

110001090

Instrument prepared by:

VIRGINIA GAS AND OIL BOARD

Order recorded under:

**CODE OF VIRGINIA
§ 45.1-361.26**

VIRGINIA:

BEFORE THE GAS AND OIL BOARD

APPLICANTS:

CNX Gas Company LLC on behalf of James M. McGuire Trust and Linda Meledge Estridge, an heir of W. B. McDonald.

DOCKET NO.

93-0216-0329-04

RELIEF SOUGHT:

Issuance: A Supplemental Order for Disbursement of Escrowed Funds
Action: Amending Prior Orders Affecting Drilling **CBM P-41,**
A portion of Tract 2C
(Referenced herein as "the Subject Drilling Unit")

Location: **Buchanan County, Virginia**

Action Details:

- (1) To provide a calculation of funds, Unit Operator has deposited into the Escrow Account for Drilling Unit **P-41** by Tract Subaccounts;
- (2) To provide each applicant, in simple terms, a complete month over month Royalty Accounting of unit production, costs, taxes and proceeds, depicting variables used in the calculation of royalty payments to the unit escrow account.
- (3) To disburse unit funds to the Applicants, in accordance with their Unit Ownership Interests relative to those funds deposited by the Unit Operator into Subject Drilling

REPORT OF THE BOARD

FINDINGS AND ORDER

1. **Hearing Date and Place:** This matter came on for final hearing before the Virginia Gas and Oil Board (herein "Board") at 9:00 a.m. on March 15, 2011 at the Russell County Government, Conference Center in Lebanon, VA.
2. **Appearances:** Mark A. Swartz, Esq. SWARTS Law Offices PLLC appeared for the Unit Operator; and Sharon M.B. Pigeon, 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, with tract sub accounts, for each of the coalbed methane gas drilling units established by the Board through its field rules that are subject to a Board pooling order. Further, 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 tract sub accounts. The Board finds that: (1) while 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, and (2) while it **does not** have jurisdiction to interpret agreements by and between the Gas owners/claimants and/or the Unit Operators or to abridge or contravene the provisions of such agreements, (3) pursuant to Va. Code § 45.1-361.22.A.5, **the Board does have jurisdiction and authority to disburse funds from the Escrow Account** provided the Board has been provided with a final decision of a court of competent jurisdiction adjudicating the ownership of coalbed methane gas as between the conflicting claimants or an agreement among all claimants owning conflicting estates in the tracts in question or any undivided interest therein.

4. **Prior Proceedings:**

- 4.1. (a) On February 16, 1993, the Board executed its order pooling interests in the Subject Drilling Unit for the production of occluded natural gas produced from coalbeds and rock strata associated therewith (herein "Gas") in accordance with the provisions of Va. Code SS 45.1-361.21 and 45.1-361.22 (herein "Pooling Order"). The Pooling Order was filed with the Clerk of the Circuit Court of Buchanan County on April 8, 1993 Deed Book 406 and Pages 512 to 539, Instrument Number 880. The Board executed its Supplemental Order Regarding Elections that was filed with the Clerk of the Circuit Court of Buchanan County on May 20, 1994, Deed Book 422, Pages 468 to 474 Instrument Number 1370.
- (b) On October 15, 2002, the Board heard a disbursement petition (VGOB 93-0216-0329-01) and approved a modification of Order, Re-Pooling interests in Drilling Unit P-41. The Re-Pooling was requested to reflect the Unit Operator's correction of survey errors that resulted in shifts of tract and estates in and to the Gas in Subject Drilling Unit, including the pooling in Exhibit B-3. The Board executed its Order on February 19, 2003 and was filed with Clerk's Office of the Circuit Court of Buchanan County on February 21, 2003; Deed Book 563, Pages 36 to 44, Instrument #030000618.
- 4.2. To the extent claims to the Gas were in conflict, pursuant to Va. Code S 45.1-361-22 payments attributable to said conflicting claims were ordered deposited by the Unit Operator into the escrow account established by the Pooling Orders (herein "Escrow Account"). According to the Pooling Orders and testimony, the coal estate ownership interests of James M. McGuire Trust; and the gas ownership interests of Linda Meledge Estridge, an heir of the W. B. McDonald in a portion of Tract 2C, in the Subject Drilling Unit were in conflict and became subject to the escrow requirements of the Pooling Order.
- 4.3. The Unit Operator's Miscellaneous Petition regarding a portion of Tract 2C, a copy of which is attached to and made a part hereof, states under oath that James M. McGuire Trust and the Applicants have entered into an agreement with regards to a portion of Tract 2C and that by the terms of the agreements, James M. McGuire Trust has entered into a split agreement regarding these tracts and escrow regarding these individual conflicting claims detailed herein, is no longer required for these parties.
- 4.4. The Unit Operator gave notice to James M. McGuire Trust and the applicants that the Board would consider its disbursement authorization at its hearing on March 15, 2011 and consider whether to: (1) amend the Pooling Order to provide for the disbursement a portion of funds on deposit in the Escrow Account attributable to a portion of Tract 2C identified in the attached miscellaneous petition (2) delete the requirement that the Unit Operator place future royalties attributable to a portion of said Tract 2C relative to the interests of Applicants identified in the miscellaneous petition in the Escrow Account, and (3) continue the escrow account under this docket number because there are other parties under this order subject to continued payments in the escrow.
- 4.5. The Unit Operator filed the attached accounting for Subject Drilling Unit's Escrow Account with the Board ("Accounting").

