

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

IN THE MATTER OF A DECLARATION )  
OF DROUGHT EMERGENCY FOR )  
THAT PORTION OF CUSTER COUNTY )  
IN THE BIG AND LITTLE LOST RIVER )  
BASINS )

**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 Salmon River drainage and portions of the Big Lost River and Little Lost River drainages; and

WHEREAS, the Custer County Commissioners requested a drought declaration on February 10, 2014 when snow pack levels were only 60 to 72 percent of normal within the Salmon River basin in Custer County; the area has received well above average precipitation since February 10 such that snow water equivalent (SWE) levels for the Salmon River basin above Salmon have been between 119 and 111 percent of normal during April, 2014, and year to date precipitation in the basin as of April 27, 2014 was 96 percent of normal; and

WHEREAS, the SWE levels in the Big Lost River drainage have been between 75 and 67 percent of normal during April, 2014, and year to date precipitation in the basin as of April 27, 2014 was only 74 percent of average; the Natural Resources Conservation Service (NRCS) forecasts that stream flow volumes in the Big Lost River basin for the period April through July may be about 54 to 64 percent of average and predicts that shortages of 60,000 acre-feet are possible in the basin<sup>1</sup>; and

WHEREAS, although SWE levels in the Little Lost River drainage have been between 106 and 102 percent of normal during April, 2014 and year to date precipitation in the basin as of April 27 was 90 percent of normal, the NRCS still predicts that runoff in the basin may be lower than normal and a shortage of about 19,000 acre-feet is possible; and

WHEREAS, the United States Drought Monitor Index shows that portion of Custer County included within the Big Lost and Little Lost River drainages classified as moderate to severe drought. Outside of the Lost River basins, most of Custer County is not classified as drought while a smaller area in the Salmon River drainage near Challis is classified as abnormally dry but the NRCS does not predict shortages; and

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<sup>1</sup> NRCS Idaho Water Supply Outlook Report, April 1, 2014

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 that portion of Custer County, Idaho located within the Big Lost and Little Lost River basins (IDWR Administrative Basin Nos. 34 and 33).

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 that portion of Custer County in the Big and Little Lost River basins 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, 2014, 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, 2014, unless extended or terminated by order of the Director.

DATED this 29<sup>th</sup> day of April, 2014.

  
GARY SPACKMAN  
Director

APPROVED this 30<sup>th</sup> day of April, 2014.

  
C. L. "BUTCH" OTTER  
Governor

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

RECEIVED  
FEB 24 2014  
DEPARTMENT OF  
WATER RESOURCES

February 19, 2014

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

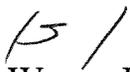
Dear Governor Otter:

The Custer County Board of Commissioners has been apprised that a condition of drought could exist for the year 2014 growing season.

If the present conditions continue, it could have an adverse affect on the economic condition of the county. As of February 10, 2014 the Mackay Reservoir is approximately 56% capacity. Snow pack levels on our major drainages of Morgan Creek, Banner Summit and Pahsimeroi are below normal at 74%, 58 % and 59 % respectively. 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

Cc: Tim Luke, Department of Water Resources

CUSTER COUNTY RESOLUTION  
DISASTER DECLARATION FOR DROUGHT  
#2014- 01

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.

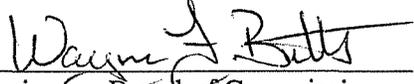
The Big Lost River area is affected by the drought. Mackay Reservoir is at 56% of capacity. The snow pack is below normal. The Lost River Irrigation District will not be able to deliver water to the southern end of the district.

The rest of Custer County is also being affected. Snow pack levels on our major drainage's of Morgan Creek at 74% Banner Summit at 58%, and the Pahsimeroi drainage is at 59%. 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 January 29, 2014.  
Those voting "aye": 3. Those voting "nay": 0.

Signed by the Chairman of the Board of Commissioners of Custer County, Idaho, on February 10, 2014.

  
Chairman, Board of Commissioners

Attest:

  
Custer County Clerk