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2 IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
3 TERRITORY OF ARIZONA, IN AND FOR THE COUNTY OF YAVAPAI.

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6
7 GEORGE W. HANCE and
8 PARTEENY H. HANCE,

9 Plaintiffs,

10 -VS-

11 WALES ARNOLD, SARAH J. ARNOLD,
12 S.C. CHERRY, J.H. WINGFIELD,
13 CHARLES HARBESON, WILLIAM J. DAVIS,
14 E. W. MONROE, WILLIAM M. GRAY, E.J.
15 MONROE, JOHN H. SCOTT, BELLE MONROE,
16 ELIAS WYNE, THE VERDE DITCH COMPANY,
17 a Voluntary Association, and WILLIAM
18 STEPHENS and WILLIAM LANE, as Executors
19 of the Estate of John Wood, Deceased,

20 Defendants.

21
22 *No. 4772.*
23 CONCLUSIONS OF LAW
24 and
25 J U D G M E N T

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29 This cause coming on this, the 23rd day of March,
30 1909 before the Court sitting without a jury, the respective
31 parties being present and represented by their counsel, REESE
32 M. LING and J. E. RUSSELL, Esqs., for Plaintiffs, and NORRIS &
ROSS for Defendants, the cause was submitted upon an agreed
statement of facts, which statement is this day filed with the
records of this Court.

The Court having considered the statement, hearing
the argument of counsel and being duly advised in the premises,
makes the following conclusions of law and judgment herein:

I.

That by the construction of the lower or old Verde
ditch as described in the pleadings of this case, the plaintiff

1 and a portion of the defendants and their grantors became and
2 are entitled to the use of the waters flowing through said ditch
3 in the following proportion, towit: The Plaintiffs one-fifth;
4 the Scott Ranch or See & Reeves one-fifth; John Woods ranch
5 one-fifth; and E. J. Monroe two-fifths.

6 II.

7 That the parties hereto are owners of the following
8 shares or interests in the upper or new Verde ditch respective-
9 ly:

10 George Hance, plaintiff $2/10$

11 John H. Scott, $1/10$

12 Estate of John Wood, $1/10$

13 E. J. Monroe, $3/20$

14 E. W. Monroe, $3/40$ or $15/200$

15 W. J. Davis, (Jno. Bristow) $3/40$ or $15/200$

16 C. H. Harbeson $9/100$ or $18/200$

17 J. W. Wingfield, $6/100$ or $12/200$

18 S. C. Cherry, $2/40$ or $10/200$

19 Wales Arnold, $3/40$ or $15/200$

20 Marksbury, successor to Wood estate $1/40$ or $5/200$.

21 III.

22 That the right to the use of the waters flowing
23 through said upper or new Verde ditch, whether diverted upon
24 lands before it reaches the old or lower Verde ditch or whether
25 after, is a common co-ordinate right equally enjoyed by the sev-
26 eral parties, plaintiff and defendants, without reference to
27 priority of appropriation or use.

28 IV.

29 That the expense of repair and maintenance of the old
30 or lower Verde ditch should be borne ratably by the parties
31 entitled to the use of the waters flowing there through, accord-
32 ing to their several rights to such use. That is to say, all

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ROOMS 19 & 20 BASHFORD BLOCK
PRESCOTT, ARIZONA

1 parties interested in the ditch shall bear the expenses of re-
2 pair and maintenance proportionately from the head or Ryall
3 flume above the pipe line down to plaintiffs' point of diversion
4 from said old Verde ditch.

5 V.

6 That the expense of the maintenance of the upper or
7 new Verde ditch should be borne by the share or interest holder
8 therein according to their respective shares or interest from
9 the head, together with the dam or diversion to and including
10 said Ryall flume.

11 VI.

12 That the proceeds arising from sales of water should
13 be by the purchasers paid over to the ditch company, and the
14 ditch company in turn, account to the owner or owners of the
15 interests upon whose account or accounts such sales shall be
16 made, first charging said interest or interests with its or
17 their share of the cost of repair and maintenance of the ditch.

18 VII.

19 That the water of the lower or old Verde ditch which
20 shall at all times be at least one-third the flow of the upper
21 ditch shall be so divided and distributed that each one-fifth
22 interest may have the use of all of the water every fifth day,
23 except there should be allowed to flow through the entire
24 ditch at all times a sufficient amount of water for stock and
25 domestic purposes for all parties entitled to the use of the
26 water including plaintiffs.

27 VIII.

28 That all parties interested should contribute to the
29 expense of the water commissioner including the repair and
30 maintenance of the ditch under him in proportion to their
31 several interests in said upper or new ditch; and that the sale
32 price of water sold from plaintiff's interest since the commence-
-ment of this action should be credited to him and applied to

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2 the liquidation in part of the charge against him for such
3 expense, and the balance he should be required to pay as a con-
4 dition precedent to the enjoyment of his rights as specified
5 in the decree entered herein.

6 IX.

7 That nothing contained herein or in said decree
8 shall be construed as prohibiting or limiting the enlargement
9 or expansion of the lower ditch, pipe line or the upper ditch
10 whenever the parties respectively interested therein shall deem
11 the same desirable.

12 X.

13 That the parties, plaintiffs and defendants, should
14 be required to pay their respective costs incurred in this
15 suit.

16 That a decree be entered herein accordingly.

17 Done in open Court this the 23rd day of March A.D.

18 1909.

Richard C. Stone

J U D G E.

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24 STATE OF ARIZONA)
County of Yavapai) ss

25 I, BARBARA BOYLE, Clerk of the Superior Court
26 of Yavapai County, Arizona, do hereby certify
27 the foregoing to be a full, true and correct
28 copy of the original document on file as the
29 same appears of record in my office.

30 DATED: April 20, 1979

Barbara Boyle
Clerk of the Superior Court

John Roberts Deputy

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