

Ag-PWR Expansion Statewide



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Meeting Agenda

- Overview of Agricultural Water Protection Water Right (Ag-PWR)
- DWR's SWSP Rules
- CWCB's Criteria & Guidelines



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What is Ag Water Protection Water Right? (Ag-PWR)

Special changed water right - recently expanded statewide

- Decree historical consumptive use of irrigation water right in water court.
- The use of the changed water is flexible and not identified in the decree
- In the future - can use up to 50% of the water for different uses that can vary from year to year



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Irrigation Water Right

Use water for
irrigation

Remainder in
continued
irrigation & enroll
land in Program

AgPWR Change

1. Quantify historical use
2. Identify protective terms and conditions

Water Court

SWSP

1. Describe new, use
2. Only up to 50% of water to new use
3. Additional terms and conditions for new use

State Engineer



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Remaining irrigated land enrollment

Owner of Ag-PWR required to participate in one or more of the following programs:

1. Conservation programs (federal, state, local, or nonprofit) that conserve the land historically served by the irrigation water right, such as:

- Colorado's Conservation Easement Program
- USFWS Easement Program
- NRCS Easement Program
- CPW Easement Program
- County open space easement program

2. **Agricultural Water Protection Program sponsored by an “eligible entity”**



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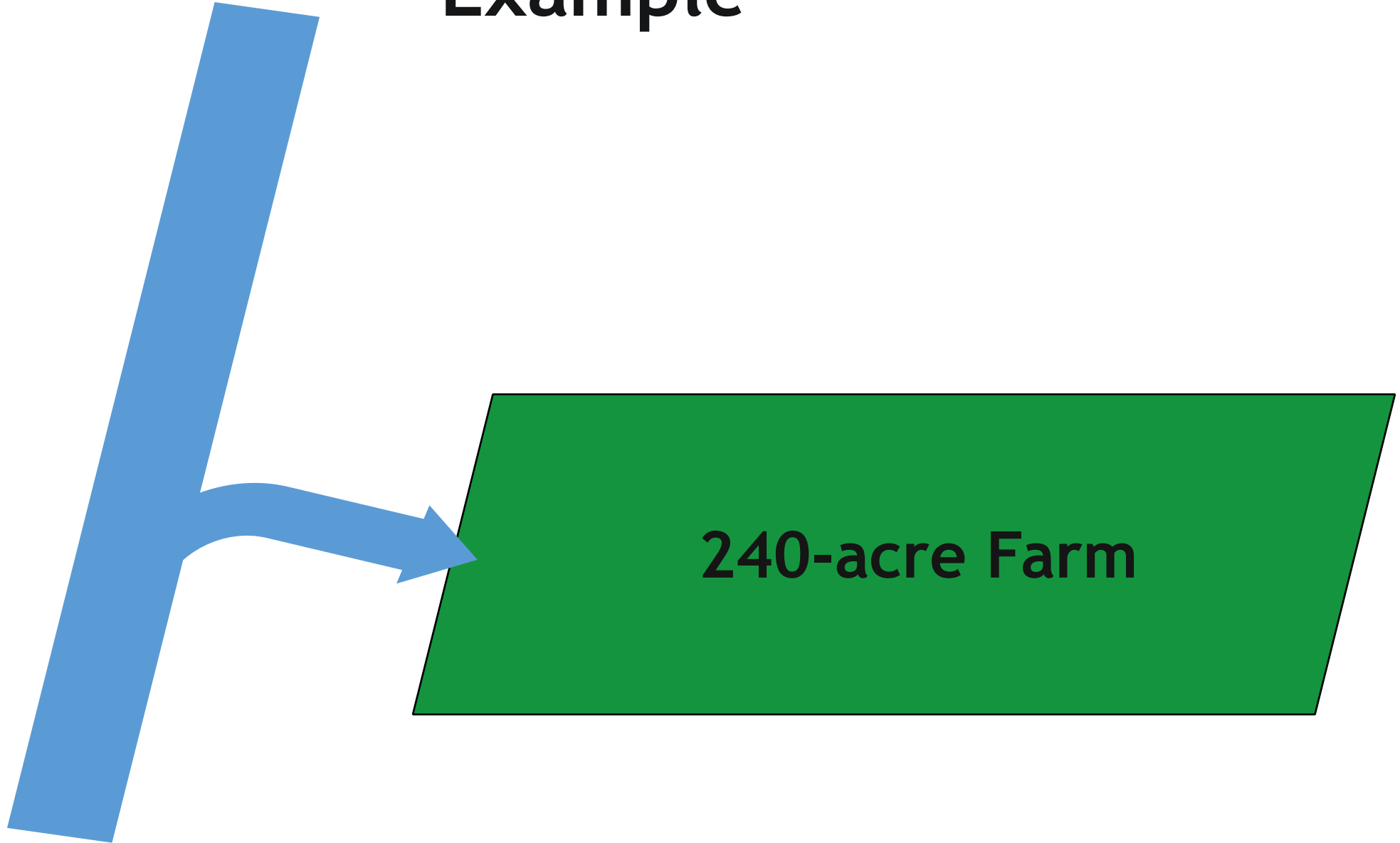


