Foreword

The attached Standard Operating Procedure is the internal policy of the Land Quality Division of the Wyoming Department of Environmental Quality covering the topic of formats for State Decision Documents. Staff shall make no significant deviations from this policy without the prior approval of the District Supervisor and the Administrator.

Signed this __________ day of ________________________, 2002

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Richard A. Chancellor
Administrator, Land Quality Division

COAL
STANDARD OPERATING PROCEDURE
(SOP) NO. 1.7

Land Quality Division

SUBJECT: Format for the State Decision Document (SDD)

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Attachment A
   Format for State Decision Documents .......................... A1
I. Introduction

The attachment to this SOP outlines the format for State Decision Documents (SDDs) required by the Office of Surface Mining (OSM). The bolded and bold-italicized text in the format should be placed with the appropriate description of the operator’s plans and commitments.

SDDs are required as part of the Cooperative Agreement between the State and OSM (30 CFR § 950.20 (e)) for coal mines. These decision documents are required for any revision (Major Revisions as defined in SOP 1.3) or amendment that constitutes a mining plan modification as defined in 30 CFR § 746.18 (d). For other revisions to the permit, rewriting of any portion of an existing SDD is left to the District Supervisor’s discretion. A draft of the SDD should be sent to the OSM and the applicant at the time the application is sent to public notice. The final version of the SDD is sent to both the operator and the OSM when the application is approved.

A. Responsibilities

Typically, the permit coordinator is responsible for preparing the SDD with assistance from each review team member. The bold, italicized portions of this format should be replaced with the appropriate language that pertains to the permit. Disciplines having responsibilities for making each Finding are highlighted in parentheses following each Finding. Reviewers may wish to reference the Environmental Assessment (EA) or Environmental Impact Statement (EIS) for lengthier discussions of the affected environment and impacts. It is the Permit Coordinator's responsibility to ensure that each Finding is made by the appropriate review team member.

Many of the required Findings presented in the Format for State Decision Documents (Attachment A) originated from the OSM rules as 30 CFR 773.15. This subsection is entitled Written findings for permit application approval. This subsection requires that “No permit application for a significant revision of a permit shall be approved unless the application affirmatively demonstrates and the regulatory authority finds, in writing, on the basis of information set forth in the application or from information otherwise available that is documented in the approval, the following...”

Required findings directly from this Federal rule include:

- Finding No. 1 773.15(a);
- Finding No. 2 773.15(b);
- Finding No. 2(j) 773.15(f)
- Finding No. 3 773.15(e);
- Finding No. 4 773.15(c)(1) and (2);
- Finding No. 10 773.15(k); and
- Finding No. 13 773.15(j).

B. Initiating or Updating SDDs

SDDs for new permits will need to cover each Finding in detail. SDDs for amendments should highlight the changes made to the appropriate Finding as related to the addition of new lands.
SDDs for **renewals** should include information about changes that occurred during the previous five-year term-of-permit. The SDD may contain various degrees of detail for **revisions** depending upon the amount of change to the permit. Reference to the previous SDD may be appropriate for Findings that have not changed. However, the SDD should be completely updated at least every permit term. All Findings should include reference to specific pages and sections of the permit for the appropriate commitments, etc. Each Finding should discuss specifics briefly, so future reviewers will understand the rational behind each Finding.

1. Permit Transfers. Findings No. 7, 8, and 16 of the SDD format must be checked and updated when any transfer is approved. Finding No. 7 requires confirmation that the operator is in compliance with the Act and all violations have been corrected. Finding No. 8 is a standard SDD statement that is generally not changed; however, the permit coordinator must verify that there are no willful patterns of violation. Finding No.16 is the public notice finding that needs to be updated with the public notice information. In addition, all references to the operator, permittee, or mine name must be updated to the new designation.

