

# Application for Permanent Water Right Transfer

## 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.

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

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- 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. **The required application fee of \$6,410 is enclosed.**
- 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: 90014 (Attachment A)**  
 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.**

**Attachments:**

- Completed Transfer Application Map. **(Attachment B)**
- Completed Evidence of Use Affidavit and supporting documentation. **(Attachment C)**
- N/A\* Affidavit(s) of Consent from Landowner(s) (if the applicant does not own the land the water right is on.) **\*A purchase and sale agreement in which the Applicant retained ownership of the water right is enclosed. (Attachment D)**
- 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 (or signed land use form receipt stub) 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. **(Attachment E)**
- 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):**

<input type="checkbox"/> Application fee not enclosed/insufficient	<input type="checkbox"/> Map not included or incomplete
<input type="checkbox"/> Land Use Form not enclosed or incomplete	<input type="checkbox"/> Evidence of Use Form not enclosed or incomplete
<input type="checkbox"/> Additional signature(s) required	<input type="checkbox"/> Part _____ is incomplete

Other/Explanation \_\_\_\_\_

Staff: \_\_\_\_\_ 503- \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

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## Part 2 of 5 – Transfer Application Map

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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/](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°).



## Part 4 of 5 – Applicant Information and Signature

### Applicant Information

APPLICANT/BUSINESS NAME <b>WestRock Northwest, LLC ATTN: John Stakel</b>			PHONE NO. <b>770-326-8130</b>	ADDITIONAL CONTACT NO.
ADDRESS <b>1000 Abernathy Road NE</b>				FAX NO.
CITY <b>Atlanta</b>	STATE <b>GA</b>	ZIP <b>30328</b>	E-MAIL	
<b>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.</b>				

AGENT/BUSINESS NAME <b>Stoel Rives LLP (Attn: Kirk Maag)</b>			PHONE NO. <b>503-294-9546</b>	ADDITIONAL CONTACT NO. <b>541-881-9613</b>
ADDRESS <b>760 SW Ninth Ave, Ste 3000</b>				FAX NO.
CITY <b>Portland</b>	STATE <b>OR</b>	ZIP <b>97205</b>	E-MAIL <b><a href="mailto:kirk.maag@stoel.com">kirk.maag@stoel.com</a></b>	
<b>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.</b>				

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

AGENT/BUSINESS NAME <b>GSI Water Solutions, Inc. ATTN: Kimberly Grigsby</b>			PHONE NO. <b>541-257-9004</b>	ADDITIONAL CONTACT NO.
ADDRESS <b>1600 Western Boulevard, Suite 240</b>				FAX NO.
CITY <b>Corvallis</b>	STATE <b>OR</b>	ZIP <b>97333</b>	E-MAIL <b><a href="mailto:kgrigsby@gsiws.com">kgrigsby@gsiws.com</a></b>	
<b>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.</b>				

Explain in your own words what you propose to accomplish with this transfer application, and why:  
**The Applicant, for the benefit of the City of Newberg, is proposing to change the character of use of Certificate 90014 from industrial use to municipal use, add a point of diversion, and change the place of use to the City of Newberg Service Area. Certificate 90014 is currently leased instream (IL-1782). Due to the large infrastructure and capital investment required to make the proposed changes, the Applicant is requesting 30 years to complete the transfer.**

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.

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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: Newberg Graphic.
- 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.



John Stakel  
Applicant signature

**John Stakel, Senior Vice President**  
Print Name (and Title if applicable)

3-29-2022  
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\* -N/A (See purchase and sale agreement provided in Attachment D in which the Applicant retained ownership of the water right.)

\*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 **The water right, however, is in the process of being sold.**

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](https://www.oregon.gov/owrd/WRDFormsPDF/Transfer_Property_Transactions.pdf)

RECEIVING OWNER NAME <b>City of Newberg ATTN: Kaaren Hofmann</b>		PHONE NO. <b>503-537-1223</b>	ADDITIONAL CONTACT NO.
ADDRESS <b>414 East First Street</b>			FAX NO.
CITY <b>Newberg</b>	STATE <b>OR</b>	ZIP <b>97132</b>	E-MAIL <b><a href="mailto:Kaaren.Hofmann@newbergoregon.gov">Kaaren.Hofmann@newbergoregon.gov</a></b>
Describe any special ownership circumstances: The Applicant sold the land to which the subject water right is appurtenant; however the water rights were specifically excluded from the sale. (See purchase and sale			

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agreement provided in Attachment D.) Accordingly, an affidavit of consent from the landowner is not applicable because the Applicant continues to hold the water right. The Applicant is in the process of selling the water right to the City of Newberg, contingent on approval of this transfer application.

