

BEFORE EXAMINER UTZ
OIL CONSERVATION COMMISSION
<i>Maxwell</i> EXHIBIT NO. <u> 1 </u>
CASE NO. <u> 3564 </u>

UNIT AGREEMENT
FOR THE DEVELOPMENT AND OPERATION OF THE
TAYLOR UNIT
EDDY COUNTY, NEW MEXICO

THIS AGREEMENT, entered into as of the 1st day of December, 1966, by and between the parties subscribing, ratifying or consenting hereto, and herein referred to as "parties hereto",

WITNESSETH: That,

WHEREAS, the parties hereto are the owners of working, royalty or other oil or gas interests in the land subject to this agreement; and

WHEREAS, the Oil Conservation Commission of the State of New Mexico is authorized by law (Chap. 72, Laws of 1935, as amended by Chap. 193, Laws of 1937, Chap. 166, Laws of 1941, and Chap. 168, Laws of 1949) to approve this agreement and the conservation provisions hereof; and

WHEREAS, the Mineral Leasing Act of February 25, 1920 (41 Stat. 437, as amended, 30 U.S.C. Sections 181 et seq.) authorizes Federal lessees and their representatives to unite with each other or jointly or separately with others in collectively adopting and operating a co-operative or unit plan of development or operation of any oil or gas pool, field or like area or any part thereof for the purpose of more properly conserving the natural resources thereof whenever determined and certified by the Secretary of the Interior to be necessary or advisable in the public interest; and

WHEREAS, the parties hereto hold sufficient interest in the Taylor Unit Area, comprised of the land hereinafter designated, to give reasonably effective control of operations therein; and

WHEREAS, it is the purpose of the parties hereto to enable institution and consummation of secondary recovery operations, conserve natural resources, prevent waste and secure the other benefits obtainable through development and operation of the area subject to this agreement under the terms, conditions and limitations herein set forth:

NOW, THEREFORE, in consideration of the premises and the promises herein contained, the parties hereto commit to this agreement their entire respective interests in the Unitized Formation underlying the Unit Area (as those terms are defined hereinafter), and agree severally among themselves as follows:

SECTION 1. ENABLING ACT AND REGULATIONS: The Mineral Leasing Act of February 25, 1920, as amended, supra, and all valid, pertinent regulations, including operation and unit plan regulations, heretofore issued thereunder or valid, pertinent and reasonable regulations hereafter issued thereunder are accepted and made a part of this agreement as to Federal lands, provided such regulations are not inconsistent with the terms of this agreement.

SECTION 2. UNIT AREA AND DEFINITIONS: The area described by tracts in Exhibit B and depicted on Exhibit A attached hereto is hereby designated and recognized as constituting the Unit Area, containing 640 acres, more or less, in Eddy County, New Mexico. Said land is described as follows:

Township 18 South, Range 31 East, New Mexico Principal Meridian

Section 12: SW/4 and SE/4

Section 13: NW/4; NW/4 SW/4; N/2 NE/4; and SW/4 NE/4

For the purpose of this agreement, the following terms and expressions as used herein shall mean:

- (a) "Commission" is defined as the Oil Conservation Commission of the State of New Mexico.
- (b) "Director" is defined as the Director of the United States Geological Survey.
- (c) "Secretary" is defined as the Secretary of the Interior of the United States of America.
- (d) "Department" is defined as the Department of the Interior of the United States of America.
- (e) "Supervisor" is defined as the Oil and Gas Supervisor of the United States Geological Survey.
- (f) "Unitized Formation" is defined as that vertical interval underlying the unitized land from 200 feet above the top of the Queen Sand to 50 feet below the base of the Queen Sand and being the same vertical interval encountered between the actual depths of 3290 feet and 3595 feet in that certain well known as the Maxwell Oil Company Taylor Lease Well No. B-4 located 1980 feet from the South Line and 660 feet from the West Line of Section 13, T-18-S, R-31-E, Eddy County, New Mexico, N.M.P.M., as recorded on the radioactivity log of said well dated July 21, 1959.

(g) "Unitized Substances" is defined as all oil, gas, gaseous substances, sulphur contained in gas, condensate, distillate and all associated and constituent liquid or liquefiable hydrocarbons within or produced from the Unitized Formation.

(h) "Working Interest" is defined as an interest in Unitized Substances by virtue of a lease, operating agreement or otherwise, including a carried interest, which interest is chargeable with and obligated to pay or bear, either in cash or out of production or otherwise, all or a portion of the cost of drilling, developing, producing and operating the Unitized Formation. Any interest in Unitized Substances which is a Working Interest as of the date the owner thereof executes, ratifies or consents to this agreement shall thereafter be treated as a Working Interest for all purposes of this agreement.

(i) "Royalty Interest" is defined as a right to or interest in any portion of the Unitized Substances or proceeds thereof other than a Working Interest.

(j) "Working Interest Owner" is defined as a party hereto who owns a Working Interest.

(k) "Royalty Owner" is defined as a party hereto who owns a Royalty Interest.

(l) "Tract" is defined as each parcel of land described as such and given a Tract number in Exhibit "B".

(m) "Tract Ultimate Primary Recovery" is defined as the number of barrels of oil heretofore approved by Working Interest Owners for purposes of this agreement as representing the primary ultimate recovery of oil from the unitized formation underlying such tract.

(n) "Unit Area Ultimate Primary Recovery" is defined as the total Tract Ultimate Primary Recovery of all Tracts within the Unit Area that are committed to this agreement in accordance with the provisions hereof.

(o) "Unit Operating Agreement" is defined as any agreement or agreements (whether one or more) entered into (separately or collectively) by and between the Unit Operator and the Working Interest Owners as provided in Section 9, ACCOUNTING PROVISIONS AND UNIT OPERATING

AGREEMENT, infra, and shall be styled "Unit Operating Agreement, Taylor Unit, Eddy County, New Mexico".

