

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

FILED
DISTRICT COURT
SAN JUAN COUNTY NM

2007 FEB 5 PM 2 46

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. D-1116 CV 06-59-6

Class 1: SYNERGY OPERATING, LLC, a New Mexico limited liability company;
JODIE YATES-SIMON; ROBERT E. KOUNS;
CHARLA VARNER; KIMBERLY BRAUTIGAM;
DEBRA KOUNS LAY; KRISTI CLARK;
F. KEVIN KURTZ;

Class 2: RICHARD H. KOUNS, if living, if deceased, THE UNKNOWN HEIRS OF RICHARD H. KOUNS, deceased; CLARA PRANGLEY, if living, if deceased, THE UNKNOWN HEIRS OF CLARA PRANGLEY, deceased; ANNEMARIE KELLER, if living, if deceased, THE UNKNOWN HEIRS OF ANNEMARIE KELLER, deceased; MARGARET K. DUNN, if living, if deceased, THE UNKNOWN HEIRS OF MARGARET K. DUNN, deceased; F. NORMAN KURTZ, if living, if deceased, THE UNKNOWN HEIRS OF F. NORMAN KURTZ, deceased; MELBA ANDERSON KOUNS, if living, if deceased, THE UNKNOWN HEIRS OF MELBA ANDERSON KOUNS, deceased; DAVID F. JONES, if living, if deceased, THE UNKNOWN HEIRS OF DAVID F. JONES, deceased;

Class 3: THE UNKNOWN HEIRS OF: MARGARET HASSELMAN JONES, deceased; JULIA HASSELMAN KELLER, deceased; MAY HASSELMAN KOUNS, deceased; JENNIE HASSELMAN HILL, deceased; EVELYN K. KURTZ, deceased; ROBERT H. KOUNS, deceased;

Class 4: ALL UNKNOWN CLAIMANTS OF INTEREST IN THE PREMISES ADVERSE TO PLAINTIFFS,

Defendants.

BEFORE EXAMINER
OIL COMMISSION OF NEW MEXICO
WALMSLEY/ EXHIBIT NO. <u>1</u>
CASE NO. <u>13663</u>

and

SYNERGY OPERATING, LLC, THEROLYN K. WILLIAMS, ANNEMARIE KELLER, JODIE YATES SIMON, ROBERT E. KOUNS, CHARLA VARNER and KIMBERLY BRAUTIGAM,

Counter-plaintiffs and Cross-plaintiffs,

vs.

Case No. D-1116 CV-06-59-6

Class 1: EDWIN SMITH, LLC and JERRY T. WALMSLEY, trustee,

Counter-defendants, and

Class 2: MARGARET K. DUNN, if living, if deceased, THE UNKNOWN HEIRS OF MARGARET K. DUNN, deceased; RICHARD H. KOUNS if living, if deceased, THE UNKNOWN HEIRS OF RICHARD H. KOUNS, deceased; CLARA PRANGLEY, if living, if deceased, THE UNKNOWN HEIRS OF CLARA PRANGLEY, deceased; F. NORMAN KURTZ, if living, if deceased, THE UNKNOWN HEIRS OF F. NORMAN KURTZ, deceased; MELBA ANDERSON KOUNS, if living, if deceased, THE UNKNOWN HEIRS OF MELBA ANDERSON KOUNS, deceased; DAVID F. JONES, if living, if deceased, THE UNKNOWN HEIRS OF DAVID F. JONES, deceased,

Cross-defendants, and

Class 3: THE UNKNOWN HEIRS OF: MARGARET HASSELMAN JONES, deceased; JULIA HASSELMAN KELLER, deceased; MAY HASSELMAN KOUNS, deceased; JENNIE HASSELMAN HILL, deceased; EVELYN K. KURTZ, deceased; ROBERT H. KOUNS, deceased,

Cross-defendants, and

Class 4: ALL UNKNOWN CLAIMANTS OF INTEREST IN THE PREMISES ADVERSE TO PLAINTIFFS,

Cross-defendants, and

Class 5: MILDRED DELANO, WILLIAM SCHMITT, GERALDINE CHIPUSIO, WILLIAM BROWN, MYRNA SCHMITT, CAROYLN EVANS, RACHEL EVANS, DOMINIQUE EVANS,

