

BEFORE EXAMINER BUTTER  
OIL CONSERVATION COMMISSION  
TRANSCHEAN TRUST NO. 1  
CASE NO. 6113

1	UNIT AGREEMENT	1
2	FOR THE DEVELOPMENT AND OPERATION	2
3	OF THE	3
4	CIBOLA UNIT AREA	4
5	COUNTY OF CATRON	5
6	STATE OF NEW MEXICO	6
7	NO. _____	7
8	THIS AGREEMENT, entered into as of the 1st day of December, 1977,	8
9	by and between the parties subscribing, ratifying, or consenting hereto,	9
10	and herein referred to as the "parties hereto,"	10
11	WITNESSETH:	11
12	WHEREAS the parties hereto are the owners of working, royalty, or	12
13	other oil and gas interests in the unit area subject to this agreement;	13
14	and	14
15	WHEREAS the Mineral Leasing Act of February 25, 1920, 41 Stat. 437,	15
16	as amended, 30 U. S. C. Secs. 181 et seq., authorizes Federal lessees and	16
17	their representatives to unite with each other, or jointly or separately	17
18	with others, in collectively adopting and operating a cooperative or unit	18
19	plan of development or operation of any oil or gas pool, field, or like	19
20	area, or any part thereof for the purpose of more properly conserving the	20
21	natural resources thereof whenever determined and certified by the	21
22	Secretary of the Interior to be necessary or advisable in the public	22
23	interest; and	23
24	WHEREAS, the Commissioner of Public Lands of the State of New Mexico	24
25	is authorized by an Act of the Legislature (Sec. 7-11-39 N.M. Statutes	25
26	1953 Annotated) to consent to or approve this agreement on behalf of the	26
27	State of New Mexico, insofar as it covers and includes lands and mineral	27
28	interests of the State of New Mexico; and	28
29	WHEREAS, the Oil Conservation Commission of the State of New Mexico	29
30	is authorized by an Act of the Legislature (Chapter 72, Laws of 1935, as	30
31	amended by Chapter 193, Laws of 1937, Chapter 166, Laws of 1941, and	31
32	Chapter 168, Laws of 1949) to approve this agreement and the conservation	32
33	provisions hereof; and	33
34	WHEREAS the parties hereto hold sufficient interests in the Cibola	34
35	Unit Area covering the land hereinafter described to give reasonably	35

1 effective control of operations therein; and 1

2 WHEREAS, it is the purpose of the parties hereto to conserve natural 2

3 resources, prevent waste, and secure other benefits obtainable through 3

4 development and operation of the area subject to this agreement under the 4

5 terms, conditions, and limitations herein set forth; 5

6 NOW, THEREFORE, in consideration of the premises and the promises 6

7 herein contained, the parties hereto commit to this agreement their 7

8 respective interests in the below-defined unit area, and agree severally 8

9 among themselves as follows: 9

10 1. ENABLING ACT AND REGULATIONS. The Mineral Leasing Act of 10

11 February 25, 1920, as amended, supra, and all valid pertinent regulations, 11

12 including operating and unit plan regulations, heretofore issued thereunder 12

13 or valid, pertinent, and reasonable regulations hereafter issued thereunder 13

14 are accepted and made a part of this agreement as to Federal lands, pro- 14

15 vided such regulations are not inconsistent with the terms of this agree- 15

16 ment; and as to State of New Mexico lands, the oil and gas operating 16

17 regulations in effect as of the effective date hereof governing drilling 17

18 and producing operations, not inconsistent with the terms hereof or the 18

19 laws of the State of New Mexico are hereby accepted and made a part of this 19

20 agreement. 20

21 2. UNIT AREA. The area specified on the map attached hereto marked 21

22 Exhibit A is hereby designated and recognized as constituting the unit 22

23 area, containing 30,733.49 acres, more or less. 23

24 Exhibit A shows, in addition to the boundary of the unit area, the 24

25 boundaries and identity of tracts and leases in said area to the extent 25

26 known to the Unit Operator. Exhibit B attached hereto is a schedule 26

27 showing to the extent known to the Unit Operator the acreage, percentage, 27

28 and kind of ownership of oil and gas interests in all land in the unit 28

29 area. However, nothing herein or in said schedule or map shall be con- 29

30 strued as a representation by any party hereto as to the ownership of any 30

31 interest other than such interest or interests as are shown in said map or 31

32 schedule as owned by such party. Exhibits A and B shall be revised by the 32

33 Unit Operator whenever changes in the unit area render such revision 33

34 necessary, or when requested by the Oil and Gas Supervisor, hereinafter 34

35 referred to as "Supervisor", or when requested by the Commissioner of 35

1 Public Lands of the State of New Mexico, hereinafter referred to as "Land 1  
2 Commissioner", and not less than five (5) copies of the revised exhibits 2  
3 shall be filed with the Supervisor, and two (2) copies thereof shall be 3  
4 filed with the Land Commissioner and one (1) copy with The New Mexico Oil 4  
5 Conservation Commission, hereinafter referred to as "Conservation 5  
6 Commission." 6

7 The above-described unit area shall when practicable be expanded to 7  
8 include therein any additional lands or shall be contracted to exclude lands 8  
9 whenever such expansion or contraction is deemed to be necessary or advis- 9  
10 able to conform with the purposes of this agreement. Such expansion or 10  
11 contraction shall be effected in the following manner: 11

12 (a) Unit Operator, on its own motion or on demand of the Director of 12  
13 the Geological Survey, hereinafter referred to as "Director," after pre- 13  
14 liminary concurrence by the Director, or on demand of the Land Commissioner 14  
15 but only after preliminary concurrence by the Director and the Land 15  
16 Commissioner, shall prepare a notice of proposed expansion or contraction 16  
17 describing the contemplated changes in the boundaries of the unit area, 17  
18 the reasons therefor, and the proposed effective date thereof, preferably 18  
19 the first day of a month subsequent to the date of notice. 19

20 (b) Said notice shall be delivered to the Supervisor, the Land 20  
21 Commissioner and the Conservation Commission, and copies thereof mailed 21  
22 to the last known address of each working interest owner, lessee, and 22  
23 lessor whose interests are affected, advising that thirty (30) days will 23  
24 be allowed for submission to the Unit Operator of any objections. 24

25 (c) Upon expiration of the thirty (30) day period provided in the 25  
26 preceding item (b) hereof, Unit Operator shall file with the Supervisor, 26  
27 Land Commissioner and Conservation Commission evidence of mailing of the 27  
28 notice of expansion or contraction and a copy of any objections thereto 28  
29 which have been filed with the Unit Operator, together with an application 29  
30 in sufficient number, for approval of such expansion or contraction and 30  
31 with appropriate joinders. 31

32 (d) After due consideration of all pertinent information, the expan- 32  
33 sion or contraction shall, upon approval of the Supervisor, the Land 33  
34 Commissioner and Conservation Commission, become effective as of the date 34  
35 prescribed in the notice thereof. 35

