

**BEFORE THE VIRGINIA GAS AND OIL BOARD**

**PETITIONER:** EQT Production Company

**DIVISION OF GAS AND OIL**

**DOCKET NO:** VGOB 01-1120-0988-01

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

**HEARING DATE:** August 18, 2015

**DRILLING UNIT:** VC-508827

**BUCHANAN COUNTY, VIRGINIA**

**PETITION FOR ORDER OF DISBURSEMENT OF ESCROW FUNDS**

**1. Petitioner and its counsel**

Petitioner is EQT Production Company, 625 Liberty Avenue, EQT Plaza, Suite 1700, Pittsburgh, PA 15222, 412-395-3921. Petitioner's counsel is James Kaiser, Wilhoit and Kaiser Law Firm, 220 Broad Street, Suite 210, Kingsport, TN 37660 .

**2. Relief Sought**

Petition for disbursement of funds and authorization for direct payment on behalf of the known owners on Tract 2 on Well VC-508827, VGOB 01/11/20-0988.

**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**

Plaintiffs were conflicting claimants with regards to Tract 2 as created by VGOB 01/11/20-0988. To resolve this conflict, Buchanan County Circuit Court Order, Case No. 550-13, dated July 10, 2014, is attached hereto.

**6. Attestation**

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

3,470'

Latitude 37° 17' 30"

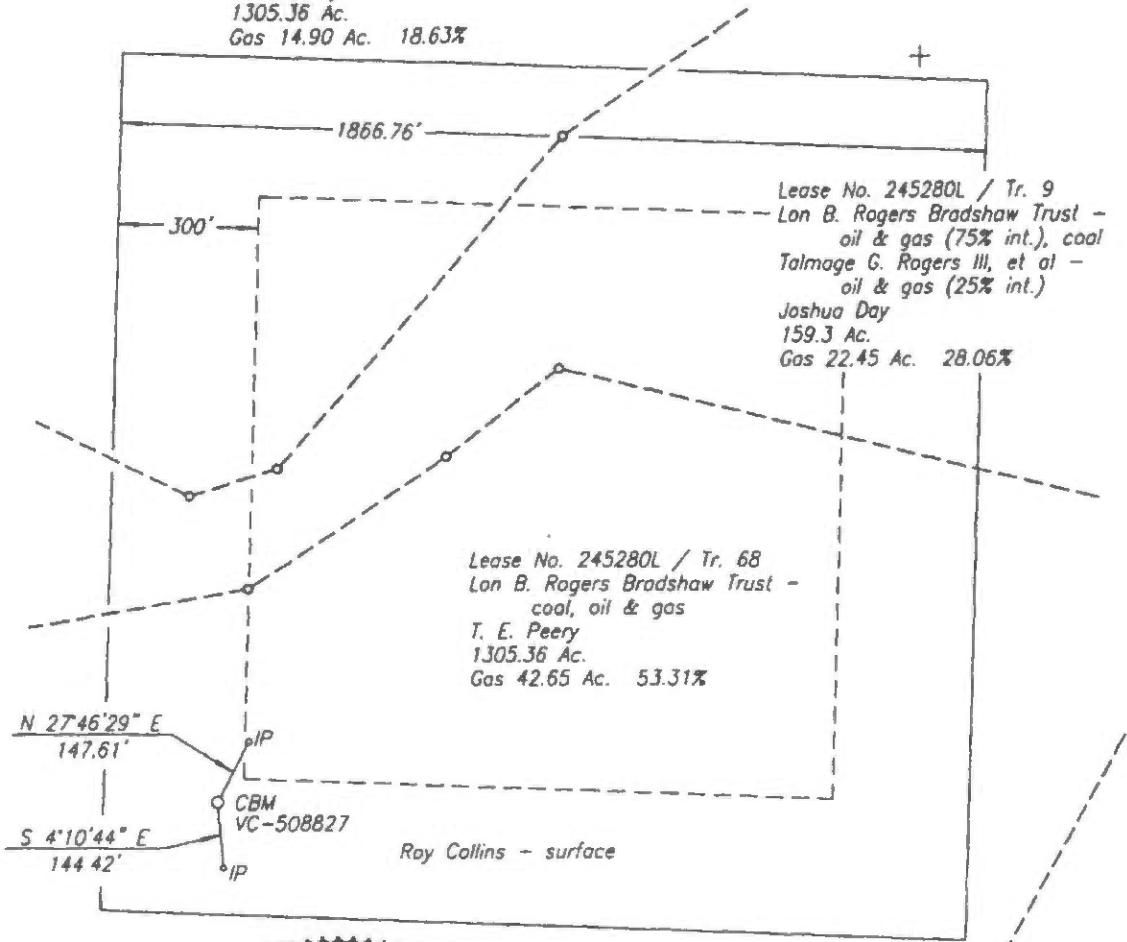
2,310'

