

BEFORE THE VIRGINIA GAS AND OIL BOARD

PETITIONER: CNX Gas Company LLC

DIVISION OF GAS AND OIL

DOCKET NO: VGOB 12-0515-3060-01

RELIEF SOUGHT: (1) DISBURSEMENT FROM ESCROW REGARDING TRACT(S) 3, 4 (2) AND AUTHORIZATION FOR DIRECT PAYMENT OF ROYALTIES

HEARING DATE: July 21, 2015

DRILLING UNIT: D32

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) 3 & 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

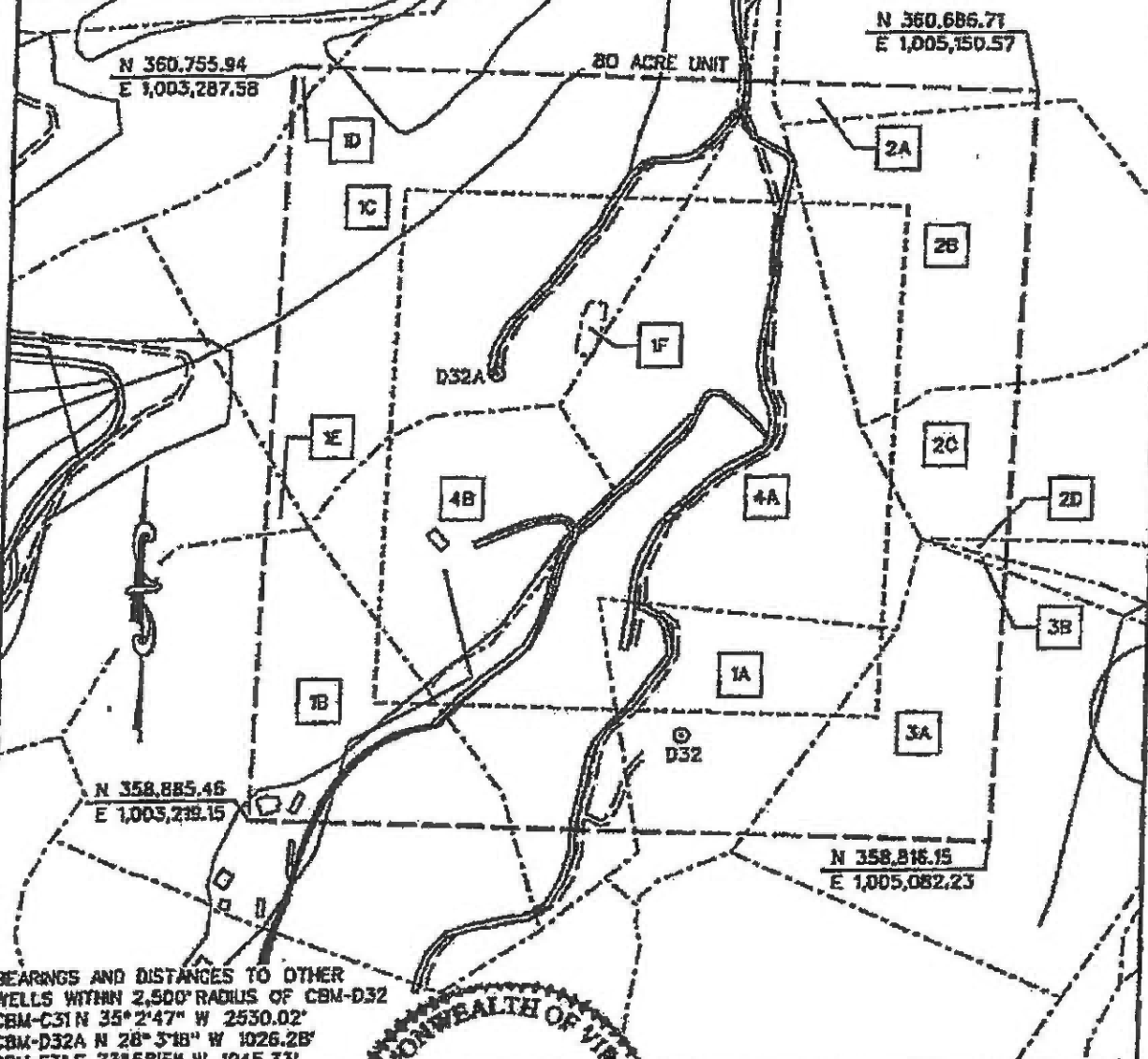
T.G. Rogers, III, Derek Browning Rogers, Kevin Rogers, Shaun Rogers, Gregory Poulos, Jason Poulos, and Pamela Poulos is entitled to 100% of the CBM royalties awarded under Case No. 550-13, Opinion dated July 10, 2014, Said decision allows the Applicant and Designated Operator to pay royalties directly 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 chains of title of record. This does not represent a current boundary survey. This certification is as to the size, shape and location of the proposed unit.



