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5 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
6 IN AND FOR THE COUNTY OF APACHE

7 IN RE THE GENERAL ADJUDICATION OF  
8 ALL RIGHTS TO USE WATER IN THE  
9 LITTLE COLORADO RIVER SYSTEM AND  
10 SOURCE

No. 6417

ORDER TRANSFERRING FUNDS FOR  
PAYMENT OF THE SPECIAL MASTER'S  
EXPENSES

11 THIS MATTER COMING before the Court on its own motion to transfer funds from the  
12 Office of the Clerk of the Apache County Superior Court to the Administrative Office of the Courts  
13 (“AOC”) for the purpose of compensating and paying the expenses of the Special Master appointed  
14 in this proceeding;

15 THE COURT FINDS that:

16 1. The approximate sum of \$101,340.96 is the balance as of June 30, 2003, of the fund of  
17 filing fees paid by claimants in this adjudication pursuant to A.R.S. section 45-254(H).

18 2. The Clerk of the Apache County Superior Court administers the fund.

19 3. Pursuant to A.R.S. section 45-255(B), the Superior Court shall fix the compensation and  
20 expenses of a master who is appointed to report on legal and factual issues in this adjudication.

21 4. On May 8, 1990, pursuant to A.R.S. section 45-255(A), the Arizona Supreme Court  
22 appointed a Special Master for this proceeding and for the Gila River Adjudication. The Special  
23 Master began his employment and began incurring expenses on May 1, 1990.  
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1           5. In 1995, A.R.S. section 45-255(A) was amended to provide that "The superior court judge  
2 assigned to the adjudication may appoint a master or masters under Rule 53 of the Arizona Rules of  
3 Civil Procedure to report on legal or factual issues designated under a specific order of reference."  
4 This Court entered such an order on August 23, 1990, confirmed that order on March 27, 1995, and  
5 entered an order of appointment and reference on March 1, 2001.

6           6. The sum of \$315,540.00 has previously been transferred from the Clerk of the Apache  
7 County Superior Court to the AOC, which acts as the fiscal agent for the compensation and payment  
8 of expenses of the Special Master.

9           7. The AOC has requested a transfer of \$13,220.58 from the fund of filing fees collected in  
10 this adjudication to pay for compensation and expenses of the Special Master incurred in fiscal year  
11 2003.

12           8. The expenditure of this money for the compensation and expenses of the Special Master  
13 remains appropriate under A.R.S. section 45-255(B).

14           9. Certain expenses are directly related to the Little Colorado River Adjudication. These  
15 expenses are the travel expenses of the settlement judge and office expenses paid solely for the  
16 benefit of this adjudication. The Court finds that on an interim basis payment of these expenses from  
17 the fees paid in this adjudication is reasonable. During fiscal year 2003, which ended on June 30,  
18 2003, these expenses were \$2,823.90, and this amount should be transferred to the AOC.

19           10. The number of statements of claimant filed in the Little Colorado River Adjudication is  
20 12,657. The number of statements of claimant filed in the Gila River Adjudication is 86,601. The  
21 number of statements of claimant filed in the Little Colorado River Adjudication is approximately 13  
22 percent of the total number of statements of claimant filed in both proceedings (99,258). The Court  
23 finds that, on an interim basis, allocation of the compensation and expenses of the Special Master  
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1 based on the proportion of claims filed in both adjudications is reasonable. The common expenses  
2 incurred in this adjudication during fiscal year 2003 were \$22,796.68. On August 28, 2002, this Court  
3 ordered the transfer of \$12,400.00 to the AOC for partial payment of estimated expenses during fiscal  
4 year 2003. The balance of \$10,396.68 owed for common expenses incurred in fiscal year 2003 should  
5 be transferred to the AOC.

6 11. In prior years, funds were transferred to the AOC for partial payment of the next fiscal  
7 year's estimated expenses. Because the legislature appropriated funds for fiscal year 2004, at this  
8 time it is not necessary to transfer additional monies from the fund of filing fees for estimated  
9 expenses for fiscal year 2004.

10 12. The transfer of \$13,220.58 to the AOC is timely and in accordance with law.

11 13. Final determination of the basis for allocating the Special Master's compensation and  
12 expenses between the two adjudications should be made at a later date.

13 **IT IS ORDERED:**

14 1. The Clerk of the Apache County Superior Court shall immediately transfer the sum of  
15 \$13,220.58 from the account maintained for the filing fees in this proceeding to the Administrative  
16 Office of the Courts, Attn: Ms. Candy Frazier.

17 2. The AOC shall establish adequate and necessary procedures to account for these funds and  
18 to ensure that the funds are used only for the compensation and expenses of the Special Master as  
19 fixed by this Court.

20 3. This transfer is not a final determination of the question of what proportion of the Special  
21 Master's compensation and expenses should be paid from the filing fees collected in this adjudication.  
22 The Court specifically reserves final determination of the basis for allocating the Special Master's  
23 compensation and expenses between the two adjudications.

1 DATED this 15th day of August 2003.

2  
3 /s/ Eddward P. Ballinger, Jr.  
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5 The Honorable Eddward P. Ballinger, Jr.  
6 Judge of the Superior Court

7 The original was mailed to the Clerk of the  
8 Apache County Superior Court on August  
9 15, 2003, for filing, copying, and mailing to  
10 those parties who appear on the Court-  
11 approved mailing list for Case No. 6417  
12 dated May 6, 2003, as modified.

13 /s/ KDolge  
14 \_\_\_\_\_  
15 Kathy Dolge