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RECOGNIZED SPECIALIST IN THE AREA OF  
NATURAL RESOURCES-OIL AND GAS LAW

JASON KELLAHIN (RETIRED 1991)

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April 12, 2002

**HAND DELIVERED**

Ms. Lori Wrotenbery, Director  
Oil Conservation Division  
1220 South Saint Francis Drive  
Santa Fe, New Mexico 87505

**MOTION TO DISMISS**

Re: Case 12845  
Application of EnerQuest Resources, LLC  
for statutory unitization, Lea County, New Mexico

Re: Case 12846  
Application of EnerQuest Resources, LLC  
for approval of a waterflood project,  
Lea County, New Mexico

Dear Ms. Wrotenbery:

On behalf of the Key Family Group, working interest owners in Tract 5 and 6 of EnerQuest proposed Statutory Unit, we request that the reference cases set for hearing of the Examiner's docket for April 18, 2002, be dismissed.

Very truly yours,



W. Thomas Kellahin

cc: David K. Brooks,  
Division Attorney  
Michael E. Stogner, Examiner  
James Bruce, Esq.,  
Attorney for Lynx  
William F. Carr, Esq.  
Attorney for Enerquest Resources, LLC  
T. Scott Hickman

02 APR 12 AM 10:09  
CLERK OF DISTRICT COURT

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

**IN THE MATTER OF THE APPLICATION  
OF ENERQUEST RESOURCES, LLC  
FOR STATUTORY UNITIZATION  
LEA COUNTY, NEW MEXICO**

**CASE NO. 12845**

**IN THE MATTER OF THE APPLICATION  
OF ENERQUEST RESOURCES, LLC  
FOR A WATERFLOOD PROJECT  
LEA COUNTY, NEW MEXICO**

**CASE NO. 12846**

**KEY FAMILY GROUP'S  
MOTION TO DISMISS APPLICATION**

Comes now Hugh B. Key, II, Julie Ann Hopkins Trust, Mark Collver Hopkins Trust, Anne Key Davis, Kite Royalty Co., LLC, White Star Royalty, LLC. ("Key Family Group"), by its attorneys, Kellahin and Kellahin, enters its appearance in this case as an interested party in opposition to the applicant, EnerQuest Resources, LLC. ("EnerQuest") and moves the New Mexico Oil Conservation Division ("Division") to dismiss Case 12845 because the applicant has violated NMSA (1978) Section 70-7-6(5) by prematurely instituting an application for Statutory Unitization.

And in support states:

**BACKGROUND**

(1) Enerquest Resources, LLC is seeking approval of a statutory unit and an waterflood project for a certain unit area. **See Exhibit "A"**

(2) The Key Family Group represents approximately 20% and 27.6% of the working interest owners plus a royalty interest in Tracts 5 and 6 on Exhibit A.

(3) On February 26, 2002, EnerQuest filed an application for Statutory Unitization with the Division requesting a hearing on March 21, 2002 and alleging that:

"(8)(e) EnerQuest Resources, LLC, as operator, has made a good faith effort to secure voluntary unitization within the portion of the East Hobbs-San Andres Pool affected by this application."

(4) Nineteen days before filing its application, on February 7, 2001, EnerQuest's commence its only effort to obtain voluntary agreement from the Key Family Group by sending a letter asking them to ratified the unit agreement and unit operating agreement. **See Exhibit "B"**

(5) Four days before filing its application, on February 22, 2002, EnerQuest send the Key Family Group an AFE and advised that EnerQuest had altered its plan. **See Exhibit "C"**

(6) Enerquest Resources did not provide any data to justify this proposed change of plans or change in cost.

(7) In the same mailing, EnerQuest enclosed their waterflood feasibility study that the Key Family representative has requested, which was received by the Key Family Group about the same time as the application was filed with the Division.

(8) At no time prior to filing its application did EnerQuest voluntarily provide to the Key Family Group, as working interest owners, the necessary data for the original project or revised project to:

(a) demonstrate the secondary recovery potential of the project;

(b) demonstrate the appropriation of the proposed unit boundary;

(c) show the basis for participation parameters;

(d) justification for EnerQuest's participation formula;

(e) justification for capital requirements;

(f) provide any reservoir, petroleum engineering data geological maps, economic evaluations;

(g) any means to evaluate EnerQuest project;

(9) At no time prior to filing its application did EnerQuest call a working interest owners meeting.

