

VIRGINIA DEPARTMENT OF MINES, MINERALS, AND ENERGY

VIRGINIA GAS AND OIL BOARD HEARING

Tuesday, October 20, 2020

Via Teleconference

BOARD MEMBERS:

Mary Quillen- Public Member

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

Transcribed by: Darlene Gibson

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ITEM NUMBER 1

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Bradley Lambert: Good morning, we'll wait just a few more minutes. I've got about five (5) till nine (9) and then we'll go ahead and get started. The first thing we'll do is do a roll call of the Board, but we'll wait until 9:00 before we do that. [Pause] Okay, good morning ladies and gentlemen. For the record, this is Butch Lambert, Chairman of the Virginia Gas and Oil Board. It is now after 9:00 and time to begin our proceedings this morning. Again, let me apologize for holding this Hearing by teleconference but due to COVID-19 restrictions, we are unable to hold these in person and there is some items on the docket this morning that are time sensitive that need to be taken care of so that's why we're holding this Hearing by teleconference. Before we begin this morning, the first thing we need to do is to poll the Board for a quorum and I'll ask Ms. Ketron, would you poll the Board please to establish a quorum. [No response] Sally, are you on the line?

Sally Ketron: Yes, I'm here.

Bradley Lambert: Would you poll the Board to establish a quorum please?

Sally Ketron: Yes, sir. Okay, Butch Lambert?

Bradley Lambert: Here.

Sally Ketron: Donnie Ratliff? [No response] Rita Surratt?

Rita Surratt: Here.

Sally Ketron: Mary Quillen?

Mary Quillen: Here.

Sally Ketron: Donnie Rife? [No response] Bruce Prather?

Bruce Prather: Here.

Sally Ketron: Bill Harris?

Bill Harris: Here.

Bradley Lambert: Okay, so that's five (5) members present. That does establish a quorum. Sally, did you ask for J Hess? J, are you on the line?

Jerald Hess: Yes, sir. Good morning everybody, I am here.

Bradley Lambert: Okay. Would you introduce yourself, please J?

1 **Jerald Hess**: Yes, sir. Everyone, my name is Jerald Hess and I'm an Assistant Attorney General.
2 I work for the Virginia Office of the Attorney General and I am here as counsel to the Board. I
3 am happy to help if there's any way that I can.

4 **Bradley Lambert**: Okay, thank you J. The next item of business is folks, if you're on the line
5 and you're not speaking, I will ask you to please mute their phones so that we don't have a lot of
6 feedback and hear a lot of dog barking and other things going at your place this morning. Before,
7 we begin this morning. We need to let everyone that's in attendance on the phone call know the
8 name and place of this location of this Hearing is Lebanon, the Russell County Government
9 Center at the office of the Division of Gas and Oil. The Chairman and the staff to the Board are
10 located at this place and before each person starts to begin testimony, we ask that you give the
11 name and location of the individuals including the counsel that are participating at this Hearing
12 before you begin giving testimony. Of course the rationale that we are holding this Hearing is
13 due to COVID-19 restrictions and with that we will begin this morning with the date and the
14 time is October 20, 2020 and the time of this Hearing is beginning is 9:00 a.m. So the first item
15 on our agenda is the First Bank and Trust, the Escrow Agent for the Gas and Oil Board will
16 address the Board with the 2nd and 3rd quarter reports. So if First Bank and Trust is on the line,
17 please identify yourself and you may proceed.

18 **Unknown**: Good morning.

19 **Donnie Ratliff**: It's Donnie Ratliff.

20 **Jody Maney**: I am Jody Maney from First Bank & Trust.

21 **Bradley Lambert**: Go ahead Ms. Maney that was Donnie Ratliff checking in. Sally, would you
22 mark him present as a quorum please?

23 **Sally Ketron**: Yes

24 **Bradley Lambert**: We're sorry Ms. Maney, please continue.

25 **Jody Maney**: No problem. Does everyone have a copy of the presentation this morning?

26 **ALL**: Yes

27 **Bradley Lambert**: The Board should have received that electronically Ms. Maney. If any Board
28 Member doesn't have it, please let us know.

29 **Jody Maney**: Okay. We will start out on page 3. This is a review of 2020 so far this year. We
30 have had ninety-five (95) dockets processed for the Department of Treasury. They have totaled
31 \$1,104,501.41 so far this year. Other dockets we've processed are thirty-one (31) for a total of
32 \$388,685.17. That's a total of 1,400 checks issued and the checks range from \$.01 to the highest
33 one being \$176,246.97. There was over 1,000 checks that were issued for less than \$100. On
34 page 4, we start out with a beginning balance from the 1st Quarter; the end of the 1st Quarter,

1 \$9,007,293.38. We had deposits in the 2nd Quarter of \$23,267.05, deposits for the 3rd Quarter was
2 \$14,876.64. We earned interest in the 2nd Quarter of \$4,347.91. Interest earned for the 3rd Quarter
3 was \$4,521.53. Fees on the 2nd Quarter was \$8,975.89 and 3rd Quarter was \$3,617.07.
4 Distributions for the 2nd Quarter was \$389,069.81. Distributions for the 3rd Quarter was
5 \$985,914.03 giving us an ending balance for the end of the 3rd Quarter was \$7,666,729.71. Now
6 the next several pages are the outstanding checks, these are in alphabetical order, they have the
7 Gas Company listed out to the far right corner. If you scroll down to page 76, this will give you
8 the total of outstanding. We have \$177,474.60, now keep in mind this is outstanding all of the
9 checks that we have issued that has not been cashed even if they were issued on 9/29, they are
10 going to be included in this report and the total is broken down by Gas Company on page 76.
11 Any questions on that so far? [No response] On the next page is our check escheatment page, this
12 will be escheated by the end of the month. We have a total of \$4,519.58 to be escheated this year
13 and then the following year, if no checks will be cashed for that, we have \$13,194.28. On page
14 78, this is our report for September.

15 **Unknown:** Can I interrupt you just a second Jody?

16 **Jody Maney:** Sure.

17 **Rick Cooper:** This is Rick Cooper. So I thought I would point out to the Board that Ms. Gilmer
18 and I have talked and all these escheatment's are coming up for 2021 and Sarah always sends out
19 letters and sometimes two (2) letters to all these people. So starting somewhere around the end of
20 the year and first of January, she will sort that check list and anything that would be due in 2021,
21 she will send out again the letters to these recipients to try to convince them to cash these checks
22 and tell them their money will be escheated if they don't do that. So Sarah will do that between
23 December and January and we will report that to the Board but anything that is due in 2021, she
24 will send out a letter like we always do and remind them of that. Sorry for interrupting.

25 **Jody Maney:** We do have some success when those letters are sent out. There are people that
26 call and we are able to clear up a few of them. So Sarah, I will send you an excel spreadsheet for
27 2021 escheatment so you can get those letters out.

28 **Sarah Gilmer:** Thank you.

29 **Jody Maney:** You're welcome.

30 **Mary Quillen:** Jody, this is Mary Quillen. Just one brief question, how successful was the letters
31 with the escheatment for that will be done for 2020?

32 **Jody Maney:** It seems like it was able to clear up maybe three or four earlier in the year.

33 **Mary Quillen:** Oh okay.

1 **Jody Maney:** Last year was a little more successful. I think we cleared up 6 or 7 at least last
2 year.

3 **Mary Quillen:** Okay, thank you.

4 **Jody Maney:** If you look on this escheatment page, there's several checks to the same person so
5 there's not as many names as it appears on the list, like Clarence and Kathy Walden has 2
6 checks. Look on down, Mitchell Johnson has 3 checks, Samantha Atkins has 2. So there's not a
7 lot of names on the list but there's several checks. On page 78, this is our September report. This
8 is all of the funded units for the month of September. You start out with the account number,
9 your beginning balance of the previous month and any deposits that were within the month of
10 September, your money market interest earned, your CDARS interest, fees taken, any
11 distributions for that month, any transfers to the no W-9's spreadsheet and then you have your
12 ending market value for each account. As you're looking through there, the highlighted kind of
13 pink colored one are the ones that were closed for that month. So we have several dockets that
14 actually closed accounts for that month. The totals for that report are on page 92. You will see
15 for the month of September, we had \$283,978.05 for distributions. On page 93 is the normal list
16 of the people that have not submitted their W-9, this gives a breakdown of each person of how
17 much their beginning balance was, how much they earned in interest, the fees that were deducted
18 from that account for each individual person, any distributions that we had that month and your
19 ending market value for each individual person and the total for that is on page 103 so we still
20 have \$39,932.63 sitting in the no W-9 account. Any questions on that so far? [No response] On
21 page 104, this lists out our annual distributions since First Bank and Trust became the Escrow
22 Agent in 2010. If you look at the bottom line on 2020, we have distributed out \$1,493,187.00 so
23 far this year and the royalty and working income that has been deposited into the account is
24 \$71,874.00. On the next page 105, this is an investment of the funds. This is how the money has
25 been invested as of the end of September. We had \$6,674,729.71 in a Money Market Account
26 with \$284,000.00 in four different CD's with a total weighted average yield of .33%. The next
27 page is the rate comparisons, this gives you the CDARS rate, the Treasury rates and the Brokered
28 CD rates for a period of 1 month, 3 months, 6 months, 1 year and 2 years and I don't see the
29 rates are great right now. In comparison of June 9 to October 14, so these are pretty current rates.

30 **Mary Quillen:** This is Mary Quillen. Looking at the economy and everything, I would
31 recommend that we sit tight on this until we see how the market and the economy is going to
32 vary in the coming months but I think that it looks like we're sitting in pretty good position now.
33 I think we ought to stay in there tight this round or quarter. Just my opinion.

34 **Jody Maney:** Does anyone have any questions?

35 **Bradley Lambert:** Are there any other comments from the Board on Ms. Quillen's
36 recommendation?

1 **Bill Harris**: This is Bill Harris. I agree I think we ought to hold tight depending on what the
2 economy does.

3 **Bradley Lambert**: Okay, thank you Mr. Harris.

4 **Rick Cooper**: Mr. Chairman, Rick Cooper. I would like to speak if I could?

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

6 **Rick Cooper**: So Board Members, as you know we sent you that e-mail where our Procurement
7 Officer had sent to Ms. Maney, as you all remember when we approved the escrow account we
8 approved it annually that the contract would be renewed. So I sent that request to you all and the
9 only thing I would say is to Ms. Maney. It's just wonderful to work with her, she's very accurate
10 and she does a great job. So we; myself and Sarah Gilmer and Sally Ketron, we appreciate
11 everything you do and just to let the Board know, unless the Board has any disagreements, Ms.
12 Maney has agreed to renew the contract and remember this has to be renewed annually. She has
13 agreed to renew it for another year. I wanted to just thank her and let the Board know since we're
14 all together today.

15 **Bradley Lambert**: and for the Board.

16 **Mary Quillen**: Thank you so much Jody, that's just very, very good news.

17 **Bradley Lambert**: Just so that the Board knows, Rick does have a response from Ms. Maney on
18 October 16 via e-mail that she confirmed that they would renew the contract for another year. So
19 we do have that for the Board's records. Any other questions from the Board on the First Bank
20 and Trust report? [No response] Okay, thank you Ms. Maney. We appreciate you and appreciate
21 all the hard work that you do over there, thank you.

22 **Jody Maney**: Thank you all.

23

ITEM NUMBER 2

24 **Bradley Lambert**: Okay, now we'll continue with our next docket item, was there a comment?
25 [No response] But before we do, let me say that since we are on video conference, we need
26 before we begin into our next petition, we need to let you know that before you testify we need
27 the name and those parties that will be testifying and also we need for you to confirm that you
28 agree to testify via conference call and if you object to testifying or doing the proceedings via
29 conference call, we will give you the opportunity to hear your objection and then the Board will
30 rule on that objection. So if there are no questions on the proceeding, we'll begin with petition
31 item 2. Which is a petition from Virtex Eastern Producing Company LLC, for disbursement of
32 escrowed funds heretofore deposited with the Board's Escrow Agent for the Page heirs that were
33 recently identified. This is Docket Number VGOB 07-0320-1902-01. All parties wishing to
34 testify, please identify yourself.

1 **Tim Scott**: Tim Scott for Virtex.

2 **Edward J. Petronsky**: Ed Petronsky, Corpus Christi, Texas with Virtex Operating.

3 **Sarah Gilmer**: Hi, this is Sarah Gilmer. Mr. Petronsky, do swear and affirm that your testimony
4 is the truth, the whole truth and nothing but the truth?

5 **Edward J. Petronsky**: I do.

6 **Sarah Gilmer**: Thank you.

7 **Bradley Lambert**: Mr. Scott, do you agree to hold this petition hearing via conference call?

8 **Tim Scott**: Yes, sir.

9 **Bradley Lambert**: Thank you Mr. Scott. Good morning, you may proceed.

10 **Darlene Gibson**: Butch, this is Darlene. Could the gentlemen with Mr. Scott spell his name for
11 the record please?

12 **Edward J. Petronsky**: Edward J. Petronsky, Manager of Land Administration. Senior Landman
13 for Virtex Operating out of Corpus Christi, Texas.

14 **Darlene Gibson**: How do you spell your name, Sir?

15 **Edward J. Petronsky**: Edward J. Petronsky. P E T R O N S K Y.

16 **Darlene Gibson**: Thank you, I'm sorry Butch.

17 **Bradley Lambert**: That's okay, no problem Darlene. Please go ahead Mr. Scott.

18 **Tim Scott**: Thank you. Mr. Petronsky, would you again state your name, by whom you're
19 employed and your job description.

20 **Edward J. Petronsky**: Edward J. Petronsky, Manager of Land Administration and Senior
21 Landman for Virtex Operating Company, Inc.

22 **Tim Scott**: You're familiar with this disbursement request, is that right?

23 **Edward J. Petronsky**: Yes

24 **Tim Scott**: and you helped participated in preparation of this petition, is that also correct?

25 **Edward J. Petronsky**: That is correct.

26 **Tim Scott**: What's the basis of this disbursement today?

27 **Edward J. Petronsky**: To distribute the escrowed funds to the proper owners.

1 **Tim Scott**: So in this particular case, you all did additional query to locate these individuals, is
2 that correct?

3 **Edward J. Petronsky**: That is correct.

4 **Tim Scott**: As a result, you prepared an Exhibit J and also an Exhibit EE to petition the
5 disbursed, is that correct?

6 **Edward J. Petronsky**: Yes, that's correct.

7 **Tim Scott**: and you've provided to the Board the certificates or Affidavits of Notice to these
8 individuals respondents and the copies of the green cards, is that correct?

9 **Edward J. Petronsky**: Yes, that is correct.

10 **Tim Scott**: We have two 2-tracts within this unit that are subject to this petition, Tract 27 and 31.
11 Is that right?

12 **Edward J. Petronsky**: Yes, that's correct.

13 **Tim Scott**: In the event that the application is approved today, would the Escrow Accounts for
14 these two tracts be closed?

15 **Edward J. Petronsky**: Yes

16 **Tim Scott**: Once the Escrow account is disbursed, would these parties receive their royalty
17 checks directly?

18 **Edward J. Petronsky**: Yes, directly from Virtex.

19 **Tim Scott**: Okay, perfect. Have you reconciled the Escrow Account with the figures of the
20 Escrow Agent?

21 **Edward J. Petronsky**: Yes, I have.

22 **Tim Scott**: What were the results of that reconciliation?

23 **Edward J. Petronsky**: That the Escrow Agent that a total of \$11,708.70 which resulted in a
24 positive difference of \$381.12 of the course of the escrow term.

25 **Tim Scott**: Okay, and what was the date of the reconciliation?

26 **Edward J. Petronsky**: As of March, 2020.

27 **Tim Scott**: Thank you. That's all I have Mr. Chairman.

28 **Bradley Lambert**: Are there any questions from the Board?

