

Considered: _____

WATER PERMIT NO. VR 2154-2

Phone: 605 343-1414

Name of Applicant: Black Hills Packing Co.

Post Office Address: PO Box 2130, Rapid City SD 57709

Amount of Water Claimed: 0.56 Total Acres: NA

Source of Water Supply: groundwater

Water to be used for: industrial County: Pennington

About _____ miles _____ of _____

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

F.F. & C/.L. Adopted _____ Not Approved _____ Deferred _____

PRIORITY Date Received: 12-19-90 Fee: \$15.00 Remarks claimed

priority date of 1909

Corrected Application Received _____ Period of Annual Use Jan 1 - Dec 31

WATER QUALITY APPROVAL RECEIVED NA APPROVED/CONDITIONAL (Circle one)

WI-1 Description same as Application YES _____ NO _____ REMARKS _____

Diversion Point: SE 1/4 NW 1/4 35-2N-7E

ND 1/4 SE 1/4

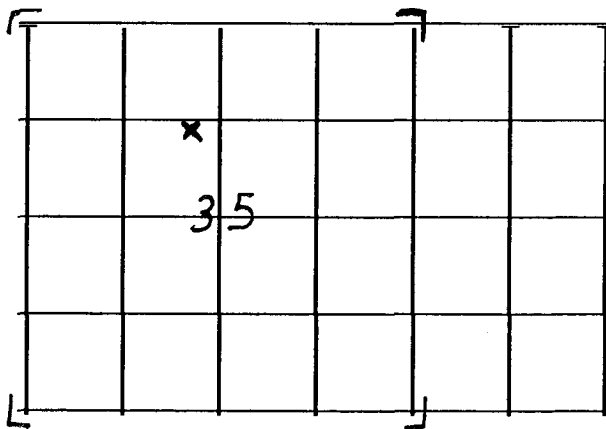
Land to be Irrigated: _____

Well Log: Driller: _____ Licensed YES _____ NO _____

Depth of Well: 16' REMARKS _____

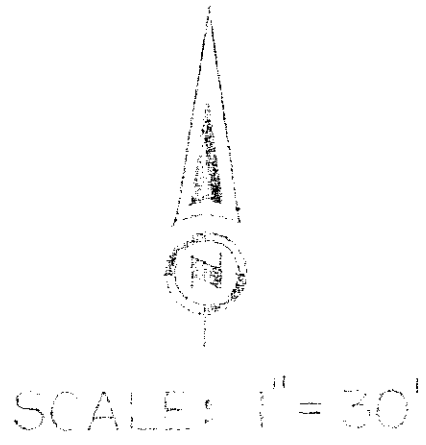
Type of Map: plat PREPARED BY: Raymond J. Hengel Reviewed and the Number

