

**VIRGINIA:**

**IN THE CIRCUIT COURT FOR THE COUNTY OF TAZEWELL**

GEOMET, INC., a Delaware Corporation; )

GEOMET OPERATING COMPANY, INC., an )  
Alabama Corporation; and )

GEOMET GATHERING COMPANY, LLC an )  
Alabama Limited Liability Company )

Plaintiffs, )

v. )

CNX GAS COMPANY LLC, a Virginia limited )  
liability company; )

**Serve: CT Corporation System )  
4701 Cox Road )  
Suite 301 )  
Glen Allen, VA 23060 )**

Case No. CL07000065

ISLAND CREEK COAL COMPANY, a Delaware )  
Corporation )

**Serve: CT Corporation System )  
4701 Cox Road )  
Suite 301 )  
Glen Allen, VA 23060 )**

## COMPLAINT

COME NOW the Plaintiffs, GeoMet, Inc., GeoMet Operating Company, Inc. and GeoMet Gathering Company, LLC (collectively, "GeoMet"), by counsel, and state the following as their Complaint:

### Introduction

1. This action arises out of the anticompetitive efforts of CNX Gas Company LLC ("CNX") to dominate and maintain its monopoly over the market for the production and transportation of coalbed methane gas ("CBM") from Buchanan County, Virginia in an area designated as the "Oakwood Field." To protect and consolidate its control of the market, CNX launched a campaign to assimilate or eliminate its incipient competitor, GeoMet. To the detriment of CBM gas owners, operators, and consumers, CNX's campaign against GeoMet included:

- a. Charging higher than competitive prices to transport GeoMet's CBM;
- b. Attempting to extract anticompetitive concessions from GeoMet, including an agreement to bar third-party access to a pipeline GeoMet is constructing;
- c. Blocking GeoMet's construction of that pipeline by locking it out of land it was legally entitled to enter;
- d. Prosecuting baseless and harassing litigation;
- e. Claiming title to GeoMet leaseholds;
- f. Purchasing property interests and interfering with contracts and contractual or business expectancy -- through sharp business practices aimed at harming GeoMet -- along a legally permitted GeoMet right of

- way in order to block GeoMet's pipeline, and filing lawsuits to prevent the construction of that pipeline;
- g. Entering into agreements with Island Creek Coal Company ("Island Creek") whereby Island Creek has refused to grant "consent to stimulate" coal seams necessary to allow GeoMet to produce CBM;
  - h. Filing harassing objections and obstructions to GeoMet's permit applications for the production of CBM in Buchanan County, and causing others to do the same;
  - i. Attempting to push GeoMet out of Buchanan County, Virginia by conspiring to force GeoMet to breach agreements and therefore lose its leaseholds;
  - j. Actively attempting to interfere with GeoMet's development plans and rights with its primary lessor and seeking to have such lessor instead to do business with CNX; and
  - k. Taking other anti-competitive actions designed to remove GeoMet from the relevant market.

### **Parties, Jurisdiction, and Venue**

2. GeoMet, Inc. is a Delaware corporation with its principal place of business in Houston, Texas. GeoMet, Inc. is an independent energy company engaged in the exploration, development, and production of CBM.

3. GeoMet Operating Company, Inc. is an Alabama corporation and a wholly owned subsidiary of GeoMet. GeoMet Operating Company, Inc. handles the drilling,

completion and operation of gas wells pursuant to an operating agreement between itself and GeoMet, Inc.

4. GeoMet Gathering Company, LLC is an Alabama limited liability company and a wholly owned subsidiary of GeoMet, Inc. GeoMet Gathering Company, LLC will transport and deliver CBM to market using the pipeline that currently is under construction.

5. Each of these GeoMet entities are associated by common ownership, agreements and purpose to compete in the CBM industry in Buchanan County, Virginia.

6. CNX is an entity engaged in the business of producing, processing, and transporting CBM. CNX is a Virginia limited liability company whose sole member is CNX Gas Corporation, a publicly traded Delaware corporation having its principal place of business in the State of Pennsylvania.

7. Island Creek is an entity formerly engaged in the business of mining, processing, and transporting coal. It holds coal reserves in Buchanan County, Virginia underlying the Oakwood Field. However, it does not operate any active mines on those reserves. It is incorporated under the laws of the State of Delaware and has its principal place of business in Pennsylvania.

8. Jurisdiction is proper in this court pursuant to Va. Code § 17.1-513. Venue is proper pursuant to Va. Code §§ 8.01-262 and 59.1-9.9.

#### **Factual Allegations**

A. **Background of Coalbed Methane Production in Buchanan County.**

9. Buchanan County, Virginia is a unique area for CBM production. It is located in the Central Appalachian Basin and contains the most gas-rich coal seams in the Commonwealth and in the world, including the Pocahontas No. 3 seam. The Pocahontas No. 3 seam is made up of low-volatile, high rank coal that alone contains 400 to 600 cubic feet of CBM per ton of coal.

The Oakwood Field is much more productive than surrounding CBM fields. The deep mining of coal in Buchanan County also distinguishes this CBM field from others in Southwest Virginia. In 2005, CBM production from Buchanan County, Virginia accounted for over 65% of the CBM produced in the entire Commonwealth. The Oakwood Field is the 21<sup>st</sup> largest gas field in the United States. Gas from this field carries a premium in pricing that is better known as the Appalachian Differential, which traditionally amounts to sales at about \$0.28 per Mcf above NYMEX. Moreover, there is little exploration risk associated with the Oakwood Field because producers know that it includes CBM-rich coal. In fact, CNX maintains that it can generate a 20% pre-tax internal rate of return on the CBM from this field at a selling price of only \$4.35 per MMBtu, as compared with other fields where the selling price would have to be as high as \$8.00 in order to generate the same level of return.

10. For years, the CBM produced by the coal in Buchanan County was vented into the atmosphere as part of the coal mining process. In 1990, the Virginia General Assembly passed the 1990 Virginia Oil and Gas Act (the “1990 Act”) which created a structure by which CBM could be captured instead of discharged into the atmosphere. Va. Code § 45.1-361.1, et seq. (1990). Through administrative regulation, most of Buchanan County, Virginia was designated as the Oakwood Field for purposes of CBM production.

11. The two primary coal operators for below drainage (*i.e.*, “deep mine”) coal production in Buchanan County at that time were Island Creek and Consolidation Coal Company (“Consolidation”). As a result of the 1990 Act, both Island Creek and Consolidation (or their affiliated companies) began obtaining CBM leases in Buchanan County. Their leasing patterns roughly corresponded to the coal acreage that each company either owned or held under lease.

12. CBM operations affiliated with Consolidation were operated through Pocahontas Gas Partnership, a partnership between Consolidation and its related company, Conoco, Inc.

13. The CBM operations affiliated with Island Creek were operated through Buchanan Production Company.

14. Although Pocahontas Gas Partnership and Buchanan Production Company were fierce competitors in the beginning of the CBM production industry in Buchanan County, they agreed to participate in a joint venture to construct a pipeline to transport CBM from Buchanan County to West Virginia for delivery to the interstate pipelines owned by Columbia Gas Transmission Company (the "Columbia Line"). This joint venture was called Cardinal States Gathering Company ("Cardinal States"). It initially built a 50 mile, 16 inch line that connects to the Columbia Line in Mingo County, West Virginia ("Cardinal One Line"), followed by a second 30 mile, 20 inch line that connects to the Columbia Line in Wyoming County, West Virginia ("Cardinal Two Line") (collectively, the "Cardinal States Pipelines"). A map of the Cardinal States Pipelines is attached as Exhibit 1.

15. In July of 1993, Consolidation's parent company, Consol Energy, Inc., ("Consol"), purchased the beneficial ownership of both Consolidation's competitor in the coal business, Island Creek, and the company that handled Island Creek's CBM operations, Buchanan Production Company. For a short period of time, both Buchanan Production Company and Pocahontas Gas Partnership were commonly owned and operated through related companies. Consol sold Buchanan Production Company in 1995; but, later repurchased it on or about February 25, 2000.

16. Thus, as of early 2000, Consol owned or controlled three-fourths (3/4) of the production in the Oakwood Field with Conoco owning the other 25%. On August 22, 2001,

Consolidation acquired Conoco's interest in Pocahontas Gas Partnership, which then became owned by Consol.

17. Therefore, as of August 22, 2001, Consol effectively owned all of Buchanan Production Company and Pocahontas Gas Partnership, the only two significant CBM operators, producers and transporters in Buchanan County, Virginia. It also owned or controlled the vast majority of the below drainage coal reserves in Buchanan County as a result of these mergers and acquisitions. This allowed Consol to control the necessary "consents to stimulate" referenced in the paragraphs below. The effect of these mergers was highly anticompetitive. As of January 1, 2001, Consol held a monopoly over CBM production in Buchanan County, Virginia, with almost 100% of the market share.

18. Exercising its complete control, Consol consolidated the two former competitors, Pocahontas Gas Partnership and Buchanan Production Company, into a new limited liability company. Consolidation then served as the sole member of CNX. Another related company, CNX Gas Corporation, is currently the sole member of CNX.

19. As a result of these transactions, CNX took control of all of the production facilities previously held by either Pocahontas Gas Partnership or Buchanan Production Company, including the Cardinal States Pipelines. CNX advertises that the Cardinal States gathering system is now a 952 mile gathering system with daily throughput capacity of 250 MMcf per day. The system was operating at 62% of capacity as of December 31, 2005, with substantially all of Buchanan County CBM production dedicated to the Cardinal States Pipelines.

