

FILED

11:00 O'Clock, A M

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

MAY 8 1980

IN AND FOR THE COUNTY OF YAVAPAI

BARBARA BOYLE, Clerk
By Mary Jo Wagner
Deputy

In the Matter of)
)
VERDE DITCH COMPANY and)
LOWER VERDE DITCH COMPANY.)
)
_____)

No. 4772

PETITION FOR ORDER
OF APPROVAL

COME NOW GLEN W. EVERETT, VINCE V. HIGGINBOTHAM and TED ALLERT, duly elected commissioners of the VERDE DITCH COMPANY and LOWER VERDE DITCH COMPANY, and present to the Court the following:

I.

That the above named Petitioners are the three elected and authorized Ditch Commissioners.

II.

That during January and February, 1980, unusual precipitation and weather conditions caused unusually high water and flooding on the Verde River which resulted in substantial destruction to portions of the Verde Ditches dam and canal system.

III.

Estimates of the costs to repair the Verde Ditches dam and canal exceed SIXTY THOUSAND AND NO/100 DOLLARS (\$60,000.00) and the present cash reserves of the VERDE DITCH COMPANY and LOWER VERDE DITCH COMPANY are inadequate to finance such reconstruction.

IV.

At a meeting of the aforesaid Commissioners on March 7, 1980, a copy of the minutes of which are attached as Exhibit

"A", the Commissioners voted to attempt to receive a Small Business Administration loan if available.

V.

A Small Business Administration loan in the amount of SIXTY THOUSAND AND NO/100 DOLLARS (\$60,000.00) was authorized on April 8, 1980, and a copy of such authorization is attached as Exhibit "B".

VI.

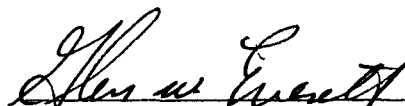
Under the terms of the Small Business Administration Authorization, an order of the Court is required which approves the terms and conditions of the Loan Authorization, and this Court's approval of the Commissioners' action of April 1, 1980, a copy of the minutes of such meeting are attached hereto and marked Exhibit "C", which increased the assessment of the record shareholders of the VERDE DITCH COMPANY and LOWER VERDE DITCH COMPANY by SIX THOUSAND AND NO/100 DOLLARS (\$6,000.00) per year until the entire principal loan balance plus interest is paid in full.

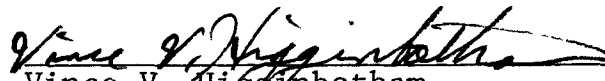
The Secretary of the aforesaid Ditch Company is to levy such assessment as of the last day of June and the last day of December of each year until the entire principal loan balance and interest are paid in full.

WHEREFORE, the undersigned Commissioners request that the Court enter its order approving the terms and conditions of the Small Business Administration Loan Authorization and approving the additional assessment made by the Commissioners of SIX THOUSAND AND NO/100 DOLLARS (\$6,000.00) per year upon the record shareholders until the entire SIXTY THOUSAND AND

NO/100 DOLLARS (\$60,000.00) principal loan balance plus interest is paid.

DATED this 3rd day of MAY, 1980.


Glen W. Everett

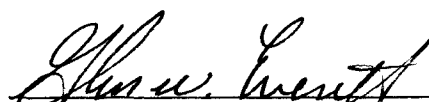

Vince V. Higginbotham


Ted Allert

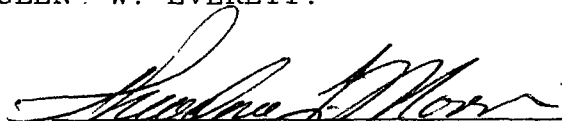
STATE OF ARIZONA)
) ss.
County of Yavapai)

GLEN W. EVERETT, being first duly sworn, deposes and says:

That he is one of the Petitioners in the above entitled action; that he has read the foregoing Petition and knows the contents thereof; that the same is true, in substance and in fact, except as to matters alleged upon information and belief, and as to those, he believes them to be true.


Glen W. Everett

SUBSCRIBED AND SWORN to before me this 3rd day of MAY, 1980, by GLEN W. EVERETT.


