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JEANNE HICKS, Clerk
BY MICHELE NAYLOR
Deputy

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

In the Matter of

THE VERDE DITCH COMPANY,

No. 4772

Division 1

PETITION TO ALLOW THE
VERDE DITCH COMPANY TO
RECEIVE FUNDS AND OBTAIN
EASEMENTS FOR THE
RELOCATION OF A PORTION OF
AN EXISTING LATERAL DITCH

JOHN TEAGUE, JOHN REDDELL, GORDON WILLIAMS, DAVID STUTZMAN

and VERNON HILBERS, the duly appointed and acting VERDE DITCH COMMISSIONERS,

through undersigned counsel, respectfully request that the Court authorize the VERDE DITCH

COMMISSIONERS to obtain easements for a new alignment of a portion of an existing lateral

pipeline (for the purposes of the construction and realignment of the General Crook Trail, known

as Project S 326 714 260 YV218 H3868 01R) and receive funds from the Arizona Department of

Transportation to provide for the construction of an underground lateral pipeline in the southeast

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() Plts/Atty
() Def/Atty
() Vis Judge
() Div w/file
() Arb w/file
() Arb/Arb
() Other
TOTAL

quarter (SE ¼ of Section 31, Township 14 North, Range 5 East, Gila and Salt River Meridian, Camp Verde, Yavapai County, Arizona as shown on the attached map shown in Exhibit "1".

The underground pipeline easements for the new lateral extension will be granted by Candee O'Connor and Evelyn E. Whitelock and will deliver Verde Ditch irrigation water to Verde Ditch shareholders located south of Salt Mine Road now serviced by a lateral that lies underneath the existing State Highway 260 near the Salt Mine Road intersection. The new lateral would not require the continuation of the exiting Verde Ditch lateral across and under the reconstructed State Highway 260 south of the Salt Mine Road/Highway 260 intersection. The new pipeline should reduce the costs of relocating the existing underground pipeline and provide a more efficient location for the Verde Ditch users receiving irrigation water from the lateral. The new lateral, once built, will connect to the existing underground pipeline serving various Verde Ditch shareholders located south and west of Salt Mine Road.

All costs and expenses for construction of the new lateral pipeline will be paid by **ARIZONA DEPARTMENT OF TRANSPORTATION.**

The proposed easements from Candee O'Connor, (a copy of which is attached as Exhibit "2") and from Evelyn E. Whitelock, (a copy of which is attached as Exhibit "3"), provide for nonexclusive perpetual easements over, under and across the westerly 10 feet of their respective properties for the construction, maintenance and repair of the underground irrigation pipeline, head gate and appurtenances thereto.

Neither the Grantors nor the **VERDE DITCH COMPANY** as the Grantee of the easement, will have the duty or obligation to maintain the pipeline as it shall be the sole responsibility of the

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Verde Ditch shareholders who receive Verde Ditch irrigation water from the pipeline to maintain the pipeline and all appurtenances constructed in connection therewith. The Verde Ditch Company does not control or maintain any ditch laterals or lateral pipelines under the existing 1989 Rules and Regulations of the **VERDE DITCH COMPANY**.

Upon completion of the construction of the pipeline, utilizing the funds provided by the Arizona Department of Transportation, the surface of the Grantors' properties will be restored to the previously existing condition. All construction and any subsequent repairs or maintenance to the pipeline shall be completed in a safe, reasonable and good workmanlike manner.

WHEREFORE, the **VERDE DITCH COMMISSIONERS** respectfully request that the Court enter an Order approving the request by the **VERDE DITCH COMPANY** to obtain new easements for the relocation of a portion of the existing lateral, to receive funds from the **ARIZONA DEPARTMENT OF TRANSPORTATION (ADOT)** for construction of the relocated lateral and such further orders as the Court deems just and proper under the circumstances.

RESPECTFULLY SUBMITTED this  day of December, 2002.

