to see how the W-35 gets in the gob unit, W-34 doesn't and it splits right in the middle of the 80 acre unit. But regardless of that, Linkous Horn heirs never received notice that our wells were going to be put in a gob unit. This is the notice that was sent out and it only lists O. H. Keen, it doesn't list Linkous Horn heirs. The acreage is incorrect. They have identified two of the same wells in two different 80 acre units into this gob well now. If you'll bear with me, in S-36, they've got listed Linkous Horn heirs 26-A, which consists of 51 some odd acres, I'll give you the exact on it. And then T-37, they've got a 26-A well listed. Not only that, when we was at a Board hearing, it was last month or the month before, the gob unit for the Linkous----.

MARK SWARTZ: Let me save you some time here. This

is T-37. What's the identification of the application that you're referring to?

KENNETH OSBORNE: The SG-1...the Buck 1 SG-1 gob unit.

MARK SWARTZ: We're not here on that.

KENNETH OSBORNE: You're here on the disbursements that's got one of those wells listed in it. In fact---

MARK SWARTZ: We're not here on the gob unit and gob production.

KENNETH OSBORNE: I'm here to object.

MARK SWARTZ: We're here on T-37 and I'm offering the Chairman an opportunity to move along.

BUTCH LAMBERT: I will agree with Mr. Swartz's assessment. We're not talking about a gob unit. We're talking about one tract within the unit.

KENNETH OSBORNE: Okay, then I object to any disbursements on T-37. If the paperwork is not straight then how is everybody getting their fair share of the percentage. And not only that, where is the money for the gob unit. I've been waiting for several months to get an answer for the escrow account for the gob unit which it was the hearing before or the one before that you all told me that the gob unit was set up. You even gave me an escrow account number to track for Buck 1 SGU2, which is 23676, that escrow account

does not exist. Does that exist Mr. Asbury? Is T-37 in the gob unit?

MARK SWARTZ: This is frac production into T-37. It is not gob production.

BUTCH LAMBERT: The question that I think we went through this that we are disbursing before it went into a gob unit.

KENNETH OSBORNE: My interest on T-37 was put into a gob unit without me having notice. So, therefore, I think I have an objection to any money disbursed from that unit.

BUTCH LAMBERT: Well we're just---

KENNETH OSBORNE: Whether it was previous before this gob unit was set up.

BUTCH LAMBERT: Again, I take us back to the discussion...the lengthy discussion that we had previously that this is a disbursement prior to the well being put into a gob unit.

PATRICIA STILWELL: Okay, I have a question. When was that T-37 put in gob?

MARK SWARTZ: You can tell by looking at that application.

PATRICIA STILWELL: I don't have one. I wasn't issued one.

MARK SWARTZ: You're sitting next to a person who

has one.

KENNETH OSBORNE: November 18, 2008.

PATRICIA STILWELL: But each individual was supposed to have got one, right? Every family member was supposed to have got one.

MARK SWARTZ: There's a long list of people on that piece of paper that the gentleman sitting next to you has in his hand and those people to the extent we had addresses were to receive mailing and it would have been published.

PATRICIA STILWELL: Okay. Nancy Stilwell should be on that list. She did not receive one.

RONNIE OSBORNE: And I should be on that list.

PATRICIA STILWELL: Sara Day did not receive one.

COURT REPORTER: One at a time, please.

BUTCH LAMBERT: We need to keep our emotions down. We're not here to resolve conflicts with you two parties. We are here to listen to evidence. So, we'd appreciate it if you'd direct your comments to the Board and the Board will decide.

KENNETH OSBORNE: T-37 started out with a T-37 unit. Before it went into the gob unit and what they're trying to disburse on now, T-37 went...I don't have an exact list of what is there now but there's a T-37, A, B, C, D. As the months went by T-37 ceased to produce. T-37A, T-37B

produced. A few months went by it ceased to produce with C, D...within all these wells. These A, B, C, D wells come into play and the original wells ceased to produce. So, where is that money? What account is that money in? These disbursements they're trying to disburse out, how can anybody say this is the right amount that's due these people when you've got A, B, C, D, E wells that shut off at any given time, other wells start producing which reduces the percentage of everybody in this gob well. When this gob well came us is what we discussed but back to like Mr. Swartz said we're not talking about a gob well we're talking about right now T-37. And I feel that there shouldn't be any more disbursements until all the paperwork and everything is correct to where everybody can understand.

BUTCH LAMBERT: For T-37, not the gob unit, what paperwork do you say is not correct?

KENNETH OSBORNE: What I'm saying is, they're trying...they want to disburse on T-37, but you've got T-37A, B, C, D, E wells, where is the paper trail for the monies that should be deposited in the A, B, C, D, E well. What percent goes out to these people getting disbursements? What percent does that leave in these accounts? I think you're like me, you don't have an answer. I don't have an answer and---

BUTCH LAMBERT: I'm still trying to get an answer from you on what paperwork is incorrect. I hear you saying that there's other wells that you don't think are included in the disbursement. Is there somet...any more than that...any other information you say is not correct?

KENNETH OSBORNE: As far as the wells?

BUTCH LAMBERT: Yes. You say that they're not included in the disbursement T-37A, B, C, D, E.

KENNETH OSBORNE: No, I'm asking how do you... they've got...they're going to disburse amounts of monies to these people. Where is their paperwork? What's their...what is their paper trail to show what amount of money these people are entitled to?

BUTCH LAMBERT: So, you're not saying anything is incorrect, you're just looking for additional information?

KENNETH OSBORNE: As far as this T-37, yes. And I'm asking no more disbursements be made until everybody is clear on this.

MARK SWARTZ: Well, there's an Exhibit E on the table today which is derived from the original pooling application which sets forth a percentage for everyone. And those were the percentages that were used when this was created. There's never been an appeal as far as I know. Those are the percentages in this case. In Exhibit E, there

are specific references that we are not asking for a disbursement to certain people because they have disputed their split agreements. I mean, you know, the folks that are here complaining are in Exhibit E, their percentages are stated in Exhibit E and we've got..and we have honored their particular request that we not disburse funds to them or the people they allegedly entered into a split agreement with and we have honored those requests. So, I mean, I feel like we have provided a complete accounting as to the percentages and the reality is I don't think it is fair for people to come in and say do not pay people who have made split agreements who are not disputing those split agreements who want their money now. And essentially, what I'm hearing from these folks today is don't pay people who have acknowledged they have entered into a 50/50 split agreement who are not disputing anything with regard to their entitlement to money now as opposed to some undetermined date in the future. And, I guess, my view is from a fairness standpoint of Hurt McGuire and these eight oil and gas owners want to receive money pursuant to their split agreements today we should honor those requests. And the paperwork is complete, it has been complete since some time in 98 with regard to all of these percentages and I just don't buy into that it is not completely transparent as to who's got what percentage in

this unit and what percentages are being applied to make the disbursement.

BUTCH LAMBERT: Mr. Swartz, on our exhibit, we have...in Exhibit E, we have several names that are on our exhibit just highlighted grey.

MARK SWARTZ: Let's look at 1 of 4, do you have that one? Page 1 of 4 on E, do you have that one?

BUTCH LAMBERT: Yes.

MARK SWARTZ: If you took Patsy Moore, for example, I assume there is some kind of highlight there on her name.

BUTCH LAMBERT: There are, it's a grey highlight on there.

MARK SWARTZ: Okay, and after her name is distinguished from some earlier names you should see an additional sentence, "royalty split agreements have been executed but are in dispute royalties attributable to this interest are currently being escrowed". And you'll notice with regard to Patsy and a whole bunch of other folks that are listed in Exhibit E, they've disputed the split agreements and they are not included in the disbursement request. So, we're honoring the notice that we received that they claim their split agreement as not valid. That will give them an opportunity to duke it out with, I guess, Hurt McGuire or whomever they entered the agreement with.

RONNIE OSBORNE: Will you answer my question and I'll get out of the way? He...I heard him say that they sent these gob things to everybody that they had addresses. They got my address and I didn't get one.

BUTCH LAMBERT: Mr. Osborne, we're---

RONNIE OSBORNE: Well, I'm just---

BUTCH LAMBERT: We're not talking about---

RONNIE OSBORNE: ---trying to clarify that.

BUTCH LAMBERT: ---any gob unit. We're on one specific issue.

RONNIE OSBORNE: Well I heard him say that they mailed everybody that had an address. They got my address and they did not mail me one.

MARK SWARTZ: And I stand by what I said, it's a gob unit.

BUTCH LAMBERT: Mr. Osborne, are you asking this Board to not disburse to anybody out of this unit even though this Board has exhibits that shows of the people they won't disburse to because there's conflicts in a split agreement or disagreements in a split agreement but we do have information from other folks who are requesting to be disbursed? So, you're asking this Board not to disburse to those people as well? Those people are asking...have come forward and asked us to disburse their money to them.

KENNETH OSBORNE: I'm asking the Board to do their job. I'm asking the Board to make sure these figures are right, the paperwork is right and the people is getting the proper amount of disbursement, other than what somebody turned in for figures.

BUTCH LAMBERT: Well, we can have and...Mr. Asbury does check those figures. But, again, I ask you the question, are you asking this Board not to disburse to those people that have requested us to disburse to?

KENNETH OSBORNE: I'm asking the Board to do their job.

BUTCH LAMBERT: Okay.

KENNETH OSBORNE: And I'm also...one other thing, Mr. Swartz, with all due respect, I know this is not the issue right now, but I'm going to bring it up and I'm going to continue and if you don't mind, this is from the gob unit, we're not just talking about the gob unit but just the identification here it states 26A, Hurt McGuire land trust from W. P. Stilwell 143.6 acre tract coal...Consolidated Coal Company below drainage coal least, AT Massey above drainage coal lease, CNX Gas Company LLC cbm lease, Linkous Horn heirs all minerals except coal. I see nowhere in there where it says Hurt McGuire coal and minerals. I'm still trying to find the dispute between us and Hurt McGuire. I mean, this

is your alls research, this is your paperwork. It doesn't say anywhere in here that Hurt McGuire has a share to the coalbed methane gas, gas or oil.

MARK SWARTZ: Well, you need to look at the thing that we're here on because the tract identification to tract 1A lists Hurt McGuire, Consol, United Pocahontas Gas Partnership, Linkous Horn heirs oil and Gas and Beulah Osborne surface. I mean, the lineup of ownership interests in Tracts 1A, 1B, 1C, and 2 are provided within the map that the Board has today. We're not...and the problem is you're looking at a gob unit, which is going to have tracts and ID numbers that are completely---

KENNETH OSBORNE: I thought this was about a disbursement from a single well.

BUTCH LAMBERT: Mr. Osborne, please. I'm going to have to ask you again to refrain and address the Board.

KENNETH OSBORNE: I apologize, Chairman.

MARK SWARTZ: I think the four tracts that are in issue today potentially the ownership is identified in the tract IDs that were filed with this application.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Do I have a motion?

DONNIE RATLIFF: Motion to approve, Mr. Chairman.

BUTCH LAMBERT: Okay, do I have a second?

BILL HARRIS: What is the motion to---?

DONNIE RATLIFF: Disbursement.

BUTCH LAMBERT: Approve the disbursement.

BILL HARRIS: Except for the folks who have requested that it not be done, is that inherent in that motion?

DONNIE RATLIFF: The ones that's listed is those that's not in there have been withheld.

BUTCH LAMBERT: The ones that's listed under Exhibit E that's requesting not to be disbursed because of settlement issues.

BILL HARRIS: Okay, so those people are not included in the motion, right?

BUTCH LAMBERT: Right. That's right, yeah.

BILL HARRIS: Okay, I'll second the motion.

BUTCH LAMBERT: We have a motion and a second. Any further discussion?

(No audible response.)

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

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

BUTCH LAMBERT: Opposed, no.

KATIE DYE: Abstain.

BUTCH LAMBERT: One abstention, Ms. Dye. Thank you, Mr. Swartz.

MARK SWARTZ: Thank you.

BUTCH LAMBERT: The petition to disburse to those folks requesting disbursements is approved. The next item on the docket is item sixteen.

KENNETH OSBORNE: Mr. Chairman, to save a lot of time, these next three items are the same thing. I just want to know, am I going to be setting here beating a dead horse? If so, I'm not going to waste everybody's time especially mine.

BUTCH LAMBERT: I can't answer that Mr. Osborne. We have to go through the items and review the evidence we have in front of us.

KENNETH OSBORNE: Yes, sir. I apologize.

BUTCH LAMBERT: Item sixteen, a petition from CNX Gas Company LLC for disbursement of funds from escrow and authorization for direct payment of royalties for a portion of Tracts 2A, 2B, 3B and 3C, unit T-36, docket number VGOB-98-0324-0625-07. All parties wishing to testify please come forward.

MARK SWARTZ: Mark Swartz and Anita Duty.

KENNETH OSBORNE: Kenneth Osborne, Linkous Horn heir.

ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MARK SWARTZ:

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

A. Anita Duty.

Q. Who do you work for?

A. CNX Resources.

Q. Diane has passed out an Exhibit A for us today, correct, in this unit?

A. Yes.

Q. And have you highlighted in yellow marker the folks that are going to be if this is approved that would be receiving an escrow disbursement?

A. Yes.

Q. And everybody else's name on this Exhibit that is not highlighted in yellow is not being...is not...there's no request that they receive a disbursement, is that correct?

A. That's correct.

Q. Okay. This disbursement request, will it end the disbursement requirement for T-36?

A. No.

Q. And it won't end the disbursement requirement for the individual tracts either, will it?

A. 2B, it will.

Q. Okay. So, with regard to 2A, there will be a continuing requirement of the disbursement. 2B will pay out, correct?

A. Yes.

Q. 2...3B will not pay out completely?

A. Correct.

Q. And 3C will not pay out completely?

A. No. 3B and 3C are kind of combined.

Q. Okay. This Exhibit A that you've tendered to the Board today, was that done as of a date?

A. December 31, 2009.

Q. Okay. And to do the calculations or the percentages and the balances as of 12/31/09, did you compare the royalty payment records of your company with the escrow agents deposit records?

A. Yes.

Q. And when you did that did they....were they...did the escrow agent track every deposit it should have?

A. Yes, it did.

Q. Okay. So, you have no quarrel with their

numbers?

A. No.

Q. Have the people that are...that you are requesting dispute disbursements have they all entered into split agreements?

A. Yes.

Q. Have you seen those agreements?

A. Yes.

Q. Are they...with regard to these folks are they all 50/50 agreements?

A. Yes.

Q. When the disbursement is made, if the escrow agent were to make it, should the escrow agent use the percentages that are reported?

A. Yes.

Q. With regard to Tract 2A, who is the coal owner that would receive a disbursement?

A. Hurt McGuire Land Trust.

Q. What percentage should the escrow agent use when making this disbursement?

A. 5.6975%. No, wrong, 0.9496%.

Q. Okay. And what percentage should Daniel J. Osborne receive as an oil and gas claimant?

A. The same, 0.9496%.

Q. Okay. And everybody else that you've listed here that's kind of greyed out on the copies is not getting a disbursement?

A. Correct.

Q. So, they're going to get equal disbursements of .9496%?

A. Yes.

Q. Okay. With regard to Tract 2B, who's going to receive the coal disbursement?

A. Hurt McGuire Land Trust.

Q. And what percentage?

A. 2.6459%.

Q. And who's going to receive the oil and gas piece?

A. CNX Gas Company.

Q. And what percentage?

A. 2.6459%.

Q. Okay. And this is the one account that we'll zero out?

A. Yes.

Q. With regard to the second page then, we're talking about 3B and 3C, correct?

A. Yes.

Q. Have you combined those?

A. Yes.

Q. And the disbursement will again be partial?

A. Yes.

Q. And the coal disbursement will be to?

A. Hurt McGuire Land Trust.

Q. And in what percentage?

A. 0.7775%.

Q. And then the highlighted folks...I'm going to ask you to read their names so that there is no confusion here. The highlighted in yellow names that you're proposing to receive a disbursement here are what people?

A. Patricia Horton, Nellie Maynard, Danny Elder, Robert Elder, Joseph P. Horn, Nancy Ann Stilwell, Martha Smith and Sara Day.

Q. Okay. And opposite each one of those oil and gas owners have you set forth an individual percentage?

A. Yes.

Q. And if you total the individual percentages to the oil and gas owners, should they equal the .7775% that's going to Hurt McGuire?

A. Yes.

Q. And the remainder of these folks and their associated percentages and part of Hurt McGuire percentage is going to remain in escrow?

A. Yes.

Q. If and when these disbursements are made, are you asking for the right to pay the folks that are receiving these disbursements directly?

A. Yes.

Q. Do you have W-9s from all of the people you are seeking to disburse today?

A. I do.

Q. Are you seeking to disburse to anybody who has told you we don't think our disbursement agreement is valid?

A. No.

MARK SWARTZ: That's all I have.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Mr. Osborne?

KENNETH OSBORNE: Yes. Again, I object to any disbursements. I'm at a little bit of a disadvantage. I don't have a copy of the exhibits that just got passed out. I was wondering if I could look---

BUTCH LAMBERT: You can have mine, Mr. Osborne.

MARK SWARTZ: Actually, you can have mine.

BUTCH LAMBERT: I'll give you a time to review that if you'd like, Mr. Osborne.

RONNIE OSBORNE: While he's doing that, can I object again on this? Do I have to object on every one of these on my part?

BUTCH LAMBERT: That you don't want to disburse?

RONNIE OSBORNE: No, I don't want disbursed.

BUTCH LAMBERT: Okay, you're not included.

RONNIE OSBORNE: The reason I'm asking that, you know, I've showed you all little checks they sent me anyway and you all told them not to send, but they sent me little checks anyhow. You know, that's why I keep bringing stuff like this up. I thought it was supposed to go through you all before they disburse it, but I've got three or four checks right here with me I've showed you all little checks but they weren't supposed to disburse to start with but I get them anyway.

BUTCH LAMBERT: Well, thank you, Mr. Osborne, but you're not listed in this one and I appreciate your comments.

RONNIE OSBORNE: I mean, well what am I doing getting these checks?

BUTCH LAMBERT: Mr. Osborne, we need to stick to the docketed items.

RONNIE OSBORNE: I just want to object to any that I'm in on here. See what I'm afraid of is they've got them papers which I don't have either, what if they slip a check

to me in the mail and say well you all approved it and I don't know anything about it.

BUTCH LAMBERT: Your objection is so noted on the record.

RONNIE OSBORNE: I thank you.

KATIE DYE: Mr. Chairman, is it okay that we give Mr. Osborne a copy to he can see? It might get him to understand.

RONNIE OSBORNE: Thank you.

KENNETH OSBORNE: Mr. Chairman, on the Exhibit EE, Linkous Horn heirs, number 3 it has Henry Horn Heirs---

BUTCH LAMBERT: What page are you on?

KENNETH OSBORNE: I apologize. I'm on page 4 of 4. It has got Henry Horn heirs listed and it has got, I'm assuming, the names here are signatures of 50/50 split agreements. In particular, the Ivory Horn heirs, which is Patricia Horton, Dellie Maynard, Danny Elder and Robert Elder. That particular...this particular percentage doesn't reflect the entire percent that would have been for Henry Horn. Now, does that not change the outcome on the percentages of disbursement out to the other people?

BUTCH LAMBERT: I'll have to direct that question to Mr. Asbury. I'm not sure I follow.

DAVID ASBURY: I think, Mr. Osborne, that you're

asking the question there are others in the heirship and the people are being disbursed based on acreage in their ownership. And, again, it goes back to the acreage ownership and how much is in escrow and so much per acre. That identity acreage and payment per acre is not lost as disbursements are made. Those are the things that remain in escrow, the acreage and the payment per acre in escrow remains the same even though others have been disbursed. It appears that there are other heirs under Henry Horn and Ivory Horn. Ivory Horn is shown as C. So, she's at least one of three of the heirs. And she has what appears to be six siblings that have an heirship portion of acreage in this. So, there are others in her heirship as well as Henry Horn heirships.

KENNETH OSBORNE: But, again, doesn't that change the percentage? Not knowing...not having the paperwork and not knowing. Like you've got a percentage here listed for Patricia Horn 1.180 of 0.87 acres. Now, I know Henry Horn has one son living, which entitles him to whatever the share was for Henry Horn entitles him to half of that.

DAVID ASBURY: Correct.

KENNETH OSBORNE: So, now does that not change the percentage of these other...of these percentages that are projected out to be disbursed on today doesn't that change

the percentage of that?

DAVID ASBURY: As heirships change it does change the percentages of the decendants from the person who is deceased but the original pool of that deceased person remains in the escrow as being the same. It changes that. And, again, now legal title and heirships are real complicated, but the thing that remains the same here is on the top level of the family, the acres that were disbursed are the same for those individuals and---.

KENNETH OSBORNE: With incorrect information doesn't that equal incorrect amounts of disbursement? Mr. Chairman, that's the point I was trying to get across by making sure the paperwork was right amongst other things on these disbursements.

ANITA DUTY: Mr. Chairman?

BUTCH LAMBERT: Ms. Duty.

ANITA DUTY: If you take a combination of Exhibit E and EE that gives you the entire heirship. Not everybody... Tammy Boyd and Margaret Dye did not sign royalty split agreements so they're on the E. And that's the reason that C-3 and C-4 are missing off of the Exhibit EE. So, they're percentage is still accounted for in the account, that's the reason they are still on the E. Their percent to pay is different every time you come before the Board and we do a

payout because you're acreage decreases because you've paid it out but the interest remains the same.

