

VIRGINIA DEPARTMENT OF MINES, MINERALS, AND ENERGY

VIRGINIA GAS AND OIL BOARD HEARING

Tuesday, June 16, 2020

Via Teleconference

BOARD MEMBERS:

Mary Quillen- Public Member

Donnie Rife- Public Member- Dickenson Co.

Donnie Ratliff- Representing Coal Industry

Bill Harris- Public Member

Rita Surratt- Public Member

Bruce Prather- Oil & Gas Industry Representative

Bradley [Butch] Lambert- Chairman of the Virginia Gas & Oil Board

APPEARANCES:

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

Jerald Hess- Virginia Assistant Attorney General

Jody Maney- First Bank & Trust Company

Agenda Items

<u>Item Number</u>	<u>Docket Number</u>	<u>Page</u>
1	First Bank & Trust Quarterly Report [2019 Summary & 1 st Qtr. 2020]	1
2	VGOB 92-0915-0257-03	4
3	VGOB 97-0916-0601-03	9
4	VGOB 06-0919-1714-02	13
5	VGOB 20-0421-4230	21
6	VGOB 91-0430-0114-02	24
7	VGOB 99-1019-0758-03	34
8	VGOB 01-0821-0918-02	24
9	VGOB 02-0319-1008-09	39
10	VGOB 02-0416-1020-01	24
11	VGOB 04-1116-1358-04	44
12	VGOB 05-0816-1491-04	24
13	VGOB 08-0415-2195-03	48
14	VGOB 19-1119-4227	52
15	VGOB 20-0218-4228	56
16	Update of Board and Division activities from staff	56
17	Review of November, 2019 minutes	63

ITEM NUMBER 1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

Bradley Lambert: Good morning Ladies and Gentlemen, this is Bradley Lambert. Chairman of the Board and it's now 9:00 and we'll try to begin our meeting this morning. We're not sure how this is going to work but we are going to do the best we can. I would ask everybody that's on the call, if you're not speaking please put your phone on mute. Right now, somebody called in and not sure but as soon as they dialed in, we started getting a lot of static so some of the phones don't work well on these conference calls. So please, please mute your phone. Also, I would ask that when you begin anybody begins to speak, please announce who you are. We're trying to record this as we go and it would be very helpful for our recorder to know who is speaking. So please introduce yourselves. Also, there's several people, I'm not sure how many people is on the call. We're not going to take a roll call of everyone but I ask you to be respectful and not try not to over-talk of people. Be respectful of people's time, we'll get time for everybody to speak and hopefully we'll get through this without too much complications. Also, Rick just said to remind you how to mute, but every phone's got a mute button on it. See if you can search your phone and find that mute button. We'll go down our docket just like we do at our regular meetings and call each docket, but as we do, I'm going to have some rules we are going to have to go by according to the Attorney General's office. I'm going to have to ask some questions and get an affirmative answer from folks as you begin to testify, so as we begin this morning as you notice on the docket, we're not going to do public comments during this call. I'm sure there's public on the phone, I understand and respect that you may have issues that you want to talk about and bring up but given the situation that we're having to do this call we're just going to have to go into docket and suspend comment during this one. But we will if and when we get back to our regular meetings, we will get back into public comment period. So at this time, I'm going to ask Sally Ketron, if she will poll the board for a quorum. As she calls your name, just introduce yourself and tell who you are representing. So Sally, if you are on the phone, if you will proceed with polling the board.

Sally Ketron: Okay, of course, Bradley Lambert.

Bradley Lambert: Yes, I am present and representing the Department of Mines, Minerals and Energy.

Sally Ketron: Sorry. Okay, Bill Harris?

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

Sally Ketron: Bruce Prather? [No response] Bruce, are you there? [No response] Okay, Donnie Rife?

Donnie Rife: Public Member, Dickenson County.

Sally Ketron: Mary Quillen?

1 **Mary Quillen**: Public Member.

2 **Sally Ketron**: Rita Surratt?

3 **Rita Surratt**: Public Member, Dickenson County.

4 **Sally Ketron**: and Donnie Ratliff?

5 **Donnie Ratliff**: I'm representing coal, I'm here.

6 **Bradley Lambert**: Okay Sally and also J, are you on the line?

7 **Jerald Hess**: I'm here, good morning everyone. Everyone, my name is Jerald Hess. I'm an
8 Assistant Attorney General in the Attorney General's office. You can call me J. The rules that
9 Bradley referenced from the AG's office, those are my fault so we go through them, any
10 complaints can go towards me but I took over representing the Mining programs for DMME
11 earlier this year. Some of you have probably met me and Ingersoll. Dan is transferred to our Real
12 Estate *inaudible*, I'm taking over for him. I look forward to meeting all of you guys in person
13 as soon as I can but I'm here on the phone as a resource for you if anything comes up.

14 **Bradley Lambert**: Thank you J. At this time, we'll call Docket Item Number 1 and that's the
15 First Bank and Trust Escrow Agent for the Virginia Gas and Oil Board. They will address the
16 Board with both the year end since this is our first time we've before the Board this year and also
17 they will give us an update on the quarterly and for the Board members, you should have that
18 report sent to you electronically. If you are able to pull that up, please do so. If you didn't get it
19 or can't get it, just let us know and we'll try to get a hard copy to you. Ms. Maney are you on the
20 line and going to speak for the Escrow Agent?

21 **Jody Maney**: I am. Good morning.

22 **Bradley Lambert**: Good morning.

23 **Jody Maney**: If you didn't receive a copy of it, please let me know and I can get one mailed out
24 to you or I can email it to you, either way. So we will start with a recap of 2019. The summary
25 for 2019 is on page 3. We've received deposits of \$317,746.83, we had interest earned of
26 \$101,237.27, fees deducted from the account was \$9,785.32, and distribution paid for 2019 was
27 \$1,342,489.94. This includes over 3200 checks processed with an average check amount of
28 \$414.85. Our highest check processed in 2019 \$180,000 and our lowest check processed was
29 \$.01. On page number four [4], this is our 1st quarter report. The 1st quarter for 2020 started out
30 with a beginning balance of \$9,089,650.46. We had deposits for the quarter \$33,730.04. Interest
31 earned at \$8,876.13. Fees paid out for the quarter was \$6,760.51 and distributions for the quarter
32 \$118,202.74 bringing us at an ending balance on March 31 of \$9,007,293.38. Now, as usual, our
33 next several pages are the outstanding checks, this is as of March 31. If you go down to page 43,
34 there is a total of \$55,783.70 that are in outstanding checks. On Page 44, is the Check

1 Escheatment page, this is only the checks that will be escheated this year. There's a total of
2 \$4,519.58 that will be escheated this year. Any questions on those?

3 **Bradley Lambert**: Ms. Maney, this is Bradley. Just a quick question, maybe for Rick Cooper,
4 he's sitting here with me as well. How much have we sent to Treasury so far?

5 **Jody Maney**: To Treasury, so far we have processed 23 dockets to the Treasury at the total of
6 \$53,085.06.

7 **Bradley Lambert**: Okay, thank you. Does that process seem to be going good?

8 **Jody Maney**: On the bank side, it seems to be going well.

9 **Bradley Lambert**: and Rick on our side?

10 **Rick Cooper**: This is Rick Cooper speaking, our side with Treasury has been going relatively
11 smoothly and we have processed what Jody says. We had at least 200 petitions submitted to us
12 that we are waiting on notice or issues of things like that. We've got the process started and it's
13 going pretty smoothly and we should see that number peak quickly in the next couple weeks and
14 months.

15 **Bradley Lambert**: Thank you, Ms. Maney?

16 **Jody Maney**: I think we have 16 deposits that we haven't processed yet and roughly calculating
17 we have about \$330,000 that will be processed with those coming up within the next week or so.
18 Any other questions? [No response] Starting on page 45, this is a list of all the funded units. It
19 goes with each docket item that we have; each account that we have. The beginning balance, any
20 deposits that we have received. This is just for the month of March. The interest received, the
21 fees that were deducted and any distributions that were during the month of March and any
22 transfers for the no W9 spreadsheet, corrections made to the account and the ending market value
23 for each individual account. You will have totals on page 59. Starting on page 60, this is the no
24 W-9 list for the month of March. This is the list of all the people that have not submitted a W-9
25 to process their check yet. We have a total of about \$39,000 in that account and 430 individual
26 checks. Any questions on those? [No response]. Our next page is the annual distributions since
27 First Bank and Trust has taken over as Escrow Agent in 2010, we have disbursed out in over \$31
28 million and you will see that we've received over \$15 million in royalties and working income.
29 The last page is the investment of funds, as of March 31 we had all of the money in the money
30 market ICS account with a little over \$9 million at an annual rate of .2%. Any questions on
31 those? [No response]. Any questions from the committee?

32 **Bradley Lambert**: Thank you Ms. Maney, just a quick question kind of related to our escrow
33 account and that would be a question for Mr. Cooper. What is our gas production for last year?

34 **Rick Cooper**: It's approximately 112 billion cubic feet.

1 **Bradley Lambert**: Down from?

2 **Rick Cooper**: The peak was about 140 billion cubic feet in 2010 -2011. So we've dropped in the
3 last 5-6 years about 35 to 40 billion cubic feet.

4 **Bradley Lambert**: Okay, thank you Rick. Thank you Ms. Maney, we appreciate again as usual
5 all the work that you guys do over there with the bank and managing the escrow account. Great
6 job, thank you very much.

7 **Jody Maney**: Thank you all, have a good day.

8 **ITEM NUMBER 2**

9 **Bradley Lambert**: Thank you. The next item on our docket is a petition a Pocahontas Gas LLC
10 re-pooling under Oakwood Coalbed Methane Gas Field I. Unit 04. Docket Number VGOB 92-
11 0915-0257-03. All those parties wishing to testify, you can unmute but what I need you to do as
12 you begin to testify as Ms. Gilmer will swear you in, but I will need you to state your name, the
13 location of all the individuals including the counsel that are participating in the proceedings and
14 hearing the testimonies. The rationale for receiving a sworn testimony by telecom or video
15 conference rather than in person and the method by which their testimony being provided and the
16 method by which the testimony is being recorded or memorialized. Also, I will take care of this
17 part, we will include in the record the date, time and place of the testimony and the witnesses we
18 are going to swear in. So those wishing to testify on this docket is Mr. Swartz and if you are on
19 the line and you could introduce those that will be testifying.

20 **Mark Swartz**: Mr. Chairman, this is Mark Swartz. I am currently in my Charleston office and
21 I'm going to be having questions for Kelli Berry, who is going to be testifying I think from her
22 office. Kelli, will you announce yourself and tell us where you are?

23 **Kelli Berry**: This is Kelli Berry representing Pocahontas Gas LLC and I'm testifying from our
24 office in Claypool Hill, Virginia.

25 **Bradley Lambert**: Thank you Mr. Swartz, also we need to know that this testimony is occurring
26 with the consent of all the participants to the proceeding. Are there any objections to the way we
27 are participating in this call? If there are any objections, please let us know at this time and if not,
28 Mr. Swartz you can proceed as soon as Ms. Gilmer swears in Ms. Berry.

29 **Mark Swartz**: Okay.

30 **Sarah Gilmer**: Ms. Berry?

31 **Kelli Berry**: Yes.

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

1 **Kelli Berry**: I do.

2 **Sarah Gilmer**: Thank you.

3 **Bradley Lambert**: Okay, thank you Mr. Swartz, you may begin.

4 **Mark Swartz**: Okay, Kelli could you state your name for us again, please.

5 **Kelli Berry**: Kelli Berry.

6 **Mark Swartz**: and you're testifying on behalf of whom?

7 **Kelli Berry**: Pocahontas Gas, LLC.

8 **Mark Swartz**: Pocahontas Gas, LLC is the applicant with regard to a re-pooling of Unit 04,
9 correct?

10 **Kelli Berry**: Yes.

11 **Mark Swartz**: What are reasons for this re-pooling application?

12 **Kelli Berry**: Because of property line changes affected the acres within the unit.

13 **Mark Swartz**: We are also, so I think, looking at the application. We're also seeking to add
14 production under Oakwood II from a long wall panel that's been isolated.

15 **Kelli Berry**: That's correct.

16 **Mark Swartz**: What did you do to notify people that are respondents interested in this unit that
17 we were going to have a hearing?

18 **Kelli Berry**: We attempted to mail copies of the petition to all respondents as well as publishing
19 in the *Virginia Mountaineer*.

20 **Mark Swartz**: Okay, as you customarily do whenever you have a petition, correct?

21 **Kelli Berry**: Yes.

22 **Mark Swartz**: Have you listed all of the respondents in both paragraph 7 of the application and
23 in your notice?

24 **Kelli Berry**: Yes.

25 **Mark Swartz**: Do you want to add any respondents today?

26 **Kelli Berry**: No.

27 **Mark Swartz**: Do you want to dismiss any?

1 **Kelli Berry**: No.

2 **Mark Swartz**: You have provided a revised plat which is I believe is at pdf page 7?

3 **Kelli Berry**: Yes.

4 **Mark Swartz**: and that shows an 80-acre Oakwood unit and I think the plat was revised. The
5 revision is dated January 20, 2020, is that correct?

6 **Kelli Berry**: That's correct.

7 **Mark Swartz**: Then we have; I'm just working through here, there are tract ID's and so forth,
8 you have Exhibit B which list all of the people in the Unit, both leased and pooled, correct?

9 **Kelli Berry**: That's correct.

10 **Mark Swartz**: We have Exhibit B3 and that's a list again of all the respondents that you're
11 seeking to re-pool?

12 **Kelli Berry**: That's correct.

13 **Mark Swartz**: In Exhibit B3, just to point this out to the board, the last column in my pdf shows
14 the heading, the number is kind of in purple but the last column in a calculation of the division of
15 interest in the long wall panel that we're talking about for each of the owners, correct?

16 **Kelli Berry**: Yes.

17 **Mark Swartz**: and that's going to be the measure of their royalty and it's also going to be the
18 measure of the way in which they would calculate the dollars that they would be required to pay
19 in the event that they wanted to participate in this unit?

20 **Kelli Berry**: Yes.

21 **Mark Swartz**: That would be the percentage they would apply to the dollar amount that we will
22 be talking about shortly, correct?

23 **Kelli Berry**: That's correct.

24 **Mark Swartz**: Working further through the application at pdf pages 45 and 46, you've provided
25 your cost estimates, correct?

26 **Kelli Berry**: Yes.

27 **Mark Swartz**: and those are, although the panel; this panel does not actually have any wells.
28 Strike that. There are no wells in the panel that are also in Unit 04, correct?

29 **Kelli Berry**: That's correct.

1 **Mark Swartz**: So the production from the panel is being obtained through two wells that are
2 located in the panel in other units but the production is being allocated in part to Unit 04?

3 **Kelli Berry**: That's correct.

4 **Mark Swartz**: If we go to the next page, which is pdf page 47, you've got an estimate of an
5 allowable cost by panel and that does allocate the dollars for the two wells but it also shows the
6 percentage of the production from the entire panel and how it's being allocated to the various
7 units affected by the panel, right?

