

VIRGINIA:

## BEFORE THE VIRGINIA GAS AND OIL BOARD

SUPPLEMENTAL ORDER REGARDING DOCKET NO. VGOB-97-0318-0570  
ELECTIONS, UNIT: W-33  
(herein "Subject Drilling Unit")

REPORT OF BOARDFINDINGS AND ORDER

1. This Supplemental Order is entered by the Board *sua sponte* in the form authorized by the Board at its hearing held at 9:00 a.m. on March 18, 1997, Dickenson Hall, Southwest Virginia Education 4-H Center, Abingdon, Virginia, and pursuant to authority granted to the Board's Chairman at the hearing of the Virginia Gas and Oil Board on June 16, 1992, at 9:00 a.m. at the Rhododendron Restaurant at the Breaks Interstate Park, Breaks, Virginia; and this Supplemental Order is being recorded for the purpose of (1) complying with the requirements of § 7.C of the Virginia Gas and Oil Board Regulations, VR 480-05-22.2 by supplementing the Order previously issued by the Board for subject Docket on May 22, 1997 and recorded at Deed Book 463 Page 147 in the office of the Clerk of Garden District, Buchanan, County, Virginia on June 4, 1997 (herein "Board Order") to complete the record regarding elections. The Board Order pooled all interests in Subject Drilling Unit including those of the Respondents more particularly set forth and identified by the Designated Operator in the affidavits attached hereto and made a part hereof. The Board finds it has jurisdiction over the subject matter pursuant to the provisions of the Virginia Gas and Oil Act, § 45.1-361.1 et seq., Virginia Code, 1950 as amended.

2. Findings: The Board finds that:

(a). The Board Order directed Pocahontas Gas Partnership, (herein the "Designated Operator"), to mail copies of the Board Order to all Respondents whose interests, if any, were pooled by said Board Order;

(b). The Designated Operator filed its affidavit of mailing disclosing that it had mailed a true and correct copy of the Board's Order to all Respondents whose interests, if any, were pooled by said Board Order;

(c). The Board Order required each Respondent whose interests, if any, were pooled by the terms of said Board Order to make his or her election within thirty (30) days after the date of mailing or recording, as applicable, of said Order; the Designated Operator has filed its affidavit in accordance with § 7.c of the Virginia Gas and Oil Board Regulations and VR 480-05-22.2 (herein "Affidavit of Election"), wherein it has, for each Respondent whose interests, if any, were pooled by said Board Order, stated: (i) whether each Respondent has made or failed to make a timely election; (ii) the nature of the election made, if any; (iii) whether, by reason of a failure to elect or to timely elect one or more Respondents are deemed, under the terms of the Board's Order, to have leased all their rights, title, interests, estates and claims in Subject Drilling Unit to the Designated Operator;

(d). The Board Order further required the Designated Operator, after expiration of the election period, to file with the Board a statement of the interests subject to escrow under the terms and provisions of the Board Order, in light of the elections made or deemed to have been made (herein "Statement of Interests"); that the Designated Operator furnished said Statement of Interests as part of its Affidavit of Election. A copy of which is attached hereto as Exhibit A.

(e). Current Board standards requiring the escrow of funds and the Board's agreement with its Escrow Agent, Tazewell National Bank, Trust Department, c/o Premier Bankshares Corporation, 29 College Drive, P.O. Box 1199, Bluefield, VA 24605, or any successor named by the Board, require the entry of a Supplemental Order establishing of record the elections made or deemed to have been made and specifying the sums or percentage thereof subject to escrow.

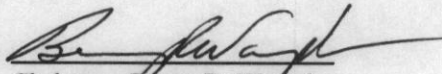
3. Order: By this Order, the Board orders the Designated Operator to tender, consistent with and in accordance with the findings set forth at paragraph 2. above and the annexed Affidavits, any funds subject to escrow and instructs the Escrow Agent, Tazewell National Bank, Trust Department, c/o Premier Bankshares Corporation, 29 College Drive, P.O. Box 1199, Bluefield, VA 24605, or any successor named by the Board to establish interest-bearing escrow account(s), IRS Tax Identification Number 54-1629506, in accordance with the information set forth in said Affidavits to receive such funds and account to the Board therefore.

