



State of Oregon
Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900

Application for Instream Lease

A summary of review criteria and procedures that are generally applicable to these applications is available at www.wrd.state.or.us/OWRD/PUBS/forms.shtml.

Pursuant to ORS 537.348(2) and OAR 690-077

Optional Identification by Lessor/Lessee: _____
Lease Application Number (assigned by WRD): IL-927

This Lease is between:

Lessor #1:

Name Anthony Aceti
Mailing address 21235 Tumalo Rd
City, State, Zip Code Bend, OR 97701
Telephone number 541-419-0858
Email address _____

Lessor #2, 3, etc.

Arnold Irrigation District
PO Box 7923
Bend, OR 97708
541-382-7664

The water right to be leased is located in Deschutes County.

Lessee (if different than Oregon Water Resources Department):

Name Deschutes River Conservancy
Mailing address 700 NW Hill St
City, State, Zip Code Bend, OR 97701
Telephone number 541-382-4077
Email address gen@deschutesriver.org

Trustee:

Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1266
(503) 986-0900

RECEIVED

MAY 15 2008

**WATER RESOURCES DEPT
SALEM, OREGON**

~I~ Water Right Holder and Water Right Information

1.1 Lessor #1 is the water right holder, or authorized agent for water right holder of the property located at: Township 18 S, Range 12 E, Section 19 and Tax Lot number 02800. If the water right appurtenant to these lands is also appurtenant to lands owned by others who are not included in this application, then Attachment 1 (tax lot map), needs to be included.

1.2 Lessor #2 is the (Check one):

Not applicable

Official representative of Arnold Irrigation District, the irrigation district which conveys water to the subject water rights.

Another party with an interest in the subject water rights representing _____.

1.3 For the water right(s) being leased, list all water rights appurtenant to the same lands. Indicate if there are any supplemental or overlying rights.

Certificate No. 74197

1.4 Are some or all of the lands being leased part of a Conservation Reserve Enhancement Program. Yes No

1.5 Water Rights Proposed to be Leased Instream.

The first right to be leased identified in Section 1.3 is further described as follows:

Certificate No.: 74197

Priority date: February 1 and April 25, 1905 Type of use: IRRIG

Legal Season of Use: April 1 - October 31

Is the entire water right certificate being leased? Yes No

If no, list the acres of the subject water right by legal description of township, range, section, and $\frac{1}{4}$ $\frac{1}{4}$ which will be dried up as part of this lease, and include a map (Attachment 2) showing the lands which will not receive water.

Place of use: T 18 S, R 12 E, Section 19, SW $\frac{1}{4}$ NW $\frac{1}{4}$ - 0.08 acres to be leased

Enter additional places of use here, using format above:

T 18 S, R 12E, Section 19, SE 1/4, NW 1/4 - 3.28 ac

Page 17 (Identify page number of certificate, if certificate is greater than 10 pages.)

Number of acres being leased, if for irrigation: 4.36

Acre-feet of storage, if applicable: _____

Maximum rate associated with the right to be leased (cfs): 0.021

(Use additional lines if there is more than one rate associated with the water right.)

Maximum duty associated with the right to be leased (ac-ft): 67.23

(Use additional lines if there is more than one duty associated with the water right.)

Conditions or other limitations, if any: _____

RECEIVED

MAY 15 2008

**WATER RESOURCES DEPT
SALEM, OREGON**

If you need to enter another leased right, please use the additional water rights form.

1.6 **Validity of rights.** Lessor(s) attests (mark one) that:

the water has been used over the past five years according to the terms and conditions of the water right certificate or as an instream water right or

the water has not been used over the past five years according to the terms and conditions of the water right certificate, however the water right is not subject to forfeiture under ORS 540.610(2)()(include necessary supporting documentation as Attachment 3).

RECEIVED

MAY 15 2008

WATER RESOURCES DEPT
SALEM, OREGON

~II~ Instream Water Right Information

2.1 **Public use.** This lease will increase streamflows that will benefit:

- Conservation, maintenance and enhancement of aquatic and fish life, wildlife, and fish and wildlife habitat
- Pollution abatement
- Recreation and scenic attraction

2.2 **Instream use created by lease.** The instream use to be created is described as follows:

Deschutes River

Tributary to Columbia River in the Deschutes Basin.

Describe the point of diversion (POD) and any associated reach(es) of the instream use being created. If possible list the reach by river mile. If no reach is identified, and there is only one POD listed on the certificate, the lease may be processed to be protected at the POD. (If more than one POD is listed on the certificate, then the POD and any associated reach(es) must be identified): canal diversion river mile 174.5 to Lake Billy Chinook river mile 120 and to the mouth of the Deschutes at R.M. 0

Maximum volume in acre-feet: February 1905 - 3.69, April 1905 - 14.99

Rate in cfs: Season 1 - February 1, 1905 - 0.009, April 25, 1905 - 0.021

Season 2 - February 1, 1905 - 0.009, April 25, 1905 - 0.030

Season 3 - February 1, 1905 - 0.009, April 25, 1905 - 0.044

(Use the section below to indicate a more restrictive period of use than allowed by the water right.)

