

**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**

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OIL CONSERVATION DIVISION

**ENERQUEST RESOURCES, LLC.'S  
RESPONSE AND  
MOTION TO QUASH SUBPOENA DUCES TECUM**

EnerQuest Resources, L.L.C. ("EnerQuest") hereby submits its response and moves the Oil Conservation Division to quash the Subpoena Duces Tecum issued at the request of The Key Family Group on April 3, 2002 in which EnerQuest has been commanded to produce on April 18, 2002 numerous documents and other information pertaining to the San Andres formation, the East Hobbs-San Andres Pool and the Proposed East Hobbs (San Andres) Unit and all of the wells therein located in Sections 29, 30, 31 and 32 of Township 18 South, Range 39 East, NMPM, Lea County, New Mexico.

**THE KEY FAMILY GROUP SUBPOENA SEEKS DATA WHICH IS NOT  
AUTHORIZED BY THE OIL AND GAS ACT.**

Subpoena power is granted to the Division by the Oil and Gas Act. This statute authorizes the Division "to require the production of books, papers and records in any proceeding before the Commission or Division." The April 3, 2002 Subpoena Duces Tecum goes beyond statute and, in addition to seeking the production of documents, propounds interrogatories to EnerQuest. The subpoena should be quashed as to each item where the Key Family Group seeks information other than that which is contained in records and the documents of EnerQuest.

## **THE KEY FAMILY GROUP SUBPOENA IS UNDULY BURDENSOME.**

EnerQuest met with T. Scott Hickman, consulting engineer to the Key Family Group, on March 26, 2002. At this meeting, EnerQuest reviewed its plans for unitization of the proposed East Hobbs (San Andres) Unit area, and produced to Mr. Hickman the data it has used to develop the subject unit waterflood plan. Mr. Hickman requested additional information from EnerQuest and that data was hand-delivered to him. The first contact from the Key Family Group following the production of the data requested by Mr. Hickman was the service of this subpoena: page after page of requests for production of data almost all of which has been provided to their consultant, reviewed with him, and supplemented with the additional data he requested.

Discovery, including document production, has become a weapon of harassment in civil proceedings. This subpoena appears to be nothing more than an effort to move this type of harassment into the administrative practice before the Commission. The subpoena should be quashed.

## **THE KEY FAMILY GROUP SEEKS DATA WHICH IS AVAILABLE TO IT FROM PUBLIC SOURCES**

Much of the information that the Key Family Group seeks by subpoena is available to it in the records of the Oil Conservation Division, the New Mexico Engineering Committee, Dwight's and other public sources. EnerQuest should not be required to produce public documents when the Key Family Group is equally capable of obtaining them on its own. United Nuclear Corp. v. General Atomic Co., 96 N.M. 155 (1980), appeal dismissed, 101 S. Ct. 1966 (1981). The subpoena should be quashed because it represents undue burden on EnerQuest to contribute extraordinary amounts of time, effort and expense to the collection of data that is otherwise available to the Key Family Group. Section 70-2-8 NMSA 1978. As to all items that can be obtained by the Key Family Group from public records, the subpoena should be quashed.

## **RESPONSE TO SUBPOENA DUCES TECUM**

### **I. PRODUCE THE FOLLOWING DOCUMENTS/DATA:**

(1) Proposed Unit Boundary.

- a: Data to determine boundary
- b: Data for determination of vertical limits
- c: Identify any excluded wells. Identify any tracts, acreage or wells that were excluded.

**RESPONSE AND MOTION TO QUASH SUBPOENA DUCES TECUM  
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- d. objectives

**RESPONSE:** All information and documents responsive to this item are contained in the November 2000 "Waterflood Feasibility Study" which has previously been provided to the Key Family Group. EnerQuest objects to and asks the Division to quash all portions of the Subpoena Duces Tecum that are in the nature of interrogatories for these requests exceed the authority of the Division.

(2) Secondary Recovery Potential.

- a: Data used
- b: criteria for evaluation
- c: results
- d. how determine primary oil
- e: how determine remaining primary oil (without waterflood)
- f: how estimate recoverable secondary oil for waterflood
- g. flood pattern

**RESPONSE:** All information and documents responsive to this item are contained in the November 2000 "Waterflood Feasibility Study" which has previously been provided to the Key Family Group. EnerQuest objects to and asks the Division to quash all portions of this Subpoena Duces Tecum which are in the nature of interrogatories for these requests exceed the authority of the Division

(3) Voluntary Agreement.

