



EXHIBITS

TITLE	DESCRIPTION	OFFERED	RECEIVED
Exhibit No. 1 (Board)	Motion of Big Escambia Creek Royalty Owners Association Re Docket 12-19-853A	8	9
Exhibit No. 2 (Board)	5-30-86 letter to Attorney General from Board	8	9
Exhibit No. 3 (Board)	7-11-86 letter from Attorney General to Board	8	9
Exhibit No. 4 (Board)	Order 86-126 re First Energy motion	--	--
Exhibit No. 1 (Items 26, 27, 28, & 29)	8-4-86 letter from John E. Adams, Jr. to Board	24	24
Exhibit No. 1 (Items 21 & 35)	Order of Circuit Court of Tuscaloosa County	36	36
Exhibit No. 1 (Item 36)	7-24-86 letter to Board from Stephen R. Windom	85	85
Exhibit No. 2 (Item 36)	7-8-86 letter to L. W. Johnson & Associates from Board	86	86
Exhibit No. 3 (Item 36)	7-23-86 letter from L. W. Johnson & Associates to Board	86	86

STATE OIL AND GAS BOARD OF ALABAMA

Tuscaloosa, Alabama

August 7, 1986

Testimony and proceedings before the State Oil and Gas Board of Alabama, in the Board Room of the State Oil and Gas Board Building, University Campus, Tuscaloosa, Alabama, pursuant to adjournment, on this the 7th day of August, 1986.

BEFORE:

BOARD MEMBERS

Dr. Ralph Adams.....Chairman

Mr. Gaines McCorquodale.....Member

BOARD STAFF

Dr. Ernest A. Mancini.....Secretary & Supervisor

Mr. Marvin Rogers.....Attorney

Mr. Gary Wilson.....Assistant Supervisor

Mr. Doug Hall.....Geologist

Mr. Frank Hinkle.....Geologist

Mr. Tom Sexton.....Geologist

Mr. Richard Hamilton.....Petroleum Engineer

(Reported by Jean W. Smith)

APPEARANCES

NAME	REPRESENTING
1. W. Borden Strickland 1104 Riverview Plaza Office Bldg Mobile, Alabama 36602	Kay Morrisette
2. Ivan D. Geddie T-25C McGee Tower P. O.Box 25861 Oklahoma City, Oklahoma 73125	Kerr-McGee Corp.
3. Dennis Lathem 660 Adams Avenue Suite 188 Montgomery, Alabama 36195	Al. Petroleum Council
4. John B. Johnson 660 Adams Avenue Suite 188 Montgomery, Alabama 36195	Al. Petroleum Council
5. Mark Wyatt P. O. Drawer 1628 Mobile, Alabama	AmSouth Bank
6. E. Geoffrey Jeffreys P. O. Box 66227 Mobile, Alabama 36660	The Jeffreys Co., Inc.
7. Bob Jorden P. O. Box 52008 Lafayette, Louisiana	S. E. Belcher
8. Walter Smith P. O. Box 2310 Tuscaloosa, Alabama	S. E. Belcher

APPEARANCES
(Cont'd)

	NAME	REPRESENTING
9.	Steven F. Harrison Tuscaloosa, Alabama	Kerr-McGee
10.	Linda McDonald Mobile, Alabama	G. L. Wallace, M.D.
11.	Ike Espy Tuscaloosa, Alabama	USX Corporation
12.	Dan Clarke P. O. Box 599 Fairfield, Alabama	USX Corporation
13.	Durwood Robertson 3 North Pt. Houston, Texas 77060	Kerr-McGee
14.	Bill Carter Tom Joiner & Associates	Self
15.	K. Bryan PELA	S. E. Belcher
16.	R. G. Sanders P. O. Box 140 Brookwood, Alabama	Blk. Warrior Meth. Co.
17.	Molly McKay Watson & Harrison	BWMC
18.	George B. Gordon University of Alabama	U. of A.
19.	Lynn Malbrough 23 G Northwood Lake Northport, Alabama	Sunbelt Geo. Services
20.	Charles Broome P. O. Box 61707 New Orleans, Louisiana	Exxon

PROCEEDINGS

(The hearing was convened at 10:06 a.m. on Thursday, August 7, 1986, at Tuscaloosa, Alabama. Mr. Metcalfe was absent)

CHMN. ADAMS: Let the record reflect that the Alabama State Oil and Gas Board is now in session. Mr. Supervisor, has this meeting been properly noticed?

DR. MANCINI: Mr. Chairman, proper notice of this meeting has been provided. A copy of today's meeting has been transmitted to the recording secretary. Before the Hearing Officer makes his report to the Board, I understand the attorney for Hughes Eastern, Mr. Tom Watson, has a matter for consideration by the Board regarding Item 2, petition by Hughes Eastern.

MR. WATSON: Mr. Chairman, yesterday at the docket call I advised your Hearing Officer that I wanted Item 2 dismissed without prejudice. I'd like to withdraw that request and ask that the Board continue that item please.

CHMN. ADAMS: Is there an objection? Hearing no objection, your request is granted.

MR. ROGERS: I'll proceed with the report. Mr. Chairman and

Mr. McCorquodale, this is the report of the Hearing Officer on the items heard by the Hearing Officer and the staff yesterday, Wednesday, August 6, 1986. I recommend that the following items be continued: Item No. 6, petition by MWJ Producing Company, Docket No. 5-23-863; Item 7, petition by Getty Oil Company, Docket No. 5-23-8626; Item 8, petition by Getty Oil Company, Docket No. 5-23-8627; Item No. 9, petition by Getty Oil Company, Docket No. 5-23-8628; Item No. 10, petition by Getty Oil Company, Docket No. 5-23-8629; Item 11, a petition by Exxon Corporation, Docket No. 5-23-8644; Item 12, petition by Terra Resources, Inc., Docket No. 6-27-868; Item 19, petition by Smackco, Ltd., Docket No. 8-6-862; Item 20, petition by Carless Resources, Inc., Docket No. 6-27-863(8-6-863); and Item No. 34, a motion by the Board to amend Rule 400-1-3-.10(2)(sic). That was Docket No. 8-6-8617. It's the recommendation of the Hearing Officer that those items be continued.

MR. MCCORQUODALE: I move that we accept the recommendation.

CHMN. ADAMS: I second the motion. All in favor say "aye".

(Both Board members voted "aye")

CHMN. ADAMS: "Ayes" have it.

MR. ROGERS: Thank you. It is the recommendation of the Hearing Officer that the following items be dismissed without prejudice: Petition by Exxon Corporation, Docket No. 12-19-853A; Item 3, petition by Hughes Eastern Petroleum, Ltd., Docket No. 4-17-8646A; Item No. 4, petition by Hughes Eastern Petroleum, Ltd., Docket No. 4-17-8647; Item 5, petition by Hughes Eastern Petroleum, Ltd., Docket No. 4-17-8648A; Item 15, petition by Morrow Oil & Gas Company, Docket No. 6-27-8616; Item 25, petition by T. F. Hodge and Morrow Oil and Gas Company, Docket No. 8-6-868; Item 31, petition by Terra Resources, Inc., Docket No. 8-6-8614; and Item 32, petition by Terra Resources, Inc., bearing Docket No. 8-6-8615. It's the recommendation of the Hearing Officer that those items be dismissed without prejudice.

MR. MCCORQUODALE: So move.

CHMN. ADAMS: Second. All in favor say "aye".

(Both Board members voted "aye")

CHMN. ADAMS: "Ayes" have it.

MR. ROGERS: Another item that we have pending before the Board is a motion by Big Escambia Creek Royalty Owners Association

requesting the Board to issue a declaratory ruling interpreting the meaning of Section 9-17-84 of the Code of Alabama concerning the 75% ratification of orders providing for unitization. I'll briefly review the background of that motion for the Board. Exxon Corporation filed its petition to unitize the Big Escambia Creek Field in Escambia County on December 5, 1985, and amended on March 25, 1986. That petition bears Docket No. 12-19-853A. The Board has just dismissed without prejudice that Exxon petition. In the motion by Big Escambia Creek Royalty Owners Association, they disputed the allegation of Exxon that Exxon had the necessary 75% ratification to unitize the field. In response to the motion for the declaratory ruling, the Board by letter dated May 30, 1986, requested an opinion of the Attorney General on the question does the State Oil and Gas Board have jurisdiction and authority to issue a declaratory ruling interpreting a statute of the State of Alabama. In response to the letter the Attorney General responded on July 11 answering the question in the affirmative. However, the Attorney General stated his opinion that he would also call our attention to the Code commentary addressing Section

41-22-11(a) which indicates that this section may be considered the administrative analogue of the Alabama Uniform Declaratory Judgments Act. If this be the case, then the requirement of the Declaratory Judgments Act of a justiciable controversy may be applicable before there can be a declaratory ruling. With the Board having just dismissed without prejudice the petition by Exxon Corporation to unitize the Big Escambia Creek Field, it is my opinion and recommendation that the Board should also dismiss without prejudice the motion by Big Escambia Creek Royalty Owners Association because there is now no justiciable controversy before the Board concerning the issue raised by Big Escambia Creek Royalty Owners Association. I would also like to introduce into the record copies of the motion, copies--a copy of the Board's letter requesting the opinion, and a copy of the Attorney General's opinion relating to this matter. Again, it's the recommendation that the motion be dismissed without prejudice.

MR. MCCORQUODALE: So move.

CHMN. ADAMS: Second. All in favor say "aye".

(Both Board members voted "aye")

CHMN. ADAMS: "Ayes" have it. The items that you requested

to be admitted are admitted.

(Whereupon, the described documents
were received in evidence)

MR. ROGERS: Thank you.

DR. MANCINI: Mr. Chairman, the staff has examined petitions, proposed orders, exhibits, and other evidence presented for the following items. A record has been prepared for these items. After reviewing these documents and evidence, we find that the technical exhibits and documents are in order and the evidence supports petitioners' requests. The Hearing Officer will present recommendations to the Board on these items.

MR. ROGERS: Item 13, is a petition by Hughes Eastern Petroleum Ltd., bearing Docket No. 6-27-8612, requesting the Board to enter an order establishing permanent allowables for the Hall Creek Field in Escambia County, Alabama. It is the recommendation of the Hearing Officer that Item 13 be granted.

MR. MCCORQUODALE: So move.

CHMN. ADAMS: Second. All in favor say "aye".

(Both Board members voted "aye")

CHMN. ADAMS: "Ayes" have it.

