

# Virginia Commission on Coal and Energy

## Ownership and Development of Coalbed Methane Gas

North Anna Nuclear Information Center  
Monday, November 15, 2010

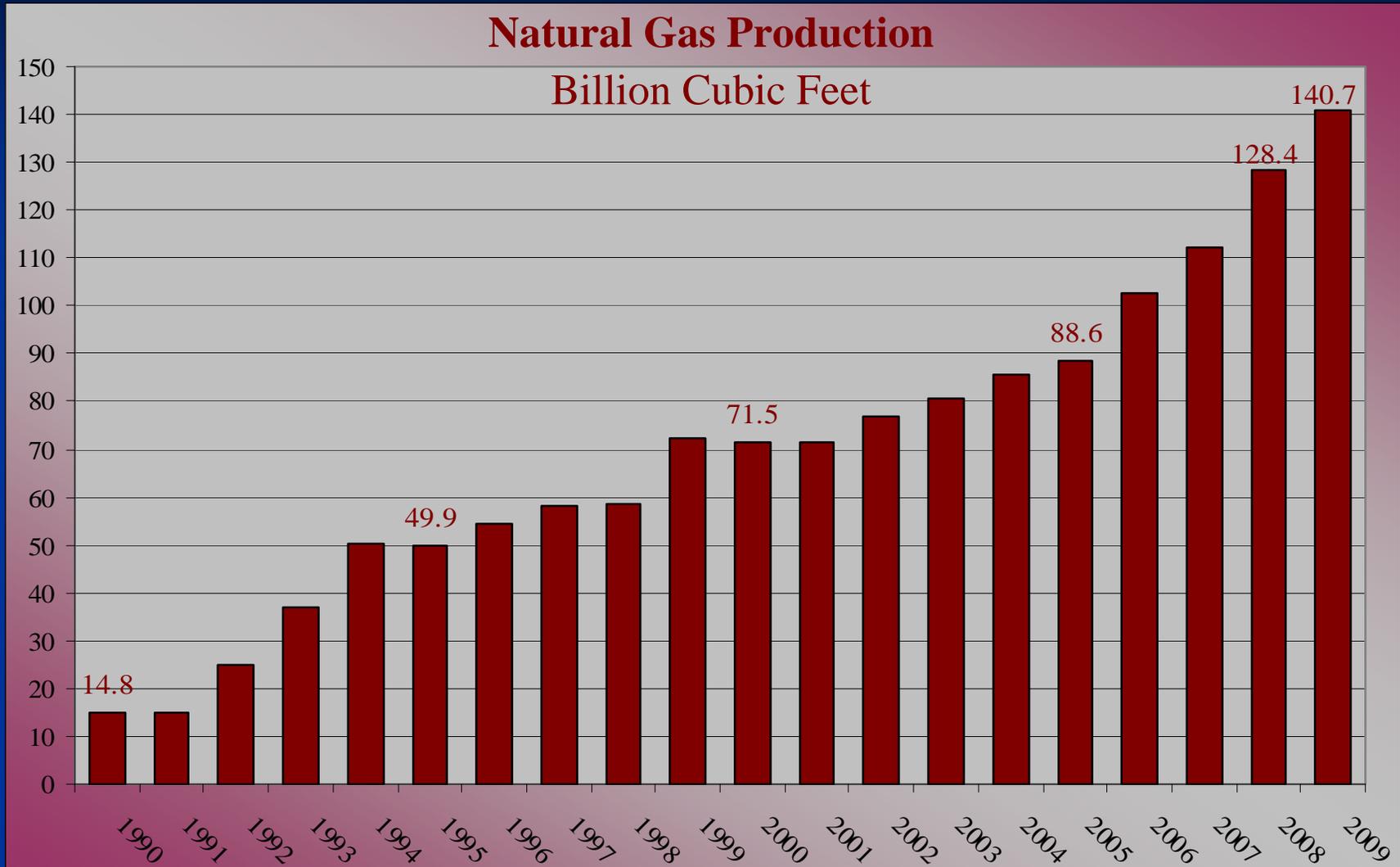
## 2010 HJR 121 – Ten issues to be studied by the Commission on Coal and Energy

- Coalbed Methane Ownership and Forced Pooling
- Deciding Conflicting claims for Coalbed Methane
- Production and sales data from natural gas
- Alternate dispute resolutions are available
- Operating costs for Working Interests and Royalty rates inclusive of Post Production Costs

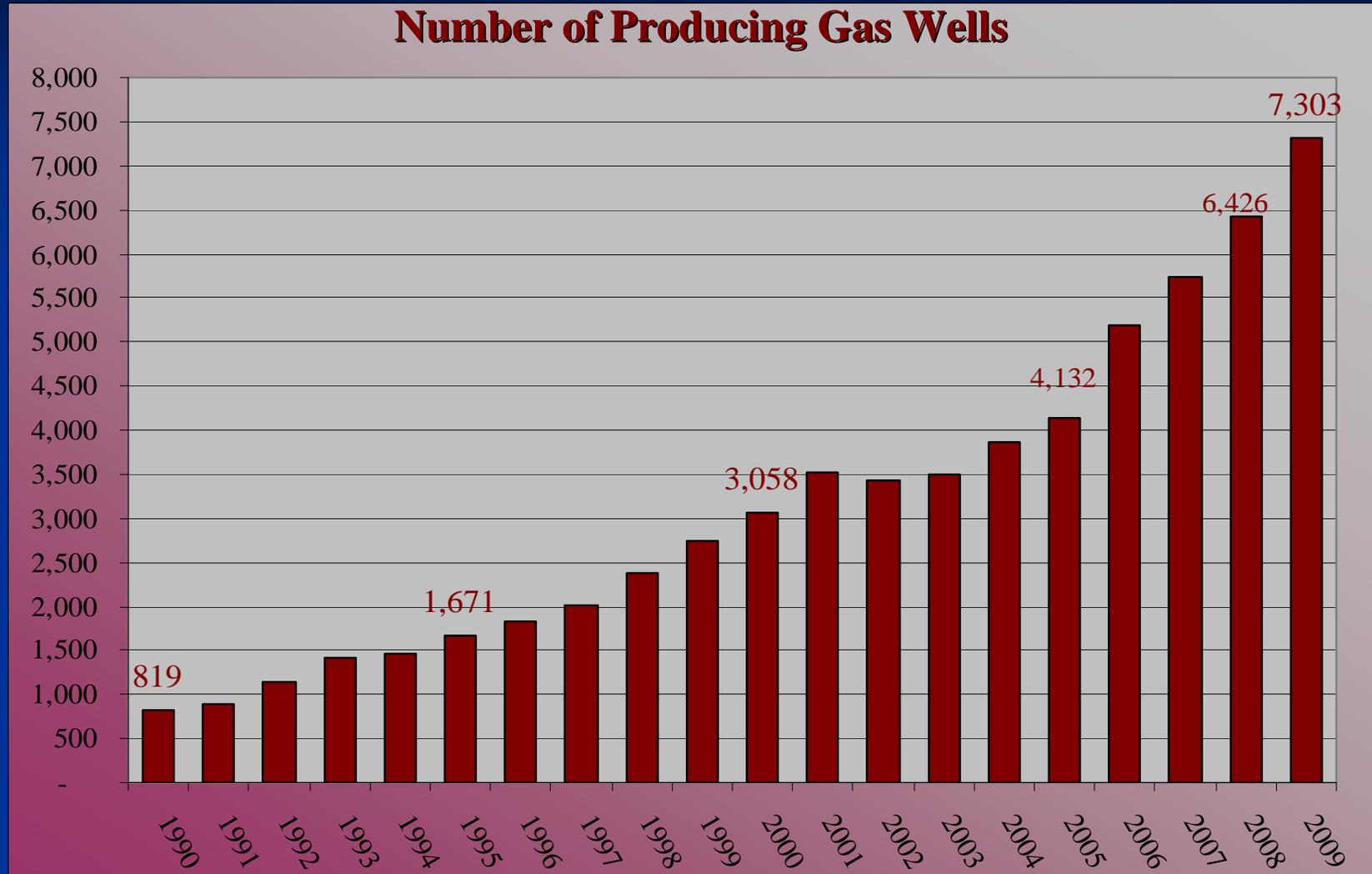
## 2010 HJR 121 – Ten issues to be studied by the Commission on Coal and Energy

