

1 **ARIZONA DEPARTMENT OF WATER RESOURCES**  
 2 **BEFORE THE DIRECTOR**  
 3

4 **IN THE MATTER OF THE**  
 5 **MANAGEMENT GOAL FOR THE**  
 6 **DOUGLAS ACTIVE MANAGEMENT**  
 7 **AREA**

**SUMMARY OF HEARING AND**  
**FINDINGS**

8 **I. Procedural Background**

9 Pursuant to the requirements prescribed in Arizona Revised Statutes (“A.R.S.”) §§ 45-  
 10 569, 45-570, and 45-571, Thomas Buschatzke, Director of the Arizona Department of Water  
 11 Resources (“Director”), issued the proposed Management Goal for the Douglas Active  
 12 Management Area (“proposed goal”) on May 24, 2023. A public hearing on the proposed goal  
 13 was held on June 28, 2023 in Douglas, Arizona.

14 The hearing officer for the hearing was John Riggins, the Statewide Planning Manager  
 15 at the Arizona Department of Water Resources (“Department”). At the hearing, Michellsey  
 16 Benally, Active Management Area Program Manager presented information on the proposed  
 17 goal. The hearing officer also received oral and documentary evidence concerning the proposed  
 18 goal. The hearing record remained open until June 28, 2023 at midnight.

19 As provided in A.R.S. § 45-571(A), the Director is required to file a written summary  
 20 and findings with respect to matters considered during the hearing record period. As a result of  
 21 additional review by the Director, the Director has determined that modifications to the  
 22 proposed goal are appropriate to address comments made as a part of the hearing record.  
 23 Pursuant to A.R.S. § 45-571(B), the Director has made the necessary modifications and is filing  
 24 in the Department an order adopting the goal as modified simultaneously with this Summary  
 25 and Findings. After reviewing the comments and evidence submitted during the hearing record

1 period, the Director makes the following written summary and findings with respect to matters  
2 considered during the hearing record period.

3 **II. Summary of Hearing and Findings**

4 A summary of the comments received during the hearing record period and the  
5 Director's responses to the comments are presented below. Sixteen people presented oral  
6 comments at the public hearing. The Director received 88 written comments during the hearing  
7 record period.

8 Comment: Several commenters stated that the word "attempt" in the proposed goal  
9 should be replaced with a stronger word and is not used in other AMA goals.

10 Response: A.R.S. § 45-561(12) defines safe-yield as a "management goal which  
11 attempts to achieve and thereafter maintain a long-term balance..." The "attempting"  
12 phrasing in the proposed goal mirrored this language. However, in response to  
13 comments, the Department has opted to remove "attempting" from the proposed goal.

14 Comment: Several commenters stated the words "water users" includes non-local  
15 entities (people who are not citizens of Arizona), inconsistent with the language of  
16 "protecting and stabilizing the general economy of its citizens".

17 Response: The Department opted to use the words "water users" to be inclusive of those  
18 who rely on AMA water supplies and who would be subject to AMA requirements.

19 Comment: Several commenters stated concern over high water use of large corporate  
20 operations and said that local residents should be prioritized over non-local corporate  
21 water users.

22 Response: This comment does not pertain to the proposed goal. Specific requirements  
23 for different categories of water users will be considered as part of the development of  
24 the management plan. The Director notes that any requirements considered for the  
25 management plan must be within the Department's legal and regulatory authority.

1 Comment: Several commenters stated that the Department should take into account the  
2 portion of the basin in Sonora, Mexico.

3 Response: The Department monitors hydrologic conditions in the basin and a  
4 groundwater model may include consideration of broader groundwater flow influences.  
5 However, the authority for an AMA is limited to the geographic boundaries of that AMA  
6 within the State of Arizona.

7 Comment: Several commenters stated that the Department should mention agriculture  
8 in the goal since it is tied to the local economy, using wording along the lines of  
9 “consistent with preservation of the existing agricultural economy”.

10 Response: The term “water users” in the proposed goal is inclusive of both irrigation  
11 and non-irrigation uses.

12 Comment: Several commenters stated Bisbee is not receiving water from the basin yet  
13 was allowed to vote for the AMA.

14 Response: This comment does not pertain to the proposed goal. Regulations and  
15 procedures associated with an AMA apply within the geographic boundaries of the  
16 AMA. Voting eligibility requirements for the AMA are prescribed by statute in A.R.S.  
17 § 45-415.

18 Comment: Several commenters stated that Earth fissures and land subsidence  
19 necessitate a plan similar to the initial AMAs.

20 Response: This comment does not pertain to the proposed goal. Specific conservation  
21 strategies will be developed as a part of the management plan.

