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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
10 SOURCE

No. CV 6417

ORDER CONCERNING THE SPECIAL
MASTER'S EXPENSES AND TRANSFER
OF FUNDS TO THE CLERK OF THE
APACHE COUNTY SUPERIOR COURT

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

15 The Court finds that:

16 1. The approximate sum of \$80,657.15 is the balance as of June 30, 2014, of the fund of filing
17 fees paid by claimants in this adjudication pursuant to A.R.S. § 45-254(H) ("the fund").

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

20 3. Fiscal year 2014 began on July 1, 2013, and closed on June 30, 2014. During fiscal year
21 2014, the fund accrued interest of \$389.64.

22 4. During fiscal year 2014, the Clerk received \$960.00 in filing fees.

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

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

4 7. In 1995, A.R.S. § 45-255(A) was amended to provide that “[t]he superior court judge
5 assigned to the adjudication may appoint a master or masters under Rule 53 of the Arizona rules of
6 civil procedure to report on legal and factual issues designated under a specific order of reference.”
7 This Court entered such an order on September 21, 1990, confirmed that order on April 4, 1995, and
8 entered an order of appointment and reference on March 1, 2001.

9 8. The sum of \$402,980.55 has previously been disbursed from the fund, of which
10 \$396,591.55 was disbursed to the AOC, which acts as the fiscal agent for the payment of the
11 compensation and expenses of the Special Master, and \$6,389.00 was disbursed to the Clerk of the
12 Apache County Superior Court. The last payment of funds to the Clerk was made on June 6, 1994.

13 9. On August 20, 2013, the Court found that “on an interim basis, allocation of the
14 compensation and expenses of the Special Master based on the proportion of claims filed in both
15 adjudications is reasonable” and set the allocation. For fiscal year 2014 the allocation was 15 percent
16 of the compensation and expenses of the Special Master was to be paid from the fund of filing fees in
17 this adjudication, and 85 percent from the Gila River Adjudication fund. These expenses are
18 considered common to both adjudications.

19 10. The common expenses incurred in this adjudication during fiscal year 2014 based on the
20 approved percentage allocation of expenses for fiscal year 2014 were \$28,361.56.

21 11. No expenses paid in fiscal year 2014 were incurred solely for the benefit of the Little
22 Colorado River Adjudication. All expenses were common.

23 12. The Special Master’s common expenses incurred in fiscal year 2014 were paid from filing
24 fees and a legislative appropriation. The office’s expenses to be incurred in fiscal year 2015 are
expected to be paid from both an appropriation and filing fees. At this time, there is no need to

1 transfer funds to the AOC for the compensation and expenses of the Special Master.

2 13. The AOC has not requested monies from the fund of filing fees to pay for the
3 compensation and expenses of the Special Master incurred in fiscal year 2014 and estimated expenses
4 for fiscal year 2015. Fiscal year 2015 began on July 1, 2014, and will close on June 30, 2015.

5 14. The AOC is holding the amount of \$360.55, accrued from savings, which it wishes to
6 transfer to the fund of filing fees administered by the Clerk of the Apache County Superior Court.

7 15. As of June 30, 2014, the number of statements of claimant filed in the Gila River
8 Adjudication was 83,402 and the number of statements of claimant filed in the Little Colorado River
9 Adjudication was 14,543. These totals represent a count of the files with a unique numerical prefix.
10 The number of statements of claimant filed in this adjudication is approximately 15 percent of the
11 97,945 statements of claimant filed in both proceedings. The Court finds that, on an interim basis,
12 allocation of the compensation and expenses of the Special Master based on the proportion of claims
13 filed in both adjudications is reasonable, and the allocation for the Little Colorado River Adjudication
14 for fiscal year 2015 will be 15 percent.

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

17 **IT IS ORDERED:**

18 1. The AOC is requested to transfer the amount of \$360.55 to the Clerk of the Apache County
19 Superior Court, Attn: Mrs. Sue Hall. The Clerk is directed to deposit these monies promptly upon
20 receipt in the account of the fund of filing fees of the Little Colorado River Adjudication.

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

1 DATED: September 19, 2014.

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3 /s/ Mark H. Brain
4 MARK H. BRAIN
5 Judge of the Superior Court

6 The original order is filed with the Clerk of
7 the Apache County Superior Court and a
8 copy of the order is distributed to all persons
9 who appear on the Court approved mailing
10 list for Case No. CV 6417 dated July 15,
11 2014.
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