

VIRGINIA:

VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

VIRGINIA GAS AND OIL BOARD

JULY 19, 2011

APPEARANCES:

BOARD MEMBERS:

BILL HARRIS - PUBLIC MEMBER
BRUCE PRATER - GAS REPRESENTATIVE
KATIE DYE - PUBLIC MEMBER

CHAIRMAN:

BUTCH LAMBERT - CHAIRMAN OF THE VIRGINIA GAS & OIL BOARD

RICK COOPER- ACTING DIRECTOR OF THE DIVISION OF GAS & OIL
AND PRINCIPAL EXECUTIVE TO THE STAFF OF THE BOARD
DIANE DAVIS - STAFF MEMBER OF THE DGO

SHARON PIGEON - SR. ASSISTANT ATTORNEY GENERAL

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1 BUTCH LAMBERT: Good morning, ladies and gentlemen.
2 It's now 9:00 o'clock or it's a little after 9:00. It's time
3 to begin our proceedings this morning. First of all, if you
4 have any cell phones or other communications devices, we'd
5 ask you to please turn those off or put them on vibrate. If
6 you need to take a call, I'd ask that you please do that
7 outside. These proceedings are being recorded and that may
8 interfere with some of our testimony here today. I'd like
9 to begin this morning by asking the Board members to please
10 introduce themselves. I'll begin with Ms. Dye.

11 KATIE DYE: Good morning. I'm Katie Dye. I'm a
12 public member from Buchanan County.

13 SHARON PIGEON: I'm Sharon Pigeon with the Office
14 of the Attorney General.

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

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

19 BRUCE PRATHER: I'm Bruce Prather. I represent the
20 oil and gas on the Board.

21 BUTCH LAMBERT: This morning, ladies and gentlemen,
22 as you probably have noticed we're trying out a new sound
23 system. We may be having some technical difficulties along
24 the way until we get it worked out, so please bear with us.
25 We'll do the best we can of getting this set up for your

1 convenience. Also this morning, I need to make folks aware
2 that...this month we've had a change at the Division of Gas
3 and Oil. David Asbury has left the state service. As the
4 acting director, the Department of Mines, Minerals and
5 Energy has appointed Rick Cooper. Mr. Cooper, we appreciate
6 you this morning and your assistance and your willingness
7 to step up and take that role on as we move forward with our
8 gas and oil issues. Thank you. First on the docket, we'll
9 enter into public comments. I have Juanita Sneeuwaght.

10 JUANITA SNEEUWAGHT: Good morning.

11 BUTCH LAMBERT: Good morning.

12 JUANITA SNEEUWAGHT: I missed you folks last month.
13 It's good to see you. I just wanted to say...well, let me
14 introduce myself first. I'm Juanita Sneeuwaght. I'm
15 president and director of the Committee for Constitutional
16 and Environmental Justice. I'd heard about Mr. Asbury being
17 absent. I just wanted to say just a couple of words about
18 him. I'm glad he has gone on to greener pastures. I hope
19 that those pastures are greener for him. I wanted to say
20 that the first time that I met David he greeted me very
21 warmly. He said, "I'm an advocate for the people. I am in
22 neither place. I'm advocating for everybody and so forth."
23 I really think that he believed that that would be his
24 position at that time. So, I as I said he was very warm.
25 I don't know if he was able to fulfill the roles that he had

1 in mind here. But he certainly tried to do that. I just
2 hope that his moving on will be a more rich place for his
3 spiritual condition. So, I just hope that life will be very
4 good for him from now on. If any of you should speak with
5 him, please relay my regards. I thank you very much. By
6 the way, we have a short docket. Can we finish before noon?
7 Thank you.

8 SHARON PIGEON: Yay!

9 BUTCH LAMBERT: Michael Counts.

10 MITCHELL COUNTS: Morning.

11 BUTCH LAMBERT: Good morning, Mr. Counts. Would
12 you please state your name for the record?

13 MITCHELL COUNTS: My name is Mitchell Counts. I'm
14 a tax paying land owner in Buchanan County. For twenty-five
15 years I tried to keep CNX off of my property to keep the gas
16 wells off and to keep the gas lines off. Of course, I didn't
17 have any success. The gas company says they owe me...that
18 they have a hundred thousand dollars of mine in an escrow
19 account, but of course I can't get any help to get that out.
20 Last week I got a call from someone in the gas and oil board
21 that said that they had a check drawn up for me. That it
22 would be ready in twenty-one days. An hour later I get
23 another phone call that says that was a mistake and that I'm
24 not even on the list of land owners. I don't know where the
25 problem is. But after twenty-five years of people taking

1 my gas it looks like I could get paid for it. I don't have
2 the money to put a house or a floor...a roof on my house or
3 a floor in it. I'm a disabled miner. I really feel like
4 that I've been wholly bad word bad word. Thank you all for
5 listening.

6 BUTCH LAMBERT: Catherine Jewell.

7 CATHERINE JEWELL: I've got a few comments. With
8 respect to today's agenda, I noticed that one of the
9 disbursements, I believe it's item number three, involves
10 a well that was pooled back in 1993. The order showed that
11 99.71% of the gas estate was unleased and was assigned to
12 an unknown/unlocated owner. According to the DGO
13 information site, the well was permitted in March of 2006.
14 For some reason, this well did not begin producing until
15 December of 2006, more than thirteen years after the pooling
16 order was issued. There's only one pooling order on line.
17 Now, I know these pooling orders expire because I've seen
18 them marked expired. I'm just wondering how it is unless
19 I'm mistaken and there's another pooling order one would be
20 allowed to operate under a pooling order that was thirteen
21 years old and the information not updated to the current
22 information.

23 Anyway, the second comment is I've been looking at
24 the on line Board site and I'm a bit concerned. For many
25 of the years, the acreage listed as being escrowed is zero.

1 However, a value is put the escrow for the units. Having
2 looked at these orders, I believe the reason why the acreage
3 is listed as zero for these units is because the person or
4 persons who attempted to interpret these orders could not
5 figure out the acres that was supposed to have been escrowed
6 from the orders. Neither could I. Many of these orders were
7 older and not only were the acreage to be escrowed not stated
8 in the orders, but neither the owners nor their percentages
9 identified. Hence there's no way, based on the information
10 provided in the pooling and supplemental orders, could
11 anyone figure out what was to be escrowed, which makes me
12 wonder how the auditor is supposed to figure out this
13 information and how the DGO and Board, which is supposed to
14 have been protecting the interest of the owners whose
15 interests have been force pooled and are ordered to be placed
16 in escrow based on the testimony of the operators could be
17 doing their job. Now, I realize these orders have evolved
18 over time and that the format for the orders accompanying
19 the exhibits have been standardized for the past decade more
20 or less. Operators were supposed to clearly list the
21 owners, their current address, their alleged claim and their
22 interest in the units. I don't know how a Board could have
23 approved these early orders. But then again the Board never
24 sees the pool...never sees the Board...never approves the
25 orders. The Board only approves the applications. The

1 actual orders generated by these applications and the
2 testimony given were approved by the Chairman of the Board
3 on behalf of the Board. This Board never sees the
4 supplemental. They never see the pooling order. They only
5 see the applications. Yet these pooling orders were
6 approved and these pooling orders failed to properly list
7 the owners, the interest or any of that information, which
8 I assume is why that acreage shows up as zero.
9 Unfortunately, a few applications that I looked at
10 corresponding to the orders also failed to provide this
11 information. So, many of the early orders are pretty clear
12 with respect to ownership, however, many are not. When a
13 unit has not activity, such disbursements or repooling for
14 decades, there's no attempt by the operator to either provide
15 clarification to the units or to update the unit ownership
16 information. The Board, which is never privy to the
17 original orders, has no way of knowing what the originally
18 orders...how the original orders compare to the disbursement
19 orders or to the repooling orders years, sometimes a decade
20 or more later. Based on what I've heard and read in the
21 transcripts more recently, the DGO has taken upon itself to
22 compare this information, which is very commendable, albeit
23 a bit late. The DGO does not have a vote as to whether these
24 orders or whatever...these applications receive approval.
25 I'm sure that some of the discrepancies never actually get

1 brought before this Board, which the ones that they've found
2 and I've found many. So, with respect to these unclear
3 orders...I've got some buzzing going on in the back of me.
4 It might be my ear. With respect to these unclear orders,
5 this Board should order the operator of those units to
6 provide update information including as a minimum the
7 current owner's address of each...each owners for the tracts
8 or the percentage in the tracts that they own. Who was being
9 paid directly and what their percentage is in the unit and
10 the alleged owners of each tract or portion of the track,
11 current address of these owners and leased election status
12 and acreage percentage of the interest that is being held
13 or is supposed to be held in escrow accounts. I assume that
14 there is much information that they already have. It's all
15 being held in-house by these operators and it's not reflected
16 in orders on line. This Board should demand that
17 information...this information to protect the interest of
18 those whose ownership interest in these tracts for which they
19 or their predecessors have ordered pooled and which they are
20 charged in protecting.

21 Production...a quick note on production. Some of
22 the operators, EQT comes to mind, appears to either be way
23 behind on reporting production or for...or the DGO is behind
24 on putting that information in the database. I don't know
25 what it is. But every well that I've checked out for EQT,

1 and I haven't checked them all, the last production was given
2 as of December, 2010. There are other operators that are
3 late on reporting their production too. By now I would
4 expect production through April of 2011 to be available.
5 Now, if the problem is these operators have not reported
6 their production, I think immediate action needs to be taken
7 to correct that. If it's not just being transferred from
8 what they're reporting to on line, you know, I would
9 appreciate if that effort could be stepped up a bit. There
10 is, I believe, a requirement in reporting. People sort
11 depend on that. Thank you.

12 BUTCH LAMBERT: Thank you. The next item on the
13 docket is the Board will receive a quarterly update from
14 First Bank & Trust Company, the escrow agent for the Board.
15 Good morning.

16 KAREN McDONALD: Good morning.

17 DEBBIE DAVIS: Good morning. My name is Debbie
18 Davis. I'm the trust officer for the Virginia Gas and Oil
19 Board escrow account. We were sad to hear that David has
20 left. But we are excited to work with Rick while he's in
21 the acting position.

22 LETON HARDING: My name is Leton Harding. I serve
23 as executive vice president of First Bank & Trust Company.

24 KAREN McDONALD: My name is Karen McDonald. I'm
25 the trust investment office for the Trust Division.

1 BUTCH LAMBERT: It's good to have you folks with us
2 this month.

3 DEBBIE DAVIS: If you've like to turn to tab one,
4 I had handed out to the booklets before we started this
5 morning. On page twenty-one of twenty-four, you'll see all
6 the ending balances as of 6/30. There's an ending market
7 value of \$27,015,514.94. We had audit costs for the month
8 of \$6,358.58. Those are for the ladies that are in the
9 Division's office doing the audits and going through the
10 records. We pay those out weekly to them. Also for the
11 month, we had distributions of \$188,676.18. If you will
12 note, there was \$30.21 in the correction column. There was
13 some interest...additional interest that was earned for the
14 month of May. So, it came in after I had submitted my
15 spreadsheet. So, I just added it into the correction column
16 to make that seen. And you'll note the wells that are listed
17 with the yellow highlights are new wells that we have just
18 received deposits for the first time for the month. Do you
19 have any questions concerning the spreadsheet?

20 BUTCH LAMBERT: Any questions from the Board?
21 (No audible response.)

22 BUTCH LAMBERT: Accepted.

23 DEBBIE DAVIS: Okay. I'll turn it over to Karen
24 then.

25 KAREN McDONALD: And if you'll go to the next tab,

1 you will see the current investments for the funds. As of
2 June the 30th, we have \$4,475,514.84 in the money market.
3 That is earning 40 basis points. Then we have our laddered
4 six month and twelve month CEDARS FDIC insured funds. I have
5 placed a line there between the 50 basis points and 65 basis
6 point to show you the amount we have invested in a six month
7 schedule and the amounts we have invested for a twelve month
8 schedule. We have talked about how much we want to keep in
9 the money market account and \$3,000,000 has...has been
10 advised to us as a good ballpark. Debbie and I have
11 discussed this. We thought we would wait and watch the
12 distribution's pattern for the next month or two. Because
13 we are building up a fair bit of cash, we could move that
14 into another six month or a twelve month CEDARS, a domination
15 of \$980,000. But we don't want to do that quickly because
16 the distribution pattern is irregular and unpredictable.
17 So, if the Board has any comments on that point, Mr.
18 Chairman,---

19 BUTCH LAMBERT: How long...how long do you expect
20 that it would take to see a pattern emerging?

21 KAREN McDONALD: Well, I would probably say---

22 BUTCH LAMBERT: Are you seeing anything...I guess
23 are you seeing any patterns now or is it just kind of all
24 over the Board?

25 DEBBIE DAVIS: It has become all over the Board.

1 So, I would say probably by September, you know, or even
2 before if we see a fluxation where we're getting more cash
3 in there, I think I would tell Karen that, yeah, we probably
4 should go ahead with additional purchases just to keep that
5 number, you know, as close to \$3,000,000 as we can.

6 KAREN McDONALD: And the concern about the money
7 market's balance, we don't need to worry too much about
8 liquidity because we do have CEDARS maturing almost every
9 month if not every month. So, there is always in the matter
10 of thirty days more moneys available if something unusual
11 should come up. Then the next tab is more for the estimated
12 income to show you how the yield on the CEDARS and the money
13 market are contributing to the accounts. Because we are now
14 in a cycle of just about a year of full investment, barring
15 a few changes that we made in December, we can estimate that
16 we're about a \$145,000 a year earning on this level of
17 investment as you look at the budgets. The last page is to
18 just keep you apprised of other investment options, we are
19 always looking to see if there are other opportunities. The
20 daily treasury bill's rates have taken a deep. You will see
21 that this was as of last Wednesday. The four and thirteen
22 week bills are earning one hundredth of a percent of one basis
23 point. So, there's truly a flight to safety for treasurers
24 and even a six month...twelve month is earning fifteen basis
25 points compared to our twelve month CD earning 65 basis

1 points. So, I don't think there's much competition out
2 there for how that could tempt us to invest differently.
3 We're very pleased that we have been able to offer you the
4 rates that we have and those...those rates are available for
5 how long, Mr. Harding?

6 LETON HARDING: Mr. Chairman and the Board, we
7 appreciate the opportunity. We think that we can generally
8 retain...maintain these yields for you through the end of
9 the year. What we'd like to probably do is, you know, the
10 first of January come back and evaluate, you know, where the
11 yields are overall. But I think for the next three to four
12 months we can be consisted with our rates for the Board. You
13 know, our hope would be that, you know, we'll see some
14 improvements in the economy and that rates overall would go
15 up and borrowing would go up and that would benefit both the
16 bank and the community as well as the investments that we
17 hold on behalf of the Board.

18 KAREN McDONALD: Are there any questions or
19 comments?

20 BUTCH LAMBERT: So, I guess at this point from what
21 we have just heard is that we're okay---?

22 KAREN McDONALD: Yes, sir.

23 BUTCH LAMBERT: ---on where we are right now---?

24 KAREN McDONALD: Yes, sir.

25 BUTCH LAMBERT: ---and we should stay the course

1 and evaluate in a couple more months?

2 KAREN McDONALD: Yes. And just to reassure you,
3 there's nothing that's going to change on our end. No bumps
4 in the road with regard to Mr. Asbury's transition and Mr.
5 Cooper's new position...temporary position. So, there's
6 nothing for you to worry about as far as we're managing the
7 account because of any changes in your offices.

8 BUTCH LAMBERT: Well, we certainly appreciate that.
9 I know that Diane and David was doing monthly meetings, I
10 think. We're you---?

11 DIANE DAVIS: Pardon me?

12 DEBBIE DAVIS: We were doing them quarterly.

13 BUTCH LAMBERT: Quarterly. We want yo certainly
14 encourage Rick to continue that communication in those
15 quarterly meetings. I thought that was very good
16 interaction that they were able to give us that feedback.
17 We appreciate those meetings.

18 DEBBIE DAVIS: Do you all feel comfortable with what
19 we were seeing on the investments with the cash? You know,
20 if we don't see a rise in the disbursements to go ahead and
21 do as we've done with the laddered approach to keep that money
22 market around \$3,000,000?

23 BUTCH LAMBERT: Yes. I think that...unless the
24 Board has comments about it. I think personally---

25 BILL HARRIS: Is that already out? Do we need a

1 motion for that or is that automatic?

2 BUTCH LAMBERT: We've already done that.

3 DEBBIE DAVIS: I think we've already got that
4 approval. We just wanted to seek---

5 BILL HARRIS: So, that's an automatic---?

6 BUTCH LAMBERT: Yes. Yes.

7 DEBBIE DAVIS: ---the reassurance that we should
8 continue on that.

9 SHARON PIGEON: Were you planning to come back in
10 September and tell us what the pattern is that you observed?

11 KAREN McDONALD: We certainly can.

12 LETON HARDING: Yeah.

13 KAREN McDONALD: Our...we come quarterly. But
14 anytime that you would like us to come---

15 SHARON PIGEON: Well, you had said September was the
16 time that you needed to determine if there is a pattern.

17 DEBBIE DAVIS: Yeah. We can come back in
18 September.

19 SHARON PIGEON: Okay. I think that would probably
20 be a good visit.

21 LETON HARDING: Okay.

22 DEBBIE DAVIS: Okay.

23 KAREN McDONALD: Okay.

24 BUTCH LAMBERT: Okay. We'll plan on our report in
25 September.

1 DEBBIE DAVIS: Okay.

2 BUTCH LAMBERT: Any other questions from the Board?

3 BRUCE PRATHER: I've got a comment.

4 BUTCH LAMBERT: Mr. Prather.

5 BRUCE PRATHER: I think you are to kind of to be
6 congratulated for a year's progress on this thing. That is
7 that one of the problems that we had at Wachovia was the fact
8 that they...the expenses were more than what interest we
9 could make. That's one reason we changed this thing. I'm
10 very happy to see that, you know, we're paying your expenses
11 and then there's still money left over. So, as I say, you've
12 done what you said you were going to do. I appreciate that.

13 LETON HARDING: Thank you, Mr. Prather.

14 KAREN McDONALD: Thank you.

15 SHARON PIGEON: We appreciate the high level of
16 communication that we get from you as well. I know that
17 geography has something to do with it since we have a branch
18 here and we meet her. But communication wasn't always as
19 high before.

20 LETON HARDING: Well, we think that communication
21 is very, very important. It has been...particularly in the
22 area of governmental services and public entities, we've
23 been able to have a lot of good relationships with clients
24 not only here in Southwest Virginia but around the state.
25 I attribute that to our staff and our commitment to

1 communications.

2 DEBBIE DAVIS: I'm just glad that, you know, David
3 and Diane and now Rick are...you know, don't get tired of
4 my emails or my phone calls just to verify things.

5 SHARON PIGEON: We (inaudible).

6 BUTCH LAMBERT: Any other questions or comments
7 from the Board?

8 (No audible response.)

9 BUTCH LAMBERT: Thank you, folks. We appreciate
10 your time.

11 DEBBIE DAVIS: Thank you.

12 KAREN McDONALD: Thank you.

13 LETON HARDING: Thank you.

14 BUTCH LAMBERT: The next item on the docket is a
15 petition from EQT Production Company on behalf of Marlene
16 McCall, Donna Vest and Range Resources-Pine Mountain, Inc.
17 for disbursement of funds from escrow and authorization of
18 direct payment from unit VC-702914 for Tract 2. This is
19 docket number VGOB-93-0420-0367-02. All parties wishing to
20 testify, please come forward.

21 JIM KAISER: Mr. Chairman and Board members, Jim
22 Kaiser and Spence Hale on behalf of EQT Production.

23 (Spence Hale is duly sworn.)

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SPENCE HALE

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

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

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

A. Spence Hale, EQT Production Company as a landman.

Q. And have all parties been notified as provided by statute of this disbursement hearing this morning?

A. They have.

Q. And we are disbursing proceeds from the unit for well number 702914?

A. Correct.

Q. And it's Tract 2?

A. Yes.

Q. And will that close this...if this petition is approved, will that close the subaccount for Tract 2?

A. Yes.

Q. But it will not close the account for the

1 unit, correct?

2 A. Correct.

3 Q. Okay. And along with the application that
4 we submitted, did we provide a spreadsheet in the format as
5 requested by the former director, Mr. Asbury?

6 A. Yes.

7 Q. And could you go through the pertinent parts
8 of that spreadsheet at this time?

9 A. There's currently escrowed 0.138 acres
10 constituting .24% of the unit.

11 Q. And the percent of escrowed funds is to be
12 disbursed to both Ms. Marlene McCall and Ms. Donna Vest to
13 your best interest, is that correct, as shown on the
14 spreadsheet?

15 A. Yes.

16 Q. And would you ask that the order include
17 directions for the operator going forward to pay the royalty
18 attributable to these owners in Tract 2 directly?