1 **Donnie Ratliff**: Mr. Chairman, this is Donnie I have one. I'm looking at the plat and I can't find
2 the identification of the landowners for the different tracts that's in this well and I can't read the
3 quadrant. Where is this located? What counties are we talking about?

4 **Rick Cooper**: So Donnie, this is Rick Cooper speaking. So this is Bramwell Quad up in
5 Pocahontas, Virginia in Tazewell County.

6 **Donnie Ratliff**: Okay, alright.

7 **Tim Scott**: Mr. Petronsky?

8 **Edward J. Petronsky**: I'm sorry, I couldn't hear. I couldn't understand, say that one more time.

9 **Tim Scott**: I'm sorry. Mr. Petronsky, this was originally a Dart Well and Gas well, is that
10 correct?

11 **Edward J. Petronsky**: That is correct.

12 **Tim Scott**: and you succeeded in the interest of Dart, is that also correct?

13 **Edward J. Petronsky**: That is correct.

14 **Tim Scott**: This Exhibit B that was attached to the pooling was part of the original application
15 and order, is that also correct?

16 **Edward J. Petronsky**: Yes, that is correct.

17 **Tim Scott**: Okay.

18 **Donnie Ratliff**: Mr. Scott, this is Donnie Ratliff again there's no indication of who owns the
19 surface of each one these parcels that's within this well right? Am I missing that?

20 **Tim Scott**: It's actually showing on Exhibit J of who the owners are. I believe this was a tract
21 that was the Page heirs and that's how it was identified initially. Is that right, Mr. Petronsky?

22 **Edward J. Petronsky**: That is correct. It was originally the Page heirs subsequently acquired by
23 multiple parties and as showing on the Exhibit that is attached.

24 **Donnie Ratliff**: Okay, I see it. Exhibit J, I've got it. Thank you.

25 **Mary Quillen**: This is Mary Quillen, just one question on this plat. There's no signature on the
26 Licensed Land Surveyor line, there's no signature on that. Was this done by someone that was
27 employed by Dart?

28 **Tim Scott**: Mr. Halsey would have been employed by Dennis, by Glen Phillips Ms. Quillen, at
29 that point. I don't know why that's not on there. It was just blurb or something.

1 **Mary Quillen**: Thank you.

2 **Unknown**: The signature isn't showing on that.

3 **Bradley Lambert**: Are there any other questions from the Board? [No response] Anything
4 further, Mr. Scott?

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

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

7 **Sally Ketron**: Yes

8 **Donnie Ratliff**: Do you want a motion first?

9 **Bradley Lambert**: Yes, you're absolutely correct.

10 **Donnie Ratliff**: I move that we approve the docket item as presented.

11 **Mary Quillen**: This is Mary Quillen, I second.

12 **Bradley Lambert**: Okay, I have a motion and I have a second. Now, Ms. Ketron would you poll
13 the Board.

14 **Sally Ketron**: Okay, Bill Harris?

15 **Bill Harris**: Yes

16 **Sally Ketron**: Bruce Prather?

17 **Bruce Prather**: Yes

18 **Sally Ketron**: Mary Quillen?

19 **Mary Quillen**: Yes

20 **Sally Ketron**: Rita Surratt?

21 **Rita Surratt**: Yes

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

23 **Donnie Ratliff**: Yes

24 **Bradley Lambert**: and the Chairman also votes yes. So thank you Mr. Scott, that one is
25 approved.

26 **Tim Scott**: Thank you Mr. Chairman.

1 **Bradley Lambert**: Have a good day.

2 **ITEM NUMBER 3**

3 **Bradley Lambert**: Okay, we're calling docket item number 3, a petition from Diversified
4 Production, for the disbursement of escrowed funds heretofore deposited with the Board's
5 Escrow Agent, attributed to Tract 3, as depicted upon the annexed table. This is docket number
6 VGOB 05-1018-1516-04. All parties wishing to testify, please come forward and identify
7 yourself for the record.

8 **Tim Scott**: Tim Scott and Joshua Cochran from Diversified.

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

11 **Joshua Cochran**: Yes

12 **Sarah Gilmer**: Thank you.

13 **Bradley Lambert**: Mr. Scott, one more time for the record. Do you agree to hold this
14 proceedings virtually?

15 **Tim Scott**: Yes, sir.

16 **Bradley Lambert**: Thank you, you may proceed.

17 **Tim Scott**: Thank you. Mr. Cochran, please state your name, by whom you are employed and
18 your job description. Please?

19 **Joshua Cochran**: Yes. Joshua Cochran, Landman for Diversified Oil and Gas Corporation.

20 **Tim Scott**: and you assisted in the preparation in this petition, is that correct?

21 **Joshua Cochran**: Yes

22 **Tim Scott**: What's the basis for this disbursement request today?

23 **Joshua Cochran**: Disbursement for Escrow funds deposited to the Board's Escrow Agent
24 attributable to Tract 3.

25 **Tim Scott**: That's the Wise County School Board, is that correct?

26 **Joshua Cochran**: Wise County School Board, that's correct.

27 **Tim Scott**: Did you prepare and file Exhibit J and Exhibit EE with your petition?

28 **Joshua Cochran**: Yes

1 **Tim Scott**: and you have one part bonded, how did that party receive notice for this hearing?

2 **Joshua Cochran**: Can you repeat that, I'm sorry.

3 **Tim Scott**: That's okay. We have just one party that we're going to disburse today under Tract 3,
4 is that correct?

5 **Joshua Cochran**: Yes

6 **Tim Scott**: How was that party respondent; how did they receive notice of this Hearing today?

7 **Joshua Cochran**: Yes

8 **Tim Scott**: and how was that done, how was that affected, please?

9 **Joshua Cochran**: We initially sent them an e-mail to obtain their information in a W-9 and also
10 we sent a letter or a notice to them via UPS and they signed for it and obtained signature for that.

11 **Tim Scott**: and that's on file with the Board, is that right?

12 **Joshua Cochran**: Yes

13 **Tim Scott**: Okay. If the application is approved, will this Escrow Account for this Tract 3 need
14 to be closed?

15 **Joshua Cochran**: Yes

16 **Tim Scott**: and once the Escrow Account is disbursed, will this party receive royalty checks
17 directly?

18 **Joshua Cochran**: Yes

19 **Tim Scott**: Have you reconciled Diversified Escrow account with those figures of the Escrow
20 Agent?

21 **Joshua Cochran**: Yes

22 **Tim Scott**: What were the results of that reconciliation?

23 **Joshua Cochran**: I'm pulling that up as we speak, if you'll hold just one second. Sorry for the
24 delay, but I've had some computer issues. The amount is \$6,256.10 with the ending Market
25 Value would be; the Escrow Agent market summary would \$6,290.59 and with a difference of
26 \$34.49.

27 **Tim Scott**: Okay, thank you. What was the date of that reconciliation?

28 **Joshua Cochran**: March, 2020.

1 **Tim Scott**: That \$34 is a positive amount, is that right?

2 **Joshua Cochran**: That's correct.

3 **Tim Scott**: Okay, that's all I have Mr. Chairman.

4 **Bradley Lambert**: Thank you Mr. Scott. Is there any questions from the Board? [No response]

5 Mr. Scott, this is Butch Lambert, Chairman. Was this notification of this Hearing published in

6 the paper?

7 **Joshua Cochran**: Yes

8 **Bradley Lambert**: Which paper was it published in?

9 **Joshua Cochran**: Wise County School Board or to give you the correct name.

10 **Tim Scott**: The Coalfield Progress?

11 **Joshua Cochran**: The Coalfield Progress in Wise County, yes.

12 **Bradley Lambert**: Oh okay, alright. Thank you sir. Any other questions from the Board? [No

13 response] Anything further Mr. Scott?

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

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

16 **Donnie Ratliff**: This is Donnie Ratliff, I make a motion that we approve the docket item as

17 presented.

18 **Bill Harris**: I'll second that, it's Bill Harris.

19 **Bradley Lambert**: Okay, thank you. I have a motion and I have a second. Is there any further

20 discussion? [No response] Ms. Ketron, would you poll the Board?

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

22 **Bradley Lambert**: Yes

23 **Sally Ketron**: Bill Harris?

24 **Bill Harris**: Yes

25 **Sally Ketron**: Bruce Prather?

26 **Bruce Prather**: Yes

27 **Sally Ketron**: Mary Quillen

1 **Mary Quillen**: Yes

2 **Sally Ketron**: Rita Surratt?

3 **Rita Surratt**: Yes

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

5 **Donnie Ratliff**: Yes

6 **Bradley Lambert**: Okay, thank you. Mr. Scott, that one has been approved.

7 **Tim Scott**: Thank you, Mr. Chairman.

8 **ITEM NUMBER 4**

9 **Bradley Lambert**: Okay, moving onto the next docket item. A petition from DGO – on behalf
10 of on behalf of Cheryl Keen Tucker, representing the interest of Mary R. Barnett, appealing the
11 decision of the Director issued on August 25, 2020, for Informal Fact Finding Hearing Number
12 1015 from Pocahontas Gas LLC, for the proposed Well CBM CC35B Well and Pipe Line,
13 located in the Maiden Spring Magisterial District of Tazewell County. This is Docket Number
14 VGOB 20-1020-4234. All parties wishing to be heard, please identify yourself.

15 **Cheryl Keen Tucker**: My name is Cheryl Keen Tucker and I am representing my mother, Mary
16 R. Barnette and also on behalf of the other G.W. McGlothlin heirs.

17 **Bradley Lambert**: Okay, Ms. Tucker. Is there anyone from Pocahontas online?

18 **Mark Swartz**: This is Mark Swartz, I'm appearing on behalf of Pocahontas Gas, LLC. I'm in
19 Jensen Beach, Florida.

20 **Bradley Lambert**: Wow!

21 **Mark Swartz**: Well you asked that we tell where we are, so I had to confess.

22 **Bradley Lambert**: We all envy you Mr. Swartz. Mr. Swartz, do you agree or do you consent to
23 hold these Hearings virtually via conference call?

24 **Mark Swartz**: Yes, my client has no objections to proceed via conference call.

25 **Bradley Lambert**: Okay, thank you. Ms. Tucker, do you agree to hold these Hearings via
26 conference call?

27 **Cheryl Keen Tucker**: I would like to state for the record that I would prefer to do this in person,
28 however; I do understand that if I were not to agree that this proceeding would go forward
29 without me and I need to have representation at this meeting. I do have a question, was this

1 meeting also provided by video? I heard somebody mention that earlier, I would have preferred
2 to have been on a video call rather than a telephone call but I did state that for the record.

3 **Bradley Lambert**: Yes, ma'am. That was me, Ms. Tucker. This is Butch Lambert. That was me
4 that mentioned video call, in the documentation that we have to present, I have to say
5 video/conference. Unfortunately, we do not at this time have the capability to video conference
6 everyone in and I apologize for that. But we are doing teleconference calls, again you're correct
7 if you do object and you have the right to be heard and we'll rule on your objections.

8 **Cheryl Keen Tucker**: and what does that specifically mean, ruling on my objections? The one
9 that I stated specifically in the appeal that I presented?

10 **Bradley Lambert**: We're going to hear the Informal Fact Finding that was held by Mr. Cooper
11 and the Board will take into account the information provided in that Informal Fact Finding
12 Hearing and if you object to holding this because you can't be here in person for some reason
13 that you need to be here in person, that we can't hear this via teleconference call then we would
14 hear that reason that you could present to us. However, if the Board doesn't feel that reasoning is
15 good enough that we can't review this Informal Fact Finding via conference call then we'll rule
16 on that objection that you might have.

17 **Cheryl Keen Tucker**: I understand Mr. Lambert. I will go ahead and consent to testimony via
18 telephone call.

19 **Bradley Lambert**: Thank you, Mr., Ms. Tucker. We'll go ahead and proceed. So at this point
20 I'm going to ask Mr. Cooper, if he would present us with some of the background and I know
21 that each Board Member has received a copy of that Informal Fact Finding and I hope that each
22 one has read it but to just help us a little further, we'll ask Mr. Cooper to go ahead and
23 summarize the Fact Finding.

24 **Rick Cooper**: Thank you, Mr. Chairman. This is Rick Cooper. I'll give you a little history. So
25 this original application came in on 4/23/2020 of this year and as everyone knows that the
26 Pandemic came along and we originally scheduled to have this and we waited until the Board
27 had a meeting in June. They had their regular VGOB meeting, then it went pretty well. So we
28 scheduled in July and other reasons it got postponed till August 24, 2020. We did have a request
29 to Ms. Tucker would continue from July to August 24. So we did have the hearing and Ms.
30 Tucker's objection was on two items: the location of the coalbed methane well and the coalbed
31 methane well pipeline would unreasonably infringe on a surface owners use of the surface. This
32 is only considered grounds to object if reasonable alternative site is available within any unit and
33 granted the objection will not materially impair any right contained in an agreement valid at the
34 time of the objection between the Surface Owner and the Operator or their predecessor or
35 successors in interest. The other objection that she had was the proposed operation would
36 directly infringe upon a Royalty Owners interest and for the record, I would like to know so
37 she's just representing here. She's not representing the rest of her people, she's representing her

1 mother only, Mary Barnette. So maybe items will come up later but this particular objection here
2 is just for Mary Barnette. We had the Hearing and so I guess the decision was that the Company
3 had strategically located this well for long-wall mining. It's for mine safety and you can see on
4 the Exhibits on *inaudible* 4-7, if you look at those that it's pretty much a non-residential area
5 and it's not an area that's real usable. Even in addition to that, Ms. Tucker when she gave her
6 testimony during the Hearing on page 3, line 19 of the transcript, she says 'after consideration
7 I'm objecting to the location of the well or the pipeline.' So the pipeline is only 200-225 feet. So
8 I did not see a problem with the location of the well and she objected on our interest and just to
9 let you know that the Board pooled Ms. Barnette's interest in June. The Company represented
10 that interest in June and her Mother's interest, she had a partial ownership in three (3) tracts in
11 that plat, she had 1/28th of 300 hundredths of an acre in Tract 1A. She has one 1/224th share of
12 9.14 acres in 1B and she has 1/224th of 2.04 acres as in Tract 3 which the total is .0509 acres Ms.
13 Barnette has a share in which comes out to be .06373% of the total unit. My decision was made
14 due to the fact that it for mine safety and Ms. Tucker really did not object to the location of the
15 Well or Pipeline. The interest of Mary Barnette was pooled in June during the Board hearing. If
16 you've got any questions, I will be glad to try to answer those.

17 **Bradley Lambert**: Are there any questions from the Board for Mr. Cooper?

18 **Mary Quillen**: This is Mary Quillen. Just a quick question, if there was no objection at the time
19 of the Hearing, what participated this later on of the pooled amount of ownership?

20 **Rick Cooper**: Maybe there will be some other issues that you will hear later on, but I guess the
21 reason she objected on the location of the Well and her interest, but during testimony she; Cheryl
22 Tucker, said she was not objecting to the location of the Well or Pipeline. She was more
23 concerned with her share; her mother's share, of her interest that was pooled in June.

24 **Mary Quillen**: The amount that was pooled or the fact that it was pooled?

25 **Rick Cooper**: I would say the fact that it was pooled would be a more accurate part.

26 **Bradley Lambert**: Are there any more questions from the Board? [No response] Okay, Ms.
27 Tucker, we're going to turn to you now and let you fill us in a little bit from your side but please
28 keep in mind that all we have before is the Informal Fact Finding and the documentation
29 containing the Informal Fact Finding and this Board can't entertain any new evidence that you
30 would want to present. So with that, would you just go ahead and summarize your position.

