

# T. SHEA COOK, P.C.

ATTORNEY AT LAW

2411 Second Street

Post Office Box 507

Richlands, Virginia 24641

Phone (276)963-4332~Facsimile (276) 963-6271

[tsheacook@yahoo.com](mailto:tsheacook@yahoo.com)



January 31, 2014

Via facsimile and first class mail

Rick Cooper  
Virginia Gas and Oil Inspector  
Division of Gas and Oil  
PO Box 159  
Lebanon, VA 24266

Re. Link smith-*Informal* fact-finding conference 227

Dear Rick:

This will serve as our objection and appeal to the Virginia oil and gas board pursuant to Virginia code section 45.1-361.36. It is appellants position that the well site and pipeline sterilizes the use of the property in an unreasonable manner, and that the severance deed submitted by counsel for CNX involves conveyance coal and mineral only, and not the gas which remains owned by Appellant. Because CNX does not own the gas, they do not have the right to extract the same by well or pipeline.

Moreover it is appellant's view that the division of gas and oil has the implied authority to address compensation rights as well as deed and title interpretation.

With best regards I remain most sincerely,

A handwritten signature in black ink, appearing to be "T. Shea Cook".

Terrence Shea Cook

TSC/sls

cc: Mark Swartz  
Link Smith

**T. SHEA COOK**  
ATTORNEY AT LAW  
2411 Second Street  
Post Office Box 507  
Richland, Virginia 24641  
Phone (276)963-4332-Facsimile (276) 963-6271



**FACSIMILE COVER LETTER**

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TO: DMME  
FROM: T. Shea Cook  
FAX NO: 276-415-9671  
DATE: 9/20/11

**MESSAGE**

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**NOTICE**

All information contained herein is considered ATTORNEY PRIVILEGED AND CONFIDENTIAL information intended for only the use of the individual titled above. Should you receive this message in error, please be advised that any dissemination, distribution or copy of this message is strictly prohibited and you are instructed to immediately notify us by telephone and return the original message to us at the above address via mail. Thank you.

# T. SHEA COOK, P.C.

ATTORNEY AT LAW

2411 Second Street

Post Office Box 507

Richlands, Virginia 24641

Phone (276)963-4332~Facsimile (276) 963-6271

September 21, 2011

Via telefacsimile and first class mail

DMME

Division of Gas and Oil

PO Box 159

Lebanon, VA 24266

RE: Objections to Permit 19331 and 19332

To whom it may concern:

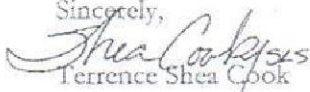
I am filing on behalf of Link Monroe Smith, his objection to the above referenced permits.

Smith objects based upon the fact it characterizes him as owning only the surface. He believes, and is in the process of completing a mineral abstract that will show he owns the gas as well.

Smith objects to the location of the proposed wells and pipeline, based upon the fact that the location will unreasonably infringe on his use of the surface. There are alternative sites and routes available on/over other tracts.

As a result of the foregoing, it is requested that CNX's permit application relative to Permit 19331 and 19332 be denied.

Sincerely,

  
Terrence Shea Cook

TSC/sls

cc: Link Smith

**VIRGINIA DIVISION OF GAS AND OIL**  
**NOTICE OF INFORMAL FACT FINDING HEARING**

In regard to CNX Gas Company LLC  
Proposed Permit for New Gas Operation  
Application 19331 for Coalbed Methane Well TA131 with Pipeline  
Located in the Maiden Spring District of Tazewell County, Virginia

Docket Number IFFH 227

In Accordance with §45.1-361.35.H. of the Code of Virginia, the Director of the Division of Gas and Oil has scheduled an Informal Fact Finding Hearing (IFFH) to consider an objection received from **Link Smith**, to be affected by the above-named operation(s). The objection by the surface owner was received at the office of the Division of Gas and Oil in a timely manner and in accordance with § 45.1-361.35. This notice of hearing is being sent to the permit applicant and to all parties with standing to object as prescribed by §45.1-361.30. All parties are entitled to be represented by counsel at the hearing, if desired. Those receiving notice of this proceeding and who did not object to the application are not required to attend.

The objections have been filed by a **Surface** Owner against the permit applications for **CNX Gas Company LLC**, for operation **CBM TA131 with pipeline** in accordance with:

**§ 45.1-361.35. Objections to permit.**

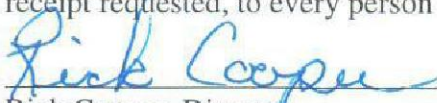
**4. Location of the coalbed methane well or coalbed methane well pipeline will unreasonably infringe on the surface owner's use of the surface, provided that a reasonable alternative site is available within the unit, and granting the objection will not materially impair any right contained in an agreement, valid at the time of the objection, between the surface owner and the operator or their predecessors or successors in interest.**

Date and location of Conference:

The hearing is scheduled for **Tuesday December 10, 2013, beginning at 1:30 PM**. The hearing will be held at the Department of Mines, Minerals and Energy Office, Russell County Government Center, 135 Highland Drive, Lebanon, Virginia. Contact the Division at (276) 415-9700 with any questions. Specific directions and other important information can be accessed from the Department of Mines, Minerals and Energy website: <http://www.dmme.virginia.gov/divisiongasoil.shtml>

Informal Fact Finding Hearings are to be conducted according to provisions of the Administrative Processes Act of the Code of Virginia (§ 2.2-4019). In reaching a decision, the Director may rely upon any public data, field research, documents, and testimony given at the hearings.

This notice was prepared on **November 25, 2013**, and will be sent by certified mail, return receipt requested, to every person with standing to object as prescribed by § 45.1-361.30.



Rick Cooper, Director  
Virginia Division of Gas and Oil  
P.O. Drawer 159  
Lebanon, Virginia 24266



Commonwealth of Virginia  
Department of Mines, Minerals, and Energy  
Division of Gas and Oil  
P.O. Drawer 159, Lebanon, VA 24266  
Telephone: (276) 415-9700

Operations Name: CBM TA131 W/PL  
Application Number: 19331

### PERSONS RECEIVING OFFICIAL NOTICE OF PERMIT APPLICATION OR PERMIT MODIFICATION

For the purposes of an application for a new permit or permit modification, list such persons by name and address on additional sheets as needed with the title, "Supplemental Sheet for Persons Receiving Official Notice of Permit Application" and indicate the category for each person or group affected.

#### Application for Well Work Permit:

- Surface, coal and mineral owners on the tract to be drilled
- Surface owners of record on tracts where the surface is to be disturbed
- Gas, oil and royalty owners within
  - (1) one-half the distance specified in Section 45.1-361.17
  - (2) one-half the distance to the nearest well completed in the same pool or
  - (3) within the drilling unit established by the Virginia Gas and Oil Board
- Coal operators who have a registered operation plan with the Department for activities located on the tract to be drilled
- All coal operators who have applied for or obtained a mining or prospecting permit with respect to tracts within 500' of the proposed well location
- All coal or mineral owners on tracts located within 500' of the proposed well location
- All Storage Field Operators Within 1250'
- Local Government pursuant to Section 45.1-361.30.E
- Public notice pursuant to Section 45.1-361.30.E, such as an affidavit of publication from the newspaper

#### Coalbed Methane Well Applications (In Addition to Above)

- All coal operators, coal owners or mineral owners within 750 feet of the proposed well location
- All coal operators who have applied for or obtained a mining or prospecting permit with respect to tracts within 750 feet of the proposed well location

#### Applications for Pipelines and Facilities

- All surface owners affected by the proposed operations

#### Applications for Ground Disturbing Geophysical Operations

- Surface owners on tracts where the surface is to be disturbed
- Coal owners, coal operators, and mineral owners on the tract(s) to be drilled
- Coal operators who have registered operations plans with the Department for activities located on the tract to be drilled

## PREDICT

HOLE:	ESTIMATED EASTING	ESTIMATED NORTHING	ESTIMATED ELEVATION
TA131 REVISED	NAD 27 1054188	318231	2768
	NAD 83 10537178	3599111	2768

SEAM	DEPTH FROM TO (FEET)	DEPTH (TOSE) (FEET)	ELEVATION (FEET)	THICKNESS
TOPO	0.00	0.00	2767.52	0.00
GC1	34.18	34.44	2733.34	0.26
GC2	43.12	43.27	2724.40	0.15
LS1	117.46	119.07	2650.06	1.61
LS2	119.08	119.81	2648.44	0.73
LS3	144.51	144.90	2623.01	0.39
UH2	245.35	245.67	2522.17	0.32
UH3	255.67	255.98	2511.85	0.31
MH1	304.74	306.38	2462.78	1.64
MH2	388.30	389.41	2379.22	1.11
** P11	428.66	431.21	2338.86	2.55
P10	474.41	474.85	2293.11	0.44
LH1	501.25	502.57	2266.27	1.32
LH3	512.48	514.62	2255.04	2.14
P91	566.57	566.67	2200.95	0.10
P71	620.07	621.04	2147.45	0.97
P72	713.71	714.18	2053.81	0.47
P62	933.76	934.79	1833.76	1.03
P51	960.30	961.16	1807.22	0.86
P41	1049.36	1050.93	1718.16	1.57
P43	1096.99	1097.65	1670.53	0.66
P31	1135.92	1136.44	1631.60	0.52
P32	1183.46	1184.17	1584.06	0.71
P33	1188.86	1190.16	1578.66	1.30
P34	1202.53	1203.03	1564.99	0.50
P35	1203.36	1203.55	1564.16	0.19
P01	1343.06	1343.46	1424.46	0.40
SJ3	1401.85	1402.61	1365.67	0.76
SJ2	1404.89	1407.55	1362.63	2.66
SJ1	1418.14	1418.57	1349.38	0.43
RG				

Estimated cutoff elevation: 1920 ft above sea level.

Once drilled, any coal seam, named or omitted, that lies below the cutoff elevation is subject to coalbed methane stimulation and production.

Coal seams to be stimulated were adjusted due to the proposed gas well's proximity to Smith Branch.

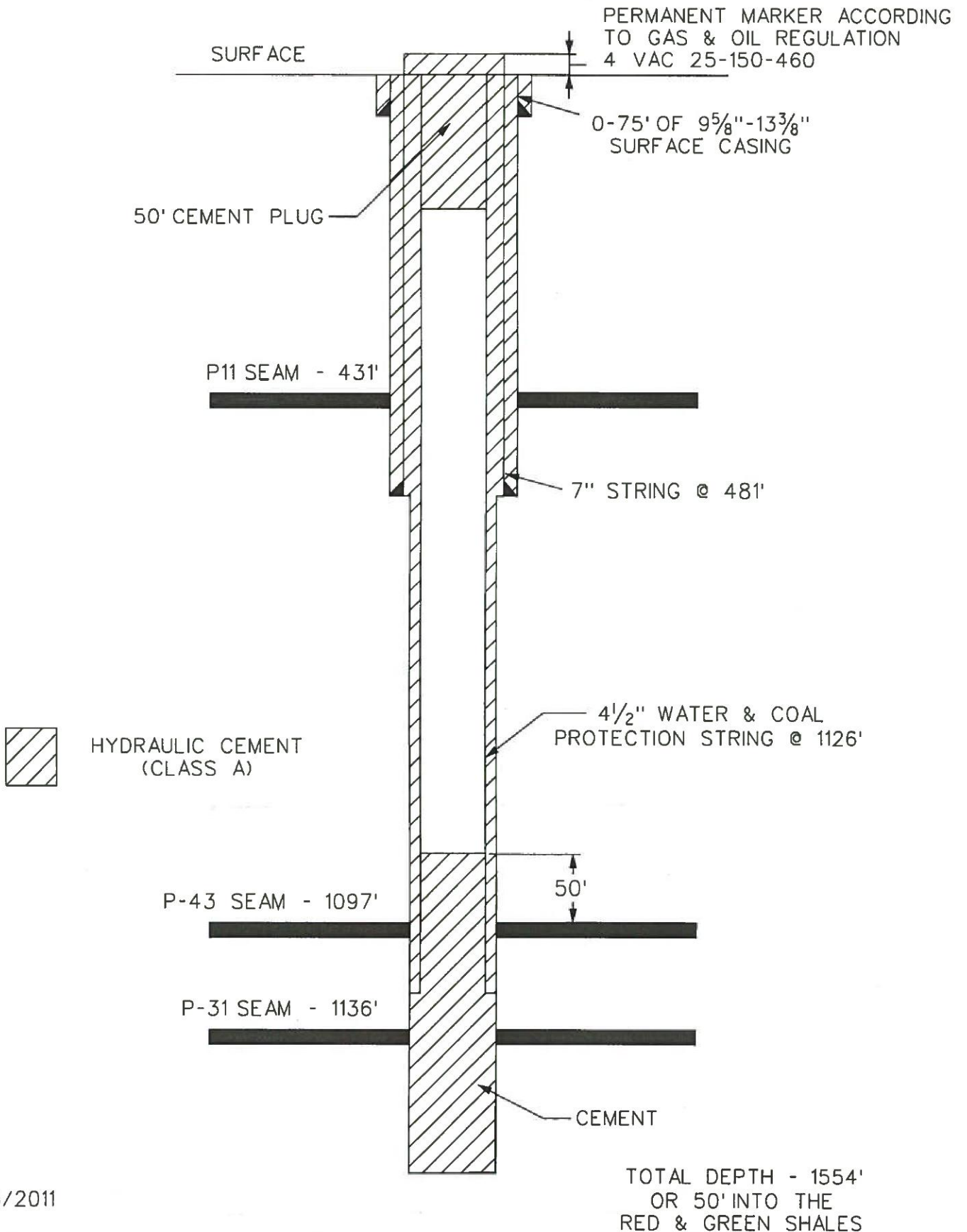
\*\* Mined out.

HYDROLOGIC DATA WERE INCOMPLETE AT THE TIME OF THIS WRITE-UP.

08:51:3408/26/11

CBM-TA131

PROPOSED PLUGGING AND ABANDONMENT SCHEMATIC



**CONSENT TO STIMULATION AND STATEMENT OF  
NO OBJECTION TO A UNIT DESIGNATION AND FORCE POOLING**

The undersigned hereby acknowledges receipt of Notice and Application and accompanying plats and exhibits from CNX Gas Company LLC. The applications propose the stimulation of a coal seam or seams which the undersigned will operate and may propose the conversion of vertical ventilation holes (VVH's) to coalbed methane gas wells (as shown on Exhibit DGO-GO-7).

