

CERTIFICATION - DETERMINATION

BEFORE EXAMINER NUTTER	
OIL CONSERVATION COMMISSION	
EXHIBIT NO. <u>1</u>	
CASE NO. <u>5222</u>	

Pursuant to the authority vested in the Secretary of Interior, under the act approved February 25, 1920, 41 Stat. 437, as amended, 30 U. S. C. secs. 181, et seq., and delegated to the Oil and Gas Supervisor of the Geological Survey (33 F.R. 4812), I do hereby:

A. Approve the attached agreement for the development and operation of the Pavo Mesa Unit Area, State of New Mexico.

B. Certify and determine that the unit plan of development and operation contemplated in the attached agreement is necessary and advisable in the public interest for the purpose of more properly conserving the natural resources.

C. Certify and determine that the drilling, producing, rental, minimum royalty, and royalty requirements of all Federal leases committed to said agreement are hereby established, altered, changed, or revoked to conform with the terms and conditions of this agreement.

Dated: _____.

Oil and Gas Supervisor,
United States Geological Survey

Contract Number: _____

Handwritten signature: [illegible]

UNIT AGREEMENT FOR THE DEVELOPMENT
AND OPERATION OF THE PAVO MESA UNIT AREA
COUNTY OF EDDY, STATE OF NEW MEXICO

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Exhibit "A" (Map)

Exhibit "B" (Description of interests subject to agreement)

UNIT AGREEMENT
FOR THE DEVELOPMENT AND OPERATION
OF THE
PAVO MESA UNIT AREA
COUNTY OF EDDY
STATE OF NEW MEXICO
NO. _____

THIS AGREEMENT, entered into as of the 1st day of March, 1974, by and between the parties subscribing, ratifying, or consenting hereto and herein referred to as the "parties hereto,"

WITNESSETH:

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

WHEREAS the Mineral Leasing Act of February 25, 1920, 41 Stat. 437, as amended, 30 U.S.C. Secs. 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 cooperative 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 Commissioner of Public Lands of the State of New Mexico is authorized by an Act of the Legislature (Sec. 1, Chap. 88, Laws 1943 as amended by Sec. 1 of Chapter 162, Laws of 1951), (Chap. 7, Art. 11, Sec. 39, N.M. Statutes 1953 Annot.), to consent to and approve the development or operation of State lands under agreements made by lessees of State land jointly or severally with other lessees where such agreements provide for the unit operation or development of part of or all of any oil or gas pool, field or area; and

WHEREAS, the Commissioner of Public Lands of the State of New Mexico is authorized by an Act of the Legislature (Sec. 1, Chap. 162, Laws of 1951, Chap. 7, Art. 11, Sec. 41 N.M. Statutes 1953 Annotated) to amend

with the approval of lessee, evidenced by the lessee's execution of such agreement or otherwise, any oil and gas lease embracing State lands so that the length of the term of said lease may coincide with the term of such agreements for the unit operation and development of part or all of any oil or gas pool, field or area; and

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

WHEREAS the parties hereto hold sufficient interests in the Pavo Mesa Unit Area covering the land hereinafter described to give reasonably effective control of operations therein; and

WHEREAS, it is the purpose of the parties hereto to conserve natural resources, prevent waste, and secure 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 respective interests in the below-defined unit area, and agree severally among themselves as follows:

1. ENABLING ACT AND REGULATIONS. The Mineral Leasing Act of February 25, 1920, as amended, supra, and all valid pertinent regulations, including operating and unit plan regulations, heretofore issued thereunder or valid, pertinent, and reasonable regulations, heretofore 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; and as to non-Federal lands, the oil and gas operating regulations in effect as of the effective date hereof governing drilling and producing operations, not inconsistent with the terms hereof or the laws of the State in which the non-Federal land is located, are hereby accepted and made a part of this agreement.

2. UNIT AREA. The area specified on the map attached hereto marked Exhibit "A" is hereby designated and recognized as constituting the unit area, containing 2560 acres, more or less.

Exhibit "A" shows, in addition to the boundary of the unit area, the boundaries and identity of tracts and leases in said area

1 to the extent known to the Unit Operator. Exhibit "B" attached hereto
2 is a schedule showing to the extent known to the Unit Operator the
3 acreage, percentage, and kind of ownership of oil and gas interests
4 in all land in the unit area. However, nothing herein or in said schedule
5 or map shall be construed as a representation by any party hereto as
6 to the ownership of any interest other than such interest or interests
7 as are shown in said map or schedule as owned by such party. Exhibits
8 "A" and "B" shall be revised by the Unit Operator whenever changes
9 in the unit area render such revision necessary, or when requested
10 by the Oil and Gas Supervisor, hereinafter referred to as "Supervisor"
11 and not less than five copies of the revised exhibits shall be filed
12 with the Supervisor, and two copies with the Commissioner of Public Lands
13 of the State of New Mexico, hereinafter referred to as the "Commissioner",
14 and one copy with the New Mexico Oil Conservation Commission, hereinafter
15 referred to as "State Commission".

16 The above-described unit area shall when practicable be expanded
17 to include therein any additional lands or shall be contracted to exclude
18 lands whenever such expansion or contraction is deemed to be necessary
19 or advisable to conform with the purposes of this agreement. Such
20 expansion or contraction shall be effected in the following manner:

- 21 (a) Unit Operator, on its own motion or on demand of the
22 Director of the Geological Survey, hereinafter referred
23 to as "Director," or on demand of the Commissioner
24 after preliminary concurrence by the Director, shall
25 prepare a notice of proposed expansion or contraction
26 describing the contemplated changes in the boundaries
27 of the unit area, the reasons therefor, and the proposed
28 effective date thereof, preferably the first day of
29 a month subsequent to the date of notice.
- 30 (b) Said notice shall be delivered to the Supervisor and
31 the Commissioner and copies thereof mailed to the last
32 known address of each working interest owner, lessee, and lessor
33 whose interests are affected, advising that 30 days will be
34 allowed for submission to the Unit Operator of any objections.
- 35 (c) Upon expiration of the 30-day period provided in the
36 preceding item (b) hereof, Unit Operator shall file

1 with the Supervisor and the Commissioner evidence of
2 mailing of the notice of expansion or contraction and
3 a copy of any objections thereto which have been filed
4 with the Unit Operator, together with an application
5 in sufficient number, for approval of such expansion
6 or contraction and with appropriate joinders.

