

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT	)	
NO. 63-31262 IN THE NAME OF	)	
BOISE VALLEY FEEDERS LLC	)	ORDER GRANTING CHANGE
_____	)	TO WATER BEARING ZONE

This matter having come before the Department of Water Resources (Department) as a request 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 18, 2001, the Department issued permit no. 63-31262 (permit) in the name of Boise Valley Feeders LLC (permit holder) authorizing the diversion of ground water for irrigation purposes within the NW¼SW¼ of Section 13, Township 6 North, Range 5 West, and the NW¼SE¼ of Section 14, Township 6 North, Range 5 West, B.M., ADA county.
2. Approval condition no. 8 on the permit says, "Water bearing zone to be appropriated is 300 to 500 feet."
3. On October 11, 2006, the Department granted a Request for Extension of Time to submit proof of beneficial use (proof) for permit no. 63-31262, extending the deadline to submit proof to October 1, 2011.
4. On August 12, 2011, the Department received a proof of beneficial use statement and a field examination report from a certified water right field examiner on behalf of the permit holder. The examiner reported that the water bearing zone developed at the point of diversion in the NW¼SE¼ of Section 14, Township 6 North, Range 5 West B.M., ADA county, is 420 feet to 520 feet. The examiner reported that the water bearing zone for the point of diversion located in the NW¼SW¼ of Section 13, Township 6 North, Range 5 West, B.M., is 350 to 507 feet, but was developed before permit 63-31262 was issued and therefore is not subject to condition no. 8.
5. The field examiner recommended that permit no. 63-31262 be modified to show a water bearing zone of 350 to 535 feet rather than 300 to 500 feet.
6. 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.

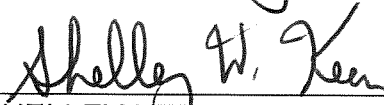
CONCLUSIONS

1. Changing the water bearing zone at the authorized point of diversion for the permit is a change of 35 feet deeper than originally permitted and is not a substantial change to the elements of the water right authorized for development in connection with the permit.
2. No protests or complaints have been filed with the department to date despite that the appropriated water bearing zone has been different from the permitted zone since January 31, 2005.
2. An application to amend the permit is not required to change the water bearing zone limitation in the permit.
3. The Department should authorize the requested change to the water bearing zone from 300 to 500 feet to 350 to 535 feet.

ORDER

IT IS, THEREFORE, HEREBY ORDERED that approval condition no. 8 on Permit No. 63-31262 is **CHANGED** to say, "Water bearing zone to be appropriated is 350 to 535 feet."

DATED this 24th day of August, 2011.



SHELLEY KEEN, Manager
Water Rights Section