

BEFORE THE
OIL CONSERVATION DIVISION
Case No. 11113, 11114 Exhibit No. 4
Submitted By:
GREAT WESTERN DRILLING CO.
Hearing Date: October 13, 1994

UNIT AGREEMENT
SOUTH CARTER (SAN ANDRES) UNIT
LEA COUNTY, NEW MEXICO
JANUARY 10, 1994

Exhibit "B"

UNIT AGREEMENT

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UNIT AGREEMENT
SOUTH CARTER (SAN ANDRES) UNIT
LEA COUNTY, NEW MEXICO

THIS AGREEMENT, entered into as of the _____ day of _____, 1994.

WITNESSETH:

WHEREAS, the parties hereto are the owners of working, royalty, or other oil and gas interests in the Unit Area subject to this Agreement; and

WHEREAS, the Mineral Leasing Act of February 25, 1920, 41 Stat. 437, as amended, 30 U.S.C. Secs. 181 et seq., authorizes Federal lessees and their representatives to unite with each other, or jointly or separately with others, in collectively adopting and operating a cooperative or unit plan of development or operation of any oil or gas pool, field, or like area, or any part thereof for the purpose of more properly conserving the natural resources thereof whenever determined and certified by the Secretary of the Interior to be necessary or advisable in the public interest; and

WHEREAS, the Commissioner of Public Lands of the State of New Mexico is authorized by an Act of the Legislature (Section 1, Chapter 88, Laws 1943, as amended by Section 1 of Chapter 176, Laws of 1961) (Chapter 19, Article 10, Section 45, New Mexico Statutes 1978 Annotated), to consent to and approve the development or operation of State lands under agreements made by lessees of State land jointly or severally with other lessees where such agreements provide for the unit operation or development of part of or all of any oil or gas pool, field or area; and

WHEREAS, the Oil Conservation Division of the State of New Mexico (hereinafter referred to as the "Division") is authorized by an Act of the Legislature (Chapter 72, Laws of 1935 as amended) (Chapter 70, Article 2, Section 2 et seq., New Mexico Statutes 1978 Annotated) to approve this Agreement and the conservation provisions hereof; and

WHEREAS, the parties hereto hold sufficient interest in the Unit Area covering the land hereinafter described to give reasonably effective control of operations therein; and

WHEREAS, it is the purpose of the parties hereto to conserve natural resources, prevent waste, and secure other benefits obtainable through development and operation of the area subject to this Agreement under the terms, conditions, and limitations herein set forth;

NOW THEREFORE, in consideration of the premises and the promises herein contained, the parties hereto commit to this Agreement their respective interest in the below-defined Unit area, and agree severally among themselves as follows:

ARTICLE I

DEFINITIONS

As used in this Agreement:

1.1 Unit Area is the land identified by Tracts in Exhibit A and shown on Exhibit B as to which this Agreement applies.

1.2 Unitized Formation is the subsurface portion of the Unit Area commonly known as the San Andres formation and that is stratigraphically equivalent to the interval between the logged depths of 4820' feet to 5590' as defined by the Halliburton Radioactivity Log on the Moore & Turner McQuien #1 dated January 5, 1955 located 1980' FNL and 435' FEL, Section 8, Township 18 South, Range 39 East, Lea County, New Mexico.

1.3 Unitized Substances are all oil, gas, gaseous substances, sulphur contained in gas, condensate, distillate, and all associated and constituent substances other than Outside Substances within or produced from the Unitized Formation.

1.4 Working Interest is an interest in Unitized Substances by virtue of a lease, operating agreement, fee title, or otherwise, including a carried interest, the owner of which interest is obligated to pay, either in cash or out of production or otherwise, a portion of the Unit Expense; however, Oil and Gas Rights that are free of lease or other instrument creating a Working Interest shall be regarded as a Working Interest to the extent of Seven-Eighths

(7/8) thereof and a Royalty Interest to the extent of the remaining One-Eight (1/8) thereof. A Royalty Interest created out of a Working Interest subsequent to the execution of this agreement by the owner of such Working Interest shall continue to be subject to such Working Interest burdens and obligations that are stated in this agreement and the Unit Operating Agreement.

1.5 Royalty Interest is a right to or interest in any portion of the Unitized Substances or proceeds thereof other than a Working Interest.

1.6 Royalty Owner is a party hereto who owns a Royalty Interest.

1.7 Working Interest Owner is a party hereto who owns a Working Interest.

1.8 Tract is each parcel of land described as such and given a Tract number in Exhibit A.

1.9 Unit Operating Agreement is the agreement entered into by Working Interest Owners, having the same Effective date as this agreement, entitled "Unit Operating Agreement, South Carter (San Andres) Unit", Lea County, New Mexico.

1.10 Unit Operator is the Working Interest Owner designated by Working Interest Owners under the Unit Operating Agreement to conduct Unit Operations, acting as operator and not as a Working Interest Owner.

1.11 Tract Participation is the percentage shown on Exhibit A for allocating Unitized Substances to a Tract in accordance with the provisions of Article 5 hereof.

1.12 Unit Participation of a Working Interest Owner is the sum of the percentages obtained by multiplying the Working Interest of such Working Interest Owner in each Tract that qualifies for inclusion within the Unit Area by the Tract Participation of such Tract.

