

File 2871

CERTIFICATION--DETERMINATION

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 Director of the Geological Survey pursuant to Departmental Order No. 2365 of October 8, 1947, I do hereby:

A. Approve the attached agreement for the development and operation of the Canada Ojitos 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 \_\_\_\_\_.

\_\_\_\_\_  
Director, United States Geological Survey

1 UNIT AGREEMENT 1  
2 FOR THE DEVELOPMENT AND OPERATION 2  
3 OF THE 3  
4 CANADA OJITOS UNIT AREA 4  
5 COUNTY OF RIO ARRIBA 5  
6 STATE OF NEW MEXICO 6  
7 NO. \_\_\_\_\_ 7

8 THIS AGREEMENT, entered into as of the \_\_\_\_\_ day of \_\_\_\_\_ 8  
9 \_\_\_\_\_, 19\_\_\_\_, by and between the parties subscribing, ratifying, 9  
10 or consenting hereto, and herein referred to as the "parties hereto," 10

11 WITNESSETH: 11

12 WHEREAS the parties hereto are the owners of working, royalty, or other 12  
13 oil and gas interests in the unit area subject to this agreement; and 13

14 WHEREAS the Mineral Leasing Act of February 25, 1920, 41 Stat. 437, as 14  
15 amended, 30 U. S. C. Secs. 181 et seq., authorizes Federal lessees and their 15  
16 representatives to unite with each other, or jointly or separately with others, 16  
17 in collectively adopting and operating a cooperative or unit plan of development 17  
18 or operation of any oil or gas pool, field, or like area, or any part thereof 18  
19 for the purpose of more properly conserving the natural resources thereof 19  
20 whenever determined and certified by the Secretary of the Interior to be 20  
21 necessary or advisable in the public interest; and 21

22 WHEREAS the parties hereto hold sufficient interests in the Canada Ojitos 22  
23 Unit Area covering the land hereinafter described to give reasonably effective 23  
24 control of operations therein; and 24

25 WHEREAS, it is the purpose of the parties hereto to conserve natural 25  
26 resources, prevent waste, and secure other benefits obtainable through 26  
27 development and operation of the area subject to this agreement under the 27  
28 terms, conditions, and limitations herein set forth; 28

29 NOW, THEREFORE, in consideration of the premises and the promises herein 29  
30 contained, the parties hereto commit to this agreement their respective interests 30  
31 in the below-defined unit area, and agree severally among themselves as follows: 31

32 1. ENABLING ACT AND REGULATIONS. The Mineral Leasing Act of 32  
33 February 25, 1920, as amended, supra, and all valid pertinent regulations, 33

1 including operating and unit plan regulations, heretofore issued thereunder or 1  
2 valid, pertinent, and reasonable regulations hereafter issued thereunder are 2  
3 accepted and made a part of this agreement as to Federal lands, provided such 3  
4 regulations are not inconsistent with the terms of this agreement; and as to 4  
5 non-Federal lands, the oil and gas operating regulations in effect as of the 5  
6 effective date hereof governing drilling and producing operations, not 6  
7 inconsistent with the terms hereof or the laws of the State in which the 7  
8 non-Federal land is located, are hereby accepted and made a part of this 8  
9 agreement. 9

10 2. UNIT AREA. The area specified on the map attached hereto marked 10  
11 exhibit A is hereby designated and recognized as constituting the unit area, 11  
12 containing 35,829.84 acres, more or less. 12

13 Exhibit A shows, in addition to the boundary of the unit area, the 13  
14 boundaries and identity of tracts and leases in said area to the extent known 14  
15 to the Unit Operator. Exhibit B attached hereto is a schedule showing to 15  
16 the extent known to the Unit Operator the acreage, percentage, and kind of 16  
17 ownership of oil and gas interests in all land in the unit area. However, 17  
18 nothing herein or in said schedule or map shall be construed as a representation 18  
19 by any party hereto as to the ownership of any interest other than such interest 19  
20 or interests as are shown in said map or schedule as owned by such party. 20  
21 Exhibits A and B shall be revised by the Unit Operator whenever changes in the 21  
22 unit area render such revision necessary, or when requested by the Oil and 22  
23 Gas Supervisor, hereinafter referred to as "Supervisor" and not less than six 23  
24 copies of the revised exhibits shall be filed with the Supervisor. 24

25 The above-described unit area shall when practicable be expanded to include 25  
26 therein any additional tract or tracts regarded as reasonably necessary or 26  
27 advisable for the purposes of this agreement, or shall be contracted to exclude 27  
28 lands not within any participating area whenever such expansion or contraction 28  
29 is necessary or advisable to conform with the purposes of this agreement. Such 29  
30 expansion or contraction shall be effected in the following manner: 30

31 (a) Unit Operator, on its own motion or on demand of the Director of the 31  
32 Geological Survey, hereinafter referred to as "Director," after preliminary 32  
33 concurrence by the Director, shall prepare a notice of proposed expansion or 33  
34 contraction describing the contemplated changes in the boundaries of the unit 34  
35 area, the reasons therefor, and the proposed effective date thereof, preferably 35

1 the first day of a month subsequent to the date of notice. 1

2 (b) Said notice shall be delivered to the Supervisor, and copies thereof 2  
3 mailed to the last known address of each working interest owner, lessee, and 3  
4 lessor whose interests are affected, advising that 30 days will be allowed for 4  
5 submission to the Unit Operator of any objections. 5

6 (c) Upon expiration of the 30-day period provided in the preceding item 6  
7 (b) hereof, Unit Operator shall file with the Supervisor evidence of mailing of 7  
8 the notice of expansion or contraction and a copy of any objections thereto 8  
9 which have been filed with the Unit Operator, together with an application in 9  
10 sufficient number, for approval of such expansion or contraction and with 10  
11 appropriate joinders. 11

12 (d) After due consideration of all pertinent information, the expansion 12  
13 or contraction shall, upon approval by the Director, become effective as of the 13  
14 date prescribed in the notice thereof. 14

