

# GERALD GRAY LAW FIRM

A PROFESSIONAL CORPORATION  
221 MAIN STREET · P.O. BOX 929  
CLINTWOOD, VIRGINIA 24228

GERALD L. GRAY

TELEPHONE 276-926-4607  
FAX 276-926-4739  
jerry@geraldgraylawfirm.com

August 14, 2014

Rick Cooper, Director  
Division of Gas and Oil  
Department of Mines, Minerals & Energy  
P.O. Drawer 159  
LEBANON VA 24266



Re: Docket Number IFFH 229  
CNX Gas Company, Inc. CBM Well AA37D with Pipeline

TELEFAXED AND MAILED

Dear Mr. Cooper:

I enclose a Petition for Appeal of your August 4, 2014, decision.

Please note that I have requested a stay, because once the pipeline is already in the ground, it will be too late.

I understand from Ms. Hess that you made a site visit. I would like a copy of any notes, photographs, and any other information about that visit that has been reduced to writing.

If you have any questions please contact my office.

Thank you for your attention.

With Best Regards,

A handwritten signature in black ink, appearing to read "Gerald L. Gray".

Gerald L. Gray  
/sw

Enclosure

c: Mark Swartz  
Pamela Hess

VIRGINIA: IN THE VIRGINIA GAS AND OIL BOARD

PAMELA HESS

PETITIONER

V. RE: COALBED METHANE OPERATION AA37D W/PIPELINE  
APPLICATION 20256

CNX GAS COMPANY

RESPONDENT

**PETITION FOR APPEAL**

Pursuant to Virginia Code §45.1-361.36, Pamela Hess appeals the decision of the Division Director in Informal Fact Finding Hearing 229 (IFFH 229) dated August 4, 2014, received on August 5, 2014, and in support of her Petition states as follows:

1. Petitioner's Address: Pamela Hess  
475 Shortts Gap Road  
RAVEN VA 24639

Petitioner's Counsel: Gerald L. Gray  
POB 929  
CLINTWOOD VA 24228

2. Identification of Decision being Appealed: Informal Fact Finding  
Hearing 229

Date Decision was issued: August 4, 2014

3. Petitioner has standing to appeal the decision of the Director because she is the Surface Owner who requested the hearing, and was a party to IFFH 229.

4. The Director erred in finding that the proposed coalbed methane well pipeline location and associated road will not unreasonably infringe on the surface owner's use of her surface. The location selected for the pipeline and road is on a portion of surface owners's best land, which is relatively flat. The remainder of surface owner's land is steep. The pipeline and road can easily be relocated so as to not unreasonably infringe on surface owner's use of the surface.

5. The issue identified in Paragraph 4 was in fact raised at IFFH 229.

6. Petitioner requests that the Board reverse the decision of the director, and find that the location of the proposed gas well pipeline and associated road will unreasonably infringe on the surface owner's use of the surface.

Petitioner further requests that the Division Director issue a stay on that portion of the Application which allows CNX to construct a coalbed methane pipeline and road on her surface, on the grounds that she will be irreparably harmed by failure to issue a stay because the lack of a stay will allow the Applicant to construct the pipeline and road, before a final administrative or judicial decision is made.

PAMELA HESS

-By Counsel-

GERALD GRAY LAW FIRM  
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FAX: 276-926-4739  
[jerry@geraldgraylawfirm.com](mailto:jerry@geraldgraylawfirm.com)

By:   
GERALD L. GRAY, COUNSEL FOR PETITIONER  
VSB 13285

**GERALD GRAY LAW FIRM**  
A PROFESSIONAL CORPORATION  
221 MAIN STREET • P.O. BOX 929  
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GERALD L. GRAY

TELEPHONE 276-926-4607  
FAX 276-926-4739  
jerry@geraldgraylawfirm.com

DATE: 08/14/14

CONTACT PERSON: Sharon or Peggy  
FAX NUMBER: 276-926-4739

TO: Division of Gas & Oil/Dept. of Mines, Minerals & Energy  
(NAME OF COMPANY OR FIRM)

Rick Cooper, Director  
(CONTACT PERSON)

FAX NUMBER: 276-415-9671

# OF PAGES, INCLUDING COVER SHEET: 5

IF YOU HAVE ANY PROBLEMS WITH THIS TRANSMISSION, PLEASE CONTACT  
Sharon or Peggy

STYLE OF CASE: Pamela Hess v. CNX Gas Company Docket #: IFFH 229

CNX Gas Co., Inc.  
CBM Well AA37D with Pipeline

ENCLOSURES & COMMENTS:

Petition for Appeal of August 4, 2014 Decision.

Letter to Rick Cooper, Director



THE DOCUMENTS ACCOMPANYING THIS FACSIMILE MESSAGE CONTAIN INFORMATION BELONGING TO THE SENDER WHICH IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL/ENTITY NAMED ABOVE. IT IS *PRIVILEGED INFORMATION*. IF YOU ARE NOT THE INTENDED RECIPIENT, OR YOU HAVE RECEIVED THIS MESSAGE IN ERROR, PLEASE NOTIFY US IMMEDIATELY TO ARRANGE FOR THE RETURN OF THE MESSAGE TO US.

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August 14, 2014

Rick Cooper, Director  
Division of Gas and Oil  
Department of Mines, Minerals & Energy  
P.O. Drawer 159  
LEBANON VA 24266



Re: Docket Number IFFH 229  
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With Best Regards,

Gerald L. Gray  
/sw

Enclosure  
c: Mark Swartz  
Pamela Hess

VIRGINIA: IN THE VIRGINIA GAS AND OIL BOARD

PAMELA HESS

PETITIONER

V. RE: COALBED METHANE OPERATION AA37D W/PIPELINE APPLICATION 20256

CNX GAS COMPANY

RESPONDENT

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1. Petitioner's Address: Pamela Hess  
475 Shortts Gap Road  
RAVEN VA 24639

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POB 929  
CLINTWOOD VA 24228

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Date Decision was issued: August 4, 2014

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6. Petitioner requests that the Board reverse the decision of the director, and find that the location of the proposed gas well pipeline and associated road will unreasonably infringe on the surface owner's use of the surface.

Petitioner further requests that the Division Director issue a stay on that portion of the Application which allows CNX to construct a coalbed methane pipeline and road on her surface, on the grounds that she will be irreparably harmed by failure to issue a stay because the lack of a stay will allow the Applicant to construct the pipeline and road, before a final administrative or judicial decision is made.

PAMELA HESS

-By Counsel-

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By:   
GERALD L. GRAY, COUNSEL FOR PETITIONER  
VSB 13285

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

In regard to CNX Gas Company Inc.  
Proposed Permit for New Gas Operation  
Application 20256 for Coalbed Methane Well AA37D with Pipeline  
Located in the Garden District of Buchanan County, Virginia

Docket Number IFFH 229

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 objections received from Pamela Hess, Audrey Null and Timothy Null to be affected by the above-named operation(s). The objections by the surface owners were 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 Owners against the permit applications for CNX Gas Company Inc. for operation CBM AA37D with pipeline in accordance with:

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

2. Measures in addition to the requirement for a well's water-protection string are necessary to protect fresh water-bearing strata
  
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.

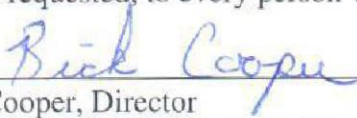
All testimony in this conference must be relevant to objections allowed for and detailed in the Gas and Oil Act in this section.

Date and location of Conference:

The hearing is scheduled for Friday February 21, 2014 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.

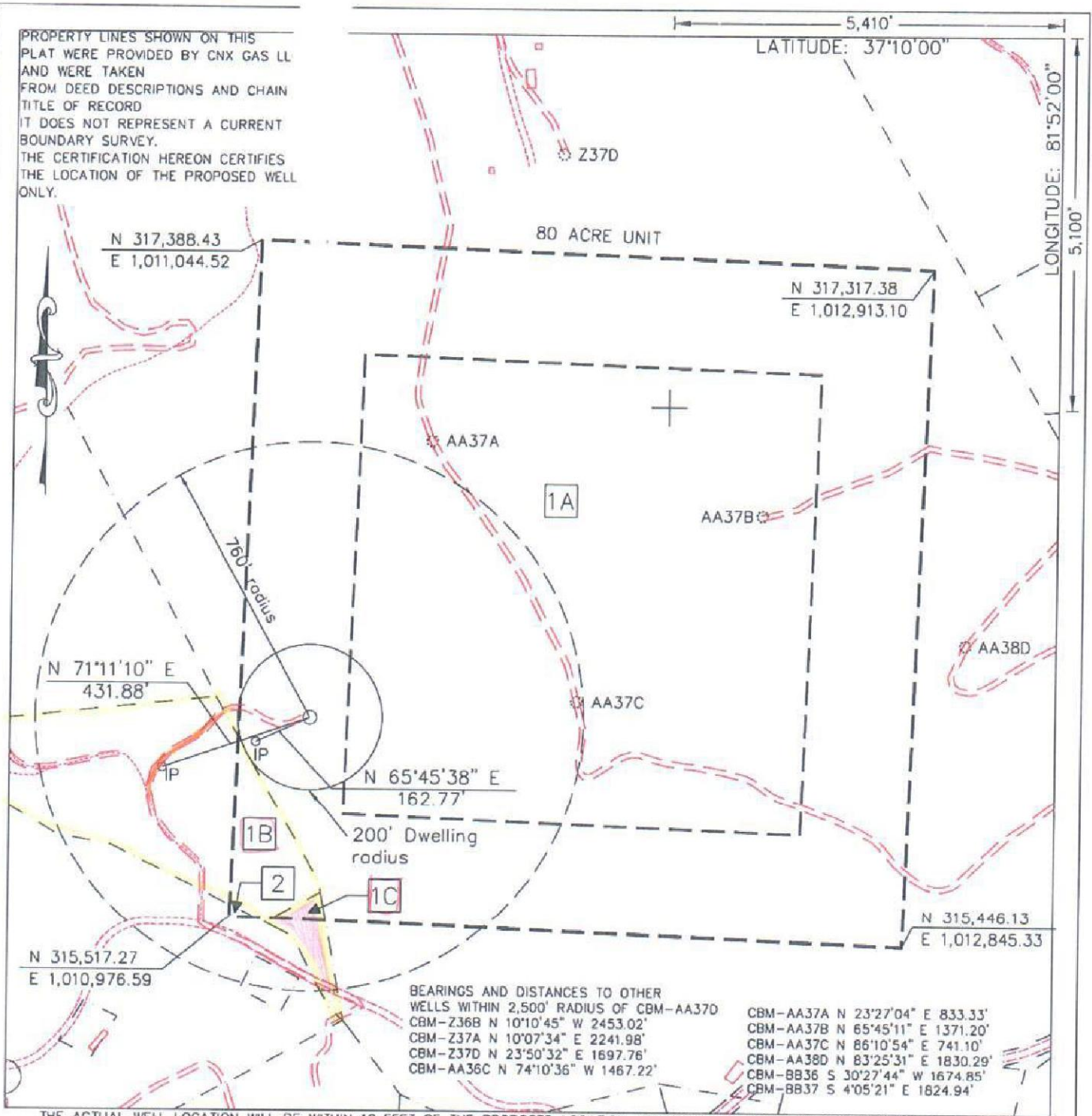
This notice was prepared on **January 23, 2014** and will be sent by certified mail, return receipt requested, to every person with standing to object as prescribed by § 45.1-361.30.



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

PROPERTY LINES SHOWN ON THIS PLAT WERE PROVIDED BY CNX GAS LL AND WERE TAKEN FROM DEED DESCRIPTIONS AND CHAIN TITLE OF RECORD IT DOES NOT REPRESENT A CURRENT BOUNDARY SURVEY. THE CERTIFICATION HEREON CERTIFIES THE LOCATION OF THE PROPOSED WELL ONLY.



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.

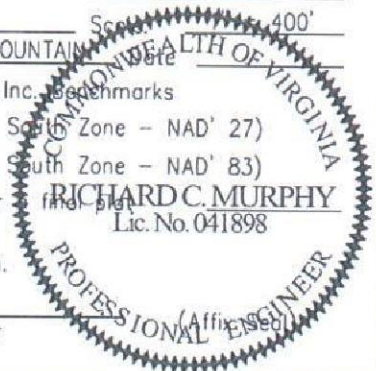
### WELL LOCATION PLAT

Company CNX Gas Company LLC Well Name or Number CBM-AA37D  
 Tract No. COMMONWEALTH COAL CORPORATION TRACT 2 (965.00 ACRE TRACT)  
 County BUCHANAN District GARDEN Quadrangle KEEN MOUNTAIN  
 Elevation 2720.88' Well Elevation Determined By Trig. Levels From CONSOL Inc. benchmarks  
 Well Coordinates N 316,073.88 E 1,011,192.17 (Virginia State Plane - South Zone - NAD' 27)  
 Well Coordinates N 3,596,953.13 E 10,494,180.12 (Virginia State Plane - South Zone - NAD' 83)  
 This plat is a new plat X; an updated plat \_\_\_\_\_; or \_\_\_\_\_

+ 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.

Form DGO-GO-7  
 Rev. 9/91

Licensed Professional Engineer or Licensed Land Surveyor



**CNX Gas Company LLC**  
**UNIT AA37**  
**Tract Identifications**

1. Commonwealth Coal Corporation Tract 2 (965.00 Acre Tract) – All Minerals  
Consolidation Coal Company – Below Drainage Coal Leased  
Knox Creek Coal Corporation – Coal In Tiller and Above Leased  
CNX Gas Company LLC – Oil, Gas and CBM Leased  
79.97 acres                      99.9625%
  
- 1A. Commonwealth Coal Corporation - Surface
- 1B. Timothy Null, et al - Surface
- 1C. Audrey Null, et al - Surface
  
2. Commonwealth Coal Corporation Tr. 9 (1497.62 Acre Tract) – All Minerals  
Reserve Coal Properties Company - Below Drainage Coal Leased  
Knox Creek Coal Corporation – Coal In Tiller and Above Leased  
CNX Gas Company LLC – Oil, Gas and CBM Leased  
Danny L. Horton, et ux - Surface  
0.03 acres                      0.0375%

"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."

## PREDICT

HOLE:		ESTIMATED EASTING	ESTIMATED NORTHING	ESTIMATED ELEVATION
AA37D				
	NAD 27	1011192	316074	2721
	NAD 83	10494180	3596953	2721

SEAM	DEPTH FROM (FEET)	TO	DEPTH (TOSE) (FEET)	ELEVATION (FEET)	THICKNESS
-----	-----	-----	-----	-----	-----
TOPO	0.00		0.00	2720.88	0.00
LB2	64.20		65.34	2656.68	1.14
KN1	170.59		171.49	2550.29	0.90
KN2	188.20		189.53	2532.68	1.33
AL1	307.08		307.52	2413.80	0.44
AL2	330.27		330.35	2390.61	0.08
** RA2	452.18		455.19	2268.70	3.01
JB1	591.82		592.88	2129.06	1.06
JB2	629.22		629.31	2091.66	0.09
*** JB3	641.02		643.00	2079.86	1.98
TI	743.07		743.69	1977.81	0.62
US2	1007.53		1008.03	1713.35	0.50
GC2	1137.75		1139.36	1583.13	1.61
SE1	1198.11		1198.39	1522.77	0.28
SE2	1230.85		1231.92	1490.03	1.07
LS1	1276.84		1278.11	1444.04	1.27
LS2	1280.32		1281.75	1440.56	1.43
UH1	1336.36		1337.52	1384.52	1.16
UH2	1405.08		1406.31	1315.80	1.23
UH3	1408.55		1409.17	1312.33	0.62
MH1	1456.50		1457.91	1264.38	1.41
MH2	1517.60		1518.44	1203.28	0.84
P11	1563.90		1565.95	1156.98	2.05
P10	1589.62		1590.51	1131.26	0.89
LH3	1650.96		1651.43	1069.92	0.47
P91	1736.38		1737.21	984.50	0.83
P92	1741.21		1742.17	979.67	0.96
P72	1883.93		1884.44	836.95	0.51
P62	1994.61		1994.63	726.27	0.02
P51	2017.36		2017.64	703.52	0.28
P52	2056.14		2056.65	664.74	0.51
P41	2120.36		2121.56	600.52	1.20
P31	2208.54		2209.59	512.34	1.05
P32	2209.69		2211.47	511.19	1.78
P33	2211.57		2212.74	509.31	1.17
P34	2221.31		2222.16	499.57	0.85
P35	2222.90		2223.13	497.98	0.23
SJ3	2396.95		2397.03	323.93	0.08
SJ2	2409.07		2409.08	311.81	0.01
SJ1	2415.44		2415.46	305.44	0.02
RG					

Estimated cutoff elevation: 1760 ft above sea level.

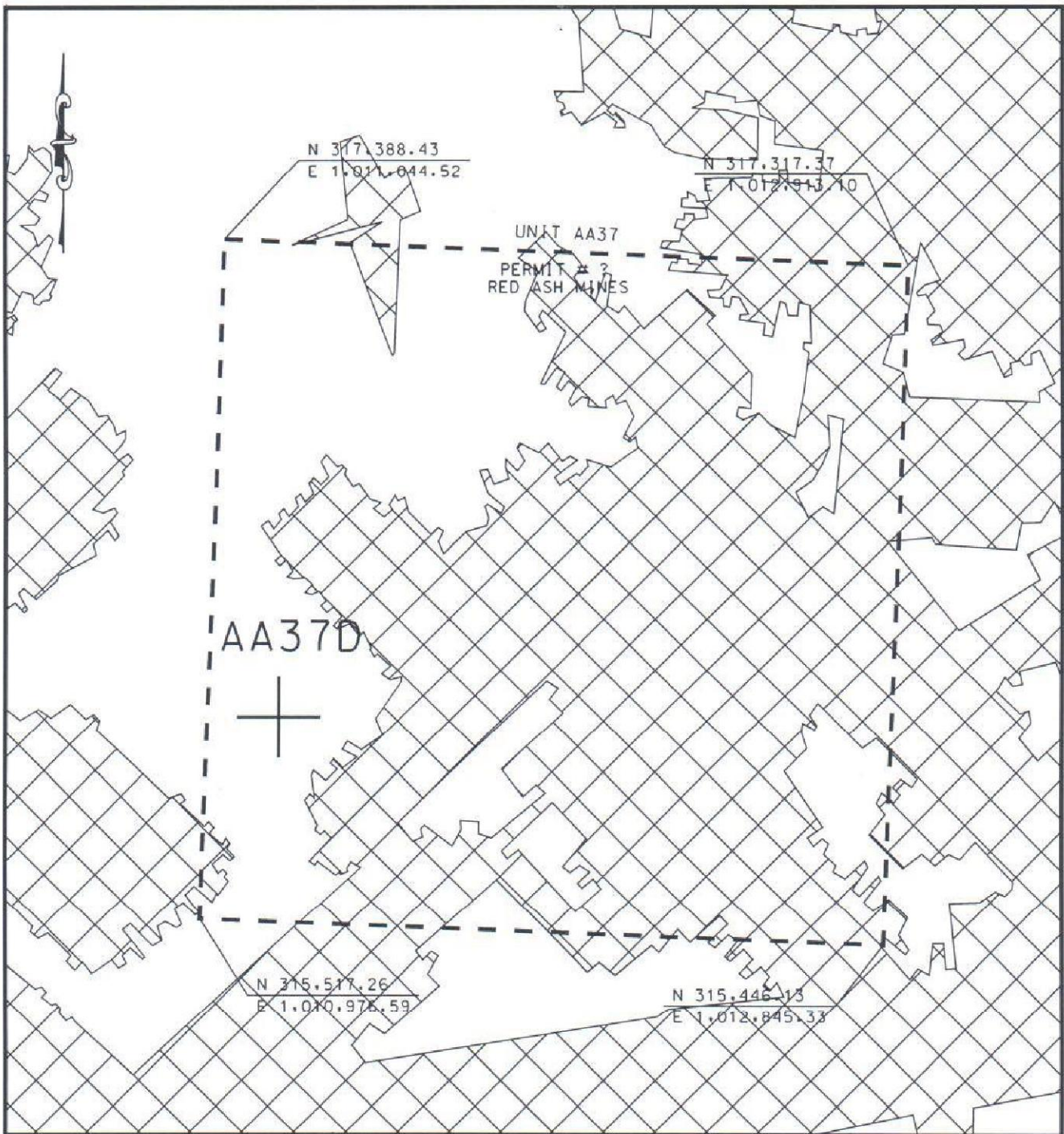
Once drilled, any coal seam, named or omitted, that lies below the cutoff elevation is subject to coalbed methane stimulation and production.

Coal seams to be stimulated were adjusted due to topography.

\*\* Within 175 ft of old works.

\*\*\* Within 2123 ft of old works.

10:09:4610/07/11



## WELL & MINE LOCATION PLAT

Company CNX GAS COMPANY LLC Well Name and Number WELL AA37D  
 Quadrangle KEEN MOUNTAIN Permit No.: \_\_\_\_\_ Scale: 1" = 400' Date 10/13/11

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



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 AA37D W/PL  
**Application Number:**   20256

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 AA37D 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 Commonwealth Coal Company tract of 965 acres, more or less, Commonwealth Coal Company tract of 431.98 acres, more or less, Timothy Null et al tract of 9 acres, more or less tract(s) in the Garden District, BUCHANAN 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 AA37D W/PL  
Application Number: 20256

## NOTICE OF RIGHT TO OBJECT

CNX Gas Company LLC is applying for a permit from the Virginia Department of Mines, Minerals and Energy, Division of Gas and Oil, to conduct gas and oil operations for well/pipeline number CBM AA37D W/PL. The activities proposed to be permitted are described in the enclosed Notice of Application for a permit.

