

VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

VIRGINIA GAS AND OIL BOARD HEARING

Tuesday, June 21, 2016

Lebanon, Virginia

BOARD MEMBERS:

Bradley C. Lambert – Chairman

Bill Harris – Public Representative

Bruce Prather – Oil and Gas Industry Representative

Donnie Ratliff – Coal Industry Representative

Mary Quillen – Public Member

Rita Surratt – Public Member

APPEARANCES:

Rita Surratt – Public Member for Dickenson County

Mary Quillen—Chairman of the Virginia Gas & Oil Board

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

Paul Kugelman, Jr.—Senior Assistant Attorney General

Butch Lambert—Department of Mines, Minerals, and Energy

Donnie Ratliff – Coal Representative

Bruce Prather—Representative of Oil and Gas Industry

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

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

Prepared by: Joanna Boyd

Agenda Items

<u>Item Number</u>	<u>Docket Number</u>		<u>Page</u>
1	Public Comment		1
2	VGOB 07-0220-1888-01	(Approved)	1
3	VGOB 16-0621-4094	(Approved)	4
4	VGOB 91-0521-0121-01	(Approved)	8
5	VGOB 92-0421-0216-04	(Approved)	14
6	VGOB 95-0418-0503-03	(Approved)	23
7	VGOB 97-0916-0601-02	(Approved)	27
8	VGOB 99-0216-0710-02	(Approved)	34
9	VGOB 00-1121-0836-01	(Approved)	38
10	VGOB 02-0820-1050-03	(Approved)	42
11	VGOB 02- 0820-1051-04	(Approved)	45
12	VGOB 03-1118-1229-02	(Approved)	51
13	VGOB 04-0120-1248-03	(Approved)	56
14	VGOB 05-1213-1547-01	(Approved)	58
15	VGOB 06-0221-1582-02	(Approved)	62
16	VGOB 06-0321-1597-01	(Approved)	65
17	VGOB 11-0215-2911-01	(Approved)	70
18	VGOB 16-0621-4093	(Approved)	73
19	Board & Division Activities from the staff		85
20	May 2016 Minutes	(Approved)	86

1

2 **Butch Lambert:** Good morning ladies and gentlemen. It’s now well after 9 o’clock and it’s
3 time to begin our proceedings this morning. We apologize for the delay. I will remind you this
4 morning, if you have cell phones or any other communication devices, please put those on silent
5 or vibrate. If you must take a call, please do so out in the hall. These proceedings are being
6 recorded and we need to be able to hear what’s going on or what’s being testified. If I could
7 begin this morning by asking the Board to please introduce themselves and I’ll begin with Ms.
8 Surratt.

9 **Rita Surratt:** I’m Rita Surratt. I’m a Public Member from Dickenson County.

10 **Paul Kugelman, Jr.:** Paul Kugelman with the Virginia Attorney General’s Office.

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

12 **Donnie Ratliff:** Donnie Ratliff from Wise County. I’m representing coal.

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

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

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

16 **Butch Lambert:** Thank you.

17

Item Number 1

18 **Butch Lambert:** First on our agenda is the Board will now receive public comment. We had no
19 one sign up for public comment and I would ask the opportunity once more, if there is anyone in
20 the audience that wishes to speak. [No response] Seeing none, we’ll move to Docket Item 2.

21

Item Number 2

22 **Butch Lambert:** This is a petition from EQT Production Company, Pursuant to House Bill
23 2058, a petition for release of escrowed funds on behalf of all known gas owners on Tract 2 of
24 Well # VC- 537150, as identified on the attached Exhibit EE, and petition for direct payment to
25 EQT for overpayment due to too much interest attributed to the escrow payments. This is Docket
26 Number VGOB 07-0220-1888-01. All parties wishing to testify, please come forward.

27 **Jim Kaiser:** Mr. Chairman, Board Members, Jim Kaiser and Rita Barrett for EQT Production.

28 **Butch Lambert:** Good morning.

29 **Jim Kaiser/Rita Barrett:** Morning.

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

3 **Rita Barrett:** Yes, ma'am.

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

5 **Jim Kaiser:** Okay, Ms. Barrett, if you could state your name and who you work for.

6 **Rita Barrett:** Yes, my name is Rita Barrett. I am a contract Landman for EQT.

7 **Jim Kaiser:** And this is a disbursement request that we filed before the Board?

8 **Rita Barrett:** Yes.

9 **Jim Kaiser:** And all parties have been notified, as required by statute?

10 **Rita Barrett:** Yes.

11 **Jim Kaiser:** And what unit does this pertain to?

12 **Rita Barrett:** This is drilling unit VC-537150.

13 **Jim Kaiser:** And what tract?

14 **Rita Barrett:** Tract 2.

15 **Jim Kaiser:** Now can you explain why this particular petition is before the Board?

16 **Rita Barrett:** Yes. ACIN actually owned a percentage of the gas in Tract 2 and EQT didn't
17 realize that, so there wasn't a conflict and they continued to pay into the escrow account, and
18 they caught it in February 2012 and they quit paying that into the escrow account and started to
19 recoup the money. And they were recouping about \$10.00 a month and last month it was around
20 \$4.00.

21 **Jim Kaiser:** Okay, so this is a petition for an overpayment. So EQT is asking to be paid back
22 some money, and plus it is also disbursement for other parties who have an interest in Tract 2
23 from which we were able to obtain W-9's?

24 **Rita Barrett:** That's correct.

25 **Jim Kaiser:** Okay, and would this be a partial or full disbursement?

26 **Rita Barrett:** This is a partial.

27 **Jim Kaiser:** And that is because we still have parties in Tract 2 that we can't get a W-9 from?

28 **Rita Barrett:** That's correct.

1 **Jim Kaiser:** And the reason for the disbursement? I guess you gave no reason for the
2 disbursement.

3 **Rita Barrett:** Yes, I did.

4 **Jim Kaiser:** And have the figures been reconciled between the bank and EQT?

5 **Rita Barrett:** Yes, as of February 2012.

6 **Jim Kaiser:** And would you direct the Board, for disbursement purposes, to Table 1 and Table 2,
7 and refer them to the next to the last, actually, it's two columns over [Indiscernible] as far as the
8 percentage of escrow funds to be disbursed?

9 **Rita Barrett:** Yes.

10 **Jim Kaiser:** And to your knowledge, are the parties represented in Table 1 and Table 2, the
11 proper parties with the proper amount of disbursement?

12 **Rita Barrett:** Yes.

13 **Jim Kaiser:** And have we provided the Board with Exhibits E and EE in our application, to
14 reflect the status of this unit after this disbursement?

15 **Rita Barrett:** We have.

16 **Jim Kaiser:** Did you ask that all parties be paid their royalty, does the order state that all parties
17 be paid their royalty directly going forward?

18 **Rita Barrett:** Yes.

19 **Jim Kaiser:** Nothing further of this witness at this time, Mr. Chairman.

20 **Butch Lambert:** Do I have any questions from the Board? [No response] Do you have anything
21 further, Mr. Kaiser?

22 **Jim Kaiser:** We would ask that the application be approved as submitted.

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

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

25 **Bill Harris/Donnie Rife:** Second.

26 **Bill Harris:** Go ahead.

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

1 **Board:** Yes.

2 **Butch Lambert:** Opposed, no? [No response]

3 **Butch Lambert:** Thank you, Mr. Kaiser. That is approved.

4 **Rita Barrett:** Thank you.

5 **Item Number 3**

6 **Butch Lambert:** A petition from EnerVest Operating, LLC, for pooling of Well No. VC-
7 530411. Docket Number VGOB 16-0621-4094. All parties wishing to testify, please come
8 forward.

9 **Tim Scott:** Tim Scott, Gus Janson, and Aaron Anderson for EnerVest.

10 **Butch Lambert:** Good morning.

11 **Tim Scott:** Good morning. I'm early.

12 **Donnie Rife:** First time.

13 **Sarah Gilmer:** Do you swear and affirm your testimony is the truth, the whole truth, and nothing
14 but the truth?

15 **Gus Janson:** Yes.

16 **Aaron Anderson:** Yes, I do.

17 **Butch Lambert:** You may proceed, Mr. Scott.

18 **Tim Scott:** Thank you, Mr. Chairman. Mr. Anderson, state your name, by whom you're
19 employed and your job description, please.

20 **Aaron Anderson:** I'm Aaron Anderson with EnerVest Operating, LLC, and I'm an Associate
21 Landman.

22 **Tim Scott:** And you're familiar with this application, is that correct?

23 **Aaron Anderson:** Yes.

24 **Tim Scott:** Where is this unit located?

25 **Aaron Anderson:** The Nora Coalbed Gas Field.

26 **Tim Scott:** And how many acres does it contain?

27 **Aaron Anderson:** 58.78.

1 **Tim Scott:** And EnerVest has a substantial amount of this unit under lease. Is that correct?

2 **Aaron Anderson:** That's correct.

3 **Tim Scott:** Now during the course of the dependency of our application, you've been able to get
4 additional leases, is that correct?

5 **Aaron Anderson:** That's correct.

6 **Tim Scott:** So there are parties to be dismissed from this application?

7 **Aaron Anderson:** Yes.

8 **Tim Scott:** And who are they, please?

9 **Aaron Anderson:** That was Janice Addington and Michael Addington; and that's reflected in
10 the handouts that I gave you.

11 **Tim Scott:** And we had another issue. We had somebody who was deceased, is that correct?

12 **Aaron Anderson:** That's correct.

13 **Tim Scott:** And you determined that his heirs were already a part of this pooling application.

14 **Aaron Anderson:** That's correct. It went to his brothers and sisters.

15 **Tim Scott:** And no additional notices were required, is that correct?

16 **Aaron Anderson:** That's correct.

17 **Tim Scott:** Okay, as to the other parties listed on B3, have you attempted to reach an agreement
18 with those parties?

19 **Aaron Anderson:** We have.

20 **Tim Scott:** Okay. How was notice of this hearing provided to the parties listed on Exhibit B3?

21 **Aaron Anderson:** Certified Mail.

22 **Tim Scott:** And was notice effected by any other means?

23 **Aaron Anderson:** Yes, we published it in the *Dickenson Star*.

24 **Tim Scott:** And when was that done?

25 **Aaron Anderson:** On May 25, 2016.

26 **Tim Scott:** Now we've already provided proof of publication, proof of mailing to the Board, is
27 that correct?

1 **Aaron Anderson:** That's correct.

2 **Tim Scott:** And EnerVest is authorized to conduct business in the Commonwealth?

3 **Aaron Anderson:** Yes.

4 **Tim Scott:** And there's a blanket bond on file, is that right?

5 **Aaron Anderson:** That's correct.

6 **Tim Scott:** Now if you were to reach an agreement with the parties listed on Exhibit B3, what
7 would be the terms that you would offer for a lease?

8 **Aaron Anderson:** \$25.00 per acre for a 5-year, paid up lease.

9 **Time Scott:** Is this a reasonable amount for a lease in this area?

10 **Aaron Anderson:** Yes.

11 **Tim Scott:** And what percentage does the unit, does EnerVest have under lease presently?

12 **Aaron Anderson:** 92.08225%.

13 **Tim Scott:** And that does reflect some feasible ownership by EnerVest, as well, is that correct?

14 **Aaron Anderson:** That is correct.

15 **Tim Scott:** And what is the percentage you're seeking to pool today?

16 **Aaron Anderson:** 7.91775%.

17 **Tim Scott:** You don't have an escrow requirement, is that right?

18 **Aaron Anderson:** That's correct.

19 **Tim Scott:** And there are no unknown persons, is that right?

20 **Aaron Anderson:** There are none.

21 **Tim Scott:** And you're requesting the Board to pool the unleased party listed on Exhibit B3?

22 **Aaron Anderson:** Yes.

23 **Tim Scott:** And you're also requesting that EnerVest be named the operator for this unit. Is that
24 also correct?

25 **Aaron Anderson:** That's correct.

1 **Tim Scott:** And if the Board grants our application today and the order is sent to the parties
2 listed on B3, what would be the address for any correspondence, in regard to this unit?

3 **Aaron Anderson:** It would be EnerVest Operating, LLC, 406 W. Main St., P.O. Box 2136,
4 Abingdon, VA 24212. That's attention Chuck Akers, Land Manager.

5 **Tim Scott:** And that's all correspondence regarding this unit, is that right?

6 **Aaron Anderson:** That is correct.

7 **Tim Scott:** That's all I have for Mr. Anderson.

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

9 **Tim Scott:** Mr. Janson.

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

11 **Tim Scott:** Thank you. Mr. Janson, your name, by whom you are employed, and your job
12 description, please.

13 **Gus Janson:** My name is Gus Janson, employed by EnerVest Operating, LLC, as the Geology
14 Advisor.

15 **Tim Scott:** And you participated in the preparation of this application, is that correct?

16 **Gus Janson:** I did.

17 **Tim Scott:** And are you familiar with the total depth of this proposed well?

18 **Gus Janson:** Yes, the proposed depth is 2,287 feet.

19 **Tim Scott:** What are the estimated reserves for this unit?

20 **Gus Janson:** 500 million cubic feet of gas.

21 **Tim Scott:** And we have submitted an AFE with our application, is that right?

22 **Gus Janson:** That is correct.

23 **Tim Scott:** So you're familiar with the well cost. Is that right?

24 **Gus Janson:** I am.

25 **Tim Scott:** What's the estimated dry hole cost?

26 **Gus Janson:** \$151,000.

27 **Tim Scott:** And the estimated completed well cost?

1 **Gus Janson:** \$358,350.

2 **Tim Scott:** Now, if the Board grants our application today, would it prevent waste, promote
3 conservation and protect correlative rights?

4 **Gus Janson:** Yes, it would.

5 **Tim Scott:** That's all I have for Mr. Janson.

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

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

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

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

10 **Bill Harris:** Second.

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

13 **Board:** Yes.

14 **Butch Lambert:** Thank you, Mr. Scott.

15 **Tim Scott:** Thank you very much.

16 **Donnie Ratliff:** I'll abstain, Mr. Chair.

17 **Butch Lambert:** One abstention, Mr. Ratliff.

18 **Item Number 4**

19 **Butch Lambert:** A petition from CNX Gas Company, LLC, for (1) the disbursement of
20 escrowed funds heretofore deposited with the Board's Escrow Agent, attributable to Tract 4, as
21 depicted upon the annexed table; and (2) authorization to begin paying royalties to the parties
22 listed in the petition. This is Docket Number VGOB 91-0521-0121-01. All parties wishing to
23 testify, please come forward.

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

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

27 **Anita Duty:** Yes.

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

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

2 **Anita Duty:** Anita Duty.

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

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

5 **Mark Swartz:** And we are here on a petition of disbursement, correct?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** It pertains to Unit Z10?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** This is an 01, meaning that it is the first time we have been back on this unit
10 since it was pooled, apparently, right?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** And we're looking for three kinds of relief. We're looking for the authorization
13 to make some disbursements, which are described in the application, correct?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** We're looking for the ability as operator, to pay them directly, the people
16 receiving the disbursements, to pay them directly in the future, rather than making further or
17 escrow deposits on their behalf; and then lastly, we're seeking to dismiss some coal owners?

18 **Anita Duty:** Yes.

19 **Mark Swartz:** The reasons for the disbursement request here are, we have some split
20 agreements; when we applied the House Bill 2058, we have some gas claimants who can be paid,
21 right?

22 **Anita Duty:** Correct.

23 **Mark Swartz:** And those, I think, are the two reasons that you alleged in your petition.

24 **Anita Duty:** It is.

25 **Mark Swartz:** Okay. And you're here on behalf of the applicant, which is CNX Gas Company,
26 LLC, right?

27 **Anita Duty:** Yes.

1 **Mark Swartz:** And with regard, let's start with the disbursements, with regard to the
2 disbursements, did you prepare a table for the Board to refer to today, and for the escrow agent to
3 use in making the disbursements?

4 **Anita Duty:** We did.

5 **Mark Swartz:** And it pertains to which tract?

6 **Anita Duty:** Tract 4.

7 **Mark Swartz:** Okay, and after the disbursements, if these disbursements are made, we will still
8 have a need for an escrow, with regard to this unit. Correct?

9 **Anita Duty:** We will.

10 **Mark Swartz:** So it's just a partial disbursement?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** In your Table 1, have you listed by name and address, the names of all of the
13 people that you, names and addresses of the people that you proposed that the escrow agent
14 make disbursements to?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** And this is a percentage disbursement, correct?

17 **Anita Duty:** It is.

18 **Mark Swartz:** So in the second column from the right-hand side for each person listed in Table
19 1, have you given a percentage that the escrow agent is to use; divide that percentage by the
20 balance on hand at the time the disbursement is made to come up with a dollar amount?

21 **Anita Duty:** Yes.

22 **Mark Swartz:** Okay, and you would ask that the Board order direct the escrow agent to make
23 that calculation and disburse accordingly?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** Okay. Now with regard to those folks listed in Table 1, are you also asking for
26 future royalties to be allowed to pay them directly?

27 **Anita Duty:** We are.

28 **Mark Swartz:** Okay, and have you provided updated Exhibits E and EE, showing the escrow
29 requirements and the going forward payments?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** Then did you go back, or have someone under your supervision go back, and do
3 an escrow account reconciliation, with regard to your royalty payments?

4 **Anita Duty:** We did.

5 **Mark Swartz:** Okay, and it looks like that reconciliation began with a couple small payments in
6 late '93 and then payments beginning pretty regularly in '94, correct?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** And it went through cutoff date, looks like you did the reconciliation through
9 March 31, 2016?

10 **Anita Duty:** We did.

11 **Mark Swartz:** Okay, and first of all, did you, in doing the reconciliation, attempt to identify all
12 of the checks that the operators had written?

13 **Anita Duty:** We did.

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

15 **Anita Duty:** Yes.

16 **Mark Swartz:** And when you did that, what did you learn?

17 **Anita Duty:** They were all accounted for.

