

06/10/2002

IDAHO DEPARTMENT OF WATER RESOURCES  
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 29-13338  
NAME AND ADDRESS: DOWNATA RANCH & RECREATION INC  
C/O DARLENE DOUNS  
PO BOX 185  
DOWNEY ID 83234

SOURCE: HOT SPRINGS  
QUANTITY: 1.94 CFS  
50.0 AFY

TRIBUTARY:

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A TOTAL  
COMBINED DIVERSION RATE OF 1.94 CFS. COMBINED RIGHT NOS.: 29-00491A,  
29-00491B, 29-13338

FACILITY VOLUME 1 AF.

PRIORITY DATE: 08/02/1929

POINT OF DIVERSION:

T12S R37E S12 SWSW Within BANNOCK County

PURPOSE AND  
PERIOD OF USE:

| <u>PURPOSE OF USE</u>                       | <u>PERIOD OF USE</u> | <u>QUANTITY</u> |
|---------------------------------------------|----------------------|-----------------|
| RECREATION                                  | 01/01 12/31          | 1.940 CFS       |
| RECREATION FROM STORAGE                     | 01/01 12/31          | 50.00 AFY       |
| HEATING                                     | 01/01 12/31          | 1.940 CFS       |
| RECREATION STORAGE                          | 01/01 12/31          | 50.00 AFY       |
| HEATING IS FOR HOT SPRINGS RESORT BUILDINGS |                      |                 |
| RECREATION IS FOR HOT SPRINGS POOLS         |                      |                 |

PLACE OF USE:

RECREATION Within BANNOCK County

T12S R37E S12 SWSW

RECREATION FROM STORAGE Within BANNOCK County

T12S R37E S12 SWSW

HEATING Within BANNOCK County

T12S R37E S12 SWSW

RECREATION STORAGE Within BANNOCK County

T12S R37E S12 SWSW

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: Beneficial Use

SAME WATER AS  
29-491A, 29-491B

use in the  
Hot springs

Resort for  
pools and heating  
buildings.

pools hold about  
1 AF/A total.

water is storage  
and then flushed  
and then refilled

# Idaho Department of Water Resources Receipt

Receipt ID E027710

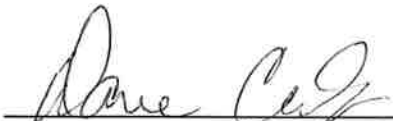
Payment Amount \$243.00 Date Received 5/2/2002 7:22:19 AM Region Eastern Status ☐  
Payment Type Check Check Number 2780

Payer ROGER THOMPSON

Comment 29-02491, 29-13338

## Fee Detail

| Amount   | Description             | Fund | FD | PCA   | SO   |
|----------|-------------------------|------|----|-------|------|
| \$243.00 | ADJUDICATION FILING FEE | 0337 |    | 43503 | 1155 |

  
Signature Line (Dept. Representative)

02/20/2003

Dave

**NOTICE OF ERROR  
REPLY**

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

**YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: April 21, 2003**

Water right number: 29-13338

DOWNATA RANCH & RECREATION INC

C/O DARLENE DOUNS

PO BOX 185

DOWNEY ID 83234

Telephone Number: (208) 897-5736

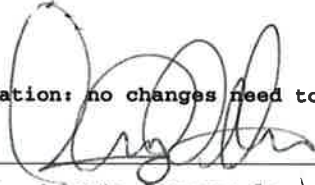
1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

2. Describe the changes you wish to make in the proposed recommendation:

3. Give a brief explanation as to why you disagree with these portions:

☒ I AGREE with this proposed recommendation: no changes need to be made.

DATE: 21 APR 2003

SIGNATURE: 

Please print your name: B. GARY PETERSON ATTY FOR DOWNATA RANCH & RECREATION, INC.

