

OV 24 1983
2445

815

AFFIDAVIT OF PUBLICATION

DEC 9 1983

Department of Water Resources
Eastern District Office

E OF IDAHO,

ty of Bear Lake

ss.

being duly sworn,

ses and says:

at he is the Publisher of THE
3-EXAMINER, a weekly newspaper published at Mont-
pelier, in the County of Bear Lake and State of Idaho; and
said paper has been and is in general circulation in the
vicinity aforesaid, and in the vicinity of Montpelier; that the
advertisement, a copy of which is attached hereto, was pub-
lished in said newspaper once a week for 2 con-
secutive weeks in the regular and entire issue of said paper
during the period and time of publication, and was published
as a newspaper proper and not a supplement; that said
advertisement has been established and regularly published for more
than seventy-eight consecutive weeks prior to the date of
publication of said advertisement.

Such notice was published in the issue beginning with

November 10, 1983, and ending

the issue of November 17, 1983

Marie B. Nye

11-13-83

scribed and sworn to before me this 21st day

November, 1983.

Notary Public, Residing at Montpelier, Idaho

Commission Expires Lifetime, 19

LEGAL NO. 244

NOTICE OF CLAIMS TO WATER RIGHTS

The following claim(s) have been filed on
water right(s) created by diversion and
beneficial use:

11-4290

HULME, MELVIN J.
15941 VIEWFIELD AVE., MONTE
SERENO, CA 95030

Source: BLOOMINGTON CREEK trib. to
BEAR RIVER

Priority Date: 05/01/1877

Diversion Pt: SWNE Sec 26 T 14S R 43E

Use: IRRIGATION (4.20 CFS)

In: NWNW SWNW Sec. 25 T 14S R 43E

SENE Sec. 26 T 14S R 43E FOR 47 ACRES

11-4295

LIBERTY PIPELINE INC.

OVID, ID 83260

Source: SPRING trib. to MILL CREEK

Priority Date: 03/25/1926

Diversion Pt: NWNW Sec. 08 T 13S R 43E

Use: DOMESTIC (0.50 CFS)

In: NWNW Sec. 08 T 13S R 43E

11-4294

LDS CHURCH

BERN WARD, BERN, ID 83220

Source: GROUNDWATER

Priority Date: 08/01/1953

Diversion Pt: NENE Sec 35 T 12S R 43E

Use: DOMESTIC (0.04 CFS)

In: NENE Sec 35 T 12S R 43E

11-4293

BIENZ, RAY & or LOIS

BERN, ID 83220

Source: SPRING trib. to REDPINE CREEK

Priority Date: 09/09/1902

Diversion Pt: NENW Sec 24 T 12S R 43E

Use: STOCKWATER (0.02 CFS)

In: NENW Sec 24 T 12S R 43E

11-4292

BIENZ, RAY & or LOIS

BERN, ID 83220

Source: RED PINE HOLLOW CREEK trib.
to SINKS

Priority Date: 09/09/1902

Diversion Pt: NENW Sec 24 T 12S R 43E

Use: STOCKWATER (0.02 CFS)

In: NENW Sec 24 T 12S R 43E

11-4291

HULME, MELVIN J.

15941 VIEWFIELD AVE., MONTE
SERENO, CA 95030

Source: SPRING trib. to DRY CREEK

Priority Date: 03/25/1884

Diversion Pt: SESW SWSW Sec 28 T 14S R
43E

Use: IRRIGATION (0.02 CFS)

DOMESTIC (0.02 CFS)

In: SWSW SESW Sec 28 T 14 S R 43E SENW

NESW Sec 27 T 14S R 43E FOR 2 ACRES.

Exceptions to a claim may be filed with the
Director, Dept. of Water Resources, 150
Shoup Ave., Shite 15, Idaho Falls, Idaho
83402.

KEN DUNN, Dir.

11-10, 11-17
69 LINES

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

CLAIM TO A WATER RIGHT

Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that RAY Bienz And/or Lois Bienz
(Name of Claimant)
Bern, Idaho 83220 Telephone No. 847-2144
(Mailing Address) (Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

- (1) Date of priority: (When was the water first applied to a beneficial use) Sept 9, 1902

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 is that a claim may be filed on single family domestic use from a ground water source.

