

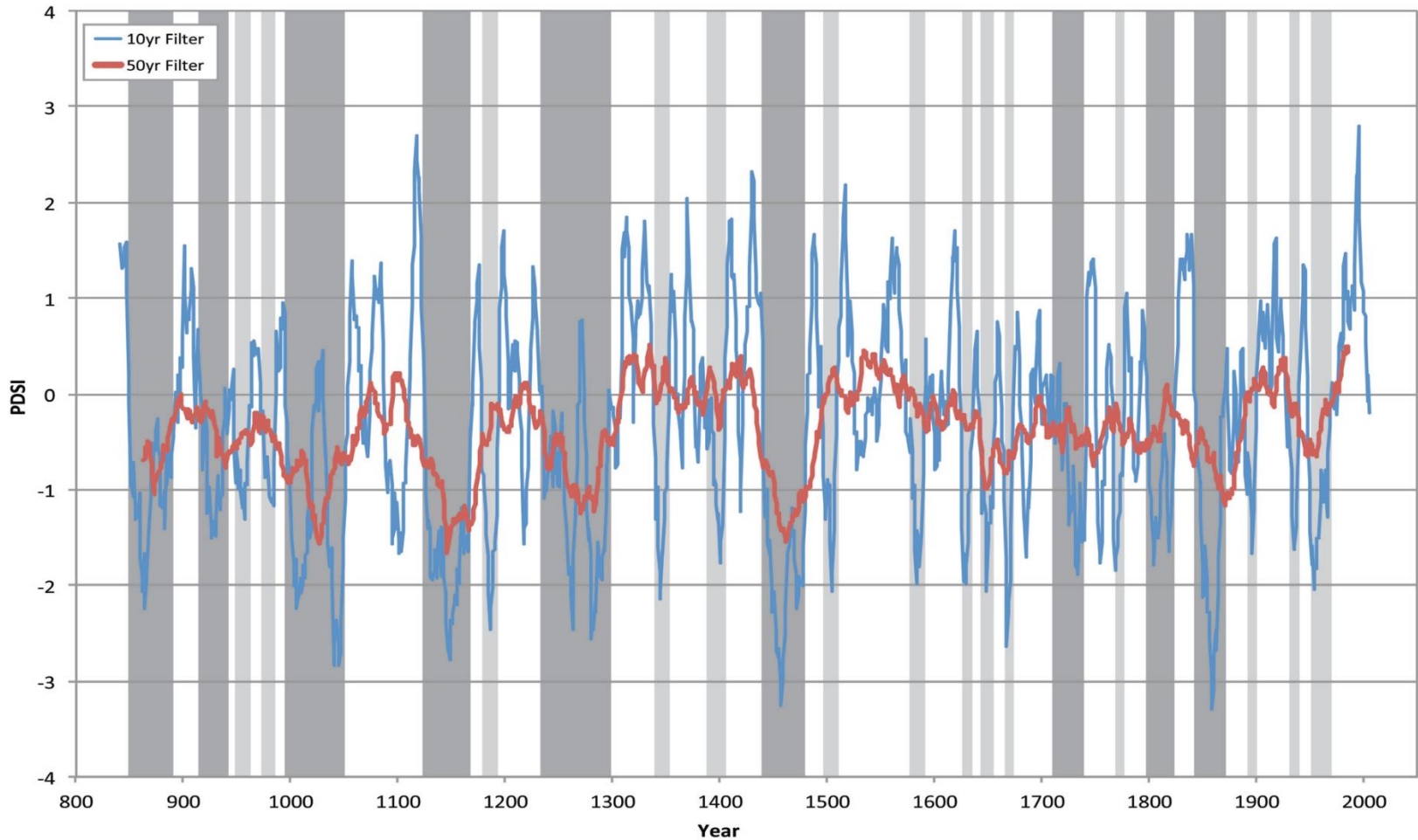
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**WATER 101**  
**WATER RIGHTS IN KANSAS:**  
**THE BASICS**

