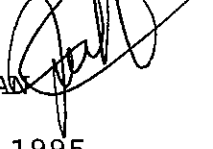


MEMORANDUM

TO: FILE

FROM: JOHN HOMAN 

DATE: JUNE 19, 1995

RE: FOLLOW UP PHONE CONVERSATIONS WITH BLAIR CLARK

On June 9, 1995, the Department conducted a meeting in the upstairs conference room to discuss water delivery instructions on Sand Springs Gulch tributary to Little Canyon Creek. Present at the meeting were Carlene Viner-Smith, her husband Ray and their attorney D. Blair Clark. Department personnel at the meeting included Dave Tuthill, Rob Whitney and John Homan.

At the meeting Mr. Clark argued relentlessly that the Department should change the way the watermaster delivers water on Sand Springs Gulch. Mr. Clark claimed that recent court documents supported his position that delivery instructions should be altered. Tuthill and Homan explained that the court documents were not clear and that the Department was not prepared to implement different delivery instructions without further clarification from the court. The Department agreed to reexamine the file and make sure its current delivery instructions reflect as near as possible the water rights in the court decrees. I agreed to call Mr. Clark and discuss the basis for the Department's instructions after the reexamining the file.

On June 15, 1995 I called Blair Clark and explained that the Department was not in a position to revise its earlier instructions. Mr. Clark asked that I reconsider and in any event the Department should require Mr. Batruel to install weirs to measure his reservoir water in and out of the gulch as set out in the 1989 court decision. I told Clark I would discuss that issue with Tuthill and get back to him.

On June 19, 1995 I informed Clark that the weir alternative, if implemented, as set out in the 1989 decision would have the effect of depriving Batruel of all of his "rising and flowing waters" in the Gulch above the Pond Diversion. I explained that such a result would seem contrary to the court decrees and that the Department would need clarification from the court before different instructions would be implemented.

Mr. Clark indicated that he intended to file a motion before the court for some type of order to clarify the court's earlier decisions.