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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 \$97,341.88 is the balance as of June 30, 2013, of the fund of filing
17 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 that the Maricopa
19 County Treasurer manages. The fund accrued interest of \$762.19 in fiscal year 2013 that began on
20 July 1, 2012, and closed on June 30, 2013.

21 3. During fiscal year 2013, the Clerk of the Maricopa County Superior Court received
22 \$2,280.00 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 “[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 7. The sum of \$3,565,408.66 has previously been disbursed from the fund, of which
10 \$3,406,331.66 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 2013 and estimated expenses
16 for the first half of fiscal year 2014. Fiscal year 2014 began on July 1, 2013, and will close on June 30,
17 2014. Since October 23, 2004, the office has consisted of the Special Master and one part-time
18 secretary (previously full time).

19 9. Due to the declining balance of the fund of filing fees, beginning in fiscal year 2013, the
20 AOC requested reimbursement biannually instead of annually. On August 22, 2012, the Court ordered
21 the transfer to the AOC of \$89,790.25, and on January 30, 2013, approved the transfer of \$72,666.45,
22 for a total of \$162,456.70. The AOC received these funds.

23 10. On August 22, 2012, the Court found that “on an interim basis, allocation of the
24 compensation and expenses of the Special Master based on the proportion of claims filed in both

1 adjudications is reasonable” and set the allocation. For fiscal year 2013 the allocation was 85 percent
2 of the compensation and expenses of the Special Master was to be paid from the fund of filing fees in
3 this adjudication, and 15 percent from the Little Colorado River Adjudication fund. These expenses
4 are considered common to both adjudications.

5 11. The common expenses incurred in this adjudication during fiscal year 2013 based on the
6 approved percentage allocation of expenses for fiscal year 2013 were \$156,242.92.

7 12. No expenses paid in fiscal year 2013 were incurred solely for the benefit of the Gila River
8 Adjudication. All expenses were common.

9 13. The AOC has requested \$615.49 for outstanding fiscal year 2013 expenses.

10 14. The amount of \$76,213.93 should be transferred for expenses estimated for the first half of
11 fiscal year 2014.

12 15. The transfer of \$76,829.42 ($\$76,213.93 + \615.49) from the fund of filing fees to the AOC
13 for payment of fiscal year 2013 expenses and partial fiscal year 2014 expenses is timely and in
14 accordance with law.

15 16. 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 17. As of June 30, 2013, the number of statements of claimant filed in the Gila River
18 Adjudication was 83,244 and the number of statements of claimant filed in the Little Colorado River
19 Adjudication was 14,522. These totals represent a count of the files with a unique numerical prefix.
20 The number of statements of claimant filed in this adjudication is approximately 85 percent of the
21 97,766 statements of claimant filed in both proceedings. The Court finds that, on an interim basis,
22 allocation of the compensation and expenses of the Special Master based on the proportion of claims
23 filed in both adjudications is reasonable, and the allocation for the Gila River Adjudication for fiscal
24 year 2014 shall be 85 percent.

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

3 19. The legislature appropriated \$74,000.00 for expenses incurred in this adjudication during
4 fiscal year 2014, but those funds were requested for the second half of fiscal year 2014.

5 IT IS ORDERED:

6 1. The Clerk of the Maricopa County Superior Court shall immediately obtain the transfer of
7 \$76,829.42 from the account maintained for the filing fees in this proceeding to the AOC, Attn: Ms.
8 Candy Frazier.

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

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

16 DATED: August 20, 2013.

17
18 /s/ Mark H. Brain
19 MARK H. BRAIN
20 Judge of the Superior Court

21 The original order is filed with the Clerk of
22 the Maricopa County Superior Court and a
23 copy of the order is distributed to all persons
24 who appear on the Court approved mailing
list for Case No. W-1, W-2, W-3, and W-4
(Consolidated) dated July 1, 2013.