

VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

VIRGINIA GAS AND OIL BOARD HEARING

Tuesday, July 19, 2016

Lebanon, Virginia

**BOARD MEMBERS:**

Bill Harris—Public Member

Bruce Prather – Oil and Gas Industry Representative

Donnie Ratliff—Coal Industry Representative

Donnie Rife—Public Member

Mary Quillen—Public Member

Rita Surratt—Public Member

**APPEARANCES:**

Bradley Lambert—Chairman of the Virginia Gas & Oil Board

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

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

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

Paul Kugelman, Jr.—Senior Assistant Attorney General

*Prepared by: Margaret Linford*

## Agenda Items

<u>Item Number</u>	<u>Docket Number</u>		<u>Page</u>
1	Public Comment		1
2	Escrow Quarterly Report		1
3	VGOB-97-0318-0569-01	(Approved)	13
4	VGOB-98-0324-0645-01	(Approved)	17
5	VGOB-98-0616-0670-03	(Approved)	20
6	VGOB-90-1010-0033-09	(Approved)	28
7	VGOB 92-0218-0185-05	(Approved)	33
8	VGOB-98-0324-0626-10	(Approved)	46
9	VGOB-03-0916-1185-02	(Approved)	52
10	VGOB-16-0621-4093	(Continued)	55
11	VGOB-89-0126-0009-88	(Approved)	63
12	VGOB-98-0324-0642-06	(Approved)	69
13	VGOB-06-1017-1739-03	(Approved)	73
14	VGOB-07-1016-2050-02	(Approved)	74
15	VGOB-08-0415-2211-02	(Approved)	76
16	VGOB-08-0520-2228-02	(Approved)	78
17	Board & Division Activities from the Staff		80
18	Board Review of June 2016 Minutes	(Approved)	81

1 **Bradley Lambert:** Good morning, ladies and gentlemen. It's now after 9:00 and time to begin  
2 our proceedings, this morning. To begin with, I would ask that if you have cell phones or other  
3 communication devices, to please turn those off or put them on vibrate. If you must take a call,  
4 please do so out in the hall. This morning, I would like to ask the Board to, please, introduce  
5 themselves. I'll begin with Ms. Surratt.

6 **Rita Surratt:** I'm Rita Surratt, public member from Dickenson County.

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

8 **Bradley Lambert:** I'm Butch Lambert, the Deputy Director of the Department of Mines,  
9 Minerals and Energy.

10 **Donnie Ratliff:** Donnie Ratliff, representing coal.

11 **Donnie Rife:** Donnie Rife, public member from Dickenson County.

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

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

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

15 **Bradley Lambert:** Thank you. Now, it's time to receive public comments. I have no one  
16 signed up for public comments, but I would like to ask that, if someone would like to speak this  
17 morning that didn't get signed in, please come forward at this time. [No response]

18 **Item Number 2**

19 **Bradley Lambert:** Seeing no one, we'll begin with Docket Item Number 2. The First Bank and  
20 Trust Company, Escrow Agent for the Virginia Gas and Oil Board, will address the Board on the  
21 Quarterly Report. Good morning.

22 **Jody Maney:** Good morning!

23 **C.J. Carter:** Good morning!

24 **Jody Maney:** We'll start out on Page 3. This is the summary for the second quarter. Our  
25 beginning balance for April 1, 2016, the second quarter, \$24,018,172.22. You had deposits this  
26 quarter of \$94,399.37. Interest has been earned of \$13,016.29. Fees of \$5,810.31. Distributions  
27 for the quarter have been \$2,384,649.85. Total adjustments for the quarter was \$9,267.68,  
28 bringing our ending balance, as of June 30, to \$21,744,395.40. As you see, the year-to-date  
29 distributions have been \$4,400,774.82, for the year.

1 **Bradley Lambert:** Can I back up just a second and ask a quick question? I know there's been a  
2 lot of discussion and we've heard testimony from some of our folks from the industry that's  
3 telling us some of the reason for these large discrepancies that we're seeing when the Board  
4 questions.... I know you all aren't present to hear the testimony, but I'll try asking in such a way  
5 that, maybe, I can get my point across. They're saying that some of these discrepancies, maybe  
6 up to \$4,000 and \$5,000, is due to fees, the bank having more money than what the companies  
7 are showing on their books. Is there a way for the bank to go back and recalculate and be able to  
8 tell us if, in fact, there's \$4,000 and \$5,000 differences, that it is, indeed, related to fees?

9 **Jody Maney:** Are you asking about one specific well, having \$4,000 or \$5,000 in fees?

10 **Bradley Lambert:** I don't have a number in front of me, but just, in general, we're hearing that  
11 some of these discrepancies are related to fees.

12 **Jody Maney:** We can look at each, individual, account, if there's a discrepancy of \$4,000 or  
13 \$5,000 and look and see if there's fees.

14 **Bradley Lambert:** If the Board asks Mr. Cooper and his staff, if we hear testimony this  
15 discrepancy is because the bank is showing \$4,000 or \$5,000 more, is fees. We can take that  
16 particular one and approach you with it?

17 **Jody Maney:** Yes.

18 **Bradley Lambert:** Okay. You'll be getting some of those.

19 **Jody Maney:** We'll address those, individually.

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

21 **Jody Maney:** Page 4 is a list of the outstanding checks, as of June 30. There are numerous  
22 outstanding checks. This is a list of all outstanding checks, as of June 30. Even if it was written  
23 on June 30, it's listed as outstanding.

24 **Bradley Lambert:** That is a lot.

25 **Jody Maney:** There is a lot, all the way through to Page 20, for a total of \$224,000, outstanding.  
26 On Page 20, it's broken down. So, CNX has \$125,698. EQT has \$98,000. Range Resources,  
27 which is now EnerVest, has \$20. Undefined is \$210, which maybe the well had closed and was  
28 not listed on our open list. We can research that, as to who, originally, owned that.

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

30 **Jody Maney:** Page 21 is the escheatment list. For 2016, we'll have \$7.85 to be escheated, at the  
31 end of the year. There are four checks, one of them being \$.40. In 2017, if these are not cashed,  
32 there will be a total of \$1,454 escheated, in 2017.

1 **Bradley Lambert:** Thank you for all your efforts and, especially our Board staff, for putting the  
2 extra effort into trying to get those things knocked out.

3 **Jody Maney:** We did get a lot of them cleared up, at the first of the year and in the second  
4 quarter.

5 **Bradley Lambert:** Thank you. Ms. Quillen, do you have something?

6 **Mary Quillen:** I was just going to say that I'm just amazed that the 2016 is \$7.85 because we  
7 were looking at some much larger figures.

8 **Jody Maney:** There was a lot of people that called. We re-issued checks, for them.

9 **Mary Quillen:** That's outstanding. I'm impressed. You guys did a good job contacting these  
10 people.

11 **Rick Cooper:** I'd like to give most of that credit to Ms. Gilmer and Ms. Ketron. They've  
12 actually reached out lots of times, every avenue they could get a hold of these people.

13 **Mary Quillen:** They've done a fabulous job. Thank you ladies so much for all that hard work.  
14 I am just astounded, when I looked at that and saw that. I thought, "Is that right?" What a  
15 difference!

16 **Bill Harris:** Mr. Chairman, quick question. So, they do call the bank, though, and ask about  
17 their check? I think I heard you say that just before.

18 **Jody Maney:** They have sent out letters to say, "Call the bank."

19 **Bill Harris:** Okay. Do they give you all a reason why they are just so late picking it up?

20 **Jody Maney:** A lot of people said that they didn't receive the checks, but we re-issued the  
21 checks so they should have their money.

22 **Bill Harris:** Thank you.

23 **Jody Maney:** For 2017, I assume the same process will take place.

24 **Rick Cooper:** Yes, ma'am.

25 **Donnie Rife:** Very big difference from a couple of years ago.

26 **Jody Maney:** Yes, it is.

27 **Donnie Rife:** I'm talking about with us and the bank.

28 **Jody Maney:** Any other questions? [No response] Starting on Page 22, this is the list for the  
29 end of June, the balance sheet for the end of June, each individual well, with the beginning

1 balance, the deposits, the interest earned, CDARS interest earned, fees, any distributions, any  
2 transfers to the "No W-9" spreadsheet, audit costs, corrections, and the ending market value for  
3 each, individual, account. On Page 40, is the ending balances, for the total, and a legend as to  
4 what the colors indicate. Starting on Page 41, is the list of the people that have not submitted  
5 their W-9's. The dockets have been processed and their amount has been allocated out to a  
6 separate account. This spreadsheet will show each, individual, person's amount, the docket  
7 number. That earns money market interest and fees are deducted from that, as well. So, the total  
8 in the "No W-9" account is \$67,973. I do have a couple of W-9's to process. EnerVest has sent  
9 two, that I know of, to come off of this list.

10 **Mary Quillen:** There are a couple of these that are significant.

11 **Jody Maney:** Yes. Any questions on that?

12 **Donnie Ratliff:** Mr. Chairman. Going back to Page 40, is this a monthly, quarterly, or a year-  
13 to-date?

14 **Jody Maney:** Monthly. This would be all of the activity, for the month of June. Any other  
15 questions? [No response] On Page 45, is a list of the unfunded units. I know Mr. Cooper's staff  
16 has been working to clear those up, as well.

17 **Bradley Lambert:** Mr. Cooper, do you have updates on the unfunded?

18 **Rick Cooper:** On the unfunded, yes. We have been working with everyone and I think, at the  
19 end of July, we'll have all the unfunded closed, with the exception of CNX, Anita. I've been  
20 working with Anita on that and we have 15 unfunded accounts that are all CNX. That is the only  
21 one that we haven't had addressed and we're working to see what the status of those are. Is that  
22 correct?

23 **Anita Duty:** That is.

24 **Bradley Lambert:** Is there some kind of a reason that those unfunded accounts are still hanging  
25 out, at CNX?

26 **Rick Cooper:** Well, I guess we've done our research and we think they should, probably, be  
27 funded. So, CNX is actually checking their records to see if they agree or disagree or add  
28 funding to that.

29 **Bradley Lambert:** Are we showing production for those?

30 **Rick Cooper:** We are showing production for all 15 of them.

31 **Bradley Lambert:** How far back are they showing up unfunded, with production?

32 **Rick Cooper:** Some of them, two and three years.

1 **Mary Quillen:** So, they're not that old.

2 **Rick Cooper:** Anything that was really old expired, the orders would be expired. But, these  
3 right here, are two or three years. I don't have exact dates, but I'll check on it. It's been a couple  
4 of years. Maybe a couple of them is a little older than that. But, we show them as producing  
5 wells.

6 **Bradley Lambert:** So, the order shouldn't expire, if they're producing.

7 **Rick Cooper:** Those will not expire. That's correct. We're waiting on CNX to respond back on  
8 the status. Do they think money needs to be deposited? Hopefully, we can resolve those, by the  
9 end of this month.

10 **Bradley Lambert:** Any questions, comments, from the Board, on the issue of unfunded  
11 accounts and gas and oil showing production and we're not getting anything from CNX? That's a  
12 little bit disturbing.

13 **Anita Duty:** I do want to make one comment.

14 **Bradley Lambert:** You need to come up, Ms. Duty, and be sworn.

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

17 **Anita Duty:** Yes.

18 **Bradley Lambert:** Ms. Duty, could you give us an explanation of why the Gas and Oil Division  
19 is showing funded production, in those accounts, for two years and you're showing not funded?

20 **Anita Duty:** I haven't had a chance to review them all because we just got the final list. I know  
21 we've worked through some of them and he's closed a few of them and things like that, but it  
22 looks like the majority of these.... I checked five of them, yesterday. They're "address  
23 unknowns." So, we're saying that we need to escrow for "address unknown." It appears that  
24 we're holding it, internally, rather than escrowing it. We just need to release it to the escrow  
25 account, so we'll get it taken care of.

26 **Mary Quillen:** That's five of the fifteen, leaving ten. Right?

27 **Anita Duty:** There's 11. That is what's on this list.

28 **Rick Cooper:** Maybe, we closed four because of issues and there's 11, outstanding. I think you  
29 are correct.

30 **Mary Quillen:** So, that leaves six.

1 **Anita Duty:** I didn't get a chance to review them all, yesterday, but the majority of these are just  
2 going to be for "address unknowns." I think there was a misunderstanding sometimes in our  
3 division or department, that "address unknowns," even though they're not actually a true CBM  
4 conflict, they still need to go to escrow if the order says to.

5 **Mary Quillen:** Right. Two or three years back, it's not that far back that it's hard to track, so  
6 you feel confident that this is...?

7 **Anita Duty:** I may find out, once I look in the system, they may have, actually, found the  
8 address and they are, actually, paying the people. Just give me a little bit of time to go through  
9 them and we'll get to the bottom of them, but we'll do it, quickly.

10 **Mary Quillen:** And, if they truly are unknown, then they will be into escrow, under  
11 "Unknown/Unlocatable."

12 **Anita Duty:** Right. If the order tells us to escrow it, they need to escrow it and that's what  
13 they'll be directed to do.

14 **Mary Quillen:** Excellent.

15 **Anita Duty:** Thanks.

16 **Bradley Lambert:** Do you know right off or can you look it up, quickly, if the Board order  
17 does direct them to escrow?

18 **Rick Cooper:** The original Board order does require escrowing, so if something like that  
19 happened, they would have to do a supplemental and remove that. They all do show escrow.

20 **Bradley Lambert:** Okay.

21 **Paul Kugelman:** I want to make sure I'm clear. So, these unfunded wells, there's no conflict.  
22 It's just they're "unknown/unlocatable" and the order says to escrow the funds?

23 **Rick Cooper:** So, years ago, I guess Anita explained that a little bit. Pre-Sarah and Pre-Sally  
24 and Pre-Rick Cooper, I guess any of these items that came in front of the Board, the previous  
25 person in that position, if an escrow item was approved, the pooling was approved, the previous  
26 person would put them in an unfunded account. Then, when money was deposited, they were  
27 moved out of unfunded into an active account. Over the years, that's what we talk about every  
28 month, we had a couple hundred of those. It's taken us about two years to get down to where  
29 we're at, with research and everything. So, the process, in the past, we will never do that, again.  
30 So, once we get rid of these, we will do away with the unfunded account and it will never be  
31 established, again. That was a previous process that was implemented that was very inefficient.

32 **Bradley Lambert:** But, that was three or four years ago.

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

2 **Bradley Lambert:** It shows 16 on the list of unfunded accounts, but the 11 that you say you  
3 show production that there's nothing in the account, those are only two or three years old.

4 **Rick Cooper:** That is correct. Again, I don't know the exact dates for all of those, but all of  
5 those are, at least, two years old, that have production on them. We have no monies shown, for  
6 those. Any further Board discussion? [No response] Thank you. Sorry for that interruption.

7 **Jody Maney:** On Page 46, this is the list of annual distributions, starting with the year 2010,  
8 doing a year-to-date total, for 2016. The year-to-date total for 2016, January to June, the royalty  
9 and working income is \$217,303. Distributions have been \$4,400,775. The distributions have  
10 far exceeded the amount of income. If you'll note, on 2015, the year-to-date distributions for the  
11 whole year, for 2015, was \$4,492,896. So, just in the last six months, we have almost exceeded  
12 the year-to-date totals for 2015, in distributions. Any questions on that? [No response]

13 **C.J. Carter:** Okay. I'll speak about the investments real quick, the next two or three pages.  
14 Page 47 is just a high-level overview. As has been the case, for quite some time, the majority of  
15 the funds, \$20,612,703, are in a ICS money market. That rate is 0.2%. Of course, the ICS  
16 designates it does have the FDIC coverage. That's the bulk of the money. That's the very liquid,  
17 easily accessible, money to meet distributions. The remaining funds are in CD's. These were  
18 purchased at different times, in 2015, in June and December. There's two CD's, brokered CD's,  
19 that were purchased in December 2015, that matured in December 2016. They total \$378,000.  
20 There's two other CD's. There was \$750,000 that matured, in CD's, in June. Those CD's were,  
21 actually, re-invested. What we did is I went out to see what the best brokered CD rates that were  
22 available, at that time, just a few weeks ago, back at the end of June. I looked at those rates and,  
23 also talked to the CFO of our bank. We had a deposit drive, recently, in our bank. Our CFO  
24 decided to go ahead and re-invested these CD's, not in brokered CD's, but re-invested them in the  
25 Seeder's program, the CD with First Bank and Trust. We did that because those were higher  
26 rates. There are three basis points. We got 0.88%, as opposed to 0.85% is what I could have  
27 gotten out in the brokered CD market. So, those CD's were re-invested. That totaled \$750,000.  
28 Those were re-invested in 12-month CD's. The last part of this page just kind of shows the  
29 weighted average yield, for the various, kind of, buckets here. The ICS money market, which I  
30 already alluded to, was 20 basis points. You can see it increases, there. The two most recently  
31 re-invested CD's, \$500,000 within the CDARS program and \$250,000 is actually just held in a  
32 normal CD, at our bank. I'll take a second to explain that. They're the same rate, but because we  
33 wanted to have FDIC coverage of \$250,000, we placed \$500,000 in the CDARS program, which  
34 brokers that FDIC coverage out. Then, \$250,000 is kept in a regular CD, at First Bank. So, all  
35 of the CD's that were re-invested do have the FDIC insurance. We were able to get a higher rate  
36 than what was available out in the brokered CD market, for that portion of what we re-invested.  
37 Any questions, so far? [No response] Okay. So, the estimated annual income of \$43,334. Of  
38 course, the bulk of that coming from the ICS money market, where the bulk of the funds reside.

1 I won't talk about much on Page 48. It's simply a graphical representation, a little more in detail  
2 of what we talked about on the previous page. It just kind of shows the four CD's broken out and  
3 the rates and when they were acquired. Page 49, these are just some general comments. Due to  
4 the increased distributions, I think there's ample cash, still, in the ICS money market, which is  
5 the most liquid of where the investments are at, \$20.6 million. I don't see any reason to change  
6 that, unless there's direction from the Board, in terms of how much should be kept in the money  
7 market versus invested in CD's and trying to get a higher rate. Of course, there's always a trade-  
8 off, is liquidity, access to the funds versus trying to get a higher rate by tying it up in a CD.  
9 Again, I already talked about the maturities, new purchases, \$747,000 matured in June 2016. We  
10 re-invested the proceeds, as I discussed earlier, in those two CD's earning 0.88%. In terms of  
11 what's happened on the rates, there's not been a whole lot of movement. Some of the very short-  
12 term rates, the one, three and six-month CD's...that's actually on the next page, Page 50, they  
13 have come up a little bit, over the last quarter, the last three or four months. So have the short-  
14 term treasury rates. You can see the treasury rates are still very low. The six-month is still 0.41,  
15 so there's not much change on the treasury rate side. On the brokered CD's, they've moved up a  
16 little bit on the one, three and six-month. The six-month, for example, at the end of April, was  
17 50 basis points. Now, it's 65 basis points. We've also seen, as you go a little bit further out, in  
18 the two and three years and even beyond, rates have actually decreased. So, the front end of the  
19 interest rate curve has increased, a little bit, but the intermediate back end has actually decreased,  
20 a little bit. I guess, historically, we've been looking at re-investing in a very short time-frame, so  
21 this would be a net benefit, as the rates have moved up, a little bit.

22 **Bill Harris:** Mr. Chairman, let me ask a quick question. I noticed, on Page 49. I know we've  
23 moved to 50, but you talked about front-end rising on front-end of curve, falling on back-end.  
24 I'm not a financial person, so I'm not sure if I know what that means. I know you just alluded to  
25 that, front-end, back-end. What are we...?

