

# DRAFT

## SUMMARY

Digest: This Act lets ground water users in Harney Valley make agreements to limit their water use. (Flesch Readability Score: 63.6).

Directs the Water Resources Commission to encourage and approve voluntary agreements between ground water users in the Greater Harney Valley Groundwater Area of Concern to achieve reasonably stable ground water levels.

Takes effect on the 91st day following adjournment sine die.

## A BILL FOR AN ACT

Relating to Harney Basin water; and prescribing an effective date.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1. Section 2 of this 2026 Act is added to and made a part of ORS 537.505 to 537.795.**

**SECTION 2. (1) As used in this section:**

(a) “Greater Harney Valley Groundwater Area of Concern” has the meaning given that term by the Water Resources Commission pursuant to ORS 537.743.

(b) “Minor amendment” means a change to an existing voluntary agreement that would not result in the voluntary agreement being a detriment to the public welfare, safety and health or contrary in any particular to the intent, purposes and requirements of ORS 537.505 to 537.795 and 537.992.

(c) “Subarea” means a portion of the Greater Harney Valley Groundwater Area of Concern established and defined by the commission.

(d) “Voluntary agreement” means an agreement entered into and

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 approved in accordance with this section.

2 (2) In the administration of ORS 537.505 to 537.795 and 537.992, the  
3 commission shall encourage, promote and approve voluntary agree-  
4 ments between ground water users from the same subarea of the  
5 Greater Harney Valley Groundwater Area of Concern to allow ground  
6 water users to determine how to achieve reasonably stable ground  
7 water levels over time in ways that best serve local communities and  
8 the long-term sustainability of the resource.

9 (3)(a) Parties to a voluntary agreement may include:

10 (A) Individuals, corporations, associations, firms, partnerships,  
11 limited liability companies and joint stock companies;

12 (B) Local governments, as defined in ORS 174.116;

13 (C) The United States Government, or any federal department or  
14 agency;

15 (D) A federally recognized Indian tribe; and

16 (E) Subject to paragraph (b) of this subsection, an agency of state  
17 government, as defined in ORS 174.111.

18 (b) The State of Oregon may only exercise the rights of a party to  
19 a voluntary agreement in the state's capacity as a landowner.

20 (4)(a) Subject to paragraph (b) of this subsection, any existing  
21 ground water right that has not been canceled under ORS 540.610 to  
22 540.650 may be included in a voluntary agreement, including:

23 (A) A ground water right or point of appropriation that is subject  
24 to and has exceeded a condition that restricts water use based on a  
25 decline in ground water levels; or

26 (B) A ground water right or point of appropriation subject to regu-  
27 lation following the contested case associated with the designation of  
28 Harney Valley as a Critical Groundwater Area by the commission.

29 (b) A ground water right or point of appropriation may be included  
30 in a voluntary agreement, provided that withdrawals do not cause  
31 water levels to exceed the limits established in the voluntary agree-

1 **ment.**

2 **(5) A voluntary agreement must:**

3 **(a) Establish the baseline condition from which ground water use**  
4 **reductions will be calculated. Baseline conditions must account for**  
5 **whether and how any conservation practices or water use efficiency**  
6 **improvements implemented by a party during the five years imme-**  
7 **diately preceding execution of the voluntary agreement will be recog-**  
8 **nized.**

9 **(b) Establish an agreed upon limit on the total volume of water that**  
10 **may be used under the voluntary agreement each year.**

11 **(c) Establish a schedule for implementing ground water use re-**  
12 **ductions, which may include phased or adaptive timelines.**

13 **(d) Describe how the parties will evaluate compliance with the vol-**  
14 **untary agreement, which may include but need not be limited to:**

15 **(A) A description of sources of data that the parties will use to**  
16 **measure ground water levels, water level trends, water use and the**  
17 **effect of conservation and water efficiencies implemented as part of**  
18 **the voluntary agreement; and**

19 **(B) Whether to credit the implementation of efficiencies that are**  
20 **consistent with applicable law and the long-term sustainability of the**  
21 **resource, even if ground water levels are not measurably increasing**  
22 **due to low-recharge geologic formations and hydrogeological condi-**  
23 **tions.**

24 **(6)(a) Parties seeking approval of a voluntary agreement must sub-**  
25 **mit the voluntary agreement and any supporting documents to the**  
26 **commission.**

27 **(b) The commission shall place a voluntary agreement submitted**  
28 **to the commission on the agenda of the regularly scheduled meeting**  
29 **of the commission next following the 90th day after the date on which**  
30 **the commission received the voluntary agreement.**

31 **(7)(a) No later than 30 days after the commission receives a volun-**

1 tary agreement, the Water Resources Department shall:

2 (A) Review the voluntary agreement; and

3 (B) Meet with the parties to the voluntary agreement to provide  
4 feedback based on the department's review.