Assigned on 12-27-90 By Karen Schlaak



4-87

PLOT PLAN OF
BLACK HILLS PACKING COMPANY



2154-2

BLACK HILLS PACKING COMPANY
WELL LOCATION

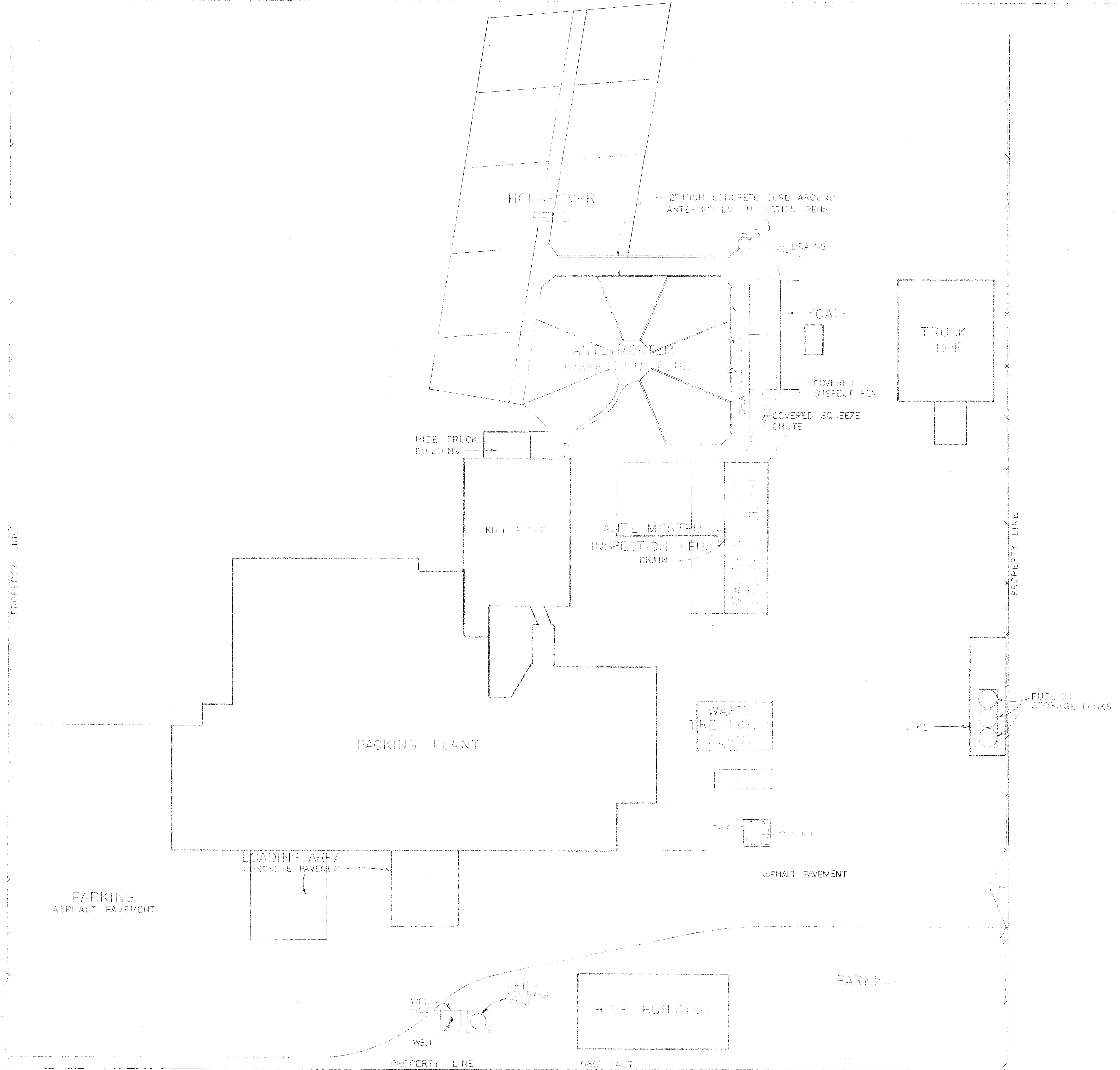
N 14° - 22' - 47" W 1358.00' FROM THE
WELL TO THE CENTER 1/4 CORNER OF
SECTION 35, T2N, R7E, BHM, RAPID
CITY, PENNINGTON COUNTY, SOUTH
DAKOTA.

© OWNERSHIP OF DOCUMENTS THIS DOCUMENT, AND THE IDEAS AND DESIGNS INCORPORATED HEREIN, AS AN INSTRUMENT OF PROFESSIONAL SERVICE, IS THE PROPERTY OF HENGEL ASSOCIATES, P.C. AND IS NOT TO BE USED, IN WHOLE OR PART, FOR ANY OTHER PROJECT WITHOUT THE WRITTEN AUTHORIZATION OF HENGEL ASSOCIATES, P.C.		DESIGNED BY LA OLIVE
		CHECKED BY R.H.
		DATE 12/5/90
		PROJECT NO. 3059

BLACK HILLS PACKING COMPANY
SITE PLAN

HENGEL ASSOCIATES, P.C. ARCHITECTS
ENGINEERS
115 ST. JOSEPH ST., RAPID CITY, S.D. 57701
605/343-5432

SHEET
1
OF
1
SHEETS



Supplemental Information

(type or print in ink)

