

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 Overlapping and Abutting Coal Mine Permit Area Boundaries. 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.

Richard A. Chancellor
Administrator
Land Quality Division

COAL STANDARD OPERATING PROCEDURE NO. 2.1 Land Quality Division

SUBJECT: Coal Permit Content and Review Procedures Relating to Abutting and Overlapping Coal Permit Area Boundaries

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I. Introduction

Abutting and overlapping permit boundaries create unusual permitting, field inspection, annual reporting, and reclamation performance bonding challenges. This Standard Operating Procedure (SOP) contains permitting and procedural guidance. The LQD Coal Rules and Regulations (R&R), Chapter 2, Section 2(b)(xxi), and the Environmental Quality Act W.S. § 35-11-103(xiii), W.S. § 35-11-406(a)(vi)(A), (ix), and (xv), and W.S. § 35-11-410(b)(ii) and (iii) provide the basis for this guidance. This SOP:

- defines ABUTTING and OVERLAPPING Permit Area Boundary (PAB) configurations;
- outlines LQD permitting procedures associated with abutting and overlapping coal PABs;
- outlines other, non-LQD, legal agreements between permittees;
- outlines the requisite content of LQD permits which contain abutting or overlapping PABs.

This SOP makes certain assumptions and simplifications which are not always reflective of the variations that exist. This SOP avoids the use of specific permittee names and substitutes the generic terms of Permittee 1 and Permittee 2.

II. Definitions

A. Permittee 1 and Permittee 2

Permittee 1 and Permittee 2 denote the two permit holders involved in abutting or overlapping PAB configurations. Suffix 1 only distinguishes Permittee 1 from Permittee 2 and does not imply any other controlling or lead function.

B. Abutting Permit Area Boundaries and Associated License to Mine

There are PAB configurations where Permittee 1's PAB abuts, **but does not physically overlap**, Permittee 2's PAB (Figure 1a, page 12). In order to conduct timely and efficient mining operations, Permittee 1 grants their permission for Permittee 2 to obtain an LQD License to Mine (LQD Form 3) within a defined area for specific purposes. Permittee 2 actually files the License to Mine application with the LQD.

The License to Mine is the LQD permitting vehicle which allows Permittee 2 to conduct defined mining activities (i.e., spoil placement, spoil removal, equipment mobilization) **outside** its PAB and **within** the confines of Permittee 1's PAB. Items 5 and 6 of Form 3 should specify the mining activities and the "License to Mine Area" (refer to the next paragraph).

The License to Mine area is the physical area within Permittee 1's PAB wherein Permittee 2 may conduct operations specified in the License to Mine. The LQD requires one License to Mine, issued by the LQD to Permittee 2 through Permittee 1 to operate within a License to Mine area.

C. Overstrip, Easement, Layback or Encroachment Agreements

Independent of the LQD License to Mine process, the two permittees usually execute formal legal agreements between themselves. Generally, they are referred to as layback, overstrip, easement or encroachment agreements. These agreements are between the permittees only. Ultimately, all operations performed by either permittee must conform to the LQD rules and regulations. **When these agreements exist, they must reside in Appendix C of the Adjudication section, of the respective LQD permits.** Overstrip, easement, layback or encroachment agreements will be referred to as **easement agreements** throughout the remainder of this document.

D. Overlapping Permit Area Boundaries

These are PAB configurations where Permittee 1's boundary **physically overlaps** Permittee 2's boundary (Figure 1b, page 12), creating a surface area common to both PABs. Overlapping permit area configurations are **mutually exclusive** of the abutting permit area configuration; both PAB configurations cannot occur at the same location. However, each configuration could exist at different locations along the PAB of an individual permit.

Where overlapping permit areas occur, the LQD's position is that both permittees have joint responsibility and control over shared lands (Refer to the Performance Bond Section, 3.B.1.e). Since these overlapping PABs are part of each permittee's permit area boundary, they will be included in each permittee's License to Mine. In order to conduct timely and efficient mining operations on shared land, there must be cooperation and agreement between the two permittees. Both permits must have mutually compatible Mine and Reclamation Plans that outline the respective operations within the overlapping permit area.

