

BEFORE THE VIRGINIA GAS AND OIL BOARD

PETITIONER: CNX Gas Company LLC

DIVISION OF GAS AND OIL

DOCKET NO: VGOB 01-1016-0964-01

RELIEF SOUGHT: (1) DISBURSEMENT FROM ESCROW REGARDING TRACT(S) 4 (2) AND AUTHORIZATION FOR DIRECT PAYMENT OF ROYALTIES

HEARING DATE: July 21, 2015

DRILLING UNIT: H44

BUCHANAN COUNTY, VIRGINIA

PETITION FOR ORDER OF DISBURSEMENT OF ESCROW FUNDS

1. Petitioner and its counsel

Petitioner is CNX Gas Company LLC, 627 Claypool Hill Mall Road, Cedar Bluff, VA 24609, (276) 596-5075. Petitioner's counsel is Mark A. Swartz, Hillard & Swartz, LLP, 122 Capital Street, Suite 201, Charleston, WV 25301.

2. Relief Sought

(1) the disbursement of escrowed funds heretofore deposited with the Board's Escrow Agent(s) attributable to Tract(s) 4 as depicted upon the annexed Table ; and (2) authorization to begin paying royalties directly to the parties to the prevailing plaintiff(s); T.G. Rogers, III, Derek Browning Rogers, Kevin Rogers, Shaun Rogers, Gregory Poulos, Jason Poulos, and Pamela Poulos

3. Legal Authority

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

4. Type of Well(s)

Coalbed Methane

5. Factual basis for relief requested

T.G. Rogers, III, Derek Browning Rogers, Kevin Rogers, Shaun Rogers, Gregory Poulous, Jason Poulous, and Pamela Poulous is entitled to 100% of the CBM royalties awarded under Case No. 550-13, Opinion dated July 10, 2014, Said decision allows the Applicant and Designated Operator to pay royalties directly to the person(s) identified in Exhibit EE annexed hereto and the annexed Table, further, specifies how said royalties are to be paid.

In addition, it was brought to the attention of the Operator that the interest shown for LBR Holdings LLC for the 1027.50 acre tract was incorrect. CNX has verified the information and is petitioning the Board to disburse the interest that was erroneously escrowed. This allows the Applicant and Designated Operator to pay royalties directly to the persons identified in Exhibit EE annexed hereto and the annexed Exhibit, further, specifies how said royalties are to be paid.

There are no remaining conflicts after the disbursement, escrow is no longer required and account is to be closed after disbursement.

