

UNIT OPERATING AGREEMENT FOR
THE DEVELOPMENT AND OPERATION
OF THE
EK PENROSE SAND UNIT
LEA COUNTY, NEW MEXICO

EXHIBIT C

UNIT OPERATING AGREEMENT
EK PENROSE SAND UNIT
LEA COUNTY, NEW MEXICO

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UNIT OPERATING AGREEMENT
EK PENROSE SAND UNIT
LEA COUNTY, NEW MEXICO

THIS AGREEMENT, entered into as of the ____ day of _____, 2002, by and between the parties who execute or ratify this Agreement;

Witnesseth

THAT, WHEREAS, the parties hereto as Working Interest Owners have executed as of the date hereof, that certain Unit Agreement for the development and operation of the EK Penrose Sand Unit, Lea County, New Mexico, hereinafter referred to as "Unit Agreement", and which, among other things, provides for a separate agreement to be made and entered into by and between Working Interest Owners pertaining to the development and operation of the Unit Area therein defined;

NOW, THEREFORE, in consideration of the mutual agreements herein set forth, it is agreed as follows:

Article 1

CONFIRMATION OF UNIT AGREEMENT

- 1.1 Confirmation of Unit Agreement. The Unit Agreement is hereby confirmed and incorporated herein by reference and made a part of this Agreement. The definitions in the Unit Agreement are adopted for all purposes of this Agreement. In the event that there is any conflict between the Unit Agreement and this Agreement, the Unit Agreement shall prevail.

Article 2

EXHIBITS

- 2.1 Exhibits. The following exhibits are incorporated herein by reference:
- 2.1.1 Exhibits "A", "B" and "C" of the Unit Agreement.
 - 2.1.2 Exhibit "D" attached Hereto, is a schedule showing total Unit Participation of each Working Interest Owner.
 - 2.1.3 Exhibit "E" attached hereto, is the Accounting Procedure applicable to development and operation of the Unit Area. In the event of conflict between this Agreement and Exhibit "E", this Agreement shall prevail.

2.1.4 Exhibit "F" attached hereto, contains insurance provisions applicable to the development and operation of the Unit Area.

2.2 Revision of Exhibits. Whenever Exhibits "A", "B" and "C" are revised, Exhibit "D" shall be revised accordingly, such revision to be effective as of the effective date of revised Exhibits "A", "B" and "C".

ARTICLE 3

SUPERVISION OF OPERATIONS BY WORKING INTEREST OWNERS

3.1 Overall Supervision. Working Interest Owners shall exercise overall supervision and control of all matters pertaining to the development and operations of the Unit Area pursuant to this Agreement and the Unit Agreement. In the exercise of such power each Working Interest Owner shall act solely in its own behalf in the capacity of an individual owner and not on behalf of the owners as an entirety.

3.2 Particular Powers and Duties. The matters to be passed upon and decided by Working Interest Owners shall include, but not be limited to, the following:

- 3.2.1 Method of Operation. The kind, character and method of operation, including any type of pressure maintenance or secondary recovery program to be employed.
- 3.2.2 Drilling of Wells. The drilling of any wells within the Unit Area either for production of Unitized Substances, for use as an injection well, or for other purposes.
- 3.2.3 Well Workovers and Change of Status. The workover, recompletion, repair, abandonment, or change of status of any well in the Unit Area or use of any such well for injection or other purposes. The Unit Operator shall be responsible for performing such work and such work shall be done at Unit Expense.
- 3.2.4 Expenditures. Making of any expenditure in excess of Ten Thousand Dollars (\$10,000.00); provided that approval by Working Interest Owners of the drilling, reworking, drilling deeper, or plugging back of any well shall include approval of all necessary expenditures required therefor and for completing, testing, and equipping the same, including necessary flow lines, separators and lease

tankage; provided, however, that in case of blow-out, explosion, fire, flood or other sudden emergencies, Unit Operator may take steps and incur such expenses as in its opinion are required to deal with the emergency and to safeguard life or property, but that Unit Operator shall, as promptly as possible, report the emergency to the Working Interest Owners.

3.2.5 Disposition of Surplus Facilities. Selling or otherwise disposing of any major item of surplus material or equipment, the current list price of new equipment similar thereto being Five Thousand Dollars (\$5,000.00) or more.

3.2.6 Appearance Before a Court or Regulatory Body. The designation of a representative to appear before any court or regulatory body in all matters pertaining to Unit operations; provided, however, such designation by Working Interest Owners shall not prevent any Working Interest Owner from appearing in person at its own expense or from designating another representative in its own behalf.

3.2.7 Audits. The making of proper audits of the accounts of Unit Operator pertaining to operations hereunder; provided that such audits shall:

- (a) not be conducted more than once each year except upon the resignation or removal of Unit Operator;
- (b) be made at the expense of all Working Interest Owners other than the Working Interest Owner designated as Unit Operator, unless such audit is conducted at the specific instance and request of Unit Operator, in which latter event the same shall be made at the expense of all Working Interest Owners including the Working Interest Owner designated as Unit Operator; and
- (c) be upon not less than thirty (30) days written notice to Unit Operator.

3.2.8 Inventories. The taking of periodic inventories under the terms of Exhibit "E".

- 3.2.9 Technical Services. Any direct charges to the joint account for services by consultants or Unit Operator's technical personnel not covered by the overhead charges provided by Exhibit "E".
- 3.2.10 Appointment of Committees. The appointment of designation of committees or subcommittees necessary for the study of any problem in connection with Unit operations.
- 3.2.11 The removal of Unit Operator and the selection of a successor in accordance with Article 6.2 hereof.
- 3.2.12 The enlargement of the Unit Area.
- 3.2.13 The adjustment and readjustment of investments as required.
- 3.2.14 The termination of the Unit Agreement.

ARTICLE 4

MANNER OF EXERCISING SUPERVISION

4.1 Designation of Representatives. Each Working Interest Owner shall advise Unit Operator in writing the names and addresses of its representative and alternate representative authorized to represent and bind it in respect to any matter pertaining to the development and operation of the Unit Area. Such representative or alternate representative may be changed from time to time by written notice to Unit Operator.

