

VIRGINIA:

BEFORE THE VIRGINIA GAS AND OIL BOARD

APPLICANTS: Torch Energy Advisors Incorporated)
(herein "Torch") and Pocahontas Gas)
Partnership (herein "PGP") (Torch and PGP) VGOB DOCKET NO
sometimes collectively referred to) 92-0421-0217-01
As "Applicants"))
)
RELIEF SOUGHT: Issuance of an Amended Supplemental)
Order Amending Prior Orders Affecting)
SLW9 Drilling Unit to Provide: (1) for the)
Calculation of Those Funds the)
Unit Operator Deposited into the Escrow)
Account for Tracts 70(31A), 75(18A),)
75C(21A), 75D(22A), and 79B(28A))
of the SLW9 Drilling Unit;)
(2) to Provide to Applicants a Royalty)
Accounting; and)
(3) Disbursement to Applicants in)
Accordance with Their Agreement)
Those Funds Deposited by the Unit)
Operator into the SLW9 Escrow Account)
for Tracts 70(31A), 75(18A), 75C(21A),)
75D(22A), and 79B(28A))

1. **Hearing Date and Place:** This matter came on for further and final hearing before the Virginia Gas and Oil Board (herein "Board") at 9:00 a.m. on March 23, 1999 at the Southwest Virginia Higher Education Center, Classroom 226, One Partnership Drive, Abingdon, VA.
2. **Appearances:** Jill Harrison of the firm Penn Stuart appeared in behalf of the Applicants; Mark A. Swartz of the firm Swartz & Stump appeared on behalf of PGP as Unit Operator; and Sandra B. Riggs, Assistant Attorney General, was present to advise the Board.
3. **Jurisdiction and Notice:** Pursuant to Va. Code §§ 45.1-361.1 *et seq.*, and in particular Va. Code §§ 45.1-361.21 and 45.1-361.22, the Board finds that it has jurisdiction over the establishment and maintenance of an escrow account for each of the coalbed methane gas drilling units established by the Board through its pooling orders, and that the Unit Operator is required to deposit, as applicable, those funds specified in Va. Code § 45.1-361.21.D., 45.1-361.22.A.2, 45.1-361.22.A.3 and 45.1-361.22.A.4 into the applicable escrow account. Further, the Board finds: (1) that it does not have jurisdiction to resolve conflicting claims to the ownership of the Coalbed Methane Gas produced by the Unit Operator from wells located on Subject Drilling Unit, (2) that it does not have jurisdiction to interpret voluntary agreements by and between the Gas owners/claimants and/or the Unit Operator or to abridge or contravene the provisions of such agreements, and (3) that pursuant to Va. Code § 45.1-361.22.A.5, it does have jurisdiction and authority to disburse funds from the Escrow Account provided there has first been either a legal determination of claimants' entitlement thereto or there is an agreement by all the claimants.
4. **Prior Proceedings:**
 - 4.1. Drilling Unit SLW9 was created by Board Order effective as of February 18, 1992, Docket No. 92/01/21-0180, as amended by Board Orders in VGOB Docket Nos. 93/06/22-0385 and 95/04/18-0498 (herein "Subject Drilling Unit") in the Hurricane Magisterial District,

Buchanan County, VA (herein "Subject Lands"). At the Board's hearing on April 21, 1992 in Docket No. VGOB 92-04/21-0217, in accordance with the provisions of Va. Code §§ 45.1-361.21 and 45.1-361.22, the Board granted the relief sought by PGP and executed an Order dated July 27, 1992 and filed July 30, 1992, in Deed Book 396, Page 87, as amended by Order entered August 14, 1992 and recorded August 19, 1992 in Deed Book 396, Page 776 (herein collectively "Pooling Order") pooling the interests in the Subject Formations in the Subject Drilling Unit underlying the Subject Lands for the production of coalbed methane gas (herein collectively referred to as "Coalbed Methane Gas" or "Gas") below the Tiller seam from active gob areas from a longwall panel and its surrounding area in Consolidation Coal Company's Buchanan No. 1 Mine (herein "Subject Formations") all pursuant to: the permit provisions contained in Va. Code §§ 45.1-361.27 *et seq.*; the Oakwood Coalbed Gas Field Order No. OGCB 3-90 dated May 18, 1990; the Board's Order in VGOB No. 92/01/21-0180 dated as of February 18 1992; § 480-05-22.1 *et seq.*, Gas and Oil Regulations; and § 480-05-22.2 *et seq.*, Virginia Gas and Oil Board regulations, all as amended from time to time (herein "Pooling Order"). The Pooling Order was amended and supplemented by the Board's Supplemental Order Regarding Elections executed on July 11, 1996 and recorded on July 18, 1996 in Deed Book 451 at Page 157 (herein "Supplemental Order") and the Amended Supplemental Order executed on June 26, 1998 and recorded on July 14 1998 in Deed Book 478 at Page 730 (herein "Amended Supplemental Order"). The Board named the PGP as the Unit Operator of the SLW9 Drilling Unit.