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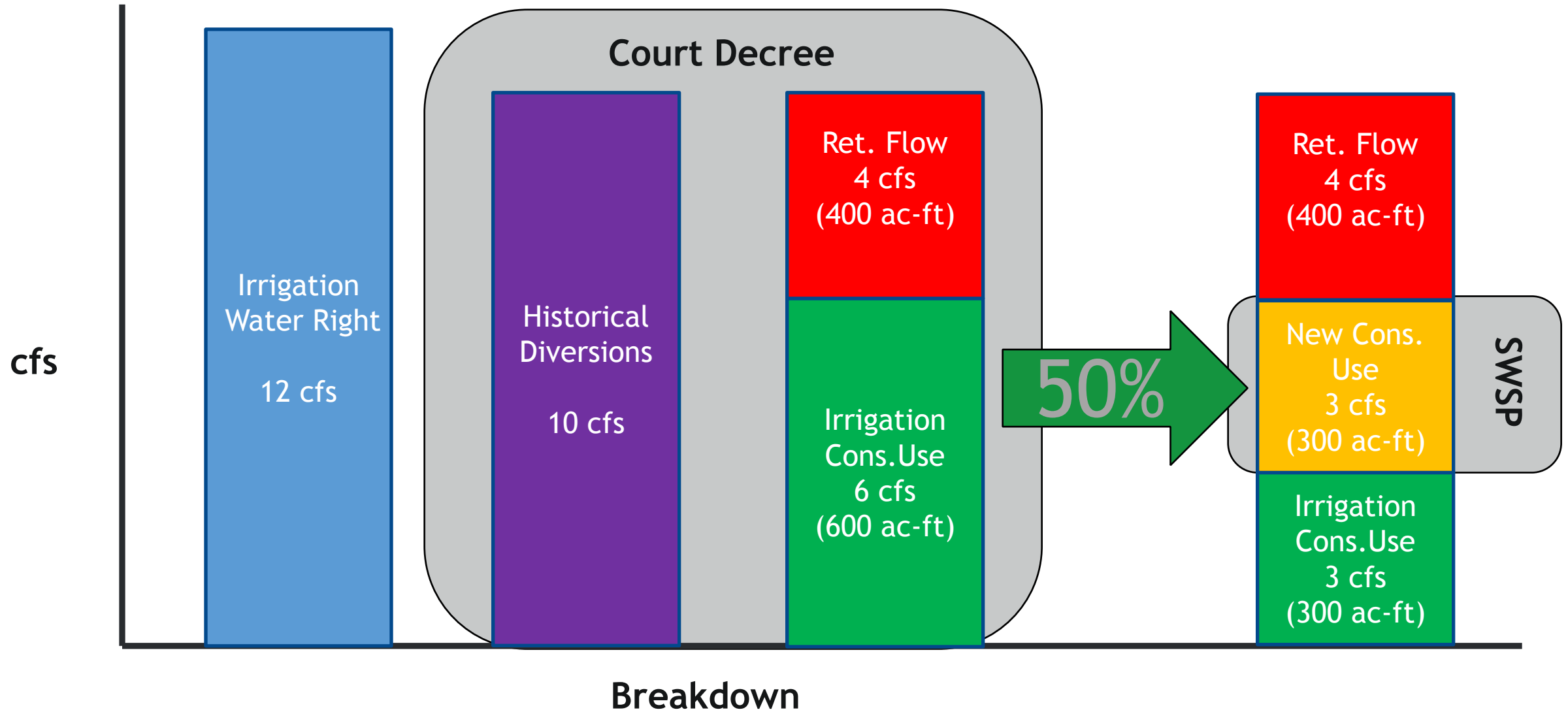
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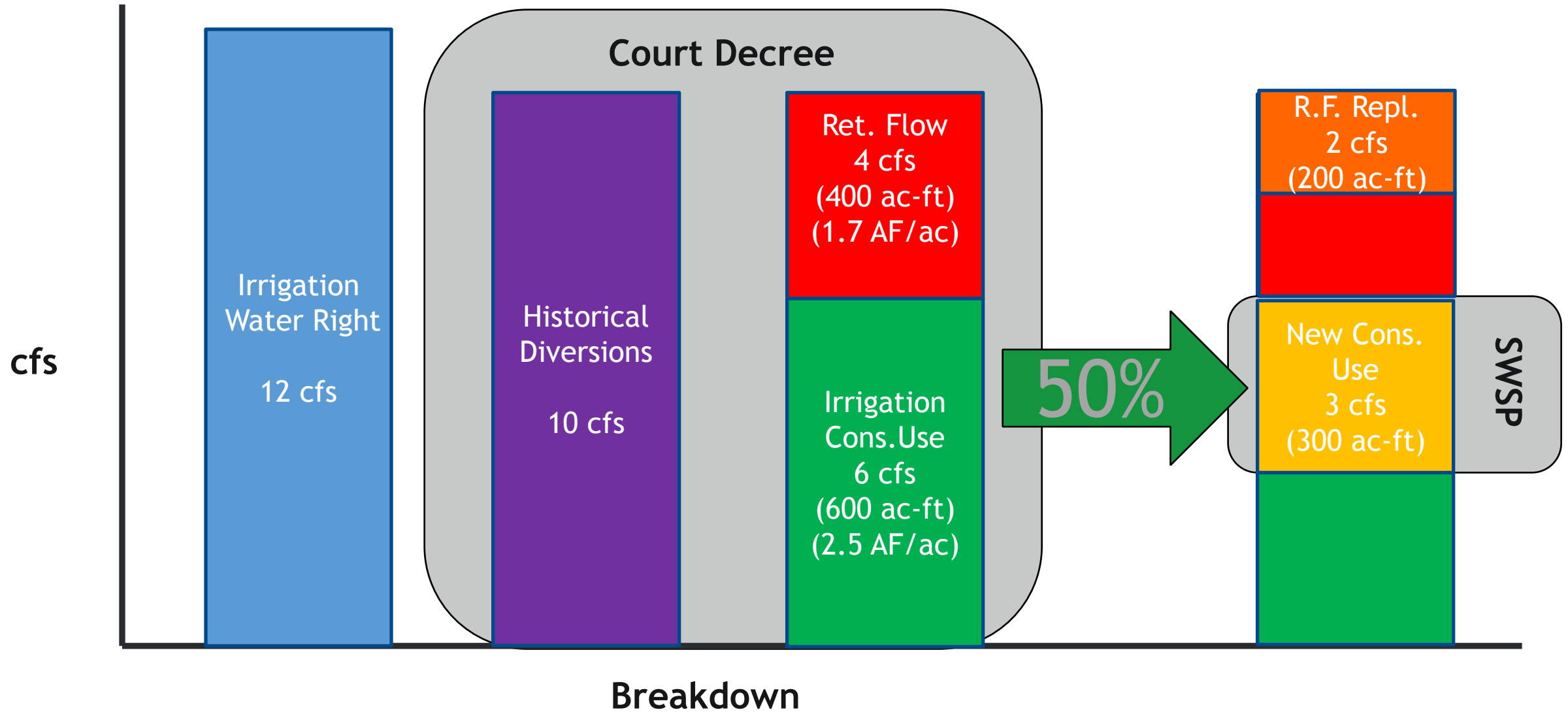
Example