DAVID ASBURY: Right. The things in escrow that gas owners have a full claim, you the gas owners know they own it, escrow knows they own it, is the acreage in escrow. That doesn't change. If it goes into escrow, it's the same acres as it comes out. That's what we try to make sure that it's the same acres. So, that gas acreage ownership by statute everybody owns a proportionate acreage share of a unit so we track the acreage. And as the heirships change and as the acreage is disbursed amongst the family then yes that percentage will change but that total acres won't change for that heirship.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Anything further, Mr. Swartz?

MR. SWARTZ: No.

BUTCH LAMBERT: Mr. Osborne, do you have anything further?

KENNETH OSBORNE: One moment, Mr. Chairman. I apologize.

BUTCH LAMBERT: Anything further, Mr. Osborne?

(No audible response.)

BUTCH LAMBERT: I'm going to call for a motion.

KENNETH OSBORNE: No, sir. Go ahead.

BUTCH LAMBERT: Do I have a motion?

DONNIE RATLIFF: Motion.

BILL HARRIS: Second.

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

(No audible response.)

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

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

BUTCH LAMBERT: Opposed, no.

KATIE DYE: Abstain.

BUTCH LAMBERT: One abstention, Mrs. Dye. The next item on the docket is docket item number seventeen. A petition from CNX Gas Company LLC for disbursement of funds from escrow and authorization of direct payment of royalties for a portion of Tracts 3 and 4 from unit S-36, docket number VGOB-98-0324-0626-06. All parties wishing to testify please come forward.

MARK SWARTZ: Mark Swartz and Anita Duty.

KENNETH OSBORNE: Kenneth Osborne.

BUTCH LAMBERT: You may proceed, Mr. Swartz.

ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MARK SWARTZ:

Q. Anita, you need to state your name for us again.

A. Anita Duty.

Q. Who do you work for?

A. CNX Land Resources.

Q. Have you provided the Board with an amended Exhibit EE?

A. I have.

Q. And does that indicate that we're missing one W-9 and have you extracted that person from the disbursement list?

A. Yes.

Q. Does it also make some changes and update addresses based on the W-9s you received?

A. Yes, it does.

Q. Okay. And should this be what the escrow...this revised Exhibit EE with the escrow agent and the Board uses to make the payments?

A. Yes.

Q. In terms of addresses?

A. Yes.

Q. Okay. With regard to this application concerning S-36, we're talking about two tracts?

A. Yes, 3 and 4.

Q. And it's a portion of each of them?

A. Yes.

Q. So, we're still going to have an escrow requirement for S-36 if this is approved?

A. Yes.

Q. Have you done an analysis of what you've paid into escrow and what the escrow agent reported they received?

A. I have.

Q. And did that agree?

A. It did.

Q. And is that of a date certain?

A. December 31, 2009.

Q. Have you identified on Exhibit A to the application, the well that's at issue here?

A. Yes, as 36.

Q. Okay. And was that frac production from that well?

A. It was.

Q. And have you identified on Exhibit A the people that are going to receive the partial disbursement of this account?

A. Yes.

Q. With regard to Tract 3, who is going to receive the coal piece?

A. Hurt McGuire Land Trust at 12.6885%.

Q. And have you identified the four oil and gas owners that are going to receive funds from Tract 3 as well?

A. Yes.

Q. And opposite each of those people, is there a percentage listed in the owner's percent of escrow at 50% column that the escrow agent should use to pay them?

A. Yes.

Q. Okay. And then with regard to Tract 4, who would receive the coal owner payment?

A. Hurt McGuire Land Trust.

Q. And what percentage should the escrow agent use?

A. 0.1591%.

Q. Okay. And have you identified the one oil and gas claimant in Tract 4 that's going to be receiving a payment?

A. Yes.

Q. And what percentage would he be receiving?

A. 0.1591%.

Q. After these disbursements are made, if this is approved, are you asking permission as operator to pay

these folks directly?

A. Yes.

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

BUTCH LAMBERT: Questions from members of the Board?

(No audible response.)

BUTCH LAMBERT: Mr. Osborne?

KENNETH OSBORNE: Again, I object to any disbursements.

BUTCH LAMBERT: Anything further, Mr. Swartz?

MARK SWARTZ: No.

BUTCH LAMBERT: Do I have a motion?

DONNIE RATLIFF: Motion to approve.

BILL HARRIS: Second.

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

(No audible response.)

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

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

BUTCH LAMBERT: Opposed, no.

KATIE DYE: Abstain.

BUTCH LAMBERT: One abstention, Mrs. Dye. Thank you, Mr. Swartz, approved. Next item on the docket is item

eighteen. A petition from CNX Gas Company, LLC for disbursement of funds from escrow and authorization for direct payment of royalties for a portion of Tracts 2 and 3, unit S-35, docket number VGOB-98-0915-0681-04. All parties wishing to testify please come forward.

MARK SWARTZ: Mark Swartz and Anita Duty.

KENNETH OSBORNE: Kenneth Osborne, Linkous Horn
heir.

BUTCH LAMBERT: You may proceed, Mr. Swartz.

ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MARK SWARTZ:

Q. Anita, state your name for us, please.

A. Anita Duty.

Q. Who do you work for?

A. CNX Land Resources.

Q. Have you provided the Board with a revised
Exhibit EE?

A. Yes.

Q. Have you indicated on that the name of a
person on the second page of four, Lois Casey, who has not
returned a W-9?

A. Yes.

Q. Have you extracted that person from the disbursement request?

A. Yes.

Q. Have you made some address changes to update addresses consistent with W-9s you've received from other people?

A. Yes.

Q. Did you do an analysis of the royalty paid into escrow and deposits recorded by the escrow agent with regard to S-35?

A. Yes.

Q. Did you do it as of 12/31/09?

A. I did.

Q. And when you compared your records to the escrow agents records did they agree?

A. They did.

Q. Are you asking to make a partial disbursement from S-35?

A. Yes.

Q. And a partial disbursement from Tracts 2 and 3?

A. Yes.

Q. So, the escrow account for the unit and for those tracts is going to remain intact afterwards?

A. Yes.

Q. Did these folks identified in Exhibit A did they sign split agreements?

A. Yes.

Q. Have you seen those agreements?

A. Yes.

Q. Are they 50/50 agreements?

A. Yes.

Q. Who is proposed to receive the coal piece of the disbursement from Tract 2?

A. Hurt McGuire Land Trust.

Q. And what percentage should the escrow agent use to make that disbursement to Hurt McGuire out of Tract 2?

A. 2.9473%.

Q. And there's one oil and gas person listed in Tract 2 to receive a disbursement?

A. Theodore Stilwell.

Q. And he would get the same percent as Hurt McGuire?

A. Yes.

Q. Then in Tract 3, who would receive the coal piece?

A. Hurt McGuire Land Trust.

Q. In what percent?

A. 11.1793%.

Q. And then there are four folks, oil and gas folks, listed in with regard to Tract 3 that are proposed to receive disbursements, correct?

A. Yes.

Q. And opposite each name there's a percentage that the escrow agent should use?

A. Yes.

Q. And if you added those four percentages together would it equal the Hurt McGuire percentage?

A. It would.

Q. Okay. After the disbursements are made are you requesting the ability to pay these folks listed on Exhibit A directly rather than escrowing these funds?

A. Yes.

Q. The wells that produced to create escrowed funds that are being disbursed were which wells?

A. S-35A and S-35B.

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

BUTCH LAMBERT: Questions from members of the Board?

(No audible response.)

BUTCH LAMBERT: Mr. Osborne?

KENNETH OSBORNE: Mr. Chairman, again I'd object to any disbursements.

BUTCH LAMBERT: Anything further, Mr. Swartz?

MARK SWARTZ: No.

BUTCH LAMBERT: Do I have a motion?

DONNIE RATLIFF: Motion to approve.

BILL HARRIS: Second.

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

(No audible response.)

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

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

BUTCH LAMBERT: Opposed, no.

KATIE DYE: Abstain.

BUTCH LAMBERT: One abstention, Mrs. Dye. Thank you, Mr. Swartz. It's approved.

MARK SWARTZ: Thank you.

BUTCH LAMBERT: The next item on the docket is item nineteen. That's a petition from CNX Gas Company LLC for disbursement of funds from escrow and authorization for direct payment of royalties for Tracts 3A, 3B, 3C and 3E and unit V-37, docket number VGOB-98-0324-0639-01. All parties wishing to testify please come forward.

MARK SWARTZ: Mark Swartz and Anita Duty.

KENNETH OSBORNE: Mr. Chairman, I apologize, but

item nineteen?

BUTCH LAMBERT: Yes, sir.

MARK SWARTZ: Mr. Glubiack had an issue which he mentioned with regard to, if you'll look at exhibit A, Mack Osborne on this. I'm not sure he needs to come up. I think if you can just remember that.

BUTCH LAMBERT: Yeah, just to get it into record.

PETER GLUBIACK: Mr. Chairman, Peter Glubiack and Mr. Mack Osborne. Pursuant to our earlier discussions on item number thirteen, Mr. Osborne raises the same objections. We're talking about unit V-37. We would ask the Board...we have no issues or any involvement with the other tracts but specifically Tract 3A, we'd ask that that not be disbursed pursuant to the same discussions we had earlier.

BUTCH LAMBERT: Okay. Noted, Mr. Glubiack. Thank you. You may continue Mr. Swartz.

MARK SWARTZ: Thank you.

ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MARK SWARTZ:

Q. Anita, you need to state your name for us again.

A. Anita Duty.

Q. Who do you work for?

A. CNX Land Resources.

Q. Okay. Did you do an Exhibit A account...
escrow account analysis to make these disbursements?

A. Yes.

Q. Did you do that analysis as of 12/31/09?

A. I did.

Q. Did you compare the royalty payment records
of your employer with the deposit records of the escrow
agents?

A. Yes, and they were in balance.

Q. Do you understand that Mr. Mack Osborne is
telling the Board today he doesn't want to receive a
disbursement?

A. Yes.

Q. And we don't have a problem with that choice
that he's making?

A. Right.

Q. Okay. So with regard to 3A...tract 3A, just
so the Board is clear, apparently there's a request that
we're not objecting to the withdraw...extract that piece of
this. So, we're going to be talking about only three tract
then, right, Anita?

A. Yes.

Q. What are they?

A. 3B, 3C and 3E.

Q. And when the disbursements are made from those three tracts, it looks like the tract escrow requirement goes away for all three of them?

A. Yes, it does.

Q. But, obviously, they'll continue to be an escrow requirement for B-37 because of 3A and perhaps other tracts?

A. Yes.

Q. Okay. With regard to 3B, who are the folks that will be receiving the disbursements?

A. Hurt McGuire is the coal owner and CNX Gas Company is oil and gas owner.

Q. And they would each...the escrow agent should use what percentage for making those disbursements?

A. 11.0306%.

Q. For each?

A. For each.

Q. With regard to Tract 3C, who would receive the funds?

A. Hurt McGuire and CNX Gas.

Q. And what percentage should the escrow agent use to make those disbursements?

A. 0.8857% each.

Q. And, lastly, with regard to Tract 3E, who gets the money?

A. Hurt McGuire and Hubert Osborne.

Q. And what percentages?

A. 14.1707% each.

Q. And have these people entered into split agreements?

A. Yes.

Q. Have you seen those agreements?

A. Yes.

Q. Have you verified that they are 50/50 agreements?

A. Yes.

Q. And are you requesting that if this application is approved and an order entered in that regard that after that happens that the operator be allowed to pay the folks listed on the escrow calculation in Tracts 3B, 3C, and 3E directly rather than continuing to escrow their funds?

A. Yes.

Q. And the wells that have production in escrow that's subjected to this disbursement request are which wells?

A. V-37, V-37A and V-37B.

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

PETER GLUBIACK: Mr. Chairman, if I may. This is a point of content or I'd like to get information on.

CROSS EXAMINATION

QUESTIONS BY PETER GLUBIACK:

Q. Ms. Duty, could you indicate to me, you know, you've indicated there was a split agreement between Hurt McGuire, I assume the trust and CNX, who was the actual...and you said they could be paid directly pursuant to the split agreement, who was the actual payee under the terms of the agreement for Hurt McGuire?

A. Charles Green.

Q. I'm sorry?

A. Charles Green.

Q. Charles Green, at his address in Bluefield?

A. Yes.

Q. Okay. Thank you very much. As a trustee?

A. Yes.

Q. And that is the only payee pursuant to your agreement? In other words, you're not paying anybody else, you're paying Hurt McGuire's share to Mr. Green as Trustee of the Hurt McGuire trust?

A. Yes, not the individual heirs.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Anything further, Mr. Swartz?

MARK SWARTZ: Nothing further.

PETER GLUBIACK: Nothing further. Thank you, sir.

BUTCH LAMBERT: Do I have a motion?

DONNIE RATLIFF: I'll make a motion, Mr. Chairman, that we pull out 3A and that we approve for disbursement 3B, 3C and 3E.

BILL HARRIS: I'll second that.

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

(No audible response.)

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

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

BUTCH LAMBERT: Opposed, no.

KATIE DYE: I'll abstain.

BUTCH LAMBERT: One abstention, Mrs. Dye. Thank you Mr. Swartz. It's approved.

MARK SWARTZ: Thank you.

BUTCH LAMBERT: The next item on the docket is item twenty. A petition from CNX Gas Company, LLC for disbursement of funds from escrow and authorization of direct

payment of royalties for Tract 2, unit T-35, docket number VGOB-98-0421-0695-03. All parties wishing to testify please come forward.

MARK SWARTZ: Mark Swartz and Anita Duty.

BUTCH LAMBERT: You may proceed, Mr. Swartz.

ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MARK SWARTZ:

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

A. Anita Duty.

Q. Who do you work for?

A. CNX Land Resources.

Q. Did you do an escrow analysis that you've entitled Exhibit A that's attached to this application?

A. Yes.

Q. And did you do that as of a date ascertain?

A. Yes.

Q. What was the date?

A. December 31, 2009.

Q. Okay. Have you provided the Board with a slightly modified Exhibit EE?

A. Yes.

Q. And does it show on page two that Lois Casey is not going to receive a disbursement because you don't have a W-9 from her?

A. That's correct.

Q. And has it also made some address changes and corrections based on W-9s that you received for other people?

A. Yes.

Q. Getting back to the escrow calculation, did you compare the royalty payments that your employer made to the escrow payment?

A. Yes.

Q. With the escrow agents deposit records?

A. I did.

Q. Okay. And when you did that what did you find?

A. They were in balance.

Q. Okay. Is this...it says so, but just to confirm, this is for a...this would be to disburse only a portion of Tract 2?

A. Yes.

Q. So, we'd still have an escrow requirement for Tract 2 and obviously for T-35?

A. Yes.

Q. Have you identified the folks that are going to receive the proposed disbursement on Exhibit A?

A. Yes.

Q. The coal party would be whom?

A. Hurt McGuire Land Trust.

Q. And what percentage should the escrow agent use to make the disbursement to Hurt McGuire?

A. 37.5%.

Q. And then you've identified seven oil and gas heirs, correct?

A. Yes.

Q. And have you opposite each of their names set forth a percentage the escrow agent should use to make a disbursement to them?

A. Yes.

Q. And if we add the oil and gas disbursements up are we going to get 37.5?

A. You will.

Q. The same as the coal?

A. Yes.

Q. Are you requesting that the operator be allowed to pay these folks listed on Exhibit A directly if the disbursements are approved rather than paying into escrow?

A. Yes.

Q. What wells are production is captured in this escrow account?

A. T-35A, T-35B, T-35C and T35D.

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

ANITA DUTY: David had requested that I date the VGOB number. I have the....it was 98, its acutally 1020 0695. So, if everybody wants a copy or do you just want me to give one to David? I have copies.

BUTCH LAMBERT: If you have copies we would like to have copies as well.

MARK SWARTZ: Anything else, Anita?

ANITA DUTY: No, that's all. Sorry.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

DAVID ASBURY: Mr. Chairman?

BUTCH LAMBERT: Mr. Asbury?

DAVID ASBURY: I wanted to remind the Board that on one of these disbursements the Board heard testimony about a correction for Arthur Stilwell and a disbursement. There was an overpayment in 2006 for Mr. Stilwell. He is part of this disbursement and he still has monies to be recovered. We have met with Mr. Stilwell and he's agreed to allow the disbursements to be recovered for the overpayment in 2006.

So, this will actually...his portion will be transferred to cover the remain...part of the remaining portion of his overpayment.

BUTCH LAMBERT: Some missing money, huh?

DAVID ASBURY: Yeah.

MARK SWARTZ: We are going to go back into escrow in that account that it came out of right?

DAVID ASBURY: It will go back into an escrow account.

BUTCH LAMBERT: Back into escrow.

MARK SWARTZ: Into a different---.

ANITA DUTY: Sub-account.

MARK SWARTZ: Right.

DAVID ASBURY: And we're continuing to run the balance with interest on a monthly basis just to make sure that the escrow account is fully reimbursed from his disbursements and other monies.

BUTCH LAMBERT: Questions from members of the---?

DONNIE RATLIFF: Mr. Chairman, I count 12 wells on the plat.

ANITA DUTY: This is in the sealed gob area.

DONNIE RATLIFF: Okay. All right.

ANITA DUTY: All these units are right together.

BUTCH LAMBERT: Any further questions?

(No audible response.)

BUTCH LAMBERT: Do I have a motion?

DONNIE RATLIFF: Motion to approve, Mr. Chairman.

BILL HARRIS: Second.

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

(No audible response.)

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

(All members signify by saying yes.)

BUTCH LAMBERT: Opposed, no.

KATIE DYE: Abstain.

BUTCH LAMBERT: One abstention, Ms. Dye. Thank you Mr. Swartz. It's approved.

MARK SWARTZ: If you don't mind, I'm going to let Mr. Kaiser go with his piece of the docket so that...unless you're breaking for lunch then I guess it doesn't matter. It's...I didn't realize until Sunday night, like about 7:00 o'clock, that the time had changed. And, I guess, I'm just, you know, and so I looked at my watch and its telling me it's seven minutes till eleven. So, I wasn't concerned at all. I guess maybe if Mr. Kaiser can finish in seven minutes then---

BUTCH LAMBERT: Did you just have the one, Mr.

Kaiser?

JIM KAISER: No, I've got about seven.

BUTCH LAMBERT: Are you relinquishing your time to Mr. Kaiser?

JIM KAISER: Well, it's my turn anyway. He's being nice but it's back to me anyway.

MARK SWARTZ: No good deed goes unpunished. He can pick up with his docket. That's fine with me.

BUTCH LAMBERT: Oh, that's what we intended to do is go ahead.

SHARON PIGEON: But thank you.

BUTCH LAMBERT: Thank you, Mr. Swartz.

JIM KAISER: That's very nice of you, Mark.

MARK SWARTZ: Hey, I'm always trying to be helpful.

BUTCH LAMBERT: Let's see if we can get in one more before lunch. The next item on the docket is item four. A petition from EQT Production Company for pooling of coalbed methane unit VC-53641, docket number VGOB-10-0316-2678. All parties wishing to testify please come forward.

JIM KAISER: Mr. Chairman, Jim Kaiser and Jon York and Chris Hintie on behalf of EQT Production.

(Chris Hintie is duly sworn.)

JIM KAISER: Mr. York is going to pass out some revised exhibits that reflect some new leases we've picked up

since the time that the application was filed. If you all...I don't care if you all eat while I do this. I really need to go.

BUTCH LAMBERT: You may proceed any time you're ready, Mr. Kaiser.

JONATHAN YORK

DIRECT EXAMINATION

QUESTIONS BY JIM KAISER:

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

A. My name is Jonathan York. I work for EQT Corporation, landman two.

Q. And do your responsibilities include the land involved in this unit and in the surrounding area?

A. Yes.

Q. Now, you are familiar with the application we've filed seeking to pool any unleased interests within this unit, which was dated February 12, 2010?

A. Yes.

Q. Now, does Equitable own drilling rights in the unit involved here?

A. Yes.

Q. And prior to the filing of the application

did you attempt to locate each of the respondents in an attempt to work out a voluntary lease agreement with each?

A. Yes.

Q. And after we filed the application, you obviously as you are required under your due diligence requirement, you continued to attempt lease any of these unleased parties and you have been successful in obtaining some new leases so that's why we have a new set of exhibits that you've just passed out to the Board. Could you go ahead and go through the new exhibits and explain what's changed?

A. Yes, I can. If you'll look at the exhibits, everything that's highlighted in yellow are the things that's changed since we applied. As you can see on Tract 2, we've leased Catherine Ball, Linda Griffith, Mike Ball, Moses Ball, Tammy Peock, and in Tract 3, Linda Griffith we leased her in that tract as well.

Q. Okay. And so our B-2 will reflect all those new leases that were picked up and those parties are dismissed as parties to this application, correct?

A. Yes.

Q. And then what remains unleased is on Exhibit B-3?

A. Correct.

Q. The revised Exhibit B-3. And that is just

an interest in Tract 2 that is attributable to the unknown heirs of Lovis Ball Brown, is that correct?

A. Yes.

Q. Okay. So, at this time, the percentage of the gas estate that is under lease to EQT Production within this unit is 99.16857143?

A. Yes.

Q. And what percentage of the coal estate is under lease to EQT?

A. 100%.

Q. As we stated, the unleased parties are set out in revised Exhibit B-3, so that means the only percentage of the gas estate that is unleased at this time is 0.83142857?