E. Trench Area

A Trench Area is a portion of the mining pit where backfill is not completed to approved postmine topography because another permittee will eventually remine the Trench Area. Figure 2, page 13 depicts a Trench Area where Permittee 1 will remine the Trench Area within its current 5-year permit term. Permittee 2 (who has already completed mining in the area) completes as much permanent reclamation as possible and leaves the remainder of the Trench Area in a reasonably stable configuration with approved sedimentation control structures in place. A Trench Area may occur with either abutting PAB or overlapping PAB.

One permittee will usually carry the bond liability to reclaim the Trench Area. The easement agreement(s) should specify the responsible permittee and associated mining and reclamation schedules. The Mine Plan and Reclamation Plan of **both** permits should show the Trench Area, identify the Trench Area as a unit of Temporary Cessation of Operations (TCO), and contain the same schedules and progressions.

Each Trench Area should be clearly identified as a unit of TCO. The 12/00 Coal Annual Report Format states that TCO "...means affected land comprised of any portion of the coal pit area which will not be backfilled and rough graded to the approved postmining topography because the exposed highwall will be mined at a later date specified in the Mine Plan. The Temporary Cessation of Operation Area extends from the topsoil salvage limit above the highwall to the limits on the backfill where rough grading has been (will be) completed to approved postmining topography."

If Permittee 1 will not reclaim the Trench Area within its current 5-year permit term, both permittees should contact the LQD for discussion and mutual resolution of proper depiction of the Trench Area.

F. Annual Report Performance Bond Topography

Annual Report Performance Bond Topography, hereafter called Bond Topography, is a topography which must be shown and supported in Annual Report bond calculations. Bond Topography is not the approved permanent postmining topography, but is presented for bond calculations in order to reclaim disturbed lands. The permit contains the only approved permanent postmining topography. Establishment of an adequate bond is included in each Annual Report. Bond Topography must be stable, blend with the existing topography, especially stable stream channel transitions, and satisfy all permit commitments for postmining slopes, backfill quality, etc. Figure 3, page 14 illustrates an example of Bond Topography.

III. Processing Procedures

A. Coordination Responsibilities

1. New Permit Applications or Amendments

During all pre-application conferences, the LQD staff should raise questions regarding the existence of abutting or overlapping PAB. If either configuration exists, the appropriate LQD **District Supervisor** shall assign a **Lead Permit Coordinator** (since these configurations involve two permits and could possibly involve two different permit coordinators). The **Lead Permit Coordinator**, in

conjunction with the applicant, should reach a clear understanding of the materials that will be required for the proposed submittal package.

a. New Permits

When the new permit application is submitted the **Permit Coordinator** and staff should ensure the following requirements are addressed:

- (1) LQD Coal R&R Chapter 2;
- (2) LQD Coal R&R Chapter 4;
- (3) LQD Coal R&R Chapter 12;
- (4) LQD Coal R&R Chapter 19; and the guidance of:
- (5) LQD Guideline No. 6A; and
- (6) LQD Instruction Memorandum No. 6 (and Coal SOP No. 1.1 pending approval).

b. Amendments

When the amendment application is submitted the **Permit Coordinator** and staff should ensure the following requirements are addressed:

- (1) LQD Coal R&R Chapter 2;
- (2) LQD Coal R&R Chapter 4; and the guidance of;
- (3) LQD Guideline No. 6A;
- (4) LQD Instruction Memorandum No. 6; and
- (5) LQD Instruction Memorandum No. 46.

2. Permit Revisions

If the abutting or overlapping PAB configurations are present for an existing permit, and the permit either does not include information pertaining to the configuration or if the permit does not contain adequate information, the **Permit Coordinator** should contact the operator and inform them of the permit deficiency. The **Permit Coordinator**, in conjunction with the applicant, should reach a clear understanding of the materials that will be required for the proposed revision package.

When the revision application is submitted, the **Permit Coordinator** and staff should ensure the following requirements are addressed:

- a. LQD Coal R&R Chapter 13, and the guidance of:
- b. LQD Guideline No. 6A-R; and
- c. LQD Instruction Memorandum No. 26.