- Staffing requirements to effectively administer the Act
- Possible amendments to facilitate the resolution of ownership and distribution of proceeds from escrow
- Ways to encourage production and use of gas resources
- Actual and potential economic impact and opportunities for development of the natural resource
- The potential and benefits of classifying coalbed methane gas as an alternative fuel source.

# Natural Gas Production 1990 - 2009



# Natural Gas Production 1990 - 2009



# Coalbed Methane Ownership and Forced Pooling

- RULE OF CAPTURE
  - 1920's Common Law - No protection of correlative rights
  - No right to complain of trespass or to be compensated by neighboring well operator
  - No sharing of business benefits or risks, profits or loss, and royalty income

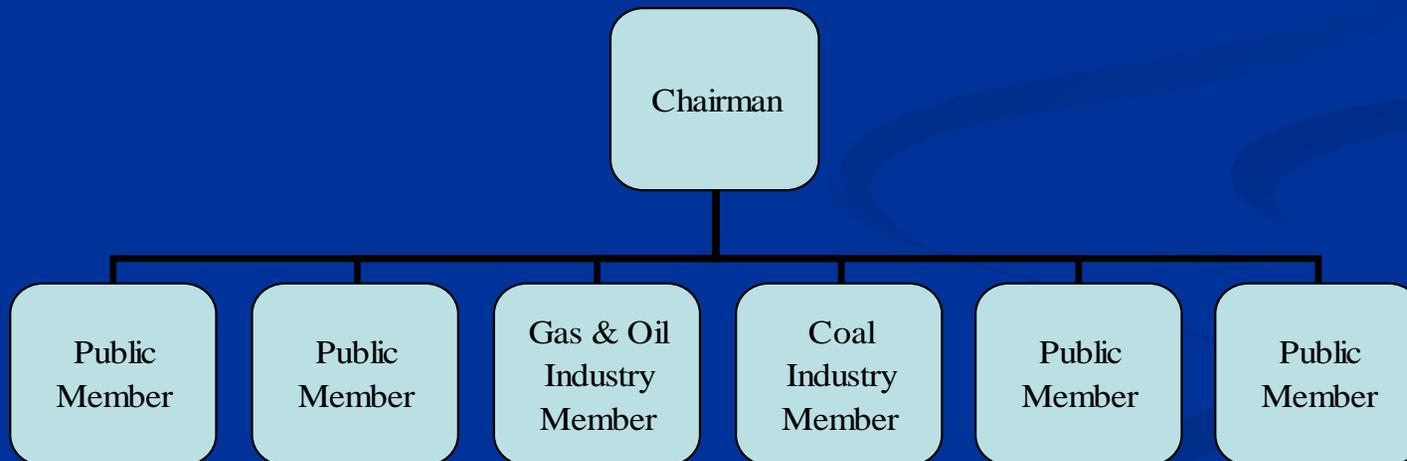


# Coalbed Methane Ownership and Forced Pooling

- Commission on Coal and Energy recommendations - 1989
  - Virginia Gas and Oil Act of 1990
  - Enhances the process of unitization and provides Board authority to designate gas fields and gas unit operators
  - Provides for compulsory pooling – provides for equitable sharing of the resource

## Coalbed Methane Ownership and Forced Pooling

- Commission on Coal and Energy recommendations - 1989
  - Virginia Gas and Oil Board (VGOB)
    - Seven members - representative from DMME, Gas Industry, Coal Industry, and the public



# Coalbed Methane Ownership and Forced Pooling

- The Gas and Oil Board Purpose
  - Foster, encourage, and promote the safe and efficient exploration for and development, production and utilization of gas and oil resources
  - Board members are appointed by the Governor
  - DMME's Division of Gas and Oil to serve as the staff to the Board

# Coalbed Methane Ownership and Forced Pooling

- Gas and Oil Board authority and major duties
  - Establish field rules
    - Prevent waste - unitization
    - Protect correlative rights
  - Designate gas unit operator
  - Approve forced pooling orders
  - Approve disbursements from escrow
  - Hear appeals of Department decisions
  - Miscellaneous petitions

# Coalbed Methane Ownership and Forced Pooling

- Who is a Gas and Oil Owner?
  - Any person who owns, leases, has an interest in, or who has the right to explore for, drill or operate a gas or oil well as principal or as lessee.

# Coalbed Methane Ownership and Forced Pooling

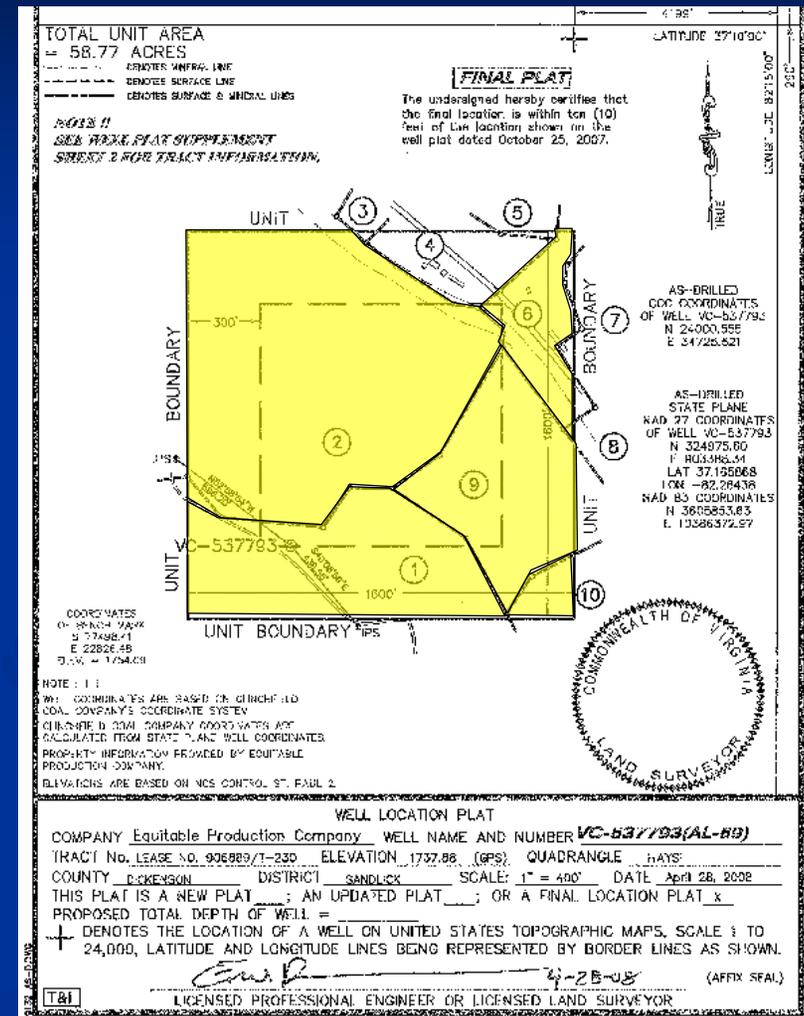
- Important Gas Ownership Questions
  - Does real property encompass “Fee ownership”?
    - Fee ownership would include:
      - Surface    • Minerals
      - Coal       • Gas
  - Does ownership encompass “gas only”?
  - Are there severance deeds for surface, coal, minerals or gas from property?
  - Is a private lease agreement in place for the production of one or more resources?

