

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 63-31660)
IN THE NAME OF CHURCH OF JESUS) **ORDER GRANTING PETITION TO**
CHRIST OF LATTER DAY SAINTS) **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 30, 2003, the Department issued Permit 63-31660 (permit) to the Church of Jesus Christ of Latter Day Saints (permit holder) authorizing the diversion of ground water for domestic and fire protection purposes within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 33, Township 4 North, Range 2 West, B. M.
2. Approval condition no. 7 on the permit says, "Water bearing zone to be appropriated is from 50 to 150 feet."
3. Approval condition no. 3 on the permit says:

Water shall not be diverted for fire protection use under this right except to fight or repel an existing fire, except that the right holder may drain the storage tank for maintenance purposes and may refill it within a 24-hour period once each year. Water released from the storage tank for maintenance purposes shall not be used for non-authorized uses.

4. On December 19, 2003, the Department received the permit holder's petition to change the water bearing zone on the permit to 150 to 250 feet below ground surface.
5. 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.

6. Within a quarter mile of the point of diversion authorized by the permit, there are at least three prior ground water rights diverted from wells drilled into the proposed water bearing zone of 150 to 250 feet below ground surface. Two of the rights are for irrigation purposes, and the third is for domestic and irrigation use at a school.

CONCLUSIONS OF LAW

1. Changing the water bearing zone at the authorized place of use 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.

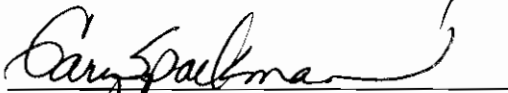
ORDER

IT IS, THEREFORE, HEREBY ORDERED that approval condition no. 7 on Permit No. 63-31660 is **CHANGED** to say, "Water bearing zone to be appropriated is from 150 to 250 feet below ground surface."

IT IS ALSO HEREBY ORDERED that approval condition no. 3 on Permit No. 63-31660 is hereby **CHANGED** to say:

Water shall not be diverted for fire protection use under this right except to fight or repel an existing fire, except that the right holder may drain the storage tank for maintenance purposes and may refill it within a 24-hour period once each year during the period from November 16 to February 29. Prior to draining and refilling the storage tank, the right holder shall notify the holder of Right 63-10161 and shall ensure that the diversion and use of water under Right 63-10161 is not impaired by the diversion of water to fill the storage tank. Water released from the storage tank for maintenance purposes shall not be used for non-authorized uses.

Dated this 7th day of January, 2008.


Gary Spackman

MICHAEL L. LEMMON

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