

Vested Right WATER PERMIT NO. 2827-2

Name of Applicant: A & B Ranch Inc

Address: 15001 Lower Spring Creek, Hermosa SD 57744

Phone: 605 381-4455

Amount of Water Claimed: 3.04 cfs

Total Acres: 212.8 acres

Source of Water Supply: Spring Creek

Water to be used for: Irrigation

County: Pennington

Type of Waste Disposal System:

Location: 7 miles northwest of Hermosa

PRIORITY

Date Received: 9-10-21

Application/License Fee: \$ 50

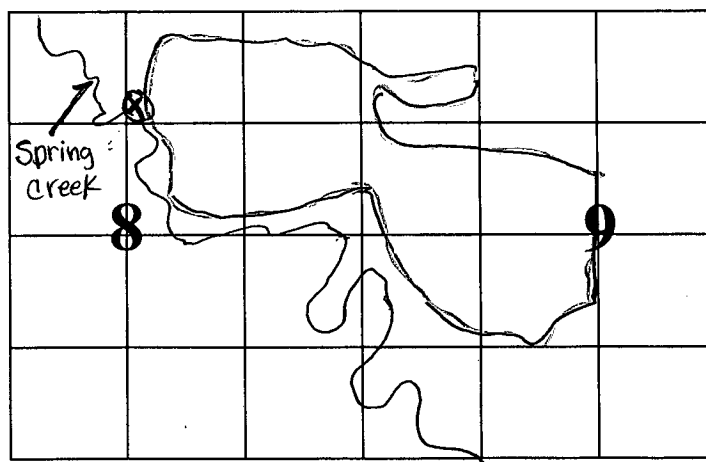
Corrected Application Received:

Period of Annual Use: March 15 – October 31

Remarks: Claimed priority date of October 23, 1890

Diversion Point: NW 1/4 NE 1/4 Sec 8-T2S-R9E

Land to be Irrigated: NE 1/4 Sec 8 & W 1/2 NW 1/4, SE 1/4 NW 1/4, N 1/2 SW 1/4 Sec 9; all in T2S-R9E



Depth of Well: NA

Well Driller:

Remarks:

Type of Map: aerial

Prepared by: Steve Quissell

Reviewed and the Number Assigned on: 9-13-21

By: Karen Schlaak

Notice of Hearing - date to intervene: \_\_\_\_\_

SEP 10 2021

PAID

WATER RIGHTS  
PROGRAM

SEP 10 2021

Ck# 8554

|                                                                                                         |                                     |                                                      |
|---------------------------------------------------------------------------------------------------------|-------------------------------------|------------------------------------------------------|
| Mail to:<br><br>DENR - Water Rights<br>523 E Capitol Ave<br>Pierre, SD 57501-3182<br>ph. (605) 773-3352 | No. <u>2827-2</u>                   | (office use only)<br>Hydrologic Unit <u>10120110</u> |
|                                                                                                         | Basin <u>Upper Cheyenne</u>         |                                                      |
|                                                                                                         | Newspaper <u>Rapid City Journal</u> |                                                      |
|                                                                                                         |                                     |                                                      |

## Application For Permit To Appropriate Water For Irrigation

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

Description of amendment/correction: (i.e. change diversion point(s), add diversion point(s), change use, etc.)

1. Name to Appear on Irrigation Permit A + B Ranch Inc

Note: The "Name to Appear on Irrigation Permit" must be the name in which the irrigated property is held in.

Mailing Address 15001 Lower Spring Creek Road Hermosa SD 57744  
(Address) (City) (State) (Zip Code)

Home Phone 605 343 5472 Cell 605 381 4455 Email brian@abrancheinc.com

2. Amount of water claimed 3.04 \*CFS or \_\_\_\_\_ \*\*GPM \_\_\_\_\_ \*\*\*AF \_\_\_\_\_ Total Acreage 212.8  
(\*Cubic Feet per Second) (\*\*Gallons per Minute) (\*\*\*)Acre Feet - storage capacity of dam/dugout or annual use if applicable)

3. Source of water supply Spring Creek

4. Location of point of diversion SW 1/4 NW 1/4 NE 1/4 S8 T2S R9E  
(example - 3 wells in SW1/4 NE1/4 section 12-T104N-R53W)

County Pennington

5. County or counties where water will be used Pennington

6. Annual period during which water is to be used MARCH 15 - Oct 30

7. List below each forty acre division, or lot, or fraction thereof and show number of acres to be irrigated in each.  
(Attach sheet if more space is needed)

| Land Description | T2S R9E | Acres | Land Description | T2S R9E | Acres |
|------------------|---------|-------|------------------|---------|-------|
| NW 1/4 NE 1/4 S8 |         | 25.3  | NW 1/4 NW 1/4 S9 |         | 11.6  |
| NE 1/4 NE 1/4 S8 |         | 32.5  | SW 1/4 NW 1/4 S9 |         | 33.3  |
| SW 1/4 NE 1/4 S8 |         | 12.3  | SE 1/4 NW 1/4 S9 |         | 27.5  |
| SE 1/4 NE 1/4 S8 |         | 20.7  | NW 1/4 SW 1/4 S9 |         | 15.8  |

8. Give a description of the project. (Attach sheet if more space is needed) NE 1/4 SW 1/4 S9 33.8

Water is diverted out of Spring Creek using a hoist operated steel gate installed in the earth embankment. The structure provides temporary storage in the creek channel only when water is being diverted. A series of ditches and dikes is used to apply the water.