BEARINGS AND DISTANCES TO OTHER WELLS WITHIN 2,500' RADIUS OF CBM-D32
 CBM-C31N 35°2'47" W 2530.02'
 CBM-D32A N 28°3'18" W 1026.28'
 CBM-E31S 73°58'5" W 1945.33'

○ EXISTING WELL
 ⊙ PROPOSED CBM WELL

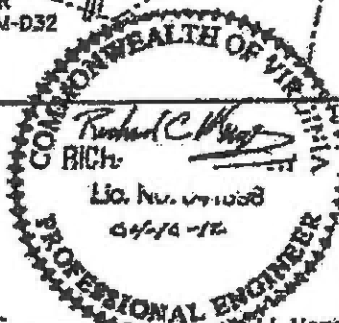


EXHIBIT A
 OAKWOOD FIELD
 UNIT D32
 FORCE POOLING
 VGOB-12-0515-3060

Company CNX Gas Company LLC Well Name and Number UNIT D32
 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 DGO-GO-7 Richard C. Meyer (Affix Seal)
 Rev. 9/91 Licensed Professional Engineer or Licensed Land Surveyor

CNX Gas Company LLC

Unit D32

Tract Identifications

1. **C. L. Ritter Lumber Company Tr. 31 (243.90 Acre Tract) – All Minerals**
Island Creek Coal Company/Consol Energy, Inc. – Coal Below Tiller Seam Leased
Jewell Smokeless Coal Corporation – Coal In Tiller Seam and Above Leased
Hard Rock Exploration and Carter Oil & Gas - Oil and Gas Leased
CNX Gas Company LLC - CBM Leased
33.23 acres 41.5375%
- 1A. **Mary Ann Mullins, et al - Surface**
- 1B. **Shelby J. Maxwell - Surface**
- 1C. **Patty Mullins, et al - Surface**
- 1D. **Unknown Surface Owner**
- 1E. **Unknown Surface Owner**
- 1F. **Unknown Surface Owner**
2. **C. L. Ritter Lumber Company Tr. 30 (48.53 Acre Tract) – All Minerals**
Island Creek Coal Company/Consol Energy, Inc. – Coal Below Tiller Seam Leased
Jewell Smokeless Coal Corporation – Coal In Tiller Seam and Above Leased
Hard Rock Exploration and Carter Oil & Gas - Oil and Gas Leased
CNX Gas Company LLC - CBM Leased
12.04 acres 15.0500%
- 2A. **Billy Joe Kelly - Surface**
- 2B. **Unknown Surface Owner**
- 2C. **Unknown Surface Owner**
- 2D. **Unknown Surface Owner**
3. **LBR Holdings, LLC (25.50 Acre Tract) – 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 (Geomet Farmout – 75%)
6.35 acres 7.9375%
- 3A. **Unknown Surface Owner**
- 3B. **Unknown Surface Owner**
4. **LBR Holdings, LLC (39.40 Acre Tract) – 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 (Geomet Farmout – 75%)
28.38 acres 35.4750%
- 4A. **Mary Ann Mullins, et al - Surface**
- 4B. **Macado Mullins, et al - Surface**

"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 D-32
Docket #VGOB 12-0515-3060-01
List of Respondents that require escrow

Acres in Unit	Percent of Unit
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Escrowing not required

Exhibit EE
Unit D-32
Docket #VGOB 12-0515-3060-01
List of Respondents with Royalty Split Agreements or Court Orders

