

**TOWN OF EMPIRE, COLORADO
RESOLUTION 22-07**

**AN EMERGENCY RESOLUTION OF THE TOWN OF EMPIRE, COLORADO
EXTENDING THE MARCH 23, 2022, PROCLAMATION
OF A STATE OF A LOCAL DISASTER EMERGENCY DUE TO
INSUFFICIENT WATER RESOURCES**

WHEREAS, pursuant to the Colorado Disaster Emergency Act, C.R.S., Section 24-33.5-701, *et seq.*, the Mayor of the Town of Empire ("Town") has the Authority to declare a local disaster emergency; and

WHEREAS, pursuant to C.R.S. § 24-33.5-709(1), the Town of Empire Board of Trustees (the "Board") is authorized to extend a proclamation of local disaster by resolution; and

WHEREAS, the Town operates a public, municipal water treatment system that provides water to the Town residents, businesses, and visitors within the Town limits; and

WHEREAS, the Town's current water supply system includes a well and surface water from Madd Creek; and

WHEREAS, the Town's current well was previously shut down as contaminants exceeded authorized levels by the Colorado Department of Public Health and Environment (CDPHE); The Town has a new well planned for construction to begin spring 2022 but will not be online (operational) until summer / fall 2022; and

WHEREAS, the Town's water source is solely reliant on surface water flows on Madd Creek which are variable flows due to weather and drought; The surface water flows into a sand filtration system and untreated water storage tank of 100,000 gallons; and

WHEREAS, the Town maintains treated potable water supply stored in two tanks, one a 100,000 gallon tank and another 170,000 gallon storage tank. The tanks are designed to hold the treated water and supply the Town with potable water during various water demands and variable flows in supply; and

WHEREAS, the Town has additional raw untreated surface water storage rights available in the Guanella Reservoir. The storage acre feet total 16.341 but to date, no water is stored in the reservoir nor is there equipment to place or withdraw water from the storage acre feet; and

WHEREAS, the Town received notice from Climax Molybdenum Company that they are experiencing a reduction in water output and anticipate they will no longer be able to provide water to the Town. Climax's excess senior water rights allowing for water typically supplied to the Town's junior raw water rights previously sent down-stream via Clear Creek to Empire will no longer be a viable water source per legal notice received by the Town on December 16, 2021; and

WHEREAS, the water demand increased substantially approximately three weeks ago. The Town began notifying residents to conserve water, search for broken water lines, pipes, water fixtures leaking, and other possible sources of the water demand increase; and

WHEREAS, the current water flow from Madd Creek into the water intake is providing an average of 30 gallons per minute (GPM) of water to the Water Treatment Plant (WTP); The Town's water demand exceeds the current output of treated water and the storage tanks reserves were emptied on Saturday, March 19th, 2022. The Town's water system lost pressure and supply resulting in most of the Town being without any water supply; and

WHEREAS, water is a necessity of life above human consumption. The Town's water supply is a staple and daily requirement necessary for residential and business functions for sanitary and best practices during COVID mitigation, dish and clothing cleansing, hand-washing and sewage disposal, and all related daily necessities; As the Town's immediate response is limited and temporary while working to repair, replace, and upgrade the water treatment system; and

WHEREAS, the cost and magnitude of responding to and recovering from the impact of the water emergency is far in excess of the Town's available resources or its legal authorities; and

WHEREAS, Colorado law provides for declaring a local disaster emergency to assist local governments in responding to and recovering from emergency events; and

WHEREAS, pursuant to C.R.S. § 24-33.5-709(1) "a local disaster may be declared by the principal executive officer of a political subdivision, but for periods in excess of seven days requires the consent of the governing board of the political subdivision"; and

WHEREAS, "The effect of a declaration of local disaster emergency is to activate the response and recovery aspects of any and all applicable local and interjurisdictional disaster and emergency plans and to authorize the furnishing of aid and assistance under such plans." C.R.S. § 24-33.5-709(2); and

WHEREAS, declaring a local disaster emergency may qualify local citizens and businesses for federal and state programs that exist or may be developed to mitigate against losses incurred; and

WHEREAS, it would be appropriate and in the interests of the public health and safety, and would further protect property, for the Town to take immediate actions for public safety, health, and welfare; and

WHEREAS, on March 23, 2022, pursuant to C.R.S. § 24-33.5-709 the Mayor of Empires proclaimed a local disaster emergency for the municipal limits of the Town of Empire, Colorado (the "Proclamation"); and

WHEREAS, the Board desires to extend and modify the Proclamation as set forth in this Resolution; and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF EMPIRE, COLORADO:

1. The above recitals are incorporated by reference.
2. **Local Disaster Emergency Declared.** A water emergency exists in the Town of Empire and our community which constitutes a local disaster emergency and that warrants immediate action by local, state, and federal authorities. Inaction will result in irreversible changes to the fabric of the community and limit the ability of the community to serve visitors and residents alike.
3. **Powers.** This resolution grants to the Town all powers granted to it pursuant to C.R.S. § 24-33.5-709 and as otherwise proscribed by state and federal law. Furthermore, the Town declares as follows:
 - a. Governments, businesses, and other employers in Empire and our community must thoroughly explore and implement all viable strategies to mitigate the current water emergency crisis.
 - b. The representatives of the citizens and businesses of the Town of Empire implore Governor Polis and the State of Colorado to recognize the nature of the water emergency in the Town of Empire and to allocate funding from the American Rescue Plan Act of 2021, or any other available sources, to assist the Town of Empire.
4. John Stein, Empire Chief of Police shall act as the Town Emergency Manager for the duration of the local disaster emergency.
5. This Resolution may be amended as necessary to protect public safety, health, and welfare.
6. This Resolution shall be effective upon the date of passage and shall continue for eight (8) weeks unless extended or rescinded by a resolution of the Board of Trustees.

ADOPTED this 29th day of March, 2022.

TOWN OF EMPIRE

Wendy Koch
Wendy Koch, Mayor

ATTEST:

J Piel
Jeannette Piel, Town Clerk