- (a) All/Data documents to support Operator's claim of good faith effort to secure voluntary unitization:

- (1) Initial plan

**RESPONSE:** All documents responsive to this item have been provided to the Key Family Group.

- (2) Revised plan

**RESPONSE:** There are no documents responsive to this item.

(b) Minutes and notes from Working interest owners meetings.

**RESPONSE:** There are no documents responsive to this item.

(c) Reasons for change from original plan.

**RESPONSE:** All documents responsive to this request have been provided to Mr. Hickman, consultant to the Key Family Group.

(4) TECHNICAL COMMITTEE ACTIVITY.

**RESPONSE:** There are no documents responsive to this request.

(5) EQUITY PARAMETERS.

**RESPONSE:** All documents responsive to this request have been submitted to the Key Family Group. EnerQuest objects to and asks the Division to quash all portions of this Subpoena Duces Tecum that are in the nature of interrogatories for these requests exceed the authority of the Division.

(6) CAPITAL REQUIREMENT.

**RESPONSE:** All responsive documents have been provided to Scott Hickman, consultant to the Key Family Group.

(7) UNIT AGREEMENT.

**RESPONSE:** All documents responsive to this item have been provided to the Key Family Group. EnerQuest objects to and asks the Division to quash all portions of this Subpoena Duces Tecum, including subpart (c) of this section, which are not requests for production but interrogatories for these requests exceed the authority of the Division

#### **OTHER DATA/DOCUMENTS:**

- (1) The cumulative production volumes and decline curve projections on each well that was used to establish the “estimated ultimate recovery” participation parameter.

**RESPONSE:** EnerQuest will supply this information

- (2) The monthly production volumes for each well used to establish the “last twelve months production” participation parameter.

**RESPONSE:** All data responsive to this request are contained on Division forms C-115 that are on file with the Division. EnerQuest objects and moves to quash this item for the request is unduly burdensome and directed at information and documents which are otherwise available to the Key Family Group from the public records of the Division.

- (3) The David K. Davies May 2000 Report for the East Hobbs Field.

**RESPONSE:** EnerQuest objects and moves to quash this request. This study contains proprietary commercial information, was expensive to obtain and all information from this report which is relevant to the proposed waterflood project has been included in the Waterflood Feasibility Study” previously provided to the Key Family Group’s expert witness, T. Scott Hickman.

- (4) A description of the Craig, Geffen and Morse waterflood prediction model that was used, i.e. Number of layers, the petrophysical and fluid properties assigned to each layer, wellbore locations.

**RESPONSE:** All documents responsive to this request are contained in the November 2000 Waterflood Feasibility Study previously provided to Mr. Hickman.

#### **DOCUMENTS:**

1. Mudlogs

**RESPONSE:** EnerQuest will supply these documents.

2. Openhole logs, including but not limited to density/neutron porosity, resistivity and sonic logs.

**RESPONSE:** All logs are on file with the Oil Conservation Division. EnerQuest objects and moves to quash this item for the request is unduly burdensome and directed at information and documents which are

otherwise available to the Key Family Group from the public records of the Division.

3. All core data and tests

**RESPONSE:** EnerQuest has cored and will produce the routine core for the C. O. Davis Well no. 5 and the Samuel Cain Well No. 5. There is no other core data not analysis responsive to this request.

4. Reservoir temperature data.

**RESPONSE:** There are no documents responsive to this request.

5. PVT data and reports on the San Andres P2 and P4 intervals since 1997.

**RESPONSE:** All documents responsive to this request have been provided to T. Scott Hickman.

6. All reservoir pressure data, by individual zone (perforation) including but not limited to bottom-hole surveys or pressures, surface pressure readings, daily tubing pressure and casing pressure, drill stem tests, build-up tests, and interference tests, with relevant information as to shut-in time and production rates prior to shut-in.

**RESPONSE:** All documents responsive to this request have been provided to T. Scott Hickman, engineering consultant to the Key Family Group. Additional pressure tests from the C. O. Davis Well No. 5, the Samuel Cain Well No. 5 and the Laney "A" Well No. 1 will be produced. There are no drill stem tests nor fluid level tests.

7. All production data including, but not limited to all well check records, including gauges/charts for each well on a daily basis from initial testing/completion to date showing actual production of oil, gas and water for said well per day per month.

**RESPONSE:** All production data is on file with the Oil Conservation Division. EnerQuest objects and moves to quash this item for the request is unduly burdensome and directed at information and documents which are otherwise available to the Key Family Group from the public records of the Division. The production of gauge sheets / charts for each well on a daily basis will not lead to the discovery of relevant evidence and this item is unduly burdensome and unreasonable.

