



**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	25 E	WM	28	SW NE	2.9
1 S	25 E	WM	28	NE NW	2.5
1 S	25 E	WM	28	SE NW	0.5
1 S	25 E	WM	28	NW SE	0.1
<b>Total Acres</b>					<b>6.0</b>

4. Certificate 87715 does not specify the irrigation season. However, the Willow Creek Decree establishes the irrigation season for this right as April 1 through June 10.
5. Certificate 87715 does not specify a rate and duty limit per acre. However, the Willow Creek Decree specifies the rate limit as one-sixtieth CFS per acre. The decree does not specify a duty limit. However, the Watermaster has identified that under this right water may be diverted at a continuous rate for the existing use considering beneficial use without waste. Approximately, 14.1 Acre-Feet (AF) could be used beneficially.
6. The portion of the second right to be leased is as follows:

**Certificate:** 185 in the name of Andrew Reaney (perfected under the Willow Creek Decree, of record at Salem, in the Order Record of the Board of Control of the State of Oregon in Volume 1, at Page 73)

**Use:** Irrigation of 8.0 acres

**Priority Date:** April, 1890

**Quantity:** **Rate:** 0.13 CFS

**Limit:** limited to an amount actually beneficially used for said purpose

**Source:** Willow Creek, tributary to the Columbia River

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	25 E	WM	28	NE SE	8.0

7. Certificate 185 does not specify the irrigation season. However, the Willow Creek Decree establishes the irrigation season for this right as April 1 to November 1.
8. Certificate 185 does not specify a rate and duty limit per acre. However, the Willow Creek Decree specifies the rate limit as one-sixtieth CFS per acre. The decree does not specify a duty limit. However, based upon additional information provided by the Watermaster and for purposes of this instream lease, approximately 3.52 AF per acre (28.16 AF) could be used beneficially without waste under this right during the irrigation season.

9. Certificates 87715 and 185 do not provided a description of the location of the point of diversion. Based upon additional information provided by the Lessor, the Watermaster, and previous transactions associated with this water right, including transfer W-67 and T-11314, for purposes of this instream lease, the point of diversion is described as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances / River Mile
1 S	25 E	WM	28	NE SE	1340 FEET NORTH AND 250 FEET WEST FROM SE CORNER OF SECTION 28 (APPROXIMATELY RIVER MILE 40)

10. The portion of the third right to be leased is as follows:

**Certificate:** 26160 in the name of Alvin Wagenblast (perfected under Permit S-23464)

**Use:** Irrigation of 8.6 acres

**Priority Date:** March 24, 1955

**Quantity:** **Rate:** 0.13 CFS

**Volume:** 34.4 AF

**Limit:** together with the amount secured under any other right existing for the same lands, shall be limited to one-sixtieth CFS per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 4 AF per acre for each acre irrigated during the irrigation season of each year

**Source:** Willow Creek, tributary to the Columbia River

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	25 E	WM	28	NE NW	Not provided

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	25 E	WM	28	NE NW	6.6
1 S	25 E	WM	28	SE NW	2.0
<b>Total Acres</b>					<b>8.6</b>

11. Certificate 26160 does not specify the irrigation season. However, the Willow Creek Decree establishes the irrigation season for the area as April 1 to November 1
12. Certificate 26160 does not provided measured distances for the location of the point of diversion. Based upon additional information provided by the Watermaster and materials in the permit file associated with Certificate 26160, for purposes of this instream lease, the point of diversion is described as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances / River Mile
1 S	25 E	WM	28	NE NW	4290 FEET NORTH AND 3100 FEET WEST FROM THE SE CORNER OF SECTION 28 (APPROXIMATELY RIVER MILE 39)

13. There is a supplemental irrigation water right, Permit S-54649, appurtenant to all or a portion of the lands described in Findings of Fact Nos. 3, 7, and 10. The Lessor and Lessee have requested that this water right not be included as part of this lease application. During the term of the lease, water use under this right will also be suspended.

14. The lease application includes the information required under OAR 690-077-0076(3). The Department provided notice of the lease application pursuant to OAR 690-077-0077(1). No comments were received.
15. The instream use requested by the Lessor for each right requires modification to prevent injury and enlargement. The place of use associated with each right is located adjacent to Willow Creek and return flows will return to the creek immediately below the points of diversion and be available to downstream users. To prevent any injury and enlargement of each right, the amount of water protected instream below each point of diversion must be reduced to consumptive use.
16. The Lessor has requested a reach from the points of diversion to the mouth of Willow Creek. Approximately five miles downstream from the points of diversion, Willow Creek loses significant flows and in most water years goes dry. To prevent enlargement of the right, the water may only be protected instream from the points of diversion to River Mile (RM) 35.
17. The requested instream use rates, volumes, and periods also require modification to prevent enlargement of each right.
18. The instream use has been modified from the lease application to prevent injury and enlargement and is as follows:  
Willow Creek, tributary to the Columbia River