18 **Mark Swartz:** And then did you also do some math to, sort of, compare your calculations with
19 what would likely be in the account and compare that to the bank balance that the bank, First
20 Bank and Trust, reported as of March 31, 2016?

21 **Anita Duty:** Yes.

22 **Mark Swartz:** And when you made your calculations and compared them to the March 31, 2016
23 bank balance, was there a difference?

24 **Anita Duty:** Of \$29.95. The bank had \$29.95 less. In our calculations.

25 **Mark Swartz:** Actually, when I look at the math here it looks, no, you're right, never mind.
26 \$29.95. Okay. Then, with regard to coal owners on this, you've got an affidavit of mailing to the
27 coal owner, correct?

28 **Anita Duty:** Yes.

1 **Mark Swartz:** Okay, and then you've got the post office information, with regard to that, and
2 you show that you mailed to Harrison-Wyatt on February 11, 2016, and that they received it,
3 Harrison-Wyatt received it on the 16th of February, 2016, correct?

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

5 **Mark Swartz:** And I notice here that, if we go back to Table 1, this is an instance where a coal
6 owner, in part, became a gas owner because of an agreement, right?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** Now if you go back to Table 1, which is, I think is Page 4 of 16, at least on my
9 pdf, the first part to be paid in Tract 4 is Harrison-Wyatt, LLC, and that's the result of a split
10 agreement, correct?

11 **Anita Duty:** It is.

12 **Mark Swartz:** And in some instances, Harrison-Wyatt, in this unit, was able to obtain a split
13 agreement and accidentally become a gas owner?

14 **Anita Duty:** Yes, they were.

15 **Mark Swartz:** And in other instances, and that's the reason for the notice to them, that we
16 mailed to them, they're being dismissed as a coal owner, because they don't have an agreement
17 from a conflicting claimant, or they don't have a lawsuit, correct?

18 **Anita Duty:** Correct.

19 **Mark Swartz:** So they're sort of, in both positions there. So to the extent that Harrison-Wyatt
20 has not provided us with agreements, split agreements here, we're asking that any claims that
21 they have as a coal owner in this unit be dismissed?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** And to just give the Board an example of what we send, and this one actually
24 pertains to the next unit, but my question for you is, do you have a form letter that you use to
25 mail to all the coal claimants?

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

27 **Mark Swartz:** And is the Exhibit that you just distributed, that pertains to the next unit, is that
28 the form letter that went to Harrison-Wyatt, in this case?

29 **Anita Duty:** Yes.

30 **Mark Swartz:** And essentially, you take your form letter and you do a mail merge to put the
31 coal owners in?

1 **Anita Duty:** We do.

2 **Mark Swartz:** And this happens to be one from November. When did you start mailing 45-day
3 notices to coal owners?

4 **Anita Duty:** Actually, in May.

5 **Mark Swartz:** May?

6 **Anita Duty:** Of 2015.

7 **Mark Swartz:** Of 2015?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** And you've continued since then, so we will see some when we get further down
10 the road today with these hearings, some from August, for example, where we mailed it?

11 **Anita Duty:** Right.

12 **Mark Swartz:** And when you mailed to them, did you uniformly identify the escrow funds by
13 unit, as opposed by tract?

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

15 **Mark Swartz:** So, here we've got SLW8, with regard to the next item on the docket, but when
16 you mailed to Harrison-Wyatt, you would have identified Z10 as the unit?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** And, essentially, you're saying the letter, although it speaks for itself, you've got
19 45 days under the new law to tell us, you have an agreement or you have a court case pending, or
20 you risk a dismissal?

21 **Anita Duty:** Correct.

22 **Mark Swartz:** Mr. Chairman, with regard to Z10, that's all I have.

23 **Butch Lambert:** Any other questions from the Board? [No response] [Indiscernible] is there any
24 issue that we need to be made aware of, who the checks need to be mailed to?

25 **Sarah Gilmer:** No.

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

28 **Mark Swartz:** No.

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

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

3 **Bill Harris:** Second.

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

6 **Board:** Yes.

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

8 **Mark Swartz:** Thank you.

9 **Item Number 5**

10 **Butch Lambert:** We're calling Docket Item Number 5 and the chairman is going to ask Mr.
11 Ratliff to take this position instead of the chairman. Potential conflict with Anna R. Lambert. I
12 don't know Anna R. Lambert, but just so we don't have any appearance of conflicts, I'll ask Mr.
13 Ratliff to take over for this item.

14 **Donnie Ratliff:** Item 5 is a petition from CNX Gas Company, LLC, for (1) the disbursement of
15 escrowed funds heretofore deposited with the Board's Escrow Agent, attributable to Tracts 49,
16 53, 55, 55C, 55E, 56 & 59, as depicted upon the annexed table; and (2) authorization to begin
17 paying royalties to the parties in the petition. This is Unit SLW8. Docket Number VGOB 92-
18 0421-0216-04. All parties interested, please approach.

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

20 **Donnie Ratliff:** You may proceed, Mr. Swartz.

21 **Mark Swartz:** Thank you. Anita, I'm just going to remind you that you're still under oath, okay.

22 **Anita Duty:** Yes.

23 **Mark Swartz:** Can you state your name for us again.

24 **Anita Duty:** Anita Duty.

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

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

27 **Mark Swartz:** And are you here on behalf of the petitioner, CNX Gas Company, LLC today?

28 **Anita Duty:** Yes.

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

2 **Anita Duty:** It is.

3 **Mark Swartz:** And it pertains to Unit SLW8, correct?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** Okay. We're seeking three kinds of relief; first we are seeking to pay some
6 people out of escrow; second, with regard to those folks, we're requesting to pay them directly in
7 the future, rather than continue to escrow their funds; and lastly, we have some coal owners that
8 we gave 45 day notices to that we want to dismiss, correct?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** First of all, the reasons for the disbursement petition looks like we have split
11 agreements and we also have, when we apply House Bill 2058, we have some gas claimants that
12 now are eligible to be paid, right?

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

14 **Mark Swartz:** Those are the three reasons?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** Okay. Assuming we have a Table 1 here. Okay, we have a fairly lengthy Table 1,
17 with regard to the tracts that Mr. Ratliff read into the record when he called this case. For each
18 person that you proposed to receive a disbursement here, have you identified them by name,
19 given an address, and then given a percentage in the second column from the right that the
20 escrow agent should use in calculating their payment?

21 **Anita Duty:** We have.

22 **Mark Swartz:** Okay, and that's a two-page exhibit, so there's a number of people, but in all
23 instances, we've got their name, their address, and the percentage?

24 **Anita Duty:** Yes. We do.

25 **Mark Swartz:** And the percentage that the escrow agent should use appears in the second
26 column from the right-hand side of Table 1 and that should be multiplied times the amount on
27 hand, the balance on hand at the time the disbursement is to be made, and that'll generate the
28 dollar amount?

29 **Anita Duty:** It will.

30 **Mark Swartz:** Okay. Have you given the fact that we're making disbursements from escrow,
31 have you submitted, revised, or modified Exhibits E and EE?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** Okay. With regard to the balance, the escrow balance, did you, or someone on
3 your behalf do an account reconciliation?

4 **Anita Duty:** Yes.

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

6 **Anita Duty:** It is.

7 **Mark Swartz:** And it looks like the first payments found their way into this account in 1992,
8 correct?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** And then you tried to reconcile those payments with deposits through First Bank
11 and Trust balance as of March 31, 2016, correct?

12 **Anita Duty:** Correct.

13 **Mark Swartz:** So first of all, did you identify or undertake to identify, every royal check that the
14 operator send to one or more of the banks?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** And then having done that, did you look for a corresponding deposit to match
17 each of [Indiscernible]

18 **Anita Duty:** We did.

19 **Mark Swartz:** And what happened when you made that comparison?

20 **Anita Duty:** All the deposits were there.

21 **Mark Swartz:** Okay. And then did you also do your own calculation accounting for deposits
22 you made, disbursement that had previously been made, the interest and fees reported by the
23 bank, come up with a total and then compare that to First Bank and Trust?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** And was there a difference?

26 **Anita Duty:** First Bank and Trust was showing \$1,084.22 more than our calculation.

27 **Mark Swartz:** Okay. Then with regard to the coal owners, and this is an instance, again, where
28 we've got a coal owner who provided us with some split agreements, right?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** And so it converted a portion of their interest in this unit from a coal claimant to
3 a gas claimant they're being paid?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** But also, with regard to the instance in which they do not have an agreement or a
6 law suit pending, they're being dismissed?

7 **Anita Duty:** They are.

8 **Mark Swartz:** Okay, and you mailed your notices, I think this is what we gave to the Board at
9 the last hearing, you mailed [Indiscernible] Railing and Trust, however you pronounce, Chisos...

10 **Anita Duty:** Chisos.

11 **Mark Swartz:** Chisos Limited, Gentry Locke, and Torch, on November 4, 2015, correct?

12 **Anita Duty:** We did.

13 **Mark Swartz:** And we have been, this is an 04 so it means we've been here four times about this
14 unit?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** And this is not our first trip, in terms of disbursement from escrow, correct?

17 **Anita Duty:** Correct.

18 **Mark Swartz:** Because when we look at Exhibit J, we've had a disbursement in, three prior
19 disbursements, and this would be the fourth?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** Okay, and those prior disbursement with the coal owner have been dismissed, or
22 at least the one that came after November 4th. We were asking for them to be dismissed, right?

23 **Anita Duty:** I think this was the first one.

24 **Mark Swartz:** Oh, this was the first one?

25 **Anita Duty:** Yes.

26 **Mark Swartz:** Alright. Good. So we've got more than 45 days from November 4th to today,
27 obviously?

28 **Anita Duty:** Yes.

1 **Mark Swartz:** And we have agreements that we have incorporated into Table 1 and to the extent
2 that we don't, we're seeking a dismissal, with regard to these four companies?

3 **Anita Duty:** Correct.

4 **Mark Swartz:** And in addition to providing the affidavit, you have provided a proof of mailing
5 or a certification of notice, where you show the date you mailed and in each instance they signed
6 for?

7 **Anita Duty:** They did.

8 **Mark Swartz:** Back in November 2015?

9 **Anita Duty:** Yes.

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

11 **Donnie Ratliff:** Any questions from the Board?

12 **Rick Cooper:** Mr. Chairman, I guess I have an issue on the gas notice, was it adequate on
13 Number 5. We didn't get a total confirmation from postal service on that.

14 **Donnie Ratliff:** Swartz testified that notice was mailed for the last hearing. Did you serve notice
15 for this hearing?

16 **Anita Duty:** Are you speaking...

17 **Rick Cooper:** The gas notices.

18 **Paul Kugelman, Jr.:** Not the coal owners.

19 **Mark Swartz:** Not the coal owners.

20 **Rick Cooper:** Only the gas owners.

21 **Mark Swartz:** We served the gas owners for this hearing. One of them, I think we were just
22 talking about, actually I don't have, you've got it.

23 **Donnie Rife:** Do you have confirmation on all this?

24 **Mark Swartz:** Well, I don't think you have this in your hand but we had quite a list, obviously,
25 because we were making disbursements. There was a fellow, John Ratliff, his last four digits of
26 his mailing certificate was 4762, and we mailed to him on May 20th, and then we got information
27 from the post office that it had been forwarded to another address to him on June 4, 2016, so 16
28 days ago. We do not have anything back from the post office showing he signed for it but what
29 we are doing, in terms of the mailing notice under 361-19, our reading of that code section has
30 been, it says we are to give them x-number of days of filing, we are to mail notice, certified mail,

1 return-receipt-requested, and we have done that, so he's received it. We attempted to give him
2 mailing, we mailed according to the statute, so our contention would be we provided the notice
3 we needed to provide. Now with regard to coal owners, which is a different issue.

4 **Donnie Ratliff:** Why?

5 **Mark Swartz:** Because they have to do something. We're terminating an interest. I mean, his
6 money is going to stay in escrow if we can't find it. But with regard to coal owners, if we don't
7 have a signed return-receipt, we do not move forward, with regard to this missing notice and
8 you'll see some of that today, so on the gas notice, that's how we do it. On the coal notice, we
9 will not be, we don't ask for a dismissal, so if we don't have proof that he's signed for it, or she's
10 signed for it.

11 **Donnie Ratliff:** Counsel?

12 **[Indiscernible]**

13 **Paul Kugelman, Jr.:** Yes I do, as a matter of fact. In response for request from the Director of
14 Gas & Oil Division, I looked into this issue particularly, and unfortunately, it was just brought to
15 my attention again to today that it would be discussed today, I did not bring the material that I
16 had drafted from Mr. Cooper, but he's had an email pulled up, I don't know if he can print it.

17 **Rick Cooper:** I'll print it.

18 **Paul Kugelman, Jr.:** Okay. But basically, I mean I guess he could read it if the Board needs to
19 hear it precisely, but my recollection and my advice was that, having researched it, the Virginia
20 Court of Appeals said, with respect to return-receipt-requested, that the whole purpose of that is
21 to be able to demonstrate actual receipt. It's not just empty words, or it's not just you mail it and
22 you're done. And this has been an issue that has been evolving. Mr. Swartz and I have been
23 discussing this on and off for a number of months. I think, probably, since we've been here
24 together.

25 **Mark Swartz:** At least six months.

26 **Paul Kugelman, Jr.:** And, you know, I keep digging and that's what I've found. I believe I sent
27 that response to Mr. Cooper, how long ago? About a month ago?

28 **Rick Cooper:** About.

29 **Paul Kugelman, Jr.:** Oh, you have it right here. You brought it up. Thank you. Basically, I said
30 the advice I provided whether, let's see. Oh no, this is the one that I sent you, with respect to
31 whether that applies to the permanent application, not with respect to, there's been a number of
32 pieces of advice that I've informed you over the last month. Mr. Cooper can find that, but if the
33 Board has any questions...

1 **Donnie Ratliff:** Let me clarify.

2 **Paul Kugelman, Jr.:** Yes, sir.

3 **Donnie Ratliff:** From my understanding what the problem is, what we're saying is that we don't
4 have a return-receipt and so for our purposes, we need to have that because that actually shows
5 receipt, as opposed to the post office saying it's been forwarded or sent to someone else.

6 **Paul Kugelman, Jr.:** Right. Basically, the way it's comes down to it, is this. The General
7 Assembly included the words, certified mail, return-receipt-requested so that the notice
8 provision, the person that was required to provide notice under that terminology can demonstrate
9 that notice was actually received.

10 **Donnie Ratliff:** So the note from the post office saying this has been forwarded, well, I guess
11 that says the post office got it, not necessarily that the recipient.

12 **Paul Kugelman, Jr.:** What we actually know is that the post office is aware that Mr..... I forget
13 his name now, has moved and they've forwarded it to the best address they had, and my view is
14 that sufficiency to demonstrate proof that they have received it? No. It just means they sent it to
15 the last best address that they have.

16 **Mark Swartz:** There's no way not to be blunt. I don't agree with him, okay? And I'll tell you
17 why and we need to make a decision because we're trying to pay a lot of people in a fairly short
18 period of time. 45.1-361.19 is the statute on notice. Okay? A of that says: Any person who
19 complies for [Indiscernible], that would be us, in front of the Board, shall simultaneously with
20 the filing. So when we file it, it used to be a physical form that we would give direct, but now we
21 file it online; so, simultaneously filing an application, we are "to provide notice by certified mail,
22 return-receipt-requested to each gas or oil owner, coal owner", and it goes on, okay? Our
23 interpretation of that has always been, if we provide, if we give the post office mail that contains
24 the petition and its certified mail and it's return-receipt-requested and we pay for that, we've
25 done what we're required to do under A. And there's a sentence at the end of A, which I think,
26 indicates that the legislature understood that we should move forward, even when people don't
27 get their mail. The last sentence of this notice provision says, whenever a hearing applicant,
28 again us, is unable to provide such written notice because the identity or location of a person of
29 whom notice is required to be given is unknown, the hearing applicant shall promptly notify the
30 Board of such inability. We've told you, okay? It doesn't say you can't do anything, you can't
31 move forward. Now, there is a difference, and I agree with the cases that Mr. Kugelman sites in
32 his analysis, in terms of if it didn't have that sentence, you know that, if we can't communicate
33 with somebody, we just need to tell you so that you're aware of it and it's in the records. Okay?
34 We've [Indiscernible], you know? It's been forwarded, he hasn't signed it. But it is different with
35 regard to the coal owner notice under Section 22, because there, they've got 40, we are required
36 to give them notice that they need to get back to us within 45 days or something bad is going to

1 happen, nothing bad happens to this person, they just, their money stays in escrow because we
2 can't find them to mail to them.

3 **Donnie Rife:** They may be dead for all you know. I mean...

4 **Mark Swartz:** I mean, there's all kinds of reasons why this happens but I guess where I sort of
5 look at the overall perimeters of this law, I mean, essentially, the law was designed to enable
6 wells to be drilled, money to be escrowed until people were identified as to who owns it.
7 Obviously, we've got House Bill 2058 now as case law and we actually have a much better
8 handle on who owns it, but the whole purpose of this law was to facilitate well and gas
9 development and get money to people, and you know, this is consistent with that. If we can't find
10 one person, doesn't mean that we shouldn't pay. At least in my interpretation, that we shouldn't
11 pay as many people as we possibly can, that we can find. So, we've told you, it's been
12 forwarded, we don't have a signature card from him that'll obviously be addressed in your order
13 because the escrow agent is not going to be ordered to mail to someone we don't have an address
14 for. So my...

15 **Mary Quillen:** The language in that could be the, I guess how you define that is this return-
16 receipt-requested, not required, and this implies that it's required if you can't get one back. I
17 mean, it says requested, which implies that you're asking them...

