

YATES PETROLEUM CORPORATION

UNIT OPERATING AGREEMENT

NORTH DAGGER DRAW UPPER PENN UNIT

Dated: October 1, 2003

Township 19 South, Range 25 East

Section 16: All

Section 17: All

Section 18: Lots 3,4, E/2SW/4, SE/4NW/4,  
SW/4NE/4, E/2NE/4, SE/4

Section 19: All

Section 20: All

Section 21: All

Section 28: All

Section 29: All

Section 30: All

Eddy County, New Mexico

BEFORE THE OIL CONSERVATION DIVISION  
Santa Fe, New Mexico

Case Nos. 13227/13228 Exhibit No. 5

Submitted by:

Yates Petroleum Corporation

Hearing Date: March 4, 2004

UNIT OPERATING AGREEMENT  
NORTH DAGGER DRAW UPPER PENN UNIT  
EDDY COUNTY, NEW MEXICO

	<u>INDEX</u>	<u>PAGE</u>
ARTICLE 1	CONFIRMATION OF UNIT AGREEMENT	
	1.1 Confirmation of Unit Agreement . . . . .	1
ARTICLE 2	EXHIBITS	
	2.1 Exhibits . . . . .	1
	2.2 Revision of Exhibits . . . . .	2
	2.3 Reference to Exhibits . . . . .	2
ARTICLE 3	SUPERVISION OF OPERATIONS BY WORKING INTEREST OWNERS	
	3.1 Overall Supervision . . . . .	2
	3.2 Specific Authorities and Duties . . . . .	2
ARTICLE 4	MANNER OF EXERCISING SUPERVISION	
	4.1 Designation of Representatives . . . . .	4
	4.2 Meetings . . . . .	4
	4.3 Voting Procedure . . . . .	4
ARTICLE 5	INDIVIDUAL RIGHTS OF WORKING INTEREST OWNERS	
	5.1 Reservation of Rights . . . . .	5
	5.2 Specific Rights . . . . .	5
	5.3 Undrilled Locations . . . . .	5
	5.4 Taking Unitized Substances In Kind . . . . .	5
ARTICLE 6	UNIT OPERATOR	
	6.1 Unit Operator . . . . .	6
	6.2 Resignation or Removal & Selection of Successor . . . . .	6
	6.3 Successor Unit Operator . . . . .	7
ARTICLE 7	AUTHORITIES AND DUTIES OF UNIT OPERATOR	
	7.1 Exclusive Right to Operate Unit . . . . .	8
	7.2 Workmanlike Conduct . . . . .	8
	7.3 Liens and Encumbrances . . . . .	8
	7.4 Employees . . . . .	8
	7.5 Records . . . . .	8
	7.6 Reports to Working Interest Owners . . . . .	8
	7.7 Reports to Governmental Authorities . . . . .	8
	7.8 Engineering and Geological Information . . . . .	8
	7.9 Expenditures . . . . .	8
	7.10 Wells Drilled by Unit Operator . . . . .	8
	7.11 Mathematical Errors . . . . .	9
	7.12 Border Agreement . . . . .	9
	7.13 Conflict of Supervision . . . . .	9

ARTICLE 8	TAXES	
	8.1 Ad Valorem Taxes . . . . .	9
	8.2 Other Taxes . . . . .	9
ARTICLE 9	INSURANCE	
	9.1 Insurance. . . . .	10
ARTICLE 10	ADJUSTMENT OF INVESTMENTS	
	10.1 Personal Property Taken Over . . . . .	10
	10.2 Inventory and Evaluation of Personal Property. . .	10
	10.3 Investment Adjustment. . . . .	10
	10.4 General Facilities . . . . .	11
	10.5 Ownership of Personal Property & Facilities. . . .	11
ARTICLE 11	UNIT EXPENSE	
	11.1 Basis of Charge to Working Interest Owner. . . . .	11
	11.2 Budgets . . . . .	11
	11.3 Advance Billings . . . . .	12
	11.4 Commingling of Funds . . . . .	12
	11.5 Lien and Security Interest of Unit Operator and Working Interest Owners. . . . .	12
	11.6 Unpaid Unit Expense. . . . .	13
	11.7 Carved-Out Interest. . . . .	14
	11.8 Salvage Credit . . . . .	14
	11.9 Rentals. . . . .	14
ARTICLE 12	NON-UNITIZED FORMATION	
	12.1 Right to Operate . . . . .	14
ARTICLE 13	TITLES	
	13.1 Warranty and Indemnity . . . . .	15
	13.2 Failure Because of Unit Operations . . . . .	15
ARTICLE 14	LIABILITY, CLAIMS AND SUITS	
	14.1 Individual Liability . . . . .	15
	14.2 Settlements. . . . .	15
ARTICLE 15	LAWS AND REGULATIONS	
	15.1 Internal Revenue Provisions. . . . .	16
	15.2 Statutory Unitization. . . . .	16
ARTICLE 16	NOTICES	
	16.1 Notices. . . . .	16
ARTICLE 17	WITHDRAWAL OF WORKING INTEREST OWNER	
	17.1 Withdrawal. . . . .	17

ARTICLE 18	ABANDONMENT OF WELLS	
	18.1 Rights of Former Owners . . . . .	17
	18.2 Plugging. . . . .	18
ARTICLE 19	EFFECTIVE DATE AND TERM	
	19.1 Effective Date. . . . .	18
	19.2 Term. . . . .	18
ARTICLE 20	ABANDONMENT OF OPERATIONS	
	20.1 Termination . . . . .	18
ARTICLE 21	LAWS, REGULATIONS AND CERTIFICATE OF COMPLIANCE	
	21.1 Laws and Regulations . . . . .	19
	21.2 Certificate of Compliance. . . . .	19
ARTICLE 22	EXECUTION	
	22.1 Original, Counterpart, or Other Instrument . . . . .	19
ARTICLE 23	SUCCESSORS AND ASSIGNS	
	23.1 Successors and Assigns. . . . .	20
	EXHIBIT "A" Map of the Unit Area	
	EXHIBIT "B" Schedule of Lands and Ownership	
	EXHIBIT "C" Schedule of Owner Unit Participation	
	EXHIBIT "D" Schedule of Owner Remaining Primary Reserves	
	EXHIBIT "E" Schedule of Owner Values for Withdrawal from Unit	
	EXHIBIT "F" Accounting Procedure	
	EXHIBIT "G" Insurance Provisions	
	EXHIBIT "H" Certificate of Non-segregated Facilities	

UNIT OPERATING AGREEMENT  
NORTH DAGGER DRAW UPPER PENN UNIT  
EDDY COUNTY, NEW MEXICO

THIS AGREEMENT, entered into as the 1<sup>st</sup> day of October, 2003 by and between the parties who have signed the original of this instrument, a counterpart thereof, or other instrument agreeing to become a party hereto.

