

SUPERIOR COURT  
YAVAPAI COUNTY, ARIZONA

2014 APR 25 PM 5:01 ✓

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BY: \_\_\_\_\_

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Attorney for The Verde Ditch Company

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

**IN AND FOR THE COUNTY OF YAVAPAI**

GEORGE W. HANCE, et al.,	)	<b>No. P1300CV4772</b>
	)	
Plaintiffs,	)	<b>Division 1</b>
	)	
vs.	)	<b>PETITION REQUESTING</b>
	)	<b>AUTHORITY FOR THE VERDE</b>
WALES ARNOLD, et ux., et al.,	)	<b>COMMISSIONERS TO SUBMIT AN</b>
In the matter of VERDE DITCH COMPANY,	)	<b>APPLICATION FOR A GRANT FROM</b>
	)	<b>THE UNITED STATES FOREST</b>
Defendants.	)	<b>SERVICE TO FUND CERTAIN</b>
	)	<b>IMPROVEMENTS TO THE VERDE</b>
	)	<b>DITCH</b>

**Ex Parte**

John Teague, Vernon Hilbers, Albert Dupuy, Jr., David Myers and Craig Cooley, Commissioners of the Verde Ditch Company, through counsel, respectfully request that the Court authorize the Commissioners to submit a Grant application to the United States Department of Agriculture Forest Service for Infrastructure Improvements for Water Conveyance Efficiency under Public Law 110-343, Title II (hereinafter "the Grant"). The Commissioners further request the Court authorize the Commissioners, on behalf of the Verde Ditch Company, to execute a Grant

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contract with the USDA Forest Service to perform the work envisioned pursuant to the terms of the Grant, if the Grant Application is successful, and to execute and deliver all documentation necessary to effectuate and complete the terms of the Contract, if the Grant application is successful, on behalf of the Verde Ditch Company.

### **BACKGROUND**

1. The Rules and Regulations governing the Verde Ditch Company do not provide that the Commissioners are authorized to seek grants for Ditch improvements. The Verde Ditch Company has been working with representatives of various agencies and groups to improve the management and efficiency of the Verde Ditch which will benefit all of the users of the water from the Verde Ditch, and will provide additional benefits to other Verde River water users including fish, fowl, wildlife and others interested in the sustainability of the Vere River by upgrading ditch infrastructure to reduce water loss, Ditch inefficiencies, improve water quality and improve the ability to provide irrigation water.

2. The Grant will allow the Verde Ditch Company to undertake three specific projects:
- a. Replace an existing damaged and inefficient pipeline along Windy Point to reduce maintenance costs and improve water conveyance abilities.
  - b. Install erosion control structures along the ditch to reduce sedimentation, reduce damage to and loss of ditch banks and improve water efficiency by improving the quality and capacity of the water flow.
  - c. Continued improvement by the placement of an automated gate in place of an existing manual gate which will improve the ability to monitor and adjust water levels during high flow events which provides greater

efficiency, reduces costs of monitoring and improves responsiveness to water fluctuations.

3. If the Grant Application is approved, the Verde Ditch Company will undertake the specific improvements which will have immediate and long term impacts. These projects are aimed at reducing sedimentation, improving overall water management, allowing more efficient use of water diverted to the Verde Ditch from the Verde River, increase the amount of water available to the lower Ditch users, and providing efficiency that should increase the amount of water available to other uses and users of water from the Verde River

4. Attached hereto is a copy of the Grant Proposal Application(Project Submission Form).

5. Some of the improvements encompassed by this grant will require a dry ditch and other portions of the improvements can be completed with a wet ditch. Absent adverse weather or other delays, the Commissioners believe that a substantial portion of the work can be completed during the normal 2014-2015 maintenance schedule. The Verde Ditch proposes to use a portion of the existing maintenance and reserve funds budgeted to pay the initial costs to purchase, construct and install the improvements. Given that the improvements (or at least a portion of ) will continue for a year, the reimbursement from the Grant funding will allow much of the work to be spread over a longer period. The Verde Ditch Company anticipates periodic reimbursement of funds as construction of the improvements progresses so that the Verde Ditch Company's available funds would not all be depleted during the construction cycle. Through careful scheduling and coordination, payments to contractors and timely collection of reimbursement(s) as construction progresses, the Verde Ditch Commissioners believe that the projects can be completed without the

need for changes in Ditch assessments or adverse impact to other scheduled maintenance or budgeted operational expenses. The Commissioners believe that the funds budgeted for 2014/2015 maintenance, repair and improvements are adequate to fund the \$16,000.00 commitment from the Verde Ditch Company. The Nature Conservancy has pledged \$5,000 towards the project.

