Filed: 9/23/2016 4:43:22 PM WEQC

Thomas L. Sansonetti (Wyo. State Bar # 5-1546)
Isaac N. Sutphin, P.C. (Wyo. State Bar # 6-3711)
Jeffrey S. Pope (Wyo. State Bar # 7-4859)
HOLLAND & HART LLP
2515 Warren Avenue, Suite 450
P.O. Box 1347
Cheyenne, WY 82003-1347
Telephone: (307) 778-4200
tlsansonetti@hollandhart.com
insutphin@hollandhart.com
jspope@hollandhart.com

ATTORNEYS FOR PETITIONER
BROOK MINING COMPANY, LLC

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

IN RE BROOK MINE APPLICATION	)	
	)	Civil Action No. 16-1601
	)	

BROOK MINE'S BRIEF ON WHY ITS MINE PLAN WILL NOT SUBSTANTIALLY PROHIBIT THE OPERATIONS OF PADLOCK RANCH

INTRODUCTION

Long before Brook Mine (Brook) asked this Council for an Order in Lieu of Consent, it designed a mine plan that would have as small of an impact on Padlock Ranch (Padlock) as possible. Brook will build a pit, a haul road, and some topsoil and overburden piles that will disturb a few hundred acres of the Hidden Water Pasture within the 15,000 acre Flying V Unit. When Padlock claimed that disturbance would disrupt its operations, Brook met with Padlock to discuss mitigation measures that Brook could employ to help Padlock continue its ranching operations. Brook then committed to these mitigation measures at the hearing.

After the hearing, Brook formally committed to these mitigation measures. Brook unilaterally revised its mine plan to provide for fencing, cattle movement corridors, and replacement water systems. Padlock's claims that these mitigation measures are not included in

Brook's mine plan are false. *See* Padlock Findings of Fact, 9/23/16, p. 7. And Padlock knows it because Brook notified Padlock of these changes.[1] These enforceable measures will ensure almost zero interruption to Padlock's Flying V Unit and use of Hidden Water Pasture.

Brook did not stop with these revisions to formally commit itself to keeping Padlock whole. To buttress the new protections in the mine plan, Brook revised the amounts and costs in its proposed surface owner protection bond to reflect data and cost factors that Padlock supplied to Brook.[2] Once the Department of Environmental Quality (DEQ) approves this bond, Padlock will get compensated for any surface damages.

Still, had Brook revised no part of its mine plan or the surface owner protection bond, Brook would not substantially prohibit Padlock's operations. Padlock operates a vast cattle grazing operation that spans two states and over 475,000 acres. Padlock divides that operation into discrete, separate management units, including the Flying V Unit. But that effect will be nominal because Brook will disturb only:

- 1/3rd of a single pasture used for the Flying V Unit;
- 520 of the 15,000 acres used in the Flying V Unit; and
- 1.5% of the total acres of a unit that comprises less than 10% of Padlock's operations.

These statistics show that Brook's small footprint will allow Padlock to continue operations in the Flying V Unit with minimal disturbance. Padlock can still graze cows on the remaining 14,500 acres of the Flying V Unit. Padlock can still use its corrals and pastures to the

---

[1] To assist the Council, Brook has attached copies of the mine plan revisions and its cover letter to DEQ, as an Appendix. As explained below, these revisions are available to the Council through administrative notice.

[2] Brook has also attached these revisions in the Appendix. These documents are also available for the Council's review through administrative notice.

southeast of Brook; Padlock would just have to use a different route to get to them. In short, Padlock's operations will continue regardless of Brook's operations.

Padlock, however, has tried to mislead this Council about the evidence and applicable law. Padlock asks the Council to view the Hidden Water Pasture alone as the entirety of its operations. But Padlock's CEO explained that Padlock uses Hidden Water Pasture as just a small piece of its overall operations within the Flying V Unit—not as an operation unto itself. Even so, the evidence shows that Brook will not: 1) physically prohibit Padlock from operating the Flying V Unit; or 2) cause such economic hardship that Padlock cannot operate the Flying V Unit. In short, the evidence shows that Brook will not substantially prohibit the operation of the Flying V Unit.

Argument

The relevant element that this Council asked the parties to brief reads: "the use does not substantially prohibit the operations of the surface owner." Wyo. Stat.§ 35-11-406(b)(xii)(C). The key words that the Council must consider in context with the evidence are "substantially," "prohibit," and "operations." Although the Wyoming Supreme Court has not defined these words, they are simple, and the Council should apply their plain meaning. *See In re Calcon Mut. Mortg. Corp.*, 2014 WY 56, ¶ 9, 323 P.3d 1098, 1102 (Wyo. 2014) (in interpreting statutes, courts first look the "plain meaning of the language chosen by the legislature…."). Substantially means to a great extent or for the most part. Hearing Transcript (Tr.) Vol. I, p. 92. Prohibit means make impossible or prevent. *Id.*

The word "operations" requires a more contextual definition. Padlock provided that context, defining its operations as a cow-calf operation that grazes those animals over Padlock's lands. Tr. Vol. I, p. 206. Those grazing operations include the Flying V Management Unit, which

uses land that overlaps with Brook's proposed mine. Tr. Vol. I, pp. 93-94. Padlock runs an average herd of 370 head of cattle over approximately 15,000 acres on the Flying V Unit. Tr. Vol. I, pp. 249-51. The Flying V Unit uses the 1,800 acre Hidden Water Pasture located within the proposed Brook permit boundary for an average of 2-4 weeks per year. Tr. Vol. I, pp. 251-52.

Applying those definitions here, the Council should grant the Order in Lieu if Brook will not for the most part make it impossible for Padlock to operate the Flying V Unit or its overall ranch. This also means that the Council can grant the Order in Lieu even if Brook might prohibit some nominal part of Padlock's operations because the element allows for insubstantial prohibition.

Here, Brook will not substantially prohibit Padlock's operations for two reasons. First, the recent revisions to Brook's Mine Plan include mitigation measures that will allow Padlock's operations to continue with almost no interruption. When combining those measures with Brook's willingness to pay for surface disturbance either by agreement or the surface owner protection bond, Padlock will remain whole. Second, Brook will affect only a small part of a single management unit that makes up less than 10% of Padlock's deeded acres. Padlock can continue to operate the Flying V Unit and its ranch.

I. Brook has unilaterally revised its mine plan to allow Padlock's operations to continue uninterrupted.

Before the hearing, Brook attempted to design a mine plan that allows surface owners to continue their operations with as little disturbance as possible. As the Council heard, Brook also met with Padlock to negotiate mitigation measures to allow Padlock to continue its operations uninterrupted. Tr. Vol. I, pp. 99-102. Brook continued those efforts following the hearing

because both the Council and Padlock remained concerned about reducing the mitigation measures to writing and making them enforceable. Tr. Vol. II, pp. 84, 114-15. Despite Brook's best efforts over the past month to reach a written agreement for surface owner consent that included mitigation measures, Padlock's overall demands have remained unrealistic.

Nevertheless, Brook took the Council's concerns to heart and voluntarily revised its mine plan to add enforceable mitigation measures that further limit Brook's potential impact to Padlock. Reflecting Brook's testimony at the hearing, these mitigation measures include:

- revising Exhibit MP1-1 to include a 100-foot cattle movement corridor to allow Padlock to use the southern part of Hidden Water Pasture and to access Acme Pasture;
- revising Exhibit MP1-1 to fence off the pits, piles, and haul roads in Hidden Water Pasture;
- revising Exhibit MP1-1 to replace or move water lines and stock tanks in Hidden Water Pasture to ensure no loss of Padlock's water supply; and
- committing in the mine plan text section MP.2.6 to protect livestock and allow for movement of cattle as needed.

Although Brook filed these revisions with DEQ after the hearing, the Council can take administrative notice of these changes because the mine plan is a public document. *Application of Campbell Cty.*, 731 P.2d 1174, 1180 (Wyo. 1987).

Brook's voluntary revisions mean that Padlock can still access all pastures. Padlock can still graze in the southern part of Hidden Water Pasture. Fences will protect Padlock's livestock from mining operations. Padlock will have water for the cows that graze in that pasture. And a

written document now exists that commits Brook to these mitigation measures. *See* Tr. Vol. I, p. 222.

Despite Brook's efforts, Padlock did not reciprocate and consent to the amended mine plan. Padlock's refusal to consent reveals it objects not to what Brook will do to its operations but to how much Brook will pay. At the hearing, Padlock argued that the Council should force the parties back to the table so it could receive what Padlock considered fair compensation. Tr. Vol. I, p. 19. But Padlock's desire for compensation has nothing to do with deciding an order in lieu of consent, especially the element discussed in this brief.

Compensation for Brook's disturbance will come from an agreement between the parties or the surface owner protection bond. Absent an agreement, DEQ will determine a bond amount. That bond would compensate Padlock should Brook's mitigation efforts not be enough. As with its mine plan, Brook has also voluntarily amended its proposed surface owner protection bond to reflect how Padlock has calculated its potential damages.

In the end, a difference exists between keeping Padlock whole and allowing Padlock to profit from Brook's mine. Brook has taken every step to ensure the former. Padlock should not get to twist this process into securing the latter.

II. Brook will not substantially prohibit Padlock's operations because the area it affects is small.

Brook will exclude Padlock from only 520 acres of Hidden Water Pasture. That's approximately 1.5% of the Padlock's Flying V Unit. Tr. Vol. I, p. 96. All other Padlock land and operations will remain undisturbed. Even without any mitigation measures, Padlock can continue nearly all of its operations. Padlock will still have over 14,000 acres of pasture. Padlock can graze another pasture for a slightly longer time to offset any forage lost in the excluded acres of

Hidden Water Pasture. Padlock also can move its cows via trucks to pastures south and east of Hidden Water Pasture. Tr. Vol. I, p. 232.

To be sure, these measures may cost a little more or disrupt normal operations. *Id.* But the statute permits this. The statute allows for some interference or even some prohibition of operations. The Wyoming Legislature understood that a mine will likely have some impact on a surface owner's operations. But the legislature wanted to prevent an order in lieu of consent only if the use of the surface would nearly end a surface owner's operations. Here, the Brook mine is just an inconvenience to Padlock's operations. Tr. Vol. I, pp. 228-29.

Padlock's arguments at the hearing, however, attempt to mislead the Council about its testimony and the Environmental Quality Act. Padlock argued that it had to "assume" it could not use all of Hidden Water Pasture. Tr. Vol. I, pp. 256-57. But Padlock never then provided evidence that the loss of Hidden Water Pasture would shut down the entire Flying V Unit. This means that for the Council to find Brook would substantially prohibit Padlock's operations, the Council has to view Hidden Water Pasture alone as Padlock's entire operation.

