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October 6, 2003

VIA HAND DELIVERY

Ms. Lori Wrotenbery, Chair
Ms. Jami Bailey, Member
Dr. Robert Lee, Member
Oil Conservation Commission
New Mexico Department of Energy,
Minerals and Natural Resources
1220 South Saint Francis Drive
Santa Fe, New Mexico 87505-4000

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Oil Conservation Division

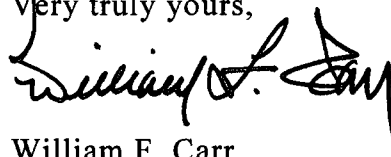
Re: Case No. 13041 (de novo): Application of EnerQuest Resources, L.L.C. for approval of a waterflood project and qualification of the project area for the Recovered Oil Tax Rate pursuant to the Enhanced Oil Recovery Act, Lea County, New Mexico.

Case No. 13042 (de novo): Application of EnerQuest Resources, L.L.C. for statutory unitization, Lea County, New Mexico.

Dear Commissioners:

Enclosed for your consideration in the above-referenced cases is the Closing Statement and Proposed Order Of EnerQuest Resources, L.L.C. in Case 13042 (*de novo*).

Very truly yours,



William F. Carr

cc: David K. Brooks Esq.
Oil Conservation Commission
James Bruce
Lowe Partners, L.P.
W. Thomas Kellahin, Esq.
Key Family Group
Mr. Chris Bezner
EnerQuest Resources, L.L.C.

CLOSING STATEMENT OF
ENERQUEST RESOURCES, INC.

CASE NO. 13041 (*De Novo*)

**Application of EnerQuest Resources, L.L.C.
for approval of a waterflood project and qualification of the project area
for the Recovered Oil Tax Rate pursuant to the
Enhanced Oil Recovery Act, Lea County, New Mexico.**

CASE NO. 13042 (*De Novo*)

**Application of EnerQuest Resources, L.L.C.
for statutory unitization, Lea County, New Mexico.**

In these consolidated cases EnerQuest Resources, L.L.C. (“EnerQuest”) seeks unitization of 920 acres of land located in Lea County, New Mexico for the purpose of implementing a waterflood project in the San Andres formation.

In March 2003, the Oil Conservation Division considered these applications and found that “The unitized management, operation and development of this proposed secondary recovery project will substantially increase the ultimate recovery of oil and gas from this pool and **delays in implementing the this project are detrimental to ultimate recovery from this reservoir.**” (N. M. Oil Conservation Div. Order No. R-11980, Finding No. 16, July 9, 2003).

Since 1996 EnerQuest has been acquiring interests in the unit area and since early 2000, EnerQuest has been attempting to reach a voluntary agreement with the owners in the unit area for the implementation of waterflood operations. The proposal before the Commission represents the recommendations of the working interest owners’ technical committee. Twenty-seven of the working interest owners in the unit area have committed their interests to this development plan. These owners believe that substantial volumes of incremental oil can be produced from the San Andres formation in the proposed unit area if waterflood operations are timely implemented.

The decisions of the working interest owners who have voluntarily committed their interests to this waterflood project are based on their interpretation of the reservoir and their engineering study. Based on this interpretation and study, EnerQuest and 26 other working interest owners that together own 88% of the working interest in the Unit Area (Testimony of Clark at p. 24), are prepared to spend \$17.9 million dollars to test

their interpretation. (Testimony of Williamson at p. 71). If they are correct, they should will 8.8 million barrels of oil that will otherwise be wasted. (Testimony of Williamson at 72.)

Because certain owners have not committed their interests to the unit plan, EnerQuest seeks an order forming this unit pursuant to the authority vested in the Commission by the New Mexico Statutory Unitization Act. N. M. Stat. Ann. § 70-7-1 et seq. The purpose of *unitization* is to permit the characteristics of the reservoir – not individual competitive ownership concerns - to control the development of the resource. The purpose of *statutory unitization* is to prevent a few interest owners from blocking the development of a pool under a unit plan. Here EnerQuest asks the Commission to exercise this statutory authority and issue an order permitting it to develop the remaining reserves in the unit area under a plan that is driven by the characteristics of the reservoir not the individual ownership concerns of a few owners. All that EnerQuest and the 26 other owners who have committed their interests to the Unit ask the Commission to do is to afford them the opportunity to efficiently produce the remaining recoverable reserves in the proposed unit area.