We are required to give you notice of this application, and you have certain rights. You have 15 days from the day you receive this notice to do one of the following:

1. You may sign and return the attached waiver form if you wish to waive the time and any right you may have to object to the permit application. The Virginia Gas and Oil Act gives you the option to waive these rights in writing. (You may submit this waiver to the Division of Gas and Oil, , P. O. Box 159, Lebanon, VA 24266, Telephone (276) 415-9700, Fax (276) 415-9671.)

2. You may file an objection to the issuance of this permit. The types of objections which may be raised are listed in Section 45.1-361.35 of the Virginia Gas and Oil Act. A copy of this code section is attached hereto for your review.

If you wish to object to this permit application, then you must file your objections, including your reasons why, within 15 days of receipt of this letter. You must file any objections with the Director of the Division of Gas and Oil at the address given above. If statutorily allowed objections in accordance with the Virginia Gas and Oil Act, Section 45.1-361.35, are submitted to the Division of Gas and Oil, then the Division will hold an informal fact-finding hearing concerning them. You will be notified if an informal conference is scheduled.

3. You may take no action. This will cause you to waive any rights you may have to object to the permit application.

I affirm that this notice and waiver form is being sent to you on behalf of CNX Gas Company LLC on this 20st day of August, 2014.

\_\_\_\_\_  
Signature of Permit Applicant

**WAIVER**

**Operations Name:**      CBM AA37D W/PL  
**Application Number:**   20256

TO: (Commonwealth of Virginia, Department of Mines, Minerals & Energy, Division of Gas and Oil)  
(P. O. Box 159, Lebanon, VA 24266)

I acknowledge receipt of the notice that CNX Gas Company LLC has applied for a permit to conduct gas and/or oil operations for well/pipeline number CBM AA37D W/PL. I hereby waive my fifteen-day right, if any, to object to the permit application.

I understand that the Division of Gas and Oil may rely on this waiver in reaching a decision on the permit application.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

## 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.



Operations Name:      CBM AA37D W/PL  
Application Number:    20256

**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

**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

CNX Gas Company LLC, , 2481 John Nash Blvd., Bluefield; WV 24701,  
Commonwealth Coal Corp, , PO Box 1269, Bristol; VA 24203,  
Commonwealth Coal Corp, Attn: Warren Pinnick, 293 Farifield Lane, Marion; VA 24354,  
Consolidation Coal Co, , 10545 Riverside Dr, Oakwood; VA 24631,  
Knox Creek Coal Co., Attn: David Kramer, PO Box 519, Raven; VA 24639,

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

Audrey Null (REV), , HC 62 Box 67, Raven; VA 24639,  
Audrey Null, , HC 62 Box 67, Raven; VA 24639,  
Commonwealth Coal Corp, , PO Box 1269, Bristol; VA 24203,  
Commonwealth Coal Corp, Attn: Warren Pinnick, 293 Farifield Lane, Marion; VA 24354,  
Pamela Diane N. Hess (REV), , 475 Shortts Road, Raven; VA 24639,  
Pamela Diane N. Hess, , 475 Shortts Road, Raven; VA 24639,  
Timothy Null (REV), , HC 62, Box 67, Raven; VA 24639,  
Timothy Null, , HC 62, Box 67, Raven; VA 24639,

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

CNX Gas Company LLC, , 2481 John Nash Blvd., Bluefield; WV 24701,  
Commonwealth Coal Corp, , PO Box 1269, Bristol; VA 24203,  
Commonwealth Coal Corp, Attn: Warren Pinnick, 293 Farifield Lane, Marion; VA 24354,  
Consolidation Coal Co, , 10545 Riverside Dr, Oakwood; VA 24631,  
Knox Creek Coal Co., Attn: David Kramer, PO Box 519, Raven; VA 24639,  
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

Buchanan County Admin., Attn: Mr. W.J. Caudill, PO Box 950, Grundy; VA 24614,

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

CNX Gas Company LLC, , 2481 John Nash Blvd., Bluefield; WV 24701,  
Commonwealth Coal Corp, , PO Box 1269, Bristol; VA 24203,  
Commonwealth Coal Corp, Attn: Warren Pinnick, 293 Farifield Lane, Marion; VA 24354,  
Consolidation Coal Co, , 10545 Riverside Dr, Oakwood; VA 24631,  
Knox Creek Coal Co., Attn: David Kramer, PO Box 519, Raven; VA 24639,  
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

Audrey Null (REV), , HC 62 Box 67, Raven; VA 24639,  
Audrey Null, , HC 62 Box 67, Raven; VA 24639,  
Commonwealth Coal Corp, , PO Box 1269, Bristol; VA 24203,  
Commonwealth Coal Corp, Attn: Warren Pinnick, 293 Farifield Lane, Marion; VA 24354,  
Pamela Diane N. Hess (REV), , 475 Shortts Road, Raven; VA 24639,  
Pamela Diane N. Hess, , 475 Shortts Road, Raven; VA 24639,  
Timothy Null (REV), , HC 62, Box 67, Raven; VA 24639,  
Timothy Null, , HC 62, Box 67, Raven; VA 24639,

### **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

Operations Name: CBM AA37D W/PL

Application Number: 20256

**OPERATIONS PLAN**

**PRE-DEVELOPMENT SITE CONDITIONS:**

Existing Land Use: Forest, Mining

Set-back variance requested:  Yes  No

Located on DMLR permit(s):  Yes  No

Active underground mining located within  500'  200' of proposed well location or  No Mining

Is the topography different from that depicted on the attached topographic map(s):  Yes  No

Ground Water Analysis Attached:  Yes  To be submitted prior to drilling  
 Not required (No Groundwater found within 500' of proposed well or corehole)

Source Water Analysis Attached:  Yes  To be submitted prior to drilling  
 Not required (using municipal water source)  Not required (using onsite water source)

Description	FileName
Town Hill Creek	Town Hill Creek - Richlands Quad (1-19-2012).pdf

Provide a statement of the acres to be disturbed to the nearest 1/10 of an acre subject to this application:

3.74

**CONSTRUCTION PLANS**

- Not less than 1" - 400' topographic map depicting all existing and proposed access roads to be upgraded or constructed. Anticipated culvert sizes, locations, and the approximate final road grades shall be shown on the proposed roads. Adjoining state and county maintained roads and previously permitted roads which will be used in conjunction with the proposed roads shall be labeled for reference purposes.
- Not less than 1" - 50' site map with cross section(s) indicating the elevations before and after construction, the drilling pad size, the location of all drainage and erosion/sediment control structures, topsoil stockpiles and pits.
-

Not less than 1" - 600' topographic map showing the total length of the proposed pipelines with notations of the pipeline diameter. This map shall show the location of all proposed drips, tanks and associated facilities (if applicable) and shall indicate where the pipe is to be buried or on the surface. The anticipated grades after construction for the ground disturbing sections of the pipeline rights-of-way shall also be shown on the map or an associated section profiles.

Identify on attached maps any adjacent land, man-made or public safety features which would be at risk because of proposed operations as Red Zone(s) as required by 45 VAC 25-150-100(B).

Description	FileName
No Red Zone	5 No Red Zone Required.doc
Exhibit 1	AA37D EXHIBIT 1.dwg
Exhibit 2	AA37D EXHIBIT 2.dwg
Exhibit 3	AA37D EXHIBIT 3.dwg
Exhibit 1A	AA37Dpipeline.pdf

### WORK PLANS

Stimulation plan attached:  Yes  Does Not Apply

Description	FileName
Target	2 TARGET(Frac).doc

Analysis of mud medium/drilling medium/oil based fluid medium attached/filed:

Yes  Does Not Apply  On File with DGO

SPCC Plan Required by EPA:  Yes  No

Pit Identification:

Pit Name	Date Added	Date Removed
Pit		

Wellbore Identification:

Wellbore Identifier	Date Added

### PROVIDE INFORMATION OR ATTACHEMENTS PERTAINING TO SITE SPECIFIC INFORMATION THAT IS NOT ADDRESSED ABOVE

Description	FileName
Produced Fluids	0 Disposal of Produced Fluids Revised.doc
No Objections	3 No Objection Letter ICC-Consol (online).doc
No Objections	3 No Objection Letter RCPC.pdf

Mine Plats	AA37D JAWBONE SEAM.pdf
Mine Plats	AA37D LOWER BANNER SEAM.pdf
Mine Plats	AA37D RED ASH SEAM.pdf

Directions to site: Access for this proposed site from 671 is over approximately 580 ft of existing road included in CBM-AA36C and various other permit applications to the CBM-AA36A site; and finally over approximately 415 ft of new road with a grade of approximately 0 to 15 per cent to reach the site. The new segment of access road should require one (1) new culvert as shown in Exhibits 1, 2, and 3.



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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Operations Name: CBM AA37D W/PL

### TECHNICAL DATA SHEET FOR PERMIT MODIFICATION TO PLUG OR REPLUG

Under Code of Virginia, Section 45.1-361.34, the proposed plugging work is for the purpose listed below:

Abandonment of the well or corehole by the operator

The date when the plugging or re-plugging is proposed to be commenced



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 AA37D W/PL

**Application Number:** 20256

**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 Commonwealth Coal Company tract of 965 acres, more or less, Commonwealth Coal Company tract of 431.98 acres, more or less, Timothy Null et al tract of 9 acres, more or less Garden District, BUCHANAN 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: BUCHANAN	District: Garden	Quadrangle: KEEN MOUNTAIN
Waterway: Levisa Fork	Farm Name: Commonwealth Coal Corporation	
State Plane NAD 83 East / X	State Plane NAD 83 North / Y	Surface Elevation
10494180.1200	3596953.1300	2720.88

**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 AA37D 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 : 2563.0

**GEOLOGICAL DATA (ESTIMATE)**

Predict:

Description	FileName
Schematic	AA37D SCHEMATIC.pdf
Predict	aa37d.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

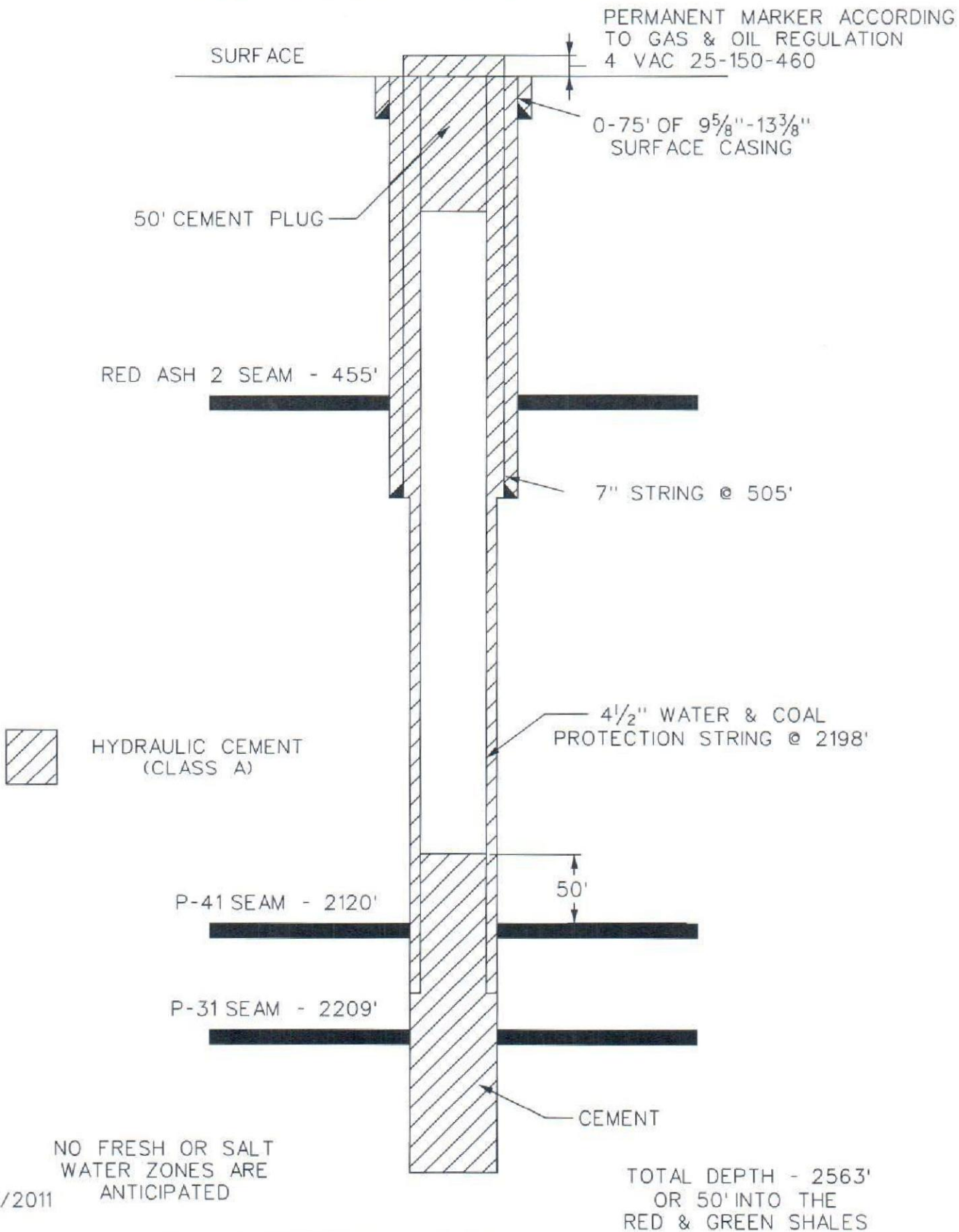
Proposed Casing/Tubing Program

	Size	Depth	Cement Details
Conductor	9 5/8 - 13 3/8	0-75	Cemented to Surface
Surface/Water Prot. Casing	4 1/2	2198	Cemented to Surface
Coal Protection Casing	4 1/2	2198	Cemented to Surface
Other Casing	7	505	Cemented to Surface
Other Casing			
Other Casing			
Production Casing	4 1/2	2198	Cemented to Surface
Tubing	2 3/8	2273	

# CNX GAS COMPANY LLC

## CBM-AA37D

### PROPOSED PLUGGING AND ABANDONMENT SCHEMATIC



10/11/2011



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 AA37D 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): BUCHANAN

District(s): Garden

Quadrangle(s): KEEN MOUNTAIN

Watershed(s): Levisa Fork

Pipeline Type	Pipeline Diameter (Inches)	Right of Way Width (feet)	Proposed Length (Feet)	Calculated Distrubed Acres	Surface / Buried	Pipeline Material	Well Name
Gas	8.00	75	885.00	1.52	Burried	Plastic	

Total Length of Proposed Pipeline: 885.00

Area to be disturbed: 1.52

Associated pipeline or well permit number:

Operations Name / File #
BB36



**Operations Name:** CBM AA37D W/PL

**Application Number:** 20256

**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? Yes

Field Name: Oakwood Coalbed Field 2

**Increased Density:**

Is this well an increased density well for the unit? Yes

If yes, Docket #: 91-1119-0162

**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? Yes

Description	File Name
Location Exception	AA37D Location Exception.pdf

Director Approval:

Is location exception due to mining? Yes

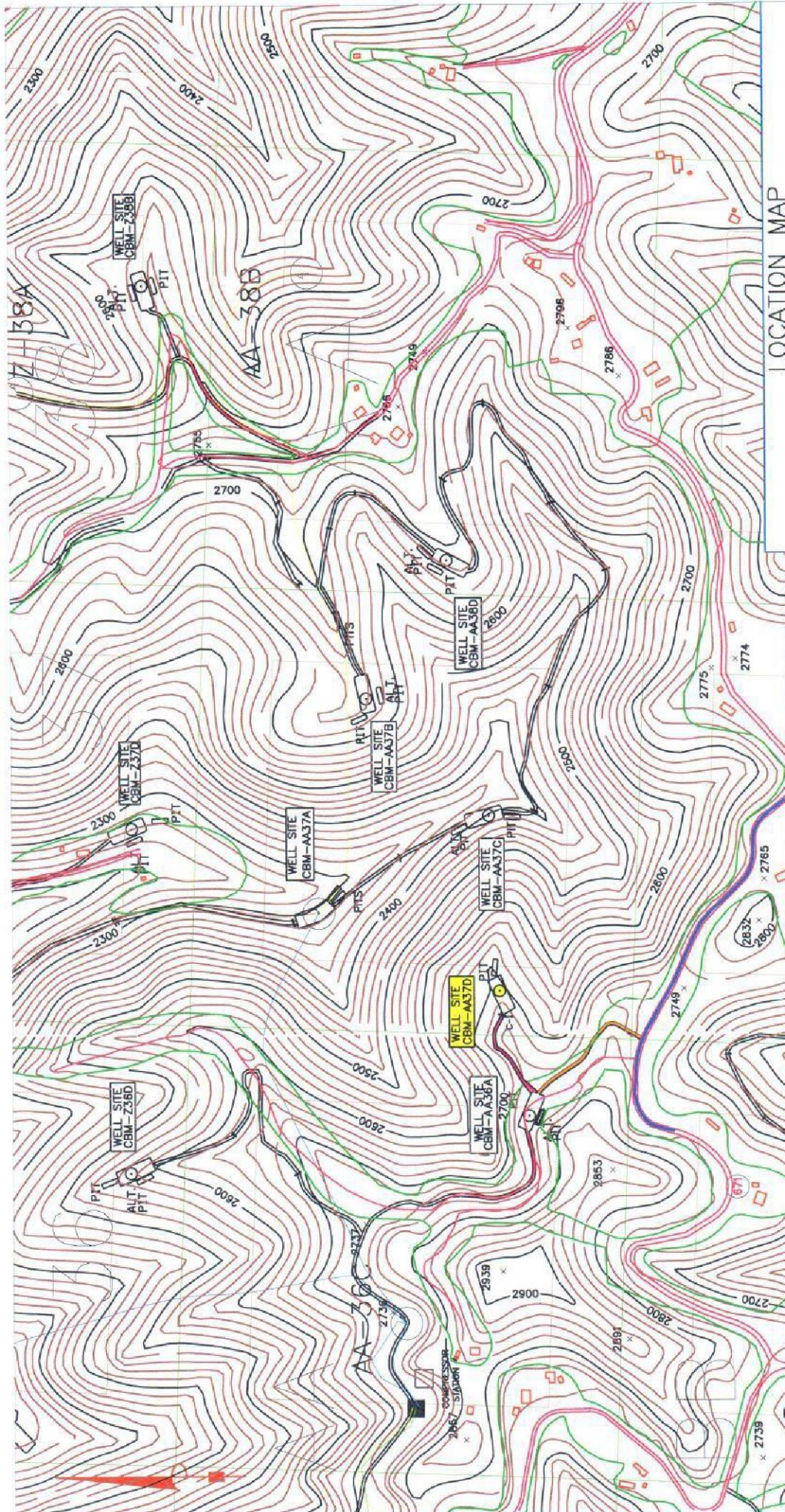
**Application Certification:**

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:** Manager

**Date:** 10/13/2011



LOCATION MAP

WELL NO. CBM-AA37D

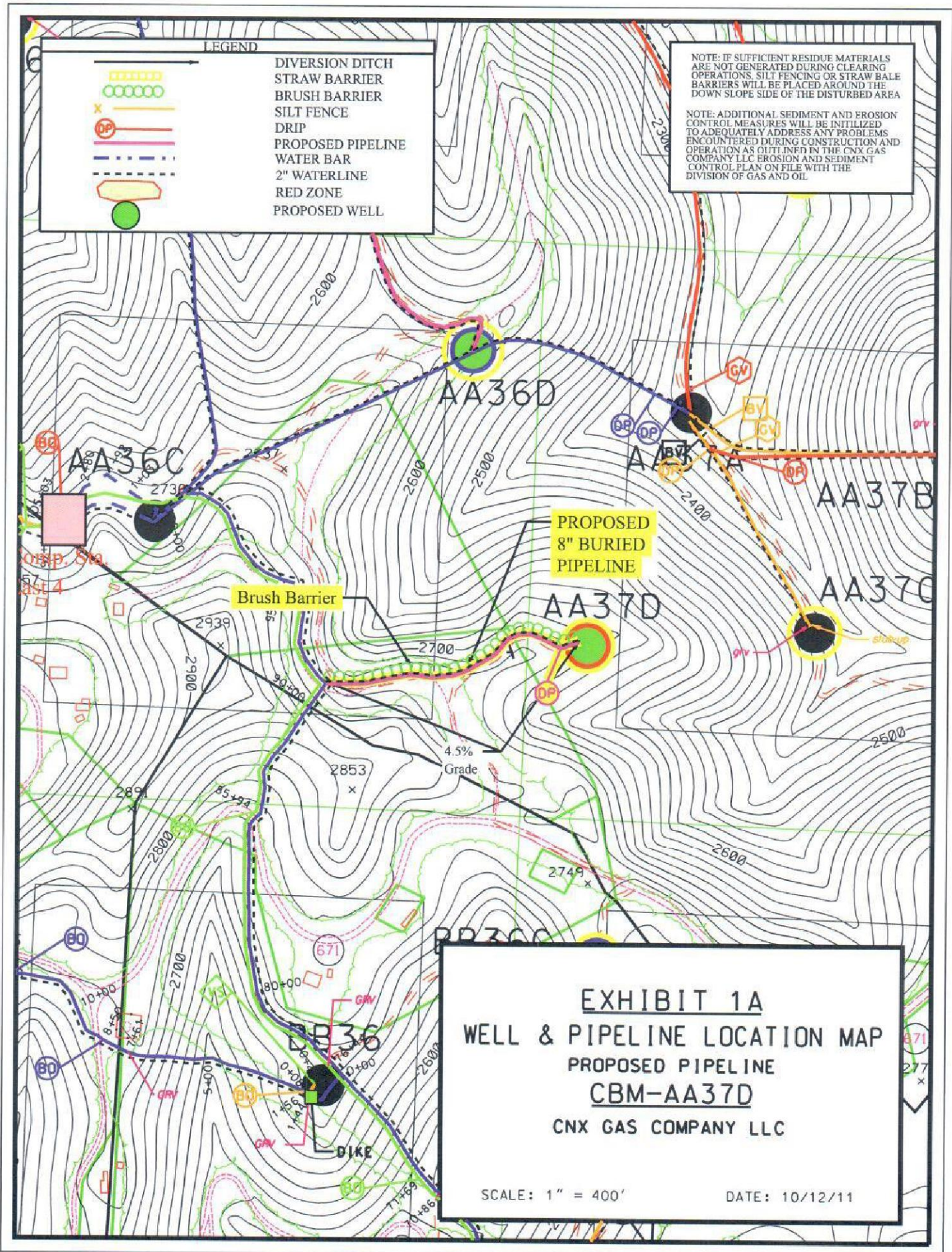
SCALE: 1" = 400'	CNX GAS COMPANY, LLC. 2481 JOHN NASH BLVD.	DRAWN BY: AM
DATE: 10/06/11	BLUEFIELD, WV 24701	FILE: AA37D EXHIBIT 1
<i>Not to Scale</i>		
D. R. PRICE ENGINEERING & LAND SURVEYING, INC., PC P. O. BOX 1270, HONAKER, VA 24260 PHONE: (276) 991-9100 FAX: (276) 991-9103		EXHIBIT 1