5. **Findings:**

5.1. Va. Code 45.1-361.22.5 provides:

The Board shall order payment of principal and accrued interests, less escrow account fees, from the escrow account to conflicting claimants within thirty days of receipt of notification of (i) a final decision of a court of competent jurisdiction adjudicating the ownership of coalbed methane gas as between them or (ii) an agreement among all claimants owning conflicting estates in the tracts in question or any undivided interest therein. The amount to be paid to the conflicting claimants shall be determined based on the percentage of ownership interest of the conflicting claimants as shown in the operator's supplemental filing made part of the pooling order that established the escrow account, the operator's records of deposits attributable to those tracts for which funds are being requested, and the records of the escrow account for the coalbed methane gas drilling unit. The interests of any cotenants who have not entered into an agreement shall remain in the escrow account.

5.2 Applicant has certified and represented to the Board that:

(1) James M. McGuire Trust and Linda Meledge Estridge, an heir of W. B. McDonald, property in Tract 2C; are the owners of the coal and gas acreage estate underlying a portion of VGOB Tract 2C of the Subject Drilling Unit P-41;

(2) Net interests attributable and to be disbursed to Applicants are shown in **Table 1**,

VGOB Approved Disbursement
VGOB-93-0216-0329-04 (Disbursement)
P-41

			Frac Interest	Acreage Interest Disbursed	Split Agreement	Escrowed Acres Total	% of Escrowed Funds
Table 1							
Disbursement Table							
Item	Tract	A portion of Tracts 1B and 1C					
No							
		Totals				31.0400	
		James M. McGuire Land Trust - Coal	21.32				
1	2C	James M. McGuire Land Trust / P.O. Box 1087 / Bluefield, VA 24605		10.6600	50.0%	5.330	17.1714%
	2C	W. B. McDonald Heirs - Oil & Gas					
2	2C	Linda Meledge Estridge / 969 Ridegdale road / Saltville, VA 24379	1/2	10.6600	50.0%	5.330	17.1714%

6. **Relief Granted:**

For the reasons set forth in Paragraph 4 and 5 above, and based upon the Accounting and Table 1 above, the Escrow Agent is ordered to, within 10 days of receipt of this executed order to disburse funds for the unit and applicants detailed in Table 1 above.

Exhibit E to the Pooling Order, showing owners subject to escrow, is deleted and replaced with the Exhibit E attached to this order. Further, the Supplemental Order filed in this cause is hereby modified to delete the requirement that payments attributable to the conflicting coalbed methane gas ownership interests of those applicants indicated in Table 1 be deposited by the Unit Operator into the Escrow Account, and, because there are other owners subject to escrow under the Supplemental Order, the Escrow Agent is directed to continue the Escrow Account for Subject Drilling Unit. To the extent not specifically granted herein, any other or further relief is denied.