IDWR Regional Office, 900 N Skyline Dr Ste A, Idaho Falls, ID 83402, 2085257161

RECEIVED  
APR 21 2003  
Department of Water Resources  
Eastern Region



State of Idaho

## DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

May 28, 2002

GARY PETERSON  
BEARD ST CLAIR GAFFNEY MCNAMARA CALDER  
2105 CORONADO  
IDAHO FALLS ID 83404

RE: WATER RIGHTS 29-491A, 29-491B, 29-2293, 29-2396, 29-2491, 29-2549,  
29-4074, 29-7406, 29-13338

Dear Mr. Peterson:

On May 8, 2002, our office received your letter requesting we add D. Gary Peterson, Roger H. Thompson and Marilyn Gunnell to the above referenced water rights. I have made the change and copies of the claims are enclosed for your files

Sincerely,

Jennifer Crabtree  
Technical Records Specialist

Enclosure

cc: Roger H. Thompson  
Marilyn Gunnell



THOMPSON  
MICHIE  
ASSOCIATES,  
INC.

May 6, 2002

Mr. Dave Carlson  
Idaho Department of Water Resources  
Eastern District Office  
900 North Skyline Drive  
Idaho Falls, ID 83402

RECEIVED  
MAY 08 2002  
Department of Water Resources  
Eastern Region

Re: Downata Ranch & Recreation Company  
Water Rights

Dear Mr. Carlson:

I was advised by Mr. Gary Peterson, Esquire, to increase the number of persons who should be receiving notices with respect to the water rights of Downata Ranch & Recreation Company.

Consequently, with respect to SRBA water rights nos. **29-13338**, **29-2491**, **29-02549**, **29-00491**, **29-07406**, **29-02396**, **29-04074**, **29-02293**, and any other water rights appearing in the name of Downata Ranch and Recreation Company, please add the following names (and addresses) of people to receive notices, to the extent they do not already appear:

D. Gary Peterson, Esquire  
Beard St. Clair Gaffney McNamara Calder  
2105 Coronado  
Idaho Falls, Idaho 83404-7495

Roger H. Thompson, Esquire  
Thompson Michie Associates Inc.  
111 East Broadway, Suite 1200  
Salt Lake City, UT 84111

Marilyn Gunnell  
1740 Melwood Drive  
Glendale, CA 91207

Sincerely,

  
Roger H. Thompson

cc. Gary Peterson, Esquire

111 EAST  
BROADWAY  
SUITE 1200  
SALT LAKE CITY  
UTAH 84111  
801 532-6143  
FAX 801 532-6159  
TRUSTEES  
OF  
AMERICA'S  
REAL  
ESTATE  
MANAGEMENT  
CONSULTING  
MARKETING

ROGER H. THOMPSON  
EXECUTIVE VICE PRESIDENT  
AND GENERAL COUNSEL

## IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 29-13338

WATER RIGHT NUMBER: 29-13338

| <u>Owner Type</u> | <u>Name and Address</u>                                                                                                                         |
|-------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|
| Current Owner     | DOWNATA RANCH & RECREATION INC<br>C/O DARLENE DOUNS<br>PO BOX 185<br>DOWNEY, ID 83234<br>(208) 897-5736                                         |
| Attorney          | DOWNATA RANCH & RECREATION INC<br>C/O D GARY PETERSON<br>BEARD ST CLAIR GAFFNEY MCNAMARA CALDER<br>2105 CORONADO<br>IDAHO FALLS, ID 83404       |
| Attorney          | DOWNATA RANCH & RECREATION INC<br>C/O ROGER H THOMPSON<br>THOMPSON MICHIE ASSOCIATES INC<br>111 E BROADWAY STE 1200<br>SALT LAKE CITY, UT 84111 |
| Representative    | DOWNATA RANCH & RECREATION INC<br>C/O MARILYN GUNNELL<br>1740 MELWOOD DR<br>GLENDALE, CA 91207                                                  |

Priority Date: 08/02/1929

Basis: Beneficial Use

Status: Active

| <u>Source</u> | <u>Tributary</u> |
|---------------|------------------|
| HOT SPRINGS   |                  |

| <u>Beneficial Use</u> | <u>From</u> <u>To</u>   | <u>Diversion Rate</u> | <u>Annual Volume</u> |
|-----------------------|-------------------------|-----------------------|----------------------|
| RECREATION STORAGE    | 01/01 to 12/31          |                       | 50.00 AF             |
| RECREATION            | 01/01 to 12/31          | 1.940 CFS             |                      |
|                       | <u>Total Diversion:</u> | 1.940 CFS             | 50.00 AF             |