- (2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)

Unnamed Spring tributary to Redpine Creek To Sink

- (3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

(cfs, gpd, AFA)	(Domestic, Irrigation, Stock, Etc.)	(Both dates inclusive)	
		(Mo., Day)	(Mo., Day)
Quantity <u>.02 CFS</u>	Use <u>Stock water</u>	Period of Use From <u>1-1</u>	To <u>12-31</u>
Quantity _____	Use _____	Period of Use From _____	To _____
Quantity _____	Use _____	Period of Use From _____	To _____
Quantity _____	Use _____	Period of Use From _____	To _____
Quantity _____	Use _____	Period of Use From _____	To _____

- (4) .02 cfs TOTAL QUANTITY USED.
(cfs, gpd, AFA)

- (5) A) Point of diversion: (Location of point where water is diverted from its source)

NE 1/4 NW 1/4, Sec. 24 Twp. 12-S Rge. 43-E B.M., County of Bear Lake
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. Describe any changes in the system and give the date of the change. Spring is 'Boxed' 3/4" Pipe to Water Trough.

- (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.

T	R	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTAL
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
12-S	43-E	24					X												

No. of acres _____

- B) If water is used for other than irrigation, fully describe that use, being as specific as possible: _____

100 Head livestock watering cattle

NOTE: Include here the type and number of stock watered: _____

- (7) If you are claiming water as a member of an organization, list name of organization: N/A

