

VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

VIRGINIA GAS AND OIL BOARD HEARING

Tuesday, December 15, 2015

Lebanon, Virginia

[Revised: 07/21/2016]

**BOARD MEMBERS:**

Bruce Prather—Public Member

Donnie Ratliff—Coal Industry Representative

Donnie Rife— Public Member

Mary Quillen—Public Member

Rita Surratt— Public Member

**APPEARANCES:**

Rita Surratt – Public Member for Dickenson County

Mary Quillen—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

Butch Lambert—Department of Mines, Minerals, and Energy

Donnie Ratliff – Coal Representative

Donnie Rife—Citizen Representative for Dickenson County

Bruce Prather—Representative of Oil and Gas Industry

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

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

*Prepared by: Joanna Boyd*

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**Butch Lambert:** Good morning ladies and gentlemen. It's now 9 o'clock and it's time to begin our proceedings this morning. I would like to begin this morning by saying that if you have cell phones or other communication devices, I'll ask you to please turn those off or put them on vibrate. These proceedings are being recorded and we need to be able to hear everything that's being said and testified to today. We begin this morning by asking the Board Members to please introduce themselves and I'll begin with Ms. Surratt.

**Rita Surratt:** I'm Rita Surratt. Public Member, and I'm from Dickenson County.

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

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

**Donnie Rife:** Donnie Rife. Public Member, Dickenson County.

**Bill Harris:** I'm Bill Harris, a Public Member. I'm from Wise County.

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

**Mary Quillen:** Mary Quillen, Public Member.

**Butch Lambert:** Thank you.

16  
**Item Number 1**

17 **Butch Lambert:** We begin this morning with our public comments. The Board will receive  
18 public comments and we'll go down the list of the folks that have been signed up to speak this  
19 morning and I'll begin with Charles Riner. Yes, please come up and state your name for the  
20 record.

21 **Charles Riner:** Good morning.

22 **Board:** Good morning.

23 **Charles Riner:** My name is Charles Riner. Charles Daniel Riner. I own property in Wise  
24 County, Virginia. In the Hurricane section of Wise County. On October 9, 2006, Mr. George  
25 Heflin came before the oil and gas board and swore under oath that he had contacted all the  
26 people concerning a gas well to be drilled and placed on my property. I was never notified and  
27 today they have a gas well that producing gas and oil line, gas line, and I've never been paid or  
28 never been talked to about it. I have a suit now pending in Wise County Circuit Court,  
29 concerning this. Mr. Heflin, under oath, swore he had a right to enter my property, which he  
30 didn't. That's the first part that I want to talk to you about. Then there's also, on an adjacent  
31 property that belongs to my son and myself. There's five wells and Mr. Heflin did the same

1 thing. He came in on the 18<sup>th</sup> day of January 2007 and signed, under oath. I have an affidavit that  
2 he signed, that they had a right to enter that property. Well, after a year, in 2008, they realized  
3 what they had done, I assume, and they came in and got a lease from my two boys for that  
4 property. There was a difference in the timing but on my property, to this day, they don't have a  
5 right but they have a road, going in. They have a gas line on my property and there's nothing I  
6 can do other than sue them. I think the gas people need to know it; document it. You've got it on  
7 public record.

8 **Butch Lambert:** Mr. Riner, I would ask that if you could get with Mr. Cooper, the Director of  
9 our gas and oil and pass along the information that you have. Would you by any chance have the  
10 well numbers?

11 **Charles Riner:** Yes sir, I do.

12 **Butch Lambert:** If you could pass that information along to Mr. Cooper, then our division of  
13 gas and oil will look into that further for you.

14 **Charles Riner:** Okay. That's my biggest question. They just, they're just using my property and  
15 not paying me.

16 **Butch Lambert:** You could stay around for today or if you could just see Mr. Cooper at break  
17 and make an appointment with him, then come by and see him at a time that convenient for both  
18 of you.

19 **Charles Riner:** Okay. Yes, this gentleman here, when should I talk to him?

20 **Butch Lambert:** Rick, do you have a minute right now that you could just get the information?

21 **Rick Cooper:** Yes, I can get his information.

22 **Butch Lambert:** Can you stay Mr. Riner, or do you need to go?

23 **Charles Riner:** I can stay awhile, yes.

24 **Butch Lambert:** Okay, we're going to be taking a break in a little bit and you get with him at  
25 the break.

26 **Charles Riner:** Okay. Thank you.

27 **Butch Lambert:** Thank you, Mr. Riner. Next I have signed up is Kevin Riner.

28 **Kevin Riner:** Daniel Kevin Riner. Its concern...I'm the son of Charles Riner and it's concerning  
29 the wells that are on our property. Before the deed was deeded back to us, I had went to Alpha  
30 Natural Resources, cause we wanted the deed back to our property. I talked to Barry Spree. He

1 politely told me that I had no rights and escorted me out of the building. So we have a lawsuit  
2 pending with them also and I've got the, we haven't cashed the check, but I've got a copy of the  
3 check that Alpha sent us back from the gas people; and that's what I'm concerned about too, is  
4 all the wells that's on, we've only got paid like on one and it's on Range's. Well, it's transferred  
5 to Equitable all the way down to Range.

6 **Butch Lambert:** Are these the same wells that your dad's talking to Mr. Cooper about?

7 **Kevin Riner:** Yes.

8 **Butch Lambert:** Okay. If you would like to go back and just speak with him just a minute, then  
9 hopefully, Mr. Cooper will be able to help you.

10 **Kevin Riner:** Okay. Thank you.

11 **Butch Lambert:** Thank you. I have Jim McKinney. Jerry Grantham.

12 **Jerry Grantham:** Good morning, gentlemen. Good morning, Mr. Chairman. Board. We're here  
13 today to talk to the Board about a recent transaction between Range Resources and EnerVest and  
14 I'd like to introduce Mr. Jim McKinney who is Senior Vice President with EnerVest Operating.  
15 The transaction was announced about a month ago that Range is selling all of its interest in wells  
16 and infrastructure here in Virginia to EnerVest. We're currently in the due diligence, or I should  
17 say, EnerVest is in the due diligence part of that process. I'm going through records and wells  
18 and that kind of thing, and the deal is anticipated to close before the end of the year. And with  
19 that, if you have questions from me, from Range's standpoint, I'll be happy to answer whatever I  
20 can. I think Mr. McKinney can certainly address any questions or may want to tell you a little  
21 about what EnerVest is planning to do here in Virginia in the upcoming years.

22 **Jim McKinney:** Good morning. Thank you, Mr. Chairman. Board, my name is Jim McKinney.  
23 As Jerry said, I work for EnerVest Operating. I'm no stranger to Southwest Virginia. I worked  
24 this area for many years for another company, but happy that EnerVest is entering the area  
25 through the transaction with Range. As Jerry mentioned, we plan on closing that transaction  
26 toward the end of December. I don't see anything at this moment that would stop that from  
27 happening. We do have development plans for 2016, in which we're excited about. Those have  
28 not been approved final yet but we anticipated to drill 50-60 wells in 2016 here in Virginia. So  
29 that's terribly exciting for me with gas prices where they are throughout the country. It creates a  
30 unique opportunity for us to be very active here. We're active in the communities in which we  
31 work and live. We're active in the state association that we're part of, on the oil and gas side and  
32 just look forward to having a good relationship with all our contractors, the Board, and our  
33 employees here. We have made employment decisions, we did that last week and glad to answer  
34 any questions on that. You've probably seen a lot in the paper; some true and some maybe needs  
35 some clarification but Clintwood Office and Abingdon Office are both remaining open. We have  
36 employees at both and we've had a very high success rate that we've offered positions deciding  
37 to stay with us, so Range has been a great company to work with and I've known Jerry for a long

1 time and they are very high quality people. EnerVest hopes to move that tradition forward and  
2 work well here in our communities, and with that, I'm open to answer any questions you may  
3 have. Yes?

4 **Mary Quillen:** Is Junior Shoop still going to be the Clintwood office?

5 **Jim McKinney:** Yes, Ms. Quillen. He is.

6 **Mary Quillen:** He's a good person to work with and you're going to be continued...your  
7 headquarters will be in Abingdon?

8 **Jim McKinney:** Yes, well, our regional office will be in Abingdon, yes. Some of our back-office  
9 headquarters, I'm in the Charleston, WV office or handled out of Charleston. Our corporate  
10 headquarters are out of Houston.

11 **Mary Quillen:** Are you at liberty to say what employees will be remaining in the Abingdon  
12 office?

13 **Jim McKinney:** Yes, we're...and the exact number will escape me, but I think we're close to 30  
14 out of the 50 and we're a little over 80 of the 100 in Clintwood are remaining with us.

15 **Mary Quillen:** Excellent, excellent, cause there's some really good people over in Clintwood.  
16 We've had an opportunity to work with them on some projects with the school divisions.

17 **Jim McKinney:** I agree. Everyone I've met, everyone I've met has been excellent.

18 **Mary Quillen:** Thank you. Glad to hear that.

19 **Donnie Rife:** Mr. McKinney, I'd like to welcome you to Clintwood and Dickenson County,  
20 along with Abingdon and I hope you understand you've got some big shoes to fill, cause Range  
21 Resource was a class act and Jerry Grantham is one of the finest people we ever had to work with  
22 and we're looking forward to being with you sir.

23 **Jim McKinney:** Well, I couldn't agree more. I've known Jerry quite a number of years. He's a  
24 great person.

25 **Butch Lambert:** I'll say the same thing. Our past working relationship, both on this Board and  
26 with our Division of Gas and Oil with Range Resources and Jerry has been just excellent. They  
27 have a very good track record with this Board and certainly with the communities in which they  
28 work. We just couldn't ask for better company to work with than Jerry Grantham and Range  
29 Resources. So I hope we'll be able to continue our relationship with EnerVest. Any other  
30 comments? [No response] Thank you, gentlemen. Appreciate your time to come before the  
31 Board this morning and just give us a little update. Thank you. Have we missed anyone from  
32 public comment that wanted to speak that didn't get signed up?

1 **Martha Guilliams:** I do.

2 **Butch Lambert:** Ms. Guilliams, please state your name for the record.

3 **Martha Guilliams:** Martha Guilliams. I'm from Salem, Virginia and heir to the Linkous-Horn  
4 Estate. My comment is I would hope that the Board would think seriously on this and I do  
5 understand that the energy companies I can very much understand that they may need extensions  
6 because I think this was pretty well it's been a long time and I think the laws have changed and  
7 there's been a lot of changes made down through the years and I'm not sure accurate records  
8 were always kept but I do think that this should be the Board should look at this very strongly  
9 and a six month extension, I can agree with that. I don't think that's a big thing, but at the end of  
10 this six months, I would hope that you won't allow them to just keep coming back and get  
11 another six months or another. I know how these things can go sometimes. I worked 32 years for  
12 the Carillion Health System and I watched them do a lot of things down through the years but I  
13 know how extensions sometimes go and I would thank you very much if you would, you know,  
14 if you would grant this six months, or whatever they're asking for, let that be a one-time thing.  
15 And thank you very much, Mr. Chairman, for allowing me to speak, and board members and all  
16 the property owners for listening to me. I do appreciate all the things that have happened down  
17 through the years. I know we have a long history together. And, if I have anything else, then I  
18 will bring it back later, I would like to keep it open for that, you know, if I have a comment, I  
19 would like to be able to make it.

20 **Butch Lambert:** Thank you, Ms. Guilliams.

21 **Martha Guilliams:** Thank you very much, Mr. Lambert.

22

## **Item Number 2**

23 **Butch Lambert:** A petition from EQT Production Company, to request an extension pursuant to  
24 House Bill 2058. All parties wishing to testify, please come forward.

25 **Jim Kaiser:** Mr. Chair, Board Member, Jim Kaiser and Rita Barrett, on behalf of EQT  
26 Productions.

27 **Sarah Gilmer:** Ms. Barrett, do you swear and affirm that your testimony is the truth, the whole  
28 truth and nothing but the truth?

29 **Rita Barrett:** Yes ma'am.

30 **Butch Lambert:** You may proceed.

31 **Jim Kaiser:** Mr. Chairman, we're hear before you today seeking a 90-day extension in order to  
32 file correct petitions, to disburse money from escrow. In this particular case, I think we are going  
33 to have, maybe, eight units?

1 **Rita Barrett:** Yes.

2 **Jim Kaiser:** Ms. Barrett is prepared to discuss, or we're prepared to discuss, the reasons we have  
3 not been able to file a proper petition in the case of those eight units, on a unit by unit basis, if  
4 the Board so desires.

5 **Butch Lambert:** Ms. Barrett.

6 **Rita Barrett:** Do you want me to go through each one?

7 **Butch Lambert:** Please.

8 **Rita Barrett:** Okay. First of all, I discussed this with you, Mr. Chairman, and with Rick earlier,  
9 we need to add a well to this extension exhibit. It's well number 773738. It's a dual well and it's  
10 producing coal-bed methane and that didn't get caught until early this week. Monday actually.

11 **Jim Kaiser:** Yesterday.

12 **Rita Barrett:** Yes. The first well we're asking for an extension on VC-2914 that Docket Number  
13 is 0367. The only party in this well is Yellow Poplar Lumber Company, and that well is currently  
14 in litigation in Federal Court in Abingdon. The next one is P-392C that Docket Number is 0541.  
15 There is unknown heirs in Tract 4, the Nancy Hale heirs, still trying to locate those folks. And  
16 then in Tract 3, they've discovered that Garland White, Jr. is deceased and they are in the process  
17 of determining who his heirs are and getting affidavits of decent and well, and that kind of stuff.  
18 VC-3169 is Docket Number 0670. There was an overpayment into the escrow account on this  
19 well and that current overpayment balance is \$12,720.50. There's \$24,560.17 in the escrow  
20 account as of October of this year. EQT is recouping \$10-\$20 a month on this overpayment and  
21 those payments are being sent to the escrow account currently and they, I think they requested,  
22 on December 7<sup>th</sup>, they asked DGO how to go about, they're going to ask for a refund on the  
23 overpayment and after that refund is paid to EQT, they'll disburse to the remaining parties in the  
24 account. VC-508899. That's Docket Number 1000. There was money incorrectly deposited into  
25 this account by the escrow agent and Mr. Cooper has cleared this up with the escrow agent. And,  
26 first Bank confirmed on December 12<sup>th</sup> that \$22, 296.30 has been transferred to the correct well  
27 and, I think, what we're waiting on, on this one is that has to show up on the November escrow  
28 agents summary and then they can take care of this disbursement. VC-535601, that's Docket  
29 Item 1372. EQT submitted a correction payment of \$6,506.56. The bank has credited that to this  
30 account and again, after it shows up on the November escrow agent's summary, EQT will submit  
31 this one for disbursement application. VC-537150; that Docket Number is 1888. This one is  
32 another overpayment. The overpayment balance is \$1,966.82. There's \$3,734.99 in the escrow  
33 account. EQT's recouping \$15-\$30 a month on this overpayment, and again, they have asked  
34 DGO how to go about getting a refund on this well, and once that's done, they'll submit a  
35 disbursement application for the remaining amounts. And that's all I have.

36 **Bruce Prather:** Does that include the new well that you told us at the first?

1 **Rita Barrett:** I'm sorry?

2 **Bruce Prather:** You know, you said you picked up a new well.

3 **Rita Barrett:** Yes. We need to add a well to the exhibit for extension. Again that well number,  
4 Mr. Prather, is 773738. It's a dual producing well and they just confirmed on Monday, that it is  
5 producing coal-bed methane.

