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

**FILED**

12:30 O'CLOCK P M

SEP 8 1986

BARBARA BOYLE, Clerk

By [Signature] Deputy

No. 4772

Division 1

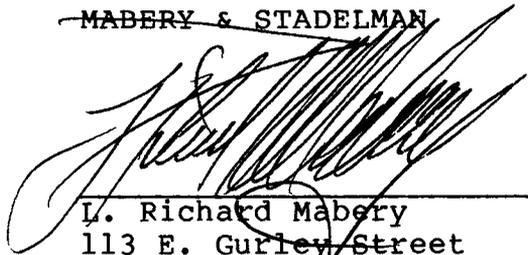
PETITION FOR APPROVAL  
AND AUTHORIZATION  
(Ex Parte)

In the Matter of  
VERDE DITCH COMPANY,

TED ALLERT, VINCE V. HIGGINBOTHAM and GLEN W. EVERETT,  
as Commissioners of the VERDE DITCH COMPANY, hereby Petition the  
Court to approve the Agreement and permit the Verde Ditch Company  
to sign the Agreement between Yavapai County Flood Control Dis-  
trict and Verde Ditch Company. A copy of the Agreement is  
attached hereto as Exhibit "A".

RESPECTFULLY SUBMITTED this 8th day of September, 1986.

~~MABERY & STADELMAN~~



L. Richard Mabery  
113 E. Gurley Street  
Prescott, Arizona 86301  
Counsel for Verde Ditch Company

Mabery & Stadelman  
113 East Gurley Street  
PRESCOTT, ARIZONA 86301  
(602) 778-1116

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O R D E R

Based upon the foregoing Petition, and good cause appearing therefrom,

IT IS HEREBY ORDERED that the Agreement between the Verde Ditch Company and Yavapai County Flood Control District for a temporary method of removing accumulated surface drainage and flood waters from the Finney Flats area is approved;

IT IS FURTHER ORDERED that the Commissioners of the Verde Ditch are authorized to sign said Agreement for and on behalf of the Verde Ditch Company.

DONE IN OPEN COURT this 8 day of September, 1986.



JUDGE RICHARD ANDERSON

*Mabery & Stadelman*  
113 East Gurley Street  
PRESCOTT, ARIZONA 86301  
(602) 778-1116

AGREEMENT

DATED: September \_\_\_\_, 1986

PARTIES: YAVAPAI COUNTY FLOOD CONTROL DISTRICT,  
a political subdivision of the State of Arizona  
(hereinafter YCFCD) and

The VERDE DITCH COMPANY,  
(hereinafter VERDE DITCH)

RECITALS: YCFCD has developed a water drainage and flood plan for the Finney Flats area located near Camp Verde, Arizona. Pursuant to that plan, certain drainage easements have been obtained and an action has been filed in the Yavapai County Superior Court, cause number 47182 to obtain additional lands to allow for the construction of the remaining portion of the YCFCD's Finney Flats Drainage and Flood Control Plan.

With the Arizona monsoon season, completion of portions of the drainage system, and the commercial development in the Finney Flats area, sizable amounts of surface waters have been accumulating along the VERDE DITCH in the Finney Flats area without any exit or ability to flow to the Verde River.

A hearing has been set for September 12, 1986, in Yavapai County cause number 47182 at which time it is anticipated that YCFCD will receive the right of possession and will commence and complete construction on the remaining portion of the Finney Flats Drainage and Flood Control Plan shortly thereafter.

In the interim period, YCFCD desires to pump any accumulated surface water in the existing drainage canals into the VERDE DITCH on an as needed and necessary but temporary method of removing any accumulated surface drainage and flood waters.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. VERDE DITCH agrees to allow YCFCD to pump

**EXHIBIT A**

accumulated surface drainage and flood waters from the existing drainage canal, Finney Flats, Camp Verde, Arizona, into the VERDE DITCH to remove the accumulated waters pending the completion of the YCFCD Finney Flats Drainage and Flood Control Canal.