26 **C.J. Carter:** I'm sorry. The shorter-term interest rates, the one, three, six months, one year--  
27 those have been rising a little bit, over the last three months.

28 **Bill Harris:** Okay.

29 **C.J. Carter:** The longer maturities, two years, three years, all the way to ten to twenty years, on  
30 the treasuries--those rates have been falling.

31 **Bill Harris:** So, when you talk about the curves...

32 **C.J. Carter:** I shouldn't use that terminology. That's just a plot of the interest rates, over  
33 different maturities.

34 **Bill Harris:** Is that on Page 50?

35 **C.J. Carter:** That would be on Page 50. That is a three-year graphical representation.

1 **Bill Harris:** So, when you say "front end," you're basically talking the left part of that?

2 **C.J. Carter:** That is correct. Yes.

3 **Bill Harris:** Okay. Thank you.

4 **Donnie Ratliff:** Mr. Chairman. When the House Bill came into effect last July, we were trying  
5 to get into a position because we really thought that we may be looking at \$15,000,000 going  
6 out. Year-to-date we're at four. The question is, is \$20,000,000 the right amount of money to  
7 have in the money market account, drawing a low interest rate, or is it time to take ten of that and  
8 invest it in some of the six-months, twelve-months, and get more? Looking at a fiduciary  
9 responsibility, when we're sitting on that much money, I don't feel like we need that large of an  
10 amount in a money market account. I don't know if ten is the right number.

11 **Bill Harris:** I think we've been very conservative, over the years, in how much we have  
12 withheld, pending distributions. It does look like we're still.... I know we're not accumulating as  
13 fast and we're spending more, but I don't know if there is a projection for the next six months, in  
14 terms of how much money will go out and whether or not we would be safe in putting ten  
15 million in a longer-term investment.

16 **Donnie Rife:** Do we have the option to go for a higher risk investment?

17 **Bradley Lambert:** We do, as these become mature. We have the option to instruct the bank to  
18 invest wherever this Board feel like we may gain the best out of our money.

19 **Donnie Rife:** It was 0.2%? Is that what it was?

20 **Jody Maney:** On the money market.

21 **C.J. Carter:** That's the ICS. That's the money market account.

22 **Donnie Rife:** That's almost like burying it in the back yard, isn't it?

23 **Mary Quillen:** What are our expected pay-outs? Because when we were looking at the first  
24 half, we have almost met the total of last year's disbursements. So, looking at that, it was over  
25 four million, last year. We're already over four million. So, we're looking at somewhere around  
26 eight to nine million is the expectation of disbursements, and we have twenty million. If we  
27 back that off to ten million, I would feel a little nervous about that being so close. I do think that,  
28 maybe, we could take part of that. Donnie, what do you think?

29 **Donnie Ratliff:** Even if it's five or seven, I think we're leaving money on the table.

30 **Mary Quillen:** Right. I agree with you, but not cutting it so close that.... I would not feel  
31 comfortable with leaving ten million in, but I would feel comfortable with twelve to fifteen and

1 taking that five to seven million into one of these other accounts. Is that what you're saying,  
2 Donnie?

3 **Donnie Ratliff:** Yes.

4 **Bruce Prather:** Long-term.

5 **Mary Quillen:** Long-term, with a better rate.

6 **Rick Cooper:** Mr. Chairman, if I could make sure that everyone is clear, that four million is  
7 what we have disbursed, since January. Since the Bill was enacted in July, we've disbursed  
8 almost seven million. Make sure we're clear on numbers. We're just a little bit short of seven  
9 million since last July. The four million plus is January of this year until current. The other  
10 thing I would point out is, if you do invest that, what would be the withdrawal penalty?

11 **Bill Harris:** That's what I was just going to say. The worst case is you're going to lose some  
12 money on your interest. That money is still available. If you put two million too much in and  
13 you need to pull it back out.... If they're one million CD's, each one, and we have to pull them, I  
14 know the interest penalty is just that...we don't get that interest. We don't get penalized on the  
15 principal, though.

16 **C.J. Carter:** That's correct.

17 **Donnie Rife:** At 0.2%, what's the harm?

18 **Bill Harris:** That's what I'm saying. Worst case is that we would lose a little bit of money, if we  
19 decided to invest. We have a lot to gain and a little to lose, the way I see it.

20 **C.J. Carter:** In shorter-term CD's, in the CDARS program, I think it's at least six months of  
21 interest is forfeited, as an early-withdrawal penalty, when you're talking about CD's this short. If  
22 you start going out three or four or five years, that early-withdrawal penalty, sometimes, is  
23 lower.

24 **Donnie Ratliff:** Mr. Chairman, I'll make a motion.

25 **Bradley Lambert:** Okay.

26 **Donnie Ratliff:** I make a motion that the staff work with the bank to come up with a strategy to  
27 invest \$5,000,000 out of the money market account and what's the best mix to invest that money,  
28 whether it be six months or a year, so that we could roll it over and it still wouldn't be so far out  
29 that we wouldn't need the cash on hand.

30 **Donnie Rife:** Second that, Mr. Chair.

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

1 **Bruce Prather:** Mr. Chairman?

2 **Bradley Lambert:** Mr. Prather.

3 **Bruce Prather:** Do we know, say a year-and-a-half from now, do we have any idea how low  
4 this escrow account is going to be? I think if it's down there around five million, a year-and-a-  
5 half from now, we may be having another problem.

6 **Donnie Ratliff:** We'd forfeit the interest.

7 **Bruce Prather:** You forfeit the interest, but by the same token, we may need the money. If  
8 these people come in and pick up their money earlier, like they haven't been doing, then we  
9 could have a shortfall. Rick, would you have any ideas, on a quarterly basis, where we would  
10 be, say a year from now, on the escrow account?

11 **Rick Cooper:** What I would say, I would think if things go according to plan, by the end of  
12 September, all the companies will be paid out and there will be no more escrowing. So, we only  
13 have twelve from EnerVest, to process. We only have five from EQT, to process. Three of  
14 those are on the Board Docket, today. Moving forward, all the rest would be CNX. Maybe, they  
15 could answer that better than I would. The Gobs have substantial money in it, but to say would  
16 there be five million disbursed out or eight, I'm not sure. All the money left to disburse would be  
17 CNX. I don't know if they could speak on that, or not. CNX, by far, had three or four times as  
18 much as everyone. They'll be the only ones left to disburse, by the end of September, if things  
19 go according to plan. There's still \$21,000,000 in the account. At this time, we don't know how  
20 many of those are unknown/unlocatables. We will work on that. We don't know how many title  
21 conflicts, so a lot of that money will be in there for a good period of time, but to put a dollar  
22 figure on it, I'm not sure, at this time.

23 **Bradley Lambert:** We still know that we've got a substantial amount in the Yellow Poplar  
24 account.

25 **Rick Cooper:** We know there's four million on the Yellow Poplar, alone. So, we probably  
26 think somewhere between four and ten million will be in there until unknown/unlocatables or  
27 title conflicts are resolved.

28 **Donnie Rife:** If it would make it a little bit better on us, we could probably look more at six or  
29 eight-month, something like that, instead of worrying about going for a year or year-and-a-half.

30 **Rick Cooper:** I agree.

31 **Donnie Rife:** That way, it would keep us in the clear. I'm tickled that we can do this  
32 investment. I didn't know we could do it.

1 **Mary Quillen:** I think everybody feels comfortable with doing the five million. I know I do. I  
2 feel more comfortable with that. Then, we would have the other. Worst case scenario, we would  
3 have to go to that. We would be forfeiting that.

4 **Bill Harris:** Let me just ask about the motion. The motion is to take five out of the amount that  
5 is not invested and work with the bank to determine an appropriate length of time for investment.  
6 Is that, basically?

7 **Donnie Ratliff:** That's right. We're not making a decision, today. We're making a decision to  
8 work with the bank to re-invest. Then, next month or the following month we would vote to  
9 invest, then.

10 **Bruce Prather:** Would the Yellow Poplar thing.... I know it's in the courts. Have you got any  
11 idea when that is going to come up for adjudication?

12 **Rick Cooper:** No, I do not. It's been a pending issue, for several years. I'm not sure I know the  
13 date.

14 **Donnie Rife:** It doesn't look like it's going to happen tomorrow. Is that what you're saying?

15 **Rick Cooper:** Well, I thought it would have already happened. I'm not a good judge of that, I  
16 don't guess.

17 **Bruce Prather:** It's one that, if we had to put out four million, we might run into a little  
18 problem.

19 **Rick Cooper:** Correct.

20 **Donnie Rife:** We should have done this a long time ago.

21 **Bruce Prather:** If it would go for a year before the Yellow Poplar would come up, then we'd be  
22 in good shape.

23 **Rick Cooper:** I just looked at this, though. The penalty, if you need extra money, is minimal  
24 for a short period, isn't it?

25 **C.J. Carter:** If you do a six-month CD, it's going to be the entire amount of interest, likely, but  
26 you'd be forfeiting fees or withdrawal penalty.

27 **Rick Cooper:** So, you really do have nothing to lose.

28 **Bill Harris:** But, it doesn't cut into the principal. Is that right?

29 **Rick Cooper:** Correct. It does not.

1 **Bill Harris:** So, if we did this for a year and, then, six months from now, we needed the money,  
2 pulled it back, we would get a little interest, but there would be a significant.... You probably  
3 know the dollar amount or percentage amount, but if we were to take five million and invest it  
4 for a year and, then, realize six months from now, hey, we need that back, we'd still have that  
5 five million. We just wouldn't have the additional interest.

6 **Mary Quillen:** We would forfeit six months.

7 **C.J. Carter:** That's correct. To be clear, it would be the CDARS CD's. I wouldn't go out and  
8 buy brokered CD's because those could fluctuate, minimally, until they're held to maturity, to  
9 realize that. So, those would be off the table, it sounds like, in this scenario.

10 **Donnie Rife:** That's why we're going to work with you to find out which is going to be the best  
11 direction to go.

12 **Mary Quillen:** And the least amount of risk for us because we don't want to cut into the  
13 principal because the principal is what....

14 **Bradley Lambert:** So, I have a motion and I have a second, on the floor to direct the DGO staff  
15 to work with the bank to come up with a plan on investments. I would suggest that that plan,  
16 maybe, could come back before the Board next quarter, when the bank comes back before us,  
17 with a proposed plan for us to vote on.

18 **Rick Cooper:** We will do that.

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

20 **Board:** Yes.

21 **Bradley Lambert:** Opposed, no. [No response] Thank you. That is approved. Thank you all.  
22 I appreciate it, very much.

23 **C.J. Carter:** Thank you.

24 **Donnie Ratliff:** Nice job.

25 **Item Number 3**

26 **Bradley Lambert:** We're calling Docket Item Number 3. A petition from EQT Production  
27 Company, for disbursement of funds on behalf of all known owners in Tracts 3 and 4 in Well  
28 VC-2931. This is Docket Number VGOB-97-0318-0569-01. If there's any parties that wish to  
29 provide testimony on this docket item, I ask that you, please, come forward.

30 **Jim Kaiser:** Mr. Chairman and Board members, Jim Kaiser and Rita Barrett, on behalf of EQT  
31 Production Company.

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:** I do.

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

5 **Jim Kaiser:** Ms. Barrett, this is a disbursement request we filed, on behalf of many of the  
6 royalty owners in this unit?

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

8 **Jim Kaiser:** Have all parties been notified, as required by statute?

9 **Rita Barrett:** They have.

10 **Jim Kaiser:** Did we publish?

11 **Rita Barrett:** Yes.

12 **Jim Kaiser:** What unit does this pertain to?

13 **Rita Barrett:** It's Unit VC-2931.

14 **Jim Kaiser:** And, what tracts?

15 **Rita Barrett:** Tracts 3 and 4

16 **Jim Kaiser:** Is this a partial or full disbursement?

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

18 **Jim Kaiser:** The reason for the disbursement?

19 **Rita Barrett:** The reason for this disbursement is it pertains to House Bill 2058; however, the  
20 Board asked us to come here, today, because Exhibit J is off. The bank is reflecting more money  
21 than EQT does, in payments. We are attributing that to interest.

22 **Jim Kaiser:** So, the Division kicked this up to the Board because there was about a \$4,000  
23 discrepancy in Exhibit J. Is that correct?

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

25 **Jim Kaiser:** And, our position is that extra money that the bank shows, that EQT does not  
26 show, is due to interest that's accrued, for this unit. This well was drilled almost 20 years ago, in  
27 1997. Is that correct?

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

1 **Jim Kaiser:** And, the figures have been reconciled, to the best of our ability, between the bank  
2 and EQT?

3 **Rita Barrett:** Yes, as of November 12, 2015.

4 **Jim Kaiser:** Now, would you point the Board to Table 1, attached to the petition, particularly  
5 the next to last column to the right, as to what percentage of funds should be disbursed, if and  
6 when they do disburse?

7 **Rita Barrett:** Yes.

8 **Jim Kaiser:** Does Table 1 exhibit who should receive those disbursements and at what  
9 percentage?

10 **Rita Barrett:** Yes, it is.

11 **Jim Kaiser:** Have we provided the Board with Exhibits E and EE, to reflect the status of this  
12 unit, after disbursement?

13 **Rita Barrett:** We have.

14 **Jim Kaiser:** Would we ask that the order state that all these parties be paid their royalty,  
15 directly, going forward?

16 **Rita Barrett:** Yes, we do.

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

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

19 **Bill Harris:** Just a comment, Mr. Chairman. It's interesting the bank folks just left and we were  
20 just talking about cases where the bank balances were off. Had we known that was going to be  
21 the first thing up, we could have asked them to, at least, hear the testimony. They've already left.

22 **Jim Kaiser:** I know Mr. Chairman noted that you were going to have to send them a bunch of  
23 these, so they can make sure that that is the case, that the extra amount is attributable to interest.

24 **Bill Harris:** I'm sorry.

25 **Jim Kaiser:** At least, the error is in favor of the people.

26 **Bradley Lambert:** That's the good thing.

27 **Jim Kaiser:** That's the good thing.

28 **Bradley Lambert:** Mr. Cooper, can you make a note that this would be one that, maybe, we can  
29 work with them?

1 **Jim Kaiser:** In fact, all three of these ones we have are going to be that.

2 **Bradley Lambert:** Mr. Cooper, can you make a note of all three?

3 **Rick Cooper:** Yes.

4 **Donnie Rife:** You might just give us the answer to a lot of questions.

5 **Rick Cooper:** Mr. Chairman, my question is do we need to hear these, if there's going to be a  
6 discrepancy. I guess my question is, if the bank has to analyze these, until we see the results, is  
7 there any need to process these, today?

8 **Bradley Lambert:** I would think yes, we do need to process and disburse, certainly if it's to the  
9 good, if it's more. Then, there shouldn't be an issue, as far as disbursement. We won't be able to  
10 draw on, at the bank.

11 **Rita Barrett:** Correct. I think one thing we need to realize, too, is you've had multiple Escrow  
12 Agents since these wells were drilled, so the discrepancy may not be with First Bank.

13 **Bradley Lambert:** Could be, but at least we'll have...

14 **Mary Quillen:** More than likely, not.

15 **Rita Barrett:** Correct.

16 **Rick Cooper:** I can assure you it's not with the current Escrow Agent.

17 **Jim Kaiser:** That's a long time, 20 years. There could be \$4,000 worth of interest.

18 **Bradley Lambert:** Anyway, just make a note of that. Any other questions? [No response]  
19 Anything further, Mr. Kaiser?

20 **Jim Kaiser:** We would ask that the petition be approved, as submitted, Mr. Chairman.

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

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

23 **Donnie Ratliff:** Second, Mr. Chair.

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

26 **Board:** Yes.

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

1 **Donnie Ratliff:** Ms. Barrett, when you reconciled, you couldn't see if there was a check that  
2 was deposited into that account, that should have went to another account, from your records?

3 **Rita Barrett:** No.

4 **Jim Kaiser:** Obviously, that's the other possibility.

5 **Rita Barrett:** It could be. I agree with Mr. Cooper. If that happened, it's not with the current  
6 Escrow Agent.

7 **Jim Kaiser:** My guess would be Wachovia.

8 **Bradley Lambert:** Maybe, they can find out what was pulled forward and if there was a  
9 difference there. If it was at Wachovia, we have many of those and there's nothing that....  
10 Wachovia won't respond, says they have the records no longer. They've been destroyed.

11 **Rita Barrett:** Another thing I think we need to realize, too, is interest rates were pretty good,  
12 over that 20-year period, until around 2008.

13 **Item Number 4**

14 **Bradley Lambert:** We're calling Docket Item Number 4. A petition from EQT Production  
15 Company, for disbursement of funds on behalf of all owners in Tracts 1, 5, 6, 8, 10, 11, 12, 15,  
16 17, and 18 in Well VC-3407. Docket Number VGOB-98-0324-0645-01. All parties wishing to  
17 testify please come forward.

18 **Jim Kaiser:** Mr. Chairman, again, Jim Kaiser and Rita Barrett. Ms. Barrett, again, this is a  
19 disbursement request, filed on behalf of many of the royalty owners in this unit?

20 **Rita Barrett:** It is.

21 **Jim Kaiser:** Have all parties been notified and did we publish, as to this hearing?

22 **Rita Barrett:** Yes.

23 **Jim Kaiser:** What unit does this involve?

24 **Rita Barrett:** It's VC-3407.

25 **Jim Kaiser:** Mr. Chairman just stated all the tracts. I think there's about 13 tracts. Correct?

26 **Rita Barrett:** Yes.

27 **Jim Kaiser:** This is a partial disbursement?

28 **Rita Barrett:** It is.

1 **Jim Kaiser:** Again, the reason for that disbursement?

2 **Rita Barrett:** Again, this would fall under House Bill 2058; however, Exhibit J, the bank shows  
3 around \$4,000 more than what EQT shows, as payments, and we are attributing that to interest.

4 **Jim Kaiser:** And, this well was drilled in, probably, 1998?

5 **Rita Barrett:** Yes, I would say 1998. The plat's dated February 6, 1998.

6 **Jim Kaiser:** And, the figures were reconciled with the bank through what date?

7 **Rita Barrett:** Through November 12, 2015

8 **Jim Kaiser:** Would you point the Board to Table 1, that was filed along with the petition, to  
9 point the Board to the percentages, escrowed funds to be disbursed for each party, in the next to  
10 last column to the right?

11 **Rita Barrett:** Yes.

12 **Jim Kaiser:** Does Table 1 also show who should receive the disbursement and what  
13 percentage?

14 **Rita Barrett:** It does.

15 **Jim Kaiser:** Have we provided the Board with Exhibits E and EE, to reflect the status of this  
16 unit after the disbursement?

17 **Rita Barrett:** We have.

18 **Jim Kaiser:** Would we ask that all these parties be paid, that the order state that all these parties  
19 be paid their royalty directly, going forward?

20 **Rita Barrett:** Yes.

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

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

23 **Bruce Prather:** Rita, are any of these wells in Wise County, these three?

24 **Rita Barrett:** No, sir.

25 **Bruce Prather:** Okay. That's good.

26 **Donnie Rife:** Are any of them in Dickenson County?

27 **Rita Barrett:** Actually, Mr. Prather, I correct myself. This well we're disbursing, right now, is  
28 in Wise County.

1 **Jim Kaiser:** So is the previous one, I think.

2 **Rita Barrett:** Yes, it's Wise County, also. My apologies.