1. Well Information - Proposed construction

- a) Drill Hole Diameter 4'-10" Depth 16'-0" ground elevation to bottom of well
- b) Casing Type Concrete Diameter 4'-0" I.D. Thickness 5"
- c) Screen Type _____ Diameter _____ Thickness _____
- d) Gravel Pack Thickness _____ Length of Gravel Pack _____
- e) Depth to Top of Water Bearing Material 13'-6"
- f) Depth to Water (ground surface to water level) 13'-6"
- g) Distance to nearest existing domestic well:
 On applicants property No other wells On property owned by others _____



2. Dugout Information Estimates

- a) Surface Dimensions _____ Depth _____
- b) Depth to water (ground surface to water level) _____

3. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below. The locations of each dam should be shown on the map submitted with the application.

- a) If a private engineering firm or government agency was involved in the design of this dam please give their name and address

b) Freeboard _____

c) Crest Width _____

Crest Length _____

d) Height _____

e) Primary Outlet Capacity _____
 If Pipe, diameter _____

f) Secondary Spillway Capacity _____
 Spillway width _____

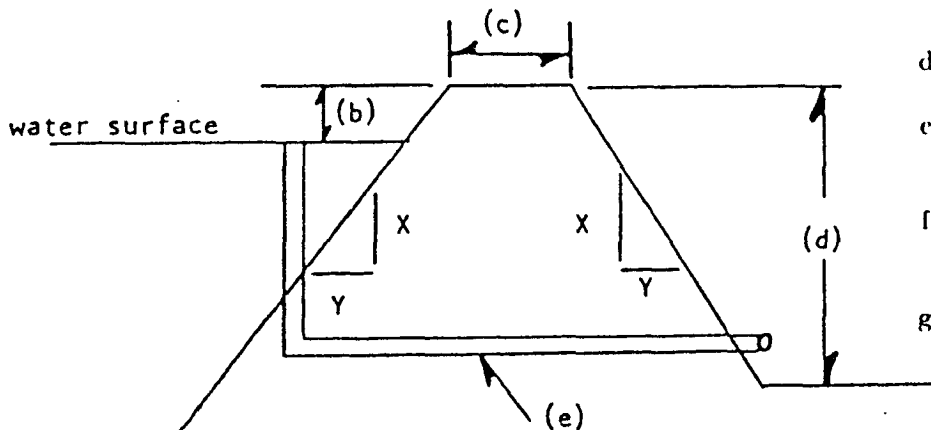
g) X & Y Slope
 Upstream _____

Downstream _____

Surface Area of Impoundment _____

Storage _____ acre feet

Drainage area above dam _____



Signature of Applicant _____

SOUTH DAKOTA

VESTED WATER RIGHT NO. 2154-2

Date of Receipt of Claim December 19, 1990.

Date of Validation May 1, 1991.

The Chief Engineer, on behalf of the Water Management Board validated Vested Water Right Claim No. 2154-2 for Black Hills Packing Co., PO Box 2130, Rapid City SD 57709 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 2154-2 appropriates 0.56 cubic feet of water per second from one well, 16 feet deep, located into the alluvium along Rapid Creek in the NW 1/4 SE 1/4 Section 35-T2N-R7E.
2. The appropriated water is used for supplying water for the packing company and may not exceed the amount of water needed for beneficial use for industrial purposes.
3. The water is to be used during the following annual period: January 1 - December 31.
4. The priority date of the Vested Water Right is: January 1, 1909.
5. The water use system has been constructed and water has been applied to beneficial use.
6. Water Rights obtained in compliance with the laws of the State of South Dakota must not be unlawfully impaired by this appropriation.

WATER MANAGEMENT BOARD

By: _____

Chief Engineer, Water Right Division
Department of Environment and Natural Resources

SEP 18 1991

date

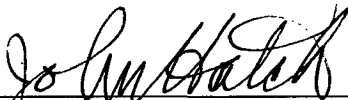
STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 2154-2

(1) Black Hills Packing Co of PO Box 2130, Rapid City, SD 57709-2130 made Application No. 2154-2, December 19, 1990 for validation of a vested right claim to appropriate 0.56 cubic feet of water per second from groundwater (alluvium along Rapid Creek), Pennington County, South Dakota for industrial purposes. Vested Water Right No. 2154-2 was validated May 1, 1991 with a priority date of January 1, 1909. Construction of the described water supply system and application of water to beneficial use has been completed and complies with applicable provisions of South Dakota State Law.

