

VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

VIRGINIA GAS AND OIL BOARD HEARING

Tuesday, October 20, 2015

Lebanon, Virginia

BOARD MEMBERS:

Bill Harris—Public Member

Donnie Ratliff—Coal Industry Representative

Donnie Rife— Public Member

Mary Quillen—Public Member

APPEARANCES:

Bradley Lambert—Chairman of the Virginia Gas & Oil Board

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

Paul Kugelman, Jr.—Senior Assistant Attorney General

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

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

Prepared by: Margaret Linford

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1 **Bradley Lambert:** Good morning, ladies and gentlemen. It's now after 9:00. It's time to begin
2 our proceedings this morning. I'll begin this morning by asking the Board members to please
3 introduce themselves. I'll begin with Mr. Kugelman.

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

5 **Bradley Lambert:** I'm Butch Lambert, with the Department of Mines, Minerals and Energy.

6 **Donnie Ratliff:** Donnie Ratliff. I represent coal.

7 **Donnie Rife:** Donnie Rife, representing the people's interest in Dickenson County.

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

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

10 **Bradley Lambert:** Thank you. This morning, I want to also remind everyone if you have
11 communication devices to please turn those off or put them on vibrate, this morning. If you do
12 have to take a call, I ask you to do so out in the hallway so you don't disturb testimony during
13 these proceedings.

14 **Item Number 1**

15 **Bradley Lambert:** We'll begin this morning with our first Docket Item. The Board will now
16 receive public comments. I have, this morning, Juanita Sneeuwajagt.

17 **Juanita Sneeuwajagt:** Thank you. Good morning.

18 **Bradley Lambert:** Ms. Sneeuwajagt, would you state your name for the record, please?

19 **Juanita Sneeuwajagt:** I'm Juanita Sneeuwajagt. I'm President of Committee for Constitutional
20 & Environmental Justice. This is presentation to the Virginia Gas & Oil Board, the regular
21 monthly meeting, October 20, 2015. Am I being recorded?

22 **Rick Cooper:** Yes, you are, Ms. Sneeuwajagt.

23 **Juanita Sneeuwajagt:** Thank you. We, the Gas Royalty Owners of Southwest Virginia make
24 two requests of the Gas and Oil Board: 1) Vote to disallow gas companies to take post
25 production charges from the Gas Royalty Owner's 12.5 percent (VGOB has the power and
26 jurisdiction to take this action). 2) Deny permits to Range Resources to drill additional wells
27 (increased density) in the units in the Nora field. Can everybody hear me? Yes? Thank you. 1)
28 Justification for these requests: For decades, gas industry has been "taking" post production
29 charges from the rightful gas owner's 12.5 percent. No law has been passed or rule established to
30 support this transgression. Gas industry says they have done this for years, so why change it
31 now? It is wrong and it has a name. It is called "greed." In 2008, we met for six months in an

1 effort to stop gas industry from taking post production charges. At that time, Board members,
2 Mr. Bill Harris, Peggy Barber and Katie Dye cast a majority vote to disallow the taking. What
3 happened? Why did the Board not honor that vote? Egregious slights have been made when
4 correlative rights were breached and ignored. Number 2 has to do with justification for
5 disallowing increased density. The apparent reason for increased density (drilling more than one
6 well in a unit) is to empty the gas reservoir faster. I have here an example of gas reservoirs. I
7 put one well in one. I put two wells in another. I believe they can put wells every 50 feet. I'll
8 have to check on that ruling. I won't ask anybody to help me empty this well, but I think
9 common sense would tell us that a well could be emptied faster by drinking the water or
10 removing the gas from two different wells. So, I'm saying why is Range or anyone else who
11 wants to operate with increased density, what's their hurry to collect the gas? I do know that the
12 price per MCF is pretty low now. I haven't been given a good reason for wanting to take the gas
13 in a hurry. I'm open to listening to that. Drilling additional wells will further damage the
14 environment, cause soil erosion, and contaminate the water supply. Furthermore, gas owners
15 will be cheated again with post production charges taken from their 12.5 percent for an
16 additional well. Will there be a willing participant involvement in the additional wells? Board
17 members, we ask you to deny permits to Range Resources for the purpose of increased density in
18 the Nora field. Due to the 1990 Virginia legislative action, the gas owned by the individual
19 Virginia citizen was "taken." This action resulted in the promotion of widespread corruption
20 throughout the gas fields of Southwest Virginia. To say there is stringent regulation of gas
21 production is a joke. To take from tax-paying citizens and hand to private corporations for
22 private profit is another joke. Except it's no joke. It is a frightening reality. Gas industry has
23 made a financial killing in the gas fields of Southwest Virginia. They have been handed 87.5
24 percent of the profit. Additionally, they have gotten away with the taking of as much as 90%. I
25 was just looking at tax tickets, yesterday. The average I've found is 50% of the post-production
26 charges. That should go in the pocket of the gas owner. Gas industry has been handed major tax
27 incentives. Some of these are: 1) Alternative Fuel Production credit; 2) Intangible Drilling Cost
28 Tax Deduction which allows for 100 percent of the intangible expenditures of drilling (labor,
29 chemicals, mud, grease, etc.) which are usually about 65-80% of the cost of a well deducted
30 during the first year. That's Section 265 of the tax code. 3) Tangible Drilling Cost Deduction.
31 That's referred to as "TDC" is 100% deductible. That's Section 263 of the tax code. 4) Active
32 vs. Passive Income. Tax code specifically states that a working interest in an oil and gas well is
33 not a Passive Activity. Therefore, deductions can be offset against income, salaries, etc. Section
34 469(3) of the tax code. 5) Small Producers Tax Exemption. The small Producers Exemption
35 allows 15% of the Gross Income from an oil and gas producing property to be tax free. 6) Lease
36 Cost Deductions. Lease costs (purchases of leases, minerals, etc.), sales expenses, legal
37 expenses, administrative accounting, and Lease Operating Costs are 100% tax deductible
38 through cost depletion. 7) Tax Incentives for Marginal Wells provides a tax credit of up to \$9
39 per well per day for marginal wells. So, to encapsulate that, I believe that gas industry (I say "I.

1 "We." - those of us who have lost a bundle to gas industry) believe that gas industry is getting
2 more than a fair share. So, that prompted my discussion this morning. I thank you.

3 **Bradley Lambert:** Thank you, Ms. Sneeuwajagt.

4 **Item Number 2**

5 **Bradley Lambert:** The next item on our agenda is the First Bank and Trust Company, the
6 Escrow Agent for the Virginia Gas and Oil Board, will address the Board on the Quarterly
7 Report. Good morning.

8 **CJ Carter:** Good morning. Thank you for being here.

9 **Bradley Lambert:** Could you all please state your name for the record?

10 **CJ Carter:** Yes, I'm CJ Carter from First Bank and Trust.

11 **Jodi Maney:** Jodi Maney with First Bank and Trust.

12 **CJ Carter:** I'll start by just walking through the agenda. The first item on the agenda is the
13 Summary Report for the Third Quarter of 2015. You can see the starting balance of just shy of
14 \$28,000,000, the deposits, the royalty and the working income coming into the account, the
15 interest earned on the money market, the ICS along with the CDARS CD's. Denote that the
16 brokered CD's, which is a small portion of the investments, that interest is not included. That
17 interest is typically paid upon maturity for those brokered CD's. I'll discuss more about that in
18 the investments section. Next, following down, you have the fees, the distributions per the
19 orders. There's no audit expense for this quarter. We had a very slight adjustment of a little over
20 a dollar. Then, you see the ending balance. The far right column is simply showing a year-to-
21 date, with the first being third quarter. Unless there are any questions, I'll move on. The next
22 report is the Outstanding Check List. I believe this is about seven pages. We won't go through
23 each item. You can see these are checks that have been issued and are outstanding. One thing to
24 note on Page 7, just for FYI, we did total the outstanding check per producers, here. Unless there
25 are any questions, I'll move on to the second portion. This is the Outstanding Check
26 Escheatment. In 2015, there's only one account, one payee, Betty Christian. That is being
27 worked right now in the escheatment process. There were three names. They have all been
28 contacted. For two, checks were re-issued and they were actually cashed. So, of the three, this is
29 the only one that a response was not given. Again, we're in the process. I would say, within a
30 month, those will be escheated to the State. The following, 2016 is kind of a preview, I guess, of
31 what would be escheated if these checks are not cashed. The next, I believe, 22 pages.... Again,
32 we changed this to landscape, so it's a little more user-friendly to read. As you can see, this is
33 just the detail provided from the summary that this report started off with on the Unit name and
34 account level. I'd be happy to try to answer any questions here. Again, you can see the docket
35 number, beginning value, deposits coming in, the interest earned, whether it was money market

1 or CDARs, the fees charged on the sub-account level, any distributions, any corrections in the
2 ending market value. This is pretty long with 22 pages. Hopefully, it's a little easier to read. I'll
3 pause for a second. I know this is a lot to digest. If there's any questions....

4 **Bill Harris:** Could you tell us the color code, the green, the pink?

5 **CJ Carter:** Yes. The green is "do not accept money for these wells."

6 **Paul Kugelman:** Mr. Harris, it's on page 22.

7 **CJ Carter:** Yes, on page 22 is the legend.

8 **Bill Harris:** Okay.

9 **CJ Carter:** Some of them are closed, the pink, closed per distribution order.

10 **Bill Harris:** Thank you.

11 **Paul Kugelman:** What's the working interest deposit?

12 **CJ Carter:** That's just a deposit coming into the account. It's separate from a royalty, but it's
13 similar, from my understanding.

14 **Paul Kugelman:** "It's kind of like that, but it's not," really doesn't help me.

15 **CJ Carter:** I'm sorry. I'll be prepared to answer that next time. I apologize. I don't know
16 specifics of that.

17 **Paul Kugelman:** Ms. Duty knows?

18 **Anita Duty:** Yes, I know.

19 **Paul Kugelman:** Awesome!

20 **Bradley Lambert:** State your name for the record, Ms. Duty.

21 **Anita Duty:** Anita Duty.

22 **Bradley Lambert:** You don't have to be sworn.

23 **Anita Duty:** Okay. It's a deposit that, we have an owner that was previously considered in
24 conflict that decided to pay their portion to participate in the well, whether they keep that money
25 or put it in the escrow account.

26 **Paul Kugelman:** Thank you.

27 **Bradley Lambert:** Any questions from the Board, so far? [No response]

1 **CJ Carter:** Okay. The next report is the Unfunded Units Report. I believe there are no changes
2 from August. This is as of September 30. Again, unless there are any questions, I'll keep going.

3 **Bradley Lambert:** Mr. Cooper, are we still working to close these unfunded ones?

4 **Rick Cooper:** We are. After today's hearings, we have some that we have sent to the bank.
5 After today's hearings and GeoMet transfers the remainder of their wells, we'll be closing several
6 of these outstanding GeoMet wells that are on the unfunded list today. We're continuing to work
7 on that.

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

9 **Donnie Rife:** You've already come a long way.

10 **Rick Cooper:** We have. When we get spare time, we do work on this. This would be our spare
11 time venture right here. Some of these are not as easy to track down as you would think. We are
12 continually working on it.

13 **Mary Quillen:** The list is, certainly, a lot smaller.

14 **Rick Cooper:** Yes.

15 **Mary Quillen:** You did say these GeoMet are our agenda items today.

16 **Rick Cooper:** One of these will be the agenda item. The rest of them, the orders have expired
17 and we'll be closing those accounts. There are no dollars in that. No wells were drilled. I have
18 to give all the credit to Ms. Gilmer and Ms. Ketron. They're the ones that do the research on this.

19 **Mary Quillen:** Okay. Excellent! Good job, ladies.

20 **CJ Carter:** Moving right along to the next page. It's just a summary of the annual distributions,
21 the royalty and working interest income coming in, the deposits coming in, the distributions
22 coming out. You can see that year-to-date 2015, we've had a net distribution of a little over 1.5
23 million. We have a graph just kind of summarizing that. The next several pages detail the
24 investments of this account. The next page is investment of funds. You'll see that the vast
25 majority of the balance in the account are held at the First Bank and Trust Interest Account. This
26 is the ICS Money Market account. I feel like this is the most liquid of the options that's giving,
27 also, a fair return. We'll show that here. It's 20 basis points. I know that doesn't sound like a
28 whole lot, but that actually is higher than the standard ICS money market fee that First Bank and
29 Trust typically offers. Just to refresh, the ICS is a product that essentially allows for FDIC
30 insurance coverage for amounts over \$250,000. The insurance is kind of brokered out to
31 participating institutions. So, we're allowed to hold a large sum of money, but still have the
32 adequate FDIC insurance coverage. Moving down, CDARSs. There was a CDARSs CD.
33 Again, it's the same kind of concept as the ICS money market. That one matured, actually, on
34 October 1st. As of today, there are no CDARS CD's. The account is comprised of the ICS

1 money market. Then, you can see there are six brokered CD's that were purchased, I believe,
2 late last year. The brokered CD's only total a little over \$1 million...\$1,125,000. The brokered
3 CD's do earn a higher rate of interest than the CDARS CD's do. Now, we do have to adhere to
4 the FDIC coverage limits of \$250,000, which is why no one issuing bank here, in the brokered
5 CD's, over that amount.

6 **Mary Quillen:** I have just one question about this because all of these are due in December of
7 this year. Assuming that there is still going to be money in December, because we're getting
8 pretty close to that, will we be able to broker this money back out? If so, would it be at the same
9 yield or do you know?

10 **CJ Carter:** That's a great question. Yes, that's what I wanted to bring up, the appetite of the
11 committee to think about putting some money into the brokered CD's. So, yes, when they do
12 mature.... Actually, go to the last page. I'll just jump around real quick. I put together a rate
13 comparison of three safe options, as I see it. We have the CDARS CD's, the Treasury rates and
14 the DTC, or the brokered, CD's. As you can see from July to October, there has been some
15 decrease in Treasury rates. Of course, we're not invested in that. CDARSs rates have remained
16 exactly the same. The brokered CD's have come down a little bit, but they're pretty much the
17 same. My sense is that the Board would only be willing to go out six months to a year. Those
18 rates have stayed exactly the same. So, to answer your questions, as of yesterday or a couple
19 days ago, if it was the Board's direction, we could go out and get those same rates.

