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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

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

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

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

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

The Court finds that:

1. The approximate sum of \$1,098,448.43 is the balance as of June 30, 2005, of the fund of filing fees paid by claimants in this adjudication pursuant to A.R.S. § 45-254(H).

2. The Clerk of the Maricopa County Superior Court administers the fund which the Maricopa County Treasurer manages.

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

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

1 5. In 1995, A.R.S. § 45-255(A) was amended to provide that “The superior court judge
2 assigned to the adjudication may appoint a master or masters under Rule 53 of the Arizona rules of
3 civil procedure to report on legal and factual issues designated under a specific order of reference.”
4 This Court entered such an order on September 21, 1990, confirmed that order on April 4, 1995, and
5 entered an order of appointment and reference on March 13, 2001.

6 6. The sum of \$2,310,623.65 has previously been transferred from the Clerk of the Maricopa
7 County Superior Court to the AOC, which acts as the fiscal agent for the payment of the
8 compensation and expenses of the Special Master.

9 7. The AOC has requested a transfer of monies from the fund of filing fees to pay for the
10 compensation and expenses of the Special Master incurred in fiscal year 2005 and estimated expenses
11 for the first half of fiscal year 2006. Fiscal year 2005 began on July 1, 2004, and ended on June 30,
12 2005. Fiscal year 2006 began on July 1, 2005, and will end on June 30, 2006.

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

15 9. Certain expenses paid in fiscal year 2005 were directly related to the Gila River
16 Adjudication. These were Internet hosting fees, printing costs, postage charges, and travel expenses
17 paid solely for the benefit of this adjudication. The Court finds that on an interim basis payment of
18 these expenses from the fees paid in this adjudication is reasonable. During fiscal year 2005, these
19 expenses were \$829.00, and this amount should be paid from the fund of filing fees and transferred to
20 the AOC.

21 10. On September 20, 2004, the Court found that “on an interim basis, allocation of the
22 compensation and expenses of the Special Master based on the proportion of claims filed in both
23 adjudications is reasonable” and set the allocation. For fiscal year 2005, the allocation was 84 percent
24 of the compensation and expenses of the Special Master was to be paid from the fund of filing fees in

1 this adjudication, and 16 percent from the Little Colorado River Adjudication fund. These expenses
2 are considered common to both adjudications.

3 11. The common expenses incurred in this adjudication during fiscal year 2005, based on the
4 approved percentage allocation of expenses for fiscal year 2005, were \$137,868.95.

5 12. On September 20, 2004, this Court ordered the transfer of \$70,000.00 to the AOC for
6 partial payment of estimated expenses to be incurred during fiscal year 2005.

7 13. The transfer of \$68,697.95 (\$829.00 + \$67,868.95) from the fund of filing fees to the AOC
8 for payment of fiscal year 2005 expenses is timely and in accordance with law.

9 14. The amount of \$68,000.00, which is approximately one-half of the expenses estimated for
10 the first half of fiscal year 2006, should be transferred to the AOC.

11 15. The transfer of \$136,697.95 from the fund of filing fees to the AOC for payment of fiscal
12 year 2005 expenses and partial fiscal year 2006 expenses is timely and in accordance with law.

13 16. As of June 30, 2005, the number of statements of claimant filed in the Gila River
14 Adjudication was 71,289, and the number of statements of claimant filed in the Little Colorado River
15 Adjudication was 13,252. These totals represent a count of the files with a unique numerical prefix.
16 The number of statements of claimant filed in this adjudication is approximately 84 percent of the
17 84,541 statements of claimant filed in both proceedings. The Court finds that, on an interim basis,
18 allocation of the compensation and expenses of the Special Master based on the proportion of claims
19 filed in both adjudications is reasonable, and the allocation for the Gila River Adjudication for fiscal
20 year 2006 shall be 84 percent.

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

23 **IT IS ORDERED:**

24 1. The Clerk of the Maricopa County Superior Court shall immediately obtain the transfer of

1 \$136,697.95 from the account maintained for the filing fees in this proceeding to the AOC, Attn: Ms.
2 Candy Frazier.

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

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

10 DATED: September 1, 2005.

11
12 /s/ Eddward P. Ballinger, Jr.
13 EDDWARD P. BALLINGER, JR.
14 Judge of the Superior Court

15 A copy of this order is distributed to all
16 persons who appear on the Court-approved
17 mailing list for Case No. W-1, W-2, W-3,
18 and W-4 (Consolidated) dated June 15,
19 2005.
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