(2) The applicant is entitled to divert 0.56 cubic feet of water per second for beneficial use. The location of the diversion point is NW 1/4 SE 1/4 Section 35, T2N, R7E.

(3) Pursuant to Section 46-5-30.1 Black Hills Packing Co of PO Box 2130, Rapid City, SD 57709-2130 the holder(s) and/or owner(s) of Vested Water Right No. 2154-2 is issued a license to appropriate 0.56 cubic feet of water per second from groundwater (one well into alluvium along Rapid Creek) with a priority date of January 1, 1909 from the location specified in (2) of this license. The water is to be used for the purpose of industrial use. This license is subject to any limitations, conditions or qualifications listed in Vested Water Right No. 2154-2 and subject to South Dakota State Law.



JOHN HATCH, Chief Engineer
Water Rights Division
Department of Environment and
Natural Resources

SEP 18 1991

Affidavit of Water Use

No. _____

(Type or Print in Ink)

Note: This Form is supplemental to Form 2 and is to be used when an affidavit pertaining to construction and water use already constructed is needed, primarily with vested right claims.

**Affidavit Of Construction Of Water Use System
And Application Of Water To Beneficial Use**

Name of Applicant (Same as Form 2) BLACK HILLS PACKING CO.

Post Office Address P.O. BOX 2130 RAPID CITY SOUTH DAKOTA 57709
(Street, RR or Box) (State) (Zip Code)

A. Notice of Appropriation _____ Date of Posting _____

Date of recording _____ Recording date _____
Where Book Page

B. Date of start of construction of water supply system ESTIMATED YEAR 1909C. Date that water was first applied to beneficial use 1909D. Name of owner of original water supply system RAPID CITY PACKING CO.E. Amount of water originally applied to beneficial use UNKNOWN

F. Present Use of Water - Amount of water now being used PROCESSING & CLEANUP AT MEAT PACKING PLANT/250 gpm.
 Date that this water was first used 1950

G. Chronological History of Water Use

Black Hills Packing (Rapid City Packing) was established at its current site in 1909. There is a water well currently in use and visible signs of another of the same type which was abandoned. Documents attached attest to the approximate year the well now in use was constructed.

Attach to this Form 2B any copies of notices, postings, filings, publications, affidavits, or other records that apply. You may also attach any written statement by you, or by others, that you deem pertinent.

State of South Dakota)

ss

County of Pennington)

I, Walter A. Wilson for Black Hills Packing Co. the applicant, certify that I have read the foregoing
(print or type)
 and that the matters therein stated are true.

Signed Walter A. WilsonSubscribed and sworn to before me December 18, 1990

Bechelle C. Jensen 10/2/97
 Notary Public or other qualified officer

I, the undersigned do hereby certify that I know about the water use system described above, that I have read the foregoing, and that the matters therein stated are true.

J.D. McNulty, J.D. McNulty 12/18
 (Print name) 1990

(Print name)

19____



GREAT FACES. GREAT PLACES.

SEP 18 1991

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

2154-2

Black Hills Packing Company
PO Box 2130
Rapid City, SD 57709-2130

Dear Sirs:

Enclosed are your Validated Vested Water Right and Water License No. 2154-2. As long as you use the water beneficially, as stated in the Water License, the State Water Laws provide that you have a continuing right to use the water.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Division
(605) 773-3352

enclosures

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

478480

Pierre, December 20, 1990

RECEIVED OF Black Hills Packing Co., Rapid City SD

the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. <u>2154-2</u> to Appropriate Water, to construct works and to put water to beneficial use _____	15	00
Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____		
(Any Other Work Provided by Law)	Total	15 00

By John Hatch
Chief Engineer KS



December 6, 1990



TO WHOM IT MAY CONCERN:

This letter documents some pre-1961 history of the water well at Black Hills Packing Co. On November 16, 1990, I called James D. McNulty, retired (605-787-6309) who was a member of the Black Hills Packing Co. maintenance department from approximately 1942 to 1962. Mr. McNulty said the current well was constructed in the early 50's by, he thought, Beka Ditching. It was constructed because the well in use at the time didn't produce enough water as built.

