DEPT OF ECOLOGY Received AUG 15 2012 CENTRAL REGION OFFICE

SDiv #3

WASHINGTON STATE DEPARTMENT OF ECOLOGY

STATE OF WASHINGTON APPLICATION TO ENTER A WATER RIGHT INTO THE TRUST WATER RIGHT PROGRAM

NOTE: THIS FORM IS **ONLY** TO BE USED FOR THE ACQUISITION OF WATER INTO THE TRUST WATER RIGHT PROGRAM

FOR OFFICE USE ONLY YAK BENT

FILE No. CS4-01752@8 WRIA 37

DATE ACCEPTED 10 / 03 / 2012 BY O

FEE $ O REC'D 08 / 15 / 2012

CHECK No. O

SEPA: ☐ Exempt ☐ Not exempt

(Check all that apply.)

☐ Lease
☐ Purchase
☐ Donation
X Other
Explain: _Conserved Water from YRBWEP Water Conservation_ Projects
X Portion of the identified existing water right

IF FOR SEASONAL OR TEMPORARY, START DATE __4__/__01__/each year
END DATE __3__/__31__/each following year

The Yakima River Basin Water Enhancement Project (YRBWEP), with cost-shares from the U.S. Bureau of Reclamation (Reclamation), the Washington Dept. of Ecology (Ecology) and the Sunnyside Division (Sunnyside) including one of the Sunnyside Division's water right member entities the Benton Irrigation District (BID), has funded water conservation projects on the Sunnyside Division of the Federal Yakima Reclamation Project. YRBWEP is funding the Sunnyside Phase I (reregulation reservoirs and canal check structures and automation) and Sunnyside Phase II (lateral piping) water conservation projects, and also the BID water conservation project (new pumped diversion and pressurized pipeline delivery system). This trust water right application is number three (3) of six (6) concurrently-filed trust water right applications that will proportionally allocate conserved water derived from these water conservation projects among the 6 water rights confirmed to the United States/Sunnyside for irrigation and related uses from April 1 through October 31 each year by the Yakima Adjudication Court's 8-14-2003 Conditional Final Order (CFO). The applicant wishes to place this YRBWEP conserved water into the State Trust Water Rights Program consistent with the provisions of the 7-09-2008 "Memorandum of Understanding No. 1425-08MU1U7121 Between the United States Department of the Interior Bureau of Reclamation and the State of Washington Department of Ecology for Water Marketing and for Management of Trust Water Rights in the Yakima River Basin." This YRBWEP conserved water will be used for instream flow enhancement in the lower Yakima River, augmenting the target flows passing Sunnyside Diversion Dam (Parker) and the Prosser Diversion Dam (Prosser) managed by Reclamation, or will otherwise be used to augment instream flows for fish throughout the entire year. RCW 90.03.470(3)(c)(ii) provides that no ($0.00) examination fee is required for "an 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".

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

1. Applicant Information:

APPLICANT/BUSINESS NAME	PHONE NO.	FAX NO.
United States Bureau of Reclamation	(509) 575-5848	(509) 454-5611
ADDRESS 1917 Marsh Road		
CITY Yakima	STATE WA	ZIP CODE 98901-2058

CONTACT NAME (IF DIFFERENT FROM ABOVE)	PHONE NO.	FAX NO.
Stan Isley, c/o USBR Yakima, ext. 281; or Bill Ferry, USBR Yakima, ext. 244	(509) 575-5848	(509) 454-5611
ADDRESS 1917 Marsh Road		
CITY Yakima	STATE WA	ZIP CODE 98901-2058

CLROE CS4-1752 CTCL@2 DATED 07-21-2010
09-03-1890
CFO S4-84613-J

FOR OFFICE USE ONLY

WATER RIGHT NO. _____ FILE (contract) NO. _____

CS4-01752@8

2. Water Right Information:

WATER RIGHT OR CLAIM NUMBER	RECORDED NAME(S)
Court Claim No. 1752 Sunnyside Division – right #1.c., CFO entered 8-14-2003; [Note also Court Claim No. 02276 United States Department of Interior Bureau of Reclamation – Amended CFO entered 3-12-2007.]	United States on behalf of the Sunnyside Division

DO YOU OWN THE RIGHT? X YES ☐ NO IF NO, PROVIDE OWNER(S) NAME and ADDRESS: The water right is owned by the United States on behalf of the Sunnyside Division.

[Sunnyside Division Contact Information: c/o Sunnyside Valley Irrigation District, PO Box 239 (120 South 11th Street), Sunnyside WA 98944, (509) 837-6890. Attorney: Larry Martin, Yakima, (509) 248-6030.]