6 **Bruce Prather:** You don't have any information today on it?

7 **Rita Barrett:** I'm sorry?

8 **Bruce Prather:** You don't have the information today on it? In other words, it's going to be  
9 forth-coming?

10 **Rita Barrett:** We, yes, we just wanted to add that one to the...

11 **Jim Kaiser:** Just wanted to make sure it gets on the extension.

12 **Bruce Prather:** Yeah, okay.

13 **Jim Kaiser:** We thought that it was just a conventional well but it turns out it's producing coal-  
14 bed methane too.

15 **Rita Barrett:** Yeah.

16 **Bill Harris:** Mr. Chairman? Mr. Chairman, just a quick question.

17 **Butch Lambert:** Oh, I'm sorry, Mr. Harris.

18 **Bill Harris:** That's okay. Yellow Poplar that you mentioned. What's the latest on that? I know  
19 you said there was some litigation but...

20 **Rita Barrett:** It's still pending in Federal Court.

21 **Bill Harris:** Is there someone

22 **Paul Kugelman, Jr.:** I can comment on that, Mr. Harris.

23 **Bill Harris:** I'm sorry, oh okay.

24 **Paul Kugelman, Jr.:** I can update you on that. I follow that pretty closely.

25 **Bill Harris:** Oh, okay. I was just curious for years there is no apparent owner and then I just  
26 wondered if someone had stepped forward.

27 **Paul Kugelman, Jr.:** Yellow Poplar and the folks who, a bunch of folks who clear up title, the  
28 Federal Judge required that because Yellow Poplar had gone into bankruptcy in 1920, late 1920.

1 He ordered all that file to be transferred in and transferred to the Federal District Court for the  
2 Western District so the parties have been added and they've reset the trial date.

3 **Bill Harris:** Just curious.

4 **Butch Lambert:** Any other questions? [No response] Ms. Barrett, thank you for the explanation  
5 on that, each of those, but I didn't hear you mention anything about coal claimant dismissals.

6 **Jim Kaiser:** You mean how many have been done, or...?

7 **Butch Lambert:** Well, the extension that request has specifically set out in code, the companies  
8 are required to submit requests for extensions for those folks whether they were still researching  
9 units, heirs, property owners or coal claimant dismissals. My simple question, does any of these  
10 deal with coal claimant dismissals?

11 **Rita Barrett:** I think they all are.

12 **Butch Lambert:** They all are?

13 **Rita Barrett:** Yes. As far as I know.

14 **Butch Lambert:** That's all we needed to know.

15 **Rita Barrett:** Okay.

16 **Butch Lambert:** Thank you, ma'am.

17 **Rita Barrett:** You're welcome.

18 **Butch Lambert:** Any other questions from the Board? [No response] Do I have a motion to  
19 grant the extension?

20 **Donnie Rife:** Motion made, Mr. Chair.

21 **Mary Quillen:** Second.

22 **Butch Lambert:** I have a motion and a second. Any further discussion? [No response] All in  
23 favor, signify by saying yes.

24 **Board:** Yes.

25 **Butch Lambert:** Opposed, no. [No response] Thank you, folks.

26 **Rita Barrett:** Thank you and I guess you need to reject that exhibit so that EQT can update it to  
27 add this well and I'll let them do that.

28 **Sarah Gilmer:** Send it to me and I'll take care of it.

1 **Rita Barrett:** Okay. Thank you.

2 **Butch Lambert:** Thank you.

3 **Rita Barrett:** Merry Christmas, everybody

4 **Board:** Merry Christmas. Same to you.

5 **Item Number 3**

6 **Butch Lambert:** A petition from Range Resources-Pine Mountain, to request an extension of  
7 time for 90 days from January 1, 2016, in order to properly disburse escrowed funds from certain  
8 units. Docket Number VGOB 15-1215-4081. All parties wishing to testify, please come forward.

9 **Jim Kaiser:** Mr. Chairman, Board Members, Jim Kaiser and Larry Reeves on behalf of Range  
10 Resources. We are handing out a revised exhibit at this time, which will actually show a smaller  
11 number of units on it which is obviously, a good thing.

12 **Butch Lambert:** Mr. Kaiser, since there's so many on this one, unlike previously with Ms.  
13 Barrett, can we just summarize your whole list and not go through them item by item?

14 **Jim Kaiser:** Sure. Absolutely.

15 **Butch Lambert:** We'll be here till next week, if we do that.

16 **Jim Kaiser:** There's not that many.

17 **Larry Reeves:** We've also given some reasons over to the right-hand side, there, for kind of  
18 each one.

19 **Butch Lambert:** Okay, so if you'll just walk through and summarize them for us real quickly.

20 **Jim Kaiser:** Let's get Mr. Reeves sworn in and we'll do that.

21 **Sarah Gilmer:** Mr. Reeves, do you swear that your testimony is the truth, the whole truth, and  
22 nothing but the truth?

23 **Larry Reeves:** Yes.

24 **Butch Lambert:** You may proceed.

25 **Jim Kaiser:** Okay, again, Mr. Chairman, we're here seeking an extension of 90-days in order to  
26 file correct petitions for disbursement from the units listed in Exhibit A to the application. Now,  
27 Mr. Reeves is here to answer any questions and to summarize the reasons why we have not been  
28 able to present these to the division or to the Board prior to December 31<sup>st</sup>.

29 **Mary Quillen:** Are you going to refer to the well or the docket number on this?

1 **Larry Reeves:** I was just going to more or less summarize the list.

2 **Mary Quillen:** Oh okay. So you're not going to individual? Okay.

3 **Butch Lambert:** You kind of got them grouped into reasons. If you could just summarize those  
4 reasons for the Board that'd we great.

5 **Larry Reeves:** Well, the first eight are well that have had some issues that we're going to have  
6 to bring back in front of the Board. That need some re-pooling for these units to either changed  
7 some interest or add some interest. The next few list an heirship that's quite large that we've not  
8 been able to pin everybody down. We're still waiting on some folks to contact us. The next five  
9 are wells that have included Range Resources interest that we've kind of put on the back burner.  
10 Work on more or less, the gas and oil interest that we can get out. The next group of five is  
11 another heirship that we've been working on. We've been kind of holding off on some updated  
12 information from legal counsel that representing some of these folks. Then we've got a group of,  
13 probably, the next five that, again, is heirships that are larger than what we can nail down, while  
14 trying to more or less, cherry pick what we can get done and quickly disburse.

15 **Butch Lambert:** Do you have any idea just how many heirs we're talking about?

16 **Larry Reeves:** In some of these it's 40-50, in some of the others it's up over 100 heirs.

17 **Donnie Rife:** What about that? Well, that's a lot of foot work.

18 **Larry Reeves:** Yeah, and as you know, we've had 160 some wells and these are the remaining  
19 ones, so we've been kind of trying to cherry pick what we have and get the majority of what we  
20 can do quickly, out.

21 **Donnie Rife:** It's always good to be able to cover as many heirship property owners as you can,  
22 plus the fact that you run into things like Mr. Riner, here a little bit earlier. It's always good to  
23 cross your T's and dot your I's.

24 **Larry Reeves:** Yeah. And most, well, I'm going to say the majority of these folks in these  
25 heirships, we've made every effort to send out request to them already. We're just waiting for,  
26 you know, many of them will contact us and they'll have their brothers and sisters information  
27 and, we're trying to send them as cleanly as we can without trying to send them midstream and  
28 have 15 changes and have to get the Board, or whoever, to reject them three or four times, as  
29 we're going through the process. The remaining ones, we've got a couple account mix-ups where  
30 we've had some money go into the wrong accounts, which the escrow agents aware of, and  
31 we're getting a couple of those fixed. Again, some, a couple of heirships with this G.W. Kiser  
32 stuff that they've had previous disbursements; we're updating heirs, just making sure we've got  
33 everything corrected. But that's the majority of what we've been doing.

34 **Bruce Prather:** Mr. Chairman. Do you anticipate having this all done before Range is sold?

1 **Larry Reeves:** No, no, I think as they stated earlier, the closing would be by the end of the year  
2 and these, this extension would take us out, probably, beyond that.

3 **Bruce Prather:** So EnerVest would probably end up with this?

4 **Larry Reeves:** Yes.

5 **Mary Quillen:** And the majority of this is heirships, isn't it? From the looks of this right here.

6 **Larry Reeves:** The majority of the ones left are heirships.

7 **Mary Quillen:** And they run from 40 or 50 to several 100?

8 **Larry Reeves:** Yes, ma'am.

9 **Mary Quillen:** Wow. I don't even want to...

10 **Jim Kaiser:** Larry, do you want to explain what kind of work Range has been doing to try to  
11 attempt to determine those heirs? I mean, not only have you had people searching the records in  
12 the courthouse, but you're trying to run down heirs who can run down heirs, and that sort of  
13 thing.

14 **Larry Reeves:** Yeah, we've had a slew of people contacting people, searching websites, looking  
15 through courthouse records, just different, a lot of different websites that we access, trying to  
16 search these folks down and the name and phone number and address. Just anything that we  
17 could possibly do to, you know, to complete that due diligence and try to find at least one of  
18 them, that we could get some information.

19 **Butch Lambert:** Any other questions from the Board? [No response] Anything further, Mr.  
20 Kaiser?

21 **Jim Kaiser:** We'd ask that the application to be approved and submitted, Mr. Chairman.

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

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

24 **Bruce Prather:** Second.

25 **Butch Lambert:** I have a motion to approve and a second to approve to grant an extension for  
26 90 days beyond January 1, 2016. All in favor, signify by saying yes.

27 **Board:** Yes.

28 **Butch Lambert:** Opposed, no? [No response] Thank you folks. That's approved.

29 **Larry Reeves:** Thank you.

1 **Item Number 4**

2 **Butch Lambert:** A petition from Appalachian Energy, to request an extension pursuant to  
3 House Bill 2058. This is Docket Number VGOB 15-1215-4082. All parties wishing to testify,  
4 please come forward.

5 **Jim Kaiser:** Mr. Chairman, Jim Kaiser and Justin Phillips for Appalachian Energy.

6 **Sarah Gilmer:** Mr. Phillips, do you swear and affirm that your testimony is the truth, the whole  
7 truth, and nothing but the truth?

8 **Justin Phillips:** Yes, I do.

9 **Butch Lambert:** Morning.

10 **Jim Kaiser:** Morning.

11 **Butch Lambert:** You may proceed, Mr. Kaiser.

12 **Jim Kaiser:** Mr. Chairman, Board, we are in front of you again seeking an extension of 90 days  
13 in order file correct petitions for disbursement to the division before the Board. I think, in this  
14 particular case, we've got six wells.

15 **Justin Phillips:** Correct.

16 **Jim Kaiser:** But only one conflicting claim, but Justin got some information on them yesterday.

17 **Justin Phillips:** Correct. When we force pooled these six wells, three units, we only had one  
18 conflicting claimant. Dorothy Compton Sprague, and she was unleased, and I actually explained  
19 to her we were in the process of drilling these wells and leasing everyone. If she signed the lease,  
20 excuse me, her money would go into escrow, if we drilled the wells, and that's what's happened.  
21 Unfortunately, when we started this process, she recently deeded her interest to her son, Roger  
22 Compton, he passed away, unfortunately, a month after she deeded her interest. We've been  
23 recently waiting to lease out the paperwork of who the rightful owner of his interest and I was  
24 telling our accounts that we just received that yesterday, so we don't have any problem in filing  
25 these and providing the notice to the correct owners going forward. We didn't want to send out  
26 the notice until we had the rightful owner and we just got those yesterday, so if we can get a  
27 continuance, we should be able to have this, our notices out, and have everything done correctly.

28 **Butch Lambert:** Questions from the Board?

29 **Mary Quillen:** Is this the only one that you have?

30 **Justin Phillips:** This is the only, yes, these six wells, we have only one continuance.

1 **Mary Quillen:** And you've requested an extension. Why would you need an extension if this is  
2 the only one that you're...?

3 **Justin Phillips:** Well, we started working on these back in June and we thought we had the right  
4 owner and she said "well, I'm getting ready to transfer my interest". We thought that all this  
5 would transpire prior to us submitting out application for this. Unfortunately, she's not sent us  
6 paperwork and then we had the unexpected death.

7 **Butch Lambert:** Do we know who all the heirs are, at this point?

8 **Justin Phillips:** At this point, we do know who they are.

9 **Mary Quillen:** If you needed to do them, why would you not just carry it over to next month's  
10 board meeting?

11 **Rick Cooper:** There's the matter of notice on that. You have 45 day notice or a 50 day notice  
12 when you send these out, so it would fall over into the following February/March.

13 **Mary Quillen:** You wouldn't have enough time, that's right because you just got it yesterday.

14 **Justin Phillips:** He didn't know the right address and person to send it to.

15 **Jim Kaiser:** Yeah, so we'll probably have this on the February or March docket.

16 **Mary Quillen:** Oh, okay, okay. That clarifies it. I wasn't thinking about that notice time because  
17 you just got...wouldn't be enough time...

18 **Rick Cooper:** Yeah, probably this would be an internal coal dismissal so that they don't have to  
19 petition submitted now and the notice, so they had to request extension to meet the compliance  
20 of the legislation.

21 **Mary Quillen:** Sorry. Thank you.

22 **Butch Lambert:** Any other questions? [No response] Anything further, Mr. Kaiser?

23 **Jim Kaiser:** I asked that the application be approved and submitted, Mr. Chairman.

24 **Butch Lambert:** Do I have a motion?

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

26 **Bruce Prather:** I'll second that.

27 **Butch Lambert:** I have a motion and I have a second. Any further discussion? [No response] All  
28 in favor, signify by saying yes.

29 **Board:** Yes.

1 **Butch Lambert:** Opposed, no? [No response] Thank you, folks. That's approved.

2 **Jim Kaiser:** Thank you.

3 **Item Number 5**

4 **Butch Lambert:** A petition from CNX Gas Company, LLC, for an extension of time, requesting  
5 six months, to file applications under the code and to "delay the payment of funds for gas title  
6 conflicts. This is Docket Number VGOB 15-1215-4079. All parties wishing to testify, please  
7 come forward.

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

9 **Sarah Gilmer:** Ms. Duty, do you swear and affirm your testimony is the truth, the whole truth  
10 and nothing but the truth?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** This is a petition for an extension under House Bill 2058. We filed this in  
13 November requesting a six month extension, under the provisions of the code, and at the time  
14 that we filed this, we filed a very extensive exhibit because we wanted you to see what units we  
15 were looking at and what the reason, the qualifying reasons, under 2058 would be and, you  
16 know, when we filed that exhibit back in, I think it was November 11<sup>th</sup>, if I'm not mistaken, we  
17 had 453 units on that, on the list. We have roughly 5,000, almost 5,000 wells in the  
18 Commonwealth, so I mean, the fact that we have a few more wells at issue than some of the  
19 other operators is accounted for by the fact that we've got almost 5,000 wells and we've got, of  
20 that, about 500 wells here in escrow that we are responsible for [inaudible]. And the exhibit that I  
21 passed out to you today, cause when I filed this, the request for an extension, I indicated in the  
22 petition, that we would update you. So this is the update, okay. There are some spreadsheets  
23 attached which really maybe are more for Mr. Cooper, to sort of identify, you know, what he's  
24 seen or will be seeing, but I included those. I want to go through the summary with you. The  
25 initial coal Exhibit 1 that we tendered with the request for an extension, we catalog all of the  
26 units that we thought we might be having an issue with at the end of the year. We sort of had to  
27 anticipate and touch all the bases by the end of the year, we're not going to have 453 units that  
28 are an issue, but we needed to have them on the list so that, depending on what happens, we went  
29 through it. We were covered. What Anita did, and her staff did originally, is they took this 453  
30 and they said, "Okay, just looking at the last order the Board entered, or the last supplemental  
31 order that the Board entered in conjunction with the pooling order, how many units can we  
32 identify that House Bill 2058 would have fixed? That we could pull the money out of escrow?"  
33 Okay? And that's basically the discussion that I start with in my summary here, and they, Anita  
34 and her team came up with 155 units, when you looked out of the 453. When you looked at the  
35 Board Orders and the most recent order, it appeared that all things being equal. Nothing having  
36 changed since the orders or supplemental orders, we had an opportunity to close out 155 escrow  
37 accounts reason of passing of the 2053. Okay, so they undertook to get working on that task.

