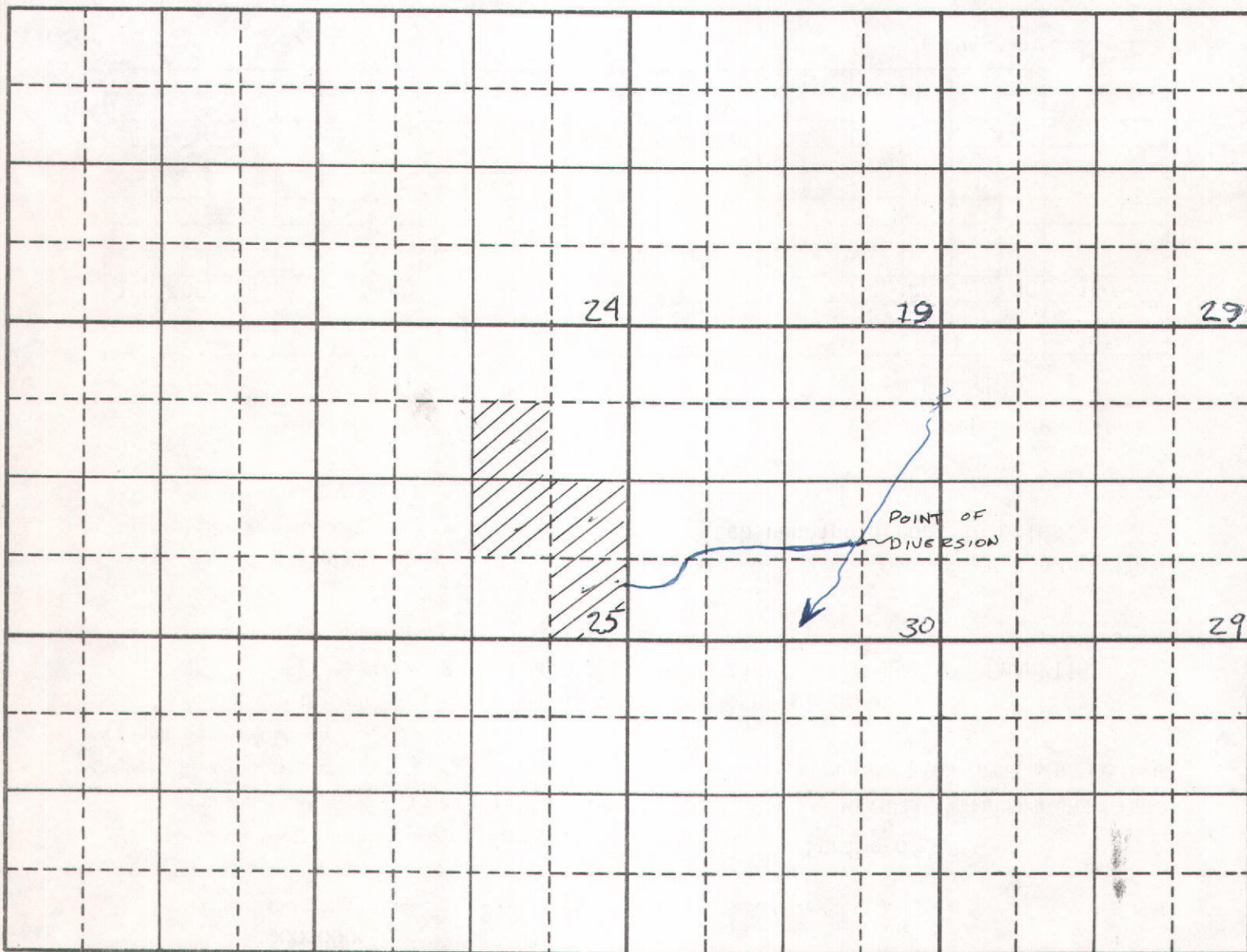


(8) Remarks \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho

County of Bonneville 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 19 day of March

George D. Barbano  
(Claimant)

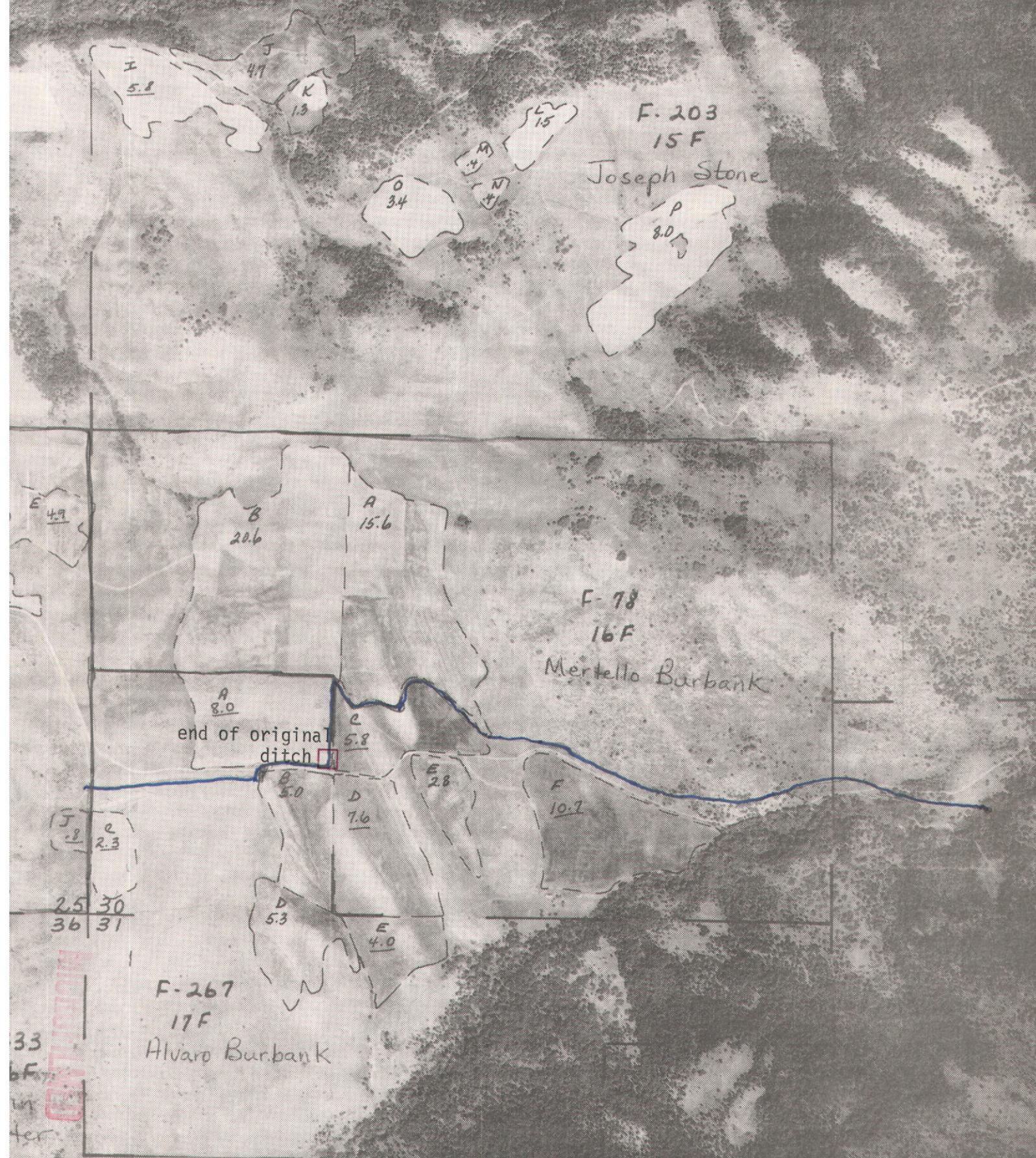
Ronald D. Carlson  
Notary Public  
Residing at Firth, Idaho

