

**BEFORE THE VIRGINIA GAS AND OIL BOARD**

**PETITIONER:** CNX Gas Company LLC

**DIVISION OF GAS AND OIL**

**DOCKET NO:** VGOB 12-0417-3047-01

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

**HEARING DATE:** August 18, 2015

**DRILLING UNIT:** A32

**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, attributable to Tracts 1 & 3 as depicted upon the annexed table; and (2) authorization to begin paying royalties directly to the parties to the prevailing plaintiffs; 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

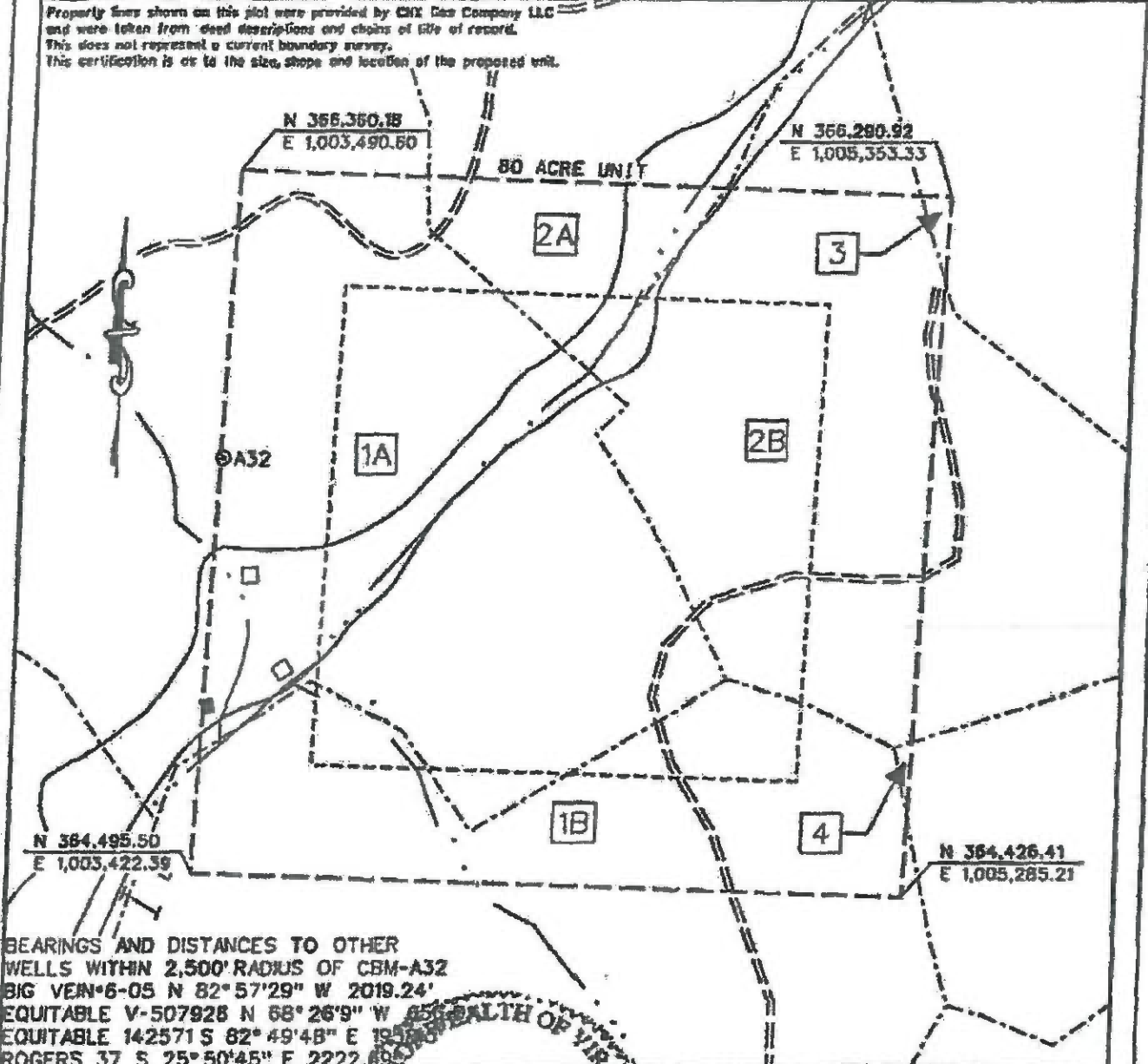
**5. Factual basis for relief requested**

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.

