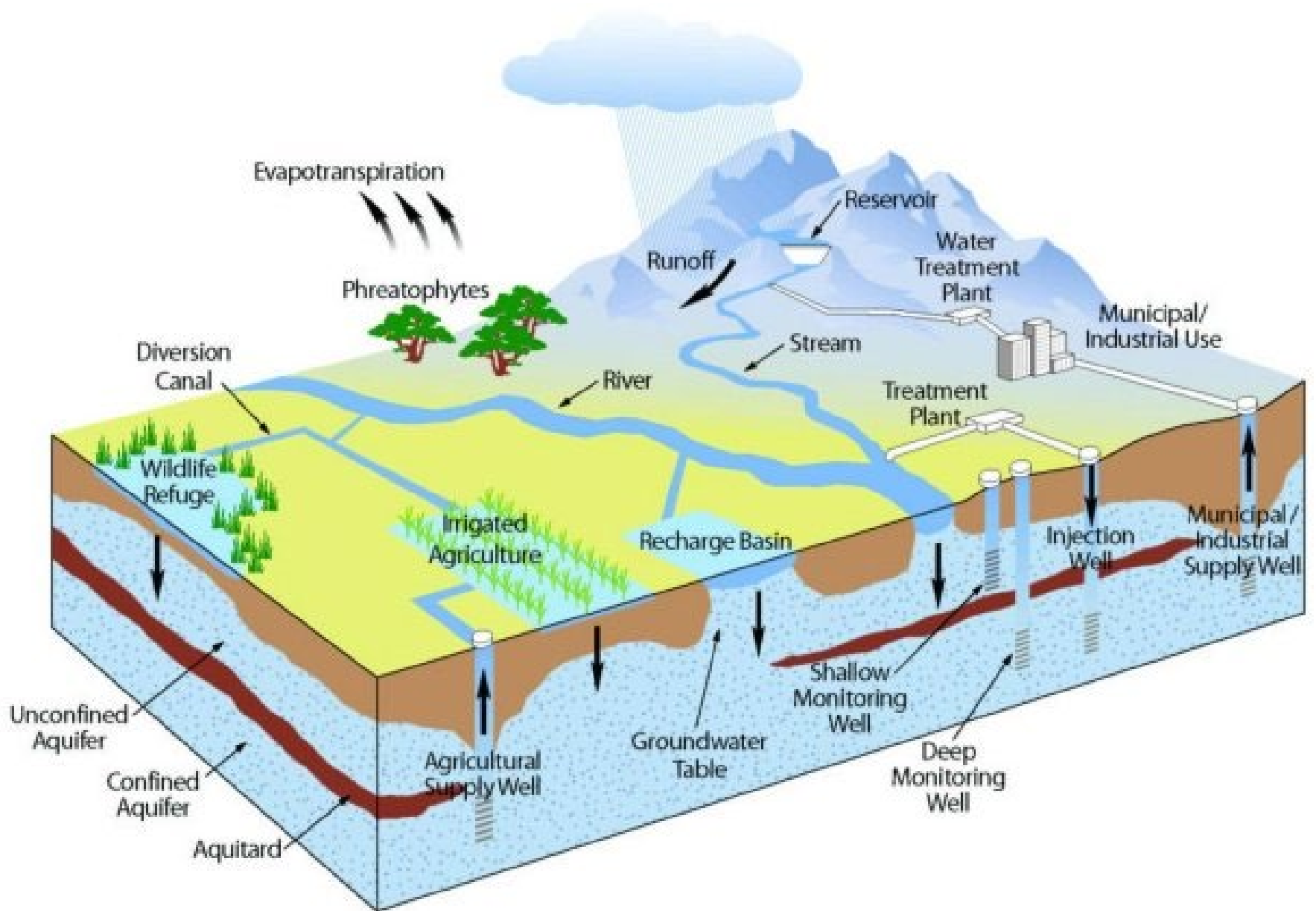


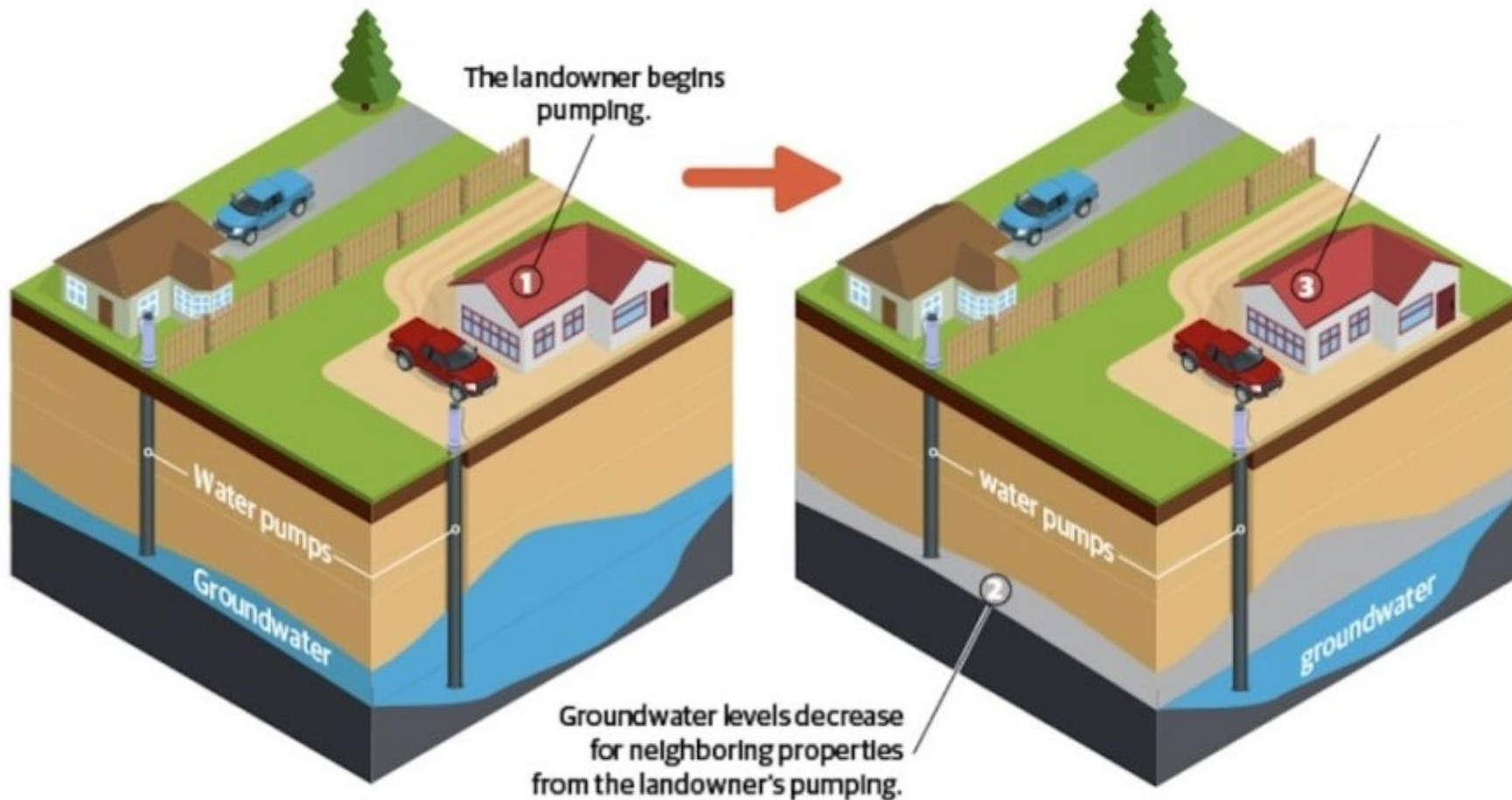
# Groundwater Rights and Natural Resource Extraction

