

T-14481

Gov Action

T-14481

Name Arch Cape Domestic Water Supply Districtc/o Matt Gardner, District ManagerAddress 32065 E. Shingle Mill Rd.Arch Cape, OR 97102mattgardneracutil@gmail.comChange in PODDate Filed 6/14/2024Initial notice date 6/25/2024

DPD issued date _____

PD issued date _____

PD notice date _____

Date of FO _____ Vol _____ Page _____

C-Date _____

COBU due date _____

COBU Received date _____

Certificate issued _____

DESCRIPTION OF WATER RIGHT(S)

Name of Stream Asbury CreekTrib. of Pacific OceanUse MunicipalCounty Clatsop

Quantity of water (CFS) _____

No. of Acres _____

Name of ditch _____

App# S-73332 Per # S-53492 Cert # _____ PR Date 4-6-1993

App# _____ Per # _____ Cert # _____ PR Date _____

App# _____ Per # _____ Cert # _____ PR Date _____

App# _____ Per # _____ Cert # _____ PR Date _____

App# _____ Per # _____ Cert # _____ PR Date _____

FEES PAID

Amount

Receipt #

Date

FEES REFUNDED

Amount

Receipt #

Date

Assignments: _____

Irrigation District _____

Agent Jeanne Boatwrightjeanne@boatwrightengr.com

CWRE _____

CC's list Clatsop County Community Development, Planning☐ - Oversized map - Location _____



Oregon

Tina Kotek, 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.oregon.gov/owrd

August 28, 2024

Arch Cape Domestic Water Supply District
Matt Gardner, District Manager
32065 E Shingle Mill Rd.
Arch Cape, OR 97102

REFERENCE: Government Action Transfer Application T-14481

Enclosed is a copy of the final order approving your water right transfer application for a change in point of diversion due to Government Action.

Also enclosed is a superseding permit that incorporates the amendments approved by the final order contained herein. Please read this document and abide by the requirements.

If you have any questions related to the approval of this transfer, you may contact your caseworker by telephone at (503) 979-3129 or by e-mail at arla.l.davis@water.oregon.gov

Sincerely,

Elyse Richman
Water Right Services Support
Transfers and Conservation Section

cc: Nikki Hendricks, Watermaster Dist. # 1 (via email)
Jeanne Boatwright, Agent
Clatsop County Community Development, Local Government
Enclosures

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Notice of POD	)	FINAL ORDER APPROVING
Change Due to Government Action	)	A CHANGE IN POINT OF DIVERSION DUE TO
T-14481, Clatsop County	)	GOVERNMENT ACTION

Authority

ORS 540.510(6) establishes a notification and approval process for changes in point of diversion when government action results in or creates a reasonable expectation of a change in the surface level of a surface water source.

Applicant

ARCH CAPE DOMESTIC WATER SUPPLY DISTRICT
MATT GARDNER, DISTRICT MANAGER
32065 E SHINGLE MILL RD.
ARCH CAPE, OR 97102

Findings of Fact

1. On June 14, 2024, Arch Cape Domestic Water Supply District, Matt Gardner, District Manager, filed a notification of intent to make a change in point of diversion under Permit S 53492. The Department assigned the notification number T-14481.
2. On May 20, 2016, the Department approved an extension of time for complete application of water to October 1, 2022.
3. On March 20, 2017, the Department approved a Water Management and Conservation Plan (WMCP), recorded at Special Order Volume 104, Pages 237-239. The WMCP contains the following development limitation: *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.*
4. Notice of the notification of the intention to change the point of diversion was published on June 25, 2024, pursuant to ORS 540.510(6).

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.

5. The applicant provided the following explanation as the reason for the Government Action:
"The Oregon Department of Transportation (ODOT) is planning a grading, drainage, structure, and paving project for Highway 101 at Asbury Creek, with construction in 2025. The Arch Cape Point of Diversion (POD) is from Asbury Creek east of Highway 101. Asbury Creek is being regraded for Aquatic Passage which will lower the creek bed at the current passive intake structure. The POD is proposed to be moved upstream to place the intake at an elevation matching the existing one."

6. The right included in the notification is as follows:

Permit: S-53492 in the name of ARCH CAPE SERVICE DISTRICT
Use: MUNICIPAL USE FOR UP TO 750 HOOKUPS FOR RESIDENCES AND BUSINESSES WITHIN THE SERVICE AREA OF THE ARCH CAPE DOMESTIC WATER SUPPLY DISTRICT
Priority Date: APRIL 6, 1993
Quantity: 0.30 CUBIC FOOT PER SECOND
Period of Use: YEAR ROUND
Source: ASBURY CREEK, a tributary of PACIFIC OCEAN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	10 W	WM	19	SE SW	865 FEET NORTH AND 1290 FEET WEST FROM THE S1/4 CORNER OF SECTION 19

Authorized Place of Use:

MUNICIPAL				
Twp	Rng	Mer	Sec	Q-Q
4 N	10 W	WM	19	SE NW
4 N	10 W	WM	19	NE SW
4 N	10 W	WM	19	NW SW
4 N	10 W	WM	19	SW SW
4 N	10 W	WM	19	SE SW
4 N	10 W	WM	30	NE NW
4 N	10 W	WM	30	NW NW
4 N	10 W	WM	30	SW NW
4 N	10 W	WM	30	SE NW
4 N	10 W	WM	30	NW SW
4 N	10 W	WM	30	NE SE

7. The notification proposes to move the authorized point of diversion approximately 256.0 feet upstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	10 W	WM	19	SE SW	955 FEET NORTH AND 1040 FEET WEST FROM THE S1/4 CORNER OF SECTION 19

Review Criteria (ORS 540.510(6))

8. The regrading of Asbury Creek for aquatic passage by ODOT has created a reasonable expectation of a change in the surface level of Asbury Creek that impairs or threatens to impair access to a point of diversion authorized for Permit S-53492.
9. The proposed change would not result in injury to other water rights.

Conclusions of Law

The proposed change in point of diversion due to government action in notification T-14481 is consistent with the requirements of ORS 540.510(6).

Now, therefore, it is ORDERED:

1. The change proposed in T-14481 is approved and effective immediately.
2. The right to the use of the water is restricted to beneficial use at the place of use described and is subject to all other conditions and limitations contained in Permit S-53492 and any related decree.
3. Water right Permit S-53492 is cancelled. Superseding Permit S-55532 will be issued to describe the change in point of diversion for the right included in T-14481 and incorporates the extension of time and the Water Management and Conservation Plan.
4. The quantity of water diverted at the new point of diversion shall not exceed the quantity of water lawfully available at the original point of diversion.

Dated in Salem, Oregon on **AUG 27 2024**



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
IVAN GALL, DIRECTOR
Oregon Water Resources Department

Mailing date: **AUG 28 2024**

STATE OF OREGON

COUNTY OF CLATSOP

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

ARCH CAPE DOMESTIC WATER SUPPLY DISTRICT
MATT GARDNER, DISTRICT MANAGER
32065 E SHINGLE MILL RD.
ARCH CAPE, OR 97102

This superseding permit is issued to describe a change in point of diversion proposed under Government Action described in T-14481 and approved by Special Order Volume 131, Page 1015, entered AUG 27 2024, and to describe an extension of time for complete application of water approved May 20, 2016, and Water Management Conservation Plan approved March 20, 2017. This permit supersedes Permit S-53492.

The specific limits for the use are listed below along with conditions of use.

APPLICATION FILE NUMBER: S-73332

SOURCE OF WATER: ASBURY CREEK, A TRIBUTARY OF PACIFIC OCEAN

PURPOSE OR USE: MUNICIPAL USE FOR UP TO 750 HOOKUPS FOR RESIDENCES AND BUSINESSES WITHIN THE SERVICE AREA OF THE ARCH CAPE DOMESTIC WATER SUPPLY DISTRICT.

RATE OF USE: 0.30 CUBIC FOOT PER SECOND

PERIOD OF ALLOWED USE: YEAR ROUND

DATE OF PRIORITY: APRIL 6, 1993

Point of Diversion location:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	10 W	WM	19	SE SW	955 FEET NORTH AND 1040 FEET WEST FROM THE S1/4 CORNER OF SECTION 19

The Place of Use is located as follows:

MUNICIPAL				
Twp	Rng	Mer	Sec	Q-Q
4 N	10 W	WM	19	SE NW
4 N	10 W	WM	19	NE SW
4 N	10 W	WM	19	NW SW
4 N	10 W	WM	19	SW SW
4 N	10 W	WM	19	SE SW
4 N	10 W	WM	30	NE NW
4 N	10 W	WM	30	NW NW
4 N	10 W	WM	30	SW NW
4 N	10 W	WM	30	SE NW
4 N	10 W	WM	30	NW SW
4 N	10 W	WM	30	NE SE

Government Action T-14481 Conditions:

The quantity of water diverted at the new point of diversion shall not exceed the quantity of water lawfully available at the original point of diversion.