Longitude 81° 52' 30"

Lease No. 245280L / Tr. 68  
 Lon B. Rogers Bradshaw Trust -  
 surface, coal, oil & gas  
 T. E. Peery  
 1305.36 Ac.  
 Gas 14.90 Ac. 18.63%

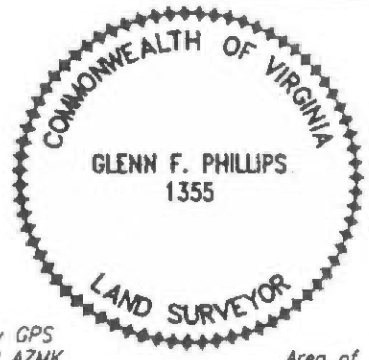
Lease No. 245280L / Tr. 9  
 Lon B. Rogers Bradshaw Trust -  
 oil & gas (75% int.), coal  
 Talmage C. Rogers III, et al -  
 oil & gas (25% int.)  
 Joshua Day  
 159.3 Ac.  
 Gas 22.45 Ac. 28.06%

Lease No. 245280L / Tr. 68  
 Lon B. Rogers Bradshaw Trust -  
 coal, oil & gas  
 T. E. Peery  
 1305.36 Ac.  
 Gas 42.65 Ac. 53.31%



N 27°46'29" E  
 147.61'  
 S 4°10'44" E  
 144.42'

Roy Collins - surface



Well Coordinates: (VA St. Plane S. Zone,  
 NAD 27, calculated from NAD 83 coord.)  
 N 364,291 E 1,014,872

Well Coordinates: (VA St. Plane S. Zone,  
 NAD 83)  
 N 3,645,171.28 E 10,497,859.99

Well elevation determined by GPS  
 survey from HARN Sta GAP A2MK

Area of Unit = 80.00 Ac.

WELL LOCATION PLAT

COMPANY Equitable Production Company WELL NAME AND NUMBER VC-508827  
 TRACT NO. Le. No. 245280L ELEVATION 2411.03' QUADRANGLE Patterson  
 COUNTY Buchanan DISTRICT Garden SCALE 1" = 400' DATE 10-17-2001

This Plat is a new plat x; an updated plat    ; or a final location plat    

+ 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.

Glenn F. Phillips  
 Licensed Professional Engineer or Licensed Land Surveyor



**EXHIBIT "B"**  
**VC-508827**  
**VGOB 01/11/20-0988**  
Revised 6/24/2015

<u>TRACT</u>	<u>LESSOR</u>	<u>LEASE STATUS</u>	<u>INTEREST WITHIN UNIT</u>	<u>GROSS ACREAGE IN UNIT</u>	<u>NET REVENUE INTEREST</u>
<b><u>Gas Estate Only</u></b>					
1	Lon B Rogers Bradshaw Trust No 1 Fon Rogers II Trustee PO Box 22427 Lexington, KY 40522-2427	Leased 245280L01 5859-00 Tr 69	53.310000%	42.6500	0.06663750 RI
	EQT Production Company				0.46646250
<b>Tract 1 Totals</b>			<b>53.310000%</b>	<b>42.6500</b>	<b>0.53310000</b>
2	Lon B Rogers Bradshaw Trust No 1 Fon Rogers II Trustee PO Box 22427 Lexington, KY 40522-2427	Leased 245280L01 5859-00 Tr 9	21.045000%	16.8375	0.02630625
	Gregory Poulos & Karen Poulos 1894 Glenwood St NE Palm Bay, FL 32907-2423	Unleased	1.169166%	0.9355	0.001461458
	Jason Poulos 10870 SW 95th Street Miami, FL 33176	Unleased	1.169167%	0.9353	0.001461459
	Pamela Poulos 5000 SW 83rd Street Miami, FL 33143-8510	Unleased	1.169167%	0.9353	0.001461459
	Talmage G Rogers, III and Tracey Rogers 3014 Shalford Lane Matthews, NC 28104-6879	Unleased	0.876875%	0.7016	0.001096094
	Shaun D Rogers and Nadine Davey Rogers 121 NE 100th Street Miami Shores, FL 33128	Unleased	0.876875%	0.7016	0.001096094

	Kevin H Rogers and Katherine Rogers 139 Wickham Road Garden City, NY 11530	Unleased	0.876875%	0.7016	0.001096094
	Derek B Rogers and Anne Rogers 2300 Carmel Rd Charlotte, NC 28226-6323	Unleased	0.876875%	0.7016	0.001096094
	EQT Production Company				0.24552500
<b>Tract 2 Totals</b>			<b>28.060000%</b>	<b>22.4500</b>	<b>0.28060000</b>