Anthony Moffa

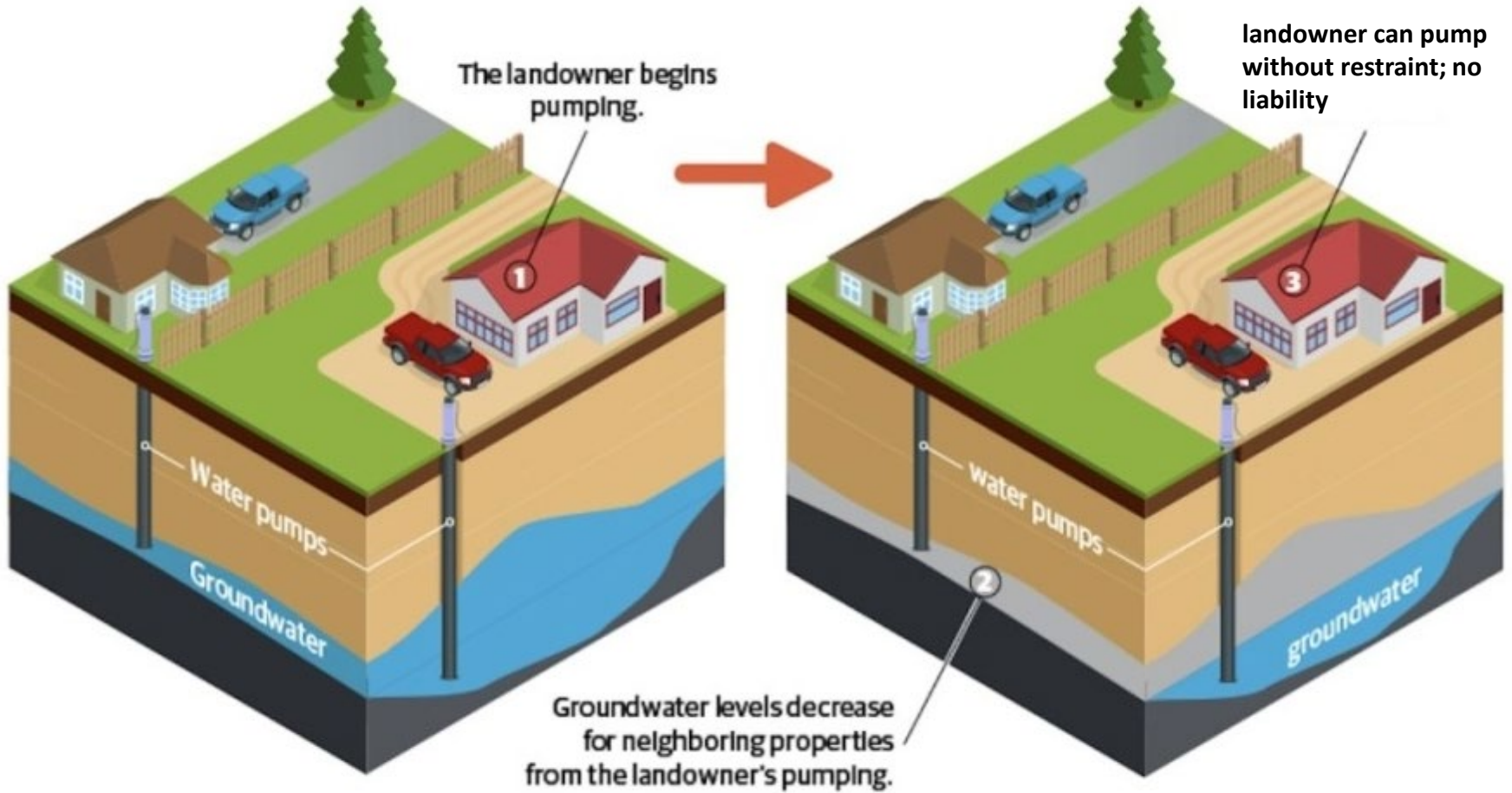
Associate Professor of Law



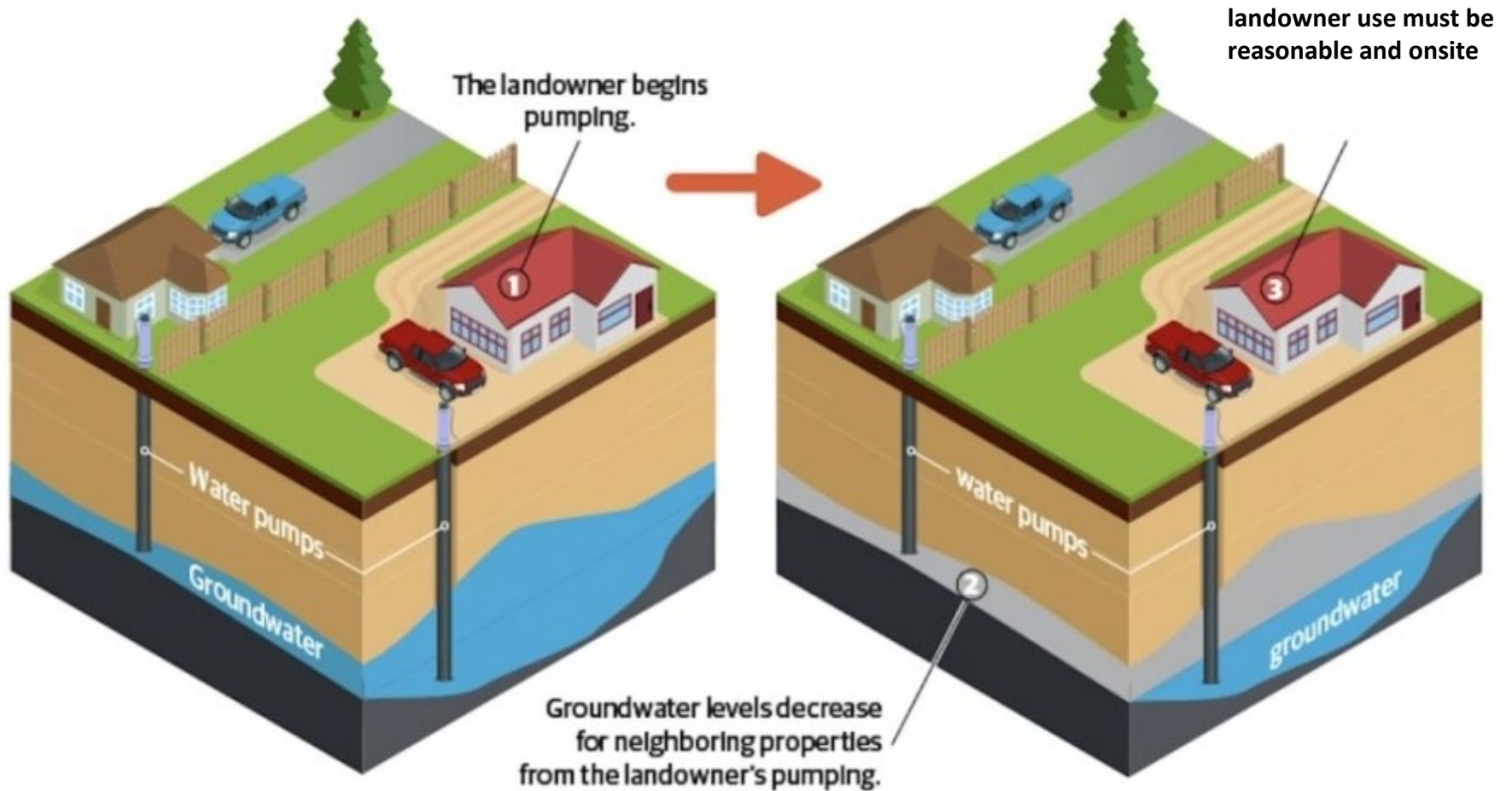




