

ARCH CAPE DOMESTIC WATER SUPPLY DISTRICT DRAFT MINUTES

21 April 2017

A quorum was present.

Water Board: Virginia Birkby, President
Ron Schiffman, Vice-President
Debra Birkby, Treasurer
Dan Seifer

Sanitary Board: Darr Tindall (non-voting)
Casey Short (non-voting)

Public: Andrew Spaeth, Sustainable Northwest – Forest Program Director
Ben Dair, Sustainable Northwest – Conservation Finance Fellow
Mike Manzulli
David and Jeannie Stockton

Staff: Phil Chick, District Manager
Steve Hill, Secretary

Ms. Virginia Birkby opened the meeting at 6:05pm in order to hear the presentation from Sustainable Northwest.

Sustainable Northwest - Watershed Management Options : (Information) Mr. Andrew Spaeth and Mr. Ben Dair addressed the Board regarding their non-profit organization Sustainable Northwest. Mr. Spaeth said their strengths were in natural resource conflict resolution, identifying management opportunities and developing financing options.

He indicated that the Community Forests model successfully implemented in New England would be useful for Arch Cape to review and felt that our district's watershed would be a good place to demonstrate what's possible in that we have a willing seller and a manageable number of acres to deal with.

He recommended having a meeting with representatives of the district for an honest conversation of their skill sets, our needs, differing roles, responsibilities, management governance and finance. The goal would be to develop a memorandum of understanding (MOU) that would answer the question of who would be responsible for certain tasks and what the options before the district would look like.

Financing was thought to be possible through government grants, contracts, and foundation support.

He felt that Ben could provide specific financing alternatives and that Sustainable Northwest could provide the necessary leadership in working with the support available from DEQ, Ecotrust, the community and the Board.

Ms. Virginia Birkby moved that staff and interested Board members meet with Sustainable Northwest to develop an MOU regarding our interest in working together for the watershed which was seconded by Mr. Schiffman. AIF.

A separate motion on behalf of the Sanitary District was made by Mr. Schiffman to collaborate with the Water District Board motion for development of a MOU with Sustainable Northwest as a separate party with a specific interest in that land adjacent to Sanitary District owned property in the watershed. The motion was seconded by Ms. Virginia Birkby. AIF.

Ms. Virginia Birkby recessed the Water District meeting and turned the meeting over to Ms. Darr Tindall who reconvened the Sanitary District meeting at 6:38pm.

Ms. Virginia Birkby reconvened the meeting at 7:50pm.

Public Comments: None.

Agenda: Strike source assessment study and banking policy. Mr. Seifer moved acceptance of the agenda as amended which was seconded by Ms. Debra Birkby. All in Favor (AIF).

Consent Agenda: Pull BVA financial report. Ms. Debra Birkby moved acceptance of the consent agenda as amended which was seconded by Mr. Seifer. AIF.

Old Business:

Watershed Update : (Information) Consideration was given to a new expense line item 'Watershed' which could include hiring a consultant to develop a grant application for preservation and enhancement work.

Mr. Seifer moved that the budget committee be directed to adopt a line item 'Watershed' to be entered into the budget which was seconded by Ms. Debra Birkby. AIF.

Board Member Duties and Responsibilities: (Action) Mr. Seifer moved adoption of the District Board of Director Policies including the removal of the underlining of Clatsop in the 'Vacancies' section which was seconded by Ms. Debra Birkby. AIF.

Staff Salary : (Action) Ms. Debra moved to increase employee compensation by 2.6% for COLA and 1.4% for performance and adjust the salary scale accordingly effective July 1, 2017. The motion was seconded by Mr. Schiffman. AIF.

Recreational Immunity : (Action) Mr. Seifer moved adoption of Resolution 17-01 WD Recreational Immunity which was seconded by Mr. Schiffman. AIF.

Budget vs. Actual Financial Report (BVA): A question was raised concerning the reason for the \$3,852 shown for professional services expense in March. Mr. Chick indicated that it was for Curran-McLeod second source assessment work which was scheduled to be reimbursed.