20 **Mary Quillen:** The CDARSCDARS rates go out three years. I don't think that we would want,
21 that we would be comfortable...

22 **CJ Carter:** Sure. This is just for information purposes, to show what rates you can get per
23 maturity.

24 **Mary Quillen:** Okay, but we could go out six months to a year and still have a nice rate of
25 return on that?

26 **CJ Carter:** That's correct. There is some considerations. If I'm being asked to go out and try to
27 acquire a lot of these brokered CD's, there is a limit to how many are out there at one time from
28 one bank at these rates.

29 **Mary Quillen:** Right.

30 **CJ Carter:** For instance, 10 or 15 million would be too much to try to go out there and do that.

31 **Mary Quillen:** Right.

32 **CJ Carter:** Something in the 1-4 million range would be reasonable, I think, to expect to
33 achieve these rates.

1 **Mary Quillen:** And the listing of these banks that these were brokered to.... What page was that
2 on?

3 **CJ Carter:** On the investment of funds page.

4 **Mary Quillen:** Here they are. There are six. Are there other banks that we could add to that list
5 that you would recommend?

6 **CJ Carter:** Yes.

7 **Mary Quillen:** We don't know how much it's going to be so it's sort of a....

8 **CJ Carter:** You're right. This represents the banks that offer the best CD rates. So, yes, there
9 are many other banks out there, but then the rates start going down, which would get close to the
10 20 basis points we're earning on the ICS, which is incredibly liquid.

11 **Mary Quillen:** Right, but there are some others that are still out there that we have not tapped
12 into?

13 **CJ Carter:** That's correct.

14 **Mary Quillen:** Yet, would be comparable on that rate? But not that many?

15 **CJ Carter:** That's correct.

16 **Mary Quillen:** Okay.

17 **CJ Carter:** I think it's a good point to bring up that, through ICS, there are participating
18 financial institutions to get the FDIC insurance coverage. So, any brokered CD's that we
19 purchase, we would reference to make sure there's no over-lapping, that we're one institution,
20 \$250,000.

21 **Mary Quillen:** Right.

22 **CJ Carter:** That does take an additional step, to make sure we take that additional step.

23 **Mary Quillen:** Right, because we have never been very excited about Treasury bonds.
24 Personally, I would not vote to invest in the Treasury bonds. I think the other two options are
25 much better, much less volatility.

26 **CJ Carter:** Yes and one thing to note about these brokered CD's is that they potentially could
27 fluctuate in value. They are liquid. You could sell them at any point in time. The ICS Money
28 Market, of course, by definition, would not fluctuate in value. Of course, these are 3-6 month
29 holding periods. You would expect no volatility.

1 **Mary Quillen:** Keeping what we do have in the money market has been sufficient, as far as
2 paying out and keeping a good enough balance that we can...any of these items that we do pay
3 out. We haven't seen any problem with....

4 **CJ Carter:** We have not, yet. You get six withdrawals in the money market on a month. So,
5 we can utilize a checking account if we need to, as a temporary pass through to meet some large
6 distributions coming.

7 **Mary Quillen:** We never know how many are going to come through, these distributions, that
8 we just want to be sure that we have a backup plan.

9 **CJ Carter:** Yes, we do. That would probably be the pass-through, for lack of a better word, a
10 checking account where we can take that six withdrawals from the money market and place it
11 there.

12 **Mary Quillen:** Okay. Good. Thank you so much. That's good news.

13 **CJ Carter:** Again, I think I've covered a lot of this. I'll just kind of skip to the comments. I
14 think we've touched on this already. For my opinion, the pace of expected distributions should
15 really dictate the investment strategy to the extent that you want to stay in the ICS money market
16 that's liquid or, perhaps, go out and try to get a higher rate by doing some brokered CD's. I do
17 understand some distributions are expected and are coming. I do think there could be some room
18 for 2 or 3 million dollars, if that's something the Board.... I want to bring that up as a suggestion
19 to the Board. We could put some money in the brokered CD's and try to earn a higher rate of
20 return. I think I've said this, but the CDARSs CD's have matured and they have rolled into the
21 ICS Money Market and are earning 20 basis points. All the remaining CD's, the brokered CD's,
22 do mature in December of this year. We've already gone over the rate comparisons. Is there any
23 discussion or any questions for me?

24 **Bradley Lambert:** Mr. Cooper, how are we doing on the coal claimant disbursements, as far as
25 disbursing funds because of the coal claimants?

26 **Rick Cooper:** You mean the rate of disbursement or the dollars?

27 **Bradley Lambert:** The estimated dollar of value.

28 **Rick Cooper:** So far this year, we've actually disbursed \$106,000 since August and September.
29 We really didn't disburse anything until the last week of August, so we've disbursed \$106,000 on
30 the coal dismissal side, so far this year.

31 **Bradley Lambert:** How much estimated do you have to be disbursed, that you have in your
32 office to review?

1 **Rick Cooper:** I would say we've probably got about that same amount or a little more that will
2 be processed once the time period. So, \$100,000-\$200,000 we probably have that we're
3 reviewing now. I don't know the exact number, but it's somewhere in that general range.

4 **Bradley Lambert:** Are those coal claimant disbursements coming in as fast as we expected?

5 **Rick Cooper:** They're coming in as fast as I expected them. Yes. They're a bit complicated.
6 The title work is a bit more complex than what a lot of people think. So, I guess it depends on
7 who you talk to, but they're coming in for us at a very good rate.

8 **Bradley Lambert:** So, we're probably not going to hit 4 or 5 million dollars by the end of the
9 year, anyway. Right?

10 **Rick Cooper:** I would think we're probably going to be closer to 3 million by the end of the
11 year. I would think, depending on what comes from the Board and what we do as coal
12 dismissals, I think 3 million would be a pretty safe estimate. I think the operators dictate that. If
13 they were to bring some of the larger ones. For example, if CNX was to bring the GOBS, the
14 GOBS alone have more money than that. I don't foresee those coming this year. As far as the
15 money in holding, we're doing good. We work with the bank to assure that we're not depleting
16 the money faster than they can put it in their checking account. So, we work with them
17 continuously on that. So, that is not an issue, as far as we're concerned. Correct?

18 **CJ Carter:** Correct.

19 **Donnie Ratliff:** Do you anticipate we'll meet in November and December?

20 **Rick Cooper:** So, right now, we're right at, as he reported, we've almost disbursed a million
21 since July 1st. We've disbursed \$940,000, but \$106,000 of that is to coal dismissals. Again, at
22 the rate they come in, we have several hundred thousand now. You know, you've got November
23 and December. I don't think we'll exceed 3 million, would be a safe estimate if we're speaking in
24 terms of money available to disburse.

25 **Donnie Ratliff:** I'm thinking more in terms of, if the disbursements are not coming in as fast as
26 we expected, rather than let this money lay, to re-invest part of it.

27 **Rick Cooper:** I guess, to answer that, really the operator would have to speak on behalf of what
28 they anticipate if that increases. I really don't control that. That would be the operators that
29 would speak on behalf of the rate that they may increase or decrease.

30 **Mary Quillen:** Could we get just a guesstimate from the operators, do you think, that you
31 might?

32 **Rick Cooper:** Can we, Ms. Duty?

33 **Anita Duty:** I'm not sure.

1 **Bradley Lambert:** Just for the Board's information, working with Rick, we have sent a letter to
2 all the operators, reminding them that they have until the end of December to get these coal
3 claimant disbursements into us. If not, they need to request an extension before the Board. If we
4 have no extension, then the Board has the opportunity to take action against the coal companies
5 or companies if they have not submitted or requested an extension. So, that letter has gone out.
6 Still, there's no way that we can estimate whether or not we'll get all of those in by the end of
7 December. It's kind of a shot in the dark at this point. That's what I was getting at with Mr.
8 Cooper. How much have we got in so far? It sounds like that we would be safe in re-investing
9 some of the brokered CD's.

10 **Mary Quillen:** We don't want to cut it so close that we might not have the funding, but I agree
11 with Mr. Ratliff that we don't want to let that money lie there when it could be invested on a
12 short-term, if we had some kind of...

13 **Rick Cooper:** I guess what we also need to look at that the bank can speak of, if there is a
14 penalty for early withdrawal, it's a pretty minimal amount. What would the penalty be if we
15 needed extra cash that's not available?

16 **CJ Carter:** For the brokered CD's, there is no early withdrawal penalty. They simply are sold
17 at market price, what the market will bear. Again, I think with a three or six month maturity,
18 unless three or six month interest rates shot up very quickly, you're going to see minimal
19 volatility with that. Still, with that said, I think the intention would be to hold the brokered CD's
20 until they mature. They are purchased at par and mature at par. Typically, with a short maturity,
21 these brokered CD's, interest is paid upon maturity.

22 **Rick Cooper:** So, you're saying there's no penalty for early withdrawal on those. Is that
23 correct?

24 **CJ Carter:** There's no penalty, but there's also no guarantee you could sell it at par if you want
25 to.

26 **Mary Quillen:** I see. It's sort of a catch-22.

27 **CJ Carter:** The only thing that's guaranteed is that the FDIC insurance is there. That's not the
28 price guarantee.

29 **Mary Quillen:** Right.

30 **Paul Kugelman:** Isn't it true that early withdrawal penalty is only against interest, not against
31 principal. Right? So, if you got to a place where it was invested in a CD and there was a
32 concern that there was more going out and you needed to draw from some investments, the bank
33 could just, basically, cash those in early and just suffer the interest penalty. Right?

34 **CJ Carter:** That is correct if we're talking about non-brokered CD's.

1 **Paul Kugelman:** Non-brokered CD's. Thank you for clarifying that.

2 **Rick Cooper:** Do you have a general feel of what dollar amount you're talking about there?
3 Five million? Nine million?

4 **CJ Carter:** I would feel comfortable with a smaller dollar amount, probably the 3-4 million
5 dollar range. In terms of trying to get this rate, I think the catch here is the bigger dollar amount
6 that I'm trying to work with. There's only so many opportunities at that rate. I'd be forced to
7 have to go down and get a lower rate for larger amounts. I think that would be the trade-off.

8 **Mary Quillen:** So, you're saying we would probably be safe with 3-4.

9 **CJ Carter:** That would be my estimate, in terms of being able to achieve a rate that I've stated,
10 the 3-month rate of 35 basis points or a 6-month rate at 45 basis points. Again, there's no
11 guarantees. It's what the market bears that day. I feel pretty comfortable, with a 2-3 million
12 dollar range, I could go out and get those rates.

13 **Bradley Lambert:** Mr. Cooper, now that we've gone through one round of coal claimant
14 dismissals, what is the time period from the time that you receive it until it goes through the
15 process? How long is that taking?

16 **Rick Cooper:** By the time we get it, depending on the notification, but once we go through our
17 process, our check requisitioning, our court filing, and our check writing, probably about as fast
18 as we can process one of those is 60 days. That's if everything goes really smooth. So, one that
19 comes in today, you're talking the end of December to get it processed.

20 **Mary Quillen:** So, it's probably, it's not like it's something that's going to come up on December
21 30th that we would be concerned about. Right now, the earliest would be the second or the last
22 half of December that these would come in.

23 **Rick Cooper:** I think you're correct. What we will do, working with the bank, we will monitor
24 that. It would not be out of the question to ask the bank to come back in December, if we see
25 that there's a problem, to address any of these issues. Generally, they come back quarterly, but
26 they've offered to come back at request, if needed to do that, if we need to re-do any of the
27 investments.

28 **CJ Carter:** That would be fine.

29 **Mary Quillen:** You can do that, then?

30 **CJ Carter:** Yes, I'd be more than happy to come back.

31 **Bradley Lambert:** Mr. Ratliff.

1 **Donnie Ratliff:** Mr. Carter, we normally meet the third Tuesday. We're looking at the third
2 Tuesday in December. We're cutting your work days really short. Do you think we could give
3 them some more direction in November? This is not going to happen overnight.

4 **CJ Carter:** No, it would take several working days for me to....

5 **Donnie Ratliff:** I think we need to try to be prepared, look at some estimates and be prepared to
6 make a recommendation in November.

7 **Rick Cooper:** What I can do is I can report to the Board on a monthly basis and let you know
8 the status of how much we have and how much to be disbursed. And, if we see that's cutting it
9 pretty close, we can always have the bank come in on any given month.

10 **Donnie Ratliff:** I think we know the story. I don't know that it's necessary they reappear in
11 November, but we could make the motion and authorize you to contact the bank and make these
12 investments up to whatever number we decide on, whether it's 3 million or 2.5.

13 **Mary Quillen:** I think that's a good, safe route to go because we're covered in giving you
14 working time to do this. We'll probably have a little bit better idea in November than we have
15 right now.

16 **Donnie Ratliff:** I think we need a little more information.

17 **Bill Harris:** Mr. Chairman, let me just ask a quick question. When you look at the dates for the
18 brokered CD's, this is when the money is returned to the bank or is there an automatic renewal of
19 that?

20 **CJ Carter:** There's no automatic renewal on brokered CD's. So, if you're referring to the date
21 on the investment of funds?

22 **Bill Harris:** 12/10, 12/15...

23 **CJ Carter:** That is correct. That's the date it would mature and that we would pursue the
24 principal and interest.

25 **Bill Harris:** So, if we find out mid-November, late-November, is there going to be enough time
26 to do whatever...

27 **Donnie Ratliff:** To roll those over.

28 **Bill Harris:** There would still be enough time?

29 **CJ Carter:** Yes.

30 **Bill Harris:** Okay.

1 **Mary Quillen:** Because the latest one, there's one that is due on 12/15. The others are the early
2 part...the 4th, the 7th, the 9th and the 10th. So, that would give you a little leeway there. The
3 only one would be that 15th, but that's the smallest one, anyway.

4 **CJ Carter:** Again, I do want to reiterate the rates that I presented on that last page were as of
5 the 16th. Banks will change their CD rates from time to time.

6 **Mary Quillen:** Right. We understand that. I think that sounds like a good plan to come back in
7 November with this and, again, the 10th of December would give you ample time, wouldn't it?

