VIRGINIA DEPARTMENT OF ENERGY
DIVSISON OF GAS AND OIL

DIVERSIFIED PRODUCTION LLC	)	
	)	Informal Fact-Finding Conference 1042
	)	Permit Application for Gas and Oil
	)	Operations
vs.	)	Coalbed/Pipeline Operations CBM G37B
	)	W/PL, Application 64222
POCAHONTAS GAS LLC	)	Appeal No. 61

Petition For Appeal
Pursuant To Virginia Code § 45.2-1638

Now comes Diversified Production LLC ("*Diversified*"), by counsel, and submits this *Petition for Appeal Pursuant to Virginia Code § 45.2-1638* in the above-referenced matter.

I. Procedural History.

A. December 18, 2025, Hearing in Buchanan County Circuit Court.

On December 17, 2025, Diversified filed an Emergency Motion to Stay, or, in the Alternative, For Temporary Restraining Order and For Expedited Hearing *("Motion")* in the Circuit Court of Buchanan County, Virginia, in the case of *Diversified Production LLC v. Virginia Gas and Oil Board, et al.,* Case No. CL25000988-00 *("Action").* The Action challenges a decision and associated orders ("Orders") of the Virginia Gas and Oil Board ("Board") regarding the forced-pooling of several drilling units in the Oakwood region of Buchanan County, including unit G-37—the unit implicated by the above-referenced well permit application. Notwithstanding the pending Action, the Board's Orders required Diversified to comply with certain requirements in finite timeframes, including making an election for G-37 pursuant to Virginia Code § 45.2-1620. The Motion sought to stay or modify these deadlines to avoid any prejudice to Diversified's interests.

The Circuit Court convened a hearing on the Motion by teleconference on December 18, 2025. The Director and the Division of Oil and Gas attended the hearing, represented by the Assistant Attorney General. At the hearing, Diversified explained that the catch-22 situation in which it stood:

- The Orders sought to compel Diversified to make elections;
- Diversified's actions in making any election might be used against it later;
- But if Diversified did not make elections, default election decisions would be imposed upon it—to its detriment.

The Court inquired whether the parties could stipulate that Diversified be permitted to make the elections without such actions being used against it. Based on that discussion, the parties (including permit applicant herein Pocahontas Gas LLC ("Pocahontas")) agreed and stipulated on the record[1] precisely that. The Assistant Attorney General was specifically asked if her clients would join in the record stipulation, and she said, ***"Yes . . [w]e agree to the same terms"***. **Ex. 1** at 49. (emphasis added). In justifiable reliance upon the record stipulations before the circuit court, Diversified exercised its statutory election as to G-37.

B. Pocahontas' Permit Application and Diversified's Objections.

Pocahontas filed this Application, styled as Application Number 64222, to drill a coalbed methane ("*CBM*") gob well in Drilling Unit G-37. Diversified received notice of the Application and filed timely objections on ("*Objections*"). An informal fact-finding conference ("IFFC") was scheduled on Diversified's objections for April 27, 2026, with the Director of the Gas and Oil Division to serve as the hearing officer. At the IFFC, the sole questioning of the Director focused on whether Diversified had made an election pursuant to the G-37 pooling order. In response,

[1] The transcript of the hearing on the Motion is attached as **Exhibit 1**.

Diversified reminded the Director of the record stipulations before the circuit court at the Motion hearing – that Diversified's statutory elections could not be used against it in any proceeding. The Director ignored or otherwise refused to hear or consider the record stipulations—despite also acknowledging he was present at that hearing—and reiterated the same narrow question to Diversified: "did you make an election?" Diversified offered to provide the Director with the transcript from the Motion hearing and did so after the IFFC and before his Decision.

C. May 11, 2026, Decision of the Director.

The Director issued a written decision following the IFFC dated May 11, 2026 ("Decision"). The Decision denied Diversified's Objections to the Application on the following basis:

> On December 18, 2025, Diversified Production, LLC notified Pocahontas Gas, LLC by Certified Mail of their election on participation in Drilling Unit G37. Diversified elected Option 3 as a "Non-Participating Operator" where Diversified Production, LLC shares in the operation of the well on a carried basis receiving royalties allocable their proportionate share in the unit. Diversified Production LLC's objection to the Pocahontas Gas, LLC's (*sic*) new permit application #64222 for G37B is denied as Diversified's gas interest as a royalty owner is not impinged, and its property and statutory rights are not violated.

The Decision did not address (or reference) the record stipulations or offer any explanation why the Director had chosen to disregard, ignore, and/or refuse to follow the record stipulations.

II. Assignment of Error.

The Decision is erroneous and reversible for the following reasons:

1. The Director and the Division were prohibited, barred and/or estopped by the record stipulations to consider Diversified's statutory elections in this matter and use those elections against Diversified as a means to overrule its Objections to the Application.

2. The Director and the Division entered into a binding agreement before the circuit court that prevented and prohibited them from using the statutory elections to the prejudice of Diversified, including using them as a basis to deny its Objections to the Application.

3. The Director has demonstrated a clear bias and at minimum a lack of impartiality towards Diversified, as evidenced by his statements/actions at the IFFC, his issuance of a Decision plainly contrary to representations and concessions made by him before the circuit court, and his refusal to acknowledge or even address the record stipulation.

WHEREFORE, Diversified requests that the Board reverse the Decision for the reasons set forth herein, vacate the Decision, and remand the matter to the Division for a new IFFC presided over by a different, neutral hearing officer.

DIVERSIFIED PRODUCTION LLC

By Counsel

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STREET LAW FIRM, LLP
P. O. Box 2100
Grundy, VA 24614
(276) 935-2128 - Telephone
(276) 935-4162 - Facsimile
VSB No. 41118

By: _____

CERTIFICATE OF SERVICE

I hereby certify that on May 21, 2026, a true and accurate copy of the foregoing was filed with Virginia Gas and Oil Board; mailed by United States Postal Service and by electronic mail to: Deputy Director Phil Skorupa; Phil.Skorupa@energy.virginia.gov; 3405 Mountain Empire Road, Big Stone Gap, VA 24219; Tom Pruitt, Esq., TLPruitt@tlpruittlaw.com; Mark Swartz, Esq., MSwartz@wvdivorce.com; 24 Capitol Street, Suite 201 In Charleston, WV.

DIVERSIFIED PRODUCTION LLC
BY COUNSEL

By: _____

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VIRGINIA DEPARTMENT OF ENERGY
GAS AND OIL PROGRAM
NOTICE OF INFORMAL FACT FINDING HEARING

In regard to Pocahontas Gas LLC

Proposed Permit for New Coalbed/Pipeline

Application 64222 for CBM G37B W/PL

Located in the Garden District of Buchanan County, Virginia

Docket Number IFFH 1042

In Accordance with §45.2-1637.G. of the Code of Virginia, the Gas and Oil Director has scheduled an Informal Fact Finding Hearing (IFFH) to consider objections received from Eric Conley, Esq., to be affected by the above-named operation(s). The objection by the Royalty Owner was received at the office of the Gas and Oil Program in a timely manner and in accordance with §45.2-1637. This notice of hearing is being sent to the permit applicant and to all parties with standing to object as prescribed by §45.2-1632. All parties are entitled to be represented by counsel at the hearing, if desired. Those receiving notice of this proceeding and who did not object to the application are not required to attend.

The objections have been filed by a Royalty Owner against the permit applications for Pocahontas Gas LLC for operation CBM G37B W/PL in accordance with:

§45.2-1637. Objections to permits

C. The only objections to permits or permit modifications that may be raised by Royalty Owners are whether the proposed well work:

1. The proposed operation(s) would directly impinge upon the royalty owner's gas and oil interest.
2. The proposed operation(s) threaten to violate the objecting royalty owner's property or statutory rights aside from his contractual rights.

All testimony in this conference must be relevant to objections allowed for and detailed in the Gas and Oil Act in this section.

Date and Location of Conference:

The hearing is scheduled for **Monday, April 27, 2026, beginning at 02:00 PM.** The hearing will be held at Virginia Energy Training Center, 2677 Steelsburg Highway, Suite 2 Cedar Bluff, Virginia. Contact the Gas and Oil Team at (276) 415-9700 with any questions.

Specific directions and other important information can be accessed from the Virginia Department of Energy website: http://www.energy.virginia.gov/gas-oil/gasoil.shtml

Informal Fact Finding Hearings are to be conducted according to provisions of the Administrative Processes Act of the Code of Virginia (§2.2-4019). In reaching a decision, the Director may rely upon any public data, field research, documents, and testimony given at the hearings.

This notice was prepared on Friday, March 20, 2026, and will be sent by certified mail, return receipt requested, to every person with standing to object as prescribed by §45.2-1632.

James P. Skorupa, Director

Virginia Department of Energy
Gas and Oil Program
3405 Mountain Empire Road
Big Stone Gap, VA 24219

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Big Stone Gap, VA 24219
Telephone: (276) 415-9700
Fax: (276) 523-8121

James P. Skorupa, Director
Gas and Oil Program

By Decision of the Director in

Informal Fact Finding Conference 1042

Eric Conley, Esq. - Diversified Production, LLC

vs.

Pocahontas Gas LLC

Permit Application for Gas and Oil operations:

Coalbed/Pipeline Operations CBM G37B W/PL, Application 64222

Background

Coalbed/Pipeline operations CBM G37B W/PL, Application 64222, Pocahontas Gas LLC was received at the Virginia Department of Energy Gas and Oil Program on 2/6/2026. The evidence regarding the application and objections filed support the fact that the objections were timely and appropriate under Virginia statute.

The objections filed by **Eric Conley, Esq. - Diversified Production, LLC** against the permit application **#64222** were in accordance with objections provided by law under §45.2-1637.

§45.2-1637. Objections to permits; hearing

C. The only objections to permits or permit modifications that may be raised by Royalty Owners are whether the proposed well work:

1. The proposed operation(s) would directly impinge upon the royalty owner's gas and oil interest.
2. The proposed operation(s) threaten to violate the objecting royalty owner's property or statutory rights aside from his contractual rights.

Hearing Date and Place

IFFH 1042 was convened on Monday, April 27, 2026 at 2:00 PM, at Virginia Energy Training Center, 2677 Steelsburg Highway, Suite 2 Cedar Bluff, Virginia. All parties with standing to object to Permit Application #64222 were notified of the time and place by United States Postal Service, certified mail, return receipt requested.

Appearances

James Skorupa - Director, Division of Mineral Mining and Division of Gas and Oil

Ben Street – Counsel for Diversified Production, LLC

Scott Stephenson - Counsel for Diversified Production, LLC

Mark Swartz – Counsel for Pocahontas Gas, LLC

Beverly Webb - Permit Supervisor, Pocahontas Gas, LLC

Diversified Production LLC, filed an objection as a Royalty Owner to Pocahontas Gas, LLC's New Permit Application #64222. On October 21, 2025, the Virginia Gas and Oil Board (VGOB) approved Pocahontas Gas, LLC's Pooling Order, Docket # 25-0617-4309 for Drilling Unit G37 which named Pocahontas Gas, LLC as the operator. The Chairman of the VGOB and the Director of the Gas and Oil Program signed this order on October 23, 2025. Pooling Order # 25-0617-4309 was first recorded on November 6, 2025 and recorded again on February 10, 2026 with the Buchanan County Circuit Court. On December 18, 2025, Diversified Production, LLC notified Pocahontas Gas, LLC by Certified Mail of their election on participation in Drilling Unit G37. Diversified elected Option 3 as a "Non-Participating Operator" where Diversified Production, LLC shares in the operation of the well on a carried basis receiving royalties allocable their proportionate share in the unit. Diversified Production LLC's objection to the Pocahontas Gas, LLC's new permit application #64222 for G37B is denied as Diversified's gas interest as a royalty owner is not impinged, and its property and statutory rights are not violated.

Based on testimony and the permit application, it is, therefore, the decision of the Director to deny objections to permit Application 64222 for operations CBM G37B W/PL. The Permit Application for operations CBM G37B W/PL will be assessed and issued under standard Division of Gas and Oil permit procedures.

Right of Appeal

Any person with standing under §45.2-1632 who is aggrieved by this decision of the Director may appeal the decision to the Virginia Gas and Oil Board by filing a petition with the Board within ten days following the decision (§45.2-1638). No petition or appeal may raise any matter other than matters raised by the Director or which the petitioner put in issue either by application or by objections, proposals, or claims made and specified in writing at the informal fact finding conference.

Signed Monday, May 11, 2026

James P. Skorupa, Director
Virginia Department of Energy
Gas and Oil Program

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Hilliard & Swartz Law Offices
c/o Mark Swartz, Attorney
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Grundy, VA 24614
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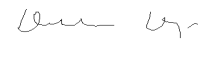

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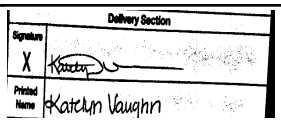

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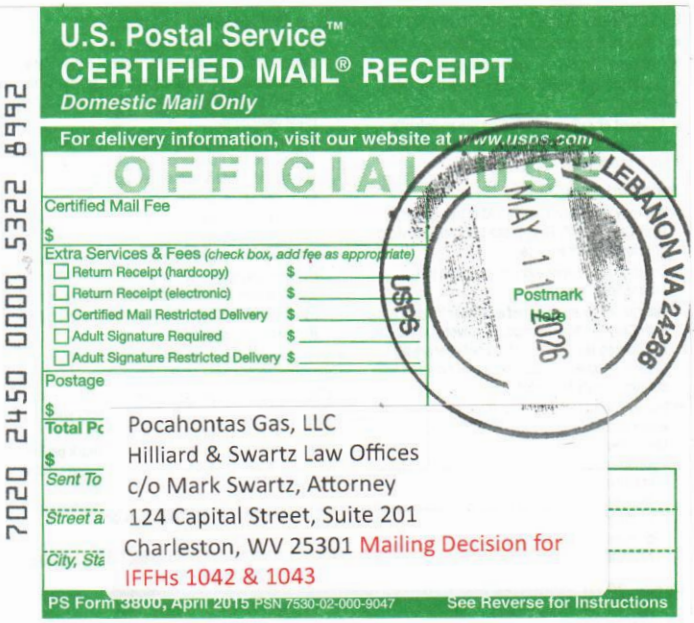
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c/o Mark Swartz, Attorney
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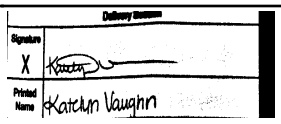

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March 11, 2026

Virginia Department of Energy
Division of Gas and Oil
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Sarah Gilmer
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Big Stone Gap, VA 24210
Sarah.Gilmer@energy.virginia.gov

Re: *Objections – Pocahontas Gas LLC's Well Permit Applications for CBM Gob Well CMB-F37A W/PL (Application No. 64170); CBM Gob Well CMB-G37B W/PL (Application No. 64222); and CBM Gob Well CMB-G37C W/PL (Application No. 64223).*

Director Skorupa:

Diversified provides this *Reply* to Pocahontas Gas LLC's ("*Pocahontas*"") letter dated March 8, 2026 (provided to you on March 6th) ("*Letter*") in connection with *Diversified Production's Objections to well work permit applications F37A, G37B and G37C.*

Pocahontas' Letter conjures two pseudo conclusions which collapse under clear statutory authority and practical reason.

First, in the same breath by which Pocahontas Gas admits that Diversified is a Gas Owner, it also irreconcilably asserts that Diversified lacks standing to object. The Virginia Code is crystal clear that Gas Owners have standing to object:

- Virginia Code § 45.2-1637(A) states that objections to a well permit application "may be filed with the Director by ***any person having standing as set out in Virginia Code § 45.2-1632***" (emphasis added).

- Subsection (D) of § 45.2-1632, provides, in relevant part, that "***a person entitled to notice under subsection A, B, or C [of § 45.2-1632] shall have standing to object*** to the issuance of the proposed permit or permit modification"

- Subsection (A)(4) of § 45.2-1632 states that "***[e]very gas . . . owner*** . . . (ii) within the boundaries of a drilling unit" ***is entitled to notice of the well permit application***. Va. Code § 45.2-1632(A)(4) (emphasis added).

