



STATE OF WASHINGTON
**APPLICATION FOR CHANGE/TRANSFER
 OF WATER RIGHT**

RECEIVED

OCT 29 2010

DEPARTMENT OF ECOLOGY - CENTRAL REGIONAL OFFICE

For filing with the Department of Ecology or with County Conservancy Boards

A NON-REFUNDABLE MINIMUM FEE OF \$50.00 PAYABLE TO THE DEPARTMENT OF ECOLOGY MUST ACCOMPANY THIS APPLICATION

(Check all that apply.)

- Change purpose(s) of use
- Add purpose(s) of use
- Change point(s) of diversion/withdrawal
- Add point(s) of diversion/withdrawal
- Change/transfer place of use
- Other (i.e. consolidation, intertie, trust water)

Explain: The United States Bureau of Reclamation (Reclamation) and the Kennewick Irrigation District (KID) wish to: add a point of diversion to the May 10, 1905-priority water right to serve a portion of its service area - lands on Red Mountain; add a purpose of use - instream flow use; and modify the description of its place of use to include the Red Mountain lands. A trust water right application will follow this change application to place portions of the KID 1905-priority water right into the state trust water rights program for instream flow use in specific reaches of the lower Yakima River.

FOR OFFICE USE ONLY	
CHANGE No. <u>CS4-629CTCL</u>	WRIA <u>37</u>
DATE ACCEPTED <u>11/04/2010</u>	BY <u>[Signature]</u>
FEE \$ <u>0</u>	REC'D <u>10/29/2010</u>
CHECK No. <u>0</u>	
ECY Coding: 001-002-WR10285-000011	
SEPA: <input type="checkbox"/> Exempt <input type="checkbox"/> Not exempt	

APPLICATION FEE NOTE: There is NO FEE for this change application. RCW 90.03.470(3)(c)(ii) states that no fee is required for "(a)n application to process a change when the department otherwise acquires a trust water right for purposes of improving instream flows or for other public purposes". As noted above, this project will result in the creation of a trust water right for instream flow enhancement, under a contemporaneous trust water right application to be filed separately.

****IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS (PLEASE PRINT OR TYPE CLEARLY)****

1. Applicant Information:

APPLICANT/BUSINESS NAME Kennewick Irrigation District & the United States Bureau of Reclamation on behalf of KID ("US/KID")	PHONE NO. (509) 586-9111	FAX NO. (509) 586-7663
ADDRESS 12 West Kennewick Avenue		
CITY Kennewick	STATE WA	ZIP CODE 99336
CONTACT NAME (IF DIFFERENT FROM ABOVE) Scott Revell, KID Planning Manager; or, Bill Ferry, US Bureau of Reclamation, Columbia-Cascades Area Office, 1917 Marsh Road, Yakima, WA 98901-2058, (509) 575-5848, ext. 244.	PHONE NO. (509) 378-7887	FAX NO. (509) 586-7663
ADDRESS		
CITY	STATE	ZIP CODE

Cover Claim 629

CS4-629CTCL

2. Water Right Information:

WATER RIGHT OR CLAIM NUMBER Yakima Adjudication Court Claim No. 629	RECORDED NAME(S) "U.S./KID": To be decreed in the name of the United States of America for the use and benefit of the Kennewick Division of the Yakima Project, the Kennewick Irrigation District and their water users entitled to delivery from the Kennewick Division and the Kennewick Irrigation District.
DO YOU OWN THE RIGHT TO BE CHANGED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IF NO, PROVIDE OWNER(S) NAME and ADDRESS: Owner: United States of America on behalf of the Kennewick Division of the Yakima Project, the Kennewick Irrigation District and their water users entitled to delivery from the Kennewick Division and the Kennewick Irrigation District.	
HAS THE WATER BEEN PUT TO BENEFICIAL USE IN THE LAST FIVE (5) YEARS? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	

Please attach copies of any documentation that demonstrates consistent, historical use of water since the right was established. Also, if you have a water system plan or conservation plan, please include a copy with your application.

FOR OFFICE USE ONLY			
APP. NO. _____	PERMIT NO. _____	CERT. NO. _____	CERT. OF CHANGE NO. _____



3. Point(s) of Diversion/Withdrawal:

A. Existing

SOURCE	NO.	¼	¼	SEC.	TWP.	RGE.	PARCEL #	WELL TAG #
Yakima River @Prosser Dam	1	N½	NE	2	8N	24E		

37
Best

B. Proposed

SOURCE	NO.	¼	¼	SEC.	TWP.	RGE.	PARCEL #	WELL TAG #
Yakima River @Prosser Dam	1	N½	NE	2	8N	24E		
Yakima River @Kiona	2	SW	SW	17	9N	27E		

37
Best

DO YOU OWN THE EXISTING AND PROPOSED POINT(S) OF DIVERSION/WITHDRAWAL?