A. Yes.

Q. Okay. And we do have the unknown interest in Tract 2. Is it your testimony that reasonable and diligent efforts were made and sources checked to identify and locate these unknown owners?

A. It was.

Q. In your professional opinion, was due diligence exercised to locate each of the respondents named in revised Exhibit B?

A. Yes.

Q. Are you requesting this Board to force pool all unleased interests listed in revised Exhibit B-3?

A. Yes.

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

A. Yes.

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

A. Twenty-five per acre paid up lease and five year term.

Q. And what's the royalty?

A. One-eighth royalty.

Q. And in your opinion do the terms you just testified to represent fair market value of and fair and reasonable compensation to be paid for drilling rights within this unit?

A. Yes.

Q. Now, as to the one unknown unleased interest in Tract 2 of the unit, do you agree that should we ever locate them that they be allowed the following statutory options with respect to their ownership interest within the unit: 1) Direct participation; 2) a cash bonus of twenty-five dollars per net mineral acre plus a one-eighth of eight-

eighths royalty; or 3) in lieu of a cash bonus and one-eighth of eight-eighths royalty share in the operation of the well on a carried basis as a carried operator under the following conditions: Such carried operator shall be entitled to the share of production from the tracts pooled accruing to his or her interest exclusive of any royalty or overriding royalty reserved in any leases, assignments thereof or agreements relating thereto of such tracts, but only after the proceeds applicable to his or her share equal, A) 300% of the share of such costs applicable to the interest of the carried operator of a leased tract or portion thereof; or B) 200% of the share of such costs applicable to the interest of a carried operator of an unleased tract or portion thereof?

A. Yes.

Q. Do you recommend that the order provide that elections by respondents be in writing and sent to the applicant at EQT Production Company, EQT Plaza, 17th Floor, 625 Liberty Avenue, Pittsburgh, Pennsylvania 15222.

A. Yes.

Q. Okay. Do you recommend that the order provide that if no written election is properly made by a respondent, then such respondent should be deemed to have elected the cash royalty option lieu of any participation?

A. Yes.

Q. Should the unleased respondents be given 30 days from the date that they receive the recorded Board order to file their written elections?

A. Yes, they should.

Q. If an unleased respondent elects to participate, should they be given 45 days to pay their proportionate share of actual well costs?

A. Yes.

Q. Should the applicant be allowed a 120 days following the recordation date of the Board order and thereafter annually on that date until production is achieved, to pay or tender any cash bonus or delay rental becoming due under the force pooling order?

A. Yes.

Q. Do you recommend that the order provide that if a respondent elects to participate, but fails to pay their proportionate share of actual well costs then that election to participate should be treated as having been withdrawn and void?

A. Yes.

Q. Do you recommend that the order provide that where a respondent elects to participate but defaults in regard to the payment of actual well costs any cash sum becoming payable to that respondent be paid by the applicant

within 60 days after the last date on which that respondent could have paid their costs?

A. Yes.

Q. In this particular unit, the Board does need to establish an escrow account for portions of Tract 2 and 3?

A. Yes.

Q. Some of the interest in those tracts have signed royalty split agreements as evidence by E and some haven't. So, you'll see that in order to help set up the escrow account for those tracts. And who should be named operator and owner under any force pooling order?

A. EQT Production Company.

JIM KAISER: That's all I have for this witness at this time, Mr. Chairman.

BUTCH LAMBERT: Questions from the Board?

KATIE DYE: I have a...excuse me, I have a question, Mr. Chairman.

BUTCH LAMBERT: Ms. Dye.

KATIE DYE: In looking at the language here, this is a coalbed methane well unit, right?

JIM KAISER: Uh-huh.

KATIE DYE: But our application says for the drilling development production of oil, gas and coalbed methane?

JIM KAISER: Everyone, every application we file says that.

KATIE DYE: So, does that...could you construe this to mean that it also gives you the right to develop conventional gas?

JIM KAISER: No, I don't think so.

KATIE DYE: Should the application then just not say coalbed methane?

JIM KAISER: Um---.

KATIE DYE: I think we heard some testimony at some point before the Board before about this language.

JIM KAISER: I mean, if it's a big deal to you we can take it out again. We can't drill the well until we get a permit and the permit will be for a coalbed methane well.

KATIE DYE: Well, I think it could be somewhat misleading to people the way that it's stated. And I apologize I'm having a hard time talking.

JIM KAISER: Yeah, that's fine. I mean, we can start and take it...I will be glad to take that language out of paragraph two if that bothers you going forward.

KATIE DYE: Thank you.

BUTCH LAMBERT: Any further questions?

(No audible response.)

BUTCH LAMBERT: Anything further?

JIM KAISER: Not of this witness.

BUTCH LAMBERT: You may proceed.

CHRIS HINTIE

DIRECT EXAMINATION

QUESTIONS BY JIM KAISER:

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

A. Chris Hintie, EQT Productions. I'm the regional drilling manager.

Q. And what's the total depth of this proposed well under the plan of development?

A. 2,684 feet.

Q. Estimated reserves over the life of the unit?

A. 330 million cubic feet.

Q. Has an AFE been reviewed, signed and submitted to the Board?

A. Yes.

Q. In your opinion, does it represent a reasonable estimate of well costs of this proposed well?

A. Yes.

Q. Could you state both the dry hole costs and completed well costs for this well?

A. Dry hole costs \$201,082 and completed well

costs are \$503,884.

Q. Do these costs anticipate a multiple completion?

A. Yes.

Q Does your AFE include a reasonable charge for supervision?

A. Yes.

Q. In your professional opinion, would the granting of this application be in the best interest of conservation, prevention of waste, protection of correlative rights?

A. Yes.

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

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Anything further, Mr. Kaiser?

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

BUTCH LAMBERT: Do I have a motion?

KATIE DYE: Motion to approve.

PEGGY BARBER: Second.

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

(No audible response.)

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

(All members signify by saying yes, but Donnie Ratliff.)

BUTCH LAMBERT: Opposed, no.

DONNIE RATLIFF: I'll abstain, Mr. Chairman.

BUTCH LAMBERT: One abstention, Mr. Ratliff. Thank you Mr. Kaiser. It's approved. We are going to adjourn until 1:00 o'clock.

JIM KAISER: If it will help you any I do have a little housekeeping. We are going to ask that item number eleven be continued until the May docket.

(Break.)

BUTCH LAMBERT: Okay. Ladies and Gentlemen, it's time to resume these proceedings. I'd like to take a moment to remind everyone that these are administrative proceedings and I am going to remind you again that I would like for you to pay particular attention to the noise that you're making during these proceedings, talking and going in and out and slamming the doors. We just can't have that in recorded proceedings so that we can hear and our person transcribing the notes can hear what's on the recording. I'm going to ask you one more time to please keep the noise down. Thank you.

The next item on the docket is item number five. A petition from EQT Production Company for pooling of coalbed methane unit VCI-531472, docket Number VGOB-10-0316-2679. All parties wishing to testify please come forward.

JIM KAISER: Mr. Chairman, Jim Kaiser, Jon York and Chris Hintie for EQT Productions.

BUTCH LAMBERT: You may proceed, Mr. Kaiser.

JONATHAN YORK

DIRECT EXAMINATION

QUESTIONS BY JIM KAISER:

Q. Mr. York, do your responsibilities include the land involved in this unit and in the surrounding area?

A. Yes.

Q. Are you familiar with the application we've filed seeking to pool any unleased interests within this unit, which was dated February 12, 2010?

A. Yes.

Q. Now, does EQT own drilling rights in the unit involved here?

A. Yes.

Q. And prior to filing of the application, were efforts made to locate each of the respondents in an attempt to work out a voluntary lease agreement with each?

A. Yes, they were.

Q. What's the percentage under lease to EQT in the gas estate in the unit?

A. 70.95%.

Q. And the coal estate?

A. 100%.

Q. Are all unleased parties set out at Exhibit B-3?

A. Yes.

Q. So, that means 29.045% of the gas estate remains unleased?

A. Correct.

Q. And that is represented by Tract 1 which is Yellow Poplar and Gally Friend?

A. Correct.

Q. And have you made reasonable and diligent efforts to attempt to identify and locate them?

A. Yes.

Q. And in your professional opinion, has due diligence been exercised to locate each of the respondents named in Exhibit B?

A. Yes.

Q. Are you requesting this Board force pool all unleased interests listed at Exhibit B-3?

A. Yes.

Q. Are you familiar with the fair market value of drilling rights in the unit here and in the surrounding area?

A. Yes.

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

A. Twenty-five dollars per acre paid up lease, five year term and a one-eighth royalty.

Q. And in your opinion, do the terms you've testified to represent fair market value of and fair and reasonable compensation to be paid for drilling rights within this unit?

A. Yes.

JIM KAISER: At this time, Mr. Chairman, I'd ask the Board consider incorporating the testimony taken earlier this morning in docket number 2678 regarding the statutory election options afforded any unleased parties and the ramifications thereof.

BUTCH LAMBERT: Accepted.

Q. Mr. York, the Board does need to establish an escrow account for this unit?

A. Yes.

Q. In fact, the entire unit needs to be

escrowed, correct?

A. Correct.

Q. So, that would be Tracts 1, 2 and 3?

A. Correct.

Q. And who should be named operator under any force pooling order?

A. EQT Production Company.

JIM KAISER: That's all I have for this witness at this time, Mr. Chairman.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: You may continue, Mr. Kaiser.

CHRIS HINTIE

DIRECT EXAMINATION

QUESTIONS BY JIM KAISER:

Q. Mr. Hintie, what's the total depth of this proposed well?

A. 1,798 feet.

Q. Estimated reserves over the life of the unit?

A. 240 million cubic feet.

Q. Has an AFE been reviewed, signed and submitted to the Board?

A. Yes.

Q. In your opinion, does it represent a reasonable estimate of well costs?

A. Yes.

Q. Could you state both the dry hole costs and completed well costs for this well?

A. Dry hole costs \$171,674. Completed well costs are \$356,100.

Q. Do these costs anticipate a multiple completion?

A. Yes.

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

A. Yes.

Q. In your professional opinion, would the granting of this application be in the best interest of conservation, prevention of waste and protection of correlative rights?

A. Yes.

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

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Anything further, Mr. Kaiser?

JIM KAISER: We'd ask that the application be approved as submitted.

BUTCH LAMBERT: Do I have a motion?

KATIE DYE: Motion to approve.

PEGGY BARBER: Second.

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

(No audible response.)

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

(All members signify by saying yes, but Donnie Ratliff.)

BUTCH LAMBERT: Opposed, no.

DONNIE RATLIFF: Abstain, Mr. Chairman.

BUTCH LAMBERT: Thank you, Mr. Kaiser. It's approved. The next item on the agenda is item number six. A petition from EQT Production Company for pooling of coalbed methane unit VC-536201, docket number VGOB-10-0316-2680. All parties wishing to testify please come forward.

JIM KAISER: Again, Mr. Chairman, Jim Kaiser, Jon York and Chris Hintie for EQT Production. We've got some revised exhibits to pass out.

JONATHAN YORK

DIRECT EXAMINATION

QUESTIONS BY JIM KAISER:

Q. Mr. York, before we start on your standard testimony can you explain why we have revised exhibits?

A. Yes. This is like in the case of 6451 that we heard previously. We have leased some parties after we applied for application...applied for force pooling. Again in 6201, Tract 3, we have leased Catherine Ball, Linda Griffith, Mike Ball, Moses Ball, Tammy Peock, and additionally in unit 6201, we have leased Richard Wilson, David Wilson, Dexter Wilson, Linda Harris and Anita Owens.

Q. Okay. Does EQT own drilling rights in the unit involved here?

A. Yes.

Q. And after these additional leases have been picked up the percentage of the gas estate that's under lease to EQT is 95.72285714%, is that correct?

A. Correct.

Q. And 100% of the coal estate is under lease?

A. Yes.

Q. Are all unleased parties set out at revised Exhibit B-3?

A. Yes.

Q. And do our revised exhibits included a B-2

dismissing those parties that you've picked up---?

A. The do.

Q. ---since the time of the filing of the force pooling application?

A. Yes.

Q. So, that means at this time, 4.27714286% of the gas estate remains unleased?

A. Yes.

Q. And, again, we do have the unknown unlocateable heirs of Lovis Ball Brown, which I believe are in Tract 3?

A. Yes, Tract 3.

Q. And were reasonable and diligent efforts to contact and locate them?

A. Yes.

Q. And in your professional opinion, has due diligence been exercised to locate each of the respondents named in Exhibit B?

A. Yes.

Q. Are you requesting this Board force pool all unleased interests listed at revised Exhibit B-3?

A. Yes.

Q. Again, are you familiar with the fair market value of drilling rights in the unit here and in the

surrounding area?

A. Yes, twenty-five dollars an acre paid up for five years and a one-eighth royalty.

Q. And in your opinion, do the terms you've testified to represent fair market value of and fair and reasonable compensation to be paid for drilling rights within this unit?

A. Yes.

JIM KAISER: Mr. Chairman, again, I'd ask that we incorporate the statutory election option testimony taken earlier this morning in docket number 2678.

BUTCH LAMBERT: Accepted.

Q. For this unit, the Board does need to establish an escrow account, is that correct?

A. Yes.

Q. And it would include parts of Tract 3 that are not subjected to a royalty split agreement and then Tracts 4 and 5?

A. Correct.

Q. And who should be named operator under any force pooling order?

A. EQT Production Company.

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

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: You may continue, Mr. Kaiser.

CHRIS HINTIE

DIRECT EXAMINATION

QUESTIONS BY JIM KAISER:

Q. Mr. Hintie, what's the total depth of this proposed well?

A. 2,905 feet.

Q. Estimated reserves over the life of the unit?

A. 320 million cubic feet.

Q. Has an AFE been reviewed, signed and submitted to the Board as Exhibit C?

A. Yes.

Q. In your opinion, does it represent a reasonable estimate of well costs?

A. Yes.

Q. Could you state both the dry hole costs and completed well costs for this well?

A. Dry hole costs \$145,744. Completed well costs are \$395,169.

Q. Do these costs anticipate a multiple

completion?

A. Yes.

Q Does your AFE include a reasonable charge for supervision?

A. Yes.

Q. In your professional opinion, would the granting of this application be in the best interest of conservation, prevention of waste and protection of correlative rights?

A. Yes.

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

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Anything further, Mr. Kaiser?

JIM KAISER: We'd ask that the application be approved as submitted with the revised exhibits reflecting the additional leases.

BUTCH LAMBERT: Do I have a motion?

PEGGY BARBER: Motion to approve.

BILL HARRIS: Second.

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

(No audible response.)

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

(All members signify by saying yes, but Donnie Ratliff.)

BUTCH LAMBERT: Opposed, no.

DONNIE RATLIFF: Abstain, Mr. Chairman.

BUTCH LAMBERT: One abstention, Mr. Ratliff. Thank you, Mr. Kaiser. It's approved.

JIM KAISER: Thank you.

BUTCH LAMBERT: The next item is item seven on the docket. A petition from EQT Production Company for pooling of coalbed methane unit VCI-539487, docket number VGOB-10-0316-2681. All parties wishing to testify please come forward.

JIM KAISER: Jim Kaiser, Jon York and Chris Hintie.

BUTCH LAMBERT: You may proceed, Mr. Kaiser.

JONATHAN YORK

DIRECT EXAMINATION

QUESTIONS BY JIM KAISER:

Q. Mr. York, do your responsibilities include the land involved with this unit and in the surrounding area?

A. Yes.

Q. Does EQT own drilling rights in the unit involved here?

A. Yes.

Q. And prior to filing of the application, were efforts made to contact each of the respondents and an attempt made to work out a voluntary lease agreement with each?

A. Yes.

Q. And what is the percentage of the gas estate that's under lease to EQT in this unit?

A. 0%.

Q. And the percentage of the coal estate?

A. 100%.

Q. Are all unleased parties set out at Exhibit B-3?

A. Yes.

Q. So, 100% of the gas estate remains unleased?

A. Yes.

Q. Why is that?

A. That tract is the Gally Friend, Trustee of the estate of Yellow Poplar, which is unknown unlocateable.

Q. Okay. And have we made reasonable and diligent efforts to identify and locate any of those people or successors, shareholders and that sort of thing?

A. Yes.

Q. And in your professional opinion, was due

diligence exercised to locate each of the respondents named herein?

A. Yes.

Q. Are you requesting this Board force pool all unleased interests listed at Exhibit B-3?

A. Yes.

Q. Are you familiar with the fair market value of drilling rights in the unit here and in the surrounding area?

A. Yes, I am.

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

A. Twenty-five dollars an acre paid up for five years with a one-eighth royalty.

Q. And in your opinion, do the terms you've testified to represent fair market value of and fair and reasonable compensation to be paid for drilling rights within this unit?

A. Yes.

JIM KAISER: Mr. Chairman, I'd ask again that the statutory election option testimony taken in 2678 be incorporated for purposes of this hearing.

BUTCH LAMBERT: Accepted.

Q. Mr. York, does the Board does need to

establish an escrow account for this unit?

A. Yes, Tract 1.

Q. And who should be named operator under any force pooling order?

A. EQT Production Company.

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

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: You may continue, Mr. Kaiser.

CHRIS HINTIE

DIRECT EXAMINATION

QUESTIONS BY JIM KAISER:

Q. Mr. Hintie, what's the total proposed depth of this well?

A. 2,102 feet.

Q. Estimated reserves over the life of the unit?

A. 250 million cubic feet.

Q. Has an AFE been reviewed, signed and submitted to the Board as Exhibit C?

A. Yes.

Q. In your opinion, does it represent a

reasonable estimate of well costs?

A. Yes.

Q. What are the dry hole costs and completed well costs for this well?

A. Dry hole costs are \$151,338. Completed well costs are \$344,622.

Q. Do these costs anticipate a multiple completion?

A. Yes.

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

A. Yes.

Q. In your professional opinion, would the granting of this application be in the best interest of conservation, the prevention of waste and protection of correlative rights?

A. Yes.

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

BUTCH LAMBERT: Questions from the Board?

KATIE DYE: I just have one question.

BUTCH LAMBERT: Ms. Dye.

KATIE DYE: In looking at your plat, I think both of your wells are outside of your interior window?

JIM KAISER: Yes. Mr. York, as Ms. Dye pointed out, this is an increased density well and the first well was outside the window and this one is too. Will you handle that through the DGO and the permitting process with Mr. Asbury?

JONATHAN YORK: Yes.

BUTCH LAMBERT: Any further questions?

JIM KAISER: As allowed by the field rule?

JONATHAN YORK: Yes.

BUTCH LAMBERT: Anything further, Mr. Kaiser?

JIM KAISER: No, sir.

KATIE DYE: Thank you.

BUTCH LAMBERT: Do I have a motion?

PEGGY BARBER: Motion to approve.

BILL HARRIS: Second.

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

(No audible response.)

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

(All members signify by saying yes.)

BUTCH LAMBERT: Opposed, no.

DONNIE RATLIFF: Abstain, Mr. Chairman.

BUTCH LAMBERT: One abstention, Mr. Ratliff. Thank you, Mr. Kaiser. It's approved. The next item on the docket

is item number eight. A petition from EQT Production Company for pooling of coalbed methane unit VC-504646, docket number VGOB-10-0316-2682. At this time, I'm going to have to recuse myself. I think there might be a relative as a surface owner. So, I'm going to ask Mr. Harris if he will take over as chairman.

BILL HARRIS: Thank you. Would all persons who want to speak to this petition please identify themselves.

JIM KAISER: Jim Kaiser, Chris Hintie and Jon York for EQT Production.

BILL HARRIS: The record will show there are no others. You may continue.

JONATHAN YORK

DIRECT EXAMINATION

QUESTIONS BY JIM KAISER:

Q. Mr. York, are you familiar with the application we filed here seeking to pool any unleased interest within this unit?

A. Yes.

Q. Does EQT own drilling rights in this unit?

A. Yes.

Q. And prior to filing the application, were efforts made to contact each of the respondents and an

attempt made to work out a voluntary lease agreement with each?

A. Yes.

Q. What's the percentage of the gas estate under lease to EQT?

A. 97.12%.

Q. And the coal estate?

A. 97.12%.

Q. Are all unleased parties set out at revised Exhibit B-3?

A. Yes.

Q. So, 2.88% of both the gas estate and coal estate remains unleased?

A. Correct.

Q. And that is attributable to Tract 4?

A. Yes, Tract 4.

Q. Okay. That's a fee mineral tract owned by the unknown unlocateable John G. Ball heirs?

A. Correct.

Q. And were reasonable and diligent efforts to attempt to locate and identify them?

A. Yes, they were.

Q. Okay. And in your professional opinion, was due diligence been exercised?

A. Yes.

Q. Are you requesting this Board force pool all
unleased interests listed at Exhibit B-3?

A. Yes.

Q. Again, are you familiar with the fair market
value of drilling rights in the unit here and in the
surrounding area?

A. Yes.

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

A. Twenty-five dollars an acre paid up for five
years with a one-eighth.

Q. And in your opinion, do the terms you've
testified to represent fair market value of and fair and
reasonable compensation to be paid for drilling rights within
this unit?

A. Yes.

JIM KAISER: Again, Mr. Chairman, I'd ask that the
statutory election options afforded any unleased parties
testimony taken earlier in 2678 be incorporated for purposes
of this hearing.

BILL HARRIS: That will be incorporated.

