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4 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
5 IN AND FOR THE COUNTY OF APACHE
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7 IN RE THE GENERAL ADJUDICATION OF
8 ALL RIGHTS TO USE WATER IN THE
9 LITTLE COLORADO RIVER SYSTEM AND
SOURCE

No. CV 6417

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

10 This matter coming before the Court on its own motion to transfer funds from the Clerk of the
11 Apache County Superior Court to the Administrative Office of the Courts ("AOC") for the purpose of
12 compensating and paying the expenses of the Special Master appointed in this proceeding;

13 The Court finds that:

14 1. The approximate sum of \$101,098.03 is the balance as of June 30, 2005, of the fund of
15 filing fees paid by claimants in this adjudication pursuant to A.R.S. § 45-254(H).

16 2. The Clerk of the Apache County Superior Court administers the fund which the Apache
17 County Treasurer manages.

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

20 4. On May 8, 1990, pursuant to A.R.S. § 45-255(A), the Arizona Supreme Court appointed a
21 Special Master for both this adjudication and the Gila River Adjudication. The Special Master began
22 his employment and began incurring expenses on May 1, 1990.

23 5. In 1995, A.R.S. § 45-255(A) was amended to provide that "The superior court judge
24 assigned to the adjudication may appoint a master or masters under Rule 53 of the Arizona rules of

1 civil procedure to report on legal and factual issues designated under a specific order of reference.”
2 This Court entered such an order on August 23, 1990, confirmed that order on March 27, 1995, and
3 entered an order of appointment and reference on March 1, 2001.

4 6. The sum of \$331,671.02 has previously been transferred from the Clerk of the Apache
5 County Superior Court to the AOC, which acts as the fiscal agent for the payment of the
6 compensation and expenses of the Special Master.

7 7. The AOC has requested a transfer of monies from the fund of filing fees to pay for the
8 compensation and expenses of the Special Master incurred in fiscal year 2005 which began on July 1,
9 2004, and ended on June 30, 2005.

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

12 9. Certain expenses paid in fiscal year 2005 were directly related to the Little Colorado River
13 Adjudication. These were travel expenses, postage charges, and court reporter’s fees paid solely for
14 the benefit of this adjudication. The Court finds that on an interim basis payment of these expenses
15 from the fees paid in this adjudication is reasonable. During fiscal year 2005, these expenses were
16 \$532.31, and this amount should be paid from the fund of filing fees and transferred to the AOC.

17 10. On September 20, 2004, the Court found that “on an interim basis, allocation of the
18 compensation and expenses of the Special Master based on the proportion of claims filed in both
19 adjudications is reasonable” and set the allocation. For fiscal year 2005, the allocation was 16 percent
20 of the compensation and expenses of the Special Master was to be paid from the fund of filing fees in
21 this adjudication, and 84 percent from the Gila River Adjudication fund. These expenses are
22 considered common to both adjudications.

23 11. The common expenses incurred in this adjudication during fiscal year 2005, based on the
24 approved percentage allocation of expenses for fiscal year 2005, were \$26,272.94.

1 12. The legislature appropriated \$20,000.00 for expenses incurred in this adjudication during
2 fiscal year 2005.

3 13. The balance of common expenses for fiscal year 2005 that should be paid from the fund of
4 filing fees and transferred to the AOC is \$6,272.94.

5 14. The transfer of \$6,805.25 (\$532.31 + \$6,272.94) from the fund of filing fees to the AOC
6 for payment of fiscal year 2005 expenses is timely and in accordance with law.

7 15. Because the legislature also appropriated \$20,000.00 for fiscal year 2006, at this time it is
8 not necessary to transfer monies from the fund of filing fees for estimated expenses for fiscal year
9 2006.

10 16. As of June 30, 2005, the number of statements of claimant filed in the Little Colorado
11 River Adjudication was 13,252, and the number of statements of claimant filed in the Gila River
12 Adjudication was 71,289. These totals represent a count of the files with a unique numerical prefix.
13 The number of statements of claimant filed in this adjudication is approximately 16 percent of the
14 84,541 statements of claimant filed in both proceedings. The Court finds that, on an interim basis,
15 allocation of the compensation and expenses of the Special Master based on the proportion of claims
16 filed in both adjudications is reasonable, and the allocation for the Little Colorado River Adjudication
17 for fiscal year 2006 shall be 16 percent.

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

20 **IT IS ORDERED:**

21 1. The Clerk of the Apache County Superior Court shall immediately obtain the transfer of
22 \$6,805.25 from the account maintained for the filing fees in this proceeding to the AOC, Attn: Ms.
23 Candy Frazier.