B. The Economics and Process of Gas Production

20. CBM operators such as CNX and GeoMet obtain gas reserves for production primarily under leases with the owners of the gas. Typically, under such leases, producers agree

to pay the owner of the gas a royalty upon the sale of the gas as it is produced. Such leases also generally provide for up-front rental payments for the primary lease term based on the acreage under lease. They typically also prescribe the costs (if any) that the operator may deduct for processing the CBM once it is produced. These gas leases can have indefinite durations, but they typically require the producer to adhere to a minimum drilling schedule in order to keep the undeveloped portions of the leasehold under lease.

21. Virginia has instituted a statutory and regulatory process for the drilling and operation of gas wells. Under this process, on April 10, 1990, the Oakwood Field was designated as an area of gas production in Buchanan County, Virginia. Rules divide the field into eighty (80) acre square units that are assigned numbers and letters for coordinates using a grid (e.g. Unit A-29, K-20, etc.). Where, as is often the case, an operator owns or controls less than 100% of the gas in a given unit, the operator must apply to the Virginia Gas and Oil Board (Division of Mines, Minerals and Energy) (“VGOB”) for a pooling order to be designated as the operator of such a unit. Such an operator also may apply to the VGOB’s Director for a permit to drill a well in such a unit.

22. Under this process, it is possible for a gas operator to “force pool” the interests of other owners and gas lessees in a unit. By so doing, the applicant operator may gain control over the unit, and may force even a majority owner in the unit to allow the applicant operator to be “in charge” of the unit and the drilling and production thereon.

23. There are several methods of producing CBM. In connection with active mining, wells can be drilled into or around the rubble or “gob” zone created by active longwall coal mining. These are called “gob” wells. Also in connection with active coal mining, wells can be



drilled from within the underground mine works horizontally into the coal seam in advance of mining.

24. The majority of CBM that is produced in the Oakwood Field, however, is produced from wells where the coal seam is artificially stimulated or fractured prior to mining. These are called “frac” wells.

25. Virginia statutory and regulatory process grants coal owners and operators significant power in that they must give their consent for any such stimulation of the coal seam. *See* Va. Code § 45.1-361.29(F). The Code requires that a permit for a CBM well must be submitted with a signed consent from the coal operator of each coal seam that is located within 750 horizontal feet of the well location which the applicant proposes to stimulate, or that is located within 100 vertical feet of a coal bearing stratum which the applicant proposes to stimulate. The Code also allows coal owners to object to the placement of wells. *See* Va. Code §§ 45.1-361.11 and -361.12. Virginia Code § 45.1-361.12 requires the coal owner’s agreement for the placement of any well or drilling unit within 2,500 feet of an existing well or a well for which a permanent application is on file. The statute effectively gives a coal owner the means to block development of any well within 2,500 feet of an existing well. Virginia statute defines “coal owner” as any person who owns, leases, mines and produces, or has the right to mine and produce, a coal seam. Va. Code § 45.1-361.1.

26. Even once an operator is designated by application for a unit and has permission to drill the well for that unit, it still faces one of the most difficult aspects of producing CBM from Buchanan County (the Oakwood Field) --- transporting the gas to end users, or “getting it to market.” Unless a producer can economically get its CBM to market, all other aspects of the process are irrelevant. Moreover, unless an operator can transport the CBM to market, the leases

it obtains will be worthless, and typically will revert back to the lessor. No other CBM owner would likely lease to such an operator who cannot transport its CMB to market.

27. Through the consolidation of Pocahontas Gas Partnership and Buchanan Production Company, CNX effectively controls the vast majority of the large tracts of producible CBM in Buchanan County, Virginia. As of December 31, 2005, CNX claimed that its Virginia operation – which is largely included in the Oakwood Field – comprised 267,000 acres, with 1,095.2 billion cubic feet (“Bcf”) of proved reserves, 637 Bcf of net unproved reserves, and 1,862 producing wells. Moreover, with this market power, CNX has announced plans to drill 278 new development wells in Virginia in 2007. It also controls the Cardinal States Pipelines by which the CBM leaves Buchanan County, posing a significant barrier to entry for other operators seeking to enter the market and compete with CNX. Likewise, since CNX’s indirect majority shareholder, Consol, is also the indirect owner of Island Creek, CNX is in a position to enter into agreements with Island Creek or Consol to cause Island Creek to deny routine consents to stimulate requested by other CBM operators such as GeoMet. The same is also true for Consolidation Coal Company and other affiliates of Consol that hold coal reserves. While CNX is always assured of obtaining consents for its proposed wells, it can and has entered into agreements with its affiliated coal companies to cause those companies to refuse the same consents to others, including GeoMet.

C. GeoMet’s Efforts to Compete in Buchanan County, Virginia.

28. Since 1993, GeoMet has been active as a developer and operator of CBM properties. GeoMet or its principals have been responsible for the development of five successful coalbed methane projects in four separate basins in the United States, including the Appalachian basin.

29. In connection with these development efforts, GeoMet began attempting to enter the CBM production and transportation market in Buchanan County, Virginia in 2002. GeoMet obtained a CBM lease from Plum Creek Timberlands, L.P. ("Plum Creek") and entered into a joint venture with Plum Creek's affiliate, Highland Resources, Inc.

30. As the monopoly holder for CBM production and transportation in Buchanan County and the Oakwood Field, CNX (or its predecessor, Buchanan Production Company) immediately began a campaign to harass GeoMet. It initially refused to allow GeoMet to transport its CBM on the Cardinal States Pipelines. These initial efforts by CNX, however, temporarily abated until CNX identified GeoMet as a legitimate competitor and began a campaign to assimilate the latter company or force it out of the Oakwood Field.

31. As a result of agreements reached in 2002 with the help of GeoMet's lessor, Plum Creek, and joint venture partner, Highland Resources, Inc., CNX agreed to allow GeoMet to transport its CBM on the Cardinal Two Line in order to get the CBM to market. GeoMet entered into an Interruptible Capacity Gas Gathering Agreement, dated October 17, 2002, with Cardinal States Gathering Company (the "Cardinal Agreement"). The Cardinal Agreement was amended by letter agreements dated October 31, 2003, and November 23, 2005. CNX signed each amendment on behalf of Cardinal States Gathering Company, as Operator and Partnership Manager, respectively.

32. The Cardinal Two Line is approximately thirty miles long. GeoMet's CBM enters the pipeline at roughly mile eleven, so it uses only approximately two-thirds of the pipeline. At substantial cost, GeoMet compresses and dehydrates its CBM before it enters the Cardinal Two Line. The actual cost to CNX to transport GeoMet's CBM is therefore minimal, and it is feasible for CNX to provide competitive access to the Cardinal Two Line to GeoMet.

As the amount of CBM flowing through the Cardinal Two Line increases as it has since 2002, the actual per unit cost for transporting the CBM decreases. However, pursuant to the most recent Amendment to the Cardinal Agreement, CNX has increased the rate to GeoMet from \$0.28 per MMBtu to \$0.45 per MMBtu to transport the gas 19 miles. As part of the amendment, CNX was able to coerce GeoMet into granting other significant concessions such as a right of first refusal for capacity on the Columbia Line. The current rate amounts to extortion and far exceeds both CNX's actual cost (with substantial profit) to transport the gas, as well as any fair market rate for transporting gas. Significantly, the Cardinal Agreement allows for its termination on April 30, 2007.

33. As part of the November 23, 2005 amendment to the Cardinal Agreement, the parties agreed to attempt to negotiate a long term transportation agreement for a period of 60 days. Those negotiations were unsuccessful, and CNX did not participate in them in good faith. Accordingly, GeoMet has no assurance that the Cardinal Agreement will be extended at any price, and the agreement is otherwise terminable on April 30, 2007. If CNX can block the construction of other pipelines that threaten to provide a transportation alternative to the Cardinal States Pipelines, then it can simply dictate the price for such service without regard to applicable economic principles. Without competition, CNX can, in fact, decrease supply and increase price substantially.

34. In August 2004, GeoMet succeeded in obtaining production rights to a large parcel of land in Buchanan County known as the "Rogers Tract." The Rogers Tract comprises roughly 10,189 acres, approximately 6,353 of which are situated in the Oakwood Field of Buchanan County, with the remaining 3,836 acres in McDowell County, West Virginia. GeoMet obtained CBM exploration and development rights to the Rogers Tract through a Farmout

Agreement, dated August 16, 2004, with Equitable Production Company (the “Farmout Agreement”). Under the Farmout Agreement, GeoMet is the successor to Equitable Production Company which holds the Rogers Tract through a CBM lease. That lease grants Equitable --and, thus, GeoMet -- the consent to stimulate the coal seams that contain the CBM. The lessor is the owner of both the coal and the CBM.

35. On information and belief, CNX was aware of this Farmout Agreement during 2005 – 2007, the relevant time period herein. The fact that GeoMet obtained significant acreage in Buchanan County caused CNX to increase the contractual transportation costs under the Cardinal Agreement, and also caused CNX to refuse to negotiate in good faith for a long term transportation agreement.

D. GeoMet’s Obligations Pursuant to the Rogers Tract Farmout Agreement and Underlying Lease.

36. As explained, GeoMet leases the CBM development rights to the Rogers Tract in Virginia and West Virginia pursuant to a Farmout Agreement with Equitable Production Company. Paragraph 3(B) of the Farmout Agreement imposes continuing drilling obligations on GeoMet. GeoMet must annually drill 20 wells on the Rogers Tract. GeoMet’s failure to meet the minimum annual drilling requirements of the Farmout Agreement can cause a forfeiture of its rights to further develop the Rogers Tract.

37. To date, GeoMet has met its drilling obligations under the Farmout Agreement by drilling primarily in West Virginia and along the periphery of the Buchanan County portion of the Rogers Tract. However, the majority of Rogers Tract acreage is in Virginia, and GeoMet is running out of room to drill in West Virginia. It has become critical for GeoMet to drill in Buchanan County.

