

DOYLE HARTMAN

Oil Operator

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JUN 10 1997

Via Certified Mail, Return Receipt Requested

June 9, 1997

OXY USA, Inc.
P.O. Box 50250
Midland, Texas 79710

Attn: Donald Romine, V.P. Western Region
Robert Hunt, Asset Team Leader
T. Kent Wooley, Senior Landman

Re: Statutory Non-Consent Right of
MLMU Working Interest Owners

Gentlemen:

It has been brought to my attention that OXY USA, Inc. still persists in alleging that the Myers Langlie Mattix Unit (MLMU) Unit Operating Agreement does not contain a non-consent provision and that Doyle Hartman is misrepresenting the facts by stating that it does.

To set the record straight, it is not Doyle Hartman that is improperly contending that the MLMU Unit Operating Agreement contains a non-consent provision, but it is Section 70-7-7(F) of the New Mexico Statutory Unitization Act [70-7-1 through 70-7-21 NMSA 1978] that provides that the Unit Operating Agreement for a statutorily-unitized unit shall contain a non-consent provision. In 1980, Section 70-7-7 read as follows:

70-7-7. Division Orders.

The order providing for unitization and unit operation of a pool or part of a pool shall be upon terms and conditions that are fair, reasonable and equitable and shall approve or prescribe a plan or unit agreement for unit operation which shall include:...

...F. a provision for carrying any working interest owner on a limited, carried or net-profits basis, payable out of production, upon such terms and conditions determined by the division to be just and reasonable, and allowing an appropriate charge for interest for such service payable out of such owner's share of production, provided that any nonconsenting working interest owner being so carried shall be deemed to have relinquished to the unit operator all of its operating rights and working interest in and to the unit until his share of the costs, service charge and interest are repaid to the unit operator (emphasis added);...

On August 27, 1980, Statutory Unitization Order No. R-6447 was entered by the New Mexico Oil Conservation Commission. In accordance with Section 70-7-7(F), Order R-6447 found:

...That the Myers Langlie-Mattix Unit Agreement and the Myers Langlie-Mattix Unit Operating Agreement provide for unitization and unit operation of the Myers Langlie-Mattix Unit Area upon terms and conditions that are fair, reasonable, and equitable, and which include:...

...(d) a provision for carrying any working interest owner on a limited, carried, or net-profits basis, payable out of production, upon such terms and conditions which are just and reasonable, and which allow an appropriate charge for interest for such service payable out of production, upon such terms and conditions determined by the Commission to be just and reasonable, and allowing an appropriate charge for interest for such service payable out of such owner's share of production, providing that any nonconsenting working interest owner being so carried shall be deemed to have relinquished to the Unit Operator all of his operating rights and working interests in and to the unit until his share of the costs, service charge, and interest are repaid to the Unit Operator;...

The foregoing finding is included as part of Order R-6447 because New Mexico's Statutory Unitization Act mandates that the Unit Operating Agreement for a statutorily-unitized unit shall include such a finding. Once Order R-6447 went into full force and effect, and all MLMU interests were statutorily unitized (Joe D. Ramey determination letter of January 5, 1981), and as provided for by Section 70-7-18 NMSA 1978, the original January 1, 1973 MLMU Unit Operating Agreement, by operation of law, was amended and modified to the extent necessary to conform to the Statutory Unitization Act [70-7-1 through 70-7-21 NMSA 1978] and Order R-6447. In this regard, Section 70-7-18 NMSA 1978 in part reads as follows:

70-7-18. Existing rights, rights in unleased land and royalties and lease burdens.

Property rights, leases, contracts and other rights or obligations shall be regarded as amended and modified only to the extent necessary to conform to the provisions and requirements of the Statutory Unitization Act [70-7-1 to 70-7-21 NMSA 1978] and to any valid order of the division providing for the unit operation of a pool or a part thereof, but otherwise shall remain in full force and effect...

The wording of Section 70-7-18 of the New Mexico Statutory Unitization Act is no mere coincidence, as is documented by that certain November 30, 1961 Seventh Circuit Court opinion in the Oklahoma case of *Peter Fox Brewing Company, et. al. v. Sohio Petroleum Company, et. al.* (296 F.2d 280), which stated:

Relevant, also, is Article VI of the Plan which provides: "Property rights, leases, contracts and all other rights and obligations in respect of the Oil and Gas Rights in and to the several Separately Owned Tracts within the Unit Area are hereby amended and modified to the extent necessary to make the same conform to the provisions and requirements of this Plan of Unitization, *but otherwise to remain in full force and effect.*" (Emphasis added.) This provision is consistent with Section 287.9, ¶ 1 of the Act, *supra*.

It seems clear to us that the Act and Plan, by operation of law, amended the agreements to the extent necessary to make them conform thereto, and then declared that otherwise the agreements should remain in full force and effect.

This conclusion is buttressed by the finding contained in paragraph 13 of the Order: "* * * that said Plan of Unitization is fair, reasonable and equitable and contains all the terms, provisions, conditions and requirements reasonably necessary and proper to protect, safeguard and adjust the respective rights and obligations of the several persons affected, including royalty owners, owners of overriding royalty interests * * *."...

Therefore, in recognition of the foregoing, it is apparent that it is not Doyle Hartman that is misrepresenting that the MLMU Unit Operating Agreement contains a non-consent provision, but it is clearly OXY USA, Inc., in violation of the rights of MLMU working interest owners, that stubbornly and improperly refuses to acknowledge that, in 1980, the original MLMU Unit Operating Agreement was amended and modified by the provisions of the Statutory Unitization Act [70-7-1 through 70-7-21 NMSA 1978] and Order R-6447 to the extent necessary to conform to the provisions of the Statutory Unitization Act and Order R-6447. Today, "by operation of law," the

OXY USA, Inc.

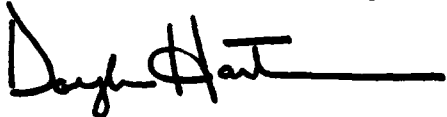
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MLMU Unit Operating Agreement contains a non-consent provision, which inclusion has the same impact as if such a provision has always been a part of the MLMU Unit Operating Agreement.

Very truly yours,

DOYLE HARTMAN, Oil Operator



Doyle Hartman

enclosures

rcp/rjr
wpdocs\corresp.dh\mlmu.6

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Steve Hartman

Linda Land

Cindy Brooks

Sheila Potts

SUMMARY OF NEW MEXICO STATUTORY UNITIZATION APPLICATIONS AND ORDERS

Cum. Cl.	Case No.	Order No.	Order Date	Order Format	Mineral Interests Unitized (W/O/R/O/ ALL)	Statute Conformity Finding	Statutory UOA Non-Consent Provision	Applicant	Unit	County	Pool	Formation	Acres Approved
1	5596	R-5164	2/17/76	DLOU	ALL	Yes	Yes	Burk Royalty Company	Double L-Queen Unit	Chaves	Double L-On Assoc.	Qn	2,870.1
2	5970	R-5496	8/8/77	DLOU	ALL	Yes	Yes	Texaco	Central Vacuum Unit	Lea	Vacuum Gb-SA	Gb-SA	3,046.2
3	6069	R-5593	12/27/77	DLOU	ALL	Yes	Yes	ARCO	East Blinbry Unit	Lea	Blinbry Oil & Gas	Blinbry	3,080
4	6070	R-5594	12/27/77	DLOU	ALL	Yes	Yes	ARCO	East Drinkard Unit	Lea	Drinkard	Drinkard	3,080
5	6328	R-5817	9/26/78	DLOU	ALL	Yes	Yes	Maralo, Inc.	Maralo Jalmat Yates Unit	Lea	Jalmat	Y-Qn	560
6	6366	R-5871	11/27/78	DLOU	ALL	Yes	Yes	Phillips Petroleum Company	East Vacuum Grayburg San Andres Unit	Lea	Vacuum Gb-SA	Gb-SA	7,025.3
7	6652	R-6198	11/30/79	NHGBSAU	ALL	Yes	Yes	Shell Oil Company	North Hobbs Grayburg San Andres Unit	Lea	Hobbs Gb-SA	Gb-SA	10,649.53
8	6987	R-6447	8/27/80	NHGBSAU	ALL	Yes	Yes	Getty Oil	Myers Langile Mattox Unit	Lea	Langile Mattox	7R-Qn	9,360
9	7391	R-6947	4/23/82	NHGBSAU	ALL	No		Harvey E. Yates Company	Travis-Penn Unit	Eddy	Travis-Upper Pennsylvanian	Cisco Canyon	490
10	7596	R-7011	6/30/82	NHGBSAU	ALL	Yes	Yes	Yates Drilling Company	South Loco Hills (Grayburg) Unit	Eddy	Loco Hills Qn-Gb-SA	Gb-Loco Hills Sand	1,060
11	7594 Dismissed	R-7251	4/5/83					Harvey E. Yates Company	Carbonate Unit	Lea	North Young	Bone Spring	
12	7945	R-7375-A	5/9/84	NHGBSAU ⁽¹⁾	ALL	Yes	Yes	J. Cleo Thompson & James Cleo Thompson Jr.	West Square Lake Unit	Eddy	West Square Lake Field	Gb-SA	3,320
13	8397	R-7765	12/27/84	DLOU-NHGBSAU	ALL	Yes	Yes	Gulf Oil Corporation	Eunice Monument South Unit	Lea	Eunice Monument Oil	Gb-SA	14,189.84

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14	8779	R-8117	1/6/86	NHGBSAU	ALL	Yes	Yes	Murphy Operating Corporation	Bluff San Andres Unit	Roosevelt	Bluff-SA Assoc.	SA	1,800
15	8952	R-8344	11/7/86	DLQU	ALL	Yes	Yes	Benson-Monlin-Greer Drig Corp.	Canada Ojitos Unit	Rio Arriba	West Puerto Chiquito- Mancoas Oil	Mancoas	69,567.235
16	9231	R-8540	11/8/87	NHGBSAU	ALL	Yes	Yes	Shell Western E & P Inc.	Northeast Drinkard Unit	Lea	North Eunice Blinbry- Tubb-Drinkard O & G	Blinbry-Tubb-Drinkard	4,938
17	9210	R-8557	12/2/87	NHGBSAU	ALL	Yes	Yes	Pelto Oil Company	Twin Lakes San Andres Unit	Chaves	Twin Lakes-SA Assoc.	SA	4,863.82
18	9606	R-8905	4/12/89	NHGBSAU	ALL	Yes	Yes	Read & Stevens, Inc.	Bunker Hill Unit	Eddy	Bunker Hill-Penrose Assoc.	Penrose	1,360
19	9636	R-8920 Dismissed	5/5/89					Grand Resources Inc.	Mesa-Gallup Unit	San Juan	Mesa-Gallup Oil	Gallup	
20	9738	R-9028	10/30/89	NHGBSAU	ALL	Yes	Yes	Kelt Oil and Gas, Inc.	Cato San Andres Unit	Chaves	Cato-SA	SA	15,321.83
21	9809	R-9075	12/14/89	NHGBSAU	ALL	Yes	Yes	Yates Drilling Company	Cactus Queen Unit	Chaves	SE Chaves On Gas Area Assoc.	On	560
22	10062	R-9336	10/29/90	NHGBSAU ^(a)	ALL	Yes	Yes	OXY USA, Inc.	Central Corbin Queen Unit	Lea	Central Corbin-On	On	1,561.19
23	10102	R-9358	11/13/90	NHGBSAU	ALL	Yes	Yes	Sage Energy Company	North Vacuum (Abo) North Unit	Lea	North Vacuum-Abo	Abo	1,762.79
24	10193	R-9454	3/12/91	NHGBSAU ^(a)	ALL	Yes	Yes	Beach Exploration Inc.	Red Lake Unit	Eddy	East Red Lake-On-Gb	On	1,131.24
25	10259	R-9482	4/8/91	NHGBSAU	ALL	Yes	Yes	Chevron, USA, Inc.	Arrowhead Grayburg Unit	Lea	Arrowhead-Gb	Gb	5,922.28
26	10253	R-9494	5/1/91	DLQU-NHGBSAU	ALL	Yes	Yes	Amerada Hess Corporation	North Monument Grayburg-San Andres	Lea	Eunice Monument-Gb- SA	Gb-SA	13,385
27	10341	R-9548	7/22/91	NHGBSAU	ALL	Yes	Yes	Marathon Oil Company	Tamano (BSSC) Unit	Eddy	Tamano-Bone Spring	Bone Spring Second Carbonate	890

