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November 23, 2009

Via fax and U.S. Mail

Mark E. Fesmire, P.E.
Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

Re: Request for Order *Nunc Pro Tunc*
Order No. R-13128

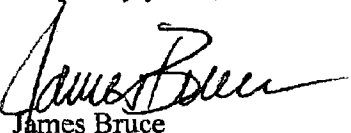
Dear Mr. Fesmire:

Order No. R-13128 granted the applications of Enervest Operating LLC to amend the unit agreement and unit operating agreement for the West Loco Hills Grayburg No. 4 Sand Unit, and to expand the waterflood project for the unit. Portions of the order, attached as Exhibit A, contain a property description error: Pages 3 and 9 describe the unit area, but certain lands in §18-18S-30E, noted on Exhibit A, are incorrect. The "W/2NW/4" should be the "E/2NW/4," and the "E/2NE/4" should be the "W/2NE/4." Attached as Exhibit B is a portion of a draft order I submitted, which reflects the correct descriptions; and attached as Exhibit C is the original unitization order.

These errors were pointed out by the State Land Office, which requires a correct description in order to grant its final approval. Enervest is trying to finalize statutory unitization this week, so a *Nunc Pro Tunc* order within the next day or so would be greatly appreciated.

Thank you.

Very truly yours,


James Bruce

Attorney for Enervest Operating LLC

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

**IN THE MATTER OF THE HEARINGS
CALLED BY THE OIL CONSERVATION
DIVISION FOR THE PURPOSE OF
CONSIDERING:**

**APPLICATION OF ENERVEST OPERATING LLC
TO AMEND THE UNIT AGREEMENT AND THE
UNIT OPERATING AGREEMENT FOR THE
WEST LOCO HILLS GRAYBURG NO. 4 SAND
UNIT, AND FOR STATUTORY UNITIZATION,
EDDY COUNTY, NEW MEXICO.**

Case No. 14242

**APPLICATION OF ENERVEST OPERATING LLC
FOR EXPANSION OF THE WATERFLOOD
PROJECT FOR THE WEST LOCO HILLS GRAYBURG
NO. 4 SAND UNIT, EDDY COUNTY, NEW MEXICO.**

Case No. 14243

**APPLICATION OF ENERVEST OPERATING LLC
TO QUALIFY THE WATERFLOOD PROJECT FOR
THE WEST LOCO HILLS GRAYBURG NO. 4 SAND
UNIT FOR THE RECOVERED OIL TAX RATE,
EDDY COUNTY, NEW MEXICO.**

Case No. 14270

**APPLICATION OF ENERVEST OPERATING LLC
TO AMEND THE UNIT AGREEMENT AND THE
UNIT OPERATING AGREEMENT FOR THE
WEST LOCO HILLS GRAYBURG NO. 4 SAND
UNIT, AND FOR STATUTORY UNITIZATION,
EDDY COUNTY, NEW MEXICO.**

Case No. 14317

ORDER NO. R-13128

ORDER OF THE DIVISION

BY THE DIVISION:

These cases came on for hearing at 8:15 a.m. on December 18, 2008, February 5, 2009, and May 14, 2009 at Santa Fe, New Mexico before Examiners William V. Jones, David K. Brooks, and Richard Ezeanyim.

EXHIBIT

A

Page 3 of 14

Unit Area. The unitized formation includes all subsurface points throughout the Unit Area correlative to these depths.

(8) The West Loco Hills Grayburg No. 4 Sand Unit is wholly located within the Loco Hills-Queen-Grayburg-San Andres Pool. The Loco Hills-Grayburg-San Andres Pool was created by the Oil Conservation Commission (the "Commission") on January 1, 1950 in Order Number 850. On June 1, 1972, in Order No. R-4304, the Commission expanded this pool vertically to include the Queen formation and redesignated it as the Loco Hills-Queen-Grayburg-San Andres Pool. Wells drilled and completed in this pool and in the Unit Area are developed on the Division's statewide rules, which provide for 40-acre well units, with wells to be located no closer than 330 feet to a quarter-quarter section boundary.

(9) No other interest owner or offset operator entered an appearance at the hearings or otherwise opposed these applications.

(10) Applicant presented land, geological, and engineering testimony as follows:

(a) By Order No. R-2166, dated January 17, 1962, the Commission approved the unitization of state, federal, and fee lands described below, containing 5307.73 acres, more or less, designated the West Loco Hills Grayburg No. 4 Sand Unit:

Township 17 South, Range 29 East, N.M.P.M.

Section 36: S/2 SW/4

Township 18 South, Range 29 East, N.M.P.M.