The confirming Certificate shall be issued in the name of:  Applicant  Receiving Owner **At closing, the Applicant will assign the transfer to the City of Newberg.**

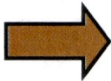
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Check here if any of the water rights proposed for transfer are or will be located within or served by an irrigation or other water district. **(Tip: Complete and attach Supplemental Form D.)**

IRRIGATION DISTRICT NAME <b>N/A</b>	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 <b>Yamhill County</b>	ADDRESS <b>525 NE 4<sup>th</sup> Street</b>	
CITY <b>McMinnville</b>	STATE <b>OR</b>	ZIP <b>97128</b>

ENTITY NAME <b>City of Newberg</b>	ADDRESS <b>414 E First St.</b>	
CITY <b>Newberg</b>	STATE <b>OR</b>	ZIP <b>97132</b>

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Part 5 of 5 – Water Right Information

CERTIFICATE # 90014

Description of Water Delivery System

System capacity: 22.3 cfs (8.0cfs under this right) 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 was diverted from POD 1 through a 16-inch intake at the low water line of the Willamette River, and pumped, using two 100 hp 12-inch disc turbine pumps, through 148 ft of 20-inch welded steel pipe to the place of use. Water was also diverted from POD 2 through a 12-foot forebay and wet well, and pumped, using three 400 hp vertical turbine pumps, through 30-inch raw water pipe to the place of use. Water was then conveyed throughout the place of use via a closed pipe system. Currently, Certificate 90014 is leased instream (IL-1782).

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)
POD 1	<input checked="" type="checkbox"/> Authorized <input type="checkbox"/> Proposed		3 S	2 W	29	SE	NW	DLC 55	2,130 feet South and 260 feet West from NW Corner, Snowden DLC 68
POD 2	<input checked="" type="checkbox"/> Authorized <input type="checkbox"/> Proposed		3 S	2 W	29	NW	NW	DLC 55	1,630 feet South and 1,400 feet West from NW Corner, Snowden DLC 68
POD 3	The proposed point of diversion will be located between Location A and Location B								
Location A	<input type="checkbox"/> Authorized <input checked="" type="checkbox"/> Proposed		3 S	2 W	29	SE	NW	DLC 55	2,290 feet South and 130 feet West from the NW corner of Snowden DLC 68
Location B	<input type="checkbox"/> Authorized <input checked="" type="checkbox"/> Proposed		3 S	2 W	29	SW	NE	DLC 68	2,720 feet South and 300 feet East from the NW corner of Snowden DLC 68

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

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



**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.

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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 # 90014**

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					
<b>EXAMPLE</b>																											
2	S	9	E	15	NE	NW	100		15.0	Irrigation	POD #1	POD #2	1901	POU/POD	2	S	9	E	1	NW	NW	500	1	10.0		POD #5	1901
														POU/USE/APOA	City of Newberg Service Area – See Attachment B							Municipal	POD 1, POD 2, POD 3	7/30/1927			
TOTAL ACRES:												TOTAL ACRES:											N/A				


Additional remarks: **Due to the large infrastructure and capital investment required to make the proposed changes, the Applicant is requesting 30 years to complete the transfer.**

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**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 **N/A-This water right is for industrial use and the proposed use is municipal, so "layering" does not apply.**

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) **-N/A**

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 -N/A**

Identify the primary certificate to be cancelled. Certificate # \_\_\_\_\_

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**For a change in point(s) of appropriation (well(s)) or additional point(s) of appropriation: -N/A**

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](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 -N/A**

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

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## Attachment A

Certificate 90014

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Application for a Permanent Water Right Transfer - WestRock Northwest, LLC

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STATE OF OREGON

COUNTY OF YAMHILL

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

SP NEWSPRINT CO.  
PO BOX 70  
NEWBERG OR 97132-0070

confirms the right to use the waters of the WILLAMETTE RIVER, a tributary of the COLUMBIA RIVER for MANUFACTURING AND FIRE PROTECTION.

This right was perfected under Permit S-8106. The date of priority is JULY 30, 1927. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 8.0 CUBIC FEET PER SECOND, or its equivalent in case of rotation, measured at the point of diversion.

The points of diversion are located as follows:

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 NW CORNER, SNOWDEN DLC 68
3 S	2 W	WM	29	SE NW	55	ORIGINAL - 2130 FEET SOUTH AND 260 FEET WEST FROM NW CORNER, SNOWDEN DLC 68

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

A description of the place of use is as follows:

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

The quantity of water diverted at the new point of diversion, together with that diverted at the old point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.

The water user shall maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted.

Water shall be acquired by the additional point of diversion from the same surface water source as the original point of diversion.

The water user shall maintain a fish screen or fish by-pass device.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482. Pursuant to ORS 183.482, ORS 536.075 and OAR 137-003-0675, you may petition for judicial review and 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.

This certificate is issued to confirm AN ADDITIONAL POINT OF DIVERSION approved by orders of the Water Resources Director entered September 20, 2000, at Special Order Volume 54, Page 734, approving Transfer Application 8361, and December 6, 2000 at Special Order Volume 54, Page 888, amending Transfer Application 8361, supercedes Certificate 37773, State Record of Water Right Certificates.

MAR 27 2015

Issued \_\_\_\_\_.



