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February 9, 2007

Mark E. Fesmire, Director  
New Mexico Oil Conservation Division  
1220 South St. Francis Drive  
Santa Fe, NM 87505

NMOCD Order No. R-12629  
Section 8, T29N, R11W, NMPM  
San Juan County, New Mexico  
Duff 105 well

Dear Mr. Fesmire,

On behalf of Edwin Smith, LLC, this is in response to Synergy Operating's letter incorrectly dated January 8, 2007, and James Bruce's letter dated February 7, 2007. Edwin Smith requests a hearing on Synergy's application for extension of time to complete the above referenced well.

I enclose, for your convenience, a copy of Order No. R-12629 and direct your attention to page 7, paragraph (5), which provides:

Should the subject well not be drilled and completed within 120 days after commencement thereof, this order shall be of no effect, and the Unit comprising the SW/4 of Section 8 created by this Order shall terminate unless the operator appears before the Division Director and obtains an extension of time to drill and complete the wells for good cause demonstrated by satisfactory evidence.

As of this date, 180 days have transpired since Synergy commenced the subject well when it spudded the well on August 17, 2006 (before obtaining authority to do so and prior to the Division's September 12, 2006, entry of Order R-12629). Synergy has not shown good cause for its failure to complete the well. Instead, more than two months after the well should have been completed, Synergy now claims our office has

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February 9, 2007

Page 2

"threaten[ed] to sue Enterprise Field Services pipeline company for trespass." This assertion is untrue, is unsupported by the letter attached to Synergy's request, and is diametrically opposite to the actual facts which would be presented at a hearing on the subject.

Since the well had not been completed, and more than a month after Order No. R-12629 expired by its own terms, on January 25, 2007, Edwin Smith LLC requested the return of the \$103,125.00 it paid to Synergy as its share of estimated well costs (letter enclosed). Synergy has not responded to that request.

Wherefore, Edwin Smith LLC respectfully requests a hearing on Synergy's application, that Synergy be held to the requirement of showing good cause for an extension, and that Edwin Smith LLC be allowed to respond to Synergy's claim that it obstructed completion of the well.

Sincerely,

SUTIN, THAYER & BROWNE  
A Professional Corporation



Derek V. Larson  
Albuquerque Office

DVL:pjb

Enclosures: as stated

cc: Scott Hall

James Bruce

STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION

IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
DIVISION FOR THE PURPOSE OF  
CONSIDERING:

CASE NO. 13663  
ORDER NO. R-12629

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

ORDER OF THE DIVISION

BY THE DIVISION:

This case came on for hearing at 8:15 a.m. on March 30 and June 22, 2006, at Santa Fe, New Mexico, before Examiner David R. Catanach.

NOW, on this 12<sup>th</sup> day of September, 2006, the Division Director, having considered the testimony, the record and the recommendations of the Examiner,

FINDS THAT:

(1) Due public notice has been given, and the Division has jurisdiction of this case and its subject matter.

(2) The applicant, Synergy Operating, LLC ("applicant" or "Synergy"), seeks an order pooling all uncommitted mineral interests from the surface to the base of the Fruitland Coal formation underlying the following-described acreage in Section 8, Township 29 North, Range 11 West, NMPM, San Juan County, New Mexico, in the following manner:

the W/2 to form a standard 320-acre gas spacing and proration unit for all formations and/or pools spaced on 320 acres within this vertical extent, which presently include the Basin-Fruitland Coal Gas Pool; and

the SW/4 to form a standard 160-acre spacing and proration unit for all formations and/or pools spaced on 160 acres within this vertical extent.

*W*

(3) The above-described spacing and proration units (the "Units") are to be dedicated to the applicant's proposed Duff 29-11-8 Well No. 105 (API No. 30-045-33427) to be drilled at a standard gas well location 1885 feet from the South line and 1085 feet from the West line (Unit L) of Section 8.

(4) Jerry Walmsley, Trustee of the June H. Walmsley Trust ("Mr. Walmsley"), Joseph C. Robbins ("Mr. Robbins"), Ed Smith and Ed Smith, LLC ("Mr. Smith"), all interest owners within the SW/4 of Section 8, appeared at the hearing in opposition to the application.

