

**BEFORE THE VIRGINIA GAS AND OIL BOARD**

**PETITIONER:** EnerVest Operating, LLC

**DIVISION OF GAS AND OIL**

**DOCKET NO:** VGOB 07-0821-1990-01

**RELIEF SOUGHT: (1) DISBURSEMENT FROM ESCROW REGARDING TRACT(S) 003 (2) AND AUTHORIZATION FOR DIRECT PAYMENT OF ROYALTIES (3) AND DISMISSAL OF COAL OWNERS PURSUANT TO CODE OF VIRGINIA SECTION 45.1-361.22:2.**

**HEARING DATE:** May 16, 2017

**TAX ID NUMBERS:** Tax Map Identification Numbers for all parcels affected by this petition are shown on: Exhibit E - Exhibit EE

**DRILLING UNIT:** 505214

**DICKENSON COUNTY, VIRGINIA**

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

**1. Petitioner and its counsel**

Petitioner is EnerVest Operating, LLC, 408 W Main Street, Abingdon, VA 24210, 276-628-9001. Petitioner's counsel is Tim Scott, McKinnis & Scott Law Firm, 135 W. Main St., Kingsport, TN 37660.

**2. Relief Sought**

Petition to disburse funds to all known owners of Tract 3, VGOB 07-0821-1990, pursuant to HB 2058 and pursuant to Final Order CL 16-115.

