

SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA

2015 JUL -6 AM 8:09

DONNA McQUALITY, CLERK ✓

N. Gentile

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Verde Ditch Shareholder
1185 S. Canal Circle, Camp Verde, AZ 86322

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

GEORGE W. HANCE, et. Al.,)
)
Plaintiffs,)
)
Vs.)
)
WALES ARNOLD. Et ux., et al.,)
)
Defendants,)
)
)
In the matter of the VERDE DITCH)
COMPANY)
)
-----)

No. P1300CV4772
Division 1
(REVISED - 2nd revision)
FORMAL OBJECTIONS TO THE
VERDE DITCH COMPANY AND
SALT RIVER PROJECT
MEMORANDUM OF UNDERSTANDING

Objections Numbered 1-6

Objection number 2. and number 3. are revised, all remaining objections remain the same.

Objection 1

In the MOU section 8.3 states that any Severance and Transfer pursuant to section 8 shall be subject to the prior written consent of SRP and the Hance v. Arnold Court.

In the MOU section 9.3 states that any Severance and Transfer pursuant to this section 9 shall be subject to the consent of Salt River Project ~~pursuant to A.R.S 45-172.~~

There is no reason as irrigation water rights owners we should lose the right to severe or transfer irrigation water rights between property owners inside the irrigation district without the consent and approval of Salt River Project. This gives Salt River Project control over our irrigation water rights of transfer and sale. A shareholder will have a difficult time selling irrigation shares if they cannot be transferred. These irrigation water right shares can be very valuable and profitable to whomever controls them.

As the state statutes are written now, 45-172.1 and 45-172.4 states no severance or transfer of water rights shall be made without the approval of the director (Arizona Water Department Director) this would apply to transfers of water rights outside of the irrigation district boundaries.

45-172.6 states a severance and transfer of irrigation water rights within the boundaries of an irrigation district to other lands within the boundaries of the same irrigation district for agricultural use may be accomplished with the consent of only the irrigation district and the property owners involved and no proceeding before nor approval by the Arizona Water Department Director shall be required to accomplish such severance and transfer.

Salt River Project has no right to prevent any irrigation water rights severance or transfer within the boundaries or outside of the boundaries of an irrigation district. This procedure is the responsibility of the Arizona Department of Water Resources and the Arizona Revised Statutes.

Objection 2.

A. ~~The Purple and Green designated lands on the SRP map have rights guaranteed by A.R.S 45-188, section C. against the non-voluntary forfeiture of the Historic Water Rights.~~

B. Proper procedures for reversion of rights due to nonuse of the irrigation water rights classified in the Purple category are not being followed as Arizona State law requires.

~~A. Arizona Revised Statute 45-188 (C). States that water rights appurtenant to lands within the exterior boundaries of an irrigation district, water users association, ditch company or similar provider of water for agricultural and municipal uses, or within the service area of a municipal provider or a private water company, are not subject to abandonment or forfeiture if the water provider and its agents maintain an operable water delivery system within that district or service area with the total capacity to deliver the amount of water appropriated.~~

B. Arizona Revised Statute 45-189 requires an administrative hearing to allow such person to show cause why the right or portion of the right should not be declared relinquished. This person must also be served with a notice at that persons last known address. This service must be performed with registered mail, return receipt requested.

Objection 3.

Salt River Project and the Verde Ditch Company are not performing due diligence in classifying lands as Purple lands. These lands will possibly lose their irrigation rights. There is apparently very little research being performed by SRP on each parcel to classify that parcel in the "Purple Lands"

category. The only research performed may be viewing an aerial map generated in 2007 in addition to looking at the historic water rights of the parcels in question. All of the Purple Lands apparently have historic water rights. SRP is attempting to accuse these parcel owners that they have not beneficially used the irrigation water in accordance with ARS 45-189. Although in the MOU RECITALS section G., it is stated, The Historic Water Rights is the only information this MOU will consider for the purpose of this MOU. All other reasons such as priority date, quantity, purpose of use, and season are left for resolution in some other forum or agreement.

