

VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

VIRGINIA GAS AND OIL BOARD HEARING

Tuesday, January 19, 2016

Lebanon, Virginia

BOARD MEMBERS:

Bruce Prather—Oil and Gas Industry Representative

Donnie Rife— Public Member

Mary Quillen—Public Member

APPEARANCES:

Bradley Lambert—Chairman of the Virginia Gas & Oil Board

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

Paul Kugelman, Jr.—Senior Assistant Attorney General

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

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

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1 **Bradley Lambert:** Ladies and gentlemen, if you would please take your seats. It's after 9:00
2 and time to begin our proceedings this morning. First of all, this morning, I would ask that, if
3 you have any cell phones or other communication devices, please turn those off or put them on
4 vibrate. This morning, we'll begin by asking the Board to please introduce themselves. I'll begin
5 with Mr. Kugelman.

6 **Paul Kugelman:** My name is Paul Kugelman. I'm with the Virginia Attorney General's Office.

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

8 **Donnie Rife:** Donnie Rife, with Dickenson County.

9 **Bruce Prather:** I'm Bruce Prather. I represent the Oil and Gas Industry on the Board.

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

11 **Bradley Lambert:** Thank you.

12 **Item Numbers 1 and 2**

13 **Bradley Lambert:** We'll begin this morning with public comments. Do we have anyone signed
14 up for public comment?

15 **Rick Cooper:** No, we do not.

16 **Bradley Lambert:** Thank you, Mr. Cooper. We'll move on to Docket Item Number 2. The
17 First Bank and Trust, the Escrow Agent for the Virginia Gas and Oil Board, will address the
18 Board on the Quarterly Report and the Year-End Report. Good morning.

19 **Jody Maney:** Good morning.

20 **Bradley Lambert:** It's good to see you all, again. It's a cold morning.

21 **Jack Phelps:** Yes, it is.

22 **Bradley Lambert:** You may proceed.

23 **Jody Maney:** To start off, we have the agenda, which will walk us through our report. On Page
24 3, the first column is our 4th Quarter numbers. The last column is the Year-End numbers. The
25 beginning balance, starting with the end of September was \$27,278,142.15. We had deposits and
26 interest, less fees. We had \$1,636,480 in distributions for the 4th Quarter. We had transfers to
27 the "No W-9" account of \$51,918. This transfer to the "No W-9" account is disbursement orders,
28 where people have not turned in their W-9's. This is included in the packet. There's a
29 spreadsheet, showing everybody's name and detailed information. Then, we come down and
30 have adjustments. The \$51,723 is the amount that's in the "No W-9" account, at this time. This

1 is the amount that's been transferred, less fees. We had one disbursement for December and
2 interest added to this money gives you a balance of \$51,723, with an ending balance of
3 \$25,903,658.57. In 2015, we had total disbursements of \$4,492,896, for the year. Any questions
4 on that?

5 **Bradley Lambert:** Was that, the "No W-9's," transferred all at one time, at the end of the 4th
6 Quarter?

7 **Jody Maney:** 4th Quarter numbers, yes.

8 **Bradley Lambert:** Only 4th Quarter?

9 **Jody Maney:** Only 4th Quarter. That was the start of the "No W-9's."

10 **Bradley Lambert:** So, the \$51,000 only represents what was transferred. There were no W-9's
11 for the 4th Quarter, only?

12 **Jody Maney:** The 4th Quarter, only. We didn't have any before the 4th Quarter.

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

14 **Jody Maney:** On Page 4, this is our outstanding checks. They're totaled per well, per gas
15 company, on Page 9. We have EQT, CNX and Range Resources totaled on Page 9, for a total
16 outstanding of \$88,807.90. The next page is what is to be escheated in 2016 and 2017, a
17 breakdown of total dollar amounts that will be escheated if they're not cashed. As you know, in
18 2015, we had one check that was escheated for the year. That's the only check that First Bank
19 and Trust has escheated since beginning this process. Any questions on that?

20 **Bruce Prather:** Are these people aware that these checks are up for being escheated to the
21 State?

22 **Jody Maney:** I think you all have sent out letters. Is that correct?

23 **Bruce Prather:** In other words, everything is up to snuff, as far as our informing these people of
24 this fact?

25 **Rick Cooper:** The only one that's escheated has been sitting out there for four or five years.
26 Last year, we sent out letters to everyone. Ms. Gilmer had success from everyone, but one.
27 What we'll have to do on these.... These are coming up here, maybe, in April. We'll send out
28 more letters to try to make another notification to see if they will cash their check or what's going
29 on. We'll do that process, again.

30 **Bruce Prather:** Okay. That sounds good.

31 **Mary Quillen:** Approximately, how many? We didn't have that many last year, if I remember
32 correctly.

1 **Rick Cooper:** I think there were fourteen, total. We were successful with all but one.

2 **Mary Quillen:** Right. I was wondering how that compares to what's coming up for this year.

3 **Rick Cooper:** Her previous statement, she had several pages of checks that have been sent out.

4 Those won't come forward for four or five years. They're hard to predict.

5 **Mary Quillen:** Right. When you all do this, when you do these letters, you all will report to us

6 or let us know like you did before of how many of the letters that went out and the responses?

7 **Rick Cooper:** We'll be glad to do that.

8 **Mary Quillen:** Just, sort of, see how people respond. I mean, it just amazes me that these

9 people just let this lay there and don't even respond to it.

10 **Donnie Rife:** Clearly, like they don't know.

11 **Mary Quillen:** Right.

12 **Donnie Rife:** That's what concerns me.

13 **Bruce Prather:** As long as we've notified them and given plenty of time to do it, then there's

14 nothing we can do about it. They've had proper notification.

15 **Mary Quillen:** It just seems like.... I don't know what more we can do, other than that. It just is

16 concerning that there's that much money that people are just....

17 **Rick Cooper:** All these checks were written '11 and '12. We will send out a reminder and let

18 these people know that, if they don't move forward, they will be escheated. We will report to the

19 Board on that.

20 **Mary Quillen:** Right. I think that it's good that we do because I feel like this needs to be on the

21 record of the numbers and the efforts and everything, in the event there is a question that's going

22 to come up down the road. It's just a safeguard.

23 **Bradley Lambert:** Mr. Cooper, will you go ahead and start contacting these that will come up

24 in '17, as well?

25 **Sarah Gilmer:** Yes. We'll send letters out on all of them.

26 **Bradley Lambert:** Okay.

27 **Sarah Gilmer:** I think that's the best thing to do.

28 **Bradley Lambert:** Yes.

29 **Sarah Gilmer:** It's not that many.

1 **Bradley Lambert:** That's what we were going to suggest, to start on the '17, as well. Let those
2 folks know.

3 **Mary Quillen:** That would be good. Thank you.

4 **Jody Maney:** On Page 11, this is a detailed list of the December transactions. This is the
5 funded units, each well, beginning market value, deposit type, deposits, money market interest,
6 CDARS interest, less fees, distributions, transfers. You'll see the transfers to "No W-9" column,
7 ending market value for each, individual account.

8 **Paul Kugelman:** These are the remaining funded units?

9 **Jody Maney:** This is what's funded, yes.

10 **Paul Kugelman:** Okay.

11 **Jody Maney:** This is only the December numbers. This is only for the month of December.

12 **Paul Kugelman:** So, if there was no activity on a unit, even if it was active, it would not be on
13 this list?

14 **Jody Maney:** If there is money in there and it's active.

15 **Paul Kugelman:** Okay.

16 **Jody Maney:** It's on this list. You just won't see any disbursements. You'll see interest added
17 and fees deducted.

18 **Paul Kugelman:** That makes sense. Okay. Thank you.

19 **Jody Maney:** No distributions from it, but it's listed in here. If you go over to Page 40, this is
20 the ending balance of it. The last line, the Wachovia checking account from 0721, you'll see a
21 correction of \$9,000. That was a transfer that you all had requested in the month of December,
22 to transfer into that account until you could determine where it needed to be. Any questions on
23 those? [No response] On the next page, number 41, this is the "No W-9" spreadsheet. This is
24 new to your packet this quarter. This lists all of the individuals who have not submitted their W-
25 9's and the amount that they would be entitled to when they do submit their W-9's.

26 **Mary Quillen:** How do we follow up on that? Do we have something in place?

27 **Jody Maney:** The spreadsheet is listed on the website, now.

28 **Rick Cooper:** We have posted that on the website. At this point, we haven't put any procedures
29 into place. This is the first quarter that we've had this.

30 **Mary Quillen:** Right.

1 **Rick Cooper:** Moving forward, we may have to implement something. We will announce here
2 and on our social media that we have posted this on our website.

3 **Mary Quillen:** Okay.

4 **Rick Cooper:** We'll start there and see how that works.

5 **Mary Quillen:** Okay.

6 **Bruce Prather:** Do you think that should also be in the newspaper?

7 **Bradley Lambert:** We kind of touched on that in one of our press releases, not long ago, that
8 folks needed to submit their W-9's. We could follow up on that if this Board would like for us to
9 with another press release.

10 **Donnie Rife:** I think anything you can do to help the people try to understand would be a
11 blessing.

12 **Mary Quillen:** Right. I think that would be a good idea to do a press release.

13 **Bradley Lambert:** We'll do our best to try to get that out, maybe, the first of the week.

14 **Mary Quillen:** Some of these are fairly significant. Several of them are pretty significant
15 amounts.

16 **Jody Maney:** There has been one disbursement from the "No W-9" list, in December, more
17 than likely, from word of mouth. Someone's family member had gotten a check and he didn't get
18 a check, so he sent a letter asking if we had the correct address. I had sent him a W-9 to fill out.
19 He has returned it to me, now. In January, he will be getting his check.

20 **Mary Quillen:** Excellent!

21 **Jody Maney:** I've spoken to another one on the list, Mr. Brown Osborne. He has submitted his
22 W-9, as well. I think word of mouth has gotten around with his family. There are a couple that
23 will be disbursed in January.

24 **Mary Quillen:** That's good. Maybe a press release and, then, on the social media, just
25 announce that it's on the website. The only thing that concerns me about that is how many of
26 these people actually participate in social media? How many have access to this?

27 **Tarah Kesterson:** We'll take an all-above approach, with a press release and social media.

28 **Mary Quillen:** Right.

29 **Bruce Prather:** I assume individual letters have already been sent out to these people.

1 **Rick Cooper:** At this point, the company sent the packages out for all the individuals. These
2 are the people in those disbursements that did not return their W-9's.

3 **Mary Quillen:** In the original packet?

4 **Rick Cooper:** Correct.

5 **Mary Quillen:** Okay.

6 **Bradley Lambert:** I think our press release just needs to emphasize that you need to submit that
7 W-9, in order to receive your disbursement.

8 **Mary Quillen:** Maybe, say something to the effect that how they can obtain a W-9, if they don't
9 have the ones that came in their original packet, or something like that. You get a packet of stuff
10 and you might not understand or know what each of those things are that are in that packet.

11 **Tarah Kesterson:** We sent out a press release last year for the disbursements. So what we could
12 maybe do is get all that information and work it up in a web page...

13 **Mary Quillen:** Good, I think that is a great idea.

14 **Bruce Prather:** How many of these accounts are needing W-9's? I haven't added them up, but
15 there must be 25 or 30 or 40. How many of them are there?

16 **Mary Quillen:** There's probably more than that. There's two pages.

17 **Bradley Lambert:** The total is \$51,000.

18 **Mary Quillen:** Total of \$51,000. I'd say there's probably...

19 **Bruce Prather:** 50 or 60?

20 **Mary Quillen:** I'd say there's, at least...

21 **Jody Maney:** Probably 50 or 60.

22 **Mary Quillen:** I'd say there's over 50 on there.

23 **Bruce Prather:** That's a lot.

24 **Mary Quillen:** Yes, it is quite a few.

25 **Jody Maney:** Any other questions? On Page 44, this is a list of the unfunded units.

26 **Bradley Lambert:** Mr. Cooper, how are we doing on that?

27 **Rick Cooper:** Ms. Ketron is working really well with Ms. Maney on that. We have eliminated
28 a lot of those. On the next report, you'll see at least half of these eliminated, if not more.

1 **Mary Quillen:** Excellent! Good progress.

2 **Jody Maney:** On Page 45, this is the annual distributions. If you'll note in 2015, over
3 \$4,000,000 was distributed, versus 2014 at \$1,700,000.

4 **Bradley Lambert:** Thank you.

5 **Mary Quillen:** Yes. Excellent! That's great!

6 **Jody Maney:** The next page, this is how your money is invested. There is over \$24,000,000 in
7 the money market interest account and \$1,125,000 that has been reinvested in brokered CD's, at
8 this time. Those are set to mature in June of this year and December of this year. At that time,
9 we'll reevaluate with the Board and determine if we need to reinvest some of those back into
10 brokered CD's, based on the disbursements and what cash needs to be available. The next page
11 is the list of investments, maturities and purchases. The top half of the page is what has matured
12 in 2015. So, you've had \$2,105,000 that's matured in 2015. At the time, we have reinvested
13 \$1,125,000 back into brokered CD's, set to mature in six months to a year.