**6. Attestation**

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

Property lines shown on this plot 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.



○ CBM WELL  
 ⊙ PROPOSED CBM WELL

*Richard C. Murphy*  
 RICHARD C. MURPHY  
 Lic. No. 041888  
 05-09-12  
 PROFESSIONAL ENGINEER

EXHIBIT A  
 OAKWOOD FIELD  
 UNIT A32  
 FORCE POOLING  
 VG08-12-0417-3047

Company CNX Gas Company LLC Well Name and Number UNIT A32  
 Tract No. \_\_\_\_\_ Elevation \_\_\_\_\_ Quadrangle PATTERSON  
 County BUCHANAN District GARDEN Scale: 1" = 400' Date \_\_\_\_\_  
 This plot is a new plot X ; an updated plot \_\_\_\_\_ ; or a final plot \_\_\_\_\_

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

**CNX Gas Company LLC  
UNIT A32  
Tract Identifications**

1. **LBR Holdings, LLC (211.80 Acre Tract) – All Coal**  
Island Creek Coal Company/Consol Energy, Inc. – Coal Below Jawbone Seam Leased (6/7)  
Reserve Coal Properties Company – P-3 Seam Subleased (6/7)  
Jewell Smokeless Coal Corporation – Coal In Jawbone Seam and Above Leased (6/7)  
LBR Holdings, LLC, et al – Oil and Gas  
EQT Production Company – Oil and Gas Leased (64.2857%)  
CNX Gas Company LLC – CBM Leased (Geomet Farmout) (64.2857%)  
61.99 acres                      64.9875%
- 1A. Kevin Keen, et al - Surface
- 1B. Kevin Keen, et al - Surface
2. **Cliff Investment Group, LLC, et al (74.10 Acre Tract) – All Minerals**  
Island Creek Coal Company/Consol Energy, Inc. – Coal Below Tiller Seam Leased (50%)  
Jewell Smokeless Coal Corporation – Tiller and Above Coal Leased  
CNX Gas Company LLC – Oil, Gas and CBM Leased (50%)  
27.70 acres                      34.6250%
- 2A. Unknown Surface Owner
- 2B. Unknown Surface Owner
3. **LBR Holdings, LLC (85.50 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 (Geomet Farmout) (75%)  
Unknown Surface Owner  
0.21 acres                      0.2625%
4. **Muriel R. Short, et al (30 Acre Tract) – All Minerals**  
Island Creek Coal Company/Consol Energy, Inc. – Coal Below Tiller Seam Leased  
Jewell Smokeless Coal Corporation – Tiller and Above Coal Leased  
CNX Gas Company LLC – Oil, Gas and CBM Leased (62.12%)  
Unknown Surface Owner  
0.10 acres                      0.1250%

"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-32  
Docket # VGOB 12-0417-3047-01  
List of Respondents that require escrow