I, Brian Barber Pres, the applicant, certify under  
Name of Person Title (if applicable)

penalty of perjury that I have read this application, examined the attached map, and that the matters stated are true. I further certify, if acting on behalf of an entity or individual other than myself, that I am authorized to submit this application.

## Affidavit of Water Use

Form 2B  
(Type or Print in Ink)

Note: This Form is supplemental to Form 2 and is to be used when an affidavit is needed to document historical water use, 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) A-B Ranch Inc.

Mailing Address 15001 Lower Spring Creek Road Hermosa SD 57744  
(Address) (City) (State) (Zip Code)

(A) Notice of Appropriation \_\_\_\_\_ Date of Posting \_\_\_\_\_

Date of Recording 10/23/1890 Recording Date \_\_\_\_\_

(B) Date of start of construction of water supply system unknown

(C) Date that water was first applied to beneficial use unknown

(D) Name of owner of original water supply system A.L. Overpeck 1890 - Sam Wedmore 1950

(E) Amount of water originally applied to beneficial use unknown

(F) Present use of water - amount of water now being used Irrigate crops under ditch system

Date that this water was first used \_\_\_\_\_

(G) Chronological History of Water Use

I, A-B Ranch Inc. / Brian Breber the applicant, certify that I have read the foregoing and that the matters therein are true.

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 are true.

Brian Breber 8/17, 2021  
\_\_\_\_\_, 20\_\_\_\_

**SOUTH DAKOTA**  
**VESTED WATER RIGHT NO. 2827-2 FOR IRRIGATION**

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Date of Receipt of Claim September 10, 2021.

Date of Validation October 12, 2021.

The Chief Engineer, on behalf of the Water Management Board validated Vested Water Right Claim No. 2827-2 for A & B Ranch Inc, c/o Brian Barber, 15001 Lower Spring Creek Road, Hermosa SD 57744 irrigation purposes for with the following limitations, conditions and qualifications:

1. Vested Water Right No. 2827-2 appropriates 3.04 cubic feet of water per second from Spring Creek located in the NW 1/4 NE 1/4 Section 8 for irrigation of 212.8 acres located in the NE 1/4 Section 8, W 1/2 NW 1/4, SE 1/4 NW 1/4, N 1/2 SW 1/4 Section 9; all in T2S-R9E.
2. The appropriation may not exceed the amount of water needed for beneficial use for irrigation. The appropriation may not exceed 3 acre feet per irrigated acre per year. The water is to be used during the following annual period: March 15 – October 30.
3. The priority date of the Vested Water Right is October 23, 1890.
4. The water use system has been constructed and water has been applied to beneficial use.
5. Water Rights obtained in compliance with the laws of the State of South Dakota must not be unlawfully impaired by this appropriation.

**QUALIFICATION**

Low flows as needed for downstream domestic use, including livestock water, must be by-passed.

**WATER MANAGEMENT BOARD**

By: Eric Gronlund  
Eric Gronlund, Chief Engineer  
Water Rights Program  
Department of Agriculture and Natural Resources

OCT 25 2021

date



## STATE OF SOUTH DAKOTA

### VESTED RIGHT WATER LICENSE NO. 2827-2 FOR IRRIGATION

(1) A & B Ranch, Inc., c/o Brian Barber, 15001 Lower Spring Creek Road, Hermosa SD 57744 made Application No. 2827-2, for validation of a vested right claim to appropriate 3.04 cubic feet of water per second from Spring Creek, Pennington County, South Dakota, for irrigation purposes. Vested Water Right No. 2827-2 was validated October 12, 2021 with a priority date of October 23, 1890.

The applicable portions of Vested Right Filing No. 0486-2 are incorporated into this water license.

(2) The water supply system has been completed and water applied to beneficial use in accordance with South Dakota State Law. Pursuant to South Dakota Codified Law 46-5-30.1, the holder and/or owner of Vested Water Right No. 2827-2 is issued a license, bearing a priority date of October 23, 1890 to appropriate 3.04 cubic feet of water per second from Spring Creek to irrigate 212.8 acres.

The diversion point is located: NW 1/4 NE 1/4 Section 8-T2S-R9E  
Latitude 43.894455 Longitude -103.068378

The acres authorized for irrigation are as follows:

| Section 8-T2S-R9E |            | Section 9-T2S-R9E |            |
|-------------------|------------|-------------------|------------|
| NW 1/4 NE 1/4     | 25.3 acres | NW 1/4 NW 1/4     | 11.6 acres |
| NE 1/4 NE 1/4     | 32.5 acres | SW 1/4 NW 1/4     | 33.3 acres |
| SW 1/4 NE 1/4     | 12.3 acres | SE 1/4 NW 1/4     | 27.5 acres |
| SE 1/4 NE 1/4     | 20.7 acres | NW 1/4 SW 1/4     | 15.8 acres |
|                   |            | NE 1/4 SW 1/4     | 33.8 acres |

Total 212.8 acres

(3) This license is subject to South Dakota Water Law, any limitations or conditions listed in Water Permit No. 2827-2 including the following qualification:

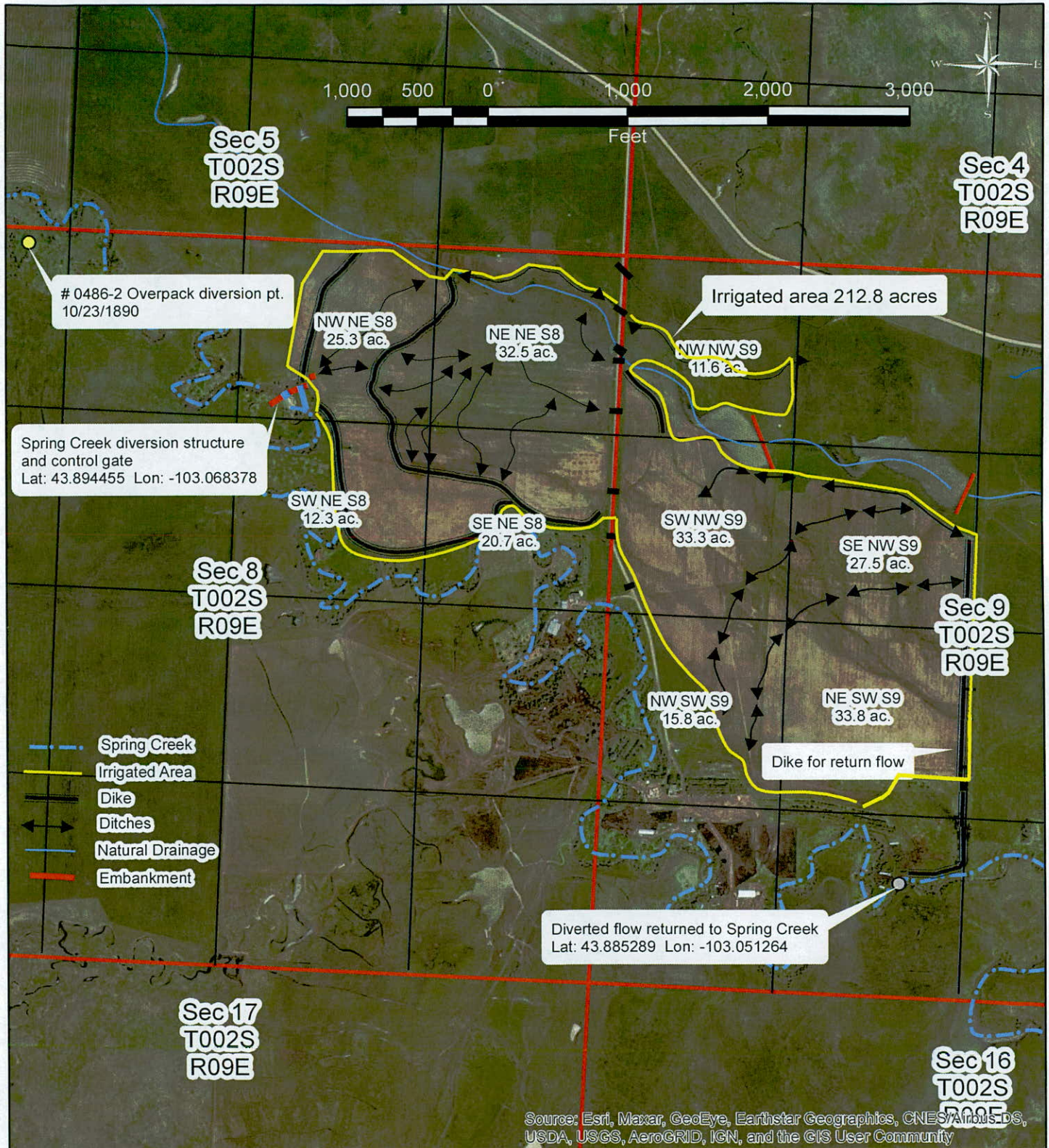
Low flows as needed for downstream domestic use, including livestock water, must be by-passed.

  
Eric Gronlund, Chief Engineer  
Water Rights Program  
Department of Agriculture and Natural Resources

OCT 25 2021  
date



A & B Ranch Inc.  
6/24/2021



*Steven Quissell*

Steven Quissell  
Water Rights Inspector  
Department of Agriculture and Natural Resources  
Water Rights Program



## A & B Ranch Pictures

6/24/2021



View from crest of Diversion Structure looking upstream on Spring Creek



Hoist operated Head gate at Spring Creek Diversion



Spring Creek diversion outlet

## A & B Ranch Pictures

6/24/2021



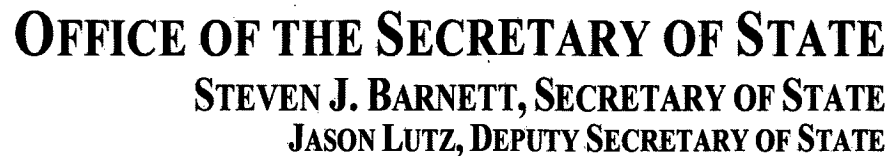
View to northeast at upper end of water spreading (irrigated area)  
At center left is upper most dike, at center right is two level lip ditches



Spillway channel allowing partial return of diverted flow back to creek. Concrete box culvert section at upper right to be used to rebuilt control section.