(5) By Order No. R-12376, as amended, the Oil Conservation Division ("Division") and the Oil Conservation Commission ("Commission"), upon the application of Synergy, pooled all uncommitted mineral interests from the surface to the base of the Fruitland Coal formation underlying the W/2 of Section 8, Township 29 North, Range 11 West, NMPM. This unit was to be dedicated to Synergy's proposed Duff 29-11-8 Well No. 104 (API No. 30-045-33350) which was to be drilled at a standard gas well location 955 feet from the North line and 885 feet from the West line (Unit D) of Section 8.

(6) Synergy presented testimony to the effect that it has drilled and completed its Duff 29-11-8 Well No. 104 in compliance with the provisions set forth in Order No. R-12376, as amended. Synergy further testified that the well is not yet producing.

(7) The proposed Duff 29-11-8 Well No. 105 is to be drilled and completed as an infill well within the Basin-Fruitland Coal Gas Pool. Secondary targets include the Fruitland sand interval, which is currently spaced on 160 acres.

(8) Synergy presented evidence that demonstrates that:

(a) the NE/4 of Section 8 is a Federal Lease owned by Burlington Resources Oil & Gas Company ("Burlington"). Burlington has executed a Joint Operating Agreement ("JOA") with Synergy covering the W/2 of Section 8, and has participated in the drilling of the Duff 29-11-8 Well No. 104. As of the hearing date, Burlington has not signed an Authority for Expenditure ("AFE") for the drilling of the Duff 29-11-8 Well No. 105; however, by virtue of Burlington having executed a JOA, its interest in the W/2 of Section 8, and in the proposed Duff 29-11-8 Well No. 105 are effectively committed, and the force-pooling of Burlington's interest is not necessary;

(b) the SW/4 of Section 8 is a fee lease that was initially owned as follows:

*How 7 1/2*

Heirs of Julia H. Keller  
Annemarie Keller 6.25%  
Margaret K. Dunn 6.25%

Heirs of May H. Kouns  
Charla Varner 3.125%  
Robert E. Kouns 3.125%  
Kimberly Brautigam 3.125%  
Jodie Yates 3.125%

Heirs of Jenny H. Hill  
June Walmsley 12.5%

*✓ 7 1/2  
Farm out  
to by*

Heirs of Margaret H. Jones  
David F. Jones 12.5%

Joseph C. Robbins 3.125% ✓

Edwin & Ernest Smith 46.875%

- (c) Synergy owns a 25% working interest within the SW/4 of Section 8 that it obtained from the Heirs of Julia H. Keller, and the Heirs of May H. Kouns. Synergy also owns an additional 3.125% of the working interest in the SW/4 of Section 8 by virtue of its obtaining a farmout agreement from Mr. Robbins;
- (d) Mr. Walmsley executed Synergy's JOA covering the W/2 of Section 8 effective March 1, 2005;
- (e) Synergy has recently acquired some, but not all, of the interest owned by the Heirs of Margaret H. Jones. Synergy has been unable to reach a voluntary agreement with Leola Kellogg, an Heir of Margaret H. Jones; and
- (f) As of the date of the hearing, Synergy contends that the interest ownership within the W/2 of Section 8 is as follows:

Burlington 50%  
Edwin Smith, LLC 23.4375%  
Walmsley Trust 6.25%  
Leola Kellogg .78125%

Synergy

19.53125%

(9) In the immediate case, Synergy only seeks to pool the interest of Leola Kellogg and Edwin Smith, LLC.

(10) Mr. Walmsley, as trustee, contends that he owns the interest within the SW/4 of Section 8 that previously belonged to the Heirs of Julia H. Keller, the Heirs of May H. Kouns and the Heirs of Margaret H. Jones. This position is based upon its assertion that this interest was held in "joint tenancy", and that upon the death of Julia H. Keller, May H. Kouns and Margaret H. Jones, this interest became the property of Mr. Walmsley;

(11) Mr. Walmsley has initiated quiet title litigation proceedings in the 11<sup>th</sup> Judicial District Court in San Juan County, New Mexico to determine the rightful ownership of the interest within the SW/4 of Section 8 that previously belonged to the Heirs of Julia H. Keller, the Heirs of May H. Kouns and the Heirs of Margaret H. Jones.