November 26, 1990, I called Mr. Perry Beka, retired (605-342-3531) concerning the well. He said, he believed his dad had something to do with putting in a well at Black Hills Packing Co. in the early 50's.

November 26, 1990, I called Mr. Lee Olson, retired (605-342-2301). Mr. Olson said, he was a partner with Mr. Gus Beka in the late 40's and that the well in use now was relocated by Beka Ditching between 1949 and 1952.

The information these gentlemen have offered coincides with what I recall hearing about the well in the early 60's as I have been employed in the Black Hills Packing Co. maintenance and engineering department since April of 1961.

Sincerely,

Walter A. Wilson

Walter A. Wilson
Plant Engineer

**BLACK HILLS
PACKING CO.**

P.O. BOX 2130
RAPID CITY, SD 57709
(605) 343-1414
FAX (605) 343-9378

RECOMMENDATION OF CHIEF ENGINEER FOR VALIDATION OF VESTED WATER

RIGHT APPLICATION NO. 2154-2, Black Hills Packing Company

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Water and Natural Resources concerning Validation of Vested Water Right Application No. 2154-2, Black Hills Packing Company, PO Box 2130, Rapid City SD.

The Chief Engineer is recommending VALIDATION of Application No. 2154-2 for 0.56 cfs because 1) water has been appropriated as described for industrial use with a priority date of January 1, 1909, 2) the use has been developed without unlawful impairment of existing rights, 3) the use is a beneficial use and 4) it is in the public interest.

See report on application for additional information.

A handwritten signature in cursive script, appearing to read "John Hatch".

JOHN HATCH, Chief Engineer
February 12, 1991

REPORT ON VESTED WATER RIGHT No. 2154-2
BLACK HILLS PACKING Co.
FEBRUARY 11, 1991

Vested Water Right Application No. 2154-2 proposes validation of a vested water right claim for 0.56 cubic feet of water per second from one well, 16 feet deep located in the NW 1/4 SE 1/4 Sec. 35, T2N-R7E. The water use has a claimed priority date of 1909 and is used as an industrial water supply for the packing company.

WATER SOURCE: Alluvium and Rapid Creek

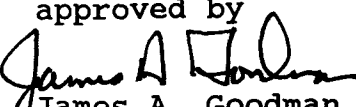
A well log is not available for this well; however, evaluation of the total depth, location and static water level, suggest this well is completed into the alluvium along Rapid Creek. The alluvium is hydrologically connected to Rapid Creek. It is not reasonable in this instance to differentiate between "surface water" and "ground water" as the source at this diversion point. Although "groundwater" is certainly present in the alluvium, it is probably in part maintained by streamflow (surface water).

The affidavit provided with this application indicates a well at this site has provided water for this purpose since 1909. There has been no controversy reported regarding this water use.

CONCLUSIONS:

1. Vested Water Right Application No. 2154-2 proposes validation of a vested water right claim to 0.56 cubic feet of water per second from one well, with a claimed priority date of 1909.
2. The affidavit provided with this application indicates the water has been put to beneficial use prior to February 28, 1955 as required by SDCL 46-6-1.


Ken Buhler
Natural Resources Engineer

approved by

James A. Goodman, P.E.
Natural Resources Engineer

REFERENCES:

Cattermole, J.M., 1972, Geologic Map of the Rapid City East Quadrangle, Pennington County, South Dakota, Map GQ-986, United States Geological Survey, Washington, D.C. 20242



DEPARTMENT OF WATER & NATURAL RESOURCES

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

NOTE: TO BE SURE OF PUBLICATION ON
THE CORRECT DATES, CONTACT THE
NEWSPAPER RIGHT AWAY.