This view suffers from a glaring problem: Padlock never testified that grazing in Hidden Water Pasture was an operation by itself. Instead, Padlock's CEO described its operations as a series of management units. Tr. Vol. I, pp. 210-12. Hidden Water Pasture is just a small part of one unit. Tr. Vol. I, pp. 93-95. So the Council should evaluate Padlock's operations as the evidence described them. Otherwise, Padlock can play games with this element to defeat the order in lieu even when the evidence unequivocally refutes Padlock's position.

Padlock has attempted to do exactly that by arguing Brook will substantially prohibit its operations based just on what would happen to Hidden Water Pasture and difficulty in accessing Acme Pasture. Tr. Vol. I, pp. 217-18. But evidence must show a "substantial" prohibition for

Padlock to prevail on this claim. *See* Wyo. Stat. Ann. § 16-3-114(c); *Dale v. S&S Builders, LLC*, 2008 WY 84, ¶¶ 9-11, 188 P.3d 554, 557-59 (Wyo. 2008) (explaining that "substantial evidence" must support an agency decision.) This means evidence must exist that: 1) Hidden Water Pasture by itself is an independent operation; and 2) the loss of Hidden Water Pasture and difficulty accessing Acme Pasture would substantially prohibit the operations of the Flying V Unit. No evidence of either exists.

At best, Brook would "disrupt" Padlock's operations. Tr. Vol. I, p. 232. Padlock's CEO conceded that Brook would only limit the Acme Pasture, leaving it still "usable." *Id.* A still usable pasture and the assumed loss of Hidden Water Pasture do not prove substantial prohibition.

Padlock even provided evidence that the loss of a single pasture would not substantially prohibit operation of a management unit. Padlock's CEO testified that Padlock agreed not to use certain land within the Young's Creek Mine when the mine operates. Tr. Vol. I, pp. 256-57. Despite losing this land, Padlock never suggested that the Young's Creek Mine would substantially prohibit Padlock's operations. To be sure, Padlock will receive compensation for the loss of that pasture. *Id.* And Padlock will here too—the surface owner protection bond that DEQ will determine.

Ultimately, the available evidence should determine whether Brook will substantially prohibit Padlock's operations. The evidence shows that the Flying V Unit can continue to operate with minimal interruption. Tr. Vol. I, pp. 99-102. While Brook may make operations more difficult or slightly more costly, it does not substantially prohibit anything. Likewise, the absence of evidence is important. No evidence showed that Brook would physically or

economically prohibit Padlock from operating the Flying V Unit. The bottom line—Padlock's operations can and would continue.

CONCLUSION

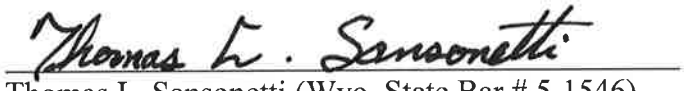
The evidence shows that the Brook mine will not and could not substantially prohibit Padlock's operations. Thus, the Council should grant Brook's Petition and issue an Order in Lieu of Consent. Pursuant to the Environmental Quality Act, the Council is authorized to grant a surface owner's consent when the five elements of Wyo. Stat.§ 35-11-406(b)(xii) are met. Brook has successfully proven each of the elements and met its burden of proving an order in lieu of consent is warranted. What that really means is the Council's order will take the place of the DEQ's Form 8 Landowner Consent. That Form not only gives landowner consent to the mine and reclamation plans, it also provides landowner consent for DEQ personnel to access the mine site.

The Council's order in this matter should reflect each of those provisions for two reasons. First, it is the point of the order in lieu process to secure the same consent as would appear on a Form 8. Second, DEQ has demanded that Brook secure access for its personnel.[3] Brook has provided a proposed order with its proposed findings of fact and conclusions of law that reflects what would appear on a Form 8 for the Council's convenience and respectfully requests that this Council grant the Order in Lieu of Consent immediately.

---

[3] DEQ made this demand after the hearing and contrary to its authority under the Environmental Quality Act. Had DEQ properly notified Brook about the access issue, Brook would have presented evidence through Mr. Kristiansen about the access provisions in a Form 8. Still, Form 8 is a public document available to the Council through administrative notice.

DATED: September 23, 2016.



Thomas L. Sansonetti (Wyo. State Bar # 5-1546)
Isaac N. Sutphin, P.C. (Wyo. State Bar # 6-3711)
Jeffrey S. Pope (Wyo. State Bar # 7-4859)
HOLLAND & HART LLP
2515 Warren Avenue, Suite 450
P.O. Box 1347
Cheyenne, WY 82003-1347
Telephone: (307) 778-4200
tlsansonetti@hollandhart.com
insutphin@hollandhart.com
jspope@hollandhart.com

ATTORNEYS FOR PETITIONER
BROOK MINING COMPANY, LLC

CERTIFICATE OF SERVICE

I hereby certify that on September 23, 2016, I served a true and correct copy of the foregoing by electronic mail and addressed to the following:

Haultain Corbett
50 East Loucks Street
Suite 110
PO Drawer 5059
Sheridan, WY 82801-5059
hal@lonabaugh.com

Lynnette J. Boomgaarden
Crowley Fleck, PLLP
237 Storey Boulevard, Suite 110
Cheyenne, WY 82009
lboomgaarden@crowleyfleck.com

Thomas L. Sansonetti

9110626_1

WWC ENGINEERING

1849 Terra Avenue • Sheridan, WY 82801
Phone: 307-672-0761 • Fax: 307-674-4265
www.wwcengineering.com

August 26, 2016

Mr. B.J. Kristiansen
Wyoming Department of Environmental Quality
2100 W. 5th Street
Sheridan, WY 82801

RE: Permit To Mine Application TFN 6 2/025

Dear Mr. Kristiansen:

On behalf of RAMACO LLC, WWC Engineering is submitting the attached revisions to the mine plan and reclamation plan as a result of the Order in Lieu of Consent hearing held August 17 & 18, 2016 and ongoing negotiations with Padlock Ranch.

Two copies of the change of index and supplemental information have been included for WDEQ/LQD staff to review.

Please contact, Randall Atkins (RAMACO), or Jeff Barron (WWC Engineering) if you have any questions or comments regarding this submittal.

Sincerely,

Jeff Barron, P.E.
Project Engineer

JB/hjr
Attachment: as noted
K:\Sheridan\RAMACO\13139\correspondence\WDEQ\Comment_response_rnd_6__8_26_2016.doc

Innovation
Quality
Value

INDEX SHEET FOR MINE PERMIT AMENDMENTS OR REVISIONS

Date August 25, 2016
TFN 6 2/025

MINE COMPANY NAME: RAMACO, LLC.

MINE NAME: Brook Mine
PERMIT NO. TFN 6 2/025

Statement: I, Jeff Barron, an authorized representative of RAMACO, LLC. declared that only the items listed on this and all consecutively numbered Index Sheets are intended as revisions to the current permit document. In the event that other changes inadvertently occurred due to this revision, those unintentional alterations will not be considered approved. Please initial and date.

NOTES: 1) Include all revision or change elements and a brief description of, or reason for, each revision element.
2) **This Change Index is for only those changes made during Round 4a Comment Response.**

VOLUME NUMBER	PAGE, MAP OR OTHER PERMIT ENTRY TO BE REMOVED	PAGE, MAP OR OTHER PERMIT ENTRY TO BE ADDED	DESCRIPTION OF CHANGE
Volume XI	MP-7 to MP-7 (Mine Plan Text tab)	MP-7 to MP-7 (Mine Plan TOC tab)	Update Text to show non obstructed use of BHC shop, bridge, and rail siding.
Volume XI	MP-10 to MP-10 (Mine Plan Text tab)	MP-10 to MP-10 (Mine Plan Text tab)	Update Text to describe fencing
Volume XI	Exhibit MP.1-1	Exhibit MP.1-1	Revise exhibit to show fencing, roads, and access road
Volume XI	Exhibit MP.3-1	Exhibit MP.3-1	Revise exhibit to show additional roads
Volume XII	Exhibit RP.3-1	Exhibit RP.3-1	Revise exhibit to show restoration of water network

Any structure within the Brook Mine Permit Area that is directly affected by mining activities will be properly abandoned and removed or relocated before mining activities commence. Relocation and/or abandonment criteria and procedures will be established to minimize significant impacts to the postmining land use plan.

If mining operations disrupt power or phone lines, the lines will be relocated and put into service before the old lines are abandoned. This will be done to minimize power or phone interruptions.

Relocation of roadways will be coordinated with Sheridan County or the road owner for design and relocation procedures. Interruption to traffic flow will be mitigated through previously formulated plans.

The Brook Mine will operate in conjunction with Taylor Quarry (Permit No. SP-757). The Taylor Quarry Permit Boundary is shown on Exhibit MP.1-1. The mine will work with Taylor Quarry to minimize impacts on Taylor Quarry's operation. Details regarding dual permitted areas are provided in Section MP.22.

The Brook Mine will not obstruct Big Horn Coal's (Permit 231-T8) Shop, Bridge, and Rail Road Siding as they exist in Big Horn Coal's 2015 Annual report. An access road equivalent to the existing improved road will be provided if proposed stockpiles or pits should restrict the existing access as shown on Exhibit MP.1-1.

MP.2 MINE FACILITIES

MP.2.1 Personnel and Equipment Facilities

The approximate locations of mine facilities are shown on Exhibit MP.2-1. As facilities are designed and constructed they will be added to the exhibit.

MP.2.1.1 Administration Building

The administration building will be located in Sheridan. The administration building will contain offices, a conference room, and training facilities.

MP.2.1.2 Change House and Equipment Service Shop

The change house includes offices, shower facilities for employees, and a large meeting area and equipment service facility. Waste oil and lubricants will be temporarily stored in the equipment service facility until they can be transported to an offsite disposal facility. The equipment facility area will

emulsions, water gels, and slurry explosives will be stored separately from detonators, initiator products, and ANFO. Locations of explosive storage will be according to regulations.

MP.2.4 Power Transmission and Communication Lines

Electrical power will be transmitted to the mine property by a 3-phase 4160-Volt line.

Electric power will be purchased from Powder River Energy Corporation. Power distribution and electrical equipment will be constructed to comply with applicable federal, state, and local codes. Power lines within the Brook Mine Permit Area will be constructed to minimize impacts on raptors, as discussed in the Plan to Minimize Adverse Impacts on Fish and Wildlife.

