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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 \$103,564.30 is the balance as of June 30, 2007, 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 has managed since December 2002. The fund accrued interest of \$4,923.18 in fiscal
18 year 2007 which began on July 1, 2006, and closed on June 30, 2007.

19 3. During fiscal year 2007, the Clerk of the Apache County Superior Court received \$3,454.90
20 in filing fees.

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

23 5. On May 8, 1990, pursuant to A.R.S. § 45-255(A), the Arizona Supreme Court appointed a
24 Special Master for both this adjudication and the Gila River Adjudication. The Special Master began

1 his employment and began incurring expenses on May 1, 1990.

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

7 7. The sum of \$352,256.15 has previously been disbursed from the fund, of which
8 \$345,867.15 was disbursed to the AOC, which acts as the fiscal agent for the payment of the
9 compensation and expenses of the Special Master, and \$6,389.00 was disbursed to the Clerk of the
10 Apache County Superior Court. The last payment of funds to the Clerk of the Apache County
11 Superior Court was made on June 6, 1994.

12 8. The AOC has requested a transfer of monies from the fund of filing fees to pay for the
13 compensation and expenses of the Special Master incurred in fiscal year 2007. Since October 23,
14 2004, the office has consisted of the Special Master and one part-time secretary (previously full time).

15 9. 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 10. Certain expenses paid in fiscal year 2007 were directly related to the Little Colorado River
18 Adjudication. These were travel expenses (\$176.25) and postage charges (\$5.46) paid solely for the
19 benefit of this adjudication. The Court finds that on an interim basis payment of these expenses from
20 the fees paid in this adjudication is reasonable. During fiscal year 2007, these expenses were \$181.71,
21 and this amount should be paid from the fund of filing fees and transferred to the AOC.

22 11. On September 22, 2006, the Court found that “on an interim basis, allocation of the
23 compensation and expenses of the Special Master based on the proportion of claims filed in both
24 adjudications is reasonable” and set the allocation. For fiscal year 2007, the allocation was 15 percent

1 of the compensation and expenses of the Special Master was to be paid from the fund of filing fees in
2 this adjudication, and 85 percent from the Gila River Adjudication fund. These expenses are
3 considered common to both adjudications.

4 12. The common expenses incurred in this adjudication during fiscal year 2007, based on the
5 approved percentage allocation of expenses for fiscal year 2007, were \$25,049.09.

6 13. The legislature appropriated \$20,000.00 for expenses incurred in this adjudication during
7 fiscal year 2007. Pursuant to the Special Master's instructions to the AOC, these funds are exhausted
8 prior to disbursements from the fund of filing fees.

9 14. The balance of common expenses for fiscal year 2007 that should be paid from the fund of
10 filing fees and transferred to the AOC is \$5,049.09.

11 15. The transfer of \$5,230.80 (\$181.71 + \$5,049.09) from the fund of filing fees to the AOC
12 for payment of fiscal year 2007 expenses is timely and in accordance with law.

13 16. Because the legislature has appropriated \$20,000.00 for fiscal year 2008, at this time it is
14 not necessary to transfer monies from the fund of filing fees for estimated expenses for fiscal year
15 2008.

16 17. As of June 30, 2007, the number of statements of claimant filed in the Little Colorado
17 River Adjudication was 13,822, and the number of statements of claimant filed in the Gila River
18 Adjudication was 79,533. These totals represent a count of the files with a unique numerical prefix.
19 The number of statements of claimant filed in this adjudication is approximately 15 percent of the
20 93,355 statements of claimant filed in both proceedings. The Court finds that, on an interim basis,
21 allocation of the compensation and expenses of the Special Master based on the proportion of claims
22 filed in both adjudications is reasonable, and the allocation for the Little Colorado River Adjudication
23 for fiscal year 2008 shall be 15 percent.

24 18. Final determination of the basis for allocating the Special Master's compensation and

1 expenses between the two adjudications should be made at a later date.

2 IT IS ORDERED:

3 1. The Clerk of the Apache County Superior Court shall immediately obtain the transfer of
4 \$5,230.80 from the account maintained for the filing fees in this proceeding to the AOC, Attn: Ms.
5 Candy Frazier.

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

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

13 DATED: August 13, 2007.

14
15 /s/ Eddward P. Ballinger, Jr.
16 EDDWARD P. BALLINGER, JR.
17 Judge of the Superior Court

18 The original order was mailed to the Clerk
19 of the Apache County Superior Court for
20 filing and distributing to those parties who
21 appear on the Court-approved mailing list
22 for Case No. CV 6417 dated July 26, 2007.
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