WITNESSETH:

WHEREAS, the parties hereto as Working Interest Owners have executed, as of the date hereof, an Agreement entitled "Unit Agreement, North Dagger Draw Upper Penn Unit, Eddy County, New Mexico, herein referred to as "Unit Agreement," which, among other things, provides for a separate agreement to be entered into by Working Interest Owners to provide for Unit Operations as therein defined.

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

ARTICLE 1

CONFIRMATION OF UNIT AGREEMENT

1.1 Confirmation of Unit Agreement. The Unit Agreement is hereby confirmed and by reference made a part of this Agreement. The definitions in the Unit Agreement are adopted for all purposes of this Agreement. If there is any conflict between the Unit Agreement and this Agreement, the Unit Agreement shall govern.

ARTICLE 2

EXHIBITS

2.1 Exhibits. The following exhibits are incorporated herein by reference

2.1.1 Exhibit "A", attached hereto, is a map of the Unit Area showing the boundaries of each Tract and their respective Tract Numbers.

2.1.2 Exhibit "B", attached hereto, is a schedule showing all lands and leases, legal descriptions thereof and ownership within each Tract.

2.1.3 Exhibit "C", attached hereto, is a schedule showing the Unit Participation of each Working Interest Owner. Exhibit "C", or a revision thereof, shall not be conclusive as to the information

therein, except it may be used as showing the Unit Participations of Working Interest Owners for purposes of this Agreement until shown to be in error or revised as herein authorized.

2.1.4 Exhibit "D", attached hereto, is a schedule of remaining primary reserves allocable to each of the Working Interest Owners.

2.1.5 Exhibit "E", attached hereto, is a schedule of values of remaining primary reserves allocable to each Working Interest Owner for the purpose of Withdrawal from the Unit pursuant to paragraph 17.1.

2.1.6 Exhibit "F", attached hereto, is the Accounting Procedure applicable to Unit Operations. If there is any conflict between this Agreement and Exhibit "F", this Agreement shall govern.

2.1.7 Exhibit "G", attached hereto, contains insurance provisions applicable to Unit Operations.

2.1.8 Exhibit "H", attached hereto contains a Certificate of Non-segregated Facilities applicable to the Unit

2.2 Revision of Exhibits. Whenever Exhibits "A" or "B" are revised, Exhibit "C" shall be revised accordingly and be effective as of the same date. Unit Operator shall also revise Exhibit "C" from time to time as required to conform to changes in ownership of which Unit Operator has been notified as provided in the Unit Agreement. Working Interest Owners shall be provided a duplicate copy of any exhibit revised as provided herein.

2.3 Reference to Exhibits. When reference is made herein to an exhibit, it is to the exhibit as originally attached or if revised, the last revision.

### ARTICLE 3

#### SUPERVISION OF OPERATIONS BY WORKING INTEREST OWNERS

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

3.2 Specific Authorities and Duties. The matters with respect to which Working Interest Owners shall decide and take action shall include, but not be limited to, the following:

3.2.1 Method of Operation. The method of the operation, including the type or types of pressure maintenance, secondary recovery, tertiary recovery, or other recovery program to be employed.

3.2.2 Drilling of Wells. The drilling, deepening, or plugging back of any well whether for production of Unitized Substances, for use as an injection well, or for other purposes.

3.2.3. Well Abandonment, Use, and Conversion. The abandonment of any well; the use of any well for injection, salt water disposal, or for any purpose other than production; or the conversion of the use of any well from one purpose to another. The reactivation of a well which was shut-in or temporarily abandoned to its former use by Unit Operator shall not require prior approval of Working Interest Owners if the estimated expenditure is less than the expenditure limitation specified in Section 3.2.4.

3.2.4 Expenditures. The making of any single expenditure in excess of Fifty Thousand Dollars (\$50,000.00); however, approval by Working Interest Owners of the drilling, reworking, deepening, or plugging back of any well shall include approval of all necessary expenditures required therefore, and for completing, testing and equipping the well, including necessary flow lines, separators, and lease tankage; provided however, that in case of blowout, explosion, fire, flood or other sudden emergencies, Unit Operator may take steps and incur such expenses as in its opinion are required to deal with the emergency and to safeguard life or property but that Unit Operator shall, as promptly as possible, report the emergency to the Working Interest Owners.

3.2.5 Disposition of Unit Equipment. The selling or otherwise disposing of any major item of surplus Unit Equipment, if the current price of new equipment similar thereto is Twenty Thousand Dollars (\$20,000.00) or more.

3.2.6 Appearance Before a Court or Regulatory Agency. The designating of a representative to appear before any court or regulatory agency in matters pertaining to Unit Operations; however, Unit Operator shall act as such representative in the absence of the designation of a different representative by Working Interest Owners. Such designation shall not prevent any Working Interest Owner from appearing in person or from designating another representative in its own behalf.

3.2.7 Audits. The auditing of the accounts of Unit Operator pertaining to Unit Operations hereunder; however, the audits shall

(a) not be conducted more than once each year except upon the resignation or removal of Unit Operator, and

(b) be made upon the approval of the owner or owners of a majority of Working Interest other than that of Unit Operator, at the expense of all Working Interest Owners other than Unit Operator, or

(c) be made at the expense of those Working Interest Owners requesting such audit, if owners of less than a majority of Working Interest, other than that of Unit Operator, request such an audit, and

(d) be made upon not less than thirty (30) days written notice to Unit Operator.