(p) "Tract Remaining Primary Reserves" is defined as the number of barrels of oil heretofore approved by the Working Interest Owners as the estimated economic remaining primary oil reserves as of July 1, 1966, of such Tract.

(q) "Unit Area Remaining Primary Reserves" is defined as the summation of the Tract Remaining Primary Reserves of those Tracts effectively committed to this Agreement within the Unit Area.

(r) "Paying Quantities" is defined as production of Unitized Substances in quantities sufficient to pay for the cost of producing same from wells on the unitized land.

(s) "Tract Surface Acres" means the number of acres in a Tract as shown in Exhibit "B".

(t) "Unit Surface Acres" means the total number of acres in all unitized land as shown in Exhibit "B".

(u) "Tract Participation" means the percentage shown on Exhibit "B" for allocating Unitized Substances produced from unitized land to a Tract of said land under this Agreement.

(v) "Unit Participation" of each Working Interest Owner in unitized land means the sum of the percentages obtained by multiplying the Working Interest of such Working Interest Owner in each Tract of unitized land by the Tract Participation of such Tract.

SECTION 3. EXHIBITS: Exhibit "A" attached hereto is a map showing the Unit Area and, to the extent known to Unit Operator, the boundaries and identity of Tracts and leases in the Unit Area. Exhibit "B" attached hereto is a schedule showing, to the extent known to Unit Operator, the acreage comprising each Tract, the percentage of ownership of each Working Interest Owner in each Tract, the Tract Participation of each Tract, and the royalty and record title interest and ownership in each tract. However, nothing herein or in said schedule or map shall be construed as a representation by any party hereto as to the ownership of any interest other than such interest or interests as are shown in said map or schedule as being owned by such party.

It is hereby agreed by all parties to this agreement that Unit Operator is empowered to correct any mathematical or clerical errors which may exist in the pertinent exhibits to this agreement; provided, however, that correction of any error other than mathematical or clerical shall be made by Unit Operator only after first having obtained approval of Working Interest Owners having a combined Unit Participation of fifty percent (50%) or more and the Supervisor.

Exhibits "A" and "B" shall be revised by Unit Operator whenever changes render such revision necessary, or when requested by the Supervisor, and at least six (6) copies of such revision shall be filed with the Supervisor.

SECTION 4. EXPANSION: The Unit Area may, when practicable, be expanded to include therein any additional Tract or Tracts regarded as reasonably necessary or advisable for the purposes of this agreement. Such expansion shall be effected in the following manner:

(a) The Working Interest Owner or Owners of a Tract or Tracts desiring to bring such Tract or Tracts into the Unit Area shall file an application therefor with Unit Operator requesting such admission.

(b) Unit Operator shall circulate a notice to each Working Interest Owner of the proposed expansion setting out the basis for admission, the Tract Participation proposed to be allocated to such Tract or Tracts, and other pertinent data. After negotiation (at Working Interest Owner's Meeting or otherwise) if Working Interest Owners having a combined Unit Participation of ninety percent (90%) or more have agreed to such Tract or Tracts being brought into the Unit Area, then Unit Operator shall, after preliminary concurrence by the Director:

(1) Prepare a notice of proposed expansion describing the contemplated changes in the boundaries of the Unit Area, the reason therefor, the basis for admission of the additional Tract or Tracts, the Tract Participation to be allocated thereto and the proposed effective date thereof; and

(2) Furnish copies of said notice to the Director, each Working Interest Owner and to the lessee and lessor whose interests are proposed to be committed, advising such parties that thirty (30) days will be allowed for submission to the Unit Operator of any objections to such proposed expansion; and

- (3) File, upon the expiration of said thirty-day period as set out in Subsection (2) immediately above, with the Director the following:
- (a) Evidence of mailing copies of said notice of expansion;
 - (b) An application for such expansion;
 - (c) an instrument containing the appropriate joinders in compliance with the qualification requirements of Section 13, TRACTS QUALIFIED FOR UNIT PARTICIPATION, infra;
 - and (d) Copy of any objections received.

The expansion shall, after due consideration of all pertinent information and upon approval by the Director become effective as of the date prescribed in the notice thereof.

SECTION 5. UNITIZED LAND AND UNITIZED SUBSTANCES: All oil and gas in the land effectively committed to this agreement, as to the unitized formation, is unitized under the terms of this agreement and herein are called "Unitized Substances". All land committed to this agreement as to such formation shall constitute land referred to herein as Unitized Land or land subject to this agreement.

SECTION 6. UNIT OPERATOR: MAXWELL OIL COMPANY is hereby designated as Unit Operator, and by signing this instrument as Unit Operator it agrees and consents to accept the duties and obligations of Unit Operator for the operation, development and production of Unitized Substances as herein provided. Whenever reference is made herein to the Unit Operator, such reference means the Unit Operator acting in that capacity and not as an owner of interests in Unitized Substances, and the term "Working Interest Owner" when used herein shall include or refer to Unit Operator as the owner of a Working Interest when such an interest is owned by it.

SECTION 7. RESIGNATION OR REMOVAL OF UNIT OPERATOR: Unit Operator shall have the right to resign at any time, but such resignation shall not become effective so as to release Unit Operator from the duties and obligations of Unit Operator and terminate Unit Operator's rights as such for a period of six (6) months after written notice of intention to resign has been given by Unit Operator to all Working Interest Owners, and the Director, and until all Unit wells are placed in a condition satisfactory to the Supervisor for suspension, abandonment, or operations, whichever is intended by the unit manager, unless a new Unit Operator shall have taken over and assumed the duties and obligations of Unit Operator prior to the expiration of said period.

