

**WATER RESOURCES DEPARTMENT  
CHAPTER 690  
DIVISION 512  
MALHEUR LAKE BASIN PROGRAM**

**690-512-0010            Definition**

Unless specified in these rules the definitions in OAR 690-300-0010 apply to the below rules.

(1) “Exempt groundwater uses” are those defined in ORS 537.545.

(2) “Public Uses” are those uses defined in OAR 690-077-0010(27).

(3) “Permissible Total Withdrawal” is the total volume of groundwater allowed to be pumped annually within a subarea of the critical groundwater area. The unit of measurement for the permissible total withdrawal is acre-feet.

(4) “Department” means the Water Resources Department.

(5) “Director” means the Water Resources Director

~~(2)~~(6) “Commission” means the Water Resources Commission

~~(3)~~(7) “Totalizing flow meter” is an instrument used to measure and display both the instantaneous flow rate of groundwater produced from a well and the total volume of groundwater produced from a well.

(8) “Forbearance” means to voluntarily refrain from using the full amount of water authorized on a water right

Statutory/Other Authority: ORS 536.300, ORS 536.027 & 537.545, ORS 537.735

Statutes/Others Implemented:

**Rule Summary: This rule defines terms used in OAR chapter 690 Division 512, ORS 537.545 and ORS 537.735.**

**690-512-0020            Administrative Boundaries**

(1) The Greater Harney Valley Groundwater Area of Concern (GHVGAC) is defined for administrative purposes and is described and shown in Exhibit 1.

- (2) The Malheur Lake Basin Boundary is delineated on the agency Map 12.6, Dated January 1, 1966, shown in Exhibit 2.
- (3) The Serious Water Management Problem Area (SWMPA) boundary is defined as the GHVGAC boundary shown in Exhibit 1.
- (4) The Groundwater Classification Boundary is defined as the Harney Basin within the Malheur Lake Basin and within portions of Grant and Harney Counties as shown in Exhibit 3.
- (5) The Harney Basin Critical Groundwater Area is defined as the GHVGAC boundary shown in Exhibit 1.

Statutory/Other Authority: ORS 537.525, ORS 537.026, ORS 536.300, ORS 540.435, ORS 536.340, ORS 537.7350

Statutes/Others Implemented: ORS 536.300, ORS 540.435, ORS 536.350, ORS 537.35

**Rule summary: This rule defines the administrative boundaries within the Malheur Lake Basin.**

#### **690-512-0030            Classifications**

- (1) Except as provided in OAR 690-512-0020(4), the groundwater and surface water of the Malheur Lake Basin are classified for direct appropriation of, or storage of surface water and use of, water for domestic, livestock, irrigation, municipal, quasi-municipal, industrial, mining, agricultural water use, commercial, power development, forest management, public uses, road watering, dust abatement, and wildlife refuge management.
- (2) Except as provided in section (3), groundwater in the Groundwater Classification Boundary defined in OAR 690-512-0020(4) is classified for statutorily exempt groundwater uses as specified in ORS 537.545.
- (3) Voluntary water right forbearance for groundwater availability. For the purposes of processing applications pursuant to ORS 537.143 and 690-340-0030 an applicant may request the Department find that Water is Available for the proposed use(s) within the Harney Basin Critical Groundwater Area consistent with this section. In reviewing a limited license application to appropriate groundwater, the Department may find that Water is Available for the proposed use(s) if:
  - a. The proposed use does not have the Potential for Substantial Interference with surface water as determined pursuant to OAR 690-009; and,
  - b. The duty of the proposed groundwater use is offset by the forbearance of an existing primary groundwater certificate or primary permit within the same CGWA subarea as the proposed use as defined in 690-512-0040(5) – (19); and,

- c. The primary groundwater certificate or primary groundwater permit that is held in forbearance:
- (A) \_\_\_\_\_ is not subject to forfeiture or cancellation for non-use.
  - (B) \_\_\_\_\_ has a priority date not subject to an order to curtail use; and,
  - (C) \_\_\_\_\_ is equal or greater in duty and acreage as compared to the duty and acreage of the new appropriation sought; and,
- d. The groundwater right held in forbearance was subject to transfer or permit amendment; and,
- e. All water use related to the groundwater right that is being offered in forbearance has ceased prior to submission of the new application.