15 (e) All legal subdivisions of unitized lands (i.e., 40 acres by 15  
16 Government survey or its nearest lot or tract equivalent in instances of 16  
17 irregular surveys, however, unusually large lots or tracts shall be considered 17  
18 in multiples of 40 acres, or the nearest aliquot equivalent thereof, for the 18  
19 purpose of elimination under this subsection), no parts of which are entitled 19  
20 to be in a participating area within 5 years after the first day of the month 20  
21 following the effective date of the first initial participating area established 21  
22 under this unit agreement, shall be eliminated automatically from this agree- 22  
23 ment, effective as of the first day thereafter, and such lands shall no longer 23  
24 be a part of the unit area and shall no longer be subject to this agreement, 24  
25 unless at the expiration of said 5-year period diligent drilling operations 25  
26 are in progress on unitized lands not entitled to participation, in which event 26  
27 all such lands shall remain subject hereto for so long as such drilling 27  
28 operations are continued diligently, with not more than 90 days' time 28  
29 elapsing between the completion of one such well and the commencement of the 29  
30 next such well, except that the time allowed between such wells shall not 30  
31 expire earlier than 30 days after the expiration of any period of time during 31  
32 which drilling operations are prevented by a matter beyond the reasonable 32  
33 control of unit operator as set forth in the section hereof entitled 33  
34 "Unavoidable Delay"; provided that all legal subdivisions of lands not in a 34  
35 participating area and not entitled to become participating under the 35

1 applicable provisions of this agreement within 10 years after said first day of 1  
2 the month following the effective date of said first initial participating area 2  
3 shall be eliminated as above specified. Determination of creditable "Unavoidable 3  
4 Delay" time shall be made by unit operator and subject to approval of the 4  
5 Director. The unit operator shall, within 90 days after the effective date of 5  
6 any elimination hereunder, describe the area so eliminated to the satisfaction 6  
7 of the Director and promptly notify all parties in interest. 7

8 If conditions warrant extension of the 10-year period specified in this 8  
9 subsection 2(e), a single extension of not to exceed 2 years may be 9  
10 accomplished by consent of the owners of 90% of the current unitized working 10  
11 interests and 60% of the current unitized basic royalty interests (exclusive 11  
12 of the basic royalty interests of the United States), on a total- 12  
13 nonparticipating-acreage basis, respectively, with approval of the Director, 13  
14 provided such extension application is submitted to the Director not later 14  
15 than 60 days prior to the expiration of said 10-year period. 15

16 Any expansion of the unit area pursuant to this section which embraces 16  
17 lands theretofore eliminated pursuant to this subsection 2(e) shall not be 17  
18 considered automatic commitment or recommitment of such lands. 18

19 3. UNITIZED LAND AND UNITIZED SUBSTANCES. All land committed to this 19  
20 agreement shall constitute land referred to herein as "unitized land" or "land 20  
21 subject to this agreement." All oil and gas in any and all formations of the 21  
22 unitized land are unitized under the terms of this agreement and herein are 22  
23 called "unitized substances." 23

24 4. UNIT OPERATOR. Bolack-Greer, Inc., is hereby designated as Unit 24  
25 Operator and by signature hereto as Unit Operator agrees and consents to accept 25  
26 the duties and obligations of Unit Operator for the discovery, development, and 26  
27 production of unitized substances as herein provided. Whenever reference is made 27  
28 herein to the Unit Operator, such reference means the Unit Operator acting in that 28  
29 capacity and not as an owner of interest in unitized substances, and the term "working 29  
30 interest owner" when used herein shall include or refer to Unit Operator as the 30  
31 owner of a working interest when such an interest is owned by it. 31

32 5. RESIGNATION OR REMOVAL OF UNIT OPERATOR. Unit Operator shall have the 32  
33 right to resign at any time prior to the establishment of a participating area 33  
34 or areashereunder, but such resignation shall not become effective so as to 34  
35 release Unit Operator from the duties and obligations of Unit Operator and 35

1 terminate Unit Operator's rights as such for a period of 6 months after notice 1  
2 of intention to resign has been served by Unit Operator on all working interest 2  
3 owners and the Director, and until all wells then drilled hereunder are placed 3  
4 in a satisfactory condition for suspension or abandonment whichever is required 4  
5 by the Supervisor, unless a new Unit Operator shall have been selected and 5  
6 approved and shall have taken over and assumed the duties and obligations of 6  
7 Unit Operator prior to the expiration of said period. 7

8 Unit Operator shall have the right to resign in like manner and subject 8  
9 to like limitations as above provided at any time a participating area 9  
10 established hereunder is in existence, but, in all instances of resignation or 10  
11 removal, until a successor unit operator is selected and approved as hereinafter 11  
12 provided, the working interest owners shall be jointly responsible for 12  
13 performance of the duties of unit operator, and shall not later than 30 days 13  
14 before such resignation or removal becomes effective appoint a common agent 14  
15 to represent them in any action to be taken hereunder. 15

16 The resignation of Unit Operator shall not release Unit Operator from 16  
17 any liability for any default by it hereunder occurring prior to the effective 17  
18 date of its resignation. 18

19 The Unit Operator may, upon default or failure in the performance of its 19  
20 duties or obligations hereunder, be subject to removal by the same percentage 20  
21 vote of the owners of working interests determined in like manner as herein 21  
22 provided for the selection of a new Unit Operator. Such removal shall be 22  
23 effective upon notice thereof to the Director. 23

24 The resignation or removal of Unit Operator under this agreement shall 24  
25 not terminate its right, title, or interest as the owner of a working interest 25  
26 or other interest in unitized substances, but upon the resignation or removal 26  
27 of Unit Operator becoming effective, such Unit Operator shall deliver 27  
28 possession of all equipment, materials, and appurtenances used in conducting 28  
29 the unit operations and owned by the working interest owners to the new duly 29  
30 qualified successor Unit Operator or to the owners thereof if no such new Unit 30  
31 Operator is elected, to be used for the purpose of conducting unit operations 31  
32 hereunder. Nothing herein shall be construed as authorizing removal of any 32  
33 material, equipment and appurtenances needed for the preservation of any wells. 33

34 6. SUCCESSOR UNIT OPERATOR. Whenever the Unit Operator shall tender his 34  
35 or its resignation as Unit Operator or shall be removed as hereinabove 35