The Unit Operator shall, upon default or failure in the performance of its duties and obligations hereunder, be subject to removal by vote of Working Interest Owners having a combined Unit Participation (based upon the then current Unit Participation) of eighty-five percent (85%) or more, exclusive of the Unit Participation of the Working Interest Owner who is the Unit Operator. Such removal shall be effective upon notice thereof to the Director.

In all such instances of effective resignation or removal, until a successor to Unit Operator is selected and approved as hereinafter provided, the Working Interest Owners shall be jointly responsible for the performance of the duties of the Unit Operator and shall, not later than thirty (30) days before such resignation or removal becomes effective, appoint a unit manager to represent them in any action to be taken hereunder.

The resignation or removal of Unit Operator under this agreement shall not terminate its right, title or interest as the owner of a Working Interest or other interest in Unitized Substances, but upon the resignation or removal of Unit Operator becoming effective, such Unit Operator shall deliver possession of all equipment, books and records, materials, appurtenances and any other assets used in conducting the Unit operations and owned by the Working Interest Owners (including any and all data and information which it might have gained or assembled by reason of its operation of the Unitized Land) to the new duly qualified successor Unit Operator or to the unit manager if no such new Unit Operator is elected, to be used for the purpose of conducting Unit operations hereunder. Nothing herein shall be construed as authorizing removal of any material, equipment or appurtenances needed for the preservation of any wells. Nothing herein contained shall be construed to relieve or discharge any Unit Operator who resigns or is removed hereunder from any liability or duties accruing to or performable by it prior to the effective date of such resignation or removal.

SECTION 8. SUCCESSOR UNIT OPERATOR: Whenever Unit Operator shall tender its resignation as Unit Operator or shall be removed as hereinabove provided, the Working Interest Owners shall, by affirmative vote of Working Interest Owners having a combined Unit Participation (based upon the then current Unit Participation) of not less than seventy percent (70%), select a successor Unit Operator; provided, however, that should any Working Interest Owner have a voting interest of more than thirty percent (30%), its negative vote or failure

to vote shall not serve to disapprove the selection of a new Unit Operator approved by a majority of the voting interests unless such negative vote or abstention from voting is supported by the negative vote of one or more Working Interest Owners having a voting interest of at least five percent (5%), and provided, further, that the vote of the outgoing Unit Operator shall not be considered for any purpose if it votes to succeed itself. Such selection shall not become effective until: (a) a Unit Operator so selected shall accept in writing the duties and responsibilities of Unit Operator, and (b) written notice of such selection shall have been filed with the Supervisor. If no successor Unit Operator is selected and qualified as herein provided, the Director, at his election, may declare this Unit Agreement terminated.

SECTION 9. ACCOUNTING PROVISIONS AND UNIT OPERATING AGREEMENT: Costs and expenses incurred by Unit Operator in conducting Unit operations hereunder shall be paid, apportioned among and borne by the Working Interest Owners in accordance with the Unit Operating Agreement. Such Unit Operating Agreement shall also provide the manner in which the Working Interest Owners shall be entitled to receive their respective proportionate and allocated share of the benefits accruing hereunder in conformity with their underlying operating agreements, leases or other independent contracts and such other rights and obligations as between Unit Operator and the Working Interest Owners as may be agreed upon by the Unit Operator and the Working Interest Owners; however, no such Unit Operating Agreement shall be deemed either to modify any of the terms and conditions of this Unit Agreement or to relieve the Unit Operator of any right or obligation established under this agreement, and in case of any inconsistency or conflict between this agreement and the Unit Operating Agreement, this agreement shall prevail. Three (3) true copies of any Unit Operating Agreement executed pursuant to this Section shall be filed with the Supervisor prior to approval of this Unit Agreement.

SECTION 10. RIGHTS AND OBLIGATIONS OF UNIT OPERATOR: Except as otherwise specifically provided herein, the exclusive right, privilege and duty of exercising any and all rights of the parties hereto which are necessary or convenient for prospecting for, producing, storing, allocating and distributing the Unitized Substances are hereby delegated to and shall be exercised by the Unit Operator as herein provided. Upon request acceptable evidence of title to said rights shall be deposited with said Unit Operator and, together

with this agreement, shall constitute and define the rights, privileges, and obligations of Unit Operator. Nothing herein, however, shall be construed to transfer title to any land or to any lease or operating agreement, it being understood that under this agreement the Unit Operator, in its capacity as Unit Operator, shall exercise the rights of possession and use vested in the parties hereto only for the purposes herein specified.

SECTION 11. PLAN OF OPERATIONS: It is recognized and agreed by the parties hereto that all of the land subject to this agreement has been reasonably proved to be productive of Unitized Substances in paying quantities or is necessary for Unit operations and that the object and purpose of this agreement is to formulate and to put into effect a secondary recovery project in order to effect a greater recovery of Unitized Substances, prevent waste and conserve natural resources consistent with good engineering practices expected of a prudent operator. The parties hereto agree that the Unit Operator may, subject to the consent and approval of a plan of operation by the Working Interest Owners and the Supervisor, inject into the Unitized Formation, through any well or wells completed therein, brine, water, air, gas, liquefied petroleum gas, and any other substance or a combination of any of said substances, whether produced from the Unitized Formation or not, and that the location of input wells and the rates of injection therein and the rate of production shall be governed by standards of good geologic and petroleum engineering practices and conservation methods. Reasonable diligence shall be exercised by Unit Operator in complying with the obligations of any approved plan of operation. The parties hereto, to the extent they have the right so to do, hereby grant Unit Operator the right to use brine or water (or both) produced from any formation underlying the Unit Area for injection into the Unitized Formation; provided, however, that this grant of said right shall not preclude the use of brine or water (or both) produced from any formation other than the Unitized Formation for injection into formations other than the Unitized Formation. After commencement of secondary operations, Unit Operator shall furnish the Supervisor monthly injection and production reports for each well in the Unit. The Working Interest Owners and the Supervisor shall be furnished periodic reports on the progress of the plan of operation and any revisions or changes thereto necessary to meet changed conditions or to protect the interests of all parties to this agree-

ment, which revisions and changes shall be subject to approval by the Commission and the Supervisor.