31 **Cheryl Keen Tucker**: Yes, Mr. Cooper. As Mr. Cooper stated that the original permit
32 application was scheduled, our family was first notified of both a re-pooling and a permit
33 application in April. I had concerns regarding this, we have concerns regarding this. The order of
34 which, due to the COVID-19, we were aware of the pooling. I believe it was Ms. Quillen was
35 asking the question was that were we objecting to being pooled, we had notified CNX and the
36 VGOB concerns regarding this because of outstanding issues since they had been operating on

1 the land since 2000. It was brought up again and then the Hearings were cancelled in April. They
2 were cancelled in May. CNX did send a certified letters at the beginning of April, I had
3 contacted them and was concerned regarding that I wanted more information to have a more
4 detailed review of what they're actually claiming for the pooling since it had never been
5 addressed for the entire ownership of the property. Then the May hearing was cancelled. The
6 June hearing, I was specifically notified that I was notified, at the last minute it was going to be
7 held and going to be held by teleconference. I claimed when I spoke to both the VGOB and CNX
8 that there had been no protocol and other than the fact that they are to send the certified letter,
9 which they did in which I received in April but I was not notified of a pooling request that was
10 going to be or the pooling hearing that would have been was on June 16th or I would have been
11 present. I went forward with the permit application or the permit application, I objected to under
12 all the requirements. I appeared at the Informal Fact Finding Hearing and stated my objections
13 that I was concerned that with the information that has or was submitted to VGOB by CNX that
14 we were not sure the accuracy and were unable to verify what was being listed and presented to
15 the Board for approval. I was not able to be there before or to assert any of these issues and the
16 pooling request was granted. It was then recorded in Russell, Tazewell and Buchanan Counties
17 and on the days I was appearing before the Virginia Oil and Gas Board for the Informational
18 Fact Finding Hearing when I returned home to Botetourt County from Lebanon, we had a
19 certified letter that had all of the or was the recordation of the pooling that required our family to
20 then have 30 days to decide if we wanted to be a participating well owner or operator or
21 ultimately be deemed to be leased. I have been negotiating with CNX for since the very
22 beginning of this notification but we had also; our family, was notified of this in 2012 that there
23 were defects in questions regarding to the ownerships. We had requested additional information
24 at that time and had not received it. I've been requesting consistently detailed information so I
25 could make an informed business decision regarding our rights and to potentially be able to
26 answer the pooling request information for in an essence to be able to move forward. The
27 Directors and the result of the Information Finding Fact Hearing of the Director, it was stated
28 that they were in favor of CNX and because of the fact that there had been a pooling. The
29 pooling was allowed under Virginia statute 45.1-361.21 and the pooling of interest and protected
30 correlative rights in the drilling unit. Since the Gas and Oil Board approved that petition at the
31 pooling at the regular monthly hearing on June 16th, which from both CNX representative and
32 GOB representatives, I understand there was a scurry to determine how this was going to happen
33 and then it was to be done by telephone call. I assert I did not have a reasonable, as being a
34 reasonable person and citizen of the State of Virginia. I did not that this would be changed on the
35 Oil and Gas Board website and that was the only notification was for me to watch and see if it
36 would be occurring. So that has caused me concerns, I asked for a continuance of today to be
37 able to get more information and discuss because there are still outlying questions regarding the
38 actual property and acres on the unit and the percentages of ownership in the unit. Since June, we
39 had asserted we had additional ownership in this other than the percentages that you were quoted
40 at that time and then it has been recognized by CNX that they had overlooked and has been

1 redoing their figures for our percentages. I am concerned that once this has been recorded then
2 we are bound by the laws of the Act to go forward and it is law and our only action or only
3 recourse has been or will be civil action. I have been or the appeal was and continuance was
4 denied because of the fact that there was a pooling. I am concerned that the fact that I did not
5 have an opportunity to air these concerns at the pooling request that it has infringed on in this
6 case, just my mother's correlative rights. However; I am also and CNX has required me to have
7 limited Powers of Attorney signed by all of my family members for me to be their representative.
8 Do you have any questions?

9 **Bradley Lambert:** Are there any questions from the Board for Ms. Tucker?

10 **Mary Quillen:** With that long dialogue it was a little hard to follow some of it. It seems to be
11 that there is additional property line disputes and generally this goes to a re-pooling when these
12 things or boundaries are changed when new information becomes available. Is that the point that
13 there has some additional ownership for your family?

14 **Cheryl Keen Tucker:** Yes, ma'am. In addition to that, CNX acquired this property in 2001 and
15 my families' successor and interest were not included. CNX proceeded to operate on the
16 property as if it was 100% owned by them and they noted and contacted us in 2012 that there
17 may be some issues. There was no pooling done at that time. They made us offers, I asked for
18 additional information supporting the offers and what exactly had been done on the property to
19 date along with any production of the gas extracted to date. I've asked for the sales price and the
20 cost of goods, the dollars amounts of these of the infrastructure that have been put onto the land
21 including roads, wells, pipeline, infrastructures and again they have not been able to give me that
22 information. I have had continuous discussions with them since this pooling and permit was
23 raised for Unit CC35. In the Director's Information Fact Finding, Mr. Swartz asked me and that
24 if any of my; if I was saying the company, CNX or Consol Energy or Pocahontas Gas had ever
25 escrowed anything for our family and he said, are you telling me that they did not? I have gone
26 back and verified and there has never been any provision of any escrow amount for our family
27 since they started operations since they contacted us in 2012. It is my understanding if what you
28 said is true, when you know that there is a specific pooling that should be done, it should be filed
29 with the Virginia Oil and Gas Board and the percentages?

30 **Mary Quillen:** Ma'am, let me stop you right there. You're getting into a very long dialogue
31 there, but basically what we need to understand is there is a dispute of ownership of what?
32 Between you, your family and CNX?

33 **Cheryl Keen Tucker:** Actually, they agree that we own it. There has been questions.

34 **Mary Quillen:** Right, okay, okay, okay. Stop right there. Has there been any kind of documents
35 that specifically states where the boundaries of your property are? Is there documentation?

36 **Cheryl Keen Tucker:** There is.

1 **Mary Quillen**: A deed or any kind of inherited property? Or is this?

2 **Cheryl Keen Tucker**: Yes, it is inherited. It was inherited property through succession from the
3 1800's under Chris Richardson and Amanda *inaudible* Richardson.

4 **Mary Quillen**: So what documentation is there verified where the ownership boundaries are? Do
5 you have *inaudible*, maps or?

6 **Cheryl Keen Tucker**: Well, we have never been deeded the property. We inherited as successor
7 and interest. We have the interest in the property. They attempted to purchase part of or purchase
8 the property from us and we asked for more information because we were not sure what we were
9 selling. So we still; there were mistakes made in the offer. The only information I have.

10 **Mary Quillen**: When you say mistakes, what mistakes are you saying that were made? What
11 kind of mistakes?

12 **Cheryl Keen Tucker**: That they did not ever include us as an heir or as an owner and they had
13 been operating on the property.

14 **Mary Quillen**: So now they have said that you do own some of this property and they have
15 either pooled you or re-pooled to include you?

16 **Cheryl Keen Tucker**: That is correct and they knew this in 2012.

17 **Bradley Lambert**: Ladies, ladies. I've got to interrupt you. This is the Chairman, Butch Lambert
18 and I have to interrupt. Ms. Quillen, thank you for your comments and Ms. Tucker, thank you for
19 your explanation but I got to say, however; we've gone way, way, way beyond what the
20 information is in the Informal Fact Finding Hearing and now we're talking about pooling and re-
21 pooling and that's not part of what we have before us for the Informal Fact Finding. So I'm
22 going to stop Ms. Tucker. I'm going to stop you right there and then I'm going to turn over to
23 Mr. Swartz to give us his side of the Informal Fact Finding and the information that was
24 presented at the Informal Fact Finding only. Mr. Swartz, are you still with us?

25 **Mark Swartz**: Yes, I am. Can you hear me?

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

27 **Mark Swartz**: Okay, I will be focused and keep this relatively brief. I do have a couple of
28 concerns about Ms. Tucker's role here and I want to make it clear to the Board that I don't
29 understand that Ms. Tucker's owns an interest in CC35. I understand that she is the daughter of
30 Mary Barnette and I think she's told us that she represented her at the Hearing. Today, I'm
31 hearing that she is claiming to represent other heirs as well, I would point out that in addition to
32 not being an owner, and I do not understand that Ms. Tucker is an Attorney. We have, you know
33 unauthorized practice of law requirements in the Commonwealth and it's pretty limited what you
34 can do on behalf of someone else or another company if you are not a lawyer. I think that the

1 arguments that we're hearing about what the law is and the consequences of conduct are clearly
2 in the realm of unauthorized practice as opposed to talking about facts of receiving notice, not
3 receiving notice, pooling's occurring, not occurring and so forth. So I am concerned about those
4 issues, if she's not an owner and that she's not a lawyer. Now moving to what happen at the
5 hearing. The Informal Fact Finding Hearing was set, a notice went out and the notice said we're
6 going to be talking about two things. We're going to be talking about the use of the surface and
7 we're going to be talking about the protection of correlative rights. The protection of owners who
8 have a royalty interest in the Well. As Mr. Cooper pointed out, the first issue; the surface use
9 went away for two reasons. One, Ms. Tucker said she wasn't pursuing that objection. However;
10 Mr. Cooper, who sometimes does more than I would prefer that he do but I submitted the data to
11 him because I thought this might happen. We submitted photographs, we submitted maps and
12 submitted information during the hearing even though the objection was withdrawn in case Mr.
13 Cooper independently, as the Director made an inquiry into the use of the surface and that issue
14 went. So in addition to Ms. Tucker withdrawing the unreasonable use of the surface objection,
15 Mr. Cooper went ahead and actually looked at the evidence we had presented on that and
16 reached an independent conclusion that had she pursued it didn't appear to him that there was
17 unreasonable interference with the surface. So that first issue went away. The second issue then
18 was with regard to the unit in which the well is to be located, CC35, was whether or not the
19 royalty interest of the objecting party or her mother, I guess; Mary Barnette would be adequately
20 protected and because the unit was pooled in June and Ms. Barnette's interest in this unit was
21 pooled in June. Mr. Cooper determined that her correlative rights were protected by the pooling
22 order and disposed of that second objection on that basis. So frankly, I don't see anything to
23 dispute the impact of the pooling order on correlative rights. Their protected. So that's all I will
24 offer at this point, Mr. Chairman.

25 **Cheryl Keen Tucker:** May I ask how the correlative rights are truly protected in this situation?

26 **Mark Swartz:** *inaudible* is an order.

27 **Cheryl Keen Tucker:** An order? And the order was based, and you never had, you did not. You
28 claim you only knew that we had ownership rights when you filed that order in April?

29 **Mark Swartz:** That order is standard by the Board that says.

30 **Cheryl Keen Tucker:** Did you have, have you ever told us after you knew we had ownership in
31 the property in 2013? I have documentation from CNX that says they knew that there was an
32 issue in 2001, they also recognized there was an issue in 2012-2014. No pooling had ever been
33 up until then, now you want an exception permit for a 3rd well on a property and now are
34 claiming that we needed to be pooled and during this COVID, the somehow the pooling hearing
35 was heard on June 16 without reasonable knowledge other than the certified letter you sent in
36 April for me to represent myself and I also would like to say; yes, I am not an Attorney.
37 However; I have full Power of Attorney for my mother. CNX, also I have full documentation,

1 has required the person you are representing has required me and all of my family to sign limited
2 Powers of Attorney to allow me to speak on their behalf on these issues.

3 **Mark Swartz:** Okay, let me address three of the things I heard. Later on today, there are three
4 (3) re-pooling's involving your mother and there are three (3) pooling's involving your mother
5 because my client is correcting the pooling orders and the percentage of interest in six more units
6 based upon the mapping and the additional information that they have completed title
7 information, they've completed with regard to your mother's interest. So, it's not just the C35;
8 C35 was what the well in that unit is what brought my clients focus on getting this title work
9 done but there's six more units that are either being re-pooled or pooled this morning to protect
10 your mother's correlative rights. I just need to point that out to the Board that we are going to be
11 dealing with this as we get down the road this morning on pooling. The 2nd thing that I would
12 point out is I have a couple of the limited Powers of Attorney that you claim you have from
13 family members and those Powers of Attorney only authorize you quote, 'as my agent for limited
14 purpose to negotiating and selling my undivided interest'. Well I don't have Powers of Attorney
15 authorizing you to appear as a non-lawyer for somebody at a pooling hearing and I don't have a
16 Power of Attorney from your mom. I'm not saying you don't have one, but I sure haven't seen it.
17 Have you filed one with the Board?

18 **Cheryl Keen Tucker:** Yes, I have and with CNX.

19 **Mark Swartz:** What does it say?

20 **Cheryl Keen Tucker:** That I have full Power of Attorney to conduct the standard durable Power
21 of Attorney that allows to handle all business on her behalf and it's filed also in Botetourt
22 County. CNX required me to provide all of that information. This is all, we have been, I have
23 been, we have been documenting and making sure on CNX's request over the last month that all
24 of this was specifically clarified.

25 **Mark Swartz:** Okay, do you have any maps? Or Titles?

26 **Cheryl Keen Tucker:** I have a map.

27 **Mark Swartz:** or title opinions that you're going to present to us as part of this Hearing today?

28 **Cheryl Keen Tucker:** I was not allowed.

29 **Mark Swartz:** No, okay. So you tried to add.

30 **Cheryl Keen Tucker:** I have, I have a map from 2013 by CNX that has unit numbers over
31 superimposed, over boundary tracts. We had asked for more information regarding in 2013.
32 Again, even though I am not an Attorney. I could not find an Attorney in our local area that did
33 not have a conflict of interest with CNX. I have still been looking for an Attorney that will
34 *inaudible* the Oil and Gas arena however; it looks like I'm going to have to go out the region

1 and into another state. That's another reason I asked for a continuance because I have not in this
2 slurry the additional pooling request which has all by the way CNX has known about since at
3 least 2012 that there were defects and that our ownership had not been ever pooled and you
4 would agree that there has never been a pooling for my mother, my mother's name on any
5 pooling request ever until April and until the six more hearings for today. In addition, I was
6 served another hearing request for yet another unit that will be heard in November.

7 **Bradley Lambert**: Okay, folks. I'm going to pull us back one more time that were only sticking
8 to the information we have in the Informal Fact Finding and we're way off base and Board
9 members, I'd like to caution you that we have heard a lot of additional information that we
10 cannot take into account by looking at this Informal Fact Finding. Now, Ms. Tucker, I have a
11 question for you. Are you saying that you are not wanting to be pooled, that you would like to
12 become a participating operators on this well and you'd like that opportunity? You're objecting
13 to these pooling on that case but again that's not part of the Informal Fact Finding. That kind of
14 information, we can talk about later in the petitions that are coming up that include Ms. Barnette
15 and other members of your family. So let me go back to one more time, the Informal Fact
16 information that we have before us is what we need to consider. So I'm going to ask Mr. Cooper
17 one more time for the Board's information to please recap what's in the Informal Fact Finding
18 and the information that we are to consider as a Board and to vote on.

19 **Rick Cooper**: Thank you Mr. Chairman. This is Rick Cooper, again I will just summarize in the
20 Informal Fact Finding hearing the objections were that *inaudible* infringe on the use of the
21 property and that was determined not to infringe on the use of the property. Not only was it the
22 location of the Well and Pipeline in a very remote area, Ms. Tucker herself said she was not
23 objecting, so she withdrew her objection on that. The only other objection she was worried about
24 the infringement on the use of her royalty ownership and her correlative rights were pooled in
25 June 16 during a Board hearing for her mother Mary Barnette. For that, I think her correlative
26 rights were protected on CC35B. That's pretty much the information that was provided.

27 **Bradley Lambert**: Okay, so I'm going to ask the Board if there's any questions since you have
28 read the Informal Fact Finding information that Mr. Cooper put in your package. Are there
29 questions directly related to the Informal Fact Finding that you have for Mr. Cooper, for Mr.
30 Swartz or for Ms. Tucker? [No response] Okay, hearing no further questions. I'm going to ask
31 for a motion.