- 4.2. As instructed by the Board through the Pooling Order, the Supplemental Order, and the Amended Supplemental Order, the Escrow Agent established the Escrow Account for Subject Drilling Unit (herein "Escrow Account"), and thereafter the Escrow Agent periodically received from the Unit Operator for deposit into the Escrow Account proceeds which were designated by the Operator through its royalty statements as being attributable to various tracts identified in the attached Exhibit E and the attached Accounting. By order entered November 10, 1998 the Board directed PGP to file with the Board a tract-by-tract accounting of the funds on deposit in the SLW9 Escrow Account (herein "Accounting Order").
- 4.3. Applicants' seek a royalty accountings, determination of the funds on deposit in the Escrow Account for Tracts 70, 75, 75C, 75D, and 79B of Subject Drilling Unit, and disbursement to them of all such Escrowed Funds attributable to said Tracts pursuant to their written agreement with each other (herein referred to as "Split Agreement"). The Applicants warranted and represented to the Board that:
- (1) PGP is the sole owner of oil and gas interests in Tracts 70, 75, 75C, 75D and 79B of the SLW9 Drilling Unit,
 - (2) Hugh Macrae Land Trust (herein "Trust") is the sole owner of coal interests in Tracts 70, 75, 75C, 75D, and 79B; however, by Assignment and Bill of Sale dated December 29, 1997 (herein "Assignment") Trust assigned to Torch its conflicting coalbed methane gas royalty interest in said tracts including all its interest in the funds on deposit in the Escrow Account which the Unit Operator attributes to said tracts;
 - (3) together PGP and Trust claim to have and own, in the aggregate, the following Gas royalty interest in Subject Drilling Unit by virtue of their respective ownership interests in Tracts 70, 75, 75C, 75D, and 79B and the terms of their voluntary leases with PGP pertaining to same, and that Trust has assigned to Torch its interest in funds deposited by the Unit Operator into the Escrow Account established by the Board for the SLW9 Drilling Unit with respect to said tracts:

Tract #	Acres	Interest in Unit	Funds to be Disbursed from Escrow Acct
70/31A	0.312	0.17093%	\$ 57.82
75/18A	6.467	3.54302%	1,196.07
75C/21A	0.639	0.35008%	121.61

have agreed to split on a 50/50 basis royalties attributable to their respective conflicting claims to coalbed methane gas, including but not limited to their conflicting claims to ownership of coalbed methane gas underlying Tracts 70, 75, 75C, 75D and 79B of Subject Drilling Unit and their conflicting claims to bonuses and/or royalties deposited by PGP in the Escrow Account which are attributable to said tracts. Based upon the Split Agreement, the Applicants', through their application herein, seek among other things, disbursement to them in accordance with the terms of the Split Agreement those funds set forth in 4.3(3) above.

5.3. According to the Pooling Order, the Supplemental Order, the Amended Supplemental Order, the Accounting and the Application filed in this matter: (a) the funds deposited by PGP into the Escrow Account for Subject Drilling Unit consists of payments calculated by PGP to be due those persons identified in Exhibit E hereto and (b) PGP has represented to the Board through the Accounting that as of December 31, 1998 the funds set forth in Paragraphs 4.3(3) above are those funds on deposit in the Escrow Account which are attributable to Tracts 70, 75, 75C, 75D and 79B all as more particularly reflected in the Accounting, and (c) Applicants have made the warranties and representations to the Board set forth in Paragraph 4.3 above.

