

Memorandum of Understanding
between the
Oregon Department of Environment Quality
and
Oregon Department of Agriculture
and
Oregon Water Resources Department
related to
Nitrate Reduction Plan in the Lower Umatilla Basin Groundwater Management Area
(LUBGWMA)

1. INTRODUCTION

The Oregon Department of Environmental Quality (DEQ), the Oregon Department of Agriculture (ODA) and the Oregon Water Resources Department (OWRD), collectively designated as “the agencies,” agree to share leadership responsibilities to guide and implement the Nitrate Reduction Plan in the Lower Umatilla Groundwater Management Area (LUBGWMA). This Memorandum of Understanding (MOU) delineates the duties of the parties, how decisions are made, how the MOU may be dissolved, and other terms.

DEQ, ODA, and OWRD prepared the Nitrate Reduction Plan with recommendations from the LUBGWMA Committee’s Second Lower Umatilla Basin Groundwater Management Area Local Action Plan to reduce groundwater nitrate concentrations to less than 7 mg/L throughout the region and sustain this reduction to protect the health of the residents and natural resources of the Lower Umatilla Basin. The plan details efforts to reduce nitrate contamination in the Lower Umatilla Basin by employing targeted actions within each agency and engaging stakeholders’ perspectives through a collaborative governance approach. The plan integrates goals and solutions from the basin’s diverse stakeholders to achieve a holistic and viable long-term plan for achieving and sustaining water quality in the basin. The plan provides a broad summary of the history of the basin, the ongoing work of the agencies with a description of existing authorities, and the desired future condition to support prioritized short- and long-term strategies

to improve water quality and reduce nitrate concentrations to less than 7 mg/L in the LUBGWMA.

The agencies share the goal of a future in the Lower Umatilla Basin where the region can maintain healthy, sustainable groundwater that supports safe drinking water, and a thriving local economy, while also preparing for climate change, amidst the demands of a growing population.

2. PURPOSE AND SCOPE

The agencies recognize the importance and benefits of collaboratively managing the implementation of the Nitrate Reduction Plan. The purpose of this MOU is to establish an organizational framework from which DEQ, ODA, and OWRD shall implement the Statewide Nitrate Reduction plan, co-convene the LUBGWMA Committee, and encourage ongoing coordination and collaboration around groundwater management in the Lower Umatilla Basin. This MOU is entered into by DEQ, ODA, and OWRD for the purposes stated below.

A. Duties and responsibilities

Each of the three agencies have their own specific responsibilities, regulations, and laws to administer. The agencies intend to act consistent with those responsibilities, regulations, and laws in such a manner to advance the goals and objectives of the Nitrate Reduction Plan to promote integrated groundwater management that will achieve the desired future conditions. The agencies commit to providing the necessary leadership, technical advice, and legal analysis to help solve the long term and complex challenges of groundwater contamination in a manner that retains public trust with water users and residents in the basin.

- **The Oregon Department of Environmental Quality (DEQ)** is the primary regulatory agency for wastewater management and has responsibilities in conjunction with other agencies for groundwater monitoring and protection. This includes issuing and enforcing water quality permits for industrial and municipal wastewater treatment facilities (including food processing wastewater and biosolids application); groundwater quality data collection and analysis; serving as the designating agency for Groundwater Management Areas; appointing individuals to the groundwater management committee in consultation with other appropriate state agencies; and lastly, reviewing and accepting or remanding the local action plan for further work. DEQ also has authority for onsite septic system permitting, although Umatilla County Public Health is DEQ's authorized agent for issuing and enforcing residential septic system permits in Morrow and Umatilla counties.

- **The Oregon Department of Agriculture (ODA)** is the primary regulatory agency for agricultural activities. This includes fertilizer product registration; issuing and enforcing water quality permits for Confined Animal Feeding Operations (CAFO); enforcing agricultural water quality rule compliance for non-point source irrigated agriculture and area plans; support and coordination for Soil and Water Conservation Districts.
- **The Oregon Water Resources Department (OWRD)** is the state agency charged with administration of laws governing the allocation of surface water and groundwater resources. This includes collecting, analyzing, and providing data, distributing water under the system of prior appropriation, processing water rights transactions, protecting public safety, and providing planning, technical assistance, and funding to address water supply needs. Additionally, OWRD manages a robust well construction program to ensure wells meet current construction standards.

