

MEMO

TO: Water Right File
FROM: James Cefalo JRC
DATE: November 21, 2012
RE: Revision of Permit 22-13306

On October 15, 2012, Fox Creek Country Club Estates POA Inc. ("FCCCE") and Fox Creek Village HOA ("FCV") filed an "Amended Application for Permit" seeking to amend Permit 22-13306. The application proposed removing a 40-acre tract from the permitted place of use and updating a permit condition (Condition #7 from the permit approval) to correct an error in the name of the listed home owners association. The application was filed and signed by Robert Spoelhof, president of the FCCCE, and John Eagan, president of FCV. FCCCE and FCV are the current owners of Permit 22-13306.

Permit 22-13306 authorizes the diversion of 1.42 cfs of ground water for domestic use associated with 97 homes located within FCCCE and FCV. The domestic use is limited to 13,000 gallons per day per home and ½ acre of irrigation per home. Condition #7 on the permit approval (issued 12/13/2004) states: "Place of use is located within Lots 4-27, 29-72, and A1-A25, Fox Creek County [sic] Club Estates Subdivision." The place of use described on the permit was the entire SE1/4 of Section 23, T04N, R45E.

An amendment is not required to remove, limit, or reduce elements of a water permit. In this case, the permit holder is allowed to shrink the permitted place of use. All that is required to complete such a change is a written request signed by the permit holder of record. The application for amendment filed on October 15th will be considered an official written request to remove the SWSE from the permit place of use. The request will be completed without pursuing a formal permit amendment. It is unclear why the SWSE of Section 23 was included on the permit in the first place. None of the subdivision lot numbers identified in the permit are located within the SWSE of Section 23.

Although permit conditions can generally only be changed through a transfer application or a permit amendment, the revision being proposed by the permit holders does not change the substance of the condition in any way. In fact, the revision does not even change the lot numbers listed in the condition. It merely clarifies that lot numbers A1-A25 are part of FCV and lots 4-27 and 29-72 are part of FCCCE. The revision is consistent with Teton County taxlot records and with the plat of the subdivisions found in the water right backfile. Therefore, the permit condition will be revised without requiring a transfer because the substance of the permit condition is not changing.