

No. 211-1

Division No. 1

Sulphur Creek District

PERMIT

to appropriate water from

White Owl Creek

Deade County, South Dakota.

Name of applicant

Mark W. Simons

Name of diversion works Mark Simons

Irrigation Project No. 1

Date of first receipt at office of State

Engineer August 1 1950

Returned to applicant for Correction

----- 10 -----

Corrected application received

----- 10 -----

Date of water right

August 1 1950

Recorded in Book 2 Pages 750-751

One-fifth of work to be completed

March 25 1953

Whole work to be completed

September 25 1955

Final proof of use of water Sept. 25, 1955

Approved January 7, 1951

DEAN W. LUCKS State Engineer.

RECEIVED
DIVISION
AUG 1 1950

Form 2--Application for Permit to Appropriate Water--Original Map No. 801-1

NO. 211-1

PIERRE, S. DAK.

Water Division No. 1 Sulphur Creek District
(Blanks to be filled by the State Engineer.)

APPLICATION FOR PERMIT To Appropriate Water within the State of South Dakota

(NOTE--Draw a line through items not applicable.)

1. Name of applicant Mark W. Simons
Postoffice address White Owl, County Meade, State S. Dak.

I. If a corporation

- (a) Name of same
- (b) Date and place of incorporation
- (c) Amount of capital stock
- (d) Amount paid in
- (e) Names and address of directors:

(NOTE--A certified copy of articles of incorporation must accompany the application.)

II. Method of accomplishing the work and financial resources of the applicant:

- (a) Method of accomplishing work (Whether by contract, employment of others, or by direct labor) direct labor
 - (b) Cash on hand, \$ 2200.00
 - (c) Treasury stock \$
 - (d) Bonds to be issued, \$
 - (e) Other resources, \$
2. Name of diversion work Mark Simons Irrigation Project No. 1
3. Quantity of water claimed 0.745 cubic feet per second.
4. Source of water supply White Owl Creek
5. Location of point of diversion N. 51.2401 W. a distance of 3348 feet from the SE. Cor. of Sec. 13, T. 8 N., R. 14 E., BHM on right and left bank.
6. Annual periods during which water is to be used April 1st to November 1st
7. To be used for:

I. Irrigation or domestic use:

- (a) Number of acres to be irrigated 52.16 acres.
 - (b) Legal subdivisions to be irrigated see attached sheet
- (NOTE--A list of lands to be irrigated, giving each subdivision and fraction with acreage thereof, should be written here, or may be apprehended as a part of this application. Same must also be shown on accompanying map.)
- (c) Statement as to domestic use (giving location, etc.)

II. Mining, power, manufacturing, transportation, or other purposes:

- (a) Nature of use
- (b) Amount of power to be generated horse power.
- (c) Location of plant
- (d) Method of developing power
- (e) Point where water will be returned to stream

6. Estimated cost of works:

(a) Head gates, \$..... (b) Pumping plant, \$...800.00.....
 (c) Fluming, \$..... (d) Canal-earth, \$..... Rock, \$.....
 (e) Other structures sprinkler pipe, \$1400.00..... Total, \$2200.00.....

9. Description of diversion works:

I. Nature of works: (Reservoir, dam, ditch, flume, pumping plant, etc.)

Pumping plant and sprinkler pipe line

II. Dimensions of works:

(a) Dam: Height feet; length at bottom feet; length at top feet; thickness at bottom feet; thickness at top feet; slope at front (water) face; slope of back face; material used in construction

(b) Reservoir: Capacity when filled acre feet Surface area at highwater mark acres.

DEPTH AT OUTLET-FEET	SURFACE AREA AT EACH..... FEET OF DEPTH AT OUTLET-ACRES	ACRE-FEET CAPACITY

(c) Head gate: Width feet; height feet;

Material

(d) Canal: Total length miles.

LOCATION BELOW HEADGATE	DEPTH feet	BOTTOM WIDTH	WIDTH AT WATER LINE	GRADE PER MILE
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet
At Mile	 feet	 feet	 feet	 feet

(Give dimensions where reductions in size are made.)

10. Time required for completion of work.....5..... years.

11. Time required for complete application of water to the proposed beneficial use4..... years.

12. Choice of newspaper for publication of notice of intention to appropriate

Faith Independent, Faith, South Dakota

STATE OF SOUTH DAKOTA,

County of Jackson

I, Mark W. Simons

....., being first duly sworn on my oath depose and say: That my relation to the above described undertaking is that of

Owner

(Owner)

that I have read the above foregoing statement, and examined the map accompanying the same, and that I know of my own personal knowledge that the matters herein state and shown are true.

Signed Mark W. Simons

Subscribed and sworn to before me this 18th day of July, 1950

Notary Public (or other qualified officer.)

*Each diversion must have a headgate or measuring device.