B. Public health partners

The agencies acknowledge the separate work of the Oregon Health Authority and Oregon Department of Human Services related to testing and delivery of safe drinking water in the LUBGWMA. The Oregon Health Authority is the primary regulatory agency for more than 2,500 public water systems in the state required to meet federal Safe Drinking Water Act standards or state laws regulating very small community water systems not subject to federal rules. OHA assists public water systems and communities with protecting their sources of drinking water (streams, lakes and aquifers) from contamination through a partnership between OHA and DEQ. OHA also houses a non-regulatory Domestic Well Safety Program (DWSP) that conducts outreach and education to domestic well owners and partners with local health departments and other state agencies to assess and manage risks associated with private wells and additionally, to promote domestic well safety. DWSP has also been called upon to respond to domestic well-related crises with direct aid to well owners, standing up programs for free testing as part of the LUBGWMA safe water services program.

3. Governance Structure for Interagency Collaboration and Advisory Committee Coordination

This MOU establishes a governance structure to formalize the collaboration between DEQ, ODA, and OWRD and for co-convening the Lower Umatilla Basin Groundwater Management Area (LUBGWMA) Advisory Committee. It ensures alignment of the agencies' respective authorities, promotes transparency between the agencies, the LUBGWMA Advisory Committee and vested stakeholders, and supports the implementation of the Nitrate Reduction Plan.

A. Coordination:

The agencies are committed to ongoing coordination to achieve the states' goal of nitrate reductions in groundwater. The agencies will convene regular coordination meetings at both the staff and manager level to ensure the Nitrate Reduction Plan is implemented. Staff will share schedules and updates on LUBGWMA related activities. Staff coordination will occur as needed at any time and staff-level meetings will be convened at varying frequencies, depending on focus and timing of work.

The agencies will use the following principles in working together to protect and improve water quality:

- Commit to collaboration.
- Share information and expertise freely.
- Promote transparency around process and implementation of the Nitrate Reduction Plan.
- Utilize available data, scientific information and accepted scientific methods, including dealing with uncertainty.
- Strive toward efficiency and limit redundancy.

B. Lead Agency Designation

DEQ, ODA, and OWRD shall be jointly responsible for complying with the duties of lead agency under ORS 468B.184 (Designation of lead agency for development of action plan; contents of action plan). The agencies will co-develop agendas and support efforts to provide information regarding respective authorities and actions. The three agencies, either jointly or independently, may determine that consultant(s) are needed to assist in completing the documentation for the plan. Any financial obligation to fund consultation services between the agencies will be done through a separate agreement.

C. LUBGWMA Committee

The Lower Umatilla Basin Groundwater Management Area (LUBGWMA) Committee is a group of stakeholders representing diverse interests in the basin. Per Oregon statute (ORS 468B.182), the committee is appointed by DEQ in consultation with other appropriate state agencies. The committee's purpose is to provide advice and recommendations to the agencies on local elements of the Nitrate Reduction Plan to help advance future development and implementation of the plan. The agencies agree to co-convene the LUBGWMA Committee meetings and will collaborate on the development of committee agendas. The agencies may also utilize

contracted facilitation services for management committee meetings. Any financial obligation to fund contracted facilitation services between the agencies will be done through a separate agreement.

Specific lead responsibilities:

- DEQ is the lead for domestic and industrial wastewater permitting, including working with counties on septic system permitting; water quality data collection and analysis, including oversight of fate and transport of nitrate predictions.
- ODA is the lead for irrigated agriculture, fertilizer usage, CAFOs, and animal pastures.
- OWRD is the lead for water level data collection and analysis, water rights, well construction standards, and oversight of development of hydrogeological models.