14 **Mary Quillen:** This average rate was 0.35% on these that matured in 2015?

15 **Jody Maney:** Yes. If you'll see in 2016, your average is .6, now.

16 **Mary Quillen:** Yes.

17 **Jody Maney:** Any questions on that? [No response] Comments on investments. As you all are
18 aware, the pace of distributions will dictate how we invest. If the Board feels that \$25,000,000 is
19 going out this year, we definitely will not reinvest in the CD's.

20 **Bradley Lambert:** We'll keep our fingers crossed.

21 **Jody Maney:** Maturing CDARS CD's have been placed in the money market to meet the
22 expected distributions. Maturing brokered CD's have been reinvested for short-term, six months
23 to a year. It looks like the blended rate of the existing CD's is .48. The replacement CD's that
24 we've invested in is .61. They're all set to mature in 2016. The money market rate is getting a
25 rate of .2%, which is higher than the standard First Bank and Trust money market rate. Some
26 information on the money market: It allows six withdrawals per month. The rate is .2, which is
27 equal to one year CDARS CD rates. The last page is your rate comparison.

28 **Bruce Prather:** We've not had any of these penalties that CDARS are subject to for early
29 withdrawal?

30 **Jody Maney:** No, we haven't had any early withdrawal penalties.

31 **Bruce Prather:** Thank you.

1 **Mary Quillen:** You've done a really good job of reinvesting those and keeping that money
2 available because that was one of our concerns when we realized our distributions were going to
3 increase dramatically after July 1. This is great, that we have not incurred any of those penalties.
4 You all have done a great job.

5 **Jody Maney:** We've not incurred any of those. We still have \$24,000,000 in the money market
6 that's available.

7 **Mary Quillen:** And you all will be monitoring these as we do the distributions and advise us on
8 these quarterly visits that, if we see a real quick spike, you'll keep us up-to-date on that, right?

9 **Jody Maney:** Yes.

10 **Mary Quillen:** Thank you.

11 **Rick Cooper:** Mr. Chairman, if I could, I'd like to thank First Bank and Trust, Mr. Phelps and
12 especially Ms. Maney. Working with Ms. Maney has been a breath of fresh air. She's the
13 ultimate professional, been great to work with and I have not seen the system be any more fluid
14 and flow in a long time. I want to thank her, personally, for her efforts on that. She responds
15 very professionally, very prompt. I want to thank her for her efforts on that. She has done an
16 outstanding job.

17 **Jody Maney:** Thank you.

18 **Donnie Rife:** We can't pay you any more than what we're paying you, but we're tickled to death
19 to have you.

20 **Mary Quillen:** We are just extremely pleased. I am just delighted that we made that decision to
21 go with First Bank and Trust when we were selecting a new company to work with. You all
22 have just been wonderful. You've helped us through a pretty traumatic transition. You've done a
23 great, great job--both of you. We are just so grateful to you.

24 **Jody Maney:** Thank you. We appreciate it.

25 **Donnie Rife:** Now, that doesn't mean it's going to be this pleasant next month. You have done a
26 wonderful job.

27 **Bradley Lambert:** Thank you all very much. Any other questions from the Board or
28 comments? [No response] Thank you all. We appreciate it. We appreciate you getting out on
29 this cold morning.

1 **Item Numbers 3, 4, and 5**

2 **Bradley Lambert:** We're calling the next item on the agenda, a petition from T. Shea Cook,
3 Attorney for Wilderness Tabernacle Church, requesting the VGOB to direct CNX Gas Company
4 to provide a detailed accounting of Unit U-36. This is Docket Number VGOB-08-1118-2367.
5 That's not the right Docket Number. Which Docket Number is this? There's about three on
6 there.

7 **Sarah Gilmer:** The very last one listed in the petition.

8 **Rick Cooper:** 4083.

9 **Bradley Lambert:** We're going to call Docket Number VGOB-16-0119-4083.

10 **Rick Cooper:** Mr. Chairman, Mr. Cook had requested that Docket Items 3, 4 and 5 be
11 continued until May, that the Board do that.

12 **Mary Quillen:** Until May, did you say?

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

14 **Bradley Lambert:** Mr. Swartz, could you come up and provide some testimony for us, please?
15 Since Mr. Cook is not here representing and he sent an email requesting continuance and these
16 three petitions are directly related to CNX Gas Company, are you okay with a continuance?

17 **Mark Swartz:** If you hear it in his absence, it's going to be dismissed. So, if you all are
18 comfortable continuing it, be my guest. I'm not going to tell you what to do. I don't have strong
19 feelings against a continuance. I think it's kind of a waste of everybody's time to set something
20 like this and, then, not show up. There are clients involved and people involved. If you feel like
21 you want to give him a continuance, it's okay with me. This is not a good process, the way....

22 **Donnie Rife:** Make a motion to continue until next May, Mr. Chairman.

23 **Paul Kugelman:** For all three items?

24 **Donnie Rife:** All three items.

25 **Bradley Lambert:** For all three items. I have a motion. Do I have a second? Hang on, just a
26 second. Before I take a second, let me read the others into the record. This is Docket Item
27 Number 4, a petition from Mr. Cook, the Attorney for Jimmy Goins, which is Docket Number
28 VGOB-16-0119-4084. Docket Item Number 5 is a petition from T. Shea Cook, Attorney for
29 Jimmy Harris. This is Docket Number VGOB-02-0115-1000-02. Having read those into the
30 record and I have a motion to continue all three. Do I have a second?

31 **Mary Quillen:** Mr. Chairman, that Docket Item, could you read that again, please, for number
32 5?

1 **Bradley Lambert:** Number 5. Would you like for me to read the whole item?

2 **Mary Quillen:** No.

3 **Rick Cooper:** I believe, Mr. Chairman, you read the EQT Docket Number.

4 **Bradley Lambert:** You're right. I'm sorry. I did. Docket Number VGOB-16-0119-4085.
5 That's Dockets 3, 4 & 5. I have a motion to continue all three. Do I have a second?

6 **Bruce Prather:** Mr. Chairman, I've got a question. Does the Board really have the legal
7 authority to request that CNX comply with this? Do we have the legal authority to do that? I
8 mean, this is between the Attorney and CNX. It doesn't have anything to do with us, I don't
9 think.

10 **Paul Kugelman:** Mr. Prather.... This is Paul Kugelman, Counsel for the Board. Having read
11 through Mr. Cook's petitions, some of the relief he has requested, in particular, the one where
12 he's asking the Board to order CNX to fund the accounting, I think is how he termed it, or pay
13 for the accounting, I do not believe the Board has the authority to grant that relief. However, it is
14 my view that the Board does have the authority to order CNX to provide an accounting. It does
15 have the authority to reconsider matters that still remain within its purview. However, even
16 though the Board has the authority, you do not have to exercise it. As Counsel for the Board, I'll
17 put this on the record, I would advise against it because I don't think this Board has the resources
18 to deal with what I would anticipate continual visits from folks who have squabbles about the
19 accounting. Then, this Board will become the arbiter, the decision maker, for resolving all these
20 squabbles between these folks. If you think you had a docket before, you'll certainly have a
21 docket, now. I don't say that to be smug or light or to play fast-and-loose with the gravity of the
22 situation. It's just that my concern is that the gravity of the situation will require the Board to
23 allow courts to deal with that because, no matter what decision the Board makes, I anticipate that
24 those would be appealed to a court, anyway. So, the court still winds up in the mix.

25 **Bruce Prather:** That's what I thought this thing should be referred to, in the first place, the
26 courts.

27 **Paul Kugelman:** As far as the ability to bring the petition before the Board and the Board
28 having the authority to do it, the short answer to that question is I believe the Board does have
29 that authority, should it choose to exercise it.

30 **Donnie Rife:** That's a can of worms we don't want to open.

31 **Paul Kugelman:** I'm pointing it out to you. It's your decision, as a Board, to make that
32 decision.

33 **Donnie Rife:** If it's going to end up in the courts, anyway, I don't think it's going to be in our
34 best interest to do that.

1 **Bradley Lambert:** I would draw the Board's attention to Docket Item Number 3. The
2 Wilderness Tabernacle Church is already in court.

3 **Mark Swartz:** The other thing is we disbursed to them over a year ago. Here we are a year
4 later. If you're going to continue this, we'll have an opportunity to really explore all of this at a
5 hearing, but I share your Counsel's view that there are some significant issues that may be
6 outside of your purview. There are some other issues that are things that you've taken up in the
7 past and you could take up, again. We need to sort through that at a hearing. There's also some
8 time issues. It will be interesting.

9 **Mary Quillen:** Mr. Chairman, also, there is language that is opinion, in the petition, that I feel
10 like is inappropriate. It is questioning the ability of the Board to make decisions. I do not think
11 that's language that is appropriate to be part of the record. That petition should be re-written
12 because his opinions of the Board have absolutely no bearing, whatsoever. I think the petition
13 should.... He should be required to resubmit that because that language is inappropriate and has
14 no place in public record. His opinions don't mean anything, at all.

15 **Bradley Lambert:** I have a motion. Do I have a second to continue these three docket items
16 until May? [No response]

17 **Donnie Rife:** If we don't get a second on this, Mr. Chair, what are we going to do, just dismiss
18 these three docket items?

19 **Paul Kugelman:** If you don't have a continuance, then it must go forward.

20 **Bruce Prather:** Mr. Chairman.

21 **Bradley Lambert:** Mr. Prather.

22 **Bruce Prather:** Since the Board and CNX, when we got the escrow account back in order, I
23 assume CNX, the Board, and DMME have the same figures. In other words, you've corrected all
24 your figures? You have the same figures that CNX has, now, because that's where you got your
25 information to correct the escrow account? So, we have the same figures that CNX has. CNX
26 has certified through their testimony that what they say is correct. If we've got the same figures,
27 how can we do anything on this thing?

28 **Rick Cooper:** I'm not sure what the intent is on this.

29 **Paul Kugelman:** Mr. Chairman, may I just wash the record out on the continuance request
30 because it seems like the Board's struggling with it. I think it would be important for the record
31 to be clear.

32 **Bradley Lambert:** Mr. Kugelman.

1 **Paul Kugelman:** Thank you, Mr. Chairman. Mr. Cooper, I just want to ask you a few questions
2 about how Mr. Cook requested his continuance, when he requested it and what the basis for his
3 request was. When did Mr. Cook first indicate to you that he wanted to continue these items?

4 **Rick Cooper:** For Wilderness Tabernacle, he requested a week or so ago, through email, that he
5 wanted them to be continued until May. The other two, this morning, by email, he just requested
6 that the other two items be continued until May also. There was no justification other than he
7 just requested that they be continued until May.

8 **Paul Kugelman:** Just to be clear, he didn't say why he wanted a continuance. He just emailed
9 and asked for a continuance.

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

11 **Paul Kugelman:** In your response, did you indicate to him that the Board needed to take this up
12 and it wasn't necessarily at a continuance, as of right?

13 **Rick Cooper:** I told him I would bring this up to the Virginia Gas and Oil Board and they
14 would... [Inaudible]

15 **Mark Swartz:** The record needs to reflect he's not here, either.

16 **Paul Kugelman:** Thank you, Mr. Swartz. Yes, the record needs to reflect that Mr. Cook is not
17 here today, representing his interests in his motions for a continuance. That's all I had, Mr.
18 Chairman. Thank you, very much.

19 **Mary Quillen:** Mr. Kugelman, this is a pattern of behavior that has happened over and over and
20 over and over. I can't tell you how many times with different items. He will come in, during the
21 meeting, walk over to Rick and hand him a written statement that he is otherwise unavailable to
22 be at the hearing when that comes up and walks back out the door. This is a pattern of behavior.

23 **Paul Kugelman:** Are these for items that are, currently, on the docket for that day?

24 **Mary Quillen:** Yes. Or, he just doesn't show up like this. To the best of my knowledge, we
25 never have a really explanation of why this needs to be done, kind of like what Rick has just told
26 us, that type of response.

27 **Paul Kugelman:** Just to sum up and make sure I understand, it's your observation that Mr. Cook
28 has a pattern and practice of making requests for continuances without basis, not showing up in
29 the face of matters pending before the Board, when he represents folks and this is the same thing
30 we're dealing with today.

31 **Mary Quillen:** Yes.

1 **Paul Kugelman:** Okay. I would ask the Board, despite that, to take this motion for a
2 continuance in isolation. I appreciate it. I understand the Board's frustration with the
3 inflammatory language in the petition and with Mr. Cook's apparent pattern and practice, as
4 observed by the Board. I would advise and ask the Board just to take this motion on its own and
5 make its determination and proceed accordingly.

6 **Bradley Lambert:** So, we'll call one more time. We have a motion. Do we have a second?
7 [No response] Okay. Not hearing a second, these three items will be dismissed on the docket.

8 **Item Number 6 (re-called on page 24)**

9 **Bradley Lambert:** We're calling Docket Item Number 6, a petition from EQT Production
10 Company, for disbursement of funds and authorization for direct payment on behalf of the
11 known owners in Tract 1 of Unit VC-508899. Docket Number VGOB-02-0115-1000-02. That
12 docket item will be continued until March.