1 provided, or a change of Unit Operator is negotiated by working interest 1  
2 owners, the owners of the working interests in the participating area or 2  
3 areas according to their respective acreage interests in such participating 3  
4 area or areas, or, until a participating area shall have been established, the 4  
5 owners of the working interests according to their respective acreage 5  
6 interests in all unitized land, shall by majority vote select a successor Unit 6  
7 Operator: Provided, That, if a majority but less than 75 per cent of the 7  
8 working interests qualified to vote are owned by one party to this agreement, a 8  
9 concurring vote of one or more additional working interest owners shall be 9  
10 required to select a new operator. Such selection shall not become effective 10  
11 until 11

12 (a) a Unit Operator so selected shall accept in writing the duties and 12  
13 responsibilities of Unit Operator, and 13

14 (b) the selection shall have been filed with the Supervisor. If no 14  
15 successor Unit Operator is selected and qualified as herein provided, the 15  
16 Director at his election may declare this unit agreement terminated. 16

17 7. ACCOUNTING PROVISIONS AND UNIT OPERATING AGREEMENT. If the Unit 17  
18 Operator is not the sole owner of working interests, costs and expenses 18  
19 incurred by Unit Operator in conducting unit operations hereunder shall be 19  
20 paid and apportioned among and borne by the owners of working interests, all 20  
21 in accordance with the agreement or agreements entered into by and between the 21  
22 Unit Operator and the owners of working interests, whether one or more, 22  
23 separately or collectively. Any agreement or agreements entered into between 23  
24 the working interest owners and the Unit Operator as provided in this section, 24  
25 whether one or more, are herein referred to as the "unit operating agreement." 25  
26 Such unit operating agreement shall also provide the manner in which the 26  
27 working interest owners shall be entitled to receive their respective pro- 27  
28 portionate and allocated share of the benefits accruing hereto in conformity 28  
29 with their underlying operating agreements, leases, or other independent 29  
30 contracts, and such other rights and obligations as between Unit Operator and 30  
31 the working interest owners as may be agreed upon by Unit Operator and the 31  
32 working interest owners; however, no such unit operating agreement shall be 32  
33 deemed either to modify any of the terms and conditions of this unit agreement 33  
34 or to relieve the Unit Operator of any right or obligation established under 34  
35 this unit agreement, and in case of any inconsistency or conflict between the 35

1 unit agreement and the unit operating agreement, this unit agreement shall 1  
2 prevail. Three true copies of any unit operating agreement executed pursuant 2  
3 to this section should be filed with the Supervisor, prior to approval of this 3  
4 unit agreement. 4

5 8. RIGHTS AND OBLIGATIONS OF UNIT OPERATOR. Except as otherwise 5  
6 specifically provided herein, the exclusive right, privilege, and duty of 6  
7 exercising any and all rights of the parties hereto which are necessary or 7  
8 convenient for prospecting for, producing, storing, allocating, and distributing 8  
9 the unitized substances are hereby delegated to and shall be exercised by the 9  
10 Unit Operator as herein provided. Acceptable evidence of title to said rights 10  
11 shall be deposited with said Unit Operator and, together with this agreement, 11  
12 shall constitute and define the rights, privileges, and obligations of Unit 12  
13 Operator. Nothing herein, however, shall be construed to transfer title to 13  
14 any land or to any lease or operating agreement, it being understood that under 14  
15 this agreement the Unit Operator, in its capacity as Unit Operator, shall 15  
16 exercise the rights of possession and use vested in the parties hereto only 16  
17 for the purposes herein specified. 17

18 9. DRILLING TO DISCOVERY. Within 6 months after the effective date 18  
19 hereof, the Unit Operator shall begin to drill an adequate test well at a 19  
20 location approved by the Supervisor, unless on such effective date a well is 20  
21 being drilled conformably with the terms hereof, and thereafter continue such 21  
22 drilling diligently until the Gallup or Dakota formation has been tested or 22  
23 until at a lesser depth unitized substances shall be discovered which can be 23  
24 produced in paying quantities (to-wit: quantities sufficient to repay the 24  
25 costs of drilling, and producing operations, with a reasonable profit) or the 25  
26 Unit Operator shall at any time establish to the satisfaction of the Supervisor 26  
27 that further drilling of said well would be unwarranted or impracticable, pro- 27  
28 vided, however, that Unit Operator shall not in any event be required to drill 28  
29 said well to a depth in excess of 7650 feet for the Gallup and 9000 feet for 29  
30 the Dakota. Until the discovery of a deposit of unitized substances capable 30  
31 of being produced in paying quantities, the Unit Operator shall continue drill- 31  
32 ing diligently one well at a time, allowing not more than 6 months between the 32  
33 completion of one well and the beginning of the next well, until a well capable 33  
34 of producing unitized substances in paying quantities is completed to the sat- 34  
35 isfaction of said Supervisor or until it is reasonably proved that the unitized 35

1 land is incapable of producing unitized substances in paying quantities in the 1  
2 formations drilled hereunder. Nothing in this section shall be deemed to limit 2  
3 the right of the Unit Operator to resign as provided in Section 5 hereof, or as 3  
4 requiring Unit Operator to commence or continue any drilling during the period 4  
5 pending such resignation becoming effective in order to comply with the require- 5  
6 ments of this section. The Director may modify the drilling requirements of 6  
7 this section by granting reasonable extensions of time when, in his opinion, 7  
8 such action is warranted. 8

9 Upon failure to comply with the drilling provisions of this section, the 9  
10 Director may, after reasonable notice to the Unit Operator, and each working 10  
11 interest owner, lessee, and lessor at their last known addresses, declare this 11  
12 unit agreement terminated. 12