7. **Conclusion:**

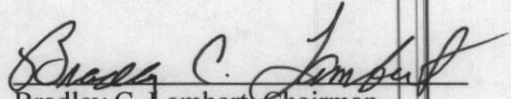
Therefore, the requested relief and all terms and provisions set forth above in Paragraph 6 above be and hereby are granted and **IT IS SO ORDERED.**

8. **Appeals:**

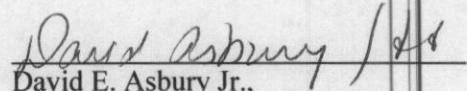
Appeals of this Order are governed by the provisions of Va. Code § 45.1-361.9 which provides that any order or decision of the Board may be appealed to the appropriate circuit court and that whenever a coal owner, coal operator, gas owner, gas operator, or operator of a gas storage field certificated 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 14 day of April, 2011, by a majority of the Virginia Gas and Oil Board.


Bradley C. Lambert, Chairman
Virginia Gas and Oil Board

DONE AND PERFORMED this 14 day of April, 2011, by an Order of this Board.


David E. Asbury Jr.,
Principal Executive to the Staff
Virginia Gas and Oil Board

COMMONWEALTH OF VIRGINIA)
COUNTY OF RUSSELL)

Acknowledged on this 14th day of April, 2011, personally before me a notary public in and for the Commonwealth of Virginia, appeared **Bradley C. Lambert**, being duly sworn did depose and say that he is the Chairman of the Virginia Gas and Oil Board and **David E. Asbury Jr.**, 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.

My commission expires: 09/ 30 / 2013

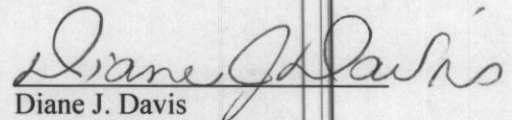

Diane J. Davis
Notary Public #174394



Exhibit A-1
Tract-by-Tract Escrow Calculation
Account Balances as of 11/30/10

Unit P-41
VGOB 93-0216-0329-04
Acres Escrowed: 31.040000

Owners		Tract #	Tract Acres	Owner Acres	Interest	Owners' Percent of Escrow	Amount Due Owners
James M. McGuire Land Trust - Coal			21.32000			17.1714%	\$13,319.12
W.B. McDonald Heirs- O&G		2C	21.32				
Linda Meledge Estridge				10.6600	1/2	17.1714%	\$13,319.12

Wells contributing to the escrow account:

Well 401

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BEFORE THE VIRGINIA GAS AND OIL BOARD

PETITIONER: CNX Gas Company LLC

DIVISION OF GAS AND OIL

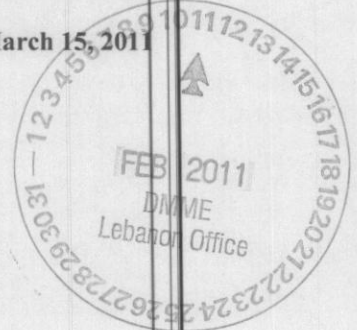
DOCKET NO: VGOB 93-0216-0329-04

RELIEF SOUGHT: (1) DISBURSEMENT FROM
ESCROW REGARDING TRACT(S) 2C
(2) AND AUTHORIZATION FOR DIRECT
PAYMENT OF ROYALTIES

HEARING DATE: March 15, 2011

DRILLING UNIT: P41

BUCHANAN COUNTY, VIRGINIA



MISCELLANEOUS PETITION

1. **Petitioner and its counsel:** Petitioner is CNX Gas Company LLC, 2481 John Nash Boulevard, Bluefield, WV 24701, 304/323-6500. Petitioner's counsel is Mark A. Swartz, **SWARTZ LAW OFFICES, PLLC.**, 601 Sixth Avenue, Suite 201, P.O. Box 1808, St. Albans, WV 25177-1808.