HAS THE WATER BEEN PUT TO BENEFICIAL USE IN THE LAST FIVE (5) YEARS? X YES ☐ NO

ARE WATER DIVERSIONS/WITHDRAWALS OF THIS WATER RIGHT METERED OR MEASURED? X YES ☐ NO

IMPORTANT! PROVIDE INFORMATION SHOWING THE EXTENT OF WATER USE FOR EACH OF THE LAST FIVE YEARS

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.

3. How is Water to be Made Available for Trust?

X Alteration in method of diversion	☐ Alteration in water use/ irrigated acreage
X Alteration in method of delivery/conveyance	☐ Nonuse of one or more points of diversion
☐ Alteration in method of water application	☐ Nonuse of all or a portion of the named water right*
☐ Alteration in type of crop	X Other, Explain below: (See #7 Remarks Section)
*transfer of a portion of the right to instream flow use.	
Name of funding source(s): YRBWEP funding – Federal/State/Local cost-shares.	

WATER RIGHT DESCRIPTION *

4. Point of Diversion/Withdrawal:

A. Existing

SOURCE	NO.	¼	¼	SEC.	TWP.	RGE.	PARCEL #	WELL TAG #
Yakima River	**1**	**NW**	**SE**	**28**	**12N**	**19E**		
130 feet south and								
1500 feet west of the east quarter corner of Sec. 28;								

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. 7 (remarks) or as an attachment.

5. Purpose of Use:

A. Existing Use of the Water Right

PURPOSE OF USE	GPM or CFS	ACRE-FT/YR	PERIOD OF USE
Irrigation of a maximum of	**537 cfs**	**145,776**	**April 1 through October**
99,244 irrigated acres of the		**af/yr**	**31.**
total 103,570 irrigable acres			**[September 03, 1890 priority]**
within the Sunnyside Division and related uses.			

* If additional space is needed, please continue on the form: Attachment for Application to Enter a Water Right into the Trust Water Right Program.

B. Proposed Purpose of the Trust Water Right:

DESCRIBE THE PURPOSE(S) OF USE DURING THE PERIOD OF TRUST:	
PURPOSE OF USE	ACRE-FEET/YR
Primary reach-only trust water rights for instream flow enhancement use in the lower Yakima River	14,009
below Sunnyside Diversion Dam, augmenting the other existing instream target flows managed by Reclamation at Parker and Prosser; or alternatively, used in the Yakima River system below the five (5) federal water storage reservoirs as shaped releases of water stored in those five (5) federal reservoirs to augment instream flows for fish through March 31 of each following year, when such post-irrigation season use causes no harm to the Yakima River Basin's Total Water Supply Available (TWSA) and its water users.	

6. Place of Use:

A. Existing:

LEGAL DESCRIPTION OF LANDS WHERE WATER IS PRESENTLY USED:

The Court's 8-14-2003 Conditional Final Order for Court Claim No. 1752, Sunnyside Division, defines the place of use, from previous court rulings, as follows: "Irrigable acres within the Sunnyside Division exterior boundaries as of the date of this Stipulation" (7-31-2003), "as described in the Attachment 1 metes and bounds legal description and the Attachment 2 map which are incorporated herein. Attachment 1 is controlling as the description of the Sunnyside Division's place of use." See Attachment 1 copy attached (from 7-31-2003 Amended Stipulation re: Sunnyside Division).

¼	¼	SEC.	TWP.	RGE.	COUNTY	PARCEL #	# OF ACRES
					Yakima & Benton		***99,244 irrigated acres of the total 103,570 irrigable acres within the Sunnyside Division***

DO YOU OWN ALL THE LANDS IN THE EXISTING PLACE OF USE? ☐ YES X NO – IF NO, PROVIDE OWNER(S) NAME:
The many Sunnyside Division water users...

6. Place of Use (continued)

B. Proposed:

IDENTIFY THE WATER BODY TO BE BENEFITED OR OTHER PLACE TO BE BENEFITED

Default Target Flow Augmentation Use:
The lower Yakima River: from the Sunnyside Diversion Dam at river mile (RM) 103.8, downstream to the new BID pumpsite diversion point at RM 32.5, and continuing downstream to the last point where return flows leaving the Sunnyside Division service area re-enter the Yakima River at the site of the old Kiona Canal Wasteway return at RM 23.8.

Shaped Releases of Stored Water:
That portion of the entire Yakima River system lying downstream of the five (5) federal storage reservoirs (Rimrock lake, Bumping Lake, Lake Keechelus, Lake Kachess, and Lake Cle Elum).

