

REGULATIONS AND INSTRUCTIONS

PART II



GROUND WATER

CHEYENNE, WYOMING

June 2013

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CHAPTER I

GENERAL INFORMATION

Section 1. Authority.

(a) Specific statutory authority for the administration of the underground water by the State Engineer is provided by Wyoming Statute Title 41, Chapter 3, Article 9 [Wyo. Stat. Ann. §§ 41-3-901 through 41-3-938 and amendments thereto]. Specific authority for the State Engineer to promulgate rules and regulations is provided by Wyoming Statute § 41-3-909 (a)(i).

Section 2. Purpose.

(a) These regulations are promulgated to facilitate the administration and enforcement of Wyoming Statutes §§ 41-3-901 through 41-3-938.

Section 3. Severability.

(a) If any section or provision of this regulation, or the application of that section or provision to any person, situation, or circumstance is adjudged invalid for any reason, the adjudication does not affect any other section or provision of these regulations or the application of the adjudicated section or provision to any other person, situation, or circumstance. The State Engineer's Office declares that it would have adopted the valid portions and application of this regulation without the invalid part, and to this end the provisions of this regulation are declared to be severable.

Section 4. Communications and Transmittal of Documents.

(a) All communications concerning the right to use groundwater shall be addressed to the Ground Water Division, State Engineer's Office, Herschler Building, 4th Floor East, Cheyenne, Wyoming 82002. The Ground Water Division can also be contacted by telephone at (307) 777-6163, or by electronic mail.

(b) Communications May Also be Transmitted Electronically as Follows:

(i) Documents authorized to be received electronically and processed by the Ground Water Division, State Engineer's Office.

(A) Application for Permit to Appropriate Ground Water (Form U.W. 5).

(B) Statement of Completion and Description of Well or Spring (Form U.W. 6).

(C) Proof of Appropriation and Beneficial Use of Ground Water (Form U.W. 8).

(D) Map to Accompany Proof of Appropriation and Beneficial Use of Ground Water (with seal affixed by the professional engineer or land surveyor that prepared the map).

(E) State Engineer Petitions (groundwater related).

(F) Letters.

(G) Requests.

(H) Reports.

(I) Affidavits.

(ii) Documents not authorized to be received electronically and processed by the Ground Water Division, State Engineer's Office.

(A) Any document that statutorily requires an original, notarized signature be submitted to the Ground Water Division.

(c) The Manner in Which Electronic Documents may be Transmitted to the Ground Water Division, State Engineer's Office for Processing are Limited to the Following:

(i) Documents submitted through the "e-Permit" program of the State Engineer's Office.

(ii) Electronic mail.

(iii) Images or documents (either original or scanned) attached to an electronic mail.

(iv) Digital storage device (such as compact disk, DVD (for some mapping programs), or jump drive).

(v) Facsimile.

(d) Receipt Date of Documents Submitted Electronically.

(i) Documents received before 5:00 p.m. Mountain Time on a regular business day will be dated "received" that day.

(ii) Documents received after 5:00 p.m. Mountain Time will be dated “received” on the next regular business day.

Section 5. Definitions.

(a) Additional definitions are contained in Wyoming Statute §§ 41-3-901, 41-3-903, and 41-3-101.

(b) “Agent” means the person who has been designated by the applicant/permittee to act on the applicant’s/permittee’s behalf.

(c) “Applicant” means a person that has completed and submitted an Application for Permit to Appropriate Ground Water (Form U.W. 5) that has not been, or is in the process of being, approved by the State Engineer.

(d) “Artesian Well” means a well that derives its water from an artesian or confined aquifer where the hydrostatic pressure is greater than atmospheric pressure thereby raising the water level above the top of the aquifer. A flowing artesian well has a water level that is above the land surface.

(e) “CBM Well” means any well constructed for the purpose of retrieval of coalbed natural gas.

(f) “Cathodic Protection Well” means any artificial excavation constructed by any method for the purpose of installing equipment or facilities for the electrical protection of metallic equipment in contact with the ground.

(g) “Coalbed Methane Well” (see CBM well).

(h) “Coalbed Methane Use” means water produced in the production of coalbed natural gas.

(i) “Dewatering Well” means any well or excavation constructed for the purpose of removing groundwater to facilitate a process that would not be possible due to the presence of groundwater, such as mine dewatering, gravel pit dewatering, or construction site dewatering.

(j) “Domestic Use” means household use within three or less single family dwellings including the watering of lawns, landscape areas, and gardens for noncommercial family use where the total area to be watered does not exceed one (1) acre, and the use of water to heat or cool the dwellings; the total instantaneous flow rate of which shall be 25 gallons per minute or less.

(k) “Facility” means, but is not limited to, a well, pump(s), storage tank(s), valve(s), etc, necessary to utilize groundwater.

(l) “GPS” or “Global Positioning System” means a satellite-based navigation system used to electronically determine a user’s position on the surface of the earth.

(m) “Geophysical Log” means, the graphical representation of the physical properties of the surrounding medium within a borehole, such as Resistivity, Spontaneous Potential, Gamma Ray, Neutron, or Cement Bond.

(n) “Geophysical Well (boring)” means any underground boring specifically constructed for the purpose of determining the physical properties of the near-surface geologic stratum and from which groundwater is neither anticipated to be encountered nor used in any manner.

(o) “Geotechnical Well (boring)” means any underground boring specifically constructed for the purpose of determining the physical properties of the geologic stratum and from which groundwater is not used in any manner.

(p) “Geothermal Well” means a well that produces fluid heated by the natural heat of the earth but excluding oil, hydrocarbon gas, other hydrocarbon substances or miscellaneous minerals.

(q) “Groundwater” means underground water as defined in Wyoming Statute § 41-3-901. The terms groundwater, underground water, and ground water are used interchangeably and share a common definition.

(r) “Heat Pump Well” means any well constructed to utilize the heat exchange properties of either groundwater or of geological material penetrated by the well.

(s) “Industrial Use” means water use that creates another product of value, and includes groundwater used in oil field secondary recovery operations, industrial processing, and mining.

(t) “Injection Well” (see Waste Disposal Well).

(u) “In-Situ Mineral Extraction Well” means any well constructed for the purpose of underground mineral extraction or recovery in which water is either co-produced with the mineral or is used as the vehicle to deliver the mineral to the extraction point.

(v) “Irrigation use” means watering of any lands for agricultural purposes not covered by the definition of domestic use.

(w) “Miscellaneous Use” means any use of water not defined as another type of use definition such as stock-watering pipelines, reservoir supply, subdivisions, mine dewatering, mineral/oil exploration drilling, or potable supplies for an office.

(x) “Monitoring Well” means a groundwater level observation well or a well from which water samples are retrieved for water chemistry analysis.

(y) “Municipal Use” means use of water within a municipality which is delivered through the common municipal water supply system.

(z) “Natural Gas Well” (see Oil Well).

(aa) “Observation Well” means a well which is utilized to observe or track groundwater levels.

(bb) “Oil Well” means any well constructed for the primary purpose of production of oil, natural gas, or other hydrocarbons by means recognized by the oil and natural gas industry.

(cc) “Permittee” means a person that has completed an Application for Permit to Appropriate Ground Water (Form U.W. 5) and has received approval from the State Engineer to proceed with the construction of a well.

(dd) “Pollution Remediation Well” means any well constructed for the purpose of removing or treating polluted groundwater.

(ee) “Spring” means a point location where groundwater emanates from bedrock or soil to the surface.

(ff) “Spring Development” means a spring which has been excavated in a manner employing some type of artificial development, such as collection boxes or perforated pipes, or cribbing, to stabilize the excavation, and the water from which has been diverted at the spring location away from its natural watercourse and conveyed to the point(s) or area(s) of use or storage.

(gg) “Stock Water Pipeline” means a pipeline that conveys water for stock watering purposes to a point or points of use that is/are: 1) one (1) mile or more in distance from the source well(s) and/or, 2) conveys water to more than four (4) stock watering points of use.

(hh) “Stock Watering Use” means livestock use of equal to or less than 25 gallons per minute at four or less points of use within one (1) mile of a water supply well or spring.

(ii) “Test Well” means a well that is constructed to determine one or more physical characteristics of the aquifer(s) in which it is completed, such as flow rate, water quality, or formation characteristics, and which may or may not be completed for beneficial use.

(jj) “Waste Disposal Well” means any well constructed for the purpose of subsurface injection or disposal of waste materials.

Section 6. Fees Required for Filing Instruments.

(a) A list of fees required for filing instruments in the State Engineer's Office can be obtained at that office or can be found on the Wyoming Secretary of State's Office website at <http://soswy.state.wy.us/Rules/default.aspx>, under General Agency, Board or Commission Rules, State Engineer, Fees.

Section 7. Persons Authorized to Perform Construction, Alteration, or Rehabilitation Activities on Wells.

(a) Only licensed water well drilling contractors and licensed water well pump installation contractors are authorized to construct, alter, or rehabilitate a well or perform any activity related to the construction, alteration, or rehabilitation of a well or the installation of a pump in a well, except as exempted by statute. (Wyoming Statutes §§ 33-42-101 through 33-42-117).

Section 8. Maintenance of Water Level or Artesian Pressure.

(a) In the interest of an orderly development of the groundwater resource, the State Engineer is under no obligation to maintain the water level or artesian pressure in any well beyond that required for maximum beneficial use of the water in the source of supply. To realize maximum beneficial use of water in the source of supply, it is incumbent on the permittee to construct their well to a depth that will allow for beneficial use of the entire groundwater resource in a particular formation, and to situate the pumping equipment in the well, if required by the situation, at a sufficient depth to allow pumping of water when the groundwater resource is being stressed due to heavy seasonal pumping and/or when water levels have declined. (Wyoming Statute § 41-3-933).

Section 9. Responsibility of Permittee to Maintain Well.

(a) Wells are mechanical devices and, over time are prone to increased inefficiency and perhaps even failure. The permittee is responsible for conducting regular maintenance on their well to maintain maximum efficiency and realize maximum beneficial use of the water in the source of supply.

Section 10. Allowable Distance From Bodies of Surface Water.

(a) There is no set minimum distance that a well must be constructed away from a stream, river, reservoir, or other body of surface water. However, in the event that water produced from the well and surface water are so interconnected that they constitute one source of supply, a single schedule of priorities shall apply. (Wyoming Statute § 41-3-916). If water production from the well is injurious to senior priority water right holder(s) using water from the common source, the user of the well may be ordered to reduce or cease water production to eliminate injury to the senior priority water right holder(s). In some cases, this determination may be made without the formal interference complaint detailed below.