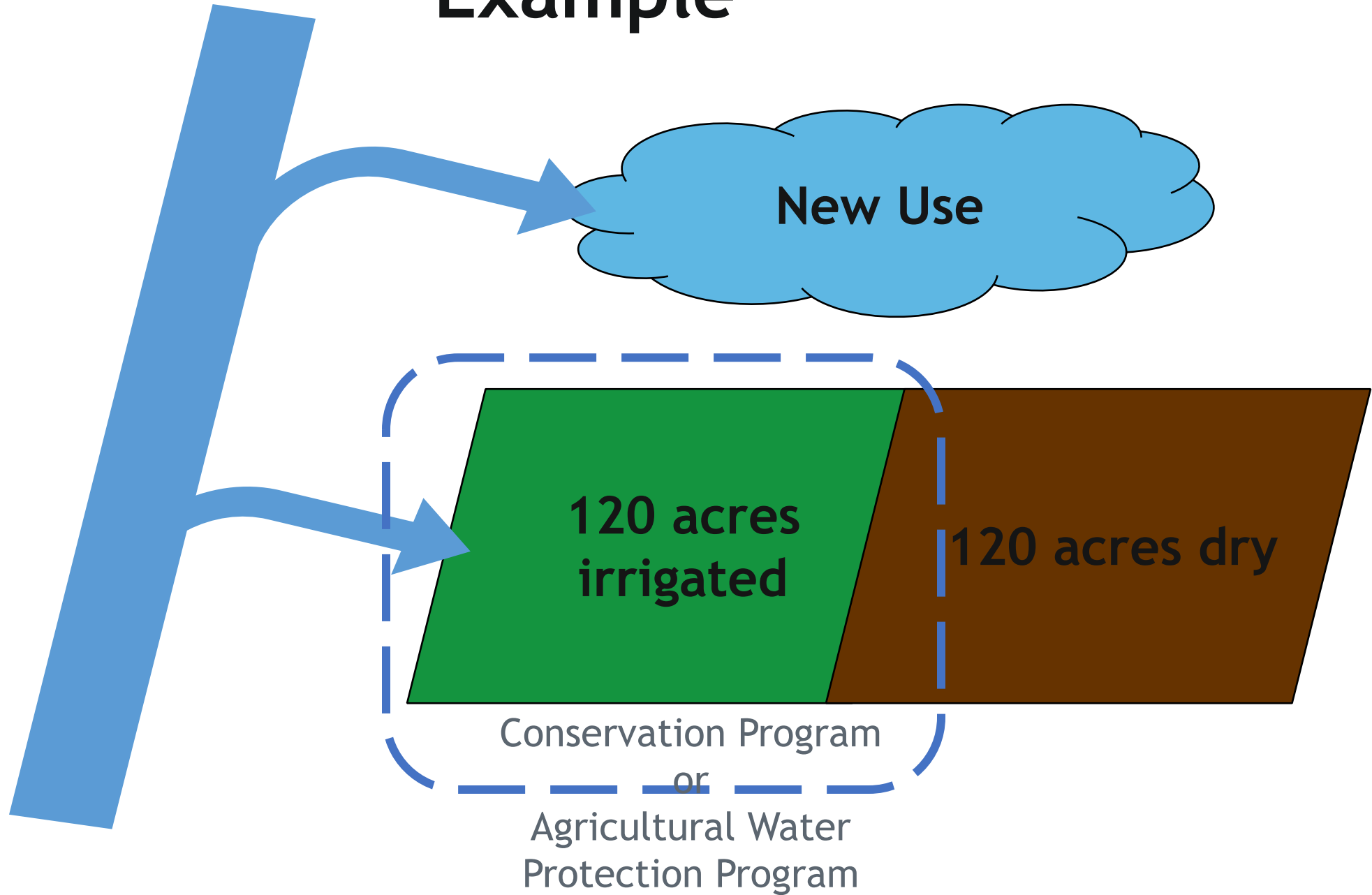
Example



Example



Example



Ag-PWR water & transbasin water use

Ag-PWR SWSPs *cannot*:

“facilitate the diversion of water between water divisions