E. The Relevant Market.

38. The market relevant to this action is the market for the production and transportation of CBM out of Buchanan County, Virginia, also known as the Oakwood Field.

39. CBM producers in Buchanan County have no commercially practical alternative but to transport their product through pipelines. From the producer's perspective, there is no transportation service that is interchangeable with a pipeline. The holder of a monopoly over pipeline transportation is therefore able to increase rates above competitive levels or restrict capacity, without losing customers to alternative transporters. Likewise, owners of CBM have no commercially practical alternative but to contract with operators who can transport their gas through pipelines. If only one operator in Buchanan County has such capability, then there is only one viable operator in Buchanan County. So too, owners of CBM have no commercially practical alternative but to contract with operators who can obtain "consents" to stimulate the coal from the coal owners. If only one CBM operator is able to obtain these consents due to its ownership affiliation with such coal owners, then there is only one viable operator in Buchanan County. There is no reasonably interchangeable service for owners.

40. Here, CNX has in bad faith used all of these aspects of production and transportation in order to keep GeoMet out of the Buchanan County CBM market. Its anticompetitive efforts are intended to deny owners of CBM in Buchanan County from having alternative producers and transporters for CBM, thus continuing CNX's historic domination of the market.

41. By controlling transportation, a CBM producer such as CNX controls production of the gas itself. Since owners of the CBM want to receive a royalty, they will be forced to lease their gas to the only operator that can get the gas to market. Therefore, if CNX controls the CBM transportation, it controls the CBM production. This is significant since the terms in CBM

leases are highly negotiable and can result in substantially lower payments to the gas owner. For example, modern leasing practices generally require CBM lessees to enter into lease agreements with no deductions for post-production costs such as gathering, compressing, treating and transporting the CBM. GeoMet offers such no-deduction leases to its lessor gas owners. By contrast, in the Oakwood Field, CNX requires CBM owner lessors to agree to such deductions which can be quite high. The fact that CNX is able to obtain such terms from its lessee gas owners is indicative of the market power that CNX possesses. CNX desires to maintain this power and these favorable operating terms. Likewise, if CNX can, as here, price such transportation in such a manner as to affect the profitability of the competing operator, it can accomplish the same results by forcing such competitor -- here, GeoMet -- to pass post-production costs along to its lessor or exit the market.

42. The relevant geographic market is defined and is limited by logistics, geology and regulation to the area in which the CBM is located -- in this case, Buchanan County and the largely coterminous Oakwood Field, as defined by applicable regulatory orders.

F. CNX Dominates the Relevant Market.

43. CNX, through its affiliate Cardinal States Gathering Company, holds approximately 95% of the market share for pipeline transmission of CBM out of Buchanan County. It also held and holds approximately 95% of the market share for production of CBM in Buchanan County.

44. Significant barriers limit potential competitors' ability to enter the market and existing competitors' ability (if any) to expand their output. These barriers include the cost of building a competing pipeline and the difficulty of obtaining necessary easements. Moreover, in order to economically justify the cost of pipeline infrastructure, the potential competitor must

hold a large amount of reserves. Thus, potential competitors such as GeoMet cannot practically or reasonably duplicate the pipeline capacity of CNX or the pipeline that it manages and operates particularly where, as here, the monopolist is exerting undue manipulation on the market.

45. Prior to October 31, 2006, the only practical way to get CBM out of Buchanan County was through the Cardinal Pipelines; and the only interstate pipeline system available to transport CBM once it was out of Buchanan County was the Columbia Line that runs to the north of Buchanan County in West Virginia. However, in 2005, Duke Energy Gas Transmission announced its plans to build a new Jewell Ridge Lateral pipeline that would connect Buchanan County with gas markets and East Tennessee Natural Gas (“ETNG”) pipelines to the south within the Interstate 81 corridor and beyond.

G. CNX’s Anticompetitive Efforts to Block Construction of GeoMet’s Pipeline.

46. On October 31, 2006, natural gas owners and producers in Buchanan County were presented with an alternative to CNX’s transportation system (Cardinal States) to the Columbia Line, as the new Jewell Ridge Pipeline was placed into operation. This 32-mile pipeline is owned and operated by ETNG, a subsidiary of Duke Energy Gas Transmission (now Spectra Energy). It provides a means to connect Buchanan County to an alternative interstate pipeline and market through the ETNG interstate pipeline to the south. It also provides access to a large gas storage facility operated by Duke Energy called the “Saltville Storage Facility.” By allowing access to this storage facility, the new Jewell Ridge Pipeline provides an option to producers of CBM to produce and store gas during non-peak seasons, allowing it to be drawn out during periods of higher demand. A map of the new Jewell Ridge Pipeline is attached as Exhibit 2.



47. By agreement with ETNG, CNX has obtained a large amount of firm capacity on the Jewell Ridge Pipeline at a discounted rate. It uses less than a third of this capacity. CNX pressured GeoMet to purchase some of its capacity on the Jewell Ridge Pipeline, for which it proposed to charge GeoMet the full tariff rate.

48. Instead, GeoMet negotiated and entered into a firm capacity agreement with ETNG allowing it to transport its gas along the Jewell Ridge Pipeline at a cost substantially lower than that charged by CNX for Cardinal Two Line.

The PMC Tract:

49. However, in order to transport its gas to ETNG's Jewell Ridge Pipeline (and thus, other markets, pipelines, and storage facilities), GeoMet must construct a connecting pipeline from its CBM production facilities to the Jewell Ridge Pipeline. To do so, GeoMet obtained necessary easements and permits and began construction of the new connecting line (the "GeoMet Access Line"). As GeoMet permitted the GeoMet Access Line, it gave notice to all owners affected by the pipeline. Any objections such property owners raised were ultimately withdrawn during the regulatory process for the approval of the GeoMet Access Line. A critical part of the path of this GeoMet Access Line passes through an approximately 20,000 acre tract of land owned by Pocahontas Mining Company ("PMC") in Buchanan County. GeoMet was able to obtain an easement from PMC in order to complete this new pipeline to transport economically the CBM it produces in the Oakwood Field.

50. Construction of the GeoMet Access Line to the Jewell Ridge Pipeline threatens CNX's monopoly on the production and transport of CBM out of Buchanan County. When CNX learned of GeoMet's efforts to build the GeoMet Access Line, it took extreme measures to prevent the pipeline's construction.

51. CNX is successor lessee to a CBM lease with the PMC, dated February 13, 1998. That lease grants CNX exclusive drilling and production rights to the coal seam gas on the property, as well as the nonexclusive right to construct and maintain pipelines, tanks, structures, and utility lines that it “may deem necessary and convenient for the production and/or transportation of coal seam gas or other gas....” CNX asserted that its lease prohibited the construction of the GeoMet Access Line across the PMC tracts.

52. In its efforts to block GeoMet’s construction of the GeoMet Access Line, CNX went so far as to lock the gates to the PMC property, denying access to both GeoMet *and* PMC, the owner of the property.

53. GeoMet obtained an injunction in Buchanan County Circuit Court allowing it to construct its access line across the PMC property in May, 2006 and again in July, 2006. The litigation between CNX and GeoMet regarding the GeoMet Access Line remains ongoing.

The Smith Tract:

54. Failing at its efforts to block GeoMet’s access to the PMC tract, CNX switched tactics and began to buy property along the right of way proposed for the GeoMet Access Line. Another critical portion of the GeoMet Access Line right of way is the J. Rufus Smith property in Tazewell, Virginia (the “Smith Tract”). The Smith Tract is a small tract of land with a complicated title that involves many heirs. GeoMet purchased a majority interest in this tract and purchased rights of way from other owners who preferred not to sell their interests in the tract. As with most family-owned tracts, negotiation for the purchase of surface rights to this tract was handled partially through family representatives who negotiated on behalf of other family members. GeoMet worked through such family leaders, particularly when dealing with elderly persons who owned small co-tenant interests in the Smith Tract. For example, GeoMet negotiated with Tom Smith regarding his

branch of the family tree. Mr. Smith obtained consent from Fay Martin, an 86 year old widow, to negotiate and enter into agreements with GeoMet on her behalf. Mr. Smith and GeoMet were able to reach a favorable agreement for the construction of the GeoMet Access Line across the Smith Tract. Due to the number of co-tenants on this tract, some of the work for procuring the remaining deeds and agreements remained unfinished as the GeoMet Access Line approached the Smith Tract, which lies near the end of the pipeline. Ultimately, none of the original co-tenants maintained any objections to the GeoMet Access Line permit applications, of which they all received written notice.

55. When CNX learned that GeoMet's Access Line would cross the western edge of the Smith Tract, it immediately began efforts to interdict the pipeline and to thus preserve its monopoly. CNX combined with others, including Jim Hamblin, an independent "landman," to purchase any interest in the Smith Tract that would allow it to potentially block the GeoMet Access Line through additional litigation. In furtherance of CNX's wrongful plan, Jim Hamblin acquired an agreement with the widow Fay Martin by which she would convey to CNX her fractional interest in the property (approximately 1.55 acres) for \$50,000, an amount far greater than the fair market value of the entire tract. CNX closed on this purchase on November 21, 2006, for the sole purpose of becoming one of many co-tenants to the property so that it could advance spurious legal claims and file a complaint for an injunction in order to thwart the GeoMet Access Line. It did so even though Mrs. Martin had already, through her relatives, represented to VGOB that she supported the GeoMet Access Line. CNX and Hamblin have continued to combine and conspire to have CNX purchase other interests in the Smith Tract at prices high above market value. However, CNX has publicly asserted in Tazewell Circuit Court that it needed Mrs Martin's interests in the Smith Tract so desperately -- as its initial "toehold" in the property -- that it was willing to pay a vast premium for her small interest.

