

WATER PERMIT NO. 2313-2

Phone: 342-8222

Name of Applicant: Coca-Cola Bottling Company of the Black Hills

Post Office Address: 2150 Coca-Cola Lane, Rapid City 57702

Amount of Water Claimed: 1.25 cfs (add'l) Total Acres: 10 add'l

Source of Water Supply: groundwater - same well as Permit No. 2110-2

Water to be used for: commercial & irrigation County: Pennington

About _____ miles _____ of _____

PRIORITY Date Received: 4-8-94 Fee: \$375.00 Remarks: _____

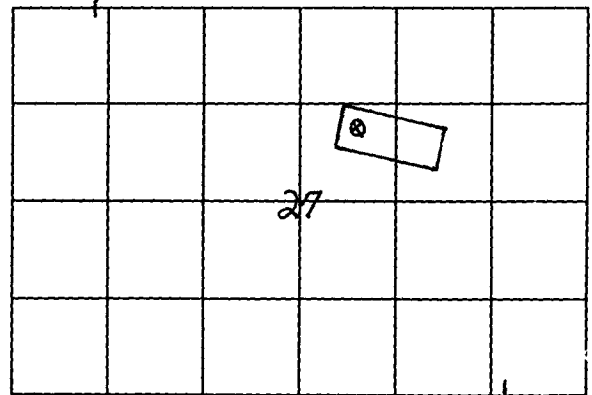
Corrected Application Received: 4-29-94 Period of Annual Use: Jan 1- Dec 31

WATER QUALITY APPROVAL RECEIVED: _____ APPROVED/CONDITIONAL (Circle one)

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

Diversion Point: SW 1/4 NE 1/4 Sec 27-T2N-R7E

Land to be Irrigated: S 1/2 NE 1/4 Sec 27-T2N-R7E



Well Log: Driller: Taylor Drilling Licensed YES X NO _____

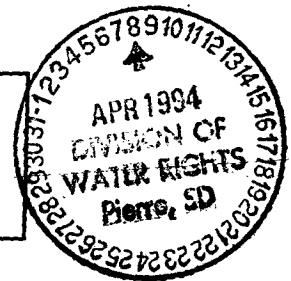
Depth of Well: 1460 feet REMARKS: _____

Type of Map: topo PREPARED BY: Warren L. Fisk, RLS Reviewed and the Number

Assigned on: 4-29-94 By: Karen Schlaak

FORM 2: Application for Irrigation in South Dakota

(type or print)



Mail to:
Water Rights Division
Joe Foss Building
523 E Capitol
Pierre SD 57501-3181
605 773-3352

No. 2313-2 Hydrologic Unit 10120110
Basin Upper Cheyenne
Newspaper Rapid City Journal, P.O. Box 450
(office use only)

Application For Soil/Water Compatibility Permit And Permit To Appropriate Water

Type of Application: ☒ New ☐ Vested Right ☐ Amendment/Correction to Permit No. 2110-2
(check one) (Use predates Mar 2, 1955)

Description of amendment/correction: (i.e. acreage change, change diversion point(s), add diversion point(s), etc.)
additional - 10 acres added for plant expansion
additional - 1.5 cfs needed for production expansion

- Name of Applicant Coca-Cola Bottling Company of the Black Hills Phone 605-342-8222
(check one) ☒ Owner ☐ Tenant/lessee
Mailing Address 2150 Coca-Cola Lane Rapid City State SD 57702
(Street, RR, or Box) (City) (Zip Code)
- Amount of water claimed 1.25 ~~1.25~~ *CFS or **GPM ***AF Total Acreage 10
(*Cubic Feet per Second) (**Gallons per Minute) (***)Acre Feet - storage capacity of dam/dugout if applicable additional
- Source of water supply 1400 feet Madison well
- Location of point of diversion (example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W) appro 160' W 240' S of NE
corner of Lot A Track 12 which is located in SW1/4 of NE1/4 Sec 27 T2N R7E
same as permit #2110-2 County Pennington
- County or counties where water will be used Pennington
- Annual period during which water is to be used All year with increase during summer months Jan 1-Dec 31
- List below each forty acre subdivision, or lot, or fraction thereof and show number of acres to be irrigated in each.
(Attach sheet if more space is needed)

Land Description	Acres	Land Description	Acres
Located <u>S1/2</u> of NE1/4 Sec 27	<u>10 additional</u>		
<u>T2N R7E</u>			

- Type of Irrigation: Gravity: ☐ Towline: ☐ Center Pivot: ☐ Gun: ☐ Other (Specify): sprinkler (Auto)
- Crops to be irrigated: None
- Give a description of the project. (Attach sheet if more space is needed)

Additional - 10 acres expansion of property with landscaping
Additional - building & production expansion for future use

Attachments: Attach Form 2A if diversion is from a well or dugout, or if storage of water is proposed. Attach maps, soils information and any other technical information. (see instructions)

STATE OF SOUTH DAKOTA)

County of Pennington)^{SS}

I, Coca-Cola Bottling Co, the applicant, certify that I have read this application and examined the attached maps, that the water sample, if needed, has been taken by the required procedures and has not been adulterated or tampered with and is representative of the water to be used, and that the matters stated in this application are true and correct.

Signed [Signature]

Subscribed and sworn to before me this 5th day of April 19 94

[Signature]
Notary Public

My Commission Expires
JANUARY 18, 2002

SOUTH DAKOTA WATER PERMIT NO. 2313-2 FOR IRRIGATION

Date of first receipt of application April 8, 1994.

Date of return to applicant for corrections, amendments or changes April 8, 1994.

Date of receipt of corrected application April 20, 1994.

The Water Management Board approved Water Permit Application No. 2313-2 on May 2, 1995 for Coca-Cola Bottling Company of the Black Hills, 2150 Coca-Cola Lane, Rapid City SD 57702 authorizing the construction of the water use system and the placing of water to beneficial use subject to the following limitations, conditions and qualifications:

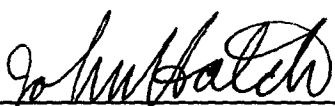
1. Water Permit No. 2313-2 appropriates 1.25 cubic feet of water per second (cfs) and to irrigate an additional 10 acres from one Madison Formation well. Water Permit No. 2110-2 appropriates 0.25 cfs from one well (Madison Formation) 1460 feet deep to irrigate 4.5 acres, both which are located in the SW 1/4 NE 1/4 Section 27-T2N-R7E. This permit appropriates an additional 1.25 cfs from a second well, if needed, to irrigate an additional 10 acres located in the S 1/2 NE 1/4 Section 27-T2N-R7E and for commercial purposes in the operation of the Coca-Cola bottling facility. One well will be used to supply the 1.5 cfs. If 1.5 cfs can not be developed from the one well, a second well may be constructed within a five year construction period.
2. The amount of the appropriation may not exceed 2 acre feet annually for each acre of land to which water is actually and beneficially applied for irrigation. The water is to be used during the following described annual period: January 1 - December 31 for irrigation and commercial use purposes.
3. The date from which applicant may claim right is April 8, 1994.
4. One-fifth of the construction is to be completed on or before November 2, 1997.
5. All construction is to be completed on or before May 2, 2000.
6. Water is to be put to beneficial use on or before May 2, 2004.
7. Water rights obtained in compliance with the laws of the State of South Dakota may not be unlawfully impaired by this appropriation.

QUALIFICATIONS

1. The wells authorized by Permit No. 2313-2 shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) from the producing formation to the surface pursuant to Section 74:02:04:28.
2. In accordance with SDCL 46-1-14 and 46-2A-20, Permit No. 2313-2 is issued for a twenty year term. Pursuant to SDCL 46-2A-21, the twenty year term may be deleted at any time during the twenty year period or following its expiration. If the twenty year term is not deleted at the end of the term, the permit may either be cancelled or amended with a new term limitation of up to twenty years. Permit No. 2313-2 may also be cancelled for nonconstruction, forfeiture, abandonment or three permit violations pursuant to SDCL 46-1-12, 46-5-37, 46-5-37.1, and Board Rule ARSD 74:02:01:37.

3. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
4. This permit is approved subject to the irrigation water use questionnaire being submitted each year.

WATER MANAGEMENT BOARD

By: 

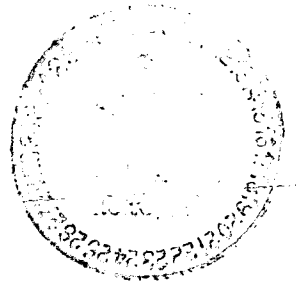
John Hatch, Chief Engineer
Water Rights Program
Department of Environment and Natural Resources

SEP 5 1995

date

Supplemental Information

(type or print in ink)



1. Well Information - Proposed Construction

- a) Drill Hole Diameter 8" Depth 1400 feet
- b) Casing Type steel Diameter 7" Thickness .258 wall
- c) Screen Type N/A Diameter N/A Thickness N/A
- d) Gravel Pack Thickness N/A Length of Gravel Pack N/A
- e) Depth to Top of Water Bearing Material 900 feet
- f) Depth to Water (ground surface to water level) surface
- g) Distance to nearest existing domestic well: 1/4 mile
- On applicants property No On property owned by others Yes

2. Dugout Information

- a) Surface Dimensions 200x100 ft Depth 7 ft
- b) Depth to water (ground surface to water level) from 2-6 ft

3. Water Storage Dams

If the proposed water use system contains one or more storage dams, please furnish the information requested below for each dam. The locations of the dams need to 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:

Lund Associates Inc, Rapid City SD

Haskins Western Soudregger Inc

b) Freeboard 1 ft to 5 ft

c) Crest Width None

Crest Length Rubber lined pond - no dam

d) Height None

e) Primary Outlet Capacity spillway 8"

If pipe, diameter 8"

f) Secondary Spillway Capacity spillway

Spillway Width 6"

g) X & Y Slope

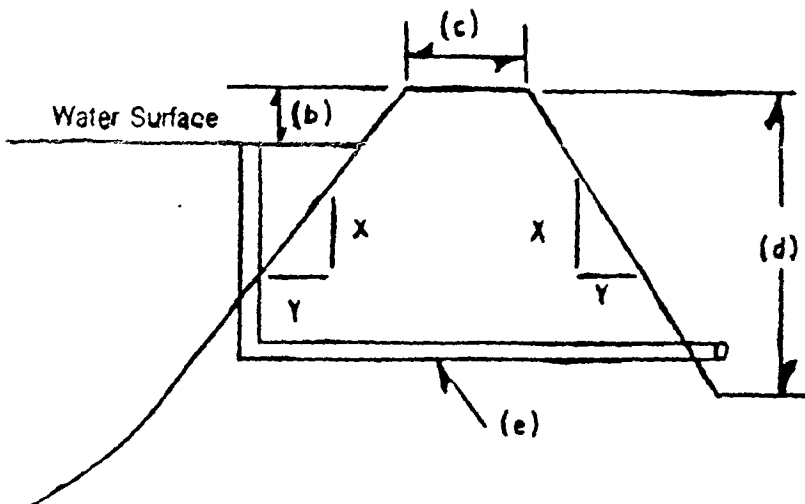
Upstream None

Downstream None

h) Surface Area of Impoundment 200'x100'

i) Storage 100,000 cu ft Acre Feet

j) Drainage Area Above Dam None Acres



RECEIPT

Division of Water Rights

414156

South Dakota Department of Environment and Natural Resources

Pierre, _____ April 11, 19 94

RECEIVED OF Coca-Cola Bottling Co, 2150 Coca-Cola Lane, Rapid City, SD 57702

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

Fee for Application for Permit No. <u>2313-2</u> to Appropriate Water, to construct and to put water to beneficial use _____	375	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 _____		

