



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-990

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

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 541-322-4079
Email address _____

Trustee:

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

~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.

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- 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 - 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 12 E, Section 19, SE $\frac{1}{4}$ NW $\frac{1}{4}$ - 3.28 acres

T 18 S, R 12 E, Section 19, NE $\frac{1}{4}$ NW $\frac{1}{4}$ - 1.00 acres

tax lot 2800

Page 14 (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.)

→ Feb 1, 1905
Seasons 1-3 = 0.025 cfs
 April 25, 1905
 Season 1 = 0.061 cfs
 Season 2 = 0.087 cfs
 Season 3 = 0.124 cfs

Conditions or other limitations, if any: _____

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).

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~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 river mile 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, 2013.

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

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

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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.

Lessor #1: *Anthony Aceti* Date: 3/19/09
Anthony Aceti

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APR 15 2009 Lessor #2 *Shawn Gerdes* Date: 3/27/09
Shawn Gerdes, Manager, Arnold Irrigation District

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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

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Application for Short-Term Instream Lease / 5

FSD

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

Enter Total Number of Acres to be Leased Instream Here →	4.360
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Information highlighted with pink font is to be entered on to the Instream Lease Application Form

For Primary Water Right - Certificate 74197

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 =	18.42		
	67.23		

Rate (CFS) leased instream for Section 2.2 of the Lease Application Form			
The rate and duty identified in this section does not include the 65% transmission loss.			
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
Volume (AF) leased instream for Section 2.2 of the Lease Application Form			
	# days	AF/Season	Duty (decree) AF/Acre = 5.40
Season 1	61	3.62	Total = 23.53
Season 2	30	2.33	Feb. 1905 portion = 3.69
Season 3	123	12.74	April 1905 portion = 14.99
		18.69	
Additional Conditions to Prevent Injury for Section 2.2 of the Lease Application Form			
Water protected instream:	April 1 through October 31		

For Supplemental Water Right from Crane Prairie Reservoir - Certificate 76714

Duty Associated with Leased Right for Section 1.5 of the Additional Water Right Form	
	67.23

Volume (AF) leased instream for Section 2.2 of the Additional Water Right Form	
	13.42