March 22, 1991

Walter A. Wilson
Black Hills Packing Company
PO Box 2130
Rapid City, SD 57709

Dear Mr. Wilson:

Your Application No. 2154-2 for a vested water right claim has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of your claim has been sent to the Publisher of the Rapid City Journal printed at Rapid City, SD. For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice and notify this office, if you have any corrections or questions.

Be sure to contact the above newspaper to authorize publication of your notice of hearing to validate a vested right and to arrange for payment. Early contact with the paper can eliminate delays. The publisher has been instructed to publish your notice once each week for two consecutive weeks with the last publication to occur twenty days before the board meeting. We must receive Proof of Publication before the application can be considered.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures



DEPARTMENT OF WATER & NATURAL RESOURCES

Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

March 22, 1991

Rapid City Journal
PO Box 450
Rapid City, SD 57709

ATTN: Legal Publications:

Enclosed is a Notice of Hearing to Validate Vested Right Application No. 2154-2 to be published twice. Please publish the notice on or before March 27, 1991, with the second publication 7 days later.

The APPLICANT MUST VERIFY TO YOU THAT THE NOTICE IS TO BE PUBLISHED, before you make the first publication. Please BILL the APPLICANT for the cost of publication. The APPLICANT is Black Hills Packing Company, PO Box 2130, Rapid City, SD 57709.

A copy of BOTH publications must be SENT to the WATER RIGHTS DIVISION. IMMEDIATELY return the FIRST publication with the FIRST Transmittal form on the bottom of this page. The first copy is needed to check the publication for errors so any corrections can be made in the second publication. Publication errors can invalidate the public notice and cause the applicant costly delays.

Please be sure the SECOND publication is returned IMMEDIATELY with the enclosed Proof of Publication form. DO NOT WAIT until the end of the month or the billing cycle. The permit application cannot be considered until proof of publication has been received.

Sincerely,

Eric Gronlund
Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----

FIRST TRANSMITTAL NOTICE

TO: ATTN: Eric Gronlund
Water Rights Division
523 E Capitol
Pierre SD 57501-3181

Date _____

We are in receipt of your letter of _____ enclosing Notice of Hearing to Validate A Vested Right Application which was first published in our issue of _____. ENCLOSED IS A COPY OF THIS FIRST PUBLICATION.

Name _____

Newspaper _____

Instruction to Newspaper - Publish first Notice on March 27, 1991, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING To Validate
Vested Water Right Application No. 2154-2 to Appropriate Water

Notice is given that Black Hills Packing Co., PO Box 2130, Rapid City, SD 57709 has filed an application to validate a vested water right claim to appropriate 0.56 cubic feet of water per second from one well, 16 feet deep, located into the alluvium along Rapid Creek in the NW 1/4 SE 1/4 Section 35-T2N-R7E. The water use has a claimed priority date of 1909 and is used as an industrial water supply for the packing company.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Vested Water Right Application No. 2154-2 for 0.56 cfs because 1) water has been appropriated as described for industrial use with a priority date of January 1, 1909, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water, and 4) it is in the public interest. Unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation, the Water Management Board will NOT CONDUCT a HEARING to consider this application and the chief engineer will issue the vested water right application as recommended. Petitions filed in support of the application will NOT require the Board to hear the application.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by April 22, 1991. The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

For purposes of publishing 1) the notice of hearing on Application No. 2154-2 and 2) the chief engineer's recommendation, a Board meeting is scheduled for May 1, 1991, at 10:00 a.m. at Chef Louie's, Meeting Room, 601 E Havens, Mitchell SD. If this application is opposed or the recommendation is contested, the May 1, 1991 hearing date may be rescheduled for another Board meeting. If the hearing is rescheduled, notice of the time and place will be given by First Class Mail to the applicant and persons filing petitions. Anyone not filing a petition, but interested in attending the hearing, may contact the Division of Water Rights to confirm a hearing date and location. The May 1, 1991 hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by April 22, 1991.