Section 1: W/2 and S/2 SE/4

Section 2: All

Section 3: All

Section 4: E/2 SE/4

Section 9: E/2

Section 10: All

Section 11: All

Section 12: All

Section 13: NE/4

Section 15: N/2 NE/4, SW/4 NE/4, NW/4

Township 18 South, Range 30 East, N.M.P.M.

Section 7: Lots 1-4 and E/2 W/2 (W/2 equivalent)

Section 7 continued: W/2 SE/4, SE/4 SE/4

< Section 18: Lots 1, 2 and W/2 NW/4 (NW/4 equivalent) (Lots 1, 2, + E/2 NW/4)

< Section 18 continued: E/2 NE/4, NE/4 SW/4, N/2 SE/4 (W/2 NE/4)

Case Nos. 14242, 14243, 14270, and 14317
Order No. R-13128
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(2) The Unit Area shall be operated by Enervest Operating LLC (OGRID No. 143199), and shall comprise 5307.73 acres, more or less, of state, federal, and fee lands in Eddy County, New Mexico described below:

Township 17 South, Range 29 East, N.M.P.M.

Section 36: S/2 SW/4

Township 18 South, Range 29 East, N.M.P.M.

Section 1: W/2 and S/2 SE/4

Section 2: All

Section 3: All

Section 4: E/2 SE/4

Section 9: E/2

Section 10: All

Section 11: All

Section 12: All

Section 13: NE/4

Section 15: N/2 NE/4, SW/4 NE/4, NW/4

Township 18 South, Range 30 East, N.M.P.M.

Section 7: Lots 1-4 and E/2 W/2 (W/2 equivalent)

Section 7 continued: W/2 SE/4, SE/4 SE/4

Section 18: Lots 1, 2 and W/2 NW/4 (NW/4 equivalent)

Section 18 continued: E/2 NE/4, NE/4 SW/4, N/2 SE/4

(3) The Unitized Formation shall comprise that interval underlying the Unit Area, the top of which is found at 2767 feet, and the base of which is found at 2792 feet, on the Gamma Ray Neutron Log of the Newmont-Ballard Well No. B-6 (API No. 30-015-03245) located in the SE/4 SW/4 NE/4 of Section 1, Township 18 South, Range 29 East, NMPM, Eddy County, New Mexico, together with Grayburg Sand Stringers encountered at varying intervals between the depths from 100 feet above the top and 50 feet below the bottom of the principal sand body shown by said log, insofar as the same lies within the Unit Area. The unitized formation includes all subsurface points throughout the Unit Area correlative to these depths.

(4) The amended Unit Agreement and Unit Operating Agreement for the West Loco Hills Grayburg No. 4 Sand Unit, submitted to the Division at hearing as Exhibit Nos. 6 and 7, respectively, are hereby incorporated by reference.

(5) This order shall not become effective unless and until the owners of 75% of the royalty interest in the Unit Area approve the plan for unit operations, as required by NMSA 1978 §70-7-8.

(6) If the persons owning the required percentage of royalty interest in the Unit Area do not approve the plan for unit operations within a period of six months from

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

**IN THE MATTER OF THE HEARINGS CALLED BY
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**APPLICATION OF ENERVEST OPERATING LLC
TO AMEND THE UNIT AGREEMENT AND THE
UNIT OPERATING AGREEMENT FOR THE
WEST LOCO HILLS GRAYBURG NO. 4 SAND
UNIT, AND FOR STATUTORY UNITIZATION,
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Case No. 14242

**APPLICATION OF ENERVEST OPERATING LLC
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Case No. 14270

**APPLICATION OF ENERVEST OPERATING LLC
TO AMEND THE UNIT AGREEMENT AND THE
UNIT OPERATING AGREEMENT FOR THE
WEST LOCO HILLS GRAYBURG NO. 4 SAND
UNIT, AND FOR STATUTORY UNITIZATION,
EDDY COUNTY, NEW MEXICO.**

Case No. 14317

ORDER NO. R-

ORDER OF THE DIVISION

BY THE DIVISION:

These cases came on for hearing at 8:15 a.m. on December 18, 2008, February 5, 2009, and May 14, 2009 at Santa Fe, New Mexico before Examiners David K. Brooks, William V. Jones, and Richard Ezeanyim.

NOW, on this _____ day of _____, 2009, the Division Director, having considered the testimony, the record, and the recommendations of the Examiners,

EXHIBIT

B

Case Nos. 14242, 14243, 14270, and 14317
Order No. R-
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(8) Wells drilled and completed in the Unit Area are developed on the Division's statewide rules, which provides for 40 acre well units, with wells to be located no closer than 330 feet to a quarter-quarter section.

(9) No other interest owner or offset operator entered an appearance at the hearings.

