

Arizona's Water

Law & History

ASU ^{Kyl Center for Water Policy}
at Morrison Institute
Arizona State University



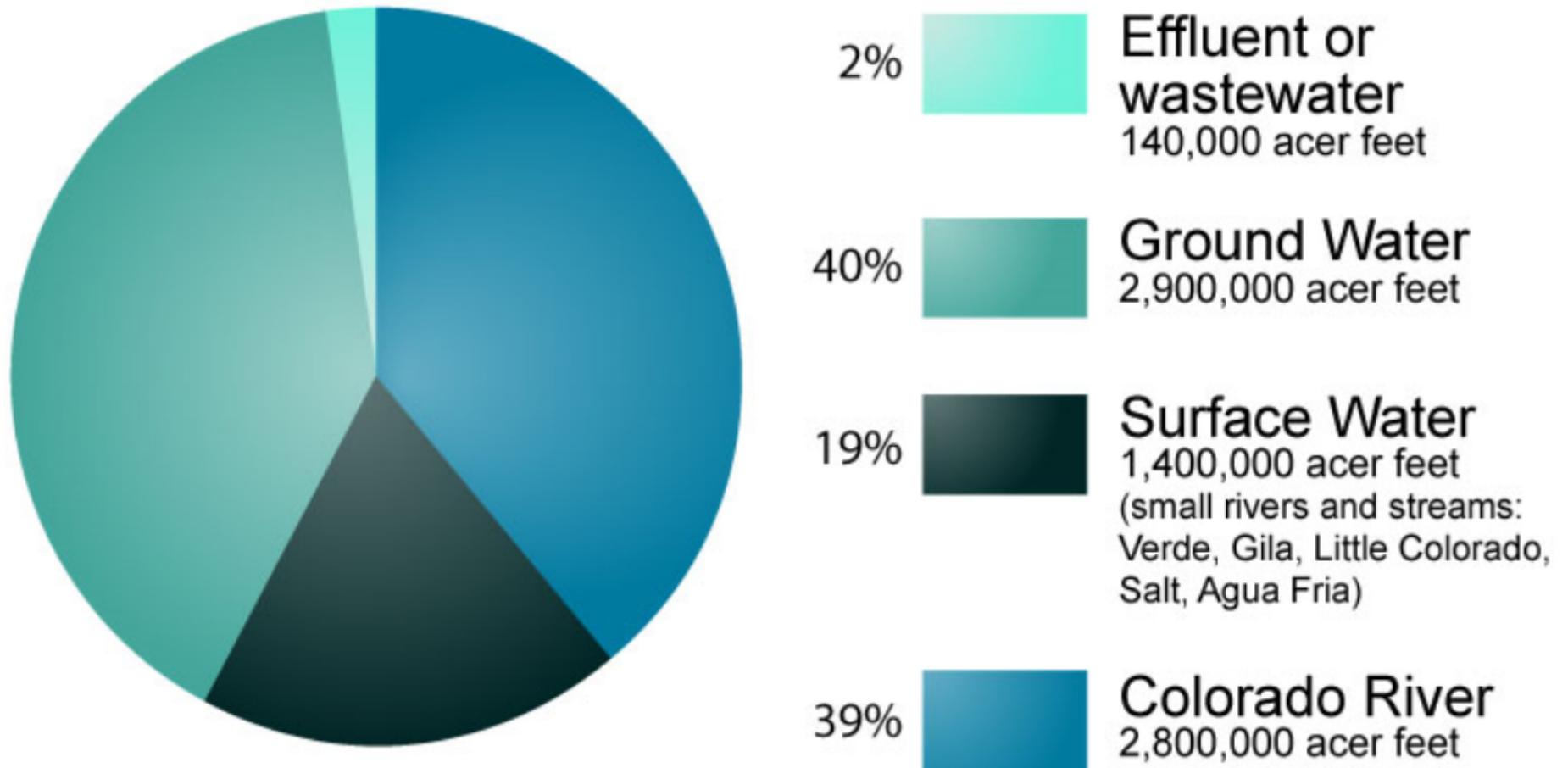
Professor Rhett Larson
Arizona State University
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Law, Sandra Day O'Connor College of Law
Senior Research Fellow, Kyl Center for Water Policy

