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Joint Settlement Resolves Coalbed Methane Valuation

DENVER – A $21.7 million settlement agreement reached between the Minerals Management Service and ConocoPhillips Company resolves a long-standing issue involving the valuation of coalbed methane gas extracted during the last decade from many Federal leases in New Mexico.

The settlement agreement, finalized May 19, stipulates that the ConocoPhillips Company will pay MMS $21.7 million for royalties for the period covering Jan. 1, 1989, through June 30, 2004. The settlement will be split equally with the state of New Mexico since the coalbed methane production occurred on Federal lands located within that state's borders.

"This settlement resolves the valuation questions associated with coalbed methane production for ConocoPhillips in New Mexico," said MMS Director Johnnie Burton. She extended her compliments to the ConocoPhillips Company for its willingness to work closely with the Federal government and to resolve the issue through negotiation - instead of litigation – "and in a manner that is fair to all parties concerned." Burton also praised the work of the state of New Mexico and those who were involved in auditing the leases.

Valdean Severson, contract administrator for the New Mexico Taxation and Revenue Department's audit program, said the department was encouraged by the cooperation of all parties involved and the negotiated settlement. "We are pleased that this long-standing issue with ConocoPhillips Company has been resolved," Severson said. "As a result of the settlement, New Mexico's public schools will benefit."

The issue was identified by state of New Mexico auditors through its delegated audit agreement with the MMS. New Mexico conducts audits through a contract with MMS under Section 205 of the Federal Oil and Gas Royalty Management Act of 1982, which provides the authority for MMS to delegate audits, inspections and investigations for producing Federal oil and gas leases within the state. The state of New Mexico receives 50 percent of the bonuses, rents and royalties collected from energy production on Federal lands within its borders. The majority of these revenues go directly into the state's Public School Fund that is used to support public school operating budgets.

The issue involved whether the company could deduct from its required royalty payments the cost of removing carbon dioxide (CO_2) from the methane gas. MMS maintained that removing carbon dioxide from the coalbed methane is a cost of placing production in a marketable condition, to be done at no cost to the lessor. On June 10, 2005, this principle was upheld by the United States District Court of Appeals for the District of Columbia in Amoco Prod. Co. v. Watson.

Burton said the settlement agreement is important in many respects. "ConocoPhillips has shown that, by working cooperatively with the Federal government, lessees can save significant litigation costs while resolving potentially contentious issues in a fair manner," she said. It also eliminates future litigation since the agreement stipulates how the company's production will be valued in the future. "By bringing certainty to this important issue," Burton said, "ConocoPhillips can invest in increased energy production, knowing in advance what their costs will be."

MMS, part of the U.S. Department of the Interior, oversees 1.76 billion acres of the Outer Continental Shelf, managing offshore energy and minerals while protecting the human, marine, and coastal environments through advanced science and technology research. The OCS provides 30 percent of oil and 23 percent of natural gas produced domestically, and sand used for coastal restoration. MMS collects, accounts for, and disburses mineral revenues from Federal and American Indian lands, with Fiscal Year 2004 disbursements of approximately $8 billion and more than $143 billion since 1982. The Land and Water Conservation Fund, which pays for cooperative conservation, grants to states, and Federal land acquisition, gets nearly $1 billion a year.

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MMS Main Website

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