**Instream Reach No. 1:** At the POD for Certificates 87715 and 185 (as described in Finding of Fact No. 9), located at approximately RM 40

Certificate	Priority Date	Instream Rate (cfs)	Instream Volume (AF)	Period Protected Instream
87715	1890	0.1	14.1	April 1 through June 10
185	April, 1890	0.132	28.16	July 17 through October 31

**Instream Reach No. 2:** From immediately below the POD for Certificates 87715 and 185 to the POD for Certificate 26160 (as described in Finding of Fact No. 12), located at approximately RM 39

Certificate	Priority Date	Instream Rate (cfs)	Instream Volume (AF)	Period Protected Instream
87715	1890	0.05	7.4	April 1 through June 10
185	April, 1890	0.129	25.6	July 17 through October 31

**Instream Reach No. 3:** At the POD for Certificate 26160

Certificate	Priority Date	Instream Rate (cfs)	Instream Volume (AF)	Period Protected Instream
87715	1890	0.05	7.4	April 1 through June 10
185	April, 1890	0.129	25.6	July 17 through October 31
26160	March 24, 1955	0.13	34.4	June 21 through October 31

**Instream Reach No. 4:** From immediately below the POD for Certificate 26160 to RM 35

Certificate	Priority Date	Instream Rate (cfs)	Instream Volume (AF)	Period Protected Instream
87715	1890	0.05	7.4	April 1 through June 10
185	April, 1890	0.129	25.6	July 17 through October 31
26160	March 24, 1955	0.1	27.5 AF	June 21 through October 31

19. Other conditions to prevent injury and enlargement are:

Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original points of diversion. Stream channel losses and gains calculated based on available data and the use of water by senior appropriators will determine the amount of water to which this right is entitled downstream from the original points of diversion within the specified stream reach.

Water rights upstream of the original points of diversion shall not be subject to regulation for flows in excess of the quantities to which this instream water right is entitled at the original points of diversion.

20. The amount and timing of the proposed instream flow is allowable within the limits and use of the original water rights.

21. The protection of flows within the proposed reach is appropriate, considering:

- a. The instream water use begins at the recorded points of diversion;
- b. The location of confluences with other streams downstream of the points of diversion.
- c. There are known areas of natural loss of streamflow to the river bed downstream from the points of diversion and the instream reach has been modified to extend only to RM 35, above the area of streamflow loss; and
- d. Return flows resulting from the exercise of the existing water right would re-enter the river within the reach of the instream water right and have been accounted for immediately below each point of diversion.

22. The total monthly quantities of water to be protected under the existing and proposed instream rights in the reach will provide for a beneficial purpose.

23. The total monthly quantities of water to be protected instream under existing and proposed instream rights in the reach do not exceed the estimated average natural flow.

24. If approved, this instream lease is not reasonably expected to significantly affect land use as prescribed by ORS 197.180, OAR Chapter 660, Divisions 30 and 31, and OAR Chapter 690, Division 5.

25. Based upon review of the application, information provided by the Department's Watermaster, and other available information, the Department finds that the lease will not result in injury or enlargement. The order approving this instream lease may be modified or revoked under OAR 690-077-0077 if the Department later finds that the lease is causing injury to any existing water right or enlargement of the original right.

26. If a right which has been leased is later proposed to be leased again, transferred and/or reviewed under an allocation of conserved water, a new injury review shall be required. For example, instream transfers will be subject to a full and complete review to determine

consistency with the requirements of OAR Chapter 690, Division 380 and Division 077. Approval of this lease does not establish a precedent for approval of any future transactions.

27. The Lessor has requested that the lease terminate in July, 2019. The term of an instream lease generally begins on the first day of the irrigation season and ends on the last day of the irrigation season. This lease may commence on April 1, 2015, and terminate on November 1, 2019.
28. The Lessor has requested the option of terminating the lease early with written notice to the Department.

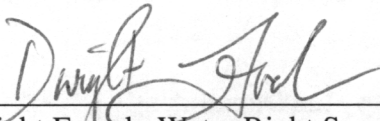
### Conclusions of Law

The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease conforms to the applicable provisions of OAR 690-077-0015.

### Now, therefore it is ORDERED:

1. The Lease as described herein is APPROVED.
2. During each year of the term of the lease, the former place of use will no longer receive water as part of these rights, any supplemental rights, or any other layered irrigation water rights, including ground water registrations and permits.
3. The term of the lease will commence on April 1, 2015, and terminate on November 1, 2019. For multiyear leases, the lessor *shall* have the option of terminating the lease any time each year with written notice to the Department. However, if the termination request is received less than 30-days prior to the instream use periods (April 1 through October 31) or after the water rights' original period of allowed use has begun, the Department may issue an order terminating the lease but use of water may not be allowed until the following calendar year, unless the Director determines that enlargement would not occur.

Dated at Salem, Oregon this 25 day of March, 2015.



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

**MAR 27 2015**

Mailing date: \_\_\_\_\_

This document was prepared by Laura Wilke and if you have any questions, please call 503-986-0884.