1 What they did, and I'm going to summarize kind of from the beginning of the year, because we  
2 had, we knew this law was coming into effect but it really didn't take effect until July 1, so we  
3 kind of got going early in the year. So, at the beginning of 2015, there for 522 units, when we did  
4 our count with escrow, and then as we went through that and got through that, we found that  
5 there were two of those units that were double counted. So, there were 520 units adjusted at the  
6 beginning of the year in escrow, involving CNX as an operator. Between January and the end of  
7 June, we filed 67 petitions for disbursement. That was before the law took effect; in anticipation  
8 that it was coming, and that left an additional 453 units to be addressed and that was the original  
9 exhibit that we submitted when we requested the extension. Then Anita and her team went  
10 through those, found 100, as I've said, 155 units that were candidates for disbursement and  
11 escrow account closure. And then, this is what we've done with those 155. We filed  
12 disbursement petitions for 34 of those units, between July 1<sup>st</sup>, when the law took effect, and  
13 November 11<sup>th</sup>, when I filed the extension. Then we filed an additional 30 petitions and for an  
14 additional 30 units by today. Okay? And then we have identified an additional 71 that we expect  
15 we are going to be able to file before December 31<sup>st</sup>, out of that 155. And so that accounts for  
16 135 of the 155 that we identified between filing this petition and today. Of the 20 units that we  
17 pulled out. Excuse me, we had 155 and we filed, or intend to file, or expect to file 135, there are  
18 20 units in that grouping, and of course when you go back and look at these pooling orders and  
19 you look at the people and you look at transactions and transfers, there are 20 of those units that  
20 we found issues that were easy to fix and issues that were not easy to fix. For example, of those  
21 20 units, I'm summarizing here, it looked like, in consultation with Mr. Cooper, seven of them  
22 we can just close. We don't need escrow. Okay, they were open but we don't need them. Four  
23 need to be re-pooled because we've got issues that can't be fixed on Mr. Cooper's level. We  
24 need to be in front of the Board. We have service owner claimants. Frankly, I don't know what  
25 we're going to do there but that's surface owners claiming CBM, the statute solved coal and gas.  
26 I'm not sure what we're going to do with that; if they don't start a lawsuit. Okay. And then three,  
27 we don't have notice timing back from coal owners and then we've got a Norfolk Southern issue.  
28 They just will not give us any information, but we're working with them and we think we can get  
29 them to sign off. So that accounts for the other 20. So then we've got, we come to, we've got 298  
30 units that can, so we've got the 453 is now down to 298, that continue to have qualifying reasons  
31 for an extension, and of course, those reasons were listed in our original exhibit. And what I've  
32 done in the attachments to the summary here, I've given Mr. Cooper and for those, if you're  
33 interested, a list of the 67 units that we petitioned between January 1 and July 31<sup>st</sup>. And then, the  
34 155 units that we identified as potential closures and the 34 units that we filed between August  
35 1<sup>st</sup> and November 11<sup>th</sup>. The 30 that we filed, the additional 30 up to today. And then the 71 that  
36 we expect to be able to file before the end of the year. Just to, kind of give you a list of what  
37 we're talking about there, and of course you have the list of the 298 on the Exhibit 1. And, what  
38 we see happening on the 298, going forward, there are, if you look at the qualifying reasons,  
39 there are some qualifying reasons, which we can't wave a magic wand to make them go away. I  
40 mean, there are going to be some unlocatable people, I mean there just are. There are going to be  
41 some coal owners will be in litigation. Some people won't reach agreements and we, but we can

1 use 2058 but if they're in litigation, we can't do that. So there are going to be some of these  
2 units, in terms of identifying people, heirships issues, unlocatables, that you could give us two  
3 years and we couldn't solve those. I mean there not going to go away. And we have identified  
4 those kinds of, for example, we had a column unknown gas claimant, you know, we have  
5 identified the matrix there. Obviously, we're going to find some of those people too, but then  
6 we've got unlocatable people and we've got a list of the situations where that applied. And we  
7 are going to locate some of those people, but in some instances, I'm sure that we're not. But our  
8 intention, going forward, on this 298, and we need to tell you this, we are going to try to file  
9 within the extension period, a petition for disbursement on every one of those units, even if it's  
10 only a partial disbursement. So, in those units, 2058 is going to solve some problems, okay? Not  
11 all of them, like we thought was going to happen in 155. We are going to locate additional  
12 people. We're going to get addresses, and to the extent that we can partially disburse those  
13 escrow accounts and the 298, we're asking for an extension on, we will do that and we will do  
14 that expeditiously. We've got quite a group of additional people who are working on this at this  
15 point. And, hopefully, at the end of the extension period, the only thing left will be the stuff that  
16 we can't fix, and you'll have a list of that and you'll be told why. We're not going to ask for an  
17 extension. We're just going to say, we can't do anything. So that is, in a nutshell, out of the,  
18 roughly, 5,000 wells, this is the total accounts, this is what we've done in anticipation of the  
19 effect of the new law, what we have done since the new law has taken effect, and this is what we  
20 would ask you to help us wish to finish in the first half of next year.

21 **Mary Quillen:** Mr. Chairman, could I ask Mr. Swartz one question, please? These people, these  
22 that are absolutely totally, there is no way they can be fixed; will these ever, do you think they  
23 will revert back to the unclaimed funds in the state take them?

24 **Bruce Prather:** Of the escrow account.

25 **Mark Swartz:** I think you have a procedure for that that I'm not sure I understand, but, that's  
26 going to be a problem at some point but I don't know what...

27 **Bruce Prather:** Would these ever come out of the escrow account, if you can't do anything with  
28 them?

29 **Mark Swartz:** Well, I think the state is going to need, if you don't already, you know, in  
30 conjunction with the HE or whatever, I think you're going to need to develop a plan to deal with  
31 that. Now, as we sit here today, I cannot tell you which units we're not going to be able to solve.

32 **Mary Quillen:** Right, right.

33 **Mark Swartz:** But I can't imagine that there aren't going to be some instances where that money  
34 is going to be there. We're going to be telling you we don't know how to get it out. And then  
35 you're going to be in a situation where, are you going to retain that escrow forever or do you  
36 have some opportunities, which I'm sure you do, but we haven't explored that. To get that into  
37 an escheat situation, off the top of my head take on this is, we have had escrow accounts with

1 money in them for over 20 years. I mean, the escheat period is way shorter than that. I think until  
2 the Board concludes that the money in the escrow account that there's really no reasonable  
3 opportunity to get it out, I don't think you should start worrying about escheat. Okay? And I  
4 don't think we've met that juncture yet, but at some point, it's coming.

5 **Mary Quillen:** Right. Exactly. That why, that's something that is inevitable in just...

6 **Mark Swartz:** I don't know if you're going to move it, you know, choose to move it into this  
7 sort of catch-all account that we talked about or what you're going to do with it, but...

8 **Donnie Rife:** It belongs to somebody.

9 **Mark Swartz:** Sometime next year, I think from all the companies, you're going to have X  
10 amount of money and issues that are intractable. That are just not going to be resolved.

11 **Donnie Rife:** That don't sound right to me. I mean, I'm sure that you're probably right, but it  
12 don't sound right. Cause I know for a fact that it belongs to somebody and I don't know what  
13 kind of efforts going to have to be made to locate the people that it belongs to but somebody's  
14 going to have to do a little bit more digging.

15 **Mark Swartz:** I think this Yellow Poplar is a perfect example, I mean, you know.

16 **Mary Quillen:** Yeah, [inaudible]

17 **Mark Swartz:** There's some stuff that happens which is, whatever, you just don't, I don't think  
18 we...

19 **Donnie Rife:** Figure out how that turns out and I'll see if I can't apply for it myself, okay?

20 **Mark Swartz:** I'll be second in line. But there are some issues, I mean, just the title drops off the  
21 face of the earth.

22 **Mary Quillen:** Yeah, I thought about that, you know, and I agree with Mr. Rife, that belongs to  
23 somebody and how is that ever going to be resolved when particularly some of these heirships, I  
24 mean, they're just totally impossible to connect, like Yellow Poplar, is a perfect example of that.  
25 Thank you. Just my curiosity.

26 **Butch Lambert:** Any other questions from the Board? Anything further Mr. Swartz?

27 **Mark Swartz:** No sir.

28 **Butch Lambert:** May I call for a motion to grant an extension for six months on this massive  
29 amount that listed in Exhibit 1? I think I counted 437. I may have missed some. Do I have a  
30 motion?

31 **Donnie Rife:** Motion made for approval of the extension, Mr. Chair.

1 **Bruce Prather:** Second.

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

4 **Board:** Yes.

5 **Butch Lambert:** Opposed, no [No response] Thank you, folks. That extension is approved.

6 **Item Number 6**

7 **Butch Lambert:** A petition from CNX Gas Company for (1) the disbursement of escrowed  
8 funds heretofore deposited with the Board's Escrow Agent, attributable to Tracts 1, 1A, & 5, as  
9 depicted upon the annexed table; and (2) authorization to begin paying royalties directly to the  
10 parties listed in the petition. This is Docket Number VGOB 92-0721-0240-05. All parties  
11 wishing to testify, please come forward.

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

13 **Butch Lambert:** You may proceed, Mr. Swartz.

14 **Mark Swartz:** Anita, would you state your full name for us?

15 **Anita Duty:** Anita Duty.

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

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

18 **Mark Swartz:** And are you here on behalf of the applicant CNX Gas Company, LLC?

19 **Anita Duty:** Yes.

20 **Mark Swartz:** Did you prepare or direct the preparation of this petition for disbursement?

21 **Anita Duty:** I did.

22 **Mark Swartz:** Okay. And did you either prepare or supervise the preparation of the exhibit?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** Okay, and you signed the petition?

25 **Anita Duty:** Yes.

26 **Mark Swartz:** This petition contemplates a disbursement pertaining to three tracts, correct?

27 **Anita Duty:** Yes.

1 **Mark Swartz:** Since filing, has an issue developed, with regard to Tract 5?

2 **Anita Duty:** Yes.

3 **Mark Swartz:** Okay, and if the Board looks, I think the easiest way to identify this, is if you  
4 look at the table, Table 1, the three tracts. Tract 5 was showing that it was going to be paid out to  
5 James W. Harman, agent for the W.S. Ellis heirs, correct?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** And have you recently received some communications from him?

8 **Anita Duty:** Yes, we have.

9 **Mark Swartz:** And, sort of an update of what he was planning on doing with the money, as  
10 agent for the heirs, which included a pretty amazing statement that, with regard to, three sets of  
11 the heirs that he is agent for, he was telling us that court action is needed. So we thought it would  
12 be prudent to hold off on those disbursements. And, so we would like to move forward with this,  
13 correct?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** But we want to extract Tract 5, so we want to make it a partial. Okay, with that  
16 in mind, going back to the petition, Anita, at Paragraph 5 of the petition, have you set forth the  
17 reasons for the requests?

18 **Anita Duty:** Yes.

19 **Mark Swartz:** And, obviously, if we withdraw the request for Huffman, then we could ignore  
20 that case, at least for the time being.

21 **Anita Duty:** Yes.

22 **Mark Swartz:** And, we have some conflicting claimants. The issue, which has been solved by  
23 2058, and notices sent and nothing received back, correct?

24 **Anita Duty:** Correct.

25 **Mark Swartz:** Okay. So, then, with that in mind, going to Table 1, what tracts are we  
26 requesting that the Board direct the escrow agent to disburse? Identify the tract, the people that  
27 would receive the disbursement, and the percentage that the escrow agent should use.

28 **Anita Duty:** For Tract 1, Barbara Cook and Nancy Duty, should each receive 7.185% of the  
29 escrow account; for Tract 1A, Barbara Cook and Nancy Duty should receive an additional  
30 0.1446%.

1 **Mark Swartz:** Okay, apparently, there has been a revision, and I'm looking at the original  
2 Table 1, which has 7.1643% and Anita has just read another number and she's telling me there's  
3 a revision that should have been uploaded and they're checking to make sure.

4 **Sarah Gilmer:** [Inaudible]

5 **Mary Quillen:** But that's the same figures that we are showing or that we have.

6 **Mark Swartz:** Correct.

7 **Sarah Gilmer:** [Inaudible]

8 **Mark Swartz:** Okay, first thing you need to do, should Table 1 be changed from 7.1643% for  
9 Barbara Cook and Nancy C. Duty to another number?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** Okay, and should that exhibit, the Table 1 exhibit, be updated?

12 **Anita Duty:** Yes.

13 **Mark Swartz:** And should the related Exhibit EE be updated?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** Okay, and what should the updated number be, that the escrow agent should use  
16 to make the disbursement?

17 **Anita Duty:** For Tract 1, it should be the 7.185 and for Tract 1A, 0.1446% each.

18 **Mark Swartz:** Okay, so they both changed, just 1A changed just a tiny little bit?

19 **Anita Duty:** Yes.

20 **Mark Swartz:** But the percentages that the escrow agent should use and that you will upload  
21 new exhibits for Cook and Duty and both Tract 1 and Tract 1A, are the percentages that you  
22 have just reported?

23 **Anita Duty:** They are.

24 **Mark Swartz:** Okay, and if the Board approves this, then DGO should hold off on submitting  
25 an order until it has the uploaded data?

26 **Anita Duty:** Yes. I will get in touch with her over the break and get her to do those.

27 **Mark Swartz:** Okay, she can probably do it today?

28 **Anita Duty:** Should already have been...yes.

1 **Mark Swartz:** With regard to this disbursement request, did you do a reconciliation?

2 **Anita Duty:** Yes.

3 **Mark Swartz:** And that would be your Exhibit J?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** Okay. And, you started the first entry, or the first deposit was when?

6 **Anita Duty:** In December 1992.

7 **Mark Swartz:** Okay, and you ran this reconciliation through what date?

8 **Anita Duty:** September 2015.

9 **Mark Swartz:** September 30, 2015?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** Were you able to find a deposit for every royalty payment that the operator  
12 made?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** So you accounted for all of those?

15 **Anita Duty:** We did.

16 **Mark Swartz:** And then, so you totaled that, and did you also attend to any disbursements that  
17 had been made from this account before today?

18 **Anita Duty:** Yes.

19 **Mark Swartz:** And you've listed those?

20 **Anita Duty:** We have.

21 **Mark Swartz:** And you were able, from the bank records, to at least accumulate a total interest  
22 and fees from the banks records?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** And then you generated a total that you calculated?

25 **Anita Duty:** Yes.

26 **Mark Swartz:** And you compared that total that you calculated based on your analysis to the  
27 September 30, 2015 bank balance, right?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** And the bank had \$1,513.87 more?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** Which, presumably, is interest exceeding costs?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** And you've attached your proofs of mailing, correct?

