

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

2006 MAY 4 PM 3 36

IN THE MATTER OF THE APPLICATION  
BY SYNERGY OPERATING, LLC FOR  
COMPULSORY POOLING,  
SAN JUAN COUNTY, NEW MEXICO

Case No. 13,663

**PRE HEARING STATEMENT**

Come now Edwin Smith, LLC ("Smith"), and Joseph C. Robbins ("Robbins"), by and through their attorneys Sutin, Thayer & Browne, a Professional Corporation (Derek V. Larson and Germaine R. Chappelle) and submit the following for consideration at the Hearing of this matter:

**Appearances**

**APPLICANT**

Synergy Operating, LLC

**APPLICANT'S ATTORNEY**

James Bruce

**OPPONENTS**

Edwin Smith, LLC  
Joseph Robbins

**OPPONENTS' ATTORNEYS**

Derek V. Larson and Germaine R. Chappelle  
Derek V. Larson and Germaine R. Chappelle

Jerry Walmsley, Trustee

J. Scott Hall

**Statement of the Case**

This matter involves property situated on the west half of Section 8, Township 29 North, Range 11 West, N.M.P.M., San Juan County, New Mexico (the "Property").

Synergy Operating, LLC ("Synergy") has filed an application for compulsory pooling. However, Synergy does not possess any ownership interest in the subject property and therefore is not a proper party to request compulsory pooling pursuant to NMSA 1978 Section 70-2-17, as amended. Wherefore Synergy's application should be denied.

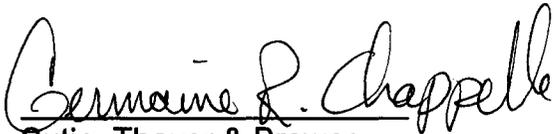
Additionally, some of the costs Synergy has provided with respect to completing the Duff 105 well appear to be excessive and unnecessary.

Certificate of Service

I hereby certify that a true and correct copy of the foregoing was <sup>faxed</sup>~~hand-delivered~~ to the following counsel of record on the 4<sup>th</sup> day of May 2006:

James G. Bruce  
369 Montezuma, No. 213  
Santa Fe, NM 87501

J. Scott Hall  
Miller Stratvert P.A.  
150 Washington Ave., Suite 300  
Santa Fe, NM 87501

  
Sutin, Thayer & Browne  
A Professional Corporation

Smith, however, is an undisputed interest owner and is in the process of filing an application for permit to drill the Duff 105 well. Wherefore Smith and Robbins request Smith's application be approved and that Smith be designated as the operator of the Duff 105 well.

Witnesses:

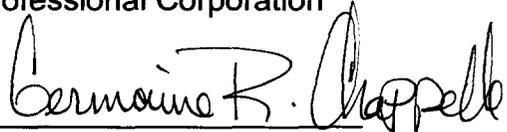
Edwin Smith, Art Sullivan, and Brad Salzman may be present to testify.

Time Needed to Present Smith's Case:

20 minutes.

Respectfully submitted,

SUTIN THAYER & BROWNE,  
A Professional Corporation

By 

Derek V. Larson  
Germaine Chappelle  
6565 Americas Parkway, N.E.  
Suite 1000  
Albuquerque, New Mexico 87110  
(505) 883-2500  
Fax: (505) 888-6565

Attorneys For Edwin Smith, LLC and  
Joseph Robbins