- Pocahontas concedes in its Letter that Diversified "is within the definition of 'gas or oil owner'" under Virginia Code § 45.2-1600. In doing so, it effectively admits that Diversified has standing to object.

- The Letter misdirects when it states that "Diversified's allegations that it has standing to object to the permits in question is predicated solely upon an allegation that it is a royalty owner . . ."). At first glance, Pocahontas seems to have forgotten that Diversified explained in its March 5th letter that it is also a **Gas Owner with standing to object**. And it seems to have forgotten the need to formulate a substantive response to that basis for standing. But Pocahontas did not actually forget – it just does not have a meaningful response; it just does not have an answer. Be assured that if Pocahontas were able to develop a basis to argue that Gas Owners (as it admits Diversified is one) lack standing to object, it would have done so. The reality is that Va. Code § 45.2-1637(A) leaves no room for Pocahontas to argue lack of gas-owner standing, so it is left pretending that standing is "solely predicated" upon something else.

Accordingly, under Virginia Code § 45.2-1637(A), Diversified has "standing as set out in Virginia Code § 45.2-1632" as a "gas owner" to file objections to Pocahontas' well permit applications.

Second, Diversified is also a "royalty owner" with equal standing and entitlement to object to Pocahontas' well permit applications. As the Letter concedes, a "royalty owner" is "any . . . owner of gas or **oil rights**, ***who is eligible to receive payment based on the production of gas*** or oil." Va Code § 45.2-1600 (emphasis added). Diversified is unquestionably the owner of gas rights in units F-37 and G-37 and "is eligible to receive payment based on the production of gas" in those units. Among other things, Diversified has an existing frac well on F-37, its operation of which plainly renders it eligible to receive payment based on the

production from that well. Diversified is also "eligible to receive payment based on the production of [gob] gas" on F-37 and G-37 as a participating operator.[1]

Pocahontas pretends that when § 45.2-1600 states "eligible to ***receive payment***" it actually means "***eligible to receive a royalty***" and embraces the fiction that the statute defines a "royalty owner" to narrowly include only a passive owner of gas or gas rights that is eligible to receive "production royalties" (like Buchanan Energy Company, LLC). The statute simply does not use Pocahontas' preferred language of "production royalty" to define a royalty owner, but rather defines a royalty owner as an interest holder entitled to "payment" from production—and such "payment" includes the "share of production" to which participating and nonparticipating operators are entitled under §§ 45.2-1600; 45.2-1620(C)(7) as well as a true "royalty" payment.

The Division should follow the letter of statutory law –not the strained, expedient interpretation urged by Pocahontas. The statute is phrased the way it is for good reason, and Pocahontas' limited interpretation would create instances of unfairness and unreasonableness. For example, the incumbent operator of an existing frac well could be stripped of any right or voice as to whether another operator may construct additional wells on that same unit regardless of the circumstances. Or lessees of natural gas would not have any right to be heard on the location and planned operation of another operator's wells or pipelines. Such outcomes would be nonsensical, unfair, and threaten to lead the Division astray.

Diversified respectfully reiterates its request that informal fact-finding conferences be scheduled on the Applications and the associated objections.

With best regards, I remain

Yours truly,

/s/ Benjamin A. Street

Cc Mark Swartz, Esq. (by email)
Eric Conley, Esq. (by email)
Scott A. Stephenson, Esq. (by email)
Kathleen L. Wright, Esq. (by email)
Tom Pruitt, Esq. (by email)

[1] Diversified was compelled to make this election under protest, and without waiver to its rights on appeal of the Board's decisions regarding pooling of F-37 and G-37. Nothing herein is intended to be, nor may it be construed, as any waiver of or prejudice to those rights.

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March 5, 2026

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Re: *Objections – Pocahontas Gas LLC's Well Permit Applications for CBM Gob Well CMB-F37A W/PL (Application No. 64170); CBM Gob Well CMB-G37B W/PL (Application No. 64222); and CBM Gob Well CMB-G37C W/PL (Application No. 64223).*

Director Skorupa:

Diversified Production LLC ("*Diversified*") provides this Reply to Pocahontas Gas LLC's ("*Pocahontas*") March 3, 2026 *Response to Diversified Production's Objections to well work permit applications F37A, G37B and G37C* ("*Response*").

Without a single citation to ***any*** legal or factual authority, Pocahontas summarily concludes that "Diversified is not a royalty owner" under Virginia Code §§ 45.2-1600, 45.2-1632, and 45.2-1637 of the Virginia Gas and Oil Act ("Act"). Then—and again without citing any authority—Pocahontas concludes that Diversified is a "mineral owner." Pocahontas then applies that designation to categorically limit and suppress Diversified's objections to its well permit applications (referenced above; "*Applications*"). Pocahontas is wrong in its positions, and Diversified respectfully requests that it be heard on its objections—rather than silenced.

I. Pocahontas purports to impeach its prior, verified statements in the Applications.

The positions adopted by Pocahontas in the Response are directly contrary to its Applications. ***Pocahontas specifically states in each Application that Diversified is one of the "Gas, oil and royalty owners."*** *See Applications*, Form DGO-GO-5E, p.2. These are not simply allegations submitted on information and belief; they are ***verified*** allegations pursuant to Virginia

Code § 45.2-1631(A), which mandates that "[e]very permit application . . . filed with the Director . . . be *verified* by the permit applicant . . ." (emphasis added). Moreover, Pocahontas did ***not*** state that Diversified is a "mineral owner" in the Applications. Each Form DGO-GO-5E filed with the Applications contains a category for "Surface, coal and mineral owners on this tract to drilled." Pocahontas did ***not*** include Diversified in this category.

Pocahontas has taken this exact same approach in prior well permit applications. Take, for example, its applications for CBM G38 W/L, CBM G38A W/L, and CBM G38B in 2025. In each of these applications, Pocahontas verified that Diversified was in the group of "Gas, oil and royalty owners" and likewise omitted Diversified from the group of "Surface, coal and mineral owners." Ironically, Pocahontas references these applications in the Response as supporting its current assertions.

The doctrine of approbate and reprobate is well-established in Virginia. A party cannot, in the course of a proceeding, take inconsistent positions. On at least six (6) separate occasions before this Division, Pocahontas has submitted permit applications upon verified representations that Diversified is one of the "Gas, oil and royalty owners" and ***not*** a "mineral owner." Pocahontas cannot now change its tune to suit the exigencies of the moment and suppress the interests of an interested party that clearly has standing to be heard under the Act.

II. Diversified is a "gas owner" and a "royalty owner" under the Act, and has asserted valid objections under Virginia Code §§ 45.2-1632 and 45.2-1637.

Virginia Code § 45.2-1632 of the Act identifies those with standing to object to well permit applications. Virginia Code § 45.2-1632(D) states, in relevant part, that "[o]nly a person entitled to notice under subsection A, B, or C shall have standing to object to the issuance of the proposed permit or permit modification for a gas, oil, or geophysical operation as the use may be." Virginia Code § 45.2-1632(A) then provides a lengthy list of those persons:

- § 45.2-1632(A)(1): Every surface owner, coal owner, and mineral owner on the tract to be drilled;
- § 45.2-1632(A)(2): Every coal operator who has registered an operation plan with the Department for activities located on the tract to be drilled;
- § 45.2-1632(A)(3): Every surface owner on a tract where the surface is to be disturbed;
- § 45.2-1632(A)(4): ***Every gas, oil, or royalty owner*** ***(i) within one half of the distance specified in § 45.2-1616 for that type of well or one half of the distance to the nearest well completed in the same pool, whichever is less, or (ii) within the boundaries of a drilling unit*** established pursuant to the provisions of this chapter;
- § 45.2-1632(A)(5): Every coal operator who has applied for or obtained a mining or prospecting permit with respect to a tract located within 500 feet of the

proposed well location or, in the case of a proposed coalbed methane gas well location, within 750 feet thereof;

- § 45.2-1632(A)(6): Every coal owner or mineral owner on a tract located within 500 feet of the proposed well location or, in the case of a proposed coalbed methane gas well location, within 750 feet thereof; and

- § 45.2-1632(A)(7): Every operator of a gas storage field certificated by the State Corporation Commission as a public utility facility whose certificated area includes the well location or whose certificated boundary is within 1,250 feet of the proposed well location.

Va. Code § 45.2-1632(A) (emphasis added). The statute thus establishes the standing of the foregoing categories of persons to object to a well permit application.

Virginia § 45.2-1637 then differentiates between the types of objections that these various owners/operators may assert, depending on the category/categories under which they fall. For example, Virginia § 45.2-1637(B) provides the objections that a "surface owner" may assert, while Virginia § 45.2-1637(C) states the objections that a "royalty owner" may assert. Each of these "owners" is defined by the Act in § 45.2-1600. These definitions therefore drive the application of § 45.2-1637.

Two definitions are relevant to Diversified: "gas owner" and "royalty owner":

- "Gas owner" is defined, in relevant part, as "any person who owns, leases, has an interest in, or has the right to explore for, drill, or operate a gas or oil well as principal or lessee."

- "Royalty owner" is any owner of gas or oil in place, or owner of gas or oil rights, who is eligible to receive payment based on the production of gas or oil.

Pocahontas represented—and therefore admitted—in its Applications and the prior 2025 applications that Diversified is a "gas owner" and a "royalty owner," and that concession is supported by both fact and law. Diversified is a "gas owner" because it has a lease with Buchanan Energy Company, LLC, through which it "has the right to explore for, drill, and operate" gas wells. Diversified is also a "royalty owner" because it owns exclusive gas exploration, production, and marketing rights under its lease, and is unquestionably eligible to receive payment based on the production of gas. Accordingly, Diversified submitted valid objections to the Applications under Virginia Code § 45.2-1637 as a "gas owner" and a "royalty owner."

III. Gas is not a "mineral" under the Act, and Pocahontas has not shown that Diversified is a "mineral owner" under the Act.

Pocahontas does not argue that Diversified lacks standing **under** Virginia § 45.2-1632. When Pocahontas provided Diversified with notice of its Applications pursuant to Virginia Code

§ 45.2-1632, it confirmed that Diversified has standing to object to the Applications. The only issue is the scope of those objections.

Pocahontas now claims that while Diversified has standing, it cannot speak because Diversified is purportedly a "mineral owner" limited to the set of objections that a "coal owner" may raise, and the coal owner has not raised any objections. Pocahontas misreads the relevant provisions of the Act in claiming otherwise.

Under the Act, "gas," "coal," and "mineral" are distinct subjects that can be extracted and produced. The Act defines each one separately, and defines the owner of each separately.

- "Gas" is "all natural gas, whether hydrocarbon, nonhydrocarbon, or any combination or mixture thereof, including hydrocarbons, hydrogen sulfide, helium, carbon dioxide, nitrogen, hydrogen, casing head gas, and all other fluids not defined as oil[.]" Coalbed methane gas is a separately-defined gas subset, and means "occluded natural gas produced from coalbeds and rock strata associated with it." Va. Code § 45.2-1600

- A "Gas owner" is defined, in relevant part, as "any person who owns, leases, has an interest in, or has the right to explore for, drill, or operate a gas or oil well as principal or lessee." Va. Code § 45.2-1600.

- A "coal seam" generally "means any stratum of coal 20 inches or more in thickness." Va. Code § 45.2-1600.

- A "coal owner" is "any person who owns, leases, mines and produces, or has the right to mine and produce a coal seam." Va. Code § 45.2-1600.

- "Mineral" is different from both coal and gas, and is defined as "***ore, rock, and any other solid homogeneous crystalline chemical element or compound*** that results from the inorganic processes of nature ***other than coal***. Va. Code §§ 45.2-1600, 45.2-1200 (emphasis added). Common examples of crystalline chemical elements include gold, aluminum, silver, copper, and lead.

- A "mineral owner" is any person who owns minerals, leases minerals, ***mines and produces minerals***, or has the right to mine and produce minerals and to appropriate such minerals that he produces from it, either for himself or for himself and others." Va. Code §§ 45.2-1600 (emphasis added). Likewise, a "mineral operator" is one "who operates or has the right to operate a ***mineral mine***." Va. Code § 45.2-1600 (emphasis added).[1]

[1] The Act defines a "mine" as "an underground or surface excavation or development with or without shafts, slopes, drifts, or tunnels for the extraction of coal, ***minerals***, or nonmetallic materials, commonly designated as mineral resources, and the hoisting or haulage equipment or appliances, if any, for the extraction of the mineral resources." Va. Code § 45.2-1600 (emphasis added).

Not only are "gas" and "gas owner" defined separately from "mineral" and "mineral owner," but gas is also plainly not a "solid" compound. Given their "solid" composition, the Act references that minerals—like coal and unlike gas—are mined.

Moreover, the statute on which Pocahontas relies, Virginia § 45.2-1637(E), states that:

> The only objections to permits or permit modifications that may be raised by a mineral owner are those that could be raised by a coal owner under § 45.2-1611, so long as the mineral owner makes the objection and affirmatively proves that it does in fact apply with equal force ***to the mineral in question***.

(emphasis added). In other words, the statute authorizes a "mineral owner" to lodge any objection that a coal owner would lodge under § 45.2-1611, so long as the mineral owner explains how the objection concerns the "mineral in question" instead of coal.

Virginia § 45.2-1611(B)provides, in relevant part, that "[i]n deciding on objections by a coal owner to . . . the issuance of a permit for a new well, or the stimulation of a coalbed methane gas well, the following safety aspects shall first be considered":

1. Whether the drilling unit or drilling location is above or in close proximity to any mine opening or shaft, entry, travel way, airway, haulageway, drainageway, or passageway, or to any proposed extension thereof, in any operated or abandoned or operating coal mine or in any coal mine already surveyed and platted but not yet being operated;

2. Whether the proposed drilling can reasonably be done through an existing or planned pillar of coal, or in close proximity to an existing well or such pillar of coal, taking into consideration the surface topography;

3. Whether the proposed well can be drilled safely or the proposed coalbed methane gas well can be stimulated safely, taking into consideration the dangers from creeps, squeezes, or other disturbances due to the extraction of coal; and

4. The extent to which the proposed drilling unit or drilling location or stimulation of the coalbed methane gas well unreasonably interferes with the safe recovery of coal, gas, or oil.

Thus, the objections of a mineral owner (*e.g.,* the owner of the "ore, rock, and any other solid homogeneous crystalline chemical element or compound" within a particular unit) to a well permit application is required to explain how the drilling of a gas well would unreasonably/unsafely interfere with mining of the "mineral in question"—e.g., ***how the "drilling location is above or in close proximity to any operating [mineral] mine or in any [mineral] mine already surveyed and platted but not yet being operated.***" In this context, the "mineral in question" obviously means "ore, rock, and any other solid homogeneous crystalline chemical element or compound"—does not—and cannot—mean the coalbed methane gas. It is

unbelievable for Pocahontas to suggest that owning interests in ***gas*** means owning "ore, rock, and any other solid homogeneous crystalline chemical element or compound" like lead or aluminum. *See* Va. Code §§ 45.2-1600, 45.2-1200.

IV. Conclusion.

Pocahontas made verified statements in its Applications, as it has before, that Diversified is one of the "Gas, Oil, and Royalty Owners" with standing to object. It may not now denounce its own verified allegations. And even if the Director were to tolerate such approbate and reprobate, Pocahontas' Response to Diversified's objections and characterization of Diversified as a "mineral owner" is without merit. Diversified has standing and legal basis to object to the Applications as a gas owner and royalty owner under Virginia Code §§ 45.2-1632 and 45.2-1637. Accordingly, Diversified requests that informal fact-finding conferences be scheduled on the Applications and the associated objections.