4. Mailing of Order and Filing of Affidavit: The Designated Operator under the captioned Order or its Attorney shall file an affidavit with the Secretary of the Board within ten (10) days after the date of receipt of this Order stating that a true and correct copy of this Order was mailed within seven (7) days from the date of receipt of this Order to each person whose interest or claim is subject to escrow and whose address is known.

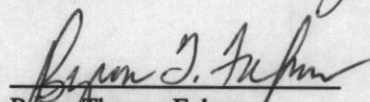
5. Conclusion: Therefore, the findings and all terms and provisions set forth above be and hereby are granted and IT IS SO ORDERED.

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

DONE AND EXECUTED this 25<sup>th</sup> day of August, 1997 by a majority of the Virginia Gas and Oil Board.

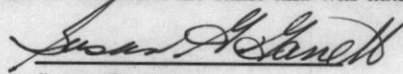
  
Chairman, Benny R. Wampler

DONE AND PERFORMED THIS 28<sup>th</sup> day of August, 1997, by Order of this Board.

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

STATE OF VIRGINIA )  
COUNTY OF WISE )

Acknowledged on this 25<sup>th</sup> day of August, 1997, personally before me a notary public in and for the Commonwealth of Virginia, appeared Benny 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 7/31/98

STATE OF VIRGINIA )  
COUNTY OF WASHINGTON )

Acknowledged on this 25<sup>th</sup> day of August, 1997, personally before me a notary public in and for the Commonwealth of Virginia, appeared Bryon 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  
~~Susan G. Garrett~~  
Notary Public

My commission expires 9/30/97

VIRGINIA:

Exhibit A

## BEFORE THE VIRGINIA GAS AND OIL BOARD

IN RE:

Application of Pocahontas Gas Partnership, Inc. for Forced Pooling of Interests in Unit Number W-33, VGOB Docket No. 97-0318-0570 in the Garden District of Buchanan County, Virginia

AFFIDAVIT OF POCAHONTAS GAS PARTNERSHIP (herein "Designated Operator") REGARDING ELECTIONS, ESCROW AND SUPPLEMENTAL ORDER

Leslie K. Arrington (herein Affiant), being first duly sworn on oath, deposes and says:

1. That your Affiant is employed by Consol, Inc. and assigned to Pocahontas Gas Partnership, the Designated Operator, at its office located at P.O. Box 947 Bluefield, VA 24605, that your Affiant is the Designated Operator's Permit Specialist, and is authorized to give this Affidavit in its behalf;

2. That the Order entered on May 22, 1997, by the Virginia Gas and Oil Board regarding the captioned CBM Unit required the Applicant to mail a true and correct copy of said Order to each person pooled by said Order;

3. That within seven (7) days of the receipt of an executed copy of the Order referred to at Paragraph 2. above, your Affiant caused a true and correct copy of said Order to be mailed via the United States Postal Service to each Respondent named in the captioned Application, whose address was known, and to all persons, if any, who were added as Respondents at the hearing held in the captioned matter; that annexed hereto and incorporated herein are copies of the letters of transmittal, receipts for certified mail, and return receipts pertaining to said mailing;

4. That the Order of the Virginia Gas and Oil Board in the captioned matter required all persons pooled thereby to tender their written elections to the Unit Operator within thirty (30) days of the date said Order was recorded in the county above named; that said Order was recorded on June 4, 1997.

5. That the Designated Operator, Consol, Inc., has established procedures to review all mail received and all written documents received by means other than by mail to ascertain whether parties whose interests have been pooled have made a written election, in a timely fashion, as required by the captioned Order; that said procedures were followed to identify the elections, if any, made with regard to Subject Unit; that the following persons delivered, by mail or otherwise, written elections to the Unit Operator, within the thirty day election period:

None.

6. That the interests and/or claims of the following persons (who made timely elections, or who are deemed under the terms of the Board's Order to have leased, or who, subsequent to the pooling hearing held in the captioned matter, have leased or otherwise entered into an agreement with the Designated Operator are subject to escrow under the Board's Order pooling the captioned Unit, Board Regulations and the Code of Virginia;

See attachments.