**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)**

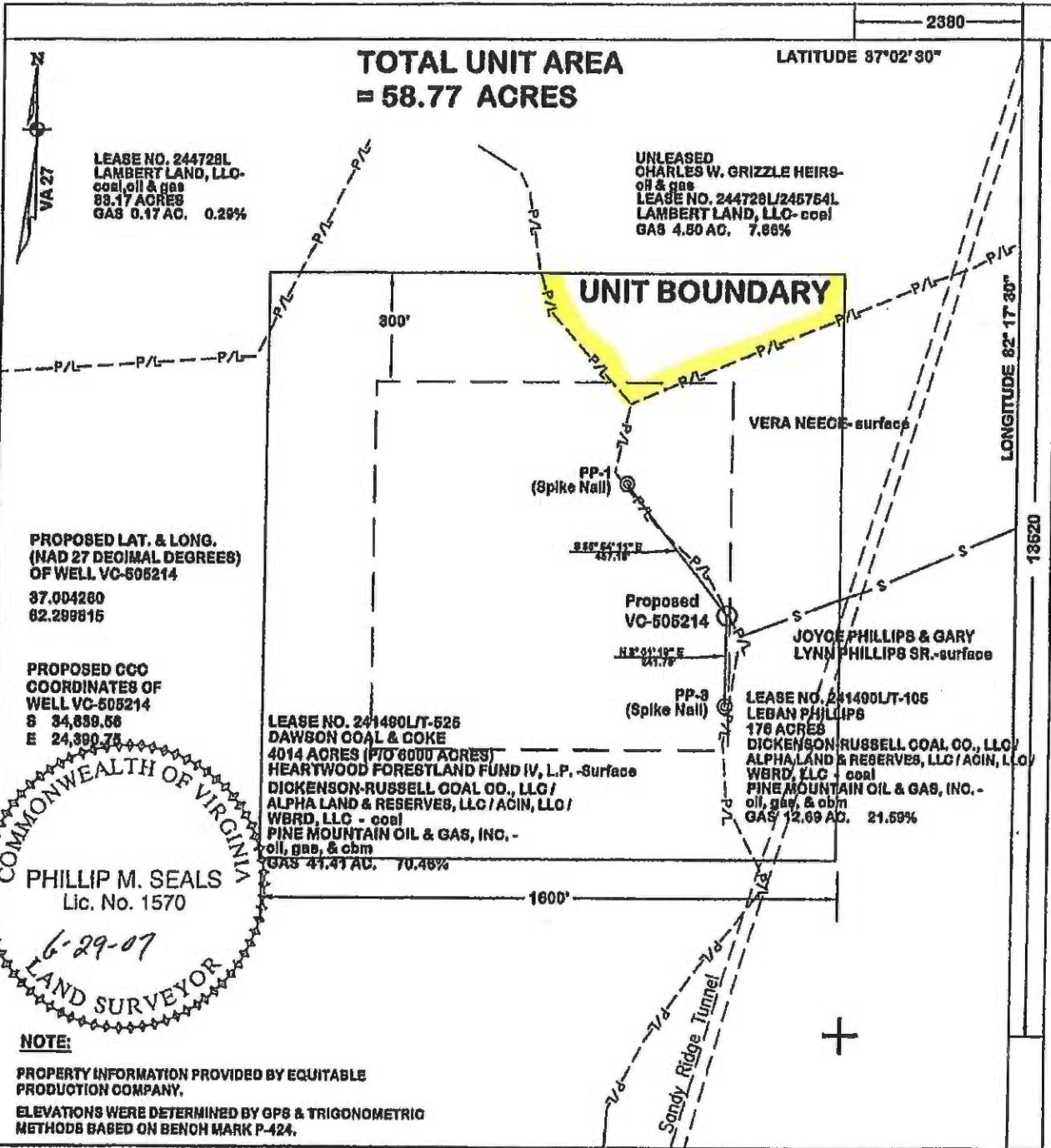
Coalbed Methane

**5. Factual basis for relief requested**

Petition to disburse funds to all known owners of Tract 3, VGOB 07-0821-1990, pursuant to HB 2058 and pursuant to Final Order CL 16-115.

**6. Attestation**

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



**TOTAL UNIT AREA  
= 58.77 ACRES**

LATITUDE 37°02'30"

LEASE NO. 244728L  
LAMBERT LAND, L.L.C.  
coal, oil & gas  
88.17 ACRES  
GAS 0.17 AC. 0.26%

UNLEASED  
CHARLES W. GRIZZLE HEIRS-  
OR & gas  
LEASE NO. 244728L/245754L  
LAMBERT LAND, L.L.C. coal  
GAS 4.80 AC. 7.86%

**UNIT BOUNDARY**

PROPOSED LAT. & LONG.  
(NAD 27 DECIMAL DEGREES)  
OF WELL VC-505214

37.004280  
82.289815

PROPOSED CGO  
COORDINATES OF  
WELL VC-505214  
S 34,859.58  
E 24,390.75

LEASE NO. 241480L/T-526  
DAWSON COAL & COKE  
4014 ACRES (PTO 8000 ACRES)  
HEARTWOOD FORESTLAND FUND IV, L.P. -surface  
DICKENSON-RUSSELL COAL CO., L.L.C.  
ALPHA LAND & RESERVES, L.L.C./ACIN, L.L.C.  
WBRD, L.L.C. - coal  
PINE MOUNTAIN OIL & GAS, INC. -  
oil, gas, & cbm  
GAS 41.41 AC. 70.48%

LEASE NO. 241400L/T-105  
LEBAN PHILLIPS  
178 ACRES  
DICKENSON-RUSSELL COAL CO., L.L.C./  
ALPHA LAND & RESERVES, L.L.C./ACIN, L.L.C.  
WBRD, L.L.C. - coal  
PINE MOUNTAIN OIL & GAS, INC. -  
oil, gas, & cbm  
GAS 12.89 AC. 21.59%

PHILLIP M. SEALS  
Lic. No. 1570

**NOTE:**

PROPERTY INFORMATION PROVIDED BY EQUITABLE  
PRODUCTION COMPANY.

ELEVATIONS WERE DETERMINED BY GPS & TRIGONOMETRIC  
METHODS BASED ON BENCH MARK P-424.