Execution of this statement is to record the fact that the undersigned consents to the stimulation by CNX Gas Company as well(s) operator of one or more coal seams, which the undersigned controls in the said Oakwood Coalbed Gas Field Unit/Nora Coalbed Field/Middle Ridge Coalbed Gas Field or in wells drilled on state wide spacing as proposed by the referenced Application.

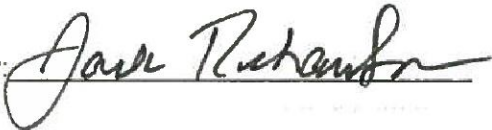
Execution of this statement is to record the fact that the undersigned has no objection to the Virginia Gas and Oil Inspector issuing a permit for wells in the said unit to CNX Gas Company LLC as operator.

This consent to stimulation is operator specific to CNX Gas Company LLC. The undersigned's consent to stimulation is expressly conditioned upon and limited to the well work permit(s) being issued to and in the name of CNX Gas Company LLC, upon the proposed stimulation being done by CNX Gas Company LLC and/or its agents or contractors which are subject to its direction and control, and upon CNX Gas Company being the operator of the well(s). Any transfer of the permit(s) issued upon this consent and/or any change of well operator without the written consent of the undersigned first obtained shall automatically void this consent. By submitting this conditional consent in the permitting process, the well permit applicant on its own behalf and on behalf of its successors and assigns, if any, agrees that it shall, immediately upon a permit transfer or change of well operator to which the undersigned has not consented in writing, shut in the well(s) and plug it/them.

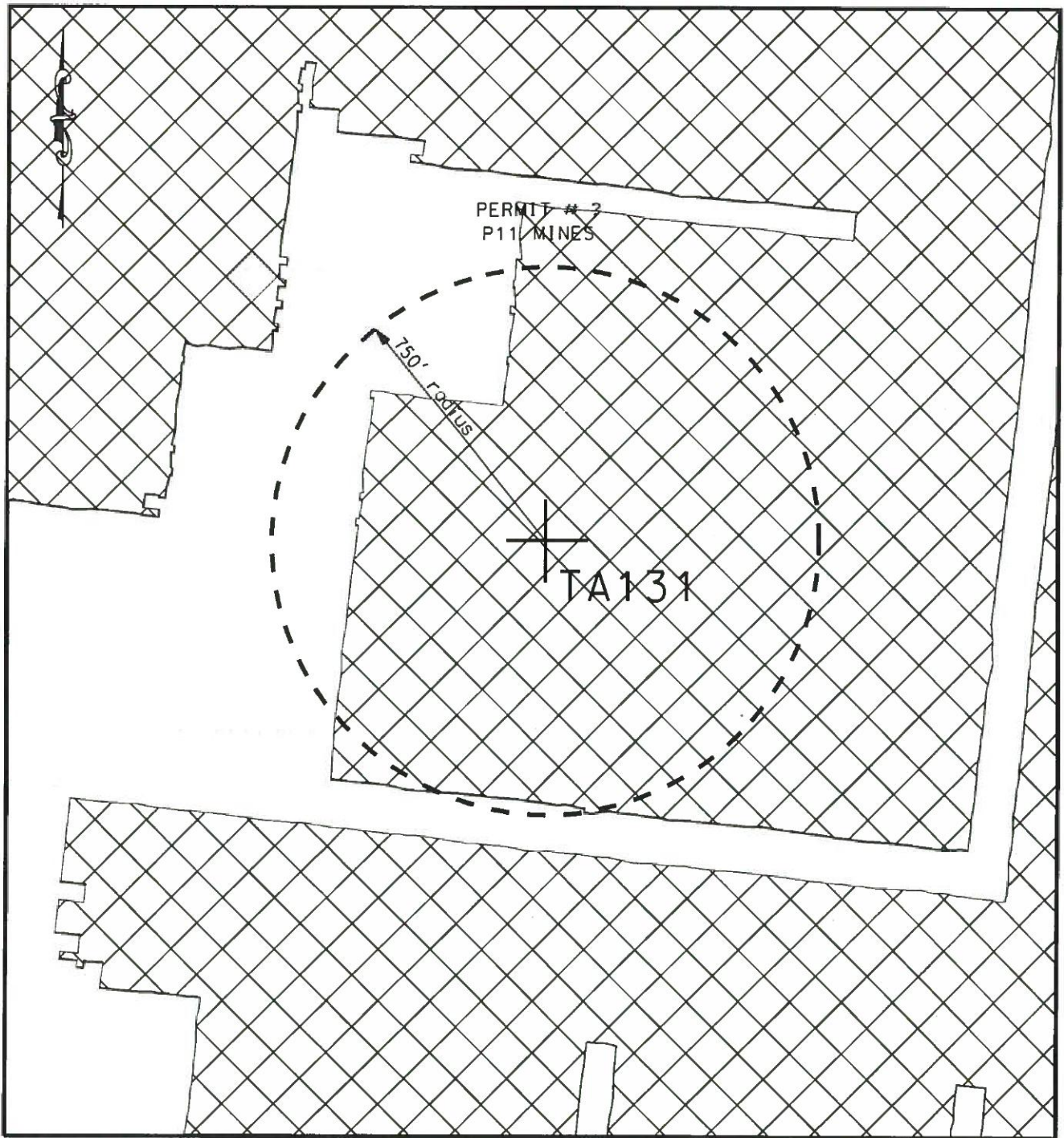
Execution of this statement is to record the fact that the undersigned has no objection to variances from spacing or a variance of the production casing requirements for VR 480-05-22.1 § 3.07.G.1.b.

Execution of this statement is to record the fact that the undersigned agrees that the unit and force pooling proposed conform to its mine plan and is requesting the location of multiple wells within this unit which is required under § 45.1-361.20C to conform coalbed methane development to the mine plan and by the Oakwood II order VGOB-91-11-19-0162 and amended by VGOB-93-03-16-0349 § 7D.

If any other person entitled to notice of the Application files an objection, the undersigned does not waive the right to notice of subsequent hearings and their proceedings and reserves the right to appear and be heard.

By: 

Jack Richardson  
Vice President of Operations – Central Appalachia Operations  
CNX Coal Operations – Oakwood  
Consolidation Coal Company  
10545 Riverside Drive  
Oakwood, VA 24631  
(276) 498-8200



## WELL & MINE LOCATION PLAT

Company CNX GAS COMPANY LLC Well Name and Number WELL TA131  
 Quadrangle AMONATE Permit No.: \_\_\_\_\_ Scale: 1" = 400' Date 9/2/11

Note: The mine locations are approximate locations taken from old mine maps.  
 The maps are to be used for anticipated drilling hazards only.

**SUPPLEMENTAL SHEET(S) FOR PERSONS RECEIVING OFFICIAL NOTICE OF PERMIT APPLICATION PURSUANT TO SECTION 45.1-361.30**

**APPLICATIONS FOR WELL WORK PERMIT**

**A. Surface, coal and mineral owners on the tract to be drilled**

Cabot Oil & Gas Corp., , PO Box 972875, Dallas; TX 75397-2875,  
CNX Gas Company LLC, , 2481 John Nash Blvd, Bluefield WV 24701,  
Consolidation Coal Co., Reserve Coal Properties Company, 10545 Riverside Dr., Oakwood; VA 24631,  
Lauren Land Company, , PO Box 830, Belfrey; KY 41514,  
Link Monroe Smith, , 2191 Baptist Valley Rd., Cedar Bluff; VA 24609-8646,  
New Forestry LLC, c/o Timbervest LLC, 3715 Northside Parkway Bldg 200, Suite 500, Atlanta; GA 30327,  
Reserve Coal Properties, , 10545 Riverside Dr., Oakwood; VA 24631,

**B. Surface owners of record on tracts where the surface is to be disturbed**

Consolidation Coal Co., Reserve Coal Properties Company, 10545 Riverside Dr., Oakwood; VA 24631,  
Link Monroe Smith, , 2191 Baptist Valley Rd., Cedar Bluff; VA 24609-8646,  
New Forestry LLC, c/o Timbervest LLC, 3715 Northside Parkway Bldg 200, Suite 500, Atlanta; GA 30327,  
Reserve Coal Properties, , 10545 Riverside Dr., Oakwood; VA 24631,

**C. Gas, oil and royalty owners within**

1. one-half the distance specified in Section 45.1-361.17

N/A

2. one-half the distance to the nearest well completed in the same pool

N/A

3. within the drilling unit established by the Virginia Gas and Oil Board

Cabot Oil & Gas Corp., , PO Box 972875, Dallas; TX 75397-2875,  
CNX Gas Company LLC, , 2481 John Nash Blvd, Bluefield WV 24701,  
Consolidation Coal Co., Reserve Coal Properties Company, 10545 Riverside Dr., Oakwood; VA 24631,  
Lauren Land Company, , PO Box 830, Belfrey; KY 41514,  
Reserve Coal Properties, , 10545 Riverside Dr., Oakwood; VA 24631,

**D. Coal operators who have a registered operation plan with the Department for activities located on the tract to be drilled**

N/A

**E. All coal operators who have applied for or obtained a mining or prospecting permit with respect to tracts within 500' of the proposed well location**

N/A

**F. All coal or mineral owners on tracts located within 500' of the proposed well location**

N/A

**G. All Storage Field Operators Within 1250'**

N/A

H. Local Government pursuant to Section 45.1-361.30.E

Tazewell Co. Administrator, , 108 E. Main St., Tazewell; VA 24651,

I. Public notice pursuant to Section 45.1-361.30.E, such as an affidavit of publication from the newspaper

BDT, , PO BOX 1599, Bluefield WV 24701,

### **COALBED METHANE WELL APPLICATION IN ADDITION TO ABOVE**

J. All coal operators, coal owners or mineral owners within 750 feet of the proposed well location

Cabot Oil & Gas Corp., , PO Box 972875, Dallas; TX 75397-2875,  
CNX Gas Company LLC, , 2481 John Nash Blvd, Bluefield WV 24701,  
Consolidation Coal Co., Reserve Coal Properties Company, 10545 Riverside Dr., Oakwood; VA 24631,  
Lauren Land Company, , PO Box 830, Belfrey; KY 41514,  
Reserve Coal Properties, , 10545 Riverside Dr., Oakwood; VA 24631,

K. All coal operators who have applied for or obtained a mining or prospecting permit with respect to tracts within 750 feet of the proposed well location

N/A

### **APPLICATIONS FOR PIPELINES AND FACILITIES**

L. All surface owners affected by the proposed operations

Betty L. Nelson, , 7930 Hume Lever Road, London; OH 43140,  
Consolidation Coal Co., Reserve Coal Properties Company, 10545 Riverside Dr., Oakwood; VA 24631,  
Link Monroe Smith, , 2191 Baptist Valley Rd., Cedar Bluff; VA 24609-8646,  
New Forestry LLC, c/o Timbervest LLC, 3715 Northside Parkway Bldg 200, Suite 500, Atlanta; GA 30327,  
Reserve Coal Properties, , 10545 Riverside Dr., Oakwood; VA 24631,

### **APPLICATIONS FOR GROUND DISTURBING GEOPHYSICAL OPERATIONS**

M. Surface owners on tracts where the surface is to be disturbed

N/A

N. Coal owners, coal operators, and mineral owners on the tract(s) to be drilled

N/A

O. Coal operators who have registered operations plans with the Department for activities located on the tract to be drilled

N/A



Commonwealth of Virginia  
Department of Mines, Minerals, and Energy  
Division of Gas and Oil  
P.O. Drawer 159, Lebanon, VA 24266  
Telephone: (276) 415-9700

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**NOTICE BY PUBLICATION OF AN APPLICATION FOR A PERMIT**

For purposes of publication requirements under § 45.1-361.30.E., the following format shall be used.

**NOTICE OF APPLICATION  
FOR**

**Operations Name:** CBM TA131 W/PL  
**Application Number:** 19331

Take Notice that, pursuant to Code of Virginia, Section 45.1-361.30.E. the undersigned operator proposes to file, or has filed, an application for gas and oil operations known as CBM TA131 W/PL with the Department of Mines, Minerals and Energy, Division of Gas and Oil under Code of Virginia, Section 45.1-361.29, with respect to an operation on the Consolidation Coal Company tract of 661.08 acres, more or less, Surface Rights Under Consolidation Coal Company tract of 661.08 acres, more or less, **Link Smith tract of 93.87 acres, more or less, New Forestry LLC 213.9 & 324.57 acres, more or less, Betty L. Nelson tract of 80 acres, more or less tract(s) in the Maiden Spring District, TAZEWELL City/County, Virginia**

The application is on file with the Division of Gas and Oil identifying the proposed location and all work to be performed at the described site. Any inquiries should be directed to the Division of Gas and Oil at 276 415-9700.

Code of Virginia Section 45.1-361.30 identifies persons with rights to file objections to the gas and oil operation. Persons objecting to a permit must state their reasons for objecting within 15 days of the date of receipt of notice. Written objections must be filed with the Director, Department of Mines, Minerals and Energy, Division of Gas and Oil, P. O. Drawer 159, Lebanon, Virginia 24266.

Operator: CNX Gas Company LLC

Address: 2481 John Nash Blvd  
Bluefield, WV 24701

Telephone Number: (304)323-6500



Commonwealth of Virginia  
 Department of Mines, Minerals, and Energy  
 Division of Gas and Oil  
 P.O. Drawer 159, Lebanon, VA 24266  
 Telephone: (276) 415-9700

Operations Name: CBM TA131 W/PL

**TECHNICAL DATA SHEET FOR GATHERING PIPELINES**

Pursuant to Code of Virginia, Section 45.1-361.29, the applicant is applying for a permit for a gathering pipeline and/or associated facilities.