4.2 Meetings. All meetings of Working Interest Owners for the purpose of considering and acting upon any matter pertaining to the development and operation of the Unit Area shall be called by the Unit Operator upon its own motion or at the request of two (2) or more Working Interest Owners. No meeting shall be called on less than fourteen (14) days' advance written notice, with agenda for the meeting attached. In the absence of protest by any qualified member of the meeting, the Working Interest Owners attending such meeting shall not be prevented from amending items included in the agenda or from deciding on such amended item or from deciding other items presented at such meeting. The representative of Unit Operator shall be chairman of each meeting.

4.3 Voting Procedure. Working Interest Owners shall act upon and determine all matters coming before them as follows:

- 4.3.1 Voting Interest. In voting on any matter each Working Interest Owner shall have a voting interest equal to its then percentage in Unit Participation, as shown in Exhibit "D", and such revisions thereof as may hereafter be made in accordance with the terms of this Agreement.

- 4.3.2 Vote Required. Unless otherwise provided herein or in the Unit Agreement, Working Interest Owners shall act upon and determine all matters coming before them by the affirmative vote of seventy-five percent (75%) or more voting interest; provided that, should any one Working Interest Owner own more than twenty-five percent (25%) voting interest, its vote must be supported by the vote of one or more Working Interest Owners having a combined voting interest of at least five percent (5%).
- 4.3.3 Vote at Meetings by Non-Attending Working Interest Owner. Any Working Interest Owner not represented at a meeting may vote on any item included in the agenda of the meeting by letter or telegram addressed to the chairman of the meeting, provided such vote is received prior to the submission of such item to vote.
- 4.3.4 Poll Votes. Working Interest Owners may vote on and decide, by letter or telegram, any matter submitted in writing to Working Interest Owners, if no meeting is requested, as provided in Section 4.2, within fourteen (14) days after the proposal is sent to Working Interest Owners. Unit Operator will give prompt notice of the results of such voting to all Working Interest Owners.

ARTICLE 5

INDIVIDUAL RIGHTS AND PRIVILEGES OF WORKING INTEREST OWNERS

5.1 Reservation of Rights. Working Interest Owners severally reserve to themselves all their rights, power, authority and privileges, except as provided expressly in this Agreement and the Unit Agreement.

5.2 Specific Rights. Each Working Interest Owner shall have among others, the following specific rights and privileges:

- 5.2.1 Access to Unit Area. Access to the Unit Area at all reasonable times to inspect the operation hereunder and all wells and records and data pertaining thereto.
- 5.2.2 Reports by Request. The right to receive from Unit Operator, upon written request, copies of all reports to any governmental agency, reports of crude oil runs and stocks, inventory reports and all other data not ordinarily furnished by Unit Operator to all Working Interest Owners; the cost of preparing copies of said

reports shall be charged solely to the Working Interest Owner requesting the same.

5.3 Undrilled Locations. Undrilled locations on tracts committed to the Unit Area shall be drilled by the Unit Operator at Unit expense.

ARTICLE 6

UNIT OPERATOR

6.1 Initial Unit Operator. Seely Oil Company, a Texas corporation, is hereby designated as initial Unit Operator.

6.2 Resignation or Removal and Selection of Successor. The resignation or removal of Unit Operator, and the selection of a successor shall be governed by the provisions of the Unit Agreement.

ARTICLE 7

POWERS AND DUTIES OF UNIT OPERATOR

7.1 Exclusive Right to Operate Unit. Subject to the provisions of this Agreement and the orders, directions and limitations rightfully given or imposed by Working Interest Owners, Unit Operator shall have the exclusive right and duty to develop and operate the Unit Area for the production of Unitized Substances.

7.2 Workmanlike Conduct. Unit Operator shall conduct all operations hereunder in a good and workmanlike manner, and, in the absence of specific instructions from Working Interest Owners, shall have the right and duty to conduct such operations in the same manner as would a prudent operator under the same or similar circumstances. Unit Operator shall freely consult with Working Interest Owners and keep them advised of all matters arising in connection with such operations which Unit Operator, in the exercise of its best judgement, considers important. Unit Operator shall not be liable for damages unless such damages result from the gross negligence or willful misconduct of Unit Operator.

7.3 Liens and Encumbrances. Unit Operator shall keep the lands and leases in the Unit Area free from all liens and encumbrances occasioned by its operations hereunder, except the lien of Unit Operator granted hereunder.

7.4 Employees. The number of employees used by Unit Operator in conducting operations hereunder, the selection of such employees, the hours of labor, and the compensation for services to be paid any and all such employees shall be determined by Unit Operator. Such employees shall be the employees of Unit Operator.

7.5 Records. Unit Operator shall keep true and correct books, accounts, and records of its operation hereunder.

7.6 Reports to Working Interest Owners. Unit Operator shall furnish to each Working Interest Owner monthly, injection and production reports for each well in the Unit, as well as periodic reports of the development and operation of the Unit Area.

7.7 Reports to Governmental Authorities. Unit Operator shall make all necessary reports to governmental authorities.

7.8 Engineering and Geological Information. Unit Operator shall furnish to each Working Interest Owner, upon written request, a copy of the log of, and copies of engineering and geological data pertaining to, wells drilled by Unit Operator.

7.9 Expenditures. Unit Operator is authorized to make single expenditures not in excess of Ten Thousand Dollars (\$10,000.00) without prior approval of Working Interest Owners; provided, however, that nothing in this Article (nor in Article 3.2.4) shall be deemed to prevent Unit Operator from making an expenditure in excess of said amount if such expenditure becomes necessary because of a sudden emergency which may otherwise cause loss of life, title or extensive damage to property. Unit Operator shall report to Working Interest Owners, as promptly as possible, the nature of the emergency and the action taken.

7.10 Settlements. Unit Operator may settle any single damage claim not involving an expenditure in excess of Five Thousand Dollars (\$5,000.00) provided such payment is a complete settlement of such claim. All claims in excess of \$5,000.00 must be approved by Working Interest Owners.

7.11 Nondiscrimination. In connection with the performance of work under this Agreement, the Unit Operator agrees to comply with all provisions of Section 202 (1) to (7) inclusive, of Executive Order 11246 (30 F.R. 12319), which are hereby incorporated by reference in this agreement.

7.12 Mathematical Errors. It is hereby agreed by all parties to this agreement that Unit Operator is empowered to correct any mathematical errors which might exist in the pertinent exhibits to this Agreement upon approval of the Commissioner.