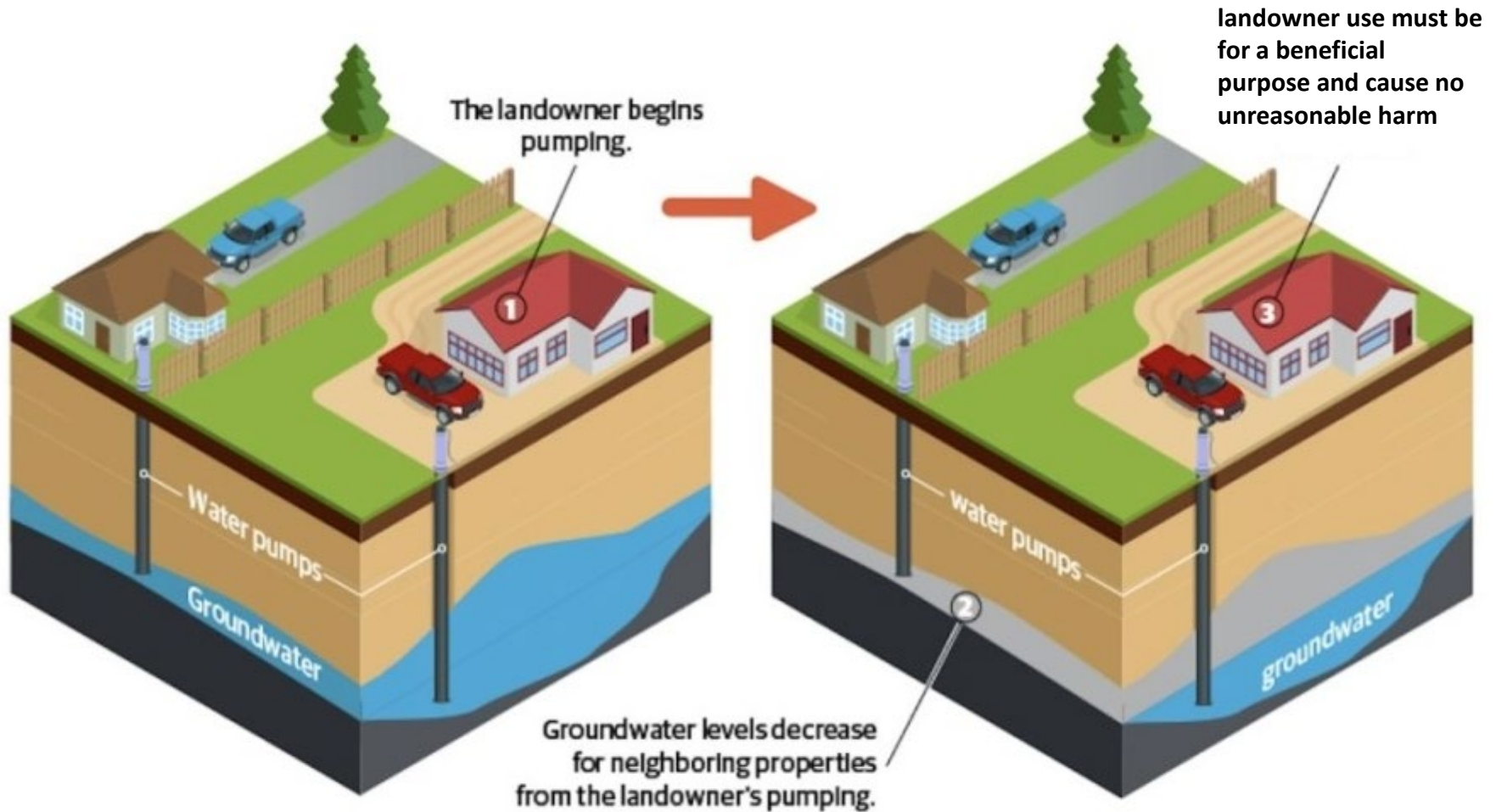
# Absolute Dominion



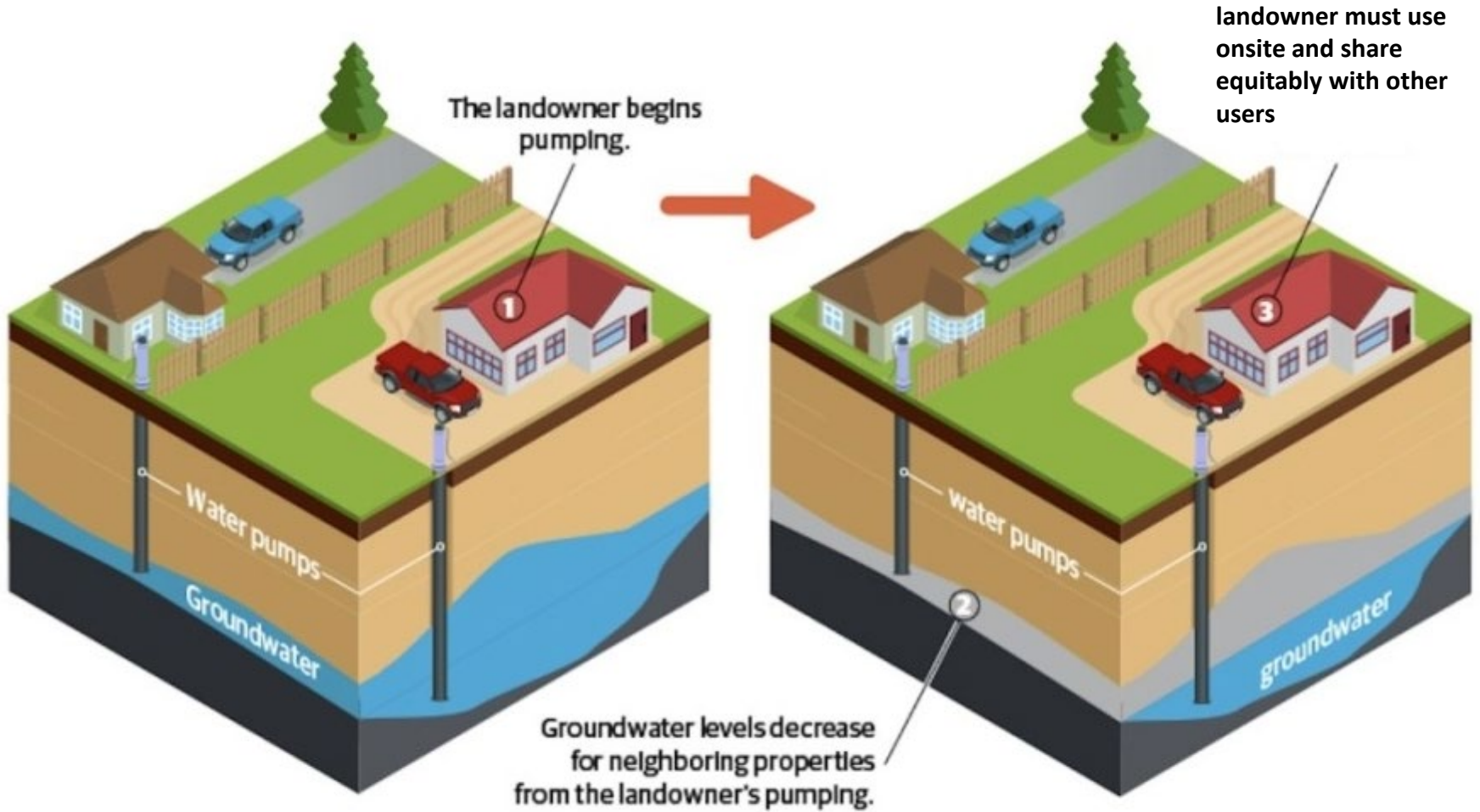