3. All Permitting Actions

The **Permit Coordinator** and all LQD staff members involved in the review of new permits, amendments, or permit revisions should assess and verify the following during these permitting actions, that may influence overlapping or abutting PABs:

- a. confirm that non-conflicting mine progressions and mining practices (e.g., overburden handling and replacement) are contained in both permits;
- b. matching postmining topography configurations exist in both permits, including the melding of stream channel designs and other significant topographic features; and
- c. confirmation that compatible postmining plant community types exist.

4. Annual Reports

Review of the required annual report information and the appropriate bond calculations should be performed by the **Permit Coordinator** using the most current Coal Annual Report Format and LQD Guideline No. 12. However, if the **Permit Coordinators** for Permit 1 and Permit 2 are different, then these two individuals should confer to make sure the two permits and/or annual reports do not contain conflicting or inadequate information.

The **Permit Coordinator** and all LQD staff members involved in the review of the annual report for both permits should assess and verify that the delineation of and costs for reclaiming disturbed lands influenced by overlapping or abutting PAB are included in each Annual Report.

B. Application Contents to be Provided by the Applicant

1. New Permits, Amendments, and Revisions

Table 1 on Page 15 contains an overview of permit completeness and technical elements.

a. Application Cover Letter

The cover letter, for new permit applications, amendments, and permit revisions, should state the PAB configuration and identify any easement agreement(s) that exist between permittees. If either configuration exists and will be modified, the cover letter should provide a brief discussion of the permittees involved and nature of the modifications. If the application alters any existing easement agreement between permittees, the application must include the revised agreement, formatted for direct insertion into the permit.

The cover letter should outline the application's effect on Appendix C of the Adjudication File and the current Annual Report Performance Bond as follows:

- (1) identify which operator currently retains the bond for all land units influenced by the application;
- (2) describe what direct influence the application will have on the bond, as well as the date and duration of influence; and
- (3) describe whether the permittee desires to recalculate the bond as an application element or revise the bond in the next Annual Report.

b. Permit Adjudication Section

- (1) Form 1 - Condition to be Attached to Permits with Overlapping PAB Configurations

The application (new permit, amendment and/or revision) submitted by Permittee 1 must contain a written statement from

Permittee 2 that all application elements addressing shared land are acceptable to Permittee 2. In all cases of overlapping PABs, the LQD will place the following condition on the Form 1 of both permits.

"Within ninety (90) days of each LQD approval revision to Permit No. 2 which affects the "Dual Permitted Area" (PAB overlap) between Permit Nos. 1 and 2, Mine Co. ABC shall submit a revision to Permit No. 1. This revision application shall update and revise all text and maps associated with the "Dual Permitted Area" in order to bring Permit No. 1 into accord with the revised Permit No. 2. The LQD District 3 Office shall notify Mine Co. ABC of the need to submit any such revisions.

Mine Co. ABC shall submit a letter from the permittee for Permit No. 2 whenever Mine Co. ABC submits a revision application which affects lands within the "Dual Permitted Area" between Permit Nos. 1 and 2. This letter shall state that the permittee believes the proposed revision is in compliance with all agreements between the two companies. This letter shall be incorporated into Permit No. 1 as an element of the revision application."

(2) Form 3, License to Mine

In the case of abutting PABs both Permittee 1 and Permittee 2 must have a License to Mine, if they will perform any mining operation within the abutting permit area. The application or approved permit must contain a completed Form 3 for each permit area in which an operator will perform any surface coal mining operation (defined in W.S. § 35-11-103(e)(xx)).

If a Licensee (the operator holding the license to mine outside of their permit area boundary) desires a change within the License to Mine Area, they must petition the Licensor (the operator holding the **permit to mine** for that specific location) to initiate the change with the LQD. The change in the License to Mine must be submitted to the LQD as a Chapter 13 revision (usually a non-significant revision). The necessary permit changes initially only affect the Licensor's permit. The Licensee must also revise their permit within 30 days of approval of the Licensor's permit revision.

(3) Appendix C

(a) Easement Agreements

Appendix C must contain a copy of all easement agreements between Permittee 1 and Permittee 2. These agreements should be organized and paginated such that they are located in a separate section of Appendix C of the Adjudication File. The standardized location will facilitate insertion of subsequent permit revisions.