by direct diversion, exchange, replacement, or other means;”

37-83-123(1)(b)(III), C.R.S.



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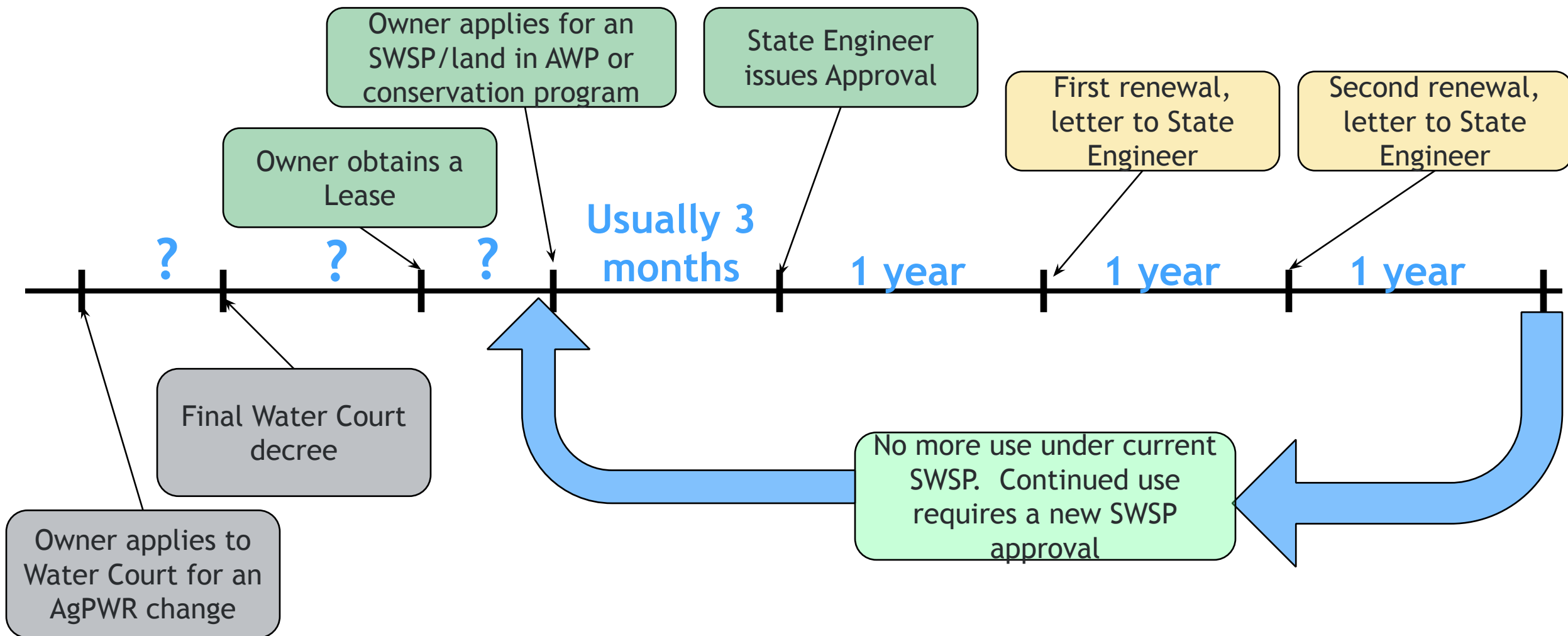