8 **Kelli Berry**: That's correct.

9 **Mark Swartz**: What's the percentage of the panel production that's being allocated to Unit 04?

10 **Kelli Berry**: That is 6.6751%.

11 **Mark Swartz**: and that's the way the dollars are allocated or the revenue to allocate and then the
12 division of interest that we talked about a little while ago is applied to that to calculate the
13 revenue?

14 **Kelli Berry**: Correct.

15 **Mark Swartz**: and it is also the same percentage you have used to allocate the cost of the two
16 wells to Unit 04?

17 **Kelli Berry**: Yes.

18 **Mark Swartz**: and what is the allocated cost for 04?

19 **Kelli Berry**: \$42,048.34.

20 **Mark Swartz**: The next exhibit is Exhibit E, which is revised to reflect the re-pooling
21 percentages, correct?

22 **Kelli Berry**: Yes.

23 **Mark Swartz**: and it's also revised to reflect the panel production, the division of interest?

24 **Kelli Berry**: Yes.

25 **Mark Swartz**: Then we've got what I assume the next exhibit would be EE and that's how
26 you're going to pay people that is not subject to escrow going forward, if this is approved?

27 **Kelli Berry**: Yes.

28 **Mark Swartz**: Then, we have also furnished some mapping, which I think Sarah distributed to
29 the Board members perhaps by email yesterday, right?

1 **Kelli Berry**: Yes.

2 **Mark Swartz**: In the mapping, there is actually three pages that I think have found their way to
3 the Board but there's one page which at the top says, please and there's a symbol for a number
4 and then it's got 300 and if the Board Members have that available, that map shows a portion of
5 the mine works, correct?

6 **Kelli Berry**: Yes.

7 **Mark Swartz**: and the 04 unit is in the north, well in the top right hand corner of that map?

8 **Kelli Berry**: Yes.

9 **Mark Swartz**: It shows that the 04 intersects the panel; there's a line that runs down the middle
10 of that panel but that the two producing wells are just slightly to the west of that line in units to
11 the west?

12 **Kelli Berry**: Yes.

13 **Mark Swartz**: and that is basically the base map that you used to calculate the percentages
14 which is also one of the three maps where you actually have it's a map just of the that long wall
15 panel that we were talking about and allocating the percentages to the various units affected by
16 the panel?

17 **Kelli Berry**: Yes.

18 **Mark Swartz**: Okay and I think, well I think that's it for this unit. Mr. Chairman, we're
19 completed unless there might be some questions, but we're done our direct.

20 **Bradley Lambert**: Any questions from the Board? This is Bradley, the Chairman. Any
21 questions from the Board? [No response]. Do you have anything further Mr. Swartz?

22 **Mark Swartz**: That would be it.

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

24 **Donnie Rife**: Donnie Rife making a motion for approval.

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

26 **Bill Harris**: Second from Bill Harris.

27 **Bradley Lambert**: Ms. Ketron, would you poll the Board for a vote, please.

28 **Sally Ketron**: Yes, Bradley Lambert?

29 **Bradley Lambert**: Yes.

1 **Sally Ketron**: Bill Harris?

2 **Bill Harris**: Yes.

3 **Sally Ketron**: Donnie Rife?

4 **Donnie Rife**: Yes.

5 **Sally Ketron**: Mary Quillen? [No response] I couldn't hear you Mary?

6 **Mary Quillen**: Yes.

7 **Sally Ketron**: Rita Surratt?

8 **Rita Surratt**: Yes.

9 **Sally Ketron**: and Donnie Ratliff?

10 **Donnie Ratliff**: Yes.

11 **ITEM NUMBER 3**

12 **Bradley Lambert**: Thank you board members, that's approved and thank you Mr. Swartz. Now
13 we're moving on to petition number three [3]. It's a petition from Pocahontas Gas LLC, for re-
14 pooling under Oakwood Coalbed Methane Gas Field I. Unit Y35. Docket Number VGOB-97-
15 0916-0601-03. All parties wishing to testify, please come forward and introduce yourselves,
16 please.

17 **Mark Swartz**: This is Mark Swartz. I'm appearing as counsel
18 for the applicant and I'll be asking for testimony from Kelli Berry. Kelli, you want to chime in?

19 **Kelli Berry**: This is Kelli Berry representing Pocahontas Gas, LLC, from our office in Claypool
20 Hill, Virginia.

21 **Bradley Lambert**: Are there any objections to the testimony being taken over this conference
22 call?

23 **Mark Swartz**: There is not.

24 **Bradley Lambert**: Thank you Mr. Swartz, you may proceed.

25 **Mark Swartz**: Kelli, I'm just going to remind you that you are still under oath, okay?

26 **Kelli Berry**: Yes.

27 **Mark Swartz**: Would you state your name one more time?

1 **Kelli Berry**: Kelli Berry.

2 **Mark Swartz**: and you're appearing on behalf of the applicant Pocahontas Gas Company, LLC.
3 Is that correct?

4 **Kelli Berry**: That's correct.

5 **Mark Swartz**: and this is another application to re-pool and this pertains to Unit Y35, which is
6 also with the Oakwood Field. Correct?

7 **Kelli Berry**: That's correct.

8 **Mark Swartz**: and the reasons for this re-pooling are what?

9 **Kelli Berry**: Property line changes which affects the acreage in the unit.

10 **Mark Swartz**: and I think those property lines issues are basically in the Northwest corner of the
11 unit, is that right?

12 **Kelli Berry**: Yes.

13 **Mark Swartz**: and we're also requesting a third well?

14 **Kelli Berry**: Yes.

15 **Mark Swartz**: and what's the basis or reason behind that request?

16 **Kelli Berry**: A third well has been proposed to be drilled within the unit has been requested by
17 the Coal Company.

18 **Mark Swartz**: Okay, so it's a coal operation de-gas safety issue?

19 **Kelli Berry**: Yes.

20 **Mark Swartz**: and we've shown all three wells, I think on the plat. Let's go to that for a
21 moment. The plat is at pdf page 5 and you've got three wells, two of which are not in the
22 window and one is in the window. Which of the wells is the proposed third well?

23 **Kelli Berry**: Y35E.

24 **Mark Swartz**: I think toward the end of this application, there's also a partial land mine map
25 that shows the location of that in a long wall panel?

26 **Kelli Berry**: Yes.

27 **Mark Swartz**: Okay. Let's go to the beginning questions again. Did you give notice to the
28 respondents about this hearing?

1 **Kelli Berry**: Yes, we sent a copy of the petition to each respondent as well as publishing in the
2 *Virginia Mountaineer*.

3 **Mark Swartz**: Okay, and you've listed the respondents in your application, in your notice and
4 also in Exhibit B3 and let me go to that. I think their listed in paragraph 7. Do you want to add
5 any respondents to the list?

6 **Kelli Berry**: No.

7 **Mark Swartz**: Do you want dismiss any?

8 **Kelli Berry**: No.

9 **Mark Swartz**: Okay. You've identified the permits numbers for the existing two wells in your
10 application, correct?

11 **Kelli Berry**: Yes.

12 **Mark Swartz**: Okay, as we mentioned earlier, we've got Exhibit B, which list everybody in the
13 unit and then you're Exhibit B3, which is at pdf page 10 that list the unleased owners and
14 claimants that we're seeking to re-pool?

15 **Kelli Berry**: Yes.

16 **Mark Swartz**: and you've provided, I think at pages 11, 12 and 13 of the pdf 3 well cost
17 estimates?

18 **Kelli Berry**: Yes.

19 **Mark Swartz**: You've got Exhibit E, which indicates there's still going to be an escrow
20 requirement?

21 **Kelli Berry**: Yes.

22 **Mark Swartz**: and the acres still in escrow in Exhibit E; if this application is approved, are how
23 many acres?

24 **Kelli Berry**: 0.07 acres.

25 **Mark Swartz**: Okay, so we're almost done with solving escrow issues, right?

26 **Kelli Berry**: Yes.

27 **Mark Swartz**: Then you've got an Exhibit EE, which is would be the going forward of how you
28 pay?

29 **Kelli Berry**: Yes.

1 **Mark Swartz**: I think, on pdf page 17 is actually a letter to Mr. Cooper about the proposed
2 additional well followed by a map showing what 35E is at the location of the panel?

3 **Kelli Berry**: Yes.

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

5 **Bradley Lambert**: Are there any questions from the Board? [No response] Do you have
6 anything further Mr. Swartz?

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

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

9 **Donnie Rife**: Motion to approve, Donnie Rife.

10 **Bill Harris**: Bill Harris, I second that.

11 **Bradley Lambert**: I have a motion and I have a second. Are there any further discussions? [No
12 response] Ms. Ketron, would you poll the Board for a vote please.

13 **Sally Ketron**: Okay, Bradley Lambert?

14 **Bradley Lambert**: Yes.

15 **Sally Ketron**: Bill Harris?

16 **Bill Harris**: Yes.

17 **Sally Ketron**: Donnie Rife?

18 **Donnie Rife**: Yes.

19 **Sally Ketron**: Mary Quillen?

20 **Mary Quillen**: Yes.

21 **Sally Ketron**: Rita Surratt?

22 **Rita Surratt**: Yes.

23 **Sally Ketron**: and Donnie Ratliff?

24 **Donnie Ratliff**: Yes.

25 **Bradley Lambert**: Okay, thank you Mr. Swartz. That one has been approved.
26

1 **ITEM NUMBER 4**

2 **Bradley Lambert:** Now calling Docket Item Number four [4] is a petition from Pocahontas Gas
3 LLC, for re-pooling under Nora Coalbed Methane Gas Field I. Unit BG-98. Docket Number
4 VGOB 06-0919-1714-02. All parties wishing to testify on this docket item, please come forward
5 and state your name for the record.

6 **Mark Swartz:** Mark Swartz and Kelli Berry. Pocahontas Gas LLC is the applicant and we
7 consent to doing this hearing by telephone. Just want to chime in Kelli?

8 **Kelli Berry:** Yes, Kelli Berry.

9 **Shea Cook:** This is Shea Cook on behalf of Carson Austin and Keisha Austin.

10 **Bradley Lambert:** I'm sorry Shea, I got your name but I didn't get who you were representing?

11 **Shea Cook:** Okay, yes. Carson Austin and Keisha Austin. We had filed with the Oil and Gas
12 Board and also forwarded a copy of Jerry Scott correspondence and attached that is dated March
13 11, 2020 that contained two orders that I think that are relative to the petition.

14 **Bradley Lambert:** Okay, thank you Mr. Cook.

15 **Shea Cook:** Yes, sir.

16 **Bradley Lambert:** Are you going to be providing testimony as well?

17 **Shea Cook:** No, there's not testimony to be provided. It's just argument. In my argument I'm
18 not sure I'm kind of only going by what's on the docket. I had filed, I had asked for the order of
19 escheatment entered August 5, 2019 relative to VGOB 07-0320-1898-03 be vacated and we also
20 received a petition for escheatment relative to this particular unit that's on the docket and my
21 argument is that the Oil and Gas Board doesn't have jurisdiction to enter given the existing 2015
22 order which was attached.

23 **Bradley Lambert:** Okay, thank you Mr. Cook. Let's proceed with testimony from Mr. Swartz
24 and then we'll turn to you when Mr. Swartz gets finished with his presentation.

25 **Shea Cook:** Yes, sir. Thank you.

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

27 **Mark Swartz:** I would like to call Kelli Berry. Kelli, would you state your name again, please.

28 **Kelli Berry:** Kelli Berry.

29 **Mark Swartz:** and who are you testifying on behalf of today?

30 **Kelli Berry:** Pocahontas Gas, LLC.

1 **Mark Swartz**: and this pertains to what unit?

2 **Kelli Berry**: Unit BG-98.

3 **Mark Swartz**: This is another re-pooling?

4 **Kelli Berry**: Yes.

5 **Mark Swartz**: Okay, and what is the reason for this being re-pooled?

6 **Kelli Berry**: This unit, we are requesting to be re-pooled based on the final order in case number
7 16-254 which declared the heirs of Mary Leftwich to be the owners of the oil and gas.

8 **Mark Swartz**: and it also determined that Carson Austin was not an owner?

9 **Kelli Berry**: Yes.

10 **Mark Swartz**: Okay, and to illustrate what's going on here in this application, let's go and we'll
11 come back to some basic questions but let's go to pdf page, let me see if I can find this. Okay, if
12 we go to pdf page 17 that is an Exhibit B-2. An Exhibit B-2 is how we identify owners that we
13 might be adding or people that we have determined are not an owner and we're disbursing, is
14 that why you've included the Exhibit B-2 here?

15 **Kelli Berry**: That's correct.

16 **Mark Swartz**: Okay, and who is going away as an owner in Exhibit B-2?

17 **Kelli Berry**: Carson Austin.

18 **Mark Swartz**: and why is that?

19 **Kelli Berry**: Because the heirs of Mary Leftwich were the prevailing defendants under case
20 number 16-254.

21 **Mark Swartz**: and that order, I believe was entered July 25, 2018. Mr. Cook signed off on that
22 order but he objected to it, but it was entered never the less by Judge Johnson, correct?

23 **Kelli Berry**: Correct.

24 **Mark Swartz**: To your knowledge, has that order been appealed and/or reversed on appeal?

25 **Kelli Berry**: No.

26 **Mark Swartz**: It still stands?

27 **Kelli Berry**: Yes.

28 **Mark Swartz**: and that's the sole reason why we are moving to re-pool here?

1 **Kelli Berry**: That's correct.

2 **Mark Swartz**: In Exhibit B-2, when Mr. Austin is dropped as an owner because of a court case.
3 You've done got a very lengthy list of people the Leftwich heirs that you are adding, correct?

4 **Kelli Berry**: That's correct.

5 **Mark Swartz**: Okay, no going back to the preface questions here. What did you do to tell people
6 that we were going to have a hearing about this unit today?

7 **Kelli Berry**: We mailed a copy of the petition to all respondents as well as publishing in the
8 *Virginia Mountaineer*.

9 **Mark Swartz**: and except for the people that you've identified in the Exhibit B-2 that we've just
10 talked about, do you want to dismiss anybody else besides Mr. Austin today?

11 **Kelli Berry**: No.

12 **Mark Swartz**: Do you want to add anyone besides the Leftwich heirs that you've identified in
13 the B-2 today?

14 **Kelli Berry**: No.

15 **Mark Swartz**: Let's go... and we've provided a plat which I think it's dated a while ago because
16 it was probably revised on prior trip to the Board. Let me look at the date here. Yea, we've got a
17 plat from November, 2019 that we've attached. We have an Exhibit B which list everyone in the
18 unit which obviously was amended to add and subtract the people we've talked about. We have
19 an Exhibit B-3, which identifies that are being pooled and re-pooled by this application. You've
20 got the well cost estimate from the original hearing, I believe, let me look at the date of that from
21 2016. That's pdf page 27 to the extent that the people are given an opportunity by the order to
22 participate that would be the cost, correct?