### **ARGUMENT**

Contrary to the custom and practice before the Division and in violation of NMSA (1979) Section 70-7-6(5), EnerQuest has instituted action to obtain a Statutory Unitization Order without first making a "good faith" effort to form a voluntary unit. NMSA (1979) Section 70-2-6(5) is very specific in its requirement that as a "matter to be found by the Division precedent to issuance of unitization order" the applicant must demonstrate:

"(5) that the operator has made a good faith effort to secure voluntary unitization within the pool or the portion thereof directly affected;"

As the Division knows for its own experience with other statutory unitization case, the applicant does the following to demonstrate a good faith effort:

- (1) prepare a feasibility study
- (2) provide the study to the proposed working interest owner
- (3) after provide time to review the study, it calls a meeting of the working interest owners to discuss the project and if necessary form a working interest owners "technical committee" to develop participation parameters

(4) the working interest owners then meet and discuss, revise and adopt the technical committee's report and then discuss and debate the participation parameters and adopt a formula.

EnerQuest did not do any of the foregoing. But instead, filed its application asking the Division to exercise its authority and compel involuntary participation. The Division can only exercised this authority in those instances where the parties have not agreed to voluntarily unit their interests for a specifically proposed project. In this case, the Key Family Group was never provided information about the project before EnerQuest filed its application.

It is impossible to have exhausted a good faith effort to reach a voluntarily agreement in less than 19 days after sending notice of its intention to form a unit. EnerQuest made no effort to inform the working interest owners about the project. EnerQuest's action simply ignores the requirements of NMSA (1979) Section 70-2-6(5) and will encourage others to use statutory unitization as a negotiating weapon rather than as a remedy of last resort.

EnerQuest's application must be dismissed. Unless this application is dismissed the Division will be establishing a precedent which will allow applicants to avoid complying with NMSA (1979) Section 70-2-6(5).

WHEREFORE the Key Family Group requests that the Division Hearing Examiner grant this motion and dismiss Oil Conservation Division Case 12845.

Respectfully submitted,



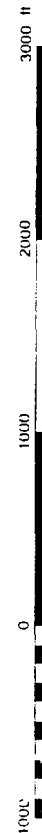
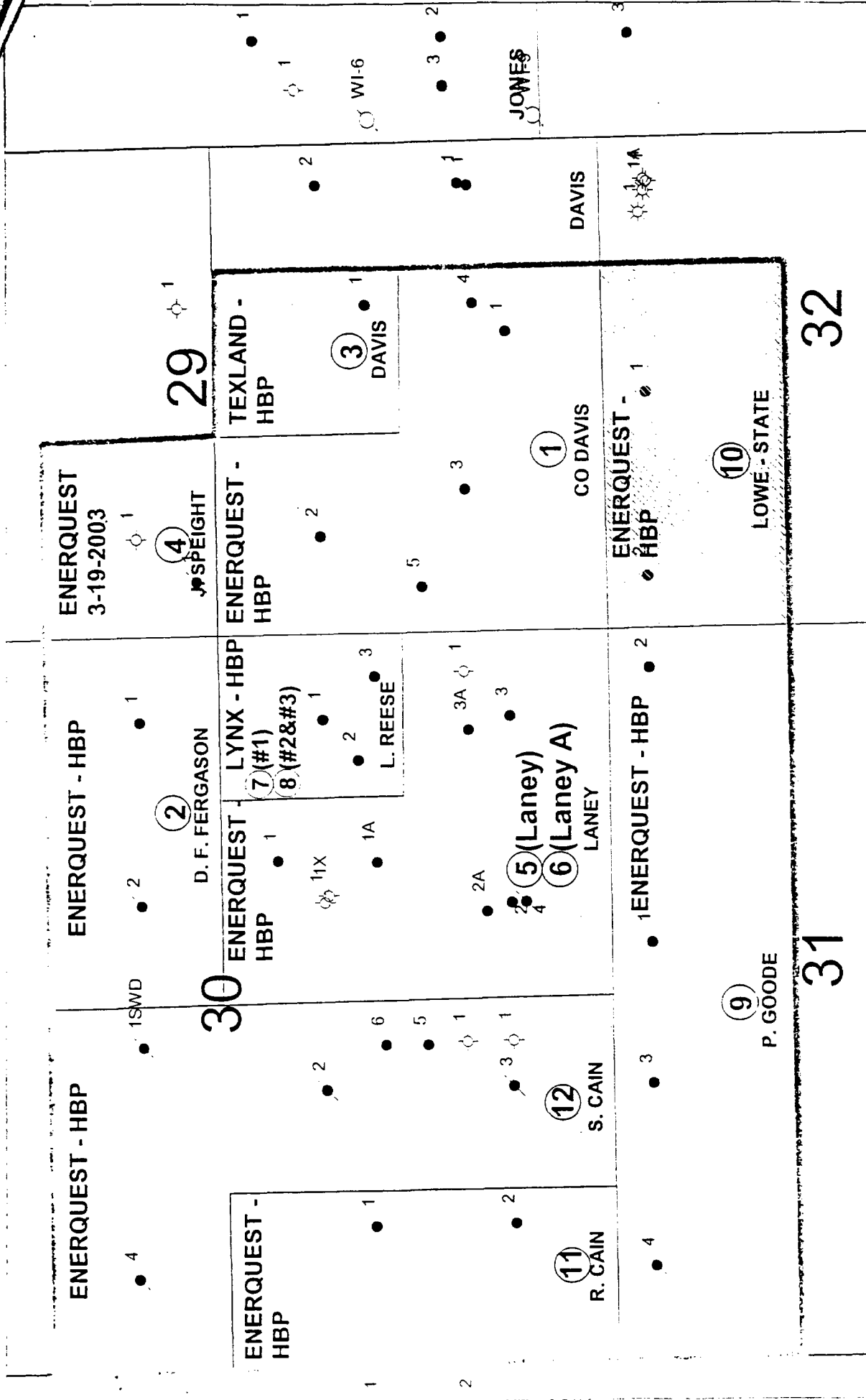
W. Thomas Kellahin  
P. O. Box 2265  
Santa Fe, New Mexico 87504