13 **Rick Cooper:** February, this time.

14 **Bradley Lambert:** Okay, February. I'm sorry. I wrote "March."

15 **Item Number 7**

16 **Bradley Lambert:** We're calling Docket Item Number 7, a petition from CNX Gas Company,
17 LLC, for (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow
18 Agent, attributable to Tract 3, as depicted upon the annexed table; and (2) authorization to begin
19 paying royalties directly to the parties listed in the petition. This is Docket Number VGOB-92-
20 0721-0237-02. All parties wishing to testify please come forward.

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

22 **Bradley Lambert:** Good morning!

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

25 **Anita Duty:** Yes.

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

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

28 **Anita Duty:** Anita Duty.

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

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

2 **Mark Swartz:** This is a petition for disbursement. Correct?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** Involving what unit?

5 **Anita Duty:** S15.

6 **Mark Swartz:** Did you either prepare this petition and the related exhibits or supervise the
7 preparation?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** Are you here, on behalf of the operator, to address the merits of this petition with
10 the Board, today?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** The reason why you have requested this disbursement is what?

13 **Anita Duty:** The change in the law, House Bill 2058.

14 **Mark Swartz:** It looks like we have a split agreement, perhaps.

15 **Anita Duty:** Yes, sorry. A split agreement, a CBM deed.

16 **Mark Swartz:** We've got several reasons. One is the change in the law, but we also have a split
17 agreement.

18 **Anita Duty:** We do.

19 **Mark Swartz:** The first reason is that Harrison Wyatt and some other folks have entered into a
20 split agreement. Then, we have the change in the law which, essentially, puts gas claimants in
21 pay position. Correct?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** And, you notified conflicting coal claimants and didn't get a response within the
24 time limit, so we can proceed on that basis.

25 **Anita Duty:** Correct.

26 **Mark Swartz:** Those are the two reasons. Correct?

27 **Anita Duty:** Yes.

1 **Mark Swartz:** Considering those two reasons and the folks eligible for distribution, today, did
2 you prepare a table that the Board could use to direct the Escrow Agent in making the
3 disbursements?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** And, that's Table 1?

6 **Anita Duty:** It is.

7 **Mark Swartz:** And, we're dealing with a portion of Tract 3?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** In Table 1, have you indicated the folks that should be receiving the
10 disbursement?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** Have you indicated the percentages for each person that the Escrow Agent
13 should use to make the disbursement?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** Read into the record the names of the folks that are to receive the disbursements
16 pertaining to Tract 3 and the percentages the Escrow Agent should use.

17 **Anita Duty:** Harrison Wyatt should receive 12.5% of the escrow account. Eddie Blankenship,
18 25%. Danny Carlos Blankenship, 12.5%.

19 **Mark Swartz:** The well that was contributing to this escrow account is which well?

20 **Anita Duty:** S15A.

21 **Mark Swartz:** Have you provided the Board with an Exhibit E that deals with continued
22 escrow?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** Continuation of this escrow account is required, here, because of what?

25 **Anita Duty:** They did not return their W-9 forms.

26 **Mark Swartz:** So, we're waiting on W-9's from the people you've identified in Exhibit E?

27 **Anita Duty:** Yes.

1 **Mark Swartz:** When we get those, then we can come back and make that disbursement.
2 Correct?

3 **Anita Duty:** We will.

4 **Mark Swartz:** Okay. Have you prepared an account reconciliation, an Exhibit J, with regard to
5 this unit?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** In that context, did you attempt to identify all royalty payments that were made
8 into escrow?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** Then, did you look for a corresponding deposit?

11 **Anita Duty:** We did.

12 **Mark Swartz:** When you did that, were you able to account for all checks issued for royalty as
13 having been received by one or more Escrow Agents and noted as a deposit?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** Then, did you do a reconciliation of deposits, interest and fees, to see if your
16 numbers were, essentially, in agreement?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** It turns out, here, that the Escrow Agent has slightly more than your math would
19 indicate. There's \$19.23 more in the escrow account than in your calculation?

20 **Anita Duty:** There is.

21 **Mark Swartz:** Again, as we see between the interest and fees, there's generally a bit of a
22 difference.

23 **Anita Duty:** Yes.

24 **Mark Swartz:** We suspect that's the reason.

25 **Anita Duty:** Yes.

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

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

1 **Mark Swartz:** The only other thing would be that, once we make this disbursement, we would
2 like to be able to pay these people directly. Correct?

3 **Anita Duty:** This is being paid under sealed gob, now.

4 **Mark Swartz:** So, they're getting paid.

5 **Anita Duty:** They will be.

6 **Mark Swartz:** In that regard, then, if we look at Exhibit J, it looks like the sealed gob must
7 have been in '98.

8 **Anita Duty:** It was.

9 **Mark Swartz:** Okay. So, this money was paid in prior to February 1998. It's been sitting there,
10 waiting for a disbursement.

11 **Anita Duty:** Correct.

12 **Mark Swartz:** Now, these folks are being paid out of the sealed gob.

13 **Anita Duty:** Yes. They will be.

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

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

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

17 **Bradley Lambert:** Do I have a second?

18 **Mary Quillen:** I have just one question.

19 **Bradley Lambert:** Ms. Quillen.

20 **Mary Quillen:** On the split agreement between Harrison Wyatt and Danny Blankenship, is that
21 the split agreement for the .0175?

22 **Bruce Prather:** Let me ask a question. Since Harrison Wyatt did not respond to the new
23 legislation, they had a split agreement that was already in effect with these royalty owners. By
24 their not complying with the request on the new legislation, does that, then, make the split
25 agreement null and void?

26 **Mary Quillen:** Or was this made after that, based on that?

27 **Anita Duty:** I will say that they do respond to every one of our notices. If there is a royalty split
28 agreement in effect in those units, they notify us of that, just to make sure that we don't miss it.

1 **Bruce Prather:** Okay.

2 **Anita Duty:** So, the royalty split was taking place several years ago. This unit was just not one
3 that was picked up. We're finding some of the ones that.... Every now and then we'll find a
4 royalty agreement that we didn't process.

5 **Mary Quillen:** Right. So, because it was made before July 1, then it would not fall under the
6 new ruling. Is that right?

7 **Mark Swartz:** I don't think that analysis is correct. You could make an agreement after July 1
8 that would be enforceable. I think that if you send out a notice to a coal owner and you get back
9 a response.... Here's a copy of the complaint that's pending in court or here's a copy of an
10 agreement we made. If the agreement's valid, I don't think it matters when it was made. I don't
11 know why you would do that, but you could contract around the effect of that law for some
12 reason.

13 **Mary Quillen:** Right. I mean that was just the question. You got this from Harrison Wyatt,
14 that it was this agreement. Correct? Is that what you're saying?

15 **Mark Swartz:** We could have gotten it from the other people, from some party to the
16 agreement.

17 **Mary Quillen:** Okay. I was just curious on that.

18 **Mark Swartz:** To put it in context, before House Bill 2058, it would not be unusual for oil and
19 gas claimants to want this kind of an agreement.

20 **Mary Quillen:** Right. I know. We had those very often. That's the reason we were just curious
21 about that one, now, to be sure that it was....

22 **Bruce Prather:** Legal.

23 **Mark Swartz:** The date of this split agreement was March 21, 2012, just for curiosity's sake.

24 **Mary Quillen:** Right.

25 **Mark Swartz:** So, it was four years ago, basically.

26 **Mary Quillen:** So, they're sticking with that?

27 **Mark Swartz:** Right.

28 **Mary Quillen:** I guess that was, basically, our question.

29 **Mark Swartz:** Interesting question. I hadn't really thought of it in that context.

30 **Mary Quillen:** We don't see that, now, that much. Just curious.

1 **Mark Swartz:** You're going to continue to see split agreements factored into the table. There
2 are several others today, as well.

3 **Mary Quillen:** Okay.

4 **Mark Swartz:** In general, my expectation would be that they were entered into before the law.

5 **Mary Quillen:** Okay.

6 **Mark Swartz:** To solve a problem.

7 **Mary Quillen:** Okay. Thanks.

8 **Anita Duty:** That's one of the checks that we do when we're working through the unit, we make
9 sure there's not any agreements or royalty splits or anything that we've missed.

10 **Mary Quillen:** Good.

11 **Bruce Prather:** Would Harrison Wyatt be responsible, since the thing is already covered with a
12 split agreement, would they be responsible to making any kind of a letter to the Board that they
13 either had an interest or didn't have an interest in this, if there was a prior split agreement?

14 **Anita Duty:** There are other owners that did not have an agreement.

15 **Bruce Prather:** But, it wouldn't be necessary for them if they had a split agreement already in
16 effect since 2012.

17 **Anita Duty:** They still notify us. They answer every letter that we send them. They put the
18 instrument number. Most of theirs are deeds. They're not just an agreement.

19 **Mary Quillen:** But, the Blankenship, this is a result of the House Bill?

20 **Anita Duty:** Right.

21 **Mary Quillen:** Okay.

22 **Rick Cooper:** Maybe I can help. We don't have the authority to determine, process these split
23 agreements to the coal company. Any of them that come to us that have split agreements, we
24 will automatically put them on the docket for the Board.

25 **Mary Quillen:** Okay. I just hadn't seen that and I was just curious because one did and one
26 didn't.

27 **Mark Swartz:** That's a good illustration of the effect of the law in the context. We've got,
28 apparently, a family here, some of whom entered into a split agreement and some of whom
29 didn't. This is the result.

1 **Mary Quillen:** Right. Good example. Thank you. I just thought we needed to have that on the
2 record.

3 **Bradley Lambert:** I have a motion. Do I have a second?

4 **Mary Quillen:** Second.

5 **Bradley Lambert:** All in favor, signify by saying yes.

6 **Board:** Yes.

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

8 **Item Number 8**

9 **Bradley Lambert:** We're calling Docket Item Number 8, a petition from CNX Gas Company,
10 LLC, for (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow
11 Agent, attributable to Tracts 3A, 3C and 4, as depicted upon the annexed table; and (2)
12 authorization to begin paying royalties directly to the parties listed in the petition. Docket
13 Number VGOB-92-0721-0243-03. All parties wishing to testify please come forward.

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

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

16 **Mark Swartz:** State your name for us, please?

17 **Anita Duty:** Anita Duty

18 **Mark Swartz:** Are you here on behalf of the petitioner?

19 **Anita Duty:** Yes.

20 **Mark Swartz:** This is a petition for a disbursement from drilling Unit V20. Is that correct?

21 **Anita Duty:** Yes.

22 **Mark Swartz:** As usual, you have set forth in your petition the factual basis for the
23 disbursement request. Correct?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** We've got several reasons here, I think.

26 **Anita Duty:** We do.

27 **Mark Swartz:** The first is that there are some royalty split agreements. Correct?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** Then, we also have a disbursement request predicated upon the House Bill.

3 **Anita Duty:** Yes.

4 **Mark Swartz:** And a representation that you gave notice to the coal owners and did not receive
5 a response of an agreement or case pending within the time limits. With regard to, on the one
6 hand, the split agreement and, on the other hand, the effect of House Bill 2058, did you prepare a
7 Table 1 for the Board to use in instructing the Escrow Agent as to what to do here?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** And, this pertains to Tract 3C?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** When you filed this, you've just got 3C.

12 **Anita Duty:** We revised it, but I don't think the docket picked that up.

13 **Mark Swartz:** Anita makes a point that I think we need to spend one moment on. The docket
14 indicates that there were three tracts--3A, 3C & 4. If you look at Table 1, we're just dealing with
15 3C at this point. Correct?

16 **Anita Duty:** We are.

17 **Mark Swartz:** Why is that, Anita?

18 **Anita Duty:** We removed Tracts 3A and 4 because we need an agency agreement from Mr.
19 Harmon, that's supposed to represent the W.S. Ellis heirs. That was one of the ones that was on
20 the docket last month that we continued because of insufficient documentation from him. We
21 removed it from this petition and did a revision.

22 **Mark Swartz:** If we go to Exhibit E, which I think is Page 6 of your PDF, probably, you'll see
23 under Tract 3A, in red, James W. Huffman needs to prove agency agreement for all of the W.S.
24 Ellis heirs. We still don't have that from him, right?

25 **Anita Duty:** Yes.

26 **Mark Swartz:** To the extent that we require that information, you've indicated on Exhibit E that
27 that's the reason that there's a hold-up for, at least, part of the disbursement.

28 **Anita Duty:** Yes.

29 **Mark Swartz:** Okay. Who is the lawyer involved in that?

1 **Anita Duty:** Shea Cook.

2 **Mark Swartz:** Have you asked him for that information?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** Going back to Table 1, we're just dealing, for the reasons that we've discussed,
5 with Tract 3C. Have you identified, in Table 1, by name and address, everyone who should
6 receive a disbursement?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** For each person that you've identified on Table 1, have you listed in this second
9 column from the right hand side of that table, the percentage the Escrow Agent should use to
10 apply to the balance on hand when the disbursement is made to come up with a dollar amount?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** Have you also done, with regard to this unit, a reconciliation?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** That would be Exhibit J. Correct?