3 **Bruce Prather:** Do you think I need to recuse myself?

4 **Rita Barrett:** Let me look at the leases. You might want to...yes.

5 **Bruce Prather:** I will recuse myself on this.

6 **Mary Quillen:** On the previous one, as well?

7 **Rita Barrett:** Yes.

8 **Bill Harris:** How do you do that?

9 **Donnie Rife:** We'll have to go back.

10 **Bruce Prather:** Just forget about me.

11 **Jim Kaiser:** The last one is Dickenson.

12 **Bruce Prather:** Two Wise and one Dickenson?

13 **Rita Barrett:** Yes, sir. My apologies.

14 **Bradley Lambert:** Any other questions from the Board?

15 **Donnie Ratliff:** Not on this case.

16 **Bradley Lambert:** Anything further, Mr. Kaiser?

17 **Jim Kaiser:** We would ask that the application be approved, as submitted, Mr. Chairman.

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

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

20 **Bill Harris:** Second.

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

23 **Board:** Yes.

24 **Bradley Lambert:** Opposed, no.

25 **Bruce Prather:** One abstention.

1 **Bradley Lambert:** One abstention. Mr. Prather. Thank you, Mr. Kaiser. That one is approved.

2 **Item Number 5**

3 **Bradley Lambert:** We're calling Docket Item Number 5. A petition from EQT Production  
4 Company, for disbursement of funds on behalf of all known oil and gas owners in Tracts 2, 6 &  
5 7, of Well VC-703169. This is Docket Number VGOB-98-0616-0670-03. All parties wishing to  
6 testify please come forward.

7 **Jim Kaiser:** Again, Mr. Chairman, Jim Kaiser and Rita Barrett. Ms. Barrett, again, is this a  
8 disbursement request we filed on behalf of both royalty owners and EQT?

9 **Rita Barrett:** It is.

10 **Jim Kaiser:** Have all parties been notified, as required by statute?

11 **Rita Barrett:** Yes.

12 **Jim Kaiser:** We didn't have any unknowns, here, so we did not publish. What unit does this  
13 pertain to?

14 **Rita Barrett:** It's VC-703169.

15 **Jim Kaiser:** What tracts?

16 **Rita Barrett:** Tracts 2, 6 & 7.

17 **Jim Kaiser:** Is it, really?

18 **Rita Barrett:** Yes.

19 **Jim Kaiser:** Is this a partial or full disbursement?

20 **Rita Barrett:** This is a full disbursement that will close out the escrow account.

21 **Jim Kaiser:** The reason for this disbursement?

22 **Rita Barrett:** Again, you've got Exhibit J. The bank is showing more money than what EQT is  
23 showing. We attribute that to interest. Also, when EQT set up the division order, for this well,  
24 they incorrectly attributed too much interest to the escrow account and they overpaid into this  
25 account. They made an adjustment, when the errors were discovered. Apparently, that was in  
26 2010. They've been recouping and that's making the escrow account carry a negative amount.  
27 But, again, the bank is showing more money, in the bank, than EQT shows having been paid in,  
28 as of March 9, 2010.

29 **Jim Kaiser:** Would you point the Board to Table 1 and 2? There's two different tables.

1 **Rita Barrett:** Yes.

2 **Jim Kaiser:** Table 1 being the disbursement to Equitable, the recoupment. Table 2 being the  
3 disbursement to the royalty owners. Would you point them to that, as far as what percentage of  
4 escrow funds should be disbursed, if they are disbursed, and who is going to receive them and in  
5 what amount?

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

7 **Jim Kaiser:** Have we provided the Board with Exhibits E and EE, to reflect the status of this  
8 unit, if and when this disbursement gets made?

9 **Rita Barrett:** An E is not necessary. This closes the account. They do have a EE.

10 **Jim Kaiser:** Would you ask that the order direct that any royalty be paid directly, going  
11 forward, to these parties?

12 **Rita Barrett:** Yes.

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

14 **Bradley Lambert:** Any questions from the Board? I'm a little bit confused, Ms. Barrett. You  
15 testified that the account has been running negative, since EQT has been recouping overpaid  
16 interest.

17 **Rita Barrett:** They have not been paying anything into that account since March 2010, when  
18 they discovered that they had overpaid. They've been recouping. There's \$24,566.34 in the  
19 account.

20 **Bradley Lambert:** So, it's not really been running a negative balance?

21 **Rita Barrett:** Correct. They just have not been paying into the account since they discovered  
22 this discrepancy.

23 **Bradley Lambert:** Okay.

24 **Donnie Rife:** Running from '98 to 2010?

25 **Rita Barrett:** Apparently, it was March 9, 2010, when they discovered it. That was the last  
26 payment they paid into the account.

27 **Jim Kaiser:** The well had been drilled in '98.

28 **Donnie Rife:** They're, basically, adjusting it their self.

29 **Rita Barrett:** They are.

1 **Donnie Rife:** Okay. Good deal.

2 **Bill Harris:** Mr. Chairman, this Table 1, then, reflects money that's still there that needs to be  
3 paid directly back to EQT?

4 **Rita Barrett:** Yes, because of the overpayment. That's the amount they have overpaid.

5 **Bill Harris:** That's the extent of the recovery for that? That should neutralize what you all had  
6 paid in. Then, Table 2 is not even going forward. It's the rest of the balance. Are these exact  
7 amounts, then? Well, I guess, you would still go by the percentage. I guess I'm asking if this  
8 would pay out this escrow account.

9 **Rita Barrett:** It will.

10 **Jim Kaiser:** It should empty it out and close it.

11 **Rita Barrett:** And, then, we'll start paying royalties directly to these parties, after it closes the  
12 account.

13 **Bruce Prather:** So, this will pay Equitable out. Then, you'll still have the interest money, when  
14 you make the final...

15 **Rita Barrett:** It will close the account, based on what's at the bank. Then, they will pay these  
16 parties, going forward, after they get their disbursement. Then, they will pay these parties, going  
17 forward.

18 **Bradley Lambert:** If you take Table 1 and add it to Table 2, that far exceeds the ending market  
19 value that's shown in the account, by \$13,000.

20 **Jim Kaiser:** No, by about \$4,000. It's \$28,700, what's in the account. 16 and 12 is 28.

21 **Bill Harris:** But, there's a 7 right above that.

22 **Jim Kaiser:** That's not a total, is it? You're right. It's about \$37,000. And the ending market  
23 value is \$24,066. So, something is wrong, here.

24 **Rita Barrett:** I agree. What do you suggest, we continue this one until they get the...revise the  
25 tables and get the money right? I don't want to distribute to Equitable and it be on their end, that  
26 they get more money than they deserve.

27 **Bill Harris:** Interesting you'd put it that way.

28 **Rita Barrett:** We want the parties that deserve the money, to get it.

29 **Donnie Ratliff:** There's not enough money in the account if you exclude Equitable.

30 **Rita Barrett:** I agree. I apologize. I didn't catch that.

1 **Donnie Rife:** Let's make a motion for continuance, then, Mr. Chair.

2 **Bradley Lambert:** We will have to.

3 **Jim Kaiser:** Rick, do you have any idea? They've got two more.

4 **Mary Quillen:** It looks like this Table 2 is the total of what your balance is. I'm just looking at  
5 an estimate on that. The \$12,000.

6 **Jim Kaiser:** You're right. That equals the balance, then.

7 **Bill Harris:** So, you're saying the ending market value may have already included the \$12,000  
8 taken out?

9 **Mary Quillen:** I don't know. I'm just saying that this right here, on Table 2, totals what the  
10 bank says the balance is. The \$12,000, that's what has to be reconciled, is why that would be  
11 coming in. Have they not been collecting this, since 2010?

12 **Jim Kaiser:** Maybe, that's the money they've already recouped.

13 **Mary Quillen:** That's what I'm thinking.

14 **Jim Kaiser:** That's got to be what it is.

15 **Mary Quillen:** If you look at the figures....

16 **Donnie Ratliff:** Table 2, when you add it up, is the exact, down to the penny, the amount that's  
17 in the...

18 **Jim Kaiser:** So, Table 1 is what they've already taken out, themselves. So, they don't get any  
19 more money. They're just showing you where they've already recouped, themselves. We're  
20 good, then.

21 **Mary Quillen:** I'd say that's what it is.

22 **Jim Kaiser:** We don't need to continue it.

23 **Rita Barrett:** I assume that's the case.

24 **Jim Kaiser:** That's got to be the case.

25 **Mary Quillen:** Because if they have been holding that back since 2010... It needs to be  
26 verified.

27 **Jim Kaiser:** We can put a caveat on this. We'll check with them and, if it turns out that's not the  
28 case, we'll come back. In the meantime, these people can get their money. One of these people  
29 gets \$16,000.

1 **Rita Barrett:** Right.

2 **Jim Kaiser:** How about that?

3 **Bradley Lambert:** That will work. If you want to explain that...

4 **Jim Kaiser:** Sure. We would ask that the Board consider approving this petition, with the  
5 caveat that Ms. Barrett and/or myself will confirm with EQT Production that the figure on Table  
6 1, attached to the petition, represents the amount that they have recouped for overpayment, since  
7 they noticed the error in 2010, and Table 2 reflects the disbursement to the royalty owners, which  
8 matches up with the amount of money that is in the escrow account. Should we find that that's  
9 not the case, we will let you know and reschedule this hearing.

10 **Rita Barrett:** I think we, probably, will be rescheduling it because, on the email I have here, it  
11 said EQT requested a direct payment of the overpayment.

12 **Donnie Rife:** That way we can get our ducks in a row.

13 **Jim Kaiser:** No, that means they just requested it, earlier. I think we're fine.

14 **Rita Barrett:** All right.

15 **Jim Kaiser:** I'm pretty sure we're fine. If you read the rest of it, it tells you what they did.

16 **Bill Harris:** Mr. Chairman, if we make that motion as it's just been stated...if we make that a  
17 motion, without repeating it, would that be acceptable, if we do, or is there already a motion on  
18 the floor?

19 **Bradley Lambert:** There's not a motion on the table.

20 **Bill Harris:** Are we ready for a motion?

21 **Bradley Lambert:** We're ready for a motion.

22 **Rick Cooper:** So, Mr. Chairman, I would say if you approve that, we need some type of  
23 documentation by the end of the week, so we can move forward on this.

24 **Donnie Rife:** Wouldn't it just be easier to go ahead and do a continuance for next month, instead  
25 of...?

26 **Donnie Ratliff:** You're holding up someone's money.

27 **Donnie Rife:** Okay.

28 **Bill Harris:** If you were on Table 2, you probably wouldn't agree.

29 **Rita Barrett:** It would just hold up payment to the gas owners.

1 **Donnie Rife:** If it was my money, I'd want it.

2 **Mary Quillen:** I'd be willing to bet that EQT has, over that six-year period, they've recouped  
3 that.

4 **Jim Kaiser:** Exactly.

5 **Mary Quillen:** Because they've been holding that back and recouping over six years, I'd be  
6 willing to bet.

7 **Donnie Ratliff:** I make a motion that we approve the petition, as presented, with the exception  
8 that no money be paid out on Table 1, to the gas owners, that we only pay out Table 2.

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

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

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

12 **Bill Harris:** Does that preclude if there is an error? Because I think the original statement that I  
13 was going to make into a motion, that you made, would have had a contingency part.

14 **Donnie Rife:** It does have a contingency, too, for correction.

15 **Donnie Ratliff:** I don't think there's any contingency. I mean, there's not enough money there.  
16 There's exactly, to the penny, enough money to pay out Table 2. There is zero funds in the  
17 account to pay Table 1.

18 **Rita Barrett:** We'll verify that, by the end of the week.

19 **Donnie Rife:** Then, we can let the motion stand.

20 **Rick Cooper:** You have revised the petition, to reflect that.

21 **Jim Kaiser:** I think we're just providing that, for informational purposes.

22 **Bill Harris:** I'm happy.

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

25 **Board:** Yes.

26 **Bradley Lambert:** Opposed, no.

27 **Bruce Prather:** One abstention.

28 **Bradley Lambert:** Thank you, Mr. Kaiser.

1 **Jim Kaiser:** Thank you.

2 **Bradley Lambert:** One abstention. Mr. Prather.

3 **Rick Cooper:** Mr. Chairman, before EQT leaves, I have a comment, if I could do so, since they  
4 may not be back, for a while.

5 **Bradley Lambert:** Go ahead.

6 **Rick Cooper:** I guess I would encourage that the representatives here, today, work with EQT to  
7 get their escrow monthly uploads. They're 28 months behind on that. It's been very challenging  
8 to get that accomplished. So, recently, they did submit all those to us. But, submitting it to us,  
9 we have to evaluate those. They've been rejected, back and forth, two or three times. They go  
10 back to 2013. I would encourage that you all talk to EQT and diligently process those, so we're  
11 not so far behind on those.

12 **Rita Barrett:** Yes, and I just got the business card of the Escrow Agent and I've asked her to  
13 email me some of the information. I will see what buttons I can push with EQT to get that done.

14 **Jim Kaiser:** Mr. Cooper, could you send me an email, to that effect, that I can use in an email to  
15 them, to try to turn things up?

16 **Rick Cooper:** I certainly will. We appreciate any help. It's been very challenging to get those  
17 processed.

18 **Rita Barrett:** Would you copy me on the email you send him?

19 **Bradley Lambert:** Does the Board understand what Mr. Cooper just said?

20 **Mary Quillen:** Yes.

21 **Bradley Lambert:** 28 months behind on the reconciliation.

22 **Bill Harris:** When that happens, I think I know what that means, but does that mean the money  
23 is in the bank, but not accounted for, yet? Or, the money has not been sent to the bank?

24 **Rick Cooper:** I think, with the way the process was, the Board approved several years ago for  
25 the all the companies to do a full accounting of the royalties, submit that monthly, as an escrow  
26 upload. It's not that they haven't sent those in, but they've had errors on since 2013. So, they  
27 have sent those in, but we have never gotten any of them approved since 2013. I think we have  
28 one approved, since 2013. It's more that there's errors in there. Some of them are simple errors,  
29 I would admit. But, we cannot process those until they correct all those. There's other errors,  
30 too. There's a whole spreadsheet that we will furnish to Mr. Kaiser and Ms. Barrett and they can  
31 forward that on. But, it's been very challenging to get those processed, timely.

32 **Mary Quillen:** I would strongly recommend that they get those corrections in to the Board.

1 **Bill Harris:** Do we have any kind of penalty structure in place when that happens?

2 **Rick Cooper:** I would like them to report back to the Board in September. You can't do that in  
3 one day and you, certainly, can't do that in a week, but in two months, we should be able to  
4 resolve these issues, if they're encouraged to do that.

5 **Mary Quillen:** Maybe, give them those parameters.

6 **Bradley Lambert:** Mr. Harris, to answer your question, this was a Board order of, maybe, three  
7 years ago.

8 **Rick Cooper:** I think it was 2012.

9 **Bradley Lambert:** The Board issued an order that that would be done, monthly. So, if they're  
10 in violation of a Board order, there are stiff penalties that can be incurred because of that.

11 **Donnie Rife:** Has any been applied?

12 **Bradley Lambert:** The penalties?

13 **Donnie Rife:** Yes.

14 **Bradley Lambert:** Not to-date, no.

15 **Jim Kaiser:** I promise I'll do everything I can to light a fire in them.

16 **Rita Barrett:** Me, too.

17 **Rick Cooper:** That would be appreciated.

18 **Donnie Ratliff:** Is EQT operating anything in Virginia, today?

19 **Rita Barrett:** Are they drilling in Virginia?

20 **Jim Kaiser:** No, they're still operating.

21 **Rita Barrett:** Yes, they operate these wells, in Wise County.

22 **Donnie Rife:** You still have some in Dickenson, too, don't you, on the back end?

23 **Rita Barrett:** Yes.

24 **Donnie Rife:** Do you have any idea how many that is?

25 **Rita Barrett:** I don't, Mr. Rife.

26 **Jim Kaiser:** Not that many.

27 **Donnie Rife:** I know it's just on one, small section on the back side.

1 **Bruce Prather:** Rick, is the money in the escrow account?  
2 **Rick Cooper:** The money is in the escrow account. The money's not a problem, just the  
3 accounting of the way the money accumulates interest. Royalty interest is not being reported.  
4 **Bruce Prather:** I just wanted to make sure of that.  
5 **Rick Cooper:** Yes, the money is available to disburse.  
6 **Bruce Prather:** Good.  
7 **Bradley Lambert:** Thank you, Mr. Kaiser.  
8 **Jim Kaiser:** Thank you.  
9 **Bradley Lambert:** Thank you, Ms. Barrett.  
10 **Rita Barrett:** Thank you.  
11 **Bradley Lambert:** We're going to take about ten minutes to break. We'll get back together at  
12 ten after.

13 **Item Number 6**

14 **Bradley Lambert:** Ladies and gentlemen, if you'll please take your seats, it's time to resume  
15 these proceedings, this morning. Our next docket item is number 6, a petition from CNX Gas  
16 Company, LLC, for (1) the disbursement of escrowed funds heretofore deposited with the  
17 Board's Escrow Agent, attributable to a portion of Tract 2C, as depicted upon the annexed table;  
18 (2) authorization to being paying royalties directly to the parties listed in the petition; (3)  
19 dismissal of coal owners. This is Docket Number VGOB-90-1010-0033-09. All parties wishing  
20 to testify please come forward.  
21 **Mark Swartz:** Mark Swartz and Anita Duty.  
22 **Bradley Lambert:** You're still under oath, Anita. You've been sworn in, already, so you may  
23 proceed, Mr. Swartz.  
24 **Mark Swartz:** Could you state your name for us, please?  
25 **Anita Duty:** Anita Duty.  
26 **Mark Swartz:** Who do you work for?  
27 **Anita Duty:** CNX Land, LLC.  
28 **Mark Swartz:** Who are you here, on behalf of, today?

1 **Anita Duty:** CNX Gas Company.

2 **Mark Swartz:** And, they are the petitioner in this docket item. Correct?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** This pertains to Unit BB8?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** And, the relief that we're requesting would be a partial disbursement from  
7 escrow, the opportunity, as operator, to directly pay the people that are receiving this  
8 disbursement, in the future, and a dismissal of one or more coal owners. Right?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** The reason that we're here, asking for a disbursement in this unit, is simply  
11 because of House Bill 2058. We've got some gas claimants. We've given notice to a coal owner  
12 and haven't received a response. Correct?

13 **Anita Duty:** Correct.

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

15 **Anita Duty:** Yes.

16 **Mark Swartz:** Table 1 shows that it pertains to Tract 2C. Correct?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** You have three people listed, there?

19 **Anita Duty:** Yes.

20 **Mark Swartz:** Obviously, you would not have petitioned for disbursements to these three  
21 people if you didn't have a W-9 from them. Correct?

22 **Anita Duty:** Correct.

23 **Mark Swartz:** When we go to look at your mailing, here, it looks like one of them came back.  
24 Bonnie Street's mail, even though we have a W-9 from her with an address and so forth, it was  
25 returned. Correct?

26 **Anita Duty:** Yes.

27 **Mark Swartz:** So, the disbursement, then, since we haven't been able to give her notice, would  
28 be to Wanda Coleman Cook and Billy Ray Thacker. Correct?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** Let's go back to Table 1. This is a percentage table?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** So, when the Escrow Agent is making these disbursements, the Agent should  
5 use the percent listed in the column that's the second column from the right-hand side of the  
6 document, in making the payments to Wanda Coleman Cook and Billy Ray Thacker and use the  
7 percentages recorded. Correct?

