

# **OIL CONSERVATION DIVISION**

**CASE NO.**  
***14299***

**EXHIBIT**  
**3**

orders promulgated under such laws in reference to oil, gas and mineral operations, including the location, operation, or production of wells, on tracts offsetting or adjacent to the Contract Area.

With respect to the operations hereunder, Non-Operators agree to release Operator from any and all losses, damages, injuries, claims and causes of action arising out of, incident to or resulting directly or indirectly from Operator's interpretation or application of rules, rulings, regulations or orders of the Department of Energy or Federal Energy Regulatory Commission or predecessor or successor agencies to the extent such interpretation or application was made in good faith and does not constitute gross negligence. Each Non-Operator further agrees to reimburse Operator for such Non-Operator's share of production or any refund, fine, levy or other governmental sanction that Operator may be required to pay as a result of such an incorrect interpretation or application, together with interest and penalties thereon owing by Operator as a result of such incorrect interpretation or application.

#### ARTICLE XV. MISCELLANEOUS

##### A. Execution:

This agreement shall be binding upon each Non-Operator when this agreement or a counterpart thereof has been executed by such Non-Operator and Operator notwithstanding that this agreement is not then or thereafter executed by all of the parties to which it is tendered or which are listed on Exhibit "A" as owning an interest in the Contract Area or which own, in fact, an interest in the Contract Area. Operator may, however, by written notice to all Non-Operators who have become bound by this agreement as aforesaid, given at any time prior to the actual spud date of the Initial Well but in no event later than five days prior to the date specified in Article VI.A. for commencement of the Initial Well, terminate this agreement if Operator in its sole discretion determines that there is insufficient participation to justify commencement of drilling operations. In the event of such a termination by Operator, all further obligations of the parties hereunder shall cease as of such termination. In the event any Non-Operator has advanced or prepaid any share of drilling or other costs hereunder, all sums so advanced shall be returned to such Non-Operator without interest. In the event Operator proceeds with drilling operations for the Initial Well without the execution hereof by all persons listed on Exhibit "A" as having a current working interest in such well, Operator shall indemnify Non-Operators with respect to all costs incurred for the Initial Well which would have been charged to such person under this agreement if such person had executed the same and Operator shall receive all revenues which would have been received by such person under this agreement if such person had executed the same.

##### B. Successors and Assigns:

This agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, devisees, legal representatives, successors and assigns, and the terms hereof shall be deemed to run with the Leases or Interests included within the Contract Area.

##### C. Counterparts:

This instrument may be executed in any number of counterparts, each of which shall be considered an original for all purposes.

##### D. Severability:

For the purposes of assuming or rejecting this agreement as an executory contract pursuant to federal bankruptcy laws, this agreement shall not be severable, but rather must be assumed or rejected in its entirety, and the failure of any party to this agreement to comply with all of its financial obligations provided herein shall be a material default.

#### ARTICLE XVI. OTHER PROVISIONS

##### Notwithstanding anything contained herein to the contrary:

A. This Operating Agreement dated October 1, 2008, shall supercede in its entirety any and all previous Joint Operating Agreements pertaining to or covering any portion of the Contract Area.

B. Should it be necessary to conduct hearings before governmental agencies for the securing of spacing or pooling orders, or for certifying new gas, the costs attributable to such hearings as well as fees paid attorneys and witnesses, shall be borne by the Drilling Parties in the proportion that the interest of each Drilling Party bears to the total interest of all Drilling Parties as such interests appear in Exhibit "A".

C. The proceeds from the sale of all hydrocarbons produced, saved and sold shall be paid to Operator by all purchasing companies purchasing such hydrocarbons and by the execution of this Agreement, the Non-Operators covenant and agree to save all purchasing companies harmless from any and all liability by reason of paying any such proceeds to Operator. Further, Non-Operators authorize and direct Operator to deduct from their proportionate share of such expenses owed to Operator becomes delinquent for more than sixty (60) consecutive days and remit the balance from such sale to Non-Operators.

D. Operator shall have the right, at its discretion, to require, as a condition for participation under the terms of this Agreement, prepayment of all costs, including dry hole costs, completion costs, recompletion costs or costs associated with remedial work, based on an Authority for Expenditure for any well drilled on the Contract Area. Failure by any party to remit its proportionate part of the above referenced prepayment to Operator within fifteen (15) days receipt of notice of the required prepayment shall be deemed an election by such party not to participate in the cost of the proposed operation, and thereafter, the proposed operation shall be conducted under Article VLB.2 of this Agreement.

