

BEFORE THE VIRGINIA GAS AND OIL BOARD

PETITIONER: EQT Production Company

DIVISION OF GAS AND OIL

DOCKET NO: VGOB 02-1119-1100-01

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

HEARING DATE: August 18, 2015

DRILLING UNIT: VC-509270

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 Tracts 1 and 2 on Well VC-509270, VGOB 02-1119-1100.

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 Tracts 1 and 2 as created by VGOB 02-1119-1100. 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.

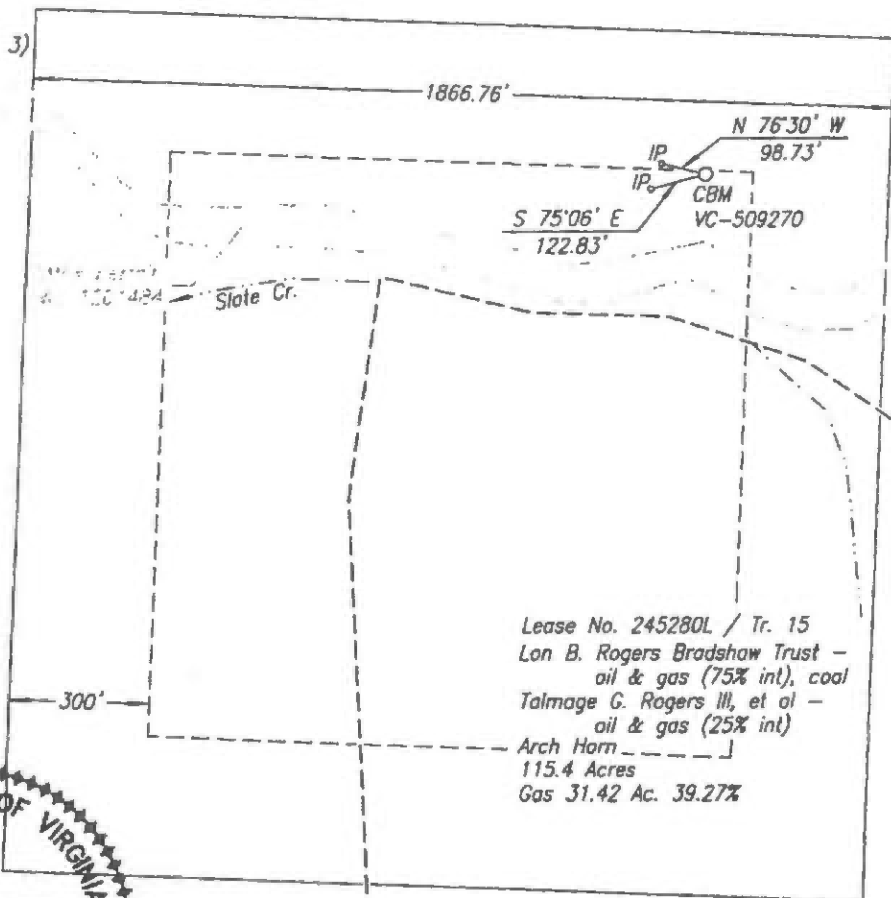
BOOK 0597 PAGE 0031

6,875'

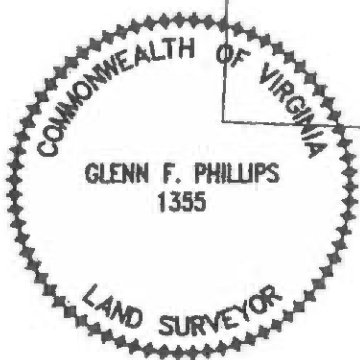
Latitude 37° 20' 00"

Lease No. 245280L / Tr. 56
Lon B. Rogers Bradshaw Trust -
oil & gas (75% int), coal
Talmage G. Rogers III, et al -
oil & gas (25% int)
R. J. Rabenhold
410.6 Acres
Gas 48.58 Ac. 60.73%

(Lon Rogers No. 3)
V-022010 *



Lease No. 245280L / Tr. 15
Lon B. Rogers Bradshaw Trust -
oil & gas (75% int), coal
Talmage G. Rogers III, et al -
oil & gas (25% int)
Arch Horn
115.4 Acres
Gas 31.42 Ac. 39.27%



Well elevation determined by GPS
survey from HARN Sta. GAP AZMK

Area of Unit = 80 Ac.