EXISTING: YES NO PROPOSED: YES NO - IF NO, PROVIDE OWNER(S) NAME: Existing: USBR owns, Proposed: KID owns.

Please include copies of all water well reports involved with this proposal. Also, if you know the distances from the nearest section corner to the above point(s) of diversion/withdrawal, please include that information in Item No. 6 (remarks) or as an attachment.

4. Purpose of Use:

A. Existing

PURPOSE OF USE	GPM or CFS	ACRE-FT/YR	PERIOD OF USE
Irrigation of 20,201 currently irrigated irrigable acres and other U.S./KID purposes (May 10, 1905 Water Right Only)	301 cfs	84,674	April 1 through October 31
To power 2 hydraulic pumps, calculated at the Chandler pumping plant.	431 cfs	128,343	April 1 through October 31
Totals:	732 cfs	213,017	April 1 - October 31

B. Proposed

PURPOSE OF USE	GPM or CFS	ACRE-FT/YR	PERIOD OF USE
Irrigation of 20,201 acres within the boundaries of the Kennewick Irrigation District as they exist as of February 1, 2010 and other U.S./KID purposes. (May 10, 1905 Water Right Only)	up to 301 cfs (less 3.5 cfs?)	83,264 [84,674 - 1,410 (50% of conveyance savings) instream flow Prosser to Kiona long-term trust - trust app to follow later]	April 1 through October 31
To power 2 hydraulic pumps, calculated at the Chandler pumping plant.	up to 431 cfs (less 8.5 cfs?)	124,996 [128,343 - 3,347 (Red Mtn Drive Water) instream flow Prosser to	April 1 through October 31

		Chandler long-term trust - trust app to follow later]	
1. Instream Flow Purposes (non-trust) - Crop Differential Water redirected during non-prorationing years from Prosser Dam to the McNary Pool of the Columbia River (RM 335); but during prorationing years to be used for irrigation of 20,201 acres within the boundaries of the Kennewick Irrigation District as they exist as of February 1, 2010, and other U.S./KID purposes [a part of the 84,674 af of KID irrigation water].	9 cfs (avg.)	3,570	April 1 through October 31
{Trust App. to Follow Later, with the following assignments to trust: 1. Instream Flow Purposes (long-term trust) - Red Mtn. LID Conveyance Water Savings, 50% of it, to long-term trust, Prosser to Kiona; [a part of the 84,674 af of KID irrigation water.] 2. Instream Flow Purposes (long-term trust) - Red Mtn. LID Drive Water to long-term trust, Prosser to Chandler; [a part of the 128,343 af of KID drive water.] 3. Instream Flow Purposes (short-term trust) - Red Mtn. LID Conveyance Water Savings, 50% of it, to short-term trust, Prosser to Kiona; but can be pulled out of trust as needed; [a part of the 84,674 af of KID irrigation water.] 4. Instream Flow Purposes (short-term trust) - Red Mtn. LID Conveyance Water Savings Drive Water, to short-term trust, Prosser to Chandler; but can be pulled out of trust as needed; [a part of the 128,343 af of KID drive water.] 5. Instream Flow Purposes (short-term trust) - Crop Differential Drive Water, to short-term trust, Prosser to Chandler; but can be pulled out of trust as needed; [a part of the 128,343 af of KID drive water.] 6. Instream Flow Purposes (short-term trust) - Red Mtn. LID Conveyance Water Savings, 100% of it, to short-term trust, Kiona to the McNary Pool; but can be pulled out of trust as needed [a part of the 84,674 af of KID irrigation water].}}	3.5 cfs? 8.5 cfs? 3.5 cfs? 9 cfs? 11 cfs? 7 cfs?	1,410 3,347 1,410 3,525 4,463 2,820	April 1 - October 31, ALL

5. Place of Use:

A. Existing

LEGAL DESCRIPTION OF LANDS WHERE WATER IS PRESENTLY USED:							
1. Chandler pumping plant: 2450 feet west and 1700 feet south, more or less from the northeast corner of Section 17, being within the west ½ of the northwest ¼ of the southwest ¼ of the northeast ¼ of Section 17, T. 9 N., R. 26 E.W.M.;							
2. 20,201 currently irrigated irrigable acres within the boundaries of Kennewick Irrigation District as designated by authority of the Secretary of the Interior and as described in KID Exhibit Nos. 160 through 160-42 (Yakima Adjudication filings).							
¼	¼	SEC.	TWP.	RGE.	COUNTY	PARCEL #	# OF ACRES
					Benton		20,201
DO YOU OWN ALL THE LANDS IN THE EXISTING PLACE OF USE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO – IF NO, PROVIDE OWNER(S) NAME: many KID water users							