THE EVIDENCE

Since the rules governing Commission orders provide that “No order shall be made that is not supported by **competent legal evidence**” and that competent legal evidence is only that evidence that is sponsored by a qualified witness who is “subject to cross-examination” (See, Rule 19 NMAC 15.N. 1212, 7-15-99, A, 75-15-99), it is important to examine what competent legal evidence, if any, was presented in opposition to the proposed unit and waterflood project.

LOWE PARTNERS, L.P.:

Only the Lowe Partners, L.P. (“Lowe”) appeared and presented “competent legal evidence” at the Commission hearing on the proposed statutory unit and waterflood project. Lowe’s witness testified that Lowe did not oppose unitization but that they were concerned about the proposed participation formula (testimony of Gill at p.100). Lowe then presented its own formula that would base the future allocation of unitized substances from the P2 through P4 production intervals on prior production dating back to 1953 from the P1 zone – while admitting that there were only minimal remaining P1

reserves (Testimony of Gill at 102-103). Pursuant to its formula, Lowe would receive 8% of the remaining reserves while their tract would produce less than a barrel per day. (Testimony of Gill at p. 103 and 105.) Lowe owns an overriding royalty interest and will bear none of the risk of the proposed unitized operations and admits royalty has been paid to them for the past production from their tract (Testimony of Gill at p. 104). Lowe testified that without unitization, they would receive no additional revenue from their tract and recognized that under the proposed EnerQuest participation formula it would receive \$12,000- \$14,000 or .4% of the revenue received for unitized substances. But Lowe wants more - 18-times more - or 8% of the revenue from future unit operations. (Testimony of Gill at p. 105-106). Lowe felt this was fair although it was only contributing a tract that without unitization would be subject to cancellation (Testimony of Gill at p. 105). This is a classic example of a few interest owners attempting to block a development plan proposed by many and a classic case for statutory unitization. This is the same formula previously presented to a Division Examiner (Testimony of Gill at p. 102). This is the formula the Division rejected because it is "unfair, unreasonable and inequitable." (N. M. Oil Conservation Div. Order No. R-11980, Finding 22, (July 9, 2003).

OTHER PARTIES:

At the hearing Rocket Oil and Gas appeared through legal counsel and the Key Family Group submitted a written statement. Neither called a witness nor presented evidence that could be tested through cross-examination. Neither presented "competent legal evidence" that can be considered by the Commission in reaching its decision on these applications.

The Key Family Group:

The Key Family Group does not tell the Commission that a portion of the Key Family has joined the unit¹. They assume conflicting and confusing positions on the participation formula first stating in the statement delivered to the Commission if the project is approved, they support "EnerQuest's proposed single-phase participation formula." Then on September 18, 2003, they file a proposed order opposing the

¹ The only evidence in the record concerning the Key Family is that part of them have joined in the Unit by voluntarily committing their interest to the Unit plan. (Tr. at 17)

EnerQuest formula. However, the problem for the Key Family is more fundamental than just the incomplete² and inconsistent positions they take. The problem for the Key Family is that they presented no “competent legal evidence” and their statements and written arguments may not be considered in deciding the issues in this case.³

On September 15, 2003, pursuant to the direction of the Commission’s legal counsel, EnerQuest pre-filed its exhibits and provided copies to the Key Family. No objection to the hearing date was raised by the Key Family and no request for continuance was made. They knew of the hearing and could have participated but – just as they did before the Examiner – they did not appear nor did they present any “competent legal evidence.” Following a full hearing, the case was taken under advisement. (Tr. at 122)

² The Key Family’s proposed order also misstates the Statutory Unitization Act. They cite only part of the governing statute and ignore the portion of that act that establishes the duty of the Commission in this case. NMSA 1978 § 70-7-6.B provides in total:

“If the Division determines that the participation formula contained in the unitization agreement does not allocate unitized hydrocarbons on a fair, reasonable and equitable basis, **the division shall determine the relative value, from evidence introduced at the hearing**, taking into account the separately owned tracts in the unit area, exclusive of physical equipment, for the development of oil and gas by unit operations, and the production allocated to each tract shall be the proportion that the relative value of each tract so determined bears to the relative value of all tracts in the unit....” No evidence has been presented that supports any formula other than the one presented by EnerQuest. Other interest owners in the unit area had the opportunity to present such evidence but did not.