Extension of Time Conditions:

1. Development Limitations

A maximum diversion of 0.145 cfs of water is currently allowed under Permit S-53492. Any diversion of water beyond 0.145 cfs (not to exceed the maximum amount authorized under the permit, being 0.3 cfs) shall only be authorized upon issuance of a final order approving a Water Management and Conservation Plan (WMCP) under OAR Chapter 690, Division 86 that authorizes access to a greater rate of diversion of water under the permit consistent with OAR 690-086-0130(7). The required WMCP shall be submitted to the Department within 3 years of this Final Order. The amount of water used under Permit S-53492 must be consistent with this and subsequent WMCP's approved under OAR Chapter 690, on file with the Department.

The Development Limitation established in the above paragraph supersedes any prior limitation of the diversion of water under Permit S-53492 that has been established under a prior WMCP or Extension final order issued by the Department.

The deadline established in the Extension Final Order for submittal of a WMCP shall not relieve a permit holder of any existing or future requirement for submittal of a WMCP at an earlier date as established through other orders of the Department. A WMCP submitted to meet the requirements of the final order may also meet the WMCP submittal requirements of other Department orders.

Water Management and Conservation Plan Conditions:

Development Limitation:

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.

Original Permit Conditions:

1. Until the permittee's water management and conservation plan has been approved as provided in Condition No. 4, the permittee may use water under this Permit to serve no more than the existing 230 hookups for residences and businesses within the service area of the Arch Cape Domestic Water Supply District. These 230 hookups are the same as those identified in Permit No. 52408 for Shark Creek. Pending Plan approval under Condition No. 4, water may be used to serve up to 10 hookups in addition to the 230 hookups if (i) Arch Cape submits the Plan contemplated by Condition No. 4 and diligently implements it pending WRD approval of the Plan, (ii) neither ODF&W nor WaterWatch object to such additional hookups, and (iii) any building permits issued by the Permittee with regard to the 10 additional hookups specify that the use is subject to approval of the Plan under Condition No. 4. If either ODF&W or WaterWatch object, the use will remain limited to 230 hookups pending approval of the Plan.

Permittee with regard to the 10 additional hookups specify that the use is subject to approval of the Plan under Condition No. 4. If either ODF&W or WaterWatch object, the use will remain limited to 230 hookups pending approval of the Plan.

Pending approval of the water management and conservation plan, the permittee may use water under this Permit only when the flows in Shark Creek fall below 0.12 cfs plus the minimum flow set under the permit for Shark Creek above the permit tee's reservoir and only to the extent needed to make up the difference between (i) 0.12 cfs plus the minimum flow set under the permit for Shark Creek, and (ii) and the actual flows then in Shark Creek.

The permittee will certify its compliance with these conditions to the Water Resources Department in its annual report. After the permittee's water management and conservation plan has been approved, permittee may use water under this Permit to serve any hookups within the Arch Cape Domestic Water Supply District to the extent and in the manner contemplated by the approved water management and conservation plan.

2. Permittee shall comply with the following diversion schedule:
 - 2.1 The permittee can divert up to 0.3 cfs in accordance with the conditions set forth in this Permit.
 - 2.2 Diversion of the 0.3 cfs or any part thereof from Asbury Creek is contingent upon the maintenance of a minimum flow of 0.1 cfs in Asbury Creek immediately downstream from the point of diversion. It has been determined that the minimum flow for Shark Creek shall be 0.6 cfs, diversion of up to 0.05 cfs from Shark Creek under this Permit and/or Certificate No. 27506 is not subject to a minimum flow.

If it is subsequently determined by the Department in consultation with the Oregon Department of Fish & Wildlife, based on information specific to the effects of the permittee's diversion and use under this Permit on fish resources, that a minimum flow larger than the one described above is needed for the protection of fish populations, the Department will modify this Permit to reflect such minimum flow.

3. The permittee shall enforce the existing Water Conservation Plan adopted by the Arch Cape Domestic Water Supply District by Resolution #93-03WD dated July 14, 1993, and modified by Resolution #93-07WD dated April 8, 1994. Copies of the Water Conservation Plan, Resolution #93-03WD and Resolution #93-07WD are on file with the Water Resources Department.
4. Use of water under this Permit for more than the 230 existing hookups shall be contingent upon the development and implementation of a water management and conservation plan (the "Plan") described below. On or before October 1, 1996, the permittee shall submit the proposed Plan to the Water Resources Department with copies to the Oregon Department of Fish & Wildlife and WaterWatch of Oregon. Notwithstanding the public comments provisions in OAR 690-86, Oregon Department of Fish & Wildlife and WaterWatch will have 45 days in which to review and comment on the Plan and may raise issues relating to the elements and standards described in OAR 690-86 and whether the Plan will prevent significant adverse impacts to the environment. Oregon Department of Fish & Wildlife and WaterWatch shall be considered commenters for purposes of OAR 690-86-910(12). The Plan shall address the elements and standards described in OAR 690-86-140 and in this condition. In addition to the matters listed in OAR 690-86-140 (4), the long-range water supply element of the plan will address: (a) the District's maximum buildout needs; (b) measurement of potential water sources; (c) alternatives for funding development of identified water sources; (d) a list of alternatives (including a no-growth alternative) for meeting future water supply needs; and (e) a recommended alternative with an explanation as to why the recommended alternative is chosen. The Plan will be reviewed under OAR 690-86-910 and the requirements of this Permit. The Department will examine the record concerning the Plan and may not approve the Plan if it finds either that the Plan does not meet the requirements of OAR 690-86-910 or that the Plan will have a significant adverse impact on the environment. "Significant adverse impact on the environment" includes, but is not limited to, any impact of the Plan that, without mitigation developed in consultation with ODF&W, would be detrimental to the protection or recovery of a native fish species. Upon approval, the Plan will replace the water conservation plan described in Condition No. 3 and shall apply to the existing 230 hookups and all future hookups. The permittee shall notify Oregon Department of Fish & Wildlife and WaterWatch of any requests for extension of time or waiver under OAR 690-86-910 (13) and (14), and Oregon Department of Fish & Wildlife and WaterWatch shall have twenty (20) days in which to respond to any such request. OAR 690-86-910(15) shall not apply to this permittee. If the proposed Plan is disapproved, the permittee may submit a revised Plan within one year of the date on which the Plan is disapproved and any appeals of the disapproval are resolved. Any such plan will be processed pursuant to the procedures described in this condition.
5. By January 31 of each year, the permittee shall submit a report to the Water Resources Department and the Oregon Department of Fish & Wildlife concerning (1) certification of the permittee's continuing compliance with Condition No. 1; (2) the permittee's efforts to implement the water conservation plan or water management and conservation plan then in effect; (3) the surface flows measured under Condition No. 6 for the prior calendar year; and (4) general water use information, including the information measured and recorded under Condition Nos. 7 and 8 for the prior year. The permittee shall file this report more frequently if the Water Resources Department requests it.

6. Permittee will measure and monitor the stream flow in Asbury Creek for the summer of 1994 (July 1, 1994 through September 30, 1994) and water year 1995 (October 1, 1994 through September 30, 1995) in accordance with the Streamflow Monitoring Plan for Arch Cape Water District, a copy of which is on file with the Water Resources Department. Permittee will submit a streamflow monitoring report to the Water Resources Department on or before February 15, 1996.
7. Before water use may begin under this Permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order. The permittee shall allow the watermaster access to the meter or measuring device; provided, however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
8. The permittee shall install and maintain a staff gauge to measure surface flows in Asbury Creek. The permittee will measure flows at least once weekly and will cause the staff gauge to be re-rated every year. The permittee shall measure and keep a record of the quantity of water diverted each year, the periods of water use, the place and nature of use of water under the Permit, the rate and duty of water used each month, the average rate of diversion, and the flows remaining in Asbury Creek below the point of diversion. The permittee shall maintain such records in five year increments so that it always has on file the records from the previous five years. When the permittee determines that streamflows in Asbury Creek are approaching or falling below 0.5 cfs, the permittee shall promptly notify the Oregon Department of Fish & Wildlife and the Water Resource Department and shall thereafter measure the quantity of water diverted and the quantity of water immediately downstream from the permittee's diversion at least daily and report the quantity so diverted at least weekly or more frequently as required by the Oregon Department of Fish & Wildlife or the Water Resources Department.
9. The permittee shall install, maintain, and operate fish screening and bypass devices as required by the Oregon Department of Fish & Wildlife to prevent fish from entering the proposed diversion. The required screens and by-pass devices are to be in place, functional and approved by an Oregon Department of Fish & Wildlife representative before permittee diverts water pursuant to this Permit. The permittee shall not construct, operate or maintain any dam or artificial obstruction to fish passage in the channel of the subject stream.

