

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

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FILED
DATE: April 8, 2015
4:24 O'Clock P.M.
Donna McQuality, Clerk
Becky Hamilton
Deputy ✓

DIVISION 1

HONORABLE DAVID L. MACKEY

CASE NO: P1300CV4772

Donna McQuality, CLERK

BY: Becky Hamilton, Deputy Clerk

DATE: April 8, 2015

TITLE:

GEORGE HANCE, et al,

Plaintiff,

-vs-

WALES ARNOLD, et ux., et al.,

Defendants,

In the matter of the VERDE DITCH
COMPANY,

COUNSEL:

Richard Mabery

L. RICHARD MABERY, P.C. (e)

(For Plaintiff)

HEARING

Status Conference

NATURE OF PROCEEDINGS

COURT REPORTER

Lisa Edgar

START TIME: 1:43 p.m.

APPEARANCES: Richard Mabery, Counsel for the Verde Ditch Company
Robyn Interpreter, Counsel for Yavapai Apache Nation
Vincent Randall, Former Chairman of the Yavapai Apache Nation
Chris Coder, Yavapai Apache Nation
Scott Canty, Attorney General for the Yavapai Apache Nation

TELEPHONIC

APPEARANCES: Sonia Overholser, Department of Interiors, Solicitor's Office
Patrick Berry, U.S. Dept. of Justice, on behalf of the Yavapai Apache Nation
Yosef Nogose, U.S. Dept. of Justice, on behalf of the Yavapai Apache Nation
Douglas Brown, Counsel for Monroe Lane Neighborhood Coalition
Mark McGinnis, Counsel for SRP
Patrick Sigl, Counsel for SRP
Lucas Shaw, SRP
Janet Miller, Arizona Department of Water Resources
Nicole Klovas, Arizona Department of Water Resources
Carrie Brennan, Arizona Assistant Attorney General, for Arizona State Parks
Bob Sejkora, Arizona State Parks
Susan Montgomery, Counsel for Yavapai Apache Nation

This is the time set for a status conference. The Court has reviewed the Report to the Court submitted by Mr. Mabery on behalf of the Verde Ditch Co. The Court notes receipt of the Notice of Appearance on behalf of the State of Arizona, by Ms. Brennan, and a Motion to Strike the Notice of Appearance filed on behalf of the Nation, by Ms. Interpreter and Ms. Montgomery. Earlier today the Court received the Arizona Department of Water Resources Position Statement that the Court believes is being filed this date.

Ms. Brennan addresses the Court on the nature of her appearance.

Ms. Interpreter moves to withdraw the Motion to Strike the Notice of Appearance. Counsel believes the decision will be made this week as to what level of participation the Nation will have.

Mr. Berry addresses the Court regarding the Nation's party status.

Mr. Mabery confirmed that Arizona State Parks is an owner of property on the southern end of the ditch that receives water from the Verde Ditch.

The Court withdraws the Motion to Strike the Notice of Appearance that was filed on April 6, 2015.

IT IS ORDERED the Court's notification list as well as the parties' notification list as set forth at the last hearing on March 5th is amended to include Carrie J. Brennan, Assistant Attorney General on behalf of Arizona State Parks.

Court and counsel discuss the issue of the involvement of the Arizona Department of Water Resources (ADWR).

This Court **finds** it has concurrent jurisdiction, at a minimum, with respect to the severance and transfer of water rights for the Verde Ditch, which this Court is the Master.

The Court **finds** that the Memorandum of Understanding (MOU) needs to provide for the alternative process of either Court issuing orders regarding severance and transfer, or the Department of Water Resources making that determination for the following reasons: the Department has agreed that this Court has concurrent jurisdiction to make those determinations with respect to the Verde Ditch; the cost and time for such a process that is set forth in statute and regulations does not appear to lend itself to being altered within the time that the Court would like to proceed and resolve these issues.

The Court is not approving the MOU with the concurrent process that has been proposed.