B. Proposed

LEGAL DESCRIPTION OF LANDS WHERE NEW USE IS PROPOSED:							
1. Chandler pumping plant (NO CHANGE): 2450 feet west and 1700 feet south, more or less from the northeast corner of Section 17, being within the west ½ of the northwest ¼ of the southwest ¼ of the northeast ¼ of Section 17, T. 9 N., R. 26 E.W.M.;							
2. 20,201 acres within the boundaries of the Kennewick Irrigation District as they exist as of February 1, 2010.							
3. Additionally, when water is used for an instream purpose, place of use is described as the river reach below Prosser diversion dam referenced under purpose of use (section 4), above.							
¼	¼	SEC.	TWP.	RGE.	COUNTY	PARCEL #	# OF ACRES
					Benton		20,201
DO YOU OWN ALL THE LANDS IN THE PROPOSED PLACE OF USE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO – IF NO, PROVIDE OWNER(S) NAME: many KID water users							

Attach a detailed map of your proposed change/transfer. The map should show existing and proposed point(s) of diversion/withdrawal, place of use and any other features involved with this application. If platted property, please include a certified copy of the plat map.

Are there any ADDITIONAL WATER rights OR CLAIMS RELATED to the same property as the ONE PROPOSED FOR CHANGE/TRANSFER? YES NO – IF YES, PROVIDE THE WATER RIGHT/CLAIM NUMBER(S): many within the KID service area

6. Remarks and Other Relevant Information:

EXPEDITED PROCESSING: Applicant requests expedited processing of this water right change application under the "Hillis Rule", Chapter 173-152-050(3)(a). This proposed change, if approved, "would substantially enhance or protect the quality of the natural environment" by augmenting instream flows for portions of the lower Yakima River, which will benefit riverine fish and wildlife habitat.

1905 WATER RIGHT ONLY: This change application pertains only to the May 10, 1905 priority Yakima River surface water rights held by the applicant in the name of the U.S./KID, those being rights to irrigation and related U.S./KID purposes and rights to power 2 hydraulic pumps at the Chandler powerhouse.

The applicant also enjoys an August 6, 1891 priority Yakima River surface water right confirmed in the name of the U.S./KID for irrigation and other U.S./KID purposes that is not the subject of this change application, and which will remain unaffected and as confirmed by the Yakima Adjudication Court.

BENEFICIAL USE & RELINQUISHMENT: The water right was confirmed by Conditional Final Order of the court in State v. Acquavella on October 16, 2001. Any nonuse of KID's 1905 water right since the entry of that order is excepted from relinquishment by the drought or other unavailability of water exception. Additionally, this change application documents the "determined future development" that KID plans to make of any currently unused portions of its U.S./KID 1905 priority water rights (see RCW 90.14.140(2)(c), which extends the period to 15 years before any relinquishment could occur.

THIS CURRENT CHANGE APPLICATION: This is a request for approval of the following proposed changes to the U.S./KID 1905-priority water rights to: 1) add an additional point of diversion (POD) to the water right at a point on the Yakima River near Kiona and downstream of the already-authorized Prosser Dam POD, where a proposed pumping station will be constructed and used to supply irrigation water to irrigate 1,785 acres on Red Mountain; 2) change the confirmed place of use description of the water right to "20,201 acres within the boundaries of the Kennewick Irrigation District as they exist as of February 1, 2010"; 3) add an additional purpose of use for an instream flow purpose for 3,570 acre-feet of water (Crop Differential Water) to be redirected downstream on the Yakima River for instream flow augmentation from Prosser Dam to the McNary Pool of the Columbia River, except during prorationing years when the 3,570 acre-feet of water will be used, generally, for irrigation of 20,201 acres within the boundaries of the Kennewick Irrigation District as they exist as of February 1, 2010 and other U.S./KID purposes; 4) change the confirmed place of use description of the water right to include the Yakima River reaches below Prosser diversion dam described in section 4 of this change application, when water is used for an instream purpose; 5) to modify the language in paragraph 5 of the July 11, 2001 Kennewick Irrigation District Water Rights Settlement Agreement to allow the consumptive use portion AND the non-consumptive use portion of the U.S./KID 1905-priority water right to be used for instream flow purposes.