2. **Relief sought:** (1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow Agent(s) attributable to Tract(s) 2C as depicted upon the annexed Exhibit A-1; and (2) authorization to begin paying royalties directly to the parties to the royalty split between James M McGuire Land Trust and Linda Meledge Estridge

3. **Legal Authority:** Va. Code Ann. § 45.1-361.1 et seq., 4 VAC 25-160-140., and relevant Virginia Gas and Oil Board Orders ("Board") heretofore promulgated pursuant to law.

4. **Type of well(s):** Coalbed methane.

5. **Factual basis for relief requested:** James M McGuire Land Trust and Linda Meledge Estridge have entered into royalty split agreement(s). Said royalty split agreement allows the Applicant and Designated Operator to pay royalties directly to the persons identified in Exhibit EE annexed hereto and the annexed Exhibit A-1, further, specifies how said royalties are to be divided and paid.

6. **Attestation:** The foregoing Petition to the best of my knowledge, information, and belief is true and correct.

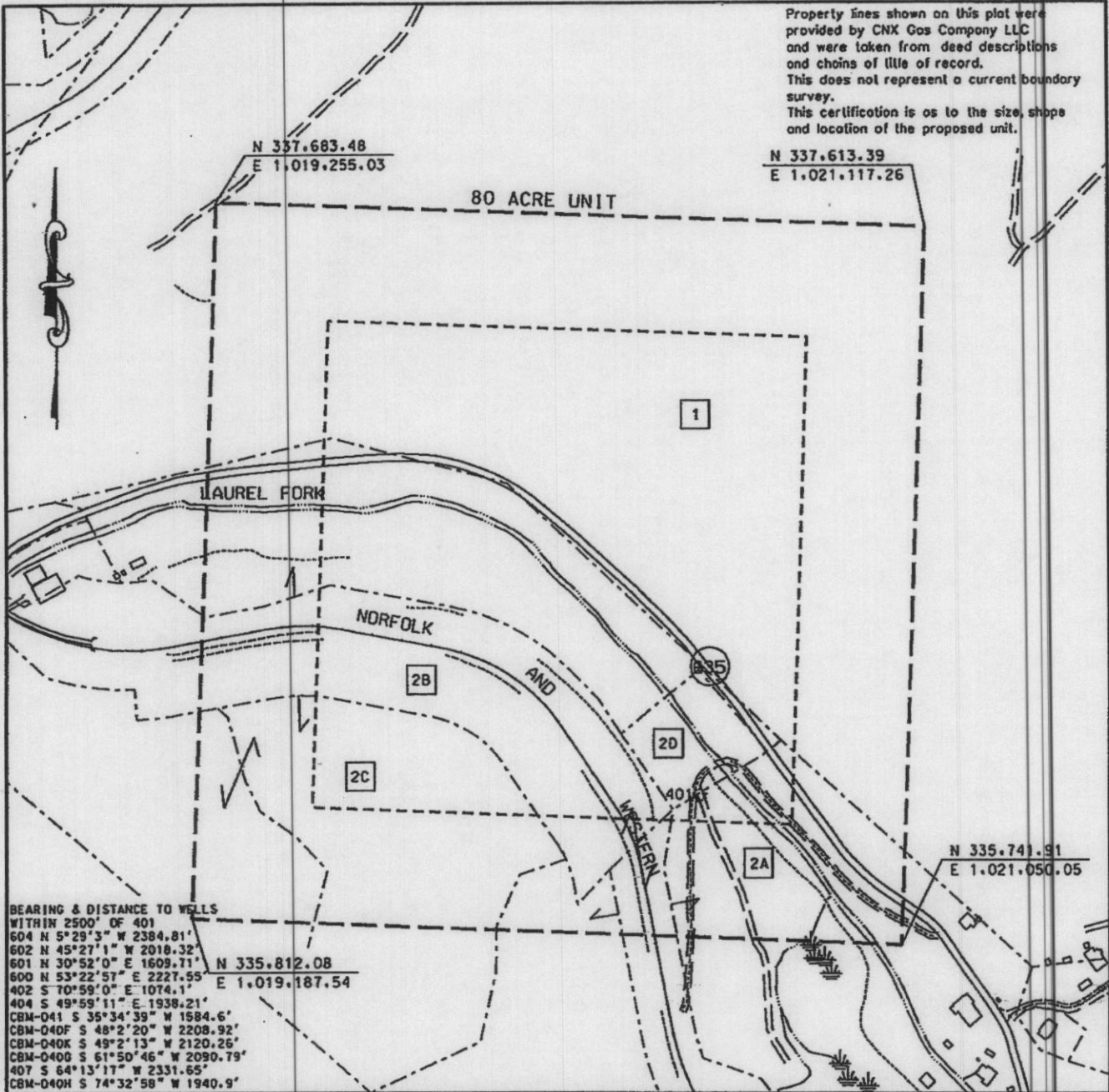
CNX GAS COMPANY LLC
BY ITS PROFESSIONAL MANAGER
CNX GAS COMPANY LLC, PETITIONER

By:


Anita D. Duty
Pooling Supervisor
CNX Land Resources, Inc.
2481 John Nash Blvd.
Bluefield, West Virginia 24701

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Property lines shown on this plat were provided by CNX Gas Company LLC and were taken from deed descriptions and chains of title of record. This does not represent a current boundary survey. This certification is as to the size, shape and location of the proposed unit.



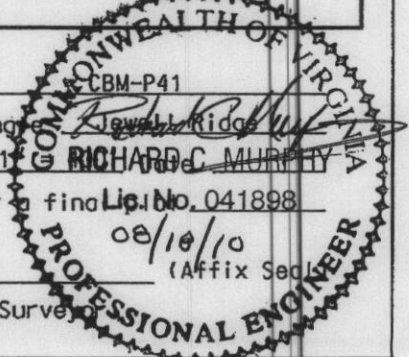
BEARING & DISTANCE TO WELLS
WITHIN 2500' OF 401
604 N 5°29'3" W 2384.81'
602 N 45°27'1" W 2018.32'
601 N 30°52'0" E 1609.71'
600 N 53°22'57" E 2227.55'
402 S 70°59'0" E 1074.1'
404 S 49°59'11" E 1938.21'
CBM-041 S 35°34'39" W 1584.6'
