

WATER PERMIT NO. VR 2208-2

Phone: 574-2275

Name of Applicant: Tom Lane dba Silver Mountain Lodge

Post Office Address: HC 33, Silver City SD 57702

Amount of Water Claimed: 10 gpm 0.022 cfs Total Acres: NA

Source of Water Supply: groundwater

Water to be used for: commercial County: Pennington

About _____ miles _____ of _____

PROOF OF PUBLICATION: Received _____ Not Received _____

APPLICATION: Approved _____ Subject to _____

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

PRIORITY Date Received: 11-25-91 Fee: \$15 Remarks Claimed

priority date of January 1, 1945

Corrected Application Received 12-10-91 Period of Annual Use June 1 - August 31

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

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

Diversion Point: SE 1/4 SW 1/4 Sec 31-T2N-R5E

Land to be Irrigated: _____

Depth of Well: approx. 100' REMARKS _____

Type of Map: aerial PREPARED BY: Lorraine Rieger Reviewed and the Number

Assigned on 12-10-91 By Karen Schlaak



No. 2208-2 Hydrologic Unit 10120110
 Map No. _____ Basin Upper Cheyenne
 Newspaper Rapid City Journal, PO Box 450

57709

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 Tom Lane dba Silver Mountain Lodge Phone No. 574-2275
342-8229Post Office Address HC 33, Silver City, SD State 57702
(Street, RR or Box) (City) Zip Code2. Amount of water claimed (c.f.s.) 10 gal/min. (0.022 cfs)3. Source of water supply ground water4. Location of point of diversion 2N 05E Sec31 Silver City Lot22, Block 4(SE 1/4 SW 1/4)Silver City County Pennington5. Counties where water will be used Pennington6. Annual period during which water is to be used Commercial (rentals) summer only June 1-Aug 31

7. 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)

We make Silver Mountain Lodge our summer home and rent 4 cabin units to the public during the summer months, June, July & August. This well is one of, if not the, oldest well in Silver City. Probably dug in the late '30,s or early '40,s. Previous owners who dug the well are deceased so we have no way of knowing when or by whom...

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 Pennington) ss

I, Tom Lane 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 Tom LaneSubscribed and sworn to before me this 22nd day of November 1991

Donna M. Mayer
 Notary Public

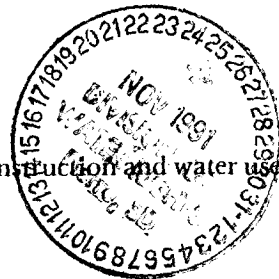


Affidavit of Water Use

No. _____

(Type or Print in Ink)

Notarizing is supplemental to Form 2 and is to be used when an affidavit pertaining to construction and water use 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) Tom Lane dba Silver Mountain Lodge

Post Office Address HC 33, Silver City, SD 57702
(Street, RR or Box) (State) (Zip Code)

A. Notice of Appropriation _____ Date of Posting _____

Date of recording _____ Recording date _____

Where

Book

Page

B. Date of start of construction of water supply system estimated early 1940's 1945

C. Date that water was first applied to beneficial use same as B

D. Name of owner of original water supply system Ted Brown (sold to Huxtable, sold to Lane)
(both Brown & Huxtable deceased)

E. Amount of water originally applied to beneficial use est. 10 gal/min

F. Present Use of Water - Amount of water now being used est 10 gal/min

Date that this water was first used Probably early 1940s

G. Chronological History of Water Use

Ted Brown moved CCC buildings onto property for cabin rentals in early 1940s and I assume he dug the well then. He rented 7 or 8 units as TED-MAR Lodge for many years. Sold to Clarence Huxtable in early 1960s. We purchased in 1969 and have operated as Silver Mountain Lodge since then. The main building is used as our summer and 2nd home year around - we rent only 4 units now on a very limited basis during June, July & August. Well has never failed - has not been worked on except to replace submerged pump as needed.

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 Pennington) ss

I, Tom Lane

(print or type) the applicant, certify that I have read the foregoing and that the matters therein stated are true.