(b) Identification of Configuration

If complete legal descriptions of the abutting or overlapping PAB configurations is not included in the easement agreements, then Appendix C must identify each abutting and/or overlapping PAB configuration on a map.

This Appendix C map must illustrate all land influenced by overlapping or abutting PABs.

c. Mine Plan

The Mine Plan for each permit containing an overlapping or abutting PAB must include a separate section for each PAB configuration which:

- (1) identifies all land influenced by overlapping or abutting PAB and names the adjoining Permittee;
- (2) includes maps that illustrate the extent of specific permit boundary configurations. The Mine Plan text must reference these maps;
- (3) references sections within the Adjudication File and Appendix C for all License to Mine and easement agreements between permittees; and
- (4) includes a brief discussion of how the mining operations coincide for the joint use areas.

d. Reclamation Plan

The Reclamation Plan of each permit containing an overlapping or abutting PAB must include a separate section for each PAB configuration which:

- (1) identifies all land influenced by overlapping or abutting PAB and names the adjoining permittee;
- (2) includes maps that depict the extent of overlapping or abutting PAB and illustrate the blending of adjacent topography. Topographic blending must be illustrated to at least 0.5 mile beyond the PAB. The Reclamation Plan permit text must reference these maps;
- (3) references the section within the Adjudication File and Appendix C for all License to Mine and easement agreements between permittees;
- (4) includes a map that demonstrates contemporaneous reclamation, including progression dates; and
- (5) includes a map that specifies the reclamation responsibility of each permittee, including the adjoining permittee's general reclamation schedule for shared lands.

e. Performance Bond Section

- (1) The Bond Section of each permit must clearly describe and illustrate which permittee is responsible for reclamation of disturbed lands influenced by an overlapping or abutting PAB. Both permittees, via respective permit text and Licenses to Mine, where applicable, should agree on the respective bond responsibilities.
- (2) When no bond responsibility agreement exists between the permittees, both will be bonded for the disturbed area.
- (3) The application should contain a complete bond recalculation if land is being amended. If land is not amended, the applicant should commit to updating the bond in the next Annual Report.
- (4) Bond cost calculations provided by each permittee must be compatible. Permittees should refer to LQD Guideline No. 12 for guidance on the calculation of bond costs.

- (5) The Bond Section text must reference the permit Adjudication and Appendix C easement agreements and map (and legal descriptions) of the PABs and the specific configurations.

2. Annual Reports

- a. The Bond section of each subsequent annual report must clearly describe and illustrate which permittee is responsible for reclamation of disturbed lands influenced by overlapping or abutting PAB. Bond cost calculations provided by each permittee must be compatible. Permittees should refer to LQD Guideline No. 12 for guidance on the calculation of bond costs.
- b. Based upon each permittee's Mine and Reclamation Plan, each permittee's Annual Report must present the current field situation and an appropriate Bond Topography map (see Figure 3, page 14 as an example) and supporting bond calculations for land influenced by overlapping or abutting PABs.

Permit Area Boundaries With License To Mine Issued To Permittee 2
By Permittee 1 To Operate Within The License To Mine Area