23 **Kelli Berry**: Yes.

24 **Mark Swartz**: Okay, then we've got Exhibit E which deals with Escrow requirements after if
25 this order is approved, correct?

26 **Kelli Berry**: Yes.

27 **Mark Swartz**: If we go to the end of Exhibit E, we have an indication of what's still in Escrow
28 and there's quite a bit. How many acres are still in Escrow?

29 **Kelli Berry**: We are placing Tract 1B back into Escrow and the total acres is 29.12.

30 **Mark Swartz**: and obviously, you're going to need a new Exhibit EE in terms of the people that
31 we are going to be paying forward and I believe that is it Mr. Chairman.

1 **Bradley Lambert**: Okay, thank you Mr. Swartz. Just hang on a second, we've had a little matter
2 here on this end we'll have to take care of, just one second.

3 **Mark Swartz**: Okay.

4 **Bradley Lambert**: Okay, sorry. I apologize for that delay there just for a moment. But I
5 understand that Mr. Prather, you've just been able to call in, are you on the line?

6 **Bill Prather**: I'm on the line.

7 **Bradley Lambert**: Okay, thank you Mr. Prather. It's good to have you.

8 **Bill Prather**: Sorry, I'm late.

9 **Bradley Lambert**: That's alright, technology. We have to work with it. Mr. Cook? Mr. Cook are
10 you still on the line? [No response] Apparently not, okay. So anything further Mr. Swartz?

11 **Mark Swartz**: No.

12 **Bradley Lambert**: Okay, do I have a motion?

13 **Donnie Rife**: Donnie Rife, motion to approve.

14 **Donnie Ratliff**: This is Donnie Ratliff, second.

15 **Bradley Lambert**: I have a motion and I have a second, are there any further discussion? [No
16 response] Ms. Ketron, would you poll the Board for a vote please.

17 **Sally Ketron**: Okay, Bradley Lambert?

18 **Bradley Lambert**: Yes.

19 **Sally Ketron**: Bill Harris?

20 **Bill Harris**: Yes.

21 **Sally Ketron**: Bruce Prather? [No response] Bradley, do you want me to move on and then?

22 **Bradley Lambert**: Yes, please I think. Bruce may have missed part of that so yes, please move
23 on.

24 **Sally Ketron**: Okay.

25 **Shea Cook**: I just want to add my call got dropped.

26 **Bradley Lambert**: Is that you Mr. Cook?

27 **Shea Cook**: It is, I'm sorry.

1 **Bradley Lambert**: Okay Mr. Swartz had finished and we had a motion and a second to approve
2 and we're calling a roll-call on the vote, but given technology and knowing how it can mess up
3 sometimes.

4 **Shea Cook**: It can.

5 **Bradley Lambert**: Yes, let's hold off on the vote. J, are we okay with doing that and allowing
6 Mr. Cook to proceed?

7 **Jerald Hess**: That will be just fine.

8 **Bradley Lambert**: Okay, thank you J. Okay Mr. Cook, if you want to interject, please go ahead.

9 **Shea Cook**: Okay, Ms. Berry. Have you seen the order entered date in the Buchanan Circuit
10 Court dated April 22, 2015, that was attached to my correspondence of March 11, 2020?

11 **Kelli Berry**: Yes.

12 **Shea Cook**: Does that order specifically declare that Carson Austin is the owner relative to Tract
13 1B of Unit VG98?

14 **Kelli Berry**: No, it does not.

15 **Shea Cook**: Does it reference that he is the owner of the gas estate as it relates to VG98?

16 **Kelli Berry**: The order that you are referencing shows only that Harrison Wyatt disclaimed any
17 interest that it might have in the coalbed methane.

18 **Shea Cook**: Does not the order basically state that he is actively; Harrison Wyatt and Carson
19 Austin, that he is the owner of the gas estate?

20 **Kelli Berry**: The actual wording of the order says and I quote as I'm reading from the order, "It
21 is the judged order and decreed that upon the defendant Harrison Wyatt first amended motion for
22 judgement on file herein that the defendant Harrison Wyatt, LLC has disclaimed any interest in
23 and to the CBM and accordingly is not entitled to any royalties relating to the extractions of
24 coalbed methane gas by CNX Gas, LLC from the subject properties listed as items as A-E and
25 items K, N & O listed above and it is not a conflicting claimant to the ownership of the CBM".

26 **Shea Cook**: Okay, alright. Now, specifically with regards to the order that was entered in Case
27 16-254, that was an action brought by the Austin's themselves, is that correct?

28 **Kelli Berry**: Yes.

29 **Shea Cook**: and its specifically relates only to BF100 and BF101, is that correct?

30 **Kelli Berry**: Yes, it appears that those are the units that are described in that order.

1 **Shea Cook**: and this action is based specifically on that order itself, correct?

2 **Kelli Berry**: Yes.

3 **Shea Cook**: That would be the order entered July 25, 2018?

4 **Kelli Berry**: Yes.

5 **Shea Cook**: Does that order state that Carson Austin is not the owner of Tract 1B or Unit VG98?

6 Does it state that in the order?

7 **Kelli Berry**: That order specifically references in addition to BF100 and BF101, it states that;

8 I'm sorry, I'm scrolling through the order. Give me just one moment please.

9 **Shea Cook**: Sure.

10 **Kelli Berry**: The order references the gas estate within a 200 acre boundary, a 55 acre boundary

11 and a 28 acre boundary. A two (2) acre boundary and a 21 acre boundary. This order states the

12 heirs are the owners of the gas within all of those boundaries.

13 **Shea Cook**: Okay, does the order itself does not make reference to any docket numbers, unit

14 numbers, tract number within the unit themselves?

15 **Kelli Berry**: That's correct.

16 **Mark Swartz**: Why would it?

17 **Kelli Berry**: Our mapping of the boundaries listed within the complaint are the basis upon which

18 we requested this re-pooling.

19 **Shea Cook**: That's all the questions I have.

20 **Bradley Lambert**: Okay, thank you Mr. Cook. I'll have to say at this point that what you were

21 discussing with Ms. Berry is a civil matter in court that this Board couldn't rule upon anyway. So

22 I appreciate you coming forward and filling us in. For the Board members, you don't have those

23 orders in front of you but Mr. Cooper has them here but again, I reference that these are court

24 matters not before this Board at this time.

25 **Shea Cook**: To some extent, I agree with what you just stated. On the other hand, it is my

26 understanding that there was a petition for recoupment for this Board today. If that's not the case,

27 then I'll stand aside.

28 **Bradley Lambert**: I have Mr. Cooper checking on that now Mr. Cook. Could you hold just a

29 second?

30 **Shea Cook**: Thank you.

1 **Bradley Lambert**: Mr. Cooper, could you update us on that?

2 **Rick Cooper**: Ms. Berry, you may have to jump in but I'm not aware of a commitment or having
3 this problem with VG98? Is that correct, of not having a recoupment on this one?

4 **Kelli Berry**: I'm not aware of that at this point in time.

5 **Rick Cooper**: and we are not aware of it here at the Division of Gas and Oil either.

6 **Shea Cook**: Okay.

7 **Mark Swartz**: This is Mark Swartz, if there were past payments out of this unit to Mr. Austin,
8 he shouldn't have been paid and I don't know because there's nothing in the record here. But that
9 would be again an issue between Mr. Austin and the Operator that they would have to address in
10 other units, not this one.

11 **Shea Cook**: Well I disagree.

12 **Mark Swartz**: This is a decision that he's not going to be paid going forward.

13 **Shea Cook**: Regardless of what he's entitled to, he's entitled to due process. The payments that
14 were made to him specifically was payment out of the escrow were approved by this Board and
15 this Board owes him due process, the Operator owes him due process and the petitions for
16 recoupment or order of recoupment...

17 **Mark Swartz**: There's no order that it is going to result from this application that addresses
18 recoupment, one way or the other. Plus he had notice of this hearing, your appearing. How can
19 this be a due process issue?

20 **Shea Cook**: It is my understanding that there was an order of recoupment dated August 5, 2019
21 at least relative to 07-1320-1898-03.

22 **Bradley Lambert**: This is Bradley again. Mr. Cook the docket number you just read is not this
23 docket number and from what I'm understanding in reading the docket to clear it up, this is not a
24 petition a recoupment.

25 **Mark Swartz**: Correct.

26 **Shea Cook**: *inaudible*

27 **Bradley Lambert**: I'm sorry Mr. Cook?

28 **Shea Cook**: No, I was going to defer to Mark.

29 **Mark Swartz**: This is Mark Swartz again, you can tell from this docket number that this unit has
30 never been before the Board since it was originally pooled. There's no dash after the 4230. So

1 there couldn't be a recoupment order or some other random order with regard to this. This is the
2 first time we've been here.

3 **Shea Cook**: As I'm understanding it, CNX filed a petition for recoupment relative to this docket
4 number.

5 **Mark Swartz**: I think its news to us.

6 **Shea Cook**: Okay.

7 **Bradley Lambert**: Ms. Berry, have you filed a petition for recoupment in this docket item?

8 **Kelli Berry**: No, the only petition we have filed regarding docket item 1714-02 is the re-pooling,
9 which was heard before you today.

10 **Shea Cook**: Okay.

11 **Bradley Lambert**: Thank you Ms. Berry. Are there any questions from the Board pertaining to
12 this matter? [No response] Okay, thanks. I've already called for a motion and we have a second
13 and Ms. Ketron you are polling the Board, would you start over with your poll please?

14 **Sally Ketron**: Sure. Bradley Lambert?

15 **Bradley Lambert**: Yes.

16 **Sally Ketron**: Bill Harris?

17 **Bill Harris**: Yes.

18 **Sally Ketron**: Bruce, would you like to vote? [No response] Okay, Donnie Rife?

19 **Donnie Rife**: Yes.

20 **Sally Ketron**: Mary Quillen?

21 **Mary Quillen**: Yes.

22 **Sally Ketron**: Rita Surratt?

23 **Rita Surratt**: Yes.

24 **Sally Ketron**: and Donnie Ratliff?

25 **Donnie Ratliff**: Yes.

26 **Bradley Lambert**: Thank you Board members. Thank you Mr. Swartz, that one has been
27 approved.

ITEM NUMBER 5

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Bradley Lambert: Now we're calling Docket Item Number five [5] is a petition from Pocahontas Gas, LLC, for pooling under Oakwood Coalbed Methane Gas Field I. Unit CC35. Docket Number VGOB 20-0421-4230. All parties wishing to testify, please come forward.

Mark Swartz: Mark Swartz and Kelli Berry. We consent and the applicant consents to doing this by phone.

Bradley Lambert: Thank you Mr. Swartz. Anyone from the public? [No response] You may begin Mr. Swartz.

Mark Swartz: Thank you. Kelli could you state your name one more time.

Kelli Berry: Kelli Berry.

Mark Swartz: Who are you appearing on behalf of today?

Kelli Berry: Pocahontas Gas, LLC.

Mark Swartz: and this is a pooling as opposed to a re-pooling, correct?

Kelli Berry: That's correct.

Mark Swartz: Okay, was this unit a volunteer unit in the past?

Kelli Berry: Yes.

Mark Swartz: and then what happen that has caused you to come forward to force pool this unit?

Kelli Berry: Review of title in the process of submitting a request for an additional well to be permitted with the unit revealed that CNX had not previously purchased 100% of the property from the Grandville *inaudible* heirs. Therefore; the unit needed to be pooled in order to be offer an election to those with an outstanding interest in that property.

Mark Swartz: What tracts does those folks have a partial interest in?

Kelli Berry: That would be Tract 1A, 1B and 3.

Mark Swartz: Okay, and what did you do to inform the folks that you're seeking to pool today that we would be having a Hearing?

Kelli Berry: We mailed a copy of the petition to all respondents as well as publishing in the *Virginia Mountaineer*.

1 **Mark Swartz**: Have you listed the respondents that you're seeking to pool in the Notice of
2 Hearing, paragraph 7 of the application and also in Exhibit B3?

3 **Kelli Berry**: Yes.

4 **Mark Swartz**: Do you want to add any respondents today?

5 **Kelli Berry**: No.

6 **Mark Swartz**: Do you want to dismiss any of these folks?

7 **Kelli Berry**: No.

8 **Mark Swartz**: We are talking about how many wells in this unit?

9 **Kelli Berry**: There are currently two [2] wells that are drilled in the unit and a third well is being
10 requested.

11 **Mark Swartz**: So in addition to pool the outstanding interest in the partial interest in the three
12 [3] tracts that we just talked about, your intention is to also add a third well to the unit, correct?

13 **Kelli Berry**: Correct.

14 **Mark Swartz**: and why are you adding or asking for the third well?

15 **Kelli Berry**: The coal company has asked us to drill an additional well in the unit.

16 **Mark Swartz**: and again as we have seen this before today, a request to add to de-gas capability
17 in advance of long-wall mining?

18 **Kelli Berry**: Yes.

19 **Mark Swartz**: and you've provided a plat, correct?

20 **Kelli Berry**: Yes.

21 **Mark Swartz**: and you've showed the locations of the two [2] existing wells and the proposed
22 well?

23 **Kelli Berry**: Yes.

24 **Mark Swartz**: Two of the three wells are actually in the window?

25 **Kelli Berry**: Yes.

26 **Mark Swartz**: and this is what kind of a unit, what field?

27 **Kelli Berry**: This is in the Oakwood I field.

1 **Mark Swartz**: You've got a March 25th, 2020 plat?

2 **Kelli Berry**: Yes.

3 **Mark Swartz**: You've provided an Exhibit B3 where you list the respondents and at the end of
4 that, could you tell the Board the acreage that was missed that is now being pooled. How many
5 acres?

6 **Kelli Berry**: 0.1699 acres.

7 **Mark Swartz**: Okay. You've provided cost data for the three wells, correct?

8 **Kelli Berry**: That's correct.

9 **Mark Swartz**: and you've also provided a map with regard to the projections and a location on
10 that map of the CC35B Well in the *inaudible* South Development, correct?

11 **Kelli Berry**: Correct.

12 **Mark Swartz**: and a copy of your letter to Mr. Cooper about that?

13 **Kelli Berry**: Yes.

14 **Mark Swartz**: and I've got two opinion questions for you because this is actually a pooling.
15 First of all, if the Board approves this pooling application, given your updated title work, will the
16 combination of the pooling order; pooling the respondents that we've identified and the leases
17 and acquisitions that the applicant has made, will that in your opinion protect the correlative
18 rights of all owners of CBM of this unit?

19 **Kelli Berry**: Yes.

20 **Mark Swartz**: and is the drilling of three wells and the allocation of production from these wells
21 to the royalty owners both a reasonable development of coalbed methane resource but also a
22 reasonable way to degas the mining?

23 **Kelli Berry**: Yes.

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

25 **Bradley Lambert**: Are there any questions from the Board? [No response] Do you have
26 anything further Mr. Swartz?

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

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

29 **Donnie Rife**: Donnie Rife, motion to approve.

