

VIRGINIA:

BEFORE THE VIRGINIA GAS AND OIL BOARD

APPLICANTS:	Torch Energy Advisors Incorporated (herein	)	
	“Torch”), Consolidation Coal Company (herein	)	
	“CCC”) and Pocahontas Gas Partnership	)	VGOB NOS.
	(herein “PGP”) (Torch, CCC and PGP sometimes	)	95/04/18-0499-02 (W-29)
	collectively referred to as “Applicants”)	)	95/04/18-0500-02 (X-29)

RELIEF SOUGHT:

Accountings, Disbursements from Escrow Account, and Amendments of Board's Pooling Orders for Drilling Units:

(1) W-29, Docket No. VGOB 95-0418-0499 Entered December 11, 1995 and Recorded on December 19, 1995 in Deed Book 444, Page 121 (herein "W-29 Pooling Order"), as amended by Supplemental Order Regarding Elections Entered September 5, 1996 and Recorded on September 12, 1996 at Deed Book 453, Page 233 (herein "W-29 Supplemental Order")

(2) X-29, Docket Nos. VGOB 95/04/18-0500 and 95/04/18-0500-01 Entered December 11, 1995 and Recorded December 19, 1995, in Deed Book 444 Page 90, as Amended by Order entered April 1, 1996 and Recorded April 8, 1996 in Deed Book 447, Page 460 (herein "X-29 Pooling Order") as amended by the Board's Supplemental Order Regarding Elections Entered on September 5, 1996, and Recorded September 12, 1996 in Deed Book 453, Page 243 (herein "X-29 Supplemental Order")

LEGAL DESCRIPTION:

Drilling Unit Numbers W-29 and X-29 in the
Oakwood Coalbed Gas Fields I and II,
Keen Mountain Quadrangle, Garden Magisterial
District, Buchanan County, Virginia (herein
“Subject Drilling Unit(s)”))

REPORT OF THE BOARD

FINDINGS AND ORDER

1. **Hearing Date and Place:** These matters came on for hearing before the Virginia Gas and Oil Board (herein "Board") at 9:00 a.m. on March 23, 1999, and as a result of action taken by the Board on that date, the Board hereby enters this Order.
2. **Appearances:** Jill Harrison of the firm Penn Stuart appeared in behalf of the Applicants; Mark Swartz of the firm Swartz and Stump, P.C. appeared in behalf of PGP as the 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.*, the Board finds that it has jurisdiction over the establishment and maintenance of the escrow account established by the Board for the Subject Drilling Unit pursuant to the terms of the Pooling Order, the Supplemental Order and the Amended Supplemental Order (herein "Escrow Account") into which the Unit Operator is required to deposit those funds specified in the escrow requirements of the Virginia Gas and Oil Act (herein "Act") found at 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. (herein "Escrowed Funds"). Further, the Board finds: (1) that it does not have jurisdiction to resolve conflicting claims of ownership to the Coalbed Methane Gas being produced by the Unit Operator from wells located on Subject Drilling Unit, (2) that it does not have jurisdiction to interpret voluntary agreements between the Gas owners/claimants and 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 Applicants' entitlement with respect to the liquidated amount of the funds on deposit in the Escrow Account attributable or allocable to Applicants' interest therein or there is an agreement by all of the owners/claimants within the drilling unit as to the amount of their respective Entitlement to the Escrowed Funds. The Applicants have represented to the Board that they have given notice to all parties (hereafter sometimes "person(s)" whether referring to individuals, corporations, partnerships, associations, companies, businesses, trusts, joint ventures or other legal entities) entitled by Va. Code §§ 45.1-361.19 and 45.1-361.22 to notice of this application. The Board has caused notice of this hearing to be published as required by Va. Code § 45.1-361.19.B. Whereupon, the Board hereby finds that the notices given herein satisfy all statutory requirements, Board rule requirements and the minimum standards of state due process.
4. **Prior Proceedings:** By orders entered June 26, 1998 and November 10, 1998, respectively, (herein "Accounting Orders") the Board: (1) directed the Unit Operator of the W-29 and X-29 Drilling Units to determine and file with the Board, on a tract-by-tract basis, an historical, chronological and itemized summary of each and every deposit Operator has made into the Escrow Account established by the W-29 Pooling Order (herein "W-29 Escrow Account") and into the Escrow Account established by the X-29 Pooling Order (herein "X-29 Escrow Account"), and (2) continued Applicants' request for disbursement of funds from the W-29 and the X-29 Escrow Accounts pending receipt of the Accountings.
5. **Special Findings:**
 - 5.1. As required by the Accounting Orders, at the Board's hearing on March 23, 1999, the Unit Operator filed with the Board the tract-by-tract accounting for the W-29 Escrow Account and for the X-29 Escrow Account (herein "Accountings, a copy of which Accountings are attached hereto).
 - 5.2. The Unit Operator testified that while reconciling the Accounting for the W-29 Drilling Unit and for the X-29 Escrow Account to the records of the Escrow Agent for said escrow accounts, they discovered errors which require adjustments to the funds on deposit in the X-29 Escrow Account and the W-29 Escrow Account before the Unit Operator can render a final tract-by-tract accounting in these matters. The adjustments requested by the Operator are shown as footnotes to the Accountings, which state:
 - (a) The W-29 Accounting:
 - (1) "Check for \$296.90 on 11/25/96 and check for \$254.19 on 12/24/96 total \$551.09. The bank shows a deposit of \$673.49 which is a difference of \$122.40. This difference was allocated to X-29, but was put into the W-29 account instead." – to correct this discrepancy, the Unit Operator requests that the Board order the Escrow Agent to transfer the sum of \$122.40 from the W-29 Escrow Account (VGOB 95-0418-0499) to the X-29 Escrow Account (VGOB 95-0418-0500).
 - (2) "The bank shows a deposit of \$370.93 on 4/25/97 which should have been for the amount of \$398.64. The difference of \$27.71 was allocated to Unit W-29 (Owner #17866100) and should have been put into [W-29] account, but was put into X-29 instead" – the Unit Operator requests that the Board order the Escrow Agent to transfer the sum of \$27.71 from the X-29