LEGEND

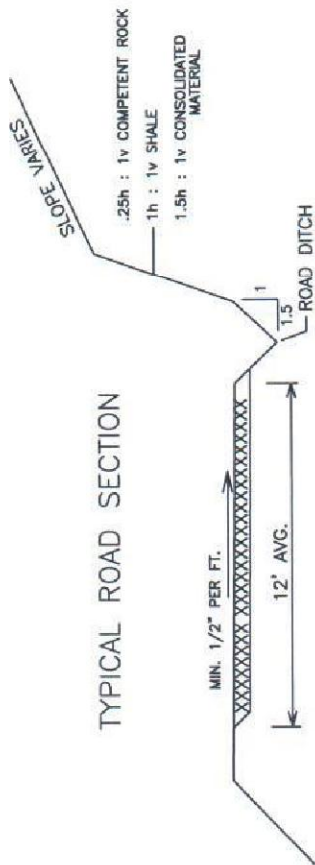
- STATE ROAD
- COUNTY ROAD
- EXISTING ROAD
- NEW ROAD
- CULVERT
- CULVERT NUMBER
- WELL BORE
- NEW ROAD SEGMENT
- SILT FENCE

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  
 1 415' 0 - 15  
 LAT: 37° 09' 09.97561"  
 LON: 81° 53' 36.23731"

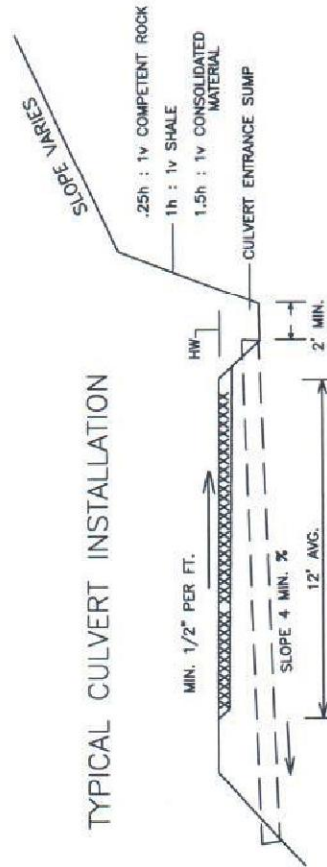


### TYPICAL ROAD SECTION



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

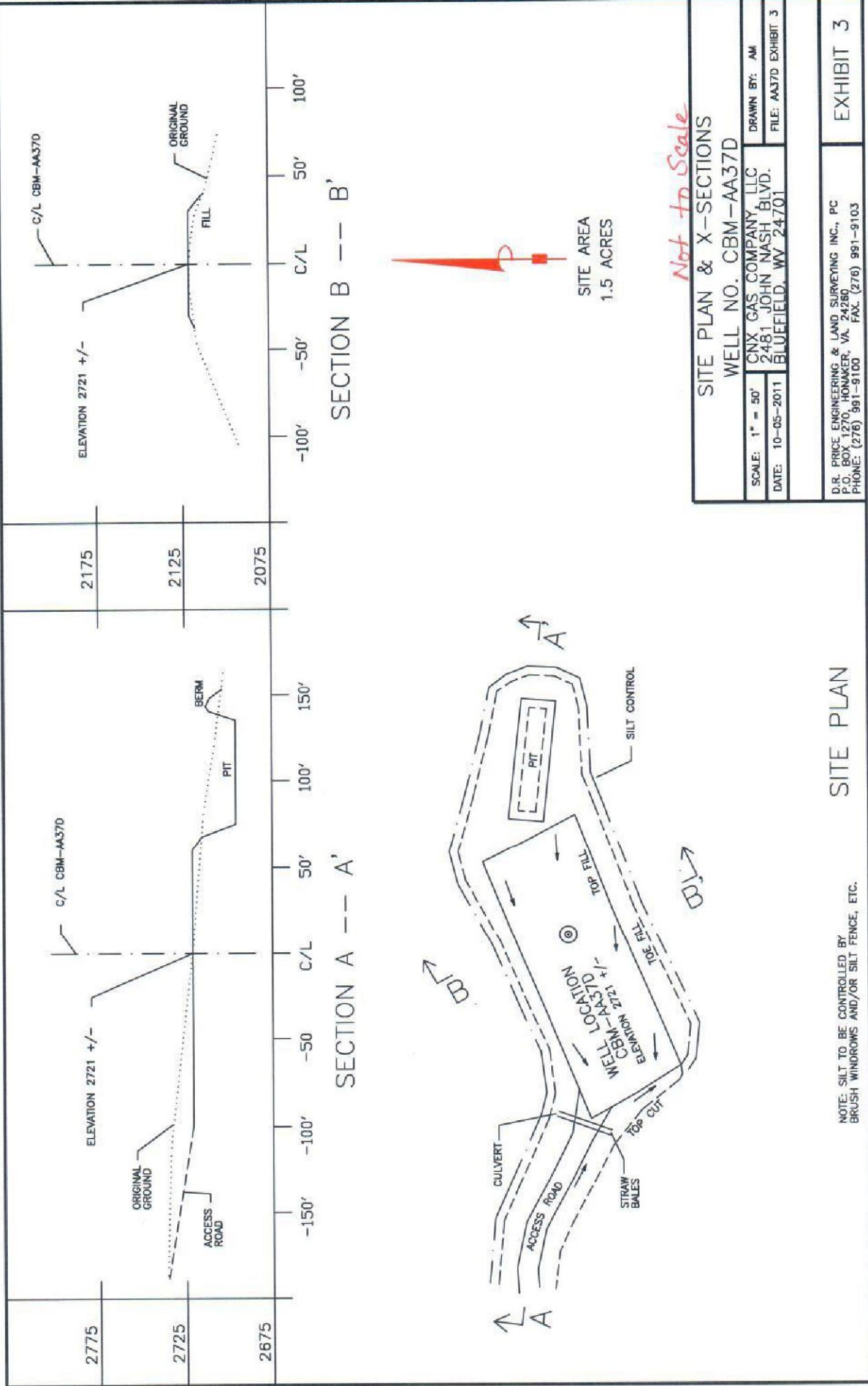
CULVERT I.D. NO.	q (FPS)	Ø (IN)	MIN. HW (FT.) REQUIRED
1	2.11	12	0.37

*Not to Scale*

### ROAD & CULVERT DETAILS

WELL NO. CBM-AA37D

SCALE: NTS	CNX GAS COMPANY, LLC 2481 JOHN NASH BLVD. BLUEFIELD, WV 24701	DRAWN BY: AM
DATE: 10-08-11		FILE: AA37D EXHIBIT 2
D.R. PRICE ENGINEERING & LAND SURVEYING INC. P.C. P.O. BOX 1270, HONAKER, VA 24260		EXHIBIT 2
PHONE: (276) 991-9100		FAX: (276) 991-9103



*Not to Scale*

SITE PLAN & X-SECTIONS  
 WELL NO. CBM-AA37D

SCALE: 1" = 50'	CNX GAS COMPANY, LLC 2481 JOHN NASH BLVD. BLUEFIELD, WV 24701	DRAWN BY: AM
DATE: 10-05-2011		FILE: AA37D EXHIBIT 3

D.R. PRICE ENGINEERING & LAND SURVEYING INC., PC  
 P.O. BOX 1270, HONAKER, VA, 24280  
 PHONE: (276) 981-9100 FAX: (276) 991-9103

SITE PLAN

EXHIBIT 3



October 13, 2011

Mr. Rick Cooper, *Interim Director*  
**Department of Mines, Minerals and Energy**  
Division of Gas and Oil  
P.O. Box 159  
135 Highlands Drive  
Lebanon, VA 24266

**Re: CBM Well Application AA37D**

Dear Mr. Cooper;

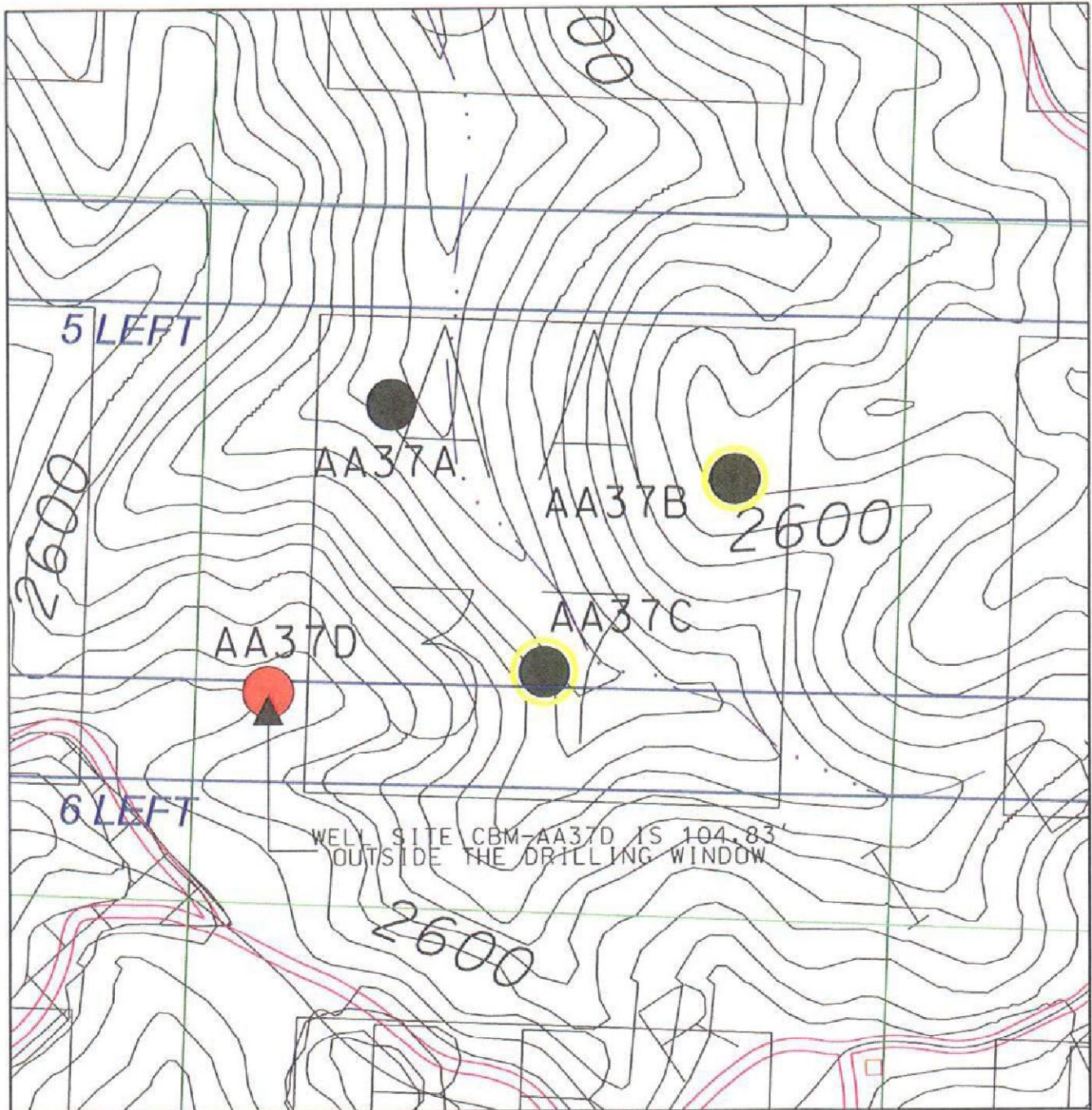
I am writing to request a location exception for the above referenced well. This well is strategically located for the degasification of the Buchanan No. 1 Mine. The well is located within the Buchanan South, 5 Left, projected mining panel, and is approximately 105 feet outside of the drilling window. The degassing will allow for the safe extraction of the coal from the mine.

However, the proposed location is outside of the drilling window. Therefore, we are hereby requesting a location exception be granted for this well (see attached exhibit).

*Bob Staton*

Bob Staton, M.S., P.G.  
*Environmental Permitting*

Cc: Philip Lowe, Anita Duty, file AA37D



LOCATION EXCEPTION EXHIBIT  
WELL NO. CBM-AA37D

SCALE: 1" = 400'

DATE: 10/13/11

CNX GAS COMPANY, LLC.  
2481 JOHN NASH BLVD.  
BLUEFIELD, WV 24701

DRAWN BY: RDH

FILE: LOC-EXCEPTION-AA37D

CNX GAS COMPANY LLC  
2481 JOHN NASH BLVD., BLUEFIELD, WV 24701  
PHONE: (304) 323-6568 FAX: (304) 323-6550

EXHIBIT

Exhibits 2, 4, and 7 mentioned in the transcript apply to the IFFH 220 (Z-36D).

Exhibits 3, 5, and 6 are in the permit.

Exhibits 1 and 8 are attached.

EXHIBIT I

BOOK 552 PAGE 283

THIS RELEASE AGREEMENT dated this July 18, 2001, is from POCAHONTAS GAS PARTNERSHIP to AUDREY H. NULL and PAMELA HESS and EDWARD HESS, her husband;

WITNESSETH:

WHEREAS, by Releases and Grants dated January 16, 1997 and recorded in the Clerk's Office of the Circuit Court of Buchanan County, Virginia in Deed Book 458, page 804 and in Deed Book 458, page 825, Audrey H. Null and Pamela Hess and Edward Hess granted unto Pocahontas Gas Partnership all rights, privileges and easements necessary to carry out its coalbed methane operation, which rights were to be exercised in an area more particularly shown on a map attached thereto as Exhibit A; and

WHEREAS, by Right of Way Agreements dated January 16, 1997 and recorded in said Clerk's Office in Deed Book 458, page 800 and in Deed Book 458, page 802, Audrey H. Null and Edward Hess and Pamela Hess granted unto Pocahontas Gas Partnership easements over property more particularly described in said agreements and for the purposes of conducting its coalbed methane operations; and

WHEREAS, Pocahontas Gas Partnership desires to release unto Audrey H. Null and unto Pamela Hess and Edward Hess those rights sets forth on Exhibit A attached hereto and made a part hereof, expressly retaining all rights contained in said agreements and not set forth on Exhibit A;

This document prepared by David Grant Altizer

276 988-7979

NOW THEREFORE, for and in consideration of the sum of ONE and NO/100 DOLLAR (\$1.00), Pocahontas Gas Partnership releases unto Audrey H. Null and unto Pamela N. Hess and Edward Hess those rights shown on Exhibit A attached hereto and made a part hereof, expressly excepting from this release and reserving unto Pocahontas Gas Partnership all rights conveyed and granted in the aforesaid agreements except those shown on said Exhibit A.

IN WITNESS WHEREOF, Pocahontas Gas Partnership has caused its name to be hereunto placed by its duly authorized partner or agent.

POCAHONTAS GAS PARTNERSHIP

By: Claude O. Morgan

Its AUTHORIZED REPRESENTATIVE

STATE OF VIRGINIA,  
~~CITY~~/COUNTY OF TAZEWELL, to-wit:

The foregoing instrument was acknowledged before me on the day and year written next below by CLAUDE O. MORGAN, AUTHORIZED REPRESENTATIVE of Pocahontas Gas Partnership.

Given under my hand and notarial seal this 18<sup>TH</sup> day of JULY, 2001.

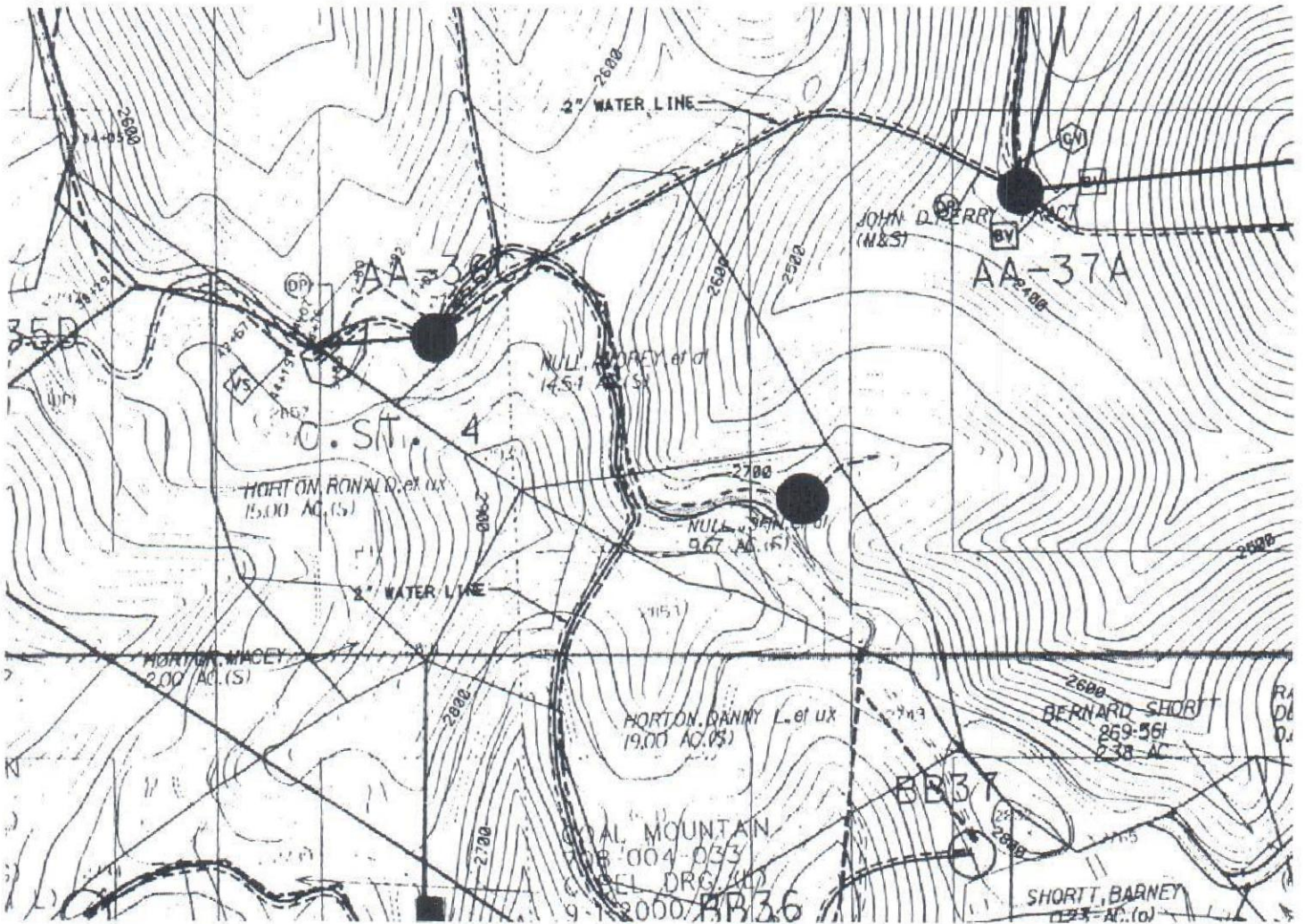
My Commission expires DEC. 31, 2002.




[Signature]  
Notary Public

RELEASE AGREEMENT

Exhibit "A"

Attached hereto and made a part of that certain Release Agreement dated July 18, 2001, by and between POCAHONTAS GAS PARTNERSHIP, a Virginia General Partnership, Grantor, and Audrey Null and Pamela Hess and Edward Hess, her husband, Grantees.



-  PROPOSED WELL SITE
-  PROPOSED POLE LINE
-  PROPOSED PIPELINE

Locations shown are approximate, actual locations may vary due to deviations in terrain encountered during field inspections while work is in progress.

INSTRUMENT #020002978  
RECORDED IN THE CLERK'S OFFICE OF  
BUCHANAN COUNTY ON  
JULY 31, 2002 AT 11:11AM  
JAMES M. BEVINS JR., CLERK

BY: Glenn S. Jell (DC)



ENVIRONMENTAL MONITORING, INCORPORATED

ENVIRONMENTAL CONSULTANTS ▲ ANALYTICAL LABORATORIES

P.O. BOX 1190 ▲ NORTON, VIRGINIA 24273 ▲ 276/679-6544

June 14, 2012

Ms. Beverly Webb  
Consol, Inc.  
2481 John Nash Blvd.  
Bluefield, WV 24701

RE: CBM-AA37D  
EMI Project 743.6010

Dear Ms Webb:

On May 7, 2012, Environmental Monitoring, Inc. conducted a groundwater inventory in an area surrounding proposed well CBM-AA37D. This inventory consisted of collecting samples from the nearest groundwater source and domestic water supplies within a 750' radius of the proposed well.