The Court will continue to require that Ms. Miller and the Department be noticed on proceedings with respect to the MOU and further proceedings in this manner, to the extent that they wish to participate in meetings regarding further negotiation of the MOU.

~*~*~* Recess at 2:31 p.m. ~*~*~*

At 2:44 p.m., Court resumes with all previously identified parties present. The Court proceeds with the General Report to the Court.

Court and counsel discuss issue number one: the continuing participation for the Nation.

Court and counsel discuss issue number two: notice requirements to shareholders.

An MOU will be provided that will lay out a notification process to all shareholders as the Court may direct regarding future severance and transfer process.

Court and counsel discuss issue number three: the sharing of information.

IT IS ORDERED the Verde Ditch shall begin globally sharing the information they have with the Department of the Interior as well as the Nation.

If other requests are made to the Verde Ditch for sharing of information beyond what the Verde Ditch Company has determined is appropriate, those requests need to be referred to the Court. The Verde Ditch Company need not open all of their records to all shareholders without a request and order from this Court. The people before the Court today, through counsel, have already made requests in writing and the Court **finds** it appropriate to grant those requests.

Court and counsel discuss the scope of the MOU.

There being no objection the Court accepts a copy of the minute entry, order and stipulation regarding severance and transfer out of this Court, dated August 30, 1991.

IT IS ORDERED The Court directs that a copy of the presented documents from August 30, 1991 be attached to today's minute entry and distributed to the parties.

Court and counsel discuss issue number five: the exploration of other potential options.

Court and counsel discuss issue number six: the jurisdiction of the Court.

Court and counsel discuss the change in the current schedule.

IT IS ORDERED the Verde Ditch Company shall proceed with scheduling shareholder meetings and share information that the Verde Ditch Company has from their own sources, as well as from the information that has been provided by SRP to those individual shareholders as contemplated in those shareholder meetings.

The Court is not approving the deadlines that were contemplated, there will be no June report as there is no MOU in place and there will be no August hearing before this Court for review of the initial report.

IT IS FURTHER ORDERED setting a Status Conference for **May 15, 2015, at 1:30 p.m.**, Yavapai County Superior Court, Camp Verde. All parties are permitted to appear telephonically.

END TIME: 4:24 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.,
4835 E. Cactus Rd., Suite 210, Scottsdale, AZ 85257
Don Ferguson, 1695 W. Bronco Drive, Camp Verde, AZ 86322
Janet Miller, Arizona Department of Water Resources,
3550 N. Central Avenue, Phoenix, AZ 85012
Carrie Brennan, Assistant Attorney General, Arizona Attorney General's Office,
1275 West Washington Street, Phoenix, AZ 85007

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

DIVISION: 3 NORBERT G. WEDEPOHL, Clerk of Superior Court
HON. JAMES B. SULT By: BEKI HAWKINS, Deputy Clerk
CASE NO.: 4772 DATE: AUGUST 30, 1991
SEPTEMBER 3, 1991 MAILED

TITLE: COUNSEL:
GEORGE W. HANCE, et al., L. RICHARD MABERY
(Plaintiff) (For Plaintiff)
vs. and
WALES ARNOLD, et al., DOUGLAS WYMORE
(Defendant) (For Defendant)

HEARING ON: NATURE OF PROCEEDINGS COURT REPORTER

Stipulation for Severance and Transfer of Irrigation Water Rights Pursuant to A.R.S. 45-172 having been filed herein, now therefore, IT IS ORDERED said Stipulation is granted as more fully set forth therein.

stipulated Order having been filed herein, now therefore, IT IS ORDERED said Stipulated Order is granted as more fully set forth therein.

395 FILED
O'Clock, P M

AUG 30 1991

NOBERT G. WEDEPOHL, Clerk
By *[Signature]*
Deputy

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

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GEORGE W. HANCE, et al.)	
)	No. 4772
Plaintiffs,)	
vs.)	ORDER
WALES ARNOLD, et ux., et al.,)	
)	
Defendants.)	