C. Conditions

1. Standard Conditions. "Standard Conditions" listed at the end of the attached SDD format are also provided on Form 1, "Permit to Mine." **These Standard Conditions are not retyped on Form 1.** These standard conditions are reiterated from the Land Quality Division Coal Rules and Regulations Chapter 12, Section 1(a)(ix).

2. Special Conditions. A history and explanation should precede each **Special Condition** listed in the appropriate finding of the SDD. Sufficient detail should be provided in the finding to clearly understand the intent and need for the condition. The special conditions must be typed on Form 1, "Permit to Mine" or on Form 11, "Application for Permit Revision," before final approval.

   a. The following special conditions are required per the Administrator to be part of the SDD and typed on the Form 1:

      i. **The operator may not mine coal from any Federal coal lease prior to receiving approval from the Secretary of the United States Department of Interior.**

         *This condition must be added to all permits that have Federal coal.*

      ii. **The operator shall report any unanticipated discovery of cultural or paleontological resource to the Land Quality Division within five (5)
days. Any unanticipated cultural or paleontological resource site(s) shall be protected from any disturbance until they have been evaluated and salvaged if necessary.

*This condition must be added to all permits.*

D. Supplemental Reports

The cooperative agreement between OSM and the State requires the State to assist OSM in preparing Environmental Assessments (EA). EAs may be required for some amendments or new permits. If the new lands in a permit application have had an EA done by a cooperating agency such as the BLM, the OSM does not have to complete a new EA. Therefore, we do not have to help write EAs by writing our Supplemental Reports for these applications. However, when an EA has not been prepared, the OSM must write an EA. The OSM may seek our assistance by requesting a Supplemental Report in these cases. A format for Supplemental Reports is available from the LQD Technical Support Group.
In compliance with Article 4 of the Wyoming Environmental Quality Act the Name Company has applied for a permit to mine/renewal of its permit to mine coal at the Mine Name in County Name, Wyoming. The renewal application also proposes to extend mining outside the approved life-of-mine boundaries and/or to significantly revise the approved mining and reclamation plan. (PERMIT COORDINATOR)

On the basis of information set forth in the application or from that otherwise available and known to the applicant, I find that the applicant has affirmatively demonstrated that:

No. 1. The application is accurate and complete (W.S. §35-11-406(n)(i)).

The applicant has provided a sworn statement certifying that all of the information contained in the permit application is true and correct to the best of his knowledge. In addition, and to the extent necessary and appropriate, independent agency verification supports the accuracy of the application. All of the information required by the Environmental Quality Act and its implementing regulation is contained in the application. This includes identification of interests, compliance information, resource information, land use information, pertinent maps and plans, the permit fee, other agency applications or approvals, an operations plan, a reclamation plan, license information, insurance information, proof of publication, and proof of public notice. (PERMIT COORDINATOR should add any important general permit information and conditions to this section as appropriate)

All permits shall have the following special condition placed on the permit if any Federal coal exists within the permit area: The operator may not mine coal from any Federal coal lease prior to receiving approval from the Secretary of the United States Department of Interior. This condition will be included in this section of the SDD and will be typed on the Form 1.

No. 2. The reclamation plan can accomplish reclamation as required by the Act (W.S. §35-11-406(n)(ii)) and Wyoming Department of Environmental Quality, Land Quality Division Rules and Regulations, Chapter 4, Section 2:

(a) The mined land will be restored to a condition equal to or greater than its highest previous use.
This section should briefly summarize the applicant's proposals, and make an affirmative statement regarding their ability to restore the approved post mining land use. Particular attention should be paid to how water rights and wildlife habitat will be protected and restored, especially as they are affected by any permanent impoundments. *(VEGETATION ECOLOGIST, HYDROLOGISTS for water rights, and WILDLIFE SPECIALIST for wildlife habitat)*

(b) The approximate original contours of the land will be reestablished in a manner consistent with the proposed future use of the land *(Chapter 4, Section 2(b))*.