Ms. Debra Birkby moved acceptance of the March BVA report which was seconded by Mr. Schiffman. AIF.

New Business:

Community Club Membership Mailing : (Action) Mr. Schiffman moved to allow the community club to include a membership request mailing with the next quarterly billing which was seconded by Ms. Debra Birkby. AIF.

Reports:

Accounts Receivable: Accounts were reported to be in excellent condition. The district also received payment of an SDC hookup for new construction in Castle Rock Estates.

District Managers Report: (attached) Mr. Chick reported that the district had received the Final Order (attached) from the Oregon Water Resources Department OWRD for the Water Management and Conservation Plan (WMCP). This authorizes the district to use .20 cfs of the .30 cfs available from Asbury Creek. The plan requires some future upkeep. The following are dates of significance:

- March 2022: WMCP progress report due to OWRD
- October 2022: The District will need to file for an extension of time for full development of the Asbury Creek water right (for the remaining .10 cfs).
- September 2026: Updated WMCP due to OWRD

Treasurer's Report: None.

Board of Directors' Comments and Reports: None.

May Agenda Items: SDC adjustment, watershed update and budget.

Public Comment: None.

The meeting was adjourned by Ms. Virginia Birkby at 8:15 pm

Respectfully submitted,



Steve Hill

Attest 
Ms. Virginia Birkby, President

ARCH CAPE DOMESTIC WATER SUPPLY DISTRICT
BOARD OF DIRECTORS POLICIES
Policy # _____

Qualifications

No person elected or appointed to the board shall be sworn in unless such person meets the qualifications for office set forth by law. Pursuant to ORS 264.410, a commissioner shall be an elector of the district. (However, if it shall come to pass that there are fewer than 100 electors of the District, then any individual who owns and maintains real property within the District, pays taxes levied thereon by the District and is an elector registered anywhere in this state may serve as a commissioner.) Pursuant to District Ordinance 13-01 WD, no person who is an employee or contractor of the District shall be elected or appointed to the board.

Oath of Office

Each newly elected or appointed board member shall take an oath of office at a board meeting prior to assuming the duties of the position.

Vacancies

Vacancies on the board shall be filled by appointment by a majority of the remaining members of the board. If a majority of the membership of the board is vacant, or if a majority cannot agree, the vacancies shall be filled promptly by the county commission of Clatsop County. The period of service of a person appointed to fill a vacancy shall expire on June 30 after the next regular district election at which a successor is elected. The successor shall be elected to serve the remainder, if any, of the term of the position for which the appointment was made. If the term for which the appointment was made expires June 30 after election of the successor, the successor shall be elected to a full term. In either case, the successor shall take office July 1 following his or her election.

Meeting the Needs of the District

It is the policy of the board of directors to exercise those powers granted to it, and to carry out those duties assigned to it by law, in such a way as to best meet the needs of the district.

Formulation and Interpretation of District Policy

Board members only have the right and responsibility to participate in board meetings and vote on district matters as part of the board. The board shall establish policy, reserving to itself all authority and responsibility not directly assigned to other district officers and personnel.

Management and Communication between Board and Staff

The primary responsibility of the Board is to make policy level decisions for the district. Management of the daily operations and staff is the responsibility of the district manager. Unless otherwise authorized by a quorum of the board, no individual board member may direct or order a staff member on any matter that relates to the daily operations or administrative activities of the district. Moreover, unless otherwise authorized by the board, no individual board member may order, direct, or conduct any review of personnel records of any staff member or any other record that is exempt under Public Records Law.

Board Members Authorized By Official Board Action Only

Board members have no individual powers separate from the powers of the board and have no authority to act individually without delegation of authority from a quorum of the board. Likewise, no individual board member may speak for or on behalf of the board or district, except as authorized to do so by official board action as recorded in the official minutes or policies of the district.

Ethical Standards

Board members act as representatives of the citizens of the district. Therefore, board members shall adhere to all applicable law, including but not limited to ORS Chapter 244, regarding ethical standards in the conduct of District business.