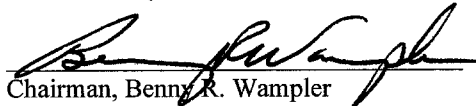
Escrow Account (VGOB 95-0418-0500) to the W-29 Escrow Account (VGOB 95-0418-0499).

(b) The X-29 Accounting:

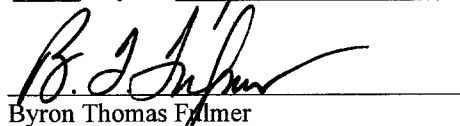
- (1) "Check for \$1518.40 on 11/25/96 and check for \$1299.23 on 12/24/96 totals \$2,817.63. The bank shows a deposit of \$2695.33 which is a difference of \$122.40. This difference was allocated to X-29, but was put into the W-29 account instead" – See Paragraph 6.2(a)(1) above for the transfer required to correct this error.
- (2) "Check for \$1985.14 on 4/25/97 should have been for the amount of \$1957.43. The overpayment of \$27.71 was allocated to Unit W-29 (Owner #17866100) and should have been put [in the X-29) account instead." – See Paragraph 6.2.(a)(2) above for the transfer required to correct this error.

6. **Relief Granted:** Therefore, to reconcile the funds on deposit in the W-29 Escrow Account to the W-29 Accounting and the funds on deposit in the X-29 Escrow Account to the X-29 Accounting, the Unit Operator's requests for the adjustments outlined in the footnotes to the W-29 Accounting and the X-29 Accounting are granted, and the Escrow Agent is directed to make the following fund transfers:
 - a. Transfer the sum of \$122.40 from the W-29 Escrow Account (VGOB 95-0418-0499) to the X-29 Escrow Account (VGOB 95-0418-0500).
 - b. Transfer the sum of \$27.71 from the X-29 Escrow Account (VGOB 95-0418-0500) to the W-29 Escrow Account (VGOB 95-0418-0499).
7. **Conclusion:** Therefore, the relief granted is just and reasonable, is supported by substantial evidence, and the Board is entering this Order granting the relief requested as more particularly set forth in Paragraph 7 above and IT IS SO ORDERED.
8. **Effective Date:** This Order shall be effective as of March 23, 1999.

DONE AND EXECUTED this 13th day of April, 1999, by a majority of the Virginia Gas and Oil Board.

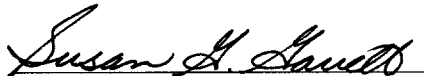

Chairman, Benny R. Wampler

DONE AND PERFORMED this 13th day of April, 1999, by 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 13th 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 13th 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