Western Water Policy Eras

- The Carrot of Prior Appropriation & Reclamation
- The Law of the River
- Managing Groundwater
- Resolving Water Disputes
- The Future - Conservation & Augmentation

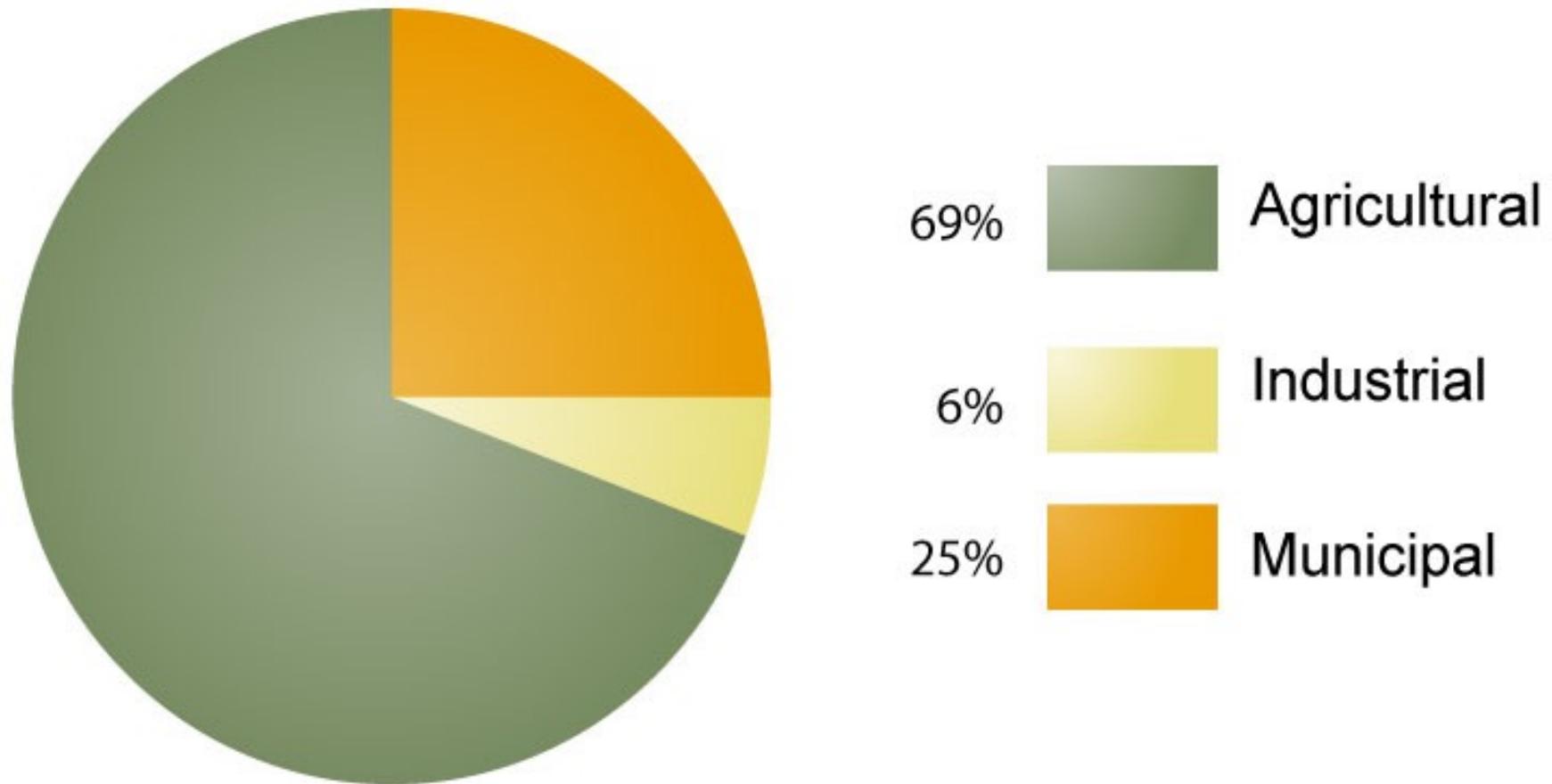


Arizona Water Sources



Values based on Arizona Department of Water Resources ABC's of Water
<http://www.azwater.gov/AzDWR/PublicInformationOfficer/ABCofWater.htm>

How do we use water?



Values based on Arizona Department of Water Resources

<http://www.azwater.gov/AzDWR/PublicInformationOfficer/documents/supplydemand.pdf>

Water Appropriation I

JUNIOR USER 1970 water right →

First-in-time, First-in-right
Beneficial Use Without Waste
Forfeiture – use it, or lose it
Call on the River &
the Futile Call Doctrine

← SENIOR USER
1910 water right

SRP Water Service Area



Sharing the Colorado River in the U.S.

- The Law of the River
- Colorado River Compact
- Boulder Canyon Project Act
- 1944 Rivers Treaty & Minutes
- Arizona v. California
- Dept. of Interior Guidelines
- Drought Contingency Plan



courtesy: u.s. bureau of reclamation

CENTRAL ARIZONA PROJECT



○ DESIGNATES RECHARGE PROJECT

Lake Mead 2007 Shortage Sharing Guidelines

Jan 1st elevation Arizona reduction Nevada reduction Mexico reduction

<i>1075'</i>	<i>320,000 AF</i>	<i>13,000 AF</i>	<i>50,000 AF</i>
<i>1050'</i>	<i>400,000 AF</i>	<i>17,000 AF</i>	<i>70,000 AF</i>
<i>1025'</i>	<i>480,000 AF</i>	<i>20,000 AF</i>	<i>125,000 AF</i>

