

STATE OF OREGON

COUNTY OF POLK

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

ROSE ROCK WEST 2 LLC  
PO BOX 700  
DUNDEE OR 97115

The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: R-86762

SOURCE OF WATER: GIBSON GULCH, TRIBUTARY TO BRUSH COLLEGE CREEK AND  
RUNOFF, A TRIBUTARY OF GIBSON GULCH

STORAGE FACILITY: POPCORN HILL RESERVOIR 1, ENLARGMENT OF RESERVOIR  
CONSTRUCTED UNDER PERMITS R-1453 AND R-1763

PURPOSE OR USE OF THE STORED WATER: IRRIGATION, AGRICULTURE, COMERCIAL  
USE, AND INDUSTRIAL USE

MAXIMUM VOLUME: 9.65 ACRE-FEET

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

DATE OF PRIORITY: FEBRUARY 9, 2007

THE MAXIMUM HEIGHT OF THE DAM SHALL NOT EXCEED 21.0 FEET

DAM LOCATION:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
7 S	4 W	WM	12	NW SE	435 FEET SOUTH AND 385 FEET EAST FROM C 1/4 CORNER, SECTION 12

THE AREA TO BE SUBMERGED BY THE RESERVOIR IS LOCATED AS FOLLOWS:

Twp	Rng	Mer	Sec	Q-Q
7 S	4 W	WM	12	NE SW
7 S	4 W	WM	12	NW SE

**Measurement Devices and Recording/Reporting of Annual Water Storage Conditions:**

- A. Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level and dead-pool storage shall be installed in the reservoir. If no dead-pool, the gage must measure the full depth of the reservoir. The permittee shall maintain the device in good working order.

- B. The permittee shall allow the watermaster access to the device; provided however, where any device is located within a private structure, the watermaster shall request access upon reasonable notice.
- C. The Director may require the permittee to keep and maintain a record of the volume of water stored, and may require the permittee to report water-storage on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water-use information, the periods of water use and the place and nature of use of water under the permit.
- D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

A fishway to ensure adequate upstream and downstream passage for fish is required for any in-channel obstruction, unless the permittee has requested and been granted a fish passage waiver by the Oregon Fish and Wildlife Commission.

### **RESERVOIR CONDITIONS**

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.

The permittee shall pass all live flow outside the storage season described above.

The Director may require the 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.

This permit allows an annual appropriation (not to exceed the specified volume). This permit 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.

Notwithstanding that Oregon Department of Fish and Wildlife has made a determination that fish screens are not necessary at the time of permit issuance, the permittee may be required in the future to install, maintain, and operate fish-screening devices to prevent fish from entering the proposed diversion.

### **DAM CONDITIONS**

No embankment fill shall be placed until preparation of the foundation and the excavation of the core trench has been completed and examined in entirety by the engineer of record, or by the Water Resources Dam Safety Engineer, or both.

The constructed works shall conform to the approved plans and specification on file with the Water Resources Dam Safety program. The engineer of record shall notify the Water Resources Dam Safety program before making any significant change to the approved design prior to or during construction.

No water shall be stored until the Water Resources Department receives written confirmation from the engineer of record that construction has been completed in accordance with the approved plans and specifications. Or, if final construction deviates from the approved design a set re producible as constructed drawings, including a revised reservoir capacity graph or table, must accompany the engineer's letter of completion.

Routine maintenance or repair of the dam, its spillway and all appurtenant structures shall be performed to include, but not limited to, removal of woody or high vegetation from the embankment, abutments and spillway, removal of debris from the reservoir, and annual or more frequent cycling of the valve or gate for the low level conduit.

Repair or replacement of defective or worn out equipment (including but not limited to gates, valves, and conduits) shall be completed as needed to keep the dam safe.

If the dam is enlarged, modified or otherwise altered, this work must be based on design plans and specification prepared by a Registered Professional Engineer licensed in Oregon. These plans must be approved by the Water Resources Dam Safety program prior such alterations of the dam, its spillway or any appurtenant structure(s).

No valve shall be installed at the downstream end of the low level conduit, and the low level conduit shall not be operated in a pressurized condition unless the dam has been designed for pressurized operation by the design engineer. There must be operations manual for the dam that describes pressurized operation, and necessary inspections of pressurized conduits for the dam.

If used, flashboards shall be maintained in good condition, replaced as needed and removed as necessary prior to potential winter storms, or unusual rainfall or snowmelt events at any time of the year.



### STANDARD CONDITIONS

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR 635-415, shall be followed.

The use may be restricted if the quality of the source stream or downstream waters decreases to the point that those waters no longer meet state or federal water quality standards due to reduced flows.

This permit 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.

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.

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.

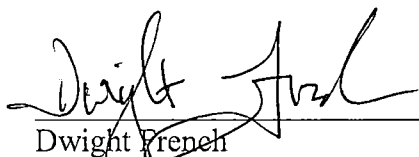
Construction of the water system shall begin within five years of the date of permit issuance. The deadline to begin construction may not be extended. This permit is subject to cancellation proceedings if the begin construction deadline is missed.

The permitted volume of water shall be stored within ten years of the date of permit issuance. If additional time is needed, the permittee may submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after storage of water, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner.

Issued

February 8, 2018

A handwritten signature in black ink, appearing to read "Dwight French", is written over a horizontal line.

Dwight French

Water Right Services Division Administrator, for  
Thomas M. Byler, Director