

**BEFORE THE NEW MEXICO OIL CONSERVATION DIVISION**

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

**Case No. 13,486  
Order No. R-12,376-C**

**RESPONSE IN OPPOSITION  
TO  
APPLICATION FOR RECONSIDERATION**

Synergy Operating, LLC ("Synergy") files this response in opposition to the joint application for rehearing filed by Edwin Smith, LLC ("Smith"), J. Truman Walmsley, Trustee (the "Trustee"), and Joseph Robbins. In support of its response, Synergy states:

1. The applicants for rehearing rely on three basic elements to support their application:
  - (a) Robbins has rescinded the farmout;
  - (b) Synergy does not have a possessory interest; and
  - (c) Additional parties need to be pooled.

None of these issues has any merit.

2. Rescission of Farmout: This issue was raised at hearing and rejected by the Commission. The fact of the matter is that Robbins granted a valid farmout, and Synergy immediately began performing under the agreement in mid-2005 by (i) obtaining an APD, (ii) seeking joinder of the other parties, (iii) arranging to drill the well, and (iv) seeking pooling of the non-committed interests. An attempted, unilateral rescission of a bilateral contract 6-7 months after performance began is invalid.

3. Possessory Interest: The Commission again held that Synergy, at the least, has the right to drill under (i) the farmout, and (ii) the operating agreement signed by Burlington. Nothing has changed.

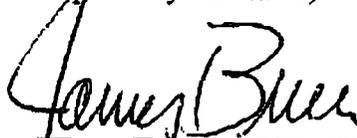
4. Additional Parties: Finally, the rehearing applicants raise the issue of the Jones heirs. At the Division and Commission hearings on this matter, Synergy testified that it had been unable to locate these people. However, Synergy has (i) continued to try to locate these people, (ii) after a couple years of trying has located them, and (iii) is acquiring their interests.

First, if the parties are locatable, Synergy must acquire or pool their interests. If they acquire the interests, no additional pooling is necessary. If they do not acquire their interests, then a supplemental pooling is necessary, BUT that hearing should be before the Division. Thus, a rehearing is not necessary.

Second, the rehearing applicants take a massively contradictory position: FIRST, their position is that the Jones heirs own no interest; and SECOND, they claim that Synergy must pool them. By requesting that Synergy pool these interests, they are contradicting their position in the San Juan County quiet title action, and admitting that Synergy owns an interest under the assignments from the other Hasselman heirs. This undercuts their first two positions.

WHEREFORE, Synergy requests that the application for rehearing be denied.

Respectfully submitted,



James Bruce  
Post Office Box 1056  
Santa Fe, New Mexico 87504  
(505) 982-2043

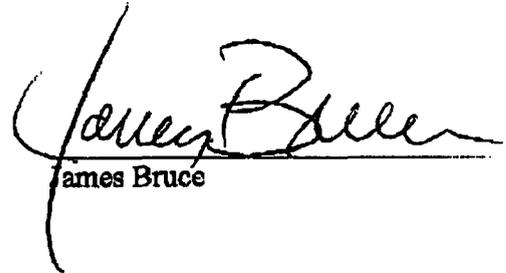
Attorney for Synergy Operating, LLC

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 14<sup>th</sup> day of ~~March~~, 2006:

J. Scott Hall  
Miller Stratvert P.A.  
P.O. Box 1986  
Santa Fe, New Mexico 87504  
Fax (505) 989-9857

Derek V. Larson  
Sutin, Thayer & Browne  
P.O. Box 1945  
Albuquerque, New Mexico 87103  
Fax (505) 888-6565

  
James Bruce