1 (e) All legal subdivisions of lands (i.e., 40 acres by Government 1  
2 survey or its nearest lot or tract equivalent; in instances of irregular 2  
3 surveys unusually large lots or tracts shall be considered in multiples of 3  
4 forty (40) acres or the nearest aliquot equivalent thereof), no parts of 4  
5 which are entitled to be in a participating area on or before the fifth 5  
6 anniversary of the effective date of the first initial participating area 6  
7 established under this unit agreement, shall be eliminated automatically 7  
8 from this agreement, effective as of said fifth anniversary, and such lands 8  
9 shall no longer be a part of the unit area and shall no longer be subject to 9  
10 this agreement, unless diligent drilling operations are in progress on uni- 10  
11 tized lands not entitled to participation on said fifth anniversary, in 11  
12 which event all such lands shall remain subject hereto for so long as such 12  
13 drilling operations are continued diligently with not more than ninety (90) 13  
14 days' time elapsing between the completion of one such well and the commence-14  
15 ment of the next such well. All legal subdivisions of lands not entitled to 15  
16 be in a participating area within ten (10) years after the effective date of 16  
17 the first initial participating area approved under this agreement shall be 17  
18 automatically eliminated from this agreement as of said tenth anniversary. 18  
19 All lands proved productive by diligent drilling operations after the 19  
20 aforesaid five-year period shall become participating in the same manner 20  
21 as during said five-year period. However, when such diligent drilling 21  
22 operations cease, all nonparticipating lands shall be automatically 22  
23 eliminated effective as of the ninety-first (91st) day thereafter. The 23  
24 Unit Operator shall within ninety (90) days after the effective date of any 24  
25 elimination hereunder, describe the area so eliminated to the satisfaction 25  
26 of the Supervisor and the Land Commissioner and promptly notify all parties 26  
27 in interest. 27

28 If conditions warrant extension of the ten-year period specified in 28  
29 this subsection 2(e), a single extension of not to exceed two (2) years 29  
30 may be accomplished by consent of the owners of ninety (90) percent of the 30  
31 working interests in the current nonparticipating unitized lands and the 31  
32 owners of sixty (60) percent of the basic royalty interests (exclusive of 32  
33 the basic royalty interests of the United States) in nonparticipating 33  
34 unitized lands with approval of the Director and the Land Commissioner, 34  
35 provided such extension application is submitted to the Director and the 35

1 Land Commissioner not later than sixty (60) days prior to the expiration of 1  
2 said ten-year period. 2

3 Any expansion of the unit area pursuant to this section which embraces 3  
4 lands theretofore eliminated pursuant to this subsection 2(e) shall not be 4  
5 considered automatic commitment or recommitment of such lands. 5

6 3. UNITIZED LAND AND UNITIZED SUBSTANCES. All land committed to this 6  
7 agreement shall constitute land referred to herein as "unitized land" or 7  
8 "land subject to this agreement." All oil and gas in any and all formations 8  
9 of the unitized land are unitized under the terms of this agreement and 9  
10 herein are called "unitized substances." 10

11 4. UNIT OPERATOR. TransOcean Oil, Inc. is hereby designated as Unit 11  
12 Operator and by signature hereto as Unit Operator agrees and consents to 12  
13 accept the duties and obligations of Unit Operator for the discovery, 13  
14 development, and production of unitized substances as herein provided. 14  
15 Whenever reference is made herein to the Unit Operator, such reference 15  
16 means the Unit Operator acting in that capacity and not as an owner of 16  
17 interest in unitized substances, and the term "working interest owner" when 17  
18 used herein shall include or refer to Unit Operator as the owner of a 18  
19 working interest when such an interest is owned by it. 19

20 5. RESIGNATION OR REMOVAL OF UNIT OPERATOR. Unit Operator shall have 20  
21 the right to resign at any time prior to the establishment of a partici- 21  
22 pating area or areas hereunder, but such resignation shall not become 22  
23 effective so as to release Unit Operator from the duties and obligations of 23  
24 Unit Operator and terminate Unit Operator's rights as such for a period of 24  
25 six (6) months after notice of intention to resign has been served by 25  
26 Unit Operator on all working interest owners, the Supervisor, the Land 26  
27 Commissioner and Conservation Commission, and until all wells then drilled 27  
28 hereunder are placed in a satisfactory condition for suspension or aban- 28  
29 donment whichever is required by the Supervisor as to Federal lands and by 29  
30 the Conservation Commission as to State lands unless a new Unit Operator 30  
31 shall have been selected and approved and shall have taken over and assumed 31  
32 the duties and obligations of Unit Operator prior to the expiration of said 32  
33 period. 33

34 Unit Operator shall have the right to resign in like manner and subject 34  
35 to like limitations as above provided at any time a participating area 35

1 established hereunder is in existence, but, in all instances of resignation 1  
2 or removal, until a successor Unit Operator is selected and approved as 2  
3 hereinafter provided, the working interest owners shall be jointly responsi- 3  
4 ble for performance of the duties of Unit Operator, and shall not later than 4  
5 thirty (30) days before such resignation or removal becomes effective appoint 5  
6 a common agent to represent them in any action to be taken hereunder. 6

7 The resignation of Unit Operator shall not release Unit Operator from 7  
8 any liability for any default by it hereunder occurring prior to the effec- 8  
9 tive date of its resignation. 9

10 The Unit Operator may, upon default or failure in the performance of 10  
11 its duties or obligations hereunder, be subject to removal by the same 11  
12 percentage vote of the owners of working interests as herein provided for 12  
13 the selection of a new Unit Operator. Such removal shall be effective 13  
14 upon notice thereof to the Supervisor and the Land Commissioner. 14

15 The resignation or removal of Unit Operator under this agreement 15  
16 shall not terminate its right, title, or interest as the owner of a working 16  
17 interest or other interest in unitized substances, but upon the resignation 17  
18 or removal of Unit Operator becoming effective, such Unit Operator shall 18  
19 deliver possession of all wells, equipment, materials, and appurtenances 19  
20 used in conducting the unit operations to the new duly qualified successor 20  
21 Unit Operator or to the common agent, if no such new Unit Operator is 21  
22 elected, to be used for the purpose of conducting unit operations hereunder. 22  
23 Nothing herein shall be construed as authorizing removal of any material, 23  
24 equipment and appurtenances needed for the preservation of any wells. 24

25 6. SUCCESSOR UNIT OPERATOR. Whenever the Unit Operator shall tender 25  
26 his or its resignation as Unit Operator or shall be removed as hereinabove 26  
27 provided, or a change of Unit Operator is negotiated by working interest 27  
28 owners, the owners of the working interests in the participating area or 28  
29 areas according to their respective acreage interests in such participating 29  
30 area or areas, or, until a participating area shall have been established, 30  
31 the owners of the working interests according to their respective acreage 31  
32 interests in all unitized land, shall by majority vote select a successor 32  
33 Unit Operator: Provided, That, if a majority but less than seventy-five 33  
34 (75) percent of the working interests qualified to vote are owned by one 34  
35 party to this agreement, a concurring vote of one or more additional 35