If a hearing is held, the Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve the validation, 2) approve the validation with qualifications, 3) defer, or 4) deny validation of the application based on the facts presented at the public hearing. Any hearing will be an adversary proceeding. Any person filing a petition and/or the applicant have the right to be represented by a lawyer and may present evidence or cross-examine witnesses according to SDCL 1-26. These and other due process rights will be forfeited if not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law. Contact the Water Rights Division to request copies of information pertaining to this application or to assure access to the hearing by the handicapped.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-10, 46-2A-12, 46-2A-14, 46-2A-15, 46-2A-18; 46-5-1 thru 46-5-11, 46-5-13 thru 46-5-15, 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31, 46-5-49; 46-6-3, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15; 74:02:01:19 thru 74:02:01:22.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-3.1, 46-2-9, 46-2-11, 46-2-13, 46-2-17; 46-2A-1 thru 46-2A-13, 46-2A-16, 46-2A-17, 46-2A-18, 46-2A-19, 46-3-1 thru 46-3-11, 46-5-13 thru 46-5-24, 46-5-25, 46-5-30.2, 46-5-30.4, 46-5-31, 46-5-49; 46-6-2, 46-6-3.1, 46-6-6.1, 46-6-10, 46-6-13, 46-6-14, 46-6-26; and Board Rules ARSD 74:02:01:01 thru 74:02:01:15; 74:02:01:19 thru 74:02:01:22.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE SOUTH DAKOTA 57501-3181

May 19, 1993

No. 2154-2

Walt Wilson
Federal Beef Processors
P.O. Box 2130
Rapid City, SD 57709-2130

Dear Mr. Wilson:

Enclosed is a partially completed "Notice of Transfer" form for use in filing an ownership change on Water Right No. 2154-2. The water right is currently listed in the name of Black Hills Packing Company.

The transfer form should be checked over for accuracy and signed by the new owner in the presence of a notary public. Upon completion, return the form to our office with a required filing fee of \$2.50.

South Dakota Water Law 46-5-30.3 requires Notice of any sale, grant, lease, conveyance or other transfer of a water permit or water right to appropriate water to be filed with this office within ninety days.

If you have any questions, please contact me.

Sincerely,

Cheryl F. Frost
Secretary
Water Rights Division
(605) 773-3352

enclosure

NOTICE OF TRANSFER OF OWNERSHIP

To: Chief Engineer
Water Rights Division, DENR
523 E. Capitol
Pierre, SD 57501-3181



No. 2154-2

Date: 5-20-93

I/We request that Vested Water Right No. 2154-2

formerly owned by: Black Hills Packing Company

be transferred to: (name & address) Federal Beef Processors Inc.
P.O. Box 2130 Rapid City SD 57709 (Telephone No) (605) 343-1414

Title to the following described land(s)/property has been transferred as described above:

(diversion point) NW 1/4 SE 1/4 Section 35, T2N, R7E

I/We understand that the validity of Vested Water Right No. 2154-2 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

You are requested to file this "Notice of Transfer" in the appropriate file at the Division of Water Rights, as evidence of the change of ownership.

A fee of Two Dollars and Fifty Cents (\$2.50) is attached to cover the filing fees as required under SDCL 46-2-13.

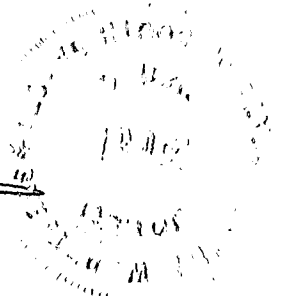
STATE OF SOUTH DAKOTA)
County of Pennington)

I/We Jeff Burkett being first duly sworn on my oath depose and say that my relation to the above described undertaking is that of Owner, that I have read the above foregoing statement, and that I know of my own personal knowledge that the information herein stated is true.

Jeff Burkett Asst. Controller
(Signed)

Subscribed and sworn to before me this 20th day of May, 19 93.

Amel W. Doty
(Notary Public)



NOTE: Water permits may be cancelled for nonconstruction within the five year construction period. Once a water permit is developed and the water used, the permit becomes a right. A water right may be lost for three reasons:

1. Abandonment - no intent to use water and use is abandoned.
2. Forfeiture - no use of water for three year period without legal excuse.
3. For a third violation of a condition of a water permit/right.