6. Attestation

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

PROPERTY LINES SHOWN WERE TAKEN FROM MAPS PROVIDED BY CNX LAND RESOURCES, Inc. AND WERE NOT SURVEYED

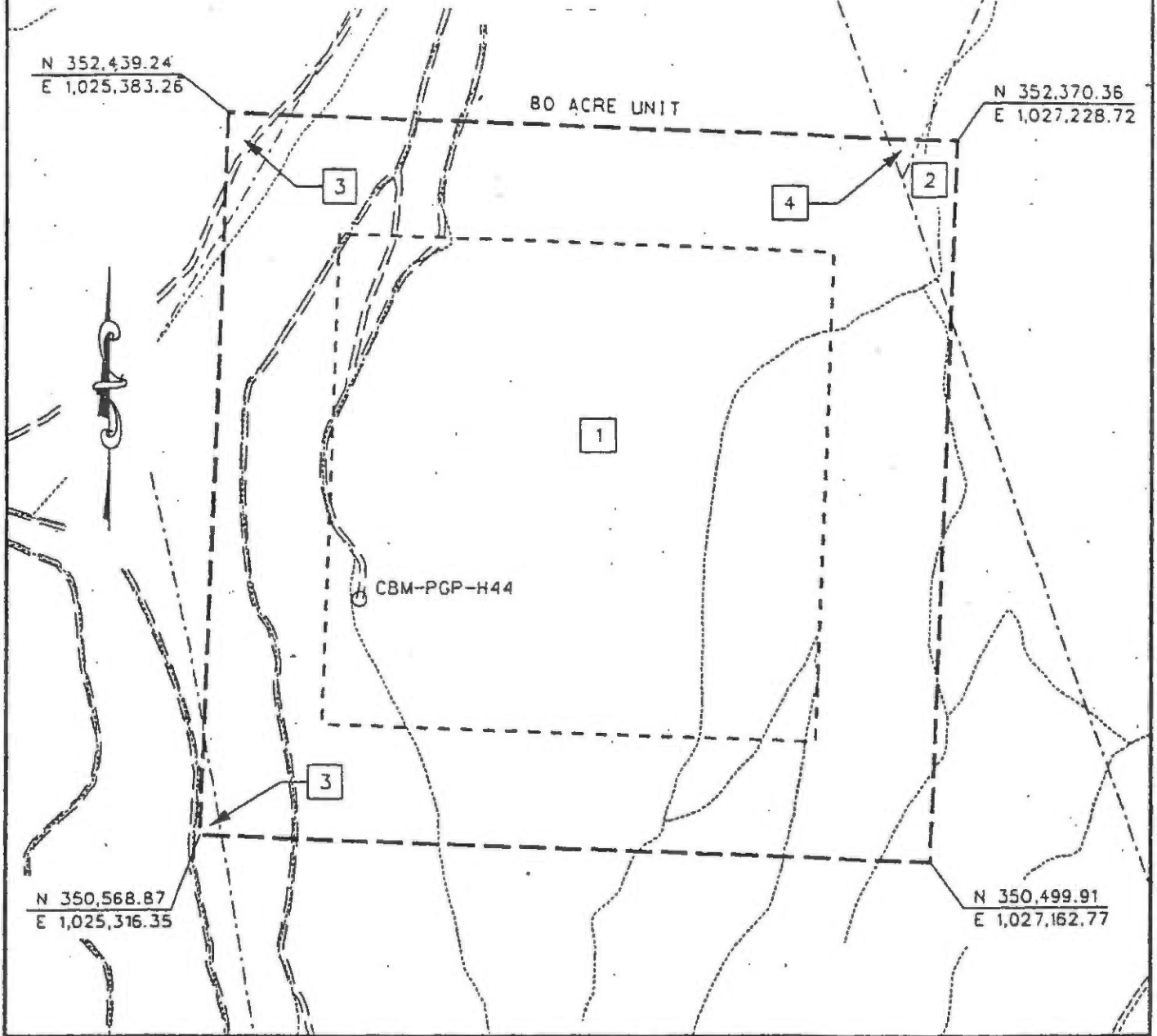
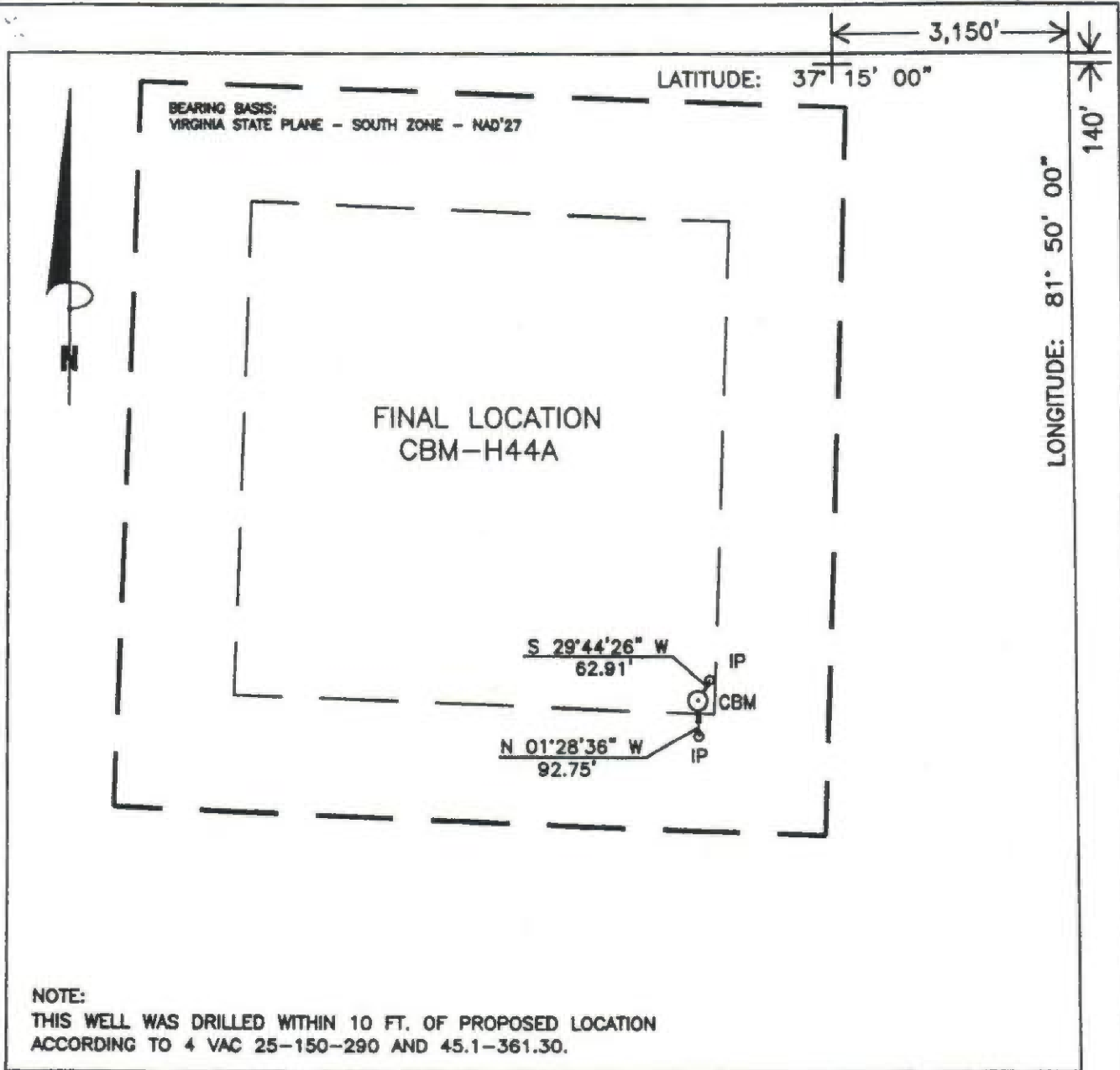