# Coalbed Methane Ownership and Forced Pooling

- Gas Owners Rights and Options
  - A gas owner can come before the Board and be designated a gas unit operator, and can develop, produce, transport and sell the gas
  - A gas owner can negotiate private lease terms with a gas producer
  - Where conflicting claims for gas ownership exist within a unit, the owner may be “force pooled” and provided election options within a Board order

# Coalbed Methane Ownership and Forced Pooling

- Force Pooling – A Gas Unit
  - Force Pooling of gas rights is a tool to address conflicting claims to maximize development of gas resources
  - A gas unit is comprised of multiple tracts
  - Virginia Law promotes the development of gas resources in a safe and efficient manner



## Deciding Conflicting Claims for Coalbed Methane

- Remedies for resolution to conflicting claims for coalbed methane
  1. A final decision of a court of competent jurisdiction
  2. An agreement among all claimants owning conflicting gas estates in the tract (“split agreement”)
  3. Conflicting gas tract owners agree to binding arbitration

# Deciding Conflicting Claims for Coalbed Methane

- CONFLICTING CLAIMS

- Ratliff Case

  - Severance deed language specific

  - Attorney General's Opinion of Board authority

- Recent Summary Judgments

  - Buchanan County Circuit Court

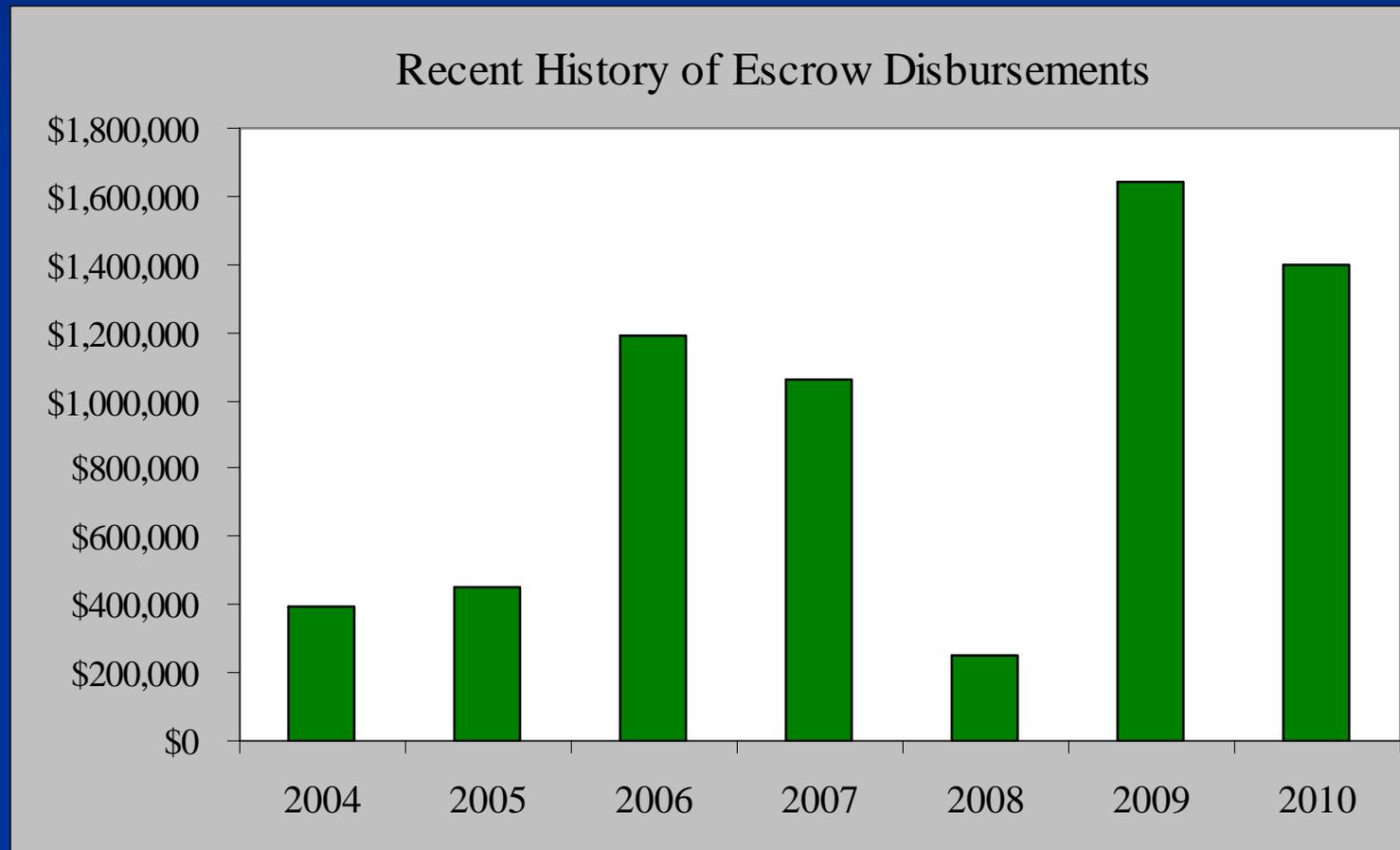
  - Coal only severance deeds – 100% to gas owner

- Recent Split Agreements

Recent Split Agreements			
Coal	50	25	0
Gas	50	75	100

# Deciding Conflicting Claims for Coalbed Methane

- Board Approved Disbursements



# Deciding Conflicting Claims for Coalbed Methane

- **Alternate Dispute Resolution**
  - Tract owners agree to binding arbitration
  - Cumulative interest from escrow account to pay for arbitration
  - Class action suits may delay arbitration activity
  - Regulations being promulgated

## Availability of Production and Sales Value from Natural Gas in Virginia

- Report of permitted activities and production required
  - Monthly and annual production reports
    - Production data at-the-wellhead
  - Reports shall be filed as a condition of a permit
  - Annual report shall certify that the permittee has paid all severance taxes

## Availability of Production and Sales Value from Natural Gas in Virginia

- Report of permitted activities and production required
  - DMME's Division of Gas and Oil (DGO) receives monthly production, reconciled and published on an annual basis
  - The DGO eForms program allows the monthly input and reporting of production
  - Gas operators report annual production and sales data to the County in which the production occurs

# Determining Rates of Royalty, Costs and Expenses for Coalbed Methane Production

- Forced Pooling - two categories of allowed costs
  - Production Costs (as a carried owner)
    - Drilling and Completion
  - Post Production Costs (as a royalty owner)
    - Gathering, compression, treatment and transport