SUMMARY OF NEW MEXICO STATUTORY UNITIZATION APPLICATIONS AND ORDERS

Cum. CL	Case No.	Order No.	Order Date	Order Format	Mineral Interests Unutilized (W/O/R/O/ ALL)	Statute Conformity Finding	Statutory UOA Non-Consent Provision	Applicant	Unit	County	Pool	Formation	Acreage Approved
28	10515	R-9710	8/25/92	NHGBSAU	ALL	Yes	Yes	Texaco Expl. & Prod., Inc.	Vacuum Gloria West Unit	Lea	Vacuum-Gloria	Gloria-Paddock	2,778.86
29	10553	R-9746	10/23/92	DLQU-NHGBSAU	ALL	Yes	Yes	ARCO Oil & Gas Company	South Justis Unit	Lea	South Justis Blinbry- Tubb-Drinkard	Blinbry-Tubb-Drinkard	5,360
30	10618	R-9821	1/6/93	NHGBSAU	ALL	Yes	Yes	Sieff Oil & Gas Company	Parkway Delaware Unit	Eddy	Parkway-Delaware	Delaware	920
31	9836	R-9861 Dismissed	3/23/93					Grand Resources, Inc.	Mesa Gallup Unit	San Juan	Mesa-Gallup Oil	Gallup	
32	10685	R-9894 R-9894 A	5/19/93	NHGBSAU	ALL	Yes	Yes	Hanson Operating Company, Inc.	Benson Shugart Waterflood Unit	Eddy	Shugart Y-7R-On-Gb	Y-7R-On-Gb	911
33	10761	R-9985	10/13/93	NHGBSAU	ALL	Yes	Yes	Mewbourne Oil Company	Querecho Plains Bone Spring Sand Unit	Lea	Querecho Plains-Upper Bone Spring	Upper Bone Spring	2,400
34	10810	R-7900-A	10/28/93	NHGBSAU	ALL	Yes	Yes	Marbob Energy Corporation	Burch-Keely Unit	Eddy	Gb-Jackson	7R-Qn-Gb-SA	5,149.44
35	10930	R-10093	4/5/94	CMU	ALL	Yes	No	The Wiser Oil Company	Caprock Majlamar Unit	Lea	Majlamar Gb-SA	Gb-SA	4,160
36	10959	R-10123	5/31/94	NHGBSAU	ALL	Yes	Yes	Mewbourne Oil Company	Querecho Plains- Queen Assoc. Sand Unit	Lea	Querecho Plains-On Assoc.	On-Petrose Sand	1,520
37	11114	R-10248	11/15/94	NHGBSAU	ALL	Yes	Yes	Great Western Drilling Co.	South Carter (San Andres) Unit	Lea	South Carter-SA	SA	624
38	11195	R-10449	8/29/95	NHGBSAU	ALL	Yes	Yes	Gillespie-Crow, Inc.	West Lovington Strawn Unit	Lea	West Lovington-Strawn	Strawn	1,458.95
39	11298	R-10460-B	3/12/96	NHGBSAU	ALL	Yes	Yes	Exxon Corp.	Avalon (Delaware) Unit	Eddy	Avalon-Delaware	Goat Seep Reel-Bone Springs-Cherry Canyon- Bushy Canyon	2,118.78
40	11562	R-10749 Dismissed	1/27/97					Shahara Oil Corp.	Shahara State 16 Unit	Lea			

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41	11703	(4)						Parker & Parsley Dev., L.P.	Lusk West (Delaware) Unit	Lea	West Lusk-Delaware		
42	11724	(4)						Gillespie-Crow, Inc.	West Lovington Strawn	Lea	West Lovington-Strawn	Strawn	

Footnotes:

- (1) Statutory Unitization approved by 100% of the Working Interest Owners but less than 100% of the Royalty Interest Owners.
- (2) At the statutory unitization hearing, Oxy's attorney agreed to the exclusion of a non-consent penalty against non-consenting parties.
- (3) Non-consent penalty reduced by NMOCD from 400% to 200%.
- (4) Per Florene Davidson, OCD orders not issued as of 8-6-97.

ter 289, Section 21) is amended to read:

"65-13-16. CONSTRUCTION OF ACT.—Nothing in the Energy and Minerals Department Act shall be construed to nullify the authority which any other existing state department or agency has with respect to transportation or transmission of energy or with respect to the management, protection and utilization of the state lands and resources under its jurisdiction, or the regulation of utilities, it being the express intent of the legislature that the protection herein afforded this state and to its citizens shall be in addition to those already provided.

The provisions of Section 3 and paragraphs (5), (6) and (7) of Subsection B of Section 6 of the Energy and Minerals Department Act shall not be construed to grant to the secretary any power or jurisdiction not specifically granted to the secretary by law to regulate or control the severance, production, beneficiation, distribution, use, pricing, sale or leasing of fuel, power or natural resources."

Section 109. Section 65-14-3 MMSA 1953 (being Laws 1975, Chapter 293, Section 3) is amended to read:

"65-14-3. ADDITIONAL POWERS AND DUTIES OF THE OIL CONSERVATION DIVISION.—Subject to the limitations of the Statutory Unitization Act the oil conservation division of the energy and minerals department, hereinafter referred to as the "division", is hereby vested with jurisdiction, power and authority and it shall be its duty to make and enforce such orders and do such things as may be necessary or proper to carry out and effectuate the purposes of the Statutory Unitization

Act."

Section 110. Section 65-14-4 MMSA 1953 (being Laws 1975, Chapter 293, Section 4) is amended to read:

"65-14-4. DEFINITIONS.—For the purposes of the Statutory Unitization Act, unless the context otherwise requires:

A. "pool" means an underground reservoir containing a common accumulation of crude petroleum oil or natural gas or both. Each zone of a general structure, which zone is completely separate from any other zone in the structure, is covered by the word pool as used herein. Pool is synonymous with "common source of supply" and with "common reservoir";

B. "oil and gas" means crude oil, natural gas, casinghead gas, condensate or any combination thereof;

C. "waste", in addition to its meaning in Section 65-3-3 MMSA 1953, shall include both economic and physical waste resulting, or that could reasonably be expected to result, from the development and operation separately of tracts that can best be developed and operated as a unit;

D. "working interest" means an interest in unitized substances by virtue of a lease, operating agreement, fee title or otherwise, excluding royalty owners, owners of overriding royalties, oil and gas payments, carried interests, mortgages and lien claimants but including a carried interest, the owner of which is primarily obligated to pay, either in cash or out of production or otherwise, a portion of the unit expense; however, oil and gas rights that are free

of lease or other instrument creating a working interest shall be regarded as a working interest to the extent of seven-eighths thereof and a royalty interest to the extent of the remaining one-eighth thereof;

E. "working interest owner" or "lessee" means a person who owns a working interest;

F. "royalty interest" means a right to or interest in any portion of the unitized substances or proceeds thereof other than a working interest;

G. "royalty owner" means a person who owns a royalty interest;

H. "unit operator" means the working interest owner, designated by working interest owners under the unit operating agreement or the division to conduct unit operations, acting as operator and not as a working interest owner;

I. "basic royalty" means the royalty reserved in the lease but in no event exceeding one-eighth; and

J. "relative value" means the value of each separately owned tract for oil and gas purposes and its contributing value to the unit in relation to like values of other tracts in the unit, taking into account acreage, the quantity of oil and gas recoverable therefrom, location on structure, its probable productivity of oil and gas in the absence of unit operations, the burden of operation to which the tract will or is likely to be subjected, or so many of said factors, or such other pertinent engineering, geological, operating

or pricing factors, as may be reasonably susceptible of determination."

Section 111. Section 65-14-5 NMSA 1953 (being Laws 1975, Chapter 293, Section 5) is amended to read:

"65-14-5. REQUISITES OF APPLICATION FOR UNITIZATION.--Any working interest owner may file an application with the division requesting an order for the unit operation of a pool or any part thereof. The application shall contain:

A. a description of the proposed unit area and the vertical limits to be included therein with a map or plat thereof attached;

B. a statement that the reservoir or portion thereof involved in the application has been reasonably defined by development;

C. a statement of the type of operations contemplated for the unit area;

D. a copy of a proposed plan of unitization which the applicant considers fair, reasonable and equitable;

E. a copy of a proposed operating plan covering the manner in which the unit will be supervised and managed and costs allocated and paid; and

F. an allegation of the facts required to be found by the division under Section 65-14-6 NMSA 1953."

Section 112. Section 65-14-6 NMSA 1953 (being Laws 1975, Chapter 293, Section 6) is amended to read:

"65-14-6. MATTERS TO BE FOUND BY THE DIVISION PRECEDENT TO ISSUANCE OF UNITIZATION ORDER.--

A. After an application for unitization has been filed with

the division and after notice and hearing, all in the form and manner and in accordance with the procedural requirements of the division, and prior to reaching a decision on the petition, the division shall determine whether or not each of the following conditions exists:

(1) that the unitized management, operation and further development of the oil or gas pool or a portion thereof is reasonably necessary in order to effectively carry on pressure maintenance or secondary or tertiary recovery operations, to substantially increase the ultimate recovery of oil and gas from the pool or the unitized portion thereof;

(2) that one or more of the said unitized methods of operations as applied to such pool or portion thereof is feasible, will prevent waste and will result with reasonable probability in the increased recovery of substantially more oil and gas from the pool or unitized portion thereof than would otherwise be recovered;

(3) that the estimated additional costs, if any, of conducting such operations will not exceed the estimated value of the additional oil and gas so recovered plus a reasonable profit;

(4) that such unitization and adoption of one or more of such unitized methods of operation will benefit the working interest owners and royalty owners of the oil and gas rights within the pool or portion thereof directly affected;

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

(6) that the participation formula contained in the unitization agreement allocates the produced and saved unitized hydrocarbons to the separately owned tracts in the unit area on a fair, reasonable and equitable basis.