13 Notwithstanding anything in this Unit Agreement to the contrary except 13  
14 Section 25 (Unavoidable Delay), the Unit Operator shall drill three wells, namely, 14  
15 two wells to test the Gallup formation and one well to test the Dakota 15  
16 formation. The Unit Operator may select the order of drilling said three wells. 16  
17 At the Operator's election, one of the wells to test the Gallup formation may 17  
18 be satisfied by the deepening of an abandoned well in the SE $\frac{1}{4}$  of Section 9, 18  
19 Township 26 North, Range 1 West. The first well shall be commenced not less 19  
20 than six months after approval of this unit agreement, and the subsequent 20  
21 obligation wells must be commenced not later than six months after completion 21  
22 of the preceding well, regardless of whether it is a producer or a dry hole. 22  
23 Any unit well commenced after October 1, 1962, will count towards satisfying 23  
24 the three-well program even if approval of the unit agreement is at a later 24  
25 date. The only extension of time the Director may grant for meeting the 25  
26 critical dates in this paragraph shall be based upon severe weather or other 26  
27 conditions beyond the control of the Unit Operator, and shall be limited to 27  
28 a single extension of not more than three months for each well after the first. 28  
29 Nevertheless, in the event drilling of any of said three wells has not been 29  
30 commenced timely, this unit agreement shall automatically terminate effective 30  
31 the first day of the month following the default. 31

32 10. PLAN OF FURTHER DEVELOPMENT AND OPERATION. Within 6 months after 32  
33 completion of a well capable of producing unitized substances in paying 33  
34 quantities, the Unit Operator shall submit for the approval of the Supervisor 34  
35 an acceptable plan of development and operation for the unitized land which, 35

1 when approved by the Supervisor, shall constitute the further drilling and 1  
2 operating obligations of the Unit Operator under this agreement for the period 2  
3 specified therein. Thereafter, from time to time before the expiration of any 3  
4 existing plan, the Unit Operator shall submit for the approval of the 4  
5 Supervisor a plan for an additional specified period for the development and 5  
6 operation of the unitized land. 6

7 Any plan submitted pursuant to this section shall provide for the 7  
8 exploration of the unitized area and for the diligent drilling necessary for 8  
9 determination of the area or areas thereof capable of producing unitized 9  
10 substances in paying quantities in each and every productive formation and 10  
11 shall be as complete and adequate as the Supervisor may determine to be 11  
12 necessary for timely development and proper conservation of the oil and gas 12  
13 resources of the unitized area and shall 13

14 (a) specify the number and locations of any wells to be drilled 14  
15 and the proposed order and time for such drilling; and 15

16 (b) to the extent practicable specify the operating practices 16  
17 regarded as necessary and advisable for proper conservation of natural 17  
18 resources. 18

19 Separate plans may be submitted for separate productive zones, subject to 19  
20 the approval of the Supervisor. 20

21 Plans shall be modified or supplemented when necessary to meet changed 21  
22 conditions or to protect the interests of all parties to this agreement. 22  
23 Reasonable diligence shall be exercised in complying with the obligations 23  
24 of the approved plan of development. The Supervisor is authorized to grant 24  
25 a reasonable extension of the 6-month period herein prescribed for sub- 25  
26 mission of an initial plan of development where such action is justified 26  
27 because of unusual conditions or circumstances. After completion hereunder 27  
28 of a well capable of producing any unitized substance in paying quantities, 28  
29 no further wells, except such as may be necessary to afford protection 29  
30 against operations not under this agreement or such as may be specifically 30  
31 approved by the Supervisor, shall be drilled except in accordance with a 31  
32 plan of development approved as herein provided. 32

33 11. PARTICIPATION AFTER DISCOVERY. Upon completion of a well capable of 33  
34 producing unitized substances in paying quantities or as soon thereafter as 34  
35 required by the Supervisor, the Unit Operator shall submit for approval by 35

1 the Director a schedule, based on subdivisions of the public-land survey or 1  
2 aliquot parts thereof, of all unitized land then regarded as reasonably proved 2  
3 to be productive of unitized substances in paying quantities; all lands in said 3  
4 schedule on approval of the Director to constitute a participating area, 4  
5 effective as of the date of completion of such well or the effective date of 5  
6 the unit agreement, whichever is later. The acreages of both Federal and non- 6  
7 Federal lands shall be based upon appropriate computations from the courses and 7  
8 distances shown on the last approved public-land survey as of the effective 8  
9 date of the initial participating area. Said schedule also shall set forth 9  
10 the percentage of unitized substances to be allocated as herein provided to 10  
11 each unitized tract in the participating area so established, and shall govern 11  
12 the allocation of production from and after the date the participating area 12  
13 becomes effective. A separate participating area shall be established in like 13  
14 manner for each separate pool or deposit of unitized substances or for any group 14  
15 thereof produced as a single pool or zone, and any two or more participating 15  
16 areas so established may be combined into one with the consent of the owners 16  
17 of all working interests in the lands within the participating areas so to be 17  
18 combined, on approval of the Director. The participating area or areas so 18  
19 established shall be revised from time to time, subject to like approval, when- 19  
20 ever such action appears proper as a result of further drilling operations or 20  
21 otherwise to include additional land then regarded as reasonably proved to be 21  
22 productive in paying quantities, or to exclude land then regarded as reasonably 22  
23 proved not to be productive in paying quantities and the percentage of 23  
24 allocation shall also be revised accordingly. The effective date of any revision 24  
25 shall be the first of the month in which is obtained the knowledge or information 25  
26 on which such revision is predicated, provided, however, that a more appropriate 26  
27 effective date may be used if justified by the Unit Operator and approved by 27  
28 the Director. No land shall be excluded from a participating area on account 28  
29 of depletion of the unitized substances. 29

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

1 In the absence of agreement at any time between the Unit Operator and the 1  
2 Director as to the proper definition or redefinition of a participating area, 2  
3 or until a participating area has, or areas have, been established as provided 3  
4 herein, the portion of all payments affected thereby may be impounded in a 4  
5 manner mutually acceptable to the owners of working interests, except 5  
6 royalties due the United States, which shall be determined by the Supervisor 6  
7 and the amount thereof deposited, as directed by the Supervisor, to be held as 7  
8 unearned money until a participating area is finally approved and then applied 8  
9 as earned or returned in accordance with a determination of the sum due as 9  
10 Federal royalty on the basis of such approved participating area. 10