32 **Cheryl Keen Tucker**: May I interject one last thing, one last thing before we.

33 **Bradley Lambert**: Only if it pertains to the Informal Fact Finding. Ms. Tucker, Ms. Tucker, I
34 apologize but only if it pertains to the Informal Fact Finding, we're not here to hear about your
35 pooling interest.

36 **Cheryl Keen Tucker**: Yes

1 **Bradley Lambert**: Only the Informal Fact Finding.

2 **Cheryl Keen Tucker**: I'm not going to talk about that. I specifically in the testimony in the
3 Informal Fact Finding hearing it is stated that I pointed out that the location inspection did not
4 state the safety or the workers safety as Mr. Swartz had said. May I ask when are you in
5 participating for the Canon Coal Company to begin the mining? I understand this is an advance
6 of their potential mining of that area, but not immediate mining in that area?

7 **Bradley Lambert**: Thank you Ms. Tucker that is a fair question. I appreciate the question. Mr.
8 Cooper, who is very knowable of the mining in that area and also the gas drilling of the wells in
9 that area, I'll ask him if he'll answer that question for you.

10 **Rick Cooper**: So in regard to Ms. Tucker had brought up that any location exception, I guess she
11 wasn't specifically stated for workers safety or mine safety and it was put in mine projection and
12 sometimes we assume that. That's not part of the objections I want to point out to you all and I
13 have contacted the company and they have revised that and have stated a location exception is
14 for mine safety and workers safety. They have now itemized and broken that down where it's
15 clear for people that may not be normally adapted to what we're doing here. In regard to the
16 mining, they started mining projections in that direction and I don't want to speak on behalf of
17 the company but they actually put these wells in advance to degas the mines for mine safety and
18 workers safety. That's what they're doing here and that's probably 2-3 years out is what I would
19 estimate.

20 **Cheryl Keen Tucker**: Thank you, 2-3 years out. That is the answer. I also have a letter written
21 signed by Bob Stanton. He mentioned the de-gassing but he also mentioned and it's pointed out
22 in the Informal Fact Finding hearing that I specifically had asked or noted that the location
23 exception did not. At the bottom of the relocation exception, they did not state mine safety. They
24 actually was one of the reason that they wanted to they did not want waste resources which is an
25 accurate and environmental claim. They wanted to be able to exercise and maximize gas
26 production on the property and I did want to note that.

27 **Bradley Lambert**: Are there any questions from the Board, specifically related to the Informal
28 Fact Finding? [No response] Okay, if not. I'll ask for a motion?

29 **Donnie Ratliff**: Mr. Chairman. This is Donnie Ratliff, I vote to affirm the Director's decision.

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

31 **Bill Harris**: This is Bill Harris, I'll second that.

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

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

1 **Bradley Lambert**: Yes, I affirm.

2 **Sally Ketron**: Okay, Bill Harris?

3 **Bill Harris**: Yes

4 **Sally Ketron**: Bruce Prather?

5 **Bruce Prather**: Yes

6 **Sally Ketron**: Mary Quillen?

7 **Mary Quillen**: Yes

8 **Sally Ketron**: Rita Surratt?

9 **Rita Surratt**: Yes

10 **Sally Ketron**: and of course, Donnie Ratliff?

11 **Donnie Ratliff**: I vote yes.

12 **Bradley Lambert**: Okay, thank you folks. Thank you Ms. Tucker. Thank you Mr. Swartz. The
13 decision of the Director of the Division of Gas and Oil on the Informal Fact Finding has been
14 affirmed.

15 **ITEM NUMBER 5**

16 **Bradley Lambert**: Okay, we're calling Docket Item 5, a petition a petition from Pocahontas Gas
17 LLC, for (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow
18 Agent, attributable to a portion of Tract 1 and a portion of Tract 3, as depicted upon the annexed
19 table; and Dismissal of Coal Owner. This is docket number VGOB 97-0121-0562-04. All parties
20 wishing to testify, please identify yourself.

21 **Mark Swartz**: This is Mark Swartz on behalf of Pocahontas Gas, LLC and Kelli Berry will also
22 be testifying.

23 **Bradley Lambert**: Mr. Swartz, do you agree to hold these proceedings and I'll ask this for the
24 rest of the petitions for the docket items. Do you agree to hold these proceedings virtually?

25 **Mark Swartz**: Yes, I do and my client Pocahontas, LLC agrees to hold this hearing and the six
26 re-pooling or pooling hearings that follow virtually by telephone this morning to get these
27 matters accomplished.

28 **Bradley Lambert**: Thank you Mr. Swartz. Are there any others to testify?

29 **Mark Swartz**: Kelli Berry

1 **Kelli Berry**: Kelli Berry.

2 **Unknown**: Ms. Berry?

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

4 **Unknown**: Yes

5 **Bradley Lambert**: Excuse me?

6 **Sarah Gilmer**: I'm sorry, this is Sarah Gilmer. I was wanting to swear Ms. Berry in.

7 **Bradley Lambert**: Oh.

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

9 **Kelli Berry**: Yes

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

12 **Kelli Berry**: I do.

13 **Sarah Gilmer**: Thank you.

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

15 **Mark Swartz**: Thank you Mr. Chairman. Kelli, you need to state your name again for the
16 record.

17 **Kelli Berry**: Kelli Berry

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

19 **Kelli Berry**: CNX Land, LLC.

20 **Mark Swartz**: and are you here on behalf of Pocahontas Gas, LLC this morning?

21 **Kelli Berry**: Yes

22 **Mark Swartz**: and who is the petitioner in this disbursement petition?

23 **Kelli Berry**: Pocahontas Gas, LLC

24 **Mark Swartz**: Okay. In addition to a disbursement, are we also asking that the Operator be
25 allowed to pay the people receiving the disbursement directly in the future rather than escrowing
26 their funds?

27 **Kelli Berry**: No, this unit is currently producing under a sealed gob unit.

1 **Mark Swartz**: Okay. Which sealed gob unit is that?

2 **Kelli Berry**: It's actually split between two sealed gob units, that would be VP8 sealed gob unit
3 3 and VP8 sealed gob unit 5.

4 **Mark Swartz**: and both of those units are identified in the petition of paragraph 2 with regard to
5 the release sought, correct?

6 **Kelli Berry**: Correct.

7 **Mark Swartz**: Okay, in addition to disbursement we're also looking for at least a partial
8 dismissal of one of the coal owners, is that correct? And to the extent doesn't have a royalty split
9 agreement?

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

11 **Mark Swartz**: Okay, okay and the reason, strike that. The unit that this pertains to is which
12 drilling unit?

13 **Kelli Berry**: W9

14 **Mark Swartz**: and the reason for the request is what?

15 **Kelli Berry**: We would like to disburse funds held in escrow to owners that have returned W-9's
16 who were prior owners.

17 **Mark Swartz**: Okay, if we look at the paragraph A, the factual basis for the relief. It looks like
18 we got several reasons there, the first is that we do have a royalty split agreement?

19 **Kelli Berry**: Yes we do, on tract 30.

20 **Mark Swartz**: Okay, okay. Is that split agreement a 50/50 agreement?

21 **Kelli Berry**: Yes

22 **Mark Swartz**: Okay, then we have a collection of what we call gas claimants, correct?

23 **Kelli Berry**: Yes

24 **Mark Swartz**: and there we are asking that they be allowed to receive disbursements under the
25 provision of the Virginia Oil and Gas Act, which allows gas claimants to be paid in the event that
26 conflicting coal claimants don't prove evidence that support a conflict, right?

27 **Kelli Berry**: Yes

1 **Mark Swartz**: Okay, in that regard I think you've noted that none of the conflicting claimants
2 have produced this evidence except for the Harrison-Wyatt and their royalty split agreements,
3 correct?

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

5 **Mark Swartz**: Okay, now moving to this you have I think we have two tables here?
6 Disbursement tables?

7 **Kelli Berry**: Yes, we do.

8 **Mark Swartz**: The first one, called Table 1 is at pdf page 7 and it looks to be; well it says, it's an
9 exact dollar amount table, right?

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

11 **Mark Swartz**: Okay, and in the event the Board approves this petition. The Board should be
12 directed to pay. Let me change my screen resolution here. The Board should be directed to pay
13 the people listed in Table 1 and you've provided addresses? And the dollar amount is in the far
14 right hand column?

15 **Kelli Berry**: Yes

16 **Mark Swartz**: Okay, and then we've got a second table but before we get to that. Are these
17 payments out of the escrow account, do they need to occur in a specific order?

18 **Kelli Berry**: Yes, the payments for the owners listed on Table 1 should be made first.

19 **Mark Swartz**: Okay, because the payments listed and we will go to Table 2 are percentage
20 payments, correct?

21 **Kelli Berry**: Yes

22 **Mark Swartz**: If the exact dollar amount payments aren't made first, the application of
23 percentages in Table 2 would yield an incorrect result?

24 **Kelli Berry**: Yes

25 **Mark Swartz**: Yes? Okay. So with regard to the percentage payments in the event that this
26 application is approved, are you asking the Board order to require the Escrow Agent to pay the
27 people identified in Table 2 at the addresses you've provided? And the amount calculated by
28 multiplying the percentage in the 3rd column from the right hand margin for each person times
29 the then balance on hand?

30 **Kelli Berry**: Yes

1 **Mark Swartz**: and that would generate the dollar amount?

2 **Kelli Berry**: Yes

3 **Mark Swartz**: Okay. At the bottom of Table 2, you've got an explanation with regard to the
4 Table 1 adjustment, could you tell the Board what's happening here?

5 **Kelli Berry**: Yes, the owners listed on Table 1 are prior owners of the property that is Tract 3 so
6 we're asking the Escrow Agent to total the amount paid to the prior owners and deduct that
7 amount from the current balance for Tract 3 only before those payments are made. There's also a
8 royalty split involved with the current owners CNX and Harrison Wyatt.

9 **Mark Swartz**: Okay. I think the next page of Table 2, you identify the Wells that had
10 contributed to the escrow account before it flipped over into the sealed gobs, right?

11 **Kelli Berry**: Yes, that's correct.

12 **Mark Swartz**: Okay. Then you've provided a revised Exhibit E in the event that the petition is
13 granted?

14 **Kelli Berry**: Yes

15 **Mark Swartz**: That makes it clear that we're still going to have an escrow account?

16 **Kelli Berry**: Yes

17 **Mark Swartz**: Okay, then going forward basis, you've provided an indication of how people
18 will be paid in the event that this application is approved by providing a revised Exhibit EE,
19 correct?

20 **Kelli Berry**: Yes

21 **Mark Swartz**: Okay. Then if we go. Did you attempt a reconciliation here?

22 **Kelli Berry**: Yes

23 **Mark Swartz**: and that is Exhibit J, which is at page 21 of the pdf?

24 **Kelli Berry**: Yes

25 **Mark Swartz**: and you've identified as we work through Exhibit J some instances where you
26 have noted; you have had difficulty identifying a deposit for every royalty check, is that correct?

27 **Kelli Berry**: Yes

28 **Mark Swartz**: The ones that are identified or highlighted in yellow, what does that mean?

1 **Kelli Berry**: That indicates that our records do not match the Escrow bank record, regarding
2 deposits.

3 **Mark Swartz**: and also is that a situation; the yellow highlights, where you can't resolve it?

4 **Kelli Berry**: Yes

5 **Mark Swartz**: and then there are occasional entries; and there's one at the first page, where
6 you've got sort of a darker bracket around entries in the total column, the deposited information
7 and then the escrow royalty deposits and what are the darker brackets indicate?

8 **Kelli Berry**: That we have been able to reconcile those amounts to each other.

9 **Mark Swartz**: Okay, under *inaudible* they don't initially appear to be equal but doing some
10 math and looking at your check and deposit information, you've been able to reconcile those
11 problems?

12 **Kelli Berry**: Yes

13 **Mark Swartz**: Okay, at the very end of Exhibit J I think there is a difference, correct?

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

15 **Mark Swartz**: Between your estimate of the balance and the March 20th, I'm sorry the March,
16 2021 First Bank and Trust balance and what's that difference?

17 **Kelli Berry**: It is a positive difference of \$146.92.

18 **Mark Swartz**: and when you say positive, it means that the Banks balance is that amount greater
19 than the balance you calculated?

20 **Kelli Berry**: Yes

21 **Mark Swartz**: Okay. Then if we go to: you've given us a Harrison Wyatt uses something called
22 a deed of correction that their royalty split agreement, right?

23 **Kelli Berry**: Yes

24 **Mark Swartz**: and you've given the Board a copy of that starting at page 26 of the pdf?

25 **Kelli Berry**: Yes

26 **Mark Swartz**: and then we've got your, let me go a little further here. When we get to pdf page
27 46, there's an affidavit with regard to the fact that there is what Harrison Wyatt has provided
28 evidence of a split agreement that's going to be recognized and is recognized actually in Table 2
29 and proof that you've mailed that notice to them that don't have split agreements their interest
30 will be dismissed?

1 **Kelli Berry**: Yes

2 **Mark Swartz**: Okay, that's all I have Mr. Chairman.

3 **Bradley Lambert**: Okay, thank you Mr. Swartz. Any questions from the Board? [No response]

4 Anything further Mr. Swartz?

5 **Mark Swartz**: No

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

7 **Mary Quillen**: Motion to approve, Mary Quillen.

8 **Bill Harris**: I second, Bill Harris.

9 **Bradley Lambert**: I have a motion and I have a second, any further discussion? [No response]

10 Ms. Ketron, would you poll the Board?

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

12 **Bradley Lambert**: Yes

13 **Sally Ketron**: Bill Harris?

14 **Bill Harris**: Yes

15 **Sally Ketron**: Bruce Prather?

16 **Bruce Prather**: Yes

17 **Sally Ketron**: Mary Quillen?

18 **Mary Quillen**: Yes

19 **Sally Ketron**: Rita Surratt?

20 **Rita Surratt**: Yes

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

22 **Donnie Ratliff**: Yes

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

24 **ITEM NUMBER 6**

25 **Bradley Lambert**: Moving onto docket item number 6, a petition from Pocahontas Gas LLC,
26 for re-pooling under Oakwood Coalbed Methane Gas Fields I & II to address mapping changes,

1 this is docket number VGOB 96-1015 -0557-01. All parties wishing to testify please identify
2 yourself.

3 **Mark Swartz**: Mark Swartz and Kelli Berry

4 **Cheryl Keen Tucker**: Cheryl Keen Tucker

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

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

7 **Kelli Berry**: Kelli Berry

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

9 **Kelli Berry**: CNX Land, LLC.

10 **Mark Swartz**: and are you here on behalf of Pocahontas Gas, LLC with regard to this matter?

11 **Kelli Berry**: Yes

12 **Mark Swartz**: Is it re-pooling?

13 **Kelli Berry**: It is.

14 **Mark Swartz**: and it was originally pooled it looks like in 1996, correct?

15 **Kelli Berry**: Yes

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

17 **Kelli Berry**: W32

18 **Mark Swartz**: and which gas fields?

19 **Kelli Berry**: Oakwood I & II

20 **Mark Swartz**: and the reason for this is stated in the application, but just to remind everybody,
21 what is the reason?

22 **Kelli Berry**: Updated mapping has caused property lines to change and therefore acreage of
23 tracts have changed.

24 **Mark Swartz**: Okay, normally the changes and percentages would require that the Board order
25 would afford the people whose percentages have changed a further opportunity to participate,
26 correct?

27 **Kelli Berry**: Yes

1 **Mark Swartz**: and have all of the percentages in this unit changed as a result of the remapping?

2 **Kelli Berry**: Yes

3 **Mark Swartz**: so that would then require that the re-pooling order give people another
4 opportunity to participate because their percentages have changed, correct?

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

6 **Mark Swartz**: Okay, let's go to. Have you provided then a revised plat, I'm looking at pdf page
7 5 that incorporates the mapping changes?

