



State of New Mexico
Commissioner of Public Lands

310 OLD SANTA FE TRAIL P.O. BOX 1148

SANTA FE, NEW MEXICO 87504-1148

RAY POWELL, M.S., D.V.M.
COMMISSIONER

(505) 827-5760
FAX (505) 827-5766

October 25, 1995

Harvey E. Yates Company
P. O. Box 1933
Roswell, New Mexico 88202-1933

Attn: Ms. Melissa Randle

Re: Preliminary Approval
Proposed Bennett Ranch Unit
Otero County, New Mexico

NEW MEXICO
OIL CONSERVATION DIVISION
Land EXHIBIT *4*
CASE NO. *11394*

Dear Ms. Randle:

This office has reviewed the unexecuted copy of the unit agreement which you have submitted for the proposed Bennett Ranch Unit area, Otero County, New Mexico. This agreement meets the general requirements of the Commissioner of Public Lands, who has this date granted you preliminary approval as to form and content.

Preliminary approval shall not be construed to mean final approval of this agreement in any way and will not extend any short term leases, until final approval and an effective date have been given. Also, any well commenced prior to the effective date of this agreement which penetrates its objective horizon prior to said effective date shall not be construed as the initial test well.

When submitting your agreement for final approval, please submit the following:

1. Application for final approval by the Commissioner setting forth the tracts that have been committed and the tracts that have not been committed.
2. All ratifications from the Lessees of Record and Working Interest Owners. Two sets of ratifications must be submitted. All signatures should be acknowledged by a notary and one set must contain original signatures.
3. Order of the New Mexico Oil Conservation Division and approval by the Bureau of Land Management. Our approval will be conditioned upon subsequent favorable approval by the New Mexico Oil Conservation Division and the Bureau of Land Management.
4. Please submit two copies of the Unit Agreement.

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Page 2

5. The filing fee for a Unit Agreement is thirty (\$30.00) dollars for every section or partial section thereof. Please submit a filing fee in the amount of \$630.00 dollars.
6. Please be advised that Articles 9 and 17(b) have been revised to reflect changes required by the Bureau of Land Management. As mentioned in our recent telephone conversation, please check with the Bureau of Land Management about updating Articles 9 and 17(b) of your unit agreement form.

If you have any questions, or if we may be of further help, please contact Pete Martinez at (505) 827-5791.

Very truly yours,

RAY POWELL, M.S., D.V.M.
COMMISSIONER OF PUBLIC LANDS

BY: 

LARRY KEHOE, Director
Oil, Gas and Minerals Division
(505) 827-5744

RP/LK/pm

cc: Reader File
BLM-Roswell Attn: Mr. Armando Lopez
OCD-Santa Fe Attn: Mr. Roy Johnson

storing, allocating, and distributing the unitized substances are hereby delegated to and shall be exercised by the Unit Operator as herein provided. Acceptable evidence of title to said rights shall be deposited with Unit Operator and, together with this agreement, shall constitute and define the rights, privileges, and obligations of Unit Operator. Nothing herein, however, shall be construed to transfer title to any land or to any lease or operating agreement, it being understood that under this agreement the Unit Operator, in its capacity as Unit Operator, shall exercise the rights of possession and use vested in the parties hereto only for the purposes herein specified.

9. DRILLING TO DISCOVERY. Within six (6) months after the effective date hereof, the Unit Operator shall commence to drill an adequate test well at a location approved by the AO, if on Federal land, or by the Land Commissioner, if on State land, and by the Division if on Fee land, unless on such effective date a well is being drilled in conformity with the terms hereof, and thereafter continue such drilling diligently until the has been tested or until at a lesser depth unitized substances shall be discovered which can be produced in paying quantities (to-wit: quantities sufficient to repay the costs of drilling, completing, and producing operations, with a reasonable profit) or the Unit Operator shall at any time establish to the satisfaction of the AO if on Federal land, or the Land Commissioner if on State land, or the Division if located on Fee land, that further drilling of said well would be unwarranted or impracticable, provided, however, that Unit Operator shall not in any event be required to drill said well to a depth in excess of feet. Until the discovery of unitized substances capable of being produced in paying quantities, the Unit Operator shall continue drilling one well at a time, allowing not more than six (6) months between the completion of one well and the commencement of drilling operations for the next well, until a well capable of producing unitized substances in paying quantities is completed to the satisfaction of the AO if it be on Federal land or of the Land Commissioner if on State land, or the Division if on Fee land, or until it is reasonably proved that the unitized land is incapable of producing unitized substances in paying quantities in the formations drilled hereunder. Nothing in this section shall be deemed to limit the right of the Unit Operator to resign as provided in Section 5 hereof, or as requiring Unit Operator to commence or continue any drilling during the period pending such resignation becoming effective in order to comply with the requirements of this section.

The AO and Land Commissioner may modify any of the drilling requirements of this section by granting reasonable extensions of time when, in their opinion, such action is warranted.

Upon failure to commence any well as provided for in this section within the time allowed, prior to the establishment of a participating area, including any extension of time granted by the AO and the Land Commissioner, this agreement will automatically terminate. Upon failure to continue drilling diligently any well commenced hereunder, the AO and the Land Commissioner may, after fifteen (15) days notice to the Unit Operator, declare this unit agreement terminated. The parties to this agreement may not initiate a request to voluntarily terminate this agreement during the first six (6) months of its term unless at least one obligation well has been drilled in accordance with the provisions of this section.