Concurrently with the filing of this agreement for final approval by the Director, Unit Operator shall submit to the Supervisor for approval a plan of operation for the Unitized Land, and, upon approval thereof by the Supervisor such plan shall constitute the future operating obligations of the Unit Operator under this Unit Agreement for the period specified therein. Thereafter, from time to time before the expiration of any existing plan, the Unit Operator shall submit for like approval a plan for an additional specified period of operation.

SECTION 12. TRACT PARTICIPATION: The percentages of Tract Participation set forth in Exhibit "B" for each Tract within the Unit Area have been calculated and determined in accordance with the following formulas:

$$\begin{array}{l} 10\% \quad \text{of} \quad \frac{\text{Tract Surface Acres}}{\text{Unit Area Surface Acres}} \\ \text{Plus} \\ 90\% \quad \text{of} \quad \frac{\text{Tract Ultimate Primary Recovery}}{\text{Unit Area Ultimate Primary Recovery}} \end{array}$$

The percentages of Tract Participation set forth in Exhibit "B" have been calculated upon the basis of all Tracts within the Unit Area being committed to this agreement as of the effective date hereof. In the event less than all of the tracts are committed hereto as of the effective date hereof, unit operator, shall, as soon as practicable after said effective date, file with the Supervisor a revised Exhibit "B" setting forth the revised tract participation of each committed tract, which shall be calculated by using the tract factors and formula set forth herein above, but applying the same only to the committed tracts. Unit Operator shall promptly file four copies of such revised Exhibit "B" with the Supervisor. The revised Exhibit "B" shall, as of the effective date of this agreement, supersede the original Exhibit "B" attached hereto and shall thereafter govern the allocation of unitized substances.

If, subsequent to the effective date of this agreement, any additional tract becomes committed hereto under the provisions of Section 4, Expansion, or Section 30, Nonjoinder and Subsequent Joinder, or any committed tract is excluded herefrom under the provisions of Section 29, Loss of Title, Unit Operator shall revise Exhibit "B" to show the new percentage participation of the then committed Tracts, which revised Exhibit shall, upon its approval by the Supervisor, supersede, as of its effective date, the last previously

effective Exhibit "B". In any such revision of Exhibit "B" the revised percentage participation of the respective Tracts listed in the last previously effective Exhibit "B" shall remain in the same ratio one to another.

SECTION 13. TRACTS QUALIFIED FOR UNIT PARTICIPATION: As the objective of this unit agreement is to have lands in the Unit Area operated and entitled to participation under the terms hereof, it is agreed that, notwithstanding anything else herein, no joinder shall be considered a commitment to this unit agreement unless the Tract involved is qualified under this Section. On and after the effective date hereof, the Tracts within the Unit Area that shall be entitled to participate in the production of Unitized Substances therefrom shall be the Tracts within the Unit Area that are qualified as follows:

(a) Each Tract as to which Working Interest Owners owning one hundred percent (100%) of the Working Interest therein have become parties hereto and as to which Royalty Owners owning seventy-five percent (75%) or more of the Royalty Interest therein have become parties hereto.

(b) Each Tract as to which Working Interest Owners owning one hundred percent (100%) of the Working Interest therein have become parties hereto and as to which Royalty Owners owning less than seventy-five percent (75%) of the Royalty Interest therein have become parties hereto and, further, as to which:

- (i) All Working Interest Owners in any such Tract have joined in a request for the commitment of such Tract to this agreement, and
- (ii) Seventy-five percent (75%) of the combined voting interests of Working Interest Owners in all Tracts meeting the requirements of Section 13 (a) hereof have voted in favor of the commitment of such Tract.

For the purposes of this Section 13 (b), a Working Interest Owner's "voting interest" shall be equal to the ratio (expressed in percent) which its aggregate Unit Participation in all tracts qualifying under Section 13 (a) bears to the total Unit Participation of all Working Interest Owners in all Tracts qualifying under Section 13 (a), as such Unit Participation is determined from the Tract Participations set out in Exhibit "B".

SECTION 14. ALLOCATION OF UNITIZED SUBSTANCES: All Unitized Substances produced and saved from the committed Tracts within the Unit Area (less, save and except any part of such Unitized Substances which is used in conformity with good operating practices on the Unit Area for drilling, operating, camp and other production, development and pressure maintenance purposes, or which is unavoidably lost) shall be apportioned among and allocated to the committed Tracts within the Unit Area or any revision thereof in accordance with the Tract Participation effective hereunder in which such Unitized Substances were produced as such Tract Participation is shown in Exhibit "B" or any revision thereof. The amount of Unitized Substances so allocated to each Tract, and only that amount (regardless of whether it be more or less than the amount of the actual production of Unitized Substances from the well or wells, if any, on such Tract), shall, for all intents, uses and purposes, be deemed to have been produced from such Tract.

The Unitized Substances allocated to each Tract shall be distributed among or accounted for to the parties hereto entitled to share in the production from such Tract in the same manner, in the same proportions, and upon the same conditions, as they would have participated and shared in the production from such Tract, or in the proceeds thereof, had this agreement not been entered into, and with the same legal force and effect.

No tract committed to this agreement and qualified for participation as above provided shall be subsequently excluded from participation hereunder on account of depletion of Unitized Substances and nothing herein contained shall be construed as requiring any retroactive adjustment for production obtained prior to the effective date of the joinder of any Tract.