7 **Anita Duty:** We have.

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

9 **Butch Lambert:** Any questions from the Board? [No response] Mr. Swartz, do you have any  
10 kind of documentation that you can submit to this Board that Mr. Huffman requested that you  
11 not disburse because there's going to be a lawsuit or something? I'm not sure what you  
12 described. Going back to Table...

13 **Mark Swartz:** What I reported to you all?

14 **Butch Lambert:** Going back to Table 1, Tract 5, you said that you requested not to disburse and  
15 in Tract 5, to James W. Huffman, agent for the W.S. Ellis heirs.

16 **Mark Swartz:** We could provide this [Inaudible]

17 **Anita Duty:** We are, we're not confident. We got information from Title just yesterday stating  
18 that there are issues with the agency agreement. It goes back to 1996 and a lot of them are with  
19 the original heirs of W.S. Ellis and at this point, Title wasn't sure that the agency agreement  
20 actually transferred to the heirs, based on a few of them that they had, that they did review. So  
21 they recommended that we hold this until they get finished with the heirship.

22 **Butch Lambert:** Who is they?

23 **Anita Duty:** Our Title Department.

24 **Butch Lambert:** Okay, so, in other words, you don't feel like the title work is accurate?

25 **Anita Duty:** It's not that we don't, we feel like our title work needs updated. This original  
26 agreement was from 1996, so we need to bring that forward and, if we need to, I think Shae  
27 Cook represents Mr. Huffman, and maybe he could help, you know, get the information that we  
28 need. There's quite a bit of money. I mean, this one's \$14,000. The other account was \$140,000.  
29 So I think we need to be, I mean, in our opinion, we need to hold off until we make sure we have  
30 all the documentation to bring the heirs forward.

1 **Inaudible**

2 **Anita Duty:** Well, or whether Mr. Huffman has the right to receive the money on behalf of all  
3 the heirs.

4 **Mark Swartz:** The simplest, the specific question that you asked, okay? If you're going to pay  
5 someone as agent and you learn that a number of the people who executed the agency agreement  
6 have passed, there is a serious question as to whether the agency survived their death, okay?  
7 And, I mean among other things, then we've got heirship issues for each one of those people but,  
8 the first problem the Title Department has with this is, we have an agency agreement where the  
9 agent is potentially going to collect for people who are deceased, under the agency agreement  
10 and the agency agreement, I mean, I'm looking, we could give this to you; give you a copy. It  
11 does not say that it survives their death. So that's the first problem.

12 **Mary Quillen:** I have a problem with this whole thing now that you have given us a little more  
13 information on this. About releasing these.

14 **Mark Swartz:** No, we're not. We're asking Tract 5 to not be released.

15 **Mary Quillen:** Yes, but

16 **Bruce Prather:** Were two agents set up after Huffman's thing is considered illegal or maybe? I  
17 mean, in other words, you've got two other agents here. You've got Nancy Duty and Barbara  
18 Cook.

19 **Anita Duty:** That's a separate tract.

20 **Mark Swartz:** These are separate tracts.

21 **Bruce Prather:** They're separate tracts? Okay. Alright.

22 **Mark Swartz:** 1 and 1A have nothing to do with the W.S. Ellis heirs, that's why we're asking  
23 that they be disbursed but this one not be.

24 **Bruce Prather:** Okay, I understand.

25 **Butch Lambert:** Mr. Swartz, would you like to include in your petition on this one, to request a  
26 90-day extension for this W.S. Ellis heirs? Or was it included in the list that you provided, in the  
27 exhibit that you provided?

28 **Mark Swartz:** It's in the 453.

29 **Butch Lambert:** It's in the 453? Okay.

30 **Anita Duty:** 'Cause it wasn't going to be closed out in total. Anything that wasn't closed out in  
31 total was included.

1 **Mary Quillen:** Okay, that is included in the six month thing?

2 **Mark Swartz:** In the extension.

3 **Mary Quillen:** Oh, okay.

4 **Mark Swartz:** We're able to make a partial disbursement, which we want to do.

5 **Mary Quillen:** Okay.

6 **Mark Swartz:** And if, Mr. Chairman, if you want, we can give Mr. Cooper a copy of the agency  
7 agreement, so you can release the documentation.

8 **Butch Lambert:** We have that, don't we?

9 **Rick Cooper:** We do have that.

10 **Butch Lambert:** We have it.

11 **Mark Swartz:** That's the principal difficulty. That we have an agency agreement which may not  
12 be valid until...

13 **Mary Quillen:** Yeah, that bothers me. That whole scenario bothers me.

14 **Mark Swartz:** Well, and why don't you tell them that so that I'm not a [inaudible]

15 **Anita Duty:** In addition to that, Mr. Cook, Shae Cook represents them in the actual final order  
16 that we receive, so I guess we need to make sure before he receives a portion of their money, to  
17 make sure that he's actually their agent, so there's a little bit of everything that goes on.

18 **Butch Lambert:** Did he correctly identify Mr. Harman by calling him Mr. Huffman, or is that  
19 two different people?

20 **Paul Kugelman, Jr.:** Mr. Huffman involves probably is the fairest answer.

21 **Anita Duty:** Well, Mr. Huffman is, he is, but. Now Harman, I don't know. Harman's a different  
22 unit, I know what you're getting. That's A.J. Harman. That's another different unit, another  
23 issue.

24 **Butch Lambert:** Alright. Thank you. Do you have anything further, Mr. Swartz?

25 **Mark Swartz:** No, I don't. But just to summarize since we've had...

26 **Butch Lambert:** Summarize please.

27 **Mark Swartz:** We would like to extract Tract 5 for the reasons that we've discussed to get that  
28 squared away, and we would like to proceed with a disbursement request for Tracts 1 and 1A.

1 **Butch Lambert:** Okay, and just for the record, again, the issues involved in Tract 5 are also  
2 included in a 90-day extension request.

3 **Mark Swartz:** In the six month extension request. Yes.

4 **Butch Lambert:** Six months. I'm sorry.

5 **Mark Swartz:** Yes. It was within the list of the 453.

6 **Butch Lambert:** Do I have a motion?

7 **Mary Quillen:** Motion to approve Tract 1 and Tract 1A, extracting Tract 5 for payment.

8 **Donnie Ratliff:** Second.

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

11 **Rick Cooper:** Mr. Chairman, the only thing that I would add to that, if I could, is make sure we  
12 get the exhibits by the end of this week, if possible.

13 **Anita Duty:** Update to remove...

14 **Rick Cooper:** To remove?

15 **Anita Duty:** Tract 5.

16 **Rick Cooper:** Tract 5 from this disbursement.

17 **Mary Quillen:** I amend my motion to include the paperwork by the end of the week, received by  
18 the Division Office.

19 **Donnie Ratliff:** Second still stands.

20 **Butch Lambert:** I have a motion and I have a second. Any further discussion? [No response] All  
21 in favor, signify by saying yes.

22 **Board:** Yes.

23 **Butch Lambert:** Opposed, no? [No response] Thank you, Mr. Swartz. That is approved.

24 **Mark Swartz:** Thank you.

25 **Item Number 7**

26 **Butch Lambert:** A petition from CNX Gas Company, LLC, for (1) the disbursement of  
27 escrowed funds heretofore deposited with the Board's Escrow Agent, attributable to Tracts 10,  
28 15, 17, 19, & 24, as depicted upon the annexed table; and (2) authorization to begin paying

1 royalties directly to the parties listed in the petition. Docket Number VGOB 95-1024-0526-06.  
2 All parties wishing to testify, please come forward.

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

4 **Butch Lambert:** You may proceed, Mr. Swartz.

5 **Mark Swartz:** Anita, state your name for us.

6 **Anita Duty:** Anita Duty.

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

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

9 **Mark Swartz:** Are you here on behalf of the petitioner CNX Gas Company?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** And this is a petition for disbursement?

12 **Anita Duty:** Yes.

13 **Mark Swartz:** Did you prepare or supervise its preparation?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** And do you want to extract one of the tracts from the request for the same  
16 reasons that we've just discussed with regard to the prior unit?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** Okay. So if we look at Table 1 again...

19 **Ms. Guilliams:** Mr. Chairman, I have a question. It's just a question. It's partly for the Board but  
20 it's also partly for Mr. Swartz.

21 **Butch Lambert:** I'm sorry, Ms. Guilliams. We're right in the middle of a docket item and...

22 **Ms. Guilliams:** I know, I was waiting for all that to happen. I did not want to interrupt you.

23 **Butch Lambert:** If it can hold until we finish this docket item, then I'll let you ask your  
24 question.

25 **Mark Swartz:** We would request disbursements be approved with regard to Tract 10, 15, 19 and  
26 24 on Table 1, but that we defer and not disburse with regard to Tract 17, which again, is James  
27 W. Huffman and for the W.H. Ellis heirs and in this instance, it's almost \$140,000. And it's the

1 same problem that we talked about in the last hearing so with that caveat, we would proceed to  
2 disburse what we can and then come back and get, once we get that straightened out.

3 **Mary Quillen:** Okay, we're extracting Tract 17?

4 **Mark Swartz:** Correct.

5 **Mary Quillen:** And does this fall into that six month, this particular one, fall into that six month  
6 group?

7 **Anita Duty:** Yes.

8 **Mary Quillen:** Very good.

9 **Mark Swartz:** Going back to the petition, Anita, have you summarized the release sought at  
10 Paragraph 2 and then explained the basis for the disbursement request in Paragraph 5?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** And obviously, the portion of that explanation, with regard to Mr. Huffman, we  
13 don't need to address that today?

14 **Anita Duty:** Correct.

15 **Mark Swartz:** But we do have conflicting claimants that the conflict was resolved by the House  
16 Bill 2058 and we've done our mailings and we're here to deal with those disbursements?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** Okay. With regard to Table 1, is it true that that is a table you've prepared for the  
19 Boards use in directing the escrow agent as to what should be done?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** Okay. What are the tract that we are still asking for a disbursement order?

22 **Anita Duty:** Tracts 10, 15, 19 and 24.

23 **Mark Swartz:** Okay, with regard to those four tracts, would you identify the tract and then the  
24 person to receive the check and the percentage that the escrow agent should use to make the  
25 disbursement to that person?

26 **Anita Duty:** For Tract 10, Mary Bartram, Thelma Kline, Mamie Cook, Nancy Duty, Betty  
27 Gibson, Kathy Murray, and Francis Stearns should each receive 2.7104%; for Tract 15, Nancy  
28 Duty should receive 5.0385%. For Tract 19, Nancy Duty should receive an additional 0.1122%;  
29 and for Tract 24, the Commonwealth of Virginia should receive 0.2244%.

1 **Mark Swartz:** Did you do a reconciliation Exhibit J, with regard to this unit?

2 **Anita Duty:** We did.

3 **Mark Swartz:** What was the first check date?

4 **Anita Duty:** July 14, 1997.

5 **Mark Swartz:** Okay, and you ran the comparison or reconciliation through what date?

6 **Anita Duty:** September 30, 2015.

7 **Mark Swartz:** And in doing so, did you attempt to locate a deposit for every royalty check that  
8 the operator paid?

9 **Anita Duty:** We did.

10 **Mark Swartz:** Okay, and were you able to do that?

11 **Anita Duty:** Yes, we were.

12 **Mark Swartz:** And then did you undertake the same sort of analysis that we saw in the prior  
13 unit where you took the total royalty checks deposited, correct?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** And accounted for, here in this case, five disbursements, right?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** Interest and fees that you took from the banks records.

18 **Anita Duty:** Yes.

19 **Mark Swartz:** And then you calculated your own total.

20 **Anita Duty:** We did.

21 **Mark Swartz:** And then you compared that to the September 30, 2015 First Bank and Trust  
22 balance?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** And it turned out that First Bank and Trust had \$1,007.31 more than your  
25 calculation?

26 **Anita Duty:** Yes, they did.

27 **Mark Swartz:** And again, that would probably be their interest exceeding their cost?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** And then you've attached agreements that do not pertain to this, but you've  
3 attached your mailings, with regard to mailings to the coal owners, correct?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** And the proof of mailing in that regard?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** And that's all I have, Mr. Chairman.

8 **Butch Lambert:** Any questions from the Board? [No response] Anything further, Mr. Swartz?

9 **Mark Swartz:** Nope.

10 **Butch Lambert:** Do I have a motion?

11 **Mary Quillen:** Motion to approve payment for Tracts 10, 15, 19, and 24. Tract 17 extracted.

12 **Butch Lambert:** I have motion. Do I have a second?

13 **Donnie Rife:** Second

14 **Butch Lambert:** I have a motion and I have a second. Any further discussion? All in favor  
15 signify by say yes.

16 **Board:** Yes.

17 **Butch Lambert:** Opposed, no. [No response]. Mr. Swartz that is approved.

18 **Item Number 8, 9 and 19**

19 **Butch Lambert:** A petition from CNX Gas Company, LLC, for (1) the disbursement of  
20 escrowed funds heretofore deposited with the Board's Escrow Agent, attributable to Tract 12, as  
21 depicted upon the annexed table; and (2) authorization to begin paying royalties directly to the  
22 parties listed in the petition. This is Docket Number VGOB 97-0218-0564-04. All parties  
23 wishing to testify, please come forward.

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

25 **Butch Lambert:** You may proceed, Mr. Swartz.

26 **Mark Swartz:** Thank you. Mr. Chairman, and I'll get with Anita in a minute to explain why,  
27 but we need to continue this Docket Item Number 8, Docket Item Number 9, and Docket Item  
28 Number 19. They all involve the Harmans and the reason is for the same problem but I'll defer to  
29 Anita to explain what went on here.

1 **Anita Duty:** The original heirship that shows up in the order, once Title reviewed this, and  
2 actually they gave them this information again, like yesterday evening, they discovered that the  
3 original interest from A.J. Harman was shown as passed to the wife. And the date of his death,  
4 the husband's death, was 1956, and at that time, the wife had only had a life estate. So the  
5 heirship, as it's shown in the order, is incorrect, and, at this point, we're requesting  
6 documentation for all the scheduled heirs and the fractional interest that is shown is going to  
7 change. But, we did not want to pay that one out either until we had documentation from them,  
8 from the heirs. There is also conveyances of the interest and things like that, so we want to make  
9 sure everything is...

10 **Butch Lambert:** What were those Docket Items again?

11 **Mark Swartz:** Number 8, 9, and 19.

12 **Mary Quillen:** And how long do you want this continued? To January or February or March?

13 **Anita Duty:** I guess we can decide if we want to completely withdraw it, and we could include  
14 it in the filing later or, it's up to you all.

15 **Mark Swartz:** Well, there's a court order that is incorrect, apparently.

16 **Anita Duty:** Yeah.

17 **Mark Swartz:** Who was the lawyer on that?

18 **Anita Duty:** Shae Cook.

19 **Mark Swartz:** Okay, and so this is, well, I'm just giving you a sense. I'm not sure we can fix a  
20 court order in 60 days.

21 **Mary Quillen:** Oh.

22 **Mark Swartz:** That's not our order.

23 **Mary Quillen:** Okay, so you want to withdraw them?

24 **Mark Swartz:** Well...

25 **Paul Kugelman, Jr.:** Has the court order been entered for more than 21 days?

26 **Anita Duty:** Yes.

27 **Paul Kugelman, Jr.:** I mean, if it has, I don't think you can do anything to fix it.

28 **Mark Swartz:** Well, that's their problem.

29 **Paul Kugelman, Jr.:** Okay, well, I'm just saying.