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

3.2.9 Technical Services. The authorizing of charges to the Joint Account of services by consultants or Unit Operator's technical personnel not covered by the overhead charges provided by Exhibit "F."

3.2.10 Assignments to Committees. The appointment of committees to study any problems in connection with Unit Operations.

3.2.11 The removal of Unit Operator and the selection of a successor.

3.2.12 The enlargement of the Unit Area.

3.2.13 The adjustment and readjustment of investments.

3.2.14 The termination of the Unit Agreement.

#### ARTICLE 4

##### MANNER OF EXERCISING SUPERVISION

4.1 Designation of Representatives. Each Working Interest Owner shall inform Unit Operator in writing of the names and addresses of the representative and alternate who are authorized to represent and bind such Working Interest Owner with respect to Unit Operations. The representative or alternate may be changed from time to time by written notice to Unit Operator.

4.2 Meetings. All meetings of Working Interest Owners shall be called by Unit Operator upon its own motion or at the request of two (2) or more Working Interest Owners having a total Unit Participation then in effect of not less than ten percent (10%). No meeting shall be called on less than fourteen (14) days advance written notice, with agenda for the meeting attached. Working Interest Owners who attend the meeting may amend items included in the agenda and may act upon an amended item or other items presented at the meeting. The representative of Unit Operator shall be chairman of each meeting.

4.3 Voting Procedure. Working Interest Owners shall decide all matters coming before them as follows;

4.3.1 Voting Interest. Each Working Interest Owner shall have a voting interest equal to its Unit Participation in effect at the time of the vote.

4.3.2 Vote Required. Unless otherwise provided herein or in the Unit Agreement, Working Interest Owners shall determine all matters by the affirmative vote of three or more Working Interest Owners having a combined voting interest of at least seventy-five percent (75%); however, should any one Working Interest Owner have

more than twenty-five percent (25%) voting interest, its negative vote or failure to vote shall not defeat a motion, and such motion shall pass if approved by Working Interest Owners having a majority voting interest, unless three or more Working Interest Owners having combined voting interest of at least five percent (5%) likewise vote against the motion or fail to vote.

4.3.3 Vote at Meeting by Non-attending Working Interest Owner. Any Working Interest Owner not represented at a meeting may vote on any agenda item by letter, telegram, fax or email, addressed to the representative of Unit Operator if its vote is received prior to the vote at the meeting, provided the agenda items are not amended.

4.3.4 Poll Votes. Working Interest Owners may vote on and decide, by letter, telegram, fax or email, any matter submitted in writing to Working Interest Owners. If a meeting is not requested, as provided in Section 4.2, within seven (7) days after a written proposal is sent to Working Interest Owners, the vote taken by letter, telegram, fax or email shall become final. Unit Operator will give prompt notice of the results of such voting to all Working Interest Owners.

## ARTICLE 5

### INDIVIDUAL RIGHTS OF WORKING INTEREST OWNERS

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

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

5.2.1 Access to Unit Area. Access to the Unit Area at all reasonable times to inspect Unit Operations, all wells, and the records and data pertaining thereto.

5.2.2 Reports. The right to receive from Unit Operator, upon written request, copies of all reports to any governmental agency, reports of crude oil runs and stocks, inventory reports, and all other information pertaining to Unit Operations. The cost of gathering and furnishing information not ordinarily furnished by Unit Operator to all Working Interest Owners shall be charged to the Working Interest Owner that requests the information.

5.3 Undrilled Locations. Unit Operator shall have the option to drill any undrilled locations on tracts committed to the Unit Area at Unit Expense subject to Article 3.2.2 and partners' approval as listed under Article 4.3.

5.4 Taking Unitized Substances In Kind. Each Working Interest Owner shall have the right to take in kind and separately dispose of its proportionate share of all oil and gas produced from the Unit Area, exclusive

of production which may be used in development and producing operations and in preparing and treating oil for marketing purposes and production unavoidably lost. Each such party shall have the right to construct, maintain and operate all necessary facilities for that purpose within the Unitized Area, provided the same are so constructed, maintained and operated as not to interfere with Unit Operations. Any extra expenditure incurred by Unit Operator by reason of the delivery in kind of any portion of the Unitized Substances shall be borne by the party taking delivery. In the event any Working Interest Owner shall fail to take or otherwise adequately dispose of its proportionate share of the production from the Unitized Formation then so long as such condition continues, Unit Operator, for the account and at the expense of the Working Interest Owner of the Tract or Tracts concerned, and in order to avoid curtailing the operation of the Unit Area, shall sell or otherwise dispose of such production to itself or to others, provided that all contracts of sale by Unit Operator of any other party's share of Unitized Substances shall be only for such reasonable periods of time as are consistent with the minimum needs of the industry under the circumstances, but in no event shall any such contract be for a period in excess of three years, and at not less than the prevailing market price in the area for like production, and the account of such Working Interest Owner shall be charged therewith as having received such production. The net proceeds, if any, of the Unitized Substances so disposed of by Unit Operator shall be paid to the Working Interest Owner of the Tract or Tracts concerned.

Unit Operator shall be responsible for the payment of all royalty, overriding royalty and production payments due on each Tract committed hereto, and each Working Interest Owner shall hold each other Working Interest Owner and Unit Operator harmless against all claims, demands and causes of action by owners of such royalty, overriding royalty and production payments. Any Working Interest Owner receiving in kind or separately disposing of all or any part of the Unitized Substances allocated to any Tract shall be responsible for the payment of all royalty, overriding royalty and production payments due thereon, and each such party shall hold each other Working Interest Owner and Unit Operator harmless against all claims, demands and causes of action by owners of such royalty, overriding royalty and production payments.