With best regards, I remain

Yours truly,

/s/ *Benjamin A. Street*

Cc Mark Swartz, Esq. (by email)
Eric Conley, Esq. (by email)
Scott A. Stephenson, Esq. (by email)
Kathleen L. Wright, Esq. (by email)
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Diversified Production LLC
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OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

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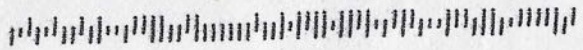

DIVERSIFIED PRODUCTION LLC
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December 18, 2025

By Certified Mailing, Return Receipt Requested
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Attn: Kelli Berry

By Certified Mailing, Return Receipt Requested
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In re: VGOB Docket No. 25-0617-4309 (G-37)
October 23, 2024 Report of the Board Findings and Order -
Election Option Under Protest and Without Waiver of and Subject to Full Reservation of Rights

Pocahontas Gas LLC and Ms. Berry:

On November 18, 2025, Diversified Production LLC ("*Diversified*") received the above referenced Report of the Board Findings and Order ("Order") in Virginia Gas and Oil Board Proceeding Docket No. 25-0617-4309 ("*Proceeding*"). On November 20, 2025, Diversified timely filed a notice of appeal of the Order and the underlying decision ("*Decision*") of the Virginia Gas and Oil Board ("Board") in the Circuit Court of Buchanan County, Virginia ("*Circuit Court*") pursuant to § 45.2-1609 of the Virgina Gas and Oil Act. Among other relief, Diversified requests a ruling by the Circuit Court vacating the Order as invalid and unlawful. Diversified also filed motions with the Board to reconsider its Decision and Order ("Motions to Reconsider"), which were not granted by the Board.

The Order currently states that Diversified may elect one or more of the options set forth in ¶ 9, including the option to participate (¶ 9.1), the option to receive a 1/8th royalty (¶ 9.2) or the option to share (¶ 9.3). The Order states that Diversified "must give written notice of its election of the option selected . . . within thirty (30) days from the date of receipt of a copy of the [Order]". Order, ¶ 8. That deadline is December 18, 2025. The Order states that if Diversified fails to make a timely election, then it will be deemed to have elected not to participate in the proposed wells. Order, ¶ 10. The Order states that if Diversified fails to

make a timely election, then it will be deemed to have elected to receive a 1/8th royalty under ¶ 9.2 of the Order.

Diversified does not desire or intend to be deemed to have elected to receive a 1/8th royalty under ¶ 9.2 of the Order. However, the Order does not provide any method, procedure, or process whereby Diversified may postpone the December 18, 2025 deadline during the pendency of appeal.

On September 16, 2025 the Board declined to stay or extend the December 18, 2025 deadline in the Order at Diversified's request. Diversified filed a Petition for Appeal ("Petition") in the Circuit Court relating to the Decision and Order on December 18, 2025 and additionally filed a Motion with the Circuit Court to stay or extend the December 18, 2025 deadline in the Order. The Circuit Court declined to stay or extend the December 18, 2025 deadline in the Order. Diversified is being compelled by the Order, against its intention, desire, and interests, to make an election.

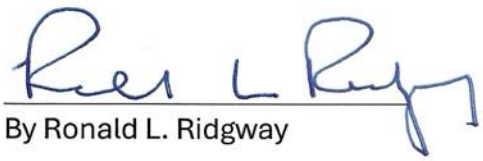
Diversified therefore makes the election option herein under protest, and subject to a full reservation of rights to challenge and/or continue to challenge the Decision and Order in the Circuit Court and/or other appropriate court or tribunal. Nothing in this letter may be construed as a waiver of such rights. Diversified unequivocally reserves, preserves, retains, and maintains each assignment of error, ground for appeal, position, defense, claim, objection, argument, and contention challenging the Decision and Order, whether factual, legal, or equitable, raised in the Proceeding, the Motions to Reconsider, and in the Petition (collectively, the "Claims"), and reserves, preserves, retains, and maintains the right to pursue, prosecute, and appeal the Claims to the fullest extent allowed by law notwithstanding the protested election stated below.

Subject to the foregoing, Diversified elects Option 3 set forth in ¶ 9.3 of the Order, to wit:

> **Option 3 - To Share In The Well Development And Operation As A Non-Participating Person On A Carried Basis and To Receive Consideration In Lieu Of Cash.**

Dated this 18th day of December, 2025.

Diversified Production LLC



By Ronald L. Ridgway

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February 25, 2026

Virginia Department of Energy
Division of Gas and Oil

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Re: Diversified Production LLC's Objections to Pocahontas Gas LLC's Permit Application for CBM Gob Well CBM-G37B W/PL, Application No. 64222.

Division Director Skorupa:

We represent Diversified Production LLC ("*Diversified*"). Diversified received notice of the above-referenced Well and Pipeline Application filed by Pocahontas Gas LLC ("*Pocahontas*"), noted as Application No. 64222 ("*Application*") in connection with drilling unit G-37 ("Unit G-37") on or around February 13, 2026 and submits objections to the Application ("*Objections*") set forth herein. The Application identifies Diversified as one of the "Gas, oil and royalty owners." Diversified has standing to submit these Objections under applicable law including pursuant to Virginia Code §§ 45.2-1625(A) and 45.2-1637(C). Diversified additionally requests a stay of the Application and any permit pursuant to 4VAC25-150-140(C)(5).

These Objections are filed, submitted, asserted, and intended to be filed, received and considered part and parcel with, and incorporated into, the undersigned's electronic submission of even date herewith.

OBJECTIONS PURSUANT TO VIRGINIA LAW, VA. CODE § 45.2-1637(C), AND 4VAC25-150-140(C)

Diversified submits the following Objections:

1. **The proposed work directly impinges upon Diversified's gas and oil interests.**

   a. The Application seeks permission to construct and drill a coalbed methane ("CBM") gob well within a drilling unit and a gob wall panel where Buchanan Energy Company LLC owns acreage (hereafter "*Buchanan Energy*" and "*Acreage*"). Buchanan Energy owns the Acreage in fee and leases the surface and *CBM* gas interests in the Acreage exclusively to Diversified for the exploration, production, transportation and sale of CBM gas. Pocahontas will impose unreasonable, arbitrary, unduly burdensome, and/or reimbursed expenses and costs of drilling, producing, measuring, gathering and transporting gas including costs and expenses of plugging well bores, impinging Diversified's interest in the CBM gas on the Acreage and its entitlement to a "fair and reasonable opportunity to obtain and produce his just and equitable share of production of the gas . . . without being required to . . . incur other unnecessary expenses to recover or receive the gas[.]" *See* Va. Code § 45.2-1600.

   b. Pocahontas bases its Application upon a pooling order entered in "Docket #: 4309," (i.e., VGOB Docket #25-0617-4309). The pooling application submitted by Pocahontas in said VGOB Docket #25-0617-4309 did not identify the location or particulars of any proposed CBM well(s) in Unit G-37 and did not seek or obtain permission from the Board to construct and drill any CBM well and share operating costs thereof with participating and nonparticipating operators. The Application illegally usurps the authority of the Board to oversee, authorize, and control the nature, volume and extent of allowable costs imposed on or shared by participating and/or nonparticipating interest holders of Unit G-37, including Diversified, by removing from the Board its authority to determine which wells' costs of operating and drilling are allocable to participants or carried interest holders; and it thereby impinges Diversified's interest in the CBM gas on the Acreage its rights under the Oakwood field rules, as amended, and its entitlement to a "fair and reasonable opportunity to obtain and produce his just and equitable share of production of the gas . . . without being required to . . . incur other unnecessary expenses to recover or receive the gas[.]" *See* Va. Code § 45.2-1600.

2. **The proposed work threatens to violate Diversified's property and statutory rights:**

   a. Diversified incorporates its Objection No. 1 above by reference as if fully set forth herein.

   b. Pocahontas bases its Application upon a pooling order entered in "Docket #: 4309," (i.e., VGOB Docket #25-0617-4309). The pooling application submitted by Pocahontas in said VGOB Docket #25-0617-4309 did not identify the location or particulars of any proposed CBM well(s) in Unit G-37

and did not seek or obtain permission from the Board to construct and drill any CBM well and share operating costs thereof with participating and nonparticipating operators. The Application illegally usurps the authority of the Board to oversee, authorize, and control the nature, volume and extent of allowable costs imposed on or shared by participating and/or nonparticipating interest holders of Unit G-37, including Diversified, by removing from the Board its authority to determine which wells' costs of operating and drilling are allocable to participants or carried interest holders; and it thereby impinges Diversified's interest in the CBM gas on the Acreage its rights under the Oakwood field rules, as amended, and its entitlement to a "fair and reasonable opportunity to obtain and produce his just and equitable share of production of the gas . . . without being required to . . . incur other unnecessary expenses to recover or receive the gas[.]" *See* Va. Code § 45.2-1600.

c. Pocahontas will impose unreasonable, arbitrary, unduly burdensome, non-existent and/or reimbursed expenses and costs of drilling, producing, measuring, gathering and transporting gas including costs and expenses of plugging well bores that threaten to violate the statutory protections provided to the correlative rights of interest holders like Diversified under the Act. Va. Code §§ 45.2-1600, 45.2-1614(B)(2).

d. Pocahontas bases its Application upon a pooling order entered in "Docket #: 4309," (i.e., VGOB Docket #25-0617-4309) which is before the Buchanan County Circuit Court on *de novo* appeal pursuant to Virginia Code § 45.2-1609 of the Act. *Diversified Production LLC v. Virginia Gas and Oil Board, Gas and Oil Division, Virginia Department of Energy, et al.,* Case No. CL25000988-00 (Buchanan County Cir. Ct., 2025). Under § 45.2-1609, the Court will enter a "final decision" regarding the validity and legality of the Board's order. 4VAC25-160-150(C) provides that "[i]n the event that an appeal is taken from any order of the board, the time between the filing of the petition for appeal and the final order of the circuit court shall be excluded in calculating the time period" limitations on orders in 4VAC25-160-150(B)—a recognition that the Board's order in the subject appeal is not conclusively valid unless or until the Circuit Court deems it so. Pocahontas' application for the construction and drilling of a well based on a pooling order currently challenged on appeal thus threatens to violate Diversified's statutory right to appeal the order *de novo* and entitlement to a "final decision" by the circuit court on the matter.

REQUEST AND JUSTIFICATION FOR STAY UNDER 4VAC25-150-140(C)(5)

For the reasons stated above, which are incorporated by reference here, Diversified requests a stay of this application proceeding pending a final decision in the Circuit Court in Diversified's appeal of the Board order in VGOB Docket # 25-0617-4309. Proceeding with the Application threatens to violate Diversified's statutory right to appeal the order *de novo* and entitlement to a "final decision" by the circuit court on the matter.

CONCLUSION

For the foregoing reasons, Diversified respectfully requests that the Director deny the Application, or, alternatively, stay the Application pending final resolution of the Board's order in VGOB Docket # Docket # 25-0617-4309 by the Circuit Court. Diversified reserves the right to supplement and/or revise the foregoing matters and address same at the informal fact-finding conference.

Respectfully Submitted,

Diversified Production LLC

Benjamin A. Street

BAS/sdh

HILLIARD & SWARTZ LLP

LAW OFFICES

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March 3, 2026

Via email Phil.Skorupa@energy.virginia.com

James P. Skorupa, Director
Virginia Department of Energy
Gas & Oil Program
Virginia Department of Energy
3405 Mountain Empire Road
Big Stone Gap, VA 24210

Re: Response to Diversified Production's Objections to well work permit applications F37A, G37B and G37C

Dear Mr. Skorupa,

The Virginia Oil and Gas Act narrowly limits standing to object to well work permit applications and the grounds for objection. In general, royalty owners, surface owners, coal owners, and coal operators have standing to object.

Diversified Production is not a royalty owner. Diversified Production is not a surface owner. Diversified Production is not a coal owner or coal operator.

Diversified Production is a gas lessee. There is no provision in the Act that allows oil and gas lessees to object, as such, to well permit applications. Under the definitions in the Virginia Gas and Oil Act, Diversified Production as a gas lessee is classified as a mineral owner.

"The only objections to permits or permit modifications that may be made by a mineral owner are those that could be raised by a coal owner under § 45.2-1611, so long as the mineral owner makes the objection and affirmatively proves that it does in fact apply with equal force to the mineral in question." Va. Code § 45.2-1637.

The coal operator has no objection to the wells. Indeed, the wells are located with and after consultation with the coal operator.

Diversified Production made the same mistake when it objected to permit applications regarding G38, G38A and G38B. See attached April 8, 2025 letter. Shortly after Mr. Timothy Scott, then Diversified's lawyer, received the April letter the objections were withdrawn.[1]

The referenced Diversified objections state no coal owner objections under § 45.2-1637 and should be summarily rejected.

Yours truly,

Mark A. Swartz

cc: Ben Street, Esq., via email
Sarah Gilmer, via email
Beverly Webb, via email
Kelli Berry, via email
Kristian Jamieson, Esq., via email

[1] Those who cannot remember the past are condemned to repeat it. George Santayana, *The Life of Reason* (1905).

HILLIARD & SWARTZ LLP

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124 Capitol Street · Suite 201, Charleston, West Virginia 25301· Phone 304.729.9000 · Fax 304.729.0099

April 8, 2025

James P. Skorupa, Director
Virginia Department of Energy
Gas & Oil Program
Virginia Department of Energy
3405 Mountain Empire Road
Big Stone Gap, VA 24210

Re: Diversified Production Objections to Permits Applications G38,G38A and G38B.

Dear Mr. Skorupa,

I wanted to share concerns that I have with Diversified's objections to the referenced permits in advance of the informal fact finding hearings.

Diversified has objected as a royalty owner. Our title has Diversified as a CBM lessee. Diversified does not have standing to object as a royalty owner.

There is no provision in the Code allowing oil and gas lessees to object, as such, to well permit applications.

Under the definitions in the Virginia Gas and Oil Act, Diversified as a lessee is a mineral owner.

"The only objections to permits or permit modifications that may be made by a mineral owner are those that could be raised by a coal owner under § 45.2-1611, so long as the mineral owner makes the objection and affirmatively proves that it does in fact apply with equal force to the mineral in question." VA. Code § 45.2-1637.

There is no active mining. Buchanan Minerals LLC and Island Creek Coal Company have tendered letters of no objection. The well permit applications further disclose that stimulation is not proposed.

We await the informal hearings to learn what coal owner objections, if any, might pertain here.

Yours truly,

Mark A. Swartz

cc: Beverly Webb, via email
Kelli Barry, via email

HILLIARD & SWARTZ LLP

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124 Capitol Street · Suite 201, Charleston, West Virginia 25301· Phone 304.729.9000 · Fax 304.729.0099

March 8, 2026

James P. Skorupa, Director
Virginia Department of Energy
Gas & Oil Program
Virginia Department of Energy
3405 Mountain Empire Road
Big Stone Gap, VA 24210

Re: Street letter of March 5, 2026

Dear Mr. Skorupa,

Peering through the haze of a Diversified response, my three relevant takeaways from Mr. Street's most recent missive are:

1. Diversified does not claim to be a surface owner.
2. Diversified denies it is a mineral owner.
3. Diversified claims to be a royalty owner.

If I am correct, Diversified's allegation that it has standing to object to the permits in question is predicated solely upon an allegation that it is a royalty owner in the units in question.

> "Royalty owner" means any owner of gas or oil in place, or owner of gas or oil rights, who is eligible to receive payment based on the production of gas or oil. Virginia Gas and Oil Act definition, emphasis supplied.

We do not see that Diversified owns gas in place. We do see that that Diversified is a gas lessee and as such is within the definition of "gas or oil owner." However, we do not see that Diversified "is eligible to receive payment on the production of gas or oil"—the *sine qua non* of a royalty owner. Indeed, Diversified and Buchanan Energy have buried us under multiple copies of the Rogers/now Buchanan lease which requires Diversified to pay—not receive—production royalties.

Diversified is not a royalty owner; it lacks standing to object to a permit application.

Yours truly,

Mark A. Swartz

cc: Sarah Gilmer, via email
Benjamin Street, Esq., via email
Beverly Webb, via email
Kelli Barry, via email
Kristian Jamieson, Esq., via email

IFFH 1042 Video Link:

https://www.youtube.com/watch?v=NHae29j_22Q

Transcript of Meeting

Date: April 27, 2026
Case: In re: Virginia Gas and Oil Board

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COMMONWEALTH OF VIRGINIA: VIRGINIA GENERAL ASSEMBLY AND OIL BOARD MEETING

----------x

In re: VIRGINIA GAS AND OIL BOARD,: Case No. IFFH1041

----------x

MEETING

Cedar Bluff, Virginia

Monday, April 27, 2026

1:10 p.m.