1 **Mark Swartz:** I understand.

2 **Anita Duty:** Even with a court order as it stood, there was a person missing off of that so we  
3 weren't including them as part of the payment. But in addition to that, we have the fractional  
4 interest problem, too.

5 **Paul Kugelman, Jr.:** But the court order doesn't address all of the interests.

6 **Mark Swartz:** Does it? Missed one interest, and it clearly, from what I'm looking at, that Title  
7 was just dead wrong, I mean, you know, we had a wife taking a life estate that the court order  
8 assumed she took fee. So then everything, and this is way back in...when did this? 1956.

9 **Anita Duty:** 1956 is the original heir. [Crosstalk]

10 **Mark Swartz:** Oh my gosh. You know. So I don't think they can fix this in 60 days.

11 **Mary Quillen:** So you're saying you want to withdraw?

12 **Mark Swartz:** What's your preference? You want to give them a shot at it or do you want to just  
13 withdraw it?

14 **Anita Duty:** Well, there are other tracts that are in these units and we were only putting this one  
15 at the front because it had a court order, because we needed those faster.

16 **Butch Lambert:** So this is not included in the original six month extension, right? So why don't  
17 we do this. Why don't we include this in the six month extension and then come back at the end  
18 of six months and if there's still nothing that can be done, we will do whatever we need to do.

19 **Mark Swartz:** Perfect.

20 **Mary Quillen:** So...

21 **Mark Swartz:** It should be in the 453 but I'd have to look, but that's a perfect solution. We'll  
22 deal with these [Inaudible].

23 **Mary Quillen:** So continue it until June, right?

24 **Mark Swartz:** I'm sorry?

25 **Mary Quillen:** We're continuing it until June?

26 **Bruce Prather:** 16.

27 **Mark Swartz:** Right.

28 **Mary Quillen:** Okay.

1 **Butch Lambert:** And we'll get a status in June and fix it if we can, and if not, we'll do  
2 something else.

3 **Mark Swartz:** Or before, or before [Crosstalk]. Okay. Great.

4 **Mary Quillen:** If it's not fixed you can withdraw then.

5 **Rick Cooper:** So Mr. Chairman, so this will come back up on the June docket. Are we clear on  
6 that one?

7 **Butch Lambert:** Yes.

8 **Paul Kugelman, Jr.:** Or sooner.

9 **Rick Cooper:** Well, what we have to do for the E-Forms, we have to put a date if they bring it  
10 further, we can, but we need to put a June date or May date, or whatever date they choose.

11 **Butch Lambert:** Well, it'll just be included in all those of the six month extension, however,  
12 you're addressing those.

13 **Mark Swartz:** Well, and just so you know, as Anita mentioned, there are other people who have  
14 money coming from this unit, so we will be filing amended exhibits to address their money,  
15 whether or not, we can resolve this. So we may be back on this even before this is...so it makes  
16 sense to continue what we can come back on partial for other people to take care of them.

17 **Mary Quillen:** Sure.

18 **Rick Cooper:** So I guess I'm saying, would it not be easier to withdraw it if you're going to  
19 come back for it and amend all this. It's just a cleaner system if you withdraw these three.

20 **Mark Swartz:** Okay.

21 **Butch Lambert:** Well, you can't totally withdraw it. I mean, you're going to have to re-file it  
22 before the end of June because of the six month extension.

23 **Mark Swartz:** Right.

24 **Anita Duty:** It is on there.

25 **Mark Swartz:** It is on our list though, and so...

26 **Rick Cooper:** Okay, we'll put it on June.

27 **Paul Kugelman, Jr.:** Administratively, for you, if that's what works. Legally, I think we have to  
28 keep it...

29 **Mark Swartz:** Okay.

1 **Rick Cooper:** Yes.

2 **Anita Duty:** Well, I guess the only thing, the only issue I can see is if we have other people  
3 ready that are within that unit and if this one is still showing as a continuance rather than a  
4 withdraw, then...

5 **Rick Cooper:** Then all the numbers of the calculations will get very confusing

6 **Mary Quillen:** And not extract it like you did the others? [Crosstalk]

7 **Anita Duty:** Well, it was the only tract in the petition.

8 **Rick Cooper:** The tract acreage will not be correct if you come back and amend preexisting  
9 order. The tract acreages will not work out.

10 **Mary Quillen:** Okay, yeah.

11 **Anita Duty:** As far as continuing the unit as a whole, that is on the six month extension list that  
12 we requested earlier and if we just withdraw these then we we'll go back and refile before June,  
13 whether it includes this unit or this particular tract or not.

14 **Butch Lambert:** Okay. As long as it's on the six month extension and we're sure of that.

15 **Mark Swartz:** It is.

16 **Butch Lambert:** Okay, that docket item will be continued until June 2016. Docket Item Number  
17 9, which is VGOB 96-0116-0530-04 will be continued till June.

18 **Rick Cooper:** I think the motion I heard was to withdraw these petitions. Withdraw the current  
19 petitions as they are and bring new ones back in the very near future when you have to make a  
20 disbursement on this...

21 **Mark Swartz:** The other people.

22 **Anita Duty:** Whether it includes this tract or not, whether this tract has been resolved or not we  
23 will do something before the six month extension.

24 **Butch Lambert:** Okay, those two docket items will be withdrawn. Also we're talking about  
25 Docket Item Number 19, which is VGOB 02-0319-1008-04, will also be withdrawn.

26 **Mary Quillen:** So we're withdrawing all three of them then?

27 **Butch Lambert:** Yes.

28 **Mark Swartz:** And all three of those units are in the original Exhibit 1.

29 **Butch Lambert:** Okay. That's straight. That'll make that easier.

1 **Item Number 10**

2 **Butch Lambert:** A petition from CNX Gas Company, LLC, for (1) the disbursement of  
3 escrowed funds heretofore deposited with the Board's Escrow Agent, attributable to Tract 2A, as  
4 depicted upon the annexed table; and (2) authorization to begin paying royalties directly to the  
5 parties listed in the petition. This is Docket Number VGOB 98-0324-0631-02. All parties  
6 wishing to testify, please come forward.

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

8 **Jen Shaver:** Jen Shaver on behalf of Doris Betty Addison.

9 **Butch Lambert:** You may proceed, Mr. Swartz.

10 **Mark Swartz:** State your name for us, Anita.

11 **Anita Duty:** Anita Duty.

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

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

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

15 **Anita Duty:** Yes.

16 **Mark Swartz:** And we're here on a petition of disbursement of escrowed funds, correct?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** And did you prepare or supervise the preparation of that petition?

19 **Anita Duty:** I did.

20 **Mark Swartz:** Okay, and the reason for the petition request is that Commonwealth call has  
21 essentially declined, filed an affidavit declining any claim or interest, correct?

22 **Anita Duty:** Correct.

23 **Mark Swartz:** And have you prepared a Table 1?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** And in...that Table 1 pertains, or this disbursement pertains to which tract?

26 **Anita Duty:** Tract 2A.

1 **Mark Swartz:** And who is to receive the payment and what is the percentage that the escrow  
2 agent should use to make the payment?

3 **Anita Duty:** Doris Betty Addison should receive 97.4314% of the escrow account.

4 **Mark Swartz:** Okay, and is it to be mailed to her or to someone else?

5 **Anita Duty:** I have no other direction other than mailing it to her.

6 **Jen Shaver: It's to be mailed to her.**

7 **Mark Swartz:** Okay, and just looking at the acreages here, there's a tiny bit of acreage that still  
8 going to remain in escrow, correct?

9 **Anita Duty:** Yes. There is one tract left.

10 **Mark Swartz:** And have you prepared an Exhibit J reconciliation?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** When did you start, when was the first royalty check paid by the operator?

13 **Anita Duty:** December 31, 2003, December 24, 2003.

14 **Mark Swartz:** And that's when you started your analysis?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** And you finished your analysis or cut it off as of what date?

17 **Anita Duty:** September 30, 2015.

18 **Mark Swartz:** And in doing so, did you or the folks that work with you take every royalty check  
19 that the operator sent for deposit and looked for a corresponding deposit?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** And were you able to do that?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** And then did you do your reconciliation at the end where you did your math,  
24 correct?

25 **Anita Duty:** Yes.

1 **Mark Swartz:** And you came up with a total and when you compare that with the September 30,  
2 2015, First Bank and Trust balance, there's a slight difference, correct?

3 **Anita Duty:** Yes. \$44.49.

4 **Mark Swartz:** And in this instance, that is, the bank's balance is slightly less than your  
5 calculations?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** Okay, presumably their fees exceeded their interest?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** And have you, as usual, attached your mailing information?

10 **Anita Duty:** I did.

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

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

13 **Jen Shaver:** No questions.

14 **Butch Lambert:** Anything further, Mr. Swartz?

15 **Mark Swartz:** No.

16 **Butch Lambert:** Do I have a motion?

17 **Paul Kugelman, Jr.:** Motion for approval.

18 **Mary Quillen:** Second.

19 **Butch Lambert:** I have a motion and second. Any further discussion? [No response] All in  
20 favor, signify by saying yes.

21 **Board:** Yes.

22 **Butch Lambert:** Opposed, no? [No response] Thank you folks. That's approved. We're going to  
23 take about a 10 minute break but before we do, Ms. Guilliams, are you still here? Would you like  
24 to make a comment quickly, please?

25 **Ms. Guilliams:** [Inaudible] the statement that Mr. Swartz had made.

26 **Butch Lambert:** Well, you'll have to direct your questions to us.

1 **Rick Cooper:** Make sure that we can hear it.

2 **Ms. Guilliams:** Well, it's partly for the Board but back there when the Bill was passed and the  
3 Governor signed and everything, there was a time period of the coal owners or anybody that was  
4 going to put claim to any of these properties had a certain number of days to come forward and,  
5 unless my calculations wrong, I think that was around the 17<sup>th</sup> of August of 2015. Is that right or  
6 pretty close?

7 **Paul Kugelman, Jr.:** Are you assuming that everyone had to file something just because of the  
8 law in response?

9 **Ms. Guilliams:** No sir.

10 **Paul Kugelman, Jr.:** Petitions have to be filed on or before January 1, 2016 and after the  
11 petitions are filed, notice must go out and any coal owner who wants to assert claim to the coal-  
12 bed methane royalties to that particular well, must do so within 45 days. But, the law also  
13 provides for gas well operators to, as you seen today, to move the Board for an extension of time  
14 to file the petitions. I don't know if that answers your question, but that's what I know about...

15 **Ms. Guilliams:** That's not my question.

16 **Paul Kugelman, Jr.:** Then I don't understand what you're talking about with respect to timing.

17 **Ms. Guilliams:** Okay. The Bill was passed in the General Assembly in 2015.

18 **Paul Kugelman, Jr.:** Yes, ma'am.

19 **Ms. Guilliams:** Governor McAuliffe signed it, I think, somewhere between March and April, I  
20 don't know the exact date.

21 **Paul Kugelman, Jr.:** He signed it into law, but yes.

22 **Ms. Guilliams:** Yeah, okay. Well, at that time there was a, but the law did not become effective  
23 until July 1.

24 **Paul Kugelman, Jr.:** Correct.

25 **Ms. Guilliams:** Okay, at that time, anyone who was, I guess, who was claim or, I mean, not just  
26 the coal owners, but anyone else who thought they may or may not have an interest in these  
27 properties. They were given 45 days?

28 **Paul Kugelman, Jr.:** No, ma'am. The only, what triggers 45 days is the filing, the petition, and  
29 the notice sent out.

30 **Ms. Guilliams:** Okay, that's what I'm saying. There had to be some sort of notice...

1 **Paul Kugelman, Jr.**: Yes, ma'am.

2 **Ms. Guilliams**: ...within the 45 days.

3 **Paul Kugelman, Jr.**: No, not within the 45 days. The 45 days within the filing, notice of  
4 petition. The petition could be filed anytime between July 1<sup>st</sup> until January 1<sup>st</sup>, 2016, unless there  
5 was an extension granted. But, the 45 days is triggered when coal owners received notice of the  
6 filing petition. So it slides, depending on when the petition is actually filed.

7 **Ms. Guilliams**: Okay.

8 **Butch Lambert**: Why don't we go ahead and take a break now and Ms. Guilliams, you can  
9 continue your discussion with Mr. Kugelman.

10 **Paul Kugelman, Jr.**: I'll be happy to speak with you.

11 **Butch Lambert**: Let's come back in 10 minutes.

12 **Item Number 11**

13 **Butch Lambert**: A petition from CNX Gas Company, LLC, for (1) the disbursement of  
14 escrowed funds heretofore deposited with the Board's Escrow Agent, attributable to Tracts 1 &  
15 1D, as depicted upon the annexed table; and (2) authorization to begin paying royalties directly  
16 to the parties listed in the petition. This is Docket Number VGOB 98-0324-0634-01. All parties  
17 wishing to testify, please come forward.

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

19 **Jen Shaver**: Jen Shaver on behalf of Doris Betty Addison.

20 **Butch Lambert**: You may proceed, Mr. Swartz.

21 **Mark Swartz**: Anita, state your name for us.

22 **Anita Duty**: Anita Duty.

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

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

25 **Mark Swartz**: Are you here on behalf of the applicant?

26 **Anita Duty**: Yes.

27 **Mark Swartz**: In support of a petition for disbursement?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** And the reason for the request is what?

3 **Anita Duty:** We have...for Tract 1, we have an affidavit from Commonwealth coal disclaiming,  
4 or giving up any claim to the CBM and for Tract 1D, it's covered by the House Bill.

5 **Mark Swartz:** Okay, and have you prepared a Table 1, with regard to these two tracts that  
6 you're seeking a disbursement?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** And in that table, you've identified the tracts and you've identified the people  
9 and the percentages, right?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** Could you put in the record the tract number of the recipient, of the proposed  
12 recipient, of the payment and the percentage that the escrow agent should use in calculating the  
13 dollar amount?

14 **Anita Duty:** For Tract 1, Betty Doris Addison should receive 36.0767%, and for Tract 1D,  
15 Elmer Burke should receive 4.0023%.

16 **Mark Swartz:** Just doing the math, it looks like the acreage exceeds the amount of  
17 disbursements, so we're going to be back again?

18 **Anita Duty:** Yes.

19 **Mark Swartz:** And, are these checks, are either of these checks that you mailed to someone  
20 other than the person you've just now identified?

21 **Anita Duty:** No.

22 **Mark Swartz:** Okay. Have you done an Exhibit J reconciliation, in regard to this unit?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** And you call that Exhibit J, right?

25 **Anita Duty:** Yes.

26 **Mark Swartz:** Okay, and when was the first royalty check dated?

27 **Anita Duty:** October 23, 1998.

1 **Mark Swartz:** And when did you cut the reconciliation off, what date?

2 **Anita Duty:** September 30, 2015.

3 **Mark Swartz:** And did you attempt to, well first of all, did you identify all of your royalty  
4 checks?

5 **Anita Duty:** We did.

6 **Mark Swartz:** And then did you try to find a deposit for every check?

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

8 **Mark Swartz:** And were you able to find one?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** Okay, and then you did a calculation totaling the royalty checks that you issued,  
11 that you found deposits for?

12 **Anita Duty:** Yes.

13 **Mark Swartz:** You use the banks records to generate a net number for interest and fees?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** And you came up with a total and then you compared that total to the banks'  
16 balance on September 30, 2015, correct?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** And when you did that, you discovered that the banks total was \$196.94 less than  
19 your calculation?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** Again, the assumption being that their fees exceeded their return on their  
22 investments?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** You've attached, I believe, the affidavits and mailing correct?