## Reasonable Use Version 1



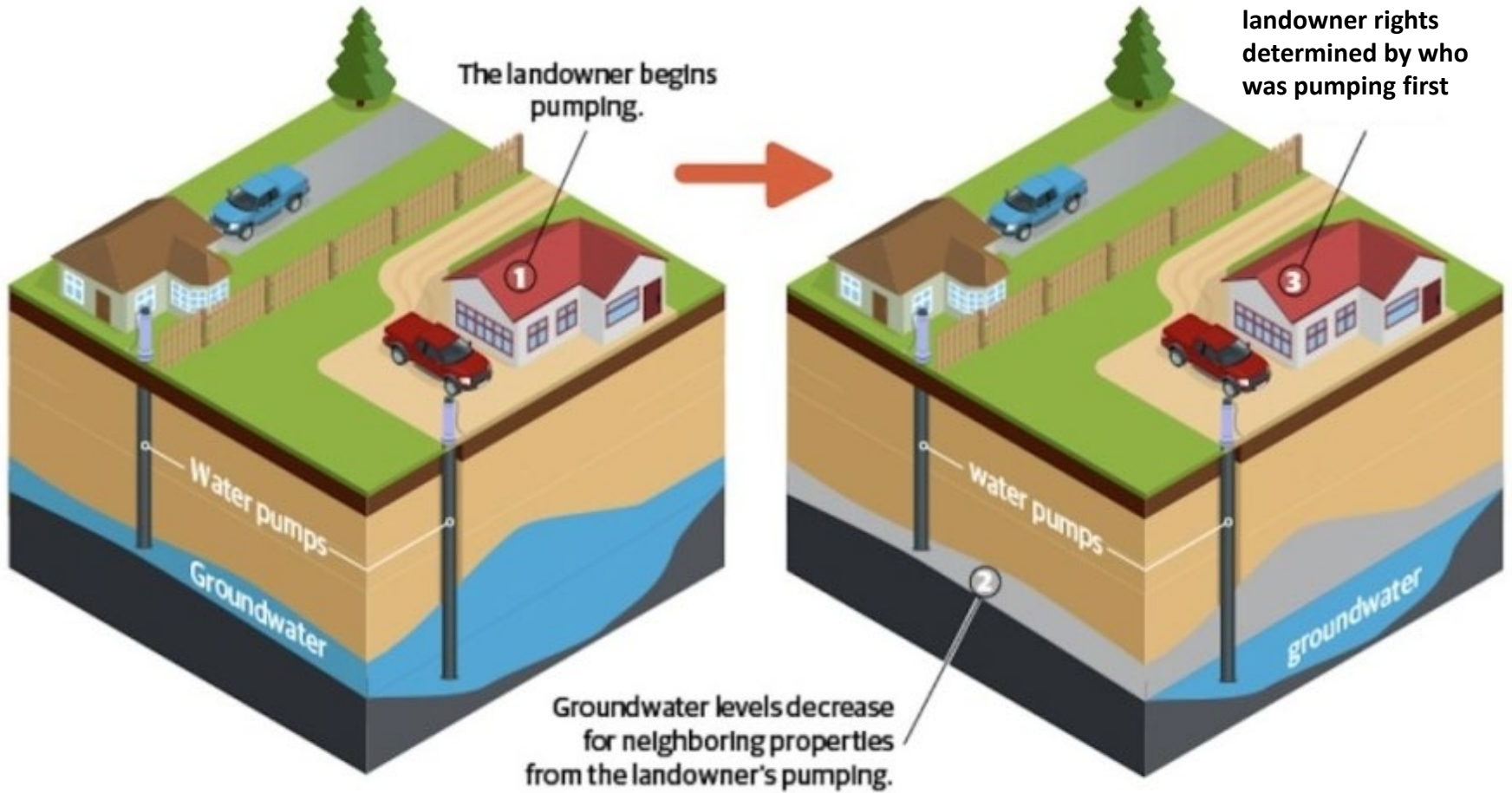
## Reasonable Use Version 2



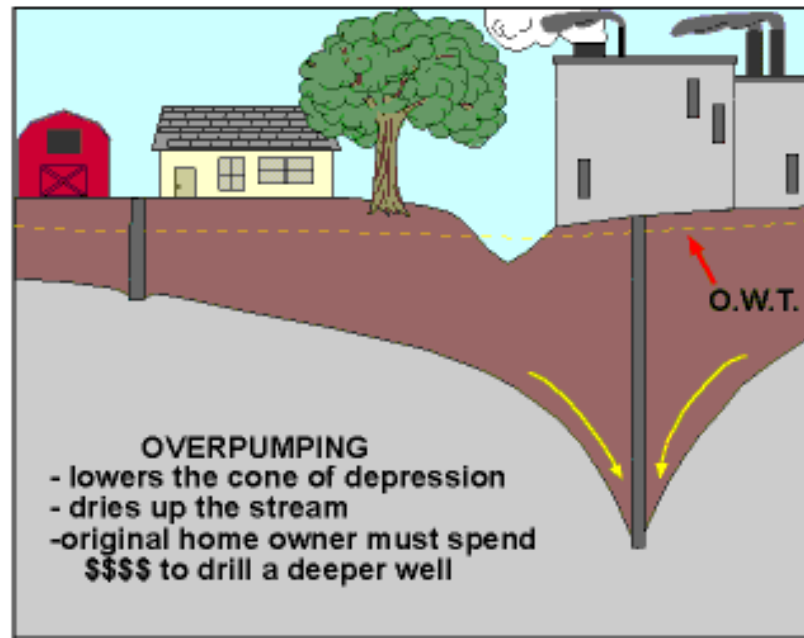