## ARTICLE 6

### UNIT OPERATOR

6.1 Unit Operator. Yates Petroleum Corporation, a New Mexico corporation, is hereby designated as Unit Operator.

6.2. Resignation or Removal of Unit Operator. Unit Operator shall have the right to resign at any time, but such resignation shall not become effective so as to release Unit Operator from the duties and obligations of Unit Operator and terminate Unit Operator's rights as such for a period of six (6) months after written notice of intention to resign has been given by Unit Operator to all Working Interest Owners, the Land Commissioner and the A.O. unless a new Unit Operator shall have taken over and assumed the duties and obligations of Unit Operator prior to the expiration of said period.

The Unit Operator shall, upon default or failure in the performance of its duties and obligations hereunder, be subject to removal by Working Interest Owners having in the aggregate eighty percent (80%) or more of the Unit Participation then in effect exclusive of the Working Interest Owner who is the Unit Operator. Such removal shall be effective upon notice thereof to the Land Commissioner and the A.O.

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

The resignation or removal of Unit Operator under this Agreement shall not terminate its right, title or interest as the owner of a Working Interest or other interest in Unitized Substances, but upon the resignation or removal of Unit Operator becoming effective, such Unit Operator shall deliver possession of all wells, equipment, books and records, materials, appurtenances and any other assets used in connection with the Unit Operations to the new duly qualified successor Unit Operator or to the Unit Manager if no such new Unit Operator is elected. Nothing herein shall be construed as authorizing the removal of any material, equipment or appurtenances needed for the preservation of any wells. Nothing herein contained shall be construed to relieve or discharge any Unit Operator who resigns or is removed hereunder from any liability or duties accruing or performable by it prior to the effective date of such resignation or removal.

6.3 Successor Unit Operator. Whenever the Unit Operator shall tender its resignation as Unit Operator or shall be removed as hereinabove provided, the Working Interest Owners shall select a successor Unit Operator as herein provided. Such selection shall not become effective until (a) a Unit Operator so selected shall accept in writing the duties and responsibilities of Unit Operator, and (b) the selection shall have been approved by the Land Commissioner and the A.O. If no successor Unit Operator or Unit Manager is selected and qualified as herein provided, the Land Commissioner and/or the A.O., at their election, may declare this Agreement terminated.

In selecting a successor Unit Operator, the affirmative vote of three or more Working Interest Owners having a total of sixty-five percent (65%) or more of the total Unit Participation shall prevail; provided that if any one Working Interest Owner has a Unit Participation of more than thirty-five percent (35%), its negative vote or failure to vote shall not be regarded as sufficient unless supported by the vote of two or more other Working Interest Owners having a total Unit Participation of at least five percent (5%). If the Unit Operator who is removed votes only to succeed itself or fails to vote, the successor Unit Operator may be selected by the affirmative vote of the owners of at least seventy-five percent (75%) of the Unit Participation remaining after excluding the Unit Participation of Unit Operator so removed.

## ARTICLE 7

### AUTHORITIES AND DUTIES OF UNIT OPERATOR

7.1 Exclusive Right to Operate Unit. Subject to the provisions of this Agreement and to instructions from Working Interest Owners, Unit Operator shall have the exclusive right and be obligated to conduct Unit Operations.

7.2 Workmanlike Conduct. Unit Operator shall conduct Unit Operations in a good and workmanlike manner, as would a prudent operator under the same or similar circumstances. Unit Operator shall freely consult with Working Interest Owners and keep them informed of all matters, which Unit Operator, in the exercise of its best judgment, considers important. Unit Operator shall not be liable to Working Interest Owners for damages, unless such damages result from its gross negligence or willful misconduct.

7.3 Liens and Encumbrances. Unit Operator shall endeavor to keep the lands and leases in the Unit Area and Unit Equipment free from all liens and encumbrances occasioned by Unit Operations, except the lien and security interest of Unit Operator and Working Interest Owners granted hereunder.

7.4 Employees. The number of employees used by Unit Operator in conducting Unit Operations, their selection, hours of labor, and compensation, shall be determined by Unit Operator. Such employees shall be the employees of Unit Operator.

7.5 Records. Unit Operator shall keep correct books, accounts, and records of Unit Operations.

7.6 Reports to Working Interest Owners. Unit Operator shall furnish Working Interest Owners semiannual reports of Unit Operations.

7.7 Reports to Governmental Authorities. Unit Operator shall make all reports to governmental authorities that it has the duty to make as Unit Operator.

7.8 Engineering and Geological Information. Unit Operator shall furnish to a Working Interest Owner, upon written request, a copy of all logs and other engineering and geological data pertaining to wells drilled for Unit Operations.

7.9 Expenditures. Unit Operator is authorized to make single expenditures not in excess of Fifty Thousand Dollars (\$50,000.00) without prior approval of Working Interest Owners. If an emergency occurs, Unit Operator may immediately make or incur such expenditures as in its opinion are required to deal with the emergency. Unit Operator shall report to Working Interest Owners, as promptly as possible, the nature of the emergency and the action taken.

7.10 Wells Drilled by Unit Operator. All wells drilled by Unit Operator shall be at the usual rates prevailing in the area. Unit Operator may employ its own tools and equipment, but the charge therefore shall not exceed the

usual rates prevailing in the area, and the work shall be performed by Unit Operator under the same terms and conditions as are usual in the area in contracts of independent contractors doing work of a similar nature.

7.11 Mathematical Errors. Unit Operator is empowered to correct any mathematical errors, which might exist in the pertinent exhibits to this Agreement.

7.12 Border Agreement. Subject to the provisions and conditions in the Unit Agreement, Unit Operator shall have the right and authority to enter into border protection agreements or cooperative agreements with respect to lands adjacent to the Unit Area for the purpose of coordinating operations.

