

SUPERIOR COURT  
YAVAPAI COUNTY, ARIZONA  
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10 *Improvement and Power District and Salt River*  
11 *Valley Water Users' Association*

12 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
13 **IN AND FOR THE COUNTY OF YAVAPAI**

14 GEORGE W. HANCE, *et al.*,  
15  
16 Plaintiff,  
17  
18 vs.  
19 WALES ARNOLD, *et ux., et al.*,  
20  
21 Defendants,  
22  
23 In the matter of the VERDE DITCH  
24 COMPANY

No. P1300 CV4772  
**SALT RIVER PROJECT'S  
RESPONSE TO MOTION FOR  
EXTENSION OF TIME TO  
OBJECT**  
(Assigned to the Hon. David L.  
Mackey)

25 The Salt River Project Agricultural Improvement and Power District ("District") and  
26 Salt River Valley Water Users' Association ("Association") hereby respond in opposition to  
27 the Motion for Extension of Time to Object filed by the Monroe Lane Neighborhood  
Coalition ("Coalition") on or about February 9, 2015 ("Motion").<sup>1</sup> The District is a  
landowner and shareholder on the Verde Ditch, and SRP is a party to the proposed  
Memorandum of Understanding ("MOU") currently under consideration by the Court.

<sup>1</sup> The District and the Association are referred to herein collectively as "SRP."

1 As the Court is aware, the MOU is a product of negotiations between the Verde Ditch  
2 Commissioners (“Commissioners”) and SRP that have spanned several years. During the  
3 negotiation process, the Court has held various status conferences with the Commissioners  
4 and SRP to discuss their progress. Each of those status conferences has been duly noticed in  
5 this matter. The Commissioners also have discussed the MOU framework at the annual  
6 shareholders’ meetings held by the Verde Ditch. At the most recent status conference held on  
7 December 3, 2014, the Court approved a detailed plan presented by the Commissioners and  
8 SRP to provide information to the Verde Ditch shareholders in advance of the hearing for  
9 approval of the MOU scheduled for March 5, 2015. Pursuant to that direction, the  
10 Commissioners disseminated written notice to the shareholders in December 2014, which  
11 included a copy of the proposed MOU. In addition, the Commissioners held a two-hour  
12 informational meeting regarding the MOU at the high school auditorium in Camp Verde on  
13 January 24. SRP participated in that meeting.

14 The Coalition now seeks to extend the February 17 deadline for filing objections to the  
15 MOU on the grounds that they have had inadequate time to review the MOU and decide  
16 whether they want to object. *See* Motion. The Court should deny the Motion, for three  
17 primary reasons.

18 First, the Coalition and other Verde Ditch shareholders have had ample time to review  
19 the proposed MOU and decide whether to object. The detailed information process approved  
20 by the Court and outlined above has provided an opportunity for shareholders to obtain the  
21 necessary information regarding the MOU. In addition to distributing copies of the MOU, the  
22 Commissioners also have prepared and disseminated, among other things, a summary of that  
23 document and a list of frequently asked questions.

24 Second, the Court, the Commissioners, and SRP have spent substantial time and  
25 resources in making logistical arrangements for shareholder workshops, individual meetings  
26 with shareholders, the March 3 hearing, and the August 3 hearing. All of these events flow  
27

1 from the February 17 objection date and likely would need to be rescheduled if the  
2 Coalition's Motion is granted. *See Motion*, at 4-5.

3 Third, and perhaps most important, the substantive issues that the Coalition raises in its  
4 Motion are **not** matters that are going to be determined in the MOU approval hearing  
5 currently scheduled for March 3, 2015. The MOU is, at its core, a process document.<sup>2</sup> It is  
6 intended to establish a process through which the substantive issues the Coalition now raises,  
7 among others, can be resolved. For instance, the Coalition complains that the total number of  
8 acres historically irrigated under the Verde Ditch is slightly different in the Petition filed with  
9 the Court, the December 19 notice letter, and the MOU itself. *See Motion*, at 3. The reason  
10 those numbers are different is, of course, because the cumulative acreage number is part of  
11 what the process to be established by the MOU is intended to determine. As clearly stated in  
12 the MOU, any acreage numbers or delineations at this time are "Working Understandings"  
13 that are "preliminary and are not binding on the Parties or on any other individual or entity."  
14 *See MOU* § 5.2.<sup>3</sup>

15 The Coalition argues that it "believes it should have a reasonable opportunity to  
16 review, comment and possibly object to the irrigated acreage identified in the [MOU] and  
17 related materials." *See Motion*, at 3. That "reasonable opportunity to review, comment and  
18 possibly object" is exactly the process the MOU is intended to set up. Because the  
19 Commissioners serve at the pleasure of the Court, however, the process of working with  
20 shareholders on that issue will not begin until the MOU is approved. The Coalition contends

21 \_\_\_\_\_  
22 <sup>2</sup> *See, e.g., generally* MOU Recital F ("The Parties intend for this MOU to set forth a process whereby  
23 they can work together, along with the water users on the Verde Ditch, to agree, as among the Parties,  
upon the existence of Historic Water Use for specific parcels served by the Verde Ditch . . .").

24 <sup>3</sup> *See also* MOU § 5.4 ("The Parties recognize and acknowledge that individual water users on the  
25 Verde Ditch or others might have information that would conflict with or supplement the information  
upon which the Parties have utilized in the review and compilation of Verde Ditch HWU Lands,  
26 Green Lands, Purple Lands, and Orange Lands. The Parties agree to review any additional  
information in good faith and, upon a common determination by the Parties that one or more aspects  
27 of a Working Understanding were incorrect or incomplete, to modify this MOU to reflect a revised  
Working Understanding, to inform the *Hance v. Arnold* Court to that effect in writing, and to proceed  
accordingly as set forth in this MOU.").

1 that “[t]he historically irrigated acreage issues are too complex to be understood in a two-  
2 week period,” *see* Motion, at 4, but the process set up by the Court does not require any  
3 shareholder or its counsel to understand those issues in a “two-week period.” A final decision  
4 on those issues will not be made until at least August 3, 2015 and, in fact, the MOU  
5 contemplates work potentially continuing through December 2019 or later to finally resolve  
6 all those issues.

7 For the reasons set forth herein, SRP requests that the Court deny the Coalition’s  
8 Motion for Extension of Time to Object. The issues raised by the Coalition in its Motion are  
9 not part of the MOU approval and will be addressed by the parties and the Court as part of the  
10 process that the MOU is designed to establish.

11 DATED this 12th day of February, 2015.

12 SALMON, LEWIS & WELDON, P.L.C.

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19 ORIGINAL of the foregoing sent  
20 via overnight delivery for filing this  
21 12th day of February, 2015 to:

22 Clerk of the Court  
23 Yavapai County—Division I  
24 120 South Cortez Street  
25 Prescott, AZ 86303

26 AND COPY sent by overnight delivery  
27 this 12th day of February, 2015 to:

Hon. David L. Mackey  
Judge of the Superior Court  
Yavapai County Courthouse  
120 South Cortez Street, RM207  
Prescott, AZ 86303

1 AND COPIES sent by e-mail and  
2 U.S. mail this 12th day of February, 2015  
3 to:

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