1.13 Outside Substances are all substances obtained from any source other than the Unitized Formation for a consideration by the Working Interest Owners and which are injected into the Unitized Formation.

1.14 Oil and Gas Rights are the rights to explore, develop, and operate lands within the Unit Area for the production of Unitized Substances, or to share in the production so obtained or the proceeds thereof.

1.15 Unit Operations are all operations conducted pursuant to this agreement and the Unit Operating Agreement.

1.16 Unit Equipment is all personal property, lease and well equipment, plants, and other facilities and equipment taken over or otherwise acquired for the joint account for use in Unit Operations.

1.17 Unit Expense is all cost, expense, or indebtedness incurred by Working Interest Owners or Unit Operator pursuant to this agreement and the Unit Operating Agreement for or on account of Unit Operations.

1.18 Effective Date is the time and date this agreement becomes effective as provided in Section 17.1.

1.19 Party is a signatory Party hereto.

ARTICLE 2

EXHIBITS

2.1 Exhibits. The following exhibits, which are attached hereto, are incorporated herein by reference:

2.1.1 Exhibit A is a schedule that describes each Tract in the Unit Area and shows its Tract Participation.

2.1.2 Exhibit B is a map that shows the boundary lines of the Unit Area and the Tracts therein.

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

2.3 Exhibits Considered Correct. Exhibits A and B shall be considered to be correct until revised as herein provided.

2.4 Correcting Errors. The shapes and descriptions of the respective Tracts have been established by using the best information available. If it subsequently appears that any Tract, because of diverse royalty or working interest ownership on the Effective Date, should have been divided into more than one Tract,

or that any mechanical miscalculation or clerical error has been made, Unit Operator, with the approval of Working Interest Owners, shall correct the mistake by revising the exhibits to conform to the facts. The revision shall not include any re-evaluation of engineering or geological interpretations used in determining Tract Participation. Each such revision of an exhibit made prior to thirty (30) days after the Effective Date shall be effective as of the Effective Date. Each such revision thereafter made shall be effective at 7:00 a.m. on the first day of the calendar month next following the filing for record of the revised exhibit or on such other date as may be determined by Working Interest Owners and set forth in the revised exhibit.

2.5 Filing Revised Exhibits. If an exhibit is revised, Unit Operator shall execute an appropriate instrument with the revised exhibit attached and file the same for record in the county in which this agreement is filed.

ARTICLE 3

CREATION AND EFFECT OF UNIT

3.1 Oil and Gas Rights Unitized. All Oil and Gas Rights of Royalty Owners in and to the lands described in Exhibit A, and all Oil and Gas Rights of Working Interest Owners in and to said lands, are hereby unitized insofar as their respective Oil and Gas Rights pertain to the Unitized Formation, so that Unit Operations may be conducted with respect to the Unitized Formation as if the Unit Area had been included in a single lease executed by all Royalty Owners, as lessors, in favor of all Working Interest Owners, as lessees, and as if the lease contained all of the provisions of this agreement.

3.2 Personal Property Excepted. All lease and well equipment, materials, and other facilities heretofore or hereafter placed by any of the Working Interest Owners on the lands covered hereby shall be deemed to be and shall remain personal property belonging to and may be removed by Working Interest Owners. The rights and interests therein as among Working Interest Owners are set forth in the Unit Operating Agreement.

3.3 Amendment of Leases and Other Agreements. The provisions of the various leases, agreements, division and transfer orders, or other instruments pertaining to the respective Tracts or the production therefrom are amended to the extent necessary to make them conform to the provisions of this agreement, but otherwise shall remain in effect.

3.4 Continuation of Leases and Term Interests. Production from any part of the Unitized Formation, except for the purpose of determining payments to Royalty Owners, or other Unit Operations shall be considered as production from or operations upon each Tract, and such production or operations shall continue in effect each lease or term mineral or royalty interest as to all lands and formations covered thereby and included in this unit just as if such operations were conducted on and as if a well were producing from each Tract.

3.5 Titles Unaffected by Unitization. Nothing herein shall be construed to result in the transfer of title to Oil and Gas Rights by any Party hereto to any other Party or to Unit Operator. The purpose of this Agreement is to provide for the cooperative development and operation of the Unit Area and for the sharing of Unitized Substances as herein provided.

3.6 Injection Rights. Royalty Owners hereby grant Working Interest Owners the right to inject into the Unitized Formation any substances in whatever amounts Working Interest Owners deem expedient for Unit Operations, together with the right to drill, use, and maintain injection wells on the Unit Area, and to use for injection purposes any non-producing or abandoned wells or dry holes and any producing wells completed in the Unitized Formation.

3.7 Development Obligation. Nothing herein shall relieve Working Interest Owners from any obligation to develop reasonably as a whole the lands and leases committed hereto.

ARTICLE 4

PLAN OF OPERATIONS

4.1 Unit Operator. Working Interest Owners are concurrently herewith entering into the Unit Operating Agreement, designating

Great Western Drilling company as the initial Unit Operator. Unit Operator shall have the exclusive right to conduct Unit Operations, which shall conform to the provisions of this agreement and the Unit Operating Agreement. If there is any conflict between such agreements, this agreement shall govern.