Location of Proposed Pipeline:

City/County(s): TAZEWELL  
 District(s): Maiden Spring  
 Quadrangle(s): AMONATE  
 Watershed(s): Middle Creek

Pipeline Type	Pipeline Diameter (Inches)	Right of Way Width (feet)	Proposed Length (Feet)	Calculated Disturbed Acres	Surface / Buried	Pipeline Material	Well Name
Gas	8.00	75	1631.00	2.81	Buried	Plastic	

Total Length of Proposed Pipeline: 1631.00

Area to be disturbed: 2.81

Associated pipeline or well permit number:

Operations Name / File #
TA122



Commonwealth of Virginia  
 Department of Mines, Minerals, and Energy  
 Division of Gas and Oil  
 P.O. Drawer 159, Lebanon, VA 24266  
 Telephone: (276) 415-9700

**Operations Name:** CBM TA131 W/PL  
**Application Number:** 19331

**APPLICATION FOR A NEW PERMIT, PERMIT MODIFICATION,  
 OR TRANSFER OF PERMIT RIGHTS**

**Application Information:**

**Name:** CNX Gas Company LLC  
**Address:** 2481 John Nash Blvd  
 Bluefield, WV 24701  
**Telephone Number:** (304)323-6500  
**Designated Agent:** CT Corporation

**Type of Application:** New  
**Type of Operation:** Coalbed/Pipeline  
**Horizontal Unit Name:**

**Operator's Bond Information:**

Bond Number	Type	Amount	Institution
CMS233368	SUR	100000.00	RLI Insurance Company

**Article 2 Board Requirements:**

**Field Order:**

Does this application fall under a Field Order established by the Virginia Gas and Oil Board? No

**Increased Density:**

Is this well an increased density well for the unit? No

**Pooling:**

Is pooling Voluntary? Yes

**Location Exception:**

Is an exception to statewide spacing required by the board? No

**Director Exception:**

Is an exception to field order spacing required by the Director? No

Is location exception due to mining? No

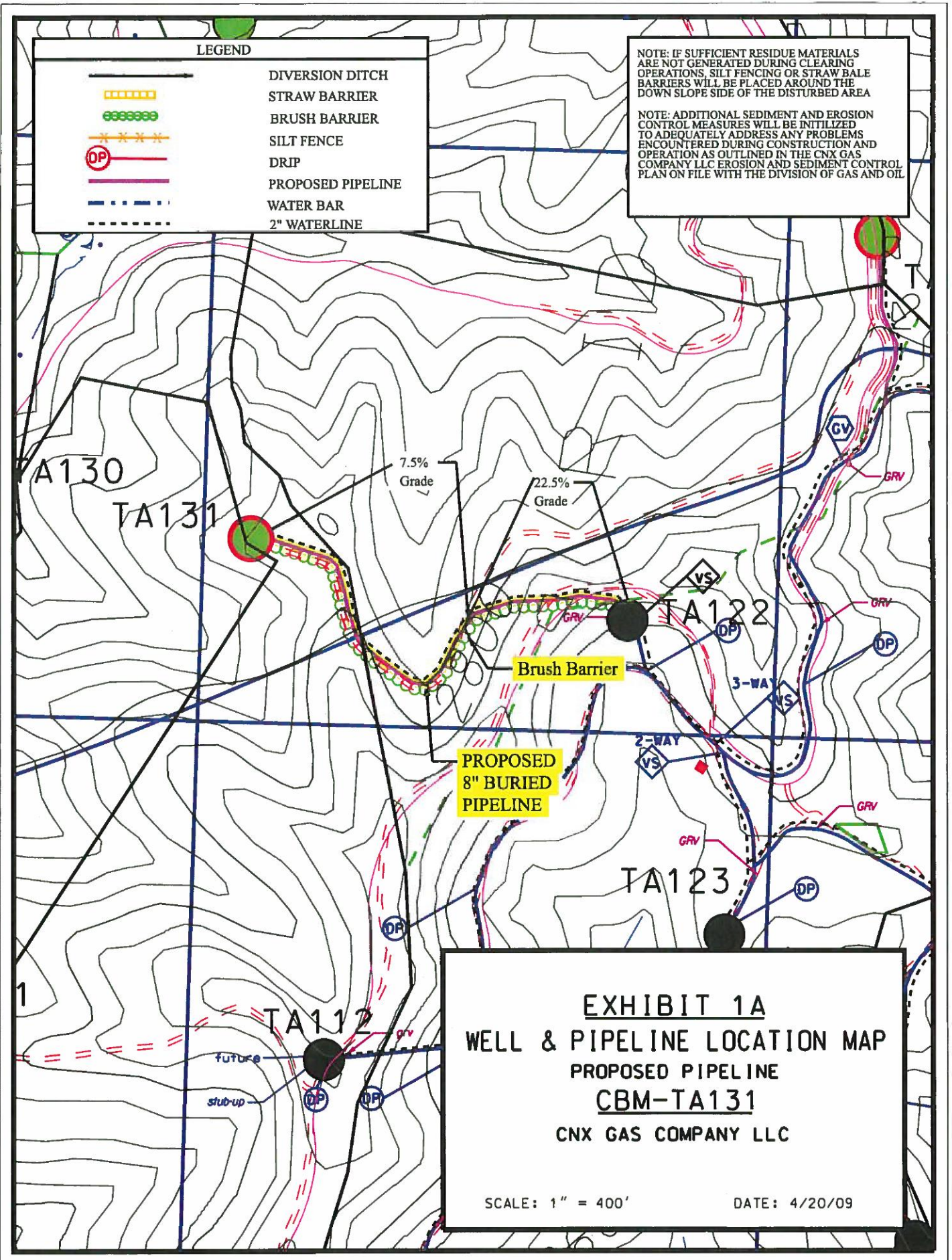
**Application Certification:**

I, Philip Lowe representing CNX Gas Company LLC









certify that all persons required to be notified under Section 45.1-361.30 of the Code of Virginia have been notified. Proof of notice is included as a part of this application. In the case of an application for a Permit, Permit Modification, or an application under 4 VAC 25-150-80, I hereby state that the Applicant named above has the right to conduct operations as set forth in the application and operations plan.

**Title:** Director

**Date:** 9/8/2011



**LEGEND**

-  DIVERSION DITCH
-  STRAW BARRIER
-  BRUSH BARRIER
-  SILT FENCE
-  DRIP
-  PROPOSED PIPELINE
-  WATER BAR
-  2" WATERLINE

NOTE: IF SUFFICIENT RESIDUE MATERIALS ARE NOT GENERATED DURING CLEARING OPERATIONS, SILT FENCING OR STRAW BALE BARRIERS WILL BE PLACED AROUND THE DOWN SLOPE SIDE OF THE DISTURBED AREA

NOTE: ADDITIONAL SEDIMENT AND EROSION CONTROL MEASURES WILL BE INITIALIZED TO ADEQUATELY ADDRESS ANY PROBLEMS ENCOUNTERED DURING CONSTRUCTION AND OPERATION AS OUTLINED IN THE CNX GAS COMPANY LLC EROSION AND SEDIMENT CONTROL PLAN ON FILE WITH THE DIVISION OF GAS AND OIL

**PROPOSED 8" BURIED PIPELINE**

**Brush Barrier**

**EXHIBIT 1A**  
**WELL & PIPELINE LOCATION MAP**  
**PROPOSED PIPELINE**  
**CBM-TA131**  
**CNX GAS COMPANY LLC**

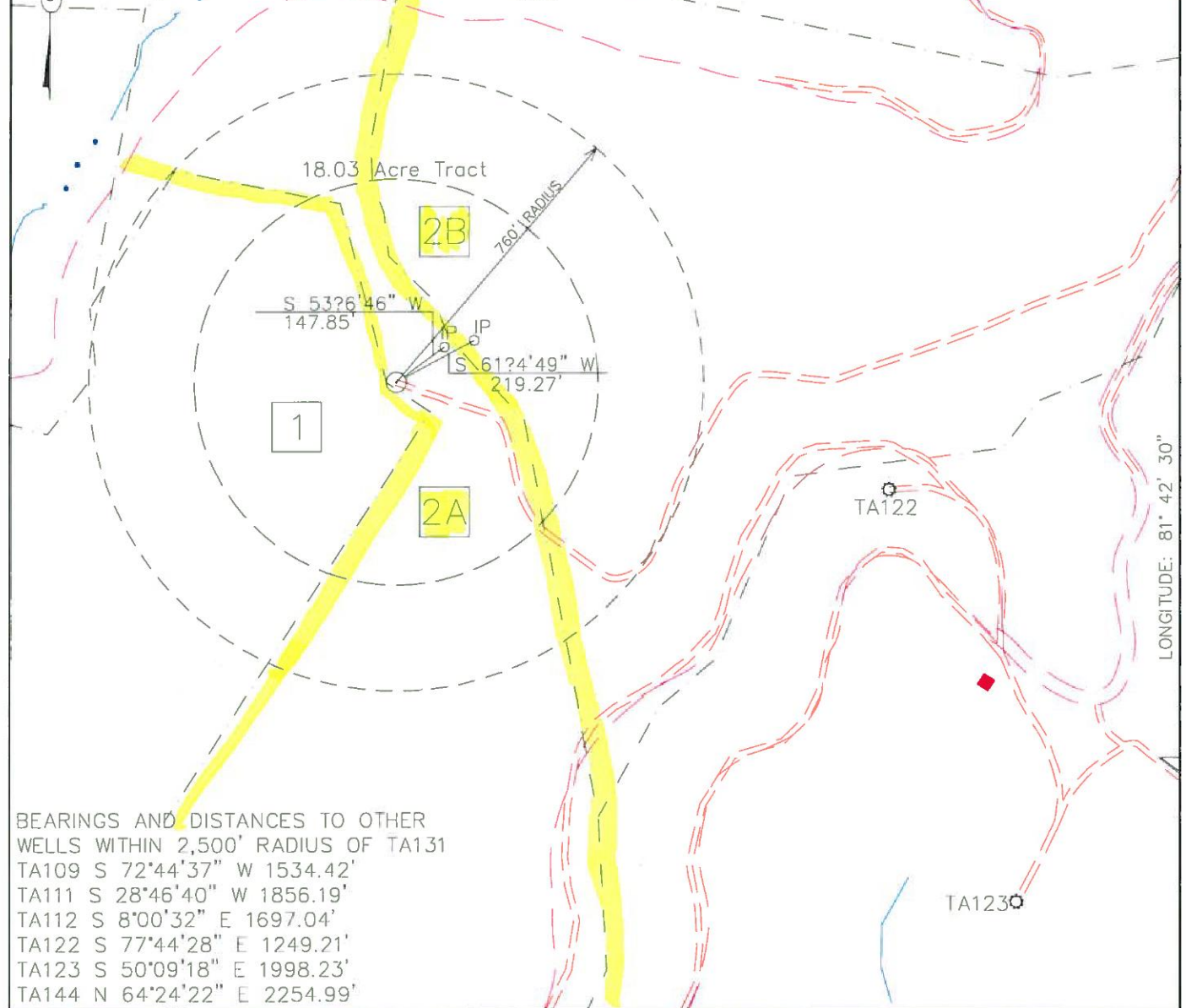
SCALE: 1" = 400'

DATE: 4/20/09

11085'

PROPERTY LINES SHOWN ON THIS LATITUDE: 37° 10' 00"  
 PLAT WERE PROVIDED BY CNX GAS LLC  
 AND WERE TAKEN FROM DEED DESCRIPTIONS AND CHAIN OF  
 TITLE OF RECORD IT DOES NOT REPRESENT A CURRENT  
 BOUNDARY SURVEY. THE CERTIFICATION HEREON CERTIFIES  
 THE LOCATION OF THE PROPOSED WELL ONLY.

1430'



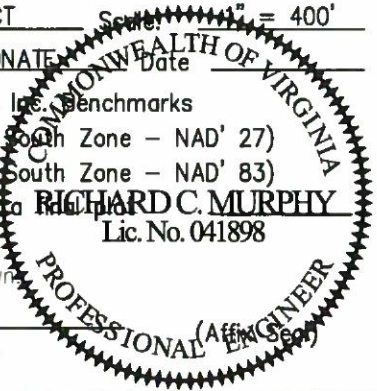
BEARINGS AND DISTANCES TO OTHER  
 WELLS WITHIN 2,500' RADIUS OF TA131

TA109	S 72°44'37"	W 1534.42'
TA111	S 28°46'40"	W 1856.19'
TA112	S 8°00'32"	E 1697.04'
TA122	S 77°44'28"	E 1249.21'
TA123	S 50°09'18"	E 1998.23'
TA144	N 64°24'22"	E 2254.99'

THE ACTUAL WELL LOCATION WILL BE WITHIN 10 FEET OF THE PROPOSED LOCATION ACCORDING TO 4 VAC 25-150-290 AND 45.1-361.30.

### WELL LOCATION PLAT

Company	<u>CNX Gas Company LLC</u>	Well Name or Number	<u>CBM-TA131</u>
Tract No.	<u>CONSOLIDATION COAL COMPANY (FARADAY TRACT 138) 661.08 ACRE TRACT</u>		
County	<u>TAZEWELL</u>	District	<u>MAIDEN SPRINGS</u>
Elevation	<u>2767.52'</u>	Well Elevation Determined By	<u>Trig. Levels From CONSOL l.e. Benchmarks</u>
Well Coordinates	<u>N 318,231.00</u>	<u>E 1,054,188.10</u>	(Virginia State Plane - South Zone - NAD' 27)
Well Coordinates	<u>N 3,599,110.91</u>	<u>E 10,537,177.66</u>	(Virginia State Plane - South Zone - NAD' 83)
This plat is a new plat	<u>X</u>	an updated plat	<u>_____</u>



+ Denotes the location of a well on United States Topographic Maps, scale 1 to 24,000, latitude and longitude lines being represented by border lines as shown.

**CNX Gas Company LLC**  
**UNIT TA-131**  
**Tract Identification**  
**(18.03 Acre Tract)**

1. Consolidation Coal Company (Faraday Tract 259) 111.60 Acre Tract – All Coal except the Squire Jim Seam  
Reserve Coal Properties Company – Squire Jim Seam of Coal  
Lauren Land Company – Lower Seaboard and Above Coal Leased  
Cabot Oil and Gas Corporation – Oil and Gas  
CNX Gas Company LLC – CBM  
Unknown Surface Owner  
(Tax Map 68, Parcel 26)  
7.54 acres      41.8192%
  
2. Consolidation Coal Company (Faraday Tract 138) 661.08 Acre Tract – All Coal except the Squire Jim Seam  
Reserve Coal Properties Company – Squire Jim Seam of Coal  
Lauren Land Company – Lower Seaboard and Above Coal Leased  
Cabot Oil and Gas Corporation – Oil and Gas  
CNX Gas Company LLC – CBM  
(Tax Map 68, Parcel 27)  
10.49 acres      58.1808%
  
- 2A. New Forestry, L.L.C. – Surface Owner
- 2B. Link Smith – Surface Owner

"This title block is for general informational purposes only and does not reflect an analysis of the severance deed and its effect upon coal bed methane ownership and should not be relied upon for such purpose."