22 Comment: Several commenters stated that they submitted complaints against  
23 agricultural operations expanding after August 30, 2022 and are unaware of the status.  
24  
25

1        Response: This comment does not pertain to the proposed goal. Analysis of compliance  
2 with AMA requirements is ongoing and individuals may submit questions or reports  
3 regarding compliance to the compliance portal:

4        [https://app.azwater.gov/eForms/Forms/Complaint/DWR\\_Complaint.aspx](https://app.azwater.gov/eForms/Forms/Complaint/DWR_Complaint.aspx).

5        Comment: Several commenters stated that the Department should collect data over the  
6 next several years to adjust and improve the management practices.

7        Response: The Department will continue to collect water level data and reported water  
8 use in the Douglas AMA and will begin the development of a groundwater model to  
9 better understand hydrologic conditions within the basin. The Department has added  
10 specificity to the goal, indicating that targets will be set for the rate of aquifer depletion  
11 in the first management plan, with updated metrics and conservation requirements  
12 included in subsequent management plans every ten years thereafter.

13        Comment: Several commenters stated that the goal should be similar or equivalent to  
14 the goal of safe-yield, to stabilize groundwater levels, and/or raise water levels within a  
15 set timeframe.

16        Response: The proposed goal is tailored to the unique water supply and demand  
17 conditions in the Douglas AMA.

18        Comment: Several commenters stated that the goal should have a timeframe or set an  
19 actual date for achieving the goal, with suggested timeframes ranging from immediate  
20 to 50 years.

21        Response: Pursuant to A.R.S. § 45-569, an initial management plan is required to be  
22 adopted not later than two years after the establishment of the AMA. The Department  
23 has added specificity to the goal, indicating that targets will be set for the rate of aquifer  
24 depletion in the first management plan and in subsequent management plans every ten  
25 years thereafter.

1 Comment: Several commenters stated that groundwater quality degradation necessitates  
2 a plan by the Department.

3 Response: This comment does not pertain to the proposed goal. Specific provisions  
4 related to water quality may be considered as part of the development of the  
5 management plan.

6 Comment: Several commenters stated the goal contains no metric regarding the targeted  
7 amount of reduction in aquifer depletion.

8 Response: Because the Douglas AMA does not yet have a groundwater flow model on  
9 which to base specific targets, the Department opted to leave specific quantitative targets  
10 out of the goal and will instead include specific targets in each management plan. In  
11 response to comments, the Department has added detail regarding those targets to the  
12 goal, indicating that targets will be set for the rate of aquifer depletion in the first  
13 management plan and in subsequent management plans every ten years thereafter.

14 Comment: Several commenters stated that irrigation should not be allowed during the  
15 heat of the day when evaporation loss is high.

16 Response: This comment does not pertain to the proposed goal. Specific conservation  
17 strategies will be established in the management plan.

18 Comment: Several commenters stated that the Department should impose fees, stricter  
19 regulations, and/or extinguishment for largest water users and non-local water users.

20 Response: This comment does not pertain to the proposed goal. The Department does  
21 not have the authority to impose withdrawal fees in the Douglas AMA. Regulatory  
22 requirements for different categories of water users will be developed as part of the  
23 management plan. The Director notes that any requirements considered for the  
24 management plan must be within the Department's legal and regulatory authority.  
25

1 Comment: Several commenters stated that preferences should be made for small to  
2 medium sustainable farming practices.

3 Response: This comment does not pertain to the proposed goal. Specific requirements  
4 for different categories of water users will be considered as part of the development of  
5 the management plan.

6 Comment: Several commenters stated that the goal should reference the Santa Cruz  
7 AMA Goal language “preventing long-term declines of local water tables”.

8 Response: The Douglas AMA is experiencing overdraft, which necessitates a different  
9 goal.

10 Comment: Several commenters stated appreciation for the Department listening to the  
11 community.

12 Response: The Department appreciates engagement from local stakeholders and  
13 interested parties.

14 Comment: Several commenters stated that water levels continued to decline while the  
15 Douglas Irrigation Non-Expansion Area (“INA”) was in effect, expressing concern over  
16 inadequate regulation by the Department.

17 Response: This comment does not pertain to the proposed goal. An INA limits irrigated  
18 acreage and does not include any authority to limit the volume of groundwater  
19 withdrawals. The development of the management plan for the AMA will include  
20 conservation programs designed to reduce withdrawals of groundwater.

21 Comment: Several commenters stated support for the AMA because regulations are  
22 needed.

23 Response: The Department appreciates the support from the commenters.

24 Comment: Several commenters stated that increasing irrigation efficiency in the  
25 agricultural industry should be taken into account.

1        Response: This comment does not pertain to the proposed goal. Specific requirements  
2        for different categories of water users will be considered as part of the development of  
3        the management plan.

4        Comment: Several commenters stated that there is available state and federal funding  
5        for recharge projects.