8 **CJ Carter:** Yes, ma'am.

9 **Mary Quillen:** Okay. And those are the major ones, anyway. That one on the 15th is one of
10 the smaller ones.

11 **Donnie Ratliff:** Mr. Carter, the ones that are \$125,000, do you have the opportunity to bump
12 those up to \$250,000?

13 **CJ Carter:** Probably, yes. These names of these financial institutions are typically the ones out
14 trying to raise the capital at that rate, so I would answer, "Yes." That's probably correct.

15 **Donnie Ratliff:** Very good. We appreciate you guys.

16 **CJ Carter:** Thank you.

17 **Bradley Lambert:** Mr. Cooper, could you make sure that is an agenda item for November?

18 **Rick Cooper:** To report the status of the account, not the expectation of disbursements?

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

20 **Rick Cooper:** Yes, we will do that.

21 **Bradley Lambert:** Thank you, folks. We appreciate your time.

22 **CJ Carter:** Okay. Thank you.

23 **Mary Quillen:** And you can come back in December if we find it necessary?

24 **CJ Carter:** Yes, ma'am. That would be no problem.

25 **Mary Quillen:** Okay. Thank you.

26 **Item Number 3**

27 **Bradley Lambert:** We're calling the next item on the docket. It is a petition from CNX Gas
28 Company, LLC, for (1) the disbursement of escrowed funds heretofore deposited with the

1 Board's Escrow Agent, attributable to Tracts 3, 4, & 5, as depicted upon the annexed table; and
2 (2) authorization to begin paying royalties directly to the parties listed in the petition. This is for
3 Unit YYY33. Docket Number VGOB-11-0920-2988-01. All parties wishing to testify please
4 come forward.

5 **Mark Swartz:** Mark Swartz and Anita Duty.

6 **Jen Shaver:** This is Jen Shaver, on behalf of the Poulos and Rogers cousins.

7 **Bradley Lambert:** Good morning.

8 **Jen Shaver:** Good morning.

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

11 **Anita Duty:** Yes.

12 **Bradley Lambert:** You may proceed, Mr. Swartz.

13 **Mark Swartz:** Thank you. Would you state your name for us, please?

14 **Anita Duty:** Anita Duty

15 **Mark Swartz:** Who do you work for?

16 **Anita Duty:** CNX Land, LLC

17 **Mark Swartz:** Job duties include supervising the preparation of petitions for disbursement?

18 **Anita Duty:** Yes.

19 **Mark Swartz:** Did you participate in the preparation and supervision of this petition today?

20 **Anita Duty:** I did.

21 **Mark Swartz:** We're talking about drilling unit YYY33, correct?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** The applicant is CNX Gas Company?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** It pertains to what tracts?

26 **Anita Duty:** 3, 4, & 5.

1 **Mark Swartz:** If the disbursement is approved by the Board, would it close the account or will
2 this account need to remain in place?

3 **Anita Duty:** It will remain open.

4 **Mark Swartz:** The reason or reasons that you have made this request are what?

5 **Anita Duty:** We have a court order and we have a dismissal of a coal claimant.

6 **Mark Swartz:** Under the new statute?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** With regard to the court order, we've been here before on this. There was a
9 dispute between a collection of people named Rogers, who we call the "cousins," correct?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** And LBR Holding, which is another portion of that family, apparently.

12 **Anita Duty:** Yes.

13 **Mark Swartz:** They had litigation and there was a decision in Case Number 550-13. Correct?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** With regard to the issues raised by that case, which was a quarter interest in
16 some of the tracts?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** That was resolved in favor of the cousins.

19 **Anita Duty:** It was.

20 **Mark Swartz:** So, under this application with regard to the tracts that the cousins are in, they
21 would receive 100 percent of the escrowed royalties, which is that quarter interest?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** We also have provided notice with regard to another tract or tracts to coal
24 claimants, advising them that they needed to appear today either with an agreement or evidence
25 that they had started litigation to validate or vindicate their coal claims. Correct?

26 **Anita Duty:** Yes.

27 **Mark Swartz:** As of today, you've heard nothing back from them suggesting that they reached
28 an agreement or started a lawsuit.

1 **Anita Duty:** Correct.

2 **Mark Swartz:** Okay. Those are the two reasons for the disbursements?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** There's a table, I believe, that you've prepared with directions for the Escrow
5 Agent in making the disbursement?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** You've called that "Table 1." Correct?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** Table 1, with regard to Tracts 3 and 4, pertains to the cousins.

10 **Anita Duty:** Yes.

11 **Mark Swartz:** And that Table, with regard to Tract 5, pertains to Range Resources-Pine
12 Mountain. Correct?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** On this Table 1, have you identified the names of the people who are to receive
15 the disbursements or for whose benefit the disbursements are to be made?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** With regard to each person named in these three tracts or company, have you, in
18 the second column from the right hand side, provided a percentage that the Escrow Agent should
19 use to calculate the dollars due at the time the disbursement is being made?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** So, the Escrow Agent should then use, for example, Talmage G. Rogers in Tract
22 3, should use the percentage reported in the second column from the right, 1.8157%, to calculate
23 the dollars due at the point in time the disbursement is calculated?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** The Escrow Agent should do the same for the rest of the folks?

26 **Anita Duty:** It should.

27 **Mark Swartz:** Okay. The wells that have contributed to this escrow account are which ones?

28 **Anita Duty:** YYY33 and YYY33-A.

1 **Mark Swartz:** Have you provided the Board with an updated Exhibit E that would reflect the
2 situation after these disbursements were made?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** Are you requesting, with regard to the people receiving these disbursements, that
5 the operator be allowed to pay them directly in the future?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** Have you also provided an updated Exhibit EE?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** Did you undertake to do a reconciliation of the account?

10 **Anita Duty:** We did.

11 **Mark Swartz:** That's Exhibit J?

12 **Anita Duty:** Yes.

13 **Mark Swartz:** You started tracking the deposits when? The first deposit would be?

14 **Anita Duty:** April 2012.

15 **Mark Swartz:** And you ran the reconciliation through what date?

16 **Anita Duty:** May 2015.

17 **Mark Swartz:** May 31st?

18 **Anita Duty:** Yes.

19 **Mark Swartz:** Okay. Did you, on the one hand, try to identify all royalty checks that the
20 operator had paid to any Escrow Agent and, on the other hand, try to identify a deposit for each
21 one of those checks?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** Were you able to do that?

24 **Anita Duty:** We did, with the only exception, we had an additional deposit at the beginning of
25 the account that we didn't show in our system. I'm not sure if that belongs somewhere else or
26 what we want to do with that.

27 **Mark Swartz:** Okay. And that is reflected as the difference of \$139.50. Correct?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** That's the April 30th deposit?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** And you've included that in the total on deposit and you're showing that the
5 Escrow Agent actually has \$139.50 more than your records show were deposited?

6 **Anita Duty:** Yes. I don't know if we want to exclude that piece of the balance or not, in case it
7 doesn't go there.

8 **Mark Swartz:** That's the Board's call, but that's...

9 **Bradley Lambert:** When you think, at some point in time, as they're going through these
10 reconciliations, that may show up somewhere else.

11 **Anita Duty:** It does show up. The only difference with this one, I don't think we contacted the
12 Division of Gas and Oil to ask them to try to help us find where that money went. I don't think
13 we were able to. We were just going to bring it to your attention if you wanted to exclude it.

14 **Bradley Lambert:** Thank you.

15 **Mark Swartz:** And you provided the Board with a copy of the court order that we've been
16 talking about. Right?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** And you've provided the Board, through filing with the electronic data system,
19 your proofs of mailing to the coal claimants?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** I think that's all we have, Mr. Chairman.

22 **Bradley Lambert:** I also would like to get on record the information that we have in the
23 petition about where the checks are to be mailed.

24 **Mark Swartz:** With regard to the cousins, Anita, is there a requirement that they be mailed to
25 somebody other than the cousins?

26 **Anita Duty:** They would go to Don Barrett.

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

28 **Jen Shaver:** Yes, I would ask Ms. Duty, as to the April 30, 2012, deposit of \$139.50 that you
29 say CNX does not reflect in their records, is that correct?

1 **Anita Duty:** Correct.

2 **Jen Shaver:** Did you undertake to go back to the production records and determine whether
3 those royalties were owed?

4 **Anita Duty:** The deposit was shown by the bank, not by us. According to us, our first deposit
5 would have been in June 2014. We show that we wouldn't have owed it two years behind.

6 **Jen Shaver:** So, this well was not producing in 2012?

7 **Anita Duty:** I don't know that date. The first deposit doesn't go into the account until the
8 supplemental order is issued.

9 **Jen Shaver:** Correct.

10 **Anita Duty:** So, that first deposit could be a cumulative dollar.

11 **Jen Shaver:** Right.

12 **Anita Duty:** The wells went online in 2013.

13 **Jen Shaver:** Okay.

14 **Anita Duty:** April 26, 2013, both of them. Most likely, that deposit is incorrect.

15 **Jen Shaver:** In the incorrect account? Is that your...

16 **Anita Duty:** That's my guess. I don't know that for sure, but it doesn't belong here, obviously, if
17 it's for April 2012 production.

18 **Jen Shaver:** I don't have any further questions.

19 **Bradley Lambert:** Any other questions from the Board? [No response] When did you say the
20 well went online, Ms. Duty?

21 **Anita Duty:** We show both of those wells in that unit went online April 26, 2013.

22 **Bradley Lambert:** You're not showing a deposit for over a year later?

23 **Anita Duty:** The deposits are put into the account once the supplemental order is issued.

24 **Bradley Lambert:** Can we cross-check that, Mr. Cooper, that supplemental order date?

25 **Rick Cooper:** We can.

26 **Anita Duty:** I probably have it here. It was executed November 6, 2013.

1 **Bradley Lambert:** Mr. Cooper, is that normal for that deposit to show up six months later or
2 seven months later?

3 **Rick Cooper:** It has been in the past. We're working with our IT group to put in some type of
4 automation to send out ticklers to everyone to try to make this more efficient moving forward.

5 **Bradley Lambert:** I guess your answer would be that's not unusual.

6 **Rick Cooper:** Not unusual. Historically, for that to have happened, it's not unusual. We hope
7 to decrease that timeline moving forward, working with all the IT people, where everyone can
8 track that, electronically, and we can be more aware of that.

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

10 **Anita Duty:** Just one more note on the reporting information. The order wasn't recorded until
11 April 25, 2014.

12 **Bradley Lambert:** Thank you.

13 **Mark Swartz:** 60 days later, the deposit was made.

14 **Bradley Lambert:** Just to clear it up a little bit, so we see the timeline a little better. Thank
15 you. Any other questions from the Board? [No response] Mr. Swartz, do you have anything
16 further?

17 **Mark Swartz:** No.

18 **Bradley Lambert:** Do I have a motion?

19 **Donnie Rife:** Motion made for approval, Mr. Chairman.

20 **Bill Harris:** Second that.

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

22 **Board:** Yes.

23 **Bradley Lambert:** Opposed no.

24 **Rick Cooper:** Before you vote on that, could I ask, with the remaining balance, what are we
25 going to do with that \$139.50?

26 **Mark Swartz:** Should we leave it in the account? I think you wanted to.

27 **Bradley Lambert:** Yes. Thank you, Mr. Cooper.

1 **Anita Duty:** That needs to be subtracted from the balance prior to the percentage being applied
2 to the unit. We'll try to figure out. In the meantime, we'll work with them to try to figure out
3 where that money goes and if it needs to be transferred.

4 **Rick Cooper:** So, we'll leave that money in the account when we do the disbursements?

5 **Anita Duty:** That needs to be subtracted from the balance, so it doesn't get included in the
6 percentage.

7 **Rick Cooper:** But, it would be remaining in the account because the account stays open?

8 **Mark Swartz:** The Escrow Agent needs to subtract \$139.54, which is from the balance, before
9 it multiplies the percentage.

10 **Rick Cooper:** Take the \$139 out before we do the calculations.

11 **Mark Swartz:** The \$139.54 out before it applies the percentage. Right.

12 **Rick Cooper:** We're good.

13 **Anita Duty:** \$139.50.

14 **Sarah Gilmer:** \$139.50.

15 **Mark Swartz:** Why is it 50?

16 **Bradley Lambert:** Didn't we set up an account with the bank?

17 **Rick Cooper:** We do have an account set up for any outstanding dollars. It is the last account.
18 We do have that. As a matter of fact, it should be in your quarterly statement. If it is, I can tell
19 you where it is, what page. It would be the last item on the quarterly report. It's actually Page 22
20 of those, where it has the escrow summaries. The very last account there is an account we set up
21 for any dollars that we're not exactly sure where they should go. The very last account on Page
22 22.

23 **Mary Quillen:** Wachovia checking?

24 **Rick Cooper:** Yes. To refresh the Board's memory, a while back there was some money sent to
25 us from some Wachovia people that they did not know where the money went to. They didn't
26 know where it came from. They just said they were releasing these funds. The Board agreed to
27 put this here. I think what we're seeing here, today, CNX wants to keep that money in the
28 account until they determine where it goes and then transfer it to another account or bring it
29 forward on another disbursement. Is that correct?

30 **Anita Duty:** Yes.

1 **Bradley Lambert:** If that's easier for the company and you to work with, than trying to re-
2 figure interest after deducting that \$139.50, than pulling it out and putting it in this other account,
3 I don't know if the Board has an issue.

4 **Rick Cooper:** I don't see it as a problem. When we do the calculations, we'll just make sure that
5 the calculations do not include that dollar amount when we do the percentages.

6 **Bradley Lambert:** Okay. So, we'll need another motion. After we take a no vote on the first
7 motion, we'll need another motion to leave this money into that account. Any opposed, no.

8 **Jen Shaver:** Mr. Chairman, if I may ask on behalf of my clients, that we be advised and
9 provided an explanation when it's determined where that \$139.50 goes.

10 **Bradley Lambert:** Once they find out where it goes.

11 **Jen Shaver:** Once they determine that, that we be notified and provided an explanation. Also,
12 that if it's not determined within a reasonable time period, three months, that we come back and
13 disburse those royalties pursuant to ownership in this unit. To have those royalties just hanging
14 out there for an undetermined amount of time. It could sit there for five years.