1 working interest owners shall be required to select a new operator. Such 1  
2 selection shall not become effective until: 2

3 (a) A Unit Operator so selected shall accept in writing the duties and 3  
4 responsibilities of Unit Operator, and 4

5 (b) The selection shall have been approved by the Supervisor. 5

6 If no successor Unit Operator is selected and qualified as herein 6  
7 provided, the Director and the Land Commissioner, at their election may 7  
8 declare this unit agreement terminated. 8

9 7. ACCOUNTING PROVISIONS AND UNIT OPERATING AGREEMENT. If the Unit 9  
10 Operator is not the sole owner of working interests, costs and expenses 10  
11 incurred by Unit Operator in conducting unit operations hereunder shall be 11  
12 paid and apportioned among and borne by the owners of working interests, all 12  
13 in accordance with the agreement or agreements entered into by and between 13  
14 the Unit Operator and the owners of working interests, whether one or more, 14  
15 separately or collectively. Any agreement or agreements entered into 15  
16 between the working interest owners and the Unit Operator as provided in 16  
17 this section, whether one or more, are herein referred to as the "unit 17  
18 operating agreement." Such unit operating agreement shall also provide the 18  
19 manner in which the working interest owners shall be entitled to receive 19  
20 their respective proportionate and allocated share of the benefits accruing 20  
21 hereto in conformity with their underlying operating agreements, leases or 21  
22 other independent contracts, and such other rights and obligations as 22  
23 between Unit Operator and the working interest owners as may be agreed upon 23  
24 by Unit Operator and the working interest owners; however, no such unit 24  
25 operating agreement shall be deemed either to modify any of the terms and 25  
26 conditions of this unit agreement or to relieve the Unit Operator of any 26  
27 right or obligation established under this unit agreement, and in case of 27  
28 any inconsistency or conflict between this unit agreement and the unit 28  
29 operating agreement, this unit agreement shall govern. Three (3) true 29  
30 copies of any unit operating agreement executed pursuant to this section 30  
31 should be filed with the Supervisor and one (1) true copy with the Land 31  
32 Commissioner, prior to approval of this unit agreement. 32

33 8. RIGHTS AND OBLIGATIONS OF UNIT OPERATOR. Except as otherwise 33  
34 specifically provided herein, the exclusive right, privilege, and duty of 34  
35 exercising any and all rights of the parties hereto which are necessary or 35

1 convenient for prospecting for, producing, storing, allocating, and distri- 1  
2 buting the unitized substances are hereby delegated to and shall be 2  
3 exercised by the Unit Operator as herein provided. Acceptable evidence of 3  
4 title to said rights shall be deposited with said Unit Operator and, 4  
5 together with this agreement, shall constitute and define the rights, privi- 5  
6 leges, and obligations of Unit Operator. Nothing herein, however, shall be 6  
7 construed to transfer title to any land or to any lease or operating 7  
8 agreement, it being understood that under this agreement the Unit Operator, 8  
9 in its capacity as Unit Operator, shall exercise the rights of possession 9  
10 and use vested in the parties hereto only for the purposes herein specified. 10  
11 9. DRILLING TO DISCOVERY. Within six (6) months after the effective 11  
12 date hereof, the Unit Operator shall begin to drill an adequate test well 12  
13 at a location approved by the Supervisor if on Federal land, or by the 13  
14 Land Commissioner if on State Land, or by the Conservation Commission if on 14  
15 privately owned land, unless on such effective date a well is being drilled 15  
16 conformably with the terms hereof, and thereafter continue such drilling 16  
17 diligently until the basement complex has been penetrated 17  
18 or until at a lesser depth unitized substances shall be discovered which 18  
19 can be produced in paying quantities (to wit: quantities sufficient to 19  
20 repay the costs of drilling, completing, and producing operations, with a 20  
21 reasonable profit) or the Unit Operator shall at any time establish to the 21  
22 satisfaction of the Supervisor if on Federal land, of the Land Commissioner 22  
23 if on State land, or of the Conservation Commission if on privately owned 23  
24 land, that further drilling of said well would be unwarranted or impracti- 24  
25 cable, provided however, that Unit Operator shall not in any event be 25  
26 required to drill said well to a depth in excess of 6,500 feet. Until the 26  
27 discovery of a deposit of unitized substances capable of being produced in 27  
28 paying quantities, the Unit Operator shall continue drilling one well at a 28  
29 time, allowing not more than six (6) months between the completion of one 29  
30 well and the beginning of the next well, until a well capable of producing 30  
31 unitized substances in paying quantities is completed to the satisfaction 31  
32 of said Supervisor if on Federal land, of the Land Commissioner if on State 32  
33 Land, or of the Conservation Commission if on privately owned land, or until 33  
34 it is reasonably proved that the unitized land is incapable of producing 34  
35 unitized substances in paying quantities in the formations drilled here- 35



1 under. Nothing in this section shall be deemed to limit the right of the 1  
2 Unit Operator to resign as provided in Section 5, hereof, or as requiring 2  
3 Unit Operator to commence or continue any drilling during the period pending 3  
4 such resignation becoming effective in order to comply with the requirements 4  
5 of this section. The Supervisor may modify the drilling requirements of 5  
6 this section by granting reasonable extensions of time when, in his opinion 6  
7 such action is warranted. 7

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

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

25 Any plan submitted pursuant to this section shall provide for the 25  
26 exploration of the unitized area and for the diligent drilling necessary 26  
27 for determination of the area or areas thereof capable of producing 27  
28 unitized substances in paying quantities in each and every productive 28  
29 formation and shall be as complete and adequate as the Supervisor and the 29  
30 Land Commissioner may determine to be necessary for timely development and 30  
31 proper conservation of the oil and gas resources of the unitized area and 31  
32 shall: 32

33 (a) Specify the number and locations of any wells to be drilled 33  
34 and the proposed order and time for such drilling; and 34