4.2 Method of Operation. To the end that the quantity of Unitized Substances ultimately recoverable may be increased and waste prevented, Working Interest Owners shall, with diligence and in accordance with good engineering and production practices, engage in pressure maintenance or secondary recovery operations by means of injection of gas, water, air, carbon dioxide, surfacants, soluble oil, or other substances, or any combination thereof, in the Unitized Formation.

4.3 Change of Method of Operation. Nothing herein shall prevent Working Interest Owners from discontinuing or changing in whole or in part any method of operation which, in their opinion, is no longer in accord with good engineering or production practices. Other methods of operation may be conducted or changes may be made by Working Interest Owners from time to time if determined by them to be feasible, necessary, or desirable to increase the ultimate recovery of Unitized Substances.

ARTICLE 5

TRACT PARTICIPATIONS

5.1 Tract Participation. The Tract Participation of each Tract is shown in Exhibit A and shall be the summation of three factors, described and weighted as follows:

- (a) 50% of the ratio of actual cumulative oil produced from such tract as of 1/1/94 to the total cumulative oil produced by primary recovery operations from the Unitized Formation from all qualified Tracts: and
- (b) 10% of the ratio of the number of surface acres contained in such tract to the summation of the number of surface acres contained in all qualified Tracts: and
- (c) 40% of the ratio of the remaining recoverable primary oil in each tract as of 1/1/94 to the total remaining

recoverable primary oil from the Unitized Formation from all qualified Tracts.

5.2 Relative Tract Participations. If the Unit Area is enlarged or reduced, the revised Tract Participations of the Tracts remaining in the Unit Area and which were within the Unit Area prior to the enlargement or reduction shall remain in the same ratio one to another.

5.3 Effective Dates of Tract Participation. The participation of each Tract set forth in Article 5.1 shall become effective as of the effective date of this agreement as determined by Article 17 hereof.

ARTICLE 6

ALLOCATION OF UNITIZED SUBSTANCES

6.1 Allocation to Tracts. All Unitized Substances produced and saved shall be allocated to the several Tracts in accordance with the respective Tract Participations effective during the period that the Unitized Substances were produced. The amount of Unitized Substances allocated to each Tract, regardless of whether the amount is more or less than the actual production of Unitized Substances from the well or wells, if any, on such Tract, shall be deemed for all purposes to have been produced from such Tract.

6.2 Distribution Within Tracts. The Unitized Substances allocated to each Tract shall be distributed among, or accounted for to, the parties entitled to share in the production from such Tract in the same manner, in the same proportions, and upon the same conditions as they would have participated and shared in the production from such Tract, or in the proceeds thereof, had this agreement not been entered into, and with the same legal effect. If any Oil and Gas Rights in a Tract hereafter become divided and owned in severalty as to different parts of the Tract, the owners of the divided interests, in the absence of an agreement providing for a different division, shall share in the Unitized Substances allocated to the Tract, or in the proceeds thereof, in proportion to the surface acreage of their respective parts of the Tract. Any royalty or other payment which depends upon per well production or

pipeline runs from a well or wells on a Tract shall, after the Effective Date, be determined by dividing the Unitized Substance allocated to the Tract by the number of wells on the Tract capable of producing Unitized Substances on the Effective Date; however, if any Tract has no well thereon capable of producing Unitized Substances on the Effective Date, the Tract shall, for the purpose of this determination, be deemed to have one such well thereon.

6.3 Taking Unitized Substances in Kind. The Unitized Substances allocated to each Tract shall be delivered in kind to the respective parties entitled thereto by virtue of the ownership of Oil and Gas Rights therein or by purchase from such owners. Such parties shall have the right, at their sole cost and expense, to construct, maintain, and operate within the Unit Area all necessary facilities for that purpose, provided they are so constructed, maintained, and operated as not to interfere with Unit Operations. Any and all extra expenditures incurred by Unit Operator by reason of the delivery in kind of any portion of Unitized Substances shall be borne by the owner of such portion. If a Royalty Owner has the right to take in kind a share of Unitized Substances and fails to do so, the Working Interest Owners whose working interest is subject to such Royalty interest, shall be entitled to take in kind such share of Unitized Substances.

6.4 Failure to Take in Kind. If any Party fails to take in kind or separately dispose of such Party's share of Unitized Substances, Unit Operator shall have the right, but not the obligation, for the time being and subject to revocation at will by the Party owning the share, to purchase or sell to others such share; however, 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 one year. The proceeds of the Unitized Substances so disposed of by Unit Operator shall be paid to the Working Interest Owners of each affected Tract or a party designated by such Working Interest Owners who shall

distribute such proceeds to the Parties entitled thereto. Notwithstanding the foregoing, Unit Operator shall not make a sale into interstate commerce of any other Party's share of gas production without first giving such other Party sixty (60) days' notice of such intended sale.

6.5 Responsibility for Royalty Settlements. Any Party receiving in kind or separately disposing of all or part of the Unitized Substances allocated to any Tract or receiving the proceeds therefrom shall be responsible for the payment of all royalties, overriding royalties, production payments, and all other payments chargeable against or payable out of such Unitized Substances, and shall indemnify all Parties hereto, including Unit Operator, against any liability for such payment.