³ Where the Commission requires pre-filed testimony, its rules provide that “the witness must be present at the hearing and shall adopt, under oath, the prepared witness testimony, subject to cross examination and motions to strike unless the presence of the witness at hearing is waived upon notice and without objection of the parties. “ Rule 1210.B. Surely as much is required when a party decides to only submit a written statement. For the statement to be competent legal evidence, the propounding party must at the least appear and subject themselves to cross-examination. This must be done at the time of the hearing. If the hearing is scheduled on a date when a party cannot be available to testify, the proper remedy is to request a continuance -- not pull a hide-behind-the-log-act like the Key Family is attempting here.

The Oil and Gas Act provides that the Division “shall prescribe by rule its rules of order or procedure in hearings or other proceedings before it...” (NMSA 1978, § 70-2-7)

Pursuant to this statute, the Division adopted Rule 1212.A that provides:

“Full opportunity shall be afforded to all interested parties at a hearing before the Commission or a Division Examiner to present evidence and to cross-examine witnesses. In general, the rules of evidence applicable in a trial before a court without a jury shall be applicable, provided that such rules may be relaxed, where, by so doing, the ends of justice will be better served. No order shall be made that is not supported by competent legal evidence.”

Although the rules of evidence before the Commission may be relaxed where the ends of justice may be better served, this does not mean there are no rules before the Commission. To permit parties to present their concerns through statements that cannot be tested by cross-examination does not serve the ends of justice -- it makes a mockery of it. To relax the rules does not mean that parties can ignore the rules and not appear when a case is called and then present written statements that cannot be tested through cross examination. For the Commission to consider the Key Family statement after the case has been taken under advisement rewards those who do not timely present their case. It would violate the procedural rights of EnerQuest.

As shown from the attached proposed order, EnerQuest has met each and every requirement of the Statutory Unitization Act. It is time to approve this project and to afford to the 27 owners who have committed their interests to the unit plan the opportunity to invest their funds, implement this project, and produce the remaining recoverable reserves in this pool. To do otherwise, on the record in this case, violates the very statutes that define and limit the duties of this Commission.

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

**IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
COMMISSION FOR THE PURPOSE OF
CONSIDERING:**

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

**CASE NO. 13042 (*De Novo*)
ORDER NO. R-_____**

**ENERQUEST RESOURCES, L.L.C.'S
PROPOSED ORDER OF THE COMMISSION**

BY THE COMMISSION:

THIS MATTER came before the Oil Conservation Commission (hereinafter referred to as "the Commission") for evidentiary hearing on September 12, 2003 at Santa Fe, New Mexico on the applications of EnerQuest Resources, L.L.C. (hereinafter referred to as "EnerQuest"), *de novo*, and the Commission, having carefully considered the evidence, the pleadings and other material submitted by the parties hereto, now on this __ day of October, 2003,

FINDS,

(1) Notice has been given of these applications and the hearing of these matters, and the Commission has jurisdiction of the parties and the subject matter herein.

(2) In Case No. 13042, EnerQuest seeks to statutorily unitize 920 acres, more or less, located in portions of Sections 29 through 32, Township 18 South, Range 39 East, NMPM, Lea County, New Mexico, (the "Unit Area") for the purpose of instituting a waterflood project within the East Hobbs-San Andres Pool to be called the East Hobbs (San Andres) Unit. EnerQuest further seeks approval of the Unit Agreement and the Unit Operating Agreement which were submitted as evidence as applicant's Exhibits No. 4 and 5, in this case.

