

Water Rights Licensing In Times of Scarcity

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Information Sources on Water Rights Licensing in Canada

Include:

Source: University Professors

For Example:

- David R. Percy: *Responding to Water Scarcity in Western Canada*; Texas Law Review, Vol 83, 2005
- Carey Hill, Kathryn Furlong, Karen Bakker, and Alice Cohen: *Harmonization Versus Subsidiarity in Water Governance: A Review of Water Governance and Legislation in the Canadian Provinces and Territories*; Vol 33, No. 4, Winter 2008

Source: “Think” Tanks

For Example:

- The POLIS – Project on Ecological Governance (various publications)
- The Conference Board of Canada (various publications)
- C.D. Howe Institute – “The Competition for Water” (2010)

Source: ENGO's

For Example:

- Friends of the Earth Canada
- Earthroots & Ecojustice: *Ontario's Water Hazard – The Cumulative Impact of Golf Courses on our Water Resources*; July 2008

What is Largely Missing From These Publications?

Input from the Regulator!

(i.e. The Administrators of the
Water Rights/Permitting Programme)

Regulators are

Not to be

Confused with the Policy folks

down the hall!

(We do different things)

Some good descriptions of
what we do can be found
in some recent AESB (PFRA) reports



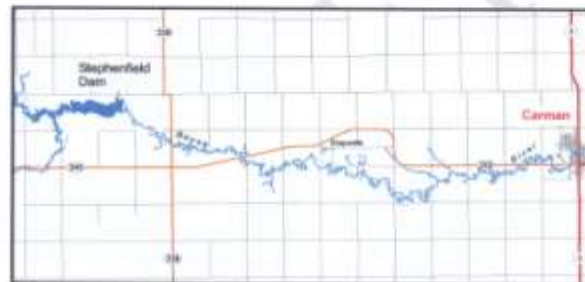
Agriculture and
Agri-Food Canada

Projet de Loi de réhabilitation
Administration

Agriculture et
Agroalimentaire Canada

Administration du rétablissement
agricole des Prairies

TOWN OF CARMAN WATER SUPPLY STUDY



PFRA, Manitoba Region

November, 2007

Canada 



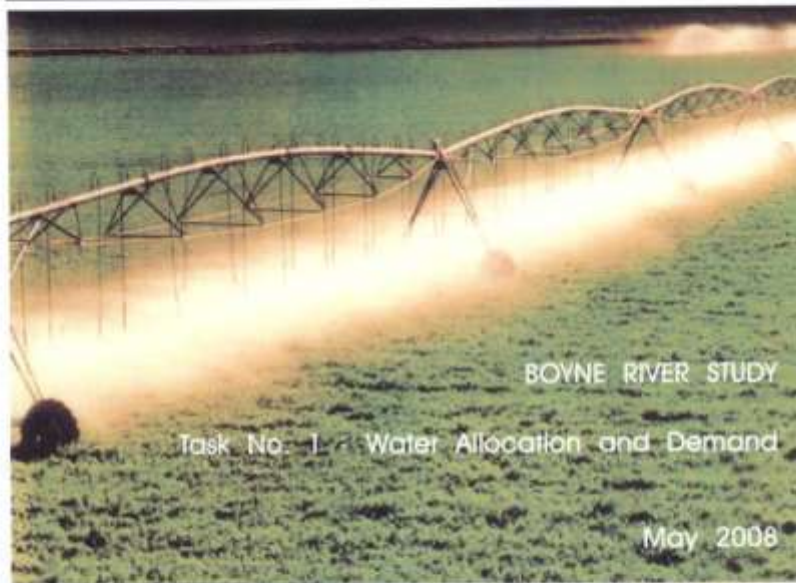
Agriculture and
Agri-Food Canada

Prarie Farm Rehabilitation
Administration

Agriculture et
Agroalimentaire Canada

Administration du rétablissement
agricole des Prairies

Manitoba
Agriculture, Food
and Rural Initiatives



BOYNE RIVER STUDY

Task No. 1 - Water Allocation and Demand

May 2008



Prepared by:

**KGS
GROUP**



CENTRAL PLAINS INC. WATER STUDY

FINAL REPORT

MARCH 2008
WE 07 098 00 WE

608 - 5 DONALD STREET
WINNIPEG, MB R3L 2T4
Phone: (204) 477-6650 - Fax: (204) 474-2864

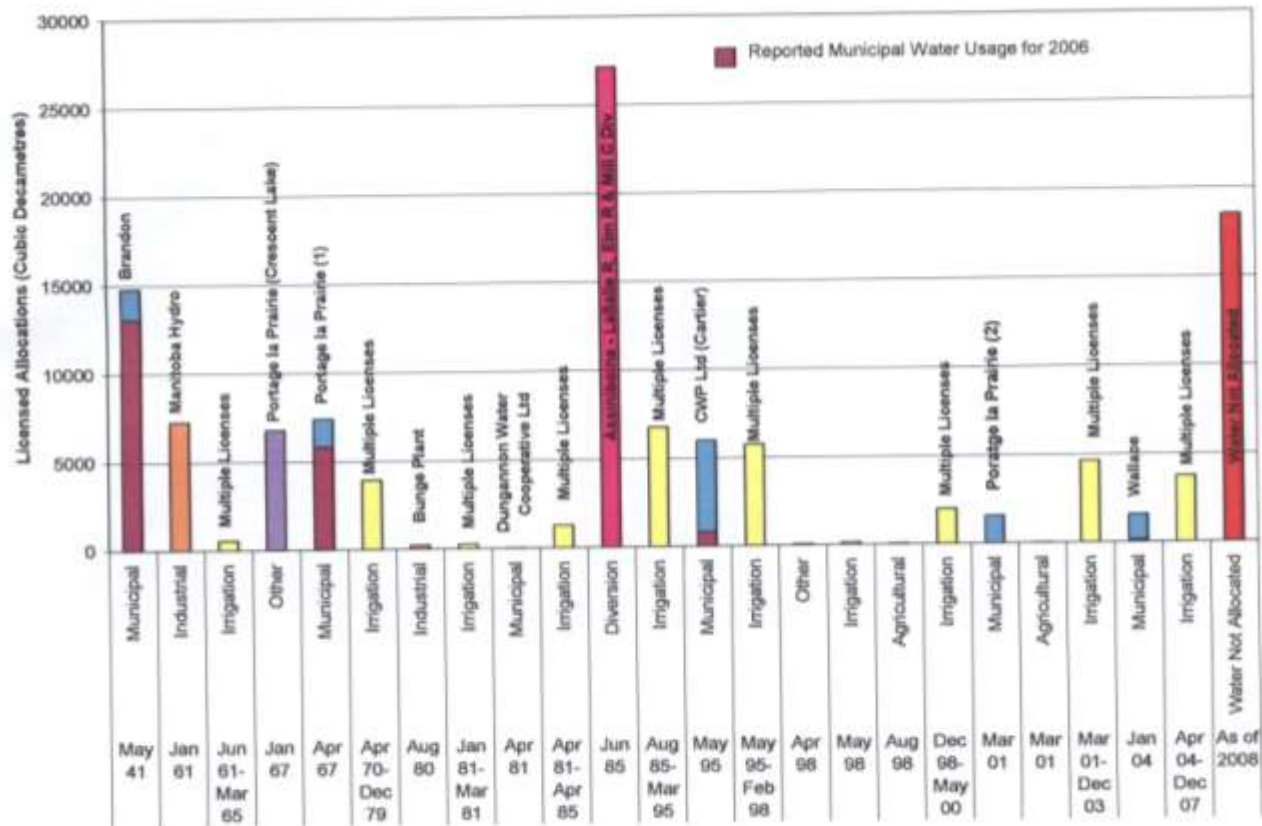
www.genivar.com



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Temporal Precedence Grouped by Purpose of Use for All Reaches



Note: Allocations on graphs are for illustrative purposes only
(Manitoba Water Stewardship, 2008)

Figure 7: Order of precedence of Assiniboine River water rights licenses

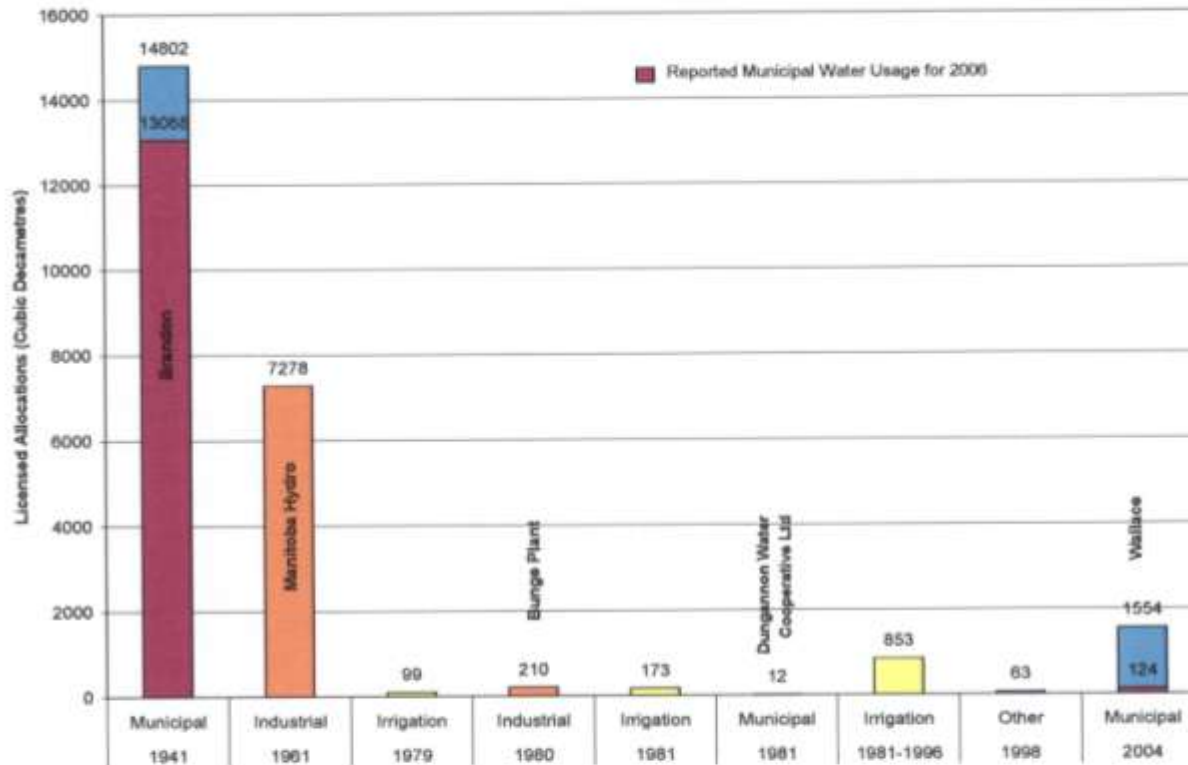


Figure 6: Reaches and water resource structures of the Assiniboine River

The Water Rights Act regulates all water rights licenses in Manitoba for all water sources. Concerns over the precedence of water users during low flows on the Assiniboine River were raised during the course of this project. The Water Rights Act states in Section 8(1):

Licences have precedence in relation to one another according to the date of submission of the application for each licence.