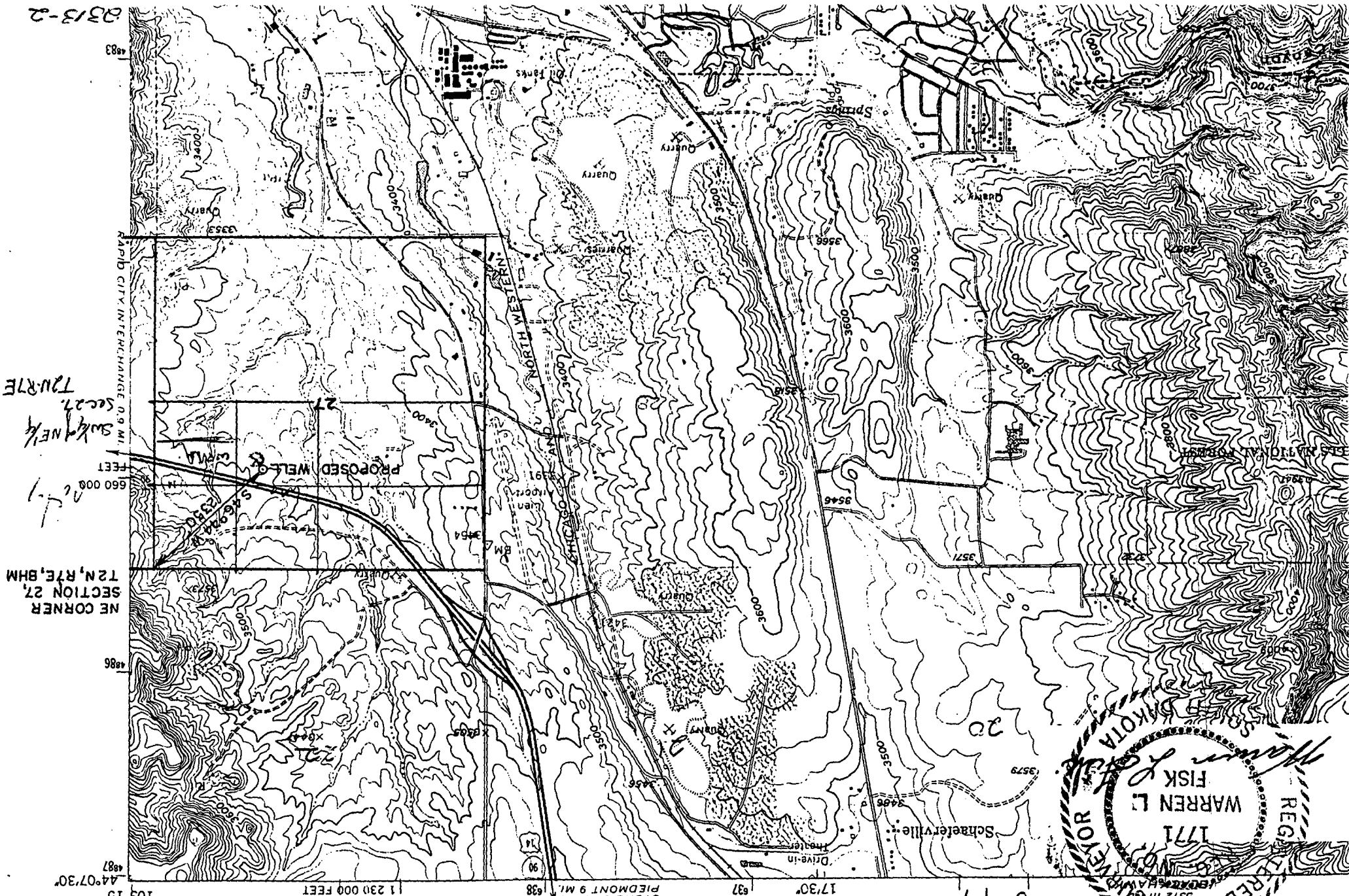
(Any Other Work Provided by Law)	Total	375 00

By John Hatch
Chief Engineer

PROPOSED WELL LOCATION
 COCA-COLA PLANT, RAPID CITY, SD
 PREPARED BY FISK ENGINEERING, INC., APRIL 14, 1994

RAPID CITY WEST QUADRANGLE
 SOUTH DAKOTA-PENNINGTON CO.
 7.5 MINUTE SERIES (TOPOGRAPHIC)

5372 II NW
 (RAPID CITY MI)



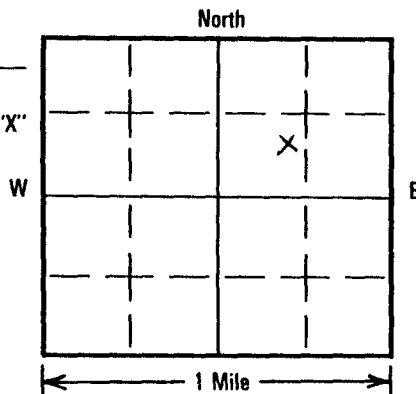
0313-2

SOUTH DAKOTA WATER WELL COMPLETION REPORT

07-92

Location SW 1/4 NW 1/4 Sec 27 Twp 2N Rg 7ECounty Pennington

Please mark well location with an "X"

Well Completion Date 12 - 4 - 91

LOCATION:

Distance from nearest potential pollution source (septic tank, abandoned well, feed lot, etc.)? 1000 ft. from septic tank (identify source).

PROPOSED USE:

☐ Domestic/Stock ☐ Municipal ☐ Business ☐ Test Holes
☐ Irrigation ☒ Industrial ☐ Institutional ☐ Monitoring well

METHOD OF DRILLING:

Air + Mud Rotary

CASING DATA:

☒ Steel ☐ Plastic ☐ Other

If other describe _____

PIPEWEIGHT	DIAMETER	FROM	TO	HOLE DIAMETER
<u>23 LB/FT</u>	<u>7 IN</u>	<u>0 FT</u>	<u>1380 FT</u>	<u>8 3/4 IN</u>
<u>36 LB/FT</u>	<u>9 5/8 IN</u>	<u>0 FT</u>	<u>35 FT</u>	<u>13 1/2 IN</u>
_____ LB/FT	_____ IN	_____ FT	_____ FT	_____ IN

GROUTING DATA

Grout Type	No. of Sacks	Grout Weight	From	To
<u>cement</u>	<u>10</u>	<u>15 lb./gal</u>	<u>0 ft</u>	<u>35 ft</u>
<u>cement</u>	<u>200</u>	<u>15 lb./gal</u>	<u>0 ft</u>	<u>1380 ft</u>

Describe grouting procedure pressure grouted through casingSCREEN: ☐ Perforated pipe ☐ Manufactured

Diameter _____ IN Length _____ FEET

Material _____

Slot Size _____ Set From _____ Feet to _____ Feet

Other information _____

WAS A PACKER OR SEAL USED? ☐ YES ☒ NO

If so, what material? _____

Describe packer(s) and location? _____

DISINFECTION:

Was well disinfected upon completion? ☒ YES, How: chlorine solution
_____ NO, Why Not? _____Laboratory sent to for water quality analysis Twin City Test

Well Owner: _____

Business Name: Coca Cola Bottling Co. of B.H.Address: 2150 Coca Cola LaneRapid City, S.D. 57702attn: Tom Simms

WELL LOG:

FORMATION	DEPTH	
	FROM	TO
yellow clay	0	11
dark red ss	11	48
green siltstone + shale	48	185
red shale + siltstone	185	554
tan to pink limestone	554	608
red shale some ss	608	720
red ss	720	740
yellow ss	740	775
limestone red, pink + white	775	885
brown to red + pink ss	885	1005
limestone tan to red	1005	1105
orange ss	1105	1125
tan limestone some ss	1125	1227
limestone tan to light yellow	1227	1287
light yellow limestone	1287	1460

STATIC WATER LEVEL _____ Feet

If flowing: closed in pressure < 2.5 PSIGPM flow 100 through _____ inch pipeControlled by ☒ Valve ☐ Reducers ☐ Other flowing well

Reduced Flowrate _____ pitless _____ GPM

Can well be completely shut in? yes

WELL TEST DATA:

☐ Pumped Describe: air developed☐ Bailed _____☐ Other _____

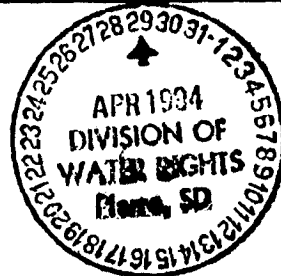
Pumping Level Below Land Surface

300 ft. After 2 Hrs. pumped 300+ GPM

_____ ft. After _____ Hrs. pumped _____ GPM

If pump installed, pump rate _____ GPM

REMARKS

This well was drilled under license # 331

And this report is true and accurate.

Drilling firm Taylor Drilling

Signature of License Representative:

Randy Taylor

Signature of Well Owner or Equitable Property Holder:

Date: _____



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

April 8, 1994

Coca-Cola Bottling Company of the Black Hills
Tim Sims
2150 Coca-Cola Lane
Rapid City SD 57702

Dear Mr. Sims:

In regard to your water permit application received on April 8, 1994, the following information needs to be submitted and clarified in order to process your application.

1. Enclosed is the map submitted with the application. In order for the map to meet the statutory requirements, the map must be signed by one of the following: Registered Land Surveyor, Registered Professional Engineer or by any other government employee who normally prepares maps as a part of his assigned duties.
2. Also, Item No. 2 of the application states the amount of water claimed to be 1.5 cubic feet of water per second. Water Permit No. 2110-2 authorizes 0.25 cfs. It is my understanding that this application is for an additional 1.25 cfs (total 1.5 cfs). Is this correct?
3. A well completion report signed by a South Dakota licensed well driller must accompany the application. I have reviewed our files and cannot find a report for this well.

Upon receipt of the above, further processing of your application will continue. If you have any questions, please contact this office.

Sincerely,

Karen Schlaak

Karen Schlaak
Environmental Scientist
605 773-3352

enclosure

IMPORTANT MESSAGE

Enjoy



Coca-Cola Bottling Company of the Black Hills

2150 Coca-Cola Lane
Rapid City, South Dakota 57702/605 342-8222

MESSAGE

TO

DEPT OF ENVIRONMENT
523 E. Capitol
PIERRE, SD 57501

DATE

4-8-94

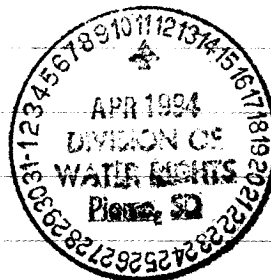
THIS IS FOR A FILING
FEE FOR WATER PERMIT.
Thank you.

CHK# 7531

\$375.00

BY Dawn C. Wood

DATE



SIGNED

Instructions to sender:

1. Keep yellow copy. 2. Send white and pink copies with carbon intact.

Instructions to receiver:

1. Write reply. 2. Keep pink copy, return white copy to sender.

Coca-Cola Bottling Company of the Black Hills



April 14, 1994

Department of Environment & Natural Resources
Karen Schlaak
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181

Dear Ms. Schlaak,

Please find enclosed with this letter a map with the location of our property site located by Warren Fisk. Our location would be Lot A & B of Tract 12, S $\frac{1}{2}$ of NE $\frac{1}{4}$, Section 27, 72N, R7E, Pennington County, South Dakota.

Also on item #2 the amount of water claimed should be for an additional 1.25 cfs (not 1.5 cfs) as written in permit application. We already have permit #2110-2 for .25 cfs amount of water claimed. We need this amount for future use in our production and plant expansion.

Item #3 well completion report by well driller will be sent to you from Taylor Well Drilling Co. You should be receiving this report within a week. I will follow up on this and make sure you get a copy. Please feel free to call or write me about this if needed at 605-342-8222.

Sincerely,

Tom Sims
Plant Superintendent

TS/nvb

Enc

WATER PERMIT APPLICATION NO. 2313-2
COCA-COLA BOTTLING COMPANY OF THE BLACK HILLS
JUNE 24, 1994

Water Permit Application No. 2313-2 proposes to appropriate 1.25 cubic feet of water per second (cfs) and to irrigate an additional 10 acres from one Madison Formation well. Water Permit No. 2110-2 appropriates 0.25 cfs from one well (Madison Formation) 1460 feet deep to irrigate 4.5 acres both which are located in the SW 1/4 NE 1/4 Sec.27, T2N-R7E. This application proposes to appropriate an additional 1.25 cfs from a second well, if needed, to irrigate an additional 10 acres located in the S 1/2 NE 1/4 Sec.27, T2N-R7E and for commercial purposes in the operation of the Coca-Cola Bottling facility. One well will be used to supply the 1.5 cfs, if 1.5 cfs can not be developed from one well, a second well may be constructed.

INTRODUCTION:

SDCL 46-2A-9 requires that a permit to appropriate water may only be issued if there is reasonable probability that there is unappropriated water available for the applicant's proposed use, that the proposed diversion can be developed without unlawful impairment of existing rights and that the proposed use is a beneficial use and in the public interest. This report will address the questions of water availability and the affects on existing rights.

The Madison Aquifer is a massive, carbonate (limestone and dolomite) aquifer which underlies most of western South Dakota. It is estimated that the aquifer contains at least 640 million acre-feet of recoverable water in storage in the State (Allen, 1984). The importance of the Madison as an aquifer is largely due to randomly distributed zones of secondary porosity and permeability formed by weathering of exposed surfaces, groundwater solution and fracturing. These zones also play an important role in determining the hydraulic behavior of the Madison aquifer system and the response of the system to stress. The aquifer is under confined (artesian) conditions at this location and the well requested by this application will flow approximately 100 gallons per minute.

Recharge to the Madison aquifer occurs through streamflow losses and direct infiltration of precipitation at the outcrop area. A major source of recharge to the Madison aquifer in this area, (85% according to Peter, 1985), is water that Rapid, Box Elder and Spring Creeks lose when the creeks cross the outcrop of the Madison. Recharge for the entire Madison Aquifer in South Dakota has been estimated to range from 140,000 to 400,000 acre-feet per year (Woodward Clyde, 1981).

The Division of Water Rights monitors 12 observation wells completed into the Madison aquifer. Records from the observation wells indicate the potentiometric surface of the aquifer fluctuates 30-40 feet per year near the recharge area, in response to seasonal and climatic variations. Observation well data suggest that at the

existing level of development, and natural influences dominate the water level of the aquifer and the effects of pumping as yet are not obvious.

The high cost of Madison wells, except very near the outcrop, and the availability of groundwater from shallower aquifers, has limited domestic development and generally restricted usage from the Madison to those uses which require water rights. There are a total of 111 permits/rights which appropriate water from the Madison aquifer in South Dakota. The majority of the water use from the aquifer is from Butte, Lawrence, Meade, Pennington and Fall River Counties. The Madison supplies water for irrigation, geothermal, industrial, and commercial use. However, by far the major use of the aquifer is for common distribution systems (suburban housing development and municipal use). The cities of Spearfish, Belle Fourche, Sturgis, Rapid City, Box Elder, and Edgemont all depend on water from the Madison Aquifer.

If the worst case assumptions are made that (1) permits/rights with an annual withdrawal limitation (ac-ft/yr) will use the maximum allowable; and (2) permits/rights that are limited by a diversion rate only, will use 60% of the maximum allowable (considered reasonable for water distribution systems); the total water use from the Madison would be less than 35,000 acre-feet per year. The actual amount of water used from the Madison is considerably less than this estimate. Comparison of the estimated annual recharge to the Madison with the water use estimated from the aquifer, indicates unappropriated water is available from the Madison aquifer.