35 (b) To the extent practicable specify the operating practices regarded 35

1 as necessary and advisable for proper conservation of natural resources. 1  
2 Separate plans may be submitted for separate productive zones, subject to 2  
3 the approval of the Supervisor and the Land Commissioner. 3  
4 Plans shall be modified or supplemented when necessary to meet changed 4  
5 conditions or to protect the interests of all parties to this agreement. 5  
6 Reasonable diligence shall be exercised in complying with the obligations of 6  
7 the approved plan of development. The Supervisor and the Land Commissioner 7  
8 are authorized to grant a reasonable extension of the six-month period 8  
9 herein prescribed for submission of an initial plan of development where 9  
10 such action is justified because of unusual conditions or circumstances. 10  
11 After completion hereunder of a well capable of producing any unitized sub- 11  
12 stance in paying quantities, no further wells, except such as may be 12  
13 necessary to afford protection against operations not under this agreement 13  
14 and such as may be specifically approved by the Supervisor and the Land 14  
15 Commissioner, shall be drilled except in accordance with a plan of develop- 15  
16 ment approved as herein provided. 16  
17 11. PARTICIPATION AFTER DISCOVERY. Upon completion of a well capable 17  
18 of producing unitized substances in paying quantities or as soon thereafter 18  
19 as required by the Supervisor and the Land Commissioner, the Unit Operator 19  
20 shall submit for approval by the Supervisor and the Land Commissioner a 20  
21 schedule, based on subdivisions of the public-land survey or aliquot parts 21  
22 thereof, of all land then regarded as reasonably proved to be productive 22  
23 in paying quantities; all lands in said schedule on approval of the 23  
24 Supervisor and the Land Commissioner to constitute a participating area, 24  
25 effective as of the date of completion of such well or the effective date of 25  
26 this unit agreement, whichever is later. The acreages of both Federal and 26  
27 non-Federal lands shall be based upon appropriate computations from the 27  
28 courses and distances shown on the last approved public-land survey as of 28  
29 the effective date of each initial participating area. Said schedule shall 29  
30 also set forth the percentage of unitized substances to be allocated as 30  
31 herein provided to each tract in the participating area so established, 31  
32 and shall govern the allocation of production commencing with the effective 32  
33 date of the participating area. A separate participating area shall be 33  
34 established for each separate pool or deposit of unitized substances or for 34  
35 any group thereof which is produced as a single pool or zone, and any two 35

1 or more participating areas so established may be combined into one, on 1  
2 approval of the Supervisor and the Land Commissioner. When production from 2  
3 two or more participating areas, so established, is subsequently found to be 3  
4 from a common pool or deposit said participating areas shall be combined 4  
5 into one effective as of such appropriate date as may be approved or pre- 5  
6 scribed by the Supervisor and the Land Commissioner. The participating 6  
7 area or areas so established shall be revised from time to time, subject 7  
8 to like approval, to include additional land then regarded as reasonably 8  
9 proved to be productive in paying quantities or necessary for unit 9  
10 operations, or to exclude land then regarded as reasonably proved not to be 10  
11 productive in paying quantities and the schedule of allocation percentages 11  
12 shall be revised accordingly. The effective date of any revision shall be 12  
13 the first of the month in which is obtained the knowledge or information on 13  
14 which such revision is predicated, provided, however, that a more appro- 14  
15 priate effective date may be used if justified by the Unit Operator and 15  
16 approved by the Supervisor and the Land Commissioner. No land shall be 16  
17 excluded from a participating area on account of depletion of the unitized 17  
18 substances, except that any participating area established under the pro- 18  
19 visions of this unit agreement shall terminate automatically whenever all 19  
20 completion in the formation on which the participating area is based are 20  
21 abandoned. 21

22 It is the intent of this section that a participating area shall 22  
23 represent the area known or reasonably estimated to be productive in paying 23  
24 quantities; but, regardless of any revision of the participating area, 24  
25 nothing herein contained shall be construed as requiring any retroactive 25  
26 adjustment for production obtained prior to the effective date of the 26  
27 revision of the participating area. 27

28 In the absence of agreement at any time between the Unit Operator and 28  
29 the Supervisor and the Land Commissioner as to the proper definition or 29  
30 redefinition of a participating area, or until a participating area has, 30  
31 or areas have, been established as provided herein, the portion of all 31  
32 payments affected thereby shall be impounded in a manner mutually accept- 32  
33 able to the owners of working interests and the Supervisor and the Land 33  
34 Commissioner. Royalties due the United States and the State of New Mexico 34  
35 shall be determined by the Supervisor and the Land Commissioner, respec- 35

1 tively, and the amount thereof shall be deposited, as directed by the 1  
2 Supervisor and the Land Commissioner, to be held as unearned monies until 2  
3 a participating area is finally approved and then applied as earned or 3  
4 returned in accordance with a determination of the sums due as Federal 4  
5 royalty and State of New Mexico royalty, respectively, on the basis of such 5  
6 approved participating area. 6

7 Whenever it is determined, subject to the approval of the Supervisor, 7  
8 as to wells drilled on Federal land and the Land Commissioner as to wells 8  
9 drilled on State land and of the Conservation Commission as to wells drilled 9  
10 on privately owned land, that a well drilled under this agreement is not 10  
11 capable of production in paying quantities and inclusion of the land on 11  
12 which it is situated in a participating area is unwarranted, production 12  
13 from such well shall, for the purposes of settlement among all parties 13  
14 other than working interest owners, be allocated to the land on which the 14  
15 well is located unless such land is already within the participating area 15  
16 established for the pool or deposit from which such production is obtained. 16  
17 Settlement for working interest benefits from such a well shall be made as 17  
18 provided in the unit operating agreement. 18

19 12. ALLOCATION OF PRODUCTION. All unitized substances produced from 19  
20 each participating area established under this agreement, except any part 20  
21 thereof used in conformity with good operating practices within the unitized 21  
22 area for drilling, operating, camp and other production or development 22  
23 purposes, for repressuring or recycling in accordance with a plan of devel- 23  
24 opment approved by the Supervisor, the Land Commissioner and the 24  
25 Conservation Commission, or unavoidably lost, shall be deemed to be pro- 25  
26 duced equally on an acreage basis from the several tracts of unitized land 26  
27 of the participating area established for such production and, for the 27  
28 purpose of determining any benefits accruing under this agreement, each 28  
29 such tract of unitized land shall have allocated to it such percentage of 29  
30 said production as the number of acres of such tract included in said 30  
31 participating area bears to the total acres of unitized land in said 31  
32 participating area, except that allocation of production hereunder for 32  
33 purposes other than for settlement of the royalty, overriding royalty, or 33  
34 payment out of production obligations of the respective working interest 34  
35 owners, shall be on the basis prescribed in the unit operating agreement 35

1 whether in conformity with the basis of allocation herein set forth or 1  
2 otherwise. It is hereby agreed that production of unitized substances from 2  
3 a participating area shall be allocated as provided herein regardless of 3  
4 whether any wells are drilled on any particular part or tract of said part- 4  
5 icipating area. If any gas produced from one participating area is used for 5  
6 repressuring or recycling purposes in another participating area, the first 6  
7 gas withdrawn from such last-mentioned participating area for sale during 7  
8 the life of this agreement shall be considered to be the gas so transferred 8  
9 until an amount equal to that transferred shall be so produced for sale and 9  
10 such gas shall be allocated to the participating area from which initially 10  
11 produced as such area was last defined at the time of such final production. 11