B. If the division determines that the participation formula contained in the unitization agreement does not allocate unitized hydrocarbons on a fair, reasonable and equitable basis, the division shall determine the relative value, from evidence introduced at the hearing, taking into account the separately owned tracts in the unit area, exclusive of physical equipment, for development of oil and gas by unit operations, and the production allocated to each tract shall be the proportion that the relative value of each tract so determined bears to the relative value of all tracts in the unit area.

C. When the division determines that the preceding conditions exist it shall make findings to that effect and make an order creating the unit and providing for the unitization and unitized operation of the pool or portion thereof described in the order, all upon such terms and conditions as may be shown by the evidence to be fair, reasonable, equitable and which are necessary or proper to protect and safeguard the respective rights and obligations of the working interest owners and royalty owners."

Section 113. Section 65-14-7 MSA 1953 (being Laws 1975, Chapter 293, Section 7) is amended to read:

"65-14-7. DIVISION ORDERS.--The order providing for unitization

and unit operation of a pool or part thereof shall be upon terms and conditions that are fair, reasonable and equitable and shall approve or prescribe a plan or unit agreement for unit operation which shall include:

- A. a legal description in terms of surface area of the pool or part thereof to be operated as a unit and the vertical limits to be included therein termed "the unit area";
- B. a statement of the nature of the operations contemplated;
- C. an allocation to the separately owned tracts in the unit area of all the oil and gas that is produced from the unit area and is saved, being the production that is not used in the conduct of operations on the unit area or not unavoidably lost;
- D. a provision for the credits and charges to be made in the adjustment among the owners in the unit area for their respective investments in wells, tanks, pumps, machinery, materials and equipment contributed to the unit operations;
- E. a provision governing how the costs of unit operations including capital investments shall be determined and charged to the separately owned tracts and how said costs shall be paid including a provision providing when, how, and by whom the unit production allocated to an owner who does not pay the share of the costs of unit operations charged to such owner, or the interest of such owner, may be sold and the proceeds applied to the payment of such costs;
- F. a provision for carrying any working interest owner on a limited, carried or net-profits basis, payable out of production,

upon such terms and conditions determined by the division to be just and reasonable, and allowing an appropriate charge for interest for such service payable out of such owner's share of production, provided that any nonconsenting working interest owner being so carried shall be deemed to have relinquished to the unit operator all of its operating rights and working interest in and to the unit until his share of the costs, service charge and interest are repaid to the unit operator;

G. a provision designating the unit operator and providing for the supervision and conduct of the unit operations, including the selection, removal or substitution of an operator from among the working interest owners to conduct the unit operations;

H. a provision for a voting procedure for the decision of matters to be decided by the working interest owners in respect to which each working interest owner shall have a voting interest equal to its unit participation;

I. the time when the unit operation shall commence and the manner in which, and the circumstances under which, the operations shall terminate and for the settlement of accounts upon such termination; and

J. such additional provisions that are found to be appropriate for carrying on the unit operations and for the protection of correlative rights and the prevention of waste."

Section 114. Section 65-14-8 NMSA 1953 (being Laws 1975, Chapter 293, Section 8) is amended to read:

"65-14-8. RATIFICATION OR APPROVAL OF PLAN BY OWNERS.--

A. No order of the division providing for unit operations shall become effective unless and until the plan for unit operations prescribed by the division has been approved in writing by those persons who, under the division's order, will be required initially to pay at least seventy-five percent of the costs of the unit operations, and also by the owners of at least seventy-five percent of the production or proceeds thereof that will be credited to interests which are free of cost such as royalties, overriding royalties and production payments, and the division has made a finding either in the order providing for unit operations or in a supplemental order, that the plan for unit operations has been so approved. Notwithstanding any other provisions of this section, if seventy-five percent or more of the unit area is owned, as to working interest, by one working interest owner, such working interest owner must be joined by at least one other working interest owner in ratifying and approving the plan of unit operations, unless such working interest owner is the owner of one hundred percent of the working interest in said unit area; provided, however, if a single owner is one who, under the division's order will be required initially to pay at least twenty-five percent, but not more than fifty percent, of the costs of unit operation, such owner must be joined by at least one other owner of the same type interest in disapproving, or failure to approve, the plan of unit operations to defeat the plan.

B. If one owner is the owner of at least twenty-five per-

cent, but not more than fifty percent, of the production or proceeds thereof that will be credited to interests which are free of costs, such owner must be joined by at least one other owner of the same type interest in disapproving, or failure to approve, the plan of unit operations to defeat the plan.

C. If the persons owning the required percentage of interest in the unit area do not approve the plan for unit operations within a period of six months from the date on which the order providing for unit operations is made, such order shall cease to be of further force and effect and shall be revoked by the division, unless the division shall extend the time for ratification for good cause shown.

D. When the persons owning the required percentage of interest in the unit area have approved the plan for unit operations, the interests of all persons in the unit are unitized whether or not such persons have approved the plan of unitization in writing."

Section 115. Section 65-14-9 MMSA 1953 (being Laws 1973, Chapter 293, Section 9) is amended to read:

"65-14-9. AMENDMENT OF PLAN OF UNITIZATION.—An order providing for unit operations may be amended by an order made by the division in the same manner and subject to the same conditions as an original order providing for unit operations, provided:

A. if such an amendment affects only the rights and interests of the working interest owners, the approval of the amendment by the royalty owners shall not be required; and

B. no such amendment shall change the percentage for the

allocation of oil and gas as established for any separately owned tract by the original order, except with the consent of all working interest owners and royalty owners in such tract, or change the percentage for the allocation of costs as established for any separately owned tract by the original order, except with the consent of all working interest owners in such tract."

Section 116. Section 65-14-10 NMSA 1953 (being Laws 1975, Chapter 293, Section 10) is amended to read:

"65-14-10. PREVIOUSLY ESTABLISHED UNITS.—The division, by order, may provide for the unit operation of a pool or parts thereof that embrace a unit area established by a previous order of the division. Such order, in providing for the allocation of unit production, shall first treat the unit area previously established as a single tract, and the portion of the unit production allocated thereto shall then be allocated among the separately owned tracts included in such previously established unit area in the same proportions as those specified in the previous order."

Section 117. Section 65-14-12 NMSA 1953 (being Laws 1975, Chapter 293, Section 12) is amended to read:

"65-14-12. OPERATION—EXPRESSED OR IMPLIED COVENANTS.—All operations, including but not limited to, the commencement, drilling or operation of a well upon any portion of the unit area shall be deemed for all purposes the conduct of such operations upon each separately owned tract in the unit area by the several owners thereof. The portions of the unit production allocated to a separately owned

tract in a unit area shall, when produced, be deemed, for all purposes, to have been actually produced from such tract by a well drilled thereon. Operations conducted pursuant to an order of the division providing for unit operations shall constitute a fulfillment of all the express or implied obligations for each lease or contract covering lands in the unit area to the extent that compliance with such obligations cannot be had because of the order of the division."

Section 118. Section 65-14-16 NMSA 1953 (being Laws 1975, Chapter 293, Section 16) is amended to read:

"65-14-16. DIVISION ORDERS.--

A. No division order or other contract relating to the sale or purchase of production from a separately owned tract shall be terminated by the order providing for unit operations, but shall remain in force and apply to oil and gas allocated to such tract until terminated in accordance with the provisions thereof.

B. For purposes of this section, "division order" shall mean a contract of sale to the purchaser of oil and gas."

Section 119. Section 65-14-18 NMSA 1953 (being Laws 1975, Chapter 293, Section 18) is amended to read:

"65-14-18. EXISTING RIGHTS, RIGHTS IN UNLEASED LAND, AND ROYALTIES AND LEASE BURDENS.--Property rights, leases, contracts, and other rights or obligations shall be regarded as amended and modified only to the extent necessary to conform to the provisions and requirements of the Statutory Unitization Act and to any valid order of the division providing for the unit operation of a pool or a part thereof, but

otherwise shall remain in full force and effect. A one-eighth part of the production allocated to each tract under an order providing for the unit operation of a pool or a part thereof, shall in all events be and remain free and clear of any cost or expense of developing or operating the unit and of any lien therefor as an encumbered source from which to pay the royalties or other cost-free obligations due or payable with respect to the production from such tract. If a lease or other contract pertaining to a tract or interest stipulates a royalty, overriding royalty, production payment, or other obligation in excess of one-eighth of the production or proceeds therefrom, then the working interest owner subject to such excess payment or other obligation shall bear and pay the same."

Section 120. Section 65-14-21 MMSA 1953 (being Laws 1975, Chapter 293, Section 21) is amended to read:

"65-14-21. UNLAWFUL OPERATION.—From and after the date designated by the division that a unit plan shall become effective, the operation of any well producing from the pool within the area subject to said unit plan, by persons other than persons acting under the authority of the unit plan, or except in the manner and to the extent provided in such unit plan, shall be unlawful and is hereby prohibited."

Section 121. A new Section 68-4-1.1 MMSA 1953 is enacted to read:

"68-4-1.1. PUBLIC SERVICE COMMISSION ADMINISTRATIVELY ATTACHED TO ENERGY AND MINERALS DEPARTMENT.—The public service commission is administratively attached, as defined in the Executive Reorganization Act, to the energy and minerals department."

Section 122. TERMINATION.--The energy and minerals department shall terminate pursuant to the provisions of the Executive Reorganization Act on July 1, 1983.

Section 123. EFFECTIVE DATE.--The effective date of the provisions of this act is March 31, 1978.

Laws 1963, ch. 139, § 7; 1977, ch. 265, § 72; 1981, ch. 125, § 53.

Cross references. — For telegraph and telephone

42A-2-4 NMSA 1978. For railroads' right of eminent domain, see 42A-2-3 and 42A-2-4 NMSA 1978.

70-6-8. Ownership of injected gas.

All natural gas which has previously been reduced to possession, and which is subsequently injected into underground storage in any strata or formation shall at all times be deemed the property of the injector, his heirs, successors or assigns; and in no event shall such gas be subject to the right of the owner of the surface of said lands or of any mineral interest therein, under which said strata or formation lie, or of any person other than the injector, his heirs, successors and assigns, to produce, take, reduce to possession, waste or otherwise interfere with or exercise any control thereover, provided that the injector, his heirs, successors and assigns shall have no right to gas in any stratum, formation or portion thereof, in which storage rights have not been acquired pursuant to this act [70-6-1 to 70-6-8 NMSA 1978], or otherwise purchased.

History: 1963 Comp., § 65-9-8, enacted by Laws 1963, ch. 139, § 8.

Am. Jur. 2d, A.L.R. and C.J.S. references. —

Rights and liabilities with respect to natural gas reduced to possession and subsequently stored in natural reservoir, 94 A.L.R.2d 643.

ARTICLE 7

Statutory Unitization Act

Sec.