(12) Accordingly, Mr. Walmsley requests that any order issued in this case require Synergy to place the production proceeds from the Duff 29-11-8 Well No. 105 attributable to the disputed interest in suspense until such time as the ownership issue is resolved in District Court.

(13) Mr. Robbins entered into a farmout agreement with Synergy on or about June 6, 2005 for the development of the W/2 of Section 8. It is now Mr. Robbins' position that at the time this agreement was negotiated, Synergy misrepresented to him that it owned an interest in the W/2 of Section 8, when in fact this interest ownership was, and remains, in dispute. Accordingly, Mr. Robbins presented, as evidence in this case, a "Notice of Rescission of Farmout Agreement", which instrument, he contends, rescinds the farmout agreement between himself and Synergy.

(14) Synergy contends that the farmout agreement it executed with Mr. Robbins is a bilateral agreement that cannot be rescinded without the consent of both parties. Further, Synergy stated that the Division does not have the authority to rule on contract matters.

(15) Mr. Smith's position is that Synergy owns no interest in the W/2 of Section 8 and therefore does not have the right to drill the Duff 29-11-8 Well No. 105.

(16) Mr. Smith currently operates the Claude Smith Well No. 1 (API No. 30-045-08442) located 790 feet from the South and West lines (Unit M) of Section 8, Township 29 North, Range 11 West, NMPM. This well is currently completed in and producing from the Fulcher Kutz-Pictured Cliffs Gas Pool.

(17) At the hearing, Mr. Smith presented, as evidence, an application to recomplete the Claude Smith Well No. 1 in the Basin-Fruitland Coal Gas Pool, and to downhole commingle the Pictured Cliffs and Fruitland Coal intervals in the well.

(18) Mr. Smith contends that by recompleting the Claude Smith Well No. 1 in the Basin-Fruitland Coal Gas Pool, it would not be necessary to drill the proposed Duff 29-11-8 Well No. 105. This would result in considerable savings to the interest owners within the W/2 of Section 8.

(19) After review of the evidence presented by all parties in this case, the Division finds that:

- (a) the Division has no jurisdiction to determine title to any interest in real property;
- (b) the W/2 of Section 8 has previously been pooled for the development of the Basin-Fruitland Coal Gas Pool by Order No. R-12376, as amended. In that order, Synergy was authorized to develop the Basin-Fruitland Coal Gas Pool by drilling the initial well on the unit, the Duff 29-11-8 Well No. 104, and was named operator of the unit;
- (c) the farmout agreement between Synergy and Mr. Robbins is a contractual agreement. The Division does not have the jurisdiction to rule on contractual matters, and Mr. Robbins presented no legally admissible evidence to show that this agreement has been rescinded;
- (d) by virtue of the interest that it obtained from Mr. Robbins, Synergy owns at least a 3.125% working interest within the SW/4 of Section 8, therefore, Synergy has the right to drill the proposed Duff 29-11-8 Well No. 105;
- (e) the proposal by Mr. Smith to recomplete the Claude Smith Well No. 1 to the Basin-Fruitland Coal Gas Pool should not be considered in this case because:
  - i) the W/2 of Section 8 is an existing spacing and proration unit in the Basin-Fruitland Coal Gas Pool that is currently operated by Synergy pursuant to a compulsory pooling order;
  - ii) Synergy, as operator of the W/2 of Section 8, opposes the proposal set forth by Mr. Smith;
  - iii) due to the nature of Mr. Smith's proposal, it appears that Mr. Smith's application would require a hearing before the Division;
  - iv) Mr. Smith's proposal, at the very least, would require the consent of all the interest

owners within the W/2 of Section 8; and v) Mr. Smith's proposal is beyond the scope of the matters to be considered in this case;

- (f) the proposal by Mr. Walmsley to require Synergy to place the production proceeds from the Duff 29-11-8 Well No. 105 attributable to the disputed interest in suspense until such time as the issue is resolved in District Court should not be approved because: i) Synergy is investing considerable money up-front to drill the Duff 29-11-8 Well No. 105; ii) approval of this proposal would preclude Synergy from recovering, through production, its drilling costs for an unknown and possibly lengthy period of time; and iii) if it is ultimately determined that Synergy does not own the disputed interest, all drilling costs and production proceeds can be balanced among the parties at that time based upon the interest ownership.