This water supply inventory was performed by Brandon Baker of EMI. The nearest groundwater found on this date was the Pamela Hess spring outcrop located 175' south of the proposed gas well. The certificate of analysis is included for your review.

Should you have questions concerning this project, please feel free to contact me at 888-2EMILAB.

Respectfully submitted,

Environmental Monitoring, Inc.

A handwritten signature in black ink, appearing to read "David W. Porter". The signature is stylized with overlapping strokes.

David W. Porter  
Project Manager

attachments

OIL AND GAS GROUNDWATER SURVEY  
 ENVIRONMENTAL MONITORING, INC.  
 P. O. BOX 1190, NORTON, VA 24273  
 888-2EMILAB

DATE: 05-07-12  
 PROJ. #: 743.6010  
 WELL #: CBM-AA37D  
 SAMPLED BY: B. BAKER

MAP REFERENCE NO.	DESCRIPTION	TOTAL DEPTH WELL	G.P.M. SPRING	DISTANCE & DIRECTION FROM PROPOSED WELL	COMMENTS
1	PAMELA HESS SPRING	---	0.23	175' SOUTH	SAMPLED, ALSO ON PSA
2	PAMELA HESS POND	---	---	250' S-SE	SAMPLED

ADDITIONAL COMMENTS: Memorandums are placed at locations with no one home or no answer explaining the reason of the visit.



Pre Drill   
Post Drill

SITE VISIT FORM

Visit Date: 5/7/12 Map ID # 1 Proj. # 743-6010 Gas Well ID CMB-AA37D  
Name: Pamela Hess Contact Time: \_\_\_\_\_  
Address: 475 Shortt Rd. Present at Interview: \_\_\_\_\_  
Raven Va. 24639  
Phone: 276-964-6321 Owner: Yes

WATER SOURCE Distance from residence: \_\_\_\_\_ Direction from residence: \_\_\_\_\_  
LOCATION: SPN16 Distance from proposed gas well: 175' Direction from proposed gas well: south  
Elevation \_\_\_\_\_ GPS (LL27/dec. deg.): Lat. 37.15218 Long. 81.89351  
SPN16  
PID = 37.15203 81.89324

WATER WELL INFORMATION

Well No lower and not flowing.

Drilled or Hand Dug \_\_\_\_\_ Total Depth: 400' Year Drilled: NA  
Static Water Level \_\_\_\_\_ How Measured: \_\_\_\_\_ Casing material and length \_\_\_\_\_  
Where is the well (well house, outside, buried, etc) \_\_\_\_\_ Is well vented: \_\_\_\_\_  
Describe well cap (ex. expandable plug): \_\_\_\_\_ Type of pump \_\_\_\_\_  
Who Drilled: \_\_\_\_\_ Drillers log available from owner? \_\_\_\_\_  
Permission to ask drilling company for copy of drill log? \_\_\_\_\_  
Signature for copy of drill log: \_\_\_\_\_  
Type of Filter: \_\_\_\_\_ Model #: \_\_\_\_\_ Year Installed: \_\_\_\_\_  
Sample Location (s) (outside tap, kitchen, aerator removed, pre-filter, etc): \_\_\_\_\_

Flow Rate: 32.02 pr 65 sec. (0.23 GPM) SPRINGS  
How Measured: Timed Protected (explain how?) Concrete Box  
Treatment on Spring (explain): Put Bleach Dec. Sample Location: at over flow at spn Bay

Spring QUALITY INFORMATION

OWNER/ History of Well (describe low flow times/plenty of water/well dry, etc) Plenty of water  
USER COMMENTS: Spring Well Water use (consumption/agricultural/household)? Consumption/Household  
MA160 Taste (describe) Normal Odor (describe) NO  
RESULTS Stains (describe) NO Tested before/when? yes Coal Co. Monthly  
6-14-12 Does owner have additional water source (describe) Has County well Also Regular when operates

Additional owner/user comments: HAS Pond also HAS well but didnt produce enough water  
Field technician observations/comments: sampled Pond that Spring feeds  
Person Conducting Interview: B. Fisher Mit well Interviewers Signature: [Signature]  
Owner/User Signature: P Pamela Hess



**ENVIRONMENTAL MONITORING, INCORPORATED**  
 ENVIRONMENTAL CONSULTANTS ▲ ANALYTICAL LABORATORIES  
 P.O. BOX 1190 ▲ NORTON, VIRGINIA 24273 ▲ 276/679-6544

**Certificate of Analysis**

Page: 1 of 1

Client Name: CNX GAS COMPANY  
 Address: 1000 CONSOL ENERGY  
 CANONSBURG, PA 15317

Report Date: 06/07/12  
 Lab Sample No.: **1216978**  
 Client No.: 743  
 EMI Project No.: 6010

Sample Identification: PAMELA HESS SPRING  
 NAD27 Site Coordinates: 37.15218000 N 81.89351000 W  
 Site Description: CBM-AA37D

Date Collected: 05/07/12  
 Time Collected: 1125  
 Sample Matrix: AO  
 Collected By: R MITCHELL

Parameter	Sample Result	Units	MDL	Method	Date Analyzed	Time Analyzed	Analyst
Acidity, Hot	BDL	mg/l CaCO3	1.00	SM 20 2310B.4.a	5/8/2012	1512	MCF
Alkalinity	29.0	mg/l CaCO3	1.00	SM 20, 2320B	5/8/2012	1315	MCF
Chloride	2.22	mg/l	0.046	300.0	5/14/2012	1752	AAB
Conductivity	106	umhos/cm	1.00	SM 20, 2510B	5/21/2012	2309	BJH
Hardness, Total	40.0	mg/l CaCO3	4.00	SM 2340C	5/9/2012	1958	SAS
pH	6.40	STD		SM 20 4500-H+B	5/7/2012	1125	FLD
Sulfate	22.9	mg/l	0.240	300.0	5/14/2012	1752	AAB
Total Dissolved Solids	86.0	mg/l	50.0	SM 2540C	5/11/2012	1420	SET
Total Suspended Solids	BDL	mg/l	2.50	SM 2540D	5/8/2012	1636	MLS
Coliform, Total	POS	Pos/Neg		SM 9223B	5/7/2012	2220	MLS
Iron, Total	0.038	mg/l	0.023	200.7	5/10/2012	1021	SDT
Manganese, Total	BDL	mg/l	0.021	200.7	5/10/2012	1021	SDT
Sodium, Total	2.59	mg/l	0.0077	EPA 200.7	6/5/2012	1238	SDT
N-Hexane Extractable Material (O & G)	BDL	mg/l	4.10	EPA 1664 REV-A	5/14/2012	1305	AAB

To the best of our knowledge and belief, the collection, preservation, and analysis of all parameters represented by this report have been determined to comply the requirements as specified in 40 CFR, Part 136.

Flow if Available (GPM):	Type of Sample: Grab	ISV = Insufficient Sample Volume
Temp. if Available (C): 17.0	BDL = Below Detection Limit	
Depth if Available (Ft):	FLD = Field Technician	
Analysis Package Code: VB	CWOR	



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 P.O. BOX 1190 ▲ NORTON, VIRGINIA 24273 ▲ 276/679-6544

**Certificate of Analysis**

Page: 1 of 1

Client Name: CNX GAS COMPANY  
 Address: 1000 CONSOL ENERGY  
 CANONSBURG, PA 15317

Report Date: 06/07/12  
 Lab Sample No.: **1216979**  
 Client No.: 743  
 EMI Project No.: 6010  
 Date Collected: 05/07/12  
 Time Collected: 1130  
 Sample Matrix: AO  
 Collected By: R MITCHELL

Sample Identification: PAMELA HESS POND  
 NAD27 Site Coordinates: 37.15203000 N 81.89324000 W  
 Site Description: CBM-AA37D

Parameter	Sample Result	Units	MDL	Method	Date Analyzed	Time Analyzed	Analyst
Acidity, Hot	BDL	mg/l CaCO3	1.00	SM 20 2310B.4.a	5/8/2012	1512	MCF
Alkalinity	30.0	mg/l CaCO3	1.00	SM 20. 2320B	5/8/2012	1315	MCF
Chloride	1.83	mg/l	0.046	300.0	5/14/2012	1802	AAB
Conductivity	94.0	umhos/cm	1.00	SM 20. 2510B	5/21/2012	2309	BJH
Hardness, Total	36.0	mg/l CaCO3	4.00	SM 2340C	5/9/2012	1958	SAS
pH	6.50	STD		SM 20 4500-H+B	5/7/2012	1130	FLD
Sulfate	18.9	mg/l	0.240	300.0	5/14/2012	1802	AAB
Total Dissolved Solids	66.0	mg/l	50.0	SM 2540C	5/14/2012	844	AWM
Total Suspended Solids	5.00	mg/l	2.50	SM 2540D	5/8/2012	1641	MLS
Coliform, Total	POS	Pos/Neg		SM 9223B	5/7/2012	2225	MLS
Iron, Total	0.207	mg/l	0.023	200.7	5/10/2012	1027	SDT
Manganese, Total	0.083	mg/l	0.021	200.7	5/10/2012	1027	SDT
Sodium, Total	2.23	mg/l	0.0077	EPA 200.7	6/5/2012	1238	SDT
N-Hexane Extractable Material (O & G)	BDL	mg/l	4.10	EPA 1664 REV-A	5/14/2012	1305	AAB

To the best of our knowledge and belief, the collection, preservation, and analysis of all parameters represented by this report have been determined to comply the requirements as specified in 40 CFR, Part 136.

Flow if Available (GPM):  
 Temp. if Available (C): 17.0  
 Depth if Available (Ft):  
 Analysis Package Code: VB

Type of Sample: Grab  
 BDL = Below Detection Limit  
 FLD = Field Technician  
 CWOR

ISV = Insufficient Sample Volume



C000596

**SAMPLE LOG SHEET & CHAIN OF CUSTODY**

**ENVIRONMENTAL MONITORING, INCORPORATED**  
 ENVIRONMENTAL CONSULTANTS & ANALYTICAL LABORATORIES  
 P.O. Box 1150 A, Norton, Virginia 24273 A 276-679-6544

**CUSTOMER INFORMATION:** Shaded Areas & LAB INFORMATION: White Areas

CLIENT: Conso L BILING ADDRESS: \_\_\_\_\_ CITY: \_\_\_\_\_

CONTACT: \_\_\_\_\_

COC No.: \_\_\_\_\_ DATE RECEIVED LAB: \_\_\_\_\_

LAB USE ONLY

**Required Information**

COLLECTED BY (print): Tricker Mitchell

COLLECTOR(S) SIGNATURE(S): \_\_\_\_\_

THIRD-PARTY (date): 2 Day (Working Days) 3 Day (Working Days) 5 Day (Working Days) 10 Day (Working Days) 15 Working Days

Additional Cost May Apply - Any TAT Not Specified Will Be Regular

SITE ID: CBM-AA 37D

CLIENT PROJ. NO.: \_\_\_\_\_

EMI PROJECT NO.: 743-601D

EMI PROJECT MANAGER: DWP

Special Instructions / QC Requirements & Comments

**PARAMETER (ANALYSIS REQUESTED)**

VB	VB	0/G	Colipen	PA	Flow
----	----	-----	---------	----	------

STATE/ZIP: \_\_\_\_\_

PHONE ( ): \_\_\_\_\_

FAX ( ): \_\_\_\_\_

Purchase Order No. \_\_\_\_\_

SAMPLES WILL BE DISPOSED OF IN ACCORDANCE WITH EMI'S TERMS & CONDITIONS OR RETURNED TO CLIENT OR Active for \_\_\_\_\_ months

EMI NO.	EMI SAMPLE #	CUSTOMER SAMPLE IDENTIFICATION	DATE COLLECTED	TIME COLLECTED	SAMPLE MATRIX	COOL	HNO <sub>3</sub>	HCl	CaCl <sub>2</sub>	Na OH	Other:	REMARKS
1	1216978	Ramela Hess Springs	5/11/12	1125	PA U	✓	✓	✓	✓			641 178
2												441 37.1521892
3												45 081.8935190
4	979	Ramela Hess Pond	5/11/12	1130	PA U	✓	✓	✓	✓			2M 37.152032
5												5 081.893242
6												
7												
8												
9												
10												

**Hazard Information:** (circle) Non Hazard  Flammable  Skin Irritant  Poison B  Unknown

Received by (sign): RN #36 Date Time: 5/24

Received by (sign): Ramela Hess Date Time: 5/11/12

Received by (sign): [Signature] Date Time: 1935

Temperature of Cooler upon Receipt by Lab: 3.8° R

REPORT TO BE SENT (if different than customer information):

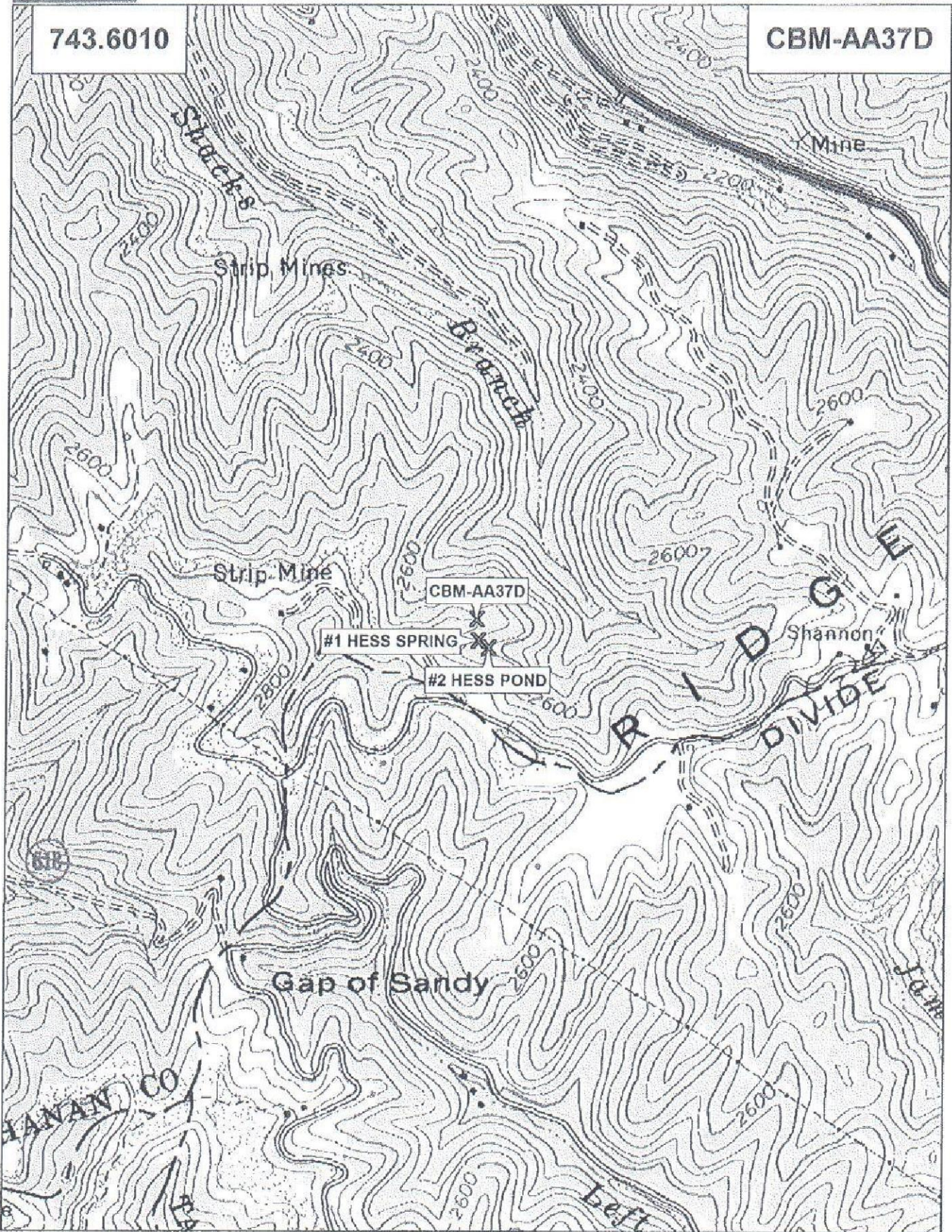
NAME: \_\_\_\_\_ ADDRESS: \_\_\_\_\_ CITY: \_\_\_\_\_ STATE/ZIP: \_\_\_\_\_

Customer to complete all shaded categories; use additional forms if necessary

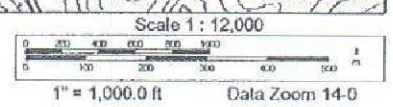
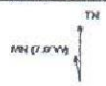
Additional Remarks: \_\_\_\_\_

743.6010

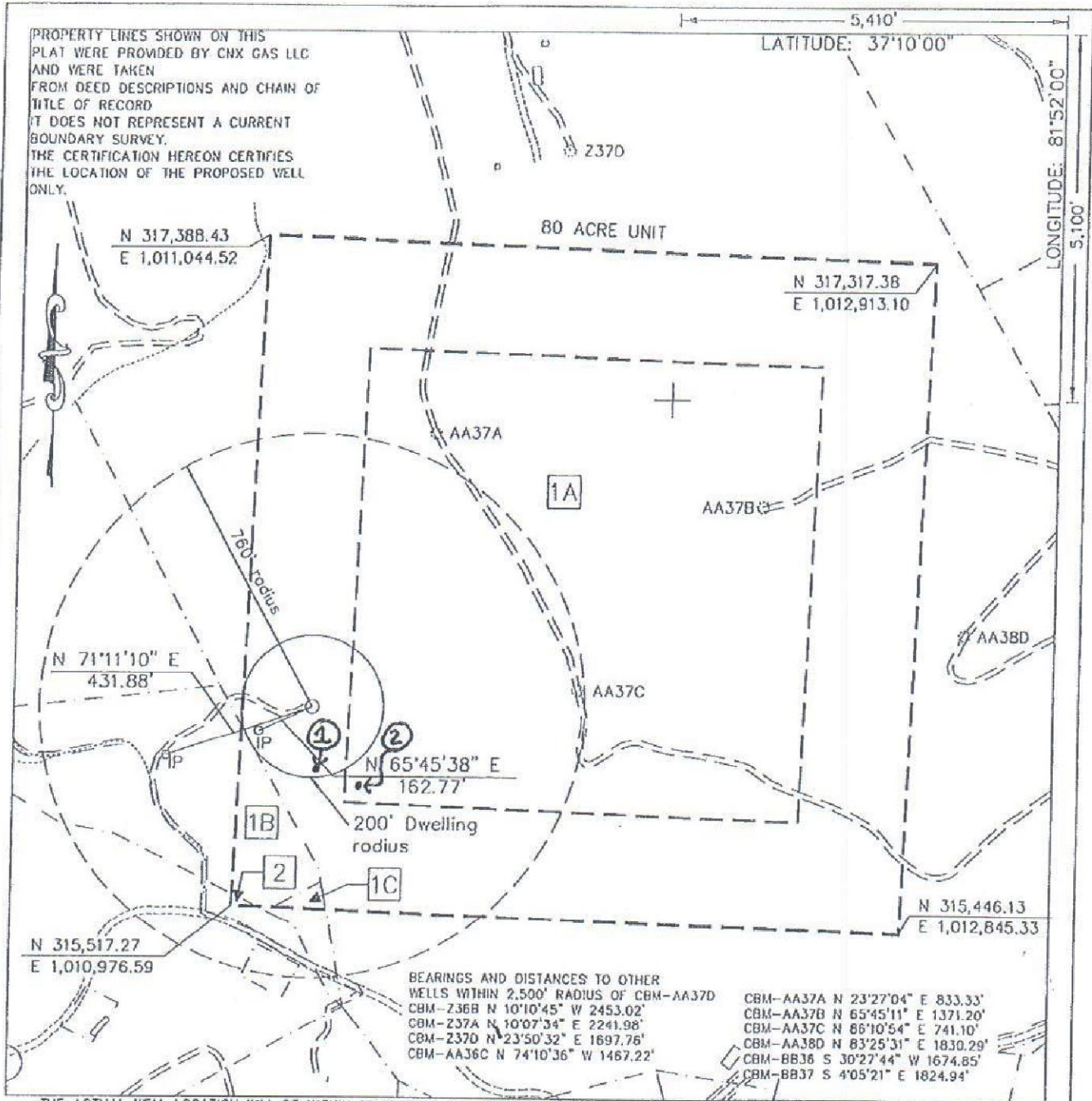
CBM-AA37D



Data use subject to license.  
 © DeLorme, XMap® 7.  
 www.delorme.com



PROPERTY LINES SHOWN ON THIS 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.



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.

743.6010

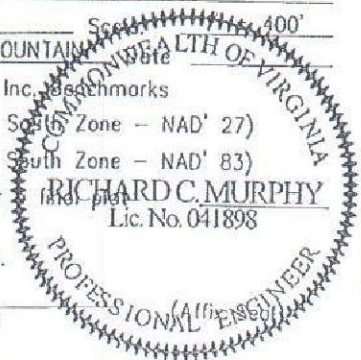
### WELL LOCATION PLAT

Company CNX Gas Company LLC Well Name or Number CBM-AA37D  
 Tract No. COMMONWEALTH COAL CORPORATION TRACT 2 (965.00 ACRE TRACT) Section 400  
 County BUCHANAN District GARDEN Quadrangle KEEN MOUNTAIN  
 Elevation 2720.88' Well Elevation Determined By Trig. Levels From CONSOL Inc. Benchmarks  
 Well Coordinates N 316,073.88 E 1,011,192.17 (Virginia State Plane - South Zone - NAD' 27)  
 Well Coordinates N 3,596,953.13 E 10,494,180.12 (Virginia State Plane - South Zone - NAD' 83)  
 This plat is a new plat  ; an updated plat  ; or

+ 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.