	Acres in Unit	Percent of Unit	Percent of Escrow
<u>Tract #3, 6.35 Acres</u>			
<u>COAL OWNERSHIP</u>			
(1) LBR Holdings, LLC P.O. Box 22427 Lexington, KY 40522-2427 <i>(25.50 Acre Tract)</i>	6.35 acres	7.9375%	<i>n/a</i>
<u>OIL & GAS OWNERSHIP</u>			
(1) LBR Holdings, LLC, et al. <i>(25.50 Acre Tract)</i>	6.35 acres	7.9375%	
(b) T.G. Rogers, III 3014 Shalford Lane Matthews, NC 28104	0.20 acres 1/32 of 6.35 acres	0.2480%	2.2855%
(c) Derek Browning Rogers 2300 Carmel Road Charlotte, NC 28226	0.20 acres 1/32 of 6.35 acres	0.2480%	2.2855%
(d) Kevin Rogers 139 Wickham Rd. Garden City, NY 11530	0.20 acres 1/32 of 6.35 acres	0.2480%	2.2855%
(e) Shaun Rogers 121 NE 100th St. Miami Shores, FL 32907-2423	0.20 acres 1/32 of 6.35 acres	0.2480%	2.2855%
(f) Gregory Poulos 1894 Glenwood St., SE Palm Bay, FL 32907-2423	0.26 acres 1/24 of 6.35 acres	0.3307%	3.0473%
(g) Jason Poulos 10870 SW 95 St. Miami, FL 33176	0.26 acres 1/24 of 6.35 acres	0.3307%	3.0473%
(h) Pamela Poulos 5000 SW 83rd St. Miami, FL 33143-8510	0.26 acres 1/24 of 6.35 acres	0.3307%	3.0473%
<i>*Prevailing plaintiff under Case No. 550-13 Awarded 100% of the CBM royalty.</i>			

Tract #4, 28.38 Acres

COAL OWNERSHIP

(1) LBR Holdings, LLC P.O. Box 22427 Lexington, KY 40522-2427 <i>(39.40 Acre Tract)</i>	28.38 acres	35.4750%	<i>n/a</i>
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OIL & GAS OWNERSHIP

(1) LBR Holdings, LLC, et al. <i>(39.40 Acre Tract)</i>	28.38 acres	35.4750%	
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Exhibit EE
Unit D-32
Docket #VGOB 12-0515-3060-01
List of Respondents with Royalty Split Agreements or Court Orders

	Acres in Unit	Percent of Unit	Percent of Escrow
(b) T.G. Rogers, III 3014 Shalford Lane Matthews, NC 28104	0.89 acres 1/32 of 28.38 acres	1.1086%	10.2145%
(c) Derek Browning Rogers 2300 Carmel Road Charlotte, NC 28226	0.89 acres 1/32 of 28.38 acres	1.1086%	10.2145%
(d) Kevin Rogers 139 Wickham Rd. Garden City, NY 11530	0.89 acres 1/32 of 28.38 acres	1.1086%	10.2145%
(e) Shaun Rogers 121 NE 100th St. Miami Shores, FL 32907-2423	0.89 acres 1/32 of 28.38 acres	1.1086%	10.2145%
(f) Gregory Poulos 1894 Glenwood St., SE Palm Bay, FL 32907-2423	1.18 acres 1/24 of 28.38 acres	1.4781%	13.6193%
(g) Jason Poulos 10870 SW 95 St. Miami, FL 33176	1.18 acres 1/24 of 28.38 acres	1.4781%	13.6193%
(h) Pamela Poulos 5000 SW 83rd St. Miami, FL 33143-8510	1.18 acres 1/24 of 28.38 acres	1.4781%	13.6193%

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

<u>TOTAL</u>	
Acreage in Unit	8.68
Percentage of Unit	10.8531%


AFFIDAVIT OF MAILING

COMMONWEALTH OF VIRGINIA
COUNTY OF **BUCHANAN**

Applicant: CNX Gas Company LLC
Relief Sought: Disbursement Petition for D32
VGOB: 12-0515-3060-01