Signed

Tom Lane

Subscribed and sworn to before me November 22, 1991

Donna M Mayer
Notary Public or other qualified officer

My Commission Expires: 1-24-99

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

VESTED WATER RIGHT NO. 2208-2

Date of Receipt of Claim November 25, 1991.

Date of Validation April 1, 1992.

The Chief Engineer, on behalf of the Water Management Board validated Vested Water Right Claim No. 2208-2 for Tom Lane dba Silver Mountain Lodge, HC 33, Silver City SD 57702 with the following limitations, conditions and qualifications:

1. Vested Water Right No. 2208-2 appropriates 10 gallons per minute (0.022 cubic feet of water per second) from one well approximately 100 feet deep (Precambrian Rock) located in the SE 1/4 SW 1/4 Section 31-T2N-R5E.
2. The appropriated water is used for supplying water to the Lodge and may not exceed the amount of water needed for beneficial use for commercial purposes.
3. The water is to be used during the following annual period: June 1 - August 31.
4. The priority date of the Vested Water Right is January 1, 1945.
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: _____

John H. Hattis
Chief Engineer, Water Right Division
Department of Environment and Natural Resources

AUG 6 1992

date

STATE OF SOUTH DAKOTA

VESTED RIGHT WATER LICENSE NO. 2208-2

(1) Tom Lane DBA Silver Mountain Lodge of HC 33, Silver City, SD 57702 made Application No. 2208-2, November 25, 1991 for validation of a vested right claim to appropriate 0.022 cubic feet of water per second from groundwater, Pennington County, South Dakota for commercial purposes. Vested Water Right No. 2208-2 was validated April 1, 1992 with a priority date of January 1, 1945. Construction of the described water supply system and application of water to beneficial use has been completed and complies with applicable provisions of South Dakota State Law.

(2) The applicant is entitled to divert 0.022 cubic feet of water per second (10 gallons per minute) for beneficial use. The location of the diversion point is: in Lot 22 Block 4 SE 1/4 SW 1/4 Section 31, T2N, R5E.

(3) Pursuant to Section 46-5-30.1 Tom Lane DBA Silver Mountain Lodge of HC 33, Silver City, SD 57702 the holder(s) and/or owners(s) of Vested Water Right No. 2208-2 is issued a license to appropriate 0.022 cubic feet of water per second (10 gallons per minute) from groundwater with a priority date of January 1, 1945 from the location specified in (2) of this license. The water is to be used for the purpose of commercial use. This license is subject to any limitations, conditions or qualifications listed in Vested Water Right No. 2208-2 and subject to South Dakota State Law.



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

AUG 6 1992

RECEIPT

Division of Water Rights

South Dakota Department of Water and Natural Resources

442902

Pierre, _____ November 25, 19 91

RECEIVED OF Tom Lane, 824 Columbus St., #101, Rapid City, SD 57701

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

Fee for Application for Permit No. <u>2208-2</u> to Appropriate Water, to construct works and to put water to beneficial use _____	15	00
Fee for Application for Permit No. _____ to Appropriate Water for Future Use _____		
Fee to retain Future Use Permit No. _____ after period of seven years.		
Fee for Inspecting Constructed Works, confirming beneficial use and issuing Water License No. _____		
Fee for Filing Transfer Form _____		
Fee for Filing Extension Request _____		
Fee for Certified Copy of _____		
Fee for Print Copy of Map _____		
Fee for Certifying _____		
Fee for _____		
(Any Other Work Provided by Law)	Total	15 00

By John Hatala (CF)
Chief Engineer

37

11/22/91

Gen. Co. ASCS
Garrison, Ky.
Acting Sec.

SILVER CITY



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

GREAT FACES. GREAT PLACES.

October 25, 1991

SILVER MTN. LODGE
TOM & PAT LANE
KEYSTONE RT
SILVER CITY SD 57781

Dear MR. & MRS LANE:

I am contacting you regarding the possibility that you may need a permit to appropriate water for use in your facility. We have reviewed our records after receiving information from the Office of Drinking Water and can not locate a water permit for your facility.