ARTICLE 8

TAXES

8.1 Ad Valorem Taxes. Beginning with the first of the calendar year after the effective date hereof, Unit Operator after consulting

with Working Interest Owners, shall make and file for ad valorem purposes all necessary renditions and returns with the proper taxing authorities or governmental subdivisions covering all property of each Working Interest Owner within the Unit Area and used in connection with the development and operation of the Unit Area. Any Working Interest Owner dissatisfied with any proposed rendition or assessment of its interest in property shall have the right, at its own expense, to protest and resist the same. All such ad valorem taxes due and payable on account of real and personal property of each Working Interest Owner located within the Unit Area and used in connection with Unit operations shall be paid by the Unit Operator for the joint account in the same manner as other costs and expenses of Unit Operations; provided that, if the interest of a Working Interest Owner is subject to a separately assessed overriding royalty interest, production payment, or other interest in excess of a 1/8 royalty, such Working Interest Owner shall be given credit for the reduction in taxes paid resulting therefrom.

8.2 Other Taxes. Each Working Interest Owner shall pay or cause to be paid all production, severance, gathering and other direct taxes and assessments imposed upon or on account of the production or handling of its share of Unitized Substances.

ARTICLE 9

INSURANCE

9.1 Insurance. Unit Operator shall carry, with respect to Unit operations subject to this Agreement:

9.1.1 Insurance as set forth in Exhibit "F".

ARTICLE 10

ADJUSTMENT OF INVESTMENTS

10.1 Personal Property Taken Over. Upon the effective date hereof, Working Interest Owners shall deliver to Unit Operator possession of:

10.1.1 Wells and Casing. All wells drilled through the Unitized Formation and that are completed or that may be completed in the Unitized Formation, together with the casing therein.

10.1.2 Well and Lease Equipment. Unless previously agreed upon, the tubing and rods in each such well, together with the wellhead connection thereon, and all other lease and operating equipment used in the operation

of such wells which Working Interest Owners determine is necessary or desirable for conducting Unit operations, and

10.1.3 Records. A copy of all production and well records pertaining to such wells.

10.2 Inventory and Evaluation of Personal Property. Working Interest Owners shall (at the expense of the joint account, and as of the effective date) inventory all well and lease equipment delivered to the Unit Operator as provided in Article 10.1.1 and 10.1.2, except that casing shall be given no value. The inventory will include all tangible property classified as controllable equipment. For the purpose of inventory and adjustment of investment, sucker rods and tubing under 2 inches in the wells will also be considered as controllable but will not be considered controllable in future accounting. Non-controllable equipment except items listed above will not be included on the inventory but may nevertheless be taken over by the Unit if in use on the property. The distinction between controllable and non-controllable equipment will be based on the latest material classification manual published by the Council of Petroleum Accountants Society of North America. The condition of the equipment will be indicated on the inventory and priced in accordance with the basis prescribed in Section IV of Exhibit "E" attached. The inventory and evaluation will be presented to the Working Interest Owners within ninety (90) days after the taking of the inventory. Upon approval by the Working Interest Owners of the inventory and evaluation of the equipment and personal property, the Unit Operator will furnish each Working Interest Owner a copy thereof showing only those items which it has been decided to retain and the value of each item.

10.3 Investment Adjustment. Upon approval of such inventory and evaluation by Working Interest Owners, each Working Interest Owner shall be credited with the value of its interest in all personal property so taken over by Unit Operator under Article 10.1.2 and charged with an amount equal to that obtained by multiplying the total value of all such personal property so taken over by Unit Operator under Article 10.1.2 by such Working Interest Owner's Unit Participation as shown in Exhibit "D". If the charge against any Working Interest Owner is greater than the amount credited to such Working Interest Owner, the resulting net charge shall be paid and in all other respects be treated as any other item of Unit expense chargeable against such Working Interest Owner. If the credit to any Working Interest Owner is greater than the amount charged against such Working Interest Owner, the resulting net credit shall be paid to such Working Interest Owner by Unit Operator out of funds received by it in settlement of the net charges described above. Pricing of inventory will be in accordance with Section IV of Exhibit "E" hereof.

10.4. General Facilities. The acquisition of warehouse, warehouse stocks, lease houses, camps, facility systems, and office buildings necessary for operations hereunder shall be by negotiation by and between the owners thereof and Unit Operator, subject to the approval of Working Interest Owners.

10.5 Ownership of Personal Property and Facilities. Each Working Interest Owner, individually, shall by virtue hereof own an undivided interest in all personal property and facilities taken over or otherwise acquired by Unit Operator pursuant to this Agreement in an amount equal to its Unit Participation shown on Exhibit "D".

ARTICLE 11

DEVELOPMENT AND OPERATING COSTS

11.1 Basis of Charge to Working Interest Owners. Unit Operator initially shall pay and discharge all costs and expenses incurred in the development and operation of the Unit Area. Working Interest Owners shall reimburse Unit Operator for all such costs and expenses, in proportion to their respective Unit Participation, shown on Exhibit "D". All charges, credits and accounting for costs and expenses shall be in accordance with Exhibit "E".

11.2 Budgets. Before or as soon as practical after the effective date hereof, Unit Operator shall prepare a budget of estimated costs and expenses for the remainder of the calendar year, and on or before the first day of each November thereafter shall prepare a budget of estimated costs and expenses for the ensuing calendar year. Such budgets shall set forth the estimated costs and expenses by quarterly periods. Unless otherwise specified in the budget, it shall be presumed for the purpose of advance billings that the estimated costs and expenses for each month of a quarterly period shall be one-third (1/3) of the estimate for the quarterly period. Budgets so prepared shall be estimates only and shall be subject to adjustment and correction by Working Interest Owners and Unit Operator from time to time wherever it shall appear that an adjustment or correction is proper. A copy of each such budget and adjusted budget shall be promptly furnished each Working Interest Owner.

11.3 Advance Billing. Unit Operator shall have the right at its option to require Working Interest Owners to advance their respective proportion of such costs and expenses by submitting to Working Interest Owners, on or before the 15th day of any month, an itemized estimate of such costs and expenses for the succeeding month with a request for payment in advance. Within fifteen (15) days thereafter, each Working Interest Owner shall pay to Unit Operator its proportionate part of such estimate. Adjustment between estimates and the actual costs shall

be made by Unit Operator at the close of each calendar month, and the accounts of the Working Interest Owner shall be adjusted accordingly.