The permittee shall install, maintain and operate a fishway as required by the Oregon Department of Fish & Wildlife to allow indigenous adult and juvenile fish access to habitat areas above and below the existing weir. The required fishway is to be in place, functional, inspected and approved by an Oregon Department of Fish & Wildlife representative prior to diversion of water under this Permit.

This right is limited to any deficiency in the available supply of any prior right existing for the same land.

STANDARD CONDITIONS

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

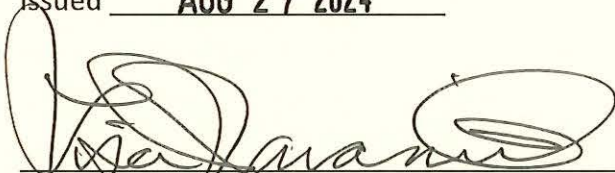
By law, the land use associated with this water use compliance with statewide land-use goals and any local land-use plan.

The use of water allowed herein may be made only at must be in acknowledged times when sufficient water is available to satisfy all prior rights, prior rights for maintaining instream flows. including

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

Actual construction work was to begin by August 12, 1999. Complete application of water to the use was to be made on or before October 1, 2002. By extension of time final order approved May 20, 2016, the deadline for complete application of water was extended to October 1, 2022. Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued AUG 27 2024



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
IVAN GALL, DIRECTOR
Oregon Water Resources Department

Watermaster Review Form: Water Right Transfer



Oregon Water Resources Department
725 Summer St NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900
www.oregon.gov/OWRD

Transfer Application: T-14481

Review Due Date: 07/24/2024

Applicant Name: Arch Cape Water District

Proposed Changes: ☐ POU ☒ POD ☐ POA ☐ USE ☐ OTHER

Reviewer(s): Nikki Hendricks

Date of Review: 06/27/2024

1. Do you have evidence that the right has not been used in the last 5 years and that the presumption of forfeiture would not likely be rebuttable? ☐ Yes ☒ No If "Yes", attach evidence (e.g. dated aerial photo showing pavement or building on the land for >5 yrs.)
2. Is there a history of regulation on the source that serves this (or these) right(s) that has involved the transferred right(s) and downstream water rights? ☐ Yes ☒ No Generally characterize the frequency of any regulation or explain why regulation has not occurred:
3. Have headgate notices been issued for the source that serves the transferred right(s)?
☐ Yes ☒ No ☐ Records not available.
4. In your estimation, after the proposed change, would distribution of water for the right(s) result in regulation of other water rights that would not have occurred if use under the original right(s) was/were maximized? ☐ Yes ☒ No If "Yes", explain:
5. In your estimation, if the proposed change is approved, are there upstream water rights that would be affected? ☐ Yes ☒ No If "Yes", describe how the rights would be affected and list the rights most affected:

6. Check here ☐ if it appears that downstream water rights benefit from return flows resulting from the current use of the transferred right(s)? If you check the box, generally characterize the locations where the return flows likely occur and list the water rights that benefit most:

☒ N/A

7. For POD changes and instream transfers, check here if there are channel losses between the old and new PODs or within the proposed instream reach? If you check the box, describe and, if possible, estimate the losses:

☒ N/A

8. For instream transfers that propose protection of a reach beyond the mouth of the source stream:

☒ N/A Would the quantity be measureable into the receiving stream consistent with OAR 690-077-0015(8)? ☐ Yes ☐ No

9. For POU changes: ☒ N/A Is it likely the original place of use would continue to receive water from the same source? ☐ Yes ☐ No If "Yes", explain:

10. For POU or USE changes: ☒ N/A In your best judgment, would use of the existing right at "full face value," result in the diversion of more water than can be used beneficially and without waste? ☐ Yes ☐ No If "Yes", explain:

11. For POU changes that involve micro-irrigation: ☒ N/A

a. Has the applicant made changes (absent a transfer) to convert to micro-irrigation within the current place of use boundary of the water right proposed for transfer, and previously demonstrated to the Department through monitoring and site inspections by the Watermaster that the proposed transfer will not result in injury or enlargement?

☐ Yes ☐ No If "Yes", explain:

- b. Has a temporary transfer of this nature been previously filed and approved on the same lands (or portions thereof) as those lands involved in this transfer?

☐ Yes ☒ No If "Yes", answer the following:

- i. Were there any problems with more acres being irrigated (or wetted) than were authorized under the temporary transfer? ☐ Yes ☐ No If "Yes", explain:

- ii. Did the designated areas that were to remain dry (or not wetted) under the temporary transfer actually remain dry? ☐ Yes ☐ No If "No", explain:

- iii. Did the applicant comply with and meet all of the conditions of the temporary transfer? ☐ Yes ☐ No If "No", explain:

- iv. Do you have any other observations regarding the temporary transfer?

☐ Yes ☐ No If "Yes", describe:

- v. Did the applicant demonstrate to the Department through monitoring and site inspections by the Watermaster that neither injury nor enlargement occurred as a result of the temporary transfer? ☐ Yes ☐ No If "No", explain:

- c. To the best of your knowledge, if this transfer is approved, does it appear that:

- i. "Injury" will occur to other water rights that share the same source?

☐ Yes ☒ No If "Yes", explain:

- ii. "Enlargement" of the water right being transferred will occur?

☐ Yes ☒ No If "Yes", explain:

12. Are there other issues not identified through the above questions that should be considered in determining whether the change "can be effected without injury to other rights"?

☐ Yes ☒ No If "Yes", explain:

13. What alternatives may be available for addressing any issues identified above:

14. Do conditions need to be included in the transfer order to avoid enlargement of the right or injury to other rights? ☒ No ☐ Yes, as checked and provided below:

☐ For POU changes that involve micro-irrigation, provide the monitoring and reporting conditions necessary to prevent injury/enlargement:

☐ A Headgate should be required prior to diverting water.

☐ Measurement Devices for POD or POA: (if this condition is selected, also fill in the top sections of Page 4)

*a. Before water use may begin under this order, the water user shall install a **totalizing flow meter***, or, with prior approval of the Director, another suitable measuring device, ☐ at each point of diversion/appropriation (new and existing) **OR** at each new point of diversion/appropriation ☐ with the exception that water rights issued to the Bureau of Reclamation or an irrigation district (or similar entity) are not subject to this condition.*

b. The water user shall maintain the meters or measuring devices in good working order.

c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.

☐ Reservoir water use measurement: (if this condition is selected, also fill in the top sections of Page 4)

*a. Before water use may begin under this order, the water user shall install **staff gages***, or, with prior approval of the Director, other suitable measuring devices, that measure the entire range and stage between empty and full in each reservoir. Staff gages shall be United States Geological Survey style.*

b. Before water use may begin under this order, if the reservoir is located in channel, weirs or other suitable measuring devices must be installed upstream and downstream of the reservoir, and, an adjustable outlet valve must be installed. The water user shall maintain such devices in good working order. A written waiver may be obtained, if in the judgment of the Director, the installation of weirs or other suitable measuring devices, or the adjustable outlet valve, will provide no public benefit.

* The following alternative device(s) should be substituted for the bold, underlined device in the above selected condition:

☐

Weir

☐

Submerged Orifice

☐

Parshall Flume

☐

Flow Restrictor

☐

Other: ____

Oregon Water Resources Department

Measurement Condition Information for the Applicant (To be sent with the Draft Preliminary Determination or Final Order)

Transfer #: T-

- ☐ In order to avoid enlargement of the right or injury to other rights, a _____ will
be required to be installed prior to diversion of water, as a condition of this transfer:
- ☐ at each point of diversion/appropriation (new and existing) **OR**
☐ at each new point of diversion/appropriation.

For additional information, or to obtain approval of a different type of measurement device, the applicant should contact the area Watermaster:

Watermaster name:

District:

Address:

City/State/Zip:

Phone:

Email:

Note: If a device other than the one specified in the Preliminary Determination or Final Order is approved by the Watermaster, fill out and mail the form below to the Salem office.