8 **Anita Duty:** Yes.

9 **Mark Swartz:** At this point, a disbursement should not be made to Bonnie Street?

10 **Anita Duty:** Correct.

11 **Mark Swartz:** Did you provide the Board with an Exhibit E, when you filed, and an Exhibit  
12 EE?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** Unfortunately, because the mail came back from Bonnie and we're not going to  
15 be able to pay her, we need to, probably, revise those. Right?

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

17 **Mark Swartz:** We talked about the proof of mailing. Exhibit J. You did a reconciliation?

18 **Anita Duty:** We did.

19 **Mark Swartz:** In doing so, did you attempt to identify all deposits the operator had sent to one,  
20 or more, Escrow Agents?

21 **Anita Duty:** Yes.

22 **Mark Swartz:** Did you look for a deposit at an escrow bank for every royalty check that the  
23 operator sent their way?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** Then, did you do some math to total what you had deposited in escrow, subtract  
26 the various disbursements? It looks like there has already been eight disbursements made.

27 **Anita Duty:** Yes.

1 **Mark Swartz:** Then, we've got interest and fees and so forth and you ran a total of what you  
2 thought should be in the account. Correct?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** And compared that to the bank's total, as of the end of March 2016, and there  
5 was a difference?

6 **Anita Duty:** \$889.86.

7 **Mark Swartz:** And, the bank had that amount more than your calculation?

8 **Anita Duty:** Yes. But, we were not able to get any bank data, from the beginning of the  
9 account down through October 1997. That's the reason it's been placed on the docket. That's the  
10 reason that Mr. Cooper wasn't able to approve it.

11 **Mark Swartz:** That's shown at the beginning of Exhibit J. There's nothing from the bank.

12 **Anita Duty:** Correct.

13 **Mark Swartz:** They're your deposits, but no data back from the bank. Presumably, that has  
14 some relationship to the.... With regard to the coal owner, it looks like you mailed to the coal  
15 owner, Harrison-Wyatt, LLC, in June 2015. Correct? In anticipation of the law?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** You've got the card, where they received it and you have not received either an  
18 agreement or evidence of a lawsuit, back. Correct?

19 **Anita Duty:** Correct.

20 **Mark Swartz:** Consequently, you're asking that, in addition to the disbursements we've talked  
21 about, the ability to direct-pay the two people who are receiving disbursements, we also want to  
22 dismiss Harrison-Wyatt, LLC, as a coal claimant, in this unit?

23 **Anita Duty:** Yes.

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

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

26 **Rick Cooper:** Mr. Chairman.

27 **Bradley Lambert:** Mr. Cooper.

28 **Rick Cooper:** I guess I would request that the revisions be in, by Friday of this week, so that we  
29 can pursue this.

1 **Bradley Lambert:** I think that's, yes, they will be there.

2 **Sarah Gilmer:** I can remove her from the tables. You all will have to correct...

3 **Mark Swartz:** We'll do the E's and the EE's. I just want to make sure that somebody can square  
4 the table away.

5 **Anita Duty:** The mail says, "Unable to forward." So, it appears that our W-9, that we have, the  
6 address has been changed, since then. So, you can't do a re-mailing or anything like that. That's  
7 why we need to remove her.

8 **Bradley Lambert:** There's a note in E that says, "the respondents listed below did not respond,  
9 timely, to the W-9 request and will continue to be escrowed." What happened that they didn't  
10 respond to a W-9, but you've got that in your petition?

11 **Anita Duty:** Anybody that we leave on the Exhibit E and don't pay out, we put the reason why.  
12 For all the people that are listed on Exhibit E, currently, they did not respond to the W-9 request.  
13 So, they're going to remain in escrow until they send us their W-9.

14 **Bradley Lambert:** Under the William A. Arms heirs, all of those folks listed didn't respond to  
15 the W-9?

16 **Anita Duty:** Correct.

17 **Bradley Lambert:** Everybody in that list?

18 **Anita Duty:** Correct.

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

20 **Anita Duty:** If we didn't put a different explanation for somebody, then that applies to  
21 everybody.

22 **Bradley Lambert:** Thank you. Any other questions from the Board? [No response] Do I have  
23 a motion?

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

25 **Bill Harris:** Second.

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

27 **Donnie Ratliff:** That's with revised Exhibits E and EE and staff is going to correct the table.

28 **Donnie Rife:** We've already requested that.

29 **Rick Cooper:** Yes.

1 **Bill Harris:** Does he need to amend the motion, then?  
2 **Donnie Rife:** He already requested. That motion should be able to stand, shouldn't it, Mr.  
3 Chairman?  
4 **Bradley Lambert:** Yes.  
5 **Bill Harris:** Okay.  
6 **Bradley Lambert:** I have a motion and a second. No further discussion. All in favor signify by  
7 saying yes.  
8 **Board:** Yes.  
9 **Bradley Lambert:** Opposed no. [No response] Thank you, Mr. Swartz. That one is approved.

10 **Item Number 7**

11 **Bradley Lambert:** Docket Number 7 lists Anna R. Lambert as one of the royalty owners. The  
12 chairman is going to recuse himself. I don't know that party, but just in case, I will recuse myself  
13 and ask Mr. Ratliff to take Docket Item Number 7 for me.

14 **Donnie Ratliff:** 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 31,  
16 36, 37, 38, 40, 40A & 40B. This is Docket Item VGOB 92-0218-0185-05. All parties interested,  
17 please come forward.

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

19 **Donnie Ratliff:** You may proceed.

20 **Mark Swartz:** Anita, you're here on behalf of CNX Gas Company, LLC. Correct?

21 **Anita Duty:** Yes.

22 **Mark Swartz:** And, we're here today about a request for a partial disbursement from drilling  
23 Unit SLW7. Is that right?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** And, the relief that we're seeking is three-fold. We're asking for a disbursement  
26 to people identified on Table 1. We are asking for the ability, as an operator, to pay those folks,  
27 directly, in the future, rather than escrowing their funds and, lastly, we're asking to dismiss one  
28 or more coal owners, who received 45-day notices and did not provide evidence of either an  
29 agreement or a lawsuit. Correct?

1 **Anita Duty:** Correct.

2 **Mark Swartz:** There are several reasons for this disbursement request. First of all, we have  
3 some royalty split agreements.

4 **Anita Duty:** We do.

5 **Mark Swartz:** Those are 50/50 agreements, I think.

6 **Anita Duty:** Yes.

7 **Mark Swartz:** In addition, when we apply House Bill 2058, we have some gas claimants who  
8 are now entitled to be paid and one or more coal claimants who should be dismissed. Correct?

9 **Anita Duty:** Yes.

10 **Mark Swartz:** Okay. There's a map of the long-wall unit. Then, we have a fairly lengthy Table  
11 1. Correct?

12 **Anita Duty:** Yes.

13 **Mark Swartz:** With regard to that, in terms of the mailing and the interplay between the  
14 mailing in Table 1, if we go to the certificate, with regard to mailing, which is Page 32 of your  
15 pdf, we show that David Hess, there was a return. Correct?

16 **Anita Duty:** Yes.

17 **Mark Swartz:** Also, Randy L. Keen. Correct?

18 **Anita Duty:** Yes.

19 **Mark Swartz:** Those were people that we had W-9's for, obviously, because we wouldn't have  
20 filed, if we didn't.

21 **Anita Duty:** Correct.

22 **Mark Swartz:** But, we've got their mail back.

23 **Anita Duty:** Yes.

24 **Mark Swartz:** Was it refused? Was it not picked up? Do you have any indication?

25 **Anita Duty:** It looks like Diana Asbury was refused.

26 **Mark Swartz:** I missed her. Right. So, she refused. Then, we have two that were returned that  
27 I have named. Correct?

28 **Anita Duty:** Correct.

1 **Mark Swartz:** Those three folks are listed on Table 1 and are people that we had received W-  
2 9's from?

3 **Anita Duty:** Yes.

4 **Mark Swartz:** Are you requesting that, if this application is approved, that those three people  
5 be removed from Table 1 before it goes to the Escrow Agent?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** Now, let's go back to Table 1. In Table 1, you have listed, with the exception of  
8 the three people that we just talked about, recipients of the disbursement, with addresses, for  
9 Tracts 31, 36, 37, 38, 40, 40A & 40B. Is that correct?

10 **Anita Duty:** Yes.

11 **Mark Swartz:** With regard to each person that you're requesting the Board disburse to, you  
12 have, in fact, identified the company or person, by name, and given a current address?

13 **Anita Duty:** Yes.

14 **Mark Swartz:** This is a percentage disbursement request?

15 **Anita Duty:** It is.

16 **Mark Swartz:** So, the Escrow Agent should be directed to use the percentage listed against  
17 each recipient's name and address in the second column from the right-hand edge of the exhibit,  
18 should use that percentage, apply it to the balance on hand when the disbursement is made and  
19 that will generate the dollar amount. Correct?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** Then, have you provided Exhibits E and EE? Did you provide those, at the time  
22 of filing?

23 **Anita Duty:** We did.

24 **Mark Swartz:** When you did those, you assumed the mailing had been received?

25 **Anita Duty:** Yes.

26 **Mark Swartz:** So, we need to revise those, to deal with the three people who either refused  
27 their mail or didn't get it?

28 **Anita Duty:** We do.

29 **Mark Swartz:** I'm guessing there's going to be a request that you try to do that, by Friday.

1 **Anita Duty:** We will.

2 **Mark Swartz:** I'm guessing that there will be an assumption of Sarah, that she'll get her table  
3 modified, as well.

4 **Sarah Gilmer:** Would you call out three people's names, again, just to make sure I've got the  
5 correct ones?

6 **Anita Duty:** Diana Asbury, David Hess and Randy Keen.

7 **Mark Swartz:** Actually, now that I'm looking at it, there's a fourth person that we need to deal  
8 with. Somebody has still got.... We'll leave her on the list because it hasn't come back or been  
9 refused. Just those three.

10 **Sarah Gilmer:** Okay. I can remove them from the table if you'll have the girls upload this on  
11 the exhibits.

12 **Bradley Lambert:** Mr. Swartz, may I ask a question not related to Anna R. Lambert, but just  
13 the things that we're discussing, here? If these folks had received a W-9 and you know that,  
14 what other reason would you want to remove them because that doesn't affect their notice, if  
15 they've got their W-9 back?

16 **Mark Swartz:** I'm going to give you two answers. One is Anita and I looked, this morning, at  
17 some of these, in terms of our Exhibit E or EE and what address did we have there. Then, we  
18 looked at the W-9's. It looks like, in a couple of instances, when we were looking at that,  
19 apparently, the W-9 address is now wrong. So, we're in a situation where we'll be telling an  
20 Escrow Agent to mail a check to an address that appears to be a bad address. We don't want to  
21 do that.

22 **Paul Kugelman:** So, the W-9 and the mailing address that you used are identical, but you've got  
23 a kick-back?

24 **Mark Swartz:** Right. What we're looking at is our E, which is our mailing list, is that address  
25 different than the W-9? Then, that would cause us to ask a question. What we were seeing in  
26 the couple that we looked at, today, is we've got the same address on our Exhibit E that we've got  
27 on our W-9 and it appears to be an address that is not a current, good, address. We don't want to  
28 mail. That's one answer.

29 **Paul Kugelman:** Can I just follow up real quick on that, Mr. Chairman?

30 **Bradley Lambert:** Yes.

31 **Paul Kugelman:** So, the W-9 information that you have is provided by...

32 **Mark Swartz:** The person.

1 **Paul Kugelman:** The person.

2 **Mark Swartz:** Right.

3 **Paul Kugelman:** Okay. I just wanted to make sure I'm following.

4 **Mark Swartz:** Now, to get to your better question.... That's the simple answer. You've asked a  
5 more complicated question. The more complicated question that we have, that we deal with, is  
6 now we've gotten a W-9 from somebody, so you would think that that was a good address. You  
7 would think that they're telling us, "I want to receive my money." If that's happened and they've  
8 refused their mail, as opposed to it was returned because the address was bad, why can't we just  
9 tell the Escrow Agent to mail? The answer to that question is, I think, the consensus seems to be,  
10 from advice that Mr. Cooper has received from Mr. Kugelman, that we shouldn't pay those  
11 people. If they refuse their mail, then they haven't received it.

12 **Paul Kugelman:** I've never given Mr. Cooper any advice on whether to pay. We've talked  
13 about notice.

14 **Mark Swartz:** That's the question that I thought the Chairman was asking. Why do you need to  
15 give them notice?

16 **Bradley Lambert:** I didn't say, "Why didn't we give them notice?" You attempted, but you got  
17 a W-9 from them.

18 **Mark Swartz:** Wait. What I'm saying is...

19 **Bradley Lambert:** Somehow, they know.

20 **Mark Swartz:** They're indicating they want to receive the money. So, I guess, my disconnect  
21 is, even though we can't come in here, because somebody refused it or it's still unclaimed and we  
22 can't say they have it in their hot, little hand.... In the circumstances where we have W-9's from  
23 them, why would we need to do more, which I think is kind of what the Chairman is asking,  
24 which is a notice question, even though it's a why would we need to do more. From my  
25 standpoint, if we think we have a good address, we would like to have the Escrow Agent send  
26 them the check, which would be the refused or unclaimed.

27 **Bradley Lambert:** To carry that further, if you think, you got the W-9 back.

28 **Mark Swartz:** They're only going to be here, on this list, if we have a W-9. We don't file these  
29 if we don't have W-9's.

30 **Bradley Lambert:** I guess that's what I was questioning.

31 **Mark Swartz:** Right.

1 **Paul Kugelman:** Just to make the record clear, here, CNX sent the gas owner a request for a W-  
2 9, which was filled out.

3 **Mark Swartz:** Gets it back.

4 **Paul Kugelman:** The gas owner fills it out, including the address, sends it back.

5 **Mark Swartz:** Right.

6 **Paul Kugelman:** When a W-9 is sent, does it say for a particular well or does it just say, "CNX  
7 disbursement," generally?

8 **Anita Duty:** They will put on the wells that they.... We actually put it on there when we send it  
9 to them, so when it comes back, it's easier to index it to where it belongs.

10 **Paul Kugelman:** Just to help me out, let's say there's a gas owner and they're in five different  
11 units. Do you send them one W-9 or five W-9's?

12 **Anita Duty:** We try to just send one.

13 **Paul Kugelman:** Okay.

14 **Anita Duty:** It's possible that we send more than one.

15 **Paul Kugelman:** Okay. But, the idea is you get one W-9, per gas owner? Okay. So, they're  
16 not, necessarily, notified that this particular well is being disbursed is what we're getting at. So,  
17 even though they filled out a W-9, it's not really a notice. They're, generally, aware.

18 **Bradley Lambert:** What if it's just one well or one unit? You asked the question, "What if they  
19 were in five?"

20 **Mark Swartz:** I guess where I'm coming from, I'm sort of on the same page as the Chairman.  
21 Just from a common sense standpoint, I'm sitting here thinking if somebody gave me a W-9,  
22 they're saying, "I would like to receive my money." I mean, that's what we take that as. If we've  
23 got the W-9 and we have what we think is a good address, not a returned as undeliverable, but  
24 we've got either an unclaimed or refused or something like that. To me, why don't we tell the  
25 Escrow Agent to send them the check because they've given us a W-9. That's just my common  
26 sense reaction to that. On the other hand, under 361.19, we've got what we've got.

27 **Mary Quillen:** What did you get that brought up the red flag that it was unclaimed?

28 **Mark Swartz:** The post office tells us that.

29 **Mary Quillen:** What did you send them that wasn't claimed?

1 **Mark Swartz:** We send this stuff certified mail, return receipt requested. So, the post office  
2 communicates back to us, with regard to most of this stuff. So, we'll get a card back or we'll get  
3 the envelope back, we'll get some kind of feedback from the post office. If we don't, every piece  
4 of mail has a number that we can get into the post office tracking system and we can figure out  
5 what happened, if nothing came back. Occasionally, we are dealing with a tiny, little post office  
6 that doesn't enter any of this data. We talked about that, in the past. We'll get something that's in  
7 transit for months. That means what I think I'm going to have to do is interact with the post  
8 office and offer some evidence, here, as to what that means, so that we can move past that. What  
9 we're being told is that means somebody picked up the mail and the post office didn't enter it in  
10 the database.

11 **Mary Quillen:** Okay.

12 **Mark Swartz:** But, we're going to have to make a record so you can rely on that. Anita and I  
13 talked about that, this morning.

14 **Paul Kugelman:** W-9's aren't sent return receipt requested. They're sent out regular first-class  
15 mail.

16 **Mark Swartz:** Correct.

17 **Paul Kugelman:** You're getting those back.

18 **Mark Swartz:** Yes.

19 **Paul Kugelman:** Just to be clear, for the record, when I say, "getting those back," I mean  
20 completed W-9's.

21 **Mary Quillen:** So, you eventually got the return receipt from this person?

22 **Mark Swartz:** What we're talking about, here, is if somebody is on Table 1 and we're here, we  
23 have a W-9.

24 **Mary Quillen:** Okay. Well, they are on this Table 1.

25 **Mark Swartz:** I know. That's what I'm saying. So, they're on Table 1 and we're trying to pay  
26 them. We have a W-9 that's been filed. The problem is the second step is we are trying to tell  
27 them there is going to be a hearing, today. That's the mailing issue.

28 **Mary Quillen:** Oh! Okay. That's what I didn't understand is where did something come up.  
29 So, they have moved from that address or something.

30 **Mark Swartz:** Or, they got an attitude.

31 **Paul Kugelman:** Some people just don't like to pick up return receipt mail.

1 **Mark Swartz:** Right! Exactly! It's a problem.

2 **Donnie Ratliff:** Let's get a little bit of guidance from Mr. Kugelman, here, and see if it helps.

3 **Paul Kugelman:** Candidly, the concern that I have is that these folks have a right to come in  
4 and contest or, at least, ask questions about the quantum of their payment or the basis for it. But,  
5 at the same time, they have submitted a W-9. Actually, the new law, 361.22:2, does still  
6 preserve the right for them to pursue an accounting, if they so desire. The issuance of the check  
7 does not extinguish that right. So, I think under these circumstances, where we have a W-9 that  
8 has been returned by the addressee and executed by the addressee, and where you have return  
9 receipt mail that's just not claimed or returned, as "refused," it sounds like we have a good  
10 address. I think it would be appropriate for the Board to issue the check. I think that, if it's the  
11 wrong address, we'll probably get it bounced back or they can't be cashed. Maybe, we'll take  
12 these on a case-by-case basis and see how these unfold.

13 **Mark Swartz:** As a general proposition, if we feel like we have a good address, we can request  
14 payment, even though we got a refusal or a failure to claim. If we feel like we don't have a good  
15 address because we got a return, then we need to share that with you and we take them off the  
16 list.

17 **Donnie Ratliff:** I think that's appropriate.

18 **Paul Kugelman:** I think we take these up on a case-by-case basis.

19 **Mark Swartz:** That's fine, but at least we'll anticipate that in our testimony.

20 **Paul Kugelman:** Okay.

21 **Mark Swartz:** Can we fix the earlier one, then?

22 **Bradley Lambert:** Yes, I think we probably ought to back up and fix that one.

23 **Mark Swartz:** Might as well.

24 **Paul Kugelman:** Are we going back to number 6? All these returned posted W-9's?

25 **Mark Swartz:** Let me go back to that. She's already removed them. We'll go with that. She's  
26 multi-tasking.