Concrete pipe in center (barely visible) and timber headwall at point of return flows to Spring Creek



Name: **A & B RANCH, INC.**

|                        |                                        |
|------------------------|----------------------------------------|
| <b>SOS Business ID</b> | <b>DF013493</b>                        |
| <b>Filing Type:</b>    | <b>Business Corporation - Domestic</b> |
|                        | <b>04/01/1976</b>                      |
| <b>Status:</b>         | <b>Good Standing</b>                   |
| <b>Duration Term:</b>  | <b>Perpetual</b>                       |
| <b>Business Type:</b>  | <b>Farm</b>                            |

**BRIAN A. BARBER**  
**15001 LOWER SPRING CREEK ROAD**  
**HERMOSA, SD 57744-6509**

15001 LOWER SPRING CREEK RD  
HERMOSA, SD 57744-6509

| Date Filed | Filing Description | Image #    |
|------------|--------------------|------------|
| 04/27/2021 | 2021 Annual Report | B0178-4931 |
| 05/28/2020 | 2020 Annual Report | B0140-5248 |
| 05/07/2019 | 2019 Annual Report | B0098-8057 |
| 04/16/2018 | 2018 Annual Report | B0058-2638 |
| 06/13/2017 | 2017 Annual Report | B0033-6829 |
| 11/10/2016 | 2016 Annual Report |            |
| 09/09/2015 | 2015 Annual Report |            |
| 05/28/2014 | 2014 Annual Report |            |
| 04/22/2013 | 2013 Annual Report |            |
| 12/05/2012 | 2012 Annual Report |            |
| 04/11/2011 | 2011 Annual Report |            |
| 04/27/2010 | 2010 Annual Report |            |
| 04/27/2010 | 2010 Annual Report |            |
| 04/16/2008 | 2008 Annual Report |            |
| 05/31/2007 | 2007 Annual Report |            |
| 07/03/2006 | 2006 Annual Report |            |
| 04/18/2005 | 2005 Annual Report |            |
| 06/08/2004 | 2004 Annual Report |            |

## Filing Information

Name: **A & B RANCH, INC.**

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|            |                     |
|------------|---------------------|
| 05/22/2003 | 2003 Annual Report  |
| 04/01/2002 | 2002 Annual Report  |
| 05/29/2001 | 2001 Annual Report  |
| 06/01/2000 | 2000 Annual Report  |
| 05/28/1999 | 1999 Annual Report  |
| 04/03/1998 | 1998 Annual Report  |
| 04/07/1997 | 1997 Annual Report  |
| 04/09/1996 | 1996 Annual Report  |
| 01/04/1996 | 1996 Annual Report  |
| 04/06/1994 | 1994 Annual Report  |
| 06/08/1993 | 1993 Annual Report  |
| 03/22/1984 | Statement of Change |
| 10/04/1976 | Farm Qualification  |
| 04/01/1976 | Initial Filing      |

DF013493

# RECEIPT

## WATER RIGHTS PROGRAM

South Dakota Department of Agriculture and Natural Resources

Date September 10, 2021

RECEIVED OF A & B Ranch Inc. 15001 Lower Spring Creek Road Hermosa SD 57744

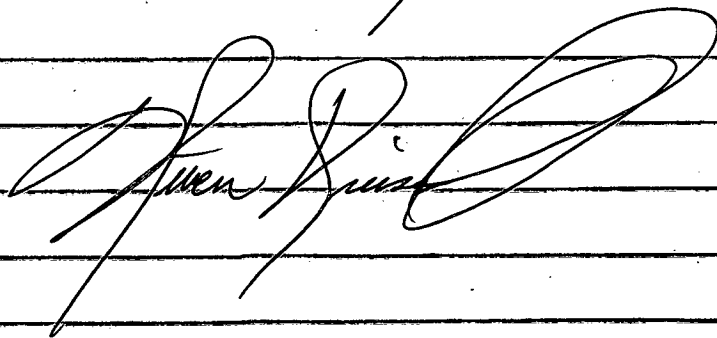
The following amount in fees for services rendered as provided for by law:

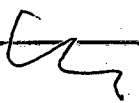
|                                                                                                                        |                 |
|------------------------------------------------------------------------------------------------------------------------|-----------------|
| Fee for Application for Permit No. <u>2827-2</u> to Appropriate Water, to construct and to put water to beneficial use | \$ <u>50.00</u> |
| 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 _____                                                                                                          | \$ _____        |
| Fee for Issuing New Well Driller's License No. _____                                                                   | \$ _____        |
| Fee for Renewal of Well Driller's License No. _____                                                                    | \$ _____        |
| Fee for Issuing Well Pump Installer's License No. _____                                                                | \$ _____        |
| Fee for Renewal of Well Pump Installer's License No. _____                                                             | \$ _____        |
| (Any Other Work Provided by Law)                                                                                       |                 |
| TOTAL                                                                                                                  | \$ <u>50.00</u> |

By Eric Gronlund  
Chief Engineer  
me

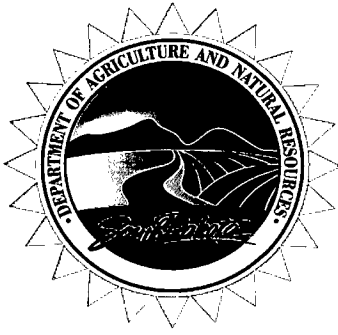
Brian -

- Fill out highlighted areas
- Complete form 2B with info to best of your knowledge. I included PARTIAL info. Contact Eric Gronlund @ 605-773-4062 with ANY questions
- I don't think form 2A APPLIES. If STAFF in Pierre requests it, I CAN ASSIST in getting info.
- As for the 3.04 cfs of water claimed, statutes only allow 1 cfs per EACH 70 ACRES IRRIGATED.