If the Working Interest or the Royalty Interest in any Tract is, on or after the effective date hereof, divided with respect to separate parcels or portions of such Tract and owned severally by different persons, the Tract Participation assigned to such Tract shall, in the absence of a recordable instrument executed by all owners and furnished to Unit Operator fixing the divisions of ownership, be divided among such parcels or portions in proportion to the number of surface acres in each.

The Unitized Substances allocated to each Tract shall be delivered in kind to the respective Working Interest Owners and parties entitled thereto by virtue of the ownership of oil and gas rights therein or by purchase from

such owners. Each Working Interest Owner and the parties entitled thereto shall have the continuing right to receive such production in kind at a common point within the Unit Area and to sell or dispose of the same as it sees fit. Each such party shall have the right to construct, maintain and operate all necessary facilities for that purpose on the Unit Area, provided the same are so constructed, maintained and operated as not to interfere with operations carried on pursuant hereto or with operations upon or with regard to formations other than the Unitized Formation conducted within the Unit Area. Subject to Section 16, ROYALTY SETTLEMENT, hereof, any extra expenditure incurred by Unit Operator by reason of the delivery in kind of any portion of the Unitized Substances shall be borne by the party receiving the same in kind.

If any party fails to take in kind or separately dispose of its share of Unitized Substances, Unit Operator shall have the right, for the time being and subject to revocation at will by the party owning the share, to purchase for its own account or sell to others such share at not less than the price received by the Working Interest Owner acting as Unit Operator; provided that, all contracts of sale by Unit Operator of any other party's share of Unitized Substances shall be only for such reasonable periods of time as are consistent with the minimum needs of the industry under the circumstances, but in no event shall any such contract be for a period in excess of one year. The proceeds of the Unitized Substances so disposed of by Unit Operator shall be paid to the party entitled thereto.

Any party receiving in kind or separately disposing of all or any part of the Unitized Substances allocated to any Tract or receiving the proceeds therefrom shall be responsible for making payment therefor to the parties entitled thereto, and shall indemnify all parties hereto, including Unit Operator against any liability for all royalties, overriding royalties, production payments, and all other payments chargeable against or payable out of such Unitized Substances or the proceeds therefrom.

SECTION 15. OIL IN LEASE TANKAGE ON EFFECTIVE DATE: Unit Operator shall make a proper and timely gauge of all lease and other tanks on the Unitized Land 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 Unitized Land. Any such oil not so 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. All such oil as is in excess of the prior allowable of the well or wells from which the same was produced shall be regarded and treated the same as Unitized Substances produced after the effective date hereof. If, as of the effective date hereof, any Tract is overproduced with respect to the allowable of the well or wells on that Tract and the amount of such overproduction has been sold or otherwise disposed of, such overproduction shall be regarded and included as a part of the Unitized Substances produced after the effective date hereof and the amount thereof charged to such Tract as having been delivered to the persons entitled to Unitized Substances allocated to such Tract.

SECTION 16. ROYALTY SETTLEMENT: The United States and all Royalty Owners who, under existing contracts, are entitled to take in kind a share of the substances produced from any Tract unitized hereunder, shall hereafter be entitled to take in kind their share of the Unitized Substances allocated to such Tract, and Unit Operator shall make deliveries of such Royalty share taken in kind in conformity with the applicable contracts, laws and regulations. Settlement for Royalty Interests not taken in kind shall be made by Working Interest Owners responsible therefor under existing contracts, laws and regulations, on or before the last day of each month for Unitized Substances produced during the preceding calendar month; provided, however, that nothing herein contained shall operate to relieve the lessees of any land from their respective lease obligations for the payment of any Royalty due under their leases, except that such Royalty shall be computed in accordance with the terms of this Unit Agreement.

Royalty due the United States shall be computed as provided in the operating regulations and paid in value or delivered in kind as to all Unitized Substances on the basis of the amounts thereof allocated to unitized Federal land as provided herein at the rate specified in the respective Federal leases or at such lower rate or rates as may be authorized by law or regulation; provided, that for leases on which the royalty rate depends on the daily average production per well, such average production shall be determined in accordance

with the operating regulations as though the unitized lands were a single consolidated lease.

SECTION 17. RENTAL SETTLEMENT: Rentals or minimum royalties due on leases committed hereto shall be paid by Working Interest Owners responsible therefor under existing contracts, laws and regulations, provided that nothing herein contained shall operate to relieve the lessees of any land from their respective lease obligations for the payment of any rental or minimum royalty in lieu thereof due under their leases. Rental or minimum royalty for lands of the United States of America subject to this agreement shall be paid at the rate specified in the respective leases from the United States of America, unless rental or minimum royalty is waived, suspended, or reduced by law or by approval of the Secretary or his duly authorized representative.

SECTION 18. CONSERVATION: Operations hereunder and production of Unitized Substances shall be conducted to provide for the most economical and efficient recovery of said substances without waste, as defined by or pursuant to Federal and State laws and regulations.

SECTION 19. DRAINAGE: The Unit Operator shall take appropriate and adequate measures to prevent drainage of Unitized Substances from unitized land by wells on land not subject to this agreement.

SECTION 20. LEASES AND CONTRACTS CONFORMED AND EXTENDED: The terms, conditions and provisions of all leases, subleases and other contracts relating to exploration, drilling, development or operation for oil or gas on lands committed to this agreement are hereby expressly modified and amended to the extent necessary to make the same conform to the provisions hereof, but otherwise to remain in full force and effect, and the parties hereto hereby consent that the Secretary shall and by his approval hereof or by the approval hereof by his duly authorized representatives, does hereby establish, alter, change or revoke the drilling, producing, rental, minimum royalty and royalty requirements of Federal leases committed hereto and the regulations in respect thereto to conform said requirements to the provisions of this agreement.