18 **Mark Swartz:** In a perfect world, this statute would either say you must have a signed receipt or
19 it doesn't matter if you get a signed receipt. This statute doesn't say either of those things, but
20 what this statute does say is, you sent mail certified mail, return-receipt-requested, and if we are
21 unable to provide the notice that means to the person okay, because of identity or location, we've
22 got a bad address and we still may have a bad address. You know, we are to tell you that we have
23 been unable to do that. We've done that and we need to move forward with regard to the rest of
24 these people.

25 **Mary Quillen:** You have requested it?

26 **Mark Swartz:** We've put in the stuff that we filed on E forms. We put in, we don't have a
27 signed card from this guy and the post office has told us they forward the mail about three or
28 four weeks after we mailed it to them.

29 **Mary Quillen:** But you requested it, which fulfills the obligation.

30 **Mark Swartz:** That's our contention.

31 **Paul Kugelman, Jr.:** No ma'am. No ma'am, it does not.

32 **Mark Swartz:** Well, that's my contention.

33 **Paul Kugelman, Jr.:** And the Court of Appeals disagrees with your contention, sir.

1 **Mark Swartz:** I hear you.

2 **Donnie Rife:** I'm telling you, I just don't understand this concept that you cannot find
3 somebody. The guy is an American citizen, he's got a social security card, he's got a driver's
4 license, he's probably got credit cards. He can't hide in America. I mean, if it was Osama bin
5 Laden, I could understand that, you know? But as an American citizen, I just don't understand
6 that they can't find this guy.

7 **Mark Swartz:** There's lot of people that we can't find, at all.

8 **Donnie Ratliff:** Question for counsel.

9 **Paul Kugelman, Jr.:** Yes sir.

10 **Donnie Ratliff:** If we remove John Ratliff from this list and escrow his portion...

11 **Mark Swartz:** Continue to escrow.

12 **Donnie Ratliff:** Continue to escrow it, can we not go forward with the other disbursements?

13 **Paul Kugelman, Jr.:** You can. Nobody's saying you can't go forward with all the disbursements
14 because of the lack of notice to Mr. Ratliff.

15 **Donnie Ratliff:** Okay. Any other questions?

16 **Donnie Rife:** I'll put that in the form of a motion, Mr. Ratliff, in order to go ahead and distribute
17 money to the rest of the people in this escrow account, with the exception of, what was his
18 name?

19 **Donnie Ratliff:** John Ratliff.

20 **Donnie Rife:** John Ratliff.

21 **Donnie Ratliff:** Do I have a second?

22 **Bill Harris:** Second.

23 **Rick Cooper:** Mr. Chairman, before you vote, just remember we have to have all the documents
24 revised, in regard to that, before we can pursue.

25 **Donnie Rife:** Well, then we're back to square one.

26 **Mark Swartz:** Well, I'm not sure we do. We just tell the escrow agent not to pay him. I mean,
27 we can do that but...

28 **Donnie Rife:** Seems like we still should be able to move on with the rest of the recipients.

29 **Rick Cooper:** Right. If you remove him from the Table and...

1 **Mark Swartz:** That's easy to do.

2 **Rick Cooper:** Right, and the E's have to be, all the documents have to be changed to reflect
3 what you are requesting.

4 **Donnie Rife:** Right. Okay.

5 **Donnie Ratliff:** So you amend your motion?

6 **Mark Swartz:** I mean, we just need to pay as many people as we can.

7 **Donnie Ratliff:** And the Division of Gas and Oil revised Table 1.

8 **Donnie Rife:** So move, Mr. Chair.

9 **Mark Swartz:** We'll take care of that.

10 **Bill Harris:** Still second that.

11 **Donnie Ratliff:** Now, do we have an understanding?

12 **Donnie Rife:** Do we have an understanding?

13 **Donnie Ratliff:** All those in favor?

14 **Board:** I

15 **Donnie Ratliff:** Those opposed? [No Response]

16 **Donnie Rife:** [Indiscernible] abstains.

17 **Donnie Ratliff:** One abstention.

18 **Mary Quillen:** Okay. Was there a vote?

19 **Donnie Ratliff:** Yeah, you voted I.

20 **Mary Quillen:** I didn't vote. I was conferring.

21 **Item Number 6**

22 **Butch Lambert:** A petition from CNX Gas Company, LLC, for (1) the disbursement of
23 escrowed funds heretofore deposited with the Board's Escrow Agent, attributable to Tracts 6, 9
24 & 10, as depicted upon the annexed table; and (2) authorization to begin paying royalties to the
25 parties listed in the petition; (3) dismissal of coal owner. This is Docket Number VGOB 95-
26 0418-0503-03. All parties wishing to testify, please come forward.

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

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

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

3 **Anita Duty:** Anita Duty.

4 **Mark Swartz:** I'm going to remind you that you're still under oath.

5 **Anita Duty:** Yes.

6 **Mark Swartz:** I assume your employment and who you're here on behalf of remain the same
7 since the last time I ask those questions?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** We're here on a petition for disbursement. This one pertains to Unit W-31,
10 correct?

11 **Anita Duty:** It does.

12 **Mark Swartz:** It pertains to multiple tracts?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** [Indiscernible] that we're requesting is three-fold. First, we're asking to pay
15 some people, to make some disbursements from escrow, and with regard to the people that we're
16 paying out of escrow, we're asking for the ability to pay them, as operator, directly in the future,
17 and not escrow their funds; and then, lastly, we are asking for or dismissing certain coal owners
18 that we've noticed under House Bill 2058, right?

19 **Anita Duty:** Yes.

20 **Mark Swartz:** Okay, the reason for the request that you're making here for disbursements from
21 escrow, are first of all, that we have some split agreements between coal owner, or coal
22 claimants and gas claimants, correct?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** And then when we apply the House Bill 2058 to some of the other folks, we now
25 have some gas claimants that we can pay?

26 **Anita Duty:** Yes.

27 **Mark Swartz:** Okay, and those are the two reasons?

28 **Anita Duty:** Yes.

1 **Mark Swartz:** And did you provide notice, the 45 day notice to the coal owners we're seeking
2 to dismiss?

3 **Anita Duty:** We did.

4 **Mark Swartz:** And they signed for that mail?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** Okay, and I think this is another instance, when we get to Table 1 here, you
7 prepared a Table 1, correct?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** And in Table 1 you've actually got some coal owners receiving payments, I
10 think.

11 **Anita Duty:** We do.

12 **Mark Swartz:** And that's because in response to the 45 day notice, in some instances, they were
13 able to come up with partial agreements?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** And in some instances they weren't and that's the reason for the dismissal?

16 **Anita Duty:** Correct.

17 **Mark Swartz:** Okay. With regard to Table 1, have you listed by name and given an address for
18 each person or company, all of the folks that are to receive the disbursements?

19 **Anita Duty:** Yes.

20 **Mark Swartz:** And for each, looks like they're all companies here, for each company, have you
21 given, in the second column from the right-hand side of this chart, a percentage that the escrow
22 agent is to use?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** And the escrow agent should take that percentage and multiply it times the
25 balance on hand at the time the disbursement is to be made, and that will generate the dollar
26 amount that's to be paid out?

27 **Anita Duty:** Correct.

28 **Mark Swartz:** Have you provided revised Exhibits E and EE to reflect the state of affairs if the
29 disbursements are made and people are paid directly in the future as we're requesting?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** Okay, now with regard to the balances, it looks like you've got another Exhibit J
3 reconciliation?

4 **Anita Duty:** We do.

5 **Mark Swartz:** And again, did you attempt to compare...to locate a deposit for each check that
6 the operator wrote to an escrow bank?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** And when you did that, were you able to find a deposit for every check?

9 **Anita Duty:** We did.

10 **Mark Swartz:** Did you do your math?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** Okay, and when you compared your calculations to the bank balance on February
13 29th, was there a difference?

14 **Anita Duty:** We were showing \$687.27 more than the bank balance.

15 **Mark Swartz:** And this is a situation where we've already had a prior disbursement of \$47,000
16 and change?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** Okay, and that was part of your math?

19 **Anita Duty:** It was.

20 **Mark Swartz:** And the last thing we have here is you have an affidavit of mailing to a coal
21 owner and that coal owner was identified as Coal Mountain. You mailed to them on November
22 4, 2015, and they signed for their mail on November 6, 2015. Correct?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** And that is the company that you're seeking to dismiss as a coal owner to the
25 extent that they have not become a gas owner by virtue of a royalty split agreement?

26 **Anita Duty:** Correct.

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

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

1 **Mark Swartz:** No.

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

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

4 **Donnie Ratliff:** Second.

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

7 **Board:** Yes.

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

9 **Item Number 7**

10 **Butch Lambert:** A petition from CNX Gas Company, LLC, for (1) the disbursement of
11 escrowed funds heretofore deposited with the Board's Escrow Agent, attributable to Tract 2, as
12 depicted upon the annexed table; and (2) authorization to begin paying royalties directly to the
13 parties listed in the petition; (3) dismissal of coal owner. This is Docket Number VGOB 97-
14 0916-0601-02. All parties wishing to testify, please come forward.

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

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

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

18 **Anita Duty:** Anita Duty.

19 **Mark Swartz:** And I will remind you that you are under oath.

20 **Anita Duty:** Yes.

21 **Mark Swartz:** And your employment and who you're here on behalf of today is still the same as
22 your last testimony?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** Okay, we're looking for three kinds of relief?

25 **Anita Duty:** Yes.

26 **Mark Swartz:** We're asking for some disbursements form escrow. We are seeking the right to
27 pay some of the folks, the people that are receiving escrow disbursements directly in the future,
28 and we are also asking for the dismissal of coal owners. Correct?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** This application pertains to Unit Y-35?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** And the reasons for the request, we've got the application of...the reason, is the
5 application of House Bill 2058?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** Okay. Did you prepare a Table 1?

8 **Anita Duty:** I did.

9 **Mark Swartz:** And we've got one, well, actually William and Hannah Engardio are to receive
10 the payment. You've given their address. The escrow agent is to, the percentage the escrow agent
11 is to use is set forth in the second column on the right, and you would ask that the Board order
12 the escrow agent to use that percentage applied to the balance on hand when the disbursement is
13 made to generate the dollar amount and the mail it to these folks?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** Okay. You revised your Exhibits E and EE?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** And we're still going to need some escrow because we, going forward, because
18 we're lacking W-9's from the gas owner in Tract 4, correct?

19 **Anita Duty:** Correct.

20 **Mark Swartz:** You've got a coal owner affidavit. Affidavit of mailing here. Let's look at that.
21 Everybody got their mail, correct?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** And that was hand delivered to you all. You just passed it back and forth in your
24 office?

25 **Anita Duty:** Yes.

26 **Mark Swartz:** Okay. And the account reconciliation, Exhibit J, starting in '98, it looks like and
27 going through November 30, 2015, correct?

28 **Anita Duty:** Yes.

1 **Mark Swartz:** And did you first of all, get a list of all the royalty checks that the operator paid
2 to one or another of the escrow banks?

3 **Anita Duty:** We did.

4 **Mark Swartz:** And did you look for a deposit for each check?

5 **Anita Duty:** Yes.

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

7 **Anita Duty:** Yes.

8 **Mark Swartz:** And was there a difference when you did your math?

9 **Anita Duty:** The bank has \$1,080.53 more.

10 **Mark Swartz:** Than you came up with?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** And we do not have any prior disbursements in this instance?

13 **Anita Duty:** No.

14 **Mark Swartz:** Okay. You've got an affidavit of mailing to the coal owner and the coal owner,
15 the mailing went out August 7, 2015. It was received by the coal owner, signed for, on August
16 17, 2015. And the reason we're here instead of having Mr. Cooper deal with this in an
17 administrative matter is because of the difference in the accounts, or calculations of the bank.
18 That's the only reason?

19 **Anita Duty:** I think it was Mr. Cooper's decision to do that.

20 **Rick Cooper:** Right. One thing to correct; there was a disbursement out of this account in
21 December.

22 **Mark Swartz:** Oh, was there? Okay.

23 **Rick Cooper:** This is 02.

24 **Mark Swartz:** Okay. What was the amount of that? Do you know? Oh, this stops November
25 30th, that's why. Okay. But we still had a discrepancy as of that date?

26 **Rick Cooper:** That's correct. That is correct.

27 **Mark Swartz:** And I think your limit is \$500?

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

1 **Mark Swartz:** So, that's why we're here.

2 **Butch Lambert:** Okay. Any questions from the Board?

3 **Rick Cooper:** Mr. Chairman? On this particular one, we have a notice issue also. And the notice
4 issue on this one also pertains to four other items on the Docket. I guess the question is, on the
5 original disbursement, the coal owner notification, is a second notice required for this one? We
6 did not get the second notice. We have in our files the same notice that was submitted on the first
7 disbursement, and that is question. Do they have to re-notice on this? Again, it's on four other
8 Docket items also. For coal owner only.

9 **Paul Kugelman, Jr.:** Mr. Swartz, do you want me to go ahead and start with this, because we
10 talked about this a little bit earlier.

11 **Mark Swartz:** Yeah, I've actually got the notice on this one. [Indiscernible]

12 **Paul Kugelman, Jr.:** Mr. Cooper had asked me whether, for coal owners, the gas well operator
13 had to re-notice the coal owner for each and every petition. Based on my understanding of how
14 the petitions work, which were basically disbursements for particular tracts and the way the
15 statute is written, I had said yes because, if I'm a coal owner and I see that it's only a particular
16 tract, as opposed to the entire unit being disbursed, or at least notice of a tract, as opposed to an
17 entire unit, that I might not feel the need to reply if I had an ownership interest in one tract but
18 not the one that was being disbursed but that tract was still within the unit. Does that make
19 sense? Butch follows me. And, so based on that understanding, I said no because of the notice
20 provision requirement and the way the statute is written. You do have to re-notice for every new
21 tract that you're filing a petition for disbursement. But I spoke with Mr. Swartz this morning at
22 Mr. Cooper's insistence, well, recommendation. I wouldn't say insistence. It's too strong a word.
23 And Mr. Swartz sat down and talked about it and we both agree that, and Mr. Swartz can correct
24 me if I'm wrong, that there is a risk for you being dismissed from the whole unit is sufficient to
25 preclude the necessity from having to do the notice each and every time for each and every tract
26 within the unit when notice has been provided for the unit on a unit basis; and if we look at CNX
27 Gas's notices that they've been providing, I think that this is what's given rise to them providing
28 the notices today, is to demonstrate to the Board that the notices are by unit and not by tract
29 disbursement. So, once they've notified for unit and the gas, excuse me, the coal owner has said
30 either we've got split agreements or we have evidence of a preceding or nothing, meaning we
31 don't contest anything, that answers the question and no further notification on that ground, is
32 required. Are we correct on that?

33 **Mark Swartz:** Yeah, I think we're on the same page on that.

34 **Paul Kugelman, Jr.:** Okay.

35 **Mark Swartz:** And Paul did not, you know, would not have known that. We worked on this
36 notice back last Spring, actually, and we addressed the question of, you know, cause they may be
37 in multiple tract. We just need to notice them. If you have an interest in this unit, you need to tell

1 us because you're at risk, and so, Paul would not have known that, I'm sure. We don't routinely
2 file these. We file an affidavit that says we mailed them and they sign for it, but, so I'm confident
3 that we're telling people that your entire interest in that unit is at risk.

4 **Rick Cooper:** So, Mr. Chairman, I have one additional question. Should we have this in the
5 petition or is it irrelevant? This notice that they mail out.

6 **Butch Lambert:** My opinion, given the discussion we've just heard, once they've been noticed
7 on the unit, then we're good to go.

8 **Paul Kugelman, Jr.:** It would be good to have it in the agency record, the notice, in case anyone
9 challenges it. I don't think we're going to have that problem, but I always operate in the what-if.

10 **Rick Cooper:** Well, that was my question. Should we put that under supporting documents, Ms.
11 Gilmer?

12 **Sarah Gilmer:** We'll just load the affidavit where the coal owners were dismissed, if it's two or
13 three, you know.

14 **Mark Swartz:** See, what happens here too, which Paul and I talked about, but it's really, you
15 probably need to know this as background information and some of these were back three or four
16 times, oftentimes, they will have the same coal owner that we noticed in August, might has been
17 dismissed in February, so there's not even a party anymore that would require any kind of a
18 notice, so it's kind of, in some of these cases it's not that we mailed to them last summer and we
19 gave them a warning, with regard to the whole unit, since then, we got no response and they've
20 been dismissed. So it's kind of, it's even further removed. It's not always the case, but it can be.

21 **Butch Lambert:** Did that answer your question, Mr. Cooper?

22 **Rick Cooper:** Yes, sir. We'll just have them to submit that in the petitions.

23 **Mark Swartz:** The purposes of making that record, this is a form that is always used, correct?

24 **Sarah Gilmer:** Right.

25 **Mark Swartz:** This is what every coal owner, I mean, you just change the address and the unit
26 number and the docket number. This is the form that's populated.

27 **Paul Kugelman, Jr.:** And just to make it clear, we are always noticing the coal owner by well
28 unit, not by tract.

29 **Mark Swartz:** By unit. By the unit.

30 **Paul Kugelman, Jr.:** Right.

31 **Mark Swartz:** Never by tract. We decided to do that because of the issue that you're concerned
32 about. We didn't want that problem.

1 **Paul Kugelman, Jr.:** I just wanted to make sure the record was clear.

2 **Mark Swartz:** No, and that's why we're saying this is the form we use. It's always by unit.

3 **Donnie Ratliff:** Mr. Chairman, let me just...

4 **Butch Lambert:** [Indiscernible]

5 **Donnie Ratliff:** May I just ask a quick question? I noticed it says here, next to the last paragraph:
6 "enclosed here with, please find a copy of the 45-day notice to the filing," so what form does that
7 take? It says enclosed, it didn't say that this is your notice. Is there another document that
8 accompanies this letter?

9 **Anita Duty:** What we do is, we give them a copy of the last order of record so that they have
10 something to go, because if we just sent them a blind letter, they have no idea what property
11 we're talking about or what tract, or what...so we send them a copy of the last order. Then also,
12 they get a copy of the notice that the hearing is taking place, so actually, they get two notices.