7 (d) After due consideration of all pertinent information,
8 the expansion or contraction shall, upon approval by
9 the Supervisor and the Commissioner, become effective
10 as of the date prescribed in the notice thereof.

11 (e) All legal subdivisions of lands (i.e., 40 acres by Govern-
12 ment survey or its nearest lot or tract equivalent;
13 in instances of irregular surveys unusually large lots
14 or tracts shall be considered in multiples of 40 acres
15 or the nearest aliquot equivalent thereof), no parts
16 of which are entitled to be in a participating area
17 on or before the fifth anniversary of the effective
18 date of the first initial participating area established
19 under this unit agreement, shall be eliminated automatically
20 from this agreement, effective as of said fifth anniversary,
21 and such lands shall no longer be a part of the unit
22 area and shall no longer be subject to this agreement,
23 unless diligent drilling operations are in progress
24 on unitized lands not entitled to participation on said
25 fifth anniversary, in which event all such lands shall
26 remain subject hereto for so long as such drilling operations
27 are continued diligently, with not more than 90 days'
28 time elapsing between the completion of one such well
29 and the commencement of the next such well. All legal
30 subdivisions of lands not entitled to be in a participating
31 area within 10 years after the effective date of the
32 first initial participating area approved under this
33 agreement shall be automatically eliminated from this
34 agreement as of said tenth anniversary. All lands proved
35 productive by diligent drilling operations after the
36 aforesaid 5-year period shall become participating in

1 the same manner as during said 5-year period. However,
2 when such diligent drilling operations cease, all nonpartici-
3 pating lands shall be automatically eliminated effective
4 as of the 91st day thereafter. The unit operator shall
5 within 90 days after the effective date of any elimination
6 hereunder, describe the area so eliminated to the satisfaction
7 of the Supervisor and Commissioner and promptly notify
8 all parties in interest.

9 If conditions warrant extension of the 10-year period
10 specified in this subsection 2(e), a single extension
11 of not to exceed 2 years may be accomplished by consent
12 of the owners of 90% of the working interests in the
13 current nonparticipating unitized lands and the owners
14 of 60% of the basic royalty interests (exclusive of
15 the basic royalty interests of the United States) in
16 nonparticipating unitized lands with approval of the
17 Director and Commissioner, provided such extension application
18 is submitted to the Director and the Commissioner not
19 later than 60 days prior to the expiration of said 10-
20 year period.

21 Any expansion of the unit area pursuant to this section
22 which embraces lands theretofore eliminated pursuant
23 to this subsection 2(e) shall not be considered automatic
24 commitment or recommitment of such lands.

25 3. UNITIZED LAND AND UNITIZED SUBSTANCES. All land committed
26 to this agreement shall constitute land referred to herein as "unitized
27 land" or "land subject to this agreement." All oil and gas in any
28 and all formations of the unitized land are unitized under the terms
29 of this agreement and herein are called "unitized substances."

30 4. UNIT OPERATOR. Amoco Production Company is hereby designated
31 as Unit Operator and by signature hereto as Unit Operator agrees and
32 consents to accept the duties and obligations of Unit Operator for
33 the discovery, development, and production of unitized substances as
34 herein provided. Whenever reference is made herein to the Unit Operator,

1 such reference means the Unit Operator acting in that capacity and
2 not as an owner of interest in unitized substances, and the term "working
3 interest owner" when used herein shall include or refer to Unit Operator
4 as the owner of a working interest when such an interest is owned by
5 it.

6 5. RESIGNATION OR REMOVAL OF UNIT OPERATOR. Unit Operator shall
7 have the right to resign at any time prior to the establishment of
8 a participating area or areas hereunder, but such resignation shall
9 not become effective so as to release Unit Operator from the duties
10 and obligations of Unit Operator and terminate Unit Operator's rights
11 as such for a period of 6 months after notice of intention to resign
12 has been served by Unit Operator on all working interest owners, the
13 Supervisor and Commissioner, and until all wells then drilled hereunder
14 are placed in a satisfactory condition for suspension or abandonment
15 whichever is required by the Supervisor or Commissioner, unless a new
16 Unit Operator shall have been selected and approved and shall have
17 taken over and assumed the duties and obligations of Unit Operator
18 prior to the expiration of said period.

19 Unit Operator shall have the right to resign in like manner
20 and subject to like limitations as above provided at any time a partici-
21 pating area established hereunder is in existence, but, in all instances
22 of resignation or removal, until a successor unit operator is selected
23 and approved as hereinafter provided, the working interest owners shall
24 be jointly responsible for performance of the duties of unit operator,
25 and shall not later than 30 days before such resignation or removal
26 becomes effective appoint a common agent to represent them in any action
27 to be taken hereunder.

28 The resignation of Unit Operator shall not release Unit Operator
29 from any liability for any default by it hereunder occurring prior
30 to the effective date of its resignation.

31 The Unit Operator may, upon default or failure in the perform-
32 ance of its duties or obligations hereunder, be subject to removal
33 by the same percentage vote of the owners of working interests as herein
34 provided for the selection of a new Unit Operator. Such removal shall
35 be effective upon notice thereof to the Supervisor and the Commissioner.