MR. ROGERS: Item 16 is a petition by Michigan Oil Company bearing Docket No. 6-27-8619 requesting the Board to enter an order amending Rule 1 of the Special Field Rules for the South Brush Creek Oil Field by adding certain lands to the field limits. It's the recommendation of the Hearing Officer that Item 16 be granted.

MR. MCCORQUODALE: So move.

CHMN. ADAMS: Second. All in favor say "aye".

(Both Board members voted "aye")

CHMN. ADAMS: "Ayes" have it.

MR. ROGERS: Item 17 is a petition by Tre-J Exploration, Inc., bearing Docket No. 6-27-8623, requesting the Board to amend Rule 1 of the Special Field Rules for the Bluegut Field to add certain lands to the field limits. It is the recommendation of the Hearing Officer that Item 17 be granted.

MR. MCCORQUODALE: So move.

CHMN. ADAMS: Second. All in favor say "aye".

(Both Board members voted "aye")

CHMN. ADAMS: The "ayes" have it.

MR. ROGERS: Item 18 is a petition by Browning & Welch, Inc., bearing Docket No. 8-6-861, requesting the Board to amend Rule 1 of the Special Field Rules for the Happy Hill Field to add certain lands to the field limits. It's the recommendation of the Hearing Officer that that Item 18 be granted.

MR. MCCORQUODALE: So move.

CHMN. ADAMS: Second. All in favor say "aye".

(Both Board members voted "aye")

CHMN. ADAMS: "Ayes" have it.

MR. ROGERS: Item 22 bearing Docket No. 8-6-865 is a petition by Mobil Oil Exploration and Producing Southeast Inc., requesting the Board to enter an order establishing a new field known as the Southeast Mobile Bay Field, Lower Mobile Bay Area, Baldwin and Mobile Counties, Alabama. Item 23, Docket No. 8-6-866 is a petition by that same company, MOEPSI, bearing Docket No. 8-6-866, requesting the Board to enter an order reforming the unit for the MOEPSI State Lease 350 Well No. 2 in the proposed Southeast Mobile Bay Field, Lower Mobile Bay Area, Baldwin and Mobile Counties, Alabama, and Item 24 is a petition by MOEPSI bearing Docket No. 8-6-867 requesting the Board to enter an order for an exceptional

location in the proposed Southeast Mobile Bay Field, Lower Mobile Bay Area, Baldwin and Mobile Counties, Alabama, for the MOEPSI State Lease 350 No. 2 well. Items 22, 23, and 24 are now taken under advisement and we will issue a Hearing Officer report expeditiously to the Board on those petitions. It is the recommendation of the Hearing Officer that the following petitions for force pooling be granted: Item 14, petition by Taurus Exploration, Inc., Docket No. 6-27-50--that's the wrong number--8615--that's 6-27-8615; Item 30, petition by Terra Resources, Inc., bearing Docket No. 8-6-8613; and Items, Item 33, petition by T. F. Hodge bearing Docket No. 8-6-8616. It is the recommendation that those three items, petitions for force pooling, be granted.

MR. MCCORQUODALE: So move.

CHMN. ADAMS: Second. All in favor say "aye".

(Both Board members voted "aye")

CHMN. ADAMS: "Ayes" have it.

DR. MANCINI: Mr. Chairman, in regard to Applications for Natural Gas Policy Act Well Status Determinations, today we request action on three categories. The first category is

request for a continuance which includes Item 37, application by TRW, Inc.; Item 38, application by Alatex Energy, Inc.; Item 39, application by Coaltech, Inc.; Item 42, application by Anderman/Smith Operating Co.; Item 44, application by Browning & Welch, Inc.; Items 45, 46, 62, 65, 72, 73, 74, and 75, applications by Black Warrior Methane Corporation; Item 64, application by Terra Resources, Inc.; Items 70 and 71, applications by Smackco, Ltd. If there are no objections, we'd recommend that these requests for continuance be granted.

MR. MCCORQUODALE: So move.

CHMN. ADAMS: Second. All in favor say "aye".

(Both Board members voted "aye")

CHMN. ADAMS: "Ayes" have it.

DR. MANCINI: The second category is request for dismissal without prejudice for Item 40, application by L. W. Johnson and Associates, Inc., and Item 41, application by Hughes Eastern Petroleum, Ltd. If there are no objections, we recommend that these requests for dismissal be granted.

MR. MCCORQUODALE: So move.

CHMN. ADAMS: Second. All in favor say "aye".

(Both Board members voted "aye")

CHMN. ADAMS: "Ayes" have it.

DR. MANCINI: Mr. Chairman, the staff has examined applications and exhibits for Natural Gas Policy Act Well Status Determinations submitted concerning Item 43, application by Black Warrior Methane Corporation; Items 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, and 60, and 61, applications by Alabama Methane Production Company; Item 63, application by Terra Resources, Inc.; Items 66, 67, 68, and 69, applications by Smackco, Ltd., and Bay City Minerals; and Item 76, application by PFI, Inc. We recommend that these exhibits submitted relating to these items be admitted into the record.

CHMN. ADAMS: The items are admitted.

DR. MANCINI: If there are no objections, we'd recommend that these NGPA applications be approved.

MR. MCCORQUODALE: I move the approval of the items.

CHMN. ADAMS: Second. All in favor say "aye".

(Both Board members voted "aye")

CHMN. ADAMS: The "ayes" have it.

DR. MANCINI: Mr. Chairman, the following items are scheduled to be heard by the Board this morning, August 7: Items 21, petitions by--excuse me--Item 21, petition by U. S. Diversified Group, a division of USX Corporation, Docket No. 8-6-864; and Item 35, motion by the Board concerning Unit IV of the Brookwood Coal De-gasification Field. Also Items 26, 27, 28, and 29, petitions by Kerr-McGee Corporation; Item 36, continued motion by the Board requesting operator, L. W. Johnson, to show cause why certain wells should not be immediately plugged, which is Docket No. 4-17-8662. Mr. Chairman, it would be my recommendation that Items 26, 27, 28, and 29 be consolidated for hearing purposes, and Items 21 and 35 be consolidated for hearing purposes, and if there are no objections, I'd request action on the recommendation.

CHMN. ADAMS: Is there an objection to this request? Hearing none, your request is granted.

DR. MANCINI: Further, Mr. Chairman, in that we have a request for continuance on Items 26, 27, 28, and 29, I'd recommend that we begin with these items.

CHMN. ADAMS: Your request is granted.

MR. HARRISON: Mr. Chairman, I'm Steve Harrison of Tuscaloosa representing Kerr-McGee. We are prepared to go forward with our petitions today.

MR. ROGERS: Mr. Chairman, Mr. Jeffreys just filed this affidavit with the Board and he might like to speak to his affidavit, to his motion.

MR. JEFFREYS: I'm E. Geoffrey Jeffreys, president of the Jeffreys Company, an Alabama corporation whose address is in Mobile, Alabama. We have filed an affidavit in regard to these dockets opposing Kerr-McGee's petitions as being premature and that the notice that we've had has been insufficient for us to properly examine and evaluate the exhibits that they have just recently prefled. Also, their well has been having some problems we understand in production and it's only a month old and pressures have probably been cut in half and production has dropped in half as far as oil is concerned, and they may be having some problems that can be corrected mechanically and we feel that it will be to the Board's advantage and the prevention of waste and protection of the coequal and correlative rights of the parties if another period of extended production, testing, is allowed by the Board, but we also would like the Board to let us have time

until the next regular meeting to bring forth evidence to support our contention that the West Half of Section 7, the SW/4 is a direct west offset and the NW/4 is a diagonal northwest offset to the proposed unit, 160-acre unit that Kerr-McGee is asking for, are also underlain by producible hydrocarbons in the same Smackover pool and they should be and probably are part of what will be called or is proposed to be called the Barlow Bend Field. We have no objections, as I say, to the Board continuing to allow testing of this well although we feel that the matter of the gas that will be produced, which is reservoir energy, should be conserved if, when production takes place on a regular basis.

MR. MCCORQUODALE: Let me ask you a question here, Mr. Jeffreys. If I understood what you said, you indicated that the notice created some problems for you in preparing opposition to this petition. Could you specify in what manner it created a problem for you?

MR. JEFFREYS: Yes, I spoke with the head landman with Kerr-McGee and asked him Thursday or Friday, 10 days ago, if they planned to go on with this and I understood at that time that

they did not and I understand that there was a sort of back and forth of some opposition other than ours. We weren't at that time considering this, but when I returned from a one-week vacation here on Monday I found the matter was set for hearing on Tuesday, and they were able to send us a copy of these pre-filed exhibits by Federal Express. It seems--I--Mrs. Woulard wasn't able to find the set that had been sent to the Mobile office and that was not her fault. It just seemed to have gotten temporarily misplaced, and we're unable to have our attorney here today. That's the reason I'm just appearing in person. Does that explain it?

MR. MCCORQUODALE: Yes, sir.

MR. HARRISON: Mr. Jeffreys, could you identify where your interest lies in relation to our proposed field?

MR. JEFFREYS: Yes, sir. I have an interest in the NW/4 of Section 7. I have--on the Monroe County side of the river. All of my interests are on the Monroe County side of the river. I have an interest in the N/2 of the NW/4 of Section 8, which that 160 is northeast diagonal to the discovery unit, and I have the SE/4 of Section 8 which is a double east offset.

MR. HARRISON: And could you also tell us who you spoke to that told you this hearing was not gonna go forward on behalf of Kerr-McGee?

MR. JEFFREYS: Durwood Robertson.

CHMN. ADAMS: Anything else?

MR. MCCORQUODALE: Essentially then, Mr. Jeffreys, as I understand your request, you're asking that this matter be passed until the next regular meeting of the Board?

MR. JEFFREYS: Yes.

MR. MCCORQUODALE: So that you may prepare opposition to the petition?

MR. JEFFREYS: Yes.

MR. MCCORQUODALE: Does anybody else other than Mr. Harrison wish to speak to the continuance?

FROM AUDIENCE: I'm Borden Strickland. I'm an attorney from Mobile. I represent Kay Morrisette and her two children. They own an interest in the NE/4 of 18 and other lands in 18 lying south of that, and possibly have an interest in the 40 acres

that the well presently exists on and we're not sure of that. We're doing that work now. I was retained approximately a week ago. The first that I knew of her interest in the area at all, and just happened to read the notice in the Mobile Press Register and I don't recall exactly what day that was, but as I recall it was the latter part of last week. I have not had an opportunity to prepare a presentation to this Board and would like an opportunity to do so and would request that we be allowed to make that presentation at the next meeting of the Board.

