



Division 512 Rulemaking Informational Session 4

Voluntary Agreements August 17, 2023

Regulatory Groundwater Control Tools

Regulatory Tool	Description	What does it manage?
Withdrawal of Unappropriated Waters (Out of scope for 512 rulemaking)	Withdraws unappropriated waters from appropriation.	Future Groundwater Use
Classification of Water	Classifies or reclassifies waters of Oregon to the highest and best use and quantities of use for the future.	Future New Groundwater Use
Serious Water Management Problem Areas (SWMPA)	Requires reporting and measurement of water use.	Measure Present and Future Groundwater Use
Critical Ground Water Area Designation (CGWA)	A CGWA designation allows for control of current groundwater use.	Present Groundwater Use
Groundwater Mitigation Area (Out of scope for 512 rulemaking)	Affects groundwater allocation in Deschutes Basin.	Future Groundwater Use

Regulatory/Voluntary Groundwater Control Tools

Regulatory		
Tool	Descriptions	What does it manage?
Permit Conditions	OWRD regulates groundwater use based on permit conditions.	Present Use

Voluntary		
Tool	Description	What does it manage?
Voluntary Agreements	An agreement between groundwater users within the same groundwater system.	Present Use

Rulemaking Timeline



What is a Voluntary Agreement?

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

Resources Developed with Harney CBWPC

- Voluntary Agreements Analysis: A Review of Oregon's Voluntary Agreements Statute for the Harney Community-Based Water Planning Collaborative; Culp & Kelly, EDF, September 2022 (45 pages)
- Harney Technical Assistance: Oceans, Coasts, & Watersheds Projects Groundwater Management in Oregon: Voluntary Agreements Under ORS 537.745; University of Oregon and Natural Resources Law Center (4 pages)

Work in Progress

- **OWRD:** framing and scoping voluntary agreement work
- **HB 2010: Voluntary Agreement Resources**
 - Authorized 1 limited staff position (0.5 FTE)
 - Department of Justice costs for review of agreements
 - Position-related services and supplies

Required Elements of a Voluntary Agreement

Content

*“...consistent with the intent, purposes and requirements of **ORS 537.505 to 537.795 and 537.992**, and in particular **ORS 537.525, 537.730 to 537.740** and **537.780**”*

- Groundwater Act (ORS 537.505 to 537.795 and 537.992)
- Groundwater Act Policy (ORS 537.525)
- Critical Ground Water Area designations, rules and filings (ORS 537.730 to 537.740)
- Powers of the Water Resources Commission (ORS 537.780)

Elements of Voluntary Agreement

Content

- **Example:** Division 507 Stage Gulch and Butter Creek CGWA Distribution of Sustainable Annual Yield Rules (OAR 690-507-0670, OAR 690-507-0810)
- **Harney:** Permissible total withdrawal (PTW) by subarea will be provided at a future Division 512 RAC meeting

Elements of Voluntary Agreement

Content

- “...from the same groundwater reservoir”

Geography

- *ORS 537.515 (6)*: “Ground water reservoir” means a designated body of standing or moving ground water having exterior boundaries which may be ascertained or reasonably inferred.
- **Harney**: CGWA subareas will be identified in Division 512 Rulemaking and provided at a future RAC Meeting

Elements of Voluntary Agreement

Content

- ...groundwater users from the same ground water reservoir

Geography

- **Harney:** Groundwater right holders by priority date for each subarea will be provided at a future RAC meeting

Parties

Elements of Voluntary Agreement

Content

Geography

Parties

Process for Approval

“When the commission finds that any such agreement, executed in writing and filed with the commission, is consistent with the intent, purposes and requirements of [Oregon’s groundwater statutes], the commission shall approve the agreement.”

Elements of Voluntary Agreement

Content

Geography

Parties

Process for Approval

Process for Termination

Any agreement “may be terminated by:

- A lapse of time as provided in terms of the agreement;
- Consent of the parties to the agreement;
- By order of the commission as described in ORS 537.745 ”

Moving Forward with VA



OWRD develops guidance/rules for Voluntary Agreements



Division 512 RAC discuss PTW and subareas and other items to encourage VAs



GW users identify scope, interest, and capacity for developing a Voluntary Agreement

Questions?

OREGON



WATER RESOURCES
DEPARTMENT