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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 Office of 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 \$1,184,119.26 is the balance as of June 30, 2004, 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.

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

4           5. 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 or 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           6. The sum of \$2,169,399.38 has previously been transferred from the Clerk of the Maricopa  
10 County Superior Court to the AOC, which acts as the fiscal agent for the payment of the  
11 compensation and expenses of the Special Master.

12           7. 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 2004 and estimated for the  
14 first half of fiscal year 2005. Fiscal year 2004 began on July 1, 2003, and ended on June 30, 2004.  
15 Fiscal year 2005 commenced on July 1, 2004, and will end on June 30, 2005.

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

18           9. Certain expenses paid in fiscal year 2004 were directly related to the Gila River  
19 Adjudication. These were travel reimbursements, postage charges, and Internet hosting fees paid  
20 solely for the benefit of this adjudication. The Court finds that on an interim basis payment of these  
21 expenses from the fees paid in this adjudication is reasonable. During fiscal year 2004, these  
22 expenses were \$667.31, and this amount should be paid from the fund of filing fees and transferred to  
23 the AOC.

1           10. On August 15, 2003, the Court found that “on an interim basis, allocation of the  
2 compensation and expenses of the Special Master based on the proportion of claims filed in both  
3 adjudications is reasonable.” For fiscal year 2004, the allocation was 87 percent of the compensation  
4 and expenses of the Special Master was to be paid from the fund of filing fees in this adjudication,  
5 and 13 percent from the Little Colorado River Adjudication fund. These expenses are considered  
6 common to both adjudications.

7           11. The common expenses incurred in this adjudication during fiscal year 2004, based on the  
8 approved percentage allocation of expenses for fiscal year 2004, were \$150,556.96.

9           12. On August 15, 2003, this Court ordered the transfer of \$80,000.00 to the AOC for partial  
10 payment of estimated expenses incurred during fiscal year 2004.

11           13. The transfer of \$71,224.27 (\$667.31 + \$70,556.96) from the fund of filing fees to the AOC  
12 for payment of fiscal year 2004 expenses is timely and in accordance with law.

13           14. The amount of \$70,000.00, which is approximately one-half of the expenses estimated for  
14 the first half of fiscal year 2005, should be transferred to the AOC.

15           15. The transfer of \$141,224.27 from the fund of filing fees to the AOC for payment of fiscal  
16 year 2004 expenses and partial fiscal year 2005 expenses is timely and in accordance with law.

17           16. As of June 30, 2004, the number of statements of claimant filed in the Little Colorado  
18 River Adjudication was 15,734. The revised number of statements of claimant filed in the Gila River  
19 Adjudication was 84,206, or approximately 84 percent of the 99,940 statements of claimant filed in  
20 both proceedings. The Court finds that, on an interim basis, allocation of the compensation and  
21 expenses of the Special Master based on the proportion of claims filed in both adjudications is  
22 reasonable, and the allocation for this adjudication for fiscal year 2005 shall be 84 percent.

1 17. 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 IT IS ORDERED:

4 1. The Clerk of the Maricopa County Superior Court shall immediately obtain the transfer of  
5 \$141,224.27 from the account maintained for the filing fees in this proceeding to the AOC, Attn: Ms.  
6 Candy Frazier.

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

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

14 DATED this 20th day of September 2004.

15  
16 /s/ Eddward P. Ballinger, Jr.  
17 The Honorable Eddward P. Ballinger, Jr.  
Judge of the Superior Court

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19 The original was filed with the Clerk of the  
20 Maricopa County Superior Court and was  
21 delivered to the Distribution Center for  
22 copying and mailing to those parties who  
23 appear on the Court-approved mailing list  
24 for Case No. W-1, W-2, W-3, and W-4  
(Consolidated) dated August 19, 2004.