Location of Point(s) of Diversion

|                |                 |                                 |
|----------------|-----------------|---------------------------------|
| HOT SPRINGS    | SE1/4SW1/4SW1/4 | Sec. 12, Twp 12S, Rge 37E, B.M. |
| BANNOCK County |                 |                                 |

Place of UseRECREATION STORAGE Within BANNOCK County

T12S R37E S12      SWSW

RECREATION Within BANNOCK County

T12S R37E S12      SWSW

Conditions of Approval:



WINSTON V. BEARD  
JOHN G. ST. CLAIR  
MICHAEL D. GAFFNEY  
HARLOW J. McNAMARA  
GREGORY C. CALDER  
JARIN O. HAMMER  
D. GARY PETERSON  
JARED W. ALLEN  
LAURIE BAIRD GAFFNEY  
CHAD A. CAMPOS  
KARI MARIE CAMPOS

May 1, 2002

Dave Carlson  
Idaho Department of Water Resources  
900 North Skyline Drive  
Idaho Falls, Idaho 83402

RE: IDWR filings on Downata thermal water rights and ground water-cooling well

Dear Dave:

Enclosed are the Downata claims we discussed the other day. Roger Thompson has signed them in behalf of the claimant and has also included a check for payment of the filing fees. Mr. Thompson will be sending you a letter requesting that he and our firm be added to the parties to be notified as to future notices and proceedings under the adjudication as to all claims filed by Downata.

I appreciate all of your assistance in helping us to clarify these claims.

Sincerely yours,

D. Gary Peterson

RECEIVED  
MAY 01 2002  
Department of Water Resources  
Eastern Region

145569

AGREEMENT

THIS AGREEMENT MADE AND ENTERED into as of this 2nd day of August, 1929, by and between FIRST NATIONAL BANK OF BOCA CHITO, IDAHO, a National Banking corporation, party of the first part, RAY H. UNDERWOOD and JENNIE UNDERWOOD, his wife, parties of the second part, and ISAAC MARSHALL, parties of the third part, WITNESSETH:

that, whereas, the party of the first part has sold under a contract subject to the deed in the future and upon payment of the purchase price certain real estate of the second part, and,

WHEREAS, it is desired between the parties to this agreement that a portion of the land contracted to be sold by the first party to the second parties be further sold by the first and second parties to the parties of the third part to

and, THEREFORE, for and in consideration of the covenants and agreements made each and to be kept and performed, it is agreed between the parties as follows, to

that the party of the first part with the consent and at the request of the parties of the second part hereby agree to sell and convey to the party of the third part for the consideration recited the following described real property located in Barneock, to wit:

beginning at the southwest corner of Section 12, Township 12 S., R. 37 E., thence North 21.12 feet; thence North 46°44' east, 1400 feet; thence South 43°16' west, 300 feet; thence in a southwesterly direction in a straight line 1490 feet, more or less to a point 80 feet west of the southwest corner of said Section 12; thence East 80 feet to the place of beginning.

or beginning at the southwest corner of Section 12, T. 12 S. R. 37 E., B. M., thence North 21.12 feet; thence north 46°44' East, 1400 feet to the place of beginning; thence continuing north 46°44' east, 1300 feet, more or less to the center line of Marsh Creek; thence following the center line of Marsh Creek in stream to a point 50 feet at right angles to the previous course; thence South 46°44' west, 1300 feet, more or less, to a point 50 feet at right angles to the place of beginning; thence South 43°16' east, 50 feet to the place of beginning."

that the parties of the third part will pay to the party of the first part for the land described, the sum of \$5000.00 payable in the following manner, to wit: at the signing of these presents, \$500.00 October 1st, 1929; \$1000.00 October 1st, 1930; \$1000.00 October 1st, 1931; \$1000.00 October 1st, 1932 and \$1000.00 October 1st, 1933, with interest on all unpaid amounts at the rate of 6% per annum which interest shall be paid annually on the first day of October of each succeeding year and shall be in full of the principal payments. The payment of the sums hereinbefore mentioned by the parties of the third part to the party of the first part shall be credited upon its contract with the parties of the second part.