27 **Bradley Lambert:** The Board wants to get the money out. We don't want to drag this on for  
28 another month or two. If we can back up and fix six, we need to back up and fix six and get  
29 money to these people.

30 **Mark Swartz:** Can you undo that and put them back in? We have to do it. I see what you're  
31 saying.

1 **Anita Duty:** We can't take them out, but we can put them in.

2 **Mark Swartz:** But, we'll put them in. Put number six back in.

3 **Donnie Ratliff:** You've got to give them revised exhibits, by Friday, anyway, on 6, right?

4 **Mark Swartz:** Correct.

5 **Donnie Ratliff:** E and EE. She was going to fix the table.

6 **Anita Duty:** The problem I think we're going to run into, especially on the first one, the BB8,  
7 the one mail says, "Unable to forward," so that tells me that they have moved. So, the W-9 that  
8 we have and the mailing that we attempted to deliver were the same. That tells me that's  
9 probably not a good address, regardless if the W-9 is still good. So, I think BB8 needs to stay.

10 **Paul Kugelman:** Is that the only one, on six?

11 **Bradley Lambert:** That's the only one?

12 **Mark Swartz:** BB8 was just Bonnie Street, right?

13 **Anita Duty:** And, she was just unable to forward and that tells me she's moved.

14 **Mark Swartz:** Right.

15 **Bradley Lambert:** Okay. We'll leave that one alone, then.

16 **Mark Swartz:** So, we're good on BB8. This one, SLW7, which is what we're currently dealing  
17 with, we've got a refused Diana Asbury, so we would leave her in, as receiving a check. We've  
18 got an unclaimed for Julia Chitester Jackson and we would leave her in to get a check.

19 **Anita Duty:** David Hess is the same thing.

20 **Mark Swartz:** Isn't he "returned?"

21 **Anita Duty:** "Not known. Return to sender. Unable to forward."

22 **Bradley Lambert:** But, you've got a W-9, though. Is that correct?

23 **Mark Swartz:** What does that say?

24 **Anita Duty:** "Return to sender. Attempted. Not known. Unable to forward."

25 **Mark Swartz:** No, but that's an indication of a bad address, is what I'm saying.

26 **Anita Duty:** So, we're saying you're taking him out.

27 **Mark Swartz:** Correct. Let's start over, again.

1 **Anita Duty:** If it says, "Unable to forward," that means they have moved.

2 **Mary Quillen:** Was that the Asbury?

3 **Anita Duty:** David Hess.

4 **Mark Swartz:** David Hess is coming off of Table 1 because we don't think we have a good  
5 address.

6 **Mary Quillen:** Okay. What about Randy Keen? What was his...?

7 **Mark Swartz:** The other person that's returned is Randy Keen which, presumably, we don't  
8 have a correct address. He's coming off. When we look at the actual return receipt, which you  
9 have for Randy L. Keen, it shows "unclaimed," so I think we have a good address for him in our  
10 exhibit, as well. So, we can keep him on.

11 **Donnie Ratliff:** You have a W-9 on Randy Keen?

12 **Mark Swartz:** Right. We have W-9's on all these people. Then, it looks like the only people...

13 **Anita Duty:** David Hess is the only person we're going to remove.

14 **Donnie Ratliff:** Right.

15 **Anita Duty:** I will make sure that, when they fill these out, that they put the exact reason, not  
16 just "Returned." It needs to say "Unable to forward." I will fix that.

17 **Donnie Ratliff:** Thank you.

18 **Mark Swartz:** So, we're paying everybody, except David Hess.

19 **Anita Duty:** David Hess is the only one that's coming off.

20 **Mary Quillen:** Okay. Hess is going to be removed.

21 **Paul Kugelman:** Right.

22 **Mary Quillen:** Asbury and Keen is staying on.

23 **Mark Swartz:** The other three.

24 **Mary Quillen:** Okay.

25 **Rick Cooper:** So, Mr. Chairman, to make sure we understand, may I ask a question?

26 **Donnie Ratliff:** Yes.

1 **Rick Cooper:** So, if notice comes back, "Non-delivered" or "Returned" or whatever, if we have  
2 a W-9 for those people, we are allowed to process those? Is that what I'm hearing? If we have a  
3 W-9, with the correct address, even though the certified mailing may not have received the  
4 people, we can process them?

5 **Mark Swartz:** If we think we have a correct address, the answer would be "Yes," to that, I  
6 think.

7 **Paul Kugelman:** Right. I want to be a little bit more specific than somebody thinks they have  
8 the right address, though, for guidance. Where the gas owner has returned a W-9 and that is the  
9 address that the well operator uses for the notice and the return receipt either comes back,  
10 "Unclaimed" or "Refused," then you may process. Any other reason should probably be brought  
11 to the Board. Does that make sense to you, Mr. Swartz?

12 **Mark Swartz:** Absolutely, because if you can't find the guy and can't forward it, we don't have  
13 a good address. You're zeroing in on some evidence of a bad address or a good address.

14 **Paul Kugelman:** If there's other questions, we should probably talk more, but I think that's a  
15 good start. Does that make sense to you all? You guys have to deal with this.

16 **Rick Cooper:** The only thing on that is we don't see the W-9, so we'll have to verify that  
17 through the bank. We do not see W-9's. They send them to the bank, so we would verify it  
18 through the bank.

19 **Paul Kugelman:** Are we adding a step to the process, now?

20 **Rick Cooper:** That's okay, if it will.... As long as a W-9 is submitted, as long as you approve it  
21 under these conditions, if they get it, "Unclaimed" or "Returned" and have a correct W-9, we can  
22 contact the bank and process that, if that's what the Board chooses.

23 **Donnie Ratliff:** I think that's what we're saying.

24 **Mark Swartz:** We always give you a certification of notice, anyway. We're going to be more  
25 specific, so it doesn't add a step for us. We're just going to give you a more specific answer, in  
26 the certificate, because we're filing those every time, anyway.

27 **Mary Quillen:** Can I ask just one question? When you send this out, the W-9, it's returned to  
28 you with this address. In the meantime, after that's returned, then this person moves somewhere  
29 else, do they not have any responsibility for letting you all know that they have moved or that  
30 they have a different address? It seems like that there should be some responsibility, on their  
31 part, if they move or they're no longer at that address.

32 **Mark Swartz:** A lot of people deal with the post office to solve that problem, but we can't  
33 impose some obligation on them for reporting. So, that's the answer to your question.

1 **Mary Quillen:** Normally, that's what people do.

2 **Mark Swartz:** Right, but we can't, as a company or a Board, say to people, generally, you have  
3 to do that.

4 **Paul Kugelman:** But, even if we had the authority to impose that obligation and you, as a  
5 Board, did impose that obligation, it still doesn't divest them of the right to receive the money  
6 and have due process.

7 **Mark Swartz:** I think she's not looking at divesting them of the money. She's looking at trying  
8 to facilitate the process.

9 **Paul Kugelman:** I understand.

10 **Mark Swartz:** We can't do that.

11 **Mary Quillen:** It just seems to me, a reasonable person, would you not...?

12 **Mark Swartz:** I think most people probably would be okay, but there are some examples.

13 **Bruce Prather:** What would happen if the wrong person got a hold of the W-9 and sent it in?  
14 That would be some sort of a forgery or a swindle or something. Then, they think they're going  
15 to get the money.

16 **Mark Swartz:** It's no different than, I guess, Social Security checks with dead people. Stuff  
17 like that happens. I don't know how you prevent that.

18 **Donnie Rife:** It just seems a little bit ironic that you can't even get the right people to fill out a  
19 W-9 and send it in, but the wrong person, that could happen.

20 **Bruce Prather:** If you have access to the money, you'd do it.

21 **Mary Quillen:** There are people that do that, I know.

22 **Donnie Rife:** They're not going to collect it.

23 **Mark Swartz:** Well, we do look at signatures, if we have multiple signatures. We've addressed  
24 that with you all, before, but we're not handwriting experts.

25 **Donnie Ratliff:** Let's move on. Anything else, Mr. Swartz?

26 **Mark Swartz:** No, not on this one.

27 **Donnie Ratliff:** Do we have a motion?

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

1 **Rick Cooper:** Mr. Chairman, I guess I've got one addition, I think, if I could.

2 **Donnie Ratliff:** Go ahead.

3 **Rick Cooper:** Instead of us calling the bank on W-9's, if, on their attachment sheet, they submit  
4 to us, if they would just put a note that W-9's have been received for these people, we would be  
5 okay to process.

6 **Bill Harris:** You're saying "they" being...

7 **Rick Cooper:** CNX or whichever company that may do that on their attachment sheet, just post  
8 a note on it that the W-9's have been received for the people submitted.

9 **Donnie Ratliff:** Ms. Duty, is that a problem?

10 **Mary Quillen:** And, this is being disbursed on good faith?

11 **Donnie Ratliff:** Is that a problem, Ms. Duty?

12 **Mark Swartz:** We could do that, but we are telling you we never ask for a disbursement if we  
13 don't have a W-9. So, there would not be a respondent. We wouldn't mail to them. If we don't  
14 have W-9, they're not on this list. I guess that's the answer, but if you want us to...

15 **Donnie Rife:** I don't think it would be a problem to cover your bases. I don't think that should  
16 be an unreasonable request to ask for.

17 **Donnie Ratliff:** So, you're saying something at the bottom of Table 1, just a note that says, "All  
18 of the above have valid W-9's?"

19 **Mark Swartz:** We don't want to use the word, "valid." We'll say W-9's, to anticipate Mr.  
20 Prather's question.

21 **Sally Ketron:** Just on the affidavit tracking sheet is all we need. A note there so we see that it's  
22 been refused or whatever, that's we were asking for. Just so that when we verify that's the W-9  
23 address.

24 **Sarah Gilmer:** That way Sally doesn't kick it back and reject it not knowing.

25 **Mark Swartz:** Just so you know where to look, we're going to change the title of the  
26 certification of notice to certification of notice to people from whom we have received W-9's.  
27 It's going to say something like that. Then, we have a form where we don't have to remember,  
28 but that's where you're going to look for it.

29 **Donnie Ratliff:** Is the list, that's on Page 32...?

30 **Mark Swartz:** That's the list of people...

1 **Donnie Ratliff:** Is that certified mail or is that the list of requests for W-9's?  
2 **Mark Swartz:** No, that's certified mail, notice of hearing.  
3 **Donnie Ratliff:** Okay.  
4 **Anita Duty:** We don't usually provide the mailing list.  
5 **Donnie Ratliff:** Okay. Anything further, Mr. Cooper?  
6 **Rick Cooper:** No, I think that will work fine.  
7 **Donnie Ratliff:** We have a motion. Do we have a second? Mr. Rife made the motion to  
8 approve, approving everything except David Hess.  
9 **Anita Duty:** Correct.  
10 **Bill Harris:** I'll second that.  
11 **Donnie Ratliff:** Any further discussion? [No response] All those in favor say aye.  
12 **Board:** Aye.  
13 **Donnie Ratliff:** Those opposed?  
14 **Bradley Lambert:** One abstention.  
15 **Donnie Ratliff:** Mr. Lambert.

16 **Item Number 8**

17 **Bradley Lambert:** We're calling Docket Item Number 8. A petition from CNX Gas Company,  
18 LLC, for the disbursement of escrowed funds heretofore deposited with the Board's Escrow  
19 Agent, attributable to a portion of Tracts 3, 3C, & 4, as depicted upon the annexed table. This is  
20 Docket Number VGOB-98-0324-0626-10. All parties present that wish to testify, on this docket  
21 item, please come forward.  
22 **Mark Swartz:** Mark Swartz and Anita Duty.  
23 **Bradley Lambert:** You may proceed, Mr. Swartz.  
24 **Mark Swartz:** Anita, state your full name for us, please.  
25 **Anita Duty:** Anita Duty.  
26 **Mark Swartz:** Who do you work for?

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

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

3 **Anita Duty:** Yes.

4 **Mark Swartz:** And, that is the petitioner in Docket Item 8. It pertains to a request for  
5 disbursement from Unit S36. Correct?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** The relief we're seeking, here, is actually a disbursement and a right to direct-  
8 pay and there's no coal owner dismissal issue, here.

9 **Anita Duty:** Correct.

10 **Mark Swartz:** The reasons for the request for the disbursement are two-fold. First, we have  
11 some royalty split agreements. Secondly, we have a court decision. Correct?

12 **Anita Duty:** Yes.

13 **Mark Swartz:** With regard to those folks who have split agreements and/or a court decision,  
14 have you prepared a Table 1?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** It's pretty extensive, a couple pages?

17 **Anita Duty:** Yes.

18 **Mark Swartz:** Is this a percentage disbursement table?

19 **Anita Duty:** It is.

20 **Mark Swartz:** For each tract at issue and each person in the tract that you're requesting receive  
21 a disbursement, have you identified the person or company, by name and address?

22 **Anita Duty:** Yes.

23 **Mark Swartz:** For each company or person, have you also provided the Escrow Agent with a  
24 percentage in the second column from the right-hand side of the document, that they should use  
25 for each person or company, multiply that percentage times the balance on hand when the  
26 disbursement is made and that will generate the dollar amount they should put in the check.  
27 Correct?

28 **Anita Duty:** Yes.

1 **Mark Swartz:** Have we received an objection letter in the last few days, with regard to this?

2 **Anita Duty:** We have.

3 **Mark Swartz:** There were two complaints. Correct?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** One was that Marilyn Horne Taylor was omitted from Tract 3C and, in fact, she  
6 is listed, there.

7 **Anita Duty:** Correct.

8 **Mark Swartz:** So, that pretty much takes care of that one. Then, we have the second objection,  
9 Perry W. Horne's form W-9 and affidavit will be filed, immediately. Well, you are required to  
10 have a W-9 and affidavit in hand when you file these petitions. Correct?

11 **Anita Duty:** Correct.

12 **Mark Swartz:** So, the timing isn't now or tomorrow. We file these because we want the  
13 Escrow Agent to be able to pay these people and there's no guarantee. Have you received it, yet?

14 **Anita Duty:** I have not.

15 **Mark Swartz:** So, "immediately," didn't mean before today, apparently.

16 **Anita Duty:** Correct.

17 **Mark Swartz:** Okay.

18 **Mary Quillen:** Who was that?

19 **Mark Swartz:** Who was who?

20 **Mary Quillen:** That you have not...

21 **Mark Swartz:** It's Perry W. Horne and he would not be on the list because we don't have a W-  
22 9.

23 **Mary Quillen:** Okay. That's the one that the affidavit is from.

24 **Mark Swartz:** Correct. Do you have any information, with regard to him?

25 **Anita Duty:** It's my understanding that he's actually in a...

26 **Mark Swartz:** Assisted living, nursing home, rehabilitation, something. He might need a  
27 conservator or guardian. That might account for the hold-up, but he's alive and it may be  
28 problematic getting an affidavit or W-9. Obviously, if we receive it, as we've indicated with

1 regard to the book that we were talking about, last time, if we have people that haven't provided  
2 this information, are they due, in the future? We have to pay them. Was that the only objection  
3 to this?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** Okay. Have you provided revised Exhibits E and EE?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** Then, did you do a reconciliation?

8 **Anita Duty:** We did.

9 **Mark Swartz:** Did you attempt to identify all of the royalty checks that the operator had paid to  
10 one or more of the banks?

11 **Anita Duty:** Yes.

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

13 **Anita Duty:** Yes.

14 **Mark Swartz:** When you made the search, were you able to find a deposit for each check?

15 **Anita Duty:** Yes.

16 **Mark Swartz:** Then, did you do your math to sort of figure out what you thought would be in  
17 the bank?

18 **Anita Duty:** I did.

19 **Mark Swartz:** Did you compare that to the April 30, 2016, First Bank balance?

20 **Anita Duty:** Yes.

21 **Mark Swartz:** The difference was?

22 **Anita Duty:** Our calculation came up with \$185.95 more than the bank.

23 **Mark Swartz:** Presumably, the fees and interest interaction account for that.

24 **Anita Duty:** Yes.

25 **Mark Swartz:** There's no missing deposit or anything like that?

26 **Anita Duty:** Correct.

1 **Mark Swartz:** Okay. With regard to the mailing, now, since we've had an extensive discussion  
2 about that, let's go back to the certification of notice. There's an unclaimed, Charles M. Osborne.  
3 Based on discussion and, I think, understanding that we have reached, we have a W-9 from him.  
4 Correct?

5 **Anita Duty:** Correct.

6 **Mark Swartz:** We think we have a good address.

7 **Anita Duty:** Yes.

8 **Mark Swartz:** Our recommendation would be that the bank go forward and cut him a check  
9 and mail it to the address that we think is a good address and, hopefully, he'll receive it and be  
10 paid. As I indicated earlier, this is not a case where we're seeking a coal owner dismissal. We  
11 don't have any of those exhibits. That's all I have on this unit, Mr. Chairman.

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

13 **Bill Harris:** Mr. Chairman.

14 **Bradley Lambert:** Mr. Harris.

15 **Bill Harris:** I hate to return to this objection that was filed, but in reading it, it was referring to  
16 Marilyn Horne Taylor being omitted from distribution in Tract 3C.

17 **Mark Swartz:** Right.

18 **Bill Harris:** But, the actual objection letter actually shows a different percentage than it does in  
19 3C. Was there any discussion of that? I know that what we said was, "Well, she's included."

20 **Donnie Ratliff:** She actually has the largest percentage on Table 1.

21 **Mark Swartz:** I didn't pay any attention to the percentage, but I read the things differently.  
22 This lawyer is saying she has a percentage in a tract. We are reporting a percentage in a unit, so  
23 it wouldn't surprise me, in fact, I would expect them to be different most of the time.

24 **Bill Harris:** I guess our interpretation of that objection is that she should have been included  
25 and he was just being more specific, giving a percentage?

26 **Anita Duty:** If you look at the Exhibit EE, her percent of unit is 0.9513. Percent of escrow and  
27 percent of unit doesn't equal. Those numbers aren't the same, referring to percent of unit.  
28 Percent of unit is what's on the exhibit. 0.9513 matches his number.

29 **Bill Harris:** So, then, she is included?

1 **Mark Swartz:** They're two different things. Percent of unit was, collectively.... She's in two  
2 tracts, here. You can tell from this exhibit. She might even be in more. So, her percent in the  
3 unit will be different if she's in multiple tracts, than her percent in any given tract.

4 **Bill Harris:** So, we're saying that we should be okay going forward, with her being in 3C, with  
5 the percent?

6 **Mark Swartz:** What I'm saying is Mr. Mason is complaining about a percentage that wouldn't  
7 apply to the tract that is being disbursed, which would have a different percentage that we have  
8 reported.

9 **Mary Quillen:** So, that is not related to this tract?

10 **Mark Swartz:** It's related to her interest in the entire unit and she has interest in more than one  
11 tract, so she has a percentage interest, overall, in the unit, but we are disbursing from several  
12 tracts. Her interest in this tract is as reported. She's also in Tract 3, for example. She has a  
13 completely different percentage there, as well. So, you need to track the percentage to what  
14 we're talking about. The 80-acre unit, she has a percentage, but with regard to her ownership in  
15 any given piece of that, it's going to be a different number.

16 **Anita Duty:** With all that being said, she is included on the disbursement. I think he may have  
17 just made a mistake. She's on here, for 3C, on the disbursement table.

18 **Bill Harris:** So, this isn't something separate?

19 **Anita Duty:** No, because the percentage he refers to is her interest in the unit.