Form DGO-GO-7  
Rev. 9/91

Licensed Professional Engineer or Licensed Land Surveyor



NOTICE BY PUBLICATION  
OF AN APPLICATION FOR  
A PERMIT  
NOTICE OF APPLICATION  
FOR  
Operations Name:  
CBM AA37D W/PL  
Application Number:  
20256

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 AA37D 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 Commonwealth Coal Company tract of 965 & 431.98 acres, more or less, Timothy Null, et al tract of 9 acres, more or less tract(s) in the Garden District, BUCHANAN 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

CERTIFICATE OF PUBLICATION

State of West Virginia,

To-wit:-

County of Mercer,

I, Jeremy Basham 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; April 5

in the year 2012.

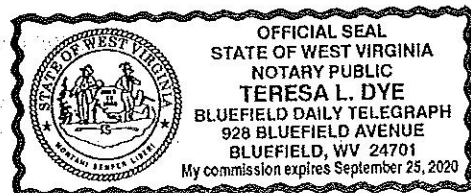
Publication Fee: \$33.64

*Jeremy Basham*

Subscribed and sworn to before me this 5th day of April 2012.

My Commission expires Sept. 25 2020.

*Teresa L. Dye*



CERTIFICATION OF NOTICE  
CNX Gas Company LLC

Well CBM AA37D  
Permit Application (Online)

NAME		MAILED	RECEIPT #		RECEIVED
Admin., Buchanan County	Attn: Mr. W.J. Caudill	3/22/2012	7010 2780 0001 8548	8043	4/2/12
CNX Gas Company LLC			Hand Delivered		
Commonwealth Coal Corp	Attn: Warren Pinnick	3/22/2012	7010 2780 0001 8548	8050	3/23/12
Commonwealth Coal Corp		3/22/2012	7010 2780 0001 8548	8067	3/23/12
Consolidation Coal Co		3/22/2012	7010 2780 0001 8548	8074	3/23/12
Hess	Pamela Diane N.	3/22/2012	7010 2780 0001 8548	8081	3/23/12
Knox Creek Coal Co.	Attn: David Kramer	3/22/2012	7010 2780 0001 8548	8098	3/28/12
Null	Audrey	3/22/2012	7010 2780 0001 8548	8104	3/23/12
Null	Timothy	3/22/2012	7010 2780 0001 8548	8111	3/23/12
Reserve Coal Properties		3/22/2012	7010 2780 0001 8548	8128	3/23/12

\*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).

<b>SENDER: COMPLETE THIS SECTION</b>	<b>COMPLETE THIS SECTION ON DELIVERY</b>
<p>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.</p> <p>Article Addressed to:</p> <p>Buchanan County Admin. Attn: Mr. W.J. Caudill PO Box 950 Grundy, VA 24614</p>	<p>A. Signature X <i>W.H. Cross</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>W.H. Cross</i> C. Date of Delivery <i>3-23-12</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</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"/> O.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>Article Number (Transfer from sender) <b>7010 2780 0001 8548 8043</b> <i>AA37D</i></p> <p>Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>	

<b>SENDER: COMPLETE THIS SECTION</b>	<b>COMPLETE THIS SECTION ON DELIVERY</b>
<p>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.</p> <p>1. Article Addressed to:</p> <p>Commonwealth Coal Corp Attn: Warren Pinnick 293 Fairfield Lane Marion, VA 24354</p>	<p>A. Signature X <i>W.H. Cross</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>W.H. Cross</i> C. Date of Delivery <i>3-23-12</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</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"/> O.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from sender) <b>7010 2780 0001 8548 8050</b> <i>AA37D</i></p> <p>PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>	

<b>SENDER: COMPLETE THIS SECTION</b>	<b>COMPLETE THIS SECTION ON DELIVERY</b>
<p>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.</p> <p>Article Addressed to:</p> <p>Commonwealth Coal Corp Attn: Warren Pinnick 293 Fairfield Lane Marion, VA 24354</p>	<p>A. Signature X <i>W.H. Cross</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>W.H. Cross</i> C. Date of Delivery <i>3-23-12</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</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"/> O.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>Article Number (Transfer from service list) <b>7010 2780 0001 8548 8067</b> <i>AA37D</i></p> <p>Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>	

<b>SENDER: COMPLETE THIS SECTION</b>	<b>COMPLETE THIS SECTION ON DELIVERY</b>
<p>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.</p> <p>1. Article Addressed to:</p> <p>Consolidation Coal Co 10545 Riverside Dr Oakwood, VA 24631</p>	<p>A. Signature X <i>W.H. Cross</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>W.H. Cross</i> C. Date of Delivery <i>3-23-12</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</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"/> O.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from sender) <b>7010 2780 0001 8548 8074</b> <i>AA37D</i></p> <p>PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>	

<b>SENDER: COMPLETE THIS SECTION</b>	<b>COMPLETE THIS SECTION ON DELIVERY</b>
<p>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.</p> <p>Article Addressed to:</p> <p>Pamela Diane N. Hess 475 Shortts Road Raven, VA 24639</p>	<p>A. Signature X <i>Pamela Hess</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>Pamela Hess</i> C. Date of Delivery <i>3/23/12</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</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"/> O.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>Article Number (Transfer from sender) <b>7010 2780 0001 8548 8081</b> <i>AA37D</i></p> <p>Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>	

<b>SENDER: COMPLETE THIS SECTION</b>	<b>COMPLETE THIS SECTION ON DELIVERY</b>
<p>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.</p> <p>1. Article Addressed to:</p> <p>Knox Creek Coal Co. Attn: David Kramer PO Box 519 Raven, VA 24639</p>	<p>A. Signature X <i>Christy Hess</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>Christy Hess</i> C. Date of Delivery <i>3/23/12</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</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"/> O.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from sender) <b>7010 2780 0001 8548 8098</b> <i>AA37D</i></p> <p>PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>	

<b>SENDER: COMPLETE THIS SECTION</b>	<b>COMPLETE THIS SECTION ON DELIVERY</b>
<p>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.</p> <p>Article Addressed to:</p> <p>Audrey Null HC 62 Box 67 Raven, VA 24639</p>	<p>A. Signature X <i>Audrey Null</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>Audrey Null</i> C. Date of Delivery <i>3/23/12</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</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"/> O.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>Article Number (Transfer from sender) <b>7010 2780 0001 8548 8104</b> <i>AA37D</i></p> <p>Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>	

<b>SENDER: COMPLETE THIS SECTION</b>	<b>COMPLETE THIS SECTION ON DELIVERY</b>
<p>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.</p> <p>1. Article Addressed to:</p> <p>Timothy Null HC 62, Box 67 Raven, VA 24639</p>	<p>A. Signature X <i>Timothy Null</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>Timothy Null</i> C. Date of Delivery <i>3/23/12</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</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"/> O.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from sender) <b>7010 2780 0001 8548 8111</b> <i>AA37D</i></p> <p>PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>	

<b>SENDER: COMPLETE THIS SECTION</b>	<b>COMPLETE THIS SECTION ON DELIVERY</b>
<p>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.</p> <p>1. Article Addressed to:</p> <p>Reserve Coal Properties 10545 Riverside Dr. Oakwood, VA 24631</p>	<p>A. Signature X <i>W.H. Cross</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>W.H. Cross</i> C. Date of Delivery <i>3/23/12</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</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"/> O.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from sender) <b>7010 2780 0001 8548 8128</b> <i>AA37D</i></p> <p>PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>	

<b>SENDER: COMPLETE THIS SECTION</b>	<b>COMPLETE THIS SECTION ON DELIVERY</b>
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<p>2. Article Number (Transfer from sender) <b>7010 2780 0001 8548 8128</b> <i>AA37D</i></p> <p>PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540</p>	

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 Hearing 229 (Herein "IFFH 229")**

Pamela Hess  
(Herein "Surface Owner")

Vs.

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

**Permit Application for Gas and Oil operations:  
Coalbed Methane Operations AA-37D W/Pipeline, Application 20256  
(Herein "Application")**

**Background**

Coalbed Methane operations AA-37D W/Pipeline, Application 20256, CNX Gas Company, LLC, was received at the Virginia Division of Gas and Oil (DGO) on April 04, 2012. 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 Pamela Hess against the permit application #20256 were in accordance with objections provided by law under § 45.1-361.35.

**§ 45.1-361.35. Objections to permits; hearing.**

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

2. Measures in addition to the requirement for a well's water-protection string are necessary to protect fresh water bearing strata.

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 Surface Owners' objections were deemed acceptable under § 45.1-361.35

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### **Hearing Date and Place**

IFFH 229 was convened on Friday February 21, 2014 1:00 PM in the Russell County Government Center, Highland Drive, Lebanon Virginia. All parties with standing to object to Permit Application #20256 were notified of the time and place by United States Postal Service, certified mail, return receipt requested.

### **Appearances:**

**For the Objecting Party:** Mr. Gerald Gray, Counsel, Pamela Hess and Leonard E. Hess, representing the applicant.

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

### **Findings of Fact:**

1. In accordance with § 45.1-361.35.H, notice of IFFH 229 was given to the Permit Applicant and to every person with standing to object as prescribed by §45.1-361.30.
2. Pamela Hess was notified as a **surface owner** of properties to be affected by the proposed operations **Application # 20256, Coalbed Methane AA-37D with pipeline**, as such, have standing to object to the proposed operations.
3. IFFH 229 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 can recess at any time if the involved parties mutually agree that they would like to negotiate off the record. This opportunity was not offered due to the fact that no objecting party's were present.

## **I. TESTIMONY BY THE APPLICANT**

- \*Mr. Mark Swartz presented in testimony that the well AA-37D was not on the Pamela Hess property.
- \*Mr. Swartz stated that the well AA-37D was more than 175 feet from the Hess's spring and more than 500 feet from the Hess residence.
- \*The applicant stated that a portion of the road and pipeline were on the objecting party's property.
- \*Mr. Swartz stated and provided exhibits showing that the road and pipeline was located on the most western portion of the Hess property to lessen surface disturbance.
- \*The applicant provided documents and presented testimony that a minimum of 505' of 7 inch casing and a minimum of 2,190 feet of 4 ½-inch steel casing would be set in the well and that both casings would be cemented to surface to prevent any water damage.
- \*Mr. Swartz provided exhibits and testimony that the surface was extremely steep from wells located north of the AA-37D well site).
- \*Mr. Swartz presented in testimony that the wells were strategically place to degas the Buchanan #1 mine for mine safety (**Exhibit 1**).

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

- \*Pamela Hess provided testimony and exhibits whereas, Pocahontas Gas Partnership (PGP) had an agreement not to place certain wells on her property.
  - \*Ms. Hess stated that no CNX personnel had contacted her about the application.
  - \*Ms. Hess and Mr. Hess both stated that over the years CNX contractors were on her property but did not talk to them and stated at a minimum they should contacted if anyone was going on the Hess property.
  - \*Ms. Hess and Mr. Hess provided testimony that CNX should come to the wells from Shack Branch to get to this well.
  - \*Ms. Hess sated that her spring box had always provided a good supply of water and she concerned the well construction and drilling would destroy their spring and spring box.
-

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Decision of the Director

**In the matter before IFFH 229 under § 45.1-361.35 B (2) Measures in addition to the requirement for a well's water-protection string are necessary to protect fresh water bearing strata.**

The applicant provided testimony that a minimum of five hundred and five feet of seven inch casing cemented to the surface along with two thousand one hundred ninety feet of four and one-half inch casing cemented to surface would be installed in the well to prevent water damage.

The objecting parties testified that their spring water was in good condition and they were concerned that the well and facilities would damage the quality and quantity of water.

**In the matter before IFFH 229 under § 45.1-361.35 B (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 applicant testified that the well AA-37D was more than 500 feet (**Exhibit 2**) from the objecting parties. The applicant testified that only a portion of the road and pipeline crossed the objecting party's property. The CBM well and well pad are located on Commonwealth Coal Corporation property. According to the Permit Application 20256 (**Exhibit 3**), the road crosses a portion of the western section of the Hess property off of a developed gas road.

The objecting party (Pamela Hess provided testimony and exhibits whereas; Pocahontas Gas Partnership (PGP) had an agreement not to place certain wells on her property.

**Based on the applicant's testimony and the history of drilling coalbed methane wells in Virginia the water protection string is adequate to protect water zones.**

**Based on the applicant's testimony the agreement Ms. Hess presented was for another well and was not applicable to the AA-37D permit application. Council did not dispute this issue.**

**Based on testimony and presented in the applicant's application. The applicant is limiting surface disturbance by utilizing the western most portion of the objecting party's property and accessing the AA-37D off of a preexisting road.**

Permit Applicant apparently has rights to use Surface Owners' 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*.**

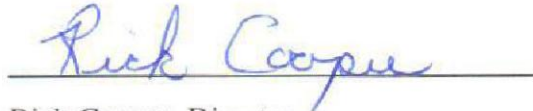
Based on testimony, it is, therefore, the decision of the Director to deny Surface Owners' objections to permit Application 20256 for operations CBM AA-37D with pipeline. The Permit Application 20256 for operations AA-37D with pipeline will be assessed and issued under standard Division of Gas and Oil permit procedures.

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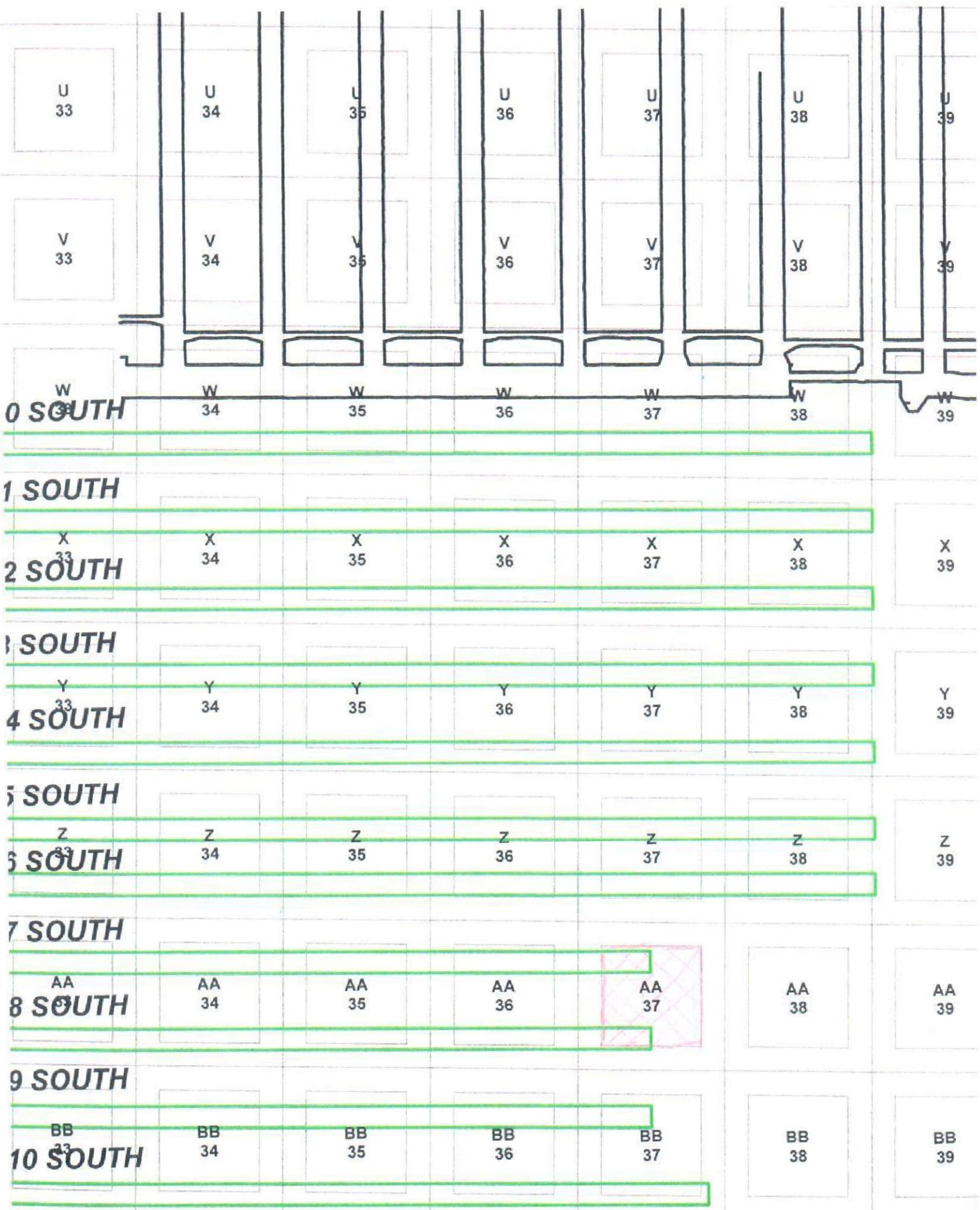
**Right of Appeal**

Any party 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 (10) 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 4<sup>th</sup> of August, 2014

A handwritten signature in blue ink that reads "Rick Cooper". The signature is written in a cursive style and is positioned above a horizontal line.

Rick Cooper, Director  
Virginia Division of Gas and Oil



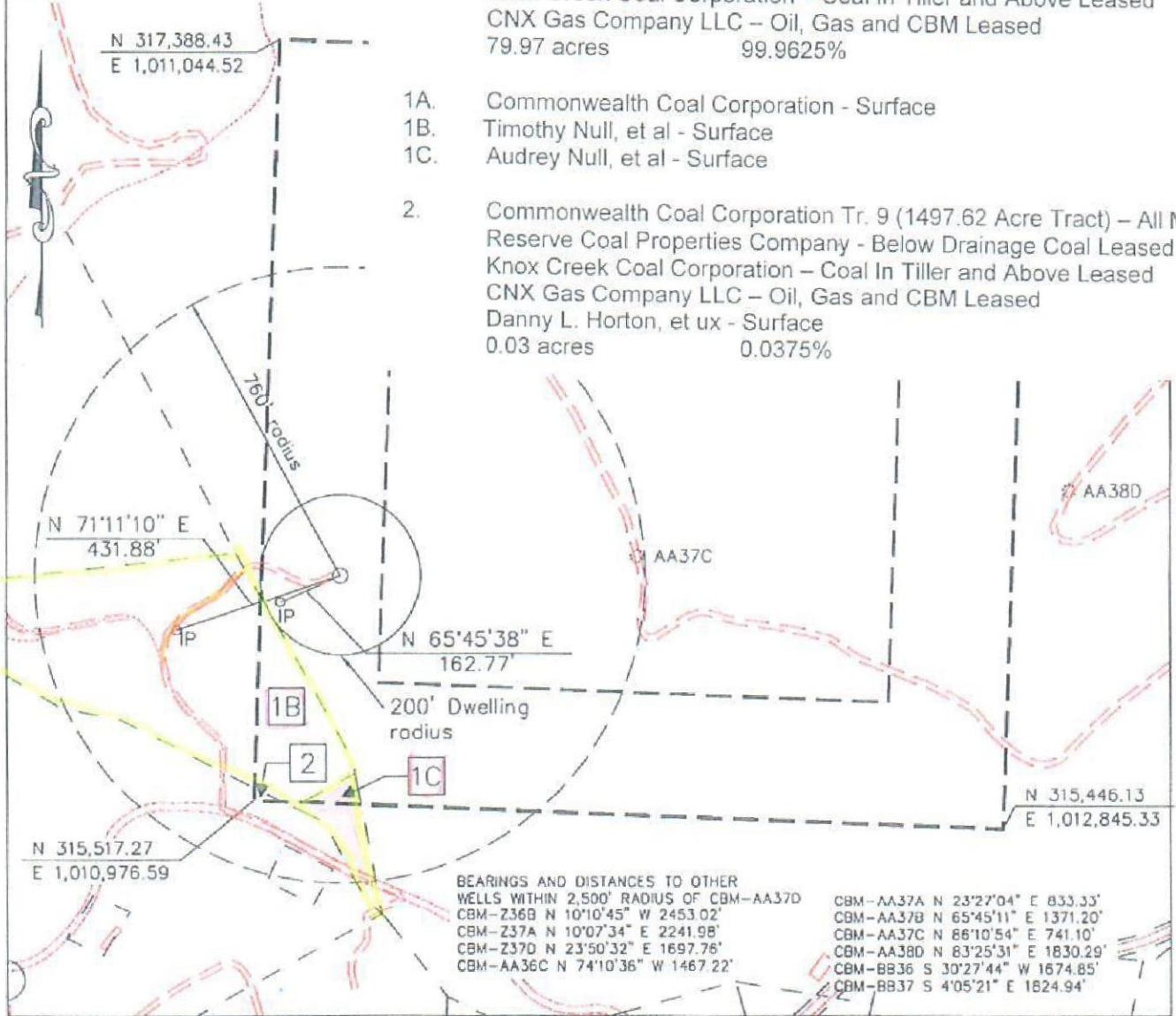
Line measurement (Planar)  
Segment: 10.67334 Feet  
Length: 513.888321 Feet

Exhibit 2

**CNX Gas Company LLC  
UNIT AA37  
Tract Identifications**

PROPERTY LINES SHOWN ON THIS 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.