15 **Anita Duty:** It is.

16 **Mark Swartz:** It looks like this is probably producing into a sealed gob, as well, at this point?

17 **Anita Duty:** It is.

18 **Mark Swartz:** If we look at Exhibit J, the royalty payments into the account appear to have
19 ended in '96. Correct?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** So, now, the royalty from this well and others are going into a sealed gob.

22 **Anita Duty:** It is.

23 **Mark Swartz:** So, we're clearing out these interests in Tract 3C, with regard to the production
24 that pre-dated the sealed gob?

25 **Anita Duty:** Yes.

26 **Mark Swartz:** Have you done a calculation or compared your calculation, which includes a
27 couple of disbursements in '01 and '02, to the current balance on hand at First Bank and Trust?

28 **Anita Duty:** Yes.

1 **Mark Swartz:** When you made that comparison of your calculation and the balance, it looks
2 like there's \$389.63 more in the bank account than you had calculated.

3 **Anita Duty:** Yes.

4 **Mark Swartz:** Presumably, that's interest.

5 **Anita Duty:** Yes.

6 **Mark Swartz:** Net interest, in any event. When you went back, did you attempt to locate all of
7 your royalty checks that were paid into this escrow account?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** Then, did you look for a corresponding deposit with an Escrow Agent?

10 **Anita Duty:** We did.

11 **Mark Swartz:** Were you able to, in all instances, find a corresponding deposit?

12 **Anita Duty:** Yes.

13 **Mark Swartz:** I believe that's all I have, Mr. Chairman.

14 **Bradley Lambert:** Ms. Duty, do we have a revised petition, reflecting that we're only hearing
15 3C?

16 **Mark Swartz:** It's actually in the petition.

17 **Anita Duty:** It was loaded. I just don't know at what point....

18 **Bradley Lambert:** It didn't make it to ours.

19 **Mark Swartz:** It should be.

20 **Anita Duty:** Mark has it.

21 **Mark Swartz:** I have it, so I figured you had it.

22 **Bradley Lambert:** No.

23 **Mark Swartz:** I downloaded mine late last week. That's probably why.

24 **Bradley Lambert:** We did, too. It didn't make it into our packet.

25 **Mark Swartz:** Okay. Wow!

26 **Bradley Lambert:** Relief sought still says 3A, 3C. The table is correct. It's just that the relief
27 sought doesn't match.

1 **Mark Swartz:** The one I have is correct and I don't know why. I figured it was correct on
2 yours, too.

3 **Anita Duty:** I don't think we can correct the relief sought, can we?

4 **Mark Swartz:** Somebody did.

5 **Bradley Lambert:** Somebody corrected it, Mark has it.

6 **Sarah Gilmer:** I probably corrected it.

7 **Mark Swartz:** It's online, now, because I think I did this Friday or Thursday. You had made
8 the change by then.

9 **Bradley Lambert:** We can clean it up in the motion. When I call for a motion, the motion can
10 include the corrected....

11 **Paul Kugelman:** As long as the order is correct, I think we're good.

12 **Bradley Lambert:** Do you have anything further, Mr. Swartz?

13 **Mark Swartz:** I do not.

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

15 **Mary Quillen:** Motion to approve, including the change, deleting Tracts 3A and 4 from this
16 petition. The corrected petition is in the Gas and Oil Division Office.

17 **Bradley Lambert:** I have a motion. Do I have a second?

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

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

21 **Board:** Yes.

22 **Bradley Lambert:** Opposed, no. [No response] Thank you, Mr. Swartz. That is approved.
23 We're going to take about a five minute recess. We'll be back in five minutes.

24 **Item Number 6 (continued from page 13)**

25 **Bradley Lambert:** Mr. Swartz, before we get back into hearing your next docket item, if you
26 will permit us, I think Ms. Shaver has one, really quick, item that we can take care of. She called
27 me a "young man" a minute ago, so....

1 **Jen Shaver:** Yes, Mr. Chairman, I would like to request.... This is regarding Docket Item
2 Number 6. This is Jen Shaver, for the record, representing the Poulos/Rogers cousins. This
3 Docket Item pertains to a disbursement order for their interest in this well. There were some
4 accounting issues with First Bank and Trust. I believe that took a while to get ironed out. Those
5 were ironed out, so the petition filing made the docket. I spoke with Jim Kaiser, last week. He
6 had a conflict, so I agreed to continue it to February. I would like to request, assuming we can
7 get Mr. Kaiser's agreement, which I don't think will be an issue if the Board will permit Mr.
8 Cooper to sign off on this disbursement, internally.

9 **Bradley Lambert:** Okay. Any questions from the Board? Is the Board comfortable with
10 giving Mr. Cooper...? All the issues are resolved. It's just not come before the Board for the
11 Board's approval or not?

12 **Jen Shaver:** Yes. The only reason that it was not previously passed through, Mr. Cooper, my
13 understanding is because there is a court order. But, it's resolved. There's no issues between the
14 parties.

15 **Mark Swartz:** It's the same court case that we have.

16 **Jen Shaver:** Yes.

17 **Paul Kugelman:** I'll advise the Board, too, that because competent Counsel is on both sides of
18 this, I think the Board would be well-founded to allow that to go forward.

19 **Mary Quillen:** Jim Kaiser, right?

20 **Jen Shaver:** Yes, ma'am.

21 **Mary Quillen:** Mr. Cooper, what are your feelings?

22 **Rick Cooper:** If the Board approves, we will review internally and approve. If there was to be
23 any outstanding issues we couldn't resolve, we can put it back on the docket, like we always do.
24 We will review it, internally, to make sure everything is in order, if the Board approves that.

25 **Mary Quillen:** Thank you. I make a motion that we address her request to have this
26 disbursement done, internally, by Mr. Cooper.

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

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

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

30 **Board:** Yes.

31 **Bradley Lambert:** Opposed no. [No response] Thank you, Ms. Shaver.

1 **Jen Shaver:** Thank you.
2 **Mary Quillen:** We can change that from continued to approved?
3 **Paul Kugelman:** Yes, ma'am.
4 **Mary Quillen:** Subject to Mr. Cooper's review.

5 **Item Number 9**

6 **Bradley Lambert:** We're calling Docket Item Number 9, a petition from CNX Gas Company,
7 LLC, for (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow
8 Agent, attributable to Tract 5, and a portion of 13, as depicted upon the annexed table; and (2)
9 authorization to begin paying royalties directly to the parties listed in the petition. This is Docket
10 Number VGOB-96-0116-0531-01. All parties wishing to testify please come forward.

11 **Mark Swartz:** Mark Swartz and Anita Duty. Mr. Chairman, Anita has a request for a
12 continuance on this. I'll let her explain why.

13 **Anita Duty:** We had some of the same people on the docket, last month. It's a similar situation
14 where we need documentation from the heirs, in order to proceed with disbursements. Mr. Cook
15 represents these people, also.

16 **Bradley Lambert:** Continued request until when?

17 **Anita Duty:** Not really continue. I think we just need to withdraw it and we'll re-file it, once we
18 receive the documentation.

19 **Bradley Lambert:** Okay. Docket Item Number 9 will be withdrawn.

20 **Item Number 10**

21 **Bradley Lambert:** We're calling Docket Item Number 10, a petition from CNX Gas Company,
22 LLC, for (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow
23 Agent, attributable to Tracts 6, 7, & 10A, as depicted upon the annexed table; and (2)
24 authorization to begin paying royalties directly to CNX and the other parties listed in the petition.
25 This is Docket Number VGOB-97-0121-0562-02. All parties wishing to testify please come
26 forward.

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

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

29 **Mark Swartz:** Anita, would you state your name for us, please?

1 **Anita Duty:** Anita Duty.

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

3 **Anita Duty:** Yes.

4 **Mark Swartz:** This is a request or petition for a disbursement from Drilling Unit W9. Is that
5 correct?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** The reasons for this disbursement are summarized in the petition. First of all,
8 we have some split agreements. Correct?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** Then, we have some gas claimants who are now entitled to receive a
11 disbursement because of House Bill 2058, right?

12 **Anita Duty:** Yes.

13 **Mark Swartz:** And, you've given notice to the coal owners that are on the other side of that.
14 And, those are the two reasons we are requesting a disbursement. Correct?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** With that in mind, did you prepare a Table 1 for 6, 7 & 10A, that the Board
17 could use to direct the Escrow Agent, as to how to make these disbursements?

18 **Anita Duty:** Yes.

19 **Mark Swartz:** Since there aren't that many folks, with regard to each tract, would you identify
20 the person to receive the payment and the percentage that the Escrow Agent should use when
21 calculating the dollar amount?

22 **Anita Duty:** For Tract 6, Harrison Wyatt and CNX Gas should each receive 0.2819%. For
23 Tract 7, Commonwealth of Virginia should receive 3.6901%. For Tract 10A, Buchanan County
24 should receive 56.274%.

25 **Mark Swartz:** And, those percentages are what the Escrow Agent should use to apply to the
26 balance when the disbursement is made. Correct?

27 **Anita Duty:** Yes.

28 **Mark Swartz:** We've got a revised Exhibit E and we still have some title issues requiring
29 continued escrow. Correct?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** And some heirship issues.

3 **Anita Duty:** Yes, we do.

4 **Mark Swartz:** Do you have a revised Exhibit EE, which shows the payment status going
5 forward?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** Lastly, we have a reconciliation. We have an Exhibit J. It looks like this unit
8 must be, currently, being paid or these people are, currently, being paid under a sealed gob. Is
9 that right?

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

11 **Mark Swartz:** Okay. Before it converted to a sealed gob, did you attempt to locate all of the
12 royalty checks that the operator issued?

13 **Anita Duty:** We did.

14 **Mark Swartz:** For the escrow account?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** Then, did you look at the documentation from the various Escrow Agents to try
17 to locate a corresponding deposit?

18 **Anita Duty:** Yes.

19 **Mark Swartz:** When you made that comparison, were you able to find a deposit for every
20 royalty check issued?

21 **Anita Duty:** We did.

22 **Mark Swartz:** So, those corresponded, entirely?

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

24 **Mark Swartz:** Then, did you make a calculation to account for a 2001 disbursement, interest
25 and fees that you were tracking from the bank statements, to come up with your total?

26 **Anita Duty:** Yes.

27 **Mark Swartz:** When you compared that to the October 2015 First Bank and Trust balance,
28 there was a slight difference.

1 **Anita Duty:** Yes. They had \$148.92 more.

2 **Mark Swartz:** Okay. That would, presumably, be the interest that they've been allocating to
3 this account.

4 **Anita Duty:** Yes.

5 **Mark Swartz:** I believe that's all I have on this one, Mr. Chairman.

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

8 **Mark Swartz:** No.

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

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

11 **Bruce Prather:** I'll second.

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

14 **Board:** Yes.

15 **Bradley Lambert:** Opposed no. [No response] Thank you, Mr. Swartz. That's approved.

16 **Item Number 11**

17 **Bradley Lambert:** We're calling Docket Item Number 11, a petition from CNX Gas Company,
18 LLC, for (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow
19 Agent, attributable to Tracts 8 & 16B, as depicted upon the annexed table; and (2) authorization
20 to begin paying royalties directly to the parties listed in the petition. This is Docket Number
21 VGOB-97-0617-0587-03. All parties wishing to testify please come forward.

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

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

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

25 **Anita Duty:** Anita Duty.

26 **Mark Swartz:** You're here on behalf of the applicant, or on behalf of the operator?

27 **Anita Duty:** Yes.

1 **Mark Swartz:** This pertains to sealed gob VP8, Sealed Gob Unit 2. Correct?

2 **Anita Duty:** Yes.

3 **Mark Swartz:** This is a partial disbursement?

4 **Anita Duty:** It is.

5 **Mark Swartz:** You've summarized the reasons in the petition. One of the reasons is a royalty
6 split agreement. Correct?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** Another reason is the effect of House Bill 2058, which allows us to pay some
9 gas claimants, at this point. Correct?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** You represent that you've provided the 45-day notice to the coal claimants and
12 have not received a response?

13 **Anita Duty:** Correct.

14 **Mark Swartz:** With these two reasons in mind, have you prepared a Table 1 that the Board can
15 use to direct the Escrow Agent in making these disbursements?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** Since we don't have too many people, could you read into the record the folks
18 that are to receive the payments and, then, the percentages that the Escrow Agent should use and
19 apply to the balance at the time the payments are calculated and made?

20 **Anita Duty:** For Tract 8, CNX Gas Company should receive 8.1665%. For Tract 16B, Harrison
21 Wyatt should receive 0.315%. Eddie Blankenship should receive 0.6299%. Danny Carlos
22 Blankenship should receive 0.315%.

23 **Mark Swartz:** You provided the Board with an updated, or revised, Exhibit E. Correct?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** We have a title issue in Tract 12, which you have indicated. Surface owner
26 claim, there.