Board Member Education

In order to effectively carry out their duties, board members must be adequately informed. Members are encouraged to attend such conferences and other training programs as the board may authorize.

Board Responsibilities:

Communications

- Develop regular channels of communication with board members and staff.
- Encourage participation of staff members on appropriate committees.
- Bring staff opinions and recommendations to the board, as well as board opinions and decisions to the staff.
- Invite non-board members, other local governments, and groups to board or committee meetings or other types of board sponsored assemblies to explore and develop approaches to common concerns.
- Recognize that certain information obtained at board meetings in executive session or otherwise non-public pursuant to law may be non-public and confidential making disclosure a breach of trust.
- Respect the opinion of other members and accept the principle of majority rule in board decisions.

Financial

- Approve the annual budget.
- Monitor district finances and the budget, setting policy or taking action to ensure the fiscal integrity of the organization.

Policies, Objectives, and Plans

- Abide by and become familiar with all laws and policies governing the operation of the district.

- Review and act on strategic plans, plans of operations and plans of action.
- Review and act on policies for the district.
- Recognize that the district manager should have full administrative authority for properly discharging the duties of managing the operation within the limits of the established board policies, resolutions and ordinances.
- Develop and approve long-range plan of growth and development for the district.
- Review and act on specific important projects.
- Review and act on any significant departure from established plans or policy.
- Receive and pass on committee or other planning body recommendations.
- Where applicable, bring other local governments or community groups into the planning and decision-making process.
- Review and act on contracts binding the district.
- Review and act on major changes in the district's organization or structure.
- Pass district resolutions, or adopt ordinances.
- Review and act on any severance compensation or benefits before payment.

Management

- Select the district president and other officers.
- Hire the district manager.
- Define the duties and responsibilities for the president, district manager, officers, and major committee chairpersons as set forth in policy.
- Select legal counsel and consultants for the board.
- Approve contracts for professional services required by and for the board and the district.
- Authorize officers or board agents to enter into contracts or to sign other written instruments and to take financial actions.
- Approve the plan, form, and amount of management compensation, that is, salaries, bonuses, vacation, travel, and so on.
- Evaluate the performance of the district manager annually.

- Approve the form and amount of reimbursement for board members, if any.
- Approve programs for management development.
- Provide advice and consultation to management on matters within the purview of the board's responsibilities.

Employee Relations

- Approve any employee benefit plans.
- Insist that personnel complaints go through a proper chain of command. If not resolved, only then should the board get involved.
- Approve contracts with and between any unions involved with the district.

Control

- Identify types of information needed by the board to analyze effectively the district's directions and achievement. Create a process for collecting and analyzing information.
- Realize that the citizens within the boundaries of the district are the true "owners" of the district.
- Review and assess the organization's performance against objectives, resources, plans, policies, and services rendered.
- Analyze major "shortfalls" in achievement.
- Identify obstacles, sense changing needs, and propose new directions or goals.
- Ensure that the district is in compliance with all federal, state, and local laws.

Board of Directors

- Motivate board members to accept positions of leadership and responsibility.
- Appoint, change, or abolish committees of the board.
- Define powers and responsibilities of committees of the board.
- Recognize that an individual board member has no legal status to act for the entire board and may not make commitments on any matter that should come before the board as a whole.
- Realize that if a quorum of the board meets to make a decision or to deliberate, then the meeting is considered a public meeting and must comply with all of the requirements of the Oregon Public Meetings Laws.

- Discussions on matters of overall policy outside of regular board meetings can violate the open meetings law.

Public Accountability

- Keep the public informed on all district matters.
- Make decisions based on the wishes and needs of the public.
- Spend the district's money with prudence and trust.
- Place the needs of the public above the ambitions of the board or the district.

Cooperation with Board Candidates

The board, through its staff, shall cooperate impartially with candidates for the board and provide them with information about board policies, administrative regulations, and other aspects of the operation of the district.