This section should reference the applicant's backfilling and grading proposals to reestablish through drainage and stable post mining topography and discuss any exception to, or compliance with, the design and/or performance standards. A statement defining the status of Approximate Original Contours (AOC) should be made in this section. The mine should be declared to have either thin overburden, AOC, or thick overburden. Justification of this declaration should be provided within the permit document and approved by the LQD. *(PERMIT COORDINATOR OR STAFF ENGINEER AND SURFACE WATER HYDROLOGIST)*

(c) The reclamation plan provides for the removal, segregation, preservation, and replacement of topsoil/subsoil or an approved substitute, and for the appropriate management of any toxic, acid-forming, or hazardous materials uncovered or created by the mining operation *(Chapter 4, Section 2(c)(xi))*.

This section should reference the applicant's management proposals for handling topsoil and overburden concerning their adequacy to promote revegetation and prevent surface and ground water degradation. These proposals should include information on baseline sampling and analyses. Information should also be included for post mining sampling and analyses. *(SOIL SCIENTIST)*

(d) Revegetation of all affected lands will be accomplished in a manner consistent with the reclamation plan and the proposed future use of the land *(Chapter 4, Section 2(d))*.

This section should reference the applicant's seed mix, seeding methods, and management plans to promote revegetation of the land and preserve the approved post mining land use. *(VEGETATION ECOLOGIST)*

(e) Unchannelized surface water and ephemeral streams will be diverted around the operation or passed through sedimentation ponds to protect the operation and downstream water rights, and to control unnecessary erosion and water pollution *(Chapter 4, Section 2(e), (f), and (h))*.
This section should reference the applicant's proposals to meet the appropriate design criteria and/or performance standards. *(SURFACE WATER HYDROLOGIST)*

\[(f)\] Although the applicant proposes to mine near or through a perennial or intermittent stream, the original stream channel will be reclaimed. During and after the operation, the water quantity and quality of the stream, and its value as wildlife habitat, will be preserved *or The proposed operation will not mine near or through a perennial or intermittent stream* (Chapter 4, Section 2(r)(ii)).

This section should reference the applicant's proposals to meet the appropriate design criteria and/or performance standards for reconstructed stream design including stream buffer zones, if necessary. This Finding should note or reference any evaluation from the United States Fish and Wildlife Service (USFWS) and the Wyoming Game and Fish (WGF) for disturbance and reclamation plans for wildlife habitat associated with perennial and intermittent streams. *(SURFACE WATER HYDROLOGIST)*

\[(g)\] All permanent water impoundments will be constructed to prevent structural failures, safety hazards, and water contamination, and to accommodate revegetation. They will also meet the design criteria and performance standards outlined in Chapter 4, Section 2(g).

This section should reference the applicant's proposals to meet the appropriate design criteria and/or performance standards. *(HYDROLOGISTS AND STAFF ENGINEER)*

\[(h)\] The reclamation plan will ensure protection of the quantity, quality, and legal rights to surface water and ground water within and adjacent to the permit area. Surface water and ground water quality and quantity will be monitored during the course of mining and reclamation operations to determine the extent of the disturbance to the hydrologic balance (Chapter 4, Section 2(h) and (i)). The monitoring system is based on the results of the probable hydrologic consequences assessment and monitoring will be adequate to plan for modification of mining activities, if necessary, to minimize adverse effects on the water of the state. Plans for the proper installation, operation, maintenance and removal of all necessary monitoring equipment have been included in the permit application (Chapter 2, Section 2(b)(xi)).

This section should reference the applicant's proposals for monitoring, plans to minimize disturbances to the hydrologic balance, protection of the recharge capacity, control of surface and ground water during mining, provision for alternate
sources of water and proper sealing of all abandoned drill holes. *(SURFACE AND GROUNDWATER HYDROLOGIST)*

(i) All constructed or upgraded roads and railroad spurs are included within the permit area from that point where they provide exclusive service and are covered by the reclamation bond (Chapter 4, Section 2(j)).