15 **Mark Swartz:** There's no way that this money belongs to her clients. Period. This well did not
16 go in production at that point in time. This money came from somewhere else. There's no way
17 that they should receive these funds.

18 **Jen Shaver:** It was put in their account.

19 **Mark Swartz:** It wasn't their account.

20 **Jen Shaver:** It was put in their account by the bank.

21 **Anita Duty:** We didn't put it there. The bank...

22 **Paul Kugelman:** At best, it's misplaced property. I think that it's probably.... If you agree that
23 the money was put in before your clients could have ever owned it, there's no way to have any
24 other title to it, other than it just happened to show up in your account.

25 **Jen Shaver:** I can't agree with that. I don't know that.

26 **Paul Kugelman:** Okay. So, you don't have a factual basis to be able to dispute it. That's what
27 you're saying. You just don't know. Okay. I understand.

28 **Bradley Lambert:** We've had a no vote. Mr. Harris.

29 **Bill Harris:** You were getting ready to explain what we're about to do, in terms of the motion.

1 **Bradley Lambert:** On the second part with the \$139.50. The question is whether or not the
2 Board could act upon asking CNX to keep the \$139.50 in this account or whether it should be
3 withdrawn from the account and placed into the account for monies that we haven't determined
4 where, exactly, they belong. So, I would ask a motion at this time. [No response] With no
5 motion, then it will stay in the account. As far as Ms. Shaver, I think three months is unrealistic
6 to ask them to come back in that time, since there may not be any more action in this particular
7 account for who knows how long. We will keep an eye on it and we will be happy to notify you
8 and your clients about the \$139.50.

9 **Rick Cooper:** So, I would, for the Board's satisfaction, in the event that CNX does find this and
10 request we transfer that, I can actually copy Ms. Shaver on that request, so she would be aware
11 that that happens, if the Board desires to do that.

12 **Bradley Lambert:** Absolutely. Rick, if you could do that, we would appreciate it.

13 **Rick Cooper:** We can and will.

14 **Jen Shaver:** Thank you. Yes, I would request that we be copied on all correspondence and
15 activity relating to this one.

16 **Bradley Lambert:** Okay. We'll do that.

17 **Item Number 4**

18 **Bradley Lambert:** We're calling Docket Item Number 4. A petition from CNX Gas Company,
19 LLC, for (1) disbursement of funds incorrectly deposited in Unit L43 to CNX Gas Company,
20 LLC. (2) the disbursement of escrowed funds heretofore deposited with the Board's Escrow
21 Agent, attributable to Tract 2, as depicted upon the annexed table; and (3) authorization to begin
22 paying royalties directly to the parties per House Bill 2058; Pocahontas Land Corporation and to
23 Buchanan County, Virginia, successor in title. This is Docket Number VGOB-99-1019-0752-01.
24 All parties wishing to testify please come forward.

25 **Mark Swartz:** Mark Swartz and Anita Duty.

26 **Bradley Lambert:** Ms. Shaver, are you testifying?

27 **Jen Shaver:** I am not, sir.

28 **Bradley Lambert:** You may proceed, Mr. Swartz.

29 **Mark Swartz:** Anita, state your name for us again, please.

30 **Anita Duty:** Anita Duty.

31 **Mark Swartz:** Who do you work for?

1 **Anita Duty:** CNX Land, LLC.

2 **Mark Swartz:** Are you here on behalf of the operator?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** And you are requesting a petition for disbursement from Unit L43. Correct?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** And there are two reasons for disbursement. First, reimburse funds incorrectly
7 deposited. Secondly, to disburse funds to the gas claimant because the coal claimant has not
8 stepped forward. Right?

9 **Anita Duty:** Correct.

10 **Mark Swartz:** Thirdly, you're asking to be able to pay the gas claimants directly, in the future.
11 Right?

12 **Anita Duty:** Yes.

13 **Mark Swartz:** Did you provide notice to the coal claimants here?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** Have you provided proof of that notification to the Board?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** Have you received anything from the coal claimants that you noticed, indicating
18 either an agreement or that they have started a lawsuit?

19 **Anita Duty:** No.

20 **Mark Swartz:** So, under the statute, the royalties would be payable, then, to the gas claimant.
21 Correct?

22 **Anita Duty:** Correct.

23 **Mark Swartz:** You have listed as gas claimants Pocahontas Land Corporation and Buchanan
24 County, Virginia. I'm thinking, from the exhibits attached, that Pocahontas Land has actually
25 assigned or transferred their interest to Buchanan County. Is that correct?

26 **Anita Duty:** Yes.

27 **Mark Swartz:** Have you prepared a table or tables with regard to the disbursements?

28 **Anita Duty:** Yes.

1 **Mark Swartz:** Okay. There's a Table 1 that is a "Pay Exact Dollar Amount." Correct?

2 **Anita Duty:** Yes.

3 **Mark Swartz:** There are two payments contemplated by Table 1. The first is the erroneous
4 payment, \$41.47 that should be refunded to CNX Gas Company. Right?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** That's the reimbursement request. Then, because of the transaction between
7 Norfolk Southern and Pocahontas Land, there is a defined amount that would be payable to
8 Norfolk Southern, in care of Pocahontas Land. Right?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** What's the amount of that payment?

11 **Anita Duty:** \$214.99

12 **Mark Swartz:** Have you prepared another table to zero out this account?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** Okay. At the point in time the disbursement is made, the Escrow Agent should
15 pay 100% of the account to Buchanan County?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** When that occurs, then there will be no further escrow requirement?

18 **Anita Duty:** That's correct.

19 **Mark Swartz:** You're asking permission to pay Buchanan County, directly?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** The wells that contributed to this escrow account were?

22 **Anita Duty:** L43 and L43A and L43C.

23 **Mark Swartz:** So, B is an error?

24 **Anita Duty:** No, B is there, too. Sorry.

25 **Mark Swartz:** Okay. I think that's all I have, Mr. Chairman.

26 **Bradley Lambert:** Any questions from the Board? [No response] Anything further, Mr.
27 Swartz?

1 **Mark Swartz:** No.

2 **Bradley Lambert:** Do I have a motion?

3 **Donnie Rife:** Motion made for approval, Mr. Chairman.

4 **Bill Harris:** Second.

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

6 **Board:** Yes.

7 **Bradley Lambert:** Opposed no. [No response] Thank you, Mr. Swartz. That one is approved.

8 **Mark Swartz:** Thank you.

9

10

Item Number 5

11 **Bradley Lambert:** We're calling Docket Item Number 5. A petition from CNX Gas Company,
12 LLC, for (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow
13 Agent, attributable to Tract 3, as depicted upon the annexed table; and (2) authorization to begin
14 paying royalties directly to the parties to the royalty split between Coal Mountain Mining Co.
15 and New Garden Coal Corporation. Unit FF28. Docket Number VGOB-01-0320-0879-01. All
16 parties wishing to testify please come forward.

17 **Mark Swartz:** Mark Swartz and Anita Duty.

18 **Bradley Lambert:** You may proceed, Mr. Swartz.

19 **Mark Swartz:** Thank you. Anita, who do you work for?

20 **Anita Duty:** CNX Land, LLC.

21 **Mark Swartz:** Are you here on behalf of CNX Gas Company, the operator?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** Are you requesting that the Board make a disbursement pertaining to the escrow
24 account for FF28?

25 **Anita Duty:** Yes.

26 **Mark Swartz:** Okay. The reason for this request is what?

27 **Anita Duty:** A royalty split agreement.

1 **Mark Swartz:** That agreement is between what companies?

2 **Anita Duty:** Coal Mountain Mining and New Garden Coal Corporation.

3 **Mark Swartz:** Is it a 50/50 agreement?

4 **Anita Duty:** It is.

5 **Mark Swartz:** It pertains to what tract?

6 **Anita Duty:** Tract 3

7 **Mark Swartz:** Have you prepared a Table 1, with regard to that disbursement?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** It looks like it's a 50/50 agreement that will zero out the escrow account.

10 **Anita Duty:** Yes.

11 **Mark Swartz:** So, the Escrow Agent should, at the time the disbursement is calculated and
12 made, disburse 50% of the account to Coal Mountain Mining Company and 50% to New Garden
13 Coal Corporation. Correct?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** The escrow account should, then, be closed?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** The wells that contributed to this account were?

18 **Anita Duty:** FF28 and FF28A.

19 **Mark Swartz:** Obviously, you're requesting, as operator, to be able to pay these people directly,
20 in the future, according to their split agreement?

21 **Anita Duty:** Yes.

22 **Mark Swartz:** That's all I have, Mr. Chairman.

23 **Bradley Lambert:** Any questions from the Board? [No response] Anything further, Mr.
24 Swartz?

25 **Mark Swartz:** I'm not sure I asked you about the wells contributing... I did. Okay. Nothing
26 further.

27 **Bradley Lambert:** Do I have a motion?

1 **Bill Harris:** Motion for approval.

2 **Donnie Ratliff:** Second

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

5 **Board:** Yes.

6 **Bradley Lambert:** Opposed no. [No response] Thank you, Mr. Swartz. That's approved.
7 Ladies and gentlemen, we'll take about a ten minute break. We'll come back at about 20 after.

8 **Item Number 6**

9 **Bradley Lambert:** We're calling Docket Item Number 6. A petition from CNX Gas Company,
10 LLC, for (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow
11 Agent, attributable to Tract 2, as depicted upon the annexed table; and (2) authorization to begin
12 paying royalties directly to the parties to the prevailing plaintiffs identified in the petition. This
13 is Unit B31. Docket Number VGOB-01-0320-0880-02. All parties wishing to testify please
14 come forward.

15 **Mark Swartz:** Mark Swartz and Anita Duty.

16 **Jen Shaver:** Jen Shaver, on behalf of the Poulos/Rogers individuals.

17 **Bradley Lambert:** You may proceed, Mr. Swartz.

18 **Mark Swartz:** Thank you. Anita, would you state your name for us, please?

19 **Anita Duty:** Anita Duty.

20 **Mark Swartz:** Who do you work for?

21 **Anita Duty:** CNX Land, LLC.

22 **Mark Swartz:** Are you here on behalf of the operator, CNX Gas Company?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** We're here requesting a disbursement. Correct?

25 **Anita Duty:** Yes.

26 **Mark Swartz:** From Unit?

27 **Anita Duty:** B31.

1 **Mark Swartz:** The reason for the disbursement request?

2 **Anita Duty:** Court order.

3 **Mark Swartz:** It's the same lawsuit that we talked about earlier today, involving the cousins?

4 **Anita Duty:** Yes, it is.

5 **Mark Swartz:** Okay. And we're seeking an order to disburse the cousins 100%, as a result of
6 the court order, interest in the escrowed funds pertaining to Tract 2. Correct?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** Have you provided a table for the Escrow Agent to use in making the
9 calculations to sort of break out the amounts attributable to each of the cousins?

10 **Anita Duty:** I have.

11 **Mark Swartz:** Have you, in the second column from the right, provided the percentage that the
12 Escrow Agent should use to multiply times the balance then on hand to calculate the dollar
13 amount?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** And you've also provided the name of each claimant?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** The well that contributed to this escrow?

18 **Anita Duty:** B31.

19 **Mark Swartz:** Are there any special mailing instructions here or payment instructions?

20 **Anita Duty:** The payment will be made to Don Barrett.

21 **Mark Swartz:** Have you provided the Board with a copy of the court order or decision?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** After the disbursement is made, there will no longer be an escrow account
24 required. Correct?

25 **Anita Duty:** Correct.

26 **Mark Swartz:** And you've provided a revised Exhibit E that says that?

27 **Anita Duty:** Yes.

1 **Mark Swartz:** Are you also requesting that you be able to pay the cousins directly, in the
2 future?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** Lastly, did you prepare an Exhibit J, a reconciliation with regard to the
5 accounting?

6 **Anita Duty:** We did.

7 **Mark Swartz:** The last page of that, I think, is Page 16 of the PDF. You show a total that
8 you've calculated and, then, you compare that to the balance of the First Bank and Trust.
9 Correct?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** You show that First Bank and Trust actually has \$22.05 more than what was
12 deposited.

13 **Anita Duty:** Yes.

14 **Mark Swartz:** You ran this reconciliation through what date?

15 **Anita Duty:** April 30, 2015.

16 **Mark Swartz:** Did you attempt, in this reconciliation, to on the one hand, identify all royalty
17 checks paid by the operator?

18 **Anita Duty:** Yes.

19 **Mark Swartz:** Then, did you attempt to find a deposit record with the various Escrow Agents
20 showing that they received and deposited each one of those checks?

21 **Anita Duty:** Yes, we did.

22 **Mark Swartz:** When you made the comparison, did you find all of the checks having been
23 deposited?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** That's all I have, Mr. Chairman.

26 **Bradley Lambert:** Any questions from the Board?

27 **Mary Quillen:** Just one thing to clarify. I think we didn't do this before. The payment, is this
28 an affidavit that's on file that would cover all of the payments that are made? We don't need to
29 have that stipulated on the record at each distribution?

1 **Rick Cooper:** Are you saying who the checks go to?
2 **Mary Quillen:** Yes. Does that need to be on the record?
3 **Jen Shaver:** I believe Ms. Duty testified to that.
4 **Anita Duty:** They're specific for each court case.
5 **Mary Quillen:** Okay. Thank you. I just wanted to have that on record.
6 **Anita Duty:** Even though there may be multiple units.
7 **Bradley Lambert:** Any other questions? [No response] Ms. Shaver?
8 **Jen Shaver:** No questions.
9 **Bradley Lambert:** Anything further, Mr. Swartz?
10 **Mark Swartz:** No.
11 **Bradley Lambert:** Do I have a motion?
12 **Donnie Ratliff:** Motion to approve, Mr. Chairman.
13 **Donnie Rife:** Second.
14 **Bradley Lambert:** I have a motion and a second. Any further discussion? [No response] All
15 in favor signify by saying yes.
16 **Board:** Yes.
17 **Bradley Lambert:** Opposed no. [No response] Thank you, Mr. Swartz. That is approved.