Statutory/Other Authority: ORS 537.026, ORS 537.027 ORS 536.300, 536.340, 537.621(2), 537.777(1), &537.780(1) and (1)(h) & 537  
Statutes/Others Implemented: ORS 536.340

**Rule Summary: This rule classifies the Malheur Lake Basin and [further classifies the area within](#) the boundary defined in 690-512-0020(4).**

#### **690-512-0040 Harney Basin Critical Groundwater Area**

- (1) Reasonably stable water levels within the Harney Basin Critical Groundwater Area means a median static water level decline of 0 feet over a 5-year period within each of the 15 subareas defined in 690-512-0040(5)-(19). A review of the groundwater level trends shall be completed at least once every 10 years for each of the 15 subareas. The findings of the review will be published in a report to the Commission and made publicly available on the Department's website.
- (2) ~~Except as defined in rule 690-512-0030(2) Classifications, the Department will not accept new applications for groundwater permits within the Harney Basin Critical Groundwater Area.~~
- (3) The Harney Basin groundwater reservoir is defined as a single groundwater reservoir having exterior boundaries which coincide with the boundaries of the Harney Basin as shown in Exhibit X. Only the portion of the groundwater reservoir within the Harney Basin Critical Groundwater Area is subject to the critical groundwater area designation.
- (4) The Harney Basin Critical Groundwater area defined in section 690-512-0020(5) shall be divided into 15 subareas for the purpose of management as shown in exhibit 3.

(5) The Crane--Buchanan subarea is shown in exhibit #

(6) The Crane subarea is shown in exhibit #

(7) The Dog Mountain subarea is shown in exhibit #

(8) The Harney Lake subarea is shown in exhibit #

(9) The Lawen subarea is shown in exhibit #

(10) The Lower Blitzen – Voltage subarea is shown in exhibit #

(11) The Malheur Lake subarea is shown in exhibit #

(12) The North Harney subarea is shown in exhibit #

(13) The Poison Creek – Rattlesnake Creek Subarea is shown in exhibit #

(14) The Rock Creek Subareas is shown in exhibit #

(15) The Silvies subarea is shown in exhibit #

(16) The Upper Blitzen subarea is shown in exhibit #

(17) The Upper Silver Creek subarea is shown in exhibit #

(18) The Weaver Springs subarea is shown in exhibit #

(19) The Windy Point subarea is shown in exhibit #

Statutory/Other Authority: ORS 537.026, ORS 537.525, ORS 537.780, ORS 537.735, 690-010-0130(3)(a) – (c)

Statutory/Others Implemented:

**Rule Summary: This rule characterizes the Harney Basin Groundwater Reservoir and defines the 15 subareas within the Harney Basin Critical Groundwater Area. This rule also requires the department to conduct a periodic review once every 10 years. The Department will not accept any new applications for groundwater except for those defined in 690-512-0030.**

690-512-0050 Permissible Total Withdrawals for the 15 Subareas within the Harney Basin Critical Groundwater Area

- (1) The Crane -Buchanan subarea permissible total withdrawal shall be 18,400 acre-feet per year.
- (2) The Crane subarea permissible total withdrawal shall be 3,800 acre-feet per year.
- (3) The Dog Mountain subarea permissible total withdrawal shall be 3,400 acre-feet per year.
- (4) The Harney Lake subarea permissible total withdrawal shall be 900 acre-feet per year.
- (5) The Lawen subarea permissible total withdrawal shall be 1,400 acre-feet per year.
- (6) The Lower Blitzen – Voltage subarea permissible total withdrawal shall be 13,600 acre-feet per year.
- (7) The Malheur Lake subarea permissible total withdrawal shall be 5 acre-feet per year.
- (8) The North Harney subarea permissible total withdrawal shall be 1,900 acre-feet per year.
- (9) The Poison Creek – Rattlesnake Creek Subarea permissible total withdrawal shall be 13,800 acre-feet per year.
- (10) The Rock Creek subarea permissible total withdrawal shall be 1,400 acre-feet per year.
- (11) The Silvies subarea permissible total withdrawal shall be 15,700 acre-feet per year.
- (12) The Upper Blitzen subarea permissible total withdrawal shall be 100-acre-feet per year.
- (13) The Upper Silver Creek subarea permissible total withdrawal shall be 20,400 acre-feet per year.
- (14) The Weaver Springs subarea permissible total withdrawal shall be 5,000 acre-feet per year.
- (15) The Windy Point subarea permissible total withdrawal shall be 9,100 acre-feet per year.

Statutory/Other Authority: ORS 537.780, ORS 537.735, ORS 537.026, ORS 537.525

Statutory/Others Implemented:

**Summary: This rule sets the total permissible withdrawal for the 15 subareas in the Harney Basin Critical Groundwater Area.**

### 690-512-0060 Allocation of the Permissible Total Withdrawal Following Contested Case

- (1) If reduction in groundwater use will occur under order of the Water Resources Commission, the permissible total withdrawal for a subarea will be allocated to the most senior rights first.
- (2) The amount of the Permissible Total Withdrawal allocated to a senior right will be based upon beneficial groundwater use over a five-year consecutive period as defined by the Department.
- (3) Beneficial use will be based on the best available data, including but not limited to satellite-based evapotranspiration data, flowmeter records of use, or other methods as determined by the Department.