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70-7-1. Purpose of act.

The legislature finds and determines that it is desirable and necessary under the circumstances and for the purposes hereinafter set out to authorize and provide for the unitized management, operation and further development of the oil and gas properties to which the Statutory Unitization Act [70-7-1 to 70-7-21 NMSA 1978] is applicable, to the end that greater ultimate recovery may be had therefrom, waste prevented, and correlative rights protected of all owners of mineral interests in each unitized area. It is the intention of the legislature that the Statutory Unitization Act apply to any type of operation that will substantially increase the recovery of oil above the amount that would be recovered by primary recovery alone and not to what the industry understands as exploratory units.

History: 1953 Comp., § 65-14-1, enacted by Laws 1976, ch. 293, § 1.

Law reviews. — For article, "On an Institutional

Arrangement for Developing Oil and Gas in the Gulf of Mexico", see 26 Nat. Resources J. 717 (1986).

70-7-2. Short title.

This act [70-7-1 to 70-7-21 NMSA 1978] may be cited as the "Statutory Unitization Act."

History: 1953 Comp., § 65-14-2, enacted by Laws 1975, ch. 293, § 2.

70-7-3. Additional powers and duties of the oil conservation division.

Subject to the limitations of the Statutory Unitization Act [70-7-1 to 70-7-21 NMSA 1978], the oil conservation division of the energy, minerals and natural resources department, hereinafter referred to as the "division", is vested with jurisdiction, power and authority and it shall be its duty to make and enforce such orders and do such things as may be necessary or proper to carry out and effectuate the purposes of the Statutory Unitization Act.

History: 1953 Comp., § 65-14-3, enacted by Laws 1975, ch. 293, § 3; 1977, ch. 255, § 109; 1987, ch. 234, § 67.

The 1987 amendment, effective July 1, 1987,

substituted "energy, minerals and natural resources" for "energy and minerals" and made minor changes in language.

70-7-4. Definitions.

For the purposes of the Statutory Unitization Act [70-7-1 to 70-7-21 NMSA 1978], unless the context otherwise requires:

A. "pool" means an underground reservoir containing a common accumulation of crude petroleum oil or natural gas or both. Each zone of a general structure, which zone is completely separate from any other zone in the structure, is covered by the word pool as used herein. Pool is synonymous with "common source of supply" and with "common reservoir";

B. "oil and gas" means crude oil, natural gas, casinghead gas, condensate or any combination thereof;

C. "waste," in addition to its meaning in Section 70-2-3 NMSA 1978, shall include both economic and physical waste resulting, or that could reasonably be expected to result, from the development and operation separately of tracts that can best be developed and operated as a unit;

D. "working interest" means an interest in unitized substances by virtue of a lease, operating agreement, fee title or otherwise, excluding royalty owners, owners of overriding royalties, oil and gas payments, carried interests, mortgages and lien claimants but including a carried interest, the owner of which is primarily obligated to pay, either in cash or out of production or otherwise, a portion of the unit expense; however, oil and gas rights that are free of lease or other instrument creating a working interest shall be regarded as a working interest to the extent of seven-eighths thereof and a royalty interest to the extent of the remaining one-eighth thereof;

E. "working interest owner" or "lessee" means a person who owns a working interest;

F. "royalty interest" means a right to or interest in any portion of the unitized substances or proceeds thereof other than a working interest;

G. "royalty owner" means a person who owns a royalty interest;

H. "unit operator" means the working interest owner, designated by working interest owners under the unit operating agreement or the division to conduct unit operations, acting as operator and not as a working interest owner;

I. "basic royalty" means the royalty reserved in the lease but in no event exceeding one-eighth; and

J. "relative value" means the value of each separately owned tract for oil and gas purposes and its contributing value to the unit in relation to like values of other tracts in the unit, taking into account acreage, the quantity of oil and gas recoverable therefrom, location on structure, its probable productivity of oil and gas in the absence of unit operations, the burden of operation to which the tract will or is likely to be subjected, or so many of said factors, or such other pertinent engineering, geological, operating or pricing factors, as may be reasonably susceptible of determination.

History: 1953 Comp., § 65-14-4, enacted by Laws 1975, ch. 293, § 4; 1977, ch. 255, § 110.

70-7-5. Requisites of application for unitization.

Any working interest owner may file an application with the division requesting an order for the unit operation of a pool or any part thereof. The application shall contain:

A. a description of the proposed unit area and the vertical limits to be included therein with a map or plat thereof attached;

B. a statement that the reservoir or portion thereof involved in the application has been reasonably defined by development;

C. a statement of the type of operations contemplated for the unit area;

D. a copy of a proposed plan of unitization which the applicant considers fair, reasonable and equitable;

E. a copy of a proposed operating plan covering the manner in which the unit will be supervised and managed and costs allocated and paid; and

F. an allegation of the facts required to be found by the division under Section 70-7-6 NMSA 1978.

History: 1953 Comp., § 65-14-5, enacted by Laws 1975, ch. 293, § 6; 1977, ch. 255, § 111.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 38 Am. Jur. 2d Gas and Oil §§ 164, 172.

Compulsory pooling or unitization statute or ordinance requiring owners or lessees of oil and gas lands to develop their holdings as a single drilling unit and the like, 37 A.L.R.2d 434.

70-7-6. Matters to be found by the division precedent to issuance of unitization order.

A. After an application for unitization has been filed with the division and after notice and hearing, all in the form and manner and in accordance with the procedural requirements of the division, and prior to reaching a decision on the petition, the division shall determine whether or not each of the following conditions exists:

(1) that the unitized management, operation and further development of the oil or gas pool or a portion thereof is reasonably necessary in order to effectively carry on pressure maintenance or secondary or tertiary recovery operations, to substantially increase the ultimate recovery of oil and gas from the pool or the unitized portion thereof;

(2) that one or more of the said unitized methods of operations as applied to such pool or portion thereof is feasible, will prevent waste and will result with reasonable probability in the increased recovery of substantially more oil and gas from the pool or unitized portion thereof than would otherwise be recovered;

(3) that the estimated additional costs, if any, of conducting such operations will not exceed the estimated value of the additional oil and gas so recovered plus a reasonable profit;

(4) that such unitization and adoption of one or more of such unitized methods of operation will benefit the working interest owners and royalty owners of the oil and gas rights within the pool or portion thereof directly affected;

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

(6) that the participation formula contained in the unitization agreement allocates the produced and saved unitized hydrocarbons to the separately owned tracts in the unit area on a fair, reasonable and equitable basis.

B. If the division determines that the participation formula contained in the unitization agreement does not allocate unitized hydrocarbons on a fair, reasonable and equitable basis, the division shall determine the relative value, from evidence introduced at the hearing, taking into account the separately owned tracts in the unit area, exclusive of physical equipment, for development of oil and gas by unit operations, and the production allocated to each tract shall be the proportion that the relative value of each tract so determined bears to the relative value of all tracts in the unit area.

C. When the division determines that the preceding conditions exist, it shall make findings to that effect and make an order creating the unit and providing for the unitization and unitized operation of the pool or portion thereof described in the order, all upon such terms and conditions as may be shown by the evidence to be fair, reasonable, equitable and which are necessary or proper to protect and safeguard the respective rights and obligations of the working interest owners and royalty owners.

History: 1963 Comp., § 65-14-6, enacted by Laws 1976, ch. 293, § 6; 1977, ch. 255, § 113.

70-7-7. Division orders.

The order providing for unitization and unit operation of a pool or part of a pool shall be upon terms and conditions that are fair, reasonable and equitable and shall approve or prescribe a plan or unit agreement for unit operation which shall include:

A. a legal description in terms of surface area of the pool or part of the pool to be operated as a unit and the vertical limits to be included, termed "the unit area";

B. a statement of the nature of the operations contemplated;

C. an allocation to the separately owned tracts in the unit area of all the oil and gas that is produced from the unit area and is saved, being the production that is not used in the conduct of operations on the unit area or not unavoidably lost;

D. a provision for the credits and charges to be made in the adjustment among the owners in the unit area for their respective investments in wells, tanks, pumps, machinery, materials and equipment contributed to the unit operations;

E. a provision governing how the costs of unit operations, including capital investments, shall be determined and charged to the separately owned tracts and how the costs shall be paid, including a provision providing when, how and by whom the unit production allocated to an owner who does not pay the share of the costs of unit operations charged to that owner or the interest of that owner may be sold and the proceeds applied to the payment of costs;

F. a provision for carrying any working interest owner on a limited, carried or net-profits basis, payable out of production, upon such terms and conditions determined by the division to be just and reasonable and allowing an appropriate charge for interest for such service payable out of the owner's share of production; provided that any nonconsenting working interest owner being so carried shall be deemed to have relinquished to the unit operator all of its operating rights and working interest in and to the unit until his share of the costs are repaid, plus an amount not to exceed two hundred percent of such costs as a nonconsent penalty, with maximum penalty amount in each case to be determined by the division;

G. a provision designating the unit operator and providing for the supervision and conduct of the unit operations, including the selection, removal or substitution of an operator from among the working interest owners to conduct the unit operations;

H. a provision for a voting procedure for the decision of matters to be decided by the working interest owners in respect to which each working interest owner shall have a voting interest equal to its unit participation;

I. the time when the unit operation shall commence and the manner in which and the circumstances under which the operations shall terminate and for the settlement of accounts upon termination; and

J. such additional provisions as are found to be appropriate for carrying on the unit operations and for the protection of correlative rights and the prevention of waste.

History: 1963 Comp., § 65-14-7, enacted by Laws 1976, ch. 293, § 7; 1977, ch. 255, § 113; 1986, ch. 66, § 1.

The 1986 amendment, effective May 21, 1986, at

the end of Subsection F, added the language following "in and to the unit until" and made minor stylistic changes throughout the section.

70-7-8. Ratification or approval of plan by owners.

A. No order of the division providing for unit operations shall become effective unless and until the plan for unit operations prescribed by the division has been approved in writing by those persons who, under the division's order, will be required initially to pay at least seventy-five percent of the costs of the unit operations, and also by the owners of at least seventy-five percent of the production or proceeds thereof that will be credited to interests which are free of cost such as royalties, overriding royalties and production payments, and the division has made a finding either in the order providing for unit operations or in a supplemental order that the plan for unit operations has been so approved. Notwithstanding any other provisions of this section, if seventy-five percent or more of the unit area is owned, as to working interest, by one working interest owner, such working interest owner must be joined by at least one other working interest owner in ratifying and approving the plan of unit operations, unless such working interest owner is the owner of one hundred percent of the working interest in said unit area; provided, however, if a single owner is one who, under the division's order will be required initially to pay at least twenty-five percent, but not more than fifty percent, of the costs of unit operation, such owner must be joined by at least one other owner of the same type interest in disapproving, or failure to approve, the plan of unit operations to defeat the plan.

B. If one owner is the owner of at least twenty-five percent, but not more than fifty percent, of the production or proceeds thereof that will be credited to interests which are free of costs, such owner must be joined by at least one other owner of the same type interest in disapproving, or failure to approve, the plan of unit operations to defeat the plan.