Figure 1a. Abutting Permit Area Boundaries

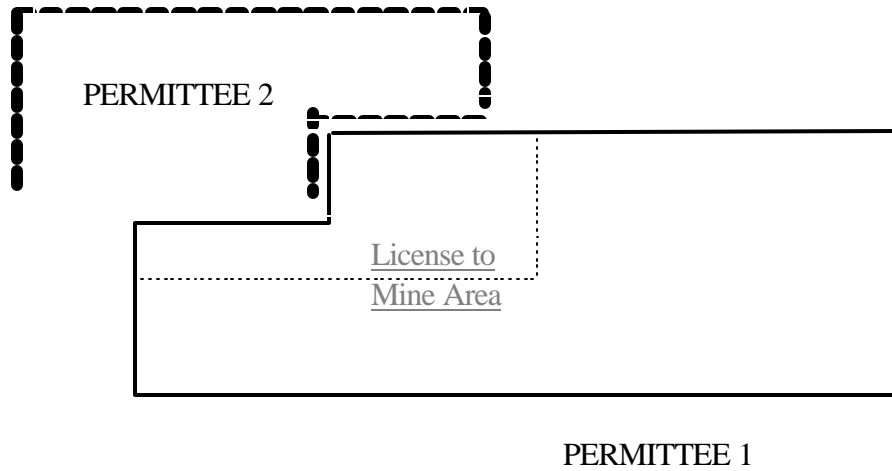


Figure 1b. Overlapping Permit Area Boundaries

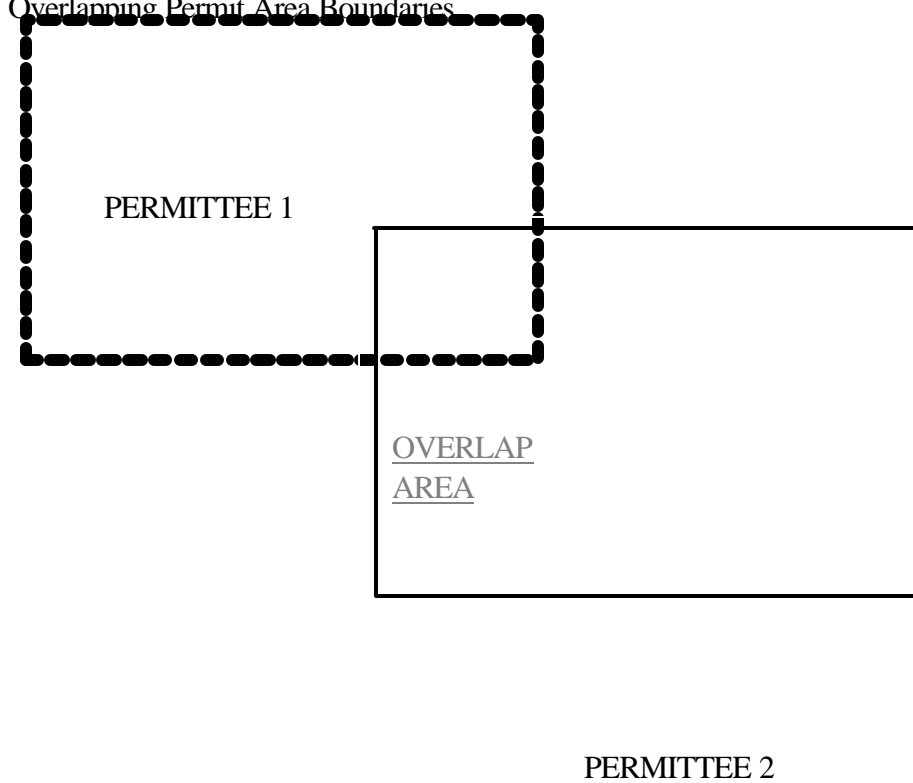


Figure 2: Abutting Permit Areas and License to Mine Area configuration with schematic Reclamation Plan for the Trench Area. Permittee 1 issues a License to Mine to Permittee 2 to overstrip onto its permit area. Permittee 2 mines through first, creating the Trench Area with partial backfill. Permittee 1 will reclaim the Trench Area within its current 5-year permit term and will permanently reclaim the Trench Area to an approved postmining topography.