19 A. Yes.

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

22 BUTCH LAMBERT: Any questions from the Board?

23 KATIE DYE: I have some questions, Mr. Lambert,
24 please.

25 BUTCH LAMBERT: Mrs. Dye.

1 KATIE DYE: It may not be the appropriate time, but
2 a couple of things that I noticed about this application,
3 it does not have the...you identify it under E and it doesn't
4 have the letter that you state that should be in the
5 application. There's no copy of the split agreement I guess
6 is what I'm saying.

7 RICK COOPER: We did receive that.

8 KATIE DYE: Okay. Do you have the tract
9 identification page?

10 RICK COOPER: What are you wanting on the
11 tract...the E or---?

12 KATIE DYE: I was just wondering because on their
13 plat there's no property boundary lines shown on the plat
14 that I have.

15 JIM KAISER: Sure there is. There's just primarily
16 just one tract in the unit.

17 SHARON PIGEON: Why are you calling it 2A and 2B?
18 I mean, is it 2 or 2A and 2B?

19 JIM KAISER: Apparently, it's the way it's
20 structured under this new format that Mr. Asbury wanted us
21 to use. A would be one of the interest owners and B is the
22 other one.

23 SHARON PIGEON: Even when the tracts are still not
24 broken out that way?

25 JIM KAISER: Right.

1 KATIE DYE: So, you divided---?
2 JIM KAISER: We didn't ask for this.
3 KATIE DYE: So, you're dividing---?
4 SHARON PIGEON: I wasn't accusing you.
5 KATIE DYE: ---according to the disbursement like
6 you've got two people in that tract? I'm I clear?
7 JIM KAISER: Yeah, we do have two people in that
8 tract.
9 SPENCE HALE: Right.
10 SHARON PIGEON: Well, there will be occasions when
11 the tracts have been identified as Tract 2A or 2B on some
12 units, correct?
13 JIM KAISER: Not in my recollection. But you may
14 be...I'm sure you're right.
15 KATIE DYE: Yeah, we've had several like that.
16 JIM KAISER: So, that's going to be a---?
17 JIM KAISER: I don't think there's an EQT ones. Not
18 that I can recall in fifteen years.
19 SHARON PIGEON: Again, I'm not accusing you. I'm
20 just trying to get some information.
21 KATIE DYE: I do have just one more question. I'm
22 not sure that it is appropriate. But with these
23 disbursements are you providing these individuals like with
24 a full accounting, are you providing them with all the post
25 production charges that have been taken out and all the

1 severance tax?

2 SPENCE HALE: I don't know the answer to that. I
3 don't know if it's provided to the land owners or not.

4 KATIE DYE: But it would be available to them if they
5 requested it? I'm I correct?

6 SPENCE HALE: Yes.

7 SHARON PIGEON: You may have testified to this and
8 I was looking at some other things, but did you testify that
9 this...these numbers reconciled between the bank and EQT's
10 record of payments?

11 SPENCE HALE: I did not testified that those were
12 reconciled.

13 JIM KAISER: Let me ask you. Do these numbers
14 reconcile with the bank reconciliation or are they
15 consistent with the bank reconciliation?

16 SPENCE HALE: There's a slight difference in what
17 the bank statement shows and what EQT deposited in the
18 account. We attribute that to interest accrued.

19 JIM KAISER: The bank's total is higher and that's
20 what we're going to use to disburse?

21 SPENCE HALE: That's...that's correct.

22 BUTCH LAMBERT: Mr. Kaiser, I didn't hear if you
23 answered Mrs. Dye on there's not an Exhibit A attached.

24 SHARON PIGEON: Rick said that they had it. I don't
25 know why we don't have it.

1 BUTCH LAMBERT: I thought that...I thought that
2 Rick said...testified that you had the split agreement.

3 SHARON PIGEON: That letter.

4 BUTCH LAMBERT: And you've got the letter?

5 RICK COOPER: The letter...we have the letter.

6 BUTCH LAMBERT: Okay, thank you. Okay, thank you.

7 SHARON PIGEON: It should be with our copies,
8 however, since it's referred to---

9 RICK COOPER: It was faxed after we did the package.

10 SHARON PIGEON: I thought you provided the copies.
11 I thought you provided the copies.

12 JIM KAISER: We normally do. We must not have had
13 it at the time that we filed the application.

14 SHARON PIGEON: Did we get the percentages in the
15 record?

16 JIM KAISER: Excuse me?

17 SHARON PIGEON: Did we get the percentages in the
18 record?

19 SPENCE HALE: The split agreement?

20 JIM KAISER: Yes.

21 SHARON PIGEON: Yes.

22 JIM KAISER: Yes. Would you state the percentages
23 under the split agreement?

24 SPENCE HALE: It's a 75/25 split.

25 SHARON PIGEON: Well, by name here. We've got a

1 couple of people.

2 SPENCE HALE: 75% is going to be distributed to the
3 Marlene McCall and Donna Vest and 25% to Range Resources-Pine
4 Mountain.

5 SHARON PIGEON: But we're talking about one tract?

6 JIM KAISER: Yes.

7 SPENCE HALE: One tract.

8 JIM KAISER: One tract.

9 SHARON PIGEON: Is this a joint ownership
10 between---?

11 SPENCE HALE: Yes.

12 SHARON PIGEON: ---Marlene McCall and Donna Vest?

13 SPENCE HALE: Correct.

14 SHARON PIGEON: So, the two of them together will
15 receive 75%, is that what you're saying?

16 SPENCE HALE: Yes.

17 JIM KAISER: No, two of them together...they each
18 own half of Tract 2, which represents .24% of the unit. The
19 split agreement for Tract 2 is 75% to them and 25% to Range.

20 BUTCH LAMBERT: So, they will split 75%?

21 JIM KAISER: No, they're splitting a 100% 75/25
22 that's attributable to Tract 2.

23 BUTCH LAMBERT: 75/25. Okay. I'd like to go back
24 and clear up this whole issue of Tracts...I think we're...I
25 think we're all confused now. I don't know when Mr. Asbury

1 set that policy in place. It's very confusing for us to try
2 to follow that if we've only got one unit, but two tracts
3 and we don't have the two tracts identified. What are we
4 calling two tracts?

5 JIM KAISER: We're not calling it two tracts.
6 We're identifying the different disbursees, if you will, as
7 one is 2A and 2B.

8 BUTCH LAMBERT: But you're calling them tracts?

9 JIM KAISER: I assume that's what he's doing.

10 SHARON PIGEON: Have you done that before?

11 JIM KAISER: No. This is the first time that we've
12 ever done that.

13 BUTCH LAMBERT: Can you...can you help us out,
14 Diane?

15 DIANE DAVIS: It confused me also when I was doing
16 the docket and I made an inquiry to Mr. Kaiser's office with
17 regard to what the tracts really were. If you'll look, it
18 does say for Tract 2 in the unit. So, they are only paying
19 Tract 2 and it's just like the normal...like if it were in
20 heirship and there were multiple people within it. So it's
21 Tract 2 and that's how the older orders are. So, there's
22 really---

23 SHARON PIGEON: This is not helpful to---

24 DIANE DAVIS: I don't know why David did 2A and 2B.
25 I can honestly tell you I do not know.

1 JIM KAISER: I'd be glad to go back to the hold way.
2 SHARON PIGEON: In my opinion, we should go
3 back---.
4 BUTCH LAMBERT: I think we should go back to the old
5 way.
6 DIANE DAVIS: I was confused as well as you were to
7 be honest.
8 SHARON PIGEON: I have question marks in my notes
9 from trying to review this docket.
10 JIM KAISER: Well, it's hard to understand the
11 spreadsheet now too. It used to be easy.
12 SHARON PIGEON: Yeah, because we do have tracts with
13 As, Bs and such on them.
14 DIANE DAVIS: I think it was just the way that he
15 was laying out his disbursement Excel spreadsheet. He just
16 identified 2A, 2B, 2C, 2D, 2E and all the way down.
17 BUTCH LAMBERT: As owners in the unit and not tract
18 identifications. So, I guess, adding the would tract is
19 what confused everybody.
20 DIANE DAVIS: Yeah, it's just Tract 2. I think that
21 it would be less confusing for it to have just been Tract
22 2. It confused me also.
23 SHARON PIGEON: I think we can return to that.
24 BUTCH LAMBERT: Okay.
25 JIM KAISER: So, we can go back to our spreadsheet?

1 DIANE DAVIS: Yes.

2 BUTCH LAMBERT: Yes. Yes.

3 JIM KAISER: Okay.

4 BUTCH LAMBERT: Okay. Sorry for the confusion, but
5 we were all confused. At this point, I think---.

6 DIANE DAVIS: I was too.

7 BUTCH LAMBERT: Okay. Any other questions from the
8 Board?

9 (No audible response.)

10 BUTCH LAMBERT: Anything further, Mr. Kaiser?

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

13 BUTCH LAMBERT: Do I have a motion?

14 BILL HARRIS: Motion to approve.

15 BRUCE PRATHER: Second.

16 BUTCH LAMBERT: Motion and a second. Any further
17 discussion?

18 (No audible response.)

19 BUTCH LAMBERT: All in favor, signify by saying yes.
20 (All members signify by saying yes.)

21 BUTCH LAMBERT: Opposed, no.

22 (No audible response.)

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

25 SHARON PIGEON: Rick, I need to get a copy of that

1 letter.

2 RICK COOPER: All right.

3 SHARON PIGEON: I actually need to get a copy of the
4 first what three? EQT has a letter for each of those that
5 we didn't have in our files.

6 BUTCH LAMBERT: Okay, calling docket item number
7 four, a petition from EQT Production Company on behalf of
8 Timmy Sutherland and Patricia Sutherland, Corbet Anderson
9 and Phyllis Anderson, Harry Anderson and Sharon Anderson,
10 Robert Kuchan and Patricia Kuchan and Range Resources-Pine
11 Mountain, Inc. for disbursement of funds from escrow
12 authorization of direct payment for unit VC-537100 for Tract
13 2, docket number VGOB-07-0417-1918-01. All parties wishing
14 to testify, please come forward.

15 JIM KAISER: Mr. Chairman, Jim Kaiser on behalf of
16 EQT Production. We'd ask that this item be continued until
17 the August docket. We still need to obtain an Affidavit of
18 Heirship to---.

19 BUTCH LAMBERT: Continue it until August?

20 JIM KAISER: Yes, sir.

21 BUTCH LAMBERT: That will be continued. Calling
22 docket item number five, a petition from EQT Production
23 Company on behalf of Marlene McCall, Donna Vest and Range
24 Resources-Pine Mountain, Inc. for disbursement of funds from
25 escrow and authorization of direct payment for unit

1 VC-535686 for Tract 3, docket number VGOB-06-0117-1568-02.

2 All parties wishing to testify, please come forward.

3 JIM KAISER: Mr. Chairman, Jim Kaiser and Spence
4 Hale for EQT.

5 BUTCH LAMBERT: You may proceed, Mr. Kaiser.

6

7

SPENCE HALE

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

10

DIRECT EXAMINATION

11 QUESTIONS BY MR. KAISER:

12

Q. Mr. Hale, again, we're all parties notified
13 of the disbursement hearing for this unit as required by
14 statute?

15

A. Yes.

16

Q. And, again, we're disbursing to Marlene
17 McCall and Donna Vest and Range Resources?

18

A. Correct.

19

Q. And in this particular unit we're disbursing
20 any proceed attributable to Tract 3 in that unit, right?

21

A. That's correct.

22

Q. And will this close the subaccount for Tract
23 3 within that unit?

24

A. Yes.

25

Q. But it will not close the escrow account for

1 the unit, correct?

2 A. Correct.

3 Q. And did we provide a spreadsheet as
4 requested with our application?

5 A. We did.

6 Q. And this is another one of those A and B ones,
7 correct?

8 A. Correct.

9 Q. And could you state for the Board both the
10 acreage interest disbursed and the percentage of escrowed
11 funds disbursed?

12 A. Escrowed acreage is 4.29 acres constituting
13 20.0842% of the unit. To be disbursed is for Donna Vest
14 \$4,542.24 and to Ms. Marlene McCall \$4,542.24.

15 Q. And there is a split agreement in here?

16 A. There is.

17 Q. And what's the split?

18 A. 75% to Donna Vest and Marlene McCall and 25%
19 to Range Resources-Pine Mountain, Inc.

20 Q. And did you attempt to reconcile the bank and
21 EQT internal accounts?

22 A. We did.

23 Q. And was there a difference?

24 A. There was.

25 Q. And do you attribute that difference to

1 interest on...from both Wachovia and the First Bank & Trust?

2 A. Yes.

3 Q. And is the amount that we're disbursing
4 based upon the First Bank & Trust amount, in other words,
5 the higher amount of the two unreconciled figures?

6 A. That's correct.

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

9 BUTCH LAMBERT: Any questions from the Board?

10 SHARON PIGEON: Do we have a date on which your
11 reconciliation was accomplished?

12 JIM KAISER: It looks like maybe May the 11th of this
13 year.

14 SHARON PIGEON: So, the dollar figure that Mr. Hale
15 testified to isn't the amount that the disbursement will be
16 because more has been---?

17 JIM KAISER: Correct.

18 SHARON PIGEON: ---paid in since then?

19 JIM KAISER: That's correct.

20 SHARON PIGEON: So, it will be disbursed based on
21 the percentages?

22 JIM KAISER: Yes.

23 SHARON PIGEON: Thank you.

24 JIM KAISER: Let's go ahead and get that in there.
25 The percentage...the percentage of escrowed funds to be

1 disbursed to both Donna Vest and Marlene McCall would be
2 7.5316%, is that correct?

3 SPENCE HALE: That's correct.

4 JIM KAISER: Thank you.

5 BUTCH LAMBERT: Any other questions?

6 (No audible response.)

7 BUTCH LAMBERT: Anything further, Mr. Kaiser?

8 (No audible response.)

9 BUTCH LAMBERT: Anything further, Mr. Kaiser?

10 JIM KAISER: No. We'd ask that the application be
11 approved as submitted, Mr. Chairman.

12 BUTCH LAMBERT: Do I have a motion?

13 BILL HARRIS: Motion to approve.

14 BRUCE PRATHER: Second.

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

17 (No audible response.)

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

19 (All members signify by saying yes.)

20 BUTCH LAMBERT: Opposed, no.

21 (No audible response.)

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

24 JIM KAISER: Thank you.

25 BUTCH LAMBERT: Calling docket item number six, a

1 petition from CNX Gas, LLC for creation of a 202.35 acre
2 drilling unit and pooling for the unit CC38 for drilling
3 horizontal coalbed well. This is docket number
4 VGOB-10-1019-2825. All parties wishing to testify, please
5 come forward.

6 MARK SWARTZ: Mark Swartz and Anita Duty.

7 BUTCH LAMBERT: Good morning.

8 MARK SWARTZ: Good morning.

9 (Anita Duty is duly sworn.)

10 MARK SWARTZ: To bring everybody back up to speed
11 on CC38. When this unit was pooled...was created and pooled
12 in October of last year. When it was created...the unit was
13 created and pooled it looked like this, okay. Mr. Asbury
14 picked up on the fact that the way that I have provided on
15 we had testified with regard to allocating production within
16 this unit to try and solve the correlative rights issue that
17 we perceived that the statute really didn't allow that. So,
18 we either needed to go with this system and just prorate on
19 an equal basis with the entire 320 acres or we needed to
20 resize the unit and we needed to do something. We've been
21 back and forth on a number of trips with regard to this.
22 Really all that remains to be resolved is whether we're going
23 to go with an allocation of production on a per acre basis
24 in the 320 or are we going to redesign these units. A
25 committee was created to look at horizontal units in

1 conventional and also to look at this kind of a unit in terms
2 of CBM and sizing and so forth. It has now been quite some
3 time and I understand there's not a final resolution. What
4 I would request of you all this morning, if you can, if this
5 makes sense, would be to go back to the unit that was created
6 in October...that was pooled in October and simply allocate
7 production because that's the only issue that remains, you
8 know, and to allow the operator to allocate production on
9 a per acre basis so that we can proceed with this unit until,
10 you know, there's some solution to the overall problem. So,
11 that's why we're here on this. Obviously, if you have any
12 questions, you know, we're available to deal with that.

13 SHARON PIGEON: Any---?

14 BUTCH LAMBERT: Mr. Prather...Mr. Prather may want
15 to address what's going on with that committee in relation
16 to this. I just have one question. When...when does CNX
17 or when do you propose to move forward with drilling this
18 well? I mean, how quickly are you needing this process done?
19 I guess...I guess, what I'm trying to tie that back into is
20 the work of the committee and how soon that they may be
21 finished and move forward under their recommendation.

22 MARK SWARTZ: We have some lease commitment wells,
23 which are...which are later on this docket that we really
24 desperately need. What Anita is telling me I think with
25 regard to this one that we have some flexibility. But I

1 guess my point is we're pushing a year. I mean, you know,
2 in August we're going to be nine months.

3 BUTCH LAMBERT: Well, just looking at the exhibit
4 that we have in our packet for CC38 I think was passed out
5 to us a couple of months ago that has continued to stay in
6 our---.

7 MARK SWARTZ: Right.

8 BUTCH LAMBERT: That gives us a diagram of the
9 proposal.

10 MARK SWARTZ: Right. That was a come back. I'm
11 thinking that was March perhaps, but---.

12 BUTCH LAMBERT: Okay. Just looking at that, I
13 think there's...from what I'm...Mr. Prather may want to
14 address this, but I think there's some conflicts in what you
15 have drawn here versus what the committee is getting ready
16 to propose.

17 BRUCE PRATHER: There is. The thing that...I know
18 that Gus and I were discussing this this morning. Is this
19 one of them that has a water leg? In other words, you've
20 got your two production legs and then you've got a water leg.

21 MARK SWARTZ: Actually, two legs and what we're
22 proposing today is just go with the unit that you created
23 in October and not with what you've just shown me.

24 SHARON PIGEON: The original one?

25 MARK SWARTZ: Correct. I mean, it has already been

1 pooled and it has been created. We're not---.

2 SHARON PIGEON: And payout in the normal fashion?

3 MARK SWARTZ: No, we're not going there. So, maybe
4 I wasn't clear.

5 BUTCH LAMBERT: And pay out normally.

6 MARK SWARTZ: So, you know, in terms of let's move
7 this along, this unit was created and it has two legs, Mr.
8 Prather. It's 320 acres. All...the only modification to
9 the motion that approved the creation of this unit and the
10 pooling of this unit last October that we would need would
11 be an order that says that you are to allocate on a per acre
12 basis.

13 SHARON PIGEON: But that's the usual way that we pay
14 out anyways.

15 MARK SWARTZ: Correct. But that's all we would
16 need to move forward with this. But to answer your question
17 in terms of urgency, you know, we'd like to move forward with
18 this. This is not a lease commitment problem at the moment.
19 The next three...later on today we have three horizontal
20 wells that are these commitment issues that are really
21 critical. So, if that helps---

22 SHARON PIGEON: How did we really approve payment?
23 Did we originally approve it based on the legs?

24 MARK SWARTZ: No, it was on a length of leg---

25 SHARON PIGEON: Okay. So, that does need---

1 MARK SWARTZ: ---because it tried to solve the
2 correlative rights issue and David properly pointed out that
3 the statute really does not allow that. So, we either need
4 to resize the unit, I mean, that was the option or just do
5 it on a per acre basis with the amount of time if you could
6 just do it on per acre basis, there are a bunch of other units
7 like that. It's not a departure. We'd really appreciate
8 that.

9 BUTCH LAMBERT: okay. Any discussing from the
10 Board?

11 (No audible response.)

12 BUTCH LAMBERT: I guess what Mr. Swartz is asking
13 the Board to proceed with the original unit as it was paid
14 out on a per acre basis. That's what you would like to do
15 instead of moving it back and waiting until the committee
16 gets done with their work, which could be...you know, we're
17 still...our goal was September, but I don't think that we're
18 going to meet that goal with the work that has...that needs
19 to be done to finish that. Any discussions from the Board?

20 BRUCE PRATHER: I assume what we're talking about
21 here would be the allocation of royalty off of these two legs.
22 I think that the system that we're setting up would probably
23 take care of this, but it looks to me like the immediate
24 problem...are these wells drilled already?

25 MARK SWARTZ: Anita thinks...you've been sworn,

1 haven't you?

2 ANITA DUTY: Yes.

3 MARK SWARTZ: Okay.

4 ANITA DUTY: I think that they have drilled a
5 portion of it. I don't think it's connected at this point.

6

7 BRUCE PRATHER: Okay. I mean, you know if it wasn't
8 drilled then we might be able to...although if you've got
9 drilling commitments and things, you know, that will take
10 precedent over anything that this committee does or that we
11 formulate for the future. But it looks to me like the Board
12 is going to have to go along with what you say if you've got
13 part of that well drilled. I mean, that's just my opinion.

14 BRUCE PRATHER: Any other discussion?

15 BILL HARRIS: Let me just ask, I have not been to
16 the committee meetings. But overall are we looking at
17 paying on a per acre basis. Is that too much of a
18 generalization or is it---

19 BRUCE PRATHER: Well, that's basically what---

20 BILL HARRIS: I mean, what the committee is
21 ultimately going to recommend, are you all leaning in that
22 direction?

