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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 \$102,577.10 is the balance as of June 30, 2006, 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. The fund accrued interest of \$1,323.52 in fiscal year 2006 which began on
18 July 1, 2005, and closed on June 30, 2006.

19 3. Pursuant to A.R.S. § 45-255(B), the Superior Court shall fix the compensation and expenses
20 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. § 45-255(A), the Arizona Supreme Court appointed a
22 Special Master for both this adjudication and the Gila River Adjudication. The Special Master began
23 his employment and began incurring expenses on May 1, 1990.

24 5. In 1995, A.R.S. § 45-255(A) was amended to provide that "The superior court judge

1 assigned to the adjudication may appoint a master or masters under Rule 53 of the Arizona rules of
2 civil procedure to report on legal and factual issues designated under a specific order of reference.”
3 This Court entered such an order on August 23, 1990, confirmed that order on March 27, 1995, and
4 entered an order of appointment and reference on March 1, 2001.

5 6. The sum of \$344,865.27 has previously been transferred from the Clerk of the Apache
6 County Superior Court to the AOC, which acts as the fiscal agent for the payment of the
7 compensation and expenses of the Special Master. This amount includes payments totaling \$6,389.00,
8 disbursed from the fund in 1994, which are now being reported as disbursements.

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 2006.

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

13 9. Certain expenses paid in fiscal year 2006 were directly related to the Little Colorado River
14 Adjudication. These were travel expenses (\$602.69) and postage charges (\$13.82) paid solely for the
15 benefit of this adjudication. The Court finds that on an interim basis payment of these expenses from
16 the fees paid in this adjudication is reasonable. During fiscal year 2006, these expenses were \$616.51,
17 and this amount should be paid from the fund of filing fees and transferred to the AOC.

18 10. On September 1, 2005, the Court found that “on an interim basis, allocation of the
19 compensation and expenses of the Special Master based on the proportion of claims filed in both
20 adjudications is reasonable” and set the allocation. For fiscal year 2006, the allocation was 16 percent
21 of the compensation and expenses of the Special Master was to be paid from the fund of filing fees in
22 this adjudication, and 84 percent from the Gila River Adjudication fund. These expenses are
23 considered common to both adjudications.

24 11. The common expenses incurred in this adjudication during fiscal year 2006, based on the

1 approved percentage allocation of expenses for fiscal year 2006, were \$26,774.37.

2 12. The legislature appropriated \$20,000.00 for expenses incurred in this adjudication during
3 fiscal year 2006.

4 13. The balance of common expenses for fiscal year 2006 that should be paid from the fund of
5 filing fees and transferred to the AOC is \$6,774.37.

6 14. The transfer of \$7,390.88 (\$616.51 + \$6,774.37) from the fund of filing fees to the AOC
7 for payment of fiscal year 2006 expenses is timely and in accordance with law.

8 15. Because the legislature has appropriated \$20,000.00 for fiscal year 2007, at this time it is
9 not necessary to transfer monies from the fund of filing fees for estimated expenses for fiscal year
10 2007.

11 16. As of June 30, 2006, the number of statements of claimant filed in the Little Colorado
12 River Adjudication was 13,533, and the number of statements of claimant filed in the Gila River
13 Adjudication was 78,162. These totals represent a count of the files with a unique numerical prefix.
14 The number of statements of claimant filed in this adjudication is approximately 15 percent of the
15 91,695 statements of claimant filed in both proceedings. The Court finds that, on an interim basis,
16 allocation of the compensation and expenses of the Special Master based on the proportion of claims
17 filed in both adjudications is reasonable, and the allocation for the Little Colorado River Adjudication
18 for fiscal year 2007 shall be 15 percent.

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

21 **IT IS ORDERED:**

22 1. The Clerk of the Apache County Superior Court shall immediately obtain the transfer of
23 \$7,390.88 from the account maintained for the filing fees in this proceeding to the AOC, Attn: Ms.
24 Candy Frazier.

