

Considered: _____

V.R.
WATER PERMIT NO. 1537-1

Phone: 642-8456

Name of Applicant: LJMT, Inc.

Post Office Address: PO Box 153, Spearfish SD 57783

Amount of Water Claimed: 15 gpm 0.033 cfs Total Acres: NA

Source of Water Supply: groundwater

Water to be used for: industrial County: Lawrence

About _____ miles _____ of _____

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

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

PRIORITY _____ Date Received: 2-3-92 Fee: \$15 Remarks _____

Corrected Application Received 2-7-92 Period of Annual Use Jan 1 - Dec 31

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

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

Diversion Point: NW 1/4 NW 1/4 Sec 3-T6N-R2E

Land to be Irrigated: _____

Well Log: Driller: _____ Licensed YES _____ NO _____

Depth of Well: 50' REMARKS _____

Type of Map: aerial PREPARED BY: Donna Webb, ASCS Reviewed and the Number

Assigned on 2-7-92 By Karen Schlaak

SOUTH DAKOTA

VESTED WATER RIGHT NO. 1537-1

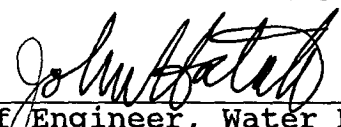
Date of Receipt of Claim February 3, 1992.

Date of Validation April 29, 1992.

The Chief Engineer, on behalf of the Water Management Board validated Vested Water Right Claim No. 1537-1 for LJMT, Inc., PO Box 153, Spearfish SD 57783 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 1537-1 appropriates 15 gallons per minute (0.033 cubic feet of water per second) from one well 50 feet deep (Quaternary Alluvium) located in the NW 1/4 NW 1/4 Section 3-T6N-R2E.
2. The appropriated water is used for supplying water to the business and may not exceed the amount of water needed for beneficial use for institutional purposes.
3. The water is to be used during the following annual period: January 1 - December 31.
4. The priority date of the Vested Water Right is January 1, 1951.
5. The water use system has been constructed and water has been applied to beneficial use.
6. Water Rights obtained in compliance with the laws of the State of South Dakota must not be unlawfully impaired by this appropriation.

WATER MANAGEMENT BOARD

By: 

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

MAY 22 1992

date

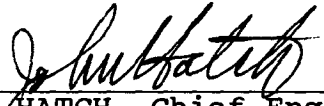
STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 1537-1

(1) LJMT, Inc. of P.O. Box 153, Spearfish, SD 57783-0153 made Application No. 1537-1, February 3, 1992 for validation of a vested right claim to appropriate 0.033 cubic feet of water per second from groundwater (one well), Lawrence County, South Dakota for institutional purposes. Vested Water Right No. 1537-1 was validated April 29, 1992 with a priority date of January 1, 1951. Construction of the described water supply system and application of water to beneficial use has been completed and complies with applicable provisions of South Dakota State Law.

(2) The applicant is entitled to divert 15 gallons per minute (0.033 cubic feet of water per second) for beneficial use. The location of the diversion point is: the NW 1/4 NW 1/4 Section 3, T6N, R2E.

(3) Pursuant to Section 46-5-30.1 LJMT, Inc. of P.O. Box 153, Spearfish, SD 57783 the holder(s) and/or owners(s) of Vested Water Right No. 1537-1 is issued a license to appropriate 15 gallons per minute, 0.033 cubic feet of water per second from groundwater (one well - 50' deep) with a priority date of January 1, 1951 from the location specified in (2) of this license. The water is to be used for the purpose of institutional use. This license is subject to any limitations, conditions or qualifications listed in Vested Water Right No. 1537-1 and subject to South Dakota State Law.