23 BRUCE PRATHER: Yeah, it would be a unit and you
24 would pay on the basis of the unit.

25 MARK SWARTZ: Yeah. They're looking at what the

1 unit is going to look like. They're not looking at paying
2 on a per acre basis, which was your question. I mean, at
3 least that's my understanding---

4 BRUCE PRATHER: Yeah. Yeah. We're---

5 MARK SWARTZ: ---that that would stay the same.

6 BRUCE PRATHER: We would be paying based on the new
7 unit configuration.

8 MARK SWARTZ: On an equal per acre basis.

9 BRUCE PRATHER: On an equal...yeah, exactly. And
10 it would...I mean, it would be a lot easier to configure the
11 laterals on our new system because we're using 20 acre
12 squares instead of these 80s and so that's---

13 MARK SWARTZ: They're resolving a shape problem.

14 BILL HARRIS: Yes.

15 BRUCE PRATHER: That's what the problem is. I
16 think that the new system probably could take care of it.

17 MARK SWARTZ: I agree with you.

18 BRUCE PRATHER: But---

19 MARK SWARTZ: But it takes time to get there.

20 BRUCE PRATHER: That's right. And if you've got
21 drilling commitments then we have to make a decision.

22 BUTCH LAMBERT: So, do I have a motion for this
23 particular one to go back to the original proposal of the
24 80 acre units and paying out on a per acre basis?

25 BILL HARRIS: So moved or would you rather have an

1 actual statement or---?

2 BUTCH LAMBERT: No, I've asked for a motion.

3 BILL HARRIS: That would be a motion.

4 BUTCH LAMBERT: I've got a motion. Do I have a
5 second?

6 BRUCE PRATHER: I'd second that.

7 BUTCH LAMBERT: Okay. I've got a motion and a
8 second. Any further discussion?

9 (No audible response.)

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

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

12 BUTCH LAMBERT: Opposed, no.

13 KATIE DYE: I'll abstain.

14 BUTCH LAMBERT: One abstention, Mrs. Dye.

15 BRUCE PRATHER: Mr. Chairman.

16 BUTCH LAMBERT: Mr. Prather.

17 BRUCE PRATHER: I think this should be confined only
18 to a few wells. In other words, some way or the other this
19 should...in other words, they've got a problem with paying
20 the royalty owners. I think that what we're talking about
21 would probably be for two or three wells and then that would
22 be the end of it if we adopt the new system.

23 BUTCH LAMBERT: I agree.

24 BRUCE PRATHER: And so, you know, this shouldn't be
25 anything that we would adopt---.

1 BUTCH LAMBERT: Standard.

2 BRUCE PRATHER: ---as a future standard.

3 BUTCH LAMBERT: Right. This is not a standard.

4 It's to get us through this one.

5 BRUCE PRATHER: Yeah.

6 BUTCH LAMBERT: Thank you, Mr. Swartz. That's

7 approved. Next on the docket is item number seven, a

8 petition from CNX Gas Company for repooling of unit X-35,

9 docket number VGOB-98-0324-0636-02. All parties wishing to

10 testify, please come forward.

11 MARK SWARTZ: Mark Swartz and Anita Duty.

12 ERIC WHITESELL: Mr. Chairman and ladies and

13 gentlemen of the oil and gas Board, my name is Eric Whitesell

14 with the law firm of Gillespie, Hart, Altizer & Whitesell

15 in Tazewell. I represent Commonwealth Coal Company and

16 other coal owners similarly situated.

17 BUTCH LAMBERT: This is...just as a reminder, this

18 is the docket item that we had to dismiss right in the middle

19 of getting through this one last month. So, I appreciate

20 the patience in coming back again so we can take care of this

21 matter.

22 SHARON PIGEON: We lost quorum. That was the

23 reason.

24 BUTCH LAMBERT: Yes. The reason we---.

25 MARK SWARTZ: Right. When I...I went back and

1 looked at the...at the hearing transcript from last month
2 just to sort of refresh memory as to where we where. We lost
3 a quorum, absolutely. But I wanted to know at what point
4 where we when we lost a quorum. Anita and I have finished
5 what I will call sort of the direct testimony with regard
6 to this unit. We were just getting to the objection and
7 that's when we continued this case because Mary Quillen.
8 So, I think we need to probably start with the objection and
9 move forward from there.

10 BUTCH LAMBERT: Okay. Before...before we do that,
11 Mr. Whitesell, is all the Board members...are we up to speed
12 with where we are with this one? I know we had to dismiss
13 right in the middle. Do we need this...does the Board
14 members need any refresher on getting us up to speed.

15 BILL HARRIS: I was not here last month. So, if
16 there could be a mini refresher that would help.

17 MARK SWARTZ: Okay. Well, one thing that I think
18 might help if you weren't here last month. There are three
19 wells proposed and I think this sort of pertains to the
20 objections that you're going to drill. There are three
21 wells in this unit. It's a panel unit as I recall. Yes,
22 it is. We have two them. All three of been permitted. Two
23 of them have been drilled and one is permitted but not yet
24 drilled. So---.

25 BUTCH LAMBERT: Are those two...both of those two

1 are drilled and both producing?

2 MARK SWARTZ: Anita?

3 ANITA DUTY: Yes.

4 BUTCH LAMBERT: Both are producing? Okay, thank
5 you.

6 MARK SWARTZ: And I think with that sort of focus
7 unless you have some other questions, Mr. Harris, I thought
8 that that was pertinent to moving forward with the
9 objections.

10 BUTCH LAMBERT: Okay. Okay, Mr. Whitesell, you may
11 proceed.

12 ERIC WHITESELL: Mr. Chairman and ladies and
13 gentlemen of the Board, as I said I'm here on behalf of
14 Commonwealth Coal Corporation and other coal owners
15 similarly situated who wish to advise the Board that the coal
16 owners are no longer going to stand by idly and allow
17 additional wells to be drilled and occupation of the coal
18 seam without being compensated in any fashion therefore.
19 That we intend to exercise all of our rights on the statute.
20 We object to the establishment of additional wells until such
21 time as the rights of the coal owner be compensated for
22 occupation or occupation of the coal seam has been
23 recognized. We filed an objection in this case based upon
24 the plat that was filed with the application that we were
25 looking at which appeared to indicate to me that there was

1 one existing well at X-35A and two proposed wells at X-35B
2 and X-35C within 2500 feet of one another. Again, the basis
3 of our objections of the Commonwealth Coal Corporation will
4 be objections for coming from one of the coal owners is that
5 at the present owners are suffering the occupation and
6 drilling into the coal seam without being compensated there
7 for it.

8 BUTCH LAMBERT: Okay. Any...is that all, Mr.
9 Whitesell?

10 ERIC WHITESELL: That's all.

11 BUTCH LAMBERT: Any questions from the Board?

12 BILL HARRIS: Let me just for clarification, when
13 you say be compensated, the...in the past my thought was that
14 the drilling was done in corporation with the coal companies
15 to select a...I guess an approved location that would not
16 interfere with the mining usually I guess in blocks that
17 would be left or what not. Are you saying that this is not
18 the case or what...I mean, when you're saying compensation,
19 are you saying some type of a payment to you all for coal
20 that's not available to you now that it's being drilled?

21 ERIC WHITESELL: Sir, when I refer to compensation,
22 I'm referring to the payment of royalties under leases that
23 have been entered into with CNX. I'm not aware of
24 any...certainly none of the coal clients that I represent
25 are unleased. They have leases with CNX Gas and in those

1 leases the leases expressly provide for drilling into an
2 occupation of the coal seam injecting water and other
3 substances into the seam for the extraction of the gas and
4 involving occupation that may last for a number of years and
5 may involve a number of seam if you're below drainage and
6 going through three or four seams to reach a fifth one. At
7 the present time, the coal companies are not being paid
8 anything of those royalties for the occupation of those
9 seams. There have been various surface and other mineral
10 owners that have come before this Board and asked to have
11 a full distribution of royalties based upon the fact that
12 they are the owners of the gas. Our point is simply why they
13 may be owners of the gas, they do not own the right to invade
14 and occupy the coal seam. We're going to...the coal owners
15 are going to come before this Board and assert that right
16 as may be necessary until it is recognized only by the Board
17 but primarily by the Court systems that we're before right
18 now both in Federal Court and in State Court.

19 SHARON PIGEON: Mr. Whitesell, could you identify
20 by name your clients?

21 ERIC WHITESELL: Commonwealth Coal Corporation.

22 SHARON PIGEON: And that's your client?

23 ERIC WHITESELL: That's my client on this
24 application because it is listed as the adverse party.

25 BUTCH LAMBERT: Mr. Whitesell, are you familiar

1 with the permitting process of these wells?

2 ERIC WHITESELL: Yes, sir. I have not been in on
3 the permit application stage for these wells, but I
4 understand, you know, that the wells have been permitted.
5 That was not indicated or I couldn't pick that up from looking
6 at the plat itself. I understand that the wells have been
7 permitted and I understand the permit application process
8 and the right of the coal owner to be heard at that point.

9 BUTCH LAMBERT: Yes, sir. Did the coal owner or did
10 your client file an objection during the permitting process
11 to these wells?

12 ERIC WHITESELL: Like I said, Mr. Chairman, I'm just
13 now...as I'm sure you're aware of getting into this. So,
14 the answer to that question would be no not to my knowledge.

15 BUTCH LAMBERT: Okay. Any other questions from the
16 Board?

17 (No audible response.)

18 BUTCH LAMBERT: Anything further, Mr. Swartz?

19 MARK SWARTZ: Yes.

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21

22

23 ANITA DUTY

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

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DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Anita, is Commonwealth Coal leased?

A. Yes.

Q. And when I say leased, is there claims to coalbed methane leased?

A. Yes.

Q. And Commonwealth Coal is in Tract 3 in the tract identifications?

A. It is.

Q. Okay. And Tract 3 in the plat is really just sort of catches the southeast corner of this 80 acre unit, correct?

A. Yes.

Q. Okay. And your Tract IDs show that Commonwealth Coal owns all minerals?

A. Yes.

Q. So, they're being paid under their lease?

A. Yes.

Q. It's not being escrowed?

A. No.

Q. Okay. Now, these wells are located...in fact, all three of them are outside of the drilling window, correct?

A. They are.

1 Q. And how is it that you were able to get
2 permits for those wells? What's the reason for that?

3 A. For degasification of the Buchanan South
4 mining operations.

5 Q. Okay. So, these wells were actually
6 drilled to promote the extraction of coal?

7 A. Yes.

8 Q. By degasing the seam, correct?

9 A. That's right.

10 Q. And to the extent that (inaudible) is
11 derived from that effort, Mr. Whitesell's client received
12 royalties under their lease?

13 A. Yes.

14 Q. And we know that there is money because we've
15 actually got the panel allocation, which the last page of
16 the application?

17 A. Yes.

18 MARK SWARTZ: So, I guess I'm really at somewhat of
19 a loss as to compensation issues or mining issues.

20 Q. I mean, this whole development was to
21 extract coal and pay royalties, right?

22 A. That's right.

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

24 BUTCH LAMBERT: Any questions from the Board?

25 BRUCE PRATHER: I have a question.

1 BUTCH LAMBERT: Mr. Prather.

2 BRUCE PRATHER: I'm a little bit confused about...I
3 know when I've drilled wells in the past that if I was working
4 with the coal operator, I would get him to sign off on the
5 location that we were going to drill prior to drilling. Does
6 CNX have any kind of a contract like that that says the coal
7 company has signed off on this particular location? I
8 assume you do.

9 MARK SWARTZ: Obviously, we've got consents from
10 the coal operator. Absolutely. Otherwise, you couldn't
11 have got permits.

12 BRUCE PRATHER: So, if they signed off on it, then,
13 you know, what...what are we talking about?

14 MARK SWARTZ: I understand. But, you know, I'm
15 just responding to what I'm hearing. I don't see an issue
16 here. I agree with you.

17 BUTCH LAMBERT: So, Mr. Whitesell, I don't see the
18 issue either. We have the permits. The coal owner at that
19 time had the opportunity to file an objection during the
20 permitting process. We're at a point now where the wells
21 are permitted, drilled and producing and from what we're
22 hearing and just stated to that royalty is being paid. So,
23 I'm not sure the Board understands what your issue is today.

24 ERIC WHITESELL: I've stated it about well as I can
25 stated, Mr. Chairman, of what the issue is. I think it is

1 mainly just to advise the Board that the coal owners, again,
2 intend to exercise the statutory rights to object to the
3 establishment of news wells that occupy the coal seam if
4 they're not going to be paid for that. That was the purpose
5 of my appearance here.

6 BUTCH LAMBERT: I understand your statement that
7 you will be filing objections on new wells as they come up
8 for permitting.

9 ERIC WHITESELL: Yes, sir.

10 BUTCH LAMBERT: Okay. Thank you, sir. Anything
11 further, Mr. Swartz?

12 MARK SWARTZ: No.

13 BUTCH LAMBERT: Do I have a motion?

14 BILL HARRIS: Mr. Chairman, I move for approval as
15 presented.

16 BUTCH LAMBERT: Do I have a second?

17 BRUCE PRATHER: I'll second it.

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

20 (No audible response.)

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

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

23 BUTCH LAMBERT: Opposed, no.

24 KATIE DYE: I'll abstain.

25 BUTCH LAMBERT: One abstention, Mrs. Dye. Thank

1 you, Mr. Swartz. It's approved. Thank you, Mr. Whitesell.

2 MARK SWARTZ: Thank you.

3 ERIC WHITESELL: Thank you, Mr. Chairman.

4 MARK SWARTZ: Mr. Chairman, before you call the next
5 case, we have sort of a housekeeping issue. It will just
6 take a moment.

7 BUTCH LAMBERT: Okay. Let's just take a quick ten
8 minute break.

9 MARK SWARTZ: Okay, great.

10 BUTCH LAMBERT: We're going to take a ten minute
11 recess.

12 (Recess.)

13 BUTCH LAMBERT: Okay, ladies and gentlemen, it's
14 time to resume with these proceedings. Next on the docket
15 is item number eight, a petition from CNX Gas Company, LLC
16 for repooling of unit AZ-102, docket number
17 VGOB-03-1216-1239-02. All parties wishing to testify,
18 please come forward.

19 MARK SWARTZ: Mark Swartz and Anita Duty.

20 BUTCH LAMBERT: You may proceed, Mr. Swartz.

21

22 ANITA DUTY

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

25

DIRECT EXAMINATION

1 QUESTIONS BY MR. SWARTZ:

2 Q. Anita, I'm going to remind you that you're
3 still under oath. Right?

4 A. Yes.

5 Q. Would you state your name for us, please?

6 A. Anita Duty.

7 Q. Who do you work for?

8 A. Consol Energy.

9 Q. Okay. And with regard to this repooling
10 application, what are your responsibilities?

11 A. To file the petition and make sure it's
12 published and those things.

13 Q. Okay. Did you sign the notice of hearing
14 and the application with regard to AZ-102?

15 A. I did.

16 Q. What did you do to tell people that there
17 would be a hearing today?

18 A. I mailed by certified mail return receipt
19 requested on May the 13th, 2011 and published in the
20 Bluefield Daily Telegraph on May the 18th, 2011.

21 Q. Okay. And in that regard, have you brought
22 with you today the proof of publication from the newspaper
23 and the certificates with regard to mailing?

24 A. Yes.

25 Q. And are you going to provide them to the

1 acting director, if you haven't already today?

2 A. Yes.

3 Q. Okay. Do you want to add any respondents?

4 A. No.

5 Q. Do you want to dismiss any?

6 A. No, sir.

7 Q. Now, this is a repooling, correct?

8 A. Yes.

9 Q. This unit was pooled it looks like seven or
10 eight years ago.

11 A. Yes.

12 Q. What's the...what was the reason that you
13 filed the repooling petition?

14 A. There has been a remapping of the
15 Commonwealth of Virginia on the road rather than it just
16 being surface. It's actually shown as a surface oil and gas.

17 Q. And so as a result of that, some of
18 the...well, obviously, the commonwealth's interest in this
19 unit changed?

20 A. Yes. It's new.

21 Q. And that would have affected percentages of
22 tracts that the road actually crossed?

23 A. Exactly.

24 Q. So, if we look at the plat, which road is it,
25 the one that catches---?

1 A. It's 1H.

2 Q. Okay.

3 A. Uh-huh.

4 Q. So, it's the road that intersects the
5 northeast corner of the unit?

6 A. Yes.

7 Q. And that's now showing an oil and gas
8 interest as well?

9 A. Yes.

10 Q. Surface, oil and gas, correct?

11 A. Yes, it is.

12 Q. And have you revised all of the original
13 exhibits to account for that?

14 A. I have.

15 Q. Okay. And have the numbers with regard to
16 the wells and the number of wells and their locations has
17 that remained the same?

18 A. Yes.

19 Q. Okay. Are you adding any people to this or
20 is it just the change of percentages in that corner?

21 A. Just the change. There may be some deaths
22 and maybe some heirs on there, but other than that, no.

23 Q. Right. But we're not pooling anybody we've
24 missed?

25 A. Right.

1 Q. Okay. Except for the Commonwealth?
2 A. That's right.
3 Q. Okay. And have you...is there going to
4 continue to be an escrow requirement?
5 A. Yes.
6 Q. Okay. And we've got a requirement for
7 unknowns in what tract?
8 A. For 1H.
9 Q. Okay. And is there traditional conflicts
10 escrow required as well?
11 A. There are. Tracts 1A, 1B, 1C, 1G, 1H and 1I.
12 Q. Okay. And do we have split agreements?
13 A. We do.
14 Q. And what tracts does that...do those pertain
15 to?
16 A. 1A, 1B, 1D, 1E, 1F, 1H, 1I and 1J.
17 Q. And, again, as usual with regard to split
18 agreements is it your request that if the current pooling
19 order doesn't allow you to pay the people with split
20 agreements because there may have been some since then that
21 you be allowed to pay those people directly on this order?
22 A. Yes.
23 Q. And we have no revised exhibits today?
24 A. No.
25 MARK SWARTZ: Mr. Chairman, I think that's all I

1 have on the issue...the repooling issue.

2 BUTCH LAMBERT: Okay. Any questions from the
3 Board?

4 BILL HARRIS: Mr. Chairman, let me just make sure,
5 1H is the road, is that correct?

6 MARK SWARTZ: I think that's what Anita said, but
7 I'll let her check.

8 ANITA DUTY: 1G (inaudible) tract ID.

9 SHARON PIGEON: Anita, we can't hear you very well.
10 You need to speak up consistently. So, what tracts are
11 impacted by this?

12 MARK SWARTZ: Anita, put us in the wrong corner,
13 which is why everybody is confused at the moment. Okay, lets
14 revisit that. Is the road actually in the southeast corner
15 as opposed to the northeast corner?

16 ANITA DUTY: Yes.

17 MARK SWARTZ: And that has an arrow of 1G that points
18 to that road?

19 ANITA DUTY: Yes.

20 MARK SWARTZ: Okay. And then if we look at the
21 tract Ids, what's the acreage in the road?

22 ANITA DUTY: .3 acres.

23 MARK SWARTZ: Okay. And the percentage in the
24 unit?

25 ANITA DUTY: 0.5104.

1 MARK SWARTZ: And that's the change?
2 ANITA DUTY: Yes.
3 MARK SWARTZ: And to the extent that that
4 changed...the 1G changed, then it would have changed the
5 tract that that overlays---?
6 ANITA DUTY: Yes.
7 MARK SWARTZ: ---in terms of mineral interest?
8 ANITA DUTY: That's correct.
9 MARK SWARTZ: Does that help?
10 BILL HARRIS: Yes.
11 MARK SWARTZ: Okay.
12 BILL HARRIS: Thank you.
13 SHARON PIGEON: It helped some, but does this impact
14 1F or 1J? That is my question, I think.
15 ANITA DUTY: It should only impact 1E and 1J because
16 now that is carved out of both of those pieces one side and
17 the other.
18 SHARON PIGEON: Did you say it did or did not?
19 MARK SWARTZ: It does.
20 SHARON PIGEON: It does impact 1E?
21 BUTCH LAMBERT: No.
22 SHARON PIGEON: No?
23 BUTCH LAMBERT: 1E---.
24 ANITA DUTY: 1E and 1J.
25 BUTCH LAMBERT: 1E and 1J.

1 ANITA DUTY: The road goes through the middle---.
2 SHARON PIGEON: It does she said.
3 BUTCH LAMBERT: It does not on 1F.
4 ANITA DUTY: ---of both tracts. It does.
5 MARK SWARTZ: Yes.
6 SHARON PIGEON: What about...it does not 1F?
7 ANITA DUTY: Correct.
8 SHARON PIGEON: Okay. Thank you.
9 MARK SWARTZ: See there's a line that sort of comes
10 down the middle of the unit for the boundary of 1F. Do you
11 see that?
12 SHARON PIGEON: Oh, I see it now.
13 BILL HARRIS: Right at 6:00 o'clock.
14 BUTCH LAMBERT: It almost follows the road.
15 MARK SWARTZ: Okay. And, Anita, to do what you do
16 here, did you correct 1J below the road and then 1E is above
17 the road? Is that what you've done?
18 BUTCH LAMBERT: That's correct.
19 MARK SWARTZ: Okay.
20 BUTCH LAMBERT: Okay.
21 ANITA DUTY: Sorry.
22 BUTCH LAMBERT: Any other questions from the Board?
23 (No audible response.)
24 BUTCH LAMBERT: Anything further, Mr. Swartz?
25 MARK SWARTZ: No.