11.4 Commingling of Funds. No funds received by Unit Operator under this Agreement need be segregated by Unit Operator or maintained by it as a joint fund, but may be commingled with its own funds.

11.5 Lien of Unit Operator. Each Working Interest Owner grants to Unit Operator a lien upon its Oil and Gas Rights in each Tract, its share of Unitized Substances when produced, and its interest in all Unit equipment, as security for payment of its share of Unit expense, together with interest thereon at the rate of ten percent (10%) per annum. Unit Operator shall have the right to bring suit to enforce collection of such indebtedness with or without seeking foreclosure of the lien. In addition, upon default by any Working Interest Owner in payment of its share of Unit expense, Unit Operator shall have the right to collect from the purchaser the proceeds from the sale of such Working Interest Owner's share of Unitized Substances until the amount owed by such Working Interest Owner, plus interest as aforesaid, has been paid. Each purchaser shall be entitled to rely upon Unit Operator's written statement concerning the amount of any default. Oil and Gas Rights, as used herein, means the right to explore, develop and operate lands within the Unit Area for the production of Unitized Substances or to share in the production so obtained or the proceeds hereof.

11.6 Unpaid Unit Expense. If any Working Interest Owner fails to pay its share of Unit expense within sixty (60) days after rendition of a statement therefor by Unit Operator, each Working Interest Owner agrees, upon request by Unit Operator, to pay its proportionate part of the unpaid share of Unit expense of the defaulting Working Interest Owner. The Working Interest Owners that pay the share of Unit expense of a defaulting Working Interest Owner shall be reimbursed by the Unit Operator for the amount so paid, plus any interest collected thereon, upon receipt by Unit Operator of any past due amount collected from the defaulting Working Interest Owner. Any Working Interest Owner so paying a defaulting Working Interest Owner's share of Unit expenses shall be subrogated to the lien and rights herein granted Unit Operator.

11.7 Wells Drilled by Unit Operator. All wells drilled by Unit Operator shall be drilled on a competitive basis at the usual rates prevailing in the area. Unit Operator may employ its own tools and equipment in the drilling of wells, but in such event, the charge therefor shall not exceed the prevailing rate in the area, and such work shall be performed by Unit Operator under the same terms and conditions as customary and usual in the area in contracts of independent contractors doing work of a similar nature.

11.8 Uncommitted Royalty. Should an owner of a Royalty Interest in any Tract fail to become a party to the Unit Agreement, and, as a result thereof, the actual Royalty Interest payments with respect to such Tract are more or less than the Royalty Interest payments computed on the basis of the Unitized Substances that are allocated to such Tract under the Unit Agreement to the extent provided below, the difference shall be borne by or inure to the benefit of Working Interest Owners, in proportion to their respective Unit Participation.

11.8.1 Burden of 1/8th Royalty. The difference to be borne by or inure to the benefit of Working Interest Owners shall not exceed an amount computed on the basis of one-eighth (1/8) of the difference between the Unitized Substances allocated to the Tract and the Unitized Substances produced from the Tract. Such adjustments shall be made by charges and credits to the joint account.

11.8.2 Burden of Excess Royalty and Other Interests. Any uncommitted Royalty Interest in excess of one-eighth (1/8) shall be borne solely by the Working Interest Owner contributing such interest.

ARTICLE 12

OIL IN LEASE TANKAGE ON EFFECTIVE DATE

12.1 Gauge of Merchantable Oil. Unit Operator shall make a proper and timely gauge of all lease and other tanks within the Unit Area in order to ascertain the amount of merchantable oil above the pipe line connection in such tanks as of 7:00 a.m. on the effective date hereof. All such oil which has then been produced legally shall be and remain the property of the Working Interest Owner entitled thereto the same as if the Unit had not been formed; and such Working Interest Owner shall promptly remove said oil from the Unit Area. Any such oil not removed shall be sold by Unit Operator for the account of such Working Interest Owner, subject to the payment of all Royalty to Royalty Owners under the terms and provisions of the Unit Agreement and any applicable lease or leases and other contracts.

ARTICLE 13

OPERATION OF NON-UNITIZED FORMATION

13.1 Right to Operate in Non-Unitized Formations. Any Working Interest Owner now having, or hereafter acquiring, the right to drill for and produce oil, gas or other minerals, other than Unitized Substances, within the Unit Area shall have the full right to do so notwithstanding this Agreement. In exercising said right, however, such Working Interest Owner shall exercise every reasonable precaution to

prevent unreasonable interference with operations hereunder. No Working Interest Owner, other than Unit Operator, shall produce Unitized Substances through any well drilled or operated by it. If any such other Working Interest Owner drills any well into or through the Unitized Formation, the Unitized Formation shall be cased or otherwise protected in such a manner that the Unitized Formation and the production of Unitized Substances will not be adversely affected. No dual completions in the Unitized Formation and some other formation shall be permitted.

ARTICLE 14

TITLES

14.1 Warranty and Indemnity. Each Working Interest Owner represents and warrants that it is the owner of the respective Working Interest set forth opposite its name in Exhibit "B" of the Unit Agreement and hereby agrees to indemnify and hold harmless the other Working Interest Owners from any loss and liability for damages due to failure (in whole or in part) of its title to any such interests, except failure of title arising out of operations hereunder; provided that such warranty and indemnity shall be limited to an amount equal to the net value that has been received from the sale of Unitized Substances attributed to the interest as to which title failed. In the event of such failure, the interest of the parties hereto shall be revised to reflect the true Unit participation. Each failure of title shall be effective, insofar as this Agreement is concerned, as of 7:00 a.m. on the first day after such title failure is determined and there shall be no retroactive adjustment of development and operating expenses, Unitized Substances or the proceeds therefrom, as a result of title failure.

14.2 Failure Because of Unit Operations. The failure of title to any Working Interest in any Tract by reason of Unit operations, including non-production from such Tract, shall not change the Unit Participation of the Working Interest Owner whose title failed, in relation to the Unit Participation of the other Working Interest Owners at the time of the title failure.

ARTICLE 15

LIABILITY, CLAIMS AND SUITS

15.1 Individual Liability. The duties, obligations, and liabilities of Working Interest Owners shall be several and not joint or collective; and nothing contained herein shall ever be construed as creating a partnership of any kind, joint venture, or an association or trust between or among Working Interest Owners.