Statutory/Other Authority: ORS 537.780, ORS 537.742, ORS 537.026, ORS 537.525

Statutory/Others Implemented: ORS 537.742

Rule Summary: This rule describes the allocation method the Department shall use for allocating the permissible total withdrawal.

### 690-512-0070 Curtailment of Groundwater Use in the Harney Basin Critical Groundwater Area

The Department's goal is to reduce groundwater level declines as quickly as possible while minimizing impacts to the groundwater user community. To accomplish this:

- (1) During the contested case proceeding on the Notice of Proposed Corrective Control Orders, the Department will recommend to the Commission the following timelines for curtailment of groundwater use.
  - a. For the Weaver Springs subarea as defined in 690-512-0050(4), full curtailment to meet the Permissible Total Withdrawal shall be implemented at the start of the water year following the issuance of the final corrective control order pursuant to OAR 690-010-0230.
  - b. For the subareas of Crane, Dog Mountain, Lawen, North Harney, and Rock Creek the Department shall curtail groundwater use in these 5 subareas to the PTW no later than 3 years following the Notice of Proposed Corrective Control Orders as required by OAR 690-010-0180. Curtailment orders will be issued for the start of the water year following the final corrective control order pursuant to OAR 690-010-0230.

Statutory/Other Authority: ORS 537.780, ORS 537.735, ORS 537.742, ORS 537.026, ORS 537.525

Statutory/Others Implemented:

Summary: This rule sets the Departments recommendation for the implementation of the permissible total withdrawal for the subareas of Crane, Dog Mountain, Lawen, North Harney, and Rock Creek and Weaver Springs within the Harney Basin Critical Groundwater Area.

**690-512-0080 Serious Water Management Problem Area (SWMPA)**

- (1) Groundwater conditions within the SWMPA boundary defined in 690-512-0020(3) meet the criteria defined in 690-085-0020(1)(a) and 690-085-0020(1)(f).
- (2) By no later than March 1, 2025, each water right holder, well owner, or well operator, shall properly install and thereafter properly maintain a totalizing flow meter on each well within the Harney SWMPA boundary as defined in 690-512-0030 listed as a point of appropriation on a valid water right. Totalizing flow meters shall be properly installed according to manufacturer's specifications and must meet the specifications in subsections
- (3) Totalizing flow meters and the method of flow meter installation are subject to approval by Department Staff. Once installed, totalizing flow meters must be maintained in good working order. Department staff shall have access to the totalizing flow meters upon request.
- (4) The water right holder, well owner, or well operator shall keep a complete record of the volume of water appropriated each month and shall submit a report which includes water use measurements to the Department on an annual basis by January 31 of each calendar year. The Director may request submission of reports more frequently as necessary to monitor and administer the SWMPA. Reports of water use measurements shall be submitted to the Department during the month of January for the preceding year, or more frequently as required by the Director. Reports shall be submitted on a form developed by the Department.
- (5) A totalizing flow meter shall meet the following specifications:
  - a. A totalizing flow meter shall have a rated accuracy of plus or minus 2 percent of actual flow for all flow rates for which the meter is expected to measure.
  - b. A totalizing flow meter shall measure the entire discharge from the well.
  - c. A totalizing flow meter shall have a visual and recording, mechanical or digital totalizer located on or adjacent to the flow meter and shall be equipped with a sweep hand or digital readout so that instantaneous flow rate can be read.
  - d. The totalizing part of the flow meter shall have sufficient capacity to record the quantity of water authorized to be pumped over a period of 2 years. Units of water measurement shall be in acre-feet, cubic feet, or gallons and the totalizer shall read directly in one of these units. Flow meters recording in acre-feet shall, at a minimum, read to the nearest 1/10th acre foot, and the decimal multiplier shall be