AFFECTS ON EXISTING RIGHTS:

The major obstacle to potential development of the Madison Aquifer is consideration of the affects pumping may have on existing water rights. The drawdown caused by pumping an individual well could have an affect nearby wells (well interference), and the cumulative affect of numerous withdrawals from an area, may have an affect on area water rights.

Well Interference:

Since the Madison is under artesian conditions except very near the outcrop, withdrawals from a well can cause a decline in the potentiometric surface over fairly widespread areas. For example, two constant discharge aquifer tests were conducted in the Rapid City area during the spring of 1990. A well (City Well #6) was pumped continuously for four days at a rate of 700 gallons per minute (gpm). The resultant drawdown in the production well was 426 feet. Approximately 3,000 feet from the production well, the maximum drawdown in an observation well was reportedly 1.5 feet. A second well (City Well #5), pumped for 7 days at 1,700 gpm resulted in maximum drawdown of 210 feet in the production well. Maximum drawdown in an observation well 11,700 feet from the production well was 1.4 feet, (Greene, 1993).

The well used to supply this permit (Coke Well) is located within

the area reserved for future use by Rapid City with Future Use Permit No. 2086-2. The priority date of the future use permit is May 18, 1989. Several wells have been completed in the future use area, including Rapid City Well #10 which is located approximately 1/4 mile from the Coke Well. Water Permits No. 2155-2 and No. 2275-2 authorize a diversion rate of 3.80 cfs from Rapid City Well #10, with an annual appropriation of 1,651 ac-ft/yr.

Under existing conditions, drawdown caused by pumping either the Coke Wells or Rapid City Well #10 probably influences the water level of the other well. An increase of diversions from either well will in theory, increase the influence on the other well. Since the Coke Well is junior to Rapid City Well #10, withdrawals from the well must be controlled so there is not a reduction of needed water supplies in Rapid City Well #10. However, exactly what constitutes a "reduction of needed water supplies" or the unlawful impairment of existing rights is not clear.

Pursuant to SDCL 46-6-6.1 the Water Management Board has promulgated rules (ARSD 74:02:04 and 74:02:05) which provide for the regulation of large capacity wells to the degree necessary to maintain an adequate depth of water for a prior appropriator in wells that have the ability to produce water independent of artesian pressure.

Quantifying the increased influence this appropriation would have on Rapid City Well #10 is not practical with the information available at this time. Pump test information is not available for the Coke well. However, during a pump test of Rapid City Well #10, drawdown of 350 feet was measured at 1,787 gpm (Greene, 1994). Assuming a similar specific capacity for the Coke Well(s) (5.1 gpm/ft) total drawdown in the well(s) at a diversion rate of 1.5 cfs (combined rate of 2110-2 and 2313-2) would be approximately 132 feet. The interference in Rapid City #10 would be less than 132 feet. Even if the pump in Rapid City #10 had to be lowered 132 feet to compensate for the pumping of the Coke well it would not be an adverse impact.

An increase in operating expenses that may result from interference between wells is not considered an adverse impact. SDCL 46-1-4 requires South Dakota's water resources to be put to beneficial use to the fullest extent of which they are capable.

Cumulative Affect of Withdrawals:

The cumulative affect of numerous withdrawals from a concentrated area, may lower the water levels over a fairly large area. A significant lowering of the potentiometric surface of the Madison Aquifer could theoretically affect not only the Madison, but also other aquifers, spring flows and surface water flows. In recent years, a number of wells have been completed into the Madison aquifer in the Rapid City area.

The relationship between the Madison Aquifer and the overlying Minnelusa Aquifer is not fully understood. A hydrologic connection

may exist between these two aquifers. Measurements taken in Division of Water Rights Observation Wells indicate the water level of the Madison is generally higher than the water level of the Minnelusa, thus suggesting the potential of the Madison contributing recharge to the Minnelusa. If a hydraulic connection exists, lower water levels in the Madison Aquifer would also result in lower water levels in the Minnelusa Aquifer. While significant effects to the Minnelusa water level do not appear to have resulted from present development, this connection cannot be ignored when considering long-term development.

As stated previously, a major percentage of the recharge to the Madison occurs from streamflow losses. Streamflow losses to the aquifer are directly influenced by the gradient between the surface water and the groundwater. An increase in the gradient caused by a decline in water levels in the Madison aquifer may increase the streamflow losses.

Springs and seeps sustain the base flow of all major streams that drain the Black Hills, including Elk Creek, Boxelder Creek, Spring Creek, Battle Creek, and Rapid Creek. Many of these springs or seeps are points of natural discharge from the Madison Aquifer. Small fluctuations in the Madison water table may have large fluctuations in spring discharge. Seasonal fluctuations and climatic effects of spring discharge may be evident in discharge from some area springs. Most of the springs discharging from the Madison are at or near the outcrop where the aquifer is under unconfined conditions. Historic data of water table fluctuations in the unconfined portion of the Madison aquifer are not available, and the relationship between spring discharge and water level fluctuations is unknown.

If the cumulative affect of development from the Madison Aquifer requires the lowering of pumps in existing wells (either domestic wells or those wells with existing permits), or reduces flows of area streams, unlawful impairment of existing rights questions may need to be answered. SDCL 46-6-6.1 authorizes the Water Management Board to protect domestic water use by controlling large capacity wells without the necessity of requiring maintenance of artesian head pressure in a domestic use well. The statute also provides for the lowering of a water lift mechanism to a depth near the bottom of the groundwater supply or, in artesian aquifers to a substantial depth below the geological formation confining the ground water. Based on this statute, although water levels may be affected, the affect may not be unlawful impairment.

TERM LIMITATION:

SDCL 46-2A-20 requires that "... no water permit for construction of works to withdraw water from the Madison formation in Butte, Fall River, Custer, Lawrence, Meade and Pennington counties may be issued for a term of more than twenty years, unless the Water Management Board determines, based upon the evidence presented at the hearing that:

- (1) Sufficient information is available to determine whether

any significant adverse hydrologic effects on the supply of water in the Madison formation would result if the proposed withdrawal were approved; and

- (2) The information, whether provided by the applicant or by other means, show that there is a reasonable probability that issuance of the proposed permit would not have a significant adverse effect on nearby Madison formation wells and springs."

Evidence is not available to justify issuing this permit without a term limitation of 20 years.

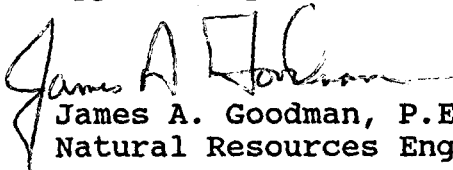
CONCLUSIONS:

1. The Madison Aquifer is a viable aquifer in this area, and water is available for this appropriation.
3. Well interference should not be a problem in this area.
4. Adverse impacts on area water levels, due to this increased appropriation from the Madison Aquifer are not expected.
5. The well used to provide water for this application is located in the area specified for future use by the City of Rapid City.



Ken Buhler
Natural Resources Engineer

Approved by:



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

REFERENCES:

Allen, J.C., D.Iles, A.Petres, 1984, Analysis of Groundwater and Streamflow Data, Western Dakotas Region of South Dakota, Task 3 & 4: Groundwater Resources Inventory, US Army Corp of Engineers Contract DAWC 45-82-C-015, SD DENR-Division of Geological Survey, Vermillion SD.

Darton, N.H., Paige, S., 1925, Geologic Atlas of the United States, Central Black Hills Folio, USGS Folio No. 219.

Division of Water Rights, 1994, "Domestic Well Log Files, Observation Well Files, and Water Permit Files", DENR-Water Rights Division, Joe Foss Building, Pierre, SD 57501.

Greene, E.A., 1993, Hydraulic Properties of the Madison Aquifer System in the Western Rapid City Area, South Dakota, U.S.

Geological Survey, Water Resources Investigations Report 93-4008, Rapid City, SD.

~~Greene, E.A., 1994, Personal Communication.~~

Office of Drinking Water, 1994, South Dakota Public Water System Data, SD DENR- Division of Environmental Regulation Office of Drinking Water, Joe Foss Building, Pierre SD.

Rapid City Regional Office, 1994, SD DENR-Division of Environmental Regulation, 2050 West Main, Suite 1, Rapid City, SD.

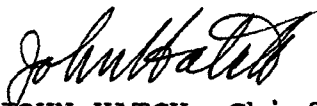
RECOMMENDATION OF CHIEF ENGINEER FOR WATER PERMIT
APPLICATION NO. 2313-2, Coca-Cola Bottling Co.

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Division, Department of Environment and Natural Resources concerning Water Permit Application No. 2313-2, Coca-Cola Bottling Company of the Black Hills, c/o Tom Sims, 2150 Coca-Cola Lane, Rapid City, SD 57702.

The Chief Engineer is recommending APPROVAL of Application No. 2313-2 for a 20-year term pursuant to SDCL 46-1-14 and 46-2A-20 because 1) although evidence is not available to justify issuing this permit without a 20-year term limitation, there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) the proposed diversion can be developed without unlawful impairment of existing rights, 3) the proposed use is a beneficial use, and 4) it is in the public interest with the following qualifications:

1. The well authorized by Permit No. 2313-2 shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) from the producing formation to the surface pursuant to Section 74:02:04:28.
2. In accordance with SDCL 46-1-14 and 46-2A-20, Permit No. 2313-2 is issued for a twenty year term. Pursuant to SDCL 46-2A-21, the twenty year term may be deleted at any time during the twenty year period or following its expiration. If the twenty year term is not deleted at the end of the term, the Permit may either be cancelled or amended with a new term limitation of up to twenty years. Permit No. 2313-2 may also be cancelled for nonconstruction, forfeiture, abandonment or three permit violations pursuant to SDCL 46-1-12, 46-5-37, 46-5-37.1, and Board Rule ARSD 74:02:01:37.
3. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
4. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

See report on application for additional information.


JOHN HATCH, Chief Engineer
June 27, 1994

Water Rights Division - DENR
Conversation File Documentation

NAME OF PERSON OR FILE: Coca Cola Bottling - WP Appl. No. 2313-2

ADDRESS: COUNTY: Pennington

DATE: 7/25/94 @ 4:30 TELEPHONE: 342-8222

RE: Call to Tom Sims regarding authorizing publication

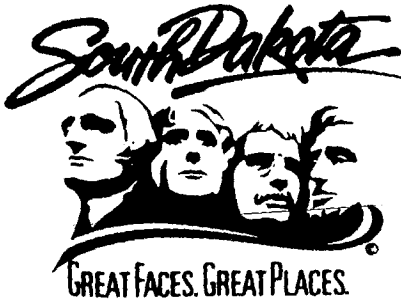
COMMENTS:

I called Mr. Sims regarding authorizing publication of the notice of hearing. Lori from the RC Journal had called to tell us that he did not authorize publication. I indicated to Mr. Sims that he needed to contact the newspaper by noon tomorrow to get it published on Friday (a Friday publication date would not change any of the dates in the notice).

Mr. Sims commented on the short notice he had to contact the newspaper but indicated that he would get to it yet tonight and call the newspaper.

File in Permit or other file as necessary. Use to document conversations and what the other party was told; why action or decision was made.

NAME: Eric Gordon



**DEPARTMENT of ENVIRONMENT
and 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.**

July 21, 1994

Tom Sims
Coca-Cola Bottling Company
of the Black Hills
2150 Coca-Cola Lane
Rapid City, SD 57702

Dear Mr. Sims:

Water Permit Application No. 2313-2 for commercial and irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of hearing has been sent to the Publisher of the Rapid City Journal printed at Rapid City, SD (Ph # 605-394-8300). 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 prior to publication 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 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. The newspaper has been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

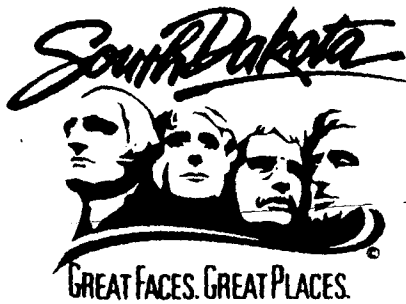
Sincerely,

Eric Gronlund
Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

NOTE: If you plan to contest any part of the Chief Engineer's recommendation, you must file a petition pursuant to the procedures outlined in the attached notice of hearing. The Water Management Board will then consider your concerns during a hearing on the application.

c: Dan Bjerke, City of Rapid City, 300 6th Street, Rapid City, SD 57701



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

July 21, 1994

Rapid City Journal
PO Box 450
Rapid City, SD 57709-0450

ATTENTION: Legal Department

Enclosed is a Notice of Hearing on Application No. 2313-2 to be published twice. Please publish the first notice on July 28, 1994, 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 Coca-Cola Bottling Company of the Black Hills, c/o Tom Sims, 2150 Coca-Cola Lane, Rapid City, SD 57702 (Ph # 605-342-8222).

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. No action may be taken on the permit application until proof of publication has been received.