 Brian







**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 E. CAPITOL AVE  
PIERRE SD 57501-3182  
danr.sd.gov

**RECOMMENDATION OF CHIEF ENGINEER FOR VESTED WATER RIGHT  
APPLICATION NO. 2827-2, A & B Ranch Inc.**

Pursuant to SDCL 46-2A-2, the following is the recommendation of the Chief Engineer, Water Rights Program, Department of Environment and Natural Resources concerning Vested Water Right Application No. 2827-2, A & B Ranch Inc., 15001 Lower Spring Creek Rd, Hermosa SD 57744.

The Chief Engineer is recommending VALIDATION of Application No. 2827-2 and that applicable portions of Location Notice No. 0486-2 be incorporated into No. 2827-2 and abandoned portions of No. 0486-2 be cancelled, because 1) water has been appropriated as described for irrigation of 212.8 acres with a priority date of October 23, 1890, for 3.04 cfs from Spring Creek, 2) the use has been developed without unlawful impairment of existing domestic water uses and water rights, 3) the proposed use is a beneficial use, and 4) it is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board with the following qualification:

Low flows as needed for downstream domestic use, including livestock water, must be by-passed.

See report on application for additional information.

Eric Gronlund, Chief Engineer  
September 23, 2021

## **REPORT ON VESTED WATER RIGHT APPLICATION NO. 2827-2**

**A & B Ranch Inc.**

**September 20, 2021**

Application No. 2827-2, proposes to validate a vested water right claim to appropriate 3.04 cubic feet of water per second (cfs) from Spring Creek located in the NW 1/4 NE 1/4 Section 8 for irrigation of 212.8 acres located in the NE 1/4 Section 8, W 1/2 NW 1/4, SE 1/4 NW 1/4, N 1/2 SW 1/4 Section 9: all in T2S-R9E with a claimed priority date of October 23, 1890. This site is located approximately 7 miles northwest of Hermosa SD in Pennington County.

South Dakota Codified Law SDCL 46-2A-2 directs the Chief Engineer to make a recommendation to the Water Management Board on an application. The Chief Engineer needs to consider four criteria in making a recommendation on whether a permit application for a vested water right claim should be validated, validated with qualifications, denied, or deferred. They are: 1) water has been appropriated as described at a rate of 3.04 cfs from Spring Creek for irrigation of 212.8 acres with a priority date of October 23, 1890, 2) the use has been developed without unlawful impairment of existing domestic water uses and water rights, 3) the proposed use is a beneficial use, and 4) it is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board. This report will analyze the available information to make a recommendation to the Chief Engineer on the first two criteria the Chief Engineer needs to consider in making an official recommendation to the Water Management Board.

### Review of the Proposed Project

Location Notice No. 0486-2 was originally filed by A.L. Overpeck with a priority October 23, 1890. In April 1950, the irrigated land associated with the location notice was split between two separate landowners and the portion covered by this vested water right claim was listed as being owned by Sam Wedmore. The property is now owned by A & B Ranch Inc and an inspection was made on June 24, 2021, by a staff Water Right inspector to determine the status of irrigation covered under Location Notice No. 0486-2. The inspection found irrigation of 212.8 acres from Spring Creek at a diversion rate of 3.04 cfs.

### Review of the Water Source

Spring Creek begins as a small, perennial, mountain stream in western Pennington County in the Black Hills of South Dakota. It has a continuous stream of water from its headwaters to the point where it finally sinks into the limestone formation below the timber line. (Graves. 1899). The United States Geological Survey calculated streamflow losses up to 28 cfs from Spring Creek into the Madison-Minnelusa-Minnekata outcrops. Downstream of the loss zones Spring Creek flows over alluvial deposits for several miles until joining with the Cheyenne River. Losses to

unsaturated alluvial deposits located adjacent to the stream channels can also have significant effects on total streamflow losses (USGS. 1998).

The USGS Stream Gage No. 06408500 Spring Creek near Hermosa, SD is located approximately 14 river miles upstream from the proposed diversion point. Figure 1 is a daily percentile hydrograph showing the 90, 75 and 50 percentile flow levels for this stream gage during the period of 1950 to 2004. The 50 percentile hydrograph for this stream gage exhibits the daily flow values at or below this level on average one out of two years. The gage shows a flow of less than 2 cfs throughout the calendar year. The 75 percentile hydrograph for this stream gage exhibits the daily flow values at or below this level on average three out of four years. The gage shows approximately 2 cfs from January until late June, then increasing to approximately 90 cfs in mid-June before dropping off to the 2 to 4 cfs range in late July and staying at that level through the remainder of the year. The 90 percentile hydrograph for this stream gage exhibits the daily flow values at or below this level on average nine out of ten years. The gage shows approximately 3.5 cfs from January until late May, then increasing to approximately 190 cfs in mid-June before dropping off to the 3 to 8 cfs range by mid-August and staying at that level through the remainder of the year. Spring Creek in this area cannot be considered a reliable water source. Based upon the available stream flow data, water can only be expected to be available during portions of wet years.