CHMN. ADAMS: What did you say your name is?

MR. STRICKLAND: Kay Morrisette. She has an unleased interest which also---

CHMN. ADAMS: I was talking about your name.

MR. STRICKLAND: Oh, Strickland. The first name is Borden. B-o-r-d-e-n. The last name is Strickland. I wrote a letter express. I hope that it got to the Board yesterday or this morning. She--my client has an unleased interest in lands that are within 300 feet or so of the well itself, so the docket does pertain to her in a very important matter and manner. We would

like an opportunity to prepare a presentation.

MR. MCCORQUODALE: Anybody else have anything to say about a continuance?

MR. HARRISON: I'd like to address it if nobody else.

MR. MCCORQUODALE: If you would, address this issue too, Mr. Harrison. Being familiar with our procedure, as you are, would there be any irreparable harm that would result to your clients from an approximately 30-day continuance? If you would address that along with whatever else you would like.

MR. HARRISON: All right. As to Mr. Jeffreys' contention that he should be allowed to further consider this, we don't deny that he should be, but his property is all outside our presently proposed field rules. If additional evidence becomes available later to indicate that that acreage should be included in the field, there is nothing to prevent him or anyone that he represents from approaching the Board at a future date to include that additional acreage in a field. He does not appear to have any problem with our reformation of the unit, the creation of the unit for this well. As to his statement that he was told

by Mr. Durwood Robertson that Kerr-McGee was not gonna go forward, I have Mr. Robertson here today and we can put him under oath to counter that statement, but I would point out that Kerr-McGee has complied with all of the notice requirements of this Board in noticing these matters for hearing. As to Mr. Strickland's contentions, we have had title work done on the entire SE/4 of Section 7, on the majority of Section--of the NE/4 of Section 18. Our title work does not indicate that Mrs. Morrisette owns any interest or has any claim to an interest in this property. We do not deny that he has a right as a potential claimant to make a presentation, but we would prefer to proceed with the hearing on this matter today. Kerr-McGee is sort of in a "Catch 22" situation. We need additional production data to further evaluate this well, but there is no procedure from the Board for continuing to produce the well without Special Field Rules. We have proceeded in good faith. We filed our petitions as quickly as possible for the next available Board meeting after the well was completed. We have given the notice as required by the Board's rules and regulations. We've flown in witnesses from Houston, Lafayette, Oklahoma City, prepared for this hearing, then we were notified

today prior to the hearing that we did have some potential opposition. Production from this well has fallen dramatically. As of yesterday the well was producing only 120 barrels of oil per day. We have a possible salt problem in the well. We fear that if the well is ordered to be shut in during this period of continuance, if these petitions are continued, that we may lose the well completely and it would never produce again. That is our ultimate concern for continuance of these matters. We feel that Kerr-McGee is acting as any prudent operator would act in this situation to best protect the rights of others and comply with the rules of this Board. The owners outside the field, if they are leased interests they can look to their lessees to better protect their interests. We are complying with precedent as set by this Board. As we see the situation, there are 31 Smackover oil fields in the State of Alabama. Twenty of those are presently on 160-acre spacing. Two of them are on variable spacing from 120 to 160 acres. So this is over 71% of all Smackover wells--of all Smackover oil fields in the state. The West Bend Field in Choctaw County is a one-well field. That one well is an exceptional

location on 160-acre spacing. In Lovetts Creek in Monroe County, which is very near this field, that is just a two-well Smackover field. One of those wells is at an exceptional location. The other well is at a location that is 660 feet by 660 feet off of unit lines. So we're prepared to go forward today. We do not want to see this well shut in because we do have a salt problem. We need additional data from the well, from production from the well, to further evaluate this reservoir to determine what we have here and we would like to see the Board proceed with hearing us today.

MR. ROGERS: I might mention for the record that we received a letter from Mr. Jack Adams, John E. Adams, Jr., Jack Adams, representing Mr. Bob Daffin, et al, and Mr. Forrest Lee Mathews. He, in substance, is opposed to the petition as it stands. I'd like that made a part of the record.

CHMN. ADAMS: That items that you've named are admitted.

(Whereupon, the described letter
was received in evidence)

MR. ROGERS: Thank you.

MR. HARRISON: I would like to point out for the record that

the Daffin interest that Mr. Adams represents is under lease to Cities Service and we feel that his relief is to approach his lessee for appropriate relief in a situation like this.

MR. MCCORQUODALE: I move that we take a short recess.

CHMN. ADAMS: We'll take a short recess.

(The Board was recessed 15 minutes)

CHMN. ADAMS: Let the record reflect that the Board is again in session.

MR. ROGERS: Mr. Chairman, the staff would make the following recommendation: That the item be continued with the stipulation--with two stipulations. The first stipulation being that the test period for the Henry Gibby Unit 7-15 well, Permit No. 4905, be extended to September 6, 1987, and the second stipulation being that--1986--I'll read it again. That the test period--a recommendation that the item be continued with two stipulations. One that the test period for the Henry Gibby Unit 7-15 well, Permit No. 4905, be extended to September 6, 1986, and the second stipulation that all revenues from the test production for the Henry Gibby Unit 7-15 well, Permit No. 4905, be escrowed or retained by operator,

Kerr-McGee Corporation, until such time that the Board shall establish a permanent production unit for the Henry Gibby Unit 7-15 well in accordance with the Special Field Rules approved. Is there any opposition to this recommendation by the staff?

MR. MCCORQUODALE: Let me make one statement prior to making any motion or hearing anyone with regard to this.

MR. HARRISON: Was that all revenues or all royalties?

MR. ROGERS: The recommend--the statement was revenues.

MR. MCCORQUODALE: Go ahead.

MR. ROGERS: Yeah, go ahead and state your concern about the royalty/revenue distinction, Steve. I think that we included that because that would cover working interest owners and royalty owners, any other kind of owner.

MR. HARRISON: I'm sorry. We would prefer to see that only the royalties be escrowed.

MR. ROGERS: Are there other working interest parties affected besides Kerr-McGee?

MR. HARRISON: There are others but all working interest

parties are subject to the Operating Agreement, is that correct?
For the entire 160.

MR. MCCORQUODALE: Prior to making a motion, let me state this for the benefit of Mr. Strickland and Mr. Jeffreys and possibly for some of the people here who haven't been exposed to this type of situation before. This Board--I know Mr. Harrison has frequently, on both sides of this issue probably. It has generally been the policy of this Board that on a first time sitting when parties come before the Board and represent that they would like to have an opportunity to get prepared and possibly present opposition where there is no irreparable harm that will result from a continuance this Board generally grants that request. We do that in the interest of fairness and we do that in the interest of allowing everybody to have their say before the State Oil and Gas Board so long as no one will be harmed by doing so, but we feel that that is in the best interest of the citizens of the State of Alabama and those who have an interest in our oil and gas production in this state. Based on what we've heard here this morning, and based upon ex-

tending the allowable period, test period, we feel like no irreparable harm would result to Kerr-McGee, therefore, we're going to grant your request for a continuance. My motion will be to grant the request for a continuance until the next regular meeting of the Board with the stipulations as set out by Mr. Rogers with the exception that the stipulation be worded to include royalties rather than revenues.

MR. HARRISON: All right, Mr. McCorquodale, one further clarification. Was that for the entire test period or is that for the period effective today forward? In other words, we've already got over 30 days of production.

MR. MCCORQUODALE: I don't think this, Mr. Harrison, I don't think we're attempting to address what has taken place prior to our acting today.

MR. HARRISON: That's fine with us, yes, sir.

MR. MCCORQUODALE: I'm not sure, maybe we have the authority to do that but we're not attempting to do that. I would say that my motion would include any royalties from this time forward because we were not involved up until this point.

MR. HARRISON: Yes, sir.

CHMN. ADAMS: I second your motion. All in favor say "aye".

(Both Board members voted "aye")

CHMN. ADAMS: "Ayes" have it.

MR. MCCORQUODALE: Let me further make one other statement for the benefit again of those individuals who requested the continuance. We are very tolerant where continuances are concerned one time. If you want to oppose this matter I would strongly urge you to be prepared to oppose it when it's called at the next regular meeting of the Board.

MR. HARRISON: Thank you.

MR. HANBY: Mr. Chairman, could I address the Board please? And it pertains to the Kerr-McGee petition. It's not a request for a continuance, but I do have a statement to make for the record if I can, please sir. My name is Ken Hanby. I'm employed as a petroleum engineer by Tom Joiner and Associates in Tuscaloosa, Alabama. We represent Bob Daffin, Tom Daffin, and Forrest Lee Mathews, owners of minerals in the SE/4 of the SW/4 of Section 7. Their property is approximately 865 feet west of the well, the Gibby Unit 7-15. To adequately evaluate the petition of Kerr-McGee, we requested through their attorney for

copies of the logs, core analyses. The data is on file in the confidential status with the Board. This request was made Thursday, July 31. We were advised by the attorney's office that this information would not be made available to us. The data contained in the exhibits is not adequate for us to evaluate the interpretations as shown on the exhibits supplied by Kerr-McGee in the exhibits filed with the Board for this matter. Since the action requested does impact the financial properties of our clients, we request that the Board require that Kerr-McGee provide to our clients copies of the logs, core analyses, that are in the confidential files. We reserve the right to present geologic interpretation that may be different if the data that is provided causes us to have a different interpretation than that provided by Kerr-McGee. We believe that this request is necessary to adequately protect the coequal and correlative rights of all the parties involved in this area. Thank you for the opportunity to make this statement, and that is our request.

MR. HARRISON: I just have one statement in rebuttal to that. The information that we have presented to the Board we feel is adequate to establish the field and the unit that we

have requested. Mr. Joiner's office did request additional data from us. That request was narrowed down yesterday to the dipmeter. We offered to provide the dipmeter to Mr. Joiner's office with the stipulation that they keep that information confidential. They could make any interpretation of that data they wished. We just requested that they did not introduce the copy of the dipmeter into the record nor circulate it to any other individuals. So we have offered to make the information available to them that was requested of us yesterday. They refused to accept the information on that basis, so we feel, again, that we have provided adequate data to the Board for establishing the field that we have requested. The additional data, this is a new reservoir, Kerr-McGee was the party who discovered the reservoir, we feel that we should be entitled to operate under the rules of the Board which provide for six months of confidentiality of information to protect us from other persons in the area who might use that data in competition with Kerr-McGee's present position. That's all we have.