D. Funding and resources

Each agency shall bear the financial costs associated with their respective staff and management to support and advance the plan and governance structure. To the degree that is possible and appropriate, the agencies will support each other's funding requests related to the plan. The agencies also recognize that additional financial resources will be necessary to fulfill the desired future conditions as envisioned in the plan and agree to work collaboratively to obtain such funding and resources.

E. Legislation

To the degree that is possible or appropriate the agencies will coordinate on and support each other's legislative concepts that are targeted or focused on achieving the Nitrate Reduction Plan goals. This may include co-development of legislative requests or legislative authorities around additional funding needs and capacity needs.

F. Adaptive management and performance review

The agencies recognize that for the Nitrate Reduction Plan to be successful it must be adaptive in nature. The plan will be periodically reviewed by the agencies to assess whether the plan is on track to achieve its strategic objectives and desired future conditions. Additionally, the agencies also recognize it may become apparent that alternative solutions or projects should be integrated into the plan. The agencies may modify the current list of projects or priorities as determined necessary, while still ensuring nitrate reduction in groundwater maintains primacy.

G. Federal partners

The agencies recognize that it may be necessary to have a federal partner or partners, such as the U.S. Environmental Protection Agency or U.S. Geological Survey, to assist in performing feasibility studies, environmental review, and as a cost share partner in the development and implementation of projects as envisioned in the plan. The agencies will collaborate and support engagement with federal partners as appropriate within their relevant authorities.

H. Education and outreach

The agencies are committed to providing education, outreach, and materials to support, promote, and implement the plan.

4. DECISION MAKING

The agencies agree to make decisions by consensus in further development and implementation of the Nitrate Reduction Plan regarding scope, content, and timing of all plan elements.

5. DISPUTE RESOLUTION

In the event of a dispute regarding aspects of this MOU, the agencies agree to quickly and efficiently resolve disputes, first through staff-level dialogue. If a dispute cannot be effectively resolved at the staff and manager levels, managers will raise the dispute to the agencies' Directors. Then the Directors will meet to provide direction to reach resolution.

6. OTHER PROVISIONS

A. Authorities

Nothing herein is intended to quantify, diminish, or define the rights or legal authority of the DEQ, ODA, or OWRD.

B. MOU termination

This MOU may be terminated by any of the three agencies for any reason upon (30) days written notice to the other agencies. However, the agencies agree that termination of this MOU shall not lead to the automatic cessation of cooperative efforts begun under this MOU.

C. Legal liabilities and other liabilities

Nothing in this MOU shall require any of the agencies to assume any legal liabilities or other liabilities on behalf of any other agency. This MOU does not obligate any expenditure of funds by any agency.

D. No third-party rights

This MOU shall not be the basis of any claims, rights, causes of action, challenges, or appeals by any person or entity not a party to this MOU.

E. Points of Contact

The three primary agency points of contact are:

- Oregon Department of Environmental Quality Eastern Region Administrator or designee
- Oregon Department of Agriculture Natural Resources Division Director or designee
- Oregon Water Resources Department North Central Region Manager or designee

F. Approval

This MOU becomes effective on the date of the last signature and will remain in effect unless modified or terminated as provided herein.


G. Counterparts

This instrument may be executed in counterpart each of which is deemed to be an executed original even if all signatures do not appear on the same counterpart. Facsimile and photocopies of this document will have the same force and effect as the original.

H. Amendments and Review Process

The agencies will periodically evaluate this MOU and report on it to the agencies' directors. The agencies will review the MOU every seven years, or sooner if agreed upon by the agencies. No amendments may be made to this MOU without the express written agreement of all three agencies. Such agreement will be signed by the Director of each agency.

The agencies and signatories to this MOU, through their duly authorized representatives, have executed this MOU on the dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this MOU as set forth herein.


Leah FELDON (Jan 21, 2025 21:33 PST)

01/21/2025

Leah Feldon

Date

Director

Oregon Department of Environmental Quality

Lisa Charpilloz Hanson
Lisa Charpilloz Hanson (Jan 30, 2025 11:45 PST)

01/30/2025

Lisa Charpilloz Hanson

Date

Director

Oregon Department of Agriculture

Ivan Gall

01/23/2025

Ivan Gall

Date

Director

Oregon Water Resources Department