

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

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

**ORDER DECLARING
DROUGHT EMERGENCY**

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

WHEREAS, a portion of Jefferson County is included within and relies upon water supplies from the Camas Creek drainage and a portion of the county is included within and relies upon water supplies from the Upper Snake River basin, including the Henrys Fork, Teton and South Fork Snake Rivers; and

WHEREAS, year to date precipitation for the Camas Creek and Upper Snake River drainages are about 86 to 88 percent of normal; and

WHEREAS, snow water equivalent (SWE) levels in the Camas Creek and Upper Snake River drainages described above were about 96 percent of normal on April 1, 2016 but early melting of snow pack left the June 1 SWE levels at only 2 percent of normal in the Camas Creek drainage, and 31 to 69 percent of normal in Henrys Fork, Teton and South Fork Snake River drainages; and

WHEREAS, stream flow volumes in the area for the period June through September are forecasted to be about 44 to 70 percent of average; and

WHEREAS, the mean daily discharge of the Henry's Fork River near Rexburg on August 15, 2016, was about 800 cfs, or 63 percent of normal, and the mean daily discharge of Beaver Creek near Spencer on August 15, 2016, was 0.51 cfs, or 3.5 percent of normal; and

WHEREAS, the Upper Snake River Basin (Water District 01) watermaster reported that some junior priority water rights have been shut off and some canals have run out of water; and

WHEREAS, the United States Drought Monitor Index, as of August 9, 2016, shows Jefferson County included within that portion of Eastern Idaho classified as abnormally dry; and

WHEREAS, there are little or no water storage facilities within Jefferson County and water users rely almost solely on natural stream flow supplies, and given that the drier than normal conditions within Jefferson 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 Jefferson 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 Jefferson 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, 2016, 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, 2016, unless extended or terminated by order of the Director.

DATED this 15 day of August 2016.

For 

GARY SPACKMAN
Director

APPROVED this 15TH day of August 2016.



C. L. "BUTCH" OTTER
Governor

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JEFFERSON COUNTY
RESOLUTION #2016 – 23

OFFICE OF THE GOVERNOR

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 appear 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 Jefferson County, which constitutes an emergency as defined in Idaho Code §46-1002(4);

NOW, THEREFORE, BE IT RESOLVED that good cause having been shown the Board of County Commissioners hereby declares that a local drought emergency exists in Jefferson County and 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 2016 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.

Done and dated this 8th day of August, 2016.

BOARD OF JEFFERSON COUNTY COMMISSIONERS



Jerald Raymond, Chairman

Scott Hancock Acting Chairman

Scott Hancock, Member

Brian Farnsworth

Brian Farnsworth, Member

ATTEST:

Colleen C. Poole

Colleen C. Poole, County Clerk