1 Q. Anita, I'll going to remind you again that
2 you're under oath.

3 A. Yes.

4 Q. Who do you work for?

5 A. Consol Energy.

6 Q. And with...with regard to your employment,
7 what is your involvement in this pooling application?

8 A. To supervise the creation of the application
9 and sign them.

10 Q. And you signed both the notice of hearing
11 here, I think, and the application, is that correct?

12 A. Yes.

13 Q. And you either did the preparation yourself
14 or supervise the preparation?

15 A. Yes.

16 Q. What did you do to notify people that we were
17 going to have hearing with regard to repooling this unit
18 today?

19 A. Mailed by certified mail return receipt
20 requested on May the 13th, 2011. I published the notice and
21 location map in the Bluefield Daily Telegraph on May the
22 18th, 2011.

23 Q. And have you brought with you today the
24 certificate with regard to publication from the newspaper
25 your certificates with regard to mailing to provide those

1 to the Division?

2 A. Yes.

3 Q. Okay. Do you want to add any people as
4 respondents to this application?

5 A. No.

6 Q. Do you want to dismiss any of the respondents
7 named in the notice?

8 A. No.

9 Q. And like I said, this is a repooling,
10 correct?

11 A. Yes.

12 Q. And the reason for that?

13 A. Just mapping...remapping.

14 Q. Okay. Did the remapping here was it limited
15 to a particular area or did it involve more than one tract?

16 A. 1B and 1C were changed and 1F is a new tract.

17 Q. Okay. So, that new tract then would have
18 presumably impacted 1B and 1C, is that...is that what you're
19 saying?

20 A. Yes.

21 Q. Okay. And in the new tract is there a person
22 that we had not previously pooled?

23 A. No, it's still the William Coxtton Heirs.

24 Q. Okay.

25 A. It's the same group.

1 Q. So, we're not changing people, but we're
2 changing the percentages by the creation of that new tract
3 we're affecting 1B and 1C?

4 A. Yes.

5 Q. We've got...you've used the same data with
6 regard to the well costs, I assume?

7 A. Yes.

8 Q. Okay. We do probably need to recap though
9 the escrow requirements. With regard to this Nora unit,
10 AY-101, do we continue to have an escrow requirement?

11 A. Yes. For Tracts 1B, 1C, 1D and 1F.

12 Q. Okay. And then do we have some unknown
13 issues as well as the traditional conflicts?

14 A. 1C, 1D and 1F.

15 Q. Okay. And then with regard to split
16 agreements, what tracts are affected by split agreements?

17 A. 1A, 1C, 1D, 1E and 1F.

18 Q. And as of today in this repooling you've
19 given us an update, I assume, with regard to percentage
20 that's being pooled and that is what percentage?

21 A. We are seeking to pool 16.6451%.

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

24 BUTCH LAMBERT: Any questions from the Board?

25 BILL HARRIS: Mr. Chairman.

1 BUTCH LAMBERT: Mr. Harris.

2 BILL HARRIS: This is similar to the last time. 1F
3 is the road itself? Is that...I'm trying to find it. I'm
4 just trying to decide what's new. I think you said 1F was
5 new. 1F points to the road that goes through. So,
6 what...I'm not sure what has happened here.

7 ANITA DUTY: When we originally pooled it we were
8 showing that...we weren't showing that tract. We were
9 showing it as surface only. Well, in the meantime, we
10 discovered---

11 BILL HARRIS: Okay.

12 ANITA DUTY: ---that the William Coxtton Heirs
13 actually sold pieces...some of the Heirs sold to the
14 Commonwealth. So, they are actually a part of this tract
15 now.

16 BILL HARRIS: So, I guess, I'm trying to figure out
17 the extent of Tract 1F because 1B shows a similar... shows
18 the road again. I guess I'm trying to figure out how far
19 this 1F extend. Is it from the left boundary of the unit
20 to...you know, where does...when does 1F become 1B? I guess
21 I'm just asking about how this is depicted on the tract. I
22 don't...you know, most of the tracts you can see the
23 (inaudible) there.

24 ANITA DUTY: If you look to the east of 1B and you'll
25 see that...there's an additional line that goes through the

1 road...that doesn't go through road once you get past Tract
2 1E.

3 BILL HARRIS: Okay. So, 1E where it comes up, 1E
4 has two lines that come up. The right line, the eastern
5 most, actually goes up through the road.

6 ANITA DUTY: Well, that's at the same point that
7 that cuts off. It's not the 1E.

8 BILL HARRIS: So, 1E cuts off there?

9 ANITA DUTY: Yes. Well, 1B and 1...1B is the lower
10 side of the road and 1F is the upper side of the road.

11 BILL HARRIS: Okay.

12 MARK SWARTZ: So, it's a center line issue?

13 ANITA DUTY: Yes.

14 MARK SWARTZ: Okay.

15 ANITA DUTY: Because we originally showed 1B as 1.7
16 acres and now it's .54. And 1C used to be 28.31...or 28.24
17 and now it's 28.31. When we divided that road it changed
18 both sides of the line.

19 BILL HARRIS: Okay.

20 SHARON PIGEON: Did you additional title work? Is
21 that how you got this information?

22 ANITA DUTY: Every time we do a second well in the
23 unit or they plan a second well, they always redo title or
24 reorder title for updates.

25 SHARON PIGEON: And that's how you learned this?

1 ANITA DUTY: Yes.

2 BUTCH LAMBERT: So, 1...Ms. Duty, 1B is the
3 right-of-way from the center line on the southern portion
4 of the road only?

5 ANITA DUTY: Yes.

6 BUTCH LAMBERT: Typically, it's a 20 feet
7 right-of-way for the roads?

8 ANITA DUTY: I'm not...I'm not sure.

9 BUTCH LAMBERT: And 1F is the right-of-way on the
10 northern portion of the road?

11 ANITA DUTY: Yes. I'm not...you're saying
12 right-of-way. I'm not---.

13 BUTCH LAMBERT: Well, the 20 foot I think that...we
14 just heard testimony that there's...it's centerline issue,
15 which is normally 20 foot on either side of the centerline
16 is the normal VDOT standard right-of-way.

17 MARK SWARTZ: I guess what---.

18 SHARON PIGEON: But it isn't a right-of-way. It
19 acts a fee---.

20 MARK SWARTZ: It's...it's---.

21 BRUCE PRATHER: It's an easement then.

22 BILL HARRIS: It's an easement.

23 MARK SWARTZ: It's the ownership north of the line.

24 SHARON PIGEON: Well, I think she testified that
25 they sold all of their interest and not---.

1 ANITA DUTY: Only individual Heirs. There were
2 certain individuals Heirs...if you look at the list of the
3 William Coxtton Heirs on Tract 1C, it's going to be different
4 from the list on 1F because some of those Heirs sold to
5 Common...you'll see Commonwealth's name in there in place
6 of some of the Heirs.

7 SHARON PIGEON: But they sold their fee ownership
8 and they didn't just give a right-of-way?

9 ANITA DUTY: Correct.

10 MARK SWARTZ: Correct. Yeah, what changed when the
11 title...Anita, when the title was updated, it was determined
12 that some of those Heirs had actually conveyed to the
13 Commonwealth with regard to these two additional discussions
14 that we're having---?

15 ANITA DUTY: Yes.

16 MARK SWARTZ: ---and we needed to account for that
17 because that needed that fee ownership...mineral fee needed
18 to find its way into the Commonwealth, correct?

19 ANITA DUTY: That's correct.

20 MARK SWARTZ: Okay. You go it.

21 BUTCH LAMBERT: Anita, before I do that, and you did
22 testify that percentages now have changed and they're
23 updated?

24 ANITA DUTY: Just for those three tracts.

25 BUTCH LAMBERT: For those three tracts?

1 ANITA DUTY: Uh-huh.

2 BUTCH LAMBERT: Okay.

3 ANITA DUTY: Yes.

4 MARK SWARTZ: And to recap it would be 1B, 1C and
5 1F.

6 ANITA DUTY: And 1F is new.

7 BUTCH LAMBERT: Well, why wouldn't 1A change then?

8 ANITA DUTY: Why wouldn't it?

9 BUTCH LAMBERT: Uh-huh. The percentage in 1A.

10 ANITA DUTY: Because it's like south of the... it's
11 at the south of that property line. The road is what
12 got...the road is what is split and not the tracts below it.

13 BUTCH LAMBERT: So---?

14 SHARON PIGEON: The road where (inaudible).

15 ANITA DUTY: It's just to all be probably 1C.

16 BUTCH LAMBERT: Any questions from the Board?

17 BILL HARRIS: I'm...well, I hate to belabor this.
18 I'm still not sure if I understand. It looks like what you
19 all did was to come back and divide the property ownership
20 or mineral ownership with respect to the road from the
21 centerline up and the centerline...from the centerline north
22 and centerline south. But the centerline north affected the
23 acreage in 1C.

24 ANITA DUTY: Because it came out of that tract
25 originally. It didn't come out of 1A. 1C was the actual

1 tract that the other two came out of.

2 BILL HARRIS: Ah.

3 BUTCH LAMBERT: Okay. That make sense.

4 BILL HARRIS: Okay.

5 ANITA DUTY: Sorry. I guess that would

6 probably---.

7 BUTCH LAMBERT: Okay.

8 BILL HARRIS: Okay. Okay, okay, okay, okay.

9 BUTCH LAMBERT: Thank you, Mr. Harris.

10 BILL HARRIS: Yes. Well, I'm not sure what I did,

11 but I think...I think I understand (inaudible).

12 MARK SWARTZ: I think what you're saying is that the

13 boundary that you're showing south of the road for 1A was

14 the existing boundary when it was originally pooled?

15 ANITA DUTY: Yes.

16 MARK SWARTZ: So, that's the answer to that, I

17 think.

18 BILL HARRIS: Yeah. That was not included---.

19 ANITA DUTY: It came out...these tracts came out of

20 1C.

21 BILL HARRIS: 1C instead of---.

22 ANITA DUTY: Out cells of 1C. Uh-huh.

23 BUTCH LAMBERT: Instead of 1A, okay.

24 BILL HARRIS: Okay. Yes.

25 MARK SWARTZ: Which is why the acreage in 1B is

1 consistent from one application to the next.

2 BUTCH LAMBERT: Any other questions from the Board?

3 (No audible response.)

4 BUTCH LAMBERT: Anything further, Mr. Swartz?

5 MARK SWARTZ: No.

6 BUTCH LAMBERT: Do I have a motion?

7 BILL HARRIS: Motion for approval.

8 BRUCE PRATHER: Second.

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

11 (No audible response.)

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

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

14 BUTCH LAMBERT: Opposed, no.

15 KATIE DYE: I'll abstain.

16 BUTCH LAMBERT: One abstention, Mrs. Dye. Thank
17 you, Mr. Swartz. That's approved. We're calling docket
18 item number ten, a petition from CNX Gas Company, LLC for
19 creation of a provisional drilling unit and pooling for
20 conventional horizontal unit I-10SH, docket number
21 VGOB-11-0719-2972. All parties wishing to testify, please
22 come forward.

23 MARK SWARTZ: Mark Swartz, Anita Duty and Ian Lucas.

24 BUTCH LAMBERT: You may proceed.

25 MARK SWARTZ: Thank you. I've think we've got

1 some---

2 BUTCH LAMBERT: I'm sorry, Mr. Swartz, we're going
3 to have to get him sworn.

4 (Ian Lucas is duly sworn.)

5 BUTCH LAMBERT: Now, you may proceed, Mr. Swartz.

6 MARK SWARTZ: Thank you. I think we've got some
7 revised exhibits on this one.

8 (Revised exhibits are passed out.)

9

10 ANITA DUTY

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

13 DIRECT EXAMINATION

14 QUESTIONS BY MR. SWARTZ:

15 Q. Anita, you need to state your name again,
16 please.

17 A. Anita Duty.

18 Q. Who do you work for?

19 A. Consol Energy.

20 Q. And this is an application to created a unit
21 and pool it, correct?

22 A. Yes.

23 Q. And what were your responsibilities with
24 regard to this application?

25 A. To prepare...to supervise the preparation

1 of the application.

2 Q. Okay. And you signed both the notice and
3 the application?

4 A. Yes.

5 Q. And what did you do to advise people that we
6 were going to have a hearing with regard to this application
7 today?

8 A. Mailed by certified mail return receipt
9 requested on June the 17th, 2011. Published the notice and
10 location map in the Bluefield Daily Telegraph on June the
11 25th, 2011.

12 Q. And have you brought with you the
13 certificate of publication and your certificates with regard
14 to mailing to provide to provide those to the Division?

15 A. Yes.

16 Q. And you're going to do that today, if you
17 haven't already?

18 A. Yes.

19 Q. Okay.

20 A. Yes.

21 Q. Do you want to add any respondents to this
22 matter?

23 A. No.

24 Q. Do you want to dismiss any?

25 A. Yes.

1 Q. Okay. And who would that be?

2 A. It's Range Resources-Pine Mountain. We had

3 originally noticed them as having a lease with Buchanan

4 Realty.

5 Q. And is that the revised exhibits that you've

6 provided to straighten that out?

7 A. Yes.

8 Q. Okay. Anybody else that needs to be

9 dismissed?

10 A. No, that's all.

11 Q. Okay. This is a conventional...pertains to

12 a conventional unit?

13 A. Yes.

14 Q. And the proposed unit is how many acres?

15 A. 320.

16 Q. Okay. And have you provided the Board with

17 a map?

18 A. I have.

19 Q. Okay. And essentially what you've done is

20 you've put four units together, correct, to---?

21 A. Yes.

22 Q. ---get that 320? The...is the well

23 location shown on the plat?

24 A. Yes.

25 Q. And the leg is shown on the plat?

1 A. It is.

2 Q. And you've tried to keep the production
3 portion of the well, specifically the leg, within the
4 drilling window?

5 A. Yes.

6 Q. So, you're preserving a 300 foot offset?

7 A. Yes.

8 Q. And we're just talking about one leg here,
9 is that correct?

10 A. Yes.

11 Q. With regard to the well, as long as we're off
12 on that for moment, what is the estimated cost of this well?

13 A. \$1,454,750.

14 Q. And you have provided the Board with a well
15 cost estimate in that regard, is that correct?

16 A. Yes.

17 Q. And what's the target formation here?

18 A. The...it's the shale.

19 Q. Okay. And actually---

20 A. The Devonian shale, the Lower Huron.

21 Q. Right. And that's information that you've
22 provided both in the notice and in the application, correct?

23 A. Yes.

24 Q. Okay. And essentially going to the
25 application for a moment, you've put together Oakwood units

1 H-9, H-10 and I-9 and I-10, correct?

2 A. Yes.

3 Q. And that's how you get the 320?

4 A. Yes.

5 Q. And then as required, you've also given, in
6 addition to identifying the four units that you've put
7 together to get the 320, you've also given a state plain
8 coordinate description of the boundary of that 320 acre unit
9 that's being proposed?

10 A. I have.

11 Q. Okay. Is this...is there some urgency with
12 regard to this application, and if so, could you tell the
13 Board what that might be?

14 A. We need to get this well approved in order
15 to meet a lease commitment.

16 Q. And is that lease commitment coming up in the
17 very near future?

18 A. Yes, it is.

19 Q. This fall?

20 A. Yes.

21 Q. Okay. And have you...this is also a pulling
22 application in addition to an application to create the unit.
23 What interests have you been able to lease in this unit?

24 A. 70.604%.

25 Q. Okay. And what is it that you're seeking to

1 pool by this application?

2 A. 29.9396%.

3 Q. Okay. And with regard to the folks that are
4 not leased, what lease terms would you be willing to offer?

5 A. Five dollars per acre per year with a five
6 year paid up term and a one-eighth royalty.

7 Q. And typically is that what you're offering
8 in this field for conventional gas?

9 A. Yes.

10 Q. Okay. Is it your opinion that if you
11 combine a pooling order with the leases and other agreements
12 that you've been able to obtain, that you will be able to
13 protect the correlative rights of everyone who has an
14 interest in the production of this unit?

15 A. Yes.

16 Q. Is it also your opinion that drilling a
17 horizontal leg as depicted on the well plat is a reasonable
18 means of producing gas from within this proposed unit?

19 A. Yes.

20 Q. Okay. Do you have a permit for this well?

21 A. Yes.

22 Q. And what's the permit number?

23 A. 10,095.

24 Q. And we talked some about well costs, I
25 believe, but this well is estimated...the total measured

1 depth is going to be roughly what?

2 A. 8,000 feet.

3 Q. Okay. And the cost again is?

4 A. \$1,454,750.

5 Q. Obviously, this is a conventional. We're
6 not going to have any escrow requirements here.

7 A. That's correct.

8 Q. And you've identified everybody that would
9 be receiving royalties. So, we don't need to escrow for
10 unknowns, correct?

11 A. Correct.

12 MARK SWARTZ: Okay. That's all I have of Anita at
13 the moment.

14 BUTCH LAMBERT: Any questions from the Board?

15 BRUCE PRATHER: I've got a question, Mr. Chairman.

16 BUTCH LAMBERT: Mr. Prather.

17 BRUCE PRATHER: I think more that's on your reserve
18 estimates here...I will say one thing. I've got to
19 congratulate you. Usually, what's we've been looking at
20 coming from the industry on these things is they give us this
21 total gas in place without the recovery factor. You've guys
22 have put the recovery factor in it and I'm pleased with that.
23 We've been...we've been looking at a lot of gas in place
24 reserves with no recovery factor. So, I'm glad to see you
25 doing that.

1 MARK SWARTZ: Right. And when we get to Ian, I
2 think he's actually giving us two assumptions with regard
3 to the recovery factor and two---.

4 BRUCE PRATHER: Yeah, there are. There's a 20% and
5 a 30%.

6 MARK SWARTZ: Right. Right. Which is, I think, a
7 little more helpful.

8 BRUCE PRATHER: Right. So, that's the way it
9 should be done.

10 MARK SWARTZ: I appreciate that.

11 SHARON PIGEON: Anita, would you repeat the permit
12 number?

13 ANITA DUTY: It's 10,095.

14 SHARON PIGEON: Thank you.

15 BUTCH LAMBERT: Any other questions from the Board?
16 (No audible response.)

17 BUTCH LAMBERT: You may continue, Mr. Swartz.

18 MARK SWARTZ: Thank you. Also, I have Ian Lucas
19 with me this morning. I think he has been sworn in.

20

21

IAN LUCAS

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

24

DIRECT EXAMINATION

25

QUESTIONS BY MR. SWARTZ:

1 Q. Could you state your name for us, please?
2 A. Yes. Ian Lucas.
3 Q. And you've testified before in front of the
4 Board?
5 A. Yes, I have.
6 Q. Just in some refashion, what's your
7 educational background?
8 A. I'm a geologist.
9 Q. Where did you get your degree?
10 A. From Fort Lewis College, Durango, Colorado.
11 Q. Okay. And when was that?
12 A. In 2002.
13 Q. Any degrees after that?
14 A. I'm presuming my Masters and should end
15 within weeks now at West Virginia University.
16 Q. Okay. And since graduating...since
17 getting your geology degree, what's your employment history?
18 A. I've been a geologist in the industry. I
19 started with Dominion Exploration and Production in Indiana
20 and Pennsylvania. I transferred to Jane Lou in 2004. I was
21 acquired as part of the acquisition from Dominion to Consol
22 Energy.
23 Q. Did they pay extra money to get you or was
24 it just part of the deal?
25 A. I was---

1 (Laughs.)
2 A. ---part of the deal.
3 Q. Okay. And then you've been with CNX and its
4 various progeny since then, I imagine?
5 A. Yes.
6 Q. Okay. Okay. Did you put together a
7 collection of exhibits on this well and on two others that
8 we're going to be talking about for today?
9 A. Yes.
10 Q. Okay. And we've been in the Board and
11 visited with the Board on these issues before. So, I'm just
12 going to pick a couple of the slides and talk about it.
13 Obviously, first of all, we're talking about one leg here?
14 A. Yes.
15 Q. And I assume you've reviewed that plat and
16 that you understand is being proposed for this unit?
17 A. Yes.
18 Q. Okay. And what...what is the production
19 formation?
20 A. It's is the Lower Huron shale.
21 Q. Okay. And skipping forward to sort of the
22 last page, the reserve estimate, what...what is the point
23 of the last page rather than leading you? Why don't you tell
24 us why you provided that to the Board?
25 A. What we...what we do is to base all of our

1 reserve estimates on an economic model and we have to come
2 with a type of curve of production basically to say what we're
3 going to get out of this shale worth the money we're going
4 to spend to get it. So, what this is it is just showing that
5 mean value and, you know, the curve fit for gas in place
6 versus the recoverable reserves because, obviously,
7 we...you know, even with today's technologies we can only
8 recovery so much of the gas in place. So, this was a...this
9 was a basic reserve in our planning group in order to
10 basically justify whether or not we're going to proceed with
11 these wells.