Section 11. Control Areas.

(a) The Wyoming State Board of Control has the authority under Wyoming Statute § 41-3-912 to designate Control Areas for the reasons stated therein. See Chapter 2, Section 4 (c).

Section 12. Interference Complaints.

(a) The ability of the State Engineer to investigate interference complaints is outlined in Wyoming Statute § 41-3-911. The complaint shall be accompanied by the statutory fee.

(b) The investigation may involve various types of data collection and analysis, the installation and instrumentation of monitoring wells, stream gages, and other types of water measurement devices, and may take multiple years to conduct and complete.

(c) In Making a Determination of Whether the Alleged Interference Does Exist, Factors that May be Considered Include, But are Not Limited to:

(i) Whether the wells or points of diversion involved are authorized to be beneficially using water under permit or water right.

(ii) Whether any interference, if observed, is unreasonable.

(iii) Whether the wells or points of diversion involved are adequate. In making this determination, factors that may be considered included, but are not limited to:

(A) Well Depth. In general, wells must be completed in a manner that allows maximum beneficial use of the groundwater resource. Wells must be constructed to a depth that allows fluctuations in water levels and reasonable interference from other appropriators.

(B) Well Maintenance. Well owners are responsible for making reasonable efforts to maintain their wells in adequate condition and to troubleshoot their wells. For example: The casing must be intact. The perforations must not be plugged. Wells must not have filled with sand, silt, or other formation materials. The delivery system must not have become corroded or plugged by scale. Unsaturated zones must not have robbed artesian flow because of poor well construction or damage.

(C) Well Construction. Wells must be constructed in a manner that allows water to efficiently enter and flow out of the well.

(d) Following the investigation, the State Engineer will issue a report stating his findings and suggestions on various means of stopping, rectifying, or ameliorating the interference or damage.

(e) Any interested appropriator who is dissatisfied with the results of the foregoing procedure may proceed under the applicable provisions of the Wyoming Administrative Procedures Act. If a hearing is to be held, it shall be held before the appropriate Division Superintendent. The Division Superintendent shall report to the Board of Control at its next meeting. The Board shall issue its order to include Findings of Fact and Conclusions of Law.

(f) This section is not applicable to interference between two surface water rights.

Section 13. Interstate Use of Groundwater.

(a) Specific authorization by the Legislature of the State of Wyoming to utilize groundwater outside the boundaries of the State of Wyoming shall be secured in the event that the amount of water to be transferred or used outside the state is greater than or equal to 1,000 acre-feet of water per year, as outlined in Wyoming Statute § 41-3-115.

Section 14. Appeals.

(b) Any person aggrieved by an Order of the State Engineer concerning groundwater, or by his failure to act, or by an endorsement of the State Engineer, may appeal in the manner provided by Wyoming Statute § 41-4-517 and the Wyoming Administrative Procedure Act [Wyo. Stat. Ann. §§ 16-3-101 through 16-3-115].

CHAPTER II

PROCEDURES AND GENERAL INSTRUCTIONS FOR OBTAINING A GROUNDWATER RIGHT

Section 1. Who is Required to File.

(a) Any person that intends to construct a well or spring or beneficially utilize groundwater must obtain an approved permit from the State Engineer before commencing construction on any groundwater development, including test holes. An approved permit represents authorization from the State for a permittee to attempt to develop and use water for the beneficial use(s) within the permit terms, and within the limitations listed such as on the use, area of use or rate of appropriation. The State Engineer maintains a list of recognized beneficial uses.

(b) In cases where a well has been drilled for some purpose other than to obtain water, and is then converted or utilized as a water well, a permit approved by the State Engineer must be obtained before the water from the well is beneficially used.

(c) Approved permits were not required from the State Engineer before constructing or using wells prior to May 24, 1969 which were used strictly for domestic and/or stock watering purposes. Nothing herein shall prevent the continued use of water from a well constructed prior to May 24, 1969 and used strictly for domestic and/or stock watering purposes as of that date without benefit of a water right. However, in the absence of a right granting the use of water produced from the well, persons using these types of wells cannot re-construct the well or use the well as the basis for a claim of interference without securing a right to use the well prior to undertaking such actions; nor are they protected with or exempted from other groundwater authorities of the State Engineer. It is the burden of the user to prove that a domestic or stock well was constructed prior to the statutory requirement for a permit.

(d) Expanded use or production beyond that authorized under an existing permitted well or spring requires an “enlargement” permit on the same facility. See Section 4(b)(iv) below.

Section 2. Activities That Do Not Require a Permit.

(a) So Long as No Beneficial Use of Groundwater is Made, a Permit From the State Engineer is Not Required for the Following Kinds of Activities:

- (i) Cathodic Protection Well.
- (ii) Geophysical or Geotechnical Boring.
- (iii) Heat Pump Well.

- (iv) Oil and/or Natural Gas Well, except for CBM wells.
- (v) Waste Disposal and/or Injection Well.
- (vi) Monitoring/Observation Well.

Section 3. General Requirements for Application Forms.

(a) Forms necessary to establish, complete, or alter a permit or groundwater right may be obtained from the Ground Water Division, Wyoming State Engineer's Office in Cheyenne or from the Ground Water Division Home Page on the State Engineer's Office website at: <http://seo.wyo.gov>. Substitute forms must be approved by the State Engineer's Office.

(b) Application forms shall not be folded or defaced either by crossing out or erasing printed matter; by pasting sheets of paper over the printed matter; or by electronically altering the format or content of the application form. Information provided on application forms should be typed or completed neatly with black ink. If the form does not allow for proper explanation of a proposed use of groundwater, an explanatory note shall be provided in the space provided for "REMARKS". In the event the proposal cannot be adequately described in the "REMARKS" section, an attachment sheet or cover letter should be submitted with the application that fully outlines the proposal. All applications must be signed and dated by the applicant or his authorized agent. If the application is in the name of a company, corporation, municipality or other entity, the title of the person signing the application must be provided directly behind or below the signature.

Section 4. Applications to Appropriate Groundwater.

(a) New Wells or Spring Developments.

(i) All Wells.

(A) An Application for Permit to Appropriate Ground Water (Form U.W. 5) must be filed, and a permit approved by the State Engineer, before initiating construction of any well or other works which would utilize groundwater (including domestic and/or stock wells), or before utilizing water from any existing unpermitted water well (except those wells or other works exempted from permitting requirements as outlined in Section 1(c) of this chapter), or before utilizing water from any existing water well for a purpose not previously permitted. An approved permit must also be obtained when a well is completed for any non-water related activity such as mineral exploration or seismograph, and is then converted so that water can be withdrawn and beneficially used, prior to the use of water from the converted well.

(ii) Spring Developments.

(A) Applications to use water from springs, where the total yield or flow is 25 gallons per minute or less and where the proposed use is for stock watering and/or domestic purposes, shall be filed in accordance with the procedures for appropriating groundwater, provided that the following conditions will be met:

(I) The area of the spring will be excavated in a manner employing some type of artificial development, such as collection boxes, perforated pipes, or cribbing, to stabilize the excavation before a permit to appropriate the water from a spring will be considered a valid groundwater appropriation.

(II) The water from a spring will be diverted at the spring location in a manner away from its natural watercourse and conveyed to the point(s) or area(s) of use or storage.

(B) If both conditions (A)(I) and (A)(II) will be met, the appropriation of spring water by groundwater procedures is to be filed on the Application for Permit to Appropriate Ground Water (Form U.W. 5). All of the requested information must be provided. The fact that a spring is to be developed and the proposed method of development must be noted in the "REMARKS" portion of the application.

(C) If the conditions of (A) above do not apply, an application to appropriate spring waters shall be filed in accordance with surface water rules.

(b) Existing Wells or Spring Developments.

(i) When registering an existing, un-permitted water well or spring development which is being beneficially used, the following forms shall be submitted:

(A) Application for Permit to Appropriate Ground Water (Form U.W. 5).

(B) Statement of Completion and Description of Well or Spring (Form U.W. 6).

(C) Proof of Appropriation and Beneficial Use of Ground Water (Form U.W. 8).

(ii) For certain types of uses, such as domestic and/or stock watering, the Proof of Appropriation and Beneficial Use of Ground Water (Form U.W. 8) does not need to be submitted. See Chapter III, Section 3.

(iii) For Spring Developments, the conditions of Chapter 2, Section 4(a)(ii)(A) must be met.

(iv) Enlarging the use of an existing, permitted, well or spring development.

(D) If a person desires to establish a right to use water from an existing, permitted well or spring development in a manner above and beyond what is authorized by an existing permitted use, an enlargement application (Application for Permit to Appropriate Ground Water (Form U.W. 5)) shall be submitted to the State Engineer's Office, and an approved permit secured prior to enlarging the use of water from the well or spring development.

(I) The name of the facility shall be specified as "Enlargement of (the original name of the well or spring development)".

(II) The application shall specify what additional use of the water is requested (for example: an increase in instantaneous flow rate, additional total volumetric quantity, additional use(s), additional point(s) or area(s) of use, or additional irrigated acreage).

(E) The Proof of Appropriation and Beneficial Use of Ground Water (Form U.W. 8) shall follow Wyoming Statute § 41-3-935 and be submitted to the State Engineer's Office upon completion of beneficial use for all enlargement permits, with the exception of Coalbed Methane Use permits. However, the Statement of Completion and Description of Well or Spring (Form U.W. 6) is not required to be submitted for enlargement permits. In the event that the use of water beyond what is authorized by the existing water right is occurring at the time the enlargement application is submitted, the Proof of Appropriation and Beneficial Use of Ground Water (Form U.W. 8) should be submitted with the enlargement application. See Chapter III, Section 3.

(c) Applications in Control Areas.

(i) The procedure for obtaining an approved permit to appropriate groundwater in a Control Area is outlined in Wyoming Statute § 41-3-932 and is as follows:

(A) An Application for Permit to Appropriate Ground Water (Form U.W. 5) must be filed in the State Engineer's Office.

(B) The application is then processed by the Ground Water Division staff of the State Engineer's Office.

(C) After the application for any use, other than domestic and/or stock watering purposes or miscellaneous purposes where the proposed yield of the well does not exceed twenty-five (25) gallons per minute, is filed and processed, it

will be advertised at least once a week for three (3) consecutive weeks in a newspaper of general circulation in the county where the well is to be located. The advertising procedure provides notice to other appropriators holding existing groundwater rights that a groundwater development is proposed and affords them an opportunity to voice objections to the granting of the permit for the proposed development. The cost of the advertisement is borne by the applicant.

