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SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA

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SANDRA K. HARKHAU, CLERK
BY: B. Lederhos

State Bar I.D. No. 005188

Attorney for the Verde Ditch Company

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

GEORGE W. HANCE, et al.,

Plaintiffs,

) No. P1300CV 4772
)
) Division 1
)

vs.

WALES ARNOLD, et ex., et al.,

Defendants.

) **APPLICATION FOR CONSIDERATION**
) **BY THE MASTER OF THE VERDE**
) **DITCH TO ALLOW THE VERDE**
) **DITCH COMMISSIONERS TO**
) **NEGOTIATE AND EXECUTE A**
) **M E M O R A N D U M O F**
) **UNDERSTANDING BETWEEN THE**
) **VERDE DITCH COMPANY AND THE**
) **SALT RIVER PROJECT**
) **AGRICULTURAL IMPROVEMENT**
) **AND POWER DISTRICT AND THE**
) **SALT RIVER VALLEY WATER USERS**
) **ASSOCIATION**

The Commissioners of the Verde Ditch Company, Albert Dupuy Jr., Vernon Hilbers, John Teague, David Myers and Craig Cooley, through counsel, submit this Application to authorize the Verde Ditch Commissioners to negotiate and execute a Memorandum of Understanding with the Salt River Project Agricultural Improvement and Power District and the Salt River Valley Water Users Association (hereinafter SRP). The purpose of the Memorandum of Understanding is to establish

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a process and procedure to facilitate the exchange and confirmation of lands served by the Verde Ditch Company.

In 1909, the Arizona Territorial Court entered the Decree in *Hance V. Arnold*, Yavapai County Cause No. 4772, which declared parties and certain lands entitled to receive Verde River water from the "Woods or Verde Ditch". Subsequent to the entry of the Decree, the Yavapai County Superior Court has maintained continuing jurisdiction to enforce the *Hance v. Arnold* Decree. Currently there are approximately 1400 acres of land receiving water or entitled to receive water from the Verde Ditch according to the records of the Verde Ditch Company. The Verde Ditch Company and SRP have been exchanging and comparing historical records and current uses in order to define the areas of delivery of Verde Ditch water and to reduce areas of possible disparity regarding the historical uses and current lands being served by the Verde Ditch.

In order to clarify the *Hance v. Arnold* Decree and to protect the shareholders of the Verde Ditch Company, the Commissioners have been reviewing the records from various sources and have engaged surveyors, engineers, hydrologists, and others to assist in the compilation and interpretation of historical records and current areas of use.

The rights to receive water from the Verde Ditch stem from the rights and uses first established commencing in the 1860's and the Commissioners believe it to be in the best interest of the Verde Ditch shareholders to formalize a process for compiling, comparing and confirming the Verde Ditch shareholders areas of use of water received from the Verde Ditch. The Verde Ditch Company has filed a Statement of Claimant on behalf of the Verde Ditch Company in the Gila River General Adjudication of Water Rights and various individual shareholders have filed their own Statements of Claimant. After almost 150 years of existence of the Verde Ditch, the Verde Ditch Company desires to enter into a Memorandum of Understanding with SRP that provides for a

process and procedure for completion of the compilation of information to be presented to the shareholders of the Verde Ditch Company for their review and approval and with the ultimate goal to allow the Master of the Verde Ditch to confirm the *Hance v. Arnold* Decree with the updated compilation for the lands served by the Verde Ditch, excepting any federal or Native American lands.

Upon execution of the Memorandum of Understanding, the Verde Ditch Company will commence notification to all shareholders of the information compiled and availability for review and comment. The Memorandum of Understanding provides an outline of the process to allow every shareholder to present documentation or evidence to confirm, correct or supplement the information presently compiled and to obtain confirmation under the *Hance v. Arnold* Decree of specific lands entitled to be served with water from the Verde Ditch.

Wherefore, the Verde Ditch Company respectfully requests that the Court authorize the Verde Ditch Commissioners to negotiate and execute a Memorandum of Understanding with SRP at a hearing presently set for March 5, 2014 at 1:00 p.m. at the Camp Verde Justice Center, 2840 N. Commonwealth Drive, Camp Verde, Arizona.

RESPECTFULLY SUBMITTED this 14th day of February, 2014.

L. RICHARD MABERY, P.C.

By

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