



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

March 2, 2012

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

Reference: File G-17495

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 appropriation of 0.40 cubic foot per second (CFS) of water from Well 1 in Brush College Creek Basin for supplemental irrigation of 31.4 acres March 1 through October 31.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The appropriation of water from Well 1 in Brush College Creek Basin for supplemental irrigation is allowable under Oregon Administrative Rules (OAR) 690-502, the Willamette Basin Program. However, Well 1 is 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. Surface water is available in the amount and for the full period requested.

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. The standard allowable rate for irrigation use from ground water is 1/80 CFS per acre. If the application is approved, the rate allowed will be limited to 0.39 CFS.
7. Irrigation allowed under this permit shall be by drip irrigation or by an equally efficient method.
8. 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. The permit holder shall submit to the Water Resources Department the results of a pump test meeting the Department's standards for each point of appropriation (well), unless an exemption has been obtained in writing under OAR 690-217.
 - C. 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.
9. 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 use of 0.39 CFS from Well 1 in Brush College Creek Basin for supplemental irrigation of 31.4 acres is allowable during the full period requested, March 1 through October 31, 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 used each month, and shall submit an annual report which includes the recorded water use measurements to the Department by December 1 of each year. 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 the 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. (1) Use of water from any well, as allowed herein, shall be controlled or shut off if the well displays:
 - (a) An average water level decline of three or more feet per year for five consecutive years; or
 - (b) A total water level decline of fifteen or more feet; or

- (c) A hydraulic interference decline of fifteen or more feet in any neighboring well providing water for senior exempt uses or wells covered by prior rights.
- (2) The permittee/appropriator shall be responsible for complying with each of the following requirements for measuring water levels in the well(s).
- (a) Use of water from a new well shall not begin until an initial static water level in the well has been measured and reported to the Department.
 - (b) In addition to the measurement required in subsection (a) of this section, a water level measurement shall be made each year during the period March 1 through March 31.
 - (c) All water level measurements shall be made by a qualified individual. Qualified individuals are certified water rights examiners, registered geologists, registered professional engineers, licensed land surveyors, licensed water well constructor, licensed pump installer, or the permittee/appropriator.
 - (d) Any qualified individual measuring a well shall use standard methods of procedure and equipment designed for the purpose of well measurement. The equipment used shall be well suited to the conditions of construction at the well. A list of standard methods of procedure and suitable equipment shall be available from the Department.
 - (e) The permittee/appropriator shall report the record of measurement to the Department on a form available from the Department. The record of measurement shall include both measurements and calculations, shall include a certification as to their accuracy signed by the individual making the measurements, and shall be submitted to the Department within 90 days from the date of measurement. The Department shall determine when any of the declines cited in section (1) are evidenced by the well measurement required in section (2).
3. The well shall produce ground water only from the basalt ground water reservoir.
4. The well shall produce ground water from no shallower than 75 feet below land surface.
5. The well, or any replacement well, shall be constructed to meet the special condition standards specified in OAR 690-200-0028(3): In particular, the well shall be limited to one aquifer and shall be continuously cased and continuously sealed to within 100 feet of the bottom of the hole and, the well shall be equipped with a dedicated measuring tube.
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. The permit holder shall submit to the Water Resources Department the results of a pump test meeting the Department's standards for each point of appropriation (well), unless an exemption has been obtained in writing under OAR 690-217.
 - C. 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.
9. Prior to using water from any well listed on this permit, the permittee shall ensure that the well has been assigned an OWRD Well Identification Number (Well ID tag), which shall be permanently attached to the well. The Well ID shall be used as a reference in any correspondence regarding the well, including any reports of water use, water level, or pump test data.

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

G-17495
WAB 2- PSI with 2-182
POU 2- PSI with 2-182
GW

APPLICATION FACT SHEET

Application File Number: G-17495

Applicant: X NOVO LLC; ATTENTION: CRAIG WILLIAMS

County: Polk

Watermaster: 16

Priority Date: October 17, 2011

Source: WELL 1 IN BRUSH COLLEGE CREEK BASIN

Use: SUPPLEMENTAL IRRIGATION OF 31.4 ACRES

Quantity: 0.4 CUBIC FOOT PER SECOND

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 17 GLENN CR & MISC

Well Location: NWN, SECTION 7, T7S, R3W, W.M.; 855 FEET SOUTH AND 270 FEET EAST FROM N1/4 CORNER, SECTION 7

Place of Use:

NW $\frac{1}{4}$ NE $\frac{1}{4}$ 31.2 ACRES
SW $\frac{1}{4}$ NE $\frac{1}{4}$ 0.2 ACRE
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-17495

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-17495
2. WRD - Water Availability: Ken Stahr

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

SENT VIA EMAIL

WRD - Watermaster # 16
ODFW:
DEQ:

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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