(D) If objections to the granting of a permit are filed within the time specified in the notice, the State Engineer may set a Prehearing Conference to be attended by the applicant and any objectors to address all pending motions, challenges to admissibility of exhibits, the testimony of witnesses, and any other matter raised by the parties. If the applicant questions the standing of the objector(s), the state engineer shall make written findings of fact on the issue and may overrule the objection on that basis. If, after attending the Prehearing Conference, parties wish to proceed with both the application and any objections, and the State Engineer has overruled any objection to the objector's standing, the State Engineer shall hold a public hearing as required by law. The State Engineer, for good cause shown, may impose costs of the hearing proportionally upon the applicant and the objector(s). The Control Area Advisory Board will submit its advice and recommendation to the State Engineer following the hearing.

(E) If no objections are filed, or if objections have been filed as outlined in Chapter 2, Section 4(c)(i)(D), and later withdrawn, but the State Engineer is of the opinion that the application may be detrimental to the public interest, the State Engineer shall hold a public hearing as required by law. The State Engineer may, for good cause shown, impose costs of this hearing upon the applicant. The Control Area Advisory Board will submit its advice and recommendation to the State Engineer following the hearing.

(F) If no valid objections are filed and no public hearing is otherwise required, the Control Area Advisory Board will then consider the application. If the Control Area Advisory Board desires additional information, the applicant may be invited to appear informally before the Control Area Advisory Board. The Control Area Advisory Board will then submit its advice and recommendation to the State Engineer.

(G) The State Engineer, acting with the advice and recommendation of the Control Area Advisory Board, will then take the application under consideration.

(d) Application for Temporary Water Use.

(i) The right to divert or store water for temporary purposes may be acquired by following the same procedures as for other new uses or by complying with the provisions of Wyoming Statutes §§ 41-3-110 through 41-3-112.

(ii) New Wells.

(A) The procedure followed is the same as for filing applications for permits for other new uses.

(B) Such a right is issued only for a limited time, generally only long enough to complete the temporary use, after which the permit is automatically cancelled.

(iii) Existing Wells or Spring Developments.

(A) A second means of acquiring the right to the use of water for temporary purposes is by following the provisions of Wyoming Statutes §§ 41-3-110 through 41-3-112. These statutes authorize the temporary acquisition of an existing adjudicated water right or valid unadjudicated permit, not to exceed a two-year period of time, for temporary use. Only that portion of a water right or permit which has been consumptively used under historical practices may be acquired for temporary purposes.

(e) Application for the Appropriation of By-Product Water.

(i) By-product water may be appropriated using groundwater procedures only if the provisions of Wyoming Statute § 41-3-904(a)(i) & (a)(ii) are met and an Application for Permit to Appropriate Ground Water (Form U.W. 5) shall be filed. Some modification of various items on the application form will be necessary, depending on whether oil and gas activities or various methods of mining are resulting in the production of such by-product water. If a well drilled for some nonwater-related activity is converted to use as a groundwater well, the application form will not need any modification.

(ii) If the by-product water is to be appropriated by a person other than the developer of the by-product water, a copy of the agreement executed between the developer/grantor and the applicant/grantee must accompany all applications to appropriate by-product water using groundwater procedures.

(iii) In the case of oil well separators, the number of producing oil wells tied to the separator and the formation(s) from which the wells are producing shall be provided in the "REMARKS" portion of the application. The location of the separator is required to be identified on the application as well as the point(s) or area(s) of use. Immediately following Item No. 6 (depth of well) on the application form (the proposed depth of the well), it must be noted that the facility is an oil well separator.

(iii) When by-product groundwater resulting from underground mining activities is to be appropriated, the location of the mine sump and the point(s) or area(s) of use is required to be identified on the application form. It shall be noted in the

“REMARKS” portion of the application that underground mining is involved. Some modification of Item Nos. 5 and 6 on the application form will be necessary.

(v) When by-product groundwater from open-pit mining activities is to be appropriated, the applicant shall specify the original 40-acre location of the pit or sump in Item No. 5 on the application form. The applicant shall specify the boundaries within which the open-pit mining is to take place and shall provide an estimate of the time schedule for the mining operation.

(v) The State Engineer may impose conditions and/or limitations as the State Engineer deems necessary to administer such appropriations of by-product water.

(f) Application for the Appropriation of Geothermal Steam and Hot Water.

(i) Geothermal steam and hot water are considered groundwater for the purpose of administration. A permit to appropriate groundwater shall be obtained from the Wyoming State Engineer to explore for or before geothermal steam or hot water may be utilized. A person contemplating the development of geothermal steam or hot water should contact the State Engineer's Office for additional information.

(g) Application to Appropriate Groundwater Within 15 miles of Yellowstone National Park.

(i) Applicants intending to appropriate groundwater, geothermal or otherwise, from facilities to be located within 15 miles of the boundaries of Yellowstone National Park for any purpose other than domestic and stock purposes as defined in Wyoming Statute § 41-3-907 are required to submit a geohydrologic report prepared by a qualified professional showing that the proposed development will not impair or produce an injurious effect on the hydrothermal system or hydrothermal features located within the boundaries of Yellowstone National Park.

Section 5. Permit Conditions and Limitations.

(a) The State Engineer may place conditions and limitations on any groundwater permit, at the time the permit is granted, to manage groundwater resources and protect the public interest. (Wyoming Statute § 41-3-933). Compliance with any and all permit conditions and limitations is mandatory and is the responsibility of the appropriator. If compliance with any permit condition or limitation is not achieved, the groundwater permit may ultimately be cancelled/forfeited. The permittee should read and understand all conditions and limitations of an approved permit. Typical additional conditions and limitations may include, but are not limited to, well construction methods, metering of the amount of water produced, making periodic measurements of static and pumping water levels in the well, and periodically reporting the amount of water produced and the water levels measured.

Section 6. Time Limit to Complete Well or Spring Construction and Apply Water to Beneficial Use.

(a) If a permit is granted, the permittee shall complete the construction of the permitted well or spring development and apply water to beneficial use before the date specified by the State Engineer in the conditions of approval, which shall not be more than three (3) years after the date of approval.

CHAPTER III

REGULATIONS AND PROCEDURES FOR COMPLETING THE GROUNDWATER RIGHT PROCESS

Section 1. Requirement to Complete the Process of Proving Beneficial Use.

(a) A Permittee shall complete the process of putting water to beneficial use and providing proof of such use in accordance with these regulations or the permit may be cancelled.

Note: The first portion of this chapter contains information on completing a generalized process for a permitted use which is required to be adjudicated by statute. The remainder of the chapter describes various exceptions to the requirements of this process depending on the nature of the permitted use, what is necessary to secure additional time to complete the requirements if necessary, and further explanation of specific procedures to complete the requirements.

Section 2. Requirement for Submittal of Statement of Completion and Description of Well or Spring (Form U.W. 6) and Proof of Appropriation and Beneficial Use of Ground Water (Form U.W. 8); Submittal Deadlines.

(a) Statement of Completion and Description of Well or Spring (Form U.W. 6).

(i) A Statement of Completion and Description of Well or Spring (Form U.W. 6) shall be submitted by the permittee to the State Engineer's Office within thirty (30) days after the completion or abandonment of a well or spring development.

(b) When a Well is Considered Complete.

(i) Wells that Require a Pump.

(A) Completion occurs when it is possible to install a pump and produce water.

(B) It is recommended that Form U.W. 6 not be submitted until a pump, if necessary, is installed and the well is capable of producing water.

(ii) Artesian Wells which do not require a Pump.

(A) Completion occurs when the drill rig is moved off of the drilling site.

(iii) Spring Developments.

(A) Completion occurs when a structure or device used to divert water from the spring is installed.

(c) Proof of Appropriation and Beneficial Use of Ground Water (Form U.W.8).

(i) The Proof of Appropriation and Beneficial Use of Ground Water (Form U.W. 8) shall follow Wyoming Statute § 41-3-935 and be submitted by the permittee to the State Engineer's Office within thirty (30) days after water is put to beneficial use for all of the uses specified on the permit that the permittee desires to exercise.

Section 3. Exceptions to Requirement for Submittal of Statement of Completion and Description of Well or Spring (Form U.W. 6) and Proof of Appropriation and Beneficial Use of Ground Water (Form U.W. 8).

(a) For permits where the use is restricted to Domestic and/or Stock Watering, completion of beneficial use is achieved when the State Engineer approves the Statement of Completion and Description of Well or Spring (Form U.W. 6).

(b) For permits which are enlargements, no Statement of Completion and Description of Well or Spring (Form U.W. 6) must be submitted. However, an acceptable Proof of Appropriation and Beneficial Use of Ground Water (Form U.W. 8) must be submitted to the State Engineer to complete the requirement of proving beneficial use.

(c) For permits issued for common water supply systems serving subdivisions, beneficial use is accomplished when the water system's main supply lines have been installed and the individual subdivision lots have reasonable access to the main supply lines.

Section 4. Extensions of Time.

(a) If compliance with the time periods set forth in the permit for well or spring completion or application of groundwater to beneficial use cannot be met, the permittee may request that the State Engineer grant an extension of time. Such a request must be in writing, detail the reason(s) for the requested extension of time, and must be received in the State Engineer's Office prior to the expiration date of the permit. For good cause shown, the State Engineer may, before the date of expiration, extend any or all of these periods.

Section 5. Adjudication of Permitted Water Rights.

(a) Adjudication Shall Proceed for the Following Use Categories.

- (i) Irrigation.
- (ii) Municipal.
- (iii) Industrial.
- (iv) Miscellaneous.

(v) If a permit is enlarged, and the enlarged use is to be adjudicated, the underlying original permit must also be adjudicated if not adjudicated previously.

(b) Adjudication Need Not Proceed for the Following Use Categories or Permit Types.

- (i) Domestic.
- (ii) Stock Watering.
- (iii) Time-Limited Permits.

(c) The State Engineer or the applicant may initiate adjudication of Domestic and/or Stock Watering use permits.

(d) Submittals and Inspection Required to Prepare a Water Right for Adjudication.

(i) Part I – Submission of Proof of Appropriation and Beneficial Use of Ground Water (Form U.W. 8).

(A) The permittee shall submit a Proof of Appropriation and Beneficial Use of Ground Water (Form U.W. 8) which indicates that the water has been applied to beneficial use in accordance with the permit approved by the State Engineer.

(ii) Part II – Submission of Map and Proof of Ownership.

