

COPY

STATE OF NEW MEXICO  
COUNTY OF SAN JUAN  
ELEVENTH JUDICIAL DISTRICT COURT

2/9/06 OCC Hearing  
Walmsley Heirship  
DISTRICT COURT  
SAN JUAN COUNTY NM  
FILED

2006 JAN 18 AM 8 32

EDWIN SMITH, LLC, a New Mexico limited liability company; and JERRY T. WALMSLEY, trustee of the June Walmsley Bypass Trust under the will of June H. Walmsley dated April 7, 1992,

Plaintiffs,

v.

No. CV06-59-Lp

**Class 1:** SYNERGY OPERATING, LLC, a New Mexico limited liability company; RICHARD H. KOUNS; EVELYN K. KURTZ; CLARA PRANGLEY; ROBERT H. KOUNS; JODIE YATES; ROBERT E. KOUNS; CHARLA VARNER; MARGARET K. DUNN; KIMBERLY BRAUTIGAM; ANNEMARIE KELLER;

**Class 2:** THE UNKNOWN HEIRS OF: MARGARET HASSELMAN JONES, deceased; JULIA HASSELMAN KELLER, deceased; MAY HASSELMAN KOUNS, deceased; JENNIE HASSELMAN HILL, deceased;

**Class 3:** ALL UNKNOWN CLAIMANTS OF INTEREST IN THE PREMISES ADVERSE TO PLAINTIFFS,

Defendants.

**COMPLAINT TO QUIET TITLE**

COMES NOW Edwin Smith, LLC, a New Mexico limited liability company, and Jerry T. Walmsley, trustee of the June Walmsley Bypass Trust under the will of June H. Walmsley dated April 7, 1992, by and through their attorneys, Sutin, Thayer & Browne, P.C. (C. Shannon Bacon and Sarita Nair), pursuant to NMSA 1978, §§ 42-6-1, et. seq. (1953), and for their complaint, state:

NMOCD CASE NO. 13486  
FEBRUARY 9, 2006  
JERRY WALMSLEY, TRUSTEE  
EXHIBIT NO. 1

Smith  
Exhibit N

1. Plaintiff Edwin Smith, LLC, is the owner in fee simple, and in possession of, an undivided one-half interest in the following described Premises situated in San Juan County, New Mexico:

The Southwest Quarter of Section 8, Township 29 North, Range 11 West, N.M.P.M., San Juan County, containing 160 acres, more or less

2. Plaintiff Jerry T. Walmsley, trustee of the June Walmsley Bypass Trust under the will of June H. Walmsley ("Walmsley") is owner in fee simple, and in possession of, an undivided one-half interest in the above-described Premises.

3. On April 28, 1951, Earl W. Kouns transferred an undivided one-half interest in the Premises to Margaret Hasselman Jones, Julia Hasselman Keller, May Hasselman Kouns, and Jennie Hasselman Hill (collectively, the "Hasselman Sisters") as joint tenants.

4. On August 15, 1958, Claude Smith and the Hasselman Sisters initiated a quiet title action (the "1958 Quiet Title").

5. In the 1958 Quiet Title, the District Court for San Juan County quieted the title to an undivided one-half interest in the surface rights to the Premises in the name of Claude Smith.

6. The ownership interest of Plaintiff Edwin Smith, LLC, as successor in interest to Claude Smith, is undisputed. However, as operator of an oil and gas well on the Premises, Plaintiff Edwin Smith, LLC, has an interest in determining title to the Premises in order to make appropriate payments from such well.

7. The 1958 Quiet Title also stated that title to an undivided one-half interest in the Premises was quieted in the names of the Hasselman Sisters.

8. On September 8, 1981, Jennie Hasselman Hill, as "the surviving joint tenant of Margaret Hasselman Jones, Julia Hasselman Keller and May Hasselman Kouns, all deceased," transferred an undivided one-half interest in the Premises to June Hill Walmsley.

9. Plaintiff Walmsley is the successor in interest to June Hill Walmsley.

10. Plaintiffs are credibly informed and believe that each of those Defendants listed in Class 1 of the caption makes a claim of right, title or interest in or lien upon the Premises, adverse to the title of the Plaintiffs. All of the Class 1 Defendants' claims are without merit, and are inferior in every respect to the claim of title and interest in the property by the Plaintiffs. Nevertheless, the Class 1 Defendants' claims constitute a cloud on the Plaintiffs' title in the Premises.

11. Plaintiffs are credibly informed and believe that each of those Defendants listed in Class 2 of the caption make a claim of right, title or interest in or lien upon the Premises, adverse to the title of the Plaintiffs. All of the Class 2 Defendants' claims are without merit, and are inferior in every respect to the claim of title and interest in the property by the Plaintiffs. Nevertheless, the Class 2 Defendants' claims constitute a cloud on the Plaintiffs' title in the Premises.


12. The persons listed under Class 3 of the caption cannot be identified and their whereabouts and places of residence are unknown and cannot be ascertained through due search or inquiry. Plaintiffs are credibly informed and believe, however, that each of those Defendants listed in Class 3 of the caption make a claim of right, title or interest in or lien upon the Premises described above, adverse to the title of the Plaintiffs. All of the Class 3 Defendants' claims are without merit, and are inferior in every respect to the claim of title and interest in the property by the Plaintiffs. Nevertheless, the Class 3 Defendants' claims constitute a cloud on the Plaintiffs' title in the Premises.