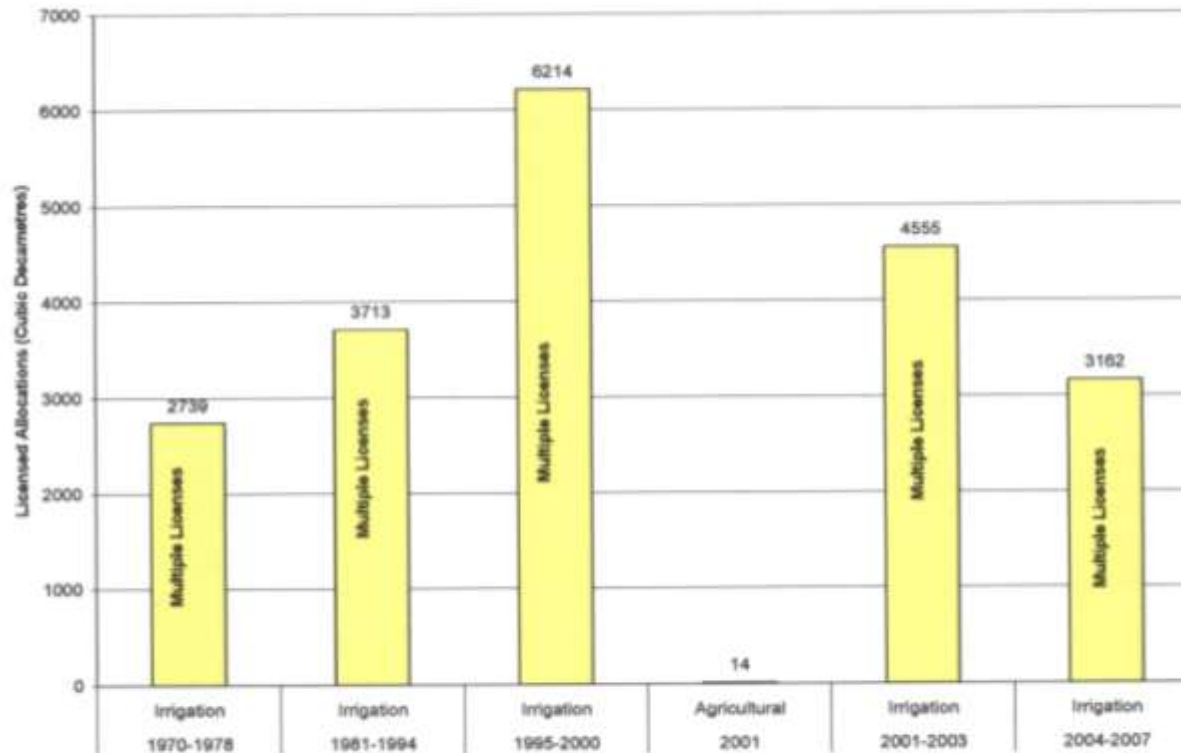
Temporal Precedence Grouped by Purpose of Use for Reach 1



Note: Allocations on graphs are for illustrative purposes only
(Manitoba Water Stewardship, 2008)

Figure 8: Order of precedence of Reach 1 water rights licenses

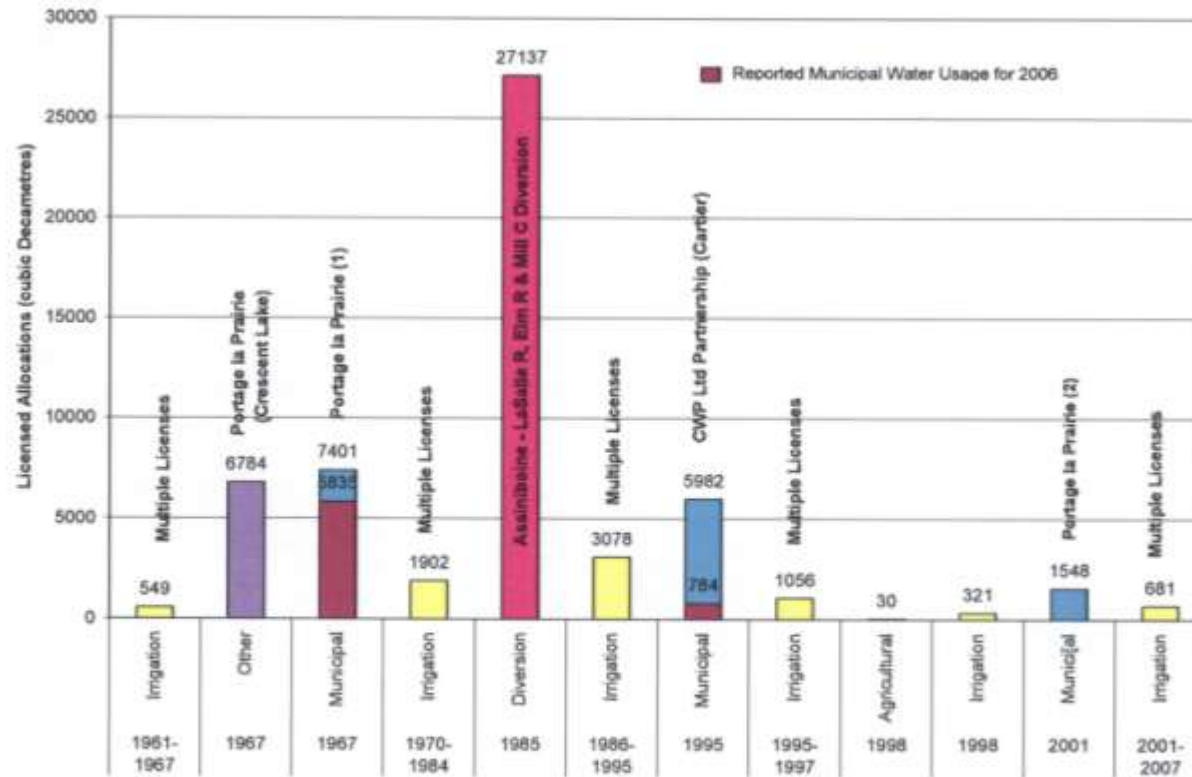
Temporal Precedence Grouped by Purpose of Use for Reach 2