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

MAY 22 1992

No. 1537-1 Hydrologic Unit 10/20203
 Map No. _____ Basin Belle Fourche River
 Newspaper Queen City Mail, Box 7, Spearfish
 (Daily)

Application For Permit To Appropriate Water Within The State Of South Dakota

Check use of water: Industrial ☐ Commercial ☒ Municipal ☐ Other Common Distribution System ☐
 Rural Water System ☐ Suburban Housing ☐ Geothermal Heat ☐ Institutional ☒ Recreational ☐
 Domestic ☐ (above 18gpm) Other ☐

Type of Application: Check one or more of the following

New ☐ Vested Right ☒ Future Use ☐ Change Use ☐☐ Amend Permit No. _____ with old priority date retainedChange diversion point(s) ☐ Add diversion point(s) ☐ Other ☐ _____☐ Application to: Change diversion point(s) ☐ Add diversion point(s) ☐ on Permit No. _____☐ Construction to use water reserved by Future Use Permit No. _____1. Name of Applicant LMJT, Inc. Phone No. 642-84562. Post Office Address P.O. Box 153 Spearfish S.D. State 59783
(Street, RR or Box) (City) (Zip Code)3. Amount of water claimed (c.f.s.) 15 g.p.m. 0.033 cfs4. Source of water supply well-ground water5. Location of point of diversion (Deep Wascapton) TN R2E SEC 10NW 1/4 NW 1/4 Sec. 3-T6N-R2ECounty Lawrence6. Counties where water will be used Lawrence7. Annual period during which water is to be used Jan. 1 - Dec. 31

8. Give a brief description of proposed project. When available include any preliminary engineering report or other reports or information that will help explain the project. (Attach sheet if more space is needed)

Attachments: Attach Form 2A if diversion from a well or dugout, or if storage of water, is proposed. Attach map (see instruction)

STATE OF SOUTH DAKOTA)
County of Lawrence)^{ss}1. Howell Carlson the applicant, certify that I have read this application, have examined the attached map and that the matters stated are true and that I intend, and am able to complete the necessary construction.Signed Howell CarlsonSubscribed and sworn to before me this 27th day of January 19 92Dustin J. Cheneault
Commissioner of Public Lands
6-13-94

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

413059

Pierre, February 7, 19 92

RECEIVED OF LJMT, Inc., P.O. Box 153, Spearfish, SD 57783

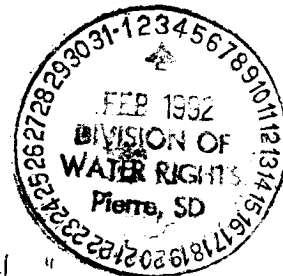
the following amount in fees for services rendered as provided for by law:

Fee for Application for Permit No. <u>1537-1</u> to Appropriate Water, to construct works and to put water to beneficial use _____	15	00
Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____		
(Any Other Work Provided by Law)	Total	1500

By John Hatch CE
Chief Engineer

Supplemental Information

(type or print in ink)



1. Well Information - Proposed construction

- a) Drill Hole Diameter 1 7/8" Depth 50'
- b) Casing Type steel Diameter 4" Thickness 1/4"
- c) Screen Type perforated Diameter 4" Thickness 1/4"
- d) Gravel Pack Thickness 3 7/8" Length of Gravel Pack 50'
- e) Depth to Top of Water Bearing Material 10'
- f) Depth to Water (ground surface to water level) 35'
- g) Distance to nearest existing domestic well: 15 yards
- On applicants property _____ On property owned by others X