1 **Bill Harris**: Bill Harris, I'll second.

2 **Bradley Lambert**: I have a motion and I have a second. Any further discussion? [No response]
3 Ms. Ketron, would you poll the Board for the vote, please?

4 **Sally Ketron**: Okay, excuse me. Butch Lambert?

5 **Bradley Lambert**: Yes.

6 **Sally Ketron**: Bill Harris?

7 **Bill Harris**: Yes.

8 **Sally Ketron**: Bruce Prather? [No response] Bruce, we can't hear you.

9 **Bruce Prather**: Oh, yes.

10 **Sally Ketron**: Okay. Donnie Rife?

11 **Donnie Rife**: Yes.

12 **Sally Ketron**: Mary Quillen?

13 **Mary Quillen**: Yes.

14 **Sally Ketron**: Rita Surratt?

15 **Rita Surratt**: Yes.

16 **Sally Ketron**: and Donnie Ratliff?

17 **Donnie Ratliff**: Yes.

18 **Bradley Lambert**: Thank you Board members. Thank you Mr. Swartz, that one is approved.

19 **ITEM NUMBER 6, 8, 10 & 12**

20 **Bradley Lambert**: Okay, we're calling Docket Item Number 6 is a petition from Pocahontas
21 Gas, LLC for [1] the disbursement of escrowed funds heretofore deposited with the Board's
22 Escrow Agent, attributable to Tract 2, as depicted upon the annexed table; and [2] authorization
23 to begin paying royalties directly to the parties listed in the petition. This is docket number
24 VGOB 91-0430-0114-02, all parties wishing to testify please state your name for the record.

25 **Mark Swartz**: Mark Swartz and Kelli Berry and the applicant consents to proceeding by the
26 telephone. Mr. Chairman, I would observed that this docket item 6 involves the same litigation
27 that and the reason for the disbursement that we also have in docket item 8, 10 and 12 and it

1 might be efficient to call those other three [3] and we can kind of do them together? So it's 6, 8,
2 10 and 12, sorry.

3 **Bradley Lambert**: Okay, so we've called docket item 6, we will also call Docket Item Number
4 8, a petition from Pocahontas Gas, LLC for [1] the disbursement of escrowed funds heretofore
5 deposited with the Board's Escrow Agent, attributable to Tract 6, as depicted upon the annexed
6 table; and [2] authorization to begin paying royalties directly to the parties listed in the petition.
7 Docket number VGOB 01-0821-0918-02. We're also calling docket item 10, a petition from
8 Pocahontas Gas LLC for [1] the disbursement of escrow funds heretofore deposited with the
9 Board's Escrow Agent, attributable to Tract 5, as depicted upon the annexed table; and [2]
10 authorization to begin paying royalties directly to the parties listed in the petition. Docket
11 number VGOB 02-0416-1020-01. We're also calling docket items number 12, a petition from
12 Pocahontas Gas LLC for [1] the disbursement of escrowed funds heretofore deposited with the
13 Board's Escrow Agent, attributable to Tract 3 as depicted upon the annexed table and number [2]
14 royalties to begin paying, I'm sorry. The Royalties are currently being paid under items listed
15 and this is also docket number VGOB-05-0816-1491-04. You may proceed Mr. Swartz.

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

17 **Kelli Berry**: Kelli Berry.

18 **Mark Swartz**: and is it in fact the case that docket items 6, 8, 10 and 12 have all been filed
19 because of the outcome of the same lawsuit?

20 **Kelli Berry**: That's correct.

21 **Mark Swartz**: Let's start with item 6, Z8 then we can accomplish some things that apply to all
22 of the units and that's something in particular Z8 and then we can kind of move through the
23 pieces of the other ones that we need to talk about. But these are all requests for disbursements,
24 correct?

25 **Kelli Berry**: Yes.

26 **Mark Swartz**: and authorizations of direct pay in the future and lastly to the extent that the coal
27 owners claims that have not been previously dismissed, we are seeking dismissal of those?

28 **Kelli Berry**: Yes.

29 **Mark Swartz**: Okay, and you are appearing on behalf of what company today?

30 **Kelli Berry**: Pocahontas Gas, LLC.

31 **Mark Swartz**: Okay, did you mail notice all of the folks that are, if these orders or these
32 petitions are approved, all of the folks that will receive a disbursement?

1 **Kelli Berry**: Yes.

2 **Mark Swartz**: and when you mailed, what did you send them?

3 **Kelli Berry**: A copy of the petition.

4 **Mark Swartz**: and it's exhibits?

5 **Kelli Berry**: Yes.

6 **Mark Swartz**: Okay, with regard Z8. You got a paragraph 5 of the petition, you tell us what the
7 basis for *inaudible*. Tell the Board what the reason is?

8 **Kelli Berry**: That H-W Financial LLC, is entitled to 100% of the CBM royalties awarded under
9 Case #CL12-736 opinion dated December 9, 2019.

10 **Mark Swartz**: and that same court case applies to docket items; well does that same court case
11 apply to docket item 6, 8, 10 and 12 today? [No response] Did I cut out Kelli? Hello?

12 **Bradley Lambert**: We can hear you Mark, Kelli must have dropped off.

13 **Mark Swartz**: Okay, hopefully she'll call back in. Hopefully we'll hear a beep here.

14 **Bradley Lambert**: Okay folks while we are waiting on Ms. Berry to try to call back in, let's take
15 just a quick 5 minute break and then we'll keep the phones on. Don't anybody hang up but keep
16 your phone on and we'll just take a 5 minute break. There she is.

17 **Mark Swartz**: There she is.

18 **Bradley Lambert**: There she is, okay. We're good to go.

19 **Mark Swartz**: Kelli?

20 **Kelli Berry**: My phone still showed I was connected and I don't know why you couldn't hear
21 me.

22 **Mark Swartz**: Do you want to take a break?

23 **Bradley Lambert**: Well, let's go ahead since we're in the middle of this one Mr. Swartz. Let's
24 go ahead and finish this one.

25 **Mark Swartz**: Okay, Kelli. Don't hang up, Okay.

26 **Kelli Berry**: Before, I'm not sure what happened. Our conference call still showed on the call
27 and I could hear everybody else.

1 **Mark Swartz**: Okay, we can hear you loud and clear now. So let's just leave everything the way
2 it is and we'll rejoin each other in a couple minutes, I gather?

3 **Bradley Lambert**: No, let's go ahead and finish this one out Mark since we got her back. Let's
4 do this one.

5 **Mark Swartz**: Okay. Fair enough. Kelli, when we lost the ability to hear you, you had just
6 indicated that at least with regard to Docket Item Number 6 the relevant case that was decided
7 was case number CL12-736, do you remember that?

8 **Kelli Berry**: Yes.

9 **Mark Swartz**: Okay, and my question in which we did not get an answer to, was is the same
10 opinion, the December 9, 2019 opinion that applies to not only to item 6 but also item 8 today,
11 item 10 and item 12?

12 **Kelli Berry**: That's correct.

13 **Mark Swartz**: Now let's continue to work through this particular application. Now you've given
14 us a Table 1 which is at page 4? Right?

15 **Kelli Berry**: That's correct.

16 **Mark Swartz**: and this is a pretty straight forward situation, you've indicated you got 100% of
17 the escrow funds on deposit with regard to this tract should be paid to H-W Financial LLC at the
18 address you've provided?

19 **Kelli Berry**: Yes.

20 **Mark Swartz**: and then at Exhibit B2, you've given us a list of people to be dismissed because
21 of the court case?

22 **Kelli Berry**: Yes.

23 **Mark Swartz**: Then you've got a revised Exhibit E, which indicates as a result of the court case
24 we don't need to escrow anymore, this payment will zero out the escrow account?

25 **Kelli Berry**: That's correct.

26 **Mark Swartz**: Then you've got a revised Exhibit EE for the entire unit which is the payment
27 process going forward?

28 **Kelli Berry**: Yes.

29 **Mark Swartz**: and you've done an Exhibit J which is the escrow account reconciliation?

30 **Kelli Berry**: Yes

1 **Mark Swartz**: and the process for that is to try to locate all of the royalty payments that the
2 operators have made and then find a corresponding deposit, correct?

3 **Kelli Berry**: Yes.

4 **Mark Swartz**: and in this instance you've got indicated on the first page of Exhibit J at least the
5 first six or eight lines there are no bank records available to you to compare?

6 **Kelli Berry**: That's correct.

7 **Mark Swartz**: and then the bank records pick up appear to pick up as of October of 1996,
8 correct?

9 **Kelli Berry**: Yes.

10 **Mark Swartz**: and from that point forward, you have tried to locate the corresponding deposits
11 and if we go to page pdf page 10 you've got some of deposits and checks in sort of darker
12 outlines, correct?

13 **Kelli Berry**: Yes.

14 **Mark Swartz**: and what is that meant to you; what do you indicate by that or what do you mean
15 by that?

16 **Kelli Berry**: The deposit information on the left that is surrounded by a dark bracket color
17 matches up with a deposit amount reflected by the bank.

18 **Mark Swartz**: Okay, so you've been able to match those, so what are you telling us when you
19 have boxes highlighted in yellow?

20 **Kelli Berry**: That we cannot match a deposit with the bank with our deposit information.

21 **Mark Swartz**: Okay. There aren't a lot of those but there are definitely several of them as we
22 work through Exhibit J, correct?

23 **Kelli Berry**: Yes.

24 **Mark Swartz**: Then on the last page of Exhibit J, you've done some math at the bottom?

25 **Kelli Berry**: Yes.

26 **Mark Swartz**: Is that an effort on your part to compare a calculation of what you think the
27 balance might be or should be based on your documentation and then you compare that to the
28 bank balance as of December, 2019, right?

29 **Kelli Berry**: Yes.

1 **Mark Swartz**: and there's a difference here?

2 **Kelli Berry**: Yes.

3 **Mark Swartz**: How much?

4 **Kelli Berry**: \$636.37.

5 **Mark Swartz**: Okay and in this instance, that it indicates the bank actually has that amount more
6 than your calculation would reflect?

7 **Kelli Berry**: That's correct.

8 **Mark Swartz**: and you've accounted for at least one prior disbursement?

9 **Kelli Berry**: Yes.

10 **Mark Swartz**: I assume it is cleared and it's been made and we don't have to wait for that?

11 **Kelli Berry**: Correct.

12 **Mark Swartz**: Okay, then the next item in this docket starting at page 15 is an actual copy of the
13 order that has caused you to make these applications?

14 **Kelli Berry**: Yes.

15 **Mark Swartz**: and if we go to pdf page 18, there's a portion of the order which I'm just going to
16 read into the record, "now therefore it is the judgement of this court that the plaintiff Harrison
17 Wyatt LLC is the owner of coalbed methane gas and any other gas, all of which are embraced
18 within the term mineral and that said substances were included in the conveyance to plaintiffs
19 processors that were in entitled of all coal and mineral." Is that the part of the order that you're
20 really focused on in terms of asking for these on the one hand, these dismissals and on the other
21 hand, this payment out of escrow?

22 **Kelli Berry**: Yes.

23 **Mark Swartz**: Okay, that's all I have with regard to docket 6 Mr. Chairman and then If there are
24 not questions, then I would propose to move on to number 8, I have a few specific questions with
25 regard to that one.

26 **Bradley Lambert**: Are there any questions before the Board before we move on? [No response]
27 You may continue Mr. Swartz.

28 **Mark Swartz**: Then Kelli, if you can locate your package for number 8 and just to confirm we
29 are talking about the same order again, right?

30 **Kelli Berry**: Yes.

1 **Mark Swartz**: If we go to table 1 here, its tract 6, correct?

2 **Kelli Berry**: Yes.

3 **Mark Swartz**: and the Escrow Agent should pay 100% of the balance on hand to H-W Financial
4 LLC at the address you've provided on the date the account is closed?

5 **Kelli Berry**: Yes.

6 **Mark Swartz**: Actually if we go to pdf page 8, we've got a revised Exhibit E which shows that
7 once this disbursement is made, we don't need escrow with regard to this unit anymore?

8 **Kelli Berry**: That's correct.

9 **Mark Swartz**: You've provided a revised Exhibit EE, which is the payments going forward?

10 **Kelli Berry**: Yes.

11 **Mark Swartz**: and you've provided an Exhibit J, which you've prepared as you testified
12 moments ago in terms of comparing checks that the Operator wrote for royalties and deposits
13 and you've given us that recap and you've done the math again at the end, right?

14 **Kelli Berry**: Yes.

15 **Mark Swartz**: and there's a difference between your estimate and the bank balance as of
16 December, 2019 in what amount?

17 **Kelli Berry**: \$41.90.

18 **Mark Swartz**: and again First Bank and Trust has a little bit more than your estimate?

19 **Kelli Berry**: Yes.

20 **Mark Swartz**: Okay and you end up with the court order. That's all I have on Docket Item
21 Number 8, Mr. Chairman.

22 **Bradley Lambert**: Okay Mr. Swartz. Are there any questions from the Board? [No response]
23 You may continue Mr. Swartz.

24 **Mark Swartz**: Let's move to number 10. Have you got your file in front of you Kelli?

25 **Kelli Berry**: Yes.

26 **Mark Swartz**: This is Docket Number 10, Tract 10, Unit Z7, correct?

27 **Kelli Berry**: That's correct.

28 **Mark Swartz**: Driven by the same court order we've been talking about?

1 **Kelli Berry**: Yes.

2 **Mark Swartz**: Okay and you've got a Table 1 here which is pdf page 5 and again we're looking
3 at paying 100% of the escrow account balance to H-W Financial, LLC, at the address you've
4 provided?

5 **Kelli Berry**: Yes.

6 **Mark Swartz**: Then you've got the people that are being dismissed as a result of the court
7 decision at Exhibit B2 and you've got a revised Exhibit E which shows we don't need to have
8 escrow anymore?

9 **Kelli Berry**: Yes.

10 **Mark Swartz**: You've provided us with a payment schedule going forward, that's the revised
11 Exhibit EE, correct?

12 **Kelli Berry**: Correct.

13 **Mark Swartz**: Once again, you did a reconciliation in Exhibit J and you did the way you've
14 testified of what you compare, correct?

15 **Kelli Berry**: Yes.

16 **Mark Swartz**: and at the end your math indicates what?

17 **Kelli Berry**: There's a small difference between our total and First Bank and Trust total.

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

19 **Kelli Berry**: \$.87.

20 **Mark Swartz**: It's in red so that means they have \$.87 less than your guess?

21 **Kelli Berry**: Correct.

22 **Mark Swartz**: Okay, same order than as the last item. That's all I have on this Docket Item
23 Number 10, Mr. Chairman.

24 **Bradley Lambert**: Thank you Mr. Swartz. If it's okay I would like to back us up to number 8
25 for just a moment to ask a question.

26 **Mark Swartz**: Okay, we can do that.

27 **Bradley Lambert**: On the reconciliation?

28 **Kelli Berry**: Yes.

1 **Bradley Lambert**: On page 13 for the reconciliation, there's a note there with asterisk. Ms.
2 Berry, can you explain that note just a little bit for us.