13. Plaintiffs have no adequate remedy at law.

WHEREFORE, Plaintiffs respectfully request that their title to the Premises be established as their property against the adverse claims of Defendants; that each Defendant be forever barred and estopped from having or claiming any right, title or interest in the Premises described adverse to Plaintiffs; and that Plaintiffs' title to the Premises forever be quieted.

Respectfully submitted,

SUTIN, THAYER & BROWNE, P.C.

By 

C. Shannon Bacon

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IRWIN S. MOISE (1906-1984)  
LEWIS R. SUTIN (1908-1992)  
FRANKLIN JONES (1919-1994)  
RAYMOND W. SCHOWERS (1948-1995)  
GRAHAM BROWNE (1935-2003)  
BENJAMIN ALLISON  
C. SHANNON BACON  
PAUL BARDACKE  
ANNE P. BROWNE  
CRISTY J. CARBON-GAUL  
MARK CHAIKEN  
SUSAN G. CHAPPELL  
GERMAINE R. CHAPPELLE  
STEPHEN CHARNAS  
MARIA MONTOYA CHAVEZ  
SAUL COHEN

GAIL GOTTLIEB  
SUSAN M. HAPKA  
HELEN HECHT  
JAY D. HERTZ  
ROBERT G. HEYMAN  
CHRISTOPHER A. HOLLAND  
SYLVIA R. JOHNSON  
HENRY A. KELLY  
KERRY KIERNAN  
PETER S. KIERST  
RACHEL S. KING  
TWILA B. LARKIN  
DEREK V. LARSON  
STEVEN DOUGLAS LOONEY  
ELIZABETH J. MEDINA  
VICTOR P. MONTOYA

JEAN C. MOORE  
SARITA NAIR  
MICHELLE K. OSTRYE  
JULIA L. PETERS  
JAY D. ROSENBLUM  
ALISON L. ROSNER  
FRANK C. SALAZAR  
RONALD J. SEGEL  
RAY SHOLLENBARGER  
ANDREW J. SIMONS  
JEANNE Y. SOHN  
MICHAEL G. SUTIN  
NORMAN S. THAYER  
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WWW.SUTINFIRM.COM

August 8, 2005

VIA FEDEX

Patrick Hegarty  
Synergy Operating, LLC  
PO Box 5513  
Farmington, New Mexico 87499

Edwin Smith

Dear Patrick:

Pursuant to the New Mexico Oil Conservation Division Order No. R-12376 and your letter dated July 8, 2005, enclosed is our firm check number 9115 in the amount of \$79,688.00 as payment by Ed Smith, LLC, of the estimated costs of drilling, completing and equipping the Duff 29-11-8 Well No. 104. This payment is tendered under protest to protect Ed Smith, LLC, from any risk charges and is subject to the outcome of the pending Motions for Rehearing *de novo* of the Division Order filed by the Walmsley Trust and Ed Smith, LLC. By making this payment Ed Smith, LLC, is not waiving its right to *de novo* review of the Division Order provided by Rule 19.15.14.1220(A) and is not abandoning its motions before the OCD. Please hold all production payments in suspense pending a final ruling and order by the Oil Conservation Commission in this matter.

Very truly yours,

SUTIN, THAYER & BROWNE  
A Professional Corporation

By Derek V. Larson  
Derek V. Larson  
Albuquerque Office

DVL:hdp  
759228

Smith  
Exhibit M

1-83

**SUTIN THAYER & BROWNE**

A PROFESSIONAL CORPORATION

TRUSTEES ACCOUNT

P. O. BOX 1945

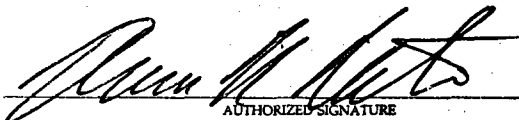
ALBUQUERQUE, NEW MEXICO 87103

BANK OF ALBUQUERQUE  
ALBUQUERQUE, NEW MEXICO  
95-660/1070

09115

DATE  
8/8/2005CHECK NO.  
9115AMOUNT  
79,688.00**PAY**

Seventy-Nine Thousand, Six Hundred Eighty-Eight &amp; No/100 Dollars

TO THE  
ORDER OFSynergy Operating, LLC  
P.O. Box 5513  
Farmington, NM 87499SUTIN THAYER & BROWNE  
A PROFESSIONAL CORPORATION  
AUTHORIZED SIGNATURE

⑈009115⑈ ⑆107006606⑆ 7827214629⑈

SUTIN THAYER & BROWNE  
A PROFESSIONAL CORPORATION

Synergy Operating, LLC

8/8/2005 CHECK NO. Check No. 09115

DATE

INVOICE NO.

AMOUNT

DISCOUNT

NET AMOUNT

8/8/2005

DVL REQ 08/08/05

Estimated costs on the Duff 29-11-8 Well

79,688.00

Check Total:

79,688.00