(A) The permittee shall submit a map, certified by an engineer or land surveyor licensed to practice within the State of Wyoming (which shall accompany the Proof of Appropriation and Beneficial Use of Ground Water (Form U.W. 8.)) and proof of ownership of the land(s) upon which the water right is to be exercised. See Chapter III, Section 6 (a).

(iii) Part III – Field Inspection.

(A) Completion of a field inspection (conducted by a representative of the State Engineer's Office) to verify that all documents submitted to establish and complete the water right are accurate and reflect the situation on the ground.

Section 6. Specific Processes Related to Permits for Which Adjudication Shall Proceed.

(a) Submission of Map to Accompany Proof of Beneficial Use.

(i) If the Proof of Appropriation and Beneficial Use of Ground Water (Form U.W. 8) is received, is complete, and is accepted by the State Engineer, the permittee shall submit the map in a timely fashion. Failure to submit a map may ultimately cause the State Engineer to seek to order the adjudication of the permit.

(ii) The information submitted on the Proof of Appropriation and Beneficial Use of Ground Water (Form U.W. 8) and the map are used as a basis for the adjudication of the permit. Additional information regarding map requirements is found in Chapter VI.

(b) Field Inspection.

(i) When all required documents have been received and approved by the State Engineer, a field inspection will be performed to verify all information submitted. (Note: Such inspections are generally conducted by a staff member from the Ground Water Division of the State Engineer's Office.)

(c) Submittal of Proof of Appropriation.

(i) Following the inspection, concurrence with the findings of the inspection by the permittee is memorialized through the signing and filing of the Proof of Appropriation and Beneficial Use of Ground Water (Form U.W. 8iii) with the Wyoming Board of Control.

(ii) See the Regulations and Instructions of the Wyoming State Board of Control for information regarding the remainder of the adjudication process.

(d) Elimination of Uses Not Made.

(i) Any use approved by the original permit for which the permittee cannot demonstrate beneficial use will be eliminated from the water right prior to adjudication.

CHAPTER IV

INSTRUCTIONS FOR MODIFYING GROUNDWATER PERMITS OR ADJUDICATED GROUNDWATER RIGHTS

Section 1. Relocations/Deepenings of Existing Wells or Spring Developments.

(a) A person with a valid permit or adjudicated water right may obtain authorization to relocate and/or deepen an existing well or spring development.

(b) Procedure for Relocating/Deepening an Existing Well or Spring Development.

(i) Authorization to relocate an existing well or spring development and to appropriate water from the relocated well or spring development can be secured through the submission to and approval by the State Engineer of an Application to Relocate and/or Deepen an Existing Well for the following types of permits.

(A) A permit for which adjudication need not proceed (such as domestic and/or stock watering uses and time-limited permits).

(B) A permit for which adjudication shall proceed but has not been adjudicated nor established beneficial use.

(ii) Authorization to relocate an existing well or spring development and to appropriate water from the relocated well or spring development can be secured through the submission to and approval by the Wyoming State Board of Control of a Petition for Relocation (Replacement) of Existing Well or Change of Location of Well for the following types of permits.

(A) A permit that has been adjudicated, including those domestic and stock watering rights adjudicated through “The General Adjudication Of All Rights To Use Water In The Big Horn River System And All Other Sources, State Of Wyoming”.

(B) A permit which has established beneficial use and for which adjudication shall proceed, but has not yet completed the remainder of the adjudication process.

(C) In the case of wells or spring developments which fall into the categories outlined in Chapter IV, Section 1(b)(ii), above, when a need arises to relocate a well or spring development prior to review of a petition submitted to the Wyoming State Board of Control, the Superintendent of the Water Division in which the well or spring development is located can approve an Application for Temporary Change

in Location of Well. In the case of those domestic and stock water rights adjudicated through the “The General Adjudication Of All Rights To Use Water In The Big Horn River System And All Other Sources, State Of Wyoming”, the Application for Temporary Change in Location of Well and the Petition for Relocation (Replacement) of Existing Well may be filed at the same time on the same form.

(D) Authorization to deepen an existing well or spring development under a permit which falls into the categories outlined in Chapter IV, Section 1(b)(i) and 1(b)(ii), above, and to appropriate water from the deepened well or spring development under the existing permitted use can be secured through the submission to and approval of the State Engineer of an Application to Deepen an Existing Well.

(c) If a person desires to relocate and/or deepen an existing well or spring development, and the existing well or spring development is not permitted, an approved Application for Permit to Appropriate Ground Water (Form U.W. 5) must be submitted and approved prior to undertaking the work to relocate and/or deepen the existing well or spring development.

(d) A Person Desiring to Relocate and/or Deepen a Well or Spring Development Shall Meet All of the Following Conditions:

(i) The original well or spring development must be plugged and abandoned as prescribed in the Regulations and Instructions of the State Engineer, Part III, Water Well Minimum Construction Standards, unless the original well or spring development will be used in the future under a different permit, which may or may not involve a petition to the Wyoming State Board of Control, or unless the original well or spring development was deepened, but not relocated.

(ii) The relocated well or spring development must be in close proximity to the original well or spring, usually within the same quarter-quarter of the section in which the well or spring development is located.

(iii) The amount of water, both on an instantaneous flow rate and total volumetric quantity basis, shall not exceed what was historically produced from the original well or spring development under the limits of the permit.

(iv) The uses of water from the relocated/deepened well or spring development shall not deviate from those for which the original well or spring development was authorized.

(v) Water shall be withdrawn from the same aquifer in the relocated/deepened well or spring development as the original well or spring development.

(vi) No injury to any other appropriator shall occur as a result of the action to relocate or deepen the well or spring development.

Section 2. Assignments.

(a) Upon adjudication, a permitted water right attaches to the points or area where the use of the water is adjudicated. Ownership of a permit, whether the permit has been adjudicated or not, is conveyed when the property to which the permit is attached is sold, unless special provisions are made as a condition of the sale. It is not necessary for the former permit owner to formally assign the interest in a permit to the new owner in order for the new owner to continue to use and enjoy the benefits of the permit. When property and the attaching permit are sold or transferred and the new property owner wishes to assign the interest in a permit to themselves as reflected upon the records of the State Engineer's Office (as the current owner of the property on which the water is used), the assignment action can be accomplished in one of two ways:

(i) The owner of record of a permit (according to State Engineer records) can complete and submit an Assignment of Permit for Wells to change the record to reflect the current ownership of the permit.

(ii) The current owner of the land on which the permitted water is used can submit confirmation (normally in the form of a recorded Warranty Deed for the property) to the State Engineer demonstrating that they are the rightful owner of the permit, along with a request that the State Engineer assign the permit to them.

Section 3. Additional Points or Areas of Use.

(a) Certain types of temporary permits may include a provision that additional points or areas of use can be supplied with water for the authorized purposes without applying for a new or enlargement permit if a written request is submitted and approved by the State Engineer prior to using water at the additional points or areas of use.

Section 4. Change in Location of Mining Pit Sump.

(a) Certain types of temporary permits contain the provision that the location of mining pit sump(s) can be changed and used for the permitted use(s) without the issuance of a new permit if a written request is submitted and approved by the State Engineer prior to producing water from the new location of the mining pit sump(s).

Section 5. Physical Abandonment of a Well or Spring Development.

(a) In the event that a well or spring development is to be permanently abandoned, the well or spring development shall be physically plugged and abandoned as prescribed in the Regulations and Instructions of the State Engineer, Part III, Water Well Minimum Construction Standards.

(b) When the plugging and abandonment procedure is completed, the State Engineer shall be notified that the work has been completed through submission (by the current owner) of an Abandonment Notice or a written notice in the form of a letter. In the event the abandonment procedure occurs during the initial construction phase of the well or spring development, notification can be provided on the Statement of Completion and Description of Well or Spring (Form U.W. 6).

(c) Upon notification to the State Engineer that a well or spring development has been physically plugged and abandoned, and the water right has not been adjudicated, the permit is cancelled and shall be noted as such in the records of the State Engineer.

(d) Upon abandoning a well or spring development after the water right has been adjudicated, a Petition for Voluntary Abandonment shall be submitted to the Wyoming State Board of Control, and upon approval of the petition, the water right is abandoned and shall be noted as such in the records of the Wyoming State Board of Control.

(e) When a well or spring development is temporarily removed from service, it shall be kept in a state of good repair. The top of the well casing shall be sealed with a secure watertight cap that will prevent tampering and entrance of contaminants, animals, or debris.

Section 6. Cancellation of a Groundwater Permit.

(a) In the event that a well or spring development is not to be used in the foreseeable future under the terms of the permit, but is not to be physically abandoned, the permit may be cancelled. If the permit has not been adjudicated, the current owner may request cancellation through the submission of a Cancellation Request or a written notice in the form of a letter to the State Engineer.

(b) During a period when a well or spring development is not in use, it shall be kept in a state of good repair. The top of the well casing or any part of the devices attached to the well or spring development that is open to the atmosphere shall be sealed with a secure watertight cap that will prevent tampering and the entrance of contaminants, animals, or debris.

(c) If the owner desires to reestablish use of an existing well or spring development and any previous permit(s) associated with the use of the well or spring development have been cancelled, a new permit shall be applied for and issued before water is applied to beneficial use.

Section 7. Abandonment of an Adjudicated Groundwater Right.

(a) In the event that a well or spring will not be used in the foreseeable future under the terms of an adjudicated water right, the water right may be abandoned. For the current owner to abandon an adjudicated water right, a Petition for Voluntary Abandonment of the water right shall be submitted to the Wyoming State Board of Control, and upon approval of the petition, the water right is abandoned and shall be noted as such in the records of the Board of Control.

Section 8. Petitions.

(a) Board of Control Petitions.

(i) In the event that a person wishes to amend an adjudicated groundwater right, authority to amend the right must be granted by the Wyoming State Board of Control through the approval of a petition to amend the right.

(ii) All requests to change the type of use of a groundwater permit, whether adjudicated or not, must be submitted in the form of a petition to the Board of Control.

(iii) Petitions submitted for water rights located in a Control Area.

(A) A petition submitted to the Board of Control to amend a groundwater right located in a Control Area must undergo the same general procedure as outlined for applications in Chapter II, Section 4 (c).

(B) The Control Area Advisory Board shall provide advice and recommendation regarding action to be taken on the petition to the Board of Control.

(b) State Engineer Petitions.

(i) A petition shall be submitted to the State Engineer to request amendment of a permit prior to adjudication of the permit (with the exception of a request to relocate as outlined in Chapter 4, Section 1).

(ii) A petition should clearly define that portion or aspect of the permit for which an amendment is sought.