Without limiting the generality of the foregoing, all leases, subleases and contracts are particularly modified in accordance with the following:

- (a) The development and operation of lands subject to this agreement under the terms hereof shall be deemed full performance of all obligations for development and operation with respect to each and every

part or separately owned Tract subject to this agreement, regardless of whether there is any development of any particular part or Tract of the Unit Area, notwithstanding anything to the contrary in the lease, operating agreement or other contract by and between the parties hereto, or their respective predecessors in interest, or any of them.

(b) Drilling, producing or secondary recovery operations performed hereunder upon any Tract of Unitized Land shall be accepted and deemed to be performed upon and for the benefit of each and every Tract of unitized land, and no lease shall be deemed to expire by reason of failure to drill or produce wells situated on land therein embraced.

(c) Suspension of drilling or producing operations on all Unitized Land pursuant to direction or consent of the Supervisor or his duly authorized representatives, shall be deemed to constitute such suspension pursuant to such direction or consent as to each and every Tract of Unitized Land.

(d) Each lease, sublease, or contract relating to the exploration, drilling, development or operation for oil and gas which by its terms might expire prior to the termination of this agreement, is hereby extended beyond any such term so provided therein, so that it shall be continued in full force and effect for and during the term of this agreement.

(e) Termination of this agreement shall not affect any lease which, pursuant to the terms thereof or any applicable laws, shall continue in force and effect thereafter.

(f) Any lease which is made subject to this agreement shall continue in force beyond the term provided therein as to the lands committed hereto as long as such lands remain subject hereto.

(g) The segregation of any Federal lease committed to this agreement is governed by the following provision in the fourth paragraph of Section 17 (j) of the Mineral Leasing Act, as amended by the Act of September 2, 1960, (74 Stat. 781-784): "Any (Federal) lease heretofore or hereafter committed to any such (unit) plan embracing lands that are in part within and in part outside of the area covered by any such plan shall be segregated into separate leases as to the lands committed and the lands not committed as of the effective date of unitization: Provided, however, that any such lease as to the nonunitized portion shall continue in force and effect for the term thereof but for not less than

two years from the date of such segregation and so long thereafter as oil or gas is produced in paying quantities."

SECTION 21. COVENANTS RUN WITH LAND: The covenants herein shall be construed to be covenants running with the land with respect to the interests of the parties hereto and their successors in interest until this agreement terminates, and any grant, transfer or conveyance of interest in land or leases subject hereto shall be and hereby is conditioned upon the assumption of all privileges and obligations hereunder by the grantee, transferee, or other successor in interest. No assignment or transfer of any Working Interest subject hereto shall be binding upon Unit Operator until the first day of the calendar month after Unit Operator is furnished with the original, or acceptable photostatic or certified copy, of the recorded instrument of transfer; and no assignment or transfer of any Royalty Interest subject hereto shall be binding upon the Working Interest Owner responsible therefor until the first day of the calendar month after said Working Interest Owner is furnished with the original, or acceptable photostatic or certified copy, of the recorded instrument of transfer.

SECTION 22. EFFECTIVE DATE AND TERM: This agreement shall become binding upon each party who executes or ratifies it as of the date of execution or ratification by such party and shall become effective as of 7:00 A.M. of the first day of the month next following:

- (a) The execution or ratification of this agreement and the Unit Operating Agreement by Working Interest Owners having a combined Unit Participation of at least eighty-five percent (85%), and the execution or ratification of this agreement by Royalty Owners owning a combined interest of at least seventy percent (70%) of the Royalty Interest in said Unit Area; and
- (b) The approval of this agreement by the Commission and the Director; and
- (c) The filing of at least one counterpart of this agreement for record in the office of the County Clerk of Eddy County, New Mexico, by the Unit Operator; and
- (d) The filing with the Supervisor and in the office of the County Clerk of Eddy County, New Mexico, of a certificate by Unit Operator to the effect that (a), (b) and (c) above have been accomplished, and stating the

effective date hereof;
and provided, further, that if (a), (b), (c) and (d) above are not accomplished on or before July 1, 1967, this agreement shall expire ipso facto on said date (hereinafter called "expiration date") and thereafter be of no further force and effect.

The term of this agreement shall be for and during the time that Unitized Substances are or can be produced in paying quantities from the Unit Area and as long thereafter as drilling, reworking or other operations (including secondary recovery operations) are prosecuted thereon without cessation of more than ninety (90) consecutive days, and so long thereafter as unitized substances are or can be produced as aforesaid, unless sooner terminated by Working Interest Owners in the manner provided hereinafter.

This agreement may be terminated at any time with the approval of the Director by Working Interest Owners having at least ninety percent (90%) Unit Participation, as determined from Exhibit "B". Notice of such termination shall be given by Unit Operator to all parties hereto.

Upon termination of this agreement, the further development and operation of the Unit Area as a Unit shall be abandoned, Unit Operations shall cease, and thereafter the parties hereto shall be governed by the terms and provisions of the leases and contracts affecting the separate Tracts.

Unit Operator shall, within thirty (30) days after the termination date of this agreement, file for record in the office where a counterpart of this agreement is recorded, a certificate to the effect that this agreement has terminated according to its terms and stating further the termination date.

If not otherwise covered by the leases unitized under this agreement, Royalty Owners hereby grant Working Interest Owners a period of six (6) months after termination of this agreement in which to salvage, sell, distribute or otherwise dispose of the personal property and facilities used in connection with Unit operations.

