

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

4 **IN THE MATTER OF THE ADOPTION**  
5 **OF THE MANAGEMENT PLAN FOR**  
6 **PINAL ACTIVE MANAGEMENT**  
7 **AREAS FOR THE FOURTH**  
8 **MANAGEMENT PERIOD.**

**DECISION AND ORDER ON REVIEW IN**  
**RESPONSE TO MOTIONS FOR REVIEW**  
**AND REHEARING FILED BY**  
**MARICOPA-STANFIELD IRRIGATION**  
**AND DRAINAGE DISTRICT AND SAN**  
**CARLOS IRRIGATION AND DRAINAGE**  
**DISTRCT**

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10 **I. INTRODUCTION**

11 On September 17, 2020, the Director of the Arizona Department of Water Resources  
12 ("director") entered an order adopting the management plan for the Pinal Active Management  
13 Area ("AMA") for the fourth management period ("Fourth Management Plan" or "4MP"). The  
14 order adopting the 4MP ("Order of Adoption") provided that any person could request a  
15 rehearing on or a review of the Fourth Management Plan by filing a motion for rehearing or  
16 review on or before October 25, 2020 at 5:00 p.m. Because October 25, 2020 fell on a Sunday,  
17 the Arizona Department of Water Resources (ADWR) extended the deadline to Monday,  
18 October 26, 2020 at 5:00 p.m.

19 Maricopa-Stanfield Irrigation and Drainage District and San Carlos Irrigation and  
20 Drainage District (collectively "Districts"), timely filed a Motion for Rehearing or Review  
21 concerning the 4MP ("Motion"), in which they requested certain modifications to the plan.  
22 This Decision and the Order that follows set forth the Director's decision and order granting  
23 review of the issues raised in the Districts' Motion and denying rehearing.  
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1 **II. DECISION**

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3 The Districts' Motion states that the 4MP contains material errors, incorrect analyses, and  
4 regulatory proposals that conflict with the statutory management goal for the Pinal AMA and  
5 the criteria for the agricultural conservation requirements during the fourth management period  
6 under A.R.S. §§ 45-567 and 45-567.02. As explained below, the Director disagrees with the  
7 Districts' arguments and denies their request for relief as detailed below.

8 The issues raised in the Districts' Motion will be addressed in the order in which they  
9 were presented.

10 **A. The Pinal AMA 4MP Disregards the Pinal AMA Management Goal**

11 The Districts note that ADWR previously referred to the management goal for the Pinal  
12 AMA as "planned depletion," and interpreted the goal to be the preservation of groundwater  
13 supplies between 1,000 and 1,200 feet below land surface for future non-irrigation uses. The  
14 Districts further note that ADWR states in the 4MP that it has moved away from this concept  
15 because it does not represent the best water management approach for the water users in the  
16 Pinal AMA, nor the continued economic viability of the Pinal AMA. The Districts argue that  
17 ADWR must provide a more detailed justification for a decision to depart from the  
18 longstanding interpretation of the Pinal AMA's management goal on which the ADWR and  
19 water users have relied to inform water management decisions for decades.

20 ADWR recognizes previous efforts by both ADWR and the broader water community  
21 to quantify the Pinal AMA management goal. However, the results of the 2019 Pinal Model  
22 update show that preserving groundwater between 1,000 and 1,200 feet below land surface for  
23 future non-irrigation uses does not adequately meet the goal of the Pinal AMA because it does  
24 not allow additional non-irrigation uses to be approved. Discussions regarding groundwater  
25 issues in the Pinal AMA are ongoing, and it is apparent that a more balanced approach to the  
management goal is necessary in order to both preserve existing agricultural economies and

1 allow development of non-irrigation uses. A more balanced approach in reducing overdraft is  
2 consistent with the goal – increased conservation and reducing withdrawals of groundwater  
3 contribute to both parts of this management goal. ADWR believes that its current approach to  
4 the Pinal AMA’s management goal is correct and is adequately expressed in the 4MP. For that  
5 reason, ADWR will not make any changes to the 4MP in response to the District’s argument.