25 **Anita Duty:** Yes.

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

1 **Butch Lambert:** Questions from the Board? [No response] Ms. Shaver? Anything further, Mr.  
2 Swartz?

3 **Mark Swartz:** No.

4 **Butch Lambert:** Do I have a motion?

5 **Donnie Ratliff:** Motion for approval.

6 **Mary Quillen:** Second.

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

9 **Board:** Yes.

10 **Butch Lambert:** Opposed, no? [No response] Thank you folks that is approved.

11 **Item Number 12**

12 **Butch Lambert:** A petition from CNX Gas Company, LLC, for (1) the disbursement of  
13 escrowed funds heretofore deposited with the Board's Escrow Agent, attributable to Tract 2, as  
14 depicted upon the annexed table; and (2) authorization to begin paying royalties directly to the  
15 parties listed in the petition. Docket Number VGOB 98-0324-0635-03. All parties wishing to  
16 testify, please come forward.

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

18 **Jen Shaver:** Jen Shaver, on behalf of Doris Addison.

19 **Butch Lambert:** You may proceed, Mr. Swartz.

20 **Mark Swartz:** State your name for us, please.

21 **Anita Duty:** Anita Duty.

22 **Mark Swartz:** And who do you work for?

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

24 **Mark Swartz:** You're appearing on behalf, here today, on behalf of CNX Gas Company, LLC in  
25 support of a petition for disbursement, right?

26 **Anita Duty:** Yes.

1 **Mark Swartz:** And we have Doris Betty Addison, again, same person that we saw the last unit,  
2 correct?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** And this is because Commonwealth Coal has disclaimed any interest in the coal?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** And the tract...

7 **Anita Duty:** Coal-bed methane.

8 **Mark Swartz:** Coal-bed methane. I'm sorry. Thank you, and the tract that we're concerned with  
9 here is Tract 2?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** And who is to receive the payment and what's the percentage that the escrow  
12 agent should use when calculating the dollars?

13 **Anita Duty:** Doris Betty Addison, should receive 4.1387%.

14 **Mark Swartz:** Okay. You've updated Exhibits E and EE, correct? And your proofs of mailing?

15 **Anita Duty:** Yes.

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

17 **Butch Lambert:** Questions from the Board? [No response] Ms. Shaver? Anything further, Mr.  
18 Swartz?

19 **Mark Swartz:** Only with regard to Exhibit J, you got the same analysis, correct?

20 **Anita Duty:** We did.

21 **Mark Swartz:** And did you locate every royalty check?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** And when you calculated the difference between your total and reconciliation  
24 and the banks, it looks like the bank had \$43.42 less.

25 **Anita Duty:** Yes.

26 **Mark Swartz:** That's all I have, Mr. Chair.

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

8 **Item Number 13**

9 **Mary Quillen:** A petition from CNX Gas Company for (1) the disbursement of escrowed funds  
10 heretofore deposited with the Board's Escrow Agent, attributable to Tracts 3A, 3B, 3D, & 3E, as  
11 depicted upon the annexed table; and (2) authorization to begin paying royalties directly to the  
12 parties listed in the petition. This is Docket Number VGOB 98-0324-0637-01. All parties  
13 wishing to testify, please come forward.  
14 **Mark Swartz:** Mark Swartz and Anita Duty.  
15 **Jen Shaver:** Jen Shaver, on behalf of Betty Doris Addison.  
16 **Butch Lambert:** You may proceed, Mr. Swartz.  
17 **Mark Swartz:** Thank you. State your name for us.  
18 **Anita Duty:** Anita Duty.  
19 **Mark Swartz:** And who do you work for?  
20 **Anita Duty:** CNX Land, LLC.  
21 **Mark Swartz:** And are you here on behalf of the operator CNX Gas Company, LLC in support  
22 of a petition for disbursement?  
23 **Anita Duty:** Yes.  
24 **Mark Swartz:** And have you stated the reasons for the disbursement request in Paragraph 5?  
25 **Anita Duty:** Yes.  
26 **Mark Swartz:** And have you prepared a Table 1, identifying the tracts, the people and the  
27 percentages?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** Okay, could you put in the record the tract numbers, the names of the people that  
3 the disbursement should be directed to, and the percentages that the escrow agent should use to  
4 calculate the dollars?

5 **Anita Duty:** For Tract 3A, Doris Betty Addison should receive 40.7951%; Tract 3B, Rondal and  
6 Freda Wade should receive 13.3933%; Tract 3D, Commonwealth of Virginia should receive  
7 0.142%; for Tract 3E, Rondal and Freda Wade should receive an additional 2.319%.

8 **Mark Swartz:** And again, this is a partial disbursement when we look at the acreages, correct?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** Did you also do an updated Exhibit E and EE here?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** Okay. And you did the reconciliation of royalty payments to bank deposits?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** And that's Exhibit J?

15 **Anita Duty:** It is.

16 **Mark Swartz:** When was the first royalty check?

17 **Anita Duty:** September 25, 1998.

18 **Mark Swartz:** And when did you discontinue your comparison?

19 **Anita Duty:** September 30, 2015.

20 **Mark Swartz:** And were you able to locate all royalty payments?

21 **Anita Duty:** Yes.

22 **Mark Swartz:** And then when you compared them to the bank records, were you able to find the  
23 deposit for every royalty check?

24 **Anita Duty:** We were.

25 **Mark Swartz:** And did you do a calculation to come up with your own number of the total  
26 deposits, or total royalty checks plus interest and fees as recorded by the bank?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** And when you compared your calculation of the ending number to the bank  
3 balance, as of September 30, 2015, there was a difference?

4 **Anita Duty:** \$17.53 less.

5 **Mark Swartz:** In the bank.

6 **Anita Duty:** In the bank.

7 **Mark Swartz:** Again, the assumption being that their fees exceeded their return on investment?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** And you've attached your proofs of mailing, so forth, with your application?

10 **Anita Duty:** Yes.

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

12 **Butch Lambert:** Any questions from the Board? Ms. Shaver?

13 **Jen Shaver:** I do have one question, Ms. Duty. In Paragraph 5 [inaudible], am I reading that  
14 correctly? That royalty be paid directly to CNX Gas Company. Is that identifying CNX as the  
15 claimant in this? Am I reading that wrong?

16 **Anita Duty:** That is a mistake. We need to...

17 **Jen Shaver:** Is that an error for the record?

18 **Anita Duty:** Yeah.

19 **Bill Harris:** Sorry, which? 5

20 **Jen Shaver:** 5G

21 **Bill Harris:** G

22 **Paul Kugelman, Jr.:** So for the record, to whom should it be made?

23 **Anita Duty:** It should be Doris Betty Addison and Rondal and Freda Wade and Commonwealth  
24 of Virginia Department of Transportation.

25 **Butch Lambert:** We'll get an updated, you get Mr. Cooper and updated petition.

1 **Anita Duty:** I don't know if we can. I don't think we can change it. Unless, I think we may have  
2 to call.

3 **Sarah Gilmer:** We'll get together and get it changed.

4 **Butch Lambert:** Well, we can't leave it in the record this way. It has to be changed.

5 **Anita Duty:** Ms. Gilmer, I think we usually have to get on the phone with her and she actually  
6 changes it, so, we can't actually change it ourselves.

7 **Rick Cooper:** But we will get that corrected to reflect what testimony says.

8 **Anita Duty:** Yes.

9 **Butch Lambert:** Thank you, Mr. Cooper. Anything further? Anything further, Mr. Swartz?

10 **Mark Swartz:** No.

11 **Butch Lambert:** Do I have a motion?

12 **Donnie Ratliff:** Motion for approval.

13 **Donnie Rife:** Second, Mr. Chair.

14 **Butch Lambert:** I have a motion and I have a second. Any further discussion?

15 **Mary Quillen:** Does that need to include the updated petition, to that motion, include the  
16 updated petition?

17 **Donnie Ratliff:** Approval with the, thank you, my motion then is approval with the correction of  
18 Paragraph 5G in the application to read the Rondal and Freda Wade and VDOT, instead of CNX  
19 Gas Company.

20 **Mary Quillen:** And also Doris Addison, Ms. Addison.

21 **Donnie Rife:** I'll second my motion, too, to reflect the amended.

22 **Donnie Ratliff:** Where was...did we leave off Ms. Addison? I'm sorry. Can I amend that again  
23 to include Ms. Addison? I'm sorry. I knew there were two folks I didn't...let me clean that up.

24 **Butch Lambert:** Okay, we have an amended motion and I have a second. All in favor, signify  
25 by saying yes.

26 **Board:** Yes.

27 **Butch Lambert:** Opposed, no. I'm not sure that I got but two yes's.

1 **Board:** Yes.

2 **Butch Lambert:** Thank you. Folks that is approved.

3 **Item Number 14**

4 **Butch Lambert:** A petition from CNX Gas Company, LLC, for (1) the disbursement of  
5 escrowed funds heretofore deposited with the Board's Escrow Agent, attributable to Tract 4G, as  
6 depicted upon the annexed table. This is Docket Number VGOB 98-0324-0638-07. All parties  
7 wishing to testify, please come forward.

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

9 **Butch Lambert:** You may proceed, Mr. Swartz.

10 **Mark Swartz:** State your name for us, please.

11 **Anita Duty:** Anita Duty.

12 **Mark Swartz:** And who do you work for?

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

14 **Mark Swartz:** And are you here on behalf of CNX Gas Company, LLC, the operator, in support  
15 of a petition for disbursement?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** And the reason for this disbursement request is a split agreement, correct?

18 **Anita Duty:** It is.

19 **Mark Swartz:** And did you prepare a Table 1, consistent with the split agreement?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** And if you look at Table 1, talking about which tract?

22 **Anita Duty:** Tract 4G.

23 **Mark Swartz:** Okay. And who are the persons or companies that should receive the  
24 disbursements and what percentages should the escrow agent use in calculating those dollars?

25 **Anita Duty:** Herb McGuire Land Trust and Winford Mack Osborne, should each receive the  
26 50% of the escrow account.

1 **Mark Swartz:** Okay. And once those disbursements occur and this escrow account is zeroed out,  
2 it can be closed, correct?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** And you've revised the exhibits accordingly?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** Did you undertake to do a reconciliation Exhibit J, with regard to this?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** And your initial check was when?

9 **Anita Duty:** September 25, 1998.

10 **Mark Swartz:** And cut off your reconciliation as of what date?

11 **Anita Duty:** August 31, 2015.

12 **Mark Swartz:** Were you able to identify all of your royalty payments?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** And then did you look for a deposit for each and every royalty payment?

15 **Anita Duty:** I did.

16 **Mark Swartz:** Were you able to find one?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** And then you did a calculation, as you always do, the total the payments in and  
19 any disbursements out, correct?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** And then account for any interest and fees?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** And then when you did that, you came up with a balance that you believe should  
24 be on deposit as of this point, correct?

25 **Anita Duty:** Yes.

1 **Mark Swartz:** And then you looked at August 31<sup>st</sup> bank statement and there was a difference?

2 **Anita Duty:** Yes.

3 **Mark Swartz:** And what was that difference?

4 **Anita Duty:** \$1,393.40.

5 **Mark Swartz:** And that reflected that the bank had less money, right?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** And presumably, over the course of years, their fees have exceeded their interest?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** Did copies [inaudible]

10 **Anita Duty:** I did.

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

12 **Butch Lambert:** Any questions from the Board? [No response] Anything further, Mr. Swartz?

13 **Mark Swartz:** No.

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

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

16 **Bruce Prather:** Second.

17 **Butch Lambert:** I have a motion and I have a second. Any further discussion? [No response] All

18 in favor signify by saying yes.

19 **Board:** Yes.

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

21 **Item Number 15**

22 **Butch Lambert:** A petition from CNX Gas Company, LLC, for (1) the disbursement of

23 escrowed funds heretofore deposited with the Board's Escrow Agent, attributable to Tracts 3A &

24 3D, as depicted upon the annexed table. This is Docket Number VGOB 98-0324-0639-03. All

25 parties wishing to testify, please come forward.

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

2 **Butch Lambert:** You may proceed, Mr. Swartz.

3 **Mark Swartz:** Anita, your name, please.

4 **Anita Duty:** Anita Duty.

5 **Mark Swartz:** You work for whom?

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

7 **Mark Swartz:** And are you here on behalf of CNX Gas Company, the operator, today in support  
8 of this petition for disbursement?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** And the reason for this disbursement request here is a split agreement, correct?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** And it's a 50/50 agreement?

13 **Anita Duty:** It is.

14 **Mark Swartz:** And did you utilize that to prepare Table 1?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** Okay. And turning to Table 1, we are talking about two different tracts?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** And for each tract, could you identify the tract name, identification number and  
19 then the people to who the checks should be paid and the percentages that the escrow agent  
20 should use to calculate the dollar amounts?

21 **Anita Duty:** For Tract 3A, Herb McGuire Land Trust and Winford Mack Osborne, should each  
22 receive 42.9293%; for Tract 3D, Herb McGuire Land Trust and CNX Gas Company, LLC,  
23 should receive 5.2189%.

24 **Mark Swartz:** And there's a tiny little bit of acreage remaining after that disbursement and  
25 you've dealt with that in a revised Exhibit E?

26 **Anita Duty:** Yes.

- 1 **Mark Swartz:** And you updated Exhibit EE?
- 2 **Anita Duty:** Yes.
- 3 **Mark Swartz:** And you provided proofs of mailing, right?
- 4 **Anita Duty:** Yes.
- 5 **Mark Swartz:** And then, again, it looks like there's an Exhibit J reconciliation?
- 6 **Anita Duty:** Yes.
- 7 **Mark Swartz:** When did you start the reconciliation? What date?
- 8 **Anita Duty:** September 25, 1998.
- 9 **Mark Swartz:** Okay, and when did you end?
- 10 **Anita Duty:** August 31, 2015.
- 11 **Mark Swartz:** In doing so, did you attempt to identify every royal payment?
- 12 **Anita Duty:** Yes.
- 13 **Mark Swartz:** And then locate a corresponding deposit for each payment?
- 14 **Anita Duty:** Yes.
- 15 **Mark Swartz:** And were you able to do that?
- 16 **Anita Duty:** Yes.
- 17 **Mark Swartz:** And then you did a calculation also involving a correction to get to, what you  
18 thought, the balance should be?
- 19 **Anita Duty:** Yes.
- 20 **Mark Swartz:** And you compared that to the balance on hand at the end of August at First Bank  
21 and was there a difference?
- 22 **Anita Duty:** \$830.97.
- 23 **Mark Swartz:** Less.
- 24 **Anita Duty:** Less.

1 **Mark Swartz:** In the bank.

2 **Anita Duty:** Yes.

3 **Mark Swartz:** What was the correction? Looks like it was March 31, 2014.

4 **Anita Duty:** I think that was the correction with the bank. I don't think that was anything we did.  
5 I mean, I don't think that was...

6 **Mark Swartz:** Okay, 'cause if it was you, there would be documentation.

7 **Anita Duty:** Yes, I don't know what that is.

8 **Mark Swartz:** Okay. So that came from the banks records?

9 **Anita Duty:** That's the banks records. We don't have any copies of that anywhere.

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

11 **Butch Lambert:** Any questions from the Board? [No response] Anything further, Mr. Swartz?

12 **Mark Swartz:** No.

13 **Butch Lambert:** Do I have a motion?

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

15 **Bruce Prather:** I'll second that.

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

18 **Board:** Yes.

19 **Butch Lambert:** Opposed, no? [No response] Thank you, Mr. Swartz. That is approved.