27 **Anita Duty:** Yes.

28 **Mark Swartz:** We have a collection of people, also identified in 16B, who have not provided
29 you with a W-9, right?

1 **Anita Duty:** Correct.

2 **Mark Swartz:** And those are the reasons for continued escrow?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** Then, did you do a reconciliation with regard to this unit?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** That is Exhibit J, again?

7 **Anita Duty:** It is.

8 **Mark Swartz:** Did you account for total royalties paid, a couple of disbursements, interest and
9 fees, and come up with your balance?

10 **Anita Duty:** We did.

11 **Mark Swartz:** When you compared that to the October 2015 First Bank and Trust balance, was
12 there a difference?

13 **Anita Duty:** They have \$441.46 less than we calculated.

14 **Mark Swartz:** Okay. When you were preparing Exhibit J, did you locate all royalty checks that
15 the operator has issued to this escrow account?

16 **Anita Duty:** We did.

17 **Mark Swartz:** Then, did you look for a deposit for every one of those checks?

18 **Anita Duty:** Yes.

19 **Mark Swartz:** Did you find them?

20 **Anita Duty:** We did.

21 **Mark Swartz:** So, there are no deposit discrepancies here, at all.

22 **Anita Duty:** No.

23 **Mark Swartz:** So, that would mean that the difference in the accounts is an interest and fees
24 explanation.

25 **Anita Duty:** Most likely, yes.

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

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

3 **Mark Swartz:** No.

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

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

6 **Mary Quillen:** Second.

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

9 **Board:** Yes.

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

11 **Item Number 12**

12 **Bradley Lambert:** We're calling Docket Item Number 12, a petition from CNX Gas Company,
13 LLC, for (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow
14 Agent, attributable to Tract 3, as depicted upon the annexed table; and (2) authorization to begin
15 paying royalties directly to the parties listed in the petition. This is Docket Number VGOB-97-
16 0715-0596-02. All parties wishing to testify please come forward.

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

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

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

20 **Anita Duty:** Anita Duty.

21 **Mark Swartz:** Are you here on behalf of the operator petitioner, with regard to this
22 disbursement?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** This pertains to Unit FF22?

25 **Anita Duty:** Yes.

26 **Mark Swartz:** This disbursement request is based on a settlement agreement, right?

27 **Anita Duty:** It is.

1 **Mark Swartz:** Since we're going to have a bunch of disbursement requests following this, let's
2 take a moment here. Could you give the Board a synopsis of the settlement agreement and
3 litigation that we're talking about, here?

4 **Anita Duty:** There was, previously, litigation brought by James Rasnake against the Jacob
5 Fuller heirs. He was successful in obtaining title to that property. In that agreement, we've had
6 years of differences between Mr. Rasnake and ourselves. I guess part of what he was doing
7 when he won that case, was he wanted to work in his agreement with us to pay him for royalties
8 and things that he thought that he should have been getting, all along. What we did was we went
9 ahead and we had the agreement, went ahead and paid him his interest. Part of the deal was that
10 we got the escrow funds from that because he knew that would take too long to do. Everything
11 was settled. We paid him what we agreed. Then, we're coming now to get the money out of the
12 escrow account, as defined in the agreement, the settlement.

13 **Mark Swartz:** This case actually settled the litigation and this collection of disputes were
14 settled in April 2012.

15 **Anita Duty:** Yes.

16 **Mark Swartz:** We're getting around to effectuating that settlement agreement.

17 **Anita Duty:** Correct.

18 **Mark Swartz:** This disbursement is, basically, you paid him a compromised amount, Mr.
19 Rasnake, back in 2012?

20 **Anita Duty:** We did.

21 **Mark Swartz:** Part of the agreement was that, then, you (CNX) would be able to withdraw
22 from the escrow account, 100% of the balance.

23 **Anita Duty:** Correct.

24 **Mark Swartz:** With regard to tracts that, arguably, have been due to him. We're going to see
25 this again and again, today.

26 **Anita Duty:** Correct.

27 **Mark Swartz:** Have you done, with regard to this unit, a Table 1 for the Escrow Agent?

28 **Anita Duty:** Yes.

29 **Mark Swartz:** Basically, it's very simple, here. The Escrow Agent is to pay CNX 100% of the
30 royalty balance on deposit for Tract 3?

31 **Anita Duty:** Yes.

1 **Mark Swartz:** Did you do a reconciliation, an Exhibit J?

2 **Anita Duty:** We did.

3 **Mark Swartz:** That indicates that you stopped paying into escrow in late 2012, right?

4 **Anita Duty:** Correct.

5 **Mark Swartz:** So, you've just run this forward?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** Were you able, once again, to locate your royalty payments into this escrow
8 account, with regard to this tract and, then, a corresponding deposit for every one of them?

9 **Anita Duty:** We were.

10 **Mark Swartz:** Did you run a calculation of total deposits, interest and fees, and get a net
11 number for yourself?

12 **Anita Duty:** Yes.

13 **Mark Swartz:** That was within \$4.72 of what the bank had?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** And, the bank actually had \$4.72 less.

16 **Anita Duty:** Yes.

17 **Mark Swartz:** Are you requesting that the Board approve this petition and direct the Escrow
18 Agent to pay CNX the balance attributable to Tract 3?

19 **Anita Duty:** Yes.

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

21 **Bradley Lambert:** So, let me understand. The agreement with Mr. Rasnake specifically said,
22 "We'll pay you a specified amount, but we (CNX) will receive this amount that's attributable to
23 Tract 3, in this unit?

24 **Anita Duty:** It doesn't, specifically, have the tracts and those kinds of things. It's James
25 Rasnake and others. It's not just James Rasnake. It was Buck Horne. There were other parties
26 to that agreement. But, we paid them the amount that was due, up front, rather than go through
27 the portion of paying escrow. Then, we would receive the escrow as part of that agreement.

1 **Bradley Lambert:** Does the agreement list all of the units and tracts that CNX will be disbursed
2 money to?

3 **Anita Duty:** I'm not sure that it lists the units, but it lists the tracts that were part to the court
4 order, where he was successful in obtaining title for three different tracts.

5 **Bruce Prather:** Mr. Chairman.

6 **Bradley Lambert:** Mr. Prather.

7 **Bruce Prather:** Was Rasnake being paid on the basis of a percentage of the escrow account or
8 was there just a set amount put aside for his services?

9 **Anita Duty:** It was a settlement agreement for several things. It was just historical things that
10 we had with that family.

11 **Bruce Prather:** I'm not asking you anything about it. I'm just saying was it a service deal?
12 Was he getting a percentage of the escrow account?

13 **Anita Duty:** No. The only portion of the escrow account that he would have been due is what
14 any royalty owner would have been due if we paid them like we do anybody else. It's still the
15 1/8.

16 **Bruce Prather:** You recouped it through the escrow account.

17 **Anita Duty:** Right. We recouped a portion of our settlement that we paid him, through the
18 escrow account. In 2012, those owners were being paid because you'll see them on Exhibit EE.
19 They were being paid, as if they were a normal royalty owner. They did opt in, as a participator,
20 also.

21 **Mary Quillen:** So, there was not a.... In the agreement, it didn't specifically say, "It's Well X, Y
22 & Z in Tract 2, 3 or 4?" It just named the tracts.

23 **Anita Duty:** The three tracts that he obtained title to.

24 **Mary Quillen:** Right. It just named the three tracts, not the wells. Did he come up with the
25 amount or did you all negotiate an amount? What I'm getting at is would he ever come back to
26 get more that he feels like that he deserves?

27 **Mark Swartz:** He's getting more. We settled with him through a date. There was money on
28 deposit in escrow through that date. As of the end of 2012, if you look at Exhibit J, these people
29 went on direct pay. So, essentially, CNX paid a settlement amount to settle for the past, put them
30 on pay, going forward. If you look at Exhibit EE, you can see that these people in this tract are
31 on pay and have been on pay.

32 **Mary Quillen:** Right.

1 **Mark Swartz:** Part of the agreement was we would get some of the money we gave them, back
2 in 2012, back by pulling them out of this escrow account and others. That's the scope of the
3 deal.

4 **Mary Quillen:** Okay. So, you are recouping what you paid?

5 **Mark Swartz:** A piece of what we paid.

6 **Mary Quillen:** A piece of what you paid through 2012. Beginning in 2012, they were getting
7 paid, directly.

8 **Mark Swartz:** When we stopped paying into the account, depositing into this account, that was
9 when we started paying them.

10 **Mary Quillen:** Okay.

11 **Mark Swartz:** The meter stopped running for the past and they started collecting on it.

12 **Mary Quillen:** And, these people got their money in 2012.

13 **Mark Swartz:** Settlement money.

14 **Mary Quillen:** Or, the settlement money, rather than waiting until today.

15 **Mark Swartz:** They have been paid for the production since then, on a current basis.

16 **Mary Quillen:** Okay. So, the group that, Rasnake was the defendant in that case.

17 **Mark Swartz:** There were more people than just James Rasnake.

18 **Mary Quillen:** His group

19 **Anita Duty:** He was the plaintiff.

20 **Mary Quillen:** The defendant had a group, I'm sure, too. What has happened to that group?

21 **Mark Swartz:** Exhibit EE shows that. It shows who is being paid, according to the court order.

22 **Anita Duty:** You mean the group that he was successful in taking title to the property?

23 **Mary Quillen:** Yes.

24 **Anita Duty:** We have gone through the process of either re-pooling or modifying the
25 supplemental order to dismiss those people, based on that order.

26 **Mary Quillen:** What I'm interested in knowing, are these people still involved, the defendants?

27 **Anita Duty:** The Jacob Fuller heirs?

1 **Mary Quillen:** Yes.

2 **Anita Duty:** Some of those people that were successful in obtaining title are some of those. It
3 was like one, specific, group. James Rasnake and....

4 **Mary Quillen:** I guess my question is, are any of those people that were in the losing side, are
5 they still involved, in any way, in these tracts?

6 **Bruce Prather:** Disbursements.

7 **Anita Duty:** No, but there are people that were on the winning side that were part of the losers.
8 A portion of that heirship obtained title to the entire tract. Rather than it being all the heirship,
9 just a small portion of the heirship obtained title. Mr. Rasnake had an interest, as a Jacob Fuller
10 heir. Now, he has a larger interest, as the winning party.

11 **Mary Quillen:** Okay. So, there were people involved in both sides?

12 **Anita Duty:** Right.

13 **Bruce Prather:** You indicated that he was in two or three of these.

14 **Mark Swartz:** There was a bunch of cases. This is just a piece of it.

15 **Mary Quillen:** Okay.

16 **Mark Swartz:** We were in decades of litigation.

17 **Anita Duty:** That's kind of what brought everything to....

18 **Mary Quillen:** Is this the final settlement or is there going to be more to follow this?

19 **Mark Swartz:** There's more fall-out of this settlement agreement. Today, for example.

20 **Anita Duty:** We're done with everything.

21 **Mark Swartz:** There's more to it than just this one. We've actually won some of these cases,
22 too. It was a nightmare.

23 **Mary Quillen:** But, we're getting all of these cases, today.

24 **Mark Swartz:** That pertain to this deal.

25 **Mary Quillen:** This is the end of it. Are you at the end of the road on it?

26 **Mark Swartz:** Him, yes. I think. With him, you never know.

27 **Mary Quillen:** You're qualifying that with "I think."

1 **Anita Duty:** I will say this. We do have two more units that we have a party, other than
2 ourselves, to pay a portion. I don't know if you all remember Ms. Caldwell that came here. We
3 have two units that we have to finish up with her. We will, kind of, see this again two more
4 times.

5 **Mary Quillen:** Slowly, but surely, all of these things are being resolved in separate little
6 settlements. Well, good luck.

7 **Mark Swartz:** We're making progress.

8 **Mary Quillen:** Yes, you're making great progress. We, actually, kind of understand. We feel
9 for you.

10 **Mark Swartz:** Mr. Rasnake had a bunch of really complex issues, some of which he did not
11 prevail on and some of which he did. Buck Horne was involved in this. There were other people
12 involved. I think we're done.

13 **Mary Quillen:** When you get these big heirships, I'm sure it's just terribly complex and it has
14 grown, exponentially, over the years. These are things that have been coming before the Board
15 for many years.

16 **Bradley Lambert:** My only comment that I was going to make is that, under testimony, we are
17 sure. This Board can feel comfortable that Tract 3 for this unit is part of the agreement that you
18 have with Mr. Rasnake and others. My concern is, with no documentation in the petition, under
19 your testimony only, that this is correct. I guess we'll have to go on that, not knowing what the
20 agreement is, not seeing the agreement. How can the Board be sure that you may come in here
21 under, for instance, Tract 4 and say CNX, we still owe so much money? With your testimony
22 that's not documenting the agreement, but if you're testifying under oath that this is correct,
23 then....

24 **Mark Swartz:** We can give you the excerpt of the agreement that says what we're relying on.
25 We're just reluctant.... In the agreement, it says this. We had previously pooled this unit. If
26 you're looking at Exhibit EE, you can see that the people we pooled.... For example, Exhibit EE,
27 the coal owners are not getting anything, going forward.