Job No.: 631218

Pages 1 - 99

Transcribed By: Jennifer Candela-Alvarez

Meeting, held at the offices of:

Virginia Energy Training Center
2677 Steelsburg Highway
Suite 2
Cedar Bluff, VA 24609

Pursuant to agreement, before Maya Sampson, Notary Public in and for the Commonwealth of Virginia.

A P P E A R A N C E S

ON BEHALF OF DIVERSIFIED PRODUCTION, LLC:

SCOTT A. STEPHENSON, ESQUIRE

BEN STREET, ESQUIRE

GENTRY LOCKE (ROANOKE)

Truist Bank Building

10 Franklin Road Southeast, Suite 900

Roanoke, VA 24011

(540) 983-9300

ON BEHALF OF BUCHANAN ENERGY:

THOMAS L. PRUITT, ESQUIRE

THOMAS L. PRUITT ATTORNEY at LAW, P.C.

1080 Walnut Street

Gundy, VA 24614

(276) 935-4525

ALSO PRESENT:

Sarah Gilmer, VA Department of Energy

Brad Boyd, VA Department of Energy

Phil Skorupa, Director of VA Department of Energy

Lydia Sinemus, Agency Safety Officer

Marshall Jason Davidson, Witness

A P P E A R A N C E S (Continued)

Richard Bailey, Witness

Mark Swartz, Esquire, Pocahontas Gas, LLC (Remote)

Ben Street, Esquire, Diversified Production

Beverly Webb (Remote)

Kelli Berry (Remote)

Charles Akers (Remote)

Travis Cooke (Remote)

Stephanie Blevins (Remote)

Kathleen Wright (Remote)

Jonathan Hess

James D. Bunn II

Eric Conley

Rocky Stilwell

Kristian Jamieson (Remote)

C O N T E N T S

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(Retained by counsel.)

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P R O C E E D I N G S

MR. SKORUPA: I appreciate everybody's patience to go through the little bit of technical difficulties. But we're up and running, and we'll get started with our first hearing for today.

Today is Monday, April the 27th, 2026, and it's approximately 1 p.m., a little after, and we are located in Cedar Bluff, Virginia, having this hearing today.

The case docket number for this informal fact-finding hearing is IFFH1041. This hearing is convened under the Virginia Gas and Oil Act, Section 45.2-1637, which allows for objections to permit applications to be filed by those with standing under section 45.2-1632.

Objections under the statute have been filed against the permit for Pocahontas Gas, LLC for coalbed methane Well F37A, Application No. 64170. Objections were filed by a Mr. James Bunn II on behalf of Buchanan Energy as the surface owner. The objections were filed in a timely manner as required by Section 45.2-1637.

Notice to the parties regarding gas operation or protection of the environment are important elements of Virginia law. This hearing today is a part of that process.

Sarah, the question is if notification has been sent to all parties to appear before this conference as required by Section 45.2-1637(G).

MS. GILMER: Yes.

MR. SKORUPA: Okay. And did that notice include the date, time, and place of this conference?

MS. GILMER: Yes.

MR. SKORUPA: Okay. Let's move on to the next part in this case. Who will be testifying today -- to identify yourselves.

MR. PRUITT: Yes, Mr. Director, Tom Pruitt, Attorney for Buchanan Energy. Testimony will be by Jason Davidson, the property manager of Buchanan Energy and by Richard Bailey, Surveyor.

MR. SKORUPA: Okay.

MR. SWARTZ: Mark Swartz on behalf of

Pocahontas. I will be the primary witness. It's possible that I would ask a question or two of Kelli Berry or Beverly Webb, but I think I'm going to have the lion's share of the response.

MR. SKORUPA: Okay.

Sarah, at this point, would you want to go ahead and swear in all the witnesses that are going to be testifying today?

MS. GILMER: Yes.

(The witnesses were sworn.)

MR. SKORUPA: Okay. Section 45.2-1637 of the Virginia Gas and Oil Act allows objections to the permit by the surface owners who are entitled to notification of proposed operation. According to the permit, Buchanan Energy Company is a surface owner in the subject drilling unit. As such, Buchanan Energy has standing to object to this permit application.

The objections have been filed by the surface owner against the permit application for Pocahontas Gas in accordance with 45.2-1637 and objections to -- to permit, the criteria on which

Buchanan Energy's objection is based upon the following from subsection B, the only objections to permits that may be raised by a surface owner.

And under that section is the location of a coalbed methane or well pipeline will unreasonably infringe on the surface owner's use of the surface. So as long as reasonable alternative site is available within the unit, and granting the objection will not materially impair any right contained in an agreement, valid at the time of the objection between the surface owner and the operator or their predecessors or successors in interest.

Since this is an informal hearing today scheduled under the Administrative Process Act, we do have -- you can request to take a recess to discuss something. You do have that. All you need to do is request it.

And I would like to set some ground rules so that everybody is aware of the ground rules in this case. The purpose of this informal fact-finding conference is to obtain the facts

pertaining to the issues at hand, objections at hand. And the rule is the objector in this case, which is Buchanan Energy, would be the -- would be -- would go first. At that time you'll have the opportunity for direct testimony from your witness, present any exhibits that you wish and/or documents relative to this issue.

And once -- the once the objector goes, the objectee, which is Pocahontas Gas in this case, they will -- they will have the same opportunity for -- to present their testimony from witnesses and present any exhibits or documentation relative to the issues for consideration.

One of the key things at an informal fact-finding conference -- there is no cross-examination of witnesses allowed, and there may be questions I ask for clarification purposes. Other than that, I'm ready to go forward.

And, Mr. Pruitt, would you like to start off?

MR. PRUITT: Director Skorupa, I call Jason Davidson.

JASON DAVIDSON,

being first duly sworn or affirmed to testify to the truth, the whole truth, and nothing but the truth, was examined and testified as follows:

DIRECT EXAMINATION BY COUNSEL FOR BUCHANAN ENERGY

BY MR. PRUITT:

Q Mr. Davidson, what is your full name?

A Jason -- Marshall Jason Davidson.

Q And are you the property manager for Buchanan Energy Company?

A Yes, sir.

Q What are your duties and responsibilities as a property manager?

A To oversee the property associated with Buchanan Energy being coal, gas, and mineral leases.

Q Are you familiar with the well permit CBM F37A that we're here about today?

A Yes, sir.

Q Okay. And are you familiar with the property boundaries of Buchanan Energy's surface tract within that immediate location?

A Yes, sir.
Q Have you commissioned a boundary line survey for today?
A Yes, sir.
Q Have you seen the survey?
A I have.
Q And does the survey agree with your understanding of Buchanan Energy's boundary line?
A Yes.
Q What is your understanding of the Buchanan Energy boundary line as it relates to the proposed well in Application F37A?
A Based upon the state plane coordinate values in the well application, that well would be located on Buchanan Energy property.
Q Is that Buchanan Energy's mineral property? Surface property? Coal property? Gas property? Which?
A It's the fee property.
Q Does Buchanan Energy and its gas lessee, Diversified, have exclusive right to possess the surface in that location?

A Yes.

Q Are you authorized to grant third parties access or to deny third parties access to Buchanan Energy's land?

A Yes.

Q Has Buchanan Energy granted to CNX or Pocahontas Gas the right to enter onto the surface property owned by Buchanan Energy and to produce gob gas from the location shown on F37A?

A No.

Q To your knowledge, does any written lease or license agreement exist to provide the right of access to CNX or Pocahontas Gas to drill a well in the location shown on F37A for the purpose of producing gob gas?

A No.

Q Are you aware of any verbal permission granted by anyone within Buchanan Energy that has been granted to CNX for Pocahontas Gas for access to the well site shown on F37A?

A I am not.

Q So to your knowledge, would Buchanan

Energy consider the drilling of a gob gas well and producing of a gob gas well on its surface in that location to be contrary to its title?

A Yes.

Q And would that be a trespass?

A It would.

MR. PRUITT: All right. That's all I have of this witness.

MR. SKORUPA: Okay. Mr. Pruitt, do you want to call your other witness?

MR. PRUITT: Yes. I call Richard Bailey.

RICHARD BAILEY,

being first duly sworn or affirmed to testify to the truth, the whole truth, and nothing but the truth, was examined and testified as follows:

EXAMINATION BY COUNSEL FOR BUCHANAN ENERGY

BY MR. PRUITT:

Q Mr. Bailey, you've been sworn, haven't you?

A Yes, sir.

Q Will you state your full name.

A Richard Lester Bailey.
Q What's your profession, Mr. Bailey?
A I'm a registered professional mining engineer and a registered land surveyor.
Q Were you asked to perform a survey on behalf of Buchanan Energy in the location of CBM applied for a well for F37A?
A Yes, I was.
Q And were you also, as part of your employment, asked to provide an affidavit of your findings and then your resume or your, as we like to call it as attorneys, curriculum vitae and a plat of your survey?
A Yes.
MR. PRUITT: All right. Mr. Director, for identification purposes only, I have a -- an exhibit, Exhibit A, which I would like for you to examine.
(Buchanan Energy Collective Exhibit 1 was identified.)
It is a duplicate of the materials that I filed with you prior to this hearing, and these

documents have been provided to all parties.

MR. SKORUPA: Okay. Can I see this? I might not have a copy.

MR. PRUITT: All right.

Mr. Bailey, I'm handing you this exhibit that is, for identification purposes, identified as Buchanan Energy's Collective Exhibit 1. Take a moment and look through that, please.

THE WITNESS: Okay.

BY MR. PRUITT:

Q Are you familiar with those documents?

A Yes, sir.

Q What are they?

A That is the affidavit and information that I read, understood, signed, and had notarized, along with a copy of my resume and a copy of the plat that I prepared.

Q And that plat is prepared as to the boundary line in the location of the well we're here about today?

A Yes.

Q And the boundary line is the boundary

line of Buchanan Energy --

A Yes.

Q -- Company?

A Yes.

MR. PRUITT: Director Skorupa, these documents, as -- as we've discussed, have been provided to you previously. I'd like to move them into evidence at this time.

MR. SKORUPA: Okay. I've seen the documents. Yes.

(Buchanan Energy Collective Exhibit 1 was received in evidence.)

Q Mr. Bailey, how many boundary surveys have you performed in your career?

A Probably close to a thousand I'd say or more.

MR. PRUITT: I -- I move to qualify Mr. Bailey as an expert in the field of land surveying so that these documents can be considered as the affidavit and documents of an expert into land surveying for the purposes of this record.

MR. SKORUPA: Yes.

BY MR. PRUITT:

Q Mr. Bailey, does your affidavit reflect your testimony today?

A Yes.

Q Is your resume accurate?

A Yes.

Q And does your plat reflect the results of your survey?

A Yes.

Q Are there any changes between the time these documents were submitted and now that you would call to the director's attention?

A As far as the well location, yes, sir. The well that we located on or that I certified to as the location on March the 13th has now been moved approximately 70 feet in the northwest direction.

Q Now you observed -- did you observe stakes of the moving and -- and the different location on the ground?

A Yes.

Q Now there's been no application change

to your knowledge, has there?

A Not to my knowledge, no.

Q So the official well site that we're here on today is the well site described in the application for F37A. Do you understand that?

A Yes.

Q And if that well goes in in the location that is described on the application, the original location, is it your opinion that that well is -- is it on or is it off of Buchanan Energy surface tract?

A It is on Buchanan Energy's tract by about approximately 7 feet.

Q Okay. And is your opinion rendered today your professional opinion?

A Yes.

Q And is it to a reasonable degree of certainty in your field?

A Yes.

Q Do you have anything you would add at this point in time to your testimony?

A No. I think we've -- we've covered

everything. You know, we did extensive work not only on the line in question but areas to the west and farther to the west, also to the south, and some prior work that I've done, not in relation to this property to the South, that all seemed to verify what we've placed and certified here today.

MR. PRUITT: Director Skorupa, I have no further questions of this officer, but certainly you may ask him if you have any.

MR. SKORUPA: No, I don't -- I don't have any questions at this time.

MR. SWARTZ: I actually have a question. I have a question. Can I ask it now?

MR. SKORUPA: Yes. Well, are -- are you through or --

MR. PRUITT: I am through with this witness. Of course, this question is not in the form of a cross-examination.

MR. SKORUPA: No. No, sir.

Go ahead, Mr. Swartz.

MR. SWARTZ: You indicated that there is a second state location that you've been out to

see.

THE WITNESS: You want me to answer it?

MR. PRUITT: That was his testimony. Yes.

MR. SWARTZ: Okay. Okay. Is it -- is it -- can you confirm that that second location, which you've looked at, is -- is not on Buchanan Energy's surface based on your survey?

THE WITNESS: It is not.

MR. SWARTZ: Okay. And then the only other thing I would ask --

Mr. Skorupa, I believe we filed a permit modification. Do you have it?

MR. SKORUPA: Yes.

MR. SWARTZ: Okay. And -- and I think perhaps Buchanan Energy or Diversified haven't picked up their mail and obviously were unaware of it, but it is our intention to -- well, we filed a permit modification to move the location of the well to the second location that we've just discussed.

MR. SKORUPA: If you would, Mark, let's

go ahead if got anybody else that would like to speak. Let's -- we'll do your turn, and we can -- we can come back to this if that's okay.

MR. PRUITT: Sure.

MR. SKORUPA: Is that good with you, Mark?

MR. SWARTZ: Okay. That's fine with me.

MR. SKORUPA: Okay.

MR. PRUITT: Mr. Director, if -- or Director Skorupa, if -- if they have, in fact, filed a modification, we haven't received it, and I take it that the modification would contain a plat and a layout of the new well design. Since we're so close to the boundary line, I think -- I think that would be something that would perhaps prevent additional problems if we could see what they have in mind.

MR. BOYD: I have not seen the application although we do have it.

MR. PRUITT: We did get a revision that was handed out on Friday.

MR. BOYD: Right.

MR. PRUITT: It -- it came in to us. It was resubmitted with the change on it, and that came in Friday afternoon to our office. We have it. We did a complete review of that, but we did receive it on Friday. That's when we received it in the division.

(Crosstalk)

Am I correct -- is -- is my understanding, correct that this new location is approximately 70 feet away from the original location, Mr. Swartz?

MR. SWARTZ: I think it might be helpful just for you to show the witness the -- the new plat. The revised plat.

MR. SKORUPA: So, Counsel, do you have any objection to anyone seeing the plat?

MR. PRUITT: I have no objection to us looking at it.

MR. SKORUPA: Well, you know, there's two issues: one, if you haven't seen it, maybe you haven't received notice. So therefore --

MR. PRUITT: We have not.

MR. SKORUPA: I understand that.
MR. PRUITT: Yeah.
MR. SKORUPA: You know the question is whether you've actually received notice.
MALE SPEAKER: Let's take a recess. We haven't seen it.
MR. PRUITT: Yeah. Let's take a recess --
MR. SKORUPA: Okay.
MR. PRUITT: -- just to give it to them.
(A recess was taken.)
MR. SKORUPA: Okay. I think we're back from recess at this point.
Mr. Swartz, you had the floor last when we -- when we stopped. Well, do you wish to continue? Call any other witnesses at this point?
MR. SWARTZ: Well, I guess -- I guess my question was of the surveyor, who doesn't appear to be at the stand anymore, whether or not he could confirm that the new location is, in fact, off of Buchanan Energy property.
MR. SKORUPA: Well, I do have the -- the

new plat. If you want to show it, we can show it to everybody.

MR. PRUITT: Director Skorupa, when -- when I read the applicant -- when I read the regulations on this hearing -- we've been very careful to spell out our -- our objection, and you've been very careful to -- to lay out our standing and you checked notice. Now with this last change, there hasn't been notice before today. We didn't get it. And --

MR. SKORUPA: That was an issue I raised before that this has been submitted. Your testimony would be you have not -- haven't been noticed.

MR. PRUITT: That's right.

MR. SKORUPA: You have not received notice officially.