15.2 Settlements. In the event claim is made against a Working Interest Owner, or any Working Interest Owner is sued on account of any matter or thing arising from the development and operation of the Unit Area, and over which such Working Interest Owner individually has no control because of the rights, powers and duties granted by this Agreement and the Unit Agreement, said Working Interest Owner shall immediately notify the Unit Operator of such claim or suit. Unit Operator shall assume and take over the further handling of such claim or suit and all costs and expenses of handling, settling or otherwise discharging such claim or suit shall be borne by Working Interest Owners as any other cost or expense of operating the Unit Area. Unit Operator may settle any single damage claim or suit involving Unit operations but not involving an expenditure of more than Five Thousand Dollars (\$5,000.00), provided the payment is in complete settlement of such claim or suit.

ARTICLE 16

INTERNAL REVENUE PROVISION

16.1 Internal Revenue Provision. Each party hereto hereby irrevocably elects that it and the operations covered by this Agreement be excluded from the application of Subchapter K of Chapter 1 of Subtitle A of the Internal Revenue Code of 1954 as permitted and authorized by Section 761 of said Code and the regulations promulgated thereunder. Unit Operator is hereby irrevocably authorized and directed to execute on behalf of each party hereto such additional or further evidence of said election as may be required by the Secretary of the Treasury of the United States or the Federal Internal Revenue Service and regulations issued under said Subchapter K, including all of the returns, statements and data required, and Unit Operator shall furnish each party hereto a copy thereof. Should said regulations require each party to execute such further evidence, each party hereto irrevocably agrees to execute or join in the execution thereof. Each party hereto irrevocably agrees not to give any notices or take any action inconsistent with the elections hereby made and each hereby states that the income derived by it from the operations under this Agreement can be adequately determined without the computation of partnership taxable income.

ARTICLE 17

NOTICES

17.1 Notices. All notices required hereunder shall be in writing and shall be deemed to have been properly served when sent by mail or telegram to the address of the representative of each Working Interest Owner as furnished to Unit Operator in accordance with Article 4 hereof.

ARTICLE 18

WITHDRAWAL OF WORKING INTEREST OWNER AND CREATION OF NEW INTEREST

18.1 Withdrawal. If any Working Interest Owner so desires, it may withdraw from this Agreement by conveying, assigning and transferring, without warranty of title (either expressed or implied) to the other Working Interest Owners who do not desire to withdraw herefrom, all of the former's rights, title and interest in and to its lease or leases, or other operating rights in the Unit Area, insofar as said lease, leases or rights pertain to the Unitized Formation, together with the withdrawing Working Interest Owner's interest in all wells, pipe lines, casing, injection equipment facilities and other personal property used in conjunction with the development and operation of the Unit Area; provided, that such transfer, assignment or conveyance shall not relieve said Working Interest Owner from any obligation or liability incurred prior to the date of the execution and delivery thereof. The interest so transferred, assigned and conveyed shall be taken and owned by the other Working Interest Owners in proportion to their respective Unit Participations, and the Unit Operator shall recompute the percentage of participation to include this change and furnish the remaining Working Interest Owners with a corrected interest sheet. After the execution and delivery of such transfer, assignment or conveyance, the withdrawing Working Interest Owner shall be relieved from all further obligations and liability hereunder and under said Unit Agreement; and the right of such Working Interest Owner to any benefits subsequently accruing hereunder and under said Unit Agreement shall cease; provided, that upon delivery of said transfer, assignment or conveyance, the assignees, in the ratio of the respective interests so acquired, shall pay to the assignor for its interest in all jointly-owned equipment, casing and other personal property, the fair salvage value thereof, as estimated and fixed by the remaining Working Interest Owners.

18.2 Creation of a New Interest. If any Working Interest Owner shall, after executing this Agreement, create any overriding royalty, production payment or other similar interest, hereafter referred to as "New Interest", out of its interest subject to this Agreement, such new interest shall be subject to all the terms and provisions of this Agreement and the Unit Agreement.

ARTICLE 19

ABANDONMENT OF WELLS

19.1 Rights of Former Owners. If Working Interest Owners decide to permanently abandon any well within the Unit Area prior to termination of the Unit Agreement, Unit Operator shall give written notice of such fact to the former Working Interest Owner of the Tract on which such well is located, together with the amount (as estimated and fixed

by the Working Interest Owners) to be the net salvage value of the equipment in and on said well contributed by Working Interest Owners under Article 10.1.1. Said former Working Interest Owner shall have the right and option for a period of ninety (90) days after receipt of such notice to notify Unit Operator of its election to take over and own said well and to deepen or plug back said well to a formation other than the Unitized Formation. Within ten (10) days after said former Working Interest Owner of the Tract has so notified Unit Operator of its desire to take over such well, it shall pay to Unit Operator, for credit to the joint account of the Working Interest Owners, the amount of the net salvage value above described. At the same time the former Working Interest Owner taking over the well shall agree, by letter addressed to Unit Operator, to effectively seal off and protect the Unitized Formation and (at such time as well is ready for abandonment) to plug and abandon well in a workmanlike manner in accordance with applicable laws and regulations.

19.2 Plugging. In the event the former Working Interest Owner of a Tract does not elect to take over a well located thereon which is proposed for abandonment, Unit Operator shall plug and abandon the well in accordance with applicable laws and regulations.

ARTICLE 20

EFFECTIVE DATE AND TERM

20.1 Effective Date. This Agreement shall become effective on the date and at the time the Unit Agreement becomes effective.

20.2 Term. This Agreement shall continue in full force and effect so long as the Unit Agreement remains in force and effect and thereafter until all Unit wells have been plugged and abandoned or turned over to Working Interest Owners in accordance with Article 21 hereof, and all personal and real property acquired for the joint account of Working Interest Owners has been disposed of by Unit Operator in accordance with instructions of Working Interest Owners and there shall have been a final accounting.

ARTICLE 21

TERMINATION OF UNIT AGREEMENT

21.1 Termination. Upon termination of the Unit Agreement the following shall occur:

21.1.1 Oil and Gas Rights. Possession of all oil and gas rights in and to the several separate tracts shall revert to the Working Interest owners thereof.