7. That after the pooling hearing held in the captioned matter, the following persons have leased or entered into a voluntary agreement with the Designated Operator with regard to their interests and/or claims which are not subject to escrow and should, therefore, be dismissed as Respondents:

See Attachments.

8. That pursuant to the provisions of VR 480-05-22.27.C and VR 480-05-22.2.8, annexed hereto and incorporated herein is a proposed supplemental order to be entered to complete the record regarding elections; (See Exhibit "B-3" that said annexed supplemental order sets forth and identifies the conflicting claims and/or interests which require escrow of funds pursuant to the terms of §§ 45.1-361.21.D, 45.1-361.22.A.3 and 4.; (See Exhibit "E").

Dated at Bluefield, Virginia, this 5<sup>th</sup> day of August, 1997.

Leslie K. Arrington  
Affiant

Taken, subscribed and sworn to before me by Leslie K. Arrington, the Permit Specialist, of Consol, Inc., a corporation, on behalf of the corporation, this 5<sup>th</sup> day of August, 1997.

My commission expires: May 31, 1999

Carl E. Sauter  
Notary

UNIT W-33  
Docket # VGOB-97-0318-0570  
Exhibit B-3  
List of Unleased Owners/Claimants

Revised 4/3/97

|                                                                                                      | Acres in Unit | Percent of Unit | Division of Interest in 10 East 6.5341% | Division of Interest in 11 East 7.1065% | Election      |
|------------------------------------------------------------------------------------------------------|---------------|-----------------|-----------------------------------------|-----------------------------------------|---------------|
| <b>I. OIL &amp; GAS FEE OWNERSHIP</b>                                                                |               |                 |                                         |                                         |               |
| <b>Tract #5, 3.25 acres</b>                                                                          |               |                 |                                         |                                         |               |
| (1) Commonwealth of Virginia<br>Department of Transportation<br>870 Bonham Road<br>Bristol, VA 24201 | 3.25 acres    | 4.06250%        | 0.26545%                                | 0.28870%                                | Deemed Leased |
| <b>Tract #10, 4.62 acres</b>                                                                         |               |                 |                                         |                                         |               |
| (1) Donald Ratliff<br>P. O. Box 359<br>Oakwood, VA 24631                                             | 4.62 acres    | 5.77500%        | 0.37734%                                | 0.41040%                                | Deemed Leased |

[Note] (Tract #5, All Seams except Pocahontas No. 3)

UNIT W-33  
Docket # VGOB-97-0318-0570  
Exhibit E

BOOK 466 PAGE 364

List of Conflicting Owners/Claimants that Require Escrow

|  | Acres in Unit | Percent of Unit | Division of Interest in 10 EAST 6.5341% | Division of Interest in 11 EAST 7.1065% |
|--|---------------|-----------------|-----------------------------------------|-----------------------------------------|
|--|---------------|-----------------|-----------------------------------------|-----------------------------------------|

Tract #5, 3.25 acres

COAL FEE OWNERSHIP

|                                                                                                      |            |          |          |          |
|------------------------------------------------------------------------------------------------------|------------|----------|----------|----------|
| (1) Commonwealth of Virginia<br>Department of Transportation<br>870 Bonham Road<br>Bristol, VA 24201 | 3.25 acres | 4.06250% | 0.26545% | 0.28870% |
| (2) Consolidation Coal Co.(Pocahontas No. 3 Seam Only)<br>P. O. Box 947<br>Bluefield, VA 24605       |            |          |          |          |

OIL & GAS FEE OWNERSHIP

|                                                                                                      |            |          |          |          |
|------------------------------------------------------------------------------------------------------|------------|----------|----------|----------|
| (1) Commonwealth of Virginia<br>Department of Transportation<br>870 Bonham Road<br>Bristol, VA 24201 | 3.25 acres | 4.06250% | 0.26545% | 0.28870% |
| (2) Consolidation Coal Co.(Pocahontas No. 3 Seam Only)<br>P. O. Box 947<br>Bluefield, VA 24605       |            |          |          |          |