Note: Allocations on graphs are for illustrative purposes only
(Manitoba Water Stewardship, 2008)

Figure 9: Order of precedence of Reach 2 water rights licenses

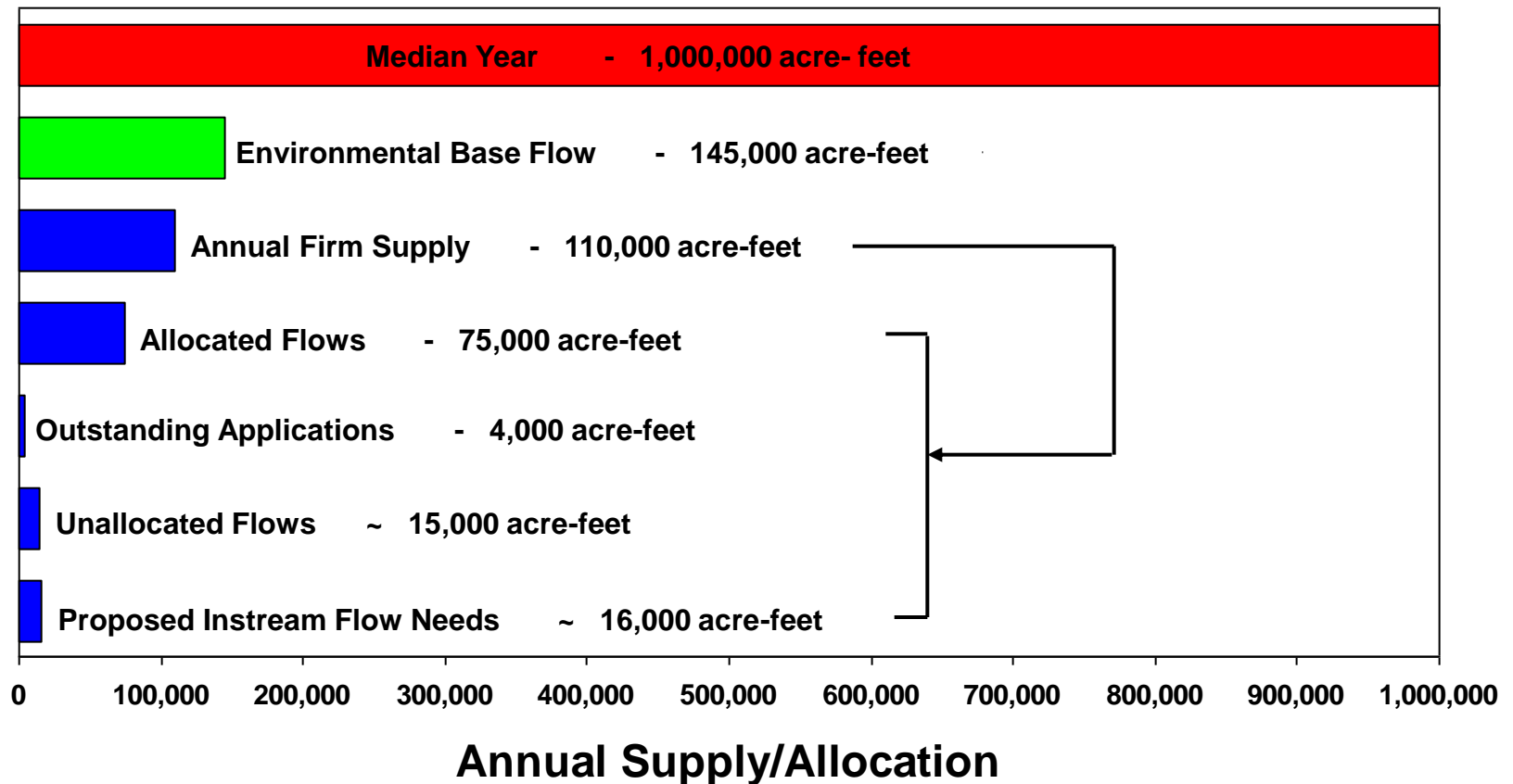
Temporal Precedence Grouped by Purpose of Use for Reach 3