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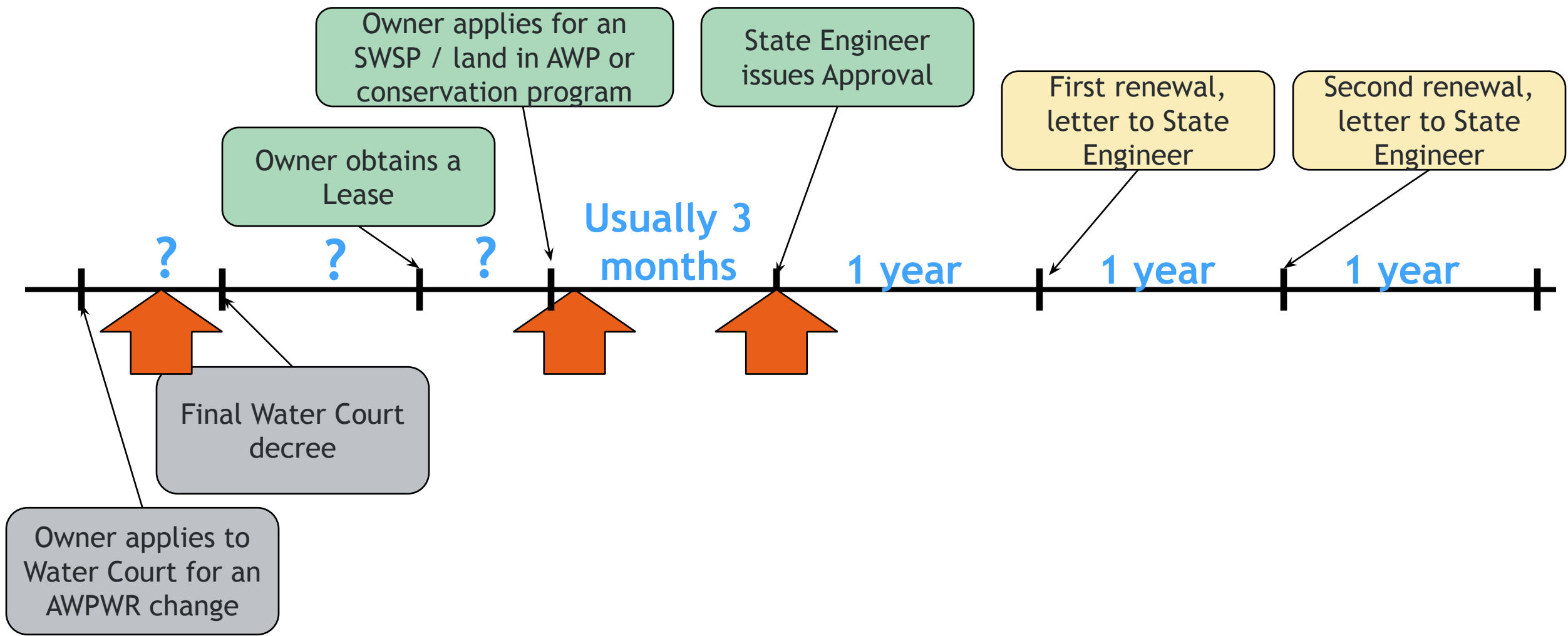
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Sequence of Events