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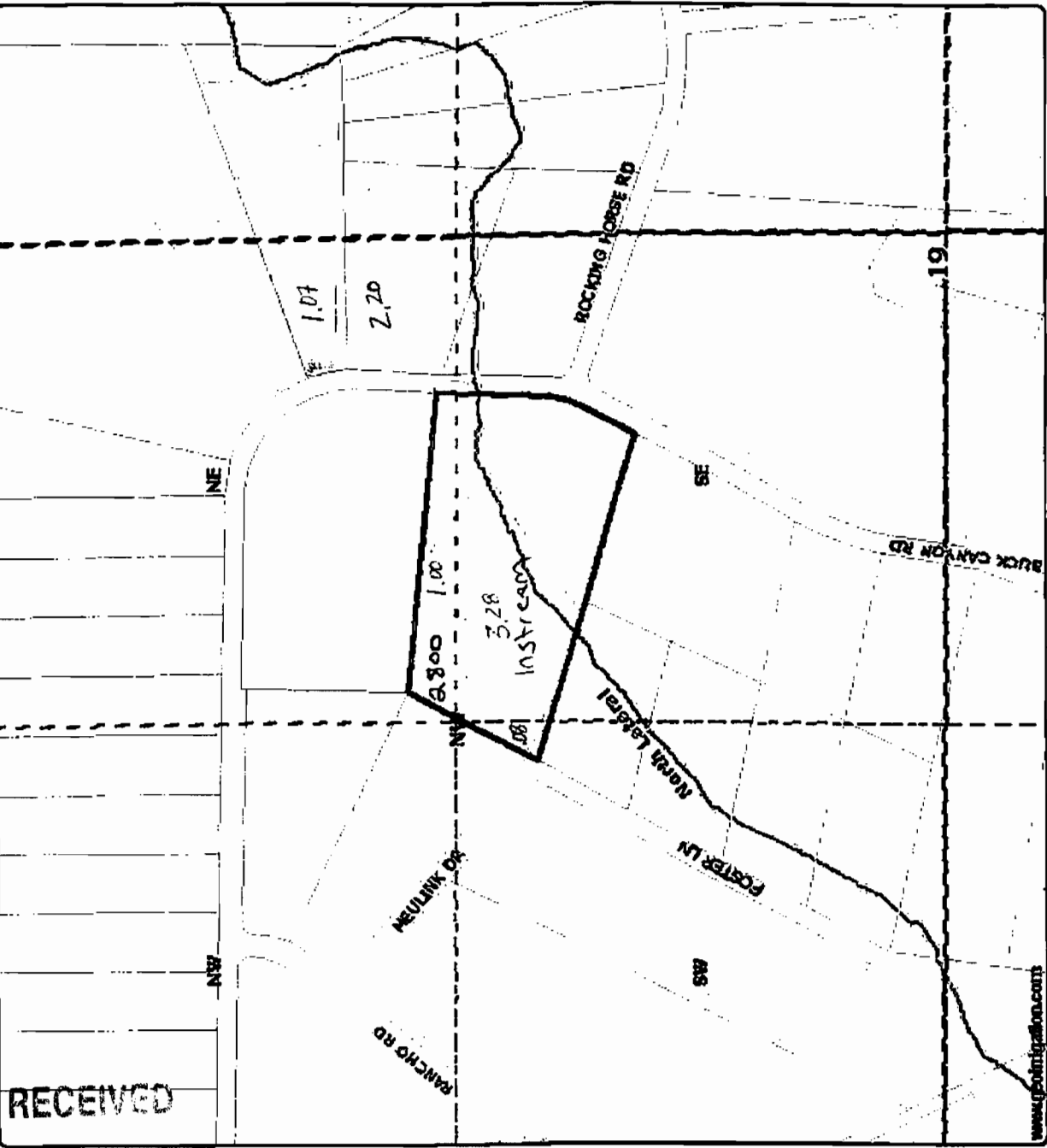
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Aceti, Anthony -
1812190002800
SWNW-0.00ac; NENW-1.00ac;
SENE-3.28ac

- District Boundary
- County Boundary
- Road Labels
- Township Range
- Sections
- Section Labels
- Quarters
- Quarter Labels
- Quarter Quarters
- Quarter Quarter Labels
- Ticks
- Canal All
- Canal Piped
- Canal Open
- FOU District Primary Fill
- Rivers