In addition to the property above described, it is agreed that there is hereby granted to the parties of the third part by the parties of the first and second part an option to purchase one acre of land for a period of five years which said land is described as follows:

beginning at a point 1050 feet Northeasterly on the line hereinbefore described running thence north 100 feet, thence at right angles East 100 feet, thence at right angles South 100 feet to the line on which a point of beginning rests; thence southwesterly along said line to a point of beginning.

provided, however, that if, for any reason the terms of this contract shall be broken and the contract forfeited as hereinafter recited this option shall likewise be forfeited and the said third parties shall pay to the first party an additional sum of \$300.00 payable on the exercise of said option.

It is further agreed that the parties of the third part are to use the property hereinbefore described principally as a bathing resort and they are to have full and complete right to the waters flowing through the above land for bathing and resort purposes only and not for irrigation purposes except as hereinafter provided, provided, however, that the bathing resort pools, ditches and aqueducts controlling said water shall be so constructed and ~~built~~ that after said water shall have served its purpose in said resort, etc., it shall flow into the ditch which is now constructed to and upon the lands of the parties of the first and second part where it may then be used for irrigation and other purposes; provided, however, that the parties of the third part shall have the right to run out said pools at such time as shall be necessary for proper sanitation thereof and if waters are used in the flushing and cleansing of said pools as shall not run into the irrigation ditches of the parties of the first and second part shall be considered a breach of this agreement provided such wastage shall not exceed an amount equal to a continuous flow of one miner's inches and provided further that the parties of the third part may have the use of four miner's inches of said water for irrigation purposes for a period of four hours twice each week.

It is further agreed that there may be installed at the inlet of the pool to be used for bathing purposes a three inch pipe for water for the domestic uses of three families, to wit: the families of the parties of the second part and of the third part.

It is further agreed that all water used for flushing toilets and similar purposes shall come from the pool and the use of the water for such purposes which shall not find its way into the irrigation ditches shall not consider it a breach of this agreement, but the parties of the second part shall have the right to the use of all such water for irrigation purposes and is hereby granted a right of way over the lands above described for a ditch or ditches to make use of such waters.

Reference is hereby made to that certain decree of the District Court of the Fifth Judicial District of the State of Idaho in and for Blaine County wherein William C. Underwood was plaintiff and Alex Marshall was defendant recorded in Book 3 of Judgments page 333 the Records of Blaine County and also that certain decree in the same court in that cause wherein Alex Marshall was plaintiff and William C. Underwood was defendant recorded in Book 3 of Judgments, page 527. It is agreed that except as herein expressly provided otherwise no decrees are not considered modified by this agreement.

It is further agreed between the parties hereto that there is located near the party hereby affected by this sale but upon the lands sold by the party of the first part the party of the second part a private bath house and that the parties of the second part use this bath house for family use only and that aside from the use last mentioned, it is agreed that neither the party of the first part nor the parties of the second part will ever use the water in and around the lands hereinbefore described for bathing or resort purposes either commercially or otherwise but that such right to the use of such waters for a purpose is hereby recognized to be the complete right, subject to the terms of this contract of the parties of the third part.

Time is the essence of this agreement and a failure on the part of the parties of the third part to make the payments as herein recited shall give to the parties of the first and second part the option and right to cancel this agreement and the whole thereof and money which might theretofore have been paid under this agreement shall be forfeited and liquidated damages and all improvements which the parties of the third part might have theretofore placed upon said real estate in the construction of said proposed resort shall likewise be forfeited as liquidated damages and as rent for said property during the term of this contract and upon such forfeiture the parties of the first and second part shall be relieved of and from all obligation in law or in equity to convey the property as described or any part or parcel thereof.