Edna F. Richardson

MARK SIMONS IRRIGATION PROJECTS Nos. 1, 2 & 3
MEADE COUNTY, S.D.
Scale: 1"=200'

Land to be Irrigated Project 1

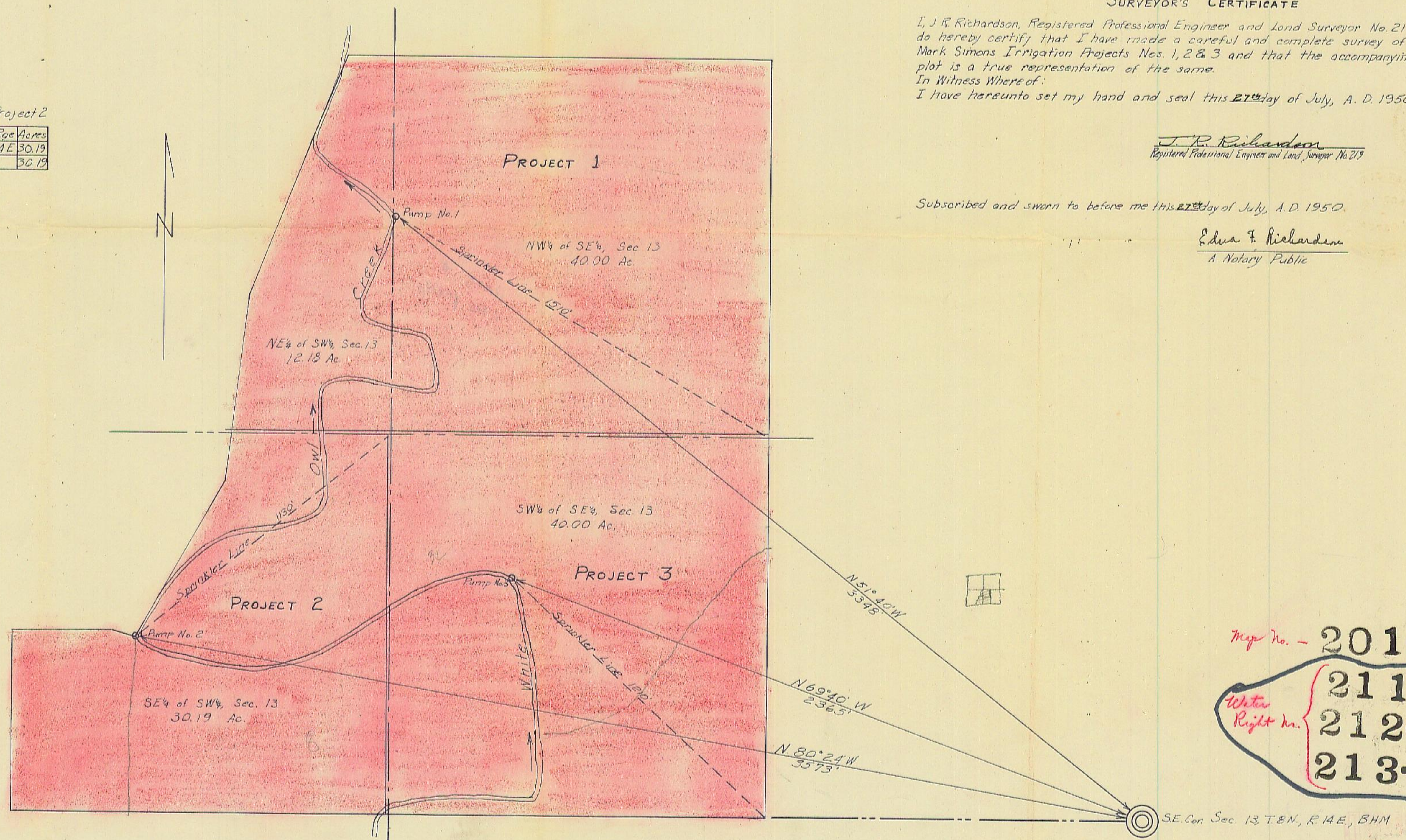
Location	Sec	Twp	Rge	Acres
NE 1/4 of SW 1/4	13	8N	14E	12.18
NW 1/4 of SE 1/4	13	"	"	40.00
Total				52.18

Land to be Irrigated Project 2

Location	Sec	Twp	Rge	Acres
SE 1/4 of SW 1/4	13	8N	14E	30.19
Total				30.19

Land to be Irrigated Project 3

Location	Sec	Twp	Rge	Acres
SW 1/4 of SE 1/4	13	8N	14E	40.00
Total				40.00



Remarks by State Engineer:

STATE OF SOUTH DAKOTA,

County of Hughes

Pierre, South Dakota, January 19, 1951

This is to certify that the foregoing application was received at this office at 8:00 o'clock am upon the 1st day of August, 1950 and that after examination it was found to comply with the South Dakota water laws, was published in accordance with the provisions thereof and consideration given to any and all information presented.

DEAN W. LOUCKS

State Engineer.

Number of permit 211-1

Date of first receipt of application August 1, 1950

Date of return to applicant for correction August 1, 1950

Date of receipt of corrected application August 1, 1950

Date from which applicant may claim right August 1, 1950

Approved January 19, 1951, Recorded in Book 2 Page 750-751

This is to certify that I have examined the foregoing application for a permit to appropriate water of the state of South Dakota, and I hereby grant the same as stated herein, subject, however, to the following limitations and conditions:

1st. The equivalent of at least one-fifth of the work above specified is to be completed on or before March 25, 1953

2nd. The whole of said work is to be completed on or before September 25, 1955

3rd. The limit of time for proof of beneficial use of water appropriated in accordance herewith is September 25, 1955

4th. The water appropriated shall be used for the purpose of irrigation

5th. The prior right of all persons who, by compliance with the laws of the State of South Dakota, have acquired a right to the use of water must not be injuriously affected by this appropriation.

6th. The amount of the appropriation herein granted shall not exceed 0.74 cubic feet of water per second of time; neither shall it exceed the capacity of the above described system of diversion works, nor the least amount of water that experience may hereafter indicate as necessary for the production of crops in the exercise of the best husbandry; and further said appropriation must be limited to not more than one-seventieth (1/70) of one cubic foot of water per second of time for each acre of land to which water is actually and beneficially applied for irrigation on or before September 25, 1955; said water to be used during the following described annual period:

April 1st to November 1st inclusive

Witness my hand this 19 day of January, 1951

DEAN W. LOUCKS

State Engineer.

Certificate of Construction issued July 15, 1969

Water License issued July 15, 1969

IRRIGATOR'S IRRIGATION PROJECT NO. 1

LAND TO BE IRRIGATED PROJECT 1

Location	No.	Trp.	Sec.	Acres
1st of 8th	13	3 N.	14 E.	17.18
1st of 1st	13	"	"	<u>10.00</u>
		Total		27.18

STATE OF SOUTH DAKOTA

WATER LICENSE NO. 211-1

(1) WHEREAS, On the 1st day of August A. D. 1945

Mark W. Simone

made Water Right Application No. 211-1 for a permit to use 1.0 cubic feet per second of the waters of White Owl Creek

County of Meade, State of South Dakota, for irrigation

—purposes; and

(2) WHEREAS, On the 19th day of January, A. D. 1951

Permit No. 211-1, with a date of priority of August 1, 1950

was issued to said applicant _____ for the diversion of said water, and provided for the completion of construction of the water supply system therein described on or before the 25th day of September A. D. 19 55 and for the application to beneficial use of said water on or before the 25th day of September A. D. 19 55

And:

(3) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota relating to completion of the construction of the water supply system and is entitled to divert 1.0 cubic feet per second of water for beneficial use and,

(4) WHEREAS, It is hereby certified that the applicant has complied with the provisions of the laws of the State of South Dakota relating to the application of water to beneficial use of the following extent,

for irrigation of the following described lands: All in Section 13, T8N, R14E

(NIA) SE4 39 acc 7

SW $\frac{1}{4}$ SE $\frac{1}{4}$	33 acres
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SE 1/4 NW 1/4 8 acres

Total **80 acres**

(5) NOW, THEREFORE, By the virtue of the authority vested in us by the laws of the State of South Dakota, We hereby grant and confirm to Mark W. Simons

of White Owl
the holder _____ and owner _____ of said permit No. 211-1 a water right, dating from August 1, 1950
to use of 1.0 cubic feet per second of the waters
of White Owl Creek
in the County of Meade and State of South Dakota, or so much thereof as may be necessary for the
purposes hereinafter mentioned, to be diverted at any point along creek course in the SW 1/4 SE 1/4
Section 13, T8N, R14E

and conduct to and upon 80 acres in the W 1/2 SE 1/4 and SE 1/4 SW 1/4, Section 13, T8N, R14E

for the purpose of Irrigation

Subject to any limitations listed in Water Right Permit No. 211-1 and subject to the laws of the State of South Dakota.

WITNESS, My hand and seal of our office at Pierre, South Dakota
this 15th day of July A. D.
Nineteen Hundred and Sixty-nine

WATER RESOURCES COMMISSION

By:

Chief Engineer, Executive Officer - J.W. GRIMES

Form 15.

Permit No. 211-1

Water Diversion No. 1 SULPHUR CREEK Water District

CERTIFICATE OF CONSTRUCTION

This is to Certify, That Mark W. Simons

_____ the holder _____ of
Permit No. 211-1, Issued upon Application No. 211-1 bearing date of priority of August 1,
1950 authorizing the diversion of 1.00 cu. ft. per second of the waters of _____
White Owl Creek County of Meade, State of South Dakota at _____
any point along creek course in the SW 1/4 Sec. 13, T8N, R14E
_____, for irrigation

purposes, has _____ complied with the provisions of the laws of the State of South Dakota relating to proof of
completion of the works of diversion set out and described in said Permit; that said works are found in satisfactory
condition for diverting and conveying to the place of intended use 1.0 cu. ft. per second of water.

Date July 15, 1969

WATER RESOURCES COMMISSION

By:

J.W. GRIMES, Executive Officer

Permit No. 211-1

Water Division No. 1

Sulphur
Creek Water District

Certificate of Examination of Works

Report of Examining Engineer

To the State Water Resources Commission, Pierre, South Dakota:

Dear Sirs: I hereby certify that in accordance with your letter of authorization dated

10-1-67, I have this day made a thorough examination of the diversion works constructed by

Mark W. Simons, of White Owl, S.D.

Meade County, South Dakota, holder of Permit No. 211-1, issued

upon Application No. 211-1, bearing date of priority of August 1, 1950, 10-1-67, authorizing the

diversion of 32 cu. ft. per second of the waters of White Owl Creek for irrigation

purposes. I have to report on the condition of the same as follows:

The diversion works comprise: A diversion dam 15' high and 100' long. Irrigation takes place by diverting water from diversion dam for sprinkler irrigation and pumping water stored in dam also for sprinkler irrigation. There has been no apron-like irrigation. The pump was a Farmo 45 powered by Oliver 66 Tractor.

and the system is in the following condition:

Fair

The point of diversion is located in dry place along creek across 14

SW 1/4 SE 1/4 Section 13, T8N, R15E

The works are capable of diverting and conveying to the place of use 1 cu. ft. per second of water, which is to be used for irrigation

The legal sub-divisions to be irrigated area all in Section 13, T8N, R15E,

NW 1/4 SE 1/4 39 Acres East of White Owl Creek

SW 1/4 SE 1/4 33 Acres " " " " "

SE 1/4 SW 1/4 8 Acres South " " " "

comprising a total of 80 acres of land.

The domestic use intended comprises incidental livestock watering

~~It was agreed by Mr. Mark W. Simons and the examining engineer, Donald Driscoll, that one water license, No. 211-1, would be issued for the combined irrigation developed under water permits No. 211-1, 212-1 and 213-1 with subsequent cancellation of water permits No. 212-1 and 213-1.~~

Witness my hand, this 23rd day of October, A. D. 1967.

-SEAL-

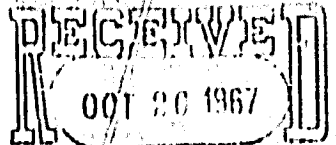
Donald Driscoll

Examining Engineer.

Donald Driscoll
Deputy Chief Engineer
Water Resources Commission

Location No.

Water Division No. Water District



STATE WATER RESOURCES COMMISSION

Proof of Application of Water to Beneficial Use

PETITION OF HOLDER

Ques. 1. State your name, residence, occupation and postoffice address.

Ans. Mark W. Sumner Rancher Marsano Dakota

Ques. 2. If acting in behalf of a corporation, state its name, principal place of business (if a foreign corporation, give name and postoffice of statutory agent,) your position with reference to same, and your authority for appearing in its behalf.

Ans.

Ques. 3. State date of posting and date of recording notice of appropriation.

Ans. August 1, 1950

Ques. 4. State source of water supply and give exact location of point of diversion.

Ans. White Owl Creek - Diversion along creek any place in SW 1/4 SE 1/4 Section 13 T. 8 N. R. 14 E.

Ques. 5. Describe your works of diversion giving length and height of each dam and state amount of water they are capable of conveying from point of diversion to place of use, and give name of canal or ditch or other works by which water is conducted to such place of use, and date of completion of same.

Ans. Dam 15 ft. high 100 ft. long system is mainly a flood system with some pump irrigating using a borrowed pump Perma #4 S. powered by Oliver 66 tractor

Ques. 6. State for what purpose water is used and describe place of use. (If for irrigation, name each subdivision in which used, and number of acres in each subdivision that have ACTUALLY been irrigated with said water.)

Ans. Water has been used for irrigation on about 80 acres as shown on water right No 201-1

Ques. 7. If for other than irrigation purpose, state how applied, amount of horse power generated, etc.

Ans. Incidental Livestock watering

Ques. 8. What is the minimum amount of water required for the use specified above?

Ans. 500 G.P.M.

Ques. 9. If you are not the person or representative of the corporation to whom above mentioned permit was originally issued, please state how ownership was acquired by present holder.

Ans.

Ques. 10. State when, how, in what amount and to what extent, the water diverted under above mentioned permit has been used.

Ans. System was completed by 1953 and
has been used each year when water
was available

(Sign) Mark W. Simon
Mark W. Simon

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, at my office in Sturgis, County of Meade

State of South Dakota, on this 10th day of August, A. D. 1967

Witnesses, Russell W. Mathies
My Commission Expires Sept. 19, 1974

I, the undersigned, do hereby certify that I am a duly qualified elector residing in the immediate vicinity of the diversion works designated in the foregoing testimony, that I have no interest in the works, water or land above described, that I have read the foregoing testimony and that I know of my own personal knowledge that the matters therein stated are true.

Location No. _____	PROOF OF APPLICATION OF WATER TO BENEFICIAL USE	PETITION OF HOLDER	Amount of Water _____ c. f. s.	Source _____	County _____	Purpose _____	Place of Use _____	Date of recording _____	Received and filed _____
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(First Publication _____, 1950)

APPROPRIATION OF WATER

Office of State Engineer
Pierre, S. Dak.

August 4, 1950

Notice is hereby given that Mark Simons whose postoffice address is White Owl, South Dakota, has made applications in accordance with the provisions of the water laws of South Dakota for permits to appropriate for beneficial use as follows:

0.745 cubic feet of water per second of time from the White Owl Creek through the Mark Simons Irrigation Project No. 1, the point of diversion of which is to be located on both banks of said stream in the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 13, Twp. 3N, Range 14E; 0.43 cubic feet of water per second of time from the White Owl Creek through the Mark Simons Irrigation Project No. 2, the point of diversion of which is to be located on the right bank of said stream in the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 13, Twp. 3N, Range 14E; 57 cubic feet of water per second of time from the White Owl Creek through the Mark Simons Irrigation Project No. 3, the point of diversion of which is to be located on the right bank of said stream in the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 13, Twp. 3N, Range 14E.

Said water to be used for the purpose of providing irrigation on the following described land:

NE $\frac{1}{4}$ of SW $\frac{1}{4}$, NW $\frac{1}{4}$ of SE $\frac{1}{4}$, SE $\frac{1}{4}$ of SW $\frac{1}{4}$, SW $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 13.

These applications will be taken up by the State Engineer at his office in Pierre for consideration upon the 21 day of September, 1950, at 2:00 p.m. All persons who believe that their prior rights would be injuriously affected, or that the allowance of the permit would be detrimental to the public welfare shall file such protest with the State Engineer in writing prior to the above date and may appear on the day above mentioned in person for the purpose of discussing further, the information presented.

Appropriation action will be taken by the State Engineer after suitable time has elapsed for the consideration of any or all information presented.

NC:dt
Enc.
cc: Richardson

DEAN W. LOUCK
State Engineer

RECEIVED

AUG 18 1950

OFFICE OF STATE ENGINEER
PIERRE, S. DAK.

THE FAITH INDEPENDENT, FAITH, SOUTH DAKOTA

WEDNESDAY, AUGUST 16, 1950

Water Permit No.

211-1, 212-1, 213-1

APPROPRIATION OF WATER

Notice is hereby given that Mark Simons, whose post office address is White Owl, South Dakota, has made applications in accordance with the provisions of the water laws of South Dakota for permits to appropriate for beneficial use as follows:

0.745 cubic feet of water per second of time from the White Owl Creek through the Mark Simons Irrigation Project No. 1, the point of diversion of which is to be located on both banks of said stream in the NE 1/4 of the SW 1/4 of Section 13, Twp. 8N, Range 14E; 0.43 cubic feet of water per second of time from the White Owl Creek through the Mark Simons Irrigation Project No. 2, the point of diversion of which is to be located on the right bank of said stream in the SE 1/4 of the SW 1/4 of Section 13, Twp. 8N, Range 14E; 0.57 cubic feet of water per second of time from the White Owl Creek through the Mark Simons Irrigation Project No. 3, the point of diversion of which is to be located on the right bank of said stream

In the SW 1/4 of the SE 1/4 of Section 13, Twp. 8N, Range 14E. Said water to be used for the purpose of providing irrigation on the following described land:

NE 1/4 of SW 1/4, NW 1/4 of SE 1/4, SE 1/4 of SW 1/4, SW 1/4 of SE 1/4, Section 13, Twp. 8N, Range 14E.

These applications will be taken up by the State Engineer at his office at Pierre for consideration upon the 21 day of September, 1950, at 2:00 p.m. All persons who believe that their prior rights would be injuriously affected, or that the allowance of the permit would be detrimental to the public welfare shall file such protest with the State Engineer in writing prior to the above date and may appear on the day above mentioned in person for the purpose of discussing further the information presented.

Appropriation action will be taken by the State Engineer after suitable time has elapsed for the consideration of any or all information presented.

DEAN W. LOUCKS
816-96 State Engineer.

INVESTIGATION OF WATER SUPPLY FOR WATER
APPLICATIONS NO'S 0469-1, 0500-1, 200-1,
202-1, 203-1, 204-1, 214-1, 215-1, 207-1,
208-1, 209-1, 210-1, 211-1, 212-1, 213-1,
216-1, 217-1, 218-1, RED OWL AND WHITE
OWL CREEKS, HEADQUARTERS COUNTY

September 8, 1950

By: Fred A. Deeman, Assistant State Engineer
Norbert O. Schaefer, Assistant State Engineer

To: Dean W. Loucks, State Engineer

On September 5 and 6, 1950, Deeman and Schaefer from the State Engineers Office and J. R. Richardson, registered engineer from Kadoka visited Red Owl and White Owl Creeks. The purpose of the trip was to investigate the water supply in Red Owl and White Owl Creeks in view of the demand of the numerous recent applications for water rights in the Red Owl and White Owl Valley.

A discussion was held with Frank Timmons who is 58 years old and has lived in the vicinity all his life. Mr. Timmons' land lies above the fork of Red Owl and White Owl Creeks with land lying in the valleys of both creeks. He said there always has been abundant water supplies in the spring holes along the creek bed. The springs were never known to dry out, even during the drought of the 1930's, although some springs were choked off by the silt and thistles that blew into their channels during the dry years.

Guy Simons, whose land is about one mile above the Timmons land on White Owl Creek, says he is 52 years old and has lived on the place all his life. He said there always has been ample water in the spring holes on the creek bottoms. During the 1930's, ranchers from miles around brought their cattle to these springs for water and no effect was ever noticed on the overall supply along the creeks.

A study of the valleys along Red Owl and White Owl Creeks and discussions with the tenants revealed that water bearing gravels are present across the valleys up and down both creeks and into various draws draining into the creeks. These gravels are close to the surface at the fork of the two streams and further down Red Owl Creek. There is from 10 to 12 feet of soil overlying the gravel farther upstream. Likewise, the creek banks are steeper upstream and rather shallow downstream and at all times the creek bed is in this gravel. At places where a hole exists in the creek bottom, water will stand in what the tenants call spring holes, and if the creek bed is quite low for any distance these springs will flow from one hole to another. In places this flow disappears under gravel in the stream bed and then appears again in another spring hole. Wells along the banks and further out in the valley have abundant supplies with only from 3 to 6 feet of penetration into the gravels. One such well on the Guy Simons land has been abandoned for about 30 years and was filled with top soil. This top soil keeps caving into the well every few years, indicating a fairly swift flow in the coarse gravel below. In places where the creek

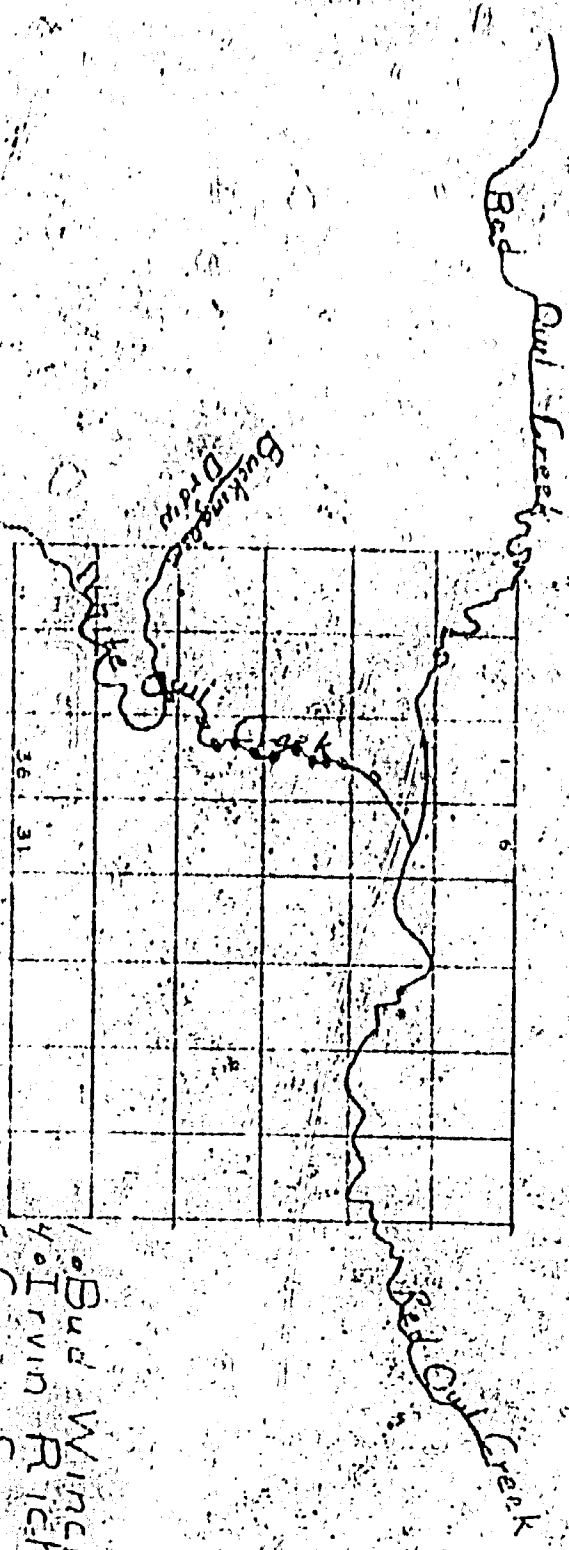
meanders across the valley, water percolates out of the side of the creek banks and flows on down the creek indicating that the water flows in a general direction down the valley and down the meandering creek.

The gravels give every indication of being stream gravels that have been derived from granites such as there are in the Black Hills. During the course of time, the streams have meandered over the full width of the valley floor and have deposited the gravels that are now encountered in wells drilled there. The Fox Hills Sandstone forms the prominent hills and ridges in this locality and where observed at outcrops is a gray, poorly cemented sandstone. Without further study it would be impossible to determine porosity and permeability of the Fox Hills, but it is probably adequate to furnish a supply of water. It is the general opinion that the Fox Hills is a better water bearing formation than it was originally believed. The question then arises as to where the water comes from that supplies the stream gravel that is evident in Red Owl and White Owl Creeks. Undoubtedly much of it comes from annual rainfall and snow. It is likely, and likewise probable that the Fox Hills sandstone could be a feeder for this stream gravel.

The water rights of David Butcher and John Mathis on Red Owl Creek, which bear priority dates of 1895 + 1893 respectively have been abandoned for over 40 years, based on statements made by Guy Simons and Frank Timmons. Both of these rights are located on the Irwin Richardson land and are now taken up by the Richardson water rights. Mathis and Butcher have both passed away a number of years ago.

Although the investigation was made during the dry season when the flow was at it's lowest, it is evident that there is ample water for present needs throughout the valley. Both streams flow quite readily the greater part of the year due to run off and large spring flow.

Red Owl & White Owl Creeks with Water Right Locations



- 10 Bud Winchell
- 40 Irvin Richardson
- 50 Guy Simons
- 50 Mark Simons
- 50 Frank and Dale Timmons

Sept 1950
 105

Peters, DelRon

From: Peters, DelRon
To: FILE
Subject: FRAND TIMONS COMPLAINT - MARK SIMONS
Date: Monday, February 19, 1996 1:25PM

Mark Simons - (985-5346) flood permit from White Owl Creek 211-1

T811-R14E Section 13

Running water and it is flooding Mr. Timons calving pasture

Frank Timons 985-5241.

I attempted to call Mr. Timons multiple times between 8:00 am and 9:30 am, called again at 10:20am, 11:05 am.

I called at 3:30 and talked to Dale Timons who I think is Franks father. The concern was that the ditch was leaking and water was running down into thier pasture and around a building that they used for calving. He said that it would be best if I talked to Frank before I called Mark Simons up.

1:15 PM, Talked to Mark Simons wife and told her that I would be up and stop by tommorrow (Tuesday February 20, 1996) about 12:00pm-12:30pm.

277-1
Peters, DelRon

From:
To:
Subject:
Date:

Peters, DelRon
Selken, Gale

INSPECTION REPORT OF FRANK TIMONS - MARK SIMONS COMPLAINT
Wednesday, February 21, 1996 10:30AM

DATE: TUESDAY, FEBRUARY 20, 1996

Frank Timons has an irrigation dike paralleling his pasture fence line. The irrigated lands in question, owned by Mark Simons, in T8N-R14E-SECTION 13 are covered under Water License No. 211-1. Water has ponded behind the dike and is seeping into his pasture causing it to be continuously wet and muddy. The inspection of the dikes and ditches found them to be in good condition and that no water was flowing over or directly through the dike. The water was seeping under the dike. Mr. Timons utilizes this pasture for calving purposes and feels that this is going to cause financial hardship due to sick calves etc.

Mr. Timons was concerned that Mr. Simons would irrigate again and continue to flood his pasture or that a rain storm would run additional water into the terraced lands adjoining his property. Mr. Timons explained to me that there were many hard feelings between the two families; the most recent being that he shot Mark Simons registered grayhounds last summer. Because of these problems he did not want to confront Mr. Simons with the problem fearing that it only serve to cause a bigger problem. I told Mr. Timons that there was really not a lot we could do since the irrigation system was licensed and upon inspection the dikes and ditches were actually in good condition. Basically, he wanted me to express his concerns to Mr. Simons and try to get a feel for what he was willing to do to alleviate the problem.

We discussed some alternatives that may help to alleviate the problem. He stated that he wanted Mr. Simons to have some sort of control on the amount of water that flowed into the last terrace. He suggested that Mr. Simons could lengthen the dike so that water would flow over the bank into the creek because there should be plenty of water for the season. I suggested that he may put a drainage ditch in along the fence line to intercept the seepage. He was concerned about the cost of this but thought it might be feasible.

I then went and talked to Mr. Simons. He stated that he knew that Frank (Timons) would complain about something sooner or later because it had been a while. I explained the situation to him. He said that he might put some control on the last dike but only because he wanted to. He was concerned that if he catered to one thing that the demands would not stop there. He said that it was wet everywhere and also that he did not want anymore water on the lands and was not trying to cause a problem for Frank. He did not plan on irrigating and that a few days of sun and wind Mr. Timons pasture would dry out. We went and looked at his diversion dam and he did not have a very good control gate on his diversion works. He said that he planned on putting on better head gates at his diversion dam. (In this case the amount of water running down the ditch would never reach the last few dikes anyway.)

I then spoke to Frank Timons and told him what Mr. Simons had said. He seemed resigned to the fact that there was not much else that could be done and hoped but did not expect that Mr. Simons work on the dike. He said that if something was not done to the dike that he would explore putting a ditch in to divert the water around his pasture. He seemed very appreciative of the help.



August 26, 1996

211-1
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

211-1

Gunderson - Palmer Law Firm
PO Box 8045
Rapid City, SD 57709

Attention: Shannon:

Enclosed, as you requested, is a partially completed 'Notice of Transfer of Ownership' form for use in filing an ownership change with Water Right No. 211-1. The water right is currently listed in the name of Mark Simons.

Please review the form for accuracy and make any necessary corrections. Upon completion, the form will need to be signed in the presence of a notary by the new owner and then returned to our office with a filing fee of \$2.50.

If you have any questions, please contact me.

Sincerely,

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

enclosure



211-1

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

November 18, 1996

SECOND NOTICE:
Permit No. 211-1

Gunderson-Palmer Law Firm
ATTN: SHANNON
P.O. Box 8045
Rapid City, SD 57709

Dear Shannon:

On August 26, 1996, notice was sent to you concerning the transfer of Water Right No. 211-1 in the name of Mark Simons. To date, we have not heard from you on this matter.

A transfer form was previously sent to you, enclosed is an additional form. Please sign, have notarized and return the form to this office with the required filing fee of \$2.50. The water right can then be transferred to your name. If you are not the present owner of the land covered under this water right, please notify this office. It is very important that ownership records be kept current. 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 Genny McMath, (605) 773-3352.

Very truly yours,

RON DUVALL
Natural Resources Engineer
For John Hstch, Chief Engineer
Water Rights Program

enclosure

Is your RETURN ADDRESS

SENDER:

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

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

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

Consult postmaster for fee.

3. Article Addressed to:

Gunderson-Palmer Law Firm
ATTN: SHANNON
P.O. Box 8045
Rapid City, SD 57709

211-1

4a. Article Number

P 378 080 529

4b. Service Type

☐ Registered

☐ Express Mail

☐ Return Receipt for Merchandise

☒ Certified

☐ Insured

☐ COD

7. Date of Delivery

T

11-19-96

5. Received By: (Print Name)

6. Signature (Addressee or Agent)

X

Shannon Hutton

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

Domestic Return Receipt

PS Form 3811, December 1994

Thank you for using Return Receipt Service.



211-1

DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES

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

March 20, 1997

211-1

Mark L. & Lori L. Simons
HCR 77 Box 92
Howes SD 57748

Dear Mr. & Mrs. Simons:

Thank you for submitting the *Notice of Transfer of Ownership* for Water Right No. 211-1. A fee of \$2.50 is required to cover the filing fees as required under SDCL 46-2-13.

Upon receipt of the fee, the Water Right will be transferred. If you have any questions, please contact me.

Sincerely,

Karen Schlaak

Karen Schlaak
Water Rights Program
605 773-3352

NOTICE OF TRANSFER OF OWNERSHIP

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



No. 211-1

Date: 2/25/97

I/We request that Water Right No. 211-1

formerly owned by: Mark Simons

be transferred to: (name & address) Mark L + Lucile Simonson HCR 77 Box 92
Howes, SD 57748 Telephone No: 605-985-5528

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

80 acres - W $\frac{1}{2}$ SE $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 13, T8N, R14E

I/We understand that the validity of Water Right No. 211-1 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 Mead)

I/We Mark L + Lucile Simonson 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.

Mark L Simonson - Lucile L Simonson
(Signed)

Subscribed and sworn to before me this 26 day of Feb., 1997.

Comm. Exp: 10/29/2000

Judith A Johnson
(Notary Public)

NOTE: Water permits may be canceled 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.

RECEIPT

415306

Division of Water Rights
South Dakota Department of Environment and Natural Resources

March 4, 19 97

Pierre, _____

RECEIVED OF Buddy or Lori Simons, HCR 77, Box 92, Howes, SD 57748

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 _____ Water Right No. 211-1

Fee for Filing Extension Request _____

Fee for _____

2 50

(Any Other Work Provided by Law)

Total

2 50

By

John Hatch
Chief Engineer



211-1
DEPARTMENT of ENVIRONMENT
and NATURAL RESOURCES
JOE FOSS BUILDING
523 EAST CAPITOL
PIERRE, SOUTH DAKOTA 57501-3181

May 21, 1997

No. 211-1

Mark L. and Lori L. Simons
HCR 77, Box 92
Howes, SD 57748

Dear Mr. and Ms. Simons:

Enclosed is a receipt in the amount of \$2.50 which you paid for the transfer of Water Right No. 211-1.

Our records now show you as the owner of Water Right No. 211-1.

Sincerely,

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

enclosure