1 The resignation or removal of Unit Operator under this agreement
2 shall not terminate its right, title, or interest as the owner of a
3 working interest or other interest in unitized substances, but upon
4 the resignation or removal of Unit Operator becoming effective, such
5 Unit Operator shall deliver possession of all wells, equipment, materials,
6 and appurtenances used in conducting the unit operations to the new
7 duly qualified successor Unit Operator or to the common agent, if no
8 such new Unit Operator is elected, to be used for the purpose of conduct-
9 ing unit operations hereunder. Nothing herein shall be construed as
10 authorizing removal of any material, equipment and appurtenances needed
11 for the preservation of any wells.

12 6. SUCCESSOR UNIT OPERATOR. Whenever the Unit Operator shall
13 tender his or its resignation as Unit Operator or shall be removed
14 as hereinabove provided, or a change of Unit Operator is negotiated
15 by working interest owners, the owners of the working interests in
16 the participating area or areas according to their respective acreage
17 interests in such participating area or areas, or, until a participating
18 area shall have been established, the owners of the working interest
19 according to their respective acreage interests in all unitized land,
20 shall by majority vote select a successor Unit Operator: Provided,
21 That, if a majority but less than 75 percent of the working interests
22 qualified to vote are owned by one party to this agreement, a concurring
23 vote of one or more additional working interest owners shall be required
24 to select a new operator. Such selection shall not become effective
25 until:

- 26 (a) A Unit Operator so selected shall accept in writing
27 the duties and responsibilities of Unit Operator, and
28 (b) The selection shall have been approved by the Supervisor
29 and Commissioner.

30 If no successor Unit Operator is selected and qualified as
31 herein provided, the Director at his election may declare this unit
32 agreement terminated.

1 7. ACCOUNTING PROVISIONS AND UNIT OPERATING AGREEMENT. If the
2 Unit Operator is not the sole owner of working interests, costs and
3 expenses incurred by Unit Operator in conducting unit operations here-
4 under shall be paid and apportioned among and borne by the owners of
5 working interests, all in accordance with the agreement or agreements
6 entered into by and between the Unit Operator and the owners of working
7 interests, whether one or more, separately or collectively. Any agreement
8 or agreements entered into between the working interest owners and
9 the Unit Operator as provided in this section, whether one or more,
10 are herein referred to as the "unit operating agreement." Such unit
11 operating agreement shall also provide the manner in which the working
12 interest owners shall be entitled to receive their respective proportionate
13 and allocated share of the benefits accruing hereto in conformity with
14 their underlying operating agreements, leases, or other independent
15 contracts, and such other rights and obligations as between Unit Operator
16 and the working interest owners as may be agreed upon by Unit Operator
17 and the working interest owners; however, no such unit operating agreement
18 shall be deemed either to modify any of the terms and conditions of
19 this unit agreement or to relieve the Unit Operator of any right or
20 obligation established under this unit agreement, and in case of any
21 inconsistency or conflict between this unit agreement and the unit
22 operating agreement, this unit agreement shall govern. Three true
23 copies of any unit operating agreement executed pursuant to this section
24 should be filed with the Supervisor and two true copies with the Commissioner,
25 prior to approval of this unit agreement.

26 8. RIGHTS AND OBLIGATIONS OF UNIT OPERATOR. Except as otherwise
27 specifically provided herein, the exclusive right, privilege, and duty
28 of exercising any and all rights of the parties hereto which are neces-
29 sary or convenient for prospecting for, producing, storing, allocating,
30 and distributing the unitized substances are hereby delegated to and shall

be exercised by the Unit Operator as herein provided. 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.

9. DRILLING TO DISCOVERY. Within 6 months after the effective date hereof, the Unit Operator shall begin to drill an adequate test well at a location approved by the Supervisor, if on Federal land and if upon State land, such location shall be approved by the Commissioner or State Commission unless on such effective date a well is being drilled conformably with the terms hereof, and thereafter continue such drilling diligently until all of the formations of Pennsylvanian Age have been tested or until at a lesser depth unitized substances shall be discovered which can be produced in paying quantities (to wit: quantities sufficient to repay the costs of drilling, completing, and producing operations, with a reasonable profit) or the Unit Operator shall at any time establish to the satisfaction of the Supervisor, if on Federal land or to the Commissioner and the State Commission as to wells on State land, that further drilling of said well would be unwarranted or impracticable, provided, however, that Unit Operator shall not in any event be required to drill said well to a depth in excess of 9,600 feet. Until the discovery of a deposit of unitized substances capable of being produced in paying quantities, the Unit Operator shall continue drilling diligently one well at a time, allowing not more than 6 months between the completion of one well and the beginning of the next well, until a well capable of producing unitized substances in paying quantities is completed to the satisfaction of said Supervisor, if it be on Federal land and if upon State land to the satisfaction of the Commissioner or the State Commission, or until it is reasonably proved that the unitized land is incapable of producing unitized substances in paying quantities in the formations drilled hereunder. Nothing in this

1 section shall be deemed to limit the right of the Unit Operator to resign
2 as provided in Section 5, hereof, or as requiring Unit Operator to commence
3 or continue any drilling during the period pending such resignation becoming
4 effective in order to comply with the requirements of this section. The
5 Supervisor and the Commissioner may modify the drilling requirements of this
6 section by granting reasonable extensions of time when, in his opinion,
7 such action is warranted.

8 Upon failure to commence any well provided for in this section
9 within the time allowed, including any extension of time granted by the
10 Supervisor and the Commissioner, this agreement will automatically
11 terminate; upon failure to continue drilling diligently any well commenced
12 hereunder, the Supervisor and Commissioner may, after 15-days' notice to
13 the Unit Operator, declare this unit agreement terminated.

14 10. PLAN OF FURTHER DEVELOPMENT AND OPERATION. Within 6 months
15 after completion of a well capable of producing unitized substances
16 in paying quantities, the Unit Operator shall submit for the approval
17 of the Supervisor, the Commissioner and the State Commission an acceptable
18 plan of development and operation for the unitized land which, when
19 approved by the Supervisor, the Commissioner and the State Commission
20 shall constitute the further drilling and operating obligations of the
21 Unit Operator under this agreement for the period specified therein.
22 Thereafter, from time to time before the expiration of any existing plan,
23 the Unit Operator shall submit for the approval of the Supervisor, the
24 Commissioner and the State Commission a plan for an additional specified
25 period for the development and operation of the unitized land.