**WELL LOCATION PLAT**

COMPANY EQUITABLE PRODUCTION CO. WELL NAME OR NUMBER VC-505214  
 TRACT NO. T-525 QUADRANGLE NORA  
 DISTRICT Kenady  
 WELL COORDINATES (VIRGINIA STATE PLANE 27) N 266,598.39 E 890,703.65  
 ELEVATION 2,579.22 METHOD USED TO DETERMINE ELEVATION: GPS & TRIG.  
 COUNTY Dickenson SCALE: 1" = 400' DATE 6-29-07  
 THIS PLAT IS A NEW PLAT  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.

003.53  
Form DGO-GO-7  
Rev. 1-98

*Phillip M. Seals*  
\_\_\_\_\_  
LICENSED LAND SURVEYOR

(AFFIX SEAL)

VGOB Disbursement

Unit 505214

VGOB-07-0821-1990-01

Table 1

Tracts: 003

Fractional	Net Acreage	Royalty	Escrowed	Percent of	Disbursement			
Ownership	Ownership	Split	Acres	Escrowed				
in Tract	inTract	Agreement	Disbursed	Disbursed				
			4.50000					
003 Tract 003 (total acreage)			4.5000					
1	003	Enervest Operating LLC\408 West Main Street; Abingdon; VA 24210		4.5000	100.00%	4.5000	100.0000%	\$1,716.72

**Wells contributing to the escrow account: VC-505214**

**EXHIBIT "E"**  
**VC-505214**  
**VGOB 07/08/21-1990-01**

N/A

**EXHIBIT "EE"**  
**VC-505214**  
**VGOB 07/08/21-1990-01**

<u>TRACT</u>	<u>LESSOR</u>	<u>LEASE STATUS</u>	<u>INTEREST WITHIN UNIT</u>	<u>GROSS ACREAGE IN UNIT</u>
<b><u>Gas Estate Only</u></b>				
3	EnerVest Operating LLC Attn: Jim McKinney 408 West Main Street Abingdon, VA 24210 <i>formerly Charles W. Grizzle, et al</i> <i>Unknown</i> Minerals Only	Owned	7.660000%	4.5000
<b>Total Gas Estate</b>			7.660000%	4.5000
<b><u>Coal Estate Only</u></b>				
3	Lambert Land, LLC Attn: Dennis Sutherland PO Box 90 Emory, VA 24327 TAX ID 11642	Leased 2444728	7.660000%	4.5000
<b>Total Coal Estate</b>			7.660000%	4.5000

**EXHIBIT "J"**  
**VC-505214**  
**VGOB 07/08/21-1990-01**

<u>Date</u>	<u>Payment</u>
11/19/2009	\$ 2.71
11/19/2009	\$ 21.29
11/19/2009	\$ 25.47
11/19/2009	\$ 28.60
11/19/2009	\$ 33.94
11/19/2009	\$ 44.69
11/19/2009	\$ 49.60
11/19/2009	\$ 61.60
11/19/2009	\$ 63.55
11/19/2009	\$ 73.82
11/19/2009	\$ 50.14
11/19/2009	\$ 47.64
11/19/2009	\$ 43.68
11/19/2009	\$ 36.05
11/19/2009	\$ 38.66
11/19/2009	\$ 33.24
11/19/2009	\$ 20.69
11/19/2009	\$ 20.04
11/19/2009	\$ 13.93
11/19/2009	\$ 13.79
11/19/2009	\$ 14.73
11/19/2009	\$ 16.80
11/19/2009	\$ 13.40
11/19/2009	\$ 10.62
12/9/2009	\$ 15.00
1/13/2010	\$ 17.62
2/10/2010	\$ 17.93
3/9/2010	\$ 23.39
4/14/2010	\$ 20.26
5/10/2010	\$ 19.29
6/8/2010	\$ 13.20
7/13/2010	\$ 15.91
8/10/2010	\$ 14.93
9/10/2010	\$ 17.46
10/11/2010	\$ 17.96
11/11/2010	\$ 12.01
12/9/2010	\$ 12.81
1/13/2011	\$ 10.52
2/11/2011	\$ 15.40
3/11/2011	\$ 15.93
4/12/2011	\$ 14.05
5/11/2011	\$ 13.53
6/11/2011	\$ 14.30
7/13/2011	\$ 14.66
8/10/2011	\$ 14.72
9/12/2011	\$ 15.17
10/12/2011	\$ 15.11
11/10/2011	\$ 12.44
12/9/2011	\$ 12.46
1/17/2012	\$ 11.56
2/10/2012	\$ 11.03
3/12/2012	\$ 9.36
4/13/2012	\$ 7.02
5/11/2012	\$ 6.71
6/12/2012	\$ 4.83
7/11/2012	\$ 4.83
8/10/2012	\$ 6.10
9/12/2012	\$ 7.64
10/10/2012	\$ 8.29
11/9/2012	\$ 6.51
12/12/2012	\$ 8.17
1/10/2013	\$ 9.65
2/11/2013	\$ 10.30
3/13/2013	\$ 8.88