Opportunities to Comment on Changed Use



Large-Scale Example

Ditch Company Boundary



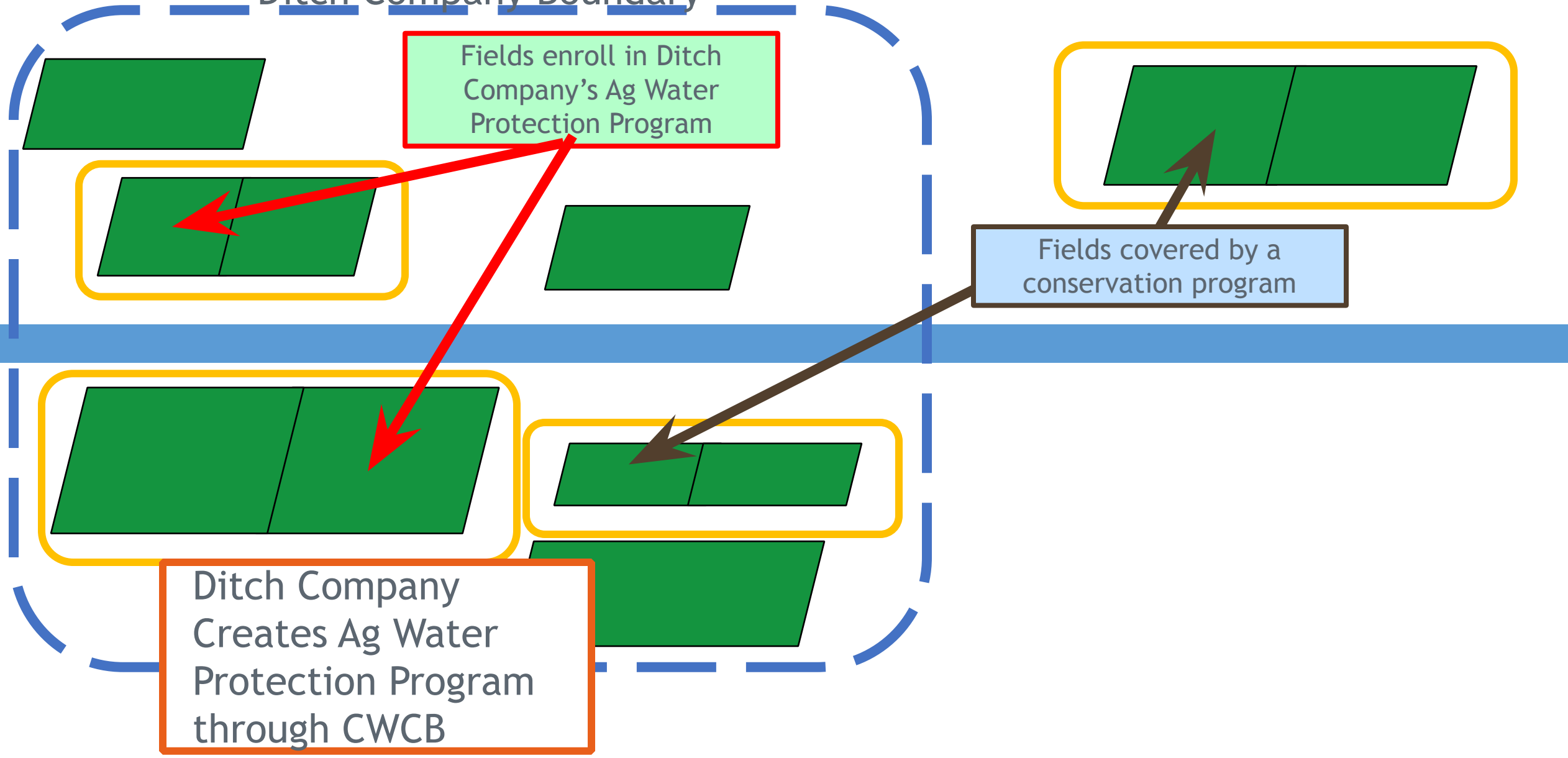
Oversight of Ongoing Irrigation for Remaining Land

