

HOLLAND & HART_{LLP}
The Law Out WestSM



Aspen	Boise	Cheyenne	Denver	Jackson Hole	Santa Fe
Billings	Boulder	Colorado Springs	Denver Tech Center	Salt Lake City	Washington, DC

110 North Guadalupe, Suite 1,
P.O. Box 2208, Santa Fe, New Mexico 87504-2208

Friday, May 10, 2002

To: James Bruce, Esq.	Fax : 982-2151
	Phone: 982-2043
To: W. Thomas Kellahin, Esq.	Fax : 982-2047
	Phone: 982-4285
To: David K. Brooks, Esq.	Fax : 505-476-3462
Energy, Minerals and Natural Resources Department	Phone:
To: Robert Floyd	Fax : 915-687-4804
EnerQuest Resources, L.L.C.	Phone:

From: William F. Carr	Fax : 505-983-6043
	Phone: 505-988-4421

Message:

Attached are EnerQuest's Response to Lynx Operating Co.'s Motion to Dismiss and the Affidavit of Robert W. Floyd.

No Confirmation Copy Number of pages including cover sheet: 9

Note: If this fax is illegible or incomplete please call us. This fax may contain confidential information protected by the attorney-client privilege. If you are not the named recipient, you may not use, distribute or otherwise disclose this information without our consent. Instead, please call (505) 988-4421; we will arrange for its destruction or return.

Attorney Number: <u>5101</u>	Client/Matter Number: <u>44595.0002</u>	Time Deadline: _____
Operator Initials: <u>KEH</u>	Date Transmitted: <u>5.10.2002</u>	Time: _____

**STATE OF NEW MEXICO
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES
OIL CONSERVATION DIVISION**

**APPLICATION OF ENERQUEST RESOURCES, LLC.
FOR STATUTORY UNITIZATION, LEA COUNTY,
NEW MEXICO.**

CASE NO. 12845

**APPLICATION OF ENERQUEST RESOURCES, LLC.
FOR APPROVAL OF A WATERFLOOD PROJECT
AND QUALIFICATION OF THE PROJECT FOR
THE RECOVERED OIL TAX RATE PURSUANT
TO THE ENHANCED OIL RECOVERY ACT,
LEA COUNTY, NEW MEXICO.**

CASE NO. 12846

**ENERQUEST RESOURCES, LLC.'S
RESPONSE TO LYNX OPERATING CO. MOTION TO DISMISS**

Lynx Operating Co., Vincero Oil & Gas, Inc. and Dreka, Inc., (hereinafter collectively referred to as "Lynx") through their attorney, asks the Division to dismiss the applications of EnerQuest Resources, L.L.C. ("EnerQuest") for statutory unitization of the East Hobbs (San Andres) Unit Area contending that EnerQuest has prematurely filed its application. The facts as represented by the Lynx in its motion are either incomplete or untrue. A review of all facts shows that the application for statutory unitization of the East Hobbs (San Andres) Unit Area was not prematurely filed and further shows that Lynx is draining reserves from offset operators and will continue to drain these reserves until the reservoir is either unitized or numerous unnecessary wells are drilled in the proposed unit area.

Lynx also endorses and supports the Motion to Dismiss previously filed in these cases by the Key Family Group. EnerQuest therefore incorporates its response to the Key Family Motion to Dismiss into this response.

RELEVANT FACTS

1. To determine the most prudent course of action for developing the remaining reserves in the San Andres formation in the East Hobb-San Andres Pool, EnerQuest prepared a Unit Waterflood Feasibility Study in the fall of 2000. This study concludes that the most effective way to recover the remaining reserves in this pool is through unitization and waterflood operations. Affidavit of Robert W. Floyd, paragraph 3.

2. Because of the advanced state of depletion of the East Hobbs-San Andres Pool and the fact that substantial drainage was occurring from properties in the proposed unit area to a tract operated by Lynx Operating Co., Inc. (especially the Laney and Laney A leases in which the Key Family Group own working interest), EnerQuest decided in early 2002 to

unitize 920 acres in Lea County, New Mexico and implement a waterflood project on the unitized lands. Affidavit of Robert W. Floyd, paragraph 4.

3. On January 23, 2002, EnerQuest wrote the Lynx Operating Co. and sought their voluntary participation in the proposed East Hobbs (San Andres) Unit and waterflood project. EnerQuest offered to respond to any questions and to provide information concerning this proposal. Affidavit of Robert W. Floyd, paragraph 5.