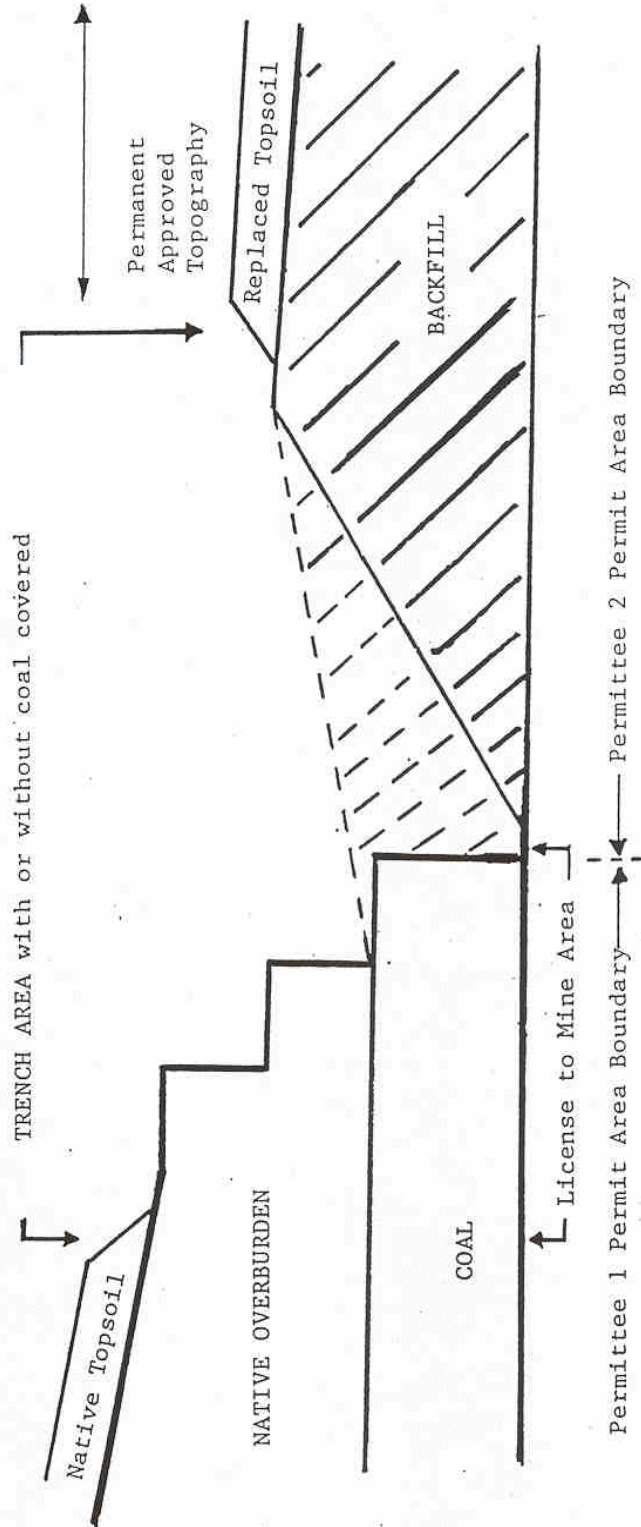


Figure 3: Annual Report Bond Topography for Abutting Permit Areas (with License to Mine) or Overlapping Permit Area Boundaries. Permittee 2 has mined the area and left a partially backfilled Trench Area (see Figure 2) which Permittee 1 will eventually remine. Because Permittee 2 holds the current bond liability for the Trench Area, Permittee 2's Annual Report must show a Bond Topography which ties to the native ground within Permittee 1's permit area.

Permittee 1's Annual Report and Topography should be compatible with Permittee 2's Bond Topography.