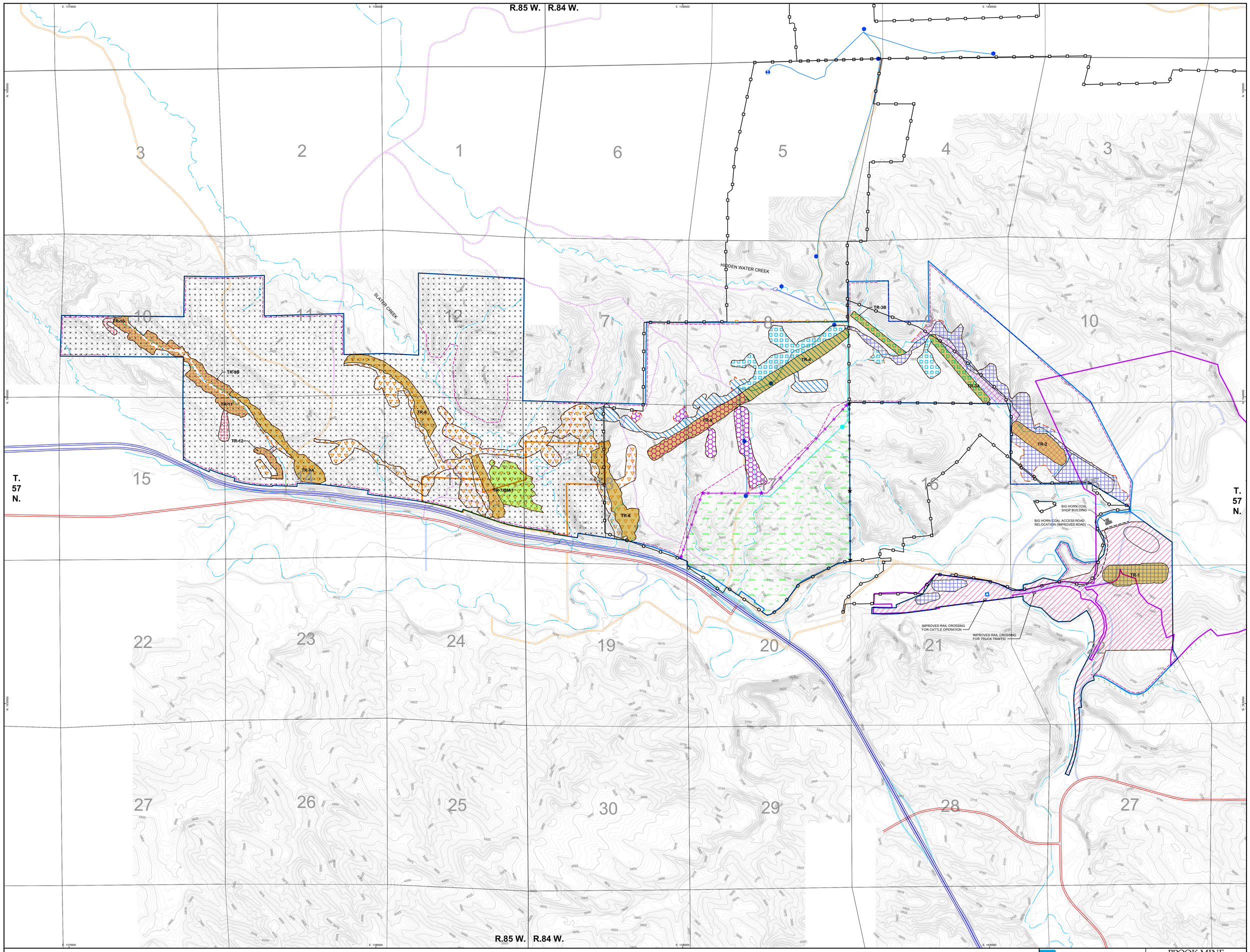
Telephone service will be installed by tapping into a local communications carrier. Communications within the Permit Area will be by mobile business band radios.

MP.2.5 Stockpiles

Separate topsoil and overburden stockpiles will be required for reclamation activities. The design of stockpiles is discussed in Section MP.4. Stockpile locations are shown on Exhibit MP.4-3.

MP.2.6 Access Control Features

The mine will control access to the Brook Mine to protect the health and safety of the mine workforce, general public, wildlife, and livestock. A guardhouse will be installed at the entrance to the Brook Mine. Fencing will be constructed around mining activities to prevent wildlife, livestock, and the general public from mistakenly entering as shown on Exhibit MP.1-1. Access will be allowed for existing cattle operations as needed in the NWNE of section 21 T57N R84W as shown on Exhibit MP.1-1. Fencing construction will follow recommendations found in WDEQ/LQD Guideline Number 10 and/or WYDOT standard 607-1A: Fencing, Signs and markers will be placed to alert the general public to the active mining area. Signs, markers, and buffer zones are discussed in Section MP.12. Locations of access control features are shown on Exhibit MP.2-1.



LEGEND

- BROOK MINE PERMIT BOUNDARY
- BIG HORN COAL PERMIT BOUNDARY (PERMIT NO. 213-T7)
- TAYLOR QUARRY PERMIT BOUNDARY (PERMIT NO. SP-757)
- DISTURBANCE BOUNDARY
- AFFECTED AREA BOUNDARY
- DISTURBANCE FOR YEAR 2016
- DISTURBANCE FOR YEAR 2017
- DISTURBANCE FOR YEAR 2018
- DISTURBANCE FOR YEAR 2019
- DISTURBANCE FOR YEAR 2020
- DISTURBANCE FOR YEAR 2021
- DISTURBANCE FOR YEARS 2022 - 2026
- DISTURBANCE FOR YEARS 2027 - 2028
- TRENCH LOCATION
- SURFACE MINE LOCATION
- COAL WITH RESTRICTED MOVEMENT, PROCESSING, LOADING AND SHIPPING
- EXISTING FENCE LOCATION
- UPGRADE TO WYDOT STANDARD PLAN 607-1A TYPE G
- PROPOSED FENCE LOCATION WYDOT STANDARD PLAN 607-1A TYPE G W /METAL T-POSTS AND WOODEN CORNER & BRACE POSTS
- PROPOSED ALT B FENCE LOCATION WYDOT STANDARD PLAN 607-1A TYPE G W/ METAL T-POSTS AND WOODEN CORNER & BRACE POSTS
- EXISTING STOCK TANK WATER LINE
- EXISTING STOCK TANK
- PROPOSED STOCK TANK WATER LINE (EQUIVALENT TO EXISTING)
- PROPOSED STOCK TANK (BURIED CONCRETE FROST FREE, EQUIVALENT TO EXISTING)
- PROPOSED GATE LOCATION (20FT METAL GATE)
- PROPOSED ALT B GATE LOCATION (20FT METAL GATE)
- UNIMPROVED ROAD
- IMPROVED ROAD
- COUNTY ROAD
- STATE HIGHWAY
- US HIGHWAY
- INTERSTATE HIGHWAY
- ABANDONED HIGHWAY
- NO MINING ACTIVITY WILL OCCUR IN THIS AREA. THIS AREA IS CONSIDERED QUARANTINED FROM 30 CFR PROGRAM POLICY AND RANCHING IN THE AREA WILL NOT BE EXPOSED TO ACTIVE MINING

N

0 500 1,000 1,500 2,000
GRAPHIC SCALE (FEET)
C.I. = 5'

RAMACO

BROOK MINE
SHERIDAN COUNTY, WY

1101 SUGARVIEW DR. STE. 201
SHERIDAN, WY 82801

REVISIONS

Date	Description
06/15	ROUND 1 COMMENTS
10/15	ROUND 2 COMMENTS
12/15	ROUND 3 COMMENTS

EXHIBIT MP.1-1

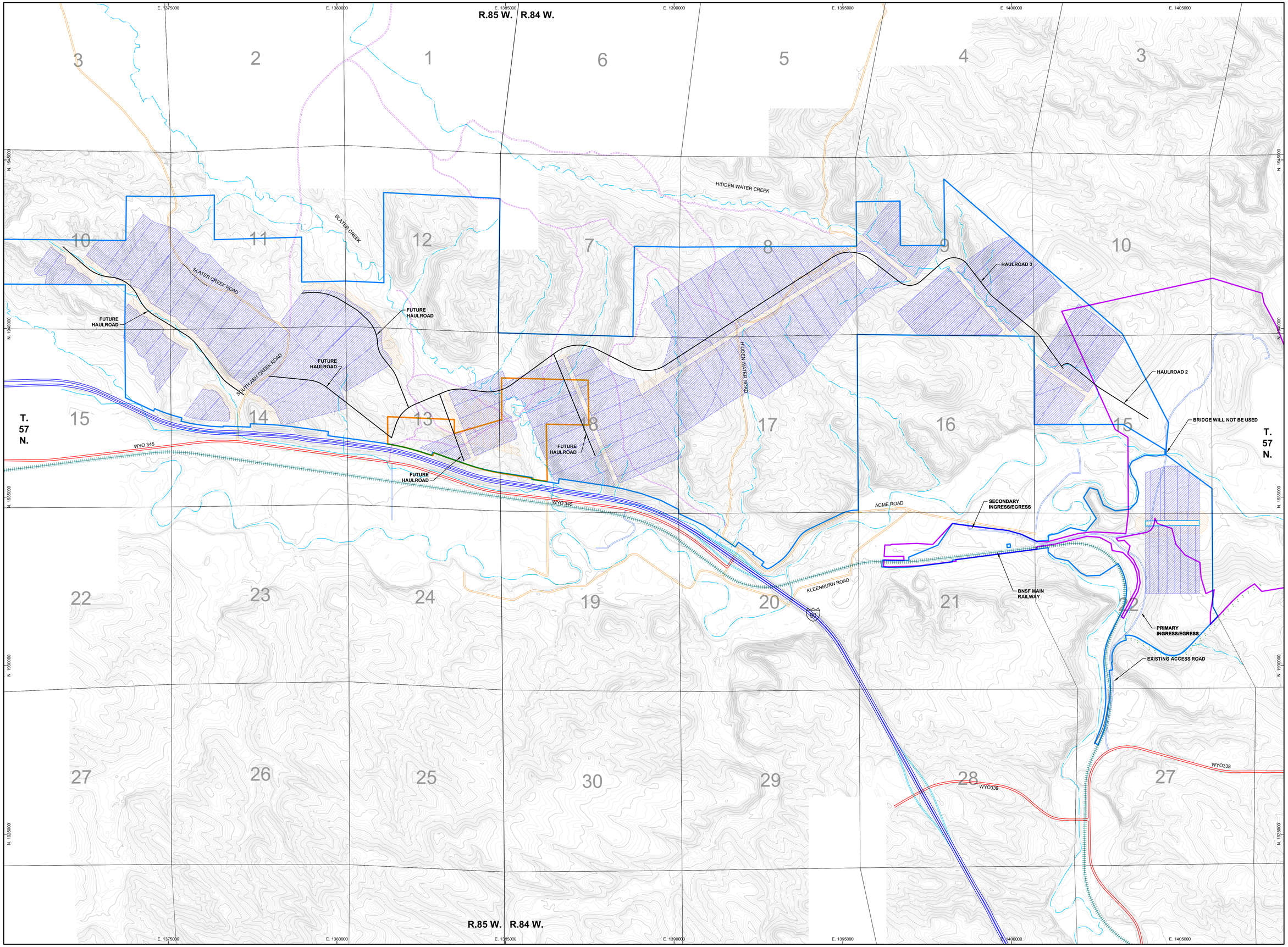
SURFACE DISTURBANCE SEQUENCE

Drawn By: CIG
Checked By: JGB
Date: 10/08/14

WWC ENGINEERING
www.wwcengineering.com

FILE: EX_1-1_SURF_DISTURB_EQC.dwg

K:\Sheridan\RAMACO\13139\ACAD_WY83EC\DWGS_MINE_PLAN_RESPONSE_EQC\EX_1-1_SURF_DISTURB_EQC.dwg 9/25/2018 1:51:36 PM dave johnson