7. Remarks and Other Relevant Information:

The YRBWEP Sunnyside Phase I and Phase II water conservation projects create water savings by implementing water delivery system improvements on the Sunnyside Canal and lateral system. The BID water conservation project creates water savings by implementing a new pumped and pressurized pipeline water delivery system to be used solely on the BID portion of the

unitary Sunnyside Division place of use. No reduction in irrigated acreage is occurring as a result of these conservation projects. The additional (new) diversion for BID is the subject of 6 separate water right change applications filed with Ecology on 10-16-2008 and subsequently approved on 7-21-2010.

According to the provisions of the 1994 YRBWEP Act (Title XII of Public Law 103-434) and the YRBWEP funding agreements with the Sunnyside Division and BID, a total of 41,842 af/yr of conserved water is to be assigned to instream flow augmentation use in the Yakima River system. That represents the sum of 19,450 af/yr of Phase I Sunnyside ('2/3rds block') water savings, 16,971 af/yr of Phase II Sunnyside ('2/3rds block') water savings, 2,897 af/yr of BID ('2/3rds block') water savings, and 2,524 af/yr of additional BID ('conveyance water') water savings. These 41,842 af/yr of total Sunnyside Division conserved water are to be allocated proportionally among all six (6) of the Sunnyside Division irrigation season water rights, and retain the same status as their parent Sunnyside Division water rights, being 68.9% non-proratable and 31.1% proratable in the Yakima Basin's TWSA water management scheme.

This conserved water can be applied to primary-reach only instream flow trust water right use in the lower Yakima River below Sunnyside Diversion Dam, or can be retained in the five (5) federal water storage reservoirs for use in the Yakima River system below the reservoirs as shaped releases of stored water to augment flows for fish through March 31 of each following year, when such use causes no harm to the Yakima Basin's TWSA and its water users. These YRBWEP-funded Sunnyside Division water conservation projects will generate conserved water from each of the six Sunnyside Division water rights confirmed for irrigation and related uses during the April 1 through October 31 irrigation season. This conserved water is the water source for these 6 concurrently-filed trust water right applications and is the source of the water that will be assigned to use as instream flow augmentation trust water rights.

These 6 primary-reach-only trust water rights will primarily be assigned as constant-flow increases to the base YRBWEP target flows at Parker and Prosser as maintained by Reclamation. Such constant-flow use will be the default water use plan each year. However, Reclamation requests the right to shape the use of these instream flow augmentation trust water rights throughout the irrigation season, and through March 31st of each following year, in a way that will maximize the associated biological benefits. In other words, Reclamation may choose to deliver flow pulses or to otherwise shape the usage of these 6 instream flow trust water rights in a way other than as a constant and unvarying target flow increase throughout the entire irrigation season.

Reclamation will ensure that any such varying target flow augmentation usage does not exceed the annual acre-feet limits of the trust water rights and also that such usage does not cause detriment or injury to other existing water rights within the Yakima Basin under its TWSA management and operations.

Subsection 1205(a)(4)(B)(i) of the 1994 Federal YRBWEP Act states that instream target flow increases authorized by the Act "shall not further diminish the amount of water that otherwise would have been delivered by an entity to its water users in years of water proration." To comply with this requirement, Reclamation may need, during prorationing years, to proportionally reduce the instream target flow increase at the Prosser gaging station, as compared to the instream target flow increase at the Parker gaging station, derived from this Sunnyside Division water conservation project, to ensure that the Kennewick Irrigation District (KID) continues to have the same water availability in the future that it has historically enjoyed during prorationing years. KID has historically benefited, during prorationing years, from its ability to divert and use return flows from Sunnyside Division irrigated lands that return to the Yakima River above KID's Prosser Dam diversion point.

Reclamation will inform Ecology of its annual water usage plan in any given year

that Reclamation decides to not apply these trust water rights to constant-flow target flow augmentation use; and Reclamation will so inform Ecology prior to varying from the established default constant-flow augmentation use. These conservation projects will not be fully implemented until 2032.

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.

8. Signatures:

I certify that the information above is true and accurate to the best of my knowledge. I hereby grant staff from the Department of Ecology 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.

(Applicant)	08 / 14 / 12 (Date)
(Water Right Holder)	08 / 14 / 12 (Date)
(Land Owner[s] of Existing Place of Use)	08 / 07 / 12 (Date)

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

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

☐ ADDITIONAL SIGNATURES REQUIRED ☐ SECTION _____ IS INCOMPLETE

☐ OTHER/EXPLANATION:_____

STAFF: _____ ***DATE:*** ____/____/____