

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**

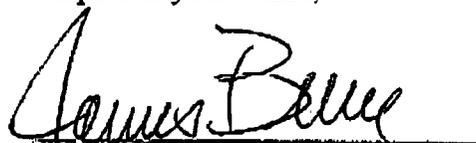
Synergy Operating, LLC ("Synergy") files this response in opposition to the motion for a continuance filed by Edwin Smith, LLC ("Smith"), and J. Truman Walmsley, Trustee (the "Trustee"). In support of its response, Synergy states:

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,



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 29th 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