12 Q. Okay. And this well in context then with
13 the data that's available for the formation, if you assume
14 a 20% recovery of gas in place, what would the range...driven
15 by the data that you have what would that range a high and
16 low be?

17 A. We have 300 to 680 million cubic feet.

18 Q. Okay. So, .3 to .68 bcf?

19 A. Correct.

20 Q. And if you're fortunate and can recover 30%
21 of the in place reserves, what would the range be?

22 A. 450 to 1,000 mmcf million cubic feet.

23 Q. Okay. And is this well, in your judgment,
24 economical whether or not at the 20% and the 30%?

25 A. Yes.

1 Q. Okay. This data that you've used for
2 reserve estimates, is some of that actual data and is some
3 of it industry data?

4 A. It's industry data.

5 Q. Okay.

6 A. We're hopefully going to accomplish a look
7 back within this year to start fitting our actuals to our
8 plans.

9 Q. Okay. But this...the data that this
10 reserve estimate is predicated on is industry data and you
11 don't have enough data of your own as yet to---?

12 A. That's correct.

13 Q. And it hasn't been incorporated?

14 A. That's correct.

15 Q. Okay. Going back to just one to the other
16 slides and talk about that briefly. Talk for a minute to
17 the Board about the completion of...the anticipated
18 completion here.

19 A. Our completion systems that we run in these
20 shales due to the...they are low pressured and dry,
21 desecrated if you will, shales. So, thereby the
22 introduction of any water is not a good thing. One, we won't
23 get...we won't get the returns as far as flow back. The
24 water will stay in the shale basically. So, what
25 we've...what we use is what's considered an open hole packers

1 completion system. The idea of that is we
2 basically...depending on the number of stages that you wish
3 to do within your lateral length, you sit these packers which
4 isolate your individual intervals. It's similar in a
5 conventional, you know, cement and casing program.
6 However, it's considered an open hole system because we don't
7 cement it in place. We use packers for the isolation rather
8 than perks.

9 Q. Okay. And what we're talking about here in
10 terms of giving some idea of how many sections it might be
11 fraced individually, is---

12 A. Correct.

13 Q. ---that what this chart is trying to
14 indicate?

15 A. Yes. What this slide is is I have devised
16 a diagram, if you will, to use in-house to share with some
17 of engineers and other geology folks. When I design these
18 wells based upon on our...you know, our targeted shale
19 intervals this was one that I had come up with a while ago
20 and I know we had presented in the past to the Board kind
21 of a generic schematic. So, what I thought I would do is
22 take the one that I've devised recently and I implemented
23 that into the packet that we've handed out. It's a little
24 bit more well specific for you. That way it...instead of
25 it being kind of generic to all shales, these are actually

1 showing some of the perimeters that I anticipate seeing on
2 that individual well. So, it was created. So, I basically
3 I am just sharing what we've continued to use going forward.
4 What I'm showing is in the vertical scale, obviously, you're
5 going to lose...I'm not showing the whole casing up to
6 surface, but, you know, we do cement through all of
7 our...through all of our intermediate strings back to
8 surface. I'm just showing some of the anticipated
9 formations that we encounter along the way, but more
10 importantly kind of how we isolate, you know, with our
11 pictures down here where the individuals packers will
12 isolate the individual stages within the shale horizontally.

13 MARK SWARTZ: That's all I have of Ian at the moment.

14 BILL HARRIS: Those are the red marks is what you're
15 saying?

16 IAN LUCAS: That's correct.

17 BILL HARRIS: That's the indication---?

18 IAN LUCAS: What the red is...right. That is just
19 a way of showing where you anticipate the fracs coming out
20 of the individual port systems between the packers.

21 BUTCH LAMBERT: For the education of the Board and
22 the folks here today hearing about this type of fracturing
23 system, could you explain the difference of this system of
24 where you're using air versus what we're reading about in
25 the paper of other states that are using water fracs and

1 chemical fracs?

2 IAN LUCAS: Yes, sir. The biggest difference is
3 the medium in which choose to frac these shales. We don't
4 introduce...there's no water. We actually can't use
5 pumping. We don't pump sand because you can't carry it. We
6 use what we call straight gas fracs, which is...it's
7 nitrogen. We use the nitrogen and then the nitrogen is then
8 flowed back. It's a nerve gas. We use straight gas for the
9 introduction of almost zero fluid. We do use a little bit
10 of water. That's just to carry our (inaudible) in order to
11 isolate each individual stage as we work out way back. But
12 as far as the hydraulic fracing that you're reading about
13 in the press and stuff, this is an entirely different system
14 and it's actually in no way related. I mean, other than
15 you're using the pressure of a hydraulic medium in order to
16 fracture the rocks. In that case, it would be similar. But
17 as far as the fluid and the means, they're completely
18 different.

19 BUTCH LAMBERT: So, just to make it clear, there's
20 not millions of gallons of water in this type of frac that's
21 being---?

22 IAN LUCAS: No, sir. No, we use no water.

23 BUTCH LAMBERT: ---produced back to the surface
24 that's being disposed of one you reach the surface?

25 IAN LUCAS: No, sir.

1 BUTCH LAMBERT: It's a completely different
2 approach to developing this?

3 IAN LUCAS: Yes, sir. It's just...it's gas. It's
4 nitrogen.

5 BUTCH LAMBERT: Thank you. I appreciate that
6 explanation. Thank you.

7 BRUCE PRATHER: Mr. Chairman,

8 BUTCH LAMBERT: Mr. Prather.

9 BRUCE PRATHER: In the bottom of the Devonian, one
10 of the other problems that hasn't been discussed is the fact
11 that you do have some benenite beds down in these shales.
12 If you put water on those, you've really done a job on
13 yourself. They're that pipe creek...pipe creek benenite
14 that you have in Kentucky. You get traces of it even down
15 here. So, there's a little...ever now and then there's some
16 small benenite beds that will be in the shale. If you put
17 water on that stuff, you are in trouble.

18 IAN LUCAS: And that's due to the clays themselves,
19 which will actually swell and then create a whole stability
20 issue.

21 BRUCE PRATHER: So, that's another reason to use a
22 gas instead of a fluid to treat these things.

23 IAN LUCAS: These are different beasts from our
24 neighbors to north with the Marcellus production.

25 BUTCH LAMBERT: Okay. I just wanted to clarify

1 that for the record. I appreciate your explanation. Any
2 other questions from the Board?

3 (No audible response.)

4 BUTCH LAMBERT: Anything further, Mr. Swartz?

5 MARK SWARTZ: No.

6 BILL HARRIS: Let me just ask a question in general.

7 BUTCH LAMBERT: Mr. Harris.

8 BILL HARRIS: I know you said that in terms of your
9 reserve estimate that was based on industry figures. Can
10 you tell us a little bit about the horizontal drilling that
11 you've done so far. I know that you've said that the...you
12 know, I guess, the end result is still out on that. But do
13 you know about how many wells horizontally that you've
14 drilled thus far?

15 IAN LUCAS: We...we were able to drill five wells
16 last year. Unfortunately, only three of them in line so far
17 due to just we still don't have pipes to those remaining two.
18 We're working on that---

19 BILL HARRIS: Oh, okay.

20 IAN LUCAS: ---right now. What we have found to
21 date is we're actually...we're early in the production,
22 unfortunately, but as we continue they seem to be fitting
23 our curves. So, so far they seem to be coming out where we
24 anticipated or at least close enough that, you know, we're
25 continuing on.

1 BILL HARRIS: So, they appear to be economically
2 feasible is what you're saying?

3 IAN LUCAS: Yes.

4 BILL HARRIS: Okay. Thank you.

5 BUTCH LAMBERT: Any other questions or comments?
6 (No audible response.)

7 BUTCH LAMBERT: Do I have a motion?

8 BRUCE PRATHER: Motion to approve.

9 BILL HARRIS: Second.

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

12 (No audible response.)

13 BUTCH LAMBERT: All in favor, signify by saying yes.
14 (All members signify by saying yes, but Katie Dye.)

15 BUTCH LAMBERT: Opposed, no.

16 KATIE DYE: I'll abstain.

17 BUTCH LAMBERT: One abstention, Mrs. Dye. Calling
18 docket item number eleven, a petition from CNX Gas Company,
19 LLC for creation of a provisional drilling unit and pooling
20 for conventional horizontal gas unit I-30SH, docket number
21 VGOB-11-0719-2973. All parties wishing to testify, please
22 come forward.

23 MARK SWARTZ: Mark Swartz, Anita Duty and Ian Lucas.
24 (Exhibits are passed out.)

25 BUTCH LAMBERT: You may proceed, Mr. Swartz.

1 MARK SWARTZ: Thank you. I would like to
2 incorporate Anita's testimony with regard to her...if I
3 could incorporate Anita's testimony from the last hearing
4 with regard to her employment, her job responsibilities and
5 recommended lease terms I'd appreciate.

6 BUTCH LAMBERT: It's incorporated. Also, in the
7 last docket item, we need to mark that exhibit that was passed
8 out as AA.

9 MARK SWARTZ: Okay.

10 BUTCH LAMBERT: And also this one just passed out
11 for this one, we'll mark it as AA as well.

12 MARK SWARTZ: Great. Thank you.

13 BUTCH LAMBERT: And that testimony will be
14 incorporated.

15 MARK SWARTZ: Thank you.

16
17 ANITA DUTY

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

20 DIRECT EXAMINATION

21 QUESTIONS BY MR. SWARTZ:

22 Q. Anita, state your name for us again.

23 A. Anita Duty.

24 Q. And I'm going to remind you that you're still
25 under oath.

1 A. Yes.

2 Q. Okay. This is an application to both create
3 a provisional drilling unit and then to pool that unit, is
4 that correct?

5 A. Yes.

6 Q. And this application, like the last one,
7 actually puts together several Oakwood units, grid units,
8 to create I think a 320...let's look and see here, a 320 acre
9 proposed unit, correct?

10 A. Yes.

11 Q. And if we look at your application, you've
12 actually identified the Oakwood units that you've put
13 together to create the 320 proposed...320 acre proposed
14 unit?

15 A. Yes, it's H-29, H-30, I-29 and I-30.

16 Q. And is required by the regulations, you've
17 also provided in your application a state plain coordinate
18 description of the boundaries of that 320 acre unit, correct?

19 A. Yes.

20 Q. Okay. You've listed respondents in your
21 notice and I think within your application is that a complete
22 list of everybody that you want to pool today?

23 A. Yes. It's actually a list of every person
24 that has an interest in the unit. Everybody.

25 Q. Right. Because we're creating a unit?

1 A. Yes.

2 Q. Okay. And do you need to add anybody in
3 terms of lessors or potential respondents?

4 A. No.

5 Q. Okay. Do you need to dismiss anyone?

6 A. No.

7 Q. Okay. With regard to this unit, as long as
8 we're talking about lease parties as well as respondent
9 parties, have you provided the Board with information
10 pertaining to the amount of the conventional gas that you've
11 leased and the amount that you need to pool?

12 A. Yes.

13 Q. And what are those percentages?

14 A. We've leased 67.3927% of the oil and gas and
15 we are seeking to pool 32.6073% of the oil and gas.

16 Q. And what notice did you provide to the
17 respondents that you've listed that we were going to have
18 a hearing today?

19 A. Mailed by certified mail return receipt
20 requested on June the 17th, 2011 and published the notice
21 and location map in Bluefield Daily Telegraph on June the
22 25th, 2011.

23 Q. And have you brought with you the newspaper
24 certificate with regard to publication and your certificates
25 with regard to mailing?

1 A. Yes.

2 Q. And do you intend to file those with the
3 Division today?

4 A. Yes.

5 Q. Okay. Have you provided the Board with an
6 exhibit showing the anticipated well cost?

7 A. I have.

8 Q. And what's the amount?

9 A. \$1,479,995.

10 Q. That's not right.

11 A. No, it's not.

12 Q. Okay.

13 A. \$1,470,831.60.

14 Q. Okay. There you go. And this one we do not
15 have a permit as yet for this one, is that correct?

16 A. That's correct.

17 Q. And you've provided the Board with a plat,
18 correct?

19 A. Yes.

20 Q. And you show the location of the production
21 hole on that plat?

22 A. Yes.

23 Q. And then the location of the length of the
24 leg?

25 A. Yes.

1 Q. And how many legs are proposed?

2 A. One.

3 Q. Is the production from the leg anticipated

4 to be inside of the drilling window?

5 A. It is.

6 Q. And, therefore, you're providing a 300 foot

7 offset, correct?

8 A. Yes.

9 Q. Is it your opinion that if we combine a

10 pooling order with the lease and acquisition efforts that

11 CNX has been able to obtain that the correlative rights of

12 all people entitled to revenue from this production would

13 be protected?

14 A. Yes.

15 Q. And then lastly, is it your view that...in

16 your opinion, that drilling a horizontal well in this unit

17 and this location is a reasonable way to develop conventional

18 gas from the horizon?

19 A. Yes.

20 Q. And the production horizon here, again, is

21 that the same as the last one that we were talking about?

22 A. Yes. The Lower Huron.

23 Q. Okay. Also, known as apparently the

24 Devonian shale?

25 A. Yes.

1 MARK SWARTZ: That's all I have of Anita, Mr.
2 Chairman.

3 BUTCH LAMBERT: Any questions from the Board?

4 BILL HARRIS: Mr. Chairman.

5 BUTCH LAMBERT: Mr. Harris.

6 BILL HARRIS: My packet does not have an AFE in it.
7 I don't know if others have them or...we have the amount
8 listed, but not the breakdown.

9 ANITA DUTY: Yeah, I don't think I made a copy. It
10 looks like it was just stuck in there. So, maybe I left it
11 out the first time.

12 MARK SWARTZ: Why don't you share it with Mr. Harris
13 and then we can make copies later?

14 BUTCH LAMBERT: If we could just pass that around
15 to the Board and then we'll get copies.

16 (Exhibit is passed around to the Board.)

17 BUTCH LAMBERT: Any other questions from the Board?

18 (No audible response.)

19 BUTCH LAMBERT: Anything further, Mr. Swartz?

20 MARK SWARTZ: Not of Anita.

21 BUTCH LAMBERT: Okay. You may continue.

22 IAN LUCAS

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

25 DIRECT EXAMINATION

1 QUESTIONS BY MR. SWARTZ:

2 Q. Ian, I'm going to remind you that you're
3 still under oath, okay?

4 A. Yes, sir.

5 Q. And have you prepared a packet with regard
6 to this...to this proposed unit and well I-30SH as well?

7 A. I have.

8 Q. Okay. And it's going to look pretty
9 similar, isn't it?

10 A. Yes.

11 Q. I mean, the plat is going to be different,
12 but it's the same sort of configuration?

13 A. Correct.

14 Q. And again here, at the moment at least you've
15 got one leg proposed?

16 A. Correct.

17 Q. Is it possible that we will in the future see
18 some of these units with more than one leg---?

19 A. Yes.

20 Q. ---as we have in the past?

21 A. Yes.

22 Q. Okay. But at least for today, this is a one
23 leg unit?

24 A. That's correct.

25 Q. We've got a very similar if not identical

1 completion diagram?

2 A. Yes.

3 Q. And I assume we have the same data?

4 A. Correct.

5 Q. Okay. And your estimates here would be the
6 same 20% and 30% that we had in the last hearing?

7 A. That's correct.

8 MARK SWARTZ: Mr. Chairman, I'd like to incorporate
9 Ian's testimony from that hearing so that I don't have to
10 completely go over it here.

11 BUTCH LAMBERT: Accepted.

12 MARK SWARTZ: But he's available to the extent that
13 there are any further questions.

14 BUTCH LAMBERT: Sure. It's accepted.

15 MARK SWARTZ: Thank you.

16 BUTCH LAMBERT: Any questions from the Board?

17 BRUCE PRATHER: Mr. Chairman, I've got a---.

18 BUTCH LAMBERT: Mr. Prather.

19 BRUCE PRATHER: On your reserve estimate, what is
20 the period of time that would be involved from the...when
21 your well went on line over to where it has got the 4.4
22 billion? Is there a...what's the time interval of that?

23 IAN LUCAS: Well, they will run these until whatever
24 they consider the economic limit. I will also clarify that,
25 you know, a lot of these numbers are provided to me by a

1 reservoir engineering department.

2 BRUCE PRATHER: Right.

3 IAN LUCAS: But the economic limits, which I think
4 typically is like a 30 plus...30 to 60 years possible short.
5 It's---

6 BRUCE PRATHER: Usually when we see the gas in
7 place, it's usually 60 to 70 years.

8 IAN LUCAS: Correct. It's run out to an
9 economic...whatever that economical limit may be for that
10 area.

11 BRUCE PRATHER: Right. Right. Okay, thank you.

12 BUTCH LAMBERT: Any other questions?

13 (No audible response.)

14 BUTCH LAMBERT: Anything further, Mr. Swartz?

15 MARK SWARTZ: Just in terms of the economic limit.
16 Everybody might not be all over that. The economic limit
17 of a well is the point at which the cost to operate the well
18 it suits the revenue produced.

19 IAN LUCAS: Correct.

20 MARK SWARTZ: Okay.

21 BUTCH LAMBERT: Do I have a motion?

22 BRUCE PRATHER: Motion to approve.

23 BILL HARRIS: I'll second it.

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

1 (No audible response.)
2 BUTCH LAMBERT: All in favor, signify by saying yes.
3 (All members signify by saying yes, but Katie Dye.)
4 BUTCH LAMBERT: Opposed, no.
5 KATIE DYE: I'll abstain.
6 BUTCH LAMBERT: One abstention, Mrs. Dye. It's
7 approved, Mr. Swartz.
8 MARK SWARTZ: Thank you.
9 BUTCH LAMBERT: Calling docket item number twelve,
10 a petition from CNX Gas Company, LLC for creation of a
11 provisional drilling unit for conventional horizontal gas
12 unit RRR-29SH, docket number VGOB-11-0719-2974. All
13 parties wishing to testify, please come forward.
14 MARK SWARTZ: Mark Swartz, Anita Duty and Ian Lucas
15 again. We're passing out another set of slides just to
16 complete the record in this. But it's very similar to what
17 we've seen before. To anticipate, let's mark that Exhibit
18 AA.
19 (Exhibit is passed out.)
20 BUTCH LAMBERT: You may proceed, Mr. Swartz.
21 MARK SWARTZ: Thank you.
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23 ANITA DUTY
24 having been duly sworn, was examined and testified as
25 follows:

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DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Anita, state your name for us.

A. Anita Duty.

Q. I'm going to remind you that you're still under oath.

A. Yes.

MARK SWARTZ: I'd like to incorporate Anita's testimony with regard to her employment, her job responsibilities and standard lease terms if I could.

BUTCH LAMBERT: Accepted.

MARK SWARTZ: Thank you.

Q. Anita, with regard to this application concerning RRR-29SH this is a conventional horizontal unit, correct?

A. Yes.

Q. And we're seeking to do two things...well, I guess only one or is it---

A. Just one.

Q. We're trying to create a...we're asking to create a provisional drilling unit, is that correct?

A. Yes.

Q. And once again have you put together four Oakwood units to form a unit?

A. Yes.

1 Q. Okay. Those four Oakwood units that you've
2 combined are which four units?

3 A. RRR-29, RRR-30, SSS-29 and SSS-30.

4 Q. Okay. And these...one or more of these must
5 not be exactly equal to 80 acres because you're coming up
6 with 313 acres, correct?

7 A. Yes.

8 Q. And you've also provided to the Board, as
9 required by regulation, a Virginia state plain coordinate
10 description of the boundary of this unit?

11 A. Yes.

12 Q. And I take it when you then calculate the
13 acres and close that boundary, you come up with the 313?

14 A. Yes, we do.

15 Q. And you've provided the Board with a plat
16 here, is that correct?

17 A. Yes.

18 Q. And you show the location of the production
19 hole?

20 A. Yes.

21 Q. And you show the location of the proposed
22 horizontal leg?

23 A. Yes.

24 Q. And once again is the production anticipated
25 to stop short of the 300 foot window?

1 A. It is.

2 Q. So, you're going to have at least a 300 foot
3 offset here?

4 A. We will.

5 Q. Okay. The...what did you do to give people
6 notice of this application to create a drilling unit?

7 A. We mailed by certified mail return receipt
8 requested on June the 17th, 2011 and published the notice
9 and location map in the Bluefield Daily Telegraph on June
10 the 25th, 2011.

11 Q. And have you brought with you your proof of
12 publication and your certificates with regard to mailing so
13 you can file those with Division today?