7.13 Conflict of Supervision. Neither the Unit Operator nor the Working Interest Owners, nor any of them, shall be subject to any forfeiture, termination or expiration of any rights hereunder or under any leases or contracts subject hereto, or to any penalty or liability on account of delay or failure in whole or in part to comply with any applicable provisions thereof to the extent that the said Unit Operator or the Working Interest Owners, or any of them are hindered, delayed or prevented from complying therewith by reason of failure of the Unit Operator to obtain, in the exercise of due diligence, the concurrence of proper representatives of the United States and of the State of New Mexico in and about any matters or things concerning which it is required herein that such concurrence be obtained.

## ARTICLE 8

### TAXES

8.1 Ad Valorem Taxes. Beginning with the first calendar year after the Effective Date hereof, Unit Operator shall make and file all necessary ad valorem tax renditions and returns with the proper taxing authorities with respect to all property of each Working Interest Owner used or held by Unit Operator for Unit Operations. Unit Operator shall settle assessments arising therefrom. Any Working Interest Owner dissatisfied with any proposed rendition or assessment of its interest in property shall have the right, at its own expense, to protest and resist the same. All such ad valorem taxes shall be paid by Unit Operator and charged to the joint account; however, if the interest of a Working Interest Owner is subject to a separately assessed overriding royalty interest, production payment, or other interest in excess of one-eighth (1/8) royalty, such Working Interest Owner shall notify Unit Operator of such interest prior to the rendition date and shall be given credit for the reduction in taxes paid resulting therefrom.

8.2 Other Taxes. Each Working Interest Owner shall pay or cause to be paid all production, severance, gathering, and other taxes imposed upon or with respect to the production or handling of its share of Unitized Substances, except that on gas production only the taking parties shall pay such taxes.

ARTICLE 9

INSURANCE

9.1 Insurance. Unit Operator, with respect to Unit Operations, shall:

- (a) comply with the Workmen's Compensation Laws of the State,
- (b) carry Employer's Liability and other insurance required by the laws of the State, and
- (c) provide other insurance as set forth in Exhibit "G".

ARTICLE 10

ADJUSTMENT OF INVESTMENTS

10.1 Personal Property Taken Over. Upon the Effective Date, Working Interest Owners shall deliver to Unit Operator the following:

10.1.1 Wells. All wells completed in the Unitized Formation.

10.1.2 Well and Lease Equipment. The casing and tubing in each such well, the wellhead connections thereon, and all other well, lease and operating equipment that is used in the operation of such wells which Working Interest Owners determine is necessary or desirable for conducting Unit Operations.

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

10.2 Inventory and Evaluation of Personal Property. Working Interest Owners shall at Unit Expense inventory and evaluate, the personal property taken over by Unit Operator under Section 10.1.2. Such inventory shall include and be limited to those items of equipment considered controllable under Exhibit "F" except, upon determination of Working Interest Owners, items considered non-controllable may be included in the inventory in order to be included in the inventory for record purposes, but shall be excluded from evaluation and investment adjustment.

10.3 Investment Adjustment. Upon approval by Working Interest Owners of the inventory and evaluation, each Working Interest Owner shall be credited with the value, as determined in accordance with Section 10.2 above, of its interest in all personal property taken over by Unit Operator under Section 10.1.2. and charged with an amount equal to that obtained by multiplying the total value of all such personal property taken over the Unit Operator under Section 10.1.2. by such Working Interest Owner's Unit Participation. If the charge against any Working Interest Owner is greater than the amount credited to such Working Interest Owner, the resulting net charge shall be paid and in all other respects be treated as any other item of Unit Expense chargeable against such Working Interest Owners. If 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 system, 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 Personal 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, personal property and facilities taken over or otherwise acquired by Unit Operator pursuant to this agreement.

## ARTICLE 11

### UNIT EXPENSE

11.1 Basis for 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 of such Unit Expense shall be the same as its Unit Participation for:

- (a) items in the nature of capital assets including, without limitation, real property if acquired;
- (b) acquiring, drilling, re-drilling, equipping and re-equipping water injection wells, re-plugging or converting oil wells to water injection wells, pumping and pipeline facilities for such wells, and changing any injection interval in any such well;
- (c) re-entry and re-plugging of wells outside the unit area as necessary to permit water injection into appropriate wells within the unit area;
- (d) gathering lines and facilities and common tank batteries utilized or acquired for Unit Operations, and
- (e) water purchased from parties other than Working Interest Owners obtained for injection purposes and the costs of transportation and injection thereof into the Unit Area.

Unit Operator will furnish make-up water from its Dagger Draw disposal system at no cost for Unit Operations so long as such water is available. Unit Operator shall charge as Unit Expense 2 cents per barrel handling fee for the make-up water handling and 6 cents per barrel for produced water injection. Each Working Interest Owner's share of all other Unit Expense shall be the same as its Unit Participation in effect at that time. All charges, credits and accounting for Unit Expense shall be in accordance with Exhibit "F".

The First Phase Unit Operations shall be defined as all Unit Operations necessary to prepare the Unit for injection, initiate injection into the Unitized Formation and shall extend until the first day of the month immediately following six (6) months after the initiation of injection into the Unitized Formation. First Phase Unit Expense shall include all Unit

Expense necessary to accomplish the First Phase Unit Operations inclusive of Unit Expense accrued through six (6) months after initiation of injection.

11.2 Budgets. Upon execution of this agreement and the Unit Agreement, and simultaneously therewith, Working Interest Owners agree to the estimated Budget for the First Phase Unit Expense. Each Working Interest Owner shall agree and be obligated to pay their respective share of First Phase Unit Expense through completion of the First Phase Unit Operations. Subsequent to the First Phase Operations Unit Operator shall prepare a budget of estimated Unit Expense for the remainder of the calendar year and on or before the first day of each October thereafter shall prepare such a budget for the ensuing calendar year. 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, without prejudice to other rights or remedies, to require Working Interest Owners to advance their respective share of estimated Unit Expense by submitting to Working Interest Owners, on or before the 15th day of any month, an itemized estimate thereof for the succeeding month, with a request for payment in advance. Within fifteen (15) days after receipt of the estimate, each Working Interest Owner shall pay to Unit Operator its share of such estimate. Adjustments between estimated and actual Unit Expense shall be made by Unit Operator at the close of each calendar month, and the accounts of Working Interest Owners shall be adjusted accordingly.