My commission expires 2-14-78

For Department Use Only

|                                     |                     |                     |              |      |
|-------------------------------------|---------------------|---------------------|--------------|------|
| Received by <u>MB</u>               | Date <u>3-19-74</u> | Exception filed by: | Forwarded to | Date |
| Prelim. check by <u>RDC</u>         | Date <u>3/19/74</u> |                     | claimant by: |      |
| \$10.00 fee received by <u>N.A.</u> | Date <u>3-19-74</u> |                     |              |      |
| Approved for publication by _____   |                     |                     |              |      |
| Published in _____                  |                     |                     |              |      |
| Dates _____                         |                     |                     |              |      |

13-1008



## STATE OF IDAHO

**DEPARTMENT OF WATER ADMINISTRATION**

**Section 42-225a, Idaho Code**

AMENDED CLAIM TO A WATER RIGHT

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.

Notice is hereby given that George G. Burbank

(name of claimant)

of Route #3, Preston, Idaho, claims a right to the diversion and beneficial use of  
(mailing address)

ground water or surface water tributary to Sugar Creek;

The extent and nature of said claim is as follows:

- The extent and nature of said claim is as follows:
- (1) Describe source of water: (name of stream, lake, spring, etc., or ground water) Sugar Creek
- (2) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:
- |        |                   |     |                   |                |      |                   |    |                                                 |
|--------|-------------------|-----|-------------------|----------------|------|-------------------|----|-------------------------------------------------|
| Amount | <u>2.5</u>        | Use | <u>Irrigation</u> | Period of Use: | From | <u>Apr. 1</u>     | To | <u>End of high water usually before June 30</u> |
| Amount | <u>0.02</u>       | Use | <u>Stockwater</u> | Period of Use: | From | <u>Apr. 1</u>     | To | <u>"</u>                                        |
| Amount | <u>          </u> | Use | <u>          </u> | Period of Use: | From | <u>          </u> | To | <u>          </u>                               |
- (cfs, gpm, or g/f)  
XXXXXX
- (dom., irri., stock, etc.)
- (both dates inclusive)

- (3) Total quantity of water claimed: 2.5 cubic feet per second, or \_\_\_\_\_ acre feet per annum, and/or \_\_\_\_\_ gallons per minute.

- (4) Priority claimed: (the date water was first applied to beneficial use) Spring of 1954

A claim is not acceptable on a ground-water source with a priority later than March 25, 1963 or on a surface-water source with a priority later than May 20, 1971. An exception to this rule is that a claim may be filed on domestic use from a ground-water source.

- (5) A) Point of diversion: (give location of point where water is diverted from its source)  
NE ¼ SE ¼, Sec. 30 Twp. 15S Rge. 41E B. M. County of Franklin  
 Additional points of diversion: \_\_\_\_\_

B) Describe means of diversion of water: (pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.) Give sizes and capacities; be as specific as possible. ditch running a bout 1½ miles.

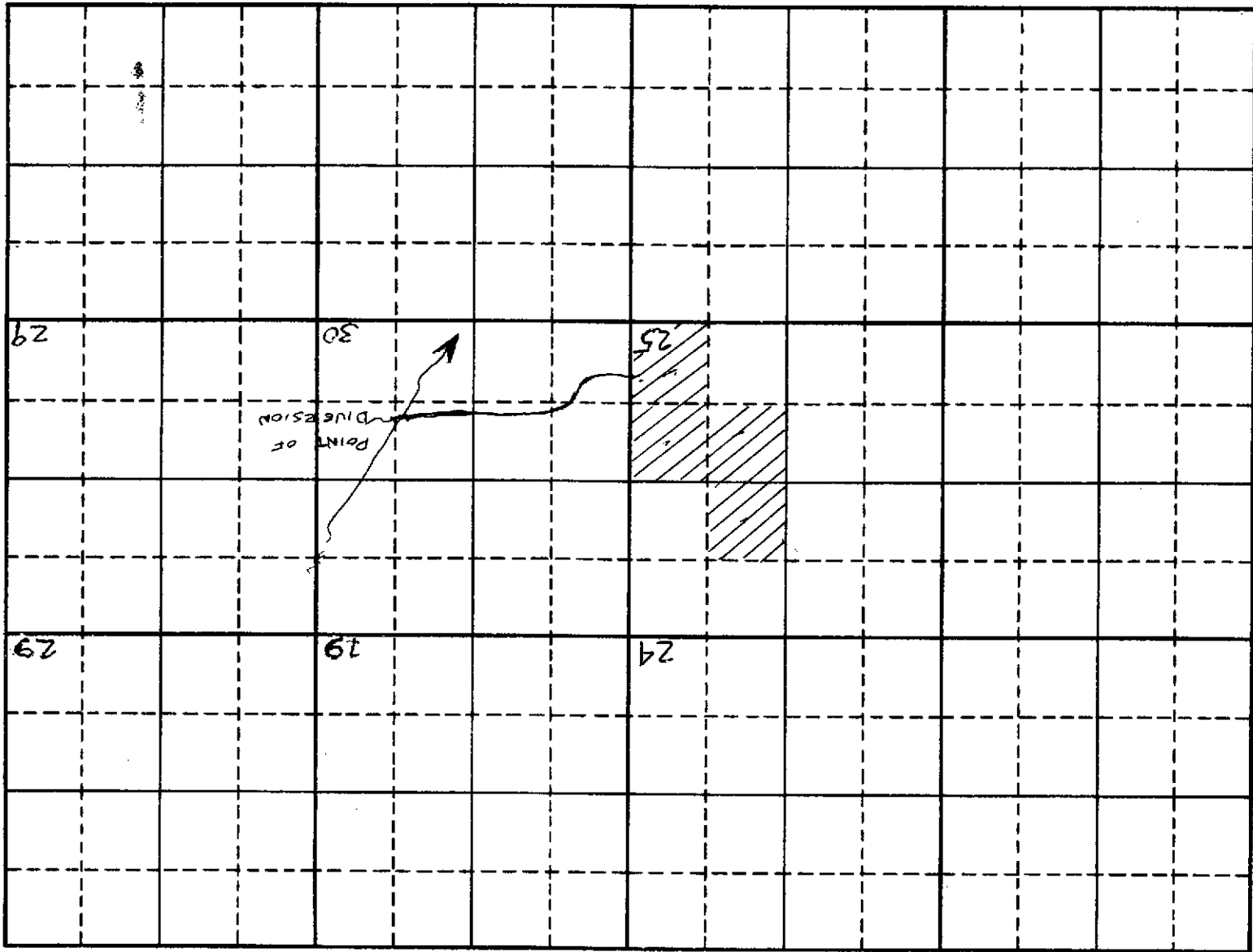
- (6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