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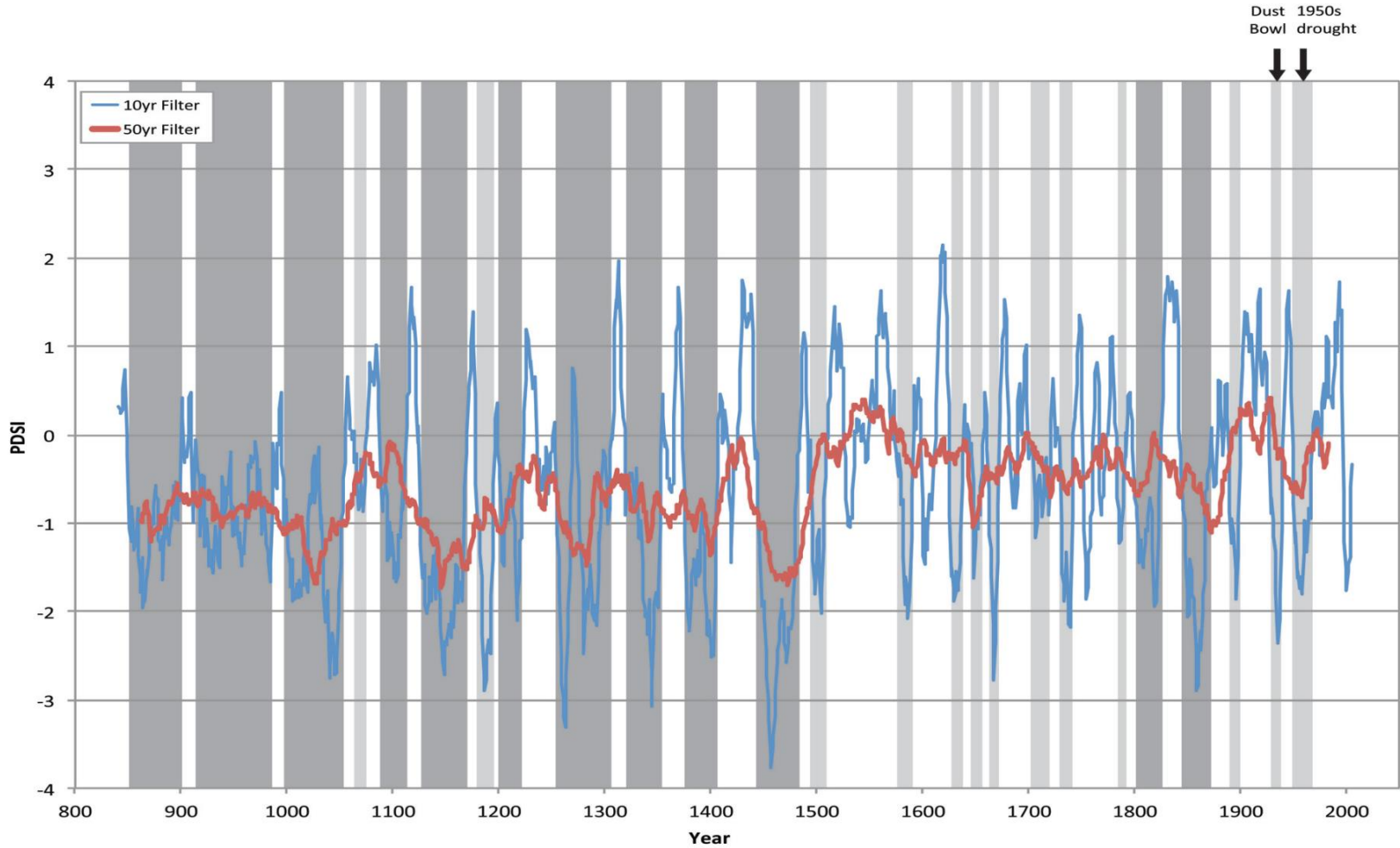
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## Reconstructed Palmer Drought Severity Index for Southwestern Kansas – 800-2000 C.E.



Light-gray bars indicate droughts of similar duration to the 1930s and 1950s droughts; dark-gray bars indicate droughts of greater duration.

# Reconstructed Palmer Drought Severity Index for Northwestern Kansas – 800-2000 C.E



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# Basic Principles

Water Appropriation Act  
1945

***All water*** is dedicated to the use of the people and is subject to the control and regulation by the state

Prior Appropriation – First in time is first in right

All surface water and groundwater may be appropriated for  
“Beneficial Use”

Unlawful to divert or appropriate water without a Permit

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# Basic Principles

All water rights must be for some Beneficial Use.

Water rights in excess of reasonable needs are not allowed

Wasting water is prohibited

Unused water rights are subject to forfeiture  
unless there is a “due and sufficient cause”

(There is an exception for groundwater rights in closed areas)

Water rights are real property rights “appurtenant to and severable from the land on or in connection with which the water is used” and pass as appurtenances with a conveyance of the land by deed, lease, mortgage, will, or inheritance.