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----
FIRST TRANSMITTAL NOTICE TO: Eric Gronlund
Water Rights Division
Joe Foss Building
Pierre SD 57501-3181

No. _____

Date _____

We are in receipt of your letter of _____ enclosing Notice of
Hearing to Appropriate Water by Application No. _____ 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 July 28, 1994, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING on Application No. 2313-2 to Appropriate Water

Notice is given that the Coca-Cola Bottling Company of the Black Hills, 2150 Coca-Cola Lane, Rapid City, SD 57702 has filed an application for a water permit to appropriate 1.25 cubic feet of water per second (cfs) and to irrigate an additional 10 acres from one Madison Formation well. Water Permit No. 2110-2 appropriates 0.25 cfs from one well (Madison Formation) 1460 feet deep to irrigate 4.5 acres, both which are located in the SW 1/4 NE 1/4 Section 27-T2N-R7E. This application proposes to appropriate an additional 1.25 cfs from a second well, if needed, to irrigate an additional 10 acres located in the S 1/2 NE 1/4 Section 27-T2N-R7E and for commercial purposes in the operation of the Coca-Cola bottling facility. One well will be used to supply the 1.5 cfs. If 1.5 cfs can not be developed from the one well, a second well may be constructed within a five year construction period.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2313-2 for a 20-year term pursuant to SDCL 46-1-14 and 46-2A-20 because 1) although evidence is not available to justify issuing this permit without a 20-year term limitation, there is reasonable probability that there is unappropriated water available for the applicant's proposed use, 2) existing rights will not be unlawfully impaired, 3) it is a beneficial use of water, and 4) it is in the public interest.

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 August 19, 1994. 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.

The Water Management Board will consider this application at 10:30 a.m., August 31, 1994, Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol, Pierre, SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. The August 31, 1994, 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 August 19, 1994.

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 Eric Gronlund by August 19, 1994, at the above Water Rights Division address to request copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

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-20, 46-2A-21; 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; 46-6-3, 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. Robert E. Roberts, Secretary, Department of Environment and Natural Resources.

Notice is given that the Coca-Cola Bottling Company of the Black Hills, 2150 Coca-Cola Lane, Rapid City, SD 57702 has filed an application for a water permit to appropriate 1.33 cubic feet of water per second (cfs) and to irrigate an additional 10 acres from one Modian Formation well. Water Permit No. 2115-2 appropriates 0.23 cfs from one well (Modian Formation) 1,460 feet deep to irrigate 4.5 acres, both which are located in the SW 1/4 NE 1/4 Section 27-T2N-R7E. This application proposes to appropriate an additional 1.10 cfs from a second well, if needed, to irrigate an additional 10 acres located in the SW 1/4 NE 1/4 Section 27-T2N-R7E and for commercial purposes in the operation of the Coca-Cola bottling facility. One well will be used to supply the 1.3 cfs, if 1.3 cfs cannot be developed from the one well, a second well may be constructed within a five-year construction period.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends APPROVAL of Application No. 2313-2 for a 20-year term pursuant to SDCL 46-1-14 and 46-2A-20 because 1) sufficient evidence is not available to justify issuing this permit without a 20-year term limitation; there is reasonable probability that there is unappropriated water available for the applicant's proposed use; 2) existing rights will not be unduly impaired; 3) it is a beneficial use of water; and 4) it is in the public interest.

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 August 19, 1994. 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.

The Water Management Board will consider this application at 10:30 a.m., August 31, 1994, Floyd Mathew Training Center, Joe Foss Building, 523 East Capitol, Pierre, SD. The Chief Engineer's recommendation is not final or binding upon the Board. The Board is authorized to 1) approve, 2) approve with qualifications, 3) defer, or 4) deny this application based on the facts presented at the public hearing. The August 31, 1994, hearing date will be automatically delayed for at least 30 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 August 19, 1994.

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 Eric Granlund by August 19, 1994, at the above Water Rights Division address to request

copies of information pertaining to this application, to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

This application is made pursuant to SDCL 46-1-1 thru 46-1-9, 46-1-12 thru 46-1-16; 46-2-1, 46-2-2, 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-20, 46-2A-21; 46-3-1 thru 46-3-11, 46-3-12 thru 46-3-15; 46-3-24, 46-3-25; 46-3-30.2, 46-3-30.4, 46-3-31; 46-4-1, 46-4-3.1; 46-6-1, 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.

Robert E. Roberts
Secretary
Dept. of Environment
& Natural Resources

Affidavit of Publication

STATE OF SOUTH DAKOTA

County of Pennington

I, Helena M. Bauer

SS.

, being first duly sworn, upon his oath says: That he is now and was at all times hereinafter mentioned, an employee of the RAPID CITY JOURNAL COMPANY, a corporation, of Rapid City, South Dakota, the owner and publisher of the RAPID CITY JOURNAL, a legal and daily newspaper printed and published in Rapid City, in said County of Pennington, and has full and personal knowledge of all the facts herein stated as follows: that said newspaper is and at all of the times herein mentioned has been a legal and daily newspaper with a bonafide paid circulation of at least Two Hundred copies daily, and has been printed and published in the English language, at and within an office maintained by the owner and publisher thereof, at Rapid City, in said Pennington County, and has been admitted to the United States mail under the second class mailing privilege for at least one year prior to the publication herein mentioned; that the advertisement, a printed copy of which, taken from said RAPID CITY JOURNAL, the paper in which the same was published, is attached to this sheet and made a part of this affidavit, was published in said newspaper once each week for two successive weeks, the first publication thereof being on the 29th day of July, 19 94, that the fees charged for the publication thereof are One hundred nineteen Dollars and forty six cents.

Helena M. Bauer

Subscribed and sworn to before me this 12th day of

August, 19 94

Notary Public.



STATE OF SOUTH DAKOTA
BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF COCA-COLA	)	NOTICE OF HEARING ON
BOTTLING COMPANY OF THE	)	ON PETITION TO
BLACK HILLS, 2150 COCA-COLA	)	INTERVENE IN OPPOSITION
LANE, RAPID CITY, SD	)	TO WATER PERMIT
WATER PERMIT APPLICATION NO	)	APPLICATION
2313-2 TO APPROPRIATE WATER	)	

PLEASE TAKE NOTICE AND BE ADVISED, that the City of Rapid City, South Dakota, hereby files a petition of opposition to the water permit application filed by Coca-Cola Bottling Company of the Black Hills to appropriate 1.25 cubic feet per second from the Madison Formation Aquifer. Said petition of opposition is based on the following grounds:

(1) That the City of Rapid City has senior water rights to the Madison Formation Aquifer that are presently being used for municipal purposes under Water Permits Nos. 2155-2 and 2275-2 (Rapid City Well No. 10) and is located within one thousand feet of the existing and proposed new well site.

(2) That an increase in pumping rate of 1.25 cubic feet per second will have an adverse impact on existing pumping facilities located at the City of Rapid City Well No. 10.

(3) That water of the volume requested by Coca-Cola of the Black Hills may be available from aquifers shallower in depth than the Madison Formation Aquifer.

(4) That water from existing water supplies is available for Coca-Cola Bottling Company of the Black Hills at the site of the proposed water permit application that will forego the potential of injuring the City of Rapid City's existing water right on Water Well No. 10.

(5) That the proposed water permit application is not in the public's best interest.

(6) That the proposed water permit application for water rights from the Madison Formation Aquifer could injure and be prejudicial to the rights of the City of

Rapid City that have senior priority dates.

The City of Rapid City requests a delay in the hearing date to allow time for its defense.

Dated this 17th day of August, 1994

CITY OF RAPID CITY, SOUTH DAKOTA

BY:



ROBERT JACKSON
City Attorney
300 Sixth Street
Rapid City, SD 57701
(605)394-4140



DANIEL L. BJERKE
Public Works Director
of Engineering/Utilities
300 Sixth Street
Rapid City, SD 57701
(605)394-4165

STATE OF SOUTH DAKOTA
BEFORE THE WATER MANAGEMENT BOARD

IN THE MATTER OF COCA-COLA)	NOTICE OF HEARING ON
BOTTLING COMPANY OF THE)	ON PETITION TO
BLACK HILLS, 2150 COCA-COLA)	INTERVENE IN OPPOSITION
LANE, RAPID CITY, SD)	TO WATER PERMIT
WATER PERMIT APPLICATION NO)	APPLICATION
2313-2 TO APPROPRIATE WATER)	

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(2) That an increase in pumping rate of 1.25 cubic feet per second will have an adverse impact on existing pumping facilities located at the City of Rapid City Well No. 10.

(3) That water of the volume requested by Coca-Cola of the Black Hills may be available from aquifers shallower in depth than the Madison Formation Aquifer.

(4) That water from existing water supplies is available for Coca-Cola Bottling Company of the Black Hills at the site of the proposed water permit application that will forego the potential of injuring the City of Rapid City's existing water right on Water Well No. 10.

(5) That the proposed water permit application is not in the public's best interest.

(6) That the proposed water permit application for water rights from the Madison Formation Aquifer could injure and be prejudicial to the rights of the City of

Rapid City that have senior priority dates.

The City of Rapid City requests a delay in the hearing date to allow time for its defense.

Dated this 17th day of August, 1994

CITY OF RAPID CITY, SOUTH DAKOTA

BY:


ROBERT JACKSON
City Attorney
300 Sixth Street
Rapid City, SD 57701
(605)394-4140


DANIEL L. BJERKE
Public Works Director
of Engineering/Utilities
300 Sixth Street
Rapid City, SD 57701
(605)394-4165



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

August 22, 1994

NOTICE

TO: Tom Sims
Coca-Cola Bottling Company of the Black Hills
2150 Coca-Cola Lane
Rapid City, SD 57702
and Parties of Record (see attached list)

FROM: John Hatch, Chief Engineer 
Water Rights Division
605 773-3352

SUBJECT: Automatic Delay of Water Permit Application No. 2313-2, Coca-Cola Bottling
Company of the Black Hills

A petition in opposition to Water Permit Application No. 2313-2 has been filed by the City of Rapid City. The petition also requested an automatic delay of the August 31, 1994 hearing. Therefore, the hearing on Application No. 2313-2 is automatically delayed pursuant to SDCL 46-2A-4 and 46-2A-5 and will not be held on August 31, 1994.

The hearing on Application No. 2313-2 will be scheduled for a future Water Management Board meeting. The next regularly scheduled Board meeting is November 30, 1994, and December 1, 1994. Future notice of the exact date, time and place of the hearing for Application No. 2313-2 will be provided to all parties of record.

A copy of the petition of opposition is enclosed in the mailing to the applicant. Please contact Eric Gronlund at (605) 773-3352, if you have any questions.

enclosure

c: Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on August 22, 1994, I have personally deposited with the United States Mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated August 22, 1994, along with a copy of the Parties of Record List, regarding Automatic Delay of Water Permit Application No. 2313-2, Coca-Cola Bottling Company of the Black Hills, addressed as stated below:

Tom Sims, Coca-Cola Bottling Company of the Black Hills, 2150 Coca-Cola Lane, Rapid City, SD 57702.

Daniel Bjerke, Public Works Director of Engineering/Utilities, City of Rapid City, 300 Sixth Street, Rapid City, SD 57701-2724.

Bob Jackson, City Attorney, City of Rapid City, 300 Sixth Street, Rapid City, SD 57701-2724.

Copy Sent Inter-office to:

Diane Best, Assistant Attorney General, Capitol Building.

Cheryl F. Frost

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 25th day of August, 1994.



John Hatch
Notary Public

JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

September 21, 1994

NOTICE

TO: Tom Sims
Coca-Cola Bottling Company of the Black Hills
2150 Coca-Cola Lane, Rapid City, SD 57702
and Parties of Record (see attached list)

FROM: John Hatch, Chief Engineer *John Hatch*
Water Rights Division
605 773-3352

SUBJECT: Rescheduling Consideration of Water Permit Application
No. 2313-2, Coca-Cola Bottling Company of the Black
Hills

The Water Management Board will consider Water Permit Application No. 2313-2 on October 27, 1994 at 9:30 am in the Conference Room, Floyd Matthew Training Center, Joe Foss Building, 523 East Capitol Ave., Pierre, SD. The August 31, 1994 hearing on this application was automatically delayed by the petitioner in opposition to the application.

Applicable provisions of the Notice of Hearing published July 29 and August 5, 1994 in the Rapid City Journal will still apply at this hearing. This hearing is an adversary proceeding. Any party of record has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Contact Eric Gronlund, by October 14, 1994, at (605) 773-3352 to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

c: Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on September 21, 1994, I have personally deposited with the United States Mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated September 21, 1994, along with a copy of the Parties of Record List, regarding Rescheduling Consideration of Water Permit Application No. 2313-2, Coca-Cola Bottling Company of the Black Hills, addressed as stated below:

Tom Sims, Coca-Cola Bottling Company of the Black Hills, 2150 Coca-Cola Bottling Company of the Black Hills.

Daniel Bjerke, Public Works Director of Engineering/Utilities, City of Rapid City, 300 Sixth Street, Rapid City, SD 57701-2724.

Bob Jackson, City Attorney, City of Rapid City, 300 Sixth Street, Rapid City, SD 57701-2724.

Copy Sent Inter-office to:

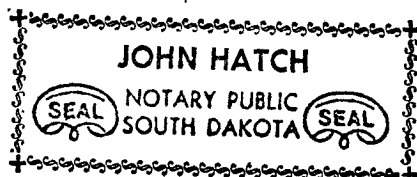
Diane Best, Assistant Attorney General, Capitol Building.

Cheryl F. Frost

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 4th day of October, 1994



John Hatch
Notary Public

JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 6, 1994

Tom Sims
Coca-Cola Bottling Company of the Black Hills
2150 Coca-Cola Lane
Rapid City, SD 57702

Re: Water Management Board hearing on Water Permit Application No. 2313-2, Coca-Cola Bottling Company of the Black Hills

Dear Mr. Sims:

Coca-Cola Bottling Company's Water Permit Application No. 2313-2 will be considered by the Water Management Board on October 27, 1994 in Pierre. The following is the planned order of presentation for the hearing before the Board.