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

11.5 Lien and Security Interest of Unit Operator and the Working Interest Owners. Each Working Interest Owner grants to Unit Operator a lien upon its Oil and Gas Rights in each Tract and a security interest in its share of Unitized Substances when extracted and its interest in all Unit Equipment to secure payment of its share of Unit Expense, together with interest thereon at the rate of twelve percent (12%) per annum, with the further provision that Unit Operator grants a like lien to Working Interest Owners. To the extent that Unit Operator has a security interest under the Uniform Commercial Code of the State of New Mexico, Unit Operator shall be entitled to exercise the rights and remedies of a secured party under the Code. The bringing of a suit and the obtaining of a judgment by Unit Operator for the secured indebtedness shall not be deemed an election of remedies or otherwise affect the lien rights or security interest as security for the payment thereof. In addition, upon default by any Working Interest Owners in the payment of its share of Unit Expense, Unit Operator shall have the right, without prejudice, to other rights or remedies, to collect from the purchaser the proceeds from the sale of such Working Interest Owner's share of Unitized Substances until the amount owed by such Working Interest Owners, plus interest, has been paid. Each purchaser shall be entitled to rely upon Unit Operator's written statement concerning the amount of any default. The rights herein granted the Unit Operator shall in like manner apply to the other Working Interest Owners.

In addition to the liens and security interest as provided herein, each Non-Operator to this Agreement, to secure payment of its share of expenses incurred under this Operating Agreement, grants Operator a lien on all of its right, title and interest now owned or hereafter acquired in the contract Area including, but not limited to, the oil and gas leases, mineral estates and other mineral interests subject to this Operating Agreement and any properties now or hereafter pooled or unitized with any of the properties affected by such mineral interests; and all unsevered and unextracted oil, gas and other hydrocarbons that may be produced, obtained or secured from the lands covered and affected by such mineral interests.

In addition to the rights and remedies afforded to Operator pursuant to the terms hereof, or at law or in equity, it is understood and agreed that each defaulting party grants to the Operator a contractual right of offset in and to all money, production, proceeds from the sale of production and property of every kind or character of such defaulting party, now or at any time hereunder coming within Operator's custody or control, wheresoever located whether or not subject to the terms of the Agreement or any other agreement between Operator and defaulting party. Operator, may, at its election, at any time and from time to time, reduce (or eliminate, as the case may be) any debt owing to it by any defaulting party by applying such defaulting party's money, proceeds or property in the custody or control of Operator to the balance owed on such debt and giving such defaulting party appropriate credit therefore. Any such amount so applied shall first be applied to any past due interest, if any, then to any costs, including attorney's fees, incurred by Operator in the collection of the proceeds or property, and then to the underlying debt. It is agreed and understood that Operator's contractual right of offset shall extend to and include all proceeds of production attributable to the defaulting party from any wells in which the defaulting party owns an interest.

In addition to all rights and remedies afforded Operator under this agreement, in the event any debt owing by the defaulting party to Operator shall exceed any money, proceeds of sale of production, or property of such defaulting party as provided in the contractual right of offset as provided above, the Operator may elect to proceed and foreclose the lien of Operator against the interest of any defaulting party in the contract area.

11.6 Unpaid Unit Expense. If any Working Interest Owner fails to pay its share of Unit Expense, whether subject to Advance Billing or usual monthly billing, Unit Operator shall give such Working Interest Owner a second notice requesting payment. If within fifteen (15) days after receipt of the second notice the Working Interest Owner has not paid to Unit Operator its unpaid Unit Expense, such Working Interest Owner shall be deemed in default and shall be deemed to have relinquished to the Unit Operator, and any other Working Interest Owner agreeing to pay its proportionate part of the defaulting owner's Unit Expense, all of its Oil and Gas Rights and Working Interest in and to the Unit. Thereafter such defaulting owner shall be relieved from all further obligations and liabilities hereunder and under the Unit Agreement, and the rights of the defaulting Working Interest Owner hereunder and under the Unit Agreement shall cease insofar as they existed by virtue of the interest relinquished. Upon the effective date of relinquishment, the Unit Participations of the Working Interest Owners paying the default shall be revised to reflect the increase in their shares resulting from the default interest. Should there be a legitimate dispute of

a Unit Expense and a Working Interest Owner continues to pay undisputed Unit Expenses no default or relinquishment will occur until a determination has been made under the audit procedures herein and further provided in Exhibit "F". Notwithstanding anything herein to the contrary, all Working Interest Owners shall remain responsible, subject to the Lien and Security provisions of Section 11.5, for payment of their proportionate share of the costs of plugging and abandoning the Unit wells.

11.7 Carved-Out Interest. If any Working Interest Owners shall, after executing this agreement, create an overriding royalty, production payment, net proceeds interest, carried interest, or any other interest out of its Working Interest, such carved-out interest shall be subject to the terms and provisions of this agreement, specifically including, but without limitation, Section 11.5 hereof entitled "Lien of Unit Operator." If the Working Interest Owner creating such carved-out interest (a) fails to pay any Unit Expense chargeable to such Working Interest Owner under this agreement, and the production of Unitized Substances accruing to the credit of such Working Interest Owner is insufficient for that purpose, or (b) withdraws from this agreement under the terms and provisions of Article 17 hereof, the carved-out interest shall be chargeable with a pro rata portion of all Unit Expense incurred hereunder, the same as though such carved-out interest were a Working Interest, and Unit Operator shall have the right to enforce against such carved-out interest the lien and all other rights granted in Sections 11.5 and 11.6 for the purpose of collecting the Unit Expense chargeable to the carved-out interest.

11.8 Salvage Credit. Credit for Unit Equipment salvaged shall be divided in the same proportion as the Unit participation.

11.9 Rentals. The Working Interest Owners in each Tract shall pay all rentals, minimum royalty, advance rentals or delay rentals due under the lease thereon and shall concurrently submit to the Unit Operator evidence of payment.