Until the establishment of a participating area, the failure to commence a well subsequent to the drilling of the initial obligation well, or in the case of multiple well requirements, if specified, subsequent to the drilling of those multiple wells, as provided for in this (these) section(s), within the time allowed including any extension of time granted by the AO and Land Commissioner, shall cause this agreement to terminate automatically. Upon failure to continue drilling diligently any well other than the obligation well(s) commenced hereunder, the AO and Land Commissioner may, after 15 days notice to the Unit Operator, declare this unit agreement terminated. Failure to commence drilling the initial obligation well, or the first of multiple obligation wells, on time and to drill it diligently shall result in the unit agreement approval being declared invalid ab initio by the AO and Land Commissioner. In the case of multiple well requirements, failure to commence drilling the required multiple wells beyond the first well, and to drill them diligently, may result in the unit agreement approval being declared invalid ab initio by the AO and Land Commissioner.

10. PLAN OF FURTHER DEVELOPMENT AND OPERATION. Within six (6) months after completion of a well capable of producing unitized substances in paying quantities, the Unit Operator shall submit for the approval of the AO, the Land Commissioner and Division, an acceptable plan of development and operation for the unitized land which, when approved by the AO, the Land Commissioner and Division, shall constitute the further drilling and development obligations of the Unit Operator under this agreement for the period specified therein. Thereafter, from time to time before the expiration of any existing plan, the Unit Operator shall submit for the approval of the AO, the Land Commissioner and Division a plan for an additional specified period for the development and operation of the unitized land. Subsequent plans should normally be filed on a calendar year basis not later than March 1 each year. Any proposed modification or addition to the existing plan should be filed as a supplement to the plan.

Any plan submitted pursuant to this section shall provide for the timely exploration of the unitized area, and for the diligent drilling necessary for determination of the area or areas capable of producing unitized substances in paying quantities in each and every productive formation. This plan shall be as complete and adequate as the AO, the Land Commissioner and Division may determine to be necessary for timely development and proper conservation of the oil and gas resources of the unitized area and shall:

- (a) specify the number and locations of any wells to be drilled and the proposed order and time for such drilling; and
- (b) provide a summary of operations and production for the previous year.

Plans shall be modified or supplemented when necessary to meet changed conditions or to protect the interests of all parties to this agreement. Reasonable diligence shall be exercised in complying with the obligations of the approved plan of development and operation. The AO and the Land Commissioner are authorized to grant a reasonable extension of the 6-month period herein prescribed for submission of an initial plan of development and on operation where such action is justified because of unusual conditions or circumstances.

economical and efficient recovery of said substances without waste, as defined by or pursuant to State or Federal law or regulation.

17. DRAINAGE.

(a) The Unit Operator shall take such measures as the AO and Land Commissioner deems appropriate and adequate to prevent drainage of unitized substances for unitized land by wells on land not subject to this agreement, which shall include the drilling of protective wells and which may include the payment of a fair and reasonable compensatory royalty, as determined by the AO, as to Federal leases and the Land Commissioner, as to State leases.

(b) Whenever a participating area approved under section 11 of this agreement contains unleased Federal lands, the value of 12 1/2 percent of the production that would be allocated to such Federal lands under section 12 of this agreement, if such lands were leased, committed, and entitled to participation, shall be payable as compensatory royalties to the Federal Government. Parties to this agreement holding working interests in committed leases within the applicable participating area shall be responsible for such compensatory royalty payment on the volume of production reallocated from the unleased Federal lands to their unitized tracts under section 12. The value of such production subject to the payment of said royalties shall be determined pursuant to 30 CFR part 206. Payment of compensatory royalties on the production reallocated from unleased Federal land to the committed tracts within the participating area shall fulfill the Federal royalty obligation for such production, and said production shall be subject to no further royalty assessment under section 14 of this agreement. Payment of compensatory royalties as provided herein shall accrue from the date the committed tracts in the participating area that includes unleased Federal lands receive a production allocation, and shall be due and payable monthly by the last day of the calendar month next following the calendar month of actual production. If leased Federal lands receiving a production allocation from the participating area become unleased, compensatory royalties shall accrue from the date the Federal lands become unleased. Payment due under the provision shall end when the unleased Federal tract is leased or when production of unitized substances ceases within the participating area and the participating area is terminated, whichever occurs first.

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

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

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

(c) Suspension of drilling or producing operations on all unitized lands pursuant to direction or consent of the AO and the Land Commissioner, or his duly authorized representative, shall be deemed to constitute such suspension pursuant to such direction or consent as to each and every tract of unitized land. A suspension of drilling or producing operations limited to specified lands shall be applicable only to such lands.

(d) Each lease, sublease or contract relating to the exploration, drilling, development, or operation for oil or gas of lands other than those of the United States and State of New Mexico committed to this agreement which, by its terms might expire prior to the termination of this agreement, is hereby extended beyond any such terms so provided therein so that it shall be continued in full force and effect for and during the term of this agreement.

(e) Any Federal lease committed hereto shall continue in force beyond the term so provided therein or by law as to the land committed so long as such lease remains subject hereto, provided that production of unitized substances in paying quantities is established in paying quantities under this unit agreement prior to the expiration date of the term of such lease, or in the event actual drilling operations are commenced on unitized land, in accordance with provisions of this agreement, prior to the end of the primary term of such lease and are being diligently prosecuted at that time, such lease shall be extended for two years, and so long thereafter as oil or gas is produced in paying quantities in accordance with the provisions of the Mineral Leasing Act, as amended.

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