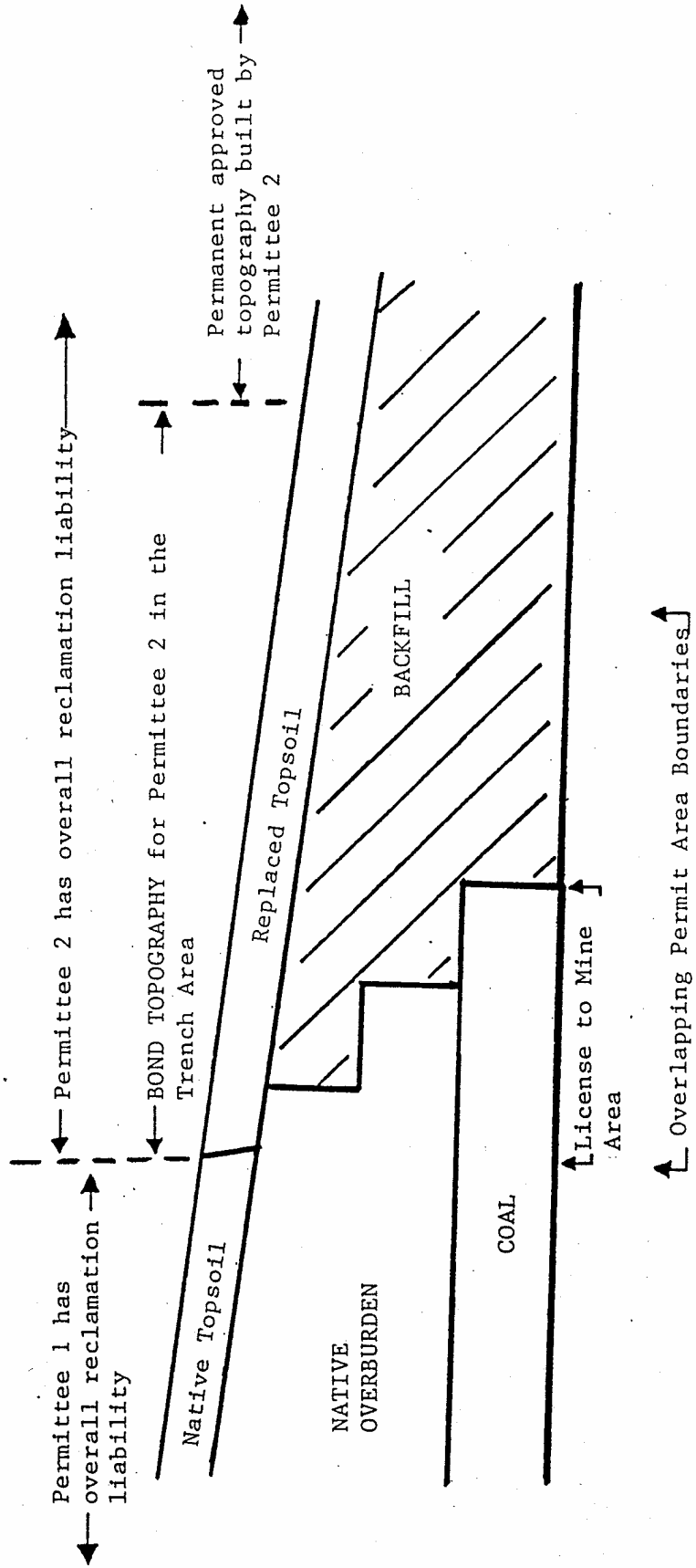


Table 1

Permit Completeness and Technical Elements	OVERLAPPING PERMIT AREAS		ABUTTING PERMIT AREAS	
	Permittee 1	Permittee 2	Permittee 1 (License Issuer - Licensor)	Permittee 2 (License Holder - Licensee)
Illustrate the permit boundaries on all appropriate adjudication maps.	yes	yes	yes	yes
Illustrate License to Mine and Overlapping Permit Areas on all appropriate adjudication maps. <i>These areas should be illustrated to a distance of 0.5 mile when applicable.</i>	yes	yes	yes	yes
<i>Include License to Mine Areas within the other permit boundary as a specific element of the permit document.</i>	generally no	generally no	yes - as needed	yes
Include Mine Plan text and appropriate maps showing specific pit progression through all areas where both mines will operate. The text and maps must include progression dates and demonstrate no temporal or physical conflicts between the progressions. Maps must illustrate the full extent of the License to Mine and Overlapping Permit Areas <i>and show the other Permittee's permit area for a minimum of 0.5 mile outside the respective permit boundary configurations.</i>	yes	yes	yes	yes
Include Reclamation Plan text and maps showing specific backfill and topsoil reapplication and seeding schedules for all areas where both mines will operate. The text and maps must include progression dates, detail specific postmining structures (e.g., sediment ponds, permanent impoundments), demonstrate proper blending of respective topographies and demonstrate no temporal or	yes	yes	yes	yes

<p>physical conflicts between the respective reclamation practices. <i>Premining and postmining topographies must blend for a minimum of 0.5 mile outside the specified permit boundary configurations.</i></p> <p>Include adequate text in each Annual Report and Bond Calculation to clearly identify which Permittee is bonded for the complete reclamation of the disturbance in a License to Mine and Overlapping Permit Areas. Each Annual Report must include complete costs for complete reclamation.</p>	yes	yes	yes	yes
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