4. Lynx wrote EnerQuest on February 8, 2002, and objected to the plan to proceed with unitization and requested that the hearing then scheduled for March 7, 2002 be delayed to allow time to review and analysis of shared data. Lynx offered to meet with EnerQuest. Affidavit of Robert W. Floyd, paragraph 6.

5. On February 22, 2002 EnerQuest provided the Waterflood Feasibility Study to Lynx and on February 22, 2002 EnerQuest sent an AFE to the Lynx for the proposed waterflood. Affidavit of Robert W. Floyd, paragraphs 7 and 8.

6. EnerQuest continued the Examiner hearing, met with representatives of Lynx on March 5, 2002 to review the proposed unitization and shared data with Lynx. Lynx has not responded to any EnerQuest on any issue since that time other than to offer to sell its interest in the unit area. Affidavit of Robert W. Floyd, paragraphs 9 and 12.

7. On March 11, 2002 EnerQuest was contacted by James Bruce, attorney for Lynx, who requested additional information on the Unit and wells located therein.

8. On April 16, 2002 EnerQuest produced additional data to the Lynx, and although not requested by Lynx, EnerQuest produced additional information which it was producing to The Key Family pursuant to a Subpoena Duces Tecum issued by the Division on April 3, 2002. Affidavit of Robert W. Floyd, paragraph 10.

9. The legal counsel for EnerQuest has agreed to request the Division schedule this matter for hearing on a special hearing date after a reasonable time for review of the data and preparation for hearing.

10. Although EnerQuest has voluntarily produced information and documents to Lynx, and although EnerQuest had expressed its willingness to engage in further meetings and/or discussions as might be useful to Lynx concerning this project, the only response from the Lynx has been an offer to sell and its Motion to Dismiss. Affidavit of Robert W. Floyd, paragraph 12.

ARGUMENT

Before a unit can be formed pursuant to the Statutory Unitization Act, the operator must make "a good faith effort to secure voluntary unitization within the pool or portion thereof directly affected." NMSA 1978, Section 70-7-6 (1975). Contrary to the assertions of Lynx Operating Co., EnerQuest has not prematurely sought statutory unitization for it has made and continues to make a good faith effort to secure Lynx voluntary participation in the proposed East Hobbs (San Andres) Unit.

The Statutory Unitization Act and the rules of the Division are silent on what is required to meet the test of good faith because what is required is dependant on the particular

RESPONSE TO MOTION TO DISMISS
PAGE 2

facts and circumstances surrounding the individual unit. What EnerQuest has done is to provide Lynx the Unit Agreement, an AFE, the Unit Waterflood Feasibility Study, met with its representatives to review the study and answer questions. Furthermore, EnerQuest supplied additional data on April 16, 2002, and has repeatedly made offers to meet and consider whatever the Lynx would like to propose. This is "a good faith effort to secure voluntary unitization within the pool or portion thereof directly affected."

This proposed Unit is not like large units where there are hundreds of interest owners to be contacted. Here, through EnerQuest's efforts, 81.37% of the working interest has been voluntarily committed to the proposed unit and waterflood project. Only the Keys Family Group who stand to reap substantial benefit from the unit and waterflood and Lynx Operating Co. which is draining reserves from offsetting owners -- including the Keys Family Group -- are still in opposition to the plan. Their concerns will not be addressed until there is a hearing on the merits and an order is issued pursuant to the Statutory Unitization Act.

As long as Lynx continues to enjoy a drainage advantage on offsetting tracts it can be expected to assert that any proposed unit is premature. The truth is that a reasonable effort has been made to obtain the voluntary participation of Lynx and to respond to its questions and consider any proposal it might care to make.

This Motion to Dismiss is not an attempt to gain additional time to review and discuss the merits of the proposals or to obtain more data. Lynx has only one purpose, to avoid a prompt resolution of the issues by the Division through frivolous procedural maneuverings while they continue to drain offset properties.

EnerQuest requests that the Oil Conservation Division deny the Lynx Motion to Dismiss and set a special examiner hearing date where the merits of this proposed unit and waterflood project can be presented to the Division.