MR. PRUITT: That's right. And -- and we think -- we think this -- this application should be dismissed. If they want to come back and refile and provide notice to everyone, but at this point in time, they've moved the well more than --

obviously more than 10 feet. And looking at the plat, it appears to impinge upon the county road, which I'm not sure they can do. We'll have to look into that.

It just wouldn't be advisable to go forward with this application today. There are many questions that we think are very important questions. It's a tight area in there. Our property line is right there. They're sandwiched between the road and us. And without looking at this much closer, it's going to result probably in a trespass, or it's going to impinge on that county road.

And I just feel like going forward today under the old application -- it should be dismissed and just start over. There's plenty of time to do this.

MR. SWARTZ: Well, we filed a modification. So there's no dismissal. We move to modify the permit. If Mr. Pruitt has -- continues to object that we're on the surface, I guess he needs to file an objection that says the new

location is -- is -- is -- remains on their surface. So, you know, if -- I guess I'm trying to, like, move forward with as little expense as possible.

And my question is for their surveyor: Is the new plat location on or off of Buchanan Energy surface? If the surveyor says it's off their surface, well we're done. We've moved the well to accommodate. I mean, part of the notice for today was, you know, if there was an objection -- quote/unquote, unreasonably infringe on the surface owner's use -- if there's another available site within the unit, and we've moved it. So I guess is there a surface owner objection continuing or not?

MR. PRUITT: Mr. Director, I'm not going to submit my witness to his questioning here. Same issue. There's no notice of this, and it's surprise. They knew our objection long before. They knew we had a survey long before. We did not even receive an email notice of this filing. So we can't go forward today.

MR. SWARTZ: Well, I guess I'm a little disturbed with the surprise since the surveyor has been out and looked at the new location and measured it from the original location. So, you know, I guess I'm taking surprise with a huge grain of salt. I guess the choices at this point are we can either conclude this hearing, and I think that determination needs to be based on the surveyor's testimony that, if we are going -- committing to go with the second location, we're off their surface. That's choice one, and you deny the objection.

Choice two is you attend to Mr. Pruitt's contention that he's surprised and he wants to be able to, quote/unquote, object or not object again. And so I guess we can continue this hearing to give him the statutory period of 15 days to object to the modification. I guess those are the two choices.

MR. PRUITT: You know, Mr. Director, the surprise isn't that we saw stakes on the ground -- the surveyor's -- my questions to him were has the application changed? No. So we don't know the

application changed. We didn't know until we were handed this today, and we're entitled to notice under the statute. So whether or not he thinks the surveyor is surprised or not is irrelevant.

MR. SKORUPA: Okay. Okay. At this point, since both parties have had an opportunity to state their objections -- and would you like to make a summary, Mr. Pruitt --

MR. PRUITT: I would.

MR. SKORUPA: -- of your position on this?

MR. PRUITT: I would. The -- the hearing today concerns the application. It's the only thing we have notice of, and we have proved that the well in the original application is on Buchanan Energy's property, and we have proved that by a certified land surveyor. That's the only thing that we can be responsible for answering today. Otherwise, it denies us of due process because we're entitled to notice.

And so our evidence is sufficient to show that there is a trespass, and this must be

changed. Well, apparently it has been changed. And if it has been changed to the director's satisfaction -- I don't think the director can reach that decision yet until proper notice has been given to all parties and we've had a chance to examine the circumstances of this filing and the particulars of the engineering.

And so we can't go any farther than we've gone today. And I don't think that there can be any conclusion based upon this new filing because there's been no -- there's been no notice. The Court can rule that on the old filing that we're here on today there was -- there was a well location on Buchanan Energy's property, but I believe that's the limit of what we can do today. That's all I have.

MR. SKORUPA: Mr. Swartz?

MR. SWARTZ: Well, I guess, you know, to be on the safe side in terms of protecting against appeals, I would recommend that Mr. Pruitt be given 15 days from the date he receives the mail. It's probably sitting there waiting to be picked up by

his client, but he should be given the -- Buchanan Energy should be given the appropriate amount of time to file another objection to the permit modification. And if they object, they decide to object again to surface issues, we'll have another hearing, and when Mr. Pruitt comes back, he won't be able to say he didn't have notice, and he wasn't prepared.

So I -- I guess I would say continue the case, give him his statutory 15 days from when his client receives the notice to object or not object, and we'll come back if he objects.

MR. PRUITT: May I ask the director: do you consider the notice we received today of this modification to be sufficient?

MR. SKORUPA: As far as I know, you haven't received notice.

MR. PRUITT: All right.

MR. SKORUPA: I mean, do you -- there's no -- no evidence presented that you had notice.

MR. PRUITT: We -- we assert to you that we did not. Brad handed us that.

MR. SKORUPA: I mean, it's the -- I understand the issue.

MR. PRUITT: Okay.

MR. SKORUPA: Notification.

MR. PRUITT: We -- we -- we think that the process should begin again.

MR. SWARTZ: Well, it has. The modification has been mailed to everybody. Just you didn't get it yet. So the process has started over. The modification will be received, and it's been mailed to everyone, and everybody will have 15 days to object to the modification if -- if they choose to. And if you object again, we'll be back. If you don't, we don't have to come back. The permit will be issued.

MR. PRUITT: I have nothing more to add.

MR. SKORUPA: Okay. So having both -- heard both parties, I realize that at this point the parties do not agree on the position that they have. I can take all this into consideration -- what's been presented today -- and make a ruling, according to the APA, as to the disposition of this

issue.

MR. PRUITT: That's acceptable, Mr. Director. The time period on the 15-day response shouldn't begin to run until you make your decision. I would suggest that to you because we don't know what your decision is.

MR. SKORUPA: Okay.

MR. PRUITT: It may be to dismiss it. It may be to allow the modification.

MR. SKORUPA: True. Today is an informal hearing. It's a fact-finding hearing. It's based on the facts presented today.

MR. PRUITT: Yes, sir.

MR. SKORUPA: This whole hearing is. There's no cross-examination, no discrediting anybody. It's the opportunity to put the facts. You give me your facts, Mr. Swartz gives me his facts, and then I make a ruling, make a decision based on facts.

MR. PRUITT: Yes, sir.

MR. SKORUPA: And I do -- I do have time to do it. In fact, APA allows me 90 days to do it

under 2.2-4021. You know, I -- if nothing happens, I can have a decision a whole lot quicker than 90 days.

MR. PRUITT: Yes, sir. And -- and is it -- is it your position today that the 15-day response period does not begin to run until your decision is made?

MR. SKORUPA: It could be a part of the decision. I would not dismiss that. I'll be straight up front with you. I would not dismiss it.

MR. PRUITT: All right. Thank you.

MR. SKORUPA: Mr. Swartz? Anybody? Last comment?

MR. SWARTZ: No. I think -- I think we've taken care of this one.

MR. SKORUPA: Mr. Pruitt?

MR. PRUITT: No, sir.

MR. SKORUPA: Okay. Having -- having both parties made their summations and heard any opinions that I have, this hearing today is formally adjourned, and it is officially concluded.

No new evidence to be submitted in this case. This is --

MR. PRUITT: Yes, sir.

MR. SKORUPA: Okay. All parties understood? Okay. Officially --

MR. SWARTZ: Understood.

MR. PRUITT: Understood.

MR. SKORUPA: Officially adjourned.

MR. PRUITT: Thank you.

(End of hearing.)

MR. SKORUPA: Again, good afternoon. Today is Monday, April 27th, 2026. It's approximately almost 2 p.m., and we are located in Cedar Bluff, Virginia. And the purpose of this meeting today is to look at Case Docket No., for this informal fact-finding conference, of IFFH1040.

This hearing again is being convened under the Virginia Gas and Oil Act, Section 45.2-1637, which allows to objections to permit application being filed by those with standing as specified under Section 45.2-1632. Objections under the statute have been filed against the

permit for Pocahontas Gas, LLC coalbed methane well F37A, Application No. 64170.

Objections were filed by Mr. Eric Conley on behalf of Diversified Production, LLC as a royalty owner. The objections were filed in a timely manner as required by Section 45.2-1637. Notices to the parties regarding gas and oil operation and the protection of the environment are important elements of Virginia's law. Today's hearing is a part of that process.

The question to you, Sarah. Were notifications sent to all parties to appear before this conference as required by Section 45.2-1637(G)?

MS. GILMER: Yes.

MR. SKORUPA: And did that notice include the date, time, and place of this conference?

MS. GILMER: Yes.

MR. SKORUPA: Okay. Will each person who plans to testify in this conference please state your name.

MR. STREET: Mr. Skorupa, before we do that, I need to make a couple of motions: the first motion I'm going to make is that this -- this item be dismissed. Apparently, we're now finding out for the first time today that there's been some sort of amendment to this permit application.

In the informal conference that immediately preceded this one, we learned that Pocahontas Gas purportedly filed an amendment or sought permission to file an amendment on Friday. To my knowledge, that's not been ruled upon.

I received -- unlike I think every other filing that I have seen before the board over the last ten months, I received no email. My clients received no email. I heard in the last conference that there may have been a mailing. We have not received that. Apparently that happened on Friday.

As you know, my office is in Grundy and -- unless it was overnighted to me, and even then I would not have been able to receive that before I left my office this morning. So the appearance is that this was calculated to -- to bring us over

here and have us prepared on one application and then basically change the tenor of what the hearing and the application would be like.

And I agree a notice is an important element of these proceedings, and that's not -- that's not real notice right there. Notice is more than getting halfway through a proceeding and then alerting the parties that the underlying pleadings have been changed. That's the antithesis of fair notice.

And if -- if Pocahontas Gas is going to allow the parties before us, and attempt to do so here, get into a hearing and then raise the issue of an amendment, it's too late. Every court, every tribunal, every hearing that I've ever appeared before, when -- when it comes time for the trial or the hearing or the conference, you proceed on what's been accepted and filed, not on the amendment that you hope to get filed.

So that's putting the cart before the horse. That's building the roof before you build or putting the roof on before you build the walls.

All the parties need to know what the particular pleading is that we're here on today. And by statute, that's an application. And by statute, when a party files an application, Your -- Your Honor has to file -- have a hearing, unless the parties agree otherwise, no less than 15 days after that application is filed and no more than 30 as I recall.

So the statutory framework contemplates that, once someone gets an application, they have some time to process that and evaluate that. Fifteen days. And that's what we had, and we used that time. We -- the parties -- we -- we -- we hired a surveyor. We disclosed the survey. We disclosed our objection. We reviewed everything. We reviewed -- reviewed where the proposed well location might be.

I don't know how much of that has changed today, but I know this: we need time -- if we're going to be asked to defend against the new amended application, the first thing that needs to happen is, if you're if you're inclined to do so,

you can grant the motion to amend their application, and then we get 15 days.

If you don't want to do that, if you want to deny the amendment, then we can proceed today on what's before us, but we can't do both. We can't -- we can't defend on the pleading that we don't know which one it is and one of which I haven't even looked at.

I haven't had my surveyor look at it. I haven't asked Coronado to look at the well location. The other 35 people that got notice of this application -- I don't -- I bet you they haven't been noticed either.

So you've got all kinds of problems if you proceed right now, and they're all created by Mr. -- by Pocahontas Gas. So don't let Mr. Swartz confuse you here. This is not anybody's fault but theirs. They could have -- he could have called me on Friday. He could have sent me an email or a text. There's a reason he didn't do that. So it's not fair to hold that against Pocahontas Gas and the other people that were entitled to notice and

review this.

I can't tell you whether I'm going to object to that or not or how I might defend that case because I haven't seen it. My team hasn't seen it. No one has seen it. To the extent that you have started a hearing today -- and we haven't called any witnesses. So maybe you haven't. But if you have, it's too late to grant their amendment. It -- you -- the thing to do is dismiss the case that it's here upon and let them refile. That's what should be done.

In the alternative, if you want to continue this case, that's fine too, but I can tell you this: the thing that should not be done, because it's going to violate all the notice requirements that you all have to follow, is to proceed to hear evidence today without the parties knowing which operative pleading we're here on, which we're entitled to have.

And there's really no reason we shouldn't have had this. We -- he's known for months that we were objecting based on where the

location of the well was. So that's -- continue it for -- I mean, it -- I think you ought to dismiss it, but if you don't want to dismiss it, allow him to amend it, and then set it for hearing 15 to 30 days out.

He's going to have to re-notice all of these people, though. I don't know if he sent that on Friday or not. He can answer that. But you got all kinds of notice issues. This -- this case does not need to be presented today for -- for a final ruling on the substantive issues. That's -- that is clear.

So we do ask you for a ruling on the motion to dismiss, and to the extent it's necessary -- necessitated, on the motion to amend the application before we proceed further. So that's what we're asking for right now.

MR. SWARTZ: My response is fairly brief but as follows: Diversified's objections to this permit application and the next two that we have on for this afternoon -- none of them involve objections as a surface owner. My understanding is

the only thing that has changed in the modification that we filed is the well location. Okay?

So obviously we're -- we're -- we're -- we're not talking about royalty owner interests which are the objections that they -- they made previously. We're talking about surface objections. I anticipate if I -- if I just left it at that, I would hear that the change of the surface location needs to be something that they need to look at as well.

So I guess my response is, first, we have a right to file a permit modification. We don't have to seek permission, and we have filed that. You have received it. It has been mailed to everybody. My understanding is that the post office has it waiting for pickup by Diversified. On the other hand, it's, you know, last minute. That I acknowledge that.

So my -- my suggestion would be that you continue this hearing, give parties an opportunity to object further, if they wish to do so, within 15 days of receipt of the new mailing, which has been

mailed to everybody, and we'll come back if there's an objection -- if there's a continuing objection by Diversified and/or by Buchanan Energy on the F37A, but we're good to go on the G objections this afternoon. We can just move forward to those.

MR. SKORUPA: Mr. Street, any more comments at this point?

MR. STREET: Well, I -- I mean, I -- I don't have anything that I'm going to tell you that's not a repetition of what I said before, but the -- the -- I think, as I understand it, Mr. Swartz is now asking for a continuance of this case, and he would rather you do that instead of dismiss it, and -- and I've asked you to dismiss it; but in the alternative, if you say no, then I've asked you to continue it. That's where we are.

And so I -- so I think both parties agree that the merits should not be heard today. It's now up to you whether you want to acknowledge or grant the amendment. I'm not aware of some unilateral right just to amend pleadings. I mean,

if there's a rule that says that -- I -- I don't know them all, but it seems to me that you would need to make a ruling to allow the amendment to the application, if that's the way you're supposed to do that, and then, as he suggested, continue it for 15 to 30 days, or we can work together with you on scheduling.

But I do -- I do stand on my initial objection, which is it needs to be dismissed, because the circumstances are a bit extreme here. We went to a lot of expense to hire a surveyor. You started one hearing on the application that was before us before they even whispered the idea of an amendment. It was like a got you at the end of the evidence.

I mean, this is not, you know, what you normally see in litigation. You know, let's let someone put on all the evidence, and then, at the very end, we're going to pop the amendment if it doesn't look like the evidence is going great. I mean, that -- it's kind of extreme. And because of that, I think it is appropriate to dismiss it, make

them refile it, which is really no different than what they did on Friday. The only difference is they would have to back up and notify all of the interest holders, which, to me, seems like the prudent course anyway.

So maybe it's a slight distinction without a difference, if they notice everyone, whether you call it an amendment or call it a new filing. But I know one thing. One of those two things needs to happen, and I'm asking you to dismiss it. Mr. Swartz is asking you to continue it, and I guess, set it down for hearing on the amended version.

MR. SWARTZ: Well, you know, we've already mailed the modification to everybody. Everybody's going to have 15 days from receipt of that modification to file an objection. So what I'm suggesting is we don't have this hearing today. We wait for the time to expire for people to object upon receipt, and then we come back if people continue -- I mean, I'm expecting perhaps that Buchanan Energy will acknowledge the change of

location got off of their surface, and we may not have an objection from them, but, you know, it's up to them to look at that.

What I'm hearing from Mr. Street is he's -- he's -- he's got objections that are not resolved by changing the location, and he's definitely going to continue to object. But the -- the issue is, I think, a notice issue. We've mailed to everybody. Everyone has 15 days to object or not object, and we need to wait for that to happen and come back; and if there are objections, we'll address them.