8 **Kelli Berry**: Yes

9 **Mark Swartz**: So this plat 5 is accurate with the updated information and property lines?

10 **Kelli Berry**: Yes

11 **Mark Swartz**: and let's go to, I think. Let's see here. Let me go back up to the top. Did you
12 provide a revised well-cost estimate with regards to this unit that you filed within the last couple
13 of days?

14 **Kelli Berry**: Yes

15 **Mark Swartz**: Okay, let's go to that then. So which one did it replace?

16 **Kelli Berry**: W32

17 **Mark Swartz**: Is that the one that Mr. Statton had provided on June 25th of 2020?

18 **Kelli Berry**: Yes

19 **Mark Swartz**: and the new one made a change; let me find that. Okay, it's dated October 14,
20 2020, it looks like the change was roughly that the number went up by a little over \$600, correct?

21 **Kelli Berry**: Yes, that's correct.

22 **Mark Swartz**: Okay and you made that change because? Did somebody ask you to do that?

23 **Kelli Berry**: Yes, Mr. Cooper reviewed the cost and requested that change from Mr. Statton.

24 **Mark Swartz**: So you accommodated that request?

25 **Kelli Berry**: Yes

26 **Mark Swartz**: Okay. If we go to; there's an Exhibit B3, which is pdf page 11 and you're pooling
27 here the Commonwealth of Virginia. It looks like there's a road that apparently has a mineral fee
28 associated with it?

1 **Kelli Berry**: Yes

2 **Mark Swartz**: Okay, then we also an Exhibit at pdf page 14 which indicates that this
3 development or that this well is located over existing mine works?

4 **Kelli Berry**: Yes

5 **Mark Swartz**: Then if we go to page 15, it shows where this well is or this well and unit is in
6 relation to a sealed gob unit?

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

8 **Mark Swartz**: If we go back to the plat, is this unit partially in the sealed gob or is it entirely in
9 outside the sealed gob?

10 **Kelli Berry**: It is partially in the sealed gob.

11 **Mark Swartz**: So it would be the western portion of the Unit W32, a part of the western portion
12 of that unit would be in the sealed gob of the Buchanan #1 sealed gob?

13 **Kelli Berry**: Yes

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

15 **Bradley Lambert**: Are there any questions from the Board? [No response] Ms. Tucker, do you
16 have any information for us concerning this unit? [No response] Ms. Tucker, are you still with
17 us?

18 **Cheryl Keen Tucker**: Yes, sir. I'm sorry. I apologize I did not. I thought that this particular
19 docket item was going to be the next one to be heard. I have no comments or objections.

20 **Bradley Lambert**: Okay, thank you Ms. Tucker. Anything further Mr. Swartz?

21 **Mark Swartz**: No, your honor. No, Mr. Chairman, sorry.

22 **Bradley Lambert**: That's okay Mr. Swartz. Any other questions from the Board, if not I'll ask
23 for a motion?

24 **Mary Quillen**: Motion to approve, Mary Quillen.

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

26 **Bradley Lambert**: I have a motion and I have a second. Any other discussion? [No response]
27 Ms. Ketron, would you poll the Board please.

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

1 **Bradley Lambert**: Yes
2 **Sally Ketron**: Bill Harris?
3 **Bill Harris**: Yes
4 **Sally Ketron**: Bruce Prather?
5 **Bruce Prather**: Yes
6 **Sally Ketron**: Mary Quillen?
7 **Mary Quillen**: Yes
8 **Sally Ketron**: Rita Surratt?
9 **Rita Surratt**: Yes
10 **Sally Ketron**: and Donnie Ratliff?
11 **Donnie Ratliff**: Yes
12 **Bradley Lambert**: Thank you Mr. Swartz, that one is approved.
13 **Mark Swartz**: Thank you.

14 **ITEM NUMBER 7, 8, and 9**

15 **Bradley Lambert**: We're calling Docket Item number 7, a petition from Pocahontas Gas LLC,
16 for Re-Pooling under Oakwood Coalbed Methane Gas Field I. Unit CC36. Docket Number
17 VGOB 02-0716-1041-02. All parties wishing to testify please identify yourself.
18 **Mark Swartz**: Mark Swartz and Kelli Berry
19 **Cheryl Keen Tucker**: Cheryl Keen Tucker
20 **Bradley Lambert**: Okay, thank you. You may proceed Mr. Swartz.
21 **Mark Swartz**: Mr. Chairman, I would respectfully request that you combine the re-pooling of 7;
22 docket item number 7, 8 & 9 and that we address them together. They are all re-pooling and all
23 involve the same issue where we're adding or re-pooling because we have identified owners that
24 were omitted and we're correcting that and they are the same folks.
25 **Bradley Lambert**: Okay, Mr. Swartz we'll do that. Let me read those into the record. We're
26 calling Docket Item number 7, a petition from Pocahontas Gas LLC, for Re-Pooling under
27 Oakwood Coalbed Methane Gas Field I. Unit CC36. Docket Number VGOB 02-0716-1041-02.
28 We're also calling Docket Number 8, a petition from Pocahontas Gas LLC, for re-pooling under

1 Oakwood Coalbed Methane Gas Field I. Unit EE34. Docket Number VGOB 02-0820-1055-03
2 and we're also calling Docket Item number 9, a petition from Pocahontas Gas LLC, for re-
3 pooling under Oakwood Coalbed Methane Gas Field I. Unit DD36. Docket Number VGOB 02-
4 0917-1073-02. You may proceed Mr. Swartz.

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

6 **Kelli Berry**: Kelli Berry

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

8 **Kelli Berry**: CNX Land, LLC

9 **Mark Swartz**: and are you here this morning on behalf of the petitioner, Pocahontas Gas, LLC?

10 **Kelli Berry**: Yes

11 **Mark Swartz**: and you've that we've combined three (3) re-pooling applications, right?

12 **Kelli Berry**: Yes

13 **Mark Swartz**: and they pertain to which 3 units?

14 **Kelli Berry**: Unit CC36, Unit EE34 and Unit DD36.

15 **Mark Swartz**: Okay, and is the reason you're re-pooling these three (3) units essentially the
16 same in all three instances?

17 **Kelli Berry**: yes

18 **Mark Swartz**: and that's to account for what?

19 **Kelli Berry**: Previously unidentified unleased interest.

20 **Mark Swartz**: Okay, so you're re-pooling these to add those folks and get them in a position
21 where their correlative rights are protected and they will begin to start receiving royalties.

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

23 **Mark Swartz**: Okay, with regard; and I'll take Unit CC36 first. What did you do to tell we were
24 going to have a Hearing today?

25 **Kelli Berry**: We mailed a copy of the petition by certified mail to all owners within the unit and
26 we also published in the Virginia Mountaineer.

27 **Mark Swartz**: Okay, when did you mail?

28 **Kelli Berry**: The mailing took place on September 24, 2020.

1 **Mark Swartz**: Did that same mailing occur with regard to EE34, DD36; in fact the same date?

2 **Kelli Berry**: Yes

3 **Mark Swartz**: What else did you do to notify people who might be interested in the re-pooling
4 of these three (3) units?

5 **Kelli Berry**: All of these dockets were published in the *Virginia Mountaineer*.

6 **Mark Swartz**: Okay and do you have a date for that?

7 **Kelli Berry**: October 8, 2020.

8 **Mark Swartz**: Have you provided the DGO copies of your certificates with regard to mailing
9 and your proofs of publication?

10 **Kelli Berry**: Yes.

11 **Mark Swartz**: Now with regard to ownership information and giving the Board an idea of what
12 interest the applicant has acquired in these three (3) units and what it is you're seeking to pool,
13 let's start with the percentages in CC36. What do you control by lease, ownership or other
14 agreement and what are you seeking to pool?

15 **Kelli Berry**: We are seeking to pool 4.5390% of the unit.

16 **Mark Swartz**: and what is the percentage; the other flip side of that you already have?

17 **Kelli Berry**: 95.4610%

18 **Mark Swartz**: The same information with regard to ownership then for EE34 is what?

19 **Kelli Berry**: In Unit EE34, we're seeking to pool 30.3315% of the unit and we have control by
20 lease or ownership 69.6685% of the unit.

21 **Mark Swartz**: and with regard to DD36, what are you seeking to pool and what do you control?

22 **Kelli Berry**: With regard to DD36, we're seeking to pool 2.7351% of the Unit and we control by
23 either ownership or lease 97.2649% of the unit.

24 **Mark Swartz**: Are there two wells in each of these units?

25 **Kelli Berry**: Yes

26 **Mark Swartz**: Okay, and are they permitted and drilled?

27 **Kelli Berry**: Yes

28 **Mark Swartz**: Okay. Is escrow required in any of the units?

1 **Kelli Berry**: Escrow is required for Unit CC36 and Unit DD36 as it pertains to tracts that were
2 previously held in escrow.

3 **Mark Swartz**: Have you provided an Exhibit E, with regard to the two units that require
4 escrow?

5 **Kelli Berry**: Yes

6 **Mark Swartz**: Have you provided and Exhibit EE for CC36 and DD36?

7 **Kelli Berry**: Yes

8 **Mark Swartz**: and those are all revised as Exhibit E and the Exhibits EE were all revised as of
9 the time of filing, correct?

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

11 **Mark Swartz**: Have you provided well cost and participation cost information with regard to all
12 three of these units in all six of the wells?

13 **Kelli Berry**: Yes

14 **Mark Swartz**: And starting with Unit CC36, what are the well costs/participation cost of each of
15 the wells?

16 **Kelli Berry**: In Unit CC36 we utilized the well cost that were previously utilized in pooling of
17 the unit and for Well CC36 that was \$244,354.54 and for Well CC36A that was \$357,311.12.

18 **Mark Swartz**: Okay and for the two wells in EE34?

19 **Kelli Berry**: For Well EE34, we utilized the previous cost used of \$234,133.84 and for Well
20 EE34A, \$351,085.00.

21 **Mark Swartz**: Okay and then the same cost information for the two wells in DD36?

22 **Kelli Berry**: Well DD36 costs of \$383,493.00 and DD36A \$342,175.00.

23 **Mark Swartz**: Okay. I'm checking my notes here Mr. Chairman. With regard to each of these
24 three (3) units, have the percentages changed for everybody in the units?

25 **Kelli Berry**: Yes

26 **Mark Swartz**: Okay, so that would then call for the Board's new order; the re-pooling order to
27 give an opportunity to participate the new people that are pooled as well as the old people who
28 are being re-pooled, is that correct?

29 **Kelli Berry**: Yes

1 **Mark Swartz**: Do you want to add any respondents to list of respondents today?

2 **Kelli Berry**: No.

3 **Mark Swartz**: Do you want to dismiss anybody?

4 **Kelli Berry**: No

5 **Mark Swartz**: The Operator in all three (3) instances would continue to be Pocahontas Gas,
6 LLC, is that correct?

7 **Kelli Berry**: Yes

8 **Mark Swartz**: Okay. The standard terms to be included in the order for people that are deemed
9 to have been leased, your recommendation would be what? *inaudible*

10 **Kelli Berry**: Standard terms are \$5 per acre.

11 **Mark Swartz**: and the royalty is what fraction?

12 **Kelli Berry**: 12.5%

13 **Mark Swartz**: Which is a 1/8th?

14 **Kelli Berry**: Yes

15 **Mark Swartz**: Okay, and it's a paid up five-year term I think?

16 **Kelli Berry**: Yes

17 **Mark Swartz**: I think that's all I have Mr. Chairman.

18 **Bradley Lambert**: Okay, thank you Mr. Swartz. Any questions from the Board? [No response]
19 In hearing no questions from the Board, Ms. Tucker do you anything to add?

20 **Cheryl Keen Tucker**: Yes, Mr. Lambert and thank you for hearing my testimony today. I do
21 want to ask Mr. Swartz, when did you begin operations on the properties that these three re-
22 pooling agreements are designated for?

23 **Mark Swartz**: You can tell from the permits, which are on file and available. I don't know I
24 don't have in front of me.

25 **Cheryl Keen Tucker**: Can you tell me what that is? Okay. Did CNX know we had ownership
26 rights in 2012?

27 **Mark Swartz**: I don't know.

28 **Cheryl Keen Tucker**: Why not?

1 **Mark Swartz:** I don't need to know. I need to know what the ownership rights are today to pool
2 this and the representation that my client is making is that having used their due diligence, the
3 percentages that are stated in these three (3) applications with regard to the royalty owners are
4 accurate.

5 **Cheryl Keen Tucker:** Okay, that's one of the questions that I have is why is it now so critical at
6 this point to force the re-pooling and the urgency for the six (6) units without allowing proper
7 discovery and information to be obtained to make sure that these tracts and this due diligence has
8 been done correctly? I have documentation from CNX that there had been errors in this and they
9 realized this and they want to correct it but we have not looked objectively as the owners. I have
10 requested repeatedly the information that supports this, they will not provide it for me. I have all
11 of that information to date but I would like to be able to speak with CNX before the Board rules
12 on this pooling request because the Virginia Oil and Gas Board has authority for the State of
13 Virginia to allow items to be pooled and I know it's participation for protect people that have
14 egregious issues regarding the production of wells; production of gas. I am asking for more time
15 to make sure that those percentages and the property lines are accurate. There has been; I have
16 several maps, none of which are specific of when I received in 2013 which has property lines
17 according to the units. I asked what the units are and which properties are included on those.
18 Again, all of this has happened within the month while I was having conversations and they
19 acknowledged they were not aware; well they were aware that there were issues *inaudible* that
20 the. I am concerned that our rights; correlative rights will be impended upon due to the fact if
21 this is approved it will be recorded in all the jurisdictions and I; us as owners will be required to
22 make an election within 30-days after these have been recorded in all of these jurisdictions to
23 make a decision of whether I would like or our family would like to participate or to come a
24 lessee and/or negotiate a settlement. I do not; this is unjustly *inaudible* situation where we are
25 not able to get information to make an informed decision on what we would be participating in.
26 They've operated for the last 20 years and have those records and they are not making them
27 available to the owners to be able make an informed business decision.

28 **Bradley Lambert:** Mr. Swartz, this is Chairman, Butch. Let me ask you a question and you can
29 clarify this and I think if I'm not mistaken is what I'm hearing Ms. Tucker say is that these Wells
30 were drilled and producing a few years ago but just now we have realized a mistake in ownership
31 so from that time period of when they were producing and now we are re-pooling, I think it's
32 important to note that the land owner just now identified will be paid a difference in escrow for
33 that time period, is that correct? Maybe I didn't say that correctly, but I hope you understand
34 where I'm coming from.

35 **Mark Swartz:** Okay, what happens when; and this is a classic case. It's easier to answer the
36 question you asked in these three (3) units. Everybody's percentage has changed so what is going
37 to need to happen and what will and does happen is the royalty accounting information of new
38 ownership percentages that are reflected in these documents today will be input into the royalty
39 accounting and literally we will go back to day one and rerun royalty interest accounting from

1 day1of first production from these wells in all three (3) of these units up through the current time
2 period and people who have over paid there will be a calculation, there will an effort to recoup as
3 we go forward and people that have been underpaid perhaps or not paid at all that we are adding
4 now, they will receive their share of the production literally from the first gas that was produced
5 back in; I think the first unit here was pooled in 02 so they were all pooled in 02. So we are
6 going to be going back 18 years and starting over to calculate everybody's interest and make sure
7 that the people receive their royalty interest based on the information we now have which we
8 believe is accurate.

9 **Bradley Lambert**: Okay, thank you Mr. Swartz. Can I ask our AG to intervene with us please, J,
10 are you still on the call?

11 **Jerald Hess**: I am, yes sir. Mr. Chairman, this is Jerald Hess with the Attorney General's office.
12 May I address the Board briefly?

13 **Bradley Lambert**: Yes, sir. Please do.