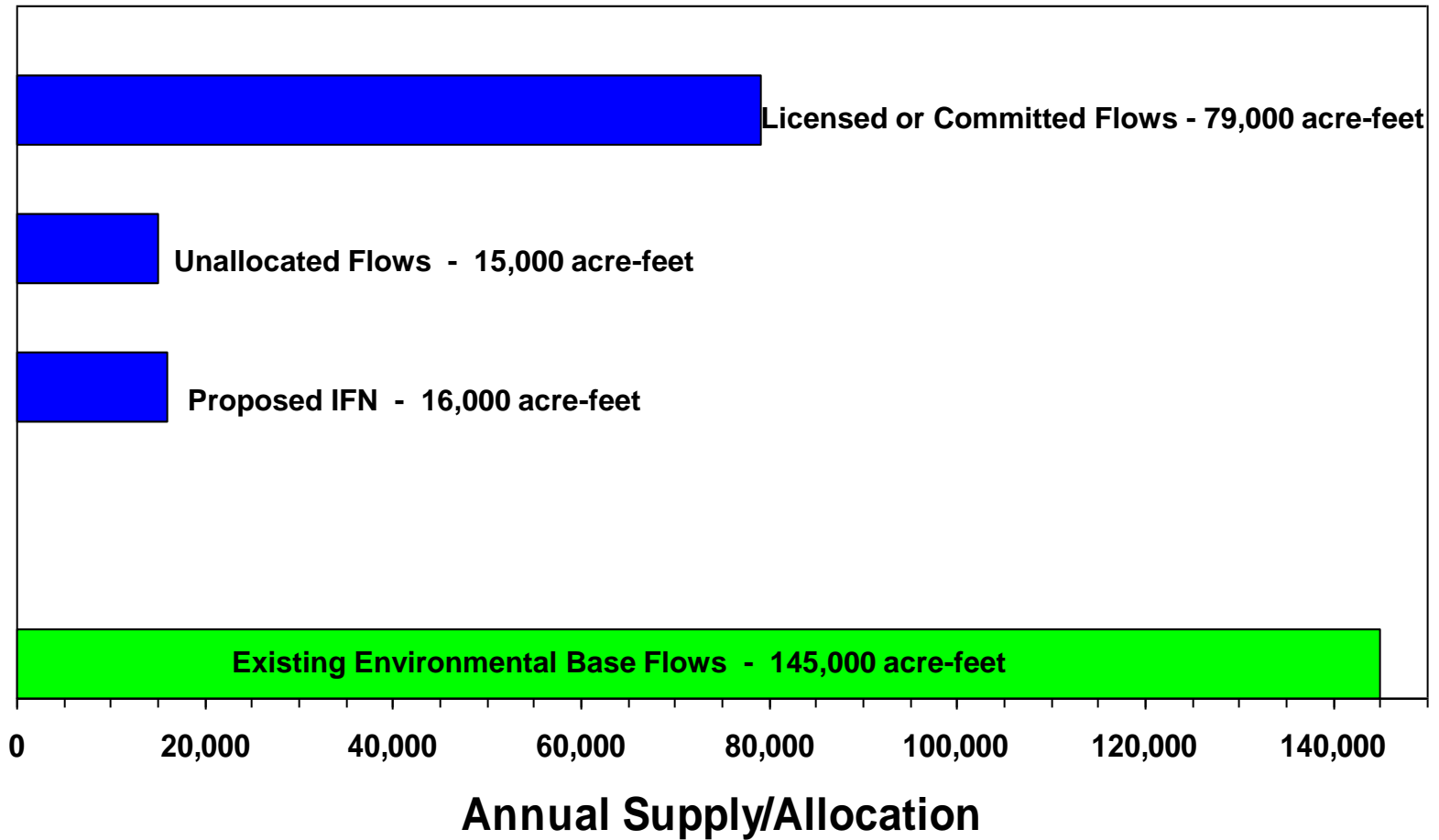


Note: Allocations on graphs are for illustrative purposes only
(Manitoba Water Stewardship, 2008)

Figure 10: Order of precedence of Reach 3 water rights licenses

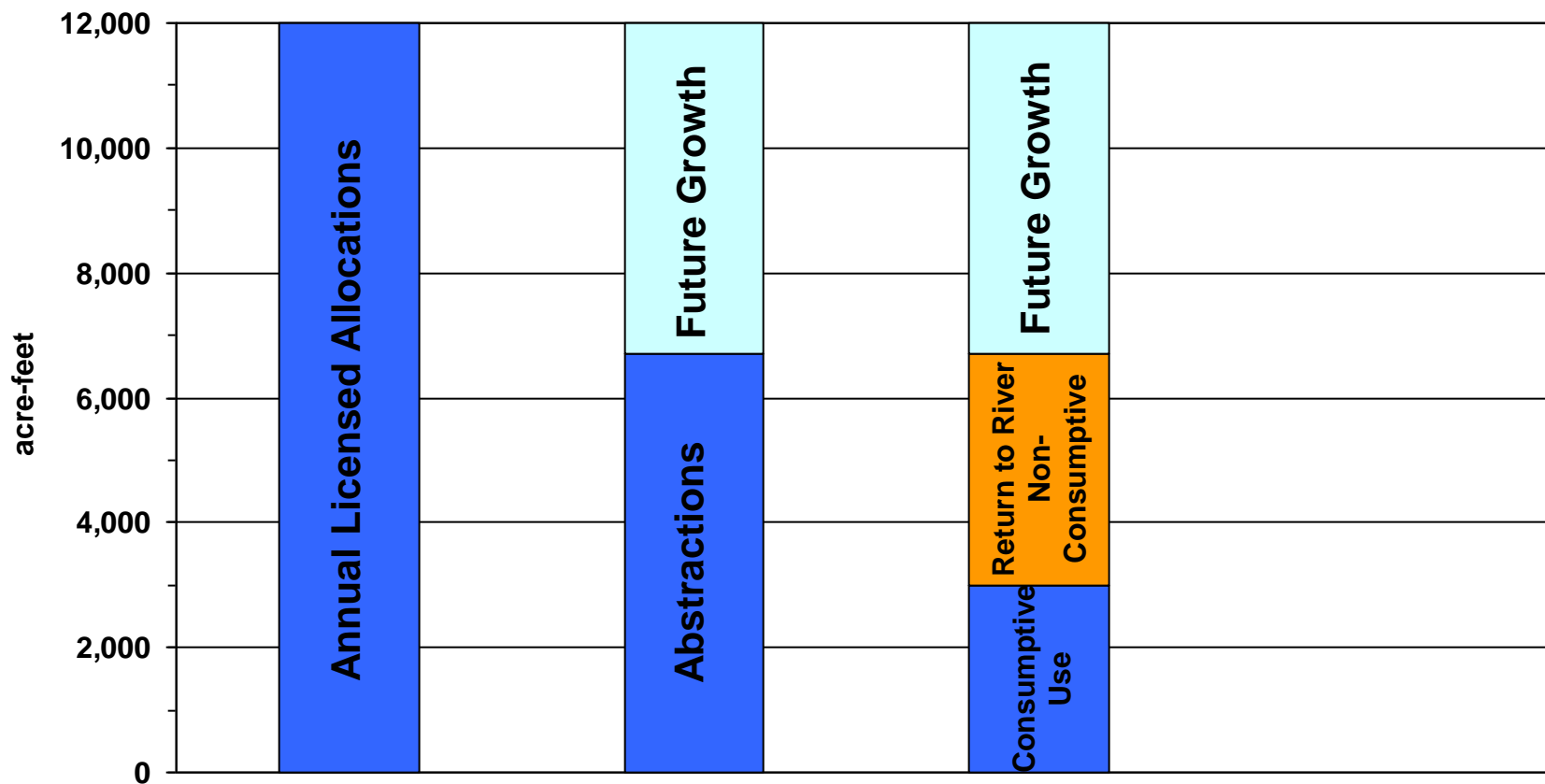
Assiniboine River Water Supply and Demands (circa 2010)





