

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

In the Matter of Transfer Application                    )     FINAL ORDER  
T-13963, Yamhill County                                 )     APPROVING AN ADDITIONAL POINT OF  
   )     DIVERSION, A CHANGE IN PLACE OF USE,  
   )     AND A CHANGE IN CHARACTER OF USE.

**Authority**

Oregon Revised Statutes (ORS) 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of diversion, place of use, or character of use authorized under an existing water right. Oregon Administrative Rules (OAR) Chapter 690, Division 380 implement the statutes and provides the Department’s procedures and criteria for evaluating transfer applications.

**Applicant**

WESTROCK NORTHWEST LLC  
ATTN: JOHN STAKEL  
1000 ABERNATHY RD NE  
ATLANTA, GA 30328

**Receiving Landowner**

CITY OF NEWBERG  
ATTN: LANCE CALVERT  
414 EAST FIRST ST  
NEWBERG, OR 97132

**Findings of Fact**

1. On March 31, 2022, WESTROCK NORTHWEST LLC. filed an application for an additional point of diversion, to change the place of use, and to change the character of use under Certificates 90014. The Department assigned the application number T-13963.
2. THE CITY OF NEWBERG is the receiving landowner who will be responsible for completion of the changes.
3. Notice of the application for transfer was published on July 26, 2022, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
4. On April 13, 2020, Instream Lease IL-1782 was approved for a five-year period of 2020-2024 seasons and was recorded at Special Order Volume 116, page 417. The lease was protecting 8.0 cfs of Certificate 90014.

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, 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. On April 10, 2024, Instream Lease IL-1782 was terminated by request of the applicant prior to the 2024 season. The termination order was recorded at Special Order Volume 129, page 1068.
6. On November 2, 2023, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13963 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of December 2, 2023, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
7. On March 1, 2024, the Department issued a Preliminary Determination proposing to approve Transfer Application T-13963 and sent a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on March 5, 2024, and in the Newberg Graphic newspaper on March 7, 2024, and March 14, 2024 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

8. The right to be transferred is as follows:

**Certificate:** 90014 in the name of SP NEWSPRINT CO. (perfected under Permit S-8106)  
**Use:** MANUFACTURING AND FIRE PROTECTION.  
**Priority Date:** JULY 30, 1927  
**Rate:** 8.0 CUBIC FEET PER SECOND  
**Source:** WILLAMETTE RIVER, tributary to the COLUMBIA RIVER

**Authorized Points of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
3 S	2 W	WM	29	SE NW	55	ORIGINAL - 2130 FEET SOUTH AND 260 FEET WEST FROM THE NW CORNER OF SNOWDEN DLC 68
3 S	2 W	WM	29	NW NW	55	ADDITIONAL - 1630 FEET SOUTH AND 1400 FEET WEST FROM THE NW CORNER OF SNOWDEN DLC 68

**Authorized Place of Use:**

MANUFACTURING AND FIRE PROTECTION					
Twp	Rng	Mer	Sec	Q-Q	DLC
3 S	2 W	WM	29	NE NW	55

9. Transfer Application T-13963 proposes an additional point of diversion approximately 650 feet downstream to within a reach described as:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
3 S	2 W	WM	29	SE NW	55	LOCATION A (UPSTREAM ENDPOINT OF PROPOSED REACH) - 2290 FEET SOUTH AND 130 FEET WEST FROM THE NW CORNER, OF SNOWDEN DLC 68



Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
3 S	2 W	WM	29	SW NE	68	LOCATION B (DOWNSTREAM ENDPOINT OF PROPOSED REACH) - 2720 FEET SOUTH AND 300 FEET EAST FROM THE NW CORNER OF SNOWDEN DLC 68

10. Transfer Application T-13963 also proposes to change the place of use of the right to:

MUNICIPAL USE
WITHIN THE SERVICE AREA BOUNDARIES OF THE CITY OF NEWBERG

11. Transfer Application T-13963 proposes to change the character of use to municipal use.
12. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screen is necessary at the new point of diversion to prevent fish from entering the diversion and that the diversion is not currently equipped with an appropriate fish screen. This diversion may be eligible for screening cost share funds.

**Transfer Review Criteria [OAR 690-380-0100(14), 690-380-4010(2) and 690-380-2110(2)]**

13. Water has been used within the last five years according to the terms and conditions of the right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
14. A water delivery system sufficient to use the full amount of water allowed under the existing right was present within the five-year period prior to submittal of Transfer Application T-13963.
15. The water right is subject to transfer as defined in ORS 540.505(4) and OAR 690-380-0100(14).
16. The proposed point of diversion diverts water from the same source of surface water as the authorized points of diversion, as required by OAR 690-380-2110(2).
17. The proposed changes would not result in enlargement of the right.
18. The proposed change would not result in injury to other existing water rights.
19. All other application requirements are met.

**Conclusions of Law**

The additional point of diversion, change in place of use, and change in character of use proposed in Transfer Application T-13963 appear to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

**Now, therefore, it is ORDERED:**

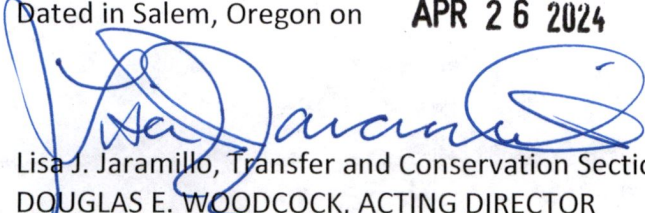
1. The additional point of diversion, change in place of use and change in character of use proposed in Transfer Application T-13963 are approved.
2. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 90014 and any related decree.
3. Water right Certificate 90014 is cancelled.
4. The quantity of water diverted at the additional point of diversion, together with the amount diverted from the authorized point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.
5. Water shall be acquired from the same source of surface water as the original points of diversion.
6. The former place of use of the transferred right shall no longer receive water under the right.
7. Prior to diverting water, the water user shall install an approved fish screen at the new point of diversion and shall provide to OWRD a written statement from Oregon Department of Fish and Wildlife (ODFW) that the installed screen meets the state's criteria, or that ODFW has determined a screen is not necessary.

The water user shall operate and maintain the fish screen at the new point of diversion consistent with ODFW's operational and maintenance standards. If ODFW determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.

8. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2055**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.

9. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated in Salem, Oregon on **APR 26 2024**



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for  
DOUGLAS E. WOODCOCK, ACTING DIRECTOR  
Oregon Water Resources Department

Mailing Date: **APR 29 2024**