4/10/2013	\$	7.25
5/10/2013	\$	9.73
6/10/2013	\$	10.85
7/8/2013	\$	11.93
8/12/2013	\$	11.61
9/13/2013	\$	10.14
10/10/2013	\$	9.11
11/13/2013	\$	9.12
12/11/2013	\$	9.05
1/10/2014	\$	9.01
2/11/2014	\$	10.22
3/12/2014	\$	16.18
4/10/2014	\$	16.25
5/14/2014	\$	13.64
6/13/2014	\$	12.25
7/9/2014	\$	13.40
8/14/2014	\$	12.06
9/30/2014	\$	12.85
10/31/2014	\$	10.86
11/28/2014	\$	10.97
12/31/2014	\$	11.42
1/30/2015	\$	10.46
2/27/2015	\$	11.75
3/31/2015	\$	9.18
4/30/2015	\$	7.53
5/29/2015	\$	8.01
6/30/2015	\$	6.39
7/31/2015	\$	6.48
8/31/2015	\$	7.05
9/30/2015	\$	6.97
10/30/2015	\$	7.77
11/30/2015	\$	6.74
12/31/2015	\$	6.61
1/29/2016	\$	5.01
2/29/2016	\$	5.74
3/31/2016	\$	3.95
4/26/2016	\$	6.04
5/25/2016	\$	3.96
6/27/2016	\$	4.19
7/28/2016	\$	4.37
8/26/2016	\$	4.23
9/28/2016	\$	7.27
10/27/2016	\$	6.19
11/29/2016	\$	6.77
12/22/2016	\$	7.00
1/31/2017	\$	6.81
2/28/2017	\$	8.89

TOTAL \$1,698.88

**February 2017 - Funded Units**

Unit Name	Docket #	Unit Operator	Beginning	Deposit	Deposits	Money	CDARS	Fees	Distributi	Transfer	Audit	Correction	Ending	
			Market			Mkt				to No W9			Market	
			Value	Type		Interest	Interest		ons	Spreadsh	Costs	s*	Value	
8001990	VC505214	1990	ENERVEST	\$1,709.80		\$6.81	\$0.25						(\$0.14)	\$1,716.72

Payment Total \$1,698.88  
Escrow Agent Total \$1,716.72  
Difference \$ (17.84)

VIRGINIA:

IN THE CIRCUIT COURT OF DICKENSON COUNTY

ENERVEST ENERGY INSTITUTIONAL )  
FUND XIV-A, L.P., )

ENERVEST ENERGY INSTITUTIONAL )  
FUND XIV-WIC, L.P., )

and )

ENERVEST ENERGY INSTITUTIONAL )  
FUND XIV-1A, L.P., )

Plaintiffs, )

v. )

Case No. CL16-115

CHARLES W. GRIZZLE, )  
and )

UNKNOWN HEIRS, SUCCESSORS, AND )  
ASSIGNS OF CHARLES W. GRIZZLE )  
("Parties Unknown"), )