(3) In companion Case No. 13041, EnerQuest seeks approval to institute a waterflood project within the area proposed to be statutorily unitized by the injection of water into the San Andres formation, East Hobbs-San Andres Pool, initially through four injection wells, and adoption of procedures for the administrative approval of additional injection wells in succeeding phases of operation. EnerQuest further seeks to qualify the project area within the East Hobbs (San Andres) Unit hereinafter identified in Finding No. (5) below as an "Enhanced Oil Recovery

Project” pursuant to the “Enhanced Oil Recovery Act,” (NMSA 1978, Sections 7-29A-1 through 7-29A-5.)

(4) Division Cases No. 13041 and 13042 were consolidated at the hearing for the purposes of testimony with separate orders to issue.

(5) The proposed Unit Area consists of 920 acres, more or less, of State and Fee Leases located in Lea County, New Mexico, described as follows:

TOWNSHIP 18, SOUTH, RANGE 39 EAST, NMPM

Section 29: SW/4, SW/4 NW/4
Section 30: S/2, S/2 N/2
Section 31: N/2 N/2
Section 32: N/2 NW/4

The San Andres formation underlying the proposed Unit Area has been reasonably defined by development.

(6) The proposed vertical extent of the unitized formation is that interval extending from 50 feet above the top of the San Andres formation to a point 50 feet below the base of the P-5 marker in the San Andres formation. This interval specifically occurs between 4451 feet and 4637 feet in the density-neutron log dated June 26, 1997, for the Carrie O. Davis Well No. 5 (API No. 30-025-34013) located 1310 feet from the South line and 330 feet from the West line of Section 29, Township 18 South, Range 39 East, NMPM, Lea County, New Mexico.

(7) The proposed Unit Area has received preliminary approval from the Commissioner of Public Lands, subject to the Commission’s approval of the proposed statutory unitization. (EnerQuest Exhibit No. 6)

(8) The proposed Unit Area contains twelve (12) separate tracts owned by approximately forty-one (41) different working interest owners. At the time of hearing, applicant's witness testified that 27 working interest owners that together own over 88% of the working interest and over 69% of the royalty and overriding royalty interest owners underlying the proposed Unit Area have voluntarily agreed to join the unit and EnerQuest anticipates obtaining the necessary 75% ratification by the royalty interest owners in the Unit Area. (Testimony of Clark at 23-24.)

(9) EnerQuest is the largest working interest owner within the Unit Area owning approximately 45% of working interest in the proposed unit. (Testimony of Clark at 24)

(10) The Lowe Partners, L.P. ("Lowe"), overriding royalty interest owners in Tract 10 of the proposed Unit Area, appeared at the hearing and presented evidence and testimony and exhibits in support of the formation of the unit and proposed waterflood project, but in opposition to the formula for the allocation of production from the Unit Area.

(11) Rocket Oil and Gas, a royalty owner, and the Key Family Group, owners of working interest in the Unit Area, presented statements but did not present evidence or testimony or exhibits in this case.

(12) The proposed Unit Area should be designated the East Hobbs (San Andres) Unit Area and should comprise the horizontal and vertical limits described in Findings Nos. 5 and 6.

(13) Evidence presented by EnerQuest shows that pursuant to the Unit Agreement the individual tract participation and allocation within the Unit Area is to be determined in accordance with a one phase formula that allocates unitized substances based on 97.5% current production from a base period of December of 2001 through November 2002 and 2.5% acreage. (Testimony of Williamson at 57, Unit Agreement p. 6, EnerQuest Exhibit No. 4).

(14) Evidence and testimony presented indicated that in early 2000, EnerQuest initiated formal discussions with the other working interest owners in the Unit Area with regards to the unitization of the East Hobbs (San Andres) Unit Area, East Hobbs-San Andres Pool for the purpose of conducting secondary recovery operations. Since that time, there have been three working interest owner meetings and seven technical committee meetings where the EnerQuest Waterflood study was shared and reviewed by the working interest owners and their consultants. (Testimony of Clark at 15.)