Approval of an Alternate Measurement Device T- (to be filled out after consultation with the applicant, or after a site visit)

On behalf of the Director, I authorize use of the following suitable alternate measurement device:

Watermaster signature

District

Date

If this form is used for approval of an alternative measurement device, it must be mailed to:

Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1266

WATER RIGHT TRANSFER COVER SHEET

Transfer: T-14481

Transfer Specialist:

Transfer Type: Government Action POD Transfer

Reimbursement Authority? ☐

Applicant: Matt Gardner 32065 E Shingle Mill Rd. Arch Cape, OR 97102	Agent: Jeanne Boatwright 2613 12th St. SE Salem, OR 97302	Receiving Landowner:
Current Landowner if other than Applicant:	CWRE:	Irrigation District:
Affected Local Gov'ts: Clatsop County Community Development	Affected Tribal Gov't:	BOR Notified (date):

Water Rights Affected

File Marked	App. File # or Decree Name	Permit	Certificate	RR/CR Needed	RR/CR Nos.
☐				☐ Yes ☐ No	
☐				☐ Yes ☐ No	
☐				☐ Yes ☐ No	

Key Dates & Initial Actions (Support Staff)

Rec'd: June 14, 2024	Proposed Action(s): POINT OF DIVERSION	
Fees Pd: UNAVAILABLE	Acknowledgement Letter Sent ☒	Basin: 1 North Coast
Initial Public Notice: 6/25/2024	County sent cc: of Ack Letter ☒	County: CLATSOP
WM District: 1 Nikki M. Hendricks	WM Review request sent:	WM Review date received:
ODFW District:	ODFW Review sent:	ODFW Review date received:
Groundwater	GW Review sent:	GW Review date received:

Caseworker Actions: Newspaper & PD Notice:

Newspaper notice needed: ☐	Name of Newspaper:
Newspaper notice sent to coordinator:	Newspaper notice quote requested (NRS1):
Request for news \$ sent:	News \$ received:
Affidavit of publication received:	Last day of publication:

Peer Review:

Document	Drafted	Peer Review	Coordinator	Changes Made	Signature Bin	Signature Date
DPD	Date: _____ Initials: _____	Date: _____ Initials: _____	Date: _____ Initials: _____	Date: _____ Initials: _____	CW Sent: _____ WM Sheet ☐ ODFW Sheet: ☐	N/A
PD	Date: _____ Initials: _____	Date: _____ Initials: _____	Date: _____ Initials: _____	Date: _____ Initials: _____ Data Review Date: _____	Date: _____	Date: _____
FO	Date: _____ Initials: _____	Date: _____ Initials: _____	Date: _____ Initials: _____	Date: _____ Initials: _____	Date: _____ No. of docs for sig: _____	Date: _____

Special Issues: _____

Special Order Volume: Vol. _____ Pages _____



Oregon

Tina Kotek, 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

June 24, 2024

Arch Cape Domestic Water Supply District
C/O Matt Gardner
32065 E Shingle Mill Rd.
Arch Cape, OR 97102
Reference: Application T-14481

On June 14, 2024, the Department received your water right Permanent Transfer Application.

By copy of this letter, we are asking the Watermaster for a report regarding the potential for injury to existing water rights which may be caused by the requested change.

This application may require publication of a notice for two consecutive weeks in a newspaper with general circulation in the area where the water right is located. If it is determined that newspaper notice will be required, the Department will prepare the notice and notify you of the cost. You will be responsible for submitting payment to the Department prior to publication of the notice.

Except as provided under ORS 540.510(3) for municipalities, you may not use water from the new point of diversion until a final order approving the transfer application has been issued by the Department. In order to avoid any possible forfeiture of the water right, you should continue to use the water as described by your existing water right.

If the land is sold before the application is approved, the buyer's consent to the application will be required unless a recorded deed or other legal document clearly established that the water right was not conveyed in the sale.

Refer to the following page for a chart showing the steps and expected timelines for the processing of your application.

If you have any questions, please contact the Transfer Section at (503) 986-0935.

Cc: Watermaster Dist. #1, Nikki M. Hendricks (*via email*)
Jeanne Boatwright, Agent
Clatsop County Community Development, Local Government

Enclosure

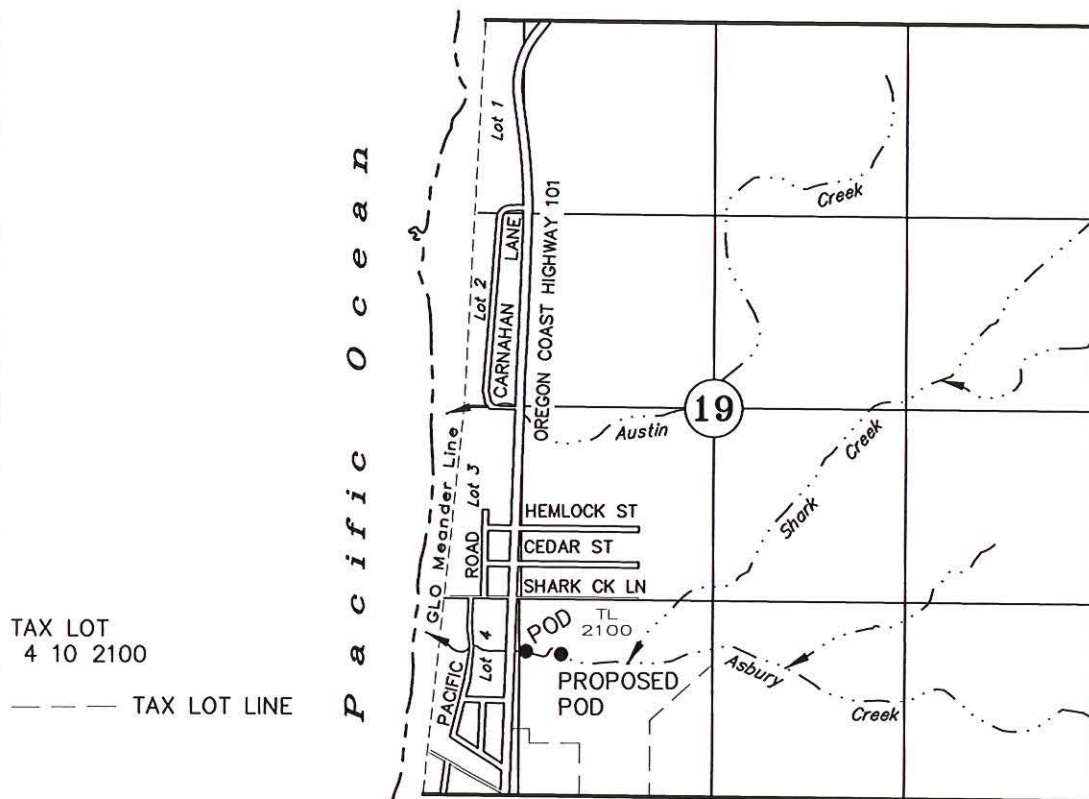
T4N, R10W, W.M.

CLATSOP COUNTY, OREGON

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JUN 14 2024

Salem, OR



PERMIT POD: 865' NORTH & 1290' WEST OF SW 1/4-COR SECTION 19
PROPOSED POD: 955' NORTH & 1040' WEST OF SW 1/4-COR SECTION 19

**NOTIFICATION FOR:
A CHANGE IN POINT OF DIVERSION
AS A RESULT OF
A GOVERNMENT (ODOT) ACTION**

Application No. S-73332 Permit No. S-53492

Arch Cape Domestic Water Supply District

June 6, 2024
SCALE 1" = 1320'

NOTE: This map is not intended to provide legal dimensions or locations of property ownership lines.



RENEWAL DATE: 12-31-25

Application for Permanent Water Right Transfer



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900
www.oregon.gov/OWRD

Part 1 of 5 – Minimum Requirements Checklist

This transfer application will be returned if Parts 1 through 5 and all required attachments are not completed and included.

For questions, please call (503) 986-0900, and ask for Transfer Section.

Check all items included with this application. (N/A = Not Applicable)

- ☒ Part 1 – Completed Minimum Requirements Checklist.
- ☒ Part 2 – Completed Transfer Application Map Checklist.
- ☐ Part 3 – Application Fee, payable by check to the Oregon Water Resources Department, and completed Fee Worksheet, page 3. Try the new online fee calculator at:
http://apps.wrd.state.or.us/apps/misc/wrd_fee_calculator.
- ☒ Part 4 – Completed Applicant Information and Signature.
- ☐ Part 5 – Information about Water Rights to be Transferred: **How many water rights are to be transferred? 1 List them here: Permit [Permit S-53492](#)**

Please include a separate Part 5 for each water right. (See instructions on page 6)

NOTE: A separate transfer application is required for each water right unless the criteria in OAR 690-380-3220 are met.

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Attachments:

JUN 14 2024

Salem, OR

- ☒ Completed Transfer Application Map.
- ☐ Completed Evidence of Use Affidavit and supporting documentation.
- ☐ ☐ N/A Affidavit(s) of Consent from Landowner(s) (if the applicant does not own the land the water right is on.)
- ☐ ☒ N/A Supplemental Form D – For water rights served by or issued in the name of an irrigation district. Complete when the transfer applicant is not the irrigation district.
- ☐ ☐ N/A Oregon Water Resources Department's Land Use Information Form with approval and signature from each local land use authority in which water is to be diverted, conveyed, and/or used. Not required if water is to be diverted, conveyed, and/or used only on federal lands or if all of the following apply: a) a change in place of use only, b) no structural changes, c) the use of water is for irrigation only, and d) the use is located within an irrigation district or an exclusive farm use zone.
- ☐ ☒ N/A Water Well Report/Well Log for changes in point(s) of appropriation (well(s)) or additional point(s) of appropriation.
- ☐ ☒ N/A Geologist Report for a change from a surface water point of diversion to a ground water point of appropriation (well), if the proposed well is more than 500' from the surface water source and more than 1000' upstream or downstream from the point of diversion. See OAR 690-380-2130 for requirements and applicability.