NOTE: MAP COORDINATE PROJECTION IS WY 83 EC

LEGEND

- BROOK MINE PERMIT BOUNDARY
- BIG HORN COAL PERMIT BOUNDARY (PERMIT NO. 213-T7)
- TAYLOR QUARRY PERMIT BOUNDARY (PERMIT NO. SP-757)
- RAILROAD
- PRIMARY HAUL ROADS
- SURFACE MINING
- HIGHWALL MINING PANELS
- UNIMPROVED ROAD
- IMPROVED ROAD (USED FOR COAL HAULAGE)
- COUNTY ROAD
- STATE HIGHWAY
- US HIGHWAY
- INTERSTATE HIGHWAY
- ABANDONED HIGHWAY

N

0 500 1,000 1,500 2,000
GRAPHIC SCALE (FEET)
C.I. = 5'

RAMACO

BROOK MINE
SHERIDAN COUNTY, WY
1101 SUGARVIEW DR. STE. 201
SHERIDAN, WY 82801

REVISIONS

Date	Description
06/15	ROUND 1 COMMENTS
10/15	ROUND 2 COMMENTS
12/15	ROUND 3 COMMENTS

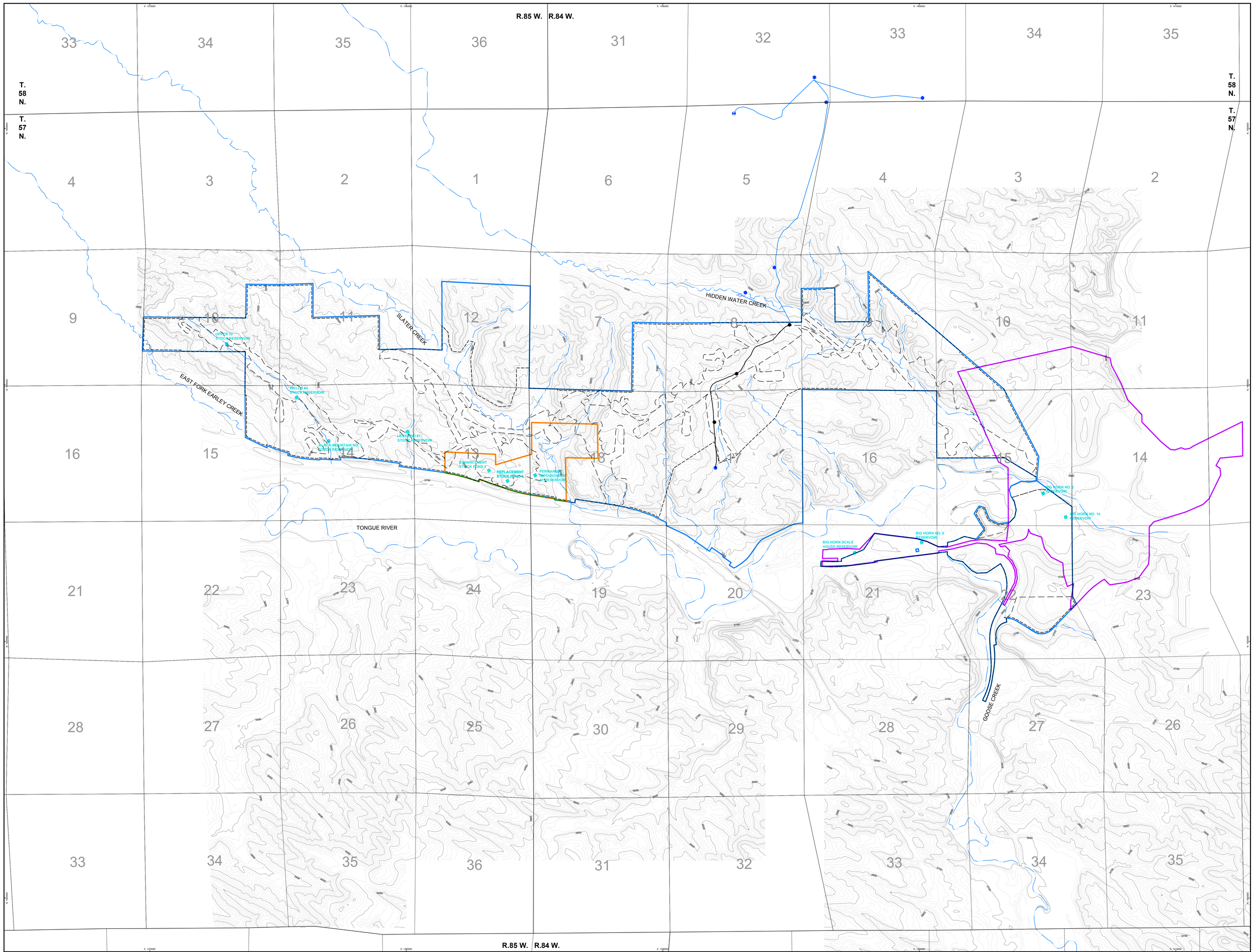
EXHIBIT MP.3-1

TRANSPORTATION NETWORK

Drawn By: DCJ
Checked By: JGB
Date: 10/08/2014

WWC ENGINEERING
www.wwcengineering.com

FILE: EX_3-1_HAUL_ROADS_LOC_EQC.dwg



LEGEND

- BROOK MINE PERMIT BOUNDARY
- AFFECTED AREA BOUNDARY
- DISTURBANCE BOUNDARY
- TAYLOR QUARRY PERMIT BOUNDARY (PERMIT NO. SP-757)
- BIG HORN COAL PERMIT BOUNDARY (PERMIT NO. 213-T7)
- WELCH #4 STOCK RESERVOIR — PERMANENT POSTMINE IMPOUNDMENT
- EXISTING STOCK TANK WATER LINE
- EXISTING EXISTING STOCK TANK
- RECLAIMED STOCK TANK WATER LINE
- RECLAIMED STOCK TANK

N

0 500 1,000 1,500 2,000
GRAPHIC SCALE (FEET)
C.I. = 10'

RAMACO

BROOK MINE
SHERIDAN COUNTY, WY

1101 SUGARVIEW DR. STE. 201
SHERIDAN, WY 82801

REVISIONS

Date	Description
06/15	ROUND 1 COMMENTS
10/15	ROUND 2 COMMENTS

EXHIBIT RP.3-1

POSTMINE TOPOGRAPHY

Drawn By: DCJ
Checked By: JGB
Date: 11/1/14

WWC ENGINEERING
www.wwcengineering.com

FILE: RP-3-1_PM_TOPO_EQC.dwg

WWC ENGINEERING
1849 Terra Avenue • Sheridan, WY 82801
Phone: 307-672-0761 • Fax: 307-674-4265
www.wwcengineering.com

September 8, 2016

Mr. B.J. Kristiansen
Wyoming Department of Environmental Quality
2100 W. 5th Street
Sheridan, WY 82801

RE: Permit To Mine Application TFN 6 2/025

Dear Mr. Kristiansen:

On behalf of RAMACO LLC, WWC Engineering is submitting the attached revisions to the change package that was submitted on 8/26/2016.

Two copies of the revisions have been included for WDEQ/LQD staff to review.

Please contact, Randall Atkins (RAMACO), or Jeff Barron (WWC Engineering) if you have any questions or comments regarding this submittal.

Sincerely,

Jeff Barron, P.E.
Project Engineer

JB/hjr
Attachment: as noted
K:\Sheridan\RAMACO\13139\correspondence\WDEQ\Comment_response_rnd_6__9_8_2016.doc

Innovation
Quality
Value

INDEX SHEET FOR MINE PERMIT AMENDMENTS OR REVISIONS

Date September 8, 2016
TFN 6 2/025

MINE COMPANY NAME: RAMACO, LLC.

MINE NAME: Brook Mine
PERMIT NO. TFN 6 2/025

Statement: I, Jeff Barron, an authorized representative of RAMACO, LLC. declared that only the items listed on this and all consecutively numbered Index Sheets are intended as revisions to the current permit document. In the event that other changes inadvertently occurred due to this revision, those unintentional alterations will not be considered approved. Please initial and date.

NOTES: 1) Include all revision or change elements and a brief description of, or reason for, each revision element.
2) **This Change Index is for only those changes made during Round 4a Comment Response.**

VOLUME NUMBER	PAGE, MAP OR OTHER PERMIT ENTRY TO BE REMOVED	PAGE, MAP OR OTHER PERMIT ENTRY TO BE ADDED	DESCRIPTION OF CHANGE
Volume XI	MP-10 to MP-10 (Mine Plan Text tab)	MP-10 to MP-10 (Mine Plan Text tab)	Update Text to describe corridor fencing
Volume XI	Exhibit MP.1-1	Exhibit MP.1-1	Revise exhibit to show corridor

emulsions, water gels, and slurry explosives will be stored separately from detonators, initiator products, and ANFO. Locations of explosive storage will be according to regulations.

MP.2.4 Power Transmission and Communication Lines

Electrical power will be transmitted to the mine property by a 3-phase 4160-Volt line.

Electric power will be purchased from Powder River Energy Corporation. Power distribution and electrical equipment will be constructed to comply with applicable federal, state, and local codes. Power lines within the Brook Mine Permit Area will be constructed to minimize impacts on raptors, as discussed in the Plan to Minimize Adverse Impacts on Fish and Wildlife.