20

**Item Number 16**

21 **Butch Lambert:** A petition from CNX Gas Company, LLC, for (1) the disbursement of  
22 escrowed funds heretofore deposited with the Board's Escrow Agent, attributable to Tract 5, as  
23 depicted upon the annexed table; and (2) authorization to begin paying royalties directly to the  
24 parties listed in the petition. This is Docket Number VGOB 00-1017-0826-01. All parties  
25 wishing to testify, please come forward.

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

1 **Jen Shaver:** Jen Shaver on behalf of Pamela Keene, Jamie Hale, and Jeffery Hale.

2 **Butch Lambert:** You may proceed, Mr. Swartz.

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

4 **Anita Duty:** Anita Duty.

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

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

7 **Mark Swartz:** And are you here on behalf of CNX Gas Company, in support of this petition for  
8 disbursement?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** And the reason for this disbursement request is an affidavit from Torch, stating  
11 they have no, they're making no claims against CBM Royalties, correct?

12 **Anita Duty:** Correct.

13 **Mark Swartz:** And in light of that, did you prepare a Table 1, to address the disbursements that  
14 could then be made?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** And these disbursements all deal with Tract 5?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** Could you identify the people to whom the checks should be made payable, and  
19 the percentages that the escrow agent should use to calculate the amounts?

20 **Anita Duty:** Pamela Keene, Jamie Hale, Jeffery Hale, should each receive 1.1571% and then  
21 each of them should receive an additional 2.3142%.

22 **Mark Swartz:** Okay, have you amended Exhibits E and EE accordingly?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** And then, proofs of mailing are in there and so forth, and then we get to Exhibit  
25 J, right?

26 **Anita Duty:** Yes.

1 **Mark Swartz:** And that's your reconciliation exhibit?

2 **Anita Duty:** It is.

3 **Mark Swartz:** When did you start reconciling?

4 **Anita Duty:** April 25, 2003.

5 **Mark Swartz:** And you ran that reconciliation through what date?

6 **Anita Duty:** September 30, 2015.

7 **Mark Swartz:** And looking to reconcile the records, did you attempt to identify every royalty  
8 check the operator paid?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** And then did you attempt to locate a deposit for each of those?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** And were you able to do that?

13 **Anita Duty:** We were.

14 **Mark Swartz:** And then you did your calculation of total deposits, total checks made, interest  
15 and fees that you got from the bank, and you came up with a total?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** And you compared that to the amount on hand and at the end of September 2015,  
18 there was a difference?

19 **Anita Duty:** The bank had \$55.01 less than we calculated.

20 **Mark Swartz:** Again, the assumption would be that their fees exceeded their income?

21 **Anita Duty:** Yes.

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

23 **Butch Lambert:** Any questions from the Board?

24 **Donnie Ratliff:** Mr. Chairman?

25 **Butch Lambert:** Mr. Ratliff.

1 **Donnie Ratliff:** Ms. Duty, all of these are in Tract 5 and the three people are repeated? You  
2 knew I was going to ask that question, or someone was going to. Can you explain how that  
3 happened?

4 **Anita Duty:** The original interest that is shown first, is the interest they inherited from their  
5 mother, and then the second set of interest is the interest they own individually.

6 **Donnie Ratliff:** They own already.

7 **Anita Duty:** Yes.

8 **Donnie Ratliff:** Thank you.

9 **Butch Lambert:** Any further questions? [No response] Ms. Shaver?

10 **Jen Shaver:** No questions.

11 **Butch Lambert:** Anything further, Mr. Swartz?

12 **Mark Swartz:** Nothing further.

13 **Butch Lambert:** Do I have a motion?

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

15 **Donnie Ratliff:** Second.

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

18 **Board:** Yes.

19 **Butch Lambert:** Opposed, no? [No response] Thank you, folks. That is approved.

20 **Item Number 17**

21 **Butch Lambert:** A petition from CNX Gas Company, LLC, for (1) the disbursement of  
22 escrowed funds heretofore deposited with the Board's Escrow Agent, attributable to Tract 1B, as  
23 depicted upon the annexed table; and (2) authorization to begin paying royalties directly to the  
24 parties listed in the petition. Docket Number VGOB 00-1017-0830-03. All parties wishing to  
25 testify, please come forward.

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

27 **Jen Shaver:** Jen Shaver on behalf of Pamela Keene, Jamie Hale, and Jeffery Hale.

1 **Butch Lambert:** You may proceed, Mr. Swartz.

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

3 **Anita Duty:** Anita Duty.

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

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

6 **Mark Swartz:** And are you here on behalf of CNX Gas Company, the operator, in support of its  
7 petition for disbursement?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** And we have the same reason here that we just saw in the previous petition,  
10 Torch Oil and Gas has disclaimed any interest to CBM Royalties, correct?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** And based on that disclaimant, have you prepared a Table 1?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** And it pertains to what Tract?

15 **Anita Duty:** Tract 1B.

16 **Mark Swartz:** And could you identify the people to whom the escrow agent should makes the  
17 checks payable, and the percentages the escrow agent should use when calculating the dollars to  
18 be disbursed?

19 **Anita Duty:** Pamela Keene, Jamie Hale, and Jeffery Hale, all should receive 10.5485% and then  
20 an additional 21.0969%.

21 **Mark Swartz:** And I assume you've got the mailings and so forth, and then I see another Exhibit  
22 J, correct?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** And when did you start the comparison exercise?

25 **Anita Duty:** November 30, 2001, was the first bank record. I don't know how that happened. It's  
26 all zeros. I don't know.

27 **Mark Swartz:** Okay, and then when did you conclude your comparison?

1 **Anita Duty:** September 30, 2015.

2 **Mark Swartz:** Okay, and did you identify, in the process of making the comparison, did you  
3 identify all royalty checks that the operator cut to one bank or another, for escrow?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** And were you able to locate a deposit for each of those checks?

6 **Anita Duty:** We did.

7 **Mark Swartz:** And did you do your own reconciliation to arrive at a balance?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** So you added the total deposits and subtracted two disbursements, which you  
10 identified, correct?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** And then you took the banks word for the interest and fees?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** And ran a total and you compared that to the banks total, what was the  
15 difference?

16 **Anita Duty:** They had \$1.39 more.

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

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

19 **Jen Shaver:** No questions.

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

21 **Mark Swartz:** Nope.

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

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

24 **Bill Harris:** Second.

1 **Butch Lambert:** I have a motion and I have a second. Any further discussion? [No response] All  
2 in favor, signify by saying yes.

3 **Board:** Yes.

4 **Butch Lambert:** Opposed, no? [No response] Thank you, folks. That's approved.

5 **Item Number 18**

6 **Butch Lambert:** A petition from CNX Gas Company, LLC, for (1) the disbursement of  
7 escrowed funds heretofore deposited with the Board's Escrow Agent, attributable to Tract 1B, as  
8 depicted upon the annexed table; and (2) authorization to begin paying royalties directly to the  
9 parties listed in the petition. Docket Number VGOB 00-1017-0831-03. All parties wishing to  
10 testify, please come forward.

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

12 **Jen Shaver:** Jen Shaver on behalf of Pamela Keene, Jamie Hale, and Jeffery Hale.

13 **Butch Lambert:** You may proceed, Mr. Swartz.

14 **Mark Swartz:** Anita, your name again.

15 **Anita Duty:** Anita Duty.

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

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

18 **Mark Swartz:** And are you here on behalf of CNX Gas Company, in support of its petition for  
19 disbursement from this unit?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** And again, we have the same reason we've seen in the last couple. Torch Oil and  
22 Gas has tendered an affidavit acknowledging that they are not making any claim to CBM  
23 royalties, correct?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** And in light of that affidavit, we've got a resolved conflict?

26 **Anita Duty:** Yes.

27 **Mark Swartz:** And did you prepare a Table 2 to deal with the consequences of that?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** Okay. What tract is this pertaining to?

3 **Anita Duty:** 1B.

4 **Mark Swartz:** We've got the same people we've been talking about now for a couple?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** Okay, could you identify the folks who are to receive the disbursement checks  
7 and the percentages the escrow agent should use in calculating the dollar amounts?

8 **Anita Duty:** Pamela Keene, Jamie Hale, and Jeffery Hale should each receive 0.3146% and they  
9 should each receive an additional 0.6292%.

10 **Mark Swartz:** Those disbursements will not close the escrow account, correct?

11 **Anita Duty:** Correct.

12 **Mark Swartz:** And you have tendered updated Exhibits E and EE?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** And your proofs of mailing and so forth?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** And we also have an Exhibit J reconciliation?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** And that begins January 25, 2002? The reconciliation?

19 **Anita Duty:** January 25, 2002.

20 **Mark Swartz:** Is your first check and then the bank records start when?

21 **Anita Duty:** That was the August 31, 2001 date.

22 **Mark Swartz:** Okay, and they're all, so you've got a disconnect there, correct?

23 **Anita Duty:** Correct.

24 **Mark Swartz:** Okay. What date did you run this through? This comparison?

1 **Anita Duty:** September 30, 2015.

2 **Mark Swartz:** And, in the process of making the comparison, did you identify all royalty checks  
3 that the operator paid to one or another of the escrow agents?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** And then did you look for a corresponding deposit for each check?

6 **Anita Duty:** I did.

7 **Mark Swartz:** And were you able to find those?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** Okay, and then did you do your recap calculation as to what you believe the  
10 balance should be?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** And did you compare that then to the September 30, 2015 First Bank and Trust  
13 balance?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** And when you made the comparison, was there a difference?

16 **Anita Duty:** The bank was showing \$59.62 more.

17 **Mark Swartz:** Okay, you also included in this, in addition to the revised exhibit, your proofs of  
18 mailing and green cards and so forth?

19 **Anita Duty:** Yes.

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

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

22 **Jen Shaver:** No questions.

23 **Butch Lambert:** Anything further, Mr. Swartz?

24 **Mark Swartz:** Nope.

25 **Butch Lambert:** Do I have a motion?

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

2 **Bill Harris:** Second.

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

5 **Board:** Yes.

6 **Butch Lambert:** Opposed, no? [No response] Thank you, folks. That's approved. Thank you,  
7 Ms. Shaver. Have a Merry Christmas.

8 **Item Number 20**

9 **Butch Lambert:** A petition from CNX Gas Company, LLC, for (1) the disbursement of  
10 escrowed funds heretofore deposited with the Board's Escrow Agent, attributable to Tracts 2A &  
11 2C, as depicted upon the annexed table; and (2) authorization to begin paying royalties directly  
12 to the parties listed in the petition. Docket Number VGOB 02-0917-1072-02. All parties wishing  
13 to testify, please come forward.

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

15 **Butch Lambert:** You may proceed, Mr. Swartz.

16 **Mark Swartz:** Anita, state your name for us.

17 **Anita Duty:** Anita Duty.

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

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

20 **Mark Swartz:** And are you here on behalf of the operator, CNX Gas Company, in support of a  
21 petition for disbursement?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** And the reasons or reason are set forth in Paragraph 5, correct?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** And we were here, I think, last month, in regard to this a well and it got  
26 continued, correct?

27 **Anita Duty:** Yes.

1 **Mark Swartz:** And we have a Table 1?

2 **Anita Duty:** We do.

3 **Mark Swartz:** And it pertains to what tracts?

4 **Anita Duty:** 2A and 2C.

5 **Mark Swartz:** And with regard to Tract 2A, who would be the folks that would receive the  
6 disbursement?

7 **Anita Duty:** Buckhorn Coal Company, Lowie Perkins, and Earnest and Nancy Perkins.

8 **Mark Swartz:** And what percentage should the escrow agent use to calculate the dollar  
9 amounts?

10 **Anita Duty:** For Buckhorn, the percent is 0.3197%; for Lowie Perkins, 0.3197%; and Earnest  
11 and Nancy Perkins 0.639%.

12 **Mark Swartz:** And with regard to Tract 2C, who should receive the payment?

13 **Anita Duty:** Donald Whited.

14 **Mark Swartz:** And what percentage should the escrow agent use to calculate the dollar amount  
15 attributable to his payment?

16 **Anita Duty:** 7.1615%

17 **Mark Swartz:** And have you tendered Exhibits E and EE?

18 **Anita Duty:** Yes.

19 **Mark Swartz:** Okay, and your proofs of mailing?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** And we have an escrow, Exhibit J, escrow reconciliation that starts December 31,  
22 2004?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** And goes through August 31, 2015?

25 **Anita Duty:** Yes.

1 **Mark Swartz:** Okay, and then this reflects a correction, with regard to the working interest issue  
2 that we talked about last time?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** Okay. So did you go back and look for all royalty checks that the operator had  
5 paid one or another of the escrow agents?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** And with regard to the royalty checks, were you able to locate a deposit for each  
8 one of them?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** And then, in addition, there was a deposit made to this sub-account, by the bank,  
11 of a working interest payment, correct?

12 **Anita Duty:** Yes.

13 **Mark Swartz:** And have you accounted for that?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** And when you deduct the working interest payment, account for the banks  
16 interest and fees, that they report, you came up with a total of what?

17 **Anita Duty:** \$7,651.95.

18 **Mark Swartz:** And the banks total is more?

19 **Anita Duty:** Yes.

20 **Mark Swartz:** And the difference the bank shows is an additional amount of what?

21 **Anita Duty:** \$1,067.88.

22 **Mark Swartz:** If we look back at Exhibit J, where is the reconciliation, if it's shown on there,  
23 with regard to the...looks like its February 20, 2012, with regard to the working interest  
24 payment? Am I right?

25 **Anita Duty:** Yes. When that was transferred, yes.

26 **Mark Swartz:** Okay, so that's the correction. So it's actually reflected here?

27 **Anita Duty:** It is.

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

2 **Butch Lambert:** Any questions from the Board?

3 **Bill Harris:** Mr. Chairman. There is an issue that we had before with CNX named as the gas  
4 claimant, in the original petition, Section 5G. It shows that "further provides that the operator  
5 shall pay such royalties as may hereafter be paid payable directly to the gas claimant, CNX Gas  
6 Company" and that's not correct. It should list the parties, Buckhorn...

7 **Mark Swartz:** It should list the people in Table 1.

8 **Bill Harris:** Yes, the people in Table 1.

9 **Mark Swartz:** And again, we can't do that directly, so we'll get with DGO to fix that.

10 **Butch Lambert:** Any other questions from the Board? [No response] Anything further, Mr.  
11 Swartz?

12 **Mark Swartz:** No, thank you.

13 **Butch Lambert:** Do I have a motion?

14 **Bill Harris:** Motion to approve with the stated correction.

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

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

18 **Board:** Yes.

19 **Butch Lambert:** Opposed, no? [No response] Thank you, folks. That's approved. Mr. Cooper,  
20 could you have your staff go back and look at every one of those with the Paragraph 5G to make  
21 sure they all need to be updated?

22 **Rick Cooper:** We will do that.

23 **Butch Lambert:** Thank you, folks. Appreciate it. Have a Merry Christmas.

24 **Mark Swartz:** Thank you. Have a Merry Christmas.

25 **Item Number 21**

26 **Anita Duty:** I do have one more thing.

27 **Butch Lambert:** It's not on the docket.

1 **Anita Duty:** I know, but Mr. Cooper was going to, kind of...

2 **Butch Lambert:** I don't have it on the docket.

3 **Rick Cooper:** It's me. I need their support. I guess what I have here is a request from CNX to  
4 close a particular account. They've done a complete reconciliation of the account and no money  
5 should have been attributed to that particular account. It's 045 and there's a little bit over \$9,000  
6 and their reconciliation indicates that there should have never been any money deposited into  
7 that account.