Conditions to prevent injury, if any:

- None
- The instream flow will be allocated on a daily average basis up to the described rate from April 1 through October 31.
- Other (describe): _____

If you need to enter more instream uses, please use the additional water rights form.

2.3 **Term of lease.** This lease shall terminate on October 31, 2012.

2.4 **Flow protection.** The Trustee will regulate use of water from the source, subject to prior appropriation and the agency enforcement guidance, to assure the water is delivered to the point of diversion, and through the reach past junior downstream users, so long as flow is sufficient to meet the demand under priority date of the new instream use (see Section 2.2). As part of regulation activities the watermaster or a designee has access to the point of diversion and place of use for the water rights involved in this lease. No party is required to continuously measure the flow of the waterway described in Section 2.2.

~III~ Other Information

3.1 **Accuracy.** The Undersigned Lessor(s) and Lessee(s) declare that, to the best of their knowledge and belief, the information contained in this application is true, correct and complete. If after the lease order is signed, any information is determined to be false, the

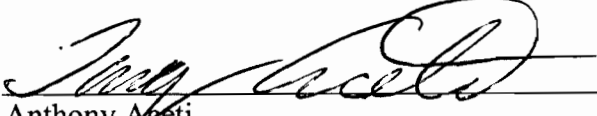
lease order may be modified or terminated. The lease only exercises the water rights being leased, for the term of the lease. It shall not be construed to overcome any claim that the water right may otherwise be subject to forfeiture for nonuse pursuant to ORS 540.610 during the period of time prior to the execution of the lease.

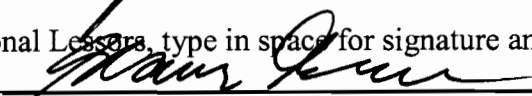
- 3.2 Lease.** Lessor(s) and Lessee(s) agree to lease the water rights listed in Section(s) 1.5 for instream use for the term of this lease through Lessee to the Trustee, the Oregon Water Resources Department, pursuant to the provisions of ORS 537.348(2) and OAR 690-077.
- 3.3 Precedent.** If a right which has been leased is later proposed to be leased again or transferred to an instream use under ORS 537.348 and OAR 690-077 a new injury review shall be required, and a prior lease shall not set a precedent for the amount of water to be leased or transferred instream.
- 3.4 Suspension of original use.** During the period of the lease, the water right holder agrees to suspend use of water allowed under the subject water rights and under any water right that is supplemental to the subject water rights.
- 3.5 Termination provision.**
- For multiyear leases, the Lessor(s) shall have the option of terminating the lease each year with written notice to the Department. The lease may be terminated at any time during the calendar year. However, if the termination request is received less than 30-days prior to the period of allowed instream use or after the period of allowed use has begun for the water right(s) being leased, water may not be used under the right(s) leased until the following calendar year, unless the Director determines that enlargement would not occur. The Department may also require:
 - Written notice to the Department with original signatures;
 - Consent by all parties to the lease; and/or
 - Written notice to the Watermaster's office.
 - For multiyear leases, the lessor shall not have the option of terminating the lease, without consent by all parties to the lease.
- 3.6 Modification to prevent injury.** Allocation of water to the instream use described in Section 2.2 during the term of this lease is not reasonably expected to cause injury to other rights to use water from the same source. If injury is found after this lease is signed, the lease may be modified or terminated to prevent injury.
- 3.7 Fees.** Pursuant to ORS 536.050, the following fee is included:
 \$200 for an application with four or more landowners or four or more water rights.
 \$100 for all other applications.

RECEIVED

MAY 15 2008

**WATER RESOURCES DEPT
SALEM, OREGON**

Lessor #1:  Date: 5/6/08
Anthony Aceti

For additional Lessors, type in space for signature and date
Lessor #2:  Date: 5/2/08
Shawn Gerdes, Manager, Arnold Irrigation District

Lessee:  Date: 5/8/2008
Deschutes River Conservancy

Other Attachments as Needed:

Attachment 1: Tax Lot Map. (See instructions.)

Attachment 2: Detailed map illustrating lands under subject rights to be leased; required if only part of a right is being leased instream. (See instructions.)

Attachment 3: Supporting documentation indicating why a right is valid and not subject to forfeiture even though the right has not been exercised for five or more consecutive years (required if the second box in Section 1.6 is checked).