CBM-040F S 48°2'20" W 2208.92'
CBM-040K S 49°2'13" W 2120.26'
CBM-040G S 61°50'46" W 2090.79'
407 S 64°13'17" W 2331.65'
CBM-040H S 74°32'58" W 1940.9'

EXHIBIT A
OAKWOOD FIELD
UNIT P41
FORCE POOLING
VGOB-93-0216-0329-03

Company CNX Gas Company LLC Well Name and Number CBM-P41
Tract No. _____ Elevation _____ Quadrangle Jewell Ridge
County Buchanan District _____ Garden _____ Scale: 1" = 400'
This plat is a new plat X ; an updated plat _____ ; or a final Final

Form DGO-GO-7
Rev. 9/91

Richard C. Murphy
Licensed Professional Engineer or Licensed Land Surveyor



CNX Gas Company LLC

UNIT P 41

Tract Identification

1. P. J. Brown Heirs, et al (889 Acre Tract) – All Mineral
Island Creek Coal Company/Consol Energy, Inc. Company – Coal Below Drainage Leased
Jewell Smokeless Coal Corporation – Coal Above Drainage Leased
CNX Gas Company LLC – Oil, Gas and CBM Leased (99.86775%)
P. J. Brown Heirs - Surface
40.73 Acres 50.9125%
- 2A. James M. McGuire Trust – Coal
Reserve Coal Properties – Below Drainage Coal Leased
Jewell Ridge Coal Corp.- Jawbone and Tiller Seams Leased
CNX Gas Company LLC – All Minerals except Coal
Consolidation Coal Company – Surface
6.59 Acres 8.2375%
- 2B. James M. McGuire Trust – Coal
Reserve Coal Properties – Below Drainage Coal Leased
Jewell Ridge Coal Corp. – Jawbone and Tiller Seams Leased
Norfolk & Western Railway Company – Surface and All Minerals except Coal
9.72 Acres 12.1500%
- 2C. James M. McGuire Trust – Coal
Reserve Coal Properties – Below Drainage Coal Leased
Jewell Ridge Coal Corp. – Jawbone and Tiller Seams Leased
Linda M. Estridge, et al – Surface and All Minerals except Coal
21.32 Acres 26.6500%
- 2D. James M. McGuire Trust – Coal
Reserve Coal Properties – Below Drainage Coal Leased
Jewell Ridge Coal Corp. – Jawbone and Tiller Seams Leased
CNX Gas Company LLC – Surface and All Minerals except Coal
1.64 Acres 2.0500%