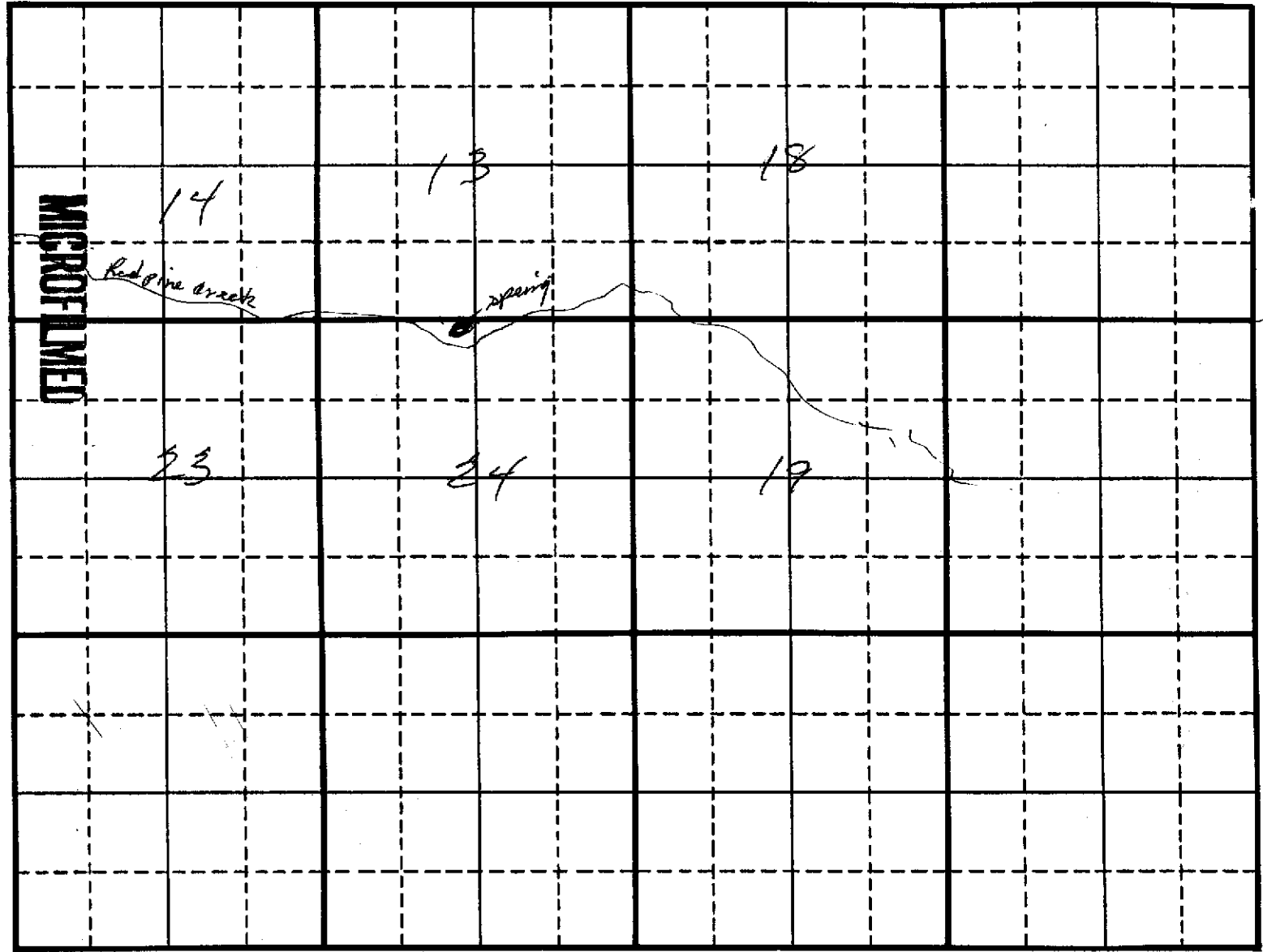
MICROFILMED

(8) Remarks Spring was Developed + Piped into Trough in
Spring (June) 1921 By Rudolph Bienz Jr. + Truman Rigby Jointly

Twp 12-S

R43E

R44E



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 Beauregard) 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 affiant's knowledge.

Sworn to before me this 30th day of June, 1983.

Ray Bienz
(Claimant)
Keith A. Wells
Notary Public
Residing at Montpelier, Id

My commission expires Lifetime

FOR DEPARTMENT USE ONLY

Received by CW Date 6-30-83 Exception filed by: _____ Forwarded to _____ Date _____
Prelim. check by HWS Date 6-30-83 claimant by: _____
\$20.00 fee received by CW Date 6-30-83
Published in Newspaper # 25765
Dates 11/10 - 11/17/83

OV 2 4 1983
2445

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DEC 9 1983

Department of Water Resources
Eastern District Office

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pelier, in the County of Bear Lake and State of Idaho; and
said paper has been and is in general circulation in the
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advertisement, a copy of which is attached hereto, was pub-
lished in said newspaper once a week for con-
secutive weeks in the regular and entire issue of said paper
during the period and time of publication, and was published
as a newspaper proper and not a supplement; that said
advertisement has been established and regularly published for more
than seventy-eight consecutive weeks prior to the date of
publication of said advertisement.

When notice was published in the issue beginning with

November 10, 1983, and ending

the issue of November 17, 1983

by Marie B. Green

Notary Public

scribed and sworn to before me this 31st day

November, 1983

Notary Public, Residing at Montpelier, Idaho

Commission Expires Lifetime, 19.....

LEGAL NO. 244

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Diversion Pt: SWNE Sec 26 T 14S R 43E
Use: IRRIGATION (4.20 CFS)
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SENE Sec. 26 T 14S R 43E FOR 47 ACRES

11-4295

LIBERTY PIPELINE INC.
OVID, ID 83260
Source: SPRING trib. to MILL CREEK
Priority Date: 03/25/1926
Diversion Pt: NWNW Sec. 08 T 13S R 43E
Use: DOMESTIC (0.50 CFS)
In: NWNW Sec. 08 T 13S R 43E

11-4294

LDS CHURCH
BERN WARD, BERN, ID 83220
Source: GROUNDWATER
Priority Date: 08/01/1951
Diversion Pt: NENE Sec 34 T 12S R 43E
Use: DOMESTIC (0.04 CFS)
In: NENE Sec 34 T 12S R 43E

11-4293

BIENZ, RAY & dr LOIS
BERN, ID 83220
Source: SPRING trib. to REDPINE CREEK
Priority Date: 09/09/1902
Diversion Pt: NENW Sec 24 T 12S R 43E
Use: STOCKWATER (0.02 CFS)
In: NENW Sec 24 T 12S R 43E

11-4292

BIENZ, RAY & dr LOIS
BERN, ID 83220
Source: RED PINE HOLLOW CREEK trib.
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Exceptions to a claim may be filed with the
Director, Dept. of Water Resources, 150
Shoup Ave., Suite 15, Idaho Falls, Idaho
83402.

KEN DUNN, Dir.