Q. Mr. York, the Board does need to establish
an escrow account?

A. Yes, for Tract 4.

Q. Okay. That's for the John G. Ball...unknown
John G. Ball heirs, not because of any conflict but just
because they are unknown, correct?

A. Correct.

Q. And who should be named operator under any
force pooling order?

A. EQT Production Company.

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

BILL HARRIS: Questions from Board members?

(No audible response.)

BILL HARRIS: You may continue, Mr. Kaiser.

CHRIS HINTIE

DIRECT EXAMINATION

QUESTIONS BY JIM KAISER:

Q. Mr. Hintie, what's the total depth of this
proposed well?

A. 2,124 feet.

Q. Estimated reserves over the life of the
unit?

A. 225 million cubic feet.

Q. Has an AFE been reviewed, signed and

submitted to the Board as Exhibit C?

A. Yes.

Q. In your opinion does, it represent a reasonable estimate of well costs?

A. Yes.

Q. Could you state both the dry hole costs and completed well costs for this well?

A. Dry hole costs are \$128,182. Completed well costs are \$320,910.

Q. Do these costs anticipate a multiple completion?

A. Yes.

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

A. Yes.

Q. In your professional opinion, would the granting of this application be in the best interest of conservation, the prevention of waste and protection of correlative rights?

A. Yes.

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

BILL HARRIS: Members of the Board, are there any questions?

(No audible response.)

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

BILL HARRIS: Do we hear a motion concerning this item?

PEGGY BARBER: Motion to approve.

KATIE DYE: Second.

BILL HARRIS: It has been moved and seconded. All in favor, say yes.

(All members signify by saying yes, but Donnie Ratliff and Butch Lambert.)

BILL HARRIS: Opposed, like sign.

DONNIE RATLIFF: I'll abstain, Mr. Chairman.

BILL HARRIS: One abstention, Mr. Ratliff.

BUTCH LAMBERT: Two abstentions. Thank you, Mr. Harris. The next item on the docket is item number nine. A petition from EQT Production Company for the modification of the Nora Coalbed Gas Field to allow for an additional well to be drilled in unit BN-87, BN-88, BN-90, BN-91, BO-87, BO-89, BO-90 and BO-91, docket number VGOB-089-0126-0009-26. All parties wishing to testify, please come forward.

JIM KAISER: Mr. Chairman, again, Jim Kaiser, Jon York and Chris Hinte for EQT Production Company.

BUTCH LAMBERT: You may proceed, Mr. Kaiser.

JIM KAISER: I'll start with Mr. York.

JONATHAN YORK

DIRECT EXAMINATION

QUESTIONS BY JIM KAISER:

Q. Mr. York, have all parties been notified of this hearing, that being all mineral owners, gas, oil and coal as required by 361.17 of the Virginia Gas and Oil Act?

A. Yes, they have.

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

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: You may continue, Mr. Kaiser.

CHRIS HINTE

DIRECT EXAMINATION

QUESTIONS BY JIM KAISER:

Q. Mr. Hinte, you've prepared a handout to kind of...that's demonstrative of your testimony for this request for increased density drilling in nine different CBM units. Before you go into that, kind of remind the Board as to what your background in education and work experience is?

A. Background, I graduated from Marietta College with a Petroleum Engineering Degree. I spent five years working offshore for Baker Hughes. I've been with EQT the last three years.

Q. And part of your job with EQT is participating in and overseeing the increased density drilling permit?

A. Yes.

Q. Okay. With that being said, if you'd just go ahead and go through your handout for the Board?

A. Okay. On Exhibit AA is a breakdown of everything that we've done for the last couple of years showing the total number of wells we've drilled, which a 163. Also, our cumulative production of 4 billion and 16 million cubic feet with a current rate of 8.9 million cubic feet a day.

On Exhibit BB is showing the same thing, just in a graph. Where it's showing the red line is a combination of the original wells in the infill wells where the blue lines original wells only.

Q. So, the difference between the blue line and the red line would be the instrumental productions picked up from the increased density well?

A. It would be that 8.9 million cubic feet of

incremental production. That's correct.

On CC, it's just a map shot of where these locations are in the Nora Field.

Exhibit DD is just a zoomed in of that map shot.

Q. So, would it be your...in your professional opinion, does increased density drilling continue to be a good use of the company's capital?

A. Yes. It's economical for us.

Q. So, the incremental production that you're getting from the second well is worth the expenditure?

A. That's correct.

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

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Mr. Hinte, when you're doing those, just for information, how come you skipped BN-89 and BO-88? Is there some particular reason?

CHRIS HINTE: I'm not sure. It's...it may be a terrain issue or something like that. I really don't know.

BUTCH LAMBERT: Okay. Thank you. Any other questions from the Board?

(No audible response.)

BUTCH LAMBERT: Anything further, Mr. Kaiser?

JIM KAISER: No, sir. We'd ask that the application be approved as submitted.

BUTCH LAMBERT: Do I have a motion?

PEGGY BARBER: Motion to approve.

KATIE DYE: Second.

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

(No audible response.)

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

(All members signify by saying yes.)

BUTCH LAMBERT: Opposed, no.

(No audible response.)

BUTCH LAMBERT: Thank you, Mr. Kaiser. It's approved. The next item on the docket is item number eleven. The Board on its own motion will consider EQT horizontal provisional unit VH-539991, docket number VGOB-08-0819-2301. All parties wishing to testify, please come forward.

JIM KAISER: Mr. Chairman, Jim Kaiser for EQT Production Company. At this time, we'd ask that item be carried over to the May docket.

BUTCH LAMBERT: Okay. Continued until May?

JIM KAISER: Yes.

BUTCH LAMBERT: Thank you.

DAVID ASBURY: Until May?

BUTCH LAMBERT: Until May.

JIM KAISER: Right.

BUTCH LAMBERT: The next item on the docket is item number twelve. A petition from Range Resources-Pine Mountain, Inc. for the establishment of a provisional drilling unit RR-2683 consisting of 320 acres for the drilling of horizontal conventional gas wells, docket number VGOB-10-0316-2683. All parties wishing to testify, please come forward.

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

COURT REPORTER: Phil was sworn earlier.

(Gus Jansen is duly sworn.)

PHIL HORN

DIRECT EXAMINATION

QUESTIONS BY JIM KAISER:

Q. Mr. Horn, have all parties, that bring oil, gas and coal owners as approved by statute been notified of this hearing?

A. That's correct.

Q. And we do have some unknown/unlocateable interest owners within the unit. Did we publish in order to

attempt to reach them?

A. Yes, we did.

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

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: You may continue, Mr. Kaiser.

GUS JANSEN

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

DIRECT EXAMINATION

QUESTIONS BY JIM KAISER:

Q. Mr. Jansen, could you just kind of go through again what your responsibilities are with Range?

A. Yes. Gus Jansen, I'm the manager of geology with Range Resources-Pine Mountain, Inc.

Q. And you've testified for the establishment of these provisional units for the drilling of conventional horizontal wells on many occasions?

A. That's correct.

Q. And you've prepared a handout today to go along with your testimony?

A. That's correct.

Q. All right. If you'd just go ahead and get started going through that.

A. Okay. If the Board would turn its attention to Exhibit AA. This will serve the proposed unit to today's hearing, the Range 2683 unit with the red square, which is adjacent to 6 existing units that have been previously pooled by the Board. At this point in time, we've drilled wells in five of those units over the past two plus year at this point and we continue to build square units as we have in the past.

Exhibit BB, it gives you some details on the unit itself. It's a 320 acre square unit. The dimensions being 3,733 feet by 3,733 feet, which allows for a diagonal of 4,431 feet with a 300 foot setback.

Going on to Exhibit CC. Again, we're going to go into some of the details on the unit itself. We've talked about the dimensions there. The important thing to note here is to achieve a maximum level unit length of the well. We have that capability with that 4,431 foot diagonal. What we found early on was the lateral length results indicate a strong relationship between the productivity of the well and the length of the laterals that you're able to achieve. So, that's an important factor there. Again, we have the 300 foot interior window with a 600 foot standoff from the adjacent grid, horizontal well bores producing from the same

horizon. Again, this is for the protection of the correlative rights of any adjacent gas owners. We also allow for a 600 foot distance between horizontal well bores and any vertical well producing from the same horizon as the horizontal well that we proposed. Again, this is for the protection of correlative rights. The well...the unit also allows for multiple wells and/or laterals for maximum drainage in all of the conventional reservoirs.

To date, we've completed wells that are three different horizons in the field. Those being the Devonian Shale, the Berea Tight Gas Sands, as well as the Big Lime Carbonated Formation. We're also asking to be able to drill the surface location inside or outside units so long as the production is from within the unit. This is an important consideration is the acceptable surface location that's already a premium out in the field. They're not always available due to topography, coal mining issues or other cultural features. So, that's an important feature to be able to drill inside or outside of the unit to develop these wells.

Moving on to Exhibit DD. It shows a typical horizontal well plan. In this case, we are showing the target formation in the Lower Huron Shale, which is the Devonian Shale. Again, we have the same requirements for a

casing program as in all vertical wells. We have a surface casing, which is utilized for the production of the groundwater in the areas. We also have the coal protection stream, which is used to protect the coal in interest in the area. Then we have a production stream, which will be targeted into the formation. In other cases, if we were targeting the Big Lime or the Berea Sand, the horizontal would just turn into those formations in the same sort of fashion that we represented here on this typical schematic.

Just to go into a little bit detail into this program to this point. To date, we've drilled 32 wells in the field. All of those wells have now been placed into production. The last ones in the last few months. This year's program we will be drilling an additional fifteen horizontal wells is our plan for this year. As I've testified to in the past, we have talked about some of the production of the horizontal wells and we've demonstrated the Devonian Shale formation. It's typically not an economic target by itself in a vertical well, which is why we've gone down this path of exploring this resource through horizontal drilling. The Nora Field, as well as most of Southwest Virginia, is a stack paid...multiple paid development gas paid. It includes those zones such as the (inaudible) Gas Sands, Raven Cliff, Maxima and Berea, the Carbonate Formation

in the Big Lime, as well as the Devonian Shale. All of these have different geologic dispositional and reservoir qualities that we're trying to analyze through this drilling program on the horizontal side. That's a different part of work that I do is evaluating this complex variables in determining the well locations for the best opportunity success of the wells.

In these horizontal wells, which is very similar to the commission of the wells, the first day of your production is typically your best day of production. The wells will go into a decline. This is different from the decline profile of the CBM well, which is you dewater that formation and the CBM well will gain its production and then reach peak and then go on a decline. It looks like the well completion variables that we've been testing throughout our program to this point...to this point, we've only been using nitrogen fracs on these wells...on all the wells to date. We're not using any kind of fluid of any of those things and all of the perimeters that we use our completion are reported to the DGO has further requirements. So, those reporting requirements. To date, I think we've been...these provisional units have been establishment within the established guidelines of the DGO Board Regulations. This is to help us develop the drilling techniques, to evaluate these reservoirs and the completion methods, to help us continue to determine the

productivity of these wells as we move forward.

Talking a little bit on the economic analysis, all of these wells, even though the economic impact of these wells on our part as a company is really no concern to this Board. We do do an economic analysis of every well. In fact, I do those on every well vertical CBM, conventional and horizontal and all of those wells everywhere we do. And these all have a threshold that we're looking for the probability of success and the reasonable rate of return. It's based on your capital investment and what you participate as your production that you get for those wells. At this point, we're very still early in the program. But we're very encouraged by the results. We continue to improve our costs and the production techniques to increase production, which will continue to make this economically viable as we go forward. Then we'll continue to test the other formations, which is why continue to ask for more units in different areas of the field because these variables are all different in different parts of the field and we want to test as much of the field as we can early on to determine the best way to develop this resource.

Finally, we'll just talk a little bit about the benefits of the horizontal drilling on Exhibit EE. Again, we're benefitting the working interest owners, the royalty

owners of the county. We'll likely benefit by maximizing the production and promote the conservation of gas resource and prevent waste by more effectively extracting the resource. As I stated here before, we have typically suspended drilling vertical wells into the Lower Huron or the Devonian Shale because we feel that it is better to produce that gas in the horizontal method at this. We continue to see that. Also, these laterals can allow you to drill underneath areas otherwise inaccessible from the surface. Again, maximizing the resource potential. We have less potential impact on the coal by being able to drill horizontal and we have no square units that allow for stranded acreage.

Q. Just to sort of support your testimony, Mr. Jansen, do you think it would be fair to say that Range Resources is one of the leading players in the development of the Marcellous Shale up in Pennsylvania?

A. That's correct.

Q. The fact that your company is willing to take this capital that they could spend in Pennsylvania and continue to develop the horizontal program in Virginia, should be a good indicator of their feeling for this and for the fact that the potential and the results that they've seen to-date?

A. Right. That's exactly right. Internally to

Range, ourself, our corporation internally we are competing with our other divisions for that capital money to be spent. We have other places we could spend that money that may have a greater rate of return at this point in time, but we feel that this has a potential to be another key part of our production as opposed to either in Texas or in Pennsylvania or other places. We continue to do that and develop in this area as long as we're given that opportunity.

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

BUTCH LAMBERT: Questions from the Board?

BILL HARRIS: Mr. Chairman, I've got a couple of questions.

BUTCH LAMBERT: Mr. Harris.

BILL HARRIS: This high production early on during the first month or so, when it does level out, is that...can you compare that to a conventional well? I know these aren't conventional coalbed methane wells, but can you...how does that compare? I guess, what I'm thinking of, when you think of horizontal, you know, we've been putting four 80 acre units together and I'm wondering what...you know, if there's some comparison that you could make? I guess there's no way to do it unless you're really drilling into the same units vertically as well as horizontally. But, how does that

compare? If you have long-term---

GUS JANSEN: Again, I think I understand your question and what we're talking about. Again, we're talking about conventional gas production of 112 acre unit. A typical circle unit---

BILL HARRIS: Yes.

GUS JANSEN: ---as opposed to an 80 acre CBM unit. What we've presented to you before in the past is that we feel like, again, that the Lower Huron of the Devonian Shale by itself unproductive in a vertical well. If you're drilling a well just to that one formation and stimulated that one formation and produce that gas, it probably would not be an economic play. However, doing it by the horizontal method, you're exposing more of the formation and increasing that production out of that one resource. Now, we've done this in other formations the same way. There is a comparison that we can generally see between that initial production and our rates of production of the life of the well. We were somewhere in the ballpark of...it would take three to five or maybe as many as ten horizontal wells, depending on where you're at in the field, to get the same production that you're getting out of one horizontal well.

JIM KAISER: Vertical well.

BILL HARRIS: Oh, wait a minute. Say that again

now.

GUS JANSEN: Vertical well. I'm sorry. Vertical well. Again, we're looking at a cost comparison of somewhere of three times...hopefully, at some point in time, we'll get it to only as twice as much as the vertical well. So, hopefully, as this program is stored we'll be able to produce more gas out of the vertical well...or horizontal well than we would out of a corresponding vertical wells.

BILL HARRIS: What type of life expectancy would you expect from horizontal wells? Would they be different than the vertical?

GUS JANSEN: The vertical wells...again, we're very early on in this production process at this point. We do our economic analysis based on about a thirty year life of the well and assuming that's in the past. There are vertical shale wells in the field that have been producing now for over fifty years by themselves of some production. Some of them very productive and some of them not as productive. So, there is some basis for being able to extend it even beyond on the thirty years. We've found that as a reasonable cut off of time to make an economic justification for the well at this point. I think some other people may be carrying those out even further in time. I know that there are conventional wells, like I said, that have been in the field now for over

fifty years, multiple paid wells too.

So---

BILL HARRIS: Okay. Thank you.

BUTCH LAMBERT: Any further questions?

(No audible response.)

BUTCH LAMBERT: Anything further, Mr. Kaiser?

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

BUTCH LAMBERT: Do I have a motion?

PEGGY BARBER: Motion to approve.

BILL HARRIS: I'll second that.

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

(No audible response.)

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

(All members signify by saying yes, but Donnie Ratliff.)

BUTCH LAMBERT: Opposed, no.

DONNIE RATLIFF: Abstain, Mr. Chairman.

BUTCH LAMBERT: One abstention, Mr. Ratliff. Thank you, Mr. Kaiser. It's approved.

JIM KAISER: Thank you.

GUS JANSEN: Thank you.

BUTCH LAMBERT: Mr. Swartz, would you have any objection for us moving from twenty-one to twenty-seven?

MARK SWARTZ: Do I what?

BUTCH LAMBERT: Well, the next item on the docket, I think is you, twenty-one. Would you have any objections to moving to item twenty-seven?

MARK SWARTZ: Ever accommodating guy that I am.

(Laughs.)

BUTCH LAMBERT: Okay. Thank you. We appreciate that. The next item on the docket is item twenty-seven. A petition from CNX Gas Company, LLC for repooling of coalbed methane unit AA-38, docket number VGOB-98-0324-0635-01. All parties wishing to testify, please come forward.

MARK SWARTZ: Mark Swartz and Anita Duty.

PETER GLUBIACK: Peter Glubiack representing the Short family and the Short Heirs.

MARK SWARTZ: You may proceed, Mr. Swartz.

ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MARK SWARTZ:

Q. Could you state your name for us, please?

A. Anita Duty.

Q. Who do you work for?

A. CNX Land Resources.

Q. Okay. Is CNX Land Resources the applicant here or is it CNX Gas Company?

A. CNX Gas Company.

Q. Okay. And if the application is approved, who would be acting as the operator?

A. CNX Gas Company.

Q. Does CNX Gas...is CNX Gas Company, LLC a Virginia Limited Partnership?

A. Yes.

Q. Or Limited Liability Company, I'm sorry?

A. Yes.

Q. Okay. Is it authorized to do business in the Commonwealth?

A. Yes.

Q. Has CNX Gas Company, LLC registered with the DMME?

A. They have.

Q. Does it have the required operator's bond on file?

A. Yes.

Q. This unit that we're talking about today, is it an Oakwood unit?

A. Yes.

Q. And how many acres?

A. 80.

Q. And how many wells are proposed?

A. One.

Q. And this is a repooling?

A. Yes.

Q. And why is it...why is it being repooled?

A. When doing the work for the permitting for the additional AA-38C there was a title review.

Q. Okay. That required what adding people or changing percentages or what?

A. The lines moved slightly. So, we had to come back for that.

Q. So, we got some new percentages?

A. Yes.

Q. Okay. And those percentages have been reflected the Exhibits B-3 and so forth?

A. Yes.

Q. Okay. With regard to this, this is a...these two wells would be coalbed methane wells?

A. Yes.

Q. And they would be frac wells?

A. Yes.

Q. What did you do to notify the folks that you've identified in the notice of hearing and in the exhibits that there was going to be a hearing today?

A. Mailed by certified mail, return receipt requested on February the 12th, 2010. I published the notice and location exhibit in the Bluefield Daily Telegraph on February the 20th, 2010.

Q. Have you provided Mr. Asbury with proofs of publication...proof of publication and your certificates with regard to mailing---

A. I will.

Q. ---or you will today?

A. Yes.

Q. Okay. All right. You've got them with you?

A. Yes, I do.

Q. Okay. Do you want to add any people as respondents today?

A. No.

Q. Do you want to dismiss any?

A. No.

Q. When you published, what appeared in the paper?

A. The notice and location exhibit.

Q. The well that is proposed is which one on

the plat?

A. AA-38C.

Q. Okay. And is there mining under this unit?

A. There is.

Q. Okay. And is the spacing of the wells dictated by the mining company and the degas program?

A. Yes.

Q. Okay. With regard...as long as we're on the subject of the wells, with regard to those wells, have you provided cost estimates?

A. Yes.

Q. The original cost estimate was back in '98 when this was first pooled?

A. Yes.

Q. And that was for which well?

A. AA-38B.

Q. Okay. And then we've got two more recent ones?

A. Yes.

Q. Okay. And one of those estimates, the first one in the packet, I think, is for 38C?

A. Yes. \$284,192.17.

Q. Okay. And the estimated depth?

A. 2540.

Q. Does this one have a permit yet?

A. No, it doesn't.

Q. Okay. The next estimate is for 38D, is that correct?

A. Yes.

Q. And what is the cost...estimated costs with regard to that?

A. \$379,810.94.

Q. And the estimated depth?

A. 2536.

Q. And the...and then that one does have a permit number, does it not?

A. Yes. 10,141.

Q. Okay. And with regard to the first one we talked about, the 1998 well, let's get that permit number in as well.

A. 3526.

Q. Okay. Is it your opinion that three frac wells in this area, as depicted on this plat, is a reasonable way to develop the coalbed methane--?

A. Yes.

Q. ---within and under this unit?

A. Yes.

Q. What interests have you acquired in this

unit and what are you seeking to pool?

A. We've acquired 100% of the coal claim. We're seeking to pool 90...not we're not. We have acquired 94.2750% of the oil and gas claim and seeking to pool 5.725% of the oil and gas claim.

Q. Okay. And the folks that you're seeking to pool, the respondents, are identified in the notice of hearing as 2...you know, the list of people that is 2 and they're also identified in Exhibit B-3, is that correct?

A. Yes.

Q. And there's...it looks like there's some escrow requirements here?

A. Yes. Tracts 2---.

Q. And in that regard, have you provided an escrow exhibit, which would be Exhibit E?

A. Yes.

Q. Okay. And which of the tracts that would require escrow?

A. Tracts 2, 4A, 4B, 4C, 4D and 6.

Q. Okay. And in addition to this, the typical conflict between the oil and gas and the coal owners, there's also a title issue in three of these tracts, is that correct?

