

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 292

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO WATER; AMENDING SECTION 42-202A, IDAHO CODE, TO PROVIDE FOR USES  
2 WHERE A TEMPORARY APPROVAL SHALL BE GRANTED, TO PROVIDE FOR DURATION OF  
3 APPROVAL AND TO DEFINE A TERM; AND DECLARING AN EMERGENCY.  
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5 Be It Enacted by the Legislature of the State of Idaho:

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

8 42-202A. TEMPORARY APPROVAL -- APPLICATION -- CRITERIA -- EXCEP-  
9 TIONS. (1) Any person, association or corporation hereafter intending to  
10 use the waters of any natural streams, springs or seepage waters, lakes or  
11 ground water, or other public waters in the state of Idaho, for a minor use of  
12 short duration may make application to the department of water resources for  
13 temporary approval.

14 (2) Application for temporary approval shall be upon forms provided by  
15 the department of water resources and shall be accompanied by a fifty dollar  
16 (\$50.00) fee.

17 (3) The director of the department of water resources is not required  
18 to publish notice of the application pursuant to the provisions of section  
19 42-203A, Idaho Code, and is not required to make findings as provided in  
20 section 42-203A or 42-203C, Idaho Code. The director may, however, give  
21 notice of an application as he determines appropriate and may grant a tem-  
22 porary approval upon completion of the application form, payment of the  
23 filing fee, a determination by the director that the temporary approval can  
24 be properly administered, a determination that other sources of water are  
25 not available, a determination that approval is in the public interest and  
26 a determination that the temporary approval will not injure public values  
27 associated with the water source or any other water right. If the temporary  
28 approval is within a water district, the director shall seek and consider the  
29 recommendations of the watermaster before granting a temporary approval.  
30 The director may issue a temporary approval with the conditions determined  
31 by the director to be necessary to protect other water rights and the public  
32 interest.

33 (4) The recipient of any temporary approval issued pursuant to the pro-  
34 visions of this act shall assume all risk that the diversion and use of the  
35 water may injure other water rights, or otherwise not comply with the crite-  
36 ria described in section 42-203A(5), Idaho Code. Any applicant for a tempo-  
37 rary approval who is aggrieved by a denial of the director of a temporary ap-  
38 proval pursuant to this act may file an application to appropriate water as  
39 provided in section 42-202, Idaho Code.

40 (5) A temporary approval shall only be granted for a use not intended to  
41 become an established water right: (a) for prevention of flood damage; (b)  
42 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.