No reductions to California

In Minute 319 & 323, Mexico agreed to voluntary reductions



Managing Groundwater in Arizona

**Overview: Groundwater
General Groundwater Law**

**The AZ Groundwater
Management Act of 1980**

Historical Background

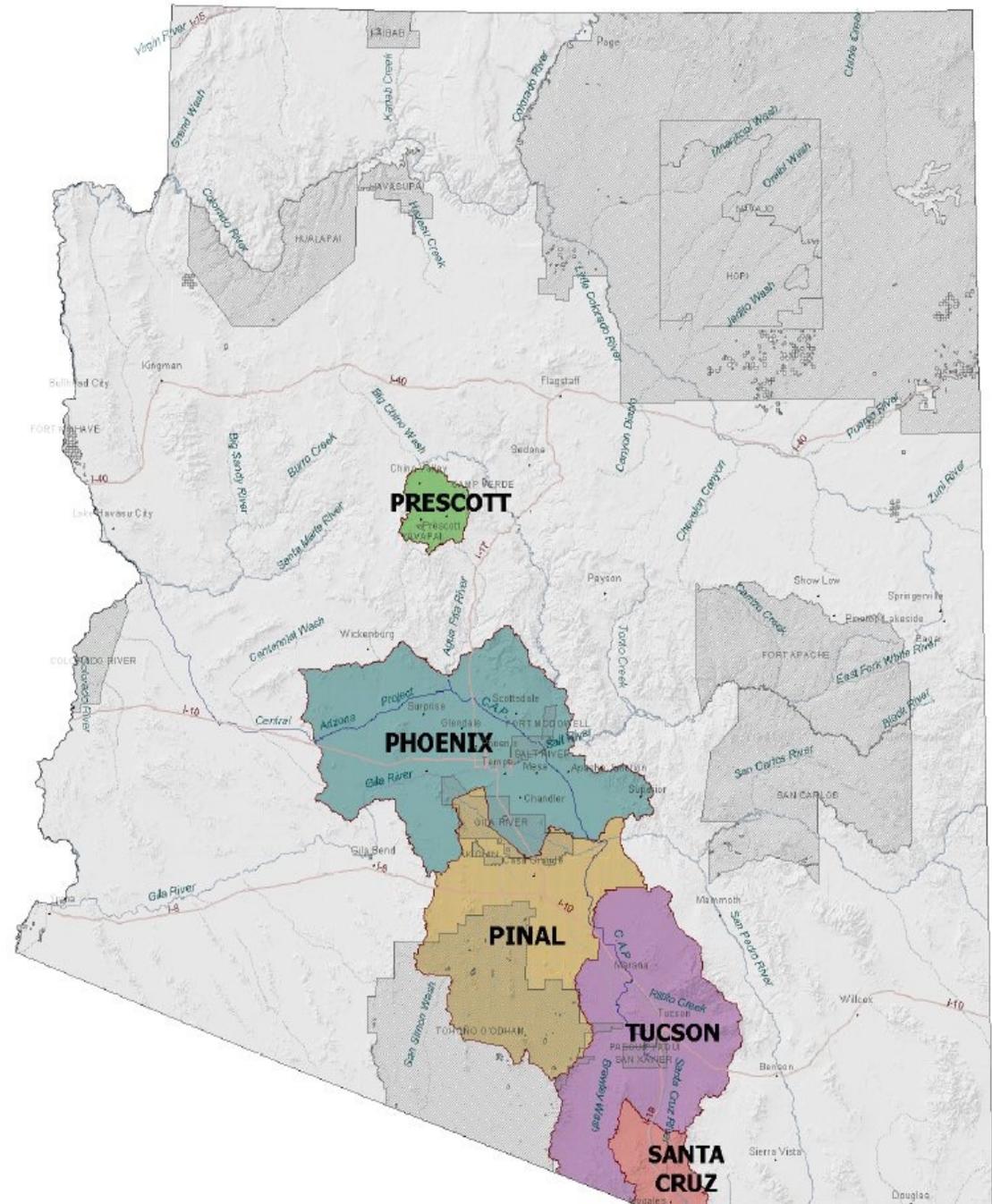
Active Management Areas

Assured Water Supply

Groundwater Rights in
Active Management Areas

Groundwater Recharge

Central Arizona Groundwater
Replenishment District



Resolving Water Rights Uncertainties

