

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

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

**ORDER DECLARING
DROUGHT EMERGENCY**

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

WHEREAS, Fremont County is included within the Henrys Fork and Falls River drainages; and

WHEREAS, drainages in and around Fremont County are experiencing dry conditions with the year's snow packs having peaked in late April at about 88 percent of the 1981-2010 seasonal peak. The United States Drought Monitor Index shows Fremont County included within that portion of eastern and southern Idaho classified as abnormally dry or moderate drought. As of May 6, 2013, the overall snow water equivalent (SWE) rate for the Henrys Fork Basin above St. Anthony remained at 88 percent of normal while year to date precipitation was also at 88 percent of normal. Streamflow volumes for the period May through July are forecasted to be 77 percent of average for the Henrys Fork at Ashton and 84 percent of average for the Falls River near Ashton; 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

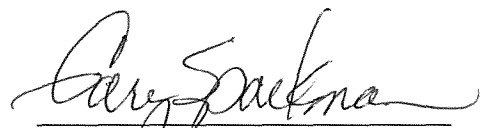
NOW, THEREFORE, IT IS HEREBY ORDERED that pursuant to the authority of the Director provided in section 42-222A, Idaho Code, a drought emergency for purposes of section 42-222A, Idaho Code, is hereby declared for Fremont County, Idaho.

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 Fremont 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 7th day of May, 2013.

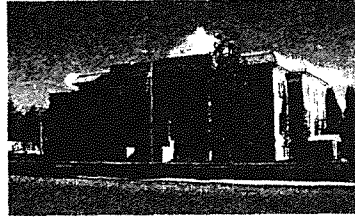

GARY SPACKMAN
Director

APPROVED this 14th day of May, 2013.


C. L. "BUTCH" OTTER
Governor

FREMONT COUNTY COURTHOUSE

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St. Anthony, Idaho 83445



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www.co.fremont.id.us

Monday May 6th, 2013

Tim Luke, Bureau Chief
Idaho Department of Water Resources
322 East Front Street
PO Box 83720
Boise, ID 83720-0098

Dear Mr. Luke;

After consultation with area farmers, ranchers and irrigation water users, and in light of current drought conditions, the Fremont County Board of Commissioners requests that Fremont County be declared a Drought Emergency Area pursuant to Section 42-222A of the Idaho Code.

We request that your office and the Governor take necessary action under Idaho Code Section 42-222A to allow the necessary cooperation among irrigation districts.

Sincerely,

Lee Miller, Chairman

Fremont County Board of Commissioners



RESOLUTION NO. 2013-13

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

Resolution 2013-13

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

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF FREMONT COUNTY, IDAHO, THAT GOOD CAUSE HAVING BEEN SHOWN, THE CHAIRMAN OF THE FREMONT COUNTY BOARD OF COUNTY COMMISSIONERS HEREBY DECLARES THAT A LOCAL DROUGHT EMERGENCY EXISTS IN FREMONT COUNTY AND THE BOARD OF COUNTY COMMISSIONERS HEREBY CONSENTS TO SAID DECLARATION AND ORDERS AND RATIFIES THE SAME. THE BOARD FURTHER ORDERS THAT THIS DECLARATION OF LOCAL DROUGHT DISASTER EMERGENCY SHALL REMAIN IN EFFECT UNTIL THE END OF THE 2013 IRRIGATION SEASON, OR UNTIL OTHERWISE TERMINATED BY RESOLUTION OF THE BOARD, WHICHEVER OCCURS EARLIER.

This resolution shall be in full force and effect immediately after its passage.

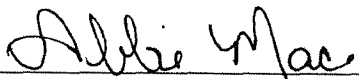
PASSED THIS 6TH DAY OF May, 2013, BY THE BOARD OF COUNTY COMMISSIONERS OF FREMONT COUNTY, IDAHO.

BOARD OF COUNTY COMMISSIONERS
FREMONT COUNTY, IDAHO



LEE MILLER, CHAIRMAN

ATTEST:



ABBIE MACE, COUNTY CLERK