28 **Paul Kugelman:** Have all the relevant parties received notice of this petition and they've
29 received copies of the petition and they have a right to be here, today, if they contested it?

30 **Mark Swartz:** Right. Yes.

31 **Bruce Prather:** Mark, would the court order be sufficient?

32 **Paul Kugelman:** You're not going to have one in a settlement agreement like that.

1 **Mark Swartz:** They won the title case. Then, we settled. So, the court order isn't really going
2 to....

3 **Bruce Prather:** You settled it.

4 **Anita Duty:** Yes.

5 **Mary Quillen:** I would think that the part of the agreement that says that they accept this
6 payment up front from you and that you have the...

7 **Mark Swartz:** That's the whole agreement, but the part of the agreement would say that it's
8 subject to these tracts. We can carve that out and...

9 **Mary Quillen:** Yes.

10 **Mark Swartz:** The answer to your question, Mr. Chairman, is yes. We are absolutely
11 representing to this Board that Tract 3 was dealt with in the settlement agreement, along the lines
12 of what we are asking you to do today. We can carve that little piece out, with regard to these
13 tracts. We're delighted to do that and send it to Mr. Cooper.

14 **Bradley Lambert:** With your testimony and with, as Mr. Kugelman said, notice has been given;
15 I'm okay with that if the rest of the Board is comfortable with that.

16 **Mark Swartz:** We are comfortable, totally, that this tract is carved out as part of the settlement.

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

19 **Mark Swartz:** No.

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

21 **Mary Quillen:** Motion to approve.

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

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

25 **Board:** Yes.

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

1 **Item Number 13**

2 **Bradley Lambert:** Now, we're moving to Docket Item Number 13, a petition from CNX Gas
3 Company, LLC, for (1) the disbursement of escrowed funds heretofore deposited with the
4 Board's Escrow Agent, attributable to Tracts 3A, 3B, & 3C, as depicted upon the annexed table;
5 and (2) authorization to begin paying royalties directly to the parties listed in the petition. This is
6 Docket Number VGOB-01-0320-0870-04. All parties wishing to testify please come forward.

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

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

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

10 **Anita Duty:** Anita Duty.

11 **Mark Swartz:** Are you here on behalf of the petitioner and the operator?

12 **Anita Duty:** Yes.

13 **Mark Swartz:** This is a petition for a disbursement of escrowed funds pertaining to drilling
14 Unit AV110. Correct?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** The reason is the settlement agreement that we just were talking about in the
17 previous docket?

18 **Anita Duty:** Yes.

19 **Mark Swartz:** Have you prepared a Table 1, again?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** And that effectuates the settlement agreement with regard to Tract 3A?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** Essentially, the instruction to the Escrow Agent, consistent with Table 1, would
24 be to pay 100% of the proceeds attributable to Tract 3A to CNX?

25 **Anita Duty:** Yes.

26 **Mark Swartz:** Also, with regard to 3B? Correct?

27 **Anita Duty:** Yes.

28 **Mark Swartz:** And, with regard to 3C?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** And you've given the percentages that the Escrow Agent should be using to
3 apply to the total balance to make that disbursement?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** We've got an Exhibit E. This should zero out the escrow account, with regard to
6 this unit?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** Or, with these tracts?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** Then, you've got a EE, which shows the going-forward payments?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** Again, on Exhibit J, that would indicate that payments ceased.... It looks like the
13 last payment into the escrow account was in January 2013. Correct?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** That's because the folks went on direct pay.

16 **Anita Duty:** They did.

17 **Mark Swartz:** Pursuant to the settlement agreement?

18 **Anita Duty:** Yes.

19 **Mark Swartz:** Did you do a reconciliation of the escrow account?

20 **Anita Duty:** We did.

21 **Mark Swartz:** In the process of doing that, did you locate all royalty checks that you paid for
22 escrow for this unit?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** And, did you look for a corresponding deposit?

25 **Anita Duty:** We did.

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

27 **Anita Duty:** Yes.

1 **Mark Swartz:** Then, you did your math, right?

2 **Anita Duty:** We did.

3 **Mark Swartz:** Did you total up your deposits that you made, accounted for a 2001
4 disbursement, accounted for the interest and fees that the bank reports, came up with a total?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** The bank had slightly more. The bank balance of September 2015 was slightly
7 more than your total?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** In what amount?

10 **Anita Duty:** \$348.60.

11 **Mark Swartz:** Again, we'll assume that's interest exceeding fees?

12 **Anita Duty:** Yes.

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

14 **Bradley Lambert:** Any questions from the Board? [No response] Do I have a motion?

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

16 **Bradley Lambert:** Do I have a second?

17 **Mary Quillen:** Second.

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

20 **Board:** Yes.

21 **Bradley Lambert:** Opposed no. [No response] Thank you, Mr. Swartz. That's approved.

22 **Item Number 14**

23 **Bradley Lambert:** We're calling Docket Item Number 14, a petition from CNX Gas Company,
24 LLC, for (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow
25 Agent, attributable to Tract 1B, as depicted upon the annexed table; and (2) authorization to
26 begin paying royalties directly to the parties listed in the petition. This is Docket Number
27 VGOB-01-0821-0908-01. All parties wishing to testify please come forward.

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

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

3 **Mark Swartz:** Anita, would you state your name for us again?

4 **Anita Duty:** Anita Duty.

5 **Mark Swartz:** Are you here on behalf of the applicant and operator?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** And, this is another petition for disbursement from an escrow account. Correct?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** The drilling unit involved in this petition is AW108?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** Again, this is the same settlement agreement we've been talking about as the
12 basis for this request?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** Have you prepared a Table 1 consistent with that?

15 **Anita Duty:** We have.

16 **Mark Swartz:** That shows that CNX Gas Company would receive 100% of the funds on
17 deposit when the disbursement is made?

18 **Anita Duty:** Yes.

19 **Mark Swartz:** If you go to Exhibit E, that would zero out the escrow account for that?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** You've got revised Exhibit EE, which lists ??? (37:06) payments.

22 **Anita Duty:** Yes.

23 **Mark Swartz:** To the royalty owners?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** Pursuant to the settlement agreement and the court case?

26 **Anita Duty:** Yes.

1 **Mark Swartz:** Lastly, you prepared an Exhibit J, it looks like.

2 **Anita Duty:** We did.

3 **Mark Swartz:** It looks like royalty payments into that escrow account stopped as of November
4 2013.

5 **Anita Duty:** Yes.

6 **Mark Swartz:** And, you've been paying under the settlement agreement on a direct pay basis to
7 the folks identified in EE since then?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** Did you do a reconciliation, here?

10 **Anita Duty:** We did.

11 **Mark Swartz:** And, we found an issue. Correct?

12 **Anita Duty:** We did.

13 **Mark Swartz:** Let's deal with the issue, first. I think the next item on the docket is the other
14 side of the issue?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** Here, we found what? What was the problem?

17 **Anita Duty:** The deposit for May 2006 should have just been \$385.06. Actually, they added a
18 check for AW109.

19 **Mark Swartz:** Okay. So, in May 2006, an extra \$1,074.43 went into this escrow account,
20 AW108. Correct?

21 **Anita Duty:** It's actually the difference between the two. It's \$1,074.43. They credited \$1,459.

22 **Mark Swartz:** You're saying there was an overpayment into this escrow account of \$1,074.43?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** Okay. That, actually, should have gone into AW109?

25 **Anita Duty:** Correct.

26 **Mark Swartz:** Which is Docket Item 15?

27 **Anita Duty:** Yes.

1 **Mark Swartz:** So, if you account for that in this calculation and compare the September 2015
2 balance and your calculation, what's the difference?

3 **Anita Duty:** \$1,145.72.

4 **Mark Swartz:** If you take the \$1,174 out of that, you're within about \$70. Correct?

5 **Anita Duty:** Right.

6 **Mark Swartz:** That's \$70 more?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** I'm going to come back to the reconciliation. When this disbursement is made,
9 that transfer needs to occur?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** Has it already?

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

13 **Rick Cooper:** That transfer occurred December 14, 2015.

14 **Mark Swartz:** Okay. So, that balance now in AW108 should be correct. That money has been
15 transferred to 109, is what you're saying?

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

17 **Mark Swartz:** Good. That needed to occur before the Escrow Agent was directed to make the
18 table correction. When you were going through the reconciliation, did you attempt to locate
19 every royalty check that was issued?

20 **Anita Duty:** We did.

21 **Mark Swartz:** Were you able to find a corresponding deposit?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** Except for the one deposit that should have been \$385.06 and was \$1,459.49, is
24 that the only mistake you found?

25 **Anita Duty:** Yes.

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

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

1 **Mary Quillen:** Just one question. This reconciliation balance, that is taken care of with this
2 transfer to the AW109?

3 **Rick Cooper:** Correct.

4 **Mary Quillen:** Okay.

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

6 **Mark Swartz:** No.

7 **Bradley Lambert:** Mr. Cooper, I understand that those transactions have already been done?

8 **Rick Cooper:** That is correct, December 15 of last year.

9 **Mark Swartz:** It changed by a day.

10 **Rick Cooper:** December 14, 2015

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

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

13 **Bradley Lambert:** Do I have a second?

14 **Bruce Prather:** I'll second it.

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

17 **Board:** Yes.

18 **Bradley Lambert:** Opposed no. [No response] Thank you, Mr. Swartz. That's approved.

19 **Item Number 15**

20 **Bradley Lambert:** We're calling Docket Item Number 15, a petition from CNX Gas Company,
21 LLC, for (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow
22 Agent, attributable to Tract 1B, as depicted upon the annexed table; and (2) authorization to
23 begin paying royalties directly to the parties listed in the petition. This is Docket Number
24 VGOB-01-0821-0909-02. All parties wishing to testify please come forward.

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

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

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

1 **Anita Duty:** Anita Duty.

2 **Mark Swartz:** You're here on behalf of the applicant and the operator. Correct?

3 **Anita Duty:** Yes.

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

5 **Anita Duty:** It is.

6 **Mark Swartz:** On AW109?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** And, the same settlement agreement that we've been talking about for several
9 petitions is in play, here?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** Did you prepare a Table 1, consistent with that settlement agreement?

12 **Anita Duty:** We did.

13 **Mark Swartz:** And, it pertains to Tract 1B?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** And, CNX is to receive 100% of the escrow account, at the time the
16 disbursement is made, associated with Tract 1B?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** When that happens, there will no longer be an escrow requirement?

19 **Anita Duty:** Correct.

20 **Mark Swartz:** Have you provided a revised Exhibit E, to that effect?

21 **Anita Duty:** Yes.

22 **Mark Swartz:** Then, effectuating the settlement agreement and the court case, you've got a
23 revised Exhibit EE, which shows who you're paying, going forward?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** Let's go to Exhibit J to deal with the issue we were talking about in the last unit.
26 Did you do a reconciliation?

27 **Anita Duty:** Yes.

1 **Mark Swartz:** Did you look at all of the royalty payments that you made?

2 **Anita Duty:** Yes.

3 **Mark Swartz:** Did you find a corresponding deposit?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** Did you also find one mistake?

6 **Anita Duty:** We did.

7 **Mark Swartz:** If you go to the last page, we're going to see what we were talking about with
8 regard to Docket Item 14, AW108. Correct?

9 **Anita Duty:** Correct.

10 **Mark Swartz:** Essentially, what you determined was that a May deposit, with regard to
11 AW108, was in an amount that was larger than it should have been, by \$1,074.43?

12 **Anita Duty:** Yes.

13 **Mark Swartz:** And, that amount needed to be transferred to the escrow account for AW109?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** And, we have learned from Mr. Cooper that that happened in December?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** So, would that change the escrow account balance for AW109 should be
18 correct?

19 **Anita Duty:** Yes.

20 **Mark Swartz:** When you did the reconciliation, you added up your deposits, your royalty
21 checks. You accounted for a 2001 disbursement. You considered the bank's interest and fees
22 reported in their statements. You came up with a total. Correct?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** Then, you looked at the September 2015 First Bank balance and it was short.
25 Correct?

26 **Anita Duty:** Yes.

27 **Mark Swartz:** But, if we put this \$1,074.43 back in, it's going to be very near?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** It will be off by about \$40 or \$50.

3 **Anita Duty:** Yes.

4 **Mark Swartz:** That's all I have.

5 **Bradley Lambert:** Any questions from the Board? [No response] Do I have a motion?

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

7 **Bruce Prather:** Second.

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

10 **Board:** Yes.

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

12 **Item Number 16**

13 **Bradley Lambert:** We're calling Docket Item Number 16, a petition from CNX Gas Company,
14 LLC, for (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow
15 Agent, attributable to Tracts 1A & 1B, as depicted upon the annexed table; and (2) authorization
16 to begin paying royalties directly to the parties listed in the petition. Docket Number VGOB-01-
17 0821-0910-01. All parties wishing to testify please come forward.

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

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

20 **Mark Swartz:** Anita, would you state your name again, please?