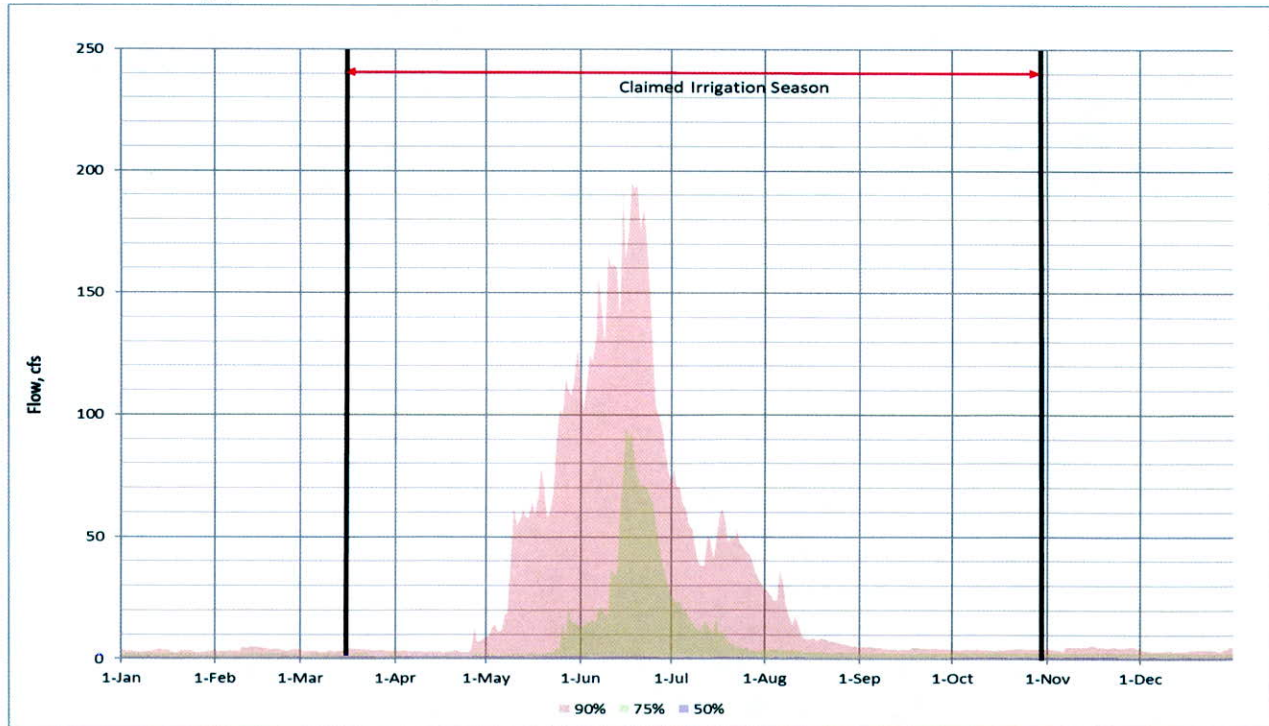


Figure 1. Daily percentile flow hydrograph for USGS Spring Creek near Hermosa SD No. 06408500, 1950-2004, contributing drainage area 205 mi<sup>2</sup> (USGS 2021).

### Review of Existing Water Rights

There are 12 existing water rights/permits appropriating 15.82 cfs from Spring Creek, of these 3 water rights/permits appropriating 9.22 cfs are located downstream from this vested water right claim. This vested water right claim would have a senior priority date to all 12 of the existing rights.

There are 29 other location notices for indeterminant diversion rates that list Spring Creek as the water source that could potentially be used as the basis for vested water right filings. Based upon the information available, 13 of the location notices would have senior priority dates and 16 would have junior priority dates.

### Conclusions

1. This application proposes to validate a vested water right claim to appropriate 3.04 cubic feet of water per second from Spring Creek for irrigation of 212.8 acres.
2. Location Notice No. 0486-2 was originally filed on October 23, 1890.
3. A 2021 water right inspection of the location notice found irrigation of 212.8 acres from Spring Creek at a diversion rate of 3.04 cfs.
4. Based upon the available stream flow data, water can only be expected to be available during portions of wet years.
5. There are 12 existing water rights/permits appropriating 15.82 cfs from Spring Creek. This vested water right claim would have a senior priority date to all 12 of the existing rights.



Mark D. Rath

Natural Resources Engineer III

### References

1. Graves. 1899. The Black Hills Forest Reserve, Department of the Interior—U.S. Geological Survey, Government Printing Office, Washington.
2. USGS. 1998. Streamflow Losses in the Black Hills of Western South Dakota. Water Resources Investigations Report 98-4116.
3. USGS. 2021. United States Geological Survey, National Water Information System – Stream Gaging Station Network for South Dakota.
4. Water Rights. 2021. Water Right/Permit Files. SD DENR-Water Rights Program, Joe Foss Bldg., Pierre, South Dakota.

## Schlaak, Karen

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**From:** Schlaak, Karen  
**Sent:** Friday, September 24, 2021 8:29 AM  
**To:** brian@abbranchinc.com  
**Subject:** Vested Right Application No. 2827-2  
**Attachments:** 1914.pdf

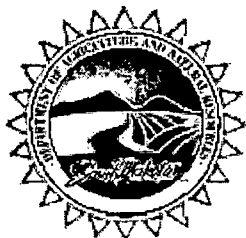
Attached is a copy of the report, chief engineer recommendation and information regarding the public notice for your vested right application. As stated in the letter, please contact the Rapid City Journal as soon as possible to authorize publication and arrange for payment. This information is being mailed to you today.

*Karen Schlaak*

DANR - Water Rights Program

(605) 773-3352

Website: <https://danr.sd.gov>



\*\*\* Proof of Publication \*\*\*

STATE OF SOUTH DAKOTA)

County of Pennington)

SS:

S.D. DEPT. OF AGRICULTURE  
AGRICULTURAL SERVICES  
523 E. CAPITOL AVE.  
PIERRE SD 57501

ORDER NUMBER 36798

RECEIVED

OCT - 4 2021

WATER RIGHTS  
PROGRAM

The undersigned, being duly sworn, upon his/her oath says: That he/she is now and was at all time hereinafter mentioned, a clerk of the RAPID CITY JOURNAL, a corporation of Rapid City, South Dakota, 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 for at least one year prior to the first date of the published notice.

