

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT	)	PRELIMINARY ORDER GRANTING PETITION
No. 63-31243 IN THE NAME OF	)	TO CHANGE WATER BEARING ZONE
CITY OF NAMPA	)	
_____	)	

This matter having come before the Department of Water Resources (Department) as a petition to change a condition limiting the water bearing zone from which ground water can be appropriated, the Department finds, concludes, and orders:

FINDINGS OF FACT

1. On September 24, 2001, the Department issued Permit No. 63-31243 (permit) in the name of United Water Idaho (original permit holder) authorizing the diversion of ground water for municipal purposes within the United Water Idaho service area.
2. On October 17, 2008, United Water Idaho assigned the permit to the City of Nampa (permit holder).
3. Approval condition number eleven states, "Water bearing zone to be appropriated is 375 to 475 feet".
4. On June 24, 2009, a certified water right examiner (license number 11-129) conducted an inspection to verify the beneficial use of water established in connection with the permit.
5. On August 4, 2010, the Department received a proof of beneficial use statement and a beneficial use field examination report submitted by the permit holder.
6. The examiner reported that during the development period for the permit the water bearing zone appropriated ranged from 240 to 473 feet.
7. On January 13, 2012, the Department received the permit holder's petition through their representative to change the water bearing zone on the permit to 240 to 473 feet.
8. Section 42-211, Idaho Code, states in pertinent part:

Whenever a permit has been issued pursuant to the provision of this act, and the permit holder desires to change the place, period, or nature of the intended use, or make other substantial changes in the method of diversion or proposed use or uses of water, he shall file an application for amendment upon forms to be furnished by the department of water resources together with the statutory fee for filing and recording same, and upon receipt thereof it shall be the duty of the department of water resources to examine same and if approval thereof would not result in the diversion and use of more water than originally permitted and if the rights of others will not be adversely affected thereby, the director of the department of water resources shall approve said application and return an approved copy to the permit holder.

9. No protests or complaints have been filed with the Department to date despite the fact that the appropriated water bearing zone has been different from the permitted zone since November 12, 2001.

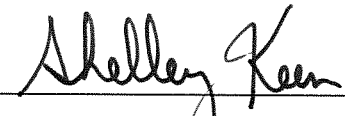
CONCLUSION

1. The original permit holder and the permit holder have pumped ground water from the proposed water bearing zone for approximately a decade, in that time no protests or complaints have been filed with the Department.
2. Changing the water bearing zone at the authorized point of diversion for the permit to 240 to 473 feet is not a substantial change to the elements of the water right authorized for development in connection with the permit.
3. An application to amend the permit is not required to change the water bearing zone to 240 to 473 feet.
4. The Department should authorize the requested change to the water bearing zone from 375 to 475 feet to 240 to 473 feet.

ORDER

IT IS, THEREFORE, HEREBY ORDERED that approval condition number eleven on Permit No. 63-31243 is **CHANGED** to state, "Water bearing zone to be appropriated is 240 to 473 feet".

DATED this 7th day of March, 2012



SHELLEY KEEN, Manager
Water Rights Section