6. **Relief Granted:**

For the reasons set forth in Paragraph 5 above, and based upon the Accounting and the Applicants' agreements to same, the Escrow Agent is ordered to disburse via wire transfer in accordance with instructions provided to the Escrow Agent by Applicants' counsel's letter dated March 30, 1999, copy attached hereto: (1) the sum of \$1,473.49 together with any interest which accrues thereon from the date of the Accounting through the date of disbursement, to Torch and (2) the sum of \$1,473.49, together with any interest accruing thereon from the date of the Accounting through the date of disbursement, to PGP. Further, the Amended Supplemental Order filed in this cause is hereby modified to delete the requirement that funds attributable to Applicants' conflicting coalbed methane gas ownership interests in Tracts 70, 75, 75C, 75D and 79B of the SLW9 Unit be deposited by PGP into the Escrow Account. To the extent not specifically granted herein, any other or further relief requested by the Applicants in their application filed herein or in their objections to the accountings heretofore provided is denied.

7. **Conclusion:**

Therefore, the requested relief and all terms and provisions set forth above in Paragraph 6 above be and hereby are granted and IT IS SO ORDERED.

8. **Appeals:**

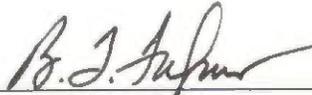
Appeals of this Order are governed by the provisions of Va. Code § 45.1-361.9 which provides that any order or decision of the Board may be appealed to the appropriate circuit court and that whenever a coal owner, coal operator, gas owner, gas operator, or operator of a gas storage field certificated by the State Corporation Commission is a party in such action, the court shall hear such appeal de novo.

9. **Effective Date:** This Order shall be effective on the date of its execution.

DONE AND EXECUTED this 15th day of April, 1999, by a majority of the Virginia Gas and Oil Board.


Chairman, Benny R. Wampler

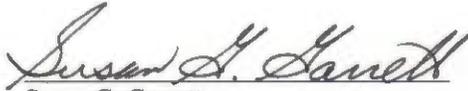
DONE AND PERFORMED THIS 15th DAY OF April, 1999, by an Order of this Board.



Byron Thomas Fulmer
Principal Executive to the Staff
Virginia Gas and Oil Board

COMMONWEALTH OF VIRGINIA)
COUNTY OF WISE)

Acknowledged on this 15th day of April, 1999, personally before me a notary public in and for the Commonwealth of Virginia, appeared Benny R. Wampler, being duly sworn did depose and say that he is Chairman of the Virginia Gas and Oil Board, that he executed the same and was authorized to do so.

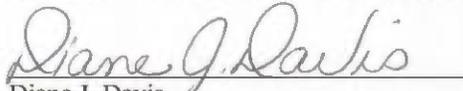


Susan G. Garrett
Notary Public

My Commission expires: July 31, 2002

COMMONWEALTH OF VIRGINIA)
COUNTY OF WASHINGTON)

Acknowledged on this 15th day of April, 1999, personally before me a notary public in and for the Commonwealth of Virginia, appeared Byron Thomas Fulmer, being duly sworn did depose and say that he is Principal Executive to the Staff of the Virginia Gas and Oil Board, that he executed the same and was authorized to do so.