[illegible]

Total No. of acres 150

- B) If the water is used for other than irrigation, fully describe that use, being as specific as possible: Domestic purposes for one family and for 45 head of cattle.

- (7) If you are claiming water as a member of an organization, list name of organization: \_\_\_\_\_



Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho

ss.

County of Bonneville

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 affiant's knowledge.

Sworn to before me this 19 day of March

(Claimant)  
Notary Public  
Residing at

My commission expires 2-14-78

For Department Use Only

Received by MB Date 3-19-74  
Prelim. check by RJC Date 3/19/74  
\$10.00 fee received by N.A. Date 3-19-74  
Approved for publication by  
Published in  
Dates

Forwarded to  
claimant by:  
Date

Exception filed by:

Garth S. Pincock  
Attorney at Law  
SPAULDING BUILDING  
P. O. 1567 - PHONE 232-7680  
POCATELLO, IDAHO 83201

AFFIDAVIT IN SUPPORT OF EXCEPTION

TO CLAIM #13-4008 FILED BY GEORGE G. BURBANK

1 STATE OF IDAHO

2 COUNTY OF BANNOCK:ss

3 REED LONG, Route #3, Preston, Idaho, being first  
4 duly sworn on oath, deposes and says:

5 I

6 That Affiant's water right has been established to  
7 be as and from the year 1879; that the said Affiant's rights  
8 have been adjudicated in the Findings of Fact and Conclusions  
9 of Law, attached hereto and made a part hereof by reference;  
10 that the Affiant takes his water right through Edward M. Perkins,  
11 as shown in said Findings of Fact and Conclusions of Law.

12 II

13 That the Claimant has never used any quantity of  
14 water other than "high water".

15 III

16 Water diverted by Claimant prior to May 1, could not  
17 be used for irrigation purposes.

18 IV

19 That Claimant has never used water as long as June  
20 30th, in fact, water has never been used beyond June 15th. As  
21 a general rule, water has been shut off not later than May 30th.

22 V

23 That as a general rule, after April 1st, Sugar  
24 Creek does not carry more than 9 3/5 cubic feet per second,  
25 leaving nothing to be appropriated or diverted by Claimant

13 4008

1 or any other person.

2 DATED this 25 day of February, 1974.

3

4

Reed Long  
REED LONG

5

6 SUBSCRIBED AND SWORN to before me this 25 day of  
February, 1974.

7

8

James L. Greener  
NOTARY PUBLIC FOR IDAHO  
Residing at Pocatello, Idaho  
Preston

9

My Commission Expires:

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3-4-78

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Garth S. Pincock  
Attorney at Law  
SPAULDING BUILDING  
P. O. 1567 - PHONE 232-7680  
POCATELLO, IDAHO 83201

AFFIDAVIT IN SUPPORT OF EXCEPTION

TO CLAIM #13-4008 FILED BY GEORGE G. BURBANK

1 STATE OF IDAHO )  
2 ) ss.  
3 COUNTY OF BANNOCK)

4 N. J. CHATTERTON, Route #3, Preston, Idaho, being first  
5 duly sworn on oath, deposes and says:

6 I

7 That Affiant's water right has been established to  
8 be as and from the year 1879; that the said Affiant's rights  
9 have been adjudicated in the Findings of Fact and Conclusions  
10 of Law, attached hereto and made a part hereof by reference;  
11 that the Affiant takes his water right through Calvin Wheeler,  
12 as shown in said Findings of Fact and Conclusions of Law.

13 II

14 That the Claimant has never used any quantity of  
15 water other than "high water".

16 III

17 Water diverted by Claimant prior to May 1, could not  
18 be used for irrigation purposes.

19 IV

20 That Claimant has never used water as long as June  
21 30th, in fact, water has never been used beyond June 15th.  
22 As a general rule, water has been shut off not later than May 30th.

23 V

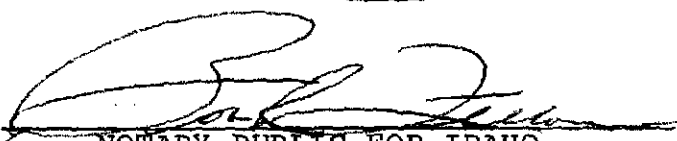
24 That as a general rule, after April 1st, Sugar  
25 Creek does not carry more than 9 3/5 cubic feet per second,  
leaving nothing to be appropriated or diverted by Claimant

1 or any other person.