Notary Public

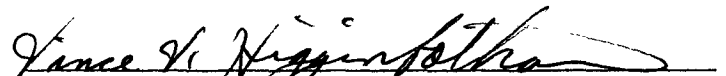
My Commission Expires:

My Commission Expires Aug. 14, 1980

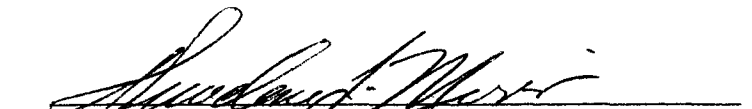
STATE OF ARIZONA)
) ss.
County of Yavapai)

VINCE V. HIGGINBOTHAM, being first duly sworn, deposes and says:

That he is one of the Petitioners in the above entitled action; that he has read the foregoing Petition and knows the contents thereof; that the same is true, in substance and in fact, except as to matters alleged upon information and belief, and as to those, he believes them to be true.


Vince V. Higginbotham

SUBSCRIBED AND SWORN to before me this 3RD day of MAY, 1980, by VINCE V. HIGGINBOTHAM.


Notary Public

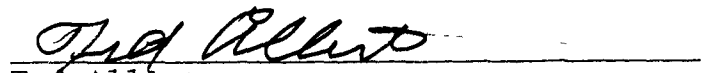
My Commission Expires:

My Commission Expires Aug. 14, 1980

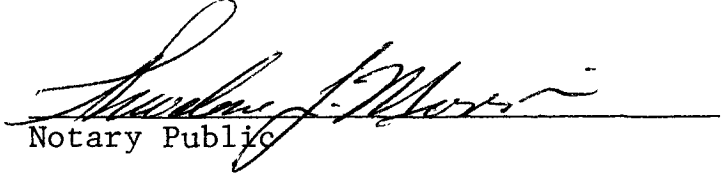
STATE OF ARIZONA)
) ss.
County of Yavapai)

TED ALLERT, being first duly sworn, deposes and says:

That he is one of the Petitioners in the above entitled action; that he has read the foregoing Petition and knows the contents thereof; that the same is true, in substance and in fact, except as to matters alleged upon information and belief, and as to those, he believes them to be true.


Ted Allert

SUBSCRIBED AND SWORN to before me this 3rd day of
MAY, 1980, by TED ALERT.


Notary Public

My Commission Expires:

My Commission Expires Aug. 14, 1980

THE VERDE DITCH COMPANY
P. O. Box 186
Camp Verde, Arizona. 86322

Copy of Minutes of the Supervisors meeting .

Meeting of the Ditch Supervisors of the Verde Ditch Company held in the office of the Secretary on March 7th. 1980 at 9.00 AM, following members present Glen W. Everett, Ted Allert and Vince V. Higginbotham, Prest. Everett presiding, after much discussion about our financial plight President Everett suggested that we might try for a loan from the Small Business Administration, Allert made a motion that we get a loan from S B A of \$60000.00 motion seconded by Higginbotham, the motion was carried and Everett was instructed to proceed with the procuring of the loan.

Meeting adjourned until called by the board.

Signed by

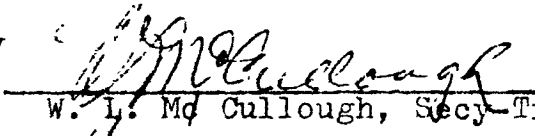

W. L. Mc Cullough, Secy-Tre

EXHIBIT A

AUTHORIZATION

There is hereby authorized a Loan by this Administration (pursuant to Section 7(b) of the Small Business Act, as amended) to VERDE DITCH CO. (a corporation in the state of Arizona)
P. O. Box 186
of Camp Verde, Arizona 86322 (hereinafter called "Borrower"),
on Borrower's application dated March 10, 1980, Loan Case No. DL-B 343000 2007 AZ,
in the amount and upon the conditions as follows:

1. Amount: SIXTY THOUSAND DOLLARS (\$60,000.00)

2. Note Payable: TWENTY (20) years from the date of Note, with interest at
the rate of 8 1/4 percent (%) per annum, and installments including principal and interest, payable as follows:
\$3100.00 payable semi-annually beginning July 10, 1980

and the balance of principal and interest payable TWENTY (20)
years from date of Note; with the further provision that each said installment shall be applied first to interest accrued
to the date of receipt of said installment, and the balance, if any, to principal.

