

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 371

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

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

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

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

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

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

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

When a "critical ground water area" is designated by the director of the department of water resources, or at any time thereafter during the existence of the designation, the director may approve a ground water management plan for the area. The ground water management plan shall provide for managing the effects of ground water withdrawals on the aquifer from which withdrawals are made and on any other hydraulically connected sources of water.

In the event an application for permit is made with respect to an area that has not been designated as a critical ground water area, the director of the department of water resources shall forthwith issue a permit in accordance with the provisions of section 42-203A and section 42-204, Idaho Code, provided said application otherwise meets the requirements of such sections; and further provided that if the applicant proposes to appropriate water from a ground water basin or basins in an amount which exceeds ten thousand (10,000) acre-feet per year either from a single or a combination 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.