

MEMORANDUM

TO: Water Right Permit Files 63-32966

FROM: Daniel A. Nelson

DATE: January 31, 2017

SUBJECT: Request to Correct Condition

Water right 63-32966 was licensed on February 12, 2016. Condition 5 of the license stated the following:

Transfer 74506 authorizes the diversion and delivery of 0.11 cfs and 25.2 af of water to storage for replacement of evaporation and seepage losses from three ponds (3) authorized by Right 63-32966.

On January 30, 2017, the Department received a letter from the permit holder requesting the condition above be corrected to match condition 2 of the license which limited the water use of water rights 63-365 and 63-2973 to a combined total of 0.10 cfs, 22.1 af, and the retirement of 4.9 af.

Upon further review of water right transfer 74506, we discovered that the transfer itself did not authorize the diversion and delivery of the 0.11 cfs and 25.2 af of water to storage from water rights 63-365 and 63-2973. Water right transfer 74506 was filed to include the three ponds as points of diversion for water rights 63-2973 and 63-7103, since shallow ground water was being used for irrigation from the ponds. Water right 63-365 was included in the transfer approval as an associated water right to include combined limitation conditions.

Even though the mitigation of water right 63-32966 was not part of transfer 74506, a condition was placed on water rights 63-365 and 63-2973 to address the mitigation by non-use for water right 63-32966 at the time the transfer approval was issued. This gave the appearance that the transfer approval authorized the mitigation.

Therefore, the Department erred in placing the condition 5 on the license, since the transfer did not authorize the mitigation. The mitigation was authorized by the permit approval of water right 63-32966. Condition 5 of water right license 63-32966 should be removed from the license.