18 **Item Number 7**

19 **Bradley Lambert:** We're calling Docket Item Number 7. A petition from CNX Gas Company,
20 LLC, for (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow
21 Agent, attributable to Tracts 1B, 1F, 1G, 1H, 1I, 1M, 2A, 2B, 2C, as depicted upon the annexed
22 table; and (2) authorization to begin paying royalties directly to the parties listed in the petition.
23 This is Docket Number VGOB-01-0821-0914-02. All parties wishing to testify please come
24 forward.
25 **Mark Swartz:** Mark Swartz and Anita Duty.
26 **Bradley Lambert:** You may proceed, Mr. Swartz.
27 **Mark Swartz:** Thank you. Anita, state your name for us, please.

1 **Anita Duty:** Anita Duty.

2 **Mark Swartz:** Who do you work for?

3 **Anita Duty:** CNX Land, LLC.

4 **Mark Swartz:** Are you here on behalf of CNX Gas Company?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** And you're requesting a disbursement?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** From Unit AY108?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** The reasons for the actual basis for the disbursement are discussed in paragraph
11 five of the petition. Correct?

12 **Anita Duty:** Yes.

13 **Mark Swartz:** You indicate that, on the one hand, Buckhorn Coal Company and Gent
14 Enterprises and Blankenship have entered into royalty split agreements. Correct?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** Are those 50/50 agreements?

17 **Anita Duty:** They are.

18 **Mark Swartz:** In addition, we have gas claimants under the revised code provision. Correct?

19 **Anita Duty:** Yes.

20 **Mark Swartz:** And you have provided notice to the coal claimants. Right?

21 **Anita Duty:** Yes.

22 **Mark Swartz:** Have you included proof of that notification in your application?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** Have you, as of today, received from the coal claimants either evidence of an
25 agreement or evidence that they've started a lawsuit to vindicate their claims?

26 **Anita Duty:** We have not.

1 **Mark Swartz:** Neither one?

2 **Anita Duty:** Neither.

3 **Mark Swartz:** Okay. So, based on the split agreement and the passage of time after notice,
4 we're seeking these disbursements. Right?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** Have you prepared a Table 1?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** That table pertains to the collection of tracts that you've identified. Correct?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** With regard to each tract, have you identified the person to be paid?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** In the second column from the right, have you given a percentage that the
13 Escrow Agent should use to multiply times the balance on deposit at the time the disbursement is
14 made to calculate the dollar amount?

15 **Anita Duty:** I have.

16 **Mark Swartz:** Okay. Are there any special payment instructions, in terms of mailing?

17 **Anita Duty:** No.

18 **Mark Swartz:** Okay. So, the Escrow Agent should just use Table 1 for names and addresses?

19 **Anita Duty:** Yes.

20 **Mark Swartz:** Okay. The wells that contributed to this escrow account?

21 **Anita Duty:** AY108 and AY108A.

22 **Mark Swartz:** Once these disbursements are made, will the escrow account have a zero
23 balance?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** And you've indicated in a revised Exhibit A that escrow will not be required
26 after these payments are made?

27 **Anita Duty:** Correct.

1 **Mark Swartz:** You are obviously asking, as operator, for the authorization to pay these folks
2 directly, in the future?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** Have you provided sort of a re-cap Exhibit EE to show us, historically, where
5 we were and where we are now?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** Lastly, have you prepared an Exhibit J?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** That's a reconciliation that you did?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** Through what date?

12 **Anita Duty:** May 31, 2015.

13 **Mark Swartz:** In doing that reconciliation, did you attempt to identify all royalty checks that
14 were paid by the operator?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** Did you attempt to match those to deposits?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** When you did that, did you find a deposit for every royalty check?

19 **Anita Duty:** We did.

20 **Mark Swartz:** When you looked at your calculation, as to the balance based on the data you
21 had should be and compared that to the current balance or the balance as of 5/31, what did you
22 find?

23 **Anita Duty:** They were in balance. There was \$38.24 more in the escrow account.

24 **Mark Swartz:** Okay. That's all I have.

25 **Bradley Lambert:** Any questions from the Board? [No response] Anything further, Mr.
26 Swartz?

27 **Mark Swartz:** No.

1 **Bradley Lambert:** Do I have a motion?
2 **Donnie Ratliff:** Motion for approval, Mr. Chairman.
3 **Bill Harris:** Second.
4 **Bradley Lambert:** I have a motion and I have a second. Any further discussion? [No
5 response] All in favor signify by saying yes.
6 **Board:** Yes.
7 **Bradley Lambert:** Opposed no. [No response] Thank you, Mr. Swartz. That is approved

8 **Item Number 8**

9 **Bradley Lambert:** We're calling Docket Item Number 8. A petition from CNX Gas Company,
10 LLC, for (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow
11 Agent, attributable to Tracts 2B, 2D, 2H, 2I, 2P, 2Q, as depicted upon the annexed table; (2)
12 authorization to begin paying royalties directly to the parties to the prevailing plaintiffs listed in
13 the petition. This is Docket Number VGOB-02-0521-1029-05. All parties wishing to testify
14 please come forward.
15 **Mark Swartz:** Mark Swartz and Anita Duty.
16 **Bradley Lambert:** You may proceed, Mr. Swartz.
17 **Mark Swartz:** Anita, state your name for us.
18 **Anita Duty:** Anita Duty.
19 **Mark Swartz:** Who do you work for?
20 **Anita Duty:** CNX Land, LLC.
21 **Mark Swartz:** Are you here on behalf of the operator, CNX Gas Company?
22 **Anita Duty:** Yes.
23 **Mark Swartz:** Is the operator requesting a disbursement be made from Unit EE38?
24 **Anita Duty:** Yes.
25 **Mark Swartz:** What are the tracts that you're requesting a disbursement from?
26 **Anita Duty:** Tracts 2B, a portion of 2D, a portion of 2H, a portion of 2I, 2P and 2Q.

1 **Mark Swartz:** Have you provided at paragraph five of the application a summary of the basis
2 or the reasons for the request?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** First of all, there is a court case that was resolved that involves, in Case CL
5 11,906, that determined title, with regard to some of the parties. Correct?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** Also, Coal Mountain and others have entered into royalty split agreements.
8 Correct?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** Were those 50/50 agreements?

11 **Anita Duty:** No, those are 70/30.

12 **Mark Swartz:** Okay. And, that's reflected in your table, which we'll come to, eventually.

13 **Anita Duty:** Yes, we had to load a revision, so hopefully everybody has the revision.

14 **Mark Swartz:** We'll talk about that.

15 **Anita Duty:** Yes.

16 **Mark Swartz:** We also have the amendment to the Virginia Code that took effect this summer.
17 We have some gas claimants that we want to pay.

18 **Anita Duty:** Yes.

19 **Mark Swartz:** Did you notify the coal claimants that there would be a hearing today and give
20 them at least 45 days notice that they should step up and either provide an agreement with regard
21 to royalties or evidence that they have started a lawsuit?

22 **Anita Duty:** I need to say one thing about that.

23 **Mark Swartz:** Okay.

24 **Anita Duty:** We had the court order to process and we had the royalty split agreements. At the
25 same time, we realized we had received mail back from the two gas claimants that we're going to
26 pay. But, the coal notice is not up until October 29th. We had already started the process of
27 filing the other people and we put those other two in there. We probably should have waited. I
28 don't know if you want to exclude that or wait until the 29th to do the payment. We haven't
29 received anything from the coal owner to say that they dispute it.

1 **Bradley Lambert:** At least, at the time, is what you're saying.

2 **Anita Duty:** They have nine more days.

3 **Mark Swartz:** My recommendation would be, so we don't have to come back, let's hold it for
4 nine days and see if Mr. Cooper gets anything or we get anything.

5 **Anita Duty:** We did load the coal owner affidavit so they will see that the date on there is not
6 up yet.

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

8 **Bradley Lambert:** We'll take that up when we make our motion. More than likely, we would
9 recommend that they would hold.

10 **Mark Swartz:** Right.

11 **Anita Duty:** I just want to make you aware.

12 **Mark Swartz:** Let's go to the table, then, and talk about the various reasons in context. With
13 regard to Table 1, we have a "Pay Exact Dollar Amount." Correct?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** Let's just take Tract 2B, 2P, 2Q. What is the explanation as to why these would
16 be exact dollar amounts?

17 **Anita Duty:** CNX Gas has purchased the property from the Abschers. It was actually the father.
18 He is now deceased, so we're paying his heirs. We had made an agreement with them to pay
19 them 70% and we'll take 30% prior to the date of the sale. After the date of the sale, CNX will
20 receive 100% of the royalty.

21 **Mary Quillen:** I'm sorry. After the date of the sale, what?

22 **Anita Duty:** After the date that the property was sold, CNX Gas will receive 100%.

23 **Mary Quillen:** Okay.

24 **Anita Duty:** We just made an agreement for royalties prior to the date.

25 **Mary Quillen:** Thank you.

26 **Mark Swartz:** So, Table 1 pertains to the royalty split before the date of the sale and that is the
27 reason why there's a specific dollar amount?

28 **Anita Duty:** It's a settlement agreement.

1 **Mark Swartz:** I understand. That provided, essentially, for a 70/30?

2 **Anita Duty:** It did.

3 **Mark Swartz:** Have you used the 70/30 in making these dollar amount calculations?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** Have you used the date of the settlement, as provided in the settlement
6 agreement, as well?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** With regard to Table 1, should the Escrow Agent pay each of the people
9 identified in Table 1. And, you've provided names and addresses, the dollar amount in the far
10 right hand column when that disbursement is made?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** All of the disbursements in Table 1 need to be made before the Escrow Agent
13 attempts to make any calculations with regard to what's payable under Table 2?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** Okay. Moving to Table 2, then, this is not an exact dollar amount disbursement.
16 This is a percentage.

17 **Anita Duty:** It is.

18 **Mark Swartz:** Okay. With regard to 2B, the Escrow Agent should pay CNX Gas 100% of the
19 balance on hand, with regard to that tract?

20 **Anita Duty:** Yes, 100% of their percent of escrow.

21 **Mark Swartz:** Right. So, there's no sharing because of the settlement agreement. It's no longer
22 the 70/30?

23 **Anita Duty:** Correct.

24 **Mark Swartz:** And the Escrow Agent should use, with regard to CNX, the 3.4204%, apply that
25 percentage to the balance in escrow at that time, and that's the dollar amount that CNX would
26 receive?

27 **Anita Duty:** Yes.

28 **Mark Swartz:** Okay. With regard to Tract 2D, 2H, 2I, 2P and 2Q, as identified on Table 2,
29 should the Escrow Agent pay each of the people or companies identified, by mailing to the

1 addresses given, an amount calculated by using the percentage in the second column from the
2 right applied to the balance on hand at the time the disbursement is made?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** Okay.

5 **Anita Duty:** I want to make sure that you have the revision for Coal Mountain Mining, David
6 Cordill and Robert Cordle. Originally, we had put it in there at 50%.

7 **Rick Cooper:** They probably do not have those revisions, but we have received those.

8 **Anita Duty:** Okay.

9 **Mark Swartz:** Okay. Well, then, you need to put that in the record. We did. I don't know at
10 what point it goes to them. Does it go to them in advance?

11 **Rick Cooper:** Yes. It goes in advance. That's correct.

12 **Mary Quillen:** These are the 50/50 splits. Right?

13 **Anita Duty:** It will be for Tract 2D and 2H. We were notified by Coal Mountain that we had
14 incorrectly shown theirs was 50%. We didn't catch that, so we did the revision last week.

15 **Mary Quillen:** Okay.

16 **Bradley Lambert:** So, what should the percentage be?

17 **Anita Duty:** It's going to be 70% for Coal Mountain and 30% for the Cordills.

18 **Mary Quillen:** That's just on those two...2D and 2H?

19 **Anita Duty:** Yes.

20 **Mary Quillen:** Okay. It should be 70/30. Right?

21 **Mark Swartz:** Presumably, when you send this to the Escrow Agent and you do the order, you
22 use the most recent one, so we'll be good to go.

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

24 **Mark Swartz:** After these disbursements, Anita, we will still need to maintain this account.
25 Correct?

26 **Anita Duty:** Yes, we will.

27 **Mark Swartz:** And, you've provided the Board with an Exhibit E that indicates the reasons for
28 that?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** Have you also provided a revised Exhibit EE?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** It looks like the summary is at PDF 42. Did you attempt an account
5 reconciliation, here?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** Did you, on the one hand, try to identify all royalty checks that the operator paid
8 to the various Escrow Agents?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** Then, did you attempt to locate a deposit for each one of those checks?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** When you did that, were you able, with one exception, to find a deposit for
13 every royalty check?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** Okay. What was the exception?

16 **Anita Duty:** There was a deposit on August 25, 2008, of \$6,585.17 that should have belonged
17 to Account 1020.

18 **Mark Swartz:** And that was corrected in the Summer of 2014. Correct?

19 **Anita Duty:** Yes.

20 **Mark Swartz:** And, that incorrect deposit is not reflected in your Exhibit J, at the end of the
21 balance. Correct?

22 **Anita Duty:** Correct.

23 **Mark Swartz:** When you compare what was deposited, interest and fees that you're aware of
24 and account for disbursements, you come up with a total and, then, you also have a total on
25 deposit at the bank as of July 31st?

26 **Anita Duty:** Yes.

27 **Mark Swartz:** What's the difference?

28 **Anita Duty:** We're showing \$2,234.31 more in the account.

1 **Mark Swartz:** In the bank account than was paid in?

2 **Anita Duty:** Yes.

3 **Mark Swartz:** That may be interest, may be fees, but they have more on deposit than we paid
4 in?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** Okay. That's all I have, Mr. Chairman.

7 **Bradley Lambert:** Ms. Duty, does that mean in the account, including the \$6,500 that was
8 deposited in error, is now \$8,700 difference or has that \$6,500 been withdrawn and...?

9 **Anita Duty:** That's already been transferred. That was transferred in July 2014.

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

11 **Rick Cooper:** So, to who are the checks to be written and to whom receives these checks?

12 **Anita Duty:** On Table 1, for Tract 2B, 2P and 2Q, all the payments with the exception of CNX
13 Gas Company, should go to Shea Cook.