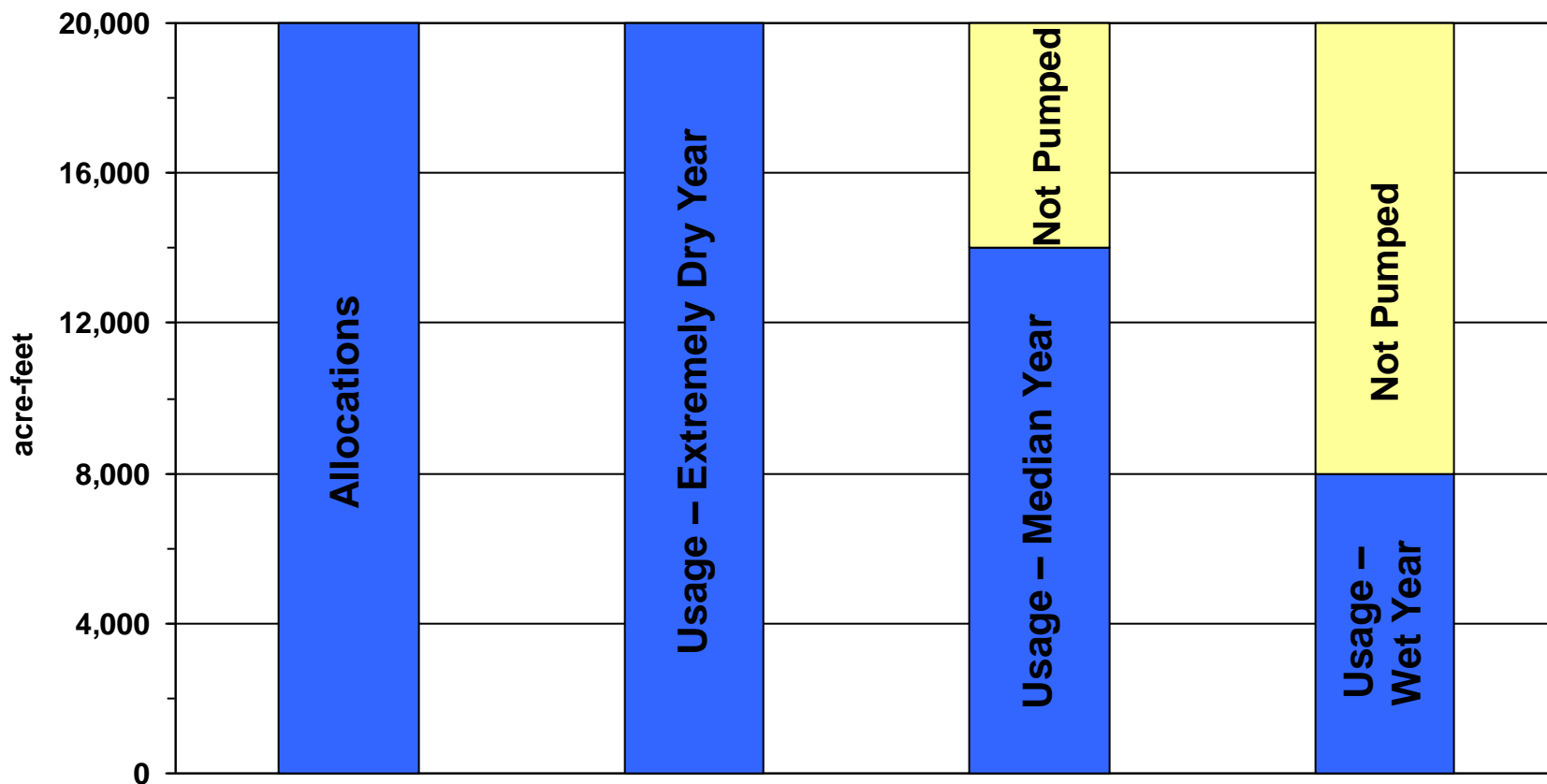
Some Comments
About
Consumptive Use

Brandon Allocations and Usage



Irrigation Allocations and Usage

(Note – All systems are pressurized)



