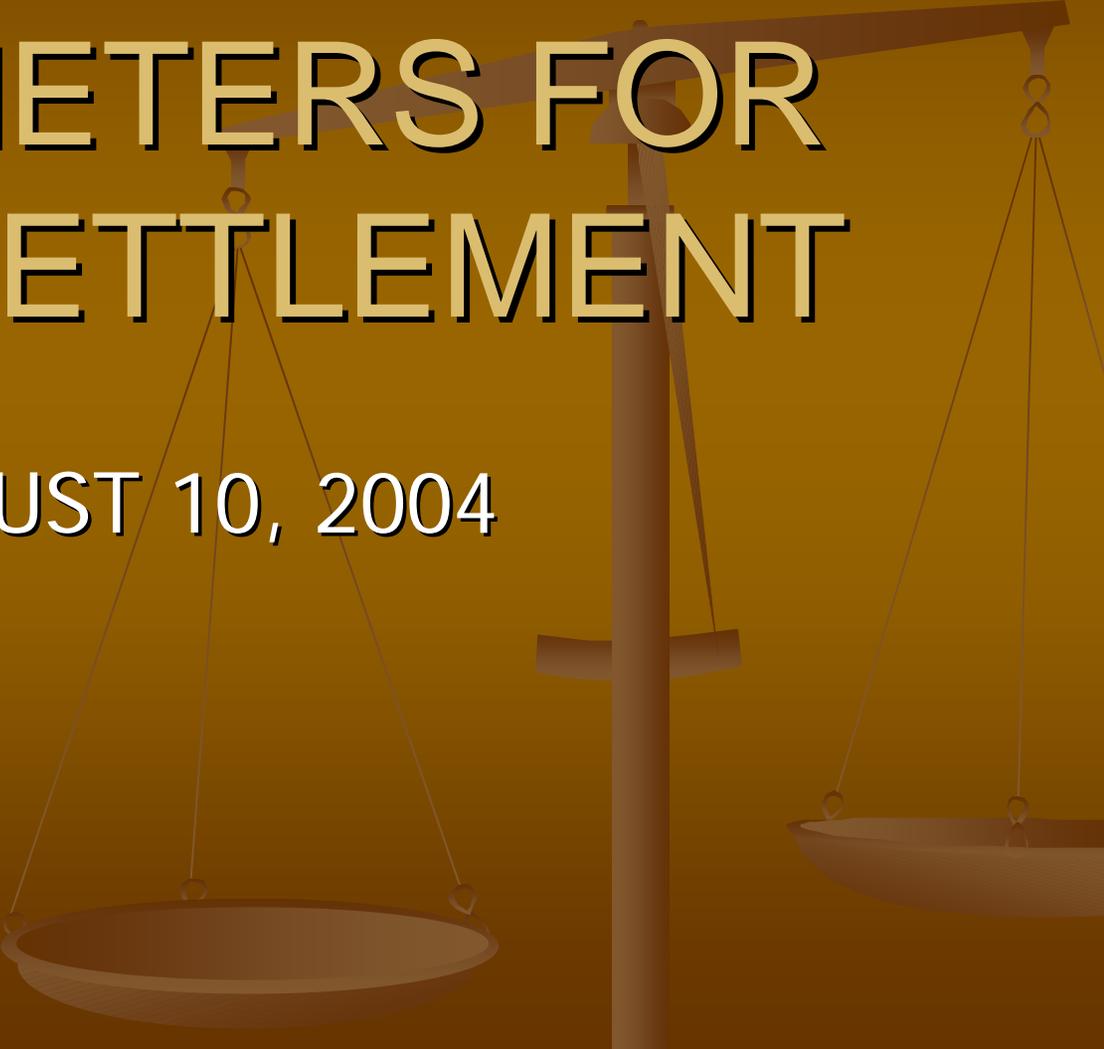
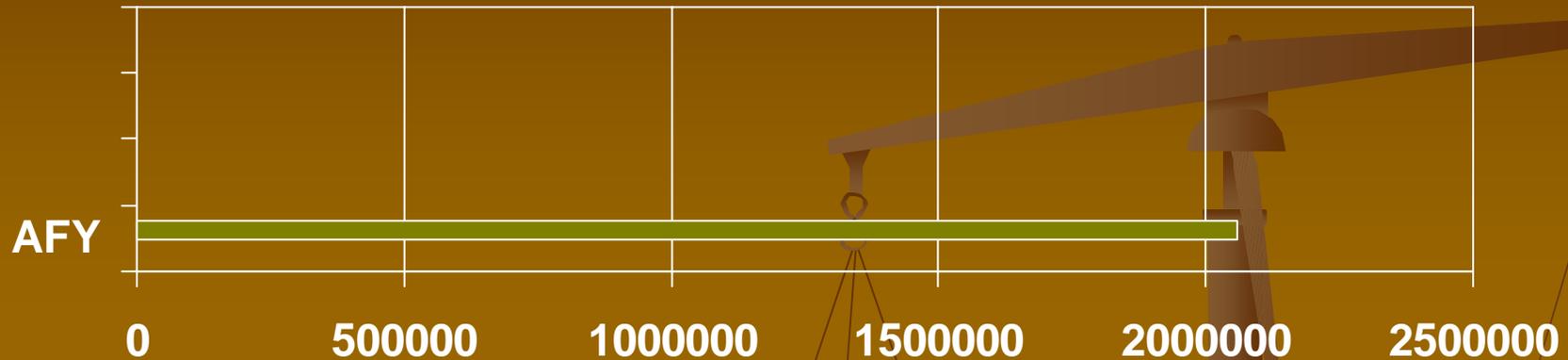