2 DATED this 25 day of February, 1974.

3   
4 N. J. CHATTERTON

5 SUBSCRIBED AND SWORN to before me this 25 day of  
6 February, 1974.

7   
8 NOTARY PUBLIC FOR IDAHO  
Residing at Pocatello, Idaho

9 My Commission Expires:

10 2 - 1976

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Garth S. Pincock  
Attorney at Law  
SPAULDING BUILDING  
P. O. 1567 - PHONE 232-7680  
POCATELLO, IDAHO 83201

AFFIDAVIT IN SUPPORT OF EXCEPTION

TO CLAIM #13-4008 FILED BY GEORGE G. BURBANK

1 STATE OF IDAHO )  
2 ) ss.  
3 COUNTY OF BANNOCK )

4 MORRIS GREGORY, Route #3, Preston, Idaho, being first  
5 duly sworn on oath, deposes and says:

6 I

7 That Affiant's water right has been established to  
8 be as and from the year 1879; that the said Affiant's rights  
9 have been adjudicated in the Findings of Fact and Conclusions  
10 of Law, attached hereto and made a part hereof by reference;  
11 that the Affiant takes his water right through Lorenzo Cutler,  
12 as shown in said Findings of Fact and Conclusions of Law.

13 II

14 That the Claimant has never used any quantity of  
15 water other than "high water".

16 III

17 Water diverted by Claimant prior to May 1, could not  
18 be used for irrigation purposes.

19 IV

20 That Claimant has never used water as long as June  
21 30th, in fact, water has never been used beyond June 15th.  
22 As a general rule, water has been shut off not later than May 30th.

23 V

24 That as a general rule, after April 1st, Sugar  
25 Creek does not carry more than 9 3/5 cubic feet per second,  
leaving nothing to be appropriated or diverted by Claimant

1 or any other person.

2 DATED this 25<sup>th</sup> day of February, 1974.

3 Morris O. Gregory  
4 MORRIS GREGORY

5 SUBSCRIBED AND SWORN to before me this 26<sup>th</sup> day of  
6 February, 1974.

7 W.B. Kent  
8 NOTARY PUBLIC FOR IDAHO  
9 Residing at Bocatello, Idaho  
Huston

10 My Commission Expires:  
11 8-18-74

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Garth S. Pincock  
Attorney at Law  
SPAULDING BUILDING  
P. O. 1567 - PHONE 232-7680  
POCATELLO, IDAHO 83201

AFFIDAVIT IN SUPPORT OF EXCEPTION

TO CLAIM #13-4008 FILED BY GEORGE G. BURBANK

1 STATE OF IDAHO )  
2 ) ss.  
3 COUNTY OF BANNOCK)

4 H. WALTER KNAPP, Route #3, Preston, Idaho, being first  
5 duly sworn on oath, deposes and says:

6 I

7 That Affiant's water right has been established to  
8 be as and from the year 1879; that the said Affiant's rights  
9 have been adjudicated in the Findings of Fact and Conclusions  
10 of Law, attached hereto and made a part hereof by reference;  
11 that the Affiant takes his water right through Lamoni Taylor,  
12 as shown in said Findings of Fact and Conclusions of Law.

13 II

14 That the Claimant has never used any quantity of  
15 water other than "high water".

16 III

17 Water diverted by Claimant prior to May 1, could not  
18 be used for irrigation purposes.

19 IV

20 That Claimant has never used water as long as June  
21 30th, in fact, water has never been used beyond June 15th.  
22 As a general rule, water has been shut off not later than May 30th.

23 V

24 That as a general rule, after April 1st, Sugar  
25 Creek does not carry more than 9 3/5 cubic feet per second,  
leaving nothing to be appropriated or diverted by Claimant

1 or any other person.

2 DATED this 25 day of February, 1974.

3 H. Walter Knapp  
4 H. WALTER KNAPP

5 SUBSCRIBED AND SWORN to before me this 25<sup>th</sup> day of  
6 February, 1974.

7 W. B. Knapp  
8 NOTARY PUBLIC FOR IDAHO  
9 Residing at Pocatello, Idaho  
10 Perton

11 My Commission Expires:  
12 8-18-74

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## CLAIM TO A WATER RIGHT

Notice is hereby given that George G. Burbank  
(name of claimant)

ground water or surface water tributary to Sugar Creek ;

(1) Describe source of water: (name of stream, lake, spring, etc., or ground water) Sugar Creek

|        |                       |     |                              |                |      |                |    |                        |
|--------|-----------------------|-----|------------------------------|----------------|------|----------------|----|------------------------|
| Amount | <u>2.5 second ft.</u> | Use | <u>irri, stock</u>           | Period of Use: | From | <u>April 1</u> | To | <u>June 30</u>         |
| Amount | _____                 | Use | _____                        | Period of Use: | From | _____          | To | _____                  |
| Amount | _____                 | Use | _____                        | Period of Use: | From | _____          | To | _____                  |
|        | (cfs, gpm<br>or a/f)  |     | (dom., irri,<br>stock, etc.) |                |      |                |    | (both dates inclusive) |

(4) Priority claimed: (the date water was first applied to beneficial use) Spring of 1954

(5) A) Point of diversion: (give location of point where water is diverted from its source)  
NE 1/4 SE 1/4, Sec. 30 Twp. 15S Rge. 44E B.M. County of Franklin  
 Additional points of diversion: \_\_\_\_\_