E. If a well drilled under the terms of this Agreement is completed in a formation requiring 320 acre spacing, the parties hereto agree that they will each bear their respective percentages of the usual 1/8<sup>th</sup> royalty interest. If a lease contributed by a party is burdened by more than the usual 1/8<sup>th</sup> royalty, the additional burden, whether it be royalty, overriding royalty or other type of burden, shall be borne entirely by the party that contributed the burdened lease. If a well drilled under the terms of this Agreement is completed in a formation requiring less than 320 acre spacing, the parties hereto agree that they will each bear their respective percentages of all lease burdens on all leases included within the spacing unit for the well. Any lease burdens created subsequent to the date of this Agreement shall be borne entirely by the party creating the same.

F. Differing Ownership as to Depths: It is understood that ownership of the Contract Area is different from ownership of the working interest in shallower depths and horizons (the depths within the Contract Area hereof being called the "Deep Unit" in this Article XV.F. and all such shallower depths being called the "Shallow Unit"), and that a wellbore drilled to the Deep Unit hereunder may be utilized by the owners of the Shallow Unit who are parties hereto, so long as such use is not detrimental to any ongoing or proposed operations in the Deep Unit, subject to the costs allocation provided for herein. Once any operations have

1 been commenced in the Shallow Unit and the Shallow Unit owners have incurred the obligation to bear the cost allocation provided  
2 for in this article, the Shallow Unit owners shall have the right to use and occupy the wellbore for such Shallow Unit operations, to  
3 the exclusion of any operations in the Deep Unit that would otherwise interfere, until the owners of the Shallow Unit have  
4 abandoned the wellbore.  
5 The entire costs of drilling the well will be initially borne by the working interest owners of the Deep Unit with no right to be  
6 reimbursed by the working interest owners of the Shallow Unit, unless the well is to be completed in the Shallow Unit, in which case  
7 the working interest owners of the Shallow Unit will reimburse the working interest owners of the Deep Unit in accordance with the  
8 following formula.  
9  
10 All Pre-casing Point Costs (e.g., logging, testing, coring, fishing, etc.) which can be isolated to the Shallow Unit, insofar only as it  
11 covers and includes those depths from surface to 100' below the deepest perforation of the Shallow Unit completion, will be paid for  
12 by the participating owners of the Shallow Unit, while all Pre-casing Point Costs which can be isolated to depths below such point  
13 will be paid for by the participating Owners of the Deep Unit. All other Pre-casing Point Costs, including all drilling cost incurred  
14 at any depth ("remaining costs"), shall be borne by various participating owners, according to their respective participating  
15 interests in the units involved as follows:

Participants in  
the Shallow Unit

1/2 x

Footage from surface to 100' below deepest perforation  
of Shallow Unit completion

Total Depth

x Remaining Costs

Participants in  
the Deep Unit

1/2 x

Footage from surface to 100' below deepest perforation  
of Shallow Unit completion

Total Depth

x Remaining Costs

Plus: 100% x

Footage from surface to 100' below deepest perforation  
of Shallow Unit completion to Total Depth

Total Depth

x Remaining Costs

30 If such costs have already been paid by the participants in the Deep Unit, the participants owning interests in the Shallow Unit shall  
31 reimburse the Deep Unit participants to the extent necessary to effect the costs allocation provided for in this article. It is  
32 understood that only a party that has agreed to participate in the cost of the operation in the Shallow Unit shall be so obligated.  
33 After operations have been conducted in the Shallow Unit, resulting in the cost allocation provided for herein, and after such  
34 Shallow Unit operations and any Shallow Unit production have been abandoned, the owners of either the Deep Unit or the Shallow  
35 Unit shall thereafter have the right to re-enter the wellbore for further operations therein. If any such operations are conducted in  
36 the Deep Unit, the costs of the original drilling of the well incurred before such Shallow Unit operations shall again be reallocated to  
37 the Deep Unit, so that the Deep Unit owners participating in such Deep Unit re-entry will reimburse the Shallow Unit owners who  
38 participated in such Shallow Unit operations, their successors or assigns, to the extent of all costs previously allocated to the Shallow  
39 Unit.  
40  
41 Should a dual completion attempt be made in both the Deep Unit and the Shallow Unit, all completion costs that can be isolated to  
42 the Deep or Shallow Units shall be paid for by the participating owners of those units. All other completion costs, with the  
43 exception of casing and tubing, shall be paid for equally by the participants in the Shallow Unit and the participants in the Deep  
44 Unit. In the event of such dual completion attempt, all casing and tubing shall be paid for as follows:

Average costs of casing and tubing from the surface down to 100' below the deepest perforation in the Shallow Unit:

Participants in the Shallow Unit - 1/2

Participants in the Deep Unit - 1/2

Average costs of casing and tubing from 100' below the deepest perforation in the Shallow Unit to total depth:

Participants in the Deep Unit - 100%