Ditch Company Boundary

Fields enroll in Ditch Company's Ag Water Protection Program

Fields covered by a conservation program

Ditch Company
Creates Ag Water
Protection Program
through CWCB



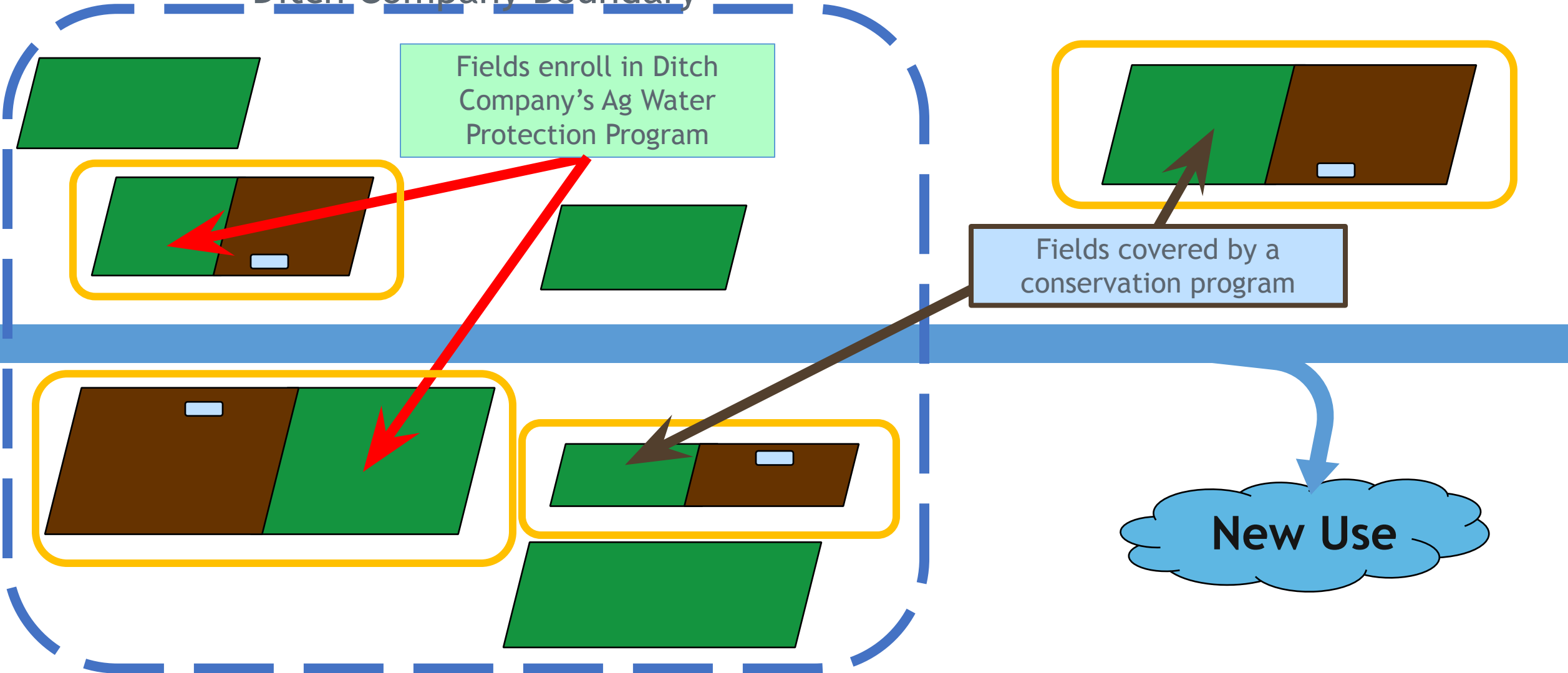
Water to New Use (SWSP) & Dry Up

Ditch Company Boundary

Fields enroll in Ditch Company's Ag Water Protection Program

Fields covered by a conservation program

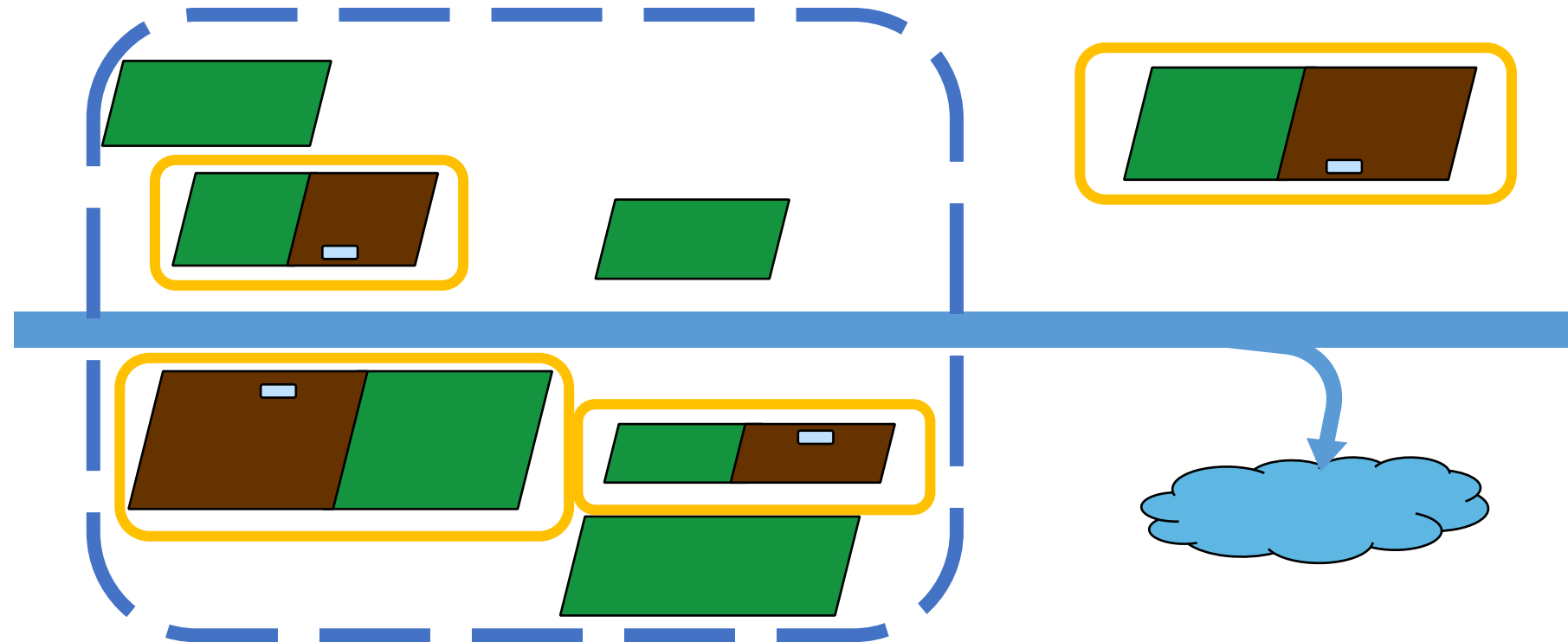
New Use



Note ongoing irrigation - ditch system

Water not being leased can be used on the historical property or
“on another property served by the same ditch system”

37-92-305(19)(b)(III)(B), C.R.S.