EXHIBIT A
 OAKWOOD FIELD UNIT H-44
 FORCE POOLING
 VGOB-01-1016-0964

Company Pocahontas Gas Partnership Well Name and Number UNIT H44
 Tract No. _____ Elevation _____ Quadrangle Bradshaw/Jewell Ridge
 County Buchanan District Garden Scale: 1" = 400' Date 9/13/91
 This plat is a new plat ; an updated plat _____ ; or a final plat _____

Form DGD-GD-7
 Rev. 9/91
Claude D. May
 Licensed Professional Engineer or Licensed Land Surveyor
 PROFESSIONAL ENGINEER

BU-2949 REC



NOTE:
 THIS WELL WAS DRILLED WITHIN 10 FT. OF PROPOSED LOCATION
 ACCORDING TO 4 VAC 25-150-290 AND 45.1-361.30.

WELL LOCATION PLAT

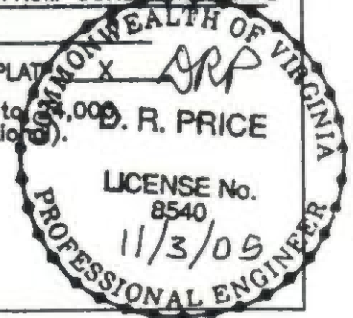
H444FNL
 CON31/189-0501/78

COMPANY CNX GAS COMPANY, LLC. WELL NAME OR NUMBER CBM-H44A
 TRACT NUMBER POCAHONTAS MINING CO QUADRANGLE JEWELL RIDGE
 DISTRICT: GARDEN
 WELL COORDINATES (VIRGINIA STATE PLANE): STATE PLANE: N 350,845.73 E 1,026,831.01
 ELEVATION: 2243.40' METHOD USED TO DETERMINE ELEVATION: BY TRIG. LEVELS FROM CONSOLIDATING BM'S
 COUNTY BUCHANAN Scale: 1" = 400' Date 11-03-05
 THIS PLAT IS A NEW PLAT ; AN UPDATED PLAT ; OR A FINAL LOCATION PLAT

+ Denotes the location of a well on United States Topographic Maps, scale 1 to 250,000, latitude and longitude lines being represented by border lines as shown (optional).