56. Notwithstanding the fact that it acquired Mrs. Martin's fractional interest in November 2006, CNX remained silent as to its planned objections until the crews working on the GeoMet Access Line approached the Smith Tract and prepared to begin work on the property. Only then did CNX disclose that it had purchased Mrs. Martin's interest. However, before disclosing this, CNX filed a lawsuit in Tazewell County seeking to partition the property by allotment -- where it would become the sole owner of the property -- and also seeking an injunction against GeoMet to prohibit GeoMet from laying 1400 feet of pipeline across the western edge of the tract.

57. By correspondence dated January 12, 2007, CNX wrote to GeoMet and claimed that it had purchased an interest in the Smith Tract and that it had filed a lawsuit against GeoMet to prevent the construction of the GeoMet Access Line over that tract. GeoMet received this letter late in the day on the Friday before a three-day holiday weekend. The following Tuesday, i.e., the next business day, CNX moved the court for an emergency injunction claiming that its property interests in the Smith Tract would be irreparably harmed by the construction of the GeoMet Access Line. Notwithstanding the fact that CNX routinely constructs pipelines through properties where the surface is owned by others, CNX alleged to the Tazewell Circuit Court that the construction of the GeoMet Access Line would irreparably injure the property. It also made such allegations notwithstanding the fact that it had previously cleared right of way and buried part of the Cardinal Two Line over the very same piece of property as a trespasser (and that abandoned portion of pipeline is still in the ground on the Smith Tract). This Court denied CNX's Motion after a hearing.

58. CNX immediately requested an additional emergency hearing on the same issues that was scheduled for January 19, 2007. After hearing evidence on this second request, the Circuit Court of Tazewell County, Virginia entered a temporary injunction prohibiting the continued construction of the GeoMet Access Line on the Smith Tract. As a result of CNX's actions in

obtaining this injunction, GeoMet has been prohibited from completing the GeoMet Access Line, causing substantial damages to GeoMet.

59. CNX has taken these actions in an attempt to prevent the construction of the GeoMet Access Line and to maintain its monopoly over CBM production and transportation in Buchanan County. If CNX is successful in its anti-competitive efforts, GeoMet's damages will include the loss of the undeveloped portions of the Roger's Tract, its total investment in the GeoMet Access Line, the value of the shut-in wells and unproduced reserves from the Rogers Tract as well as other leaseholds, lost capital expenditures, and any additional damages that may result.

#### The Stillwell Tract

60. After the injunction was granted to CNX, blocking the GeoMet Access Line construction over the Smith Tract, GeoMet began mitigating its damages by planning possible alternative routes around the Smith Tract going to the east or west. Initial efforts failed. However, very recently, GeoMet conceived of a western route that would allow it to bypass the Smith Tract and meet up with the Pipeline to the north of that tract where the Pipeline has already been constructed.

61. One of the pieces of property needed for the western route is owned by Nancy M. Stilwell and controlled by her conservator, Raymond T. Short (the "Stilwell Tract"). On January 31, 2007, GeoMet and Mr. Short reached a verbal agreement for the Stillwell Tract to be sold to GeoMet for the generous sum of \$30,000. At approximately 4:30 PM that day, GeoMet met with Mr. Short and provided him with contracts signed by GeoMet and earnest money deposit. Mr. Short indicated acceptance, but he wanted to advise the Commissioner of Accounts and then he would sign.

62. Sometime between 4:30 PM and 5:30 PM that day, Jim Hamblin contacted Mr. Short for the purpose of buying the Stilwell Tract for CNX and offered \$100,000 for the property for the stated reason of “protecting CNX’s interests.”

63. When Mr. Short informed GeoMet of Hamblin’s offer, GeoMet had no choice but to offer (1) \$30,000 for a right of way across a small portion of the property, (whereupon he could then still sell the entire piece of property to CNX for \$100,000) or (2) \$120,000 for the property outright. At approximately 9:00 AM the following day (2/1/07), Mr. Short told GeoMet that CNX would not agree to the deal to buy the property with a right of way on it to GeoMet.. Shortly thereafter, Mr. Short advised that CNX had offered \$150,000 for the property. GeoMet, again having no choice, offered Mr. Short \$160,000. This process continued until GeoMet ultimately agreed to pay \$250,000.

64. Hamblin also attempted to purchase other tracts of land in the area for CNX in order to block GeoMet’s efforts to get around the Smith Tract.

#### H. CNX’s Other Anti-Competitive Efforts

65. GeoMet was a privately held company when it began its efforts to compete in the Buchanan County CBM market. Thereafter, it initiated the process of becoming a publicly traded company. GeoMet’s shares began trading publicly on July 28, 2006.

66. Because of its plans in Buchanan County and to protect investors and consumers from arbitrary actions by CNX—such as its ability to deny GeoMet access to the Cardinal Two Line, or using its monopoly power to dictate prices to drive the cost of such transportation to prohibitive levels—GeoMet needed to secure a long term transportation agreement or other firm assurances from CNX as to transportation of its CBM on the Cardinal Two Line.

67. Discussions concerning a potential long-term transportation agreement, as well as CNX's attempts to purchase GeoMet, occurred contemporaneously with the dispute over GeoMet's construction of its access pipeline over the PMC tracts in Buchanan County. Thus, in late 2005 through mid-2006, CNX was positioned to exert, and did exert, massive bargaining leverage over GeoMet.

68. As an example, on November 23, 2005, GeoMet was forced to concede to CNX's demanded Amendment to GeoMet's Cardinal Agreement, which increased the gathering fee GeoMet must pay to \$0.45 per MMBtu in order to extend the term of the Cardinal Agreement from October 17, 2006 to April 30, 2007. By increasing the rate GeoMet paid to transport gas on the Cardinal Two Line to \$0.45 per MMBTU, many times the highest reasonable rate, CNX denied GeoMet access to the pipeline on any reasonable terms.

I. CNX Tried to Force Anticompetitive Concessions out of GeoMet.

69. As a further example, in mid-2006, CNX attempted to use its market position to extract anticompetitive concessions from GeoMet. CNX met with GeoMet in May of 2006 and made unreasonable and illegal demands as consideration for its agreement to a long-term transportation arrangement on the Cardinal States Lines and for its agreement to drop its frivolous objections to the construction of the GeoMet Access Line across the PMC tract. At this meeting, the Senior Vice President and Chief Operating Officer of CNX complained to GeoMet that GeoMet's actions in the market place had increased CNX's costs of doing business in Buchanan County. CNX protested that GeoMet was signing CBM leases and property agreements on more favorable terms than CNX wished to offer. Specifically, it complained that GeoMet was paying higher up-front rentals for leases and issuing leases with no deductions from royalty payments to CBM owners.

70. Following this meeting, CNX sent GeoMet a letter, dated May 26, 2006, in which it proposed an agreement with GeoMet. A copy of this letter is attached as Exhibit 3. This letter proposed to draw GeoMet into CNX's restraint of trade. Most significantly, CNX demanded that GeoMet not allow any third parties use of the GeoMet Access Pipeline. As CNX stated in the letter:

GeoMet will not flow any third party gas through [its] Pipeline, other than gas produced by CNX Gas, and up to 2,000 Dth per day of gas produced by Classic Gas.

As part of this deal, CNX proposed to give GeoMet access to the Cardinal States Lines at a rate of \$0.20 per MMBtu (Dth). CNX further demanded that GeoMet pay it 3.5% of the gross proceeds from the sale of *all* gas (other than gas owned by CNX) that GeoMet moved through its own pipeline. CNX also demanded access to the GeoMet Access Pipeline at a rate of \$0.10 per MMBtu (Dth), or *one-half* the rate that CNX would charge GeoMet to provide reciprocal service on the Cardinal States Gathering System.

J. CNX Attempted to Block GeoMet's Extraction of Gas.

71. In addition to its anticompetitive efforts to purchase GeoMet, block construction of the GeoMet Access Line (or, failing that, to protect its monopoly by limiting third-party access to the GeoMet Access Line), CNX is now attempting to prevent GeoMet from drilling wells on the Rogers Tract. Doing so will drive GeoMet out of Buchanan County and eliminate any competition in the market, protecting CNX's monopoly over production and transportation of CBM in Buchanan County.

CNX is Blocking GeoMet's Drilling Efforts in Virginia.

72. CNX is blocking GeoMet's necessary drilling operations by interposing objections in the VGOB's administrative process on its own and through its affiliate, Island Creek, which holds rights to the coal underlying the Rogers Tract.



73. As noted above, coal owners may make certain objections to the placement of wells. *See* Va. Code §§ 45.1-361.11 and -361.12. Even though Island Creek is not operating any mine on the affected property and has no plans to do so, in combination with CNX, it has filed objections under the 2,500 foot rule, attempting to bar GeoMet from drilling necessary wells. Island Creek has done this notwithstanding the fact that the coal owner on the tract has granted consent and notwithstanding the fact that the coal lease by which Island Creek purports to do this contains a provision reserving unto the lessor the right to develop all other minerals (i.e., CBM).

CNX is Conspiring with its Affiliates to Refuse to Grant GeoMet  
Necessary Consents to Stimulate.

74. To produce its CBM economically and to pass on proceeds to the owners of the CBM, GeoMet must drill “frac” wells and stimulate coal seams. In the stimulation process, the CBM operator injects materials such as water, sand, or nitrogen foam into the coal seam at a high pressure, causing fractures within the coal seam. These fractures then allow the CBM to flow from the coal seam to the well bore. Absent mining activities, it is essentially impossible to produce CBM gas in commercial quantities from a coal seam that has not been stimulated.

