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

WASHINGTON STATE DEPARTMENT OF ECOLOGY

DEPT OF ECOLOGY Received APR 16 2008 CENTRAL REGION OFFICE

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

(Check all that apply.)

Lease
Purchase
Donation
x Other

Explain: Application relates to the implementation of provision 2, page 2, of the water right change approval by Department of Ecology (with modifications), dated January 28, 2008, see Appendix A attached hereto; said approval pertaining to the associated Benton County Water Conservancy Board decision dated October 31, 2007, as to Water Right Change Application No. CS4-00788CTCLS24@3(BENT 07-20), see Appendix B attached hereto.

IF FOR SEASONAL OR TEMPORARY, START DATE _4___/__1___/each year
END DATE __10___/__31___/each year

FOR OFFICE USE ONLY BENTON

FILE No. CS4-00788CTCLsb24@5 WRIA 37

DATE ACCEPTED 04 / 28 / 08 BY

FEE $ ∅ REC'D 04 / 16 / 2008

CHECK No. ∅

SEPA: ☒ Exempt ☒ Not exempt

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

1. Applicant Information:

APPLICANT/BUSINESS NAME	PHONE NO.	FAX NO.
Red Mountain Water LLC	(253)863-6200	(253)826-5353
ADDRESS: 1302 Puyallup Street Attn: Stephen A. Burnham		
CITY: Sumner	STATE: WA	ZIP CODE: 98389-1604

CONTACT NAME (IF DIFFERENT FROM ABOVE)	PHONE NO.	FAX NO.
Charles B. Roe, Jr.	(360) 357-9493	(360)357-9493
ADDRESS: 2400 Wedgewood Drive S.E.		
CITY: Olympia	STATE: WA	ZIP CODE: 98501-9693

2. Water Right Information:

Note: This application relates to the instream flow element of the water right discussed immediately hereafter.

WATER RIGHT OR CLAIM NUMBER	RECORDED NAME(S)
ACQUAVELLA Court Claim No.00788(A)06848 See Appendices A & B as to the changes in the water right confirmed by Conditional Final Order entered in State v. Acquavella Yakima County Superior Court No. 77-2-01484-5 on May 9, 2002; said confirmed right being described in Report of Referee Subbasin No. 24 (Moxee) dated February 13, 2001.	Mary Gerdes (initial)

DO YOU OWN THE RIGHT? x YES NO IF NO, PROVIDE OWNER(S) NAME and ADDRESS:

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? YES x NO

IMPORTANT! PROVIDE INFORMATION SHOWING THE EXTENT OF WATER USE FOR EACH OF THE LAST FIVE YEARS – SEE APPENDIX B, PAGE 7, SECTION C & D.

SEE METERING REQUIREMENT CONTAINED IN BENTON COUNTY WATER CONSERVANCY BOARD DECISION, APPENDIX B, PAGE 12, FINDING 9 (AS APPROVED BY DEPARTMENT OF ECOLOGY. SEE APPENDIX A.)

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

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

Court Claim 00788
11-08-1870
Sub 24 Moxee

CS4-00788CTCLsb24@5

1870

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

Alteration in method of diversion	Alteration in water use/ irrigated acreage
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:
By placing the instream flow element of the applicant-owned right into the trust program as set forth in Section 7, infra. See Appendix B, page 2.	
Name of funding source(s):	

WATER RIGHT DESCRIPTION * In stream flow element.

4. Point(s) of Diversion/Withdrawal: N/A (The "diversion and withdrawal points" of the irrigation use element are set forth on page 2 of Appendix B.)

A. Existing

SOURCE	NO.	¼	¼	SEC.	TWP.	RGE.	PARCEL #	WELL TAG #

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.

5. Purpose of Use:

A. Existing Use of the Water Right

PURPOSE OF USE	GPM or CFS	ACRE-FT/YR	PERIOD OF USE
(1) Irrigation of up to 44.2 acres	**0.31 cfs**	**56.58**	**April 1 through Oct. 31**
(2) Instream Flow	**0.31 cfs**	**56.58**	**April 1 through Oct. 31**
(This application relates to (2))			

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
The purpose of us is the instream flow element as aforenoted.	**56.58**

6. Place of Use:

A. Existing:

LEGAL DESCRIPTION OF LANDS WHERE WATER IS PRESENTLY authorized for USE:							
The instream flow element relates to a reach of the Yakima River system beginning in the Yakima River (in Yakima County) within NE ¼, NW ¼, See 28, T 13 N, R.19 EWM and in the River's Blue Slough tributary within SW ¼, SE ¼, Sec. 33, T 13 N, R19 EWM and ending approximately ¾ miles downstream from the Benton City Bridge over the Yakima River in Benton County. See Appendix B, page 2. The bed of said reach is, we understand, owned by the State of Washington primarily if not exclusively.							
¼	¼	SEC.	TWP.	RGE.	COUNTY	PARCEL #	# OF ACRES
DO YOU OWN ALL THE LANDS IN THE EXISTING PLACE OF USE? YES x NO – IF NO, PROVIDE OWNER(S) NAME: State of Washington, as owner of the bed of a navigable stream, i.e. the Yakima River, (except as to a portion of said reach where the bed may be owned either by the United States or the Yakima Indian Nation, or both, as the river flows through the Yakima Indian Reservation).							

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

6. Place of Use (continued)

B. Proposed:

IDENTIFY THE WATER BODY TO BE BENEFITED OR OTHER PLACE TO BE BENEFITED
See 6A – a description of the reach to which the instream flow rights element pertains.

7. Remarks and Other Relevant Information:

The instream flow right is submitted (by the application) for entry in the trust water right program subject to the following conditions: (1) The placement of the instream flow use element in the Trust Water Right Program shall not impair in any manner the ability of the owner of the right to transfer/convey in the future ownership of the water right or a portion thereof, including the instream flow use element placed in the Program as aforestated, to another person or entity; and (2) Said placement shall not impair or restrict in any manner whatsoever the owner of the water right or a portion thereof to, in the future, obtain approval of changes to the purpose or place of use or point of withdrawal/diversion of the irrigation element of the right (and the placement shall not be a factor to be considered in the ruling on an application or request for such change); provided, if an approval involves a point of withdrawal/diversion change of said right or a portion thereof of the owner's instream flow element interest (placed in the Trust Water Right Program, earlier in this paragraph), the point shall be modified by the DOE as to its geographic river reach location consistent with said approval of a change of a point of diversion/withdrawal.

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.

Red Mountain Water LLC — 4 / 9 / 2008
(Applicant) *(Date)*

By Stephan A. Burnham,

Red Mountain Water LLC — 4 / 9 / 2008
(Water Right Holder) *(Date)*

N/A ____/____/____
(Land Owner(s) of Existing Place of Use) *(Date)*

See answer to Section 6A, supra. Note further that applicant is also the owner of the place of use of the irrigation use element of the right referred to in section 2 hereof.

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