# Determining Rates of Royalty, Costs and Expenses for Coalbed Methane Production

- Production Costs
  - "Participating operator" means a gas or oil owner who elects to bear a share of the risks and costs of
    - drilling
    - completing
    - equipping
    - operating
    - plugging and abandoning a well on a drilling unit and
    - receive a proportional share of production

Working Interest Partner  
(Profits and Losses 8/8ths)

# Determining Rates of Royalty, Costs and Expenses for Coalbed Methane Production

- Post Production Costs in Forced Pooling Orders
  - "Royalty owner" means any owner of gas or oil in place, or owner of gas or oil rights, who is eligible to receive payment based on the production of gas or oil
  - An "election option" in a Pooling Order provides a royalty of 1/8th of the net proceeds received with deductions for
    - gathering
    - compression
    - treatment
    - transportation
    - marketing costs

Royalty Interest Partner  
(Royalty receipts of 1/8<sup>th</sup> less reasonable costs)

# Staffing Requirements

- DMME-DGO Safety and Compliance Duties
- DGO Staff Support to the Gas and Oil Board

## Staffing Requirements

- DMME Division of Gas and Oil Duties
  - Provide for worker safety and health
  - Eliminate off-site environmental damages – ensure the proper restoration of lands
  - Permits – timely review and issuance
  - Conduct field compliance inspections during all phases of development
  - Investigate citizen complaints
  - Respond to unplanned incidents on permitted sites
  - Examine and provide information about Virginia's geology and mineral resources

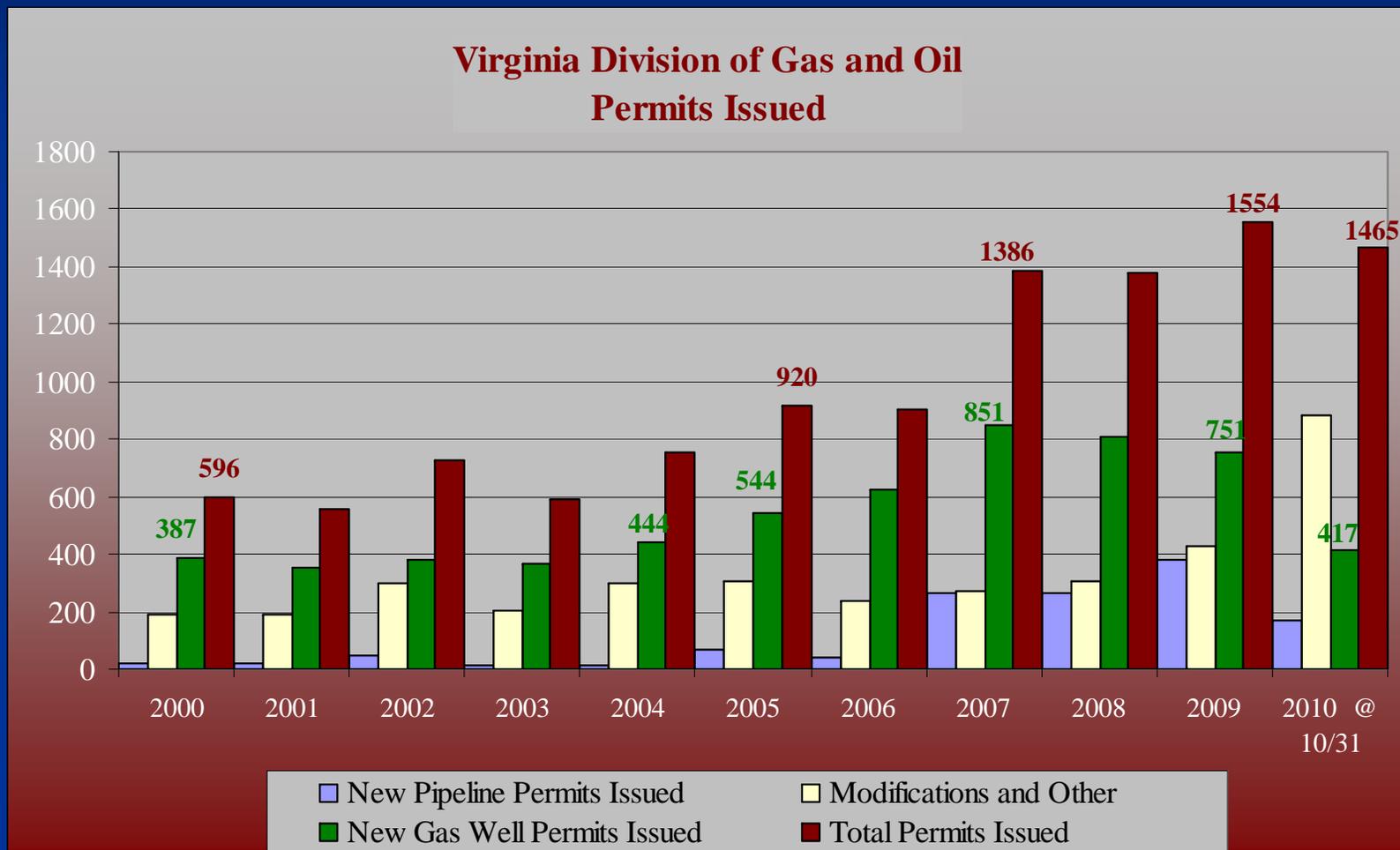
# Staffing Requirements

- Division focus on public and worker safety
  - Red Zone Policy
    - Areas with potential hazard to the public, workers, or the environment
    - Protect against potential hazards and off-site impacts associated with the natural gas and oil wells, pipelines, rights of way, and associated facilities