11-10, 11-17
69 LINES

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WRR100
11-4293

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHTS PROOF READING REPORT

PAGE 1
16-DEC-1985 10:39:24

01 WATER RIGHT NUMBER - 11-4293

02 OLD (D) NUMBER -

LAST NAME

03001 - BIENZ ✓
03002 - BIENZ ✓

FIRST NAME

04001 - RAY ✓
04002 - LOIS ✓

ORIG. OWNER

05001 - C
05002 - C

06 ADD LINE 1 -

07 ADD LINE 2 -

08 ADD LINE 3 -

09 CITY - BERN ✓

10 STATE - ID ✓

11 ZIP - 83220 ✓

12 STAGE - S STATUTORY CLAIM ✓

13 STATUS -

SOURCE

14001 - SPRING ✓

TRIBUTARY OF

15001 - REDPINE CREEK ✓

16 DIVERSION MEANS - BOX, PIPE & TROUGH ✓

17 COUNTY - 07 BEAR LAKE

18 DIVERSION CAPACITY - .000

19 TOTAL DIVERSION RATE - .020 ✓

20 TOTAL DIVERSION VOLUME - .00

21 WATER DISTRICT -

----- DIVERSION POINTS -----														
TRACT	SEC	TWN	RNG	LOT	RFLG	S T R E A M I N D E X F I E L D S								
22001 -	NENW	23001 - 24	24001 - 12S	25001 - 43E	26001 -	27001 -								
				28001 -	0	0.0	0.0	0.0	0.0	0.0	0.0	0	0	0.0

29 NON-IRRIGATION USE - S/100 CATTLE ✓

----- PLACE OF USE -----						
USE CODE / USE	TWN	RNG	SEC	TRACT	ACRES	LOT
30001 - 04 STOCKWATER ✓	31001 - 12S	32001 - 43E	33001 - 24	34001 - NENW	35001 -	36001 -
						TOTAL ACRES: 0

----- WATER USE -----				
PERIOD FROM	PERIOD TO	USE CODE / USE	DIVERSION RATE	DIVERSION VOLUME
37001 - 0101 ✓	38001 - 1231 ✓	39001 - 04 STOCKWATER ✓	40001 - 0.020	41001 - 0.00

42 DECREE PLAINTIFF NAME -

43 DECREE DEFENDANT NAME -

REMARKS

44001 -

APPROVAL CONDITIONS: 45001 -

46 OTHER RIGHTS FOR SAME USE -

----- D A T E S -----		----- D A T E S -----		----- F L A G S -----	
47 PRIORITY	9-SEP-1902 ✓	55 LICENSE	-	63 TRANSFER/AMENDED	-
48 PROOF DUE	-	56 APPL RECEIVED	-	64 DLE/CAREY ACT	-
49 PROOF MADE	-	57 FIELD EXAM MADE	-	65 FLAG_1	-
50 APPROVE/DENIED-	-	58 DECREE	-	66 FLAG_2	-
51 PROTESTED	-	59 START WORK	-	67 FLAG_3	-
52 HEARING	-	60 ORDER SHDW CAUSE	-		
53 VERIFIED	-	61 DATE_1	-		

WRR100
11-4293

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHTS PROOF READING REPORT

PAGE 2
16-DEC-1985 10:39:24

----- D A T E S ----- D A T E S ----- F L A G S -----

54 LAST UPDATE - 7-NOV-1983

62 DATE_2 -

3/18/86
VERIFIED JKN

January 11, 1984

RE: Claim to a Water Right No. 11-4293 & 11-4292 BIENZ

Keene K. Rigby
Box 158
Montpelier, ID 83254

Dear Mr. Rigby:

We have received the exception dated December 29, 1983, 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 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
Eastern Regional Supervisor

RDC:cw

cc: IDWR - State Office

January 11, 1984

RE: Claim to Water Right No. 11-4292 & 11-4293

Ray &/or Lois Bienz
Bern,
Idaho 83220

Dear Claimant:

Enclosed please find a copy of the exception filed in connection with the above referenced claim. 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.