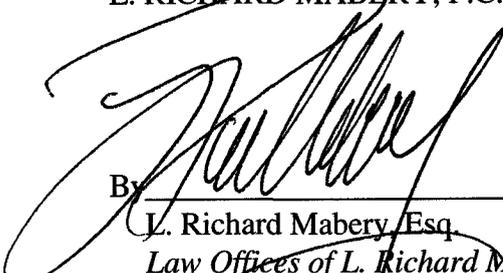
The Verde Ditch Company is appreciative of the support of the Nature Conservancy. The efforts and funds provided by the Nature Conservancy remain without any commitment, understanding or agreement with the Commissioners or the Verde Ditch Company.

6. The Verde Ditch Company will file periodic reports with the Court on the progress of the projects and will provide a separate accounting for all Grant funds.

7. According to the information available to the Commissioners, the Verde Ditch Company should have the ability to seek additional grant funding for similar type projects in the future, if the grants continue to be available.

RESPECTFULLY SUBMITTED this 25th day of April, 2014.

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By 

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**2008 - 2011 SECURE RURAL SCHOOLS  
PUBLIC LAW 110-343  
TITLE II PROJECT SUBMISSION FORM  
USDA FOREST SERVICE**

**Name of Resource Advisory Committee:**  
**Project Number** (Assigned by Designated Federal Official):  
**Funding Fiscal Year(s):**

<b>2. Project Name:</b> Infrastructure Improvements for Water Conveyance Efficiency	<b>3a. State:</b> Arizona
<b>4. Project Submitted By:</b> Verde Ditch Association	<b>3b. County(s):</b> Yavapai
<b>6. Contact Phone Number:</b> (928) 300-4578	<b>5. Date:</b> April 15 <sup>th</sup> , 2014
	<b>7. Contact E-mail:</b> aldupuy@aldinc1.com

<b>8. Project Location:</b> Verde Valley	
a. National Forest(s): Prescott National Forest	b. Forest Service District: Verde Ranger District
c. Location (Township-Range-Section): T 14N R 4E Sections 13, 14, 24, 25; T 14N R 5E Sections 30, 31, 32; T 13N R 4E Sections 1, 6; T 13N R 5E Sections 7, 8, 17, 20, 21, 28, 34	

<b>9. Project Goals and Objectives:</b> Enable improved management of water in the Verde Ditch to benefit fish, wildlife and people by upgrading ditch infrastructure to reduce wasted water and erosion of ditch banks.
Objectives:
<ol style="list-style-type: none"> <li>1) Replace damaged pipe along Windy Point to reduce soil erosion and improve water conveyance</li> <li>2) Install erosion control structures along ditch to reduce sedimentation in river and improve water conveyance</li> <li>3) Automate existing gate to improve response time to spill water during high flow events and better manage water.</li> </ol>

<b>10. Project Description:</b>
a. Brief: <i>(in one sentence)</i>
Upgrade infrastructure of the Verde Ditch to improve flows and water quality in the Verde River.
b. Detailed:
Through this project, the Verde Ditch Association will undertake 3 activities to improve water delivery through an aging, 18 mile-long ditch. These projects are aimed at reducing sedimentation to the river and improving overall water management in the ditch. By improving water management, water can be more efficiently used and unneeded water can be left in the river for the benefit of fish and wildlife. Each of the three projects is described in detail below.
<b>Background</b>

Within the Verde Valley, The Verde River has seven large diversions to that divert surface water for irrigation of crop lands, lawns and recreational uses. A portion of this water is consumptively used, meaning it does not return to the river. The remaining water diverted does return to the river; however, the diversions create stretches of river that go dry or are severely dewatered. Movement of fish and aquatic animals is inhibited by diversion structures and dry stretches and water quality may be impaired due to return flows. Additionally, recreational opportunities are impacted by reduced flows.

The current primitive diversion structures in the river do not allow for ditch managers to adjust the amount of water diverted from the river. These structures are traditional push-up dams that direct the majority of the flow into the ditch system. At various points along the ditch there are spillways back to the river to control the volume of water that is moved through the ditch; some of these returns are with a quarter of a mile of the initial diversion while others are a mile or more away. Most of the ditches run excess water all the way to the terminus of the ditch before spilling it back into the river.

The Verde Ditch is one of the largest diversions within the Verde Valley, serving the west side of the river from just upstream of I-17 all the way down to Beasley Flats. Water diverted into the Verde Ditch could contribute to improved flows in almost half of the Verde Valley for fish, wildlife and people. The Verde Ditch is mostly an unlined dirt ditch with limited sections of pipeline. The diversion structure is a primitive push-up dam constructed of boulders and sediments, which diverts the majority of the river into the ditch. The primary ditch runs to almost a mile from the diversion structure to the headgate where unused water is returned back to the river. The ditch takes anywhere from 30 to 70 cfs through the headgate depending on season and river level. The Verde ditch serves about 1,450 acres of irrigated lands and more than 680 users. This represents about 25% of the irrigated acres within the Verde Valley.