DRP Price

Licensed Professional Engineer or Licensed Land Surveyor (Affix Seal)



POCAHONTAS GAS PARTNERSHIP

UNIT H - 44

Tract Identifications

1. Pocahontas Mining Company Tr 80 - Fee
Coal Lessees:
Reserve Coal Properties - Coal Below Horizon of 250' Above P-3 Seam Leased
Jewell Ridge Coal Corp. - Jewell, Jawbone, Tiller and War Creek Seams Leased
Pocahontas Gas Partnership - CBM Leased Below Base of Tiller Seam
77.94 acres 97.4250 %

2. Pocahontas Mining Company Tr 64 - Fee
Coal Lessees:
Reserve Coal Properties - Coal Below Horizon of 250' Above P-3 Seam Leased
Jewell Ridge Coal Corp. - Jewell, Jawbone, Tiller and War Creek Seams Leased
Pocahontas Gas Partnership - CBM Leased Below Base of Tiller Seam
0.97 acres 1.2125 %

3. Tazewell Coal & Iron Company - Fee
Coal Lessees:
Reserve Coal Properties Company - Below Drainage Coal Leased
Jewell Smokeless Coal Company - Jewell and Jawbone Seams Leased
Reserve Coal Properties Company - Oil & Gas Leased
Pocahontas Gas Partnership - CBM Leased
0.92 acres 1.1500 %

4. Lon B. Rogers Bradshaw Trust No. 2 - Surface and Coal
Lon B. Rogers Bradshaw Trust No. 1, et al. - Oil & Gas
Island Creek Coal Company/Consolidation Coal Company -
Coal Below Jawbone Seam Leased
P-3 Seam Assigned to Reserve Coal Properties Company
Equitable Production Company - Oil, Gas and CBM Leased
0.17 acres 0.2125 %

Exhibit E
Unit H-44
VGOB 01-1016-0964-01
List of Respondents that require escrow

Acres in Unit	Percent of Unit
---------------	-----------------

Escrowing not required

Exhibit EE
Unit H-44
VGOB 01-1016-0964-01
List of Respondents with Royalty Split Agreements or Court Orders

	Acres in Unit	Percent of Unit	Percent of Escrow
<u>Tract #4, 0.17 Acres</u>			
<u>COAL OWNERSHIP</u>			
(1) LBR Holdings, LLC ** P.O. Box 22427 Lexington, KY 40522-2427	0.17 acres	0.2125%	<i>n/a</i>
<u>OIL & GAS OWNERSHIP</u>			
(1) LBR Holdings, LLC, et al. <i>Tr. 2 (1,027.50 acre tract)</i>	0.17 acres	0.2125%	
(a) LBR Holdings, LLC ** P.O. Box 22427 Lexington, KY 40522-2427	0.128 acres 3/4 of 0.17 acres	0.1594%	<i>n/a</i>
(a) LBR Holdings, LLC ** P.O. Box 22427 Lexington, KY 40522-2427	0.021 acres 1/8 of 0.17 acres ←	0.0266%	50.0000% Additional interest due (Total interest is 7/8)
(b) T.G. Rogers, III * 3014 Shafford Lane Matthews, NC 28104	0.003 acres 1/64 of 0.17 acres	0.0033%	6.2500%
(c) Derek Browning Rogers * 2300 Carmel Road Charlotte, NC 28226	0.003 acres 1/64 of 0.17 acres	0.0033%	6.2500%
(d) Kevin Rogers * 139 Wickham Road Garden City, NY 11530	0.003 acres 1/64 of 0.17 acres	0.0033%	6.2500%
(e) Shaun Rogers * 121 NE 100th Street Miami Shores, FL 33138	0.003 acres 1/64 of 0.17 acres	0.0033%	6.2500%
(f) Gregory Poulos * 1894 Glenwood Street, NE Palm Bay, FL 32907-2423	0.004 acres 1/48 of 0.17 acres	0.0044%	8.3333%
(g) Jason Poulos * 10870 SW 95 th Street Miami, FL 33176	0.004 acres 1/48 of 0.17 acres	0.0044%	8.3333%
(h) Pamela Poulos * 5000 SW 83 rd Street Miami, FL 33143-8510	0.004 acres 1/48 of 0.17 acres	0.0044%	8.3333%