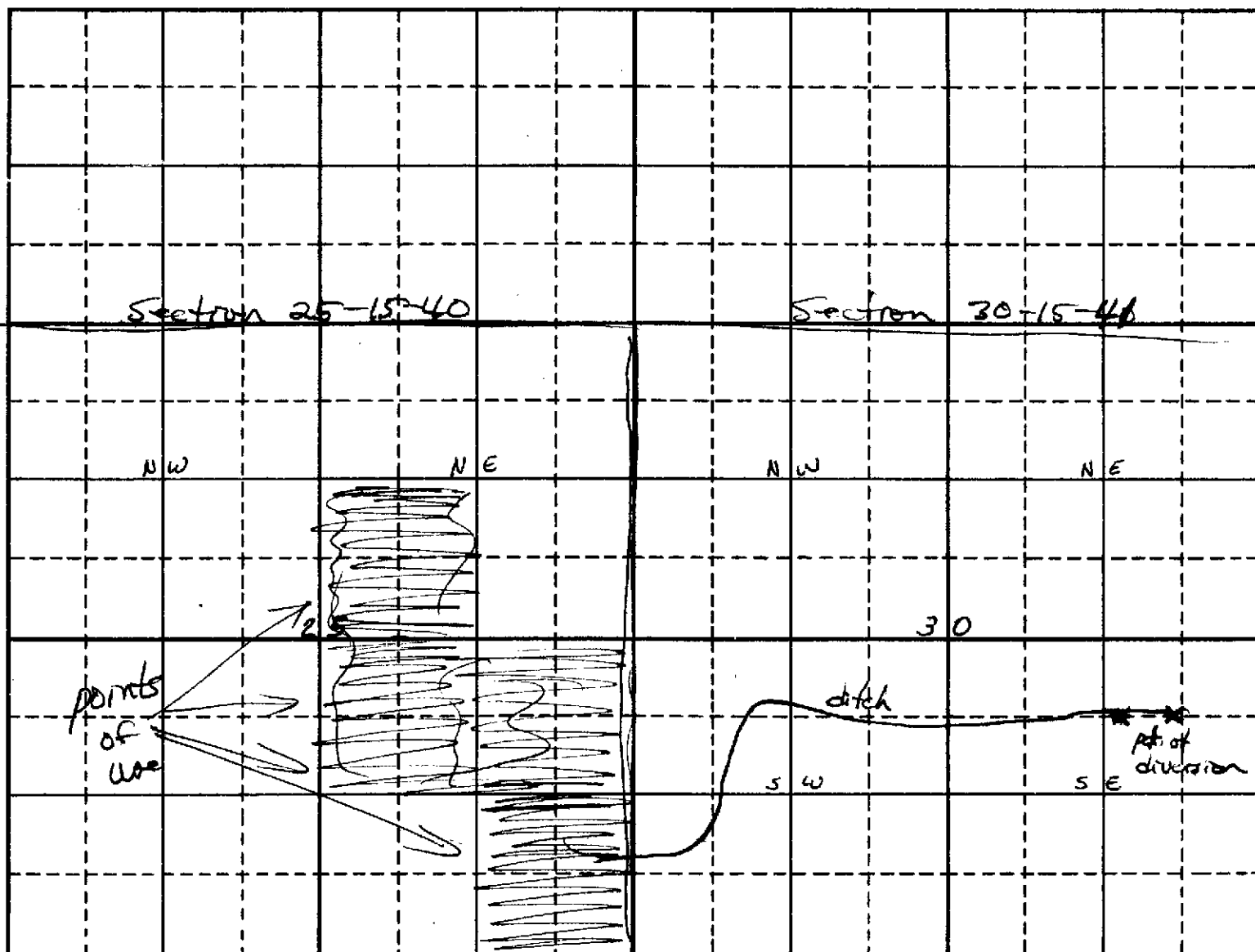
B) Describe means of diversion of water: (pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.) Give sizes and capacities; be as specific as possible. Ditch running about mile + one half.

[illegible]

B) If the water is used for other than irrigation, fully describe that use, being as specific as possible: Domestic use for 45 head cattle.

12 4008

(8) Remarks



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho

ss.

County of Franklin

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.

George D. Burbanck  
(Claimant)

Sworn to before me this 15<sup>th</sup> day of January, 1974.

Michael D. King  
Notary Public

Residing at Preston, Idaho

My commission expires 4-1-76

## For Department Use Only

|                                               |                        |                     |              |      |
|-----------------------------------------------|------------------------|---------------------|--------------|------|
| Received by <u>MB</u>                         | Date <u>1-16-74</u>    | Exception filed by: | Forwarded to | Date |
| Prelim. check by <u>MB</u>                    | Date <u>1/16/74</u>    |                     | claimant by: |      |
| \$10.00 fee received by <u>MB</u>             | Date <u>1-16-74</u>    |                     |              |      |
| Approved for publication by <u>MB-2/65/74</u> | RECEIPT # <u>12688</u> |                     |              |      |
| Published in <u>Preston Citizen</u>           |                        |                     |              |      |
| Dates <u>January 24 &amp; 31, 1974</u>        |                        |                     |              |      |

# AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,

County of Franklin

ss.

*John H. Hatter*

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

*January 24*, 19 *74*, and ending

with the issue of *January 31*, 19 *74*.

*John H. Hatter*

Fees, \$ *12.21*  
*4.26*

Subscribed and sworn to before me this *4* day

of *February*, 19 *74*.

*William R. Litchman*

Notary Public, Residing at Preston, Idaho

My Commission Expires *March*, 19 *74*.

## NOTICE OF CLAIM TO A WATER RIGHT

NO. 13-4008

Notice is hereby given that George G. Burbank, Route 3, Preston, Idaho has filed a claim to a water right established by diversion and application to beneficial use of 2.5 cubic feet per second of water from Sugar Creek with point of diversion in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 30, T. 15S, R. 41E, B.M. Franklin County.

The water is claimed to be used from Apr. 1 to June 30 for the irrigation of 150 acres and stockwatering purposes for 45 head of cattle with a priority of Spring 1954; the place of use is within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 25, T. 15S, R. 40E, B.M.

Any exception to this claim of water right may be filed with the Idaho Department of Water Administration, 1515 Lincoln Road, Idaho Falls, Idaho, 83401.

R. KEITH HIGGINSON  
Director

Published in the Preston Citizen, Preston, Idaho on January 24 and January 31, 1974.

Legal No. 2551 — Pub. Jan. 24, 31, 1974. *CB*

*13 4008*

WATER RIGHT NUMBER 13-4008  
 ACT ION  
 OWNER LAST NAME - BURBANK  
 ADDRESS LINE 1 - RT. 3  
 CITY - PRESTON  
 STATE - ID ZIP CODE - 83263  
 FIRST NAME - GEORGE G.  
 PRIORITY - 06-01-1954 COUNTY - FRANKLIN TOTAL DIV. RATE - 2.5000CFS  
 SOURCE - SUGAR CREEK  
 STAGE - STAIRY CLM  
 DIVERSION POINT - NESE 30 155 41E  
 FROM - 04-01 TO - 06-30 USE - IRRIGATION  
 FROM - 04-01 TO - 06-30 USE - STOCKWATER  
 USE - DOMESTIC  
 USE - IRRIGATION  
 PLACE OF USE - TOWN 155 RNC 40E SEC 25 TRACT SWNE  
 AC 40 TRACT NESE  
 AC 40 TRACT SESE  
 AC 30  
 NON IRRIG USE - S/45 RANGE U/I HOME.

INTER-DEPARTMENT MEMO — 1

FROM Mechelle

DATE March 19, 1974

TO Bob Fleenor

SUBJECT Claim No. 13-4008

Attached is the original for the above subject claim which was amended this date.

I have sent copies to Garth S. Pincock, attorney for the 4 gentlemen who filed exceptions, and also, copies to them.