### **1) Windy Point Pipeline**

The pipeline at Windy Point was installed more than 20 years ago. This pipe has aged and deteriorated. Replacing the pipe insures that this sensitive hillside is not subjected to further erosion which contributes sediment to the river. The pipe will also insure that water is delivered quickly and efficiently to end users on the Verde Ditch.

### **2) Erosion Control Structures**

Sedimentation has been identified as a concern in the Verde River as it impacts macroinvertebrates, fish and birds. Sediment is introduced into the Verde River through floods, overland flows, and other natural and human caused sources. The amount of sediment contributed from ditches overall has not been quantified. The amount of sediment introduced into the Verde River from the Verde Ditch has not been studied; however, qualitative observations suggest that many areas along the ditch contribute sediment. By lining sections of ditch with concrete blocks (known as "heavies") the width of the ditch can be constricted to a narrower width to reduce erosion and improve water conveyance. Just the sides of the ditch will be lined, not the bottom. This activity provides both water quality and quantity benefits. The Verde Ditch Association will use funds from this grant to purchase concrete blocks and the association will provide all costs to transport and install the concrete. A minimum of 2 areas of erosion will be addressed through this grant. If time and money allows, additional sites will be addressed.

### **3) Automation of Gates**

Turn out gates are used to regulate flows in the ditch during storm events, plugs and other times when water levels need to be quickly reduced to prevent property damage. The quicker these gates can be adjusted reduces risk of damage to property as well as damage to the ditch that includes breaching and increasing the need for costly repairs. With this funding, one turn out gate near the midpoint of the ditch will be automated.

**Summary**

The Verde Ditch Association faces a difficult challenge in delivering water to all of their clients. Historically, ditch association fees have been low and most patrons are unwilling to have rates increased to a level high enough to meet the rising costs of management, let alone to address water quantity and quality issues in the river. The ditch association is under no legal obligation to increase flows or undertake projects that contribute to improving water quality in the Verde River for fish, wildlife or people. Each of these projects benefits the ditch company by improving its efficiency as well as benefitting the surrounding human and natural communities.

The Verde Ditch Association strives to be a leader in the community by setting an example of serving their users to preserve the agrarian nature of the Verde Valley while improving their water management to benefit people and nature. These projects are designed to enhance the normal and regular maintenance of the ditch system.

**11. Types of Lands Involved?**

State/Private/Other lands involved?  Yes  No

**Land Status:** Windy point is Prescott National Forest lands. This project benefits a mix of USFS, state and private lands.

If Yes, specify: The Verde Ditch traverses the west side of the Verde River for 18 miles from Horseshoe Bend above I-17 to just north of Beasley Flats. The projects will all occur within the ditch right of way that includes both public and private lands. The benefits of this project will reach from the headgate of the Verde Ditch through the Verde Valley and down through the Wild & Scenic reach of the river.

**12. How does the proposed project meet purposes of the Legislation? (Check at least 1)**

Improves maintenance of existing infrastructure.

Implements stewardship objectives that enhance forest ecosystems.

Restores and improves land health.

Restores water quality

**13. Project Type**

a. Check all that apply: (check at least 1)

Road Maintenance

Trail Maintenance

Road Decommission/Obliteration

Trail Obliteration

Other Infrastructure Maintenance (specify): Upgrades aging irrigation system

Soil Productivity Improvement

Forest Health Improvement

Watershed Restoration & Maintenance

Wildlife Habitat Restoration

Fish Habitat Restoration

Control of Noxious Weeds

Reestablish Native Species

Fuels Management/Fire Prevention

<input type="checkbox"/> Implement CWPP Project	<input type="checkbox"/> Other Project Type (specify):
b. Primary Purpose (select only 1): Watershed Restoration & Maintenance	

<b>14. Identify What the Project Will Accomplish</b>
Miles of road maintained: 0
Miles of road decommissioned/obliterated: 0
Number of structures maintained/improved: 4 (1 pipeline, 2 corners and 1 turnout gate)
Acres of soil productivity improved: 0
Miles of stream/river restored/improved: 18 +
Miles of fish habitat restored/improved: 18 +
Acres of native species reestablished: Over 18 miles of river
Acres of hazardous fuel treatment: 0
Miles of trail maintained: 0
Miles of trail obliterated: 0
Acres of forest health improved (including fuels reduction): 0
Acres of rangeland improved: 0
Acres of wildlife habitat restored/improved: 153 (18 miles about with an average of 70 foot width)
Acres of noxious weeds controlled: 0
Timber volume generated (mbf): 0
Jobs generated in full time equivalents (FTE) to nearest tenth. 0.2 FTE
People reached (for environmental education projects/fire prevention): 0
Direct economic activity benefit:
Other:

<b>15. Estimated Project Start Date:</b> September 1, 2014	<b>16. Estimated Project Completion Date:</b> September 1, 2015
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**17. List known partnerships or collaborative opportunities.**  
The Nature Conservancy

**18. Identify benefits to communities.**

1. Improve water delivery system for 680 people - about 25% of irrigated lands in the Verde Valley.
2. Improve flows and water quality in the Verde River for the benefit of fish and wildlife.
3. Improve flows for recreational use of the Verde River.

