



Oregon

John A. Kitzhaber, MD, 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

X NOVO LLC
ATTENTION: CRAIG WILLIAMS
1551 OAK AVE
SAINT HELENA, CA 94574

March 2, 2012

Reference: File G-17494

Dear Applicant:

**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 proposed the storage of 9.0 acre feet (AF) of ground water in X Novo Reservoir from drain tiles in Brush College Creek Basin for irrigation November 1 through June 30. The dam height is 9.0 feet and the area inundated is 0.86 acre. Stored ground water will then be pumped from the reservoir to irrigate 34.1 acres of vineyards using drip irrigation March 1 through October 31.

We understand that POD A, as shown on the application map, shall be a pipe system for the purpose of collecting ground water from the drain tiles. Also, ground water will first be stored in X Novo Reservoir, then pumped from the reservoir for irrigation. The application stated that the drain tiles will continually recycle the water applied as irrigation back to the reservoir for re-application during the irrigation season.

2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The appropriation of water from drain tiles in Brush College Creek Basin for storage of ground water for irrigation use is allowable under Oregon Administrative Rules (OAR) 690-502, the Willamette Basin Program. However, the drain tiles are located within the Eola Hills Ground Water Limited Area and will produce ground water from a basalt aquifer and therefore is subject to the rules under OAR 690-502-0200.
 - A. Permits may be issued for a period not to exceed five years.
 - B. The amount of water used for irrigation is limited to a diversion of 1.0 acre foot for each acre irrigated during the irrigation season of each year.
 - C. Irrigation allowed under a permit shall be by drip irrigation or by an equally efficient method.

4. Ground water will likely be available within the capacity of the resource, and if properly conditioned, the proposed use of ground water will avoid injury to existing ground water rights.

The Department has determined, based upon OAR 690-009, that the proposed ground water use will have the potential for substantial interference with Brush College Creek. Therefore, in accordance with OAR 690-400-0010(11)(a)(B), surface water availability must also be considered.

Based on an assessment of surface water availability, which compared a calculation of natural stream flow minus the consumptive portion of all relevant rights of record, surface water is available in the amount and for the full period requested. However, based on field observations, the local watermaster may determine that surface water is only available during a limited time period.

5. The application is subject to Section 4(d) of the Endangered Species Act.
6. Irrigation allowed under this permit shall be by drip irrigation or by an equally efficient method.
7. This permit expires in five years from date of issuance. This permit may be renewed for additional periods of time, not to exceed five years, if the Director finds the groundwater resource can probably support the continued use. The following conditions shall have been met by the permittee in order for the Department to consider renewal.
 - A. Within two years of permit issuance, the permittee shall prepare a plan for the Director which shall indicate the steps for obtaining a long term water supply.
 - B. Within one year after making beneficial use of water, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner.
8. The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of one-eightieth of one cubic foot per second and 1.0 acre foot for each acre irrigated during the irrigation season of each year.

Summary of Initial Determinations

The storage of 9.0 AF of ground water from drain tiles in Brush College Creek Basin for irrigation is allowable during the full period requested, being November 1 through February 28 for storage and March 1 through October 31 for irrigation of 31.4 acres, if limited to drip or equally efficient irrigation; 1.0 acre foot per acre per year; and for a period of 5 years.

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.

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 \$200 processing charge per application). To accomplish this you must notify the Department in writing by **Friday, March 16, 2012**. 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, the permittee shall install a totalizing flow meter or other suitable measuring device as approved by the Director at each point of appropriation. The permittee shall maintain the meter or measuring device in good working order.
 - B. The permittee shall keep a complete record of the amount of water diverted/stored each month, and shall submit a report which includes the recorded report water-use / water-storage 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, including the place and nature of use of water under the permit.
 - C. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where any meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
 - D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.
2. All drain tiles that are used as a source of water under this permit shall be tied to a common diversion point which shall be equipped with a suitable measuring device as approved by the Director.
3. Irrigation allowed under this permit shall be by drip irrigation or by an equally efficient method.

4. This permit expires in five years from date of issuance. This permit may be renewed for additional periods of time, not to exceed five years, if the Director finds the groundwater resource can probably support the continued use. The following conditions shall have been met by the permittee in order for the Department to consider renewal.
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5. The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of one-eightieth of one cubic foot per second and 1.0 acre foot for each acre irrigated during the irrigation season of each year.

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 503-986-0816 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: Kerry Kavanagh, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Kerry Kavanagh
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

APPLICATION FACT SHEET

Application File Number: G-17494

Applicant: X NOVO LLC; ATTENTION: CRAIG WILLIAMS

County: Polk

Watermaster: 16

Priority Date: October 17, 2011

Source: DRAIN TILES IN BRUSH COLLEGE CREEK BASIN

Use: STORAGE OF GROUND WATER FOR IRRIGATION OF 31.4 ACRES

Quantity: 9.0 ACRE FEET

Storage Facility: X NOVO RESERVOIR

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 17 GLENN CR & MISC

Drain Tiles Location: POD A - NWNE, SECTION 7, T7S, R3W, W.M.; 705 FEET SOUTH AND 290 FEET EAST FROM N1/4 CORNER, SECTION 7

Place of Use:

NW $\frac{1}{4}$ NE $\frac{1}{4}$ 31.2 ACRES IRRIGATION AND STORAGE
SW $\frac{1}{4}$ NE $\frac{1}{4}$ 0.2 ACRE IRRIGATION
SECTION 7
TOWNSHIP 7 SOUTH, RANGE 3 WEST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, March 16, 2012

PUBLIC NOTICE DATE: Tuesday, March 6, 2012

30 DAY COMMENT DEADLINE DATE: Thursday, April 5, 2012

Mailing List for IR Copies

Application #G-17494

IR Date: March 2, 2012

Original mailed to applicant:

X NOVO LLC
ATTENTION: CRAIG WILLIAMS
1551 OAK AVE
SAINT HELENA, CA 94574

Copies sent to:

1. WRD - File # G-17494
2. WRD - Water Availability: Ken Stahr

SENT VIA EMAIL

WRD - Watermaster # 16
ODFW:
DEQ:

Copies Mailed By: _____ (SUPPORT STAFF) on: _____ (DATE)
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IR, Map, and Fact Sheet Copies sent to:

3. Department of Agriculture
4. Kim Kratz, Northwest Fisheries Science Center, NOAA Fisheries,
2725 Montlake Blvd E, Seattle, WA 98112
5. Paul Hensen, State Supervisor, US Fish & Wildlife Service,
Oregon Fish & Wildlife Office, 2600 SE 98th Avenue, Suite 100, Portland, OR 97266

Affected Landowners (include "Notice of Initial Review--Affected Landowner"):

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

6. Jeanne Boatwright, Boatwright Engineering Inc., 2613 12th Street SE, Salem OR 97302

Caseworker: Kerry Kavanagh

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