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4 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

5 IN AND FOR THE COUNTY OF APACHE

6  
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 \$94,185.31 is the balance as of June 30, 2013, of the fund of filing  
15 fees paid by claimants in this adjudication pursuant to A.R.S. § 45-254(H). In fiscal year 2012, global  
16 accounting issues arose in the office of the Apache County Treasurer. As a result of accounting  
17 revisions implemented by the Treasurer, the fund of filing fees was reduced by \$4,889.17. In fiscal  
18 year 2013, the Apache County Treasurer returned \$925.39 to the fund of filing fees as part of efforts  
19 to recoup funds (which the Special Master encouraged the Treasurer to undertake).

20 2. The Clerk of the Apache County Superior Court administers the fund that the Apache  
21 County Treasurer has managed since December 2002. The fund accrued interest of \$523.12 in fiscal  
22 year 2013 that began on July 1, 2012, and closed on June 30, 2013.

23 3. During fiscal year 2013, the Clerk of the Apache County Superior Court received \$555.92  
24 in filing fees.

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

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

6           6. In 1995, A.R.S. § 45-255(A) was amended to provide that “[t]he superior court judge  
7 assigned to the adjudication may appoint a master or masters under Rule 53 of the Arizona rules of  
8 civil procedure to report on legal and factual issues designated under a specific order of reference.”  
9 This Court entered such an order on August 23, 1990, confirmed that order on March 27, 1995, and  
10 entered an order of appointment and reference on March 1, 2001.

11           7. The sum of \$387,963.76 has previously been disbursed from the fund, of which  
12 \$381,574.76 was disbursed to the AOC, which acts as the fiscal agent for the payment of the  
13 compensation and expenses of the Special Master, and \$6,389.00 was disbursed to the Clerk of the  
14 Apache County Superior Court. The last payment of funds to the Clerk of the Apache County  
15 Superior Court was made on June 6, 1994.

16           8. The AOC has requested a transfer of monies from the fund of filing fees to pay for the  
17 compensation and expenses of the Special Master incurred in fiscal year 2013. Since October 23,  
18 2004, the office has consisted of the Special Master and one part-time secretary (previously full time).

19           9. On August 22, 2012, the Court found that “on an interim basis, allocation of the  
20 compensation and expenses of the Special Master based on the proportion of claims filed in both  
21 adjudications is reasonable” and set the allocation. For fiscal year 2013 the allocation was 85 percent  
22 of the compensation and expenses of the Special Master was to be paid from the fund of filing fees in  
23 this adjudication, and 15 percent from the Little Colorado River Adjudication fund. These expenses  
24 are considered common to both adjudications.

1 10. The common expenses incurred in this adjudication during fiscal year 2013 based on the  
2 approved percentage allocation of expenses for fiscal year 2013 were \$27,572.28.

3 11. No expenses paid in fiscal year 2013 were incurred solely for the benefit of the Little  
4 Colorado River Adjudication. All expenses were common.

5 12. The legislature appropriated \$20,000.00 for expenses incurred in this adjudication during  
6 fiscal year 2013. Pursuant to the Special Master's instructions to the AOC, these funds, held by the  
7 AOC, are exhausted prior to disbursements from the fund of filing fees.

8 13. The balance of common expenses for fiscal year 2013 that should be paid from the fund of  
9 filing fees and transferred to the AOC is \$7,572.28.

10 14. The amount of \$6,213.78 is due for fiscal year 2013 expenses paid but not charged to the  
11 fund of filing fees.

12 15. The AOC has requested \$108.62 for outstanding fiscal year 2013 expenses.

13 16. The transfer of \$13,894.68 ( $\$7,572.28 + 6,213.78 + \$108.62$ ) from the fund of filing fees to  
14 the AOC for payment of fiscal year 2013 expenses is timely and in accordance with law.

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

17 18. Because the legislature has appropriated \$20,000.00 for fiscal year 2014 it is not necessary  
18 at this time to transfer monies from the fund of filing fees for estimated expenses for fiscal year 2014.  
19 Fiscal year 2014 began on July 1, 2013, and will close on June 30, 2014.

20 19. As of June 30, 2013, the number of statements of claimant filed in the Gila River  
21 Adjudication was 83,244 and the number of statements of claimant filed in the Little Colorado River  
22 Adjudication was 14,522. These totals represent a count of the files with a unique numerical prefix.  
23 The number of statements of claimant filed in this adjudication is approximately 15 percent of the  
24 97,766 statements of claimant filed in both proceedings. The Court finds that, on an interim basis,

1 allocation of the compensation and expenses of the Special Master based on the proportion of claims  
2 filed in both adjudications is reasonable, and the allocation for the Little Colorado River Adjudication  
3 for fiscal year 2014 shall be 15 percent.

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

6 IT IS ORDERED:

7 1. The Clerk of the Apache County Superior Court shall immediately obtain the transfer of  
8 \$13,894.68 from the account maintained for the filing fees in this proceeding to the AOC, Attn: Ms.  
9 Candy Frazier.

10 2. The AOC shall establish adequate and necessary procedures to account for these funds and  
11 to ensure that the funds are used only for the compensation and expenses of the Special Master and  
12 other expenses related to the conduct of this adjudication as fixed by this Court.

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

17 DATED: August 20, 2013.

18  
19 /s/ Mark H. Brain  
20 MARK H. BRAIN  
21 Judge of the Superior Court

22 The original order was mailed to the Clerk  
23 of the Apache County Superior Court for  
24 filing and distributing to those parties who  
appear on the Court approved mailing list  
for Case No. CV 6417 dated July 1, 2013.