21 **Anita Duty:** Anita Duty .

22 **Mark Swartz:** You're here on behalf of the operator and applicant?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** And, the petition is for a disbursement?

25 **Anita Duty:** Yes.

26 **Mark Swartz:** And, the reason is the same settlement agreement between CNX and Rasnake?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** Did you prepare a Table 1 consistent with that settlement agreement?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** Table 1 shows that, with regard to Tracts 1A & 1B, CNX should receive a
5 disbursement of 100% of the amount in the escrow when the disbursement is made?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** Have you provided the Board with a revised Exhibit E?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** After that disbursement occurs, there's no further requirement for escrow.
10 Correct?

11 **Anita Duty:** Correct.

12 **Mark Swartz:** And, you've provided the Board with a revised Exhibit EE which shows the,
13 going forward, payments?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** And, who is entitled to that?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** Lastly, if you look at Exhibit J, there were deposits from 2009 through 2011.
18 There were a few deposits in 2015. Do you see that? Hold on. Do you have the Exhibit J for
19 AZ100 in this unit? No, I do.

20 **Paul Kugelman:** For Docket Item 16?

21 **Anita Duty:** Does it have the right one?

22 **Paul Kugelman:** I see what you mean.

23 **Mark Swartz:** If you look at Exhibit J, Unit AZ100 escrow account reconciliation.

24 **Anita Duty:** I bet it's just labeled wrong.

25 **Bradley Lambert:** I have AZ100.

26 **Mark Swartz:** We're trying to sort out if it's labeled wrong or if it's just wrong.

27 **Mary Quillen:** It says "AZ100?"

1 **Mark Swartz:** Right.

2 **Bradley Lambert:** But the wrong docket number.

3 **Mary Quillen:** And there's a different docket number from this AX107? AZ100 isn't even on
4 our docket, today.

5 **Mark Swartz:** If we assume Table 1 is right, we should be looking at \$1,700 or \$1,800. When
6 we look at J, clearly it pertains to something else. We've got it. We could load it, but I don't
7 want to deal with that, at this point. Can we just continue this until next month?

8 **Bradley Lambert:** Yes. We can continue until February.

9 **Mary Quillen:** Continued to February?

10 **Mark Swartz:** I don't know if we're going to have February. March, if not.

11 **Bruce Prather:** You want to continue this, then?

12 **Mark Swartz:** Yes, for a month. Just for the reason that we need to get Exhibit J sorted out.
13 I'm sorry. I didn't notice that until this moment.

14 **Paul Kugelman:** Better to catch it now, than later.

15 **Mark Swartz:** Yes.

16 **Bradley Lambert:** Okay. That docket item will be continued until February.

17 **Item Number 17**

18 **Bradley Lambert:** We're calling Docket Item Number 17, a petition from CNX Gas Company,
19 LLC, for (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow
20 Agent, attributable to Tracts 1B & 1F, as depicted upon the annexed table; and (2) authorization
21 to begin paying royalties directly to the parties listed in the petition. Docket Number VGOB-01-
22 0821-0911-01. All parties wishing to testify please come forward.

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

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

25 **Mark Swartz:** Anita, could you state your name for us again, please?

26 **Anita Duty:** Anita Duty.

27 **Mark Swartz:** This is another disbursement order. Correct?

28 **Anita Duty:** Yes.

1 **Mark Swartz:** You're here, representing the applicant and operator?

2 **Anita Duty:** Yes.

3 **Mark Swartz:** This pertains to drilling Unit AX108?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** It's the same April 17, 2012, settlement agreement that we've been talking about
6 for a while, now?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** Have you prepared a Table 1 consistent with that agreement?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** When we look at Table 1, we've got two tracts, 1B & 1F. Correct?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** And, the disbursement order should provide that CNX receives 100% of the
13 balance in the escrow account, at the time the disbursement is made. Correct?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** Have you prepared a revised Exhibit E?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** That shows that the escrow is no longer required when that happens?

18 **Anita Duty:** Correct.

19 **Mark Swartz:** Have you provided an Exhibit EE, showing how people are to be paid, going
20 forward, consistent with the agreement and case?

21 **Anita Duty:** Yes.

22 **Mark Swartz:** Lastly, let's look at Exhibit J. Does Exhibit J show all of the royalty checks the
23 operator issued?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** They stopped being issued into the escrow account in November 2013. Correct?

26 **Anita Duty:** Yes.

1 **Mark Swartz:** At that point, the payments start going to the people, pursuant to the settlement
2 agreement?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** Did you look for, in the bank records, a deposit corresponding with each royalty
5 check?

6 **Anita Duty:** We did.

7 **Mark Swartz:** Did you find a deposit for every check?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** Have you, at the end of Exhibit J, done your check on the accounting?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** You took your total royalty payments, interest and fees, as reported by the bank,
12 and you came up with a total. You, then, compared that to the September 30 bank balance and
13 determined that the bank had \$145.78 more.

14 **Anita Duty:** Right.

15 **Mark Swartz:** Which, presumably, is the interest?

16 **Anita Duty:** Yes.

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

18 **Bradley Lambert:** Any questions from the Board? [No response] Do I have a motion?

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

20 **Mary Quillen:** Second.

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

23 **Board:** Yes.

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

25 **Item Number 18**

26 **Bradley Lambert:** We're calling Docket Item Number 18, a petition from CNX Gas Company,
27 LLC, for (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow

1 Agent, attributable to Tract 1B, as depicted upon the annexed table; and (2) authorization to
2 begin paying royalties directly to the parties listed in the petition. Docket Number VGOB-01-
3 0821-0912-02. All parties wishing to testify please come forward.

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

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

6 **Mark Swartz:** Anita, would you state your name for us, please?

7 **Anita Duty:** Anita Duty.

8 **Mark Swartz:** Are you here on behalf of the applicant and operator?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** This is another petition for disbursement?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** It pertains to Unit AX109?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** This is, once again, the settlement agreement that we've been talking about?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** Did you prepare a Table 1 pursuant to that agreement?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** In Table 1, we're talking about Tract 1B and the Escrow Agent should be
19 directed to pay 100% of the balance in the escrow account to CNX?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** Once that occurs, Exhibit E shows that escrow will no longer be required.

22 **Anita Duty:** Correct.

23 **Mark Swartz:** And you have provided the Board with a revised Exhibit EE, which shows who
24 you're going to be paying, going forward?

25 **Anita Duty:** Yes.

26 **Mark Swartz:** Consistent, again, with the settlement agreement and the outcome of the court
27 case?

1 **Anita Duty:** Correct.

2 **Mark Swartz:** Lastly, let's look at Exhibit J. When we look at Exhibit J, did you list, on
3 Exhibit J, all royalty checks that the operator issued to one or more banks for this escrow
4 account?

5 **Anita Duty:** We did.

6 **Mark Swartz:** Then, did you look at all the deposits for the various banks to determine whether
7 or not you could find a corresponding deposit for the royalty check?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** When you did that, did you find every one?

10 **Anita Duty:** We did.

11 **Mark Swartz:** It looks like the payments into escrow stopped in November 2013. Correct?

12 **Anita Duty:** Yes.

13 **Mark Swartz:** At that point, did you begin paying the folks listed in Exhibit EE, directly?

14 **Anita Duty:** We did.

15 **Mark Swartz:** Did you do a reconciliation of your balance and the bank's balance?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** When you considered your payments, interest and fees, there was a correction.
18 We'll come back to that in a moment. You got a grand total, when you compared that to the
19 September 30, 2015 bank balance, you had a difference of \$50.68. The bank had that amount
20 less than you had come up with.

21 **Anita Duty:** Yes.

22 **Mark Swartz:** Tell us about the correction.

23 **Anita Duty:** I don't know. That was on the bank's side. I'm not sure.

24 **Mark Swartz:** It was on the bank's side?

25 **Anita Duty:** Yes.

26 **Mark Swartz:** Okay. What's the date of that?

27 **Anita Duty:** March 2010

1 **Mark Swartz:** If you look at March 2010...

2 **Anita Duty:** I'm sure we could find it.

3 **Mark Swartz:** The bank, in the corrections column, made a debit of \$35,692.04, for some
4 reason.

5 **Anita Duty:** Right.

6 **Mark Swartz:** But, you were able to find every royalty check that should have gone into this
7 account, as a deposit?

8 **Anita Duty:** We were.

9 **Mark Swartz:** As far as you're concerned, it matches your records?

10 **Anita Duty:** It does.

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

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

13 **Mary Quillen:** That \$35,692.04, what was that? Did you say?

14 **Mark Swartz:** The bank made a correction that we don't know why. Our deposits into royalty
15 for this account are all there. That's somebody else's money, apparently.

16 **Mary Quillen:** But, that was a bank issue, right?

17 **Mark Swartz:** Right.

18 **Mary Quillen:** Okay.

19 **Mark Swartz:** Anita's thinking that there was a change of Escrow Agents in January 2010, as
20 well.

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

22 **Anita Duty:** Is that what happened?

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

24 **Bradley Lambert:** That's what I was thinking.

25 **Anita Duty:** The beginning balance wasn't right, or something.

26 **Mary Quillen:** Okay.

27 **Bradley Lambert:** Anything further?

1 **Mark Swartz:** No.

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

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

4 **Bruce Prather:** I'll second.

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

7 **Board:** Yes.

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

9 **Item Number 19**

10 **Bradley Lambert:** We're calling Docket Item Number 19, a petition from CNX Gas Company,
11 LLC, for (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow
12 Agent, attributable to Tracts 2B & 2G, as depicted upon the annexed table; and (2) authorization
13 to begin paying royalties directly to the parties to the prevailing plaintiffs listed in the petition.
14 This is Docket Number VGOB-02-0820-1057-03. All parties wishing to testify please come
15 forward.

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

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

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

19 **Anita Duty:** Anita Duty.

20 **Mark Swartz:** Are you here on behalf of the operator and applicant?

21 **Anita Duty:** Yes.

22 **Mark Swartz:** This is another petition for disbursement?

23 **Anita Duty:** It is.

24 **Mark Swartz:** It pertains to Unit FF35?

25 **Anita Duty:** Yes.

26 **Mark Swartz:** If we look at the factual basis, we have a court case. Which is a basis for some of
27 the disbursements, right?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** Then, in applying House Bill 2058, we have some gas claimants who are now
3 entitled to receive funds. Correct?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** You are indicating you gave the 45 day notice to the coal owners and did not
6 receive either an agreement or proof of a court case in a response. You're requesting, for these
7 two reasons, that disbursements be made?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** Did you prepare a Table 1 consistent with, on the one hand, the court case and,
10 on the other hand, the application of House Bill 2058?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** That's Table 1?

13 **Anita Duty:** It is.

14 **Mark Swartz:** Since there aren't that many people, if you would read into the record the names
15 of the folks who should receive the disbursements and, then, the percentages that the Escrow
16 Agent should use when calculating the amounts.

17 **Anita Duty:** For Tract 2B, Alvin Shelton, Melinda Cordell and Amanda Horton should each
18 receive 13.0991%. For Tract 2G, Paul Richardson, Shelby Richardson and Loretta Richardson
19 should each receive 7.1351%.

20 **Mark Swartz:** The wells that have been contributing to this escrow account are?

21 **Anita Duty:** FF35 and FF35A.

22 **Mark Swartz:** You've got a revised Exhibit E. Correct?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** And, we're going to have to hang on to a little bit of money there because we
25 don't have the W-9 back?

26 **Anita Duty:** Correct.

27 **Mark Swartz:** Then, you also filed a revised Exhibit EE for payments, going forward?

28 **Anita Duty:** Yes.

1 **Mark Swartz:** Lastly, have you provided a reconciliation of the account?

2 **Anita Duty:** Yes.

3 **Mark Swartz:** To do that, did you locate all deposits the operator paid into the account for
4 royalties?

5 **Anita Duty:** We did.

6 **Mark Swartz:** Then, did you look for a corresponding bank deposit?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** When you went to look for a deposit for every check you issued, as an operator,
9 did you find it?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** When we look at the end of Exhibit J, you've got your calculation of what your
12 estimate of the balance is. Correct?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** Then, you've got the October 2015 First Bank and Trust balance. When you
15 compare the two, what's the difference?

16 **Anita Duty:** The bank has \$19.66 less.

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

18 **Bradley Lambert:** Any questions from the Board? [No response] Mr. Swartz, I noticed that
19 you testified that the wells that this is being paid out was FF35 and FF35A. If you look at the
20 plat, it only lists Well FF35. Is this an older plat?

21 **Anita Duty:** It was the one with the original pooling.

22 **Bradley Lambert:** I'm sorry, Ms. Duty.

23 **Anita Duty:** It was the plat that was included in the original pooling.

24 **Mark Swartz:** Back from '02?

25 **Anita Duty:** Yes.

26 **Bruce Prather:** Was 35 drilled on this lease?

27 **Anita Duty:** I'm sorry.

