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BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF A DECLARATION)
OF DROUGHT EMERGENCY FOR) **ORDER DECLARING**
BUTTE AND CUSTER COUNTIES) **DROUGHT EMERGENCY**
_____)

WHEREAS, Butte and Custer counties are experiencing severely restricted water supplies available for the current irrigation season as demonstrated by hydrologic data showing that the discharge of the Big Lost River above Mackay Reservoir for the October 1999 through March 2000 period is 79 percent of normal, the streamflow forecast of the Big Lost River for the April 2000 through July 2000 is 63 percent of normal, and unusual wind and temperature conditions have exacerbated the conditions; and

WHEREAS, the Butte County Commissioners and Custer County Commissioners have requested declaration of a drought emergency to allow administrative actions to lessen the severe impacts of the drought conditions in the counties; 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 for 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 parts of Butte and Custer Counties, 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 Butte and Custer Counties, 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 Butte and Custer Counties 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 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, 2000, 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.
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, constitutes an enlargement in use of the original right, be inconsistent with the conservation of water resources within the state of Idaho, or not be 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 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 or place or nature of use of such water shall be made or allowed without the written consent of such corporation or irrigation district.

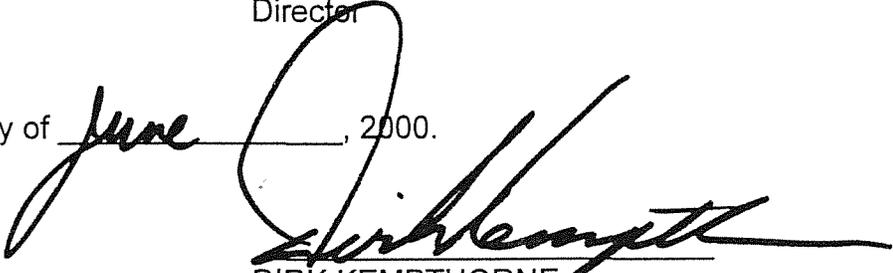
6. Any applicant for a temporary change who is aggrieved by a denial of the director for a temporary change pursuant to this order and the provisions of section 42-222A, Idaho Code, may request a hearing pursuant to section 42-1701A(3), Idaho Code, and may seek judicial review of the final order of the 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, 2000, unless extended or terminated by order of the director.

DATED this 28th day of June, 2000.


KARL J. DREHER
Director

APPROVED this 28th day of June, 2000.


DIRK KEMPTHORNE
Governor