

IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA

**RILEY NATURAL GAS COMPANY,
A West Virginia corporation,**

Plaintiff,

v.

**Civil Action No. 16-C-365
Judge James A. Matish**

BERRY ENERGY, INC.,

Defendant.

**Defendant's Supplement to its Motion to Dismiss
Riley Natural Gas Company's Complaint or in the Alternative to Stay**

FILED MAR 15 11
CIRCUIT COURT

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On December 14, 2016, Defendant Berry Energy, Inc. ("Berry") filed a Motion to Dismiss Riley Natural Gas Company's Complaint for Breach of Contract and Declaratory and Monetary Relief, or in the Alternative to Stay ("Motion to Dismiss"). Berry detailed how, when Riley Natural Gas Company ("Riley") filed this complaint, there was a pending action involving the same issues and parties. Riley is a defendant and Berry is a plaintiff in the matter of *Adkins Energy, Inc. et al. v. Dominion Transmission, Inc., et al.*, No. 16-C-92, currently pending in the Circuit Court of Marshall County, West Virginia (the "Adkins action"). The plaintiffs in the Adkins action are challenging the formation, enforcement, and surrounding circumstances of the very obligations that Riley seeks to relitigate in this second forum. Because Riley's claims before this court "arise out of the transaction or occurrence that is the subject matter" of the claims in the Adkins action, they should have been asserted in the Adkins action as compulsory counterclaims. W. Va. R. Civ. P. 13(a); *State ex rel. v. Clawges*, 231 W. Va. 301, 745 S.E.2d 92 (2013).

Riley's opposition to the Motion to Dismiss contains numerous infirmities—it applies the wrong standard, it selectively removes claims from the Adkins action, and fails to cite a single case in support of its opposition. However, the fundamental flaw in Riley's argument is its attempt to draw an arbitrary line between the relationships at issue in the Adkins action and the relationship between Riley and Berry. A frank and complete analysis leaves no doubt that the contracts at issue in the Adkins action are inextricably intertwined with the contract at issue here. Indeed, Riley concedes that the agreement it now seeks to enforce in this court "*incorporat[es] all of the[] obligations*" of the agreements in the Adkins action. Riley Opp. at 2 (emphasis added). In the face of that admission, Riley cannot maintain that these two actions are not logically connected.

I. Background

Riley negotiated agreements with Sutton's Exploration & Production Company, LLC ("Sutton") in 2008 in which Sutton was (i) required to pay Riley for firm transportation for 10 years and (ii) required to sell its gas to Riley for 10 years (the "Gas Sales Contracts and Gateway Firm Contracts"). Riley Opp. at 9. Those Gas Sales Contracts and Gateway Firm Contracts lie at the heart of the Adkins action. *See* Motion to Dismiss at 2-5. Plaintiffs in the Adkins action allege that Riley and co-defendant Dominion Field Services ("DFS") committed numerous violations of contract, tort and statutory law in the formation and enforcement of the Gas Sales Contracts and Gateway Firm Contracts.

In 2012, Berry acquired certain assets and rights from Sutton ("Sutton Acquisition"). *See* Assignment, Conveyance and Bill of Sale ("Sutton Assignment"), attached hereto as Exhibit A. Through the Sutton Acquisition Berry was forced to assume Sutton's obligations and obtained all of Sutton's rights under the 2008 Gas Sales Contracts and Gateway Firm Contracts. *See* Sutton Assignment; *see also* May 18, 2012 letter from Sutton to Riley ("Sutton Letter"), attached hereto as Exhibit B. Riley thereafter required Berry to document its assumption of Sutton's obligations. *See* Letter Agreement and Term Sheets ("Assumption Agreement"), attached hereto as Exhibit C. Riley admits the Assumption Agreement it seeks to enforce here "incorporat[es] all of the[] obligations" in the 2008 Gas Sales Contracts and Gateway Firm Contracts. Riley Opp. at 2. In sum, Riley concedes that it seeks to enforce in this second action the very obligations that were created in 2008 and are now being challenged in the Adkins action. There is no basis to demarcate between the 2008 and 2012 agreements; any dispute about what the obligations in those agreements are can be resolved in the first-filed Adkins action.

II. Riley's Claims Arise Out of the Same Transaction or Occurrence at Issue in the Adkins action.

West Virginia Rules of Civil Procedure mandate that a party assert all counterclaims against an opposing party "if it arises out of the transaction or occurrence that is the subject matter of the opposing party's claim . . ." W. Va. R. Civ. P. 13(a). Counterclaims arise out of the same "transaction or occurrence" if "there is a logical relationship between the claim and the counterclaim." *State ex rel. Strickland v. Daniels*, 173 W. Va. 576, 583, 318 S.E.2d 627, 633 (1984) (citation omitted). "Transaction" is a flexible term and "may comprehend a series of many occurrences, depending not so much upon the immediateness of their connection as upon their logical relationship." *Id.* (citation omitted). A logical relationship exists where a claim:

arises out of the same aggregate of operative facts as the original claim in two senses: (1) that the same aggregate of operative facts serves as the basis of both claims; or (2) that the aggregate core of facts upon which the original claim rests activates additional legal rights in a party defendants that would otherwise remain dormant.

State ex rel. Taylor v. Nibert, 220 W. Va. 129, 133, 640 S.E.2d 192, 196 (2006). The Supreme Court of Appeals thus gave trial courts "broad discretion to promote efficiency by trying related matters in a single action." *State ex rel. Strickland*, 173 W. Va. at 583, 318 S.E.2d at 633.

Riley does not deny that when two related actions are filed, the court where the first complaint was filed (here Marshall County) should resolve the dispute. Riley's sole argument is that its complaint is not logically related to the Adkins action. That position would require the Court to draw an arbitrary line between two irrefutably and admittedly intertwined contractual relationships. Given Riley's concession that the obligations it seeks to enforce emanate from the 2008 Gas Sales Contracts and Gateway Firm Contracts that are at issue in the Adkins action, Riley cannot contend there is no "logical relationship" between its claims and those before the Marshall County Court.

Riley admits that the obligations it now seeks to enforce were agreed to through the 2008 Gas Sales Contracts and Gateway Firm Contracts and then “incorporat[ed]” into the agreements with Berry. Despite that admission that its claim indisputably arises out of the “same aggregate of operative facts,” Riley asserts that this case involves “different agreements with different terms.” That hyper-technical reading elevates form over function. While the parties and dates may have changed by virtue of Berry’s assumption in 2012, the 2008 Gas Sales Contracts and Gateway Firm Contracts created the obligations Riley now seeks to enforce.

If Berry is forced to proceed in this second venue, the Court will have to examine those 2008 agreements and the circumstances surrounding their creation—the very issues now being litigated in Marshall County. There is no way to untangle the 2008 and 2012 agreements. In such situations, courts conclude that the claims arise out of the same transaction or occurrence and must be filed as counterclaims in the first action. *See State ex rel. Strickland*, 173 W. Va. at 583, 318 S.E.2d at 633; *State ex rel. W. Va. Truck Stops, Inc. v. McHugh*, 160 W. Va. 294, 233 S.E.2d 729 (1977); *Lloyd’s, Inc. v. Lloyd*, 225 W. Va. 377, 385, 693 S.E.2d 451, 459 (2010); *Vaughan v. Recall Total Info. Mgmt., Inc.*, 217 Fed. App’x 211, 223 (4th Cir. 2007); *Umbra Intern., Inc. v. Japan Profl Football League*, No. 6:97-2366-13, 1997 WL 33378853, at *3 n.5 (D.S.C. Oct. 2, 1997); 6 Charles Alan Wright & Arthur R. Miller, *Federal Practice & Procedure* § 1410.1 (3d ed. 2016) (courts consistently apply corollary federal rule in breach-of-contract actions to denominate defendant’s claim for payments due a compulsory counterclaim).

Confronted with the logical relationship between the 2008 Gas Sales Contracts and Gateway Firm Contracts on the one hand, and the subsequent contracts it seeks to enforce on the other, Riley cites not a single case that would support its position. Instead, Riley asks the Court to apply Rule 13(g) of the West Virginia Rules of Civil Procedure, the rule governing *cross-*

claims. The question here is whether Riley must file its claims as *counterclaims* in the Adkins action. Although Riley's subsequent discussion of Rule 13(g) can be ignored, Berry will proceed, out of an abundance of caution, to refute Riley's inapposite analysis under the wrong standard.

As discussed above, there is a logical and factual overlap in the Adkins action and this case. Both cases will require interpretation of the 2008 Gas Sales Contracts and Gateway Firm Contracts. Riley contends that its agreement with Berry does not include the same obligations that are at issue in the Adkins. That argument ignores its own admission that its agreement with Berry assumed all of the obligations in the 2008 Gas Sales Contracts and Gateway Firm Contracts. The nature of those obligations is hotly disputed, and that question has been and will be litigated in Marshall County. If this case is allowed to proceed here, this Court will be constrained to make its own (possibly conflicting) conclusions as to the obligations created in the 2008 Gas Sales Contracts and Gateway Firm Contracts.

Riley also attempts to distinguish the two cases because they involve "dramatically different law." Riley Opp. at 11. First, that is not an appropriate element of a Rule 13(a) analysis. The question is merely whether the two cases arise out of the same aggregate of operative facts which Berry has established is the case. Second, even if a complete overlap of causes of action were relevant, that element would be met. Although Riley deems the breach of contract claim asserted against it in the Adkins action insufficient, it is indisputable that such a claim is currently pending in Marshall County.

Riley's supposition that these two cases involve different evidence is contradicted numerous times above. Again, because Riley concedes that the obligations it now seeks to enforce emanate from the 2008 Gas Sales Contracts and Gateway Firm Contracts, this Court would have to look to the same agreements *and the circumstances surrounding those agreements*

that are at issue in the Adkins action. Therefore, both cases will include evidence and testimony from parties that negotiated the 2008 agreement between Sutton and Riley.

In sum, there is a direct relationship (and thus necessarily a logical relationship) between the claims in the Adkins action and Riley's claim in this case. The Adkins action involves contracts that were negotiated and the circumstances surrounding those relationships going back to 2008. One such contract was a 2008 agreement between Sutton and Riley. Riley concedes that the obligations from that agreement were incorporated into the 2012 agreement upon which Riley instituted this action. There is a straight line between those agreements and thus a logical relationship between this case and the Adkins action.

The purpose of Rule 13(a) is to "prevent the fragmentation of litigation, multiplicity of actions and conserve judicial resources." *See Sorsby v. Turner*, 201 W.Va. 571, 575, 499 S.E.2d 300, 304 (1997). Riley's request to carve out its contract from the Adkins action would make a mockery of that rule. If this related matter proceeds, Berry may be forced to assert its claims in the Adkins action as counterclaims here, thereby bringing all the other defendants and claims pending in the first-filed Adkins action into this case. At that point, two different courts of coequal status would be resolving similar issues and duplicating efforts. And allowing this case to proceed might encourage Riley and other defendants in the Adkins action to institute separate individual actions, thus further fragmenting the central dispute and wasting judicial resources.

III. Conclusion

For all of the reasons stated above, Berry respectfully requests that the Court to dismiss Riley's Complaint. In the alternative, Berry asks the Court to stay this matter pending disposition of the Adkins action.

Respectfully submitted,

Defendant
By Counsel.

A handwritten signature in cursive script, reading "Jonathan R. Marshall". The signature is written in dark ink and is positioned above a horizontal line.

Jonathan R. Marshall, Esq. (WV Bar ID # 10580)

Bailey & Glasser, LLP
209 Capitol Street
Charleston, WV 25301
(304) 345-6555
(304) 342-1110 *facsimile*

Exhibit A

BERRY ENERGY, INC.
310 STILES STREET
CLARKSBURG, WV 26301-2252

Mary Lou Myers
LEWIS County 01:14:48 PM
Instrument No 16277 ✓
Date Recorded 02/10/2012
Document Type ASHTBOS
Pages Recorded 11
Book-Page 661-184 ✓
Recording Fee \$11.00
Additional \$7.00

Assignment, Conveyance and Bill of Sale

This Assignment, Conveyance and Bill of Sale is made this 9th day of February, 2012, the Closing and Effective Date, SUTTON'S EXPLORATION & PRODUCTION COMPANY, LLC, a West Virginia limited liability company, also known as SUTTON EXPLORATION & PRODUCTION COMPANY, LLC, and as SUTTON'S EXPLORATION & PRODUCTION CO. INC., LLC, having a principal office at Rt. 2 Box 118, West Union, West Virginia, party of the first part, hereinafter referred to as, "Seller" and BERRY ENERGY, INC., a West Virginia corporation, having a principal office at 310 Stiles Street, Clarksburg, West Virginia, party of the second part, hereinafter referred to as, "Buyer".