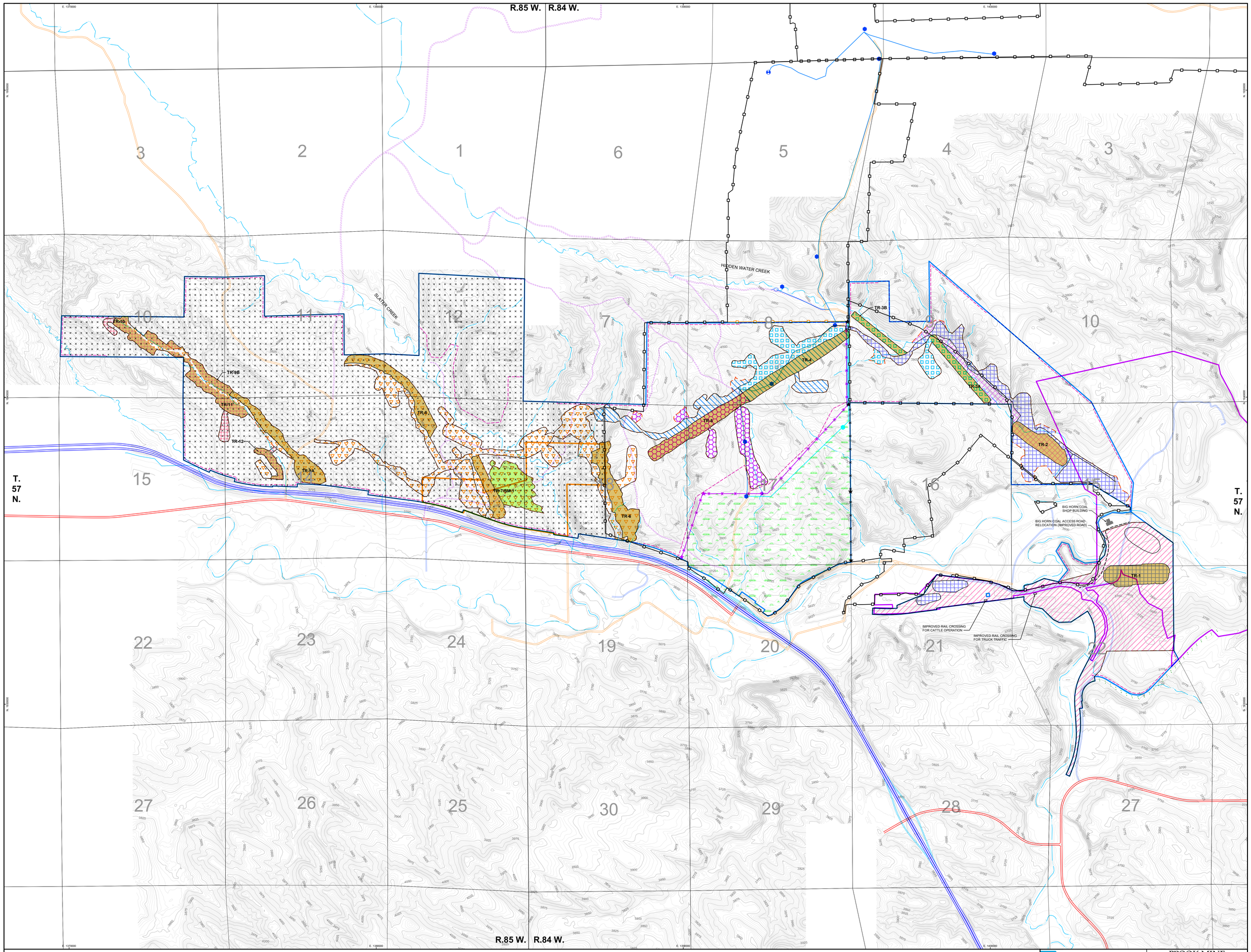
Telephone service will be installed by tapping into a local communications carrier. Communications within the Permit Area will be by mobile business band radios.

MP.2.5 Stockpiles

Separate topsoil and overburden stockpiles will be required for reclamation activities. The design of stockpiles is discussed in Section MP.4. Stockpile locations are shown on Exhibit MP.4-3.

MP.2.6 Access Control Features

The mine will control access to the Brook Mine to protect the health and safety of the mine workforce, general public, wildlife, and livestock. A guardhouse will be installed at the entrance to the Brook Mine. Fencing will be constructed around mining activities to prevent wildlife, livestock, and the general public from mistakenly entering as shown on Exhibit MP.1-1. Access will be allowed for existing cattle operations as needed in the NWNE of section 21 T57N R84W and SE of section 8 T57N R84W as shown on Exhibit MP.1-1. Fencing construction will follow recommendations found in WDEQ/LQD Guideline Number 10 and/or WYDOT standard 607-1A: Fencing, Signs and markers will be placed to alert the general public to the active mining area. Signs, markers, and buffer zones are discussed in Section MP.12. Locations of access control features are shown on Exhibit MP.2-1.



LEGEND

- BROOK MINE PERMIT BOUNDARY
- BIG HORN COAL PERMIT BOUNDARY (PERMIT NO. 213-T7)
- TAYLOR QUARRY PERMIT BOUNDARY (PERMIT NO. SP-757)
- DISTURBANCE BOUNDARY
- AFFECTED AREA BOUNDARY
- DISTURBANCE FOR YEAR 2016
- DISTURBANCE FOR YEAR 2017
- DISTURBANCE FOR YEAR 2018
- DISTURBANCE FOR YEAR 2019
- DISTURBANCE FOR YEAR 2020
- DISTURBANCE FOR YEAR 2021
- DISTURBANCE FOR YEARS 2022 - 2026
- DISTURBANCE FOR YEARS 2027 - 2028
- TRENCH LOCATION
- SURFACE MINE LOCATION
- COAL WITH RESTRICTED MOVEMENT, PROCESSING, LOADING AND SHIPPING
- EXISTING FENCE LOCATION
- UPGRADE TO WYDOT STANDARD PLAN 607-1A TYPE G
- PROPOSED FENCE LOCATION WYDOT STANDARD PLAN 607-1A TYPE G W /METAL T-POSTS AND WOODEN CORNER & BRACE POSTS
- PROPOSED ALT B FENCE LOCATION WYDOT STANDARD PLAN 607-1A TYPE G W/ METAL T-POSTS AND WOODEN CORNER & BRACE POSTS
- EXISTING STOCK TANK WATER LINE
- EXISTING STOCK TANK
- PROPOSED STOCK TANK WATER LINE (EQUIVALENT TO EXISTING)
- PROPOSED STOCK TANK (BURIED CONCRETE FROST FREE, EQUIVALENT TO EXISTING)
- PROPOSED GATE LOCATION (20FT METAL GATE)
- PROPOSED 100' WIDE CATTLE CORRIDOR
- UNIMPROVED ROAD
- IMPROVED ROAD
- COUNTY ROAD
- STATE HIGHWAY
- US HIGHWAY
- INTERSTATE HIGHWAY
- ABANDONED HIGHWAY
- NO MINING ACTIVITY WILL OCCUR IN THIS AREA. THIS AREA IS CONSIDERED QUARANTINED FROM 30 CFR PROGRAM POLICY AND RANCHING IN THE AREA WILL NOT BE EXPOSED TO ACTIVE MINING

N

0 500 1,000 1,500 2,000
GRAPHIC SCALE (FEET)
C.I. = 5'

RAMACO

BROOK MINE
SHERIDAN COUNTY, WY

1101 SUGARVIEW DR. STE. 201
SHERIDAN, WY 82801

REVISIONS

Date	Description
06/15	ROUND 1 COMMENTS
10/15	ROUND 2 COMMENTS
12/15	ROUND 3 COMMENTS

EXHIBIT MP.1-1

SURFACE DISTURBANCE SEQUENCE

Drawn By: CIG
Checked By: JGB
Date: 10/08/14

WWC ENGINEERING
www.wwcengineering.com

FILE: EX_1-1_SURF_DISTURB_EQC.dwg

WWC ENGINEERING
1849 Terra Avenue • Sheridan, WY 82801
Phone: 307-672-0761 • Fax: 307-674-4265
www.wwcengineering.com

September 23, 2016

Mr. B.J. Kristiansen
Wyoming Department of Environmental Quality
2100 W. 5th Street
Sheridan, WY 82801

RE: Padlock Surface Damage Bond Revision TFN 6 2/025

Dear Mr. Kristiansen:

I have attached to this letter Brook Mine's revised surface owner protection bond text and calculations for Year 0 of Brook's disturbance on Padlock Ranch's lands. Brook has revised this bond to reflect information learned during negotiations with Padlock Ranch. After Brook's hearing with the Environmental Quality Council on August 17-18, Brook engaged Padlock Ranch in further negotiations. Brook sought to resolve its differences with Padlock, including developing a way for the parties to agree on payments for Brook's surface disturbance. Those negotiations lasted nearly a month and included several drafts of a consent and settlement agreement.

These negotiations, however, failed to create a final agreement between the parties. They failed because Padlock insisted on terms that Brook felt did not fairly reflect the law and would have made the agreement of little value to Brook. But the negotiations did not fail because of disagreement on financial terms. Although Brook had calculated possible disturbance costs to Padlock using data from neutral sources that differed from Padlock's estimates, Brook accepted Padlock's financial terms as a gesture of good faith. But that was still not enough to satisfy Padlock.

I mention these negotiations because they frame how and why Brook has revised the surface owner protection bond. In an effort to ensure Padlock remains whole as Brook mines, Brook wants the surface owner protection bond to accurately reflect possible costs to Padlock. Brook's negotiations with Padlock have provided a framework for deciding how Padlock views the potential costs from Brook's disturbance. The tables and addenda in the attached revisions reflect Padlock's framework for calculating costs. Using neutral data on the cost factors that Padlock identified where applicable and using Padlock's own data where appropriate, Brook has calculated the bond on a per unit basis.

While Brook had hoped that it could present a settlement agreement to the Environmental Quality Council and DEQ that would eliminate the need for an order in lieu of consent and a surface owner protection bond, Brook's good faith efforts did not succeed. Nevertheless, the revisions that Brook made to its mine plan and to its surface owner protection bond calculations reflect its desire to allow Padlock to continue

WWC ENGINEERING
1849 Terra Avenue • Sheridan, WY 82801
Phone: 307-672-0761 • Fax: 307-674-4265
www.wwcengineering.com

operating without interruption. Brook gave Padlock notice and copies of the changes to the mine plan and reclamation plan as submitted to WDEQ/LQD on September 8, 2016 and again on September 16, 2016 in draft SUA agreements. These revisions will allow Padlock to:

- access and use the southern part of hidden water pasture;
- access the Acme pasture and corrals located on state land;
- use its water system for cattle in the hidden water pasture;
- have a bond in place that will compensate Padlock should these measures fail; and
- assist DEQ in developing standards for this bond.

