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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 \$93,390.03 is the balance as of June 30, 2004, of the fund of filing
17 fees paid by claimants in this adjudication pursuant to A.R.S. § 45-254(H).

18 2. The Clerk of the Apache County Superior Court administers the fund which the Apache
19 County Treasurer manages.

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

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

1 5. In 1995, A.R.S. § 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 \$328,760.58 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 payment of the
8 compensation and expenses of the Special Master.

9 7. The AOC has requested a transfer of monies from the fund of filing fees to pay for the
10 compensation and expenses of the Special Master incurred in fiscal year 2004 which began on July 1,
11 2003, and ended on June 30, 2004.

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

14 9. Certain expenses paid in fiscal year 2004 were directly related to the Little Colorado River
15 Adjudication. These were the travel expenses from Phoenix to St. Johns of the Superior Court judge,
16 the Special Master, and the Special Master's assistant, and postage charges paid solely for the benefit
17 of this adjudication. The Court finds that on an interim basis payment of these expenses from the fees
18 paid in this adjudication is reasonable. During fiscal year 2004, these expenses were \$413.30, and this
19 amount should be paid from the fund of filing fees and transferred to the AOC.

20 10. On August 15, 2003, the Court found that "on an interim basis, allocation of the
21 compensation and expenses of the Special Master based on the proportion of claims filed in both
22 adjudications is reasonable." For fiscal year 2004, the allocation was 13 percent of the compensation
23 and expenses of the Special Master was to be paid from the fund of filing fees in this adjudication,
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1 and 87 percent from the Gila River Adjudication fund. These expenses are considered common to
2 both adjudications.

3 11. The common expenses incurred in this adjudication during fiscal year 2004, based on the
4 approved percentage allocation of expenses for fiscal year 2004, were \$22,497.14.

5 12. The balance of common expenses for fiscal year 2004 that should be paid from the fund of
6 filing fees and transferred to the AOC is \$2,497.14.

7 13. The transfer of \$2,910.44 (\$413.30 + \$2,497.14) from the fund of filing fees to the AOC
8 for payment of fiscal year 2004 expenses is timely and in accordance with law.

9 14. Because the legislature appropriated funds for fiscal year 2005, at this time it is not
10 necessary to transfer monies from the fund of filing fees for estimated expenses for fiscal year 2005.

11 15. As of June 30, 2004, the revised number of statements of claimant filed in the Gila River
12 Adjudication was 84,206. The number of statements of claimant filed in the Little Colorado River
13 Adjudication was 15,734, or approximately 16 percent of the 99,940 statements of claimant filed in
14 both proceedings. The Court finds that, on an interim basis, allocation of the compensation and
15 expenses of the Special Master based on the proportion of claims filed in both adjudications is
16 reasonable, and the allocation for this adjudication for fiscal year 2005 shall be 16 percent.

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

19 **IT IS ORDERED:**

20 1. The Clerk of the Apache County Superior Court shall immediately obtain the transfer of
21 \$2,910.44 from the account maintained for the filing fees in this proceeding to the AOC, Attn: Ms.
22 Candy Frazier.