WHEREAS, Seller is now the owner of certain undivided interests ("Seller's Interests") in, to and under the following (the "Assets"):

(a) Leaseholds. All of Seller's right, title and interest in and to all oil and gas leaseholds, oil, gas and other minerals, including working interests, carried working interests, rights of assignment and reassignment, net revenue interests, record title interests, undeveloped locations and all other interests under or in oil, gas or mineral leases, and interests in rights to explore for and produce oil, gas or other minerals which are described on Exhibit A attached hereto and made a part hereof (the "Leases");

(b) Rights in Production. All of Seller's right, title and interest in and to all reversionary interests, backin interests, overriding royalties, production payments, net profits interests, mineral and royalty interests in production of oil, gas or other minerals relating to the Leases;

(c) Wells. All of Seller's right, title and interest in and to producing, non-producing and shut-in oil and gas wells located on the Leases and identified and described on Exhibit B attached hereto and made a part hereof (collectively, the "Wells");

(d) Contract Rights. All of Seller's right, title and interest in or derived from unit agreements, orders and decisions of regulatory authorities establishing or relating to units, unit operating agreements, drilling units, spacing units, operating agreements (including without limitation any rights to act as Operator under an operating agreement), gas purchase agreements, oil purchase agreements, gathering agreements, transportation agreements, compression agreements, processing or treating agreements, farmout agreements and farmin agreements, including without limitation those agreements listed or identified on Exhibit C attached to this Agreement, and any other agreements that relate to any of the Leases or Wells described in Exhibits A or B (collectively, the "Contracts");

(e) Easements. All of Seller's right, title and interest in and to all rights-of-way, licenses and servitudes appurtenant to or used in connection with the property covered by the Leases or Wells (collectively, the "Easements");

(f) Permits. All of Seller's right, title and interest in and to all permits, authorizations, approvals, consents and licenses of any nature owned, held or operated in connection with operations for the exploration and production of oil, gas or other minerals to the extent the same are used or obtained in connection with any of the Leases, Contracts, Easements or Wells, including without limitation those permits, authorizations, approvals, consents and licenses identified or referred to on Exhibit D attached to this Agreement (collectively, the "Permits");

(g) Equipment. All of Seller's right, title and interest in and to all personal property, surface equipment, down-hole equipment and pipelines used in connection with the Leases, Easements, Wells or Permits, including without limitation all well and gathering lines, meters, compressors and dehydration units (collectively, the "Equipment"); provided however, Equipment does not include any underground storage tanks unless such tanks are expressly identified or referred to on Exhibit B attached hereto;

(h) Hydrocarbons. All oil, gas, casinghead gas, condensate, distillate, liquid hydrocarbons, gaseous hydrocarbons and all other products refined or extracted therefrom, together with all minerals produced in association with these substances (collectively, the "Hydrocarbons") in and under and which may be produced and saved from or attributable to the Leases or Wells for which payment is made by the purchaser thereof from and after the Effective Time and all rents, issues, profits, proceeds, products, revenues and other income from or attributable thereto;

(i) Data. All existing Lease, Well and title files, production records, geologic and geophysical data (to the extent assignable), engineering studies and information, maps, charts, division orders and other information relating to the Assets (collectively "Data");

(j) Escrow Accounts. The balances in the Escrow Accounts described on Exhibit F attached hereto and made a part hereof maintained by Seller in connection with the operation of the Wells; and

(k) Retained Overriding Royalty Interest. The Seller excepts and reserves from this assignment an undivided one-thirty second ($1/32^{nd}$) of seven-eighths ($7/8^{th}$) overriding royalty interest ("Overriding Royalty Interest") in the production of any oil and gas from any wells hereafter drilled on the properties covered by the Leases. This Overriding Royalty Interest does not apply to the Wells, but only to any future well drilled pursuant to the Leases.

(l) Remaining Interests. All other rights and interests in, to or under or derived from the Assets, even though the same may be improperly described in or omitted from the Exhibits hereto. It is the express intent of the parties hereto that all of Seller's right, title and

interest in the oil and gas properties described on Exhibits A or B be assigned to Buyer hereunder, except that Seller retains its interest in the Retained Overriding Royalty Interest.

WHEREAS, Seller desires to assign, convey and deliver to Buyers and Buyer desires to accept all of Seller's interests in the Assets; and

WHEREAS, as consideration for this Assignment, Buyer has paid Seller the sum of One Hundred and 00/100 Dollars (\$100.00) plus other valuable and sufficient benefits, the receipt of which is acknowledged by Seller.

NOW, THEREFORE, except as provided below, Seller hereby grants, bargains, sells, transfers, assigns and conveys to Buyer all of Seller's right, title and interest in, to and under the Assets, except Seller excepts and reserves its Overriding Royalty Interest, as defined hereinabove.

TO HAVE AND TO HOLD the Assets unto Buyer, its successors and assigns, forever.

The provisions of this Assignment, Conveyance and Bill of Sale shall be construed as covenants running with the Leases and shall be binding upon Buyer, its successors and assigns. Buyer specifically assumes all obligations to property plug, abandon and remediate all Wells comprising the Assets and shall indemnify and hold harmless Seller from any and all such costs and obligations.

It is understood and agreed between the parties that the execution of additional assignments of certain individual Leases herein described, may be required on approved governmental forms to facilitate approval of this transaction by governmental agencies; Seller hereby agrees to execute and furnish to Buyer such documents, and such further assurances, as may be necessary to effectuate all of the terms of this Assignment.


Seller hereby executes, and delivers this Assignment, Conveyance and Bill of Sale pursuant to that certain Asset Purchase and Sale Agreement dated February 9, 2012 (The "Purchase Agreement"), among Seller and Buyer. The representations and warranties of the parties concerning the Assets set forth in the Purchase Agreement are incorporated into this Assignment, Conveyance and Bill of Sale by reference.

Notwithstanding the date of this Assignment, Conveyance and Bill of Sale the parties intend that the sale, conveyance, assignment and transfer of the Assets is effective for all purposes at closing on the 9th day of February, 2012.

IN WITNESS WHEREOF the parties hereto have caused their names to be signed hereto by their proper officers thereunto duly authorized all as of the day and year first hereinabove written.

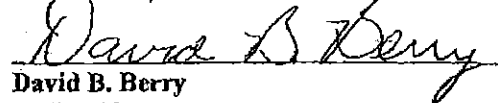
SELLER

SUTTON'S EXPLORATION & PRODUCTION
COMPANY, LLC also known as
SUTTON EXPLORATION & PRODUCTION
COMPANY, LLC, and as SUTTON'S
EXPLORATION & PRODUCTION CO. INC.,
LLC:

By: 
Jeremy Sutton
Its: Sole Member

BUYER:

BERRY ENERGY, INC.

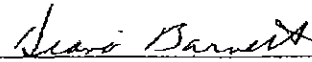
By: 
David B. Berry
Its: President

STATE OF WEST VIRGINIA,
COUNTY OF HARRISON, TO-WIT:

I, Diana Barnett, a notary public of said county, do certify that
Jeremy Sutton, the Sole Member of Sutton's Exploration & Production
Company, LLC, a West Virginia limited liability company, also known as Sutton Exploration &
Production Company, LLC, and as Sutton's Exploration & Production Co. Inc., LLC, who signed
the writing hereto annexed, bearing date as of the 9th day of February, 2012, has this day in my said
county, before me, acknowledged the same to be the act and deed of said limited liability company.

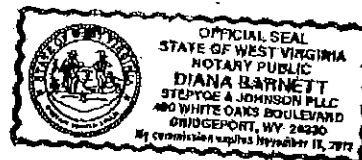
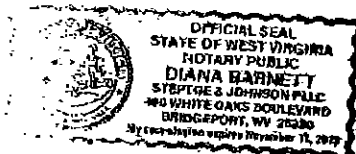
Given under my hand this 9th day of February, 2012.

My commission expires: 11-17-2013


Notary Public

(NOTARIAL SEAL)

CL 5945571



STATE OF WEST VIRGINIA,
COUNTY OF HARRISON, TO-WIT:

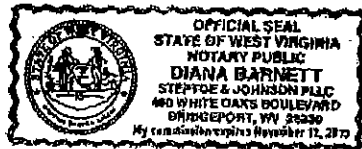
I, Diana Barnett, a notary public of said county, do certify that
David B. Berry, the President of Berry Energy, Inc., a West Virginia
corporation, who signed the writing hereto annexed, bearing date as of the 9th day of February, 2012, has
this day in my said county, before me, acknowledged the same to be the act and deed of said corporation.

Given under my hand this 9th day of February, 2012.

My commission expires: 11-17-2013

Diana Barnett
Notary Public

(NOTARIAL SEAL)



This instrument was prepared by:

Patrick D. Deem, Esquire
Steptoe & Johnson PLLC
400 White Oaks Boulevard
Bridgeport, WV 26330

EXHIBIT A

Description of Leases

NOTE: Lessee is Sutton's Exploration & Production Company ("Sutton's")

	LEASE DATE	LESSOR	LESSEE	LEASE ACRES	DISTRICT	COUNTY/STATE	RECORDING BOOK/PAGE
1.	09/01/2005	Robert E. Hinter, et ux.	Sutton's	204.45	Troy Cove	Gilmer Co., WV Doddridge Co., WV	466/214 203/572
2.	09/02/2005	Bertha Byrd	Sutton's	204.45	Troy Cove	Gilmer Co., WV Doddridge Co., WV	466/212 203/570
3.	09/07/2005	Ann B. Ashley	Sutton's	205.45	Troy Cove	Gilmer Co., WV Doddridge Co., WV	466/216 203/574
4.	10/19/2005	Robert H. Brannon	Sutton's	204.45	Troy Cove	Gilmer Co., WV Doddridge Co., WV	466/196 204/595
5.	10/23/2005	Janel E. Lamp	Sutton's	204.45	Troy Cove	Gilmer Co., WV Doddridge Co., WV	466/202 204/601
6.	10/27/2005	Virginia Lamp	Sutton's	204.45	Troy Cove	Gilmer Co., WV Doddridge Co., WV	466/204 204/603
7.	10/22/2005	Lillian J. Stansberry	Sutton's	204.45	Troy Cove	Gilmer Co., WV Doddridge Co., WV	466/206 204/605
8.	11/01/2005	Charlotte Hamilton	Sutton's	204.45	Troy Cove	Gilmer Co., WV Doddridge Co., WV	466/200 204/599
9.	11/29/2005	Sutton's Exploration & Production Company	Sutton's	204.45	Troy Cove	Gilmer Co., WV Doddridge Co., WV	466/198 204/597
10.	03/20/2005	Robert C. Bland, et al.	Sutton's	21	New Milton	Doddridge Co., WV	200/295
11.	03/20/2005	Robert C. Bland, et al.	Sutton's	17.5	New Milton	Doddridge Co., WV	200/394
12.	09/23/2005	Garner D. Kelley	Sutton's	70	New Milton	Doddridge Co., WV	204/28
13.	09/26/2005	Dale Kelley	Sutton's	70	New Milton	Doddridge Co., WV	204/30
14.	03/03/2006	Vivian E. Burton, et al.	Sutton's	241	New Milton	Doddridge Co., WV	206/434
15.	05/30/2006	Richard Delaney	Sutton's	241	New Milton	Doddridge Co., WV	208/412
16.	05/30/2006	David P. Burton	Sutton's	241	New Milton	Doddridge Co., WV	208/410
17.	09/28/2010	Vivian E. Burton, et al.	Sutton's	241	New Milton	Doddridge Co., WV	260/70 (Ratification)
18.	03/20/2005	Frances S. Moody	Sutton's	121.5	Cove	Doddridge Co., WV	204/39
19.	03/20/2005	Susan A. Stark	Sutton's	121.5	Cove	Doddridge Co., WV	204/41
20.	09/19/2005	Virginia M. Grose	Sutton's	122	Cove	Doddridge Co., WV	204/37
21.	09/28/2005	Marie M. Cawley	Sutton's	122	Cove	Doddridge Co., WV	204/35
22.	09/21/2009	Samuel Farrow, Jr., et ux.	Sutton's	67	New Milton	Doddridge Co., WV	238/62
23.	07/18/2005	John F. Erwin, et ux.	Sutton's	104	New Milton	Doddridge Co., WV	203/263