(For Staff Use Only)

WE ARE RETURNING YOUR APPLICATION FOR THE FOLLOWING REASON(S):

- | | |
|--|--|
| ☐ Application fee not enclosed/insufficient | ☐ Map not included or incomplete |
| ☐ Land Use Form not enclosed or incomplete | ☐ Evidence of Use Form not enclosed or incomplete |
| ☐ Additional signature(s) required | ☐ Part _____ is incomplete |

Other/Explanation _____

Staff: _____ 503- _____ Date: ____/____/____

Part 2 of 5 – Transfer Application Map

Your transfer application will be returned if any of the map requirements listed below are not met.

Please be sure that the transfer application map you submit includes all the required items and matches the existing water right map. Check all boxes that apply.

- ☒ ☐ N/A Certified Water Right Examiner (CWRE) Stamp and Original Signature. For a list of CWREs, see http://apps.wrd.state.or.us/apps/wr/cwre_license_view/. CWRE stamp and signature are not required for substitutions.
- ☐ ☒ N/A If **more than three** water rights are involved, separate maps are needed for each water right.
- ☒ Permanent quality printed with dark ink on good quality paper.
- ☒ The size of the map can be 8½ x 11 inches, 8½ x 14 inches, 11 x 17 inches, or up to 30 x 30 inches. For 30 x 30 inch maps, one extra copy is required.
- ☒ A north arrow, a legend, and scale.
- ☒ The scale of the map must be: 1 inch = 400 feet, 1 inch = 1,320 feet, the scale of the Final Proof/Claim of Beneficial Use Map (the map used when the permit was certificated), the scale of the county assessor map if the scale is not smaller than 1 inch = 1,320 feet, or a scale that has been pre-approved by the Department.
- ☒ Township, Range, Section, ¼ ¼, DLC, Government Lot, and other recognized public land survey lines.
- ☐ Tax lot boundaries (property lines) are required. Tax lot numbers are recommended.
- ☒ Major physical features including rivers and creeks showing direction of flow, lakes and reservoirs, roads, and railroads.
- ☒ Major water delivery system features from the point(s) of diversion/appropriation such as main pipelines, canals, and ditches.
- ☒ Existing place of use that includes separate hachuring for each water right, priority date, and use including number of acres in each quarter-quarter section, government lot, or in each quarter-quarter section as projected within government lots, donation land claims, or other recognized public land survey subdivisions. If less than the entirety of the water right is being changed, a separate hachuring is needed for lands left unchanged.
- ☐ ☒ N/A Proposed place of use that includes separate hachuring for each water right, priority date, and use including number of acres in each quarter-quarter section, government lot, or in each quarter-quarter section as projected within government lots, donation land claims, or other recognized public land survey subdivisions.
- ☒ Existing point(s) of diversion or well(s) with distance and bearing or coordinates from a recognized survey corner. This information can be found in your water right certificate or permit.
- ☒ ☐ N/A If you are proposing a change in point(s) of diversion or well(s), show the proposed location and label it clearly with distance and bearing or coordinates. If GPS coordinates are used, latitude-longitude coordinates may be expressed as either degrees-minutes-seconds with at least one digit after the decimal (example – 42°32'15.5") or degrees-decimal with five or more digits after the decimal (example – 42.53764°).

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Part 3 of 5 – Fee Worksheet

FEE WORKSHEET for PERMANENT TRANSFER (except Substitution)

1	Base Fee (includes one type of change to one water right for up to 1 cfs)	1	\$1,360
2	Types of change proposed: ☐ Place of Use ☐ Character of Use ☐ Point of Diversion/Appropriation Number of above boxes checked = _____ (2a) Subtract 1 from the number in line 2a = _____ (2b) <i>If only one change, this will be 0</i> Multiply line 2b by \$1090 and enter »	2	NA
3	Number of water rights included in transfer _____ (3a) Subtract 1 from the number in 3a above: _____ (3b) <i>If only one water right this will be 0</i> Multiply line 3b by \$610 and enter »	3	NA
4	Do you propose to add or change a well, or change from a surface water POD to a well? ☐ No: enter 0 ☐ Yes: enter \$480 for the 1st well to be added or changed _____ (4a) Do you propose to add or change additional wells? ☐ No: enter 0 ☐ Yes: multiply the number of additional wells by \$410 _____ (4b) Add line 4a to line 4b and enter » » » » » » » » » » » » » » » » » »	4	NA
5	Do you propose to change the place of use or character of use? ☐ No: enter 0 on line 5 ☐ Yes: enter the cfs for the portions of the rights to be transferred (see below*): _____ (5a) Subtract 1.0 from the number in 5a above: _____ (5b) If 5b is 0 or less, enter 0 on line 5 » If 5b is greater than 0, round up to the nearest whole number: _____ (5c) and multiply 5c by \$410, then enter on line 5 »	5	NA
6	Add entries on lines 1 through 5 above » » » » » » » » » » Subtotal:	6	NA
7	Is this transfer: ☐ necessary to complete a project funded by the Oregon Watershed Enhancement Board (OWEB) under ORS 541.932? ☐ endorsed in writing by ODFW as a change that will result in a net benefit to fish and wildlife habitat? If one or more boxes is checked, multiply line 6 by 0.5 and enter on line 7 » If no box is applicable, enter 0 on line 7 »	7	NA
8	Subtract line 7 from line 6 » Transfer Fee:	8	NA

***Example for Line 5a calculation** to transfer 45.0 acres of Primary Certificate 12345 (total 1.25 cfs for 100 acres) and 45.0 acres of Supplemental Certificate 87654 (1/80 cfs per acre) on the same land:

1. For irrigation calculate cfs for each water right involved as follows:
 - a. Divide total authorized cfs by total acres in the water right (*for C12345, 1.25 cfs ÷ 100 ac*); then multiply by the number of acres to be transferred to get the transfer cfs (*x 45 ac = 0.56 cfs*).
 - b. If the water right certificate does not list total cfs, but identifies the allowable use as 1/40 or 1/80 of a cfs per acre; multiply number of acres proposed for change by either 0.025 (1/40) or 0.0125 (1/80). (*For C87654, 45.0 ac x 0.0125 cfs/ac = 0.56 cfs*)
2. Add cfs for the portions of water rights on all the land included in the transfer; however **do not count cfs for supplemental rights on acreage for which you have already calculated the cfs fee for the primary right on the same land**. The fee should be assessed only once for each "on the ground" acre included in the transfer. (*In this example, blank 5a would be only 0.56 cfs, since both rights serve the same 45.0 acres. Blank 5b would be 0 and Line 5 would then also become 0*).

FEE WORKSHEET for SUBSTITUTION

1	Base Fee (includes change to one well)	1	\$990.00
	Number of wells included in substitution _____ (2a) Subtract 1 from the number in 2a above: _____ (2b) <i>If only one well this will be 0</i>		
2	Multiply line 2b by \$480 and enter » » » » » » » » » » » » » » »	2	
3	Add entries on lines 1 through 2 above » » » » » » Fee for Substitution:	3	

Part 4 of 5 – Applicant Information and Signature

Applicant Information

APPLICANT/BUSINESS NAME Arch Cape Domestic Water Supply District Matt Gardner, District Manager			PHONE NO. 503.436.2790	ADDITIONAL CONTACT NO.
ADDRESS 32065 E. SHINGLE MILL ROAD				FAX NO.
CITY ARCH CAPE	STATE OREGON	ZIP 97102	E-MAIL mattgardneracutil@gmail.com	
BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED.				

Agent Information – The agent is authorized to represent the applicant in all matters relating to this application.

AGENT/BUSINESS NAME BOATWRIGHT ENGINEERING, INC. JEANNE BOATWRIGHT			PHONE NO. 503.363.9225	ADDITIONAL CONTACT NO.
ADDRESS 2613 12TH STREET SE				FAX NO.
CITY SALEM	STATE OREGON	ZIP 97302	E-MAIL jeanne@boatwrightengr.com	
BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED.				

Explain in your own words what you propose to accomplish with this transfer application, and why:
ODOT is planning a grading, drainage, structure, and paving project for Hwy 101 at Asbury Creek, with construction in 2025. The Arch Cape POD is from Asbury Creek east of Hwy 101. Asbury Creek is being regraded for Aquatic Passage which will lower the creek bed at the current passive intake structure. The POD is proposed to be moved upstream to place the intake at an elevation matching the existing one. If you need additional space, continue on a separate piece of paper and attach to the application as "Attachment 1".