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# Types of Water Rights

Vested Rights

Appropriation Rights

Domestic Rights  
(Vested or Appropriation)

Water Reservation Rights  
(Kansas Water Office)

Temporary Permits

Term Permits

Federal Reserve Water Rights

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# Domestic Use

Domestic use:

use of water by any person or by a family unit or household

for ***household purposes***,

or for the ***watering of livestock, poultry, farm and domestic animals used in operation a farm***,

and for the ***irrigation of lands not exceeding a total of two acres*** for the growing of gardens, orchards and lawns.

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# Basic Characteristics of Kansas Water Rights

Date of Priority

File Number

Rate of Diversion

Annual Quantity

Point of Diversion

Place of Use

Beneficial Use

Consumptive Quantity

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# Creating a New Water Right

File an Application for a water right with DWR

If the Application meets all of the requirements, a Permit is issued

Time limits to complete Diversion Works and to  
Apply Water to Authorized Beneficial Use

Perfect water right by applying water to beneficial use

When perfection period ends, DWR conducts a field inspection to determine  
extent of perfection and other characteristics of the Water Right

DWR issues a Certificate of Appropriation that describes the perfected  
characteristics – filed with the Register of Deeds

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# Considerations for New Permits

Is water available in the area?

Safe or Sustainable Yield Issue.

Surface or Groundwater?

Will treatment be required in order to make use of the water?

Can you live without water during summer months?

What will the priority of your new right be  
in relation to other rights?

New Application are always the most junior

Depends on priority of other water rights in the same source

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# Considerations for New Permits

## Minimum Desirable Streamflow Concerns

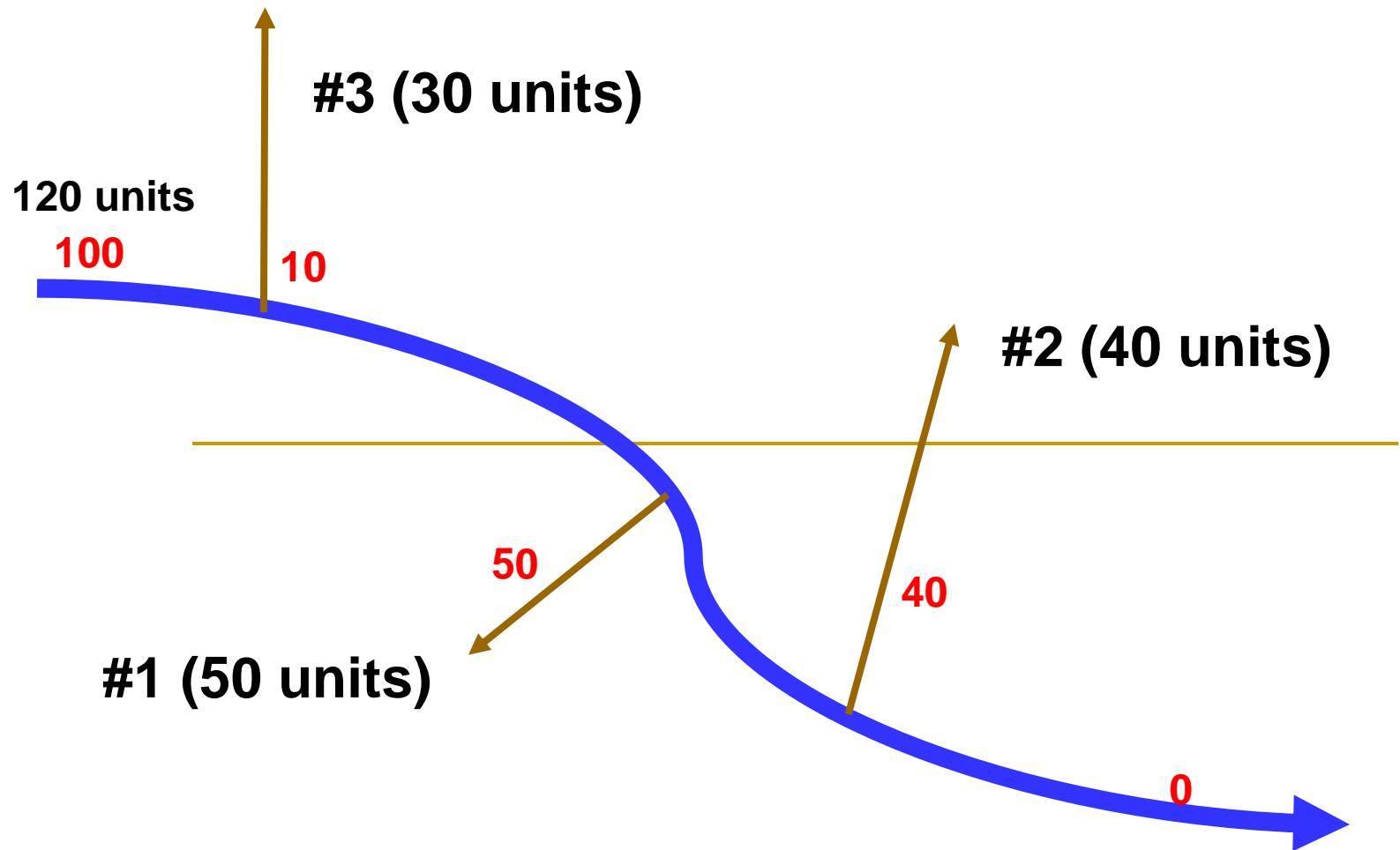
Applies to Surface and Groundwater Sources  
Makes new rights less dependable