A. Yes.

Q. And that would be tracts...the title issue

would also be in 4B, 4C and 6, is that correct?

A. Yes.

Q. Are there...is it true that there are no split agreements that you are aware of?

A. Correct.

Q. So, there are no...there's no Exhibit EE?

A. No.

Q. Is it your opinion that if you combine the leasing efforts and acquisitions efforts that the applicant has been successful in obtaining with a pooling order pooling the respondents, that the correlative rights of all owners and claimants would be protected?

A. Yes.

Q. With regard to lease terms, what are your standard lease terms for coalbed methane in this area?

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

Q. Okay. And would you recommend those terms to be included by the Board in any order with regard to folks who might be deemed to have been leased?

A. Yes.

MARK SWARTZ: Mr. Chairman, I think that's all I have at this point.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Ms. Duty, one more time, could you go over the percentage of coal leased and the gas interest?

ANITA DUTY: Okay. Sorry. We've acquired 100% of the coal interest and we have leased 94.275% of the oil and gas and we are seeking to pool 5.725% of the oil and gas.

BUTCH LAMBERT: Okay. Thank you. Any further questions from the Board?

(No audible response.)

BUTCH LAMBERT: Mr. Glubiack.

PETER GLUBIACK: Mr. Chairman, thank you. It is that 5.275...5.7250% that I represent. I'm here to make an argument. I will admit that it is somewhat novel. I think that it is well within your authority to do and I'm asking you to do it. If you look at this petition, this force pooling...repool petition if you will, as Ms. Duty has just illustrated, 94.2750% is leased. However, my clients...at this time, in the interest of not having them to come up and testify, would all the Short Heirs please stand up? I appreciate that. Thank you very much, ladies and gentlemen.

This was brought to my attention several weeks ago when this repool application was received by at least two of these members. My position is at this point, if you look at the tract identification information for these tracts you

will see, for instance, in Tract 4A the typical...this is a little bit different because is above drainage coal and below drainage coal, but we've not really here to talk about coal. As Ms. Duty has indicated, a 100% of the coal is leased. CNX Gas Company, LLC is a CBM lessee. However, the next line of 4A that I'd point you to, it says, "Walter Short, et al, surface and all minerals except coal." My position here this morning before you, that if we have that language, and this is from the operator, this is not something that I made up, that is their position. Their position is all mineral except coal. I would pause it to you that with that position taken by the operator themselves, we do not have a conflict. I don't feel there's a conflict. I think as a part of your job as a Board is to...in order to proceed to take somebody's property and put it in the coffers of the escrow account, which is effectively what you're doing when you force pool, there must be a conflict. On paper today, as you have in front of you, there is no conflict. There is no conflict about ownership of this gas. This gas is clearly owned by the Short family. There are a list of them. A list that we've provided. Insofar as the Short Heirs are concerned, they're here today to ask you through me not to force pool that 5.2750% because there is no conflict. Now, this is a...this is something that, to my knowledge, nobody has ever

asked you to do. As you're aware, there's a presumption bill, which I think is going to go into effect sometime next week. Based on the emergency language in the Bill, it will take effect immediately. If this came up next month, there would be a presumption that the Short Heirs owned it. I have copies of the severance deeds. I'm sure the operator, they've done their title work. They've listed it here and they've quite simply stated all minerals except coal. Well, if it says all minerals except coal, and that's what the severance deed say and that's what CNX says it says, there's no conflict and there's no need for you all to be involved. When the operator pumps this gas, they ought to pay the royalty to the rightful royalty owner. That being the Short Heirs. So, quite simply what I'm asking you today to do is not repool this 5.275% but rather say it is no conflict. It is not in jurisdiction. Leave it alone. Let these people proceed like everybody else who makes agreements proceed and get their rightful money. I think, you know, that is my position. It's amply backed up by the statute. We have case law. We have plenty of evidence that shows there's no conflict here. I'm quite simply asking you to determine...make a determination that there's no need for a repool. The gas is owned by the Short family and that's the way it is.

BUTCH LAMBERT: Mr. Glubiack, thank you for pointing out the pending Legislation that hasn't been signed by the Governor. We're all very well aware of that. We've been tracking that---

PETER GLUBIACK: But your job as to determine if there's a conflict---

BUTCH LAMBERT: ---but understand...understand, at this point, we cannot act on Legislation that hasn't been signed by the Governor. Now, that's what you're asking us to do in addition to considering what's in evidence here. So, I would ask you to not interject pending Legislation that hasn't been signed by the Governor and stick to the relevant facts of the evidence.

PETER GLUBIACK: The relevant facts, as I stated before, if you look at their own tract identification, the gas operator...I'm not making this up. This is in black and white here. For instance, in Tract 4A, it says, "Walter Short, et al, surface and all minerals except coal." I think under the case law and under your duty to determine if there's a conflict...if there's a conflict the way to protect correlative rights is to put money in escrow. There's no conflict here. There's no need for this Board to act. You can simply reject the force pooling application. Everything would go back to normal and they would pay the Shorts. It's

quite simple. I don't...Mr. Lambert, I've had this discussion for a long time. I don't need the Legislation. I have a case. I think the law is quite clear that this gas belongs to the Short family. The statute will help. I'm glad Delegate Phillips and Senator Puckett introduced it. If we came back next month...if you don't believe me, continue this thing for a month and we'll come back next month and we'll have a statute.

BUTCH LAMBERT: Well, I appreciate you letting us know that. But, again, we're taking this case for the evidence we have before us and not pending Legislation that hasn't been signed by the Governor yet.

PETER GLUBIACK: I understand.

BUTCH LAMBERT: Okay. Mr. Swartz...I'm sorry. Is that all, Mr. Glubiack?

PETER GLUBIACK: Only one more time, Mr. Lambert, my position is there's ample authority for this Board to determine there is not conflict, and, therefore, there needs to be no force pooling.

BUTCH LAMBERT: Mr. Swartz.

MARK SWARTZ: I'm not sure...it's possible that Pete has mispoken. We have not leased the Shorts. So, even if you're right, we need to force this unit. I think what he's saying is, you don't need to escrow their money. I hope

that's what you're saying.

PETER GLUBIACK: That is what I'm saying.

MARK SWARTZ: Okay. So, in that regard, I think we've got that cleared up. With regard to his argument, you know, the only concern that I have is that...you know, unless Commonwealth Coal Company were to tell us that they don't have a dog in the hunt, I think we need to assume that they do, you know, and that's what we've done over the years. So...but, you know, again, as I've said before, we're going to pay royalties to someone. If you're comfortable with that, you know, that's a choice you could make, but I think it would be a departure from what we have historically done here.

BUTCH LAMBERT: Mr. Swartz, how would you address what Mr. Glubiack has correctly pointed out that the document does say all minerals except coal?

MARK SWARTZ: Well, that's what the deed say and we've had years of litigation over whether or not that included coalbed methane. So, you know, he's right. That's what the deeds typically say in Virginia. It has spawned, you know, tons of litigation because the argument that minerals didn't include coalbed methane...I mean, that's sort of the nub of the argument, which may be close to resolution because of some Legislation. I don't know. But that...so,

my response is, he's right that's what it says, but that has not prevented people from suing each other over precisely this issue who owns the coalbed methane.

PETER GLUBIACK: My response is that Mr. Swartz is correct. There has been some litigation. To my knowledge, there has been no successful litigation that has come out contrary to the Harrison-Wyatt decision. The law of the Commonwealth of Virginia is quite clear under the case law. Ms. Pigeon's opinion to the contrary is that we have...if you have the coal only severance deed, that's it. It's over. In this case, we have a coal only severance...in fact, we have two coal only severance deeds. It's not that complicated. There's not litigation that I'm aware of that's actively pending right now in the Commonwealth of Virginia that alleges Harrison-Wyatt is incorrect. There has been some law...there has been litigation. It has not worked out one way or the other. There has been no Court findings. Up to this point, there has only been the Harrison-Wyatt decision and split agreements. I think you're amply within your authority to determine there's no conflict here. We're days away from having that be statutory. I think it's foolish. I once again repeat, if you don't feel brave today, then I'd ask you to continue it one month. It's simple as that.

SHARON PIGEON: Mr. Glubiack, I don't think you are

correctly stating my opinion, so please don't do that. But I will point out that three of these tracts have title issues. What we have been handed it says, Rose or Short on 4B, 4C and 6.

MARK SWARTZ: Correct.

PETER GLUBIACK: Correct. It doesn't mean...that has nothing to do with the Commonwealth Coal being the conflicting owner. That's a private party piece...it may or may not prove to be title work. I don't know about that. What I do know, this is not an appropriate situation to escrow this money.

MARK SWARTZ: The other thing that I think you need to know is this was pooled in '98 and there's money in escrow for these people right now. I mean, you determined that there was a conflict in '98 and these tracts are being escrowed, you know, so...well, you need to know that you might have to unring a bell there too. So, I think it adds a level of...I don't know.

PETER GLUBIACK: I would argue that it's not necessarily true. Admittedly, there is money in escrow. Admittedly in '98 there was a conflict because there was no law at that point. The General Assembly had artfully ducked that entire issue. The fact is...I will be the first to admit, I don't like the system, but pretty soon we're going

to have a potential arbitration system and we still have the two ways to go. We have the simple declaratory judgement action in Circuit Court or a split agreement to get that money out. But that really doesn't...isn't directly impacting on whether you're going to take...going forward take these people's money and put it into an escrow account. What I'm asking you today to do is do the right thing and do the thing that's appropriate under the law. You have the authority to do it and determine there's no conflict going forward. There may have been in '98. You can't...you can't undo that now. There are methods for the Short people...the Short Heirs to get that money out escrow, but going forward is what I'm talking about. There is no conflict.

WAYNE BELL: Mr. Chairman, may I address the Board?

BUTCH LAMBERT: You have to come before the Board and be sworn.

WAYNE BELL: I will be. I'm Wayne Bell. I'm on the Board of Commonwealth Coal. So, I feel like a representative.

(Wayne Bell is duly sworn.)

WAYNE BELL: Commonwealth Coal received what CNX described as a courtesy notice of this application to be heard by the Board. I'm relatively new on the Board. I don't know much about what's going on here. But, I did want

to come over and just kind of edify myself. I now find myself realizing that there is a real issue here. It appears to me that in years past there has been, from what I'm hearing, a conflict on title here between some of these...your clients and Commonwealth Coal. Apparently, the Board has recognized that. Otherwise, they would not have put money in escrow. Is that a fair statement?

(No audible response.)

WAYNE BELL: All I'm asking the Board to do is to continue to recognize this conflict. I would object to what Mr. Glubiack is trying to have you do today. I'm not sure this Board has the jurisdiction, in all due respect, to settle property disputes. I think your role is more administrative. My request is that you either deny Mr. Glubiack's request or at least continue it until Commonwealth can secure an attorney to examine this issue and properly present its position to this Board at some future hearing date.

BUTCH LAMBERT: Okay. Thank you, Mr. Bell.

Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Mr. Swartz, anything further?

MARK SWARTZ: No.

BUTCH LAMBERT: Anything further, Mr. Glubiack?

PETER GLUBIACK: Other than my request, if you do not choose to rule on it, the Board may want to consider, and Mr. Bell had indicated that this matter be continued pending passage of the Legislation.

BUTCH LAMBERT: Okay. Mr. Bell, anything further? Anything further?

WAYNE BELL: No, sir.

BUTCH LAMBERT: Okay. Do I have a motion from the Board?

DONNIE RATLIFF: Motion to approve as presented, Mr. Chairman.

BUTCH LAMBERT: I have a motion. Do I have a second?

(No audible response.)

BUTCH LAMBERT: Hearing no second, the motion has failed. So, we will dispense that item from the docket.

PETER GLUBIACK: Thank you, sir.

BUTCH LAMBERT: Thank you.

(Board members confer among themselves.)

DAVID ASBURY: Mr. Chairman.

BUTCH LAMBERT: Mr. Asbury.

DAVID ASBURY: Just because there's escrowing involved here, no action by the Board means that we go back to the original pooling order, is that correct?

BUTCH LAMBERT: I think so, yes.

DAVID ASBURY: Okay. So, the repooling failed--.

ANITA DUTY: Then the mapping...in review of title, that kind of move the allocations around.

SHARON PIGEON: I don't get to vote here.

MARK SWARTZ: What David is trying to say is we know the numbers are wrong. So, we probably need to correct the mapping, you know. I think there's maybe a way to address that issue and leave the other one in limbo, which I'm gathering is what...I don't know, but I mean we've got...you know, of record that the escrow account math is wrong. It's kind of like that Sheffield issue that we've got on the sealed gob and we've run---.

SHARON PIGEON: Are you internally escrowing the error?

MARK SWARTZ: Well, I mean, we---.

ANITA DUTY: We're not doing anything until you say we can. But like the permit for the proposed well has the acreage that we've presented today. So, we now have a permit that has a different acreage than our pooling.

BUTCH LAMBERT: We just put ourselves in a box like the one previously of a year ago.

MARK SWARTZ: Right.

PETER GLUBIACK: Mr. Chairman, it's quite simple.

All they're going to do is they can put the money in suspense, which is where they put the money they don't know what to do with anyway. Just put it there and the Commonwealth and we will take it up and it will be there. The nice part is we don't---

MARK SWARTZ: No. We're going to pay it into escrow. But the concern is we know that the numbers are wrong and we're here and we could correct them. I don't either of you have an argument about the mapping.

BUTCH LAMBERT: Yeah, I understand where you're coming from.

MARK SWARTZ: It caused us a problem before that really got delayed and I'm trying to sort of learn from that.

BUTCH LAMBERT: Well, let me ask one question, with incorrect mapping and...I understand there is a permit on this already.

MARK SWARTZ: Well, there's production.

SHARON PIGEON: And escrowed money.

BUTCH LAMBERT: And escrowed money in this one.

PETER GLUBIACK: Escrow.

MARK SWARTZ: Right.

BUTCH LAMBERT: So, we do need to come back and get the mapping correct outside...or independently of what these two gentlemen's concerns are.

MARK SWARTZ: Well, and we're trying to drill another well to escrow more money on the right percentage. And it doesn't really...the money is going to be there---

PETER GLUBIACK: Are you saying the mapping for AA-38 is not correct? The plat was not correct?

MARK SWARTZ: Correct. It was slightly wrong.

PETER GLUBIACK: Okay.

MARK SWARTZ: Yeah.

PETER GLUBIACK: And you're going to try to straighten that out?

MARK SWARTZ: Well, that's---

ANITA DUTY: That's what our purpose was.

MARK SWARTZ: We had two things. We wanted to straighten that out and drill another well. You know---

WAYNE BELL: How do you pool that out separately? We certainly don't have any problems with that.

MARK SWARTZ: And I don't think---

PETER GLUBIACK: No.

MARK SWARTZ: ---Peter does either.

PETER GLUBIACK: No.

MARK SWARTZ: But I don't...I'm not sure the Board understood that.

PETER GLUBIACK: But the repool does not pertain...the repool application had nothing to do...I didn't

see it anywhere with the remapping. Was that in there somewhere?

MARK SWARTZ: Yeah, the percentages have changed. Yes. That's why she said that. That's one of the reasons---

DAVID ASBURY: And that's what causes the staff problems with the escrowing and following the escrow because that's wrong. Now, we've got something that's wrong in escrow.

MARK SWARTZ: Well, you can't pay it out. I mean, we could straighten it out, but it's better to---

PETER GLUBIACK: Continue it until next month and come back and we'll know what you want to do.

MARK SWARTZ: We don't object to that either. But I feel like we have an issue that we're all aware of.

BUTCH LAMBERT: We do have an issue. This is a second issue that has been before this Board that we're stuck on this same situation from.

MARK SWARTZ: Right. You know, if the only thing we were here on was drilling another well and you told us it failed because it...so what. I mean, kind of. You know, it wouldn't create an ongoing problem. But because we know we have a percentage issue that we're trying to correct a mapping issue, it's almost like we've got to deal with that.

Do you guys...can you---

PETER GLUBIACK: I don't have any...on behalf of the Short Heirs, I don't have any objection to straightening out the mapping issue. That's a separate matter.

WAYNE BELL: Nor does the Commonwealth.

MARK SWARTZ: Do you have objection to the additional well either?

PETER GLUBIACK: No.

MARK SWARTZ: I think probably not.

PETER GLUBIACK: No. No.

WAYNE BELL: No.

MARK SWARTZ: Okay.

BUTCH LAMBERT: But we have...he does object to the repooling.

MARK SWARTZ: Well, he objects to the continued escrow. He doesn't really...I think he acknowledged that. What he's saying is if you repool it, he wants you to change from an escrow situation to a non-escrow situation.

BUTCH LAMBERT: Right.

MARK SWARTZ: And the coal company is saying---

BUTCH LAMBERT: Right.

MARK SWARTZ: ---that they want to continue it. I mean, that's really the limit of their dispute is---

PETER GLUBIACK: That's correct insofar as we're

concerned.

DONNIE RATLIFF: Can we do a substitute motion?

BUTCH LAMBERT: Yeah, I think we need a substitute motion here to try to correct...uncorrect what we just...what we just did.

DAVID ASBURY: I'm sorry, I didn't speak up earlier, Mr. Chairman.

ANITA DUTY: The difference in the acreage is 0.39 is the net change. So, I mean, I don't know if that has any...I mean, but it's still different than what it was.

BUTCH LAMBERT: We've seen a lot less.

MARK SWARTZ: But it's a change, you know.

BILL HARRIS: Yeah, and since you're aware of it and we're aware of it, it probably needs to be considered I'd say.

BUTCH LAMBERT: Okay. I'd like to entertain a substitute motion.

BILL HARRIS: Well, now, what are we asking?

BUTCH LAMBERT: Well, we---.

BILL HARRIS: It's not...there's a third well---.

MARK SWARTZ: We're proposing a third well.

BUTCH LAMBERT: They're proposing a third well.

MARK SWARTZ: Which they don't object to.

BUTCH LAMBERT: And---.

MARK SWARTZ: And we're proposing to straighten out the percentages and the acreages, which they don't object to. The bump in the road is we've got escrow, which is going to continue anyway because there's...on the other two wells and they want to preserve their argument and maybe you want to come back and argue about it more next...just leave that piece...leave it in escrow, but give you an opportunity to come back next month or sixty days from now and---

PETER GLUBIACK: Well, it's important to me to make the point. I made the point. There's a motion that failed to repool it. It's important to me that the new well that they're attempting to place royalties in escrow in does not take place. I think that was my argument. There was a not a second on that motion. We don't have any objection to the repool insofar as the mapping is corrected and the additional well is drilled. We just don't...we argue that it's improper to escrow the money from that account.

MARK SWARTZ: Well, how about if we take him up on his desire to have an attorney and you guys agree that we'll leave that open without either of you waiving that issue for sixty days.

PETER GLUBIACK: That's fine.

(Mark Swartz and Anita Duty confer.)

BUTCH LAMBERT: Still putting money into escrow---

PETER GLUBIACK: Right.

BUTCH LAMBERT: ---until these two gentlemen---.

MARK SWARTZ: But I think maybe give them some reasonable period of time to come back.

WAYNE BELL: Sixty days.

PETER GLUBIACK: Sixty.

MARK SWARTZ: And leave that issue so that they haven't waived their positions on that. Then you can potentially make that decision at that point and maximize the money for whoever gets it and make sure that it's right.

PETER GLUBIACK: Okay. All right.

MARK SWARTZ: Does that---?

PETER GLUBIACK: That part of the repooling is continued for sixty days.

BUTCH LAMBERT: If that's---.

MARK SWARTZ: That escrow issue.

BUTCH LAMBERT: Yeah, that's---.

PETER GLUBIACK: The escrow.

MARK SWARTZ: And that works for us...I mean, we're going to put it in escrow. You're going to come back in sixty days and duke it out.

PETER GLUBIACK: Right.

SHARON PIGEON: So, you're withdrawing your objection to the additional well?

MARK SWARTZ: No, not really. He's continuing it, I think.

BUTCH LAMBERT: He's continuing it, I think.

SHARON PIGEON: To the additional well?

BUTCH LAMBERT: No.

SHARON PIGEON: Oh---.

MARK SWARTZ: No, they don't object to the additional well.

SHARON PIGEON: ---I thought it did.

BILL HARRIS: No.

BUTCH LAMBERT: No. No objection.

PETER GLUBIACK: No objection to the well nor the correction of the mapping---.

SHARON PIGEON: Okay.

PETER GLUBIACK: ---part of the repooling application. We object to the determination of a conflict and then a subsequent escrowing of the money from the new well, which is what---.

MARK SWARTZ: And then continuing escrow from the additional wells.

PETER GLUBIACK: And the continuing escrow from the other ones.

MARK SWARTZ: I think that's helpful. I think you might be able to---.

PETER GLUBIACK: I will speak with Mr. Bell, who is going to retain Counsel and we'll come back and---

BUTCH LAMBERT: Okay. So, we're in a...I think what...let me make sure that this is...the Board understands and I'm going to ask if there's questions. But we want...there's no objection to the second well. There's no objection to---

BILL HARRIS: Third.

BUTCH LAMBERT: Or I mean a third well. No objection to correcting the acreages. We will continue the escrow for sixty days until you folks can come back and then we'll take up the escrow royalty portion in sixty days.

MARK SWARTZ: That will be great.

PETER GLUBIACK: That's fine. If someone would make that motion for you, Mr. Lambert, we'd be all set.