75. Virginia law provides that a coal operator must consent to any such stimulation of its coal seam. *See* Va. Code § 45.1-361.29(F). The Code requires that a permit for a CBM well must be submitted with a signed consent from the coal operator of each coal seam which is located within 750 horizontal feet of the well location which the applicant proposes to stimulate or which is within 100 vertical feet of a coal bearing stratum which the applicant proposes to stimulate.

76. Historically, Island Creek has never objected to the stimulation of its coal seams for GeoMet’s operations. In fact, from late 2004 through mid 2005, Island Creek consented to GeoMet’s stimulation of six wells. Likewise, Island Creek has routinely granted consents to stimulate to CNX and its predecessors. GeoMet uses industry standard methods of fracturing,

the same methods as used by CNX. Therefore, the only reason CNX or Island Creek would refuse such consents is to inhibit GeoMet's CBM production.

77. In its dealings with Island Creek, GeoMet worked with senior mining officials to reach agreement on acceptable drilling, plugging and operating plans and procedures for GeoMet's operations. Once that agreement was reached and the mining officials recommended that Island Creek grant consent to stimulate, there was an unexplained delay in obtaining the written consents. These officials later confirmed that the delay was due to the fact that Island Creek had been required to obtain CNX's consent to the agreement. Now, however, CNX has indicated to GeoMet that it will cause Island Creek to refuse to grant GeoMet consent to stimulate for its wells. At recent hearings before the VGOB, CNX made these threats publicly.

78. CNX (and/or Island Creek, through common counsel) has also opposed GeoMet's permit application for the Rogers 198 Well in 2006 by written objections, personal appearance at an Informal Fact Finding before the Director of the Virginia Division of Gas and Oil, and by personal appearance before the VGOB. GeoMet has appealed the decision to the Buchanan County Circuit Court, and that case is still pending a hearing date. GeoMet also sought pooling applications for certain units in which it holds valid lease rights to the underlying CBM, seeking to be designated as operator of such units. CNX has objected to over 30 GeoMet pooling applications between November 2006 and January 2007 on the grounds that it has consents to stimulate such units while GeoMet did not have and could not obtain such consents. Although CNX failed in those efforts to block the applications, it has now filed applications seeking to change the unit operator so that CNX may be designated as the operator for the same units and seeking permission to drill wells in them. CNX has asserted that VGOB should grant such applications because CNX has the consent of the coal owner (its affiliate) to stimulate the coal while GeoMet does not. As with the other actions by

CNX, these actions are solely designed to perpetuate and solidify the CNX monopoly in Buchanan County, Virginia.

79. CNX's objections and the concerted refusal by Island Creek to grant consents to stimulate are made in bad faith. As noted above, the CBM lease and corresponding Farmout Agreement for the Rogers Tract grant consent to stimulate by the owner of the coal. So too, the owner of the coal reserved the right to develop all minerals in its coal lease to Island Creek. Island Creek has no operations on or plans to mine the Rogers Tract. Its objections are advanced solely to defeat GeoMet's efforts to compete with CNX and they are being made improperly under Virginia law.

80. Most recently, CNX has filed force pooling applications on units where it has a joint operating agreement or "area of mutual interest" agreement with Appalachian Energy, Inc. ("AEI"), a company whose ownership is unaffiliated with CNX. GeoMet has CBM interests in these units and AEI had not planned on force pooling them at this time. Rather, as with most border unit situations, GeoMet had anticipated negotiating agreements with AEI in order to swap boundary properties in some equitable manner. However, CNX went to AEI and announced that it would be filing the force pooling applications and that it would name AEI as the operator on these units. Because of CNX's power in the Oakwood Field, AEI consented. This is another example of the power and control that CNX has over this market and of its desire to use that power in order to harm competitors.

81. GeoMet is unable to meet its drilling obligations while these companies act in concert to interpose administrative objections, deny consents to stimulate, and withdraw previously granted consents.

82. In addition to these other harassing activities, CNX has actually taken the position in public filings that it owns the CBM rights to the Rogers Tract. Assuming that this statement was an honest error, GeoMet has requested in writing that CNX remove this cloud from GeoMet's title. However, CNX has refused to do so. Moreover, CNX has approached the owners of the Rogers Tract asking that they align with CNX instead of GeoMet, even proposing to match the lease terms offered by GeoMet.

### COUNT 1

#### VIRGINIA ANTITRUST ACT--MONOPOLIZATION (CNX)

83. GeoMet repeats the preceding paragraphs and incorporates them by reference.

84. CNX has unlawfully monopolized the trade or commerce of the Commonwealth of Virginia with respect to the production and transportation of CBM out of Buchanan County, Virginia, in violation of Va. Code § 59.1-9.6.

85. CNX possessed and exercised monopoly power over the relevant market as set forth above, including through:

- a. Its dominant 95% market share of the CBM production and similar or greater market share of CBM transportation out of Buchanan County, the barriers to entry described above, and the inability of competitors (if any) to increase their output;
- b. Its ability to dictate prices for the transport of CBM, as evidenced by the exorbitant gathering fee it charged GeoMet for using Cardinal Two Line;
- c. Its ability to cause the coal operators in Buchanan County, Consolidation and Island Creek, to withhold consents to stimulate and to file objections under the 2500 foot well spacing rule;

- d. Its efforts and ability to impose lease terms on CBM owners unfavorable to such owner lessors;
- e. Its efforts and ability to deny owners of CBM in this market of a meaningful option of having their CBM produced by others; and
- f. Its efforts and ability to exclude GeoMet from the market and from access to common carrier transportation.

86. CNX willfully acquired and maintained its monopoly. The monopoly did not grow or develop as a consequence of a superior product, business acumen, or historic accident. CNX has maintained its monopoly by its efforts to exclude GeoMet from the market and from access to common carrier transportation, including by:

- a. Causing Island Creek to withhold consent to stimulate coal seams that would otherwise have been granted and interposing other objections designed at preventing GeoMet from drilling wells in the relevant market;
- b. Seeking to be designated as the operator for units where GeoMet's CBM is to be produced and objecting in a repeated and harassing manner to permit applications by GeoMet;
- c. Blocking reasonable access to the Cardinal States Pipelines;
- d. Blocking construction of GeoMet's competing pipeline for the transport of CBM out of Buchanan County;
- e. Interfering with GeoMet's contractual and business expectancies and relationships;
- f. Attempting to coerce GeoMet into an agreement in restraint of trade;

- g. Pushing GeoMet out of Buchanan County by blocking its exploration and development efforts to prevent GeoMet from honoring its obligations for drilling on the Rogers Tract;
- h. Attempting to undermine GeoMet's relationship with its lessors;
- i. Its other conduct beyond competition on the merits, as set forth above; and
- j. Other anti-competitive actions designed to remove GeoMet from the relevant market.

87. As a direct and proximate result of this conduct and its anticompetitive effects, GeoMet has suffered injury to its business and property of the type that the antitrust laws were designed to prevent, sustaining actual damages in the amount of \$561 million.

88. Because CNX's actions in violation of the Virginia Antitrust Act were willful and flagrant, GeoMet asks that it be awarded three times its actual damages pursuant to Va. Code § 59.1-9.12, together with its costs of suit and reasonable attorney's fees.

WHEREFORE, GeoMet seeks judgment against CNX for compensatory and consequential damages in the amount of \$561 million, treble damages, pre-judgment interest, post-judgment interest, attorneys' fees, costs, and such other relief as this Court deems just and proper.

## COUNT 2

### VIRGINIA ANTITRUST ACT--ATTEMPTED MONOPOLIZATION (CNX)

89. GeoMet repeats the preceding paragraphs and incorporates them by reference.

90. In the alternative to Count 1, GeoMet states that CNX has unlawfully attempted to monopolize trade or commerce of the Commonwealth of Virginia with respect to the

production and transportation of CBM out of Buchanan County, Virginia, in violation of Va. Code § 59.1-9.6.

91. CNX engaged in anticompetitive and predatory conduct in the relevant market in an effort to achieve a monopoly over the transport of CBM gas from Buchanan County, as shown by the evidence set forth above, including by:

- a. Causing Island Creek to withhold consent to stimulate coal seams that would otherwise have been granted and interposing other objections designed at preventing GeoMet from drilling wells in the relevant market;
  - b. Seeking to be designated as the operator for units where GeoMet's CBM is to be produced and objecting in a repeated and harassing manner to permit applications by GeoMet;
  - c. Blocking reasonable access to the Cardinal States Pipelines;
  - d. Blocking construction of GeoMet's competing pipeline for the transport of CBM out of Buchanan County;
  - e. Interfering with GeoMet's contractual and business expectancies and relationships;
  - f. Attempting to coerce GeoMet into an agreement in restraint of trade;
  - g. Pushing GeoMet out of Buchanan County by blocking its exploration and development efforts to prevent GeoMet from honoring its obligations for drilling on the Rogers Tract;
  - h. Attempting to undermine GeoMet's relationship with its lessors;
  - i. Its other conduct beyond competition on the merits, as set forth above;
- and

- j. Other anti-competitive actions designed to remove GeoMet from the relevant market.

92. CNX possessed the specific intent to achieve a monopoly, control prices, and destroy competition, as evidenced by its competitive position, the lack of competitive justification for its acts set forth above, and the alternative courses of action available to it.

93. There is a dangerous probability that CNX will succeed in achieving monopoly power in the relevant market, as evidenced by, among other things:

- a. Its dominant 95% market share of the CBM production and similar or greater market share of CBM transportation out of Buchanan County, the barriers to entry described above, and the inability of competitors (if any) to increase their output;
- b. Its ability to control necessary consents to stimulate (and other means of objection to development) from coal operators; and
- c. Its ability to dictate prices for the transport of CBM, as evidenced by the exorbitant gathering fee it charged GeoMet for using Cardinal Two Line.