**** Note:** The Oil and Gas estates are currently leased by EQT Production Company.

***Prevailing plaintiff under Case No. 550-13
Awarded 100% of the CBM royalty.**

AFFIDAVIT OF MAILING

COMMONWEALTH OF VIRGINIA
COUNTY OF **BUCHANAN**

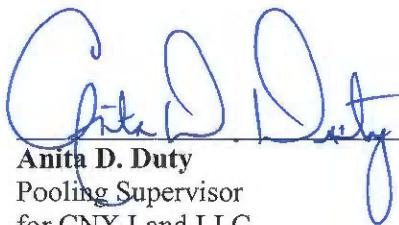
Applicant: CNX Gas Company LLC
Relief Sought: Disbursement Petition for H44
VGOB: 01-1016-0964-01

I, Anita D. Duty, after being duly sworn upon oath, state as follows:

1. I am the Pooling Supervisor for CNX Land Resources, Inc. and am responsible for the notification process required by Va. Code Ann. §45.1-361.19 of the Code of Virginia and 4VAC25-160-40.

2. That on **June 19, 2015** a true and correct copy of the Notice of Hearing and Exhibits were mailed, via certified mail return receipt requested, based upon information and belief, the names and last-known addresses, where such addresses are known, of the parties owning an interest in this cause are set forth and attached hereto.

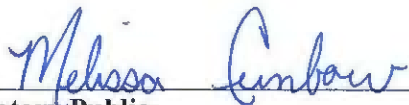
3. Notice of this cause has therefore been served by mail pursuant to the applicable statutes and rules of the Board.



Anita D. Duty
Pooling Supervisor
for CNX Land LLC

STATE OF WEST VIRGINIA
COUNTY OF MERCER, TO-WIT:

TAKEN, SUBSCRIBED AND SWORN to before me this 10th day of July,
2015.



Notary Public

My commission expires: April 9, 2023



CERTIFICATION OF NOTICE
CNX Gas Company LLC

Unit A31 VGOB 11-1115-2999-01
 Unit B41 VGOB 12-0417-3051-02
 Unit B42 VGOB 12-0417-3052-01
 Unit B51 VGOB 06-0221-1576-01
 Unit B52 VGOB 11-0920-2987-01
 Unit C32 VGOB 01-0320-0889-01
 Unit C33 VGOB 11-1220-3008-01
 Unit C39 VGOB 12-0117-3023-02
 Unit C49 VGOB 12-0417-3048-01
 Unit C50 VGOB 06-0117-1556-01
 Unit D32 VGOB 12-0515-3060-01
 Unit D32A VGOB 14-0715-4050-01
 Unit E32 VGOB 12-0515-3061-01
 Unit G45 VGOB 11-1220-3009-01


LAST NAME	FIRST NAME	MAILED	RECEIPT #		RECEIVED
Poulos	Gregory	6/19/15	7014349000008188	9206	06/25/15 1
Poulos	Jason	6/19/15	7014349000008188	9213	06/24/15 2
Poulos	Pamela	6/19/15	7014349000008188	9220	06/23/15 3
Rogers	Kevin	6/19/15	7014349000008188	9237	06/24/15 4
Rogers	Shaun	6/19/15	7014349000008188	9244	06/23/15 5
Rogers	Derek Browning	6/19/15	7014349000008188	9251	06/22/15 6
Rogers, III	TG	6/19/15	7014349000008188	9268	06/23/15 7
Shaver	Jen	6/19/15	7014349000008188	9275	06/23/15 8

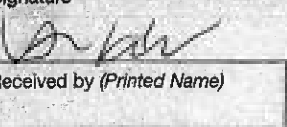
Courtesy Copy

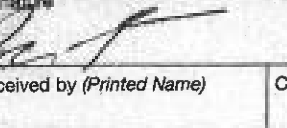
Unit D47 VGOB 11-1115-3000-01
 Unit G44 VGOB 01-1016-0963-01
 Unit H44 VGOB 01-1016-0964-01

LAST NAME	FIRST NAME	MAILED	RECEIPT #		RECEIVED
LBR Holdings, LLC		6/19/15	7014349000008188	9190	06/29/15 1
Poulos	Gregory	6/19/15	7014349000008188	9206	06/25/15 2
Poulos	Jason	6/19/15	7014349000008188	9213	06/24/15 3
Poulos	Pamela	6/19/15	7014349000008188	9220	06/23/15 4
Rogers	Kevin	6/19/15	7014349000008188	9237	06/24/15 5
Rogers	Shaun	6/19/15	7014349000008188	9244	06/23/15 6
Rogers	Derek Browning	6/19/15	7014349000008188	9251	06/22/15 7
Rogers, III	TG	6/19/15	7014349000008188	9268	06/23/15 8
Shaver	Jen	6/19/15	7014349000008188	9275	06/23/15 9