CERTIFICATE OF PUBLICATION

State of West Virginia,

To-wit:-

County of Mercer,

Teresa L. Evans of the Bluefield Daily Telegraph, a daily newspaper published in the City of Bluefield, Mercer County, West Virginia, do certify that the notice attached hereto under the caption;

was published in the said Bluefield Daily Telegraph One (1) Time(s) on the following day(s), namely; September 17 in the year 2011.  
Publication Fee \$38.03

*Teresa L. Evans*

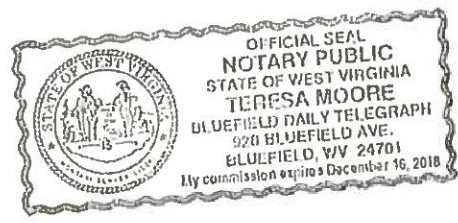
Subscribed and sworn to before me this 17<sup>th</sup> day of

September 2011.

My Commission expires Dec 16 2018

*Teresa Moore*

**NOTICE BY PUBLICATION OF AN APPLICATION FOR A PERMIT**  
**NOTICE OF APPLICATION FOR**  
Operations Name: CBM TA131 W/PL  
Application Number: 19331  
Take Notice that, pursuant to Code of Virginia, Section 45.1-361.30.E, the undersigned operator proposes to file, or has filed, an application for gas and oil operations known as CBM TA131 W/PL with the Department of Mines, Minerals and Energy, Division of Gas and Oil under Code of Virginia, Section 45.1-361.29, with respect to an operation on the Consolidation Coal Company tract of 661.08 acres, more or less, Surface Rights Under Consolidation Coal Company tract of 661.08 acres, more or less, Link Smith tract of 93.87 acres, more or less, New Forestry LLC 213.9 & 324.57 acres, more or less, Betty L. Nelson tract of 80 acres, more or less tract(s) in the Malden Spring District, TAZEWELL City/County, Virginia. The application is on file with the Division of Gas and Oil identifying the proposed location and all work to be performed at the described site. Any inquiries should be directed to the Division of Gas and Oil at 276 415-9700.  
Code of Virginia Section 45.1-361.30 identifies persons with rights to file objections to the gas and oil operation. Persons objecting to a permit must state their reasons for objecting within 15 days of the date of receipt of notice. Written objections must be filed with the Director, Department of Mines, Minerals and Energy, Division of Gas and Oil, P. O. Drawer 159, Lebanon, Virginia 24266.  
Operator: CNX Gas Company LLC  
Address: 2481 John Nash Blvd Bluefield, WV 24701  
Telephone Number: (304)323-6500



**CERTIFICATION OF NOTICE  
CNX Gas Company LLC**

**Well CBM TA144, TA131  
Permit Application (Online)**

NAME		MAILED	RECEIPT #		RECEIVED
Administrator	Tazewell Co.	9/9/2011	7011 1150 0000 0856	6832	9/12/11
Cabot Oil & Gas Corp.			7011 1150 0000 0856	6849	9/13/11
CNX Gas Company LLC			Hand Delivered	**	**
Consolidation Coal Co.	Reserve Coal Properties Company		7011 1150 0000 0856	6856	9/12/11
Lauren Land Company			7011 1150 0000 0856	6863	9/12/11
Nelson	Betty L.		7011 1150 0000 0856	6870	9/13/11
New Forestry LLC	c/o Timbervest LLC		7011 1150 0000 0856	6887	9/19/11
Smith	Link Monroe		7011 1150 0000 0856	6900	9/14/11

\*See USPS tracking receipt.

\*\*CONSOL Energy Inc. owned companies or partnerships which were hand delivered notices as of the date of this application.

\*\*\*Please invoke Regulation 1.13b. These notices have been mailed (see USPS tracking receipt).

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Tazewell Co. Administrator  
108 E. Main St.  
Tazewell, VA 24651

2. Article Number (Transfer from service) 7011 1150 0000 0856 6832 *TA131 & TA144*

PS Form 3811, February 2004 Domestic Return Receipt 102309-02-01-1543

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  Addressee  
*[Signature]*

B. Received by (Printed Name) *[Name]* C. Date of Delivery *[Date]*

D. Is delivery address different from item 1?  Yes  No  
If YES, enter delivery address below:

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Betty L. Nelson  
7930 Hume Lever Road  
London, OH 43140

2. Article Number (Transfer from serv) 7011 1150 0000 0856 6870 *TA131 & TA144*

PS Form 3811, February 2004 Domestic Return Receipt 102309-02-01-1543

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  Addressee  
*[Signature]*

B. Received by (Printed Name) *[Name]* C. Date of Delivery *[Date]*

D. Is delivery address different from item 1?  Yes  No  
If YES, enter delivery address below:

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

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- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Cabot Oil & Gas Corp.  
PO Box 972875  
Dallas, TX 75397-2875

2. Article Number (Transfer from serv) 7011 1150 0000 0856 6849 *TA131 & TA144*

PS Form 3811, February 2004 Domestic Return Receipt 102309-02-01-1543

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  Addressee  
*[Signature]*

B. Received by (Printed Name) *[Name]* C. Date of Delivery *[Date]*

D. Is delivery address different from item 1?  Yes  No  
If YES, enter delivery address below:

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

**SENDER: COMPLETE THIS SECTION**

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

New Foreslry LLC  
c/o Timbervest LLC  
3715 Northside Parkway Bldg 200,  
Suite 500  
Atlanta, GA 30327

2. Article Number (Transfer from serv) 7011 1150 0000 0856 6887 *TA131 & TA144*

PS Form 3811, February 2004 Domestic Return Receipt 102309-02-01-1543

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  Addressee  
*[Signature]*

B. Received by (Printed Name) *[Name]* C. Date of Delivery *[Date]*

D. Is delivery address different from item 1?  Yes  No  
If YES, enter delivery address below:

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

**SENDER: COMPLETE THIS SECTION**

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Consolidation Coal Co  
Reserve Coal Properties Company  
10545 Riverside Dr.  
Oakwood, VA 24631

2. Article Number (Transfer from serv) 7011 1150 0000 0856 6856 *TA131 & TA144*

PS Form 3811, February 2004 Domestic Return Receipt 102309-02-01-1543

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  Addressee  
*[Signature]*

B. Received by (Printed Name) *[Name]* C. Date of Delivery *[Date]*

D. Is delivery address different from item 1?  Yes  No  
If YES, enter delivery address below:

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

**SENDER: COMPLETE THIS SECTION**

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Link Monroe Smith  
2191 Baptist Valley Rd.  
Cedar Bluff, VA 24609-8640

2. Article Number (Transfer from serv) 7011 1150 0000 0856 6900 *TA131 & TA144*

PS Form 3811, February 2004 Domestic Return Receipt 102309-02-01-1543

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  Addressee  
*[Signature]*

B. Received by (Printed Name) *[Name]* C. Date of Delivery *[Date]*

D. Is delivery address different from item 1?  Yes  No  
If YES, enter delivery address below:

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

**SENDER: COMPLETE THIS SECTION**

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Lauren Land Company  
PO Box 830  
Belfrey, KY 41514

2. Article Number (Transfer from serv) 7011 1150 0000 0856 6863 *TA131 & TA144*

PS Form 3811, February 2004 Domestic Return Receipt 102309-02-01-1543

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  Addressee  
*[Signature]*

B. Received by (Printed Name) *[Name]* C. Date of Delivery *[Date]*

D. Is delivery address different from item 1?  Yes  No  
If YES, enter delivery address below:

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes



Commonwealth of Virginia  
 Department of Mines, Minerals, and Energy  
 Division of Gas and Oil  
 P.O. Drawer 159, Lebanon, VA 24266  
 Telephone: (276) 415-9700

**Operations Name:** CBM TA131 W/PL

**Application Number:** 19331

**NOTICE OF APPLICATION FOR A PERMIT OR PERMIT MODIFICATION**

Take Notice of CNX Gas Company LLC, pursuant to Code of Virginia, Section 45.1-361.29, is filing this Notice and Application of a permit with the Virginia Division of Gas and Oil with respect to an operation on the Consolidation Coal Company tract of 661.08 acres, more or less, Surface Rights Under Consolidation Coal Company tract of 661.08 acres, more or less, Link Smith tract of 93.87 acres, more or less, New Forestry LLC 213.9 & 324.57 acres, more or less, Betty L. Nelson tract of 80 acres, more or less Maiden Spring District, TAZEWELL City/County, Virginia.

Attached to this Notice of Application is a copy of the required plat or map, operations plan and other information required by the Director. The operations plan describes the work to be done and meets the requirements of Regulation 4 VAC 25-150-100.

You may have the right to file an objection to the proposed operations within fifteen (15) days from the receipt of this notice pursuant to the Code of Virginia, Section 45.1-361.35. A copy of this Code section is attached for your review. You must describe the specific practices you are objecting to and reference the appropriate part of Section 45.1-361.35 when submitting any objection.

Section 45.1-361.35.A "Objections to new or modification permits may be filed with the Director by those having standing as set out in Section 45.1-361.30. Such objections shall be filed within fifteen days of the objecting party's receipt of the notice required by Section 45.1-361.30. Persons objecting to a permit must state the reasons for their objections."

After receipt of a valid objection, an informal conference will be scheduled pursuant to the Code of Virginia Section 45.1-361.35.H.

Section 45.1-361.35.H "The Director shall fix a time and place for an informal fact finding hearing concerning such objections. The hearing shall not be scheduled for less than twenty nor more than thirty days after an objection is filed."

City/County: TAZEWELL		District: Maiden Spring	Quadrangle: AMONATE
Waterway: Middle Creek		Farm Name: Consolidation Coal Company	
State Plane NAD 83 East / X	State Plane NAD 83 North / Y	Surface Elevation	
10537177.6600	3599110.9200	2767.52	

**OBJECTIONS MUST BE FILED WITH**

**DEPARTMENT OF MINES, MINERALS AND ENERGY**  
**DIVISION OF GAS AND OIL**  
 P.O. Drawer 159  
 Lebanon, VA 24266  
 276-415-9700

## SECTION 45.1-361.35 - OBJECTIONS TO PERMITS; HEARINGS

A. Objections to new or modification permits may be filed with the Director by those having standing as set out in Section 45.1-361.30. Such objections shall be filed within fifteen days of the objecting party's receipt of the notice required by Section 45.1-361.30. Persons objecting to a permit must state the reasons for their objections.

B. The only objections to permits or permit modifications which may be raised by surface owners are:

1. The operations plan for soil erosion and sediment control is not adequate or effective;
2. Measures in addition to the requirement for a well's water-protection string are necessary to protect fresh water-bearing strata; and
3. The permitted work will constitute a hazard to the safety of any person.
4. Location of the coalbed methane well or coalbed methane well pipeline will unreasonably infringe on the surface owner's use of the surface, provided; however, that a reasonable alternative site is available within the unit, and granting the objection will not materially impair any right contained in an agreement, valid at the time of the objection, between the surface owner and the operator or their predecessors or successors in interest.

C. The only objections to permits or permit modifications which may be raised by royalty owners are whether the proposed well work:

1. Directly impinges upon the royalty owner's gas and oil interests; or
2. Threatens to violate the objecting royalty owner's property or statutory rights aside from his contractual rights; and
3. Would not adequately prevent the escape of the Commonwealth's gas and oil resources or provide for the accurate measurement of gas and oil production and delivery to the first point of sale.

D. Objections to permits or permit modifications may be raised by coal owners or operators pursuant to the provisions of Sections 45.1-361.11 and 45.1-361.12.

E. The only objections to permits or permit modifications which may be raised by mineral owners are those which could be raised by a coal owner under Section 45.1-361.11 provided the mineral owner makes the objection and affirmatively proves that it does in fact apply with equal force to the mineral in question.

F. The only objections to permits or permit modifications which may be raised by gas storage field operators are those in which the gas storage operator affirmatively proves that the proposed well work will adversely affect the operation of his State Corporation Commission certificated gas storage field; however, nothing in this subsection shall be construed to preclude the owner of nonstorage strata from the drilling of wells for the purpose of producing oil or gas from any stratum above or below the storage stratum.

G. The Director shall have no jurisdiction to hear objections with respect to any matter subject to the jurisdiction of the Board as set out in Article 2 (Section 45.1-361.13 et seq.) of this chapter. Such objections shall be referred to the Board in a manner prescribed by the Director.

H. The Director shall fix a time and place for an informal fact finding hearing concerning such objections. The hearing shall not be scheduled for less than twenty nor more than thirty days after the objection is filed. The Director shall prepare a notice of the hearing, stating all objections and by whom made, and send a copy of such notice by certified mail, return receipt requested, at least ten days prior to the hearing date, to the permit applicant and to every person with standing to object as prescribed by Section 45.1-361.30.

I. At the hearing, should the parties fail to come to an agreement, the Director shall proceed to decide the objection pursuant to those provisions of the Administrative Process Act (Section 9-6.14.1 et seq.) relating to informal fact finding hearings.



Commonwealth of Virginia  
 Department of Mines, Minerals, and Energy  
 Division of Gas and Oil  
 P.O.: Drawer 159, Lebanon, VA 24266  
 Telephone: (276) 415-9700

Operations Name: CBM TA131 W/PL

**TECHNICAL DATA SHEET FOR PERMIT APPLICATIONS UNDER SECTION 45.1-361.29**

the information is related to the conversion of a VVH to a CBM under 4 VAC 25-150-580.

