IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

and

STATE OF NEW MEXICO, ex rel. STATE ENGINEER,

Plaintiffs,

and

ZUNI INDIAN TRIBE, NAVAJO NATION

Plaintiffs-in-Intervention, -vs-

A & R Productions, et al.,

No. 01cv00072-MV-WPL Subfile No. ZRB-2-00098 JAY Land Ltd. Co., Yates Ranch Property LLP

Defendants.

AFFIDAVIT IN SUPPORT OF MOTION FOR PARTIAL SUMMARY JUDGMENT

STATE OF NEW MEXICO)

COUNTY OF EDDY)

John A. Yates, being first sworn, states as follows:

- 1. He makes this affidavit in support of the motion of JAY Land Ltd. LLC and Yates Ranch Property, Inc. for partial summary judgment with respect to the water rights at Atarque Ranch, and in particular for the water rights appurtenant to and held in connection with Atarque Lake.
- 2. He was, between 1978 and 2012, one of the owners of Atarque Ranch, together with Yates Petrolueum Corporation and, before her death, his then wife Peggy A. Yates and subsequently Trust Q Under the Last Will and Testament of Peggy A. Yates,

Exhibit 5 01cv00072-MV-WPL Subfile ZRB-2-0098 Deceased.

- He never formed any intention to relinquish or forego any water rights at Atarque Ranch. Quite the opposite, he always intended to keep everything owned in connection with the ranch.
- He was the trustee of Trust Q Under the Last Will and Testament of Peggy A. Yates, Deceased, at all times following the death of Peggy A. Yates and now occupies that position. As such neither he nor that trust ever formed or had any intention to relinquish, abandon or forego any water rights at Atarque Ranch, nor did they do so.
- 5. He was, during the years from 1978 to 2012, one of the owners of Atarque Ranch and was from January 4, 1988 to August 3, 2005, and again from August 11, 2008 to December 2, 2009. President of Yates Petroleum Corporation.
- During the time he was the president thereof, Yates Petroleum Corporation never intended to relinquish, abandon or forego any water rights at Atarque Ranch, nor did it do so.

Further Affiant sayeth naught.

Affiant John a fate

SUBSCRIBED and sworn to before me this $\frac{13^{10}}{100}$ day of June, 2015, by John A. Yates.



Ville IV John

Notary Public
My Commission Expires: 2.9.19