

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF A DECLARATION)
OF DROUGHT EMERGENCY FOR)
MADISON COUNTY)
_____)

**ORDER DECLARING
DROUGHT EMERGENCY**

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

WHEREAS, Madison County is included within and relies upon water supplies from the Upper Snake River basin, including portions of the Teton River drainage and the South Fork Snake River drainage; and

WHEREAS, snow water equivalent (SWE) levels as of May 1 for the Upper Snake River drainage were above 90 percent of average but snow packs melted out several weeks early leaving June 1 SWE levels at only 44 percent of normal; and

WHEREAS stream flow volume for the Snake River at Heise near Madison County from June through September is forecasted to be only about 69 percent of normal; and

WHEREAS, the United States Drought Monitor Index shows Madison County included within that portion of Eastern Idaho classified as moderate to severe drought, and given that the drier than normal conditions within Madison County may result in tighter water supplies; 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 Madison 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 Madison County during the pendency of this declared drought emergency:

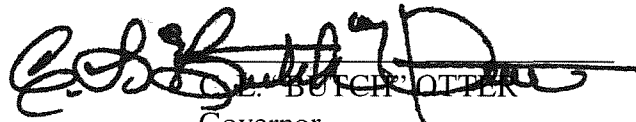
1. An application for a temporary change to an existing water right shall be made upon forms provided by the department and shall be accompanied by an application fee of fifty dollars (\$50.00) per application.
2. The Director is not required to publish notice of the proposed change pursuant to the provisions 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 19th day of July, 2013.


GARY SPACKMAN
Director

APPROVED this 22nd day of July, 2013.


E. J. BUTCHER
Governor

RESOLUTION NO.: 364

A RESOLUTION OF MADISON COUNTY, IDAHO, DECLARING THAT A LOCAL DROUGHT EMERGENCY EXISTS IN MADISON COUNTY, TO BE IN EFFECT UNTIL THE END OF THE 2013 IRRIGATION SEASON OR UNTIL OTHERWISE TERMINATED BY RESOLUTION OF THE MADISON COUNTY BOARD OF COMMISSIONERS.

WHEREAS, Idaho Code § 31-801 grants general powers and duties, subject to the restrictions of law, to the boards of county commissioners in their respective counties; and

WHEREAS, Idaho Code § 31-828 grants the board of commissioners authority “to do and perform all other acts... which may be necessary to the full discharge of the duties of the chief executive authority of the county government;” and

WHEREAS, Idaho Code § 42-222A authorizes the Director of the Department of Water Resources, following the declaration of a drought emergency for an area designated by the Director and approved by the Governor, to allow temporary changes of point of diversion, place and purpose of use of valid existing water rights, so long a said changes will not injure existing water rights; and

WHEREAS, Idaho Code § 46-1011 provides that the Chairman of the Board of County Commissioners may declare a local disaster emergency, which may be continued in excess of seven days with consent of the Board of County Commissioners; and

WHEREAS, Idaho Code § 46-1002(3) provides, in part, that a “disaster” includes the imminent threat of widespread or severe damage or loss of property resulting from any natural or manmade cause; and

WHEREAS, Idaho Code § 46-1002(4) provides, in part, that an “emergency” includes the imminent threat of a “disaster” or condition threatening property which requires state emergency assistance to supplement local efforts to protect property or to avert or lessen the threat of “disaster”; and

WHEREAS, based upon inquiry and preliminary discussions, water storage appears to be well below normal, historic levels and runoff appears to be well below normal, historic levels; and

WHEREAS, the Board finds that the current low water levels pose an imminent threat of disaster to agriculture in Madison County, which constitutes an emergency as defined in Idaho Code § 46-1002(4);

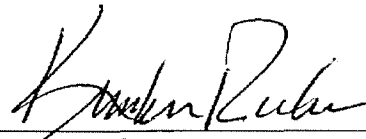
BE IT RESOLVED by the Board of County Commissioners of Madison County, Idaho, that good cause having been shown, the Madison County Board of County Commissioners hereby declares that a local drought disaster emergency exists in Madison County and the Board of County Commissioners hereby consents to said declaration and order and ratifies the same.

BE IT FURTHER RESOLVED by the Board of County Commissioners of Madison County, Idaho, that this declaration of local drought disaster emergency is hereby ordered and shall remain in effect until the end of the 2013 irrigation season, or until otherwise terminated by resolution of this Board, whichever occurs earlier.

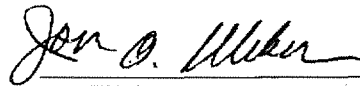
BE IT FURTHER RESOLVED that this resolution shall be in full force and effect immediately after its passage.

ADOPTED and PASSED by the Board of County Commissioners of Madison County this 18th day of July, 2013.

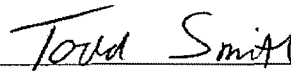
BOARD OF COUNTY COMMISSIONERS
MADISON COUNTY, IDAHO



Kimber Ricks, Chairman

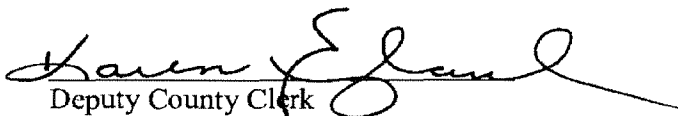


Jon Weber



Todd Smith

ATTEST:


Deputy County Clerk