Diane J. Davis
Notary Public

My commission expires: September 30, 2001

UNIT SLW9
Docket # VGOB-92-0421-0217-01
Exhibit E

List of Conflicting Owners/Claimants that require escrow

	Net Acres in Unit	Interest in Unit
<u>Tract #88 - 24.4502 Acre Tract</u>		
<u>COAL FEE OWNERSHIP</u>		
(1) Coal Mountain Mining Company Tr 14 P. O. Box 675 Tazewell, VA 24651	24.45 acres	13.39531%
<u>OIL & GAS FEE OWNERSHIP</u>		
(1) Ernest Keen Helra	24.45 acres	13.39531%
(a) Paul Keen Rt. 1, Box 52 Raven, VA 24639	4.08 acres 1/6 of 24.4502 acres	2.23255%
(b) Ralph Keen Rt. 1, Box 52 Raven, VA 24639	4.08 acres 1/6 of 24.4502 acres	2.23255%
(c) Arnold Keen Rt. 2, Box 91 Cedar Bluff, VA 24609	4.08 acres 1/6 of 24.4502 acres	2.23255%
(d) Ruby Hale Box 731 Cedar Bluff, VA 24609	4.08 acres 1/6 of 24.4502 acres	2.23255%
(e) Anna R. Lambert Rt. 4, Box 597 North Tazewell, VA 24630	4.08 acres 1/6 of 24.4502 acres	2.23255%
(f) Ann McGowan Rt. 1, Box 52 Raven, VA 24639	4.08 acres 1/6 of 24.4502 acres	2.23255%
<u>Tract #68A - 1.134 Acre Tract</u>		
<u>COAL FEE OWNERSHIP</u>		
(1) Coal Mountain Mining Company Tr 14 P. O. Box 675 Tazewell, VA 24651	1.13 acres	0.62127%
<u>OIL & GAS FEE OWNERSHIP</u>		
(1) Roy McCowan Rt. 2, Box 52 Raven, VA 24539	1.13 acres	0.62127%
<u>Tract #68B - 0.230 Acre Tract</u>		
<u>COAL FEE OWNERSHIP</u>		
(1) Coal Mountain Mining Company Tr 14 P. O. Box 675 Tazewell, VA 24651	0.23 acres	0.12801%

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	Net Acres In Unit	Interest in Unit
<u>Tract #73 - 1.337 Acre Tract</u>		
<u>COAL FEE OWNERSHIP</u>		
(1) Hugh Macrae Land Trust Tr 5 P. O. Box 29 Tazewell, VA 24651	1.34 acres	0.73249%
<u>OIL & GAS FEE OWNERSHIP</u>		
(1) Agnes Deskline Rt. 1, Box 59 Raven, VA 24639	1.34 acres	0.73249%
<u>Tract #74A - 7.866 Acre Tract</u>		
<u>COAL FEE OWNERSHIP</u>		
(1) Hugh Macrae Land Trust Tr 17 P. O. Box 29 Tazewell, VA 24651	7.87 acres	4.30948%
<u>OIL & GAS FEE OWNERSHIP</u>		
(1) Earl Marshall Heirs, Deviseses, Successors or Assigns	7.87 acres	4.30948%
(a) Charles L. Ritchie Rt. 1, Box 258-A St. Paul, VA 24283	4.92 acres 5/8 of 7.866 acres	2.69342%
(b) Lowery L. Jackson 5001 Parker Avenue West Palm Beach, FL 33405	0.98 acres 1/8 of 7.866 acres	0.53868%
(c) Corbit Jackson Rt. 1, Box 80 Raven, VA 24639	0.98 acres 1/8 of 7.866 acres	0.53868%
(d) Herbert L. Jackson P. O. Box 428 Grundy, VA 24814	0.98 acres 1/8 of 7.866 acres	0.53868%
<u>Tract #75 - 6.467 Acre Tract</u>		
<u>COAL FEE OWNERSHIP</u>		
(1) Hugh Macrae Land Trust Tr 17 P. O. Box 29 Tazewell, VA 24651	6.47 acres	3.54302%
<u>OIL & GAS FEE OWNERSHIP</u>		
(1) Pocahontas Gas Partnership P. O. Box 947 Bluefield, VA 24605	6.47 acres	3.54302%