# PARAMETERS FOR ESPA SETTLEMENT



AUGUST 10, 2004

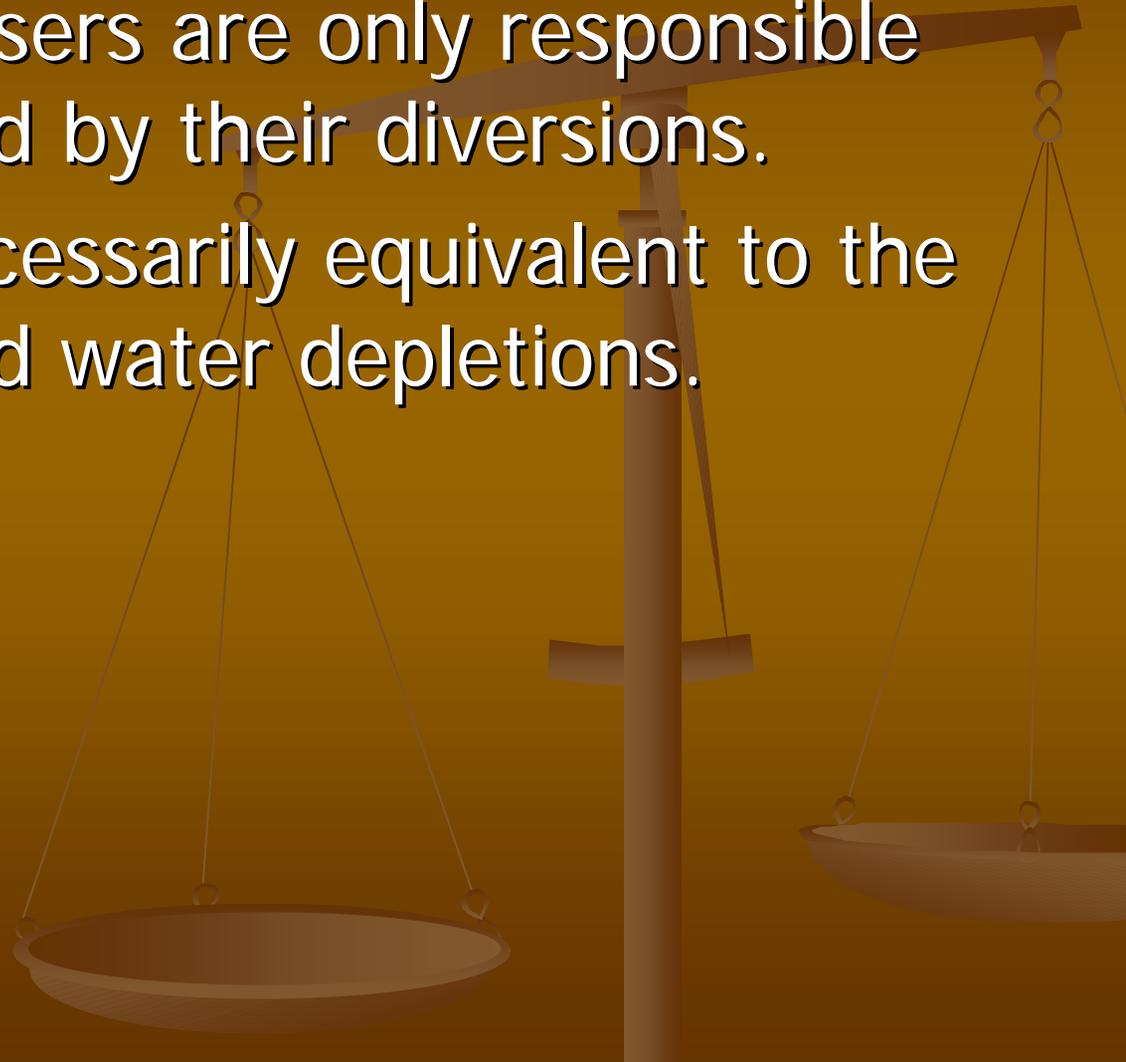
# Outer Boundaries of Litigation Remedy



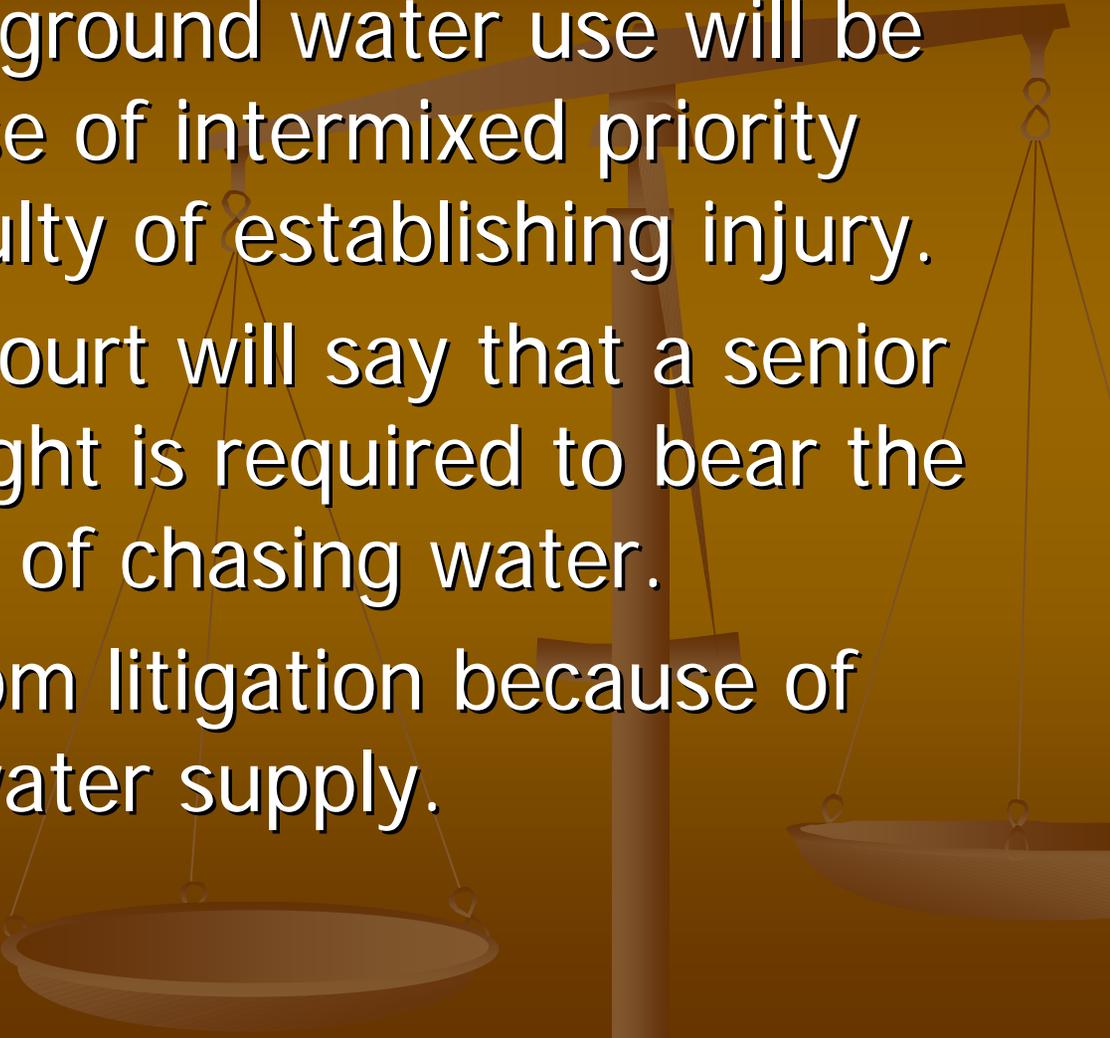
- Surface Water Users' Remedy is Curtailment. If all ground water rights are curtailed, depletions would be reduced by 2,058,000 AFY.
- Ground water users contend surface water users must chase the water. Best outcome is no curtailment.