Pursuant to South Dakota Codified Laws 46-1-15 and 46-5-10, a water permit is required to use water from any water source, except for private domestic use. Examples of commercial use that require permits for private water supplies are: truckstops, motels, restaurants, tourist attractions, commercial campgrounds and any other business operation. Examples of noncommercial use that require permits for private water supplies are: churches, hospitals and nursing homes (any amount of water) and schools that pump more than 18 gallons per minute or use water outside of the school building. A vested water right can be claimed for water uses beginning on or prior to February 28, 1955, for ground water or March 2, 1955, for surface water.

An existing business without a water permit has no legal right to the use of water. Water users without a water permit are not protected if their water use is interfered with by someone who has a water right. If you believe you already have a water permit or if you have a permit issued under another name, please contact us.

Enclosed are water permit application forms and an instruction sheet. Please complete and return the application with the required fee to the "Water Rights Division, 523 E. Capitol, Pierre, SD 57501" by November 29, 1991. If you have questions or need assistance contact Don Frye, Natural Resources Analyst (605-773-3352).

Very truly yours,

Ron Duvall, Natural Resources Engineer
for JOHN HATCH, Chief Engineer
Water Rights Division
enclosure

LANE'S

**SILVER
MOUNTAIN
LODGE**

HC 33 • Silver City, SD 57702



October 30, 1991

Ron Duvall
Natural Resources Engineer
Water Rights Division, DENR
Pierre, SD 57501

Dear Mr. Duval:

Your October 25, 1991 letter stating we need a water permit was quite a surprise. We would like to claim vested water rights but need to ~~how~~. *know how*.

Secondly, is there not some limit of size we could claim? We rent only four (4) cabins for just three (3) months of the year, June, July & August.

As to vested rights - we have owned and operated SML since 1969. Prior to that it was known as Ted-Mar Lodge with two owners (now deceased) dating back 20 or more years. I assume the well was dug in the 1940s but have no record to prove that.

Could we hear from you please, *(our R.C. address)*

Tony Lane

824 Columbusth 101
Rapid City, SD
57701



GREAT FACES. GREAT PLACES.

**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

November 4, 1991

Tony Lane
824 Columbus #101
Rapid City, SD 57701

Dear Mr. Lane:

As you requested in your October 30, 1991 letter, I am enclosing two copies of Form 2B, Affidavit of Water Use and an instruction sheet so you can apply for a Vested Water Right. To determine the amount of water to claim, I would suggest you contact the individual who services your well and ask him to give you the pump rate, in gallons per minute, that your well pump is set at.

Since the previous owners of the lodge are now deceased, you will have to estimate, to the best of your knowledge, the year the water was first put to beneficial use. You mentioned in your letter that Ted-Mar Lodge was using the well for 20 or more years before you purchased the property in 1969. You could use 1949 as the beginning point of the water use.

Please follow the instructions I have enclosed. I have highlighted the areas on the instruction sheet that apply to your application. If I can be of further assistance, feel free to call me at 605-773-3352.

Sincerely yours,

A handwritten signature in cursive script that reads "Don Frye".

DON FRYE, Natural Resources Analyst
Division of Water Rights



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

GREAT FACES. GREAT PLACES.

November 25, 1991

Tom Lane
Silver Mountain Lodge
HC 33
Silver City SD 57702

Dear Mr. Lane:

In regard to your water permit application received on November 25, 1991, the following information needs to be clarified in order to process your application.

On Item No. B of the Affidavit of Water Use, would it be possible to determine a specific year. The vested right claim must be advertised for a specific year.

Item No. 2 of the Application for Permit, must be completed. Please indicate the maximum diversion rate in gallons per minute diverted from the well at the present time and whether or not you believe the diversion rate is the same now as in the early 1940's. The vested right claim will be based upon the amount diverted in the early 1940's.

If you have any questions, please contact this office.