12 13. DEVELOPMENT OR OPERATION OF NON-PARTICIPATING LAND OR FORMATIONS. 12  
13 Any party hereto owning or controlling the working interest in any unitized 13  
14 land having thereon a regular well location may with the approval of the 14  
15 Supervisor as to Federal land, the Land Commissioner as to State land, and 15  
16 the Conservation Commission as to privately owned land, at such party's sole 16  
17 risk, costs, and expense, drill a well to test any formation for which a 17  
18 participating area has not been established or to test any formation for 18  
19 which a participating area has been established if such location is not 19  
20 within said participating area, unless within ninety (90) days of receipt 20  
21 of notice from said party of his intention to drill the well the Unit 21  
22 Operator elects and commences to drill such a well in like manner as other 22  
23 wells are drilled by the Unit Operator under this agreement. 23

24 If any well drilled as aforesaid by a working interest owner results 24  
25 in production such that the land upon which it is situated may properly be 25  
26 included in a participating area, such participating area shall be estab- 26  
27 lished or enlarged as provided in this agreement and the well shall there- 27  
28 after be operated by the Unit Operator in accordance with the terms of this 28  
29 agreement and the unit operating agreement. 29

30 If any well drilled as aforesaid by a working interest owner obtains 30  
31 production in quantities insufficient to justify the inclusion of the land 31  
32 upon which such well is situated in a participating area, such well may be 32  
33 operated and produced by the party drilling the same subject to the 33  
34 conservation requirements of this agreement. The royalties in amount or 34  
35 value of production from any such well shall be paid as specified in the 35

1 underlying lease and agreements affected. 1

2 14. ROYALTY SETTLEMENT. The United States, the State of New Mexico, 2

3 and any royalty owner who, is entitled to take in kind a share of the 3

4 substances now unitized hereunder shall hereafter be entitled to the right 4

5 to take in kind its share of the unitized substances, and Unit Operator, or 5

6 the working interest owner in case of the operation of a well by a working 6

7 interest owner as herein provided for in special cases, shall make deliveries 7

8 of such royalty share taken in kind in conformity with the applicable 8

9 contracts, laws, and regulations. Settlement for royalty interest not taken 9

10 in kind shall be made by working interest owners responsible therefor under 10

11 existing contracts, laws and regulations, or by the Unit Operator on or 11

12 before the last day of each month for unitized substances produced during 12

13 the preceding calendar month; provided, however, that nothing herein con- 13

14 tained shall operate to relieve the lessees of any land from their respec- 14

15 tive lease obligations for the payment of any royalties due under their 15

16 leases. 16

17 If gas obtained from lands not subject to this agreement is introduced 17

18 into any participating area hereunder, for use in repressuring, stimulation 18

19 of production, or increasing ultimate recovery, in conformity with a plan of 19

20 operations approved by the Supervisor, the Land Commissioner and the 20

21 Conservation Commission, a like amount of gas, after settlement as herein 21

22 provided for any gas transferred from any other participating area and 22

23 with appropriate deduction for loss from any cause, may be withdrawn from 23

24 the formation into which the gas is introduced, royalty free as to dry gas, 24

25 but not as to any products which may be extracted therefrom; provided that 25

26 such withdrawal shall be at such time as may be provided in the approved 26

27 plan of operations or as may otherwise be consented to by the Supervisor, 27

28 the Land Commissioner and the Conservation Commission as conforming to 28

29 good petroleum engineering practice; and provided further, that such right 29

30 of withdrawal shall terminate on the termination of this unit agreement. 30

31 Royalty due the United States shall be computed as provided in the 31

32 operating regulations and paid in value or delivered in kind as to all 32

33 unitized substances on the basis of the amounts thereof allocated to 33

34 unitized Federal land as provided herein at the rates specified in the 34

35 respective Federal leases, or at such lower rate or rates as may be 35

1 authorized by law or regulation; provided, that for leases on which the 1  
2 royalty rate depends on the daily average production per well, said average 2  
3 production shall be determined in accordance with the operating regulations 3  
4 as though each participating area were a single consolidated lease. 4  
5 Royalty due the State of New Mexico shall be computed and paid on the 5  
6 basis of the amounts allocated to unitized State land as provided herein at 6  
7 the rate specified in the State oil and gas lease. 7  
8 Royalty due on account of privately owned lands shall be computed and 8  
9 paid on the basis of all unitized substances allocated to such lands. 9  
10 15. RENTAL SETTLEMENT. Rental or minimum royalties due on leases 10  
11 committed hereto shall be paid by working interest owners responsible there- 11  
12 for under existing contracts, laws, and regulations, provided that nothing 12  
13 herein contained shall operate to relieve the lessees of any land from their 13  
14 respective lease obligations for the payment of any rental or minimum 14  
15 royalty due under their leases. Rental or minimum royalty for lands of the 15  
16 United States subject to this agreement shall be paid at the rate specified 16  
17 in the respective leases from the United States unless such rental or mini- 17  
18 mum royalty is waived, suspended, or reduced by law or by approval of the 18  
19 Secretary or his duly authorized representative. 19  
20 Rentals on State of New Mexico lands subject to this agreement shall 20  
21 be paid at the rates specified in the respective leases. 21  
22 With respect to any lease on non-Federal land containing provisions 22  
23 which would terminate such lease unless drilling operations are commenced 23  
24 upon the land covered thereby within the time therein specified or rentals 24  
25 paid for the privilege of deferring such drilling operations, the rentals 25  
26 required thereby shall, notwithstanding any other provisions of this agree- 26  
27 ment, be deemed to accrue and become payable during the term thereof as 27  
28 extended by this agreement and until the required drilling operations are 28  
29 commenced upon the land covered thereby or until some portion of such land is 29  
30 included within a participating area. 30  
31 16. CONSERVATION. Operations hereunder and production of unitized 31  
32 substances shall be conducted to provide for the most economical and effi- 32  
33 cient recovery of said substances without waste, as defined by or pursuant 33  
34 to State or Federal law or regulation. 34  
35 17. DRAINAGE. The Unit Operator shall take such measures as the 35

1 Supervisor and Land Commissioner deem appropriate and adequate to prevent 1  
2 drainage of unitized substances from unitized land by wells on land not 2  
3 subject to this agreement. 3

4 18. LEASES AND CONTRACTS CONFORMED AND EXTENDED. The terms, condi- 4  
5 tions, and provisions of all leases, subleases, and other contracts relating 5  
6 to exploration, drilling, development, or operation for oil or gas on lands 6  
7 committed to this agreement are hereby expressly modified and amended to the 7  
8 extent necessary to make the same conform to the provisions hereof, but 8  
9 otherwise to remain in full force and effect; and the parties hereto hereby 9  
10 consent that the Secretary as to Federal leases, and the Land Commissioner 10  
11 as to State leases, shall and each by his approval hereof, or by the approval 11  
12 hereof by his duly authorized representative, does hereby establish, alter, 12  
13 change or revoke the drilling, producing, rental, minimum royalty, and 13  
14 royalty requirements of Federal and State leases committed hereto and the 14  
15 regulations in respect thereto to conform said requirements to the provi- 15  
16 sions of this agreement, and, without limiting the generality of the fore- 16  
17 going, all leases, subleases, and contracts are particularly modified in 17  
18 accordance with the following: 18