6.6 Royalty on Outside Substances. If any Outside Substances consisting of natural gases is injected into the Unitized Formation, One Hundred percent (100%) of any like substance contained in Unitized Substances subsequently produced and sold, or used for other than Unit Operations, shall be deemed to be a part of the Outside Substance so injected until the total volume deemed to be such Outside Substances equals the total volume of such Outside Substance so injected. If any Outside Substance which prior to injection is liquefied petroleum gas or other liquid hydrocarbons is injected into the Unitized Formation, ten percent (10%) of all Unitized Substances produced and sold after one year from the time the injection of such Outside Substance was commenced shall be deemed to be a part of the Outside Substance so injected until the total value of the production deemed to be such Outside Substance equals the total cost of the Outside Substance so injected. Such ten percent (10%) of the Unitized Substances deemed to be Outside Substances will be in addition to that which is being recovered for natural gases as hereinabove provided, if both liquefied petroleum gas or other liquid hydrocarbons and natural gases are injected. No payments shall be due or payable to Royalty Owners on substances produced from the Unitized Formation that are deemed to be Outside Substances.

ARTICLE 7

PRODUCTION AS OF THE EFFECTIVE DATE

7.1 Oil or Liquid Hydrocarbons in Lease Tanks. Unit Operator shall gauge or otherwise determine the amount of merchantable oil or other liquid hydrocarbons produced from the Unitized Formation that are in lease and power-oil tanks as of 7:00 a.m. on the Effective Date. Oil or other liquid hydrocarbons in treating vessels, separator equipment, and tanks below pipeline connections shall be considered to be merchantable. Any merchantable oil or other liquid hydrocarbons that are a part of or attributable to the prior allowable of the wells from which they were produced shall remain the property of the parties entitled thereto as if this agreement had not been entered into. Any such merchantable oil or other liquid hydrocarbons not promptly removed may be sold by Unit Operator for the account of the Working Interest Owners entitled thereto who shall pay all royalty, overriding royalty, production and other payments due thereon under the provisions of applicable leases or other contracts. Any oil or liquid hydrocarbons in excess of that attributable to the prior allowable of the wells from which they were produced shall be regarded as Unitized Substances produced from the Effective Date.

7.2 Overproduction. If, as of the Effective Date, any Tract is overproduced with respect to the allowable of the wells on that Tract, and if the amount of overproduction has been sold or otherwise disposed of, such overproduction shall be regarded as a part of the Unitized Substances produced after the Effective Date and shall be charged to such Tract as having been delivered to the parties entitled to Unitized Substances allocated to such Tract.

ARTICLE 8

USE OR LOSS OF UNITIZED SUBSTANCES

8.1 Use of Unitized Substances. Working Interest Owners may use or consume Unitized Substances for Unit Operations, including but not limited to the injection thereof into the Unitized Formation.

8.2 Royalty Payments. No royalty, overriding royalty, production, or other payments shall be payable on account of Unitized Substances used, lost, or consumed in Unit Operations.

ARTICLE 9

TRACTS TO BE INCLUDED IN UNIT

9.1 Qualification of Tracts. On and after the Effective Date and until the enlargement or reduction thereof, the Unit Area shall be composed of the Tracts listed in Exhibit A that corner or have a common boundary (Tracts separated only by a public highway or a railroad right of way shall be considered to have a common boundary), and that otherwise qualify as follows:

9.1.1 Tract Ownership. Each Tract as to which Working Interest Owners owning Ninety Percent (90%) of the Working Interest have become parties to this agreement, and as to which Royalty Owners owning Seventy-Five percent (75%) or more of the Royalty Interest have become parties to this agreement.

9.1.2 Voting Interest. Each Tract as to which Working Interest Owners owning One Hundred Percent (100%) of the Working Interest have become parties to this agreement, and as to which Royalty Owners owning less than Seventy-Five percent (75%) of the Royalty Interest have become parties to this agreement, and as to which (a) all Working Interest Owners in such Tract have joined in a request for the inclusion of such Tract in the Unit Area, and as to which (b) Working Interest Owners having Ninety percent (90%) or more of the combined voting interests in all Tracts that meet the requirements of Section 9.1.1 have voted in favor of the inclusion of such Tract. For the purpose of this section 9.1.2, the voting interest of a Working Interest Owner shall be equal to the ratio that its Unit Participation attributable to Tracts that qualify under Section 9.1.1 bears to the total Unit Participation of all Working Interest Owners attributable to all Tracts that qualify under Section 9.1.1.

9.1.3 Indemnity Agreement. Each Tract as to which Working Interest Owners owning less than Ninety percent (90%) of the Working Interest have become parties to this agreement,

regardless of the percentage of Royalty Interest therein that is committed hereto; and as to which (a) one or more of the Working Interest Owners in such tract including the Working Interest Owner who operates the Tract, who have become Parties to this agreement have joined in a request for inclusion of such Tract in the Unit Area, and have executed and delivered, or have obligated themselves to execute and deliver, an indemnity agreement indemnifying and agreeing to hold harmless the other Working Interest Owners in the Unit Area, their successors and assigns, against all claims and demands that may be made by the owners of Working Interest in such Tract who are not parties to this agreement, and which arise out of the inclusion of the Tract in the Unit Area; and as to which (b) Working Interest Owners having Ninety percent (90%) or more of the combined voting interest in all Tracts that meet the requirements of Section 9.1.1 and 9.1.2 have voted in favor of the inclusion of such Tract and to accept the indemnity agreement. For the purpose of this 9.1.3, the voting interest of each Working Interest owner shall be equal to the ratio that its Unit Participation attributable to Tracts that qualify under Sections 9.1.1 and 9.1.2 bears to the total Unit Participation of all Working Interest Owners attributable to all Tracts that qualify under Sections 9.1.1 and 9.1.2. Upon the inclusion of such a Tract in the Unit Area, the Unit Participation that would have been attributable to the non-subscribing owners of Working Interest in such Tract, had they become parties to this agreement and the Unit Operating Agreement, shall be attributed, in proportion to their respective Working Interest in such Tract, to the Working Interest Owners in the Tract who have executed indemnity agreements.