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24.	07/18/2005	John F. Erwin, et ux.	Sutton's	200	New Milton	Doddridge Co., WV	203/261
25.	07/18/2005	John F. Erwin, et ux.	Sutton's	80	New Milton	Doddridge Co., WV	203/265
26.	07/23/2000	Smithburg Unit. Meth. Ch.	Carter Oil & Gas Inc.	120	Grant	Doddridge Co., WV	187/200
27.	07/18/1979	Granville A. Cayton, et ux.	Alton Skinner	36	Collins Settlement	Lewis Co., WV	379/16
28.	11/14/2005	Naney Thorson	Jeff Davis	29	Freemans Creek	Lewis Co., WV	603/526
29.	11/14/2005	Patty Bode Williams	Jeff Davis	29	Freemans Creek	Lewis Co., WV	603/528
30.	11/14/2005	Leathy Conaty, et ux.	Jeff Davis	29	Freemans Creek	Lewis Co., WV	603/530
31.	03/20/2005	Robert C. Bland, et al.	Sutton's	17.5 & 21 (38)	New Milton	Doddridge Co., WV	200/394 200/295
32.	03/20/2006	Betty Woofter	Sutton's	25.22	Freeman's Creek	Lewis Co., WV	605/340
33.	10/30/2005	Wetzel Malcomb	Sutton's	75	Collins Settlement	Lewis Co., WV	605/330
34.	10/06/2005	Sherry Wertz	Sutton's	75	Collins Settlement	Lewis Co., WV	605/332
35.	10/03/2005	Tom Malcomb	Sutton's	75	Collins Settlement	Lewis Co., WV	605/338
36.	09/08/2005	Frances L. Justice, et al.	Sutton's	75	Collins Settlement	Lewis Co., WV	605/336
37.	10/05/2005	Glenna K. Myers	Sutton's	75	Collins Settlement	Lewis Co., WV	605/324
38.	10/06/2005	Billy G. Malcomb, et ux.	Sutton's	75	Collins Settlement	Lewis Co., WV	605/326
39.	11/01/2005	Wilburn C. Malcomb	Sutton's	75	Collins Settlement	Lewis Co., WV	605/328
40.	10/04/2005	Carol Bottomly	Sutton's	75	Collins Settlement	Lewis Co., WV	605/334
41.	09/15/2004	Tammie B. Richey	Jeremy Sutton	1.125	Freeman's Creek	Lewis Co., WV	594/152
42.	09/15/2004	Thomas O. Brown, II.	Jeremy Sutton	1.125	Freeman's Creek	Lewis Co., WV	594/156
43.	09/15/2004	Timothy C. Brown	Jeremy Sutton	1.125	Freeman's Creek	Lewis Co., WV	594/160
44.	09/15/2004	Terrie Awtrey	Jeremy Sutton	1.125	Freeman's Creek	Lewis Co., WV	594/164
45.	09/15/2004	Virginia Bush McCutchan Trust	Jeremy Sutton	1.125	Freeman's Creek	Lewis Co., WV	594/168
46.	09/15/2004	James R. Jenkins	Jeremy Sutton	1.125	Freeman's Creek	Lewis Co., WV	594/172
47.	09/15/2004	Brent Jenkins	Jeremy Sutton	1.125	Freeman's Creek	Lewis Co., WV	594/176
48.	09/15/2004	Tamara J. Fay	Jeremy	1.125	Freeman's	Lewis Co., WV	594/180

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			Sutton		Creek		
49.	09/15/2004	Carrie Crowell	Jeremy Sutton	1.125	Freeman's Creek	Lewis Co., WV	594/184
50.	09/15/2004	Jill Ray Stone	Jeremy Sutton	1.125	Freeman's Creek	Lewis Co., WV	594/188
51.	09/15/2004	Elaine Brown-Erlandson	Jeremy Sutton	1.125	Freeman's Creek	Lewis Co., WV	594/193
52.	09/15/2004	Wanda B. Coffindaffer	Jeremy Sutton	1.125	Freeman's Creek	Lewis Co., WV	594/197
53.	05/23/1963	M. F. Bode, et al.	Cecil Meadows	107	Cove	Doddridge Co, WV	80/201

EXHIBIT B**Description of Wells, Working Interest and Net Revenue Interest.**

	WELL NAME AND NO.	API NO.	COUNTY, STATE	WORKING INTEREST	NET REVENUE INTEREST
1.	Frank Hinter #1	47-17-01076	Doddridge Co., WV	1.0000000	
2.	Staarmann 2936	01703560	Doddridge Co., WV	0.5000000	
3.	Wanstreet	01703595	Doddridge Co., WV	0.5000000	
4.	R.E. Kelley #2	47-17-04465	Doddridge Co., WV	0.5000000	
5.	Colt #1	47-17-05094	Doddridge Co., WV	0.2715092	
6.	Colt #2	47-17-05095	Doddridge Co., WV	0.2715092	
7.	Cawley #1	47-17-05125	Doddridge Co., WV	0.2715092	
8.	Ashley #3	01705126	Doddridge Co., WV	0.2715092	
9.	Kelley #1	47-17-05223	Doddridge Co., WV	0.1075000	
10.	Colt #4	47-17-05224	Doddridge Co., WV	0.1075000	
11.	John Erwin #1	47-17-05225	Doddridge Co., WV	0.1075000	
12.	John Erwin #2	47-17-05226	Doddridge Co., WV	0.1075000	
13.	Erwin #1	47-17-05227	Doddridge Co., WV	0.1075000	
14.	Hinter 1A	47-17-05275	Doddridge Co., WV	0.1075000	
15.	Cawley #2	47-17-05341	Doddridge Co., WV	0.1884107	
16.	Methodist Church #1	01705430	Doddridge Co., WV	0.0962840	
17.	Erwin #2	47-17-05464	Doddridge Co., WV	0.1400000	
18.	Hinter #2	47-17-05649	Doddridge Co., WV	0.4597030	
19.	John Erwin #3	47-17-05752	Doddridge Co., WV	0.0100000	
20.	John Erwin #4	47-17-05753	Doddridge Co., WV	0.0100000	
21.	Erwin #3	47-17-05754	Doddridge Co., WV	0.0100000	
22.	Farrow #1	47-17-05886	Doddridge Co., WV	0.2500000	
23.	Ashley #1	47-17-05426	Gilmer Co., WV	0.2715092	
24.	Ashley #4	02105464	Gilmer Co., WV	0.1984107	
25.	Cayton #2	04102752	Lewis Co., WV	0.5000000	
26.	Sutton #1	04104918	Lewis Co., WV	0.5453000	
27.	Woodruff 1A	04105115	Lewis Co., WV	0.1075000	
28.	Thorson #1	04105116	Lewis Co., WV	0.1075000	
29.	Thorson #2	04105117	Lewis Co., WV	0.1075000	
30.	Malcomb #1	04105276	Lewis Co., WV	0.0698400	
31.	Bode #1	47-17-01052	Doddridge Co., WV	0.8100000	

EXHIBIT C

NONE

EXHIBIT D

**THE PERMIT NOS. ARE THE SAME AS THE API NOS.
SHOWN ON THE ATTACHED EXHIBIT B.**

BERRY ENERGY, INC.
310 STILES STREET
CLARKSBURG, WV 26301-2252

LEASE MODIFICATION AGREEMENT

THIS LEASE MODIFICATION AGREEMENT, effective as of the 31st day of December, 2011, and by and between **BETTY WOOFER**, party of the first part, hereinafter referred to as "Lessor"; and **SUTTON'S EXPLORATION & PRODUCTION CO., LLC**, a West Virginia limited liability company, having an address of 1 Box 110, West Union, WV 26456, party of the second part, hereinafter referred to as "Lessee."

WHEREAS, by a Lease Agreement dated March 20, 2006, which is recorded in the Office of the Clerk of the County Commission of Lewis County, West Virginia, in Deed Book No. 605, at page 340 (the "Original Lease"), Lessor leased unto Lessee a tract of land containing 25.22 acres, situate in Freemans Creek District, Lewis County, West Virginia;

WHEREAS, Paragraph No. 9 of the Original Lease limited the assignment thereof to Pacific Energy, Inc.

WHEREAS, the undersigned desire to amend said Paragraph No. 9 of the Original Lease to allow the Lessee to assign its interest unto any party that it desires without limitation;

WHEREAS, the undersigned have entered into this Lease Modification Agreement in order to modify the terms of the Original Lease so that the Lessee may assign its interest to any party.

NOW, THEREFORE, WITNESSETH, that for and in consideration of the foregoing premises, the mutual benefits to be derived hereunder by each of the parties hereto, and other good and valuable consideration, the receipt and sufficiency of all of which is hereby acknowledged, Lessor and Lessee hereby agree to the following:

1. The second sentence of Paragraph No. 9 of the Original Lease limiting assignability to Pacific Energy, Inc. is removed and replaced with the following:

Sutton's Exploration & Production Company, LLC, may only assign this lease to Berry Energy, Inc. Further, Lessor agrees and covenants not to unreasonably withhold consent to any future assignment of this Lease by Berry Energy, Inc. Lessor is to be consulted prior to any future assignment of this Lease.

2. Except as expressly set forth herein, the terms and provisions of the Original Lease not inconsistent with this agreement shall be and remain in full force and effect, unmodified by the terms and provisions of this agreement. To the extent there exists any inconsistency between the terms and provisions of the Original Lease prior to its amendment and modification hereby and the terms and provisions of the Original Lease subsequent to its amendment and modification hereby, the terms and provisions of the Original Lease as amended and modified hereby shall be deemed controlling. The parties hereto do hereby ratify and confirm their obligations and duties under the Original Lease as amended and modified hereby.

IN WITNESS WHEREOF, the parties hereto have caused their names to be signed hereto all as of the day and year first hereinabove written.

Lessor:

Betty Woofter
BETTY WOOFTER

Lessee:

SUTTON'S EXPLORATION & PRODUCTION
CO., LLC, a West Virginia limited liability company

By: [Signature]

Its: Sole Member

Mary Lou Myers
LEWIS County 01:09:44 PM
Instrument No 16273
Date Recorded 02/10/2012
Document Type LSEH00
Pages Recorded 3
Book-Page 661-181
Recording Fee \$5.00
Additional \$6.00

STATE OF West Virginia

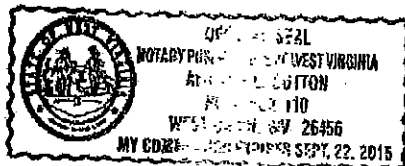
COUNTY OF Doddridge, TO-WIT:

I, Amanda Sutton, a notary public of said county, do certify that **BETTY WOOFER**, whose name is signed to the writing hereto annexed, bearing date the 8 day of February, 2012, has this day acknowledged the same before me in my said county.

Given under my hand and seal this 8 day of February, 2012.

My commission expires: Sept. 22, 2015

(NOTARIAL SEAL)



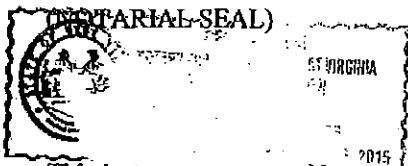
Amanda Sutton
Notary Public

STATE OF West Virginia

COUNTY OF Doddridge, TO-WIT:

The foregoing instrument was acknowledged before me this 8 day of February, 2012, by Jeremy Sutton the Sole member of **SUTTON'S EXPLORATION & PRODUCTION CO., LLC**, on behalf of the limited liability company.

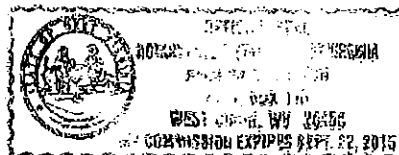
My commission expires: Sept. 22, 2015



Amanda Sutton
Notary Public

This instrument prepared by:

Cole T. DeLancey, Esquire
Steptoe & Johnson PLLC
400 White Oaks Boulevard
Bridgeport, West Virginia 26330



Assignment, Conveyance and Bill of Sale

This Assignment, Conveyance and Bill of Sale is made this 9th day of February, 2012, the Closing and Effective Date, SUTTON'S EXPLORATION & PRODUCTION COMPANY, LLC, a West Virginia limited liability company, also known as SUTTON EXPLORATION & PRODUCTION COMPANY, LLC, and as SUTTON'S EXPLORATION & PRODUCTION CO. INC., LLC, having a principal office at Rt. 2 Box 118, West Union, West Virginia, party of the first part, hereinafter referred to as, "Seller" and BERRY ENERGY, INC., a West Virginia corporation, having a principal office at 310 Stiles Street, Clarksburg, West Virginia, party of the second part, hereinafter referred to as, "Buyer".

