

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 371

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1 RELATING TO CRITICAL GROUND WATER AREAS; AMENDING SECTION 42-233a, IDAHO
2 CODE, TO REVISE PROVISIONS REGARDING CERTAIN ADMINISTRATION ON A TIME
3 PRIORITY BASIS AND TO MAKE TECHNICAL CORRECTIONS.
4

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

6 SECTION 1. That Section 42-233a, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 42-233a. "CRITICAL GROUND WATER AREA" DEFINED -- PUBLIC HEARINGS --
9 PUBLICATION OF NOTICE -- GRANTING OR DENIAL OF APPLICATION -- APPEAL. "Crit-
10 ical ground water area" is defined as any ground water basin, or designated
11 part thereof, not having sufficient ground water to provide a reasonably
12 safe supply for irrigation of cultivated lands, or other uses in the basin
13 at the then-current rates of withdrawal, or rates of withdrawal projected by
14 consideration of valid and outstanding applications and permits, as may be
15 determined and designated, from time to time, by the director of the depart-
16 ment of water resources.

17 Upon the designation of a "critical ground water area," it shall be the
18 duty of the director of the department of water resources to conduct a public
19 hearing in the area concerned to apprise the public of such designation and
20 the reasons therefor. Notice of the hearing shall be published in two (2)
21 consecutive weekly issues of a newspaper of general circulation in the area
22 immediately prior to the date set for hearing.

23 In the event an area has been designated as a "critical ground water
24 area" and the director of the department of water resources desires to remove
25 such designation or modify the boundaries thereof, he shall likewise conduct
26 a public hearing following similar publication of notice prior to taking
27 such action.

28 When a "critical ground water area" is designated by the director of the
29 department of water resources, or at any time thereafter during the exist-
30 tence of the designation, the director may approve a ground water management
31 plan for the area. The ground water management plan shall provide for manag-
32 ing the effects of ground water withdrawals on the aquifer from which with-
33 drawals are made and on any other hydraulically connected sources of water.

34 In the event an application for permit is made with respect to an area
35 that has not been designated as a critical ground water area, the director
36 of the department of water resources shall forthwith issue a permit in ac-
37 cordance with the provisions of section 42-203A and section 42-204, Idaho
38 Code, provided said application otherwise meets the requirements of such
39 sections; and further provided that if the applicant proposes to appropri-
40 ate water from a ground water basin or basins in an amount which exceeds ten
41 thousand (10,000) acre-feet per year either from a single or a combination
42 of diversion points, and the director determines that the withdrawal of such

1 amount will substantially and adversely affect existing pumping levels of
2 appropriators pumping from such basin or basins, or will substantially and
3 adversely affect the amount of water available for withdrawal from such
4 basin or basins under existing water rights, the director may require that
5 the applicant undertake such recharge of the ground water basin or basins as
6 will offset that withdrawal adversely affecting existing pumping levels or
7 water rights.

8 In the event an application for permit is made in an area which has been
9 designated as a critical ground water area, if the director of the department
10 of water resources from the investigation made by him on said application as
11 herein provided, or from the investigation made by him in determining the
12 area to be critical, or from other information that has come officially to
13 his attention, has reason to believe that there is insufficient water avail-
14 able subject to appropriation at the location of the proposed well described
15 in the application, the director of the department of water resources may
16 forthwith deny said application; provided, however, that if ground water at
17 such location is available in a lesser amount than that applied for, the di-
18 rector of the department of water resources may issue a permit for the use of
19 such water to the extent that such water is available for such appropriation.

20 The director may require all water right holders within a critical
21 ground water area to report withdrawals of ground water and other necessary
22 information for the purpose of assisting him in determining available ground
23 water supplies and their usage.

24 The director, upon determination that the ground water supply is insuf-
25 ficient to meet the demands of water rights within all or portions of a crit-
26 ical ground water area, shall order those water right holders on a time pri-
27 ority basis, within the area determined by the director, to cease or reduce
28 withdrawal of water until such time as the director determines there is suf-
29 ficient ground water. ~~Such order shall be given only before September 1 and~~
30 ~~shall be effective for the growing season during the year following the date~~
31 ~~the order is given~~ Water right holders participating in an approved ground
32 water management plan shall not be subject to administration on a time prior-
33 ity basis as long as they are in compliance with the ground water management
34 plan.

35 Any applicant dissatisfied with the decision of the director of the de-
36 partment of water resources may appeal to the district court in the manner
37 provided for in section 42-237e, Idaho Code.