

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT	)	ORDER GRANTING PETITION TO
NO. 63-12552 IN THE NAME OF	)	CHANGE WATER BEARING ZONE
CITY OF KUNA	)	
_____	)	

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 March 9, 2000, the Department issued permit no. 63-12552 (permit) in the name of United Water Idaho authorizing the diversion of ground water for municipal purposes within the non-contiguous service area of United Water Idaho. Approval condition no. 9 on the permit said, "Water bearing zone to be appropriated is from 370 to 430 feet."

3. On December 5, 2001, at the request of United Water Idaho, the Department issued an amendment of permit that added a point of diversion in the same legal description as the existing authorized point of diversion and changed the water bearing zone to be appropriated to 325 to 380 feet.

4. On January 15, 2008, United Water Idaho assigned their right, title, and interest in the permit to the City of Kuna (permit holder).

5. On March 1, 2010, the Department received the permit holder's proof of beneficial use statement for the permit and the field examination report. The field examiner found that the water bearing zone appropriated ranged from 318 feet to 380 feet below ground surface. The certified water right examiner recommended that the Department remove condition no. 9 on the permit since the water bearing zone appropriated is different than that required in condition no. 9 and to conform with current guidance for issuing new permits in this area which would not require the identification of a water bearing zone.

7. Section 42-211, Idaho Code, says, in pertinent part:

Whenever a permit has been issued pursuant to the provisions 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.

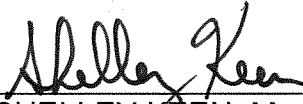
CONCLUSIONS

1. No protests or complaints have been filed with the Department to date despite that the water bearing zone was developed differently than permitted.
2. Changing the authorized water bearing zone to 318 to 380 feet below ground surface, as developed, 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 limitation in the permit to 318 to 380 feet below ground surface.
4. The Department should authorize the requested change to the water bearing zone from 325 to 380 feet to 318 to 380 feet.

ORDER

IT IS, THEREFORE, HEREBY ORDERED that approval condition no. 9 on Permit No. 63-12552 is **CHANGED** to say, "Water bearing zone to be appropriated is from 318 to 380 feet."

DATED this 5th day of January, 2012.



SHELLEY KEEN, Manager
Water Rights Section