Sincerely,

Karen Schlaak
Natural Resources Analyst
605 773-3352

enclosures

LANE'S



HC 33 • Silver City, SD 57702

December 9, 1991



Karen Schlaak
Natural Resources Analyst
DENR
523 East Capitol
Pierre, SD 57501

I have your November 25, 1991 letter regarding my water permit application. I have corrected the application and the affidavit as you requested. The date shown is as accurate as I could be under the circumstances.

Thank you for your help.

Sincerely,

A handwritten signature in cursive script that reads "Tom Lane". The signature is written in dark ink and is positioned below the word "Sincerely,".

Tom Lane

Conversation or File Documentation

NAME OF PERSON OR FILE: Tom Lane - Silver Mt. LodgeADDRESS: Silver City COUNTY _____DATE: 12/9/91 TELEPHONE _____RE: Pending appl.

COMMENTS:

Mr. Lane stated the person who drilled the well was deceased. He didn't know exact date. He thought 1945 would by 1945 it was for sure drilled so. He is going to send ltr. going with 1945. He also stated the well now pumps 10 gpm, the same as back when it was drilled.

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: Loren Schlaatz

REPORT ON APPLICATION NO. 2208-2
for Tom Lane
February 5, 1992

Application No. 2208-2 proposes to appropriate 0.022 cfs (10 gpm) from one well approximately 100 feet deep located in the SE 1/4 SW 1/4 of section 31, T2N R5E in Pennington County. The water use has a claimed priority date of January 1, 1945 and is used as a commercial supply for the Silver Mountain Lodge.

AQUIFER - PRECAMBRIAN ROCK (CRSL)

The Precambrian rock in this area consists of phyllite and schist. Ground water is obtained from fractures and natural foliations within the rock. Recharge is accomplished by infiltration of rainfall and snowmelt directly into the rock. The rate of recharge or the amount of water in storage has not been quantified for the Precambrian rock. Generally wells completed into this type of rock are low yield.

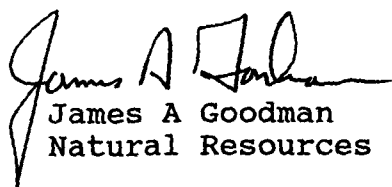
The Division of Water Rights does not monitor any observation wells in this area. Historical water level information is not available.

REVIEW OF EXISTING WATER PERMITS/RIGHTS

There are no other existing Water Permits/Rights in this area. Interference is not expected to be a concern. There are domestic wells in this area.

CONCLUSIONS

1. Water is available from the Precambrian rock.
2. Interference is not a problem. The rock is under water table conditions and the pumping rate is relatively small. Significant drawdown due to pumping will not occur.
3. An affidavit filed with this application indicates that this well has been in use for many years and has been assigned a priority date of January 1, 1945.
4. No information is available to determine if this well is completed in accordance with SD Well Construction Standards.



James A Goodman
Natural Resources Engineer

RECOMMENDATION OF CHIEF ENGINEER FOR VALIDATION OF VESTED WATER
RIGHT APPLICATION NO. 2208-2, Silver Mountain Lodge

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. 2208-2, Tom Lane dba Silver Mountain Lodge, HC 33, Silver City, SD 57702.

The Chief Engineer is recommending VALIDATION of Application No. 2208-2 for 0.022 cfs (10 gallons per minute) because 1) water has been appropriated as described for commercial use with a priority date of January 1, 1945, 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 positioned above the typed name.

JOHN HATCH, Chief Engineer
February 6, 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.

February 26, 1992

Tom Lane
Silver Mountain Lodge
HC 33
Silver City, SD 57702

Dear Mr. Lane:

Your Application No. 2208-2 for a vested water right claim has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice of your claim has been sent to the Publisher of the Rapid City Journal printed at Rapid City, SD. For your information, a copy of the notice, the recommendation of the Chief Engineer and a report on the application are enclosed. Please review the notice and notify this office, if you have any corrections or questions.

