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3
4 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
5 IN AND FOR THE COUNTY OF MARICOPA
6

7 IN RE THE GENERAL ADJUDICATION OF
8 ALL RIGHTS TO USE WATER IN THE GILA
9 RIVER SYSTEM AND SOURCE

W-1 (Salt)
W-2 (Verde)
W-3 (Upper Gila)
W-4 (San Pedro)
(Consolidated)

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

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

15 The Court finds that:

16 1. The approximate sum of \$825,640.25 is the balance as of June 30, 2008, of the fund of
17 filing fees paid by claimants in this adjudication pursuant to A.R.S. § 45-254(H).

18 2. The Clerk of the Maricopa County Superior Court administers the fund which the Maricopa
19 County Treasurer manages. The fund accrued interest of \$36,323.24 in fiscal year 2008 which began
20 on July 1, 2007, and closed on June 30, 2008.

21 3. During fiscal year 2008, the Clerk of the Maricopa County Superior Court received
22 \$10,434.85 in filing fees.

23 4. 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 5. 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 Little Colorado River Adjudication. The first Special
3 Master began his employment and began incurring expenses on May 1, 1990.

4 6. In 1995, A.R.S. § 45-255(A) was amended to provide that “The 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 13, 2001.

9 7. The sum of \$2,734,921.95 has previously been disbursed from the fund, of which
10 \$2,575,844.95 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 \$159,077.00 was disbursed to the Clerk of the
12 Maricopa County Superior Court. The last payment of funds to the Clerk of the Maricopa County
13 Superior Court was made on June 22, 2001.

14 8. The AOC has requested a transfer of monies from the fund of filing fees to pay for the
15 compensation and expenses of the Special Master incurred in fiscal year 2008 and estimated expenses
16 for the first half of fiscal year 2009. Fiscal year 2009 began on July 1, 2008, and will close on June 30,
17 2009. Since October 23, 2004, the office has consisted of the Special Master and one part-time
18 secretary (previously full time).

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

21 10. One expense paid in fiscal year 2008 was directly related to the Gila River Adjudication.
22 This expense was Internet hosting fees of \$351.00 paid to a private vendor solely for the benefit of
23 this adjudication. This service was terminated effective March 31, 2008. The Court finds that on an
24 interim basis payment of this expense from the fees paid in this adjudication is reasonable, and this

1 amount should be paid from the fund of filing fees and transferred to the AOC.

2 11. On August 13, 2007, the Court found that “on an interim basis, allocation of the
3 compensation and expenses of the Special Master based on the proportion of claims filed in both
4 adjudications is reasonable” and set the allocation. For fiscal year 2008, the allocation was 85 percent
5 of the compensation and expenses of the Special Master was to be paid from the fund of filing fees in
6 this adjudication, and 15 percent from the Little Colorado River Adjudication fund. These expenses
7 are considered common to both adjudications.

8 12. The common expenses incurred in this adjudication during fiscal year 2008, based on the
9 approved percentage allocation of expenses for fiscal year 2008, were \$136,306.89.

10 13. On August 13, 2007, this Court ordered the transfer of \$72,000.00 to the AOC for partial
11 payment of estimated expenses to be incurred during fiscal year 2008.

12 14. The transfer of \$64,657.89 ($\$351.00 + \$136,306.89 - \$72,000.00$) from the fund of filing
13 fees to the AOC for payment of fiscal year 2008 expenses is timely and in accordance with law.

14 15. The amount of \$72,000.00, which is approximately one-half of the expenses estimated for
15 the first half of fiscal year 2009, should be transferred to the AOC.

16 16. The transfer of \$136,657.89 from the fund of filing fees to the AOC for payment of fiscal
17 year 2008 expenses and partial fiscal year 2009 expenses is timely and in accordance with law.

18 17. As of June 30, 2008, the number of statements of claimant filed in the Gila River
19 Adjudication was 80,451, and the number of statements of claimant filed in the Little Colorado River
20 Adjudication was 14,029. These totals represent a count of the files with a unique numerical prefix.
21 The number of statements of claimant filed in this adjudication is approximately 85 percent of the
22 94,480 statements of claimant filed in both proceedings. The Court finds that, on an interim basis,
23 allocation of the compensation and expenses of the Special Master based on the proportion of claims
24 filed in both adjudications is reasonable, and the allocation for the Gila River Adjudication for fiscal

1 year 2009 shall be 85 percent.

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

4 IT IS ORDERED:

5 1. The Clerk of the Maricopa County Superior Court shall immediately obtain the transfer of
6 \$136,657.89 from the account maintained for the filing fees in this proceeding to the AOC, Attn: Ms.
7 Candy Frazier.

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

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

15 DATED: August 20, 2008.

16
17 /s/ Eddward P. Ballinger, Jr.
18 EDDWARD P. BALLINGER, JR.
19 Judge of the Superior Court

20 The original order is filed with the Clerk of
21 the Maricopa County Superior Court and a
22 copy of the order is distributed to all persons
23 who appear on the Court-approved mailing
24 list for Case No. W-1, W-2, W-3, and W-4
(Consolidated) dated July 25, 2008.