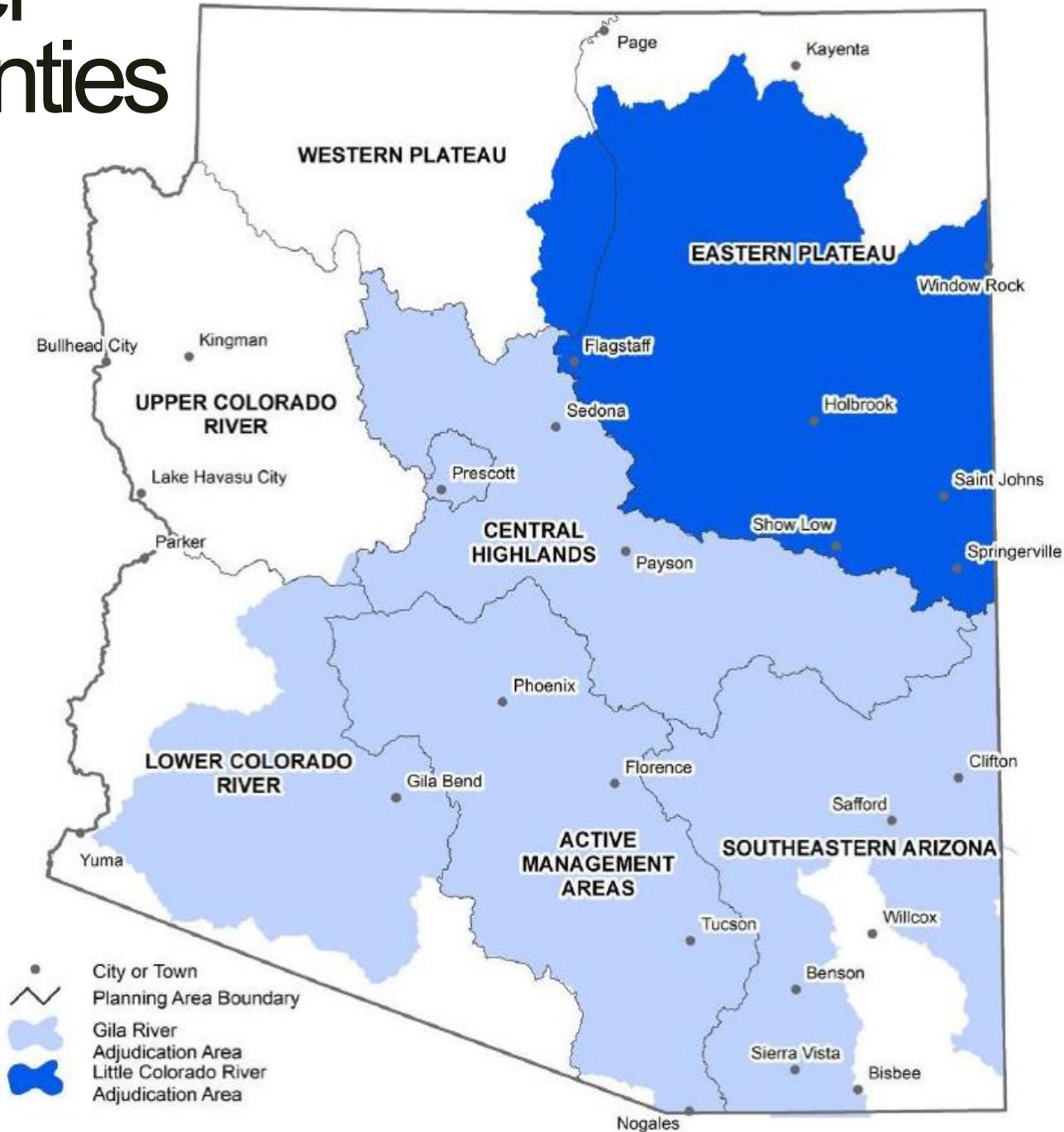
Federally Reserved Water Rights

General Stream Adjudications

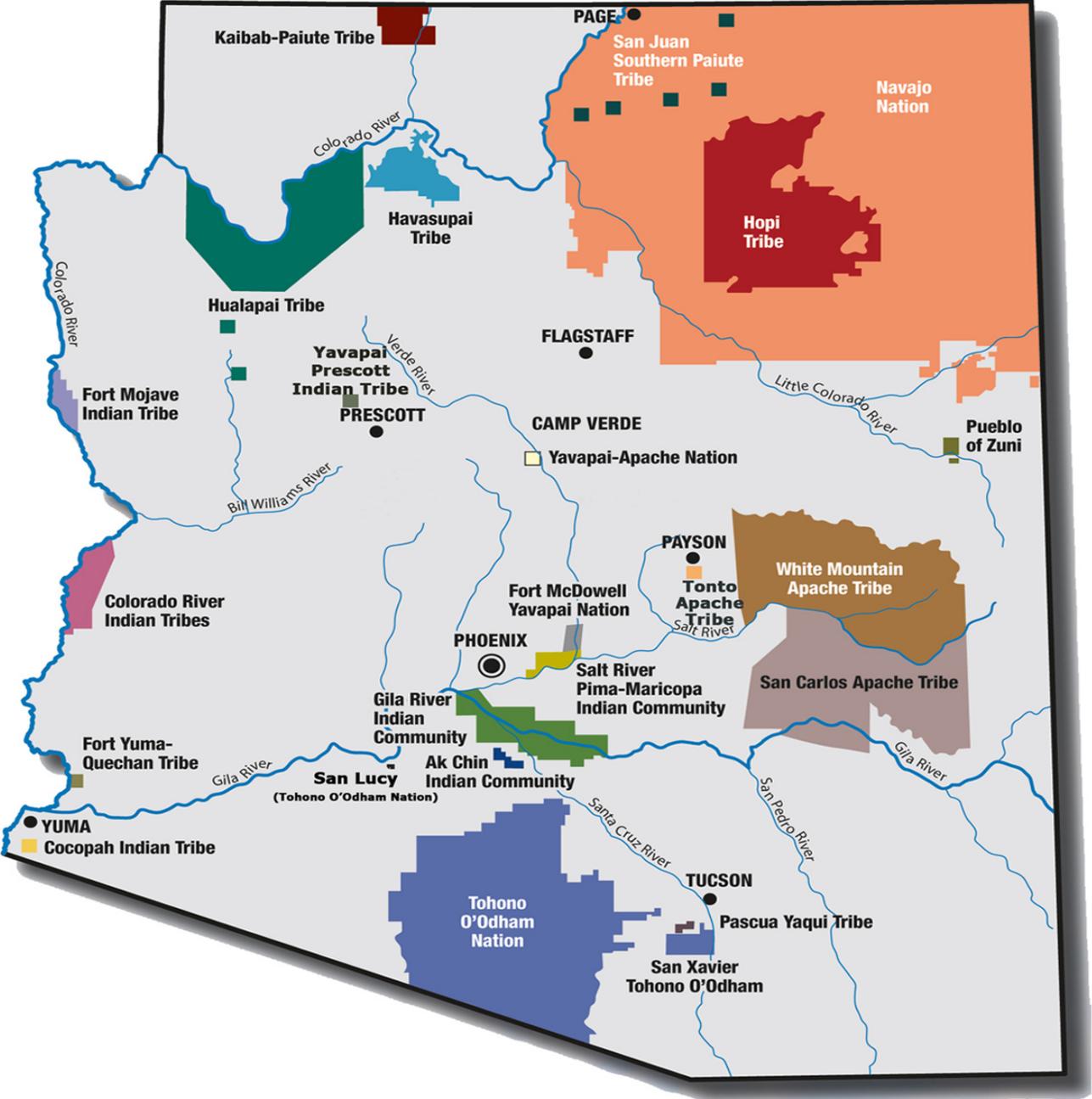
Major Obstacles to Resolution

Why It Matters

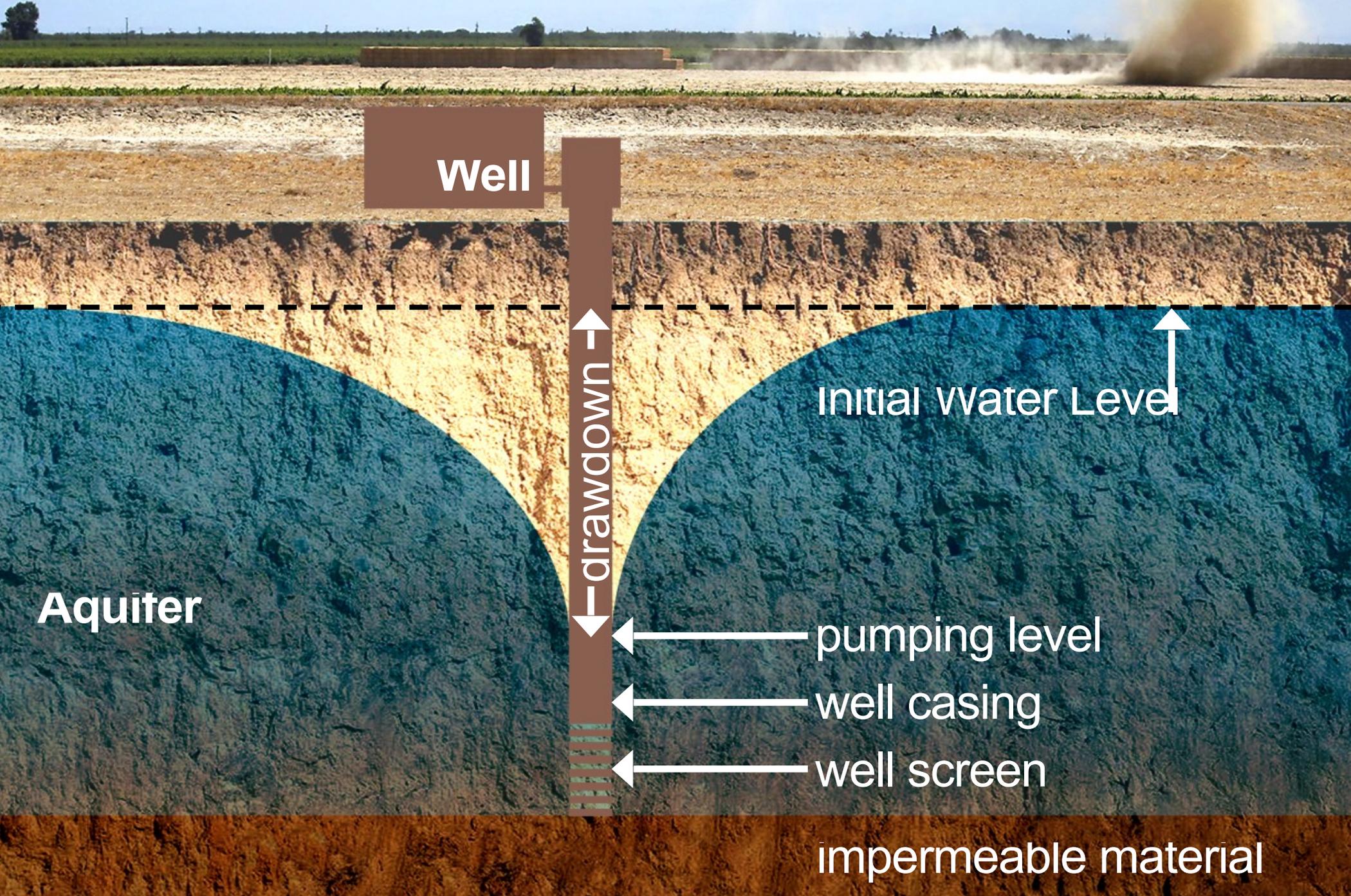
Potential Reforms



Tribal Reservations in Arizona



Pumping Groundwater Cone of Depression



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Kyl Center conducted qualitative surveys of real estate developers and corporate siting consultants.