2. YCFCD shall set its pumps at such location or locations as shall be mutually agreed by the parties in order to facilitate maximum discharge of accumulated flood and drainage waters and minimum damage to the VERDE DITCH.

3. YCFCD shall pay to the VERDE DITCH on a regular monthly basis the sum of One Hundred Dollars (\$100.00), for each day or portion of each day that YCFCD pumps water into the Verde Ditch.

4. The YCFCD shall indemnify and hold the VERDE DITCH, its commissioners, employees and shareholders harmless from any and all claims, actions, causes of action or liability which arise from or are created by the pumping of YCFCD.

5. The operation, maintenance, repair and use of the pumps shall be the sole responsibility and obligation of YCFCD. YCFCD agrees to take all reasonable steps and/or actions to minimize the impact and/or damage to the Verde Ditch, its shareholders and adjoining landowners.

6. YCFCD shall only pump after giving prior notice to the VERDE DITCH and only at such times as there is sufficient capacity in the Verde Ditch to accept the volume of water being diverted into it.

7. This agreement shall terminate automatically sixty (60) days from the date hereon or upon completion of the Finney Flats Drainage and Flood Control system being built by the YCFCD, whichever event occurs first.

8. All parties agree that this agreement is made to help alleviate the pending flood danger and to preserve public health, welfare and safety. No permanent rights, easements or covenants shall be granted or considered as being granted hereby, and all parties acknowledge that the use of the VERDE DITCH to transport the accumulated drainage waters and the pumping of such accumulated drainage waters by the YCFCD are temporary emergency measures.

8. This agreement is made in duplicate, each to be considered an original, effective upon the signature of all parties by their appropriate Board Officers or appropriate authority. The VERDE DITCH COMPANY's approval shall be conditioned upon the approval of the Honorable Richard Anderson, Judge of the Yavapai County Superior Court and

Master of the VERDE DITCH COMPANY.

IT WITNESS WHEREOF, the parties hereunto sign their names as of the date set forth above.

YAVAPAI COUNTY FLOOD CONTROL DISTRICT

By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_

VERDE DITCH COMPANY

By: \_\_\_\_\_  
GLEN W. EVERETT,  
Commissioner

By: \_\_\_\_\_  
VINCE V. HIGGINBOTHAM,  
Commissioner

By: \_\_\_\_\_  
TED ALLERT, Commissioner

MASTER OF THE VERDE DITCH COMPANY

The Honorable Richard Anderson

STATE OF ARIZONA     )  
                                  ) ss.  
County of Yavapai    )

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day of  
September, 1986, by \_\_\_\_\_,  
\_\_\_\_\_, of the YAVAPAI COUNTY FLOOD CONTROL  
DISTRICT on behalf thereof.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

STATE OF ARIZONA     )  
                              ) ss.  
County of Yavapai    )

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day of  
September, 1986, by \_\_\_\_\_,  
of the YAVAPAI COUNTY FLOOD CONTROL DISTRICT on behalf  
thereof.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

STATE OF ARIZONA     )  
                              ) ss.  
County of Yavapai    )

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day of Sep-  
tember, 1986, by \_\_\_\_\_,  
\_\_\_\_\_, of the YAVAPAI COUNTY FLOOD CONTROL  
DISTRICT on behalf thereof.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

STATE OF ARIZONA     )  
                                  ) ss.  
County of Yavapai    )

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day of  
September, 1986, by GLEN W. EVERETT Commissioner of the  
VERDE DITCH COMPANY on behalf thereof.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
  
\_\_\_\_\_

STATE OF ARIZONA     )  
                                  ) ss.  
County of Yavapai    )

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day of  
September, 1986, by VINCE V. HIGGENBOTHAM, Commissioner of  
the VERDE DITCH COMPANY on behalf thereof.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
  
\_\_\_\_\_

STATE OF ARIZONA     )  
                              ) ss.  
County of Yavapai    )

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day of  
September, 1986, by TED ALERT, Commissioner of the VERDE  
DITCH COMPANY on behalf thereof.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_