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 <input checked="" type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee	
1. Article Addressed to: LBR Holdings, LLC PO Box 22427 LEXINGTON KY 40522-2427	B. Received by (Printed Name)	
	C. Date of Delivery	
	D. Is delivery address different from item 1? If YES, enter delivery address below:	
	<input type="checkbox"/> Yes <input checked="" 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 #) 7014 3490 0000 8188 9190 <i>Disb.</i>		
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 type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee	
1. Article Addressed to: Gregory Poulos 1894 GLENWOOD St NE PALM BAY FL 32907-2423	B. Received by (Printed Name)	
	C. Date of Delivery	
	D. Is delivery address different from item 1? If YES, enter delivery address below:	
	<input type="checkbox"/> Yes <input checked="" 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 Article Number (Transfer #) 7014 3490 0000 8188 9206 <i>Disb.</i>		
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 type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee	
1. Article Addressed to: Jason Poulos 10870 SW 95TH St MIAMI FL 33176-2615	B. Received by (Printed Name)	
	C. Date of Delivery	
	D. Is delivery address different from item 1? If YES, enter delivery address below:	
	<input type="checkbox"/> Yes <input checked="" 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 #) 7014 3490 0000 8188 9213 <i>Disb.</i>		
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. 	<p>A. Signature <input checked="" type="checkbox"/> <i>Pamela F Poulos</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <input type="checkbox"/> C. Date of Delivery <i>6/23/15</i></p>
<p>1. Article Addressed to:</p> <p>Pamela Poulos 5000 SW 83RD St MIAMI FL 33143-8510</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>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</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer) <i>7014 3490 0000 8188 9220</i> <i>A.56</i></p> <p>PS Form 3811, July 2013 Domestic Return Receipt</p>	

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 checked="" type="checkbox"/> <i>Kevin Rogers</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <input type="checkbox"/> C. Date of Delivery <i>6/23/15</i></p>
<p>1. Article Addressed to:</p> <p>Kevin Rogers 139 WICKHAM RD GARDEN CITY NY 11530-1141</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>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</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer) <i>7014 3490 0000 8188 9237</i> <i>A.56</i></p> <p>PS Form 3811, July 2013 Domestic Return Receipt</p>	

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 checked="" type="checkbox"/> <i>Derek Browning Rogers</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <input type="checkbox"/> C. Date of Delivery <i>6/22/15</i></p>
<p>1. Article Addressed to:</p> <p>Derek Browning Rogers 2300 CARMEL RD CHARLOTTE NC 28226-6323</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input checked="" type="checkbox"/> No</p> <p>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</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer) <i>7014 3490 0000 8188 9251</i> <i>A.56</i></p> <p>PS Form 3811, July 2013 Domestic Return Receipt</p>	



USPS Tracking™



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Have questions? We're here to help.



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Sign up for My USPS.

Tracking Number: 70143490000081889268

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

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 >



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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

Exhibit J
Unit D32 Escrow Account Reconciliation
VGOB 12-0515-3060

CNX Deposit Information		
Issue Date	Check Number	Check Amount
6/20/2013	E000008826	\$32.48
7/22/2013	E000010242	\$57.74
8/20/2013	E000011577	\$53.90
9/20/2013	E000012893	\$51.94
10/21/2013	E000016069	\$43.27
11/19/2013	E000017185	\$54.45
12/18/2013	E000018555	\$67.37
1/21/2014	E000019923	\$71.78
2/24/2014	E000021394	\$84.87
3/20/2014	E000022799	\$147.44
4/22/2014	E000024825	\$96.32
5/19/2014	E000026498	\$114.51
6/20/2014	E000028119	\$118.20
7/18/2014	E000030132	\$135.50
8/21/2014	E000031903	\$129.50
9/18/2014	E000033777	\$125.88
10/20/2014	E000037602	\$103.98
11/19/2014	E000039156	\$100.74
12/22/2014	E000040941	\$99.00
1/20/2015	E000042762	\$91.59
2/19/2015	E000044782	\$108.80
3/19/2015	E000046592	\$72.74
4/21/2015	E000048509	\$66.51