The Division staff will first present to the Board the report and recommendation prepared on the application including the water source (aquifer) and review of existing water permits in the area. Coca-Cola will then present the Board information on the reasons for additional appropriation of water. Coca-Cola may have consultants provide expert testimony on the water availability and plant operations. Coca-Cola should be prepared to address concerns raised by Rapid City. Finally, petitioners will be provided an opportunity to testify on their opposition to approval of the application. Throughout the hearing process, the Division, applicant and petitioners may cross examine anyone presenting testimony before the Board.

Please feel free to contact Eric Gronlund at 773-3352 if you have any questions.

Very truly yours,

John Hatch, Chief Engineer
Water Rights Division
605 773-3352

c: Diane Best, Assistant Attorney General



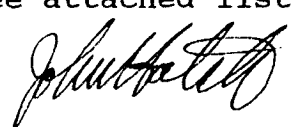
**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

October 31, 1994

NOTICE

TO: Tom Sims
Coca-Cola Bottling Company of the Black Hills
2150 Coca-Cola Lane, Rapid City, SD 57702
and Parties of Record (see attached list)

FROM: John Hatch, Chief Engineer 
Water Rights Division
605 773-3352

SUBJECT: Continuance of Water Permit Application No. 2313-2,
Coca-Cola Bottling Company of the Black Hills

The Water Management Board continued consideration of Water Permit Application No. 2313-2 at their October 27, 1994 meeting. This continuance was issued by the Board to encourage the parties to work jointly to resolve differences regarding the proposed Madison well.

The Water Management Board will reconsider Water Permit Application No. 2313-2 on November 30, 1994 at 9:15 am in Gallery E, Ramkota - Best Western, 920 West Sioux Ave., Pierre, SD. The agenda time is an estimate. Applicable provisions of the Notice of Hearing published July 29 and August 5, 1994 in the Rapid City Journal will still apply at this hearing.

Contact Eric Gronlund, by November 21, 1994, at (605) 773-3352 to assure access to the hearing by the handicapped or to obtain an interpreter for the hearing impaired.

c: Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on October 31, 1994, I have personally deposited with the United States Mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated October 31, 1994, along with a Parties of Record List, regarding Continuance of Water Permit Application No. 2313-2, Coca-Cola Bottling Company of the Black Hills, addressed as stated below:

Tom Sims, Coca-Cola Bottling Company of the Black Hills, 2150 Coca-Cola Lane, Rapid City, SD 57702.

Daniel Bjerke, Public Works Director of Engineering/Utilities, City of Rapid City, 300 Sixth Street, Rapid City, SD 57701-2724.

Bob Jackson, City Attorney, City of Rapid City, 300 Sixth Street, Rapid City, SD 57701-2724.

Copy Sent Inter-office to:

Diane Best, Assistant Attorney General, Capitol Building.

Cheryl F. Frost

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 1st day of November, 1994



John Hatch
Notary Public

JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001

CERTIFICATION

I hereby certify that on November 3, 1994, I have personally deposited with the United States Mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated October 31, 1994, along with a copy of the Parties of Record List, regarding Continuance of Water Permit Application No. 2313-2, Coca-Cola Bottling Company of the Black Hills, addressed as stated below:

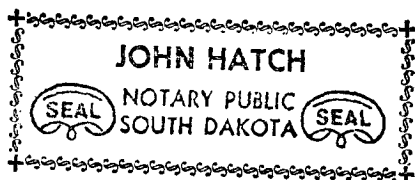
Mike Hickey
Bangs, McCullen, Butler, Foye & Simmons
818 St. Joseph Street
Rapid City, SD 57701

Cheryl F. Frost

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 7th day of November, 1994



John Hatch
Notary Public

JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001

Bangs, McCullen, Butler, Foye & Simmons

Lawyers

818 St. Joe Street

Mailing Address P.O. Box 2670

Rapid City, South Dakota 57709-2670

605-343-1040

Telecopier 605-343-1503

Joseph M. Butler
Thomas H. Foye
Thomas E. Simmons
Charles L. Riter
Allen G. Nelson
James P. Hurley
Michael M. Hickey
Mark F. Marshall
Terry L. Hofer
Patrick K. Duffy

Rodney W. Schlauger*

Daniel F. Duffy

Jeffrey G. Hurd

Veronica L. Bowen

*Also Admitted in Minnesota,
Nebraska and North Dakota

November 29, 1994

George A. Bangs, Of Counsel
W.A. McCullen (1943-1987)

Recycled Paper



Mr. Ken Buhler
Natural Resources Engineer
Department of Environment
and Natural Resources
Joe Foss Building
523 East Capitol
Pierre, SD 57501-3181



Re: Continuance of Water Permit Application No. 2313-2,
Coca-Cola Bottling Company of the Black Hills

Dear Mr. Buhler:

Enclosed is the original executed Stipulation for Continuance in the above action, a copy of which I faxed to you earlier today. If it meets with your approval, please have it executed and filed.

If you need anything further, please do not hesitate to contact me. Thank you.

Sincerely,

BANGS, McCULLEN, BUTLER, FOYE & SIMMONS

Michael M. Hickey

MMH/ea
Enclosure

cc: Coca-Cola Bottling Company
Mr. Mike Messinger

STATE OF SOUTH DAKOTA
WATER MANAGEMENT BOARD
~~DEPARTMENT OF ENVIRONMENT & NATURAL RESOURCES~~

In the Matter of Consideration	)	
of Water Permit Application	)	STIPULATION FOR
No. 2313-2, Coca-Cola Bottling	)	<u>CONTINUANCE</u>
Company of the Black Hills.	)	

The undersigned parties hereby stipulate and agree as follows:

I.

That pursuant to the directive of the Board, the above-entitled parties have met and are attempting to resolve their differences, but no final decision has been reached.

II.

Accordingly, the parties hereby request that the matter be continued until the next meeting of the Board to enable the parties an additional opportunity to discuss the matter and potentially resolve their differences.

Dated this 24th day of November, 1994.

BANGS, McCULLEN, BUTLER, FOYE & SIMMONS

BY: _____

Michael M. Hickey
MICHAEL M. HICKEY
Attorneys for Coca-Cola Bottling
818 St. Joseph St., P.O. Box 2670
Rapid City, SD 57709

CITY OF RAPID CITY

BY: _____

ITS: _____

Thomas M. Lee
Assistant City Attorney

ORDER OF APPROVAL

Upon review of the foregoing Stipulation, it is hereby

ORDERED that this matter is continued until the next
meeting scheduled for
meeting of the Water Management Board.

Dated this 30th day of November, 1994.

SOUTH DAKOTA WATER MANAGEMENT BOARD
DEPARTMENT OF ENVIRONMENT & NATURAL RESOURCES

BY: *Barbara A. Linder, Sec.*

ITS: _____



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

December 7, 1994

NOTICE

TO: Tom Sims
Coca-Cola Bottling Company of the Black Hills
2150 Coca-Cola Lane, Rapid City, SD 57702
and Parties of Record (see attached list)

FROM: John Hatch, Chief Engineer
Water Rights Division
605 773-3352

SUBJECT: Continuance of Water Permit Application No. 2313-2,
Coca-Cola Bottling Company of the Black Hills

The Stipulation for Continuance entered into by both parties in the matter of Water Permit Application No. 2313-2 was presented to the Water Management Board on November 30, 1994. The Board issued an order continuing Application No. 2313-2 until the next regularly scheduled meeting of the Board. A copy of the order is enclosed.

The next regularly scheduled Board meeting is currently set for March 8 and 9, 1995. Due to budget uncertainties, the Board hearing will not be formally scheduled until legislative appropriations for operation of the Water Rights Division are secured. Future notice of the exact date, time and location of hearing will be provided to all parties of record.

If you have any questions, contact Eric Gronlund at (605) 773-3352.

c: Diane Best, Assistant Attorney General

enclosure

CERTIFICATION

I hereby certify that on December 7, 1994, I have personally deposited with the United States Mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated December 7, 1994, a copy of the Order of Approval, and a copy of the Parties of Record List, regarding Continuance of Water Permit Application No. 2313-2, Coca-Cola Bottling Company of the Black Hills, addressed as stated below and on the attached list:

Tim Sims, Coca-Cola Bottling Company of the Black Hills, 2150 Coca-Cola Lane, Rapid City, SD 57702.

Copy Sent Inter-office to:

Diane Best, Assistant Attorney General, Capitol Building.

Cheryl F. Frost

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
)
COUNTY OF HUGHES)

SS

Sworn to, before me, this 8th day of December, 1994



John Hatch

Notary Public

JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 1, 1995

NOTICE

TO: Tom Sims
Coca-Cola Bottling Company of the Black Hills
2150 Coca-Cola Lane, Rapid City, SD 57702
and Parties of Record (see attached list)

FROM: John Hatch, Chief Engineer
Water Rights Division
605 773-3352

SUBJECT: Rescheduling Water Permit Application No. 2313-2, Coca-Cola Bottling Company of the Black Hills

The Water Management Board will consider Water Permit Application No. 2313-2 on March 8, 1995, at 10:30 am in the Crown Room, on the Third Floor of the Kings Inn - Best Western Convention Center, 220 S. Pierre, Pierre, SD 57501. The Board continued this application at their November 30, 1994, meeting.

Applicable provisions of the Notice of Hearing published July 29 and August 5, 1994, in the Rapid City Journal will still apply at this hearing. This hearing is an adversary proceeding. Any party of record has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and State Supreme Court as provided by law.

Contact Eric Gronlund, by February 24, 1995, at (605) 773-3352 to assure access to the hearing by the handicapped, to obtain an interpreter for the hearing impaired or if you have any questions.

c: Diane Best, Assistant Attorney General

CERTIFICATION

I hereby certify that on February 1, 1995, I have personally deposited with the United States Mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated February 1, 1995, along with a copy of the Parties of Record List, regarding Rescheduling Water Permit Application No. 2313-2, Coca-Cola Bottling Company of the Black Hills, addressed as stated below and on the attached list:

Copy Sent Inter-office to:

Diane Best, Assistant Attorney General, Capitol Building.

Cheryl F. Frost

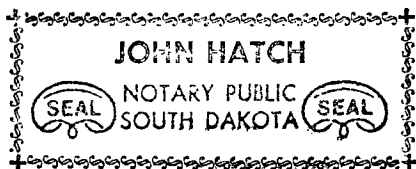
Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)

) SS

COUNTY OF HUGHES)

Sworn to, before me, this 10th day of February, 1994



John Hatch

Notary Public

JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001



March 14, 1995

NOTICE

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

TO: Tom Sims
Coca-Cola Bottling Company
of the Black Hills
2150 Coca-Cola Lane
Rapid City, SD 57702

Mike Hickey
Bangs, McCullen, Butler,
Foye & Simmons
818 St. Joseph Street
Rapid City, SD 57701

Bob Jackson, City Attorney
City of Rapid City
300 Sixth Street
Rapid City, SD 57701-2724

FROM: John Hatch, Chief Engineer
Water Rights Division
(605) 773-3352

SUBJECT: Preparation of Findings of Fact, Conclusions of Law and
Final Decision

The Water Management Board has directed John Guhin, the Board's attorney, to prepare proposed Findings of Fact, Conclusions of Law and a Final Decision to approve Water Permit Application No. 2313-2, Coca-Cola Bottling Company of the Black Hills. The Board will consider the proposed Findings, Conclusions and Final Decision at 8:30 am (MST), Tuesday, May 2, 1995, Deadwood Gulch Resort Conference Center, Hwy. 85 South, Deadwood, SD 57732.

The Board has requested that a copy of the proposed Findings, Conclusions and Final Decision be mailed to each Board member (names and addresses enclosed) and to the applicant and the attorney's listed above by April 12, 1995. Written objections or comments in support of the proposed Findings, Conclusions and Final Decision, or alternative Findings, Conclusions and Final Decision, are to be mailed to each Board member, the Board attorney and all parties stated above April 24, 1995.

Oral arguments by parties filing written comments in opposition or support of the proposed Findings, Conclusions and Final Decision, or alternative Findings, Conclusions and Final Decision, may be made on May 2, 1995. The public hearing was completed March 8, 1995. No additional testimony will be received on May 2, 1995.

Enclosure

c: John Guhin, Deputy Attorney General
Diane Best, Assistant Attorney General
Daniel Bjerke, Public Works Director of Engineering/Utilities, City
of Rapid City, 300 Sixth Street, Rapid City, SD 57701-2724

CERTIFICATION

I hereby certify that on March 14, 1995, I have personally deposited with the United States Mail at Pierre, South Dakota, first class postage, prepaid envelopes containing a Notice dated March 14, 1995, along with a copy of the names and address of the Board Members, regarding Preparation of Findings of Fact, Conclusions of Law and Final Decision, addressed as stated below:

Tom Sims, Coca-Cola Bottling Company of the Black Hills, 2150 Coca-Cola Lane, Rapid City, SD 57702.

Mike Hickey, Bangs, McCullen, Butler, Foye & Simmons, 818 St. Joseph Street, Rapid City, SD 57701.

Bob Jackson, City Attorney, City of Rapid City, 300 Sixth Street, Rapid City, SD 57701-2724.

Daniel Bjerke, Public Works Director of Engineering/Utilities, City of Rapid City, 300 Sixth Street, Rapid City, SD 57701-2724.

Copies Sent Inter-office to:

John Guhin, Deputy Attorney General, Capitol Building.