2. Dugout Information Estimates

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

3. Water Storage Dams

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

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

b) Freeboard _____

c) Crest Width _____

Crest Length _____

d) Height _____

e) Primary Outlet Capacity _____
If Pipe, diameter _____

f) Secondary Spillway Capacity _____
Spillway width _____

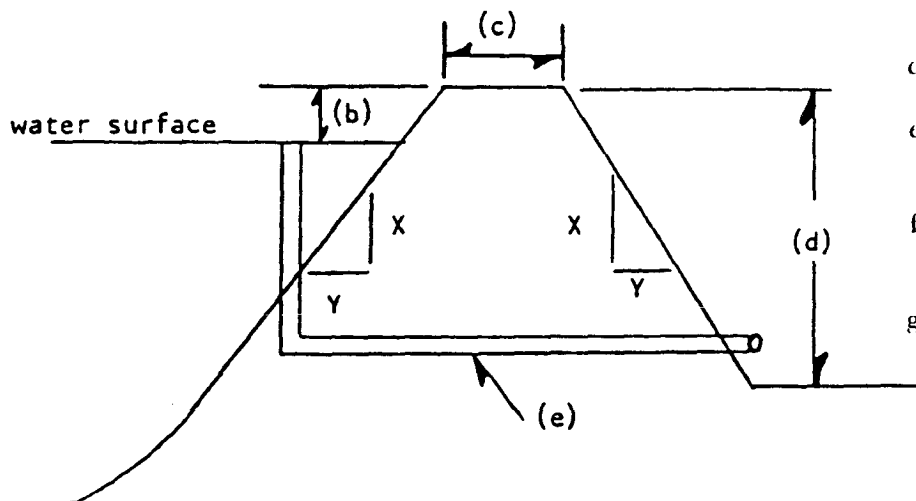
g) X & Y Slope
Upstream _____

Downstream _____

Surface Area of Impoundment _____

Storage _____ acre feet

Drainage area above dam _____



Signature of Applicant

Affidavit of Water Use

No. _____

(Type or Print in Ink)

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



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

Name of Applicant (Same as Form 2) Hyman, Inc.
 Post Office Address P.O. Box 153 Spencetown, S.D. 57783
 (Street, RR or Box) (State) (Zip Code)

A. Notice of Appropriation _____ Date of Posting _____

 Date of recording _____ Recording date _____
 Where Book Page
B. Date of start of construction of water supply system JAN. 1951C. Date that water was first applied to beneficial use JAN. 1951D. Name of owner of original water supply system Ed JohnstonE. Amount of water originally applied to beneficial use 1/4 horse - 15 g.p.m.F. Present Use of Water - Amount of water now being used 15 g.p.m.Date that this water was first used 10/19/89
 G. Chronological History of Water Use JAN. 1951 WATER USE for Siesta Motel,
WATER USE AS of 10/19/89, Loving Care Group Home.

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

State of South Dakota)

County of Lawrence)

SS

 I, Louise Carlson the applicant, certify that I have read the foregoing
 (print or type)
 and that the matters therein stated are true.
Signed Louise CarlsonSubscribed and sworn to before me the 27th day of January, 1992
Doris J. Cheneveth
 Notary Public or other qualified officer my commission exp. 6-13-94

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

(Print name) 19_________
(Print name) 19____

South Dakota

GREAT FACES. GREAT PLACES.

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

February 3, 1992

LJMC, Inc.
% Lowell Carlson
PO Box 153
Spearfish SD 57783

Dear Mr. Carlson:

In regard to your water permit application received on February 3, 1992, the application can not be processed until the filing fee has been received. The filing fee for a vested right application is \$15.00.

Another requirement for a complete application is a well log signed by a South Dakota licensed well driller. I have checked our files and can not find a well log for this well. Do you have a copy of the well log? If not, please indicate this when you submit the filing fee.

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

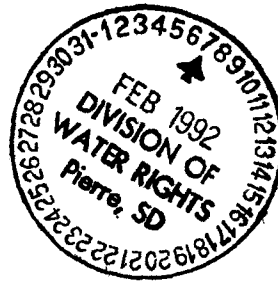
Sincerely,

Karen Schlaak

Karen Schlaak
Natural Resources Analyst.
605 773-3352

In conversation with Don Frye, I was informed that I needed a log well. I checked with previous owners and found that the well was drilled in the 1950's by a gentleman from Montana. The gentleman is now deceased so I cannot get any records.

Howell Carter



REPORT ON APPLICATION NO. 1537-1
for LJMT, Inc.
March 17, 1992

Application No. 1537-1 proposes to validate a vested right claim to appropriate 15 gpm (0.033 cfs) from one well approximately 50 feet deep located in the NW 1/4 NW 1/4 of section 3, T6N R2E in Lawrence County. The water use has a claimed priority date of January 1, 1951 and is for institutional purposes.

AQUIFER - QUATERNARY ALLUVIUM (ALQ)

The Quaternary alluvium aquifer consists of sand and gravels, silts and clays lying directly over the Spearfish Formation and may attain a thickness of about 60 feet. The alluvial aquifer is unconfined (water table) and is hydraulically connected to Spearfish Creek. No estimate is available for the amount of water in storage in the alluvium. The extent of the aquifer is probably limited to the floodplain of Spearfish Creek and the aquifer is recharged by rainfall and snowmelt directly into the aquifer, by leakage from Spearfish Creek and from leakage from the irrigation ditches which cross the floodplain.

The Division of Water Rights does not monitor any observation wells completed into the alluvium in the Spearfish area. No historical water level data for the alluvial aquifer are available.