11 Whenever it is determined, subject to the approval of the Supervisor, 11  
12 that a well drilled under this agreement is not capable of production in 12  
13 paying quantities and inclusion of the land on which it is situated in a 13  
14 participating area is unwarranted, production from such well shall, for the 14  
15 purposes of settlement among all parties other than working interest owners, 15  
16 be allocated to the land on which the well is located so long as such land is 16  
17 not within a participating area established for the pool or deposit from which 17  
18 such production is obtained. Settlement for working interest benefits from 18  
19 such a well shall be made as provided in the unit operating agreement. 19

20 12. ALLOCATION OF PRODUCTION. All unitized substances produced from each 20  
21 participating area established under this agreement, except any part thereof 21  
22 used in conformity with good operating practices within the unitized area for 22  
23 drilling, operating, camp and other production or development purposes, for 23  
24 repressuring or recycling in accordance with a plan of development approved by 24  
25 the Supervisor, or unavoidably lost, shall be deemed to be produced equally on 25  
26 an acreage basis from the several tracts of unitized land of the participating 26  
27 area established for such production and, for the purpose of determining any 27  
28 benefits accruing under this agreement, each such tract of unitized land shall 28  
29 have allocated to it such percentage of said production as the number of acres 29  
30 of such tract included in said participating area bears to the total acres of 30  
31 unitized land in said participating area, except that allocation of production 31  
32 hereunder for purposes other than for settlement of the royalty, overriding 32  
33 royalty, or payment out of production obligations of the respective working 33  
34 interest owners, shall be on the basis prescribed in the unit operating 34  
35 agreement whether in conformity with the basis of allocation herein set forth 35

1 or otherwise. It is hereby agreed that production of unitized substances from 1  
2 a participating area shall be allocated as provided herein regardless of whether 2  
3 any wells are drilled on any particular part or tract of said participating 3  
4 area. If any gas produced from one participating area is used for repressuring 4  
5 or recycling purposes in another participating area, the first gas withdrawn 5  
6 from such last-mentioned participating area for sale during the life of this 6  
7 agreement shall be considered to be the gas so transferred until an amount 7  
8 equal to that transferred shall be so produced for sale and such gas shall be 8  
9 allocated to the participating area from which initially produced as constituted 9  
10 at the time of such final production. 10

11 13. DEVELOPMENT OR OPERATION OF NON-PARTICIPATING LAND OR FORMATIONS. 11

12 Any party hereto owning or controlling the working interest in any unitized 12  
13 land having thereon a regular well location may with the approval of the 13  
14 Supervisor, at such party's sole risk, costs, and expense, drill a well to 14  
15 test any formation for which a participating area has not been established or 15  
16 to test any formation for which a participating area has been established if 16  
17 such location is not within said participating area, unless within 90 days of 17  
18 receipt of notice from said party of his intention to drill the well the Unit 18  
19 Operator elects and commences to drill such a well in like manner as other 19  
20 wells are drilled by the Unit Operator under this agreement. 20

21 If any well drilled as aforesaid by a working interest owner results in 21  
22 production such that the land upon which it is situated may properly be 22  
23 included in a participating area, such participating area shall be established 23  
24 or enlarged as provided in this agreement and the well shall thereafter be 24  
25 operated by the Unit Operator in accordance with the terms of this agreement 25  
26 and the unit operating agreement. 26

27 If any well drilled as aforesaid by a working interest owner obtains 27  
28 production in quantities insufficient to justify the inclusion in a partici- 28  
29 pating area of the land upon which such well is situated, such well may be 29  
30 operated and produced by the party drilling the same subject to the conservation 30  
31 requirements of this agreement. The royalties in amount or value of production 31  
32 from any such well shall be paid as specified in the underlying lease and 32  
33 agreements affected. 33

34 14. ROYALTY SETTLEMENT. The United States and any State and all royalty 34  
35 owners who, under existing contract, are entitled to take in kind a share of 35

1 the substances now unitized hereunder produced from any tract, shall hereafter 1  
2 be entitled to the right to take in kind their share of the unitized substances 2  
3 allocated to such tract, and Unit Operator, or in case of the operation of a 3  
4 well by a working interest owner as herein in special cases provided for, such 4  
5 working interest owner, shall make deliveries of such royalty share taken in 5  
6 kind in conformity with the applicable contracts, laws, and regulations. 6

7 Settlement for royalty interest not taken in kind shall be made by working 7  
8 interest owners responsible therefor under existing contracts, laws and 8  
9 regulations on or before the last day of each month for unitized substances 9  
10 produced during the preceding calendar month; provided, however, that nothing 10  
11 herein contained shall operate to relieve the lessees of any land from their 11  
12 respective lease obligations for the payment of any royalties due under their 12  
13 leases. 13

14 If gas obtained from lands not subject to this agreement is introduced into 14  
15 any participating area hereunder, for use in repressuring, stimulation of 15  
16 production, or increasing ultimate recovery, which shall be in conformity with 16  
17 a plan first approved by the Supervisor, a like amount of gas, after settlement 17  
18 as herein provided for any gas transferred from any other participating area 18  
19 and with due allowance for loss or depletion from any cause, may be withdrawn 19  
20 from the formation into which the gas was introduced, royalty free as to dry 20  
21 gas, but not as to the products extracted therefrom; provided that such with- 21  
22 drawal shall be at such time as may be provided in the plan of operations or as 22  
23 may otherwise be consented to by the Supervisor as conforming to good 23  
24 petroleum engineering practice; and provided further, that such right of 24  
25 withdrawal shall terminate on the termination of this unit agreement. 25

26 Royalty due the United States shall be computed as provided in the 26  
27 operating regulations and paid in value or delivered in kind as to all unitized 27  
28 substances on the basis of the amounts thereof allocated to unitized Federal 28  
29 land as provided herein at the rates specified in the respective Federal leases, 29  
30 or at such lower rate or rates as may be authorized by law or regulation; 30  
31 provided, that for leases on which the royalty rate depends on the daily 31  
32 average production per well, said average production shall be determined in 32  
33 accordance with the operating regulations as though each participating area 33  
34 were a single consolidated lease. 34