- 21.1.2 Right to Operate. Working Interest Owners of any such Tract desiring to take over and continue to operate a well or wells located thereon may do so by paying Unit Operator, for the credit of the joint account, the net salvage value of the equipment in and on the well, contributed by such Working Interest Owners under Article 10.1.1 and agreeing in writing to properly plug the well at such time as it is abandoned.
- 21.1.3 Salvaging Wells. With respect to all wells not taken over by the Working Interest Owners, Unit Operator shall, at the joint expense of Working Interest Owners, salvage as much of the casing and equipment in or on such wells as can economically and reasonably be salvaged, and shall cause such wells to be properly plugged and abandoned.
- 21.1.4 Cost of Salvaging. Working Interest Owners shall share the cost of salvaging, liquidation or other distribution of assets and properties used in the development and operation of the Unit Area in proportion to their respective Unit Participation, as shown on Exhibit "D".

ARTICLE 22

COUNTERPART EXECUTION

22.1 Execution by Separate Counterparts or Ratifications. This agreement may be executed in any number of counterparts and each counterpart so executed shall have the same force and effect as an original instrument and as if all of the parties to the aggregate counterparts had signed the same instrument; or may be ratified by a separate instrument in writing referring to this Agreement. Each such ratification shall have the force and effect of an executed counterpart and of adopting by reference all of the provisions hereof.

ARTICLE 23

SUCCESSORS AND ASSIGNS

23.1 Successors and Assigns. The terms and provisions hereof shall be covenants running with the lands and unitized leases covered hereby and shall be binding upon and inure to the benefit of the respective heirs, successors and assigns of the parties hereto.

No party hereto shall assign or convey less than his entire interest in any Tract committed hereto unless such leased interest,

if any, is an undivided interest in such entire tract; and should any interest committed hereto be or become owned by three (3) or more parties, then all of such parties shall be obligated to appoint a single agent to represent such interest for the purpose of accepting billings and receiving payments, if any, arising hereunder, or under the Unit Agreement, and for voting upon any matter which is the subject of determination by the Working Interest Owners.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement upon the respective dates indicated opposite their respective signatures.

SEELY OIL COMPANY

By _____
C. W. Seely

Its President _____

UNIT OPERATOR AND WORKING
INTEREST OWNER

STATE OF TEXAS)
COUNTY OF TARRANT)

This instrument was acknowledged before me on this _____ day of December, 1992, by C. W. Seely, President of SEELY OIL COMPANY, a Texas corporation, on behalf of said corporation.

Notary Public in and for the
State of Texas

My Commission Expires:

EXHIBIT D

**APPLICATION OF SEELY OIL COMPANY
FOR STATUTORY UNITIZATION OF THE
EK PENROSE SAND UNIT AREA
LEA COUNTY, NEW MEXICO**

NOTIFICATION LIST

Working Interest Owners

Boswell Interests Ltd.
1320 Lake Street
Fort Worth, Texas 76102

CEB Oil Company
1320 Lake Street
Fort Worth, Texas 76102

Merlyn W. Dahlin
3220 North Freeway
Fort Worth, Texas 76111

Houston and Emma Hill Trust Estate
500 W. 7th Street, Unit 16
Suite 1802
Fort Worth, Texas 76102-4772

PVB Oil Company
1320 Lake Street
Fort Worth, Texas 76102

J. Cleo Thompson and
James C. Thompson, L.P.
325 North St. Paul, Suite 4300
Dallas, Texas 76201

Concho Oil & Gas Corp.
110 West Louisiana, Suite 410
Midland, Texas 79701

SSV&H Associates
815 West 10th Street
Fort Worth, Texas 76102

C. W. & Ina B. Seely
815 W. 10th Street
Fort Worth, Texas 76102

Burnett Oil Company
Burnett Plaza – Suite 1500
801 Cherry Street, Unit #9
Fort Worth, Texas 76102-6881

EAB Oil Company
1320 Lake Street
Fort Worth, Texas 76102

Express Air Drilling, Inc.
3838 Oak Lawn Avenue
Two Turtle Creek Village
Dallas, Texas 75219-4516

BTA Oil Producers
104 South Pecos
Midland, Texas 79701

Michael J. & Kathleen A. Havel
7607 Chalkstone Drive
Dallas, Texas 75248-5317

David L. and Dawn M. Henderson
815 West 10th Street
Fort Worth Texas 76102

WES-TEX Drilling Company, L.P.
P. O. Box 3739
Abilene, Texas 79604

John P. Oil Company
1320 Lake Street
Fort Worth, Texas 76102

J. Bradley Jeffers
607 Tierra Berranda
Roswell, New Mexico 88201

Clarence W. & Frieda T. Stumhoffer
P. O. Box 100416
Fort Worth, Texas 76185-0416

Larry Arnold
P. O. Box 2253
Hobbs, New Mexico 88241-2253

J. R. Collins
P. O. Box 3321
Midland, Texas 77059

Filmore-Pangle
4506 Olive Green Court
Houston, Texas 77059

Blaine Hess
P. O. Box 326
Roswell, New Mexico 88202-0326

Patsy B. Carr
3004 Speedway Avenue
Wichita Falls, Texas 76308

DM Royalties
6300 Ridglea Place, Suite 605
Fort Worth, Texas 76116-5732

Yates Petroleum Corporation
105 S. Fourth Street
Artesia, New Mexico 88210

McInnis Resources Company
P. O. Box 527
Artesia, New Mexico 88211-0527

Overriding Royalty Owners

Marc H. Lowrance, Jr.
P. O. Box 9016
Fort Worth, Texas 76147

Scales Family Revocable Trust
4709 Oak Trail
Fort Worth, Texas 76109

Clarence W. & Frieda T. Stumhoffer
P. O. Box 100416
Fort Worth, Texas 76185

Trigg Family Trust
P. O. Box 520
Roswell, New Mexico 88202-0520

Higgins Trust, Inc.
P. O. Box 2421
Gainesville, Georgia 30503

Selma E. Andrews Trust
F/B/O Peggy Barrett #518801
Bank of America NA Trustee
P. O. Box 830308
Dallas, Texas 75283-0308

Braille Institute of America
Bank of America NA
P. O. Box 830308
Dallas, Texas 75283-0308