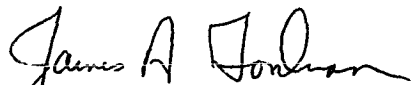
REVIEW OF EXISTING WATER PERMITS/RIGHTS

There are four existing water permits/rights within 1/2 mile of this application. These are Nos. 1343-1, 1356-1, 1227-1 and 1377-1. The well for Vested Right No. 1356-1 is within 300 feet of this application. Interference is not expected to be a concern. The diversion rates for these two wells are relatively small and both wells have been in use for many years with no apparent problems.

CONCLUSIONS

1. Water is available from the alluvial aquifer.
2. This is an unconfined aquifer. Pumping at these relatively small rates should create significant drawdown. Interference should not be a concern.
3. This is an existing well. The affidavit filed with this application indicates continuous use since January of 1951. This use does qualify for a Vested Right.
4. Information is not available to determine how this well was constructed.

5. There are numerous domestic wells in this area which obtain water from the alluvial aquifer.

A handwritten signature in cursive script, appearing to read "James A. Goodman".

James A Goodman

Natural Resources Engineer

RECOMMENDATION OF CHIEF ENGINEER FOR VALIDATION OF VESTED WATER

RIGHT APPLICATION NO. 1537-1, LJMT, Inc.

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 Validation of Vested Water Right Application No. 1537-1, LJMT, Inc., c/o Lowell Carlson, PO Box 153, Spearfish, SD 57783.

The Chief Engineer is recommending VALIDATION of Application No. 1537-1 for 0.033 cfs because 1) water has been appropriated as described for institutional use with a priority date of January 1, 1951, 2) the use has been developed without unlawful impairment of existing rights, 3) the use is a beneficial use and 4) it is in the public interest.

See report on application for additional information.

A handwritten signature in black ink, appearing to read "John Hatch", is written above the typed name.

JOHN HATCH, Chief Engineer
March 24, 1992



**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.

March 25, 1992

Lowell Carlson
LJMT, Inc.
PO Box 153
Spearfish, SD 57783

Dear Mr. Carlson:

Your Application No. 1537-1 for a vested water right claim has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of your claim has been sent to the Publisher of the Queen City Mail printed at Spearfish, SD. For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice and notify this office, if you have any corrections or questions.

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

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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.



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 25, 1992

Queen City Mail
Box 7
Spearfish, SD 57783

ATTN: Legal Publications:

Enclosed is a Notice of Hearing to Validate Vested Right Application No. 1537-1 to be published twice. Please publish the notice on April 2, 1992, 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 LJMT, Inc., PO Box 153, Spearfish, SD 57783.

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

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

Sincerely,

Eric Gronlund

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

-----CUT HERE-----
FIRST TRANSMITTAL NOTICE TO: ATTN: Eric Gronlund
Water Rights Division
523 E Capitol
Pierre SD 57501-3181

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

Name _____

Newspaper _____

Instruction to Newspaper - Publish first Notice on April 2, 1992, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING To Validate
Vested Water Right Application No. 1537-1 to Appropriate Water

Notice is given that LJMT, Inc., PO Box 153, Spearfish, SD 57783 has filed an application to validate a vested water right claim to appropriate 15 gallons per minute (0.033 cubic feet of water per second) from one well 50 feet deep (Quaternary Alluvium) located in the NW 1/4 NW 1/4 Section 3-T6N-R2E. The water has a claimed priority date of January 1, 1951, and is for institutional use.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Vested Water Right Application No. 1537-1 because 1) water has been appropriated as described for institutional use with a claimed priority date of January 1, 1951, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water, and 4) it is in the public interest. Unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation, the Water Management Board will NOT CONDUCT a HEARING to consider this application and the chief engineer will issue the vested water right application as recommended. Petitions filed in support of the application will NOT require the Board to hear the application.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E Capitol, Pierre SD 57501 (605 773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by April 20, 1992. The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

For purposes of publishing 1) the notice of hearing on Application No. 1537-1 and 2) the chief engineer's recommendation, a meeting at the Division of Water Rights office to hear this application is scheduled for April 29, 1992, at 9:00 am in Room 413, Joe Foss Building, 523 E Capitol, Pierre SD. If this application is opposed or the recommendation is contested, the April 29, 1992, hearing date will be rescheduled for a regularly scheduled Board meeting. Notice of the time and place of the rescheduled hearing before the Board will be given by First Class Mail to the applicant and persons filing petitions. Anyone not filing a petition, but interested in attending the hearing, may contact the Division of Water Rights to confirm a hearing date and location. The April 29, 1992, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by April 20, 1992.