This section should reference the applicant's proposals to meet the appropriate design criteria and/or performance standards. Reference the Environmental Assessment for lengthier discussions of the affected environment and impacts. *(STAFF ENGINEER)*

(j) All buildings and structures constructed, used, or improved by the operator will be removed and dismantled or the applicant has demonstrated that the buildings and/or facilities will be of beneficial use in accomplishing the proposed use of the land after reclamation or for environmental monitoring. All support facilities are designed to achieve the performance required by the applicable standards and should cause no significant harm to the environment or public health and safety (Chapter 4, Section 2(m) and (n)).

This section should reference the applicant's proposals to meet the appropriate design criteria and/or performance standards. *(STAFF ENGINEER)*

(k) A detailed time schedule for the mining and reclamation progression has been included in the reclamation plan (Chapter 4, Section 2(k) and W.S. §35-11-406 (b)(xix)).

This section should reference the applicant's proposals to meet the appropriate performance standards. Any exceptions to the requirement for contemporaneous reclamation should be documented. *(PERMIT COORDINATOR with assistance from STAFF ENGINEER, VEGETATION ECOLOGIST, AND HYDROLOGISTS to evaluate success in meeting these performance standards)*

(l) All exposed surface areas within the permit area will be protected and stabilized effectively to control erosion and air pollution attendant to erosion (Chapter 4, Section 2(q)).

This section should reference the applicant's proposals to control fugitive dust under the Air Quality Division's rules and regulations. *(PERMIT COORDINATOR)*

(m) The mining and reclamation plan has been designed to minimize disturbance and adverse impacts on fish, wildlife, and related environmental values, and to achieve enhancement of these resources where practicable (Chapter 4, Section 2(r)).
This section should reference the applicant's proposals to meet the appropriate performance standards. United States Fish and Wildlife Service (USFWS) and Wyoming Game and Fish (WGF) consultation should be demonstrated or referenced for areas effecting threatened or endangered species or habitat.  *(WILDLIFE SPECIALIST)*

\( (n) \) Mining and reclamation activities will not be conducted within 500 feet of an active or abandoned underground mine (or The mining and reclamation plan is designed to protect disturbed surface areas and will result in improved resource recovery, abatement of water pollution, or elimination of hazards to the public of any operation conducted within 500 feet of an active/abandoned underground mine. In addition, the Administrator has specifically approved operations proposed to be conducted within 500 feet of an abandoned underground mine.  *(Chapter 4, Section 2(t)).*  *(PERMIT COORDINATOR)*

No. 3. The proposed operation has been designed to prevent material damage to the hydrologic balance outside the permit area (W.S. §35-11-406(n)(iii)).  

This section should reference the most recent State’s Cumulative Hydrologic Impact Assessment (CHIA) in regard to the applicant's proposal to meet this performance standard. The following information should be included and explained in the SDD for all permits:

The Finding must be made that no significant long-term or permanent damage from mining activities to the hydrologic balance (including water quality and quantity) will occur outside the permit areas of coal mines. This Finding must be compared to the most recent CHIA. A summary of this CHIA should be included. If a new CHIA has not been conducted for the watershed in which the mine is located, then the 1988 USGS CHIA for the Powder River Basin Coal Mines, should be referenced.

The applicant must have committed to replacing any impacted water right as specified in the Coal Rules and Regulations. The applicant's surface water and groundwater monitoring plans must be sufficient to determine the extent of disturbance to the hydrologic balance outside the permit area and support the approved post-mining land use. *(HYDROLOGISTS)*

No. 4. The area proposed to be mined is not included within an area designated unsuitable for surface coal mining pursuant to W.S. §35-11-425, within an area where mining is prohibited pursuant to Section 522(e) of P.L. 95-87, nor within an area under review for this designation in an administrative proceeding (W.S. §35-11-406(n)(iv)).  *(PERMIT COORDINATOR)*
No. 5. The proposed operation contains/does not contain (an) alluvial valley floor(s) within or adjacent to the permit area. However, it will not interrupt, discontinue, or preclude farming on said alluvial valley floor(s) that are irrigated or naturally subirrigated, excepting those undeveloped range lands within the alluvial valley floor(s) which are not significant to farming, or where the farming that might be precluded is of such a small acreage that its loss will have a negligible impact on the farm's agricultural production. The proposed operation will not materially damage the quantity or quality of water in surface or underground water systems that supply the(se) alluvial valley floor(s) (W.S. §35-11-406(n)(v)).