It is further agreed between the parties hereto that if the parties of the second part should pay to the party of the first part all sums owing the said party, prior to the completion of this agreement, said second parties may then receive a deed from the party of the first part and said first party shall thereupon be released from the operation of this contract and the said parties of the second part shall be held to the full performance of a contract in the execution and delivery of the deed hereinafter recited and the acceptance and receipt of the purchase price.

If and when the provisions of this contract shall have been fully paid and discharged, the party of the first part, or the parties of the second part, if they shall have received title from the party of the first part shall make, execute and deliver to the parties of the third part a warranty deed conveying the real estate hereinbefore described over with that particular here upon which the option is given providing said option be exercised and said money paid.

This agreement shall bind the heirs, executors, administrators and assigns of the parties hereto.

THE FIRST NATIONAL BANK, Pocatello, Idaho

C. A. Valentine Pres.  
Party of the first part.

Ray H. Underwood  
Jennie Underwood  
Parties of the second part.

Will Evans  
Isaac Marshall  
Parties of the third part.

\$148

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

IN RE THE GENERAL ADJUDICATION  
OF RIGHTS TO THE USE OF WATER FROM  
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 29-13338  
Date Received: 4/4/2002  
Receipt No:  
Received By: E027710  
DC

**NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW**

1. Name of Claimant(s)

DOWNATA RANCH & RECREATION INC Phone: (208) 897-5736

C/O DARLENE DOUNS  
PO BOX 185  
DOWNEY ID USA 83234

DOWNATA RANCH & RECREATION INC Phone:

C/O D GARY PETERSON  
2105 CORONADO STR  
IDAHO FALLS ID USA 83404

RECEIVED  
MAY 01 2002  
Department of Water Resources  
Eastern Region

2. Date of Priority: 08/02/1929

3. Source: HOT SPRINGS Trib. to:

4. Point of Diversion:

| Township | Range | Section | 1/4 of 1/4 of 1/4 Lot | County  | Type |
|----------|-------|---------|-----------------------|---------|------|
| 12S      | 37E   | 12      | SE SW SW              | BANNOCK |      |

5. Description of diverting works:

concrete vault spring box- pipeline to hot pools and swimming pools

6. Water is used for the following purposes:

| Purpose            | From  | To    | C.F.S.      | (or) A.F.A |
|--------------------|-------|-------|-------------|------------|
| RECREATION         | 01/01 | 12/31 | 1.94        |            |
| RECREATION STORAGE |       |       | 01/01 12/31 |            |
| 50                 |       |       |             |            |

7. Total Quantity Appropriated is:  
1.94 C.F.S. and/or 50 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

| Township | Range | Section | 1/4 | of 1/4 | Lot | Use                | Acres |
|----------|-------|---------|-----|--------|-----|--------------------|-------|
| 12S      | 37E   | 12      | SW  | SW     |     | RECREATION STORAGE |       |
|          |       |         | SW  | SW     |     | RECREATION         |       |

11. Place of use in counties: BANNOCK

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used:

14. Remarks:

filed as 29-00492a in error reciept e014030  
this right is based on the the Hot Springs  
water under decreed rights 29-00491A and B.  
this is the use of the same water in the resort for  
commercial/recreation.

15. Basis of Claim: Beneficial Use

16. Signature(s)

*Roger H. Thynn*

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do not wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: \_\_\_\_\_

For Organizations:

I do solemnly swear or affirm that I am SECRETARY & TREASURER of \_\_\_\_\_

Title

DONNATA RANCH & RECREATION, that I have signed the foregoing

Organization

document in the space below as SECRETARY & TREASURER of \_\_\_\_\_

Title

DONNATA RANCH & RECREATION and that the statements contained in the

Organization

foregoing document are true and correct.

*Roger H. Thynn*  
Signature of Authorized Agent

SECRETARY & TREASURER, DONNATA RANCH & RECREATION  
Title and Organization

APRIL 17, 2002

Date

State of Idaho Utah )  
County of Salt Lake ) SS.

Subscribed and sworn (or affirmed) before me this 17th day  
of April 2002

*Becky Cutler-Gunn*

Notary Public

Residing at Salt Lake City, Utah

My commission Expires 7-14-2004