6 **1. Eliminating Overdraft is Not Part of the Pinal AMA Management Goal**

7 The Districts argue that the 4MP frequently references the existence of overdraft in the  
8 Pinal AMA as an obstacle to achieving the management goal and that ADWR views the  
9 elimination of overdraft as “the *de facto* goal for the Pinal AMA.” ADWR disagrees with this  
10 argument.

11 The 4MP does not eliminate overdraft in the Pinal AMA, but rather seeks to reduce  
12 overdraft by increasing conservation. Reducing the overdraft contributes towards achieving the  
13 Pinal AMA’s management goal of preserving existing agricultural economies for as long as  
14 feasible, consistent with the necessity to preserve future water supplies for non-irrigation uses.  
15 Additionally, A.R.S. § 45-563(A) requires the management plans to achieve reductions in  
16 withdrawals of groundwater. The agricultural conservation programs in the 4MP were  
17 designed consistent with this statutory requirement and the Pinal AMA’s management goal.

18 **2. ADWR’s Focus on Preserving Future Groundwater Supplies in the**  
19 **Pinal 4MP Sets an Unachievable Goal for the Pinal AMA.**

20 The Districts argue that ADWR puts too much emphasis on the portion of the  
21 management goal requiring preservation of further water supplies for non-irrigation uses.  
22 ADWR disagrees with this argument.

23 The management goal of the Pinal AMA requires the balancing of the preservation of  
24 existing agricultural economies for as long as feasible and the preservation of future water  
25 supplies for non-irrigation development. Contrary to the Districts’ argument, the 4MP

1 achieves this balance. Increased conservation is consistent with both elements of the Pinal  
2 AMA management goal and with the legislative intent of the Groundwater Code, which  
3 requires the management plans to include “a continuing mandatory conservation program ...  
4 designed to achieve reductions in withdrawals of groundwater.” A.R.S. § 45-563(A). The  
5 regulatory requirements in the 4MP are reasonable and do not inhibit the continuation of  
6 existing agricultural economies in the Pinal AMA.

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8 **B. ADWR Misconstrues Statutory Direction to Design the Pinal 4MP to Achieve**  
9 **Reductions in Groundwater Withdrawals**

10 The Districts argue that that ADWR misconstrues the Groundwater Code as requiring  
11 ADWR to develop management plans or conservation requirements to achieve continual  
12 reductions in groundwater withdrawals relative to withdrawals in each preceding management  
13 period. They state that ADWR concludes that agricultural demand has not declined in each  
14 subsequent management period despite the retirement of IGFR acres, and they argue that this  
15 fails to acknowledge that agricultural demand during the management plan for the Pinal AMA  
16 for the first management period (“1MP”) was radically depressed by a nationwide collapse of  
17 the agricultural economy, compounded by the onset of CAP repayment obligations, irrigation  
18 distribution system construction debt, unaffordable CAP subcontract costs and both farmers  
19 and irrigation districts filing for bankruptcy.

20 The Districts’ argument is based upon an assumption that ADWR interprets the  
21 Groundwater Code as requiring the 4MP to reduce agricultural water demands to 1MP levels  
22 or below. This assumption is not correct. ADWR does not interpret the Groundwater Code as  
23 requiring ADWR to design the conservation requirements in each management plan in a  
24 manner that achieves a reduction in groundwater withdrawals relative to withdrawals in the  
25 preceding management period. Rather, ADWR interprets the Groundwater Code as requiring

1 ADWR to design the conservation requirements in each management plan in a manner that  
2 achieves increased conservation from that required in the previous management plan. ADWR  
3 followed this interpretation in developing the agricultural conservation programs in the 4MP.  
4 ADWR believes that this is consistent with the statutory requirement to achieve “reductions in  
5 withdrawals of groundwater” and with the Pinal AMA’s management goal.

6 The Districts state that CAP water supplies available for agriculture during the fourth  
7 management period and beyond likely will be diminished due to increased CAP water use by  
8 long-term subcontractors, scheduled CAP Ag Pool reductions, and potential Colorado River  
9 shortages. They further state that given the limited water sources available, if Pinal AMA  
10 agricultural users in fact suffer drastic reductions or the total loss of CAP water supplies,  
11 preserving a viable agricultural economy in the Pinal AMA - even with reduced acreage -  
12 necessarily will require agricultural users to increase groundwater withdrawals relative to prior  
13 management periods during which more CAP water was available to offset groundwater use.