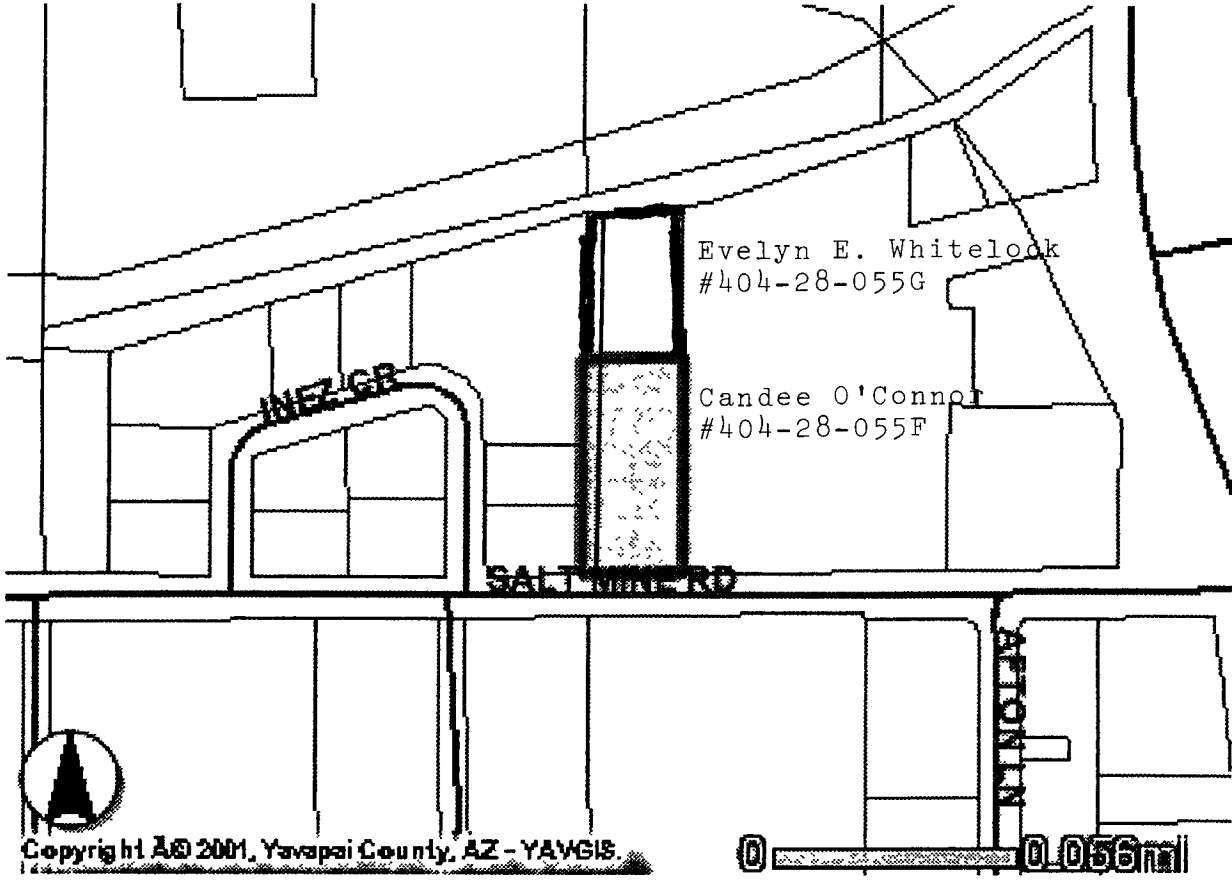
L. RICHARD MABERY, P.C.

By 

L. Richard Mabery
Attorney for

THE VERDE DITCH COMPANY

/dag



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Return Recorded Deed to:

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EASEMENT

CANDEE O'CONNOR, an unmarried woman, (**GRANTOR**), for the consideration of ONE DOLLAR AND OTHER VALUABLE CONSIDERATION, the receipt and sufficiency of which is hereby acknowledged, hereby grants to the **VERDE DITCH COMPANY**, (**GRANTEE**), a nonexclusive perpetual easement over, under and across the westerly ten (10) feet of real property described in Exhibit "A", attached hereto and by this reference made a part hereof, for the construction, maintenance and repair of an underground irrigation pipeline, head gate and appurtenances thereto located on the **GRANTOR's** property described herein.

