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By Ethel Bouton Clerk
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Arizona State Bar I.D. No. 005188

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI

GEORGE W. HANCE, et al.)	
)	No. 4772
Plaintiff,)	
)	Division 1
vs.)	
)	COMMISSIONERS' RESPONSE TO
WALES ARNOLD, et ux., et al.)	SPECIAL COMMITTEE REPORT
)	
Defendant.)	

The VERDE DITCH COMPANY, through its Commissioners, files the following Response to the Special Committee Report dated October 21, 1988.

For the purposes of clarity, the Commissioners will respond to the Special Committee Report in the same order as the report of the Special Committee.

I. The Verde Ditch Commissioners have for a long period of time felt the need for amendments and revisions to the existing Rules and Regulations. The last Rules and Regulations were promulgated in 1963. Since that time, there have been significant changes not only in the number of shareholders, but also in the ditch operation itself.

. . .

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1 It is not clear what the intent or purpose of the
2 proposed written water servicing agreements would be, given the
3 existing litigation which resulted in the establishment of the
4 continuing jurisdiction of the Superior Court. Perhaps, some of
5 the recommendations and suggestions of specific items or issues
6 which the Committee feels need to be addressed could be placed in
7 the final Committee report and used in the promulgation of new
8 Rules and Regulations.

9 There presently is no independent verification pro-
10 cedure of the actual irrigated acreage of the Verde Ditch Com-
11 pany. Since its inception, the Verde Ditch has relied upon the
12 truthfulness of its shareholders as to the amount of acreage
13 actually being served. The costs of implementation of some
14 physical verification process (i.e. surveys or actual land
15 measurement) of all shareholders are estimated to be easily in
16 excess of \$25,000.00. The Commissioners believe that some form
17 of compilation of the actual surface water usage of the Verde
18 Ditch shareholders will be accomplished in the pending adjudica-
19 tion process and will be conducted by the Department of Water
20 Resources. The Commissioners suggest that any large scale revi-
21 sion to the shareholders irrigated acreage would more properly
22 and economically be accomplished at that time.

23 The issuance of a court order as suggested under
24 Paragraph I(c) of the Special Committee Report is, again, diffi-
25 cult to formulate an appropriate response since it is still
26 unclear what the intent and purpose of a water servicing agree-
27 ment would be. The procedure and cost of enforcing an order are
28 unknown, but it clearly appears to be beyond the budgetary

1 constraints of the Verde Ditch Company today. Undoubtedly, an
2 increase in the annual assessments would be required to accom-
3 plish the proposal the Committee set forth in Paragraph I(c) and
4 the Commissioners are unclear as to the intent and purpose.

5 The Verde Ditch Company has obtained permission
6 from the Yavapai County Superior Court to proceed on the collec-
7 tion of past due assessments. In the last couple of years the
8 stepped up effort on collection has lead to the filing of approx-
9 imately thirty small claim court actions (per year) where collec-
10 tion letters do not bring an appropriate response.

11 Several suits have been filed in the Yavapai County
12 Superior Court in the last couple of years for collection of
13 larger past due assessments.

14 Accordingly, the Verde Ditch Commissioners believe
15 that depending upon the intent and purpose, the recommendations
16 set forth in paragraph I of the Special Committee Report are more
17 properly addressed in the Rules and Regulations to be promul-
18 gated; however, the Commissioners are unclear as to the need or
19 purpose of a written water servicing agreement and whether such a
20 written water servicing agreement would add to stability and/or
21 increase of revenues for the Verde Ditch Company.

22 II. The Commissioners acknowledge the ever-increasing
23 expenses for the maintenance and repair of the Verde Ditch.
24 Serious collection difficulties have been encountered in approxi-
25 mately five percent of the total number of billed assessments.

26 The Verde Ditch Commissioners are not advocating an
27 increase in assessment charges at this time; however, they recog-
28 nize that factors beyond their control (washing out of dams) or

1 other factors may change their position in the future. The Verde
2 Ditch Commissioners are and have been actively seeking governmen-
3 tal funds to help pay the costs of improvements and repairs and
4 believe that the continuation of the federal grants and funds is
5 preferable to an increase in the per acre assessments for now.

6 Work-in-trade and in-kind payments have existed
7 since the establishment of the Verde Ditch under the jurisdiction
8 of the court in 1909. All in-kind or work-in-trade payments are
9 approved by the full board of Commissioners with substantiation
10 of time, labor and materials involved.