- clearly indicated on the face of the register head.
- e. Totalizers on each meter shall not be field reset without notice to and written permission from the Watermaster. Prior to resetting the totalizers, the final reading must be recorded and reported.
  - f. The totalizing flow meter shall be installed in accordance with all manufacturer specifications. There shall be no turnouts or diversions between the well and the flow meter. The flow meter shall be installed not less than five pipe diameters downstream from any valve, elbow, or other obstruction which might create turbulent flow, or other provisions shall be made that meet the manufacturer's specifications to control or eliminate turbulent flow.
  - g. The totalizing flow meter shall be installed no more than 100 feet away from the well head.
- (6) A water user shall report broken flow meters to the local watermasters office within 48 hours after determining that the flow meter is broken. A water user shall not appropriate for more than 60 days without an operating flow meter. While the flow meter is broken, the water user shall record daily the hours the pump operates, the power meter reading and the time the power meter was read. The water user shall mail the data to the Department in Salem within one week of the installation of the repaired or replacement flow meter. The data shall include a statement of the initial reading on the newly installed flow meter and the current power meter reading. The water user shall notify the watermaster within 48 hours of installing the repaired or replacement flow meter.
- (7) Failure to have and maintain a properly installed, functioning totalizing flow meter by March 1, 2025, will result in the Watermaster regulating and controlling an unmetered well such that no groundwater may be pumped or appropriated until a flow meter is obtained and installed consistent with these rules.
- (8) Consistent with ORS 536.900, Chapter 183, and OAR Chapter 690 division 260, the Department may assess civil penalties for violation of these rules.

Statutory/Other Authority: ORS 537.026, ORS 540.435

Statutes/Others Implemented: ORS 540.435

**Rule Summary: This rule describes the Serious Water Management Problem Area requirements for the Greater Harney Valley Groundwater Area of Concern.**

**690-512-0090**

**Whitehorse and Willow Creeks**

Willow Creek and tributaries, and Whitehorse Creek and tributaries are withdrawn from future appropriations except as described in the order of the Water Resources Commission effective April 24, 1992.

Statutory/Other Authority: ORS 536.410  
Statutes/Other Implemented: ORS 536.410

**Rule Summary:**

**690-512-00100**

**Home Creek Reservation**

1) Reservations of water for economic development are established pursuant to ORS 537.249 and 537.356 economic benefits through both instream and out-of-stream uses of water. 4,550 acre-feet of unappropriated water in Home Creek and tributaries are reserved for multipurpose storage for future economic development as allowed under ORS 537.356 with a priority date of February 25, 2009.

(2) "Multipurpose reservoir", as used in OAR 690-512-0100 means a reservoir storing water to serve more than two potential beneficial uses including but not limited to irrigation, power generation, municipal water supply, recreation and flow augmentation for instream purposes.

(3) Reservations of water for future economic development allocate surface water for storage in multipurpose reservoirs.

(4) For the purposes of review of applications to store reserved water under OAR chapter 690, division 310, and subject to the provisions of section (6), the reserved quantities of water listed in OAR 690-512-0100(1) are available for appropriation.

(5) The determination of water availability under section (4) shall not substitute for consideration during the public interest review of site-specific information related to the capacity of the resource to support the proposed project, as required under OAR chapter 690, division 310.

(6) In addition to the requirements of ORS Chapter 537 and applicable rules, the Department will only issue an order approving an application for a permit to store water in the Home Creek basin reserved under any reservation if it first finds:

(a) The proposed reservoir and any water rights secondary with the storage right are consistent with the purpose and intent of the reservation following consultation with Harney County Court;

(b) The proposed reservoir and any water rights secondary to the storage right will protect instream values, including but not limited to instream flows and water quality based upon a written assessment of these values developed in consultation with Department of Fish and Wildlife and Department of Environmental Quality; and

(c) Whether minimum bypass flows are required.

(7) In addition to the requirements of ORS Chapter 537 and applicable rules, any final order approving an application for a permit to store water and any order for water rights secondary with the storage right under the Home Creek Reservation shall contain the findings required in (6)(a)–(c) above, and will also contain conditions that:

(a) Set the appropriate storage season,

(b) Ensure no injury to senior water rights, including instream water rights,

(c) Protect instream values; and

(d) Set minimum bypass flows if identified under (6)(c) above.

(8) If the Department has not received applications for multipurpose reservoir permits for the full quantity of reserved water by July 1, 2014, the Department shall provide the Parties involved in the Home Creek Settlement Agreement with a progress report on development of the reservations. The report shall include information on the continued need for the reservations and the quantities of water reserved. The Department shall continue to provide progress reports at five year intervals while these rules are in effect unless the Department receives applications for multipurpose reservoir permits for the full quantity of reserved water.

(9) If the Department has not received applications for multipurpose reservoir permits for the full quantity of water reserved by July 1, 2029, applications for remaining quantities of unallocated water under OAR 690-0512-0100(1) may not be accepted after July 1, 2029, unless this deadline is extended through rulemaking by the Water Resources Commission.

Statutory/Other Authority: ORS 536 & 537

Statutes/Other Implemented: ORS 536.310, 537.249, 537.356 & 537.358

**Rule Summary:**