

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

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

ORDER DECLARING
DROUGHT EMERGENCY

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

WHEREAS, Madison 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, snow water equivalent (SWE) levels in the Henrys Fork, Teton and South Fork Snake River drainages were about 90 percent of median on April 1, 2021. Above average temperatures and below normal precipitation during April reduced May 1 SWE levels between 69 and 77 percent of median in the Henrys Fork, Teton and South Fork Snake River drainages; and

WHEREAS, water year to date precipitation through June 1, 2021 for the Henrys Fork, Teton and South Fork Snake River drainages are about 85 percent of average; and

WHEREAS, stream flow volumes for the period June through September for the South Fork Snake River at Heise, the Henrys Fork River near Rexburg and the Teton River near St. Anthony are forecasted respectively to be about 69 percent, 71 percent and 63 percent of average; and

WHEREAS, the United States Drought Monitor Index, as of June 10, 2021, shows Madison County included within that portion of Eastern Idaho classified as abnormally dry, and given that the drier than normal conditions within Madison 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 Madison 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 Madison 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 14th day of June, 2021.



Gary Spackman
Director

APPROVED this 16th day of June, 2021.



Brad Little
Governor

RESOLUTION NO: 460

**RESOLUTION DECLARING A LOCAL EMERGENCY DROUGHT IN
MADISON COUNTY, IDAHO, AND ESTABLISHING AN EFFECTIVE
DATE AND CONCLUSION DATE HEREON.**

WHEREAS, Idaho Code § 46-1011 allows a quorum of the Board of Madison County Commissioners to declare a local disaster emergency; and,

WHEREAS, Idaho Code § 46-1002(2) defines “disaster” as the “. . . imminent threat of widespread or sever damage, injury, or loss of life or property resulting from any natural or man-made cause . . .”; and

WHEREAS, Idaho Code § 46-1002(3) provides that an “emergency” includes the imminent threat of a “disaster” or condition threatening life or property which requires state emergency assistance to supplement local efforts to protect property or avert or lessen the threat of “disaster”; and,

WHEREAS, Idaho Code § 42-222A grants the Director of the Department of Water Resources and the Governor of the State of Idaho authority to declare a drought emergency and authorize 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; and,

WHEREAS, drainages in and around Madison County are experiencing moderate to severe drought conditions as a result of lower than normal spring precipitation and the remaining snow water equivalent of 40% of average in the Henry’s Fork Watershed, creating a potential shortage of irrigation water through the 2021 faring season; and,

WHEREAS, the Northwest River Forecast Center forecasts that the stream flow volumes in the Henry’s Fork between April and October are predicted to run at 53% of average, resulting in the potential for an agricultural economic disaster.

BE IT THEREFORE RESOLVED, the Board of Madison County Commissioners does hereby declare:

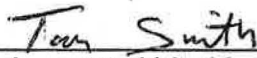
1. That a drought emergency as defined in § 42-222A, Idaho Code, presently exists in Madison County, Idaho; and,
2. That this Local Drought Emergency Declaration shall begin when this Resolution is signed and expire on December 31, 2021, unless the Board of Madison County Commissioners expressly authorizes the continuance of such Declaration; and,
3. That this Declaration shall promptly be filed with the Madison County Recorder’s Office; and,
4. That prompt and general publicity shall be given by a press release notifying the public of the Declaration; and,

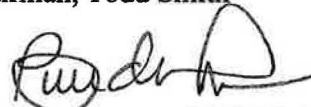
5. Where the provisions of this Resolution are in conflict with existing local laws, the provisions of this Resolution will govern and such provisions of existing laws which are in conflict are hereby rescinded; and,

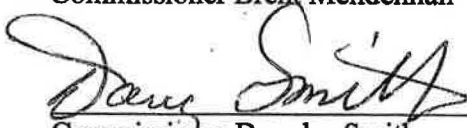
6. All previous personnel policies and confliction Resolutions of Madison County are hereby repealed and held for naught.

APPROVED AND ADOPTED this 14th day of June, 2021.

BOARD OF COUNTY COMMISSIONERS
MADISON COUNTY, IDAHO


Chairman, Todd Smith


Commissioner Brent Mendenhall


Commissioner Douglas Smith

ATTEST: KIM MUIR, CLERK

By: 
County Clerk