

SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA

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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF YAVAPAI

GEORGE W. HANCE, et al.,) No. P1300CV4772
)
Plaintiffs,)

vs.)

WALES ARNOLD, et ex., et al.,) Division 1
)
Defendants.)

**VERDE DITCH COMPANY'S
RESPONSE TO THE MOTION
FILED BY THE MONROE LANE
NEIGHBORHOOD COALITION
FOR AN EXPEDITED RULING
& MOTION FOR EXTENSION
OF TIME TO OBJECT**

In the matter of the VERDE DITCH
COMPANY

Albert Dupuy, Jr., Vernon Hilbers, John Teague, David Myers and Craig Cooley, the duly appointed and acting Verde Ditch Commissioners on behalf of the Verde Ditch Company, through counsel, respond to the Brown & Brown Law Offices, PC filings on behalf of the shareholders of the Verde Ditch "Monroe Lane Neighborhood Coalition" as set forth in their Motion (hereinafter "Monroe Lane Neighborhood Coalition"). The Verde Ditch Commissioners do not object to an

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extension to file objections or comments to the proposed MOU so long as the extension granted requires such filings to be made on or before February 27, 2015. This Response is supported by the following Memorandum of Points and Authorities.

MEMORANDUM OF POINTS AND AUTHORITIES

CONDENSED HISTORY

When the Commissioners of the Verde Ditch Company decided to update and corroborate the lands being served by the Verde Ditch, it became clear that the expansion from the original 15 shareholders in 1909 to over 563 shareholders today would necessitate an immense and time consuming effort to accurately correlate and memorialize the historical uses of the current parcels being served by the Verde Ditch. Recognizing the importance and enormity of the task, the Commissioners sought and received approval for a Special Assessment from the Court on September 23, 2005. The gathering of records and information by the Verde Ditch Company opened the door to discussions with The Salt River Project Agricultural Improvement and Power District and Salt River Valley Water Users' Association (hereinafter "SRP"). As a result of those discussions, it was determined that there were many common goals and interests to minimize expenses and maximize the ability to protect Verde Ditch Shareholders by clarifying the historical uses and proceeding toward establishing a process to amend the existing *Hance v. Arnold Decree* to reflect the current shareholders.

It became clear that a process needed to be developed so that the Verde Ditch Company and SRP would be secure that all of the efforts and expenses being incurred would benefit the

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shareholders claims to water from the Verde River; allow efficient management of the water delivered by the Verde Ditch and did not impair the claimed rights of SRP. A Memorandum of Understanding (MOU) was negotiated and after a series of compromises in the wording of the MOU, the Verde Ditch Company filed on December 1, 2014 the Petition for Approval of the Memorandum of Understanding and Authority for the Verde Ditch Commissions to proceed. The Court Order entered December 4, 2014, set a hearing for March 5, 2015 for consideration of Approval of the Memorandum of Understanding, the Authority for the Verde Ditch Commissioners to execute the MOU on behalf for the Verde Ditch Company and to undertake the necessary actions as set forth in the MOU on behalf of the Verde Ditch Company. The Court further established the date and time for any objections or comments regarding the MOU to be filed on or before February 17, 2015.

As directed by the Court, the Verde Ditch Commissioners mailed copies on December 24, 2015 of the Petition, Order and MOU by first class mail postage prepaid to every known shareholder at the last known address of the shareholder on file at the Verde Ditch office. A Notice of the Hearing was published in The Verde Independent, commencing December 28, 2014 for four consecutive weeks; copies of the Petition, Order, MOU and Notices were available to every shareholder at the Verde Ditch office in Camp Verde, Arizona as of the last week of December 2014 and copies of the Petition, Order, MOU and Notices were posted on the Verde Ditch website in December 2014. In addition, the Verde Ditch Company held a Noticed special meeting for all shareholders on January 24, 2015 in Camp Verde, Arizona to provide information regarding the process and MOU.

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THE EXTENSION REQUESTED APPEARS TO BE EXCESSIVE

In reviewing the Motion filed by the Monroe Lane Neighborhood Coalition, rationale for the extension of time for consideration of the MOU appears to be focused upon the determinations and hearings that will follow if the MOU is authorized and executed. Frankly, the proposed MOU provides for a multi-year process to allow respective shareholders with questioned or disputed historical water uses to provide relevant evidence in support of their historical use and outlines a process to obtain, through severance and transfer, a historical water use that would not be challenged by SRP. However, the limited focus before the Court for consideration on March 5, 2015 does not support the reasons stated to justify a 60 day extension.

CONCLUSION

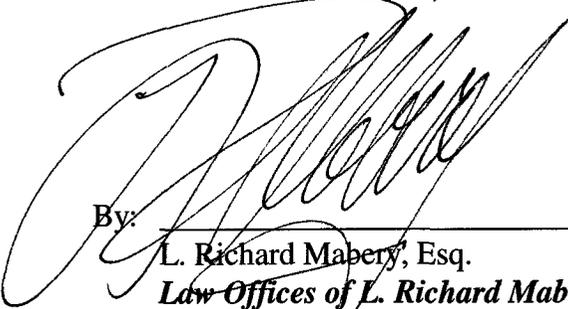
The Verde Ditch Company recognizes that the issues involving historical water uses and the amendment of the *Hance v. Arnold Decree* are of extreme importance to every shareholder of the Verde Ditch. The Verde Ditch Commissioners do not favor the requested sixty (60) day extension because that extension would also impose and necessitate changes in the timing of all other proposed hearings, meetings, conferences and workshops that have already been scheduled. Allowing the Monroe Lane Neighborhood Coalition (or any other shareholder) an additional ten days to file objections will not prejudice or harm any interested party or shareholder and allows the Court to consider at the hearing on March 5, 2015 any relevant objections, comments or suggestions from any shareholder as to the limited issues before the Court.

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RESPECTFULLY SUBMITTED this 13th day of February, 2015.

L. RICHARD MABERY, P.C.

By: 

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ORIGINAL of the foregoing
filed this 13th day of February,
2015 with:

Clerk of the Court
Yavapai County Court
120 South Cortez Street
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COPY hand delivered this
13th day of February, 2015
to:

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