1 **Bruce Prather:** Was 35 drilled on this lease?
2 **Anita Duty:** FF35A?
3 **Bruce Prather:** 35A.
4 **Anita Duty:** It was also drilled.
5 **Bruce Prather:** Okay.
6 **Rick Cooper:** We have verified that.
7 **Bruce Prather:** Okay.
8 **Bradley Lambert:** Do you have an updated plat showing?
9 **Rick Cooper:** We have one with the FF35A permit.
10 **Bradley Lambert:** Okay. Any further questions from the Board? [No response] Do I have a
11 motion?
12 **Donnie Rife:** Motion made for approval, Mr. Chair.
13 **Bruce Prather:** Second.
14 **Bradley Lambert:** I have a motion and I have a second. Any further discussion? [No
15 response] All in favor signify by saying yes.
16 **Board:** Yes.
17 **Bradley Lambert:** Opposed no. [No response] Thank you, Mr. Swartz. That is approved.

18 **Item Number 20**

19 **Bradley Lambert:** We're calling Docket Item Number 20, a petition from CNX Gas Company,
20 LLC, for (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow
21 Agent, attributable to Tract 2A, as depicted upon the annexed table; and (2) authorization to
22 begin paying royalties directly to the parties listed in the petition. Docket Number VGOB-04-
23 0316-1261-01. All parties wishing to testify please come forward.
24 **Mark Swartz:** Mark Swartz and Anita Duty.
25 **Bradley Lambert:** You may proceed, Mr. Swartz.
26 **Mark Swartz:** Anita, state your name for us, again.
27 **Anita Duty:** Anita Duty.

1 **Mark Swartz:** Are you here on behalf of the applicant and operator?

2 **Anita Duty:** Yes.

3 **Mark Swartz:** This is a petition for disbursement?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** It pertains to drilling Unit AZ98. Is that correct?

6 **Anita Duty:** It does.

7 **Mark Swartz:** In the petition application, you have indicated the reasons underlying the
8 disbursement request?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** On the one hand, we have royalty split agreements?

11 **Anita Duty:** We do.

12 **Mark Swartz:** In addition to that, we have some gas claimants under the Act?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** With notice to the conflicting coal claimants and no response within the 45
15 days?

16 **Anita Duty:** Correct.

17 **Mark Swartz:** Did you utilize that information to prepare your Table 1?

18 **Anita Duty:** Yes.

19 **Mark Swartz:** Table 1 pertains to Tract 2A in this unit?

20 **Anita Duty:** It does.

21 **Mark Swartz:** In that table, have you set forth the name and address of every person that should
22 receive a disbursement?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** In the second column from the right hand side, have you given the Escrow Agent
25 the percentage that the Escrow Agent should use and apply to the balance on hand in the account
26 when the disbursement is made to come up with the dollar amount?

27 **Anita Duty:** Yes.

1 **Mark Swartz:** The well that's contributed to this account is what well?

2 **Anita Duty:** AZ98.

3 **Mark Swartz:** Have you provided the Board with an updated Exhibit E?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** With regard to members still in escrow, we've got a title verification, some W-
6 9's and we've got an affidavit pending with regard to an heirship, apparently.

7 **Anita Duty:** Yes.

8 **Mark Swartz:** Have you also provided an Exhibit EE, in terms of payment going forward?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** Lastly, with regard to Exhibit J, did you identify all deposits into the escrow
11 account that the operator made for royalty payments?

12 **Anita Duty:** We did.

13 **Mark Swartz:** Did you attempt to find a bank deposit for every check that you paid in?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** When you did that, did you find any issues?

16 **Anita Duty:** Yes, we found one error.

17 **Mark Swartz:** What was that?

18 **Anita Duty:** In February 2015, we should have deposited \$.27. It looks like the bank posted
19 \$11.61. Of that, \$11.34 belongs to the 03 account.

20 **Mark Swartz:** Do we know if that's been fixed?

21 **Rick Cooper:** That was corrected on December 3, 2015.

22 **Mark Swartz:** If we make that correction, Anita, it looks like there's a \$.21 difference. As long
23 as that correction has been made, Table 1 should be applied to make the disbursement, then?

24 **Anita Duty:** Yes.

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

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

27 **Mary Quillen:** Just one question. What was the unit that that was transferred to?

1 **Mark Swartz:** 03.
2 **Mary Quillen:** 03? That's not on our docket, today.
3 **Rick Cooper:** That is correct.
4 **Mary Quillen:** Okay. Thank you.
5 **Bradley Lambert:** Any other questions from the Board? [No response] Do I have a motion?
6 **Mary Quillen:** Motion to approve.
7 **Donnie Rife:** Second.
8 **Bradley Lambert:** I have a motion and I have a second. Any further discussion? [No
9 response] All in favor signify by saying yes.
10 **Board:** Yes.
11 **Bradley Lambert:** Opposed no. [No response] Thank you, Mr. Swartz. That is approved.

12 **Item Number 21**

13 **Bradley Lambert:** We're calling Docket Item Number 21, a petition from CNX Gas Company,
14 LLC, for (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow
15 Agent, attributable to Tract 1E, as depicted upon the annexed table; and (2) authorization to
16 begin paying royalties directly to the parties listed in the petition. Docket Number VGOB-05-
17 0315-1415-03. All parties wishing to testify please come forward.

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

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

20 **Mark Swartz:** Thank you. Anita, give us your name, again, please.

21 **Anita Duty:** Anita Duty.

22 **Mark Swartz:** Are you here on behalf of the applicant and operator?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** And, this is another petition for disbursement?

25 **Anita Duty:** Yes.

26 **Mark Swartz:** It pertains to Unit AZ123?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** And, you have provided, in the factual basis for relief, a summary of the reasons.
3 Correct?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** On the one hand, we have some royalty split agreements?

6 **Anita Duty:** We do.

7 **Mark Swartz:** On the other hand, we have some gas claimants under House Bill 2058?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** And, you represent that you've given notice to the coal claimants and haven't
10 received the kind of response contemplated by the House Bill, within the 45 day period. Is that
11 correct?

12 **Anita Duty:** Correct.

13 **Mark Swartz:** Then, consistent with these two reasons, have you prepared a Table 1, with
14 regard to disbursements from Tract 1E?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** In Table 1, have you listed the names of everyone who you're asking receive a
17 disbursement and have you, in the second column from the right hand side, given a percentage
18 for each person that the Escrow Agent should use and apply to the balance on hand when the
19 disbursement is made to calculate the dollars?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** What wells contributed to this account?

22 **Anita Duty:** AZ123 and AZ123A.

23 **Mark Swartz:** Have you provided the Board with an updated Exhibit E?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** We've got some W-9 problems?

26 **Anita Duty:** Yes.

27 **Mark Swartz:** They're not back yet?

28 **Anita Duty:** Yes.

1 **Mark Swartz:** Have you also prepared an Exhibit EE dealing with how we pay, going forward?

2 **Anita Duty:** Yes.

3 **Mark Swartz:** Lastly, let's look at Exhibit J. Again, did you locate all royalty checks that the
4 operator paid or tendered to this account?

5 **Anita Duty:** We did.

6 **Mark Swartz:** Did you look for a corresponding deposit?

7 **Anita Duty:** Yes.

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

9 **Anita Duty:** Yes.

10 **Mark Swartz:** Did you do your usual calculation, accounting for deposits, disbursements,
11 interest and fees, and come up with a total?

12 **Anita Duty:** We did.

13 **Mark Swartz:** When you compared your total to the October 2015 total of First Bank and
14 Trust, was there a difference?

15 **Anita Duty:** \$2.56 more.

16 **Mark Swartz:** The bank had that amount more?

17 **Anita Duty:** Yes.

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

19 **Bradley Lambert:** Any questions from the Board? [No response] Do I have a motion?

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

21 **Mary Quillen:** Second.

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

24 **Board:** Yes.

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

1 **Item Number 22**

2 **Bradley Lambert:** We're calling Docket Item Number 22, a petition from CNX Gas Company,
3 LLC, for (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow
4 Agent, attributable to Tract 1D, as depicted upon the annexed table; and (2) authorization to
5 begin paying royalties directly to the parties to the royalty split agreement between Swords
6 Creek Land Partnership and Raymond P. Slate, Sheila Slate Lofton and Virginia Resources,
7 LLC. This is Docket Number VGOB-05-0419-1427-01. All parties wishing to testify please
8 come forward.

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

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

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

12 **Anita Duty:** Anita Duty.

13 **Mark Swartz:** Are you here on behalf of the applicant and operator?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** This is a petition for disbursement?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** From Unit BE121?

18 **Anita Duty:** Yes.

19 **Mark Swartz:** And, you have indicated that the factual basis for the disbursement, here, is a
20 split agreement?

21 **Anita Duty:** Yes.

22 **Mark Swartz:** And, you've seen the agreement?

23 **Anita Duty:** I have.

24 **Mark Swartz:** It's 50/50?

25 **Anita Duty:** Yes.

26 **Mark Swartz:** Consistent with that, you have prepared a Table 1?

27 **Anita Duty:** Yes.

28 **Mark Swartz:** That pertains to Tract 1D?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** Since there are a limited number of folks, here, why don't you read into the
3 record the names of the people who should receive the disbursement and the percentages that the
4 Escrow Agent should use and apply to the balance on hand when the disbursements are made to
5 come up with a dollar amount?

6 **Anita Duty:** For Virginia Resources, LLC, they should receive 0.4476%. Raymond Slate
7 should receive 0.1119%. Sheila Lofton should receive 0.1119%.

8 **Mark Swartz:** The well that contributed to this account was, or is?

9 **Anita Duty:** BE121.

10 **Mark Swartz:** You've given the Board a revised Exhibit E?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** Once again... [inaudible]

13 **Anita Duty:** Yes.

14 **Mark Swartz:** You provided the Board, also, with an Exhibit EE, which shows payments going
15 forward, consistent with the split agreement?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** Looking at this, Anita, when you look at Table 1, is someone missing from
18 Table 1?

19 **Anita Duty:** Swords Creek, the coal owner that has the other half of the royalty split is not on
20 the table.

21 **Mark Swartz:** Do you need to revise that table?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** Is that interest shown on Exhibit EE, but not on the table?

24 **Anita Duty:** Correct.

25 **Mark Swartz:** So, if we go to Exhibit EE, look at Tract 1D. We're going to continue this. We
26 can figure it out from the exhibit, but we don't want to burden you with that.

27 **Bradley Lambert:** Sure. I understand.

1 **Mark Swartz:** We'll just show up with a revised table next month. Everything else is square.
2 Testimony is done.

3 **Bradley Lambert:** So, that docket item will be continued until February. Thank you, folks.

4 **Mark Swartz:** Thank you.

5 **Item Number 23**

6 **Bradley Lambert:** The next item on the agenda is the Board will receive an update of Board
7 and Division activities from the staff. Mr. Cooper.

8 **Rick Cooper:** I'm just going to reiterate what has already been said. We want to thank the
9 Board for the support and assistance. We disbursed almost \$4.5 million last year. That's the
10 most in any twelve-month that we've ever had. I think Ms. Maney, earlier, said that. The other
11 thing I wanted to point out is on the unfunded. Ms. Ketron is working on that, diligently. A lot
12 of these names that are on here will not be on here next month. We resolved these issues, but it
13 just doesn't carry forward, yet. I apologize, but these are a bit more complicated than what you
14 might think, trying to resolve these issues. Our goal is to knock these out, the best that we can,
15 in the next Quarter or two. Thank you all.

16 **Mary Quillen:** Thank you. You've made great progress, considering where we started from.

17 **Bruce Prather:** Rick, what are you finding out? Diverse heirships? Is that what the big
18 problem...?

19 **Rick Cooper:** Just for an example, one on here, there's an Evan Energy. It was, originally,
20 Evan Energy and it was sold to Stone Mountain. Then, it was sold to Daugherty Petroleum.
21 Then, it was sold to Magnum Hunter. Tracking this down and finding this is very difficult,
22 sometimes, because these people have just disappeared. So, that's some of the cases. Sally and I
23 have worked on that one probably 12 hours. We think we have got a solution that should resolve
24 it before the next time it's reported out.

25 **Bradley Lambert:** Is that it?

26 **Rick Cooper:** Yes.

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

28 **Mary Quillen:** Thank you.

29 **Item Number 24**

30 **Bradley Lambert:** The next item on the agenda is the December minutes for approval.

- 1 **Donnie Rife:** If there isn't any discussion or corrections, Mr. Chairman, I'd like to make a
2 motion to approve the agenda, as written.
- 3 **Bradley Lambert:** I have a motion to approve the minutes for December. Do I have a second?
- 4 **Mary Quillen:** Second.
- 5 **Bradley Lambert:** I have a motion and I have a second. All in favor signify by saying yes.
- 6 **Board:** Yes.
- 7 **Bradley Lambert:** I need a motion to adjourn.
- 8 **Donnie Rife:** Motion made.
- 9 **Bruce Prather:** Second.
- 10 **Bradley Lambert:** All in favor signify by saying yes.
- 11 **Board:** Yes.
- 12 **Bradley Lambert:** We are adjourned. Thank you, ladies and gentlemen.