C. If the persons owning the required percentage of interest in the unit area do not approve the plan for unit operations within a period of six months from the date on which the order providing for unit operations is made, such order shall cease to be of further force and effect and shall be revoked by the division, unless the division shall extend the time for ratification for good cause shown.

D. When the persons owning the required percentage of interest in the unit area have approved the plan for unit operations, the interests of all persons in the unit are unitized whether or not such persons have approved the plan of unitization in writing.

History: 1953 Comp., § 65-14-8, enacted by
Laws 1975, ch. 293, § 8; 1977, ch. 255, § 114.

70-7-9. Amendment of plan of unitization.

An order providing for unit operations may be amended by an order made by the division in the same manner and subject to the same conditions as an original order providing for unit operations, provided:

A. if such an amendment affects only the rights and interests of the working interest owners, the approval of the amendment by the royalty owners shall not be required; and

B. no such amendment shall change the percentage for the allocation of oil and gas as established for any separately owned tract by the original order, except with the consent of all working interest owners and royalty owners in such tract, or change the percentage for the allocation of costs as established for any separately owned tract by the original order, except with the consent of all working interest owners in such tract.

History: 1953 Comp., § 65-14-9, enacted by
Laws 1975, ch. 293, § 9; 1977, ch. 255, § 115.

70-7-10. Previously established units.

The division, by order, may provide for the unit operation of a pool or parts thereof that embrace a unit area established by a previous order of the division. Such order, in providing for the allocation of unit production, shall first treat the unit area previously established as a single tract, and the portion of the unit production allocated thereto shall then be allocated

among the separately owned tracts included in such previously established unit area in the same proportions as those specified in the previous order.

History: 1953 Comp., § 65-14-10, enacted by
Laws 1975, ch. 293, § 10; 1977, ch. 255, § 116.

70-7-11. Unit operations of less than an entire pool.

An order may provide for unit operation on less than the whole of a pool where the unit area is of such size and shape as may be reasonably suitable for that purpose, and the conduct thereof will have no adverse effect upon other portions of the pool.

History: 1953 Comp., § 65-14-11, enacted by
Laws 1975, ch. 293, § 11.

Am. Jur. 2d, A.L.R. and C.J.S. references. —
38 Am. Jur. 2d Gas and Oil §§ 164, 172.

70-7-12. Operation; expressed or implied covenants.

All operations, including but not limited to, the commencement, drilling or operation of a well upon any portion of the unit area shall be deemed for all purposes the conduct of such operations upon each separately owned tract in the unit area by the several owners thereof. The portions of the unit production allocated to a separately owned tract in a unit area shall, when produced, be deemed, for all purposes, to have been actually produced from such tract by a well drilled thereon. Operations conducted pursuant to an order of the division providing for unit operations shall constitute a fulfillment of all the express or implied obligations for each lease or contract covering lands in the unit area to the extent that compliance with such obligations cannot be had because of the order of the division.

History: 1953 Comp., § 65-14-12, enacted by
Laws 1975, ch. 293, § 12; 1977, ch. 255, § 117.

70-7-13. Income from unitized substances.

The portion of the unit production allocated to any tract, and the proceeds from the sale thereof, shall be the property and income of the several persons to whom, or to whose credit, the same are allocated or payable under the order providing for unit operations.

History: 1953 Comp., § 65-14-13, enacted by
Laws 1975, ch. 293, § 13.

70-7-14. Lien for costs.

Subject to such reasonable limitations as may be set out in the plan of unitization, the unit shall have a first and prior lien upon the leasehold estate and other oil and gas rights (exclusive of a one-eighth royalty interest or exclusive of the interest provided in the unit operating plan which allocates costs, if it is different than one-eighth) in and to each separately owned tract, the interest of the owners thereof in and to the unit production and all equipment in the possession of the unit, to secure the payment of the amount of the unit expense charged to and assessed against such separately owned tract.

History: 1953 Comp., § 65-14-14, enacted by
Laws 1975, ch. 293, § 14.

70-7-15. Liability for expenses.

The obligation or liability of each working interest owner in the several separately owned tracts in the unit for the payment of unit expense at all times shall be several and not joint or collective, and a working interest owner shall not be chargeable with, obligated or liable for, directly or indirectly, more than the amount apportioned, assessed or otherwise charged to his interest in the separately owned tract pursuant to the order of unitization.

History: 1953 Comp., § 65-14-15, enacted by Laws 1975, ch. 293, § 15.

70-7-16. Division orders.

A. No division order or other contract relating to the sale or purchase of production from a separately owned tract shall be terminated by the order providing for unit operations, but shall remain in force and apply to oil and gas allocated to such tract until terminated in accordance with the provisions thereof.

B. For purposes of this section, "division order" shall mean a contract of sale to the purchaser of oil and gas.

History: 1953 Comp., § 65-14-16, enacted by Laws 1975, ch. 293, § 16; 1977, ch. 255, § 115.

70-7-17. Property rights.

Except to the extent that the parties affected so agree, no order providing for unit operations shall be construed to result in a transfer of all or any part of the title of any person to the oil and gas rights in any tract in the unit area. All property, whether real or personal, that may be acquired in the conduct of unit operations hereunder shall be acquired for the account of the working interest owners within the unit area, and shall be the property of such working interest owners in the proportion that the costs of unit operations are charged.

History: 1953 Comp., § 65-14-17, enacted by Laws 1975, ch. 293, § 17.

70-7-18. Existing rights, rights in unleased land and royalties and lease burdens.

Property rights, leases, contracts and other rights or obligations shall be regarded as amended and modified only to the extent necessary to conform to the provisions and requirements of the Statutory Unitization Act [70-7-1 to 70-7-21 NMSA 1978] and to any valid order of the division providing for the unit operation of a pool or a part thereof, but otherwise shall remain in full force and effect. A one-eighth part of the production allocated to each tract under an order providing for the unit operation of a pool or a part thereof shall in all events be and remain free and clear of any cost or expense of developing or operating the unit and of any lien therefor as an encumbered [unencumbered] source from which to pay the royalties or other cost-free obligations due or payable with respect to the production from such tract. If a lease or other contract pertaining to a tract or interest stipulates a royalty, overriding royalty, production payment or other obligation in excess of one-eighth of the production or proceeds therefrom, then the working interest owner subject to such excess payment or other obligation shall bear and pay the same.

History: 1953 Comp., § 65-14-18, enacted by Laws 1975, ch. 293, § 18; 1977, ch. 255, § 119.
Bracketed material. — The bracketed word "un-

encumbered" was inserted by the compiler as the apparently intended term. It was not enacted by the legislature and is not a part of the law.

70-7-19. Agreements not violative of laws governing monopolies or restraint of trade.

No agreement between or among lessees or other owners of oil and gas rights in oil and gas properties entered into pursuant hereto or with a view or for the purpose of bringing about the unitized development or operation of such properties shall be held to violate any of the statutes of this state prohibiting monopolies or acts, arrangements, agreements, contracts, combinations or conspiracies in restraint of trade or commerce.

History: 1963 Comp., § 65-14-19, enacted by Laws 1975, ch. 293, § 19.

70-7-20. Evidence of unit to be recorded.

A copy of each unit agreement shall be recorded in the office of the county clerk of the county or counties in which the unit is situated.

History: 1963 Comp., § 65-14-20, enacted by Laws 1975, ch. 293, § 20.

70-7-21. Unlawful operation.

From and after the date designated by the division that a unit plan shall become effective, the operation of any well producing from the pool within the area subject to said unit plan, by persons other than persons acting under the authority of the unit plan, or except in the manner and to the extent provided in such unit plan, shall be unlawful and is hereby prohibited.

History: 1963 Comp., § 65-14-21, enacted by Laws 1975, ch. 293, § 21; 1977, ch. 255, § 120.

ARTICLE 8

Emergency Petroleum Products Supplies

Sec.

70-8-1. Short title.

70-8-2. Purpose and findings.

70-8-3. Definitions.

70-8-4. Consent as a condition of doing business.

Sec.

70-8-5. Prohibited acts.

70-8-5.1. Exemption.

70-8-6. Right of action; injunction; damages.

70-8-1. Short title.

This act [70-8-1 to 70-8-6 NMSA 1978] may be cited as the "Emergency Petroleum Products Supply Act."

History: 1963 Comp., § 65-10-1, enacted by Laws 1974, ch. 22, § 1.

Meaning of "this act". — The term "this act" means Laws 1974, Chapter 22, which appears as

70-8-1 to 70-8-5 and 70-8-6 NMSA 1978. However, Laws 1979, Chapter 174 added present 70-8-5.1 NMSA 1978 to the Emergency Petroleum Products Supply Act.

70-8-2. Purpose and findings.

The legislature hereby determines that:

A. shortages of petroleum products caused by discontinuance or significant reductions of normal and customary availability in New Mexico of petroleum supplies create severe economic dislocations and hardships, including loss of jobs, closing of factories and businesses, reduction of crop plantings and harvesting, and curtailment of vital public services, including the transportation of food and other essential goods;

B. such hardships and dislocations are a threat to the public health, safety and welfare and can be averted or minimized through the operation of the Emergency Petroleum Products Supply Act [70-8-1 to 70-8-6 NMSA 1978];

C. the purpose of the Emergency Petroleum Products Supply Act is to avert or minimize such threats to the public health, safety and welfare; and

D. the preservation of existing marketing and distribution facilities of petroleum products in the state is necessary to prevent chaos and promote the public health, safety and welfare.

History: 1963 Comp., § 65-10-2, enacted by Laws 1974, ch. 22, § 2.

STATE OF NEW MEXICO
OIL AND MINERALS DEPARTMENT
OIL CONSERVATION DIVISION

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
COMMISSION FOR THE PURPOSE OF
CONSIDERING:

CASE NO. 6987
Order No. R-6447

APPLICATION OF GETTY OIL COMPANY
FOR STATUTORY UNITIZATION, LEA
COUNTY, NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9 a.m. on August 5, 1980, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this 27th day of August, 1980, the Commission, a quorum being present, having considered the testimony and the record and being otherwise fully advised in the premises,

FINDS:

(1) That due public notice having been given as required by law, the Commission has jurisdiction of this cause and the subject matter thereof.

(2) That the applicant, Getty Oil Company, seeks the statutory unitization, pursuant to the "Statutory Unitization Act," Sections 70-7-1 through 70-7-21, NMSA 1978, of 9,360 acres, more or less, being a portion of the Langlie Mattix Pool, Lea County, New Mexico, said portion being known as the Myers Langlie-Mattix Unit Area and applicant further seeks approval of the Unit Agreement as revised and the Unit Operating Agreement as revised.

(3) That the Myers Langlie-Mattix Unit Agreement was approved by the Oil Conservation Commission by Order No. R-4680 entered in Case No. 5087 on October 31, 1973.

(4) That the Myers Langlie-Mattix Unit became effective on February 1, 1974, and has been operated by Getty Oil Company and its predecessor in interest, Skelly Oil Company, since that date.