14 A. Yes.

15 Q. Okay. Do you want to add any respondents?

16 A. No.

17 Q. Do you want to dismiss any?

18 A. No.

19 Q. And these respondents like the last one
20 would include your lessors?

21 A. Yes.

22 Q. And I'm...I'm thinking this might be a
23 voluntary unit, is that correct?

24 A. It is.

25 Q. So, it's not going to have to be pooled?

1 A. No.

2 Q. So, we're not going to make a second trip
3 here?

4 A. We are not.

5 Q. Okay. We're trying to make one trip, right?

6 A. Yes.

7 Q. Okay. The amount of interest that you've
8 acquired then would be a 100%?

9 A. Yes.

10 MARK SWARTZ: That's all I have of Anita.

11 BUTCH LAMBERT: Any questions from the Board?

12 BILL HARRIS: Mr. Chairman.

13 BUTCH LAMBERT: Mr. Harris.

14 BILL HARRIS: Let me just ask about the RRR units
15 that are left in 80 acres. Are these...I'm not sure what's
16 happening here. The plat that we have shows that...you
17 know, Buchanan County, of course, extends, I guess, into West
18 Virginia, but are we not there? Are these makeup units
19 for...not makeup, but---?

20 ANITA DUTY: This is at the very top of the field.
21 There's not other units established above RRR.

22 BILL HARRIS: Okay. So, RRR is that against the
23 state line then or are we---?

24 SHARON PIGEON: Do we have another field in---?

25 ANITA DUTY: I think the state line is probably

1 toward the east. There's just no field established there.
2 I don't know why those weren't identified as---

3 BILL HARRIS: Did we not go to the end of the county?
4 I would have thought that our field runs...our field would
5 have extended.

6 BUTCH LAMBERT: You don't know what's north of RRR?

7 ANITA DUTY: I didn't understand or hear the
8 question.

9 BUTCH LAMBERT: You don't know what's north of RRR?

10 ANITA DUTY: There's no field established in
11 Virginia for anything north of RRR-20.

12 BUTCH LAMBERT: I think that was what Mr. Harris
13 was...his question was.

14 SHARON PIGEON: There's acres there but---

15 ANITA DUTY: Well, this was done...this is actually
16 the Nora field. I guess Equitable would have been the one
17 to create this field. So, I don't know why it stopped there.

18 BRUCE PRATHER: Mr. Chairman.

19 BUTCH LAMBERT: Mr. Prather.

20 BRUCE PRATHER: Would this wiggly line here, could
21 that be the state line?

22 ANITA DUTY: I take back what I said. That's the
23 Oakwood field.

24 BRUCE PRATHER: Could this little wiggly line right
25 here be the state line that's on the plat? It just barely

1 takes in the northwest or northwest corner.

2 BILL HARRIS: He's looking at Exhibit AA, I think.

3 BRUCE PRATHER: Yeah. See that little wiggly line
4 up there. That might be the state line. It's either that
5 or a road.

6 MARK SWARTZ: Anita has a different map, which we
7 will take a look at and see if we can place this.

8 BRUCE PRATHER: Oh, okay.

9 BILL HARRIS: I'm just...well---

10 MARK SWARTZ: It's okay. It's all right. We're
11 used to dealing with questions. It's our job.

12 (Mark Swartz and Anita Duty confer.)

13 MARK SWARTZ: You cannot have this map. This is for
14 illustrative purposes only.

15 BILL HARRIS: Well---

16 BUTCH LAMBERT: If you're going to show it, you have
17 to produce it.

18 MARK SWARTZ: I can give you this little piece of
19 it.

20 BRUCE PRATHER: It's state property.

21 MARK SWARTZ: This little line is a state line. You
22 can see that there's some areas of both RRR that are not in
23 the Oakwood field. I mean, I don't...I don't know why, but
24 that's...you know, I mean, to answer your question of where
25 is the state line, it's not an issue and we don't really have

1 an explanation for what's going on north of there.

2 ANITA DUTY: Well, it could have been at that time
3 we didn't...I don't think we have any property north of that.
4 So, we really wouldn't have had a need to go any further.
5 I don't know why it's stopped there because that has been
6 there for a long time.

7 BILL HARRIS: Okay.

8 MARK SWARTZ: Historically, the extensions of the
9 Oakwood field have essentially been to the east as well, you
10 know, rather than to the north. That's the location of the
11 state line.

12 BILL HARRIS: Okay. Thank you.

13 MARK SWARTZ: You're welcome.

14 BUTCH LAMBERT: Anything further, Mr. Swartz?

15 MARK SWARTZ: Not of Anita.

16 BUTCH LAMBERT: Okay. Any other questions from the
17 Board?

18 (No audible response.)

19 BUTCH LAMBERT: You may continue, Mr. Swartz.

20 MARK SWARTZ: I would like to incorporate Ian's
21 testimony from the prior hearings. I think it would
22 essentially be the same here. But he's available. So, if
23 there are any questions that have occurred to anyone since,
24 you know, the last one or with regard to this one in
25 particular he's available.

1 BUTCH LAMBERT: We'll accept that testimony. Are
2 there any questions from the Board?

3 (No audible response.)

4 BUTCH LAMBERT: Anything further, Mr. Swartz?

5 MARK SWARTZ: No.

6 BUTCH LAMBERT: Do I have a motion?

7 BRUCE PRATHER: Motion to approve.

8 BILL HARRIS: Second.

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

11 (No audible response.)

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

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

14 BUTCH LAMBERT: Opposed, no.

15 KATIE DYE: I'll abstain.

16 BUTCH LAMBERT: One abstention, Mrs. Dye. Calling
17 docket item thirteen, a petition from CNX Gas Company, LLC
18 for repooling of unit FF-22, docket number
19 VGOB-97-0715-0596-01. All parties wishing to testify,
20 please come forward.

21 MARK SWARTZ: Mark Swartz and Anita Duty. We have
22 a couple of revised exhibits here.

23 (Exhibits are passed out.)

24 BUTCH LAMBERT: You may proceed, Mr. Swartz.

25 MARK SWARTZ: Thank you.

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ANITA DUTY

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

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

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

A. Anita Duty.

Q. I'm going to remind you that you're still under oath.

A. Yes.

MARK SWARTZ: Mr. Chairman, I'd like to incorporate Anita's testimony with regard to her employment, her job responsibilities and standard lease terms.

BUTCH LAMBERT: Accepted.

MARK SWARTZ: Thank you.

Q. Anita, this is a repooling, is that correct?

A. It is.

Q. And it involves an Oakwood unit?

A. Yes.

Q. How many acres are in this unit?

A. 89.59.

Q. So, it must be some kind of boundary unit, correct?

1 A. It is. It is.

2 Q. Okay. Have you provided the Board with a
3 plat?

4 A. Yes.

5 Q. And the plat demonstrates that there are two
6 wells already in this unit?

7 A. Yes.

8 Q. They're both in the drilling window?

9 A. Yes.

10 Q. What's the reason for this repooling
11 application?

12 A. We...we had a Court order for the James
13 Rasnic and others and when we originally pooled this unit,
14 we did not identify...this is at the beginning of our due
15 diligence phase in trying to identify all of the Heirs of
16 the Jacob Fuller Heirship and things like that. So, whenever
17 Mr. Rasnic was awarded an additional interest in this tract,
18 we felt that it was best that we just repool and give
19 everybody another notice because the original list of Heirs
20 was basically just unknown. So, rather than just update his
21 ownership, we felt like we needed to repool the entire unit.

22 Q. Okay. The...so, you've provided the Board
23 with a revised Exhibit B-3?

24 A. Yes.

25 Q. Which would...which would make the

1 ownership documentation that the Board now has consisted
2 with the Court order?

3 A. Yes.

4 Q. And when you...whenever you changed B-3
5 there's a potential that you might have changed the escrows,
6 correct?

7 A. Yes.

8 Q. And so you've provided the Board with an
9 updated Exhibit E, is that correct?

10 A. I have.

11 Q. And is that essentially why we're back here
12 today?

13 A. Yes.

14 Q. Have any of the percentages of the
15 tracts...have any of the acreages of the various tracts
16 changed?

17 A. Yes.

18 Q. Okay. And in that respect, which tracts
19 have changed their acreages?

20 A. Well, originally there was only two tracts
21 shown on the pooling.

22 Q. Okay.

23 A. It was like Tract 1 was Buck Horn and Tract
24 2 was Buck Horn and the Jacob Fuller. It was 1.5 acres.

25 Q. Okay.

1 A. So, it has now been updated to 2.73. So,
2 there was mapping...I guess, better mapping procedures and
3 things in place now then when we originally did this in '97.

4 Q. So, you've got an additional tract and the
5 percentages of the tracts have all apparently changed
6 slightly?

7 A. They have.

8 Q. Okay. So, we've got essentially then two
9 reasons for the come back. We've got a mapping issue, which
10 you've just discussed---?

11 A. Yes.

12 Q. ---and then we got the Court order title
13 confirmation, which you've discussed?

14 A. That's correct.

15 Q. And is that what you're seeking to
16 accomplish on this return visit for repooling of FF-22?

17 A. Yes.

18 Q. Okay. With regard...the only other
19 question that I would have then is have you submitted...or
20 actually two questions. Have you submitted the same cost
21 information?

22 A. I have.

23 Q. Okay. So, that hasn't changed?

24 A. Right.

25 Q. And the percentage of interest that you're

1 seeking to pool, let's confirm what that is today, the total
2 percent of standing that needs to be pooled as of today is
3 what?

4 A. 2.9202%.

5 Q. Okay. Everything else is leased or owned?

6 A. Yes.

7 MARK SWARTZ: That's all I have on this one, Mr.
8 Chairman.

9 BUTCH LAMBERT: Any questions from the Board?

10 (No audible response.)

11 BUTCH LAMBERT: Anything further, Mr. Swartz?

12 MARK SWARTZ: No. Anita, would you share that bit of
13 information with the Board?

14 ANITA DUTY: In the discussions with Diane, as far
15 as royalty split agreements go, all of these owners have
16 royalty split agreements in place now. She preferred that
17 we left it on the Exhibit E to match the original order and
18 come back with a disbursement because there is actually money
19 in escrow right now for this unit. So, that's how we're
20 going to do those going forward. So, the EE that was
21 included in the original petition should be removed and we're
22 going to replace it with the Exhibit E that we've included
23 in the revisions.

24 BUTCH LAMBERT: That's the reason for the note in
25 green on the revised exhibit?

1 ANITA DUTY: Yes.

2 BUTCH LAMBERT: Okay.

3 ANITA DUTY: Because there is money in escrow right
4 now. So, we don't want it to appear, you know, when somebody
5 sees an Exhibit EE that everything has been paid out because
6 we haven't actually done that yet.

7 BUTCH LAMBERT: Okay.

8 MARK SWARTZ: So, we'll be back on a disbursement
9 to address that and---?

10 ANITA DUTY: Exactly.

11 MARK SWARTZ: ---at that point we'll have an EE?

12 ANITA DUTY: Exactly.

13 MARK SWARTZ: Okay.

14 BUTCH LAMBERT: Okay. Thank you. Do I have a
15 motion?

16 BRUCE PRATHER: Motion to approve.

17 BILL HARRIS: Second.

18 BUTCH LAMBERT: A motion and a second. Any further
19 discussion?

20 (No audible response.)

21 BUTCH LAMBERT: All in favor, signify by saying yes.
22 (All members signify by saying yes, but Katie Dye.)

23 BUTCH LAMBERT: Opposed, no.

24 KATIE DYE: I'll abstain.

25 BUTCH LAMBERT: One abstention, Mrs. Dye.

1 MARK SWARTZ: And in an effort to anticipate the
2 breakneck pace of our Chairman, I'm going to raise a
3 housekeeping issue again.

4 BUTCH LAMBERT: Okay.

5 MARK SWARTZ: Okay, cool.

6 BUTCH LAMBERT: No breaks.

7 MARK SWARTZ: Okay. Shea Cook has requested...I
8 think he's made requests perhaps to the Division, but also
9 to Anita that the escrow agent be advised that the check
10 should be payable to his clients as was in anticipated in
11 the order, but they should be mailed to his law office. I
12 don't think anybody has an heartbreak...heartburn with that,
13 but I think we need the Board's direction to be able to tell
14 the escrow agent that.

15 ANITA DUTY: I believe there are some pending from
16 prior months that maybe...I'm not exactly sure, but I can
17 send you an email. He's supposed to send me an email of the
18 ones that he believes are upcoming and then the next month
19 we'll go ahead and put that on at the same time. We'll
20 correct it next month.

21 BUTCH LAMBERT: I don't think that will be an issue
22 for the Board. If you'll just Diane of those that need to
23 be paid that way, then we'll forward that on to the escrow
24 agent.

25 DIANE DAVIS: The checks would still to be the

1 individuals?

2 MARK SWARTZ: Correct. The payees remain the same
3 but they just get mailed to Shea.

4 DIANE DAVIS: If the bank, because of the W-9 wants
5 to put the other address on there, can they just be lumped
6 together and mailed to...it would be my question because they
7 usually use the W-9 that is provided for the address? I'm
8 not trying to be difficult, but that's how they---

9 ANITA DUTY: That's the...yeah, that's the address
10 that should be on the check. If you could
11 take---

12 DIANE DAVIS: But I can lump them together?

13 MARK SWARTZ: Yes, correct. Yeah, okay.

14 ANITA DUTY: Yeah.

15 DIANE DAVIS: Okay. That's all I wanted to know.
16 Thank you.

17 MARK SWARTZ: Thank you.

18 BUTCH LAMBERT: Okay.

19 SHARON PIGEON: But you do need to get that very
20 specific information to Diane so she can direct the escrow
21 agent.

22 ANITA DUTY: I will.

23 SHARON PIGEON: They can't do that otherwise.

24 MARK SWARTZ: Right.

25 ANITA DUTY: Okay. Thank you.

1 BUTCH LAMBERT: Okay. We're calling petition
2 number fourteen. It's a petition from CNX Gas Company, LLC
3 for repooling of unit AX-124, docket number
4 VGOB-03-1118-1226-01. All parties wishing to testify,
5 please come forward.

6 MARK SWARTZ: Mark Swartz and Anita Duty.

7 BUTCH LAMBERT: You may proceed, Mr. Swartz.

8

9

ANITA DUTY

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

12

DIRECT EXAMINATION

13 QUESTIONS BY MR. SWARTZ:

14 Q. Anita, what's your name?

15 A. Anita Duty.

16 Q. And I'm going to remind you that you're still
17 under oath.

18 A. Yes.

19 MARK SWARTZ: Okay. Mr. Chairman, I'd like to
20 incorporate Anita's testimony with regard to her employment,
21 her duties and her testimony with regard to lease terms.

22 BUTCH LAMBERT: Accepted.

23 MARK SWARTZ: Thank you.

24 Q. Anita, this is a repooling, is that correct?

25 A. Yes.

1 Q. It pertains to which unit?
2 A. AX-124.
3 Q. Okay. What did you do to notify people that
4 we were going to have a hearing today?
5 A. Mailed by certified mail, return receipt
6 requested on June the 17th, 2011 and published in the
7 Bluefield Daily...the notice and location map in the
8 Bluefield Daily telegraph on June the 24th, 2011.
9 Q. Okay. Have you brought with you your
10 certificate of...your proof of publication and your
11 certificates with regard to mailing so you could file those
12 with the Division today?
13 A. Yes.
14 Q. What kind of a unit is this?
15 A. This is a Middle Ridge unit.
16 Q. And it has how...how many acres?
17 A. 58.74 acres.
18 Q. Okay. It has...you've provided the Board
19 with the plat, correct?
20 A. Yes.
21 Q. We've got two wells in the drilling window?
22 A. Yes.
23 Q. Have the cost of those wells remained the
24 same since this was first pooled, the cost data?
25 A. Yes.

1 Q. Okay. What's...what is the reason that
2 you've...that you're seeking to repool this?

3 A. It was just mapping issues.

4 Q. Okay. Do you want to add any respondents
5 today or dismiss any?

6 A. No.

7 Q. Okay. With regard to that mapping issue,
8 what tracts have been affected by that?

9 A. Tract 1D and 1E is shown as a title conflict
10 with the Commonwealth of Virginia now and it wasn't
11 previously so we need to pool the Commonwealth.

12 Q. So, we've got a new party, the Commonwealth
13 of Virginia?

14 A. Yes.

15 Q. And I take it 2E and 2D were one tract in the
16 past and now they've been split into two or is
17 that...or is it just the road---?

18 A. It's actually just Tract 2 and those just
19 surface...surface owners.

20 Q. Okay. And so the interest of the
21 Commonwealth is in which tracts?

22 A. 1D and 1E.

23 Q. Oh, I see what you've got. You've
24 got...okay, you've got a conflict.

25 A. The other tract that was affected is 1B. 1B

1 used to be 8.39 acres and now 8.3 and then the .09 difference
2 is the 1D and 1E.

3 Q. Okay. So, that's where it came from?

4 A. That's where it came from, yes.

5 Q. Okay. And we're not adding any new people
6 except for the Commonwealth in terms of the pooling?

7 A. Correct.

8 Q. And we've made the changes in the acreage to
9 the three tracts that you...the two that you've created and
10 the one that you've subtracted from that you've just
11 described?

12 A. Yes.

13 Q. And that's the only reason for the
14 repooling?

15 A. Yes.

16 Q. Have you provided the Board with an
17 indication of what the overall percentages that needs to be
18 pooled as of today and if so what is that?

19 A. It's 4.0459%.

20 Q. And this is still going to require escrow?

21 A. It is. Tracts 1C, 1D and 1E.

22 Q. Okay. And with...do we have any split
23 agreements here?

24 A. Yes, 1A, 1B and 1C.

25 Q. So, the escrow should be preserved to the

1 extent the split agreements have been updated since the
2 initial, are you requesting that if this is approved you be
3 allowed to pay the people identified in these split
4 agreements directly?

5 A. Yes.

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

8 BUTCH LAMBERT: Any questions from the Board?
9 (No audible response.)

10 BUTCH LAMBERT: Do I have a motion?

11 BRUCE PRATHER: Motion to approve.

12 BILL HARRIS: Second.

13 BUTCH LAMBERT: A motion and a second. Any further
14 discussion?

15 (No audible response.)

16 BUTCH LAMBERT: All in favor, signify by saying yes.
17 (All members signify by saying yes, but Katie Dye.)

18 BUTCH LAMBERT: Opposed, no.

19 KATIE DYE: I'll abstain.

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

22 MARK SWARTZ: Thank you.

23 BUTCH LAMBERT: We're calling docket item fifteen,
24 a petition from CNX Gas Company, LLC for repooling of unit
25 AX-102, docket number VGOB-03-0318-1127-01. All parties

1 wishing to testify, please come forward.

2 MARK SWARTZ: Mark Swartz and Anita Duty. We've
3 got a revised exhibit here. We're showing the second well
4 on the plat. That's the...that's the change. It was
5 omitted from the original.

6 (Exhibits are passed out.)

7 BUTCH LAMBERT: You may proceed, Mr. Swartz.

8 MARK SWARTZ: Thank you.

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ANITA DUTY

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

18

DIRECT EXAMINATION

19

QUESTIONS BY MR. SWARTZ:

20

Q. State your name for us.

21

A. Anita Duty.

22

Q. I'm going to remind you that you're under

23

oath.

24

A. Yes.

25

MARK SWARTZ: Anita...Mr. Chairman, I would like

1 to incorporate Anita's testimony with regard to her
2 employment, her job responsibilities and standard lease
3 terms.

4 BUTCH LAMBERT: Accepted.

5 MARK SWARTZ: Thank you.

6 Q. Anita, did you get a call from someone listed
7 in the list of respondents that have advised you that they
8 have transferred title?

9 A. Yes.

10 Q. Who would that have been?

11 A. Katrina Carr.

12 Q. And who is...who was she telling you that
13 they had sold their interest to?

14 A. Well, actually she's the one that their
15 interest was sold to.

16 Q. Okay.

17 A. It was...Clarence Carr has sold the property
18 to her.

19 Q. Okay.

20 A. Actually, a deed of a gift to her.

21 Q. Okay. So---

22 KATRINA CARR: I'm Katrina Carr.

23 SHARON PIGEON: You can come up.

24 BUTCH LAMBERT: You can come up and testify.

25 Q. Do you have anything other than a phone call

1 in that recall?

2 A. That's all. I told her that I would...she
3 gave me the deed descriptions and things and I told her that
4 I would put it on the record.

5 BUTCH LAMBERT: Ma'am, could you state your name for
6 the record, please?

7 KATRINA CARR: My name is Katrina Carr.

8 BUTCH LAMBERT: You need to be sworn.

9 (Katrina Carr is duly sworn.)

10 Q. Other than that title issue, do you need to
11 discuss any additional respondents either to add them or
12 dismiss them?

13 A. No. Actually, until we get our title
14 updated, we did not update the tract ID. We do have a copy
15 of the deed and we do recognize it. In order for our internal
16 processes to be in compliance with surveying docs we have
17 to have the title updated first. But I did tell Ms. Carr
18 that I would put on record at the hearing that that property
19 does belong to her. It's just that we haven't updated the
20 tract ID. I did that as a courtesy to let her know that we
21 were recognizing here interest.