9.2 Commitment of Interest to Unit. The execution of this agreement by a party shall commit all interests owned or controlled by such party in the Unit Area as of the date of execution, any additional interests acquired before the Effective Date, and any and all other interests acquired after the Effective Date.

9.3 Revision of Exhibits. If any of the Tracts described in Exhibit A fail to qualify for inclusion in the Unit Area, Unit

Operator shall recompute the Tract Participation of each of the qualifying Tracts, using the original basis of computation, and shall revise Exhibits A and B accordingly. Such revised exhibits shall be effective as of 7:00 a.m. on the Effective Date.

ARTICLE 10

TITLES

10.1 Removal of Tract from Unit Area. If a Tract ceases to have sufficient Working Interest Owners or Royalty Owners committed to this agreement to meet the conditions of Article 9 because of failure of title of any party hereto, such Tract shall be removed from the Unit Area effective as of 7:00 a.m. on the first day of the calendar month in which the failure of title is finally determined unless within ninety (90) days after the date of final determination of the failure of title, the Tract qualifies under a Section of Article 9.

10.2 Revision of Exhibits. If a Tract is removed from the Unit Area because of failure of title, Unit Operator, subject to Section 5.2, shall recompute the Tract Participation of each of the Tracts remaining in the Unit Area and shall revise Exhibits A and B accordingly. The revised exhibits shall be effective as of 7:00 a.m. on the first day of the calendar month in which such failure of title is finally determined.

10.3 Working Interest Titles. If title to a Working Interest fails, the rights and obligations of Working Interest Owners by reason of the failure of title shall be governed by the Unit Operating Agreement.

10.4 Royalty Interest Titles. If title to a Royalty Interest fails, but the Tract to which it relates is not removed from the Unit Area, the Party whose title failed shall not be entitled to share hereunder with respect to such failed interest.

10.5 Production Where Title is in Dispute. If the title or right of any party claiming the right to receive in kind all or any portion of the Unitized Substances allocated to a Tract is in dispute, Unit Operator at the direction of Working Interest Owners shall either:

(a) require that the party to whom such Unitized Substances are delivered or to whom the proceeds thereof are paid furnish security for the proper accounting therefor to the rightful owner if the title or right of such party fails in whole or in part, or

(b) withhold and market the portion of Unitized Substances with respect to which title or right is in dispute, and impound the proceeds thereof in account of Unit Operator until such time as the title or right thereto is established by a final judgement of a court of competent jurisdiction or otherwise to the satisfaction of Working Interest Owners, whereupon the proceeds so impounded shall be paid to the party rightfully entitled thereto.

10.6 Payment of Taxes to Protect Title. The owner of surface rights to lands within the Unit Area, or severed mineral interests or Royalty Interests in such lands, or lands outside the Unit Area on which Unit Equipment is located, is responsible for the payment of any ad valorem taxes on all such rights, interests, or property, unless such owner and Working Interest Owners otherwise agree. If any ad valorem taxes are not paid by or for such owner when due, Unit Operator may, with approval of Working Interest Owners, at any time prior to tax sale, or expiration of period of redemption after tax sale, pay the tax, redeem such rights, interests, or property, and discharge the tax lien. Any such payment shall be an item of Unit Expense. Unit Operator shall, if possible, withhold from any proceeds derived from the sale of Unitized Substances otherwise due any delinquent taxpayer an amount sufficient to defray the costs of such payment or redemption, such withholding to be credited to Working Interest Owners. Such withholding shall be without prejudice to any other remedy available to Unit Operator or Working Interest Owners.

ARTICLE 11

EASEMENTS OR USE OF SURFACE

11.1 Grant of Easements. The parties hereto, to the extent of their rights and interests, hereby grant to Working Interest Owners the right to use as much of the surface of the land within

the Unit Area as may be reasonably necessary for unit Operations and the removal of Unitized Substances from the Unit Area including, but not limited to, the right of Working Interest Owners to utilize any non-producing or abandoned well-bores for injection purposes; however, nothing herein shall be construed as leasing or otherwise conveying to Working Interest Owners a plant site for water injection, gas injection, or gas processing.

11.2 Use of Water. Working Interest Owners shall have and are hereby granted free use of water from the Unit Area for Unit Operations, except water from any well, lake, pond, or irrigation ditch of a Royalty Owner, unless otherwise agreed between the parties.

11.3 Surface Damages. Working Interest Owners shall pay the owner for damages to the soil, growing crops, timber, fences improvements, and structures on the Unit Area that result from Unit Operations in accordance with the terms and provisions applicable to each respective lease.