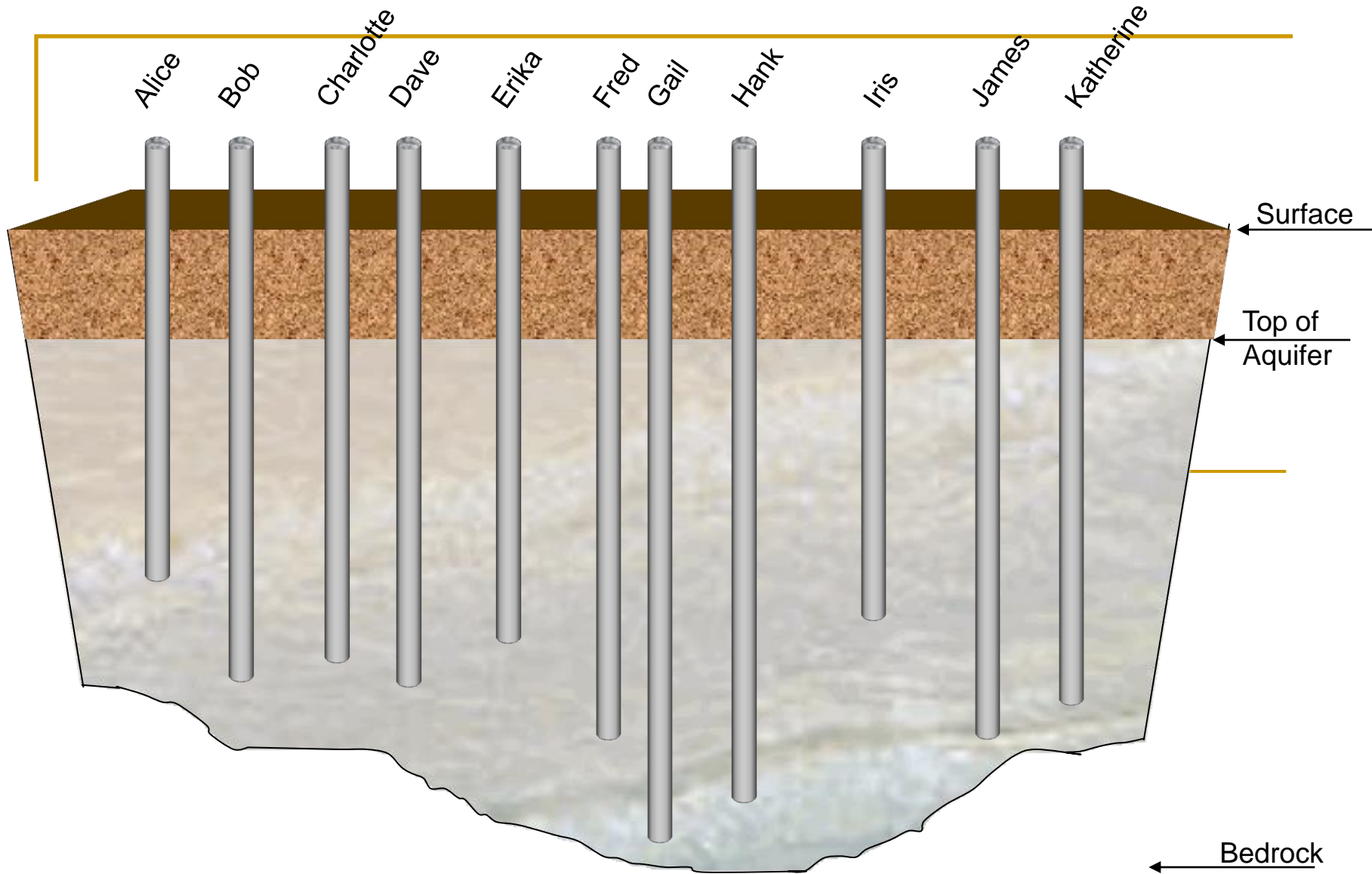
Are there existing rights that can be  
purchased or condemned?

