



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

CERTIFIED MAIL Return Receipt Requested

FERN CREEK VINEYARDS, LLC.
C/O PREMIER PACIFIC VINEYARDS
ATTN: MATT MCKAMEY
PO BOX 3989
NAPA, OR 94558

December 12, 2008

Reference: File R-87120

Dear Mr. McKamey:

THIS IS NOT A PERMIT AND IS SUBJECT TO CHANGE AT THE NEXT PHASE OF PROCESSING.

This letter is to inform you of the preliminary analysis of your water use permit application and to describe your options. In determining whether a water use permit application may be approved, the Department must consider the factors listed below, all of which must be favorable to the proposed use if it is to be allowed. Based on the information you have supplied, the Water Resources Department has made the following preliminary determinations:

Initial Review Determinations:

1. The application requested the storage of 180.0 acre feet (AF) from an unnamed stream, tributary to Cooper Creek, with a dam height of 25.0 feet, inundating 5.0 acres for multiple purpose use.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The storage of water from an unnamed stream, tributary to Cooper Creek, for multiple purpose is allowable November 1 through June 30 under the Willamette Basin Program.
4. Surface water is available in the amount requested during the period September 1 through July 31.
5. Prior to issuance of a permit and construction of the project, final dam designs and specifications must be submitted to the Department and approved by the Department's dam-safety engineer.
6. The Department has determined there are deficiencies with the application. Please refer to the **Additional Information Required** section below for specific information.

Summary of Initial Determinations

The storage of 180.0 AF from an unnamed stream, tributary to Cooper Creek, for multiple purpose use is allowable November 1 through June 30.

Because of these favorable determinations, the Department can now move your application to the next phase of the water rights application review process, where public interest factors will be evaluated.

Additional Information Required:

Additional information is required to process your application. Please provide the following

- Please describe how you plan to store 180.0 AF with a dam height of 25.0 feet and only inundate 5.0 acres.
- Please provide a completed Land Use Information Form or a receipt signed and dated by a Polk County official for the property described as Tax Lot 303 and 304, Section 16, Township 8 South, Range 5 West, W.M. The application demonstrates land-use approval has been obtained for Tax Lot 300 and 400, but the approval status for Tax Lots 303 and 304 is unclear.

Please submit this information no later than Thursday, January 15, 2009. If you are unable to submit the information listed above, you may request an administrative hold for up to an additional 180 days. You must submit the request in writing, stating how much more time you will need and why you need additional time. If an administrative hold is granted, your application will not be processed further until the requested information is received or the extended deadline has passed.

If we do not receive the items requested above or a request for an administrative hold by this date, the Department will likely proceed with a proposed final order recommending denial of the application.

Please reference the application number when sending any correspondence regarding the conclusions of this initial review. Comments received within the comment period will be evaluated at the next phase of the process.

To Proceed With Your Application:

If you choose to proceed with your application, you do not have to notify the Department. Your application will automatically be placed on the Department's Public Notice to allow others the opportunity to comment. After the comment period the Department will complete a public interest review and issue a proposed final order.

Withdrawal Refunds:

If you choose not to proceed, you may withdraw your application and receive a refund (minus a \$150 processing charge per application.) To accomplish this you must notify the Department in writing by **Friday, December 26, 2008**. For your convenience you may use the enclosed "STOP PROCESSING" form.

If A Permit Is Issued It Will Likely Include The Following Conditions:

1. Measurement, recording and reporting conditions:
 - A. Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level and dead-pool level must be installed in the reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I. The permittee shall maintain the measuring device(s) in good working order, shall keep a complete record of the amount of water used each month, and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water-use information, the periods of water use and the place and nature of use of water under the permit.
 - B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
2. The permittee is required to pass all live flow outside the storage season. The Director may require the user to measure inflow and outflow, above and below the reservoir respectively, to ensure that live flow is not impeded outside the storage season. Measurement devices and their implementation must be acceptable to the Director, and the Director may require that data be recorded on a specified periodic basis and reported to the Department annually or more frequently.
3. You may be required to install fish screens at the point of diversion to meet Oregon Department of Fish and Wildlife specifications for adequate protection of aquatic life.

This initial review does not attempt to address various public interest issues such as sensitive, threatened, or endangered fish species. These issues will be addressed as the Department reviews comments from the public and other agencies, and prepares a proposed final order. You should be aware that, if significant public interest issues are found to exist, such a finding could have an impact on the eventual outcome of your application.

The water source identified in your application may be affected by an Agricultural Water Quality Management Area Plan. These plans are developed by the Oregon Department of Agriculture (ODA) with the cooperation of local landowners and other interested stakeholders, and help to

ensure that current and new appropriations of water are done in a way that does not adversely harm the environment. You are encouraged to explore ODA's Water Quality Program web site at http://www.oregon.gov/ODA/NRD/water_agplans.shtml to learn more about the plans and how they may affect your proposed water use.

If you have any questions:

Feel free to call me at 503-986-0815 if you have any questions regarding the contents of this letter or your application. Please have your application number available if you call. General questions about water rights and water use permits should be directed to our customer service staff at 503-986-0801. When corresponding by mail, please use this address: Joel Plahn, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Plahn".

Joel Plahn
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

R-87120
WAB 2-30200301
POU 2-30200301
GW

APPLICATION FACT SHEET

Application File Number: R-87120

Applicant: FERN CREEK VINEYARDS, LLC.

County: POLK

Watermaster: 16

Priority Date: MARCH 14, 2008

Source: UNNAMED STREAM, TRIBUTARY TO COOPER CREEK

Use: MULTIPLE PURPOSE

Quantity: 180.0 ACRE FEET

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 9A LITTLE LUCKIAMUTE R MISC

Dam Location: SENW, SECTION 16, T8S, R5W, W.M.; 2750 FEET NORTH AND 1760 FEET EAST FROM SW CORNER, SECTION 16

Place of Use:

SE $\frac{1}{4}$ NW $\frac{1}{4}$

NW $\frac{1}{4}$ SW $\frac{1}{4}$

NE $\frac{1}{4}$ SW $\frac{1}{4}$

SECTION 16

TOWNSHIP 8 SOUTH, RANGE 5 WEST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, December 26, 2008

PUBLIC NOTICE DATE: Tuesday, December 16, 2008

30 DAY COMMENT DEADLINE DATE: Thursday, January 15, 2009

Mailing List for IR Copies

Application #R-87120

IR Date: December 12, 2008

Original mailed to applicant:

FERN CREEK VINEYARDS, LLC., PO BOX 3989, NAPA, OR 94558

Copies sent to:

1. WRD - File # R-87120
2. WRD - Water Availability: Ken Stahr
3. WRD - Dam Safety

IR, Map, and Fact Sheet Copies sent VIA EMAIL to:

4. WRD - Watermaster # 16
5. ODFW:
6. DEQ:

IR, Map, and Fact Sheet Copies sent

7. Department of Agriculture

Copies sent to Other Interested Persons (CWRE, Agent, Well Driller, Commenter, etc.)

8. Urstadt, Eric, CWRE #385
Stuntzner Engineering & Forestry, LLC, 2137 19th Avenue, Forest Grove OR 97116
9. William Kness,
Stuntzner Engineering & Forestry, LLC, 2137 19th Avenue, Forest Grove OR 97116
10. Luckiamute Watershed Council, WOU, 345 North Monmouth Ave, Monmouth OR 97361
11. Gerald McDonald 3830 Mistletoe Rd Dallas, OR 97338

<p>Copies Mailed By: _____ (SUPPORT STAFF) on: _____ (DATE)</p>

Caseworker: Joel Plahn

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