Check One Box

- ☒ By signing this application, I understand that, upon receipt of the draft preliminary determination and prior to Department approval of the transfer, I will be required to provide landownership information and evidence that I am authorized to pursue the transfer as identified in OAR 690-380-4010(5); **OR**
- ☐ I affirm the applicant is a municipality as defined in ORS 540.510(3)(b) and that the right is in the name of the municipality or a predecessor; **OR**
- ☐ I affirm the applicant is an entity with the authority to condemn property and is acquiring by condemnation the property to which the water right proposed for transfer is appurtenant and have supporting documentation.

By my signature below, I confirm that I understand:

- Prior to Department approval of the transfer application, I may be required to submit payment to the Department for publication of a notice in a newspaper with general circulation in the area where the water right is located, once per week for two consecutive weeks. If more than one qualifying newspaper is available, I suggest publishing the notice in the following newspaper: **Daily Astorian**
- Amendments to the application may only be made in response to the Department's Draft Preliminary Determination (DPD). The applicant will have a period of at least 30 days to amend the application to address any issues identified by the Department in the DPD, or to withdraw the application. Note that amendments may be subject to additional fees, pursuant to ORS 536.050.
- Failure to complete an approved change in place of use and/or change in character of use, will result in loss of the water right (OAR 690-380-6010).
- Refunds may only be granted upon request and, as set forth in ORS 536.050(4)(a), if the Director determines that a refund of all or part of a fee is appropriate in the interests of fairness to the public or necessary to correct an error of the Department.

I (we) affirm that the information contained in this application is true and accurate.

 Matt Gardner MATTHEW R. GARDNER Matt Gardner, District Manager 6/10/24
Applicant signature Print Name (and Title if applicable) Date

Applicant signature Print Name (and Title if applicable) Date

Is the applicant the sole owner of the land on which the water right, or portion thereof, proposed for transfer is located? ☐ Yes ☒ No*

**If NO, include signatures of all deeded landowners (and mailing and/or e-mail addresses if different than the applicant's) or attach affidavits of consent (and mailing and/or e-mail addresses) from all landowners or individuals/entities to which the water right(s) were conveyed.*

Check the following boxes that apply:

- ☒ The applicant is responsible for completion of change(s). Notices and correspondence should continue to be sent to the applicant.
- ☐ The receiving landowner will be responsible for completing the proposed change(s) after the final order is issued. Copies of notices and correspondence should be sent to this landowner.
- ☐ Both the receiving landowner and applicant will be responsible for completion of change(s). Copies of notices and correspondence should be sent to this landowner and the applicant.

At this time, are the lands in this transfer application in the process of being sold? ☐ Yes ☒ No

If YES, and you know who the new landowner will be, please complete the receiving landowner information table below. If you do not know who the new landowner will be, then a request for assignment will have to be filed for at a later date.

If a property sells, the certificated water right(s) located on the land belong to the new owner, unless a sale agreement or other document states otherwise. For more information see:

https://www.oregon.gov/owrd/WRDFormsPDF/Transfer_Property_Transactions.pdf

Received by OWRD

JUN 14 2024

Salem, OR

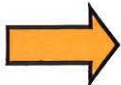
RECEIVING LANDOWNER NAME			PHONE NO.	ADDITIONAL CONTACT NO.
ADDRESS			FAX NO.	
CITY	STATE	ZIP	E-MAIL	
Describe any special ownership circumstances: Arch Cape holds an easement for the existing POD and is pursuing the acquisition of additional easement rights to include the location of the POD being proposed.				
The confirming Certificate shall be issued in the name of: ☒ Applicant ☐ Receiving Landowner				

☐ Check here if any of the water rights proposed for transfer are or will be located within or served by an irrigation or other water district. (Tip: Complete and attach Supplemental Form D.)

IRRIGATION DISTRICT NAME	ADDRESS	
CITY	STATE	ZIP

☐ Check here if water for any of the rights supplied under a water service agreement or other contract for stored water with a federal agency or other entity.

ENTITY NAME	ADDRESS	
CITY	STATE	ZIP

 To meet State Land Use Consistency Requirements, you must list all county, city, municipal corporation, or tribal governments within whose jurisdiction water will be diverted, conveyed or used.

ENTITY NAME CLATSOP COUNTY, COMMUNITY DEVELOPMENT, PLANNING	ADDRESS 800 EXCHANGE STREET, SUITE 100	
CITY ASTORIA	STATE OREGON	ZIP 97103

ENTITY NAME	ADDRESS	
CITY	STATE	ZIP

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JUN 14 2024

Salem, OR

Part 5 of 5 – Water Right Information

Please use a separate Part 5 for each water right being changed. See instructions on page 6, to copy and paste additional Part 5s, or to add additional rows to tables within the form.

CERTIFICATE # Permit S-53492

Description of Water Delivery System

System capacity: **0.2** cubic feet per second (cfs) **OR**

_____ gallons per minute (gpm)

Describe the current water delivery system or the system that was in place at some time within the last five years. Include information on the pumps, canals, pipelines, and sprinklers used to divert, convey, and apply the water at the authorized place of use. **Water intake structure on north side of Asbury Creek. 7.5 hp submersible pump w/fish screen, to a 4-inch pipeline to the 0.5 MG storage reservoir situated northeast of the terminus of Shark Creek Lane. Distribution through the community is via 4", 6" and 8" pipelines.**

Table 1. Location of Authorized and Proposed Point(s) of Diversion (POD) or Appropriation (POA)

(Note: If the POD/POA name is not specified on the certificate, assign it a name or number here.)

POD/POA Name or Number	Is this POD/POA Authorized on the Certificate or is it Proposed?	If POA, OWRD Well Log ID# (or Well ID Tag # L-___)	Twp		Rng		Sec	¼ ¼		Tax Lot, DLC or Gov't Lot	Measured Distances (from a recognized survey corner)
Asbury Creek West	☒ Authorized ☐ Proposed	NA	4	N	10	W	19	SE	SW	----	865' N & 1290' W OF SW ¼ COR, SEC 19
Asbury Creek East	☐ Authorized ☒ Proposed	NA	4	N	10	W	19	SE	SW	----	955' N & 1040' W OF SW ¼ COR, SEC 19

*** Survey, and other map records, indicate that this measurement is closer to approximately 970'. See Additional remarks section under Table 2, below.**

Check all type(s) of change(s) proposed below (change "CODES" are provided in parentheses):

- | | |
|--|---|
| ☐ Place of Use (POU) | ☐ Supplemental Use to Primary Use (S to P) |
| ☐ Character of Use (USE) | ☐ Point of Appropriation/Well (POA) |
| ☐ Point of Diversion (POD) | ☐ Additional Point of Appropriation (APOA) |
| ☐ Additional Point of Diversion (APOD) | ☐ Substitution (SUB) |
| ☐ Surface Water POD to Ground Water POA (SW/GW) | ☒ Government Action POD (GOV) |

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Salem, OR

Will all of the proposed changes affect the entire water right?

- ☒ Yes Complete only the Proposed ("to" or "on" lands) section of Table 2 on the next page. Use the "CODES" listed above to describe the proposed changes.
- ☐ No Complete all of Table 2 to describe the portion of the water right to be changed.

Please use and attach additional pages of Table 2 as needed.
See page 6 for instructions.

Do you have questions about how to fill-out the tables?
Contact the Department at 503-986-0900 and ask for Transfer Staff.

Table 2. Description of Changes to Water Right Certificate # Permit S-53492

List the change proposed for the acreage in each ¼ ¼. If more than one change is proposed, specify the acreage associated with each change.
If there is more than one POD/POA involved in the proposed changes, specify the acreage associated with each POD/POA.

AUTHORIZED (the "from" or "off" lands) The listing that appears on the certificate BEFORE PROPOSED CHANGES List only that part or portion of the water right that will be changed.										Proposed Changes (see "CODES" from previous page)	PROPOSED (the "to" or "on" lands) The listing as it would appear AFTER PROPOSED CHANGES are made.												
Twp	Rng	Sec	¼ ¼	Tax Lot	Gvt Lot or DLC	Acres	Type of USE listed on Certificate	POD(s) or POA(s) (name or number from Table 1)	Priority Date		Twp	Rng	Sec	¼ ¼	Tax Lot	Gvt Lot or DLC	Acres	New Type of USE	POD(s)/ POA(s) to be used (from Table 1)	Priority Date			
										GOV	4	N	10	W	19	SW	NW	NA	----	NA	NA	Asbury Creek East	1993
										GOV	4	N	10	W	19	ALL	SW	NA	----	NA	NA	Asbury Creek East	1993
										GOV	4	N	10	W	30	ALL	NW	NA	----	NA	NA	Asbury Creek East	1993
										GOV	4	N	10	W	30	NE	SE	NA	----	NA	NA	Asbury Creek East	1993
										GOV	4	N	10	W	30	NW	SW	NA	----	NA	NA	Asbury Creek East	1993
											Per Permit - "PURPOSE OR USE: MUNICIPAL USE . . . WITHIN THE SERVICE AREA OF THE ARCH CAPE DOMESTIC WATER SUPPLY DISTRICT"												
TOTAL ACRES:												TOTAL ACRES:						NA					

Additional remarks: Arch Cape Domestic Water Supply District is the current name of the entity. Past entity references include: Arch Cape Service District, Arch Cape Water Service District, and Arch Cape Water District.

