

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

2009 APR 23 PM 4:42

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

Case No. 13,600

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.

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 may be present to testify.

Exhibits:

See list of exhibits attached hereto.

Time Needed to Present Smith's Case:

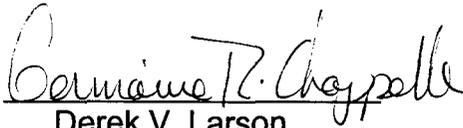
20 minutes.

Procedural Matters That Need to be Resolved Prior to Hearing:

Synergy's lack of standing to pool.

Respectfully submitted,

SUTIN THAYER & BROWNE,
A Professional Corporation

By 

Derek V. Larson

Germaine Chappelle

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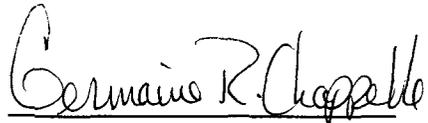
Attorneys For Edwin Smith, LLC and
Joseph Robbins

Certificate of Service

] I hereby certify that a true and correct copy of the foregoing was ^{faxed} ~~hand-delivered~~ to the following counsel of record on the 23rd day of March 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

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

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

Case No. 13,663

EXHIBITS RE: MARCH 30, 2006 HEARING RE: COMPULSORY POOLING

- A: 4/28/51** Warranty Deed by Margaret Hasselman Jones, Julia Hasselman Keller, May Hasselman Kouns and Jennie Hasselman Hill, grants to Earl M. Kouns an undivided one half interest in and to the Southwest Quarter of Section Eight (8) in Township Twenty-nine (29) North, Range Eleven (11) West, N.M.P.M. [recorded 6/2/51]
- B: 4/28/51** Warranty Deed by Earl M. Kouns grants to Margaret Hasselman Jones, Julia Hasselman Keller, May Hasselman Kouns and Jennie Hasselman Hill, an undivided one half interest in and to the Southwest Quarter of Section Eight (8) in Township Twenty-nine (29) North, Range Eleven (11) West, N.M.P.M. [recorded 6/2/51]
- C: 8/19/58** Judgment: Claude Smith, Margaret Hasselman Jones, Julia Hasselman Keller, Jennie Hasselman Hill, May Hasselman Kouns v. Caswell Silver, L.R. Lunsford, George B. Robbins, Apache Drilling, et al. [Case No. 5994] establishing that Margaret Hasselman Jones, Julia Hasselman Keller, Jennie Hasselman Hill And May Hasselman Kouns are the owners in fee simple of an undivided one half interest in and to the Southwest Quarter of Section Eight (8) in Township Twenty-nine (29) North, Range Eleven (11) West, N.M.P.M.
- D: 9/8/81** Warranty Deed (Joint Tenants) by Jennie Hasselman Hill, surviving joint tenant of Margaret Hasselman Jones, Julia Hasselman Keller and May Hasselman Kouns, grants to Jennie Hasselman Hill and June Hill Walmsley an undivided one half interest in and to the Southwest Quarter of Section Eight (8) in Township Twenty-nine (29) North, Range Eleven (11) West, N.M.P.M. [recorded 9/16/81]

- E: 10/28/04 Assignment of All Right, Title and Interest Surface to Base of Pictured Cliffs by Kimberly Brautigam (dealing with her sole and separate property and successor in interest to May Hasselman Kouns) to Synergy Operating LLC of all right, title and interest in and to the Claude Smith #1 well and the associated minerals in the southwest quarter of section 8, Township 29 North, Range 11 West, San Juan County, New Mexico, effective 10/1/04
- E: 10/29/04 Assignment of All Right, Title and Interest Surface to Base of Pictured Cliffs by Robert E. Kouns (dealing with his sole and separate property and successor in interest to May Hasselman Kouns) to Synergy Operating LLC of all right, title and interest in and to the Claude Smith #1 well and the associated minerals in the southwest quarter of section 8, Township 29 North, Range 11 West, San Juan County, New Mexico, effective 10/1/04
- E: 10/29/04 Assignment of All Right, Title and Interest Surface to Base of Pictured Cliffs by Annemarie Keller (successor in interest to Julia Hasselman Keller) to Synergy Operating LLC of all right, title and interest in and to the Claude Smith #1 well and the associated minerals in the southwest quarter of section 8, Township 29 North, Range 11 West, San Juan County, New Mexico, effective 10/1/04
- E: 11/1/04 Assignment of All Right, Title and Interest Surface to Base of Pictured Cliffs by Charla Varner (dealing with her sole and separate property and successor in interest to May Hasselman Kouns) to Synergy Operating LLC of all right, title and interest in and to the Claude Smith #1 well and the associated minerals in the southwest quarter of section 8, Township 29 North, Range 11 West, San Juan County, New Mexico, effective 10/1/04
- E: 11/2/04 Assignment of All Right, Title and Interest Surface to Base of Pictured Cliffs by Margaret K. Dunn (successor in interest to Julia Hasselman Keller) to Synergy Operating LLC of all right, title and interest in and to the Claude Smith #1 well and the associated minerals in the southwest quarter of section 8, Township 29 North, Range 11 West, San Juan County, New Mexico, effective 10/1/04
- E: 11/4/04 Assignment of All Right, Title and Interest Surface to Base of Pictured Cliffs by Jodie Yates (dealing with her sole and separate property and successor in interest to May Hasselman Kouns) to Synergy Operating LLC of all right, title and interest in and to the Claude Smith #1 well and the associated minerals in the southwest quarter of section 8, Township 29 North, Range 11 West, San Juan County, New Mexico, effective 10/1/04

- F:** 1/21/05 Petition for Condemnation by Public Service Company of New Mexico re: an easement
- G:** 6/16/05 Transcript of June 16, 2005 Hearing
- H:** 7/29/05 Affidavit of Joseph Robbins [filed herein July 28, 2005]
- I:** 9/9/05 Title Report prepared by Tammy Sloan Smith, Certified Professional Landman
- J:** 10/25/05 Title Opinion prepared by Nancy M. King of Montgomery & Andrews
- K:** 1/26/06 Authenticated and Sworn Notice of Rescission by Joseph Robbins

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