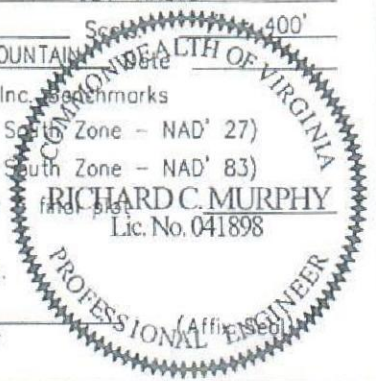
1. Commonwealth Coal Corporation Tract 2 (965.00 Acre Tract) – All Mine Consolidation Coal Company – Below Drainage Coal Leased  
Knox Creek Coal Corporation – Coal In Tiller and Above Leased  
CNX Gas Company LLC – Oil, Gas and CBM Leased  
79.97 acres                      99.9625%
- 1A. Commonwealth Coal Corporation - Surface  
1B. Timothy Null, et al - Surface  
1C. Audrey Null, et al - Surface
2. Commonwealth Coal Corporation Tr. 9 (1497.62 Acre Tract) – All Miner Reserve Coal Properties Company - Below Drainage Coal Leased  
Knox Creek Coal Corporation – Coal In Tiller and Above Leased  
CNX Gas Company LLC – Oil, Gas and CBM Leased  
Danny L. Horton, et ux - Surface  
0.03 acres                      0.0375%



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 CNX Gas Company LLC Well Name or Number CBM-AA37D  
 Tract No. COMMONWEALTH COAL CORPORATION TRACT 2 (965.00 ACRE TRACT) Scale 1"=400'  
 County BUCHANAN District GARDEN Quadrangle KEEN MOUNTAIN etc.  
 Elevation 2720.88' Well Elevation Determined By Trig. Levels From CONSOL Inc. benchmarks  
 Well Coordinates N 316,073.88 E 1,011,192.17 (Virginia State Plane - South Zone - NAD' 27)  
 Well Coordinates N 3,596,953.13 E 10,494,180.12 (Virginia State Plane - South Zone - NAD' 83)  
 This plat is a new plat X; on updated plat \_\_\_\_\_; or \_\_\_\_\_  
 + 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.



Form DGO-GO-7  
Rev. 9/91

Licensed Professional Engineer or Licensed Land Surveyor

Pamela D. Hess  
475 Shortts Road  
Raven, VA 24639  
April 4, 2012

Virginia Gas and Oil Inspector  
Division of Gas and Oil  
P.O. Box 159  
Lebanon, VA 24266

**RE:CBM AA 37D W/PL**

To whom it may concern,

This is a revised objection to the opposition letter you received on March 30, 2012. The proposed well will be placed on/near my property. I am filing this letter of opposition to the placement of this well since it will unreasonable infringe and interfere on the use of my surface property.

Also, CNX Gas Company has access to an alternate placement of this well on their own property with road access from their existing road. There is no need to have a roadway/pipeline or gas well on my property.

The placement of this gas well will be near my existing spring box that I use for my household needs. It will also be near a stocked pond that is used by the wildlife in the area as well as for family recreation. I fear the placement of this well will damage the water quality or reroute the watercourse completely.

I live in Buchanan County where flat land is at a premium. Of the approximate 23 acres I own, only about 2 1/2 acres are flat. The proposed well and right away will make this flat land unusable for any current or future endeavors by me or my family.

Sincerely,



Pamela Hess  
276-964-6321



INFORMAL FACT FINDING HEARINGS 220 & 229  
February 21, 2014  
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  
Ed Fanning – CNX Gas Company, LLC  
Mary Beth McGlothlin – CNX Gas Company, LLC  
Beverly Webb – CNX Gas Company, LLC  
Pamela Hess – Landowner  
Leonard E. Hess – Spouse of Pamela Hess  
Gerald Gray – Attorney representing Pamela Hess  
Warren D. Pinnick – Commonwealth Coal Corp.

1 **Rick Cooper**: My name is Rick Cooper and I am the Director of the Division of Gas and Oil.  
2 We are here....both parties have agreed to have two hearings at the same time. I've got a couple  
3 of items to read on the record. This hearing is for Informal Fact Finding Hearing 220, Well Z-  
4 36D, Permit Application Number 19060. Also, Informal Fact Finding Hearing 229, Well AA-  
5 37D, Permit Application Number 20256. This hearing is convened under Virginia Gas and Oil  
6 section 45.1-361.35 which allows objections to permit applications to be filed by those with  
7 standing under section 45.1-361.30. Objections under this statute have been filed against the  
8 permit application for CNX Gas coalbed methane wells by Mrs. Pamela Hess. The objections  
9 were filed in a timely manner as required by 45.1-361.35. Notice to parties regarding gas  
10 operations and the protection of the environment are important elements of Virginia law.  
11 Today's hearing is part of that process. Sarah, was notification sent to all parties with standing  
12 to appear before this conference as required by section 45.1-361.35H?

13 **Sarah Gilmer**: Yes.

14 **Rick Cooper**: And did that notice include the date, time and place of this conference?

15 **Sarah Gilmer**: Yes.

16 **Rick Cooper**: At this time, any person in attendance who will be taking part in this conference,  
17 if you are going to talk, please introduce yourself and relative to who you are; if you are with  
18 CNX, like we did earlier or if you are the surface owner or whatever. If you plan on talking,  
19 would you start Mrs. Hess for the record? Tell us who you are and...

20 **Pamela Hess**: I am Pamela Hess. I own the land, surface area.

21 **Rick Cooper**: Are you going to speak?

22 **Leonard Hess**: I'm her husband.

23 **Rick Cooper**: And your name?

1 **Leonard Hess**: Leonard Hess. If you ask me questions, I will answer.

2 **Rick Cooper**: Okay.

3 **Gerald Gray**: Gerald Gray. I represent Mr. and Mrs. Hess.

4 **Warren Pinnick**: Warren Pinnick with Commonwealth Coal.

5 **Ed Fanning**: Ed Fanning with Consol Energy.

6 **Beverly Webb**: Beverly Webb with Consol Energy.

7 **Mary Beth McGlothlin**: Mary Beth McGlothlin with CNX Gas.

8 **Mark Swartz**: Mark Swartz with CNX Gas.

9 **Rick Cooper**: Section 45.1-361.35 of the Virginia Gas and Oil Act allows objections to permit  
10 applications by surface owners who are entitled to notification of the proposed operations.

11 According to the permit applications mentioned previously, Pamela Hess is included in the

12 subject drilling unit as a surface owner. As such, Mrs. Hess has standing to object to these

13 permit applications. The objections filed by the surface owner against permit applications are as

14 follows: 45.1-365.35 (B) (1) and (2) under Objections to permits. Measures in addition to the

15 requirements for a well's water protection string are necessary to protect fresh water bearing.

16 The location of the coalbed methane well or coalbed methane well pipeline will unreasonable

17 infringe on the surface owner's use of the surface, provided that a reasonable alternative site is

18 available within the unit, and granting the objection will not materially impair any right

19 contained in an agreement, valid at the time of the objection, between the surface owner and the

20 operator and the predecessors or successors in interest.

21 And again, this is an Informal Fact Finding Hearing under the Administrative Process Act, we

22 can recess at any time if all the parties mutually agree that they would like to negotiate off the

23 record. Is there any point for us to cease right now to negotiate off the record?

1 **Mark Swartz**: [Inaudible]

2 **Rick Cooper**: Okay. And the way the process works here, we will proceed by allowing the  
3 objecting party, you all Mrs. Hess, to provide testimony or exhibits and ask questions related to  
4 the basis of the objections to the permit applicant. Then after that process is done the permit  
5 applicant will then have the opportunity to provide testimony or exhibits and ask any questions  
6 related to the permit applications on record. This is an Informal Fact Finding Hearing, so we do  
7 not have cross-examination but it is informal and if you feel comfortable and you need to ask  
8 questions, feel free to do that. And again, after the questioning of each side, we will have a little  
9 time for closing remarks or statements from both parties. So Mr. Gray, if you would, you or  
10 your parties can start this conversation.

11 **Gerald Gray**: Let me repeat my request that I made earlier is that the Informal Fact Finding  
12 Conference be actually conducted at the property. The reason for that is that it is almost  
13 impossible to fully convey to you the topography of the land that we are dealing with and the  
14 manner in which the proposed well locations would interfere or interfringe on the landowner's  
15 use of the property. I have participated in several Informal Fact Finding Conferences with  
16 DMME for the Division of Mine Land Reclamation and typically those informal conferences are  
17 held at the landowner's location so that it is much easier for the fact finder to make a decision.  
18 So I understand, I have made this request before and I will repeat it today for the record I don't  
19 think you can adequately fully appreciate the affect that the well locations would have on the  
20 landowners sitting here in a room at a conference table. I would renew my request that we  
21 reconvene on the property itself so that you fully understand what we are going to be telling you.

22 **Rick Cooper**: I know that and if necessary after the hearing if we do have to do that at a later  
23 date I will be glad to contact you but as of now we will conduct it here in the Lebanon office.

1 **Gerald Gray**: Alright, I'm going to ask Mrs. Hess to explain then basically what the basis of  
2 her objection was. She does have some photographs and we will go over that. First of all, let me  
3 do this, Mrs. Hess, I believe at one time you or your husband had an agreement with Pocahontas  
4 Gas Partnership. Is that correct?

5 **Pamela Hess**: Correct.

6 **Gerald Gray**: And you had...as I understand the sequence of events, you had given them  
7 certain rights of ways and easements over your property for pipelines and roads and that sort of  
8 thing. Is that correct?

9 **Pamela Hess**: Yes.

10 **Gerald Gray**: [Inaudible]

11 **Pamela Hess**: Correct. Yes I came home from work and they were cutting down a huge stand  
12 of timber at the wrong spot so to negotiate, they had cut the wood into...I couldn't even sell it.  
13 You know, it was just little blocks. So...in negotiations they released a previous site, this site  
14 back to me as payment for the damages. You see what I'm talking about?

15 **Leonard Hess**: [Inaudible]

16 **Gerald Gray**: Then if you will wait just a minute...just one at a time here. And Pamela when  
17 the property that we are talking about that was...were you dealing with Pocahontas Gas  
18 Partnership, is that the same property that we are dealing with here today?

19 **Pamela Hess**: To my understanding it is.

20 **Gerald Gray**: Alright.

21 **Rick Cooper**: I need to get some clarity here before we get too far along with this. We are  
22 hearing two wells at the same time.

23 **Gerald Gray**: Right.

1 **Rick Cooper**: Can you specify which well that you are talking in relation to?

2 **Pamela Hess**: Actually, I have three areas on my property. Three little flagged areas and three  
3 sites have been you know, designated where they want. Actually, which one is the one...the one  
4 that was released to me is not...is the one that does not have Audrey Null on it. I don't know  
5 which one that is. Do you all?

6 **Gerald Gray**: Well that would be Z-36D.

7 **Rick Cooper**: Correct.

8 **Pamela Hess**: Alright. That was the one that was released back to me for damages. I think the  
9 year was what...2001?

10 **Leonard Hess**: Yes.

11 **Gerald Gray**: We have an exhibit here that I am going to go ahead and show this to Mark and if  
12 you will pass it on up to Rick I would appreciate it. That's my only copy and I would like to  
13 have a copy of it back.

14 **Rick Cooper**: Okay.

15 **Pamela Hess**: That was released back for payment of damages.

16 **Rick Cooper**: Okay.

17 **Gerald Gray**: Now, if you would to take a look at that if you wanted to right now Mark.

18 **Mark Swartz**: I can read while you all are talking.

19 **Gerald Gray**: Alright. So, Pamela we are dealing with two well locations.

20 **Pamela Hess**: Correct.

21 **Gerald Gray**: Has anyone from CNX been out and discussed with you and your husband about  
22 where they are proposing to put these wells?

23 **Pamela Hess**: Within what...within the past year or so?

1 **Gerald Gray**: Well, while this whole process has been going on. Before they applied for the  
2 permit, did they go on your land and discuss with you where they wanted to put the wells?

3 **Leonard Hess**: No.

4 **Pamela Hess**: This specific site, well...no but.

5 **Gerald Gray**: Just one at a time. Okay?

6 **Pamela Hess**: This specific site since I'd say the year of 2000 every two years they come and  
7 mark out a different spot. The last spot that they marked out was the one that we are probably  
8 talking about now. But no, they have never came specifically and talked to me about any  
9 alternative.

10 **Gerald Gray**: Just to be clear, we are talking about both well sites at this occasion.

11 **Pamela Hess**: The one that is right in my yard, they have never spoken to me about that.

12 **Gerald Gray**: Alright, let's...let's...do you have a photograph of the property next to  
13 your...next to your home?

14 **Pamela Hess**: This is my home and it is right there beside of the pine tree.

15 **Gerald Gray**: What I'm going to do we have a photograph here with an outbuilding, if you will  
16 go up and show that, just walk around and show that to Rick. Point out to him...

17 **Pamela Hess**: The corner of my house you know how it never shows up correctly.

18 **Gerald Gray**: Point out to him...

19 **Pamela Hess**: This is the corner of my house...and this is the corner of my house I have mowed  
20 this for twenty or thirty years. The well would probably be right here beside of this pine tree.

21 **Rick Cooper**: Okay.

22 **Gerald Gray**: Why do you say probably right beside the pine tree?

23 **Pamela Hess**: Well it is like maybe half an acre. The size is a little triangle shape.

1 **Mark Swartz**: This pine tree?

2 **Pamela Hess**: Well you know, this is the end of the...this is like what you call a high wall, this  
3 pine tree.

4 **Mark Swartz**: This one here?

5 **Pamela Hess**: Yeah.

6 **Mark Swartz**: Okay.

7 **Pamela Hess**: So I don't think they would put it back there so they'd probably have to put it  
8 right in here. That's the way I look. That's why he said you need probably need to go....

9 **Rick Cooper**: So what would be the distance from your house on that?

10 **Pamela Hess**: What do you say 150? He is better at measuring than me.

11 **Leonard Hess**: Maybe 200 but there's a trailer that sits across the road from me and...

12 **Pamela Hess**: This is even closer.

13 **Leonard Hess**: And anywhere from that trailer over is 180 feet or less. In other words, the 200  
14 foot...it's not going to be 200 foot away.

15 **Pamela Hess**: This is the trailer that he is speaking about.

16 **Gerald Gray**: Go ahead and show them all of the other photographs here.

17 **Pamela Hess**: This is probably kind of in the middle of this field. This is...

18 **Rick Cooper**: So if you would Sarah, as these come around label them on the back as photo  
19 one, two, three...

20 **Pamela Hess**: This is my...the land where they are probably proposing.

21 **Rick Cooper**: Probably? You are not sure?

22 **Pamela Hess**: Well that's where their...that's one definitely.

23 **Leonard Hess**: They've changed it so many times that...

1 [Inaudible]

2 **Pamela Hess**: And this is from the site shooting down at my house.

3 **Gerald Gray**: Just one at a time. Okay?

4 **Pamela Hess**: This is the garage and that's my house.

5 **Gerald Gray**: Hand this up to Sarah.

6 **Pamela Hess**: This is my garden. It seems like pictures don't take a really accurate...this is

7 kind of taken from the middle of the field.

8 **Mark Swartz**: Okay.

9 **Gerald Gray**: Now Pam...

10 **Pamela Hess**: That's my neighbor's house and it shoots right across to his.

11 **Gerald Gray**: Pam is there any....is there a flag....is there anything on that property that shows

12 where they are proposing to drill the well?

13 **Pamela Hess**: No. Never has been there.

14 **Mark Swartz**: So these buildings though are on the property that the Nulls do have an interest

15 in?

16 **Pamela Hess**: Not now. Not anymore.

17 **Mark Swartz**: Okay.

18 **Pamela Hess**: This is the one beside of my house. I don't know which one...which one are we

19 addressing now?

20 **Gerald Gray**: We are doing both of them.

21 **Pamela Hess**: Okay. This is the one that the Nulls were involved in three or four years ago, and

22 she gave it back to me, my mother.

23 **Gerald Gray**: That would be Z-36D.

1 **Pamela Hess**: Z-36D. Is that what he wrote on the back of it? Do you see my house? You see,  
2 I can't read those maps very well. Can you all? [Laughter]

3 **Gerald Gray**: Pam do you have some other photographs of that lot next to your house?

4 **Pamela Hess**: My yard? I call it my yard.

5 **Gerald Gray**: Yeah.

6 **Pamela Hess**: Yeah. Let's see...this is our whole orchard, blueberries....this is my house, this  
7 is all. A lot of these are the same.

8 **Mark Swartz**: Let me see those.

9 **Pamela Hess**: Should I show him all...or just...

10 **Gerald Gray**: Why don't you show him all of that one area.

11 **Rick Cooper**: So to make sure I am following this photo process, you are submitting these to us  
12 and if you need a copy of them we will make a copy for you if you need these back.

13 **Gerald Gray**: Each of these photographs involve the side yard next to the house.

14 **Pamela Hess**: What did you say Z thirty....

15 **Gerald Gray**: Z-36D.

16 **Rick Cooper**: Z-36D.

17 **Pamela Hess**: Yeah. They are all rather central.

18 **Rick Cooper**: You are saying over around here somewhere?

19 **Pamela Hess**: Yes. Right in here, you see this nice little, this pretty little flat?

20 **Rick Cooper**: Yes.

21 **Pamela Hess**: This is shooting from there down to my house.

22 **Rick Cooper**: Yes.

23 **Gerald Gray**: You mentioned...you mentioned....

1 **Pamela Hess**: This is my blueberries, an apples and things he has planted. That's the little  
2 blueberries...this is our garden, that's our house from the proposed site. There has never been  
3 like I said, any flags or anything.

4 **Rick Cooper**: These photos go as photo one through photo twelve.

5 **Gerald Gray**: Mrs. Hess the lot that we are looking at next to your home...

6 **Pamela Hess**: Yes.

7 **Gerald Gray**: You testified that you've been mowing for several years. Does that have public  
8 water on it?

9 **Pamela Hess**: Access to public water. The water is right there. It has not been connected but it  
10 has access.

11 **Gerald Gray**: Would you agree that that lot is conditioned and the gas flow on it is very  
12 valuable in Buchanan County [Inaudible].

13 **Pamela Hess**: In Buchanan County it is very valuable. I consider it very valuable.

14 **Gerald Gray**: And you understand that there is a gas flow on that property from the drawings  
15 that have been submitted you understand how much of that land would be used by the well?

16 **Pamela Hess**: I would say almost all of it. From what I see, it depends you know, some have  
17 the big water tanks, some...I'd say they would take almost all of that land.

18 **Gerald Gray**: By [inaudible] that no one from CNX has been up to the property to show you  
19 where they plan to put the well or where anything associated with the well would be?

20 **Pamela Hess**: No.

21 **Gerald Gray**: Now the other well AA-37D has there actually been a tree with a river around it  
22 in that location?

1 **Pamela Hess**: That's one. Like I said this one since the year of 2000 they have moved a site  
2 over maybe 20 feet away, you know different. There has been I'd say six different....at least six  
3 different places staked out.

4 **Gerald Gray**: I am pulling out this photograph that has the ribbon around the tree.

5 **Pamela Hess**: The green ribbon?

6 **Gerald Gray**: Right.

7 **Pamela Hess**: Let's see right there.

8 **Gerald Gray**: Okay. Show that one. What's your objection to the particular location?

9 **Pamela Hess**: This one is my release. This site was released back to me for damages in 2001.

10 **Gerald Gray**: Okay. Is that a flat area of property also?

11 **Pamela Hess**: It is a flat area, a small maybe quarter of an acre. But it is a little flat area and the  
12 land lays really pretty. To the right side of it, I have my spring box and a pond.

13 **Rick Cooper**: Okay. This one again for the record is AA-37D well. Is that correct?

14 **Gerald Gray**: Yes.

15 **Rick Cooper**: And this is the one that you said you had the release agreement on?

16 **Pamela Hess**: Correct. They have marked in years....fifteen years ago over here, like a said  
17 there has been six or seven different places they come and stake it out. And actually they never  
18 come and tell me. I just come home and there is the ribbons.

19 **Gerald Gray**: And you've got other photographs in that same general area. Do you want to go  
20 ahead and submit those also?

21 **Pamela Hess**: Um...yes. This is a shot from that green tree. This is my dog lot and my house  
22 sets right there. This is....from this green tree I was standing shooting toward my house and  
23 that's my dog lot and my house is right in there.

1 **Rick Cooper**: Okay.

2 **Gerald Gray**: Now how much land do you own upon that ridge up there?

3 **Pamela Hess**: In all, I have three different little deeds but they are all together they were all my  
4 mother's, and mine, and my dad's. I'd say what do you...about twenty-four acres, right at  
5 twenty-four acres.

6 **Leonard Hess**: Twenty-four acres.

7 **Pamela Hess**: Approximately....these three places is the only usable land that I have.

8 **Gerald Gray**: Alright. That is what I was trying to get at, the only usable land.

9 **Pamela Hess**: Yeah. This is only...the rest of it I don't....you coal miners you....the rest of it is  
10 what they call high wall....strip jobs. It's not.....this is also from that tree you can see the little  
11 blue right there that's...It's a snowy day you can't hardly tell but this is shooting from that tree.

12 **Rick Cooper**: Okay. For the record we are adding these photos one through six for AA-37D  
13 and also we will call the release agreement as Exhibit 1. I will make copies after the hearing for  
14 the parties that need that.

15 **Gerald Gray**: Pamela this permit has been pending for quite some time. Before the permit was  
16 filed did anyone from CNX approach you and show you on the property where they wanted to  
17 put the wells?

18 **Pamela Hess**: No. Not these two, no.

