

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 292

BY WAYS AND MEANS COMMITTEE

AN ACT

RELATING TO WATER; AMENDING SECTION 42-202A, IDAHO CODE, TO PROVIDE FOR USES WHERE A TEMPORARY APPROVAL SHALL BE GRANTED, TO PROVIDE FOR DURATION OF APPROVAL AND TO DEFINE A TERM; AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 42-202A, Idaho Code, be, and the same is hereby amended to read as follows:

42-202A. TEMPORARY APPROVAL -- APPLICATION -- CRITERIA -- EXCEPTIONS. (1) Any person, association or corporation hereafter intending to use the waters of any natural streams, springs or seepage waters, lakes or ground water, or other public waters in the state of Idaho, for a minor use of short duration may make application to the department of water resources for temporary approval.

(2) Application for temporary approval shall be upon forms provided by the department of water resources and shall be accompanied by a fifty dollar (\$50.00) fee.

(3) The director of the department of water resources is not required to publish notice of the application pursuant to the provisions of section 42-203A, Idaho Code, and is not required to make findings as provided in section 42-203A or 42-203C, Idaho Code. The director may, however, give notice of an application as he determines appropriate and may grant a temporary approval upon completion of the application form, payment of the filing fee, a determination by the director that the temporary approval can be properly administered, a determination that other sources of water are not available, a determination that approval is in the public interest and a determination that the temporary approval will not injure public values associated with the water source or any other water right. If the temporary approval is within a water district, the director shall seek and consider the recommendations of the watermaster before granting a temporary approval. The director may issue a temporary approval with the conditions determined by the director to be necessary to protect other water rights and the public interest.

(4) The recipient of any temporary approval issued pursuant to the provisions of this act shall assume all risk that the diversion and use of the water may injure other water rights, or otherwise not comply with the criteria described in section 42-203A(5), Idaho Code. Any applicant for a temporary approval who is aggrieved by a denial of the director of a temporary approval pursuant to this act may file an application to appropriate water as provided in section 42-202, Idaho Code.

(5) A temporary approval shall only be granted for a use not intended to become an established water right: (a) for prevention of flood damage; (b) for ground water recharge; (c) for ground or surface water remediation; and

1 (d) for any other use which will not exceed a total diverted volume of five
2 (5) acre feet for the duration of the approval, which. Approval of the uses
3 set forth herein shall not exceed one (1) year. "Remediation" is defined to
4 be the removal of hazardous substances or petroleum, as those terms are de-
5 defined in section 39-7203, Idaho Code, from water in response to state or fed-
6 eral health and safety requirements. Approvals issued under the provisions
7 of this section constitute a waiver of the mandatory permit requirements of
8 section 42-201(2), Idaho Code, and do not create a continuing right to use
9 water. Temporary approvals shall not be issued as an interim water supply
10 for a use which requires a continuing water supply.

11 (6) The provisions of this section do not require a temporary approval
12 before diverting and using water to extinguish or prevent the spread of an
13 existing wildfire on private or public lands, facilities or equipment, in-
14 cluding the use of water by personnel engaged in fighting an existing wild-
15 fire.

16 SECTION 2. An emergency existing therefor, which emergency is hereby
17 declared to exist, this act shall be in full force and effect on and after its
18 passage and approval.