3. Collateral:

a. ~~Mortgage of~~

First Security interest in all Machinery, Equipment, ~~Furniture, Fixtures~~ (excluding
automotive) now owned, hereafter acquired, and/or to be purchased in whole or in part
from the proceeds of this loan.

b.

c.

4. Guaranty on SBA Form 148 of

5. Use of Proceeds of Loan:

A. Approximately \$60,000.00 for real estate repairs to property damaged in
flooding occurring in Feb., 1980

6. Agreement of Borrower to limit annual compensation (including salaries, withdrawals, fees, bonuses, commissions, drawing accounts and other payments, whether direct or indirect, in money or otherwise) to the following named persons in the amount set opposite the respective name:

<u>NAME</u>	<u>AMOUNT</u>
N/A	

plus such additional amount to each said person as may be necessary to pay his income taxes on said compensation computed on the basis that such compensation is his only income, provided that such additional amount shall not exceed the net tax payable by each said person.

7. After-acquired Property Agreement.

8. Standby Agreement on SBA Form 139 of each of the following named individuals covering the total principal amount of Borrower's indebtedness to him stated to be in the amount set opposite his name, together with all accrued and future interest thereon:

<u>NAME</u>	<u>AMOUNT</u>
N/A	

9. Fixed Asset Limitation of \$ N/A, exclusive of the expenditures referred to in paragraph 5 hereof.

10. Loan Agreement on SBA Form ~~144~~ 153

11. On both the first and final disbursements, opinion of SBA Counsel on SBA Form 145, and, in addition, if the loan proceeds are to be used for construction or repair of Borrower's property, opinion of SBA Counsel Form 144 on final disbursement only.

12. Agreement of Borrower that in the event the authorized amount of the Loan is in excess of the amount required to accomplish the purposes of the Loan as set forth in paragraph 5 hereof, then at the direction of _____ Disaster Branch Manager 1/ and, in his sole discretion, the authorized amount of the Loan will be reduced by an amount equal to such excess amount or such excess amount shall be applied on the installments of the principal owing on the Note in the inverse order of maturity.

13. Borrower is to provide insurance, including comprehensive coverage, with loss payable clause in favor of this Administration, in amounts and for such risks as are satisfactory to Small Business Administration.

14. Other conditions. 2

SEE ATTACHED PAGE FOUR

15. Prior to the first disbursement, and to each subsequent disbursement on account of the Loan, Disaster Branch Manager ^{1/} shall be in receipt of evidence satisfactory to him in his sole discretion, that there has been no adverse change since the date of the Application, or since any of the preceding disbursements, or that since the date of such Application or of any such disbursement, no facts or circumstances have become known or have arisen with respect to the organization, operations, business prospects, fixed or other property, personnel, or in the financial or any other condition of Borrower, which would warrant withholding or not making any such disbursement or any further disbursement.

16. Such other conditions as Disaster Branch Manager ^{1/} or SBA Counsel may impose pursuant to outstanding general requirements and instructions of this Administration.

17. Disbursement of the Loan shall be made by Disaster Counsel ^{3/} located at Phoenix, Arizona from time to time in the discretion of said Disaster Counsel ^{3/} against all the aforesaid collateral in accordance with the requirements of this Authorization and the applicable general requirements and instructions of this Administration; provided, however, that ^{4/}

provided, further, that no disbursement shall be made later than six months from the date of this Authorization.

The foregoing Authorization was duly approved by the Small Business Administration on April 9, , 19 80.

A. VERNON WEAVER

Administrator



by Paul Lackey, Disaster Branch Manager ^{1/}

Small Business Administration

^{1/} Insert title of appropriate official, i.e., Disaster Field Office Manager, Regional Director.

^{2/} Insert any other conditions, including agreements of Borrower, conditions to be met prior to first disbursements, commencement of construction, etc.

^{3/} Insert name of disbursing agent, i.e., Disaster Field Office Manager, Regional Director, SBA Counsel, Name of Bank.

^{4/} Insert disbursement schedule, if any.

PARAGRAPH 14 OTHER CONDITIONS (cont.)