19 (a) The development and operation of lands subject to this agreement 19  
20 under the terms hereof shall be deemed full performance of all obligations 20  
21 for development and operation with respect to each and every separately 21  
22 owned tract subject to this agreement, regardless of whether there is any 22  
23 development of any particular tract of the unit area. 23

24 (b) Drilling and producing operations performed hereunder upon any 24  
25 tract of unitized lands will be accepted and deemed to be performed upon 25  
26 and for the benefit of each and every tract of unitized land, and no lease 26  
27 shall be deemed to expire by reason of failure to drill or produce wells 27  
28 situated on the land therein embraced. 28

29 (c) Suspension of drilling or producing operations on all unitized 29  
30 lands pursuant to direction or consent of the Secretary and the Land 30  
31 Commissioner of their duly authorized representatives shall be deemed to 31  
32 constitute such suspension pursuant to such direction or consent as to each 32  
33 and every tract of unitized land. A suspension of drilling or producing 33  
34 operations limited to specified lands shall be applicable only to such lands. 34  
35 (d) Each lease, sublease or contract relating to the exploration, 35



1 drilling, development or operation for oil or gas of lands other than those 1  
2 of the United States committed to this agreement, which, by its terms might 2  
3 expire prior to the termination of this agreement, is hereby extended beyond 3  
4 any such terms so provided therein so that it shall be continued in full 4  
5 force and effect for and during the term of this agreement. 5

6 (e) Any Federal lease for a fixed term of twenty (20) years or any 6  
7 renewal thereof or any part of such lease which is made subject to this 7  
8 agreement shall continue in force beyond the term provided therein until the 8  
9 termination hereof. Any other Federal lease committed hereto shall continue 9  
10 in force beyond the term so provided therein or by law as to the land com- 10  
11 mitted so long as such lease remains subject hereto, provided that production 11  
12 is had in paying quantities under this unit agreement prior to the expira- 12  
13 tion date of the term of such lease, or in the event actual drilling 13  
14 operations are commenced on unitized land, in accordance with the provisions 14  
15 of this agreement, prior to the end of the primary term of such lease and 15  
16 are being diligently prosecuted at that time, such lease shall be extended 16  
17 for two (2) years and so long thereafter as oil or gas is produced in paying 17  
18 quantities in accordance with the provisions of the Mineral Leasing Act 18  
19 Revisions of 1960. 19

20 (f) Each sublease or contract relating to the operation and develop- 20  
21 ment of unitized substances from lands of the United States committed to this 21  
22 agreement, which by its terms would expire prior to the time at which the 22  
23 underlying lease, as extended by the immediately preceding paragraph, will 23  
24 expire, is hereby extended beyond any such term so provided therein so that 24  
25 it shall be continued in full force and effect for and during the term of the 25  
26 underlying lease as such term is herein extended. 26

27 (g) The segregation of any Federal lease committed to this agreement 27  
28 is governed by the following provision in the fourth paragraph of Sec. 17(j) 28  
29 of the Mineral Leasing Act, as amended by the Act of September 2, 1960 29  
30 (74 Stat. 781-784): "Any (Federal) lease heretofore or hereafter committed 30  
31 to any such (unit) plan embracing lands that are in part within and in part 31  
32 outside of the area covered by any such plan shall be segregated into sep- 32  
33 arate leases as to the lands committed and the lands not committed as of the 33  
34 effective date of unitization: Provided, however, That any such lease as to 34  
35 the nonunitized portion shall continue in force and effect for the term 35

1 thereof but for not less than two (2) years from the date of such segre- 1  
2 gation and so long thereafter as oil or gas is produced in paying quantities. 2

3 Any lease embracing lands of the State of New Mexico which is made 3  
4 subject to this agreement, shall continue in force beyond the term provided 4  
5 therein as to lands committed hereto with the termination hereof. 5

6 (h) Any lease, other than a Federal lease, having only a portion of 6  
7 its lands committed hereto shall be segregated as to the portion committed 7  
8 and the portion not committed, and the provisions of such lease shall apply 8  
9 separately to such segregated portions commencing as of the effective date 9  
10 hereof. In the event any such lease provides for a lump-sum rental payment, 10  
11 such payment shall be prorated between the portions so segregated in pro- 11  
12 portion to the acreage of the respective tracts. 12

13 (i) Any lease embracing lands of the State of New Mexico having only 13  
14 a portion of its land committed hereto, shall be segregated as to the 14  
15 portion committed and the portion not committed, and the provisions of such 15  
16 lease shall apply separately to such segregated portions commencing as of 16  
17 the effective date hereof; provided, however, notwithstanding any of the 17  
18 provisions of this agreement to the contract any lease embracing lands of 18  
19 the State of New Mexico having only a portion of its lands committed hereto 19  
20 shall continue in full force and effect beyond the term provided therein as 20  
21 to all lands embraced in such lease, if oil or gas is discovered and is 21  
22 capable of being produced in paying quantities from some part of the lands 22  
23 embraced in such lease at the expiration of the secondary term of such lease; 23  
24 or if, at the expiration of the secondary term, the lessee or the Unit 24  
25 Operator is then engaged in bona fide drilling or reworking operations on 25  
26 some part of the lands embraced in such lease, the same, as to all lands 26  
27 embraced therein, shall remain in full force and effect so long as such 27  
28 operations are being diligently prosecuted, and if they result in the pro- 28  
29 duction of oil or gas, said lease shall continue in full force and effect as 29  
30 to all of the lands embraced therein, so long thereafter as oil or gas in 30  
31 paying quantities is being produced from any portion of said lands. 31

32 19. COVENANTS RUN WITH LAND. The covenants herein shall be construed 32  
33 to be covenants running with the land with respect to the interest of the 33  
34 parties hereto and their successors in interest until this agreement 34  
35 terminates, and any grant, transfer, or conveyance, of interest in land or 35

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

8 20. EFFECTIVE DATE AND TERM. This agreement shall become effective 8  
9 upon approval by the Secretary and the Land Commissioner or their duly 9  
10 authorized representatives and shall terminate five (5) years from said 10  
11 effective date unless, 11

12 (a) Such date of expiration is extended by the Director and the 12  
13 Land Commissioner, or 13

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

21 (c) A valuable discovery of unitized substances has been made or 21  
22 accepted on unitized land during said initial term or any extension thereof, 22  
23 in which event the agreement shall remain in effect for such term and so 23  
24 long as unitized substances can be produced in quantities sufficient to pay 24  
25 for the cost of producing same from wells on unitized land within any parti- 25  
26 cipating area established hereunder and, should production cease, so long 26  
27 thereafter as diligent operations are in progress for the restoration of 27  
28 production or discovery of new production and so long thereafter as unitized 28  
29 substances so discovered can be produced as aforesaid, or 29