This affidavit is a true and corrected copy of notice which appeared

in said newspaper once each day for 1

successive day, the first publication there of being on the

1 day of October, 2021

Section: Legal

Category: 0066 Opportunity To Comment

PUBLISHED ON: 10/01/2021

TOTAL AD COST: 76.54

FILED ON: 10/1/2021

Subscribed and sworn to before me this

1 day of October, 2021

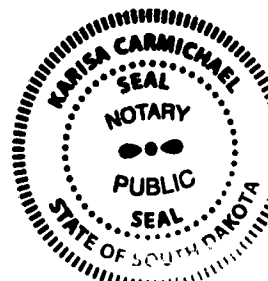
Karise Carmichael Notary Public

My commission expires

May 18, 2027

If the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendation with no hearing held before the Water Management Board. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled, and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

(Published one time at the approximate cost of \$76.54)



Oct 1 L36798  
South Dakota Department of  
Agriculture  
NOTICE OF APPLICATION to  
Validate  
Vested Water Right Application  
No. 2827-2 to Appropriate Water  
Notice is given that A & B Ranch  
Inc., c/o Brian Barber, 15001 Lower  
Spring Creek Road, Hermosa SD  
57744 has filed an application to  
validate a vested water right claim  
to appropriate 3.04 cubic feet of  
water per second from Spring  
Creek located in the NW 1/4 NE 1/4  
Section 8 for irrigation of 212.8  
acres located in the NE 1/4 Section  
8, W 1/2 NW 1/4, SE 1/4 NW 1/4, N  
1/2 SW 1/4 Section 9; all in  
T2S-R9E with a claimed priority  
date of October 23, 1890. This site  
is located approximately 7 miles  
northwest of Hermosa SD.  
Pursuant to SDCL 46-2A-2, the  
Chief Engineer is recommending  
VALIDATION of Application No.  
2827-2 and that applicable portions  
of Location Notice No. 0486-2 be  
incorporated into No. 2827-2 and  
abandoned portions of No. 0486-2  
be cancelled, because 1) water has  
been appropriated as described for  
irrigation of 212.8 acres with a  
priority date of October 23, 1890,  
for 3.04 cfs from Spring Creek, 2)  
the use has been developed  
without unlawful impairment of  
existing domestic water uses and  
water rights, 3) the proposed use is  
a beneficial use, and 4) it is in the  
public interest as it pertains to  
matters of public interest within the  
regulatory authority of the Water  
Management Board. The Chief  
Engineer's recommendation with  
qualifications, the application, and  
staff report are available at <https://danr.sd.gov/public> or contact Ron  
Duvall for this information, or other  
information, at the Water Rights  
Program address provided below.  
Any person interested in opposing  
this application or recommendation  
shall allege that the application,  
upon approval, will cause injury to  
the person that is unique from any  
injury suffered by the public in  
general. The injury must concern a  
matter either within the regulatory  
authority found in SDCL 46-2A-9  
for approval or denial of the  
application, or other matter concern-  
ing the application within the  
regulatory authority of the board to  
act upon as defined by SDCL  
46-2-9 and 46-2-11, or both. Any  
person meeting the petitioner re-  
quirements and wishing to be a  
party of record in a contested case  
hearing shall file a written petition  
to oppose the application with  
BOTH the applicant and Chief  
Engineer. A petition opposing the  
application shall be filed on a form  
provided by the Chief Engineer.  
The petition form is available online  
at <https://danr.sd.gov/public> or by  
contacting the Chief Engineer. The  
Chief Engineer's address is "Water  
Rights Program, Foss Building, 523  
E Capitol, Pierre SD 57501" or call  
(605) 773-3352. The applicant's  
mailing address is given above. If  
contesting the Chief Engineer's  
recommendation, the applicant  
shall also file a petition. A petition  
filed by either an interested person  
or the applicant must be filed by  
October 12, 2021.  
The petition shall include a state-  
ment describing the unique injury  
upon approval of the application on  
the petitioner, the petitioner's reas-  
ons for opposing the application,  
and the name and mailing address of  
the petitioner or the petitioner's  
legal counsel, if legal counsel is  
obtained.  
Any interested person may file a  
comment on the application with the  
Chief Engineer. The comment shall  
be filed on a form provided by the  
Chief Engineer and is available  
online at <https://danr.sd.gov/public>  
or by calling (605) 773-3352 or  
writing the Chief Engineer at the  
address provided above. Filing a  
comment does not make the  
commenter a party of record or a  
participant in any hearing that may  
be held. Any comment must be filed  
by October 12, 2021.

## Schlaak, Karen

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**From:** Schlaak, Karen  
**Sent:** Thursday, September 23, 2021 4:12 PM  
**To:** RCY Legals (legals@rapidcityjournal.com)  
**Subject:** 2827-2, A & B Ranch Inc.  
**Attachments:** 2827-2public.short\_final.docx; FORM8.FRM.doc

Attached is a notice to be published on October 1, 2021.

A & B Ranch Inc., c/o Brian Barber, 15001 Lower Spring Creek Rd, Hermosa SD 57744 (605 343-5472 or 605 381-4455) has been notified to contact you to authorize publication and arrange for payment.

Please send the affidavit or return the attached Proof of Publication form ASAP to the Water Rights Program, 523 E Capitol, Pierre SD 57501.