3 **Kelli Berry**: Sure, in the course of updating the Exhibit J reconciliation. I discovered that after
4 the conclusion of the prior disbursement for this unit, which was the 01 disbursement, CNX
5 processed the disbursement order however they failed to place the First Bank and Trust account
6 back on direct pay following that order. So that is why there are no escrow deposits shown from
7 April, 2016 until December, 2019. However; I notified our royalty accounting department of this
8 and she confirmed with me that she had released all funds to the First Bank and Trust account
9 prior to this disbursement.

10 **Bradley Lambert**: Okay, thank you Ms. Berry.

11 **Kelli Berry**: That *inaudible* to what had been on hold.

12 **Bradley Lambert**: Yes, that makes sense and Mr. Cooper confirmed that yes that is probably
13 what happen. So I apologize for backing us back but jumping forward again to number 10, are
14 there any questions from the Board on item number 10 that Mr. Swartz just presented? [No
15 response] Okay, thank you Mr. Swartz. You may move on to number 12.

16 **Mark Swartz**: Okay, let me get that open here. Kelli, Item Number 12 is for unit X8, correct?

17 **Kelli Berry**: That's correct.

18 **Mark Swartz**: and on this one, your Table 1 is at page 5 again of the pdf, correct?

19 **Kelli Berry**: That's correct.

20 **Mark Swartz**: You're asking the Board to direct the Escrow Agent to pay 100% of the funds in
21 escrow to H-W Financial LLC at the address you have provided to close the account out?

22 **Kelli Berry**: Yes.

23 **Mark Swartz**: You've listed the people that are to be dismissed at Exhibit B2, you've given us a
24 revised Exhibit E showing no escrow required and you've given us a Exhibit EE, a revised
25 showing how to pay going forward?

26 **Kelli Berry**: That's correct.

27 **Mark Swartz**: Now again, we've got an Exhibit J reconciliation. Did you prepare that the same
28 way?

29 **Kelli Berry**: Yes.

30 **Mark Swartz**: and what is your math at the end show?

1 **Kelli Berry**: That our total agrees with the First Bank and Trust total.

2 **Mark Swartz**: Demonstrating that miracles do happen.

3 **Kelli Berry**: Indeed.

4 **Mark Swartz**: and then the last item is the order that we've relied on and that's all I have on
5 item 12, Mr. Chairman.

6 **Bradley Lambert**: Any questions from the Board on item 6, 8, 10 and 12? [No response] If
7 there are no questions, do I have a motion?

8 **Bill Harris**: Yes, Mr. Chairman. Bill Harris. I'll make the motion to approve the petition relative
9 to the docket numbers 6, 8, 10 and 12.

10 **Bradley Lambert**: Thank you Mr. Harris. Do I have a second?

11 **Donnie Rife**: Second, Donnie Rife.

12 **Bradley Lambert**: I have a second. Are there any further discussions on 6, 8, 10 or 12? [No
13 response] Ms. Ketron, would you poll the Board for a vote please?

14 **Sally Ketron**: Butch Lambert?

15 **Bradley Lambert**: Yes.

16 **Sally Ketron**: Bill Harris?

17 **Bill Harris**: Yes.

18 **Sally Ketron**: Bruce Prather?

19 **Bruce Prather**: Yes.

20 **Sally Ketron**: Donnie Rife?

21 **Donnie Rife**: Yes.

22 **Sally Ketron**: Mary Quillen?

23 **Mary Quillen**: Yes.

24 **Sally Ketron**: Rita Surratt?

25 **Rita Surratt**: Yes.

26 **Sally Ketron**: and Donnie Ratliff?

27 **Donnie Ratliff**: Yes.

1 **Bradley Lambert**: Thank you Mr. Swartz, those three or four have been approved. So at this
2 time, let's go ahead and take a 5 minute break. Again, don't hang up. Just leave your phones on
3 mute and we'll come back at 10:35.

4 **ITEM NUMBER 7**

5 **Bradley Lambert**: We're going to call Docket Item Number 7, a petition from Pocahontas Gas
6 LLC for (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow
7 Agent, attributable to Tracts 1C, 1E1, and 1E2, as depicted upon the annexed table; and (2)
8 authorization to begin paying royalties directly to the parties listed in the petition. Docket
9 number VGOB 99-1019-0758-03. All parties wishing to testify, please come forward and
10 identify yourself. [No response] Hello, anybody there?

11 **Kelli Berry**: This is Kelli, I'm here. Mark, are you there?

12 **Bradley Lambert**: Technology, I guess. Can somebody send him a text or an email and see if he
13 is okay?

14 **Kelli Berry**: I'm doing that right now.

15 **Bradley Lambert**: Are all of Board Members back?

16 **Donnie Rife**: I'm with you Butch.

17 **Bradley Lambert**: Thank you Donnie.

18 **Bill Harris**: Bill Harris.

19 **Rita Surratt**: I'm here.

20 **Mary Quillen**: Mary Quillen here.

21 **Bradley Lambert**: Okay.

22 **Donnie Ratliff**: Donnie Ratliff.

23 **Bruce Prather**: Bruce Prather here.

24 **Bradley Lambert**: Okay, we've got all the Board back now if we can find Mark we'll be doing
25 okay.

26 **Mark Swartz**: I'm here.

27 **Bradley Lambert**: There you are.

28 **Mark Swartz**: Kelli, are you back?

1 **Kelli Berry**: Welcome back.

2 **Mark Swartz**: Okay, we're good.

3 **Bradley Lambert**: Okay Mark. I've already read the petition but I'll read it again as a petition
4 from Pocahontas Gas LLC for (1) the disbursement of escrowed funds heretofore deposited with
5 the Board's Escrow Agent, attributable to Tracts 1C, 1E1, and 1E2, as depicted upon the
6 annexed table; and (2) authorization to begin paying royalties directly to the parties listed in the
7 petition. Docket number VGOB 99-1019-0758-03. All parties please identify yourself wishing to
8 testify.

9 **Mark Swartz**: Mark Swartz and Kelli Berry. On behalf of the petitioner and the consents the
10 proceeding by telephone.

11 **Bradley Lambert**: Thank you Mr. Swartz, you may proceed.

12 **Mark Swartz**: Kelli, your name again.

13 **Kelli Berry**: Kelli Berry.

14 **Mark Swartz**: Who are you here on behalf of?

15 **Kelli Berry**: Pocahontas Gas LLC.

16 **Mark Swartz**: and this is a disbursement petition again, yes?

17 **Kelli Berry**: Yes.

18 **Mark Swartz**: Pertaining to what unit?

19 **Kelli Berry**: Unit S53.

20 **Mark Swartz**: and the basis for the petition is what?

21 **Kelli Berry**: We are disbursing from escrow based on House Bill 2058 and a court order that we
22 have regarding the estate of Johnny Woosley granting the ownership to Connie Burke.

23 **Mark Swartz**: and that Case Number was what?

24 **Kelli Berry**: CL101-18.

25 **Mark Swartz**: This is an Oakwood unit. You've attached a plat, we go to Table 1 and you're
26 showing that the payment that we are requesting from the escrow account all go to Connie Burke
27 at the address you've provided?

28 **Kelli Berry**: Yes.

1 **Mark Swartz**: and you have in the 2nd column from the right hand edge, you've given us 5
2 percentages, right?

3 **Kelli Berry**: Yes.

4 **Mark Swartz**: and are those the percentages that the Escrow Agent should use with regard to
5 each one of those tracts to calculate the dollar amount that should be paid to Connie?

6 **Kelli Berry**: That's correct.

7 **Mark Swartz**: and after this disbursement is made, are you also asking the Board to enter an
8 order allowing to pay Connie Burke. The Operator to pay Connie Burke directly rather than
9 continuing to escrow her funds?

10 **Kelli Berry**: Yes.

11 **Mark Swartz**: The next item is a B2 and based on the lawsuit, you're showing that Connie stays
12 in the mix but you've got a whole list of people that we are determining that not to be owners
13 that needs to be dismissed?

14 **Kelli Berry**: Yes.

15 **Mark Swartz**: Okay. We've got a revised Exhibit E indicating that there is still even after these
16 disbursements to Connie Burke, there's going to be an escrow requirement, right?

17 **Kelli Berry**: Correct.

18 **Mark Swartz**: At the end of that, it looks like. What will be the acres be in escrow after these
19 disbursement to Ms. Burke?

20 **Kelli Berry**: 31.99 acres.

21 **Mark Swartz**: Okay. You've given us a revised Exhibit E for the payments going forward. Do
22 you have an Exhibit J as well?

23 **Kelli Berry**: Yes.

24 **Mark Swartz**: It looks like the first page of that, you've got quite a few issues that you were
25 unable to resolve?

26 **Kelli Berry**: Yes.

27 **Mark Swartz**: Highlighted in yellow?

28 **Kelli Berry**: That's correct.

29 **Mark Swartz**: and the same is true for the next page, 17?

1 **Kelli Berry**: Yes.

2 **Mark Swartz**: and what you are trying to do here was identify all the royalty payments that the
3 operators have made and find a corresponding deposit and to the extent that you've marked these
4 in yellow, you were unable to do that?

5 **Kelli Berry**: That's correct.

6 **Mark Swartz**: With that in mind, you never the less did some math at the very end?

7 **Kelli Berry**: Yes.

8 **Mark Swartz**: and what does that show?

9 **Kelli Berry**: Our calculations reflect that the First Bank and Trust balance is \$345.82 less than
10 the balance calculated by *inaudible*.

11 **Mark Swartz**: Okay. I think the next item is the Court Order, right?

12 **Kelli Berry**: Yes.

13 **Mark Swartz**: Following that, for the Board members at pdf page 26. That indicates that you
14 mailed to the coal owners the required notice in 2015, you've got proof of receipt and you're
15 asking that Pocahontas Resources LLC, be dismissed for failure to provide evidence?

16 **Kelli Berry**: Yes.

17 **Mark Swartz**: Okay, Mr. Chairman I believe that's all I have on this docket number 7.

18 **Bradley Lambert**: Yea, thank you Mr. Swartz. I just want to clear up one thing. On page 21, pdf
19 21.

20 **Mark Swartz**: Okay.

21 **Bradley Lambert**: The docket that Ms. Burke signed, item number 6 says that Terrance Shea
22 Cook is her authorized Attorney.

23 **Mark Swartz**: Oh right.

24 **Bradley Lambert**: I just want to make sure that any checks written are still are the way that we
25 determine a few years, be written to Ms. Burke but mailed to Mr. Cook. Is that correct?

26 **Kelli Berry**: That's correct.

27 **Bradley Lambert**: Alright. Okay, thank you. Any other questions from the Board? [No
28 response] Do you have anything further Mr. Swartz?

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

2 **Bradley Lambert**: Okay, do I have a motion?

3 **Donnie Rife**: Donnie Rife, motion to approve.

4 **Bill Harris**: Bill Harris, *Inaudible*

5 **Donnie Ratliff**: I'll second.

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

7 **Bradley Lambert**: Okay, we have two seconds so I guess we can record that as.

8 **Bill Harris**: I'll withdraw mine.

9 **Bradley Lambert**: Okay. So Mr. Ratliff will second the motion. Ms. Ketron, would you poll the
10 Board for a vote please?

11 **Sally Ketron**: Okay, Butch Lambert?

12 **Bradley Lambert**: Yes.

13 **Sally Ketron**: Bill Harris?

14 **Bill Harris**: Yes.

15 **Sally Ketron**: Bruce Prather? I didn't hear you Bruce.

16 **Bruce Prather**: Yes, can you hear me?

17 **Sally Ketron**: Now we can.

18 **Bruce Prather**: Yes.

19 **Sally Ketron**: Donnie Rife?

20 **Donnie Rife**: Yes.

21 **Sally Ketron**: Mary Quillen.

22 **Mary Quillen**: Yes.

23 **Sally Ketron**: Rita Surratt?

24 **Rita Surratt**: Yes.

25 **Sally Ketron**: and Donnie Ratliff?

1 **Donnie Ratliff**: Yes.

2 **Bradley Lambert**: Thank you folks. Mr. Swartz, that one has been approved.

3 **Mark Swartz**: Thank you.

4 **ITEM NUMBER 9**

5 **Bradley Lambert**: Now we're calling Docket Item Number 9 as a petition from Pocahontas Gas
6 LLC, for (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow
7 Agent, attributable to a portion of Tracts 13, 16, a portion of 19, 34, and 39, as depicted upon the
8 annexed table; and (2) authorization to begin paying royalties directly to the parties listed in the
9 petition and (3) dismissal of the coal owners. This docket number VGOB 02-0319-1008-09. All
10 parties wishing to testify please identify.

11 **Mark Swartz**: Mark Swartz and Kelli Berry. The petitioner, Pocahontas Gas LLC, consents to
12 proceeding to this hearing by telephone.

13 **Bradley Lambert**: Thank you Mr. Swartz, you may proceed.

14 **Mark Swartz**: Your name again Kelli?

15 **Kelli Berry**: Kelli Berry.

16 **Mark Swartz**: and who are you testifying on behalf of today?

17 **Kelli Berry**: Pocahontas Gas, LLC.

18 **Mark Swartz**: This is a disbursement request, correct?

19 **Kelli Berry**: That's correct.

20 **Mark Swartz**: From what unit?

21 **Kelli Berry**: VP2 Sealed Gob Unit 1.

22 **Mark Swartz**: The reason for the request or actually there's more than one reason?

23 **Kelli Berry**: Yes, we have some Royalty Division Agreements as well as the House Bill.

24 **Mark Swartz**: and the Royalties Division Agreements, are they 50/50 agreements?

25 **Kelli Berry**: Yes.

26 **Mark Swartz**: and when you talk about the House Bill, that would pay to gas claimants under
27 the; because the coal owners were noticed did not produce evidence of a claim?

28 **Kelli Berry**: That's correct.

1 **Mark Swartz**: Okay. You've got a plat map at page; a pretty significant size unit here at pdf
2 page 3. Then we come down, okay. I think you have four (4) pages of Table 1, correct?

3 **Kelli Berry**: Yes.

4 **Mark Swartz**: and is Table 1 where you specify that the people that are to receive payments?

5 **Kelli Berry**: That's correct.

6 **Mark Swartz**: Okay, have you given a name of every person, company or estate an address for
7 each of them in your Table 1?

8 **Kelli Berry**: Yes.

9 **Mark Swartz**: and is it a percentage distribution?

10 **Kelli Berry**: Yes.

11 **Mark Swartz**: and in the second column of the right hand edge of Table 1, have you've given a
12 percentage for every person, company, or estate?

13 **Kelli Berry**: Yes.

14 **Mark Swartz**: and is the expectation that we have the Escrow Agent would use that percentage
15 on the day the disbursement is made, multiply it, times the balance on hand and that will
16 generate the right dollar amount?

17 **Kelli Berry**: That's correct.

18 **Mark Swartz**: Okay. Then even after these disbursements are made, there is still going to be an
19 escrow requirement and you've given us an Exhibit E showing us what that would be?