13 **Donnie Ratliff:** So this one is actually...

14 **Anita Duty:** This one is actually a copy of the petition that's being filed to let them know that
15 there's going to be a hearing. Whenever this docket comes...

16 **Donnie Ratliff:** I guess what I'm asking, is there a document called the 45-day notice of file?

17 **Anita Duty:** Well, this is the 45-day notice and we include a copy of the last order for them to be
18 able to look at the last...

19 **Donnie Ratliff:** I hear what you're saying, I just...

20 **Anita Duty:** This serves as their notice, I guess is what is should say.

21 **Donnie Ratliff:** Well, it just says enclosed herewith, and to me that just says that there is another
22 document. To me, that's what I would read, that there's a separate document that is a "45-day
23 notice of filing".

24 **Anita Duty:** It's 45-days from the day you get the notice, the attached notice [Indiscernible]

25 **Donnie Ratliff:** Please read the notice carefully, so there is a...you know what I'm saying?

26 **Mark Swartz:** What you include with this though is a copy of the last Board order, correct?

27 **Anita Duty:** Yes. Supplemental, or whatever the last order is. It could even be a disbursement.
28 Whatever the last order was that was recorded.

29 **Mark Swartz:** And that would have the Exhibits E and EE, so it would have all the tracts and
30 the ownership, so you know.

1 **Donnie Ratliff:** That information, you see what I'm saying? I'm looking for a document that just
2 says cause that's what it says.

3 **Mark Swartz:** This letter, apparently, is...

4 **Donnie Ratliff:** Is the notice.

5 **Paul Kugelman, Jr.:** Yes, but it does say copy of the...enclosed herewith, please find a copy of
6 the 45-day notice filing. It doesn't say enclosed herewith is the Board's last order.

7 **Mark Swartz:** No. We're just saying, we send that.

8 **Paul Kugelman, Jr.:** Oh, I see. I gotcha.

9 **Donnie Ratliff:** And maybe I'm just being a stickler for detail, but it tends to be my nature, I
10 guess.

11 **Mary Quillen:** Well, then it goes back to language.

12 **Donnie Ratliff:** Maybe going forward you could change your template.

13 **Paul Kugelman, Jr.:** It may say this letter represents your, or something.

14 **Mark Swartz:** I'm thinking that if we amend the first sentence in the third paragraph to just say,
15 this is your 45-day notice.

16 **Donnie Ratliff:** Yeah, cause that's what I took it to be.

17 **Mary Quillen:** It's the language, again, it's how do you interpret the language.

18 **Mark Swartz:** This is what we've sent up till this day and we'll tinker with that going forward to
19 the extent that we've got any people that we haven't noticed, but we do, just in terms telling
20 [Indiscernible] that in this unit and have an obligation to respond, we also do give them the
21 exhibits from the last order so that if they want to drill down into their interest, they've got some,
22 the information is there. We don't refer to that in here, but they do that.

23 **Butch Lambert:** Okay, Mr. Swartz, do you have anything further?

24 **Mark Swartz:** I don't think so.

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

26 **Donnie Ratliff:** Before we make a motion, Mr. Chair.

27 **Butch Lambert:** Mr. Ratliff.

28 **Donnie Ratliff:** Question for counsel. Are we satisfied with the services that's been provided
29 and you're comfortable?

1 **Paul Kugelman, Jr.**: With respect for the way it's being done here or with respect for the coal
2 owner? Yes, sir.

3 **Donnie Rife**: What about the notice or notification? Do they get one notice or do they get three?
4 Isn't that what you asked?

5 **Rick Cooper**: Yeah, I think that's what Mr. Kugelman verified, that they actually put it in their
6 original letter and they are dismissing the coal owners in the entire unit that satisfies for the life
7 of the disbursements until it's closed.

8 **Donnie Ratliff**: With that understanding, motion to approve, Mr. Chairman.

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

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

12 **Board**: Yes.

13 **Butch Lambert**: Opposed, no. [No response]. Thank you, Mr. Swartz, that is approved. We'll
14 take about a 10 minute break. We'll resume at 10:30 a.m.

15 **Item Number 8**

16 **Butch Lambert**: A petition from CNX Gas Company, LLC, for (1) the disbursement of
17 escrowed funds heretofore deposited with the Board's Escrow Agent, attributable to Tracts 4 &
18 5, as depicted upon the annexed table; and (2) authorization to begin paying royalties directly to
19 the parties listed in the petition; (3) dismissal of coal owner. This is Docket Number VGOB 99-
20 0216-0710-02. All parties wishing to testify, please come forward.

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

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

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

24 **Anita Duty**: Anita Duty.

25 **Mark Swartz**: You are still under oath, correct?

26 **Anita Duty**: Yes.

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

28 **Anita Duty**: Yes.

29 **Mark Swartz**: This is a request for disbursement from escrow?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** And the reasons for that request are, first of all we've got some royalty split
3 agreements; and secondly, we have the application of House Bill 2058, which enables us to, or
4 the Board to pay some gas claimants. Correct?

5 **Anita Duty:** Correct.

6 **Mark Swartz:** And this pertains to V34 and is it a partial disbursement?

7 **Anita Duty:** It is. No, it'll close the account.

8 **Mark Swartz:** Oh, great! Okay, so this will close the account. This is the second disbursement
9 from V34 escrow, right?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** Let's go to Table 1 then. And, have you provided a Table 1.

12 **Anita Duty:** I have.

13 **Mark Swartz:** And is it a percentage disbursement, as opposed to a fixed dollar amount?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** Have you identified in Table 1, each of persons that are to receive the
16 disbursements by name and then also provided an address for them?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** And with regard to each person scheduled to receive a disbursement, have you
19 provided, in the second column from the right hand side of the table, the percentage that the
20 escrow agent should use to make the disbursement?

21 **Anita Duty:** Yes.

22 **Mark Swartz:** And that percentage should be applied to the balance on hand. That'll give a
23 dollar amount, and that will close out the account?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** Have you provided a revised Exhibit E and EE?

26 **Anita Duty:** Yes.

27 **Mark Swartz:** And E shows we don't need escrow going forward?

28 **Anita Duty:** Correct.

1 **Mark Swartz:** Okay. Then, with regard to affidavit of mailing, we've got something back from
2 Dewey, correct?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** Is that still the case?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** So we need to determine, then, in the order, I think, that we are not going to make
7 that disbursement to him, right. If we can't find him.

8 **Anita Duty:** We have the W9.

9 **Mark Swartz:** Okay, we have a W9. Well, you can just say that. Okay. Have we been in touch
10 with Mr. Roe to get his assistance in paying him?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** Okay. And describe to the Board what's happened in that regard.

13 **Anita Duty:** He returned his W9 to us.

14 **Mark Swartz:** Okay, and have you filed that W9 with the Board?

15 **Anita Duty:** With the escrow agent.

16 **Mark Swartz:** With the escrow agent?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** Okay, so we are in a position to say that he got notice, he's on board, and he's
19 given us a W9? So we need to pay him. Correct?

20 **Anita Duty:** Correct.

21 **Mark Swartz:** Okay. With regard to reconciliation, you've got an Exhibit J?

22 **Anita Duty:** We do.

23 **Mark Swartz:** The payments started in '99 and the bank balance you're working toward is
24 February 28-29, 2016. Correct?

25 **Anita Duty:** Yes.

26 **Mark Swartz:** And it looks like there was a prior disbursement?

27 **Anita Duty:** Yes.

1 **Mark Swartz:** And this, I gather then, would be the second. It is the second. Okay. Did you
2 attempt to identify all royalty checks that the operator paid?

3 **Anita Duty:** We did.

4 **Mark Swartz:** And then did you look for a corresponding deposit for every one of them?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** When you looked, did you find one?

7 **Anita Duty:** We did.

8 **Mark Swartz:** Okay, then did you do your math to compare balances?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** And when you compared the balance you calculated to the bank balance, was
11 there a difference?

12 **Anita Duty:** The bank was showing \$36.47 more than our calculation.

13 **Mark Swartz:** Okay. And then we've got a coal owner affidavit and proof of mailing, with
14 regard to Hurt McGuire and you mailed to Hurt McGuire the 45-day notice November 3, 2015.
15 They received it on November 9, 2015 and we're seeking to dismiss Hurt McGuire Land Trust,
16 correct?

17 **Anita Duty:** Correct.

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

19 **Butch Lambert:** My question for you, Mr. Swartz, Mr. Cooper, Ms. Duty testified that this will
20 close the account, but she also said that the bank is showing \$36.47 more. So what happens to
21 that money?

22 **Rick Cooper:** The extra money would be disbursed out to the people that preceded. We would
23 just spread that across the disbursements and close the account.

24 **Butch Lambert:** Okay. Thank you.

25 **Mark Swartz:** Because when you apply a percentage it zeros. If we gave them a dollar amount,
26 it wouldn't.

27 **Anita Duty:** It's most likely interest.

28 **Butch Lambert:** Okay. Thank you. Any other questions from the Board? [No response]
29 Anything further Mr. Swartz?

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

9 **Item Number 9**

10 **Butch Lambert:** A petition from CNX Gas Company, LLC, for (1) the disbursement of
11 escrowed funds heretofore deposited with the Board's Escrow Agent, attributable to Tract 3, as
12 depicted upon the annexed table; and (2) authorization to begin paying royalties directly to the
13 party that was previously identified as "Unknown". This is Docket Number VGOB 00-1121-
14 0836-01. All parties wishing to testify, please come forward.

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

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

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

18 **Anita Duty:** Anita Duty.

19 **Mark Swartz:** I will remind you that you're under oath. Okay?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** And you're here on behalf of CNX Gas Company, LLC today?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** With regard to a petition for disbursement from Unit C26, correct?

24 **Anita Duty:** Correct.

25 **Mark Swartz:** And the reason for this disbursement is we have some unknowns and we have
26 found them and now we're paying them.

27 **Anita Duty:** Correct.

- 1 **Mark Swartz:** Or we're trying to pay them?
- 2 **Anita Duty:** Yes.
- 3 **Mark Swartz:** Okay, and if this payment is approved by the Board, will this close this account?
- 4 **Anita Duty:** Yes.
- 5 **Mark Swartz:** Did you provide the Board with a Table 1?
- 6 **Anita Duty:** We did.
- 7 **Mark Swartz:** And on Table 1, have you identified the three people that are to receive
8 payments?
- 9 **Anita Duty:** Yes.
- 10 **Mark Swartz:** Have you given a mailing address for each of them?
- 11 **Anita Duty:** We have.
- 12 **Mark Swartz:** And have you provided the escrow agent with the percentage to use to multiply
13 times the balance on hand at the time the disbursement is made to zero this account out?
- 14 **Anita Duty:** Yes.
- 15 **Mark Swartz:** Have you identified, on Table 1, the names of all the people and companies that
16 should receive the checks?
- 17 **Anita Duty:** Yes.
- 18 **Mark Swartz:** And then you've provided revised Exhibits E and EE and your revised Exhibit E
19 shows we don't need escrow going forward?
- 20 **Anita Duty:** Correct.
- 21 **Mark Swartz:** We have, with regard to this disbursement notice, the people receiving the
22 payments, they all signed for their mail?
- 23 **Anita Duty:** They did.
- 24 **Mark Swartz:** Okay, and we've got an Exhibit J which started, looks like in '01 and goes
25 through the end of February 2016?
- 26 **Anita Duty:** Yes.

1 **Mark Swartz:** Did you attempt to identify all royalty checks and payments that the operator
2 made and having done that, look for a corresponding deposit?

3 **Anita Duty:** We did.

4 **Mark Swartz:** And when you made the comparison, did you find a deposit for every check?

5 **Anita Duty:** We did, but there was an additional deposit that we didn't show.

6 **Mark Swartz:** Okay, where is that?

7 **Anita Duty:** At the very end of June 2001.

8 **Mark Swartz:** Okay.

9 **Anita Duty:** \$2.52. We didn't have that in our system.

10 **Mark Swartz:** So, you don't know where that came from?

11 **Anita Duty:** No.

12 **Mark Swartz:** And that's June. What year?

13 **Anita Duty:** The second entry. 2001.

14 **Mark Swartz:** So that's highlighted in sort of a bad green.

15 **Anita Duty:** It's actually yellow. I don't know what happened.

16 **Mark Swartz:** So that's in there but we don't know where it came from?

17 **Anita Duty:** Correct.

18 **Mark Swartz:** Did you do your math, comparing your calculation with regard to what you
19 thought the balance out to be, to the bank balance?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** And there was a difference?

22 **Anita Duty:** The bank had \$1.36 more.

23 **Mark Swartz:** I believe since we don't have any coal owner issue, I believe that's it, Mr.
24 Chairman.

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

1 **Bill Harris:** Just a quick question, Mr. Chairman.

2 **Butch Lambert:** Mr. Harris.

3 **Bill Harris:** This is just, I know we've talked about this before, but when you find those deposits
4 like that, what do we usually do? Do we just leave them? Because we don't have a record, I
5 mean, I guess you all don't have a record. The bank, I guess 2001, is that before the folks that
6 now have the escrow, so it's just left there? Is that our only recourse?

7 **Mary Quillen:** Would that go into that extra money that, once this escrow is all paid out, that
8 whatever that additional money is, it would be divided percentage wise?

9 **Mark Swartz:** Each of these people would get a third, I think.

10 **Mary Quillen:** Right. Of \$1.36. Yeah.

11 **Mark Swartz:** But I think the question that Mr. Harris is asking is really a bigger question, and I
12 think we've had instances typically we try with Rick's offices help and the banks to the extent
13 that they cooperate, we try to figure this out. I mean, it's not like we just found that and didn't
14 inquire or didn't look for it. So, and sometimes, I think, frequently, we're able to figure out that
15 money came into this account or some other account that needs to be moved back, and I'm sure
16 you remember seeing that. So, it is something, you know, we try to figure it out, but sometimes
17 we don't get an answer.

18 **Mary Quillen:** These very old ones that have other escrow agents that we got nothing for
19 assistance and...

20 **Mark Swartz:** Well, actually though, some of those were able to kind of, make it work. It just
21 depends. Every once in a while, without cooperation, we can't get there, but sometimes we have
22 enough documents that we can piece it together. But I think your question was broader. In
23 general.

24 **Bill Harris:** Yeah, in general, when we find that, if there's any set procedure or whatever.

25 **Mark Swartz:** And I think Rick's office is all over it and, I mean, and they interact with Melissa
26 and Anita and Nicole, from your office to get to the bottom of that.

27 **Rick Cooper:** You are correct. Ms. Gilmer has an Excel spreadsheet that she searches and tries
28 to help on that, too. She worked on it for a couple of years, so, we try to help locate that also. It's
29 just very difficult at times to find it.

30 **Bill Harris:** I imagine it would be hard to do. Does she have a software program that goes
31 through all of the accounts and scans and...

1 **Rick Cooper:** Right.

2 **Bill Harris:** ... finds another one that's short \$2.00 and some cents. Anyway, thank you. I was
3 just curious.

4 **Butch Lambert:** Any other questions? Anything further, Mr. Swartz?

5 **Mark Swartz:** No.

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

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

8 **Bill Harris:** Second.

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

11 **Board:** Yes.

12 **Butch Lambert:** Opposed, no? [No response]

13 **Butch Lambert:** Thank you, Mr. Swartz. That is approved.

14 **Item Number 10**

15 **Butch Lambert:** A petition from CNX Gas Company, LLC, for (1) the disbursement of
16 escrowed funds heretofore deposited with the Board's Escrow Agent, attributable to Tracts 1D,
17 1E, 2A & 2B, as depicted upon the annexed table; and (2) authorization to begin paying royalties
18 directly to the parties listed in the petition; (3) dismissal of coal owners. This is Docket Number
19 VGOB 02-0820-1050-03. All parties wishing to testify, please come forward.

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

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

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

23 **Anita Duty:** Anita Duty.

24 **Mark Swartz:** You're still under oath, correct?

25 **Anita Duty:** Yes.

26 **Mark Swartz:** You're here on behalf of CNX Gas Company, LLC?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** And this is another petition for disbursement. This one pertains to Unit AV124,
3 correct?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** We were here, I think on this one, in February of this year?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** So we're back again to make some more disbursements. The reasons for this visit
8 are, we've got some royalty split agreements, and when we apply House Bill 2058, we have
9 some gas claimants that we can now pay, correct?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** And then we've given some notices to coal owners, and to the extent they don't
12 have a split agreement, we're seeking to dismiss them?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** This is the typical three kinds of relief: make a disbursement; let us pay them
15 directly; and dismiss one or more coal owners, right?

16 **Anita Duty:** Correct.

17 **Mark Swartz:** With regard to the disbursements you're asking to be made, did you prepare a
18 table?

19 **Anita Duty:** We did.

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

21 **Anita Duty:** Yes.

22 **Mark Swartz:** And it's a percentage disbursement request?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** And on Table 1, which is two pages, have you given the name of each person that
25 you're asking a disbursement be made to and provided a mailing address for each person?

26 **Anita Duty:** Yes.

1 **Mark Swartz:** And with regard to instructions to the escrow agent as to calculating the payment,
2 have you provided the escrow agent, in the second column on the right-hand side, a percentage
3 for each person, and the escrow agent should use that percentage, multiply it times the balance
4 on hand on the day the disbursement is to be made, and that will generate the dollar amount for
5 each person?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** Have you then provided the Board with revised Exhibits E and EE which would
8 reflect the escrow requirements after these disbursements and who you're paying and how you're
9 paying them after the disbursements?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** Okay. I assume we've got, we do, we have an Exhibit J, which is your
12 reconciliation and it looks like it starts in April 2004, concluded with the bank balance March 31,
13 2016, correct?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** Okay. Did you attempt to identify all your royalty payments?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** And did you go look for a bank deposit for each one?

18 **Anita Duty:** Yes.

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

20 **Anita Duty:** We did.

