

BEFORE THE VIRGINIA GAS AND OIL BOARD

PETITIONER: CNX Gas Company LLC

DIVISION OF GAS AND OIL

DOCKET NO: VGOB 11-1115-2999-01

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

HEARING DATE: July 21, 2015

DRILLING UNIT: A31

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) 1 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 Poulos, Jason Poulos, and Pamela Poulos 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.

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 on this plat were provided by CNX Gas Company LLC and were taken from deed descriptions and plans of file of record. This does not represent a current boundary survey. This certification is as to the area, shape and location of the proposed or

N 366,429.56
E 1,001,624.64

N 366,360.18
E 1,003,490.60

88 ACRE UNIT

A31

4

1B

3

1A

2

1C

N 364,584.71
E 1,001,556.31

N 364,495.50
E 1,003,422.39

BEARINGS AND DISTANCES TO OTHER WELLS WITHIN 2,500' RADIUS OF CENTER:
BIG VENT-05 PIC N 85° 32' 41" E 1,078.41'
EDURABLE V-50793 PIC N 85° 32' 41" E 1,078.41'
286-VA-A32 ROCKET 32° 41' 32" E 850.00'

- EXISTING WELL
- ⊙ PROPOSED HORIZONTAL WELL
- ⊕ PROPOSED OPEN WELL

Richard C. Murphy
RICHARD C. MURPHY
Lic. No. 041898
10-17-11
PROFESSIONAL ENGINEER

EXHIBIT A
DAKWOOD FIELD
UNIT A31
FORCE POOLING
VG08-11-1115-2999

Company CNX Gas Company LLC Name and Number UNIT A31
Tract No. _____ Elevation _____ Quadrangle PATTERSON
County BUCHANAN District GARDEN Scale: 1" = 400' Date _____
This plat is a new plat : an updated plat _____ : or a final plat _____

Form DCO-GD-7 *Richard C. Murphy* (Affix Seal)
Rev. 9/91 Licensed Professional Engineer or Licensed Land Surveyor

CNX Gas Company LLC
Unit A31
Tract Identifications

1. **LBR Holdings, LLC (211.80 Acre Tract) – All Coal**
Island Creek Coal Company/Consol Energy, Inc. – Coal Below Jawbone Seam Leased
Reserve Coal Properties Company – P-3 Seam Subleased
Jewell Smokeless Coal Corporation – Coal In Jawbone Seam and Above Leased
LBR Holdings, LLC, et al – Oil and Gas
EQT Production Company – Oil and Gas Leased (75%)
CNX Gas Company LLC – CBM Leased (EQT Production Company Farmout) (75%)
59.70 acres 74.6250%

- 1A. **Kim Smith, et al – Surface**
- 1B. **Kim Smith, et al – Surface**
- 1C. **Kim Smith, et al – Surface**

2. **Consolidation Coal Company, et al Big Vein Tr. 34-2 (280.75 Acre Tract) – Coal**
Island Creek Coal Company/Consol Energy, Inc. – Coal Below Tiller Seam Leased
Jewell Smokeless Coal Corporation – Tiller and Above Coal Leased
Highland Resources/North American Resources Corporation, et al – Oil and Gas
Pium Creek Timberland, et al – CBM
CNX Gas Company LLC – CBM Leased
Consolidation Coal Company, et al – Surface
0.53 acres 0.5625%

3. **Consolidation Coal Company, et al Big Vein Tr. 37 (55.55 Acre Tract) – Coal**
Island Creek Coal Company/Consol Energy, Inc. – Coal Below Tiller Seam Leased
Jewell Smokeless Coal Corporation – Tiller and Above Coal Leased
Highland Resources/North American Resources Corporation, et al – Oil and Gas
Pium Creek Timberland, et al – CBM
CNX Gas Company LLC – CBM Leased
Consolidation Coal Company, et al – Surface
13.88 acres 17.3500%

4. **William E. Matney, et al (67.71 Acre Tract) – All Minerals**
Jewell Smokeless Coal Corporation – Coal In Tiller and Above Leased
CNX Gas Company LLC – Oil, Gas and CBM Leased (70.8333%)
CNX Gas Company LLC – Surface
5.89 acres 7.3625%

"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."