20 **Bill Harris:** He does, specifically, say 3C.

21 **Anita Duty:** The table reports interest in escrow.

22 **Bill Harris:** Okay.

23 **Anita Duty:** Percent of escrow.

24 **Bruce Prather:** Does your total acreage come up with the same total he's got, here?

25 **Anita Duty:** For Tract 3C, Marilyn Taylor's interest is 0.9513, just like he reported and that's  
26 what is on the exhibit.

27 **Bruce Prather:** So, what it is the percentage of the unit is what he shot at, but really part of his  
28 acreage is in another unit, probably.

29 **Anita Duty:** I think what he's reporting is interest in the unit and he had just overlooked her, on  
30 the table, because she is on here. I think, maybe, it was just a mistake. The only person that's

1 not included are the two people that have a pending lawsuit and Perry Horne, the one that's in the  
2 facility.

3 **Mary Quillen:** Okay.

4 **Bill Harris:** Okay. I just wanted to make sure we satisfied this objection, that that was  
5 considered. Thank you.

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

7 **Mark Swartz:** No.

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

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

10 **Bill Harris:** I'll second.

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

13 **Board:** Yes.

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

15 **Item Number 9**

16 **Bradley Lambert:** We're calling Docket Item Number 9. A petition from CNX Gas Company,  
17 LLC, for (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow  
18 Agent, attributable to Tract 2L, as depicted upon the annexed table; (2) authorization to begin  
19 paying royalties directly to the parties listed in the petition; and (3) dismissal of coal owner. This  
20 is Docket Number VGOB-03-0916-1185-02. All parties wishing to testify please come forward.

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

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

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

24 **Anita Duty:** Anita Duty.

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

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

27 **Mark Swartz:** Are you here on behalf of CNX Gas Company, LLC?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** And, CNX Gas is the petitioner on this petition and operator of Unit AV99.  
3 Correct?

4 **Anita Duty:** Yes.

5 **Mark Swartz:** And, this is a request for relief, regarding a disbursement, ability to direct-pay  
6 people going forward and, also, to dismiss one or more coal owners. Correct?

7 **Anita Duty:** Yes.

8 **Mark Swartz:** The reason we've made this request for disbursement is one. We have a person  
9 who is the gas claimant, under the new law. We've given notice to the coal owner or owners,  
10 have not received evidence of an agreement or a lawsuit and we're proposing to pay the gas  
11 owner. Correct?

12 **Anita Duty:** Correct.

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

14 **Anita Duty:** Yes.

15 **Mark Swartz:** It lists one person. What's her name?

16 **Anita Duty:** Anna Rae Burkhart

17 **Mark Swartz:** And, you've provided her address?

18 **Anita Duty:** Yes.

19 **Mark Swartz:** And, you have a W-9 for her?

20 **Anita Duty:** We do.

21 **Mark Swartz:** The percentage that the Escrow Agent should use to calculate the amount of the  
22 check due her, or payable to her, is what percent?

23 **Anita Duty:** 0.5208%

24 **Mark Swartz:** That's the percentage that should be multiplied times the balance on hand?

25 **Anita Duty:** Yes.

26 **Mark Swartz:** Then, you're asking for the right to pay her directly, going forward?

27 **Anita Duty:** Yes.

1 **Mark Swartz:** And, you've provided the Board with revised Exhibits E and EE?

2 **Anita Duty:** Yes.

3 **Mark Swartz:** The proof of mailing and she got her mail of the notice of hearing. Did you do a  
4 reconciliation?

5 **Anita Duty:** Yes.

6 **Mark Swartz:** In doing so, did you look for all the royalty checks that the operator sent to one  
7 or more of the Escrow Agents?

8 **Anita Duty:** We did.

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

10 **Anita Duty:** Yes.

11 **Mark Swartz:** How did that go?

12 **Anita Duty:** We found a deposit for every check we sent.

13 **Mark Swartz:** Then, you did some math to come up with what you thought the balance ought  
14 to be.

15 **Anita Duty:** Yes.

16 **Mark Swartz:** And, you compared that to the March 2016 First Bank and Trust balance. There  
17 was quite a difference. What was the amount of the difference?

18 **Anita Duty:** The bank is showing \$2,408.86 more than what we did.

19 **Mark Swartz:** And, you don't have an explanation for that, other than to suggest it might  
20 pertain to interest, but probably not.

21 **Anita Duty:** Right. That's the reason it's on the docket.

22 **Mark Swartz:** Right. Lastly, you provided the 45-day notice, under the statute, to the coal  
23 owner. Correct?

24 **Anita Duty:** Yes.

25 **Mark Swartz:** And, you mailed to him or that company on August 13, 2015?

26 **Anita Duty:** Yes.

27 **Mark Swartz:** And, Harrison-Wyatt, LLC, signed for that mail a few days later. Correct?

1 **Anita Duty:** Yes.

2 **Mark Swartz:** And, you have not received either evidence of an agreement or a lawsuit from  
3 them since you mailed?

4 **Anita Duty:** Correct.

5 **Mark Swartz:** And, that's more than 45 days ago?

6 **Anita Duty:** Yes.

7 **Mark Swartz:** So, you're asking, as the last relief, that Harrison-Wyatt, LLC, be dismissed as a  
8 coal claimant in this unit?

9 **Anita Duty:** Yes.

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

11 **Bradley Lambert:** Mr. Cooper, would you make a note to work with the bank on that  
12 outstanding?

13 **Rick Cooper:** We'll do so.

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

16 **Mark Swartz:** No.

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

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

19 **Bill Harris:** Second.

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

22 **Board:** Yes.

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

24 **Item Number 10**

25 **Bradley Lambert:** We're calling Docket Item Number 10. This is a petition from CNX Gas  
26 Company, LLC, for an extension of time delaying payments for gas claimants who have not  
27 provided W-9's and/or affidavits confirming gas ownership either to the Petitioner and Operator  
28 or to the Division of Gas and Oil until such time as the same are provided by the gas claimants;

1 and (b) Extension of time delaying payments for gas claimants where there are title conflicts and  
2 all the other issues that are listed in the petition that I have determined I'm not going to take time  
3 to read all that. This is Docket Number VGOB-16-0621-4093. All parties wishing to testify  
4 please come forward. This was a docket item continued from June 2016.

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

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

7 **Mark Swartz:** When we were last here, in June, the Board voted to approve 60 and 90-day  
8 extensions, with regard to an exhibit that we had presented and deferred deciding the other  
9 requests until today. Before I get into that, a little more specifically, I thought I would kind of  
10 give you an update, as long as we're here. As you will recall, the 60 and 90-day columns,  
11 because I sort of did the math because you couldn't tell from the exhibit we gave you, pertain to  
12 72 units. We sort of went back and discussed with Anita and Jamie what have we accomplished  
13 since we were last here on June 21, about a month ago. I sort of broke this number further down  
14 and, don't take this to the bank, but I think I'm right. I think, of the 72 units, 45 of them fell in  
15 the 60-day extension category. The other 27 fell in the 90-day, we're-working-on-an-heirship  
16 category. With regard to the 60-day category, we have filed, since we were last here, 11  
17 additional petitions, affecting 11 separate units in that category. So, of the 45 units, 11 of them  
18 we have filed. We are ready to file an additional four, so we're really at 15 or one-third of those.  
19 But, we're waiting for the payments to be made out of escrow, so that we don't have multiple  
20 payment request pendings. We've basically, of those 45, we filed 11 since we were last here and  
21 we've got four ready to go. With regard to the 27 units in the 90-day extension request, there  
22 were 17 heirships in that category. It affected a number of units, but I believe we have resolved  
23 five of those 17 heirships and, actually, closed them out. Instead of moving them into an  
24 impasse category, we've actually moved them into a we ought to be able to pay those people  
25 category. That involves many more than five units because they tend to spill over.

26 **Mary Quillen:** 2 of the 17?

27 **Mark Swartz:** We've resolved, I believe, five.

28 **Mary Quillen:** 5 of the 17.

29 **Mark Swartz:** Unless something happens getting the mail out, we find out something else. I  
30 think we've resolved, in a positive way, almost one-third of those, as well. What remains on the  
31 table for you, today, to address, were the additional requests that we had made for, essentially,  
32 indefinite continuances, that to the extent we're unable to resolve these heirships and we move  
33 them into the impasse category or to the extent that we don't get the W-9's and affidavits in the  
34 60-day category, that we need to move those or it turns out we've got some bad addresses, like  
35 we've seen today. We would like an indefinite extension on those that fall into those categories,  
36 that we need a W-9 or an affidavit or further information from somebody. When we receive it,

1 we would act on it, but we sort of punted it to the third party. We're also asking for an indefinite  
2 continuance, with regard to gas title conflicts. That's where people need to sue each other to  
3 resolve a conflict or they have, like Yellow Poplar. It's not resolved, yet. So, that would be an  
4 indefinite extension, pending resolution. Then, we've identified unlocatables and unknowns.  
5 Those people in there are people that we have exhausted our efforts. We've done what we know  
6 how to do and, if they show up, we obviously would process them, but we're asking for an  
7 indefinite continuance, with regard to them. We have put some heirships in the impasse category  
8 that we really have exhausted our efforts, but we still have those 17, five of which we have  
9 resolved. Those were the ones we asked for 90 days. To the extent that any of those get moved  
10 into the impasse category, as opposed to we get them resolved, we're asking for an indefinite  
11 extension on that because we've exhausted our opportunities.

12 **Mary Quillen:** Mark, could I ask you a question about this?

13 **Mark Swartz:** Sure.

14 **Mary Quillen:** If we could have a spreadsheet that, kind of, summarizes that information of  
15 how many are in this category, this category and this category...an updated one.

16 **Mark Swartz:** You, actually, do.

17 **Mary Quillen:** Oh, you do have one?

18 **Mark Swartz:** Well, no, the one we gave you last time goes unit by unit and says...

19 **Mary Quillen:** What I'm saying is do it, not so specific, but just the numbers. Like the 60-days,  
20 there are 45 units in 60 days. We have 11 units and we're ready. Kind of give us an idea. These  
21 that go into that impasse and the indefinites. Some of these, you're saying that, if I'm hearing  
22 correctly, some of these just cannot be resolved. We need to know how many of those fall into  
23 that category, not specific, individual units, but collectively, what falls into each of those units.

24 **Mark Swartz:** Our plan, actually, is to come back in 60 days and 90 days and re-do this  
25 because they will move. Hopefully, there will be nothing in this 60-day column and we will  
26 have resolved where the 90-day column stuff needs to go. So, the closed or to-be-closed column,  
27 we did give you that total of 60 units. That has changed and changing.

28 **Mary Quillen:** Right. That's what I'm saying. Kind of give us where you are, at the end of 60  
29 days.

30 **Mark Swartz:** We were going to give you very specific information and update the spreadsheet,  
31 so that you knew what had changed.

32 **Mary Quillen:** Right.

1 **Mark Swartz:** We'll just take your request and, in addition to reporting tracts, we'll report units  
2 in each column, so you know exactly, on the unit situation.

3 **Mary Quillen:** This is mind boggling, when you open all of these specific tracts and wells. We  
4 need to see, kind of, where are we on this and how many are we looking at, of these that you  
5 don't see any end in sight.

6 **Mark Swartz:** Right. We'll have a total. I will get the unit calculation, as opposed to just the  
7 tract calculation. I think we need to give you both.

8 **Mary Quillen:** One last thing. On this 90-day, has there been any action on these 27 units that  
9 were in the 90-day category?

10 **Mark Swartz:** We've just resolved those heirships.

11 **Mary Quillen:** Right.

12 **Mark Swartz:** We would not be able to file those, yet.

13 **Mary Quillen:** Those 17 heirships was in that 90-day category.

14 **Mark Swartz:** Correct.

15 **Mary Quillen:** Okay.

16 **Mark Swartz:** It involves more units than 17.

17 **Mary Quillen:** Right. I understand that. I'm just trying to see what has been done in each of  
18 those categories.

19 **Mark Swartz:** We can give you a view from 50,000 feet, that only deals with units in each  
20 column, so you know how many units fall into this category, how many units fall into that  
21 category, which I think is what you're asking.

22 **Mary Quillen:** It kind of gives us an idea of the big picture, not all of those little...

23 **Bruce Prather:** It's how you're progressing, on a monthly basis.

24 **Mary Quillen:** What the progression has been, say, at the end of 60 days, you could do this.  
25 Then, the end of 90 days.

26 **Mark Swartz:** You'll get something more specific than what you're getting today. I'm telling  
27 you we filed 11 in the 60-day, since we were last here. We've got four waiting, so that's 15 out  
28 of the 45. We've resolved 17.

29 **Mary Quillen:** That kind of information.

1 **Mark Swartz:** In that 45, now we've got some W-9 issues. These aren't, necessarily, going to  
2 move just in one direction.

3 **Mary Quillen:** Right. It's all fluid. There's progress being made on these. The ones that  
4 concerns me is the ones that you just don't have much hope for.

5 **Mark Swartz:** We're telling you we have a number that we don't have. Period. I mean, if you  
6 look at the unresolved heirship at impasse, I assume that's going to get a little longer. Some of  
7 the 17 are probably going to go over there.

8 **Mary Quillen:** Exactly.

9 **Mark Swartz:** I keep toying with the idea of bringing you an example of what we're talking  
10 about, but this is just a nightmare.

11 **Mary Quillen:** I know it is. We just, kind of, want the big picture, not the specific things and  
12 the day-to-day and each step that you're doing through these, just that we are making progress.  
13 This looks like it is.

14 **Mark Swartz:** I think, from Mr. Cooper's perspective and our perspective, we need to continue  
15 to provide this really detailed...

16 **Mary Quillen:** Absolutely. Yes. They have to have that.

17 **Mark Swartz:** Because what's happened, I think in some instances, they have found stuff on  
18 our spreadsheet that they weren't really tracking. Now, they're back at us, recently, and saying,  
19 "We've got some stuff that's on our screen that doesn't appear to be on your screen." So, we need  
20 to continue to provide detailed information so he can react and say, "I think you're missing this  
21 or that," or "I don't have that. Why is it on your list?" So, we need to do that, but I don't have a  
22 problem giving an overall summary.

23 **Mary Quillen:** Absolutely. They do the day-to-day. They, absolutely, have to have that. We  
24 don't. We just kind of need to know what the big picture is under these big, major headings.

25 **Mark Swartz:** In that regard, I think we've got some indications from Rick that he's carrying  
26 some escrow accounts that aren't on this list. We just found out about that in the last week or so  
27 and we're dealing with that.

28 **Mary Quillen:** That's teamwork.

29 **Mark Swartz:** It needs to be at a really micro-level for that to happen.

30 **Mary Quillen:** Exactly.

31 **Bradley Lambert:** Mr. Swartz, what is your request?

1 **Mark Swartz:** I want to continue to work on the 60 and 90, that you've granted. I don't think  
2 we have to do this, but I think it makes sense to make sure that Rick and Anita and I are all on  
3 the same page, with regard to the units.

4 **Bradley Lambert:** I understand from Mr. Cooper has advised the Chairman that they are  
5 finding some discrepancies in the table. It would only make sense for you to keep working with  
6 Mr. Cooper and the staff on those discrepancies that are in the table that you've submitted. So,  
7 simply put, what's your request?

8 **Rick Cooper:** I would think, with our review, we looked at 453 of those that's in the 3-ring  
9 binder and we did find a few discrepancies. Most of those can be worked out relatively easy, but  
10 I would say 60 days, we could work together and we should have those issues resolved.

11 **Mark Swartz:** To give the Board some idea, we're talking less than 30, aren't we?

12 **Bradley Lambert:** Is that above or beyond the 60 or 90 we've already granted?

13 **Rick Cooper:** I would like to think by the September hearing, we could have most of the issues  
14 that we have found resolved. I would like to think in two months we can do that.

15 **Bradley Lambert:** Let me back up and ask that again. Is that beyond the 60 and 90 days that  
16 we've already granted, for those outside of that 60 and 90 day?

17 **Mark Swartz:** That's the other ones.

18 **Bradley Lambert:** Okay.

19 **Paul Kugelman:** These are just for the ones that we were sure about, today.

20 **Mark Swartz:** These are the ones that I was looking for indefinite assistance.

21 **Bradley Lambert:** Now, you're saying end of September.

22 **Mark Swartz:** Well, I was asking for a continuance, essentially forever, with regard to those.  
23 The 60-day extension you granted us to pay people that we thought we could pay when we were  
24 last here, in June, and we just needed some time to make that happen. The 90-day extension on  
25 the heirships, leave that in place. I'm not asking to add to 120 or 150.

26 **Bradley Lambert:** I understand that.

27 **Mark Swartz:** I am asking or saying I have no reason to not do this. I don't have a problem  
28 with you continuing the rest of my requests, which were for essentially indefinite extensions, for  
29 the other reasons, until September, so that we've got all the units coordinated.

30 **Bradley Lambert:** Is that a good date?

1 **Rick Cooper:** I would like to think we would share that and the issues that we've found, that we  
2 could have those resolved by the September hearing and report on that.

3 **Bradley Lambert:** Okay.

4 **Donnie Rife:** Or, at least, the majority.

5 **Rick Cooper:** We would hope. If not, we would address that, at that time.

6 **Mary Quillen:** That's 60 days from today.

7 **Bradley Lambert:** We'll, at least, have a review of those in September. That's what we're  
8 saying because I don't want to put us in a situation to have you back here, in September, when  
9 we said you'll have them all resolved by September, and not have them that way. What I'm  
10 saying we should do is have the review of the information that you have worked together on.

11 **Rick Cooper:** To make sure I'm clear, I think that the corrections or the deficiencies that we  
12 found, we should have those resolved by September. As far as disbursements, that's a whole  
13 different issue, but we should have any deficiencies that were submitted in the 3-ring binder,  
14 previously, I think we could have most of those corrected in 60 days.

15 **Bradley Lambert:** There you're saying, "most of those."

16 **Rick Cooper:** Well, all of them. I guess if we don't get those corrected, then we would have to  
17 address those at that time.

18 **Bradley Lambert:** Now, you're talking about all of them, Rick, or just the ones that you have  
19 done a random sampling on?

20 **Rick Cooper:** We looked at 453 of them, everything in the 3-ring binder. I think that's all we,  
21 currently, have is 453.

22 **Anita Duty:** That's CNX units.

23 **Rick Cooper:** CNX only. There's 453 outstanding that they actually submitted in their 3-ring  
24 binder. We looked at every one of the 453.

25 **Bradley Lambert:** Okay.

26 **Mark Swartz:** I wouldn't object to coming back in 30 days and talking about what we've done.  
27 This issue is a completely different issue than my problem, in terms of paying people. To give  
28 you an example.... I hear what you're saying and I want to just flesh this out for you. If we  
29 resolve an unresolved heirship, I just want to give you an example. If you look at this sheet,  
30 you'll see that sometimes we have unresolved coal heirships, so we can't give a 45-day notice. If  
31 I'm back here in 90 days on one of these heirships and we've resolved it, but we haven't been able  
32 to give the 45-day notice, the time hasn't passed, yet, to a coal owner. I just want you to know

1 that there are some things that could happen, not a lot of things, that would cause us to say we're  
2 not going to be done by a date certain for a reason like that. Okay? But, other than something  
3 like that....

4 **Bradley Lambert:** I just wanted to make sure that you're not asking for a date specific to be  
5 done by and get us just into a review mode, up to date of what you've done.