(20) Approval of Synergy's application is in the best interest of conservation and protection of correlative rights.

(21) Two or more separately owned tracts are embraced within the Units, and/or there are royalty interests and/or undivided interests in oil and gas minerals in one or more tracts included in the Units that are separately owned.

(22) Applicant is an owner of an oil and gas working interest within the Units. Applicant has the right to drill and proposes to drill its Duff 29-11-8 Well No. 105 at a standard gas well location within the SW/4 of Section 8 to test the Basin-Fruitland Coal Gas Pool.

(23) There are interest owners in the proposed Units that have not agreed to pool their interests.

(24) To avoid the drilling of unnecessary wells, protect correlative rights, prevent waste and afford to the owner of each interest in the Units the opportunity to recover or receive without unnecessary expense its just and fair share of hydrocarbons, this application should be approved by pooling all uncommitted interests, whatever they may be, in the oil and gas within the Units.

(25) The applicant should be designated the operator of the subject well and of the Units.

(26) Any pooled working interest owner who does not pay its share of estimated well costs should have withheld from production its share of reasonable well

costs plus an additional 200% thereof as a reasonable charge for the risk involved in drilling the well.

(27) Reasonable charges for supervision (combined fixed rates) should be fixed at \$5,000.00 per month while drilling and \$500.00 per month while producing, provided that these rates should be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations.*"

**IT IS THEREFORE ORDERED THAT:**

(1) Pursuant to the application of Synergy Operating, LLC, all uncommitted mineral interests from the surface to the base of the Fruitland Coal formation underlying the following-described acreage in Section 8, Township 29 North, Range 11 West, NMPM, San Juan County, New Mexico, are hereby pooled in the following manner:

the W/2 to form a standard 320-acre gas spacing and proration unit for all formations and/or pools spaced on 320 acres within this vertical extent, which presently include the Basin-Fruitland Coal Gas Pool; and

the SW/4 to form a standard 160-acre spacing and proration unit for all formations and/or pools spaced on 160 acres within this vertical extent.

(2) The above-described spacing and proration Units shall be dedicated to the applicant's Duff 29-11-8 Well No. 105 (API No. 30-045-33427) to be drilled at a standard gas well location 1885 feet from the South line and 1085 feet from the West line (Unit L) of Section 8.

(3) The operator of the Units shall commence drilling the proposed well on or before December 15, 2006, and shall thereafter continue drilling the well with due diligence to test the Fruitland Coal formation.

(4) In the event the operator does not commence drilling the proposed well on or before December 15, 2006, this order, which effectively authorizes subsequent operations within an existing 320-acre gas spacing and proration unit comprising the W/2 of Section 8 in the Basin-Fruitland Coal Gas Pool, shall be of no effect, unless the operator obtains a time extension from the Division Director for good cause.

(5) Should the subject well not be drilled and completed within 120 days after commencement thereof, this order shall be of no effect, and the Unit comprising the SW/4 of Section 8 created by this Order shall terminate unless the operator appears before the Division Director and obtains an extension of time to drill and complete the wells for good cause demonstrated by satisfactory evidence.

(6) Upon final plugging and abandonment of the Duff 29-11-8 Wells No. 104 and 105, the pooled Units created by this Order shall terminate, unless this order has been amended to authorize further operations.

(7) Synergy Operating, LLC is hereby designated the operator of the subject well and of the Units.

(8) After pooling, uncommitted working interest owners are referred to as pooled working interest owners. ("Pooled working interest owners" are owners of working interests in the Units, including unleased mineral interests, who are not parties to an operating agreement governing the Units.) After the effective date of this order, the operator shall furnish the Division and each known pooled working interest owner in the Units an itemized schedule of estimated costs of drilling, completing and equipping the subject wells ("well costs").