14 **Jerald Hess**: Ladies and gentleman of the Board. I'm going to try to walk a fine line here
15 because I do not want to give the Board legal advice in a setting that is public. Mr. Chairman, if
16 anything I say causes any member of the Board to want to have a private conversation between
17 the Board and it's Counsel, I can certainly help to make arrangements so that we can do that. But
18 I want to remind the Board of what its own rules required, specifically; I'm looking at 4 Virginia
19 Administrative Code 25-160-30 Sub Section G and I will just read that section to the Board at
20 short and make a few comments and hopefully stop short of providing legal advice. That section
21 says quote, All parties in any proceedings before the Board are entitled to appear in person or be
22 represented by Counsel as provided for Administrative Process Act and what that means is
23 something that Mr. Swartz eluded to earlier is that somebody can appear before this Board either
24 in person or by an Attorney licensed in the Commonwealth of Virginia. I would caution the
25 Board not to hear arguments, cross examination or any other legal representation by someone
26 who is not a licensed attorney to do so because it may cause problems for the Board if the Board
27 were to rely or rather act on that. So I would just caution the Board that to remember that the
28 only individuals or entities that can participate in these proceedings here today are persons or
29 their licensed attorneys on their behalf. With that, I will stop and if the Board wishes to have a
30 private conversation with me, we can make those arrangements. Thank you, Mr. Chairman.

31 **Bradley Lambert**: Thank you Mr. Hess. Can I ask the Board if there's a need to address what
32 Mr. Hess just proposed to us or are we comfortable moving forward? [No response] Okay,
33 hearing that there is no need for that, we will continue but Ms. Tucker I will remind you that the
34 information that our Assistant Attorney General just provided so I would caution you to be
35 careful on how you would ask your questions and the information that you're seeking and in the
36 manner that you're asking for that information. So with that in mind, I'll let you continue to

1 voice your opinions on the petition but not to cross examine Mr. Swartz or to ask for information
2 in a way that would make it appear that you are representing yourself or someone else.

3 **Cheryl Keen Tucker**: Why am I not allowed to represent myself?

4 **Mark Swartz**: You're not an owner.

5 **Cheryl Keen Tucker**: I am a. I have all Powers of Attorneys on behalf of the owners, we are
6 successors at *inaudible*.

7 **Bradley Lambert**: Mr. Hess. J, our Assistant Attorney General, would you answer that question
8 for us or could you answer that for us please?

9 **Jerald Hess**: I will try my best to answer that question and still walk this fine line I'm trying to
10 walk. Members of the Board, I would need to review a Limited Power of Attorney in detail to
11 give you an opinion but as the general matter. A party cannot by contract override this Board's
12 rules and regulations and this Board's rules and regulations requires a person to either appear in
13 person or by a Licensed Attorney licensed by the Commonwealth of Virginia. So with all due
14 respect to Ms. Tucker, I would caution the Board to not rely on limited powers of attorney
15 because that cannot over ride this Board's rules and regulations.

16 **Cheryl Keen Tucker**: With all due respect, I wanted to appear in person.

17 **Bradley Lambert**: For the way we are proceeding via virtual and Mr. Hess can correct me if I'm
18 wrong, but I think that since we all consented to this virtual hearing via conference call, we are
19 representing ourselves in person. J, could you weigh in on that please?

20 **Jerald Hess**: Sure, I think unfortunately the phrase in person here is being used in two different
21 ways. The ways the rules and regulations of this Board use that phrase, they mean that an owner
22 could come before this Board or owner's licensed attorney could come before this Board. That is
23 what is meant by the phrase in person, we have also used that phrase this morning to talk about
24 the fact that because of COVID-19, we cannot meet physically in person and instead we are
25 meeting by the phone. That is a different issue that we've already addressed. What I'm trying to
26 caution for the Board is that unless an owner or an owner's licensed attorney is making
27 presentations before this Board, I would just remind this Board of what its rules and regulations
28 require as far as appearing before this Board.

29 **Cheryl Keen Tucker**: So am I incorrect saying that you are stating that I, Cheryl Keen Tucker,
30 am not an owner and the fact that my mother is 87 years old and I have full representation rights
31 to speak on her behalf that precludes me from being able to represent her interest? You are also
32 stating that which I have filed with the CNX and with the Virginia Oil and Gas Board copies of
33 the Limited Powers of Attorney that CNX required us to file so I would be able to speak as one
34 voice on behalf of the G.W. McGlothlin heirs?

1 **Jerald Hess:** Mr. Chairman, I'm unsure how the Board wants to respond. I don't think the Board
2 wants me to get into a back and forth with Ms. Tucker. I will just restate that either an owner or
3 owner's licensed attorney is allowed under the Board's rules to participate in Hearings of the
4 Board.

5 **Bradley Lambert:** Okay, thank you.

6 **Cheryl Keen Tucker:** and again, I don't want to go back and forth either but if you want to state
7 for the record that I have also not been wanting to do this in front of the Board. I have been
8 requesting specifically to talk about with CNX directly. I am sorry it had to get to the point to get
9 before the Board, I have current correspondence with Matthew Putnick, Stephanie Gill, and
10 Meredith McLoughlin as recently as last night.

11 **Bradley Lambert:** Ms. Tucker, we appreciate that but please understand that this Board cannot
12 intervene into discussions that you're having with Pocahontas Gas concerning your agreements if
13 you have issues with Pocahontas Gas on agreements you're trying to work out or contracts
14 you're trying to work out and you can't reach that agreement that would be a civil matter and not
15 before this Board. The only thing that this Board has to consider with these three (3) units that
16 are before us is the re-pooling to correct mistakes that had been found and that's what we are set
17 to do and as you heard given the re-pooling, now everybody's interest is going to change and the
18 statements made in the past are going to be corrected. So that's what the Board has to rule upon,
19 not your contract negotiations with Pocahontas Gas.

20 **Cheryl Keen Tucker:** Yes, I do, I do understand that. Again, my question has been why do we
21 have to make a decision today on these pooling requests without the detailed information. If this,
22 if we do continue and find out there's additional errors this will be recorded and stated as law
23 and the only recourse is in civil court.

24 **Bradley Lambert:** No ma'am, that's not correct. If there are other interest that are found later on
25 they will be back before this Board to re-pool the unit again to make things right again. This is
26 not the first time this has come before the Board, we have heard many, many, many cases of re-
27 pooling because some land owners were found that weren't previously notified or previously
28 identified, I should say. Re-pooling happen all the time because of these mistakes. This is not
29 new.

30 **Cheryl Keen Tucker:** I respect that decision and as I have sent in a letter on September 22, my
31 concern is, that once this pooling is filed. We will be deemed leased or we have to choose to
32 participate, I will only have 30 days to make a business decision regarding either of those
33 choices and I do not have enough information to make an informed decision. If this is not pooled
34 and recorded today, I would have more time.

35 **Bradley Lambert:** This is for Ms. Berry, can you tell this Board when McGlothlin heirs were
36 first notified? In other words.

1 **Mark Swartz**: Of this Hearing?

2 **Bradley Lambert**: Yes, of this Hearing or that they had the opportunity to participate?

3 **Mark Swartz**: Okay, let me look at. I need to go back to my documents, it will take me a second
4 here. Okay, let's look at number 7 and let's see when that was mailed. Okay, it looks like we
5 mailed. We mailed a notice with regard to this pooling or the re-pooling of these three (3) units
6 on September 24, 2020 and we published obviously in October. So I guess it's now the 20th, so
7 they've had, you know, so it may have took a couple of days, probably 50 days. It's going to take
8 you guys some time to enter an order assuming these are approved, then they're going to have 30
9 days so I'm thinking there are going to have on the Order of three (3) months because the
10 pooling applications indicate that these are going to be your options. You can participate, you
11 can negotiate or be deemed leased. So it looks like they are going to have a total of at least three
12 (3) months.

13 **Cheryl Keen Tucker**: Respectfully to the Board I have a question, it is three (3) options of
14 whether we have to participate as an owner or that we are deemed leased or we have another
15 ownership option. If we do not want, we're in a situation that we do not want to do either of the
16 three (3) basically our corrective rights are based on an actual approval of the pooling even if in
17 those months that Mr. Swartz are talking about. We do, we will not have enough information and
18 also at the same time, they had begun operating on the property in 2001 and we really don't have
19 any choice as owners of that property.

20 **Bradley Lambert**: Well Ms. Tucker, I'm not sure what your question is. Again, this Board is not
21 hearing anything outside the realm of things we haven't dealt with many, many years and your
22 question is what happens if you don't do any of the three (3)?

23 **Cheryl Keen Tucker**: Uh hum.

24 **Bradley Lambert**: This Board would have to make a decision on whether or not to go ahead and
25 pool a unit and put you in the pooling order and have your funds escrowed.

26 **Cheryl Keen Tucker**: Yes, sir and that's my understanding and we have not ever been pooled
27 before at all.

28 **Mark Swartz**: Well, you were pooled in *inaudible*.

29 **Cheryl Keen Tucker**: *inaudible*, just that one which as you know I'm not allowed to talk to
30 you. I have to talk to the Board and to the Board I am saying that all kind of slipped under the
31 radar and I was not allowed to be represented and I cannot go against your ruling and I have to
32 accept that ruling on CC35 but I do have an opportunity to ask for reconsideration of the
33 ramifications of your specific approval of these requests at this particular Hearing. We would
34 like to defer these approvals to a later till we can have more time to make a more informed
35 business decision.

1 **Bradley Lambert**: Okay, thank you Ms. Tucker for those comments. Mr. Swartz, do you have
2 anything further?

3 **Mark Swartz**: We are trying to correct the ownership data with regard to these three (3) units
4 and then we need to do it sooner rather than later at this point. I mean we've completed our due
5 diligence, we've got the mapping. It's going to reduce some of the people who are receiving
6 payments amounts. It's going to obviously go back in time and calculate the amounts due the
7 McGlothlin heirs. The work is done and it's solid work and that's what Kelli is telling us today.
8 We need to implement it and move forward.

9 **Cheryl Keen Tucker**: May I address the Board one more time?

10 **Bradley Lambert**: Yes, ma'am.

11 **Cheryl Keen Tucker**: This is Cheryl. Again, stating I don't understand. Mr. Swartz just stated, I
12 do not understand the rush. There's not been a rush to pool these units over 20 years and I have
13 documentation specifically they knew we had ownership in those wells as early as before but
14 specifically in 2012 and they did not feel that they had to force pool at that moment. So we're
15 now 20 years or 8 years excuse me, 6 six years later and now there's a rush to have this re-
16 pooled without us being able to look at business information regarding our ultimate and they
17 have been on the property without any deeds, contracts or agreements since 2001 and we've not
18 had any say.

19 **Bradley Lambert**: Are there any questions from the Board? Or either party?

20 **Mark Swartz**: Not from me your honor.

21 **Bradley Lambert**: Any questions from the Board? [No response] If there are no questions from
22 the Board, are there any further discussions? If not, I'll ask for a vote, no excuse me. I'll ask for a
23 motion?

24 **Bruce Prather**: Hey Butch, this is Bruce Prather. The only thing that I kind of regret about this
25 is the fact that this has never happened. That's the thing about it that bothers me more than
26 anything and the thing about it is I don't know what to do about it. That's more or less my
27 comment.

28 **Bradley Lambert**: Thank you Mr. Prather. I'll call again for a motion?

29 **Donnie Ratliff**: This is Donnie. I'll make a motion to approve all three documents as presented.

30 **Bradley Lambert**: I have a motion, do I have a second?

31 **Bill Harris**: This is Bill Harris. I'll go ahead and second that although I hear Bruce Prather's
32 concern, but I'll second the motion.

1 **Bradley Lambert**: Thank you Mr. Harris. I have a motion and I have a second. Any further
2 discussion? [No response] If there's nothing further, I'll ask Ms. Ketron to poll the Board?

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

4 **Bradley Lambert**: Yes, for approval.

5 **Sally Ketron**: Bill Harris?

6 **Bill Harris**: Yes, for approval.

7 **Sally Ketron**: Bruce Prather?

8 **Bruce Prather**: Yes, reluctantly.

9 **Sally Ketron**: Mary Quillen?

10 **Mary Quillen**: Yes, for approval.

11 **Sally Ketron**: Rita Surratt?

12 **Rita Surratt**: Yes

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

14 **Donnie Ratliff**: Yes

15 **Bradley Lambert**: Mr. Swartz, these have been approved and Ms. Tucker, thank you for your
16 comments and your concern but please understand that as a Board, we have to take what's before
17 us and as a Board, we're trying to correct a mistake that's been presented to us that's been going
18 on for several years so hopefully, I know that we weren't able to give you exactly what you're
19 asking for as a delay and more time to approve these but understand that you still have time to
20 make your business decisions as up to three (3) months before these can get processed and
21 recorded. So hopefully you'll be able to work something out with Pocahontas Gas. Thank you
22 Mr. Swartz, those three (3) have been approved.

23 **ITEM NUMBER 10, 11 and 12**

24 **Bradley Lambert**: We're calling Docket Item number 10, a petition from Pocahontas Gas LLC,
25 for pooling under Oakwood Coalbed Methane Gas Field I. This is Unit CC34. Docket Number
26 VGOB 20-1020-4231. All parties wishing to testify, please identify yourselves.

27 **Mark Swartz**: Mark Swartz and Kelli Berry.

28 **Cheryl Keen Tucker**: Cheryl Keen Tucker.

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

1 **Mark Swartz**: Mr. Chairman, I would ask that you, the Board; would consider combining
2 docket items 10, 11 and 12. These are all three (3) pooling applications. These units were
3 originally developed as voluntary units because the interest we've been talking about in 7, 8 and
4 9 was not something my client was aware of when they was originally drilled and treated as
5 voluntary units. So, we're essentially pooling these, not essentially; we're asking to pool items
6 10, 11 and 12 to correct the same mistake issue that we had in the other units. I get these pooled
7 and give everybody an opportunity to participate and go back to day 1 to recalculate the
8 appropriate royalties.

9 **Bradley Lambert**: Okay, Mr. Swartz. We'll go ahead and call 11 and 12. Docket Item Number
10 11 a petition from Pocahontas Gas LLC, for pooling under Oakwood Coalbed Methane Gas
11 Field I. Unit DD34. Docket Number VGOB 20-1020-4232 and we're calling Docket Item
12 Number 12, a petition from Pocahontas Gas LLC, for pooling under Oakwood Coalbed Methane
13 Gas Field I, this is Unit DD35. Docket Number VGOB 20-1020-4233. You may proceed Mr.
14 Swartz.

15 **Mark Swartz**: Thank you. I would like to call Kelli Berry.

16 **Kelli Berry**: Yes.

17 **Mark Swartz**: Could you state your name for us?

18 **Kelli Berry**: Kelli Berry.

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

20 **Kelli Berry**: CNX Land, LLC.

21 **Mark Swartz**: Let me remind you Kelli, you are still under oath. You understand that?

22 **Kelli Berry**: Yes

23 **Mark Swartz**: Okay, who is the petitioner in these three (3) pooling applications?

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

25 **Mark Swartz**: and are you appearing on behalf of Pocahontas Gas, LLC with regard to these
26 three (3) applications?

27 **Kelli Berry**: Yes

28 **Mark Swartz**: Okay, is Pocahontas Gas requesting that Pocahontas also be appointed the
29 Board's Operator?

30 **Kelli Berry**: Yes

1 **Mark Swartz**: and with regard to the fact that this is a pooling and not a re-pooling, first of all;
2 is Pocahontas Gas, LLC authorized to do business in the Commonwealth?

3 **Kelli Berry**: Yes

4 **Mark Swartz**: Has it registered with the DMME and the Division of Gas and Oil?

5 **Kelli Berry**: Yes

6 **Mark Swartz**: Does it have a blanket bond on file with regard to its operations?

7 **Kelli Berry**: Yes

8 **Mark Swartz**: Is it true that the reason. Strike that. Were these three (3) units originally drilled
9 as voluntary units?

10 **Kelli Berry**: Yes, they were.