Geological Target Formation: Pocahontas

Estimated Depth of Completed Well : 1554.0

**GEOLOGICAL DATA (ESTIMATE)**

Predict:

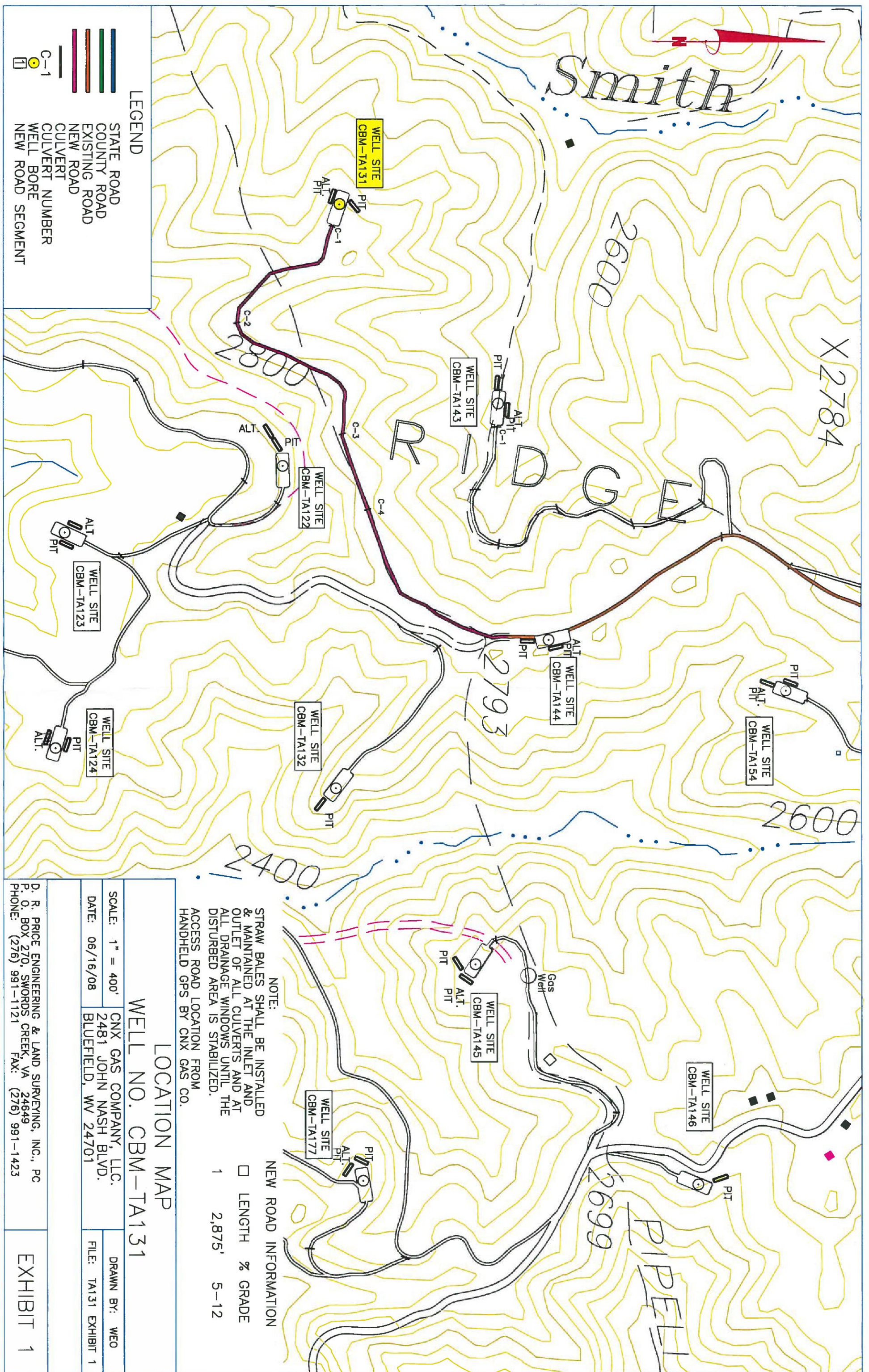
Description	FileName
Schematic	TA131 REVISED SCHEMATIC.pdf
Predict	ta131_r.out

Consent to Stimulate:

Description	FileName
CTS Consolidation Coal Company	1 CTS Consolidation Coal(Online).doc
CTS Reserve Coal Properties Company	1 CTS Reserve Coal Properties Co.pdf

Proposed Casing/Tubing Program

	Size	Depth	Cement Details
Conductor	9 5/8 - 13 3/8	0-75	Cemented to Surface
Surface/Water Prot. Casing	4 1/2	1126	Cemented to Surface
Coal Protection Casing	4 1/2	1126	Cemented to Surface
Other Casing	7	481	Cemented to Surface
Other Casing			
Other Casing			
Production Casing	4 1/2	1126	Cemented to Surface
Tubing	2 3/8	1201	



**LEGEND**

- STATE ROAD
- COUNTY ROAD
- EXISTING ROAD
- NEW ROAD
- CULVERT
- CULVERT NUMBER
- WELL BORE
- NEW ROAD SEGMENT

**WELL NO. CBM-TA131**

**LOCATION MAP**

SCALE: 1" = 400'	CNX GAS COMPANY, LLC.	DRAWN BY: WEO
DATE: 06/16/08	2481 JOHN NASH BLVD. BLUEFIELD, WV 24701	FILE: TA131 EXHIBIT 1

D. R. PRICE ENGINEERING & LAND SURVEYING, INC., PC  
 P. O. BOX 270, SWORDS CREEK, VA 24669  
 PHONE: (276) 991-1121 FAX: (276) 991-1423

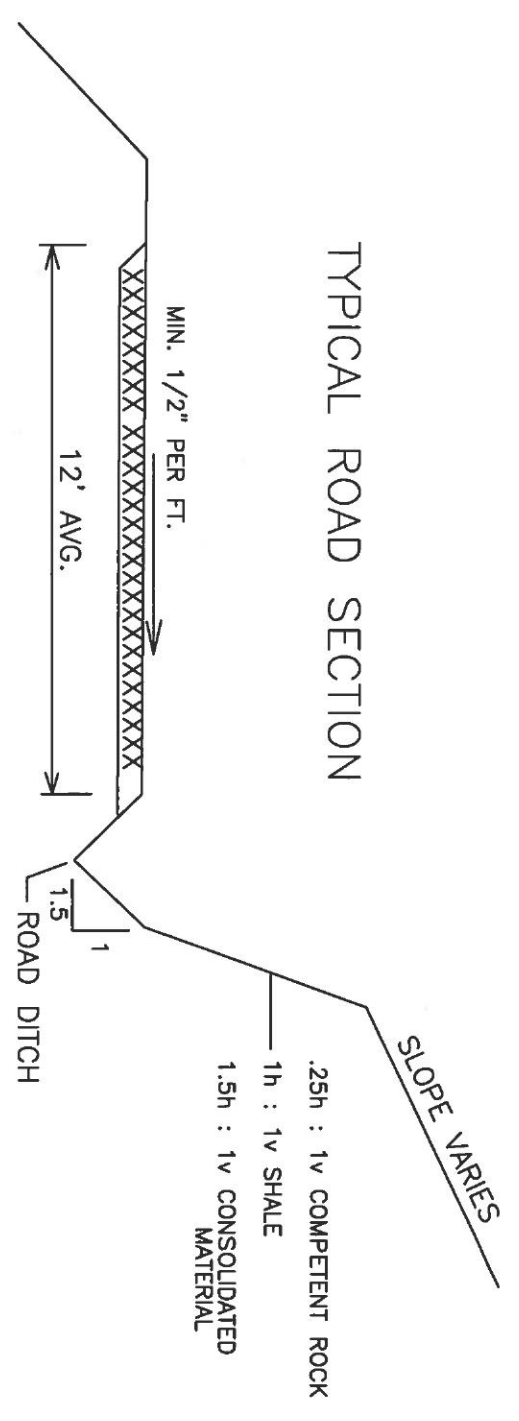
**EXHIBIT 1**

**NOTE:**  
 STRAW BALES SHALL BE INSTALLED & MAINTAINED AT THE INLET AND OUTLET OF ALL CULVERTS AND AT ALL DRAINAGE WINDOWS UNTIL THE DISTURBED AREA IS STABILIZED.  
 ACCESS ROAD LOCATION FROM HANDHELD GPS BY CNX GAS CO.

**NEW ROAD INFORMATION**

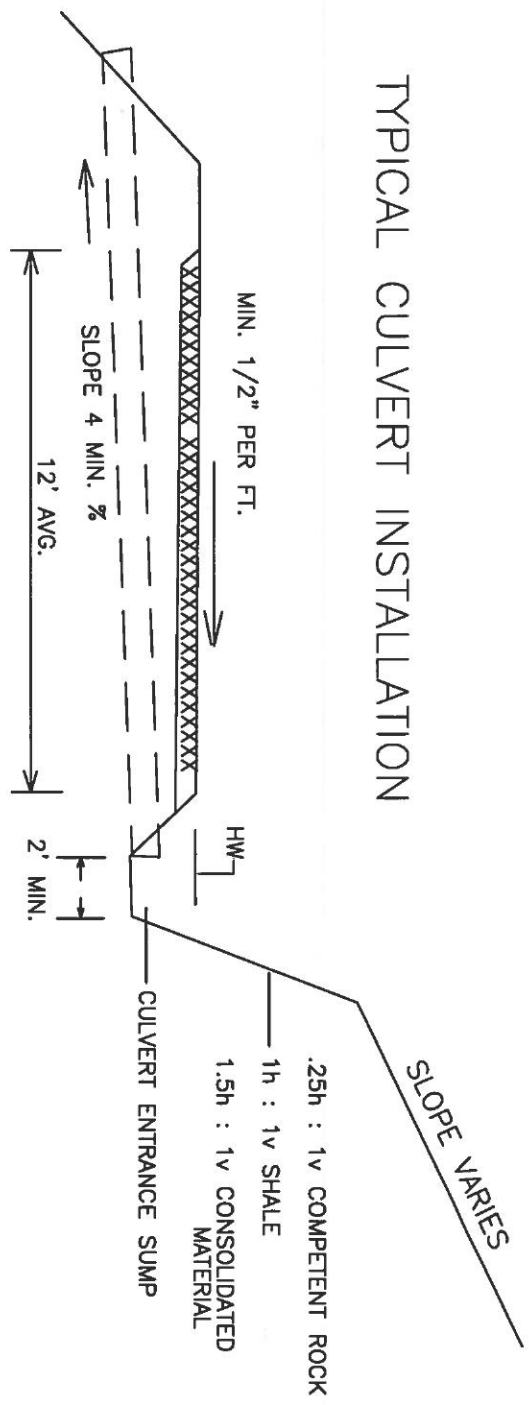
LENGTH	% GRADE
1	2.875'
	5-12

### TYPICAL ROAD SECTION



NOTE: SLOPE AND DEPTH OF ALL ROAD DITCHES SHALL BE SUFFICIENT TO HANDLE ANTICIPATED RUNOFF.

### TYPICAL CULVERT INSTALLATION



NOTES: STRAW BALES TO BE PLACED AT ENTRANCE AND OUTLET OF ALL CULVERTS UNTIL AREA IS STABILIZED. EROSION & SEDIMENT CONTROL WILL BE HANDLED BY WINDROW BRUSH OR SILT FENCING.