21 **Mark Swartz:** Okay, then did you do your math, bearing in mind that there was a prior
22 disbursement and come up with the total, your estimate as to what the total would be?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** And when you compared that to the bank balance, [Indiscernible] have to wear
25 your cheaters [laughs] what did you come up with?

26 **Anita Duty:** The bank was showing \$25.69 more than our balance, calculation.

27 **Mark Swartz:** And we got an affidavit of mailing of coal owners, correct?

28 **Anita Duty:** Yes

1 **Mark Swartz:** And the coal owner, there's actually two of them; Stewart Land & Cattle and
2 Swords Creek. You've mailed to both of them the 45-day notice on September 14, 2015. Stewart
3 Land & Cattle signed for theirs on September 17th. Swords Creek signed for theirs on September
4 16th. Correct?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** And you're seeking to dismiss their coal claims in this unit, except to the extent
7 that they have provided a royalty split agreement.

8 **Anita Duty:** Yes.

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

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

11 **Mark Swartz:** No.

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

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

14 **Bill Harris:** Second.

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

17 **Board:** Yes.

18 **Butch Lambert:** Opposed, no?

19 **Butch Lambert:** Thank you, Mr. Swartz. That is approved.

20 **Mark Swartz:** Thank you.

21 **Item Number 11**

22 **Butch Lambert:** A petition from CNX Gas Company, LLC, for (1) refund of escrow payments
23 heretofore deposited with the Board's Escrow Agent; (2) reimbursement of overpayment of
24 funds deposited with the Board's Escrow Agent attributable to Unit AV125 to CNX Gas
25 Company, LLC, as depicted upon the annexed table; (3) the disbursement of escrowed funds
26 heretofore deposited with the Board's Escrow Agent, attributable to Tract 2D, as depicted upon
27 the annexed table; (4) authorization to begin paying royalties directly to the parties listed in the
28 petition. This is Docket Number VGOB 02- 0820-1051-04. All parties wishing to testify, please
29 come forward.

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

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

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

4 **Anita Duty:** Anita Duty.

5 **Mark Swartz:** I'll remind you that you're still under oath.

6 **Anita Duty:** Yes.

7 **Mark Swartz:** This is another disbursement request. This pertains to Unit AV125, correct?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** It's a partial disbursement?

10 **Anita Duty:** It is.

11 **Mark Swartz:** And the reasons or basis for the disbursement request, we have some gas
12 claimants that we can pay under House Bill 2058, correct?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** And we've provided notice to coal owners and we'd like to dismiss one or more
15 coal owners, correct?

16 **Anita Duty:** Correct.

17 **Mark Swartz:** And the three kinds of relief here we're asking to pay the gas claimants, we're
18 asking to pay them out of escrow; we're asking to be able to pay them directly going forward;
19 and we're asking to dismiss some coal claimants?

20 **Anita Duty:** Right.

21 **Mark Swartz:** The table we've got, actually two tables here in this unit. We've got a Table 1,
22 which is an exact dollar amount payment?

23 **Anita Duty:** It is.

24 **Mark Swartz:** And you're requesting that the escrow agent be ordered to pay \$195.22 to CNX
25 Gas, right?

26 **Anita Duty:** Right.

1 **Mark Swartz:** And then after that's paid, then we go to the percentage chart, Table 2.

2 **Anita Duty:** Right.

3 **Mark Swartz:** What is the reason for that exact dollar payment?

4 **Anita Duty:** We had failed to place the First Bank and Trust party on hold, prior to the
5 disbursement being made. So, a payment crossed in the mail when a payout was coming out of
6 escrow. Normally what we do is, whenever we file a petition for disbursement, we no longer pay
7 any money into the escrow account. That way, whenever the payout is made from the escrow
8 agent to the owner directly, those payments don't cross in the mail and that portion of, you know,
9 what should have been credited gets, doesn't get paid.

10 **Mark Swartz:** So here you wound up in effect where they crossed in the mail and you overpaid
11 the escrow account?

12 **Anita Duty:** Right, because the person should have been carved out of that and paid directly, so
13 that overall \$195.22, is what that error would have been, the effect.

14 **Butch Lambert:** Mr. Cooper, can we confirm?

15 **Rick Cooper:** Yes, that's overpayment by CNX is what that is. So yes, that is correct.

16 **Anita Duty:** You would have never seen the escrow account stop receiving payments. They
17 would have received payments and a disbursement, at the same time.

18 **Rick Cooper:** So, right. They continued to pay into the account when they should have not paid
19 into the account.

20 **Anita Duty:** Until the pending disbursement was paid out.

21 **Rick Cooper:** Correct.

22 **Butch Lambert:** I think I follow that. Any questions from the Board? [No response]

23 **Mark Swartz:** So the \$195.22 was a payment that was made, both to the person and into the
24 escrow account, as it turns out.

25 **Anita Duty:** Well, that's the effect.

26 **Mark Swartz:** That's the effect.

27 **Anita Duty:** Yes.

28 **Mark Swartz:** And you're looking to get that \$195 back from the escrow account?

1 **Anita Duty:** Correct.

2 **Mark Swartz:** And when it happens, the escrow account will be in balance, given prior
3 disbursements in the current situation?

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

5 **Mark Swartz:** Okay. Then we go to Table 2, which is the percentage disbursement request,
6 correct?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** And that pertains to Tract 2D?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** And with regard the folks that are supposed to receive the disbursement, have
11 you given everybody's name and a mailing address? And in addition, have you provided the
12 escrow agent, in the second column from the right-hand side of Table 2, with a percentage to use
13 for each person to apply to the balance on hand to generate the dollars?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** And the Board should order the escrow agent to do that?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** Have you provided the Board with a revised Exhibit E and EE that reflects the
18 state of affairs after these disbursements are made?

19 **Anita Duty:** Yes.

20 **Mark Swartz:** In terms of escrow requirements and who we are paying?

21 **Anita Duty:** We have.

22 **Mark Swartz:** Okay, and we have proofs of mailing. It looks like everybody signed for their
23 mail?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** And, now we've got Exhibit J, we've got a reconciliation that's starts in 2004 and
26 goes through March 31, 2016, the bank balance as of then, right?

27 **Anita Duty:** Yes.

1 **Mark Swartz:** It reflects your calculations, like this is the fourth time we've been here for a
2 disbursement, it looks like?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** When you or the people that work for you were doing Exhibit J, did they look
5 for, to identify all royalty payments?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** And did they look for a corresponding deposit?

8 **Anita Duty:** They did.

9 **Mark Swartz:** And what was the result of that?

10 **Anita Duty:** They were able to find all of the deposits.

11 **Mark Swartz:** Okay, and then you did your math to estimate the bank balance, correct?

12 **Anita Duty:** Yes.

13 **Mark Swartz:** And when you compare that to the bank balance, as of 3/31/16, what's the
14 difference?

15 **Anita Duty:** The bank was showing \$523.90 more than our calculations.

16 **Mark Swartz:** Okay, and then we've got a coal owner notice, again, this is Stuart Land & Cattle,
17 you mailed the 45-day notice to them on 6/8/2015 and they signed for it on 6/12/2015, correct?

18 **Anita Duty:** Yes.

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

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

21 **Mary Quillen:** Just one question, does this close this escrow account or are you continuing?

22 **Anita Duty:** It will continue.

23 **Mark Swartz:** It still continues.

24 **Bill Harris:** One other question. I noticed after the bank reconciliation, there's a page 23, with
25 another Table 1, is that in error or is that intentionally. It's the same on 9522 that showed up
26 earlier.

1 **Mark Swartz:** I think it got loaded in your book twice, Mr. Harris. I notice that too, I think it's
2 the same document two times, but I'm going back to look to make sure it's identical.

3 **Bill Harris:** I think it's just an error.

4 **Mark Swartz:** It appears to me to be the same document loaded twice. I don't know why.

5 **Rick Cooper:** I think I agree and I'm not sure why that happened.

6 **Bill Harris:** Well, if there's any significance to that.

7 **Mark Swartz:** It's just so refreshing to see that somebody else occasionally does something that
8 they can't explain. [Laughs]

9 **Bill Harris:** Thank you, Mr. Chairman.

10 **Mark Swartz:** Good catch.

11 **Butch Lambert:** Ms. Duty, I noticed on your reconciliation table, you've got three
12 disbursements; disbursement number 3 is zero. Could you give us an explanation of why that's
13 zero, for disbursement?

14 **Anita Duty:** The only explanation that I can come up with at this very second, is that the
15 disbursement hadn't happened yet and is still pending.

16 **Rick Cooper:** This is three, right? Four?

17 **[Talkover]**

18 **Butch Lambert:** The docket says four.

19 **Rick Cooper:** We're looking to see if that one's pending.

20 **Mark Swartz:** Well, it had to be pending or maybe it was withdrawn, but it was either
21 withdrawn or pending as C31 [Indiscernible], otherwise we wouldn't be within \$525.00, I'm
22 assuming. [Long pause] So it's paid after March 31st is what you're saying?

23 **Sarah Gilmer:** It has been paid. It was paid on April 20, 2016.

24 **Mark Swartz:** The explanation is, if it hadn't been paid yet and we put it in [Indiscernible],
25 we'd really be off. Right? Yes? No?

26 **Anita Duty:** 2016 or 15?

27 **Sarah Gilmer:** April 21, 2016 is when...

1 **Anita Duty:** That was after our...

2 **Mark Swartz:** [Indiscernible]

3 **Sarah Gilmer:** There are 17 checks.

4 **Rick Cooper:** 17. That's correct. So you petition together...

5 **Butch Lambert:** [Talkover] That was after you're reconciliation?

6 **Mark Swartz:** Right.

7 **Anita Duty:** Yeah, the petition was put together in advance of that payment, but...

8 **Mark Swartz:** And we try not to file all of the, you know, good intentions are not always...but
9 we try not to file these until the other one is paid. So it's kind of an indication that it probably,
10 we know it was paid at some point.

11 **Anita Duty:** We should have put the number on. I mean, we just failed to put the number.

12 **Mark Swartz:** Well, it wouldn't have balanced is the problem, cause it was paid after.

13 **Butch Lambert:** Okay, any other questions from the Board? Anything further, Mr. Swartz?

14 **Mark Swartz:** No.

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

16 **Donnie Rife:** Motion made for approval.

17 **Bill Harris:** Second.

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

20 **Board:** Yes.

21 **Butch Lambert:** Opposed, no?

22 **Butch Lambert:** Thank you, Mr. Swartz, that one is approved.

Item Number 12

24 **Butch Lambert:** A petition from CNX Gas Company, LLC, for (1) the disbursement of
25 escrowed funds heretofore deposited with the Board's Escrow Agent, attributable to Tract 1C, as
26 depicted upon the annexed table; and (2) authorization to begin paying royalties directly to the

1 parties listed in the petition. This is Docket Number VGOB 03-1118-1229-02. All parties
2 wishing to testify, please come forward.

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

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

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

6 **Anita Duty:** Anita Duty.

7 **Mark Swartz:** You're under oath, right?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** We are here in this instance on behalf, you and I, of CNX Gas Company, LLC,
10 correct?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** This petition pertains to BC119 and is another petition for disbursement?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** And the basis here, we have some split agreements and we also have some gas
15 claimants that we can pay under House Bill 2058?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** And I think we have on the back here, we have some coal claimants that we
18 would like to dismiss?

19 **Anita Duty:** Yes.

20 **Mark Swartz:** And with regard to the disbursements, you've got a Table 1, correct?

21 **Anita Duty:** Yes.

22 **Mark Swartz:** And we have one table here?

23 **Anita Duty:** Correct.

24 **Mark Swartz:** And this is a percentage disbursement?

25 **Anita Duty:** It is.

1 **Mark Swartz:** And you've got several pages, looks like four or five, five pages of people listed
2 not in your Table 1?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** And with regard to the disbursements that you're requesting, have you given a
5 name of a person or a company and an address in all instances?

6 **Anita Duty:** We have.

7 **Mark Swartz:** And then in all instances in the second column on the right-hand side of your
8 table, have you given a percentage for each person or company?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** And the instructions to the escrow agent should be that the escrow agent should
11 multiply that percentage times the balance on hand, when the disbursements are made and that
12 will generate the dollar amount for each person?

13 **Anita Duty:** Correct.

14 **Mark Swartz:** And have you provided revised Exhibits E and EE, which would show the state
15 of affairs, with regard to escrow accounts and payment information, going forward?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** Okay. Owed us information affidavit of mailing, I'm looking at your chart, it
18 looks like we've got Larry Sigmon's came back. Do you see that?

19 **Anita Duty:** Yes.

20 **Mark Swartz:** Do we have a W-9 for him or is he just someone that we, actually, there's two of
21 them. Ricky and Larry. Do we have W-9's? Do we have further information, or did they just
22 come back?

23 **Anita Duty:** We have W-9's for everyone that we filed a petition for.

24 **Mark Swartz:** Okay, so we've been in touch with Larry and Ricky, even though the mail came
25 back, at least on the [Indiscernible] they've provided us with W-9's and they're standing, they're
26 waiting to be paid and we have the right address for them?

27 **Anita Duty:** Yes.

28 **Mark Swartz:** Okay, if we look at Exhibit J, you've done again, correct?

1 **Anita Duty:** We have.

2 **Mark Swartz:** And this looks like it starts in '04, actually in earnest of '05, correct?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** And you ran this through the ending bank balance of 3/31/16. Again, we've had a
5 prior disbursement?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** With regard to this reconciliation, did you identify, or did someone who works
8 for you, identify all deposits, I'm sorry, all checks that you wrote for royalty?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** And then did you look for a corresponding deposit?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** And when you made that search, what did you find?

13 **Anita Duty:** We did find all the deposits except for one.

14 **Mark Swartz:** Okay, and where is that, is that highlighted on your spreadsheet? Or is it just in
15 the note at the end?

16 **Anita Duty:** It's, actually, it's missing in the February 28, 2015 entry.

17 **Mark Swartz:** Okay, and so there's that note at the end after your calculations and we'll come
18 back to the calculations in a minute, but it looks like it got deposited to AW113 account?

19 **Anita Duty:** It did.

20 **Mark Swartz:** And what was the amount?

21 **Anita Duty:** \$522.92.

22 **Mark Swartz:** Has that been corrected?

23 **Anita Duty:** It has been corrected.

24 **Mark Swartz:** In conjunction with Mr. Cooper's office?

25 **Anita Duty:** Yes.

1 **Mark Swartz:** So this is an example if we found a mistake and we actually were able to get to
2 the end of it.

3 **Anita Duty:** Yes.

4 **Mark Swartz:** So, this account is now in balance, with regard to funds pertaining to the people
5 having the royalty interest in this account?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** And when you made that correction, when you did your calculation and
8 compared it to the banks' balance, what was the difference?

9 **Anita Duty:** It was showing 115.11 more than the bank.

10 **Mark Swartz:** And that was after you made the adjustment?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** And, some documentation, with regard to that, and then we're looking at the
13 affidavits of mailing, with regards to Swords Creek Land Partnership, and that pertains to the
14 dismissal of a coal owner, we mailed to them on September 2, 2015, they signed for it on
15 September 9, 2016, and to the extent that they have not provided us with an agreement, a split
16 agreement, that causes them to become, at least in part of this unit, a gas owner, we're seeking to
17 have them dismissed?

18 **Anita Duty:** Yes.

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

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

21 **Mark Swartz:** No.

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

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

24 **Bill Harris:** I'll second that.

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

27 **Board:** Yes.

1 **Butch Lambert:** Opposed, no?

2 **Butch Lambert:** Thank you, Mr. Swartz. That is approved.

3 **Item Number 13**

4 **Butch Lambert:** A petition from CNX Gas Company, LLC, for (1) the disbursement of
5 escrowed funds heretofore deposited with the Board's Escrow Agent, attributable to Tract 3B, as
6 depicted upon the annexed table; and (2) authorization to begin paying royalties directly to the
7 parties listed in the petition; (3) dismissal of coal owner: This is Docket Number VGOB 04-
8 0120-1248-03. All parties wishing to testify, please come forward.

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

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

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

12 **Anita Duty:** Anita Duty.

13 **Mark Swartz:** And you and I are here on behalf of CNX Gas Company, LLC, correct?

14 **Anita Duty:** Yes.

15 **Mark Swartz:** This is on the docket because of the amount of money, the differential on Exhibit
16 J, correct? Let me see what the note said here. Nope, sorry, wrong one. This is on, that's an issue
17 BK115. AW135, we are here because we've got a House Bill issue and a royalty split issue.
18 Okay. Alright. So with regard to AW135, the reasons for the request are, on the one hand we
19 have royalty split agreements, and on the other hand, when we apply House Bill 2058, we have
20 some gas claimants that we can now pay, correct?

21 **Anita Duty:** Correct.

22 **Mark Swartz:** And we have some coal owners that we've given 45-day notices to and to the
23 extent that they haven't come up with a split agreement, we want to dismiss them?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** And you've provided a Table 1, which is a percentage table?

26 **Anita Duty:** Yes.

27 **Mark Swartz:** And it identifies a couple of companies and one person, who are to be paid and
28 gives an address for each of them?

29 **Anita Duty:** It does.

1 **Mark Swartz:** States a percentage that the escrow agent should use in the second column on the
2 right-hand side of the table that the escrow agent should be directed to, multiply times the
3 balance on hand at the time the disbursements are calculated, correct?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** And this is one of those situations where once those disbursements are made, we
6 won't need this escrow account? It pays it out in full?

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

8 **Mark Swartz:** So you've provided a revised Exhibit E that says that; we've got an EE revised,
9 going forward, that shows how people are being paid or not being paid, right?

10 **Anita Duty:** Right.

11 **Mark Swartz:** And looking at notices, everybody got a notice?

12 **Anita Duty:** Yes.

13 **Mark Swartz:** Exhibit J. Did you compare or did someone in your office compare all royalty
14 payments and look to all the deposits and find that they had all been received or deposited?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** And this looks like this is the third disbursement from this unit?