(5) That the applicant seeks statutory unitization of this voluntary unit to enable it to institute more effective and efficient operating practices thereby extending the economic life of the unit.

(6) That the unit area should be designated the Myers Langlie-Mattix Unit Area and the horizontal limits of said unit area should be comprised of the following described lands:

TOWNSHIP 23 SOUTH, RANGE 36 EAST, NMPH

Section 25: N/2 NE/4, SE/4 NE/4, E/2
SW/4, SW/4 SW/4, and SE/4
Section 36: N/2, SE/4, and E/2 SW/4

TOWNSHIP 23 SOUTH, RANGE 37 EAST, NMPH

Section 28: SW/4
Section 29: W/2, W/2 E/2, and E/2 SE/4
Section 30: N/2, SW/4, N/2 SE/4, and
SW/4 SE/4
Sections 31 through 33: All
Section 34: W/2

TOWNSHIP 24 SOUTH, RANGE 36 EAST, NMPH

Section 1: NE/4 NE/4
Section 12: S/2 N/2, N/2 S/2, and SE/4
SE/4

TOWNSHIP 24 SOUTH, RANGE 37 EAST, NMPH

Section 2: W/2 NE/4 and W/2
Section 3: NE/4, E/2 SE/4, and W/2
SW/4
Sections 4 and 5: All
Section 6: E/2, E/2 W/2, and NW/4
NW/4
Section 7: N/2, SE/4, and S/2 SW/4
Section 8: N/2, N/2 S/2, and SW/4
SW/4
Section 9: NW/4, N/2 SW/4, N/2 NE/4,
and SE/4 NE/4
Section 10: NW/4, W/2 NE/4, SE/4 NE/4,
E/2 SW/4, and W/2 SE/4

Section 11: SW/4 NW/4

(7) That the vertical limits of said Myers Langlie-Mattix Unit Area should comprise that interval which extends from a point 100 feet above the base of the Seven Rivers formation to

the base of the Queen formation; said interval having been heretofore found to occur in the Texas Pacific Oil Company's Blinbry "B" Well No. 3 located 330 feet from the North line and 2310 feet from the West line of Section 34, Township 23 South, Range 37 East, NMPM, Lea County, New Mexico, at an indicated depth interval of 3168 feet to 3570 feet, as recorded on the Schlumberger Electrical Log Run No. 1 taken December 26, 1952, said log being measured from a derrick floor elevation of 3300 feet above sea level.

(8) That the portion of the Langlie Mattix Pool proposed to be included in the aforesaid Myers Langlie-Mattix Unit Area has been reasonably defined by development.

(9) That the applicant proposes to continue water flooding for the secondary recovery of oil, gas, gaseous substances, sulfur contained in gas, condensate, distillate and all associated and constituent liquid or liquifiable hydrocarbons within and to be produced from the proposed unit area.

(10) That the continuation of secondary recovery operations as a result of statutory unitization should result in the additional recovery of approximately 500,000 barrels of oil.

(11) That the unitized management, operation and further development of the Myers Langlie-Mattix Unit Area, as proposed, is reasonably necessary to effectively carry on secondary recovery operations and will substantially increase the ultimate recovery of oil from the unitized portion of the pool.

(12) That the proposed unitized method of operation as applied to the Myers Langlie-Mattix Unit Area is feasible and will result with reasonable probability in the increased recovery of substantially more oil from the unitized portion of the pool than would otherwise be recovered without unitization.

(13) That the estimated additional investment costs which result from statutory unitization are \$1.6 million from which can be deducted \$600,000, which will be saved by not having to maintain separate production facilities on certain tracts within the unit area for a net additional investment of \$1 million.

(14) That the additional recovery to be derived from the extended secondary recovery operations resulting from statutory unitization will have a gross value to the unit of \$18.24 million.

(15) That the estimated additional costs of the proposed operations (as described in Finding No. (13) above) will not exceed the estimated value of the additional oil (as described in Finding No. (14) above) plus a reasonable profit.

(16) That the applicant, the designated Unit Operator pursuant to the Unit Agreement and the Unit Operation Agreement, has made a good faith effort to secure voluntary unitization within the Myers Langlie-Mattix Unit Area.

(17) That the participation formula contained in the Unit Agreement allocates the produced and saved unitized substances to the separately owned tracts in the unit area on a fair, reasonable, and equitable basis.

(18) That statutory unitization and the adoption of the proposed unitized method of operation will benefit the working interest owners and royalty owners of the oil and gas rights within the Myers Langlie-Mattix Unit Area.

(19) That the granting of the application in this case will have no adverse effect upon other portions of the Langlie Mattix Pool.

(20) That applicant's Exhibits Nos. 9 and 11 as revised by Exhibits 10 and 12 in this case, being the Unit Agreement and the Unit Operating Agreement, respectively, should be incorporated by reference into this order.

(21) That the Myers Langlie-Mattix Unit Agreement and the Myers Langlie-Mattix Unit Operating Agreement provide for unitization and unit operation of the Myers Langlie-Mattix Unit Area upon terms and conditions that are fair, reasonable, and equitable, and which include:

(a) an allocation to the separately owned tracts in the unit area of all oil and gas that is produced from the unit area and which is saved, being the production that is not used in the conduct of unit operations or not unavoidably lost;

(b) a provision for the credits and charges to be made in the adjustment among the owners in the unit area for their respective investments in wells, tanks, pumps, machinery, materials, and equipment contributed to the unit operations;

(c) a provision governing how the costs of unit operations including capital investments shall be determined and charged to the separately owned tracts and how said costs shall be paid including a provision providing when, how, and by whom the unit production allocated to an owner who does not pay his share of the costs of unit operations shall be charged to such owner, or the interest of such owner, and how his interest may be sold and the proceeds applied to the payment of his costs;

(d) a provision for carrying any working interest owner on a limited, carried, or net-profits basis, payable out of production, upon such terms and conditions which are just and reasonable, and which allow an appropriate charge for interest for such service payable out of production, upon such terms and conditions determined by the Commission to be just and reasonable, and allowing an appropriate charge for interest for such service payable out of such owner's share of production, providing that any nonconsenting working interest owner being so carried shall be deemed to have relinquished to the Unit Operator all of his operating rights and working interests in and to the unit until his share of the costs, service charge, and interest are repaid to the Unit Operator;

(e) a provision designating the Unit Operator and providing for the supervision and conduct of the unit operations, including the selection, removal or substitution of an operator from among the working interest owners to conduct the unit operations;

(f) a provision for voting procedure for the decision of matters to be decided by the working interest owners in respect to which each working interest owner shall have a voting interest equal to his unit participation; and

(g) the time when the unit operation shall commence and the manner in which, and the circumstances under which, the operations shall terminate and for the settlement of accounts upon such termination.

(22) That applicant seeks establishment of an administrative procedure whereby the conversion of additional wells to injection may be approved without further notice or hearing.

(23) That the statutory unitization of the Myers Langlie-Mattix Unit Area is in conformity with the above findings, and

will prevent waste and protect the correlative rights of all owners of interest within the proposed unit area, and should be approved.

IT IS THEREFORE ORDERED:

(1) That the Myers Langlie-Mattix Unit Area, comprising 9,360 acres, more or less, in the Langlie Mattix Pool, Lea County, New Mexico, is hereby approved for statutory unitization pursuant to the Statutory Unitization Act, Sections 70-7-1 through 70-7-21 NMSA 1978.

(2) That the lands included within the Myers Langlie-Mattix Unit Area shall be comprised of:

TOWNSHIP 23 SOUTH, RANGE 36 EAST, NMPM

Section 25: N/2 NE/4, SE/4 NE/4, E/2 SW/4, SW/4 SW/4, and SE/4

Section 36: N/2, SE/4, and E/2 SW/4

TOWNSHIP 23 SOUTH, RANGE 37 EAST, NMPM

Section 28: SW/4

Section 29: W/2, W/2 E/2, and E/2 SE/4

Section 30: N/2, SW/4, N/2 SE/4, and SW/4 SE/4

Sections 31 through 33: All

Section 34: W/2

TOWNSHIP 24 SOUTH, RANGE 36 EAST, NMPM

Section 1: NE/4 NE/4

Section 12: S/2 N/2, N/2 S/2, and SE/4 SE/4

TOWNSHIP 24 SOUTH, RANGE 37 EAST, NMPM

Section 2: W/2 NE/4 and W/2

Section 3: NE/4, E/2 SE/4, and W/2 SW/4

Sections 4 and 5: All

Section 6: E/2, E/2 W/2, and NW/4 NW/4

Section 7: N/2, SE/4, and S/2 SW/4

Section 8: N/2, N/2 S/2, and SW/4 SW/4

Section 9: NW/4, N/2 SW/4, N/2 NE/4, and SE/4 NE/4

Section 10: NW/4, W/2 NE/4, SE/4 NE/4, E/2 SW/4, and W/2 SE/4

Section 11: SW/4 NW/4

(3) That the vertical limits of said Myers Langlie-Mattix Unit Area should comprise that interval which extends from a point 100 feet above the base of the Seven Rivers formation to the base of the Queen formation; said interval having been heretofore found to occur in the Texas Pacific Oil Company's Blinebry "B" Well No. 3 located 330 feet from the North line and 2310 feet from the West line of Section 34, Township 23 South, Range 37 East, NMPM, Lea County, New Mexico, at an indicated depth interval of 3168 feet to 3570 feet, as recorded on the Schlumberger Electrical Log Run No. 1 taken December 26, 1952, said log being measured from a derrick floor elevation of 3300 feet above sea level.

(4) That the applicant shall waterflood for the secondary recovery of oil, gas, gaseous substances, sulfur contained in gas, condensate, distillate, and all associated and constituent liquid or liquified hydrocarbons within and produced from the unit area.

(5) That the Myers Langlie-Mattix Unit Agreement as revised and the Myers Langlie-Mattix Unit Operating Agreement as revised are approved and adopted and incorporated by reference into this order.

(6) That when, pursuant to the terms of Sections 70-7-9 NMSA 1978, the persons owning the required percentage of interest in the unit area have approved or ratified the Unit Agreement and the Unit Operating Agreement, the interests of all persons within the unit area are unitized whether or not such persons have approved the Unit Agreement or the Unit Operating Agreement in writing.

(7) That the applicant as Unit Operator shall notify in writing the Division Director of any removal or substitution of said Unit Operator by any other working interest owner within the unit area.

(8) That the applicant is authorized to convert additional wells to injection in accordance with the provisions of Division Rule 701 E 4.

(9) That jurisdiction of this cause is retained for the entry of such further orders as the Commission may deem necessary.