	Acres in Unit	Percent of Unit
<b><u>Tract #4, 0.10 Acres</u></b>		
<b><i>Escrow due to Unknown/Unlocatable</i></b>		
<b><u>COAL OWNERSHIP</u></b>		
(1) Muriel R. Short, et al <i>(30 Acre Tract)</i>	0.10 acres	0.1250%
(a) Roy Ray Heirs, Devisees, Successors or Assigns (1/2)		
(a.1) Willie Wingo Ray Heirs, Devisees, Successors or Assigns		
(a.1.3) Joe Ray 437 Whitt Mill Rd., Apt B Abingdon, VA 24210	0.0125 acres 1/8 of 0.10 acres	0.0156%
(b) George Tolliver Heirs, Devisees, Successors or Assigns <i>(Documentation Pending 3/12/12)</i>		
(b.1) Lou Tolliver Heirs, Devisees, Successors or Assigns		
(b.1.2) Roy Tolliver	<i>Conveyed interest (DB 263/401)</i>	
(b.1.2.2) James Ellenburg <i>Address Unknown</i>	0.0019 acres 1/52 of 0.10 acres	0.0024%
(b.1.3) Ullis Tolliver Heirs, Devisees, Successors or Assigns		
(b.1.6) Edna T. Hollandsworth Heirs, Devisees, Successors or Assigns		
(b.1.6.2.3) Cynthia Rhodes 2308 Wayne Ave., Apt #12 Dayton, OH 45420 <i>4/13/12 Mail address per returned mail</i>	0.0005 acres 1/208 of 0.10 acres	0.0006%
(b.1.6.2.4) Verna Napier 301 Arms Dr., Apt 4 Fairborn, OH 45324 <i>4/13/12 Mail address per returned mail</i>	0.0005 acres 1/208 of 0.10 acres	0.0006%
(b.1.8) Versa T. Smith Heirs, Devisees, Successors or Assigns		
(b.1.8.1) Phyllis Graves Heirs, Devisees, Successors or Assigns <i>(Documentation Pending 6/7/12)</i>		
(b.1.8.1.1) Robert Graves <i>Address Unknown</i>	0.0001 acres 1/780 of 0.10 acres	0.0002%
(b.1.8.1.2) James Graves <i>Address Unknown</i>	0.0001 acres 1/780 of 0.10 acres	0.0002%

**Exhibit E**  
**Unit A-32**  
**Docket # VGOB 12-0417-3047-01**  
**List of Respondents that require escrow**

	Acres in Unit	Percent of Unit
(b.1.8.1.3) Tammy Green <i>Address Unknown</i>	0.0001 acres 1/780 of 0.10 acres	0.0002%
(b.1.8.1.4) Charles Robinson <i>Address Unknown</i>	0.0001 acres 1/780 of 0.10 acres	0.0002%
(b.1.8.2) Lloyd Smith Heirs, Devisees, Successors or Assigns		
(b.1.8.2.1) Jannet Smith Heirs, Devisees, Successors or Assigns		
(b.1.8.2.1.3) Jody J. Smith 1302 Red Bridge Rd. Peebles, OH 45660-9056	0.0002 acres 1/468 of 0.10 acres	0.0003%
<i>4/28/12 Oak Address - COA pending</i>		
(b.1.8.6) Roger Smith Heirs, Devisees, Successors or Assigns		
(b.1.8.6.1) Troy Smith <i>Address Unknown</i>	0.0002 acres 1/624 of 0.10 acres	0.0002%
(b.1.8.6.2) Terry Smith <i>Address Unknown</i>	0.0002 acres 1/624 of 0.10 acres	0.0002%
(b.1.8.6.3) Chrystal Smith <i>Address Unknown</i>	0.0002 acres 1/624 of 0.10 acres	0.0002%
(b.1.8.6.4) Todd Smith <i>Address Unknown</i>	0.0002 acres 1/624 of 0.10 acres	0.0002%
(b.1.11) Opal T. Bowles (aka Opal Ruble) Heirs, Devisees, Successors or Assigns		
(b.1.11.2) Cary Bowles 715 Rainbow Forest Dr. Lynchburg, VA 24502	0.0013 acres 1/78 of 0.10 acres	0.0016%
<i>4/28/12 Oak Address - COA pending</i>		
(b.1.13) Bertha T. Snyder Heirs, Devisees, Successors or Assigns <i>(Heirs/Address Unknown - documentation pending 3/14/12)</i>	0.0038 acres 1/26 of 0.10 acres	0.0048%
<b><u>OIL &amp; GAS OWNERSHIP</u></b>		
(1) Muriel R. Short, et al <i>(30 Acre Tract)</i>	0.10 acres	0.1250%
(a) Roy Ray Heirs, Devisees, Successors or Assigns (1/2)		
(a.1) Willie Wingo Ray Heirs, Devisees, Successors or Assigns		
(a.1.3) Joe Ray 437 Whitt Mill Rd., Apt B Abingdon, VA 24210	0.0125 acres 1/8 of 0.10 acres	0.0156%

Exhibit E  
Unit A-32  
Docket # VGOB 12-0417-3047-01  
List of Respondents that require escrow