RECEIVED



SIGNATURE

RECEIVED

JUL 23 1976

Department of Water Resources

July 23, 1976

*file*

RE: Claim to a Water Right No. 13-4008

Louis F. Racine, Jr.  
Attorney at Law  
P.O. Box 1391  
Pocatello, Idaho

Dear Mr. Racine:

This office is in receipt of your letter of July 20, 1976, concerning the above referenced claim to a water right. Your letter has been entered into the permanent files of this Department for future reference.

Very truly yours,

RONALD D. CARLSON  
Supervisor,  
Eastern Region

RDC:CW

cc: IDWR - State Office

LAW OFFICES OF  
**RACINE, HUNTLEY & OLSON**  
CHARTERED

LOUIS F. RACINE, JR.  
ROBERT C. HUNTLEY, JR.  
WILLIAM D. OLSON

CENTER PLAZA - CORNER FIRST & CENTER  
POST OFFICE BOX 1391  
POCATELLO, IDAHO 83201

TELEPHONE  
AREA CODE 208  
232-6101

D. JAMES MANNING  
W. MARCUS W. NYE  
GARY L. COOPER

July 20, 1976

State of Idaho  
Department of Water Resources  
1515 Lincoln Road  
Idaho Falls, Idaho 83401

Gentlemen:

Re: Claim to Water Right No. 13-4008

On July 1, Mr. John M. Sharp, an attorney representing Devere Burbank, forwarded you an affidavit of Devere Burbank, setting forth opposition to the claim of George Burbank for 2.5 cu.ft. per second of waters from Sugar Creek in Franklin County, Idaho.

The information contained in the affidavit of Devere Burbank is contested by the heirs of the claimant, George G. Burbank. Mr. George G. Burbank passed away on February 23, 1975. His estate, including any claim to the waters of Sugar Creek as made in claim No. 13-4008, is now held by Violet C. Burbank.

A copy of this letter is being forwarded to Mr. John Sharp, as attorney for Devere Burbank. It is understood that the Department of Water Resources is not authorized to hold hearings or evaluate the various claims, and if a claim is to be established it must be instituted by a proceeding in Court, when contested. Nevertheless, it is requested that this letter be filed as a part of the above claim and that the claimants reiterate their position and claim as heretofore filed of an entitlement of 2½ cu. ft. per second of the waters of Sugar Creek from April 1 to June 30 of each year for use in irrigation and domestic stock watering in reliance upon a priority date from the spring of 1954 and continuous use thereafter.

Very truly yours,

LOUIS F. RACINE, JR.

LFR/t  
cc: Mr. John M. Sharp

July 7, 1976

RE: Claim to a Water Right No. 13-4008

Mr. George G. Burbank  
Rt. #3  
Preston, Idaho 83263

Dear Mr. Burbank:

Enclosed please find a copy of the exception filed by Attorney John M. Sharp, in behalf of DeVere Burbank in connection with your Claim No. 13-4008. 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 Water Administration (renamed Department of Water Resources, July 1, 1974) 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 Resources. 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,

RONALD D. CARLSON  
Supervisor,  
Eastern Region

RDC:CW

Enclosure

cc: IDWR - State Office

RECEIVED

JUL 9 1976

Department of Water Resources

July 7, 1976

RE: Claim to a Water Right No. 13-4008

Mr. John M. Sharp  
Attorney at Law  
490 Memorial Drive  
Idaho Falls, Idaho 83401

Dear Mr. Sharp:

We have received the exception dated April 20, 1976, filed in behalf of DeVere Burbank 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 Water Administration (renamed Department of Water Resources, July 1, 1974) 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 Resources. 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,

RONALD D. CARLSON  
Supervisor, Eastern Region

RDC:CH

cc: IDWR - State Office

RECEIVED  
JUL 8 1976  
DEPARTMENT OF WATER RESOURCES  
EASTERN DISTRICT OFFICE

AFFIDAVIT

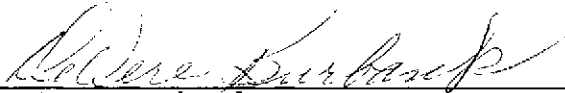
STATE OF IDAHO            )  
                                  :    ss.  
County of Franklin )

DeVere Burbank, being first duly sworn, deposes and says:

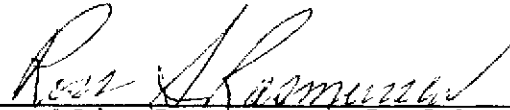
That your affiant is a resident of Preston, Franklin County, Idaho, and makes this affidavit in connection with his Notice of Exception to a claim of water right asserted by George G. Burbank for 2.5 cfs. of water from Sugar Creek with the point of diversion in the Northeast Quarter of the Southeast Quarter of Section 30, Township 15 South, Range 41 E. B. M. in Franklin County, Idaho, said claim having been assigned No. 13-4008 by the Idaho Department of Water Administration;

That your affiant is the successor in interest of Alvaro G. Burbank of property lying immediately upstream from that owned by claimant, George G. Burbank; that Martello Burbank is the owner of the property immediately upstream from that owned by your affiant; that the property of Martello G. Burbank has been decreed 1.4 cfs. the priority date of 1892, and the property of your affiant has been decreed 1.8 cfs. of water with the decree dated 1896; that in 1954, the late George G. Burbank obtained permission from the predecessor in interest of your affiant to extend the ditch across the property now owned by the affiant to the property of the said George Burbank to enable him to water 10 head of beef cattle; that pursuant to said oral permission, the ditch was constructed and, since that time, the said George Burbank and his successors have used the same for stock watering purposes, and, on occasions, with the permission of your affiant and his predecessors in interest, have used the same to water up to 20 acres of ground; that the claimant and her predecessors have never at any time watered as much as 150 acres of land, and, in fact, probably not to exceed 20 acres; that the ditch is not large enough to carry the decreed water and an additional 2.5 cfs. of water and your affiant hereby gives notice of his exception to the claim asserted by George G. Burbank or Edwin Hanson, the tenant of said property.

DATED this 20<sup>th</sup> day of April, 1976.

  
DeVere Burbank

Subscribed and sworn to before me this 20 day of April,  
1976.