SECTION 23. RATE OF PROSPECTING, DEVELOPMENT AND PRODUCTION: The Director is hereby vested with authority to alter or modify from time to time in his discretion the quantity and rate of production under this agreement when such quantity and rate of production under this agreement is not fixed pursuant to Federal or State law or does not conform to any state-wide voluntary conservation or allocation program, which is established, recognized, and generally adhered to by the majority of operators in such State, such authority

being hereby limited to alteration or modification in the public interest, the purpose thereof and the public interest to be served thereby to be stated in the order of alteration or modification. Without regard to the foregoing, the Director is also hereby vested with authority to alter or modify from time to time in his discretion the rate of prospecting and development and the quantity and rate of production under this agreement when such alteration or modification is in the interest of attaining the conservation objectives stated in this agreement and is not in violation of any applicable Federal or State Law.

Powers in this Section vested in the Director shall only be exercised after notice to Unit Operator and opportunity for hearing to be held not less than fifteen (15) days from notice.

SECTION 24. NONDISCRIMINATION: In connection with the performance of work under this agreement, Unit Operator agrees to comply with all of the provisions of Section 202 (1) to (7) inclusive of Executive Order 11246 (30 F.R. 12319), which are incorporated by reference in this agreement.

SECTION 25. APPEARANCES: Unit Operator shall have the right to appear for or on behalf of any and all interests affected hereby before the Commission, and the Department, and to appeal from any order issued under the rules and regulations of the Commission, or the Department, or to apply for relief from any of said rules and regulations or in any proceedings relative to operations before the Commission, or the Department, or any other legally constituted authority; provided, however, that any other interested party shall also have the right at his or its own expense to be heard in any such proceedings.

SECTION 26. NOTICES: All notices, demands, objections or statements required hereunder to be given or rendered to the parties hereto shall be deemed fully given if made in writing and personally delivered to the party or parties or sent by postpaid certified mail addressed to such party or parties at their respective addresses set forth in connection with the signatures hereto or to the ratification or consent hereof or to such other address as any such party or parties may have furnished in writing to the party sending the notice, demand or statement.

SECTION 27. NO WAIVER OF CERTAIN RIGHTS: Nothing in this agreement contained shall be construed as a waiver by any party hereto of the right to assert any legal or constitutional right or defense as to the validity or invalidity of any law of the State wherein said unitized lands are located, or rules or regulations issued thereunder in any way affecting such party,

or as a waiver by any such party of any right beyond his or its authority to waive; provided, however, that each party hereto covenants that during the existence of this agreement such party will not resort to any action at law or in equity to partition the Unit Area or the facilities used in the development or operation hereof and to that extent waives the benefits of all laws authorizing such partition.

SECTION 28. UNAVOIDABLE DELAY: All obligations under this agreement requiring the Unit Operator to commence or continue secondary recovery operations or to operate on or produce Unitized Substances from any of the lands covered by this agreement shall be suspended while, but only so long as, the Unit Operator despite the exercise of due care and diligence is prevented from complying with such obligations, in whole or in part, by strikes, acts of God, Federal, State or municipal law or agency, unavoidable accident, uncontrollable delays in transportation, inability to obtain necessary materials in open market, or other matters beyond the reasonable control of the Unit Operator whether similar to matters herein enumerated or not.

SECTION 29. LOSS OF TITLE: In the event any Tract ceases to have sufficient Working Interest Owners or Royalty Owners committed to this agreement to meet the conditions of Section 13, TRACTS QUALIFIED FOR UNIT PARTICIPATION, because of failure of title of any party hereto, such Tract shall be automatically regarded as not committed to this agreement effective as of 7:00 A.M. on the first day of the calendar month in which the failure of title is finally determined; provided, however, that such Tract shall not be so regarded if said Tract can be requalified for admission under Section 13, TRACTS QUALIFIED FOR UNIT PARTICIPATION, within ninety (90) days after the date on which such title failure was finally determined.

If any such Tract cannot be so requalified, Unit Operator shall revise the schedule previously filed with the Director setting forth the Tracts committed hereto and Unit Operator shall also revise Exhibit "B" to show the tracts in the Unit Area that remain committed hereto and the Tract Participation of each said Tracts, which revised Tract Participation shall be calculated and determined on the basis that the Tract Participation of each of said Tracts shall remain in the same ratio one to the other. Copies of the revised schedule and exhibit shall be filed with the Director and same shall

be effective as of 7:00 A.M. on the first day of the calendar month in which such failure of title is finally determined.

If title to a Working Interest fails, the rights and obligations of Working Interest Owners by reason of such failure shall be governed by the Unit Operating Agreement. If title to a Royalty Interest fails, but the Tract to which it relates remains committed to this agreement, the party whose title failed shall not be entitled to participate hereunder insofar as its participation is based on such lost Royalty Interest.

In the event of a dispute as to the title of any Working Interest or Royalty Interest subject hereto, payment or delivery on account thereof may be withheld without liability or interest until the dispute is finally settled; provided, that as to Federal land or leases, no payments of funds due the United States of America shall be withheld, but such funds shall be deposited as directed by the Supervisor to be held as unearned money pending final settlement of the Title dispute, and then applied as earned or returned in accordance with such final settlement.

Unit Operator, as such, is relieved from any responsibility for any defect or failure of any title hereunder.

SECTION 30. NONJOINDER AND SUBSEQUENT JOINDER: If the owner of any interest in a Tract within the Unit Area fails or refuses to subscribe or consent in writing to this agreement, such Tract shall not be deemed committed to this agreement unless such Tract may be and is qualified as provided in Section 13, TRACTS QUALIFIED FOR UNIT PARTICIPATION, hereof. Joinder in the Unit Agreement by a Working Interest Owner, at any time, must be accompanied by appropriate joinder to the Unit Operating Agreement in order for the interest to be regarded as effectively committed to this Unit Agreement. Joinder by any owner of a Royalty Interest, at any time, must be accompanied by appropriate joinder by the owner of the corresponding Working Interest in order for the interest to be regarded as committed hereto.