Well Coordinates: (VA St. Plane S. Zone,
NAD 27, calculated from NAD 83 coord.)
N 367,150 E 1,023,666
Well Coordinates: (VA St. Plane S. Zone,
NAD 83)
N 3,648,030.67 E 10,506,654.77

WELL LOCATION PLAT

COMPANY Equitable Production Company WELL NAME AND NUMBER VC-509270
TRACT NO. 56 ELEVATION 2122.33 QUADRANGLE Bradshaw
COUNTY Buchanan DISTRICT Garden SCALE 1" = 400' DATE 9-24-2002

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-509270
SUPPLEMENTAL EXHIBIT "B"
VGOB 02/11/19-1100
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>
<u>Gas Estate Only</u>					
1	Lon B. Rogers Bradshaw Trust No 1 Fon Rogers II Trustee PO Box 22427 Lexington, KY 40522-2427	Leased-EPC 245280L 01 5859-00 Tr. 56	45.547500%	36.4350	0.05693438 RI
	Gregory Poulos and Karen Poulos, H/W 1894 Glenwood St NE Palm Bay, FL 32907-2423	Unleased	2.530416%	2.0242	0.00316302 RI
	Jason Poulos, single 10870 SW 95th Stree Miami, FL 33176	Unleased	2.530416%	2.0242	0.00316302 RI
	Pamela Poulos, single 5000 SW 83rd Street Miami, FL 33143-8510	Unleased	2.530418%	2.0242	0.00316302 RI
	Talmage G. Rogers, III and Tracey Rogers, H/W 3014 Shalford Lane Matthews, NC 28104-6879	Unleased	1.897813%	1.5181	0.00237227 RI
	Shaun D. Rogers and Nadine Davey Rogers, H/W 121 NE 100th Street Miami Shores, FL 33128	Unleased	1.897813%	1.5181	0.00237227 RI
	Kevin H. Rogers and Katherine Rogers, H/W 139 Wickham Road Garden City, NY 11530	Unleased	1.897812%	1.5181	0.00237226 RI
	Derek B. Rogers and Anne Rogers, H/W 2300 Carmel Rd Charlotte, NC 28226-6323	Unleased	1.897812%	1.5181	0.00237226 RI
	Equitable Production Company				0.53138750 WI
Tract 1 Totals			60.730000%	48.5800	0.60730000
2	Lon B. Rogers Bradshaw Trust No 1 Fon Rogers II Trustee PO Box 22427 Lexington, KY 40522-2427	Leased-EPC 245280L 01 5859-00 Tr. 15	29.452500%	23.5650	0.03681563 RI
	Gregory Poulos and Karen Poulos, H/W 1894 Glenwood St NE Palm Bay, FL 32907-2423	Unleased	1.636250%	1.3092	0.00204531 RI
	Jason Poulos, single 10870 SW 95th Stree Miami, FL 33176	Unleased	1.636250%	1.3092	0.00204531 RI
	Pamela Poulos, single 5000 SW 83rd Street Miami, FL 33143-8510	Unleased	1.636251%	1.3092	0.00204531 RI
	Talmage G. Rogers, III and Tracey Rogers, H/W 3014 Shalford Lane Matthews, NC 28104-6879	Unleased	1.227188%	0.9819	0.00153399 RI
	Shaun D. Rogers and Nadine Davey Rogers, H/W 121 NE 100th Street Miami Shores, FL 33128	Unleased	1.227187%	0.9819	0.00153398 RI