Courtesy Copy

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> 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. 	A. Signature X  <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to:	B. Received by (Printed Name)	C. Date of Delivery
LBR Holdings, LLC PO Box 22427 LEXINGTON KY 40522-2427		
	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
	3. Service Type <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Priority Mail Express™ <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> Collect on Delivery	
	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
2. Article Number (Transfer from)	DISB	
	7014 3490 0000 8188 9190	
PS Form 3811, July 2013 Domestic Return Receipt		

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> 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. 	A. Signature X  <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to:	B. Received by (Printed Name)	C. Date of Delivery
Gregory Poulos 1894 GLENWOOD St NE PALM BAY FL 32907-2423		6-25
	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
	3. Service Type <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Priority Mail Express™ <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> Collect on Delivery	
	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
2. A	DISB	
	7014 3490 0000 8188 9206	
PS Form 3811, July 2013 Domestic Return Receipt		

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> 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. 	A. Signature X  <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to:	B. Received by (Printed Name)	C. Date of Delivery
Jason Poulos 10870 SW 95TH St MIAMI FL 33176-2615		
	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
	3. Service Type <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Priority Mail Express™ <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> Collect on Delivery	
	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
2. Article Number (Transfer from)	DISB	
	7014 3490 0000 8188 9213	
PS Form 3811, July 2013 Domestic Return Receipt		

SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:

Pamela Poulos
5000 SW 83RD St
MIAMI FL 33143-8510

2. Article Number
(Transfer fr) 7014 3490 0000 8188 9220

PS Form 3811, July 2013 Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X *Pamela Poulos* Agent Addressee

B. Received by (Printed Name) *Poulos* C. Date of Delivery *6/22/15*

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

3. Service Type
 Certified Mail® Priority Mail Express™
 Registered Insured Mail Collect on Delivery

4. Restricted Delivery? (Extra Fee) Yes

A. 56

SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:

Kevin Rogers
139 WICKHAM RD
GARDEN CITY NY 11530-1141

2. Article Number
(Transfer fr) 7014 3490 0000 8188 9237

PS Form 3811, July 2013 Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X *K. Rogers* Agent Addressee

B. Received by (Printed Name) *Rogers* C. Date of Delivery *6/22/15*

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

3. Service Type
 Certified Mail® Priority Mail Express™
 Registered Return Receipt for Merchandise
 Insured Mail Collect on Delivery

4. Restricted Delivery? (Extra Fee) Yes

A. 30

SENDER: COMPLETE THIS SECTION

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

1. Article Addressed to:

Derek Browning Rogers
2300 CARMEL RD
CHARLOTTE NC 28226-6323

2. Article Number
(Transfer fr) 7014 3490 0000 8188 9251

PS Form 3811, July 2013 Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X *D. Rogers* Agent Addressee

B. Received by (Printed Name) *Rogers* C. Date of Delivery *6/22/15*

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

3. Service Type
 Certified Mail® Priority Mail Express™
 Registered Return Receipt for Merchandise
 Insured Mail Collect on Delivery

4. Restricted Delivery? (Extra Fee) Yes

A. 56

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> ■ 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>A. Signature <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p><i>Jennifer L. Shaver</i></p>	
<p>1. Article Addressed to:</p> <p style="text-align: center;">Jennifer L. Shaver P.O. Box 2032 Abingdon VA 24212</p>	<p>B. Received by (Printed Name)</p> <p><i>Jen. Shaver</i></p>	<p>C. Date of Delivery</p> <p><i>6/23/15</i></p>
	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes if YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>2. Article # (Transfere)</p>	<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Priority Mail Express™</p> <p><input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> Collect on Delivery</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>7014 3490 0000 8188 9275</p>	<p><i>Disb.</i></p>	

PS Form 3811, July 2013

Domestic Return Receipt



USPS Tracking™



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Tracking Number: 70143490000081889244

Updated Delivery Day: Tuesday, June 23, 2015

Product & Tracking Information

Postal Product:

Features:
Certified Mail™

DATE & TIME	STATUS OF ITEM	LOCATION
June 23, 2015 , 9:29 pm	Delivery status not updated	

The delivery status for this item has not been updated as of June 23, 2015, 9:29 pm.

