

completion hereunder of a well capable of producing any unitized substance in paying quantities, no further wells, except the initial obligations wells and such as may be necessary to afford protection against operations not under this agreement and such as may be specifically approved by the Supervisor and the Land Commissioner, shall be drilled except in accordance with a plan of development approved as herein provided.

11. PARTICIPATION AFTER DISCOVERY.

~~Upon completion of a well capable of producing unitized substances in paying quantities or as soon thereafter as required by the Supervisor or the Land Commissioner,~~  
*Concurrently with the submission of this agreement for final approval*  
the Unit Operator shall submit for approval by the Supervisor and the Land Commissioner a schedule, based on subdivisions of the public land survey or aliquot parts thereof, of all land then regarded as reasonably proved to be productive in paying quantities *or necessary for unit operations in* ~~from~~ the pool or deposit for which the participating area is to be established. All lands in said schedule, on approval of the Supervisor and the Land Commissioner, will constitute the initial participating area, effective as of the ~~date of completion of such well or the~~ effective date of this Unit Agreement, ~~whichever is later~~. The acreages of both Federal and non-Federal lands shall be based upon appropriate computations from the courses and distances shown on the last approved public land survey as of the effective date of the initial participating area. Said schedule also shall set forth the percentage of unitized substances to be allocated as herein provided to each unitized tract in the participating area so established, and shall govern the allocation of production from and after the date the participating area becomes effective. A separate participating area shall be established ~~in like manner~~ for each separate pool or deposit of unitized substances or for any *effective as of the date of the completion of the discovery well* group thereof which must be produced as a single pool. Any two or more participating areas so established shall be combined into one

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when it is demonstrated that such areas embrace portions of the same pool or deposit, effective as of such date as may be approved by the Supervisor and the Land Commissioner. The participating area or areas so established shall be revised from time to time, subject to like approval, whenever such action appears proper as a result of further drilling operations or otherwise, to include additional land then regarded as reasonably proved to be productive in paying quantities, <sup>or necessary for unit operations,</sup> ~~or~~ to exclude land then regarded as reasonably proved not to be productive in paying quantities, <sup>or necessary for unit operations,</sup> and the percentage of allocation shall also be revised accordingly. The effective date of any revision shall be the first of the month in which is obtained the knowledge or information in which such revision is predicated; provided, however, that a more appropriate effective date may be used if justified by the Unit Operator and approved by the Supervisor and the Land Commissioner. No land shall be excluded from a participating area on account of depletion of the unitized substances.

It is the intent of this section that a participating area shall represent the area known or reasonably estimated to be productive in paying quantities, <sup>or necessary for unit operations in</sup> ~~from~~ a specific pool or deposit; but, regardless of any revision of the participating area, nothing herein contained shall be construed as requiring any retroactive adjustment for production obtained prior to the effective date of the revision of the participating area.

In the absence of agreement at any time between the Unit Operator and the Supervisor and the Land Commissioner as to the proper definition or redefinition of a participating area, or until a participating area has, or areas have, been established as provided herein, the portion of all payments affected thereby may be impounded in a manner mutually acceptable to the owners of working interests, except royalties due the United States and the Ute Mountain Indian Tribe or the State of New Mexico, the amount of

which shall be determined by the Supervisor for Federal or Indian lands and the Land Commissioner for State lands and the Conservation Commission as to privately owned lands, shall be deposited as directed by the Supervisor and the Land Commissioner respectively, to be held as unearned money until a participating area is finally approved and then applied as earned or returned in accordance with a determination of the sum due as Federal, Indian and/or State royalty on the basis of such approved participating area.

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

#### 12. ALLOCATION OF PRODUCTION.

All unitized substances produced from each participating area established under this agreement, except any part thereof used in conformity with good operating practices within the participating area from which it is produced, for drilling, operating, camp and other production or development purposes, for repressuring or recycling in accordance with a plan of development approved by the Supervisor and the Land Commissioner, or unavoidably lost, shall be deemed to be produced ~~equally on an acreage basis~~ from the several tracts of unitized land of the participating area established for

such production and, for the purpose of determining any benefits accruing under this agreement, each such tract of unitized land shall have allocated to it such percentage of said production as the number of acres of such tract included in said participating area bears to the total acres of unitized land in said participating area, except that allocation of production hereunder for purposes other than for settlement of the royalty, overriding royalty, or payment out of production obligations of the respective working interest owners, shall be on the basis prescribed in the unit operating agreement whether in conformity with the basis of allocation herein set forth or otherwise.\* It is hereby agreed that

\* Insert the phrase "and the allocation of production to land added to a participating area on the basis of its importance to unit operations may be upon such equitable basis as may be approved by the Director." between the word "otherwise" and the period in Line 11 of Page 18. re a.

Royalty shall be due and payable on all gas produced from one participating area and used for repressuring or recycling purposes in another participating area. The first gas withdrawn from such last-mentioned participating area for sale during the life of this agreement shall be treated in the same manner as gas obtained from lands not subject to the agreement, see Section 14 hereof.

### 13. DEVELOPMENT OR OPERATION OF NONPARTICIPATING LAND OR FORMATIONS.

Any party or parties hereto owning or controlling the working interest in any unitized land having thereon a regular well location may with the approval of the Supervisor as to Federal and Indian land, the Land Commissioner as to State land, and the Conservation Commission as to privately owned land, and subject to the non-conflicting provisions of the Unit Operating Agreement, at such party's or parties' sole risk, costs, and expense drill a well at such location on such land to test any interval for which a participating area has not been established or to test any interval for which a participating area has been established if such location is not within said participating area, unless within 90 days of