Let me know if you have questions. Please acknowledge receipt of this email.

*Karen Schlaak*

DANR - Water Rights Program  
(605) 773-3352  
Website: <https://danr.sd.gov>





**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 E. CAPITOL AVE  
PIERRE SD 57501-3182  
danr.sd.gov

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

September 24, 2021

A & B Ranch Inc.  
c/o Brian Barber  
15001 Lower Spring Creek Rd  
Hermosa SD 57744

Dear Mr. Barber:

Vested Water Right Application No. 2827-2 for irrigation use has been examined and found to comply with the South Dakota Water Laws and applicable rules. A notice has been sent to the Rapid City Journal printed at Rapid City SD (Ph # 605 394-8336). You will need to contact the newspaper and authorize publication of this notice. For your information, a copy of the notice, the recommendation of the Chief Engineer and 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 and to arrange for payment. Early contact with the paper can eliminate delays. Upon receiving authorization from you, the publisher has been instructed to publish your notice. The newspaper has also been instructed to send us the Proof of Publication. We must receive Proof of Publication before action can be taken on the application.

Sincerely,

*Karen Schlaak*

Karen Schlaak  
Water Rights Program  
(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.

NOTICE OF APPLICATION to Validate  
Vested Water Right Application No. 2827-2 to Appropriate Water

Notice is given that A & B Ranch Inc., c/o Brian Barber, 15001 Lower Spring Creek Road, Hermosa SD 57744 has filed an application to validate a vested water right claim to appropriate 3.04 cubic feet of water per second from Spring Creek located in the NW 1/4 NE 1/4 Section 8 for irrigation of 212.8 acres located in the NE 1/4 Section 8, W 1/2 NW 1/4, SE 1/4 NW 1/4, N 1/2 SW 1/4 Section 9; all in T2S-R9E with a claimed priority date of October 23, 1890. This site is located approximately 7 miles northwest of Hermosa SD.

Pursuant to SDCL 46-2A-2, the Chief Engineer is recommending VALIDATION of Application No. 2827-2 and that applicable portions of Location Notice No. 0486-2 be incorporated into No. 2827-2 and abandoned portions of No. 0486-2 be cancelled, because 1) water has been appropriated as described for irrigation of 212.8 acres with a priority date of October 23, 1890, for 3.04 cfs from Spring Creek, 2) the use has been developed without unlawful impairment of existing domestic water uses and water rights, 3) the proposed use is a beneficial use, and 4) it is in the public interest as it pertains to matters of public interest within the regulatory authority of the Water Management Board. The Chief Engineer's recommendation with qualifications, the application, and staff report are available at <https://danr.sd.gov/public> or contact Ron Duvall for this information, or other information, at the Water Rights Program address provided below.

Any person interested in opposing this application or recommendation shall allege that the application, upon approval, will cause injury to the person that is unique from any injury suffered by the public in general. The injury must concern a matter either within the regulatory authority found in SDCL 46-2A-9 for approval or denial of the application, or other matter concerning the application within the regulatory authority of the board to act upon as defined by SDCL 46-2-9 and 46-2-11, or both. Any person meeting the petitioner requirements and wishing to be a party of record in a contested case hearing shall file a written petition to oppose the application with BOTH the applicant and Chief Engineer. A petition opposing the application shall be filed on a form provided by the Chief Engineer. The petition form is available online at <https://danr.sd.gov/public> or by contacting the Chief Engineer. The Chief Engineer's address is "Water Rights Program, Foss Building, 523 E Capitol, Pierre SD 57501" or call (605) 773-3352. The applicant's mailing address is given above. If contesting the Chief Engineer's recommendation, the applicant shall also file a petition. A petition filed by either an interested person or the applicant must be filed by October 12, 2021.

The petition shall include a statement describing the unique injury upon approval of the application on the petitioner, the petitioner's reasons for opposing the application, and the name and mailing address of the petitioner or the petitioner's legal counsel, if legal counsel is obtained.

Any interested person may file a comment on the application with the Chief Engineer. The comment shall be filed on a form provided by the Chief Engineer and is available online at <https://danr.sd.gov/public> or by calling (605) 773-3352 or writing the Chief Engineer at the address provided above. Filing a comment does not make the commenter a party of record or a participant in any hearing that may be held. Any comment must be filed by October 12, 2021.

If the applicant does not contest the recommendation of the Chief Engineer and no petition to oppose the application is received, the Chief Engineer shall act on the application pursuant to the recommendation with no hearing held before the Water Management Board. If a petition opposing the application or contesting the recommendation is filed, then a hearing will be scheduled, and the Water Management Board will consider this application. Notice of the hearing will be given to the applicant and any person filing a petition.

Published once at the total approximate cost of\_\_



**DEPARTMENT of AGRICULTURE  
and NATURAL RESOURCES**

JOE FOSS BUILDING  
523 E. CAPITOL AVE  
PIERRE SD 57501-3182  
danr.sd.gov

OCT 25 2021

2827-2  
0486-2

A & B Ranch Inc  
c/o Brian Barber  
15001 Lower Spring Creek Road  
Hermosa SD 57744

Dear Mr. Barber:

Enclosed are your Validated Vested Water Right and Water License No. 2827-2. 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.

Sincerely,

  
Eric Gronlund, Chief Engineer  
Water Rights Program  
(605) 773-3352

Note: The application portions of Water Right Filing No. 0486-2 are incorporated into this water license.

enclosures