	Acres in Unit	Percent of Unit
(b) George Tolliver Heirs, Devisees, Successors or Assigns <i>(Documentation Pending 3/12/12)</i>		
(b.1) Lou Tolliver Heirs, Devisees, Successors or Assigns		
(b.1.2) Roy Tolliver	<i>Conveyed interest (DB 263/401)</i>	
(b.1.2.2) James Ellenburg <i>Address Unknown</i>	0.0019 acres 1/52 of 0.10 acres	0.0024%
(b.1.3) Ullis Tolliver Heirs, Devisees, Successors or Assigns		
(b.1.6) Edna T. Hollandsworth Heirs, Devisees, Successors or Assigns		
(b.1.6.2.3) Cynthia Rhodes 2308 Wayne Ave., Apt #12 Dayton, OH 45420	0.0005 acres 1/208 of 0.10 acres	0.0006%
(b.1.6.2.4) Verna Napier 301 Arms Dr., Apt 4 Fairborn, OH 45324	0.0005 acres 1/208 of 0.10 acres	0.0006%
(b.1.8) Versa T. Smith Heirs, Devisees, Successors or Assigns		
(b.1.8.1) Phyllis Graves Heirs, Devisees, Successors or Assigns <i>(Documentation Pending 6/7/12)</i>		
(b.1.8.1.1) Robert Graves <i>Address Unknown</i>	0.0001 acres 1/780 of 0.10 acres	0.0002%
(b.1.8.1.2) James Graves <i>Address Unknown</i>	0.0001 acres 1/780 of 0.10 acres	0.0002%
(b.1.8.1.3) Tammy Green <i>Address Unknown</i>	0.0001 acres 1/780 of 0.10 acres	0.0002%
(b.1.8.1.4) Charles Robinson <i>Address Unknown</i>	0.0001 acres 1/780 of 0.10 acres	0.0002%
(b.1.8.2) Lloyd Smith Heirs, Devisees, Successors or Assigns		
(b.1.8.2.1) Jannet Smith Heirs, Devisees, Successors or Assigns		
(b.1.8.2.1.3) Jody J. Smith 1302 Red Bridge Rd. Peebles, OH 45660-9056	0.0002 acres 1/468 of 0.10 acres	0.0003%
(b.1.8.6) Roger Smith Heirs, Devisees, Successors or Assigns		

**Exhibit E**  
**Unit A-32**  
**Docket # VGOB 12-0417-3047-01**  
**List of Respondents that require escrow**

	Acres in Unit	Percent of Unit
(b.1.8.6.1) Troy Smith <i>Address Unknown</i>	0.0002 acres 1/624 of 0.10 acres	0.0002%
(b.1.8.6.2) Terry Smith <i>Address Unknown</i>	0.0002 acres 1/624 of 0.10 acres	0.0002%
(b.1.8.6.3) Chrystal Smith <i>Address Unknown</i>	0.0002 acres 1/624 of 0.10 acres	0.0002%
(b.1.8.6.4) Todd Smith <i>Address Unknown</i>	0.0002 acres 1/624 of 0.10 acres	0.0002%
(b.1.11) Opal T. Bowles (aka Opal Ruble) Heirs, Devisees, Successors or Assigns		
(b.1.11.2) Cary Bowles 715 Rainbow Forest Dr. Lynchburg, VA 24502 <i>4/12/12 Email address per [redacted] mail</i>	0.0013 acres 1/78 of 0.10 acres	0.0016%
(b.1.13) Bertha T. Snyder Heirs, Devisees, Successors or Assigns <i>(Heirs/Address Unknown - documentation pending 3/14/12)</i>	0.0038 acres 1/26 of 0.10 acres	0.0048%
<b><u>TOTAL CONFLICTS:</u></b>		
	<b>Acreage in Unit</b>	0.02
	<b>Percentage of Unit</b>	0.0274%

Exhibit EE  
Unit A-32  
Docket # VGOB 12-0417-3047-01  
List of Respondents with Royalty Split Agreements or Court Orders