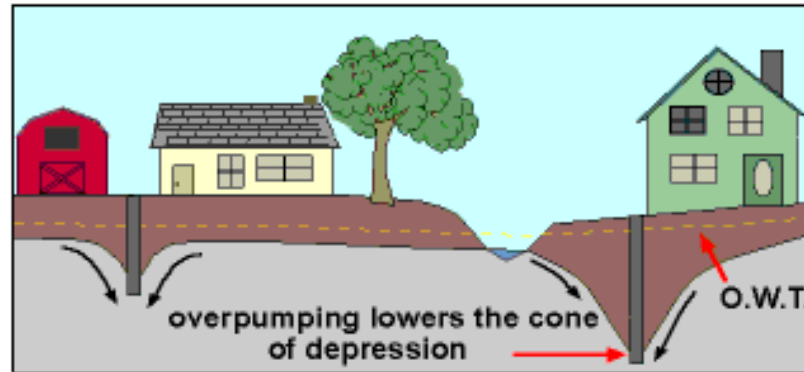
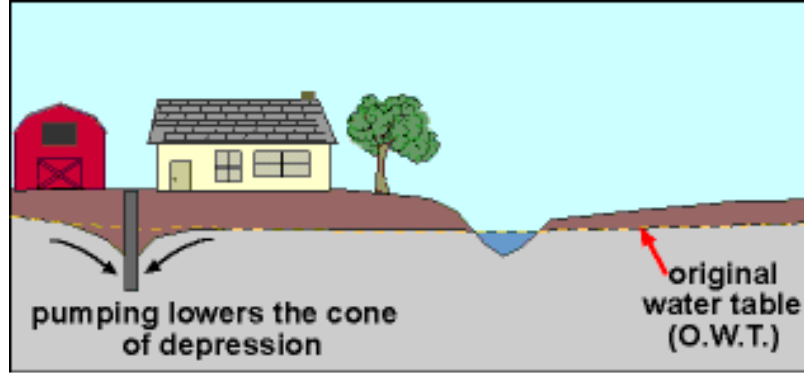
## Correlative Use