For instance, consider my personal property at 1185 South Canal Circle in Camp Verde AZ. This parcel is 1.5 acres in size. Parcel #404-01-015. I have been growing either grass or vegetable crops on the full portion of this parcel for 11 years since 2004. The parcel was irrigated every summer of every year using about 6 acre-feet of water per year.

2011 - corn, tomatoes and peppers were grown.

2012 - corn, tomatoes, Peppers and melons were grown.

2013 - Grass was grown.

2014 - Wheat was grown across the entire property.

2014 fall thru 2015 to current - the parcel was irrigated and cultivated to kill the weeds and let the land fallow and rest while cow manure is being worked into the land. Twelve trailer loads of cow manure were spread across the land parcel and worked into the dirt with a tractor. 10,000 lbs per trailer load = 120,000 lbs of cow manure spread on the land. Irrigated every 3rd week when the rain does not wet the land. The irrigation conditions the dirt for more efficient tractor usage and also breaks down the manure. Tractors and tractor implements are on site and used every weekend for preparing and conditioning the dirt.

This parcel was placed in the Purple category most likely looking at an aerial map and a 1-day snap shot of the land. No contact was made with the property owner or the property owner's neighbors. Many of these neighbors have been eating the corn grown on this property.

I received no mail service from the irrigation district, court or Salt River Project for a hearing on this matter of Reversion of Rights of the irrigated water rights on this parcel.

I have registered my irrigation water rights with the Arizona Department of Water resources in 2008.

I would like to make a formal request to have my parcel deemed Green Lands.

Another parcel of land located around the corner from me has been deemed Purple by SRP. This is the property owned by Wayne See. 1138 S. Canal Circle. Camp Verde, Arizona. This property was also deemed Purple Lands by SRP. Wayne has watered this property every year since I have known him since 2006. I even gave him a flexible 3" hose that allows him to water the front and rear yard trees with the irrigation water from the Verde Ditch. Wayne See is now approximately 90 years old and will have a very hard time fighting SRP. Many residents that are shareholders in the Verde Ditch will have the same problem fighting SRP if need be.

I would like to make a formal objection for Wayne See to have his parcel deemed green lands.

Another Property in my neighborhood that was deemed Purple Lands by SRP is owned by Vern Hilbert. Vern Hilbert is one of the commissioners for the Verde Ditch Company. He had the Purple Lands designation quickly resolved on his parcel.

The severance of irrigation water rights on any parcel of land in the irrigation district is regulated by the Arizona Department of Water Resources and the Revised Arizona State Statutes 45-188 and 45-189. Salt River Project and the Verde Ditch Company have no right to sever these rights from the property owner without the approval of the owner of such right. A.R.S. 45-172 (A).

Objection 4.

Every Verde Ditch shareholder should be notified of these proceedings thru registered return receipt mail.

The shareholders classified in the green and Purple areas also need to be made aware that their irrigation water rights severance and transfer rights will be superceded by Salt River Project. All of the Green designated irrigation water rights holders I have talked to have been informed that nothing in their rights will change after this proceedings are finalized. They are possibly being misinformed at the proceeding meetings.

Objection 5.

Salt River Project should be available for the sole purpose of offering responsibly researched information and data for these proceedings. Salt River Project should not be involved in the severance or transfer of irrigation water rights inside or outside of the irrigation district, except as to the effect of filing a complaint to the Arizona Department of Water Resources.

Objection 6.

Salt River Project is its own political action committee and is considered a combination of Quasi Corporations. Therefore SRP and it affiliates are not controlled by the Arizona Corporation Commission.

We have no redress to ask the Arizona Corporation Commission to resolve conflicts between the two parties involved in this MOU.

We would need to address the Board of Directors of SRP to try to obtain any redress we feel we deserve. Unfortunately some of the board members at SRP may have farming interests in the Phoenix Metro areas. This I believe is a conflict of interest.

RESPECTFULLY SUBMITTED this 6 day of July 2015.

PETER J. MOLLICK

By: 

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Shareholder of the VERDE DITCH COMPANY

Original Hand Delivered this 6th day of July, 2015, to:

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AND COPY sent by email and U.S. mail this 6th day of July, 2015, to:

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AND COPY sent by U.S. mail this 6th day of July, 2015, to:

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