14 In response, ADWR notes that the 4MP does not prohibit agricultural water users from  
15 increasing their groundwater use if other supplies historically used by them are no longer  
16 available. However, the Groundwater Code requires the 4MP to achieve reductions in  
17 groundwater use, which, as previously stated, ADWR interprets to mean an increase in  
18 conservation requirements from those required the previous management plan. The agricultural  
19 conservation programs in the 4MP require increased conservation, and therefore they are  
20 consistent with the statutory requirement.

21 Finally, the Districts argue that because the Groundwater Code unambiguously directs  
22 ADWR to manage Pinal AMA water use in a manner that preserves agricultural economies, the  
23 legislature clearly could not have intended for ADWR to develop management plans and  
24 conservation requirements that attempt to reduce agricultural demand relative to each  
25 preceding management period, starting from the 1MP. However, as previously explained,

1 ADWR does not interpret the Groundwater Code as requiring ADWR to design the  
2 conservation requirements in each management plan in a manner that reduces groundwater  
3 withdrawals relative to withdrawals in the preceding management period. Instead, ADWR  
4 interprets the Groundwater Code as requiring increased conservation requirements in each  
5 management plan.

6 The statutory goal for the Pinal AMA has two components – preserving existing  
7 agricultural economies for as long as feasible and preserving future water supplies for non-  
8 irrigation uses. ADWR cannot prioritize one component at the expense of the other. ADWR  
9 believes that the increase in conservation requirements in the 4MP is consistent with the Pinal  
10 AMA’s management goal because the increased conservation requirements help preserve water  
11 supplies for future uses without inhibiting the continuation of existing agricultural economies  
12 in the Pinal AMA.

13 **C. ADWR Fails to Support its Determination that the BMP Program Fails to**  
14 **Achieve Adequate Conservation**

15 The Districts note that ADWR changed the BMP Program in the 4MP to impose stricter  
16 conservation requirements for BMP farms. The districts argue that ADWR’s apparent  
17 rationale for the changes to the BMP Program stems from a misread of A.R.S. § 45-567.02(G)  
18 and a flawed analysis that compares reported water usage by BMP and Base Program farms.

19 While ADWR believes that its analysis of the BMP Program for the 4MP is  
20 appropriate, there are multiple justifications for the changes to the BMP Program in the 4MP.  
21 The changes are supported by the statutory requirements to increase conservation over  
22 successive management plans and to achieve reductions in withdrawals of groundwater.  
23 Therefore, ADWR will not make any changes to the BMP Program in the 4MP in response to  
24 the Districts’ argument. However, ADWR will update the text of the 4MP to clarify that the  
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1 justification for those changes is to comply with the statutory requirement to increase  
2 conservation in successive management plans.

3 **II. ORDER**

4 Based on the record, and the foregoing decision, IT IS ORDERED AS FOLLOWS:

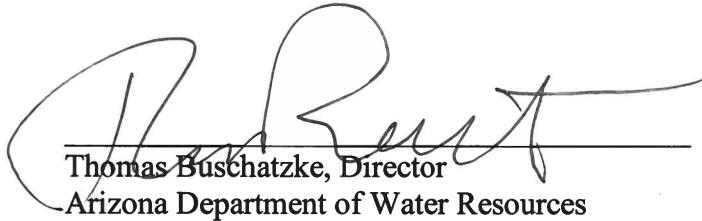
- 5 1. The Districts' request for rehearing on the 4MP is denied.
- 6 2. The Districts' request for review of the 4MP is granted. The relief requested by  
7 the Districts is granted or denied as set forth above.
- 8 3. This Decision and Order and the Final Order of Adoption adopting the 4MP are  
9 the final decisions in this case, and any appeal pursuant to A.R.S. § 12-901 through 12-914  
10 shall be of this Decision and Order and the Final Order of Adoption.

11 GIVEN, under my hand and the Official Seal of the Arizona Department of Water  
12 Resources, this 14<sup>th</sup> day of December, 2020.



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Thomas Buschatzke, Director  
Arizona Department of Water Resources

18 A copy of the foregoing is  
19 sent by certified mail this  
20 16<sup>th</sup> day of December, 2020, to:

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