

OCT 15 1992

OF MONTANA

EXECUTIVE ORDER PROCLAIMING AN EMERGENCY AND SUSPENDING CERTAIN REGULATORY AUTHORITIES OF THE MONTANA DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION UNDER THE MONTANA WATER USE ACT DURING THE 1992 DROUGHT

WHEREAS, Montana is experiencing a prolonged drought. This drought emergency is creating an imminent threat of a drought disaster causing imminent peril to property in Montana; and

WHEREAS, under the Montana Water Use Act, Mont. Code Ann. § 10-3-101 et seq. (1991), the Montana Department of Natural Resources and Conservation is charged with the regulatory authority to accept and process applications for new beneficial uses of water; and

WHEREAS, during a prolonged drought the issuance of permits to beneficially use water may exacerbate the ability of water users with senior rights to the use of water to exercise their water rights; and

WHEREAS, a recent consequence of the prolonged drought has been an increase in complaints to the Department of Natural Resources and Conservation that persons are using water unlawfully, preventing water from moving to another person having a prior right to use the water, wasting water, or otherwise violating the Water Use Act; and

WHEREAS, pursuant to Mont. Code Ann. § 10-3-104 (1991) the Governor has the discretionary power to suspend the provisions of any regulatory statute if the strict compliance with the statute would in any way prevent, hinder, or delay necessary action in coping with an emergency; and


WHEREAS, the current drought condition is an occurrence which can require the exercise of the general authority of the Governor to suspend regulatory authority of the State; and

WHEREAS, suspending the processing of applications for new water uses would allow for more staff time to be devoted to investigation of complaints and otherwise help to address the above described consequences of the drought.

NOW THEREFORE, I, STAN STEPHENS, Governor of the State of Montana, by virtue of the authority vested in me pursuant to the Constitution and the laws of the State of Montana, including Mont. Code Ann. § 10-3-101 as amended, 1991), do hereby declare that an emergency condition as a result of drought exist in the State of Montana and do hereby order the suspension of the authority of the Department of Natural Resources and Conservation to process and issue beneficial water use permits under the Montana Water Use Act on permit applications received after the date of this Executive Order, except that the Department of Natural Resources and Conservation should continue to process applications which in the exercise of its sound discretion the agency determines are necessary for the protection of the public health, welfare or safety. Nothing in the suspension order should be construed to suspend the authority of the agency to process change of use authorizations, transfers, or certification of exempt ground water developments with a maximum of 35 gallons per minute or less, not exceeding 10 acre-feet per year.

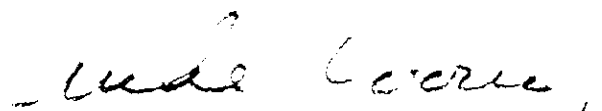
This Order shall be effective June 8, 1992.

GIVEN under my hand and the GREAT SEAL of the State of Montana this 10 day of June, in the year of our LORD, One Thousand Nine Hundred and Ninety-two.



STAN STEPHENS
Governor

ATTEST:



MIKE COONEY, Secretary of State