6        Response: This comment does not pertain to the proposed goal. The Department is  
7        responsible for reviewing and permitting proposed recharge facilities and will include  
8        additional information about this process in the management plan.

9        Comment: The Department received a comment stating that they will be seeking judicial  
10       review.

11       Response: Requirements for judicial review are included in A.R.S. § 45-114(C).

12       Comment: The Department received a comment stating that there is a lack of distinction  
13       between the two basins in the Douglas AMA.

14       Response: The Department has adopted basin and sub-basin boundaries pursuant to  
15       A.R.S. § 45-403, and no sub-basins for the Douglas groundwater basin have been  
16       identified.

17       Comment: The Department received a comment stating that the goal should mention the  
18       cattle industry.

19       Response: The Department opted to use the words “water users” to be inclusive of those  
20       who rely on AMA water supplies and who would be subject to AMA requirements.

21       Comment: The Department received a comment stating that the Department should have  
22       a staff member based in a Douglas office.

23       Response: The Department is committed to providing opportunities for the regulated  
24       community to engage with staff through public meetings, online office-hours, and  
25       customer service that is available during all business hours.

1 Comment: The Department received a comment stating that the goal should be a 5%  
2 reduction in groundwater depletion across all sectors by 2035.

3 Response: Because the Douglas AMA does not yet have a groundwater flow model on  
4 which to base specific targets, the Department opted to leave specific quantitative targets  
5 out of the goal and will instead include specific targets in each management plan.  
6 However, in response to comments, the Department has added detail regarding those  
7 targets to the goal, indicating that targets will be set for the rate of aquifer depletion in  
8 the first management plan and in subsequent management plans every ten years  
9 thereafter.

10 Comment: The Department received a comment stating that the public should be  
11 involved in the water use approval process.

12 Response: This comment does not pertain to the proposed goal. Pursuant to A.R.S. §  
13 45-479, there will be a 180-day period during which any person residing in the AMA  
14 may file a written objection to any application for a certificate of grandfathered right  
15 and may request a hearing on the application.

16 Comment: The Department received a comment stating that there is a need to develop  
17 an interactive 3-D map of the AMA for the public.

18 Response: This comment does not pertain to the proposed goal. A groundwater flow  
19 model will be developed for the Douglas AMA to better understand aquifer conditions  
20 in the AMA.

21 Comment: The Department received a comment stating that there is a lack of clarity on  
22 whether the goal is planned depletion or safe yield.

23 Response: The goal is to reduce the rate of water level declines in order to move the  
24 AMA towards sustainability.  
25



1 Comment: The Department received a comment stating that the Department should set  
2 a limit of 10 acre-feet per year for operations with fees for non-compliance and  
3 confiscation and/or auction of property for continued non-compliance.

4 Response: This comment does not pertain to the proposed goal. The Department does  
5 not have the authority to levy withdrawal fees in the Douglas AMA and is limited to the  
6 compliance authority established in the groundwater code.

7 Comment: The Department received a comment stating that dairy, cattle, and mining  
8 operations are industrial and exempt from regulation under the AMA.

9 Response: This comment does not pertain to the proposed goal. In an AMA, anyone  
10 using more than 10 acre-feet per year for a non-irrigation use is required to obtain a  
11 grandfathered right for withdrawal authority and may be subject to additional  
12 conservation requirements under the management plan.

13 Comment: The Department received a comment stating that it was not clear that the  
14 AMA boundaries exceeded the previous INA boundaries.

15 Response: This comment does not pertain to the proposed goal. Pursuant to A.R.S. §  
16 45-412(B), a subsequent AMA shall not be smaller than a groundwater basin. The  
17 Department provided a map of the AMA boundaries to Cochise County ahead of the  
18 election.

19 Comment: The Department received a comment stating that the goal should focus on  
20 ensuring future generations can live in the basin if they want.

21 Response: The goal is to reduce the rate of water level declines in order to move the  
22 AMA towards sustainability.

23 Comment: The Department received a comment stating that there is a need to  
24 incorporate local opinions in the goal to promote a collaborative relationship.

25

1        Response: The Department held multiple public meetings to develop the proposed goal  
2        and intends to continue to engage stakeholders as the management plan for the area is  
3        developed. In order to adopt the goal and thereafter the management plan, the  
4        Department is required to hold public hearings and provide additional opportunity for  
5        the public to provide formal comments pursuant to A.R.S. § 45-569(C). Further, the  
6        Department has made modifications to the proposed goal in response to public  
7        comment.

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9        **III. Conclusion**

10       The Director has determined it is appropriate to adopt the proposed goal, with  
11       modifications, as the Management Goal as described in the Order of Adoption issued  
12       simultaneously with this Summary of Hearing and Findings.

13  
14       Dated this 28th day of July, 2023.

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16       Thomas Buschatzke  
17       Director