26 Any plan submitted pursuant to this section shall provide for
27 the exploration of the unitized area and for the diligent drilling necessary
28 for determination of the area or areas thereof capable of producing
29 unitized substances in paying quantities in each and every productive
30 formation and shall be as complete and adequate as the Supervisor, the
31 Commissioner and the State Commission may determine to be necessary for
32 timely development and proper conservation of the oil and gas resources
33 of the unitized area and shall:

- 1 (a) specify the number and locations of any wells to be
2 drilled and the proposed order and time for such
3 drilling; and
4 (b) to the extent practicable specify the operating
5 practices regarded as necessary and advisable for proper
6 conservation of natural resources.

7 Separate plans may be submitted for separate productive zones, subject
8 to the approval of the Supervisor, the Commissioner and the State
9 Commission.

10 Plans shall be modified or supplemented when necessary to
11 meet changed conditions or to protect the interests of all parties to
12 this agreement. Reasonable diligence shall be exercised in complying
13 with the obligations of the approved plan of development. The supervisor
14 and the Commissioner are authorized to grant a reasonable extension
15 of the 6-month period herein prescribed for submission of an initial
16 plan of development where such action is justified because of unusual
17 conditions or circumstances. After completion hereunder of a well capable
18 of producing any unitized substance in paying quantities, no further wells,
19 except such as may be necessary to afford protection against operations
20 not under this agreement and such as may be specifically approved by the
21 Supervisor and the Commissioner, shall be drilled except in accordance
22 with a plan of development approved as herein provided.

23 11. PARTICIPATION AFTER DISCOVERY. Upon completion of a well
24 capable of producing unitized substances in paying quantities or as
25 soon thereafter as required by the Supervisor and the Commissioner,
26 the Unit Operator shall submit for approval by the Supervisor, the
27 Commissioner and the State Commission a schedule, based on subdivisions
28 of the public-land survey or aliquot parts thereof, of all land then
29 regarded as reasonably proved to be productive in paying quantities;
30 all lands in said schedule on approval of the Supervisor, the Commissioner
31 and the State Commission to constitute a participating area, effective
32 as of the date of completion of such well or the effective date of
33 this unit agreement, whichever is later. The acreages of both Federal
34 and non-Federal lands shall be based upon appropriate computations
35 from the courses and distances shown on the last approved public-land

1 survey as of the effective date of each initial participating area.
2 Said schedule shall also set forth the percentage of unitized substances
3 to be allocated as herein provided to each tract in the participating
4 area so established, and shall govern the allocation of production
5 commencing with the effective date of the participating area. A separate
6 participating area shall be established for each separate pool or deposit
7 of unitized substances or for any group thereof which is produced as
8 a single pool or zone, and any two/or more participating areas so established
9 may be combined into one, on approval of the Supervisor, the Commissioner
10 and the State Commission. When production from two or more participating
11 areas, so established, is subsequently found to be from a common pool
12 or deposit said participating areas shall be combined into one effective
13 as of such appropriate date as may be approved or prescribed by the
14 Supervisor, the Commissioner and the State Commission. The participating
15 area or areas so established shall be revised from time to time, subject
16 to like approval, to include additional land then regarded as reasonably
17 proved to be productive in paying quantities or necessary for unit
18 operations, or to exclude land then regarded as reasonably proved not
19 to be productive in paying quantities and the schedule of allocation
20 percentages shall be revised accordingly. The effective date of any
21 revision shall be the first of the month in which is obtained the knowledge
22 or information on which such revision is predicated, provided, however,
23 that a more appropriate effective date may be used if justified by
24 the Unit Operator and approved by the Supervisor, the Commissioner
25 and the State Commission. No land shall be excluded from a participating
26 area on account of depletion of the unitized substances, except that
27 any participating area established under the provisions of this unit
28 agreement shall terminate automatically whenever all completions in
29 the formation on which the participating area is based are abandoned.

30 It is the intent of this section that a participating area
31 shall represent the area known or reasonably estimated to be productive
32 in paying quantities; but, regardless of any revision of the participating
33 area, nothing herein contained shall be construed as requiring any
34 retroactive adjustment for production obtained prior to the effective
35 date of the revision of the participating area.

In the absence of agreement at any time between the Unit Operator and the Supervisor, the Commissioner and the State Commission as to the proper definition or redefinition of a participating area, or until a participating area has, or areas have, been established as provided herein, the portion of all payments affected thereby shall be impounded in a manner mutually acceptable to the owners of working interests and the Supervisor and Commissioner. Royalties due the United States and the State of New Mexico shall be determined by the Supervisor and Commissioner and the amount thereof shall be deposited, as directed by the Supervisor and the Commissioner, respectively, to be held as unearned money until a participating area is finally approved and then applied as earned or returned in accordance with a determination of the sum due as Federal and State royalty on the basis of such approved participating area.

Whenever it is determined, subject to the approval of the Supervisor as to wells on Federal land, the Commissioner as to wells on State lands, that a well drilled under this agreement is not capable of production in paying quantities and inclusion of the land on which it is situated in a participating area is unwarranted, production from such well shall, for the purposes of settlement among all parties other than working interest owners, be allocated to the land on which the well is located unless such land is already within the participating area established for the pool or deposit from which such production is obtained. Settlement for working interest benefits from such a well shall be made as provided in the unit operating agreement.