17 **Anita Duty:** It is.

18 **Mark Swartz:** And when you did your math and compared it to the bank balance on February
19 29, 2016, what was the difference?

20 **Anita Duty:** The bank was showing \$54.39 more.

21 **Mark Swartz:** Okay. The coal owner's certification, you gave the 45-day notice to Coal Creek
22 Coal Company; you mailed to them on March 9, 2016; they signed for it on March 14, 2016; and
23 you're seeking to dismiss them?

24 **Anita Duty:** Yes.

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

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

27 **Mark Swartz:** No.

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

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

3 **Bill Harris:** Second.

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

6 **Board:** Yes.

7 **Butch Lambert:** Opposed, no?

8 **Butch Lambert:** Thank you, Mr. Swartz. That is approved.

9 **Item Number 14**

10 **Butch Lambert:** A petition from CNX Gas Company, LLC, for (1) the disbursement of
11 escrowed funds heretofore deposited with the Board's Escrow Agent, attributable to Tract 7, as
12 depicted upon the annexed table; and (2) authorization to begin paying royalties directly to the
13 parties listed in the petition. Docket Number VGOB 05-1213-1547-01. All parties wishing to
14 testify, please come forward.

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

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

17 **Mark Swartz:** Thank you. State your name for us, Anita.

18 **Anita Duty:** Anita Duty.

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

20 **Anita Duty:** Yes.

21 **Mark Swartz:** We are asking, this is another petition for disbursement where we're asking for
22 some payments out of escrow, the authorization to pay the recipients going forward, and to
23 dismiss some coal owners. Right?

24 **Anita Duty:** Right.

25 **Mark Swartz:** And the reasons for this disbursement request are, looks like there's one reason,
26 and it's the application of House Bill 2058, right?

27 **Anita Duty:** Yes.

1 **Mark Swartz:** And, let's go to Table 1. We're paying, we're seeking a disbursement to Claude
2 A. and Nancy Ray. We've got an address for them and I assume you've got W-9's from them
3 since they're here?

4 **Anita Duty:** We do.

5 **Mark Swartz:** Okay. And this is a percentage disbursement?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** And the escrow agent should pay those folks from the escrow, should be ordered
8 to pay those folks from the escrow account. The escrow agent should use 16.6084%, multiply
9 that times the balance on hand, when the disbursement is made, and that will generate the dollar
10 amount that should be paid to these folks, right?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** And you've provided the Board with a revised Exhibit E and EE, correct?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** And that reflects escrow going forward and payments going forward?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** You've got proof of mailing to Mr. and Mrs. Ray and they signed for their mail,
17 correct?

18 **Anita Duty:** Yes.

19 **Mark Swartz:** And then you've got an Exhibit J, where you looked for royalty payment and
20 corresponding deposits. When you did that, were you able to find a deposit for each payment?

21 **Anita Duty:** Yes.

22 **Mark Swartz:** And you ran this comparison through, it looks like, the bank balance on
23 November 30, 2015?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** And when you did your calculations and compared what you were expecting to
26 find in the account and what the bank had, was there a difference?

1 **Anita Duty:** We we're showing \$6.55 more than the bank. I take it back. Obviously, I have an
2 old one. There was a difference of, we were showing \$701.00 more than the bank was showing,
3 which is the reason this particular petition is on the docket.

4 **Mark Swartz:** Because it's more than \$500.00. And, we'll come back to that, but, lastly, you've
5 got an affidavit of mailing of a coal owner?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** You mailed to Swords Creek, September 21, 2015, they signed for it September
8 24, 2015, and we're seeking to dismiss them as coal owners except to the extent that they've
9 produced a royalty split agreement, and apparently that's not an issue in this disbursement.
10 Correct?

11 **Anita Duty:** Correct.

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

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

14 **Bill Harris:** I'm going to have to ask this, I'm afraid, Mr. Chairman. 701. How do we, what do
15 we do in that? I know we've talked about this before, but if you would indulge me. What do we
16 do when the bank shows less money than what...?

17 **Rick Cooper:** Well, what happened on this particular one, if you look at the first two items on
18 the reconciliation, CNX shows two deposits and the bank never showed those two deposits. So
19 that deficiency is being carried forward since this account was established. But to answer your
20 question, we would still disburse the dollars that is in the Table, proportional across the
21 percentage. So potentially, they'd get a little less than they normally would have gotten. But we
22 can never find and I don't think CNX could find, they did deposit the money, but the bank had
23 never shown that deposit being in the account from the beginning and we could not find where
24 the money actually went.

25 **Butch Lambert:** This was a Wachovia.

26 **Rick Cooper:** It was a Wachovia account, yes.

27 **Mary Quillen:** 2006.

28 **Mark Swartz:** If you look at the very beginning of our reconciliation, that's what Rick is talking
29 about. You know, we show those checks being sent and don't show a corresponding deposit,
30 right?

31 **Anita Duty:** Right.

1 **Mark Swartz:** I mean, that's our explanation but we don't have anything from the bank, with
2 regard to that.

3 **Bill Harris:** I'm sure this will be an accounting nightmare, but, it's almost like we should, the
4 one's where the bank shows more, we collect that and put it into a, I don't want to use the word
5 slush fund because that's not an economic or business term, but...and then, where's it different
6 like this, pay that back in but I know you can't just arbitrarily to that. The folks where it's in
7 excess, give a little more; the folks where it deficient, give a little less. I'm not sure how you
8 handle that.

9 **Mark Swartz:** You kind of looking at the wrong guy. What you're telling me makes sense but
10 I'm, you know.

11 **Bill Harris:** Yeah.

12 **Donnie Ratliff:** Is there a way to search on that dollar amount through all the spreadsheets, to
13 see if it pops up somewhere else?

14 **Mark Swartz:** Actually, we have put their data in an excel, I mean, all the banks data, so we can
15 look for a specific deposit and search the spreadsheet, so we do that. And sometimes we get
16 lucky. And I assume you do the same thing?

17 **Rick Cooper:** We do.

18 **Mark Swartz:** But here, we just haven't, it doesn't work. So yes, we both, their office and CNX
19 have that data in a searchable way to look for a specific dollar amount deposit and try to zero in
20 on it, and we just come up with, both office came up empty.

21 **Rick Cooper:** Correct.

22 **Mark Swartz:** And that's the bank data issue.

23 **Mary Quillen:** And there were questions that could never be answered from the previous escrow
24 agent. They had no explanation.

25 **Mark Swartz:** I mean, they received this money, as far as we know, and they put it somewhere.
26 But they haven't [Talkover]

27 **Mary Quillen:** But they've never give an explanation as to or verify where it went. So this...

28 **Anita Duty:** It makes it even harder to find if they credit two deposit at the time, in the same
29 month, and they add it together, then you'll never find that dollar amount that you're looking for.

30 **Mary Quillen:** Right.

1 **Anita Duty:** You always find a different dollar.

2 **Mary Quillen:** Right. And we found that was happening and that was the reason for a lot of the
3 discrepancies.

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

5 **Mark Swartz:** No.

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

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

8 **Bill Harris:** Second.

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

11 **Board:** Yes.

12 **Butch Lambert:** Opposed, no?

13 **Butch Lambert:** Thank you, Mr. Swartz. That one is approved.

14 **Mark Swartz:** Thank you

15 **Item Number 15**

16 **Butch Lambert:** A petition from CNX Gas Company, LLC, for (1) the disbursement of
17 escrowed funds heretofore deposited with the Board's Escrow Agent, attributable to Tracts 2, 4,
18 10, 11, 12, 13, 14 & 15, as depicted upon the annexed table; and (2) authorization to begin
19 paying royalties directly to the parties listed in the petition; (3) dismissal of coal owner. This is
20 Docket Number VGOB 06-0221-1582-02. All parties wishing to testify, please come forward.

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

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

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

24 **Anita Duty:** Anita Duty.

25 **Mark Swartz:** And I'll remind you that you're still under oath.

26 **Anita Duty:** Yes.

1 **Mark Swartz:** And you and I are here on behalf of CNX Gas Company, LLC, with regard to this
2 petition?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** And it pertains to BK115 and we're looking for three kinds of relief; first,
5 disbursements from escrow; ability to pay the people who receive the disbursements directly in
6 the future; and finally, a dismissal with regard to some coal owners. Correct?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** And the factual basis here it looks like this is another situation where we can pay
9 some gas claimants because of the effect of House Bill 2058, correct?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** Okay. And have you prepared a Table 1 that does that?

12 **Anita Duty:** Yes.

13 **Mark Swartz:** Okay. Table 1 deals with Tract 7? Yes, no? Have I got that wrong?

14 **Anita Duty:** [Indiscernible]

15 **Mark Swartz:** Okay, and it kind of makes a payment to Mr. and Mrs. Ray, just like in the last
16 [Indiscernible] Yes, no?

17 **Anita Duty:** [Indiscernible]

18 **Mark Swartz:** This is BK115. That's right. We don't have the exhibits for 116. I don't know if
19 you have the right Table 1. I downloaded it from the system. I got, actually, the BK115.

20 **Butch Lambert:** We have got BK116.

21 **Bill Harris:** It says 116.

22 **Mark Swartz:** Do you have, for the length, the list of people that almost fills an entire page?

23 **Butch Lambert:** Yes.

24 **Mark Swartz:** Okay.

25 **Butch Lambert:** With several tracts.

26 **Mark Swartz:** Gotcha. Okay. So Anita, with regard to Table 1 then for BK116, okay, we have
27 Tracts 2, 4, 10, 11, 12, 13, 14, and 15. Correct?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** And have you provided for each of those requested disbursements, the name of
3 the person or persons or a company?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** And for each person or company that we're proposing a disbursement be made,
6 have you provided a mailing address?

7 **Anita Duty:** We have.

8 **Mark Swartz:** And this is a percentage table?

9 **Anita Duty:** It is.

10 **Mark Swartz:** So in the second column from the right-hand side, have you provided a
11 percentage for each person or company that the escrow agent should use to calculate the dollars
12 by multiplying that percentage times the balance?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** And the escrow agent should be instructed to do that?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** Okay. And with regard Exhibit J, the reconciliation, it looks like it starts in '06
17 and goes through March 31, 2016, right?

18 **Anita Duty:** Yes.

19 **Mark Swartz:** And did you or someone who works for you, identify all the royalty checks that
20 had been issued and look for a corresponding deposit?

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

22 **Mark Swartz:** And when you did that, what did you determine?

23 **Anita Duty:** All of the payments were there.

24 **Mark Swartz:** Okay, and then did you do your math to estimate what you thought would be in
25 escrow?

26 **Anita Duty:** Yes.

1 **Mark Swartz:** And when you compared that to the bank balance as of March 31, 2016, was
2 there a difference?

3 **Anita Duty:** We were showing 0.13 more than the bank.

4 **Mark Swartz:** With regard to notice, it looks like Swords Creek signed for their mail?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** You mailed to them September 21, 2015, and they received it or signed for it on
7 September 24, 2015, and you're seeking to dismiss that coal company?

8 **Anita Duty:** Correct.

9 **Mark Swartz:** Did you provide the Board with revised Exhibits E and EE, [Indiscernible]
10 escrow requirements and payments going forward?

11 **Anita Duty:** We did.

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

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

14 **Mark Swartz:** Nope.

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

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

17 **Bill Harris:** Second.

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

20 **Board:** Yes.

21 **Butch Lambert:** Opposed, no?

22 **Butch Lambert:** Thank you, Mr. Swartz. That is approved.

23

Item Number 16

24 **Butch Lambert:** A petition from CNX Gas Company, LLC, for (1) reimburse overpayment of
25 funds deposited with the Board's Escrow Agent, attributable to Unit VP8SGU4 to CNX Gas
26 Company LLC, as depicted upon the annexed exhibit; (2) the disbursement of escrowed funds
27 heretofore deposited with the Board's Escrow Agent, attributable to Tracts 1K, 1L, 1M, 1N, 1O,

1 1BB, 1CC, 5A, 5E, & 5F, as depicted upon the annexed table; and (3) authorization to begin
2 paying royalties directly to the parties listed in the petition; (4) dismissal of coal owner. This is
3 Docket Number VGOB 06-0321-1597-01. All parties wishing to testify, please come forward.

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

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

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

7 **Anita Duty:** Anita Duty.

8 **Mark Swartz:** And I'll remind you that you're under oath.

9 **Anita Duty:** Yes.

10 **Mark Swartz:** And you and I are here on behalf of CNX Gas Company, LLC today?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** And this particular petition pertains to VP8SGU4?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** It's a request for some disbursements from the escrow account and the reason for
15 the request is, when we apply House Bill 2058 to the situation present here, at least in the tracts
16 we're dealing with, we have some gas claimants now that we've identified that we can pay?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** And we also have provided 45-day notice or notices to coal owners and we want
19 to dismiss them?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** With regard to the gas claimants that we can pay, have you done an Exhibit or a
22 payment table?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** And that's a percentage table and that's Table 2, correct?

25 **Anita Duty:** Yes.

26 **Mark Swartz:** But we also have a Table 1, which is an exact dollar amount payment that needs
27 to be made before the percentage payments?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** Can you explain to the Board what we're talking about, with regard to that
3 \$6,201.41 payment to CNX?

4 **Anita Duty:** We had filed an additional supplemental order to show payments that were made,
5 well, first of all, we broke up tracts where new owners had been identified and, I guess that was
6 put on record in February 2013, and once we showed the new owners, they also placed those
7 owners on pay which they should not have done. They should have waited until we actually filed
8 a petition to do so, but they never paid those funds into escrow. They always paid them directly.
9 So the money that was meant for the new owners, was always paid, even though they were also,
10 so they double paid it. They paid it in the escrow and then they put them on direct pay and once
11 we filed the supplemental order in 2013.

12 **Mark Swartz:** So this \$6,201.41 is royalty that you've already paid to the owners and if they
13 were to receive this, they would have received double?

14 **Anita Duty:** Correct. They've already been placed on pay from the beginning.

15 **Butch Lambert:** So this money is sitting in escrow? \$6,000 is in escrow?

16 **Anita Duty:** Correct.

17 **Mark Swartz:** So that's the explanation for that exact pay number coming up?

18 **Anita Duty:** Correct.

19 **Mark Swartz:** And once that happens, the balance will be correct so that when the escrow agent
20 applies the percentages in Table 2, the people won't receive double payment. They'll receive the
21 right amount?

22 **Anita Duty:** Correct.

23 **Mark Swartz:** With regard to Table 2, it's fairly extensive. Its two pages. Correct?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** And it pertains to several tracts?

26 **Anita Duty:** It does.

27 **Mark Swartz:** And for each payment that you're asking be made out of escrow, have you given
28 the name of a person or a company and their address?

29 **Anita Duty:** We have.

1 **Mark Swartz:** And have you also given a percentage in the second column from the right-hand
2 side of the table that the escrow agent is to use to apply to the balance on hand at the time of the
3 payments to come up with the correct dollar amount to pay to each person?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** And, have you provided the Board with revised Exhibits E and EE, which would
6 show the requirements after these disbursements occur and the payments that are to be made
7 after we have a right to direct pay?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** Rolling through here, we've got your certifications, with regard to notice, and it
10 looks like we got something back from Connie Hayes Charles?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** But in the meantime, since we filed this, I can safely assume that we have
13 received a W-9 from her and been in touch with her?

14 **Anita Duty:** We did.

15 **Mark Swartz:** So we've got an address and a W-9 and she's expecting [Indiscernible]?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** Okay. With regard Exhibit J, again, did you list all of your royalty payments and
18 look for deposits?

19 **Anita Duty:** Yes.

20 **Mark Swartz:** And when you did that through, it looks like through the end of January 2016,
21 what did you determine?

22 **Anita Duty:** All of the checks were deposited?

23 **Mark Swartz:** Okay. And then you did your math and compared that to the bank balance as of
24 1/31/16, and what was the difference?

25 **Anita Duty:** We were showing \$6.78, in our calculation, more than the bank.

26 **Mark Swartz:** And we've got some mailings to some coal owners, correct?

27 **Anita Duty:** Yes.

1 **Mark Swartz:** And you've got a chart there; a couple of exceptions. Everybody signed for their
2 mail and the exceptions are identified, so obviously, the people that are identified in this
3 certificate, we are not seeking a dismissal until they get their mail. And with regard to people
4 who signed for their mail and did not respond with either an agreement or evidence of a lawsuit,
5 we do want a dismissal, with regard to them?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** And it's clearly identified on that chart, we've got Heather Dawson, returned;
8 Mullins, ran it over to Mullins, unclaimed; John David Mullins, unclaimed; we've got a bad
9 address for Thomas L. Mullins; and we've got a return from the Baker heirs. So with those
10 exceptions, we're seeking a dismissal of the people who signed for their mail?

11 **Anita Duty:** Yes.

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

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

14 **Donnie Ratliff:** Mr. Chairman. The recoupment, does it just effect the people that's listed in
15 Table 1 or did you scatter that through the whole account, so the people that's not being
16 reimbursed, the money stays in escrow, or did they take a decrease in number, as well?

17 **Anita Duty:** It would actually affect everybody that would get paid.

18 **Donnie Ratliff:** Everybody that was in it.

19 **Anita Duty:** So we want to go ahead, we want to get that paid out and that way, once we get that
20 paid, we can use that balance to pay everybody, so nobody will be overpaid.

21 **Donnie Ratliff:** Okay.

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

23 **Mark Swartz:** No.

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

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

26 **Bill Harris:** I'll second that.

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

1 **Board:** Yes.

2 **Butch Lambert:** Opposed, no?

3 **Butch Lambert:** Thank you, Mr. Swartz. That is approved.

4 **Item Number 17**

5 **Butch Lambert:** A petition from CNX Gas Company, LLC, for (1) the disbursement of
6 escrowed funds heretofore deposited with the Board’s Escrow Agent, attributable to Tracts 16A
7 & 16C, as depicted upon the annexed table; and (2) authorization to begin paying royalties
8 directly to the parties listed in the petition; (3) dismissal of coal owner. This is Docket Number
9 VGOB 11-0215-2911-01. All parties wishing to testify, please come forward.