11 **Mark Swartz**: and the reason that we're pooling them today is essentially the title issue that
12 we've been talking about with regard to Docket Item 7, 8 and 9, is that correct?

13 **Kelli Berry**: Yes

14 **Mark Swartz**: Okay, and what did you do to tell the people in the voluntary unit and that you
15 have agreements with and the people that you are seeking to pool today; that you do not have
16 agreements with, that there would be a Hearing with regard to this pooling application today?

17 **Kelli Berry**: We mailed copies of the petitions to the unleased owners within each unit by
18 certified mail and we also published each notice in the *Virginia Mountaineer*.

19 **Mark Swartz**: and the date that you mailed?

20 **Kelli Berry**: September 24th for all.

21 **Mark Swartz**: and the date you published?

22 **Kelli Berry**: October 8th, also for all.

23 **Mark Swartz**: These are 80-acre Oakwood units?

24 **Kelli Berry**: Yes

25 **Mark Swartz**: Okay, do you want to add any people as respondents today?

26 **Kelli Berry**: No

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

1 **Kelli Berry**: No

2 **Mark Swartz**: With regard to each of these three (3) applications, starting with docket item
3 number 10. Could you tell the Board the percentage of the interest that you're seeking to pool
4 and the percentage of the interest that you already control by lease or ownership?

5 **Kelli Berry**: Yes, first for Docket Item 10, that is Unit CC34 we're seeking to pool 0.0446% of
6 the unit as we have leased or ownership of 99.9554% of the unit. For Docket Item 11, that is Unit
7 DD34 we're seeking to pool 6.4568% of the unit as we have leased or owned 93.5432% of the
8 unit and as for Docket Item 12, that is Unit DD35, we are seeking to pool 5.7442% of the unit as
9 we have under lease or own 94.2558% of the unit.

10 **Mark Swartz**: With regard to each of these applications, have you submitted a revised plat?

11 **Kelli Berry**: Yes

12 **Mark Swartz**: and Tract ID's to go with of those plats?

13 **Kelli Berry**: Yes

14 **Mark Swartz**: Okay. Let me get back in here. As an example, if you could go to the plat for
15 Item Number 10, CC34 that we're talking about. I'm looking for the date of that plat. It looks
16 like it was stamped a PE on September 24, 2020, correct?

17 **Kelli Berry**: Yes, that's correct.

18 **Mark Swartz**: Obviously this plat would be different than the Title information and Tract
19 information that you used when this was treated as a voluntary unit?

20 **Kelli Berry**: Yes

21 **Mark Swartz**: Are you satisfied that the plat for CC34, DD34 and DD35, that those plat's are
22 accurate and include all owners that you are aware of?

23 **Kelli Berry**: Yes

24 **Mark Swartz**: Okay, with regard to the owners; the royalty owners in these three (3) units, is it
25 true that all of them will be entitled to an election?

26 **Kelli Berry**: Yes

27 **Mark Swartz**: Is it also true, in sort of anticipating the question that because you are adding
28 owners, the royalty's interest from day 1 from each of these units will need to be recalculated?

29 **Kelli Berry**: Yes

1 **Mark Swartz**: and the results will be that the people that will be paid historically will have been
2 overpaid and you'll have to re-coop from them?

3 **Kelli Berry**: Yes

4 **Mark Swartz**: and the people that we are adding as respondents would be paid all the way back
5 to the first production?

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

7 **Mark Swartz**: and it looks like these, well do we know when these voluntary units. I guess we
8 can look at the drilling information. It looks like they go back to 2001?

9 **Kelli Berry**: Yes

10 **Mark Swartz**: Well, for permits we can't really tell when they were done but yes, we can I
11 guess but we don't know when they went into production? But we've got some 2007 well
12 permit, 2001 permit. So they go back a number of years, correct?

13 **Kelli Berry**: Yes

14 **Mark Swartz**: Okay, in each of the three (3) units, is it true that there are two (2) wells?

15 **Kelli Berry**: Yes

16 **Mark Swartz**: Have you provided the cost information and participation information for all six
17 (6) wells to each unit?

18 **Kelli Berry**: Yes

19 **Mark Swartz**: Those are exhibits in the permit or the pooling package that were mailed to the
20 owners, correct?

21 **Kelli Berry**: Yes, those are Exhibit C.

22 **Mark Swartz**: Okay, with regard to these three (3) pooling applications in the event that the
23 *inaudible* to have the least are you recommending royalty terms; standard royalty terms, so
24 that the Board were to be included in its order?

25 **Kelli Berry**: Yes

26 **Mark Swartz**: What would the royalty be?

27 **Kelli Berry**: \$5 per acre.

28 **Mark Swartz**: That sounds like a bonus, okay?

1 **Kelli Berry**: Yes, *inaudible* 1/8th.

2 **Mark Swartz**: Okay, is this a paid up lease? 5 year?

3 **Kelli Berry**: Yes

4 **Mark Swartz**: and obviously, these wells are already there so these questions are retrospective
5 in a sense as well but are the wells that exist in these three (3) units, the two (2) wells each in
6 your judgement a reasonable way to produce the coalbed methane from these three (3) units?

7 **Kelli Berry**: Yes

8 **Mark Swartz**: In the event that the Board approves these three (3) pooling applications, based
9 on the title information that was in the tract mapping information that was used to pool; to do
10 these three (3) pooling applications, are you satisfied that the correlative rights of all the owners,
11 whether leased or unleased will be protected in the event of the entry of an order?

12 **Kelli Berry**: Yes

13 **Mark Swartz**: Okay, and with regard to the question of escrow. It looks like with regard to
14 Docket Items 10, 11 and 12, escrow would not be required?

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

16 **Mark Swartz**: Once the math is calculated, the people that are joining the unit on this pooling
17 that were not receiving royalties in the past would receive a check and wouldn't go into escrow,
18 it would go to them? To catch them up?

19 **Kelli Berry**: Yes

20 **Mark Swartz**: Okay. I think that's it Mr. Chairman. Just let me check my notes real quick here. I
21 believe that's all I have at this time.

22 **Bradley Lambert**: Thank you Mr. Swartz. Any questions from the Board for Mr. Swartz? [No
23 response] If there are no questions from the Board, Ms. Tucker do you have comments?

24 **Cheryl Keen Tucker**: Yes, I would like to address the Board. As Mr. Swartz has stated we do
25 have retrospective information that we do have for the past 20 years, we also have in this pooling
26 request have not been provided or it's not in the pooling request of the actual tract mapping
27 stating the actual tracts themselves, which are considered superimposed over the unit. We don't
28 see the owners. I have a map from 2013 that does specifically have that but from what I've
29 gathered, I cannot find that the VGOB does not or only has unit areas and does not have specific
30 tract number that correlates. CNX has that and they have retained it as proprietary only to them
31 because they paid for the surveys and the titles. There have been \$6.7 million NCF's pooled off
32 all of these as of to date plus or minus as of March. Since we are not able to see which plats are

1 in the units, we; due to all the considerations of the heirs in the past, we would like to verify what
2 these percentages are that are going to be recorded and we do say that they have been on the
3 property since 2001 which they do say, we are attempting to correct this at this point. We do not
4 want to be leased so therefore; they're stating we will get a 12.4% of the net after the sales price,
5 cost of the transportation fee completion, etcetera. We had asked to find out because they had
6 been on the property and to dismissing the knowledge that we owned the property and had not
7 recognized that until these events. I have questions if this had ever been pooled to date, if I had
8 not asked all the questions regarding the pooling in CC35? Do you have any questions?

9 **Rick Cooper**: Yes, Ms. Tucker. This is Rick Cooper. So to make sure I understand, are you
10 saying you didn't get a plat that's depicted in this petition? You didn't get a copy of the plat?

11 **Cheryl Keen Tucker**: I did receive the plat but it does not show property boundaries of the
12 tracts of land that we have ownership in.

13 **Rick Cooper**: For clarity, you're saying you would like to have a map of the adjacent units that's
14 not part of this pooling? You want a larger map of the adjacent units? Correct?

15 **Cheryl Keen Tucker**: I would like that but I would also like, I'm so sorry. Yes, I am saying that
16 but I would also like to see that the actual plats that we are pooling and the percentages of
17 property lines that they are saying that we have interest in and making these calculations based
18 on? That is not given in the plat and if this is a GIS system, there is no reference to that unit. You
19 have to piece together the information that they have provided. I happen to get a map in 2013
20 that had that information so I do know it is available but has not been produced for our review.
21 Our concern is there have been tracts of land that have been added and that we have ownership,
22 there are tracts of land that are different from what they said we owned in 2014 and I have
23 evidence of additional tracts of land that have not been pooled as of to date.

24 **Rick Cooper**: Thank you.

25 **Mark Swartz**: This is Mark Swartz, Mr. Chairman. If I could address the plat?

26 **Bradley Lambert**: Go ahead Mr. Swartz.

27 **Mark Swartz**: There is a plat and I'm just going to stay at Item 10, CC34. If you go to page; pdf
28 page 5 of the information.

29 **Cheryl Keen Tucker**: Let me get that pooling request so I can follow what you're saying, Sir.
30 Okay, I have CC34 in front of me now.

31 **Mark Swartz**: Okay, there are tracts identified.

32 **Cheryl Keen Tucker**: There's.

1 **Mark Swartz**: Ma'am, I try not to interrupt you. So okay, there are tracts shown on the plat and
2 they are identified by numbers and letters and the mapping shows the individuals tracts that are
3 identified by letters and numbers. If you go with tract identifications which immediately follows
4 the plat map, you will see at Tract 1G; G.W. McGlothlin 56 acre tract. You will see at Tract 3A,
5 you will see the G.W. McGlothlin 100 acre tract and other people as well. If you go to 3B, you'll
6 see the 100 acre tract; again.

7 **Cheryl Keen Tucker**: Which page is that on and the Tract Identification, I'm sorry?

8 **Mark Swartz**: They are right behind the map, right behind the plat.

9 **Cheryl Keen Tucker**: Yes, I am looking.

10 **Mark Swartz**: Okay, then if you go.

11 **Cheryl Keen Tucker**: There's also quite a few people in there, okay.

12 **Mark Swartz**: Correct. If you go to Page B3 or I'm sorry Exhibit B3, which starts at page 10.
13 B3 identifies the unleased owners and claimant that are being pooled and for each.

14 **Cheryl Keen Tucker**: I do not have a page 10.

15 **Mark Swartz**: It is a pdf. No, see your looking, ma'am. You're looking at a hard copy, I'm
16 looking at a pdf. Okay?

17 **Cheryl Keen Tucker**: I'm looking at what you mailed me in.

18 **Mark Swartz**: You're not listening to me. You're not listening to me. I'm looking at an
19 electronic copy that is a pdf that has a page 10 in it.

20 **Cheryl Keen Tucker**: Uh um.

21 **Mark Swartz**: If you look through your papers or something identified at the top as Exhibit B3?
22 That's what I'm talking about it. I have no idea what that page number might be.

23 **Cheryl Keen Tucker**: Uh um, Okay. I'm looking for B3. Hold on. I'm at Exhibit B, okay. Very
24 last page, Exhibit B3. Yes, sir.

25 **Mark Swartz**: Exhibit B3, we have identified the list of the people that we have leases from and
26 we are referencing the Tracts identified in the plat and the Tract ID's and that we're giving
27 names. For example, if you come down to toward the bottom of the B3 exhibit, you'll see Mary
28 R. Barnette. I assume that's your mom?

29 **Cheryl Keen Tucker**: Yes, sir.

1 **Mark Swartz:** Okay and you'll see for her in that Tract; 3A, her acreage is identified and her
2 percentage in the unit is identified. So my response to the assertion that we didn't provide a map
3 that shows tracts that identifies owners of those tract and then that further breaks out the
4 percentages in acreages of the people in the Tracts that we're seeking to pool. I would suggest
5 that based on what I have just gone through with the Board that we did indeed give that
6 information and provided to the folks we are seeking to pool today when we mailed them our
7 pooling application.

8 **Cheryl Keen Tucker:** Thank you for that. Those comments, I would like to address the Board
9 that a reasonable person would not necessarily incur these correlations between the unit numbers
10 on an abstract map to each heir so many different paragraphs and breaking down and within that,
11 I don't see a basis for specifically as I know that for the Regulations for the Act of how each of
12 those percentages are calculated such as .12 acres, I don't see a 1.2 acre tract on the map. I don't
13 see the various; they're broken out but other than the little box there may be other people on it
14 and you are not sure of the grand total of the entire plat and you don't know the exact totals that
15 are within that 80 acre unit and I'm assuming that you have due diligence. I would just like to
16 because of all of these other issues and mistakes from the past, I would like to be able to be
17 independently verify that.

18 **Mark Swartz:** Well, then you can do your title.

19 **Cheryl Keen Tucker:** Yes, sir. I have title documentation on all of this going back from 1887
20 through the purchase of property from the other heirs of the G.W. McGlothlin in 2001.

21 **Mark Swartz:** If you look at the plat map, Tract 3A is a title little piece that comes across the
22 southern boundary of the 80 acre unit and then if you go to Exhibit B3, it says that your mom has
23 1/28th interest in that .12 acre tract. I mean that map is right there.

24 **Cheryl Keen Tucker:** Correct, and yes the map is there and the map is there. I do want to note
25 that is just my mother's, not our entire family.

26 **Mark Swartz:** Correct.

27 **Cheryl Keen Tucker:** So it minimizes the effect of it. That's why we wanted to negotiate a total
28 or not negotiate but we are representing ourselves as a family.

29 **Bill Harris:** Mr. Chairman, this is Bill Harris. I have a question.

30 **Bradley Lambert:** Yes, Mr. Harris.

31 **Bill Harris:** Let me ask, I am back on the plat again. I can see the lower left corner that; I'm
32 sorry the lower right corner that has the box with a 3 in it and I don't see on mine a breakdown
33 further than 3. Am I missing something? Because that is part of the question Ms. Tucker had.

34 **Bradley Lambert:** Mr. Harris, you don't see 3A and 3B?

1 **Bill Harris**: No, not unless I'm on. Oh, wait a minute, which; maybe I'm on the wrong one.
2 Which one?

3 **Mark Swartz**: We're on Item 10, Mr. Harris.

4 **Unknown**: *inaudible*

5 **Bill Harris**: I'm there but which unit?

6 **Mark Swartz**: CC34.

7 **Bill Harris**: Okay, I'm on the wrong unit. Okay. Sorry.

8 **Mark Swartz**: That's good to hear because I was thinking what in the world is going on? So,
9 okay. Go ahead and find CC34 and make sure you follow and/or have questions.

10 **Bill Harris**: Okay, just a second.

11 **Cheryl Keen Tucker**: Is there an Exhibit 32? I have Exhibit B then Exhibit B3 but I don't see an
12 Exhibit 3-2?

13 **Mark Swartz**: You mean B, as in boy 2?

14 **Cheryl Keen Tucker**: Yes, sir.

15 **Mark Swartz**: That would only be if we were dismissing people and we're not dismissing
16 people.

17 **Cheryl Keen Tucker**: Okay, that wasn't clearly stated so I did not know that.

18 **Mark Swartz**: We wouldn't include it if we weren't doing that.

19 **Cheryl Keen Tucker**: Again, a reasonable person looking at this and trying to determine
20 independently what interest we actually do truly have, it's not clear unless I had a very large
21 knowledge base of Gas and Oil regulations which I. Hello? Hello? Hello?

22 **Bill Harris**: Did we lose someone?

23 **Cheryl Keen Tucker**: I think I lost you, hello? Can you hear me?

24 **Mark Swartz**: Yes.

25 **Bill Harris**: Yes

26 **Cheryl Keen Tucker**: Thank you. My air pods ran out and I apologize. I'm on speaker phone
27 now.

1 **Bill Harris**: Okay, Mr. Chairman, Mr. Swartz, Ms. Tucker, for the record I did find 3B in the
2 corner so I do have the right plat in front of me.