6 **Mark Swartz:** What he's asking for is completely different than what I'm talking about, in my  
7 extension. He's saying that our data is not perfectly congruent and he wants us to visit over that  
8 to make all of the units and tracts congruent. That's a completely different exercise. I think we  
9 ought to be done with that by September, no problem.

10 **Bradley Lambert:** Okay.

11 **Mark Swartz:** So, to answer that particular question, I can't think of a reason, right now, why  
12 we shouldn't be done by then, on that issue.

13 **Bradley Lambert:** Going back, let's kind of wrap this up. We're dragging it way out and  
14 making it too complicated. To wrap up, we're going to say that in 30 days, all the discrepancies  
15 that is found by DGO, those will be taken care of, by September. Then, go back to Ms. Quillen's  
16 conversation is that we'll have an update, monthly, on the rest of the items that you are dealing  
17 with.

18 **Mark Swartz:** I'll do the different scenario that you're looking for. Yes, that's fine.

19 **Bradley Lambert:** That's, basically, all we're asking for.

20 **Mark Swartz:** That's fine.

21 **Mary Quillen:** It seems to me like the number one priority is getting these discrepancies taken  
22 care of, first of all.

23 **Mark Swartz:** And getting the people that we can pay, paid, is my number one priority. It's  
24 important.

25 **Bradley Lambert:** Let's have a motion on what we discussed. By September, you'll have the  
26 discrepancies taken care of and, then, the Board will see that there's a monthly update on the rest  
27 of the ongoing items.

28 **Mark Swartz:** Okay.

29 **Bradley Lambert:** Can I have it, in the form of a motion?

30 **Donnie Ratliff:** I'll make that, in the form of a motion, Mr. Chairman.

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

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

3 **Board:** Yes.

4 **Bradley Lambert:** Opposed no. [No response] Are you okay, there, Mr. Swartz? Did we  
5 capture that?

6 **Mark Swartz:** I think so. We'll do what you've asked for, so when we're back here we've got it  
7 packaged a little bit nicer.

8 **Item Number 11**

9 **Bradley Lambert:** We're calling Docket Item Number 11. A petition from EnerVest  
10 Operating, LLC, for (1) Modification of the Nora Coalbed Methane Gas Field Rules, to allow  
11 one additional coalbed gas well to be drilled within each of the 58.77 acre Nora Units identified.  
12 (2) For an administrative order providing that additional well permits may be issued in the Nora  
13 Field after this application is filed and while it is pending. This is for Units 59AZ, 60AZ, 61AZ,  
14 80BP, 81BP, 84AT. Docket Number VGOB-89-0126-0009-88. All parties wishing to testify  
15 please come forward.

16 **Tim Scott:** Tim Scott, Gus Janson and Aaron Anderson for EnerVest Operating, LLC

17 **Bradley Lambert:** Good morning.

18 **Tim Scott:** Good morning.

19 **Sarah Gilmer:** Mr. Janson and Mr. Anderson, do you swear and affirm that your testimony is  
20 the truth, the whole truth and nothing but the truth.

21 **Gus Janson:** I do.

22 **Aaron Anderson:** I do.

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

24 **Tim Scott:** Thank you. Mr. Anderson, please state your name, by whom you are employed and  
25 your job description.

26 **Aaron Anderson:** Aaron Anderson. I'm employed by EnerVest Operating, LLC, and I am an  
27 Associate Landman.

28 **Tim Scott:** And, you're familiar with this application. Is that correct?

29 **Aaron Anderson:** I am.

1 **Tim Scott:** Are you familiar with the owners in the units affected by this application?

2 **Aaron Anderson:** Yes.

3 **Tim Scott:** Have those owners been notified of this hearing?

4 **Aaron Anderson:** They have.

5 **Tim Scott:** How was that done?

6 **Aaron Anderson:** By mail.

7 **Tim Scott:** Have we provided proof of mailing to the Board?

8 **Aaron Anderson:** Yes.

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

10 **Bradley Lambert:** Any questions from the Board? [No response] You may continue, Mr.  
11 Scott.

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

14 **Gus Janson:** My name is Gus Janson. I'm employed by EnerVest Operating, LLC, as a  
15 Geology Advisor.

16 **Tim Scott:** And, you're familiar with this application. Is that correct?

17 **Gus Janson:** I am.

18 **Tim Scott:** I believe you've passed out a packet to the Board with this application. Is that right?

19 **Gus Janson:** That's correct.

20 **Tim Scott:** Why are we requesting that this increase density and what would be the effect of the  
21 approval of our application?

22 **Gus Janson:** Sure. The Board has been provided with Exhibit K, which provides the  
23 documentation for the request, today, for the increased density units. Also, as part of that  
24 application, they were identified as Exhibit H2. I'll start referring to Exhibit K, if you have that  
25 in your documentation, there. Page 1 of Exhibit K gives you a 50,000 foot view of the Nora  
26 Field, identifying the units, today, that are being proposed for approval, for increased density.  
27 Those will be those highlighted in green. You also see all the other units in the Nora Field, as  
28 well as the edge of the Oakwood Field, where units have been, previously, approved by the  
29 Board. Moving on to Page 2, we give you another similar view of the field. I've added to that  
30 view, at this point in time, with a red dot, which will indicate where increased density wells have

1 been drilled, to-date, within the field. At this point in time, EnerVest operates approximately  
2 235 increased density wells within the Nora Field. Just to give you a little update on our drilling  
3 program for this year, we're proposing around 40-45 wells in the field, this year. As of today, it's  
4 indicated on this slide, Page 2, that 15 of the 22 wells we have done were increased density  
5 wells. As of today, over the last couple weeks since this was provided to you, 18 of 25 have been  
6 an increased density well. Looking forward, on our program, 29 of our 43 wells planned this  
7 year, which is going to account for 67% of our program, will be increased density wells. So, you  
8 can see that's a very important part of our development within the Nora Field, at this point in  
9 time. A couple reasons for that is that, in this depressed gas market we've been in for a couple  
10 years now, we are seeking opportunities where we can develop locations cost-effectively and  
11 increased density give us that opportunity to be able to utilize existing infrastructure, such as  
12 roads, pipelines, power lines, to keep our costs down on these wells and to be able to continue to  
13 develop the resources the best we can, within this market. Moving on to Page 3, I've zoomed in  
14 again. This, again, just gives you additional information, as to what's going on in the field. You  
15 see the units we're requesting, today. It's a pretty busy map, but the dots in black represent wells  
16 that have been drilled, to-date. Again, the reds are increased density wells. Everything you see  
17 in green and magenta color, those are future wells we are working on. You can see there are a  
18 lot of those out there, in those approved areas, as well as a few outside. Again, really focusing  
19 on this increased density program that we're in right now. You can see, again, that's the  
20 important part of this take-away.

21 **Bradley Lambert:** Mr. Janson, those green and magenta wells, are they part of this request for  
22 an administrative order to allow?

23 **Gus Janson:** Yes, you can see there's a couple within the green units, there. There are a couple  
24 of units that are being requested, today, to be approved. So, we have a permitting process going  
25 on. So, there will be some that we have permits in, now, that we'll get approved.

26 **Donnie Ratliff:** Mr. Chairman.

27 **Bradley Lambert:** Mr. Ratliff.

28 **Donnie Ratliff:** Everything that's in gray are units that's already previously been approved, so...

29 **Gus Janson:** That's correct. We're continuing to build upon existing areas and expand the  
30 development, from an in-field perspective.

31 **Mary Quillen:** Is there one well, already operating in each one of these that you're asking for  
32 increased density, there is one that's already producing in that? Is that correct?

33 **Gus Janson:** All, except for the one unit that's up in the northwest corner, there. It looks like  
34 we've got a pending permit in, there. We probably have a second permit that we're pursuing for

1 an additional well in that unit, at this point in time, which is only.... Nothing has been drilled in  
2 the unit, at this point in time, but we're probably permitting both wells at the same time.

3 **Mary Quillen:** Oh, okay. That was my question.

4 **Gus Janson:** We're working towards that. We may not have it all done, yet. That's our goal, to  
5 continue to work to that. So, moving on to Page 4, this is a production graph of the historic  
6 increased density drilling that's been done in the Nora Field. You've seen this several times, in  
7 the past. It's really no change from before. Again, the blue production line is the original well  
8 drilled in the unit. The purple and magenta line represents the additional production achieved  
9 throughout the increased density drilling. Again, the benefits from this occur from the increased  
10 fracturing within the network, promoting the gas flow at a lower pressure. It helps us to de-water  
11 these reservoir areas quicker to get the gas to flow. It also helps to increase the reservoir  
12 recovery factor and helps our economics that way. We get this done a little bit faster, hopefully.  
13 Again, we're doing this without negatively impacting the first well. Generally, we see some  
14 improvement in the production a lot of times.

15 **Donnie Ratliff:** Is the top line cumulative?

16 **Gus Janson:** That's cumulative for both wells in the unit. Yes, sir.

17 **Bruce Prather:** Gus, is your drilling and everything conforming, pretty much, in the past? I've  
18 seen that curve several times. Are the wells conforming, their production, is it, pretty much,  
19 conforming along the line of that upper curve?

20 **Gus Janson:** Right. I think the new wells, again, we've talked about in the past where there was  
21 a dormant time between 2010 and 2014 where there wasn't any drilling being done by anyone in  
22 the Nora Field. As we've picked up new drilling, again, the drilling we've done this year, we're  
23 seeing very good results. Everything is sort of a perspective. We talk about that on the next two  
24 slides. In fact, we'll just move on to Page 5 because this gives you one example of the increased  
25 density. I think I showed you this one at the last hearing. So, you'll see, comparing two wells  
26 here, the 703538 and the 531599, the original well drilled in the units, the one in blue, which this  
27 well was drilled in 1998, I believe. It was in production for several years. So, it had gone  
28 through its normal progression of an increased production life and, then, going on its normal  
29 decline. Then, we came in and drilled, in 2015, an increased density well. You can see that  
30 we're still recovering additional resources out of that reservoir area. If you want to per se that it's  
31 not really confined to that 58-acre unit, but in that general area we're able to continue to get  
32 additional reserves out of the area. We're not significantly affecting the decline of the original  
33 well. It's still going on the normal decline. Then, on the next page, on Page 6, I've added this  
34 since last time. This is a look at the production of the well times zeroed, if you understand that  
35 terminology. Basically, I'm going back to the very beginning of the original well in the unit, the  
36 3558, as well as the new well we just drilled, and put them all on the same y-axis, if you will, for  
37 the most. You can see that the first well was not near as productive as the second well. That's

1 probably a point of early on in that well's life, there wasn't a lot of wells around it, so there  
2 probably wasn't a lot of connectivity for the fracture system. There's probably a lot of water that  
3 was moved out of that well early on in its life. That's why we see this other well producing so  
4 much better, at the beginning of the life of the well. Now, there's some other factors that come in  
5 there. There's stimulation methods have probably changed over the years, between 1998 to  
6 2016. You've heard the terminology, for limited entry wells where only a certain number of the  
7 coals may have been stimulated where today we're probably impacting all the coals within the  
8 well bore. There's been improvements in technologies and equipment and everything else. So,  
9 those all factor in this, too. It's not all just a benefit of the increased drilling. It's everything  
10 that's involved, there. So, hopefully, that gives you a flavor for what's going on, here. We see  
11 this time and time again in lots of other locations that we've done in the field. We hope to  
12 continue to do that over the next few years, as we continue to develop more and more of these  
13 increased density wells. In summary, the working interest owners, the royalty owners and the  
14 State will all benefit from maximizing this production. We're promoting the conservation of the  
15 gas resource. We're preventing waste by more effectively extracting the waste. As I mentioned  
16 before, we're using those shared facilities, such as the roads, pipelines, power lines to help  
17 minimize the environmental impact, as well as it helps our cost in the wells, too. Again, we have  
18 no correlative rights issues with any of these proposed units. Then, the final three pages of this  
19 information, here, has been requested by the Board, pages 8, 9 & 10. Again, identifying these  
20 units, provides you with a topographic backdrop of the units themselves, as well as any coal  
21 mine activity that's been going on in these areas. The first two areas, there's minimal activity in  
22 these. There's some adjacent areas with some abandoned mine works. Then, the final activity,  
23 there's quite a bit of abandoned mine activity, but nothing active in these areas. Again, EnerVest  
24 continues to work closely with our coal operators in the area, whether it be Paramount Coal or  
25 Dickinson-Russell Coal or any other Alpha entities that are out there, to make sure that we're  
26 operating safely in being able to develop both these resources, simultaneously, in the field.

27 **Mary Quillen:** None of these mines are operating?

28 **Gus Janson:** No, none of these. These are all abandoned mine works, at this point in time.

29 **Mary Quillen:** You had mentioned and I know the gas prices are very depressed, at this time.  
30 This is a pretty major undertaking, the drilling that you all are proposing.

31 **Gus Janson:** Yes, ma'am.

32 **Mary Quillen:** Do you expect the market to improve?

33 **Gus Janson:** I think that's the general consensus, that we're seeing in the natural gas market, to  
34 continue to improve. We've seen some improvement, this year. At the prices that we are, today,  
35 we can continue to economically develop these wells. That's why we're going to continue to  
36 focus on these wells, moving forward.

1 **Mary Quillen:** I know all the forecasters are saying if you are putting your money into energy,  
2 is the place to go because that's where the growth is going to be. Probably next year, you'll start  
3 to see some upswing?

4 **Gus Janson:** I'm not sure if it will be much more than we're seeing right now, by next year, but  
5 maybe another year or two.

6 **Mary Quillen:** At least two years. Okay.

7 **Bruce Prather:** Gus, basically what you're saying is that you're drilling your better projects.

8 **Gus Janson:** Right. We're trying to drill the best opportunities we have out there.

9 **Mary Quillen:** And doing it economically.

10 **Bruce Prather:** Consequently, you're getting your rate of return that you require to drill it.

11 **Gus Janson:** Exactly. That's why we're focused on these. We're not doing horizontal wells and  
12 we're not drilling deeper wells.

13 **Mary Quillen:** Down the road, that's going to pay off because you'll already have all your  
14 infrastructure and your production and everything. You'll be good to go.

15 **Tim Scott:** Mr. Janson, also, if you look at the AFE's that are actually with these VCI wells, the  
16 costs are less. You can actually see a reduction in what the overall cost is of the completed well  
17 with this increased density versus a first-time drilling. It comes down by, as much as, \$150,000.

18 **Mary Quillen:** Your infrastructure is your big.

19 **Tim Scott:** It's a benefit, definitely a benefit.

20 **Mary Quillen:** Site preparation and everything. I can see that's smart, very smart.

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

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

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

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

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

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

28 **Board:** Yes.

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

2 **Tim Scott:** Thank you.

3 **Item Number 12**

4 **Bradley Lambert:** We're calling Docket Item Number 12. A petition from EnerVest  
5 Operating, LLC, to disburse funds from the escrow account for well VC-2835, to all known  
6 owners in Tract 4. This is Docket Number VGOB-98-0324-0642-06. All parties wishing to  
7 testify please come forward. Did Mr. Scott abandon you, Mr. Horne?

8 **Phil Horne:** Yes. Hopefully, we won't need a lawyer to call and ask what are the questions.

9 **Sarah Gilmer:** Mr. Horne, Mr. Reeves, do you swear and affirm that your testimonies are the  
10 truth, the whole truth and nothing but the truth?

11 **Phil Horne:** I do.

12 **Larry Reeves:** I do.

13 **Bradley Lambert:** You may proceed, Mr. Horne.

14 **Phil Horne:** Okay. My name is Phil Horne. I'm a contractor for EnerVest Operating Company.  
15 I've been working on this escrow project for the last 15 months, or so. Larry worked on it last  
16 year, before Range sold EnerVest. He might be able to help out, here, on some of these.  
17 Basically, we've got this number 12 item, is the 2835 Well. The affidavits of mailing have been  
18 submitted. Exhibit E, Exhibit EE have been submitted and Exhibit J. This had a split. If you  
19 look at Exhibit EE, you can see that Maynard Counts and EnerVest Operating Company were  
20 never disbursed, even though they were set up, going forward. So, this is why the Board has  
21 asked us to push this one up, to let you guys approve it, because it has a split. All the parties we  
22 have shown on EE, we want to disburse. We have an E. There are some unknowns that will be  
23 left. Exhibit J, we reconciled through May 2015, the payments. Like I said, Range or EnerVest  
24 has signed waivers to the coal owner. So, unless you all have some questions, we'd like to go  
25 ahead and get this one approved.

26 **Bradley Lambert:** Mr. Horne, again, could you explain a little bit more about Table 1, why we  
27 have a Table 1 and what happened there?

28 **Phil Horne:** Is that Exhibit A1? Is that what you're talking about?

29 **Paul Kugelman:** On Page 3.

30 **Phil Horne:** Table 1, I guess, is the parties that will be disbursed, their addresses and amounts.

1 **Bradley Lambert:** So, this disbursement is not based on a percentage? It's based on the  
2 amount?

3 **Phil Horne:** It's based on the percent of money, the percent of money in escrow.

4 **Bradley Lambert:** Normally, when we see these kinds of agreements, what we've seen in the  
5 past with this agreement like this, we've heard testimony that the bank is directed to pay on the  
6 dollar amount and not the percentage.

7 **Phil Horne:** Well, the dollar amount is calculated from the percentage. This A1, the amounts  
8 are probably going to change because whatever the amount of money in the account is what's cut  
9 the day the checks are cut. So, this is going to be close, but this is not going to be an exact  
10 amount.

11 **Mary Quillen:** So, they're going to be paid on percentage, then.

12 **Phil Horne:** These two are set up right.

13 **Mary Quillen:** This is a 75/25 split. Correct?

14 **Phil Horne:** Yes, this is an exact pay, on Tract 4. The first one, between Maynard Counts and  
15 EnerVest, was a disbursement that was never disbursed by Equitable, back in 2008 or 2009.

16 **Mary Quillen:** Is this going to close out this escrow account?

17 **Phil Horne:** No, ma'am.

18 **Mary Quillen:** Okay, then, so they're going to be paid directly, after this?

19 **Phil Horne:** Yes, ma'am. The people on A1 will be paid directly, after this has been approved.

20 **Mary Quillen:** Okay. So, then, they're going to use the percentage? When the check is cut, it  
21 will be the percentage? Like for the Counts, is 4.3149% of what's in there, is what the check is  
22 going to be cut? Then, for EnerVest, is going to be 1.4383% on what is in there when that check  
23 is cut. Is that correct?

24 **Phil Horne:** This is going to be an exact pay, where EQT set the folks up, in 2009, Range and  
25 Mr. Counts, going forward, but we determined that they had never disbursed it. It was in escrow.  
26 So, there's two things going on, here. That's why it's on a page, by itself. This is an exact pay,  
27 Range and EnerVest. It's for the period of time.

28 **Bruce Prather:** The well was in production 100% of this time.

29 **Mary Quillen:** Are they being paid anything directly, now?

1 **Phil Horne:** Yes, ma'am. If you look at EE, Maynard Counts and EnerVest, were put in the  
2 payment deck on September 19, 2009. This is from the first date of production until September  
3 1, 2009.

4 **Bill Harris:** What you're saying is that they were never paid.

5 **Phil Horne:** Out of the escrow account.

6 **Bill Harris:** Out of the escrow. So, you're saying Table 1, we need to settle up with those folks,  
7 to get them caught up?

8 **Phil Horne:** Right. They're already in pay. Then, the rest of the parties will be disbursed and  
9 will go into pay.