# Ground Water Users' Legal Liability

- Ground water users are only responsible for injury caused by their diversions.
- Injury is not necessarily equivalent to the extent of ground water depletions.



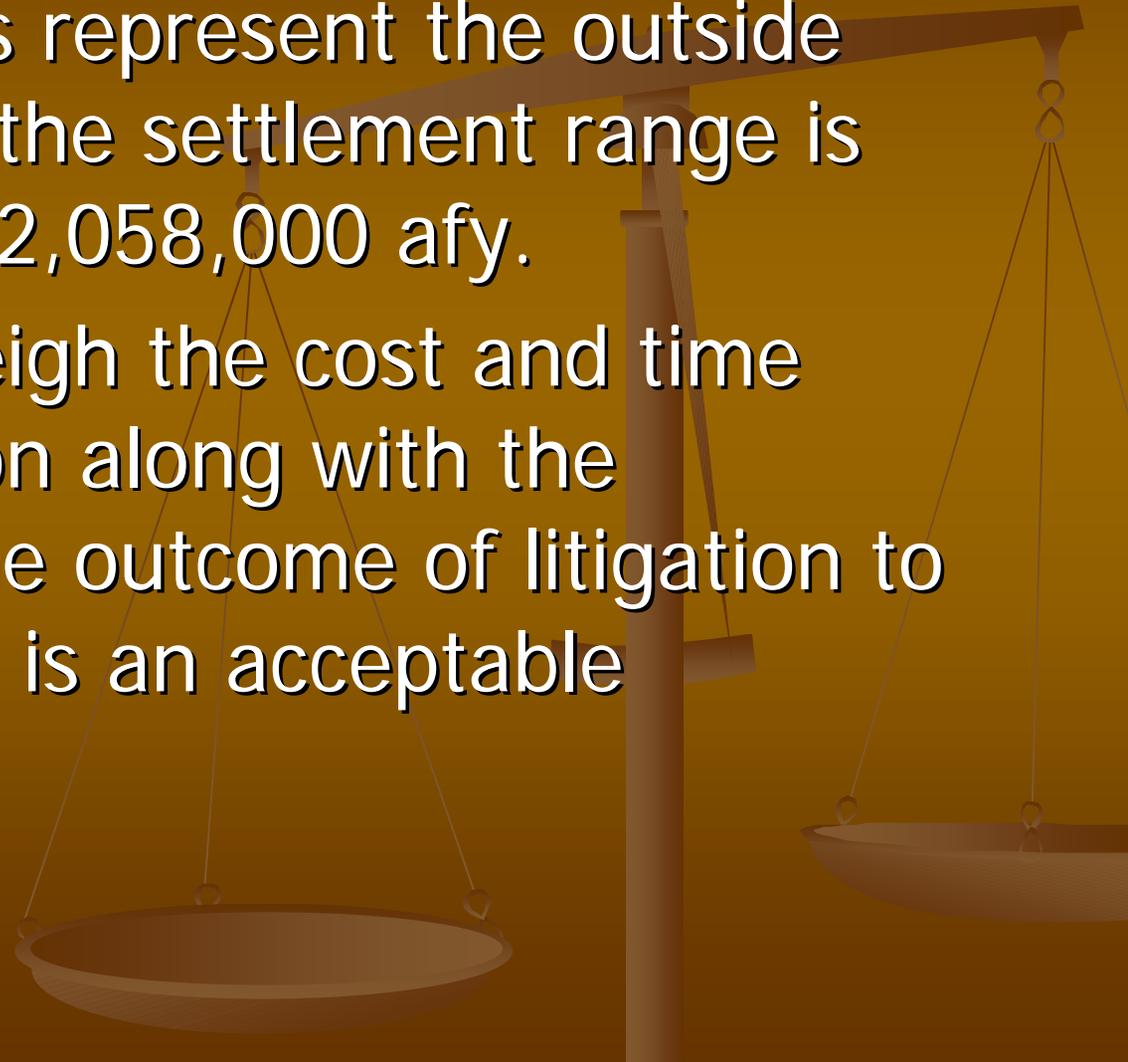
# Litigation Risk



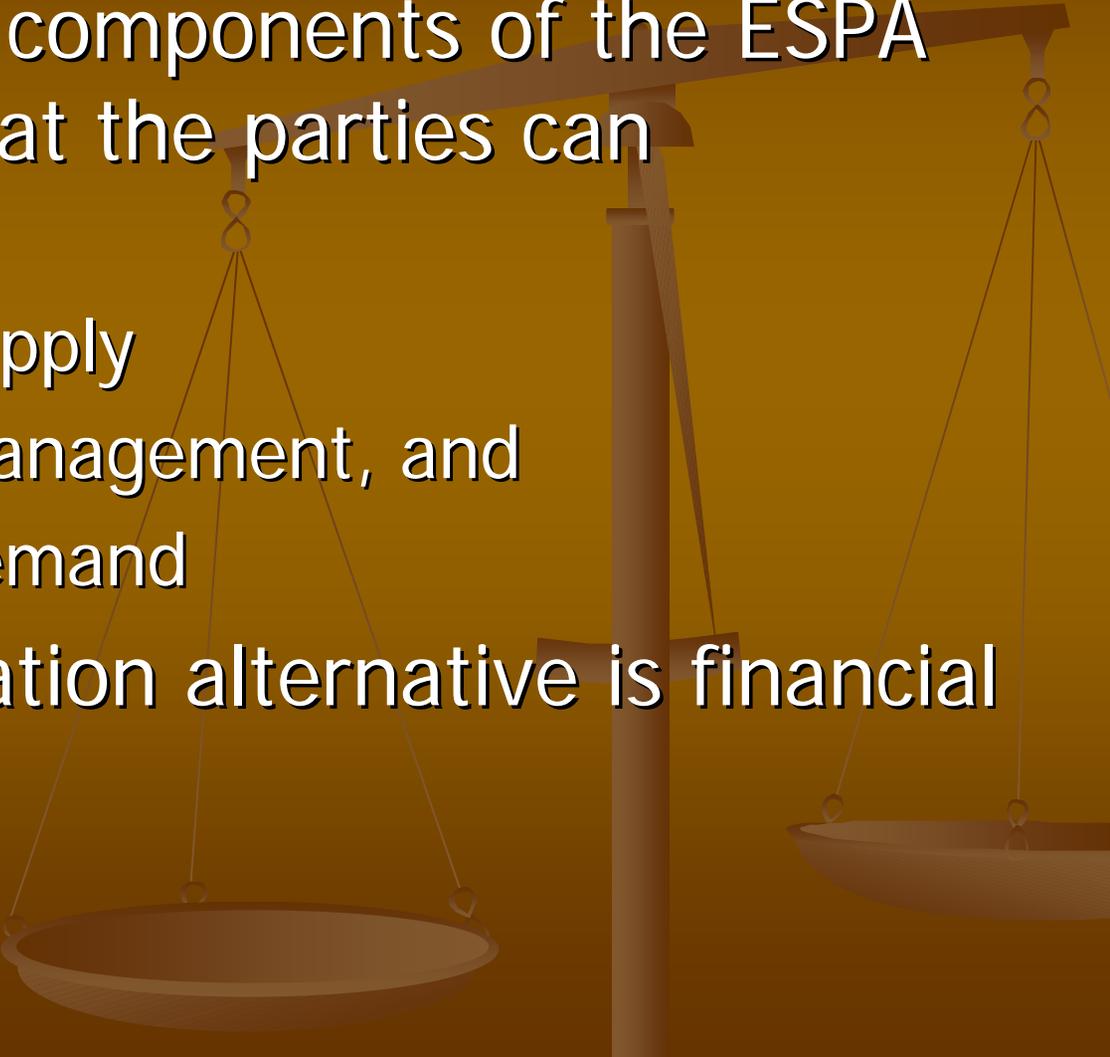
- Unlikely that all ground water use will be curtailed because of intermixed priority dates and difficulty of establishing injury.
- Unlikely that a court will say that a senior surface water right is required to bear the financial burden of chasing water.
- Financial risk from litigation because of uncertainty of water supply.

# SETTLEMENT RANGE

- Since depletions represent the outside limits of injury, the settlement range is between 0 and 2,058,000 afy.
- Parties must weigh the cost and time delay of litigation along with the probability of the outcome of litigation to determine what is an acceptable settlement.