<b>3</b>	Lon B Rogers Bradshaw Trust No 1 Fon Rogers II Trustee PO Box 22427 Lexington, KY 40522-2427	Leased 245280L01 5859-00 Tr 68	18.630000%	14.9000	0.02328750
	EQT Production Company				0.16301250
<b>Tract 3 Totals</b>			<b>18.630000%</b>	<b>14.9000</b>	<b>0.18630000</b>

<b>Total Gas Estate</b>			<b>100.000000%</b>	<b>80.0000</b>	<b>1.00000000</b>
<b>Percentage of Unit Leased</b>			<b>92.985000%</b>		
<b>Percentage of Unit Unleased</b>			<b>7.015000%</b>		
<b>Acreage in Unit Leased</b>				<b>74.3875</b>	
<b>Acreage in Unit Unleased</b>				<b>5.6125</b>	

**Coal Estate Only**

<b>1</b>	Lon B Rogers Bradshaw Trust No 1 Fon Rogers II Trustee PO Box 22427 Lexington, KY 40522-2427	Leased 245280L01 5859-00 Tr 68	53.310000%	42.6500	0.06663750
	EQT Production Company				0.46646250
<b>Tract 1 Totals</b>			<b>53.310000%</b>	<b>42.6500</b>	<b>0.53310000</b>

<b>2</b>	Lon B Rogers Bradshaw Trust No 1 Fon Rogers II Trustee PO Box 22427 Lexington, KY 40522-2427	Leased 245280L01 5859-00 Tr 9	28.060000%	22.4500	0.03507500
	EQT Production Company				0.24552500
<b>Tract 2 Totals</b>			<b>28.060000%</b>	<b>22.4500</b>	<b>0.28060000</b>

<b>3</b>	Lon B Rogers Bradshaw Trust No 1 Fon Rogers II Trustee PO Box 22427 Lexington, KY 40522-2427	Leased 245280L01 5859-00 Tr 68	18.630000%	14.9000	0.02328750
	EQT Production Company				0.16301250
<b>Tract 3 Totals</b>			<b>18.630000%</b>	<b>14.9000</b>	<b>0.18630000</b>
<b>Total Coal Estate</b>			<b>100.000000%</b>	<b>80.0000</b>	<b>1.00000000</b>
<b>Percentage of Unit Leased</b>			<b>100.000000%</b>		
<b>Percentage of Unit Unleased</b>			<b>0.000000%</b>		
<b>Acreage in Unit Leased</b>				<b>80.0000</b>	
<b>Acreage in Unit Unleased</b>				<b>0.0000</b>	

**EXHIBIT "E"**  
**VC-508827**  
**VGOB 01/11/20-0988**  
**Revised 6/24/2015**

N/A

**EXHIBIT "EE"**  
**VC-508827**  
**VGOB 01/11/20-0988**  
Revised 6/24/2015

<u>TRACT</u>	<u>LESSOR</u>	<u>LEASE STATUS</u>	<u>INTEREST WITHIN UNIT</u>	<u>GROSS ACREAGE IN UNIT</u>	<u>NET REVENUE INTEREST</u>
<b><u>Gas Estate Only</u></b>					
2	Gregory Poulos & Karen Poulos 1894 Glenwood St NE Palm Bay, FL 32907-2423	Unleased	1.1692%	0.9355	0.001461458
	Jason Poulos 10870 SW 95th Street Miami, FL 33176	Unleased	1.1692%	0.9353	0.001461459
	Pamela Poulos 5000 SW 83rd Street Miami, FL 33143-8510	Unleased	1.1692%	0.9353	0.001461459
	Talmage G Rogers, III and Tracey Rogers 3014 Shalford Lane Matthews, NC 28104-6879	Unleased	0.8769%	0.7016	0.001096094
	Shaun D Rogers and Nadine Davey Rogers 121 NE 100th Street Miami Shores, FL 33128	Unleased	0.8769%	0.7016	0.001096094
	Kevin H Rogers and Katherine Rogers 139 Wickham Road Garden City, NY 11530	Unleased	0.8769%	0.7016	0.001096094
	Derek B Rogers and Anne Rogers 2300 Carmel Rd Charlotte, NC 28226-6323	Unleased	0.8769%	0.7016	0.001096094
<b>tract 2 Totals</b>			<b>7.015000%</b>	<b>5.6125</b>	<b>0.00876875</b>
<b>Total Disbursed</b>			<b>7.015000%</b>	<b>5.6125</b>	<b>0.00876875</b>