8 **Butch Lambert:** How come? Is it producing?

9 **Anita Duty:** All the owners are on pay, so either the payment was supposed to go to another  
10 account, I mean, it's a posting error on...

11 **Butch Lambert:** Since we're doing that, Mr. Cooper, I think that we need a petition before the  
12 Board to be able to do that. I don't think we can do it just on a motion from the Board. We'll  
13 need a [inaudible]...

14 **Anita Duty:** What do we need to say?

15 **Rick Cooper:** There's no money in it.

16 **Anita Duty:** We didn't put the money there.

17 **Rick Cooper:** It was indirectly put in there, not by CNX but somehow it got deposited in their  
18 account.

19 **Butch Lambert:** Put it on a petition. Bring it before the Board, please.

20 **Paul Kugelman, Jr.:** How did it get in there if CNX didn't put it in there?

21 **Mark Swartz:** The problem is it would be his petition. I don't think he needs to...

22 **Anita Duty:** The bank posted it. It's not ours but the banks.

23 **Paul Kugelman, Jr.:** It's an escrow account attributable to one of your wells but you didn't put  
24 the money in it?

25 **Mark Swartz:** We didn't do it.

26 **Anita Duty:** Right.

27 **Mark Swartz:** So we don't have a dog in the hunt.

1 **Anita Duty:** We have no record of those funds.

2 **Butch Lambert:** In that account?

3 **Rick Cooper:** There's \$9,000 in the account but no one knows where it came from.

4 **Butch Lambert:** But are there additional funds beyond that?

5 **Anita Duty:** I think the thing that we were worried about, you know, due to the House Bill, we  
6 didn't want that account sitting out there, just 045, and somebody thinking that that was due  
7 money [inaudible].

8 **Butch Lambert:** What'd you do with the \$9,000 if we took it back?

9 **Rick Cooper:** We're not going to give it back to CNX. We're putting it in...the request is to put  
10 it into a holding account, if any of these dockets come forward and are deficient in funds, maybe  
11 we could...we can't reconcile 1,000 accounts to find where that money goes.

12 **Paul Kugelman, Jr.:** No sir.

13 **Anita Duty:** We did a reconcile based on the bank information.

14 **Rick Cooper:** We're not actually doing away with the money.

15 **Paul Kugelman, Jr.:** But, hold on just one second, that money was put in there by someone. The  
16 bank will have a record of where it came from. It's probably a good idea to check with the  
17 escrow account agent and see if he deposited it and let them know that it was an error and see if  
18 they want it back.

19 **Rick Cooper:** So I am telling you...you all have checked 22 years and cannot find it, is that  
20 correct?

21 **Anita Duty:** The first bank record we have is February 29, 2000. We checked all the way back to  
22 our original 1992 record and we...

23 **Paul Kugelman, Jr.:** It's been there since 1992?

24 **Anita Duty:** No, that's how far our accounting goes back. We did a reconciled report but it's all,  
25 it's strictly based on the bank side, just to see if we could maybe search for these deposits  
26 individually in our records, and...

27 **Paul Kugelman, Jr.:** But it wasn't a single deposit of \$9,000; it was a accumulative of smaller  
28 deposits that accumulated up to \$9,000?

1 **Anita Duty:** Looks like the first, yeah, and the last deposit was \$20.18 in August 2001, and other  
2 than that, it was all...

3 **Mary Quillen:** That sounds like interest.

4 **Anita Duty:** Well, other than that, it's all interest, so, the first deposits are from February 2000  
5 down to February 2001, then that one random deposit in August.

6 **Paul Kugelman, Jr.:** So there's basically 13 deposits?

7 **Donnie Rife:** 13 different mistakes?

8 **Paul Kugelman, Jr.:** It should be simple enough for the bank to tract down where they came  
9 from.

10 **Mark Swartz:** Here's the genesis of this, we're looking at that unit because we have to file a  
11 petition for extension and there's some money in there and we can't, it's not ours, we can't  
12 account for it, so we don't want to include that in our petition for extension because we don't  
13 want somebody looking at us six months from now and saying "why didn't you disburse money  
14 from that?" So it's off our list. It is a problem for ya'll cause the bank has this money and we  
15 tried to figure out if it came from us and apparently it did not. Okay.

16 **Paul Kugelman, Jr.:** So you know, for a fact, that the money is not there from CNX but has  
17 anyone checked with the bank to see who it came from? They don't know?

18 **Bill Harris:** There's a problem though...who was the escrow agent at that time? It was not the  
19 current...

20 **Anita Duty:** That was Wachovia.

21 **Mary Quillen:** It was probably several escrow agents ago.

22 **Rick Cooper:** Wachovia and their records are very, very vague[inaudible]

23 **Bill Harris:** We've had problems.

24 **Paul Kugelman, Jr.:** They won't help us out.

25 **Bill Harris:** We've had this issue before.

26 **Mary Quillen:** And several companies since was Wachovia. Wachovia was before Wells Fargo.

27 **Donnie Rife:** Sounds to me like it belongs to St. Jude's.

1 **Rick Cooper:** I guess we're just looking for the Boards direction. I guess from what CNX says,  
2 it's not their money and I guess we were requesting, if it's not CNX's money and it's not  
3 attributed to that account, is to set up a holding fund escrow account. It would still get interest  
4 but there's nobody to disburse to and maybe as we go through this reconciliation process,  
5 through accounts, we may find something. I guess the point here for today is, CNX is saying it  
6 does not belong to their account.

7 **Donnie Rife:** I'd rather give it to St. Jude than put it in a holding account. If you can.

8 **Paul Kugelman, Jr.:** Well, I'm all for the Paul Kugelman needs \$9,000 fund, but...I think just  
9 out of the abundance of caution it would be good to have an affidavit from CNX saying it didn't  
10 come from any gas owner or CBM...

11 **Mark Swartz:** A testimony under oath?

12 **Donnie Rife:** I cannot understand why Wachovia did not cannot [inaudible] [crosstalk]

13 **Paul Kugelman, Jr.:** I did not realize that was under oath because she was not under oath before  
14 this petition [inaudible] was she?

15 **Mark Swartz:** She's sworn when she starts a hearing.

16 **Paul Kugelman, Jr.:** Okay. So, as her council, you're saying that her testimony under oath, and  
17 you accept that?

18 **Mark Swartz:** The whole day.

19 **Paul Kugelman, Jr.:** So, I would also recommend somebody contacting Wachovia and making a  
20 request.

21 **Rick Cooper:** Wachovia has been disseminated. There's not within an arms reach. We can get  
22 no records from them. There is no records to get from them, other than what we have on our  
23 system. They've been told that we cannot, no longer request those records other than what we  
24 have and everything on microphish and all of our records have been scanned. We have  
25 everything posted so, it's a dilemma. I don't know the answer to it. Wachovia...we have no  
26 contacts there.

27 **Butch Lambert:** Mr. Cooper's correct.

28 **Paul Kugelman, Jr.:** Okay, alright. So there's no way to figure out who owns the money.

29 **Mark Swartz:** At the moment. We're saying it's not ours.

30 **Paul Kugelman, Jr.:** Okay, when I hear at the moment, that's a qualifying statement, which  
31 leads me to believe there may be some way to figure it out. What avenue is that?

1 **Mark Swartz:** An accident could occur in the future that would explain it.

2 **Paul Kugelman, Jr.:** Accident? Okay.

3 **Mark Swartz:** What? I mean, you know.

4 **Paul Kugelman, Jr.:** I'm just talking about something contemplative that would give us a course  
5 of action. So absent some...

6 **Mark Swartz:** Miracle.

7 **Paul Kugelman, Jr.:** Right. Absence of a miracle, we're not going to find out. That's what I'm  
8 trying to figure out here; is there a way to figure it out because that's somebody's money.

9 **Mark Swartz:** Apparently not.

10 **Anita Duty:** Well, and it could be that it's another operator. I mean, I think what we were  
11 thinking...

12 **Paul Kugelman, Jr.:** That what I was trying to, how do we figure out who it came from?

13 **Anita Duty:** Can we changed the, I guess the operator responsible on this sheet to not be CNX,  
14 just be unknown at this point? Even though that is a CNX operated unit? I just don't want, if  
15 anybody from the public sees that out there, they'll see that \$9,000 and it shows...

16 **Paul Kugelman, Jr.:** And they'll attribute that to CNX.

17 **Anita Duty:** Yes, that's really the only issue that we have that we don't know where that belongs  
18 yet, and maybe it belongs to the operator.

19 **Paul Kugelman, Jr.:** So, CNX's concern is not being listed on the account that has money in it  
20 [inaudible/crosstalk]

21 **Mark Swartz:** We're responsible to disburse, right.

22 **Paul Kugelman, Jr.:** I think that's appropriate.

23 **Butch Lambert:** It potentially, as we move forward at continuing to reconcile these accounts,  
24 that we're doing, well, we've got all these now that are still left out there, maybe it could show  
25 up as we continue reconciliations.

26 **Rick Cooper:** One point I would like to add is, you know, a few years ago, four or five years  
27 ago, Wells Fargo sent us a check that they had found in their records for \$4000 and some odd  
28 dollars, and we did set up one of these holding accounts in our escrow account. Now so, we have  
29 \$4,000 that's been setting in there for three years. When Wells Fargo did an auditing, they came

1 up with that check and sent that to us saying they had no ownership in it, so the Board, at that  
2 time, approved to put it in a holding account. I think it may be the last item on the escrow.

3 **Donnie Rife:** Do we have like a term limit for a holding account?

4 **Rick Cooper:** No, that would still acquire interest, so it would get its attributable amount of  
5 interest and administration costs would come out of that every month.

6 **Bruce Prather:** Could these get caught up in that escheating process?

7 **Rick Cooper:** No, as long as they're in the escrow account, they're not part of the escheating  
8 process unless someone has issued a check, at this time.

9 **Bruce Prather:** Okay.

10 **Anita Duty:** The only other idea that we had come up with, is if these royalty deposits were  
11 maybe a combination of a payment, cause a lot of those, if they didn't post in one month, like the  
12 next month you would see both of them posted on the bank side. So if these happened to be a  
13 combination of two payments, combined together, that could be another reason that we can't find  
14 it.

15 **Mary Quillen:** And that could turn up somewhere down the road as...

16 **Anita Duty:** Well, and it could be another operator's payment.

17 **Mary Quillen:** Exactly.

18 **Anita Duty:** But we don't have this dollar amount going to this account. All owners on this unit  
19 are paid directly and they have been from the beginning.

20 **Mary Quillen:** Yeah, cause if you remember when we had the audit, and it was found that a lot  
21 of, not a lot, but several, deposits were posted to wrong account, or the wrong operator.

22 **Mark Swartz:** Well, cause we've been paying the royalty owners in that unit directly from day  
23 one.

24 **Mary Quillen:** Right.

25 **Mark Swartz:** So they're paid. They're not looking for money.

26 **Mary Quillen:** Right, right, right. So it could have been way back when we had that period of  
27 time that we found those and this could, somewhere down the road happen again, that this would  
28 come up.

1 **Rick Cooper:** I guess my question, I'm just asking the Board how to handle this. I don't know  
2 how to handle this.

3 **Mary Quillen:** Well, I would think, personally, I would think that putting it in a holding account  
4 so that it draws interest, in the event that down the road this can be tracked; and it's not that it's  
5 taking away if it's discovered it does belong to someone, obviously, it does, then that person  
6 could have that money plus the interest.

7 **[Several side conversations and crosstalk]**

8 **Rick Cooper:** It would terrible to transcribe this and I hate to tell you all this, three of you, it's  
9 pretty hard to transcribe. It's pretty important.

10 **Butch Lambert:** The recommendation from the council is that we go ahead and withdraw that.  
11 Put it into that interest-bearing account that's already set up with a note where this came from.

12 **Rick Cooper:** We can do that. I guess that's all I am doing is asking direction on this. It's a bit  
13 unusual. This doesn't happen very often.

14 **Donnie Rife:** Who is paying the audit companies?

15 **Rick Cooper:** I'm not sure what the question is but, actually, CNX has their own people that  
16 conducts their internal audit when they do this reconciliation that we are seeing. Each company  
17 does this internally and that's what they have on the J.

18 **Donnie Rife:** Somebody's getting paid too much money. Cause they're not doing their job. That  
19 money belongs to somebody and come from somewhere.

20 **Bill Harris:** Well, CNX testifies that when you look at money that you all pay to the bank,  
21 deposits reflected by the bank, then you're testifying that those add up and that the difference in  
22 those is usually attributable to interest or fees that may or may not cancel each other out. In other  
23 words, if you have a \$1,000, if your deposits show \$1,000 more than what the bank is showing in  
24 a particular account, but all of the deposits are accounted for, so that \$1,000 may not have spilled  
25 over to this \$9,000.

26 **Rick Cooper:** The only thing that I would add to that is if the company, whether it be CNX or  
27 another company, comes forward and says they think that's their money, then they can petition  
28 the Board and have that money moved out of that account into theirs, if they can reconcile and  
29 find that. That would be the resolution if they find a similar deposit [inaudible].

30 **Mark Swartz:** Because it's there. The money would still be there.

31 **Rick Cooper:** The money would be there and they can just have that money transferred.

1 **Mary Quillen:** Right, and the interest. That's right. It's not going anywhere. It's going to be  
2 there until somebody can claim it.

3 **Donnie Rife:** CNX has already said it wasn't theirs. Eliminate that.

4 **Butch Lambert:** Okay. Do I have a motion to direct Mr. Cooper and staff, to work with the bank  
5 to transfer that \$9,000 out of the account, listed by CNX into the fund that's already set up and to  
6 hold that money in an interest-baring account until, at such a time that we finally figure out  
7 where it goes?

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

9 **Bill Harris:** Second.

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

12 **Board:** Yes.

13 **Rick Cooper:** One more thing, as you all have requested for me to report monthly our progress  
14 on these dismissals, and as of July 1<sup>st</sup> until last Thursday, we've disbursed \$2,355,476.64. That's  
15 since July 1<sup>st</sup>. So if you add the total amount of money being disbursed since January 1<sup>st</sup>, it's  
16 been \$4,270,890.78 disbursed as of last Thursday.

17 **Donnie Rife:** We're getting there.

18 **Bruce Prather:** How much is in the fund right now?

19 **Rick Cooper:** There's still \$27 million dollars in the account.

20 **Bruce Prather:** Okay.

21 **Butch Lambert:** Anything further under Docket Item 21?

22 **Rick Cooper:** No, sir.

23 **Item Number 22**

24 **Butch Lambert:** I need a motion on the November minutes. Do we need any additions,  
25 corrections? If not, do I have a motion to approve?

26 **Donnie Rife:** Motion made for approval as presented, Mr. Chair.

27 **Butch Lambert:** Do I have a second?

28 **Bill Harris:** [Inaudible] and I can't second. Somebody else.

- 1 **Bruce Prather:** I'll second.
- 2 **Butch Lambert:** I have a motion and a second. Any further discussion? [No response] All in
- 3 favor, signify by saying yes.
- 4 **Board:** Yes.
- 5 **Butch Lambert:** I have a motion to adjourn.
- 6 **Donnie Rife:** Merry Christmas.
- 7 **Mary Quillen:** Motion to adjourn.
- 8 **Butch Lambert:** All in favor, signify by saying yes.
- 9 **Board:** Yes.
- 10 **Butch Lambert:** Merry Christmas, everybody. Thank you.