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	Net Acres in Unit	Interest in Unit
<u>Tract #75A - 0.107 Acre Tract</u>		
<u>COAL FEE OWNERSHIP</u>		
(1) Hugh Macrae Land Trust Tr 17 P. O. Box 29 Tazewell, VA 24651	0.11 acres	0.05862%
<u>OIL & GAS FEE OWNERSHIP</u>		
(1) A. Ferrell Hairs, Devisesee, Successors of Assigns Address Unknown	0.11 acres	0.05862%
<u>Tract #75B - 0.258 Acre Tract</u>		
<u>COAL FEE OWNERSHIP</u>		
(1) Hugh Macrae Land Trust Tr 17 P. O. Box 29 Tazewell, VA 24651	0.26 acres	0.14135%
<u>OIL & GAS FEE OWNERSHIP</u>		
(1) Nancy Rose P. O. Box 568 Keen Mountain, VA 24624	0.26 acres	0.14135%
<u>Tract #75C - 0.639 Acre Tract</u>		
<u>COAL FEE OWNERSHIP</u>		
(1) Hugh Macrae Land Trust Tr 17 P. O. Box 29 Tazewell, VA 24651	0.64 acres	0.35008%
<u>OIL & GAS FEE OWNERSHIP</u>		
(1) Pocahontas Gas Partnership P. O. Box 947 Bluefield, VA 24605	0.64 acres	0.35008%
<u>Tract #75D - 6.888 Acre Tract</u>		
<u>COAL FEE OWNERSHIP</u>		
(1) Hugh Macrae Land Trust Tr 17 P. O. Box 29 Tazewell, VA 24651	6.89 acres	3.77367%
<u>OIL & GAS FEE OWNERSHIP</u>		
(1) Pocahontas Gas Partnership P. O. Box 947 Bluefield, VA 24605	6.89 acres	3.77367%

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	Net Acres in Unit	Interest in Unit
<u>Tract #77C - 11.333 Acre Tract</u>		
<u>COAL FEE OWNERSHIP</u>		
(1) Hugh Macrae Land Trust Tr 17 P. O. Box 29 Tazewell, VA 24651	11.33 acres	6.20891%
<u>OIL & GAS FEE OWNERSHIP</u>		
(1) Bobby Steele Rt. 1, Box 66 Raven, VA 24641	11.33 acres	6.20891%
<u>Tract #77D - 4.915 Acre Tract</u>		
<u>COAL FEE OWNERSHIP</u>		
(1) Hugh Macrae Land Trust Tr 17 P. O. Box 29 Tazewell, VA 24651	4.92 acres	2.69274%
<u>OIL & GAS FEE OWNERSHIP</u>		
(1) Glenn Rose 114 First Avenue Richlands, VA 24641	4.92 acres	2.69274%
<u>Tract #77E - 0.772 Acre Tract</u>		
<u>COAL FEE OWNERSHIP</u>		
(1) Hugh Macrae Land Trust Tr 17 P. O. Box 29 Tazewell, VA 24651	0.77 acres	0.42295%
<u>OIL & GAS FEE OWNERSHIP</u>		
(1) Grady Horn Rt. 1, Box 65 Raven, VA 24639	0.77 acres	0.42295%
<u>Tract #77F - 1.889 Acre Tract</u>		
<u>COAL FEE OWNERSHIP</u>		
(1) Hugh Macrae Land Trust Tr 17 P. O. Box 29 Tazewell, VA 24651	1.89 acres	1.03491%
<u>OIL & GAS FEE OWNERSHIP</u>		
(1) Ruth Steele Rt. 1, Box 66 Raven, VA 24641	1.89 acres	1.03491%
<u>Tract #78 - 0.126 Acre Tract</u>		
<u>COAL FEE OWNERSHIP</u>		
(1) Coal Mountain Mining Company Tr 17 P. O. Box 675 Tazewell, VA 24651	0.13 acres	0.06903%

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	Net Acres in Unit	Interest in Unit
(e) Anna R. Lambert Rt. 1, Box 52 Raven, VA 24839	0.03 acres 1/6 of 0.187 acres	0.01708%
(f) Ann McGowan Rt. 1, Box 52 Raven, VA 24639	0.03 acres 1/6 of 0.187 acres	0.01708%

Tract #79E - 4.28 Acre Tract

COAL FEE OWNERSHIP

(1) Coal Mountain Mining Company Tr 24 P. O. Box 675 Tazewell, VA 24651	4.28 acres	2.34485%
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OIL & GAS FEE OWNERSHIP

(1) Garden Realty Corporation c/o Betty Boyd King 2370 Lyndhurst Avenue Winston-Salem NC 27103	4.28 acres	2.34485%
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SLW-9; 9100072; VGOB ORDER 92-04/21-0217