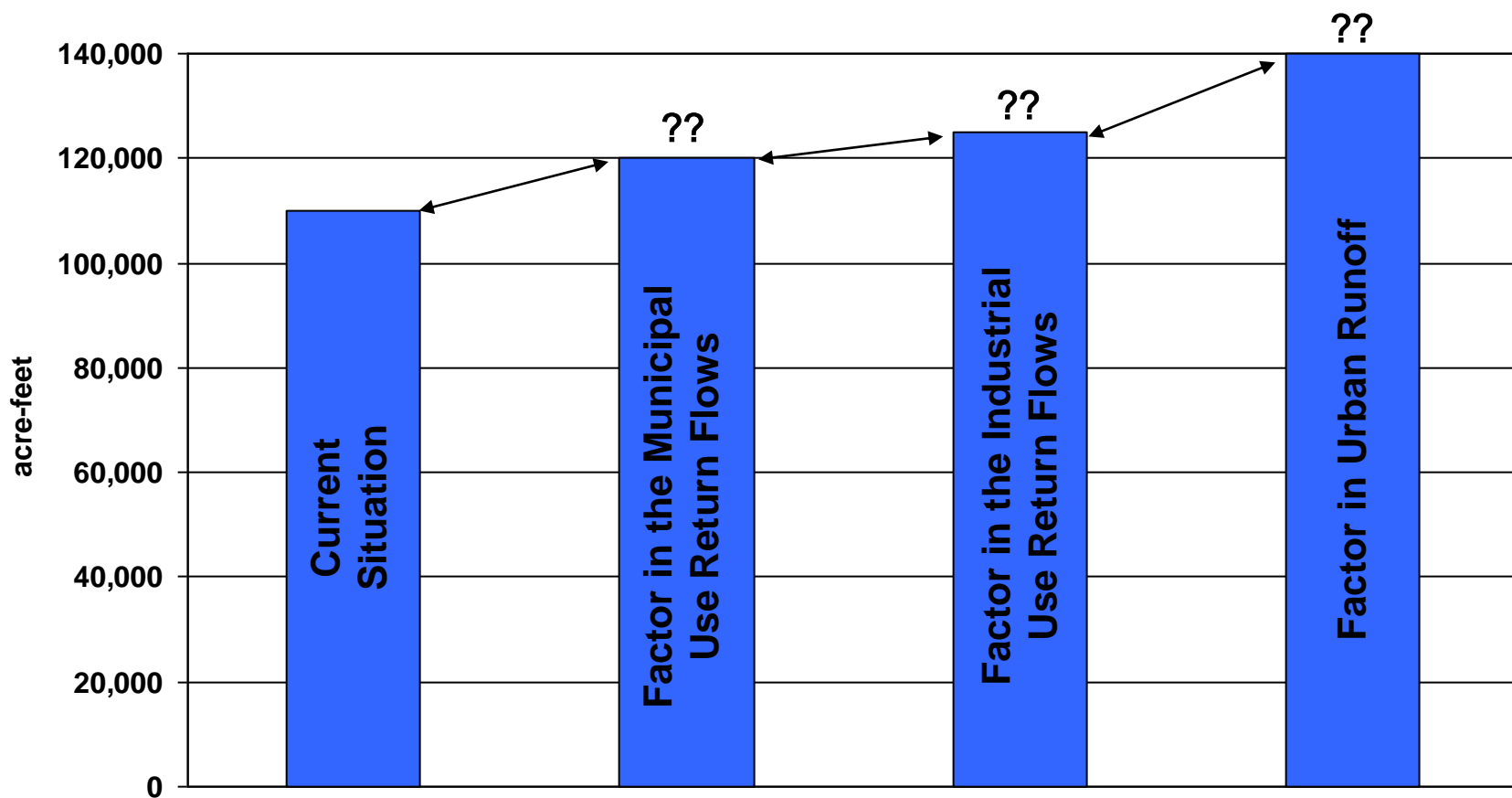
When we have no more
water to allocate,
What Can We Do?

Two Options:

- Factor in Some or All of the Return Flows
- Live With Higher Risk

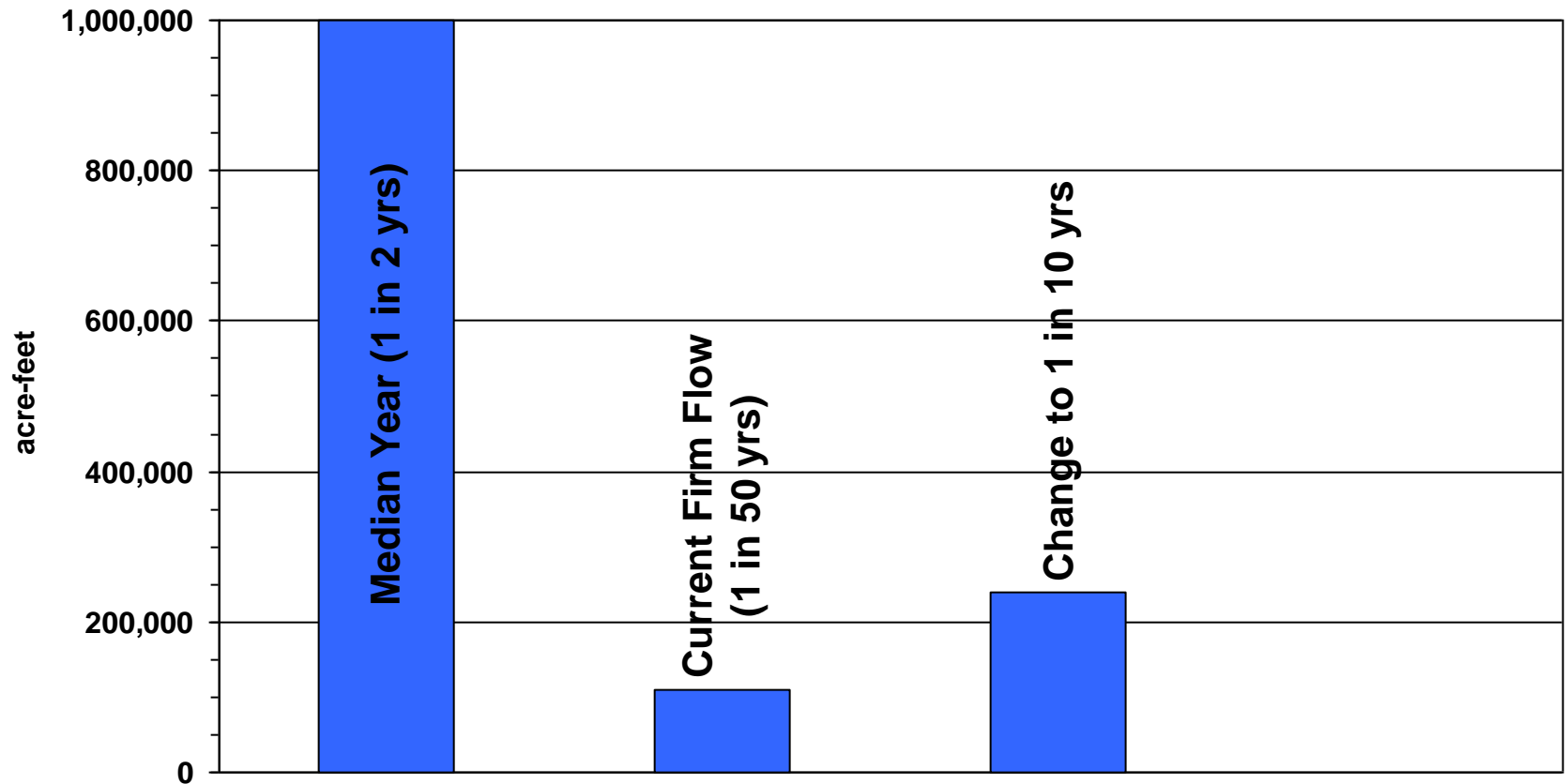
Option #1

Factor In The Return Flows



Option #2

Live With Greater Risk



Perhaps in Manitoba
we have our own
definition of
water scarcity?

When scarcity finally arrives,
How Might We Deal With it
Under The Water Rights Act?

Section 8(1) of The Manitoba Water Rights

Act reads:

Precedence of Licenses

8(1) – Licenses have precedence in relation to one another according to the date of the submission of application for each license.

FITFIR – First in time, First in Right

[First come, First Served]

What About Section 9?

Priorities

9 – The order of priority of the purpose for which water may be used or diverted, or works constructed, established and maintained, in accordance with this Act is as follows:

- 1) Domestic Purposes (< 25,000 L/day)
- 2) Municipal Purposes
- 3) Agricultural Purposes (> 25,000 L/day)
- 4) Industrial Purposes
- 5) Irrigation Purposes (> 25,000 L/day)
- 6) Other Purposes

In Manitoba these Use Purposes may be used to effect equity in the following manner:

- 1) To discriminate among competing applications for water rights licenses
- 2) To reserve water for one or more preferred uses in the future
- 3) To facilitate transfer of water use from lower to higher preferred use categories
- 4) To allocate water during drought or other water emergencies

Section 8(4) of the WRA allows the agency to discriminate among competing applications for water rights licenses:

Where submission dates are identical

8(4) – Where the date of submission...in respect of any licence is identical ...in respect of any other licence, the licenses have precedence in relation to one another according to the priority of purpose established for each licence in the order of priority prescribed in section 9.

Section 13(1) of the WRA allows the minister to reserve water for one or more preferred uses in the future:

Reservation of Water

13(1) – Notwithstanding any other provisions of this Act, the Minister may reserve any unlicensed water

(a) in order that a survey be made as to how the water may be used or diverted to the greatest advantage of the residents of the province; or

(b) for each uses and purposes specified by the Minister as in his opinion will be of the greatest advantage to the residents of the province;

And may fix a period of time within which the reservation may be utilized

Section 14 of the WRA facilitates the transfer of water use from a lower to higher preferred Use Category:

Cancellation of Licence

14(1) Where a person applies to the minister for a licence to use or divert water at any place or point and all the water available for use or diversion at that place or point has already been allocated to other licensees, if the purpose for which the applicant will use the water is higher in priority in the order of priority established therefor under section 9 than that of the purpose of one or more of those other licensees, the minister may issue the licence to the applicant and, subject to section 19, may cancel or restrict the rights under the licence of any one or more of those other licensees ranking lower than the applicant in priority of purpose.

Compensation

14(2) A person whose existing licence is cancelled or whose rights under his existing licence are restricted under subsection (1) in favour of a new applicant for a licence is entitled to receive from and shall be paid by the applicant compensation for any loss or damage suffered by him as a consequence of the cancellation or restriction.

Section 19 allows the Minister to Re-allocate water during drought or if it is in the Public Interest to do so:

Suspension and cancellation of licence

19(1) – In addition to any suspension or cancellation of a licence that may be authorized under any other provision of this Act, the minister or a person authorized by him in writing may, for cause;

(a) suspend a licence or permit for any stated period of time or until a condition is met;

(b) where in the opinion of the minister it is in the public interest to do so, cancel a licence or permit whether or not it has first been suspended under clause (a).

The End