30 (d) It is terminated as heretofore provided in this agreement. 30  
31 This agreement may be terminated at any time by not less than seventy-five 31  
32 (75) per centum, on an acreage basis, of the working interest owners 32  
33 signatory hereto, with the approval of the Supervisor and Land Commissioner; 33  
34 notice of any such approval to be given by the Unit Operator to all parties 34  
35 hereto. 35

1           21. RATE OF PROSPECTING, DEVELOPMENT AND PRODUCTION. The Director is 1  
2 hereby vested with authority to alter or modify from time to time in his 2  
3 discretion the quantity and rate of production under this agreement when such 3  
4 quantity and rate is not fixed pursuant to Federal or State law or does not 4  
5 conform to any state-wide voluntary conservation or allocation program, which 5  
6 is established, recognized, and generally adhered to by the majority of 6  
7 operators in such State, such authority being hereby limited to alteration or 7  
8 modification in the public interest, the purpose thereof and the public 8  
9 interest to be served thereby to be stated in the order of alteration or mod- 9  
10 ification. Without regard to the foregoing, the Director is also hereby 10  
11 vested with authority to alter or modify from time to time in his discretion 11  
12 the rate of prospecting and development and the quantity and rate of pro- 12  
13 duction under this agreement when such alteration or modification is in the 13  
14 interest of attaining the conservation objectives stated in this agreement 14  
15 and is not in violation of any applicable Federal or State law. 15

16           Powers in this section vested in the Director shall only be exercised 16  
17 after notice to Unit Operator and opportunity for hearing to be held not less 17  
18 than fifteen (15) days from notice. 18

19           Provided, further, That no such alteration or modification shall be 19  
20 effective as to any land of the State of New Mexico, as to the rate of 20  
21 prospecting and developing in the absence of the specific written approval 21  
22 thereof by the Commissioner and as to any lands of the State of New Mexico 22  
23 or privately owned lands subject to this agreement as to the quantity and 23  
24 rate of production in the absence of specific written approval thereof by 24  
25 the Commission. 25

26           22. CONFLICT OF SUPERVISION. Neither the Unit Operator nor the 26  
27 working interest owners nor any of them shall be subject to any forfeiture, 27  
28 termination or expiration of any rights hereunder or under any leases or 28  
29 contracts subject hereto, or to any penalty or liability on account of delay 29  
30 or failure in whole or in part to comply with any applicable provision 30  
31 thereof to the extent that the Unit Operator, working interest owners or any 31  
32 of them are hindered, delayed or prevented from complying therewith by 32  
33 reason of failure of the Unit Operator to obtain in the exercise of due 33  
34 diligence, the concurrence of proper representatives of the United States 34  
35 and proper representatives of the State of New Mexico in and about any 35

1 matters or thing concerning which it is required herein that such con- 1  
2 currence be obtained. The parties hereto, including the Conservation 2  
3 Commission, agree that all powers and authority vested in the Conservation 3  
4 Commission in and by any provisions of this by it pursuant to the provisions 4  
5 of the laws of the State of New Mexico and subject in any case to appeal or 5  
6 judicial review as may now or hereafter be provided by the laws of the State 6  
7 of New Mexico. 7

8 23. APPEARANCES. Unit Operator shall, after notice to other parties 8  
9 affected, have the right to appear for and on behalf of any and all interests 9  
10 affected hereby before the Department of the Interior, the Commissioner 10  
11 of Public Lands of the State of New Mexico and the New Mexico Oil 11  
12 Conservation Commission and to appeal from orders issued under the regu- 12  
13 lations of said Department, the Conservation Commission or Land 13  
14 Commissioner or to apply for relief from any of said regulations or in any 14  
15 proceedings relative to operations before the Department of the Interior, 15  
16 the Land Commissioner, or Conservation Commission or any other legally 16  
17 constituted authority; provided, however, that any other interested party 17  
18 shall also have the right at his own expense to be heard in any such pro- 18  
19 ceeding. 19

20 24. NOTICES. All notices, demands or statements required hereunder 20  
21 to be given or rendered to the parties hereto shall be deemed fully given 21  
22 if given in writing and personally delivered to the party or sent by post- 22  
23 paid registered or certified mail, addressed to such party or parties at 23  
24 their respective addresses set forth in connection with the signatures 24  
25 hereto or to the ratification or consent hereof or to such other address as 25  
26 any such party may have furnished in writing to party sending the notice, 26  
27 demand or statement. 27

28 25. NO WAIVER OF CERTAIN RIGHTS. Nothing in this agreement contained 28  
29 shall be construed as a waiver by any party hereto of the right to assert 29  
30 any legal or constitutional right or defense as to the validity or invalid- 30  
31 ity of any law of the State wherein said unitized lands are located, or of 31  
32 the United States, or regulations issued thereunder in any way affecting 32  
33 such party, or as a waiver by any such party of any right beyond his or its 33  
34 authority to waive. 34

35 26. UNAVOIDABLE DELAY. All obligations under this agreement requiring 35

1 the Unit Operator to commence or continue drilling or to operate on or 1  
2 produce unitized substances from any of the lands covered by this agreement 2  
3 shall be suspended while the Unit Operator, despite the exercise of due care 3  
4 and diligence, is prevented from complying with such obligations, in whole 4  
5 or in part, by strikes, acts of God, Federal, State, or municipal law or 5  
6 agencies, unavoidable accidents, uncontrollable delays in transportation, 6  
7 inability to obtain necessary materials in open market, or other matters 7  
8 beyond the reasonable control of the Unit Operator whether similar to matters 8  
9 herein enumerated or not. No unit obligation which is suspended under this 9  
10 section shall become due less than thirty (30) days after it has been 10  
11 determined that the suspension is no longer applicable. Determination of 11  
12 creditable "Unavoidable Delay" time shall be made by the Unit Operator 12  
13 subject to approval of the Supervisor and the Land Commissioner. 13

14 27. NONDISCRIMINATION. In connection with the performance of work 14  
15 under this agreement, the operator agrees to comply with all the provisions 15  
16 of Section 202 (1) to (7) inclusive of Executive Order 11246 (30 F.R. 12319) 16  
17 as amended, which are hereby incorporated by reference in this agreement. 17

18 28. LOSS OF TITLE. In the event title to any tract of unitized land 18  
19 shall fail and the true owner cannot be induced to join in this unit 19  
20 agreement, such tract shall be automatically regarded as not committed here-20  
21 to and there shall be such readjustment of future costs and benefits as may 21  
22 be required on account of the loss of such title. In the event of a dispute 22  
23 as to title as to any royalty, working interest, or other interests subject 23  
24 thereto, payment or delivery on account thereof may be withheld without 24  
25 liability for interest until the dispute is finally settled; provided, that, 25  
26 as to Federal and State land or leases, no payments of funds due the 26  
27 United States or the State of New Mexico should be withheld, but such funds 27  
28 of the United States shall be deposited as directed by the Supervisor and 28  
29 such funds of the State of New Mexico shall be deposited as directed by the 29  
30 Land Commissioner to be held as unearned money pending final settlement of 30  
31 the title dispute, and then applied as earned or returned in accordance 31  
32 with such final settlement. 32