12. ALLOCATION OF PRODUCTION. All unitized substances produced from each participating area established under this agreement, except any part thereof used in conformity with good operating practices within the unitized area for drilling, operating, camp and other production or development purposes, for repressuring or recycling in accordance with a plan of development approved by the Supervisor, the Commissioner and the State Commission, or unavoidably lost, shall be deemed to be produced equally on an acreage basis from the several tracts of unitized land of the participating area established for such production and, for the

1 purpose of determining any benefits accruing under this agreement,
2 each such tract of unitized land shall have allocated to it such percentage
3 of said production as the number of acres of such tract included in
4 said participating area bears to the total acres of unitized land in
5 said participating area, except that allocation of production hereunder
6 for purposes other than for settlement of the royalty, overriding royalty,
7 or payment out of production obligations of the respective working
8 interest owners, shall be on the basis prescribed in the unit operating
9 agreement whether in conformity with the basis of allocation herein
10 set forth or otherwise. It is hereby agreed that production of unitized
11 substances from a participating area shall be allocated as provided
12 herein regardless of whether any wells are drilled on any particular
13 part or tract of said participating area. If any gas produced from
14 one participating area is used for repressuring or recycling purposes
15 in another participating area, the first gas withdrawn from such last-
16 mentioned participating area for sale during the life of this agreement
17 shall be considered to be the gas so transferred until an amount equal
18 to that transferred shall be so produced for sale and such gas shall
19 be allocated to the participating area from which initially produced
20 as such area was last defined at the time of such final production.

21 13. DEVELOPMENT OR OPERATION OF NON-PARTICIPATING LAND OR FORMATIONS.
22 Any party hereto owning or controlling the working interest in any
23 unitized land having thereon a regular well location may with the approval
24 of the Supervisor, the Commissioner or the State Commission, at such
25 party's sole risk, costs, and expense, drill a well to test any formation
26 for which a participating area has not been established or to test
27 any formation for which a participating area has been established if
28 such location is not within said participating area, unless within
29 90 days of receipt of notice from said party of his intention to drill
30 the well the Unit Operator elects and commences to drill such a well
31 in like manner as other wells are drilled by the Unit Operator under
32 this agreement.

1 If any well drilled as aforesaid by a working interest owner
2 results in production such that the land upon which it is situated
3 may properly be included in a participating area, such participating
4 area shall be established or enlarged as provided in this agreement
5 and the well shall thereafter be operated by the Unit Operator in accordance
6 with the terms of this agreement and the unit operating agreement.

7 If any well drilled as aforesaid by a working interest owner
8 obtains production in quantities insufficient to justify the inclusion
9 of the land upon which such well is situated in a participating area,
10 such well may be operated and produced by the party drilling the same
11 subject to the conservation requirements of this agreement. The royalties
12 in amount or value of production from any such well shall be paid as
13 specified in the underlying lease and agreements affected.

14 14. ROYALTY SETTLEMENT. The United States and the State of New
15 Mexico and all royalty owners who are entitled to take in kind a share
16 of the substances now unitized hereunder shall hereafter be entitled
17 to the right to take in kind its share of the unitized substances,
18 and Unit Operator, or the working interest owner in case of the operation
19 of a well by a working interest owner as herein provided for in special
20 cases, shall make deliveries of such royalty share taken in kind in
21 conformity with the applicable contracts, laws, and regulations. Settlement
22 for royalty interest not taken in kind shall be made by working interest
23 owners responsible therefor under existing contracts, laws and regulations,
24 or by the Unit Operator on or before the last day of each month for
25 unitized substances produced during the preceding calendar month; provided,
26 however, that nothing herein contained shall operate to relieve the
27 lessees of any land from their respective lease obligations for the
28 payment of any royalties due under their leases.

29 If gas obtained from lands not subject to this agreement
30 is introduced into any participating area hereunder, for use in repres-
31 suring, stimulation of production, or increasing ultimate recovery, in

1 conformity with a plan of operations approved by the Supervisor and
2 the Commissioner, a like amount of gas, after settlement as herein
3 provided for any gas transferred from any other participating area
4 and with appropriate deduction for loss from any cause, may be withdrawn
5 from the formation into which the gas is introduced, royalty free as
6 to dry gas, but not as to any products which may be extracted therefrom;
7 provided that such withdrawal shall be at such time as may be provided
8 in the approved plan of operations or as may otherwise be consented
9 to by the Supervisor, the Commissioner and the State Commission as
10 conforming to good petroleum engineering practice; and provided further,
11 that such right of withdrawal shall terminate on the termination of
12 this unit agreement.

13 Royalty due the United States shall be computed as provided
14 in the operating regulations and paid in value or delivered in kind
15 as to all unitized substances on the basis of the amounts thereof allocated
16 to unitized Federal land as provided herein at the rates specified
17 in the respective Federal leases, or at such lower rate or rates as
18 may be authorized by law or regulation; provided, that for leases on
19 which the royalty rate depends on the daily average production per
20 well, said average production shall be determined in accordance with
21 the operating regulations as though each participating area were a
22 single consolidated lease.

23 Royalty due as to non-Federal lands under the respective
24 leases shall be computed and paid on the basis of all unitized substances
25 allocated to such lands hereunder.

26 15. RENTAL SETTLEMENT. Rental or minimum royalties due on leases
27 committed hereto shall be paid by working interest owners responsible
28 therefor under existing contracts, laws, and regulations, provided that
29 nothing herein contained shall operate to relieve the lessees of any
30 land from their respective lease obligations for the payment of any
31 rental or minimum royalty due under their leases. Rental or minimum
32 royalty for lands of the United States subject to this agreement shall
33 be paid at the rate specified in the respective leases from the United

1 States unless such rental or minimum royalty is waived, suspended,
2 or reduced by law or by approval of the Secretary or his duly authorized
3 representative. Rentals on State of New Mexico lands subject to this
4 agreement shall be paid at the rates specified in the respective leases,
5 or may be reduced and suspended upon the order of the Commissioner
6 pursuant to applicable laws and regulations.

