

MEMORANDUM

DATE: February 10, 2004

TO: Water Right File 74-7175

FROM: Shelley W. Keen *SWK*

RE: Beneficial use of water

This morning I spoke on the telephone with Alan Stephens, attorney for Penny Ogden-Edwards, about the beneficial use of water established in connection with Permit 74-7175. He reminded me of the 6/4/1990 affidavit in which Frank Hays stated that he witnessed the diversion and use of "high water" in connection with this permit in the late spring or early summer of 1986. Mr. Stephens said that water has not been used since that time because there is rarely enough spring runoff to satisfy all prior rights. However, he said his client would like to have a license for the use of water when it is available.

In his affidavit, Frank Hays said that he witnessed the diversion of "between 60 and 75 miner's inches" (1.20 to 1.50 cfs) for the irrigation of the Ogden land that is "on the north and east side of Big Timber Creek." When he visited the site in 1995, IDWR's field examiner could not measure the diversion because he found no water in use. He did, however, find evidence of relatively large ditches. He also found land on the east side of Big Timber Creek that had been irrigated in the past. I told Mr. Stephens that because Mr. Hays's affidavit is the only evidence available to IDWR for quantifying the beneficial use, IDWR would issue a license for 0.02 cfs per acre for the land on the east side of Big Timber Creek.