Defendants. )

COPIES AS DIRECTED 12-12-16

FINAL ORDER

Plaintiffs, EnerVest Energy Institutional Fund XIV-A, L.P., EnerVest Energy Institutional Fund XIV-WIC, L.P., and EnerVest Energy Institutional Fund XIV-1A, L.P., filed their Complaint for declaratory judgment on August 4, 2016, seeking to establish their title to the oil and gas (including coalbed methane gas) on that certain tract of land known as the R.W. Ervin 77.06 acre tract (the "Ervin Tract"), to establish their right to proceeds from production of oil and gas from the Ervin Tract, including any

royalties in escrow, and to establish that Defendants, Charles W. Grizzle and Unknown Heirs, Successors and Assigns of Charles W. Grizzle, have no valid claims to the oil and gas on the Ervin Tract or to the proceeds from the production on that Tract.

Upon the Affidavit for Order of Publication filed by Plaintiffs, the Court entered the Order of Publication on August 4, 2016. Notice was published in the Dickenson Star for four consecutive weeks beginning August 10, 2016, as required by the Order of Publication, and the Certificate of Publication was filed on September 27, 2016.

On September 6, 2016, Plaintiffs filed their Motion for Appointment of a Guardian Ad Litem for Defendants, Unknown Heirs, Successors, and Assigns of Charles W. Grizzle. The Court entered the Order appointing Susan J. Wood as Guardian Ad Litem on September 12, 2016. Susan J. Wood, as Guardian Ad Litem, filed her Answer on September 26, 2016.

Defendants have not otherwise appeared or filed responsive pleadings, and the deadline set in the Order of Publication, October 5, 2016, has expired.

On September 27, 2016, Plaintiffs filed a Notice of Trial for the trial on November 1, 2016. The Notice of Trial was properly served on Susan J. Wood, Guardian Ad Litem.

On November 1, 2016, Plaintiffs and Susan J. Wood, Guardian Ad Litem, appeared for trial. Plaintiffs introduced evidence in support the claims in their Complaint, including without limitation evidence of the record chain of title to the Ervin

Tract. Plaintiffs rested and no further evidence was presented. Thereafter, the Court took the case under advisement.

By letter dated November 15, 2016, the Court announced its decision in the case. Based on the record and evidence in the case, and for the reasons stated in its letter, the Court finds and determines as follows:

1. Sufficient and proper notice was given to Defendants under the Order of Publication, and Defendants have not appeared.
2. The Ervin Tract was conveyed to Charles W. Grizzle by deed dated January 5, 1888, recorded in the Dickenson County Clerk's Office in Deed Book 8, page 461.
3. The Ervin Tract was then conveyed by Charles W. Grizzle and Delilah Grizzle, his wife, to Robert W. Ervin, by deed dated January 22, 1897, recorded in the Clerk's Office, in Deed Book 15, page 139 (the "Ervin Deed").
4. The Ervin Deed conveys the Ervin Tract "with all its appurtenances; provided however that the coal gasses oils and minerals are sold and deeded to other parties and are hereby excepted."
5. When the Ervin Deed was executed, the only minerals on the Ervin Tract that had been sold or deeded to other parties was the coal, which Charles W. Grizzle and Delilah Grizzle, his

wife, conveyed to S.D. May and H.H. Dickenson by deed dated March 4, 1890, recorded in the Clerk's Office in Deed Book 8, page 477. This deed did not convey the oil, gas, or other minerals on the property.

