

West, Yvonne@Waterboards

From: Porzio, Kevin@Waterboards
Sent: Tuesday, October 01, 2013 9:41 AM
To: West, Yvonne@Waterboards; Miller, Aaron@Waterboards
Subject: FW: SCS Reservoir Assistance Application
Attachments: 378-std-10-11.pdf; GM 130 Part 400.pdf; SCS and ASCS Bulletin 1982.pdf

Good morning,

Mr. Chapman got back to me regarding SCS's policy for applicant's and any state laws that may apply to the impounding of water. In his email and the attachment, SCS and ASCS Bulletin 1982, a land owner is responsible for determining if a water right is required for their impoundment.

I also found available online the SCS "Ponds for Water Supply and Recreation", Agriculture Handbook No. 387 Issued January 1971. This is the earliest record I can find in which the SCS informs the applicant that "Almost all states have laws on impounding water and on the design, construction, and operation of ponds. In many states small farm ponds are exempt from any such laws. You should become familiar with those that apply in your state and be sure that you or your engineer comply with them." The policy can be viewed at:

<http://babel.hathitrust.org/cgi/pt?id=mdp.39015043245904;view=1up;seq=61>

If you need me to follow up with anything just let me know.

Thanks,

Kevin

From: Chapman, Jim - NRCS, Davis, CA [mailto:Jim.Chapman@ca.usda.gov]
Sent: Thursday, September 26, 2013 5:13 PM
To: Porzio, Kevin@Waterboards
Cc: Steiner, Rita - NRCS, Napa, CA; Epifanio, Charlette - NRCS, Petaluma, CA; Harrington, John - NRCS, Davis, CA
Subject: RE: SCS Reservoir Assistance Application

Hello Kevin,

Sorry for the tardy response. I copied information shown below describing current NRCS engineering policy regarding applying for water rights. As I mentioned on the phone, the NRCS does not own the farm ponds that we design for landowners on private property. The NRCS can provide the engineering design and possibly financial assistance to the property owner to construct the pond.

Below is information from the NRCS National Engineering Manual on our current policy of NRCS not obtaining water rights. Also attached is a pdf file from our General Manual, Section 130 Part 400 that is referenced. However, I did not find a reference to water rights. Also attached is current NRCS design criteria for farm ponds, Practice Standard 378. Page 2 of the document describes information pertaining to water rights.

505.14 Engineering Services Not Provided by NRCS

A. Frequently, engineering services that NRCS does not provide are needed for carrying out NRCS programs. Cooperating individuals, groups, and organizations must arrange for such services from non-NRCS sources.

B. Among the services NRCS engineers do not provide are the following:

- (1) Boundary or location surveys for legal purposes, unless the State Conservationist has determined that providing such service in a State meets the requirements of the State Professional Engineers and Land Surveyors Board.
- (2) Representation of drainage or irrigation districts or similar enterprises in legal proceedings required by State laws, unless non-NRCS sources are not available and the State Conservationist presents justification acceptable to the Chief.
- (3) Obtaining water rights or filing applications with regulating agencies for pollution abatement facilities, except as provided in [GM-130, Part 400](#).

The file you attached to your email is our National Watershed Manual. This manual contains NRCS policy on planning large water resources projects with local government as a Project Sponsor, typically a County Flood Control District etc. This manual would not be used to plan a farm pond for a farmer or rancher.

You asked about historic policy online. I am not sure where this information would be kept. However, I scanned a copy of a bulletin from 1982 that I had in my references for SCS and ASCS (now the Farm Services Agency) on a procedure we used to determine when a water right was not required for a water impoundment structure located on a small gully. Note that this required our client (farmers and ranchers) to ask for a determination from the State Board that a water rights permit is not needed for embankments on small gullies.

Please call or write if you need additional information.

Jim

From: Porzio, Kevin@Waterboards [<mailto:Kevin.Porzio@waterboards.ca.gov>]

Sent: Thursday, September 26, 2013 10:44 AM

To: Chapman, Jim - NRCS, Davis, CA

Subject: SCS Reservoir Assistance Application

Mr. Chapman,

I'm following up with you regarding the Soil Conservation Service's policy for providing assistance to landowners for flood and sediment control purposes. I have found a policy/application manual from the Soil Conservation Service reprinted in 1998 (http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/nrcs143_009610.pdf). I have been unable to find a policy or application packet from the 60's or earlier, that would have been provided to the landowner seeking SCS's services. In our phone conversation you mentioned having some of these historic documents that instructed a landowner of their responsibility to have or be in the process of acquiring a water right as per state requirements. Can you please provide me with web link if these historic pamphlets are available online, or help me obtain a copy of this type of material or policy. I can be reached via email or at the telephone number listed below. Your assistance in this matter is greatly appreciated.

Thank you for your time and efforts,

Kevin Porzio
Water Resource Control Engineer
Division of Water Rights
State Water Resources Control Board

(916) 323-9391

Kevin.Porzio@waterboards.ca.gov

From: Porzio, Kevin@Waterboards
Sent: Thursday, September 19, 2013 9:21 AM
To: 'jim.chapman@ca.usda.gov'
Subject: SCS Reservoir Assistance Policy

Good morning Mr. Chapman,

We spoke yesterday regarding information pertaining to the flood control assistance program operated by the SCS from 1935 to 1995. Thank you for providing me with contact information for the District Managers in Petaluma and Napa. In our discussion you also mentioned that SCS had a policy for determining if a landowner qualified for assistance. You mentioned having access to a copy of the policy which required the landowner to have a water right prior to the SCS releasing the design plans for the reservoir, and that you would forward me a copy of the policy. I just wanted to email you to ensure that you have my email address, as I know how hard it can be to give/receive an email address over the phone.

Can you please forward me the SCS policy you had mentioned in our phone conversation and I will continue to try and reach Ms. Stiner and Ms. Epifanio. This information will greatly assist the State Water Board in developing protocol for reviewing reservoirs when a landowner alleges water right exemption because the SCS designed and/or built the reservoir on their property.

If you have any additional information or questions regarding our research work, please feel free to contact me by telephone at the number listed below or via email.

Thank you for your time and assistance,

Kevin Porzio
Water Resource Control Engineer
Division of Water Rights
State Water Resources Control Board
(916) 323-9391
Kevin.Porzio@waterboards.ca.gov

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