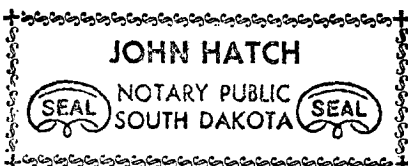
Diane Best, Assistant Attorney General, Capitol Building.

Cheryl F. Frost

Cheryl F. Frost
Secretary

STATE OF SOUTH DAKOTA)
)
COUNTY OF HUGHES) SS

Sworn to, before me, this 20th day of March, 1995



John Hatch
Notary Public

JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001

STATE OF SOUTH DAKOTA

WATER MANAGEMENT BOARD

IN THE MATTER OF WATER PERMIT)
APPLICATION NO. 2313-2,)
COCA-COLA BOTTLING COMPANY)
OF THE BLACK HILLS)

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
FINAL DECISION

FINDINGS OF FACT

1. This is an application to appropriate 1.25 cubic feet of water. The water will be used by the Applicant for production of soft drinks and related items, for sanitary and cleaning purposes and for irrigation of the grounds of the plant.

2. The grant of this application would allow Applicant to appropriate an additional 1.25 cfs from the existing Madison Formation well permitted under Water Permit No. 2110-2. Alternatively, Applicant may, under this application, if it deems it appropriate, drill an additional Madison well approximately 1,400 feet deep and utilize up to 1.25 cfs of water from that new well.

3. The Applicant has demonstrated a strong commitment to recycling of water. Applicant presently irrigates its landscape in part by conserving rainwater from the roof of the plant. In addition, Applicant recirculates water used in its operation and places it in a pond where it may be used for landscape irrigation.

4. Applicant has demonstrated a significant probability that the survival of the bottling company business in the Black Hills region is dependent upon expansion of that business. The success of such businesses is highly dependent upon volume; several bottling companies which formerly did

business in the state of South Dakota have now closed, apparently because of insufficient volume. Coca-Cola Bottling Company of the Black Hills is presently in an expansion phase and has increased its number of employees from about 50 to 68 since 1991. The availability of an economical water supply will increase the chances of the bottling company surviving in a highly competitive market.

5. The source of water under the application is the Madison Aquifer which is a massive carbonate aquifer which underlies most of western South Dakota. It is reliably estimated that the aquifer contains at least 640 million acre feet of recoverable water in the state. The Madison Aquifer is recharged through infiltration by precipitation, and through stream losses into the aquifer.

6. Recharge for the entire Madison Aquifer in South Dakota has been reliably estimated to range from 140,000 to 400,000 acre feet per year. The total water use of the Madison aquifer is significantly less than 35,000 acre feet per year.

7. Unappropriated water is available from the Madison Aquifer for this application.

8. The opponent of the permit, the City of Rapid City, challenges neither that there is a reasonable probability that there is unappropriated water available or that the proposed use of the water is a beneficial use. Instead, Rapid City questions whether the proposed diversion can be

developed without unlawful impairment of its existing rights and whether the use is in the public interest.

9. The City of Rapid City more specifically contends that its Madison well, which is greater than 1,400 feet deep and which is located approximately 1,100 feet from the proposed Coca-Cola well, will be adversely affected by the Coca-Cola withdrawal under this application.

10. The Rapid City well is known as Rapid City No. 10 and is drilled into the Madison Aquifer. The well is constructed with a seventeen and one-half inch hole and has a thirteen and three-eighths-inch casing in the well. It presently has a 250 horsepower submersible motor pump combination located approximately 320 feet below the ground's surface.

11. Rapid City has invested approximately \$575,000 in the construction of the well and the associated pump house and has obtained Water Rights Nos. 2155-2 and 2275-2 for approximately 1,700 gallons per minute (gpm) for the well. It presently uses only 1,550 gpm.

12. The water in the Madison aquifer in the area at issue is under artesian head pressure, i.e., the groundwater levels rise above the top of the aquifer. The static water level in Rapid City No. 10 is presently 73 feet above the ground, meaning the water is moved under pressure from the top of the aquifer (which is 1,400 feet below the ground) to approximately 73 feet above the ground. Rapid City has found that pumping at a rate of 1,400 plus gallons per minute brings the level to 228

feet below the ground. The approximate draw down at that rate is therefore in the range of 300 feet.

13. The city's expert testified that the additional draw down on Rapid City Well No. 10 due to the pumping of 1.5 cfs of water by Coca-Cola will be about 90 feet. This level of draw down would be reached in approximately 100 days, according to the city's expert.

14. The Board does not credit the implications the city draws from the testimony of its expert for the following reasons. First, the estimate by the Rapid City expert assumed pumping 675 gallons a minute, 24-hours a day. Furthermore, the Rapid City expert expressly stated that analysis did not include any effect from recharge.

15. The Board finds, however, that the more likely scenario is that Coca-Cola will operate at about 12 hours a day, five days a week, at 300 gallons per minute. This is equivalent to a constant 107 gallons per minute. Further, recharge must be factored into the analysis.

16. In addition, the soft drink business is highly seasonal, peaking during the summer months.

17. Because the statistics utilized by the expert for the city of Rapid City did not accurately reflect the actual operating scenario, the draw downs predicted by Rapid City cannot be credited in this proceeding.

18. Rapid City has placed its submersible pump approximately 320 feet below ground level. As noted above, the

artesian head pressure in the well causes the water to rise over 1,400 feet above the top of the aquifer to the surface.

Therefore, there is approximately 1,000 feet of head pressure below the point at which Rapid City has placed its pump.

19. Rapid City has further contended that, because the draw down in its well No. 10 would be increased by 93 feet, it will be forced to purchase a new pump. Rapid City contends, moreover, that because it will be forced to lower its pump, it will need a bigger pump and, furthermore, that it is unable to find a small enough pump of greater horsepower. According to Rapid City, if it wishes to maintain a flow of 1,550 gallons per minute, it would therefore be forced to purchase a different kind of pump, a line shaft turbine pump would, and thus in turn would force the city to extend the pump house. Rapid City estimates costs from this combination of events at \$183,000.

20. Witness for Coca-Cola, however, indicated that a supplier catalogue listed a submersible pump motor in the horsepower range which would be needed by Rapid City in the event of the 93 feet of draw down. The Board credits the testimony of the witness for Coca-Cola, an employee of Taylor Drilling Company in the Rapid City area. The costs to Rapid City of replacing a submersible pump would be far less than the \$183,000 for the replacements set out in Paragraph 19.

21. The expert for the Coca-Cola operation also testified to a probable draw down of 80 to 100 feet but testified it would occur over a 20-year term. This estimate, however,

assumed a constant pumping rate of 1.5 cfs (total authorized pumping rate, including the rate allowed under the existing permit) every day of the year. The estimate, therefore, overstates the probable impact of the Coca-Cola well on the Rapid City well. The estimate was elicited only to show a "worst case scenario."

22. The Board also finds that the probable effect on the city well from the Coca-Cola pumping will be smaller than the 80-100 feet draw down predicted by the city given the fact that both the Coca-Cola well and Rapid City No. 10 have been in operation and that the head pressure at the Coca-Cola well does not appear to have been significantly impacted by the pumping of the Rapid City well.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter.
2. There is a reasonable probability that there is unappropriated water available for the Applicant's proposed use.
3. The proposed use in a soft drink bottling plant is a beneficial use.
4. The proposed diversion can be developed without unlawful impairment of existing rights. The Board concludes that the effect upon the Rapid City No. 10 well of the increased pumping to be accomplished under the Coca-Cola application will not be significant. The Board concludes, in the alternative, that even if the draw down in Rapid City No. 10 due to increased pumping of the Coca-Cola well is 93 feet and even assuming it

occurs within 100 days, there will be no unlawful impairment of an existing right. Rapid City has placed a pump into a well drilled into an aquifer under artesian head pressure. The aquifer contains over 640 million acre feet of recoverable water. The City of Rapid City has intentionally set its pump at approximately 320 feet below the level. Approximately 1,000 additional feet of head pressure is available below the place at which Rapid City has set its well. To accept the Rapid City argument that no pumping should be allowed which lowers the head pressure below the level at which its pump is set would mean that Rapid City could reserve 1,000 feet of head pressure for itself.

5. The Board also concludes that Rapid City attempted reservation of 1,000 feet of head pressure is not consistent with SDCL 46-1-4 which states that the "general welfare requires that the water resources of the state be put to beneficial use to the fullest extent of which they are capable. . . ." Furthermore, it would constitute "waste" of water under the same statute.

6. The Board concludes that the grant of the application is in the public interest. First, the City of Rapid City has failed to prove the likelihood of a substantial and significant draw down by virtue of the Coca-Cola application. In the alternative, and in addition, the Board finds that even if the draw down were at the maximum extent alleged by Rapid City the application would still be in the public interest. In so concluding the Board has weighed the benefit of the use of the water to the Coca-Cola Bottling Plant, the fact that Rapid City

has voluntarily placed its pump in such a way as to expose itself to an increased cost as a result of any draw down by other legitimate users, and the fact that it is not in the public interest to legitimize the reservation by of the City of Rapid City of 1,000 feet of head pressure in the Madison Aquifer.

7. The City of Rapid City has also contended that it would be appropriate for this Board to enact a rule regulating diversion from certain large aquifers in situations in which cities have an interest. The City requests that the Board delay its decision in this matter until a broad based policy has been set out, indicating that all affected interests could then have a voice in adopting the rule. The rule would then be applied to the present application. The Board rejects this suggestion. The Board finds that this litigant is entitled to a prompt decision. The Board further finds that allowance of a rule-making procedure specifically intended to affect an application then pending before it would be inappropriate. The Board notes that all parties of interest with regard to this application were required to appear before the Board and to testify. To delay this proceeding for a rule-making procedure intended specifically to affect this application would allow a "back door" intervention which was untimely.

8. SDCL 46-2A-20 is applicable in this case because there is no evidence with regard to the effect of this application on Madison springs. Furthermore, the Applicant has waived any objection to the application of SDCL 46-2A-20.

FINAL DECISION

Application No. 2313-2 is granted with the following qualifications.

1. The well authorized by Permit No. 2313-2 shall be constructed by a licensed well driller and construction shall comply with Water Management Board Well Construction Rules, Chapter 74:02:04 with the well casing pressure grouted (bottom to top) from the producing formation to the surface pursuant to Section 74:02:04:28.
2. In accordance with SDCL §§ 46-1-14 and 46-2A-20, Permit No. 2313-2 is issued for a twenty-year term. Pursuant to SDCL 46-2A-21, the twenty-year term may be deleted at any time during the twenty-year period or following its expiration. If the twenty-year term is not deleted at the end of the term, the Permit may either be cancelled or amended with a new term limitation of up to twenty years. Permit No. 2313-2 may also be cancelled for nonconstruction, forfeiture, abandonment or three permit violations pursuant to SDCL §§ 46-1-12, 46-5-37, 46-5-37.1, and Board Rule ARSD 74:02:01:37.
3. The well approved under this Permit will be located near domestic wells and other wells which may obtain water from the same aquifer. The well owner under this Permit shall control his withdrawals so there is not a reduction of needed water supplies in adequate domestic wells or in adequate wells having prior water rights.
4. This Permit is approved subject to the irrigation water use questionnaire being submitted each year.

Dated this 7th day of June, 1995.

BY THE BOARD:

A handwritten signature in dark ink, appearing to read "Douglas Kelly", is written over a horizontal line.

d-wmb3.jpg

CERTIFICATE OF SERVICE

The undersigned hereby certifies that true and correct copies of proposed Findings of Fact, Conclusions of Law, and Final Decision in the matter of Water Permit Application No. 2313-2, Coca-Cola Bottling Company of the Black Hills, was served by United States mail, first class, postage prepaid upon:

Tom Sims
Coca-Cola Bottling Company
of the Black Hills
2150 Coca-Cola Lane
Rapid City, SD 57702

Mike Hickey
Bangs, McCullen, Butler,
Foye & Simmons
818 St. Joseph Street
Rapid City, SD 57701

Daniel Bjerke
Public Works Director of
Engineering/Utilities
300 Sixth Street
Rapid City, SD 57701-2724

Bob Jackson
City Attorney
City of Rapid City
300 Sixth Street
Rapid City, SD 57701-2724

Francis E. Brink
1214 S. Wells Street
Aberdeen, SD 57401-7351

Rodney Freeman, Jr.
P.O. Box 176
Huron, SD 57350-0176

Marian Gunderson
811 W. Third
Yankton, SD 57078-3702

Joel Rickenbach
P.O. Box 97
Oelrichs, SD 57763-0097

Bernita Loucks
219 42nd Street
Rapid City, SD 57702-2123

Leo Holzbauer
R.R. 1, Box 170
Wagner, SD 57380-9681

Dwayne A. Rollag
320 Lincoln Ln S.
Brookings, SD 57006-2741

and was sent by interoffice mail to:

John Hatch, Chief Engineer
Division of Water Rights
523 East Capitol
Pierre, SD 57501

and hand-delivered to:

Diane Best
Assistant Attorney General
500 East Capitol
Pierre, SD 57501-5070

on this 12th day of April, 1995.