### CULVERT SCHEDULE

CULVERT I.D. NO.	Q (CFS)	Ø (IN)	MIN. HW (FT.) REQUIRED
1	0.94	8	0.51
2	13.97	18	2.43
3	4.61	12	1.75
4	4.31	12	1.53

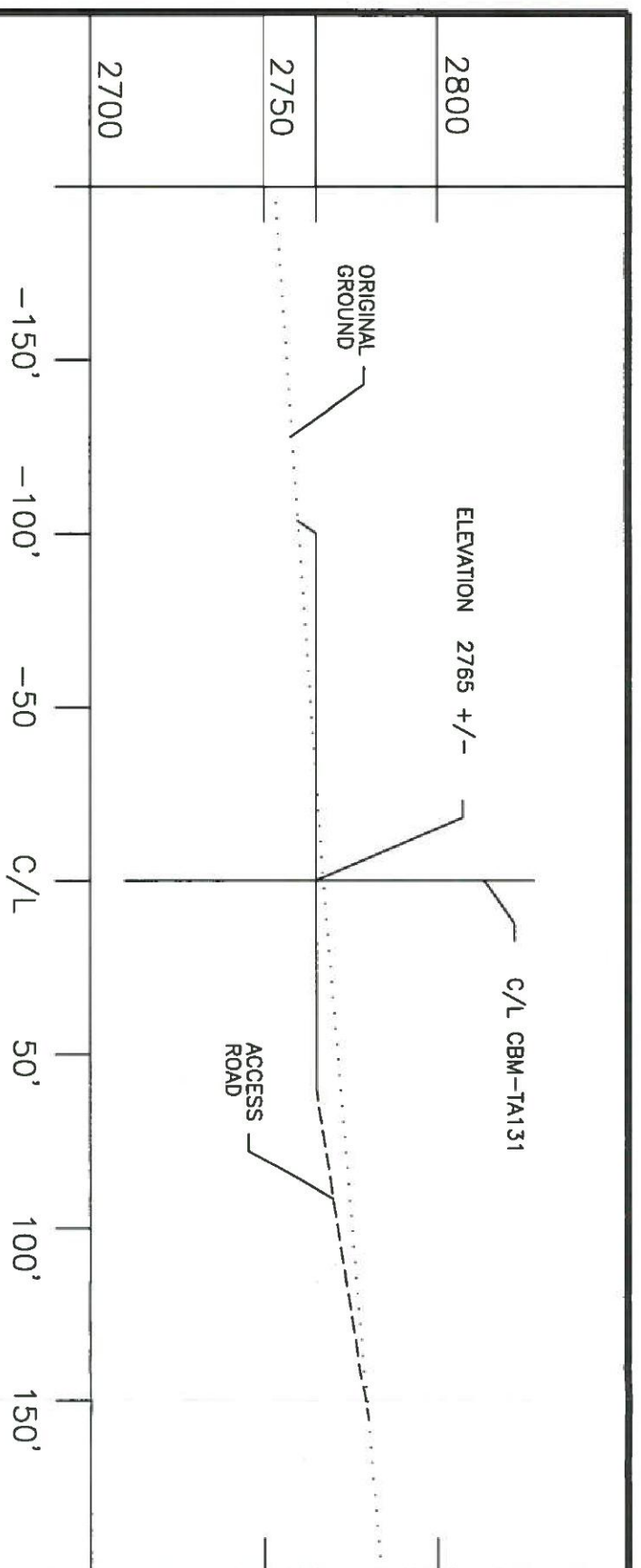
### ROAD & CULVERT DETAILS

WELL NO. CBM-TA131

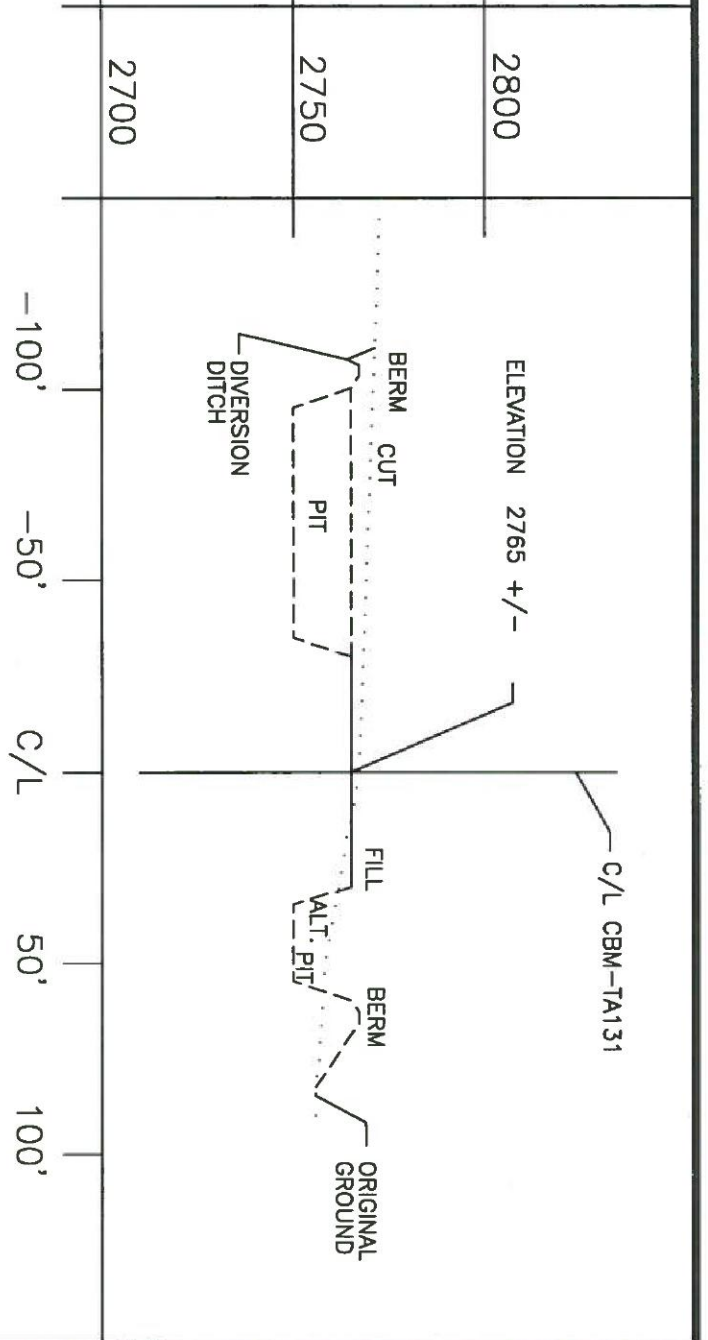
SCALE: NTS	CNX GAS COMPANY, LLC	DRAWN BY: WEO
DATE: 06/16/08	2481 JOHN NASH BLVD. BLUEFIELD, WV 24701	FILE: TA131 EXHIBIT 2

D.R. PRICE ENGINEERING & LAND SURVEYING INC. P.C.  
P.O. BOX 270, SWORDS CREEK, VA 24649  
PHONE: (276) 991-1121 FAX: (276) 991-1423

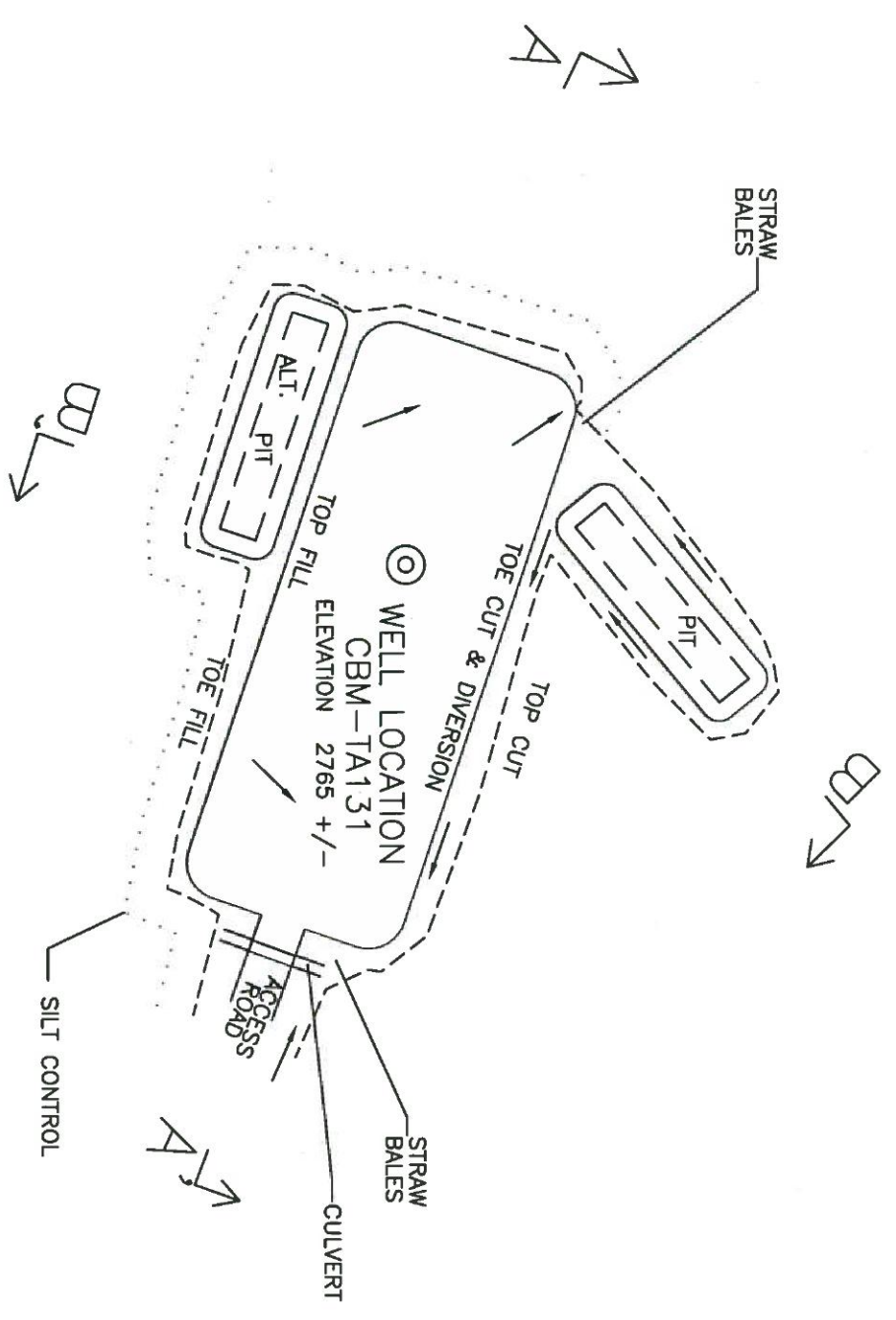
EXHIBIT 2



SECTION A --- A'



SECTION B --- B'



SITE AREA  
1.1 ACRES

NOTE: SILT TO BE CONTROLLED BY  
BRUSH WINDROWS AND/OR SILT FENCE, ETC.

SITE PLAN

SITE PLAN & X-SECTIONS	
WELL NO. CBM-TA131	
SCALE: 1" = 50'	CNX GAS COMPANY, LLC
DATE: 06/16/08	2481 JOHN NASH BLVD
	BLUFFFIELD, WV, 24701
	DRAWN BY: WEO
	FILE: TA131 EXHIBIT 3

D.R. PRICE ENGINEERING & LAND SURVEYING INC., PC  
P.O. BOX 270, SWORDS CREEK, VA, 24649  
PHONE: (276) 991-1121 FAX: (276) 991-1423

EXHIBIT 3

**CERTIFICATION OF NOTICE  
CNX Gas Company LLC**

**Well CBM TA144, TA131  
Permit Application (Online)**

<b>NAME</b>		<b>MAILED</b>	<b>RECEIPT #</b>		<b>RECEIVED</b>
Administrator	Tazewell Co.	9/9/2011	7011 1150 0000 0856	6832	9/12/11
Cabot Oil & Gas Corp.			7011 1150 0000 0856	6849	9/13/11
CNX Gas Company LLC			Hand Delivered	**	**
Consolidation Coal Co.	Reserve Coal Properties Company		7011 1150 0000 0856	6856	9/12/11
Lauren Land Company			7011 1150 0000 0856	6863	9/12/11
Nelson	Betty L.		7011 1150 0000 0856	6870	9/13/11
New Forestry LLC	c/o Timbervest LLC		7011 1150 0000 0856	6887	9/19/11
Smith	Link Monroe		7011 1150 0000 0856	6900	9/14/11

\*See USPS tracking receipt.

\*\*CONSOL Energy Inc. owned companies or partnerships which were hand delivered notices as of the date of this application.

\*\*\*Please invoke Regulation 1.13b. These notices have been mailed (see USPS tracking receipt).

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>Print your name and address on the reverse so that we can return the card to you.</p> <p>Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Signature  <input checked="" type="checkbox"/> Agent  <input type="checkbox"/> Addressee  <i>[Signature]</i></p> <p>B. Received by (Printed Name)  <i>Kim Beckner</i></p> <p>C. Date of Delivery  </p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes            If YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>1. Article Addressed to:</p> <p>Tazewell Co. Administrator            108 E. Main St            Tazewell, VA 24651</p>		<p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>2. Article Number            (Transfer from service) 7011 1150 0000 0856 6832</p>		<p>2. Article Number            (Transfer from serv) 7011 1150 0000 0856 6870</p>	
<p>PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>		<p>PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>	

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>Print your name and address on the reverse so that we can return the card to you.</p> <p>Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Signature  <input checked="" type="checkbox"/> Agent  <input type="checkbox"/> Addressee  <i>[Signature]</i></p> <p>B. Received by (Printed Name)  <i>Betty L Nelson</i></p> <p>C. Date of Delivery  <i>9-13-11</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes            If YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>1. Article Addressed to:</p> <p>Betty L Nelson            7930 Hume Lever Road            London, OH 43140</p>		<p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>2. Article Number            (Transfer from service) 7011 1150 0000 0856 6832</p>		<p>2. Article Number            (Transfer from serv) 7011 1150 0000 0856 6870</p>	
<p>PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>		<p>PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>	

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
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<p>1. Article Addressed to:</p> <p>Cabot Oil &amp; Gas Corp.            PO Box 972875            Dallas, TX 75397-2875</p>		<p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>2. Article Number            (Transfer from serv) 7011 1150 0000 0856 6849</p>		<p>2. Article Number            (Transfer from serv) 7011 1150 0000 0856 6887</p>	
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<p>1. Article Addressed to:</p> <p>New Forestry LLC            c/d Timbervest LLC            3715 Northside Parkway Bldg 200,            Suite 500            Atlanta, GA 30327</p>		<p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
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<p>1. Article Addressed to:</p> <p>Consolidation Coal Co.            Reserve Coal Properties Company            10545 Riverside Dr.            Oakwood, VA 24631</p>		<p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>2. Article Number            (Transfer from serv) 7011 1150 0000 0856 6856</p>		<p>2. Article Number            (Transfer from serv) 7011 1150 0000 0856 6900</p>	
<p>PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>		<p>PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>	

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<p>1. Article Addressed to:</p> <p>Link Monroe Smith            2191 Baptist Valley Rd.            Cedar Bluff, VA 24609-8646</p>		<p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
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<p>1. Article Addressed to:</p> <p>Lauren Land Company            PO Box 830            Belfrey, KY 41514</p>		<p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>2. Article Number            (Transfer from serv) 7011 1150 0000 0856 6863</p>		<p>2. Article Number            (Transfer from serv) 7011 1150 0000 0856 6900</p>	
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Virginia Division of Gas and Oil  
P. O. Box 159  
135 Highland Drive  
Lebanon, VA 24266  
Telephone: (276) 415-9700  
Fax: (276) 415-9671



Rick Cooper, Director  
Division of Gas and Oil

By Decision of the Director in

**Informal Fact Finding Conference 227 (Herein "IFFH 227")**

**Link Smith  
(Herein "Surface Owner")**

**Vs.**

**CNX Gas Company, LLC  
(Herein "Permit Applicant or CNX")**

**Permit Application for Gas and Oil operations:  
Coalbed Methane Operations TA131 W/Pipeline, Application 19331  
(Herein "Application")**

**Background**

Coalbed Methane operations TA131 w/Pipeline, Application 19331, CNX Gas Company, LLC, was received at the Virginia Division of Gas and Oil (DGO) on September 21, 2011. The evidence regarding the application and objections filed support the fact that the objections were timely and appropriate under Virginia statute.

The objections filed by **Link Smith** against the permit application #19331 were in accordance with objections provided by law under § 45.1-361.35.

**§ 45.1-361.35. (B) Objections to permits; hearing.**

4. Location of the coalbed methane well or coalbed methane well pipeline will unreasonably infringe on the surface owner's use of the surface, provided that a reasonable alternative site is available within the unit, and granting the objection will not materially impair any right contained in an agreement, valid at the time of the objection, between the surface owner and the operator or their predecessors or successors in interest.

---

**Hearing Date and Place**

IFFH 227, was convened on Tuesday December 10, 2013, at 1:30 PM in the Russell County Government Center, Highland Drive, Lebanon Virginia. All parties with standing to object to Permit

Application #19331 were notified of the time and place by United States Postal Service, certified mail, return receipt requested.

**Appearances:**

**For the Objecting Party: Shea Cook, Counsel, Link Smith, Surface Owner.**

**For CNX Gas Company LLC: Mr. Mark Swartz, Counsel, Mary Beth McGlothlin and Beverly Webb, representing the applicant.**

**Findings of Fact:**

1. In accordance with § 45.1-361.35.H, notice of **IFFH 227** was given to the Permit Applicant and to every person with standing to object as prescribed by §45.1-361.30.
2. **Link Smith** was notified as **a surface owner** of properties to be affected by the proposed operations **Application # 19331, Coalbed Methane TA131 with pipeline**, as such, has standing to object to the proposed operations.
3. **IFFH 227** was convened at the time and place indicated in the notice.

**Controlling Law and Regulation**

1. Section 45.1-361.30.A (1) of the Virginia Gas and Oil Act requires that permit applicants notify all surface owners, coal owners, and mineral owners on tracts to be drilled.
2. Section 45.1-361.30.A (3) of the Virginia Gas and Oil Act requires that permit applicants notify all surface owners on tracts where the surface will be disturbed.
3. Section 45.1-361.30(D) of the Virginia Gas and Oil Act gives standing to object to permit applications to all parties receiving required notice.
4. Section 45.1-365.35(B) of the Virginia Gas and Oil Act details objections that may be filed by surface owners.
5. Section 45.1-361.35(H) of the Virginia Gas and Oil Act requires the Director to schedule an informal fact finding hearing concerning objections, and provide notice of the hearing to all parties with standing to object to the permit.
6. Section 45.1-361.35(I) of the Virginia Gas and Oil Act requires the Director to issue a decision regarding the objection if the parties to the hearing fail to reach an agreement.