BUTCH LAMBERT: Okay. Do I have a motion?

BILL HARRIS: I hate to say so moved because I'm not really sure, but I would like to move that we...the wording is going to be important here. That we...well, we've already did not approve the application. Did we approve the sub...well, there's a substitute motion in that we approve all aspect of the original petition except those items which pertain to the specific tracts---

MARK SWARTZ: Escrow.

PETER GLUBIACK: The escrowing of the additional 5.275%, which was on the table.

BILL HARRIS: Escrow...escrow. Yes, okay. That's to be...and that will be resolved at a later date within sixty days. I know---

BUTCH LAMBERT: We're going to continue it for sixty days.

BILL HARRIS: Continue aspect for sixty days. So, the motion is for approval with that part excluded at the moment, the escrowed amount. Continued to be escrowed until it's within sixty days. Hopefully, that will be resolved.

DONNIE RATLIFF: I'll second that.

BILL HARRIS: That's still sort of messy.

DONNIE RATLIFF: I'll second it.

BUTCH LAMBERT: I think we can sort that out. Okay, I have a motion and a second. Any further discussion?

(No audible response.)

BUTCH LAMBERT: All those in favor, signify by saying aye.

(All members signify by saying aye.)

BUTCH LAMBERT: Opposed, no.

KATIE DYE: Abstain.

BUTCH LAMBERT: One abstention, Mrs. Dye.

PETER GLUBIACK: Thank you, sir.

BUTCH LAMBERT: Thank you, Mr. Bell. Thank you, Mr. Glubiack.

WAYNE BELL: Thank you.

DONNIE RATLIFF: Thank you, Judge.

WAYNE BELL: Thank you.

BUTCH LAMBERT: It's approved, Mr. Swartz. The next item on the docket is item twenty-two. Let's take a break before we get into twenty-two. Let's take a ten minute break.

(Break.)

BUTCH LAMBERT: The next item on the docket is item twenty-one. A petition from CNX Gas Company, LLC for pooling of coalbed methane unit W-83, docket number VGOB-10-0316-2684. All parties wishing to testify, please come forward.

MARK SWARTZ: Mark Swartz and Anita Duty.

BUTCH LAMBERT: You may proceed, Mr. Swartz.

MARK SWARTZ: I'd like to incorporate Anita's testimony from the prior hearing, if I could, with regard to the applicant and operator, her employment and lease terms.

BUTCH LAMBERT: Accepted.

MARK SWARTZ: Thank you.

ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MARK SWARTZ:

Q. Anita, this is an Oakwood unit, correct?

A. Yes. No...yes. Sorry.

Q. Don't panic.

A. It's right there---

(Laughs.)

SHARON PIGEON: The questions get harder after that.

MARK SWARTZ: It kind of reminded me of Don Knotts there for a minute.

ANITA DUTY: I'm sorry.

(Laughs.)

ANITA DUTY: Don Knotts.

MARK SWARTZ: But he's dead, isn't he? I don't know.

ANITA DUTY: I know who you're talking about.

MARK SWARTZ: He's from West Virginia too. Did you know that?

ANITA DUTY: No, I didn't.

MARK SWARTZ: Okay. Anyway. All right.

Q. Is this an Oakwood unit?

A. Yes.

Q. Okay. And if the Board refers to the plat,

you're going to see that it's kind of an odd shape. It's a 98 acre Oakwood unit.

A. That's kind of what got me off guard.

Q. Because it's a makeup unit. It's at a boundary of the field and it's...it's a larger unit. You're put a drilling in it, correct?

A. Yes.

Q. And there are two wells that are going to be inside the drilling window?

A. Yes.

Q. Are they both frac wells?

A. Yes.

Q. And this is an original pooling as opposed to a repooling, correct?

A. Yes.

Q. What did you do to notify the respondents that we were going to have a hearing today?

A. Mailed by certified mail, return receipt requested on February the 12th, 2010. Published the notice and location exhibit in the Bluefield Daily Telegraph on February the 22nd, 2010.

Q. And do you have your certificate of publication and...or proof of publication and certificates with regard to mailing to file with Mr. Asbury?

A. Yes.

Q. And did you just do that?

A. Yes.

Q. Okay. Do you want to add any respondents to
this---?

A. No.

Q. Do you want to dismiss any?

A. No.

Q. Have you provided the Board with well costs
estimates with regard to the two wells that we're talking
about?

A. Yes.

Q. Take them in either order.

A. Okay. For W-83, it's \$313,877.37. W-83A,
\$314,355.61.

Q. Okay. And the...you have a permit for 83A,
right?

A. Yes.

Q. Which is?

A. 10,072.

Q. And the estimated depth of that well?

A. 2,448.

Q. And the estimated depth of W-83 is?

A. 2,415.

Q. Okay. Is it your opinion that drilling two frac wells in this Oakwood unit is a reasonable way to develop the coalbed methane from within and under the unit?

A. Yes.

Q. What have you been able to acquire in the unit in terms of interest and what is it that you're seeking to pool?

A. We've acquired 97.3844% of the coal, oil and gas claim and we're seeking to pool 2.6156% of the oil and gas claim.

Q. Actually, the coal, oil and gas.

A. The coal, oil and gas claim.

Q. Okay.

A. Sorry.

Q. And it looks like there's no escrow required in this unit, is that correct?

A. No.

Q. Is it your opinion that if you combine the leasing and acquisition efforts that the applicant has been successful with a pooling order pooling the limited number of respondents that you've identified, that the correlative rights of all owners and claimants will be protected?

A. Yes.

Q. And there are no escrow. So, there are no

split agreements, right?

A. Right.

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

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Anything further, Mr. Swartz?

MARK SWARTZ: No.

BUTCH LAMBERT: Do I have a motion?

PEGGY BARBER: Motion to approve.

BILL HARRIS: Second.

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

(No audible response.)

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

(All members signify by saying yes.)

BUTCH LAMBERT: Opposed, no.

KATIE DYE: Abstain.

BUTCH LAMBERT: One abstention, Mrs. Dye. The next item on the docket is a petition from CNX Gas Company, LLC for creation of a provisional horizontal drilling unit SSS-28SH, docket number VGOB-10-0316-2685. All parties wishing to testify, please come forward.

MARK SWARTZ: Mark Swartz, Anita Duty and Les

Arrington.

BUTCH LAMBERT: You may begin, Mr. Swartz.

(Leslie K. Arrington is duly sworn.)

ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MARK SWARTZ:

Q. Anita, is this an application...if we're looking at the relief sought here to create a provisional drilling unit and pool the unit?

A. Yes.

Q. And we've called this unit SS-28SH, right?

A. Yes.

Q. Did you undertake to do the application and the notice and the exhibits?

A. Yes.

Q. Okay. And did you...what did you do to notify people that we would be having a hearing today?

A. Mailed by certified mail, return receipt requested on February the 12th, 2010. Published the notice and the location exhibit in the Bluefield Daily Telegraph on February the 22nd, 2010.

Q. Do you want to add any respondents today?

A. No.

Q. Do you want to dismiss any?

A. No.

Q. Have you provided or are you about to provide Mr. Asbury with the certificate...proof of publication and the certificates again?

A. Yes.

MARK SWARTZ: That's all the questions I have for Anita.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: You may continue, Mr. Swartz.

MARK SWARTZ: Thank you. I've got some questions for Les, but he has some exhibits that might help if we pass those out.

(Off record discussion.)

LESLIE K. ARRINGTON

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

DIRECT EXAMINATION

QUESTIONS BY MARK SWARTZ:

Q. Les, could you state your name for us, please?

A. Leslie K. Arrington.

Q. Who do you work for?

A. Consol Energy.

Q. How long have you been working for them?

A. About fourteen months.

Q. And before that?

A. CNX Gas.

Q. And how long did you work for them?

A. Seven or eight years and then Consol Energy.

Q. Okay. Between the related companies, you've got twenty plus years here probably?

A. I do.

Q. Okay. Over the course of your experiences, have you been involved designing drilling units and creating units and looking at the geology and looking at the reservoir in terms of designing those units and developing those units?

A. Yes. Along with others.

Q. Okay. This horizontal conventional unit that we're talking about today is that something that you've done some of your own work and you've also worked with others?

A. Yes, I have.

Q. And the packet that you've passed out to the Board today with regard to this well and with regard to your

testimony, obviously, we've got a title page and then we show where this proposed unit that we're seeking to create falls in relation to a grid, right?

A. Yes.

Q. And what...what field rule grid is this?

A. This is act...the actually Oakwood Coalbed Methane grid.

Q. Okay. And it looks like from the second page that you're putting four units together?

A. We are.

Q. And you've calculated the acreage contained in those four units and set forth, I think, if I'm not mistaken, in your...in the application. Do you see that?

A. Yes. There's 313 acres.

Q. Okay. So, it wouldn't be 4 X 8, it's that number?

A. That's right.

Q. In addition to setting forth in your application, you know, the units...the Oakwood units that you're combining, have you also provided a state plain coordinate... description of the exterior boundary?

A. Yes, we have.

Q. Okay. And that's paragraph six, I guess, of the application, correct?

A. Yes.

Q. Okay. How many wells are you proposing to drill within this unit that you're seeking to create?

A. One horizontal.

Q. Okay. And is there a picture where that horizontal well would be in relation to the unit in a drilling window that you've drawn inside the unit?

A. Yes, it is.

Q. Is that the plat Exhibit A that's with the application?

A. Yes, it is.

Q. The circle in the southeast corner of the drilling window, is that wellbore?

A. The small circle it is, yes.

Q. And then is the proposal to proceed sort of with the horizontal well, once you get to target formation to proceed generally in a northwesterly direction to where it shows the line terminating and there's another little dot?

A. Yes. And---

Q. Okay.

A. ---that's approximately a 2700 foot lateral.

Q. Okay. Of length underground. Actually, it's on the...it's on the map?

A. Yes, it is.

Q. And it has got a barren?

A. It does.

Q. Okay. And although the application indicates... you might be looking for a location exception, it looks to me like you really don't need one or am I---

A. No, you would not in this case---

Q. Okay.

A. ---with...with this unit...forming this unit, no.

Q. Okay. And your intention is to start the production inside this window?

A. Yes.

Q. And to terminate the production opportunity before you cross over the window?

A. It is.

Q. Okay. Is this...well, let's look at the cost estimate. Can you tell me when we're looking for the cost estimate whether or not this horizontal well is going to be fraced?

A. It will be.

Q. Okay. And your cost estimate for this well...the vertical distance and the horizontal distance is what figure total?

A. \$1,857,950.14.

Q. And what's the target formation for this well?

A. Devonian or Lower Huron.

Q. Okay. And if I'm not mistaken there is a pretty substantial completion frac asset perf number in here?

A. It is.

Q. Over \$600,000?

A. Yes.

Q. You have also included in the packet that you've passed out to the Board today a depiction in a somewhat larger map with better numbers, I think, the four units that we're combining, which are...let's find this map...which are the ones that are sort of in the middle of the drawing, correct---

A. Yes.

Q. ---at the boundary at the top, right?

A. Yes.

Q. Then if we go to the next page of the exhibits today, and we've been here on this topic a lot, so I'm not really going to spend any time on this, but the next page does indicate, you know, the concept of these horizontal drilling that you in substance take advantage of natural fractures in the formation because of the way you cross the formation?

A. Yes.

Q. And in addition to that, you're actually going to frac this hole in the pay formation?

A. We are.

Q. Then you've got a typical exploration horizontal design and you show how you come off of that on the next page and it gives an idea of the casing issues and your turn and so forth, right?

A. It dose.

Q. Okay. And it looks like that...and it has got here the Lower Huron that you're anticipating that you're going to encounter that at 6,036 feet, right?

A. Yes.

Q. And then the next indication or the next page is something that we've seen before. Again, it sort of goes through the concept, less wells and more production.

A. It is.

Q. Okay. The next page is a summary of that as well and obviously if the Board has questions about that we can talk about it. Then we've got a reserve estimate page. Would you tell the Board about, you know, the data and expectations with regard to what the production and reserves might be from this part of the well?

A. Yes. We expect somewhere between 300

million and 1 bcf of gas from this well. Since we haven't drilled one in this formation, yeah, we're still---

Q. A pretty wide range?

A. We do.

Q. Okay. This date on the reserve estimate has come from where?

A. Our best estimates from our existing conventional wells.

Q. Okay. So, you've essentially extrapolated from or used data from existing vertical wells?

A. We did.

Q. And tried to generate a bell curve essentially?

A. We did.

Q. Okay. With regard to the...just the technique here, based on your twenty years plus experience...strike that. Have you been involved in West Virginia and Pennsylvania in horizontal drilling?

A. Yes, I have.

Q. Okay. And you've been doing that for a number of years, I take it?

A. We have.

Q. Based on your experience in Virginia, West Virginia and Pennsylvania, is it your opinion that drilling a

horizontal well in this formation in these four combined units is a reasonable means of attempting to produce from this formation?

A. We think so, yes.

Q. And is it your opinion, having done pooling in the past as well, that if you combine the leasing and acquisition efforts that you've been successful with with a pooling order here, that...actually we don't have that problem. We've got everybody...do we need...yes, we do need to pool some people though so that the rights of the pooled parties would be protected.

A. Yes, it will be.

Q. Okay. So, basically, we have no conflict here. It's a conventional well. But we have some folks that you don't have a lease from?

A. I believe so, yes.

Q. Okay.

ANITA DUTY

DIRECT EXAMINATION RESUMES

QUESTIONS BY MARK SWARTZ:

Q. Anita, with regard to that, what is the amount of acreage or percentage of interest that we've been able to lease and what is it that we're seeking to pool? I

mean, is that shown on Exhibit B?

A. I don't think we need to pool anybody.

Q. Okay. So, you got leases from everybody?

A. Yes, we do.

Q. So, it's essentially creating the unit?

A. Yes, it is.

MARK SWARTZ: Okay. All right. I think that's all I have, Mr. Chairman.

BUTCH LAMBERT: Okay. A couple of questions, Mr. Swartz, on what I think is AA...Exhibit AA.

MARK SWARTZ: Okay. Yes. Yes.

BUTCH LAMBERT: On the larger pull out map, if you'll look at the yellow units proposed in the southwest and the one that we're discussing today, it seems like those both have the same VGOB numbers. Have we mislabeled one?

LESLIE K. ARRINGTON: The one in the southwest area is mislabeled. The one on the south...the left hand side.

BUTCH LAMBERT: Okay. So, we'll get a new exhibit?

LESLIE K. ARRINGTON: Yes, we can.

BUTCH LAMBERT: And, Mr. Arrington, would you restate the drilling costs?

LESLIE K. ARRINGTON: I believe it was \$1,857,950.14 to an approximate total depth of 9200 feet.

BUTCH LAMBERT: Okay.

LESLIE K. ARRINGTON: I'll just recheck it.

BUTCH LAMBERT: Let me direct you to your notice in item nine, you've got the cost of \$1,700,026.

ANITA DUTY: That was the original costs and then we...there was an update and the application didn't get modified.

BUTCH LAMBERT: Okay. Can we get a new sheet?

MARK SWARTZ: Well, actually, the correct...I think she's telling...is the correct number on Exhibit C?

BUTCH LAMBERT: The correct number is on the sheet?

ANITA DUTY: On the C.

BUTCH LAMBERT: That's the correct---?

ANITA DUTY: On Exhibit C, yes.

BUTCH LAMBERT: Okay. All right. Okay. And, Ms. Pigeon, just asked me to look at the testimony on the reserves as well.

SHARON PIGEON: The resources. You testified to one number and we have a different number in the notice of hearing.

LESLIE K. ARRINGTON: Okay. It's---.

SHARON PIGEON: So, which one would we go by?

LESLIE K. ARRINGTON: You go by the one that I just gave you, 300 to 1.

MARK SWARTZ: To 1 bcf.

LESLIE K. ARRINGTON: To 1 bcf, yes.

MARK SWARTZ: Okay.

BUTCH LAMBERT: Any other questions from the Board?

BILL HARRIS: Mr. Chairman.

BUTCH LAMBERT: Mr. Harris.

BILL HARRIS: Just a couple of things about the horizontal drilling. We ask this of someone earlier. What life expectancy would you anticipate from these wells?

LESLIE K. ARRINGTON: Well, we hope...we would hope to be somewhere in the neighborhood of 50 years.

BILL HARRIS: Of---?

LESLIE K. ARRINGTON: 50 years.

BILL HARRIS: ---50?

LESLIE K. ARRINGTON: Uh-huh.

BILL HARRIS: And also in your experience, have you noticed the initial increase...you know, a very large output and then a dropping off of---?

LESLIE K. ARRINGTON: Yes, sir.

BILL HARRIS: So, that's seems to be difficult...well, I can't generalize for everyone horizontal well. But in your experience, is that true in other states? I mean, you've---?

LESLIE K. ARRINGTON: Yes.

BILL HARRIS: ---seen that?

LESLIE K. ARRINGTON: Absolutely it is.

BILL HARRIS: Is that not bothersome? I mean---.

LESLIE K. ARRINGTON: No. That's typical. A pretty steep decline initially and then they will level off.

BILL HARRIS: And where they level off, in the long run is that...I guess I'm thinking about the economic feasibility. I mean, initially you get a very high output. But then when it drops off it appears...apparently it really drops off and then it settles down.

LESLIE K. ARRINGTON: It does.

BILL HARRIS: But even with that, you know, with the other 40 some years at the production, do you still feel that it's economically feasible to---?

LESLIE K. ARRINGTON: Absolutely, they are. Yes.

BILL HARRIS: Thank you.

MARK SWARTZ: To put that in prospective, Les, if you've got 750 million out of this well, it would be an awesome producer over a long period of time.

LESLIE K. ARRINGTON: We hope. Yeah, it would be.

MARK SWARTZ: Yes. What I'm saying, your range is 300 to a million...or I'm sorry, 1 bcf. So, there's a substantial opportunity for many millions of dollars of production if you get closer to the good end of the spectrum?

LESLIE K. ARRINGTON: That's correct. It would be.

MARK SWARTZ: Okay.

LESLIE K. ARRINGTON: So, there's a huge amount of potential recovery here.

BILL HARRIS: Thank you.

BUTCH LAMBERT: Any other questions from the Board?

(No audible response.)

BUTCH LAMBERT: Anything further, Mr. Swartz?

MARK SWARTZ: No.

BUTCH LAMBERT: Do I have a motion?

DONNIE RATLIFF: Motion to approve, Mr. Chairman.

BILL HARRIS: Second.

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

(No audible response.)

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

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

BUTCH LAMBERT: Opposed, no.

KATIE DYE: Abstain.

BUTCH LAMBERT: One abstention, Mrs. Dye. The next item is a petition from CNX Gas Company, LLC for a modification of an Oakwood I Field Rules to allow for an additional well to be drilled in units Q-20, WWW-21 and XXX-21, docket number VGOB-93-0216-0325-21. All parties wishing

to testify, please come forward.

MARK SWARTZ: Mark Swartz, Anita Duty and Les Arrington.

BUTCH LAMBERT: You may proceed when you're ready, Mr. Swartz.

ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MARK LAMBERT:

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

A. Anita Duty.

Q. Who do you work for?

A. CNX Land Resources.

Q. And is this modification, application and notice of hearing something that you're familiar with?

A. Yes.

Q. Do we need to correct a typo or an error on the effective units description?

A. Yes.

Q. Okay. Do we need to get rid of Q-20?

A. Yes.

Q. Okay. So, we're talking about WWW-21 and XXX-21, correct?

A. Yes. Only.

Q. Only. There's two portion of the notice of hearing and we have...can I assume that you did something to notify the people in that...in the list of respondents that there would be a hearing today?

A. Yes.

Q. And what did you do?

A. Mailed by certified, return receipt requested on February the 12th, 2010 and published in the Bluefield Daily Telegraph on February the 22nd, 2010.

Q. Okay. And when you published, did you publish the notice of hearing and a map, I assume?

A. Yes.

Q. Okay. Have you filed or are you going to file today with Mr. Asbury the certificate of publication and proofs with regard to mailing?

A. Yes.

Q. Okay. And this application and notice of hearing is seeking permission from the Board to do some infill drilling, right?

A. Yes, it does.

Q. And as in the past, we have asked in the Oakwood to be able to drill one more well in these units, correct?

A. Yes.

Q. And we have indicated that that well will be in the drilling window, the second well?

A. Yes.

Q. And will be at least 600 feet from the first well?

A. Yes.

Q. And that's your request again here?

A. It is.

Q. And we also would like an acknowledgment from the Board that even though we've asked to modify the Oakwood Field by this application that it not stay further drilling in the field while we're waiting for an order?

(No audible response.)

MARK SWARTZ: Okay. And then...that's all the questions I have Anita.

BUTCH LAMBERT: Okay. Any questions from the Board?

(No audible response.)

BUTCH LAMBERT: Mr. Swartz, I have one question. Do you...do you all have these exhibits prepared in advance of the Board? Because I think the Board would like to see these prior to being handed out today to give us a little time to kind of digest what we're looking at.

MARK SWARTZ: Well, I would recommend to my client

that they email them to you at the last minute like they emailed them to me.

BUTCH LAMBERT: Oh.

MARK SWARTZ: But if we got email addresses I think we could...we could do that. But I...I get them...you know, I get them, you know, pretty late in the day and...but I think we could do that. Sure.

BUTCH LAMBERT: Okay.

MARK SWARTZ: Because, you know, I have a day or two potentially to look at them.