RSC	MAP TRACT	OWNER #	OWNER NAMES	? OWNER SHOULD BE
9100072-1B	78	92806700	Coal Mountain/Yukon POC	
9100072-4B	79E	22404600	Coal Mountain/Garden Realty	
9100072-5B	79	22404600	Coal Mountain/Garden Realty	
9100072-14B	68	80675500	Coal Mountain/E. Keen Heirs	
9100072-15B	68A	52405000	Coal Mountain/R. McCowan	
9100072-16B	68B	50913200	Coal Mountain/R. Keen	
9100072-17B	68C	19306800	Coal Mountain/J. Lambert	
9100072-18A	75	36897200	MacRae/J. Rowe	
9100072-19A	75A	58180100	MacRae/A. Ferrell Heirs	
9100072-20A	75B	28505100	MacRae/N. Rose	
→ 9100072-21A	75C	39766500	MacRae/PGP	MacRae/Fred Sisk
→ 9100072-22A	75D	38232900	MacRae/O. Sisk	<i>Purchased by PGP</i>
9100072-23A	77C	34851500	MacRae/B. Steele	
9100072-24A	77D	15148000	MacRae/G. Rose	
9100072-25A	77E	64665300	MacRae/G. Horn	
9100072-26A	77F	32499700	MacRae/K. Steele	<i>Ruth widow of Kermit</i>
→ 9100072-27A	74A	78417400	MacRae/E. Marshall Heirs	
→ 9100072-28A	79B	39766500	MacRae/PGP	MacRae/D. Wade
9100072-29A	79C	50826600	MacRae/E. Keen Heirs	
9100072-30A	69	03576700	MacRae/T. Wade	
→ 9100072-31A	70	39766500	MacRae/PGP	MacRae/Consolidated Coal
9100072-32A	72	60048100	MacRae/W. Wade	
9100072-33A	73	06067300	MacRae/A. Deskins	

Under the "owner names" and "? Owner should be" columns the coal owner is listed first.



SLW-9; 9100072; VGOB ORDER 92-04/21-0217

RSC	MAP TRACT	OWNER #	OWNER NAMES	? OWNER SHOULD BE
9100072-1B	78	92806700	Coal Mountain/Yukon POC	
9100072-4B	79E	22404600	Coal Mountain/Garden Realty	
9100072-5B	79	22404600	Coal Mountain/Garden Realty	
9100072-14B	68	80675500	Coal Mountain/E. Keen Heirs	
9100072-15B	68A	52405000	Coal Mountain/R. McCowan	
9100072-16B	68B	50913200	Coal Mountain/R. Keen	
9100072-17B	68C	19306800	Coal Mountain/J. Lambert	
9100072-18A	75	36997200	MacRae/J. Rowe	
9100072-19A	75A	58180100	MacRae/A. Ferrell Heirs	
9100072-20A	75B	28505100	MacRae/N. Rose	
→ 9100072-21A	75C	39766500	MacRae/PGP	MacRae/Fred Sisk
→ 9100072-22A	75D	38232900	MacRae/O. Sisk	<i>Purchased by PGP</i>
9100072-23A	77C	34851500	MacRae/B. Steele	
9100072-24A	77D	15148000	MacRae/G. Rose	
9100072-25A	77E	64665300	MacRae/G. Horn	
9100072-26A	77F	32499700	MacRae/K. Steele	<i>Ruth widow of Kermit</i>
9100072-27A	74A	78417400	MacRae/E. Marshall Heirs	
→ 9100072-28A	79B	39766500	MacRae/PGP	MacRae/D. Wade
9100072-29A	79C	50828600	MacRae/E. Keen Heirs	
9100072-30A	69	03576700	MacRae/T. Wade	
→ 9100072-31A	70	39766500	MacRae/PGP	MacRae/Consolidated Coal
9100072-32A	72	60048100	MacRae/W. Wade	
9100072-33A	73	06067300	MacRae/A. Deskins	

Under the "owner names" and "? Owner should be" columns the coal owner is listed first.