The permit is for a total of 0.3 cfs. This Notification is being filed for: 0.2 cfs filed for incremental perfection on September 26, 2018; and, the remaining unperfected portion of 0.1 cfs.

The easement that covers the existing POD, and transmission piping to the public right-of-way to the north, was plotted. It indicates that the existing POD is in the range of 970 feet north of the south ¼ corner of Section 19, not 865 feet, as stated on the Approval for the earlier transfer T-7981. A document in the T-7981 file, prepared by ZTec Engineers, Inc. dated April 3, 1998, and stamped RECEIVED by WRD on Apr 21, 1998, includes the description of the Permanent Waterline Easement.

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JUN 14 2024

Salem, OR

For Place of Use or Character of Use Changes

Are there other water right certificates, water use permits or ground water registrations associated with the "from" or the "to" lands? ☐ Yes ☐ No

If YES, list the certificate, water use permit, or ground water registration numbers:_____.



Pursuant to ORS 540.510, any "layered" water use such as an irrigation right that is supplemental to a primary right proposed for transfer must be included in the transfer or be cancelled. Any change to a ground water registration must be filed separately in a ground water registration modification application.

For Substitution (ground water supplemental irrigation will be substituted for surface water primary irrigation)

Ground water supplemental Permit or Certificate # _____;

Surface water primary Certificate # _____.

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For a change from Supplemental Irrigation Use to Primary Irrigation Use

JUN 14 2024

Identify the primary certificate to be cancelled. Certificate # _____

For a change in point(s) of appropriation (well(s)) or additional point(s) of appropriation Salem, OR

☐ Well log(s) are attached for each authorized and proposed well(s) that are clearly labeled and associated with the corresponding well(s) in Table 1 above and on the accompanying application map.

Tip: You may search for well logs on the Department's web page at:

http://apps.wrd.state.or.us/apps/gw/well_log/Default.aspx

AND/OR

☐ Describe the construction of the authorized and proposed well(s) in Table 3 for any wells that do not have a well log. For *proposed wells not yet constructed or built*, provide "a best estimate" for each requested information element in the table. The Department recommends you consult a licensed well driller, geologist, or certified water right examiner to assist with assembling the information necessary to complete Table 3.

Table 3. Construction of Point(s) of Appropriation

Any well(s) in this listing must be clearly tied to corresponding well(s) described in Table 1 and shown on the accompanying application map. Failure to provide the information will delay the processing of your transfer application until it is received. The information is necessary for the department to assess whether the proposed well(s) will access the same source aquifer as the authorized point(s) of appropriation (POA). The Department is prohibited by law from approving POA changes that do not access the same source aquifer.

Proposed or Authorized POA Name or Number	Is well already built? (Yes or No)	If an existing well: OWRD Well ID Tag No. L-_____	Total well depth	Casing Diameter	Casing Intervals (feet)	Seal depth(s) (intervals)	Perforated or screened intervals (in feet)	Static water level of completed well (in feet)	Source aquifer (sand, gravel, basalt, etc.)	Well-specific rate (cfs or gpm). If less than full rate of water right

09907404

99 JUN 14 PM 2:53

B1015P361

REC'D BY: LORI DAVIDSON.

CLATSOP COUNTY CLERK *D.*\$55- *CK 2529*

EXIST POD

AFTER RECORDING RETURN TO:
Tarlow, Jordan & Schrader
PO Box 230669
Portland OR 97281

This space provided for recorder's use.

UTILITY ACCESS EASEMENT

This Easement is made this 8th day of JUNE, 1999, by Kent Price and Florence Price ("Grantors") and Arch Cape Domestic Water Supply District and/or its successors or assigns ("Grantee").

Grantors are the present owners of fee title to that certain real property described in deed recorded September 25, 1985, in Book 882 at page 14, in the Clatsop County, Oregon Deed Records (the "Property").

Grantors for good and valuable consideration, the receipt of which is hereby acknowledged, hereby grant unto the Grantee and the public, a perpetual nonexclusive Permanent Easement described on Exhibit A incorporated herein (the "Permanent Easement") to enter upon and use the Permanent Easement for the purpose of installing and maintaining waterlines, well, pump station, valve box, telephone lines, power lines, cable, electricity and other underground utilities ("Utilities").

Grantors for good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant unto the Grantee and the public, a perpetual nonexclusive Temporary Construction Easement described on Exhibit B incorporated herein (the "Temporary Easement") to enter upon and use the Property for the temporary purpose of installing the Utilities allowed by the Permanent Easement.

The Permanent Easement and the Temporary Easement are described on the map attached as Exhibit C incorporated herein.

Grantee shall have the right of reasonable access across adjacent property of Grantors for the purpose of access to the Easement.

Grantors shall not construct any permanent structure on the Permanent Easement, but may use the Permanent Easement for uses not inconsistent with the rights of Grantee or the public hereunder.

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The Permanent Easement and Temporary Easement shall be nonexclusive and Grantors reserve the right to grant to others easement rights in and to the easements, provided that such easement rights shall not substantially interfere with the easement rights granted hereunder.

GRANTORS

Kent Price
Kent Price
Florence Price
Florence Price

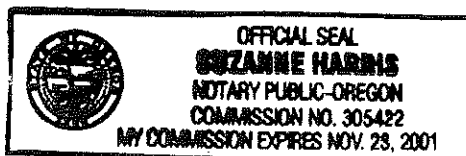
GRANTEE

Arch Cape Domestic Water Supply District

By: Thomas J. Merrill
Its: Manager

STATE OF OREGON, County of CLATSOP) ss.

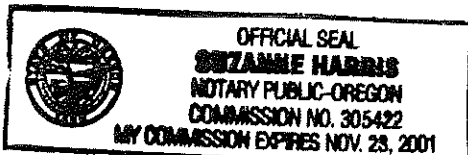
This instrument was acknowledged before me on JUNE 8, 1999, by Kent Price.



Suzanne Harris
NOTARY PUBLIC FOR OREGON
My Commission Expires 11-23-2001

STATE OF OREGON, County of CLATSOP) ss.

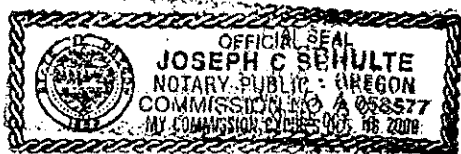
This instrument was acknowledged before me on JUNE 8, 1999, by Florence Price.



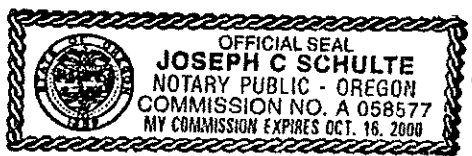
Suzanne Harris
NOTARY PUBLIC FOR OREGON
My Commission Expires 11-23-2001

STATE OF OREGON, County of CLATSOP) ss.