94. As a direct and proximate result of this conduct, and its anticompetitive effects, GeoMet has suffered injury to its business and property of the type that the antitrust laws were designed to prevent, sustaining actual damages in the amount of \$561 million.

95. Because CNX's actions in violation the Virginia Antitrust Act were willful and flagrant, GeoMet asks that it be awarded three times its actual damages pursuant to Va. Code § 59.1-9.12, together with its costs of suit and reasonable attorney's fees.

WHEREFORE, GeoMet seeks judgment against CNX Gas for compensatory and consequential damages in the amount of \$561 million, treble damages, pre-judgment interest,



post-judgment interest, attorneys' fees, costs, and such other relief as this Court deems just and proper.

**COUNT 3**

**VIRGINIA ANTITRUST ACT--CONSPIRACY TO MONOPOLIZE**

**(CNX, ISLAND CREEK AND OTHERS)**

96. GeoMet repeats the preceding paragraphs and incorporates them by reference.

97. On information and belief, CNX, Island Creek and others including Jim Hamblin, conspired and acted in concert to monopolize the trade or commerce of the Commonwealth of Virginia with respect to the production and transportation of CBM out of Buchanan County, Virginia, in violation of Va. Code § 59.1-9.6.

98. The economic interests of Island Creek and CNX are separate and distinct.

99. CNX has advised GeoMet that it, through and with its co-conspirator, Island Creek, will deny GeoMet necessary consents, and that the coal companies will withdraw their previously assured consents, in an effort to block GeoMet's drilling of wells and stimulation of coal seams. CNX also made these threats publicly at recent hearings before VGOB. Thus, Island Creek has withheld consents to stimulate in furtherance of the conspiracy.

100. Island Creek, in furtherance of this conspiracy, has taken the overt action of interposing objections in VGOB's administrative process pursuant to the "2500 foot" rule, in an effort to deprive GeoMet of its lawful exploration and development rights with respect to the Rogers Tract.

101. Jim Hamblin has joined in this conspiracy in efforts to block the construction of the GeoMet Access Line by taking the overt actions described above.

102. CNX and Island Creek and other co-conspirators, including Jim Hamblin, possessed the specific intent to unlawfully monopolize the market, as shown by their acts as set

forth above and as contrasted to Island Creek's historically cooperative relationship with GeoMet.

103. As a direct and proximate result of this conduct and its anticompetitive effects, GeoMet has suffered injury to its business and property of the type that the antitrust laws were designed to prevent, sustaining actual damages in the amount of \$561 million.

104. Because the defendants' actions in violation of the Virginia Antitrust Act were willful and flagrant, GeoMet asks that it be awarded three times its actual damages pursuant to Va. Code § 59.1-9.12, together with its costs of suit and reasonable attorney's fees.

WHEREFORE, GeoMet seeks judgment against CNX and Island Creek for compensatory and consequential damages in the amount of \$561 million, treble damages, pre-judgment interest, post-judgment interest, attorneys' fees, costs, and such other relief as this Court deems just and proper.

#### COUNT 4

#### VIRGINIA ANTITRUST ACT--AGREEMENT IN RESTRAINT OF TRADE

#### (CNX, ISLAND CREEK AND OTHERS)

105. GeoMet repeats the preceding paragraphs and incorporates them by reference.

106. On information and belief, CNX, Island Creek, and others, including Jim Hamblin, entered into an unlawful contract or conspiracy in restraint of trade or commerce of the Commonwealth, in violation of Va. Code § 59.1-9.5.

107. The economic interests of CNX and Island Creek are separate and distinct.

108. On information and belief, CNX and these others unlawfully combined and conspired with the intent to drive GeoMet from the market and to prevent GeoMet from drilling wells necessary in order to maintain its production and drilling obligations and from completing the GeoMet Access Line to allow competition with CNX (as well as to allow production to be

sold from GeoMet's leased reserves). Their agreement comprised an unreasonable restraint on commerce and produced adverse, anticompetitive effects within the relevant product and geographic markets. It was manifestly anticompetitive; lacked redeeming benefit; unreasonably restricted competitive conditions; and was therefore violative of the Virginia Antitrust Act.

109. CNX has advised GeoMet that it, through and with its co-conspirator, Island Creek, will deny GeoMet necessary consents, and that the coal companies will withdraw their previously assured consents, in an effort to block GeoMet's drilling of wells and stimulation of coal seams. CNX also made these threats publicly at recent hearings before VGOB. Thus, Island Creek has withheld consents to stimulate in furtherance of the conspiracy.

110. Island Creek, in furtherance of this conspiracy, has taken the overt action of interposing objections in VGOB's administrative process pursuant to the "2500 foot" rule, in an effort to deprive GeoMet of its lawful exploration and development rights with respect to the Rogers Tract.

111. Jim Hamblin has joined in this conspiracy in efforts to block the construction of the GeoMet Access Line by taking the overt actions described above.

112. As a direct and proximate result of this conduct and its anticompetitive effects, GeoMet has suffered injury to its business and property of the type that the antitrust laws were designed to prevent, sustaining actual damages in the amount of \$561 million.

113. Because the actions of CNX and Island Creek in violation the Virginia Antitrust Act were willful and flagrant, GeoMet asks that it be awarded three times its actual damages pursuant to Va. Code § 59.1-9.12, together with its costs of suit and reasonable attorney's fees.

WHEREFORE, GeoMet seeks judgment against CNX and Island Creek for compensatory and consequential damages in the amount of \$561 million, treble damages, pre-

judgment interest, post-judgment interest, attorneys' fees, costs, and such other relief as this Court deems just and proper.

**COUNT 5**

**VIRGINIA ANTITRUST ACT—PRAYER FOR  
INJUNCTIVE RELIEF (CNX AND ISLAND CREEK)**

114. GeoMet repeats the preceding paragraphs and incorporates them by reference.

115. As set forth above, GeoMet has legally recognized rights to develop and produce CBM; to construct the GeoMet Access Line; to transport its CBM along the GeoMet Access Line; and to compete in the market for production and transportation of CBM in Buchanan County, Virginia.

116. Because the actions of CNX and Island Creek in violation of the Virginia Antitrust Act, as set forth above, have threatened GeoMet with injury and damage to its business, injunctive relief is appropriate pursuant to Va. Code § 59.1-9.12.

WHEREFORE, GeoMet prays that this Court, after hearing and notice, enter a Preliminary and Permanent Injunction against CNX, Island Creek, their officers, agents, servants, employees, attorneys, subsidiaries, and affiliates, and others in active concert with them, enjoining all such persons from:

- a. Charging GeoMet higher than competitive rates to transport its CBM over the Cardinal States Pipelines;
- b. Blocking GeoMet's efforts to construct the GeoMet Access Line;
- c. Interfering with GeoMet's relationships with CBM owners, including the owners of the Rogers Tract;

- d. Interfering with GeoMet's business relationship and contractual relationship with ETNG for transportation on the Jewell Ridge Lateral Pipeline;
- e. Acting so as to prohibit the transportation of third party CBM on pipelines out of Buchanan County;
- f. Colluding to interpose objections in VGOB's administrative process; and
- g. Colluding to refuse to grant consent to stimulate, and to withdraw consents previously assured.

GeoMet further seeks an order causing the holdings and affiliations of CNX to be re-configured in such a way as to remove the monopoly control that CNX holds over this market, including such affiliations and ownerships that allow CNX to cause related coal companies to deny consent to stimulate (or other regulatory objections), such affiliations that allow CNX to control the transportation of CBM from Buchanan County, and requiring divestiture of the ownership of CBM reserves in Buchanan County together with such other relief as this Court deems just and proper.

#### **COUNT 6**

#### **TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONS WITH ETNG (CNX)**

117. GeoMet repeats the preceding paragraphs and incorporates them by reference.

118. GeoMet has a valid contractual relationship with ETNG to transport GeoMet's CBM to the ETNG interstate pipeline at much more favorable rates than those extorted by CNX for the Cardinal Lines (the "ETNG Agreement")

119. CNX had knowledge of this relationship during all periods relevant hereto.

120. CNX intentionally interfered with the ETNG Agreement as set forth above, including by:

- a. Its actions with regard to the PMC tract over which the GeoMet Access Line passes;
- b. Its actions with regard to the Smith tract over which the GeoMet Access Line passes or was to have passed;

121. CNX's actions have prevented or delayed GeoMet's performance under the ETNG Agreement causing substantial damages to GeoMet. This interference may also cause the imminent breach or termination of the contractual relationship in the event that GeoMet is unable to re-route the GeoMet Access Line to reach the ETNG Jewell Ridge Lateral line.

122. This interference was an intentional and anticompetitive attempt to injure GeoMet and improve CNX's position and corporate and financial interests, and was accomplished through improper means and methods including sharp dealing, overreaching, and unfair competition.

123. As a direct and proximate result of CNX's intentional interference, GeoMet has suffered damages in the amount of at least \$561 million.

WHEREFORE, GeoMet seeks judgment against CNX for compensatory and consequential damages in the amount of at least \$561 million, pre-judgment interest, post-judgment interest, attorneys' fees, costs, and such other relief as this Court deems just and proper.

#### COUNT 7

#### TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONS, PROSPECTIVE CONTRACTS AND BUSINESS EXPECTANCIES -- RIGHT OF WAY AGREEMENTS (CNX)

124. GeoMet repeats the preceding paragraphs and incorporates them by reference.

125. GeoMet has contractual relations with co-tenants on the Smith Tract by which GeoMet has been granted right of way easements to the tract for purposes of constructing the GeoMet Access Line. Additionally, GeoMet was in the process of purchasing other such agreements from remaining co-tenants on the Smith Tract and had legitimate contract and business expectancies with these co-tenants.