Attachment 4: Split Season Instream Use Form

RECEIVED

MAY 15 2008

**WATER RESOURCES DEPT
SALEM, OREGON**

Arnold Irrigation District

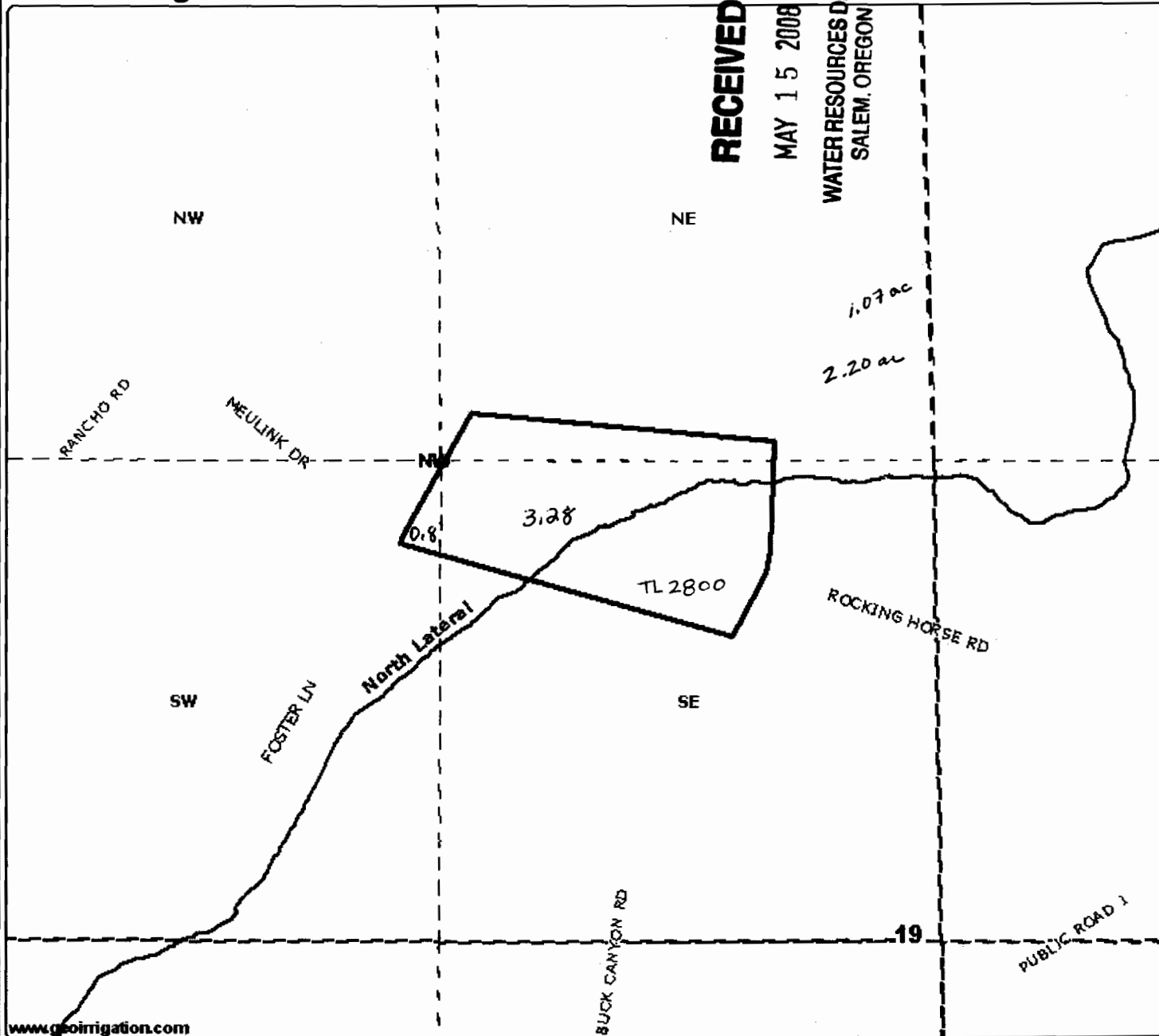
RECEIVED

MAY 15 2008

WATER RESOURCES DEPT
SALEM, OREGON

Aceti, Anthony -
181219-SWNW-02800 -
0.08 ac & SENW - 3.28 ac

1812190002800



- District Boundary
- County Boundary
- State Roads
- Roads
- Township Range
- Sections
- Section Labels
- Quarters
- Quarter Labels
- Quarter Quarters
- Quarter Quarter Labels
- Taxlots
- Gauging Station
- Canal All
- Canal Piped
- Canal Open
- Rivers
- Place of Use Fill

www.arnoldirrigation.com



Scale 1" = 400'
Created: 5/6/2008

DISCLAIMER: This map is intended for display purposes only and is not intended for any legal representations. There are no warranties, expressed or implied, that accompany this product.