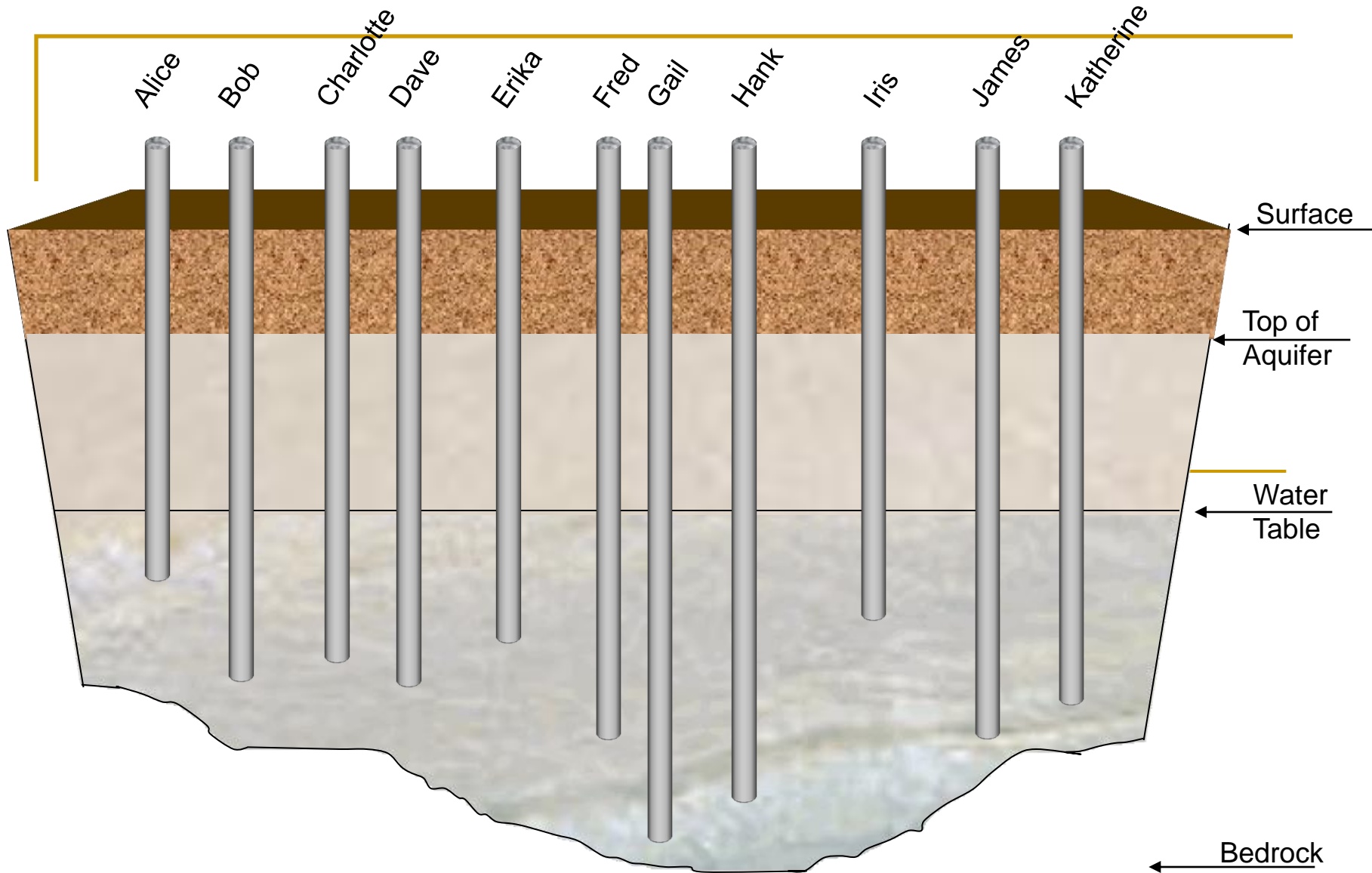
As a general rule, new uses are going to require the acquisition of existing rights and conversion from one use to another.

