

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 drainage basin, including the Falls River drainage; and

WHEREAS, drainages in and around Fremont County are experiencing abnormally dry conditions due to below normal snowpack and precipitation levels. Specifically, total cumulative snow water equivalent (SWE) levels in the Henry's Fork-Falls River Basin as of April 1, 2021 was 89 percent of median. SWE loss in April occurred more quickly compared to the historical rate, resulting in a SWE level of just 71% of median on May 1. Water year to date precipitation levels as of May 1 in the Henry's Fork-Falls River Basin was 77 percent of average.

WHEREAS, stream flow volumes for the period April through September are forecasted to be only 74 percent of average for the Henrys Fork at Ashton and 79 percent of average for the Falls River near Ashton; and

WHEREAS, the United States Drought Monitor Index on May 13, 2021, showed Fremont County classified as abnormally dry to moderate drought; 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, 2021, 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, 2021, unless extended or terminated by order of the Director.

DATED this 21st day of May, 2021.



Gary Spackman
Director

APPROVED this 24th day of May, 2021.



Brad Little
Governor