(10) Applicant presented land, geological, and engineering testimony as follows:

(a) By Order No. R-2166, dated January 17, 1962, the Oil Conservation Commission (the "Commission") approved unitization of the state, federal, and fee lands described below, designated the West Loco Hills Grayburg No. 4 Sand Unit:

Township 17 South, Range 29 East, N.M.P.M.

Section 36: S $\frac{1}{2}$ SW $\frac{1}{4}$

Township 18 South, Range 29 East, N.M.P.M.

Section 1: W $\frac{1}{2}$ and S $\frac{1}{2}$ SE $\frac{1}{4}$

Section 2: All

Section 3: All

Section 4: E $\frac{1}{2}$ SE $\frac{1}{4}$

Section 9: E $\frac{1}{2}$

Section 10: All

Section 11: All

Section 12: All

Section 13: NE $\frac{1}{4}$

Section 15: N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, and NW $\frac{1}{4}$

Township 18 South, Range 30 East, N.M.P.M.

Section 7: Lots 1-4, E $\frac{1}{2}$ W $\frac{1}{2}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 18: Lots 1, 2, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$

Containing 5307.73 acres.

(b) By Order No. R-2178, dated January 30, 1962, as amended, the Commission approved injection operations in the West Loco Hills Grayburg No. 4 Sand Unit. Waterflood operations have been conducted in the Unit Area continuously since then.

(c) The West Loco Hills Grayburg No. 4 Sand Unit was a voluntary unit formed before the Statutory Unitization Act was enacted. Approximately 10% of the working interest owners and 10% of the royalty interest owners in the Unit Area did not ratify the original Unit Agreement.

Case Nos. 14242, 14243, 14270, and 14317
Order No. R-
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(2) The Unit Area shall be operated by Enervest Operating LLC (OGRID No. 143199), and shall comprise 5307.73 acres, more or less, of state, federal, and fee lands in Eddy County, New Mexico described below:

Township 17 South, Range 29 East, N.M.P.M.

Section 36: S $\frac{1}{2}$ SW $\frac{1}{4}$

Township 18 South, Range 29 East, N.M.P.M.

Section 1: W $\frac{1}{2}$ and S $\frac{1}{2}$ SE $\frac{1}{4}$

Section 2: All

Section 3: All

Section 4: E $\frac{1}{2}$ SE $\frac{1}{4}$

Section 9: E $\frac{1}{2}$

Section 10: All

Section 11: All

Section 12: All

Section 13: NE $\frac{1}{4}$

Section 15: N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, and NW $\frac{1}{4}$

Township 18 South, Range 30 East, N.M.P.M.

Section 7: Lots 1-4, E $\frac{1}{2}$ W $\frac{1}{2}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 18: Lots 1, 2, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$

(3) The Unitized Formation shall comprise that interval underlying the Unit Area, the top of which is found at 2767 feet, and the base of which is found at 2792 feet, on the Gamma Ray Neutron Log of the Newmont-Ballard Well No. B-6 located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 1, Township 18 South, Range 29 East, NMPM, Eddy County, New Mexico, together with Grayburg Sand Stringers encountered at varying intervals between the depths from 100 feet above the top and 50 feet below the bottom of the principal sand body shown by said log, insofar as the same lies within the Unit Area. The unitized formation includes all subsurface points throughout the Unit Area correlative to these depths.

(4) The amended Unit Agreement and Unit Operating Agreement for the West Loco Hills Grayburg No. 4 Sand Unit, submitted to the Division at hearing as Exhibit Nos. 6 and 7, respectively, are hereby incorporated by reference.

(5) This order shall not become effective unless and until the owners of 75% of the royalty interest in the Unit Area approve the plan for unit operations, as required by NMSA 1978 §70-7-8.

(6) If the persons owning the required percentage of royalty interest in the Unit Area 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 effective unless the Division shall extend the time for ratification for good cause.

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SECTION V

R. W. BYRAM & CO., - FEB., 1962

WEST LOCO HILLS GRAYBURG NO. 4 SAND UNIT
Eddy County, New Mexico

Order No. R-2166, Approving the West Loco Hills Grayburg No. 4 Sand Unit, Eddy County, New Mexico, January 17, 1962.

Application of Newmont Oil Company for approval of the West Loco Hills Grayburg No. 4 Sand Unit Agreement, Eddy County, New Mexico.

CASE NO. 2472
Order No. R-2166

ORDER OF THE COMMISSION

BY THE COMMISSION: This cause came on for hearing at 9 o'clock a.m. on January 4, 1962, at Santa Fe, New Mexico, before Daniel S. Nutter, Examiner duly appointed by the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission," in accordance with Rule 1214 of the Commission Rules and Regulations.