John P. Guhin
Deputy Attorney General

d-wmb3.jpg

PARTIES OF RECORD

WATER PERMIT APPLICATION NO. 2313-2
Coca-Cola Bottling Company of the Black Hills

APPLICANT: Tom Sims
Coca-Cola Bottling Company of the Black Hills
2150 Coca-Cola Lane
Rapid City, SD 57702

Represented by: Mike Hickey
Bangs, McCullen, Butler, Foye & Simmons
818 St. Joseph Street
Rapid City, SD 57701

PETITIONER: Daniel Bjerke
Public Works Director of Engineering/Utilities
City of Rapid City
300 Sixth Street
Rapid City, SD 57701-2724

Represented by: Bob Jackson, City Attorney
City of Rapid City
300 Sixth Street
Rapid City, SD 57701-2724



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 12, 1995

NOTICE

TO: Tom Simms
Coca-Cola Bottling Company
of the Black Hills
2150 Coca-Cola Lane
Rapid City, SD 57702

Mike Hickey
Bangs, McCullen, Butler
Foye & Simmons
818 St. Joseph Street
Rapid City, SD 57701

Bob Jackson, City Attorney
City of Rapid City
300 Sixth Street
Rapid City, SD 57701-2724

FROM: John Hatch, Chief Engineer
Water Rights Division
605 773-3352

SUBJECT: Adoption of Findings of Fact, Conclusions of Law and
Final Decision

This is to notify you that a Final Decision, including Findings of Fact and Conclusions of Law, was adopted by the Water Management Board for approval of Water Permit Application No. 2313-2, Coca-Cola Bottling Company of the Black Hills at the May 2, 1995, meeting.

A copy of the signed final Decision, Findings and Conclusions is enclosed for the applicant and the parties stated above. South Dakota Statutes provide that decisions of the Board may be appealed to the Courts.

c: John Guhin, Deputy Attorney General
Diane Best, Assistant Attorney General
Daniel Bjerke, Public Works Director of Engineer/Utilities,
City of Rapid City, 300 Sixth Street, Rapid City, SD
57701-2724

CERTIFICATION

I hereby certify that on June 12, 1995, I have personally deposited with the United States Mail at Pierre, South Dakota, First Class postage, prepaid envelopes containing a Notice dated June 12, 1995, regarding Adoption of Findings of Fact, Conclusions of Law and Final Decision (Water Permit Application No. 2313-2, Coca-Cola Bottling Company of the Black Hills) addressed to:

Tom Simms
Coca-Cola Bottling Company
of the Black Hills
2150 Coca-Cola Lane
Rapid City, SD 57702

Mike Hickey
Bangs, McCullen, Butler
Foye & Simmons
818 St. Joseph Street
Rapid City, SD 57701

Bob Jackson, City Attorney
City of Rapid City
300 Sixth Street
Rapid City, SD 57701-2724

A copy of the Notice and FOF, COL & Final Decision were sent by U.S. Mail, First Class postage to:

Daniel Bjerke, Public Works Director of Engineer/Utilities
City of Rapid City
300 Sixth Street
Rapid City, SD 57701-2724
and Parties of Record

A copy of the Notice and FOF, COL & Final Decision were also sent by inter-office mail to:

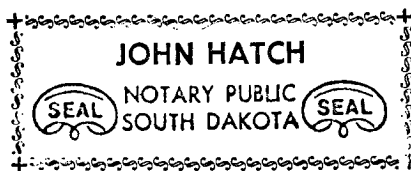
John Guhin, Deputy Attorney General
Diane Best, Assistant Attorney General

Jaci R Konop

JACI R. KONOP
Senior Secretary

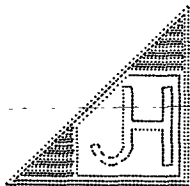
STATE OF SOUTH DAKOTA)
) SS
COUNTY OF HUGHES)

Sworn to, before me, this 13th day of June, 1995.




Notary Public

JOHN HATCH, Notary Public
My Commission Expires
April 1, 2001



JOHN W. HEY & COMPANY
CONSULTING ENGINEER

916 QUINCY
RAPID CITY, SD 57701

605/342-3596



August 25, 1995

Dept. of Environment & Natural Resources
Joe Foss Building
523 E. Capitol
Pierre, SD 57501-3181

ATTN: Jim Goodman

RE: Coke Plant Addition
Rapid City, South Dakota

Gentlemen:

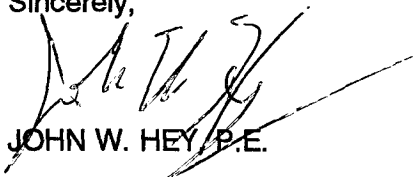
I am a consultant working for the owner of the Coca Cola Bottling Plant in Rapid City. Presently, they are using a pitless type well located near their existing building. They are planning to construct a new addition to the building which will cover the well head.

I am requesting an interpretation of 74:02:04:27 Upper Well Terminal - as it would apply to possibly lowering the well head to below the floor of the new building.

I propose to construct an underfloor room which would have a floor drain and sump pump. The well head would be lowered to allow truck traffic overhead. The new addition would be for truck parking and loading; therefore, floor drains will be provided in the floor. The possibility of flooding would be minimal.

Please contact me if any additional information is needed.

Sincerely,


JOHN W. HEY, P.E.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

SEP 5 1995

Tom Simms
Coca-Cola Bottling Company
of the Black Hills
2150 Coca-Cola Lane
Rapid City, SD 57702

Dear Mr. Simms:

Enclosed is Water Permit No. 2313-2 authorizing construction of your water diversion system and beneficial use of the water, not exceeding the limits as specified in the Water Permit.

Also enclosed is Form 10, Notice of Completion of Works and Application of Water to Beneficial Use, which you are to complete and submit to the Chief Engineer when you have completed the system and/or have put the water to beneficial use. An inspection can then be scheduled so that the Water License may be issued, thus completing your acquisition of a Water Right.

Very truly yours,

JOHN HATCH, Chief Engineer
Water Rights Program
605 773-3352

enclosures

PLEASE NOTE: Certain changes can be made in your permit within the five year construction period, usually without affecting the priority date provided an application to amend your permit is made within the five year period - i.e. changes in location or number of diversion points (wells) or location of land to be irrigated. Well locations for wells into the same aquifer can be moved up to 660 feet without application.

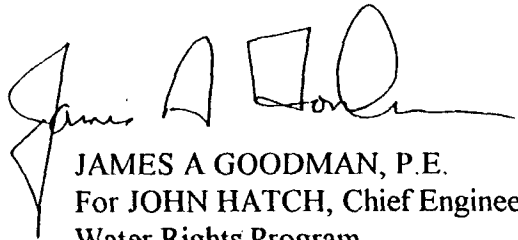
Applications to amend a permit after the five year construction period will be assigned a new priority date. Applications to change water sources, to add lands or increase original diversion rates, if approved will usually receive the date of the new application as a priority date regardless of the five year construction period.

REQUEST FOR A VARIANCE FROM CHAPTER 74:02:04
SOUTH DAKOTA WELL CONSTRUCTION STANDARDS

Pursuant to Section 74:02:04:75 of the South Dakota Well Construction Standards, the following is the decision of the Chief Engineer, Water Rights Program, Division of Environmental Services, Department of Environment and Natural Resources, concerning the request for a well construction variance by John W. Hey, John W. Hey & Company, 916 Quincy, Rapid City, SD 57701

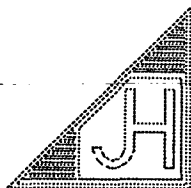
The Chief Engineer grants approval of the request for a variance as follows:

1. This is a request for a variance from SD Well Construction Standard 74:02:04:27, which requires that the top of the well casing may not terminate in a pit, room, or space that is located below the established ground surface.
2. The purpose of this request is to modify an existing well owned by the Coca Cola Bottling Plant in Rapid City.
3. A proposed addition to the building will cover the well head. An underfloor room with a floor drain and sump pump will be constructed.
4. Pursuant to SD Well Construction Standard 74:02:04:25 the well must remain **easily accessible** for cleaning, repair, disinfecting, acidizing, and inspection.

A handwritten signature in black ink, appearing to read "James A. Goodman", is written over a rectangular stamp area.

JAMES A GOODMAN, P.E.
For JOHN HATCH, Chief Engineer
Water Rights Program
September 13, 1995

Variance No. 2



JOHN W. HEY & COMPANY
CONSULTING ENGINEER

916 QUINCY STREET
RAPID CITY, SD 57701

605/342-3596
FAX 605/342-0787

November 10, 1995

Dept. of Environment & Natural Resources
Joe Foss Building
523 E. Capitol
Pierre, SD 57501-3181



ATTN: James Goodman

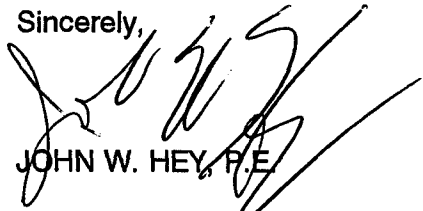
RE: Well Head Changes
Coke Plant
Rapid City, South Dakota

Gentlemen:

Please find enclosed a copy of the final design for lowering the well head. We were able to keep the depth of the pit to a minimum of 24". A drain line has been installed to a sump basin with pump to remove any water that will accumulate from washing the floors.

Please review and comment.

Sincerely,


JOHN W. HEY, P.E.

cc: Alliance of Architects & Engineers

F:\ADOC\PAAE\WELLHEAD.COK



NOTICE OF COMPLETION OF WORKS AND APPLICATION OF WATER TO BENEFICIAL USE

Date 4-8-98

TO: Water Rights Program, DENR
523 E. Capitol
Pierre SD 57501-3181

FROM: Coca-Cola Bottling Co. of the Black Hills 2150 Coca-Cola Lane
(name) (address)
Rapid City, SD 57702
(city) (state) (zip) (phone)

I have completed the construction of the water diversion system and I have put the water to beneficial use to the maximum extent it is going to be used. I have not exceeded the amounts specified in Water Permit No. 2313-2.

Water Permit No. 2313-2 states that the diversion system is to be constructed by
May 2, 2000, and that the water is put to beneficial use by May 2, 2004.
(date) (date)

The diversion system was completed on Aug 1, 96.
(date)

Applying the water to beneficial use was completed on Aug 1, 96.
(date)

You may schedule an investigation so that the Water License may be issued.


(signature)





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 17, 1998

2313-2

Tom Simms
Coca-Cola Bottling Company of the Black Hills
2150 Coca-Cola Lane
Rapid City SD 57702

Dear Mr. Simms:

The investigation of the water use system, including the extent of application of water to beneficial use, as developed under Water Permit No. 2313-2, was completed by Ken Buhler on September 18, 1997. The final water right document, the Water License, can now be issued.

Statutes require that we charge a \$50.00 fee for the investigation and issuance of the Water License. Upon receipt of the \$50.00 fee, we will begin processing the Water License.

Also, enclosed is a *Notice of Completion of Works and Application of Water to Beneficial Use* form. This form needs to be completed, signed and returned. This form shows that the project has been completed.

Please submit \$50.00 to: Department of Environment & Natural Resources
Water Rights Program
523 E. Capitol
Pierre, SD 57501-3181

Sincerely,

Karen Schlaak
Water Rights Program
(605) 773-3352

NOTE: On check or money order, please specify your permit number. This will insure proper handling of the fee.

RECEIPT

Water Rights Program

South Dakota Department of Environment and Natural Resources

415735

Pierre, April 13, 1998

RECEIVED OF Coca-Cola Bottling Co. of the Black Hills, 2150 Coca-Cola Lane, Rapid City, SD 57702
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. _____ to Appropriate Water, to construct
and to put water to beneficial use _____

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. 2313-2

50 00

Fee for Filing Transfer Form _____

Fee for Filing Extension Request _____

Fee for _____

(Any Other Work Provided by Law)

Total

50 00

By _____
Chief Engineer

John Hatch

Permit No. 2110-2 & 2313-2
Upper Cheyenne River - Water District

Report Of Examination Of Works And/OR Application of Water To Beneficial Use

TO: Chief Engineer, Water Rights Program, DENR, Foss Bldg., Pierre, SD 57501

I have this day, **September 18, 1997**, made a thorough examination of the water use system constructed by **Coca-Cola Bottling Company of the Black Hills of Rapid City, SD** holder of Permit Nos. **2110-2 and 2313-2**, bearing the priorities of **December 20, 1989 and April 8, 1994 respectively** authorizing the diversion of **0.25 and 1.25** cu. ft. per second and/or the storage of **2.3** acre-feet of the waters of **groundwater and runoff** for **commercial and irrigation** purposes, in **Pennington** County.

I have to report on the conditions of the same as follows:

A. Works used to divert the water:

Water is diverted from a well 1460 feet deep, located 1730 feet south and 1630 feet west of the north east corner of Sec. 27, T2N-R7E (SE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 27, T2N-R7E). The well is pumped with a Grundfos pump capable of producing 150 gallons per minute.

B. Works used to transport water to place of use:

Water is transported to place through approximately 200 feet of 4-inch diamter PVC and through approximately 2000 feet of 1, 2 & 3 inch diamter PVC.

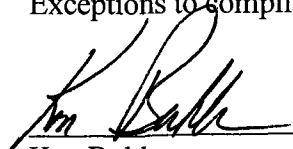
C. Works used to apply water to beneficial use:

Water is used for commercial purposed in the operatio of the Coca-Cola bottling facility and to irrigate 3 acres located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 27, T2N-R7E.

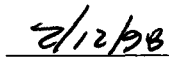
The system is in the following condition **good**. The point of diversion is located **1730 feet south and 1630 feet west of the north east corner of Sec. 27, T2N-R7E**. The works are capable of diverting and conveying to the place of use **0.33** cu. ft. per second of water and/or storing **1.5** acre-feet of water which is to be used for **commercial and irrigation use**. The license should be issued for **0.33** cfs.