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing pleading was transmitted by facsimile this 12th day of April, 2002 to James Bruce, attorney for Lynx et al, and to William F. Carr, attorney for EnerQuest Resources, LLC

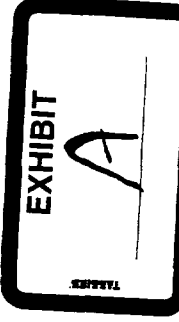


W. Thomas Kellahin



3 Tract Number Unit Outline

State Lands 80 acres (8.7%)  
Patented Lands 840 acres (91.3%)



<b>ENERQUEST RESOURCES, LLC</b>	
<b>EAST HOBBS (SAN ANDRES) UNIT</b> 920 ACRES Lea County, New Mexico T18S - R39E	
Project: Area: Prospect:	Date: 1 Jan, 2008 Scale: 1"=1000' C.I.:
	Geologist: Geophysicist: Engineer:

February 7, 2002

To: Working Interest Owners

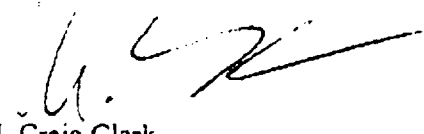
Re: East Hobbs (San Andres) Unit  
Lea County, New Mexico

Ladies and Gentlemen:

EnerQuest Oil & Gas, Ltd. hereby proposes the formation of the East Hobbs (San Andres) unit to unitize the San Andres formation for the purpose of secondary operations. The proposed unit consists of 920 acres and covers parts of Section 29, 30, 31 and 32, Township 18 South, Range 39 East, Lea County, New Mexico. I have enclosed for your review and approval a unit agreement, unit operating agreement and ratification governing the implementation and development of the East Hobbs Unit.

Please review the agreements and if everything appears correct, execute the ratification in the space provided and return to me at the letterhead address. EnerQuest plans to have a hearing with the New Mexico Oil Conservation Division on this matter on March 7, 2002, therefore your prompt attention would be appreciated. Should you have any questions or require any additional information, please feel free to contact me at (915)685-3116.

Very truly yours,

  
M. Craig Clark  
Landman

MCC/s  
Enclosure





# ENERQUEST

ENERQUEST OIL & GAS, LTD.

February 22, 2002

White Star Royalty Co  
P.O. Box 18693  
Oklahoma City, OK 73154

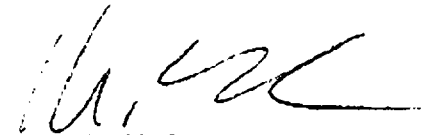
Re: East Hobbs Unit  
Lea County, New Mexico

Gentlemen:

Pursuant to my telephone conversation with Mike Carr, enclosed please find a Phase I cost estimate for the above captioned unit as well as a feasibility report for the project. Please be advised that we have changed the development plans from the initial feasibility report as reflected on the reduced Phase I cost estimate.

Should you have any further questions, please let me know.

Very truly yours,

  
M. Craig Clark

MCC/s  
Enclosure

