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Consol, GeoMet Resolve Drilling, Antitrust Disputes

By Allison Grande

Law360, New York (May 05, 2010) -- Consol Energy Inc. and its affiliate CNX Gas Corp. have agreed to grant GeoMet Inc. consent to drill coalbed methane wells on certain property in Virginia, a settlement that resolves nearly a dozen outstanding disputes — including GeoMet's \$561 million antitrust suit — between the companies.

Houston-based GeoMet announced Wednesday that the parties had reached a global settlement of all pending litigation that “provides a basis for future cooperation between the GeoMet and Consol/CNX.”

The resolution settles nine suits over GeoMet's desire to construct both CBM wells and a natural gas pipeline pending in Virginia's Buchanan County Circuit Court and Washington County Circuit Court, as well as an action pending before the Public Service Commission of West Virginia.

GeoMet received a boost in one of the civil actions in September 2008, when the Virginia Supreme Court overturned the Buchanan Circuit's decision that CNX had the exclusive right to construct pipelines and transport gas across certain leased premises in southwest Virginia and backed GeoMet's right to construct a natural gas pipeline over the disputed land.

The settlement announced Wednesday additionally closes GeoMet's multimillion-dollar antitrust suit pending in Virginia's Tazewell County Circuit Court accusing Consol and CNX of monopolizing the coalbed methane gas market.

GeoMet said that although a state circuit court decision in 2009 cleared the way for GeoMet to proceed with discovery and trial in the antitrust action, the company elected to dismiss the suit with prejudice because “continuing this litigation would have been an ongoing drain on the company's resources with no assurance of a successful outcome.”

GeoMet claimed that it had been limited in its ability to secure drilling permits on approximately 5,600 acres in the Virginia portion of GeoMet's Pond Creek field since these disputes began almost four years ago, but under the terms of the parties' agreement, Consol will grant all consents and

waivers necessary for GeoMet to receive permits to drill CBM wells on this acreage.

The company said that it planned to drill more than 80 new wells in this portion of the field over the next three to four years, adding that the wells drilled in this area prior to the disputes had "performed significantly better than the fieldwide average" due to greater average coal thicknesses and gas contents in this section of the land.

GeoMet CEO Darby Sere said in a statement on Wednesday that the company was pleased to have put the matters behind it and that it was "looking forward to resuming the operational cooperation between our companies that existed before the disputes arose in 2006."

"With this settlement in place, we have the opportunity to resume our CBM development in Virginia, which will allow us to increase proved reserves and production through the drilling of low risk high return wells," Sere added.

Representatives for Consol could not be immediately reached for comment on Wednesday.

GeoMet is represented by Yetter Warden & Coleman LLP.

Counsel information for Consol was not immediately available.

The antitrust suit is GeoMet Inc. et al. v. CNX Gas Co. LLC et al., case number 0800505-00, in the Circuit Court for the County of Tazewell, Va.

The regulatory action before the Public Service Commission of West Virginia is case number 08-1691-GT-C.

The Washington Circuit Court case is case number 07000065-0.

The Buchanan Circuit Court cases are case numbers 0800504-00, 0800505-00, 0800506-00, 0800507-00, 07000318-07, 09-037, 337-06 and 485-06.

--Additional reporting by Samuel Howard and Erin Marie Daly