Orienting New Board Members

The board and its staff shall assist each new member-elect and appointee to understand the board's functions, policies, and procedures before he/she takes office. The following methods shall be employed:

- New members shall be invited to attend and participate in public board meetings prior to being sworn in.
 - The district manager shall provide material pertinent to district meetings and respond to questions regarding such material.
 - New members shall be invited to meet with the district manager and other district personnel to discuss the services each performs for the district.
 - The district manager shall make available to each new board member:
 - An updated copy of the district's policies and procedures.
 - A copy of the Attorney General's "Public Records and Meetings Manual."
 - Copies of the minutes of all board meetings, except for executive sessions, for the preceding twelve (12) months.
 - Copies of the district's last five (5) budgets.
 - Copies of the district's insurance policies.
 - Copies of all such documents as the attorney[s] for the district may recommend with respect to any pending claims or lawsuits.
 - A list of all district personnel by position.
 - Such other materials as the board may direct or the district manager deems appropriate.
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Arch Cape Domestic Water Supply District

RESOLUTION 17-01 WD

A RESOLUTION OF THE ARCH CAPE DOMESTIC WATER SUPPLY DISTRICT RECOMMENDING RESTORING RECREATIONAL IMMUNITY RIGHTS

Whereas, in 1995, the Legislative Assembly declared it to be the public policy of the State of Oregon to encourage landowners to make their land available to the public for recreational purposes by limiting their liability toward persons entering thereon for such purposes, and;

Whereas, recreations purposes includes, but are not limited to, outdoor activities such as hunting, fishing, swimming, boating, camping, picnicking, hiking, nature study, outdoor educational activities, water sports, winter sports, viewing or enjoying historical, archaeological, scenic or scientific sites or volunteering for any public purpose project, including the above aforementioned activities, as well as: gardening, woodcutting and for the harvest of special forest products, and;

Whereas, the Public Use of Lands Act has increased the availability of land for free recreation by citizens and visitors alike by limiting liability to cities, counties, park districts, schools and private landowners, including property-owner associations, farmers, and timber companies that, by virtue of this act, allow members of the public to use or traverse their lands at no charge for recreation purposes, and;

Whereas, for twenty years, the Public Use of Lands Act has been broadly interpreted to extend this immunity from liability to apply not only to landowners but also to the landowner's employees, agents, and volunteers, and;

Whereas, in *Johnson v. Gibson*, the Oregon Supreme Court held that when the Legislature passed the Public Use of Lands Act, it intended to immunize only the landowner, otherwise the Legislative Assembly would have included employees, agents, and volunteers in the Act, and;

Whereas, this ruling effectively undermines a landowner's recreational immunity from tort liability under the Act because public employers are statutorily required to represent and indemnify their employees and most, if not all, landowners who allow access to their lands free of charge will ultimately be responsible for the negligence of their employees that results in injury to a member of the public or property, and;

Whereas, landowners will likely face substantially increased insurance premiums for this new risk exposure and/or have to close their property or amenities to Oregonians trying to recreate due to the result of this decision.

Now, Therefore, let it be known that the Arch Cape Domestic Water Supply District supports legislation in the 2017 Oregon Legislative Assembly promulgated to restore recreational immunity to landowners and their officers, employees, agents, or volunteers who are acting within the scope of their employment or duties so to allow Oregonians to access their lands for recreational use and enjoyment.

Adopted and signed this 21st day of April 2017

Attest: 


Virginia Birkby, President



Oregon

Kate Brown, Governor

Water Resources Department

North Mall Office Building
725 Summer St NE, Suite A
Salem, OR 97301
Phone (503) 986-0900
Fax (503) 986-0904
www.wrd.state.or.us

March 27, 2017

Arch Cape Water District
Attn: Phil Chick, District Manager
32065 East Shingle Mill Lane
Arch Cape, OR 97102

Subject: Water Management and Conservation Plan

Dear Mr. Chick:

Enclosed, please find the Final Order approving your District's water management and conservation plan, and authorizing the diversion of up to 0.20 cfs of water under Permit S-53492.