(iii) The State Engineer may correct clerical errors without a written request, and upon written petition, may amend any permit prior to adjudication by the Wyoming State Board of Control as provided in Wyoming Statute § 41-4-514.

(iv) Petitions submitted for permits located in a Control Area must undergo the same general procedure as outlined for applications in Chapter II, Section 4 (c).

CHAPTER V

INSTRUCTIONS FOR PREPARING GROUNDWATER FORMS

Section 1. Application for Permit to Appropriate Ground Water (Form U.W. 5).

(a) An Application for Permit to Appropriate Ground Water (Form U.W. 5) Shall be Completed by the Applicant and/or Applicant's Agent as Follows:

(i) NAME AND NUMBER OF WELL or SPRING.

(A) Provide a short, distinctive name and number to be assigned to the well or spring development; (For example, "Smith No. 1").

(ii) ITEM 1 -- "Name of applicant(s)".

(A) Provide the name(s) of all parties having an interest in the application.

(I) All persons designated as landowners under Item 12 must be shown as co-applicants.

(II) Water rights attach to the lands where they are beneficially used.

(B) If the well or spring development or the point(s) of use on which beneficial use of water is to be made are State of Wyoming Lands, or federally administered lands, the State Board of Land Commissioners or the federal agency administering the lands may be named as co-applicant.

(iii) ITEM 2 -- "Address of applicant(s)".

(A) Enter the current mailing address of each applicant.

(iv) ITEM 3 -- "Name & address of agent to receive correspondence and notices".

(A) If the applicant is a company, corporation, agency, or municipality, or if several persons are named as co-applicants, one person shall be designated as agent to receive all correspondence related to the application.

(v) ITEM 4 -- "Use to which the water will be applied".

(A) Mark the use(s) to which the water will be applied.

(I) See Chapter 1, Section 5 for use category definitions to make this determination.

(II) The number of single family dwellings to be served under domestic use shall be indicated in the blank provided.

(III) The number of stock watering locations to be served under stock watering use shall be shown in the blank provided.

(IV) If groundwater will be used to supply a reservoir (see definition of Miscellaneous Use), the applicant shall determine if a reservoir permit is required. (see State Engineer Regulations and Instructions Part I, Surface Water or applicable policies of the State Engineer).

(vi) ITEM 5 --“Location of the well or spring.”

(A) Provide the name of the county in which the well or spring development is to be located.

(B) Designate the 40-acre subdivision or lot in which the well or spring will be located, and the Section, Township and Range.

(C) Provide the lot and block numbers, the name of the subdivision and its location if the well or spring development is in a city, town, or platted subdivision (Example: “Laramie County, NE ¼ NE ¼, Section 23, T.18 N., R.69 W., Lot 9, Block 6, North Hills Subdivision”).

(I) NOTE: A well or spring development shall not be located outside the 40-acre tract originally specified in the application without prior approval by the State Engineer.

(vii) ITEM 6.

(A) “Estimated depth of the well or spring is”.

(I) Complete the blank space noting the approximate planned total depth (in feet) of the well or spring development, referenced from land surface.

(B) “Estimated production interval is.....”.

(I) Complete the blank space noting the interval (in feet) from which water is anticipated to be produced, referenced from land surface.

(viii) ITEM 7.

(A) “MAXIMUM instantaneous flow of water to be developed and beneficially used:.....”.

(I) Estimate the maximum amount of water that could be produced and beneficially used, in gallons per minute.

(1.) The actual instantaneous flow rate, determined after the well has been drilled and tested, must be equal to or less than the amount listed in Item 7 (a).

(2.) If the application is for domestic and/or stock watering use, the maximum instantaneous rate allowed by statute is 25 gallons per minute.

(3.) For springs and spring waters, only spring developments flowing 25 gallons per minute or less, where the proposed use is domestic or stock watering, will be considered as groundwater appropriations. After the approval of the application, some type of artificial diversion must be constructed for the spring development to qualify for a groundwater permit. The proposed method of development of the spring, and means of conveying the water to the point(s) of use, must be described on the application under REMARKS.

(B) “MAXIMUM volumetric quantity of water to be developed and beneficially used per calendar year”.

(I) Provide the maximum quantity of water to be produced from the well or spring development for the uses indicated.

(1.) Circle appropriate units of measure.

(ix) ITEM 8 – TABULATION BOX.

(A) The point(s) or area(s) where water will be beneficially used must be described in the table provided.

(B) Place an X in the box(es) which indicate the quarter-quarter(s) of the section in which points (or areas) of beneficial use of water will be located; and identify the type of use.

(C) The upper row of the box refers to the quarters of the Section, while the row below refers to the quarter/quarters of the respective Section. (For example; if there will be a house in the NE ¼ of the SW ¼ , and a stock tank in the SE ¼ of the NW ¼ of Sec. 12, T.14N., R.68W, the table shall be marked as follows):

TWN	RGE	SEC	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
14N	68W	12									X	-	1	House					
14N	68W	12								X	-	1	Stock Tank						

(x) ITEM 9 -- “If for irrigation use, describe MAXIMUM acreage to be irrigated”.

(A) Indicate the number of acres to be irrigated in each 40-acre subdivision in the TABULATION BOX in ITEM 8.

(B) If the land will be irrigated only from the well described in this application, check the appropriate box under Item 9.

(C) If the land has existing water rights, check the appropriate box under Item 9 and describe the existing rights under “REMARKS”.

(D) If the lands are owned by more than one person, indicate which lands are owned by each individual.

(E) If a portion of the lands are owned by the State of Wyoming and/or a federal government agency, indicate which lands are owned by the applicant or applicants and which are administered by governmental agencies.

(xi) ITEM 10 –“If for irrigation use, describe method of irrigation:”.

(A) Describe the method or type of system by which the lands will be irrigated, (i.e. flood, center pivot sprinkler, side roll sprinkler, drip system, etc).

(xii) ITEMS 11 and 12.

(A) Identify the owner or owners of the land on which the well or spring is to be constructed and the owner or owners of the land on which the water is to be used.

(xiii) The granting of a permit by the State Engineer does not convey an easement or right-of-way to access property for the construction or installation of any facilities necessary to exercise the right to use water under a permit.

(xiv) REMARKS.

(A) This space is provided for any statement or unusual circumstances peculiar to the application, or if a more complete explanation is needed for certain items.

(B) Any unusual situation, such as Desert Land Entries or State grazing leases should be explained under "REMARKS".

(C) Details of miscellaneous or industrial uses shall be explained in this section. Water rights or reservoirs that will be used in conjunction with the new groundwater supply, if any, shall be listed here. Details of the construction used to develop a spring shall be listed here.

(xv) THE LEGALLY REQUIRED FILING FEE MUST ACCOMPANY THIS APPLICATION.

(A) An appropriate filing fee is required for each application.

(B) An application shall not be accepted unless it is accompanied by the appropriate filing fee.

(xvi) SIGNATURE.

(A) The application form must be signed and dated.

(B) Only an applicant or his agent shall sign the form. If the well or spring development is owned by more than one individual, only one individual needs to sign. If a company, corporation, agency, or municipality is named as applicant, a designated official of the organization shall sign. The official's title or agent's title shall be noted behind or under the signature.

(b) Once an application is approved, it becomes a permit. Any future expansion of use of water from the well or spring development such as additional use(s), point(s) of use, instantaneous flow rate, or total volumetric quantity beyond that which is originally authorized by the approved permit requires that an enlargement application be submitted to the State Engineer and approved prior to engaging in any expansion of the original permit.

Section 2. Statement of Completion and Description of Well or Spring (Form U.W. 6).

(a) A Statement of Completion and Description of Well of Spring (Form U.W. 6) Shall be Completed as Follows:

- (i) PERMIT NO. U.W. and NAME OF WELL/SPRING.
 - (A) Fill in the exact permit number and facility name as shown on form U.W. 5.

- (ii) ITEM 1-- "NAME OF OWNER".
 - (A) Fill in the name of the original permittee or the present owner of the permit.

- (iii) ITEM 2 -- "ADDRESS".
 - (A) Fill in the mailing address of each original permittee (or present owner of the permit).
 - (B) If the address has changed from that shown on the permit, the appropriate box should be checked in this item.

- (iv) ITEM 3 -- "USE OF WATER".
 - (A) Fill in the appropriate use category or categories.
 - (B) If the indicated use of water is not the same as shown on the approved permit, an explanatory note should be included in the REMARKS section.

- (v) ITEM 4 -- "LOCATION OF WELL/SPRING".
 - (A) Provide the legal location of the well or spring development.
 - (B) A specific 40-acre (quarter-quarter of the Section) location shall be noted.
 - (C) Global Positioning System (GPS) coordinates of the well or spring development shall be provided. Acceptable coordinate systems include; 1) Latitude and Longitude (Preferred); 2) Universal Transverse Mercator (UTM); and 3) State Plane Coordinates. The Datum to which the coordinates are associated, such as NAD 83 or NAD 27 shall be included.

- (vi) ITEM 5 -- "TYPE OF CONSTRUCTION".
 - (A) Provide the method by which the well or spring development was completed such as drilled or dug.

- (vii) ITEM 6 -- "CONSTRUCTION".

(A) Total Depth of Well/Spring:

(I) Provide the depth to which the well was drilled or the spring development was excavated.

(B) Depth of Static Water Level:

(I) Provide the static water level in the well or spring development.

(II) Static Water Level is the level at which the water stands in a well or spring development when no water is being removed, either by pumping or free flow, and generally expressed as the distance from ground surface to the water level in the well or spring development. If a well/spring development flows water without pumping, "flowing" should be indicated.

(C) Casing Height:

(I) Provide the height of the top of the casing above the land surface in feet.

(D) Diameter of borehole: (bit size):

(I) Provide the diameter (in inches) of the drilling bit used to construct the well.

(E) Casing Schedule:

(I) Provide information regarding the type of pipe placed in the drilled hole or excavation.

(II) Specify whether the casing is new or used.

(III) Specify the type of joint used to connect the casing together.

(IV) Specify the diameter of the casing and to what depth each diameter of casing is installed.

(V) Specify the casing material type.

(VI) Specify the gage or thickness of the casing.

(F) Cemented/Grouted Interval:

(I) If the pipe was grouted/cemented into the hole:
grouted/cemented.
(1.) Specify the interval that was
that was used.
(2.) Specify the amount and type of grout/cement

(G) Type of Completion:

(I) Specify the type of completion.
(II) Specify the type of perforator, if any, that was used.
(III) Specify the size of the perforations.
(IV) Specify the number of perforations and what
intervals were perforated.
(V) Specify whether part of the well was left open
without any casing, and if so, the interval left as open hole.
(VI) Specify whether an engineered well screen was
installed in the well, and if so, the diameter, slot size, and the interval that the well screen
was installed in the well.