	Acres in Unit	Percent of Unit	Percent of Escrow
<b><u>Tract #1, 51.99 Acres</u></b>			
<b><u>COAL OWNERSHIP</u></b>			
(1) LBR Holdings, LLC, et al. <i>(211.80 Acre Tract)</i>	51.99 acres	64.9875%	
(a) LBR Holdings, LLC P.O. Box 22427 Lexington, KY 40522-2427	13.00 acres 1/4 of 51.99 acres	16.2469%	n/a
<b><u>OIL &amp; GAS OWNERSHIP</u></b>			
(1) LBR Holdings, LLC, et al. <i>(211.80 Acre Tract)</i>	51.99 acres	64.9875%	
(b) T.G. Rogers, III 3014 Shalford Lane Matthews, NC 28104	1.62 acres 1/32 of 51.99 acres	2.0309%	<b>12.4289%</b>
(c) Derek Browning Rogers 2300 Carmel Road Charlotte, NC 28226	1.62 acres 1/32 of 51.99 acres	2.0309%	<b>12.4289%</b>
(d) Kevin Rogers 139 Wickham Rd. Garden City, NY 11530	1.62 acres 1/32 of 51.99 acres	2.0309%	<b>12.4289%</b>
(e) Shaun Rogers 121 NE 100th St. Miami Shores, FL 33138	1.62 acres 1/32 of 51.99 acres	2.0309%	<b>12.4289%</b>
(f) Gregory Poulos 1894 Glenwood St., SE Palm Bay, FL 32907-2423	2.17 acres 1/24 of 51.99 acres	2.7078%	<b>16.5718%</b>
(g) Jason Poulos 10870 SW 95 St. Miami, FL 33176	2.17 acres 1/24 of 51.99 acres	2.7078%	<b>16.5718%</b>
(h) Pamela Poulos 5000 SW 83rd St. Miami, FL 33143-8510	2.17 acres 1/24 of 51.99 acres	2.7078%	<b>16.5718%</b>
<b><i>*Prevailing plaintiff under Case No. 550-13 Awarded 100% of the CBM royalty.</i></b>			

**Tract #3, 0.21 Acres**

**COAL OWNERSHIP**

(1) LBR Holdings, LLC, et al. <i>(85.50 Acre Tract)</i>	0.21 acres	0.2625%	
(a) LBR Holdings, LLC P.O. Box 22427 Lexington, KY 40522-2427	0.05 acres 1/4 of 0.21 acres	0.0656%	n/a

**OIL & GAS OWNERSHIP**

(1) LBR Holdings, LLC, et al. <i>(85.50 Acre Tract)</i>	0.21 acres	0.2625%	
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Exhibit EE  
Unit A-32  
Docket # VGOB 12-0417-3047-01  
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	0.01 acres 1/32 of 0.21 acres	0.0082%	0.0502%
(c) Derek Browning Rogers 2300 Carmel Road Charlotte, NC 28226	0.01 acres 1/32 of 0.21 acres	0.0082%	0.0502%
(d) Kevin Rogers 139 Wickham Rd. Garden City, NY 11530	0.01 acres 1/32 of 0.21 acres	0.0082%	0.0502%
(e) Shaun Rogers 121 NE 100th St. Miami Shores, FL 33138	0.01 acres 1/32 of 0.21 acres	0.0082%	0.0502%
(f) Gregory Poulos 1894 Glenwood St., SE Palm Bay, FL 32907-2423	0.01 acres 1/24 of 0.21 acres	0.0109%	0.0669%
(g) Jason Poulos 10870 SW 95 St. Miami, FL 33176	0.01 acres 1/24 of 0.21 acres	0.0109%	0.0669%
(h) Pamela Poulos 5000 SW 83rd St. Miami, FL 33143-8510	0.01 acres 1/24 of 0.21 acres	0.0109%	0.0669%