22 SHARON PIGEON: Would you put the tract on the
23 record that she has an interest in?

24 BUTCH LAMBERT: That's exactly what I was going to
25 ask.

1 ANITA DUTY: It's Tract 2C.

2 BUTCH LAMBERT: Okay. So, as soon as you get that
3 information, Ms. Duty, you will update?

4 MARK SWARTZ: I think we'll put it in a supplemental
5 order, if we can,---.

6 ANITA DUTY: Yeah. It will change.

7 MARK SWARTZ: ---as long as we brought it to your
8 attention today. Yes.

9 BUTCH LAMBERT: Okay.

10 MARK SWARTZ: Just to make it clear, they need a
11 title opinion from a lawyer. I mean, they believe you and
12 they understand that you've got the ownership. But
13 internally they need a title opinion from a lawyer. That
14 should be fairly---.

15 KATRINA CARR: I have the deed.

16 ANITA DUTY: We've got a copy of the deed and we
17 agree with you. Like I told you, I was going to put it on
18 record that that property was transferred. We just didn't
19 update the tract ID. We just wanted to let them know.

20 SHARON PIGEON: They don't need that from you.
21 They're going to get that (inaudible).

22 MARK SWARTZ: Well, they already have it.

23 ANITA DUTY: We have it.

24 MARK SWARTZ: Right.

25 SHARON PIGEON: So, what you've provided is

1 sufficient for them to---.

2 MARK SWARTZ: And to come back to where we where if
3 this repooling is authorized today. Consistent with that,
4 we'll be back with a supplemental order that will not require
5 a return trip with the Board to update title with regard to
6 this particular tract to show the transfer.

7 BUTCH LAMBERT: Okay. Ms. Carr, do you understand?

8 KATRINA CARR: I'm just here because it said
9 something about if you're not here to make a timely election
10 that it is deemed that you have leased or assigned your
11 rights. I will not lease or assign my rights to anything
12 I have with them.

13 BUTCH LAMBERT: Okay.

14 SHARON PIGEON: That time is a little bit further
15 down the road than today.

16 BUTCH LAMBERT: Yeah. That's right.

17 SHARON PIGEON: So, you'll be getting another piece
18 of paper that gives you the opportunity to---.

19 KATRINA CARR: Okay. Well, I just came because of
20 that part and the paper that I was sent.

21 SHARON PIGEON: That's fine. That's fine.

22 BUTCH LAMBERT: Yes, ma'am. That's---.

23 SHARON PIGEON: It's better than not come.

24 BUTCH LAMBERT: Yes. Absolutely, you did the right
25 thing in coming today. But, again, they will be sending you

1 a notification once they update with another order and at
2 that point you can come back and provide the testimony that
3 you're wishing to give today.

4 KATRINA CARR: Okay, thank you.

5 BUTCH LAMBERT: Thank you. Anything further, Mr.
6 Swartz?

7 MARK SWARTZ: Yes.

8 Q. With regard to any changes here in terms of
9 percentages, what tract, if any, have changes and
10 percentages?

11 A. Tract 2A.

12 Q. Okay. What happened with regard to 2A that
13 caused that to change?

14 A. It looks like...hold on a second. There was
15 an outsale of Tract 1. Now, Tract 1 is 1A and 1B. Tract
16 1 used to be 27.24 acres and now there's a 1A and 1B. Tract
17 2 has been...the .02 acres is subtracted from 2A.

18 Q. So, the changes were essentially in the---?

19 A. I guess, the line between---

20 Q. ---southeast corner of that line between
21 those tracts?

22 A. Yes. Yes.

23 Q. And there was no change in percentage in
24 Tract 2C, correct,---?

25 A. Correct.

1 Q. ---which is the tract that we were just
2 speaking of?

3 A. Correct. Or 2B.

4 Q. Okay. Or 2B. And with regard to this
5 application, is it true that your cost estimates have
6 remained the same---?

7 A. Yes.

8 Q. ---as when it was originally pooled?

9 A. Yes.

10 Q. Okay. And what is the...what are the
11 interests that need to be pooled just to update that as of
12 today?

13 A. We need to pool 53.6158% of the coal owners
14 claim to CBM and 17.2135% of the oil and gas owners claim
15 to CBM.

16 Q. Okay. And this is a Nora unit with how many
17 acres?

18 A. 58.77.

19 Q. Okay. What did you do to notify people that
20 there would be a hearing today?

21 A. Mailed by certified mail return receipt
22 requested on June the 17th, 2011 and published the notice
23 and location map in the Bluefield Daily Telegraph on June
24 the 23rd, 2011.

25 Q. And have you brought with you the proof of

1 publication and your certificates with regard to mailing so
2 you could provide those to the Division today?

3 A. Yes.

4 Q. And other than the discussion that we've had
5 about the out...the conveyance that has occurred that you're
6 going to use a supplemental order to cure that, are there
7 any respondents that you originally named in this
8 application that need to be dismissed today?

9 A. No.

10 Q. And are there any folks other than the
11 discussion that we've already had that should be added by
12 supplemental order or otherwise?

13 A. No.

14 Q. And are we going to continue to need an
15 escrow account for this unit?

16 A. We are. Tracts 1B, 2A, 2B and 2C.

17 Q. And in that escrow requirement is there also
18 a need for escrow because of unknowns or unlocateables?

19 A. Tract 2B.

20 Q. Okay. And do we have any split agreements,
21 and if so, affecting what tract?

22 A. Tract 2B.

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

24 BUTCH LAMBERT: Any questions from the Board?

25 (No audible response.)

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BUTCH LAMBERT: Do I have a motion?

BRUCE PRATHER: Motion to approve.

BILL HARRIS: Second.

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

(No audible response.)

BUTCH LAMBERT: All 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 very much.

BUTCH LAMBERT: Calling docket item number sixteen,
a petition from Range Resources-Pine Mountain, Inc. for a
well location exception for proposed well
V-530313, docket number VGOB-11-0719-2975. All parties
wishing to testify, please come forward.

TIM SCOTT: Tim Scott, Gus Jansen and Phil Horn for
Range Resources-Pine Mountain, Inc.

(Gus Jansen and Phil Horn are duly sworn.)

BUTCH LAMBERT: You may proceed, Mr. Scott.

TIM SCOTT: Thank you, Mr. Chairman.

PHIL HORN

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

3 DIRECT EXAMINATION

4 QUESTIONS BY MR. SCOTT:

5 Q. Mr. Horn, would you please state your name,
6 by whom you're employed and your job description?

7 A. My name is Phil Horn. I'm employed by Range
8 Resources-Pine Mountain, Inc. as the land manager and party
9 of my job description is to get wells permitted and drilled.

10 Q. Are you familiar with this application?

11 A. Yes, I am.

12 Q. And are the owners of the minerals set out
13 on Exhibit B?

14 A. Yes, they are.

15 Q. The...we have a number of wells from which
16 we're seeking a well location exception today, is that
17 correct?

18 A. That's correct.

19 Q. Who operates those wells?

20 A. EQT Production Company.

21 Q. And do you participate in the operation of
22 this well?

23 A. Yes. We also own an interest in those
24 wells.

25 Q. Okay. You're also an owner, is that

1 correct?

2 A. That's correct.

3 Q. And how was notice of this hearing provided
4 to the parties listed on Exhibit B?

5 A. By certified mail.

6 Q. And we've provided proof of mailing to the
7 Board, is that correct?

8 A. Yes, you have.

9 TIM SCOTT: That's all I have for Mr. Horn.

10 BUTCH LAMBERT: Any questions from the Board?

11 (No audible response.)

12 BUTCH LAMBERT: You may continue.

13 TIM SCOTT: Thank you.

14

15 GUS JANSEN

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

18 DIRECT EXAMINATION

19 QUESTIONS BY MR. SCOTT:

20 Q. Mr. Jansen, your name, by whom you're
21 employed and your job description.

22 A. Yes. My name Gus Jansen. I'm employed by
23 Range Resources-Pine Mountain, Inc. as the manager of
24 geology.

25 Q. You have participated in the preparation of

1 this application, is that correct?

2 A. That is correct.

3 Q. Can you tell the Board why we're seeking a
4 well location exception for this particular unit today?

5 A. Yes. If the Board will refer to Exhibit AA,
6 which I've handed out, you'll see the location of proposed
7 well 530313. This well is located in an area to maximize
8 the recovery of the stranded gas resources. There is no
9 location available that meets the statewide spacing
10 requirements in this general area. If the well is not
11 drilled at the proposed location approximately 77.82 acres
12 of stranded reserves would result.

13 Q. What's the proposed depth of this well?

14 A. 6,227 feet.

15 Q. And the potential loss of reserves if the
16 application is not granted?

17 A. 400 million cubic feet of gas.

18 Q. And we don't have any correlative rights
19 issues, is that correct, because Range is the owner of the
20 minerals under this tract? Is that correct?

21 A. That is correct.

22 Q. So, the application is granted, it would
23 prevent waste and promote conservation, is that correct?

24 A. That is correct.

25 TIM SCOTT: That's all I have for Mr. Jansen.

1 BUTCH LAMBERT: Any questions from the Board?
2 (No audible response.)
3 BUTCH LAMBERT: How is the fishing in Sportman's
4 Lake these days, Gus?
5 GUS JANSEN: I couldn't tell you.
6 BUTCH LAMBERT: It's not a lake there anymore, is
7 it?
8 (No audible response.)
9 BUTCH LAMBERT: Any other questions from the Board?
10 (No audible response.)
11 BUTCH LAMBERT: Anything further, Mr. Scott?
12 (No audible response.)
13 TIM SCOTT: That's all I have, Mr. Chairman.
14 BUTCH LAMBERT: Do I have a motion?
15 BRUCE PRATHER: Motion to approve.
16 BILL HARRIS: Second.
17 BUTCH LAMBERT: I have a motion and a second. Any
18 further discussion?
19 (No audible response.)
20 BUTCH LAMBERT: All in favor, signify by saying yes.
21 (All members signify by saying yes.)
22 BUTCH LAMBERT: Opposed, no.
23 (No audible response.)
24 BUTCH LAMBERT: Thank you, Mr. Scott. It's
25 approved. Calling item seventeen, a petition from Range

1 Resources-Pine Mountain, Inc. for a well location exception
2 for proposed well 900029, docket number VGOB-11-0719-2976.
3 All parties wishing to testify, please come forward. You
4 may proceed, Mr. Scott.

5 TIM SCOTT: Thank you, Mr. Chairman. Is this new
6 the sound system? It sounds weird.

7 BUTCH LAMBERT: Yeah, the Russell County Center
8 actually is furnishing this for us.

9 TIM SCOTT: Okay. A lot of reverberation.

10 BUTCH LAMBERT: They got tired of our old system.
11 So, they thought they would do us better.

12 TIM SCOTT: Just a point of inquiry.

13

14

PHIL HORN

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

17

DIRECT EXAMINATION

18 QUESTIONS BY MR. SCOTT:

19 Q. Mr. Horn, again, state your name, by whom
20 you're employed and your job description.

21 A. My name is Phil Horn. I'm employed by Range
22 Resources-Pine Mountain, Inc. as land manager.

23 Q. Are you familiar with this application?

24 A. Yes, I am.

25 Q. And are you familiar with the ownership of

1 the minerals underlying this unit?

2 A. Yes, I am.

3 Q. And those parties are set out on Exhibit B,
4 is that correct?

5 A. That is correct.

6 Q. Who operates well number 824073?

7 A. Range Resources-Pine Mountain, Inc.

8 Q. Now, we have...we have non-Range ownership
9 under this unit, is that right?

10 A. That's correct.

11 Q. But we also have Range ownership, is that
12 correct?

13 A. No.

14 Q. No? None on this well, okay.

15 A. We don't own any of the oil and gas in this
16 unit.

17 Q. How was the...how was the notice provided to
18 the parties listed on Exhibit B?

19 A. By certified mail.

20 Q. And we've provided proof of mailing to the
21 Board, is that correct?

22 A. That's correct.

23 TIM SCOTT: Okay. That's all I have for Mr. Horn.

24 BUTCH LAMBERT: Any questions from the Board?

25 PHIL HORN: Excuse me, we do have ownership in this

1 unit. I was confused. Tract 20 is ours. I'm sorry.

2 TIM SCOTT: I didn't want to take him on.

3 PHIL HORN: Exactly.

4 TIM SCOTT: Sorry.

5 PHIL HORN: I wasn't expecting that question.

6 TIM SCOTT: I'm sorry, Mr. Horn.

7 BUTCH LAMBERT: Any other questions from the Board?

8 (No audible response.)

9 BUTCH LAMBERT: You may continue, Mr. Scott.

10 TIM SCOTT: Thank you, Mr. Chairman.

11

12 GUS JANSEN

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

15 DIRECT EXAMINATION

16 QUESTIONS BY MR. SCOTT:

17 Q. Mr. Jansen, your name, by whom you're
18 employed and your job description.

19 A. Gus Jansen. I'm employed by Range
20 Resources-Pine Mountain, Inc. as the manager of geology.

21 Q. And you participated in this app...the
22 preparation of this application, is that right?

23 A. I did.

24 Q. Would you please tell the Board why we're
25 seeking a well location exception for this particular well

1 today?

2 A. Yes. Again, if the Board would refer to
3 Exhibit AA, you'll see the location of proposed well 900029.
4 This well has been located to maximize the recovery and
5 minimize the environmental disturbance. This well is
6 actually offsetting a CBM well, which is not shown on this
7 exhibit, but it is on your plat, the Anderson 31 well. This
8 pad is basically adjacent to that pad along with the same
9 existing strip bench area there. The topographic and
10 cultural constraints in this area and residential dwellings
11 would restrict the potential location to the north that would
12 meet the statewide spacing requirements. In that case, if
13 the well is not drilled at the proposed location, 106.77
14 acres of stranded acreage would result.

15 Q. And what's the proposed depth of this well?

16 A. 5,777 feet.

17 Q. And the potential loss of reserves if the
18 application is not granted?

19 A. 450 million cubic feet of gas.

20 Q. So, in this particular case, if the
21 application is granted, it would prevent waste, protect
22 correlative rights and promote conservation, is that
23 correct?

24 A. That is correct.

25 TIM SCOTT: That's all I have for Mr. Jansen.

1 BUTCH LAMBERT: Any questions from the Board?
2 (No audible response.)
3 BUTCH LAMBERT: Anything further, Mr. Scott?
4 TIM SCOTT: That's all I have on this one.
5 BUTCH LAMBERT: Do I have a motion?
6 BRUCE PRATHER: Motion to approve.
7 BILL HARRIS: Second.
8 BUTCH LAMBERT: I have a motion and a second. Any
9 further discussion?
10 (No audible response.)
11 BUTCH LAMBERT: All in favor, signify by saying yes.
12 (All members signify by saying yes.)
13 BUTCH LAMBERT: Opposed, no.
14 (No audible response.)
15 BUTCH LAMBERT: Thank you, Mr. Scott. It's
16 approved. Calling item eighteen, a petition from Range
17 Resources-Pine Mountain, Inc. for establishment of a
18 drilling unit and pooling of well 900029, docket number
19 VGOB-11-0719-2977. All parties wishing to testify, please
20 come forward.
21 TIM SCOTT: Tim Scott, Gus Jansen and Phil Horn for
22 Range Resources-Pine Mountain, Inc.
23 BUTCH LAMBERT: You proceed, Mr. Scott.
24 TIM SCOTT: Thank you.
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PHIL HORN

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

DIRECT EXAMINATION

QUESTIONS BY MR. SCOTT:

Q. Mr. Horn, your name, by whom you're employed and your job description, please.

A. My name is Phil Horn. I'm employed by Range Resources-Pine Mountain, Inc. as the land manager.

Q. Are you familiar with this application?

A. Yes, I am.

Q. And how many acres does this unit contain or proposed to contain?

A. 112.69.

Q. And Range has parties under lease for this, is that correct?

A. We have ownership in the unit and we have of part of it leased, correct.

Q. Are there any respondents that we're going to dismiss today?

A. Yes. Tracy Viers, Danny Deel and Karen Fuery.

Q. Now, with regard to the other respondents listed on Exhibit B-3, have you attempted to reach an agreement with those individuals?

1 A. Yes, we have.

2 Q. As a result of your leasing efforts, how much
3 does Range now have under lease in this unit?

4 A. 85.7752728%.

5 Q. And we've notified the parties on Exhibit B,
6 is that correct?

7 A. Yes, we have.

8 Q. How was that done?

9 A. By certified mail and also we published in
10 the Bluefield Daily Telegraph on June the 18th, 2011.

11 Q. And we've provided proof of publication and
12 mailing to the Board, is that right?

13 A. Yes, you have.

14 Q. And Range is authorized to conduct business
15 in the Commonwealth, is that correct?

16 A. That's correct.

17 Q. A blanket bond is on file?

18 A. That's correct.

19 Q. And if you were able to reach an agreement
20 with the parties listed on Exhibit B-3, what would the terms
21 that you would be...that you would be offering?

22 A. Thirty dollars per acre for a five year paid
23 up lease that provides for a one-eighth royalty.

24 Q. Do you consider that to be reasonable
25 compensation for a lease in this area?

1 A. Yes, I do.

2 Q. And what percentage of the oil and gas estate
3 is Range seeking to pool here?

4 A. 14.2247272%.

5 Q. And we don't have any unknowns and we don't
6 have an escrow requirement, is that correct?

7 A. That's correct.

8 Q. And you're requesting the Board to pool the
9 unleased parties listed on Exhibit B-3?

10 A. That's correct.

11 Q. And also that Range be named operator for
12 this unit, is that also correct?

13 A. That's correct.

14 Q. Now, if parties elect to participate on
15 whatever elections are made, what address should be used for
16 that?

17 A. Range Resources-Pine Mountain, Inc.,
18 P. O. Box 2136, Abindgon, Virginia 24212.

19 Q. And that's for all correspondence?

20 A. That's correct.

21 TIM SCOTT: Okay. That's all I have for Mr. Horn.

22 BUTCH LAMBERT: Questions from the Board?

23 (No audible response.)

24 BUTCH LAMBERT: Mr. Horn, did you testify prior that
25 you removed three...those three respondents?

1 PHIL HORN: Yes, sir.
2 BUTCH LAMBERT: How come?
3 PHIL HORN: They signed leases.
4 BUTCH LAMBERT: Oh, I didn't hear you say that.
5 PHIL HORN: Yeah, I'm sorry. Yes, sir. They
6 signed leases, correct.
7 BUTCH LAMBERT: Okay. Thank you. Any other---?
8 SHARON PIGEON: Could you repeat the names of the
9 dismissed parties?
10 PHIL HORN: Tracy Viers, Danny Deel and Karen Fuery.
11 SHARON PIGEON: Thank you.
12 PHIL HORN: You're welcome.
13 BUTCH LAMBERT: Any other questions from the Board?
14 (No audible response.)
15 BUTCH LAMBERT: Anything further, Mr. Scott?
16 TIM SCOTT: That's all I have for Mr. Horn.
17 BUTCH LAMBERT: Do I have a motion?
18 TIM SCOTT: I've got to ask Mr. Jansen.
19 BUTCH LAMBERT: Oh, I'm sorry. I'm sorry.
20 TIM SCOTT: That's okay.
21 SHARON PIGEON: Moving right along.
22 BUTCH LAMBERT: I didn't...I didn't see him sitting
23 there.
24 (Laughs.)
25 SHARON PIGEON: He's a tiny little fellow.

1 TIM SCOTT: I know I overshadow him, that's true.

2

3

GUS JANSEN

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

6

DIRECT EXAMINATION

7

QUESTIONS BY MR. JANSEN:

8

Q. Mr. Jansen, your name, by whom you're

9

employed and your job description.

10

A. Yes. My name is Gus Jansen. I'm employed

11

by Range Resources-Pine Mountain, Inc. as the manager of

12

geology.

13

Q. Are you familiar with this application?

14

A. Yes, I am.

15

Q. What's the proposed depth of this well?

16

A. 5,777 feet.

17

Q. And you're also familiar with the estimated

18

reserves, is that right?

19

A. I am.

20

Q. And what would that be?

21

A. 450 million cubic feet of gas.

22

Q. And you also participated in the preparation

23

of the AFE, is that also correct?

24

A. That is true.

25

Q. So, you're familiar with the well costs?

1 A. I am.

2 Q. What's the estimated dry hole costs for this
3 well?

4 A. \$272,726.

5 Q. And the estimated completed well costs?

6 A. 511 and 536...\$511,536.

7 Q. And, again, you've participated in the
8 preparation of the AFE, is that right?

9 A. I did.

10 Q. And there is a charge for supervision on this
11 AFE?

12 A. Yes, there is.

13 Q. Does it appear to be reasonable?

14 A. Yes.

15 Q. And in your opinion, if the application is
16 granted, it would prevent waste, promote conservation and
17 protect correlative rights, is that correct?

18 A. That is correct.

19 MR. SCOTT: That's all I have for Mr. Jansen.

20 BUTCH LAMBERT: Any questions from the Board?
21 (No audible response.)

22 BUTCH LAMBERT: Anything further, Mr. Scott?

23 TIM SCOTT: That's all I have.

24 BUTCH LAMBERT: Do I have a motion?

25 BRUCE PRATHER: Motion to approve.

1 BILL HARRIS: Second.

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

4 (No audible response.)