This instrument was acknowledged before me on 6/11, 1999, by Arch Cape Domestic Water Supply District. BY THOMAS MERRILL



Joseph C. Schulte
NOTARY PUBLIC FOR OREGON
My Commission Expires 10/16/00



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EXHIBIT 'B'**TEMPORARY CONSTRUCTION EASEMENT**

An easement for the purpose of installing a waterline over and across a parcel of land located in the Southwest One-Quarter of Section 19, Township 4 North, Range 10 West, of the Willamette Meridian, Clatsop County, Oregon. Said easement being a part of that parcel of land conveyed to Kent H. Price and Florence Price in that deed recorded September 25, 1995, in Book 882, Page 14, Clatsop County Deed records. Said easement being more particularly described as follows:

Commencing at the South One-Quarter corner of said Section 19; Thence North $89^{\circ} 03' 10''$ West along the South line of said Southwest One-Quarter of said Section 19, a distance of 1370.09 feet to a point; Thence North $02^{\circ} 17' 21''$ East a distance of 1020.40 feet to a point on the easterly right-of-way line of the Oregon Coast Highway 101; Thence South $87^{\circ} 42' 39''$ East, at right angles to said easterly right-of-way line, a distance of 15.00 feet to the true point of beginning of the easement herein described;

Thence North $02^{\circ} 17' 21''$ East, parallel with and 15.00 feet easterly of, when measured at right angles, said easterly right-of-way line, a distance of 71.00 feet; Thence North $42^{\circ} 42' 39''$ West a distance of 28.28 feet; Thence North $02^{\circ} 17' 21''$ East, parallel with and 15.00 feet easterly of, when measured at right angles, said easterly right-of-way line, a distance of 210.10 feet to a point on the southerly right-of-way line of Maple Street; Thence South $89^{\circ} 04' 15''$ East, along said southerly right-of-way line, a distance of 20.01 feet; Thence South $02^{\circ} 17' 21''$ West, parallel with and 35.00 feet easterly of, when measured at right angles, said easterly right-of-way line of said Oregon Coast Highway 101, a distance of 202.30 feet; Thence South $42^{\circ} 42' 39''$ East, at 45° to said easterly right-of-way line, a distance of 28.28 feet; Thence South $02^{\circ} 17' 21''$ West, parallel with and 35.00 feet easterly of, when measured at right angles, said easterly right-of-way line, a distance of 79.28 feet; Thence North $87^{\circ} 42' 39''$ West a distance of 20.00 feet to the true point of beginning of the easement herein described.

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EXHIBIT 'A'**PERMANENT WATERLINE EASEMENT**

An easement for the purpose of installing and maintaining waterline facilities over and across a parcel of land located in the Southwest One-Quarter of Section 19, Township 4 North, Range 10 West of the Willamette Meridian, Clatsop County, Oregon. Said easement being located on that parcel of land conveyed to Kent H. Price and Florence Price and recorded September 25, 1985 in Book 882, Page 14, Clatsop County Deed records. Said easement being more particularly described as follows:

Commencing at the South One-Quarter corner of said Section 19; Thence North 89° 03' 10" West along the South line of said Southwest One-Quarter of said Section 19, a distance of 1370.09 feet to a point; Thence North 02° 17' 21" East a distance of 970.40 feet to the true point of beginning of the easement herein described. Said point of beginning being located on the easterly right-of-way line of the Oregon Coast Highway 101;

Thence continuing along said easterly right-of-way line, North 02° 17' 21" East a distance of 126.00 feet to an angle point in said right-of-way line; thence continuing along said easterly right-of-way line, North 87° 42' 39" West a distance of 20.00 feet to an angle point in said easterly right-of-way line; Thence continuing along said easterly right-of-way line, North 02° 17' 21" East a distance of 244.75 feet to a point on the southerly right-of-way line of Maple Street; Thence South 89° 04' 15" East, along said southerly right-of-way line, a distance of 15.01 feet to a point that is 15.00 feet easterly of, when measured at right angles, said easterly right-of-way line of said Oregon Coast Highway 101; Thence South 02° 17' 21" West, parallel with and 15.00 feet easterly of, when measured at right angles, said easterly right-of-way line, a distance of 210.10 feet; Thence South 42° 42' 39" East at 45° to said easterly right-of-way line, a distance of 28.28 feet; Thence South 02° 17' 21" West, parallel with and 15.00 feet easterly of, when measured at right angles, said easterly right-of-way line, a distance of 71.00 feet; Thence South 87° 42' 39" East, at right angles to said easterly right-of-way line, a distance of 30.00 feet; Thence South 19° 48' 36" East a distance of 53.96 feet; Thence South 02° 17' 21" West a distance of 20.00 feet; Thence North 87° 42' 39" West a distance of 65.30 feet to the true point of beginning of the easement herein described.

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EDGE PAVEMENT

OREGON COAST HWY.

N02°17'21"E

EDGE PAVEMENT

POINT OF BEGINNING
FOR PERMANENT
WATER LINE EASEMENT

S02°17'21"W
970.40'

S02°17'21"W
126.00'

S87°42'39"E
65.30'

S02°17'21"W
20.00'

S19°48'36"E
53.96'

S87°42'39"E
30.00'

POINT OF BEGINNING
FOR TEMPORARY
CONSTRUCTION EASEMENT

S02°17'21"W
71.00'

S02°17'21"W
79.28'

S42°42'39"E
28.28'

S42°42'39"E
28.28'

20' TEMPORARY
CONSTRUCTION
EASEMENT, TYP.

S02°17'21"W
244.75'

S02°17'21"W

210.10'

S02°17'21"W

202.30'

15' PERMANENT
WATER LINE
EASEMENT, TYP.

S02°17'21"E
20.01'

S89°04'15"E

MAPLE ST.

B1015P365

S89°03'10"E
1370.08'

20 • 19

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EXHIBIT C
WATER LINE EASEMENTS

CURRAN-McLEOD, INC.
CONSULTING ENGINEERS
6655 SW HAMPTON ST., SUITE 210
PORTLAND, OREGON 97223
PHONE (503) 684-3478

Memo



To: Transfer Processing Staff
From: Dorothy Pedersen
Date: October 3, 2011 (based on conversation of Dwight French, Laura Wilke & Dorothy Pedersen on 9/21/11)
Re: Process to Follow for Government Action POD Changes

POD changes necessitated by government action that creates a reasonable expectation of a change in the surface level of a surface water source that impairs or threatens to impair access to an authorized point of diversion do not require filing of a transfer application. (ORS 540.510(6) and OAR 690-380-0010(2)(e).

Here is the process to follow:

1. Water user submits a written notice prior to changing to a new POD. This does not need to be filed on the Transfer Application form, though we may suggest that using the transfer application form and checking the "Government Action POD" box will provide prompts to ensure that all necessary information is included. A map should also be submitted - to prevent future problems with the right we'll need a complete description (and map) of the new POD as part of the water right record, though we can't require a CWRE map.
2. No matter what form the "Government Action POD Notice" takes, put it in a transfer application folder and assign a T-number to it for tracking purposes. Enter it in WRIS as a "Government Action POD Change".
3. There is NO FEE for submitting a Government Action POD Change notification.
4. **Within 15 days of filing, post a public notice** of the POD change (of the same type as the initial notice for transfer applications and permit amendments) on the Department's Public Notice. The statute does not specify a comment period, however it is our policy and practice to allow 30 days for public input and not to issue an order until 30 days after the notice was posted.
5. **Send out a "transfer review form" to the Watermaster, but NOT to ODFW.**
6. Criteria:
 - a. Must be a permit, certificate or decreed right.
 - b. Government action must have raised the expectation that the authorized POD will become inaccessible due to change in the level of the surface water source.
 - c. The new POD may be a "change" to replace the original, or it may be an "additional" POD.
 - d. There is no determination about forfeiture or whether the water user is "ready, will and able" to exercise the right.
 - e. Approve the change unless it would result in injury to other water rights as evidenced by comments from the Watermaster or comments received from the public and confirmed by WRD.
7. **Issue a Final Order within 60 days of receiving the POD change notice.** Use the "ord-gov action pod" template in the WRISApps Templates/Automated/GOV ACTION POD folder.
8. Provisions of the order:
 - a. No measurement devices or fish screens or other conditions may be added to the right or changed.
 - b. No proving up will be required.
 - c. Generally it will be advisable to cancel the original certificate and issue a superseding one with the new POD, but be cautious if there are concerns about the validity of the right.



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Date Received (Date Stamp Here)

OWRD Over-the-Counter Submission Receipt

Applicant Name(s) & Address: Arch Cape Domestic Water Supply District
32065 E Shingle Mill Rd, Arch Cape OR 97102

Transaction Type: Gov. Action

Fees Received: \$ N/A

☐ Cash

☐ Check;

Check No.

Name(s) on Check:

Thank you for your submission. Oregon Water Resources Department (Department) staff will review your submittal as soon as possible.

If your submission is determined to be complete, you will receive a receipt for the fees paid and an acknowledgement letter stating your submittal is complete.

If determined to be incomplete, your submission and the accompanying fees will be returned with an explanation of deficiencies that must be addressed in order for the submittal to be accepted.

If you have any questions, please feel free to contact the Department's Customer Service staff at 503-986-0801 or 503-986-0810.

Sincerely,

OWRD Customer Service Staff

Submission received by: Corie Lounien

(Name of OWRD staff)

Instructions for OWRD staff:

- Complete this Submission Receipt and make two (2) copies. Place one copy with the check/cash; and place the other copy with the submission (i.e., the application or other document).
- Date-stamp all pages. (NOTE: Do not stamp check.)
- Give this original Submission Receipt to the applicant.
- Record Submission Receipt information on the "RECEIVED OVER THE COUNTER" log sheet.
- Fold and put one copy of the Submission Receipt with check/cash into the Safe slot. Place the other copy of the Submission Receipt with submission (application/other document) in the top drawer of filing cabinet.