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

Sincerely,

Eric Gronlund
Natural Resources Engineer
605 773-3352

enclosures

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

February 26, 1992

Rapid City Journal
PO Box 450
Rapid City, SD 57709

ATTN: Legal Publications:

Enclosed is a Notice of Hearing to Validate Vested Right Application No. 2208-2 to be published twice. Please publish the notice on March 5, 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 Tom Lane dba Silver Mountain Lodge, HC 33, Silver City, SD 57702.

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
Natural Resources Engineer
605 773-3352

enclosures

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

FIRST TRANSMITTAL NOTICE

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

Date _____

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

Name

Newspaper

Instruction to Newspaper - Publish first Notice on March 5, 1992, with the second publication 7 days later. The applicant is responsible for payment.

NOTICE OF HEARING To Validate
Vested Water Right Application No. 2208-2 to Appropriate Water

Notice is given that Tom Lane dba Silver Mountain Lodge, HC 33, Silver City, SD 57702 has filed an application to validate a vested water right claim to appropriate 10 gallons per minute (0.022 cubic feet of water per second) from one well approximately 100 feet deep (Precambrian Rock) located in the SE 1/4 SW 1/4 Section 31-T2N-R5E. The water use has a claimed priority date of January 1, 1945, and is used as a commercial water supply for the Lodge.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Vested Water Right Application No. 2208-2 because 1) water has been appropriated as described for commercial use with a claimed priority date of January 1, 1945, 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 March 23, 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. 2208-2 and 2) the chief engineer's recommendation, a meeting at the Division of Water Rights office to hear this application is scheduled for April 1, 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 1, 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 1, 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 March 23, 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.

PROOF OF PUBLICATION

STATE OF SOUTH DAKOTA)
County Pennington) ss.

I, Helena M. Bauer, Bookkeeper

certify that the attached printed Notice was taken
from the The Rapid City Journal

A newspaper which during the whole time of publication of
said notice herein after stated, has been and is printed and
published in the _____

City _____ of Rapid City

County of Pennington and State of South Dakota;
that the said notice was published in said newspaper on the
following two dates:

March 5, 1992

March 12, 1992

Helena M. Bauer

(Signature)

Bookkeeper

(Title)

March 12, 1992

(Date Signed)



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.

March 5, 21 L391
NOTICE OF HEARING
TO VALIDATE VESTED
WATER RIGHT APPLICATION
NO. 2208-2 TO
APPROPRIATE WATER

Notice is given that Tom Lane dba Silver Mountain Lodge, HC 33, Silver City, SD 57702 has filed an application to validate a vested water right claim to appropriate 10 gallons per minute (0.022 cubic feet of water per second) from one well approximately 100 feet deep (Precambrian Rock) located in the SE1/4 SW1/4 Section 31-T2N-R5E. The water use has a claimed priority date of January 1, 1945, and is used as a commercial water supply for the Lodge.

Pursuant to SDCL 46-2A-2, the Chief Engineer recommends VALIDATION of Vested Water Right Application No. 2208-2 because 1) water has been appropriated as described for commercial use with a claimed priority date of January 1, 1945, 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 March 23, 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. 2208-2 and 2) the chief engineer's recommendation, a meeting of the Division of Water Rights office to hear this application is scheduled for April 1, 1992, at 9:00 a.m. in Room 413, Joe Foss Building, 523 E. Capitol, Pierre, S.D. If this application is opposed or the recommendation is contested, the April 1, 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 1, 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 March 23, 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) deter, 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

Cost of Printing: 12 5/16 inch @ 4.90 X 2 = \$120.70



**DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES**

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

AUG 6 1992

2208-2

Tom Lane DBA Silver Mountain Lodge
HC 33
Silver City, SD 57702

Dear Mr. Lane:

Enclosed are your Validated Vested Water Right and Water License No. 2208-2. As long as you use the water beneficially, as stated in the Water License, the State Water Laws provide that you have a continuing right to use the water.

Very truly yours,

A handwritten signature in cursive script that reads "John Hatch".

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

enclosures