7 With respect to any lease on non-Federal land containing
8 provisions which would terminate such lease unless drilling operations
9 are commenced upon the land covered thereby within the time therein
10 specified or rentals are paid for the privilege of deferring such drilling
11 operations, the rentals required thereby shall, notwithstanding any
12 other provision of this agreement, be deemed to accrue and become payable
13 during the term thereof as extended by this agreement and until the
14 required drilling operations are commenced upon the land covered thereby
15 or until some portion of such land is included within a participating
16 area.

17 16. CONSERVATION. Operations hereunder and production of unitized
18 substances shall be conducted to provide for the most economical and
19 efficient recovery of said substances without waste, as defined by
20 or pursuant to State or Federal law or regulation.

21 17. DRAINAGE. The Unit Operator shall take such measures as
22 the Supervisor and the Commissioner deem appropriate and adequate to
23 prevent drainage of unitized substances from unitized land by wells
24 on land not subject to this agreement.

25 18. LEASES AND CONTRACTS CONFORMED AND EXTENDED. The terms, con-
26 ditions, and provisions of all leases, subleases, and other contracts
27 relating to exploration, drilling, development, or operation for oil or
28 gas on lands committed to this agreement are hereby expressly modified
29 and amended to the extent necessary to make the same conform to the
30 provisions hereof, but otherwise to remain in full force and effect; and
31 the parties hereto hereby consent that the Secretary as to Federal leases

1 and the Commissioner as to State of New Mexico leases shall and by
2 his approval hereof, or by the approval hereof by his duly authorized
3 representative, does hereby establish, alter, change, or revoke the
4 drilling, producing, rental, minimum royalty, and royalty requirements
5 of Federal leases and State of New Mexico leases committed hereto and
6 the regulations in respect thereto to conform said requirements to
7 the provisions of this agreement, and, without limiting the generality
8 of the foregoing, all leases, subleases, and contracts are particularly
9 modified in accordance with the following:

- 10 (a) The development and operation of lands subject to this
11 agreement under the terms hereof shall be deemed full
12 performance of all obligations for development and opera-
13 tion with respect to each and every separately owned
14 tract subject to this agreement, regardless of whether
15 there is any development of any particular tract of
16 the unit area.
- 17 (b) Drilling and producing operations performed hereunder
18 upon any tract of unitized lands will be accepted and
19 deemed to be performed upon and for the benefit of each
20 and every tract of unitized land, and no lease shall
21 be deemed to expire by reason of failure to drill or
22 produce wells situated on the land therein embraced.
- 23 (c) Suspension of drilling or producing operations on all
24 unitized lands pursuant to direction or consent of the
25 Secretary or his duly authorized representative and
26 on all unitized lands of the State of New Mexico pursuant
27 to the consent of the Commissioner, or his duly recognized
28 representative, shall be deemed to constitute such suspension
29 pursuant to such direction or consent as to each and
30 every tract of unitized land. A suspension of drilling
31 or producing operations limited to specified lands shall
32 be applicable only to such lands.
- 33 (d) Each lease, sublease or contract relating to the exploration,
34 drilling, development or operation for oil or gas of lands
35 other than those of the United States committed to this
36 agreement, which, by its terms might expire prior to the

1 termination of this agreement, is hereby extended beyond
2 any such terms so provided therein so that it shall be
3 continued in full force and effect for and during the
4 term of this agreement.

5 (e) Any Federal lease for a fixed term of twenty (20) years
6 or any renewal thereof or any part of such lease which
7 is made subject to this agreement shall continue in force
8 beyond the term provided therein until the termination
9 hereof. Any other Federal lease committed hereto shall
10 continue in force beyond the term so provided therein or
11 by law as to the land committed so long as such lease
12 remains subject hereto, provided that production
13 is had in paying quantities under this unit agreement
14 prior to the expiration date of the term of such lease,
15 or in the event actual drilling operations are commenced
16 on unitized land, in accordance with the provisions of
17 this agreement, prior to the end of the primary term of
18 such lease and are being diligently prosecuted at that
19 time, such lease shall be extended for two years and so
20 long thereafter as oil or gas is produced in paying
21 quantities in accordance with the provisions of the Mineral
22 Leasing Act Revision of 1960.

23 (f) Each sublease or contract relating to the operation and
24 development of unitized substances from lands of the United
25 States committed to this agreement, which by its terms
26 would expire prior to the time at which the underlying
27 lease, as extended by the immediately preceding paragraph,
28 will expire, is hereby extended beyond any such term so
29 provided therein so that it shall be continued in full
30 force and effect for and during the term of the underlying
31 lease as such term is herein extended.

- 1 (g) The segregation of any Federal lease committed to this
2 agreement is governed by the following provision in the
3 fourth paragraph of Sec. 17(j) of the Mineral Leasing Act,
4 as amended by the Act of September 2, 1960 (74 Stat. 781-784):
5 "Any [Federal] lease heretofore or hereafter committed to
6 any such [unit] plan embracing lands that are in part
7 within and in part outside of the area covered by any
8 such plan shall be segregated into separate leases as to
9 the lands committed and the lands not committed as of the
10 effective date of unitization: Provided, however, That
11 any such lease as to the nonunitized portion shall continue
12 in force and effect for the term thereof but for not
13 less than two years from the date of such segregation and
14 so long thereafter as oil or gas is produced in paying
15 quantities."
16 (h) Any lease, other than a Federal lease, having only a
17 portion of its lands committed hereto shall be segregated
18 as to the portion committed and the portion not committed,
19 and the provisions of such lease shall apply separately to
20 such segregated portions commencing as of the effective
21 date hereof. In the event any such lease provides for a
22 lump-sum rental payment, such payment shall be prorated
23 between the portions so segregated in proportion to the
24 acreage of the respective tracts.