Sabine Royalty Trust
P. O. Box 830650
Dallas, Texas 75283-0650

Asa Grayson Ashworth
154 Hornell Street
Hornell, New York 14843-1237

Lillie M. Yates Estate
P. O. Box 840
Artesia, New Mexico 88211-0840

Sharbro Oil Company Ltd.
P. O. Box 840
Artesia, New Mexico 88211-0840

Selma E. Andrews Perpetual
Charitable Trust U/A #518802
Bank of America NA Trustee
P. O. Box 830308
Dallas, Texas 75283-0308

McInnis Resources Company
P. O. Box 527
Artesia, New Mexico 88211-0527

Mary Anne Berliner Estate
First National Bank Personal
Representative
P. O. Box AA
Artesia, New Mexico 88211-2336

Ralph C. McElvain, Jr.
5318 S. Cottonwood Club Drive
Salt Lake City, Utah 84117

Jacquelin M. Withers
11578 Lost Tree Way
North Palm Beach, Florida 33408

Robert M. Regan Trust
Bank of America NA, Trustee
P. O. Box 830308
Dallas, Texas 75283-0308

McElvain Oil Company
Attn: David P. McElvain
14828 Pellbrook
Addison, Texas 75240

McElvain Oil & Gas Ltd.
1050 17th Street, Suite 1800
Denver, Colorado 80265

Warren W. Howe
1426 11th Avenue
Longview, Washington 98632

Zihlman Family Trust
4463 Ridgevale Road
Fort Worth, Texas 76116

J. R. Collins
P. O. Box 3321
Midland, Texas 79702

Concho Oil & Gas Company
110 West Louisiana, Suite 410
Midland, Texas 79701

Enron Oil & Gas Company
4000 N. Big Spring, Suite 500
Midland, Texas 79705

Royalty Owners

U.S. Department of the Interior
Royalty Management Program
P. O. Box 5810
Denver, Colorado 80217-5810

John R. Anderson Co.
Personal Representative
P. O. Box 136
Gail, Texas 79738

Elizabeth Forest Berry
Box 160
Eunice, New Mexico 88231

Becky B. Lee Christmas
Box 173
Wagon Mound, New Mexico 87752

Bill L. Lee
West Star Route
Box 465
Lovington, New Mexico 88260

Giles M. Lee
West Star Route
Box 478
Lovington, New Mexico 88260

Roy R. Lee
600 Goliad Court, NW
Albuquerque, New Mexico 87107

Lee Family Trust
P. O. Box 363
Lovington, New Mexico 88260

Brookie Lee Green
2814 Emerson Place
Midland, Texas 79701

Mary Ann Lee Ham
2792 University
San Angelo, Texas 76904

Scharbauer Cattle Company
P. O. Box 1471
Midland, Texas 79702

Bureau of Land Management
Attention: Armando Lopez
2909 W. 2nd Street
Roswell, New Mexico 88201

Charles R. Lee
600 Goliad, NW
Albuquerque, New Mexico 87107

Pearl M. Lee
600 Goliad, NW
Albuquerque, New Mexico 87107

Commissioner of Public Lands
New Mexico State Land Office
Attention: Pete Martinez
Post Office Box 1148
Santa Fe, NM 87504-1148

CASE 12963 : Application of Seely Oil Company for statutory unitization, Lea County, New Mexico. Applicant in the above-styled cause, seeks an order unitizing, for the purpose of establishing an enhanced recovery project, all mineral interest in the Penrose formation, EK Yates-Seven Rivers-Queen Pool, underlying 1469.25 acres, more or less, of Federal and Fee lands in the following acreage:

TOWNSHIP 18 SOUTH, RANGE 33 EAST, NMPM

Section 24: SE/4
Section 25: NE/4

TOWNSHIP 18 SOUTH, RANGE 34 EAST, NMPM

Section 19: S/2
Section 20: S/2 SW/4, NW/4 SW/4
Section 29: NW/4, N/2 SW/4
Section 30: N/2, N/2 SE/4, E/2 SW/4

Said unit to be designated the EK Penrose Sand Unit.

Among the matters to be considered at the hearing will be the necessity of unit operations; the designation of a unit operator; the designation of horizontal and vertical limits of the unit area; the determination of the fair, reasonable, and equitable allocation of production and costs of production, including capital investment, to each of the various tracts in the unit area; the determination of credits and charges to be made among the various owners in the unit area for their investment in wells and equipment and such other matters as may be necessary and appropriate for carrying on efficient unit operations; including but not limited to, unit voting procedures, selection, removal or substitution of unit operator, and time of commencement and termination of unit operations. Applicant also requests that any such order issued in this case include a non-consent penalty for risk to be charged against carried working interests within the unit area upon such terms and conditions to be determined by the Division as just and reasonable.

Said unit area is located approximately 14 miles southwest of Lovington, New Mexico.

EXHIBIT "D" TO
UNIT OPERATING AGREEMENT
EK PENROSE UNIT

SUMMARY OF OWNERSHIP BY WORKING INTEREST OWNERS

Pangle Filmore

Tract	9	0.1061%
	Total	0.1061%

Patsy B Carr

Tract	5	0.6698%
Tract	8	0.3159%
	Total	0.9857%

PVB Oil Company

Tract	1	0.3313%
Tract	2a	0.6542%
Tract	2b	0.2782%
Tract	2c	0.0717%
Tract	2d	0.0799%
Tract	2e	0.2415%
Tract	3	0.0639%
Tract	5	0.2037%
Tract	8	0.3771%
	Total	2.3015%

SSV & H Associates

Tract	1	0.3527%
Tract	2a	0.6965%
Tract	2b	0.2961%
Tract	2c	0.0763%
Tract	2d	0.0850%
Tract	2e	0.2571%
Tract	3	0.0680%
Tract	5	0.2169%
Tract	8	0.4015%
	Total	2.4502%

EXHIBIT "D" TO
UNIT OPERATING AGREEMENT
EK PENROSE UNIT

SUMMARY OF OWNERSHIP BY WORKING INTEREST OWNERS

Wes-Tex Drilling Co., LP

Tract	1	0.6890%
Tract	2a	1.3605%
Tract	2b	0.5785%
Tract	2c	0.1491%
Tract	2d	0.1661%
Tract	2e	0.5023%
Tract	3	0.1329%
Tract	5	0.4236%
Tract	8	0.7842%
	Total	4.7863%