MR. HANBY: Mr. Chairman, I have one statement in response to that. In regard to the offer to release the dipmeter. The

request was for all of the logs including the entire dipmeter. The offer was to release the dipmeter only in the Smackover Formation, and in addition to the confidential agreement that this would not be released to others, it could not be used in a presentation to the Board today. In regard to the establishment of the field rules, we acknowledge that it is necessary to establish field rules in the orderly development of fields. However, as you know, once field rules are established a certain portion of those field rules remains intact. The ability to review and study an interpretation is based on particular data that is not contained in the data presented in the exhibits and does not allow us an opportunity to study the basic data to form our interpretation of this new reservoir.

MR. HARRISON: I would just reiterate that the request from Mr. Joiner was for the dipmeter. We agreed to provide that on a confidential basis. They could use any interpretation of that data they wanted. We simply did not want a copy of that dipmeter log circulated.

MR. MCCORQUODALE: Mr. Hanby, I assume that you or your clients have not made a request for the Board to subpoena this

material on your behalf?

MR. HANBY: No, sir, we have not made that request. The party is before the Board for field rules and these field rules are based on data. I realize there is a confidential period provided for six months. However, when the data is presented to the Board to establish field rules, our clients own an interest adjacent to the proposed unit, adjacent to the field limits, and the only way that their correlative rights and co-equal rights can be protected is access to the data for us to evaluate on their behalf.

MR. MCCORQUODALE: It seems to me from a procedural standpoint, Mr. Hanby, because this matter is not coming on to be heard today due to the continuance being granted that the proper step for your people to take would be to request that the Board subpoena these matters and make them available to you, these items, and at that time we will just have to consider whether or not that would be an exception to our confidentiality rule and respond accordingly.

MR. HARRISON: We would request that we be given an opportunity to respond to any subpoena request.

MR. MCCORQUODALE: You would be. You'd have a right to file opposition to any material they request on subpoena.

MR. HARRISON: All right.

MR. MCCORQUODALE: I just think on a procedural standpoint that's where we need to go from here. It's not coming up today and technically we don't have that matter before us but you can place it before us very quickly.

MR. HANBY: I realize that, and Mr. Chairman, in response to Mr. Harrison's comment, if the subpoena is issued and if the data is not available, we reserve the right at the next scheduled meeting to once again bring up the issue of not having the data before us and at this time we might request a continuance on behalf of our clients.

MR. MCCORQUODALE: I felt that coming. I'm sure that Mr. Harrison and his clients felt that coming too.

MR. JEFFREYS: Mr. McCorquodale, I'd like to just add that we intend to request the dipmeter also, informally, and if it's not available we'll probably follow the same procedure.

MR. HANBY: One further comment, if you will, Mr. Chairman. The dipmeter has been spoken of a lot. Our initial request, of

course, was for all logs. The dual induction log, the complete log, the porosity logs, are also vital tools in interpreting this reservoir, not just the dipmeter.

MR. MCCORQUODALE: Let me say for any of you that are not thoroughly familiar with the rules of the Board or that do not practice regularly before the Board if you would like to, but wait until this meeting is over with, you can meet with Mr. Rogers, the attorney, to ask of him exactly how you can proceed on that.

DR. MANCINI: Next would be Item 21, petition by U. S. Diversified, and Item 35, motion by the Board, which were consolidated for hearing purposes.

MR. ROGERS: Mr. Chairman, while the parties are getting seated, I'd like to briefly review the background of this matter. Black Warrior Methane Corporation filed a petition to unitize Unit IV of the Brookwood Coal Degasification Field, that was Docket No. 10-10-8510, and the Board approved that petition. Thereafter, Black Warrior Methane Corporation filed a petition to approve the ratification of the Board's order approving the unitization. The petition by Black Warrior beared, bore, Docket No. 11-14-8516, and the Board approved the petition for ratification. Thereafter, United States Steel Corporation filed an appeal of

the Board's orders in the Circuit Court of Tuscaloosa County. The Circuit Court has issued an order which I have, and Mr. Chairman, I'd like this order entered into the record.

CHMN. ADAMS: Your request is granted. The item is admitted.

(Whereupon, the order was received
in evidence)

MR. ROGERS: Now this item is presented to the Board--do you want me to go on, Gaines, about these parties? To the attorneys, the Board would at this time like the attorneys to address their positions concerning the order or the Circuit Court of Tuscaloosa County and their positions on how they feel that the Board should proceed at this time. The petitioner is U. S. Steel or its--USX Corporation. Would you like to speak to these issues, Mr. Espy?

MR. ESPY: Mr. Chairman, for the record, my name is Ike Espy and I represent USX Corporation, which in previous documents and proceedings was known as United States Steel Corporation. In the hearings that took place before this Board which resulted in Order No. 85-328, United States Steel appealed those based on its position that the documents and the testimony before the Board itself in those hearings did not support its order. The Circuit Court, in great deference to this Board, rather than

taking a position on it, and of course, the Court's order speaks for itself, but as I understand the order the Court gave this Board one directive and then alternative directives in another manner. The one directive was to allow us to argue our position, and then for this Board to take in the alternative testimony which has been argued to be barred and which this Board has said was barred by collateral estoppel in the ratification hearing, to just receive that as legal evidence and remove the objection that was placed before it so that it could be considered by the Board and then argued upon by counsel. The other alternative is for this Board to open the hearing, reopen the hearing for testimony so that our position might be fully placed before this Board and that it might be rebutted by any other person that wants to. Our petition was placed before this Board in 8-6-864 asking that the Board adopt the latter alternative, that it hear the evidence which we submit was implicit in the prior hearing, which was admitted by counsel in the prior hearing, and which was recognized by the staff in the prior hearing, but because of the, of matters outside the record was not objected to. The staff, in fact, made an objection which United States Steel agreed with and at that time did not see the necessity of standing up and saying we

agreed with, and assumed that the order would take into account that objection. We're just asking that we be allowed to amplify our objection to present specific objective evidence on it, which would, of course, give Black Warrior Methane and any other person the right to rebut it. We feel that under the Court's order the first alternative to just receive into evidence what we had presented before would affirmatively make our case. We feel like in fairness to all the parties that it ought to be opened up so that there would be opportunity for rebuttal evidence. We are ready to proceed and as I understand all counsel for the other parties are ready to proceed with specific evidence. It will not be an extremely lengthy hearing, and we would ask that the Court hear this petition that we have filed in 8-6-864.

MR. WATSON: Mr. Chairman, I don't have anything to add specifically on the Court order and its interpretation. We're here today prepared at your discretion to present additional evidence in support of the Board's order, first establishing Unit IV and then ratify--approving the ratification of Unit IV. Procedurally, there are two items on your docket that you've consolidated for hearing purposes. I would elect, if you proceed,

to proceed under your motion, primarily for these reasons. You adhere to strict notice requirements. You adhere to the implementation of the statute as it applies to unitization. Mr. Espy's petition that he filed did not give notice of the unit he seeks. A notice was sent out to, by first class mail, a notice was published describing by reference to an exhibit the unit that he seeks to change by deleting portions from Unit IV. In his petition filed subsequent to the notice, he attempts to describe a diagonal line which he proposes to be the eastern limit of Unit IV. So I submit to you first that in order for the Board to have jurisdiction to approve his petition he must describe the unit boundaries that he seeks for you to approve. He's also asking you to, in addition to excluding acreage from the unit, he's asking you to add acreage to the unit. The unitization statute requires a very specific procedure for unit enlargement. You can't just add and delete without following the procedures set out in 9-17-80 et seq. and my submission to you is that that has not been done in this petition. I do not want to deprive Mr. Espy and USX of an opportunity to present evidence, but I think to be procedurally correct you should act on your motion in acting upon his evidence, and

whatever we present, either in rebuttal to that evidence or what evidence we might present in direct testimony. He's also asked in his petition for the Board to amend a unit agreement. The unit agreement is a document prepared by the owners of interests and submitted to the Board for approval and subsequent ratification. He's also asked in his petition that if the--that the Board order, if ratified, that this agreement be made effective on the day the Unit IV was originally approved. That's a retro-active effect. I submit to you that that is questionable under our statute. So we're here, Black Warrior Methane is here ready to proceed. We're ready to hear Mr. Espy's testimony and evidence. We're here to present evidence on our case to confirm your actions in approving Unit IV, but I do think you have a procedural problem in proceeding under his particular petition, and I have prepared a motion addressing the points that I have just outlined that at the proper time, not to cut off Mr. Espy to present his case, I would like to file it since you have consolidated these items for hearing purposes. That's all I have.

MR. JORDEN: Mr. Chairman, gentlemen, my name is Bob Jorden. I'm representing Mr. Elliott Belcher, who is one of the royalty

owners that are involved in the area IV of this degasification project. I share the concerns expressed by Mr. Watson concerning the propriety really of the notice and of the petition that's been filed by Mr. Espy on behalf of USX, and I also agree that this matter could really be brought under the Board's own motion. Your motion is broad enough, as I read the notice of it, is to consider testimony, evidence, and arguments concerning the unit area and related issues for the No. IV area of the Brookwood Degasification project. So I would join with Mr. Watson in the motion that he has filed and suggest that, that--give Mr. Espy his day before this Board but let's do it under the Board's motion.

MR. ESPY: Mr. Chairman, may I respond to that? I see no problem with my motion, with the notice from it. Whatever supposed fault there was in it was cured by consolidation with the Board's motion. I don't see the problem with going ahead with the two combined and whether you call it the Board's motion or my motion, they're combined and I don't see that that makes any difference.

MR. MCCORQUODALE: Mr. Chairman, I move we take a short recess.

CHMN. ADAMS: We'll take a short recess.

(The Board was in recess 25 minutes)

CHMN. ADAMS: Let the record reflect that the Board is again in session.

MR. MCCORQUODALE: Mr. Chairman, pursuant to the order in Civil Action No. CV-85-983 in the Circuit Court of Tuscaloosa County, Alabama, I would move that the evidence previously produced by U. S. Steel and rejected by this Board on grounds of collateral estoppel in Order No. 85-328 be admitted and be considered by this Board.

CHMN. ADAMS: Your request is granted.

MR. MCCORQUODALE: All right. Next, pursuant to the order of the Circuit Court, which I previously referred to, at this point we would call on the attorneys for all the parties presently before the Board to present arguments on the issues raised by U. S. Steel as Judge Colquitt's order directs us to do. I presume Mr. Espy will be first.

MR. ESPY: If it please the Board, and if I can have just a minute, we were---

MR. MCCORQUODALE: Do all of the attorneys understand the procedure that we are undertaking at this point?