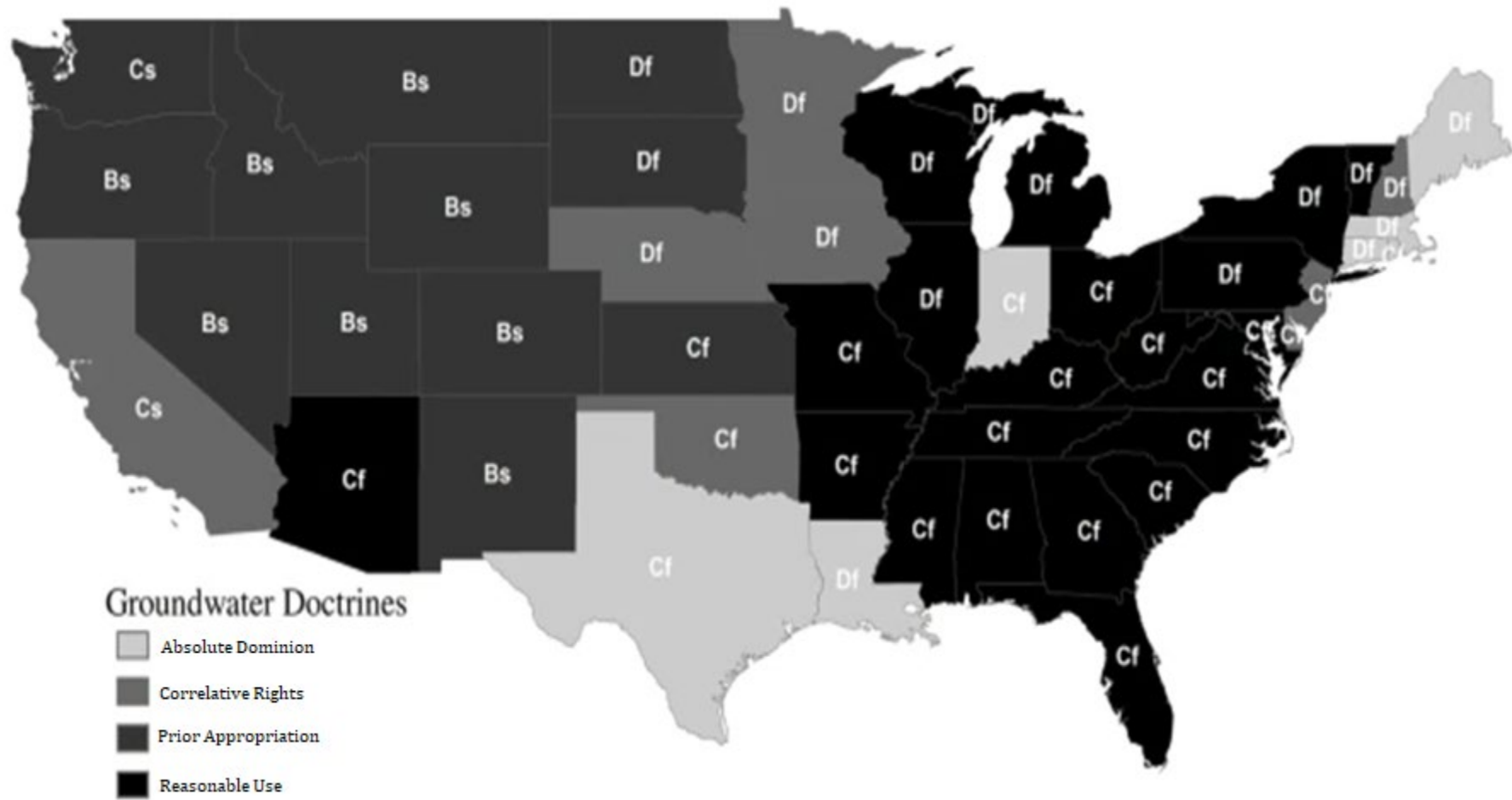


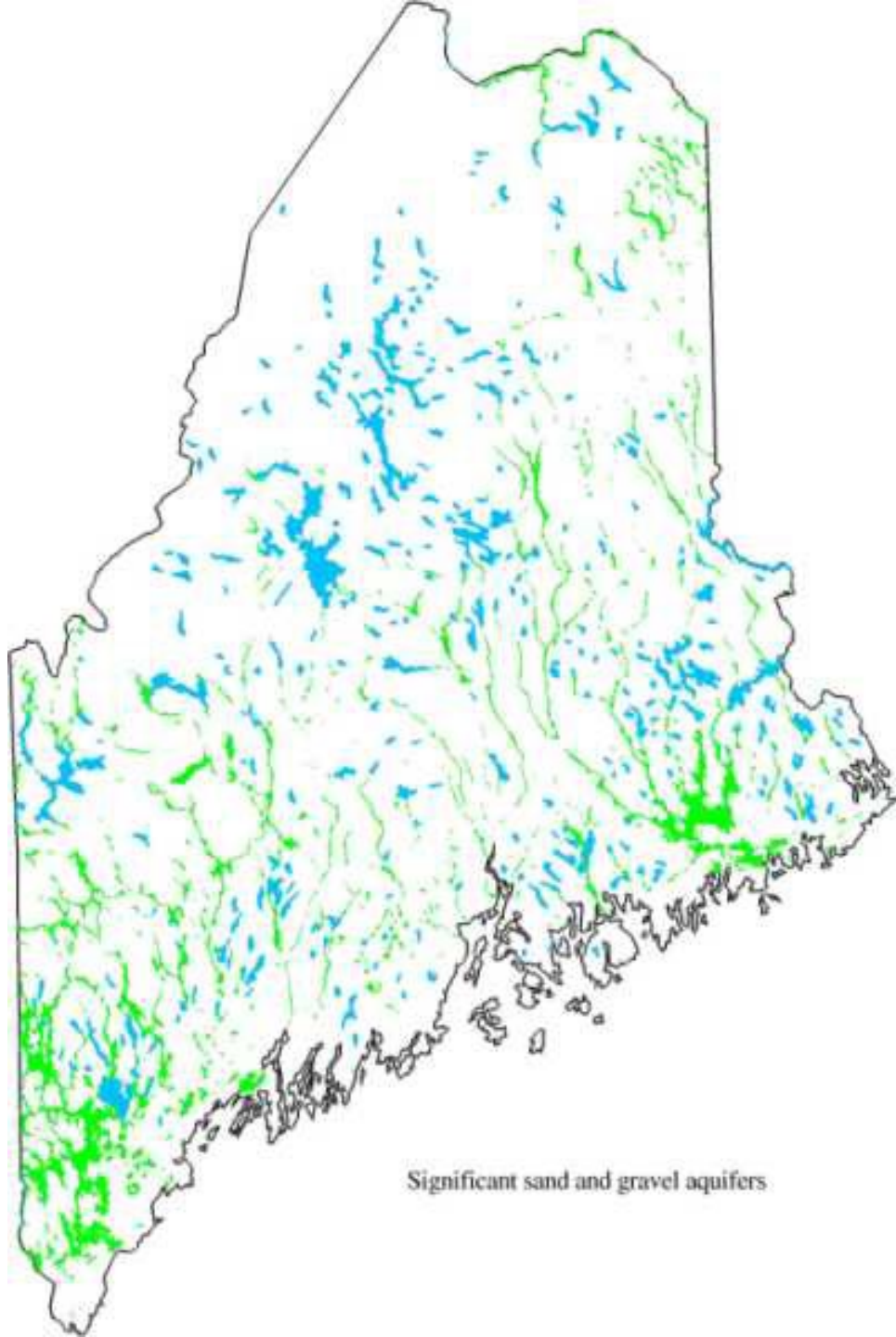
# Prior Appropriation











Significant sand and gravel aquifers

# Title 38, Section 404

a person is liable for the withdrawal of ground water . . . in excess of beneficial domestic use for a single-family home [which] causes interference with the preexisting beneficial domestic use of ground water by a landowner or lawful land occupant