## ARTICLE 12

### NON-UNITIZED FORMATIONS

12.1 Right to Operate. The Working Interest Owners recognize that there are Existing Operating Agreements covering the Unitized Formation, as to each Spacing Unit as designated by the New Mexico Oil Conservation Division, as well as other formations. This Unit Operating Agreement supercedes the Existing Operating Agreements only as to the Unitized Formation, and such Existing Operating Agreement continues in full force and effect as to any other lands and formations covered thereby. 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 above or underlying the Unit Area other than the Unitized Formation, shall have the right to do so notwithstanding this Agreement or the Unit Agreement. In exercising the right, however, the Working Interest Owner shall exercise care to prevent unreasonable interference with Unit Operations. No Working Interest Owner shall produce Unitized Substances through any well drilled or operated by it. If any Working Interest Owner drills any well into or through the Unitized Formation, the Unitized Formation shall be protected in a manner satisfactory

to Working Interest Owners so that the production of Unitized Substances will not be affected adversely.

## ARTICLE 13

### TITLES

13.1 Warranty and Indemnity. Each Working Interest Owner represents and warrants that it is the owner of the respective working interests set forth opposite its name in Exhibit "B" of the Unit Agreement, and agrees to indemnify and hold harmless the other Working Interest Owners from any loss due to failure, in whole or in part, or its title to any such interest, except failure of title arising out of Unit Operations; however, such indemnity and any liability for breach of warranty shall be limited to an amount equal to the net value that has been received from the sale or receipt of Unitized Substances attributed to the interest as to which title failed. Each failure of title will be deemed to be effective, insofar as this Agreement is concerned, as of 7:00 a.m. on the first day of the calendar month in which such failure is finally determined, and there shall be no retroactive adjustment of Unit Expense, or retroactive allocation of Unitized Substances or the proceeds therefrom, as a result of title failure.

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

## ARTICLE 14

### LIABILITY, CLAIMS, AND SUITS

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

14.2 Settlements. Unit Operator may settle any single damage claim or suit involving Unit Operations if the expenditure does not exceed Thirty Thousand Dollars (\$30,000.00) and if the payment is in complete settlement of such claim or suit. If the amount required for settlement exceeds the above amount, Working Interest Owners shall assume and take over the further handling of the claim or suit, unless such authority is delegated to Unit Operator. All costs and expense of handling, settling, or otherwise discharging such claim or suit shall be an item of Unit Expense. If a claim is made against any Working Interest Owner or if any Working Interest Owner is sued on account of any matter arising from Unit Operations over which such Working Interest Owner individually has no control because of the rights given Working Interest Owners and Unit Operator by this Agreement and the Unit Agreement, the Working Interest Owner shall immediately notify Unit Operator, and the claim or suit shall be treated as any other claim or suit involving Unit Operations.

## ARTICLE 15

### LAWS AND REGULATIONS

15.1 Internal Revenue Provision. Notwithstanding any provisions herein that the rights and liabilities of the parties hereunder are several and not joint or collective, or that this Agreement and operations hereunder shall not constitute a partnership, if for Federal income tax purposes this Agreement and the operations hereunder are regarded as a partnership then each of the parties hereto elects to be excluded from the application of all of the provisions of Subchapter K, Chapter 1, Subtitle A, of the Internal Revenue Code of 1986, as permitted and authorized by Section 761 of the Code and the regulations promulgated thereunder. Unit Operator is hereby authorized and directed to execute on behalf of each of the parties hereto such evidence of this election as may be required by the Secretary of the Treasury of the United States or the Federal Internal Revenue Service, including specifically, but not by way of limitation, all of the returns, statements, and the data required by Federal Regulations. Should there be any requirement that each party hereto further evidence this election, each party hereto agrees to execute such documents and furnish such other evidence as may be required by the Federal Internal Revenue Service or as may be necessary to evidence this election. Each party hereto further agrees not to give any notices or take any other action inconsistent with the election made hereby. If any present or future income tax laws of the State of New Mexico, or any future income tax of the United States, contain provisions similar to those in Subchapter K, Chapter I, Subtitle A, of the Internal Revenue Code of 1986, under which an election similar to that provided by Section 761 of the Code is permitted, each of the parties agrees to make such election as may be permitted, or required by such laws. In making this election, each of the parties' states that the income derived by such party from the operations under this Agreement can be adequately determined without the computation of partnership taxable income.

15.2 Statutory Unitization. If working Interest Owners owning at least, seventy-five percent (75%) of the Unit Participation have become parties to this Agreement and if Royalty Interest Owners owning at least seventy-five percent (75%) of the Royalty Interest have become parties hereto, the Unit Operator may make application to the New Mexico Oil Conservation Division of the Energy and Minerals Department for statutory unitization of the uncommitted interests.

## ARTICLE 16

### NOTICES

16.1 Notices. All notices required hereunder shall be in writing and shall be deemed to have been properly served when sent by mail, telegram, fax, email, or telephone to the address of the representative of each Working Interest Owner as furnished to Unit Operator in accordance with Article 4. Any notice given by telephone shall be promptly followed by written confirmation.