(H) Well Development Method:

(I) Describe the well development method, such as
bailing, mechanical surging, air development, or jetting, and the length of time that the
development activities occurred.

(I) Was a filter/gravel pack installed?:

(I) If gravel or sand was installed between the casing
and the borehole, indicate the size of the gravel or sand and what interval it was installed in
the well.

(J) Was surface casing used?:

(I) Specify whether a larger diameter casing was used as
a surface seal or used to seal off a shallow aquifer or contaminated section during the
drilling process, and if so, whether it was cemented in place, and the interval it was
installed in the well.

(viii) ITEM 7 – “NAME AND ADDRESS OF DRILLING COMPANY”.

(A) This item is self-explanatory.

(ix) ITEM 8 – “DATE OF COMPLETION OF WELL OR SPRING”.

(A) This item is self-explanatory (see Chapter III, Section 2(b)).

(x) ITEM 9 – “PUMP INFORMATION”.

(A) Provide the following information:

(I) The brand name of the pump.

(II) The pump type, such as submersible, jet, or turbine.

(III) The source of power.

(IV) The horsepower rating of the pump motor.

(V) The depth of the pump setting or pump intake.

(VI) The amount of water being pumped, in gallons per minute.

(VII) The total volumetric quantity being pumped per calendar year.

(xi) ITEM 10 – “FLOWING WELL OR SPRING”.

(A) If the well or spring development flows without pumping, provide the following:

(I) The flow rate in gallons per minute.

(II) The total volumetric quantity being produced per calendar year.

(III) The water pressure at the well head.

(IV) The method of controlling the flow of the well.

(V) Indicate whether the well leaks around the casing.

(xii) ITEM 11 – “IF SPRING, HOW WAS IT CONSTRUCTED?”.

(A) Describe the method of development and the means of conveyance of water to the point of use (For example; “Spring excavated to a depth of three feet. 40 feet of 3 - inch perforated pipe installed horizontally in excavation, back filled with pea gravel to a depth of 1 foot, topped with native soil and re-graded to natural land contour. Water conveyed to stock tank 100 feet southeast by 1 – inch line”).

(I) Some method of artificial diversion from the spring source, such as spring box, cribbing, or piping, is necessary to qualify for a water right.

(xiii) ITEM 12 – “PUMP TEST”.

(A) Indicate whether a pump test of the well or spring development was conducted, and if so, indicate:

(I) Who conducted the test.

(II) The yield of the well or spring development during the test.

(III) The drawdown of the water level at the end of the test.

(IV) The duration of the test.

(xiv) ITEM 13 – “LOG OF WELL/DRILL CUTTINGS DESCRIPTION”.

(A) Provide the following information:

(I) The total depth drilled.

(II) The depth of the completed well.

(III) The diameter of the well (bit size).

(IV) The depth where water was first encountered while drilling.

(V) The interval in the well from which the majority of water is being produced.

(VI) Drill cutting information.

(VII) Indicate the intervals where different rock types were encountered while drilling; a description of the rocks; the formation name if known; and whether the rocks contained water.

(xv) ITEM 14 – “DOES A GEOPHYSICAL LOG ACCOMPANY THIS FORM?”.

(A) This item is self explanatory.

(xvi) ITEM 15 – “QUALITY OF WATER INFORMATION”.

(A) This item is self-explanatory.

(I) Water quality information is not required to be submitted. However, if a copy is available, it should be included and will become a part of the permanent record associated with the permit.

(xvii) REMARKS.

(A) Explain any special or unusual peculiarity of the well or spring development, the water system or conveyance.

(xviii) SIGNATURE OF OWNER OR AUTHORIZED AGENT.

(A) This form shall be signed and dated by the owner of the permit or his agent.

(B) If the well or spring development is owned by more than one individual, only one need sign the form.

(C) If a company, corporation, agency, or municipality is named as owner, a designated official shall sign the form.

(I) The official's title or agent's title shall be noted under or adjacent to the signature.

(b) If any of the information required on the Statement of Completion and Description of Well or Spring (Form U.W. 6) is not available or is unknown, a best estimate will be acceptable.

(c) The information requested on the Statement of Completion and Description of Well (Form U.W. 6) is critical to understanding the construction of the well, the presence, performance and protection of the groundwater resource in the area, and is used to manage and apportion the groundwater resources of the area between

competing interests. It should be understood that by not providing all information regarding well construction, a permit or water right may not be afforded the full statutory protections available under Wyoming Statutes §§ 41-3-901 through 41-3-938 and may affect the ability to make changes to a permit or water right at some point in the future.

(d) The information to be provided on the Statement of Completion and Description of Well or Spring (Form U.W. 6) should be available from the driller and should be as complete as possible following the drilling and completion of the well. It is the permittee's responsibility to obtain and submit this information.

Section 3. Proof of Appropriation and Beneficial Use of Ground Water (Form U.W. 8).

(e) A Proof of Appropriation and Beneficial Use of Ground Water (Form U.W. 8) Shall be Completed as Follows:

(i) ITEMS 1 and 2.

(A) These items should be filled in as shown on the original permit.

(B) If ownership has changed, an explanation shall be provided.

(ii) ITEM 3 -- "For What Purpose(s) is Water Used?....".

(A) In the blank spaces provided, note each category of use and the date that the water was first used for that purpose.

(B) If the use selected is "irrigation", indicate the date that irrigation was completed on all lands under the permit.

(iii) SIGNATURE.

(A) This form shall be signed and dated by the owner of the permit or his agent.

(B) If the well or spring development is owned by more than one individual, only one need sign the form.

(C) If a company, corporation, agency, or municipality is named as owner, a designated official shall sign the form.

(I) The official's title or agent's title shall be noted under or adjacent to the signature.

CHAPTER VI

MAP AND SURVEY REQUIREMENTS FOR MAPS TO ACCOMPANY PROOF OF APPROPRIATION AND BENEFICIAL USE OF GROUND WATER

Section 1. Minimum Standards for All Maps to Accompany Proof of Appropriation and Beneficial Use of Ground Water.

(a) Conformity.

(i) A Map to Accompany Proof of Appropriation and Beneficial Use of Ground Water (map) will not be accepted unless it conforms to these regulations.

(b) Submission of Maps.

(i) Maps shall be submitted, without folds, to the mailing or electronic address shown in Part II, Chapter 1, Section 5 of these regulations.

(c) Certification Required.

(i) Maps shall be made and certified by a professional engineer or land surveyor registered to practice within the State of Wyoming in accordance with Wyoming Statute § 33-29-801.

(d) Map Accuracy.

(i) The accuracy of measurement required on maps shall conform in general to the principles set forth in the *Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys (effective February 23, 2011)*, adopted by the American Land Title Association and the American Congress on Surveying and Mapping.

(e) Latest Accepted Survey Information.

(i) An engineer or surveyor making a map shall obtain the latest accepted survey information such as original survey, resurvey tracts/lots, or protractions of un-surveyed areas on which to base the map. Such information is available from the office of the U.S. Department of the Interior, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming, 82003, (BLM Cadastral Survey Website www.wy.blm.gov/cadastral/surveysdocs.htm), county records, or other sources.

(f) Survey Field Notes.

(i) The State Engineer may require copies of survey field notes that were recorded and used to create the map(s). The engineer or surveyor conducting the survey shall keep complete records, including a print of the map, facts coming to his knowledge during the survey, copies of all field notes, reports, and correspondence in order that such evidence may be produced if required.

(g) Acceptable Materials.

(i) 7 ½ minute U.S.G.S. Quadrangle Maps (Only for Miscellaneous use where the flow rate is less than 25 gallons per minute).

(ii) Maps prepared on Mylar (for Miscellaneous use where the flow rate is greater than 25 gallons per minute, Industrial use, Irrigation use, and Municipal use).

(iii) Electronically submitted maps, the original(s) of which shall be kept on file in the office of the professional who produced the map.

(iv) Black waterproof ink must be used, unless the map is submitted electronically.

(h) Aerial Photographs.

(i) Information taken from aerial photographs may be used to supplement field surveys. However, the location of public survey boundaries, wells, and the extent and area of irrigated lands shall be determined by actual field surveys.

(i) Map Scale.

(i) Maps shall be drawn on a scale of not less than 2" = 1 mile. Maps shall be drawn on a scale large enough to show all required information clearly and precisely. The scale used shall be shown on the map.

(ii) Detail inset(s) may be utilized where greater detail is necessary to show features such as well connections to storage facilities or description of conveyance facilities. The scale used on the detail inset(s) shall be shown on the map.

(iii) All distances shall be shown in feet.

(j) Well(s) and GPS Coordinates Identified.

(i) The well location(s) shall be clearly identified with a symbol and labeled with the well name.

(ii) Global Positioning System (GPS) coordinates for the well location(s) shall be shown. The Datum to which the coordinates are associated, such as NAD 83 or NAD 27 shall be included.

(A) GPS coordinates on 7 ½ minute U.S.G.S. Quadrangle maps may be obtained using recreational-grade GPS equipment.

(B) GPS coordinates on all other maps shall be obtained using survey-grade GPS equipment.

(iii) A tie from a corner of the public land survey to the well(s), separator, sump or pump location (where pits are involved) shall be shown on the map, unless the map is a 7 ½ minute U.S.G.S. Quadrangle Map.

(iv) Maps shall be plotted to the true meridian, and bearings shown shall be true bearings, reading less than 90° to the east or west from the north and south points.

(k) Points/Areas of Use.

(i) All points and/or areas of use served by the well(s) shall be shown.

(ii) The township(s), range(s) and section(s) shall be shown in which the well and area(s) and/or point(s) of use occur.

(A) Each section required to be shown shall be subdivided into quarter/quarters, resurvey tracts, and/or resurvey lots.

(B) Lots or tracts shall be shown in their entirety and plainly labeled. In cases where the well is located within a recorded subdivision, an insert showing the well location within the section may be added (i.e. a vicinity map).

(l) Conveyance.

(i) Sufficient detail or explanation of the method of conveyance, including, but not limited to, storage facilities, pipelines, or ditches, shall be shown so that it is apparent how groundwater will be conveyed to the area(s) and/or point(s) of use.

(m) Cultural Features.