(15) EnerQuest presented the following evidence:

- (A) EnerQuest has been purchasing interests in the proposed unit since 1996 and has prepared a waterflood feasibility study in the fall of 2000. Following the Division Order signed on June 7, 2002 dismissing the first proposal to unitize, EnerQuest continued to purchase working interests, conducted three working interest owner meetings and seven technical committee meetings, negotiated with other working interest owners and developed a new plan in late 2000. (Testimony of Clark at 15-16.)
- (B) The San Andres formation in the Unit Area consists of five separate zones (P-1 through P-5) that correlate across the unit area in which waterflood operations should be feasible. (Testimony of Williamson at 35-36, EnerQuest Exhibit Nos. 11 and 12.)

- (C) As part of the waterflood feasibility study, all logs and cores were analyzed, and permeability, effective porosity, bulk volume oil and water were mapped for every well. Structure and isopach maps indicate the highest P2b structure and the thickest P2b through P5 rock is located in the center of the proposed unit and that the best San Andres intervals to waterflood are the P2 through P4 zones. (See, EnerQuest Exhibits 9 and 10.)
 - (D) EnerQuest presented the water-oil ratios over time from the Unit area (EnerQuest Exhibits 20 and 21) which established that the P1 zone has already been swept by an edge water drive through natural water encroachment and will not contribute significant waterflood reserves. Therefore ultimate primary recovery does not have a relationship to the future production to be obtained from the proposed waterflood operations and should not be included in the participation formula. (See testimony of Williamson at 46-51).
 - (E) Statistics from the P2 through P4 zones were gathered and used in a model to predict recovery. (Testimony of Williamson at 42-46, Exhibits 15 and 16.) EnerQuest evidence showed that implementation of the proposed waterflood project should result in the recovery of 8.8 million barrels of oil that otherwise will not be recovered and wasted. (Testimony of Williamson at 41, EnerQuest Exhibit No. 14.)
 - (F) The one phase participation formula proposed by EnerQuest allocates to each tract in the unit area the just and reasonable share of the remaining recoverable reserves under each tract. (Testimony of Williamson at 58-64, EnerQuest exhibits 10 and 22).
- (16) The Lowe Partners, L.P. presented the following evidence:
- (A) Lowe does not oppose unitization but opposes the proposed participation formula. (Testimony of Gill at 100.)
 - (B) Lowe owns a 4.25% overriding royalty interest in Tract 10, will bear none of the costs or risk associated with this project and has received payment for all past production from this tract. (Testimony of Gill at 104.)
 - (C) There is only one well producing from Tract 10 and that the well is producing at rates below its economic limit. (Testimony of Gill at 105.)
 - (D) Without unitization, the state lease on Tract 10 is subject to cancellation. Under the proposed EnerQuest participation formula, Tract 10 will receive .425% of the secondary recovery reserves from the Unit, but Lowe wants

18 times that amount or 8% of the remaining reserves. (Testimony of Gill at 105-106.)

- (E) Prior production from Tract 10 has been primarily from the P1 zone and that there are only minimal remaining P1 reserves under that acreage. (Testimony of Gill at 102-103.) However, Lowe proposes a participation formula that is based on this past P1 production and bases allocation of future production on the ultimate primary recovery from the Unit Area dating from 1953. The Lowe formula gives 8% of the of the remaining reserves to Tract 10 while this tract produces less than one barrel per day. (Testimony of Gill at 103 and 105.)

(17) Rocket Oil Company and the Key Family Group did not present testimony or exhibits that could be tested through cross-examination. While the statements were included in the record of the case, they are not "competent legal evidence" that can be considered in the determination of the issues presented by these applications.

(18) The single phase participation formula proposed by EnerQuest in the proposed unit agreement for the East Hobbs (San Andres) Unit allocates the benefits of unitization and the proposed enhanced recovery operations on a fair, reasonable and equitable basis and therefore affords, so far as it is practicable to do so, to each owner in the pool the opportunity to produce without waste its just and equitable share of the hydrocarbons in the pool, thereby protecting correlative rights and should be approved.

(19) The unitized management, operation and further development of the secondary recovery project, as proposed, is reasonably necessary to effectively carry on secondary recovery operations and will substantially increase the ultimate recovery of oil and gas from the unitized portion of this pool.