5 (b) No later than 30 days after meeting with the department under  
6 paragraph (a) of this subsection, the parties to the agreement shall:

7 (A) Submit an updated agreement to the commission; or

8 (B) Notify the commission and the department that the parties have  
9 declined to make updates to the voluntary agreement.

10 (c) The department shall prepare a recommendation to the com-  
11 mission, based on applicable law, for approval or rejection of the vol-  
12 untary agreement, including any updates to the voluntary agreement  
13 made pursuant to this subsection.

14 (8) The commission shall approve a voluntary agreement if the  
15 commission finds that the voluntary agreement:

16 (a) Is consistent with the intent, purposes and requirements of ORS  
17 537.505 to 537.795 and 537.992;

18 (b) Is likely to achieve reasonably stable ground water levels over  
19 time;

20 (c) Is likely to minimize and mitigate economic impacts to the re-  
21 gion; and

22 (d) Satisfies the requirements of subsections (3) to (5) of this sec-  
23 tion.

24 (9) Notwithstanding any other provision of law, the commission  
25 may not require a minimum level of participation in a voluntary  
26 agreement as a condition of approval.

27 (10) Approval or rejection by the commission of a voluntary agree-  
28 ment described in this section shall constitute an order other than a  
29 contested case subject to review as provided in ORS 183.484.

30 (11) Notwithstanding ORS 536.025, the commission may not delegate  
31 to the department or the Water Resources Director the commission's

1 authority to approve or reject a voluntary agreement.

2 (12) A voluntary agreement shall control in lieu of a formal order  
3 of the commission or rule adopted under ORS 537.505 to 537.795 and  
4 537.992 until the agreement is terminated.

5 (13) After approval of a voluntary agreement the parties shall:

6 (a) Install a wireless totalizing flow meter on any well used to ap-  
7 propriate ground water under the voluntary agreement and maintain  
8 and repair flow meters as needed prior to and during the irrigation  
9 season;

10 (b) Prior to each irrigation season, and no later than March 1 of  
11 each year, develop an irrigation plan for total annual use of ground  
12 water under the terms of the voluntary agreement, including the rate,  
13 duty and acres to which water will be applied for irrigation and the  
14 wells from which water will be appropriated;

15 (c) No later than November 15 of each year, report to the depart-  
16 ment the parties' actual total annual use of ground water under the  
17 voluntary agreement; and

18 (d) Comply with the terms and conditions of the voluntary agree-  
19 ment.

20 (14)(a) The parties to a voluntary agreement may make minor  
21 amendments to the voluntary agreement after providing the proposed  
22 minor amendments to the department. The parties may not implement  
23 the proposed minor amendments until the department responds to the  
24 proposed minor amendments or 30 days has passed since the parties  
25 provided the proposed minor amendments to the department, which-  
26 ever occurs first.

27 (b) Proposed minor amendments submitted to the department under  
28 this subsection section do not require the approval of the commission.

29 (15) Notwithstanding ORS 540.520 and 540.523, the parties to a vol-  
30 untary agreement may change the place of use, type of use, point of  
31 diversion or point of appropriation of water covered under the volun-

1 tary agreement without making an application required by ORS 540.520  
2 or 540.523.

3 (16)(a) A voluntary agreement may only be terminated by:

4 (A) The lapse of time as provided in the voluntary agreement;

5 (B) The consent of the parties to the voluntary agreement; or

6 (C) Order of the commission, if the commission finds that:

7 (i) The voluntary agreement is not being substantially complied  
8 with by the parties; or

9 (ii) Changed conditions have made the continuance of the voluntary  
10 agreement a detriment to the public welfare, safety and health or  
11 contrary in any particular to the intent, purposes and requirements  
12 of ORS 537.505 to 537.795 and 537.992.

13 (b) The commission shall hold a public hearing, for which adequate  
14 notice was provided to the parties and the public, before making a  
15 finding described in paragraph (a)(C) of this subsection.

16 SECTION 3. This 2026 Act takes effect on the 91st day after the date  
17 on which the 2026 regular session of the Eighty-third Legislative As-  
18 sembly adjourns sine die.