

CITIZENS FOR OREGON PONDS

Advocating the environmentally responsible use of ponds to support fish, wildlife, plant diversity, soil conservation, fire fighting and recreation

March 16, 2007

Dear Interested Oregonian,

This letter is to inform you of a situation that will affect you directly or indirectly.

You may be aware that there are thousands of small ponds of various sizes on both public and private lands throughout the watersheds of Oregon. Although many can be legally used for irrigation, most of these ponds serve non-consumptive uses. During the rainy season these ponds reduce flooding, contain sedimentation, reduce soil erosion and improve water quality while allowing surface run-off to continue flowing down stream. During the dry season, these ponds recharge aquifers and provide in many places the only year round water for fish and wildlife habitat and are essential for controlling wildfires and structural fires. Seepage from these ponds is often the sole source of water to maintain wetlands.

What you might not know is that ORS 536.400 et. seq. requires that ponds have permits from the Oregon Water Resources Department (OWRD). Land-owners unaware of this particular law have built new ponds or purchased property with pre-existing ponds whose legal status was not a concern. But, many of these ponds lie within watersheds whose waters have been legally "withdrawn" from the public domain for the exclusive use of nearby municipalities. (Though OWRD does not have a central database on how many watersheds are affected there are approximately 40 in the Willamette Valley alone.) Some municipalities have claimed ALL of the surface water in entire watersheds, a much larger land area than was originally implied.

Recently, OWRD has determined, because of this withdrawal, it has no jurisdiction to grant permits to these ponds and has even ordered some non-permitted ponds to be drained. The very real possibility is that every non-permitted pond could be ordered to be drained because of a lack of a permit. Currently, due to OWRD's determination, there is no way to get the ponds permitted unless the law is amended. Perhaps the majority of small ponds in Oregon do not have permits. The issue is very likely to have an important impact upon the interests of you or your group.

The loss to fire agencies (city, county, state, and federal) in addition to the loss of fish and wildlife habitat, plant diversity and recreation is obvious and would be felt the most during hot and dry summer months in places where water availability is at the lowest levels.

There is a vital need for a permitting process that would at least secure some existing small ponds. To accomplish this, Oregon state senator Doug Whitsett has submitted before the State Legislature **SB 908**, which in its current form states:

ORS 538.430(5) "Nothing in this section shall prevent withdrawn waters from being stored in ponds of 25 acre feet or less for fish and wildlife, recreation, and fire-fighting. Such storage shall comply with any applicable permitting requirements. This provision shall apply retroactively to any ponds in existence as of the date of passage of this Act."

This proposed legislation does not create a water right for consumptive use of the water to anyone. This legislation does not deny any water to any municipality.

We are a grass roots citizen group that has become alerted to the dangers of the current legal status of ponds in Oregon. Though **SB 908** only addresses the status of pre-existing ponds in the Big Butte Creek watershed, there are many other watersheds in Oregon where we believe the legal standing of ponds will sooner or later be similarly challenged. Please consider writing a letter supporting **SB 908** to: Senator Doug Whitsett, 900 Court St. NE S-302, Salem, OR 97301 or, email him at

The proposed legislation will be under consideration soon and if you want your voice heard, you must act now. We thank you warmly for your support in this important matter. Contact Gary Harrington at 541-865-7590 for more information or send your questions to the address below.

Citizens for Oregon Ponds

P.O. Box 144

Butte Falls, Oregon 97522

Email address: c4orponds@yahoo.com

