



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

10 S. Oakdale Avenue

Medford, OR 97501

Ph: (541) 774-6880

Fax: (541) 774-6187

September 4, 2003



Mr. Brad Mitchell
P.O. Box 323
Eagle Point, OR 97524

Dear Mr. Mitchell:

With so much conflicting information over the last year or so about the dimensions of your exempt pond, I hope that our visit to the pond has resolved any confusion. As I mentioned to you in our conversation on August 26, 2003, the day after you visited the office, Water Right personnel from the Water Resources Department in Salem called with additional concerns about my request for changes to an exempt pond application filed in March 1995. In my letter of August 28, 2003 I wrote about those concerns and asked that you disregard any earlier verbal understandings and my letter of August 25, 2003.

To review, on September 2, 2003 Bart Chapman, Assistant Watermaster and I made an on-site visit to your property at 10070 Butte Falls Highway to take measurements of an historic pond recorded as P. 79080, an Exempt Pond under House Bill 2153.

Based on the measurements made, see diagram attached, the historic pond had a capacity of 2.8 acre-feet. As mentioned before, you can not change the configuration or dimensions of the pond nor enlarge it beyond the 2.8 acre-foot size determined by the measurements taken on September 2. Also as we discussed in our earlier conversation, the stock water use allowed under P-79080 may be piped to stock tanks as long as the pipe does not allow sub-irrigation of the lands through which it passes.

During our visit on September 2, 2003, we discussed your proposal for NRCS to design a road crossing for the seasonal drainage on your property. The area around this crossing is not part of the historic pond allowed under HB 2153. It is a new construction apparently intended to protect the road during times of high water. As we discussed, I recommend that it be sized appropriately to pass winter water flows, remembering that no water may be stored in this area of your property year round.

Your property falls in the Big Butte drainage basin. That basin was withdrawn from any new surface water uses in 1925 under ORS 538.430. To increase water storage on your property, the



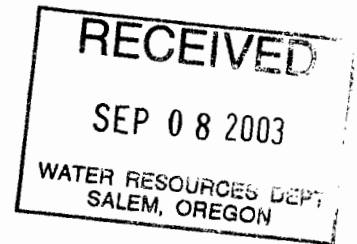
Eagle Point Irrigation District (EPID) would have to agree to allow the use of the Exempt Pond and any new storage area as a bulge in your distribution of the district's irrigation water. If allowed by EPID, neither area may retain district water beyond the end of the irrigation season.

If you have any additional questions, please give me a call.

Sincerely,



Larry Mentee
Watermaster, District 13



Attachment

cc: Anita Huffman, Water Rights, OWRD
Hazel Brown, Eagle Point Irrigation District
Peter Winnick, Natural Resources Conservation Service