“If you don’t have water, you don’t have economic development.”

Real Estate Developer

“Things that you have no control over are things that make you want to run away.”

Real Estate Developer

“Risk and uncertainty are the enemies.”

Site Location Consultant

“If you use a lot of water you need to have a good reason to be in Arizona.”

Site Location Consultant

“To have uncertainty with respect to water would put a kibosh on the whole thing.”

Real Estate Developer

“The California drought has caused heightened concern.”

Real Estate Developer

“Now everyone is looking at it.”

Site Location Consultant

“If there’s a question about water, we take that site off the list.”

Site Location Consultant

Are investors more concerned about water these days?

	<u>Yes</u>	<u>No</u>	<u>Not Sure</u>
Developers	16	1*	2
Consultants	6	1	1
Lawyers	1		2

- ***“Water has always been a top concern.”**
- **Tolerance for water uncertainty –
unanimously 0%**

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Western Water Law Going Forward

1. Understand what we have
 - Better monitoring and modelling
 - Resolve stream adjudications
 - Quantify tribal water rights
2. Conserve what we have
 - Legal & economic incentives for conservation
 - Moving towards a water ethos
 - Technological innovations
3. Store what we have
 - Artificial Recharge
 - Reservoir Management
4. Increase what we have
 - Traditional Augmentation
 - Non-Traditional Augmentation