- A. Borrower to agree in writing to purchase Federal Flood Insurance in amounts and coverages satisfactory to SBA if, at any time during the life of the loan, borrower's community is designated as a flood prone area, AND the FIA map shows that the borrower's property is located within a special flood hazard area, AND the Federal Flood Insurance can be purchased.
- B. Prior to disbursement of funds in excess of \$10,000.00 for real estate repairs/construction, borrower must execute SBA Forms 601/601A/601B/601c and/or 601D as required by Disaster Counsel.
- C. Borrower to agree in writing that lead-based paint will not be used on any interior surface, whether accessible or not, and those exterior surfaces such as stairs, decks, porches, railings, windows and doors which are readily accessible to children under 7 years of age.
In the event lead-based paint is improperly used, the borrower will be required to remove the paint and repaint the affected area at the borrower's expense.
- D. SBA to make interim inspections and final inspection of the construction as it deems necessary, to determine that construction conforms to plans and specification.
- E. Borrower is not permitted to pay himself any profit on work done by himself, his company, and/or any corporation in which he is a major stockholder.
- F. All insurance proceeds and other funds received for the repair of real estate damages, including structural repairs, landscaping renewal, and debris removal, are to be applied to the reconstruction prior to the disbursement of SBA funds for real estate repairs.
- G. Borrower agrees to notify SBA of any funds received from any source, Government or private, which could be considered as reimbursement for losses suffered due to the disaster, and does hereby agree to assign said funds to the SBA which will be applied to the outstanding balance of this loan in the inverse order of maturity.
- H. All fees for a required title search will be paid for by the borrower at the loan closing.
- I. Prior to disbursement of loan proceeds allocated for the repair of real estate damages, borrower must submit a firm contract acceptable to SBA for repairs to real estate. Said contract shall not exceed \$ 60,000.00, or Borrower must show availability of any additional funds needed in excess of the amount at terms satisfactory to SBA.
- J. Prior to disbursement of loan funds allocated for real estate repairs, contractor must post a performance bond with amounts, terms and conditions acceptable to SBA.
- K. Prior to disbursement of loan funds allocated for real estate repairs, contractor must furnish evidence of builder's risk and workman's compensation insurance.
- L. Proceeds of this loan for the purpose of construction to be disbursed upon completion of construction or in accordance with terms of construction contract. If disbursed on the basis of progress payments, each disbursement must pay all construction costs to date of contractor's invoice, less 10 percent retainage to be disbursed upon completion of the contract.
- M. Prior to final disbursement of construction funds, lienwaivers must be obtained from all contractors, subcontractors and all independent workers involved in the construction.
- N. Prior to disbursement of loan funds allocated for the repair of real estate damages, borrower shall submit plans and specifications acceptable to SBA and agrees that no material changes shall be made in the accepted plans and specifications without the prior written consent of the SBA.
- O. Prior to disbursement, borrower must submit in form acceptable to SBA, a list of all chattels now owned and to be acquired from the proceeds of this loan.

Fiscal year-end financial statements are to be submitted annually for the term of this loan in form acceptable to SBA. Said statements are to be submitted no later than 90 days following the end of a borrower's fiscal year.

- P. Prior to disbursement, Verde Ditch Co. to submit to SBA Counsel an Order by the Superior Court of the State of Arizona in and for the County of Yavapai approving the terms and conditions of said loan Authorization and the aforesaid Court's approval that the Board of Supervisors can legally bind the shareholders to pay that additional assessment adopted in the special meeting of April 1, 1980, or in the alternative, an Order dictating the proper procedure to be followed by the Verde Ditch Company, so as to legally bind all shareholders for their pro rate share of said loan.

The Verde Ditch Company ,
P. O. Box 186
Camp Verde. Ariz.86322

April 1, 1980

A special meeting of the Board of Supervisors of the Verde Ditch Co. held this day in the home of supervisor Ted Allert, following supervisors present , Glen W Everett, Vince V. Higginbotham and Ted Allert for the purpose of voting on an additional assessment on all lands of the shareholders for the payment of a loan of the Small Business administration. It is the obligation of the supervisors that we assess an additional sum of Three Thousand Dollars (\$3000.00) in both the first and last six (6) months of the year to the shareholders of record until the full payment of this loan as to principal and interest. It was voted unanimously and the secretary instructed to make such an assessment at last of June and last of December of each year until paid.

The Verde Ditch Co.

W. L. McCullough, Secy-Treas.

Glen W. Everett, First of Board

Vince V. Higginbotham, Director

Ted Allert, Director

Copy

EXHIBIT C