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

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

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

13 **Anita Duty:** Anita Duty.

14 **Mark Swartz:** And I’ll remind you that you’re still under oath.

15 **Anita Duty:** Yes.

16 **Mark Swartz:** And you and I are here today on behalf of CNX Gas Company, LLC. Correct?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** And this particular docket item pertains to Buchanan Mine No.1 SGU3, correct?

19 **Anita Duty:** Yes.

20 **Mark Swartz:** And we are asking for a partial disbursement from this account for the ability to
21 pay the people that received these disbursements directly, going forward, and we’re asking to
22 dismiss coal owners, as well?

23 **Anita Duty:** Yes.

24 **Mark Swartz:** And the factual basis, we have two here: we have some situations where coal
25 claimants and oil and gas claimants have entered into split agreements and so, to that extent,
26 those coal owners are gas claimants, right?

27 **Anita Duty:** Correct.

1 **Mark Swartz:** And then we've got some others tracts and other people where there are no
2 agreements, there are no lawsuits, and the gas claimants, under House Bill 2058, are now the
3 owners and we can pay them?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** And as we've seen, we'll get to that, but we provided 45-days' notice to coal
6 owners and, to the extent that they haven't responded or offered evidence of an agreement or a
7 lawsuit, we're seeking to dismiss them?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** And with regard to the disbursements, you've prepared two tables. We've got
10 Table 1, which is an exact dollar amount table, and then a Table 2, which is a percentage table.
11 The reason for the Table 1 is what?

12 **Anita Duty:** Those owners were previous owners and we purchased their interest.

13 **Mark Swartz:** So that's to get money out of escrow to the people to the date their ownership
14 transferred. That's the exact dollar amount numbers that need to be transferred before we get to
15 Table 2, where we have the percentages?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** Okay. And in Table 2, you've identified companies, actually, it's all companies
18 that are to receive the escrow disbursements?

19 **Anita Duty:** Yes.

20 **Mark Swartz:** And you've given an address for each of them?

21 **Anita Duty:** Yes.

22 **Mark Swartz:** And, it looks like you've given an exact dollar amount here?

23 **Anita Duty:** We have. No, not on Table 2. Table 2 is the difference.

24 **Mark Swartz:** That's the adjustment amount?

25 **Anita Duty:** Yes.

26 **Mark Swartz:** Okay. Gotcha. So actually, the third column from the right-hand side of Table 2,
27 is the percentage that the escrow agent should be using?

28 **Anita Duty:** Yes.

1 **Mark Swartz:** Okay. So the escrow agent should be instructed to take the percentage in the third
2 column on Table 2 for each company identified, multiply that percentage times the total balance
3 on hand after the Table 1 amounts have been paid, and that will generate the dollar amount that
4 should be issued to each of the companies or payees, correct?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** You've provided the Board with revised Exhibits E and EE showing the going
7 forward status of the escrow and the payments?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** And you've got an affidavit of mailing and the certificate shows everybody got
10 their mail?

11 **Anita Duty:** Yes.

12 **Mark Swartz:** In Exhibit J, which started in 2011 and runs through March 31, 2016, correct?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** Were you or your folks able to find a deposit for every royalty check you issued?

15 **Anita Duty:** We did.

16 **Mark Swartz:** And when you did your math to compare what you were thinking you would find
17 in the account with what the bank had, was there a difference and if so, what was the amount?

18 **Anita Duty:** The bank was showing \$53.13 more than our calculation.

19 **Mark Swartz:** Now we've got an affidavit of mailing to a coal owner and you mailed to the
20 James McGuire Land Trust and you mailed to them on November 2, 2015, they received it on
21 November 4, 2015, and you're seeking an order dismissing them from this case except to the
22 extent they may have a royalty split agreement?

23 **Anita Duty:** Yes.

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

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

26 **Mark Swartz:** No.

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

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

2 **Butch Lambert**: Do I have a second?

3 **Donnie Ratliff**: Second.

4 **Butch Lambert**: All in favor, signify by saying yes.

5 **Board**: Yes.

6 **Butch Lambert**: Opposed, no? [No Response]

7 **Butch Lambert**: Thank you, Mr. Swartz. That one is approved.

8 **Item Number 18**

9 **Butch Lambert**: I understand this may be a pretty long docket item from Mr. Swartz. Do you
10 expect to take a quite a bit of time for this one?

11 **Mark Swartz**: Well, it could take a half an hour or it could take a really long time. It sort of
12 depends on y'all. In terms of how many questions, you know. If it's as clear as mud, it'll take a
13 while, if it's not, it won't.

14 **Butch Lambert**: Okay. Thank you for that explanation. Let's go ahead. It's about 10 minutes till
15 noon. Let's just go ahead and hear it.

16 **Mark Swartz**: Okay.

17 **Butch Lambert**: And that way we'll clear out the docket before lunchtime.

18 **Mark Swartz**: Well, let me give you a sort of an overview to kind of...

19 **Butch Lambert**: By the way, for the Board, Docket Item Number 18. That's what's in front of
20 you in the binders.

21 **Mark Swartz**: What I'll try to do is kind of give you an overview of what's in the binder and the
22 information that's sort of a summary of what we've provided with you to kind of bring you up to
23 date as to where everybody is, and then also, give you an indication of what we're asking you to
24 do. Okay? So, as you all probably recall, we were here in December, and at that time we had a
25 list of 453 units that were in escrow that we were asking for some additional time, and we got a
26 six-month extension to deal with those 453 units from, actually January 1st through June 30th, so
27 it's not quite up yet. But we took the same 453 units and there's a page in this book, one page for
28 each unit, and there's both sides, so we've given you a summary in the book that you have of
29 where are we on each of the units and why. What's the amount of money in there; are we able to
30 close it; are we going to close it; it's just in process; is it not going to be closed because there are

1 problems; and what are those problems. And so, and I'm going to go through the book
2 eventually, and give you some examples of different categories but what we did to sort of short
3 cut that is we created a fairly substantial spreadsheet because there's 453, you know, units, in
4 this spreadsheet and we took, in the spreadsheet, we identified the unit, we identified the tracts
5 that are a problem, or that are in escrow that are or are not a problem, and then, our first column
6 was the good news column, you know, we either closed the unit or it can be closed. And there
7 would be a checkmark, and on the first page here you'll notice that AV102 and AV110 are in the
8 column closed or to be closed. And closed means between January 1st and today. We actually
9 were in front of you, we had a hearing, and you issued an order and the account was paid out and
10 it is, in fact, closed. Or, we were in front of you or we were dealing with Mr. Cooper directly,
11 and there's an order pending to close the account and pay out but the bank hasn't written the
12 checks yet. So, the closed or to be closed means we've done the work; we've got an order from
13 Mr. Cooper's office or we've got an order from you; or we have filed a petition, and let me sort
14 of bring that forward. This chart is current through June 6th. Okay? Because we knew we needed
15 to provide you with this documentation in advance of the hearing, so we just closed this chart. I
16 have looked at what we have filed since June 6th. So between June 6th and June 20th, just in terms
17 of additional partial disbursements, there are another twenty cases that we have filed that are not
18 on your docket but that will be on your July docket, seeking partial disbursements from these
19 accounts. So it's always a moving target. We're going to file some more between today and the
20 end of the month, you know. So, there's going to be more activity. Of the twenty that we filed
21 between June 6th and June 20th, one of them will close out an account. So actually, this, you
22 know, if we were to make this current today it will be 61 instead of 60. So, first column is to be
23 closed. Second column is, and as you look through here, we actually identify it pretty
24 specifically, but the second column is, we're waiting for something from a gas claimant that is
25 preventing us from paying that person. They haven't given us a W-9, we see that all the time,
26 you know? There's an affidavit of ownership, we, you know, expect them to say, as of this date,
27 I actually own this, cause you know, if they're not prepared to say that, then we need to look at
28 their title. So, we're either waiting for a W-9 or we're waiting for an affidavit of ownership, and
29 those folks are listed in that column. And, you can be thinking about this as we work through
30 this, so I'll just point it out to you now; we don't have control over whether or not we're ever
31 going to get a W-9 and we've actually had people say, "I'm on SSI. I don't want to screw up my
32 benefits, and I'm never giving you a W-9 because I don't want income. It's just peanuts and I
33 don't want it." So we have actually had people tell us, "We're not going to give you a W-9. I
34 don't want to be paid." So some of these, we're never going to get it back. Some of these I
35 expect we will get back. There are some accounts with some pretty substantial funds in them. I
36 don't know if you've had a chance to really look at this and all we're waiting for is a W-9. I
37 assume at some point, if a person could receive \$100,000.00 if they just gave us a W-9, then it
38 may be reasonable to assume, we're going to get that W-9. As an operator, we're responsible for
39 these wells, I mean, none of this goes away. As we get W-9's or affidavits and as people return
40 stuff that we need to pay them, we will back here, but we don't need an extension, I mean, we're
41 done. You know, we've computed their interest; we're written to the and said, you know, we're

1 prepared to pay you, we're going to petition the Board to get this money out of escrow, just give
2 us a W-9, give us an affidavit, we'll make that happen, and they're not responding. So, on these,
3 we're done. We have nothing further. We don't need an extension. We finished. But in terms of
4 going forward, I think the Board needs to acknowledge in an order that we have situations where
5 you're done, you know, we're done. I mean, you can't pay people who don't give you W-9's or
6 give you an affidavit. So, that's something that will come up as we go further. Another example
7 of being done, or your hands being tied, is the gas title conflict. We have identified, and there are
8 quite a few of these, situations where the title is in doubt. There's a conflict and I'm not talking a
9 gas/coal conflict. I'm talking two people...the title to the gas is in conflict. We can't figure that
10 out. Some of those, I think there's enough money involved, and you can tell which ones they are
11 because they're identified on the sheets. Some of them, there's enough money where the people
12 are probably going to go to court to resolve the conflict or they're going to settle, and at some
13 point, someone's going to come in and say to us, or to you perhaps, here's my judgement order. I
14 won the title issue. I want to be paid. And of course, at that point, then, we're in a position we
15 can do something about that. There are some title conflicts and I made a note to do, and rather
16 than come back to this, just look at the first page of your book here, of the...

17 **Donnie Rife**: Is everything in the book on the docket?

18 **Mark Swartz**: Yes, yes. So it would be, if you're looking at the electronic thing, it's the first
19 page on the Unit Escrow Summary, and it's Unit 25314, okay? And that just happens to be, it's a
20 title conflict, and happens to be a conventional well, not a Coal Bed Methane Well, but it's in
21 escrow because we don't know who owns this interest. It's a title conflict, okay? And this title
22 conflict involves \$301.80. It's hard for me to imagine two people, hiring two sets of lawyers and
23 starting a Circuit Court case, I mean, I guess it could happen, okay? But I don't think this title
24 conflict is going to be resolved by litigation. Maybe these people will settle this and say, oh let's
25 just split, but I mean, there is money in some of these accounts with title conflicts where the
26 money is so minimal that, I think, we all need to be aware of the fact, we may never be back to
27 you, no one may ever come in here and say, we've resolved this conflict, you know, pay us. Just
28 be aware of that. Then we've got people that either we can't find them, which is the unlocatable
29 column, or we have a name, I'm sorry, we have a name but we can't find them. That's
30 unlocatable. Then there are a few, we don't even have a name. I mean, we just don't know. This
31 interest is the yellow poplar in spade, you know? We just don't have an address or a name and
32 there in this column, and I'm going to talk about the unresolved heirship in passing because
33 those three columns go together. We've got a lot of heirships, involving a lot of tracts and we've
34 resolved a whole bunch of them over the years and in the last year. But we've also done enough
35 work on a lot of these heirships to realize they're at an impasse. We cannot resolve them. We
36 have done Lexus people searches; we have searched the social security death records; we have
37 searched, we have talked to relatives, if we can find them; we have gotten their information; we
38 have gone to the county records; we have gone, if someone moves out of state, we have gone to
39 that county records, you know, and we've done all of this and there are a number of people in
40 these heirships...

1 **Donnie Rife**: [Indiscernible]

2 **Mary Quillen**: There's several generations out, aren't they? That makes it very difficult.

3 **Mark Swartz**: Although it doesn't necessarily mean just in the time, but yes, there are a number
4 of these where you're talking about a lot of years, but a big problem, and I was talking to David
5 Altizer, that does a lot of our title work, but we've got contractors who have been doing this as
6 well. When people leave a state, the state, it really gets to be difficult. David was giving me an
7 example of somebody who moved to Alabama and, you know, we had a good track of him until
8 he left for Alabama and his family, but he was part of, you know, several kids and he moved to
9 Alabama, and at that point, we completely, the family lost track of him and we lose track of him.
10 We looked in the county we knew he moved to and find nothing and you not only got time, but
11 people in this country tend to move around and have for years, it's gotten worse recently, but, I
12 mean, there are just, there are a number of these where we have, you know, done the record
13 searches. The Lexus people search, which is quite helpful; you know, social security records are
14 pretty helpful, but there are a bunch of these we're just done. I mean, there's just nothing further
15 we can do. And that sort of pertains to, I mean, we do the same thing, with regard to with
16 locatable of unlocatable gas claimants. I mean, that's how we look for them, and you get to a
17 point where you've done your due diligence, you know, your reasonable search every source
18 imaginable, and the best thing is if you can find a family. But sometime we find family members
19 and they don't know where these people are either and they're not a lot of help helping us locate
20 them, so there's a column here of unresolved heirships and those are not unlike the title conflict
21 or the unknown or unresolved. I mean, if someone comes in and says, "I understand you been
22 looking for me for a year. I'm the guy." Okay? We'll pay that person, but it's really, we've
23 reached an impasse. We can't. We're done. But if these people show up with information about
24 their uncle who disappeared to Alabama or whatever, and we can tie this down, we will
25 obviously do that in the future, but we're done at this point. Then the last couple, the next couple
26 columns, we've got some heirships and there are not a ton of them but we have some we would
27 like another 90-days to work them. There's a column here we have not reached an impasse on
28 these heirships, I mean, that's where we are. We've got some further things to do and some
29 instances, we just got something a week ago. You know, and we have not been able to nail it
30 down. But we've identified a list of units with heirships where we're saying, we would like
31 another 90 days to either wrap this up and pay people, or come back and say we've done
32 additional due diligence and this one is an impassable. It's going to go one way or the other. But
33 I suspect we're going to resolve some of those and be able to pay some additional people. Then
34 we've got a column and there are not a lot in this column but there are some, when we filed this,
35 you know, I cut it off as of June 6th, we knew there were going to be people that hadn't been paid
36 yet that were in process. We knew we were going to continue to file and we've done a bunch of
37 partial filing, and so to let that sort of go through and pay these people, we're asking for a 60-day
38 extension and we've identified those units. We're in a position to pay people but we haven't
39 been able to get it done because, you know, it takes time to get on your docket, it takes time to
40 get through your process, and the mailing. So, and then we've got some reasons beyond our

1 control and there's just a couple of those and then some litigation columns, as well. And if you
2 go to the tail end and cut to the bottom line here.

3 **Donnie Rife**: What page?

4 **Mark Swartz**: At the very back of this chart. Whether you're looking at it physically or you're
5 looking at it online. We've got 453 units that we've listed. There's a total of 1,372 tracts in these
6 units that are an issue in this chart and in the discussion today. We've closed, or to be closed 60
7 units, and then you'll notice as you go out here, the listed tracts. What I wanted to do to give you
8 a sense of what are we talking about in terms of units? Okay, so we started in December, January
9 1st, with 453 units. We are...if you go down the unresolved heirships where we're asking for 90
10 days column, and the recently resolved heirships or other issues where we're asking for 60-day
11 extension to pay people, that effects 72 units. Okay? So if you just go down unit by unit because
12 sometimes there are multiple checks in a unit but that's, there are 72 units that we are
13 affirmatively saying to you, I'm going to get to that in a moment here so you can [Indiscernible]
14 stop and you will have questions, but, we are affirmatively saying, we are not done with 72 units
15 that fall into the category of either we'd like another 90 days to work the heirships or we'd like
16 another 60 days to make some more payments that we see we're going to be able to do. You
17 know, you're going to see some of them, Rick is going to see some, you're going to see some on
18 here on the July docket, so the order of magnitude....we started with 453 in January, that we
19 wanted a 6-month extension, and we have sorted through those, down through those, and we're
20 at 72, and at the end of the day, I don't think we're going to be at zero when we come back to
21 you, but we're going to have some other columns where, you know, we resolved this and now
22 we want to pay them; or, we can't resolve this and we're at an impasse; or we tried to pay people
23 and we wind up with some address issues or some W-9 issues or whatever, you know? But, it is
24 going to be less at the end of this period of time, it's going to be less than 72 units and we're
25 going to have a running total of where we were today and what have we done in the meantime.
26 So we're looking for some additional time on 72 units. With regard to the other stuff, I think you
27 need to enter an actual order because the [Indiscernible] sort of puts a burden on you guys, as
28 well, you know, to do something about the escrow. And I think we need an order saying that,
29 with regard to the units that we haven't closed, this is the state of affairs and we are, you know,
30 at the mercy of third parties, and I think we need, that needs to be part of the record; part of the
31 order.

32 **Mary Quillen**: Agree.