14 **Rick Cooper:** Written on behalf of the individuals, but mailed to Shea Cook. Is that correct?

15 **Anita Duty:** Yes.

16 **Bradley Lambert:** Thank you, Mr. Cooper. Any other questions from the Board? [No
17 response] Anything further, Mr. Swartz?

18 **Mark Swartz:** No.

19 **Bradley Lambert:** Do I have a motion?

20 **Donnie Ratliff:** Motion to approve, Mr. Chairman.

21 **Donnie Rife:** Second, Mr. Chairman.

22 **Bradley Lambert:** I have a motion and I have a second. Any further discussion?

23 **Bill Harris:** Do we need to make an allowance for that...?

24 **Bradley Lambert:** We do. Thank you, Mr. Harris. Included in that motion, could we also have
25 a motion to hold the disbursement until we receive notice from the coal claimant or not. We
26 should receive any word back from the coal claimant as of October 29th? Is that the date?

27 **Anita Duty:** Correct.

1 **Bradley Lambert:** Then, we will add another week on that date...

2 **Paul Kugelman:** Just to let the mail clear because their lawyer is Type A.

3 **Donnie Ratliff:** I'll amend the motion to reflect two weeks beyond October 29th.

4 **Bradley Lambert:** I have an amended motion. Do I have a second?

5 **Donnie Rife:** Second to the amendment, Mr. Chair, for approval.

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

8 **Board:** Yes.

9 **Bradley Lambert:** Opposed no. [No response] Thank you, Mr. Swartz. That is approved.

10 **Item Number 9**

11 **Bradley Lambert:** We're calling Docket Item Number 9. A petition from CNX Gas Company,
12 LLC, for (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow
13 Agent, attributable to Tracts 1B & 1D, as depicted upon the annexed table; and (2) authorization
14 to begin paying royalties directly to the parties identified in the petition. This is from Unit FF15.
15 Docket Number VGOB-05-1018-1511-02. All parties wishing to testify please come forward.

16 **Mark Swartz:** Mark Swartz and Anita Duty.

17 **Bradley Lambert:** You may proceed, Mr. Swartz.

18 **Mark Swartz:** Will you state your name for us?

19 **Anita Duty:** Anita Duty.

20 **Mark Swartz:** Who do you work for?

21 **Anita Duty:** CNX Land, LLC.

22 **Mark Swartz:** Are you here on behalf of CNX Gas Company?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** Are you requesting, on their behalf, a disbursement of escrowed funds from
25 FF15?

26 **Anita Duty:** Yes.

27 **Mark Swartz:** The reason for the disbursement request is what?

1 **Anita Duty:** We have a CBM deed and a House Bill, coal dismissal.

2 **Mark Swartz:** Okay. And, you summarize those reasons in paragraph five. Correct?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** Harrison-Wyatt and others have entered into a royalty split agreement via a
5 deed. Correct?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** Is that a 50/50 split agreement?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** In Tract 1D, we have a gas claimant under the House Bill?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** Did you provide notice to the coal claimants?

12 **Anita Duty:** I did.

13 **Mark Swartz:** Have they had 45 days, already, or do we need to...?

14 **Anita Duty:** They have.

15 **Mark Swartz:** Okay. In the 45 days that they've had to let us know that they've reached an
16 agreement or have started a lawsuit, have you received any indication that that has occurred,
17 from the coal claimants?

18 **Anita Duty:** No.

19 **Mark Swartz:** Under the statute, the gas claimants would be entitled to receive the funds?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** With regard to the disbursement, then, have you prepared a Table 1?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** This is a percentage disbursement?

24 **Anita Duty:** It is.

25 **Mark Swartz:** After the disbursement is made, it will zero out the account?

26 **Anita Duty:** It will.

1 **Mark Swartz:** So, the percentages, presumably, total 100?

2 **Anita Duty:** Yes.

3 **Mark Swartz:** With regard to who should receive those payments, with regard to Tract 1B &
4 1D, have you provided names and addresses?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** And, have you provided the Escrow Agent with the percentages that it should
7 use to calculate the dollar amounts by multiplying those percentages for each person times the
8 balance on hand at the time of the disbursement to calculate the dollar amount?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** And those percentages are stated in the second column from the right?

11 **Anita Duty:** They are.

12 **Mark Swartz:** The wells that contributed to this account are identified, as well. What are they?

13 **Anita Duty:** FF15 and FF15A.

14 **Mark Swartz:** And, you've given a revised Exhibit E that shows no further escrow required?

15 **Anita Duty:** Correct.

16 **Mark Swartz:** And, you're asking permission to pay these people directly, in the future?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** Is there any mailing instructions, other than as provided on Table 1?

19 **Anita Duty:** No.

20 **Mark Swartz:** Did you do an Exhibit J reconciliation, with regard to this Unit?

21 **Anita Duty:** We did.

22 **Mark Swartz:** That was through what date?

23 **Anita Duty:** July 31, 2015.

24 **Mark Swartz:** You've accounted for the total deposited, disbursement, prior disbursements,
25 interest and fees. You came up with a balance and then compared that to what the Escrow Agent
26 currently has on hand. Was there any difference?

27 **Anita Duty:** No. Zero.

1 **Mark Swartz:** In comparing royalty payments made or sent to Escrow Agents and deposits
2 made by those Escrow Agents, were you able to account for every royalty payment as a deposit?

3 **Anita Duty:** We were.

4 **Mark Swartz:** I think that's all I have, Mr. Chairman.

5 **Bradley Lambert:** Questions from the Board? [No response] Anything further, Mr. Swartz?

6 **Mark Swartz:** No.

7 **Bradley Lambert:** Do I have a motion?

8 **Donnie Rife:** Motion made for approval, Mr. Chair.

9 **Bill Harris:** Second.

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

12 **Board:** Yes.

13 **Bradley Lambert:** Opposed no. [No response] Thank you. That's approved.

14 **Item Number 10**

15 **Bradley Lambert:** We're calling Docket Item Number 10. A petition from CNX Gas
16 Company, LLC, for (1) the disbursement of escrowed funds heretofore deposited with the
17 Board's Escrow Agent, attributable to Tracts 1, 3 & 4, as depicted upon the annexed table; and
18 (2) authorization to begin paying royalties directly to the parties to the prevailing plaintiffs listed
19 in the petition. This is from Unit ZZZ33. Docket Number VGOB-11-1220-3013-01. All parties
20 wishing to testify please come forward.

21 **Mark Swartz:** Mark Swartz and Anita Duty.

22 **Jen Shaver:** Jen Shaver, on behalf of the Poulos/Rogers individuals.

23 **Bradley Lambert:** You may proceed, Mr. Swartz.

24 **Mark Swartz:** Thank you. Anita, state your name for us.

25 **Anita Duty:** Anita Duty.

26 **Mark Swartz:** Who do you work for?

27 **Anita Duty:** CNX Land, LLC.

1 **Mark Swartz:** Are you here on behalf of CNX Gas Company?

2 **Anita Duty:** Yes.

3 **Mark Swartz:** Are you requesting a disbursement from the escrow account established for
4 ZZZ33?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** The reason for that request is, we've heard this before, today. The Rogers
7 cousins prevailed in a lawsuit and this is to effectuate the relief from that lawsuit?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** And also requesting an order to be able to pay them directly, in the future?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** You've provided a copy of the decision?

12 **Anita Duty:** I have.

13 **Mark Swartz:** The payments to the cousins are to be mailed to someone else?

14 **Anita Duty:** Don Barrett.

15 **Mark Swartz:** And, you've provided that information, as well?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** With regard to the amounts attributable to the cousins, as individuals, and the
18 calculation of those amounts, have you provided a Table 1?

19 **Anita Duty:** Yes.

20 **Mark Swartz:** In Table 1, for each of the Tracts affected here, have you listed the people for
21 whose account the payments are to be made?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** Have you listed, in the second column from the right, the percentage that the
24 Escrow Agent should use when calculating the payment?

25 **Anita Duty:** Yes.

26 **Mark Swartz:** And those percentages for each person should be multiplied by the Escrow
27 Agent times the balance on hand at the time the disbursement is made, to calculate the dollar
28 amount?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** Collectively, those payments should be made to Mr. Barrett?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** The wells that contributed to this escrow account?

5 **Anita Duty:** ZZZ33 and ZZZ33A.

6 **Mark Swartz:** Once those disbursements are made, the escrow account can be closed?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** And you have provided a revised Exhibit E that says that?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** With regard to a reconciliation, did you prepare an Exhibit J?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** When you prepared Exhibit J, through what date did you do that comparison?

13 **Anita Duty:** July 31, 2015.

14 **Mark Swartz:** Did you attempt to identify all royalty checks paid, with regard to this Unit and,
15 then, attempt to identify a deposit for each check?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** When you did that, were you able to determine that all royalty checks were
18 deposited?

19 **Anita Duty:** With the exception of a correction that needed to be made.

20 **Mark Swartz:** Okay. And, that is listed at the foot of your Exhibit. Correct?

21 **Anita Duty:** Yes.

22 **Mark Swartz:** Tell the Board about that correction.

23 **Anita Duty:** There was \$2,431.07 that belonged to Unit ZZZ33, but was deposited into the A33
24 account. It looks like the correction was made on the June 30, 2015, reconcile report.

25 **Mark Swartz:** So, that money has found its way back into ZZZ33?

26 **Anita Duty:** Yes.

1 **Mark Swartz:** And, it's reflected in the balance that you're showing?

2 **Anita Duty:** It is.

3 **Mark Swartz:** It's in the \$2989.82?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** The difference, once that correction is made, between the amounts paid, interest
6 and fees and the amount on hand, there's no difference. It's the same?

7 **Anita Duty:** Right.

8 **Mark Swartz:** Okay. You've provided documentation with regard to payments going to Don
9 Barrett?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** That's all I have, Mr. Chairman.

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

13 **Mary Quillen:** Just one clarification. That check was deposited into 33A and should have been
14 into ZZZ33?

15 **Anita Duty:** It belonged in the account that we're trying to disburse, but it was placed into A33.

16 **Mary Quillen:** A33. Got it. I just wanted to clarify that.

17 **Bradley Lambert:** Any other questions from the Board? [No response] Ms. Shaver?

18 **Jen Shaver:** No questions.

19 **Bradley Lambert:** Anything further, Mr. Swartz?

20 **Mark Swartz:** No.

21 **Bradley Lambert:** Do I have a motion?

22 **Donnie Rife:** Motion made for approval, Mr. Chair.

23 **Bill Harris:** Second.

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

26 **Board:** Yes.

27 **Bradley Lambert:** Opposed no. [No response] Thank you, folks. That one is approved.

1 **Item Number 11**

2 **Bradley Lambert:** We're calling Docket Item Number 11. A petition from CNX Gas
3 Company, LLC, for (1) the disbursement of escrowed funds heretofore deposited with the
4 Board's Escrow Agent, attributable to Tracts 2 & 3, as depicted upon the annexed table; and (2)
5 authorization to begin paying royalties directly to the parties to the prevailing plaintiffs listed in
6 the exhibit. This is Unit B33. Docket Number VGOB-12-0417-3049-02. All parties wishing to
7 testify please come forward.

8 **Mark Swartz:** Mark Swartz and Anita Duty.

9 **Jen Shaver:** Jen Shaver, on behalf of the Poulos/Rogers individuals.

10 **Bradley Lambert:** You may proceed, Mr. Swartz.

11 **Mark Swartz:** Thank you. State your name for us.

12 **Anita Duty:** Anita Duty.

13 **Mark Swartz:** Who do you work for?

14 **Anita Duty:** CNX Land, LLC.

15 **Mark Swartz:** And, you're here on behalf of the operator, CNX Gas Company?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** And the operator is requesting a disbursement of funds from the account
18 maintained for B33?

19 **Anita Duty:** Yes.

20 **Mark Swartz:** And, the reason for the request is the same litigation involving the cousins that
21 we've been talking about today?

22 **Anita Duty:** Correct.

23 **Mark Swartz:** And, you're requesting that the cousins receive disbursements, as delineated in
24 Table 1?

25 **Anita Duty:** Yes.

26 **Mark Swartz:** And, there are special instructions here that, although the payments are made for
27 the benefit of the cousins, they're to be sent to Mr. Barrett?

28 **Anita Duty:** Yes.

1 **Mark Swartz:** And you provided that information in the packet?

2 **Anita Duty:** Yes.

3 **Mark Swartz:** Have you listed each one of the cousins in Table 1?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** Have you, for each cousin, identified the percentage that the Escrow Agent
6 should use to multiply times the balance on hand, at the time the disbursement is made, to get the
7 dollar amount?

8 **Anita Duty:** We have.

9 **Mark Swartz:** The wells contributing to this account?

10 **Anita Duty:** B33A.

11 **Mark Swartz:** And, the escrow account is still going to be required after those disbursements
12 because we have some unknowns and unlocatables. Correct?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** Have you provided a revised Exhibit E, with regard to that?

15 **Anita Duty:** Yes. I just need to clarify one more thing. In addition to the Exhibit E that we
16 have there, as far as being revised. We had also removed some individuals that were being paid
17 directly, rather than being escrowed. That was one of the questions that Sarah had, that we
18 would work with her to let her know that those folks have always been on pay. So, there's an
19 additional revision on Exhibit E.

20 **Rick Cooper:** That was the Charles Earl Simpson heirs. Correct?

21 **Anita Duty:** Yes.

22 **Mark Swartz:** We've already filed or uploaded a revised Exhibit E?

23 **Anita Duty:** Those people were excluded from Exhibit E and she was questioning that, asked
24 why they were missing. She just wanted to make sure we clarified it.

25 **Mark Swartz:** Okay. Have you provided a revised Exhibit EE?

26 **Anita Duty:** Yes.

27 **Mark Swartz:** PDF Page 15, you ran a reconciliation through what date?

28 **Anita Duty:** May 31, 2015.