MR. SKORUPA: Okay. At this time, I -- I request to take a recess for a few minutes to discuss this with staff.

(A recess was taken.)

MR. SKORUPA: Okay. We're back on record after rethinking the testimony that was presented. I do want both of these (indiscernible 00:50:53). And thinking it further through, I don't know. I've heard the evidence early on. I'm going to rule on F37A in both cases for Buchanan

and for Diversified. I am going to dismiss both of those today.

On the other part of it -- notification -- you have 15 days from receipt of notification to refile objections. That's my -- that's my ruling. If -- if I need to do a written decision, I can. That's fine. Or we can take this and move on.

MR. STREET: I don't need a written decision for that.

MR. SKORUPA: Okay.

Mr. Swartz?

MR. SWARTZ: Well, just to be clear, they will have 15 days from receipt of the notification --

MR. SKORUPA: Yes.

MR. SWARTZ: -- of the modification?

MR. SKORUPA: Yes.

MR. SWARTZ: Is that -- okay.

MR. SKORUPA: That is correct.

MR. SWARTZ: Okay. Just -- and it'll be a start over in terms of --

MR. SKORUPA: Start over.

MR. SWARTZ: -- their ability to object, and you'll set a hearing based on that?

MR. PRUITT: This is an informal hearing. I do have a question here. We got some papers handed to us by Brad, who I -- I trust implicitly, but we haven't received it yet.

MR. SKORUPA: Right. Then they got -- they have 15 days from receipt.

MR. PRUITT: Okay.

MR. SKORUPA: That's -- that's the code. That's the law. So I'm sticking with you got 15 days. This is the re-notice on this -- on this particular amendment permit. There's been a change. So this is new notice required. You got 15 days.

MR. PRUITT: Thank you.

MR. SKORUPA: With that in -- in mind, unless there's any further comments on it, I've made the ruling on it. We can -- I will call this hearing officially adjourned, and we'll go from there. Thank you.

(End of hearing.)

MR. SKORUPA: Okay. Good afternoon. Today is Monday, April the 27th, 2026, and we are located in Cedar Bluff, Virginia. And the purpose of this informal fact-finding hearing today is in relationship to Case Docket No. IFFH1042.

This hearing is convened under the Virginia Gas and Oil Act, Section 45.2-1637, which allows for objections to permit applications to be filed with those withstanding as required under Section 45.2-1632.

Objections under the statute have been filed against the permit for Pocahontas Gas, LLC coalbed methane well G37B, Application No. 64222. Objections were filed by Mr. Eric Conley on behalf of Diversified Production as a royalty owner. The objections were filed in a timely manner as required by Section 45.2-1637.

Notice to the parties regarding gas operation and the protection of the environment are important elements of Virginia's law. Today's hearing is part of that process.

Again, to you, Sarah. Was notification

sent to all parties to appear before this conference as required by 45.2-1637(G)?

MS. GILMER: Yes.

MR. SKORUPA: And did the notice include the date, time, and place of this conference?

MS. GILMER: Yes.

MR. SKORUPA: Okay. So at this point, will each party that will be testifying identify yourself?

MR. STREET: Yes, sir. I'm Ben Street, and I represent Diversified Production. You'd think I know that after all these months. And to my right is Scott Stephenson, co-counsel, also representing Diversified.

MR. SKORUPA: Any -- any other parties?

MR. STREET: I don't think we're going to call witnesses, but if we do, it would be (crosstalk) --

MR. SKORUPA: At that point we can -- we can address it and swear the witnesses in.

(Scott Stephenson, Esquire was sworn.)

MR. STEPHENSON: Yes.

MR. STREET: Just to be clear, I'm not going to call him. He's a lawyer.

MR. STEPHENSON: That's okay.

MR. STREET: And these -- these lawyers, including Mr. Swartz, should not be testifying.

MR. STEPHENSON: Yeah.

MS. GILMER: Sorry. I didn't know you were a lawyer.

MR. STREET: That's all right.

MR. STEPHENSON: It's all right. It just keeps you on your toes.

MALE SPEAKER: Nobody else thinks I'm a lawyer either. So it's okay.

MR. STREET: He's got that honest look about him.

MR. STEPHENSON: He does.

MR. SKORUPA: Okay. Let me continue on, and then we'll get on into the hearing. Section 45.2-1637 of the Virginia Gas and Oil Act allows objections to the permit by royalty owners who are entitled to notification of the proposed operation. According to the permit, Diversified Production,

LLC is a royalty owner in the subject drilling unit and has standing to object to the permit application.

The objections have been filed by the royalty owner against the permit application for Pocahontas Gas, LLC in accordance with 45.2-1637, and objections to the permit is the criteria on which Diversified's objection is based upon the following: subsection C. The only objections to the permit or permit modification may be raised by a royalty owner or that the proposed work well will directly impinge upon the royalty owners gas and oil interests, threaten to violate the objecting royalty owner's property or statutory rights aside from his contractual rights.

And, again, since this is an informal hearing, if we need to take a recess, we can. And I'm going to repeat the ground rules for it -- for this hearing. Since today is an informal fact-finding conference, the purpose is to obtain the relative facts pertaining to the issue at hand. In this case, the objectant, which is Diversified

Production, will go first, and you can do testimony. You can present exhibits, documents, or any other information relative for consideration.

The objectee in this case will be Pocahontas Gas, and they will have an opportunity to do so after the objectant finishes. Excuse me. Cross-examination is not allowed during this -- during an IFFH. However, questions may be asked for clarification purposes.

And once all parties have had a chance to present their facts and evidence, then at the end each party will have an opportunity to recall a witness for additional testimony and/or present a summary of -- of their position in this issue.

Having said that, we're ready to move forward, Mr. Street.

MR. STREET: Okay. Yes, sir. We -- we pre-filed possible documentation for possible use of exhibits last week, and we identified 11 for the -- as a group just for all of the cases today. I -- at this point I would just move into -- move that some of them be admitted, and I'll just list

them off for you. I've got hard copies if you would like them, but you probably have a digital one. You let me know if you want the hard copy.

Exhibit 3 are for Oakwood orders. Those are your gas and oil board orders. So Exhibit 3, Exhibit 6, Exhibit 7, Exhibit 8, Exhibit 9, and Exhibit 11 -- Exhibit 3, Exhibit 6, Exhibit 7, Exhibit 8, Exhibit 9, and Exhibit 11.

(Exhibit 3, Exhibit 6, Exhibit 7, Exhibit 8, Exhibit 9, and Exhibit 11 were identified.)

MR. SWARTZ: I'm sorry, Ben. Is -- is Exhibit 6 included?

MR. STREET: Yes.

MR. SWARTZ: Okay. So --

MR. STREET: Yeah.

MR. SWARTZ: Okay. So Exhibit 3, Exhibit 6, Exhibit 7, Exhibit 8, Exhibit 9, Exhibit 11?

MR. STREET: Yes, sir.

MR. SWARTZ: Okay.

MR. STREET: Yeah.

And then I will call Beverly Webb since

she's here. Ms. Webb is on the screen.

BEVERLY WEBB,

being first duly sworn or affirmed to testify to the truth, the whole truth, and nothing but the truth, was examined and testified as follows:

EXAMINATION BY COUNSEL FOR DIVERSIFIED PRODUCTION

By MR. STREET:

Q Good afternoon, Ms. Webb. I'm going to be quick. Okay?

A Okay.

Q You're -- you're the -- are you the primary person that was responsible for putting the well permit application together in this matter?

A I'm the actual supervisor.

Q Okay. Did someone work under you to make this happen?

A Yes.

Q Who was that, ma'am?

A That would be Stephanie Blevins.

Q Okay. Have you -- have you reviewed your -- reviewed the application that Stephanie Blevins worked on under your supervisory

role?

A Yes.

Q And I -- I -- I have looked at this. I cannot find where anyone signed the application. Can you -- can you tell me on what page someone signed this application on behalf of Pocahontas Gas.

A It doesn't look like it showed up on the print, but it is signed online on the eForms.

Q So the copy that I would have downloaded -- there'd be no way I could see the -- see where there's a signature?

A I don't think there's a signature on any of them.

Q Okay.

A That's not the way eForms works.

Q Well, there could have been a signature stand in, though, right?

A That's not the way eForms works. So if you look above, like on -- its page 1 of 2. There is my name representing Pocahontas Gas, at the bottom of the page.

Q Okay.
A That is how that looks on eForms.
Q There is, on the very first page -- I'm sorry, Ms. Webb. I think I may have interrupted you, ma'am.
A It's from 1 -- page 1 of 2 at the very bottom of the page, application certification, and it says, Beverly Webb, representing Pocahontas Gas, LLC.
Q Okay.
A And that's how it works in eForms. There is not an actual physical signature. That's the way eForms is set up.
Q eForms is just like the -- the --
A It's the same website.
Q -- the program that is used through the Virginia Gas and Oil Board for filing that Charity does all the work on at my office? You don't know Charity.
A That is correct.
Q Yeah. Okay. Do you know what a verified signature is?

A I do.
Q Okay. And is a verified signature a signature that's under oath?
A Yes.
Q And is this application signed under oath?
A Yes. To the best of my information and my knowledge.
Q Who would have put -- okay. So who signed it under oath? Was that -- Ms. Webb -- Ms. Webb, was that you? Or who -- who would have signed it?
A I signed it. I signed it, and then Josh Ball signs on behalf of Virginia Operation (indiscernible 01:04:45) and completion.
Q Is Josh Ball's name on here somewhere?
A It is not physically on this application, but it's on eForms.
Q How -- how does one go about submitting an eForm under oath? What's the procedure that you use for that?
A I will have to defer to Phil or Brad.

Q Have you ever signed an application for a well permit and submitted it in a similar fashion as here and done so under oath such that you could tell me the process you went through?

A Okay. So if you look on the --

MR. SKORUPA: Just a minute. Let -- let me let Brad explain the eForm process, so you can hear it, because that's -- that's the best source of how our eForm work.

MR. BOYD: So the eForms is an electronic submission system that we use in Virginia for all of our permits, applications, et cetera, any kind of submissions that goes -- that gets submitted to us. We do have a section in -- it's on what will be page 7 of our eForm application. We do have a section that is basically the application certification section, and that -- that's the section that Ms. Webb pointed to where they basically certified all persons required to be notified of the application, the proof of notices, and the application permit. That's -- that this application is submitted by our

regulations and they're able to conduct operations in Virginia, and the requirement there is they have the name of the person that's in charge of Virginia operations, and their title is put into that section.

MR. STREET: The -- the application, on my version anyway, it has a front page. Do you have that on yours, Mr. Boyd?

MR. BOYD: No.

MR. STREET: It's just a letter? That's -- is there a way for a -- an applicant to basically create a letter and sign it and make it a part of the application and upload it into your system?

MR. BOYD: We have a section in eForms that's called Administrative attachments. We have a section on page 7, things that we don't cover under the required permitting application under that process. If we have administrative documents that we need to put there, there is a section for that. If somebody needed to put something additional to what we require in there.

MR. STREET: That -- that would be possible?

MR. BOYD: Yeah.

MR. STREET: Okay. And is there a process that your office has where you can basically verify someone's signature for purposes of the application? Is there someone -- you know, notarize or verify a pleading? Do you all have that capacity?

MR. BOYD: We do not. Not in this eForm application.

MR. STREET: Okay.

THE WITNESS: This is exactly like the application that Diversified has submitted to us. It's the same signature process just -- just so you all will know.

BY MR. STREET:

Q Okay. But we didn't -- we didn't file a well application, though, did we?

A Diversified has. Yes.

Q You mean on -- you mean on --

A (Crosstalk) --

Q -- on other occasions?
A Yes. Yes. On other occasions. Yes. I'm sorry.
Q Well, the reason I'm --
A (Crosstalk). For an example --
Q I didn't hear you.
A -- for an example, page 38. We received a permit application, and it's signed exactly like we do ours. Yeah.
Q Okay. The reason I ask is because Virginia Code Section 45.2-1631(A), it -- as I read this, it says, Every permit application filed with the director shall be verified by the permit applicant.
And I was just wondering -- I was just wondering if you did that. Did you -- did you file a verified application? And if the answer is no, that's -- you tell me, but that's what -- it sounds like you did not do that. Is that fair? Are you -- did you -- I'm sorry.
A I -- I -- I signed it as I was required by eForms --

Q Okay.
A -- is how I --
Q Did -- did anyone place you under oath right before you signed it?
A No.
Q Okay.
MR. STREET: Okay. Mr. Skorupa, we filed a -- we filed a letter on or about February 22nd listing our objections. We fleshed them out. I don't think you want to hear me reread them to you. So if you don't mind, I'll just incorporate those in, and then I'll proceed to the motion to stay, which we filed as well.
MR. SKORUPA: I'd prefer you to briefly read them in.
MR. STREET: Read them in?
MR. SKORUPA: Yes. Or at least cover it in general. Summarize it.
MR. STREET: Okay. All right. Well, this is from a February 25th, 2026, letter. We submitted objections, pursuant to Virginia law, Virginia Code, Section 45.2-1637(C) and 4VAC25-150-

140(C). We submitted two categories of objections and, in addition, a request for a stay.

The two categories are the proposed work directly impinges upon Diversified's gas and oil interests. The second category is the proposed work threatens to violate Diversified's property and statutory rights. The first of those categories had two subcategories. The first dealt with the -- the -- the various costs and expenses occasioned by the well.

The second one -- this one you may want to take a second look at because you haven't heard about this before, but the underlying pooling application submitted by Pocahontas did not identify this well or any well for that matter, and it did not contemplate or seek permission for the sharing of expenses, and it's our position that there should have been at least one well designated in that pooling application and order and that, you know, the failure to do so, then, is not curable by coming directly to the director. It, in effect, usurps the board's authority.

And then the -- the broad second category -- we -- we incorporated the first two, of course. The second of those is -- is basically the same as the first one -- the usurping of the Gas and Oil board.

And then the -- in the second category, we also -- and this -- this will be a good segue into the motion for a stay. But, as you know and as Mr. Swartz knows, we have this -- the unit that -- that encompasses this proposed well was pooled back in -- around the 1st of November of 2025, and we have appealed. Of course, we have -- my client has appealed that pooling order, and it's on appeal before the Circuit Court of Buchanan County, Judge Reece Hale presiding.

The -- the -- the well application today is entirely dependent upon the successful -- successful (indiscernible 01:13:31) for Pocahontas Gas appeal, such that if that appeal goes against Pocahontas Gas, this permit application would be mooted.

And -- and as you may know, the circuit

court judge has the final say on that pooling application. And it -- and I know you were there for that long set of days for the trial, but there's lots of issues, including, for example, reimbursed costs that -- that the Court is going to have to -- we're going to ask the Court to consider and rule upon.

And Mr. Swartz -- he's positive that he and his team will prevail, and we feel confident or maybe equally or more so confident that we will. But in any event, that judge is going to have to rule on that stuff one way or the other. And until the Court does that, allowing Pocahontas to go onto the property and drill a well is premature because we have to wait on that Court to do that.

You have the authority by statute to stay whatever your decision is in this case or stay the proceedings, pending the outcome of that. This, to me -- this, to us, seems like an ideal situation for that because we have a bona fide appeal that everyone's taking very seriously. There's been oodles of lawyers and lots of clients,

and they're interested, and everyone's prosecuting it. Until the circuit court judge rules on that, whatever you do today is going to be subject to that judge's order.

So I don't know. I've -- I've not done this with you before. I don't know what the -- what criteria you look at for stays or what your litmus test is. There's no precedential authority that I can find to give me guidance on what you look at for that, but, to me, this is a paradigm case for that.

This is a perfect case for that because we actually have a -- an appeal with novel issues, by the way, that I think everyone -- so I always hesitate to speak for Mr. Swartz, but I know the board acknowledged, in its decision and in these units, that they were novel issues that it had not addressed before.

And so for novel issues that have never been addressed and that would -- would merit scrutiny and a close attention by a reviewing court, that, to me, seems like it presents a good

case, a good candidate, to stay these until we know what the reviewing court should do. And -- and I -- I contrast that because there are certainly appeals out there that are taken willy nilly and -- but this is not one of those.