Applicable permit qualifications have been complied with: **yes**

Exceptions to compliance are: **na**



Ken Buhler



Date

Natural Resources Engineer
DENR, Water Rights Program

- 3) Size 135 gallon per minute, 10 Horsepower, 6 stage
- 4) Capacity 100 GPM

Motor:

- 1) Make Hitachi
- 2) Model No. 460V 3 ph
- 3) Horsepower rating 10 hp

DISTRIBUTION LINES OR CANALS:

- 1) Type PVC 2) Size 4 inches 3) Length $\cong$ 200 feet (inside plant)
- 1) Type PVC 2) Size 1,2 & 3 inches 3) Length $\cong$ 2000 feet

SYSTEM SUMMARY:

Water from the well is pumped to two 5000-gallon storage tanks. From the storage tanks the water goes to a pressure system and then to the plant through 4" PVC pipe. Excess production water goes to a decorative pond with a volume of approximately 1.5 acre-feet. Water is pumped from the pond with a 25 horsepower 10" diameter, Fairbanks Morris, 3X4 centrifugal pump (#33558D) capable of diverting 100 gallons per minute. Through approximately 2000 feet of 1", 2" and 3" diameter PVC pipe to 12 sprinkler zones with 10-14 sprinkler heads per zone. System runs one zone at a time .

PERMIT QUALIFICATIONS AND REGULATIONS:

- 1) Special qualifications to permit being abided by yes
- 2) All structures, wells and lands on map yes
- 3) Irrigation Questionnaires checked to determine if permit owner started irrigation by the end of construction period yes

REPORT ON INSPECTION OF PERMIT NO. 2110-2 and 2313-2

Other permit(s) associated with the project: na

NAME & ADDRESS OF INSPECTION CONTACT Tom Simms

2150 Coca-Cola Lane

Rapid City, SD 57702

RELATIONSHIP TO PERMIT HOLDER, IF APPLICABLE: Production Supervisor

NAME & ADDRESS OF PERMIT HOLDER: Coca-Cola Bottling Company of the Black Hills

2150 Coca-Cola Lane

Rapid City, SD 57702

DATE OF INSPECTION: September 18, 1997

DIVERSION POINT LEGAL LOCATION: 1730 feet south and 1630 feet west of the north east corner of Sec.27, T2N-R7E (SE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 27, T2N-R7E)

WELL INFORMATION:

1) Well Drilling Firm: Taylor Drilling

2) No. of Wells one

3) Depth(s) 1460 feet

4) Well log is available yes

Casing:

1) Diameter 7 inches

2) Length 1380 feet

3) Type steel

Screen:

1) Type none- open hole completion

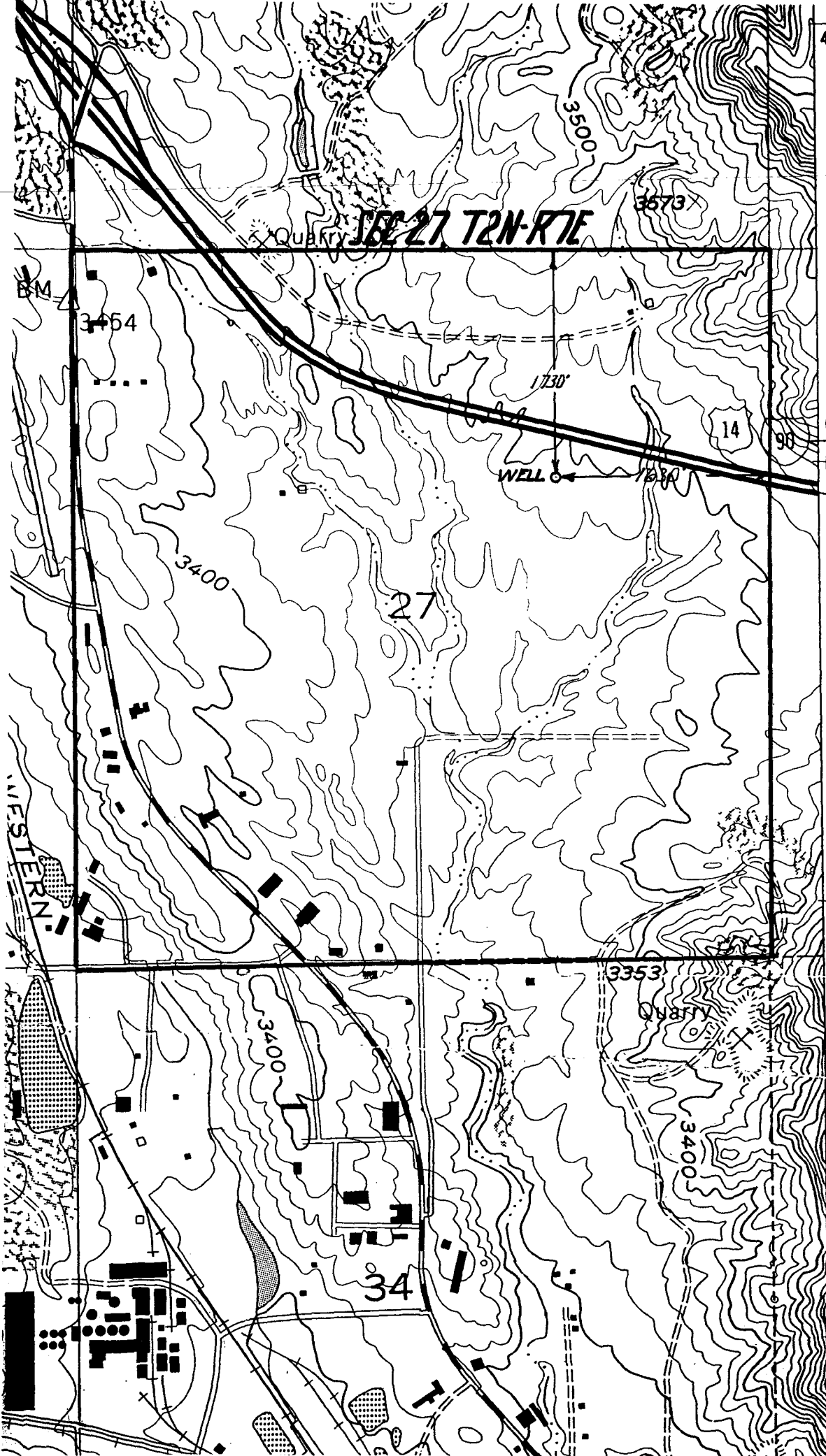
2) Length 80 feet of open hole interval

3) Static water level flowing well (+57) feet

Pump:

1) Make Grundfos

2) Model 135S100-6



16E 27 T2N R7E

WELL

660 000
FEET

K. A. Smith
NATURAL RESOURCES ENGINEER
WATER RIGHTS PROGRAM

RAPID CITY INTERCHANGE 0.9 MI.

T. 2 N.

2313-2

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 2313-2

(1) Coca-Cola Bottling Company of the Black Hills, 2150 Coca-Cola Lane, Rapid City SD 57702 made Application No. 2313-2, April 8, 1994 for a water permit to divert an additional 1.25 cubic feet of water per second (cfs) from groundwater (one well), Pennington County, South Dakota for commercial and irrigation purposes. Permit No. 2313-2, with a priority date of April 8, 1994 was approved May 2, 1995 and issued to the applicant for diversion of water with construction of the described water supply system to be completed on or before May 2, 2000 and for the application to beneficial use of said water on or before May 2, 2004.

The permit holder submitted a *Notice of Completion of Works and Application of Water to Beneficial Use* on April 13, 1998. The *Notice* stated the diversion system was completed on August 1, 1996 and the water placed to beneficial use on August 1, 1996.

Water Permit No. 2110-2 authorized 0.25 cfs from one well to irrigate 4.5 acres and 2.3 acre-feet holding pond (supplied by groundwater and incidental runoff) with a priority date of December 20, 1989. The applicable portions of Water Permit No. 2110-2 have been incorporated into No. 2313-2.

(2) It is certified that the applicant has complied with the provisions of South Dakota State Law relating to completion of the construction of the water supply system and is entitled to store 1.5 acre-feet of water and to divert 0.33 cubic feet of water per second for beneficial use. The location of the diversion point is 1,730 feet south and 1,630 feet west of the northeast corner of Section 27-T2N-R7E (SW 14 NE 1/4).

(3) The applicant has complied with the provisions of South Dakota State Law relating to the application of water to beneficial use. Water is diverted from the well for commercial purposes in the Coca-Cola bottling facility. Process water from the facility and runoff impounded in the 1.5 acre-feet holding pond is used to irrigate the following land: 3 acres located in the SW 1/4 NE 1/4 Section 27-T2N-R7E.

(4) Pursuant to South Dakota Water Law 46-5-30.1 Coca-Cola Bottling Company of the Black Hills, 2150 Coca-Cola Lane, Rapid City SD 57702 the holder and/or owner of Incorporated Water Permit No. 2313-2 is issued a license to appropriate water, the right to store 1.5 acre feet and to use 0.33 cubic feet of water per second from groundwater (one well) and runoff with priority dates of December 20, 1989 (0.25 cfs) and April 8, 1994 (0.08 cfs) from the location specified in (2) of this license. The water to be conducted to and upon lands specified in (3) of this license for the purpose of irrigation and commercial use. This license is subject to any limitations or qualifications listed in Incorporated Water Permit No. 2313-2 and subject to South Dakota State Law.



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

APR 28 1998

date





**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

APR 28 1998

2313-2

Coca-Cola Bottling Company of the Black Hills
Tom Simms, Production Supervisor
2150 Coca-Cola Lane
Rapid City, SD 57702

Dear Mr. Simms:

Enclosed is Water License No. 2313-2. This is the final water right document completing your process of obtaining a Water Right. Enclosed is Receipt No. 415735 in the amount of \$50.00 which you paid for the investigation and issuance of the Water License.

For your information SDCL 46-6-27 requires that if the owner of an existing well, such as the well authorized by Water Right No. 2323-2, constructs a replacement well and does not plan to use the old well, the old well is considered abandoned and must be plugged. Also, any well that is being used or is not considered abandoned must be valved and controlled, if flowing, or sealed and capped so that no leaking occurs either underground or at the surface.

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. If you have any questions, please contact our office.

Very truly yours,

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

ks
enclosures

NOTE: The applicable portions of Water Permit No. 2110-2 have been incorporated into No. 2313-2.



2313-2

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

January 22, 1999

NOTICE

TO: COCA-COLA BOTTLING, PAUL WIESE, 2150 COCA-COLA LANE, RAPID CITY, SD
57702

FROM: Ron Duvall, Natural Resources Engineer
for John Hatch, Chief Engineer
Water Rights Program

SUBJECT: Reporting Requirement for 1998 Irrigation Questionnaire(s)

Our records indicate that the 1998 Irrigation Questionnaire(s) has not been submitted for Permit No(s) 2313-2. The request for the Questionnaire was dated October 16, 1998. The Water Management Board has directed that owners of water permits who have not submitted the 1998 Irrigation Questionnaire(s) be given notice of permit violation and a hearing to be held by the Board. The hearing is to determine what action is to be taken for violation of Water Permit No(s) 2313-2 qualification:

"This permit is approved subject to the Irrigation Water Use Questionnaire being submitted each year."

The hearing will be held at 9:45 am, March 3, 1999 in the Floyd Matthew Training Center, Joe Foss Building, 523 E Capitol, Pierre, SD, and will be conducted pursuant to SDCL 46-1-12, 46-1-14, 46-2-9, 46-2-11 and 46-2-17. These are contested case hearings pursuant to Chapter 1-26. According to SDCL 46-1-12, the Board may suspend a permit for a period of up to one year for the first violation of a permit qualification or up to three years for a second violation, or cancel a permit for a third violation. Following the hearing, the Water Management Board can:

1. Suspend or cancel Permit No(s) 2313-2 in accordance with applicable provisions of SDCL 46-1-12;
2. Postpone any action; or
3. Take no action.

The hearing is an adversary proceeding. The permit owner has the right to be present or to be represented by a lawyer. These and other due process rights will be forfeited if they are not exercised. Decisions of the Board may be appealed to the Circuit Court and the State Supreme Court as provided by law.

If the questionnaire(s) is(are) received in this office on/or before March 1, 1999, you will no longer be in violation of your permit and your name will be deleted from the Board agenda. If you have questions or need assistance in completion of the irrigation questionnaire(s), please contact Genny McMath at (605) 773-3352.

NOTE: Please contact the Water Rights Program, Joe Foss Building, 523 E Capitol, Pierre, SD (605-773-3352) to assure access to the meeting room for the handicapped or to obtain an interpreter for the hearing impaired.

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

COCA-COLA BOTTLING
PAUL WIESE
2150 COCA-COLA LANE
RAPID CITY SD 57702

4a. Article Number

2119141543

4b. Service Type

- ☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

1-25-99

5. Received By: (Print Name)

6. Signature: (Addressee or Agent)

X *Paul Wiese*

8. Addressee's Address (Only if requested and fee is paid)

Thank you for using Return Receipt Service.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181
www.state.sd.us/denr

February 25, 1999

2313-2

Doug Brooker, Plant Supt
Coca-Cola Bottling
2150 Coca-Cola Lane
Rapid City, SD 57702

Dear Mr. Brooker:

I am writing to acknowledge receipt of your 1998 irrigation questionnaire. You may disregard the January 22, 1999, "Notice" concerning reporting requirements for Water Right No. 2313-2.

The information was received in our office prior to the Water Management Board meeting and your name has been deleted from the agenda.

If you have any questions, please contact me.

Sincerely,

Genny McMath
Environmental Scientist
Water Rights Program
(605) 773-3352