What is being updated now?

2024 Legislature expanded Ag-PWR from just the South Platte & Arkansas to statewide applicability

DWR SWSP Rules



Details of the SWSP
submittal & approval
process

CWCB Criteria & Guidelines



Details about Ag Water
Protection Programs -
ongoing irrigation



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Activities happening now

- Information & stakeholder discussions statewide
- DWR - expanding existing SWSP Rules statewide
 - Covers temporary water use
 - Taking suggestions on Rule language
 - Revised Rules to be filed in water courts
- CWCB - expanding existing Criteria & Guidelines statewide
 - One method to oversee water remaining in irrigation
 - Revised C&G to be adopted by CWCB Board after Rules are filed in water court.



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Agricultural Water Protection Program (CWCB)

Definition of Eligible Entity:

“an entity that: has geographic boundaries that are located entirely within the water division of the water right’s historical place of use and are defined in an original or amended document governing the entity; and is a water conservation district, water conservancy district, irrigation district, ditch or reservoir company, nonprofit water provider, or a municipality.”



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AWPP Submittal Process

Eligible entity must submit AWPP proposal to CWCB, with:

1. Description of entity & documentation of eligibility
2. General description of proposed AWPP
3. Documentation of action/ordinance to sponsor AWPP
4. Legal description/map of entity's boundary
5. Legal description/map of AWPP boundary (if different)

... more on next slide



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AWPP Submittal Process

(Continued) Eligible entity must submit AWPP proposal to CWCB, with:

6. Any limitations on number of participants
7. Any limitations on acreage of land
8. Details of application, review, approval, annual registration, and agreement process for Ag-PWRs
9. Monitoring details: nature of inspections, responsible personnel, inspection form, affidavit of continued irrigation, time of year, diversion records or accounting, photo documentation, etc.
10. Annual reporting process



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AWPP CWCB Review Process

1. CWCB posts new proposals on its website.
2. Sponsoring entity provides written notice of proposed AWPP to all parties on SEO SWSP list
3. Parties submit comments to CWCB within 30 days
4. CWCB staff considers all comments & provides recommendation for next Board meeting
5. CWCB staff may request additional info
6. Board approves or denies proposed AWPP. Sponsor notified of Board's decision within 10 days



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AWPP – Monitoring of Ag-PWRs

- Annual report requirement for each participating AWPWR by December 31st, including:
 - Nature of inspections
 - Inspections forms
 - Affidavits of continued irrigation
 - Diversion records or accounting
 - Photo documentation
- CWCB staff reviews documentation and presents annual summary to the Board



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Timeline to Provide Input & Finalize

- Comments on SWSP Rules accepted until October 15, 2025
- DWR to file SWSP Rules in water courts and then request the courts consolidate to Division 1*- Late 2025
- CWCB will then move forward with Board Approval of Criteria & Guidelines for AWPP

*per direction in 37-80-123, C.R.S.



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Resources

DWR's Ag-PWR Rulemaking Website:

<https://bit.ly/Ag-PWR>

- Draft Rules for review
- Link to a google form to submit comments



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Proposed SWSP Rule Changes

3.1.8. Information on ~~Dry~~ dry Up and ongoing irrigation:

3.1.8.1. A description of where the ~~AgPWR~~ water that is not being leased, loaned, or traded will continue to be used for agricultural purposes consistent with 37-92-305(2)(b)(III).

3.1.8.1.1. If requesting to rotate irrigated acres in year 1, year 2, and year 3 of SWSP operation, describe the requested irrigated and non-irrigated lands for each year.

3.1.8.1.2. If requesting alternative irrigation approaches, provide a description of the request and information supporting how such an operation prevents injury.

~~3.1.8.1.~~ 3.1.8.2. A description of the historically irrigated land associated with the Lease Water that will not be irrigated by the Lease Water for the duration of the SWSP.

~~3.1.8.2.~~ 3.1.8.3. A description of the method to ensure ~~the~~ any necessary dry up of the irrigated land associated with the Lease Water, any plans to irrigate with alternative water sources, and any additional dry up terms and conditions from the Change Decree.



Proposed SWSP Rule Changes

3.1.9.6. For the use of return flow replacement sources downstream of the historical return flow location, an explanation of how downstream replacement can prevent injury, and under what conditions available upstream sources will be used. Explanation of any exchange or water exchange project to be used ~~required~~ to meet return flow obligations, the exchange rate, and exchange potential.



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Proposed SWSP Rule Changes

6.2. Appeal of State Engineer's Final Decision

6.2.1. Any appeal of the Final Decision must be made within thirty-five days of the date of service of the Final Decision. -Any appeal must be filed under the Change Decree case number.-

~~6.2.1.~~ 6.2.2. Only an SWSP Party or a party that requested reconsideration under Rule 6.1 may appeal a Final Decision.



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Comments & Questions



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