Informal Fact Finding hearings are proceedings conducted under guidelines of the Administrative Process Act. The hearing could have recessed at any time if the involved parties mutually agree that they would like to negotiate off the record. This opportunity was refused.

## **I. TESTIMONY BY THE SURFACE OWNER**

Link Smith wanted to know who would be responsible for any damages, royalty rights and gas rights to the property on TA131.

Mr. Smith stated that he felt that CNX did not have the right to trespass.

Shea Cook (Counsel) – Stated that allowing the installation of the TA131 wellsite and pipeline sterilizes the use of the property.

Mr. Cook stated that the deed M. Swartz (Counsel for CNX) submitted was only for the conveyance of coal and mineral and the use of the timber and water.

Mr. Cook believes that the 1902 deed did not include gas.

Mr. Cook believes that the Division of Gas and Oil has the authority through expressed or implied right to address compensation rights and deed or title interpretation.

## **II. TESTIMONY BY THE APPLICANTS**

The applicant's Counsel (Mark Swartz) presented a deed that CNX believes that they have a right to the coal and minerals on the TA131 property.

Mr. Swartz stated that CNX believes the deed gives CNX the right to install the TA131 well and pipeline.

Mr. Swartz stated that CNX the application submitted to the Division of Gas and Oil was certified by CNX and was a valid certification allowing CNX to install the well and pipeline.

Mr. Swartz stated that the DGO did not have the authority to address compensation issues.

---

## Decision of the Director

In the matter before IFFH 227 under § 45.1-361.35B(4): *Location of the coalbed methane well or coalbed methane well pipeline will unreasonably infringe on the surface owner's use of the surface, provided that a reasonable alternative site is available within the unit, and granting the objection will not materially impair any right contained in an agreement, valid at the time of the objection, between the surface owner and the operator or their predecessors or successors in interest.*

**The objecting party's testimony did not make a sound case for unreasonable infringement. The placement of proposed surface disturbances and the lack of demonstrated infringement on current or planned land use appear to negate invocation of unreasonable infringement.**

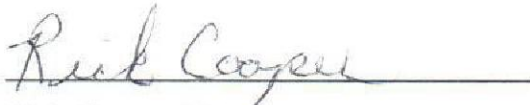
The permit applicant apparently has rights to use surface owner's property to access their mineral estate. If this is in dispute, it must be contested in a court of proper jurisdiction. While it can be argued that any adverse use of property is an infringement, § 45.1-361.35 only allows consideration of *unreasonable infringement*. Surface Owner's testimony did not make a sound case for unreasonable infringement. The placement of proposed surface disturbances and the lack of demonstrated infringement on current or planned land use appear to negate invocation of unreasonable infringement.

Based on testimony and the permit application, it is, therefore, the decision of the Director to deny Surface Owner's objections to permit Application 19331 for operations TA131 W/Pipeline. The Permit Application for operations TA131 W/Pipeline will be assessed and issued under standard Division of Gas and Oil permit procedures.

## Right of Appeal

**Any person with standing under § 45.1-361.30 who is aggrieved by this decision of the Director may appeal the decision to the Virginia Gas and Oil Board by filing a petition with the Board within ten days following the decision (§45.1-361.36). No petition or appeal may raise any matter other than matters raised by the Director or which the petitioner put in issue either by application or by objections, proposals or claims made and specified in writing at the informal fact finding conference.**

Signed this 22<sup>nd</sup> day of January, 2014



Rick Cooper, Director  
Virginia Division of Gas and Oil

INFORMAL FACT FINDING HEARINGS 227 & 228  
Tuesday, December 10, 2013 1:30 PM  
Department of Mines, Minerals and Energy  
Division of Gas and Oil Office  
Lebanon, Virginia

APPEARANCES:

Rick Cooper – Director of the Division of Gas and Oil  
Sarah Gilmer – Board Support Specialist – Division of Gas and Oil  
Mark Swartz - Attorney representing CNX Gas Company, LLC  
Mary Beth McGlothlin – CNX Gas Company, LLC  
Beverly Webb – CNX Gas Company, LLC  
Link Smith - Landowner  
T. Shea Cook – Attorney representing Link Smith

1 **Rick Cooper:** So if we are going to start here I will go ahead and read this on record. I will  
2 introduce myself. I am Rick Cooper. I am the Director of the Division of Gas and Oil. This is  
3 Sarah Gilmer, she is a Board Support Specialist who will be recording this information. The  
4 only thing that I would like to say is that when you talk try not...if we get into arguments it just  
5 jumbles everything up and you really can't understand the transcript or the tape when you have  
6 that. So let's try to just take turns talking but I need to read a couple of items on record before  
7 we start. And since both parties have agreed, we will hear Informal Fact Finding Hearing 227  
8 and 228 at the same time. So this case docket number is Informal Fact Finding Hearing 227 and  
9 Informal Fact Finding Hearing 228. This hearing is convened under the Virginia Gas and Oil  
10 Act section 45.1-361.35 which allows objections to permit applications to be filed by those with  
11 standing under section 45.1-361.30. Objections under this statute have been filed against permits  
12 for CNX Gas Company, LLC, coalbed methane operation TA131 with pipeline, application  
13 number 19331 and coalbed methane operation TA144 with pipeline, application number 19332.  
14 An objection was filed by Link Smith. The objection was filed in a timely manner as required by  
15 section 45.1-361.35. Notice to parties regarding gas operations and the protection of the  
16 environment are important elements of Virginia's law. Today's hearings are part of that process.  
17 Sarah, was notifications sent to all parties with standing to appear before this conference as  
18 required by section 45.1-361.35.H?  
19

20 **Sarah Gilmer:** Yes.  
21

22 **Rick Cooper:** And did that notice include the date, time and place of this conference.  
23

24 **Sarah Gilmer:** Yes.  
25

26 **Rick Cooper:** At this time, would each person in attendance who will be taking part in the  
27 conference, please state your name and your position relative to the conference. If you would  
28 Mr. Swartz, would you start?  
29

30 **Mark Swartz:** I am Mark Swartz, I am here on behalf of CNX and I am an attorney for them.  
31

32 **Mary Beth McGlothlin:** Mary Beth McGlothlin, I work in the land department for CNX Gas.  
33

34 **Beverly Webb:** Beverly Webb, I am with the permitting department.  
35

36 **Link Smith:** Link Smith, landowner.  
37

38 **T. Shea Cook:** Shea Cook, attorney representing Link Smith.  
39

40 **Rick Cooper:** Thank you. Section 45.1-361.35 of the Virginia Gas and Oil Act allows  
41 objections to permits by the surface owners who are entitled to notification of the proposed  
42 operations. According to the permits, the previously mentioned surface owner is included in the  
43 subject drilling units. As such, has standing to object to the permit application. The objections  
44 that have been filed by a surface owner against the permit applications for CNX Gas Company,  
45 LLC, operations TA131 with pipeline, and TA144 with pipeline, are in accordance with section  
46 45.1-361.35, objections to permits. Whereas, the location of the coalbed methane well or

1 coalbed methane well pipeline will unreasonably infringe on the surface owner's use of the  
2 surface, provided that a reasonable alternative site is available within the unit, and granting the  
3 objection will not materially impair any right contained in an agreement, valid at the time of the  
4 objection, between the surface owner and the operator or their predecessors or successors in  
5 interest.

6 The thing that I would like to point out right now since this is an informal proceeding under the  
7 administrative process act, we can recess at any time if the parties involved mutually agree that  
8 they would like to negotiate off record. Is there any reason for us to adjourn for you all to  
9 negotiate off record at this time?

10 **T. Shea Cook:** At this time, no.

11

12 **Rick Cooper:** Okay. We will proceed by allowing the objecting parties to provide testimony or  
13 exhibits and ask questions related to the basis of the objections to the permit applications. The  
14 permit applicant will then have the opportunity to provide testimony or exhibits and ask  
15 questions related to the permit applications on the record. Just remember this is an informal fact  
16 finding hearing there are only questions and answers. Cross examination is not allowed. And at  
17 the end of this if we have any questions, each party has a time for closing statements. At that, I  
18 guess we will get started unless there are any other questions that we need to talk about at this  
19 time.

20 **T. Shea Cook:** No. I guess if it would be appropriate, could he simply make his statement and  
21 then I can follow up with my own statement?

22 **Mark Swartz:** Sure.

23 **Rick Cooper:** Yes. That will be good. That will be fine.

24 **T. Shea Cook:** That way you can say what you want to and I can follow up to make sure that I  
25 covered it all. Go ahead.

26 **Link Smith:** Okay. I will start off with TA144. You done come in and broke the surface and  
27 pushed all the [inaudible] I want to know who is going to pay for the damages? I want to know  
28 who is going to pay...when I am going to get paid for the gas? I want to know who is going to  
29 pay for the royalty for the gas line/pipeline going across the property? As far as the TA131, it  
30 hasn't been drilled, there's been a road built down to it I ask the same questions on that. When  
31 am I going to be compensated for breaking my surface? When am I going to be compensated for  
32 the gas that's brought out from under my surface? There's other gas companies that goes across  
33 my property, pipes gas across it, they pay me royalties. I would like to know why you don't  
34 think you have to pay me royalties. That's it in a nut shell.

35

36 **T. Shea Cook:** I would simply echo some of the sentiments that he's already stated. At this  
37 point, we have not received compensation for the roads that have already been put into place.  
38 There is no plan for the payment royalties for the pipeline across the property. We are concerned  
39 about the placement of the pipeline across the land and that it...we believe it sterilizes an  
40 unreasonable amount of...portions of the land from productive use. We believe that, and  
41 obviously he has stated a number of occasions as have I. The lack of compensation, we believe  
42 that this process in order to comport with due process in our view, your right to...there has to be  
43 some kind of compensation process in place. I mean, and I may be stating something that you

1 know, I'm sure that Mark will disagree with but I believe that this whole system has to have a  
2 process by which he is compensated for these surface damages. We don't even know what the  
3 severance deed states specifically, of course Mark may respond to that during his statement, but  
4 clearly without a clear right...his rights as a surface owner to the extent that this is a tract that he  
5 owns only the surface are subject to the rights that the mineral owner obtained. We understand  
6 that, but until you know what those severance rights are, you're not in a position as a decision  
7 maker to make a decision based upon the facts. We have an issue a fundamental issue of the fact  
8 that this process while it authorizes the surface use for a whole [inaudible] of reasons on behalf  
9 of the gas company doesn't provide for compensation to the surface owner. We believe that is a  
10 constitutional issue under due process and taking. So with that, that's all I have to say.

11  
12 **Mark Swartz:** Okay. My response is really intended to respond with both applications.

13  
14 **T. Shea Cook:** Okay.

15  
16 **Mark Swartz:** There is in the [inaudible] that we filed with regard to each of these applications,  
17 there is a certification that at that point I think Philip Lowe signed with regard to both and I  
18 quote, "I hereby state that the applicant named above has the right to conduct operations as set  
19 forth in the application operations plan." So you know, the required certification by a CNX  
20 agent has been made in both instances. When we were off the record before we started the  
21 hearing Mr. Smith inquired with regard to severance deeds and mining rights and I have since his  
22 inquiry talked to Mary Beth about that and I have copies of the severance deeds or the  
23 reservation of mining rights with regard to the tracts that we are talking about which I will tender  
24 to you in a moment as exhibits and then you can make a copy for...eventually for Link and for  
25 Shea as well.

26  
27 **Rick Cooper:** Okay. Alright.

28  
29 **Mark Swartz:** But with regard to the TA131 unit, the deed that I will be tendering to you in a  
30 moment is in book 53, beginning at page 208. With regard to TA144, the deed that I will be  
31 tendering to you in a moment is at book 67, commencing at page 468. The language is  
32 highlighted in orange, the mining rights language with regard on both of these deeds, you know,  
33 one of them is type written and it is pretty easy to follow and the other one hand written and it is  
34 a challenge but it's readable. So my response essentially is that we have certified that we believe  
35 that we have the right to conduct operations on this surface with regard to both of these wells and  
36 I am in response to Mr. Smith's question, producing as exhibits, copies of those deeds.  
37 Eventually give them to Rick.

38  
39 **T. Shea Cook:** Just to make sure, 67, 468 applies to...TA131?

40  
41 **Mark Swartz:** I've written the unit on the back so you can...actually 144.

42  
43 **T. Shea Cook:** Okay. And then 53, 208, applies to TA131?

44  
45 **Mark Swartz:** Correct. Just as a courtesy on providing those, we have made the certification.  
46 The only other observation I would make Mr. Cooper, is that the objection here was

1 unreasonable used to infringement and my observation at this point would be that essentially the  
2 complaints are compensation related that we have heard today. And I certainly understand that,  
3 and although I don't agree with Mr. Cook's analysis of constitutional issues I certainly agree that  
4 you don't have the jurisdiction...the DOG does not have the jurisdiction to award damages  
5 and...for use or constructing roads or anything like that. I understand that there may even be a  
6 case pending between these parties already with regard to some other wells, but this is you know,  
7 we are not going to solve compensation issues today. We are really talking about the objections  
8 under the permitting statute and I think you know, I certainly understand the argument and Mr.  
9 Smith is certainly well within his rights to assert that he has suffered damages and trying to  
10 vindicate claims for those damages but this is not the place to do that. So I would respectfully  
11 suggest in closing that the objections be denied simply because there is no indication particularly  
12 when you look at the maps, I mean there is really nothing going on here. The terrain is horrible  
13 and in terms of infringement I just don't see any basis on the record that conclude that it is  
14 unreasonable.