35 15. RENTAL SETTLEMENT. Rental or minimum royalties due on leases 35

1 committed hereto shall be paid by working interest owners responsible therefor 1  
2 under existing contracts, laws, and regulations, provided that nothing herein 2  
3 contained shall operate to relieve the lessees of any land from their 3  
4 respective lease obligations for the payment of any rental or minimum royalty 4  
5 in lieu thereof due under their leases. Rental or minimum royalty for lands of 5  
6 the United States subject to this agreement shall be paid at the rate specified 6  
7 in the respective leases from the United States unless such rental or minimum 7  
8 royalty is waived, suspended, or reduced by law or by approval of the Secretary 8  
9 or his duly authorized representative. 9

10 With respect to any lease on non-Federal land containing provisions which 10  
11 would terminate such lease unless drilling operations were within the time 11  
12 therein specified commenced upon the land covered thereby or rentals paid for 12  
13 the privilege of deferring such drilling operations, the rentals required 13  
14 thereby shall, notwithstanding any other provision of this agreement, be deemed 14  
15 to accrue and become payable during the term thereof as extended by this 15  
16 agreement and until the required drilling operations are commenced upon the 16  
17 land covered thereby or some portion of such land is included within a 17  
18 participating area. 18

19 16. CONSERVATION. Operations hereunder and production of unitized 19  
20 substances shall be conducted to provide for the most economical and efficient 20  
21 recovery of said substances without waste, as defined by or pursuant to State 21  
22 or Federal law or regulation. 22

23 17. DRAINAGE. The Unit Operator shall take appropriate and adequate 23  
24 measures to prevent drainage of unitized substances from unitized land by wells 24  
25 on land not subject to this agreement, or, with prior consent of the Director, 25  
26 pursuant to applicable regulations pay a fair and reasonable compensatory 26  
27 royalty as determined by the Supervisor. 27

28 18. LEASES AND CONTRACTS CONFORMED AND EXTENDED. The terms, conditions, 28  
29 and provisions of all leases, subleases, and other contracts relating to 29  
30 exploration, drilling, development, or operation for oil or gas of lands 30  
31 committed to this agreement are hereby expressly modified and amended to the 31  
32 extent necessary to make the same conform to the provisions hereof, but other- 32  
33 wise to remain in full force and effect; and the parties hereto hereby consent 33  
34 that the Secretary shall and by his approval hereof, or by the approval hereof 34  
35 by his duly authorized representative, does hereby establish, alter, change, or 35

1 revoke the drilling, producing, rental, minimum royalty, and royalty requirements 1  
2 of Federal leases committed hereto and the regulations in respect thereto to 2  
3 conform said requirements to the provisions of this agreement, and, without 3  
4 limiting the generality of the foregoing, all leases, subleases, and contracts 4  
5 are particularly modified in accordance with the following: 5

6 (a) The development and operation of lands subject to this agreement 6  
7 under the terms hereof shall be deemed full performance of all obligations 7  
8 for development and operation with respect to each and every part or 8  
9 separately owned tract subject to this agreement, regardless of whether 9  
10 there is any development of any particular part or tract of the unit 10  
11 area, notwithstanding anything to the contrary in any lease, operating 11  
12 agreement or other contract by and between the parties hereto, or their 12  
13 respective predecessors in interest, or any of them. 13

14 (b) Drilling and producing operations performed hereunder upon any 14  
15 tract of unitized lands will be accepted and deemed to be performed upon 15  
16 and for the benefit of each and every tract of unitized land, and no 16  
17 lease shall be deemed to expire by reason of failure to drill or produce 17  
18 wells situated on the land therein embraced. 18

19 (c) Suspension of drilling or producing operations on all unitized 19  
20 lands pursuant to direction or consent of the Secretary or his duly 20  
21 authorized representative shall be deemed to constitute such suspension 21  
22 pursuant to such direction or consent as to each and every tract of 22  
23 unitized land. 23

24 (d) Each lease, sublease or contract relating to the exploration, 24  
25 drilling, development or operation for oil or gas of lands other than 25  
26 those of the United States committed to this agreement, which, by its 26  
27 terms might expire prior to the termination of this agreement, is hereby 27  
28 extended beyond any such term so provided therein so that it shall be 28  
29 continued in full force and effect for and during the term of this 29  
30 agreement. 30

31 (e) Any Federal lease for a fixed term of twenty (20) years or any 31  
32 renewal thereof or any part of such lease which is made subject to this 32  
33 agreement shall continue in force beyond the term provided therein until 33  
34 the termination hereof. Any other Federal lease committed hereto shall 34  
35 continue in force beyond the term so provided therein or by law as to 35

1 the land committed so long as such lease remains subject hereto,  
2 provided that production is had in paying quantities under this unit  
3 agreement prior to the expiration date of the term of such lease, or in  
4 the event actual drilling operations are commenced on unitized land, in  
5 accordance with the provisions of this agreement, prior to the end of  
6 the primary term of such lease and are being diligently prosecuted at  
7 that time, such lease shall be extended for two years and so long  
8 thereafter as oil or gas is produced in paying quantities in accordance  
9 with the provisions of the Mineral Leasing Act Revision of 1960.

10 (f) Each sublease or contract relating to the operation and  
11 development of unitized substances from lands of the United States  
12 committed to this agreement, which by its terms would expire prior to  
13 the time at which the underlying lease, as extended by the immediately  
14 preceding paragraph, will expire, is hereby extended beyond any such  
15 term so provided therein so that it shall be continued in full force  
16 and effect for and during the term of the underlying lease as such  
17 term is herein extended.

18 (g) The segregation of any Federal lease committed to this agreement  
19 is governed by the following provision in the fourth paragraph of  
20 Sec. 17(j) of the Mineral Leasing Act, as amended by the Act of  
21 September 2, 1960 (74 Stat. 781-784): "Any [Federal] lease heretofore  
22 or hereafter committed to any such [unit] plan embracing lands that  
23 are in part within and in part outside of the area covered by any such  
24 plan shall be segregated into separate leases as to the lands committed  
25 and the lands not committed as of the effective date of unitization:  
26 Provided, however, That any such lease as to the nonunitized portion  
27 shall continue in force and effect for the term thereof but for not less  
28 than two years from the date of such segregation and so long thereafter  
29 as oil or gas is produced in paying quantities."