# ELEMENTS OF A SETTLEMENT



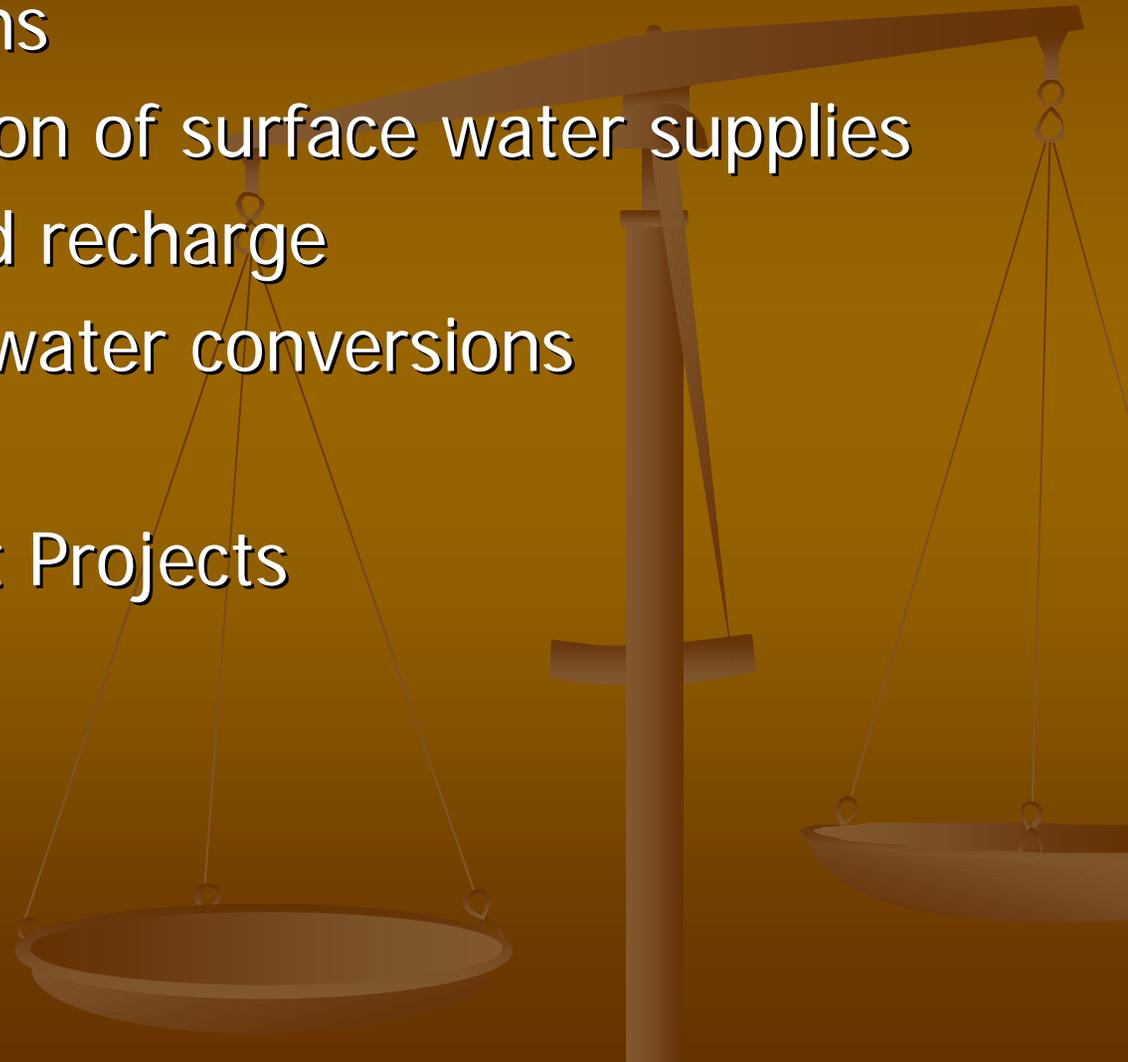
- There are three components of the ESPA water budget that the parties can influence:
  1. Water supply
  2. Water management, and
  3. Water demand
- The other mitigation alternative is financial compensation.

# Water Budget Elements

## Water Supply Options

1. Acquisition of surface water supplies
2. Managed recharge
3. Ground water conversions

## Water Management Projects



# Water Demand

- Once a settlement goal is established, the amount of reduction in demand can be determined by subtracting the amount of increased water supply resulting from water supply and water management measures from the settlement goal.
  - Reductions can occur either in reduced ground water pumping or reduced demand on springs.
  - Settlement is likely only if the reduction is achieved through voluntary market mechanism or through some uniform reduction among water users.
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