(20) The proposed unitized method of operation as applied to the Unit Area is feasible and will result with reasonable probability in the increased recovery of substantially more oil from the unitized portion of the pool than would otherwise be recovered without unitization.

(21) The estimated additional costs of operations will not exceed the estimated value of the additional oil recovered plus a reasonable profit.

(22) Unitization and adoption of the proposed unitized methods of operation will benefit the working, royalty and overriding royalty interest owners and royalty interest owners of oil and gas rights within the East Hobbs (San Andres) Unit Area.

(23) Applicant's Exhibit No. 4, being the Unit Agreement, should be incorporated by reference into the order.

(24) The East Hobbs (San Andres) Unit Agreement, as applied to the Unit Area, provides for unitization of the East Hobbs (San Andres) Unit Area upon terms and conditions that are fair, reasonable and equitable, and includes:

- (A) an allocation to the separately owned tracts of the unit area of all oil and gas that is produced from the Unit Area and which is saved, being the production that is not used in the conduct of unit operations or not unavoidably lost;
- (B) a provision for the credits and charges to be made in the adjustment among the owners in the unit area for their respective investments in wells, tanks, pumps, machinery, materials and equipment contributed to the unit operations;
- (C) a provision governing how the costs of unit operations including capital investments shall be determined and charged to the separately owned tracts and how such costs shall be paid, including a provision providing when, how and by whom such costs shall be charged to such owner, or the interest of such owner, and how its interest may be sold and the proceeds applied to the payment of its costs;
- (D) a provision for carrying any working interest owner on a limited, carried or net-profits basis, payable out of production, upon terms and conditions that are just and reasonable, and that allow an appropriate charge for interest for such service payable out of production, upon such terms and conditions determined by the Division to be just and reasonable;
- (E) a provision designating the Unit Operator and providing for supervision and conduct of the unit operations, including the selection, removal and substitution of an operator from among the working interest owners to conduct the unit operations;
- (F) a provision for voting procedure for decisions on matters to be decided by the working interest owners under which each working interest owner shall have a voting interest equal to its unit participation; and
- (G) the time when the unit operation shall commence, the manner in which, and the circumstances under which, the operations shall terminate, and a provision for the settlement of accounts upon such termination.

(25) The applicant requested that a 200 percent penalty be assessed against those working interest owners who do not voluntarily agree to join the proposed unit.

(26) Section 70-7-7.F NMSA of the "Statutory Unitization Act" provides that the plan of operation shall include a provision for carrying any working interest owner subject to limitations set forth in the statute, and any non consenting working interest owner so carried shall be deemed to have relinquished to the unit operator all of his operating rights and working interest in and to the unit until his share of the costs has been repaid plus an amount not to exceed 200 percent thereof as a non-consent penalty.

(27) The Unit Agreement does not provide for carrying any interest owner and the parties who have executed the Unit Operating agreement are committed to and have agreed to pay their respective shares of unit expense (Testimony of Clark at 22).

(28) A non-consent penalty of 200 percent should be adopted in this case. The applicant should be authorized to recover from unit production each non-consenting working interest owner's share of unit expense plus 200 percent thereof.

(29) The statutory unitization of the East Hobbs (San Andres) Unit Area, in conformity with these findings, will prevent waste and will protect the correlative rights of all interest owners within the proposed Unit Area, and should be approved.

IT IS THEREFORE ORDERED:

(1) The application of EnerQuest Resources, L.L.C. for the statutory unitization of 920 acres, more or less, of State of New Mexico and fee lands in the East Hobbs (San Andres Pool, Lea County, New Mexico, to be known as the East Hobbs (San Andres) Unit (the "Unit Area"), is hereby approved for statutory unitization pursuant to the Statutory Unitization Act, Sections 70-7-1 through 70-7-21, NMSA 1978.