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Exhibit E
Unit P-41
Docket #VGOB 93-0216-0329-04
List of Conflicting Owners/Claimants that require escrow

	Net Acres in Unit	Interest in Unit	Interest in 15-Right 1.97042%
<u>Tract #2B - 9.72 acres</u>			
<u>COAL OWNERSHIP</u>			
(1) James M. McGuire Land Trust (460.57 Acre Tract) P.O. Box 1067 Bluefield, VA 24605	9.72 acres	12.1500%	0.23941%
<u>OIL & GAS OWNERSHIP</u>			
(1) Norfolk Southern Railway Company	9.72 acres	12.1500%	0.23941%
<i>If no conflict royalties paid to:</i> Pocahontas Land Corporation Treasurer, Pocahontas Land Corporation P. O. Box 1517 Bluefield, WV 24701			
<u>Tract #2C - 21.32 acres</u>			
<u>COAL OWNERSHIP</u>			
(1) James M. McGuire Land Trust (460.57 Acre Tract) P.O. Box 1067 Bluefield, VA 24605	21.32 acres	26.6500%	0.52512%
<u>OIL & GAS OWNERSHIP</u>			
(1) W. B. McDonald, et ux. Heirs, Devisees, Successors or Assigns	21.32 acres	26.6500%	0.52512%
(b) B. W. McDonald Testamentary Trust P. O. Box 999 Prestonsburg, KY 41653	10.66 acres 1/2 of 21.32 acres	13.3250%	0.26256%

Exhibit EE
Unit P-41
Docket #VGOB 93-0216-0329-04
List of Conflicting Owners/Claimants with Royalty Split Agreements

	Net Acres in Unit	Interest in Unit	Interest in 15-Right 1.97042%	Percent of Escrow
<u>Tract #2A - 6.59 acres</u>				
<u>COAL OWNERSHIP</u>				
(1) James M. McGuire Land Trust (460.57 Acre Tract) P.O. Box 1067 Bluefield, VA 24605	6.59 acres	8.2375%	0.16231%	n/a
<u>OIL & GAS OWNERSHIP</u>				
(1) CNX Gas Company, LLC 1000 Consol Energy Drive Canonsburg, PA 15317 (Previously Reserve Coal Properties)	6.59 acres	8.2375%	0.16231%	n/a
<u>Tract #2C - 21.32 acres</u>				
<u>COAL OWNERSHIP</u>				
(1) James M. McGuire Land Trust (460.57 Acre Tract) P.O. Box 1067 Bluefield, VA 24605	21.32 acres	26.6500%	0.52512%	17.1714%
<u>OIL & GAS OWNERSHIP</u>				
(1) W. B. McDonald, et ux. Heirs, Devisees, Successors or Assigns	21.32 acres	26.6500%	0.52512%	
(a) Linda Meledge Estridge 969 Ridgedale Road Saltville, VA 24370	10.66 acres 1/2 of 21.32 acres	13.3250%	0.26256%	17.1714%
<u>Tract #2D - 1.64 acres</u>				
<u>COAL OWNERSHIP</u>				
(1) James M. McGuire Land Trust (460.57 Acre Tract) P.O. Box 1067 Bluefield, VA 24605	1.64 acres	2.0500%	0.04039%	n/a
<u>OIL & GAS OWNERSHIP</u>				
(1) CNX Gas Company, LLC 1000 Consol Energy Drive Canonsburg, PA 15317 (Previously Reserve Coal Properties)	1.64 acres	2.0500%	0.04039%	n/a

INSTRUMENT #110001090
RECORDED IN THE CLERK'S OFFICE OF
BUCHANAN COUNTY ON
MAY 3, 2011 AT 01:35PM
BEVERLY S. TILLER, CLERK
RECORDED BY: GGB