If the permit area contains (an) alluvial valley floor(s) that is/are not considered significant to farming, this section should reference the applicant's plans to restore the essential hydrologic function(s) of the Alluvial Valley Floor(s) (Chapter 5, Section 3(i)); and preserve the essential hydrologic functions of alluvial valley floors located outside the affected lands (Chapter 5, Section 3(c)(ii)). Reference the Environmental Assessment for lengthier discussions of location, extent, the affected environment, and impacts. (VEGETATION ECOLOGISTS, HYDROLOGISTS, AND SOIL SCIENTIST)

No. 6. The area to be surface mined does not contain prime farmland (W.S. §35-11-406(n)(vi)). This section should reference the negative determination from the Soil Conservation Service in the permit application or the negative determination should be attached to the SDD. (SOIL SCIENTIST)

No. 7. The schedule required by W.S. §35-11-406(a)(xiv) and the compliance review conducted by WDEQ/LQD suggests that all surface coal mining operations owned or controlled by the applicant are currently in compliance with this act and all applicable State and Federal laws, or that any violation has been or is in the process of being corrected to the satisfaction of the authority, department or agency that has jurisdiction over the violation (W.S. §35-11-406(n)(vii)).

This section should indicate that the applicant's clear compliance status has been confirmed and by whom, whether by other state regulatory authorities, all appropriate Divisions of DEQ including Air Quality, and/or OSMRE, and the date of confirmation. (PERMIT COORDINATOR from ADJUDICATION SPECIALIST)

No. 8. Neither the applicant nor operator controls or has controlled mining operations with a demonstrated pattern of willful violations of such nature and duration with such resulting irreparable harm to the environment as to indicate reckless, knowing or intentional conduct (W.S.§35-11-406(o)). (PERMIT COORDINATOR from ADJUDICATION SPECIALIST)

No. 9. The applicant qualifies/does not qualify for an experimental practice variance (Chapter 9).
If an experimental practice has been applied for, this section should reference the applicant's proposals to meet the performance standards contained in the cited regulations. Reference the Environmental Assessment for lengthier discussions of the affected environment and impacts of the proposed practice. *(PERMIT COORDINATOR)*

No 10. All appropriate Federal, State, and Local government agencies with an interest in historic preservation has approved the proposed operation, even though it may adversely affect/because it will not adversely affect any site(s) included in, or eligible for inclusion in, the National Register of Historic Places. A plan to mitigate adverse effects has been approved by the State Historic Preservation Office, and other appropriate agencies, and has been incorporated in the applicant's mine plan/or has been attached to the permit by condition *(Chapter 12, Section 1(a)(v)(C)).*

This section should reference the applicant's proposals to protect significant cultural resources within the permit area. Correspondence from the State Historic Preservation Office concurring with this finding should be referenced and attached to this documentation. Reference the Environmental Assessment for lengthier discussions of the affected environment and impacts. *(PERMIT COORDINATOR)*

All permits shall have the following special condition placed on the permit: *The operator shall report any unanticipated discovery of cultural or paleontological resource to the Land Quality Division within five (5) days. Any unanticipated cultural or paleontological resource site(s) shall be protected from any disturbance until they have been evaluated and salvaged if necessary. This condition will be included in this section of the SDD and will be typed on the Form 1.*