EXHIBIT "B"
 VC-509270
 SUPPLEMENTAL EXHIBIT "B"
 VGOB 02/11/19-1100
 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>
	Kevin H. Rogers and Katherine Rogers, H/W 139 Wickham Road Garden City, NY 11530	Unleased	1.227187%	0.9818	0.00153398 RI
	Derek B. Rogers and Anne Rogers, H/W 2300 Carmel Rd Charlotte, NC 28226-6323	Unleased	1.227187%	0.9818	0.00153399 RI
	Equitable Production Company				0.34361250 WI
Tract 2 Totals			39.270000%	31.4200	0.39270000
Total Gas Estate			100.000000%	80.0000	1.00000000
<u>Coal Estate Only</u>					
1	Lon B. Rogers Bradshaw Trust No 2 Fon Rogers II Trustee PO Box 22427 Lexington, KY 40522-2427	Leased-EPC 245280L Tr. 56	60.730000%	48.5800	0.07591250 RI
	Equitable Production Company				0.53138750 WI
Tract 1 Totals			60.730000%	48.5800	0.60730000
2	Lon B. Rogers Bradshaw Trust No 2 Fon Rogers II Trustee PO Box 22427 Lexington, KY 40522-2427	Leased-EPC 245280L Tr. 15	39.270000%	31.4200	0.04908750 RI
	Equitable Production Company				0.34361250 WI
Tract 2 Totals			39.270000%	31.4200	0.39270000
Total Coal Estate			100.000000%	80.0000	1.00000000

EXHIBIT "E"

VC-509270

VGOB 02/11/19-1100

Revised 6/24/2015

N/A

EXHIBIT "EE"
VC-509270
VGOB 02/11/19-1100
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>Gas Estate Only</u>				
1	Gregory Poulos and Karen Poulos, H/W 1894 Glenwood St NE Palm Bay, FL 32907-2423	Unleased	2.5304%	2.0242
	Jason Poulos, single 10870 SW 95th Street Miami, FL 33176-2615	Unleased	2.5304%	2.0242
	Pamela Poulos, single 5000 SW 83rd Street Miami, FL 33143-8510	Unleased	2.5304%	2.0242
	Talmage G. Rogers, III and Tracey Rogers, H/W 3014 Shalford Lane Matthews, NC 28104-6879	Unleased	1.8978%	1.5181
	Shaun D. Rogers and Nadine Davey Rogers, H/W 121 NE 100th Street Miami Shores, FL 33128	Unleased	1.8978%	1.5181
	Kevin H. Rogers and Katherine Rogers, H/W 139 Wickham Road Garden City, NY 11530	Unleased	1.8978%	1.5181
	Derek B. Rogers and Anne Rogers, H/W 2300 Carmel Rd Charlotte, NC 28226-6323	Unleased	1.8978%	1.5181
Tract 1 Totals			15.1825%	12.1450
2	Gregory Poulos and Karen Poulos, H/W 1894 Glenwood St NE Palm Bay, FL 32907-2423	Unleased	1.6363%	1.3092

EXHIBIT "EE"
VC-509270
VGOB 02/11/19-1100
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>
	Jason Poulos, single 10870 SW 95th Stree Miami, FL 33176	Unleased	1.6363%	1.3092
	Pamela Poulos, single 5000 SW 83rd Street Miami, FL 33143-8510	Unleased	1.6363%	1.3092
	Talmage G. Rogers, III and Tracey Rogers, H/W 3014 Shalford Lane Matthews, NC 28104-6879	Unleased	1.2272%	0.9819
	Shaun D. Rogers and Nadine Davey Rogers, H/W 121 NE 100th Street Miami Shores, FL 33128	Unleased	1.2272%	0.9819
	Kevin H. Rogers and Katherine Rogers, H/W 139 Wickham Road Garden City, NY 11530	Unleased	1.2272%	0.9818
	Derek B. Rogers and Anne Rogers, H/W 2300 Carmel Rd Charlotte, NC 28226-6323	Unleased	1.2272%	0.9818
Tract 2 Totals			9.8175%	7.8550
Total Disbursed			25.0000%	20.0000