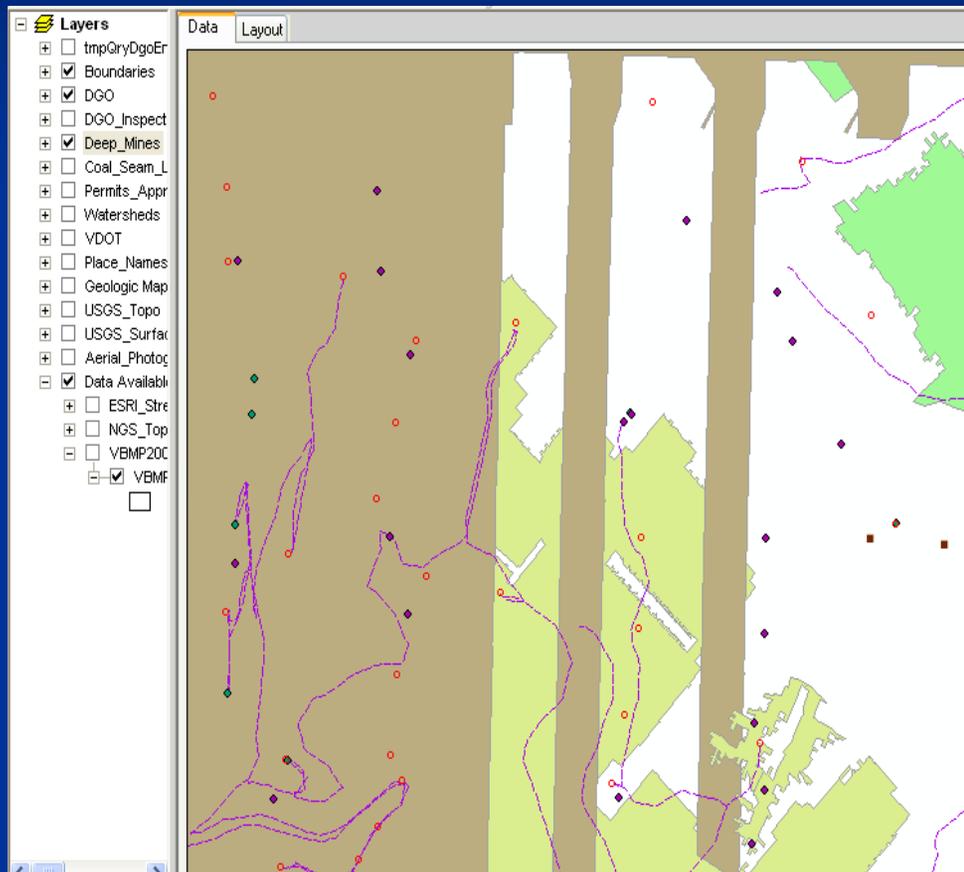
# Staffing Requirements

- Focus on technical permit review, gas development, and jobs



# Staffing Requirements

- Focus on gas well and coal mine safety during permit review



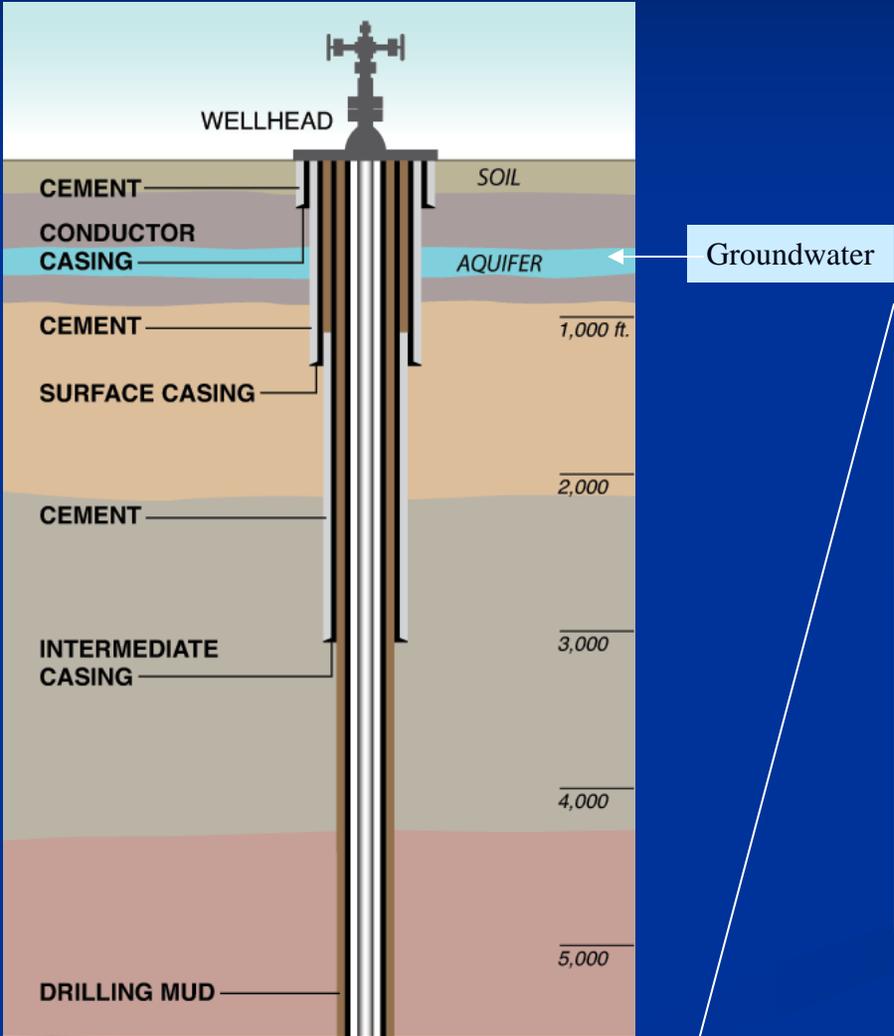
## Room & pillar mining



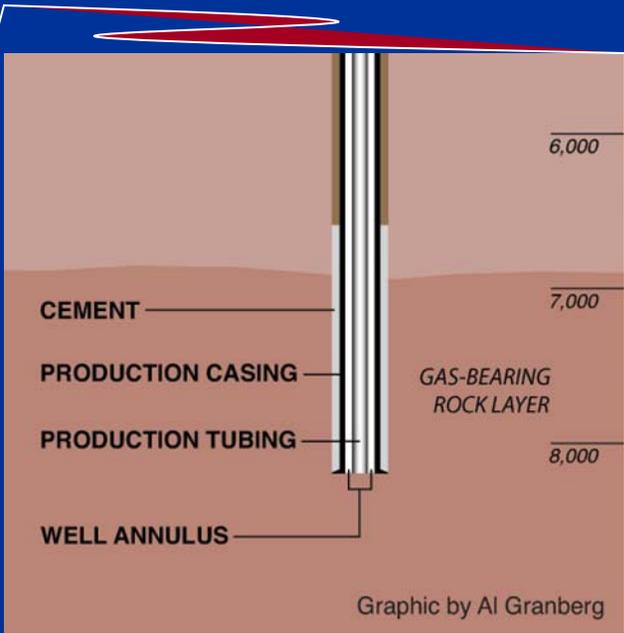
De-gassing of longwall mine sealed gob atmosphere control