1 **Mark Swartz:** Were you able to find a deposit for every royalty check?
2 **Anita Duty:** Yes.
3 **Mark Swartz:** When you compared your calculated total to the balance on hand in the bank,
4 there was zero difference. Correct?
5 **Anita Duty:** Yes.
6 **Mark Swartz:** That's all I have, Mr. Chairman.
7 **Bradley Lambert:** Questions from the Board? [No response] Ms. Shaver?
8 **Jen Shaver:** No questions.
9 **Bradley Lambert:** Anything further, Mr. Swartz?
10 **Mark Swartz:** No.
11 **Bradley Lambert:** Do I have a motion?
12 **Donnie Rife:** Motion made for approval, Mr. Chair.
13 **Bill Harris:** Second.
14 **Bradley Lambert:** I have a motion and I have a second. Any further discussion? [No
15 response] All in favor signify by saying yes.
16 **Board:** Yes.
17 **Bradley Lambert:** Opposed no. [No response] Thank you, folks. That is approved.

18 **Item Number 12**

19 **Bradley Lambert:** We're calling Docket Item Number 12. A petition from CNX Gas
20 Company, LLC, for (1) the disbursement of escrowed funds heretofore deposited with the
21 Board's Escrow Agent, attributable to Tracts 1, 2, 5, 6, & 7, as depicted upon the annexed table;
22 and (2) authorization to begin paying royalties directly to the parties to the prevailing plaintiffs
23 listed in the petition. This is Docket Number VGOB-13-0618-4014-01. All parties wishing to
24 testify please come forward.

25 **Mark Swartz:** Mark Swartz and Anita Duty

26 **Jen Shaver:** Jen Shaver, on behalf of the Poulos/Rogers individuals

27 **Bradley Lambert:** You may proceed, Mr. Swartz.

1 **Mark Swartz:** State your name for us.

2 **Anita Duty:** Anita Duty.

3 **Mark Swartz:** You work for?

4 **Anita Duty:** CNX Land, LLC.

5 **Mark Swartz:** Are you here on behalf of CNX Gas Company?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** Is CNX Gas Company requesting a disbursement?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** The reason, again, is the fact that the Rogers cousins prevailed in some
10 litigation?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** That determined their title to the 25% interest that had been escrowed?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** You're asking for the disbursement and, also, the ability to pay them directly, in
15 the future. Is that right?

16 **Anita Duty:** We are.

17 **Mark Swartz:** If we go to Table 1, you identify the tracts that are affected by the disbursement
18 request?

19 **Anita Duty:** Yes.

20 **Mark Swartz:** And, this is a percentage disbursement request, not a fixed dollar amount?

21 **Anita Duty:** Yes, it is.

22 **Mark Swartz:** With regard to the various tracts, the tracts affected by the disbursement request
23 are 1, 2, 5, 6, & 7. Is that correct?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** For each tract, have you listed the people for whose benefit the disbursements
26 are being made?

27 **Anita Duty:** Yes.

1 **Mark Swartz:** You've provided their addresses?

2 **Anita Duty:** I have.

3 **Mark Swartz:** In the second column from the right, you've provided a percentage for each
4 person in each tract, that the Escrow Agent should use when calculating the dollar amounts due?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** And, that percentage should simply be multiplied times the balance on hand, on
7 the date of the disbursement, to get the amount?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** Are there special instructions, here, that the checks should be mailed by the
10 Escrow Agent to Mr. Barrett?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** Have you provided documentation authorizing that, from the various royalty
13 owners, with your application?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** The well that contributed to this account?

16 **Anita Duty:** A33.

17 **Mark Swartz:** Have you revised Exhibit E to take the Rogers cousins out of the equation?

18 **Anita Duty:** Yes.

19 **Mark Swartz:** But, we're still going to need escrow?

20 **Anita Duty:** We are.

21 **Mark Swartz:** Because of unknowns and unlocatables. Correct?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** And, you've identified that in the revised Exhibit E?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** You've also provided a revised Exhibit EE that sort of gives the history, here?

26 **Anita Duty:** Yes.

27 **Mark Swartz:** Lastly, looking at Exhibit J, you did a reconciliation through what date?

1 **Anita Duty:** July 31, 2015.

2 **Mark Swartz:** Did you attempt to identify all royalty payments and compare those to the
3 deposits?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** When you did that, were you able to, with one exception, account for all
6 deposits?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** What was the exception?

9 **Anita Duty:** This is the account where the money was, erroneously, deposited and it was
10 transferred into ZZZ33.

11 **Mark Swartz:** So, we heard about this, with regard to ZZZ33?

12 **Anita Duty:** Yes.

13 **Mark Swartz:** When you fixed that mistake and got the money back into ZZZ33, and then
14 compared the deposits, interest and fees, and that total to the bank balance, did you find any
15 difference?

16 **Anita Duty:** No. Zero.

17 **Mark Swartz:** That's all I have, Mr. Chairman.

18 **Bradley Lambert:** Any questions from the Board? [No response] Ms. Shaver?

19 **Jen Shaver:** No questions.

20 **Bradley Lambert:** Anything further, Mr. Swartz?

21 **Mark Swartz:** No.

22 **Bradley Lambert:** Do I have a motion?

23 **Donnie Rife:** Motion for approval, Mr. Chair.

24 **Bill Harris:** Second.

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

27 **Board:** Yes.

1 **Bradley Lambert:** Opposed no. [No response] Thank you, Mr. Swartz.

2 **Mark Swartz:** Thank you very much.

3 **Item Number 13**

4 **Bradley Lambert:** We're calling Docket Item Number 13. A petition from ARP Mountaineer
5 Production, LLC, requesting the Virginia Gas and Oil Board to enter an order, transferring the
6 right to operate all wells listed in this application that were established by Board Order, from
7 GeoMet Operating Company, Inc., to ARP Mountaineer Production, LLC. Docket Number
8 VGOB-15-1020-4073-01. All parties wishing to testify please come forward.

9 **Tim Scott:** Tim Scott and Heidi Dilworth for ARP Mountaineer Production, LLC.

10 **Bradley Lambert:** I'm sorry. I didn't get the name.

11 **Tim Scott:** Heidi Dilworth.

12 **Bradley Lambert:** Heidi. Good morning.

13 **Tim Scott:** Good morning.

14 **Bradley Lambert:** We don't usually see Mr. Scott until late in the afternoon.

15 **Tim Scott:** I'm the night shift.

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

18 **Heidi Dilworth:** I do.

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

20 **Tim Scott:** Thank you, Mr. Chairman. Ms. Dilworth, please state your name, by whom you are
21 employed and your job description.

22 **Heidi Dilworth:** My name is Heidi Dilworth. I'm employed by Atlas Energy Group, or Atlas
23 Resource Partners. My job title is Accounting Manager.

24 **Tim Scott:** Okay. You're familiar with this application. Is that correct?

25 **Heidi Dilworth:** Yes.

26 **Tim Scott:** GeoMet, by letter to the Board or to the Director, has asked that the operatorship be
27 transferred to ARP. Is that right?

28 **Heidi Dilworth:** Yes.

1 **Tim Scott:** As I said, that application was included with our application. Is that right?

2 **Heidi Dilworth:** Yes.

3 **Tim Scott:** How did we notify parties who would be affected by this application or the petition
4 that we filed today?

5 **Heidi Dilworth:** Via the Bluefield Daily Telegraph.

6 **Tim Scott:** And, that was published on September 23rd? Is that right?

7 **Heidi Dilworth:** Yes.

8 **Tim Scott:** Have we included a notice that was to be published with our application?

9 **Heidi Dilworth:** Yes.

10 **Tim Scott:** What was the effective date of the purchase agreement?

11 **Heidi Dilworth:** The effective date was January 1, 2014.

12 **Tim Scott:** And, there was a period of time in which GeoMet continued to operate, on behalf of
13 ARP. Is that correct?

14 **Heidi Dilworth:** Yes, that's correct.

15 **Tim Scott:** That's our case. That's it.

16 **Bradley Lambert:** Any questions from the Board? [No response]

17 **Tim Scott:** Mr. Chairman, I would like to alert the Board to one matter on the notice that was
18 filed in the newspaper. At least, as to three of these units, there were no docket numbers because
19 they weren't subject to pooling, so we've got on this application or the exhibit says, "No docket
20 number," but we are still requesting the transfer of operators.

21 **Rick Cooper:** Mr. Cooper left, but we have to check that we're okay, that ARP is approved to
22 do business in Virginia?

23 **Heidi Dilworth:** Yes.

24 **Tim Scott:** I'll go ahead and ask Ms. Dilworth. There is a bond on file. Is that correct?

25 **Heidi Dilworth:** Yes.

26 **Tim Scott:** And, ARP is qualified to operate in Virginia. Is that correct?

27 **Heidi Dilworth:** Yes.

1 **Bradley Lambert:** Thank you. Any other questions from the Board? [No response] Ms.
2 Shaver, do you have anything? [No response] Do I have a motion?

3 **Donnie Rife:** Motion made for approval, Mr. Chair.

4 **Bill Harris:** Second.

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

7 **Board:** Yes.

8 **Bradley Lambert:** Opposed no. [No response] Mr. Scott, that is approved.

9 **Item Number 22**

10 **Bradley Lambert:** Folks, we're going to jump, now, to Docket Item Number 22. A petition
11 from ARP Mountaineer Production, LLC, for the disbursement of escrowed funds heretofore
12 deposited with the Board's Escrow Agent, attributable to Tracts 2 and 5, as depicted upon the
13 annexed table; and (2) authorization to begin paying royalties directly to the parties to the
14 prevailing plaintiffs listed in the petition. This is from Unit A-37. Docket Number VGOB-09-
15 0217-2468-01. All parties wishing to testify please come forward.

16 **Tim Scott:** Tim Scott and Heidi Dilworth for ARP Mountain Production, LLC.

17 **Jen Shaver:** Jen Shaver, on behalf of the Poulos/Rogers individuals.

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

19 **Tim Scott:** Thank you, Mr. Chairman. Again, Ms. Dilworth, your name, by whom are you
20 employed and your job description, please.

21 **Heidi Dilworth:** My name is Heidi Dilworth. I'm employed by Atlas Energy Group and Atlas
22 Resource Partners. My job title is Accounting Manager.

23 **Tim Scott:** Who operates this unit?

24 **Heidi Dilworth:** ARP.

25 **Tim Scott:** GeoMet previously operated this unit. Is that correct?

26 **Heidi Dilworth:** Yes.

27 **Tim Scott:** When did ARP assume operatorship of this particular unit?

1 **Heidi Dilworth:** We assumed operatorship on August 12, 2014, which was the end of the
2 transition services agreement.

3 **Tim Scott:** That was between the time that they continued operating and you all, ultimately,
4 took over. Is that correct?

5 **Heidi Dilworth:** Yes, that's correct.

6 **Tim Scott:** Okay. Prior to the time that ARP began making deposits into the escrow account,
7 who made those deposits?

8 **Heidi Dilworth:** GeoMet.

9 **Tim Scott:** You are familiar with the petition that we filed. Is that correct?

10 **Heidi Dilworth:** Yes.

11 **Tim Scott:** Have we noticed all parties who were required to receive notice, today?

12 **Heidi Dilworth:** Yes.

13 **Tim Scott:** And we provided proof of our mailings to the Board. Is that correct?

14 **Heidi Dilworth:** Yes.

15 **Tim Scott:** The petition that we filed includes an Exhibit J. Is that right?

16 **Heidi Dilworth:** Yes.

17 **Tim Scott:** That Exhibit J is a two-part exhibit. Is that right?

18 **Heidi Dilworth:** Yes.

19 **Tim Scott:** So, it includes not only the deposits that were made by GeoMet, but also the
20 deposits that were made by ARP. Is that right?

21 **Heidi Dilworth:** Yes.

22 **Tim Scott:** And we have at least two exhibits to the petition, Exhibits E and EE. Is that correct?

23 **Heidi Dilworth:** Yes.

24 **Tim Scott:** And E shows if there are continued escrow accounts to be maintained and EE does
25 the distributions. Is that right?

26 **Heidi Dilworth:** Yes.

1 **Tim Scott:** Now, the basis for this particular disbursement is the court case that has been
2 discussed today, involving LBR Holdings and the Rogers/Poulos respondents. Is that correct?

3 **Heidi Dilworth:** Yes.

4 **Tim Scott:** That case was decided in favor of the Rogers cousins. Is that right?

5 **Heidi Dilworth:** Yes.

6 **Tim Scott:** We've included a copy of the final order with our petition. Is that right?

7 **Heidi Dilworth:** Yes.

8 **Tim Scott:** As to A-37, from what tracts will the money be disbursed?

9 **Heidi Dilworth:** 2 and 5.

10 **Tim Scott:** Is this a complete distribution?

11 **Heidi Dilworth:** Yes.

12 **Tim Scott:** This is the one we have Tract 3 is going to remain open. Is that right?

13 **Heidi Dilworth:** Yes.

14 **Tim Scott:** Okay. So, the account will not be closed. Is that right?

15 **Heidi Dilworth:** That's correct.

16 **Tim Scott:** Now, you reviewed Exhibit J as a part of the petition. Is that correct?

17 **Heidi Dilworth:** Yes.

18 **Tim Scott:** And, you've looked at the deposits that were made and the costs that were expended.
19 Is that right?

20 **Heidi Dilworth:** Yes.

21 **Tim Scott:** You also reviewed the Escrow Agent's reconciliation. Is that correct?

22 **Heidi Dilworth:** Yes.

23 **Tim Scott:** And, the figures do reconcile. Is that right?

24 **Heidi Dilworth:** Yes.

25 **Tim Scott:** What's the effective date of the reconciliation?

26 **Heidi Dilworth:** April 2015.

1 **Tim Scott:** Okay. Have you asked that the sums on deposit be disbursed? Is that correct?

2 **Heidi Dilworth:** Yes.

3 **Tim Scott:** And that, heretofore, the monies will be paid directly to the respondents. Is that
4 right?

5 **Heidi Dilworth:** Yes.

6 **Tim Scott:** We have a direction from the parties respondent that the monies that they are to
7 receive are to be delivered to them at Don Barrett's office. Is that correct?

8 **Heidi Dilworth:** Yes.

9 **Tim Scott:** That's all I have, Mr. Chairman.

10 **Bradley Lambert:** Any questions from the Board? [No response]

11 **Jen Shaver:** No questions.

12 **Bradley Lambert:** Anything further, Mr. Scott?