WHEREAS, Seller is now the owner of certain undivided interests ("Seller's Interests") in, to and under the following (the "Assets"):

(a) Leaseholds. All of Seller's right, title and interest in and to all oil and gas leaseholds, oil, gas and other minerals, including working interests, carried working interests, rights of assignment and reassignment, net revenue interests, record title interests, undeveloped locations and all other interests under or in oil, gas or mineral leases, and interests in rights to explore for and produce oil, gas or other minerals which are described on Exhibit A attached hereto and made a part hereof (the "Leases");

(b) Rights in Production. All of Seller's right, title and interest in and to all reversionary interests, backin interests, overriding royalties, production payments, net profits interests, mineral and royalty interests in production of oil, gas or other minerals relating to the Leases;

(c) Wells. All of Seller's right, title and interest in and to producing, non-producing and shut-in oil and gas wells located on the Leases and identified and described on Exhibit B attached hereto and made a part hereof (collectively, the "Wells");

(d) Contract Rights. All of Seller's right, title and interest in or derived from unit agreements, orders and decisions of regulatory authorities establishing or relating to units, unit operating agreements, drilling units, spacing units, operating agreements (including without limitation any rights to act as Operator under an operating agreement), gas purchase agreements, oil purchase agreements, gathering agreements, transportation agreements, compression agreements, processing or treating agreements, farmout agreements and farmin agreements, including without limitation those agreements listed or identified on Exhibit C attached to this Agreement, and any other agreements that relate to any of the Leases or Wells described in Exhibits A or B (collectively, the "Contracts");

(e) Easements. All of Seller's right, title and interest in and to all rights-of-way, licenses and servitudes appurtenant to or used in connection with the property covered by the Leases or Wells (collectively, the "Easements");

(f) Permits. All of Seller's right, title and interest in and to all permits, authorizations, approvals, consents and licenses of any nature owned, held or operated in connection with operations for the exploration and production of oil, gas or other minerals to the extent the same are used or obtained in connection with any of the Leases, Contracts, Easements or Wells, including without limitation those permits, authorizations, approvals, consents and licenses identified or referred to on Exhibit D attached to this Agreement (collectively, the "Permits");

(g) Equipment. All of Seller's right, title and interest in and to all personal property, surface equipment, down-hole equipment and pipelines used in connection with the Leases, Easements, Wells or Permits, including without limitation all well and gathering lines, meters, compressors and dehydration units (collectively, the "Equipment"); provided however, Equipment does not include any underground storage tanks unless such tanks are expressly identified or referred to on Exhibit B attached hereto;

(h) Hydrocarbons. All oil, gas, casinghead gas, condensate, distillate, liquid hydrocarbons, gaseous hydrocarbons and all other products refined or extracted therefrom, together with all minerals produced in association with these substances (collectively, the "Hydrocarbons") in and under and which may be produced and saved from or attributable to the Leases or Wells for which payment is made by the purchaser thereof from and after the Effective Time and all rents, issues, profits, proceeds, products, revenues and other income from or attributable thereto;

(i) Data. All existing Lease, Well and title files, production records, geologic and geophysical data (to the extent assignable), engineering studies and information, maps, charts, division orders and other information relating to the Assets (collectively "Data");

(j) Escrow Accounts. The balances in the Escrow Accounts described on Exhibit F attached hereto and made a part hereof maintained by Seller in connection with the operation of the Wells; and

(k) Retained Overriding Royalty Interest. The Seller excepts and reserves from this assignment an undivided one-thirty second ($1/32^{nd}$) of seven-eighths ($7/8^{th}$) overriding royalty interest ("Overriding Royalty Interest") in the production of any oil and gas from any wells hereafter drilled on the properties covered by the Leases. This Overriding Royalty Interest does not apply to the Wells, but only to any future well drilled pursuant to the Leases.

(l) Remaining Interests. All other rights and interests in, to or under or derived from the Assets, even though the same may be improperly described in or omitted from the Exhibits hereto. It is the express intent of the parties hereto that all of Seller's right, title and

interest in the oil and gas properties described on Exhibits A or B be assigned to Buyer hereunder, except that Seller retains its interest in the Retained Overriding Royalty Interest.

WHEREAS, Seller desires to assign, convey and deliver to Buyers and Buyer desires to accept all of Seller's interests in the Assets; and

WHEREAS, as consideration for this Assignment, Buyer has paid Seller the sum of One Hundred and 00/100 Dollars (\$100.00) plus other valuable and sufficient benefits, the receipt of which is acknowledged by Seller.

NOW, THEREFORE, except as provided below, Seller hereby grants, bargains, sells, transfers, assigns and conveys to Buyer all of Seller's right, title and interest in, to and under the Assets, except Seller excepts and reserves its Overriding Royalty Interest, as defined hereinabove.

TO HAVE AND TO HOLD the Assets unto Buyer, its successors and assigns, forever.

The provisions of this Assignment, Conveyance and Bill of Sale shall be construed as covenants running with the Leases and shall be binding upon Buyer, its successors and assigns. Buyer specifically assumes all obligations to property plug, abandon and remediate all Wells comprising the Assets and shall indemnify and hold harmless Seller from any and all such costs and obligations.

It is understood and agreed between the parties that the execution of additional assignments of certain individual Leases herein described, may be required on approved governmental forms to facilitate approval of this transaction by governmental agencies; Seller hereby agrees to execute and furnish to Buyer such documents, and such further assurances, as may be necessary to effectuate all of the terms of this Assignment.

Seller hereby executes, and delivers this Assignment, Conveyance and Bill of Sale pursuant to that certain Asset Purchase and Sale Agreement dated February 9, 2012 (The "Purchase Agreement"), among Seller and Buyer. The representations and warranties of the parties concerning the Assets set forth in the Purchase Agreement are incorporated into this Assignment, Conveyance and Bill of Sale by reference.

Notwithstanding the date of this Assignment, Conveyance and Bill of Sale the parties intend that the sale, conveyance, assignment and transfer of the Assets is effective for all purposes at closing on the 9th day of February, 2012.

IN WITNESS WHEREOF the parties hereto have caused their names to be signed hereto by their proper officers thereunto duly authorized all as of the day and year first hereinabove written.

SELLER

SUTTON'S EXPLORATION & PRODUCTION COMPANY, LLC also known as
SUTTON EXPLORATION & PRODUCTION COMPANY, LLC, and as **SUTTON'S EXPLORATION & PRODUCTION CO. INC., LLC**.

By: 

Jeremy Sutton
Its: Sole Member

BUYER:

BERRY ENERGY, INC.

By: 

David B. Berry
Its: President

STATE OF WEST VIRGINIA,
COUNTY OF HARRISON, TO-WIT:

I, Diana Barnett, a notary public of said county, do certify that Jeremy Sutton, the Sole Member of Sutton's Exploration & Production Company, LLC, a West Virginia limited liability company, also known as Sutton Exploration & Production Company, LLC, and as Sutton's Exploration & Production Co. Inc., LLC, who signed the writing hereto annexed, bearing date as of the 9th day of February, 2012, has this day in my said county, before me, acknowledged the same to be the act and deed of said limited liability company.

Given under my hand this 9th day of February, 2012.

My commission expires: 11-17-2013


Notary Public

(NOTARIAL SEAL)



CL 5945571

STATE OF WEST VIRGINIA,
COUNTY OF HARRISON, TO-WIT:

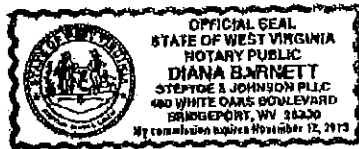
Diana Barnett, a notary public of said county, do certify that
David B. Berry, the President of Berry Energy, Inc., a West Virginia
corporation, who signed the writing hereto annexed, bearing date as of the 9th day of February, 2012, has
this day in my said county, before me, acknowledged the same to be the act and deed of said corporation.

Given under my hand this 9th day of February, 2012.

My commission expires: 11-17-2013

Diana Barnett
Notary Public

(NOTARIAL SEAL)



This instrument was prepared by:

Patrick D. Deem, Esquire
Step toe & Johnson PLLC
400 White Oaks Boulevard
Bridgeport, WV 26330

EXHIBIT A

Description of Leases

NOTE: Lessee is Sutton's Exploration & Production Company ("Sutton's")

	LEASE DATE	LESSOR	LESSEE	LEASE ACRES	DISTRICT	COUNTY/STATE	RECORDING BOOK/PAGE
1.	09/01/2005	Robert E. Hinter, et ux.	Sutton's	204.45	Troy Cove	Gilmer Co., WV Doddridge Co., WV	466/214 203/572
2.	09/02/2005	Bertha Byrd	Sutton's	204.45	Troy Cove	Gilmer Co., WV Doddridge Co., WV	466/212 203/570
3.	09/07/2005	Ann B. Ashley	Sutton's	205.45	Troy Cove	Gilmer Co., WV Doddridge Co., WV	466/216 203/574
4.	10/19/2005	Robert H. Brannon	Sutton's	204.45	Troy Cove	Gilmer Co., WV Doddridge Co., WV	466/196 204/595
5.	10/23/2005	Janet E. Lamp	Sutton's	204.45	Troy Cove	Gilmer Co., WV Doddridge Co., WV	466/202 204/601
6.	10/27/2005	Virginia Lamp	Sutton's	204.45	Troy Cove	Gilmer Co., WV Doddridge Co., WV	466/204 204/603
7.	10/22/2005	Lillian J. Stansberry	Sutton's	204.45	Troy Cove	Gilmer Co., WV Doddridge Co., WV	466/206 204/605
8.	11/01/2005	Charlotte Hamilton	Sutton's	204.45	Troy Cove	Gilmer Co., WV Doddridge Co., WV	466/200 204/599
9.	11/29/2005	Sutton's Exploration & Production Company	Sutton's	204.45	Troy Cove	Gilmer Co., WV Doddridge Co., WV	466/198 204/597
10.	03/20/2005	Robert C. Bland, et al.	Sutton's	21	New Milton	Doddridge Co., WV	200/295
11.	03/20/2005	Robert C. Bland, et al.	Sutton's	17.5	New Milton	Doddridge Co., WV	200/394
12.	09/23/2005	Garner D. Kelley	Sutton's	70	New Milton	Doddridge Co., WV	204/28
13.	09/26/2005	Dale Kelley	Sutton's	70	New Milton	Doddridge Co., WV	204/30
14.	03/03/2006	Vivian E. Burton, et al.	Sutton's	241	New Milton	Doddridge Co., WV	206/434
15.	05/30/2006	Richard Delaney	Sutton's	241	New Milton	Doddridge Co., WV	208/412
16.	05/30/2006	David P. Burton	Sutton's	241	New Milton	Doddridge Co., WV	208/410
17.	09/28/2010	Vivian E. Burton, et al.	Sutton's	241	New Milton	Doddridge Co., WV	260/70 (Ratification)
18.	03/20/2005	Frances S. Moody	Sutton's	121.5	Cove	Doddridge Co., WV	204/39
19.	03/20/2005	Susan A. Stark	Sutton's	121.5	Cove	Doddridge Co., WV	204/41
20.	09/19/2005	Virginia M. Grose	Sutton's	122	Cove	Doddridge Co., WV	204/37
21.	09/28/2005	Marie M. Cawley	Sutton's	122	Cove	Doddridge Co., WV	204/35
22.	09/21/2009	Samuel Farrow, Jr., et ux.	Sutton's	67	New Milton	Doddridge Co., WV	238/62
23.	07/18/2005	John F. Erwin, et ux.	Sutton's	104	New Milton	Doddridge Co., WV	203/263

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24.	07/18/2005	John F. Erwin, et ux.	Sutton's	200	New Milton	Doddridge Co., WV	203/261
25.	07/18/2005	John F. Erwin, et ux.	Sutton's	80	New Milton	Doddridge Co., WV	203/265
26.	07/23/2000	Smithburg Unit, Meth. Ch.	Carter Oil & Gas Inc.	120	Grant	Doddridge Co., WV	187/200
27.	07/18/1979	Granville A. Cayton, et ux.	Alton Skinner	36	Collins Settlement	Lewis Co., WV	379/16
28.	11/14/2005	Nancy Thorson	Jeff Davis	29	Freemans Creek	Lewis Co., WV	603/526
29.	11/14/2005	Patty Bode Williams	Jeff Davis	29	Freemans Creek	Lewis Co., WV	603/528
30.	11/14/2005	Leathy Conaty, et ux.	Jeff Davis	29	Freemans Creek	Lewis Co., WV	603/530
31.	03/20/2005	Robert C. Bland, et. al.	Sutton's	17.5 & 21 (38)	New Milton	Doddridge Co., WV	200/394 200/295
32.	03/20/2006	Betty Woofler	Sutton's	25.22	Freeman's Creek	Lewis Co., WV	605/340
33.	10/30/2005	Wetzel Malcomb	Sutton's	75	Collins Settlement	Lewis Co, WV	605/330
34.	10/06/2005	Sherry Wertz	Sutton's	75	Collins Settlement	Lewis Co, WV	605/332
35.	10/03/2005	Tom Malcomb	Sutton's	75	Collins Settlement	Lewis Co, WV	605/338
36.	09/08/2005	Frances L. Justice, et al.	Sutton's	75	Collins Settlement	Lewis Co, WV	605/336
37.	10/05/2005	Glenna K. Myers	Sutton's	75	Collins Settlement	Lewis Co, WV	605/324
38.	10/06/2005	Billy G. Malcomb, et ux.	Sutton's	75	Collins Settlement	Lewis Co, WV	605/326
39.	11/01/2005	Wilburn C. Malcomb	Sutton's	75	Collins Settlement	Lewis Co, WV	605/328
40.	10/04/2005	Carol Bottomly	Sutton's	75	Collins Settlement	Lewis Co, WV	605/334
41.	09/15/2004	Tammie B. Richey	Jeremy Sutton	1.125	Freeman's Creek	Lewis Co., WV	594/152
42.	09/15/2004	Thomas O. Brown, II.	Jeremy Sutton	1.125	Freeman's Creek	Lewis Co., WV	594/156
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CL 5945571