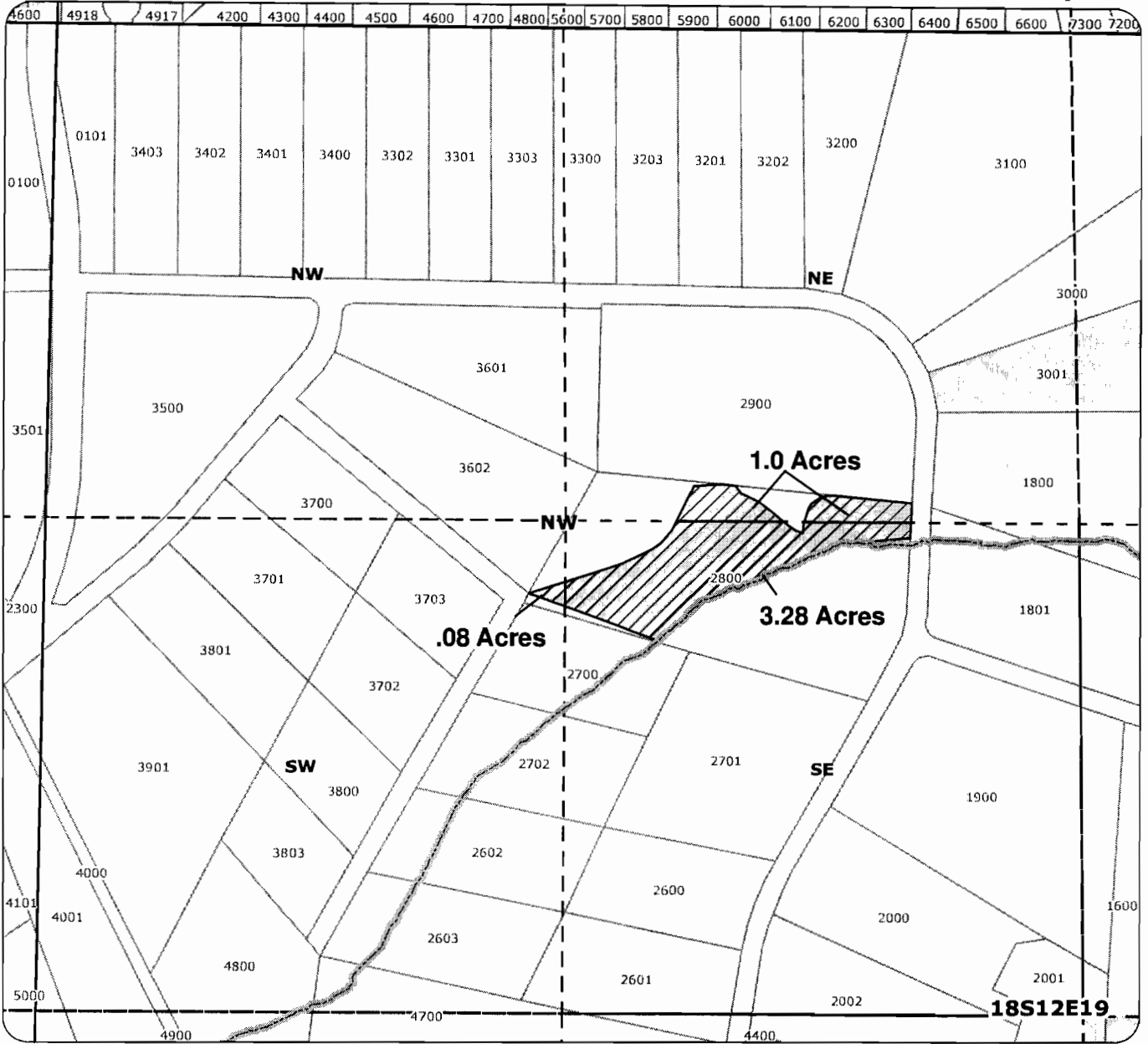
Scale 1" = 400'
Created: 2/27/2009



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.

www.pdmirrigation.com

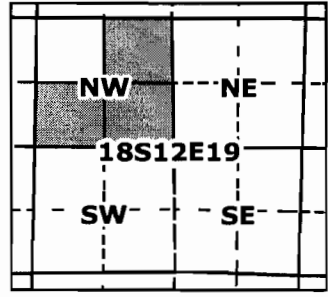
2009 Arnold Irrigation District Instream Lease Map



Application for 5-year Instream Lease Primary: Certificate 74197

- Canal
- Proposed Lease of Irrigation Rights
- Water Rights

For:
 Anthony Aceti
 Taxlot 2800- 3.28 Acres
 0 Acres Remaining on Taxlot 2800
 in 18S12E19SENE
 Taxlot 2800- .08 Acres
 0 Acres Remaining on Taxlot 2800
 in 18S12E19SWNW
 Taxlot 2800- 1.0 Acres
 0 Acres Remaining on Taxlot 2800
 in 18S12E19NENW
 Total Lease of 4.36 Acres



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 Geo-Spatial Solutions
Geo-Spatial Solutions, Inc.
www.geospatialolutions.com

Date Created: April 2009

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 1 inch equals 400 feet

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