(9) Within 30 days from the date the schedule of estimated well costs is furnished, any pooled working interest owner shall have the right to pay its share of estimated well costs to the operator in lieu of paying its share of reasonable well costs out of production as hereinafter provided, and any such owner who pays its share of estimated well costs as provided above shall remain liable for operating costs but shall not be liable for risk charges. Pooled working interest owners who elect not to pay their share of estimated well costs as provided in this paragraph shall thereafter be referred to as "non-consenting working interest owners."

(10) The operator shall furnish the Division and each known pooled working interest owner (including non-consenting working interest owners) an itemized schedule of actual well costs within 90 days following completion of the proposed well. If no objection to the actual well costs is received by the Division, and the Division has not objected within 45 days following receipt of the schedule, the actual well costs shall be deemed to be the reasonable well costs. If there is an objection to actual well costs within the 45-day period, the Division will determine reasonable well costs after public notice and hearing.

(11) Within 60 days following determination of reasonable well costs, any pooled working interest owner who has paid its share of estimated costs in advance as provided above shall pay to the operator its share of the amount that reasonable well costs exceed estimated well costs and shall receive from the operator the amount, if any, that the estimated well costs it has paid exceed its share of reasonable well costs.

(12) The operator is hereby authorized to withhold the following costs and charges from production:

- (a) the proportionate share of reasonable well costs attributable to each non-consenting working interest owner; and

- (b) as a charge for the risk involved in drilling the well, 200% of the above costs.

(13) The operator shall distribute the costs and charges withheld from production, proportionately, to the parties who advanced the well costs.

(14) Reasonable charges for supervision (combined fixed rates) are hereby fixed at \$5,000.00 per month while drilling and \$500.00 per month while producing, provided that these rates shall be adjusted annually pursuant to Section III.1.A.3. of the COPAS form titled "*Accounting Procedure-Joint Operations*." The operator is authorized to withhold from production the proportionate share of both the supervision charges and the actual expenditures required for operating the well, not in excess of what are reasonable, attributable to pooled working interest owners.

(15) Except as provided in Ordering Paragraphs (12) and (14) above, all proceeds from production from the well that are not disbursed for any reason shall be placed in escrow in San Juan County, New Mexico, to be paid to the true owner thereof upon demand and proof of ownership. The operator shall notify the Division of the name and address of the escrow agent within 30 days from the date of first deposit with the escrow agent.

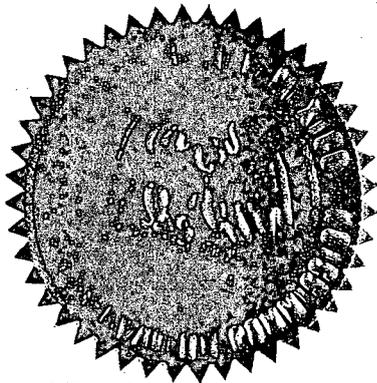
(16) Any unleased mineral interest shall be considered a seven-eighths (7/8) working interest and a one-eighth (1/8) royalty interest for the purpose of allocating costs and charges under this order. Any well costs or charges that are to be paid out of production shall be withheld only from the working interests' share of production, and no costs or charges shall be withheld from production attributable to royalty interests.

(17) Should all the parties to this compulsory pooling order reach voluntary agreement subsequent to entry of this order, this order shall thereafter be of no further effect.

(18) The operator of the well and Units shall notify the Division in writing of the subsequent voluntary agreement of all parties subject to the forced pooling provisions of this order.

(19) Jurisdiction of this case is retained for the entry of such further orders as the Division may deem necessary.

DONE at Santa Fe, New Mexico, on the day and year hereinabove designated.



SEAL

STATE OF NEW MEXICO  
OIL CONSERVATION DIVISION

A handwritten signature in dark ink, appearing to read "Mark E. Fesmire".