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

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

Affidavit of Publication

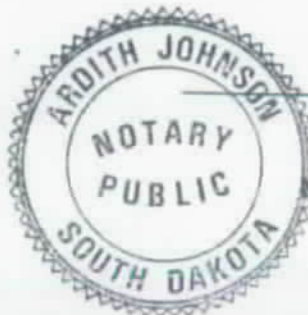
STATE OF SOUTH DAKOTA)
COUNTY OF LAWRENCE) SS.

Billy T. Masterson, Jr. of said County and State being first duly sworn, on his oath says: That The QUEEN CITY MAIL is a legal daily newspaper of general circulation, printed and published in the City of Spearfish, in said County and State by Billy T. Masterson, and has been such a newspaper during the times hereinafter mentioned; and that said newspaper has a bonafide circulation of at least 200 copies weekly, and has been published within said County in the English language for at least one year prior to the first publication of the notice herein mentioned, and is printed in whole or in part in an office maintained at the place of publication; and That I, Billy T. Masterson, Jr., the undersigned, am the Publisher of said newspaper and have personal knowledge of all the facts stated in this affidavit; and that the advertisement headed:

notice of hearing

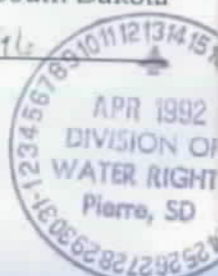
a printed copy of which is hereto attached, was printed and published in said newspaper for 2 successive and consecutive weeks, the first publication being made on the 2 day of Apr 1992 and the last publication on the 9 day of Apr 1992 that the full amount of fees charged for publishing same, to-wit: The sum of \$67.54 insures solely to the benefit of the publisher of the QUEEN CITY MAIL, that no agreement or understanding for a division thereof has been made with any person and that no part thereof has been agreed to be paid to any other person whomsoever.

Subscribed and sworn to before me this 9 day of APR 1992.



Ardith Johnson
Notary Public, Lawrence County, South Dakota

My commission expires: 10-24-96



NOTICE OF HEARING To Validate Vested Water Right Application No. 1537-1 to Appropriate Water

Notice is given that LINT, Inc., PO Box 153, Spearfish, SD 57783 has filed an application to validate a vested water right claim to appropriate 15 gallons per minute (0.033 cubic feet of water per second) from one well 50 feet deep (Quaternary Alluvium) located in the NW 1/4 NW 1/4 Section 3-T6N-R-2E. The water has a claimed priority date of January 1, 1951, and is for institutional use.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Vested Water Right Application No. 1537-1 because 1) water has been appropriated as described for institutional use with a claimed priority date of January 1, 1951, 2) the use has been developed without unlawful impairment of existing rights, 3) it is a beneficial use of water, and 4) it is in the public interest. Unless a petition is filed opposing the application or the applicant files a petition contesting the chief engineer's recommendation, the Water Management Board will NOT CONDUCT a HEARING to consider this application and the chief engineer will issue the vested water right application as recommended. Petitions filed in support of the application will NOT require the Board to hear the application.

Any person interested in opposing or supporting this application must file a written petition with BOTH the applicant and Chief Engineer. The applicant must also file a petition if opposed to the Chief Engineer's recommendation. The Chief Engineer's address is "Water Rights Division, Foss Building, 523 E. Capitol, Pierre SD 57501 (605-773-3352)" and the applicant's mailing address is given above. A petition filed by either an interested person or the applicant must be filed by April 20, 1992. The petition may be informal, but must include a statement describing the petitioner's interest in the application, the petitioner's reasons for opposing or supporting the application, and the signature and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