# Staffing Requirements

- Focus on protection of surface waters and groundwater



Virginia casing and cement standards provide safeguards



# Staffing Requirements

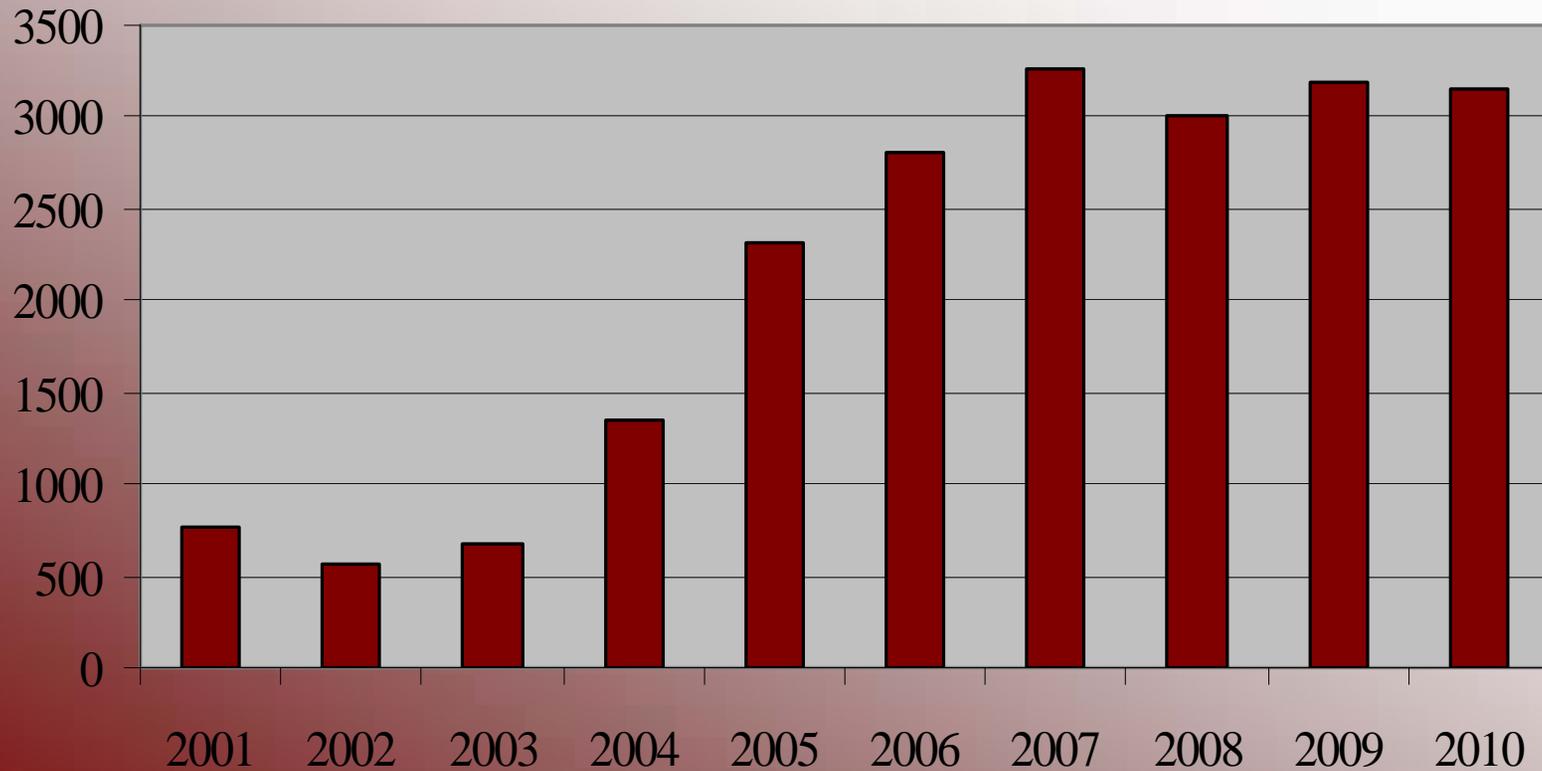
- Staff support of the Gas and Oil Board
  - Board meeting preparation tasks:
    - Monthly docket organization
    - Publication of docket
    - Detailed review of docketed petition before the Board
    - Board member packets
    - Review and publish Board minutes and transcripts
  - Review, revise and record approved orders
    - Pooling Orders
    - Supplemental Orders
    - Disbursement Orders
    - Field Rules, Orders and modifications
    - Notice of recordation to affected parties

# Staffing Requirements

- Staff support of the Gas and Oil Board
  - Major escrow account tasks:
    - Customer service and response to questions from stakeholders
    - Monthly escrow account reconciliation and summary reporting
    - Random account audit and monitoring
    - Detailed file review and preparation of all disbursement orders
    - Requisition of state funds for order recordation
    - Recordation of orders within each gas producing county
    - Notice of disbursement order recordation to affected parties
    - Coordination with Escrow Agent after recordation for payment
    - Final review of disbursement checks prepared by agent
    - FOIA requests

# Staffing Requirements

## Customer Information Requests Received



# Staffing Requirements

- First Bank and Trust
  - 24/7 access to the escrow account activities
  - Random monitoring of payments
  - Board annual reconciliation
- Monitoring System
  - Allows parties forced pooled to monitor the escrow account on-line by approved gas unit
  - Provides an estimator of current market value for parties escrowed

# Staffing Requirements



## Gas and Oil Board e-Forms Center

[Main Menu](#)

### Virginia Gas and Oil Board's Estimator for Escrow Accounts

Enter Unit Name:

OR

Enter Docket #:

Enter total acres in unit which are forced pooled:

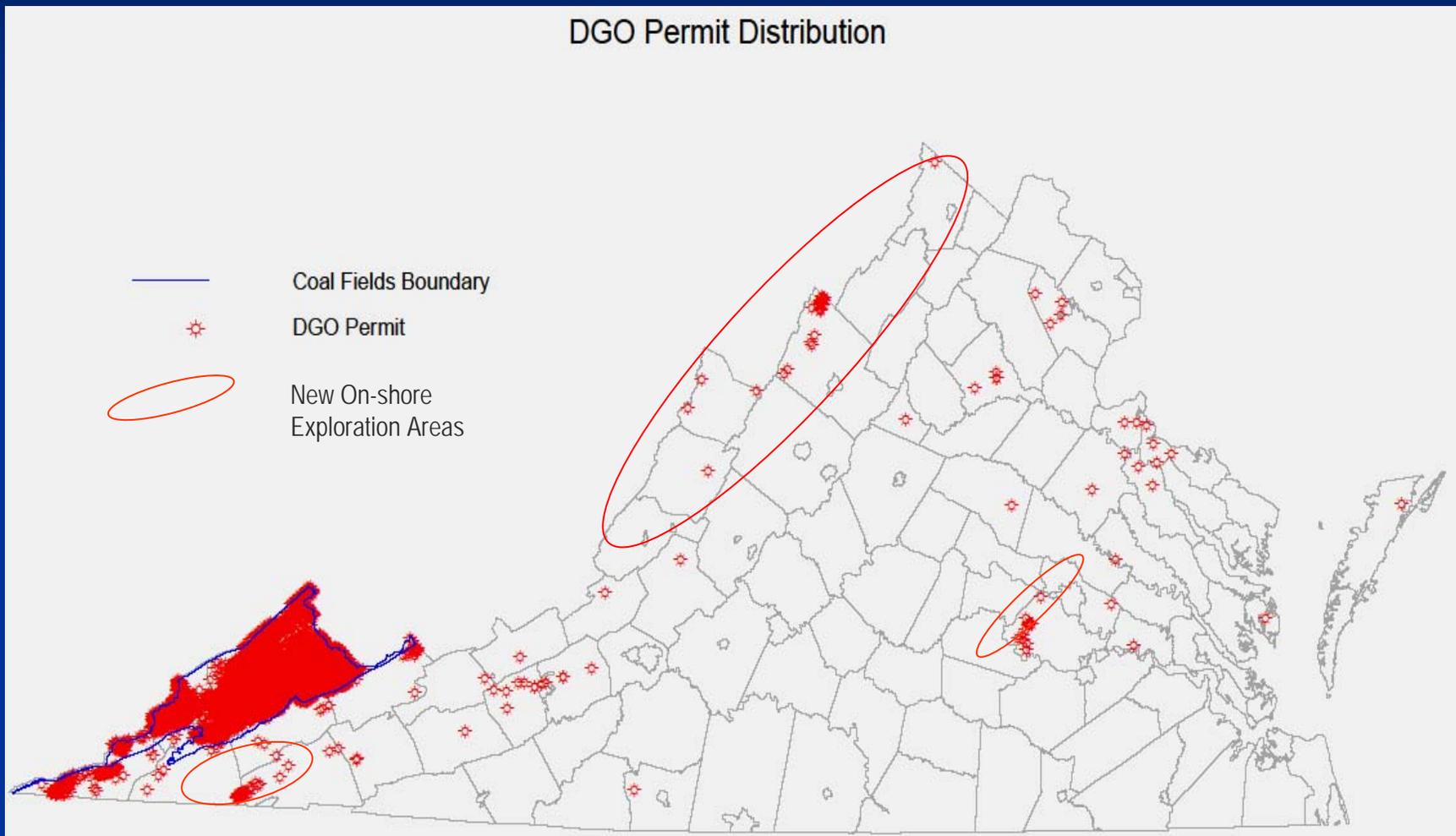
Enter acres owned by individual:

To ensure an accurate estimate, citizens may wish to refer to their copy of the recorded order from the Virginia Gas and Oil Board regarding the acreage in question. NOTE: The amounts calculated by this program are only estimates and are based on acreage information provided by citizens. An official disbursement calculation will be completed at the time the Board approves disbursements from escrow. The escrow accounts are updated monthly and this estimator reflects the current information the Board has received from the escrow agent.