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

6 (All members signify by saying yes.)

7 BUTCH LAMBERT: Opposed, no.

8 (No audible response.)

9 BUTCH LAMBERT: Thank you, Mr. Scott. It's
10 approved. Calling docket item nineteen, a petition from
11 Range Resources-Pine Mountain, Inc. for a well location
12 exception for proposed well 900011, docket number
13 VGOB-11-0719-2978.

14 TIM SCOTT: Tim Scott, Gus Jansen and Phil Horn for
15 Range Resources-Pine Mountain, Inc.

16 BUTCH LAMBERT: You may proceed, Mr. Scott.

17 TIM SCOTT: Thank you, Mr. Chairman.

18 PHIL HORN

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

21 DIRECT EXAMINATION

22 QUESTIONS BY MR. SCOTT:

23 Q. Mr. Horn, again, your name, by whom you're
24 employed and your job description.

25 A. Phil Horn and I'm employed by Range

1 Resources-Pine Mountain, Inc. as land manager.

2 Q. You're familiar with this application, is
3 that correct?

4 A. That's correct.

5 Q. And we have the owners of the minerals set
6 out on Exhibit B, is that right?

7 A. That's correct.

8 Q. And who operates well number 821675?

9 A. Range Resources-Pine Mountain, Inc.

10 Q. I believe that in this particular unit that
11 Range is also an owner, is that correct?

12 A. Yes, we own three tracts.

13 Q. Okay. How was notice of this hearing
14 provided to the parties listed on Exhibit B?

15 A. By certified mail.

16 Q. And we've provided proof of mailing to the
17 Board, is that right?

18 A. Yes, you have.

19 TIM SCOTT: That's all I have for Mr. Horn.

20 BUTCH LAMBERT: Any questions from the Board?

21 (No audible response.)

22 BUTCH LAMBERT: You may continue, Mr. Scott.

23 TIM SCOTT: Thank you, sir.

24

25

GUS JANSEN

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

3 DIRECT EXAMINATION

4 QUESTIONS BY MR. SCOTT:

5 Q. Mr. Jansen, your name, by whom you're
6 employed and your job description.

7 A. My name is Gus Jansen. I'm employed by
8 Range Resources-Pine Mountain, Inc. as the manager of
9 geology.

10 Q. Again, you're familiar with this
11 application, is that right?

12 A. I am.

13 Q. And why are we seeking a well location
14 exception for this particular unit?

15 A. Yes. If the Board will again refer to
16 Exhibit AA you'll see the location of proposed well 900011.
17 This well has been positioned at this location due to
18 topographic and cultural constraints. There's residential
19 dwellings and highways and other features in the area that
20 would require this well to be moved approximately 2,000 feet
21 to the north to find another location that would meet the
22 statewide spacing requirements. In the event of that, it
23 would result in additional stranded acreage on top of the
24 acreage that we have identified here as 109.78 acres that
25 would be stranded if we were not able to drill at this

1 location.

2 Q. What's the proposed depth of this well?

3 A. 5,774 feet.

4 Q. And the potential loss of reserves if the
5 application is not granted?

6 A. 350 million cubic feet of gas.

7 Q. And if the Board approves our application
8 today, it would prevent waste, promote...protect
9 correlative rights and promote conservation, is that
10 correct?

11 A. That is correct.

12 TIM SCOTT: That's all I have for Mr. Jansen.

13 BUTCH LAMBERT: Any questions from the Board?

14 BILL HARRIS: Just a quick question. Actually,
15 this is unrelated to that. But I did have a question about
16 the...I guess this Butcher Knife surface mining permit
17 that's misspelled?

18 GUS JANSEN: Yes. I indicated that location of an
19 existing DMLR permit to the northwest for reference for the
20 Board. So, there is mining activity to the northeast there.

21 BILL HARRIS: Well, Butcher Knife is misspelled
22 though, right, in the---?

23 GUS JANSEN: Yes. It certainly is, yes, sir.

24 BILL HARRIS: That's what I said. It's really
25 unrelated to what we were doing. When I first saw it, I

1 wouldn't sure. But then I saw the Butcher Knife Fork of
2 the...whatever that river---

3 GUS JANSEN: Yeah. The hollow it's named there.

4 TIM SCOTT: Mr. Harris, that's texting. That's the
5 abbreviated texting.

6 BILL HARRIS: Oh, is that what...I wondered about
7 that too.

8 TIM SCOTT: Just ask my kids.

9 BILL HARRIS: Okay, a new English. Thank you.

10 BUTCH LAMBERT: Any other questions from the Board?

11 (No audible response.)

12 BUTCH LAMBERT: Anything further, Mr. Scott?

13 TIM SCOTT: That's all, Mr. Chairman.

14 BUTCH LAMBERT: Do I have a motion?

15 BRUCE PRATHER: Motion to approve.

16 BILL HARRIS: Second.

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

19 (No audible response.)

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

21 (All members signify by saying yes.)

22 BUTCH LAMBERT: Opposed, no.

23 (No audible response.)

24 BUTCH LAMBERT: Thank you, Mr. Scott. That's
25 approved.

1 A. Yes, I am.

2 Q. How many acres is this unit going to contain?

3 A. 112.69.

4 Q. And does Range own drilling rights in this
5 unit?

6 A. Yes, we do.

7 Q. Are we going to dismiss any parties
8 respondent today?

9 A. Yes. One party Margie Fine Yates. I'm not
10 sure if I've pronounced her name properly or not.

11 Q. Okay.

12 BUTCH LAMBERT: Is that a lease, Mr. Horn?

13 PHIL HORN: Yeah, she leased. Yes, sir.

14 BUTCH LAMBERT: Thank you.

15 Q. With regard to the other parties listed on
16 Exhibit B-3, have you attempted to reach a voluntary
17 agreement with those individuals?

18 A. Yes, we have.

19 Q. And as a result of your leasing of this
20 particular lady, what does Range Resources now have under
21 lease?

22 A. 92.91%.

23 Q. Okay. Now, we've provided notice of this
24 hearing today, is that right?

25 A. That's correct.

1 Q. And it was done by what means?

2 A. By certified mail and also notice was
3 published in the Bluefield Daily Telegraph on June the 28th,
4 2011.

5 Q. And have we filed the proof of publication
6 and proof of mailing with the Board?

7 A. Yes, you have.

8 Q. Okay. And, again, Range is authorized to
9 conduct business in the Commonwealth, is that right?

10 A. That's correct.

11 Q. And we've got a blanket bond on file?

12 A. That's correct.

13 Q. Now, if you were to reach an agreement with
14 the parties listed on Exhibit B-3, what would be the lease
15 terms that you would offer?

16 A. Thirty dollars per acre for a five year paid
17 up lease that provides for a one-eighth royalty.

18 Q. Do you consider this to be reasonable
19 compensation for a lease?

20 A. Yes, I do.

21 Q. What percentage of the oil and gas estate is
22 Range seeking to pool today?

23 A. 7.09%.

24 Q. And we don't have an escrow requirement,
25 right?

1 A. That's correct.

2 Q. So, we don't have any conflicting owners and
3 no unknowns, is that right?

4 A. That's correct.

5 Q. So, we're asking the Board to pool the
6 parties listed on Exhibit B-3, is that right?

7 A. That's correct.

8 Q. And that Range be named operator for this
9 unit, is that also correct?

10 A. That is correct.

11 Q. And when the order...if the Board grants our
12 requests and the order is entered, what should be the address
13 for any elections made by individuals who offered such
14 elections?

15 A. Range Resources-Pine Mountain, Inc.,
16 P. O. Box 2136, Abindgon, Virginia 24212.

17 Q. And that should be the address for all
18 communications, is that right?

19 A. That's correct.

20 TIM SCOTT: Okay. That's all I have for Mr. Horn.

21 BUTCH LAMBERT: Any questions from the Board?
22 (No audible response.)

23 BUTCH LAMBERT: You may continue, Mr. Scott.

24 TIM SCOTT: Thank you, Mr. Chairman.

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GUS JANSEN

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

DIRECT EXAMINATION

QUESTIONS BY MR. SCOTT:

Q. Mr. Jansen, one more time, your name, by whom you're employed and your job description.

A. My name is Gus Jansen. I'm employed by Range Resources-Pine Mountain, Inc. as the manager of geology.

Q. And you're familiar with this application, is that right?

A. I am.

Q. What's the proposed depth of this well?

A. 5,774 feet.

Q. And what are the estimated reserves?

A. 350 million cubic feet of gas.

Q. Now, I believe you've also signed the AFE, is that right?

A. I did.

Q. So, you're familiar with the well costs?

A. I am.

Q. What's the estimated dry hole costs for this well?

A. \$382,568.

1 Q. And the estimated completed well costs?
2 A. \$649,397.
3 Q. Again, you signed the AFE, is that right?
4 A. I did.
5 Q. So, is there a supervision cost listed on
6 this AFE?
7 A. There is.
8 Q. Do you consider that to be a reasonable cost?
9 A. Yes, I do.
10 Q. Okay. In your opinion, if this
11 application is granted, would it protect correlative rights,
12 prevent waste and promote conservation?
13 A. Yes, it would.
14 TIM SCOTT: That's all I have for Mr. Jansen.
15 BUTCH LAMBERT: Any questions from the Board?
16 (No audible response.)
17 BUTCH LAMBERT: Anything further, Mr. Scott?
18 TIM SCOTT: That's all I have, Mr. Chairman.
19 BUTCH LAMBERT: Do I have a motion?
20 BRUCE PRATHER: Motion for approval.
21 BILL HARRIS: Second.
22 BUTCH LAMBERT: I have a motion and a second. Any
23 further discussion?
24 (No audible response.)
25 BUTCH LAMBERT: All in favor, signify by saying yes.

1 (All members signify by saying yes.)
2 BUTCH LAMBERT: Opposed, no.
3 (No audible response.)
4 BUTCH LAMBERT: Thank you, Mr. Scott. It's
5 approved.
6 TIM SCOTT: Thank you, Mr. Chairman.
7 PHIL HORN: Thank you.
8 GUS JANSEN: Thank you.
9 BUTCH LAMBERT: Ladies and gentlemen, the
10 Board...you should have in your packet a section...the
11 documents entitled Section Conflicting of Interest.
12 What...if you'll remember last month, the Board voting to
13 approve the draft language for the...for lack of a better
14 term, the arbitration rule. What has happened since the
15 Board approved that language, the Attorney General's office
16 has requested that we make one minor...or we review and
17 accept one proposed minor change to the language that we
18 approved last month. If you'll look on the handout, you will
19 see that there is a line that has been stricken that says
20 as a present or formal personal or business relationship with
21 one of the claimants. That the language has been stricken
22 because we thought it was more stringent than what the
23 statutory language was in 45.1-361. So, what we need to do
24 as a Board is to vote today to accept the recommended changes
25 from the Attorney General's office and that statutory

1 language. So, do I have a motion or any discussion?

2 BILL HARRIS: I'm not sure that this is an
3 appropriate time for this. But I...I haven't been privy to
4 all of the discussions. After I read that, it dawned on me,
5 how many attorneys do we have that's available as a pool and
6 by this whole gesture, and again this is probably not the
7 time to do that, at what point will we run out of people who
8 can be arbitrators?

9 BUTCH LAMBERT: Right now we have five that have
10 been approved to serve as arbitrators.

11 BILL HARRIS: Out of a pool...now, those five as
12 soon as they handle a situation are no longer eligible---?

13 BUTCH LAMBERT: No.

14 BILL HARRIS: ---for---?

15 BUTCH LAMBERT: They will just go back in the pool.

16 BILL HARRIS: Well, then won't they be---?

17 SHARON PIGEON: They're not representing anyone in
18 this when they act as an arbitrator.

19 BILL HARRIS: Maybe I misread something here
20 about...so, deriving 10% of the income does not...I'm not
21 sure of the question.

22 SHARON PIGEON: Are you thinking about the statute?

23 BILL HARRIS: I'm looking at...yes.

24 SHARON PIGEON: The statute requirements are very
25 specific.

1 BILL HARRIS: Yes, I understand that. But what
2 I'm...go ahead. I'm sorry.

3 SHARON PIGEON: And this...in a rural area where
4 "personal or business relationship" is a pretty broad and
5 general term, it's possible that we could have excluded
6 people who meant the statutory requirements because they
7 happen to be so specific, but through that vague language
8 that we might have arguably had a conflict with someone that
9 otherwise would have met the statute, that's the
10 distinction.

11 BILL HARRIS: Yeah.

12 SHARON PIGEON: We don't the reg be more...since the
13 statute was so specific in the requirements that we were
14 approved by the General Assembly.

15 BILL HARRIS: I guess my question really is more
16 broad than that because once a person...once we have someone
17 who is an arbitrator then they go back into the pool you're
18 saying. So, a month later they can actually be called upon
19 again?

20 SHARON PIGEON: Yes.

21 BILL HARRIS: Okay.

22 SHARON PIGEON: Unless they have a disqualifying
23 reason. Just like a Judge can hear cases everyday.

24 BILL HARRIS: okay. I just...for some reason I
25 guess I interpreted this as once they were an arbitrator then

1 they could not serve that function for three years.

2 SHARON PIGEON: No. That was not the...I don't
3 know that that was ever even discussed in the proposed
4 statutory language because it seems to me that the more
5 frequently someone acts as an arbitrator and hear these
6 property issues, the more familiar they will become with it
7 and I'd say perhaps be better at it each time they gain more
8 cumulative knowledge.

9 BILL HARRIS: Yeah.

10 SHARON PIGEON: Property rights in this part of the
11 world are extraordinarily complicated. I would want
12 someone who had (inaudible).

13 BILL HARRIS: Yes.

14 SHARON PIGEON: I wouldn't have a problem with that
15 personally. We just wanted to avoid the appearance of a
16 conflict in the reg that statute passed by the General
17 Assembly did not envision.

18 BILL HARRIS: Yes.

19 SHARON PIGEON: And this general, vague kind of
20 language while good for some things, you know, in this case
21 we felt that it might potentially cause a problem.

22 BILL HARRIS: Yes, okay.

23 SHARON PIGEON: That's all---.

24 BILL HARRIS: I'm in agreement then.

25 SHARON PIGEON: We're trying to track the statute

1 almost exactly.

2 BILL HARRIS: Okay.

3 BUTCH LAMBERT: Any further discussion?

4 (No audible response.)

5 BUTCH LAMBERT: So, do I have a motion that we accept
6 the recommended change from the Attorney General's office
7 in the regulation?

8 BRUCE PRATHER: I'll make the motion.

9 BILL HARRIS: Second.

10 BUTCH LAMBERT: I have a motion and a second.

11 BRUCE PRATHER: Any further discussion?

12 (No audible response.)

13 BRUCE PRATHER: All in favor, signify by saying yes.

14 (All members signify by saying yes.)

15 BUTCH LAMBERT: Opposed, no.

16 (No audible response.)

17 BUTCH LAMBERT: Okay, I'll pass this along to our
18 policy analyst in Richmond and we'll have that change made.
19 Also, we have on the agenda the...any updates from the
20 Division and activities from the staff.

21 RICK COOPER: We don't have any to report at this
22 meeting.

23 BUTCH LAMBERT: Thank you. The next agenda item is
24 to review and approval of the minutes for the May and June
25 meetings. Has everyone had a chance to review those minutes

1 and are there any additions or corrections?

2 (No audible response.)

3 BUTCH LAMBERT: If not, can I have a motion?

4 BRUCE PRATHER: Motion to approve.

5 BUTCH LAMBERT: I have a motion. Do I have a
6 second?

7 BILL HARRIS: I'll second it.

8 BUTCH LAMBERT: I have a motion and a second to
9 approve the minutes from May and the June meeting. All in
10 favor, signify by saying yes.

11 (All members signify by saying yes.)

12 BUTCH LAMBERT: Opposed, no.

13 (No audible response.)

14 BUTCH LAMBERT: Thank you. Those minutes are
15 accepted. Last on the agenda is I'll ask Mr. Prather to give
16 an update on the committee for the provisional horizontal
17 wells.

18 BRUCE PRATHER: Okay. Well, we met yesterday and
19 we pretty much put everything into prospective of what we
20 wanted to present before the Board. Basically, what we have
21 come up with for horizontal drilling units, it would be 20
22 acre tracts situated on the Virginia state plain system. A
23 based grid system of 20 acres squares with 300 foot offset
24 provisions from the proposed horizontal laterals. Any
25 basic grid square located within the portion of the

1 horizontal drilling unit be depicted on the survey well plat
2 identifying the basic grids using the field designation
3 prescribed by the Gas and Oil Inspector. We...a couple of
4 meetings ago, we agreed to go with this particular plan and
5 the reason for it was was that it gives the...the provisional
6 units that we had you didn't have very much flexibility in
7 how to position these wells. So, what it amounted to is that
8 we got from the industry that they thought that they could
9 live with this 300 foot offset, which really would be a 600
10 minimum. It's usually a little more than that when you
11 really put the thing together. So, what we have come up with
12 is a 20 acre tract starting probably in Lee County extending
13 as far East as we want to do it at this point in time on the
14 Virginia...or are on the Appalachian, what's that thing
15 called, Plateau. I think we've come up with something
16 pretty good. What I would also like to do is we prepared
17 a...kind of a position paper on this thing and I would like
18 to present this to each of the members of the Board so that
19 if we get everything done and prepared at the next meeting
20 we might be able to present this to the Board and get a final
21 approval on it. So, what I would like to do would be to give
22 the Board members each a copy of what we have done and...you
23 know, for your own and this way if we do come up with a final
24 presentation at our next meeting at least you won't be going
25 into this thing could. It will give you some idea as to what

1 we're doing and how we're doing it.

2 BUTCH LAMBERT: So, Mr. Prather, will have a full
3 presentation before the Board in August, do you think?

4 BRUCE PRATHER: When?

5 BUTCH LAMBERT: In August?

6 BRUCE PRATHER: Yeah.

7 BUTCH LAMBERT: Okay.

8 BRUCE PRATHER: That's what we're striving for.

9 BUTCH LAMBERT: Okay.

10 BRUCE PRATHER: You know, if...we're going to fine
11 tune this thing a little bit more so they will be another
12 meeting of the committee or some of us to get this thing
13 (inaudible) to where we can present it. But basically what
14 I would like for the Board to do would be look at this thing
15 and if there are any objections or anything legal objections
16 that would be...might be required, we need to know it within
17 this next month.

18 BUTCH LAMBERT: Okay. So, I'd ask the Board to
19 please review the handout from Mr. Prather. Also, if we
20 could have an extra copy to go ahead and send to Ms. Quillen
21 and Mr. Ratliff too.

22 BRUCE PRATHER: Oh, I've got a lot of them.

23 BUTCH LAMBERT: You've got them? Okay, they have.

24 BRUCE PRATHER: They've got them.

25 RICK COOPER: Yeah. When you passed them down, we

1 got them off the end of the table.

2 BRUCE PRATHER: Okay. I've got a bunch more here.

3 BUTCH LAMBERT: Okay. We'll go ahead and see that
4 those are mailed to Board Members Mr. Ratliff and Ms. Quillen
5 and ask them to review...be prepared to discuss at the August
6 meeting. Thank you, Mr. Prather.

7 BRUCE PRATHER: We also are anticipating a Power
8 Point presentation at the final presentation of this
9 material.

10 BUTCH LAMBERT: We'll see that at the next meeting
11 and we're ready for a Power Point presentation.

12 RICK COOPER: We've already arranged that.

13 BUTCH LAMBERT: Okay.

14 SHARON PIGEON: Impressive.

15 BUTCH LAMBERT: Any other business before the Board
16 before we adjourn?

17 (No audible response.)

18 BUTCH LAMBERT: Ms. Sneeuwaght, we just run a few
19 minutes over.

20 JUANITA SNEEUWAGHT: I was wondering. I was
21 getting a little antsy, but they did well.

22 BUTCH LAMBERT: Mr. Scott, is always prepared.

23 JUANITA SNEEUWAGHT: Yeah, obviously. My
24 congratulations to you. If I had to sit through another
25 minute, I might explode.

1 BUTCH LAMBERT: Do I have a motion to adjourn
2 BRUCE PRATHER: Motion to adjourn.
3 BILL HARRIS: Second.
4 BUTCH LAMBERT: Motion and a second. Any
5 discussion?
6 (No audible response.)
7 BUTCH LAMBERT: All in favor, signify by saying yes.
8 (All members signify by saying yes.)
9 BUTCH LAMBERT: Thank you, ladies and gentlemen.
10 We appreciate your time.

11
12 STATE OF VIRGINIA,
13 COUNTY OF TAZEWELL, to-wit:
14 I, Sonya Michelle Brown, Court Reporter and Notary
15 Public for the State of Virginia, do hereby certify that the
16 foregoing hearing was recorded by Diane Davis on a tape
17 recording machine and later transcribed by me.
18 Given under my hand and seal on this the 8th day
19 of August, 2011.

20
21 _____ NOTARY PUBLIC

22 My commission expires: August 31, 2013.
23 My Notary Reg. #: 186661

24
25