

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 63-31877)	
IN THE NAME OF GRAHAM & JORDAN)	ORDER GRANTING PETITION TO
INVESTORS LLC)	CHANGE WATER BEARING ZONE
_____)	

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 makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On May 10, 2004, the Department issued Permit 63-31877 (Permit) to the Graham & Jordan Investors LLC (permit holder) authorizing the diversion of ground water for domestic purposes within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 28, Township 3 North, Range 1 West, B. M., Ada County.
2. Approval condition no. 5 on the permit says, "Water bearing zone to be appropriated is from 25 to 150 feet."
3. On August 1, 2008, the Department received the permit holder's petition through their representative to change the water bearing zone on the permit to 350 to 550 feet below ground surface.
4. 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 the 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 OF LAW

1. Changing the water bearing zone at the authorized point of diversion for the permit is not a substantial change to the elements of the water right authorized for development in connection with the permit.
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 with conditions to protect prior ground water rights.

ORDER

IT IS, THEREFORE, HEREBY ORDERED that approval condition no. 5 on Permit No. 63-31877 is **CHANGED** to say, "Water bearing zone to be appropriated is from 350 to 550 feet below ground surface."

Dated this 5th day of August, 2008.


Pamela S. Skaggs
Water Rights Supervisor