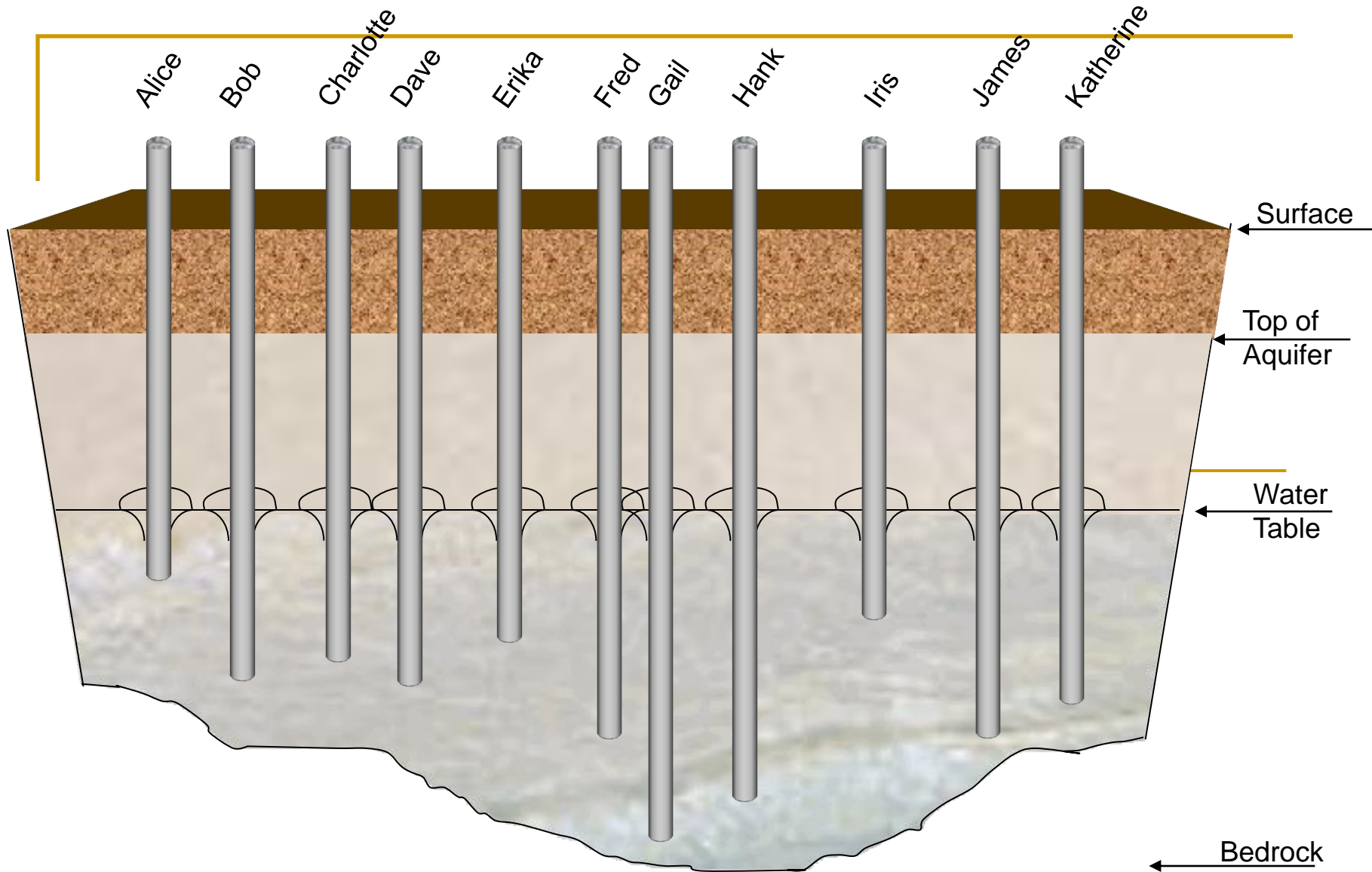
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# Prior Appropriation – Surface Water









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# Changes in Water Rights

K.S.A. 82a-708b. Application for change in place of use, point of diversion or use; fee; review of action on application.

- (1) Apply in writing to the chief engineer for approval of any proposed change;
  - (2) Demonstrate that proposed change is reasonable
  - (3) will not impair existing rights;
  - (4) proposed change relates to the same local source of supply
  - (5) receive the approval of the chief engineer
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# Change Applications

Must obtain DWR approval to make changes  
K.S.A. 82a-708b

## Place of Use

Very little restriction

Most limitations are practical

Pipeline length

Water Transfer (2000 AF more than 35 Miles)

## Point of Diversion

Usually one-half mile maximum

Impairment of other rights (even junior rights)

## Type of Use

Must show that you need the water for a Beneficial Use

Must show that Quantity is reasonable

Water Rights in excess of reasonable needs are not allowed

## Consumptive Quantity

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# Requirements for Change Applications

