

Item G – Update on Guidance for Voluntary Agreements Among Groundwater Users

**Jason Spriet, East Region Manager
Laura Hartt, Water Policy Analyst**

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Integrated Water Resources Strategy

Recommended Actions

10.D – Reach Environmental Outcomes with Non-Regulatory Alternatives

11.E – Develop Additional Groundwater Protections

History/Background

Division 512 Rulemaking/HB 2010

Harney Basin Groundwater

- Chapter 690, Division 512 Rulemaking Effort
 - Regulatory Tools
 - Critical Groundwater Area Designation
 - Serious Water Problem Management Area
 - Classification
 - Voluntary Tools
 - Conservation Reserve Enhancement Program
 - Rules Advisory Committee (RAC) interest in voluntary agreements

What is a Voluntary Agreement?

- Described generally in statute (ORS 537.745)
- Agreement among groundwater users to curtail groundwater use through voluntary reductions
- Requires approval by the Water Resources Commission
- Has not been used before in Oregon to manage groundwater

House Bill 2010 (2023), Section 43(2)

Authorized Department to engage contractor to help

- Advise groundwater users and other interested parties working on groundwater management in the Greater Harney Valley Groundwater Area of Concern (GHVGAC)
- Assess opportunities and limitations of voluntary agreements in the GHVGAC
- Assist groundwater users in the GHVGAC with developing voluntary agreements

Focus Group & Division 512 RAC Input

- August 2023, RAC Informational Session 4
 - Introduction to Voluntary Agreements
- July – October 2024, Focus Group Meetings
 - Facilitated, iterative process to develop draft guidance
- October 2024, Rules Advisory Committee Meeting
 - Incorporated input
- August 28, 2025, Draft Guidance

Statutory Requirements

ORS 537.745

ORS 537.745 - Voluntary agreements among ground water users from same reservoir

- May encourage, promote and recognize voluntary agreements among groundwater users from same groundwater reservoir
- Shall approve if consistent with intent, purposes and requirements of ORS 537.505 to 537.795 and 537.992 (civil penalties), particularly
 - ORS 537.525 - Policy considerations (public welfare, safety, health)
 - ORS 537.730 to 537.740 - Critical Groundwater Area designation
 - ORS 537.780 - Powers of the Commission

ORS 537.745 - Voluntary agreements among ground water users from same reservoir

- Unless terminated, controls in lieu of formal order/rule
- Termination by
 - lapse of time per agreement
 - consent of the parties to agreement
 - order of Commission after finding
 - substantial noncompliance
 - changed conditions

Department Guidance

Attachment 1

Minimum Requirements

- Able to achieve groundwater level stability
- Timelines and amount of curtailment need to be consistent with the basin rules
- Groundwater user accountability, including monitoring and reporting
- Departmental review to ensure the agreement aligns with goals for the basin

Flexibility

- Groundwater users can participate in smaller management groups
- Schedule alternate reductions to achieve stable water levels.
- May provide higher pumping rate
- May not require strict adherence to prior appropriation
- May adjust participation with approval of the Commission

Process Considerations

- Consistent with basin program rules (e.g., Division 512)
- Agreement Approval
 - Consideration of intent, purpose, and requirements language within ORS 537.745
- Agreement Termination
 - Consider substantial compliance and changed conditions language within ORS 537.745
- Department Review Prior to Approval
 - Allow for 90-day review prior to Department recommendation to the Commission

Groundwater User Voluntary Agreements

Attachment 2

Current Status of Voluntary Agreements in the Harney Basin

- June 2025
 - Template (Attachment 2) provided to Department
 - Based on rotation agreements; highlights areas of potential non-alignment with Departmental guidance
- July 2025
 - 2 to 4 Voluntary Agreements in development
- December 2025
 - Commission may receive Voluntary Agreement(s) for consideration
 - Parties to the Agreement(s) may request adoption in lieu of the Division 512 rules

Groundwater Advisory Committee

Advise to Commission

Groundwater Advisory Committee (GWAC)

- September 9, 2025 - Presentation to GWAC
- GWAC advise to Commission
 - “GWAC recommends the Commission allows public comment and feedback on Agenda Item G: Voluntary Agreement Guidance.
 - GWAC will hold a meeting before the December Commission meeting to discuss the details of the Voluntary Agreement guidance and may provide further detailed advice to the Commission in December.”

Next Steps

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- Draft guidance is intended as interim
- Future options include
 - Finalize as Harney Basin guidance
 - Refine as statewide guidance
 - Statewide rulemaking

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Thank you!

Jason Spriet

jason.d.spriet@water.oregon.gov

Laura Hartt

Laura.a.hartt@water.oregon.gov



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