Exhibit E
Unit A-31
Docket # VGOB 11-1115-2999-01
List of Respondents that require escrow

Acres in Unit	Percent of Unit
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Escrowing not required

Exhibit EE
Unit A-31
Docket # VGOB 11-1115-2999-01
List of Respondents with Royalty Split Agreements or Court Orders

	Acres in Unit	Percent of Unit	Percent of Escrow
<u>Tract #1, 59.70 Acres</u>			
<u>COAL OWNERSHIP</u>			
(1) LBR Holdings, LLC, et al. (211.80 Acre Tract)			
(a) LBR Holdings, LLC P.O. Box 22427 Lexington, KY 40522-2427	59.70 acres	74.6250%	<i>n/a</i>
<u>OIL & GAS OWNERSHIP</u>			
(1) LBR Holdings, LLC, et al. (211.80 Acre Tract)	59.70 acres	74.6250%	
(b) T.G. Rogers, III 3014 Shalford Lane Matthews, NC 28104	1.87 acres 1/32 of 59.70 acres	2.3320%	12.5000%
(c) Derek Browning Rogers 2300 Carmel Road Charlotte, NC 28226	1.87 acres 1/32 of 59.70 acres	2.3320%	12.5000%
(d) Kevin Rogers 139 Wickham Rd. Garden City, NY 11530	1.87 acres 1/32 of 59.70 acres	2.3320%	12.5000%
(e) Shaun Rogers 121 NE 100th St. Miami Shores, FL 32907-2423	1.87 acres 1/32 of 59.70 acres	2.3320%	12.5000%
(f) Gregory Poulos 1894 Glenwood St., SE Palm Bay, FL 32907-2423	2.49 acres 1/24 of 59.70 acres	3.1094%	16.6667%
(g) Jason Poulos 10870 SW 95 St. Miami, FL 33176	2.49 acres 1/24 of 59.70 acres	3.1094%	16.6667%
(h) Pamela Poulos 5000 SW 83rd St. Miami, FL 33143-8510	2.49 acres 1/24 of 59.70 acres	3.1094%	16.6667%

****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 A31
VGOB: 11-1115-2999-01

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

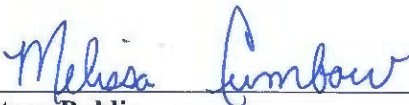
1. I am the Pooling Supervisor for CNX Land Resources, Inc. and am responsible for the notification process required by Va. Code Ann. §45.1-361.19 of the Code of Virginia and 4VAC25-160-40.
2. That on **June 19, 2015** a true and correct copy of the Notice of Hearing and Exhibits were mailed, via certified 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

1



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

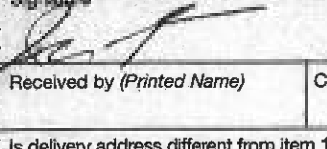
Unit D47	VGOB 11-1115-3000-01
Unit G44	VGOB 01-1016-0963-01
Unit H44	VGOB 01-1016-0964-01

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 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) 7014 3490 0000 8188 9190	Disb.	
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 7014 3490 0000 8188 9206	Disb.	
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) 7014 3490 0000 8188 9213	Disb.	
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 <input checked="" type="checkbox"/> <i>Pamela F Poulos</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to:	B. Received by (Printed Name)	C. Date of Delivery 6/22/15
	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
Pamela Poulos 5000 SW 83RD St MIAMI FL 33143-8510	3. Service Type <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Priority Mail Express™ <input type="checkbox"/> Registered <input type="checkbox"/> Insured Mail <input type="checkbox"/> Collect on Delivery	
2. Article Number (Transfer)	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
PS Form 3811, July 2013	7014 3490 0000 8188 9220 <i>D.56</i>	
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 <input checked="" type="checkbox"/> <i>Kevin Rogers</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to:	B. Received by (Printed Name)	C. Date of Delivery
	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
Kevin Rogers 139 WICKHAM RD GARDEN CITY NY 11530-1141	3. Service Type <input 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	
2. Article Number (Transfer)	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
PS Form 3811, July 2013	7014 3490 0000 8188 9237 <i>D.56</i>	
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 <input checked="" type="checkbox"/> <i>Derek Browning Rogers</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to:	B. Received by (Printed Name)	C. Date of Delivery 6/22/15
	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input checked="" type="checkbox"/> No	
Derek Browning Rogers 2300 CARMEL RD CHARLOTTE NC 28226-6323	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	
2. Article Number (Transfer)	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
PS Form 3811, July 2013	7014 3490 0000 8188 9251 <i>D.56</i>	
Domestic Return Receipt		

English

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Tracking Number: 7014349000081889268

Updated Delivery Day: Tuesday, June 23, 2015

Product & Tracking Information

Postal Product:

Features:
Certified Mail™

DATE & TIME

STATUS OF ITEM

LOCATION

June 22, 2015 , 1:18 pm

Notice Left (No Authorized Recipient Available)

MATTHEWS, NC 28104

We attempted to deliver your item at 1:18 pm on June 22, 2015 in MATTHEWS, NC 28104 and a notice was left because an authorized recipient was not available.

June 22, 2015 , 9:42 am

Arrived at Unit

MATTHEWS, NC 28105

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

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Tracking (or receipt) number

Track It

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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

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No tracking numbers necessary.

