

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

In the Matter of Instream Lease Application) DETERMINATION and
IL-1782, Yamhill County) FINAL ORDER ON PROPOSED INSTREAM
) LEASE

Authority

Oregon Revised Statute (ORS) 537.348 establishes the process in which a water right holder may submit a request to lease an existing water right for instream purposes. Oregon Administrative Rule (OAR) Chapter 690, Division 077 implements the statutes and provides the Department's procedures and criteria for evaluating instream lease applications.

Lessor

WestRock Northwest LLC
1000 Abernathy Road
Atlanta, Georgia 30328
john.stakel@westrock.com

Findings of Fact

1. On January 23, 2020, WestRock Northwest LLC filed an application involving the entirety of Certificates 37977 and 90014 for instream use. The Department assigned the application number IL-1782.

2. The first right to be leased is as follows:

Certificate: 37977 in the name of Spaulding Pulp & Paper Co. (perfected under Permit S-28142)

Use: Manufacture of Pulp and Paper

Priority Date: June 28, 1962

Quantity: **Rate:** 19.7 Cubic Feet per Second (CFS)

Source: Willamette River, tributary of Columbia River

Authorized Point of Diversion (POD):

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

This is a final order in other than 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 either 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.

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	DLC
3 S	2 W	WM	20	SW SW	55
3 S	2 W	WM	20	SE SW	55
3 S	2 W	WM	29	NW NE	68
3 S	2 W	WM	29	NE NW	68
3 S	2 W	WM	29	NE NW	55
3 S	2 W	WM	29	NW NW	55

3. The second right to be leased 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
Quantity: **Rate:** 8.0 Cubic Feet per Second (CFS)
Source: Willamette River, tributary of Columbia River

Authorized Point of Diversion (POD):

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
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
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

Authorized Place of Use:

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

4. Certificates 37977 and 90014 do not specify the period of allowed use. However, use of water for manufacturing of pulp and paper, and manufacturing and fire protection are assumed to be year round uses unless otherwise specified in the certificate.
5. The lease application includes the information required under OAR 690-077-0076(3). The Department provided notice of the lease application pursuant to OAR 690-077-0077(1). No comments were received.
6. The instream use is as follows: or has been modified is clarified from the lease application to prevent injury and enlargement and is as follows:
 Willamette River, tributary of Columbia River

Instream Reach: At the POD's (as described in Finding of Fact No. 2)

Certificate	Use	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
37977	Manufacturing	June 28, 1962	19.700	14,265.15	January 1 through December 31
90014	Manufacturing	July 30, 1927	8.000	5,791.74	
90014	Fire Protection		0.003	2.40	

7. Other conditions to prevent injury and enlargement are:

Water rights upstream of the original point of diversion shall not be subject to regulation for flows in excess of the quantities to which this instream water right is entitled at the original point of diversion.

8. The amount and timing of the proposed instream flow is allowable within the limits and use of the original water rights.
9. The protection of flows at the authorized points of diversion is appropriate, considering:
 - a. The instream water use begins at the recorded point of diversion;
 - b. The location of confluences with other streams downstream of the point of diversion.
 - c. There are no known areas of natural loss of streamflow to the river bed downstream from the point of diversion; and
 - d. Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the point of the instream water right.
10. The total monthly quantities of water to be protected under the existing and proposed instream rights at the points will provide for a beneficial purpose.
11. The total monthly quantities of water to be protected instream under existing and proposed instream rights at the points do not exceed the estimated average natural flow.
12. If approved, this instream lease is not reasonably expected to significantly affect land use as prescribed by ORS 197.180, OAR Chapter 660, Divisions 30 and 31, and OAR Chapter 690, Division 5.
13. Based upon review of the application, information provided by the Department's Watermaster, and other available information, the Department finds that the lease will not result in injury or enlargement. The order approving this instream lease may be modified or revoked under OAR 690-077-0077 if the Department later finds that the lease is causing injury to any existing water right or enlargement of the original right.
14. If a right which has been leased is later proposed to be leased again, transferred and/or reviewed under an allocation of conserved water, a new injury review shall be required. For example, instream transfers will be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Division 380 and Division 077. Approval of this lease does not establish a precedent for approval of any future transactions.
15. The Lessor has requested that the lease terminate on December 31, 2025, however an instream lease may only be active for a period of five years. Therefore, the lease will

terminate on December 31, 2024. The lease may commence on the date this final order is signed.

16. The Lessor has requested the option of terminating the lease early with written notice to the Department.

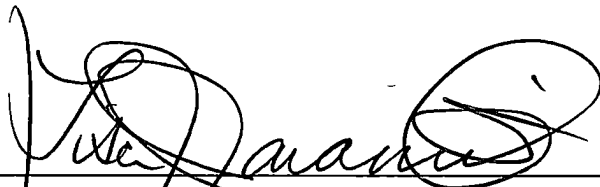
Conclusions of Law

The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease conforms to the applicable provisions of OAR 690-077-0015.

Now, therefore it is ORDERED:

1. The Lease as described herein is APPROVED.
2. During each year of the term of the lease, the former place of use will no longer receive water as part of these rights, any supplemental rights, or any other layered irrigation water rights, including ground water registrations and permits.
3. The term of the lease will commence upon approval of the instream lease and terminate on December 31, 2024. For multiyear leases, the lessor *shall* have the option of terminating the lease any time each year with written notice to the Department. However, if the termination request is received less than 30-days prior to the instream use period (January 1 through December 31) or after the water rights' original period of allowed use has begun, the Department may issue an order terminating the lease but use of water may not be allowed until the following calendar year, unless the Director determines that enlargement would not occur.

Dated at Salem, Oregon this day APR 13 2020.



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
Thomas M. Byler, Director, Oregon Water Resources Department

Mailing date: APR 14 2020

This document was prepared by Sarah Henderson. If you have any questions, please call 503-986-0884.