  
Notary Public for State of Idaho  
Residing at Preston, Idaho



# STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES  
EASTERN DISTRICT

IDAHO FALLS, IDAHO 83401

December 22, 1975

RE: Claim to a Water Right No. 13-4008

George G. Burbank  
Route #3  
Preston, Idaho 83263

Dear Mr. Burbank:

Enclosed please find a copy of the exceptions filed by Mertello G. Burbank and Alvaro Burbank in connection with your Claim No. 13-4008. 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 Water Administration (renamed Department of Water Resources, July 1, 1974) 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 Resources. 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,

RONALD D. CARLSON  
Supervisor  
Eastern Region  
RDC:ME  
Enclosures

IN THE MATTER OF: Claim to a Water )  
Right No. 13-4008 in the name of )  
George G. Burbank )  
State of Idaho )  
County of Franklin )

AFFIDAVIT

Exception

I, Alvaro Burbank, being first duly sworn,  
deposes and says: in 1954 my brother George Burbank came to me and requested that I  
allow him to divert some water from Sugar Creek through my ditch to water about 10 head  
of beef cattle on his property. He agreed that if he could extend my existing ditch  
through his property to water his livestock, he would help maintain my ditch. I allowed  
him to use the ditch, and subsequently, he commenced using water when it was available  
for the irrigation of about 20 acres of land. He has at no time beneficially used 2.5  
c.f.s. of water or irrigated 150 acres as indicated by this claim to a water right.  
I have included, to be made part of the record, an aerial photo marked exhibit #1,  
showing the location of the ditch and the properties involved.

Alvaro G. Burbank  
(signature)

Subscribed and sworn to before me this 18th day of December 19 75.

Ronald P. Carson  
(notary public)

Residing at Idaho Falls, Idaho.  
My commission expires 2-14-78.

IN THE MATTER OF: Claim to a Water )  
Right No. 13-4008 in the name of )  
George G. Burbank )  
State of Idaho )  
County of Franklin )

AFFIDAVIT

Exception

I, Mertello G. Burbank, being first duly sworn,  
deposes and says: in 1954 my brother George Burbank came to me and requested that I  
allow him to divert some water from Sugar Creek through my ditch to water about 10 head  
of beef cattle on his property. He agreed that if he could extend my existing ditch  
through his property to water his livestock, he would help maintain my ditch. I allowed  
him to use the ditch, and subsequently, he commenced using water when it was available  
for the irrigation of about 20 acres of land. He has at no time beneficially used 2.5  
c.f.s. of water or irrigated 150 acres as indicated by this claim to a water right.

Mertello G. Burbank  
(signature)

Subscribed and sworn to before me this 18th day of December 19 75 .

Ronald D. Carter  
(notary public)

Residing at Idaho Falls, Idaho .  
My commission expires 2-14-78 .



33  
6F  
W  
10F

March 12, 1974

Re: Claim to a Water Right No. 13-4008

Mr. George G. Burbank  
Route #3  
Preston, Idaho 83263

Dear Mr. Burbank:

Enclosed please find copies of exceptions filed by Reed Long, N. J. Chatterton, Morris Gregory and H. Walter Knapp in connection with your Claim No. 13-4008. 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 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,

RONALD D. CARLSON  
Asst. to the District Engineer

RDC:MB  
Enclosures

13-4008

March 12, 1974

Re: Claim to a Water Right No. 13-4008

Mr. N. J. Chatterton  
Route #3  
Preston, Idaho 83263

Dear Mr. Chatterton:

We have received the exception dated February 25, 1974, filed 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 induplicate, 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,

RONALD D. CARLSON  
Asst. to the District Engineer

RDC:MB  
cc: Garth S. Pincock, Atty.

13-4008

March 12, 1974

Re: Claim to a Water Right No. 13-4008

Mr. Morris Gregory  
Route #3  
Preston, ID 83263

Dear Mr. Gregory:

We have received the exception dated February 25, 1974, filed 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 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 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,

RONALD D. CARLSON  
Asst. to the District Engineer

13-4008

RDC:MB  
cc: Garth S. Pincock, Atty.

March 12, 1974

Re: Claim to a Water Right No. 13-4008

Mr. Reed Long,  
Route #3  
Preston, ID 83263

Dear Mr. Long:

We have received the exception dated February 25, 1974, filed 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,

RONALD D. CARLSON  
Asst. to the District Engineer

RDC:MB  
cc: Garth S. Pincock, Atty.

13-4008

March 12, 1974

Re: Claim to a Water Right No. 13-4008

Mr. H. Walter Knapp  
Route #3  
Preston, ID 83263

Dear Mr. Knapp:

We have received the exception dated February 25, 1974, filed 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.

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

Very truly yours,

RONALD D. CARLSON  
Asst. to the District Engineer

RDC:MB  
cc: Garth S. Pincock, Atty.

13-4008

STATE OF IDAHO  
DEPARTMENT OF WATER ADMINISTRATION  
STATE OFFICE



Cecil D. Andrus  
*Governor*  
R. Keith Higginson  
*Director*

614 State Street  
Statehouse - Annex 2  
Boise, Idaho 83720  
(208) 384-2215

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

March 12, 1974

Re: Claim to a Water Right No. 13-4008 - George G. Burbank

George G. Burbank  
Route #3  
Preston, ID 83263

Dear Mr. Burbank:

In reference to the above claim, the enclosed are copies of exceptions filed by Garth S. Pincock, Attorney at Law, on behalf of Reed Long, N. J. Chatterton, Morris Gregory, and H. Walter Knapp in connection with this claim under the provisions of Chapter 2, Section 42-225b of the Idaho Code, which states the following:

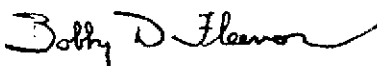
"At anytime after filing a claim under the provisions of this section, any person who disagrees that a right has been established as set forth in said claim may file an exception thereto in duplicate, in affidavit form, accompanied by such proof as said person deems appropriate. An exception filed shall be made a part of the file of the claim in the department of reclamation (renamed department of water administration on 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 confirmation or final censorship of the described rights.

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

Sincerely,

13 4008

  
BOBBY D. FLEENOR  
Assistant Director

BDF:JC  
Enclosures

STATE OF IDAHO  
DEPARTMENT OF WATER ADMINISTRATION  
STATE OFFICE



Cecil D. Andrus  
Governor  
R. Keith Higginson  
Director

614 State Street  
Statehouse - Annex 2  
Boise, Idaho 83720  
(208) 384-2215

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

March 12, 1974

Re: Claim to a Water Right No. 13-4008 - George G. Burbank

George G. Burbank  
Route #3  
Preston, ID 83263

Dear Mr. Burbank:

In reference to the above claim, the enclosed are copies of exceptions filed by Garth S. Pincock, Attorney at Law, on behalf of Reed Long, N. J. Chatterton, Morris Gregory, and H. Walter Knapp in connection with this claim under the provisions of Chapter 2, Section 42-225b of the Idaho Code, which states the following:

"At anytime 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 on 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 confirmation or final censorship of the described rights.