MOU AND AMENDMENT TO SETTLEMENT AGREEMENT: On June 29, 2010, the Parties signed and executed a 'Memorandum of Understanding between the U.S. Department of the Interior Bureau of Reclamation, the State of Washington Department of Ecology and Department of Fish and Wildlife, and the Kennewick Irrigation District, for Red Mountain AVA Pump Project (Additional Point of Diversion for Kennewick Irrigation District at Kiona to Service Red Mountain Area)', agreeing to support KID's efforts to provide water to 1,785 acres on Red Mountain by, among other things, constructing a new point of diversion at Kiona, reassigning some of the authorized 20,201 irrigated acres to currently unirrigated lands within the gross acreage within the KID boundaries, changing elements of the U.S./KID 1905-priority water right, amending the 2001 KID Water Rights Settlement Agreement, and placing portions of the U.S./KID 1905-priority water right into the state trust water rights program.

KID and the other KID Water Rights Settlement Agreement Parties (U.S. Bureau of Reclamation, Washington State Department of Ecology, and Yakama Nation) are currently negotiating an amendment to the July 11, 2001 Kennewick Irrigation District Water Right Settlement Agreement to accommodate and concur in all of the proposed modifications to the U.S./KID 1905-priority water right. This application is contingent on amendment of the Settlement Agreement authorizing the changes applied for herein.

FUTURE, SEPARATE, CONTEMPORANEOUS, TRUST WATER RIGHT APPLICATION: In a separate step 2 to follow, applicants will submit to Ecology a separate but contemporaneous trust water right application requesting approval to assign portions of the 1905-priority U.S./KID water rights into the Washington State Trust Water Rights Program, as follows:

- 1) 1,410 acre-feet of water (50% of Red Mtn. LID Conveyance Water Savings) to LONG-TERM TRUST, for instream flow use from Prosser to the proposed Kiona pump plant (part of the 84,674 af of KID's 1905-priority irrigation water);
- 2) 3,347 af of water (Red Mtn. LID Drive Water) to LONG-TERM TRUST, for instream flow use from Prosser to Chandler (part of the 128,343 af of KID's 1905-priority hydraulic pump drive water);
- 3) 1,410 af of water (50% of Red Mtn. LID Conveyance Water Savings) to SHORT-TERM TRUST, for instream flow use from Prosser to Kiona, but can be pulled out of trust as needed (part of the 84,674 af of KID 1905-priority irrigation water);
- 4) 3,525 af of water (Red Mtn. LID Conveyance Water Savings Drive Water) to SHORT-TERM TRUST, for instream flow use from Prosser to Chandler, but can be pulled out of trust as needed (part of the 128,343 af of KID's 1905-priority hydraulic pump drive water);
- 5) 4,463 af of water (Crop Differential Drive Water) to SHORT-TERM TRUST, for instream flow use from Prosser to Chandler, but can be pulled out of trust as needed (part of the 128,343 af of KID's 1905-priority hydraulic pump drive water); and,
- 6) 2,820 af of water (100% of Red Mtn. LID Conveyance Water Savings) to SHORT-TERM TRUST, for instream flow use from Kiona to the McNary Pool, but can be pulled out of trust as needed (part of the 84,674 af of KID's 1905-priority irrigation water).

IF FOR SEASONAL OR TEMPORARY, START DATE ___/___/___ END DATE ___/___/___

Certain applications may incur a Real Estate Excise Tax liability for the seller of the water rights. The Department of Revenue has requested notification of potential taxable water right related actions and therefore may be provided with a copy of this request.

Please contact the State Department of Revenue for further information. The phone number is (360) 570-3265. The address is: Department of Revenue, Real Estate Excise Tax, PO Box 47477, Olympia, WA 98504-7477.

7. Signatures:

I certify that the information above is true and accurate to the best of my knowledge. I understand that in order to process my application, I am hereby granting staff from the Department of Ecology or the County Conservancy Board access to the above site(s) for inspection and monitoring purposes. If assisted in the preparation of the above application, I understand that all responsibility for the accuracy of the information rests with me.

[Signature] - President KID Board
(Applicant) 10/28/10 (Date)

[Signature]
(Water Right Holder) 10/29/10 (Date)

[Signature] - President, KID, Board
(Land Owner(s) of Existing Place of Use) 10/28/10 (Date)

IMPORTANT! APPLICATION FILING INFORMATION IS PROVIDED ON THE NEXT PAGE.

WE ARE RETURNING YOUR APPLICATION FOR THE FOLLOWING REASON(S):

<input type="checkbox"/> APPLICATION FEE NOT ENCLOSED	<input type="checkbox"/> MAP NOT INCLUDED or INCOMPLETE
<input type="checkbox"/> ADDITIONAL SIGNATURES REQUIRED	<input type="checkbox"/> SECTION _____ IS INCOMPLETE
<input type="checkbox"/> OTHER/EXPLANATION: _____	

STAFF: _____ DATE: ____/____/____