

State of Montana
Office of the Governor
Executive Order No. 08-2011

**EMERGENCY DECLARATION TEMPORARILY SUSPENDING POINT OF DIVERSION CHANGES FOR
WATER RIGHTS IN MONTANA**

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

WHEREAS, due to the unprecedented flooding across Montana, including numerous altered river channels, many headgates, canals, ditches, and points of diversions for the use of water rights within the State are inoperable or no longer exist; and

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 no exceptions exist for emergency situations; and

WHEREAS, given the time required for preparing, submitting, and processing point of diversion change applications and the volume of applications that can reasonably be anticipated as a result of the statewide flooding, it does not appear that Montana's regulatory system will meet the needs of Montana water right holders who wish to comply with the statutory requirements but must change their diversion structures as a result of the flooding for use during this irrigation season and for domestic diversions; and

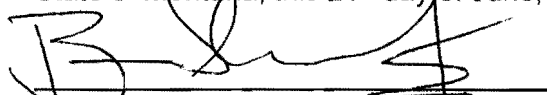
WHEREAS, under § 10-3-104, MCA, the governor may suspend the provisions of any regulatory statute prescribing the procedures for the conduct of state business if strict compliance with the statute would in any way prevent, hinder, or delay necessary action in coping with a disaster; and

WHEREAS, temporarily suspending, through calendar year 2011, requirements for changes in points of diversions will prevent loss of property and damage by allowing water right holders to respond to the emergency situations created by the flood conditions, allow for temporary repair and replacement of diversion structures that have been damaged or destroyed under these extreme conditions, and minimize disruption of irrigation systems and domestic diversions.

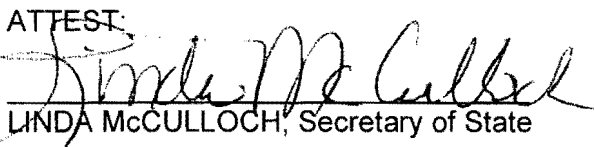
NOW, THEREFORE, I Brian Schweitzer, Governor of the State of Montana, pursuant to authority vested in me as Governor under the Constitution and the laws of the State of Montana, do hereby order the temporary suspension, through December 31, 2011, of the requirements of § 85-2-402, MCA, with respect to changes in points of diversion under the Water Use Act necessary as a result of the flooding conditions of Montana, so long as the water right holder notifies the local office of the Department of Natural Resources and Conservation of the temporary change in point of diversion due to flooding on a form prescribed by DNRC. I do hereby further direct DNRC to prepare forms and educate water right holders regarding this Order to assist them with compliance.

This Order is effective upon signing and terminates on December 31, 2011, after which time all requirements of § 85-2-402, MCA, shall be fully reinstated.

Given under my hand and the GREAT SEAL of the
State of Montana, this 21st day of June, 2011.


BRIAN SCHWEITZER, Governor

ATTEST:


LINDA McCULLOCH, Secretary of State