6. The question presented is whether the Ervin Deed conveyed the oil, gas, and other minerals owned by Charles W. Grizzle or whether it excepted or reserved them, along with the coal.
7. This precise issue was recently decided by the Supreme Court of Virginia in *CNX Gas Co. v. Rasnake*, 287 Va. 163, 752 SE.2d 865 (2014). In that case, the grantor conveyed a tract but stated in the deed that “[t]his sale is not ment [sic] to convey any coals or minerals. The same being sold and deeded to other parties heretofore.” 287 Va. at 167, 752 SE.2d at 866. At the time of the deed, the grantor had conveyed the coal, but he had not conveyed the oil, gas, or other minerals. The Supreme Court held that the deed conveyed the oil, gas, and other minerals to the grantee. 287 Va. at 169, 752 SE.2d at 868.
8. Under the Supreme Court of Virginia's ruling in *Rasnake*, the Ervin Deed conveyed to Robert W. Ervin all of the interests that Charles W. Grizzle was capable of conveying, including

the oil, gas, and other minerals, and excepting only the previously-conveyed coal.

9. Range Resources-Pine Mountain, Inc. acquired the oil and gas on the Ervin Tract as successor-in-title to Robert W. Ervin. By deed dated April 13, 2016, recorded in the Clerk's Office in Deed Book 535, page 608, Range Resources-Pine Mountain, Inc. conveyed to Plaintiffs the oil and gas on the Ervin Tract along with any proceeds from production of the oil and gas.
10. Prior to the *Rasnake* decision, the Ervin Tract was force pooled for various conventional and coalbed methane gas wells. In filings with the Virginia Department of Mines, Minerals & Energy, Division of Gas and oil ("DMME"), the gas estate was incorrectly listed as being owned by the heirs of Charles W. Grizzle. These filings were made before the Supreme Court's decision in *Rasnake*.
11. Royalties from the gas production on the Ervin Tract are currently held in the DMME's escrow account.
12. As owner of the gas estate on the Ervin Tract, Plaintiffs have the right to all proceeds from production of gas on the Ervin Tract, including any royalties in escrow.

WHEREUPON, it appearing to the Court that Plaintiffs are entitled to the relief they seek, it is ORDERED as follows:

1. Plaintiffs are the owner of the oil and gas (including coalbed methane gas) on the Ervin Tract as stated in their deed which is recorded in the Clerk's Office in Deed Book 535, page 608.
2. Plaintiffs have the right to all proceeds from production of oil and gas from the Ervin Tract, including any royalties in escrow, and DMME should release all such royalties and accrued interest to Plaintiffs; and
3. Defendants have no valid claims to the oil or gas on the Ervin Tract or to the proceeds from the production of oil and gas on the Tract.

For fees and any costs incurred as Guardian Ad Litem, Plaintiffs shall pay to Susan J. Wood the amount of \$ 625.00.

The Clerk shall appropriately index this Final Order in the land records of this Court under the names of Charles W. Grizzle and Unknown Heirs, Successors, and Assigns of Charles W. Grizzle, as grantors, and EnerVest Energy Institutional Fund XIV-A, L.P., EnerVest Energy Institutional Fund XIV-WIC, L.P., and EnerVest Energy Institutional Fund XIV-1A, L.P., as grantees, and send attested copies of this Order to counsel for Plaintiffs and to Susan J. Wood, Guardian Ad Litem.

Nothing further remaining to be done, the Clerk shall strike this case from the docket of the Court.

ENTER: this 9<sup>th</sup> day of <sup>December</sup>~~November~~, 2016.

*Thomas J. ...*  
Judge

REQUESTED:

*Wade W. Massie*  
Wade W. Massie  
VSB No. 16616  
Seth M. Land  
VSB No. 75101  
PENN, STUART & ESKRIDGE  
P.O. Box 2288  
Abingdon, Virginia 24212

*Counsel for Plaintiffs*

A COPY TESTE:  
RICHARD EDWARDS, CLERK  
BY: *[Signature]* DEPUTY CLERK

SEEN:

*Susan J. Wood*  
Susan J. Wood  
VSB No. 88121  
GREG BAKER ATTORNEYS AT LAW, PLLC  
P.O. Box 338  
Clintwood, Virginia 24228

*Guardian Ad Litem for Unknown Heirs,  
Successors and Assigns of Charles W. Grizzle*