BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

ORDER DECLARING
DROUGHT EMERGENCY

WHEREAS, Bingham County is experiencing severely restricted water supplies available for the current irrigation season, as demonstrated by inflow to the Blackfoot Reservoir which is forecasted to be 53 percent of normal with storage as of May 1 forecasted to be 54 percent of normal; and

WHEREAS, the surface water supply index of the Natural Resources Conservation Service for the Snake River above American Falls indicates that this year will be the 9th lowest in the last 50 years; and

WHEREAS, the Bingham County Commissioners have requested declaration of a drought emergency to allow administrative actions to lessen the severe impacts of the drought conditions in the county; 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

WHEREAS, the existing Amended Moratorium Order of the Director of the Department of Water Resources, dated April 30, 1993, applicable to the Eastern Snake River Plain Area, including Bingham County, does not prohibit the processing or approval of applications for transfer of existing water rights;

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 Bingham 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 Bingham 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, 2002, 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, the diversion works of the water delivery system 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, 2002, unless extended or terminated by order of the Director.

DATED this 23rd day of May 2002.

KARL OTTO DREHER
Director

APPROVED this 24th day of May 2002.

DIRK KEMPTHORNE
Governor