126. CNX had knowledge of these contractual relationships, GeoMet's planned pipeline, and GeoMet's business relationships and contractual expectancies with those co-tenants who had not yet signed agreements with GeoMet, including Fay Martin, Ann Shreve, Princess Casey, Katherine Richardson, Wesley Smith, Frazier Joyce, and Charles Smith, during all periods relevant hereto.

127. CNX intentionally interfered with GeoMet's contractual and business relations with the co-tenants to the Smith Tract and with the prospective contractual relationships and/or business expectancies that GeoMet had with those co-tenants who had not yet signed agreements with GeoMet as set forth above, including by (a) paying exorbitant amounts of money to Fay Martin, Ann Shreve, Princess Casey, Katherine Richardson, Wesley Smith, Frazier Joyce, and Charles Smith in order to prevent such parties from entering into agreements with GeoMet, and (b) by filing injunctive litigation in Tazewell Circuit Court to prevent GeoMet from enjoying the contractual rights it purchased under the right of way agreements and other property interest instruments that it obtained for the Smith Tract.

128. CNX's actions have prevented GeoMet from realizing its contractual and business expectancies and entering into property agreements that it was in the process of completing with these co-tenants. Its actions have also denied GeoMet the benefit of the contracts already obtained.

129. This interference was an intentional and anticompetitive attempt to injure GeoMet and improve CNX's position and corporate and financial interests, and was accomplished through improper means and methods including sharp dealing, overreaching, and unfair competition.

130. As a direct and proximate result of CNX's intentional interference and the disruption of these contractual expectancies, GeoMet has suffered damages in the amount of at least \$561 million.

WHEREFORE, GeoMet seeks judgment against CNX for compensatory and consequential damages in the amount of \$561 million, pre-judgment interest, post-judgment interest, attorneys' fees, costs, and such other relief as this Court deems just and proper.

#### COUNT 8

#### TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONS, PROSPECTIVE CONTRACTS AND BUSINESS EXPECTANCIES -- PURCHASE OF STILWELL TRACT (CNX)

131. GeoMet repeats the preceding paragraphs and incorporates them by reference.

132. GeoMet entered into a verbal contract with Raymond Short, conservator for Nancy Stilwell, in order to purchase the Stilwell Tract for \$30,000. This agreement was memorialized in a written contract and an earnest money deposit was made by GeoMet. Mr. Short wanted the approval of the Commissioner of Accounts prior to signing the contract, but he had agreed to do so subject to that one contingency.

133. CNX had knowledge of this contractual relationship or business expectancy, GeoMet's planned pipeline, and the importance of this tract to GeoMet's plans that had been revised in light of an injunction obtained by CNX.



134. CNX intentionally interfered with GeoMet's contractual and business relations with Mr. Short as set forth above, including by following GeoMet's efforts to purchase the property and offering to pay vastly more for the property in order to induce Mr. Short to breach his agreement with GeoMet. On information and belief, CNX only knew of GeoMet's dealings with Mr. Short by spying on its actions. The only reason that CNX attempted to purchase this property and drove up the price of it was to harm GeoMet.

135. CNX's actions denied GeoMet the benefit of the agreement that it had already obtained from Mr. Short.

136. This interference was an intentional and anticompetitive attempt to injure GeoMet and improve CNX's position and corporate and financial interests, and was accomplished through improper means and methods including sharp dealing, overreaching, and unfair competition and perhaps other unlawful means.

137. As a direct and proximate result of CNX's intentional interference and the disruption of these contractual expectancies, GeoMet has suffered damages on this one transaction alone in the amount of at least \$220,000.

WHEREFORE, GeoMet seeks judgment against CNX for compensatory and consequential damages in the amount of \$220,000, pre-judgment interest, post-judgment interest, attorneys' fees, costs, and such other relief as this Court deems just and proper.

#### COUNT 9

#### STATUTORY CONSPIRACY (CNX AND ISLAND CREEK)

138. GeoMet repeats the preceding paragraphs and incorporates them by reference.

139. On information and belief, CNX, Island Creek Coal Company and certain landmen, including Jim Hamblin (and, on information and belief, others), combined and

conspired willfully and maliciously to injure GeoMet in its trade, business and profession as described above, and currently are conspiring to prevent GeoMet from completing its GeoMet Access Line and/or producing and transporting CBM so as to destroy GeoMet's business and drive GeoMet from the market as a competitor, all in violation of Va. Code § 18.2-499.

140. On information and belief, the conspirators entered into this conspiracy to advance the corporate and business interests – as well as the personal financial interests -- of CNX.

141. As a result of these actions, GeoMet has sustained damages to its business in excess of \$561 million. Pursuant to Va. Code § 18.2-500, such damages should be trebled.

WHEREFORE, GeoMet seeks judgment against CNX and Island Creek for compensatory and consequential damages in the amount of \$561 million, treble damages, pre-judgment interest, post-judgment interest, attorneys' fees, costs, and such other relief as this Court deems just and proper.

#### **COUNT 10**

##### **COMMON LAW CONSPIRACY (CNX AND ISLAND CREEK)**

142. GeoMet repeats the preceding paragraphs and incorporates them by reference.

143. On information and belief, CNX, and Island Creek and/or certain landmen, including Jim Hamblin (and, on information and belief, others), combined and conspired intentionally, purposefully, and without legal justification for the unlawful and improper purposes of causing interference with GeoMet's contractual relationships and business expectancies, causing GeoMet to not be able to honor its commitments or to receive the benefits of its contractual relations with ETNG, causing GeoMet to be unable to produce or transport CBM, and thereby reducing competition in violation of the Virginia Antitrust Act.

144. CNX and Island Creek acted with ill-will and malice toward GeoMet, and unlawfully or without legal justification.

145. The economic interests of CNX and Island Creek are separate and distinct.

146. As a result of these actions, GeoMet has sustained damages in excess of \$561 million.

WHEREFORE, GeoMet seeks judgment against CNX and Island Creek for compensatory and consequential damages in the amount of \$561 million, punitive damages in the amount of \$350,000, pre-judgment interest, post-judgment interest, attorneys' fees, costs, and such other relief as this Court deems just and proper.

**GEOMET DEMANDS TRIAL BY JURY.**

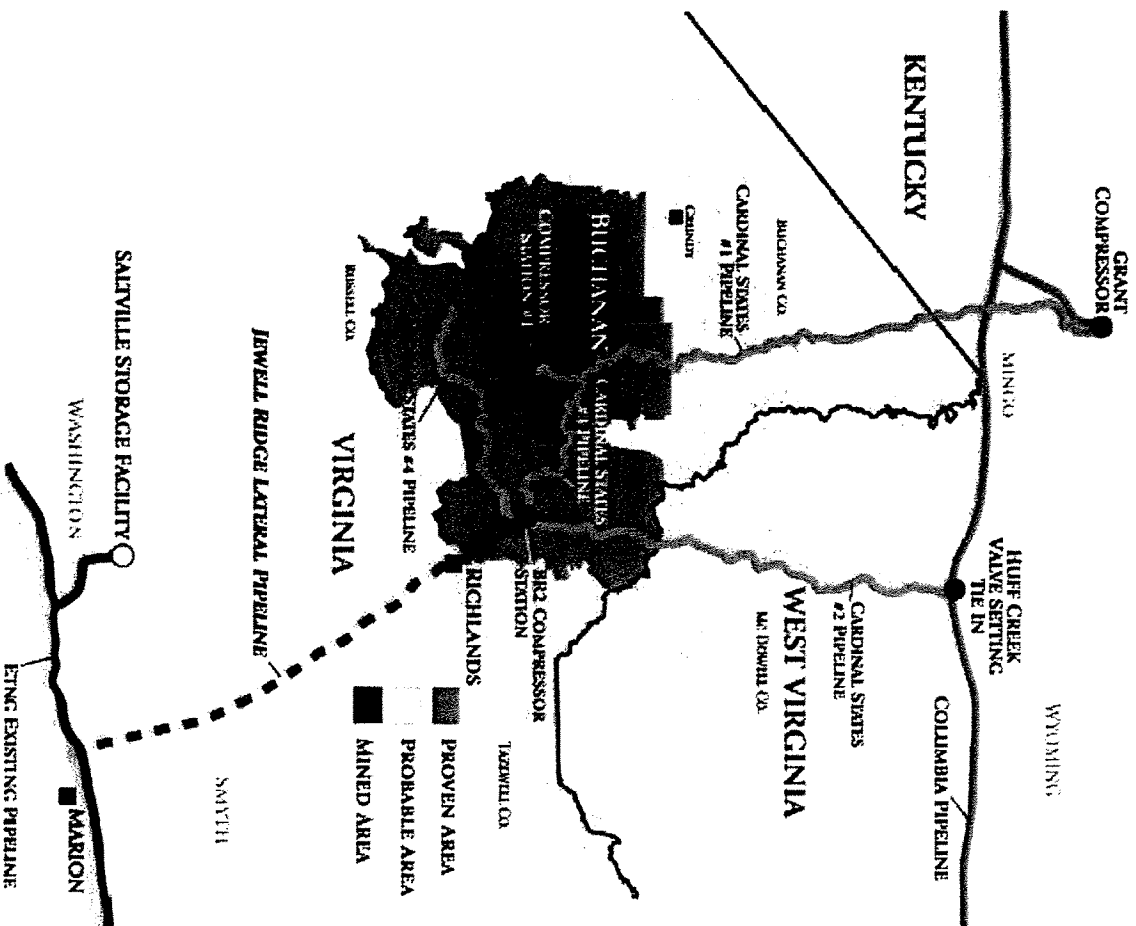
By:   
Of Counsel

J. Scott Sexton (VSB No. 29284)  
Kevin W. Holt (VSB No. 42866)  
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GENTRY LOCKE RAKES & MOORE LLP  
800 SunTrust Plaza  
P.O. Box 40013  
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(540) 983-9300  
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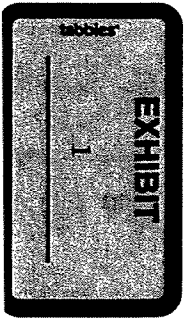
S. Thomas Mullins (VSB No. 27572)  
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Facsimile: (276) 935-4162