MARK E. FESMIRE, PE  
Director

**SUTIN THAYER & BROWNE**  
A PROFESSIONAL CORPORATION  
LAWYERS

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WWW.SUTINFIRM.COM

January 25, 2007

VIA Facsimile and U.S. Mail

Synergy Operating, LLC  
C/o Kyle Finch, Esq.  
Finch & Olson, PA  
305 N. Behrend  
Farmington, NM 87499

NMOCD Order No. R-12629  
Section 8, T29N, R11W, NMPM  
San Juan County, New Mexico / Duff 105  
and Duff 104

Dear Mr. Heggarty:

Pursuant to the New Mexico Oil Conservation Division Order No. R-12629 Edwin Smith LLC tendered \$103,125.00 to Synergy as its share of estimated well costs for the Duff 29-11-8 Well No. 105. This payment was tendered under protest to protect Edwin Smith LLC from any risk charges and is subject to the outcome of the pending action to quiet title filed by the Walmsley Trust and Edwin Smith LLC. Order No. R-12629 provides at paragraph (5) on page 7:

Should the subject well not be drilled and completed within 120 days after commencement thereof, this order shall be of no effect, and the Unit comprising the SW/4 of Section 8 created by this Order shall terminate unless the operator appears before the Division Director and obtains an extension of time to drill and complete the wells for good cause demonstrated by satisfactory evidence.

The enclosed Form C-103 reflects that Synergy commenced the subject well when it spudded the well on August 17, 2006 (before obtaining authority to do so and prior to the Division's September 12, 2006, entry of Order R-12629). Thus, using reasonable diligence, Synergy was required to complete the well no later than December 15, 2006. Our review of the OCD filings and actual inspection of the well site confirms that Synergy has failed to complete the subject well. Therefore, Order R-12629 is, by its own terms, of no effect and void. Further, we understand that no other interest owners—not even parties to the Joint Operating Agreement—

January 25, 2007

Page 2

have been required to contribute any of the estimated well drilling costs. Wherefore, Edwin Smith LLC hereby makes demand for the return its \$103,125.00, plus interest.

We also note that Synergy's permit to drill, number 18605 (Form C-101, enclosed) expired on November 27, 2006. Thus, Synergy does not hold a valid permit authorizing it to perform any work on this well.

Finally, Edwin Smith has not received a production statement or royalty check from Synergy for the Duff 104 well since September 9, 2006. As you know through your attendance at the January 11, 2007 hearing, the Quiet Title Judge ordered production proceeds to be suspended only from that date forward. Therefore, the payments on production for September – December 2006 should have been made. A copy of the Division Order Edwin Smith LLC provided in September 2006 is enclosed. Please advise if Synergy requires additional information or if there is some other reason why these past production payments have not been made, otherwise Edwin Smith LLC hereby makes demand for these past due payments plus interest, as required by Section 70-10-4 NMSA 1978.

Very truly yours,

SUTIN, THAYER & BROWNE  
A Professional Corporation

By   
Derek V. Larson  
Albuquerque Office

cc: Jim Bruce, Esq.  
Elizabeth Losee, Esq.  
Charlie Perrin  
David Catanach, Esq.  
Scott Hall, Esq.

DVL:ho  
Enclosures

DISTRICT I

1625 N. French Dr., Hobbs, NM 88240  
Phone:(505) 393-6161 Fax:(505) 393-0720

District II

1301 W. Grand Ave., Artesia, NM 88210  
Phone:(505) 748-1283 Fax:(505) 748-9720

District III

1000 Rio Bravos Rd., Aztec, NM 87410  
Phone:(505) 334-6178 Fax:(505) 334-6170

District IV

1220 S. St Francis Dr., Santa Fe, NM 87505  
Phone:(505) 476-3470 Fax:(505) 476-3462

State of New Mexico

Energy, Minerals and Natural Resources

Oil Conservation Division

1220 S. St Francis Dr.

Santa Fe, NM 87505

Form C-103

Permit 36635

WELL API NUMBER 30-045-33427
5. Indicate Type of Lease P
6. State Oil & Gas Lease No.
7. Lease Name or Unit Agreement Name DUFF 29 11 8
8. Well Number 105
9. OGRID Number 163458
10. Pool name or Wildcat

SUNDRY NOTICES AND REPORTS ON WELLS  
(DO NOT USE THIS FORM FOR PROPOSALS TO DRILL OR TO DEEPEN OR PLUG BACK TO A DIFFERENT RESERVIOR. USE "APPLICATION FOR PERMIT" (FORM C-101) FOR SUCH PROPOSALS.)