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

35 29. NON-JOINDER AND SUBSEQUENT JOINDER. If the owner of any sub- 35

1   stantial interest in a tract within the unit area fails or refuses to sub-   1  
2   scribe or consent to this agreement, the owner of the working interest in   2  
3   that tract may withdraw said tract from this agreement by written notice   3  
4   delivered to the Supervisor and the Land Commissioner, and the Unit Operator   4  
5   prior to the approval of this agreement by the Supervisor. Any oil or gas   5  
6   interests in lands within the unit area not committed hereto prior to sub-   6  
7   mission of this agreement for final approval may thereafter be committed   7  
8   hereto by the owner or owners thereof subscribing or consenting to this   8  
9   agreement, and, if the interest is a working interest, by the owner of such   9  
10   interest also subscribing to the unit operating agreement. After operations   10  
11   are commenced hereunder, the right of subsequent joinder, as provided in   11  
12   this section, by a working interest owner is subject to such requirements   12  
13   or approvals, if any, pertaining to such joinder, as may be provided for in   13  
14   the unit operating agreement. After final approval hereof, joinder by a   14  
15   non-working interest owner must be consented to in writing by the working   15  
16   interest owner committed hereto and responsible for the payment of any   16  
17   benefits that may accrue hereunder in behalf of such non-working interest.   17  
18   A non-working interest may not be committed to this unit agreement unless   18  
19   the corresponding working interest is committed hereto. Joinder to the   19  
20   unit agreement by a working-interest owner, at any time, must be accom-   20  
21   panied by appropriate joinder to the unit operating agreement, if more than   21  
22   one committed working-interest owner is involved, in order for the interest   22  
23   to be regarded as committed to this unit agreement. Except as may otherwise   23  
24   herein be provided, subsequent joinders to this agreement shall be effective   24  
25   as of the first day of the month following the filing with the Supervisor,   25  
26   the Land Commissioner and the Conservation Commission of duly executed   26  
27   counterparts of all or any papers necessary to establish effective commit-   27  
28   ment of any tract to this agreement unless objection to such joinder is   28  
29   duly made within sixty (60) days by the Supervisor or Land Commissioner,   29  
30   provided, that as to State lands, all subsequent joinders must be approved   30  
31   by the Land Commissioner.   31

32       30. COUNTERPARTS. This agreement may be executed in any number of   32  
33   counterparts no one of which needs to be executed by all parties or may be   33  
34   ratified or consented to by separate instrument in writing specifically   34  
35   referring hereto and shall be binding upon all those parties who have   35

1 executed such a counterpart, ratification, or consent hereto with the same 1  
2 force and effect as if all such parties had signed the same document and 2  
3 regardless of whether or not it is executed by all other parties owning or 3  
4 claiming an interest in the lands within the above-described unit area. 4

5 30. SURRENDER. Nothing in this agreement shall prohibit the exercise 5  
6 by any working interest owner of the right to surrender vested in such party 6  
7 by any lease, sublease, or operating agreement as to all or any part of the 7  
8 lands covered thereby, provided that each party who will or might acquire 8  
9 such working interest by such surrender or by forfeiture as hereafter set 9  
10 forth, is bound by the terms of this agreement. 10

11 If as a result of any such surrender the working interest rights as to 11  
12 such lands become vested in any party other than the fee owner of the 12  
13 unitized substances, said party may forfeit such rights and further benefits 13  
14 from operation hereunder as to said land to the party next in the chain of 14  
15 title who shall be and become the owner of such working interest. 15

16 If as the result of any such surrender or forfeiture working interest 16  
17 rights become vested in the fee owner of the unitized substances, such 17  
18 owner may: 18

19 (1) Accept those working interest rights subject to this agreement 19  
20 and the unit operating agreement; or 20

21 (2) Lease the portion of such land as is included in a participating 21  
22 area established hereunder subject to this agreement and the unit operating 22  
23 agreement; or 23

24 (3) Provide for the independent operation of any part of such land 24  
25 that is not then included within a participating area established here- 25  
26 under. 26

27 If the fee owner of the unitized substance does not accept the 27  
28 working interest rights subject to this agreement and the unit operating 28  
29 agreement or lease such lands as above provided within six (6) months after 29  
30 the surrendered or forfeited working interest rights become vested in the 30  
31 fee owner, the benefits and obligations of operations accruing to such 31  
32 lands under this agreement and the unit operating agreement shall be shared 32  
33 by the remaining owners of unitized working interests in accordance with 33  
34 their respective working interest ownerships, and such owners of working 34  
35 interests shall compensate the fee owner of unitized substances in such 35



1 lands by paying sums equal to the rentals, minimum royalties, and royalties 1  
2 applicable to such lands under the lease in effect when the lands were 2  
3 unitized. 3

4 An appropriate accounting and settlement shall be made for all benefits 4  
5 accruing to or payments and expenditures made or incurred on behalf of such 5  
6 surrendered or forfeited working interest subsequent to the date of sur- 6  
7 render or forfeiture, and payment of any monies found to be owing by such an 7  
8 accounting shall be made as between the parties within thirty (30) days. 8  
9 In the event no unit operating agreement is in existence and a mutually 9  
10 acceptable agreement between the proper parties thereto cannot be consum- 10  
11 mated, the Supervisor may prescribe such reasonable and equitable agreement 11  
12 as he deems warranted under the circumstances. 12

13 The exercise of any right vested in a working interest owner to 13  
14 reassign such working interest to the party from whom obtained shall be 14  
15 subject to the same conditions as set forth in this section in regard to 15  
16 the exercise of a right to surrender. 16

17 32. TAXES. The working interest owners shall render and pay for 17  
18 their account and the account of the royalty owners all valid taxes on or 18  
19 measured by the unitized substances in and under or that may be produced, 19  
20 gathered and sold from the land subject to this contract after the 20  
21 effective date of this agreement, or upon the proceeds or net proceeds 21  
22 derived therefrom. The working interest owners on each tract shall and may 22  
23 charge the proper proportion of said taxes to the royalty owners having 23  
24 interests in said tract, and may currently retain and deduct sufficient 24  
25 of the unitized substances or derivative products, or net proceeds thereof 25  
26 from the allocated share of each royalty owner to secure reimbursement for 26  
27 the taxes so paid. No such taxes shall be charged to the United States or 27  
28 to the State of New Mexico or to any lessor who has a contract with his 28  
29 lessee which requires the lessee to pay such taxes. 29

30 33. NO PARTNERSHIP. It is expressly agreed that the relation of 30  
31 the parties hereto is that of independent contractors and nothing in this 31  
32 agreement contained, expressed or implied, nor any operations conducted 32  
33 hereunder, shall create or be deemed to have created a partnership or 33  
34 association between the parties hereto or any of them. 34

