

**BEFORE THE DEPARTMENT OF WATER RESOURCES**  
**OF THE STATE OF IDAHO**

IN THE MATTER OF A DECLARATION )  
OF DROUGHT EMERGENCY FOR )  
CUSTER COUNTY )  
\_\_\_\_\_)

**ORDER DECLARING**  
**DROUGHT EMERGENCY**

WHEREAS, the Board of County Commissioners for Custer County has requested that the Governor and the Director of the Idaho Department of Water Resources declare a drought emergency for Custer County to allow administrative actions to lessen the impacts of drought conditions in the county; and

WHEREAS, Custer County is included within the Big Lost River, Little Lost River, and Salmon River drainages; and

WHEREAS, drainages in and around Custer County are experiencing abnormally dry conditions due to below normal precipitation and snowpack levels. Although peak snow water equivalent (SWE) levels this year in the above referenced drainages peaked at 80 to 90 percent of the 1981-2010 average peak amounts, SWE levels in these drainages were only 50 to 75 percent of normal during the first half of May. The United States Drought Monitor Index shows Custer County included within that portion of Central and Southern Idaho classified as abnormally dry. Streamflow volumes for the period May through July are forecasted to be about 60 to 70 percent of average for the Salmon and Lost River drainages; and

WHEREAS, section 42-222A, Idaho Code, provides that upon declaration of a drought emergency for an area designated by the Director of the Department of Water Resources ("Director") and approved by the Governor, the Director is authorized to allow temporary changes in the point of diversion, the place of use, and the purpose of use for valid existing water rights and temporary exchanges of water rights when the Director determines that such changes can be accomplished in accordance with the provisions of section 42-222A, Idaho Code; and

NOW, THEREFORE, IT IS HEREBY ORDERED that pursuant to the authority of the Director provided in section 42-222A, Idaho Code, a drought emergency for purposes of section 42-222A, Idaho Code, is hereby declared for Custer County, Idaho.

IT IS FURTHER HEREBY ORDERED that pursuant to this declared drought emergency and the provisions of section 42-222A, Idaho Code, the following procedures and requirements shall apply to the filing, processing, and approval of any application for a temporary change to an existing water right within Custer County during the pendency of this declared drought emergency:

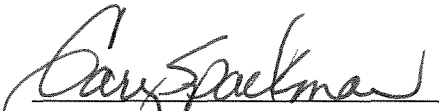
1. An application for a temporary change to an existing water right shall be made

upon forms provided by the department and shall be accompanied by an application fee of fifty dollars (\$50.00) per application.

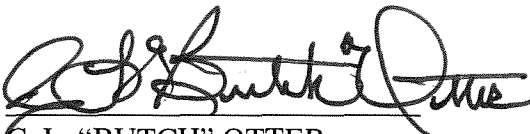
2. The Director is not required to publish notice of the proposed change pursuant to the provisions of section 42-211, 42-222(1) or 42-240, Idaho Code, and is not required to make findings as provided in said sections. A temporary change may be approved upon completion of the application form, payment of the filing fee, and a determination by the Director that the proposed change can be properly administered and there is no information that the change will injure any other water right. If the right to be changed is administered by a watermaster within a water district, the Director shall obtain and consider the recommendations of the watermaster before approving the temporary change application.
3. All temporary changes approved pursuant to the provisions of this order shall expire on the date shown in the approval which shall not be later than December 31, 2013, and thereafter, the water right shall revert to the point of diversion and place of use existing prior to the temporary change. Nothing herein shall be construed as approval to authorize construction of a new well as a new point of diversion or to alter a stream channel.
4. The recipient of an approved temporary change issued pursuant to this order shall assume all risk of curtailment or mitigation should the diversion and use of water under the temporary change cause injury to other water rights or result in an enlargement in use of the original right.
5. Temporary changes shall only be approved for the purpose of providing a replacement water supply to lands or other uses that normally have a full water supply, except for the drought condition. Temporary changes may not be approved to provide water for new development or to allow expansion of the use of water under existing water rights. If the right to use the water is represented by shares of stock in a corporation, or if the diversion works or delivery system for such right is owned or managed by an irrigation district, no change in point of diversion, place or nature of use of such water shall be made or allowed without the written consent of such corporation or irrigation district.
6. Any applicant for a temporary change who is aggrieved by a denial of the Director for a temporary change pursuant to this order and the provisions of section 42-222A, Idaho Code, may request a hearing pursuant to section 42-1701A(3), Idaho Code, and may seek judicial review of the final order of the Director pursuant to the provisions of section 42-1701A(4), Idaho Code.

IT IS FURTHER HEREBY ORDERED that this order is effective upon approval of the Governor and expires on December 31, 2013, unless extended or terminated by order of the Director.

DATED this 22<sup>nd</sup> day of May, 2013.

  
GARY SPACKMAN  
Director

APPROVED this 28<sup>th</sup> day of May, 2013.

  
C.L. "BUTCH" OTTER  
Governor

CUSTER COUNTY COMMISSIONERS  
PO BOX 385  
CHALLIS, ID 83226  
(208) 879-2360  
(208) 879-5246 (fax)

RECEIVED  
MAY 17 2013  
OFFICE OF THE GOVERNOR

May 14, 2013

Honorable C.L. Otter  
Governor of the State of Idaho  
P.O. Box 83720-0034  
Boise, Idaho 83720

Dear Governor Otter:

The Custer County Board of Commissioners has been apprised that a condition of drought could exist for the year 2013 growing season.

If the present conditions continue, it would have an adverse affect on the economic condition of the county. As of May 6, 2013 the Mackay Reservoir is approximately 88% capacity. Snow pack levels on our major drainages are below normal. Ground water tables continue to suffer the drought impacts from previous years.

The Board unanimously has declared Custer County a Drought Disaster area and request that you concur and submit our request to the appropriate federal agency.

Sincerely,



Wayne F. Butts  
Chairman

CUSTER COUNTY RESOLUTION  
DISASTER DECLARATION FOR DROUGHT

#2013- 09

The current moisture conditions in Custer County are cause for serious concern as we begin another irrigation season with gravely inadequate water resources; the Custer County board of Commissioners hereby declares Custer County to be a disaster area.

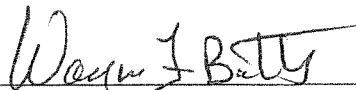
The Big Lost River area is affected by the drought. Mackay Reservoir is at 88% of capacity. The snow pack is below normal. The Lost River Irrigation District will not be able to deliver water to the southern end of the district.

The rest of Custer County is also being affected. Snow pack levels on our major drainage's of Morgan Creek at 90% Banner Summit at 91%, and the Pahsimeroi drainage is well below normal levels. Domestic wells continue to go dry in areas that had previously not been affected. Beyond the immediate needs of our farmers and ranchers we must consider the overall economic impact on our county.

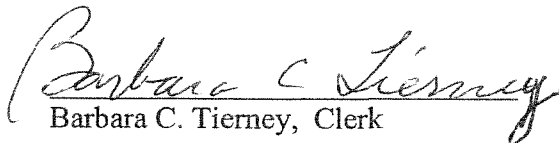
The Board respectfully requests that the Honorable Governor C. L. Otter declare Custer County a drought area. And request that you submit our request to the appropriate state and federal agencies.

Passed by the Board of Commissioners of Custer County, Idaho, on May 13 2013. Those voting "aye": 2 Those voting "nay": 0

Signed by the Chairman of the Board of Commissioners of Custer County, Idaho, on May 13, 2013.

  
Wayne F/ Butts, Chairman

Attest:

  
Barbara C. Tierney, Clerk