Exhibit J
VC-509270
VGOB 02/11/19-1100
Revised 6/24/2015

Pmt Date	Pmt Amount
3/21/2005	1,235.06
5/6/2005	100.21
6/7/2005	75.69
7/6/2005	86.26
9/8/2005	82.7
10/6/2005	73.66
11/8/2005	92.39
12/7/2005	129.14
1/6/2006	2,687.24
3/8/2006	112.03
4/7/2006	65.74
5/10/2006	58.26
6/6/2006	67.46
7/11/2006	60.83
9/8/2006	109.22
10/9/2006	57.39
11/9/2006	61.69
12/19/2006	16.12
1/8/2007	61.57
3/8/2007	107.85
4/6/2007	91.64
6/8/2007	91.33
7/10/2007	75.74
8/7/2007	78.35
9/10/2007	75.18
10/12/2007	59.64
12/10/2007	106.5
1/9/2008	72.39
2/8/2008	75.69
3/10/2008	71.42
4/8/2008	78.07
5/7/2008	76.55
7/14/2008	126.18
8/7/2008	77.62
9/5/2008	96.58
10/10/2008	66.07
11/7/2008	55.78
12/9/2008	52.02
1/12/2009	63.18
2/11/2009	68.82
4/9/2009	85.7
6/8/2009	67.73
8/12/2009	63.55
10/12/2009	67.93
12/9/2009	47.93
1/13/2010	18.23
2/10/2010	25.33
3/9/2010	18.01
4/14/2010	10.33
5/10/2010	4.96
6/8/2010	2.79
7/13/2010	2.62
8/10/2010	1.66
9/10/2010	2.33
10/11/2010	5.43
11/11/2010	52.28
12/9/2010	37.51
1/13/2011	29.86
2/11/2011	40.64
3/11/2011	41.66

4/12/2011	39.44
5/11/2011	38.73
6/11/2011	43.18
7/13/2011	44.79
8/10/2011	38.05
9/12/2011	40.24
10/12/2011	41.03
11/10/2011	37.85
12/9/2011	33.12
1/17/2012	34.34
2/10/2012	34.18
3/12/2012	26.94
4/13/2012	20.47
5/11/2012	19.38
6/12/2012	15.38
7/11/2012	13.83
8/10/2012	16.95
9/12/2012	20.91
10/10/2012	23.01
11/9/2012	19.93
12/12/2012	24.99
1/10/2013	33.43
2/11/2013	38.62
3/13/2013	27.97
4/10/2013	25.5
5/10/2013	34.76
6/10/2013	40.67
7/8/2013	33.72
8/12/2013	36.34
9/13/2013	35.6
10/10/2013	33.16
11/13/2013	31.79
12/11/2013	36.3
1/10/2014	36.94
2/11/2014	42.53
3/12/2014	33.83
4/10/2014	47.14
5/14/2014	54.63
6/13/2014	51.24
7/9/2014	36.3
8/14/2014	55.16
9/15/2014	48.76
10/9/2014	41.77
11/12/2014	39
12/9/2014	45.17
1/9/2015	42.31
2/9/2015	56.58
3/13/2015	34.84
4/10/2015	13.21
5/13/2015	31.29
Total Payments	9,271.04

May 2015 Escrow Agent Summary

<u>Unit Name</u>	<u>Docket #</u>	<u>Unit Operator</u>	<u>Beginning Market Value</u>	<u>Deposit Type</u>	<u>Deposits</u>	<u>Money Mkt Interest</u>	<u>CDARS Interest</u>	<u>ees for 4/3</u>	<u>Ending Market Value</u>
VC509270	1100	EQT	9,635.48		31.29	\$1.17	\$0.46	(\$0.80)	9,667.60

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*
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Counsel for LBR Holdings, LLC

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

Beverly S. Tiller
Deputy Clerk