Any oil or gas interest in the Unitized Formation in lands within the Unit Area not committed hereto prior to final approval of this agreement by the Director may thereafter be committed hereto upon compliance with the applicable provisions of Section 13, TRACTS QUALIFIED FOR UNIT PARTICIPATION, hereof, within a period of two (2) months thereafter, on the same basis of participation as provided for in Section 12, TRACT PARTICIPATION, and as set

forth in Exhibit "B", by the owner or owners thereof subscribing or consenting in writing to this agreement, and if the interest is a Working Interest, by the owner of such interest subscribing also to the Unit Operating Agreement.

SECTION 31. COUNTERPARTS: This agreement may be executed in any number of counterparts, no one of which needs to be executed by all parties and may be ratified or consented to by separate instrument in writing specifically referring hereto, and shall be binding upon all those parties who have executed such a counterpart, ratification or consent hereto with the same force and effect as if all parties had signed the same document, and regardless of whether or not it is executed by all other parties owning or claiming an interest in the lands within the above described Unit Area.

SECTION 32. JOINDER IN DUAL CAPACITY: Execution as herein provided by any party either as a Working Interest Owner or as a Royalty Owner shall commit all interests that may be owned or controlled by such party.

SECTION 33. TAXES: Each party hereto shall, for its own account, render and pay its share of any taxes levied against or measured by the amount or value of the Unitized Substances produced from the unitized land; provided, however, that if it is required or if it be determined that the Unit Operator or the several Working Interest Owners must pay or advance said taxes for the account of the parties hereto, it is hereby expressly agreed that the parties so paying or advancing said taxes shall be reimbursed therefor by the parties hereto, including Royalty Owners, who may be responsible for the taxes on their respective allocated share of said Unitized Substances. No such taxes shall be charged to the United States or to any lessor who has a contract with a lessee which requires his lessee to pay such taxes.

SECTION 34. CONFLICT OF SUPERVISION: Neither the Unit Operator nor the Working Interest Owners, nor any of them, shall be subject to any forfeiture, termination or expiration of any rights hereunder or under any leases or contracts subject hereto, or to any penalty or liability on account of delay or failure in whole or in part to comply with any applicable provisions thereof to the extent that the said Unit Operator or the Working Interest Owners, or any of them, are hindered, delayed or prevented from complying therewith by reason of failure of the Unit Operator to obtain, in the exercise of due diligence, the concurrence of proper representatives of the United States and proper representatives of the State of New Mexico in and about any matters

or things concerning which it is required herein that such concurrence be obtained.

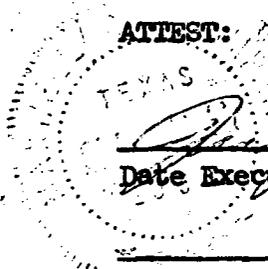
SECTION 35. BORDER AGREEMENTS: Unit Operator, with concurrence of Working Interest Owners having a combined Unit Participation of seventy-five percent (75%) or more, may, subject to approval of the Supervisor, enter into a border-protection agreement or agreements with the Working Interest Owners of adjacent lands along the exterior boundary of the Unit Area with respect to the operations in the border area for the maximum ultimate recovery, conservation purposes and proper protection of the parties and interests.

SECTION 36. NO PARTNERSHIP: The duties, obligations, and liabilities of the parties hereto are intended to be several and not joint or collective. This agreement is not intended to create, and shall not be construed to create, an association or trust, or to impose a partnership, duty, obligation, or liability with regard to any one or more of the parties hereto. Each party hereto shall be individually responsible for its own obligations as herein provided.

SECTION 37. LIEN OF UNIT OPERATOR: Unit Operator shall have a lien upon the interests of Working Interest Owners in the Unit Area to the extent provided in the Unit Operating Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed as of the date first above written and have set opposite their respective names the date of execution.

ATTEST:


[Signature]
Date Executed:

12-28-66

MAXWELL OIL COMPANY

By: [Signature]
Y. Q. McCammon - Vice-President

ATTEST:

[Signature]
Date Executed:

1-12-67

KEWANEE OIL COMPANY

By: [Signature]
J. M. HARBISON VICE PRESIDENT

Date Executed:

1-26-1967

ROY CHARLESWORTH

[Signature]

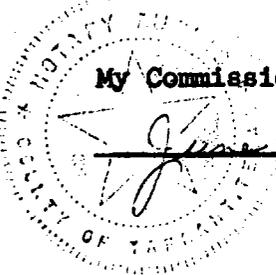
STATE OF TEXAS

COUNTY OF TARRANT

The foregoing instrument was acknowledged before me this 28th day of December, 1966, by Y. Q. McCammon, Vice President of MAXWELL OIL COMPANY, a corporation, on behalf of said corporation.

My Commission Expires:

June 1, 1967



Kay Capps
Notary Public
KAY CAPP, Notary Public
in and for Tarrant County, Texas

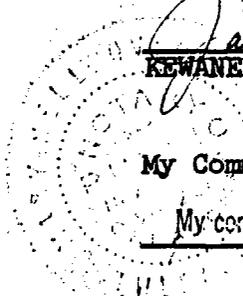
STATE OF OKLAHOMA

COUNTY OF TULSA

The foregoing instrument was acknowledged before me this 12 day of January, 1967, by J. M. HARBISON VICE President of KEWANEE OIL COMPANY, a corporation, on behalf of said corporation.

My Commission Expires:

My commission expires July 31, 1969



Mary Dee Crummett
Notary Public

STATE OF TEXAS

COUNTY OF ECTOR

The foregoing instrument was acknowledged before me this 26th day of January, 1967, by ROY CHARLESWORTH.

My Commission Expires:

6-1-67



Bertha O'Shain
Notary Public