30 (h) Any lease, other than a Federal lease, having only a portion of  
31 its lands committed hereto shall be segregated as to the portion committed  
32 and the portion not committed, and the provisions of such lease shall  
33 apply separately to such segregated portions commencing as of the effective  
34 date hereof. In the event any such lease provides for a lump-sum rental  
35 payment, such payment shall be prorated between the portions so segregated

1 in proportion to the acreage of the respective tracts. 1

2 19. COVENANTS RUN WITH LAND. The covenants herein shall be construed 2  
3 to be covenants running with the land with respect to the interest of the parties 3  
4 hereto and their successors in interest until this agreement terminates, and any 4  
5 grant, transfer, or conveyance, of interest in land or leases subject hereto 5  
6 shall be and hereby is conditioned upon the assumption of all privileges and 6  
7 obligations hereunder by the grantee, transferee, or other successor in 7  
8 interest. No assignment or transfer of any working interest, royalty, or other 8  
9 interest subject hereto shall be binding upon Unit Operator until the first day 9  
10 of the calendar month after Unit Operator is furnished with the original, pho- 10  
11 tostatic, or certified copy of the instrument of transfer. 11

12 20. EFFECTIVE DATE AND TERM. This agreement shall become effective upon 12  
13 approval by the Secretary or his duly authorized representative and shall 13  
14 terminate five (5) years from said effective date unless 14

15 (a) such date of expiration is extended by the Director, or 15

16 (b) it is reasonably determined prior to the expiration of the fixed 16  
17 term of any extension thereof that the unitized land is incapable of 17  
18 production of unitized substances in paying quantities in the formations 18  
19 tested hereunder and after notice of intention to terminate the agreement 19  
20 on such ground is given by the Unit Operator to all parties in interest 20  
21 at their last known addresses, the agreement is terminated with the 21  
22 approval of the Director, or 22

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

33 (d) it is terminated as heretofore provided in this agreement. 33

34 This agreement may be terminated at any time by not less than 75 per centum, 34  
35 on an acreage basis, of the owners of working interests signatory hereto, 35

1 with the approval of the Director; notice of any such approval to be given 1  
2 by the Unit Operator to all parties hereto. 2

3 21. RATE OF PROSPECTING, DEVELOPMENT, AND PRODUCTION. The Director is 3  
4 hereby vested with authority to alter or modify from time to time in his 4  
5 discretion the quantity and rate of production under this agreement when such 5  
6 quantity and rate is not fixed pursuant to Federal or State law or does not 6  
7 conform to any state-wide voluntary conservation or allocation program, which 7  
8 is established, recognized, and generally adhered to by the majority of 8  
9 operators in such State, such authority being hereby limited to alteration or 9  
10 modification in the public interest, the purpose thereof and the public interest 10  
11 to be served thereby to be stated in the order of alteration or modification. 11  
12 Without regard to the foregoing, the Director is also hereby vested with 12  
13 authority to alter or modify from time to time in his discretion the rate of 13  
14 prospecting and development and the quantity and rate of production under this 14  
15 agreement when such alteration or modification is in the interest of attaining 15  
16 the conservation objectives stated in this agreement and is not in violation of 16  
17 any applicable Federal or State law. 17

18 Powers in this section vested in the Director shall only be exercised 18  
19 after notice to Unit Operator and opportunity for hearing to be held not less 19  
20 than 15 days from notice. 20

21 22. APPEARANCES. Unit Operator shall, after notice to other parties 21  
22 affected, have the right to appear for and on behalf of any and all interests 22  
23 affected hereby before the Department of the Interior and to appeal from orders 23  
24 issued under the regulations of said Department or to apply for relief from 24  
25 any of said regulations or in any proceedings relative to operations before 25  
26 the Department of the Interior or any other legally constituted authority; 26  
27 provided, however, that any other interested party shall also have the right 27  
28 at his own expense to be heard in any such proceeding. 28

29 23. NOTICES. All notices, demands or statements required hereunder to 29  
30 be given or rendered to the parties hereto shall be deemed fully given if 30  
31 given in writing and personally delivered to the party or sent by postpaid 31  
32 registered mail, addressed to such party or parties at their respective 32  
33 addresses set forth in connection with the signatures hereto or to the ratifi- 33  
34 cation or consent hereof or to such other address as any such party may have 34  
35 furnished in writing to party sending the notice, demand or statement. 35

1 24. NO WAIVER OF CERTAIN RIGHTS. Nothing in this agreement contained 1  
2 shall be construed as a waiver by any party hereto of the right to assert any 2  
3 legal or constitutional right or defense as to the validity or invalidity of 3  
4 any law of the State wherein said unitized lands are located, or of the United 4  
5 States, or regulations issued thereunder in any way affecting such party, or 5  
6 as a waiver by any such party of any right beyond his or its authority to waive. 6

7 25. UNAVOIDABLE DELAY. All obligations under this agreement requiring 7  
8 the Unit Operator to commence or continue drilling or to operate on or produce 8  
9 unitized substances from any of the lands covered by this agreement shall be 9  
10 suspended while, but only so long as, the Unit Operator despite the exercise 10  
11 of due care and diligence is prevented from complying with such obligations, in 11  
12 whole or in part, by strikes, acts of God, Federal, State, or municipal law 12  
13 or agencies, unavoidable accidents, uncontrollable delays in transportation, 13  
14 inability to obtain necessary materials in open market, or other matters 14  
15 beyond the reasonable control of the Unit Operator whether similar to matters 15  
16 herein enumerated or not. 16

17 26. NONDISCRIMINATION. In connection with the performance of 17  
18 work under this agreement, the operator agrees to comply with all of the 18  
19 provisions of section 301(1) to (7) inclusive, of Executive Order 10925 19  
20 (26 F. R. 1977), which are hereby incorporated by reference in this agreement. 20