19 **Gerald Gray**: Did they mark them or flag them other than the green ribbon that we saw around  
20 the tree?

21 **Pamela Hess**: No. The one this one they released to me they've marked maybe three...was it  
22 three or four years ago they went over and marked it. They never showed me.

23 **Gerald Gray**: But you found the ribbon.

1 **Pamela Hess**: I found the ribbon. They never came and you know said this is where we propose  
2 to put it. I just found the ribbons.

3 **Gerald Gray**: Alright. I really think that's about all that I wanted to ask Mrs. Hess at this time.  
4 And certainly she is willing to answer any questions. I understand that [inaudible] the cross  
5 examination but she will be happy to answer any questions.

6 **Pamela Hess**: I will do the best I can. Are ya'll going to ask me anything?

7 **Rick Cooper**: So is the conversation relevant to our hearing that you just had?

8 **Gerald Gray**: I think so yes. You have a little bit more information about the location.

9 **Leonard Hess**: [Inaudible] Going on our land and all the surveyors which my wife taught one  
10 of them in school stopped and asked if he could go out there and survey and I told him to go  
11 ahead. And that's the only people other than the gas well people that come by and speak to me  
12 when they open the gate and close the gate, but other than that...no.

13 **Rick Cooper**: So you had mentioned that you have public water or well water?

14 **Pamela Hess**: Yes. I have public water and a spring. I have a spring box. A very....during the  
15 past....before the water was brought onto our mountain my....that spring box was the only spring  
16 that was still usable, running, flowing on that mountain. I did not have to have water hauled to  
17 my home. It's still over flowing.

18 **Rick Cooper**: Okay. Thank you.

19 **Mark Swartz**: The first observation, although I have several, is that I would make is that neither  
20 of these wells are located on the Hess's surface. And the testimony that I've heard pertains to  
21 them being located quite close to a house and a trailer and a well being located on other surface  
22 and the maps that we have filed with you and the surveys that we have undertaken, neither of  
23 these wells is on her surface period. To be more specific, let's start with 36D, you have a permit

1 package so you have the topo maps and so forth, but at some point in the distant past because I  
2 think this has been happening for a really long time and in February of 2012, Philip Lowe sent  
3 you a letter and he attached some maps and he tried to locate the Z-36D location on a aerial  
4 photograph and then place it in relationship to Mrs. Hess' property. And I think I would share  
5 this with Mr. Gray first, before I share it with you although you may be able to find your copy.  
6 This is a topo map Gerald, that was attached to some mapping or photographs that were sent to  
7 I'm not sure if Mr. Cooper was the boss then or not.

8 **Rick Cooper:** I was.

9 **Mark Swartz:** Yes he was, okay were sent to Mr. Cooper back in 2012. If you look at  
10 the.....this is a [inaudible] of the unit map of the unit that sort of zeroes in on the unit but this is  
11 the Z-36D well location at the bottom of the unit. If you sort of give that back to me I can point  
12 to what I am talking about so Gerald could find it quicker. Yeah, this is the Z-36 unit and right  
13 here Gerald is the....this is the drilling window. This is the Z-36 unit here and there's Z-36D  
14 which is then shown on that map sort of up at the top here. That's the well location and then this  
15 would be the northern boundary of the Hess property. I think the measurement is roughly 800  
16 feet from her property line. So, with regard to Z-36.....

17 **Pamela Hess:** Now is that the one for the release that we are thinking about [inaudible]

18 **Mark Swartz:** I looked at your release and I don't see that it pertains to either of these wells  
19 because they are not on your property.

20 **Pamela Hess:** But I mean, is that close to the land, I mean that's not the field beside of our  
21 house.

22 **Mark Swartz:** Well....

1 **Pamela Hess**: See we kind of call our places like the ball field, the...is that the one near the  
2 release?

3 **Mark Swartz**: Well...here's your release map, okay? And that's a...is that Z-37? I think it is.  
4 I'm not...hand me the other...yeah okay, this is Z-36, so the release is units AA-37, BB-37 and  
5 AA-36, so this Z one is not on your release at all. So if your question was, did the release pertain  
6 to the Z unit, as far as I can tell from your release exhibit, it did not because these are all AA  
7 units.

8 **Pamela Hess**: Uh huh.

9 **Mark Swartz**: So, you know just staying with this for a moment, it appears to me that the Z-  
10 36D unit is you know, roughly 800 feet north of her property line that the pictures pertain to.

11 **Pamela Hess**: Which one is Z? The pictures, you see I get mixed up. The Z-36, which one is  
12 those the pictures of?

13 **Mark Swartz**: Well the pictures are not of either well location. I mean, they are not even close  
14 because our wells are not on your property. I mean, you don't...

15 **Pamela Hess**: Okay. Then why are we here?

16 **Mark Swartz**: Because a little bit of our pipeline goes across your property.

17 **Pamela Hess**: No right of way road down into there?

18 **Leonard Hess**: You're not going to cut a road?

19 **Mark Swartz**: Well let's just stick with this one. We'll see what's on your property and then  
20 you know...

21 **Pamela Hess**: Okay, because if they're not on my property then I'm not going to....I'm not  
22 crazy...

1 **Rick Cooper**: If we could before we get too far along for a matter of record I want to make sure  
2 that we enter here so that everyone knows that the information submitted by CNX of the Exhibit  
3 2 consisting of nine pages with the Google Earth information and Exhibit 3 that shows the  
4 location of the wells in relation to Mrs. Hess' release.

5 **Leonard Hess**: Can I ask you a question?

6 **Mark Swartz**: Sure.

7 **Leonard Hess**: Why did you all send us letters stating that you was going to put that....put these  
8 wells and if they are not on our property because you've got a road in below that comes right up  
9 to where you are going to put your well?

10 **Mark Swartz**: We didn't tell you that we were going to put the well on your property. We told  
11 you that we were going to put a piece of the pipelines or roads. I'm looking to show you on a  
12 map what little bit of that would be. The wells are definitely not on your property period.

13 **Pamela Hess**: Okay. So we can't complain about that but I was under the impression that you  
14 were going to put one in the field beside of us.

15 **Mark Swartz**: I could tell from your testimony that you thought these wells were on your  
16 property which is okay, you know, but they are not.

17 **Pamela Hess**: Well where....well where....well where?

18 **Leonard Hess**: You all didn't tell us anything so we were blind.

19 **Pamela Hess**: Yeah.

20 **Mark Swartz**: Well I guess I will respond to that by saying if you look carefully at the maps, I  
21 just you know, you could tell that. But it's okay. What I'm trying to do now is to look at what  
22 little bit with regard to this Z unit, what little bit of our infrastructure would be on your property  
23 and just give me a moment here....I can....I want to find on this map if I can, okay, I'm going to

1 take this yellow highlighter and I am going to highlight the northern edge of your property line  
2 which is on that aerial photograph that we....this I'm highlighting....

3 **Pamela Hess**: Where is my house on this?

4 **Mark Swartz**: It's down here somewhere and I can show you on a different map. I can, just  
5 give me a minute. I am trying to answer one question at a time. Okay, not your property to sort  
6 of track this with that, with this aerial photograph. This corner here on this map is your property  
7 and it's this...these lines okay? Do you follow that? [No Response] Okay, the only houses that I  
8 see which we have to map on the map are down here. So this maybe the trailer, this maybe your  
9 house, way down here. But there are no, you can see there are no red boxes which would be  
10 houses or trailers or barns or whatever, anywhere near the well or between your property line and  
11 the well. So you're down here somewhere. Okay? And to give you a sense, here is the well and  
12 here are the closest houses that I can find on this map.

13 **Leonard Hess**: Uh huh.

14 **Pamela Hess**: This is 37?

15 **Mark Swartz**: This is Z-36D.

16 **Pamela Hess**: Alright.

17 **Rick Cooper**: For conversation, what are we talking about 400 feet to an inch there?

18 **Mark Swartz**: It should say...

19 **Pamela Hess**: This is Z-36D.

20 **Mark Swartz**: Yes it is 400 feet to an inch so...you know, the well to your property line is six  
21 or seven hundred feet, it looks like more than that to the nearest houses. So we are talking  
22 fifteen hundred feet [inaudible] now, here is your property line, okay so I have highlighted it in  
23 yellow. Okay, you see that? [No response] This road, this proposed road, this is why you were

1 noticed. This road that we are proposing to build, because you will see there are roads on here  
2 but there is no road up to here to where the wells are going to be.

3 **Pamela Hess**: What's this road?

4 **Mark Swartz**: I don't know. We're not using it.

5 **Pamela Hess**: Where's your all's road, what we call Shack's Branch?

6 **Mark Swartz**: I don't know.

7 **Pamela Hess**: It's down....

8 **Leonard Hess**: Right here.

9 **Pamela Hess**: Down here? No this says Ronald Horton.

10 **Leonard Hess**: Well it must [inaudible] backwards because Ronnie owns out to the right of this.

11 **Pamela Hess**: I don't know.

12 **Mark Swartz**: So here is your property line and this red line is a road that we are going to build  
13 from here to here. Okay? So this is the only thing that is going to be on your property that we  
14 are proposing, is from this road that goes from here to here that is not existent.

15 **Pamela Hess**: What's this road? This road is the one you are proposing?

16 **Mark Swartz**: Right. But the only piece of it that is on your property is from here to where it  
17 adjoins up to an existing road. That will be the disturbance on your property.

18 **Pamela Hess**: I don't know...can you show me on....I can't get a picture of that.

19 **Mark Swartz**: Well it's nowhere close to your house. I can't show it.

20 **Leonard Hess**: This is at the black car Pam. They are going to go right down that ridge and  
21 down on the end of the ridge where you know our pond and waterworks over here.

22 **Pamela Hess**: Then why are they....

1 **Leonard Hess**: They want to build a piece of the road, where the green ribbon is they want to  
2 build a road right down through that ridge.

3 **Mark Swartz**: A piece of the road.

4 **Pamela Hess**: And they will take that flat....

5 **Leonard Hess**: Take that flat.

6 **Pamela Hess**: Yeah. Yeah that will take that flat.

7 **Gerald Gray**: Ah! Okay.

8 **Pamela Hess**: If they build a road down that ridge they will take the flat.

9 **Mark Swartz**: The problem with the idea of taking the flat is if you look at this topo map the  
10 flat from where you are sitting would be to the right of the road because that's the flat area. So  
11 you can see that we are on the slope side of that flat area.

12 **Pamela Hess**: Okay. Now the only other objection I ever had to a right of way. Now...see I'm  
13 thoroughly confused I know where you are talking about going down the ridge and everything  
14 but I thought they were going to put a gas well down in....down....that's the one you are talking  
15 about there.

16 **Mark Swartz**: Correct which is off your property.

17 **Pamela Hess**: Okay. Where is the 36?

18 **Mark Swartz**: Okay. I want to make sure we are done with this one and then I'll....

19 **Pamela Hess**: Well you see I don't really have a good understanding. If somebody could come  
20 and show me what they proposed I know what you're.....The only objection I had with this....I  
21 think that this.....is this Shack's Branch Eddie right here?

22 **Leonard Hess**: Yeah. This is [inaudible]

23 **Pamela Hess**: Why should I sacrifice my little flat, I know...

1 **Leonard Hess**: When you're closer from your road to our...

2 **Pamela Hess**: When you're just as close from your existing road to come up. You see what I'm

3 talking about to get to your mine, your gas well? Probably a shorter distance.

4 **Leonard Hess**: Matter of fact, matter of fact right here in this holler there's....

5 **Pamela Hess**: He's hunted all of that.

6 **Leonard Hess**: There's a four wheeler trail all you would have to do is widen it out and go right

7 up where you want to.

8 **Pamela Hess**: You see from the existing wells you have in Shack's Branch.

9 **Leonard Hess**: Instead of going across us you can ah....

10 **Mark Swartz**: You see these little lines?

11 **Leonard Hess**: I know but...

12 **Mark Swartz**: They are topo lines. This is one heck of a hill. There is no existing road.

13 **Pamela Hess**: I know.

14 **Leonard Hess**: I rode a four-wheeler up and down it.

15 **Mark Swartz**: Well to answer your question, we are tying this into our existing infrastructure.

16 **Pamela Hess**: That's what I [inaudible] I told you from the beginning.

17 **Mark Swartz**: And we are not on that flat.

18 **Pamela Hess**: No. But still I object to the road because it....

19 **Mark Swartz**: I hear that you object, but I am saying that we are not on your flat, we're

20 not....the well is not on your land.

21 **Leonard Hess**: But you will be on our property?

22 **Mark Swartz**: Correct.

1 **Pamela Hess**: Yeah, this right here. But the thing, see the main reason I object to that is when  
2 you connect to this just a month ago two ATV's came riding by my house. They used a key to  
3 unlock CNX's master lock. I had never seen these people before. If you open this up, this road  
4 is maybe fifty feet from my bedroom window. The existing road that you are speaking of about  
5 this right here is fifty feet maybe from my bedroom window. If you put that road through my  
6 flat not only will you go, you say you will go beside of it and down the ridge but that's not where  
7 the ribbons are marked. Anyway, if you go that way and connect to that, I will be bombarded  
8 with ATV's. Bombarded, I'm already.

9 **Mark Swartz**: To move on to the other....

10 **Rick Cooper**: If we can, before we move on I'm going to label this here that we were talking  
11 about as Exhibit 4.

12 **Mark Swartz**: Okay.

13 **Pamela Hess**: And the trucks, my goodness. See on past there, there is already an existing gas  
14 well and a preparation plant.

15 **Leonard Hess**: No.

16 **Pamela Hess**: Ah, what is it called?

17 **Leonard Hess**: It's a....

18 **Pamela Hess**: What do you call it?

19 **Mark Swartz**: Okay. With regard to the other well the....

20 **Pamela Hess**: Are we finished addressing the 67?

21 **Mark Swartz**: I am.

22 **Pamela Hess**: Okay.

23 **Mark Swartz**: The AA-37D. The property lines...

1 **Pamela Hess**: Okay. Which one is this one?

2 **Leonard Hess**: I don't know.

3 **Pamela Hess**: I don't know where this one is, AA-37D.

4 **Mark Swartz**: This well is not on your property either.

5 **Pamela Hess**: I know but is it related closer to this picture or closer to the other picture? The 37

6 is the one that used to be in my mother's name but had to let her, okay that's the land beside my

7 house.

8 **Gerald Gray**: No, no. I'm sorry, 36D was the one that your mother [inaudible]

9 **Pamela Hess**: And see I can't understand, I think they made a mistake because that should have

10 no bearing on her. I think that they are messed up on that. 37D was what my mother used to

11 own. I don't know why I can't figure it out.

12 **Mark Swartz**: Here's the plat for 37A, 37D which is right here. Your property....

13 **Pamela Hess**: That's the one that we just talked about, right?

14 **Mark Swartz**: No. That was Z this is AA. This is your property line, okay? [No Response]

15 This is the well which is definitely off your property. The reason that you were noticed is

16 because this piece of our road covers from here on your property to here on your property to join

17 this road.

18 **Pamela Hess**: The proposed road you are talking about?

19 **Mark Swartz**: Correct. And I'm trying to look and see if there....

20 **Pamela Hess**: But again, I'm saying it is just about as easy for you to come up as to go down.

21 **Mark Swartz**: I hear what you are saying. This well location on this plat would be about here

22 on this map. And there are no houses closer than here. So I mean, they are really, to answer

1 your question, where are we in relation to your photos, we are nowhere near because there are no  
2 structures.

3 **Pamela Hess**: So in other words, we are just addressing today the right of way?

4 **Mark Swartz**: Correct.

5 **Pamela Hess**: Alright.

6 **Mark Swartz**: We are never going to be addressing the wells with you because they are not on  
7 your property.

8 **Pamela Hess**: Okay. Yeah. Okay I got that.

9 **Rick Cooper**: And before we go on, I want to label this plat as Exhibit 5 and the topo with the  
10 11 x 17 as Exhibit 6.

11 **Pamela Hess**: But according to what they had marked out on the one well site, it doesn't match  
12 up to what they are talking about. Does it Ed?

13 **Leonard Hess**: No.

14 **Pamela Hess**: They were going to put a well where I showed you.

15 **Mark Swartz**: All I can say is that we are incredibly careful to not drill wells on the wrong  
16 property. I've been doing this for them for twenty-five years, we did it once. And we drilled  
17 way over one thousand wells. It is a huge expensive problem for us. Forget if anybody sues us  
18 you know. We are careful about surveying, we are careful to try to drill wells on property that  
19 we actually have written agreements with people as opposed to drilling wells on property that we  
20 have disputes. So, I have a high level of confidence that our marking and our surveyors are  
21 right.

22 **Pamela Hess**: Alright.

23 **Mark Swartz**: With regard to the well location.

1 **Pamela Hess**: Alright, if one existing well is correct on yours, how would it not impact my  
2 spring box or my pond and things like that? When you cut that road back around the way I just  
3 can't envision it in my mind I'll just tell you bluntly, I can't read those maps.

4 **Mark Swartz**: Okay. Well the one well when we did our water survey there is no water source  
5 within 750 feet.

6 **Pamela Hess**: See I'm totally mixed up. They need to come and show me.

7 **Mark Swartz**: EMI did two different surveys. They checked your spring and they checked a  
8 pond that you have with regard to one location and then they checked the other location and with  
9 regard to the Z-36D well which is this one, I'm sure the report is in the file but I will just  
10 summarize it. There was no ground water found on this date within 750 feet of the proposed  
11 wells. So that was their report and they attached a plat. With regard to AA-37D, EMI went out  
12 and did a report and they located and sampled something they called the "Pamela Hess Spring"  
13 and the "Pamela Hess Pond."

14 **Pamela Hess**: Now what was that number for that well?

15 **Mark Swartz**: AA-37D. And among other things they found, coliform bacteria in both of the  
16 water sources but they tested for everything else. And of course these are surface, we have a  
17 spring on the surface and we have a pond on the surface, but in any event they tested, they  
18 located those, they put them on a map and then they put them on a plat map which shows the  
19 location of those two water sources in relation to the proposed well, if you want to mark this  
20 Sarah.

21 **Rick Cooper**: Exhibit A.

1 **Mark Swartz**: And the location of the pond and the spring are circled and there is a little arrow  
2 and a dot. One and two on this map looks like one is roughly 150 feet from the well and two is  
3 over 500 feet, well I take that back. This is an inch equals 400. Well yeah it would be.

4 **Pamela Hess**: It is very close.

5 **Mark Swartz**: Looks like one is at least...

6 **Rick Cooper**: That circle is 750 feet.

7 **Mark Swartz**: The big circle. Yeah, so the closest source is maybe 150 feet and the other one is  
8 almost 400 feet away.

9 **Leonard Hess**: May I ask you a question?

10 **Mark Swartz**: When I'm done.

11 **Leonard Hess**: Okay.

12 **Mark Swartz**: Okay. So that's the water surveys that we took. Now if you look at the topo  
13 map...

14 **Leonard Hess**: [Inaudible]

15 **Rick Cooper**: Okay. Mr. Hess you will need to speak up to make sure that we can hear that on  
16 our recording.

17 **Leonard Hess**: [Inaudible]

18 **Mark Swartz**: Okay. With regard to these two water sources, the topo map Exhibit 6 shows the  
19 approximate location of the well and of course we have the EMI Exhibit which shows the  
20 depiction of the water sources and you can see how this drains and my point based on the maps  
21 is that if you would look at the approximate well location which is that little scribble and if you  
22 look at the EMI report which would place the water sources over here, they are on opposite sides  
23 of a drain.

1 **Rick Cooper**: You are saying on the southern portion of the ridge line?

2 **Mark Swartz**: Correct. But they are on opposites sides of the ridge.

3 **Rick Cooper**: Okay.

4 **Mark Swartz**: I guess I should say they are draining in different directions.

5 **Rick Cooper**: Okay.

6 **Mark Swartz**: Which is obviously of interest. The guy that did the water survey actually

7 measured the spring, the closer source and he came up with 175 feet, so my guess was I guess

8 fairly close to his. And that is shown on his report which is Exhibit 8. In addition, I would like

9 to refer you to both of the permit applications with regard to the protective measures that we

10 have indicated that we will take with regard to protecting ground water. I will point out that

11 neither one of these are a well, but nevertheless, the water protection efforts with regard to Z-

12 36D are described in our permit application and basically what we are going to do is put in a 4

13 ½” casing from the surface to a depth of 2,073 feet. It is going to be a steel casing. We are

14 going to cement that 2,073 feet back to the surface. We are also going to have a 7” casing that

15 the 4 1/2” casing will be inside of and that will go down to a depth of 409 feet. Then obviously,

16 below that we plan on encountering the Pocahontas coal seam and won’t be dealing with....

17 **Rick Cooper**: So will the 7” be cemented back to the surface also?

18 **Mark Swartz**: Yes it will. So there will be a 7” casing 409 feet and cemented back to the

19 surface and a 4 ½” casing inside of that 7” casing that will go down to 2,073 feet and that will be

20 cemented back to the surface. Both of those casings are steel, not PVC as what [inaudible] might

21 put through a coal seam. So the elevation....estimated depth of the completed well from the

22 elevation of the location of the well site on the surface 2,447 feet and out of that the first

1 basically 2,000 feet are going to be cased and cemented back to the surface. Now that is with  
2 regard to the Z-36D well. With regard to the....

3 **Rick Cooper**: Do you understand what he is talking about right here?

4 **Pamela Hess**: Not exactly.

5 **Rick Cooper**: So what he is saying here, when they drill this well they will drill down to this  
6 first distance and put a segmented steel casing in the ground to 400 + feet and then cement that  
7 back to the surface. Then to continue drilling that, they will drill inside that 7" casing that  
8 protects the water tables if I am understanding you correctly.

9 **Mark Swartz**: Correct.