15  
16 **T. Shea Cook:** I can't see how you could accept a certificate from somebody that I can't cross  
17 examine. So today I think that also part of why this process is...violates due process rights. Just  
18 fundamental basic rights of various...ah...he offers a certificate, he has been kind enough to  
19 provide the certificate or provide the severance deeds upon which they rely, but the person that  
20 makes the certificate which you generally rely on is not even here for me to cross examine to  
21 find out the basis of it. And when I look at the severance deed for example, 53-208, it...this is a  
22 conveyance in which they...there was a...the exception of coal and mineral. They except and  
23 reserve from the conveyance all coal and mineral on, underlying, said tract of land. And...the  
24 copy is not very good but it goes on to say and I presume to be surface use for purpose of mining  
25 and any timber under 18 inches. So...this severance deed on its face relates only to mining  
26 rights not the extraction of gas. And this deed is dated 1902, and by 1902 gas was regularly sited  
27 as a specific mineral interest and dealt with as a specific aspect of the mineral estate when it  
28 came to conveyances by 1902. If this were an 1888 deed or a 1887 deed there may be more of  
29 an argument which I would contend...still even then gas was not a mineral but I would just  
30 suggest to the...to you that these severance deeds upon which they rely on their face...you know  
31 this other 67, 468, um...that specifically deals with TA144 and TA144 is located right here,  
32 okay. Alright, there is exact...this is also a conveyance of land with exception of all of the coal  
33 and other minerals on underlying said tract of land together with the rights to take the entire body  
34 or bodies of said coal and other minerals without leaving any support for the overlying stratum  
35 without liability for any injury which may result from breaking the strata of the right of mining  
36 and removing this said coal and other minerals and of ventilating and draining the mines of the  
37 same by such openings, ways or structures that shall be necessary and the right of mining and  
38 transporting the coal of other lands by and through ways and structures upon said land and also  
39 the right to take and use so much of the water and land as said mining purposes may require.  
40 You know again, we believe that this severance deed on its face does not support their rights  
41 does not support a certificate and so for that reason we would object and note our objections to  
42 the request and ask that the release be denied. And that basically would be I mean I know we've  
43 got another hearing but you know, our arguments would basically be the same with regard to the  
44 other. I did make reference to both of the severance deeds which one doesn't apply to this  
45 particular but since they are being heard in conjunction.

46

1 **Rick Cooper**: Okay. For the record TA131 will be Exhibit 1 and TA144 will be Exhibit 2.  
2  
3 **T. Shea Cook**: I've got copies of them.  
4  
5 **Rick Cooper**: So you don't need copies of them then?  
6  
7 **T. Shea Cook**: No I've got copies of them.  
8  
9 **Mark Swartz**: I need a copy eventually not right now.  
10  
11 **Rick Cooper**: Okay. Right we will get that at the end of the session.  
12  
13 **Mark Swartz**: Just to respond so there is not an assumption. Sometimes there is a theory in law  
14 that silence is a sent you know, so I don't want to be caught there. I understand Mr. Cook's  
15 argument with regard to how these deeds ought to be interpreted. I would simply suggest that it  
16 is not your job as the Director to construe contracts, documents or deeds for us. And I certainly  
17 understand his argument something that circuit courts do all of the time. You know we may hear  
18 something in a court proceeding about that but I would respectfully submit that it is not the  
19 Director's job to construe deeds.  
20  
21 **T. Shea Cook**: I will state that it is an implied...you have to have that. You do have the implied  
22 authority by the statute which created this...your organization position. You are given specific  
23 authorities expressly. We contend that the ability to look at these severance deeds and be able to  
24 make a determination and the fact finding function is an implied right that you have as Director  
25 and so we reject that. And the idea that you don't have that authority, you don't have the  
26 authority to provide for compensation, you don't have the authority to make a determinations  
27 referring to what is the mineral ownership, what are the ancillary rights, what do those mean.  
28 The lack of your perception that you don't have that right contributes to why this process is  
29 another example, why this process violates due process. And I know that Mark doesn't agree  
30 with me on any of that.  
31  
32 **Mark Swartz**: I am not going to respond.  
33  
34 **T. Shea Cook**: I understand.  
35  
36 **Mark Swartz**: But I think we both sort of touched that base...you know we needed to.  
37  
38 **T. Shea Cook**: We got our positions so...  
39  
40 **Rick Cooper**: I understand.  
41  
42 **Link Smith**: I'd like to ask one thing.  
43  
44 **Rick Cooper**: Okay.  
45

1 **Link Smith**: He says you don't have the right to stop an operation, then what gives you the right  
2 to allow them to trespass? Same goes both ways. Do you have the right to set there and tell  
3 somebody to come on my property and do damages? That's the same thing. And what he's  
4 talked about here, he has talked about mining. He hasn't talked...he hasn't specified in that gas  
5 operations in them severance deeds. He's talked about mining. And then he changes over to  
6 operations. That's two different things. That's my objection. Do you have the right to allow  
7 them to trespass on private property? It's no different for them than it is for me. That's all I've  
8 got to say. If so, does a landowner have any rights except to pay taxes anymore?  
9

10 **T. Shea Cook**: We will await your decision.  
11

12 **Rick Cooper**: Okay so I will render a decision to you all in the next little while and thank you  
13 for coming today.  
14

15 **T. Shea Cook**: And that...you know I don't know if you want to do it this way but the relief that  
16 has been requested in the second petition 107245, I mean I'm comfortable it's the same  
17 objections, the same arguments.  
18

19 **Rick Cooper**: I'm comfortable with it being that we are hearing both of these at one time so this  
20 is for TA131 and TA144. It is the exact same argument but I think both parties have addressed  
21 both issues equally so I think it is okay.  
22

23 **T. Shea Cook**: Right. Yes I certainly agree with both.  
24

25 **Rick Cooper**: If anyone was to show up at 2:45, Sarah and myself will address that with any  
26 parties that may show up. Thank you very much.

Objection filed by surface owner.

Objection filed by surface owner.

TA-181

53-208  
93.97AC  
calc

And the said H.L. Altige and Annie Altige, his wife, do consent that they will warrant generally the property hereby conveyed; that they have the right to convey the said land to the said L. Ray; that the said L. Ray shall have quiet possession of the said land, free from all encumbrances.

Witness the foregoing signatures and seals.

Honor. P. Altige Seal  
Annie L. Altige Seal

Virginia, County of Fagundes to wit:

I, J.H. Brown, a justice of the peace in and for the County of Fagundes aforesaid, in the State of Virginia do certify that H.L. Altige and Annie Altige, his wife, whose names are signed to the foregoing deed, having date on the 6th day of Sept., 1899, have acknowledged the same before me in my county aforesaid.

Given under my hand this 6th day of Sept., 1899.  
J.H. Brown J.P.

County of Fagundes, State of Virginia, to wit:

In the Clerk's office of the Circuit Court for the said County the 7th of May, 1904, the said deed was presented, and was the certified copy annexed, attached to record.

Date: J. E. Grogg, Clerk

H. S. Gillespie vs  
J. S. Brown  
Leroy Ray  
In S. 1590.11

This deed made the 30th day of April, 1902, between J. S. Gillespie and Mary C. Gillespie, his wife, and Ross D. Brown and Mary C. Brown, his wife, parties of the first part, and Leroy Ray, party of the second part, witnesses etc:

That whereas the parties of the first part hereupon, to wit, on the 4th day of February, 1902, made a deed to the party of the second part for the purpose of conveying to him the surplus of the tract of land hereinafter mentioned and described; and whereas since the execution of said deed it has been discovered that there are mistakes in said deed, in this, that the courses and distances giving a correct description and area in the whole area of said land is not correctly stated showing of said land are not properly and fully set out therein; and whereas the parties to said deed desire to have said mistakes corrected;

Now therefore this deed for the reasons set forth in the recitation of the premises and in consideration of the sum of one thousand five hundred and ninety and 7/100 dollars (\$1590.11), paid and to be paid as hereinafter stated, the parties of the first part do grant, bargain and sell, except as hereinafter excepted and reserved, unto the party of the second part the surplus of

332 76 a  
Exh.

all what certain tract or parcel of land by and being in  
Fayman County, Virginia, are the portions of Laurel Fork of Indian  
Creek, are bounded and described as follows:

Beginning at a stake in a line of the land of Lewis Christian  
stem South 13° 45' West 216.5 feet to chestnut and maple on a  
spur, South 6° 53' West 176.6 feet to a small dogwood on a  
spur, South 28° 46' East 180 feet to a small red oak, South 15° 26'  
East 84 feet to a chestnut sprout, South 26° 50' East 199 feet to a  
chestnut oak, South 48° East 67.9 feet to red oak, South 11° 16'  
East 1026.5 feet to a stake on top of main divide, South 21° East 358  
feet to stake, South 20° 25' West 380.2 feet to small hickory, South  
21° 48' West 179.5 feet to chestnut oak, South 21° 11' West 354.3 feet  
to locust, South 13° 45' West 216.9 feet to chestnut oak, South 39° 30'  
West 286 feet to small red oak, South 8° West 297.3 feet to a  
hickory, South 31° 20' West 128.3 feet to stake, South 8° 55' East  
396.9 feet to chestnut, South 26° 28' West 302.8 feet to chestnut  
South 18° 15' East 171 feet to hickory, South 58° 55' East 346.7  
feet to maple, South 52° 21' East 181.5 feet to hickory, South  
79° 46' East 136.7 feet to white oak, South 65° 56' East 214 feet  
to hickory, South 58° 16' East 153.7 feet to a stake, South 27° 00'  
East 212.1 feet to a stake, near a small hickory, South 48° 31'  
East 296.2 feet to a double chestnut oak on said divide, on  
line of land of Pendley and Hawkins; then with said Pendley  
and Hawkins land North 24° 49' East 796 feet to a double  
maple, North 62° 54' East 1301.9 feet to a bunch of chestnut  
sprouts, and North 85° 49' East 948 feet to a stake near a  
fence stump on the east bank of Laurel Fork, a corner  
of the John Lee acre tract, then with said John Lee,  
North 25° 20' East 401 feet to a fence stump, North 10° 30' West  
297.3 feet to a stake, North 11° 16' East 598.5 feet to a  
stake by the county road, a corner of land of the Church  
Bible Cad and Ben Casper, then by said land last  
mentioned, North 14° 00' West 1127.5 feet to a stake, North  
16° 17' West 655.5 feet to a white oak, (crossing the creek twice)  
North 40° 06' East 455 feet to a fence stump and North 53° 59'  
West 1529.5 feet to a bunch of chestnut saplings and a dogwood  
stump, a corner of land of Lewis Christian; then by said  
Lewis Christian land, South 77° 52' West 349.4 feet to a poplar  
stump, and then North 78° 18' West 1600.3 feet to the place  
of beginning, containing three hundred thirty four and 74/100  
(334.74) acres.

It is expressly understood and agreed that the portion of the  
part part except and reserve from the conveyance all the coal  
and mineral in, on and underlying the said tract of land

and they and their assigns are to be allowed to use for the purpose of draining any timber under eighteen inches in diameter, which may remain in said boundary of land at its low sea level and minerals above the same, and they are also to have the right of way over, under and through said land for the purpose of mining and removing said coal and minerals from said land, and the right of removing and transporting the coal and minerals off of said land through the mine openings and structures on said land; and they are also to have the right of mining the coal and minerals from said land without leaving any support for the underlying strata; and also the right to use the surface of said land for the draining of openings and drift mounts for the purpose of said mining; and the right to place on said land and use as its appurtenant necessary machinery for mining.

The balance of purchase money secured by deed has been paid and the vendor's lien is hereby released and satisfied this 13th day of October 1906.

It is further agreed that it is agreed that the sum of \$2000.00 and the remainder of said money was to be paid in three equal annual installments, falling due at one, two and three years from said 22nd day of January, 1900, and that on the first deposit installment the following amounts have been paid: October 10th 1900, \$80.00; April 1st 1901, \$70.00; April 30th 1902, \$100.00, and that the remainder of the purchase money is unpaid, and it is expressly declared that a vendor's lien is hereby reserved on the property hereby conveyed to J. P. Gilligan for all the unpaid purchase money.

J. P. Norman, Deputy for T. E. George, do hereby certify that the sale of timber is meant whatever the timber may be and paying the actual expense of putting it on the railroad.

It is further agreed and understood between the parties to this deed that if any of the merchantable timber on said land is removed before its property hereby conveyed is paid for, that the net proceeds of the sale of said timber shall be applied to the payment of the deposit installments of purchase money.

me duly can said land if he should so desire, and also its right to the coal and use any coal on said land that he may need for his domestic purposes, but in taking coal from said land he is not to interfere with the mining operations of the parties of the first part or their assigns.

It is further agreed and understood that the party of the second part is to have the right to mine any or all of the coal and use any coal on said land that he may need for his domestic purposes, but in taking coal from said land he is not to interfere with the mining operations of the parties of the first part or their assigns.

J. P. Norman, 13, 1906

The parties of the first covenant severally and jointly warrant and guarantee the title to the property hereby conveyed, that is to say the said J. P. Gilligan warrants the title to the

undivided share parts of its property hereby conveyed and I  
John B. J. Bowen to one third undivided part of its property,  
herby conveyed.

Witness its foregoing signatures and seals as its day and  
year first above written.

J. S. Giespin Seal  
M. C. Giespin Seal  
Ree J. Bowen Seal  
Mary C. Bowen Seal

Virginia, Tazewell County, to-wit:

I, J. H. Campbell, Clerk of the  
County of Tazewell, in said State, do hereby  
certify that Joseph S. Giespin and Mary C. Giespin, his  
wife, whose names are signed to the foregoing writing, here-  
unto on the 30<sup>th</sup> day of April, 1902, have acknowledged  
said writing before me in my office in my County aforesaid.

Given under my hand this 2<sup>nd</sup> day of May, 1902.  
J. H. Campbell Clerk

Virginia, Tazewell County, to-wit:

I, Russell Bayall, a Notary  
Public in and for the County of Tazewell, in said State,  
herby certify that Ree J. Bowen and Mary C. Bowen, whose  
names are signed to the above writing, bearing date on the  
30<sup>th</sup> day of April, 1902, have acknowledged the same before  
me in said County.

Given under my hand this 2<sup>nd</sup> day of May, 1902.

Russell Bayall Notary

Virginia: In the presence of me as Tazewell County Clerk and Notary  
This deed was presented and upon the annexed certificate of  
acknowledgment, was admitted to record.

John H. Campbell Clerk

of Tazewell

So S. Bond

Roy Roy

Com. 8329 75

63.90 a

This deed made the 15<sup>th</sup> day of July in the year 1901  
between of Tazewell & Mary, his wife, of the first part &  
Roy Roy of the second part all of the County of Tazewell  
and State of Va, witnesses etc

Had in consideration of three hundred & twenty nine  
dollars & seventy five cents in hand paid, the receipt whereof  
herby acknowledged, the said parties of the first part do  
grant unto the said parties of the second part all that and  
tract, piece or parcel of land, beginning an obvious cross in