33 **Mark Swartz**: Because it's the reality and I think we need to address that. You know, whether
34 the legislature expected that all of these people would come out of the woodwork with the
35 information we need to pay them, I can't image they expected that but maybe they didn't think
36 about it, but there's no way, you know, that escrow accounts going to be zero 60 days from now
37 or 90 days from now, with regard to my client. For a whole bunch of reasons that are not in your
38 control and not in our control, so that, bottom line is, I tried to go through with a lot of work

1 from my clients. I have, I did some of this but not the heavy lifting. I try to go through every unit
2 that we've asked for an extension on, that was in escrow, you know, at the end of last year; bring
3 you up to date with good, solid information; categorize them in some sensible way, in terms of,
4 what can we continue to work on, and what are we really done with; and so what I, the summary
5 of the relief that I'm looking for is, we would like a 60-day extension, with regard to the units
6 we've identified; we would like a 90-day extension, with regard to the units in the heirships
7 we've identified, which totals 72 units, and they can be identified by name on this chart. We
8 would like an order that indefinitely continues your obligations and our obligations, with regard
9 to the situations where we're done. Obviously, as the operator, we would not resist any kind of
10 an indication in that order that we are to continue to do business in the ordinary course. I mean, if
11 someone comes to us and says, "I'm now found", you know, we're going to process that. If
12 somebody comes to us with more information on an heirship, we're going to process that, but,
13 and that's certainly an ongoing obligation we have, whether you order us to do that or not, we've
14 been doing it for years, we're going to continue to do that, but I think we need something in the
15 order that categorizes these units, in terms of where they are. And then the last thing that I, I
16 don't think we need to address that in the order today but it's something that I've talked to Rick
17 about, is there's a publication requirement in the statute that says, if you get to a point where you
18 can't pay people, okay? You need to publish it and tell them what they need to do, okay? And,
19 the discussion I had with Rick is, we need to be done with this or as close to done as we can so
20 that we have the smallest list of people that we're telling this is what you need to do. So I would
21 contemplate, you can address this in the order, you know, we're going to address that when we
22 come back in 60 or 90 days, if you grant us this relief or not. It's not essential, but I think we
23 definitely want, our preference would be to weight the publication of, this is what the collective
24 multitude needs to be. Now, when we're publishing, we're going to be publishing with regard to
25 these title conflicts, for example. We're going to be telling these people, you have a title conflict
26 that prevents us from paying you, and you need to resolved that to get paid, I mean, essentially is
27 what's going to happen in the publication, but we want to pay the maximum number of people
28 before we go through that drill.

29 **Donnie Rife**: Do you have a lot of problem when it comes to heirship property, or who's paying
30 the taxes on the heirship property?

31 **Mark Swartz**: Who's paying the taxes on the heirship property?

32 **[Indiscernible]**:

33 **Mary Quillen**: And so what happens...

34 **Mark Swartz**: Were you all able to hear that?

35 **Donnie Rife**: Yeah, but if you want to simplify that, then why don't the localities go ahead and
36 put it up for sale...

1 **Mary Quillen**: That's right, yeah.

2 **Donnie Rife**: And let somebody come in and buy it, put it back in the tax base, and benefits the
3 localities, cause if nobody's paying taxes on the heirship property, give the notice, whoever it is
4 that you can notify, and put the stuff up for sale and it would simplify your list. Because a lot of
5 people that own property will come back and buy this property, provided they can get a clear
6 title, but the only way they can get a clear title is if the locality put it up for sale.

7 **Mark Swartz**: As simple as that sounds, many, many times you find the surface owner is
8 accidentally paying the mineral taxes. I mean, it's just not that simple and it's not something, I
9 mean, we can't go to the counties and tell them to start forfeiting lands.

10 **Donnie Rife**: Why not?

11 **Mary Quillen**: Because the land owners and the mineral owners may be two entirely different...

12 **Mark Swartz**: Or three.

13 **Mary Quillen**: Yeah, entirely different, so you can't actually put the property up for sale, but are
14 they paying taxes on those minerals?

15 **Mark Swartz**: See, a lot of time people don't pay taxes on this and it just sits forever.

16 **Mary Quillen**: Yeah.

17 **Mark Swartz**: Because there is not an aggressive county government...

18 **Donnie Rife**: Determine forever.

19 **Mary Quillen**: Yeah.

20 **Mark Swartz**: Like years and decades.

21 **Donnie Rife**: Well, five years is plenty and, you know, [Indiscernible]

22 **Mark Swartz**: No, I'm saying, but the local governments are not aggressive in terms of saying,
23 you know, you're going to forfeit and pursue that. I mean, that's, I mean, it's a political hot
24 potato, obviously,

25 **Mary Quillen**: Right. Right. That's true.

26 **Mark Swartz**: But I mean, I, you know, I haven't done title work on this stuff for quite some
27 time but when I was looking at it 10 or 15 years ago, I mean, there was tons of property nobody
28 was paying the taxes on. I mean, the mineral taxes. Or you would find surface owners that

1 clearly they didn't own the minerals; they thought they did, I guess. You know, but when you do
2 the title, they weren't and their paying the taxes on it.

3 **Mary Quillen**: So basically, what we're doing is looking at different section of this. I think that
4 60 days is a no brainer. I think, definitely, because those have been resolved and you're just
5 getting those payment may and getting those in the system.

6 **Mark Swartz**: Right, we're in a position to pay it, it's just getting it through the system.

7 **Mary Quillen**: Right. And then the 90 days, you're close to resolving but you feel like...

8 **Mark Swartz**: We think there's an opportunity to resolve it. We're not done.

9 **Mary Quillen**: An opportunity to do those, so I think those are the things to that we should
10 address and then go back to these others, things like litigation, you know, how long is litigation?
11 Now, with this House Bill, a lot of the litigation is taken care of, but there's other litigation
12 between individuals.

13 **Mark Swartz**: This is litigation that the House Bill does take care of.

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

15 **Mark Swartz**: Litigation between people not involving us, not involving..

16 **Mary Quillen**: Okay, okay. So these are all, so those are things that are beyond control if it's in
17 litigation because it could go on for a while. I think we have to look at this in sections, rather
18 than looking at the whole big picture because it's just so overwhelming.

19 **Butch Lambert**: If I could make a recommendation to the Board, there is a lot of information
20 here and a lot that we need to consider, but I think granting the 90 and 60 day extensions on
21 what's already known, or that we're working on, would be a fair thing for the Board to do.

22 **Mark Swartz**: 72 days.

23 **Butch Lambert**: However, the rest of the, what you're asking the Board to enter an order for the
24 rest of it, I would recommend that we take that under consideration and we continue that portion
25 of it until July, to let us have a time to think about it. Let us have time to talk with counsel about
26 it, and then see what exactly we can do.

27 **Mary Quillen**: Right.

28 **Mark Swartz**: I have no problem with that. I mean, I'm not sure that we need an order on the
29 rest of them because we are telling you we're done. But I think just in terms of completing the
30 record as an agency and as companies, you know, we need to think about that, and we'll have a
31 month to think about it.

1 **Butch Lambert**: The Board would agree with you that there's a lot of issues that we already
2 know that probably are not going to get cleared up. One way or the other. I would recommend to
3 the Board that we take a little time to think about that portion of it and how to proceed forward,
4 but in the meantime, the Board would recommend that, I would recommend that we would grant
5 the extension, of course that would be in the form of a motion and up to the Board to decide but
6 that would be my recommendation.

7 **Mark Swartz**: And in the meantime, we're going to be receiving W-9's and other information.
8 We're going to be continuing to process that, whether or not it's addressed by this chart, so this
9 is going to be a moving target. Hopefully, there's going to be less than this. Two points before,
10 Jamie, who is my expert on taxes, a lot of times the mineral estate is not even assessed, so it's
11 not that the surface owners paying it or it's just not assessed. It does not have a value assigned by
12 the assessor's office. So there's situations where it is assessed and the wrong person is paying it
13 or it's not being paid, but there are also situations that we find where the mineral interest does
14 not have an assessed value. If the assessor concludes that it's severed from the surface, it may
15 not be assessed at all. And then the last thing I would tell you, and I was going to bring this but
16 then I thought, you know, this is probably enough of a book to share with you. But we have one
17 that Jamie and I have been talking about, we have one estate, and we do this stuff in excel
18 spreadsheets, and we start with a fraction. So you'll have 3 over something. Okay? The fractions
19 are so, the number under the slash is in excess of a million. It is reporting, so you can image how
20 many pages, and it is reporting a decimal that the excel spreadsheet will not show in the
21 spreadsheet. You can't make the column big enough for the percentage, so it's just blank.
22 You've got your fractional interest that it'll show, okay? But it will not convert it to a division of
23 interest. I mean, that is, so when we're asking for some additional time, some of these things,
24 there are a lot of them that are complicated but some of them are just like, oh my, you know.
25 And you know, when we come back, I may bring one of those, cause I didn't want to bring you
26 too much today, but these are very complex, with lots of moving parts. I mean, David I talked to
27 him a couple weeks ago, he was just about to resolve an heirship. Somebody comes out of the
28 woodwork and where missing somebody. Basically, we need to start over with another piece of
29 it, and you know, that happens.

30 **Mary Quillen**: That's right.

31 **Mark Swartz**: So, I'm assuming we are, and I think it's safe to assume, we are going to resolve
32 some of these heirships in the next 90 days, but there are some of them we're not.

33 **Donnie Ratliff**: How many parties and how much money's in this book?

34 **Mark Swartz**: You know, you don't want to know. I mean, its hundreds of thousands of dollars.

35 **Donnie Ratliff**: I can see it. It's over a million. You can look over it and see.

1 **Mark Swartz**: Well, that's a different question. Just in the book is hundreds of thousands of
2 dollars. I mean, at times it was in excess of \$250,000, just on contract.

3 **Donnie Rife**: Money just floating through the air.

4 **Mark Swartz**: Well, nobody's happy about doing this. I mean, that's a lot of money, you know,
5 but it's the kind of work and the kind of diligence that needs to be applied. This is a massive
6 undertaking, you know, and we felt like we need to come back here with a book. I mean, we
7 have detail behind these books, which is another three or four books that high, to answer
8 questions in which we'll bring with us when we're back here in July, cause after you have more
9 time to study this, but I mean, we're talking, this is a fortune invested in this.

10 **Mary Quillen**: Well, we have seen over the years some of those heirships when we we're getting
11 printed copies that would be, I mean, just the list of those heirs would that think. They'd be
12 pages and pages and pages of that, it almost beyond...

13 **Mark Swartz**: Well, we have one ownership, Anita says, that's 67 pages of legal size paper. One
14 heirship of the people, single spaced. But yeah, it's part of the deal.

15 **Mark Quillen**: Yeah, that's true.

16 **Mark Swartz**: You try to resolve it.

17 **Bill Harris**: Let me ask one other question about one of your columns; that reason beyond
18 control, you may have addressed that.

19 **Mark Swartz**: I'll give you my favorite example.

20 **Mary Quillen**: Yeah, give us an example.

21 **Mark Swartz**: It's the banking.

22 **Bill Harris**: Oh.

23 **Mark Swartz**: You know, we've got escrow accounts that don't balance and there's actually
24 some of the pages in here say, if you go through reasons beyond control, you will find the ones,
25 there will be somewhere the heading across, some of them say title conflict, some of them across
26 the top, the escrow account balance, the escrow account is out of balance and we can't resolve all
27 of it and so, that's beyond our control. We don't get a payment out of that, but that's an example.
28 And there's probably a half a dozen of those. And you know, that's in his control. That guy over
29 there.

30 **Mary Quillen**: That guy.

1 **Mark Swartz**: Except, you know, his job is about as bad as ours. Some of these issues you just
2 can't resolve them. I mean, you know, you get to a point where you've got your available records
3 and you've done your best but we're certainly not going to push back on your recommendation. I
4 mean, I think that's, we need some assistance on the 72 units that we're talking about. We'd like
5 to see that happen. You need to think about what you want to do as a Board, with regard to your
6 obligations that's under the statute. I mean, we've given you a recommendation. I don't see any
7 reason coming back in month or not come back in a month so I'm not going to push back on that,
8 but we do need to address it at some point.

9 **Butch Lambert**: Make a motion?

10 **Mary Quillen**: Well, I think this is something that's going to have to be twiddled away, section
11 by section, as the information becomes available.

12 **Mark Swartz**: Well, I've addressed that. I mean, if you didn't understand.

13 **Mary Quillen**: And it's going to be a long endeavor.

14 **Mark Swartz**: We're going to do that. We are always going to do that, but it's not, it's sort of
15 like, order us to finish heirships that are at an impasse. Our defense would be you've assigned us
16 an impossible chore. I mean, you know, that's not helping.

17 **Mary Quillen**: That's exactly right.

18 **Mark Swartz**: But the response of the company is, people turn up that you couldn't find.

19 **Mary Quillen**: And you widdle it away in small chunks.

20 **Mark Swartz**: And we take care of it. Right. But, I mean, but it's really in somebody else's
21 hands. It's really no different than somebody we said, you need to send us a W-9 and they don't
22 send us one. I mean, we know where they are, we know who they are.

23 **Mary Quillen**: And you can't force them to do it, and so that's out of your control.

24 **Mark Swartz**: Correct. And yours.

25 **Mary Quillen**: Exactly. There's nothing, other than this suggestion that...

26 **Mark Swartz**: Well, we need to figure out.

27 **Donnie Ratliff**: You ready for a motion, Mr. Chair.

28 **Butch Lambert**: Yes.

1 **Donnie Ratliff**: I make a motion that we grant the 90-day extension on the heirships and the 60-
2 day extension on the payments of the gas claimants, whether it's W-9's or title conflict, and, is
3 that not what we're doing?

4 **Mary Quillen**: Yes.

5 **Butch Lambert**: And then we continue the rest of it.

6 **Donnie Ratliff**: And then we continue the rest of the discussion until next July meeting.

7 **Bill Harris**: Is that what...I'm not...there's a 30-day, I'm sorry, a 60-day and a 90-day, both are
8 heirship.

9 **Donnie Ratliff**: 90 on the heirships.

10 **Bill Harris**: Well the 60 says heirship, recently resolved heirship. [Overtalk] Doesn't say
11 anything about W-9. I mean when you mentioned W-9's...

12 **Mary Quillen**: This is the ones that they're getting.

13 **Donnie Ratliff**: When you look at [Indiscernible] under A, W-9's or affidavits confirming
14 ownership, title conflicts, unlocatable, gas claimants with interest, identifiable but remain
15 unknown.

16 **Bill Harris**: I see it, yeah.

17 **Donnie Ratliff**: Does that cover it?

18 **Mark Swartz**: Well actually, the...

19 **Donnie Rife**: 60 day.

20 **Mark Swartz**: Look at the second page of the petition, Mr. Ratliff, factual basis for a relief
21 granted. I actually quote from the statute there and with regard to, we're not asking for an
22 extension where somebody hasn't given us a W-9 or an affidavit or we've ask them for it and
23 they haven't given it, so I guess, we're definitely asking for a 90-day extension to allow us, with
24 regard to the ones we've identified to try and move some of the heirships to closure. With regard
25 to people where we have the information we need but we just haven't been able to get the
26 petition approved or filed, that's the 60-day extension. It really doesn't pertain to W-9's or
27 affidavits, or whatever.

28 **Donnie Ratliff**: Okay, let me revise the motion. The motion would be that we grant the 90-day
29 extension to work on the heirships and the 60-day extension would be to process the claim
30 properly, and then we would defer the rest of this to the July meeting for discussion.

1 **Donnie Rife**: Second.

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

4 **Board**: Yes.

5 **Butch Lambert**: Opposed, no? [No response] Thank you, Mr. Swartz.

6 **Mark Swartz**: Thank you for all your help.

7 **Item Number 19**

8 **Butch Lambert**: On an update from the division activity from the staff, Mr. Cooper.

9 **Rick Cooper**: I guess I'll just take a minute or two to tell everyone, you know it's always been a
10 concern on the unfunded and the bank will be in front of the Board next month to report out.
11 Mrs. Ketron has done a lot of work on that and we've closed several of those accounts and we'll
12 report that out next month when the bank comes forward. So, we're down to just a handful of
13 unfunded accounts that we haven't resolved. From a couple hundred down to 15 or 20, so we're
14 still working on that. Also, I wanted to report that in the fiscal year; that'd be from July 1st up
15 until July 17th, that we have disbursed \$6,316,799.00. But the vast majority of everything since
16 January 2015 to current, has been coal dismissals and from that time point, there's been
17 \$8,232,213.00 disbursed. In the fiscal year, a little over six million in the last 12 months. Which
18 we know we need to do more and we're trying harder but, you know, that's been pretty good to
19 this point.

20 **Donnie Rife**: Well, we've been [Indiscernible]

21 **Mary Quillen**: [Overtalk] Based on what has been done in the past, this is phenomenal.

22 **Rick Cooper**: But, we do know, and we'll try to put some of this together, that there's more than
23 4,200 checks written on this and we don't know the exact number, but we know there's over
24 4,000 checks written on this account.

25 **Mary Quillen**: Good job.

26 **Donnie Rife**: Seems like we ought to be able to turn this into a game show, free money. Who
27 wants it?

28 **Mark Swartz**: That's what the publication is going to deal with.

29 **Donnie Ratliff**: Mr. Cooper, does any of our terms expire the end of June?

30 **Rick Cooper**: We do have one. Mr. Rife is working on his. He would be the one, currently.

1 **Donnie Ratliff:** You just got here.

2 **Donnie Rife:** I just got...no point in reapplying then is there?

3 **Butch Lambert:** Anything else, Mr. Cooper?

4 **Rick Cooper:** No.

5 **Item Number 20**

6 **Butch Lambert:** Okay, the final agenda item is the approval of last month's minutes. Is there
7 any additions, corrections, that we need to make to the minutes, if not, I'll entertain a motion to
8 approve.

9 **Donnie Ratliff:** Move to accept the minutes as presented, Mr. Chair.

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

11 **Butch Lambert:** I have a motion and a second. No further discussion. All in favor, signify by
12 saying yes.

13 **Board:** Yes.

14 **Butch Lambert:** Opposed, no. [No Response] And I'll need a motion to adjourn.

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

16 **Mary Quillen:** Motion to adjourn.

17 **Donnie Ratliff:** Second.

18 **Butch Lambert:** We're adjourned. Thank you folks, appreciate it.