MR. JORDEN: No, sir.

MR. MCCORQUODALE: As we read the order of the Circuit Court of Tuscaloosa County in this matter, we have several alternatives. One of those alternatives is to in fact conduct a new hearing and to take new evidence and consider all of this again. We were not directed to do that but were given that opportunity if we so elected. We have elected not to do that. The other alternative that we were presented with was to consider the evidence that was previously offered by U. S. Steel and it was offered in a manner such as an offer of proof or a showing in the prior hearing. In the order the Board rejected that evidence on the basis of collateral estoppel. Judge Colquitt says we might now consider that evidence. We have elected to do that and have admitted that into the record and will consider it for whatever it's worth. The only directive in the order as we read it is that the Board should hear arguments on the issues raised by United States Steel. We read that as arguments and not evidence, therefore, we will hear at this point from the attorneys their arguments on the matters that U. S. Steel is raising and not consider new testimony today or new evidence today other than that evidence that had previously been presented by U. S. Steel. Are there any questions about that procedure?

MR. JORDEN: Yes.

MR. MCCORQUODALE: All right.

MR. JORDEN: Well, not a question really. Just--I am new to these proceedings. I was not involved in any of the hearings that were held, Mr. Chairman, gentlemen, that were held last year in connection either with the original creation of the unit or in the order which recognized that the unit had been ratified by the necessary percentage of parties, and I really did not participate in the hearing and I don't know really what evidence Mr. Espy had presented on behalf of U. S. Steel. I had come here prepared today to submit evidence in rebuttal of his proposal. My client, Mr. Elliott Belcher, is the landowner who's most directly affected by the petition that Mr. Espy is pursuing here, and I would like an opportunity, either today or sometime, if Mr. Espy's exhibits and testimony are to be considered, to have a like opportunity.

MR. ESPY: If I might also comment? The reason that we presented or asked that we be able to present evidence today is so that this Board will have an alternative to either destroying this unit or affirming it as it is, and as I see it the Board's

decision to hear it this way limits it to those two matters. We have evidence that would allow the unit to continue, that would allow it to be reratified, that would allow no catastrophes to take place economically in the field. United States Steel, USX Corporation, is in support of a unit and we do not want to see it destroyed, and what we had asked for we thought would allow the Board to take whatever action it wanted to but in no case require the destruction of the unit, and I just make that comment.

MR. MCCORQUODALE: Let me say that the only reason that this matter is back before this Board in the manner that it is is because we have a court order that has instructed us to be back here. With all due respect to the Court, that order is somewhat vague as to what we should in fact do. It gives us several different options. In fact, it is so brief as to be styled as a Memorandum Order, which suggests that the judge is giving us several options. The only directive that he presents to this Board is that we should hear arguments. He gives this Board the opportunity to hear no new evidence. He gives this Board the alternative to reject considering the evidence that you had

previously presented and to simply allow the attorneys to make arguments. We have elected to consider that evidence for whatever it's worth and to allow the attorneys to argue, and Mr. Jorden, I think that what your position, of course, would be, considering the fact that arguments are gonna be made, is that you would want to respond to whatever Mr. Espy argues.

MR. JORDEN: Certainly, I can do that, but not having had an opportunity to participate in the hearing or to present such testimony and exhibits as we might think appropriate in protection of Mr. Belcher's interest, I'd just be concerned about the procedure that you outlined. I was actually misled about the notice that was given, under what you've just said by the notice that was given by the Board under Item 35. It provides that this is a motion by the Board to consider hearing testimony, evidence, and arguments concerning the unit area and related issues. I read that as including all of those items and---

MR. MCCORQUODALE: Let me say this. Of course, your clients would not be without a remedy in the event that this unit is changed in such a manner as they are not pleased with. You can petition the Board for a redetermination of that unit area

and present new evidence and ask us to change that. It may very well be that your clients will be satisfied. It may very well be that Mr. Espy's clients will be satisfied, in which case I presume yours wouldn't be.

MR. JORDEN: I don't think we'd both be satisfied.

MR. MCCORQUODALE: I think that's fair to say that you won't be, and whoever is not has a right to petition this Board for a redetermination as in any unit that this Board forms. We are simply acting pursuant to the order of the Circuit Court of Tuscaloosa County, Alabama.

MR. JORDEN: Yes, sir, I recognize that, and I really don't want to be too persistent on this issue but---

MR. MCCORQUODALE: That's all right.

MR. JORDEN: Let me add one other thing for the Board's consideration. It does occur to me that assuming that you do nothing more than consider the evidence that's been presented already by Mr. Espy, and let's assume that his evidence doesn't require any changes in your, in this unit, he's gonna be back before the Court again, and what's gonna bother me at that time is that the Court is not gonna have a great deal more evidence

in the form of exhibits and testimony to consider on the issue of whether or not this unit is appropriate or not. To destroy a unit, and despite what Mr. Espy says, his proposal would destroy the unit, to destroy a unit is a very drastic step and what he is proposing would destroy that unit, and I was simply hoping that the Board would have--not only is in the record at this time--but such additional evidence, testimony and exhibits, that would relate to the issues that have been raised by Mr. Espy.

MR. MCCORQUODALE: Well, I think it's fair for all of us to say too that we can take testimony here for two days and enter a new order and Mr. Espy or you or Mr. Watson can still file an appeal to the circuit court.

MR. JORDEN: I was thinking only of the record, Mr. Mccorquodale.

MR. MCCORQUODALE: Go ahead.

MR. ESPY: Thank you. I assume that the Board would allow me to argue more than just the testimony that we presented but the entire case?

MR. MCCORQUODALE: You can just argue the position of U. S. Steel according to Judge Colquitt.

MR. ESPY: Thank you. I refer to the contour map, which is Exhibit 1 entered in Docket No. 10-10-8510 and will be glad to share this with the Board since we were---

MR. JORDEN: Excuse me, Ike, is that the Black Warrior exhibits?

MR. ESPY: Yes. This exhibit shows three or four areas, including the proposed Unit IV. The proposed Unit IV is bounded by a diagonal step to the line on its southeast side, and just inside that line are two parallel lines called monoclinal fold, which were explained in the testimony and which are explained in the cross sections. I first point out to the Board that southeast of that monoclinal fold there are no contours shown for the unitized substance or for the top of the Mary Lee Coal Seam from which the testimony and the other exhibits show that the Mary Lee and the Blue Creek are together and that the Blue Creek is the principal mined substance in the Jim Walter Mines just northwest of that. In their primary exhibit showing geologically the unitized substance, in the area southeast of that monoclinal fold there is an absolute absence of any of that shown here. Now I'm

not saying that there's no Mary Lee coal there. I'm saying that in their opinion it was not an item of interest. I turn then to the next page which does not show the fold because it's an isopach map showing the thickness of the Mary Lee combined with the Blue Creek seams. It does have some thicknesses shown southeast of the monoclinal fold. Our position, the position of USX Corporation, is that southeast of that monoclinal fold there is no commercially producible unitized substance. The occluded gas is part of, adjacent to the coal. The target depths have been the Mary Lee/Blue Creek Coal seams which was in the Jim Walter Mines. That's their area of interest to the northwest. It does not exist to the southeast. The point that was made in the evidence is that approximately 18,000 acres are included within that proposed unit. The testimony was that about 1800 of that lies southeast of the monoclinal fold. It was the testimony of our geologist at that time that there was no commercially producible gas southeast of that fold. We would have liked to then, we would like to now submit new evidence to show in specific detail why that opinion is an excellent opinion, but we really don't have to go that far.

You can go to the testimony--to the statements of Mr. Watson in answer to the question of Dr. Mancini on October 10. The question had to do with the same things that I'm questioning now, and that is why were some sections put in and why were some sections left out? Section 18 was left out even though part of it was north-west of the monoclinial fold and we think has coal productive of the unitized substance. The answer to that question was that they essentially didn't have a lease over that so they're gonna leave that out. Why were those areas that we are complaining about left in? Mr. Watson's answer was, "Dr. Mancini, could I address that in a little more detail? In forming these units you know we have encountered the same kind of situation on the western side where we have the meandering river and in approaching that we tried to square off the field limits on that side. Our general thinking, and Mr. Sanders may certainly correct me if I'm wrong on this, if we had a portion of a section that was contributing we tried to square off to the nearest section line." And then he refers to Section 18 being left out. And then in the last paragraph, this is on page 242 of the record submitted

to Circuit Court, "We've tried to take this monoclinial fold and if that goes through a section we've tried to include that section as opposed to forming a true geologic unit by describing the unit along that monoclinial fold which we think would be virtually impossible." Dr. Mancini said, "We understand that. We're just curious that since it was based, your participation was based on surface acres, and if there is no coal there then obviously those people, those surface acres, are gonna be counted in participation but yet there's no coal that will contribute gas to the unit." And Mr. Watson said, "No question about that. We understand that, yes, sir." We say that if there is a principle to be delineated by squaring off section lines then that is fine. It's not in the written rules as I know. It's not in the statute, and in primary production in all sorts, oil, traditional gas and methane gas, the Board rightly has adopted a unit which does not take into consideration for a primary producing well a geologic unit, and the courts in Mississippi and elsewhere have held that to be constitutional. Until you get to unitization in which you have to determine by the Constitution and by the statute what interests are going to be contributing to that. That is, if the

primary production unit is 80 acres and there's one acre of coal on that, then production on that one acre will attribute to all 80 acres. That's fine, but when you get to unitization and the 80 acres is included only the one acre will count and not the 80 acres, so that if there is some purpose to be served in squaring off these sections then dilute the interest that is in the section according to what coal is there. I see no reason to, in this particular case, to doing anything other than a diagonal line. That diagonal line is on their exhibits. Mr. Sanders testified in this testimony that even the outcrops were accurately located. The outcrop in Section 8, for instance, shows that almost 300 acres of Section 8 is not only southeast of the monoclinal fold but has no coal at all. The bottom seam of coal comes up out of the ground before you get to it. My client says it's not fair to dilute its interest by including that 300 acres. He's testified that there is none southeast of the monoclinal fold anywhere along the way. I do have a part of the record here that--which was submitted by the petitioner, Black Warrior Methane Corporation, and it was adopted by this court, by this Board, as an exhibit and then made a part of this Board's