BUTCH LAMBERT: Okay.

MARK SWARTZ: And we could...if you want to provide--.

SHARON PIGEON: Mr. Asbury has the email addresses. That's the better way---.

MARK SWARTZ: Okay. We'll...we'll do that.

LESLIE K. ARRINGTON: So, just send them to him?

BUTCH LAMBERT: Yes, please.

MARK SWARTZ: Okay. We'll do that because then you'll get them in a pdf format and I think almost any software can open it. It's not a big deal.

BUTCH LAMBERT: Yeah, that would be great.

MARK SWARTZ: But your assumption that this is, you know, done well in advance was erroneous.

BUTCH LAMBERT: Well, I thought you was probably getting them a month in advance.

MARK SWARTZ: I know. I could tell, but no that's not what they do. Okay. So, we'll do that.

BUTCH LAMBERT: Okay. Thank you. We appreciate that. Mr. Asbury will be happy to distribute it for us.

DONNIE RATLIFF: Just be caution of whatever you email Mr. Asbury can be forwarded. So---

ANITA DUTY: Can be what?

BUTCH LAMBERT: Forwarded.

DONNIE RATLIFF: Could be made available with the Freedom of Information Act.

BUTCH LAMBERT: Yeah. So...if it's only exhibits that we're going to be looking at here today anyways, it's no problem. But if you could do that, we'd appreciate it. Give us a day or two to look at them.

MARK SWARTZ: Okay.

BUTCH LAMBERT: Okay. Thank you.

MARK SWARTZ: So, you're asking for more time than I get. I'm thinking we can get them to you sometime the week before by email.

BUTCH LAMBERT: Oh, that would be great.

MARK SWARTZ: Does that work for you, Les?

LESLIE K. ARRINGTON: Uh-huh.

MARK SWARTZ: Okay.

BUTCH LAMBERT: Thank you. Any questions from the Board?

DONNIE RATLIFF: Are the maps in AutoCAD or are they Adobe or---?

BUTCH LAMBERT: I think they're in pdf, I think...Adobe pdf. Mr. Arrington, everything is in a pdf isn't it so we can---?

LESLIE K. ARRINGTON: Yes, I can make...I can make that. That's not a problem.

BUTCH LAMBERT: Okay. Thank you.

MARK SWARTZ: If they don't, we can't open this stuff because---.

BUTCH LAMBERT: Right.

MARK SWARTZ: ---we don't have the CAD program, but he sends me pdf. So, I know that they can---.

BUTCH LAMBERT: Okay.

MARK SWARTZ: Because they're not prepared to allow me to buy the software and charge it to them. Okay. All right.

LESLIE K. ARRINGTON

DIRECT EXAMINATION

QUESTIONS BY MARK SWARTZ:

Q. Les, you need to start...state your name, please.

A. Leslie K. Arrington.

BUTCH LAMBERT: Well, this is Exhibit AA, right?

MARK SWARTZ: Yeah, it's Exhibit AA.

Q. And who do you work for at the present time?

A. Consol Energy.

MARK SWARTZ: Okay. I'd like to incorporate Les' testimony with regard to his experience from the prior hearing.

BUTCH LAMBERT: Accepted.

MARK SWARTZ: Thank you.

Q. Did you prepare a packet that we have labeled Exhibit AA---?

A. I did.

Q. ---for this application?

A. Yes.

Q. Okay. And basically we're looking at two units that we want to add to the units that we can infill drill?

A. Yes.

Q. Okay. And this, again, is the Oakwood?

A. It is.

Q. Okay. And there's an Oakwood Field modification map that got published and then there's a little better map colored and the sort of darker yellow depicts the two units that we're adding?

A. Yes, it is.

Q. And they're basically being added to a spot that we've got units pretty much on either side of them already?

A. It is.

Q. Okay. Is the thing that causes some of these gaps and delays just running title? I mean, is that what drives this?

A. Yeah. Title or maybe an existing mining operator.

Q. Okay. Okay. And with regard to these two units that we're seeking to add here, is the concept and the data essentially something that you've testified before about in front of this Board and that...or that Jeremy Hayhurst has testified about?

A. Yes. On numerous occasions.

Q. And if we look at your first chart, which I

think you've numbered page four---?

A. Yes.

Q. ---tell the Board just in a summary fashion what is this...what is this intended to show to them?

A. That's basically times zero of the wells that we have within the area on the 80 acre units.

Q. You have a lot of data now where you've drilled two wells in a unit?

A. We do. And that's essentially what you're showing there.

Q. And you've accumulated that in showing...and you're showing two lines here?

A. Yes.

Q. Can I assume that the green line is the first well data?

A. It is.

Q. And the blue line would be the second well data?

A. Yes.

Q. And what does the blue line show in relation to the green line?

A. That it's essentially coming in at basically the same rates.

Q. Maybe a little quicker but at about the same

rate?

A. Yes.

Q. Okay. And then the next chart is showing cumulative reserves and it's a good thing that your line is following what you projected?

A. It is. Our cumulative reserves with the one well would be 583 million. With the additional well, you'll get an incremental 141 million cubic feet of gas.

Q. Okay. So, if we're looking at 6, the orange line on 6 is simply a first well indication of what the recovery would be?

A. It is.

Q. And then the black line is the additional recovery driven by the second well?

A. Yes.

Q. Over time?

A. Over time.

Q. And then you've got your incremental reserves number at the bottom?

A. Yes. And a basic 65 year life. The final two curves of things shown here are two units within...basically within the area showing what the 80 acre well is doing and the infill well is doing.

Q. And if we go with the first one, these are

not times zero. So, they don't start at the same spot.

A. That's right.

Q. So, we've got the blue lines starting at day one and we've got the red lines starting at day 650 roughly?

A. Based on the original well, yes.

Q. Right. Right. 650 days later?

A. Correct.

Q. And the red line here looks like it actually comes in...maybe not quicker, but it does a little better...it still looks like it's headed up.

A. It is.

Q. Okay.

A. It's doing much better.

Q. So, the interference concept seems to be working pretty well on this data?

A. Especially for the infill well.

Q. Okay. Then we've got the next page, it's just hard to get through the straight lines that look good, isn't it?

A. Yes.

Q. Okay. But on the page, the blue line is the first well?

A. Yes.

Q. And it looks like there was some fairly long

standing issue with regard to that well?

A. Must have been.

Q. Okay. Water or something?

A. Some kind of difficulty.

Q. Okay. And it takes off at day...let's say roughly 750?

A. Yes.

Q. Okay. And then you've got your infill well, which appears to go into pretty substantial production almost immediately and continues to improve?

A. It did continue and improve, yes.

Q. Okay. And can you tell...maybe you can or you can't. Can you tell if the second well, the red well, appears to have pulled the production from the first well off board or is it just uncertain on this?

A. More than likely there was some interference because the well did come up so much. It probably was some interference there.

Q. But the data from the two wells that you've... that you've used as examples does again demonstrate the interference concept?

A. It does.

Q. Okay. Have you provided...let's see here... yeah, we've got a...you've used units, but you've also

provided a state plain coordinate boundary in your application?

A. There was. Yes.

Q. And the one that we're talking about is map area two, which is the WWW-21 and XXX-21, correct?

A. It is.

MARK SWARTZ: And the...I think that's all I have of Mr. Arrington.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Anything further, Mr. Swartz?

MARK SWARTZ: Actually...only one thing. That we...I'm not sure that I need to repeat this. But it's understood that the order will reflect that the second well be in the drilling window and that it be at least 600 feet from the first well wherever that might be. But that is all.

BUTCH LAMBERT: Do I have a motion?

DONNIE RATLIFF: So moved, Mr. Chairman, for approval.

BILL HARRIS: I'll second that.

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

(No audible response.)

BUTCH LAMBERT: All those in favor, signify by

saying yes.

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

BUTCH LAMBERT: Opposed, no.

KATIE DYE: Abstain.

BUTCH LAMBERT: One abstention, Mrs. Dye. Thank you, Mr. Swartz. It's approved.

MARK SWARTZ: Thank you.

BUTCH LAMBERT: The next item on the docket is a petition...item twenty-four. A petition from CNX Gas Company, LLC for a modification of the Middle Ridge 1 Field Rules to allow for an additional well to be drilled in units AW-141, AW-142, AW-145, AX-134, AZ-134, AZ-140 and AZ-141, docket number VGOB-00-1017-0835-07. All parties wishing to testify, please come forward.

MARK SWARTZ: Mark Swartz, Anita Duty and Les Arrington.

BUTCH LAMBERT: You may proceed, Mr. Swartz.

MARK SWARTZ: Thank you.

ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MARK SWARTZ:

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

A. Anita Duty.

Q. Who do you work for?

A. CNX Land Resources.

Q. Did you see to it that this application got prepared and distributed?

A. Yes.

Q. Okay. With regard to distribution, what did you do to notify the respondents that there was going to be a hearing today with regard to modifying these rules?

A. Mailed by certified mail, return receipt requested on February the 12th, 2010. Published in the Bluefield Daily Telegraph on February the 24th, 2010.

Q. Do you want to add any respondents or dismiss any?

A. No.

Q. Have you provided or are you about to provide Mr. Asbury with proof of publication and your certificates of mailing?

A. Yes.

Q. And the request here is to allow the applicant to drill a second well in these Middle Ridge units, is that correct?

A. Yes.

Q. And is the normal understanding of provision

is understood that the order will provide that the second well has to be in the drilling window, right?

A. Yes.

Q. And it has to be at least 600 feet from the preexisting well?

A. Yes.

Q. And have you provided...let's see here...and have you provided a boundary in terms of the state plain coordinates?

A. Yes.

Q. And that's in the application at paragraph seven, right?

A. Yes.

Q. And there's a series of them?

A. There are.

MARK SWARTZ: That's all I have of Anita.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: In the application on the pooling order, you haven't signed that one. Do you have the original signature? Has yours been signed?

ANITA DUTY: The last page.

DAVID ASBURY: The Middle Ridge Field. It's signed.

MARK SWARTZ: The originals are signed for some

reasons or the other, which is a good thing.

ANITA DUTY: I realized it. I couldn't remember if we got your guys copies made already and then we found...I couldn't remember.

MARK SWARTZ: You have a signed original apparently.

BUTCH LAMBERT: Okay.

ANITA DUTY: We noticed it late.

BUTCH LAMBERT: Any further questions from the Board?

(No audible response.)

BUTCH LAMBERT: You may continue---.

DAVID ASBURY: No it isn't. It's not signed.

MARK SWARTZ: Okay.

BUTCH LAMBERT: Okay. Not signed?

DAVID ASBURY: That one isn't it.

MARK SWARTZ: That can be fixed.

(Anita Duty signs the document.)

MARK SWARTZ: You almost got away with it.

ANITA DUTY: I know.

MARK SWARTZ: I'd like to call Les.

BUTCH LAMBERT: Okay.

LESLIE K. ARRINGTON

DIRECT EXAMINATION

QUESTIONS BY MARK SWARTZ:

Q. Les, would you state your name, again?

A. Leslie K. Arrington.

Q. Who do you work for?

A. Consol Energy.

MARK SWARTZ: I'd like to incorporate Les' testimony with regard to his history with the series of companies that he has worked for.

BUTCH LAMBERT: Accepted.

MARK SWARTZ: Okay.

BUTCH LAMBERT: Exhibit AA?

MARK SWARTZ: Exhibit AA.

BUTCH LAMBERT: Okay.

Q. Les, have you prepared some exhibits for the Board with regard to this request as well?

A. Yes, we have.

Q. And this one is to do some infill drilling in the Middle Ridge, is that right?

A. It is.

Q. And the Middle Ridge units are generally speaking 60 acres?

A. That's correct.

Q. So, if you doubled it, it would be a 30 acre infill, which is the reason for the title page?

A. Correct.

Q. You've depicted the area on the map that was published?

A. We did.

Q. And then you've got a little larger map colored that shows the units that we're going to be talking about today, correct?

A. Yes.

Q. What color are they?

A. Probably an orange color. Each one of them has an arrow to it with the docket number and today's date, March 16, 2010.

Q. Okay. The sort of darker yellow, would you agree with me there's seven of them?

A. It is.

Q. And that's the seven that are identified in this application?

A. Yes.

Q. Okay. And what you're asking for is to be allowed to drill a second well in each of those units?

A. Yes.

Q. And some of them had joined areas that you've already asked for permission to drill a second well and some of them are offset slightly?

A. It is.

Q. Okay. And, again, we've got similar charts that we've seen several times already today. But, basically, the first one on page four compares the thirty acre infills to the 60 acre wells on a times 0 basis?

A. It does.

Q. And I think it's self evident what that shows, that page five ones accumulative production actual number in relation to a simulator reserve number and it looks like it compares pretty well?

A. It does. With an estimated reserves of 560 million with one well.

Q. Okay.

A. With the second well, you get an incremental push on that of a 175 million.

Q. Okay. And that's the economic incentives, you know, to drill the second well?

A. It is.

Q. It is time sensitive and it also gets more reserves?

A. It is. And then you'll just see several graphs that we just kind of put in here to give everyone an indication of what we basically see in that area and the best indicator...indicating ones are on the second page. But,

again, these are just typical from that area. You'll notice that once the infill well is drilled normal you get a...you come in at about the same rate that the well...the existing well is producing and then the first well will normally increase.

Q. Well, if you look at the bottom two examples of the eight wells, so it will be the last page in the bottom two charts...I mean, it's...it's not what you always see, but it appears that the second well dramatically pushed the production of the first well?

A. They have.

Q. So, there's a number of things that happened and that's one of them?

A. Yes, it is.

Q. On the first page, what happens is if you look at the fourth well, you know, you've got a considerable spike in production in the second well?

A. You do.

Q. And some dragging along of the first well. So, in general, the interference helps both ways?

A. Yes.

Q. In general?

A. In general.

MARK SWARTZ: I think that's all I have of Les.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Anything further, Mr. Swartz?

(No audible response.)

BUTCH LAMBERT: Do I have a motion?

DAVID ASBURY: Mr. Chairman.

BUTCH LAMBERT: Mr. Asbury.

DAVID ASBURY: There's a typo on the petition. In the relief sought, paragraph two, we need to change that from the Oakwood Field to the Middle Ridge Field. Ms. Davis pointed that out. It talks about the Middle Ridge Field in items one, but then when it talks the administrative order it referenced the Oakwood Field. I think that's just a typo...typo.

MARK SWARTZ: Right.

BUTCH LAMBERT: Okay. We'll get that correct and taken care of. Mr. Arrington, this will be drilled within the window?

LESLIE K. ARRINGTON: Yes.

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

BILL HARRIS: Motion for approval.

DONNIE RATLIFF: Second.

BUTCH LAMBERT: I have a motion and a second. Any

further discussion?

(No audible response.)

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

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

BUTCH LAMBERT: Opposed, no.

KATIE DYE: Abstain.

BUTCH LAMBERT: One abstention, Mrs. Dye. Thank you, Mr. Swartz. It's approved. The next item on the docket is item twenty-five. A petition from CNX Gas Company, LLC for repooling of coalbed methane unit P-41, docket VGOB-93-0216-0329-02. All parties wishing to testify, please come forward.

MARK SWARTZ: Mark Swartz. We would like to request that this item be continued and that the next one, item twenty-six, which pertains to Q-41 be continued.

BUTCH LAMBERT: May.

MARK SWARTZ: Is May good, Anita? May or do you need June?

ANITA DUTY: P-41 and Q-41, one month.

MARK SWARTZ: One month.

ANITA DUTY: Just one month, yeah.

MARK SWARTZ: So, you're saying April or what?

ANITA DUTY: April.

MARK SWARTZ: Okay, April will work.

BUTCH LAMBERT: Okay. That item will be continued until April. The next item on the agenda is item twenty-six. A petition from CNX Gas Company, LLC for repooling of coalbed methane unit Q-41, docket number VGOB-93-0216-0327-02 will be continued April.

MARK SWARTZ: Correct. Thank you. And then the last thing I have is I would like to supplement the record with regard to some discussions that we had this morning with regard to mailing on a sealed gob unit. I actually have the proofs of publication from that unit, which show page three of five, that Kenneth Osborne and Ronnie Osborne actually signed for the mail. I would just like to supplement the record. I made a representation that we mailed to everybody and it turns out that we did. Thank you.

BUTCH LAMBERT: Okay, thank you. The next item is item twenty-eight. A petition from Range Resources-Pine Mountain, Inc. for pooling of conventional horizontal unit VH-530253, docket number VGOB-10-0316-2686. All parties wishing to testify, please come forward.

TIM SCOTT: Tim Scott, Gus Jansen and Phil Horn for Range Resources-Pine Mountain, Inc.

BUTCH LAMBERT: Mr. Scott, how do they get you on the agenda last all the time?

TIM SCOTT: It's my lot in life.

(Laughs.)

BUTCH LAMBERT: You're not...you're not paying David
enough.

TIM SCOTT: I miss all the excitement.

SHARON PIGEON: Well, you could come early, you
know, and just enjoy it with us.

TIM SCOTT: Yeah, but who's paying for it.

(Laughs.)

SHARON PIGEON: You'd probably do it for free.

TIM SCOTT: Yeah, I'm just that kind of guy.

BUTCH LAMBERT: You may proceed when you're ready,
Mr. Scott.

TIM SCOTT: Thank you. Mr...one thing that we'd
like to do, Mr. Lambert, is that these two items, twenty-
seven and twenty-eight, have almost identical testimony. So,
we'd like to have those heard together as far as---

BUTCH LAMBERT: Twenty-eight and twenty-nine?

TIM SCOTT: Yes, sir. I'm sorry, twenty-eight and
twenty-nine. That's correct.

BUTCH LAMBERT: Okay. We'll call that one as well.
Item twenty-nine, a petition from Range Resources-Pine
Mountain, Inc. for pooling of conventional horizontal unit
VH-530254, docket number VGOB-10-0316-2687.

TIM SCOTT: Thank you. Our first witness is Mr. Horn.

PHIL HORN

DIRECT EXAMINATION

QUESTIONS BY TIM SCOTT:

Q. Mr. Horn, would you please tell us...you've already been sworn, have you not?

A. Yes, I have.

Q. Please state your name, by whom you're employed and your job description.

A. My name is Phil Horn. I'm land manager for Range Resources-Pine Mountain, Inc. and one of my job descriptions is to get wells permitted and drilled.

Q. Now, are you familiar with these applications?

A. Yes, I am.

Q. And is this a provisional unit that was established by the Board?

A. Yes, it is.

Q. Okay. Is there a number for that? Do you know? BRR---?

A. I don't have the docket item. It was established last...here we go. It's Range 2671.

Q. Thank you. I know the Board always wants to know that. And this unit has 320 acres, is that correct?

A. That's correct.

Q. And you all have drilling rights in the unit?

A. That's correct.

Q. Now, are there any parties listed on Exhibit B-3 that we're going to dismiss today?

A. No, we are not.

Q. Now, have you attempted to reach an agreement with those unleased parties listed on Exhibit B-3?

A. Yes, we have.

Q. And what percentage do you currently have under lease?

A. 93.70454545%.

Q. Okay. Now, notice was sent out of this hearing of this hearing, is that right?

A. That's correct.

Q. And how was that done?

A. By certified mail and also it was published in the Dickenson Star on February the 17th, 2010.

Q. And we've provided proof of mailing and proof of publication to Mr. Asbury, is that right?

A. Yes, you have.

Q. Okay. Do we have any unknowns in this unit?

A. Yes, we do.

Q. And have you tried to reach those...find those people?

A. Yes, we have. Tract 9, up in the northeast corner unit is...we force pooled a well last month that's not shown on this well plat, a conventional well. We've tried to find the L. B. Stanley Heirs. He reserved the oil and gas in 1912 and we've been unsuccessful trying to locate his heirs.

Q. Okay. But you all have made an effort to---?

A. Yes, we have.

Q. Okay. If you were able to reach an agreement with the parties listed on Exhibit B-3, what would be the terms of the lease that you would enter into?

A. It would be twenty-five dollars per acre for a five year paid up lease that provides for a one-eighth royalty.

Q. Okay. Is that a fair market value for a lease in this area?

A. In my opinion, yes.

Q. Okay. What percentage of the oil and gas estate are you seeking to pool today?

A. 6.29545455%.

Q. And we did... you did state earlier that we have some unknowns, is that right?

A. That's correct.

Q. So, we do have an escrow requirement?

A. Yes.

Q. And Exhibit E was attached to our application--?

A. Yes.

Q. ---is that right?

A. That's correct.

Q. What tract or tracts are subjected to escrow?

A. Tract 9 and it's 1.28%.

Q. Okay. Now, again, you all are licensed to do business in the Commonwealth, is that right?

A. That's right.

Q. And you have a blanket bond on file?

A. That's correct.

Q. Okay. Are you also requesting that Range Resources-Pine Mountain be named operator under any order?

A. Yes.

Q. Now, if the Board were to approve our application today, what would be the address that would be used for any elections that would be made by parties

respondent?

A. Range Resources-Pine Mountain, Inc., P. O.
Box 2136, Abingdon, Virginia 24212.

Q. And that's the address for all
communications?

A. That's correct.

TIM SCOTT: Okay. That's all I have for Mr. Horn.

BUTCH LAMBERT: Questions from the Board?

KATIE DYE: Mr. Chairman.

BUTCH LAMBERT: Mrs. Dye.

KATIE DYE: Just a question for I guess my personal
information. I notice that on the plats you don't show your
laterals.