(2) The lands included within the East Hobbs (San Andres) Unit shall comprise:

TOWNSHIP 18, SOUTH, RANGE 39 EAST, NMPM

Section 29: SW/4, SW/4 NW/4
Section 30: S/2, S/2 N/2
Section 31: N/2 N/2
Section 32: N/2 NW/4

(3) The vertical limits of the East Hobbs (San Andres) Unit shall comprise that interval underlying the Unit Area the vertical limit of which extend from 50 feet above the top of the San Andres formation to a point 50 feet below the base of the P-5 marker in the San Andres formation. This interval specifically occurs between 4451 feet and 4637 feet in the density-neutron log dated June 26, 1997, for the Carrie O. Davis Well No. 5 (API No. 30-025-34013) located 1310 feet from the South line and 330 feet from the West line of Section 29, Township 18 South, Range 39 East, NMPM, Lea County, New Mexico.

Case No. 13042 (de novo)

Order No. R-_____

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(4) The applicant shall institute a secondary recovery project for the secondary recovery of oil, gas and all associated liquefiable hydrocarbons within and produced from the Unit Area, (said secondary recovery project being the subject of Case No. 13041).

(5) The East Hobbs (San Andres) Unit Agreement and East Hobbs (San Andres) Unit Operating Agreement, being applicant's Exhibits No. 4 and 5 are hereby incorporated by reference into this order.

(6) The applicant shall institute a water injection program for the secondary recovery of oil and associated gas, condensate and liquefiable hydrocarbons within and produced from the Unit Area (the subject of companion Case No. 13041), provided however that injection shall not commence within the Unit Area until such time as the Division approves the proposed waterflood project and enters an order in Case No. 13041.

(7) The tract participation for the East Hobbs (San Andres) Unit Area is hereby established as set out on Exhibit A to this order.

(8) The Unit Agreement, as amended by this order, and the Unit Operating Agreement for the East Hobbs (San Andres) Unit provide for unitization and operation of the Unit Area upon terms and conditions that are fair, reasonable and equitable and which include those provisions described in Finding No. (24) above.

(9) This order shall not become effective unless and until the owners of 75% of the working interest and 75% of the owners of non cost bearing interests in the East Hobbs (San Andres) Unit Area approve the plan for unit operations as required by NMSA 1978, Section 70-7-8 (1975).

(10) If the persons owning the required percentage of interests in the East Hobbs (San Andres) Unit Area as set out in NMSA 1978, Section 70-7-8 (1975) do not approve the plan for unit operations within a period of six months from the date of this order, this order shall cease to be of further force and effect and shall be revoked by the Division, unless the Division shall extend the time for ratification for good cause shown.

(11) When the persons owning the required percentage of interest in the East Hobbs (San Andres) Unit Area have approved the plan for unit operations, the interests of all persons in the unit area are unitized whether or not such persons have approved the plan of unitization in writing.

(12) The applicant, as Unit Operator, shall notify the Division in writing of its removal or the substitution of said Unit Operator by any other working interest owner within the Unit Area.

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Order No. R-_____
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(13) A non-consent penalty of 200% is hereby adopted in this case. The applicant shall be authorized to recover from unit production each non-consenting working interest owner's share of unit expense plus 200 percent thereof.

(14) Jurisdiction of this cause is retained for the entry of such further orders as the Commission may deem necessary.

DONE at Santa FE, New Mexico, on the day and year hereinabove designated.

**STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION**

LORI WROTENBERY, CHAIR

JAMI BAILEY, MEMBER

ROBERT LEE, MEMBER

S E A L

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EXHIBIT A

CASE NO. 13042 (De Novo)

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

TRACT PARTICIPATIONS

<u>TRACT NUMBER</u>	<u>TRACT NAME</u>	<u>PARTICIPATION PERCENTAGE</u>
1	C. O. Davis	15.20%
2	D. F. Fergason	0.86%
3	Davis	1.47%
4	J. Speight	0.11%
5	Laney	18.32%
6	Laney A	19.99%
7	Laney Reese 1	1.82%
8	Laney Reese 2,3	36.94%
9	Pearl Goode	2.47%
10	Ralph Lowe St.	0.42%
11	Rocket Cain	0.33%
12	Sam Cain	2.05%
TOTAL		100.00%