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FILED
DATE: March 5, 2014
4:25 O'Clock P.M.
Donna McQuality, Clerk
BY: *Becky Hamilton*
Deputy

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

DIVISION 1
HONORABLE DAVID L. MACKEY
CASE NO. P1300CV4772

Donna McQuality, CLERK
BY: Becky Hamilton, Deputy Clerk
DATE: March 5, 2014

TITLE:
GEORGE HANCE, et al,

Plaintiff,

COUNSEL:
Richard Mabery
L. RICHARD MABERY, P.C. (e)
(For Plaintiff)

-vs-

WALES ARNOLD, et ux., et al.,

Defendants,

In the matter of the VERDE DITCH
COMPANY,

| HEARING | NATURE OF PROCEEDINGS | COURT REPORTER |
|------------------------------|-----------------------|----------------|
| Petition - Approve | | Lisa Chaney |
| START TIME: 1:51 p.m. | | |

- APPEARANCES:
- Richard Mabery, Counsel for Plaintiff
 - Doug Brown, Counsel for Monroe Lane Neighborhood Coalition (*telephonic*)
 - Mark McGinnis, Counsel for SRP
 - Patrick Sigl, Counsel for SRP
 - Rebecca Davidson, SRP
 - Lucas Shaw, SRP
 - Patrick Berry, U.S. Dept. of Justice, on behalf of the Yavapai Apache Nation
 - Nogose Yosef, U.S. Dept. of Justice
 - Janet Miller, Arizona Department of Water Resources
 - Robyn Interpreter, Counsel for Yavapai Apache Nation
 - Susan Montgomery, Counsel for Yavapai Apache Nation

This is the time set for hearing. The Court has reviewed the objections filed and notes receiving two objections not filed. The Court directs the clerk to file both objections at this time and the parties are provided with copies in court.

Mr. Mabery reports that notice was sent to all shareholders of record, pursuant to Court order.

IT IS ORDERED the Verde Ditch Company shall file an Affidavit of Mailing that reflects the list of shareholders who were mailed notice, including copies of the four notices that were returned undelivered.

Mr. Brown presents argument.

Mr. Berry presents argument.

Ms. Interpreter presents argument.

Ms. Miller presents argument

Mr. McGinnis presents argument.

Mr. Mabery presents argument.

~* ~* ~* ~* Recess at 3:18 p.m. ~* ~* ~* ~*

At 3:34 p.m., Court resumes with all previously identified parties present.

Mr. Mabery addresses the Court.

Ms. Miller addresses the Court.

Ms. Interpreter addresses the Court.

The Court **finds** the order from December was the appropriate exercise of this Court's authority to specify the type of notice that is required. The Court's order was based upon consideration of the fact that other than perhaps the United States Government there is not another known entity this Court is aware of that has the funds to provide for personal service on each shareholder of The Verde Ditch. This Court is not going to require the Verde Ditch to undertake those efforts.

IT IS ORDERED overruling the United States objection regarding the service of notice.

The Court **finds** the United States and the Nation have notice. The Court **does not find** notice is appropriate as to all other parties until the Court receives the affidavit in the court file which specifically reflects the parties that received notice, the manner in which they received notice, and the return notices not received.

The Court will contemplate the objections and the arguments and during this time the parties have the opportunity to initiate discussions regarding how to make this agreement better. The Court believes the overall goal of the MOU is an appropriate goal. The ultimate outcome of the MOU could lead to a benefit for all of the shareholders on the Verde Ditch; however, there are appropriately raised concerns.

The Court now considers the mailing list for the parties in this particular case, until such time as the next hearing regarding transfer and severance, which will be a different list: counsel for the Verde Ditch, Mr. Mabery; counsel for SRP, Mr. McGinnis, Mr. Weldon and Mr. Sigl; counsel for Monroe Lane Neighborhood Coalition, Douglas Brown and David Brown; Ms. Interpreter and Ms. Montgomery on behalf of the Yavapai Apache Nation; Don Ferguson; Ms. Miller on behalf of the Arizona Department of Water Resources; Mr. Berry on behalf of the United States Department of Justice, Indian Resources Section.

Court and counsel discuss suggested time frames for discussions and possible progress to be made.

Mr. Mabery addresses the Court.

Mr. McGinnis addresses the Court.

Mr. Berry addresses the Court.

Ms. Interpreter addresses the Court.

Mr. Brown addresses the Court.

The Court provides the parties with some of the concerns to be addressed:

- The process for this Court's ultimate approval of an agreement that severs and transfers water rights should include notice to other shareholders by mailing and perhaps alternative service such as publication.
- The issue of this Court's involvement in approving an agreement that might impact water rights from another source. The Court asks that the parties give consideration as to whether or not that can be resolved.
- If there is perhaps additional language beyond the term "modify" that recognizes as part of this process there is an enforcement and interpretation component that the Court is exercising which would assist the Court in overcoming some of the objections with respect to the concerns about just modification.
- Addressing the issue of the concurrent jurisdiction of this Court with the Arizona Department of Water Resources and giving the alternative to shareholders with respect to those processes.

IT IS ORDERED setting a **Telephonic Status Conference** on **April 8, 2015, at 1:30 p.m.**, courtroom #226, Yavapai County Superior Court, Verde Valley Judicial District, 2840 N. Commonwealth Drive, Camp Verde, AZ 86322. The Division 1 telephone number is 928-771-3580.

END TIME: 4:25 p.m.

cc: John B. Weldon, Jr. / Mark A. McGinnis / Patrick Sigl, Salmon, Lewis & Weldon, P.L.C.,
2850 E. Camelback Rd., Suite 200, Phoenix, AZ 85016
Douglas E. Brown / David A. Brown, Brown & Brown Law (e)
Patrick Berry, U.S. Department of Justice, Indian Resources Section, ENRD
P.O. Box 7611, Ben Franklin Station, Washington, DC 20044
Robyn Interpreter / Susan Montgomery, Montgomery & Interpreter, P.L.C.,
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Don Ferguson, 1695 W. Bronco Drive, Camp Verde, AZ 86322
Janet Miller, Arizona Department of Water Resources,
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