order. It's identified as pages No. 136 and page 178 as part of the record of Docket No. 10-10-8510. This is the first substantive page from the unit agreement, unit operating agreement, which this Board approved to set the limits for the operations of this unitized field. This operator and no operator goes into a unit able to operate anyway it please. It's relieved of some of the Special Field Rules and given a great deal of latitude, but the statute and the Board requires that that operator come in and say how I'm going to operate it. And this is the agreement first between Jim Walters Mine and Enhanced Energy Resources, predecessor to Black Warrior Methane, and it says that we're going to operate in a certain area and that area is the contract area, and it delineates the contract area which I've shown on the next page. The southeast boundary of that contract area is the monoclinial fold. Nothing southeast of that line, under this Board's order, can be operated. It is outside their area of operation by their own exhibits. It's shown to be outside their area of interest, and by expert testimony it's shown not to have any commercially producible occluded gas on it. We say that under this Board's order you have mandated the inclusion of an area that

you have mandated cannot be produced. Now, in case the question comes up, well, perhaps this can be drained by that on the north-west side of the monoclinal fold, I point to the Board's own Special Field Rules which were introduced by this petitioner or its predecessor which says that the drainage area for an occluded gas well in this area is 10 to 80 acres, and they have testimony, and it's in the record, to show that that's what we think it can drain. In addition to that, you have their own exhibits which they submitted that shows the cross sectional areas. I point for the record to Exhibit No. 3 for Docket No. 10-10-8510, Exhibit No. 4 for Docket No. 10-10-8510, and point out to the faults that exist along the monoclinal fold. Even if the coal were continuous across it, your own rules say that you have found that that area can't be mined, can't be drained from an area so far on the other side of the monoclinal fold, so you're not leaving out somebody's minerals that are going to be taken away by that operation. In addition, because of I think universally accepted concepts, there is no drainage across these faults which occur along the monoclinal fold. It has been identified in everything and until this client became aware of the severe implications

of it, even the petitioners admitted impliedly and directly that the part southeast of the monoclinal fold is scenery. It's not going to contribute. If the Board has a policy or would like to institute a policy, or has a notion of economy that squaring things along the sections are fine, are appropriate, then I believe that the Constitution and the statute says that you must then revise those interests to reflect what actually is in those areas. I submit to you that there under your own order, under your own testimony without ours, it's specifically under the testimony that the Board has accepted into evidence this morning, there is nothing to indicate that there is unitized substance southeast of the monoclinal fold and no legal way that it can be produced and by your own order you have barred my client, and not intentionally, obviously, but you have diluted its interest by a factor of about 10%. Over the entire field, to adopt what we have asked for, would hurt only one person and that is S. E. Belcher who has interest on the southeast side of the field. Everyone else in the field, except U. S. Pipe, would be increased by 10%. U. S. Pipe would go up by 75/100 of a percent. Mr. Belcher's interest would be reduced. Black Warrior Methane's

interest will not change, of course, since it's the sole working interest owner. We urge you to take this opportunity to in some fashion form a remedy for these people that own 90--80 something percent of this field. It's, I think it's clear by this evidence. Thank you.

MR. WATSON: A question before I start my argument, Mr. McCorquodale. Would I be permitted in making my argument to use a graphic aid?

MR. ESPY: I'm sorry.

MR. WATSON: I just asked if there would be any problem in using a graphical aid in making my argument?

MR. ESPY: I object if it's not in evidence.

MR. WATSON: I don't intend to put it into evidence.

MR. MCCORQUODALE: It wouldn't be considered as evidence if I understand what you're saying. You're not going to offer it into evidence?

MR. WATSON: No, sir, just a graphical aid to my argument. May I proceed?

MR. ESPY: Could I have an opportunity to see that and make an objection before it's---

MR. WATSON: Sure.

MR. ESPY: I have some graphical aids that I would love to---

MR. WATSON: Mr. Chairman, Mr. McCorquodale, and members of the staff, since it appears that most of my comments in the preceding hearing were seized upon here then I suppose it's only proper that in argument I address those points, and let me try, first of all, to clear up some factual matters for you. Let me start first with this matter of the contract area. Mr. Espy has handed you up the first page of an operating agreement and attached to that is a plat called "Figure 1, Contract Area, Tuscaloosa County, Alabama." Now, that plat was taken from the unit operating agreement, Exhibit E attached to that unit operating agreement, the first page of which, in defining the contract area reads as follows: "A portion of the contract area is shown on Figures 1 and 2 depicting the mine boundaries of Jim Walter Resources Mines No. 3, 4, 5, and 7." A portion of the contract area is shown on---

MR. MCCORQUODALE: Where are you reading from?

MR. WATSON: I am reading from the unit agreement, Exhibit E to the unit agreement---

UNIDENTIFIED: Unit operating agreement.

MR. WATSON: Unit operating agreement, I'm sorry, the unit operating agreement, Exhibit E to the unit operating agreement,

the first paragraph, and attached to that Exhibit E is the diagram that Mr. Espy has attached to the first page of the unit operating agreement. The contract area, this whole contract area mentioned in the unit operating agreement is outlined in the stippled area which goes as far east as Jefferson County.

MR. ESPY: Mr. Chairman, I object. We're arguing something that is not in evidence at all. You're arguing from it. I've got a lot that I'd like to argue and state it as fact, but I thought I was restricted by the rules that govern the circuit court in equity which I don't believe would allow any such as that.

MR. WATSON: I'm trying to prevent reading the entire contract which...

MR. MCCORQUODALE: Well, so that we don't get into showing exhibits that are not in evidence, it appears to the Board that you can simply explain what your contract area is to rebut what Mr. Espy has said the contract area is without showing...

MR. WATSON: All right, sir. Mr. Espy has shown you a portion of our contract area as is filed and as is a matter of evidence in this record taken from Exhibit E to the unit operating

agreement. My point is that the unit operating agreement allows my client to operate in an area in question, that being an area east of the monoclinial fold, far east of the monoclinial fold. In fact, beyond the Oak Grove Coal Degasification Field that USX operates. That's point one. Point No. 2, in the exhibits that were filed in connection with the approval of this unit, I call your attention to the cross section marked as Exhibit No. 4, and I call your attention to the Special Field Rules and the definition of the unitized substance being an area as encountered in a well, namely the S. E. Belcher 12-3 No. 3 well, being the Pottsville Coal interval between the depths of 600 feet and 1760 feet as encountered in that well and all zones in communication therewith. Exhibit No. 4 clearly shows that in the area we're discussing called the monoclinial fold area and east to the outcrop of the Mary Lee/Blue Creek, we see the Pratt, the Cobb, the Gillispie, the New Castle. I submit to you that the definition of the unitized formation covers coals that exist in that monoclinial fold area. I think there may have been some confusion in discussing the monoclinial fold area in the subject hearing and the outcrop area. As I recall the testimony, there were specific questions from Mr. Hinkle at that time about beyond the outcrop

line, whether there would be contribution to the unitized substance, and I think the answer then, as the record would show, was that there would absolutely be no contribution east of the outcrop line. In the monoclinal fold area, which is exaggerated in this exhibit, as shown on the exhibit a vertical exaggeration of 10 to 1, this monoclinal fold area, in fact, extends out in a gentle slope and monocline, which is an S figure and comes to the surface. In that area there are coal seams that are defined in the unitized formation. Those coal seams in fact because of the thrust mechanism that made the monocline are thicker in fact than some of the coal seams within, with the coal seams west of the monoclinal fold. Now, something that needs to be said about the monoclinal fold, we did not come in here in the hearing in October and propose to make a surveyed location of a monoclinal fold or a surveyed location of an outcrop. The outcrop is a sinuous line at best. The monoclinal fold, to express that on the surface you have to pick some point in the fold, in the S shaped coals underneath the surface. You have to pick a point along the axis of either the toe or the crest of that fold to express a surface location for the monoclinal fold. I submit to you that there is an improper--I mean

that you cannot properly locate along this long eastern boundary an exact location of first, the monoclinal fold and secondly, of the outcrop. The best evidence we have of the location of the outcrop is a 1913 map that everyone has access to, but even that map does not show the outcrop line as a clearly defined line. In a question from the staff to Mr. Sanders in this hearing on that outcrop line the question was is the outcrop line accurately located. Mr. Sanders, not being a geologist, stated that to the best of his knowledge it was accurately located. It indicates too--we were attempting to indicate to the Board then that that is our best judgment of where that sinuous line would be. The mere fact that it is a sinuous line makes it imperative as we view it not to try to describe a boundary along that line and thereby determine equities from it, but more importantly there should not be any doubt in anyone's mind about the existence of coal between the area shown on our exhibits, monoclinal fold area, and the outcrop. There should be no mistake about our authority to develop coalbed methane wells in that area. This is a faulted area. If we were going out to simply produce gas from coal seams as opposed to degasifying areas prior to mining, this would be

an ideal place, an explorationist's dream, to develop coalbed methane gas. The primary objective that Black Warrior Methane has in the near term is to degasify coal seams in advance of mining. Another point of correction in Mr. Espy's statement, Black Warrior Methane is not the working interest owner. Black Warrior Methane is the operator for the joint working interest owners in here, so we take direction from those owners as to how we are to develop this area. Another thing that strikes me as something that needs to be pointed out here, in the area between the monoclinial fold as shown on these exhibits and the outcrop line, Mr. Espy's client has been furnished with information as early as 1984 indicating that we had intentions to degasify that area. Mr. Espy's client, as he has stated here today, was very interested in unitization.

MR. ESPY: Mr. Chairman, I hate to interrupt this but I can't go through without objecting to material coming in that's not in evidence.

MR. WATSON: I'm making argument.

CHMN. ADAMS: Proceed.

MR. WATSON: Mr. Espy's client had a keen interest in us unitizing the area that's now the subject of this hearing. In order to do that, in order to get their lease, we were required to make disclosures to them of our plans for unitization prior to coming to this Board. Part and parcel of that was a conversation, a showing, a dialogue, of our plans. We made showings, we made representations to them that we had every intention of developing wells---

MR. ESPY: I object again, Mr. Chairman, for continuing testimony of things that are not on record.

CHMN. ADAMS: Objection is noted.