1. Type of Well: G

2. Name of Operator  
SYNERGY OPERATING LLC

3. Address of Operator  
5101 COLLEGE BLVD., SUITE 5055 FARMINGTON, NM 87402

4. Well Location  
Unit Letter L : 1885 feet from the S line and 1085 feet from the W line  
Section 8 Township 29N Range 11W NMPM San Juan County

11. Elevation (Show whether DR, KB, BT, GR, etc.)  
5695 GR

Pit or Below-grade Tank Application  or Closure

Pit Type \_\_\_\_\_ Depth to Groundwater \_\_\_\_\_ Distance from nearest fresh water well \_\_\_\_\_ Distance from nearest surface water \_\_\_\_\_

Pit Liner Thickness: \_\_\_\_\_ mil Below-Grade Tank: Volume \_\_\_\_\_ bbls; Construction Material \_\_\_\_\_

12. Check Appropriate Box to Indicate Nature of Notice, Report or Other Data

NOTICE OF INTENTION TO:

PERFORM REMEDIAL WORK  PLUG AND ABANDON

TEMPORARILY ABANDON  CHANGE OF PLANS

PULL OR ALTER CASING  MULTIPLE COMPL

Other:

SUBSEQUENT REPORT OF:

REMEDIAL WORK  ALTER CASING

COMMENCE DRILLING OPNS.  PLUG AND ABANDON

CASING CEMENT JOB

Other: Drilling/Cement

13. Describe proposed or completed operations. (Clearly state all pertinent details, and give pertinent dates, including estimated date of starting any proposed work.) SEE RULE 1103. For Multiple Completions: Attach wellbore diagram of proposed completion or recompletion.

Spud well, drill 12-1/4" hole to 210', run 8-5/8" 24# surface casing to 206', cement w/ 150-sxs Type V cmt, circulated 11-Bbls (52-sxs) to surface. WOC 8/17/2006 Spudded well.

Casing and Cement Program

Date	String	Fluid Type	Hole Size	Csg Size	Weight lb/ft	Grade	Est TOC	Dpth Set	Sacks	Yield	Class	1" Dpth	Pres Held	Pres Drop	Open Hole
08/16/06	Surf	FreshWater	12.25	8.625	24	J-55	0	206	150	1.221	Type V	500		0	

I hereby certify that the information above is true and complete to the best of my knowledge and belief. I further certify that any pit or below-grade tank has been/will be constructed or closed according to NMOCD guidelines , a general permit  or an (attached) alternative OCD-approved plan .

SIGNATURE Electronically Signed

TITLE Operations Manager

DATE 8/22/2006

Type or print name Glen Papp

E-mail address gpapp@synergyoperating.com Telephone No. 505-325-5449

For State Use Only:

APPROVED BY: Charlie Perrin

TITLE District Supervisor

DATE 8/29/2006 1:00:58 PM

**Oil Conservation Division**  
**1220 S. St Francis Dr.**  
**Santa Fe, NM 87505**

**APPLICATION FOR PERMIT TO DRILL, RE-ENTER, DEEPEN, PLUGBACK, OR ADD A ZONE**

1. Operator Name and Address SYNERGY OPERATING LLC PO Box 5513 Farmington, NM 87499		2. OGRID Number 163458
		3. API Number 30-045-33427
4. Property Code	5. Property Name DUFF 29-11-8	6. Well No. 105

**7. Surface Location**

UL - Lot	Section	Township	Range	Lot Idn	Feet From	N/S Line	Feet From	E/W Line	County
L	8	29N	11W	L	1885	S	1085	W	SAN JUAN

**8. Pool Information**

BASIN FRUITLAND COAL (GAS)	71629
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**Additional Well Information**