3 **Mark Swartz**: Good.

4 **Bradley Lambert**: Okay, thank you Mr. Harris. Are there any other questions from the Board?
5 [No response] Well, I've got to tell you I am kind at a loss except for. Ms. Tucker, this is a way
6 that we have been identifying tracts with tract locations and over to the B3 that correlates with a
7 plat, we've been doing this for years so I don't know how we can help you with that. So I'm at a
8 loss on how we need to address what you're asking us, except.

9 **Cheryl Keen Tucker**: Uh um.

10 **Bradley Lambert**: Except, I'll ask the Board if there's any questions that they may have that
11 apparently I'm missing.

12 **Cheryl Keen Tucker**: May I address the Board?

13 **Bradley Lambert**: Yes, ma'am.

14 **Cheryl Keen Tucker**: I do know that these maps do exist as I do have one from August 15,
15 2013. However; it's not publicly available.

16 **Bradley Lambert**: Ms. Tucker, please understand that the maps that we receive in these
17 applications are true and accurate to the best our knowledge as presented to us. I'm not sure what
18 map you're asking us for beyond what we have in a petition what we have to consider.

19 **Cheryl Keen Tucker**: I understand.

20 **Bradley Lambert**: Are you asking for a global map of that area with everybody in that area? Of
21 tracts identified that's not related to this petition? If so, we can't help you.

22 **Cheryl Keen Tucker**: You cannot help me or you can help me? What did you say?

23 **Bradley Lambert**: If you're asking for a global map of that area with everybody's tracts that's
24 outside this petition, we cannot help you with that. We don't have that information.

25 **Cheryl Keen Tucker**: I understand. I'm not asking for all outside, I'm asking for within it and I
26 do understand that the protocol in the past has been with legal presentation and again, I am
27 having. I have had difficulty and I will have been doing title reviews but this stuff is indicative is
28 the confusion, the past history of the confusion regarding these tracts of land.

29 **Bradley Lambert**: Mr. Swartz, do you have anything further to add?

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

1 **Bradley Lambert**: Okay. Are there any other questions from the Board? [No response] If there's
2 no further questions from Board, I'll ask for a motion?

3 **Donnie Ratliff**: This is Donnie. Motion to approve Mr. Chair.

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

5 **Bradley Lambert**: I have a motion and I have a second. Is there any further discussion? [No
6 response] Ms. Ketron, would you poll the Board please?

7 **Sally Ketron**: Yes, Butch Lambert?

8 **Bradley Lambert**: Yes, for approval.

9 **Sally Ketron**: Bill Harris?

10 **Bill Harris**: Yes

11 **Sally Ketron**: Bruce Prather?

12 **Bruce Prather**: Yes

13 **Sally Ketron**: and Mary Quillen?

14 **Mary Quillen**: Yes

15 **Sally Ketron**: Rita Surratt?

16 **Rita Surratt**: Yes

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

18 **Donnie Ratliff**: Yes

19 **Bradley Lambert**: Thank you Mr. Swartz, those have been approved and Ms. Tucker, let me
20 add that issues like this, we will need a better understanding of the permit applications or the
21 well applications and what's contained in those petitions and if there's questions that you don't
22 understand. I would encourage you to contact Rick Cooper at the Division of Gas and Oil and sit
23 down with him and his staff. They will be more than happy to help explain these Tract ID's and
24 Tract locations and any information that you don't understand in these petitions. So thank you
25 very much for your comments and we understand your concern but we will work with you and
26 try to help you in any way we can for a better understanding.

27 **Cheryl Keen Tucker**: I do want to say and thank you very much for hearing me and also I do
28 want to extend a special to the Director, Rick Cooper, Sally Ketron and Sarah Gilmer. They have
29 been extremely helpful and trying to help me understand the procedures and what the public

1 information database and what information I get from it. So I appreciate all of the help today and
2 I will take you upon and appreciate your support in the future. Thank you.

3

4

ITEM NUMBER 13

5 **Bradley Lambert**: So we will move onto Docket Item 13, the Board will now receive an update
6 of Board and Division activities from the staff. Mr. Cooper?

7 **Rick Cooper**: Yes, thank you Mr. Chairman. So you all got a couple of items in your email, one
8 of them I'm not going to go into them too much detail because we had the First Bank and Trust
9 given their report today. But I occasionally give you a running tally of what we have done and as
10 far as the coal dismissals was enacted July 1, 2015 we have \$21,759,767.78 and I know Sarah
11 and Sally and myself and we really appreciate you all and your all support on that because that
12 has been pretty good effort but we're still going forward on that and also I think that the Board
13 approved for us to start to disburse unknown, unlocatable and again we thank you all for your
14 support and some of those are pretty difficult. I give Ms. Gilmer the biggest thank you for that
15 because she handles the vast majority with Sally as a support on that. They do a really good job
16 and we've disbursed as Jody Maney has said over a million and we still think just to let you
17 know that we have around \$2 million left in unknown, unlocatable and Sarah and Sally are
18 working close with the Operators so they come in every week. So there's rarely a week we don't
19 get a few of those petitions but we'll continue to do that and just summarize from where we are
20 at since we started. As some of you all remember, you all were on the Board at that time. We had
21 about 1300 dockets at the time and almost \$30 million. So now we are down to 588 dockets and
22 \$7.6 million so we are making some headway on that but we will continue to do that. I just want
23 to thank you all for allowing us to do it. Secondly, in our effort, we are always trying to clean up
24 these things and I know Mr. Harris had brought it up a time or two. At the bottom of the escrow
25 summaries page that you see sometimes; we call them the green files. I believe the last board
26 meeting we had, we actually cleared up a couple of those. We have one more to clear up and I
27 think you have that letter. It's the George account, as far as the banks got it, its 8888111 and we
28 have worked with EnerVest Operating and we have determined that the money in that account
29 should go to the VGOB 0711 account. What has happened in this particular account; and I'm
30 saying it real quickly, back in the early days before a lot of procedures were I guess put in place,
31 sometimes you get separate pooling's for the same well and we've determined that this particular
32 pooling here should have been pooled with 7. It was pooled first, then 711 had a pooling. So we
33 had two separate pooling's and we want to combine these. The only difference being once you
34 combine that and we worked with Ms. Laughly at EnerVest, there was a disbursement out of this
35 account to Charles and Audrey Moore in 1995, so we know this and EnerVest knows this that
36 they will have to come back up in front of the Board to make an adjustment disbursement to
37 these people before they can move forward. So they will have to disburse them approximately
38 \$135; once they disburse that \$135, the account is balanced they can move forward on it. My

1 request to you all is to allow us to take this money in what was in the Green Account and add it
2 to the EnerVest. The Well is VC3892, the VGOB number is 99-002-16-0711.

3 **Bradley Lambert**: So I guess, do I entertain a motion from the Board to allow Mr. Cooper and
4 staff to move forward with that, for a lack of a better term, the George account?

5 **Mary Quillen**: Motion to approve, Mary Quillen.

6 **Bill Harris**: Bill Harris, I'll second that.

7 **Bradley Lambert**: I have a motion and I have a second. Any need for further discussion, if not
8 Ms. Ketron would you poll the Board?

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

10 **Butch Lambert**: Yes

11 **Sally Ketron**: Bill Harris?

12 **Bill Harris**: Yes

13 **Sally Ketron**: Bruce Prather?

14 **Bruce Prather**: 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**: You done? Okay.

22 **Rick Cooper**: The only other thing as far as a general update, I want to let the Board be aware
23 of; these are rough estimates, but not to the penny but they are relatively close. Where the
24 remaining \$7.6 million is, so what we can calculate and keep our records, we think either side of
25 \$2 million is unknown/unlocatable. The same thing of either side of \$2 million is cloud on title
26 and there's a little over \$3 million still in the unprocessed coal dismissals. A lot of those have
27 W9 issues and other issues. So that's the way the \$7.6 million breaks down and I'll be willing or
28 try to answer any questions if you have any?

1 **Bradley Lambert**: So what's your projections on your pie chart? What do you see as being
2 disbursed in the next 2-3 years?

3 **Rick Cooper**: In 3 years, the way we're going I would think the \$7.6 million would be down to
4 just cloud on title, which we don't control and I guess the other part is Pocahontas Gas' no W9
5 list, it will be down to those.

6 **Bradley Lambert**: So the biggest part of the no W9 is Pocahontas?

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

8 **Bradley Lambert**: How much would you estimate?

9 **Rick Cooper**: I would say Pocahontas is or I would say they are right at a little over \$3 million.
10 Of the \$3.6 million, they are \$3 million of it.

11 **Bradley Lambert**: Okay

12 **Rick Cooper**: So the vast majority of that is Pocahontas.

13 **Bradley Lambert**: Okay, thank you Rick. Any questions from the Board for Mr. Cooper?

14 **Mary Quillen**: This is Mary Quillen, just one question. Do you think Pocahontas could make
15 some kind of recommendation of how to handle that since the majority of it is?

16 **Rick Cooper**: So I would say, if they are still on the phone, you could probably ask them if they
17 are still on the phone. [No response]

18 **Mary Quillen**: I guess they're not.

19 **Mark Swartz**: Well, we were just in hiding.

20 **Mary Quillen**: Oh, okay. That's okay.

21 **Mark Swartz**: Doesn't the bank sends follow-up letters? We've talked about this before. Rick,
22 do you remember?

23 **Kelli Berry**: I think he's referring to funds that are still in escrow account because we have made
24 numerous attempts to get W9's from owners and had no response.

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

26 **Kelli Berry**: Our efforts continue to be ongoing to attempt to locate good addresses for people
27 and to request the required information from people. We have not stopped that.

28 **Rick Cooper**: Does that answer your question Ms. Quillen?

1 **Mary Quillen:** Yes, it just seems to me is that there should be some way of getting in contact
2 with these people. I mean, I'm sure there must a lot of them and there are probably very small
3 amounts that; I imagine a lot of them are small amounts.

4 **Kelli Berry:** That's correct. The vast majority are within *inaudible* with upwards of hundreds
5 of people of them owning one piece of property.

6 **Mary Quillen:** Right, that's true and several generations. I don't know what the answer is
7 because I think the Board and the folks in your office I think have done a herculean job in
8 locating all of these people. I don't know that there is an answer to it but it just seems like that
9 anybody that has just a small amount. I know that they're fearful, a lot of these are fearful of
10 having anything to do with any Government entity and there's no way that they're going to
11 respond. I don't know what the answer is but it will continue to be for probably a long time.

12 **Mark Swartz:** Mary Quillen makes a good point that just reminds that we have had Hearings in
13 the past where people have told the Board that they're personally are not going to sign a W9 or
14 that they are aware of people who will not sign a W9 because whatever agenda in terms of not
15 having that interaction with the Government. I think part of the problem isn't that we can't find
16 these people but we mail them, they get them and they don't send them back. So it's a two-part
17 problem, do we have a good address. Did it get to them? And I think we generally know if the
18 mail is being picked up and so forth. A lot of these people are getting and not sending them back
19 but something comes back we know it's a bad address. But I think a big part of the problem and
20 it's hard to figure out the percentage, but I think it's a significant part of the W9 problem who
21 will not sign a W9 and send it back.

22 **Mary Quillen:** and you know with everything that has gone on over the last several months is
23 going to make it much more difficult, much more.

24 **Rick Cooper:** To answer your question, Ms. Quillen. We'll continue to working with the
25 Operators and do a report, maybe they'll be some type of breakthrough but we still a lot of other
26 issues. We've got the unknown/unlocatable and a few other items so we are making progress.

27 **Mary Quillen:** You all have done an outstanding job, it's unbelievable and congratulations on
28 that and we appreciate you all and everything that you do.

29 **Rick Cooper:** Thank you and that is all I have Mr. Chairman.

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ITEM NUMBER 14

33 **Bradley Lambert:** Thank you Mr. Cooper. Let me give the Board and folks on the phone a
34 quick update on the Department of Mines, Minerals and Energy and where we are trying to deal

1 with COVID-19. For since at the end of March or 1st of April, our offices have been operating
2 but we've been operating on very a slim staffing. One day a week, they'll be 2-3 people in each
3 office. Mostly managers that are manning our offices and manning phones, taking care of mail
4 but the rest of our folks are available. Every employee is available, they are teleworking and
5 numbers are listed on our website or you can call the office and get the numbers for those folks.
6 When will we go back to a full staff, regular schedule at the office? We're not sure. We're just
7 kind of watching and playing it by ear but I will assure you that we are available if you need
8 anybody at DMME. We are available, you can reach us. We are working and things are getting
9 done. With that, we are still stressing COVID-19; social distancing, masks and all of our
10 employees are doing those. You will see them out in the field, we are very aware of COVID-19
11 and that's not to say we've have had some cases of people that have been in contact or we've had
12 a couple of instances where folks have tested positive. But we require those folks to quarantine
13 for 14 days, they are not to come into the office or not to have any contact with any of our
14 employees or no contact with anybody except their immediate family. So we are following CDC
15 guidelines and we're very strict with those but we're still *inaudible* are open for business,
16 we're still taking care of things as we need too. So with that being said, are there any questions
17 for me, for Rick dealing with office procedures that folks seem to be aware of that we will need
18 to know about? [No response] If not, the last item on the agenda is the review and approval of
19 the June, 2020 minutes. If everyone has reviewed those minutes, do I have any comments,
20 additions or corrects. If not, I'll entertain a motion to approve those minutes.

21 **Mary Quillen**: Motion to approve the minutes, Mary Quillen.

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

23 **Bradley Lambert**: I have a motion and I have a second. Ms. Ketron, poll the Board please.

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

25 **Bradley Lambert**: Yes

26 **Sally Ketron**: Bill Harris?

27 **Bill Harris**: Yes

28 **Sally Ketron**: Bruce Prather?

29 **Bruce Prather**: Yes

30 **Sally Ketron**: Mary Quillen?

31 **Mary Quillen**: Yes

32 **Sally Ketron**: Rita Surratt?

1 **Rita Surratt**: Yes

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

3 **Donnie Ratliff**: Yes

4 **Bradley Lambert**: Thank you. The minutes are approved. Mr. Cooper, do you have any
5 indication on the meeting for next month?

6 **Rick Cooper**: So how many items do we have for next at this point, do you know?

7 **Sarah Gilmer**: I think we have one item.

8 **Rick Cooper**: The timeline is this Friday, I believe. Right Sarah? If it's not in my Friday, we
9 won't have any items.

10 **Sarah Gilmer**: Yes, that is correct.

11 **Bradley Lambert**: Okay, Rick will send out a notice very soon on the potential for a Hearing for
12 next month. So, unless there's any concerns about the way we're doing our Hearing via
13 conference call, if we do have one for next month it will still be by conference call. Even though,
14 let me say that our office in Big Stone has been open to meetings and hearings but we've had to
15 limit the number of people that attends those hearings and we've had to make sure we social
16 distance. We spread people apart six feet or more and to be honest with you, those are very hard
17 to do when we have to limit the number of people. So my suggestion would be to continue our
18 Hearings by conference calls, it seems like we have more people that can participate this way. So
19 unless there are any objections, we will plan for our meeting to also be teleconference.

20 **Mary Quillen**: I'm sorry to say that of this is probably a real damper on our usual treat meeting
21 for Christmas so I'm wishing everybody a Merry Christmas.

22 **Bradley Lambert**: We do accept things by mail Mary.

23 **Mary Quillen**: I was thinking about that the other day, what am I going with myself. I'm not
24 cooking. We are going really going to miss that and miss all of you all. But we will catch up one
25 of these days.

26 **Bradley Lambert**: I, as the Chairman, appreciate your time and appreciate everybody bearing
27 with us through these difficult times that we are having to deal with COVID-19 but in closing, let
28 me say Thank you and please stay safe out there.

29 **Mary Quillen**: Very good, same to you.

30 **Bradley Lambert**: Alright, good bye.