Counsel for Plaintiffs

# Cardinal States Gathering System



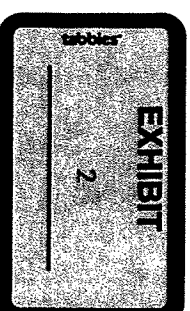
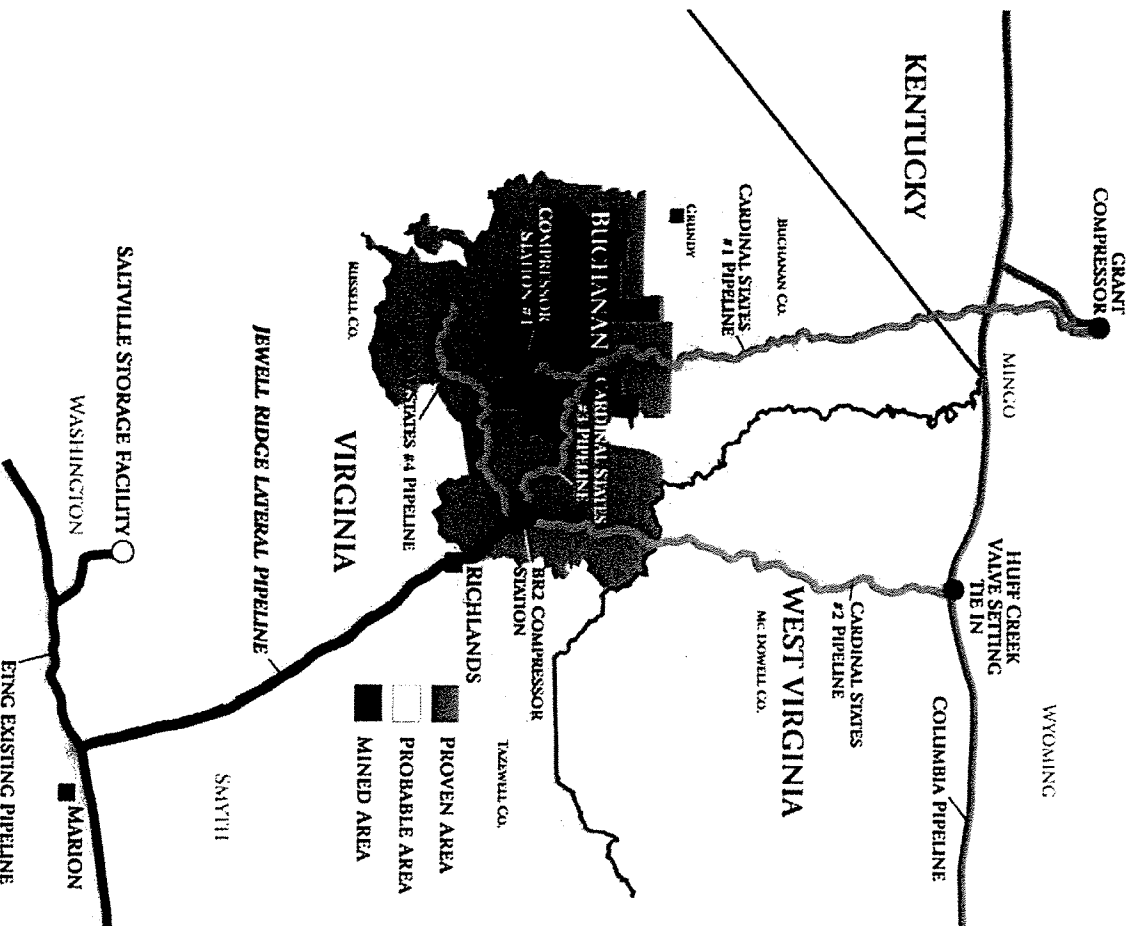
- Wholly-owned and operated 952-mile gathering system
- Transports substantially all of CNX Gas' production
- Throughput capacity
  - 250 MMcf per day
  - Operating at 62% capacity as of December 31, 2005
- Gas flows northward into Columbia KA-20 pipeline
- Need to determine ownership structure that maximizes shareholder value
- Assets have book value of \$ 112.5 MM



# Access to New Markets



- Provides a second outlet, reducing curtailment risk
- Provides better management of firm transport cost
- Provides access to new markets:
  - Atlanta
  - Charlotte
  - New York (via Patriot/Transco)



In our continuing effort to reach a compromise of this matter, CNX Gas makes the following non-binding proposal to GeoMet:

1. CNX Gas will give GeoMet access to the PMC Lease Property for the construction and operation of its Pipeline (as well as the gathering lines that are apparently already on the Property) and will not otherwise object to the construction and operation of the Pipeline;
2. CNX Gas will give GeoMet access to Cardinal States Gathering System on an interruptible basis, at a rate of \$0.20 per Dth, following expiration of the existing Gathering Agreement in 2007; provided, that GeoMet will not flow third party gas through the Cardinal States Gathering System, other than gas produced by CNX Gas, and up to 2,000 Dth per day of gas produced by Classic Gas;
3. GeoMet will comply with CNX Gas' safety requirements while operating on the PMC Lease Property and will indemnify CNX Gas for any loss that CNX Gas might incur as a result of GeoMet's access to that Property;
4. GeoMet will reimburse CNX Gas for one-half of the operating costs of the CNX Gas infrastructure on the PMC Lease Property (primarily access roads) that GeoMet uses in connection with the construction and maintenance of the Pipeline;
5. GeoMet will reimburse CNX Gas for any additional operating costs that CNX Gas incurs as a result of the construction and operation of the Pipeline, including for example, well relocation costs;
6. GeoMet will pay to CNX Gas an access fee with respect to the PMC Lease Property of 3.5% of the gross proceeds from the sale of all gas (other than any gas owned by CNX Gas) moved through the Pipeline;
7. GeoMet will give CNX Gas access to the Pipeline on an interruptible basis at a rate of \$0.10 per Dth, upon completion of the Pipeline;
8. GeoMet will, upon completion of the Pipeline, permanently release to CNX Gas all firm transportation held by GeoMet on the Columbia Gas Transmission system at maximum tariff rate; and
9. GeoMet will not flow third party gas through the Pipeline, other than gas produced by CNX Gas, and up to 2,000 Dth per day of gas produced by Classic Gas.



CNX Gas Company LLC  
4000 Brownsville Road  
South Park, PA 15129-9545

phone: 412/854-6705  
fax: 412/854-6777  
e-mail: ronaldsmith@cnxgas.com  
web: www.cnxgas.com

**RONALD E. SMITH**  
President

May 26, 2006

VIA EMAIL AND FEDERAL EXPRESS

GeoMet, Inc.  
909 Fannin, Suite 3208  
Houston, TX 77010  
Attention: Darby Seré

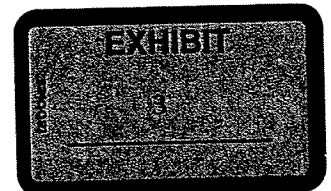
RE: Follow up to May 22, 2006 Meeting in Knoxville, TN between  
CNX Gas Corporation (together with its subsidiaries, "CNX Gas")  
and GeoMet, Inc. (together with its subsidiaries, "GeoMet")

Dear Darby:

Thank you for taking the time to meet with us on Monday. We thought it would be helpful to reiterate some of the points we made at that meeting and to make another effort to resolve the differences between us.

As you know, CNX Gas is the successor in interests to a lease with Pocahontas Mining Company ("PMC"). By agreement with PMC, CNX Gas has exclusive rights under the lease, including the exclusive right to transport gas on the surface of our leasehold interest (the "PMC Lease Property"). To be clear, this exclusive right pertains to both gas produced on and gas produced off the PMC Lease Property. We understand that GeoMet desires to construct and operate an 8" gas pipeline (the "Pipeline") across the PMC Lease Property and, in fact, has entered the PMC Lease Property to begin construction. Further, based on information we obtained subsequent to our meeting, it appears that GeoMet may have already laid some gathering lines on the PMC Lease Property. CNX Gas will not permit GeoMet or any other party to trespass on CNX Gas' rights. To protect our rights, we have taken steps to restrict GeoMet's access to the PMC Lease Property.

We regret that last Monday GeoMet chose to decline our offer of access to the PMC Lease Property for the Pipeline, so that each of party could simply move on with its business. Nevertheless, CNX Gas remains interested in trying to reach a commercial resolution of the Pipeline access issue on the PMC Lease Property.



Darby Seré  
GeoMet, Inc.  
May 26, 2006  
Page 3

If the foregoing sets forth a basis for continuing our discussions, please so indicate by counter-signing this letter where indicated below and returning it to the undersigned. Of course, neither party will be legally bound unless and until definitive documentation is executed.

Finally, we want to reiterate that GeoMet may, upon reasonable prior notice to CNX Gas, remove its (or cause its contractors to remove their) equipment from the PMC Lease Property at any time.

CNX Gas expressly reserves all of its rights and remedies with respect to all issues related to this matter.

Please do not hesitate to call me if you have any questions or comments regarding the foregoing.

Sincerely,

CNX GAS COMPANY LLC

By: 

Name: Ronald E. Smith

Title: President

Acknowledged and Agreed:

GEOMET, INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Via e-mail only

cc: Nick Defulius  
Claude Morgan  
Mike Onifer  
Jay Hammond  
David Altizer