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

**TOTAL CONFLICTS:**

Acreage in Unit	13.05	
Percentage of Unit		16.3125%

**Exhibit J**  
**Unit A32 Escrow Account Reconciliation Summary**  
**VGOB 12-0417-3047**

CNX Deposit Information		
Check Date	Check Number	Total
9/20/2013	E000012867	\$234.28
10/21/2013	E000016047	\$42.19
11/19/2013	E000017161	\$48.72
12/18/2013	E000018532	\$59.16
1/21/2014	E000019894	\$60.81
2/24/2014	E000021367	\$69.92
3/20/2014	E000022768	\$96.94
4/22/2014	E000024794	\$141.36
5/19/2014	E000026471	\$115.09
6/20/2014	E000028088	\$103.93
7/18/2014	E000030102	\$114.27
8/21/2014	E000031871	\$106.33
9/18/2014	E000033746	\$110.16
10/20/2014	E000037573	\$91.21
11/19/2014	E000039123	\$93.58
12/22/2014	E000040909	\$96.02
1/20/2015	E000042730	\$90.31
2/19/2015	E000044753	\$109.00
3/19/2015	E000046559	\$73.16
4/21/2015	E000048479	\$65.88
5/20/2015	E000051289	\$63.71

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
9/30/2013	\$234.28		\$0.00	\$0.00	\$0.00						\$0.00	\$234.28	\$234.28	\$0.00
10/31/2013	\$42.19		\$0.04	\$0.00	\$0.00						\$0.04	\$276.51	\$276.51	\$0.00
11/30/2013	\$48.72		\$0.05	\$0.00	(\$0.02)						\$0.03	\$325.26	\$325.26	\$0.00
12/31/2013	\$59.16		\$0.06	\$0.00	(\$0.03)						\$0.03	\$384.45	\$384.45	\$0.00
1/31/2014	\$60.81		\$0.07	\$0.00	(\$0.03)						\$0.04	\$445.30	\$445.30	\$0.00
2/28/2014	\$69.92		\$0.07	\$0.00	(\$0.04)						\$0.03	\$515.25	\$515.25	\$0.00
3/31/2014	\$96.94		\$0.08	\$0.00	(\$0.04)						\$0.04	\$612.23	\$612.23	\$0.00
4/30/2014	\$141.36		\$0.11	\$0.00	(\$0.05)						\$0.06	\$753.65	\$753.65	\$0.00
5/31/2014	\$115.09		\$0.13	\$0.00	(\$0.06)						\$0.07	\$868.81	\$868.81	\$0.00
6/30/2014	\$103.93		\$0.14	\$0.00	(\$0.07)						\$0.07	\$972.81	\$972.81	\$0.00
7/31/2014	\$114.27		\$0.16	\$0.00	(\$0.08)						\$0.08	\$1,087.16	\$1,087.16	\$0.00
8/31/2014	\$106.33		\$0.18		(\$0.09)						\$0.09	\$1,193.58	\$1,193.58	\$0.00
9/30/2014	\$110.16		\$0.19		(\$0.09)						\$0.10	\$1,303.84	\$1,303.84	\$0.00
10/31/2014	\$91.21		\$0.21		(\$0.11)						\$0.10	\$1,395.15	\$1,395.15	\$0.00
11/30/2014	\$93.58		\$0.24		(\$0.12)						\$0.12	\$1,488.85	\$1,488.85	\$0.00
12/31/2014	\$96.02		\$0.47		(\$0.12)						\$0.35	\$1,585.22	\$1,585.22	\$0.00
1/31/2015	\$90.31		\$0.39		(\$0.13)						\$0.26	\$1,675.79	\$1,675.79	\$0.00
2/28/2015	\$109.00		\$0.26		(\$0.14)						\$0.12	\$1,784.91	\$1,784.91	\$0.00
3/31/2015	\$73.16		\$0.30		(\$0.15)						\$0.15	\$1,858.22	\$1,858.22	\$0.00
4/30/2015	\$65.88		\$0.31		(\$0.15)						\$0.16	\$1,924.26	\$1,924.26	\$0.00
5/31/2015	\$63.71		\$0.33		(\$0.16)						\$0.17	\$1,988.14	\$1,988.14	\$0.00
											<b>Total</b>	\$2.11		

<b>Total Deposited</b>	<b>\$1,986.03</b>
<b>Interest and Fees</b>	<b>\$2.11</b>
<b>Total</b>	<b>\$1,988.14</b>
<b>May 2015 First Bank and Trust balance</b>	<b>\$1,988.14</b>
<b>Difference</b>	<b>\$0.00</b>

**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:

  
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*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:

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

*Beverly S. Tiller*  
Deputy Clerk