Regulations found at K.A.R. 5-5-1, *et seq.*

Application on form prescribed by DWR

Signed by at least one owner

All owners must sign or application will be denied except

Some exceptions for short moves

Could require a division of the water right if some owners will not sign

Application must meet the criteria established by DWR

Conservation plans, if required

Meet spacing requirements

If in GMD, must be approved by the GMD

Abandonment issues will have to be resolved

Detailed map required for both original applications and change applications.

see K.A.R. 5-5-2 (i) (1)-(8) and (j)

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# Consumptive Use

Can only change the quantity that was actually legally consumed by the original permit holder

Water must have been used on authorized Place of Use

For the authorized Beneficial Use

From the authorized Point of Diversion

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# Irrigation to Other Uses

## Net Irrigation Requirement

NIR for 50% Chance Rainfall in County times  
maximum acres legally irrigated during the perfection period.

5-5-12. Net irrigation requirements (NIR).

The following amounts shall be used as the net irrigation requirements (NIR).

<b>County</b>	<b>50% Chance Rainfall</b>	<b>80% Chance Rainfall</b>
Sedgwick	10.7" = 0.89'	13.1" = 1.09'
Grant	14.9" = 1.24'	16.7" = 1.39'

Assume 1.5 Acre Feet Per Acre in Sedgwick County: 59%

Assume 2.0 Acre Feet Per Acre in Grant County: 62%

Can submit engineering study to show that these quantities are incorrect in the specific location.

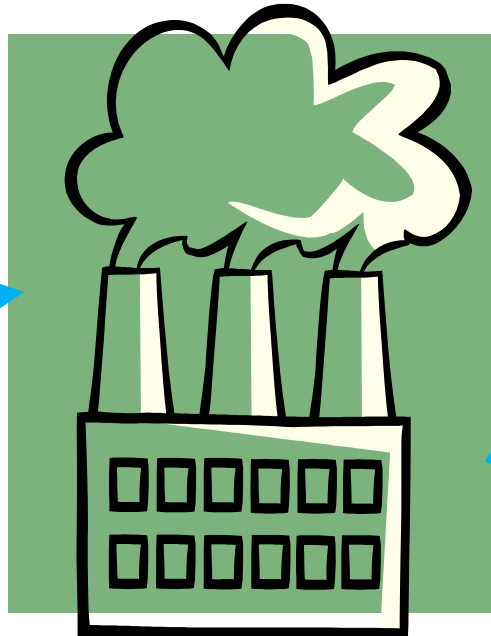
Cannot exceed the maximum annual quantity authorized by the right.

Limited by reasonable Quantity for the new use

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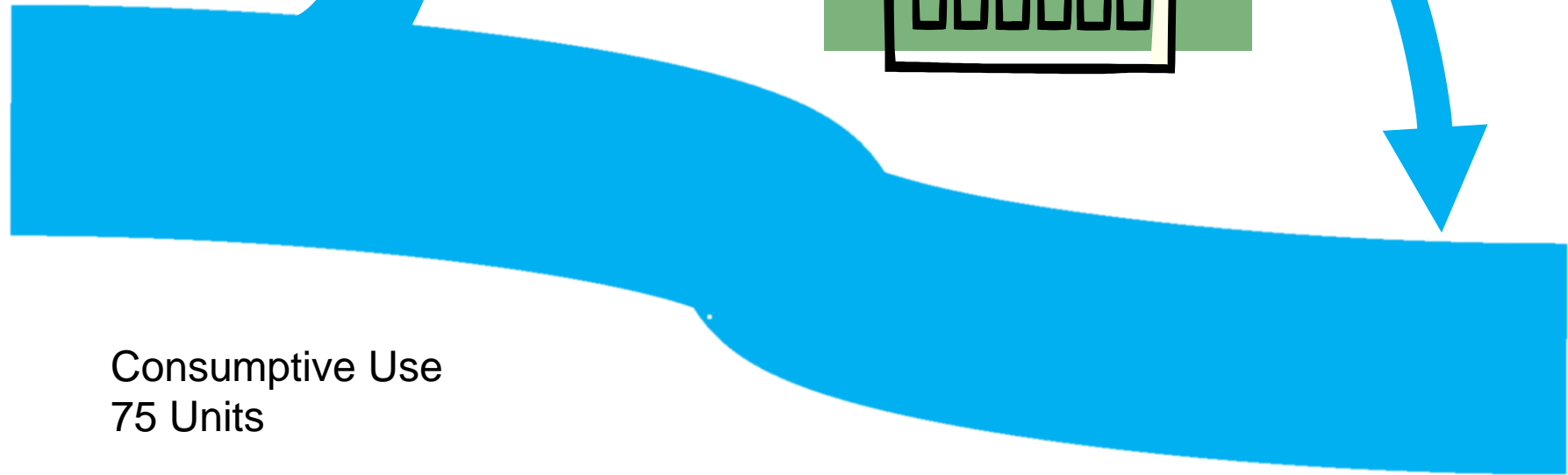
Consumptive Quantity