ARTICLE 12

ENLARGEMENTS OF UNIT AREA

12.1 Enlargements of Unit Area. The Unit Area may be enlarged from time to time to include acreage reasonably proven to be productive upon such terms as may be determined by Working Interest Owners including, but not limited to, the following:

(a) The acreage shall qualify under a Section of Article 9.

(b) The participation to be allocated to the acreage shall be fair and reasonable, considering all available information.

(c) There shall be no retroactive allocation or adjustment of Unit Expense or of interests in the Unitized Substances produced, or proceeds thereof; however, this limitation shall not prevent an adjustment of investment by reason of the enlargement.

12.2 Determination of Tract Participation. Unit Operator, subject to Section 5.2, shall determine the Tract Participation of

each Tract within the Unit Area as enlarged, and shall revise Exhibits A and B accordingly.

12.3 Effective Date. The effective date of any enlargement of the Unit Area shall be 7:00 a.m. on the first day of the calendar month following compliance with conditions for enlargement as specified by Working Interest Owners, and the filing for record of revised Exhibits A and B in the county or counties in which this agreement is recorded.

ARTICLE 13

TRANSFER OF TITLE -- PARTITION

13.1 Transfer of Title. Any conveyance of all or any part of any interest owned by any Party hereto with respect to any Tract shall be made expressly subject to this agreement. No change of title shall be binding upon Unit Operator, or upon any Party hereto other than the Party so transferring, until 7:00 a.m. on the first day of the calendar month next succeeding the date of receipt by Unit Operator of a photocopy, or a certified copy, of the recorded instrument evidencing such change in ownership.

13.2 Waiver of Rights to Participation. Each party hereto agrees that during the existence of this agreement, it will not resort to any action to partition the Unitized Formation or the Unit Equipment, and to that extent waives the benefits of all laws authorizing such partition.

13.3 No Cross-Conveyance Intended. Notwithstanding any provision to the contrary herein, the execution of this Agreement is not intended to and shall not be deemed to constitute a cross-conveyance of interest in the Unit Area between the parties hereto.

ARTICLE 14

RELATIONSHIP TO PARTIES

14.1 No Partnership. The duties, obligations, and liabilities of the parties hereto are intended to be several and not joint or collective. It is not the intention of the Parties that this Agreement is made or intended for the benefit of third Parties. This agreement is not intended to create, and shall not be construed to create, an association, agency, joint venture, co-

venture, principal or trust relationship, or to impose a partnership duty, obligation, or liability with regard to any one or more of the Parties hereto. Each Party hereto shall be individually responsible for its own obligations as herein provided.

14.2 No Joint Refining or Marketing. This agreement is not intended to provide, and shall not be construed to provide, directly or indirectly, for any joint refining or marketing of Unitized Substances.

14.3 Royalty Owners Free of Costs. This agreement is not intended to impose, and shall not be construed to impose, upon any Royalty Owner the obligation to pay Unit Expense unless such Royalty Owner is otherwise so obligated.

14.4 Information to Royalty Owners. Each Royalty Owner shall be entitled to all information in possession of Unit Operator to which such Royalty Owner is entitled by an existing agreement with any Working Interest Owner.

ARTICLE 15

LAWS AND REGULATIONS

15.1 Laws and Regulations. This agreement shall be governed and determined by the laws of the State of New Mexico and shall be subject to all applicable federal, state, and municipal laws, rules, regulations, and orders.

ARTICLE 16

FORCE MAJEURE

16.1 Force Majeure. All obligations imposed by this agreement on each party, except for the payment of money, shall be suspended while compliance is prevented, in whole or in part, by a labor dispute, fire, war, civil disturbance, act of God; by federal, state, or municipal laws; by any rule, regulation, or order of a governmental agency; by inability to secure materials; or by any other cause or causes, whether similar or dissimilar, beyond reasonable control of the party. No party shall be required against its will to adjust or settle any labor dispute. Neither this agreement nor any lease or other instrument subject hereto

shall be terminated by reason of suspension of Unit Operations due to any one or more of the causes set forth in this Article.

ARTICLE 17

EFFECTIVE DATE

17.1 Effective Date. This agreement shall become binding upon each Party as of the date such Party signs the instrument by which it becomes a Party hereto and, unless sooner terminated as provided in Section 17.2, shall become effective as to qualified Tracts at the time and date as determined by the Unit Operator, and set forth in a certificate filed for record by Unit Operator in Lea County, New Mexico. This certificate shall also recite the percentage of the Unit Area represented by the Tracts qualified under Article 9 and the book and page in which a counterpart of this Agreement has been recorded.

This certificate shall not be filed until after the following requirements have been met:

(a) Tracts comprising seventy-five percent (75%) or more of the Unit Area as shown on the original Exhibit A-1 have qualified under the provisions of Section 9.1 of Article 9.

(b) At least one counterpart of this Agreement shall be filed for record by the Unit Operator in Lea County, New Mexico.

