





**Priority Date:** July 23, 1909  
**Quantity:** **Rate:** 0.46 Cubic Foot per Second (CFS)  
**Volume:** 169.05 Acre-Feet (AF)  
**Limit:** One-hundredth of one CFS per acre or its equivalent for each acre irrigated during the irrigation season of each year.  
**Source:** North and South Forks Little Butte Creek, tributary to Little Butte Creek

**Authorized Point of Diversion (POD):**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
36 S	1 E	WM	8	SW SW	BRADSHAW DROP
36 S	2 E	WM	20	SE NE	NORTH FORK LITTLE BUTTE CREEK - 40 FEET NORTH AND 620 FEET WEST FROM THE EAST 1/4 CORNER OF SECTION 20
36 S	2 E	WM	29	NE SE	SOUTH FORK LITTLE BUTTE CREEK - 780 FEET SOUTH AND 400 FEET WEST FROM THE EEAST 1/4 CORNER OF SECTION 29

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q	*Tax Lot	Acres
36 S	1 W	WM	09	NE SW	1400	0.60
36 S	2 W	WM	28	SE SW	4800	1.30
36 S	2 W	WM	28	SE SW	3600	4.50
36 S	2 W	WM	28	SW SE	3600	1.70
36 S	2 W	WM	32	SW SW	100	4.00
36 S	2 W	WM	32	SE SW	100	1.50
36 S	2 W	WM	32	NW SE	1900	6.10
36 S	2 W	WM	35	NE SE	400	2.80
37 S	2 W	WM	03	SW NE	7900	0.20
37 S	2 W	WM	03	NW NW	1601	3.00
37 S	2 W	WM	03	NW NW	1602	6.00
37 S	2 W	WM	03	SW NW	1601	0.90
37 S	2 W	WM	03	SW NW	1602	2.30
37 S	2 W	WM	03	SW NW	100	0.30
37 S	2 W	WM	03	SW NW	102	10.60
37 S	2 W	WM	03	SE NW	102	0.20
37 S	2 W	WM	05	NE NW	100	0.50
37 S	2 W	WM	09	NE NW	902	1.80
<b>Total Acres</b>						<b>48.30</b>
* Tax Lot information does not appear on the water right of record. The applicant provided tax-lot information as additional information for the purpose of this Instream Lease application.						

5. Certificate 85288 does not specify the irrigation season. However, the Rogue River Decree establishes the irrigation season for the area as April 1 to October 31.
6. Certificate 85288 does not specify a duty limit per acre. However, based upon additional information provided by the Applicant, an appropriate duty limit per acre, for purposes of this instream lease, is 3.5 acre feet per acre considering the quantity of water that could be used beneficially and without waste. This is reflected in the volume specified in Finding of Fact No. 4.



7. Certificate 85288 is a deficient water right. If water were diverted simultaneously to all authorized lands and uses described in the right at the maximum rates allowed (described in Finding of Fact No. 4), the total rate for the water right would be exceeded. In the event water were diverted simultaneously to all authorized lands and uses described in the right at the maximum rates and duty allowed at the POD (described in Finding of Fact No. 4), the portion of the right involved in this instream lease would be limited to 0.25 CFS. This is the quantity by which the diversion under Certificate 85288 shall be reduced, if this instream lease is approved. This is also the maximum rate that may be leased to instream use.
8. There are supplemental irrigation water rights, Certificates 85876, 85877, 80575, 80576, 80577, 83729, and Permit S-4951, appurtenant to all or a portion of the lands described in Finding of Fact No. 4. The Applicant has requested that these water rights not be included as part of this lease application. During the term of the lease, water use under this right will also be suspended.
9. 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.
10. The Lessor requested that the Department identify the rate and volume of water that may be protected instream. The Department has determined that the maximum rate may be protected instream over the full irrigation season. At the maximum rate specified in Finding of Fact No. 7 and given the length of the irrigation season, 214 days, the volume of water that may be leased instream is 105.27 AF.
11. The lease application requests to protect water instream from South and North Forks Little Butte Creek into Little Butte Creek. An instream reach is generally from the point of diversion to the mouth of the source stream (South and North Forks Little Butte Creek) but may be protected further if measurable in the receiving stream (Little Butte Creek) (OAR 690-077-0015 (8)). The quantity that may be leased instream from the South and North Forks Little Butte Creek is measurable into Little Butte Creek and may be protected instream in Little Butte Creek.
12. The instream use has been modified from the lease application to prevent injury and enlargement and is as follows:

North and South Little Butte Creek, tributary to Little Butte Creek

**Instream Reach:** From the confluence of the North and South Forks of Little Butte Creek, at approximately River Mile 17 on Little Butte Creek, to the mouth of Little Butte Creek, as measured at the Little Butte Creek Gage at Lakecreek (#14346700) and at Eagle Point Gage.

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
85288	7/23/1909	0.25	105.27	April 1 through October 31

13. Other conditions to prevent injury and enlargement are:

The portion of water protected instream under this lease shall be based on the same percentage of diversion and delivery rate that RRVID is diverting to rights of the same priority within the district. When RRVID is diverting water on a percentage basis, RRVID



shall report to the District 13 Watermaster's office the percentage diverted under the July 23, 1909, priority date. This information only needs to be reported to the Watermaster's office once RRVID is diverting water on a percentage basis (less than 1/100<sup>th</sup> cfs/acre). Subsequent reports need to be made to the Watermaster's office within one day of when changes are made to the percentage of water being diverted. Once RRVID begins diverting water on a percentage basis, the amount of water leased instream shall be adjusted by that same percentage.

This instream use combined with other diversions by RRVID and Medford Irrigation District (MID) (through the main canal from North Fork and South Fork Of Little Butte Creek) shall not exceed 140 CFS at any one time, 50 CFS for RRVID (including the 0.25 CFS leased to instream use) and 90 CFS for MID. Total diversions from North Fork Little Butte Creek shall not exceed 125 CFS at any one time. Total diversions from South Fork Little Butte Creek shall not exceed 100 CFS at any one time.

14. The protection of flows within the proposed reach is appropriate, considering:
  - a. The instream water use begins at the recorded point of diversion;
  - b. The location of confluences with other streams downstream of the point of diversion.
  - c. There are no known areas of natural loss of streamflow to the river bed downstream from the point of diversion; and
  - d. Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the reach of the instream water right.
15. 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.
16. 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.
17. If approved, this instream lease is not reasonably expected to affect land use significantly as prescribed by ORS 197.180, OAR Chapter 660, Divisions 30 and 31, and OAR Chapter 690, Division 5.
18. 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.
19. If a right which has been leased is later proposed to be leased again, transferred and/or reviewed for 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.



20. The Co-Lessor has requested that the lease terminate October 31, 2015. The lease may commence on the date this final order is signed.
21. The Co-Lessor has requested the option of terminating the lease early with written notice to the Department.

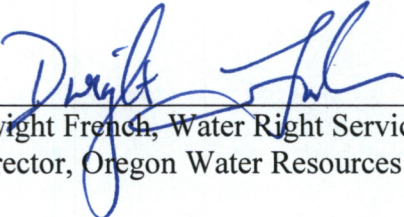
**Conclusions of Law**

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 upon approval of the instream lease and terminate on October 31, 2015. For multiyear leases, the Co-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 period April 1 to October 1 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. Director determines that enlargement would not occur.

Dated at Salem, Oregon this 29 day of September 2014.

  
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Dwight French, Water Right Services Administrator, for  
Director, Oregon Water Resources Department

*This document was prepared by  
Joan Smith, if you have any questions;  
please call 503-986-0892.*

**SEP 29 2014**

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