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Very truly yours,

RONALD D. CARLSON
Eastern Regional Supervisor

RDC:cw

Enclosure

cc: IDWR - State Office

IN THE MATTER OF:)
)
Claim to Water Rights)
)
No. 11-4292 & 11-4293)
)
)
)
State of Idaho)
County of Bear Lake)

AFFIDAVIT

Keene K. Rigby

being first duly sworn,

deposes and says: I would like to file an exception to the claims
filed by Ray &/or Lois Bienz, identified by numbers 11-4292 &
11-4293. The spring identified as the source in claim 11-4293
is on my property. I purchased this land from my father who
purchased it from his father. The spring never was on Bienz's
property. My grandfather put a trough in, in the 1900's and the
excess ran onto Bienz's property. My father Truman W. Rigby filed
claim to this spring in 1976 with your Department under Claim No.
11-4054. In 1977, I developed the spring for my use on my property.
Previous to that time the spring had not been put to beneficial use
by the Bienz property owner since previous to 1960 to my knowledge.
I have developed the spring, all the water is being used for my
purposes. He has not had excess on his land since previous to 1960.
The few years before 1977 the spring was nothing but a damp spot
on the side of the hill. It didn't run more than a gallon every
10 minutes on the surface, if that. Enclosed please find a copy
of the deed claiming that the right to the waters of Red Pine Canyon
and Springs. This is recorded in Bear Lake County Courthouse. I
realize that this is no right to water but it will establish my
claim on this date.

Keene K. Rigby Box 158
(Signature) Montpelier

Subscribed and sworn to before me this 29th day of Dec, 1987

Colleen Gray
(Notary Public)

Residing at Idaho Falls, Idaho
My Commission Expires 6-15-88

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

150 Shoup Ave., Suite 15
Idaho Falls, Idaho 83402
(208) 525-7161

NOVEMBER 28, 1983

RAY BIENZ
LOIS BIENZ
BERN

ID 83220

RE: Claim No. 11-4293

Dear Claimant:

The Department of Water Resources has completed the advertising of your claim to a water right, and no further action is authorized under Section 42-243 and 42-244, IDAHO CODE. Your claim will be retained in our files and will be available at any time for use by you or the court.

The filing and advertising of the claim does not confirm the water right claimed, but will serve to record and preserve 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 with the claim, you may have that information or evidence added at any time. Please refer to the claim identification number when corresponding with this office.

We are enclosing a copy of your claim for your records. If you have questions, or if this office may be of further assistance, please feel free to contact us.

Yours truly,

RONALD D. CARLSON
Eastern Region Supervisor

Enclosure

MICROFILMED



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

A. Kenneth Dunn
Director

150 Shoup — Suite 15
Idaho Falls, Idaho 83402
(208) 525-7161

November 29, 1983

RE: Claim to a Water Right No. 11-4290 HULME
11-4291 "
11-4292 BIENZ
11-4293 "
11-4295 LIBERTY PIPELINE
11-4294 LDS CHURCH

News Examiner
P.O. Box 278
Montpelier, ID 83254

Gentlemen:

Would you please submit an affidavit of publication and certified bill in connection with the above referenced application(s). The legal notice was to have been published in your paper on November 10 and 17, 1983.

Your cooperation in this matter is greatly appreciated.

Very truly yours,

COLLEEN WRAY
Adm. Secretary

MICROFILMED

State of Idaho
Department of Water Resources

CLAIM ANALYSIS SHEET

INITIAL REVIEW BY: HWS

Right Number 11 4293 Applicant Ray Brenz

NOTE: IF ANY OF THE ITEMS BELOW ARE MISSING, THE CLAIM IS INCOMPLETE AND MUST BE RETURNED IMMEDIATELY TO THE CLAIMANT ALONG WITH THE APPROPRIATE COVER LETTER.

CHECK:

- ☒ Name and address.
 - ☒ Date of priority. (Check for a date past the mandatory filing dates.) (One date only.)
 - ☒ Source.
 - ☒ Quantity, use, period.
 - ☒ Point(s) of diversion.
 - ☒ Location of use.
 - ☒ Signature/notarization/fee.
- Nov 28, 1983

FINAL REGIONAL PROCESSING REVIEW:

- ☒ Affidavit of publication received.
- ☒ Claim published correctly.
- ☒ Exceptions processed.

By Ernest Carlson Date Dec 13, 1983

STATE OFFICE PROCESSING:

- ☒ Claim review complete.

By PC Date 12/15/83

RECEIVED
NOV 28 1983
DEPT. OF WATER RESOURCES
Department of Water Resources

11 4293

[illegible]

11-4293

BIENZ, RAY & for LOIS

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Source: SPRING trib. to REDPINE CREEK

Priority Date. 09/09/1902

Diversion Pt. NENW Sec 24 T 125 R 43E

Use. STOCKWATER (0.02 CFS)

In. NENW Sec 24 T 125 R 43E

MICROFILMED