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Exhibit J
Unit A31 Escrow Account Reconciliation Summary
VGOB 11-1115-2999

CNX Deposit Information		
Check Date	Check Number	Total
1/21/2014	E000019909	\$342.41
2/24/2014	E000021382	\$52.21
3/20/2014	E000022781	\$95.87
4/22/2014	E000024811	\$132.97
5/19/2014	E000026484	\$125.51
6/20/2014	E000028102	\$116.48
7/18/2014	E000030116	\$137.00
8/21/2014	E000031885	\$132.05
9/18/2014	E000033760	\$136.95
10/20/2014	E000037587	\$112.99
11/19/2014	E000039139	\$115.00
12/22/2014	E000040925	\$117.15
1/20/2015	E000042744	\$109.42
2/19/2015	E000044767	\$130.50
3/19/2015	E000046573	\$86.05
4/21/2015	E000048493	\$76.06

Escrow Bank Data														
Date	Escrow Royalty Deposits	Income	\$ Mrket Int	CDARS Int	Fees	Distributions	Audit Costs	Corrections	Gain/Loss	Royalty Bonus	Total Int. and Fees	Bank Balance	Running Balan	Difference
1/31/2014	\$342.41		\$0.02	\$0.00	\$0.00						\$0.02	\$342.43	\$342.43	\$0.00
2/28/2014	\$52.21		\$0.05	\$0.00	(\$0.03)						\$0.02	\$394.66	\$394.66	\$0.00
3/31/2014	\$95.87		\$0.07	\$0.00	(\$0.03)						\$0.04	\$490.57	\$490.57	\$0.00
4/30/2014	\$132.97		\$0.09	\$0.00	(\$0.04)						\$0.05	\$623.59	\$623.59	\$0.00
5/31/2014	\$125.51		\$0.11	\$0.00	(\$0.05)						\$0.06	\$749.16	\$749.16	\$0.00
6/30/2014	\$116.48		\$0.13	\$0.00	(\$0.06)						\$0.07	\$865.71	\$865.71	\$0.00
7/31/2014	\$137.00		\$0.15	\$0.00	(\$0.07)						\$0.08	\$1,002.79	\$1,002.79	\$0.00
8/31/2014	\$132.05		\$0.17		(\$0.08)						\$0.09	\$1,134.93	\$1,134.93	\$0.00
9/30/2014	\$136.95		\$0.18		(\$0.08)						\$0.10	\$1,271.98	\$1,271.98	\$0.00
10/31/2014	\$112.99		\$0.21		(\$0.11)						\$0.10	\$1,385.07	\$1,385.07	\$0.00
11/30/2014	\$115.00		\$0.24		(\$0.12)						\$0.12	\$1,500.19	\$1,500.19	\$0.00
12/31/2014	\$117.15		\$0.49		(\$0.12)						\$0.37	\$1,617.71	\$1,617.71	\$0.00
1/31/2015	\$109.42		\$0.40		(\$0.13)						\$0.27	\$1,727.40	\$1,727.40	\$0.00
2/28/2015	\$130.50		\$0.27		(\$0.14)						\$0.13	\$1,858.03	\$1,858.03	\$0.00
3/31/2015	\$86.05		\$0.31		(\$0.15)						\$0.16	\$1,944.24	\$1,944.24	\$0.00
4/30/2015	\$76.06		\$0.32		(\$0.16)						\$0.16	\$2,020.46	\$2,020.46	\$0.00
											Total	\$1.84		

Total Deposited **\$2,018.62**

Interest and Fees **\$1.84**

Total **\$2,020.46**

April 2015 First Bank and Trust balance

\$2,020.46

Difference **\$0.00**

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

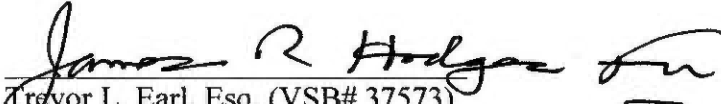

SEEN AND REQUESTED:


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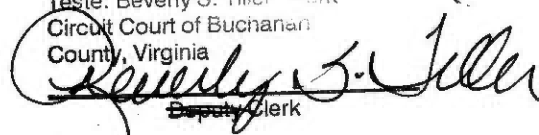
SEEN AND OBJECTED TO FOR ALL THE REASONS DETAILED IN LBR HOLDINGS, LLC'S MEMORANDUM IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT AND RESPONSE TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT AND AT THE HEARING; AND ON THE ADDITIONAL GROUNDS THAT TO THE EXTENT THE COURT MAY HAVE CONSIDERED SUBMISSIONS OF EXHIBITS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


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


Deputy Clerk