For good cause shown, and pursuant to the stipulation of the Verde Ditch and the parties affected by this severance and transfer,

IT IS HEREBY ORDERED, that irrigation rights attendant to the Verde Ditch currently appurtenant to the real property owned by Vernon and Shirley Bridler and Thermon Bates be severed from that property and transferred to the real property owned by James and Colleen Davis.

The undersigned have carefully read the Stipulation for Severance and Transfer of Irrigation Water Rights. We agree to and understand the terms set forth in the foregoing Order.

Verde Ditch Company
BY *[Signature]*

[Signature]
Thermon Bates

1 James Davis
James Davis

Colleen Davis
Colleen Davis

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3 Vernon Bridler
Vernon Bridler

Shirley Bridler
Shirley Bridler

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DONE IN OPEN COURT this 30 day of August, 1991.

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James B. Selt
Judge of Superior Court

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345 FILED
 O'clock. P M
 AUG 30 1991
 By ROBERT G. WEDDEPOHL, Clerk
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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. 4772
Plaintiffs,)	
vs.)	STIPULATION FOR SEVERANCE
WALES ARNOLD, et ux., et al.,)	AND TRANSFER OF IRRIGATION
Defendants.)	WATER RIGHTS PURSUANT TO
)	A.R.S. 45-172

Comes now the Verde Ditch, James and Colleen Davis, Vernon and Shirley Bridler, and Thermon Bates, and hereby stipulate to that the irrigation water rights currently held by Vernon and Shirley Bridler, and Thermon Bates be severed from their property and transferred to the real property currently owned by James and Colleen Davis.

Factual Background

Vernon and Shirley Bridler and Thermon Bates currently hold one share in the Verde Ditch, but are unable to make use of their irrigation right. They wish to be relieved from any further responsibility in connection with the Verde Ditch, including their obligations to make payments for annual irrigation service, which they do not currently use.

James and Colleen Davis also own land which borders on the Verde Ditch, and are currently involved in litigation with the Verde Ditch relating to the rights of the Ditch to use portions

1 of his land for easement purposes. This transfer and severance
2 is a prerequisite to settlement of that dispute.

3 Legal Authority

4 A.R.S. 45-172(6) provides that severance and transfers may
5 be accomplished so long as the affected parcels both lie within
6 the boundaries of the same irrigation district. In this case,
7 all parcels do. The statute reads as follows:

8 A severance and transfer of an irrigation water
9 right appurtenant to lands within the boundaries of an
10 irrigation district to other lands within the
11 boundaries of the same irrigation district for
12 agricultural use may be accomplished by the exclusion
13 of lands to which a water right is appurtenant from
14 within the boundaries of such irrigation district.
15 Such severance and transfer of a water right shall
16 require the consent of only the irrigation district
17 within which the affected lands are situated and of the
18 owners of the lands affected by the severance and
19 transfer. No proceedings before nor approval by the
20 director shall be required to accomplish such severance
21 and transfer.

22 In this case, the parties are also seeking a formal court
23 order as the Verde Ditch remains under the jurisdiction of the
24 Yavapai Superior Court.

25 For the foregoing reasons, the parties stipulate that
irrigation rights attendant to the Verde Ditch currently
appurtenant to the real property owned by Vernon and Shirley
Bridler and Thermon Bates be severed from that property and
transferred to the real property owned by James and Colleen
Davis, effective as of the date of the entry of the Court order.

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Dated this 12 day of July, 1991.

Verde Ditch Company

By *Glen W. L...*

Thermon J. Bates
Thermon Bates

James Davis
James Davis

Colleen Davis
Colleen Davis

Vernon Bridler
Vernon Bridler

Shirley Bridler
Shirley Bridler

Copy of the foregoing mailed this
___ day of _____, 1991 to:

Hon. James B. Sult
Yavapai County Superior Court
Prescott, AZ 86301

L. Richard Mabery
101 E. Gurley, Suite 203
Prescott, AZ 86301
Attorney for Plaintiffs