[Virginia Department of Mines, Minerals and Energy](#). All Rights Reserved.

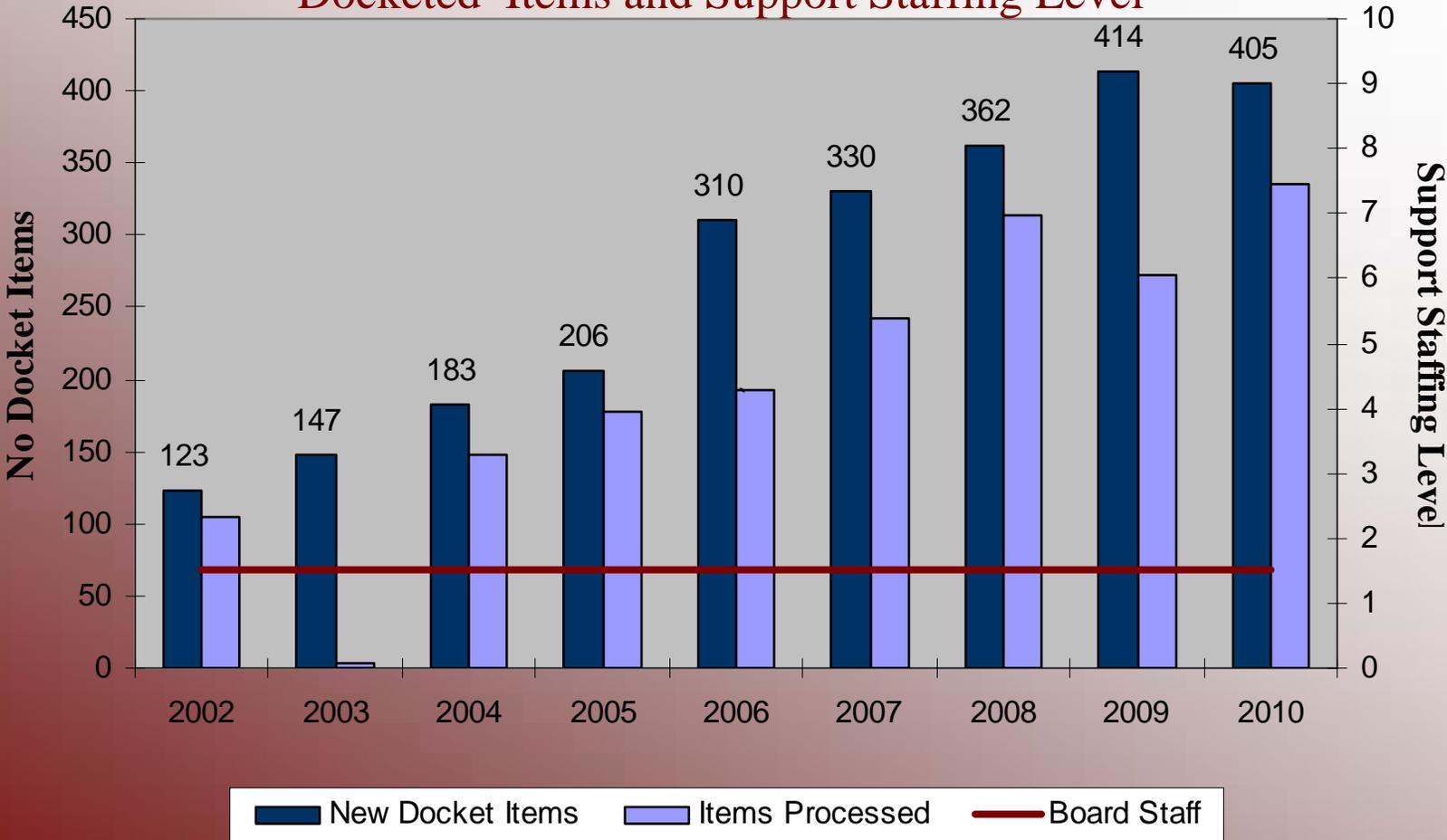
# Staffing Requirements

DGO Permit Distribution

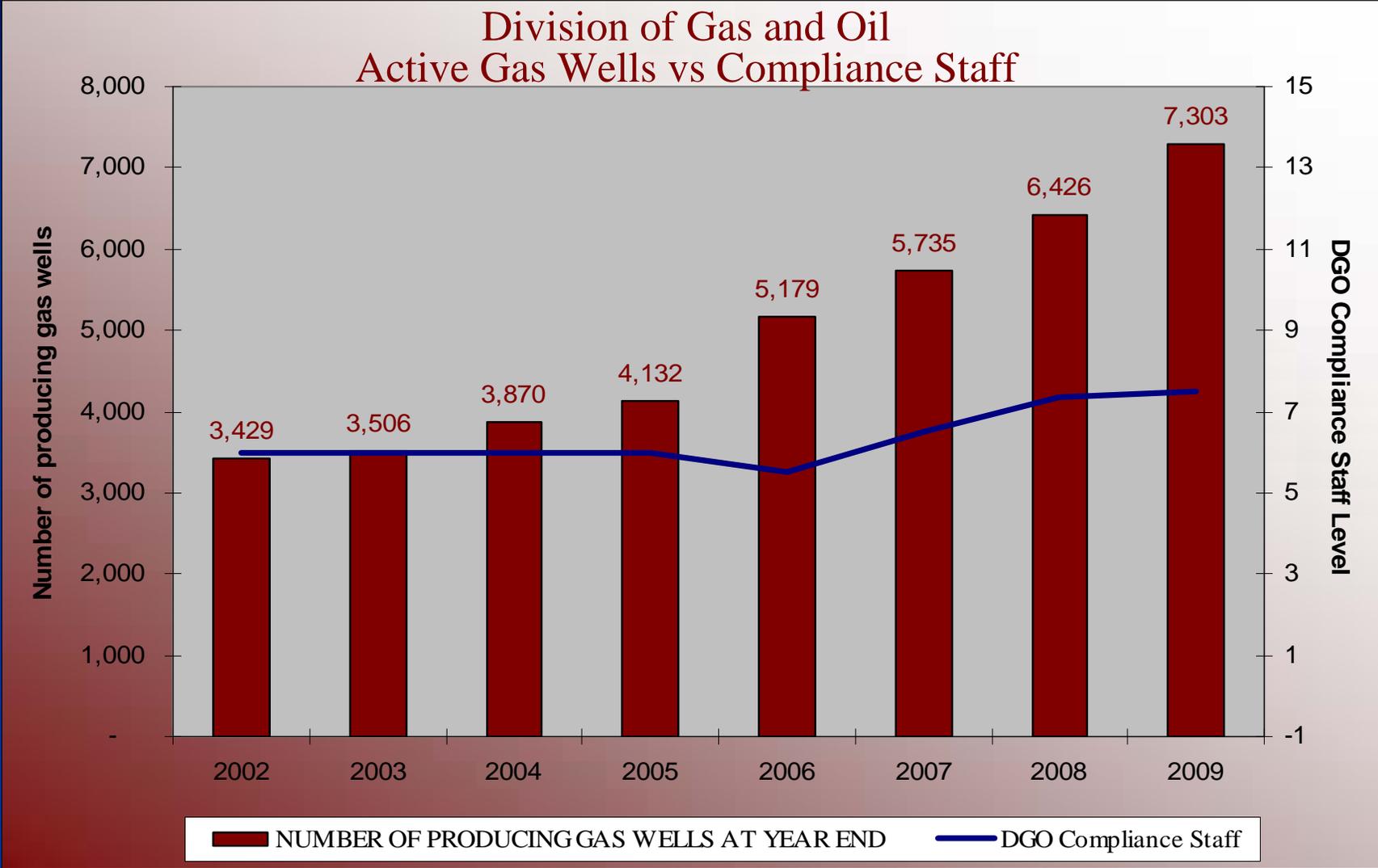


# Staffing Requirements

Gas and Oil Board  
Docketed Items and Support Staffing Level



# Staffing Requirements



## Ongoing Issues

- Potential for escheating funds from escrow
  - Discussions with Treasury of Virginia
- APA Report
  - Recommendations
- Escrow Audit Update and Board Actions
  - Extend audit engagement through 12-31-2011
  - Expand audit to include all units in escrow beginning January 1, 2000
  - Hire independent contractors for the purpose of reconciling escrow accounts

## Suggestions to Encourage Production

- Production has increased dramatically over the past decade
- Existing regulatory framework allows industry to operate economically yet safely
- Exploratory work underway in Shenandoah Valley and Scott/Washington County shale areas
- Increasing production would support Governor's "All of the Above" approach to making Virginia the Energy Capital of the East Coast

## Growing the Market to Encourage Production

- Potential natural gas fired electric generation facility in Southwest Virginia
  - A similar plant currently being constructed in TN
  - 880 megawatt capacity
  - Enough to power 440,000 homes
- Natural gas vehicle infrastructure