No 11. *Although the proposed operation is within/is not within one hundred feet of the outside right-of-way line of a public road, the road may be relocated or the area affected because the applicant has obtained/has promised to obtain the necessary approvals of the authority with jurisdiction over the public road/prior to the term-of-permit within which the road will be constructed. Public notice and an opportunity for public hearings for this purpose have been/will be provided and the required written finding has been/will be made determining that the interests of the public and the affected landowners will be protected from the proposed operation *(Chapter 12, Section 1(a)(v)(D)).)*

This section, when applicable, should reference the applicant's commitment to follow this procedure in the permit application or documentation that demonstrates compliance has already been achieved. *(STAFF ENGINEER)*

No 12. *For the term covered by the permit, the proposed operation will be consistent with other surface coal mining and reclamation operations proposed or contemplated in pending or approved...*
No 13. The mining and reclamation activities proposed will not affect the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitats (Chapter 4, Section 2(r)(iii)).

This section should reference the applicant's proposals for compliance with all applicable State and Federal laws concerning the protection of endangered species. This section must reference the applicants proposal's for compliance with all applicable State and Federal laws concerning protection of endangered species. The permit coordinator must seek an opinion from the United States Fish and Wildlife Service (USFWS) and the Wyoming Game and Fish (WGF) for this finding. A response from the USFWS and the WGF will assist the LQD in making a finding for the protection of endangered species.

No 14. No mining or reclamation activities will take place within the boundaries of the National Park System, the National Wildlife Refuge System, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System, or any National Forest (Chapter 12 Section 1(a)(v)(A) and (B)).

If mining is proposed in a National Forest, a specific finding must be constructed that demonstrates compliance with the cited regulations. In those cases, this section should reference the documentation required in the application. (PERMIT COORDINATOR)

No 15. No mining or reclamation activities will be conducted within three hundred feet of any occupied dwelling, public building, school, church, community, institutional building, or public park, nor within one hundred feet of a cemetery (Chapter 12, Section 1(a)(v)(E), (F), and (G)).

If the operation will be conducted within these buffer zones, a specific finding must be constructed that demonstrates compliance with the cited regulations. In those cases, this section should reference the documentation required in the application. (PERMIT COORDINATOR)

No 16. Public notice was given in the Newspaper Name from beginning date final public notice to ending date final public notice. No objections to the permit were received (W.S. §35-11-406(j) and (k)).

If objections were received, they should be itemized and discussed. If a hearing is held, this section should contain a summary of the Environmental Quality Council's findings of fact. Dates of receipt and resolution should be given for those objections resolved through
negotiations or informal conferences. This section will need to be more elaborate if the protest is serious. Reference other portions of this document and the Environmental Assessment as needed. (PERMIT COORDINATOR)


The Name Company has demonstrated that the Name Mine surface coal mine permit application substantially complies with Article 4 of the Wyoming Environmental Quality Act and all other applicable State and Federal Laws and Regulations. As authorized by W.S. §35-11-406(n) and in compliance with W.S. §35-11-406(p) I do hereby recommend the issuance of Permit No. Number to the Name Company Name Mine with the following standard conditions, as required by Wyoming Department of Environmental Quality, Land Quality Division Rules and Regulations Chapter 12, Section 1(a)(ix): (PERMIT COORDINATOR)

(A) All operations shall be conducted in accordance with the approved mining and reclamation plan and any conditions of the permit or license;

(B) The rights of entry shall be provided as described by the Act and any regulations promulgated pursuant thereto;

(C) The operation shall be conducted in a manner which prevents violation of any other applicable State or Federal law, and

(D) All possible steps shall be taken to minimize any adverse impact to the environment or public health and safety resulting from noncompliance with this approved mining and reclamation plan and other terms and conditions of any permit or license, including monitoring to define the nature of the noncompliance and warning of any potentially dangerous condition.

(E) All reclamation fees shall be paid as required by Title IV, P.L. 95-87, for coal produced under the permit for sale, transfer or use.

Signed this _____ day of ____________________, Year.

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Administrator, Land Quality Division