25 19. COVENANTS RUN WITH LAND. The covenants herein shall be con-
26 strued to be covenants running with the land with respect to the interest
27 of the parties hereto and their successors in interest until this agree-
28 ment terminates, and any grant, transfer, or conveyance, of interest in

1 land or leases subject hereto shall be and hereby is conditioned upon
2 the assumption of all privileges and obligations hereunder by the grantee,
3 transferree, or other successor in interest. No assignment or transfer
4 of any working interest, royalty, or other interest subject hereto
5 shall be binding upon Unit Operator until the first day of the calendar
6 month after Unit Operator is furnished with the original, photostatic,
7 or certified copy of the instrument of transfer.

8 20. EFFECTIVE DATE AND TERM. This agreement shall become effective
9 upon approval by the Secretary or his duly authorized representative
10 and shall terminate five (5) years from said effective date unless:

11 (a) such date of expiration is extended by the Director
12 and the Commissioner, or

13 (b) it is reasonably determined prior to the expiration
14 of the fixed term or any extension thereof that the
15 unitized land is incapable of production of unitized
16 substances in paying quantities in the formations tested
17 hereunder and after notice of intention to terminate
18 the agreement on such ground is given by the Unit Operator
19 to all parties in interest at their last known addresses,
20 the agreement is terminated with the approval of the
21 Supervisor, or

22 (c) a valuable discovery of unitized substances has been
23 made or accepted on unitized land during said initial
24 term or any extension thereof, in which event the agreement
25 shall remain in effect for such term and so long as
26 unitized substances can be produced in quantities sufficient
27 to pay for the cost of producing same from wells on
28 unitized land within any participating area established
29 hereunder and, should production cease, so long thereafter
30 as diligent operations are in progress for the restoration
31 of production or discovery of new production and so
32 long thereafter as unitized substances so discovered
33 can be produced as aforesaid, or

34 (d) it is terminated as heretofore provided in this agreement.

1 This agreement may be terminated at any time by not less than 75 percentum,
2 on an acreage basis, of the working interest owners signatory hereto,
3 with the approval of the Supervisor and the Commissioner; notice of
4 any such approval to be given by the Unit Operator to all parties hereto.

5 21. RATE OF PROSPECTING, DEVELOPMENT, AND PRODUCTION. The Director
6 is hereby vested with authority to alter or modify from time to time
7 in his discretion the quantity and rate of production under this agreement
8 when such quantity and rate is not fixed pursuant to Federal or State
9 law or does not conform to any state-wide voluntary conservation or
10 allocation program, which is established, recognized, and generally
11 adhered to by the majority of operators in such State, such authority
12 being hereby limited to alteration or modification in the public interest,
13 the purpose thereof and the public interest to be served thereby to
14 be stated in the order of alteration or modification. Without regard
15 to the foregoing, the Director is also hereby vested with authority
16 to alter or modify from time to time in his discretion the rate of
17 prospecting and development and the quantity and rate of production
18 under this agreement when such alteration or modification is in the
19 interest of attaining the conservation objectives stated in this agreement
20 and is not in violation of any applicable Federal or State law; provided,
21 further, no such alteration or modification shall be affective as to
22 any land of the State of New Mexico as to the rate of prospecting and
23 development in the absence of the specific written approval thereof
24 by the Commissioner and as to lands of the State of New Mexico or privately
25 owned lands subject to this agreement as to the quantity and rate of
26 production in the absence of specific written approval thereof by the
27 Commissioner.

28 Powers in this section vested in the Director shall only
29 be exercised after notice to Unit Operator and opportunity for hearing
30 to be held not less than 15 days from notice.

31 22. APPEARANCES. Unit Operator shall, after notice to other parties
32 affected, have the right to appear for and on behalf of any and all interests
33 affected hereby before the Department of the Interior and to appeal from
34 orders issued under the regulations of said Department or to apply for
34 relief from any of said regulations or in any proceedings relative to

1 operations before the Department of the Interior or any other legally
2 constituted authority; provided, however, that any other interested
3 party shall also have the right at his own expense to be heard in any
4 such proceeding.

5 23. NOTICES. All notices, demands or statements required hereunder
6 to be given or rendered to the parties hereto shall be deemed fully given
7 if given in writing and personally delivered to the party or sent by
8 postpaid registered or certified mail, addressed to such party or parties
9 at their respective addresses set forth in connection with the signatures
10 hereto or to the ratification or consent hereof or to such other address
11 as any such party may have furnished in writing to party sending the
12 notice, demand or statement.

13 24. NO WAIVER OF CERTAIN RIGHTS. Nothing in this agreement contained
14 shall be construed as a waiver by any party hereto of the right to assert
15 any legal or constitutional right or defense as to the validity or invalidity
16 of any law of the State wherein said unitized lands are located, or of the
17 United States, or regulations issued thereunder in any way affecting such
18 party, or as a waiver by any such party of any right beyond his or its
19 authority to waive.

20 25. UNAVOIDABLE DELAY. All obligations under this agreement requiring
21 the Unit Operator to commence or continue drilling or to operate on or
22 produce unitized substances from any of the lands covered by this agree-
23 ment shall be suspended while the Unit Operator, despite the exercise of
24 due care and diligence, is prevented from complying with such obligations,
25 in whole or in part, by strikes, acts of God, Federal, State, or municipal
26 law or agencies, unavoidable accidents, uncontrollable delays in trans-
27 portation, inability to obtain necessary materials in open market, or other
28 matters beyond the reasonable control of the Unit Operator whether similar
29 to matters herein enumerated or not. No unit obligation which is suspended
30 under this section shall become due less than thirty (30) days after it

1 has been determined that the suspension is no longer applicable. Deter-
2 mination of creditable "Unavoidable Delay" time shall be made by the unit
3 operator subject to approval of the Supervisor and Commissioner.

4 26. NONDISCRIMINATION. In connection with the performance of work
5 under this agreement, the operator agrees to comply with all the provisions
6 of section 202 (1) to (7) inclusive of Executive Order 11246 (30 F.R. 12319),
7 which are hereby incorporated by reference in this agreement.