13 **Tim Scott:** That's all I have, Mr. Chairman.

14 **Bradley Lambert:** Do I have a motion?

15 **Bill Harris:** Motion to approve.

16 **Mary Quillen:** Second.

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

19 **Board:** Yes.

20 **Bradley Lambert:** Opposed no. [No response] Thank you, folks. That one is approved.

21 **Item Numbers 14 through 21 and 23 through 31**

22 **Bradley Lambert:** If it's okay, and I know Mr. Cooper has discussed it with the attorneys, we're
23 going to try to combine the rest of these since they're similar. What we'll do is I will read the
24 Docket Number and the Tracts involved and the parties involved. We'll go through all of them
25 and put them together. Is that acceptable to both of you?

26 **Tim Scott:** Yes, sir. That's fine.

27 **Jen Shaver:** Yes.

1 **Bradley Lambert:** If I can get all of this information correct.

2 **Tim Scott:** One thing, Mr. Chairman. We had to correct some of the exhibits that were actually
3 filed with the orders. Originally, on C-45 and D-44, there were two parties of the A.G. Day heirs
4 that were listed as unknown and unlocatable when, in fact, that was not the case. So, when we
5 filed our E and EE with the Board, we had listed them on E when they should have been on EE
6 because there is an eternal suspense. But, there has never been any escrow deposits made. I
7 have these exhibits to pass out to the Board because we got them prepared too late to get them to
8 your packets.

9 **Bradley Lambert:** Which Docket Number would that be?

10 **Tim Scott:** That would be C-45, which would be number 14. Then, D-44, which is number 28.
11 I'll pass those to the Board.

12 **Bradley Lambert:** If you'll go ahead and pass those over to the Board and we'll accept those.

13 **Tim Scott:** Great. Thank you.

14 **Bradley Lambert:** Ms. Shaver, have you seen them?

15 **Jen Shaver:** I have seen the one for C-45, I believe.

16 **Bradley Lambert:** Do you need time to look at those, Ms. Shaver?

17 **Jen Shaver:** No. They appear fine.

18 **Bradley Lambert:** We'll accept those revised exhibits. Also, Mr. Scott, the first thing I would
19 like for you to do before we start into testimony is if you could have Ms. Dilworth testify that
20 Table 1 in each exhibit is correct, as submitted. Also, Exhibit J is correct, as submitted. Then,
21 we won't have to go through each and every one of those.

22 **Tim Scott:** Okay.

23 **Bradley Lambert:** A petition from ARP Mountaineer Production, LLC, for the disbursement of
24 escrowed funds heretofore deposited with the Board's Escrow Agent, as depicted upon the
25 annexed tables in each of the exhibits that will be read; and (2) authorization to begin paying
26 royalties directly to the parties to the prevailing plaintiffs; Talmage G. Rogers, III, Derek
27 Browning Rogers, Kevin Rogers, Shaun Rogers, Gregory Poulos, Jason Poulos and Pamela
28 Poulos. This is for Tract 1 of Unit C-45. Docket Number VGOB-06-1114-1790-01. It is for
29 Tract 1 in Unit A-41. Docket Number VGOB-06-1114-1794-01. It is for Tracts 2 and 4 in Unit
30 D-33. Docket Number VGOB-06-1114-1803-01. It is for Tracts 1, 3 and 4 in Unit TTT-36.
31 Docket Number VGOB-06-1219-1848-01. It is for Tracts 1, 2 and 4 in Unit SSS-35. Docket
32 Number VGOB-07-0918-2008-01. For Tracts 1 and 4 in Unit TTT-35. Docket Number VGOB-
33 07-0918-2009-01. For Tracts 1 and 2 in Unit RRR-36. Docket Number VGOB-07-1016-2066-

1 01. For Tracts 1 and 2 in Unit QQQ-36. Docket Number VGOB-07-1113-2080-01. For Tract 1
2 in Unit ZZZ-41. Docket Number VGOB-09-0616-2530-01. For Tracts 2 and 4 in Unit B-36.
3 Docket Number VGOB-09-0616-2532-01. For Tract 3 in Unit E-33. Docket Number VGOB-
4 09-1020-2601-01. For Tracts 1 and 2 in Unit B-43. Docket Number VGOB-09-1020-2602-01.
5 For Tract 1 in Unit D-43. Docket Number VGOB-09-1020-2603-01. For Tract 1 in Unit D-44.
6 Docket Number VGOB-09-1020-2604-01. For Tracts 1, 2, 3 and 4 in Unit A-42. Docket
7 Number VGOB-09-1020-2609-01. For Tracts 3 and 4 in Unit B-34. Docket Number VGOB-09-
8 1020-2775-01. And Tract 2 in Unit C-34. Docket Number VGOB-06-1114-2776-01. All
9 parties wishing to testify please come forward.

10 **Tim Scott:** Tim Scott and Heidi Dilworth for ARP Mountain Production, LLC

11 **Jen Shaver:** Jen Shaver, on behalf of the Poulos/Rogers individuals.

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

13 **Tim Scott:** Thank you, Mr. Chairman. Ms. Dilworth, one more time, your name, by whom you
14 are employed and your job description, please.

15 **Heidi Dilworth:** My name is Heidi Dilworth. I'm employed by Atlas Energy Group and Atlas
16 Resource Partners. My job title is Accounting Manager.

17 **Tim Scott:** As to the docket items just called by Mr. Chairman, who operates these units?

18 **Heidi Dilworth:** ARP.

19 **Tim Scott:** GeoMet was the previous operator. Is that correct?

20 **Heidi Dilworth:** Yes.

21 **Tim Scott:** When did ARP assume operatorship?

22 **Heidi Dilworth:** August 12, 2014, which was the end of the transition services agreement.

23 **Tim Scott:** Now, deposits have been made into escrow accounts are the subject of this
24 disbursement today. Is that right?

25 **Heidi Dilworth:** Yes.

26 **Tim Scott:** Who made those deposits?

27 **Heidi Dilworth:** Prior to August 12, 2014, GeoMet did. After that date, beginning in October
28 2014, ARP made those deposits.

29 **Tim Scott:** And, you're familiar with the disbursement petition. Is that right?

30 **Heidi Dilworth:** Yes.

1 **Tim Scott:** And, we have notified the parties, required to be notified, by certified mail. Is that
2 right?

3 **Heidi Dilworth:** Yes.

4 **Tim Scott:** And we also provided proof of mailing to the Director and to the Board that we have
5 accomplished that mailing. Is that correct?

6 **Heidi Dilworth:** Yes.

7 **Tim Scott:** As to each of the petitions that are filed, we have an Exhibit J, which is attached. Is
8 that correct?

9 **Heidi Dilworth:** Yes.

10 **Tim Scott:** That's a two-part exhibit that includes deposits made by GeoMet and, also, deposits
11 made by ARP. Is that correct?

12 **Heidi Dilworth:** Yes.

13 **Tim Scott:** We also have Exhibits E and EE, which reflect whether there will be continued
14 escrows and the disbursements to be made after the date of these petitions. Is that correct?

15 **Heidi Dilworth:** Yes.

16 **Tim Scott:** We have discussed this before, but there was a final adjudication as to ownership of
17 the coalbed methane underlying these units. Is that correct?

18 **Heidi Dilworth:** Yes.

19 **Tim Scott:** We've included a copy of that file order with our petition. Is that also correct?

20 **Heidi Dilworth:** Yes.

21 **Tim Scott:** Mr. Chairman, do you want Ms. Dilworth to identify each tract with each unit, just
22 going down the list, as to the ones that will be disbursed? Is that the way you want us to do that?

23 **Bradley Lambert:** I don't think that would be necessary, unless Ms. Shaver thinks that it's
24 necessary.

25 **Jen Shaver:** No, I don't.

26 **Tim Scott:** In our petitions, we've listed each of the tracts that would be subject to the
27 disbursement, once an order is entered. Is that correct?

28 **Heidi Dilworth:** Yes.

1 **Tim Scott:** For each of these units, this will be a complete disbursement. Is that also correct?

2 **Heidi Dilworth:** Yes.

3 **Tim Scott:** For each of these units, the accounts will then be closed. Is that correct?

4 **Heidi Dilworth:** Yes.

5 **Tim Scott:** Now, as to the Exhibit J's that we have filed, those exhibits were based on the
6 deposits, with income and expenses for both GeoMet and for ARP. Is that correct?

7 **Heidi Dilworth:** Yes.

8 **Tim Scott:** In looking at those Exhibits J, those are true and accurate representations of the
9 amounts that are in those accounts and will be disbursed. Is that correct?

10 **Heidi Dilworth:** Yes.

11 **Tim Scott:** You've also reconciled those amounts with the escrow account reconciliation filed
12 with the Board from the Escrow Agent, as well as those with the operator. Is that also correct?

13 **Heidi Dilworth:** Yes.

14 **Tim Scott:** Following this order, then there will be direct payments made to parties respondent.
15 Is that correct?

16 **Heidi Dilworth:** Yes.

17 **Tim Scott:** We've also received instruction that the checks from these escrow accounts will be
18 made to Don Barrett, on behalf of these, or to these individuals in care of Don Barrett. Is that
19 correct?

20 **Heidi Dilworth:** Yes.

21 **Tim Scott:** That's all I have, Mr. Chairman.

22 **Bradley Lambert:** Any questions from the Board? [No response] Ms. Shaver?

23 **Jen Shaver:** Mr. Scott, I have one question as to SSS-35. On the fourth page of the
24 disbursement petition.

25 **Mary Quillen:** What agenda item is that?

26 **Rick Cooper:** 18.

27 **Jen Shaver:** Thank you. My understanding is that the tracts at issue in this unit are 1, 2 and 4.
28 On this list, it shows LBR Tracts as 1, 2 and 3.

1 **Tim Scott:** It should be 1, 2 and 3. The only ones that were holding on by LBR at 68, 69 and
2 70.

3 **Jen Shaver:** The Exhibit EE's, however, show Tracts 1, 2 and 4.

4 **Tim Scott:** We'll have to revise those because if you look at the last page, it shows the three
5 tracts. I don't know how that didn't get on there. There are three tracts to be disbursed.

6 **Jen Shaver:** My question is to the numbering of those tracts.

7 **Tim Scott:** It should be 1, 2 and 3. You're right.

8 **Jen Shaver:** Okay.

9 **Tim Scott:** Not 1, 2 and 4.

10 **Bradley Lambert:** Table 1 also reflects 4?

11 **Tim Scott:** Yes, sir. We'll revise that and provide the Board with that revision.

12 **Bradley Lambert:** Ms. Shaver, everything's okay except the tract numbers?

13 **Jen Shaver:** Correct.

14 **Tim Scott:** Mr. Chairman, there is one other item. Ms. Dilworth, the escrow account
15 reconciliation is good through what date?

16 **Heidi Dilworth:** April 30, 2015.

17 **Tim Scott:** We do have one other, though, that's different. That's TTT-36. That escrow account
18 reconciliation is June 30 because the deposits didn't start until June of 2015. There were no
19 deposits made before that. That's the reason for the difference on that date. That's correct, isn't
20 it?

21 **Heidi Dilworth:** Yes.

22 **Bradley Lambert:** Any other questions from the Board? [No response] Anything further, Ms.
23 Shaver?

24 **Jen Shaver:** No, sir.

25 **Bradley Lambert:** Anything further, Mr. Scott?

26 **Tim Scott:** No, Mr. Chairman.

27 **Bradley Lambert:** Do I have a motion? This is a motion to approve all the docket items that
28 were read, previously, by the Chairman, that we received testimony on.

1 **Donnie Rife:** Motion to approve all the docket items read by the Chairman.

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

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

5 **Board:** Yes.

6 **Bradley Lambert:** Opposed no. [No response] Thank you, Mr. Scott. Thank you, Ms. Shaver.
7 Those are all approved.

8 **Item Number 32**

9 **Bradley Lambert:** The next item on our docket is the Board will receive an update of Board
10 and Division activities from the staff. Mr. Cooper.

11 **Rick Cooper:** I think I've already said this once. Just for a matter of record, the Board had
12 wanted us to do a monthly report on the disbursements. We have disbursed \$106,307.67 under the
13 coal dismissals. In addition to that, some of these items come in front of the Board. We have
14 actually disbursed since July 1st, \$941,001.43. I'll try to report this monthly, to let you know
15 how we're tracking these items.

16 **Bill Harris:** What's the \$941,001.43?

17 **Rick Cooper:** That's the total disbursements through September, \$941,001.43. I believe, in
18 regard, I had sent you an email. We did not have the September number, at the time.

19 **Paul Kugelman:** I haven't seen that one, yet. I've been out.

20 **Rick Cooper:** Okay.

21 **Bill Harris:** This is year-to-date?

22 **Rick Cooper:** That's from July 1st.

23 **Bill Harris:** From July 1st.

24 **Rick Cooper:** That's fiscal year. Just to give you a little history, the last fiscal year, we
25 disbursed \$2.8 million. That would be from June 30 this past year to the previous July 1st.

26 **Bradley Lambert:** Thank you.

27 **Mary Quillen:** We're just about almost halfway through this fiscal year.

28 **Rick Cooper:** Our fiscal year kicks in July 1st. This is only a three-month period, right here.

1 **Mary Quillen:** Right.
2 **Rick Cooper:** Almost a million dollars in three months. If we continue at this rate, which I
3 think we will, and probably increase, we're probably about three or four times faster this year
4 than we were last year.
5 **Mary Quillen:** About 75% more. Very good.

6 **Item Number 33**

7 **Bradley Lambert:** At this time, I'll ask for approval of the September minutes.
8 **Donnie Ratliff:** Motion to approve.
9 **Donnie Rife:** Second, Mr. Chair.
10 **Bradley Lambert:** I have a motion and I have a second. All in favor signify by saying yes.
11 **Board:** Yes.
12 **Bradley Lambert:** Opposed no. [No response] At this time, I'll ask for a motion for dismissal.
13 **Donnie Rife:** Motion made, Mr. Chairman.
14 **Bill Harris:** I'll second that.
15 **Bradley Lambert:** I've got a motion and a second. All in favor signify by saying yes.
16 **Board:** Yes.
17 **Bradley Lambert:** Thank you, folks.