

## Cefalo, James

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**From:** Cefalo, James  
**Sent:** Wednesday, August 03, 2011 2:57 PM  
**To:** 'carlybarbara@q.com'; 'Conder, Claudia'  
**Subject:** Amendment to Application 13-7763 (Midway Water Co.)  
**Attachments:** Amended Application 13-7763 (Midway Water Co.).pdf

Carly and Claudia,

I have just completed a final review of the Midway Water Co. application and plan on approving the permit at the beginning of next week. I wanted to notify you that the application recently underwent a minor amendment and wanted to explain the reasoning behind the change. In my review, I discovered that some of the 19 homes in the Midway system would not fall within the place of use for the original water right (13-7499) or the new water right (13-7763). As I compared the map of the current system, the place of use for 13-7499, and the place of use under this application I found that there were four homes that did not fall within the place of use of either of the water rights. I therefore asked Midway to amend the place of use for the current application, so that all of the homes on the system were covered by a water right.

After the pre-hearing conference, Midway identified seven homes to be "added" to the system. Mr. Howell acknowledged that he wasn't really sure the order of connections to the system. It is difficult to know which homes are in fact the last seven homes added to the Midway system. A field exam was completed on the original permit (13-7499) in 1995. At that time, the examiner found 16 homes. The original application carried a priority date of 1992. So, almost instantly, the original permit for 12 homes was met and exceeded. Using, the map from the 1995 field exam, it is possible to identify the three homes that have been added to the system since 1995.

I don't really think there is much benefit to delineating the exact homes that fall under the original permit and those that fall under the current application. In my opinion, the important thing is that all of the homes are covered by one place of use or the other. Domestic water rights are described to the QQ, so it is important that all of the relevant QQs are included in the two rights. As stated, four homes were not covered by either place of use. The new permit place of use will include the QQs covering those four homes and the QQs for the three homes added since 1995.

The proposed mitigation condition to be added to the permit should still address the issues of protest, regardless of which seven of the Midway homes (or QQs) are covered by the permit. The permit will still limit diversion from existing ground water wells to stockwater only. Existing home wells cannot be used for irrigation or culinary purposes. The two specific domestic water rights identified in the condition, will still be given up for mitigation. The condition will be added to the permit as originally drafted:

**To mitigate for any impacts caused by diverting ground water under this right, the right holder agrees that the seven homes added to the Midway Water system under this right will no longer use existing ground water wells to supply water to the homes for culinary or domestic irrigation purposes. Water rights 13-7746 and 13-7755 will no longer be used for culinary or domestic irrigation purposes. Existing ground water wells may continue to be used for stockwater purposes provided the use is authorized by an existing water right or qualifies under a statutory exemption.**

I hope I have clearly explained the need for the POU amendment. I have included a copy of the amendment and of a map I prepared for my analysis. It is difficult to see on the scanned copy of the map, but there are three QQs of overlap between the water rights (SESE Sec. 35, SESE Sec. 2, and NWSE Sec. 12). If you have any problems with the amendment or need further explanation, please contact me by August 9.

James Cefalo