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a person is liable for the withdrawal of ground water . . . in excess of **beneficial domestic use** for a single-family home [which] causes interference with the preexisting **beneficial domestic use** of ground water by a landowner or lawful land occupant

beneficial domestic use - household purposes essential to health and safety

# NRPA

As of 2007, a “significant groundwater well” requires a permit from the DEP.

## Title 38 Section 480-B

“significant groundwater well”

-75,000 gallons/week or 50,000 gallons/day within 500 feet of another water source

-216,000 gallons/week or 144,000 gallons/day more than 500 feet from another water source

# Chapter 342

Annual fee = \$250 Base fee +  
\$50/million gallons pumped





# California

1 acre foot = 326,000 gallons

Fee Category	Fee Amount
Base Filing Fee	\$300 per well
Unmanaged Area Rate	\$10 per AF (metered)
	\$25 per AF (unmetered)
Probationary Rate	\$40 per AF
Interim Plan Rate	\$55 per AF
De minimis Fee	\$100 per well
Automatic Late Fee	25% per month



\$50/million gallons pumped

Natural Resource Revenue =  
federal lands disbursements + state lands leases  
and royalties + private land severance taxes

# State and local governments

Funds disbursed to states fall under the jurisdiction of each state, and each state determines how the funds will be used.



■ Onshore:	\$2,211,276,035
■ <u>GOMESA</u> ⓘ offshore:	\$214,938,996
■ <u>8(g)</u> ⓘ offshore:	\$10,538,488
<b>Total: \$2,436,753,520</b>	

Explore data /

# Maine

There was no energy or mineral production on federal land in Maine in calendar year 2018.

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Production on federal land in Maine resulted in \$0 in calendar year 2019 revenue.

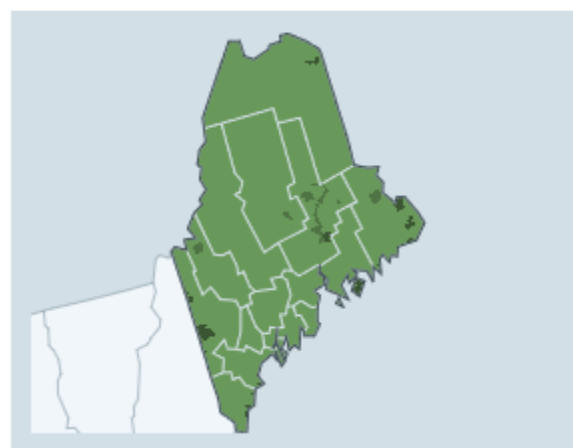
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No disbursements were reported for Maine in fiscal year 2019, probably because there was no revenue from production on federal land.

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## Land ownership

Federal land represents 1.1% of all land in Maine.



■ Federal   ■ Native American   ■ Other (state, local, or private)

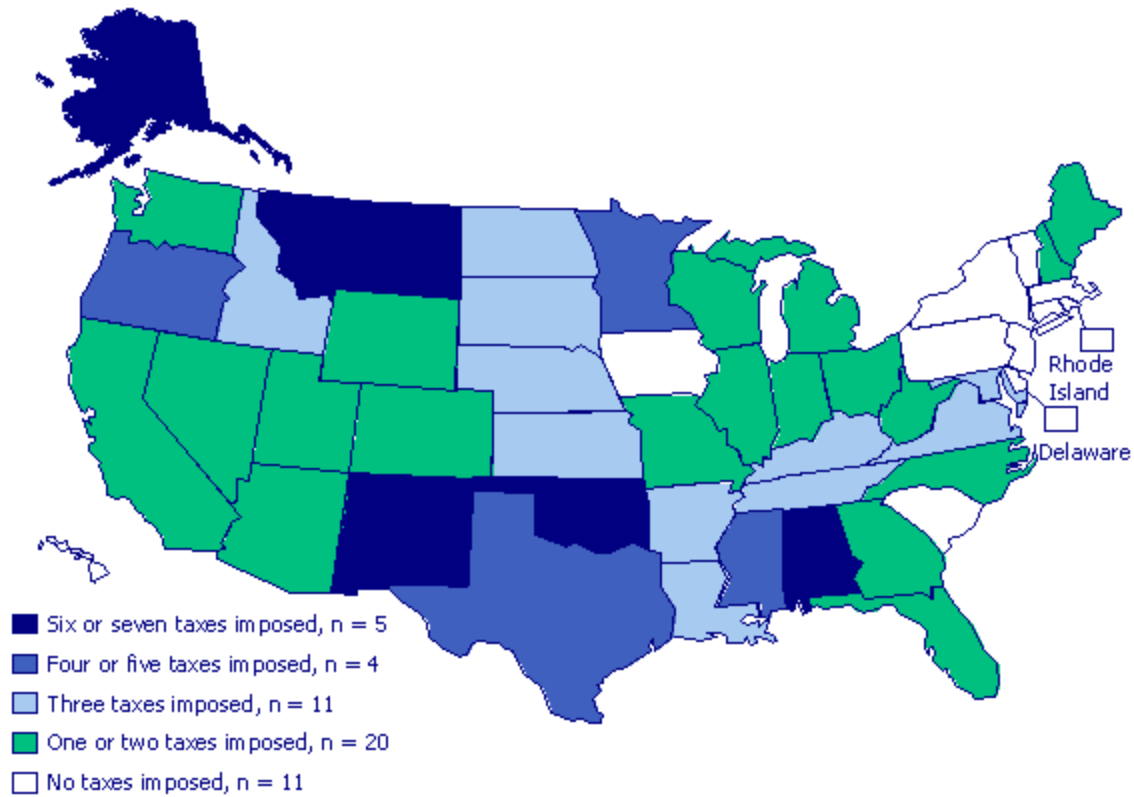
**Public Reserved Lands Management Account (014.01A.Z239.22)**