We have -- we have real novel issues that haven't been addressed, and that I think all parties will benefit from knowing what the answers are. And for all of those reasons, it seems to me to make better sense to put this on hold until we know what the judge is going to do on the underlying unit before we start granting permits, drilling holes, installing equipment because that may very well prejudice some of the parties' rights on appeal, and that's not fair.

So for that reason -- that's -- that covers, I guess, two things at once: part of the substantive objections is -- is that the circuit court really has the authority at this point to rule before we jump ahead here, and also for Your Honor to exercise your authority under -- this is in -- in the in the letter, of course, but it's

4VAC25-150-140(C)(5), which is authority to stay, pending the final decision, the statutory final decision on the de novo appeal to circuit court.

And if you have any questions -- I was trying to go fast, but I'll be glad to answer them. Otherwise, that's what I had to say. That's -- that's all I have.

MR. SKORUPA: All right.

Mr. Swartz?

MR. STEPHENSON: I think he's muted.

MR. SKORUPA: You're muted.

MR. SWARTZ: I have that problem. I have that problem. Thank you for reminding me. My first and -- and I think overall response to what we're hearing from Diversified is the reason we have a -- well, the reason why we have the Virginia Gas and Oil Act of 1990, and obviously amended from time to time thereafter, was to prevent people, such as Diversified or Buchanan Energy, from preventing coalbed methane development by making objections along the lines of that we're hearing today.

You know, we've heard repeatedly that Buchanan Energy and Diversified are parties to or successors in interest to an oil and gas lease. They have contractual rights among themselves. We've heard all of this before. And, frankly, the -- the Virginia Gas and Oil Act was intended to prevent people from coming in and saying we don't want this development. We want to -- we want to delay it. We want to put it off. We want to prevent it. We have forced pooling so that people who object, unless they fall within the categories of the objections here to a well permit to prevent them from -- from deferring or delaying or absolutely preventing development.

Now turning more specifically to what we have here, the board has pooled G37. On October 21st, the board had a meeting. They announced their decision with regard to G37 and some other units. It's -- that unit has been force pooled. Pocahontas Gas is the designated operator authorized under that pooling order to produce unsealed coalbed methane gas from a panel which was

described in that pooling application.

So, you know, we have -- the permit applicant here actually has a pooling order in its favor from the board saying you may develop this gas in this unit -- unsealed gob gas, and we're here to get a permit, actually several permits in this panel, to allow that to happen.

And what we're hearing in response is, well, they may have a pooling order, but we don't like that pooling order, and we have an appeal. Well, yeah, they didn't prevail in front of the board. They made all the same arguments that we're hearing today about leases, about contracts, everything else, and the board decided we're going to pool this unit, and we're going to designate Pocahontas Gas as operator.

So the board has heard this, what you're hearing today, and they've made a decision, and they appointed Pocahontas Gas as operator, and we're here pursuing development under that board order. You know, in fact, you know, they need to win an appeal to -- to displace this. It's not --

you know, they're a couple of steps away from suggesting that Pocahontas Gas doesn't have the right to develop unsealed gob gas in this unit. We have an order that says we can, and we're here on a permit application to allow us to do that.

The exhibits that have been offered today with regard to this application really aren't -- aren't germane to whether or not the permit application is appropriate. You know, I submit that the -- well, I need to make one other -- one other observation with regard to the pooling order.

Under the pooling order, people who -- everybody -- royalty, owners, lessees, everyone -- gets an opportunity to make an election. So when -- when the board pools a unit, it says to people who have interests in the unit, you have an opportunity to decide how you want to proceed. Do you want to participate in this unit? Do you want to be a partner? Do you want to be carried? Do you want to take a pass?

And Diversified has a lease from Buchanan Energy, and we've heard all about that.

And in this particular unit, the G unit -- G37 Unit, Diversified exercise their election opportunity and said we're going to participate, and we're going to be carried.

So we have, you know, people in front of you today. We have -- Pocahontas Gas has a pooling order. Diversified has elected to participate as a carried operator under that pooling order which protects their lease interest.

I mean, the -- the argument here is -- is very confusing to me. Because of Diversified's lease, they have an opportunity to become a partner that would give them precisely the same working interests they would have if they developed the property themselves. If they have a one percent interest in this unit, the coalbed methane unit, and they develop this unit, other people would have an opportunity to elect a working interest on the other 99 percent of that working interest.

It's the reverse here. They've got a small interest here, but they -- they do have an interest. And by electing to be carried, they have

protected their leasehold interests.

So they're saying that somehow the pooling order has impaired their rights as distinguished interests, whatever, when the -- when the reality is the pooling order and their election of that pooling order has actually given them an opportunity to preserve their rights and -- and -- and to protect their rights.

So, in summary, I would suggest, one, this unit's been pooled. Pocahontas is the operator. They have filed a permit application to produce gob gas, unsealed gob gas consistent with the terms of that pooling order. They have provided election opportunities to everybody. Diversified has elected to be carried. They could have elected to participate and pay up front, but they elected to be carried. But, nevertheless, they're going to be a carried operator.

So I would -- I would argue to the -- to -- to -- to -- to you, sir, that the -- the objections that we have somehow impacted their contractual rights, their property rights, their

statutory rights, their gas and oil interests is simply not true. Their rights were protected by the board and -- and -- and are protected under the act. So those objections should not be treated as having any merit, and you should issue the permit with regard to -- with regard -- the permit application with regard to this unit.

MR. STREET: There are lots of appeals all the time, obviously, in our country. In some of them, the parties' positions don't change any while it's on appeal, and it doesn't create the problems that we have right here. And -- and that's -- it'd be nice if that were the case here. We could appeal this, and we would get a ruling -- we would get a ruling from circuit court. And then probably we could come back and apply that ruling to the cases.

The problem here is that part of the position of the parties will be changing if the permit is granted and Pocahontas Gas proceeds to put in a well. They're going to put in a $750,000 well. They're going to drill a hole. They're

going to connect it to pipes. There's going to be assets sitting on the ground. They're going to own it. They're going to be -- they're going to be, I guess, producing and selling gas before we get back with a ruling.

And then once we get a ruling -- what if we win? What if my side wins at that point and said, wait. You know, you have to re-pool, or you have to go through another pooling, or, no, Diversified already -- Diversified should have this unit.

Now fast forward to that position, and we're now looking at a situation on the ground where so much has changed. It's going to be a big problem, and that's what I'm trying to avoid. Yes, we have to appeal it. I mean, I -- I -- trust me. I'm aware of that. I've -- I've worked on the appeal. I was there when -- when I lost the case. I know that.

But because that -- that -- that negative opinion followed by the appeal and a -- and a -- and a well permit and a well in place is

going to change the respective -- the respective position of the parties drastically, that's the reason we think it should be stayed is -- is to maintain the status quo on the ground so that we don't have to try to unwind a whole three quarters of a million dollar well that's sitting in place and owned by Pocahontas Gas.

Because you know what they're going to say when we get to the appeal. They're going to say we've already got a well in. We've already spent $750,000. We're -- we're already pumping gas. You know, make them go away. And that's not -- that's not the best way to proceed on an appeal is to have the parties changing their -- their position so drastically, and that's what's going to happen.

And I don't blame Pocahontas Gas for wanting to make that happen. If I were Mr. Swartz, that's what I would be doing too -- get an advantage for my client. That doesn't change the fact that that's not a -- that's not an advantage that the board and the court would -- should want

to see. They should -- they should want the parties to be able to appeal on the merits of that decision and get an unbiased, fair ruling based on the merits and the status quo at the time of that decision, not be looking at it with all this new infrastructure on the ground because infrastructure means a lot in these cases, as we've learned.

So this is not -- this is not us trying to subvert the Virginia Gas and Oil Board process. In fact, that process contemplates an appeal de novo to the trial court, and we're just -- we're using the process that's -- that is in -- in the statute. So I respectfully disagree with Mr. Swartz on that. That's -- this is just part of the way the act is designed to function.

And there's a reason why there's a statute that gives you the power to stay, and it is for -- it is for -- it's got to be for some circumstance; right? I mean, this seems -- I can't think of a better one than this to head off a situation where Pocahontas come -- Gas comes to court or on the appeal and says, oh, guess what,

Judge? We've got -- you know, we put in three wells, and they're 750,000 wells that we own. You know, that's the problem. So that's why we're asking for that.

MR. SWARTZ: I just want to respond just to the stay question. This well is in a -- is in a location dictated by a mining company. You know, Coronado locates these wells, these gob wells, consistent with their mine plan, with their longwall mining. To degas this coal, just like they're drilling short holes in these panels -- to degas their coal in advance of longwall mining in the interest of miner safety.

I mean, so in terms of the delay here, you know, this panel -- these panels are either out -- are either developed, you know, and isolated or are in the process of being isolated. You know, we're looking at longwall mining. We're looking at miners. We're looking at, you know, impending mining, and there are -- the really awesome reason not to stay this is mine safety.

I mean, these wells are located -- are

-- are placed where Coronado wants them. They're degas wells. There's mining entries that are being developed. We don't need to wait for however long it's going to take the circuit court to decide this case or however long it's going to take an appeal from the circuit court to an appellate court to decide this case.

I mean, you know, the mining is proceeding, and we need to degas this coal in advance of longwall mining, and that's why we shouldn't be talking about a stay. We have a board order. We have a mining company proceeding with this longwall mining, and we need these wells.

MR. STREET: Thank you for the freedom to talk so much, but I know you're eager to get done. We all know that that's a bit of a red herring because Coronado can vent that gas anytime they want. So that's -- they -- they did that long before there was pooling and long before there was -- there was gas production. They were -- they were degasifying longwall panels. That's -- that's just a scare tactic. So that's not really an

issue.

And I -- I meant to mention this earlier before. Yes, we -- we did exercise an election on this unit, but it was very clear that that election was with full preservation of all rights to object and contest and without prejudice. So that -- that -- that -- the board and -- and the -- the board -- the board cannot use that to our prejudice on these -- on these types of arguments. That was part of our agreement and the order that was entered.

So -- and that's -- unless he comes up with something else, I'll stop talking.

MR. SKORUPA: Well, thank you for answering my one question. I was getting ready to ask you the question about the election and how Diversified took in this situation.

MR. STREET: Yeah. You may not have been on the phone at that point, but we were -- we had a hearing before Judge Robertson, and it's like at so many of these hearings. We -- we did a lot, and then we finally agreed that we would go ahead and exercise an election, but it was explicitly

agreed and put in writing that it would not -- would not be prejudicial to any of our positions before the board.

MR. SKORUPA: That was right before Christmas, I believe.

MR. STREET: I don't have anything further, and I -- I know -- I can see by Mr. Swartz's face he's going to give me the last word this time. So --

MR. SKORUPA: Well, I do have one more question for you, Mr. Street.

MR. STREET: Okay.

MR. SKORUPA: In -- in recording that, you stated that -- that your prejudiced to other stuff being recorded where?

MR. STREET: Say -- ask me that one more time.

MR. SKORUPA: As far as you say that you entered the election with prejudice, that, you know, prejudice against it or not against it wouldn't be held against you? Or is that officially -- who -- who --

MR. STREET: That's --
MR. SKORUPA: -- who is that agreement with?
MR. STREET: -- that's -- that's in an order. Who is it with?
MR. SKORUPA: Mm-hmm. And where?
MR. STREET: That's an order that I believe is in the circuit court records; is that right?
MR. STEPHENSON: It's a stipulation on the record --
MR. STREET: A stipulation on the record.
MR. STEPHENSON: -- before the judge at the hearing. And I think it's also listed in our notice of election.
MR. STREET: That's right.
MR. SKORUPA: Well, I just want to clarify where -- where that's recorded.
MR. STREET: Yeah.
MR. SKORUPA: Where it's been put. Because I was present when that was said. I just

didn't know how it was recorded or what all took place.

MR. STREET: Yeah.

MR. SKORUPA: And -- and I was asking you to clarify that for me.

MR. STEPHENSON: We have a transcript of that hearing if you'd like to have it for the record here, if you'd like us to submit something.

MR. STREET: Mr. Swartz was there too. I don't -- I think he would -- he probably remembers as well. It's on the record.

MR. SWARTZ: My argument -- my argument wasn't about prejudice. My argument was about the law. The law says that, to protect people, they have election rights, and -- and all I'm saying is, under the law, people like Diversified have the right to preserve their working interests.

The law protects people like you. I'm not saying you waive anything. I'm just saying the design of the law is to protect people in your position -- to protect lessees, to protect royalty owners. That's all I'm saying.

MR. STREET: No. We -- we were --
MR. SWARTZ: It was designed to -- I anticipated this.
MR. STREET: -- we were -- we were trying to satisfy Mr. Skorupa's questions about whether or not there was a specific reservation of rights under that agreement. That -- that's what we were trying to answer.
MR. SKORUPA: Well -- and I still have one follow-up of my own. You made an election, and, you know, the other part that's -- there's a lot to be said one way or the other for it, but you did definitely choose to make an election on this unit; correct?
MR. STREET: We did. Yes, sir.
MR. SKORUPA: Okay. That's a straight answer.
MR. STREET: Yeah.
MR. SKORUPA: Okay.
MR. STREET: It is -- it is --
MR. SKORUPA: I don't have any other questions.

MR. STREET: -- it is conditional on the appeal.

MR. SKORUPA: Yeah. I understand.

MR. STREET: Yeah.

MR. SKORUPA: But you did make an election.

MR. STREET: No. We did because the time limit was running and --

MR. SKORUPA: I mean, it's a fact. This is what I meant. It's a fact you made an election. Other stuff is not -- not necessarily a fact.

MR. STREET: Okay. The -- when -- by other stuff, do you mean was it a -- did we reserve our rights --

MR. SKORUPA: Yeah.

MR. STREET: -- so that it was not prejudiced?

MR. SKORUPA: I mean, but you still made an election, and that's a (crosstalk).

MR. STREET: Yes. But -- but to understand what election we made, I think you have to understand the circumstances.

MR. SKORUPA: That -- that -- that was -- Diversified's call is what election you made. I mean, however you made it, whatever circumstances, you still made the election. That's all I'm asking. A straight yes answer or no.

MR. STREET: I -- I can't -- that is not a question that can be answered in a yes/no, but I'll tell you what we did, and I hope this will answer it completely. We filed a motion, first, with the Virginia Gas and Oil Board to delay and suspend the election time period. And because we filed it, like, six days in advance, I think the board ended up, and you agreed, that it was filed too late. So the board didn't consider it. So we had to appeal it.

So we went to Judge Reece Hale, and we had -- we -- I think we filed a different motion. We may have briefed it. I don't remember. We had a full hearing, and in the middle of that hearing -- and Pocahontas Gas was there. We were there. The judge was there. I forgot who -- who suggested it, but by the end of it, we agreed that we -- that

we would go ahead and have the right to file an election but with the very important understanding and agreement, which was the -- the key to the whole thing, which was we would not be prejudicing any of our rights to object or contest in any other matters.

And it took us a while to get there, but the judge was happy with that, and that's what we did. So, yes, we -- and then we -- and then we filed a written election, and within that election document -- I think he's saying this, and I think he's right -- we included specific -- specific language that, pursuant to the court order, we were not waiving or releasing any of the rights to object or to be prejudiced on any related matter.

So, yes, we filed -- we did file an election, and I think it was carried, but I do think you have to understand the caveats and the -- and what went on with that election to get the whole picture. But I --

MR. SKORUPA: I was present in that meeting with the judge.

MR. STREET: Okay. All right. I -- I'd forgotten that. I'm sorry.

MR. SKORUPA: Yes.

MR. STREET: Does that -- does what I said fit with your recollection?

MR. SKORUPA: You've answered my -- you've answered question.

MR. STREET: Okay. Good. Good. All right.

MR. SWARTZ: I'm not going to take the lid off the jar, sir.

MR. SKORUPA: No further comments, Mr. Swartz?

MR. STREET: Me either. Me either. I don't know what he said, but --

MR. SKORUPA: No further comments?