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

Sincerely,

BOBBY D. FLEENOR  
Assistant Director

13 4008

BDF:JC  
Enclosures

XXXXXXXXXXXXXXXXXXXX

1515 Lincoln Road

DD

February 12, 1974

C  
Re: Claim to a Water Right No. 13-4008

Franklin Cub River Pumping Co.  
Franklin,  
Idaho 83237

Attention: Mr. G. Ray Geddes, President

Dear Sirs:

P  
This office is in receipt of your letter of February 8, 1974, noting your exception to the above referenced claim. A Claim to a Water Right is filed by a water user developing a right by diversion and beneficial use under the constitutional method. Thus, the claim filed by George G. Burbank merely indicated that he claims to have used the water in the manner as advertised since the date listed. He is not applying for an Application for Permit and will not receive a recorded water right from this Department as a result of his filing a claim.

V  
The Department of Water Administration does not hold a hearing when an exception is filed on a Claim to a Water Right. The exception is merely filed in the claim file with the claimant's documents for consideration during any further court determination. It is unlikely that the court will consider your exception unless it is filed in affidavit form with your signatures notarized. Although your letter will be included in the file in its present form, I would recommend that you follow the procedures as set forth in Section 42-225 of the Idaho Code and file your exception in affidavit form.

Enclosed please find a copy of the Water Users Handbook and Section 42-225, Idaho Code. If you have any questions concerning this matter, do not hesitate to contact this office.

Very truly yours,

NORMAN C. YOUNG  
District Engineer

13 4008

NCY:mb

Enclosures  
cc: George G. Burbank  
bc: IDWA (State Office)

RECEIVED

FEB 12 1974

Franklin Idaho  
February 8, 1974

Department of Water Administration  
Idaho Department of Water Administration  
Eastern District Office  
1516 Lincoln Road  
Idaho Falls, Idaho

Dear Sir:

In reference to a public notice in The Preston Citizen No. 13-4008 a notice of claim to a water right by George G. Burbank, Preston Idaho; for 2.5 cu. ft. per sec. of water from Sugar Creek a definite and undisputed tributary to Cub River, with the right to use said water from April 1 to June 31 of each year.

We, the Franklin Cub River Pumping Co. (formerly Franklin Cub River Canal Co.) with a priority of 1882 for 5 cu. ft. per sec. to use for irrigation from April 1 to October 31, make exception to the above stated claim as follows:

We are totally unaware of any such diversion of water during said time of April 1 through June 31. This certainly is in conflict with our period of use, (April 1 through October 31) and our priority right of 1882. This diversion and water right if granted could affect our supply of water as much as thirty days in a year. The inflow of 2.5 cu. ft. per second from Sugar Creek into Cub River would certainly be a factor in maintaining the supply of water in Cub River. We are subject to the right of Cub River Irrigation Co. right of 24 cu. ft. per second filed in 1880, therefore, our right of 5 cu. ft. per second could be in jeopardy first.

Our experience of past years is certainly that there are no available waters in Cub River for new appropriations and especially the granting of this application.

Franklin Cub River Pumping Company

Sincerely yours, 13-4008  
Pres. *H. Roy Banks*  
Sec. *Glen H. Larson*

XXXXXXXXXXXXXXXXXXXX

1515 Lincoln Road

February 13, 1974

C  
Re: Claim to a Water Right No. 13-4008

Mr. George G. Burbank  
Route #3  
Preston, ID 83263

Dear Mr. Burbank:

P  
Enclosed please find a copy of an exception filed against the above referenced claim together with a copy of a letter in reply to the exception filed.

If you have any questions, please do not hesitate to contact us.

Very truly yours,

Y  
NORMAN C. YOUNG  
District Engineer

NCY:MB

Enclosures

13 4008

XXXXXXXXXXXXXXXXXXXX

1515 Lincoln Road

February 11, 1974

RE: Claim to a Water Right No. 13-4008

Mr. George G. Burbank  
Rt. #3  
Preston, Idaho 83263

Dear Mr. Burbank:

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,

RONALD D. CARLSON  
Assistant to the  
District Engineer

RDC:cb

Enc: Copy of Claim

13 4008

**STATE OF IDAHO**

**DEPARTMENT OF WATER ADMINISTRATION**

~~1400 South Idaho Avenue~~ 1515 Lincoln Road  
Idaho Falls, Idaho 83401  
(208) 523-7186



R. Keith Higginson  
Director

Water Rights Administration  
Water Resource Investigations  
Dam and Reservoir Safety  
Water Well Drilling  
Flood Plain Management  
Irrigation and  
Flood Control Districts

January 18, 1974

RE: Application for Permit No. 13-7069 - Bastian  
Claim to a Water Right No. 13-4008 - Burbank

Preston Citizen  
Box 472  
Preston, Idaho 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 2-5-74 BY M6

NCY:cb

13 4008

Enc: Legal Notice (2)

NOTICE OF CLAIM TO A WATER RIGHT

NO. 13-4008

Notice is hereby given that George G. Burbank,  
Route 3, Preston, Idaho  
has filed a claim to a water right established by diversion and application  
to beneficial use of 2.5 cubic feet per second ~~2.5 cubic feet per second~~  
of water from Sugar Creek  
with point of diversion in the NE~~1~~SE~~4~~, Sec. 30, T. 15S, R. 41E, B.M.  
Franklin County.

The water is claimed to be used from Apr. 1 to June 30 for the irrigation  
of 150 acres and stockwatering purposes for 45 head of cattle  
with a priority of Spring 1954;  
the place of use is within the SW~~1~~NE~~4~~, NE~~1~~SE~~4~~, ~~Sec. 24, T. 15S, R. 40E, B.M.~~  
40E, B.M.

Any exception to this claim of water right may be filed with the Idaho  
Department of Water Administration, 1517 Lincoln Blvd, Idaho Falls, Idaho,  
83401.

R. KEITH HIGGINSON

Director

Published in the Preston Citizen, Preston, Idaho  
on January 24 and January 31, 1974.

13 4008

CB-7  
JP-A

XXXXXXXXXXXXXXXXXXXX

January 16, 1974

Re: Claim to a Water Right No. 13-4008

Mr. George G. Burbank  
Route #3  
Preston, Idaho 83263

Dear Mr. Burbank:

Attached herewith is departmental receipt No. 12688 in the amount of \$10.00 for the above referenced claim, which was received in this office under the above date.

Very truly yours,

NORMAN C. YOUNG  
District Engineer

NCY:MB

Attachment

13. 4008