20 **Kelli Berry**: Yes.

21 **Mark Swartz**: After these disbursements, what is the acreage remaining in escrow?

22 **Kelli Berry**: 11.0904.

23 **Mark Swartz**: Okay, and you've also given us an Exhibit EE which is a sort of a payment going
24 forward path?

25 **Kelli Berry**: Yes.

26 **Mark Swartz**: Okay. Exhibit J starts at pdf page 58 and again we have some issues that you
27 have not been able to resolve in terms of locating a deposit for every royalty payment and have
28 you highlighted those in yellow?

1 **Kelli Berry**: Yes.

2 **Mark Swartz**: It looks like in the early timeframe and their all on the 1st page of Exhibit J?

3 **Kelli Berry**: Yes.

4 **Mark Swartz**: If we go to the last page, you've done some math?

5 **Kelli Berry**: Yes.

6 **Sarah Gilmer**: Excuse me.

7 **Mark Swartz**: Okay.

8 **Sarah Gilmer**: Hold on just a second. Butch got disconnected, he'll be dialing right back in.

9 **Mark Swartz**: Okay.

10 **Kelli Berry**: Okay.

11 **Bradley Lambert**: Okay folks. Sorry for that, our conference line here in Lebanon just dropped
12 out again. So *inaudible* you're not the only one that has had technical difficulties. So I
13 apologize, continue Mr. Swartz.

14 **Mark Swartz**: We're you on the line when we started on Exhibit J, Mr. Chairman?

15 **Bradley Lambert**: Yes, we were.

16 **Mark Swartz**: Okay, okay. Kelli lets go then to the math that you did at the end of Exhibit J and
17 summarize for us what you've found.

18 **Kelli Berry**: We've found that the First Bank and Trust balance *inaudible* less than our
19 calculation.

20 **Mark Swartz**: Okay, what was the amount?

21 **Kelli Berry**: \$343.75.

22 **Mark Swartz**: Okay, you also have a note over to the right of your calculation, what's that
23 about?

24 **Kelli Berry**: During the course of review of the unit, I found there were some owners that were
25 paid in error on a prior disbursement, that would be the 07 disbursement and I just wanted to
26 note that a portion of the deposit that was made in December, 2018 included funds that were
27 returned to Escrow that had been paid in error.

1 **Mark Swartz**: Okay and I take it you took those into account when you were doing your
2 estimate that's reflected; the math?

3 **Kelli Berry**: Yes.

4 **Mark Swartz**: Okay, then the next page is some of the split agreements, right?

5 **Kelli Berry**: Yes.

6 **Mark Swartz**: Then pdf page.

7 **Bradley Lambert**: I'm sorry to interrupt you for a minute for a question for Ms. Berry. Ms.
8 Berry, testified that those funds were repaid back to this portion, where did those funds come that
9 you repaid?

10 **Kelli Berry**: A portion of that deposit in December, 2018 were for the funds that were on hold
11 pending a prior disbursement order and a portion of those funds also represent an amount that
12 was paid to an owner in error and that on Tract 38, which is not being addressed in this
13 disbursement. I just added that note to the Exhibit J going forward so when that tract is addressed
14 again in a disbursement, we have that explanation.

15 **Rick Cooper**: This is Rick Cooper. Ms. Berry, will you be trying to recoup those funds in the
16 future?

17 **Kelli Berry**: Yes.

18 **Rick Cooper**: That would be a future disbursement to recoup the funds in error, correct?

19 **Kelli Berry**: That's correct.

20 **Bradley Lambert**: Okay, thank you. Sorry for the interruption Mr. Swartz.

21 **Mark Swartz**: No problem. At pdf page 75, you indicate that you mailed to the coal owners in
22 October, 2015 and again in May 2016, asking them for evidence of coal ownership or coal
23 claims to CBM. You've got the mailing with regard to that to the extent that your coal owners
24 have split agreements. Obviously we're seeking dismissal with regard to tracts or interest that
25 they have split agreements with regard to but to the extent they haven't produced split
26 agreements, we are asking the Board to dismiss them. Correct?

27 **Kelli Berry**: That's correct.

28 **Mark Swartz**: Okay. I think that's it Mr. Chairman.

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

30 **Mark Swartz**: No, no.

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

2 **Donnie Rife**: Donnie Rife, motion to approve.

3 **Bill Harris**: Bill Harris, I'll second.

4 **Bradley Lambert**: I have a motion and I have a second. Any further discussion? [No response]

5 Ms. Ketron, would you poll for the vote please.

6 **Sally Ketron**: Okay. Butch Lambert?

7 **Bradley Lambert**: Yes.

8 **Sally Ketron**: Bill Harris?

9 **Bill Harris**: Yes.

10 **Sally Ketron**: Bruce Prather

11 **Bruce Prather**: Yes.

12 **Sally Ketron**: Didn't hear you Bruce?

13 **Bruce Prather**: Yes.

14 **Sally Ketron**: Donnie Rife.

15 **Donnie Rife**: Yes.

16 **Sally Ketron**: Mary Quillen?

17 **Mary Quillen**: Yes.

18 **Sally Ketron**: Rita Surratt?

19 **Rita Surratt**: Yes.

20 **Sally Ketron**: and Donnie Ratliff?

21 **Donnie Ratliff**: Yes.

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

23 **ITEM NUMBER 11**

24 **Bradley Lambert**: We're calling Docket Item Number 11. A petition from Pocahontas Gas
25 LLC, for (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow
26 Agent, attributable to a portion of Tract 1B, a portion of Tract 1D, a portion of Tract 3, and a
27 portion of Tract 4A, as depicted upon the annexed table; and (2) authorization to begin paying

1 royalties directly to the parties listed in the petition. Docket Number VGOB 04-1116-1358-04.
2 All parties wishing to testify please come forward and identify yourself.

3 **Mark Swartz**: Mark Swartz and Kelli Berry. The petitioner Pocahontas Gas LLC, consents to
4 proceeding with this hearing by telephone.

5 **Bradley Lambert**: Thank you Mr. Swartz, you may proceed.

6 **Mark Swartz**: Kelli, your name again.

7 **Kelli Berry**: Kelli Berry.

8 **Mark Swartz**: and who are you testifying on behalf of today?

9 **Kelli Berry**: Pocahontas Gas, LLC.

10 **Mark Swartz**: and this disbursement request pertains to what unit?

11 **Kelli Berry**: AX99.

12 **Mark Swartz**: We've got an explanation of the reasons why you're making the request and what
13 are the reasons?

14 **Kelli Berry**: We have Royalty Division Agreements and also dismissal of coal owners of
15 payments to oil and gas owners.

16 **Mark Swartz**: Okay. In these Royalty Split Agreements that are an issue here, are they 50/50
17 agreements?

18 **Kelli Berry**: Yes, they are.

19 **Mark Swartz**: and you've accounted for them as such in Table 1?

20 **Kelli Berry**: Yes.

21 **Mark Swartz**: and then the gas claimants that's under the House Bill that provides the gas
22 claimants get paid unless they coal owners come forward with evidence of the contrary?

23 **Kelli Berry**: Yes.

24 **Mark Swartz**: In this instance, except to the extent that there are some split agreements to coal
25 owners have not come forward with additional evidence?

26 **Kelli Berry**: Correct.

1 **Mark Swartz**: and it looks like to the extent that H-W Financial doesn't have split agreements
2 with regard to every claimant that might make. They were previously disbursed or dismissed
3 under a prior order?

4 **Kelli Berry**: Yes.

5 **Mark Swartz**: Okay, I've glad a plat again and Table 1. Table 1 starts at or I should say the
6 tables start at pdf page 8 and Table 1 here is not a percentage disbursement, it's an exact dollar.
7 Right?

8 **Kelli Berry**: Yes.

9 **Mark Swartz**: and what you're asking in Table 1 is that the Escrow Agent actually pay the
10 people that you've identified by name. The people and company, that you've identified by name
11 and provided addresses for the exact amounts that are in the right hand column, correct?

12 **Kelli Berry**: That's correct.

13 **Mark Swartz**: Okay. Once they've made those payments to the people identified in Table 1,
14 then the Escrow Agent should begin paying on a percentage basis the remaining amounts after
15 Table 1 payments that are shown on the Table 2 that you have included?

16 **Kelli Berry**: Yes.

17 **Mark Swartz**: and in Table 2, have you provided the name of everybody; person, company or
18 estate that is to receive a payment?

19 **Kelli Berry**: Yes.

20 **Mark Swartz**: and you've provided an address for all of them?

21 **Kelli Berry**: Yes.

22 **Mark Swartz**: In the second column from the right hand edge of the table, you've given a
23 percentage for everybody and is that the percentage the Escrow Agent should apply to the
24 balance on hand to calculate the dollars due on the date the disbursements are made?

25 **Kelli Berry**: That's correct.

26 **Mark Swartz**: Okay and this is a Table 2 here the percentage disbursements, actually are two
27 pages long and we've got or you've got a note at the foot of Table 2. What is that about?

28 **Kelli Berry**: Table 1 paid the heirs of Clara Helton for their prior ownership and the adjustment
29 comment explains the amount the Escrow Agent will deduct from the current balance for the
30 interest shown on Tract 1B that is being disbursed to derive at the current amount due to Penny
31 Helton and H-W Financial.

1 **Mark Swartz**: Okay, also have you edited Table 2 to account for three (3) people that I think
2 that did not receive the mail?

3 **Kelli Berry**: Yes, there are three (3) owners who did not receive notification and have been
4 removed from the petition.

5 **Mark Swartz**: Okay and why don't you give their names?

6 **Kelli Berry**: Michael D. Collins, Christopher Portal and Jason Sanford were all removed.

7 **Mark Swartz**: and then in the event that this petition is approved, you've got a revised Escrow
8 Exhibit E, right?

9 **Kelli Berry**: Yes.

10 **Mark Swartz**: and also a revised Exhibit EE, which reflect the future payments?

11 **Kelli Berry**: Yes.

12 **Mark Swartz**: On pdf page 89, you indicate what is remaining; the acreage remaining in escrow.
13 It looks like that is 9.9460 acres, right?

14 **Kelli Berry**: 9.9490.

15 **Mark Swartz**: Ninety (90). Okay and we've got an Exhibit J again. Which starts at pdf page 121
16 and again we have some issues that arose when you were looking a deposit for every check?

17 **Kelli Berry**: Yes.

18 **Mark Swartz**: Some of them you were able to resolve, those are outlined in darker lines and
19 some you weren't which are colored yellow?

20 **Kelli Berry**: Yes.

21 **Mark Swartz**: and you've noted that those kinds of problems on several pages of Exhibit J and
22 then you've done your math at the end?

23 **Kelli Berry**: Yes.

24 **Mark Swartz**: and when you done your estimate of the balance and compared to the bank's
25 balance in December 2019, what was the difference?

26 **Kelli Berry**: The First Bank and Trust balance \$35.80 less than the balance we calculated.

27 **Mark Swartz**: Okay, the next item deals with notice to the coal operators specifically H-W
28 Financial and to the extent that H-W Financial has not produced split agreements, they're to be
29 dismissed but obviously to the extent that they produce split agreements to be paid?

1 **Kelly Berry**: Correct.

2 **Mark Swartz**: Then the balance and you've got some mailing information, copies of split
3 agreements. I think that's all I have Mr. Chairman.

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

5 **Mark Swartz**: No.

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

7 **Donnie Rife**: Donnie Rife. Motion to approve Mr. Chair.

8 **Bill Harris**: Bill Harris and I'll second that motion.

9 **Bradley Lambert**: I have a motion and I have a second, any further discussions? [No response]
10 Ms. Ketron, would you poll the Board please.

11 **Sally Ketron**: Okay. Butch Lambert?

12 **Bradley Lambert**: Yes.

13 **Sally Ketron**: Bill Harris?

14 **Bill Harris**: Yes.

15 **Sally Ketron**: Bruce Prather? [No response] We didn't hear that Mr. Prather.

16 **Bruce Prather**: Yes.

17 **Sally Ketron**: Donnie Rife?

18 **Donnie Rife**: Yes.

19 **Sally Ketron**: Mary Quillen?

20 **Mary Quillen**: Yes.

21 **Sally Ketron**: Rita Surratt?

22 **Rita Surratt**: Yes.

23 **Sally Ketron**: Donnie Ratliff?

24 **Donnie Ratliff**: Yes.

25 **Bradley Lambert**: Thank you folks. Thank you Mr. Swartz, that one is approved.

26 **ITEM NUMBER 13**

1 **Bradley Lambert**: We're calling Docket Item Number 13. A petition from Pocahontas Gas,
2 LLC, for (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow
3 Agent, attributable to Tracts 1L1, 1L2, 1M, 1N, 1O, 1Q, 1S1 and 1S2, as depicted upon the
4 annexed table; and (2) authorization to being paying royalties directly to the parties listed in the
5 petition. This is docket number VGOB 08-0415-2195-03. All parties wishing to testify please
6 forward to be identified.

7 **Mark Swartz**: Mark Swartz and Kelli Berry. The petitioner Pocahontas Gas LLC, consents to
8 proceeding to this hearing via telephone.

9 **Bradley Lambert**: Thank you Mr. Swartz, you may proceed.

10 **Mark Swartz**: Kelli, your name one last time.

11 **Kelli Berry**: Kelli Berry.

12 **Mark Swartz**: Who are you here on behalf of?

13 **Kelli Berry**: Pocahontas Gas, LLC.

14 **Mark Swartz**: What unit does this pertain to?

15 **Kelli Berry**: R54.

16 **Mark Swartz**: and the reasons for the disbursement requests are?

17 **Kelli Berry**: A coal dismissal based on House Bill.

18 **Mark Swartz**: Okay. So we've given notice to coal owners, we've not received evidence of
19 ownership response and we're proceeding to request the authority to pay the gas claimants
20 pursuant to the House Bill and out of escrow and also to pay them directly in the future?

21 **Kelli Berry**: Yes.

22 **Mark Swartz**: We've got a plat. We have a Table 1 that starts at pdf page 9 and this is a
23 percentage table, correct?

24 **Kelli Berry**: Yes.

25 **Mark Swartz**: For each person that you are proposing to receive a payment out of escrow, have
26 you given the name of the person and an address?

27 **Kelli Berry**: Yes.

28 **Mark Swartz**: I'm sorry I didn't hear you Kelli.

29 **Kelli Berry**: Yes.

1 **Mark Swartz**: and you've got 999 at the bottom at CNX Gas, what's that about?

2 **Kelli Berry**: Unit R54 was re-pooled due to mapping changes last year and the results of that re-
3 pooling was an acreage overage in escrow so we are requesting the acres that are now over in the
4 escrow account be refunded to CNX that we may distribute them to the appropriate owners.

5 **Mark Swartz**: So you're going to distribute that overage to your lessors?

6 **Kelli Berry**: That's correct.

7 **Mark Swartz**: Okay, so that's what the 999 account is about?

8 **Kelli Berry**: That's correct.