8. The following:

- (a) All drill stem tests, pressure tests and fluid levels

(only the last two years for fluid level tests).

**RESPONSE:** EnerQuest objects to this request and asks that it be quashed. It is unreasonably cumulative and duplicative of Request 6 above. All responsive documents have been provided to T. Scott Hickman, consultant for the Key Family Group.

- (b) all well tests for the last two years

**RESPONSE:** There are no documents responsive to this item.

- (c) All production reports since September 2001

**RESPONSE:** EnerQuest objects to this request and asks that it be quashed. It is unreasonably cumulative and duplicative. See response to item 7 above.

- (d) All oil, gas and water fluid analysis data.

**RESPONSE:** EnerQuest will supply these documents.

- (e) All waterflood production model runs.

**RESPONSE:** All responsive data and documents are in the November 2000 Waterflood Feasibility Study that has previously been provided to the Key Family Group.

- (f) Pumping unit size for all wells.

**RESPONSE:** EnerQuest will supply these documents.

- (9) Chronological reports (including completion and workover reports) to include details of:

**RESPONSE:** EnerQuest objects to this item on the grounds that all information sought is contained in the public records of the Division on Sundry Notices (Form C-103). This information is available to the Key Family group and to require EnerQuest to produce and copy data from the public records is unduly burdensome and unreasonable.

- (10) Reservoir simulations.

**RESPONSE:** There are no documents responsive to this item.

- (11) Cash Flow Projections.

**RESPONSE:** All responsive documents were provided to and reviewed with Scott Hickman, consultant to the Key Family Group.

- (12) Any petroleum engineering data.

**RESPONSE:** EnerQuest objects to this request and asks that it be quashed. It is unreasonably cumulative and duplicative of items 6 and 8(a) above. All responsive documents have been provided to T. Scott Hickman, consultant for the Key Family Group.

- (13) Any and all reserve calculations.

**RESPONSE:** EnerQuest objects to this request and asks that it be quashed. It is unreasonably cumulative and duplicative of item No. 1 (OTHER DATA/DOCUMENTS) on page 5 of the Key Family Group subpoena. All responsive documents have been provided to T. Scott Hickman, consultant for the Key Family Group.

- (14) Any and all Reservoir studies.

**RESPONSE:** EnerQuest objects to this request and asks that it be quashed. It is unreasonably cumulative and duplicative of items (3) and (4) (OTHER DATA/DOCUMENTS) on page 5 of the Key Family Group subpoena. All responsive documents have been provided to T. Scott Hickman, consultant for the Key Family Group.

- (15) Any documents concerning workover activity.

**RESPONSE:** EnerQuest objects to this request and asks that it be quashed. It is unreasonably cumulative and duplicative of item 9 on page 6 of the Key Family Group subpoena.

- (16) Any geologic data including geologic maps, isopachs, cross-sections, and/or logs used by EnerQuest to justify its position.

**RESPONSE:** The documents responsive to this item are contained in the November 2000 Waterflood Feasibility Study. Other responsive documents will be produced.

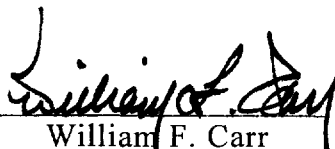
- (17) All seismic data.

**RESPONSE:** There is no seismic data.

III. EnerQuest Resources LLC's Hearing Exhibits:

**RESPONSE**: EnerQuest will produce all hearing exhibits it intends to use in its direct case when they are prepared.

Respectfully submitted,  
HOLLAND & HART LLP

By:   
William F. Carr  
Post Office Box 2208  
110 North Guadalupe, suite 1  
Santa Fe, New Mexico 87501  
(505) 988-4421

ATTORNEYS FOR ENERQUEST  
RESOURCES, LLC.

**CERTIFICATE OF SERVICE**

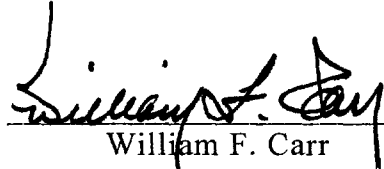
I certify that on April 12, 2002 I served a copy of the foregoing document to the following by

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U.S. Mail, postage prepaid  
Hand Delivery  
Fax

Lori Wrotenbery, Director  
David K. Brooks, Esq., Assistant General Counsel  
New Mexico Oil Conservation Division  
1220 Saint Francis Drive  
Santa Fe, New Mexico 87501

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

  
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William F. Carr