Respectfully submitted,
Holland & Hart LLP

By: 
William F. Carr

ATTORNEYS FOR ENERQUEST RESOURCES,
LLC

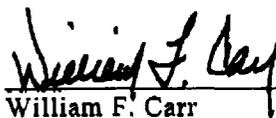
CERTIFICATE OF SERVICE

I certify that on May 10, 2002, I served a copy of the foregoing document by facsimile to the following counsel of record:

James Bruce, Esq.
Post Office Box 1056
Santa Fe, New Mexico 87504
By Facsimile
Fax No. (505)

W. Thomas Kellahin, Esq.
Kellahin and Kellahin
117 North Guadalupe
Santa Fe, New Mexico 87504-2265

Stephen Ross, Esq.
Oil Conservation Division
Energy, Minerals, and Natural
Resources Department
1220 S. Saint Francis Drive
Santa Fe, New Mexico 87504



William F. Carr

**STATE OF NEW MEXICO
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES
OIL CONSERVATION DIVISION**

**APPLICATION OF ENERQUEST RESOURCES, LLC.
FOR STATUTORY UNITIZATION, LEA COUNTY,
NEW MEXICO.**

CASE NO. 12845

**APPLICATION OF ENERQUEST RESOURCES, LLC.
FOR APPROVAL OF A WATERFLOOD PROJECT
AND QUALIFICATION OF THE PROJECT FOR
THE RECOVERED OIL TAX RATE PURSUANT
TO THE ENHANCED OIL RECOVERY ACT,
LEA COUNTY, NEW MEXICO.**

CASE NO. 12846

AFFIDAVIT OF Robert W. Floyd

STATE OF TEXAS)
) ss.
COUNTY MIDLAND)

Robert W. Floyd, being first duly sworn on oath, states as follows:

1. My name is Robert W. Floyd. I reside in Midland, Texas. I am the President of EnerQuest Resources, L.L.C. ("EnerQuest"). My responsibilities with EnerQuest include supervision of all land and technical activities of the of this company.

2. I am responsible for the efforts of EnerQuest to unitize the East Hobbs (San Andres) Unit pursuant to the New Mexico Statutory Unitization Act.

3. To determine the most prudent course of action for developing the remaining reserves in the San Andres formation in the East Hobbs San Andres Pool, in the fall of 2000 EnerQuest prepared a Feasibility Study. This study concludes that the most effective way to recover the remaining reserves is this pool is through unitization and fieldwide waterflood operations.

4. Because of the advanced state of depletion of the East Hobbs-San Andres Pool and the fact that substantial drainage was occurring from properties in the proposed unit area to a tract operated by Lynx Operating Co., Inc. (especially the Lancy and Laney A leases in which the Key Family own their working interest), it was decided in early 2002 to proceed with the formation of the proposed unit and implementation of a waterflood project on 920-acres in Lea County, New Mexico.

5. On January 23, 2002, EnerQuest wrote Lynx Operating, Co. and others and sought their voluntary participation in the proposed East Hobbs (San Andres) Unit and waterflood project. EnerQuest offered to respond to any questions and to provide information concerning this proposal.

6. Lynx wrote EnerQuest on February 8, 2002, and objected to the plan to proceed with unitization and requested that the hearing then scheduled for March 7, 2002 be delayed to allow time for review and analysis of shared data.

7. On February 22, 2002, the Feasibility Study was sent to Lynx and EnerQuest offered on that date to provide additional information or answer questions concerning the study and our plans to unitize and implement waterflood operations in this pool.

8. On February 22, 2002, EnerQuest sent an AFE to the Lynx Operating Co. for the proposed waterflood.

9. EnerQuest met with representatives of Lynx on March 5, 2002 to review the proposed unitization and share data with Lynx. Lynx has not responded to any EnerQuest on any issue since that time other than to offer to sell its interest in the unit area.

10. Pursuant to a request from the attorney for Lynx Operating Co., EnerQuest produced additional data on April 16, 2002, including data which had not been requested by Lynx but was being produced to The Key Family Group pursuant to a Division Subpoena.

11. Pursuant to requests from Lynx, EnerQuest has requested continuances of the hearing on these applications.

12. Although EnerQuest has voluntarily produced requested information and documents to Lynx, and although EnerQuest has expressed its willingness to engage in further meetings and/or discussions as might be useful to Lynx concerning this project, the only response from the Lynx Operating Co. was an offer to sell its interest and a Motion to Dismiss.

FURTHER AFFIANT SAYETH NOT.

Robert W. Hoff

SUBSCRIBED AND SWORN before me on this 10th day of May 2002.



Sheryl S. Neatherlin

Notary Public

My Commission Expires:
