

No Color
Documents
In File

Identification No. 13 4005

Claim No. _____

Map No. _____

**STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION**

CLAIM TO A WATER RIGHT

Established by Diversion and Application to Beneficial Use

Under the provisions of Section 42-225a, Idaho Code, a person may file a claim to a right to use water which has been established by diversion and application to beneficial use. **The filing of this claim does not confirm the water right but will serve for information purposes only.** It may, however, become the basis for future adjudication of the water right by the Court.

(Please refer to the instructions on the back of this form)

1. Name of claimant DeRalph Perry
post office address Star Route Preston, Idaho 83263

2. The point of diversion is in se $\frac{1}{4}$ of SE $\frac{1}{4}$ Section 19 Township 13 South
Range 40 E B.M. located on Unnamed Stream
(name of source)
tributary to Battle Creek in Franklin County.

3. Dates of priority claimed: list the priority for each separate quantity that you claim. Priority dates should be based upon the earliest diversion of the water which has resulted in continued beneficial use since that time. If there has been an interval of five years or greater when the water was not beneficially used for the same purpose as originally appropriated, the priority that you claim should date from the time that the water was again beneficially applied following the period of non-use.

a. Date of priority claimed:

May 1, 1955 amount: 0.3 c.f.s. or _____ acre feet
_____ amount: _____ c.f.s. or _____ acre feet
_____ amount: _____ c.f.s. or _____ acre feet
Total claimed _____ c.f.s. or _____ acre feet.

b. Explain the purpose for which the water has been used and the time during the year when you have used the right claimed:

use irrigation period of use from April 1 to October 31 (both dates inclusive)
use _____ period of use from _____ to _____ (both dates inclusive)
use _____ period of use from _____ to _____ (both dates inclusive)
use _____ period of use from _____ to _____ (both dates inclusive).

4. Description of diverting works:

a. Surface water diversion dam and/or headgate: material is composed of dirt
_____ ; length is 10 feet; height is 4 feet;
width at bottom is 10 feet; width at top is 1 feet; explain any increase in diversion capacity since structure was first built, giving dates and estimated capacities if known this diversion dam diverts the water from the unnamed stream to the land to be irrigated after tile has been placed on the applicants land to collect the water in the unnamed stream

b. Underground water diverting works: is well flowing or pumped _____ ; depth of well is _____ feet; diameter of well is _____ inches; type of pump is _____
capacity of pump is _____ g.p.m.; name and address of well driller is _____

...; if so, give dates and explain.

c. Conveying works: length of ditch to place of use is _____feet; width of ditch at top is _____feet;

Conveying works: length of ditch to place of use is _____feet; width of ditch at top is _____feet; width of bottom of ditch is _____feet; depth of water is _____feet; grade of ditch per 1000

feet is _____ feet; material through which ditch passes is _____;

maximum length of pipe line to first place of use is _____feet; diameter of pipe line is _____inches;

_____ type of pipe _____; grade of pipe per 1000 feet is _____.

Please explain any changes or increase in size of conveying system since water was first appropriated, giving

ing date and dimensions if possible.

d. If water is stored: name of reservoir _____

total capacity of reservoir is _____ acre feet; active capacity of reservoir is _____ acre feet;

year construction commenced _____; year completed _____; date first used _____

period of storage is from _____ to _____; is reservoir drained each year _____;

is reservoir on or off stream

if feeder canal is used give maximum carrying capacity _____ c.f.s.; if reservoir is off stream, describe

location of reservoir by 40-acre subdivisions

has there been any enlargement of the reservoir since it was first built _____, if so, give dates and

describe.

5. a. Where water is used for irrigation, describe area irrigated by 40-acre subdivisions and give total acres:

[illegible]

Total number of acres to be irrigated

Explain any significant increase in area irrigated since first use, give dates and acreages if known.

b. Do you get water through a ditch owned by several users?_____ If yes, give the name of the ditch
_____. The other users and their respective
interests in the ditch are (if known)_____

6. Where water is used for stock watering, give number of each kind of stock watered _____

7. Where water is used for domestic or municipal purposes give number of families served _____
name of town supplied _____

8. Where water is used for other purposes not above enumerated, give the nature of use, the extent of use,
and any details regarding the initiation of the right or subsequent later expansion. Be as specific as possible,
giving dates and quantities _____

9. Remarks: please explain any details of your claim which you feel need clarification or additional explanation

The claimant had several soft spots on his land so he
placed drains in the NE $\frac{1}{4}$ of Section 18, Township 13 South, Range 40
East of the Boise Meridian to drain his land. The end of the drain
runs into an unnamed hollow on the claimant's land and also diverts
to irrigate 15 acres of land.

All of the drains, all of the hollows in which the drain
water runs and all of the use is on the claimant's land and none
of the water ever rises from other lands nor is it used on other
lands.

State of Idaho

County of Franklin

} ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the
foregoing claim to a water right, together with all attached information, and that the matters and facts therein are
true to the best of the affiants knowledge.

Sworn to before me this 15th day of June, 1973.

Alfred Smith
Claimant
Alfred Smith
Notary Public
Residing at Preston, Idaho

My commission expires 4-15-77

For Department Use Only

Received by mt Date 6-20-73
Prelim. check by mt Date 6-20-73
Fee received by mt Date 6-18-73 Fee \$ 10.00
Approved for publication by mt
Published in Preston Citizen Dates 6/28 & 7/5/73
Public opp'd mt 7/23/73
Exception filed by: Strongarm
Forwarded to claimant by: mt
Date 7/9/73
13 4775

INSTRUCTIONS

Your claim should set forth all necessary information to describe your claimed right. Failure to give enough information may make your claim of little value. Some of the items in the form may not apply to your situation. Please use additional sheets if space provided is not sufficient to fully answer the questions.

Paragraph No.

1. Give full name and post office address of person or company making the claim.
2. Describe the point of diversion by 40-acre subdivision. Give the name of the source, the drainage to which it is tributary if surface water, and the county in which the point of diversion is located. If there is more than one point of diversion, list others in the remarks section.
3. Give the priority dates and the quantities of water that you claim. You should accurately list the dates in each enlargement of the diversion. (Example: if you diverted 0.8 c.f.s. of water for irrigation on May 18, 1871, for the first time for use on 40 acres of land, and then later you enlarged the diversion by diverting an additional 0.4 c.f.s. of water to irrigate an additional 20 acres of land on June 1, 1901, your right should be described as follows:

Date of priority claimed:	May 18, 1871	amount:	0.8 c.f.s. or	acre feet
	June 1, 1901	amount:	0.4 c.f.s. or	acre feet
	Total claimed:		1.2 c.f.s. or	acre feet

Since the water was used for irrigation between April 1 and October 31 on that particular farm, part b. would be completed as follows:
used for any other purpose, you would have described the priority date, amount, use, and period of use in a similar manner.

4. Describe the diversion works and explain any changes since the right was first initiated.
5. If the water is used for irrigation, give the total acreage and list the lands irrigated by 40-acre subdivisions and complete the other questions.
- 6, 7, & 8. Describe any other uses of water.

9. In the remarks section, give any information or details that you feel are not fully covered or that need clarifying. You might explain your operation, where the water is returned to it for an industrial or non-consumptive right, the condition and temperature of the returned water, and any other information to help explain your claim.

You may wish to include as a part of your claim, affidavits of witnesses who are familiar with your right and who have a personal knowledge of the circumstances which you have described in your claim. You may submit maps, drawings, certified copies of posted notices which may have been filed in the county courthouse, water measurement records, or any other document which you feel will support your claim.

Your claim will be advertised in a county newspaper for two weeks. Exceptions to your claim which dispute the water right that you have described may be received by the Department of Reclamation and you will be provided a copy of such exceptions.

The fee for filing a Claim to a Water Right is \$10.00. Your claim and fee may be submitted to one of the following offices:

Northern District
Idaho Dept. of Water Administration
401 Front Avenue, Room 209
Coeur d'Alene, Idaho 83814

Southern District
Idaho Dept. of Water Administration
1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301

Eastern District
Idaho Dept. of Water Administration
240 South Holmes
Idaho Falls, Idaho 83401

Western District
Idaho Dept. of Water Administration
Statehouse - Annex 2
Boise, Idaho 83707

RECEIVED
JUL 20 1973
Department of Water Administration
Eastern District Office

George W. Hargraves
746 East Lander (P.O. Box H)
Pocatello, Idaho 83201
Tel: (208) 233-2044
Attorney for Strongarm Reservoir
Irrigation District

BEFORE THE IDAHO DEPARTMENT OF WATER ADMINISTRATION

In the Matter of the	)	
Claim to a Water Right by	)	AFFIDAVIT OF EXCEPTION
DeRalph Perry	)	TO APPLICANT'S CLAIM
		No. 13-4005

STATE OF IDAHO)
) ss.
County of Franklin)

JOE C. HEDIN, being first duly sworn, deposes and says:

That he is now and has been since January 1, 1940, President of Strongarm Reservoir Irrigation District located in Franklin County, Idaho. That as President of such Irrigation District, Affiant is well acquainted with the water rights owned by said District. As President of said District, Affiant hereby and on behalf of Strongarm Reservoir Irrigation District excepts to the claim to a water right filed by DeRalph Perry, Star Route, Preston, Idaho, and relating to the diversion of 0.3 cubic feet per second of water from an unnamed stream with point of diversion in the SE 1/4 SE 1/4, Sec. 19, T. 13 S., R. 40 E., B.4., Franklin County.

This Exception is made and based upon the fact that the so-called "unnamed stream" described in the foregoing claim is in fact a tributary to Battle Creek, and Strongarm Reservoir Irrigation District has a decreed water right to all of the waters of Battle Creek including its tributaries.

That such water right of Strongarm Reservoir Irrigation District dates from 1874 and is contained in that certain decree made and entered in the District Court of the United States for the District of Idaho, Eastern Division, entitled Utah Power

13 4005

and Light Company vs. Last Chance Canal Company, et. al., and entered on the 14th day of July, 1920, which said decree is a matter of record and to Affiant's knowledge has never been altered or amended.

That for the foregoing reasons, Affiant requests that the application of the said DeRalph Perry be denied.

Joe C. Hedin
JOE C. HEDIN

SUBSCRIBED AND SWORN TO before me this 18 day of July, 1973.

Sam L. Smeaver
NOTARY PUBLIC
Residing at Preston, Idaho

JUL 6 1973

Department of Water Administration
Eastern District Office

	)	OBJECTION AND EXCEPTION
	)	TO APPLICANTS CLAIM BY
In the Matter of the	)	STRONGARM RESERVOIR
Claim to a Water Right by	)	IRRIGATION DISTRICT
DeRalph Perry	)	
	)	No. 13-4005
	)	

NOW, THEREFORE, Strongarm Reservoir Irrigation District prays that the said claim above referred to be rejected or that the matter be set for hearing so that proof may be offered in connection with this Objection and Exception.

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AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,

County of Franklin

ss.

Walter Ross & Wayne A. Bell
being duly sworn,

deposes and says:

That he is the Co-publisher of THE PRESTON CITIZEN, a weekly newspaper published at Preston, in the County of Franklin and State of Idaho; that said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Preston; that the advertisement, a copy of which is attached hereto, was published in said newspaper once a week for two consecutive weeks in the regular and entire issue of said paper during the period and time of publication, and was published in the newspaper proper and not a supplement; that said paper has been established and regularly published for more than seventy-eight consecutive weeks prior to the date of first publication of said advertisement.

Such notice was published in the issue beginning with

June 28, 19 73, and ending
with the issue of July 5, 19 73.

Walter Ross
Fees, \$ 11.84

Subscribed and sworn to before me this 20 day
of July, 19 73.

Wayne A. Bell
Notary Public, Residing at Preston, Idaho

My Commission Expires March, 19 74.

NOTICE OF CLAIM TO A WATER RIGHT NO. 13-4005

Notice is hereby given that DeRalph Perry, Star Route, Preston, Idaho, has filed a claim to a water right established by diversion and application to beneficial use of 0.3 cubic feet per second of water from an unnamed stream with point of diversion in the SE¹/₄SE¹/₄, Sec. 19, T. 13S, R. 40E, B.M., Franklin County.

The water is claimed to be used from Apr. 1 to Oct. 31 for the irrigation of 15 acres, with a priority of May 1, 1955; the place of use is within the SE¹/₄SE¹/₄, Sec. 19, T. 13S, R. 40E, B.M.

Any exception to this claim of water right may be filed with the Idaho Department of Water Administration, 240 South Holmes, Idaho Falls, Idaho, 83401.

R. KEITH HIGGINSON
Director

Published in the Preston Citizen, Preston, Idaho on June 28 and July 5, 1973.

Legal No. 2418 — Pub. June 28, July 5, 1973.

13 4005

504

XXXXXXXXXXXXXXXXXXXX

1515 Lincoln Road

February 12, 1974

Re: Claim to a Water Right No. 13-4005 DeRalph Perry

Mr. Dell W. Smith
Attorney at Law
Preston, ID 83263

Dear Mr. Smith:

This office is in receipt of the copy of the letter you wrote to Mr. George Hargraves concerning the above referenced claim. The document that Mr. Perry filed with this Department is a Claim to a Water Right rather than an Application for Permit. I am sure that you are aware that the Department does not take any formal action with regard to a claim. A Claim to a Water Right is filed by a water user that is developing a right through diversion and beneficial use rather than under the permit-license method. A right developed through use can only be confirmed through court action. Thus, even if Strongarm Reservoir District were to withdraw their exception to Mr. Perry's claim, the Department would not issue a permit or in any other way confirm his claim.

If we can provide you with further information concerning this matter, please do not hesitate to contact us.

Very truly yours,

NORMAN C. YOUNG
District Engineer

NCY:mb

RECEIVED

FEB 12 1974

Department of Water Administration
Eastern District Office

February 11, 1974

George Hargraves
Attorney at Law
746 East Lander
Pocatello, Idaho 83201

Re: Claim to a water right
No. 13-4005

Dear George:

On July 20, 1973, you filed an objection for the Strongarm Reservoir District to an application of DeRalph Perry; application #13-4005.

It is my understanding that Mr. Perry has talked to Mr. Hedin and under the circumstances, would withdraw his objection to granting Mr. Perry his permit.

Would you kindly contact your people and see if the above is true, and if so, have them withdraw their objection.

Very truly yours,

Dell W. Smith
DELL W. SMITH

DWS:dc

cc: Norman C. Young ✓
Joe C. Hedin

July 23, 1973

Re: Claim to a Water Right No. 13-4005

Mr. DeRalph Perry
Star Route
Preston, ID 83263

Dear Mr. Perry:

Enclosed please find a copy of a revised exception filed by Joe C. Hedin, President of Strongarm Reservoir Irrigation District, dated July 18, 1973.

The Department of Water Administration has completed the processing of your claim to a water right and no further action is authorized under Sections 42-225a and 42-225b, Idaho Code. Your claim will be retained in our files and will be available at any time for use by you or the court.

As you are aware, the filing of your claim does not, in itself, guarantee you a water right; it only records and preserves the information and the evidence which you included in your claim.

If, at a later date, you find that you have additional information or supporting evidence that you would like to have included in your claim file, you may have that information or evidence added at any time. Please refer to your claim number when corresponding with this office.

We are enclosing, for your records, a copy of your claim. If you have any questions or if we can be of further assistance, please feel free to call upon us.

Very truly yours,

NORMAN C. YOUNG
District Engineer

NCY:mb

Enclosures

13 4005

July 23, 1973

Re: Claim to a Water Right No. 13-4005

George W. Hargraves
Gee and Hargraves
Attorneys at Law
746 East Lander
P. O. Box "H"
Pocatello, ID 83201

Dear Mr. Hargraves:

We are in receipt of the revised exception dated July 18, 1973 in reference to the above claim to a water right.

If you have any questions, please contact this office.

Very truly yours,

NORMAN C. YOUNG
District Engineer

NCY:mb

13 4005

LAW OFFICES
GEE AND HARGRAVES

746 EAST LANDER

P. O. BOX H

POCATELLO, IDAHO 83201

AREA CODE 208
TELEPHONE 233-2044

MERRILL K. GEE
GEORGE W. HARGRAVES

July 19, 1973

State of Idaho
Department of Water Administration
Eastern District Office
240 South Holmes Avenue
Idaho Falls, Idaho 83401

Attention: Norman C. Young

Re: Exception to Claim of DeRalph Perry

Dear Mr. Young:

Enclosed herewith Affidavit of Exception (in duplicate) submitted on behalf of Strongarm Reservoir Irrigation District in connection with the claim to a water right by DeRalph Perry.

Sincerely,


George W. Hargraves

GWH:dh

Enc.

cc: Mr. Joe Hedin

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July 18, 1973

Re: Application for Permit No. 13-7048
Claim to a water right No. 13-4005

Preston Citizen
Box 472
Preston, ID 83263

Gentlemen:

Would you please submit an affidavit of publication and certified bill in connection with the above referenced applications. The legal notice was to have been published in your paper on June 28 and July 5, 1973.

Your cooperation in this matter is greatly appreciated.

Very truly yours,

NORMAN C. YOUNG
District Engineer

NCY:mb

July 9, 1973

Re: Claim to a Water Right No. 13-4005

Mr. DeRalph Perry
Star Route
Preston, ID 83263

Dear Mr. Perry:

Enclosed please find a copy of the exception filed by George W. Hargraves in behalf of Strongarm Reservoir Irrigation District in connection with your Claim No. 13-4005. The following is a quote from the provisions of the Idaho Code under which this claim has been filed:

42-225b. Recording of claims by department-----Corrections.-----

.....
At any time after filing a claim under the provisions of this section, any person who disagrees that a right has been established as set forth in said claim may file an exception thereto in duplicate, in affidavit form, accompanied by such proof as said person deems appropriate. An exception filed shall be made a part of the file of the claim in the department of reclamation (renamed department of water administration, July 1, 1970) and shall be considered the same as other evidence in said file. A copy of an exception filed shall be forwarded to the claimant by the department of water administration. Such claims may be corrected by the claimant only by filing of an amended claim in the same form as the original which shall be recorded and numbered by the department the same as the original and for which no additional filing fee shall be required.

Only the above action has been contemplated by the Idaho Legislature and we are not authorized to hold hearings or evaluate for conformation or final censorship of the described rights.

If we can be of further assistance, please contact us.

Very truly yours,

NORMAN C. YOUNG
District Engineer

NCY:mb

Enclosure

13 4005

July 6, 1973

Re: Claim to a Water Right No. 13-4005 - DeRalph Perry

Mr. George W. Hargraves
746 East Lander
P.O. Box H
Pocatello, ID 83201

Dear Mr. Lander:

We have received the exception dated July 6, 1973, filed in behalf of Strongarm Reservoir Irrigation District Against the above referenced claim to a water right. The following is a quote from the provisions of the Idaho Code under which this claim has been filed:

42-225b. Recording of claims by department----Corrections.-----

.....
At any time after filing a claim under the provisions of this section, any person who disagrees that a right has been established as set forth in said claim may file an exception thereto in duplicate, in affidavit form, accompanied by such proof as said person deems appropriate. An exception filed shall be made a part of the file of the claim in the department of reclamation (renamed department of water administration, July 1, 1970) and shall be considered the same as other evidence in said file. A copy of an exception filed shall be forwarded to the claimant by the department of water administration. Such claims may be corrected by the claimant only by filing of an amended claim in the same form as the original which shall be recorded and numbered by the department the same as the original and for which no additional filing fee shall be required.

Only the above action has been contemplated by the Idaho Legislature and we are not authorized to hold hearings or evaluate for conformation or final censorship of the described rights.

If you have any questions regarding this matter, please contact us.

Very truly yours,

NORMAN C. YOUNG
District Engineer

NCY:mb

13 4005

June 22, 1973

Re: Application for Permit No. 13-4005 - DeRalph Perry
13-7048 - Rolan V. Bastian

Preston Citizen
Box 472
Preston, ID 83263

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the publication dates allowing ample time for you to submit us a galley proof for review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted, assuming the notice is correct. If we have any corrections, we will notify you before the first publication. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. In order to receive payment, the following certification must appear on the bill:

"I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid."

(signature of claimant)

Very truly yours,

NORMAN C. YOUNG
District Engineer

Bill submitted 7-23-73 by mb

NCY:mb
Enclosures: Legal notices (2)

13 4005

NOTICE OF CLAIM TO A
WATER RIGHT
NO. 13-4005

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The water is claimed to be used from Apr. 1 to Oct. 31 for the irrigation of 15 acres, with a priority of May 1, 1955; the place of use is within the SE¹₄SE¹₄, Sec. 19, T. 13S, R. 40E, B.M.

Any exception to this claim of water right may be filed with the Idaho Department of Water Administration, 240 South Holmes, Idaho Falls, Idaho, 83401.

R. KEITH HIGGINSON
Director

Published in the Preston Citizen, Preston, Idaho on June 28 and July 5, 1973.

Legal No. 2418 — Pub. June 28, July 5, 1973.

13 4005

NOTICE OF CLAIM TO A WATER RIGHT

NO. 13-4005

Notice is hereby given that DeRalph Perry
Star Route, Preston, Idaho

has filed a claim to a water right established by diversion and application
to beneficial use of 0.3 cubic feet per second ~~acre feet per annum~~
of water from an unnamed stream

with point of diversion in the SE¹SE¹, Sec. 19, T. 13S, R. 40E, B.M.,
Franklin County.

The water is claimed to be used from Apr. 1 to Oct. 31 for the
irrigation of 15 acres,

with a priority of May 1, 1955;
the place of use is within the SE¹SE¹, Sec. 19, T. 13S, R. 40E, B.M.

Any exception to this claim of water right may be filed with the Idaho
Department of Water Administration, 240 South Holmes, Idaho Falls, Idaho,
83401.

R. KEITH HIGGINSON

Director

Published in the Preston Citizen, Preston, Idaho
on June 28 and July 5, 1973.

13 4005
NCT

June 20, 1973

DeRalph Perry
Star Route
Preston, ID 83263

Dear Mr. Perry:

Attached herewith is departmental receipt No. 10236 in the amount of \$10.00 for your claim to a water right which was received in this office under the above date.

Very truly yours,

NORMAN C. YOUNG
District Engineer

NCY:mb

Attachment

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION
EASTERN DISTRICT OFFICE



Cecil D. Andrus
Governor
R. Keith Higginson
Director

240 South Holmes Avenue
Idaho Falls, Idaho 83401
(208) 523-7186

Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Waste Disposal Wells
Stream Channel Protection
Geothermal Resources

June 18, 1973

Mr. Dell W. Smith
Attorney-at-Law
Preston, Idaho 83263

Dear Mr. Smith:

We are returning the claim to a water right you filed on behalf of DeRalph Perry, and the check No. 92-273 in the amount of \$10.00. The following items must be clarified before the claim can be considered acceptable:

1. The address needs to be completed in Item 1.
2. Clarify the name of the source listed in Item 2 as unnamed hollow, possibly needs to be listed as unnamed stream.
3. It is necessary the priority date as listed in Item 3a be explained to list the nearest month and possibly the earliest day.
4. The description of the diverting works in Item 4a should be completed.

Please complete the above items and return the claim, with the filing fee to this office at your earliest convenience.

Very truly yours,

NORMAN C. YOUNG
District Engineer

NCY:cw

Enc: Check No. 92-273
Claim