100
11-115651

WARRANTY DEED

(Statutory Form)

88 24142

0172 1659

GRANTOR: KENNETH CHARLES GREGORY and JULIA JANE GREGORY

CONVEYS AND WARRANTS TO

GRANTEE: ANTHONY ACETI

the following described real property free of encumbrances except as specifically set forth herein:
Lot 116, RIVER BEND ESTATES, Deschutes County, Oregon. Tax Map 18-12-19-00-02800.

SUBJECT TO:

1. Regulations, including levies, assessments, water and irrigation rights and easements for ditches and canals of Arnold Irrigation District.
2. An easement created by instrument recorded September 30, 1954 in Book 208, Page 316, Deschutes County Deed Records.
3. Covenants, conditions, restrictions and easements imposed by instrument recorded June 26, 1963 in Book 135, Page 408, Deschutes County Deed Records.

This instrument will not allow use of the property described in this instrument in violation of applicable land use laws and regulations. Before signing or accepting this instrument, the person acquiring fee title to the property should check with appropriate city or county planning department to verify approved uses.

The true and actual consideration for this transfer is \$ 18,500.00--

If grantor is a corporation, this has been signed by authority of the Board of Directors, with the seal of said corporation affixed

DATED: October 13, 1988

GRANTOR:

Kenneth Charles Gregory
Julia Jane Gregory

Until a change is requested, all tax statements shall be sent to the following address: Anthony Aceti, P. O. Box 45, Silver Lake, OR 97638

STATE OF OREGON County of Deschutes
 on: October 13, 1988
 personally appeared the joint grantors Kenneth Charles Gregory and Julia Jane Gregory
 who do hereby certify that the foregoing instrument is their voluntary act and deed, known and intended as such, and that they are not under any legal disability.

As witnesses we signed on 10-25-88

State of Oregon, County of Deschutes
 Date: October 13, 1988
 Personally appeared _____ who being sworn, stated that he is the grantor and that the said foregoing instrument is his voluntary act and deed, known and intended as such, and that he is not under any legal disability.

Notary Public My Comm. No. _____

WARRANTY DEED

GREGORY TO ACETI
 AFTER RECORDING RETURN TO
 Key Escrow Company
 P. O. Box 6178
 Bend, OR 97708
 ATTN: LINDA ROSS, CEO

STATE OF OREGON
 COUNTY OF DESCHUTES
 I, MARY SUE FERRISLOW, COUNTY CLERK AND RECORDER OF CONVEYANCES, DO HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS RECORDED THIS DAY:
 OCT 13 PM 2:51
 MARY SUE FERRISLOW
 COUNTY CLERK

Mary Sue Ferrislow
 NO. 88 24142
 DESCHUTES COUNTY DEED RECORDS

RECEIVED

MAY 15 2008

WATER RESOURCES DEPT
SALEM, OREGON

**This table will calculate flow rate factors and duty for Arnold Irrigation District
Instream Leases**

Enter the number of acres to be leased in stream here	4,000
-------------------------------------------------------	-------

Information highlighted with pink font is to be entered on to the Instream Lease Application Form

Rate (CFS) associated with leased rights for Section 1.5 of the Lease Application Form

The rate and duty identified in this section includes the 65% transmission loss.

Enter Rates by Priority Date on Lease Form	Full Rate	February 1, 1905	April 25, 1905
Season 1	0.085	0.025	0.061
Season 2	0.112	0.025	0.087
Season 3*	0.149	0.025	0.124

* The rate identified for Season 3 has been proportioned such that the max rate allowed by the right (150.0 CFS) will not be exceeded if all acres were being irrigated.

Duty (AF) associated with leased right for Section 1.5 of the Lease Application Form

Duty (decree) AF/Acre =	15.42
	67.23

Enter Rates by Priority Date on Lease Form	Full Rate	February 1, 1905	April 25, 1905
Season 1	0.030	0.009	0.021
Season 2	0.039	0.009	0.030
Season 3	0.052	0.009	0.044

	# days	AF/Season	Duty (decree) AF/Acre =	
Season 1	61	3.62	Total =	5.40
Season 2	30	2.33	Feb. 1905 portion =	3.69
Season 3	123	12.74	April 1905 portion =	14.99
		18.69		

Water protected instream: April 1 through October 31

Duty Associated with Leased Right for Section 1.5 of the Additional Water Right Form

67.23	
-------	--

13.42	
-------	--

RECEIVED
MAY 15 2008
WATER RESOURCES DEPT
SALEM, OREGON