The attached Final Order specifies that the District's plan shall remain in effect until **March 26, 2027**. Additionally, the District is required to submit a progress report to the Department by **March 26, 2022**, detailing progress made toward the implementation of conservation benchmarks scheduled in the plan. Finally, the District must submit an updated Water Management and Conservation Plan to the Department by **September 27, 2026**.

NOTE: The deadline established in the attached final order for submittal of an updated Water Management and Conservation Plan (consistent with OAR Chapter 690, Division 086) shall not relieve Arch Cape Domestic Water Supply District from any existing or future requirement(s) for submittal of a water management and conservation plan at an earlier date as established through other final orders of the Department.

We appreciate your cooperation in this effort. Please do not hesitate to contact me at 503-986-0919 or Kerri.H.Cope@oregon.gov if you have any questions.

Sincerely,

Kerri H. Cope
Water Management and Conservation Analyst
Water Right Services Division

Enclosure

cc: WMCP File
Application #S-73332 (Permit #S-53492)
Watermaster #1, Nikki Hendricks



**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON**

In the Matter of the Proposed Water Management and Conservation Plan for Arch Cape Domestic Water Supply District, Clatsop County)))
FINAL ORDER APPROVING A WATER MANAGEMENT AND CONSERVATION PLAN

Authority

OAR Chapter 690, Division 086, establishes the process and criteria for approving water management and conservation plans required under the conditions of permits, permit extensions and other orders of the Department. An approved water management and conservation plan may authorize the diversion and use of water under a permit extended pursuant to OAR Chapter 690, Division 315.

Findings of Fact

1. Arch Cape Domestic Water Supply District (District) submitted a Water Management and Conservation Plan (plan) to the Water Resources Department (Department) on March 7, 2016. The plan was required by a condition set forth under the City's previously approved plan issued on June 16, 1998 and a condition set forth in the final order issued on May 20, 2016 approving an extension of time for Permit S-53492.
2. The Department published notice of receipt of the plan on March 15, 2016, as required under OAR Chapter 690, Division 086. No comments were received.
3. The Department provided written comments on the plan to the City on June 3, 2016. In response, the City submitted a revised plan on January 25, 2017.
4. The Department reviewed the revised plan and finds that it contains all of the elements required under OAR 690-086-0125 and OAR 690-086-0130.
5. The projections of future water needs in the plan demonstrate a need for 0.20 cfs of water available under Permit S-53492 to help meet overall projected 20 year demands. These projections are reasonable and consistent with the City's land use plan.
6. The system is fully metered and the rate structure includes a base rate and volumetric charge. Unaccounted-for water is estimated at 17 percent.

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

7. The plan includes 5-year benchmarks for continuation of the following: annual water audits; leak detection surveys; a leak detection program; meter testing and replacement program; maintenance of a water rate structure that encourages conservation; public outreach conservation press releases; and installation of low flow toilets and fixtures at the wastewater treatment plant.
8. The plan includes 5-year benchmarks for evaluation, development, and implementation of programs to install meters at the water and wastewater treatment plants to track usage at the facilities and testing annually 10% of customer meters.
9. The plan identifies Shark Creek and Asbury Creek as the sources of the District's water rights and accurately and completely describes the listed fish species that occur in the vicinity of the District's point of diversion, namely Oregon Coastal Coho Salmon (*federally-listed as threatened and state-listed as sensitive vulnerable*), Oregon Coast Steelhead (*state-listed as sensitive vulnerable*) Chum Salmon (*state-listed as sensitive critical*), Western Brook Lamprey (*state-listed as sensitive vulnerable*), Pacific Eulachon (*federally listed as threatened*) and Pacific Lamprey (*state-listed as sensitive vulnerable*). Additionally, the plan also accurately and completely describes the parameters for Asbury Creek listed as being water quality limited for turbidity by the Oregon Department of Environmental Quality.
10. The water curtailment element included in the plan satisfactorily promotes water curtailment practices and includes a list of four stages of alert with concurrent curtailment actions.
11. The diversion of water under Permit S-53492 will be increased during the next 20 years and is consistent with OAR 690-086-0130(7), as follows:
 - a. As evidenced by the 5-year benchmarks described in Findings of Fact #7 and #8, the final revised plan includes a schedule for the continuation and/or development of conservation measures that would provide water at a cost that is equal to or lower than the cost of other identified sources;
 - b. Considering that water savings alone from identified conservation and curtailment measures cannot fully meet the District's water demand projections, and that the District's current water sources (as currently limited) cannot adequately meet the District's projected peak water demands during emergency situations, access to increased diversions of water under existing Permit S-53492 is the most feasible and appropriate water supply alternative to the supplier; and
 - c. The District is not required at this time to provide mitigation related to Permit S-53492.