MR. WATSON: We made references to our plans in that area, so to come in here and argue to this Board that we, first of all, cannot operate in the area east of the monoclinal fold begs the question. It denies the facts that have been presented to Mr. Espy's client, and it defies the specific authorization that we have in our unit operating agreement, and to show this Board only a portion of the contract area clearly shown on the evidence before the Board is misleading. Now, Mr. Espy argued, or his wit-

ness, Mr. Clark, argued before you in the matters that you're now considering in your transcript that the area in question between the monoclinal fold as shown on our exhibits and the outcrop had no commercial gas. References, if I remember correctly, just went to that fact that there was no commercial gas. Well, no representations were made to this Board that there were not coal seams there. No representations were made to this Board that those coal seams were not part of the unitized formation that this Board had approved. In fact, in establishing the field rules prior to unitizing Unit IV, this Board had indications that this area was underlain by coal and we have unitized a specific formation called the unitized formation, and I submit to you that if you look at our exhibits you will see multiple coal seams there, in fact, 12 coal seams in that area. So to say that there is no commercial gas in those coal seams disregards the fact that in the monoclinal fold area the coal seams are thicker. Thicker coal seams could mean, possibly do mean additional gas reserves other than in areas that are not faulted. To say we cannot go in under our restrictions in the unit operating agreement and develop that area is just contrary to the evidence before this

Board. So this opportunity to argue these facts should make one thing very clear, that the monoclinial fold area as depicted on the exhibits before you and the outcrop area, in between those two lines, if they could be definitely located, lies unitized substances. Now let me address why we then, knowing that there would be no contribution from the outcrop line eastward, why we included out to the section line those acres in this unit. First of all, the area in the monoclinial fold is thicker, as I've stated. Secondly, that outcrop line, because of cultural changes, because of mining conditions, because of the sinuous nature of that outcrop line, could not be surveyed or precisely picked. We did not go out and take in great additional amounts of territory east of that line. We went to the next nearest governmental section line of common ownership and we established the eastern limit. With the fact that within the monoclinial fold area there are thicker coal seams, with the fact that we have the authority and plans to develop that area, with the fact that inside the--west of the monoclinial fold area certain parts of the field, including lands owned by U. S. Steel in this unit, may have been partially mined

out, some of the seams clearly mined out. The equity of the situation demanded some latitude in establishing that boundary. If we could precisely go out and pick that boundary, survey it, and describe it by legal metes and bounds, I agree with Mr. Espy, we should set the line of the boundary along that. I submit to you that to go out in the modern day and find an outcrop line would cost untold thousands of dollars. All evidence and indications that anyone in my client's organization has and had before we presented this matter to this Board was just that, that we couldn't define it, and following the long established precedent of this Board in trying to form units along some governmental surveyed line, we did not feel that we were impinging upon the coequal and correlative rights of those owners west of the outcrop line by including a small area to the east of the outcrop. That outcrop line for all we know, if it were accurately surveyed, may be in fact east of the eastern unit line. We simply cannot, within reasonable terms, make that determination. So if there's coal between the monoclinal fold and the outcrop, if my client has the authority to develop that, if my client has in fact plans

to develop that, then there is no reason for that to be excluded. If in fact it is excluded, then a tremendous amount of potential gas reserves will be denied those people inside the existing unit boundary. Mr. Espy's argument that by including the area, and make this point clear, by including the area east of the monoclinial fold shown on our exhibits would dilute his client's interest by 10%. If that were excluded that would deprive his client of an opportunity to recover royalties on a tremendous amount of coal in that unitized formation between the monoclinial fold and the outcrop. It would just as equally deprive other owners in Unit IV of an opportunity to recover gas royalties from that area. So we're talking about unitizing an area to maximize the recovery of gas, to enhance mining operations, and then simply to maximize the recovery of gas. Our exhibits, and we tried to make the point in our cross section, though we exaggerated it so you'd have some document before you that you could handle, clearly show everything that I have stated here. In the previous exhibits, the isopach map and the structure map, the fact that these two maps, the first one being Exhibit 1, shows a white area and no

contours between the monoclinial fold and the outcrop, the reason for that is it's very difficult to map contours in an area of a monoclinial fold. That is particularly true in the area shown on the isopach map. There is such a drastic disturbance, geological disturbance, in this area that it would be difficult to draw the contour lines into that area. But that, you should not infer from that that there is no coal present in that area. All you have to do is to look at the evidence before you in Exhibits 3 and 4, the cross sections. You don't see a void area there in the area of the monoclinial fold. You see multiple coal seams. We submit to this Board that any arguments about the reduction of one's interest, you know 10% of 100 is better than 11% of 50, as I gather it. And we have a large gas reserve here in a unitized formation and given ample time and market conditions my client intends to develop those to the benefit of Mr. Espy's client and every other owner in the unitized area that we call Unit IV. I think that's all the arguments I have, Mr. McCorquodale. I think I've addressed the points that are in testimony before you. I think that I've pointed out to you that in Mr.

Espy's argument he has not carefully read the evidence on file, the unit operating agreement. Had he done that he would have represented to you that the area that he shows here as the contract area taken from Exhibit E to the unit operating agreement is a portion of the contract area. And that's all that I have.

MR. JORDEN: As I stated earlier, Mr. Chairman, gentlemen, my name is Bob Jorden. I'm representing Mr. Elliott Belcher, whose acreage is the acreage that would be excluded from this area IV of this unit should Mr. Espy's position be accepted. I do have two questions that I'd like to ask before I make my argument if I may. One, I didn't see and did not receive any exhibits that Mr. Espy may have used at the earlier ratification hearing. Did he use any exhibits? Did he introduce any exhibits at that time?

MR. ESPY: (Nodded negatively)

MR. JORDEN: No? And the second, if he did not, then there are no exhibits by Mr. Espy of record. The second question, he has prefiled in this matter, or on his petition, certain exhibits. Are those exhibits to be considered by the Board or are they not going to be?

MR. MCCORQUODALE: No, sir, no new evidence will be considered.

MR. JORDEN: No new evidence, so that those---

MR. MCCORQUODALE: Other than the evidence that he presented previously.

MR. JORDEN: Yeah. The only evidence he presented earlier was one statement, I think, by Dan Clark, and I will comment on that, but as I appreciate it then the exhibits that he prefiled here will not be considered by the Board. O.K. Taking first the--let's--I'd first like to take the operating agreement and bring to your attention one thing that neither Mr. Espy nor Mr. Watson pointed out. The operating agreement provides in the yellow shaded item under Article 1, the section here says the "Term Contract Area," and then down below in Article 2 it says Exhibit B is the plat outlining the contract area. The plat that is attached to this thing submitted by Mr. Espy is not Exhibit B. It's some other exhibit. Now Exhibit B, as I appreciate it, is the plat, the graphic exhibit which Mr.--or an outline of Exhibit B is what Mr. Watson attempted to show to you, but exhibit, this really means nothing. This describes something about a part of the project area but it's not the contract area, which is on

another exhibit. On the exhibits that were presented last time by Black Warrior Methane, I would like to go into a little more detail. If you would look at the structure map, which happens to be Exhibit No. 1 that Black Warrior has presented, you'll note that they show a line of section on there that goes from B-B', and near the southern terminus of that line of section they show S209. That's a core hole, as I appreciate it, that's--and you'll notice that that core hole is on the opposite side, on the southeast side, of the monoclinal fold. If you'll look over at Exhibit No. 4 now, and remember we're talking about S209, and you see off on the right-hand side of that exhibit you'll see S209 and you'll see at S209 you have the Mary Lee and the Blue Creek Coal Seam, you have the New Castle Coal Seam, you have the Gillispie Coal Seam, you have the Pratt Coal Seam. These are all coal seams that are at S209, which is on that southeast side of the monoclinal fold, and this exhibit demonstrates, although it's probably not accurate from the horizontal scale, but it does exhibit that those coal seams go beyond the monoclinal fold. That's the only exhibit that you have, gentlemen, before you, that shows coal extending beyond

the monoclinal fold, and as I appreciate it, if coal does extend beyond the monoclinal fold, then there should be methane gas. One other issue on that and a part of Mr. Espy's argument, as I appreciate it, was to be that there had been coal mined out of a part of the area southeast of the monoclinal fold. As I appreciate it, the only coal that was mined would have been out of the Blue Creek Seam, so there are seams other than the Blue Creek that extend southeast of that. This may be something that you and your staff would care to take administrative notice of. Looking now at the isopach map, this Exhibit No. 2, I'd like to focus your attention on Section 24, if you can see where Section 24 is. Section 24 is where all of the lines are very close together, and the reason why they're close together, that is an area that is somewhat more complicated than other areas, but another reason why they're close together is they are demonstrating that you have coal in that area up to 115 inches. Now this is southeast of the monoclinal fold. This isopachus interpretation demonstrates that you have up to 115, perhaps even more, inches southeast of the monoclinal fold. Now if you look at the rest

of the isopachus map covering the entirety of Unit IV, you will not find any other contour line even approaching that thickness. What does this tell you? It tells you that the area southeast of the monoclinial fold, at least in that area, has more coal, more coal than the area northwest of the monoclinial fold. This tells you that that area would be more representative, would have more opportunity to give up methane gas because it would have more coal, and I would assume that the Board, through its staff, would take administrative notice of the fact that the more the coal the more the gas. Another issue that was--one of the big issues that have been made by Mr. Espy on behalf of USX is that if you add this acreage southeast of the monoclinial fold, a part of it which has been mined out according to his exhibits, they would be--their interest would be reduced by 10%. I think that you might take administrative notice of the fact that there is acreage in other parts of area IV that have been mined, and I think you might even be able to take administrative notice that some of that acreage belongs to the USX. Furthermore, and I think your records would reflect that there are USX wells that

produced within area IV prior to unitization. This would mean that USX shared in preunitization production, production that was not shared on a unit basis but instead shared only by USX from the wells located on its property. Now as I appreciate it, looking back at the hearing that was held last year, there was no deduction from the USX share of production because of whatever preunitization production they had already shared in. Now you've got to recognize that if they shared in that preunitization production this is to the detriment of the other 90% of the parties who have interest in that unit and did not share in that production. I'm not giving you this as evidence today. I'm suggesting that this Board take administrative notice of the fact that that production did occur. I think under the rules you normally would be entitled to take that administrative notice if your records reflect that that is the facts, and I think your records will reflect that. I think your Board can also take administrative notice that an outcrop line in an area where there has been surface or strip mining and which is sinuous at best cannot be accurately located by a survey on the ground. I think you will note that no one, neither Mr.