11 Past history of the in-kind or the work-in-trade
12 payments indicates that the Verde Ditch and its shareholders have
13 been able to keep the annual assessments reduced with the use of
14 in-kind or work-in-trade payments. Accordingly, the Commission-
15 ers do not recommend that the in-kind or work-in-trade be
16 removed. The Commissioners do recognize that careful records
17 must be kept to substantiate all such decisions, but are con-
18 vinced that if the Verde Ditch Company had to pay all of the
19 shareholders who perform work-in-trade or in-kind payments rather
20 than a cash payment for assessments, the Verde Ditch Company
21 would have been in a deficit position most years, thereby neces-
22 sitating an increase in the annual assessments.

23 All Verde Ditch Company checks require the signa-
24 tures of two Commissioners or a Commissioner and the bookkeeper.
25 To require more than two signatures in some instances may require
26 a delay in obtaining necessary repairs or materials. Accordingly,
27 the Commissioners do not recommend a requirement of more than two
28 signatures.

1 The Verde Ditch Company maintains open accounts in
2 several businesses where such open accounts are available. Occa-
3 sionally, checks are drawn without the full amount being filled
4 in so that a Commissioner or employee can obtain necessary mate-
5 rials or other supplies when the exact cost is unknown. The
6 Commissioners prefer a written check procedure rather than main-
7 taining any form of petty cash fund, as they believe it increases
8 the accountability and is easier for accounting procedures. The
9 Verde Ditch does not maintain a petty cash fund.

10 III. All financial records of the Verde Ditch Company
11 including all income and expenditures are maintained at the Verde
12 Ditch Company in Camp Verde.

13 All such books and records are and have been avail-
14 able to the Special Committee pursuant to the Objectives of
15 Committee filed April 11, 1988 and the Minute Entry of the Court
16 dated April 11, 1988.

17 IV. The Commissioners are unaware of any previously
18 requested status report of pending litigation or goals of the
19 Commissioners. A summary of the status of pending litigation was
20 given at the meeting at the request of the Court on October 24,
21 1988 and the Commissioners and counsel for the Verde Ditch Com-
22 pany remain available to the Special Committee to answer any
23 specific questions or inquiries they may have in regard to pend-
24 ing litigation or the goals of the Commissioners as set forth in
the November 1, 1988 Order.

25 V. The Commissioners have no opinion as to the views
26 set forth by the Committee as a goal for the creation of a non-
27 profit Arizona corporation by 1991. The individual Commissioners
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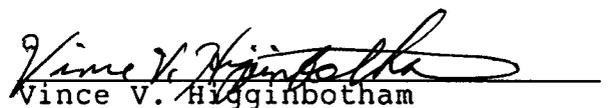
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1 may have their own opinions as to the advisability or practica-
2 bility of the Committee's goal. The Commissioners believe that
3 the planning or movement toward the creation of a nonprofit cor-
4 poration would require extensive review and study to insure that
5 the multitude of the legal, factual and practical issues could be
6 appropriately addressed in coordination with the various share-
7 holders, municipalities, governmental agencies and the Yavapai
8 County Superior Court. Presently, the resources of the Verde
9 Ditch Company, given the current demands for repair and mainte-
10 nance, limit the ability of the Verde Ditch Company to undertake
11 such a monumental task. The present procedure is unusual, but
12 not without precedent and facilitates the operation of the larg-
13 est ditch in the Verde Valley. Accordingly, the Commissioners
14 have no recommendation or official position in response to this
15 portion of the Special Committee's Report.

16 The Commissioners do wish to commend the efforts of
17 the Special Committee and acknowledge the enormity of the task
18 undertaken by the Committee as set forth in their Objectives
19 dated April 11, 1988.

20 RESPECTFULLY SUBMITTED this 8 day of November,
21 1988.

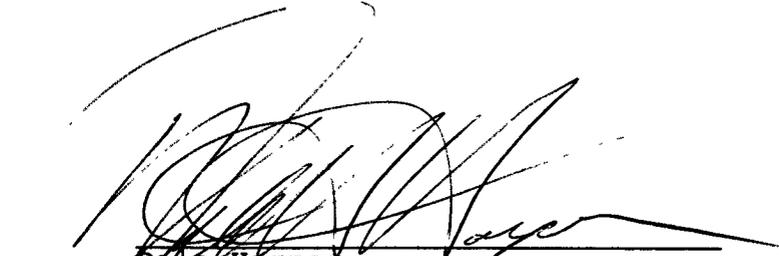
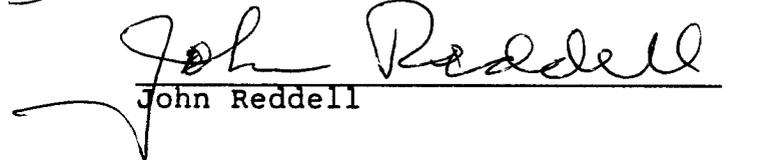
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Dale Harper

John Reddell

COPY of the foregoing Commissioners' Response to Special Committee Report mailed this 14th day of November, 1988, to:

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