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51.	09/15/2004	Elaine Brown-Erlandson	Jeremy Sutton	1.125	Freeman's Creek	Lewis Co., WV	594/193
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53.	05/23/1963	M. F. Bode, et al.	Cecil Meadows	107	Cove	Doddridge Co, WV	80/201

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3.	Wanstreet	01703595	Doddridge Co., WV	0.5000000	
4.	R.H. Kelley #2	47-17-04465	Doddridge Co., WV	0.5000000	
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15.	Cawley #2	47-17-05341	Doddridge Co., WV	0.1884107	
16.	Methodist Church #1	01705430	Doddridge Co., WV	0.0962840	
17.	Erwin #2	47-17-05464	Doddridge Co., WV	0.1400000	
18.	Hiner #2	47-17-05649	Doddridge Co., WV	0.4597030	
19.	John Erwin #3	47-17-05752	Doddridge Co., WV	0.0100000	
20.	John Erwin #4	47-17-05753	Doddridge Co., WV	0.0100000	
21.	Erwin #3	47-17-05754	Doddridge Co., WV	0.0100000	
22.	Farrow #1	47-17-05886	Doddridge Co., WV	0.2500000	
23.	Ashley #1	47-17-05426	Gilmer Co., WV	0.2715092	
24.	Ashley #4	02105464	Gilmer Co., WV	0.1984107	
25.	Cayton #2	04102752	Lewis Co., WV	0.5000000	
26.	Sutton #1	04104918	Lewis Co., WV	0.5453000	
27.	Woofler 1A	04105115	Lewis Co., WV	0.1075000	
28.	Thorson #1	04105116	Lewis Co., WV	0.1075000	
29.	Thorson #2	04105117	Lewis Co., WV	0.1075000	
30.	Malcomb #1	04105276	Lewis Co., WV	0.0698400	
31.	Bode #1	47-17-01052	Doddridge Co., WV	0.8100000	

EXHIBIT C

NONE

CL 5945571

EXHIBIT D

**THE PERMIT NOS. ARE THE SAME AS THE API NOS.
SHOWN ON THE ATTACHED EXHIBIT B.**

Deon Dutcher
GILMER County 11:51:49 AM
Instrument No 5000
Date Recorded 02/10/2012
Document Type AS
Pages Recorded 11
Book Page 504-449
Recording Fee \$11.00
Additional \$7.00

BERRY ENERGY, INC.
310 STILES ST. PO BOX 5
CLARKSBURG, WV 26302-0005

THIS QUITCLAIM DEED, made this 9th day of February, 2012, by and between **SUTTON'S EXPLORATION & PRODUCTION COMPANY, LLC**, a West Virginia limited liability company, party of the first part, and **BERRY ENERGY, INC.**, a West Virginia corporation, party of the second part;

WITNESSETH that for and in consideration of the sum of Ten and 00/100 Dollars (\$10.00) cash in hand paid by the party of the second part to the party of the first part, the receipt of which is hereby acknowledged, the said party of the first part hereby grants, remises and quitclaims unto the party of the second part, all of its right, title and interest in and to any and all surface interests, rights and privileges, and any and all minerals and mineral interests, rights and privileges with respect to all minerals upon, within and underlying, or appurtenant to a tract of land containing 123.31 acres situate in Troy District, Gilmer County, West Virginia; including, without limitation, all minerals and oil and gas within and underlying the property conveyed herein, all free gas rights, any and all rights to receive bonuses, rentals, and royalties and all other payments of any kind or character whatsoever, any and all rights of way, easements or licenses of any kind or character whatsoever, and all other surface and subsurface property or contractual rights of any kind or character whatsoever in any manner related to the exploration for, development, drilling, mining, production, extraction, injection, storage, removal or surface or subsurface transportation of minerals upon, over, across, through, under or otherwise appurtenant to or associated with all of the property interests conveyed by this deed.

Said oil, gas, coal, and minerals interests are situate in, on and under that certain tract of land containing 123.31 acres, more particularly described as Map 2, Parcel 09, Troy District, Gilmer County, West Virginia.

It is the express intent of the party of the first part, for the consideration aforesaid, to convey to the party of the second part by this deed any and all right, title and interest, of whatever kind, nature, character or quantity whatsoever, to all property or property interests with respect to the property described herein, even though the complete or full interest of the party of the first part in and to said property or property interests may not be fully and adequately described (or described at all) in this deed.

The interest hereby conveyed was conveyed unto Sutton's Exploration & Production Company, LLC by Josephine L. Voorhees, by quitclaim deed dated November 14, 2005 and of record in the Office of the Clerk of the County Commission of Gilmer County, West Virginia in Deed Book No. 467, at page 80.

The undersigned party of the first part hereby declares that this is a Quitclaim Deed and that the total consideration paid for said oil, gas, coal, and mineral interests is less than \$100.00.

IN WITNESS WHEREOF the party of the first part has caused its name to be signed hereto by its proper officer thereunto duly authorized all as of the day and year first hereinabove written.

SUTTON'S EXPLORATION & PRODUCTION
COMPANY, LLC

By: 

Its: Sole Member

STATE OF WEST VIRGINIA,

COUNTY OF HARRISON, TO-WIT:

I, WAYNE W. HAMLIN, a notary public of said county, do certify that Jeremy Sutton, the sole member of SUTTON'S EXPLORATION & PRODUCTION COMPANY, LLC, a West Virginia limited liability company, who signed the writing hereto annexed, bearing date as of the 9th day of February, 2012, has this day in my said county, before me, acknowledged the same to be the act and deed of said limited liability company.

Given under my hand this 9th day of FEBRUARY, 2012.

My commission expires:

10-10-2016

(NOTARIAL SEAL)

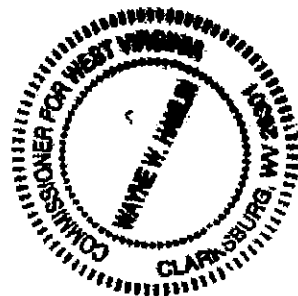
Wayne W. Hamlin

Notary Public

This instrument was prepared by:

Cole T. DeLancey, Esquire
Steptoe & Johnson PLLC
400 White Oaks Boulevard
Bridgeport, WV 26330

CL5936643



Jean Butcher
HARRISON County 11:33:39 AM
Instrument No 5001
Date Recorded 02/10/2012
Document Type DE
Pages Recorded 3
Book-Page 505-592
Recording Fee \$11.00
Additional \$5.00

Assignment, Conveyance and Bill of Sale

This Assignment, Conveyance and Bill of Sale is made this 9th day of February, 2012, the Closing and Effective Date, SUTTON'S EXPLORATION & PRODUCTION COMPANY, LLC, a West Virginia limited liability company, also known as SUTTON EXPLORATION & PRODUCTION COMPANY, LLC, and as SUTTON'S EXPLORATION & PRODUCTION CO. INC., LLC, having a principal office at Rt. 2 Box 118, West Union, West Virginia, party of the first part, hereinafter referred to as, "Seller" and BERRY ENERGY, INC., a West Virginia corporation, having a principal office at 310 Stiles Street, Clarksburg, West Virginia, party of the second part, hereinafter referred to as, "Buyer".

WHEREAS, Seller is now the owner of certain undivided interests ("Seller's Interests") in, to and under the following (the "Assets"):

(a) Leaseholds. All of Seller's right, title and interest in and to all oil and gas leaseholds, oil, gas and other minerals, including working interests, carried working interests, rights of assignment and reassignment, net revenue interests, record title interests, undeveloped locations and all other interests under or in oil, gas or mineral leases, and interests in rights to explore for and produce oil, gas or other minerals which are described on Exhibit A attached hereto and made a part hereof (the "Leases");

(b) Rights in Production. All of Seller's right, title and interest in and to all reversionary interests, backin interests, overriding royalties, production payments, net profits interests, mineral and royalty interests in production of oil, gas or other minerals relating to the Leases;

(c) Wells. All of Seller's right, title and interest in and to producing, non-producing and shut-in oil and gas wells located on the Leases and identified and described on Exhibit B attached hereto and made a part hereof (collectively, the "Wells");

(d) Contract Rights. All of Seller's right, title and interest in or derived from unit agreements, orders and decisions of regulatory authorities establishing or relating to units, unit operating agreements, drilling units, spacing units, operating agreements (including without limitation any rights to act as Operator under an operating agreement), gas purchase agreements, oil purchase agreements, gathering agreements, transportation agreements, compression agreements, processing or treating agreements, farmout agreements and farmin agreements, including without limitation those agreements listed or identified on Exhibit C attached to this Agreement, and any other agreements that relate to any of the Leases or Wells described in Exhibits A or B (collectively, the "Contracts");

(e) Easements. All of Seller's right, title and interest in and to all rights-of-way, licenses and servitudes appurtenant to or used in connection with the property covered by the Leases or Wells (collectively, the "Easements");

(f) Permits. All of Seller's right, title and interest in and to all permits, authorizations, approvals, consents and licenses of any nature owned, held or operated in connection with operations for the exploration and production of oil, gas or other minerals to the extent the same are used or obtained in connection with any of the Leases, Contracts, Easements or Wells, including without limitation those permits, authorizations, approvals, consents and licenses identified or referred to on Exhibit D attached to this Agreement (collectively, the "Permits");

(g) Equipment. All of Seller's right, title and interest in and to all personal property, surface equipment, down-hole equipment and pipelines used in connection with the Leases, Easements, Wells or Permits, including without limitation all well and gathering lines, meters, compressors and dehydration units (collectively, the "Equipment"); provided however, Equipment does not include any underground storage tanks unless such tanks are expressly identified or referred to on Exhibit B attached hereto;

(h) Hydrocarbons. All oil, gas, casinghead gas, condensate, distillate, liquid hydrocarbons, gaseous hydrocarbons and all other products refined or extracted therefrom, together with all minerals produced in association with these substances (collectively, the "Hydrocarbons") in and under and which may be produced and saved from or attributable to the Leases or Wells for which payment is made by the purchaser thereof from and after the Effective Time and all rents, issues, profits, proceeds, products, revenues and other income from or attributable thereto;

(i) Data. All existing Lease, Well and title files, production records, geologic and geophysical data (to the extent assignable), engineering studies and information, maps, charts, division orders and other information relating to the Assets (collectively "Data");

(j) Escrow Accounts. The balances in the Escrow Accounts described on Exhibit F attached hereto and made a part hereof maintained by Seller in connection with the operation of the Wells; and

(k) Retained Overriding Royalty Interest. The Seller excepts and reserves from this assignment an undivided one-thirty second ($1/32^{nd}$) of seven-eighths ($7/8^{th}$) overriding royalty interest ("Overriding Royalty Interest") in the production of any oil and gas from any wells hereafter drilled on the properties covered by the Leases. This Overriding Royalty Interest does not apply to the Wells, but only to any future well drilled pursuant to the Leases.

(l) Remaining Interests. All other rights and interests in, to or under or derived from the Assets, even though the same may be improperly described in or omitted from the Exhibits hereto. It is the express intent of the parties hereto that all of Seller's right, title and

interest in the oil and gas properties described on Exhibits A or B be assigned to Buyer hereunder, except that Seller retains its interest in the Retained Overriding Royalty Interest.

WHEREAS, Seller desires to assign, convey and deliver to Buyers and Buyer desires to accept all of Seller's interests in the Assets; and

WHEREAS, as consideration for this Assignment, Buyer has paid Seller the sum of One Hundred and 00/100 Dollars (\$100.00) plus other valuable and sufficient benefits, the receipt of which is acknowledged by Seller.

NOW, THEREFORE, except as provided below, Seller hereby grants, bargains, sells, transfers, assigns and conveys to Buyer all of Seller's right, title and interest in, to and under the Assets, except Seller excepts and reserves its Overriding Royalty Interest, as defined hereinabove.

TO HAVE AND TO HOLD the Assets unto Buyer, its successors and assigns, forever.

The provisions of this Assignment, Conveyance and Bill of Sale shall be construed as covenants running with the Leases and shall be binding upon Buyer, its successors and assigns. Buyer specifically assumes all obligations to properly plug, abandon and remediate all Wells comprising the Assets and shall indemnify and hold harmless Seller from any and all such costs and obligations.

It is understood and agreed between the parties that the execution of additional assignments of certain individual Leases herein described, may be required on approved governmental forms to facilitate approval of this transaction by governmental agencies; Seller hereby agrees to execute and furnish to Buyer such documents, and such further assurances, as may be necessary to effectuate all of the terms of this Assignment.

