



3. In my initial affidavit, I stated that Yates proposed the formation of the Herradura Unit “to *test* all formations from the surface to the Bone Spring formation,” and that Yates’ “*primary target* is the Bone Spring formation”. Affidavit of D’nese Fly at 1-2, ¶ 2; *id.* at 3, ¶ 12 (emphasis added). I also identified Yates’ initial unit well, the Herradura Unit #1H horizontal well, which will be drilled to an approximate depth of 6,500 feet to test all formations from the surface into the Bone Spring formation. *Id.* at 2, ¶ 3.

4. Typically, Yates drills the initial test well required by a unit agreement to a depth that is shallower than the full vertical extent of the unit.

5. In this instance, the BLM Unit Agreement for the Herradura Unit requires that, within six (6) months, Yates must drill an adequate test well until the Bone Spring formation has been tested. The Unit Agreement provides that Yates shall not be required to drill the initial test well to a depth in excess of 6,500 feet.

6. When I prepared my initial affidavit, I was aware that Yates’ application for approval of the Herradura Exploratory Unit Agreement requested the Division to approve the unit agreement for all formations from the surface to the base of the Precambrian formation. *See* Application at 1, ¶ 1. By identifying the anticipated depth of the initial test well required by the Unit Agreement, I did not intend to alter the unitized interval identified in Yates’ application, or in any way give the Division the impression that Yates sought to reduce the unitized interval.

7. Order No. R-13270 approves the Herradura Exploratory Unit Agreement for all oil and gas in all formations from the surface to the base of the Bone Spring formation (rather than the base of the Precambrian formation, as requested in Yates’ application). An amended order recognizing that the unitized interval includes all formations from the surface to the base of

the Precambrian formation will afford Yates the opportunity to potentially recover hydrocarbons at depths below the base of the Bone Spring formation

8. Amending Order No. R-12370 to recognize that the unitized interval of the Herradura Unit includes all formations from the surface to the base of the Precambrian formation will enable Yates to more effectively recover hydrocarbons in the unit area and will serve to prevent waste and protect correlative rights within the lands assigned to the unit area.

FURTHER AFFIANT SAYETH NAUGHT.

D'NESE FLY  
D'nese Fly

SUBSCRIBED AND SWORN before me on this 15<sup>th</sup> day of October 2010.



OFFICIAL SEAL  
Nancy Elrod  
NOTARY PUBLIC-STATE OF NEW MEXICO

My commission expires: 10-17-13

Nancy Elrod  
Notary Public

My Commission Expires:

10-17-13