-8-
Case No. 6987
Order No. R-6447

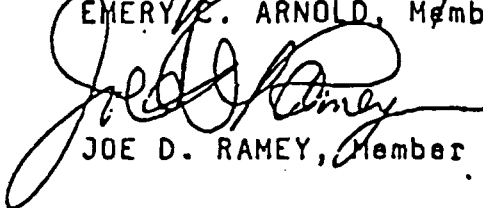
DONE at Santa Fe, New Mexico, on the day and year herein-
above designated.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

ALEX J. ARMIJO; Member



EMERY C. ARNOLD, Member



JOE D. RAMEY, Member & Secretary

S E A L

fd/

Oxy U.S.A. Inc.'s

Central Corbin Queen Unit

**1990 Statutory Unitization Hearing,
Testimony, UOA, and Order**

Central Corbin Queen Unit

Statutory Unitization Hearing Testimony

1 STATE OF NEW MEXICO
2 ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
3 OIL CONSERVATION DIVISION
4 CASES 10062, 10063, 10064
5

6 EXAMINER HEARING
7

8 IN THE MATTER OF:

- 9 Application of OXY USA, Inc., for Statutory
10 Unitization, Lea County, New Mexico
11 Application of OXY USA, Inc., for a
12 Waterflood Project, Lea County, New Mexico
13 Application of OXY USA, Inc., for Pool
14 Contraction and Extension, Lea County, New Mexico
15
16

17 TRANSCRIPT OF PROCEEDINGS
18

19 BEFORE: MICHAEL E. STOGNER, EXAMINER
20

21 STATE LAND OFFICE BUILDING
22 SANTA FE, NEW MEXICO
23 September 5, 1990
24

25 ORIGINAL

EXAMINATION

1

2 BY MR. STOVALL:

3 Q. Is there a provision in either the Unit
4 Agreement or the Unit Operating Agreement for carrying
5 of nonconsenting parties? I'll preface that by saying
6 that I didn't find one as I skimmed through it?

7 A. No, sir, there isn't. And the only
8 reference I would make to that would be that under the
9 Statutory Unitization Act in 70-7, provision (F) it
10 does say that in the event you have a nonconsenting
11 working interest party, that they could be subject to
12 cost, 100 percent plus 200 percent penalty. The
13 question never came up except one of Santa Fe
14 Exploration's working interest parties asked me would
15 he would be exposed to that, and I said I could not
16 answer that. There was a provision under the Act--

17 Q. Let me interrupt you here, Mr. Dickenson.
18 I'm reading 70-7-7, "...and shall approve or prescribe
19 a plan for a Unit Agreement for unit operations which
20 shall include"--and I'll go to your paragraph (F)--"a
21 provision for carrying any working interest owner
22 unlimited during a net profits basis," and further
23 down it provides, "carrying plus an amount not to
24 exceed 200 percent."

25 My interpretation of that statutory

1 provision is that the Unit Agreement or Unit Operating
2 Agreement needs to have that provision for carrying
3 included in it. Would you been willing to amend the
4 Agreement?

5 MR. KELLAHIN: No, sir. Mr. Stovall, we've
6 made the conscious decision not to seek the nonconsent
7 provisions that apply in the statute and it's been
8 intentionally deleted from the operating agreement.

9 MR. STOVALL: So, in effect the
10 nonparticipating interest would be carried at no
11 penalty?

12 MR. KELLAHIN: That's right.

13 EXAMINER STOGNER: Any other questions of
14 this witness? If not, Mr. Dickenson--

15 THE WITNESS: If I might, in response to
16 Mr. Stovall--

17 MR. STOGNER: Mr. Kellahin?

18 MR. KELLAHIN: There's no question before
19 you, Mr. Dickenson.

20 EXAMINER STOGNER: Okay. Mr. Dickenson,
21 you may be excused.

22 MR. KELLAHIN: That concludes our
23 presentation, Mr. Examiner.

24 EXAMINER STOGNER: Mr. Padilla, do you have
25 a witness?

1 MR. PADILLA: Can I take a short break? I
2 think I can reduce it to one. I do have one.

3 EXAMINER STOGNER: Let's take about a
4 ten-minute recess at this time.

5 (Thereupon, a recess was taken.)

6 EXAMINER STOGNER: The hearing will come to
7 order. Let's see, we wish to recall Mr. Dickenson at
8 this time. Mr. Stovall has a question.

9 CHARLES E. DICKENSON

10 the witness herein, after having been previously duly
11 sworn upon his oath, was examined and testified
12 further as follows:

13 EXAMINATION

14 BY MR. STOVALL:

15 Q. Mr. Dickenson, you testified as to the
16 overhead rates, and I'm particularly talking about the
17 producing well rate of \$735 and I will state that
18 that's probably higher than the Division normally
19 grants.

20 However, you did make some statement, and
21 as I look on page 2 of the COPAS attached to the
22 operating agreement, did I understand you correctly to
23 say you are including, within that overhead charge,
24 rather than as a direct charge, items which under the
25 COPAS are normally provided for as a direct charge?

Central Corbin Queen Unit

Unit Operating Agreement

UNIT OPERATING AGREEMENT
CENTRAL CORBIN QUEEN UNIT
LEA COUNTY, NEW MEXICO

EXHIBIT E

UNIT OPERATING AGREEMENT
CENTRAL CORBIN QUEEN UNIT
LEA COUNTY, NEW MEXICO

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Interest Owner is greater than the amount charged against such Working Interest Owner, the resulting net credit shall be paid to such Working Interest Owner by Unit Operator out of funds received by it in settlement of the net charges described above.

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

10.5 Ownership of Property and Facilities. Each Working Interest Owner, individually, shall by virtue hereof own an undivided interest, equal to its Unit Participation in all wells, equipment, and facilities taken over or otherwise acquired by Unit Operator pursuant to this Agreement.

ARTICLE 11

UNIT EXPENSE

11.1 Basis of Charge to Working Interest Owners. Unit Operator initially shall pay all Unit Expense. Each Working Interest Owner shall reimburse Unit Operator for its share of Unit Expense. Each Working Interest Owner's share shall be the same as its Unit Participation. All charges, credits, and accounting for Unit Expense shall be in accordance with Exhibit C.

11.2 Budgets. Before or as soon as practical after the Effective Date, Unit Operator shall prepare a budget of estimated Unit Expense for the remainder of the calendar year, and thereafter shall prepare budgets as determined by Working Interest Owners.

Budgets shall be estimates only, and shall be adjusted or corrected by Working Interest Owners and Unit Operator whenever an adjustment or correction is proper. A copy of each budget and adjusted budget shall be furnished promptly to each Working Interest Owner.

11.3 Advance Billings. Unit Operator shall have the right to require Working Interest Owners to advance their respective shares of estimated Unit Expense as provided by Exhibit C.

11.4 Commingling of Funds. Funds received by Unit Operator under this Agreement need not be segregated or maintained by Unit Operator as a separate fund, but may be commingled with its own funds.

11.5 Unpaid Unit Expense. If any Working Interest Owner fails or is unable to pay its share of Unit Expense within sixty (60) days after rendition of a statement therefor by Unit Operator, the non-defaulting Working Interest Owners shall, upon request by Unit Operator, pay the unpaid amount as if it were Unit Expense in the proportion that the Unit Participation of each such Working Interest Owner bears to the Unit Participation of all such Working Interest Owners. Each Working Interest Owner so paying its share of the unpaid amount shall, to obtain reimbursement thereof, be subrogated to the security rights described in Section 11.6 of this Agreement.

11.6 Security Rights. In addition to any other security rights and remedies provided for by the laws of this State with respect to services rendered or materials and equipment furnished under this Agreement, Unit Operator shall have a first and prior lien upon each Working Interest, including the Unitized Substances

and Unit Equipment credited thereto, in order to secure payment of the Unit Expense charged against such Working Interest, together with interest thereon at the rate set forth in Exhibit C or the maximum rate allowed by law, whichever is less. If any Working Interest Owner does not pay its share of Unit Expense when due, Unit Operator shall have the right to collect from the purchaser the proceeds from the sale of such Working Interest Owner's share of Unitized Substances until the amount owed, plus interest at the rate herein provided, has been paid. Each purchaser shall be entitled to rely on Unit Operator's statement concerning the amount owed and the interest payable thereon.

11.7 Carved-out Interests. Any overriding royalty, production payment, net proceeds interest, carried interest or any other interest carved out of a Working Interest shall be subject to this Agreement. If a Working Interest Owner does not pay its share of Unit Expense and the proceeds from the sale of Unitized Substances under Section 11.6 are insufficient for that purpose, the security rights provided for therein may be applied against the carved-out interests with which such Working Interest is burdened. In such event, the owner of such carved-out interest shall be subrogated to the security rights granted by Section 11.6.

ARTICLE 12

NONUNITIZED FORMATIONS

12.1 Right to Operate. Any Working Interest Owner that now has or hereafter acquires the right to drill for and produce oil, gas, or other minerals, from a formation underlying the Unit Are

writing and shall be deemed to have been properly served with a copy of the same if sent by mail or telegram to the address of the representative of each Working Interest Owner as furnished to Unit Operator in accordance with Article 4.

ARTICLE 16

WITHDRAWAL OF WORKING INTEREST OWNER

16.1 Withdrawal. A Working Interest Owner may withdraw from this agreement by transferring, without warranty of title either express or implied, to the Working Interest Owners who do not desire to withdraw all its Oil and Gas Rights, exclusive of Royalty Interests, together with its interest in all Unit Equipment and in all wells used in Unit Operations, provided that such transfer shall not relieve such Working Interest Owner from any obligation or liability incurred prior to the first day of the month following receipt by Unit Operator of such transfer. The delivery of the transfer shall be made to Unit Operator for the transferees. The transferred interest shall be owned by the transferees in proportion to their respective interests so acquired, shall pay the transferor for its interest in Unit Equipment, the salvage value thereof less its share of the estimated cost of salvaging same and of plugging and abandoning all wells then being used or held for Unit Operations, as determined by Working Interest Owners. In the event such withdrawing owner's interest in the aforesaid salvage value is less than such owner's share of such estimated costs, the withdrawing owner, as a condition precedent to withdrawal, shall pay the Unit Operator,

for the benefit of Working Interest Owners succeeding to its interest, a sum equal to the deficiency. Within sixty (60) days after receiving delivery of the transfer, Unit Operator shall render a final statement to the withdrawing owner for its share of Unit Expense, including any deficiency in salvage value, as determined by Working Interest Owners, incurred as of the first day of the month following the date of receipt of the transfer. Provided all Unit Expense, including any deficiency hereunder, due from the withdrawing owner has been paid in full within thirty (30) days after the rendering of such final statement by the Unit Operator, the transfer shall be effective the first day of the month following its receipt by Unit Operator and, as of such effective date, withdrawing owner shall be relieved from all further obligations and liabilities hereunder and under the Unit Agreement, and the rights of the withdrawing Working Interest Owner hereunder and under the Unit Agreement shall cease insofar as they existed by virtue of the interest transferred.

16.2 Limitation on Withdrawal. Notwithstanding anything set forth in Section 16.1, Working Interest Owners may refuse to permit the withdrawal of a Working Interest Owner if its Working Interest is burdened by any royalties, overriding royalties, production payments, net proceeds interest, carried interest, or any other interest created out of the Working Interest in excess of one-eighth (1/8) lessor's royalty, unless the other Working Interest Owners willing to accept the assignment agree to accept the Working Interest subject to such burdens.