PHIL HORN: We show the laterals during the permit
process.

KATIE DYE: Permitting process?

PHIL HORN: Yes, ma'am.

KATIE DYE: But this is...if I understand, this is
two wells from one head.

PHIL HORN: It would be two wells 30 feet from one
another drilled upon the same location.

KATIE DYE: Okay.

BUTCH LAMBERT: Any other questions---?

KATIE DYE: Thank you.

PHIL HORN: Yes, ma'am.

BUTCH LAMBERT: ---from the Board?

(No audible response.)

BUTCH LAMBERT: You may continue, Mr. Scott.

TIM SCOTT: Thank you.

GUS JANSEN

DIRECT EXAMINATION

QUESTIONS BY TIM SCOTT:

Q. Mr. Jansen, have you been sworn?

A. Yes, I have.

Q. Okay. State your name and by whom you're employed, please.

A. Gus Jansen, employed by Range Resources-Pine Mountain, Inc. as manager of geology.

Q. And did you participate in the preparation of this application?

A. Yes, I did.

Q. Now, we do have some different figures, do we not, for each of these units or these wells, is that right?

A. That's correct.

Q. I'll get you to testify to VH-52...530253 first. What is the proposed depth of that well?

A. 7,489 feet.

Q. And what are the estimated reserves?

A. 1 bcf.

Q. What's the estimated dry hole cost?

A. The dry hole cost is \$643,126.

Q. And the completed cost?

A. \$1,151,341.

Q. Now, as to 530254, what's the proposed depth of that well?

A. 8,832 feet.

Q. And the estimated reserves?

A. Again, 1 bcf.

Q. And you're familiar with the costs, of course?

A. That's correct.

Q. And what's the estimated dry hole cost?

A. For 254...well 538254 the dry hole cost is \$690,149.

Q. And the completed well cost?

A. The completed well cost is \$1,395,447.

Q. Now, those figures have been set forth in the AFE, is that right?

A. That's correct.

Q. And that has been provided to the Board with

our application, is that also correct?

A. Yes, it is.

Q. Okay. Does the AFE also include a reasonable charge for supervision?

A. Yes, it does.

Q. Now, in your opinion, if the application is granted, it will promote conservation, is that right?

A. That is correct.

Q. Prevent waste?

A. It will.

Q. And protect correlative rights?

A. Yes, it will.

TIM SCOTT: That's all I have for Mr. Jansen.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Anything further, Mr. Scott?

TIM SCOTT: That's all I have, Mr. Chairman.

BUTCH LAMBERT: Do I have a motion?

BILL HARRIS: Mr. Chairman, let me just ask a question. I know we were considering two items, but the testimony was given on the first. So---

BUTCH LAMBERT: Actually, the testimony was given on both.

BILL HARRIS: On both?

BUTCH LAMBERT: Yes.

BILL HARRIS: I didn't hear that. Was I just asleep
two or three minutes?

SHARON PIGEON: It happens.

BILL HARRIS: He did both?

BUTCH LAMBERT: Uh-huh.

BILL HARRIS: I'm sorry.

BUTCH LAMBERT: Do you need him to repeat those
numbers, Mr. Harris?

BILL HARRIS: No, no, no. I think I'm okay. I
heard the first number and didn't...I'm okay.

BUTCH LAMBERT: Okay. Do we have a motion?

PEGGY BARBER: Motion to approve.

BILL HARRIS: Second.

BUTCH LAMBERT: I just want to clarify that's a
motion for 2686 and 2687?

PEGGY BARBER: Yes, sir.

BILL HARRIS: Yes.

BUTCH LAMBERT: Okay. All those in favor, signify
by saying yes.

(All members signify by saying yes, but Donnie
Ratliff.)

BUTCH LAMBERT: Opposed, no.

DONNIE RATLIFF: I'll abstain.

BUTCH LAMBERT: One abstention, Mr. Ratliff. Thank you, Mr. Scott. Both of those are approved. The next item on the docket is item thirty. A petition from Range Resources-Pine Mountain, Inc. for a well location exception for proposed conventional well V-530217, docket number VGOB-10-0316-2688.

TIM SCOTT: Mr. Chairman, we're going to ask that be continued until April. We've got a notice issue.

BUTCH LAMBERT: Okay.

TIM SCOTT: And what has been passed out to you all by Mr. Jansen is for the next item.

BUTCH LAMBERT: Okay. So, that item will be continued until April.

TIM SCOTT: Thank you, Mr. Chairman.

BUTCH LAMBERT: The next item on the docket is item thirty-one. A petition from Range Resources-Pine Mountain, Inc. for a well location exception of proposed conventional well V-530235, docket number VGOB-10-0316-2689. All parties wishing to testify, please come forward.

TIM SCOTT: Tim Scott, Gus Jansen and Phil Horn for Range Resources-Pine Mountain, Inc.

BUTCH LAMBERT: You may proceed, Mr. Scott.

TIM SCOTT: Thank you.

PHIL HORN

DIRECT EXAMINATION

QUESTIONS BY TIM SCOTT:

Q. Mr. Horn, would you again state your name, by whom you're employed and your job description?

A. Phil Horn, land manager of Range Resources-Pine Mountain, Inc.

Q. And you're familiar with this application?

A. Yes, I am.

Q. Are you also familiar with the ownership of the oil and gas underlying this unit?

A. Yes, I am.

Q. Who owns the oil and gas?

A. Range Resources-Pine Mountain, Inc. owns all oil and gas inside this unit.

Q. So, we don't have any correlative rights issues, is that correct?

A. That's correct.

Q. Who operates the offsetting wells, 530135 and 530113?

A. Range Resources-Pine Mountain, Inc.
currently operates them.

Q. And do you also...is there participation
with another company?

A. Yes. Our partner Equitable Production
Company owns half interest in these wells also.

Q. Okay. Now, we've notified the parties
listed on Exhibit B of this hearing, is that right?

A. That's correct.

Q. And how was that done?

A. By certified mail.

Q. And, again, we've provided proof of mailing
to Mr. Asbury, is that right?

A. That's correct.

TIM SCOTT: That's all I have for Mr. Horn.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: You may continue, Mr. Scott.

TIM SCOTT: Thank you.

GUS JANSEN

DIRECT EXAMINATION

QUESTIONS BY TIM SCOTT:

Q. Mr. Jansen, again, your name, by whom you're

employed and your job description.

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

Q. And you also participated in the preparation of this application, is that right?

A. That's correct.

Q. Now, would you please explain to the Board why we're seeking a well location exception today?

A. Yes. If the Board would refer to Exhibit AA, it shows the location of proposed well 530235 offsetting two existing wells. In this particular case, we have just a very slight impact on the two existing wells. Just a small overlap in this area. The reason for us not being able to locate this well into a legal location is that there are several existing CBM wells in this area is along some pipeline areas. We also are willing to take advantage of an existing disturbance area that is depicted on Exhibit BB, the second page. What you're looking at here is an ariel photo...a recent ariel photo of this area showing an area disturbed where we're proposing to drill this well. This disturbance is the resulting of all of this timbering activity that went on prior to the gas activity in this area. As you can see, there's several roads that have been cut along the sides of the hills and some cleared areas and those

type of things. This flat area where we're proposing to drill this well was a staging area for the timber operation. In order to get a legal location, we would have to move the well to the east, which would put us on the side slope of this disturbance area. We would not be able to safely drill the well without creating new disturbance and new field areas and those type of things to accommodate the drilling rig. We'd also have to move it to the northwest, which would be in conflict with the existing pipelines and the roads that were already been built in this area which would require additional new disturbance to be able to get this well location...building a location nearby. If we had to continue to move it, we would end up moving it as much as 600 to 800 feet away to get out of these existing activities. Again, we'd be leaving stranded acreage behind and also impacting any future drilling that we have shown on Exhibit AA as we would like to complete in this area. So, again, the stranded acreage in this area is basically less than an acre. It's just a very small impact on the distance requirements of the 2500 foot distance. We'd request that be able to drill it on this existing disturbed area to minimize the disturbance to the environment, as well as utilize that area and not leave any stranded acreage by moving further away.

Q. So, we have topographical issues too, right?

A. Correct.

Q. What's---?

BUTCH LAMBERT: Thank you for the map, Mr. Jansen. I wish we could get more of these like these. You can actually see the area. That helps a lot.

GUS JANSEN: If we can get the updated ones...we actually had to pay just twenty-nine dollars for that, but that's not too bad to get a satellite image of this updated.

BUTCH LAMBERT: Can you...I guess, you can download those...we can make those available through the imagery we have.

GUS JANSEN: It was not updated well enough...we have that imagery also. But it's not as updated as what we've got.

BUTCH LAMBERT: Yeah. To update to 2009 is going to be very, very expensive.

GUS JANSEN: Right. That's what we understand. We actually were lucky to find this out there available to the public at a fee, of course.

BUTCH LAMBERT: Well, thank you for that one.

GUS JANSEN: We thought that was a better exhibit to explain what we were trying to do here than just a topographic map.

BUTCH LAMBERT: Absolutely.

BILL HARRIS: Mr. Chairman, could they explain what the blue line is?

GUS JANSEN: The blue, let me just explain that, is actually the pipelines that have been laid in this area already for the CBM wells and they're sort of running along the existing roadways that go to the offsetting wells in the area.

BILL HARRIS: I thought that might be, but I wanted to make sure. Thank you.

BUTCH LAMBERT: Any questions from the Board?

Q. What's the proposed depth of this well, Mr. Jansen?

A. 6,050 feet.

Q. And what's the potential loss of reserves if the application is not granted?

A. 400 million cubic feet of gas.

Q. Okay. So, in your opinion, the granting of this application would be in...would promote conservation, prevent waste and protect correlative rights, is that correct?

A. That is correct.

TIM SCOTT: That's all I have for Mr. Jansen.

BUTCH LAMBERT: Questions from the Board?

(No audible response.)

BUTCH LAMBERT: Anything further, Mr. Scott?

TIM SCOTT: That's all I have, Mr. Chairman.

BUTCH LAMBERT: Do I have a motion?

PEGGY BARBER: Motion to approve.

BILL HARRIS: Second.

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

(No audible response.)

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

(All members signify by saying yes, but Donnie Ratliff.)

BUTCH LAMBERT: Opposed, no.

DONNIE RATLIFF: I'll abstain, Mr. Chairman.

BUTCH LAMBERT: One abstention, Mr. Ratliff. Thank you, Mr. Scott. It's approved.

TIM SCOTT: Thank you.

BUTCH LAMBERT: Okay. The next item on the docket is Mr. Asbury will give us an update on the escrow account activities.

DAVID ASBURY: Thank you, Mr. Chairman. As Ms. Davis is handing out some exhibits to you, I did want to share with you and the Board that I was invited to the 2009 shareholders and stockholders meeting of the First Bank &

Trust, which was held last night. Not to take any of their thunder away from the April presentation, I did want to share with the Board a couple of items in their presentation last night. First of which, was their total assets for the bank. One of the things that was clear throughout their total presentation was that First Bank & Trust is positioned very well. As far as the banking industry in 2009, they actually increased in areas that other banks cross the nation decreased. The total assets at the end of 2009 for the first time in their bank history surpassed 1 billion dollars in assets. That's up from 793 million just five years ago. They reported in their annual report that the company generated a 13.77% return on the shareholders equity for the year and a 1.14% on average assets that grew from 998 million a year ago to 1.13 billion in 2009. I want to report that the Board's staff, Diane Davis and myself, have worked with First Bank & Trust and we can't say anything but good things about the efforts that First Bank & Trust and their employees have worked with us to make a smooth transition of the escrow account. It is complete at this time. We continue to work with them on a daily basis to review items in the escrow account.

Now, that you've got the handouts, the first handout that I'll talk with you about is this one. This

gives you an update through February of 2010 on where the escrow account is. It does reflect that we have an ending balance...an ending value at the end of February of \$25,348,000. It shows for the two month period there has been contributions by gas operators of \$674,427. Interest income was \$9,448. The fees and expenses was \$2,019. All those fees were the escrow agent fees allowed under contract. There has been \$291,253 of disbursements in two months. That's a credit to Ms. Davis' efforts and other efforts with the gas companies to get disbursements that already exceed the full year of 2008 and will probably exceed the full year of 2004 and 2005 shortly. And as you thought, when the Board made its decision on the investments that First Bank & Trust offered, the interest income is now positive. So, the net interest income would have been \$7,000...\$7,429, but the interest for the escrow account has, as you thought and as we thought, become positive for the first two months and that will continue.

BUTCH LAMBERT: Well, that will continue until we get our arbitration bill passed and then we'll have to monitor that interest closely.

DAVID ASBURY: Yes, we will. Does the Board have any questions on the update?

DONNIE RATLIFF: Mr. Chairman.

BUTCH LAMBERT: Mr. Ratliff.

DONNIE RATLIFF: Do you know on an average what the expenses were in the preceding years, the fees and expenses on line six?

DAVID ASBURY: The...on annual basis, Mr. Ratliff, it was \$65,000 to \$72,000 that I'm familiar with. The total annual expense for the contract with First Bank & Trust, again, is 10 basis points under contract. So, that should be in the neighborhood of \$25,000 to \$30,000 on an annual basis.

DONNIE RATLIFF: Very nice.

DAVID ASBURY: Any other questions from that one?

(No audible response.)

DAVID ASBURY: The next one that I would like to discuss with you has the email at the top of the page and then the second page has some highlights in yellow. I'd just like to update the Board on activities that Diane and I continue to do with different accounts in escrow and this was a review that we had and we're continuing to do this as time allows. It is a priority for us. This particular effort was to look at the zero accounts at the bottom of the Wachovia spreadsheet. We were able to identify through Diane's research and our research in the office items that should have been taken off of the monthly spreadsheet by Wachovia and for whatever reason they were left on. They were

accounts that should have been closed. They agreed with the Board orders and that the accounts should have been closed and removed from escrow. For whatever reason, Wachovia continued to carry on it on their spreadsheets. So, we're trying to clean up some of that information. I would ask the Board's latitude for Diane and I as your staff to continue to look at these type of items and make these corrective actions and provide you with an update monthly rather than to wait until a Board meeting to get your approval to do this. I feel like this is something that the staff is part of our staff functions to do. If it agrees with transcripts and agrees with the Board orders or supplemental orders to allow us the latitude to take action with the escrow agent.

BUTCH LAMBERT: Well, I think that we would encourage you to do that even if it's just mistakes that you find going through day to day...a routine review of the accounts to be able to do that and report back to the Board.

SHARON PIGEON: David, could I just confirm that what you found and what you're telling us now is that the transcripts and the orders have the correct directive to the escrow agent and the escrow agent in error continued the sub-accounts?

DIANE DAVIS: On some of these cases, the original order said to be escrowed and by the time they came around

and did their supplemental, they had obtained---

DAVID ASBURY: Split agreements.

DIANE DAVIS: ---a 100% leased unit, which means the supplemental said no escrowing was required. So, these were established by the Board order, but when...as we all know the supplemental tells what happens to everyone, they had leased them all. That's a lot of the percentage of these that got established, not really incorrectly, but then were told to remove and they just didn't get removed. They're sitting down there with a zero balances.

SHARON PIGEON: After the elections were made?

DIANE DAVIS: Yes, after the elections were made.
Yes.

DAVID ASBURY: Okay. The third item that I have is one (inaudible) of the escrow. During September of last year, and there was a lot of disbursement activity that went on, there was a withdrawal in unit Y-7 that should have been for AX-109. This was during the time that we had also discovered a mistake in 2006 that involved an overpayment of an individual and the amounts were close. For a while, for several months, we thought that negative balance was specifically associated with the balance that had not been recovered from that individual for the overpayment. We did additional research and actually a disbursement this month

caught our attention and we researched some of the facts and found that Wachovia had made a withdrawal from the wrong unit based on the information provided to them. We did confirm that with Wachovia. We've instructed First Bank & Trust to make the correction with interest. The moneys were withdrawn from Y-7 and if Y-7 had continued to show a negative balance October through February and now we're going to make the correction to AX-109 in the right unit that it should have been withdrawn back in September. We're going to make the correct withdrawal from AX-109 and restore unit Y-7 to its rightful balance with interest.

DONNIE RATLIFF: Mr. Chairman. Was that a...was that a mistake on the Board or a mistake by Wachovia?

DAVID ASBURY: Wachovia. And they researched...it took a little time for them to researched that and they...through emails, and I've got the emails attached here, confirmed that our research was correct. That's all I have, Mr. Chairman.

BUTCH LAMBERT: Any questions for Mr. Asbury?

(No audible response.)

BUTCH LAMBERT: David, thank you, and Diane for the work that you all continue to do on updating this and I know that work that you've closely done with the First Bank & Trust and thank you for attending their Board meeting last

night. I know that was helpful to you in finding out exactly how stable they are. We appreciate that. Thank you.

DAVID ASBURY: Thank you, sir.

BUTCH LAMBERT: Okay. Are there any other business items or items for discussion for the Board?

DONNIE RATLIFF: I'd like to bring up two, Mr. Chairman.

BUTCH LAMBERT: Mr. Ratliff.

DONNIE RATLIFF: One, the fee bill got killed. They got put back in the budget, but we still don't know if they're going to make it and survive. But I just feel like that the Board and David needs some help...we need to generate some type of fund that we can have an accounting type of person to do this work that's responsible just for the escrow account to give the Board some reassurance. I'd like for David to look at an average number of the pooling orders and the pooling orders with escrow, the horizontal unit makeup where we put the 320 acre units together and the various types of petitions that the Board looks at, disbursement petitions and the Board consider fees above and beyond what we're charging now to cover the cost. The cost that the fees that's generated now just barely, from what I understand, covers the Board expenses with the transcript and everything. But we may have to look at some fees, Mr.

Chairman, and try to generate some money and I don't know what that dollar amount is, you know. You're going to have to look at off years as well as the good years. But I think it's time that we go back and look at that and if David will give us some numbers to work on, we'll try to maybe in the next meeting with a motion on its own, the Board can place that on the agenda and discuss fees for each one of these and we'll just have an open discussion on what we think we're going to need to generate and what do we charge each petition to come up with that number. One right off the back, on disbursement issues since we're encouraging that, you know, I don't see a fee disbursement. But these other items, I think we need to take a look at. I don't know how long it has been since there's been a fee increase, if there has every been one since 1990. But I just feel like this whole ordeal that we've gone through in the last six months since Bob retired and then passed away and the baton was handed to David that a lot of things have come up and we just need to be assured that what the...when the Board executes and approves an order we need some mechanism there to check...there's a requirement that they...that the gas companies provide us with volume and production. But there's not a check and balance. We never know if a check goes into an escrow account. We need some kind of device where we can monitor that whether we tie it

back to severance tax paid or whatever the key is. I don't know. You guys deal with it everyday and you...we'd look for your guidance there.

The second item that I'd like to put on the agenda next time is I'd like to see the gas companies reconcile their own escrow accounts and make it an annual event. Since this is March, if we considered something like having it done by the end of...by the first day of September of this year for the year of 2009, then thereafter, make it July 1 where each gas company would reconcile their escrow accounts to give us some type of documentation so that we had a comfort level to know that the money that was supposed to go into escrow is where it's supposed to be. Those are my concerns. We tried to work that out through bills in Richmond and they got killed. We were unsuccessful there. But that's the two items and if anyone wants to add or take away or if you've got a better ideal, I'm...there's nothing cast in stone.

BUTCH LAMBERT: So, Mr. Ratliff has asked for those two items to be put on the agenda for next month, one for you...Mr. Asbury, for you to provide us with a spreadsheet of the number of petitions reviewed by the Board and the costs and potentially what that cost would need to be to find a position to help this Board review escrow accounts and payments into the escrow account. Is that stated correctly?

DONNIE RATLIFF: That's stated correctly.

BUTCH LAMBERT: Okay. And second one was an annual reconciliation of the escrow accounts from the gas companies.

DAVID ASBURY: And you want it September of 2010?

DONNIE RATLIFF: I mean, I'm open. This year I think if we look at a September number that's pretty fair. Just go back and look at '09. After this year, we'd make that due on July 1. They're going to close their year out in December. That gives everybody six months to...I think once it's done one time it will be easier after that. It won't be so labor intense.

DAVID ASBURY: Okay.

BUTCH LAMBERT: So, that would just be docketed items for discussion next month.

DAVID ASBURY: Okay. We'll...the staff will provide the information on the pooling orders and the back actions in your packets, as well as we'll send an email to you once it is prepared.

BUTCH LAMBERT: Okay. Anything further? Any other items that need to be discussed?

(No audible response.)

BUTCH LAMBERT: The only item that I have left on the agenda is approval of last month's minutes. Are there any additions or corrections to the minutes?

(No audible response.)

BUTCH LAMBERT: I'd call for a motion for approval.

BILL HARRIS: I make a motion for approval of the
minutes.

BUTCH LAMBERT: I have a motion and a second. All
those in favor, aye...yes

(All members signify by saying yes.)

BUTCH LAMBERT: Opposed, no.

(No audible response.)

BUTCH LAMBERT: Thank you. We're adjourned.

STATE OF VIRGINIA,

COUNTY OF BUCHANAN, to-wit:

I, Sonya Michelle Brown, Court Reporter and Notary Public for the State of Virginia, do hereby certify that the foregoing hearing was recorded by me on a tape recording machine and later transcribed under my supervision.

Given under my hand and seal on this the 11th day of April, 2010.

NOTARY PUBLIC

My commission expires: August 31, 2013.