Sincerely,

Jeff Barron, P.E.
Project Engineer

JB/hjr
Attachment: as noted
K:\Sheridan\RAMACO\13139\BOND_ESTIMATE_R3\Surface Damage Bond\Padlock_draft\Padlock_surface_bond_cover_9_23_2016.doc

Innovation
Quality
Value

Brook Mine Surface Damage Bond for Padlock Ranch Surface Ownership

Prepared by:

WWC Engineering

September 2016

TABLE OF CONTENTS

A. Summary 1
B. Bond Calculation 1
C. Surface Estate 1
i. Crops 2
ii. Forage 2
iii. Tangible Improvements 3
iv. Water Rights 4
D. Total Bond Estimate 4
E. References 5

LIST OF TABLES

Table 1. Surface Damage Bond Summary for Padlock Ranch Year 0 6
Table 2. Crops Loss Estimate 6
Table 3. Forage Loss and Replacement Estimate 7
Table 4. Tangible Improvements Loss Estimate 8

LIST OF FIGURES

Figure 1. Padlock Ranch Surface Damage Bond

LIST OF ADDENDA

Addendum 1. Padlock Ranch Surface Disturbance Calculations
Addendum 2. Padlock Ranch Cost of Replacing Flying V Unit Corrals

A. Summary

The following summarizes the surface damage bond cost estimate for RAMACO's Brook Mine for Padlock Ranch surface ownership. This bond estimate was prepared pursuant to W.S.§ 35-11-416 and addresses all surface damage and replacement as a result of Brook Mine activities for the first year of mine operation (year 0). This submittal includes any damages to the surface estate including:

- The crops and forage,
- The tangible improvements of the surface owner or utilized by the surface owner,
- Or water rights as result of pollution, diminution, or interruption due to mining.

The submittal presented herein employs assumptions that are based on best professional judgment as to reasonable value of the surrounding land, and the effect of the overall operation of the land owner given the data currently available. The total bond estimate puts the projected cost of financial loss in year 0 of the surface owner's operation at $0.

B. Bond Calculation

A summary of the surface damage bond is provided in Table 1. Disturbances included in this summary include grazing loss, disturbance to structures, and disruption to operations. Figure 1 depicts the projected disturbance areas for the end of year 0. Figure 1 also depicts future mitigation commitments as depicted on Brook Mine exhibit MP.1-1.

C. Surface Estate

It is anticipated that at the end of year 0 of mining, only preliminary topsoil removal of pit TR-1 and a staging area will have occurred. Therefore, Padlock Ranch surfaces will not be disturbed in year 0 of mining. RAMACO/Brook hereby fully reserves all of its existing rights and defenses with respect to any surface damages and surface damage obligations or

liabilities that are set out in the Warranty Deed dated June 28, 1954 by and between Sheridan-Wyoming Coal Company as Grantor and Big Horn Coal Company as Grantee recorded in the official land records of the Sheridan County, Wyoming Clerk and Recorder on July 27,1954 at Book 98, Page 127 (Instrument No. 366196). Disturbed acres were obtained from Brook Mine's Mine Plan Exhibit MP.1-1 while proposed actual year 0 expected damage acres were obtained from Brook Mine's 2015 Reclamation Performance Bond Exhibit 1.

i. Crops

Croplands as defined by Wyoming Department of Environmental Quality/Land Quality Division Rules and Regulations (WDEQ/LQD R&R) Coal Chapter 1 means land used for the production of adapted crops for harvest, alone or in a rotation with grasses and legumes, and includes row crops, small-grain crops, hay crops, nursery crops, orchard crops, and other similar specialty crops. Croplands do not currently exist on any Padlock Ranch surfaces within the Brook Mine permit boundary; therefore, there is no cost for crop loss. Details of the crop loss estimate are provided in Table 2.

ii. Forage

Lands within the disturbance area on Padlock Ranch surfaces are primarily composed of dry grazing lands. Grazingland as defined by WDEQ/LQD R&R Coal Chapter 1 means rangelands and forest lands where the indigenous native vegetation (forage) is actively managed for grazing, browsing, and occasional hay production, and occasional use by wildlife. Using publically available data and that obtained from third party quotes (Addendum 1 & 2), the cost per Animal Unit Month (AUM) per year is approximately $22.32 when adjusted for inflation from 2014 to 2016. Details of the forage loss estimate are provided in Table 3. This table also includes loss of revenue due to WGFD walk in area as well as additional costs for shipping, brand and health inspection or hay replacement, if it should be required. It should be noted that some costs in Table 3 may not apply in any given year.

Forage loss can be the result of several activities that could occur while the Brook mines is permitted and could include but not be limited to the following scenarios:

- No mining or coal haul on Padlock surface whereby Padlock would retain full use of the Hidden Water Pasture as well as access to the Acme Pasture and corrals.
- Active coal hauling but no active mining whereby Padlock would retain almost full use of the Hidden Water Pasture and would be compensated on a per acre excluded basis as listed in Table 3. Crossing corridors would be provided.
- Active mining and coal hauling where by Padlock would be excluded from the Hidden Water Pasture and would be compensated on an AUM basis at listed in Table 3.
- Reclamation and bond release activities, whereby Padlock would retain almost full use of the Hidden Water Pasture and would be compensated on a per ace excluded basis as listed in Table 3. Crossing corridors would be provided.

iii. Tangible Improvements

The tangible improvements loss estimate covers all costs associated with the possible disturbance of enhancements existing currently on surface owner's property within the permit area. Costs included in the bond are fencing, power lines, roads, stock tanks, pipelines and other structures. No disturbance is proposed in year 0. Table 4 displays the calculations for the bond estimate for disturbance to structures. The locations of these disturbed structures are depicted on Figure 1.

The use of other tangible improvements could be restricted by the presence of the Brook Mine. Access to a set of corrals as shown in Figure 1 that are not within the permit area nor are they located on the surface owner's property, but are contained within a state grazing lease of section 16 controlled

by Padlock Ranch could be severed. Padlock Ranch has provided a cost estimate (Addendum 2) for replacement of the corrals if their access is severed and Padlock could not use these corrals for cows in the Flying V unit. Brook Mine has provided a commitment for a corridor to provide access to the state corrals as seen in Figure 1 and exhibit MP.1-1 of the Brook Mine Plan. Even though we have provided calculations for replacement of the state owned corrals, Brook Mine sees no risk that Padlock cannot access the corrals during the disturbance.

iv. Water Rights

A search of the State Engineer's Office database indicates no water rights are permitted on the existing Padlock Ranch surface within the planned year 0 disturbance boundary. Padlock operates a stock watering pipeline which originates from a well on BLM surface located in T57N, R84W Section 5 NENW (Lot 3) Permit #P183807 which is jointly owned by Padlock Ranch Company and BLM Buffalo Field Office. The water from this well (8 gpm) is beneficially utilized for stock watering within the Brook Mine disturbance boundary. The appropriation and first beneficial use was June 8, 2009 (Addendum 1). When disturbance occurs, mitigation of the waterline and stock tanks will occur as depicted in Figure 1 and exhibit MP.1-1 of the Brook Mine Plan. Monitor wells exist on Padlock Ranch surfaces that will be monitored in accordance with the commitments established in the Brook Mine's Mine Plan. Water rights and monitor wells within the disturbance area on Padlock Ranch surfaces are displayed on Figure 1.

D. Total Bond Estimate

The total estimated surface disturbance bond for the Brook Mine is depicted in Table 1. This total cost includes all direct and indirect costs associated with financial loss resulting from disruption of the surface owner's operation as well as a 10 percent contingency. Figure 1 depicts the areas of

possible surface disturbance for the Brook Mine. No disturbance occurs on Padlock Ranch surfaces for year 0 of mining.

E. References

United States Department of Agriculture National Agricultural Statistics Service (USDA-NASS) Wyoming Field Office. (2015). *Wyoming Agricultural Statistics 2015.*

Wyoming Deparment of Transportation (WYDOT). (2015). *2015 Weighted Average Bid Prices.* Retrieved from Wyoming Department of Transportation: http://www.dot.state.wy.us/files/live/sites/wydot/files/shared/Contracts%20and%20Estimates/Weighted%20Average/2015%20English.pdf

Table 1. Surface Damage Bond Summary for Padlock Ranch Year 0

Item	Cost	Comment
Crops Loss	$0.00	No crops are present.
Forage Loss	$0.00	It is assumed that dry land grazing is practiced in accordance with current zoning as agriculture.
Tangible Improvements Loss	$0.00	
Subtotal	$0.00	
Contingency (Estimate 10% of subtotal)	$0.00	
Financial loss resulting from disruption of the surface owner's operation (Total Estimated Bond)	$0.00	

Table 2. Crops Loss Estimate Year 0

Unit	Value	Reference
Crop Loss Estimate	$0.00	Not Applicable

Table 3. Forage Loss and Replacement Estimate Year 0

	Unit	# of units	Cost/Unit	Cost	Reference
1	Excluded Acres (Year 0)	0	$5.00	$0.00	WY 2015 Ag Statistics. Cash Rent Pasture
2	Proposed Actual Affected AUM's *(360 AUM's[2] lost due to full exclusion from hidden water pasture as estimated from Padlock data)*	0	$22.32	$0.00	WY 2015 Ag Statistics.
3	Freight (long Haul) per Cow (standard number of cows is 370)	0	$32.80	$0.00	Rate Based on 39 cows per pot and $4.00/loaded mile
4	Labor in people days	0	$120.00	$0.00	Padlock's stated labor rate
5	Brand Inspection WY to MT per head	0	$1.50	$0.00	Wyoming Livestock Board
6	Brand Inspection MT to WY per head	0	$1.00	$0.00	Montana Livestock Board
7	Health Inspection $5.00 permit fee $23.00 minimum. Per head cost	0	$0.40	$0.00	Quote from MSVH
8	Hay Adjustment[2]	0	$10,216.80	$0.00	Hay per ton Quote from craigslist[1]
9	Other (lost revenue from WGFD walk in area)	0	$1,515.00	$0.00	WGFD reimbursement table
	Grazing Loss & Replacement Estimate			$0.00[1]	

Note: [1] RAMACO/Brook hereby fully reserves all of its existing rights and defenses with respect to any surface damages and surface damage obligations or liabilities that are set out in the Warranty Deed dated June 28, 1954 by and between Sheridan-Wyoming Coal Company as Grantor and Big Horn Coal Company as Grantee recorded in the official land records of the Sheridan County, Wyoming Clerk and Recorder on July 27,1954 at Book 98, Page 127 (Instrument No. 366196).