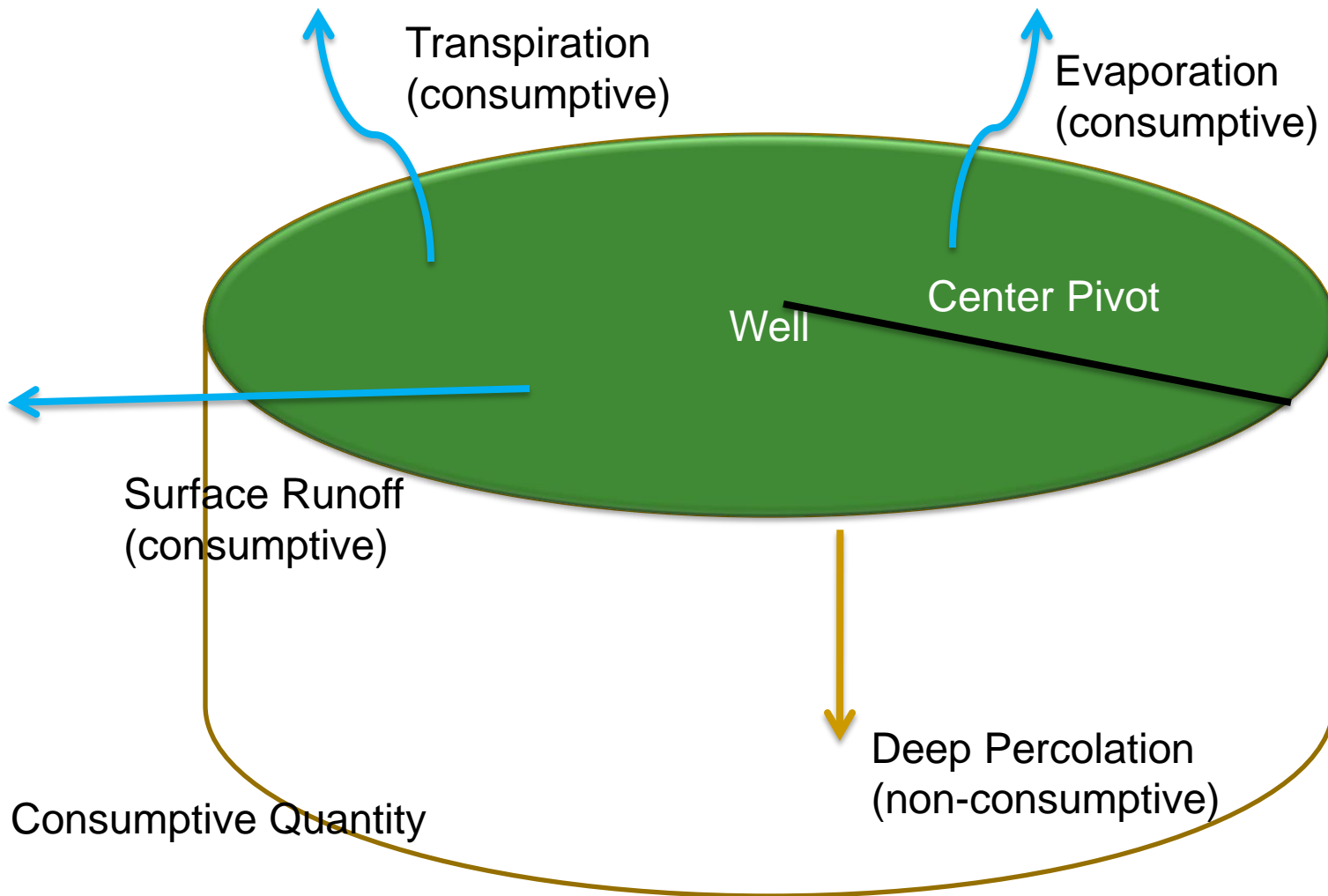
Diversion  
100 Units



Return Flow  
25 Units

Consumptive Use  
75 Units





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# Purchase of Existing Water Rights

Review Title issues

Review DWR File to determine  
**Validity** and  
**Vitality**  
of Water Rights

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