21 27. LOSS OF TITLE. In the event title to any tract of unitized land 21  
22 shall fail and the true owner cannot be induced to join in this unit agreement, 22  
23 such tract shall be automatically regarded as not committed hereto and there 23  
24 shall be such readjustment of future costs and benefits as may be required on 24  
25 account of the loss of such title. In the event of a dispute as to title as 25  
26 to any royalty, working interest, or other interests subject thereto, payment 26  
27 or delivery on account thereof may be withheld without liability for interest 27  
28 until the dispute is finally settled; provided, that, as to Federal land or 28  
29 leases, no payments of funds due the United States should be withheld, but 29  
30 such funds shall be deposited as directed by the Supervisor to be held as 30  
31 unearned money pending final settlement of the title dispute, and then applied 31  
32 as earned or returned in accordance with such final settlement. 32

33 Unit Operator as such is relieved from any responsibility for any 33  
34 defect or failure of any title hereunder. 34

35 28. NON-JOINDER AND SUBSEQUENT JOINDER. If the owner of any substantial 35

1 subsequent joinder to this agreement as provided elsewhere in this agreement. 1  
2 The exercise of any right vested in a working interest owner to reassign such 2  
3 working interest to the party from whom obtained shall be subject to the same 3  
4 conditions as set forth in this section in regard to the exercise of a right 4  
5 to surrender. 5

6 31. TAXES. The working interest owners shall render and pay for their 6  
7 account and the account of the royalty owners all valid taxes on or measured 7  
8 by the unitized substances in and under or that may be produced, gathered and 8  
9 sold from the land subject to this contract after the effective date of this 9  
10 agreement, or upon the proceeds or net proceeds derived therefrom. The working 10  
11 interest owners on each tract shall and may charge the proper proportion of 11  
12 said taxes to the royalty owners having interests in said tract, and may 12  
13 currently retain and deduct sufficient of the unitized substances or derivative 13  
14 products, or net proceeds thereof from the allocated share of each royalty 14  
15 owner to secure reimbursement for the taxes so paid. No such taxes shall be 15  
16 charged to the United States or the State of New Mexico or to any lessor who 16  
17 has a contract with his lessee which requires the lessee to pay such taxes. 17

18 32. NO PARTNERSHIP. It is expressly agreed that the relation of the 18  
19 parties hereto is that of independent contractors and nothing in this agreement 19  
20 contained, expressed or implied, nor any operations conducted hereunder, shall 20  
21 create or be deemed to have created a partnership or association between the 21  
22 parties hereto or any of them. 22

23 33. FOREST LAND STIPULATION. Notwithstanding any other terms and 23  
24 conditions contained in this agreement, all of the stipulations and conditions 24  
25 of the individual leases between the United States and its lessees or their 25  
26 successors or assignees embracing lands within the unit area included for the 26  
27 protection of lands or functions under the jurisdiction of the Secretary of 27  
28 Agriculture shall remain in full force and effect the same as though this 28  
29 agreement had not been entered into, and no modification thereof is 29  
30 authorized except with the consent in writing of the Regional Forester, 30  
31 United States Forest Service, 517 Gold Avenue, N. W., Albuquerque, New Mexico. 31

32 IN WITNESS WHEREOF, the parties hereto have caused this agreement to be 32  
33 executed and have set opposite their respective names the date of execution. 33

1 agreement and the unit operating agreement as a working interest owner or 1  
2 again lease such lands as above provided with respect to each existing partici- 2  
3 pating area, within six (6) months after any such surrender or forfeiture, 3  
4 such fee owner shall be deemed to have waived the right to execute the unit 4  
5 operating agreement or lease such lands as to each such participating area, 5  
6 and to have agreed, in consideration for the compensation hereinafter provided, 6  
7 that operations hereunder as to any such participating area or areas shall not 7  
8 be affected by such surrender. 8

9 For any period the working interest in any lands are not expressly 9  
10 committed to the unit operating agreement as the result of any such surrender 10  
11 or forfeiture, the benefits and obligations of operations accruing to such 11  
12 lands under this agreement and the unit operating agreement shall be shared 12  
13 by the remaining owners of unitized working interests in accordance with their 13  
14 respective participating working interest ownerships in any such participating 14  
15 area or areas, and such owners of working interests shall compensate the fee 15  
16 owner of unitized substances in such lands by paying sums equal to the rentals, 16  
17 minimum royalties, and royalties applicable to such lands under the lease in 17  
18 effect when the lands were unitized, as to such participating area or areas. 18

19 Upon commitment of a working interest to this agreement and the unit 19  
20 operating agreement as provided in this section, an appropriate accounting 20  
21 and settlement shall be made, to reflect the retroactive effect of the 21  
22 commitment, for all benefits accruing to or payments and expenditures made or 22  
23 incurred on behalf of such surrendered working interest during the period 23  
24 between the date of surrender and the date of recommitment, and payment of any 24  
25 moneys found to be owing by such an accounting shall be made as between the 25  
26 parties then signatory to the unit operating agreement and this agreement 26  
27 within thirty (30) days after the recommitment. The right to become a party 27  
28 to this agreement and the unit operating agreement as a working interest 28  
29 owner by reason of a surrender or forfeiture as provided in this section shall 29  
30 not be defeated by the nonexistence of a unit operating agreement and in the 30  
31 event no unit operating agreement is in existence and a mutually acceptable 31  
32 agreement between the proper parties thereto cannot be consummated, the 32  
33 Supervisor may prescribe such reasonable and equitable agreement as he deems 33  
34 warranted under the circumstances. 34

35 Nothing in this section shall be deemed to limit the right of joinder or 35

1 subsequent joinder to this agreement as provided elsewhere in this agreement. 1  
2 The exercise of any right vested in a working interest owner to reassign such 2  
3 working interest to the party from whom obtained shall be subject to the same 3  
4 conditions as set forth in this section in regard to the exercise of a right 4  
5 to surrender. 5

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8 by the unitized substances in and under or that may be produced, gathered and 8  
9 sold from the land subject to this contract after the effective date of this 9  
10 agreement, or upon the proceeds or net proceeds derived therefrom. The working 10  
11 interest owners on each tract shall and may charge the proper proportion of 11  
12 said taxes to the royalty owners having interests in said tract, and may 12  
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27 protection of lands or functions under the jurisdiction of the Secretary of 27  
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32 IN WITNESS WHEREOF, the parties hereto have caused this agreement to be 32  
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