MR. STREET: -- me either.

MR. SWARTZ: No further comments. I think we've -- we've -- we've finished.

MR. SKORUPA: Okay. Having -- both parties have had their opportunity to present their facts. I will take all the facts into

consideration and will issue a written decision within the timeframe.

MR. SWARTZ: Okay. Before everybody disappears, Ben, can we just say that we would have the same hearing on the next matter? Do we need to start over with that? Or are we -- is there anything different?

MR. STREET: I think I'm okay with that. Let me -- let me ask my co-counsel.

MR. SKORUPA: Well, let's close this one, and we can do it.

MR. SWARTZ: Okay.

MR. SKORUPA: We can do it. My suggestion, if that's what you want to do, we can close this one, briefly just open it, and that's the agreement. I stipulated we can.

MR. SWARTZ: Okay. Let them have a moment, though.

MR. SKORUPA: Yes.

MR. SWARTZ: Because I think they want to talk.

MR. SKORUPA: So this -- this one's

officially adjourned.

(End of hearing.)

MR. SKORUPA: Good afternoon. Today is Monday, April 27th of 2026, and it's approximately 3:15 p.m. And, again, we have another informal fact-finding hearing -- IFFH1043. And this hearing is being convened under the Virginia Gas and Oil Act, Section 45.2-1637, which allows objections to permit applications to be filed for those who have standing under Section 45.2-1632.

Objections under the statute have been filed against the permit for Pocahontas Gas, LLC for the coalbed methane well G37C, Application No. 64223. Objections were filed by Eric Conley on behalf of Diversified Production as a royalty owner, and the objections were filed in a timely manner as required by Section 45.2-1637.

Notice to the parties regarding gas operation and the protection of environment are important elements of Virginia law. Today's hearing is also a part of that process.

Again, Sarah, was notification sent to

all parties to appear for this conference as required by Section 45.2-1637(G)?

MS. GILMER: Yes.

MR. SKORUPA: And did that notice include the date, time, and place of this conference?

MS. GILMER: Yes.

MR. SKORUPA: Okay. To the next one, who will be testifying or who will be representing each side, please state your name and position relative to this.

MR. STREET: Afternoon. Ben Street for Diversified, and to my right is Scott Stephenson, co-counsel also for Diversified. And except for incorporating testimony from the last hearing, we won't be calling any witnesses.

MR. SKORUPA: Okay.

Mr. Swartz?

MR. SWARTZ: Mark -- yes. Mark Swartz on behalf of Pocahontas Gas. I agree that it's an efficient thing to incorporate the testimony from the last hearing. The only thing I would add -- I

guess Mr. Street could object to this. I -- I think we were talking about the election and the reservation of -- of objections that -- that Ben has referenced.

I've got an email ready with a copy attached of the actual election letter and the reservations that you incorporated into that letter. I think it makes sense maybe to -- to let Mr. Skorupa have that. It didn't occur to me until we were talking about it that he -- he would not have access to that if we don't provide it. Does that work for you, Ben?

MR. STREET: I think so, but can we also submit the excerpt from the transcript before the judge where we talked about what we were doing? And then you're talking about --

MR. SWARTZ: Sure.

MR. STREET: -- whatever -- whatever --

MR. SWARTZ: Sure.

MR. STREET: -- materials we have on that.

MR. SWARTZ: Right. Right.

MR. SKORUPA: I'm fine with that. I'm fine with submitting those.

MR. STREET: Okay.

MR. SKORUPA: And we can --

MR. SWARTZ: So I will --

MR. SKORUPA: (Crosstalk).

MR. SWARTZ: Momentarily, I will send that email.

And, then Ben, when you do that -- your transcript -- you should just copy me when you send it.

MR. STREET: Okay. And then -- and so there -- there will also be some language relevant to that in the election letter as well. So we'll submit that and the excerpts and then whatever emails we might have.

MR. SWARTZ: Well, actually I'm going to send them your letter. So he'll have that.

MR. SKORUPA: Yeah. Both of those documents are --

MR. STREET: Okay. I got you. I'm sorry.

MR. SWARTZ: Yeah.

MR. SKORUPA: Both of those documents are accepted, you know, as a part of this hearing.

MR. SWARTZ: Good. Good.

MR. STREET: Okay.

MR. SKORUPA: And we can just, a little bit more, continue on. I'll just say that, you know, that you have filed -- Diversified has filed as a royalty owner against this one, and we do know what you -- what you were standing and your reasoning. So at this point, do you want to make a motion, either of both parties, to incorporate the evidence and the previous testimony from the previous hearing for the other one and this one together.

MR. STREET: I'll make that motion.

MR. SWARTZ: So moved.

MR. STREET: I'll -- I'll modify Mr. Swartz's motion a little bit, and -- but we'll use the exhibits, the same exhibits, same testimony, same comment as it would be applicable to this new petition or this new application.

Similar -- the same -- it would be applicable the same because Ms. Webb and I talked about the other application. So let's just stipulate that the same answers would be the case for this new application.

MR. SWARTZ: Right. I -- it's the same process. So I'm good with that. I will second that motion, or I will join it. Whatever's -- whatever's better so that we can efficiently move forward.

MR. STREET: Yes, sir.

MR. SKORUPA: Okay. The motion is approved for both parties that we're in agreement, and I will do a written decision, and we can take this hearing officially closed for today.

MR. STREET: Okay. Thank you.

MR. SKORUPA: Thank you everyone.

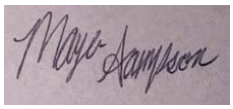
MR. SWARTZ: Thank you sir.

(Off the record at 3:22 p.m.)

CERTIFICATE OF COURT REPORTER - NOTARY PUBLIC

I, Maya Sampson, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings were fully sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.

Notary Registration No.: 00353346
My Commission Expires: 8/31/2029



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MAYA SAMPSON, AAERT CER
NOTARY PUBLIC FOR THE COMMONWEALTH OF VIRGINIA

CERTIFICATE OF TRANSCRIBER

I, Jennifer Candela-Alvarez, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding; that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; and that I am neither counsel for, related to, nor employed by any of the parties to the case and have no interest, financial or otherwise, in its outcome.

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JENNIFER CANDELA-ALVAREZ

APRIL 30, 2026

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Pocahontas Gas LLC
UNIT G37
Tract Identifications

1. Anise Jean Jones, et al (85.00 Acre Tract) – Minerals
   Buchanan Mining Company LLC – Coal Below Tiller Seam Leased
   Mountaineer Metallurgical Holdings LLC – Jawbone and all Seams above drainage Coal Leased
   Appalachian Energy, Inc. – Oil, Gas, and CBM Leased (deemed leased by JV)
   31.51 Acres 39.3875%

1A. Hobert Hagerman, et ux – Surface
1B. Frank Muncey Heirs – Surface
1C. Alberta Payne – Surface
1D. Bobby Looney – Surface

2. Buck Jewell Resources LLC (30.42 Acre Tract) – All Minerals
   Buchanan Mining Company LLC – Coal Underlying the Tiller Seam Leased
   Appalachian Energy, Inc. – Oil, Gas, and CBM Leased (deemed leased via JOA)
   Buck Jewell Resources LLC – Surface
   0.25 Acres 0.3125%

3. Caroline Cole Keen, et al (100-acre tract) – All minerals Except Jawbone and 1/9 in P3 Seam
   Buchanan Mining Company LLC – 1/9 P3 Seam of Coal
   Buchanan Mining Company LLC – Coal Below Tiller Seam Leased
   Mountaineer Metallurgical Holdings LLC – Jawbone Seam of Coal
   Mountaineer Metallurgical Holdings LLC – Above Drainage Coal Leased
   Appalachian Energy, Inc. – Oil and Gas Leased (95.4321%)
   Appalachian Energy, Inc. – CBM Leased (70.9877%) (deemed leased via JOA)
   Pocahontas Gas LLC – CBM Leased (14.5432%)
   Carolina Cole Keen, et al – Surface
   1.11 Acres 1.3875%

4. Alta Stanford, et al (26.13 Acre Tract) – All Minerals
   Buchanan Mining Company LLC – Coal Below Jawbone Seam Leased
   25.58 Acres 31.9750%

4A. Pocahontas Gas LLC – Surface
4B. Deborah S. Riordan – Surface
4C. Deborah S. Riordan - Surface
4D. Deborah S. Riordan – Surface
4E. Stella Crist – Surface
4F. Cemetery

5. William B. Dennis, et al (16.67 Acre Tract) – All Minerals
   Buchanan Mining Company LLC – Coal Below Tiller Seam Leased
   Pocahontas Gas LLC – CBM Leased
   Ronnie Page Compton, et ux – Surface
   13.86 Acres 17.3250%

"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."

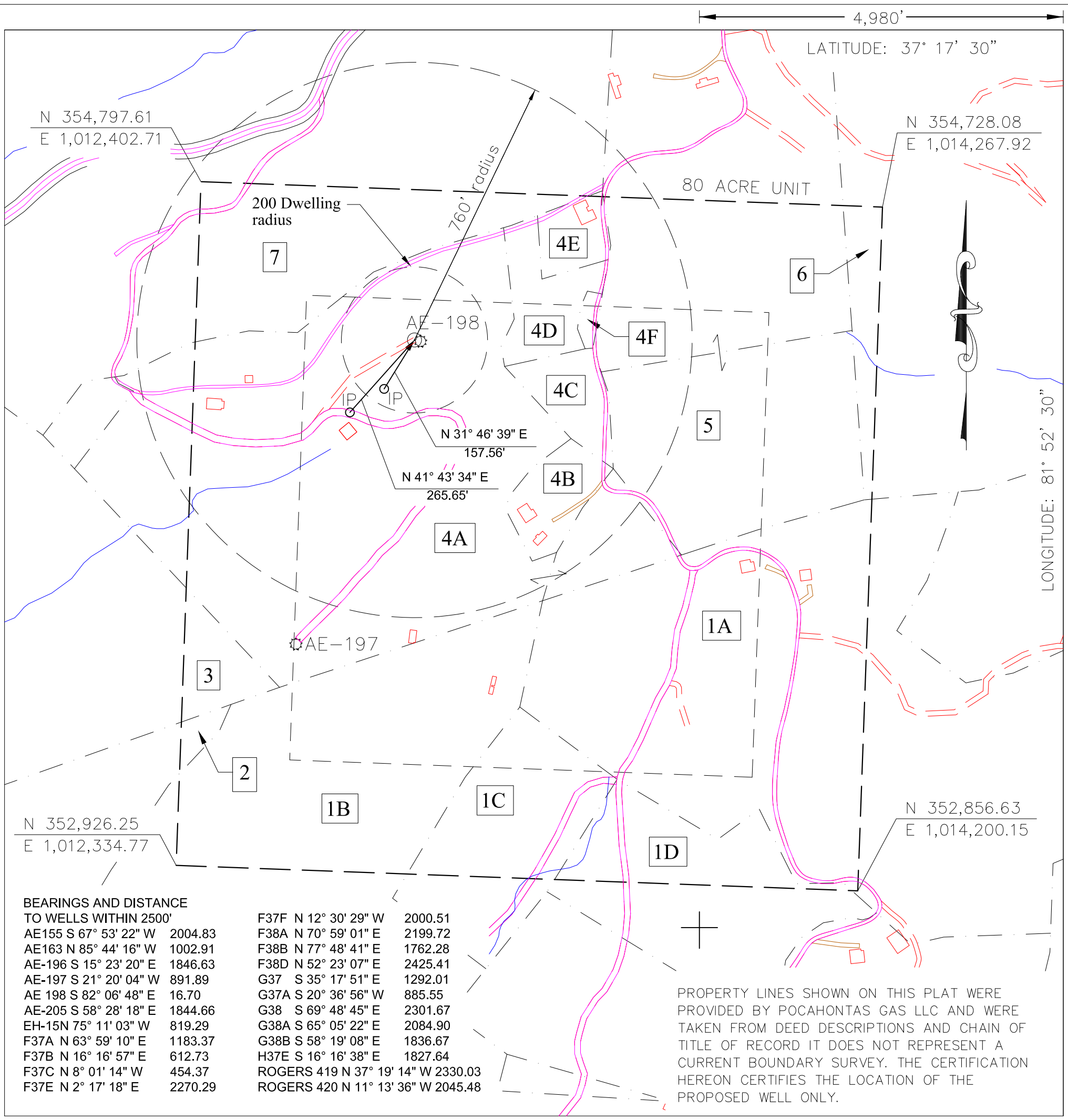
12/2/24 Rev. 3/19/25, 1/22/26

Pocahontas Gas LLC
UNIT G37
Tract Identifications

6. Buchanan Energy Company, LLC (1232.67 Acre Tract) – Minerals
Island Creek Coal Company – Coal Below Jawbone Seam Leased
Buchanan Mining Company LLC – P3 Seam Sub-Leased
Southwest Virginia Mining Company, LLC – Coal in Jawbone and Above Seams Leased
Appalachian Energy – Oil and Gas Leased
Diversified Production – CBM Leased
Buchanan Energy Company, LLC – Surface
0.97 Acres 1.2125%

7. Cecilia Cox Compton Trust (35.00 Acre Tract) – Fee
Buchanan Mining Company LLC – P-3 Seam Leased
Pocahontas Gas LLC – CBM Leased
6.72 Acres 8.4000%

"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."



BEARINGS AND DISTANCE TO WELLS WITHIN 2500'

AE155	S 67° 53' 22" W	2004.83	F37F	N 12° 30' 29" W	2000.51
AE163	N 85° 44' 16" W	1002.91	F38A	N 70° 59' 01" E	2199.72
AE-196	S 15° 23' 20" E	1846.63	F38B	N 77° 48' 41" E	1762.28
AE-197	S 21° 20' 04" W	891.89	F38D	N 52° 23' 07" E	2425.41
AE 198	S 82° 06' 48" E	16.70	G37	S 35° 17' 51" E	1292.01
AE-205	S 58° 28' 18" E	1844.66	G37A	S 20° 36' 56" W	885.55
EH-15N	75° 11' 03" W	819.29	G38	S 69° 48' 45" E	2301.67
F37A	N 63° 59' 10" E	1183.37	G38A	S 65° 05' 22" E	2084.90
F37B	N 16° 16' 57" E	612.73	G38B	S 58° 19' 08" E	1836.67
F37C	N 8° 01' 14" W	454.37	H37E	S 16° 16' 38" E	1827.64
F37E	N 2° 17' 18" E	2270.29	ROGERS 419	N 37° 19' 14" W	2330.03
			ROGERS 420	N 11° 13' 36" W	2045.48

PROPERTY LINES SHOWN ON THIS PLAT WERE PROVIDED BY POCAHONTAS GAS LLC AND WERE TAKEN FROM DEED DESCRIPTIONS AND CHAIN OF TITLE OF RECORD IT DOES NOT REPRESENT A CURRENT BOUNDARY SURVEY. THE CERTIFICATION HEREON CERTIFIES THE LOCATION OF THE PROPOSED WELL ONLY.

THE ACTUAL WELL LOCATION WILL BE WITHIN 10 FEET OF THE PROPOSED LOCATION ACCORDING TO 4 VAC 25-150-290 AND 45.1-361.30.

WELL LOCATION PLAT

Company POCAHONTAS GAS LLC Well Name or Number CBM-G37B

Tract No. ALTA STANFORD, ET AL (26.13 ACRE TRACT) Scale: 1" = 400'

County BUCHANAN District GARDEN Quadrangle PATTERSON Date

Elevation 2349.58' Well Elevation Determined By Trig Levels From Pocahontas Gas LLC Benchmarks

Well Coordinates N 354,364.37 E 1,012,986.96 (Virginia State Plane – South Zone – NAD' 27)

Well Coordinates N 3,635,244.50 E 10,495,975.08 (Virginia State Plane – South Zone – NAD' 83)

This plat is a new plat X ; an updated plat or a final 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.

COMMONWEALTH OF VIRGINIA
ALLEN MITCHELL
Lic. No. 2289
1/26/26
LANDSURVEYOR

Form DGO-GO-7
Rev. 9/91

Licensed Professional Engineer or Licensed Land Surveyor (Affix Seal)