10 **Bradley Lambert:** Let's hold up on the rest of this testimony for just a minute. Mr. Horne,  
11 you're here representing EnerVest, as a contractor. You're putting on testimony for EnerVest, as  
12 a contractor. The Board would suggest that you probably continue these and hire an attorney,  
13 representing EnerVest and you, as a witness. We can get an opinion from our Counsel, if you'd  
14 like, too, but I don't think it's appropriate for you to be representing EnerVest, as a contractor.

15 **Rick Cooper:** To help on this, I guess Phil had called on the disbursement. We allowed  
16 Appalachian Energy to come before and we disbursed.

17 **Bradley Lambert:** We did and that's probably not the right thing to do.

18 **Paul Kugelman:** Here's the fundamental problem. It's a legal technicality. It has nothing to do  
19 with your ability or anything like that. Under the eyes of the law, EnerVest, LLC, is its own  
20 person. In the legal framework, unless you're a lawyer, you cannot represent somebody else's  
21 legal interests before a body. Mr. Scott is slowly coming up here. Mr. Scott, do you represent  
22 EnerVest or are you just...?

23 **Tim Scott:** I represent EnerVest on various matters.

24 **Paul Kugelman:** Okay. I just wanted to make sure we're clear, as to your role up here.

25 **Tim Scott:** Yes, sir.

26 **Paul Kugelman:** Do you have a response to this or are you just going to take this up from here?

27 **Tim Scott:** I'll take it from here.

28 **Paul Kugelman:** Okay.

29 **Tim Scott:** Mr. Horne, you testified that, at least as to one of these tracts, there was escrow that  
30 was set up. It's in a pay mode, right now, but those escrowed funds were never disbursed. Is that  
31 correct?

1 **Phil Horne:** That's correct.

2 **Tim Scott:** That was between Mr. Counts and Range. Is that right?

3 **Phil Horne:** That's correct.

4 **Tim Scott:** So, what you're asking the Board to do, now, is to authorize the disbursement of that  
5 account because payments are being made, presently?

6 **Phil Horne:** That's correct.

7 **Tim Scott:** Okay. That's our first request. Second request, what do we have here, Mr. Horne?

8 **Phil Horne:** These are the parties, on EE, that we want to disburse.

9 **Tim Scott:** How are these interests calculated? Is it based on a split agreement or is it based on  
10 ownership?

11 **Phil Horne:** These are ownership of oil and gas ownership and no split agreements.

12 **Tim Scott:** Based on the new law. Is that correct?

13 **Phil Horne:** That's right. House Bill 2058.

14 **Tim Scott:** So, these particular tracts, will this escrow account remain open?

15 **Phil Horne:** Yes, it will. We have unknowns.

16 **Tim Scott:** Okay. But, as to any conflict, that's been resolved, based on the statute. Is that  
17 correct?

18 **Phil Horne:** That's correct.

19 **Tim Scott:** So, you're asking the Board to have those accounts or those parties paid directly. Is  
20 that right?

21 **Phil Horne:** That's correct.

22 **Tim Scott:** Okay.

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

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

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

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

27 **Mary Quillen:** Second.

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

3 **Board:** Yes.

4 **Bradley Lambert:** Opposed no.

5 **Donnie Ratliff:** I'll abstain, Mr. Chairman.

6 **Bradley Lambert:** One abstention. Mr. Ratliff.

7 **Item Number 13**

8 **Bradley Lambert:** We're calling Docket Item Number 13. A petition from EnerVest  
9 Operating, LLC, to disburse funds from the escrow account for well VC-536448, to all known  
10 owners in Tracts 3 and 5. Docket Number VGOB-06-1017-1739-03. All parties wishing to  
11 testify please come forward.

12 **Tim Scott:** Tim Scott and Phil Horne for EnerVest Operating Company, LLC.

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

14 **Tim Scott:** Mr. Horne, please state your name and where you're employed.

15 **Phil Horne:** My name is Phil Horne. I'm a contractor for EnerVest Operating Company.

16 **Tim Scott:** What is your position, as a contractor?

17 **Phil Horne:** I'm working on the escrow project.

18 **Tim Scott:** That's for making disbursements. Is that correct?

19 **Phil Horne:** Yes, I've been working on this, primarily, since January 6.

20 **Tim Scott:** With regard to this particular unit, can you explain to the Board what we're  
21 requesting, today?

22 **Phil Horne:** We're requesting that we disburse to the folks shown on Exhibit EE, under  
23 disbursement number 3. This has three splits that were never disbursed by EQT Production  
24 Company, years ago. Therefore, the Division of Gas and Oil has asked us to kick it up to the  
25 Board for approval. Also, Tract 5 was initially shown as Roger Breeding. We have a revised  
26 title opinion that shows that EnerVest Operating Company, formerly Range Resources, owns that  
27 oil and gas.

28 **Tim Scott:** So, that money that's been escrowed now comes to EnerVest because based on the  
29 new title opinion, it shouldn't have been escrowed to begin with. Is that right?

1 **Phil Horne:** That's correct.

2 **Tim Scott:** Now, with regard to these tracts that are in this unit, will this close this account?

3 **Phil Horne:** Yes, it will.

4 **Tim Scott:** Okay. So, everybody will be on a straight pay. Is that correct?

5 **Phil Horne:** That's correct.

6 **Tim Scott:** Okay. That's all I have for Mr. Horne.

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

8 **Bill Harris:** Just a quick one. You mentioned Tract 5 and EnerVest is listed there. So, this isn't  
9 a direct-pay exact amount and, then, the others are percentages? They're on percentage, also? In  
10 other words, there should not have been a Table 1, showing pay this amount, exactly, before  
11 paying the others, like we had in the last?

12 **Phil Horne:** That's correct. No, this is just a straight disbursement. EnerVest will have Tract 5  
13 and the third parties and EnerVest will have Tract 3.

14 **Tim Scott:** This was a revised title opinion because it was originally shown that Roger Breeding  
15 was the owner and there was a conflict between the owners. But presently, based on new title  
16 work, it's shown that EnerVest is now the owner, so that should be disbursed to EnerVest.

17 **Bill Harris:** So, that was escrowed and it should have accrued interest and should be paid based  
18 on percentages because of that?

19 **Tim Scott:** Yes, sir.

20 **Bill Harris:** Okay. Thank you.

21 **Bradley Lambert:** Mr. Horne, was there a reconciliation done?

22 **Phil Horne:** Yes, sir. It was done as of March 2015. We submitted an Exhibit J.

23 **Bradley Lambert:** What was the finding?

24 **Phil Horne:** The escrow summary had \$15,270.53. The payments were \$15,209.87. So, the  
25 bank has \$60.66 more.

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

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

1 **Bradley Lambert:** Do I have a motion?  
2 **Donnie Rife:** Motion made for approval, Mr. Chairman.  
3 **Bill Harris:** Second.  
4 **Bradley Lambert:** I have a motion and I have a second. Any further discussion? [No  
5 response] All in favor signify by saying yes.  
6 **Board:** Yes.  
7 **Bradley Lambert:** Opposed no.  
8 **Donnie Ratliff:** I'll abstain, Mr. Chairman.  
9 **Bradley Lambert:** One abstention. Mr. Ratliff.

10 **Item Number 14**

11 **Bradley Lambert:** We're calling Docket Item Number 14. A petition from EnerVest  
12 Operating, LLC, to disburse funds from the escrow account for wells VC-536593 & VCI-  
13 538606, to all known owners in Tracts 2 & 3. Docket Number VGOB-07-1016-2050-02. All  
14 parties wishing to testify please come forward.  
15 **Tim Scott:** Tim Scott and Phil Horne for EnerVest Operating, LLC.  
16 **Bradley Lambert:** You may proceed.  
17 **Tim Scott:** Mr. Horne, one more time, your name, by whom you are employed and what your  
18 job description is?  
19 **Phil Horne:** Phil Horne, contractor for EnerVest Operating Company. I'm escrow project  
20 contractor.  
21 **Tim Scott:** That would be a part of this application. Is that correct, your job duties?  
22 **Phil Horne:** That's correct.  
23 **Tim Scott:** Can you please tell the Board what we're seeking, what type of disbursements we  
24 need, for today?  
25 **Phil Horne:** This is one of three wells that take in the McCoy heirs. There's two wells in each  
26 unit, so there's six wells involved in three units. This is a well that EnerVest re-force pooled in  
27 March 2016 to clean up the ownership. EQT had the ownership incorrect and we found it, so we  
28 re-pooled it. We have all the supplemental orders. We've got the report findings and  
29 supplemental order back. We have applied to disburse this one. The reason it was kicked up to

1 the Board is because Tract 3, there's a split between the Dwight McCoy and Standard Banner  
2 Coal Corporation that was never disbursed.

3 **Tim Scott:** That's been pending. Is that correct?

4 **Phil Horne:** Yes, we found it of record at the courthouse.

5 **Tim Scott:** Okay. Have you done a reconciliation on this particular unit?

6 **Phil Horne:** Yes, we have, through July 2015.

7 **Tim Scott:** And, you provided an Exhibit J to the Board?

8 **Phil Horne:** Yes, we have.

9 **Tim Scott:** Would you please tell us the results of that reconciliation?

10 **Phil Horne:** The payments, \$4,021.36. The Escrow Agent summary is \$4,027.54, a difference  
11 of \$6.18.

12 **Bradley Lambert:** I'm sorry, Mr. Scott.

13 **Paul Kugelman:** I distracted him, Mr. Scott. I apologize. We're trying to...

14 **Tim Scott:** That's all the questions I have, Mr. Chairman.

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

16 **Bill Harris:** I do have a question. I notice that this balance check has been about a year ago.  
17 Do we have any regulation that says about the currency, that addresses that? About the currency  
18 of the check?

19 **Rick Cooper:** I'm not sure I understand the question.

20 **Bill Harris:** The question is that the balance that they show and shown by the Escrow Agent  
21 versus what's been deposited is almost a year old. I'm saying do we have any regulation that says  
22 this has to be done in a more timely fashion?

23 **Rick Cooper:** I would think no. As a general rule, what we have determined that, if it's good  
24 through '15, the last 8 or 10 months, we have found zero errors or very few errors. So, it  
25 sometimes takes a while to put this together and get it in front of the Board.

26 **Bill Harris:** I understand that.

27 **Rick Cooper:** I think that we would accept that, in the past. To answer your question, I know  
28 of no time frame that the Board has ever put on the reconciliation.

1 **Bill Harris:** Okay. Thank you.

2 **Phil Horne:** We've been working on this for over a year. We're toward the end, here. This is  
3 some of our harder ones.

4 **Mary Quillen:** Will this close the escrow?

5 **Phil Horne:** No, ma'am. There's a few unknowns, still.

6 **Mary Quillen:** Okay.

7 **Bradley Lambert:** Any other questions? [No response] Anything further, Mr. Scott.

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

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

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

11 **Mary Quillen:** Second.

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

14 **Board:** Yes.

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

16 **Item Number 15**

17 **Bradley Lambert:** We're calling Docket Item Number 15. A petition from EnerVest  
18 Operating, LLC, to disburse funds from the escrow account for wells VC-536421 & VCI-  
19 538674, to all known owners in Tract 3. Docket Number VGOB-08-0415-2211-02. All parties  
20 wishing to testify please come forward.

21 **Tim Scott:** Tim Scott and Phil Horne for EnerVest Operating, LLC.

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

23 **Tim Scott:** Mr. Horne, again, your name, by whom you are employed and what your job  
24 description is?

25 **Phil Horne:** Phil Horne, contractor for EnerVest Operating Company, LLC, escrow project.

26 **Tim Scott:** And, that would fall under your duties preparing these exhibits that are part of this  
27 application. Is that correct?

1 **Phil Horne:** Yes, it is.

2 **Tim Scott:** Would you please tell the Board why we're seeking the disbursement, today?

3 **Phil Horne:** This is the same case as the previous one. It's one tract, only. The last one had two  
4 tracts, but there's a split between Dwight McCoy and Standard Banner Coal Corporation. So, we  
5 went ahead and got this one kicked up to the Board.

6 **Tim Scott:** Now, this will not close this account. Is that correct?

7 **Phil Horne:** That's correct. There's three unknowns left in this one.

8 **Tim Scott:** You've prepared a reconciliation. Is that right?

9 **Phil Horne:** Yes, we have. It's through January 2016. The payments were \$332.02. The  
10 Escrow Agent summary was \$332.53, for a difference of \$.51.

11 **Tim Scott:** That's all I have for Mr. Horne.

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

13 **Mary Quillen:** This was that Standard Banner 50/50 split. Right?

14 **Phil Horne:** That's correct.

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

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

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

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

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

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

22 **Board:** Yes.

23 **Bradley Lambert:** Opposed no. [No response]

24 **Item Number 16**

25 **Bradley Lambert:** We're calling Docket Item Number 16. A petition from EnerVest  
26 Operating, LLC, to disburse funds from the escrow account for wells VC-536422 & VCI-

1 538743, to all known owners in Tracts 1, 2, 3, 4, 5, 6, 7, 10. Docket Number VGOB-08-0520-  
2 2228-02. All parties wishing to testify please come forward.

3 **Tim Scott:** Tim Scott and Phil Horne for EnerVest Operating, LLC.

4 **Bradley Lambert:** You may proceed Mr. Scott.

5 **Tim Scott:** Mr. Horne, again, your name, by whom you are employed and your job description?

6 **Phil Horne:** I'm Phil Horne, contractor for EnerVest Operating, LLC. I'm working on the  
7 escrow project.

8 **Tim Scott:** So, you participated in the preparation of this application. Is that right?

9 **Phil Horne:** Yes.

10 **Tim Scott:** Would you please tell the Board what our disbursement is, for today?

11 **Phil Horne:** This has most of the same parties, plus some additional ones, than the last two  
12 petitions. This one, not only was the ownership wrong, but the plat itself was incorrect. So, we  
13 had to re-pool this one in March 2016 and we changed. There are many more tracts in this than  
14 there were in the original pooling. Once again, this one has two splits. Two of the McCoys have  
15 done splits on two of the tracts. Therefore, this one got kicked up to the Board, also, because of  
16 the splits with Standard Banner Coal Company, Dwight McCoy and a split between Standard  
17 Banner Coal Company and Charles Kenneth McCoy, which were 50/50 splits.

18 **Tim Scott:** And, this account will remain open. Is that right?

19 **Phil Horne:** Yes, we still have a few unknowns left.

20 **Tim Scott:** Okay. You prepared a reconciliation. Is that right?

21 **Phil Horne:** Yes. The reconciliation was through January 2016. The payments were  
22 \$42,841.95 and the bank's escrow summary, in January 2016, was \$42,831.27, for a difference of  
23 \$10.68.

24 **Tim Scott:** That's all I have for Mr. Horne.

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

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

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

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

29 **Bill Harris:** Second.

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

3 **Board:** Yes.

4 **Bradley Lambert:** Opposed no. [No response] That's approved.

5 **Tim Scott:** Thank you, Mr. Chairman

6 **Bradley Lambert:** Thank you, folks.

7 **Item Number 17**

8 **Bradley Lambert:** The last item on the agenda is the Board will receive an update of Board and  
9 Division activities from the staff.

10 **Rick Cooper:** I guess, if I may, I would like to ask for the record if Mr. Kugelman could tell  
11 me, I may have caused the problem, putting Phil in an embarrassing situation, on that. So, I  
12 guess my question that I'm asking, so does an attorney have to be present for all items in front of  
13 the Board or does it disseminate differences, for clarity moving forward, so this won't happen  
14 again.

15 **Paul Kugelman:** The law, in Virginia, is that a corporation is its own, separate, legal person.  
16 The only person who can represent another person's legal interests, before a tribunal, is an  
17 attorney. I understand the Board's regulations say that anyone may sign the application and that  
18 is fine, but as far as representing, I've been doing some research, here. I haven't fully researched  
19 this, but the bigger problem that sticks out in my mind is I have a gentleman that I have some  
20 respect for up here and, if he's engaged in the unauthorized practice of law, that could be a  
21 criminal conviction. So, I wanted to nip that in the bud. With that, until I get to the bottom of it,  
22 I would suggest that only attorneys represent corporations before the Board.

23 **Rick Cooper:** All right. That's all I'm asking is direction, so we don't get into one of these  
24 positions, again. I can find nothing on this.

25 **Paul Kugelman:** The basic rule is you can't, unless a rule says that you can. Regulations can't  
26 circumvent a legal requirement. In other words, if you have a statute that says school buses have  
27 to stop at railroad crossings, a locality can't come in with an ordinance or a state agency can't  
28 come in with a regulation and say, well, you don't have to do that, now. Regulations are always  
29 slave, if you will, to the statute or the rule of law. I'm not trying to make things ugly complicated  
30 and I sincerely appreciate lawyers are expensive. I'm not trying to add to the burden of any  
31 particular company's bottom line. However, I don't want people unwittingly exposing  
32 themselves to prosecution by the Virginia State Bar, for the unauthorized practice of law. Again,  
33 that is the only reason I raised anything. Otherwise, I probably would have just let it go. So, that

1 was my motive. I'm still looking into it, but unless you hear something else from me, that's what  
2 needs to happen.

3 **Rick Cooper:** Okay. That's all we needed, was direction. In addition, I guess the only thing I  
4 have to report, most of the items that I have has been discussed through First Bank and Trust, but  
5 I would just like to reiterate to everyone that, since January 2015, there's two different  
6 disbursement amounts. January to June of last year, we disbursed \$1.9 million. For the  
7 Commonwealth, our fiscal year is July 1 to June 30 of this year, we disbursed \$6,978,000, which  
8 is a total of \$8,893,000, has been disbursed. The only other thing I would point out that there has  
9 been over 4,500 checks written in this process.

10 **Bradley Lambert:** Okay.

11 **Donnie Ratliff:** I'd like to ask a question of Mr. Cooper.

12 **Bradley Lambert:** Mr. Ratliff

13 **Donnie Ratliff:** Had Mr. Horne been an employee?

14 **Paul Kugelman:** The only rule I could find in my quick research.... I just want to make sure we  
15 got this right. The rule, in Virginia, is no one can represent a corporation, unless there is some  
16 statute that says you can. The only statute I could find that might have been on point, addressed  
17 representing a corporation before a General District Court. For an officer of the company, not an  
18 employee, not a designated agent, an officer of the company to represent the legal interests of the  
19 corporation before a General District Court, the amount in controversy has to be less than  
20 \$2,500, and you have to have unanimous approval of all the stock holders. That's just for \$2,500  
21 and less claim. I think we're dealing with a little bit more money. I just don't want folks to run  
22 afoul. I'm not saying that's the definitive answer, but...

23 **Donnie Rife:** You'll let us know.

24 **Paul Kugelman:** Yes, sir.

25 **Item Number 18**

26 **Bradley Lambert:** The remaining item for these proceedings, today, is for the review and  
27 approval of last month's minutes. Do I have any additions, corrections? If not, I'll entertain a  
28 motion, feel free.

29 **Donnie Rife:** Motion to approve.

30 **Donnie Ratliff:** Second Mr. Chair.

31 **Bradley Lambert:** Motion to approve and a second. All in favor signify by saying yes.

- 1 **Board:** Yes.
- 2 **Bradley Lambert:** Opposed no. [No response] Motion to adjourn?
- 3 **Donnie Rife:** Motion made.
- 4 **Bill Harris:** Second.
- 5 **Bradley Lambert:** All in favor signify by saying yes.
- 6 **Board:** Yes.
- 7 **Bradley Lambert:** Ladies and gentlemen we are adjourned for today.