Espy nor Mr. Watson on behalf of their clients, have presented any survey of that, either the outcrop line or the monoclinial fold, and in that connection--if then the outcrop line cannot be precisely defined, I think that this gets into a statement made by Mr. Espy in his brief before the Tuscaloosa Circuit Court. Mr. Espy stated that discretion is allowable only if precision is unavailable. I'm suggesting to you that in locating the outcrop line precision is unavailable. If it were available some of these parties would have presented a survey of it, and if it is unavailable then discretion is allowable. I'm suggesting, gentlemen, that that's the discretion that you folks exercised in issuing the order which established this unit. The--as it's been established that USX presented no exhibits at the earlier hearing, I believe that the only statement that they had, and there may have been more than one statement, but the only relative statement that I recall that was made by Mr. Dan Clark was to the effect that there was no commercial production beyond the monoclinial fold. The difficulty with that, it's a bare statement. It's not supported by one exhibit. It's not supported by

any backup testimony, and it's contrary to the exhibits that were presented by USX, in particular the isopachous interpretation that they presented and the cross section, which is shown on Exhibit No. 4. I would not consider that that would be probative evidence. I would not consider that that would demonstrate anything concerning whether or not there is commercial production beyond the fold, and in any event it is contrary to the exhibits that are on record that show that there is coal, and therefore, there must be methane gas beyond that line. Gentlemen, I'm particularly concerned here today about the effect of Mr. Espy's suggestion. Mr. Espy apparently believes that the Board could simply amend this unit area or amend the unit agreement and we could go forward with what we have. That's not the way I read your statute. That's not the way I read your Rules and Regulations. If you were to determine that the unit area is not appropriate, and it would seem to me for you to make that determination you would have had to have a hearing to see whether or not there was newly discovered data indicating that the unit area is not productive under your statute, but if you find that the unit area

is not appropriate then there is no longer a unit, there is no longer a unit agreement, and we are back in the competitive situation where we were before this unit was created. The unit will be destroyed. Now, I don't know whether or not the unit can be put back together or not. It's 17 to 18,000 acres, a big project, and I think Black Warrior Methane Corporation did a good job in putting it together, and so the point I'm making here, as I would interpret your statute, for you having established a unit and having found that that unit was ratified, and having from the circuit court a memorandum order, not an opinion saying that what you've done is wrong, for you to come in and change that and say it ought to be some other area, it would have to be based on newly discovered data or errors in the--newly discovered errors in the data previously presented, and I don't think we have either one of those situations here, so my thought is, gentlemen, you could not and should not destroy the unit based on what we now know. Thank you for your time.

MR. ESPY: May I present rebuttal?

MR. MCCORQUODALE: Yes.

MR. ESPY: Mr. Jorden has just administratively noticed all of his evidence into the record. Mr. Watson has done about half of his that way. I'll comment on some of those, but the first item is I would like to urge the staff, the staff attorney, and the Board to look at Exhibit B to--well I guess it's Figure 1 to Exhibit B to Exhibit A to the petition of Black Warrior Methane Corporation. It's 80 or 100 pages. I suggest to you that the only contract area is that which is, which I handed up to the Board. The front page of the operating agreement says the contract area is the area as outlined in red on the plat as attached Exhibit B hereto. Exhibit B is a thick folder of pages included in which is Figure 1 which I have handed up to the Board. The first substantive page defines contract area as described in Exhibit A, and Exhibit A identifies a number of things and in Article 2, Exhibit B, it includes--it's a plat outlining the contract area. There was none in the record submitted to the Circuit Court of Tuscaloosa County that anywhere resembles this extra evidential graphic that was to have been presented to you today. I submit to you that the contract area by their own documents,

and I invite you to look at this very closely, I can find none. I invite them. They didn't find it during the Circuit Court hearings and what they found this morning has to do with something else, but not this case. Their contract area is as shown by the part of the record that I handed up to you. Mr. Watson referred to the definition of the unitized substance. Sure, the definition has an interval in which there's coal. They show out of 18,000 acres two cross sections. These cross sections, if you adopt and administratively notice what the opposing counsel wants you to, then you know that 60 to 70% of the Blue Creek/Mary Lee Formations have been mined out down to the monoclinal fold, and that the target area for degasification is gone in about 70% of the area. If you'll look on the cross section you'll know that where the coal is there and where, southeast of the monoclinal fold and northwest of the outcrop, it is all tilted up in some places apparently very close to vertical that where you have a-- if there is communication in those coal seams, those coal seams to the east of the monoclinal fold have been communicating with either (1) an open mined area or the atmosphere for the last

however many years those coal seams have been deposited and folded in that direction. I submit to you that they've been naturally degasified on the east side of there. You have nothing before you to indicate that there's any methane on those coals. Sure there's coal, there were coal seams there and in the S209 there it shows that even the Mary Lee/Blue Creek at its deepest is about 500 feet deep, and I submit to you that there's no evidence in this hearing that would tell you that there's any commercially producible occluded gas from a seam, even if it's still there, that is only 500 feet in deposition. They in their own contract, they in their exhibits have shown that that was not an area of interest to them except perhaps to obtain the approval of a unit that was primarily to that person's benefit. They submit that the outcrop is not accurate. In another one of the pieces of evidence that's not in evidence but that which both referred to, the 19--they say that it's not accurately mapped. Their petroleum engineer said that the outcrops were accurately mapped, and some surveyor 73 years ago mapped it, the same exhibit that they have taken from, the same exhibit that

they proposed to submit this morning, the same--on which all of the work in that area has been based for 73 years was mapped and they copied it. I don't know if they don't have anybody that can accurately map it now, but somebody did 73 years ago. It is precisely mapped. We submitted a diagonal line which would have gone to the southeast of any questionable area of the monoclinical fold, which would have been conservative in including any of that. I submit to you that there is no constitutional way in which the area southeast of the outcrop can be included. To suggest that in today's scientific ability or technical ability we can't survey an outcrop when it was done 73 years ago is just ludicrous. He referred to the fact that it was mined out but he didn't refer--but there still may be some coal there. The coal that is there, by their own exhibits, is not deep enough to produce occluded gas. You can look at their own exhibits. They excluded a great deal of land southeast of the monoclinical fold northwest of the outcrop. If that was productive, why didn't they include it? As a matter of fact, they only included those parts of the sections that had at least some part northwest of

the monoclinial fold. Their own testimony, their own exhibits, the only geologist to testify in either case says that there is no occluded gas there. The statement by Mr. Jorden that there should be methane gas if there is coal is supposition. I think this Board, if it's gonna take administrative notice, can take administrative notice of the tests of coal seams in Tuscaloosa and Jefferson County that were 1500 feet deep, not 600, that didn't produce methane gas. Mr. Jorden complained that there was no probative evidence other than Mr. Clark's testimony. I'll remind the Board that that was all that that witness was allowed to do. We brought other evidence here today. Even though we'd like to get in more, we submit to you that there is legally, constitutionally, only one, that constitutionally and by our statute the unit boundary that was petitioned for by Black Warrior Methane cannot stand. Thank you.

MR. MCCORQUODALE: Prior to making a motion, Mr. Chairman, I have a question. It's been argued by everyone so without getting into anything new the page that Mr. Espy copied, page 1 of the operating agreement, and I'm referring now to Exhibit B that we

or Exhibit No. 2 for the State Oil and Gas Board, does make reference to a plat outlining the contract area and refers to that plat as Exhibit B, and it suggests by a check mark in the block next to Exhibit B that it is attached, yet the exhibit that we have has Exhibit A, Exhibit A-1, and then the next exhibit is Exhibit C. Is there a reason for that?

MR. WATSON: Mr. McCorquodale, when we set up the first unit, that exhibit has proprietary information on it, that is a large exhibit, that was not made a part of that agreement at that time because we were only talking about portions of contract areas as outlined on that Exhibit E attached to the unit operating agreement.

MR. MCCORQUODALE: So that there really was no Exhibit B that was attached at all?

MR. WATSON: No, sir.

MR. MCCORQUODALE: Mr. Chairman, I move that we take this matter under advisement.

CHMN. ADAMS: Second the motion. All in favor say "aye"

(Both Board members voted "aye")

CHMN. ADAMS: "Ayes" have it.

DR. MANCINI: The next item, Mr. Chairman, is Item 36, continued motion by the Board requesting operator L. W. Johnson to show cause why certain wells should not be immediately plugged. We received a letter from Mr. Windom for L. W. Johnson. In that letter L. W. Johnson requests that the Board provide them with 90 days to complete the action that the Board has requested that they perform on the various wells, and what I would request, Mr. Chairman, is that we do provide them 90 days and instruct them that they should follow through with the operations as they proposed in their letter of July 24, 1986, and report back to the Board at that time.

MR. MCCORQUODALE: I so move and as a part of that motion would ask that the attorney make a copy of the order available to Mr. Windom as well as to Mr. Johnson.

DR. MANCINI: And then I guess we need to put the letter of July 24, 1986, into the record.

CHMN. ADAMS: The letter that you've referred to is admitted and I second the motion. All in favor say "aye".

(Whereupon, the letter was received
in evidence)

(Both Board members voted "aye")

CHMN. ADAMS: "Ayes" have it.

MR. ROGERS: Mr. Chairman, I recommend that we put into the record a letter from Marvin D. Brown representing L. W. Johnson & Associates dated July 23, 1986, and a letter from the Board to Mr. Johnson dated July 8, 1986. Can we admit those to the record?

CHMN. ADAMS: The letters are admitted.

(Whereupon, the described letters
were received in evidence)

MR. ROGERS: Thank you. That's all.

DR. MANCINI: The next item is approval of the minutes of May 23, 1986, and May 29, 1986, meetings conducted by the Hearing Officer. We recommend that the minutes for these meetings conducted by the Hearing Officer be approved.

MR. MCCORQUODALE: So move.

CHMN. ADAMS: Second. All in favor say "aye".

(Both Board members voted "aye")

CHMN. ADAMS: "Ayes" have it. The Board is adjourned.

(Whereupon, at 1 p.m. the hearing was adjourned)

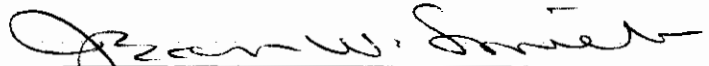
REPORTER'S CERTIFICATE

STATE OF ALABAMA ()

COUNTY OF TUSCALOOSA()

I, Jean W. Smith, Hearings Reporter in and for the State of Alabama, do hereby certify that on Thursday, August 7, 1986, in the Board Room of the State Oil and Gas Board Building, University of Alabama Campus, Tuscaloosa, Alabama, I reported the proceedings before the State Oil and Gas Board of Alabama in Regular Session; that the forgoing 86 typewritten pages contain a true and accurate verbatim transcription of said proceedings to the best of my ability, skill, knowledge, and belief.

I further certify that I am neither of kin or counsel to the parties to said cause, nor in any manner interested in the results thereof.



Jean W. Smith
Hearings Reporter
State of Alabama