17.2 Ipsa Facto Termination. If the requirements of Section 17.1 are not accomplished on or before January 1, 1995, this agreement shall ipso facto terminate on that date (hereinafter called "termination date") and thereafter be of no further effect, unless prior thereto two or more Working Interest Owners owning a combined Unit Participation of at least Seventy-Five percent (75%) have become parties to this agreement and Working Interest Owners owning Fifty-One (51%) or more of that percent have decided to extend the termination date for a period not to exceed One year. If the termination date is so extended and the requirements of Section 17.1 are not accomplished on or before the extended termination date, this agreement shall ipso facto terminate on the extended termination date and thereafter be of no further effect.

For the purpose of this section, Unit Participation shall be as calculated on the basis of Tract participations shown on the original Exhibit A.

ARTICLE 18

TERM

18.1 Term. The term of this agreement shall be for the time that Unitized Substances are produced in paying quantities or other Unit Operations are conducted without a cessation of more than ninety (90) consecutive days, unless sooner terminated by Working Interest Owners in the manner herein provided.

18.2 Termination by Working Interest Owners. This agreement may be terminated by two or more Working Interest Owners owning a combined Unit Participation of Seventy-Five percent (75%) or more whenever such Working Interest Owners determine that Unit Operations are no longer profitable or feasible.

18.3 Effect of Termination. Upon termination of this agreement, the further development and operation of the Unitized Formation as a unit shall be abandoned, and Unit Operations shall cease. Each oil and gas lease and other agreement covering lands within the Unit Area shall remain in force as to lands within the unit for sixty (60) days after the date on which this agreement terminates, and for such further period as is provided by the lease or other agreement.

18.4 Salvaging Equipment Upon Termination. If not otherwise granted by the leases or other instruments affecting each Tract, Royalty Owners hereby grant Working Interest Owners a period of six (6) months after the date of termination of this agreement within which to salvage and remove Unit Equipment.

18.5 Certificate of Termination. Upon termination of this agreement, Unit Operator shall file for record in the county or counties in which the land affected is located a certificate that this agreement has terminated, stating its termination date.

ARTICLE 19

EXECUTION

19.1 Original, Counterpart, or Other Instrument. An owner of Oil and Gas Rights 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.

19.2 Joinder in Dual Capacity. Execution as herein provided by any Party as either a Working Interest Owner or a Royalty Owner shall commit all interests in the Unit Area owned or controlled by such Party.

ARTICLE 20

GENERAL

20.1 Action by Working Interest Owners. Except as otherwise provided in this agreement, any action or approval required by Working Interest Owners hereunder shall be in accordance with the provisions of the Unit Operating Agreement.

20.2 Liens and Security Interests. Unit Operator shall have a lien upon and a security interest in the interests of Working Interest Owners in the Unit Area and Working Interest Owners shall have a lien upon and a security interest in the interest of Unit Operator in the Unit Area as provided in the Unit Operating Agreement.

ARTICLE 21

SUCCESSORS AND ASSIGNS

21.1 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 representatives, successors, and assigns, and shall constitute a covenant running with the lands, leases, and interest covered hereby.

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

"WORKING INTEREST OWNERS"

UNIT OPERATOR

GREAT WESTERN DRILLING COMPANY

BY: Alan T. Davis
ALAN T. DAVIS
PRESIDENT

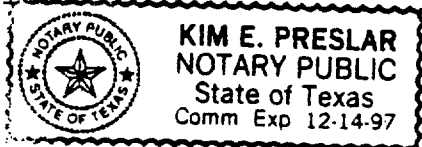
"NON-OPERATOR WORKING INTEREST OWNERS"

By: _____
Printed Name: _____
Title: _____

"Royalty Owners"

THE STATE OF TEXAS §
COUNTY OF MIDLAND §

This instrument was acknowledged before me on this 27th day of January, 1994 by ALAN T. DAVIS, PRESIDENT of Great Western Drilling Company, a Texas corporation, on behalf of said corporation.



Kim E. Preslar
Notary Public
My Commission Expires: 12/14/97

THE STATE OF TEXAS §
COUNTY OF _____ §

This instrument was acknowledged before me on this _____ day of _____, 1994 by _____.

Notary Public
My Commission Expires: _____

THE STATE OF _____ §
COUNTY OF _____ §

This instrument was acknowledged before me on this _____ day of _____, 1994, by _____ as _____ of _____ a _____ (state of incorporation) corporation, on behalf of said corporation.