9 **Mark Swartz**: Okay. In making the disbursement again, this is a percentage and the Escrow
10 Agent should use the percentages for each person and CNX in the 2nd column from the right
11 hand edge?

12 **Kelli Berry**: Yes.

13 **Mark Swartz**: Okay.

14 **Rick Cooper**: Can I interrupt Mr. Swartz? This is Rick Cooper.

15 **Mark Swartz**: Just for clarity Ms. Berry. Would you explain how the 999 figures into the
16 distributed the dollars across acreage?

17 **Kelli Berry**: The 999 represents the acres that are over in the escrow account that were paid into
18 the escrow account prior to the unit being re-pooled. Those acres are represented on the Exhibit
19 EE in the acreage changes that occurred with the re-pooling.

20 **Rick Cooper**: So you distributed that across the entire account?

21 **Kelli Berry**: I'm not sure I understand what you're asking.

22 **Rick Cooper**: I'm not sure I understand exactly how you are distributing those dollars out on the
23 999.

24 **Kelli Berry**: Okay, the unit was re-pooled in 2019. So prior to that re-pooling we had paid a
25 certain amount into the escrow account based on the acres based on the original pooling order.
26 Once having changes took place and the unit was re-pooled, the acres throughout the unit were
27 redistributed and that ended up resulting in too many acres that had been paid into the escrow
28 account based on the re-pooling acres. Those acres have been redistributed on the Exhibit E and
29 the Exhibit EE. The Exhibit EE reflects the acres as they were redistributed based on the re-
30 pooling numbers. The 0.86 acres that are now built in the escrow account, we are requesting that

1 those acres be paid back to CNX so that we can correct those payments to the appropriate owners
2 based on the re-pooling acreage.

3 **Rick Cooper**: So in short, you're trying to balance the account out here?

4 **Kelli Berry**: Yes.

5 **Rick Cooper**: Okay.

6 **Bradley Lambert**: Okay?

7 **Rick Cooper**: Yes.

8 **Bradley Lambert**: Okay, you may continue Mr. Swartz.

9 **Mark Swartz**: Kelli, to help in calcifying. The .86 acres and that percentage is the percentage
10 applied to all the money in escrow, not just too any particular tract because you put in .86 acres
11 too many?

12 **Kelli Berry**: In the past, prior to the re-pooling.

13 **Mark Swartz**: Correct.

14 **Kelli Berry**: That's correct.

15 **Mark Swartz**: Okay. Did that help Mr. Cooper?

16 **Rick Cooper**: Yes, you're right. If you're balancing out the account like they did, it's clear.
17 Thank you.

18 **Mark Swartz**: Okay. Now I lost tract, but I don't think we made it to Exhibit J, correct?

19 **Kelli Berry**: We had not.

20 **Mark Swartz**: Okay, so you did another reconciliation with regard to this unit. Again,
21 attempting to match royalty checks to deposits and if I'm not mistaken. It looks like, you've
22 found some discrepancies, some of which you were able to reconcile and one you were not?

23 **Kelli Berry**: Yes.

24 **Mark Swartz**: Okay. Then you did your math again.

25 **Kelli Berry**: Yes.

26 **Mark Swartz**: In the math entries, what did you determine?

27 **Kelli Berry**: That First Bank and Trust shows \$44.35 more on their balance than we do.

1 **Mark Swartz**: Okay, then there's a double asterisk (**) there which is the explanation for the
2 yellow at the very beginning indicating something that you could not resolve and that's the
3 reason?

4 **Kelli Berry**: Right, that initial deposit did not match the bank records and that is the reason for
5 the discrepancy.

6 **Mark Swartz**: Okay. Then we've got your coal owner mailing information and indicated you
7 mailed in 2015, proof of notice and then again asking that coal owner be dismissed and that's all
8 I have with regard to Docket Item 13, Mr. Chairman.

9 **Bradley Lambert**: Do I have any questions from the Board? [No response] Anything further,
10 Mr. Swartz?

11 **Mark Swartz**: No.

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

13 **Donnie Rife**: Donnie Rife, motion to approve.

14 **Bill Harris**: Bill Harris, I'll second it then or either way.

15 **Bradley Lambert**: I have a motion and I have a second. Any further discussion? [No response]
16 Ms. Ketron, will you poll the Board for the vote, please.

17 **Sally Ketron**: Okay. Butch Lambert?

18 **Bradley Lambert**: Yes.

19 **Sally Ketron**: Bill Harris?

20 **Bill Harris**: Yes.

21 **Sally Ketron**: Bruce Prather?

22 **Bruce Prather**: Yes.

23 **Sally Ketron**: Could you repeat that Mr. Prather?

24 **Bruce Prather**: Yes.

25 **Sally Ketron**: I think that was a yes. Okay. Donnie Rife?

26 **Donnie Rife**: Yes.

27 **Sally Ketron**: Mary Quillen?

28 **Mary Quillen**: Yes.

1 **Sally Ketron**: Rita Surratt?

2 **Rita Surratt**: Yes.

3 **Sally Ketron**: and Donnie Ratliff?

4 **Donnie Ratliff**: Yes.

5 **Bradley Lambert**: Okay, thank you folks. Thank you Mr. Swartz, that one is approved and it
6 looks like that's all that you have for Pocahontas Gas. I appreciate calling in and hope this went
7 somewhat smoothly but maybe we can get back to having regular meetings next month and we'll
8 just have to. No, No. Excuse me, I guess I can make the announcement now since Rick was
9 shaking his head. There are no docket items for next month. So we will not be having a July
10 hearing and we'll cover that later. Mr. Swartz and Ms. Berry, thank you all very much for your
11 patience with this process. We hope it went well for you.

12 **Kelli Berry**: Thank you.

13 **Mark Swartz**: We really appreciate all the effort that went into organizing this telephone
14 conference. Frankly, from my standpoint. Its better being there in person but it certainly went
15 well and we appreciate all your help and thank you again.

16 **Bradley Lambert**: You all have a nice day, thank you.

17 **Mark Swartz**: You too, bye-bye. Kelli, give me a call.

18 **ITEM NUMBER 14**

19 **Bradley Lambert**: Okay, and the next item is Docket Item Number 14 is a petition from
20 Diversified Production LLC, requesting the Virginia Gas and Oil Board to enter an order
21 transferring the right to operate all units listed in this application that were established by Board
22 Order, as well as any petitions currently pending before the Board, from Diversified South
23 Production, LLC and Core Appalachia Operating, LLC, to Diversified Production LLC. Docket
24 Number VGOB 19-1119-4227. All parties wishing to testify please come forward and identify
25 yourselves. [No response] Anyone from Diversified on the phone?

26 **Jessica Greathouse**: This is Jessica Greathouse, I'm the Manager of Regulatory. I'm testifying
27 via telephone.

28 **Bradley Lambert**: Okay, thank you. Anyone else for Diversified on the phone?

29 **Unknown**: Mr. Chairman, Diversified does consent to the proceedings with this Hearing via
30 telephone as well.

31 **Bradley Lambert**: Can you speak just a little bit please, you're a little bit low for us.

1 **Unknown**: Are you talking about me Mr. Chairman?

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

3 **Unknown**: Well it would be helpful if I took my hand off the speaker, probably so. That will
4 work, Okay. I think Ms. Greathouse needs to be sworn.

5 **Bradley Lambert**: If you can go ahead but I don't think we picked up for the record your name?

6 **Unknown**: Jessica, would you please state your name. By whom your employed and your job
7 description and then be sworn please.

8 **Jessica Greathouse**: Jessica Greathouse, I'm the Manager of Regulatory for Diversified
9 Production, LLC.

10 **Sarah Gilmer**: Ms. Greathouse.

11 **Jessica Greathouse**: Do you swear and affirm that your testimony is the truth, the whole truth
12 and nothing but the truth?

13 **Jessica Greathouse**: I do.

14 **Bradley Lambert**: Mr. Scott? Mr. Scott, are you on the line?

15 **Mr. Scott**: Yes, sir. I sure am.

16 **Bradley Lambert**: Oh okay. I'm sorry Mr. Scott, you're just so low we couldn't hear you, but
17 thank you. That's better, Mr. Scott, do you agree that the testimony that you're going to be given
18 by electronic means will be sufficient for you?

19 **Mr. Scott**: Yes, sir. That's correct.

20 **Bradley Lambert**: You may proceed then Mr. Scott.

21 **Mr. Scott**: Thank you. Ms. Greathouse, you're familiar with this application. Is that correct?

22 **Jessica Greathouse**: I am.

23 **Mr. Scott**: We've filed this application there has been a couple of mergers between both
24 Diversified Southern and Core Appalachia into Diversified Production, is that correct?

25 **Jessica Grayhouse**: That's correct.

26 **Mr. Scott**: and the reason for this application is to have consistency in operations and
27 recognition for Diversified Productions for their operations in the Commonwealth of Virginia, is
28 that correct?

1 **Jessica Greathouse**: That's correct.

2 **Mr. Scott**: Okay and presently the Diversified Productions is authorized to transact business in
3 the Commonwealth of Virginia, is that right?

4 **Jessica Greathouse**: That's correct.

5 **Mr. Scott**: and there is a blanket bond on file with the Department for Diversified Productions, is
6 that also correct?

7 **Jessica Greathouse**: That's correct.

8 **Mr. Scott**: So you would have to. All these permits, orders or anything pending before the Board
9 would be now in the name or transferred to Diversified Productions LLC, is that correct?

10 **Jessica Greathouse**: That's correct, I requested such.

11 **Mr. Scott**: That's all I have Mr. Chairman.

12 **Bradley Lambert**: Okay, thank you Mr. Scott. Any questions from the Board? [No response]
13 Anything further Mr. Scott?

14 **Mr. Scott**: That's all I have on this one, Mr. Chairman.

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

16 **Donnie Rife**: Donnie Rife, motion to approve.

17 **Bill Harris**: Bill Harris, I'll second.

18 **Bradley Lambert**: I have a motion and I have a second. Any further discussion? [No response]
19 Ms. Ketron, would you poll the Board for the vote, please.

20 **Sally Ketron**: Okay, Butch Lambert?

21 **Bradley Lambert**: Yes.

22 **Sally Ketron**: Bill Harris?

23 **Bill Harris**: Yes.

24 **Sally Ketron**: Bruce Prather?

25 **Bruce Prather**: *inaudible*

26 **Sally Ketron**: Could you repeat that Mr. Prather?

27 **Bruce Prather**: *inaudible*

1 **Sally Ketron**: I can faintly hear what he is saying, can anybody else hear him?

2 **Bruce Prather**: *inaudible*

3 **Bradley Lambert**: No, Sally. This is Butch, I can't hear him.

4 **Sarah Gilmer**: Mr. Prather said he would.

5 **Mr. Scott**: Sally, he's saying he's wanting to recuse himself.

6 **Sarah Gilmer**: Yes.

7 **Bradley Lambert**: Sally, did you hear that?

8 **Sally Ketron**: No.

9 **Bradley Lambert**: I think Mr. Scott said that Mr. Prather wanted to recuse himself.

10 **Sally Ketron**: Okay, I did hear that. I just didn't know for the record if we actually needed to
11 hear it. If you like? To move on?

12 **Bradley Lambert**: Yes, please.

13 **Sally Ketron**: Okay, Donnie Rife?

14 **Donnie Rife**: Yes.

15 **Sally Ketron**: Mary Quillen?

16 **Mary Quillen**: Yes.

17 **Sally Ketron**: Rita Surratt?

18 **Rita Surratt**: Yes.

19 **Sally Ketron**: and Donnie Ratliff?

20 **Donnie Ratliff**: Yes.

21 **Bradley Lambert**: Okay, thank you Mr. Scott. That one is approved.

22 **Mr. Scott**: Thank you Mr. Chairman.

23

ITEM NUMBER 15

24 **Bradley Lambert**: We're moving onto Docket Item Number 15, a petition from EnerVest
25 Operating, LLC, for pooling. Unit VCI-530621, Docket Number VGOB 20-0218-4228. All
26 parties wishing to testify please identify yourself.

1 **Tim Scott**: Tim Scott for EnerVest Operating LLC, and Mr. Chairman, EnerVest requests that
2 the matter be withdrawn.

3 **Bradley Lambert**: Okay, Mr. Scott. Thank you. That item will be withdrawn. Thanks Mr. Scott.

4 **Tim Scott**: Thank you. It's good to hear your all's voices.

5 **Bradley Lambert**: You too, Mr. Scott.

6 **Tim Scott**: Thank you.

7 **ITEM NUMBER 16**

8 **Bradley Lambert**: We're calling Docket Item Number 16, the Board will receive an update of
9 Board and Division activities from the staff. Mr. Cooper?

10 **Rick Cooper**: Yes, I won't go over the Escrow Account. Ms. Maney covered most of that but
11 most of you all should have received an email with four (4) documents in it that we need to talk
12 about. So I ask now, do I need to go over all four (4) of these and you all approve them or one at
13 a time? I'm not sure how to do that.

14 **Bradley Lambert**: Let's do them one at a time Rick.

15 **Rick Cooper**: Okay. In everybody's email, it should be in the same order. They were all scanned
16 the same. This first one is closing VGOB 2048, what we have found out is all four (4) of these
17 maybe low dollars but there's been several hours into resolving these. The main thing is that we
18 have resolved these. This particular account here, 2048 has \$.37 in it. Through our research, we
19 have found out the pooling order was withdrawn by Equitable in October 16, 2007. So we are
20 requesting on this one that we send the \$.37; now this well belongs to EnerVest, to send this \$.37
21 to EnerVest and close this particular docket.

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

23 **Bill Harris**: Bill Harris, motion to approve.

24 **Donnie Rife**: Donnie Rife, second.

25 **Bradley Lambert**: I have a motion and I have a second. Any discussions or questions for Mr.
26 Cooper? [No response] Ms. Ketron, would you poll the Board for the vote please.

27 **Sally Ketron**: Okay. Butch Lambert?

28 **Bradley Lambert**: Yes.

29 **Sally Ketron**: Bill Harris?

30 **Bill Harris**: Yes.

1 **Sally Ketron**: Bruce Prather?

2 **Bruce Prather**: Yes.

3 **Sally Ketron**: Donnie Rife?

4 **Donnie Rife**: Yes.

5 **Sally Ketron**: Mary Quillen?

6 **Mary Quillen**: Yes.

7 **Sally Ketron**: Rita Surratt?

8 **Rita Surratt**: Yes.

9 **Sally Ketron**: and Donnie Ratliff?

10 **Donnie Ratliff**: Yes.

11 **Bradley Lambert**: Thank you Mr. Cooper. You can close that account.