Yates Petroleum Corp 100%

Tract	4	3.9244%
	Total	3.9244%

EXHIBIT "D" TO
UNIT OPERATING AGREEMENT
EK PENROSE UNIT

SUMMARY OF OWNERSHIP BY WORKING INTEREST OWNERS

Blaine Hess

Tract	9	0.2651%
	Total	0.2651%

Boswell Interest, LTD

Tract	1	0.8820%
Tract	2a	1.7415%
Tract	2b	0.7405%
Tract	2c	0.1909%
Tract	2d	0.2126%
Tract	2e	0.6429%
Tract	3	0.1701%
Tract	5	0.5423%
Tract	8	1.0038%
	Total	6.1267%

Brad J Jeffers

Tract	9	0.0530%
	Total	0.0530%

BTA Oil Producers

Tract	6	3.3498%
Tract	7	4.6082%
	Total	7.9580%

EXHIBIT "D" TO
UNIT OPERATING AGREEMENT
EK PENROSE UNIT

SUMMARY OF OWNERSHIP BY WORKING INTEREST OWNERS

Burnett Oil Co. Inc.

Tract	1	1.5648%
Tract	2a	3.0896%
Tract	2b	1.3138%
Tract	2c	0.3386%
Tract	2d	0.3773%
Tract	2e	1.1406%
Tract	3	0.3018%
Tract	5	0.9620%
Tract	8	1.7809%
	Total	10.8694%

C W & Frieda T. Stumhoffer

Tract	5	2.6793%
Tract	9	0.3977%
	Total	3.0770%

CEB Oil Company

Tract	1	0.3304%
Tract	2a	0.6523%
Tract	2b	0.2774%
Tract	2c	0.0715%
Tract	2d	0.0797%
Tract	2e	0.2408%
Tract	3	0.0637%
Tract	5	0.2031%
Tract	8	0.3760%
	Total	2.2949%

Concho Oil & Gas

Tract	9	4.1891%
	Total	4.1891%

EXHIBIT "D" TO
UNIT OPERATING AGREEMENT
EK PENROSE UNIT

SUMMARY OF OWNERSHIP BY WORKING INTEREST OWNERS

CW Seely & Wife Ina B Seely

Tract	1	1.2515%
Tract	2a	2.4710%
Tract	2b	1.0507%
Tract	2c	0.2708%
Tract	2d	0.3017%
Tract	2e	0.9123%
Tract	3	0.2414%
Tract	5	0.7694%
Tract	8	1.4243%
	Total	8.6932%

**David Lynn Henderson & Wife
Dawn Henderson**

Tract	1	0.1564%
Tract	2a	0.3089%
Tract	2b	0.1313%
Tract	2c	0.0339%
Tract	2d	0.0377%
Tract	2e	0.1140%
Tract	3	0.0302%
Tract	5	0.0962%
Tract	8	0.1780%
	Total	1.0866%

DM Royalties

Tract	8	0.3159%
	Total	0.3159%

EXHIBIT "D" TO
UNIT OPERATING AGREEMENT
EK PENROSE UNIT

SUMMARY OF OWNERSHIP BY WORKING INTEREST OWNERS

EAB Oil Company

Tract	1	0.3313%
Tract	2a	0.6542%
Tract	2b	0.2782%
Tract	2c	0.0717%
Tract	2d	0.0799%
Tract	2e	0.2415%
Tract	3	0.0639%
Tract	5	0.2037%
Tract	8	0.3771%
	Total	2.3015%

Express Air Drilling, Inc.

Tract	1	0.8776%
Tract	2a	1.7328%
Tract	2b	0.7368%
Tract	2c	0.1899%
Tract	2d	0.2116%
Tract	2e	0.6397%
Tract	3	0.1693%
Tract	5	0.5395%
Tract	8	0.9988%
	Total	6.0960%

J R Collins

Tract	9	0.0795%
	Total	0.0795%

EXHIBIT "D" TO
UNIT OPERATING AGREEMENT
EK PENROSE UNIT

SUMMARY OF OWNERSHIP BY WORKING INTEREST OWNERS

J. Cleo Thompson and James Cleo Thompson Jr., LP	Tract	1	2.7569%
	Tract	2a	5.4434%
	Tract	2b	2.3147%
	Tract	2c	0.5966%
	Tract	2d	0.6647%
	Tract	2e	2.0096%
	Tract	3	0.5318%
	Tract	5	1.6949%
	Tract	8	3.1377%
		Total	19.1502%

James Robert Hill, Virginia Glenn Lattimore & John Styrsky, Trustees of the Houston and Emma Hill Estate Trust	Tract	1	1.1026%
	Tract	2a	2.1771%
	Tract	2b	0.9257%
	Tract	2c	0.2386%
	Tract	2d	0.2658%
	Tract	2e	0.8038%
	Tract	3	0.2127%
	Tract	5	0.6779%
	Tract	8	1.2549%
	Total	7.6591%	

John P. Oil Company	Tract	1	0.3304%
	Tract	2a	0.6523%
	Tract	2b	0.2774%
	Tract	2c	0.0715%
	Tract	2d	0.0797%
	Tract	2e	0.2408%
	Tract	3	0.0637%
	Tract	5	0.2031%
	Tract	8	0.3760%
	Total	2.2949%	

EXHIBIT "D" TO
UNIT OPERATING AGREEMENT
EK PENROSE UNIT

SUMMARY OF OWNERSHIP BY WORKING INTEREST OWNERS

Larry Arnold

Tract	5	0.2143%
Tract	9	0.2121%
	Total	0.4265%

McInnis Resource Company

Tract	5	0.2143%
	Total	0.2143%

Merlyn W. Dahlin & Wife Ruth G. Dahlin

Tract	1	0.2201%
Tract	2a	0.4347%
Tract	2b	0.1848%
Tract	2c	0.0476%
Tract	2d	0.0531%
Tract	2e	0.1605%
Tract	3	0.0425%
Tract	5	0.1353%
Tract	8	0.2506%
	Total	1.5292%

Michael J Havel & Wife

Tract	2c	0.0239%
Tract	2a	0.2176%
Tract	2b	0.0925%
Tract	2d	0.0266%
Tract	2e	0.0804%
Tract	3	0.0213%
Tract	5	0.0678%
Tract	8	0.1255%
Tract	1	0.1102%
	Total	0.7657%