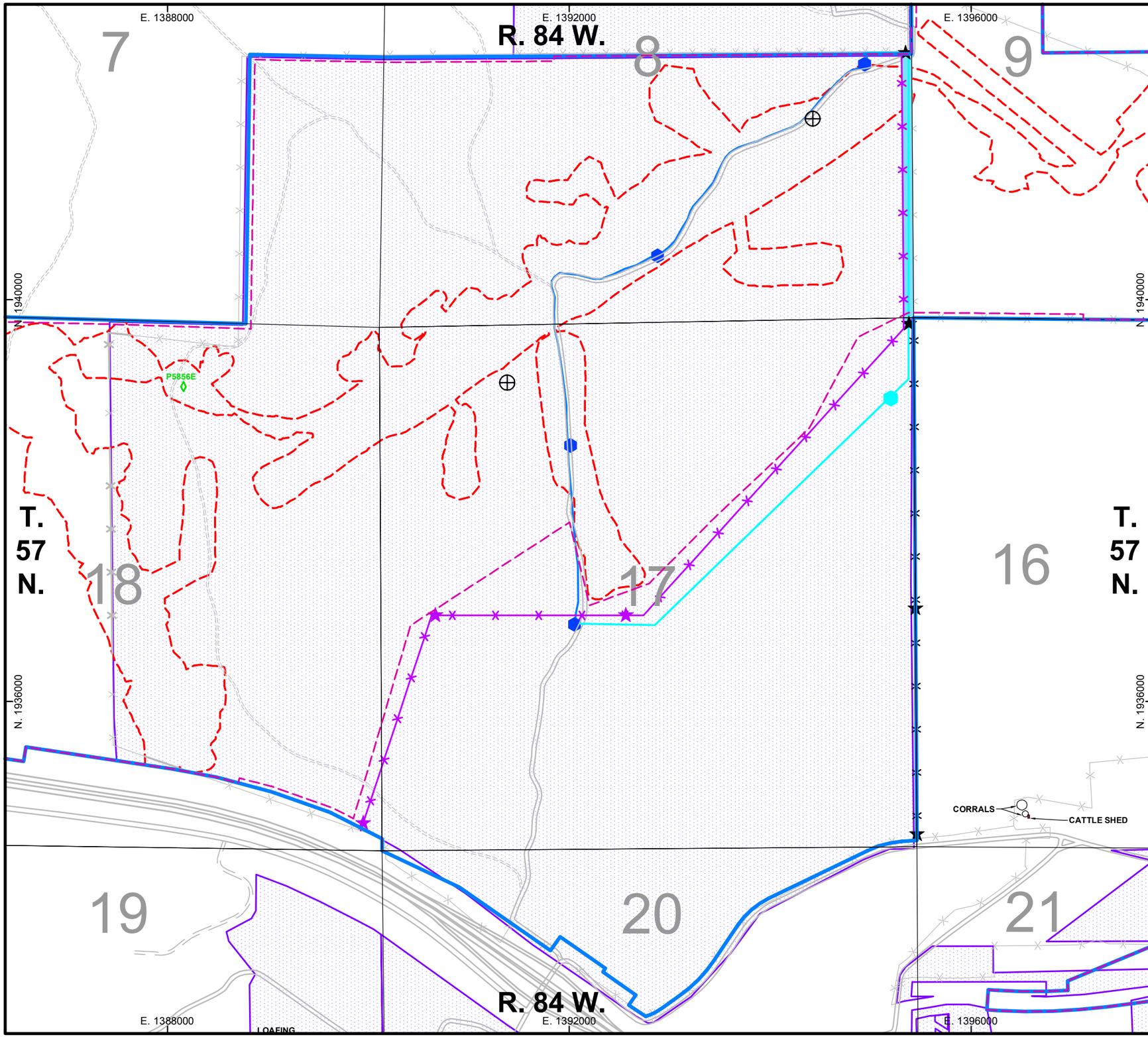
[2] Calculations are presented in Addendum 1.

Table 4. Tangible Improvements Loss Estimate Year 0

Description	Unit	Quantity	Unit Cost	Subtotal	Comments[1]
Fencing Removal[2]	lf	3,414	$0.31	$0.00	Fencing disturbance will be mitigated by installation of fencing outside area of disturbance.
Fencing Replacement[2]	lf	3,414	$1.91	$0.00	
Roads	ac	6.7	$0.00	$0.00	Disturbance of roads will be minimized to the extent possible. Alternate routes will be created when roads must be disturbed.
Pipelines	lf	5,975	$0.00	$0.00	Pipelines disturbance will be mitigated by installation of pipelines outside area of disturbance.
Stock Tanks	ea	3	$0.00	$0.00	Stock tanks within disturbance boundary will be mitigate by replacement or movement of tanks to area outside disturbance.
Corrals (Addendum 2)	Ea	1	$21,000	$0.00	Corral replacement if access to the Acme pasture is severed.
Disturbed Structure Estimate				$0.00	

Note: [1] No damage is expected to occur in year 0 of disturbance.
[2] Cost Estimate from WYDOT, 2015.

Figure 1. Padlock Ranch Surface Damage Bond



LEGEND

- BROOK MINE PERMIT BOUNDARY
- AFFECTED AREA BOUNDARY
- DISTURBANCE BOUNDARY
- PIPELINE
- COUNTY ROAD
- IMPROVED ROAD
- UNIMPROVED ROAD
- INTERSTATE
- FENCE
- PROPOSED FENCE LOCATION WYDOT STANDARD PLAN 607-1A TYPE G W /METAL T-POSTS AND WOODEN CORNER & BRACE POSTS
- PROPOSED ALT B FENCE LOCATION WYDOT STANDARD PLAN 607-1A TYPE G W/ METAL T-POSTS AND WOODEN CORNER & BRACE POSTS
- PROPOSED GATE LOCATION (20FT METAL GATE)
- PROPOSED STOCK TANK WATER LINE (EQUIVALENT TO EXISTING)
- PROPOSED STOCK TANK (BURIED CONCRETE FROST FREE, EQUIVALENT TO EXISTING)
- PROPOSED 100' WIDE CATTLE CORRIDOR
- PADLOCK RANCH SURFACE OWNERSHIP
- STOCK TANK
- STRUCTURE
- MONITOR WELL
- P5856E FULLY ADJUDICATED WATER RIGHT

NOTE:
PADLOCK RANCH SURFACE NOT AFFECTED BY YEAR 0 DISTURBANCE

0 500 1,000 1,500 2,000
GRAPHIC SCALE (FEET)

RAMACO

BROOK MINE
SHERIDAN COUNTY, WY

1101 SUGAR VIEW DR. STE. 201
SHERIDAN, WY 82801

REVISIONS

Date	Description

FIGURE 1

PADLOCK RANCH SURFACE DAMAGE BOND

Drawn By: DCJ
Checked By: JGB
Date: 9/20/16

WWC ENGINEERING
www.wwcengineering.com

FILE: PLCK_SURF_DAMAGE_BOND_DRAFT.dwg

K:\Sheridan\RAMACO\13139\BOND_ESTIMATE_R3\DWGS\PLCK_SURF_DAMAGE_BOND_DRAFT.dwg 9/20/2016 1:39:09 PM condia gonzales

Addendum 1

Padlock Ranch Surface Disturbance Calculations

Padlock's Surface Owner Damages Upon Disturbance of the Hidden Water Pasture

Calculation based on replacement of grazing days of Flying V Unit pairs due to presence of the Brook Mine. Trailing to acme pasture through provided corridor as described on Exhibit MP.1-1.

540 cows for 20 days =10,800 stock days lost due to inability to graze the Hidden Water Pasture within the proposed Brook Permit Boundary. 10,800/30 = 360 AUMs.

Cost per AUM = $22.32/AUM. $22.32 x 360 AUM's = $8,035.20.

Lbs of Hay fed at 780 lbs/AUM[1] = 780 x 360 AUM's = 280,800 lbs of hay or 140.4 tons
Cost per ton of hay delivered is $160/ton; $130 x 140.4 tons= $18,252
Adjustment for payment of loss of grass; $18,252.00-$8,035.20= $10,216.80

Trailing: 10 people 1 day x $120/day= $1,200

Labor for feeding cows in Acme Pasture: 2-people x 120/day x 20 1/2days=$2,400.00

Itemized Cost:

360 AUMs @ $22.32/AUM:	$ 8,035.20
Hay adjustment for 360 AUM	$ 10,216.80
Trailing: 10 people days @ $120/day:	$ 1,200.00
Labor: 20 people days @ $120/day:	$ 2,400.00
Total Cost/year:	$21,852.00
Lost revenue from WGFD walk-in area	$ 1,515.00
	$23,367.00
Rounded to:	$ 23,400.00

[1] 26 lbs of hay per day per head equates to 780 lbs/AUM

Addendum 2

Padlock Ranch Cost of Replacing Flying V Unit Corrals

Cost of Replacing Flying V Unit
Corrals[1]

Description	**Qty/Hours**	**Rate**	**Amount**
6 Rail Panels 20' length	50	$72.00	$3,600.00
Steel Posts	130	$12.00	$1,560.00
Gates (16 of various widths)	1.00	$2,100.00	$2,100.00
Woven Wire Fence on steal t-posts w/2 wire barb top (steel braces are $75 and $125 each)	700.00	$3.50	$2,450.00
Miscellaneous supplies	1	$500.00	$500.00
Labor	1	$4,900	$4,900.00
Taxes	1	5%	$363.00
Mobilization/Material/Freight	1.00	$3,500.00	$3,500.00
10% Contingency		$1,897.00	$1,897.00
TOTAL			**$20,870.00**
Rounded to			**$21,000.00**

[1]GoBob Pipe and Steel, located south of Tulsa, OK

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

IN RE BROOK MINE APPLICATION	)	
	)	Civil Action No. 16-1601
	)	

BROOK MINE'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR ITS REQUESTED ORDER IN LIEU OF CONSENT FROM PADLOCK RANCH

INTRODUCTION

1. On October 31, 2014, Brook Mining Company, LLC (Brook) applied for a coal mine permit with Wyoming's Department of Environmental Quality (DEQ). Brook sought to permit a high wall mine near Sheridan, WY that blends elements of open pit mining and underground mining. Hearing Transcript (Tr.) Vol I, p. 33-34.

2. With its permit application, Brook included a mine plan and a reclamation plan. Brook would later revise its mine and reclamation plans. Tr. Vol I, pp. 67, 88; Brook Hearing Exs. 1, 2.

3. After Brook applied for a permit, the DEQ began the review and comment process, requesting that Brook correct deficiencies in the mine and reclamation plans. Brook and DEQ went through five rounds of comments, leaving only one deficiency—surface owner consent. Tr. Vol I, pp. 66, 151-153.

4. Brook was missing surface owner consent forms (Form 8) from two parties, Big Horn Coal Company and Padlock Ranch (Padlock). Tr. Vol I, pp. 8, 235.

5. Padlock owned surface in Township 57 North, Range 84 West, Sections 6, 7, 8, 15, 17, 18, 19, 20, 21, 22, 27, 28, Sheridan County, Wyoming; Township 57 North, Range 85

West, Sections 1, 2, 12, Sheridan County, Wyoming, that Brook would disturb or use as part of its coal mining operations.