Tract #6, 1.52 acres

COAL FEE OWNERSHIP

|                                                                                                  |            |          |          |          |
|--------------------------------------------------------------------------------------------------|------------|----------|----------|----------|
| (1) Coal Mountain Mining Co. Tr 15<br>Coal Mountain Trust<br>P. O. Box 675<br>Tazewell, VA 62451 | 1.52 acres | 1.90000% | 0.12415% | 0.13502% |
|--------------------------------------------------------------------------------------------------|------------|----------|----------|----------|

OIL & GAS FEE OWNERSHIP

|                                                                            |            |          |          |          |
|----------------------------------------------------------------------------|------------|----------|----------|----------|
| (1) Consolidation Coal Co.<br>1800 Washington Road<br>Pittsburgh, PA 15241 | 1.52 acres | 1.90000% | 0.12415% | 0.13502% |
|----------------------------------------------------------------------------|------------|----------|----------|----------|

Tract #10, 4.62 acres

COAL FEE OWNERSHIP

|                                                                                                  |            |          |          |          |
|--------------------------------------------------------------------------------------------------|------------|----------|----------|----------|
| (1) Coal Mountain Mining Co. Tr 15<br>Coal Mountain Trust<br>P. O. Box 675<br>Tazewell, VA 62451 | 4.62 acres | 5.77500% | 0.37734% | 0.41040% |
|--------------------------------------------------------------------------------------------------|------------|----------|----------|----------|

OIL & GAS FEE OWNERSHIP

|                                                          |            |          |          |          |
|----------------------------------------------------------|------------|----------|----------|----------|
| (1) Donald Ratliff<br>P. O. Box 359<br>Oakwood, VA 24631 | 4.62 acres | 5.77500% | 0.37734% | 0.41040% |
|----------------------------------------------------------|------------|----------|----------|----------|

UNIT W-33  
Docket # VGOB-97-0318-0570  
Exhibit E

## List of Conflicting Owners/Claimants that Require Escrow

|                                                                                                  | Acres in Unit | Percent of Unit | Division of Interest in 10 EAST 6.5341% | Division of Interest in 11 EAST 7.1065% |
|--------------------------------------------------------------------------------------------------|---------------|-----------------|-----------------------------------------|-----------------------------------------|
| <b>Tract #11, 7.98 acres</b>                                                                     |               |                 |                                         |                                         |
| <b><u>COAL FEE OWNERSHIP</u></b>                                                                 |               |                 |                                         |                                         |
| (1) Coal Mountain Mining Co. Tr 15<br>Coal Mountain Trust<br>P. O. Box 675<br>Tazewell, VA 62451 | 7.98 acres    | 9.97500%        | 0.65178%                                | 0.70887%                                |
| <b><u>OIL &amp; GAS FEE OWNERSHIP</u></b>                                                        |               |                 |                                         |                                         |
| (1) Mildred Smith<br>P. O. Box 44<br>Hurley, VA 24620                                            | 7.98 acres    | 9.97500%        | 0.65178%                                | 0.70887%                                |
| <b>Tract #13, 4.61 acres</b>                                                                     |               |                 |                                         |                                         |
| <b><u>COAL FEE OWNERSHIP</u></b>                                                                 |               |                 |                                         |                                         |
| (1) Coal Mountain Mining Co. Tr 15<br>Coal Mountain Trust<br>P. O. Box 675<br>Tazewell, VA 62451 | 4.61 acres    | 5.76250%        | 0.37653%                                | 0.40951%                                |
| <b><u>OIL &amp; GAS FEE OWNERSHIP</u></b>                                                        |               |                 |                                         |                                         |
| (1) Consolidation Coal Co.<br>1800 Washington Road<br>Pittsburgh, PA 15241                       | 4.61 acres    | 5.76250%        | 0.37653%                                | 0.40951%                                |

VIRGINIA: In the Clerk's Office of the Circuit Court of Buchanan County. The foregoing instrument was this day presented in the office aforesaid and is, together with the certificate of acknowledgment annexed, admitted to record this 3rd day of September, 1997.  
Deed Book No. 466 and Page No. 358 TESTE: James M. Bevins, Jr., Clerk  
Returned this date to Deputy Minors TESTE: Querley S. Jolley, Deputy Clerk