(i) Roads, railroads, rivers/streams/ditches, and other important cultural features shall be shown if such features will aid in the interpretation of the map.

(n) Legend.

(i) The map shall have a legend, key, or description of map symbols, cross-hatching, and related rights.

(o) Title Block.

(i) The title block shall be placed in the lower right-hand corner of the map, unless the map is a 7 ½ minute U.S.G.S. Quadrangle Map.

(ii) The title of the map shall be “Map to Accompany Proof of Appropriation and Beneficial Use of Groundwater.”

(iii) Well “name(s)” and corresponding permit number(s) for each permit to be adjudicated (i.e. Water Well #1, Permit No. U.W. 177777; Enl. Water Well #1, Permit No. U.W. 188888) shall be listed.

(A) If a well originally permitted for a use that did not require adjudication (for example, domestic and/or stock watering) was enlarged for a use that does require adjudication (for example, miscellaneous and/or irrigation), the original permit is required to be adjudicated in addition to the enlargement permit. Accordingly, the original well name and permit number and the enlargement well name and permit number shall be noted in the title block.

(iv) The permittee’s name and address in the title block shall conform to the name and address of the current property owner.

Section 2. Additional Requirements for 7½ minute U.S.G.S. Quadrangle Maps (See Section 5 for map examples).

(a) In Addition to the Minimum Standards Listed in Chapter 6, Section 1 of These Regulations, All 7 ½ minute U.S.G.S. Quadrangle Maps Shall be in Compliance With the Following Criteria Whether Submitted in Hard Copy or Electronically.

(i) The entire 7 ½ minute U.S.G.S. Quadrangle Map shall be submitted that depicts the location of the well(s) and the area(s) and/or point(s) of use.

(A) A map produced with seamless topography may be submitted provided the quadrangle scale (1:24000) and size (~ 22 inch x 27 inch) are maintained.

(ii) A tie from a corner of the public land survey to the well(s) is not required to be shown on a 7 ½ minute U.S.G.S. Quadrangle Map.

(iii) The title block may be placed in any location on the 7 ½ minute U.S.G.S. Quadrangle Map.

(iv) The following Certificate of Engineer or Surveyor shall be affixed to all 7 ½ minute U.S.G.S. Quadrangle Maps:

CERTIFICATE OF ENGINEER OR SURVEYOR

STATE OF WYOMING)
) SS.
 COUNTY OF _____)

I, _____ hereby certify that this map was made by me on _____, (or made by _____, on _____, under my direction for whose work I stand personally responsible), and **correctly shows the location of the well(s), the point(s) of use, and/or the area(s) of use at the time this map was prepared.**

Surveyor's Seal **Signed** with Signature
 PE and/or LS

Section 3. Additional Requirements for Mylar Maps (See Section 5 for map examples).

(a) In addition to the minimum standards listed in Chapter 6, Section 1 of these regulations, Mylar Maps shall be in compliance with the following criteria whether submitted in hard copy or electronically.

(b) Sizes.

(i) Unless otherwise approved by the State Engineer, all Mylar Maps shall conform to one of the standard sizes shown in the following table:

**TABLE OF MAP DIMENSIONS AND MARGINS
 (DIMENSIONS IN INCHES)**

<u>Map Size</u>	<u>Length</u>	<u>Width</u>	<u>Binding Edge Margin</u>	<u>Other Margins</u>
B	15;	10 ¾;	1 ½;	¼;
D	21 ½;	15;	1 ½;	3/8;
E	30;	21 ½;	1 ½;	½;
G	24;	36;	1 ½;	½;
H	24;	18;	1 ½;	3/8;

(ii) All map information shall be contained within the allowed margins.

(A) If one sheet of proper dimension is not sufficient to show the entire project, additional sheets of the same size shall be submitted, and appropriately labeled.

(c) Map Orientation.

(i) The map shall be oriented such that the direction “north” is at the top of the map.

(d) Identification of Irrigated Lands.

(i) All acres irrigated by the permitted well(s) shall be shown on the map.

(ii) Irrigated lands shown on a map shall be the actual acreage irrigated from the groundwater source at the time the survey is performed.

(A) The location of irrigated lands within each quarter/quarter, tract, or lot (as applicable) shall be shown within one-tenth (1/10) acre accuracy.

(B) Care shall be taken to determine and accurately locate the irrigated land. The boundaries of irrigated land shall be surveyed and meandered accurately as they occur on the ground unless those lands follow section lines or regular subdivision lines within a section.

(iii) Irrigated acres that also have existing related surface water and/or groundwater rights shall be shown so as to reflect the existing rights on the same lands covered by the lands being surveyed. Related water rights are required to be described only for the lands on which the permitted groundwater is being applied.

(iv) Lands under different combination(s) of permits shall be shown by distinctively different crosshatching or symbols.

(A) The term “supplemental supply” does not apply to groundwater. If only groundwater is applied to certain lands, or if more than one groundwater well irrigates the same lands, usually the well with the earliest priority date is considered “original supply”. Groundwater from a well or enlargement of a well permit applied to the same lands, with the later priority date would be considered “additional supply”.

(e) Identification of Service Areas.

(i) Maps created for common water systems supplying municipalities, water and sewer districts, improvement and service districts, and subdivisions shall depict:

- (A) The entire service area served by the well(s).
- (B) The main conveyance system.
- (C) Storage facilities.
- (D) Any other facilities related to the well(s).

(f) The following Certificate of Engineer or Surveyor shall be affixed to all mylar maps:

CERTIFICATE OF ENGINEER OR SURVEYOR

STATE OF WYOMING)
) SS.
 COUNTY OF _____)

I, _____ hereby certify that this map was made from notes taken during an actual survey made by me on _____, (or made from notes taken by _____, on _____, under my direction for whose work I stand personally responsible). Such survey is accurately represented on this map and **correctly shows the location of the well(s), the point(s) of use, and/or the area(s) of use, and/or lands being irrigated by groundwater at the time of the survey.**

Surveyor's Seal **Signed** with Signature
 PE and/or LS

Section 4. Requirements for Electronic Submittal of Maps to Accompany Proof of Appropriation and Beneficial Use of Ground Water.

- (a) Maps submitted by Facsimile are not acceptable.
- (b) Maps submitted electronically shall meet all of the requirements for maps outlined in this chapter when converted to a hard copy record.
- (c) The size of the map for which a true to scale projection can be achieved when converted to a hard copy record shall be specified.
- (d) The computer software used to create and submit the map shall be compatible with any computer software employed by the State Engineer's Office so that the submitted map will be convertible to a true to scale hard copy record of the State Engineer's Office.

Section 5. Examples of Acceptable Maps.

- (a) Examples of acceptable maps can be found on the State Engineer's Office website at: <http://seo.wyo.gov>.

CHAPTER VII

CONTESTED CASE PROCEDURE

Section 1. Controlling Statutes. In any action before the State Engineer pertaining to underground water wherein the State or any other person appears in an adverse position against the applicant, petitioner, or permit holder, or wherein the applicant's, petitioner's, or permit holder's legal rights, duties or privileges are required by law to be determined by the State Engineer after an opportunity for hearing, the matter is conducted as a contested case pursuant to the Wyoming Administrative Procedure Act (Wyo. Stat. Ann. §§ 16-3-107 through 16-3-112). The specific statute or statutes for the type of application, petition, or permit involved may also require that certain procedures be followed.

Section 2. Additional Definitions. In addition to the terms used in the Wyoming Administrative Procedure Act, Wyo. Stat. Ann. §§ 16-3-101 through 16-3-115, and the definitions given in Chapter II of those regulations, the following definitions apply to contested cases before the State Engineer:

(a) "Contestant" means any party who, when the right is provided by statute, initiates an objection or contest against any application or petition filed with the State Engineer for decision.

(b) "Contestee" Means:

(i) A person who has submitted an application or petition to the State Engineer pertaining to underground water which is being opposed or contested (the term "petitioner" may also be used if no confusion results).

(ii) A person who has submitted an application or petition in a Control Area which is to be considered under the provisions of Chapter II, Section 5(c)(i) or Chapter IV, Section 9(a)(iii) respectively of these regulations (the term "petitioner" may also be used if not confusion results).

(iii) The holder of a permit whom the State Engineer has provided notice of willful violation of any provision of such permit, or any provision of Wyoming Statutes §§ 41-3-901 through 41-3-938, or related statutes, and amendments thereto, or of any order issued pursuant to said statutes.

(c) "Hearing Officer" means the person designated by statute or by the State Engineer to preside over a contested case proceedings.

Section 3. Notice and Service.

(a) Notice and service on all contested cases shall be given in accordance with Wyoming Statute § 16-3-107. A contested case may be initiated by objection being made to an application or petition in a Control Area.

(b) In a contested case, any person whom the State Engineer knows to have an interest in the matter shall be given notice of the proceedings and of all motions or pleadings by acknowledged personal service or by certified mail, return receipt requested. All unknown persons shall be notified through publication. After all persons wishing to appear as parties have made themselves known, usually at the commencement of a hearing, further notice and service may be made personally at the hearing or by first class mail to the addresses given by the parties. However, the record of the proceedings must be documented in some fashion, such as by transcript notation or by letter copy.

(c) Proofs of certified mailings, whether made by the State Engineer or by any party shall be made part of the record. Affidavits of publication shall likewise be made a part of the record.

(d) The moving party, whether contestant or contestee, shall be responsible for paying publication charges and may be assessed for the State Engineer's mailing costs connected with a contested case proceedings.

(e) The hearing officer may give personal notice to any party at a hearing in any manner so long as the fact of service is documented in the record of the proceedings.

(f) Each party in any contested case is required to keep the hearing officer and all other parties informed of his current mailing address and telephone number or that of his authorized attorney.

Section 4. Pleadings. Except as required by statute for the action initiated, and as stated in the notice of hearing or otherwise required by the hearing officer, formal pleadings are not mandatory. However, each party in contested case proceedings is advised to make his or her position known in writing so that the issues of fact and law can be clearly defined. All documents in the nature of pleadings which are filed with the State Engineer or given to the hearing officer are deemed to be verified or sworn statements and must be personally signed by the party for who they are submitted or by the party's attorney.

Section 5. Docket File. The official docket file for a contested case shall be maintained by the State Engineer's Cheyenne office. All notices, pleadings, motions, transcripts, reports, documents, maps, and any other papers or evidence of any kind pertaining to a contested case proceeding shall be systematically filed in the docket file. When complete, the docket file shall constitute the record of the proceedings. Official filings shall not be made with any other person other than the State Engineer in Cheyenne. Original documents which pertain to a contested case that come into the possession of any State Engineer employee shall be forwarded to the State Engineer in

Cheyenne. When appropriate, duplicate copies should be provided to the hearing officer. The hearing officer may obtain or retain possession of all or part of the official docket file during the conduct of the hearing.

