

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)

A. Subcase 45-81/45-82/45/75
(insert water right number) 4580.8,

Case No. 39576)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Charles M Rayton or ELIZATH PAYTON

Address: 495 N Lincoln.

Only Idaho 83346.

Daytime Phone: 208 362,3460

Name & Address of Attorney, if any:

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Charles M Rayton.

Address: 495 N Lincoln.

Only Idaho
83346

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**

Should be: _____

2. ☐ **Source**

Should be: _____

3. ☐ **Quantity**

Should be: _____

4. ☐ **Priority Date**

Should be: January 1 to Dec. 31

5. ☐ **Point(s) of Diversion**

Should be: Crown of 215 North Lincoln and Poplar,

6. ☐ **Instream Flow Description**

Should be: _____

7. ☐ **Purpose(s) of Use**

Should be: _____

8. ☐ **Period of Year**

Should be: _____

9. ☐ **Place of Use**

Should be: T135 R22E 533 ~~40~~ 40 Acres Total,

11. **I object because:**

☐ This water right should not exist.

☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S): over

F.

VERIFICATION (Must be Completed)

RECEIVED

State of Nebraska)

County of Douglas)ss.

DEC 23 2004

DEPARTMENT OF
WATER RESOURCES

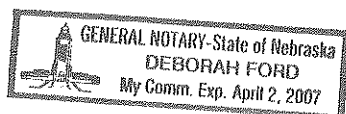
Charles M Payton, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

Charles M Payton
(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: December 17, 2004



Deborah Ford
Notary Public for Nebraska
Residing at: Omaha
My Commission Expires: 4-2-07

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on 12-18-04, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

Name: Charles M. Rayton
Address: 495 N. Lincoln
Cooley Idaho 83460

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

Charles M. Rayton
Signature of Objector or attorney
mailing on Objector's behalf

3111 Tucker # 34
Omaha, NE. 68112

To whom it may concern,

Concerning point of diversion. It will compromise our water rights to move it.

With the help of Mr. Holmes and our lawyer we wrote up a rotation agreement that designated the point of diversion for each user that was satisfactory with all the water users of Birch Creek, 45B. There are about forty (40) users. By moving the points of diversion it would jeopardize our rotation agreement and the delivery of the water.

The water is in the old channel when there is as much as twelve to fifteen hundred inches. The whole stream goes into the cement ditch when the water gets so low. This usually occurs between April and November. It travels along the cement ditch for about three miles then back into the old channel and delivered to the users.

Coming down the cement ditch and the old channel there are five points of diversion now. Each point has a measuring device so the water is measured correctly. My point of diversion is at the corner of Poplar St. and Lincoln St. My point of diversion has been at this same place for sixty years, that I know of, and the water deeded to this property since 1872. We also have a livestock watering right.

The time of use for my rights is between January 1 and December 31 each year. In an agreement with the Canal Company, they agree to take the high water run off when possible and their ditch isn't full of snow so that they can't deliver it to the reservoir, they don't want it in their canal system, so we run it on our land.

Changing the point of diversion would interfere with the rotation agreement and make it almost impossible for the people in town, who have had water rights on their lots and gardens for all these years, to make best use of the water.

Thank you very much.

Sincerely Yours

Charles M Payton
Elizabeth Payton

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 45-92A
NAME AND ADDRESS: ELIZABETH PAYTON
495 N LINCOLN
OAKLEY ID 83346

CHARLES M PAYTON
495 N LINCOLN
OAKLEY ID 83346

SOURCE: CRITCHFIELD SPRINGS TRIBUTARY: BIRCH CREEK

QUANTITY: 2.000 CFS
The amount of water diverted under this water right may not exceed 33.3% or 1/3 of the stream flow of Critchfield Springs at the point of diversion described below at any given time. This water right shall not provide more than .02 cubic feet per second per acre at any time.

PRIORITY DATE: 05/04/1881

POINT OF
DIVERSION: T14S R22E S14 SESESE Rediversion Within CASSIA County
T15S R23E S28 NWNWE Injection Within CASSIA County
T15S R23E S33 SWSNW Within CASSIA County

WATER DIVERTED UNDER THIS RIGHT IS EXCHANGED BY INJECTING WATER
DIVERTED UNDER THIS RIGHT INTO BIRCH CREEK AT THE POINT OF INJECTION
DESCRIBED ABOVE, AND DIVERTING AN EQUAL AMOUNT FROM BIRCH CREEK AT
THE POINT OF REDIVERSION DESCRIBED ABOVE.

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 11/15	2.000 CFS

PLACE OF USE: IRRIGATION Within CASSIA County

T13S R22E S33	SWNW	33.0	T13S R22E S33	NWSW	1.5
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34.5 ACRES TOTAL

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A
COMBINED TOTAL OF 34.5 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS.: 45-80G, 45-81G, 45-82G, & 45-92A.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF RE-DIVERSION
PURSUANT TO SECTION 42-1425, IDAHO CODE.

USE OF THIS RIGHT IS COMBINED WITH WATER FROM OAKLEY CANAL CO.

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IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 45-82G

NAME AND ADDRESS: CHARLES M PAYTON
495 N LINCOLN
OAKLEY ID 83346

ELIZABETH PAYTON
495 N LINCOLN
OAKLEY ID 83346

SOURCE: BIRCH CREEK

TRIBUTARY: GOOSE CREEK

QUANTITY: 0.250 CFS

PRIORITY DATE: 12/05/1882

POINT OF
DIVERSION: T14S R22E S14 SESESE Within CASSIA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 11/15	0.250 CFS

PLACE OF USE: IRRIGATION Within CASSIA County

T13S R22E S33	SWNW	33.0	T13S R22E S33	NWSW	1.5
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34.5 ACRES TOTAL

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A
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COMBINED RIGHT NOS.: 45-80G, 45-81G, 45-82G, & 45-92A.

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the definition of the rights or for the efficient administration of the water
rights as may be ultimately determined by the Court at a point in time no
later than the entry of a final unified decree. Section 42-1412(6), Idaho
Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

THIS RIGHT IS A SPLIT FROM FORMER RIGHT 45-82E.

USE OF THIS RIGHT IS COMBINED WITH WATER FROM OAKLEY CANAL CO.

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 45-81G

NAME AND ADDRESS: CHARLES M PAYTON
495 N LINCOLN
OAKLEY ID 83346

ELIZABETH PAYTON
495 N LINCOLN
OAKLEY ID 83346

SOURCE: BIRCH CREEK

TRIBUTARY: GOOSE CREEK

QUANTITY: 0.150 CFS

PRIORITY DATE: 04/01/1881

POINT OF
DIVERSION: T14S R22E S14 SESESE Within CASSIA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 11/15	0.150 CFS

PLACE OF USE: IRRIGATION Within CASSIA County

T13S R22E S33	SWNW	33.0	T13S R22E S33	NWSW	1.5
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34.5 ACRES TOTAL

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A
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Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

THIS RIGHT IS A SPLIT FROM FORMER RIGHT 45-81E.

USE OF THIS RIGHT IS COMBINED WITH WATER FROM OAKLEY CANAL CO.