Seller hereby executes, and delivers this Assignment, Conveyance and Bill of Sale pursuant to that certain Asset Purchase and Sale Agreement dated February 9, 2012 (The "Purchase Agreement"), among Seller and Buyer. The representations and warranties of the parties concerning the Assets set forth in the Purchase Agreement are incorporated into this Assignment, Conveyance and Bill of Sale by reference.

Notwithstanding the date of this Assignment, Conveyance and Bill of Sale the parties intend that the sale, conveyance, assignment and transfer of the Assets is effective for all purposes at closing on the 9th day of February, 2012.

IN WITNESS WHEREOF the parties hereto have caused their names to be signed hereto by their proper officers thereunto duly authorized all as of the day and year first hereinabove written.

SELLER

SUTTON'S EXPLORATION & PRODUCTION COMPANY, LLC also known as SUTTON EXPLORATION & PRODUCTION COMPANY, LLC, and as SUTTON'S EXPLORATION & PRODUCTION CO. INC., LLC.

By: [Signature]
Jeremy Sutton
Its: Sole Member

BUYER:

BERRY ENERGY, INC.

By: [Signature]
David B. Berry
Its: President

STATE OF WEST VIRGINIA,
COUNTY OF HARRISON, TO-WIT:

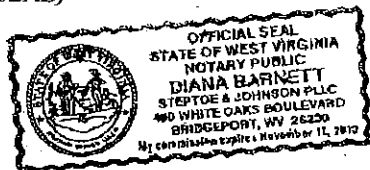
I, Diana Barnett, a notary public of said county, do certify that Jeremy Sutton, the Sole member of Sutton's Exploration & Production Company, LLC, a West Virginia limited liability company, also known as Sutton Exploration & Production Company, LLC, and as Sutton's Exploration & Production Co. Inc., LLC, who signed the writing hereto annexed, bearing date as of the 9th day of February, 2012, has this day in my said county, before me, acknowledged the same to be the act and deed of said limited liability company.

Given under my hand this 9th day of February, 2012.

My commission expires: 11-17-2013

[Signature]
Notary Public

(NOTARIAL SEAL)



STATE OF WEST VIRGINIA,
COUNTY OF HARRISON, TO-WIT:

I, Diana Barnett, a notary public of said county, do certify that David B. Berry, the President of Berry Energy, Inc., a West Virginia corporation, who signed the writing hereto annexed, bearing date as of the 9th day of February, 2012, has this day in my said county, before me, acknowledged the same to be the act and deed of said corporation.

Given under my hand this 9th day of February, 2012.

My commission expires: 11-17-2013

Diana Barnett
Notary Public

(NOTARIAL SEAL)



This instrument was prepared by:

Patrick D. Deem, Esquire
Steptoe & Johnson PLLC
400 White Oaks Boulevard
Bridgeport, WV 26330

EXHIBIT A

Description of Leases

NOTE: Lessee is Sutton's Exploration & Production Company ("Sutton's")

	LEASE DATE	LESSOR	LESSEE	LEASE ACRES	DISTRICT	COUNTY/STATE	RECORDING BOOK/PAGE
1.	09/01/2005	Robert E. Hinter, et ux.	Sutton's	204.45	Troy Cove	Gilmer Co., WV Doddridge Co., WV	466/214 203/572
2.	09/02/2005	Bertha Byrd	Sutton's	204.45	Troy Cove	Gilmer Co., WV Doddridge Co., WV	466/212 203/570
3.	09/07/2005	Ann B. Ashley	Sutton's	205.45	Troy Cove	Gilmer Co., WV Doddridge Co., WV	466/216 203/574
4.	10/19/2005	Robert H. Brannon	Sutton's	204.45	Troy Cove	Gilmer Co., WV Doddridge Co., WV	466/196 204/595
5.	10/23/2005	Janet E. Lamp	Sutton's	204.45	Troy Cove	Gilmer Co., WV Doddridge Co., WV	466/202 204/601
6.	10/27/2005	Virginia Lamp	Sutton's	204.45	Troy Cove	Gilmer Co., WV Doddridge Co., WV	466/204 204/603
7.	10/22/2005	Lillian J. Stansberry	Sutton's	204.45	Troy Cove	Gilmer Co., WV Doddridge Co., WV	466/206 204/605
8.	11/01/2005	Charlotte Hamilton	Sutton's	204.45	Troy Cove	Gilmer Co., WV Doddridge Co., WV	466/200 204/599
9.	11/29/2005	Sutton's Exploration & Production Company	Sutton's	204.45	Troy Cove	Gilmer Co., WV Doddridge Co., WV	466/198 204/597
10.	03/20/2005	Robert C. Bland, et al.	Sutton's	21	New Milton	Doddridge Co., WV	200/295
11.	03/20/2005	Robert C. Bland, et al.	Sutton's	17.5	New Milton	Doddridge Co., WV	200/394
12.	09/23/2005	Garner D. Kelley	Sutton's	70	New Milton	Doddridge Co., WV	204/28
13.	09/26/2005	Dale Kelley	Sutton's	70	New Milton	Doddridge Co., WV	204/30
14.	03/03/2006	Vivian E. Burton, et al.	Sutton's	241	New Milton	Doddridge Co., WV	206/434
15.	05/30/2006	Richard Delaney	Sutton's	241	New Milton	Doddridge Co., WV	208/412
16.	05/30/2006	David P. Burton	Sutton's	241	New Milton	Doddridge Co., WV	208/410
17.	09/28/2010	Vivian E. Burton, et al.	Sutton's	241	New Milton	Doddridge Co., WV	260/70 (Ratification)
18.	03/20/2005	Frances S. Moody	Sutton's	121.5	Cove	Doddridge Co., WV	204/39
19.	03/20/2005	Susan A. Stark	Sutton's	121.5	Cove	Doddridge Co., WV	204/41
20.	09/19/2005	Virginia M. Grose	Sutton's	122	Cove	Doddridge Co., WV	204/37
21.	09/28/2005	Marie M. Cawley	Sutton's	122	Cove	Doddridge Co., WV	204/35
22.	09/21/2009	Samuel Farrow, Jr., et ux.	Sutton's	67	New Milton	Doddridge Co., WV	238/62
23.	07/18/2005	John F. Erwin, et ux.	Sutton's	104	New Milton	Doddridge Co., WV	203/263

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24.	07/18/2005	John F. Erwin, et ux.	Sutton's	200	New Milton	Doddridge Co., WV	203/261
25.	07/18/2005	John F. Erwin, et ux.	Sutton's	80	New Milton	Doddridge Co., WV	203/265
26.	07/23/2000	Smithburg Unit. Meth. Ch.	Carter Oil & Gas Inc.	120	Grant	Doddridge Co., WV	187/200
27.	07/18/1979	Granville A. Cayton, et ux.	Alton Skinner	36	Collins Settlement	Lewis Co., WV	379/16
28.	11/14/2005	Nancy Thorson	Jeff Davis	29	Freemans Creek	Lewis Co., WV	603/526
29.	11/14/2005	Patty Bode Williams	Jeff Davis	29	Freemans Creek	Lewis Co., WV	603/528
30.	11/14/2005	Leathy Conaty, et ux.	Jeff Davis	29	Freemans Creek	Lewis Co., WV	603/530
31.	03/20/2005	Robert C. Bland, et. al.	Sutton's	17.5 & 21 (38)	New Milton	Doddridge Co., WV	200/394 200/295
32.	03/20/2006	Betty Woofler	Sutton's	25.22	Freeman's Creek	Lewis Co., WV	605/340
33.	10/30/2005	Wetzel Malcomb	Sutton's	75	Collins Settlement	Lewis Co, WV	605/330
34.	10/06/2005	Sherry Wertz	Sutton's	75	Collins Settlement	Lewis Co, WV	605/332
35.	10/03/2005	Tom Malcomb	Sutton's	75	Collins Settlement	Lewis Co, WV	605/338
36.	09/08/2005	Frances L. Justice, et al.	Sutton's	75	Collins Settlement	Lewis Co, WV	605/336
37.	10/05/2005	Glenna K. Myers	Sutton's	75	Collins Settlement	Lewis Co, WV	605/324
38.	10/06/2005	Billy G. Malcomb, et ux.	Sutton's	75	Collins Settlement	Lewis Co, WV	605/326
39.	11/01/2005	Wilburn C. Malcomb	Sutton's	75	Collins Settlement	Lewis Co, WV	605/328
40.	10/04/2005	Carol Bottomly	Sutton's	75	Collins Settlement	Lewis Co, WV	605/334
41.	09/15/2004	Tammie B. Richey	Jeremy Sutton	1.125	Freeman's Creek	Lewis Co., WV	594/152
42.	09/15/2004	Thomas O. Brown, II.	Jeremy Sutton	1.125	Freeman's Creek	Lewis Co., WV	594/156
43.	09/15/2004	Timothy C. Brown	Jeremy Sutton	1.125	Freeman's Creek	Lewis Co., WV	594/160
44.	09/15/2004	Torrie Awtrey	Jeremy Sutton	1.125	Freeman's Creek	Lewis Co., WV	594/164
45.	09/15/2004	Virginia Bush McCutchan Trust	Jeremy Sutton	1.125	Freeman's Creek	Lewis Co., WV	594/168
46.	09/15/2004	James R. Jenkins	Jeremy Sutton	1.125	Freeman's Creek	Lewis Co., WV	594/172
47.	09/15/2004	Brent Jenkins	Jeremy Sutton	1.125	Freeman's Creek	Lewis Co., WV	594/176
48.	09/15/2004	Tamara J. Fay	Jeremy	1.125	Freeman's	Lewis Co., WV	594/180

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			Sutton		Creek		
49.	09/15/2004	Carrie Crowell	Jeremy Sutton	1.125	Freeman's Creek	Lewis Co., WV	594/184
50.	09/15/2004	Jill Ray Stone	Jeremy Sutton	1.125	Freeman's Creek	Lewis Co., WV	594/188
51.	09/15/2004	Elaine Brown-Erlandson	Jeremy Sutton	1.125	Freeman's Creek	Lewis Co., WV	594/193
52.	09/15/2004	Wanda B. Coffindaffer	Jeremy Sutton	1.125	Freeman's Creek	Lewis Co., WV	594/197
53.	05/23/1963	M. F. Bode, et al.	Cecil Meadows	107	Cove	Doddridge Co, WV	80/201

EXHIBIT B

Description of Wells, Working Interest and Net Revenue Interest.

	WELL NAME AND NO.	API NO.	COUNTY, STATE	WORKING INTEREST	NET REVENUE INTEREST
1.	Frank Hinter #1	47-17-01076	Doddridge Co., WV	1.0000000	
2.	Staarman 2936	01703560	Doddridge Co., WV	0.5000000	
3.	Wanstreet	01703595	Doddridge Co., WV	0.5000000	
4.	R.E. Kelley #2	47-17-04465	Doddridge Co., WV	0.5000000	
5.	Colt #1	47-17-05094	Doddridge Co., WV	0.2715092	
6.	Colt #2	47-17-05095	Doddridge Co., WV	0.2715092	
7.	Cawley #1	47-17-05125	Doddridge Co., WV	0.2715092	
8.	Ashley #3	01705126	Doddridge Co., WV	0.2715092	
9.	Kelley #1	47-17-05223	Doddridge Co., WV	0.1075000	
10.	Colt #4	47-17-05224	Doddridge Co., WV	0.1075000	
11.	John Erwin #1	47-17-05225	Doddridge Co., WV	0.1075000	
12.	John Erwin #2	47-17-05226	Doddridge Co., WV	0.1075000	
13.	Erwin #1	47-17-05227	Doddridge Co., WV	0.1075000	
14.	Hinter 1A	47-17-05275	Doddridge Co., WV	0.1075000	
15.	Cawley #2	47-17-05341	Doddridge Co., WV	0.1884107	
16.	Methodist Church #1	01705430	Doddridge Co., WV	0.0962840	
17.	Erwin #2	47-17-05464	Doddridge Co., WV	0.1400000	
18.	Hinter #2	47-17-05649	Doddridge Co., WV	0.4597030	
19.	John Erwin #3	47-17-05752	Doddridge Co., WV	0.0100000	
20.	John Erwin #4	47-17-05753	Doddridge Co., WV	0.0100000	
21.	Erwin #3	47-17-05754	Doddridge Co., WV	0.0100000	
22.	Farrow #1	47-17-05886	Doddridge Co., WV	0.2500000	
23.	Ashley #1	47-17-05426	Gilmer Co., WV	0.2715092	
24.	Ashley #4	02105464	Gilmer Co., WV	0.1984107	
25.	Cayton #2	04102752	Lewis Co., WV	0.5000000	
26.	Sutton #1	04104918	Lewis Co., WV	0.5453000	
27.	Woofter 1A	04105115	Lewis Co., WV	0.1075000	
28.	Thorson #1	04105116	Lewis Co., WV	0.1075000	
29.	Thorson #2	04105117	Lewis Co., WV	0.1075000	
30.	Malcomb #1	04105276	Lewis Co., WV	0.0698400	
31.	Bode #1	47-17-01052	Doddridge Co., WV	0.8100000	

BOOK 263 PAGE 312

EXHIBIT C

NONE

CL 5945571

263 313

EXHIBIT D

**THE PERMIT NOS. ARE THE SAME AS THE API NOS.
SHOWN ON THE ATTACHED EXHIBIT B.**

BERRY ENERGY, INC
310 STILES STREET
CLARKSBURG, WV 26301-2252

Beth A Rogers
DODDRIDGE County 03:24:58 PM
Instrument No 160161
Date Recorded 02/10/2012
Document Type ASGMT/U
Pages Recorded 11
Book-Page 263-303
Recording Fee \$11.00
Additional \$7.00

Exhibit B

Sutton's Exploration & Production Company, LLC
RR 2 Box 118
West Union, WV 26456
304-782-1136 phone/fax

May 18, 2012

Riley Natural Gas
Attn: Hunter
P.O. Box 430
Bridgeport, WV 26330

Berry Energy, Inc. has purchased production from Sutton's Exploration & Production Company, LLC. With this purchase Berry will be taken over the Gateway Firm from the following meters:

<u>Mid Number</u>	<u>Gateway Volumes/Day</u>
3714201	42
4411701	2
3605201	43
3610001	130
3772101	0
3731701	106
4388401	32


Jeremy Sutton, Sole Member
Sutton's Exploration & Production Co., LLC

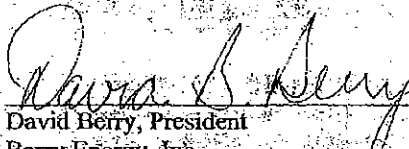

David Berry, President
Berry Energy, Inc.