Section 6. Appearances.

(a) Appearance or Representation of Parties May be Made as Follows:

- (i) An individual may appear and be heard on his or her own behalf;
- (ii) A partnership may appear and be represented by a partner;
- (iii) A corporation may appear and be represented by an executive corporate officer, a managing employee, or other duly authorized agent;
- (iv) A municipal corporation or government agency may appear and be represented by an officer, a member of its governing body, or a duly authorized employee;
- (v) An unincorporated association may appear and be represented by any bona fide general officer or full time employee authorized to represent the membership of the association;
- (vi) Any party may appear and be represented by an attorney at law admitted to active practice in Wyoming. An attorney admitted to practice in another state must associate with local counsel and move the hearing officer to allow his or her appearance.
- (vii) In unusual circumstances, the hearing officer may allow representation by other persons upon request.

(b) The filing of a pleading by an attorney constitutes an appearance for the party he or she represents.

(c) The hearing officer must be notified in writing and approve of the withdrawal of any attorney.

Section 7. Hearing Officer.

(a) In Addition to Such Other Duties as May be Imposed by Law, the Hearing Officer Shall:

- (i) Issue Subpoenas;

(ii) Supervise the taking of depositions and other discovery as allowed by Wyoming Statute § 16-3-107(g) and (h);

(iii) Conduct pre-hearing conferences as he or she deems necessary;

(iv) Arrange for attendance at the hearing of a certified court reporter and ensure that the hearing room is available as scheduled;

(v) Officially open and close the hearing;

(vi) Administer oaths and affirmations;

(vii) Preside over the hearing and control the course of the proceedings;

(viii) Rule upon offers of proof and receive into the record of the case all competent evidence relevant to the issues;

(ix) Rule upon or otherwise dispose of all procedural motions and requests;

(x) Prepare a recommended decision for consideration by the State Engineer if so requested by the State Engineer.

(b) In performing his or her duties, the hearing officer may be assisted, in regard to procedural or legal questions, by the Attorney General. Additionally, the hearing officer may allow or direct other State employees and officials to assist in the preparation of evidence. For example, State Engineer employees or Control Area Advisory Board members may be asked to advise the hearing officer as to technical facts. They may question witnesses as directed by the hearing officer. They may also be asked questions by other parties. Their recommendations may be requested in either written or oral form. However, testimony always shall be given under oath and in a hearing.

(c) Preferably, the hearing officer will be addressed by names or titles such as “Mr.” or “Mrs.” Examiner,” or “The Hearing Officer.”

Section 8. Rules of Procedure. To the extent applicable, the Wyoming Rules of Civil Procedure will guide the conduct at a contested case hearing. These proceedings are being conducted before an administrative body and not a court, thus the technical rules of evidence do not apply (see Wyo. Stat. Ann. § 16-3-108).

Section 9. Official Notice. In any contested case proceedings, the hearing officer or the State Engineer may take notice of maps, documents, or other papers in the docket file, which have been brought to the attention of the parties. Official notice may also be taken of all information, data, and the material included within the books and records of the State Engineer and the State Board of Control. The State Engineer or the

hearing officer may also make on-the-ground inspections. If official notice is to be taken of any information, data, or material not previously made available to the parties, or if a field inspection is relied upon, the parties shall be given notice and an opportunity to present rebuttal evidence (see Wyo. Stat. Ann. § 16-3-108(d)).

Section 10. Discovery Procedures. Limited discovery procedures are available to the parties as provided by Wyoming Statute § 16-3-107(g) and (h). In advance of a hearing, any party may request that the other parties name their witnesses, state the nature of their intended testimony, or make the witnesses available for deposition. A request also may be made that documents or exhibits be produced for examination. Discovery and disclosure may be voluntary or as directed by the hearing officer or State Engineer as authorized by law.

Section 11. Subpoenas. As authorized by Wyoming Statute § 16-3-107(d), the hearing officer, upon written request of a party, may issue subpoenas to compel the appearance of witnesses or the production of books, papers or other documents relevant or material to the inquiry. Subpoenas are usually prepared by the attorneys for the parties and submitted to the hearing officer for signature.

Section 12. Motions. It shall be within the discretion of the hearing officer as to how to dispose of all procedural motions in a contested case. Motions for continuance shall be granted only if good cause is shown. Motions which go to the merits of a case shall be decided only by the State Engineer.

Section 13. Pre-hearing Conference.

(a) At Any Time Prior to the Hearing, the Hearing Officer May Direct the Parties to Consider:

- (i) Simplification of the issues;
- (ii) The necessity or desirability of amending the pleadings;
- (iii) The possibility of obtaining admissions of fact and stipulations as to expert qualifications and authenticity of documents which can avoid unnecessary proof;
- (iv) Such other matters as may aid in the disposition of the case.

(b) The pre-hearing conference may be conducted in person or by telephone conference call.

(c) At the conclusion of a pre-hearing conference, the hearing officer shall cause to be prepared a pre-hearing order reciting the matters discussed and the

agreements reached among the parties. This order shall control the subsequent course of the hearing unless modified by the hearing officer to prevent manifest injustice.

Section 14. Disposition by Stipulation. Any contested case may be partially or finally disposed of by stipulation of the parties provided the State Engineer also gives his approval. An appropriate order reflecting the terms of the stipulation will be entered in the application or permit record at the conclusion of the proceedings.

Section 15. Default. In a case where a contest has been initiated, or a protest entered, and the party initiating the protest or entering the objection fails to appear at the hearing without good cause, the proceeding may be dismissed. A failure of any party in a contested case to appear at the hearing without good cause may allow the State Engineer to decide all issues adversely against the party not present. In any event, the matter will be brought before the State Engineer for consideration and appropriate action.

Section 16. Hearing Procedure. As nearly as may be practicable, contested case hearings shall be conducted as outlined below:

(a) The hearing officer will announce that the hearing is called to order and state the case docket number, nature of the proceedings, and official title of the action.

(b) The appearance of all parties appearing at the hearing will be taken and recorded.

(c) The hearing officer will briefly review the allegations in any pleadings, state the position of the parties, and describe any evidence which has previously been presented.

(d) All pending motions will be disposed of at this time or reserved for disposition at a later, designated time.

(e) Opening Statements May be Made in the Following Order by Each Party for the Purpose of Explaining Their Position and the Evidence They Intend to Offer:

(i) The petitioner for the action involved, whether the petitioner be contestant or contestee;

(ii) The party or parties objecting, responding or defending, whether they be contestant or contestee;

(iii) Interveners whose appearances have been accepted;

(iv) The State Engineer or any other Wyoming official or agency representative.

(f) Each party will then present its evidence in the order stated in subsection (e) above. Cross examination will be allowed to every other party. The hearing officer, the State Engineer, State Engineer employees, Control Area Advisory Board members, Wyoming State Board of Control members, or the State Engineer's legal advisor may also examine any witness. Exhibits will be marked as directed by the hearing officer. A party may appear as his or her own witness and give evidence in the form of testimony provided that they are sworn to tell the truth and may be cross examined by the other parties.

(g) The petitioning party may then offer rebuttal evidence, and the other parties may cross examine.

(h) The hearing officer will recall any witness which he or she, the State Engineer, State Engineer employees, Control Area Advisory Board members, Wyoming State Board of Control members, or the State Engineer's legal advisor wishes to examine further.

(i) Closing statements will then be allowed to each party in the order stated in subsection (e) above.

(j) At appropriate times throughout the hearing, or at its conclusion, the hearing officer will announce any intentions on the part of the State Engineer to take official notice.

(k) The hearing officer may recess or continue the hearing as he or she deems appropriate to the circumstances.

(l) The hearing officer may allow testimony and evidence to be presented out of order.

(m) Witnesses will be excused when their testimony has been concluded and there is no reason for them to remain present.

(n) The parties may provide written briefs or memoranda at any time, or the hearing officer may call for whatever briefs he or she believes may be desirable.

(o) After all interested parties have been offered an opportunity to be heard, the hearing officer will declare the evidence closed and excuse all witnesses not previously excused.

(p) When the taking of evidence is closed, the hearing officer will allow the parties an opportunity to check that the reporter has in his or her possession or control all exhibits, reports, and other items of evidence accepted as part of the record.

(q) At the conclusion of a contested case hearing, the hearing officer will announce that the evidence is being taken under advisement by the State Engineer and that his findings of fact, conclusions of law and order will be released as soon thereafter as may be possible. A further announcement will be made that the State Engineer's decision shall be recorded in the application or permit record kept in its office in Cheyenne, and that a copy shall be sent to each party of record by certified mail as soon as it can be put into written form.

(r) It should be noted that before a final order has been entered in the application or permit record, the evidence in a contested case proceeding may be reopened for good cause shown upon order of the State Engineer.

Section 17. Witnesses.

(a) Any witness summoned before the State Engineer is entitled to receive the same fee as if he or she were appearing in a district court of the State of Wyoming. Witness fees are to be paid by the party at whose insistence the witness' testimony is given. Witness fees are not required for state water officials who appear as witnesses in their official capacities.

(b) Any person(s) who is to testify at a State Engineer hearing in a contested case shall stand and be given the following oath or something substantially similar by the Hearing Officer:

DO YOU AFFIRM THAT THE TESTIMONY YOU ARE ABOUT TO GIVE IN THE MATTER NOW IN HEARING BEFORE THE STATE ENGINEER SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH?

Section 18. Hearing Record.

(a) In all contested cases heard by the State Engineer, the oral testimony of witnesses shall be recorded by a certified court reporter. Except as may be otherwise provided by the statute(s) for the particular application, petition, or permit involved in the proceedings, the applicant, petitioner, or permit holder shall pay the reporter's fees and any other incidental costs of preparing the hearing record.

(b) An original and one copy of a hearing transcript shall be provided to the State Engineer's Cheyenne office. The parties to contested case proceedings may purchase additional copies for themselves by contacting the reporter.

Section 19. Decision.

(a) In all contested cases, the State Engineer's decision shall be based upon the record of the proceedings.

(b) After a case has been decided by the State Engineer, he shall cause to be prepared a written decision containing findings of fact, conclusions of law, and an order. The State Engineer's Order shall become his final administrative action when signed and entered in the application or permit record. The State Engineer shall cause a copy of his decision to be sent to all parties or their attorneys by certified mail.