

**State of Montana
Office of the Governor
Executive Order No. 15-2011**

**EMERGENCY DECLARATION CONTINUING THE TEMPORARY SUSPENSION OF POINT
OF DIVERSION CHANGES FOR WATER RIGHTS IN THE MUSSELLSHELL BASIN IN
MONTANA**

WHEREAS, under § 85-2-402, MCA of the Water Use Act, a water right holder cannot change the holder's point of diversion without approval by the Department of Natural Resources and Conservation (DNRC); and

WHEREAS, under § 10-3-104, MCA, the governor may suspend the provisions of any regulatory statute prescribing procedures for the conduct of state business if strict compliance with the statute would in any way prevent, hinder, or delay necessary action in coping with a disaster; and

WHEREAS, on June 8, 2011, I issued Executive Order No. 07-2011, proclaiming a disaster to exist within the State of Montana due to extensive flooding; and

WHEREAS, on June 21, 2011, I issued Executive Order No. 08-2011 temporarily suspending through December 31, 2011, the requirements of § 85-2-402, MCA, with respect to changes in points of diversion under the Water Use Act necessary as a result of the unprecedented flooding conditions in Montana; and

WHEREAS, the unprecedented flooding altered river channels and damaged or destroyed many headgates, canals, ditches, and points of diversions along the Musselshell River and its tributaries; and

WHEREAS, due to the extent of the damage and the complexity of the necessary repairs to irrigation infrastructure along the Musselshell River and its tributaries, the resources and time required to prepare the information necessary to receive approval from DNRC for point of diversion changes on these sources will be significantly greater than in other parts of the State; and


WHEREAS, continuing the temporary suspension of the requirements for changes in points of diversions along the Musselshell River and its tributaries through calendar year 2012 will prevent loss of property and damage by allowing water right holders on these sources to respond to the altered stream conditions, allow for repair and replacement of diversion structures that have been damaged or destroyed under the extreme conditions of the 2011 flooding, and minimize disruption of irrigation systems and domestic diversions.

NOW, THEREFORE, I Brian Schweitzer, Governor of the State of Montana, pursuant to authority vested in me as Governor under the Constitution and the laws of the State of Montana, do hereby order the continued temporary suspension, through December 31, 2012, of the requirements of § 85-2-402, MCA, with respect to changes in point of diversion under the Water Use Act necessary as a result of flooding conditions in the Musselshell Basin, including the Musselshell River and its tributaries located in Wheatland, Fergus, Golden Valley, Petroleum, Meagher, Musselshell, Garfield, Stillwater, Sweet Grass and Rosebud Counties, so long as a

water right holder has notified the local Water Resources office of the DNRC of the temporary change in point of diversion due to flooding on a form prescribed by DNRC.

This Order is effective upon signing and terminates December 31, 2012, after which time all requirements of § 85-2-402, MCA, shall be fully reinstated for the Musselshell Basin.

GIVEN under my hand and the GREAT
SEAL of the State of Montana,
this 2nd day of December, 2011.



BRIAN SCHWEITZER, Governor

ATTEST:



Linda McCulloch, Secretary of State