NOW, on this 17th day of January, 1962, the Commission, a quorum being present, having considered the application, the evidence adduced, and the recommendations of the Examiner, Daniel S. Nutter, and being fully advised in the premises,

FINDS:

(1) That due public notice having been given as required by law, the Commission has jurisdiction of this cause and the subject matter thereof.

(2) That the applicant, Newmont Oil Company, seeks approval of the West Loco Hills Grayburg No. 4 Sand Unit Agreement covering 5,320 acres, more or less, in Townships 17 and 18 South, Ranges 29 and 30 East, NMPM, Eddy County, New Mexico.

(3) That approval of the proposed West Loco Hills Grayburg No. 4 Sand Unit Agreement will in principle tend to promote the conservation of oil and gas and the prevention of waste.

IT IS THEREFORE ORDERED:

(1) That the West Loco Hills Grayburg No. 4 Sand Unit Agreement is hereby approved.

(2) That the Plan under which the unit area shall be operated shall be embraced in the form of a unit agreement for the development and operation of the West Loco Hills Grayburg No. 4 Sand Unit Area and such plan shall be known as the West Loco Hills Grayburg No. 4 Sand Unit Agreement Plan.

(3) That the West Loco Hills Grayburg No. 4 Sand Unit Agreement Plan is hereby approved in principle as a proper conservation measure; provided, however, that notwithstanding any of the provisions contained in said unit agreement, this approval shall not be considered as waiving or relinquishing, in any manner, any right, duty or obligation which is now, or may hereafter be, vested in the Oil Conservation Commission of New Mexico relative to the supervision and control of operations for the exploration and development of any lands committed to the West Loco Hills Grayburg No. 4 Sand Unit, or relative to the production of oil and gas therefrom.

(4) (a) That the unit area shall be:

NEW MEXICO PRINCIPAL MERIDIAN

TOWNSHIP 17 SOUTH, RANGE 29 EAST
Section 36: S/2 SW/4

TOWNSHIP 18 SOUTH, RANGE 29 EAST
Section 1: W/2 and S/2 SE/4

Section 2: All

Section 3: All

Section 4: E/2 SE/4

Section 9: E/2

Section 10: All

Section 11: All

Section 12: All

Section 18: NE/4

Section 15: NW/4, W/2 NE/4 and NE/4 NE/4

TOWNSHIP 18 SOUTH, RANGE 30 EAST

Section 7: W/2, W/2 SE/4 and SE/4 SE/4

Section 18: NW/4, W/2 NE/4, N/2 SE/4 and NE/4 SW/4 comprising 5,320 acres more or less.

(b) That the unit may be enlarged or contracted as provided in said plan; provided, however, that administrative approval for expansion or contraction of the unit area must also be obtained from the Secretary-Director of the Oil Conservation Commission.

(5) That the unit operator shall file with the Commission an executed original or executed counterpart of the West Loco Hills Grayburg No. 4 Sand Unit Agreement within 30 days after the effective date thereof. In the event of subsequent joinder by any party or expansion of the unit area, the unit operator shall file with the Commission within 30 days of such action counterparts of the unit agreement reflecting the subscription of those interests having joined or ratified.

(6) That this order shall become effective upon the approval of said unit agreement by the Commissioner of Public Lands for the State of New Mexico and the Director of the United States Geological Survey, and shall terminate ipso facto upon the termination of said unit agreement. The last unit operator shall notify the Commission immediately in writing of such termination.

(7) That 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.

RED TANK UNIT
Lea County, New Mexico

Order No. R-2180, Approving the Red Tank Unit, Lea County, New Mexico, February 2, 1962.

Application of Union Oil Company of California for approval of the Red Tank Unit Agreement, Lea County, New Mexico.

CASE NO. 2485
Order No. R-2180

ORDER OF THE COMMISSION

BY THE COMMISSION: This cause came on for hearing at 9 o'clock a.m. on January 24, 1962, at Santa Fe, New Mexico, before Elvis A. Utz, Examiner duly appointed by the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission," in accordance with Rule 1214 of the Commission Rules and Regulations.

NOW, on this 2nd day of February, 1962, the Commission, a quorum being present, having considered the application, the evidence adduced, and the recommendations of the Examiner, Elvis A. Utz, and being fully advised in the premises,

FINDS:

(1) That due public notice having been given as required by law, the Commission has jurisdiction of this cause and the subject matter thereof.

(2) That the applicant, Union Oil Company of California, seeks approval of its proposed Red Tank Unit Agreement, covering 3,680 acres, more or less, of Federal lands in Sections 14, 15, 22, 23, 26, 27, and 28, Township 22 South, Range 32 East, NMPM, Lea County, New Mexico.

EXHIBIT **C**