

STATE OF OREGON  
COUNTY OF WHEELER  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

LOU GIOTTONINI  
PO BOX 13  
WEDDERBURN OR 97491

confirms the right to store water perfected under the terms of Permit R-14792. The amount of water used to which this right is entitled is limited to the amount used beneficially, and shall not exceed the amount specified, or its equivalent in the case of rotation, measured at the point of diversion from the source. The specific limits and conditions of the use are listed below.

APPLICATION NUMBER: R-87213

SOURCE: ROWE CREEK, TRIBUTARY TO JOHN DAY RIVER

STORAGE FACILITY: A RESERVOIR

PURPOSE or USE: MULTIPLE PURPOSE

MAXIMUM STORAGE VOLUME: 2.83 ACRE FEET

WATER MAY BE APPROPRIATED FOR STORAGE DURING THE PERIOD: NOVEMBER 1 THROUGH APRIL 30

DATE OF PRIORITY: JUNE 30, 2008

DAM LOCATION / POINT OF DIVERSION

| Twp | Rng  | Mer | Sec | Q-Q   | Measured Distances                                            |
|-----|------|-----|-----|-------|---------------------------------------------------------------|
| 9 S | 21 E | WM  | 22  | SE NW | 2550 FEET SOUTH AND 1600 FEET EAST FROM NW CORNER, SECTION 22 |

The area submerged by this reservoir is as follows:

| Twp | Rng  | Mer | Sec | Q-Q   |
|-----|------|-----|-----|-------|
| 9 S | 21 E | WM  | 22  | SE NW |

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied. In addition, under ORS 537.260 any person with an application, permit or water right certificate subsequent in priority may jointly or severally contest the issuance of the certificate at any time before it has issued, and after the time has expired for the completion of the appropriation under the permit, or within three months after issuance of the certificate.

## CONDITIONS OF USE

### 1. Measurement, recording and reporting:

A. The water user shall maintain the staff gage in working order and allow the watermaster access to the gage; provided however, where any gage is located within a private structure, the watermaster shall request access upon reasonable notice.

B. The Director may require the water user to keep and maintain a record of the amount (volume) of water used and may require the water user to report water use on a periodic schedule as established by the Director. In addition, the Director may require the water user to report general water use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the water user to submit alternative reporting procedures for review and approval.

2. The storage of water allowed herein is subject to the installation and maintenance of an outlet pipe (with a minimum diameter of 8" for any in-channel reservoir). This requirement may be waived if the Department determines other means have been provided to evacuate water when necessary.
3. The water user shall pass all live flow outside the storage season described above.
4. The Director may require the water user to measure inflow and outflow, above and below the reservoir respectively to ensure that live flow is not impeded outside the storage season. Measurement devices and their implementation must be acceptable to the Director, and the Director may require that data be recorded on a specified periodic basis and reported to the Department annually or more frequently.
5. The water user shall not construct, operate or maintain any dam or artificial obstruction to fish passage in the channel of the subject stream without providing a fishway to ensure adequate upstream and downstream passage for fish, unless the water user has requested and been granted a fish passage waiver by the Oregon Fish and Wildlife Commission. The water user is hereby directed to contact an Oregon Department of Fish and Wildlife Fish Passage Coordinator, before beginning construction of any in-channel obstruction.
6. This right allows an annual appropriation (not to exceed the specified volume). This right does not provide for the appropriation of water for out-of-reservoir uses, the maintenance of the water level or maintaining a suitable freshwater condition. If any water is to be used for out-of-reservoir purposes, a secondary water right is required. If any additional live flow is to be appropriated to maintain either the water level or a suitable freshwater condition, an additional water right is required.

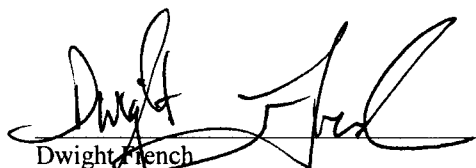
7. Use of water under this permit is contingent on designated scenic waterway flows being met downstream. The user is required to monitor streamflow at John Day River at McDonald Ferry, OR, gage 14048000, and discontinue diversion when the flows specified below are unmet. At the discretion of the Director, the location and nature of streamflow monitoring required to protect scenic waterway flows is subject to change. In addition, the Watermaster may regulate storage under this right if it is determined by the Department that the flows listed below are unmet.

| John Day Scenic Waterway |                           |
|--------------------------|---------------------------|
| Month                    | Minimum Bypass Flow (cfs) |
| November                 | 500                       |
| December                 | 500                       |
| January                  | 500                       |
| February                 | 1000                      |
| March                    | 2000                      |
| April                    | 2000                      |

8. Failure to comply with any of the provisions of this right may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the right.
9. This right is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.
10. By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.
11. The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.
12. The use may be restricted if the quality of downstream waters decreases to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows.

**This certificate is issued to correct a scrivener's error by omission of the condition requiring fish passage and supersedes certificate 86194.**

Issued NOV 18 2015.

  
Dwight French  
Water Right Services Administrator, for  
Thomas M. Byler, Director  
Oregon Water Resources Department