  - Construction of commercial and residential refueling stations could create jobs in SW VA
  - Vehicle conversions could also create jobs
  - Cost savings of using natural gas would stay in local economy
  - Petroleum use would decrease

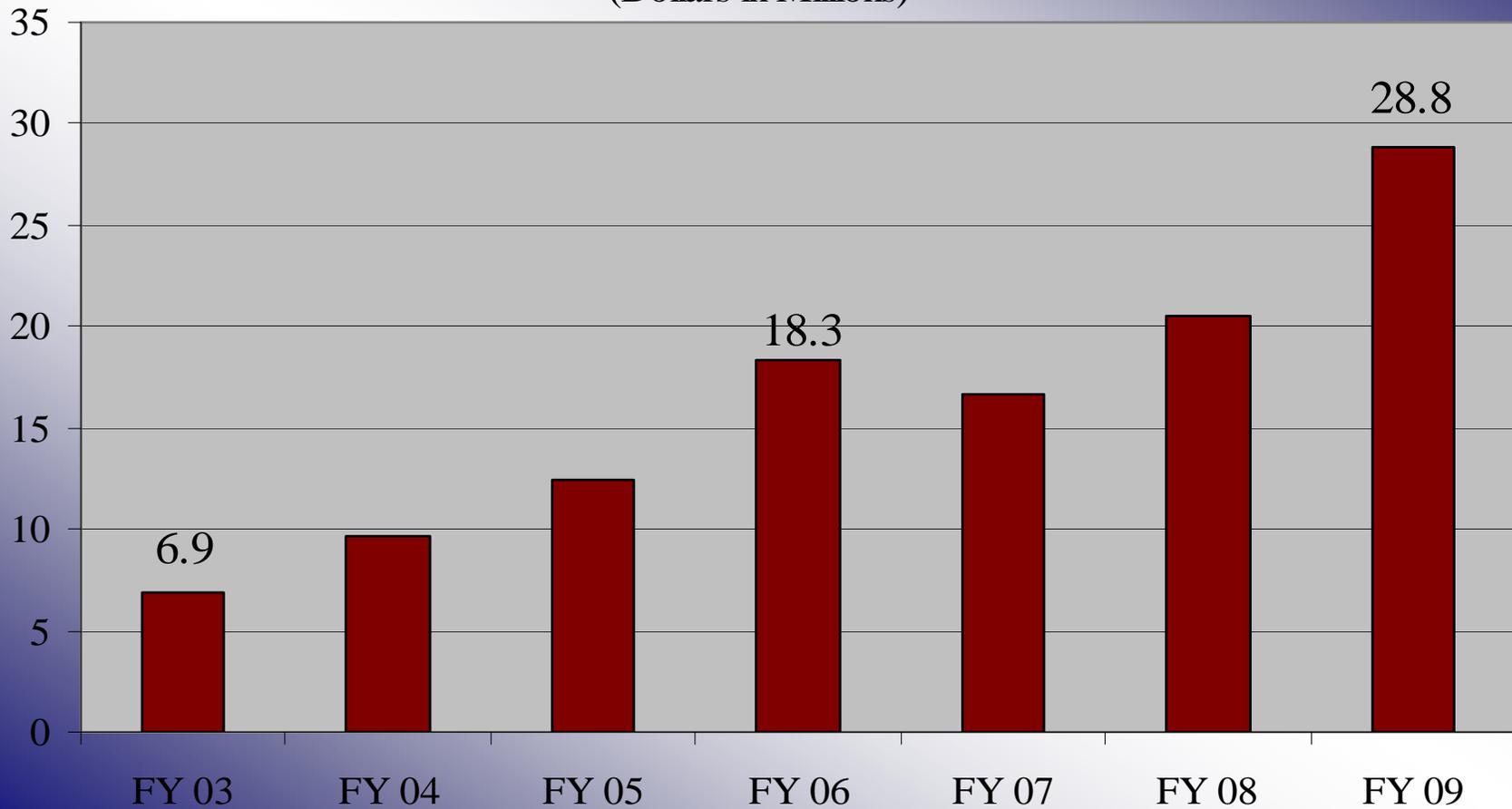
# Economic Impact of the Natural Gas Industry in Virginia

- 1995 VCCER study quantified the overall impact
  - Total in-state economic impact = \$1.5 billion
  - Study was based on 1993 production data
  - 2009 production was four times that of 1993

# Economic Impact of the Natural Gas Industry in Virginia

## Gas Severance Tax to Counties

(Dollars in Millions)



## Economic Impact of the Natural Gas Industry in Virginia

- In addition to severance taxes, the industry also provides
  - Between 2,500 and 3,000 high paying jobs
  - Real estate tax revenue of  $\approx$  \$5 million
  - Payroll tax revenue
  - Sales tax revenue
  - Trickle-down effect into the local economy

## Coalbed Methane as a Renewable Fuel

- Pennsylvania – coalbed methane an eligible fuel in its Alternate Energy Production Standard (similar to RPS)
- Provides an incentive to generate electricity from coalbed methane
- Grundy CBM generating plant sells to Allegheny Energy – a Pennsylvania electric utility
- Similar treatment in Virginia would provide a similar incentive
  - May be seen as watering down Virginia's RPS without a corresponding increase in minimum RPS eligibility thresholds

# Questions?