Additional parties, and

Class 6: LEOLA KELLOGG, if living, if deceased, THE UNKNOWN HEIRS OF LEOLA KELLOGG, deceased; ROBERT ROY PRANGLEY, if living, if deceased, THE UNKNOWN HEIRS OF ROBERT ROY PRANGLEY, deceased; JOY LYNN PRANGLEY, if living, if deceased, THE UNKNOWN HEIRS OF JOY LYNN PRANGLEY, deceased; RITA KOUNS, if living, if deceased, THE UNKNOWN HEIRS OF RITA KOUNS, deceased,

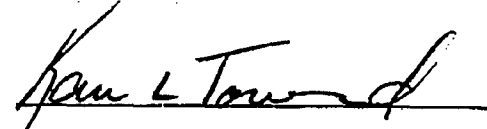
Additional parties.

ORDER GRANTING AMENDED MOTION TO SUSPEND PROCEEDS

THIS MATTER came before the Court on January 11, 2007, at 11:30 a.m. on the Amended Motion of Jerry T. Walmsley, trustee of the June Walmsley Bypass Trust under the will of June H. Walmsley dated April 7, 1992 ("Walmsley"), to require that Synergy Operating, LLC suspend all proceeds attributable to the disputed interests in the Duff 104 and Duff 105 wells. Walmsley appeared telephonically through his attorneys, Sutin Thayer & Browne A Professional Corporation (Derek V. Larson). Synergy Operating, LLC appeared through its attorneys, Finch & Olson, P.A. (Kyle M. Finch). The Kurtz Defendants appeared telephonically through their attorneys, Dixon,


Scholl & Bailey, P.A. (Gerald G. Dixon). The Court, having reviewed the memoranda, hearing oral argument from the parties and being otherwise fully advised in the premises, finds and orders:

1. The Amended Motion to Suspend Proceeds is granted. Synergy Operating, LLC, shall place all of the proceeds attributable to all of the interests in the Duff Wells beginning as of the date of entry of this Order into an interest bearing bank account;
2. Such deposits shall not be withdrawn from the account for any reason except by order of the Court;
3. At no time shall the balance of the account fall below the total of all deposits made, except by order of the Court,
4. Synergy Operating, LLC shall provide all parties to this lawsuit with written proof of each deposit and all account activity no later than the 25th of each month.
5. All motions for summary judgment in this case shall be filed by February 12, 2007.


DISTRICT COURT JUDGE

Submitted by:

SUTIN, THAYER & BROWNE
A Professional Corporation

By: 

C. Shannon Bacon
Derek V. Larson
Michelle K. Ostrye

P. O. Box 1945
Albuquerque, NM 87103
(505) 883-2500
Attorneys for Jerry T. Walmsley and Edwin Smith LLC

J. Scott Hall
MILLER STRATVERT, P.A.
Post Office Box 1986
Santa Fe, NM 87504
(505) 989-9614
Attorneys for Jerry T. Walmsley

Approved by:

FINCH & OLSON, P.A.

By: Approved telephonically 1-24-07

Kyle M. Finch

P.O. Box 2721
Farmington, NM 87499
(505) 327-5538

Clifford K. Atkinson
Elizabeth H. Losee
ATKINSON & THAL, P.C.
201 Third Street N.W., Suite 1850
Albuquerque, NM 87102
(505) 764-8111

Attorneys for Defendants Synergy Operating, LLC, AnneMarie Keller, Charla Varner,
Robert E. Kouns, Jodie Yates-Simon, Kimberly Brautigam and Therolyn K. Williams

DIXON, SCHOLL & BAILEY PA

By: Approved telephonically 1-16-07

A. Brent Bailey

Gerald G. Dixon

P.O. Box 26746

Albuquerque, NM 87125-6746

(505) 244-3890

Attorneys for Defendants F. Norman Kurtz and F. Kevin Kurtz

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