June 23, 2015 , 7:29 am	Out for Delivery	MIAMI, FL 33138
June 23, 2015 , 7:19 am	Sorting Complete	MIAMI, FL 33138
June 23, 2015 , 4:34 am	Arrived at Unit	MIAMI, FL 33138
June 22, 2015 , 7:24 pm	Arrived at USPS Facility	OPA LOCKA, FL 33054
June 20, 2015 , 9:15 pm	Departed USPS Facility	CHARLESTON, WV 25350
June 20, 2015 , 5:27 pm	Arrived at USPS Facility	CHARLESTON, WV 25350

Available Actions

Text Updates

Email Updates

Track Another Package

Tracking (or receipt) number

Track It

Manage Incoming Packages

Track all your packages from a dashboard.
No tracking numbers necessary.

Sign up for My USPS >



HELPFUL LINKS

- Contact Us
- Site Index
- FAQs

ON ABOUT USPS.COM

- About USPS Home
- Newsroom
- USPS Service Updates
- Forms & Publications
- Government Services
- Careers

OTHER USPS SITES

- Business Customer Gateway
- Postal Inspectors
- Inspector General
- Postal Explorer
- National Postal Museum
- Resources for Developers

LEGAL INFORMATION

- Privacy Policy
- Terms of Use
- FOIA
- No FEAR Act EEO Data

VIRGINIA: IN THE CIRCUIT COURT OF BUCHANAN COUNTY

GREGORY G. POULOS, JASON G. POULOS,
PAMELA F. POULOS, SHAUN D. ROGERS,
KEVIN H. ROGERS, DEREK B. ROGERS and
T.G. ROGERS, III,

Plaintiffs,

v.

LBR HOLDINGS, LLC,

Defendant.

Case No. 550-13

ORDER

This matter, having come before the Court for hearing on June 2, 2014, on the parties' respective motions for summary judgment, and the Court, having reviewed the written submissions of the parties and having heard oral argument of counsel, and for good cause shown, hereby ORDERS:

1. Plaintiffs' Complaint and Defendant's Counterclaim both request that this Court, pursuant to Virginia Code § 8.01-184, declare their respective rights under the May 27, 1938, deed ("Deed") attached to Plaintiffs' Complaint as Exhibit "A."

2. The Deed includes a conveyance by T. G. Rogers and Martha F. Rogers, his wife (the "Talmage Rogers Group"), and Lloyd Rogers and Anne F. Rogers, his wife (the "Lloyd Rogers Group"), of their interests in certain parcels of property in Buchanan County, Virginia, (the "Property") and McDowell County, West Virginia, to Lon B. Rogers. The Deed specifically recites: "But there is excepted from the above-described property an undivided one-half interest in the oil and gas under said property and the same is reserved to T. G. Rogers and Lloyd Rogers,

parties of the first part, their heirs and assigns, together with the usual and necessary rights of ingress and egress and drilling rights to explore, get and remove said oil and gas.”

3. It is undisputed that Plaintiffs are the successors to the interests of the Talmage Rogers Group under the Deed, and that Defendant, LBR Holdings, LLC (“LBR”), is the successor to the interests of Lon B. Rogers and the Lloyd Rogers Group under the Deed.

4. Plaintiffs seek a declaration that the Deed’s reservation of gas under the Property includes, *inter alia*, coalbed methane gas, and that they are, therefore, the owners of 25% of the coalbed methane gas under the Property and entitled to the associated royalties. LBR, on the other hand, seeks a declaration that the Deed’s reservation of gas under the Property does not include coalbed methane gas, that the Deed, therefore, conveyed coalbed methane gas to Lon B. Rogers, and that LBR, as Lon B. Rogers’ successor-in-interest, is the owner of all the coalbed methane gas under the Property and entitled to the associated royalties.

5. Having examined the reservation language and the “four corners” of the Deed, the Court finds that the Deed is unambiguous and that the Deed’s reservation of “the oil and gas under said property” includes a reservation of coalbed methane gas under the Property. Plaintiffs are, therefore, entitled to prevail as a matter of law.