GRANTOR, her successors and assigns, shall have no obligation or responsibility to construct, maintain or repair the underground pipeline, head gates or any other appurtenances located thereon. **GRANTOR** agrees that she, or her successors and assigns, shall not build any improvements or construct any structures over and across the easement granted herein that unreasonably interferes with the underground pipeline or appurtenances thereto or the use and enjoyment of the easement granted herein.

Neither the **GRANTOR** or the **GRANTEE** shall have the duty and obligation to maintain or repair the pipeline as it shall be the sole responsibility of the Verde Ditch shareholders receiving Verde Ditch irrigation waters from the pipeline to maintain and repair it.

Upon completion of the pipeline, **GRANTEE** shall return the surface of the **GRANTOR's** property to the previously existing condition.

DATED this _____ day of _____, 2002.

GRANTOR:

CANDEE O'CONNOR

STATE OF ARIZONA)
) ss.
County of _____)

On this _____ day of _____, 2002, before me, the undersigned Notary Public, personally appeared **CANDEE O'CONNOR**, an unmarried woman, known to me, or satisfactorily proven, to be the person whose name is subscribed to the foregoing instrument, and acknowledged that she executed the same for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission Expires:

/dag

EXHIBIT 'A'

Real property located in Yavapai County, Arizona, more particularly described as follows:

That portion of the Southeast Quarter of Section 31, Township 14 North, Range 5 East of the Gila and Salt River Base and Meridian, Yavapai County, Arizona, described as follows:

BEGINNING at the Southeast corner of said Section 31; thence West along the South line of said Section 31, a distance of 548 feet to the POINT OF BEGINNING; thence North 1°6' West, a distance of 275.65 feet to the Southeast corner of the property described in instrument recorded in Book 701 of Official Records, page 908, records of Yavapai County, Arizona; thence West along the South line of said property to the East line of SUNNY TERRACE SUBDIVISION, according to Book 6 of Maps, page 85, records of Yavapai County, Arizona; thence South 1°08' West along said East line to the South line of said Section 31; thence East 119 feet along said South line to the POINT OF BEGINNING.

Yavapai County Assessor Parcel No. 404-28-055F

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EASEMENT

EVELYN E. WHITELOCK, a widow, (**GRANTOR**), for the consideration of ONE DOLLAR AND OTHER VALUABLE CONSIDERATION, the receipt and sufficiency of which is hereby acknowledged, hereby grants to the **VERDE DITCH COMPANY**, (**GRANTEE**), a nonexclusive perpetual easement over, under and across the westerly ten (10) feet of the real property described in Exhibit "A", attached hereto and by this reference made a part hereof, for the construction, maintenance and repair of an underground irrigation pipeline, head gate and appurtenances thereto located on the **GRANTOR**'s property described herein.

GRANTOR, her successors and assigns, shall have no obligation or responsibility to construct, maintain or repair the underground pipeline, head gates or any other appurtenances located thereon. **GRANTOR** agrees that she, or her successors and assigns, shall not build any improvements or construct any structures over and across the easement granted herein that unreasonably interferes with the underground pipeline or appurtenances thereto or the use and enjoyment of the easement granted herein.

Neither the **GRANTOR** and the **GRANTEE** shall have the duty and obligation to maintain or repair the pipeline as it shall be the sole responsibility of the Verde Ditch shareholders receiving Verde Ditch irrigation waters from the pipeline to maintain and repair it.

EXHIBIT 'A'

Real property located in Yavapai County, Arizona, more particularly described as follows:

A tract of land in the Southeast quarter of Section 31, Township 14 North, Range 5 East of Gila and Salt River Base and Meridian, described as follows:

BEGINNING at a point on the South line of Section 31 that lies West 548 feet from the Southeast corner of said Section 31; thence North $1^{\circ} 06'$ West 275.65 feet to the POINT OF BEGINNING; thence Northerly 163.49 feet to the Southerly Right of Way line of Woods Ditch; thence Westerly 101.1 feet along said R/W line to the Northeast corner of Sunny Terrace Subdivision, Book 6 of Maps, page 85; thence South $1^{\circ} 08'$ West 185.5 feet along the Easterly line of said Subdivision; thence East 108.5 feet to the POINT OF BEGINNING.

Yavapai County Assessor Parcel No. 404-28-055G