

**BEFORE THE NEW MEXICO OIL CONSERVATION DIVISION**

**APPLICATION SYNERGY OPERATING,  
LLC FOR COMPULSORY POOLING,  
SAN JUAN COUNTY, NEW MEXICO.**

**Case No. 13,663**

**RESPONSE IN OPPOSITION  
TO  
MOTION FOR CONTINUANCE**

Synergy Operating, LLC ("Synergy") files this response in opposition to the motion for a continuance filed by Edwin Smith, LLC ("Smith"), and J. Truman Walmsley, Trustee (the "Trustee"). In support of its response, Synergy states:

1. This case involves the W½ of Section 8, Township 29 North, Range 12 West, N.M.P.M., for a Fruitland Coal well proposed in the SW¼ of Section 8. This same acreage was the subject of pooling in Case No. 13,486 (for a Fruitland Coal well in the NW¼ of Section 8 – a well that has been drilled).

2. In Case No. 13,486, the Division granted Synergy's pooling application. Upon appeal to the Commission, Synergy's application was again approved. Order No. R-12,376-C. In that order the Commission specifically found that Synergy "has a right to drill" in the W½ of Section 8. *Id.*, Finding Paragraph 19.f.

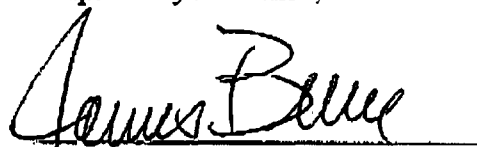
3. With respect to the specific allegations in the motion, the evidence presented in Case No. 13,486, and the evidence to be presented at hearing, will show that:

(a) Smith was provided a well proposal in November 2005. It was given an opportunity to join in the proposed well, but has informed Synergy it would not sign a JOA;

- (b) Joseph Robbins farmed out his interest to Synergy. Thus, he does not own a working interest and was not entitled to an AFE;
  - (c) Burlington Resources Oil & Gas Company LP has signed a JOA naming Synergy as operator, and will be provided an AFE in accordance with that agreement. It is not being pooled in this case;
  - (d) The Trustee has signed a JOA naming Synergy as operator, and has been provided an AFE in accordance with that agreement. It is not being pooled in this case; and
  - (e) Synergy, the operator of the Fruitland Coal formation in the W½ of Section 8, has an APD approved by the OCD for the proposed well in the SW¼ of Section 8.
4. The foregoing show that (i) Synergy has the right to drill the well it has permitted in the SW¼ of Section 8, and (ii) Synergy has followed all necessary steps necessary for pooling. Because Smith, the only party being pooled, has refused to sign a JOA, pooling is necessary, and there is no reason for a continuance.

WHEREFORE, Synergy requests that the motion for a continuance be denied.

Respectfully submitted,



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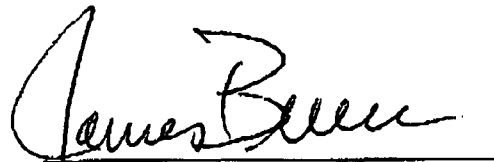
Attorney for Synergy Operating, LLC

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing pleading was served upon the following counsel of record by facsimile transmission this 29th day of March, 2006:

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