<b>Income</b>		<b>Expenses</b>	
Earnings on Investments	\$128,212	Personal	\$3,309,071
Rent of Lands*	\$1,130,978	All Other	\$9,399,671
Grants from State Agencies	\$62,916	Capital	\$1,090,163
Camp lot Leases*	\$411,615		
Misc. Rents & Leases	\$11,771		
Registration Fees	\$32,847		
Sale of Stumpage *	\$12,116,963		
Sale of Forest Products *	\$240		
Reg Transfer Unallocated	\$2,741		
Recovered Cost	\$32,152		
Legis Transfer of Revenue	(\$76,672)		
DICAP**	(\$772,985)	STACAP	\$527,905
Trust & Private Contributions	\$8,173		
Late Fees & Misc. income	\$23,094		
Svc. Fees Charged by Other Depts.	(\$74,663)		
Adj. To Balance Forward	(\$2,786)		
<b>Total Income</b>	<b>\$13,034,596</b>	<b>Total Expenses</b>	<b>\$14,326,810</b>

\* Represents the major components of the Division's income stream.

\*\* Consistent with state accounting practices, DICAP is shown as a "revenue debit," although it is actually an expenditure.

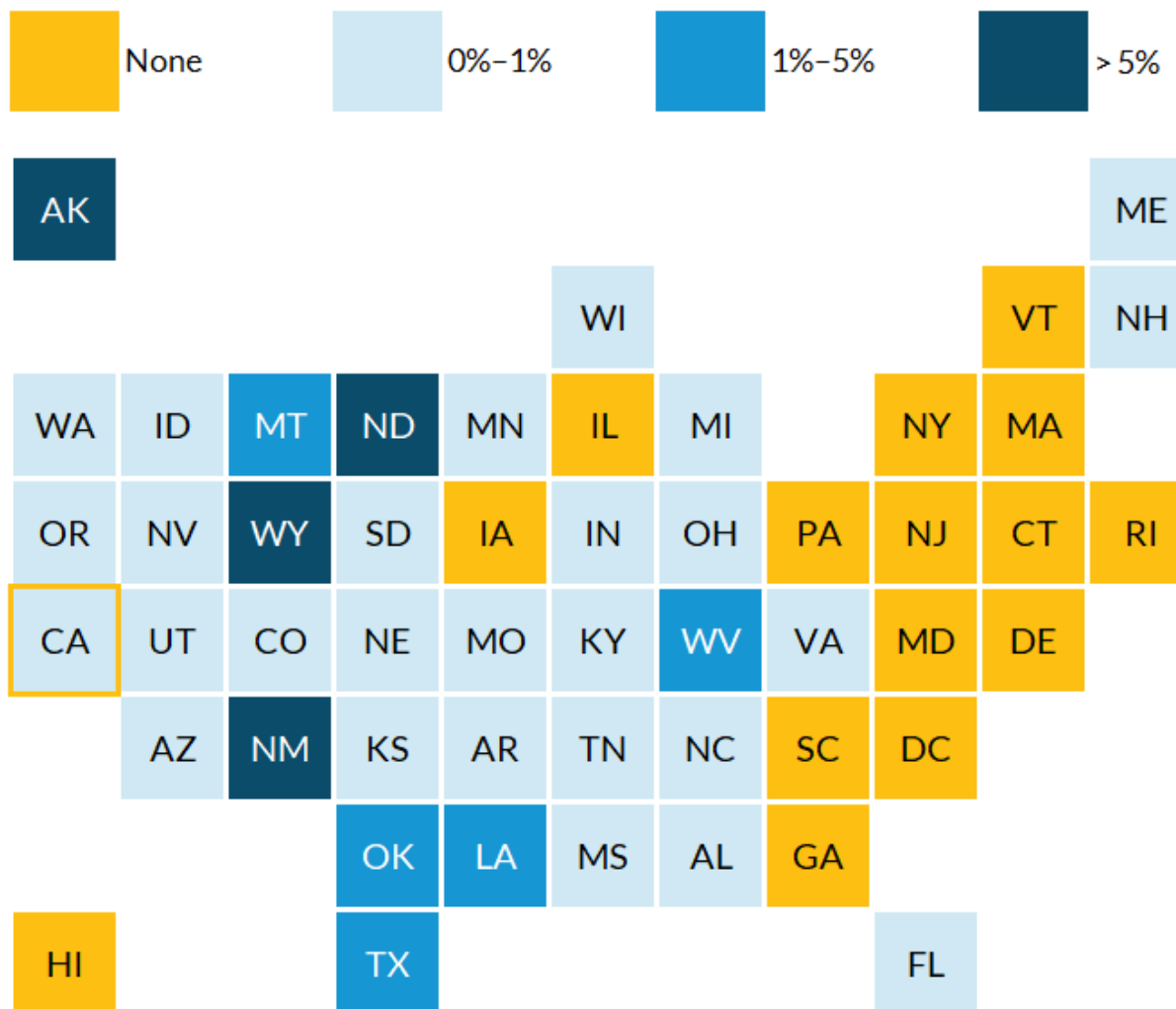
# Natural Resource Severance Taxes



# Severance Tax Revenue

Share of state and local general revenues, 2019

United States: 0.4%



**Source:** U.S. Census Bureau, Annual Survey of State and Local Government Finances, Government Finances, Volume 4, and Census of Governments.

**Notes:** California does not have a severance tax but levies an assessment fee on oil and gas produced in California; Census records this as severance tax revenue.

# Maine Mining Excise Tax

## Title 36, Section 2856

The amount of the annual excise tax on a mining company shall be the sum of the excise taxes due on each mine site. The excise tax due on each mine site shall be the greater of the following:

1. **Tax on facilities and equipment.** The value of facilities and equipment multiplied by 0.005; **or**
  
2. **Tax on gross proceeds.** The gross proceeds multiplied by:
  - A. If net proceeds are greater than zero, the greater of the following:
    - (1) 0.009; **or**
    - (2) A number determined by subtracting from 0.045 the quotient obtained by dividing:
      - (a) Gross proceeds, by
      - (b) Net proceeds multiplied by 100.