Notary Public
My Commission Expires: _____

THE STATE OF _____ §
COUNTY OF _____ §

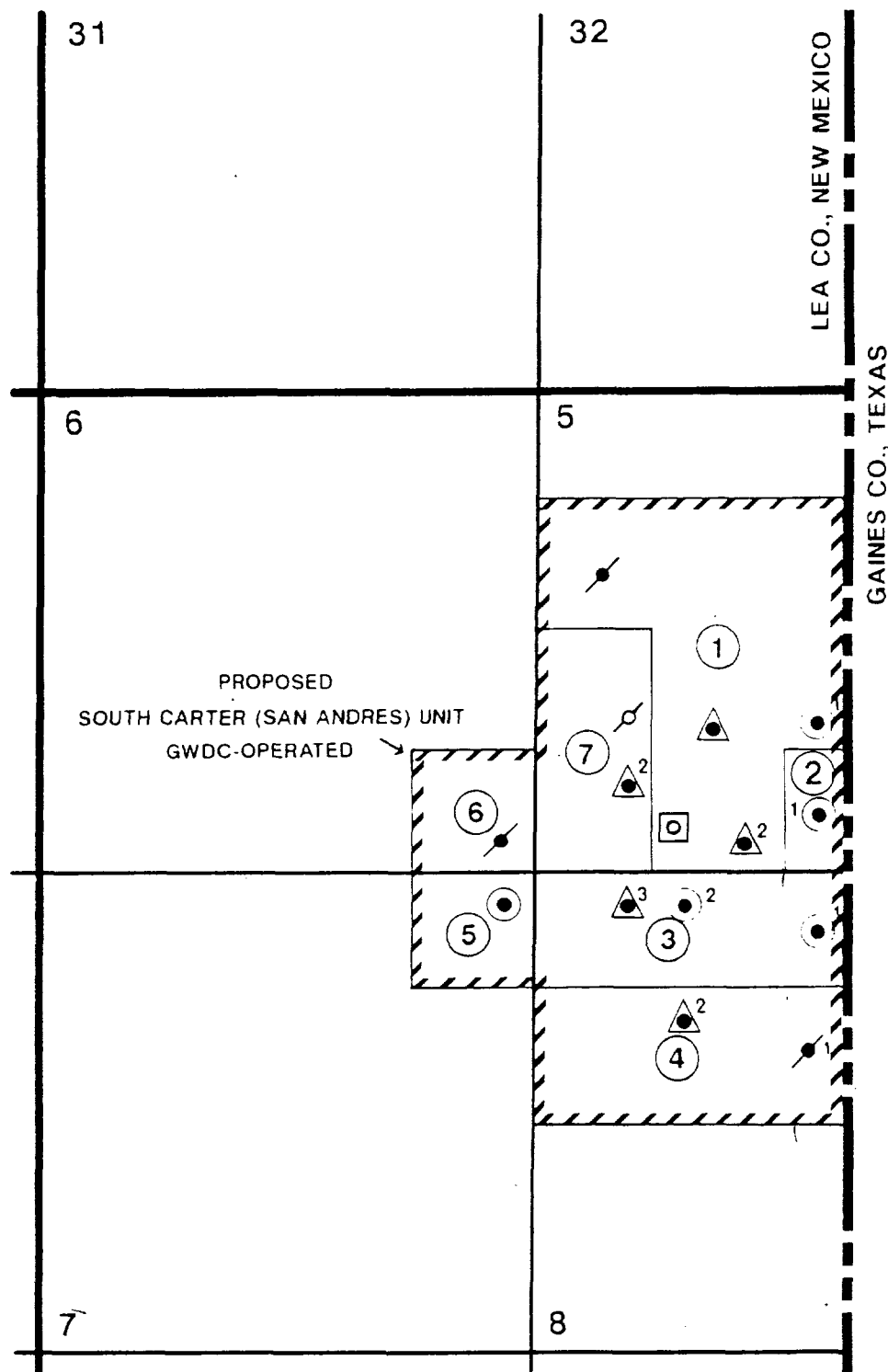
This instrument was acknowledged before me on this _____ day of _____, 1994, by _____ as _____ of _____ a _____ (state of incorporation) corporation, on behalf of said corporation.

Notary Public
My Commission Expires: _____

EXHIBIT "A"
TO
UNIT AGREEMENT
SOUTH CARTER UNIT
LEA COUNTY, NEW MEXICO

<u>TRACT NO.</u>	<u>TRACT DESCRIPTION</u>	<u>TRACT ACREAGE</u>	<u>UNIT TRACT PARTICIPATION</u>
1 ✓	Lots 4 & 5, S/2 NW/4 and E/2 SW/4 of Section 5, T-18-S, R-39-E, N.M.P.M. (Effie Carter Lease)	212	.307820889
2 ✓	Lot 6 of Section 5, T-18-S, R-39-E, N.M.P.M. (Burton Federal Lease)	26	.062275098
3 ✓	Lot 1 and the N/2 NW/4 of Section 8, T-18-S, R-39-E, N.M.P.M. (S. Johnson Lease)	106	.468871443
4	The North 120.0 acres of a 318.7 acre tract being lots 2, 3, 4, S/2 NW/4 and SW/4 of Section 8, T-18-S, R-39-E, N.M.P.M. (McQuien Lease)	120	.071405599
✓ 5	All of the NE/4 NE/4 of Section 7, T-18-S, R-39-E, N.M.P.M. (Carter "A" Lease)	40	.019597026
✓ 6	All of the SE/4 SE/4 of Section 6, T-18-S, R-39-E, N.M.P.M. (Johnson "A" Lease)	40	.012481269
✓ 7	All of the W/2 SW/4 of 5, T-18-S, R-39-E, N.M.P.M. (S.P. Johnson Lease)	80	.057548677

EXHIBIT "B" TO UNIT AGREEMENT



LEGEND

- UNIT PRODUCER
- ◻ PRODUCER TO BE DRILLED
- ▲ INJECTOR
- TRACT NUMBER
- ⊗ TEMPORARILY ABANDONED
TO BE MADE A PRODUCER OR P&A
- ⦿ PLUGGED PRODUCER

GREAT WESTERN DRILLING COMPANY

SOUTH CARTER (SAN ANDRES) UNIT
Lea County, New Mexico

2000 1000 0 2000 4000
Scale in Feet