**Exhibit J**  
**VC-508827**  
**VGOB 01/11/20-0988**  
**Revised 6/24/2015**

10/17/2002	51.43
12/19/2002	26.71
4/16/2003	66.62
7/16/2003	55.22
10/15/2003	61.58
12/9/2003	20.93
2/18/2004	71.9
4/16/2004	56.71
6/21/2004	56.09
9/20/2004	91.05
10/19/2004	74.58
12/2/2004	62.95
2/7/2005	76.79
4/5/2005	69.3
6/7/2005	84.25
8/5/2005	74.3
10/6/2005	83.65
11/8/2005	66.63
12/7/2005	86.49
1/6/2006	79.54
2/6/2006	65.92
3/8/2006	69.59
5/10/2006	85.53
7/11/2006	84.43
9/8/2006	55.9
12/19/2006	43.96
4/6/2007	68.2
5/9/2007	56.11
6/8/2007	54.2
7/10/2007	58.4
8/7/2007	56.54
9/10/2007	52.12
11/8/2007	78.48
12/12/2007	47.24
1/9/2008	56.23
2/8/2008	56.74
4/8/2008	96.03
5/7/2008	52.22
6/9/2008	52.52
7/14/2008	58.87
8/7/2008	70.83
9/5/2008	78.16

10/10/2008	62.56
12/9/2008	82.09
2/11/2009	60.71
5/12/2009	59.99
8/12/2009	72.82
10/12/2009	64.34
12/9/2009	54.33
1/13/2010	38.35
2/10/2010	38.62
3/9/2010	37.39
4/14/2010	35.51
5/10/2010	25.85
6/8/2010	17.45
7/13/2010	20.07
8/10/2010	17.7
9/10/2010	20.48
10/11/2010	21.06
11/11/2010	26.16
12/9/2010	42.14
1/13/2011	27.79
2/11/2011	36.78
3/11/2011	43.84
4/12/2011	39.41
5/11/2011	36.86
6/11/2011	37.97
7/13/2011	43.47
8/10/2011	38.2
9/12/2011	34.4
10/12/2011	31.11
11/10/2011	25.2
12/9/2011	29.95
1/17/2012	33.76
2/10/2012	34
3/12/2012	27.51
4/13/2012	18.35
5/11/2012	13.09
6/12/2012	8.87
7/11/2012	7.52
8/10/2012	8.72
9/12/2012	10.39
10/10/2012	13.51
11/9/2012	13.55
12/12/2012	23.54
1/10/2013	32.48
2/11/2013	37.94
3/13/2013	31.69
4/10/2013	27.53

5/10/2013	34.53
6/10/2013	41.17
7/8/2013	44.45
8/12/2013	38.7
9/13/2013	38.17
10/10/2013	34.25
11/13/2013	29.61
12/11/2013	31.3
1/10/2014	29.06
2/11/2014	34.71
3/12/2014	32.99
4/10/2014	48.63
5/14/2014	45.58
6/13/2014	40.22
7/9/2014	25.78
8/14/2014	37.65
9/15/2014	36.34
10/9/2014	29.98
11/12/2014	29.64
12/9/2014	32.68
1/9/2015	28.19
2/9/2015	36.25
3/13/2015	19.45
4/10/2015	14.82
5/13/2015	17.14
<b>Total Payments</b>	<b>5,111.28</b>

**May 2015 Escrow Agent Summary**

<u>Unit Name</u>	<u>Docket #</u>	<u>Unit Operator</u>	<u>Beginning Market Value</u>	<u>Deposits</u>	<u>Money Mkt Interest</u>	<u>Fees for 4/30</u>	<u>Ending Market Value</u>
VC508827	0988	EQT	5,316.52	17.14	\$0.88	(\$0.44)	5,334.10

**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 10<sup>th</sup> day of July, 2014.

  
Circuit Court Judge

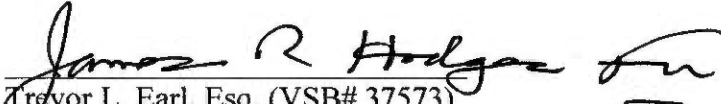

SEEN AND REQUESTED:

  
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*

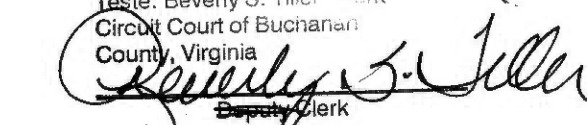
SEEN AND OBJECTED TO FOR ALL THE REASONS DETAILED IN LBR HOLDINGS, LLC'S MEMORANDUM IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT AND RESPONSE TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT AND AT THE HEARING; AND ON THE ADDITIONAL GROUNDS THAT TO THE EXTENT THE COURT MAY HAVE CONSIDERED SUBMISSIONS OF EXHIBITS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

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

*Counsel for LBR Holdings, LLC*

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

  
Deputy Clerk