- 19. How does the project benefit federal lands/resources?**
1. Improve flows and water quality in the Verde River for the benefit of fish and wildlife
  2. Improve flows for recreational use of the Verde Valley which include lands owned by Prescott National Forest

**20. What is the Proposed Method(s) of Accomplishment?** (check at least 1)

<input checked="" type="checkbox"/> Contract	<input type="checkbox"/> Federal Workforce
<input type="checkbox"/> County Workforce	<input type="checkbox"/> Volunteers
<input type="checkbox"/> Grant	<input type="checkbox"/> Agreement
<input type="checkbox"/> Americorps	<input type="checkbox"/> YCC/CCC Crews
<input type="checkbox"/> Job Corps	<input type="checkbox"/> Stewardship Contract
<input type="checkbox"/> Merchantable Timber Pilot	<input checked="" type="checkbox"/> Other (specify): Ditch Association Staff/Members

**21. Will the Project Generate Merchantable Timber?**  Yes  No

**22. Anticipated Project Costs**

a. Title II Funds Requested:

b. Is this a multi-year funding request?  Yes  No

**23. Identify Source(s) of Other Funding:**  
 Verde Ditch Association general funds  
 The Nature Conservancy

- 24. Monitoring Plan (provide as attachment)**
- Provide a plan that describes your process for tracking and explaining the effects of this project on your environmental and community goals outlined above.
  - Identify who will conduct the monitoring:
  - Identify total funding needed to carry out specified monitoring tasks (Worksheet 1, Item k):

**25. Identify remedies for failure to comply with the terms of the agreement.**  
 If project cannot be completed under the terms of this agreement:

Unused funds will be returned to the RAC account.

Other, please explain:

**Project Recommended By:**  
 /s/ (INSERT Signature)  
 Chairperson  
 Resource Advisory Committee

**Project Approved By:**  
 /s/ (INSERT Signature)  
 Forest Supervisor  
 National Forest

# Project Cost Analysis Worksheet

## Worksheet 1

Please submit this worksheet with your proposal

Item	Column A Fed. Agency Appropriated Contribution	Column B Requested Title II Contribution	Column C Other Contributions	Column D Total Available Funds
a. Field Work & Site Surveys		0	0	0
b. NEPA/CEQA		0	0	0
c. ESA Consultation		0	0	0
d. Permit Acquisition		0	0	0
e. Project Design & Engineering		0	0	0
f. Contract/Grant Preparation		0	0	0
g. Contract/Grant Administration		4,000	0	4,000
h. Contract/Grant Cost		9,000	16,000	25,000
i. Salaries		0	5,000	5,000
j. Materials & Supplies		58,400	0	58,400
k. Monitoring		0	0	0
l. Other		0	0	0
1.				
2, Partner Indirect Cost				
m. Project Sub-Total		0	0	
n. FS Indirect Costs		3,570		3,570
<b>Total Cost Estimate</b>		<b>74,970</b>	<b>21,000</b>	<b>95,970</b>

### NOTES:

- a. Pre-NEPA Costs
- g. Includes Contracting/Grant Officer Representative (COR) costs. Excludes Contracting/Grant Officer costs.
- i. Cost of implementing project
- l. Examples include overhead charges from other partners, vehicles, equipment rentals, travel, etc.
- n. Forest Service indirect costs, including contracting/grant officer costs if needed.

## **Attachment A. Monitoring Plan**

Provide a plan that describes your process for tracking and explaining the effects of this project on your environmental and community goals outlined above.

- a. Identify who will conduct the monitoring:
- c. Identify total funding needed to carry out specified monitoring tasks (Worksheet 1, Item k):

Under this grant request the Verde Ditch Company proposes to complete three activities:

- 1) Replace damaged pipe along Windy Point to reduce soil erosion and improve water conveyance
- 2) Install erosion control structures along ditch to reduce sedimentation in river and increase effective management
- 3) Automate existing gate to improve response time to spill water during high flow events and better manage water.

The impact created by these projects is difficult to monitor directly. Instead the ditch company will insure and report back on the completion of the projects. The Ditch company will provide a final written report that includes photos of each activity in its completed state.

Attachment B: Verde Ditch Association System Map