12 **Rick Cooper**: Okay. The second one right here is that some of you know this, many of the Board
13 Members over the years have asked, if you look at the *inaudible* report, it's on page 59. We
14 call them the green accounts. It's always at the bottom of the escrow summaries. We've done a
15 lot of research trying to find out who these accounts belong to. This particular one has \$.48 in it
16 and it's been there for a really long time. It's called the Gregory account, it's 888115 and
17 working with the operator and reading all the transcripts and things like that we have finally
18 concluded this use to be a Cabot Well. Back in the early days, when they came and pooled some
19 of these wells, they would sometimes pool a well then come back a second time and pool it later.
20 For whatever reason, they were not combined and this happens to be one of those accounts.
21 They've pooled this and these are unknown individuals in here for \$.48. We've now determined
22 that the money belongs into the COGC2 well, its Docket 96-0716-0546. It's now owned by Nytis
23 Exploration. We have worked with Nytis Exploration and they all agree that this \$.48 should go
24 into the COGC2. Just to let you know, there will be a petition in the very near future for the
25 unknown, unlocatable disbursement of \$.48 for remaining balance in COGC2 for approval on
26 that.

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

28 **Unknown**: Motion made for approval Mr. Chair.

29 **Bradley Lambert**: I have a motion from Mr. Rife. I have a motion and I have a second. Any
30 further discussions or questions for Mr. Cooper? [No response] If not, Ms. Ketron, would you
31 poll the Board for the vote please.

1 **Sally Ketron**: Okay. Butch Lambert?

2 **Bradley Lambert**: Yes.

3 **Sally Ketron**: Bill Harris?

4 **Bill Harris**: Yes.

5 **Sally Ketron**: Bruce Prather?

6 **Bruce Prather**: Yes.

7 **Sally Ketron**: Donnie Rife?

8 **Donnie Rife**: Yes.

9 **Sally Ketron**: Mary Quillen?

10 **Mary Quillen**: Yes.

11 **Sally Ketron**: Rita Surratt?

12 **Rita Surratt**: Yes.

13 **Sally Ketron**: and Donnie Ratliff?

14 **Donnie Ratliff**: Yes.

15 **Bradley Lambert**: Thank you Board Members. Mr. Cooper, you can close that account.

16 **Rick Cooper**: Thank you. So this next one is also we call it one of the Green Accounts. It's been
17 setting out there for twenty-five (25) years. In the Escrow Summary it's called the Henry
18 Sutherland account, 8888110 but working with EnerVest Operating and reading the transcripts
19 we've determined this is another of those situations where it was pooled on two separate
20 occasions and EnerVest agreed with us. At the time, it was an EQT well, just to let you know.
21 This is also an unknown individual group too. We have determined that this \$227.20 needs to be
22 moved from Sutherland unknown account to VC2277 EnerVest and all parties agreed that's
23 where the monies should be going so we would like to close the Sutherland account once we do
24 that. There's been no deposits in these Green Accounts for 15-20 years. So the money just sits
25 there for the 15-20 years.

26 **Bradley Lambert**: Okay. Do I have a motion?

27 **Donnie Rife**: Motion made for approval Mr. Chair. Donnie Rife.

28 **Bill Harris**: Bill Harris, I'll second.

1 **Bradley Lambert**: I have a motion and I have a second. Any further discussion or questions for
2 Mr. Cooper? [No response] Ms. Ketron, would you poll the Board for the vote please.

3 **Sally Ketron**: Okay. Butch Lambert?

4 **Bradley Lambert**: Yes.

5 **Sally Ketron**: Bill Harris?

6 **Bill Harris**: Yes.

7 **Sally Ketron**: Bruce Prather?

8 **Bruce Prather**: Yes.

9 **Sally Ketron**: Donnie Rife?

10 **Donnie Rife**: Yes.

11 **Sally Ketron**: Mary Quillen?

12 **Mary Quillen**: Yes.

13 **Sally Ketron**: Rita Surratt?

14 **Rita Surratt**: Yes.

15 **Sally Ketron**: and Donnie Ratliff?

16 **Donnie Ratliff**: Yes.

17 **Bradley Lambert**: Okay, thank you members. Mr. Cooper, you can close that account.

18 **Rick Cooper**: Thank you. One more, so this one is just a little bit different and again, we've put
19 a lot of hours into finding this. This particular well here that we're talking about is VGOB 07-
20 1016-0405. It had several owners, it started out as an Ashland Well in 93, went to Blazer in 98,
21 went to Equitable in 2006, went to Range Resources in 2015, and went to EnerVest in 2016. In
22 this particular situation right here, the well was never drilled and the order expired. So that
23 \$132.62 in that account; and we've worked with EnerVest, we are requesting that this money be
24 sent back to Ashland and so I think with Ms. Gilmer, it took us several hours to locate an
25 Ashland Subsidiary that would receive the money. We did finally find someone and they did
26 send in a W-9 so we want to send this \$132.62 back to Matthew Spence at Ashland LLC in
27 Dublin, Ohio and close this account also.

28 **Bradley Lambert**: Do we have a motion?

29 **Donnie Rife**: Motion made for approval Mr. Chair. Donnie Rife.

1 **Bill Harris**: I'll second it, Bill Harris.

2 **Bradley Lambert**: I have a motion and I have a second. Any further discussion or questions for
3 Mr. Cooper? [No response] If not, Ms. Ketron, would you poll the Board for the vote please.

4 **Sally Ketron**: Okay. Butch Lambert?

5 **Bradley Lambert**: Yes.

6 **Sally Ketron**: Bill Harris?

7 **Bill Harris**: Yes.

8 **Sally Ketron**: Bruce Prather?

9 **Bruce Prather**: Yes.

10 **Sally Ketron**: Donnie Rife?

11 **Donnie Rife**: Yes.

12 **Sally Ketron**: Mary Quillen? [No response] Ms. Quillen, we didn't hear you.

13 **Mary Quillen**: Yes.

14 **Sally Ketron**: Okay. Rita Surratt?

15 **Rita Surratt**: Yes.

16 **Sally Ketron**: and Donnie Ratliff?

17 **Donnie Ratliff**: Yes.

18 **Bradley Lambert**: Okay, thank you Board. Mr. Cooper, you can close that account. Anything
19 further?

20 **Rick Cooper**: Yes, one more item. So just to let you know, as you've heard today. We're talking
21 about these unknown, unlocatable. As we move forward on these, the Board had on our coal
22 dismissals, the Board had gave us direction on when these items come up in front of the Board.
23 The exception on these unknown and unlocatable, as a general rule, you're just going to get one
24 Docket Item, there's not going to be multiple disbursements. We're clearing the Docket Items
25 out all on one petition and like I said earlier, we've probably had 200 of these or more that we
26 are reviewing and working with the companies on. I guess I am asking for the Board's direction,
27 so is our dollar amount that we should bring in front of the Board, for example; I'm using this as
28 an example. The Board can determine this so just for an example, if an account is under X
29 number of dollars, should it come in front of the Board? Now I don't know what that number is
30 but under the coal dismissals, as a general rule, the coal dismissals have had multiple

1 disbursements if it was more than \$500, the Board had approved that we bring it in front of the
2 Board as long as testimony cleared that up that we could do the 2nd, 3rd, 4th disbursement after
3 that. But the exception in this situation is these are one time disbursements. I guess we're looking
4 for direction from the Board, how much over and under can an account be before it's required to
5 come up in front of the Board? I can tell you these range, as honest as I can, from \$1000
6 *inaudible* less than, and some of them have \$2-3,000 more than the bank shows. So we're just
7 asking for the Board's direction on what you all require or want to see if you want any of these to
8 come in front of the Board?

9 **Bradley Lambert**: Okay, I'll open that up for discussion and questions for Rick. [No response]

10 **Rick Cooper**: So again, I know it's something you have to talk about but again I don't know
11 when you want us to bring before the Board but again, some of them are more than a \$1,000 off
12 or less than and these are unknown, unlocatable. The complicated part, just to let you know, most
13 every company that we have has been bought out multiple times and you all know about
14 different escrow agents we've had but we're just looking for direction. I don't have a number.

15 **Bill Harris**: Rick, you said these were unknown and unlocatable accounts?

16 **Rick Cooper**: Yes, these dollars will be going under a one-time disbursement as a general rule,
17 to be going directly to the Treasury account that we talked about. I guess we talked about last fall
18 a couple of times and we've started that process. We've talked about it earlier so when this
19 petition comes through, the Board has granted us the authority to review these internally and I
20 guess I'm asking the Board, is there any conditions on over or under that would require the
21 Board to hear these? And again some of them are and I'm being honest, more than a \$1,000
22 under and more than \$2,000 over, not several but I don't know how many that number would be
23 but I'm just trying to get some terms and conditions we can work under what the Board's
24 comfortable with.

25 **Bradley Lambert**: Rick, what are you uncomfortable with as far as the dollar amount. Are you
26 concerned there might be mistakes that the Board needs to review or what makes you
27 uncomfortable about it? Since we've already given you the authority to go ahead and make
28 payments to these unknown unlocatable.

29 **Rick Cooper**: So I would think a great example would be the way Ms. Berry gives the extensive
30 testimony on the research and background work she had done to try to resolve these issues. My
31 only question is should every operator do that at least once? I don't know if they should or
32 should not, but that's my question to the Board. We will do whatever the Board directs.

33 **Bradley Lambert**: Okay, let me ask another question. How soon do you need to know that?

34 **Rick Cooper**: We've got some pending so we will just hold those until we get a decision. I mean
35 we have some setting now that could be approved that are under these conditions. Like I said, I

1 don't know if this is going to be 10 or 100 as we sit here today. We've got 300 or 350 more of
2 these to do and it's just sort of like we did on a coal dismissal. Again, you all set a ground rule,
3 but those come back multiple times. The unknown unlocatable are a one-time to the Treasury.

4 **Bill Harris:** This is Bill Harris. Let me just ask a question, if we say to just go ahead and not put
5 a limit on that and you go through with it, what's the worse that will happen? I mean is
6 somebody going to show up a couple of years from now and say that was my money?

7 **Rick Cooper:** No, they would not be coming to us. Once we disbursed these, that liability and
8 responsibility falls to the Treasury of Virginia. They would have to go through the Treasury of
9 Virginia to chase those funds down. I guess the only thing we're trying to ensure is that we do
10 our due diligence at this level before we disburse it to them.

11 **Bill Harris:** Okay, that was my question.

12 **Rick Cooper:** Again, I understand it's complicated but if you leave it up to our discretion. I
13 guess that's something the Board has to tell us to do and we will use our discretion. The petitions
14 themselves don't offer testimony on how they achieve their reconciliation of their *inaudible*.
15 They may show tables but if there's errors or mistakes, there's nothing in there that documents
16 that. If you all don't think that it's important, we can move forward. I guess that's my question.

17 **Bradley Lambert:** My thoughts on that is that we have tried for years and Rick and his staff
18 have done an excellent job of trying to identify unknown unlocatable and we have been another
19 two years working with Treasury and that's been a good relationship. Rick and his staff have
20 done an excellent job in working with Treasury as well. The money seems to be going okay.
21 These are my thoughts is that given the excellent work that Rick and his staff are doing, I would
22 probably say not to put a limit on it and let Rick and his staff continue to do the work their doing
23 and once the money gets to Treasury, then it's pretty much out of our hands. If there's people
24 that does come forward, then they don't have to come to us they got to go to Treasury. That's
25 where their money will be. So I would say and just open for discussion, I'm not making a
26 recommendation. I'm just opening for discussion, is to not set a limit and let Rick and his staff
27 manage as they have and keep working with Treasury.

28 **Mary Quillen:** This is Mary Quillen and I totally agree with Butch on this because they have
29 made over a number of years effort, after effort, after effort to identify these folks and they've
30 done a great job. Everything has gone smoothly and I agree that we should let them continue.

31 **Bradley Lambert:** Any other thoughts?

32 **Bill Harris:** I agree with Mary. Bill Harris.

33 **Donnie Rife:** Donnie Rife. Agreed.

34 **Bradley Lambert:** Rita, do you have any thoughts on one way or the other?

1 **Rita Surratt**: Yes, I agree. I think they've done an excellent job and I think we should let
2 *inaudible*.

3 **Donnie Ratliff**: This is Donnie Ratliff *inaudible*.

4 **Bradley Lambert**: Mr. Prather? Are you still with us? [No response] Mr. Prather, are you still
5 with us?

6 **Bruce Prather**: *inaudible* I agree, if you can hear me.

7 **Bradley Lambert**: I barely heard you Mr. Prather, but I heard you say you would agree to
8 continue and let Mr. Cooper and staff handle. So it looks like we have a consensus of the Board.
9 So Mr. Cooper, I think that will be your direction.

10 **Rick Cooper**: Thank you. Carry on.

11 **ITEM NUMBER 17**

12 **Bradley Lambert**: The last item on our docket is the review and approval of November minutes.
13 If anyone has those in front of them, we'll look at those. If there are any corrections or additions
14 that need to be to be made, if not, I'll entertain a motion to approve the November 2019 Minutes.

15 **Donnie Rife**: Motion made to approve as read Mr. Chair.

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

17 **Bradley Lambert**: Okay. I'll have a motion and I have a second. Ms. Ketron, would you poll the
18 Board please.

19 **Sally Ketron**: Okay. Butch Lambert?

20 **Bradley Lambert**: Yes.

21 **Sally Ketron**: Donnie Rife?

22 **Donnie Rife**: Yes.

23 **Sally Ketron**: Bruce Prather?

24 **Bruce Prather**: Yes.

25 **Sally Ketron**: Okay. Mary Quillen?

26 **Mary Quillen**: Yes.

27 **Sally Ketron**: Bill Harris?

28 **Bill Harris**: Yes.

1 **Sally Ketron**: and Donnie Ratliff?

2 **Donnie Ratliff**: Yes.

3 **Sally Ketron**: Oh, Rita Surratt? I'm sorry.

4 **Rita Surratt**: Yes.

5 **Bradley Lambert**: Okay, thank you folks. The November 2019 minutes are approved. I
6 apologize but we worked on catering but we couldn't get it to everybody so we won't be able to
7 have out lunch today. Keep in mind there will be no July meeting because as of today, we have
8 no docket items. So folks, thank you very much for your participation. Thanks to Rick and his
9 staff for all the work they did in getting this call together and trying to organize it and J, thank
10 you. I apologize that your first hearing had to be in a situation and in a setting like this but I hope
11 it made a little bit of sense and you can get down to the next one that we have in face, but thanks
12 to you. Any comments J on how this went or what we need to do differently?

13 **Jerald Hess**: No comments, no sir. It's a pleasure to be everybody's lawyer. I thoroughly
14 enjoyed the meeting and applaud you guys. I think the Board did good work today and handled
15 some technical issues and handled it just fine. So I look forward to meeting everybody in person
16 someday.

17 **Bradley Lambert**: Okay. Thank you J. We appreciate you and the work that the AG staff does
18 for the Gas and Oil Board. So at this time, I'll entertain a motion to dismiss.

19 **Donnie Rife**: Motion made Mr. Chairman.

20 **Bill Harris**: I'll second it. Bill Harris.

21 **Bradley Lambert**: Okay, if there's any objections, please speak up. If not, we'll dismiss the
22 hearing for today. [No response] You all have a good day, stay safe and hopefully we can get
23 over the COVID 19 and we can be back together soon.