6. Brook and Padlock attempted to negotiate an agreement that would result in Padlock signing a Form 8 and consenting to Brook's mine permit application. Those good-faith negotiations, however, failed. Tr. Vol I, pp. 199-201.

7. On March 16, 2016, Brook petitioned this Council for two Orders in Lieu of Consent under Wyo. Stat. Ann. § 35-11-406(b)(xii). Brook requested that the Council grant one order for Padlock and another order for Big Horn Coal Company.

8. To decide whether it should grant the Orders in Lieu of Consent, this Council held a hearing from August 17-18, 2016 to hear evidence on the statutory elements for granting such an order. During that hearing, the Council received exhibits from Brook, Padlock, and Big Horn Coal Company. The Council also heard testimony from five witnesses.

9. Based on the evidence received at the hearing and information received by administrative notice, the Council has to decide whether Brook has proven:

a. That the mining plan and the reclamation plan have been submitted to the surface owner for approval;

b. That the mining and the reclamation plan is detailed so as to illustrate the full proposed surface use including proposed routes of egress and ingress;

c. That the use does not substantially prohibit the operations of the surface owner;

d. The proposed plan reclaims the surface to its approved future use, in segments if circumstances permit, as soon as feasibly possible;

e. For surface coal mining operations, that the applicant has the legal authority to extract coal by surface mining methods.

Wyo. Stat. Ann. § 35-11-406(b)(xii)(A)-(E).

10. Applying these elements to the evidence, the Council finds that Brook has proven all of the elements for the Council to grant an Order in Lieu of Consent as to Padlock. In support of that decision, the Council makes the following findings of fact and conclusions of law as to each element.

Element 1: That the mining plan and the reclamation plan have been submitted to the surface owner for approval

11. The Council finds Brook met this element. Padlock agrees that Brook sent the current version of its mine and reclamation plan to Padlock in February 2016. Tr. Vol I, pp. 15, 235. Padlock confirmed that it received a copy of the mine and reclamation plan. Tr. Vol I, p. 235.

Element 2: That the mining and the reclamation plan is detailed so as to illustrate the full proposed surface use including proposed routes of egress and ingress

12. After reviewing Brook's mine and reclamation plan, the Council finds those plans show:

- the locations of mining trenches;
- the locations and paths of haul roads;
- the location of top soil piles;
- the location of overburden piles;
- the sequence of removing top soil;
- the sequence of removing overburden;

- the overall sequence of mining; and
- the overall sequence and timing of reclamation.

Brook Hearing Exs. 1, 2.

13. The text of the plans also adds detail to the maps, exhibits, and addendum. When compared to the DEQ's completeness criteria, the Council finds that Brook's mine and reclamation plans comply with those criteria. Tr. Vol I, pp. 56-58, Brook Hearing Ex. 37.

14. The Council notes that these details allowed both Padlock and Big Horn Coal Company to analyze the potential effects of Brook's plans.

15. The Council finds that the mine and reclamation plans contain sufficient detail so as to illustrate the full proposed surface use including proposed routes of egress and ingress.

Element 3: That the use does not substantially prohibit the operations of the surface owner

16. The key words that the Council must consider for this element are "substantially," "prohibit," and "operations." The Council finds that these are simple words and will apply their plain meaning. *See In re Calcon Mut. Mortg. Corp.*, 2014 WY 56, ¶ 9, 323 P.3d 1098, 1102 (Wyo. 2014) (in interpreting statutes, courts first look the "plain meaning of the language chosen by the legislature….")

17. The Council accepts the definitions that Brook provided at hearing for substantially and prohibit. Substantially means to a great extent or for the most part. Hearing Transcript (Tr.) Vol. I, p. 92. Prohibit means make impossible or prevent. *Id*.

18. The Council agrees with Brook that it must define the word "operations" in context of the specific surface owner. Padlock provided that context, defining its operations as a cow-calf operation that requires grazing those animals over Padlock's lands. Tr. Vol. I, p. 206. Those grazing operations include the Flying V Management Unit, which uses land that overlaps

with Brook's proposed mine. Tr. Vol. I, pp. 93-94. Padlock runs an average herd of 370 head of cattle over approximately 15,000 acres on the Flying V Unit. Tr. Vol. I, pp. 249-51. The Flying V Unit uses the 1,800 acre Hidden Water Pasture located within the proposed Brook permit boundary for an average of 2-4 weeks per year. Tr. Vol. I, pp. 251-52.

19. Comparing these definitions to the evidence, the Council finds that Brook will not substantially prohibit Padlock's operations.

20. Padlock operates a large cattle grazing operation that spans two states and over 475,000 deeded acres. Padlock divides its ranch into discrete, separate management units, including the Flying V Unit that Brook will affect.

21. Brook will build a pit, a haul road, and some topsoil and overburden piles that will disturb a few hundred acres of Hidden Water Pasture within the 15,000 acre Flying V Unit. In context of Padlock's operations, Brook will only disturb:

- 520 of the 15,000 acres used in the Flying V Unit; and
- 1.5% of the total acres of a unit that comprises less than 10% of Padlock's operations. Tr. Vol. I, p. 96.

22. All other Padlock land and operations will remain undisturbed. Padlock can continue nearly all of its operations. Padlock will still have over 14,000 acres of pasture. Padlock can graze another pasture for a slightly longer time to offset any forage lost in the excluded acres of Hidden Water Pasture. Padlock also can move its cows via trucks to pastures south and east of Hidden Water Pasture. Tr. Vol. I, p. 232.

23. These measures may cost a little more or disrupt Padlock's normal operations. *Id*. But this element allows for some interference or even some prohibition of operations. The Wyoming Legislature understood that a mine will likely have some impact on a surface owner's

operations. Here, the Brook mine is just an inconvenience to Padlock's operations. Tr. Vol. I, pp. 228-29. In sum, Brook's mine plan as presented at the hearing would affect an insubstantial part of Padlock's operations, allowing Padlock to continue those operations.

24. At the hearing, Padlock argued otherwise, claiming that it had to assume the loss of the Hidden Water Pasture and that loss would substantially prohibit its operations. Tr. Vol. I, pp. 256-57.

25. The Council does not accept this argument. Padlock never then claimed that the loss of Hidden Water Pasture would shut down the entire Flying V Unit. Padlock never testified that grazing in Hidden Water Pasture was an operation by itself. Instead, Padlock's CEO described Padlock's operations as a series of management units. Tr. Vol. I, pp. 210-12. Hidden Water Pasture is just a small part of one unit. Tr. Vol. I, pp. 93-95.

26. After reviewing the evidence, the Council finds no evidence that: 1) Hidden Water Pasture by itself is an independent operation; and 2) the loss of Hidden Water Pasture and difficulty accessing Acme Pasture would substantially prohibit the operations of the Flying V Unit. Tr. Vol I, p. 94.

27. Rather, the evidence showed that Brook would "disrupt" Padlock's operations. Tr. Vol. I, p. 232. Padlock's CEO testified that Brook would only limit the Acme Pasture, leaving it still "usable." *Id*.

28. The Council finds that the available evidence shows the Flying V Unit can continue to operate with minimal interruption. Tr. Vol. I, pp. 99-102. While Brook may make operations more difficult or slightly more costly, it does not substantially prohibit Padlock's operations.

29. Although the Council finds that the evidence at the hearing showed Brook would not substantially prohibit Padlock's operations, Brook took additional steps to ensure its mine would have little to no impact on Padlock. Brook attached these mine plan revisions to its Brief as an appendix.

30. Records from the Department of Environmental Quality show that Brook and Padlock unsuccessfully attempted to settle this dispute. Nevertheless, Brook unilaterally revised its mine plan to include mitigation measures.

31. These mitigation measures include:

- revising Exhibit MP1-1 to include a 100-foot cattle movement corridor to allow Padlock to use the southern part of Hidden Water Pasture and to access Acme Pasture;
- revising Exhibit MP1-1 to fence off the pits, piles, and haul roads in Hidden Water Pasture;
- revising Exhibit MP1-1 to replace or move water lines and stock tanks in Hidden Water Pasture to ensure no loss of Padlock's water supply; and
- committing in the mine plan text section MP.2.6 to protect livestock and allow for movement of cattle as needed.

32. Although Brook filed these revisions with DEQ after the hearing, the Council will take administrative notice of these changes because the mine plan is a public document. *Application of Campbell Cty.*, 731 P.2d 1174, 1180 (Wyo. 1987).

33. Brook's voluntary revisions mean that Padlock can still access all of its pastures. Padlock can still graze in the southern part of Hidden Water Pasture. Fences will protect Padlock's livestock from mining operations in the Hidden Water Pasture. Padlock will have

water for its cows that graze in that pasture. And a written document now exists that commits Brook to these mitigation measures.

34. The surface owner protection bond will cover any disturbance that occurs despite Brook's mitigation. Absent an agreement, DEQ will determine a bond amount. Tr. Vol. I, pp. 157-58. As with its mine plan, Brook has also voluntarily amended its proposed surface owner protection bond to reflect how Padlock has calculated its potential damages. The Council also takes administrative notice of these changes.

35. Together, Brook's revisions and the evidence the Council received at the hearing show that Brook will not substantially prohibit Padlock's operations.

Element 4: The proposed plan reclaims the surface to its approved future use, in segments if circumstances permit, as soon as feasibly possible

36. The Council finds Brook met this element. Padlock agreed that Brook's reclamation plan meets this element. Tr. Vol. I, p. 15; Tr. Vol. II, p. 80

Element 5: For surface coal mining operations, that the applicant has the legal authority to extract coal by surface mining methods

37. The Council finds Brook met this element. Padlock agreed that Brook's reserved rights in a 1954 Deed give Brook the legal authority to extract coal by surface mining methods. Tr. Vol. I, p. 15; Tr. Vol. II, p. 80.

CONCLUSION AND ORDER

38. Based on the evidence, the Council finds that it should grant Brook an Order in Lieu of Consent as to Padlock.

39. Because the Order in Lieu of Consent process will take the place of the traditional Form 8, the Council finds that when it issues an Order in Lieu of Consent it will in effect sign a Form 8 on behalf of Padlock. So the Order in Lieu should reflect the contents of a Form 8.

40. Therefore, **it is Ordered that**: the Council having examined the Brook mine and reclamation plans finds that in compliance with the Wyoming Environmental Quality Act the Council on behalf of Padlock Ranch does hereby approve said plans and give consent for Brook to enter and carry out said mining and reclamation programs on said lands as proposed therein. The Council also on behalf of Padlock Ranch hereby grants unrestricted access to the mine site to the Department of Environmental Quality, Land Quality Division to enter and carry out mine inspections on said lands during normal business hours.

DATED: _____

_____

9127876_1