Exhibit C



RILEY NATURAL GAS COMPANY

BERRY ENERGY
310 STILES STREET
CLARKSBURG, WV 26301

Mar 01, 2012

This letter agreement and the Exhibits that are attached hereto and hereby incorporated herein (collectively "Agreement") evidence the agreement of BERRY ENERGY ("Seller"), and Riley Natural Gas Company ("Purchaser"), whereby Purchaser agrees to purchase and receive, and Seller agrees to sell and deliver to Purchaser, natural gas ("Gas") in accordance with the terms and conditions set forth herein and in a transaction specific term sheet ("Term Sheet") that has been executed by each party hereto, such Term Sheet to be in substantially the form set forth in Exhibit A. With respect to any particular transaction, the Agreement consists of this letter agreement and its Exhibits and the applicable executed Term Sheet.

1. Quantity

Commencing on the first day of the Primary Term as set forth in the applicable Term Sheet and daily throughout the term of this Agreement, Seller shall deliver and sell, and Purchaser shall receive and purchase, such Quantity of Gas as set forth in the applicable Term Sheet.

2. Price

Seller and Purchaser agree to the Price at the Delivery Point(s) as set forth in the applicable Term Sheet, as such Price may be amended from time to time by mutual agreement of the parties or otherwise amended as set forth in this Agreement or the Term Sheet. Seller shall be responsible and liable for all charges of any kind upstream of the Delivery Point(s) including without limitation any gathering and extraction charges or deductions for retainage, fuel or shrink. In addition, charges downstream of any Delivery Point(s) shall be borne as follows:

(a) for any Delivery Point(s) not into DTT's Appalachia Gateway Project facilities, Purchaser shall be responsible and liable for payment of all charges that are downstream of such Delivery Point(s); and

(b) for any Delivery Point(s) into DTT's Appalachia Gateway Project facilities, the terms set forth on Exhibit B, "ADDITIONAL TERMS FOR ANY DELIVERY POINT(S) INTO DTT'S APPALACHIA GATEWAY PROJECT FACILITIES" shall also apply.

Purchaser reserves the right to make periodic price adjustments to correct for payment differentials attributed to significant fluctuations in estimated versus actual production. These adjustments will be made in an effort to make each Gas payment to the Seller applicable to the month during which the Gas was actually sold; provided, however, that Purchaser shall not be liable for any failure to achieve this goal. Purchaser will attempt to absorb variances of up to ten percent (10%) of the most recent actual production number. However, Seller recognizes and agrees that Purchaser cannot incur losses attributed to production variation.

3. Term

The Primary Term of this Agreement shall be as set forth in the Term Sheet, and shall thereafter continue in effect from month to month unless terminated by either party by written notice to the other party at least thirty (30) calendar days prior to the expiration of the Primary Term or any extension thereof or as otherwise set forth in this Agreement. The parties recognize that sale and deliveries of Seller's Gas hereunder will be dependent on volumes accepted by various buyers that purchase Gas from Purchaser during any particular month. Accordingly, it is agreed that Purchaser shall have the right to determine in its sole discretion at various times during this Agreement that a price revision is necessary for the sale of such Gas to remain competitive in the market. If Purchaser shall so determine, Purchaser shall promptly provide Seller telephonic notice of the revised Price which Purchaser believes is required to meet the existing market condition and Purchaser shall provide written notice to Seller no later than five (5) calendar days after such telephonic notice. Not later than five (5) calendar days after Seller's receipt of Purchaser's written notice, Seller shall notify Purchaser in writing

7. Fixed Price Contracts

Sellers not delivering into DTL's Appalachian Gateway Project facilities will not be eligible to enter into fixed price contracts due to possible curtailment of Seller's monthly volumes by DTL.

Seller may request to enter into fixed price contracts ("Fixed Price Contracts") for a portion of Seller's monthly volumes. At the same time and in reliance upon Seller's commitment to enter into said Fixed Price Contracts Purchaser may enter into an offsetting contract with third parties for the same volumes and period ("Other Contracts"). In the event Purchaser enters into Other Contracts and if for any reason whatsoever whether through fault of Seller or otherwise the volume requirements in such Other Contracts are not satisfied, and as a result the Purchaser suffers any loss under the Other Contracts including costs to buy or secure replacement Gas then Seller shall remit to Purchaser payment for such losses or Purchaser in its sole discretion may deduct or set-off any such losses from any amounts owed to Seller as set forth in Paragraph 6. Notwithstanding any provisions of this Agreement including Paragraph 9 to the contrary, in no event whatsoever shall Seller be relieved from its obligations to make payments for any of the aforementioned losses under the Other Contracts irrespective of the cause or contingency of such losses and any such failure to make payments shall be a breach under this Agreement.

8. Warranty of Title

Seller warrants generally its title to all Gas delivered by it, and further represents that it has the right to sell the same, and that such Gas is free from liens and adverse claims of every kind. Seller shall pay or cause to be paid all taxes and other sums due on the gathering and handling of the Gas delivered by Seller. Seller shall indemnify and save Purchaser harmless from and against all suits, actions, damages, costs and expenses arising from or out of any breach of this Paragraph.

9. Force Majeure

Except as otherwise set forth in this Agreement, in case either party to this Agreement fails to perform any obligation hereunder assumed by it and such failure is caused by acts of God or a public enemy, strikes, riots, injunctions or other interference through legal proceedings, earthquakes, storms, or the compliance with any statute, either State or Federal, or with any order of the Federal Government or any branch thereof, or of the Government of the State wherein the subject premises are situated, such failure shall not be deemed to be a violation by such party of its obligations hereunder. The party claiming such suspension shall give timely notice to the other and shall use due diligence to again put itself in position to carry out all of the obligations which it has assumed by the terms of this Agreement. Notwithstanding the foregoing, any of the aforementioned causes or contingencies affecting the performance hereunder of a party hereto, however, shall in no event relieve said party of liability to make any payments due hereunder or shall not relieve said party of liability in the event of its concurrent negligence or in the event of its failure to use due diligence to remedy the situation and to remove the cause in an adequate manner and with all reasonable dispatch.

10. Assignment

This Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective representatives, successors, and assigns; but this Agreement and the right to and obligations hereunder shall not be assignable by either party hereto to any other person without the written consent of the other party. Such consent shall not be unreasonably withheld or delayed.

11. Governing Law

This Agreement shall be governed by the laws of the State of West Virginia.

12. Imbalances

If Purchaser incurs any fees, penalties, costs, charges, or losses (in cash or in kind) for failure to satisfy balance or nomination requirements ("Imbalance Charges") then Seller shall be liable for and remit to Purchaser such Imbalance Charges or Purchaser in its sole discretion may deduct or set-off any such Imbalance Charges from any amounts or payments owed to Purchaser as set forth in Paragraph 6. Notwithstanding anything in this Agreement to the contrary including Paragraph 9, in no event shall Seller be relieved from its obligations to make payments for Imbalance Charges irrespective of the cause or contingency of Seller's failure to perform and any such failure to make payments shall be a breach under this Agreement.

that Seller accepts Purchaser's revised Price or Seller requests that this Agreement be terminated and if so requested, such termination shall be effective on the last day of the third calendar month following the month that Purchaser received Seller's written notice; provided, however, the revised Price shall be applicable to all deliveries made to the Delivery Point(s) after the date of Seller's notice of its request to terminate until its effective date of termination and in the event Purchaser further revises such Price prior to such effective date of termination, the parties shall utilize the procedures as set forth in this Paragraph for any such further Price revisions. Notwithstanding anything to the contrary, in the event that Seller fails to provide to Purchaser timely written notice of either Seller's acceptance of such revised Price or Seller's request to terminate, Seller shall be deemed to have accepted such revised Price and Seller shall not be able to request this Agreement be terminated.

4. Delivery Point(s)

The point of sale and Delivery Point(s) shall be the Meter(s) as set forth in the applicable Term Sheet. Title to the Gas shall pass to and vest in Purchaser at the point of sale. As between the parties hereto, Seller shall be deemed to be in exclusive control and possession of Seller's Gas and shall be responsible for and indemnify Purchaser with respect to any losses, injuries, claims, liabilities or damages caused thereby until the same shall have been delivered to Purchaser at the point of sale and Delivery Point(s) referenced in this Paragraph 4, after which Delivery Point(s) Purchaser shall be deemed to be in exclusive control and possession thereof and shall be responsible for and indemnify Seller with respect to any losses, injuries, claims, liabilities or damages caused thereby.

5. Quality, Measurement, and Transportation

Seller and Purchaser acknowledge and agree that third party pipelines ("Pipeline Transporter(s)") are utilized by Purchaser and that each Pipeline Transporter(s)'s rules, guidelines and policies, as may be changed from time to time, shall define and set forth, among other things, the units of measurement, measurement specifications, quality, heating value, testing specifications, required delivery pressure and specifications of Seller's Gas to be delivered to Purchaser pursuant hereto. All such definitions, specifications, procedures and terms and all other terms and provisions of each Pipeline's Transporter(s) related to the delivery of Gas are hereby expressly incorporated herein by reference, and this Agreement shall be subject thereto.

6. Billing and Payment

Purchaser shall submit to Seller, a statement showing the amount of Seller's Gas delivered at each Delivery Point(s) as confirmed by Pipeline Transporter(s) and including any adjustments made by Pipeline Transporter(s) and any known Imbalance Charges or any other amounts or payments owed by Seller to Purchaser. Such statement together with a check in the amount due will be rendered ten (10) calendar days after receipt of Pipeline Transporter(s) Gas Measurement detail statement or the fifteenth (15th) day of the month, whichever is later. Notwithstanding anything herein to the contrary, Purchaser may in its discretion and without notice to Seller and at any time, aggregate and/or set-off any amounts or payments owed by Seller to Purchaser for any reason including without limitation Imbalance Charges or Other Contract losses (as defined in this Agreement) against any amounts payable to Seller under this Agreement or any other agreement or arrangement between the parties or against any collateral or margin held by Purchaser for Seller; provided, however, if at any time any amounts or payments owed to Purchaser by Seller including without limitation any Imbalance Charges or Other Contract losses are unascertained, then Purchaser may in good faith estimate such and use such good faith estimate in Purchaser's aggregate and/or set-off.

13. Notices

Any statement, payment or bill provided for in this Agreement shall be in writing and shall be considered as duly delivered when mailed to the other party at the address noted below and shall be considered duly received five calendar days after the date of such delivery. Any notice, request, demand or pricing change, as referenced in Paragraph 3 above, or any notice which a party may desire to give to the other may be communicated by telephone but shall be followed up in writing no later than five calendar days after such telephonic notice.