6. Coalbed methane gas is obviously “gas,” *see Harrison-Wyatt, LLC v. Ratliff*, 593 S.E.2d at 234, 238 (Va. 2004) (coalbed methane “is a gas”); and there is nothing in the Deed that removes coalbed methane or any other type of gas from the scope of the reservation. The language at issue is unlimited, plain, and unambiguous.

7. LBR argues that “the oil and gas” does not mean “all” but only “some” gas. The Court agrees with Plaintiffs, however, that the reservation of “the” gas is not a limited reservation of only some types of gas, but an unambiguous and unlimited reservation of all gas. Such an

interpretation of “the” is in accordance with the ordinary, plain and common sense meaning of the word.

8. LBR also argues that the parties to the Deed would not have intended to include coalbed methane gas in the reservation because, according to LBR, the commercial value of coalbed methane was not known in 1938. LBR presented no evidence in support of this argument and Plaintiffs presented undisputed evidence to the contrary. Regardless, this Court is bound to uphold the unambiguous reservation language, which refers to gas without qualification or limitation, and which, as written, encompasses all types of gas, whether commercially exploitable at the time of the Deed’s execution or not.

9. The Court concludes that the arguments and authorities presented by Plaintiffs in their motion and reply brief are well-founded and correct. A ruling in LBR’s favor would require the Court to rewrite the Deed, which it will not do. Nor will the Court torture words and phrases or engage in speculation to create an ambiguity where the ordinary meaning of the words leaves no room for ambiguity.

10. There are no issues of material fact in dispute regarding Plaintiffs’ ownership of 25% of the coalbed methane gas under the Property. The Court grants Plaintiffs’ motion for summary judgment in full and denies LBR’s motion for summary judgment in full.

11. This Order constitutes a judicial determination of coalbed methane gas ownership as between Plaintiffs and LBR pursuant to Virginia Code § 45.1-361.22(5)(i) and resolves in Plaintiffs’ favor all conflicting claims of coalbed methane gas ownership between Plaintiffs and LBR relating to the Property.

12. Plaintiffs are entitled to receive all coalbed methane gas royalties attributable to their 25% gas estate interest in the Property that are being held in the Virginia Gas and Oil Board’s

escrow account or otherwise being withheld from Plaintiffs due to the conflicting claims of coalbed methane ownership between Plaintiffs and LBR. Plaintiffs are also entitled to receive all future coalbed methane gas royalties or other proceeds that are attributable to their 25% gas estate interest in the Property. All such royalties and proceeds shall be divided among the individual Plaintiffs in accordance with their respective percentages of ownership.

SO ORDERED, this the 10th day of July, 2014.


Circuit Court Judge

SEEN AND REQUESTED:


Jennifer L. Shaver, Esq. (VSB# 79047)
Ellis Professional Building, Suite A
211 West Main Street
Abingdon, VA 24210
Telephone: (276) 525-1103
Facsimile: (276) 525-1112
jen@jenshaver.com

Counsel for Plaintiffs

SEEN AND OBJECTED TO FOR ALL THE REASONS DETAILED IN LBR HOLDINGS, LLC'S MEMORANDUM IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT AND RESPONSE TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT AND AT THE HEARING; AND ON THE ADDITIONAL GROUNDS THAT TO THE EXTENT THE COURT MAY HAVE CONSIDERED SUBMISSIONS OF EXHIBITS OTHER THAN THE DEED AT

ISSUE, THE COURT SHOULD HAVE DENIED BOTH PARTIES' MOTIONS FOR SUMMARY JUDGMENT SO THAT BOTH PARTIES WOULD HAVE HAD AN OPPORTUNITY TO DEVELOP AND PROPERLY INTRODUCE SUCH EVIDENCE:

James R. Hodgson for
Trevor L. Earl, Esq. (VSB# 37573)
REED WEITKAMP SCHELL & VICE PLLC *Trevor L. Earl*
500 West Jefferson Street, Suite 2400
Louisville, KY 40202
Telephone: (502) 589-1000
Facsimile: (502) 562-2200
tearl@rwsvlaw.com

Counsel for LBR Holdings, LLC

A Copy
Teste: Beverly S. Tiller, Clerk
Circuit Court of Buchanan
County, Virginia

Beverly S. Tiller
Deputy Clerk