Escrow Bank Data													
Date	Royalty Deposits	Income	\$ Mkt Int	CDARS Int	Fees	Distributions	Audit Costs	Corrections	Gain/Loss	Total Int. and Fees	Ending Mkt Value	Running Balance	Difference
6/30/2013	\$32.48		\$0.00	\$0.00	\$0.00					\$0.00	\$32.48	\$32.48	\$0.00
7/31/2013	\$57.74		\$0.01	\$0.00	\$0.00					\$0.01	\$90.23	\$90.23	\$0.00
8/31/2013	\$53.90		\$0.02	\$0.00	(\$0.01)					\$0.01	\$144.14	\$144.14	\$0.00
9/30/2013	\$51.94		\$0.02	\$0.00	(\$0.01)					\$0.01	\$196.09	\$196.09	\$0.00
10/31/2013	\$43.27		\$0.03	\$0.00	(\$0.02)					\$0.01	\$239.37	\$239.37	\$0.00
11/30/2013	\$54.45		\$0.04	\$0.00	(\$0.02)					\$0.02	\$293.84	\$293.84	\$0.00
12/31/2013	\$67.37		\$0.05	\$0.00	(\$0.02)					\$0.03	\$361.24	\$361.24	\$0.00
1/31/2014	\$71.78		\$0.06	\$0.00	(\$0.03)					\$0.03	\$433.05	\$433.05	\$0.00
2/28/2014	\$84.87		\$0.07	\$0.00	(\$0.04)					\$0.03	\$517.95	\$517.95	\$0.00
3/31/2014	\$147.44		\$0.08	\$0.00	(\$0.04)					\$0.04	\$665.43	\$665.43	\$0.00
4/30/2014	\$96.32		\$0.11	\$0.00	(\$0.06)					\$0.05	\$761.80	\$761.80	\$0.00
5/31/2014	\$114.51		\$0.13	\$0.00	(\$0.06)					\$0.07	\$876.38	\$876.38	\$0.00
6/30/2014	\$118.20		\$0.14	\$0.00	(\$0.07)					\$0.07	\$994.65	\$994.65	\$0.00
7/31/2014	\$135.50		\$0.17	\$0.00	(\$0.08)					\$0.09	\$1,130.24	\$1,130.24	\$0.00
8/31/2014	\$129.50		\$0.19		(\$0.09)					\$0.10	\$1,259.84	\$1,259.84	\$0.00
9/30/2014	\$125.88		\$0.20		(\$0.09)					\$0.11	\$1,385.83	\$1,385.83	\$0.00
10/31/2014	\$103.98		\$0.23		(\$0.12)					\$0.11	\$1,489.92	\$1,489.92	\$0.00
11/30/2014	\$100.74		\$0.25		(\$0.12)					\$0.13	\$1,590.79	\$1,590.79	\$0.00
12/31/2014	\$99.00		\$0.51		(\$0.12)					\$0.39	\$1,690.18	\$1,690.18	\$0.00
1/31/2015	\$91.59		\$0.42		(\$0.14)					\$0.28	\$1,782.05	\$1,782.05	\$0.00
2/28/2015	\$108.80		\$0.27		(\$0.15)					\$0.12	\$1,890.97	\$1,890.97	\$0.00
3/31/2015	\$72.74		\$0.31		(\$0.16)					\$0.15	\$1,963.86	\$1,963.86	\$0.00
4/30/2015	\$66.51		\$0.32		(\$0.16)					\$0.16	\$2,030.53	\$2,030.53	\$0.00
Total										\$2.02			

Total	\$2,028.51
Interest & Fees	\$2.02
Grand Total	\$2,030.53
First Bank and Trust balance	\$2,030.53
4/30/2015	
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

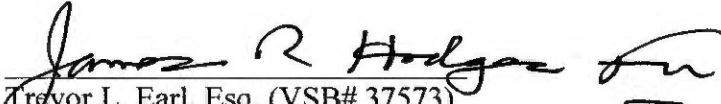

SEEN AND REQUESTED:


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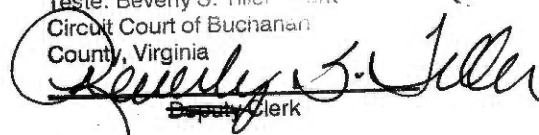
SEEN AND OBJECTED TO FOR ALL THE REASONS DETAILED IN LBR HOLDINGS, LLC'S MEMORANDUM IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT AND RESPONSE TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT AND AT THE HEARING; AND ON THE ADDITIONAL GROUNDS THAT TO THE EXTENT THE COURT MAY HAVE CONSIDERED SUBMISSIONS OF EXHIBITS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

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


Deputy Clerk