For purposes of publishing 1) the notice of hearing on Application No. 1537-1 and 2) the chief engineer's recommendation, a meeting at the Division of Water Rights office to hear this application is scheduled for April 29, 1992, at 9:00 am in Room 413, Joe Foss Building, 523 E Capitol, Pierre SD. If this application is opposed or the recommendation is contested, the April 29, 1992, hearing date will be rescheduled for a regularly scheduled Board meeting. Notice of the time and place of the rescheduled hearing before the Board will be given by First Class Mail to the applicant and persons filing petitions. Anyone not filing a petition,

but interested in attending the hearing, may contact the Division of Water Rights to confirm a hearing date and location. The April 29, 1992, hearing date will be automatically delayed for at least 20 days upon written request to the Chief Engineer from the applicant or any interested person opposing the application. The request for an automatic delay must be filed by April 20, 1992.

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

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

126

S-631



MAY 22 1992

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

1537-1

LJMT, Inc.
P.O. Box 153
Spearfish, SD 57783-0153

Dear Sirs:

Enclosed are your Validated Vested Water Right and Water License No. 1537-1. As long as you use the water beneficially, as stated in the Water License, the State Water Laws provide that you have a continuing right to use the water.

Very truly yours,

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

enclosures



September 10, 1992

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

The Queen City Mail
Box 7
Spearfish SD 57783

Dear Sir:

Enclosed are two Affidavit of Publication and bills for Notice of Hearings which were published in your paper in April, 1992. The cost of these publications is to be paid by the applicants. The Notice of Hearing to Review Future Use Water Permit No. 369-1 should be paid by the City of Belle Fourche, 606 6th Ave, Belle Fourche SD. The Notice of Hearing to Validate Vested Water Right Application No. 1537-1 to Appropriate Water should be paid by LJMT, Inc., PO Box 153, Spearfish SD.

If you have questions, please contact this office.

Sincerely,

Karen Schlaak

Karen Schlaak
Natural Resources Analyst
605 773-3352

enclosures



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

March 27, 1996

No. 1537-1

Barney Wagner
338 Evans Lane, Lot 25
Spearfish, SD 57783

Dear Mr. Wagner:

Enclosed is a partially completed "Notice of Transfer" form for use in filing an ownership change on Vested Water Right No. 1537-1. The vested water right is currently listed in the name of L J M T, Inc.

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

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

If you have any questions, please contact me.

Sincerely,

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

enclosure

RECEIPT

414891

Division of Water Rights

South Dakota Department of Environment and Natural Resources

Pierre, _____ April 5, 19 96

RECEIVED OF Loving Care Group Home (B and C Wagner, Inc.) P.O. Box 405, Spearfish, SD 57783

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. _____		
Fee for Filing Transfer Form <u>Vested Water Right No. 1537-1</u>		2 50
Fee for Filing Extension Request _____		
Fee for _____		

(Any Other Work Provided by Law)	Total	2 50

By John Hatch 
Chief Engineer

NOTICE OF TRANSFER OF OWNERSHIP

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



No. 1537-1

Date: April 4, 1996

I/We request that Vested Water Right No. 1537-1

formerly owned by: L J M T, Inc., PO Box 153, Spearfish, SD 57783-0153

be transferred to: (name & address) Band C Wagner, Inc. PO Box 405, Spearfish, SD 57783

Telephone No. 605-642-2456

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

diversion point location: NW 1/4 NW 1/4 Section 3, T6N, R2E

I/We understand that the validity of Vested Water Right No. 1537-1 has not been determined by this transfer action. If I/We have any questions on validity, I/We understand that only the Water Management Board has the authority to determine if a water permit/right is valid (see note).

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

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

STATE OF SOUTH DAKOTA)

County of Lawrence)

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

Barney Wagner Jr.
(Signed)

Subscribed and sworn to before me this 4th day of April, 19 96.



Alicia A. Gibson
(Notary Public)

Alicia A. Gibson, Notary Public
Lawrence County, South Dakota
My Commission Expires November 14, 2002

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

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



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

June 11, 1996

No. 1537-1

Barney Wagner, Jr.
B and C Wagner, Inc.
P.O. Box 405
Spearfish, SD 57783

Dear Mr. Wagner:

Enclosed is a receipt in the amount of \$2.50 which you paid for the transfer of Vested Water Right No. 1537-1.

Our records now show B and C Wagner, Inc. as the owner of Vested Water Right No. 1537-1.

Sincerely,

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

enclosure