

**Oregon Water Resources Department
Water Right Services Division**

Water Rights Application
Number S-88227

Final Order

Appeal Rights

This is a Final Order in other than 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.

This statement of judicial review rights does not create a right to judicial review of this order, if judicial review is otherwise precluded by law. Where no changes have been made to a Proposed Final Order on a water right application and no protests have been filed during the protest period, the Final Order is not subject to judicial review.

Findings of Fact

1. On May 9, 2016, Louis P Scaparo and Anita Scaparo submitted an application to the Department for a water use permit.
2. The Department issued a Proposed Final Order on September 26, 2017.
3. The protest period closed November 10, 2017, and no protest was filed.

Conclusions of Law

1. The proposed use would not impair or be detrimental to the public interest pursuant to ORS 537.153(2).

Order

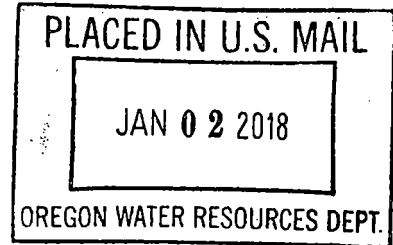
Application S-88227 is therefore approved as described in the Proposed Final Order. **Upon resolution of the outstanding issues described below, a permit shall be issued authorizing the proposed water use. Prior to issuance of a permit, outstanding recording fees in the amount of \$520 must be paid, and a copy of an easement or other written authorization to access lands not owned by the applicant must be submitted.**

Failure to meet this requirement within 60 days from the date of this Final Order may result in the proposed rejection of the application.

If you need to request additional time, your written request should be received in the Salem office of the Department within 60 days of this Final Order. The Department will evaluate the request and determine whether or not the request may be approved.

DATED December ²⁹, 2017


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



This document was prepared by Kim French. If you have any questions about any of the statements contained in this document I can be reached at Kim.R.French@oregon.gov or 503-986-0816.

If you have previously filed a protest and want to know its status, please contact Patricia McCarty at 503-986-0820.

If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801.

Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266, Fax: 503-986-0901.

DRAFT

This is not a permit.

DRAFT

STATE OF OREGON

COUNTY OF JOSEPHINE

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

LOUIS P SCAPARO
ANITA SCAPARO
994 FERRY RD
GRANTS PASS, OR 97526

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

APPLICATION FILE NUMBER: S-88227

SOURCE OF WATER: LOST CREEK RESERVOIR, CONSTRUCTED UNDER PERMITS R-8141 AND R-8142, TRIBUTARY OF ROGUE RIVER; AND ROGUE RIVER, TRIBUTARY OF PACIFIC OCEAN

PURPOSE OR USE AND MAXIMUM RATE/VOLUME: 4.5 ACRE-FEET FOR IRRIGATION OF 1.0 ACRE (OR AS FURTHER LIMITED BY THE CONTRACT); AND 0.005 CUBIC FOOT PER SECOND FOR HUMAN CONSUMPTION (INDOOR USE ONLY: DRINKING, INDOOR AND SANITATION), NOT TO EXCEED 500 GALLONS PER DAY

PERIOD OF USE: IRRIGATION - APRIL 1 THROUGH OCTOBER 31
HUMAN CONSUMPTION - YEAR-ROUND

DATE OF PRIORITY: MAY 9, 2016

POINT OF DIVERSION LOCATION: NW ¼ SE ¼, SECTION 2, T36S, R7W, W.M.; 945 FEET SOUTH AND 1490 FEET WEST FROM E1/4 CORNER, SECTION 2

The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second and 2.5 acre-feet for each acre irrigated during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

SE ¼ NE ¼ 1.0 ACRE
SECTION 2
TOWNSHIP 36 SOUTH, RANGE 7 WEST, W.M.

Measurement Devices, and Recording/Reporting of Annual Water Use Conditions:

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter at each point of diversion. 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 permittee shall keep a complete record of the volume of water diverted each month, and shall submit a report which includes water-use measurements to the Department annually, or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water-use information, including 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.

The use of water under this right is subject to the terms and conditions of contract No. 169E101895 , or a satisfactory replacement, between the Bureau of Reclamation and the permittee, a copy of which is on file in the records of the Water Resources Department.

The permittee shall install, maintain, and operate fish screening and by-pass devices consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion while by-pass devices provide adequate upstream and downstream passage for fish. The required screen and by-pass devices are to be in place and functional, and approved in writing by ODFW prior to diversion of any water. The permittee may submit evidence in writing that ODFW has determined screens and/or by-pass devices are not necessary.

Diversion of water under this permit is contingent on designated scenic waterway flows being met downstream. The user is required to monitor streamflow at Rogue River near Agness, OR, gage 14372300, and discontinue diversion when the flows specified below are unmet at the gage. 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 diversion under this right if it is determined by the Department that the flows listed below are unmet at the gage.

Rogue River Scenic Waterway	
Month	Minimum Flow (cfs)
January	3500
February	3500
March	3500

April	3500
May	3000
June	2700
July	2000
August	2400
September	2400
October	1600
November	3500
December	3500

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.

Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party to such rotation plan, the watermaster shall distribute the water according to such agreement.

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.

Complete application of the water shall be made within five years of the date of permit issuance. If beneficial use of permitted water has not been made before this date, 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 making beneficial use 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

DRAFT - THIS IS NOT A PERMIT

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