Seller: BERRY ENERGY
310 STILES STREET
CLARKSBURG, WV 26301
Telephone: 304-622-3450
Facsimile:

Purchaser: Riley Natural Gas Company
Attention: Tina R. Smith, Vice President
P. O. Box 450
Bridgeport, WV 26330
Telephone: (304) 842-8930
Facsimile: (304) 842-8936

14. Default; Limitation on Liability

Either party will be in default under this Agreement if it (i) makes an assignment or any general arrangement for the benefit of creditors; (ii) files a petition or otherwise commences, authorizes, or acquiesces in the commencement of a proceeding or cause under any bankruptcy or similar law for the protection of creditors, or has such petition filed against it and such proceeding remains undismissed for thirty (30) days; (iii) otherwise becomes bankrupt or insolvent (however evidenced); (iv) is unable to pay its debts as they fall due; (v) fails to pay or perform, when due, any obligation to the other party, whether under this Agreement or any other contract between the parties, if such failure is not remedied on or before the third business day after notice of such failure is given to the party who is default; (vi) fails to give adequate security for or assurance of its ability to perform its further obligations under this Agreement within forty-eight (48) hours of a reasonable request by the other party; or (vii) fails to deliver any volumes of Gas which it is obligated to deliver to the other party and such failure is not remedied within a 48-hour period. If a party is in default, then the non-defaulting party shall have, in addition to any and all other remedies available hereunder or pursuant to law, the right to withhold payment and /or to liquidate any or all contracts (including any forward contract or portion of a forward contract, Fixed Price Contract, or other contract not yet fully delivered) then outstanding at any time or from time to time thereafter by (a) closing out each such contract transaction being liquidated at its market value so that each such transaction is cancelled and a settlement payment in an amount equal to the difference between such market value and the contract value of such transaction shall be due to the Purchaser under the transaction if such market value exceeds the contract value and to the Seller if the contract value exceeds the market value; and (b) discounting each amount then due under subsection (a) above to present value in a commercially reasonable manner as of the time of liquidation to take into account the period between the date of liquidation and the date on which such amount would have otherwise been due pursuant to the relevant transaction with such rate of interest used in calculating net present value to be determined by the performing party in a commercially reasonable manner. If Seller is in default, Purchaser may set-off or aggregate as set forth in Paragraph 6 hereof, EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED IN THIS AGREEMENT, IN NO EVENT WILL EITHER PARTY BE LIABLE UNDER THIS AGREEMENT, WHETHER IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR OTHERWISE, FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES.

If the foregoing correctly reflects our agreement and understanding, please so signify by executing in the space provided below.

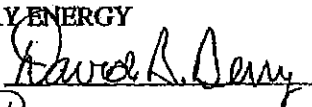
Yours truly,


Tina R. Smith
Vice President

ACCEPTED AND AGREED to this 20th day of JULY, 20

BERRY ENERGY

Name:



Title:

PRESIDENT

EXHIBIT A
TERM SHEET

Date: March 01, 2012
Seller: BERRY ENERGY
Purchaser: Riley Natural Gas Company
Primary Term: 10 years [In Service Date Estimated September 2012 through September 2022]
Pricing Term:
Delivery Point(s): Dominion Transmission
Meter #'s: 3714201 4388401 4411701 3605201 3610001 3731701
Price: \$0.59/dt

For any Delivery Point(s) into DTT's Appalachia Gateway Project Facilities:

Requested Firm Quantity: Seller commits to deliver on a firm basis for ten years with respect to DTT's transmission facilities that are part of DTT's Appalachia Gateway Project Facilities the following monthly volumes in dth/day (net of gathering and processing, if applicable): • 355 [transaction specific]

Management Fee: Purchaser shall charge Seller the following management fee per each dth of FT that Purchaser is able to reserve for Seller: \$.08/dth.

Other terms and conditions:

1. The conditions of this Term Sheet are binding unless disputed within (3) business days.
2. All terms and conditions of the Agreement dated March 1, 2012 between Seller and Purchaser including any exhibits attached thereto.

APPROVED AND AGREED to as a Term Sheet to the Agreement dated Mar 01, 2012 between Seller and Purchaser.

Seller:
BERRY ENERGY

Signature

Name: _____
Title: _____
Date: _____

Purchaser:
Riley Natural Gas Company

Signature

Name: Tina R. Smith
Title: Vice President
Date: 6/11/12

EXHIBIT B

PARAGRAPH 2(b). CONTINUED
ADDITIONAL TERMS FOR ANY DELIVERY POINT(S)
INTO DTT'S APPALACHIA GATEWAY PROJECT FACILITIES

The following additional terms apply to any Delivery Point(s) into DTT's Appalachia Gateway Project facilities and are incorporated into Paragraph 2(b):

DTI transmission facilities: With respect to any DTI transmission facilities that are part of the Appalachia Gateway Project facilities and are downstream of the Delivery Point(s), DTI has indicated that it shall offer firm capacity for ten (10) years ("FT") on such transmission facilities beginning on or about November 1, 2011 and, in the event DTI offers such FT, and notwithstanding any provisions of this Agreement to the contrary, including specifically by way of illustration and not limitation the contents of Paragraphs 3 and 8, Seller and Purchaser agree as follows:

- i. Purchaser shall use commercially reasonable efforts to attempt to obtain FT on Seller's behalf for the Firm Quantity set forth and committed and agreed to by Seller in the applicable Term Sheet;
- ii. Seller shall pay and be liable to Purchaser for: (a) the cost and fees for all FT reserved from DTI by Purchaser for Seller's Firm Quantity for the ten (10) year period; (b) all other charges or deductions of any kind whatsoever including without limitation commodity fees, retainage, fuel and shrink assessed by DTI; and (c) the Management Fee set forth in the Term Sheet that shall compensate Purchaser for its management of assets including without limitation the management of nominations and the meeting of DTI's credit requirements by Purchaser;
- iii. In no event whatsoever shall Seller be relieved from its obligations to make payments to Purchaser for all FT Purchaser has reserved for any or all of Seller's Firm Quantity irrespective of the cause or contingency of such losses and any such failure to make payments shall be a breach under this Agreement;
- iv. If Purchaser has reserved FT for any or all of Seller's Firm Quantity and Purchaser provides to Seller telephonic notice of the revised Price which Purchaser believes is required to meet the existing market condition and written notice no later than five (5) calendar days after such telephonic notice then such revised Price shall be effective not later than five (5) calendar days after Seller's receipt of such written notice and in no event shall Seller be able to request and/or terminate this Agreement because of such revised Price;
- v. Purchaser shall not be liable to Seller, and Seller shall not make any claim against Purchaser, in the event that Purchaser is unable to obtain FT for any or all of Seller's Firm Quantity or Seller is unable to flow or produce any, all or a portion of Seller's Firm Quantity for which Purchaser has obtained FT for any reason whatsoever including without limitation pipeline pressures;
- vi. In the event Purchaser has obtained and reserved FT for Seller's Firm Quantity and Seller desires to decrease or eliminate, or have Purchaser release directly to Seller, the FT so reserved, then Seller may provide written notice ("Written Notice") to Purchaser specifying its desired decrease, elimination or release to Seller such FT;

- vii. Upon receipt of a Written Notice from Seller requesting a decrease or elimination of the FT reserved by Purchaser for any of Seller's Firm Quantity, Purchaser shall use commercially reasonable efforts to release such FT amounts to another customer of Purchaser that is delivering Gas to a Delivery Point(s) into DTI transmission facilities that are part of the Appalachia Gateway Project facilities; provided however, any such release shall be in compliance with all laws, rules, orders or regulations; provided, further, Seller acknowledges and agrees that in the event Purchaser receives a substantially similar Written Notice from any such other customer for which Purchaser has obtained and reserved FT on DTI transmission facilities that are part of the Appalachia Gateway Project, Purchaser shall prioritize and address all such Written Notices including Seller's in the order of receipt by Purchaser of any such Written Notice. By way of example and not limitation, Purchaser shall first use its commercially reasonable efforts with respect to the Written Notice that is first received by Purchaser. Notwithstanding anything in this Agreement to the contrary and regardless of a Written Notice to Purchaser by Seller or regardless of Seller's actual production volumes including without limitation whether Seller is producing at a reduced rate or is not producing at all, Seller shall not be relieved of and shall continue to be liable and responsible for payments to Purchaser for all FT reserved by Purchaser for all of Seller's Firm Quantity unless and until a third party enters into a written agreement in terms and conditions substantially similar to this Agreement for all FT reserved by Purchaser for any or all of Seller's Firm Quantity; and
- viii. Upon receipt of a Written Notice from Seller requesting that Purchaser release directly to Seller FT reserved by Purchaser for any or all of Seller's Firm Quantity, Purchaser shall notify DTI and, in the event that (a) DTI approves and allows the release by Purchaser directly to Seller of the FT so reserved; (b) Seller qualifies as a customer of DTI; and (c) DTI and Seller release Purchaser of any and all obligations and liabilities for all FT so reserved, then Purchaser shall release all FT so reserved to Seller and Seller shall be solely liable and responsible to DTI for all such FT; provided, however, notwithstanding anything to the contrary, in the event that any of the conditions set forth in (a), (b) or (c) of this subparagraph is not met or does not occur, Purchaser shall not release to Seller the FT so reserved during the term of the FT.



RILEY NATURAL GAS COMPANY

Contract # 2559

Term Sheet for Gas Purchase Agreement:

Date: May 01, 2012
Seller: BERRY ENERGY
Buyer: Riley Natural Gas
Primary Term: Mar 01, 2012 through Feb 28, 2013
Delivery Point: Into Dominion
Meter #'s 3605201, 3610001, 3714201, 3731701, 4388401, 4411701
Price: A) 99% Dominion Index *
B) Less Dominion Appalachian Gateway Fees - Effective In Service Date (Sep 2012 - Sep 2022)
\$.59/dt Gateway Fee, \$.08/dt Management Fee - 355 dt/day (Exhibit A)
Quantity: Estimated 4,860 Dt/Month
Conditions: The conditions of the Term Sheet are binding unless disputed within (3) business days.

Riley Natural Gas Company reserves the right to make periodic price adjustments to correct for payment differentials attributed to significant fluctuations in estimated versus actual production. These adjustments will assure that gas payments to the seller is applicable to the month during which the gas was actually sold. Purchaser will attempt to absorb variances of up to 10% of the most recent actual production number. However, Seller recognizes that Purchaser cannot incur losses attributed to production variation.

APPROVED AND AGREED to as the Term Sheet to the Agreement dated Mar 01, 2012 between BERRY ENERGY and Riley Natural Gas

Seller:

BERRY ENERGY

Signature

Name:

Title:

Date:

David B. Berry

DAVID B. BERRY

PRESIDENT

07-20-12

Purchaser:

Riley Natural Gas

Signature

Name: Tina R. Smith

Title: Vice President

Date:

Office Use Only:

Received

Database Entered:

Database Approved:

Approved:

Date:

EXHIBIT A
TERM SHEET

Date: March 01, 2012
Seller: BERRY ENERGY
Purchaser: Riley Natural Gas Company
Primary Term: 10 years [In Service Date Estimated September 2012 through September 2022]
Pricing Term:
Delivery Point(s): Dominion Transmission
Meter #'s: 3714201 4388401 4411701 3605201 3610001 3731701
Price: \$0.59/dt

For any Delivery Point(s) into DTT's Appalachia Gateway Project Facilities:

Requested Firm Quantity: Seller commits to deliver on a firm basis for ten years with respect to DTT's transmission facilities that are part of DTT's Appalachia Gateway Project Facilities the following monthly volumes in dth/day (net of gathering and processing, if applicable): 355 [transaction specific]

Management Fee: Purchaser shall charge Seller the following management fee per each dth of FT that Purchaser is able to reserve for Seller: \$.08/dth;

Other terms and conditions:

1. The conditions of this Term Sheet are binding unless disputed within (3) business days.
2. All terms and conditions of the Agreement dated March 1, 2012 between Seller and Purchaser including any exhibits attached thereto.

APPROVED AND AGREED to as a Term Sheet to the Agreement dated Mar 01, 2012 between Seller and Purchaser.

Seller:
BERRY ENERGY
David B. Berry
Signature

Name: DAVID B. BERRY
Title: PRESIDENT
Date: 07-20-12

Purchaser:
Riley Natural Gas Company
Tina R. Smith
Signature

Name: Tina R. Smith
Title: Vice President
Date: 6/11/12

mm

IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA

**RILEY NATURAL GAS COMPANY,
A West Virginia corporation;**

Plaintiff,

v.

Civil Action No. 16-C-365

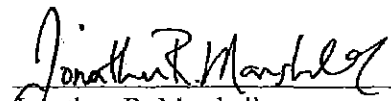
BERRY ENERGY, INC.,

Defendant.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the attached *Defendant's Supplement to its Motion to Dismiss Riley Natural Gas Company's Complaint or in the Alternative to Stay* was served on counsel of record on the 23rd day of March 2017, by United States mail at the following address:

Nicholas S. Preservati (WVSB # 8050)
SPILMAN THOMAS BATTLE, PLLC
P.O. Box 273
Charleston, West Virginia 25321
Telephone: (304) 721-3437
Facsimile: (304) 340-3801


Jonathan R. Marshall

FILED IN 15TH
CIRCUIT COURT

2017 MAR 23 P 3:17