Conclusion of Law

The Water Management and Conservation Plan submitted by Arch Cape Domestic Water Supply District is consistent with the criteria in OAR Chapter 690, Division 086.

Now, therefore, it is ORDERED:

Duration of Plan Approval:

1. The Arch Cape Domestic Water Supply District Water Management and Conservation Plan is approved and shall remain in effect until March 26, 2027, unless this approval is rescinded pursuant to OAR 690-086-0920.

Development Limitation:

2. The limitation of the diversion of water under S-53492 established by the extension of time approved on May 20, 2016 is removed and, subject to other limitations or conditions of the permit, Arch Cape Domestic Water Supply District is authorized to divert up to 0.20 cfs (*out of the total permitted 0.30 cfs*) under Permit S-53492.

Plan Update Schedule:

3. Arch Cape Domestic Water Supply District shall submit an updated plan meeting the requirements of OAR Chapter 690, Division 086 within 10 years and no later than September 27, 2026.

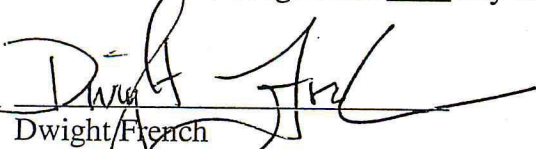
Progress Report Schedule:

4. Arch Cape Domestic Water Supply District shall submit a progress report containing the information required under OAR 690-086-0120(4) by March 26, 2022.

Other Requirements for Plan Submittal:

5. The deadline established herein for the submittal of an updated Water Management and Conservation Plan (consistent with OAR Chapter 690, Division 086) shall not relieve Arch Cape Domestic Water Supply District from any existing or future requirement(s) for submittal of a Water Management and Conservation Plan at an earlier date as established through other final orders of the Department.

Dated at Salem, Oregon this 20 day of March, 2017.



Dwight French
Water Right Services Division Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

Mailing date: MAR 28 2017

Managers Report April 21, 2017

WATER:

We have submitted a grant application to SDAO for summer help. If awarded, the District may receive up to \$3,000 that is required to be matched. The internship is intended to assist districts in improving loss control and best practices. I am hopeful that this can be tied in to the development of an asset management program for the Sanitary District.

We have received the Final Order from OWRD for the Water Management and Conservation Plan, included in the Board packet for reference. This authorizes us to use .20 cfs of the .30 available from Asbury Creek. The plan requires some future upkeep. The following are dates of significance:

March 2022: WMCP progress report due to OWRD

October 2022: The District will need to file for an extension of time for full development of the Asbury Creek water right (for the remaining .10 cfs).

September 2026: Updated WMCP due to OWRD

Valve Exercising has been completed in the District. Staff installed an air release valve at the dead end line at the top of East Ocean Lane. Matt has sent his applications in to test for his Level 1 Treatment and Distribution Exams.

The Water Plant is running well. We will be planning a membrane clean before the end of April. We will keep an eye on stream levels in Shark Creek, but with all the rain it looks like we will be able to draw from the Shark Intake through at least June. I have also been in contact with Westech for some SCADA work to be done for us in the summer when a programmer is in our area.

The burn pile at the water plant will be burned sometime the week of April 24. The Fire Dept will be notified.

MONTHLY LOG : ARCH CAPE WATER & SANITARY DISTRICTS

March 2017

Total Hours	368.00	162.75	205.25
Percentage Split		44%	56%
Total Accounts	622	286	336
Percentage Split		46%	54%