Central Corbin Queen Unit

Order R-9336

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

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
DIVISION FOR THE PURPOSE OF
CONSIDERING:

CASE NO. 10062
Order No. R-9336

APPLICATION OF OXY USA, INC.
FOR STATUTORY UNITIZATION, LEA
COUNTY, NEW MEXICO.

ORDER OF THE DIVISION

BY THE DIVISION:

This cause came on for hearing at 8:15 a.m. on September 5, 1990, at Santa Fe, New Mexico, before Examiner Michael E. Stogner.

NOW, on this 29th day of October, 1990, the Division Director, having considered the testimony, the record, and the recommendations of the Examiner, and being fully advised in the premises,

FINDS THAT:

- (1) Due public notice having been given as required by law, the Division has jurisdiction of this cause and the subject matter thereof.
- (2) Division Case Nos. 10062, 10063 and 10064 were consolidated at the time of the hearing for the purpose of testimony.
- (3) The applicant, OXY USA, Inc., seeks the statutory unitization, pursuant to the "Statutory Unitization Act", Sections 70-7-1 through 70-7-21, NMSA (1978), of 1561.19 acres, more or less, being a portion of the Central Corbin-Queen Pool, Lea County, New Mexico, said portion to be known as the Central Corbin Queen Unit; the applicant further seeks approval of the Unit Agreement and the Unit Operating Agreement which were submitted in evidence as applicant's Exhibit Nos. 14 and 15 in this case.

(4) The horizontal limits of said unit area should be comprised of the following described Federal and Fee lands in Lea County, New Mexico:

TOWNSHIP 18 SOUTH, RANGE 33 EAST, NMPM

Section 3: Lot 4, SW/4 NW/4, and W/2 SW/4
Section 4: Lots 1, 2 and 3, S/2 N/2, and S/2
Section 8: E/2 NE/4
Section 9: N/2, N/2 SW/4, SE/4 SW/4, and SE/4
Section 10: W/2 NW/4 and NW/4 SW/4

(5) The horizontal limits of said unit are within the governing boundaries of the Central Corbin Queen Pool and have been reasonably defined by development.

(6) The vertical limits of said Unit Area should comprise that interval which extends from an upper limit described as 215 feet below mean sea level or at the top of the Queen formation, whichever is higher, to a lower limit at the base of the Queen formation; the geologic markers having been previously found to occur at 4200 feet and 4246 feet, respectively, in OXY USA, Inc.'s Federal AA Well No. 1, located 990 feet from the North line and 1980 feet from the East line (Unit B) of Section 9, Township 18 South, Range 33 East, NMPM, Lea County, New Mexico, as recorded on the Schlumberger CNL-LDT log taken on November 10, 1984, said log being measured from a kelly drive bushing elevation of 3985 feet above sea level.

(7) The unit area contains nine separate tracts of land owned by twenty-eight different working interest owners.

(8) The applicant has made a good faith effort to secure voluntary unitization within the Unit Area and at the time of the hearing 93.03 percent of the working interest owners and approximately 91.792 percent of the royalty interest owners were effectively committed to the unit.

(9) The applicant proposes to institute a waterflood project for the secondary recovery of oil and associated gas, condensate, and all associated liquefiable hydrocarbons within and to be produced from the proposed unit area (being the subject of Division Case No. 10063).

(10) Santa Fe Exploration Company, a 2.00833 percent working interest owner in said unit appeared at the hearing in opposition to this case but presented no new technical evidence for its opposition.

(11) The proposed secondary recovery operations should result in the additional recovery of approximately 550,000 barrels of oil.

(12) The unitized management, operation and further development of the Central Corbin Queen Unit Area, as proposed, is reasonably necessary to effectively carry on secondary recovery operations and will substantially increase the ultimate recovery of oil and gas from the unitized portion of the pool.

(13) The proposed unitized method of operation as applied to the Central Corbin Queen Unit Area is feasible and will result with reasonable probability in the increased recovery of substantially more oil and gas from the unitized portion of the pool than would otherwise be recovered without unitization.

(14) The estimated additional costs of such operations will not exceed the estimated value of the additional oil so recovered plus a reasonable profit.

(15) Such unitization and adoption of applicant's proposed unitized method of operation will benefit the working interest owners and royalty owners of the oil and gas rights within the Central Corbin Queen Unit Area.

(16) The granting of the application in this case will have no adverse effect upon the Central Corbin-Queen Pool.

(17) The applicant's Exhibit Nos. 14 and 15 in this case, being the Statutory Unit Agreement and the Unit Statutory Operating Agreement, respectively, should be incorporated by reference into this order.

(18) The Central Corbin Queen Unit Agreement and the Central Corbin Queen Unit Operating Agreement provide for unitization and unit operation of the Central Corbin Queen Unit Area upon terms and conditions that are fair, reasonable and equitable, and include:

- (a) an allocation to the separately owned tracts of the unit area of all oil and gas that is produced from the unit area and which is saved, being the production that is not used in the conduct of unit operations or not unavoidably lost;

- (b) a provision for the credits and charges to be made in the adjustment among the owners in the unit area for their respective investments in wells, tanks, pumps, machinery, materials and equipment contributed to the unit operators;
- (c) a provision governing how the costs of unit operations including capital investments shall be determined and charged to the separately-owned tracts and how said costs shall be paid, including a provision providing when, how and by whom such costs shall be charged to such owner, or the interest of such owner, and how his interest may be sold and the proceeds applied to the payment of his costs;

(d) a provision for carrying any working interest owner on a limited, carried or net-profits basis, payable out of production, upon terms and conditions which are just and reasonable, and which allow an appropriate charge for interest for such service payable out of production, upon such terms and conditions determined by the Division to be just and reasonable;

- (e) a provision designating the Unit Operator and providing for supervision and conduct of the unit operations, including the selection, removal and substitution of an operator from among the working interest owners to conduct the unit operations;
- (f) a provision for a voting procedure for decisions on matters to be decided by the working interest owners in respect to which each working interest owner shall have a voting interest equal to his unit participation; and
- (g) the time when the unit operation shall commence and the manner in which, and the circumstances under which, the operations shall terminate and for the settlement of accounts upon such termination.

(19) Section 70-7-7.F. NMSA of said "Statutory Unitization Act" provides that any working interest owner who has not agreed in writing to participate in a unit could have relinquished to the unit operator all of its operating rights and working interest in and to the unit until his share of the costs has been repaid plus an additional 200 percent thereof as a non-consent penalty.

(20) At the time of the hearing, the applicant requested that no additional penalty be assessed these working interest owners in said unit who have not committed their interests.

(21) The statutory unitization of the Central Corbin Queen Unit Area is in conformity with the above findings, and will prevent waste and protect correlative rights of all interest owners within the proposed unit area, and should be approved.

IT IS THEREFORE ORDERED THAT:

(1) The application of OXY USA, Inc. for the Central Corbin Queen Unit Agreement, covering 1561.19 acres, more or less, of Federal and Fee lands in the Central Corbin-Queen Pool, Lea County, New Mexico, is hereby approved for statutory unitization pursuant to the "Statutory Unitization Act", Sections 70-7-1 through 70-7-21, NMSA (1978).

(2) The lands covered by said Central Corbin Queen Unit Agreement shall be designated the Central Corbin Queen Unit Area and shall comprise the following described acreage in Lea County, New Mexico:

TOWNSHIP 18 SOUTH, RANGE 33 EAST, NMPM

Section 3: Lot 4, SW/4 NW/4, and W/2 SW/4
Section 4: Lots 1, 2 and 3, S/2 N/2, and S/2
Section 8: E/2 NE/4
Section 9: N/2, N/2 SW/4, SE/4 SW/4, and SE/4
Section 10: W/2 NW/4 and NW/4 SW/4

(3) The vertical limits of said Unit Area shall comprise that interval which extends from an upper limit described as 215 feet below mean sea level or at the top of the Queen formation, whichever is higher, to a lower limit at the base of the Queen formation; the geologic markers having been previously found to occur at 4200 feet and 4246 feet, respectively, in OXY USA, Inc.'s Federal AA Well No. 1, located 990 feet from the North line and 1980 feet from the East line (Unit B) of Section 9, Township 18 South, Range 33 East, NMPM, Lea County, New Mexico, as recorded on the Schlumberger CNL-LDT log taken on November 10, 1984, said log being measured from a kelly drive bushing elevation of 3985 feet above sea level.

(4) The applicant shall institute a waterflood project for the secondary recovery of oil and associated gas, condensate and all associated liquefiable hydrocarbons within and produced from the unit area, and said waterflood project is the subject of Division Case No. 10063.

(5) The Central Corbin Queen Unit Agreement and the Central Corbin Queen Unit Operating Agreement, which were submitted to the Division at the time of the hearing as Exhibits 14 and 15, respectively, are hereby incorporated by reference into this order.

(6) The Central Corbin Queen Unit Agreement and the Central Corbin Queen Unit Operating Agreement provide for unitization and unit operation of the Central Corbin-Queen Pool upon terms and conditions that are fair, reasonable and equitable.

(7) Since persons owning the required statutory minimum percentage of interest in the unit area have approved or ratified the Unit Agreement and the Unit Operating Agreement, the interests of all persons within the unit area are hereby unitized whether or not such persons have approved the Unit Agreement or the Unit Operating Agreement in writing.

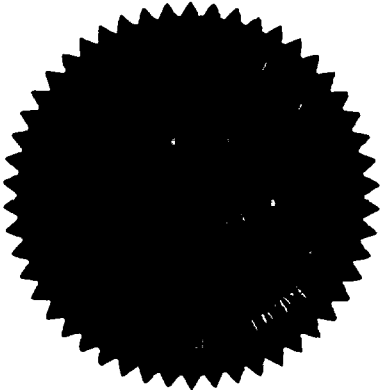
(8) Any working interest owner who has not agreed in writing to participate in the unit prior to the date of this order shall be deemed to have relinquished to the unit operator all of his operating rights and working interest in and to the unit until his share of the costs has been repaid. Such repayment shall include no non-consent penalty (Section 70-7-7.F NMSA 1978).

(9) The applicant as Unit Operator shall notify in writing the Division Director of any removal or substitution of said Unit Operator by any other working interest owner within the area.

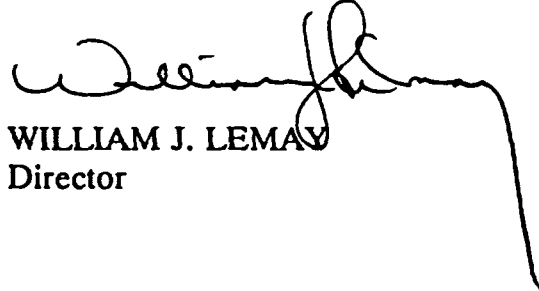
(10) Jurisdiction of this cause is retained for the entry of such further orders as the Division may deem necessary.

Case No. 10062
Order No. R-9336
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DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

A handwritten signature in black ink, appearing to read "William J. Lemay". The signature is fluid and cursive, with a long, sweeping tail that extends downwards and to the right.

WILLIAM J. LEMAY
Director

S E A L