ARTICLE 17

WITHDRAWAL OF WORKING INTEREST OWNER

*initiated by me of  
the Unit's WT  
Newberg  
now  
revised*

17.1 Withdrawal. At the completion of the First Phase Unit Operations Unit Operator shall give notice to each Working Interest Owner. A Working Interest Owner shall then have 30 days from receipt of notice to make a one-time election to withdraw from this Agreement and the Unit by transferring, without warranty of title, either express or implied, to the other Working Interest Owners, effective the first day following completion of the First Phase Unit Operations, 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. The instrument of transfer may be delivered to Unit Operator for the transferees. Such transfer shall not relieve the Working Interest Owner from any obligation or liability incurred prior to the first day of the month following receipt by Unit Operator of the instrument of transfer. The interest transferred shall be owned by the transferees in proportion to their respective Unit Participations then in effect or in other proportions as may be agreed by the transferees. The transferees, in proportion to the respective interests so acquired, shall pay transferor according to the Schedule of Values for Withdrawal from the Unit, Exhibit "E." (The Schedule of Values for Withdrawal from the Unit, Exhibit "E", are calculated taking into consideration the net salvage value of Unit Equipment, the cost of salvaging and of plugging and abandoning wells then being used or held for Unit Operations.) In the event such withdrawing owner's interest in the aforesaid value is negative, 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 value 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. Upon the effective date of transfer, the Unit Participations of the transferees shall be revised to reflect the increase in their shares resulting from the transferred interest. Working Interest Owners electing not to withdraw during the 30 day election period provided shall thereafter participate in Unit Operations and be required to pay their proportionate share of Unit Expense until termination of the Unit, including all costs of plugging and abandoning Unit Wells.

ARTICLE 18

ABANDONMENT OF WELLS

18.1 Rights of Former Owners. If Working Interest Owners decide to permanently abandon any well within the Unit Area prior to termination of the

Unit Agreement, Unit Operator shall give written notice thereof to the Working Interest Owners of the Spacing Unit on which the well is located, and they shall have the option for a period of ninety (90) days after the sending of such notice to notify Unit Operator in writing of their election to take over and own the well. Should the Working Interest Owners within the Spacing Unit elect not to take over the well the Unit Operator shall give written notice to the other Working Interest Owners in the Unit, and they shall have the option for a period of ninety (90) days after the sending of such notice to notify Unit Operator in writing of their election to take over and own the well. Within ten, (10) days after the Working Interest Owners have notified Unit Operator of their election to take over the well, they shall pay Unit Operator, for credit to the joint account, the amount determined to be the net salvage value of the casing and equipment in and on the well. The Working Interest Owners, by taking over the well, agree to seal off the Unitized Formation, and upon abandonment to plug the well in compliance with applicable laws and regulations.

18.2 Plugging. If no Working Interest Owners elect to take over a well located within the Unit Area that is proposed for abandonment, Unit Operator shall plug and abandon the well in compliance with applicable laws and regulations.

## ARTICLE 19

### EFFECTIVE DATE AND TERM

19.1 Effective Date. This Agreement shall become effective when the Unit Agreement becomes effective.

19.2 Term. This Agreement shall continue in effect so long as the Unit Agreement remains in effect, and thereafter until (a) all Unit wells have been plugged and abandoned or turned over to Working Interest Owners in accordance with Article 20; (b) all Unit Equipment and real property acquired for the joint account have been disposed of by Unit Operator in accordance with instructions of Working Interest Owners; and (c) there has been a final accounting.

## ARTICLE 20

### ABANDONMENT OF OPERATIONS

20.1 Termination. Upon termination of the Unit Agreement, the following will occur:

20.1.1 Oil and Gas Rights. Oil and Gas Rights in and to each separate Tract shall no longer be affected by this Agreement, and thereafter the parties shall be governed by the terms and provisions of the leases, contracts and other instruments, including Existing Operating Agreements, affecting the separate Tracts and Spacing Units.

20.1.2. Right to Operate. Working Interest Owners of any Spacing Unit that desire to take over and continue to operate wells

located thereon may do so by paying Unit Operator, for credit to the joint account, the net salvage values, as determined by Working Interest Owners, of the casing and equipment in and on the wells taken over and by agreeing upon abandonment to plug each well in compliance with applicable laws and regulations.

20.1.3 Salvaging Wells. Unit Operator shall salvage as much of the casing and equipment in or on wells not taken over by Working Interest Owners of separate Tracts as can economically and reasonable be salvaged, and shall cause the wells to be plugged and abandoned in compliance with applicable laws and regulations.

20.1.4 Cost of Abandonment. The cost of abandonment of Unit Operations shall be Unit Expense.

20.1.5 Distribution of Assets. Working Interest Owners shall share in the distribution of Unit Equipment, or the proceeds thereof, in proportion to their Unit Participations.

## ARTICLE 21

### LAWS, REGULATIONS AND CERTIFICATE OF COMPLIANCE

21.1 Laws and Regulations This Agreement and operations hereunder are subject to all valid rules, regulations and orders of all regulatory bodies having jurisdiction and to all other applicable federal, state and local laws, ordinances, rules, regulations and orders; and any provision of this agreement found to be contrary to or inconsistent with any such law, ordinance, rule, regulation or order shall be deemed modified accordingly. This Agreement and all matters pertaining hereto, including, but not limited to, matters of performance, non-performance, breach, remedies, procedures, rights, duties, and interpretation or construction, shall be governed and determined by the law of the state of New Mexico.

21.2 Certificate of Compliance. In the performance of work under this agreement, the parties agree to comply with, and Unit Operator shall require each independent contractor to comply with, the Federal contract provisions of Exhibit "H."

## ARTICLE 22

### EXECUTION

22.1 Original, Counterpart, or other Instruments. An owner of a Working Interest may become a party to this Agreement by signing the original of this instrument, a counterpart thereof, or other instrument agreeing to become a party hereto. The signing of any such instrument shall have the same effect as if all parties had signed the same instrument.

ARTICLE 23

SUCCESSORS AND ASSIGNS

23.1 Successors and Assigns. This Agreement shall extend to, be binding upon, and inure to the benefit of the parties hereto and their respective heirs, devisees, legal representative, successors, and assigns, and shall constitute a covenant running with the lands, leases, and interests covered hereby.

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

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

YATES PETROLEUM CORPORATION  
Unit Operator and Working Interest Owner

By *Randy G. Patterson*  
Attorney-in-Fact

STATE OF NEW MEXICO        )  
  ) ss.  
COUNTY OF EDDY            )

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of October, 2003, by Randy G. Patterson, Attorney-in Fact for Yates Petroleum Corporation, a New Mexico corporation , on behalf of said corporation.

My Commission Expires:

3-1-06

*Miriam S. Woodrow*  
Notary Public