9. Work Type New Well	10. Well Type GAS	11. Cable/Rotary	12. Lease Type Private	13. Ground Level Elevation 5695
14. Multiple N	15. Proposed Depth 1975	16. Formation Fruitland Coal	17. Contractor	18. Spud Date
Depth to Ground water 133		Distance from nearest fresh water well > 1000		Distance to nearest surface water > 1000
Pk: Liner: Synthetic <input checked="" type="checkbox"/> 12 _____ mils thick Clay <input type="checkbox"/> Pk Volume: 3000 _____ bbls Drilling Method: Closed Loop System <input type="checkbox"/> Fresh Water <input type="checkbox"/> Brine <input type="checkbox"/> Diesel/Oil-based <input type="checkbox"/> Gas/Air <input type="checkbox"/>				

**19. Proposed Casing and Cement Program**

Type	Hole Size	Casing Type	Casing Weight/ft	Setting Depth	Sacks of Cement	Estimated TOC
Surf	12.25	8.625	24	220	150	0
Prod	7.875	5.5	15.5	1975	280	0

**Casing/Cement Program: Additional Comments**

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**Proposed Blowout Prevention Program**

Type	Working Pressure	Test Pressure	Manufacturer
Double Ram	3000	3000	Shaffer

I hereby certify that the information given above is true and complete to the best of my knowledge and belief. I further certify that the drilling pit will be constructed according to NMOCD guidelines <input checked="" type="checkbox"/> a general permit <input type="checkbox"/> , or an (attached) alternative OCD-approved plan <input type="checkbox"/> .	<b>OIL CONSERVATION DIVISION</b>
	Approved By: Charlie Perrin
	Printed Name: Electronically filed by Glen Papp
	Title: District Supervisor
	Approved Date: 11/27/2005
Email Address: gpapp@synergyoperating.com	Expiration Date: 11/27/2006
Date: 11/15/2005	Phone: 505-325-5449

**DIVISION ORDER/TRANSFER ORDER**

To: Synergy Operating, LLC  
 P.O. Box 5513  
 Farmington, New Mexico 87499

Date: 9/12/2006

Lease Number(s): NMNM-116513                      Effective Date: First Date of Production  
 Well Name: Duff 29-11-8 # 104  
 Operator: Synergy Operating, LLC  
 Property Description: W/2 of Section 8, Township 29 North, Range 11 West  
 County and State: San Juan County, New Mexico  
 Production: Gas

The undersigned certifies the ownership of their decimal interest in production or proceeds as described below payable by Synergy Operating, LLC (Payor).

Payor shall be notified, in writing, of any change in ownership, decimal interest, or payment address. All such changes shall be effective the first day of the month following receipt of such notice.

Payor is authorized to withhold payment pending resolution of a title dispute or adverse claim asserted regarding the interest production claimed herein by the undersigned. The undersigned agrees to indemnify and reimburse Payor any amount attributable to an interest to which the undersigned is not entitled.

Payor may accrue proceeds until the total amount equals \$ 100.00, or pay annually, whichever occurs first, or as required by applicable state statute.

This Division Order does not amend any lease or operating agreement between the undersigned and the lessee or operator or any other contracts for the purchase of oil or gas.

In addition to the terms and conditions of this Division Order, the undersigned and Payor may have certain statutory rights under the laws of the state in which the property is located.

OWNER #	CREDIT TO	*TI	DECIMAL
	EARNEST AND EDWIN SMITH LLC 40758 JASPER DRIVE KINGSBURY, CA 93631-1316	WI NRI	<del>0.234375000</del> .25 0.237575000 0.234375
			TAX ID:

EARNEST AND EDWIN SMITH

Owner(s) Signature(s):

By: Edwin L Ray Smith Pres Edwin Smith LLC

Owner(s) Tax I.D. SS#

[REDACTED]

Owner Daytime Phone #

559 897 2560

Owner FAX Phone #

559 897 6803

\*Types of Interest: RI=Royalty, ORRI=Overriding Royalty Interest, WI=Working Interest

Federal Law requires you to furnish your social security or Taxpayer Identification Number. Failure to comply will result in 31% tax withholding and will not be refundable by Payor.

PHONE: 505-325-5449

FAX: 505-566-3750

EMAIL: jthomason@synergyoperating.com