

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF A DECLARATION)
OF DROUGHT EMERGENCY FOR)
ADMINISTRATIVE BASIN 34, BIG)
LOST RIVER, IN CUSTER COUNTY.)

ORDER DECLARING A
DROUGHT EMERGENCY

WHEREAS, the Big Lost River hydrologic basin located in central Idaho in Custer County is experiencing severely restricted water supplies available for the current irrigation season; and

WHEREAS, the Board of Commissioners of Custer County have requested the Director of the Department of Water Resources to declare a drought emergency to lessen the severe impacts of the current drought conditions in the Big Lost River basin by providing authorization for temporary changes to be made in the point of diversion, place of use and purpose of use of existing water rights in the basin; 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 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 of valid existing 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 the Big Lost River basin, prohibits with minor exceptions the approval of presently pending and new applications for permits to appropriate water from all surface and ground water sources, but 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 of the Department of Water Resources provided in section 42-222A, Idaho Code, a drought emergency for purposes of section 42-222A, Idaho Code, is hereby declared for the area comprised within hydrologic Administrative Basin 34, Big Lost River, located in Custer 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 Administrative Basin 34 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 or 42-222(1), 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 water 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 act shall expire on the date shown in the approval which shall not be later than December 31, 1994, 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 the construction of a new well as a new point of diversion.

(4) The recipient of an approved temporary change issued pursuant to this section shall assume all risk that the diversion and use of the water may cause injury to other water rights, that the change constitutes an enlargement in use of the original right, that the use is not consistent with the conservation of water resources within the state of Idaho and that such use is not in the local public interest.

(5) Temporary changes shall only be approved for the purpose of providing a replacement water supply to lands or other uses which normally have a full water supply except for a drought condition. Temporary changes may not be approved to provide water for new projects or to allow expansion of the use of water under existing water rights. If the right to use the water, the diversion works or the water delivery system is represented by shares of stock in a corporation or if such right, diversion works or delivery system is owned or managed by an irrigation district, no change in point of diversion or 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 by the director of a temporary change pursuant to this order and the provisions of section 42-222A, Idaho Code, may request a hearing pursuant to the provisions of 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 ORDERED that this declaration be effective until December 31, 1994.

DATED this 21ST day of June, 1994.


R. KEITH HIGGINSON
Director

APPROVED this 22ND day of June, 1994:


CECIL D. ANDRUS, Governor