8 27. LOSS OF TITLE. In the event title to any tract of unitized
9 land shall fail and the true owner cannot be induced to join in this
10 unit agreement, such tract shall be automatically regarded as not committed
11 hereto and there shall be such readjustment of future costs and benefits
12 as may be required on account of the loss of such title. In the event
13 of a dispute as to title as to any royalty, working interest, or other
14 interests subject thereto, payment or delivery on account thereof may
15 be withheld without liability for interest until the dispute is finally
16 settled; provided, that, as to Federal and State land or leases, no
17 payments of funds due the United States or the State of New Mexico
18 should be withheld, but such funds shall be deposited as directed by
19 the Supervisor and the Commissioner, respectively, to be held as unearned
20 money pending final settlement of the title dispute, and then applied
21 as earned or returned in accordance with such final settlement.

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

24 28. NON-JOINDER AND SUBSEQUENT JOINDER. If the owner of any
25 substantial interest in a tract within the unit area fails or refuses
26 to subscribe or consent to this agreement, the owner of the working
27 interest in that tract may withdraw said tract from this agreement
28 by written notice delivered to the Supervisor, the Commissioner and
29 the Unit Operator prior to the approval of this agreement by the Supervisor
30 and the Commissioner. Any oil or gas interests in lands within the
31 unit area not committed hereto prior to submission of this agreement

1 for final approval may thereafter be committed hereto by the owner or
2 owners thereof subscribing or consenting to this agreement, and, if
3 the interest is a working interest, by the owner of such interest also
4 subscribing to the unit operating agreement. After operations are
5 commenced hereunder, the right of subsequent joinder, as provided in
6 this section, by a working interest owner is subject to such requirements
7 or approvals, if any, pertaining to such joinder, as may be provided
8 for in the unit operating agreement. After final approval hereof,
9 joinder by a non-working interest owner must be consented to in writing
10 by the working interest owner committed hereto and responsible for
11 the payment of any benefits that may accrue hereunder in behalf of
12 such non-working interest. A non-working interest may not be committed
13 to this unit agreement unless the corresponding working interest is
14 committed hereto. Joinder to the unit agreement by a working-interest
15 owner, at any time, must be accompanied by appropriate joinder to the
16 unit operating agreement, if more than one committed working-interest
17 owner is involved, in order for the interest to be regarded as committed
18 to this unit agreement. Except as may otherwise herein be provided,
19 subsequent joinders to this agreement shall be effective as of the
20 first day of the month following the filing with the Supervisor and
21 the Commissioner of duly executed counterparts of all or any papers
22 necessary to establish effective commitment of any tract to this agreement
23 unless objection to such joinder is duly made within 60 days by the
24 Supervisor or the Commissioner.

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

1 30. SURRENDER. Nothing in this agreement shall prohibit the
2 exercise by any working interest owner of the right to surrender vested
3 in such party by any lease, sublease, or operating agreement as to all
4 or any part of the lands covered thereby, provided that each party who
5 will or might acquire such working interest by such surrender or by
6 forfeiture as hereafter set forth, is bound by the terms of this agree-
7 ment.

8 If as a result of any such surrender the working interest rights
9 as to such lands become vested in any party other than the fee owner of
10 the unitized substances, said party may forfeit such rights and further
11 benefits from operation hereunder as to said land to the party next in
12 the chain of title who shall be and become the owner of such working
13 interest.

14 If as the result of any such surrender or forfeiture working
15 interest rights become vested in the fee owner of the unitized substances,
16 such owner may:

17 (1) Accept those working interest rights subject to this
18 agreement and the unit operating agreement; or

19 (2) Lease the portion of such land as is included in a
20 participating area established hereunder subject to this
21 agreement and the unit operating agreement.

22 (3) Provide for the independent operation of any part of such
23 land that are not then included within a participating
24 area established hereunder.

25 If the fee owner of the unitized substances does not accept
26 the working interest rights subject to this agreement and the unit
27 operating agreement or lease such lands as above provided within six (6)
28 months after the surrendered or forfeited working interest rights become
29 vested in the fee owner, the benefits and obligations of operations
30 accruing to such lands under this agreement and the unit operating
31 agreement shall be shared by the remaining owners of unitized working
32 interests in accordance with their respective working interest ownerships,

1 and such owners of working interests shall compensate the fee owner
2 of unitized substances in such lands by paying sums equal to the rentals,
3 minimum royalties, and royalties applicable to such lands under the
4 lease in effect when the lands were unitized.

5 An appropriate accounting and settlement shall be made for
6 all benefits accruing to or payments and expenditures made or incurred
7 on behalf of such surrendered or forfeited working interest subsequent
8 to the date of surrender or forfeiture, and payment of any monies found
9 to be owing by such an accounting shall be made as between the parties
10 within thirty (30) days. In the event no unit operating agreement
11 is in existence and a mutually acceptable agreement between the proper
12 parties thereto cannot be consummated, the Supervisor and Commissioner
13 may prescribe such reasonable and equitable agreement as he deems warranted
14 under the circumstances.

15 The exercise of any right vested in a working interest owner
16 to reassign such working interest to the party from whom obtained shall
17 be subject to the same conditions as set forth in this section in regard
18 to the exercise of a right to surrender.

19 31. TAXES. The working interest owners shall render and pay for their
20 account and the account of the royalty owners all valid taxes on or
21 measured by the unitized substances in and under or that may be produced,
22 gathered and sold from the land subject to this contract after the effec-
23 tive date of this agreement, or upon the proceeds or net proceeds derived
24 therefrom. The working interest owners on each tract shall and may
25 charge the proper proportion of said taxes to the royalty owners having
26 interests in said tract, and may currently retain and deduct sufficient
27 of the unitized substances or derivative products, or net proceeds thereof
28 from the allocated share of each royalty owner to secure reimbursement
29 for the taxes so paid. No such taxes shall be charged to the United
30 States or the State of New Mexico or to any lessor who has a contract
31 with his lessee which requires the lessee to pay such taxes.