10 **Rick Cooper**: And put in a 4 1/2" casing inside of that and cementing it back to the surface.

11 **Mark Swartz**: And that goes on the 2,000 feet casing and cemented back to the surface. The  
12 plan for AA-37D with regard to the water protection stream is essentially the same but obviously  
13 the distance of it is going to be somewhat different.

14 **Pamela Hess**: To the one that's near my spring box, could I ask why could they not....it runs  
15 down a narrow ridge, why could they not put it on the other side of the ridge?

16 **Mark Swartz**: It is.

17 **Pamela Hess**: It's on the other side?

18 **Mark Swartz**: Right. They are not going to drain in the same direction. You can tell from the  
19 topo map.

20 **Pamela Hess**: I mean, okay.

21 **Leonard Hess**: Can I ask my question now?

22 **Mark Swartz**: I'm almost done. Okay? Well, otherwise I keep starting over and I know you  
23 can remember your question.

1 [Laughter]

2 **Pamela Hess**: Okay. You will lose your place.

3 **Mark Swartz**: The AA-37D the estimated depth is 2,563 feet. Again, we are going to have a  
4 steel 4 ½” casing. I’m sorry. We are going to have a steel casing 7” and that’s going to go down  
5 505 feet and be cemented back to the surface. Then inside of that casing we are going to have  
6 another steel casing which is a surface water protection casing 4 ½” and that is going to go down  
7 2,198 feet and that will be cemented back to the surface. Then below that obviously we will be  
8 encountering the coal seams which we want to produce from. The surface elevation of the well  
9 if I am reading the strata chart correctly of this well is 2,720. And again, when I read the topo  
10 map going back to you I think, which is okay, it looks to me like the area where the well is  
11 proposed to be located does not drain to the area where the spring and the pond are located when  
12 you look at where they are likely to drain based on topo map.

13 **Rick Cooper**: So if the water runs off the ground you are saying the water is not going to go  
14 across their property?

15 **Mark Swartz**: It’s in the same direction.

16 **Pamela Hess**: Now the last place they had the little box marked was on this side facing my  
17 spring and their little triangle box was up above my spring. I didn’t understand why they  
18 couldn’t go across on the other side of the ridge.

19 **Rick Cooper**: And for clarity Mr. Swartz says they are on the opposite side of the ridge.

20 **Mark Swartz**: Whenever you see little...whenever you see stuff on a topo map that gets pointy,  
21 okay, that looks like this, it’s either draining down a ridge or going up a hill, depending on how  
22 you want to look at it and the wells on this side of those pointy little marks and your water source  
23 is on the other side. So it can’t...neither one of them is going to drain into the other one.

1 **Pamela Hess**: I see what you are talking about. I never could understand why they didn't  
2 propose putting it on the other side.

3 **Mark Swartz**: It looks like they did.

4 **Pamela Hess**: I don't know. That's not where they had it marked.

5 **Mark Swartz**: Well I'm just...I mean...all I can...

6 **Pamela Hess**: Gotcha.

7 **Mark Swartz**: And I will also tell you that this is the last thing I have to say and then you can  
8 ask your question. I am assuming you still remember. My experience with Mr. Cooper in terms  
9 of the need to actually go out and look at stuff is that he does that but he doesn't drag all of us  
10 with him. Often times we will arrive here and he will tell us that he has been out there. I didn't  
11 hear him say that, he may have, but if he feels the need to put the maps on the ground, just my  
12 experience has been, he can tell you if he plans on doing that.

13 **Pamela Hess**: Could you also, if he goes, which I would appreciate if he could, could you have  
14 someone there to show me exactly how it is going to lay and go around the mountain.

15 **Leonard Hess**: Somebody come and talk to us and tell us [Inaudible]

16 **Pamela Hess**: Show me how it is going to go.

17 **Gerald Gray**: Let me suggest, I don't object at all to Rick Cooper there. I don't need to be  
18 there.

19 **Mark Swartz**: Well I'm not planning on going. But I just want you to know that he doesn't sit  
20 in a room if he feels like he needs to go outside.

21 **Gerald Gray**: Well I can tell you the photo that has the red ribbon around the tree, that's  
22 definitely a flat area and they didn't put the ribbon there. That's one of their concerns. If that's

1 not related to the right of way where the road is going to be then why for heaven's sakes is that  
2 green ribbon there? You know.

3 **Mark Swartz**: You are assuming we put that ribbon there. I don't know.

4 **Pamela Hess**: I didn't put that ribbon there.

5 **Leonard Hess**: I took Gerald all around over there.

6 **Rick Cooper**: For clarity, I will let you all know that the green ribbon as far as CNX is  
7 concerned is a bench mark for them. They actually have to shoot to the bench marks to get a  
8 triangle to shoot into their well, so it should show on a plat how many feet away from the actual  
9 well site that bench mark is located. That's what the green tape represents. It's just a surveying  
10 point.

11 **Gerald Gray**: What would have been helpful I think that might have avoided this whole thing  
12 would have been if someone from CNX had talked with the Hess's and showed them where  
13 everything was going to be.

14 **Rick Cooper**: I don't disagree with that.

15 **Gerald Gray**: I'm not complaining to you on this.

16 **Rick Cooper**: No. You have a very legitimate concern and hopefully with things like this  
17 everyone can improve in the future and so I don't disagree with anything that you've just said,  
18 you or Mr. & Mrs. Hess.

19 **Leonard Hess**: I'm still waiting to ask my question.

20 **Rick Cooper**: Go ahead.

21 **Leonard Hess**: There's a creek down there and I'd say....

22 **Pamela Hess**: He probably doesn't know [Inaudible]

1 **Leonard Hess**: And I'd say just straight out it's less than a hundred feet from your well site. Do  
2 they not put that on it?

3 **Pamela Hess**: He's proposing at the flat [Inaudible]

4 **Leonard Hess**: I'm just telling where the well site that he is proposing. There's a creek that  
5 runs all the way down that holler.

6 **Rick Cooper**: So I understand. What is the concern with the creek so that I will know what  
7 you're....

8 **Leonard Hess**: The run-off will still be going into that creek.

9 **Rick Cooper**: Okay. I guess I'm asking you do they put adequate sediment control? Is that  
10 what you are asking to prevent that from happening or....

11 **Leonard Hess**: All I know is that over at our church we cannot go in and dig the creek out  
12 because there is endangered species in it.

13 **Rick Cooper**: Okay.

14 **Pamela Hess**: Endangered species. Have they checked on that?

15 **Leonard Hess**: You said that for the good of the environment, well the creek flows all year and  
16 it is a small creek but Gerald it is right beside of when we turned down there on the right.

17 **Gerald Gray**: Part of this creek is on their land.

18 **Leonard Hess**: It runs off of our land and some other people's land which this gentlemen  
19 probably knows that every holler in there that they went up, actually there is....I don't know if it  
20 is worth anything or not, but there are some wood rails down there where they used to log back  
21 in there, wooded rails in the creek.

22 **Pamela Hess**: In the creek bed. But it would be beneficial if someone would come and show  
23 me how it is going to lay. But, my main objection is you have access to your well from your

1 road. You have an existing road, you have the equipment to do it, you well have the money to  
2 do it. So it is about equal distance, it's an equal distance from my road to the gas well as it is  
3 from your road to the gas well. I mean, I don't blame you, I know you all...it is probably a  
4 shorter distance really.

5 **Leonard Hess**: But it is up hill.

6 **Pamela Hess**: That's all my complaint is why tie up my land, why be bombarded with all these  
7 vehicles, all these ATV's, all these people coming in on my land, why? You have access from  
8 your road. I mean I, everybody, I know you, I appreciate you giving jobs to people. I  
9 understand and I would never forbid you from doing anything. Just come from your road. It  
10 might be a little difficult.

11 **Mark Swartz**: The last observation that I would have Mr. Cooper with regard to the location of  
12 the well is these are de-gas wells placed and located because of a mine plan. I mean we have a  
13 density here that you know, is driven by mining it is not, you can tell from some of the  
14 exceptions that we've requested. So these wells are to de-gas based on mine projections to  
15 remove coalbed methane in advance of mining so that's what's in part driving the location and  
16 also I think you can refer to the topo maps which you have which we have provided today, to  
17 access whether or not given the terrain we are making some reasonable choices and the existing  
18 roadways and where they might be located. That's really all I have.

19 **Rick Cooper**: So for clarity here and I understand that Mr. and Mrs. Hess are not familiar with  
20 what you are talking about so to make sure that I am clear, you are saying that these wells are  
21 being located to de-gas the Buchanan Number 1 mine for safety?

22 **Pamela Hess**: So it is not going to be a coalbed methane gas well?

23 **Mark Swartz**: Yes.

1 **Gerald Gray**: It is.

2 **Pamela Hess**: It is?

3 **Gerald Gray**: It is. It is being located and timed based on mine projections.

4 **Mark Swartz**: Right.

5 **Gerald Gray**: Buchanan Number 1 [Inaudible]

6 **Leonard Hess**: May I ask this question? I'm going to address it to you. Isn't it supposed to be

7 one well per twenty acres?

8 **Rick Cooper**: No. That is not correct.

9 **Leonard Hess**: It's not?

10 **Mark Swartz**: But sometimes there are one per twenty acres. Usually it is less, unless it is a

11 mine.

12 **Rick Cooper**: So just to let you know the way that process works, is these units are established,

13 I believe these are 80 acre units. If they deem that they need more wells they have to come in

14 front of the Virginia Gas and Oil Board and request an exception to add more wells. They have a

15 pre-existing Board Order that allows that.

16 **Leonard Hess**: They have a gas well in the holler from one where they're going to put and one

17 right below it and it ain't even twenty acres down to it.

18 **Rick Cooper**: The only exception to state law is if it is in an active mining like Buchanan

19 Number 1 they do get an exception on the spacing and that's what I believe you are referring to

20 on this one.

21 **Mark Swartz**: Right.

22 **Rick Cooper**: And they come in front of the Virginia Gas and Oil Board and request and

23 exception to statewide spacing or unitized spacing and I believe that's what you are seeing here.

1 If you see more than two wells in there it is most likely that they requested that. Does that  
2 answer your question?

3 **Leonard Hess**: Partially. You know my suggestion is that you all come and walk with me on  
4 the surface.

5 **Mark Swartz**: We don't have to go back in front of the Board.

6 **Rick Cooper**: You have a pre-existing Board Order that requires you to...

7 **Mark Swartz**: That allows us to space for mines and allows you to grant the application.

8 **Pamela Hess**: Are you talking about a coal mining coming in there now? Because my  
9 mother....

10 **Mark Swartz**: The projections for the mine are in that area and that's why these wells are being  
11 drilled to de-gas that coal in advance of longwall.

12 **Pamela Hess**: Because my mother...

13 **Gerald Gray**: I've made a lot of money off Buchanan 1 so I...

14 **Pamela Hess**: My mother received, the reason I was asking about this coal mining, my mother  
15 received a letter this week that Consol will probably be mining under her home which is a half of  
16 a mile from my house.

17 **Rick Cooper**: Yes and I apologize I really can't address the coal issues.

18 **Pamela Hess**: Yeah, but does that have any bearing on these gas wells?

19 **Rick Cooper**: What Mr. Swartz has testified to is that the location of these wells is for future  
20 mining for Buchanan Number 1 mine. At this time, I don't know if that's....

21 **Mark Swartz**: We are trying to put them in longwall panels to de-gas that coal.

22 **Pamela Hess**: Well she received a letter, you know, that they would be coming onto her land,  
23 which is straight through not even a half of a mile, you know, straight through the mountain.

1 **Rick Cooper**: We are in Shack's Fork, is that where we are?

2 **Pamela Hess**: Yes.

3 **Gerald Gray**: What we'd have to look at is the mines under this [inaudible]

4 **Pamela Hess**: Right. But I wonder if this would have any bearing of the placement of these gas

5 wells.

6 **Gerald Gray**: Well once again, they have the right to place them just about wherever it is

7 needed by the mine to de-gas the mine and it will de-gas it in advance so they will...it will be a

8 very short-lived mine actually both these will be.

9 **Pamela Hess**: Gotcha.

10 **Mark Swartz**: We plug these wells and then we can unplug them.

11 **Gerald Gray**: Typically the gas shaft that the mine goes through is very low, very slow after the

12 mines has already....

13 **Mark Swartz**: A lot of these areas we seal, we do pretty well afterwards.

14 **Gerald Gray**: But you are still getting a ten year time frame, right? The CBM wells.

15 **Mark Swartz**: Sometimes, I mean we would like to but we don't always do that. Sometimes it

16 is longer, sometimes it is shorter. I mean, we've drilled de-gas wells in the past that I'm aware

17 of, now this was years ago, that probably have only been in existence two or three years before

18 we mined through them. But obviously that is not an optimal situation. We try to get a little

19 further out of them.

20 **Pamela Hess**: And I would ask that if someone does come up to show me how such and such is

21 going to go that you send someone knowledgeable. One time, ten or fifteen years ago this man

22 came and he couldn't tell me anything.

23 **Gerald Gray**: These folks aren't responsible for that.

1 **Pamela Hess**: Right. I'm just saying. I asked him how will it go where will it be. He said I  
2 really don't know it's somewhere down this way. You know.

3 **Rick Cooper**: I can assure you, if we make a visit we will have someone that knows where the  
4 road and site will be.

5 **Pamela Hess**: That's good. Good.

6 **Rick Cooper**: In relations to the way it is permitted.

7 **Pamela Hess**: Okay.

8 **Rick Cooper**: And just to let you know, if they change anything other than what is in the  
9 permit, then they have to do a permit modification [Inaudible]

10 **Pamela Hess**: So the nearest gas well is how close to my land?

11 **Mark Swartz**: The one is about 800 feet and the other one is whatever we said 200 or....

12 **Pamela Hess**: Because that's what I'm looking for if it is a good flat, if it's within 200 feet I  
13 could never sell it or use it to build a home. Correct?

14 **Gerald Gray**: But it's not on your property.

15 **Pamela Hess**: No but the well would be within 200 feet of my land, my flat. That means I  
16 could never sell it or someone [inaudible]

17 **Mark Swartz**: You are assuming that your flat is on the edge of your property and when I  
18 looked at the map it wasn't.

19 **Pamela Hess**: So I don't own what I thought I owned?

20 **Gerald Gray**: Well no he is not saying that. I don't think there is enough information for any of  
21 us to judge it just yet. I think it would be very helpful to be able to go on the property and have  
22 someone from CNX there to show where the boundary lines are. You know where your  
23 boundary lines are.

1 **Pamela Hess**: I had it surveyed.

2 **Gerald Gray**: But CNX will be able to show where the wells will be in relation to that. That  
3 will be very helpful I think.

4 **Mark Swartz**: Are we to conclusions yet or are we still....

5 **Rick Cooper**: I think we've wondered off the beaten path just a little bit there. But at this time,  
6 I would say are there any questions? I know again we've gotten a little off, and I will say this, if  
7 I need to make a site visit I will contact you and be assured that if I do make that visit that road is  
8 marked and the site is marked as with regard to the way it is by a certified professional engineer  
9 in the plat. Does anyone have any more questions before I close?

10 **Pamela Hess**: I have none.

11 **Gerald Gray**: No sir.

12 **Pamela Hess**: No sir.

13 **Rick Cooper**: Okay. So what I will do, again, I will render a decision on these two wells as  
14 soon as I can. Hopefully in the next month or two and if required I will make a site visit and you  
15 will be contacted in regard to that and I think everyone for coming by today.

16 **Pamela Hess**: Now your ruling, does it have anything to do with the right of way? The road?

17 **Rick Cooper**: The ruling has the right of way.

18 **Pamela Hess**: And you do understand that I am saying that he has access from his existing  
19 road?

20 **Rick Cooper**: I do understand what you said.

21 **Pamela Hess**: Gotcha. That was my conclusion.

# GERALD GRAY LAW FIRM

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August 14, 2014

Rick Cooper, Director  
Division of Gas and Oil  
Department of Mines, Minerals & Energy  
P.O. Drawer 159  
LEBANON VA 24266



Re: Docket Number IFFH 229  
CNX Gas Company, Inc. CBM Well AA37D with Pipeline

TELEFAXED AND MAILED

Dear Mr. Cooper:

I enclose a Petition for Appeal of your August 4, 2014, decision.

Please note that I have requested a stay, because once the pipeline is already in the ground, it will be too late.

I understand from Ms. Hess that you made a site visit. I would like a copy of any notes, photographs, and any other information about that visit that has been reduced to writing.

If you have any questions please contact my office.

Thank you for your attention.

With Best Regards,

A handwritten signature in black ink, appearing to read "Gerald L. Gray".

Gerald L. Gray  
/sw

Enclosure

c: Mark Swartz  
Pamela Hess

VIRGINIA: IN THE VIRGINIA GAS AND OIL BOARD

PAMELA HESS

PETITIONER

V. RE: COALBED METHANE OPERATION AA37D W/PIPELINE  
APPLICATION 20256

CNX GAS COMPANY

RESPONDENT

**PETITION FOR APPEAL**

Pursuant to Virginia Code §45.1-361.36, Pamela Hess appeals the decision of the Division Director in Informal Fact Finding Hearing 229 (IFFH 229) dated August 4, 2014, received on August 5, 2014, and in support of her Petition states as follows:

1. Petitioner's Address: Pamela Hess  
475 Shortts Gap Road  
RAVEN VA 24639

Petitioner's Counsel: Gerald L. Gray  
POB 929  
CLINTWOOD VA 24228

2. Identification of Decision being Appealed: Informal Fact Finding  
Hearing 229

Date Decision was issued: August 4, 2014

3. Petitioner has standing to appeal the decision of the Director because she is the Surface Owner who requested the hearing, and was a party to IFFH 229.

4. The Director erred in finding that the proposed coalbed methane well pipeline location and associated road will not unreasonably infringe on the surface owner's use of her surface. The location selected for the pipeline and road is on a portion of surface owners's best land, which is relatively flat. The remainder of surface owner's land is steep. The pipeline and road can easily be relocated so as to not unreasonably infringe on surface owner's use of the surface.

5. The issue identified in Paragraph 4 was in fact raised at IFFH 229.

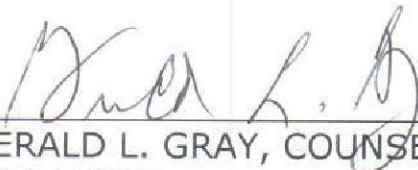
6. Petitioner requests that the Board reverse the decision of the director, and find that the location of the proposed gas well pipeline and associated road will unreasonably infringe on the surface owner's use of the surface.

Petitioner further requests that the Division Director issue a stay on that portion of the Application which allows CNX to construct a coalbed methane pipeline and road on her surface, on the grounds that she will be irreparably harmed by failure to issue a stay because the lack of a stay will allow the Applicant to construct the pipeline and road, before a final administrative or judicial decision is made.

PAMELA HESS

-By Counsel-

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By:   
GERALD L. GRAY, COUNSEL FOR PETITIONER  
VSB 13285

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I enclose a Petition for Appeal of your August 4, 2014, decision.

Please note that I have requested a stay, because once the pipeline is already in the ground, it will be too late.

I understand from Ms. Hess that you made a site visit. I would like a copy of any notes, photographs, and any other information about that visit that has been reduced to writing.

If you have any questions please contact my office.

Thank you for your attention.

With Best Regards,

Gerald L. Gray  
/sw

Enclosure

c: Mark Swartz  
Pamela Hess

VIRGINIA: IN THE VIRGINIA GAS AND OIL BOARD

PAMELA HESS

PETITIONER

V. RE: COALBED METHANE OPERATION AA37D W/PIPELINE  
APPLICATION 20256

CNX GAS COMPANY

RESPONDENT

**PETITION FOR APPEAL**

Pursuant to Virginia Code §45.1-361.36, Pamela Hess appeals the decision of the Division Director in Informal Fact Finding Hearing 229 (IFFH 229) dated August 4, 2014, received on August 5, 2014, and in support of her Petition states as follows:

1. Petitioner's Address: Pamela Hess  
475 Shortts Gap Road  
RAVEN VA 24639

Petitioner's Counsel: Gerald L. Gray  
POB 929  
CLINTWOOD VA 24228

2. Identification of Decision being Appealed: Informal Fact Finding  
Hearing 229

Date Decision was issued: August 4, 2014

3. Petitioner has standing to appeal the decision of the Director because she is the Surface Owner who requested the hearing, and was a party to IFFH 229.

4. The Director erred in finding that the proposed coalbed methane well pipeline location and associated road will not unreasonably infringe on the surface owner's use of her surface. The location selected for the pipeline and road is on a portion of surface owners's best land, which is relatively flat. The remainder of surface owner's land is steep. The pipeline and road can easily be relocated so as to not unreasonably infringe on surface owner's use of the surface.

5. The issue identified in Paragraph 4 was in fact raised at IFFH 229.

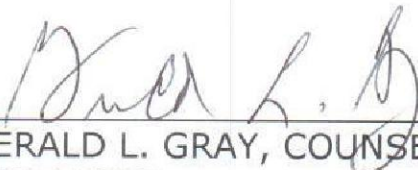
6. Petitioner requests that the Board reverse the decision of the director, and find that the location of the proposed gas well pipeline and associated road will unreasonably infringe on the surface owner's use of the surface.

Petitioner further requests that the Division Director issue a stay on that portion of the Application which allows CNX to construct a coalbed methane pipeline and road on her surface, on the grounds that she will be irreparably harmed by failure to issue a stay because the lack of a stay will allow the Applicant to construct the pipeline and road, before a final administrative or judicial decision is made.

PAMELA HESS

-By Counsel-

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By:   
GERALD L. GRAY, COUNSEL FOR PETITIONER  
VSB 13285

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