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

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## **Attachment B**

Application Maps

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Application for a Permanent Water Right Transfer - WestRock Northwest, LLC

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**From:** STARNES Patrick K \* WRD  
**To:** Zach Pike-Urlacher  
**Cc:** Kim Grigsby  
**Subject:** RE: Inquiry regarding "proposed diversion area" and map scale waiver request  
**Date:** Monday, February 28, 2022 11:29:02 AM

---

Good Morning Zach,

I see no problem with using a defined stream reach as the location of the proposed POD. Just make sure the end points of the reach are described by the measured distance from the nearby survey monument as you would a "normal" proposed POD.

The Department grants a map scale waiver for the attached place of use map.

Please include a copy of this e-mail when you submit the transfer application..

Sincerely,

Kelly

\*\*\*\*\*

Kelly Starnes, Transfer Program Analyst  
Oregon Water Resources Department  
725 Summer St NE Suite A  
Salem OR 97301-1271  
Cell phone: 503-979-3511 Fax: 503-986-0903  
E-mail: [patrick.k.starnes@water.oregon.gov](mailto:patrick.k.starnes@water.oregon.gov)

Please Note: Under Oregon Law, messages to and from this e-mail address may be available to the public.

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**From:** Zach Pike-Urlacher <[zpikeurlacher@gsiws.com](mailto:zpikeurlacher@gsiws.com)>  
**Sent:** Monday, February 28, 2022 10:54 AM  
**To:** STARNES Patrick K \* WRD <[Patrick.K.STARNES@water.oregon.gov](mailto:Patrick.K.STARNES@water.oregon.gov)>  
**Cc:** Kim Grigsby <[kgrigsby@gsiws.com](mailto:kgrigsby@gsiws.com)>  
**Subject:** Inquiry regarding "proposed diversion area" and map scale waiver request

Kelly,

We are working on putting together a water right transfer for the benefit of the City of Newberg and would like to propose a short reach as the area where an additional point of diversion will be developed (see attached point of diversion map, Cert. 90014). We used this approach for a previous transfer application that was approved by OWRD (see Cert. 85736 proposed diversion area map). We are curious if you foresee any issues with us employing this strategy again?

We would also like to request a map scale waiver for the attached place of use map.



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Please let us know if you have any questions.

Thanks,  
Zach

**Zach Pike-Urlacher**

**Water Resources Analyst**

direct: 541.753.0933 | mobile: 360.739.2303

1600 SW Western Boulevard, Suite 240, Corvallis, OR 97333

GSI Water Solutions, Inc. | [www.gsiws.com](http://www.gsiws.com)

*pronouns: he, him*

**Please note:** GSI is open for business, although most of us are working remotely. I'm available by phone or email, as always.

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## **Attachment C**

Evidence of Use Affidavit

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Application for a Permanent Water Right Transfer – WestRock Northwest, LLC

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# Application for Water Right Transfer

## Evidence of Use Affidavit



Oregon Water Resources Department  
 725 Summer Street NE, Suite A  
 Salem, Oregon 97301-1266  
 (503) 986-0900  
 www.wrd.state.or.us

Please print legibly or type. Be as specific as possible. Attach additional pages if you need more spacing. Supporting documentation must be attached.

State of ~~Oregon~~ Georgia )  
 ) ss  
 County of ~~YAMHILL~~ Fulton

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I, JOHN STAKEL, in my capacity as WESTROCK SENIOR VICE PRESIDENT,  
 mailing address 1000 Abernathy Road NE, Atlanta, GA, 30328  
 telephone number 770-326-8130, being first duly sworn depose and say:

1. My knowledge of the exercise or status of the water right is based on (check one):

- Personal observation                       Professional expertise

2. I attest that:

- Water was used during the previous five years on the **entire** place of use for Certificate # \_\_\_\_; **OR**
- My knowledge is specific to the use of water at the following locations within the last five years:

Certificate #	Township	Range	Mer	Sec	¼ ¼	Gov't Lot or DLC	Acres (if applicable)

OR

- Confirming Certificate # \_\_\_\_ has been issued within the past five years; **OR**
- Part or all of the water right was leased instream at some time within the last five years. The instream lease number is: IL-1782 (Note: If the entire right proposed for transfer was not leased, additional evidence of use is needed for the portion not leased instream.); **OR**
- The water right is not subject to forfeiture and documentation that a presumption of forfeiture for non-use would be rebutted under ORS 540.610(2) is attached.
- Water has been used at the actual current point of diversion or appropriation for more than 10 years for Certificate # \_\_\_\_ (For Historic POD/POA Transfers)

(continues on reverse side)

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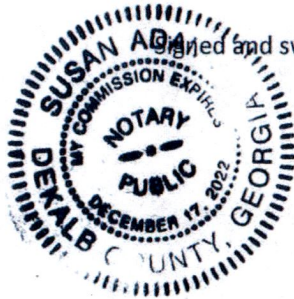
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3. The water right was used for: (e.g., crops, pasture, etc.): Instream Use
4. I understand that if I do not attach one or more of the documents shown in the table below to support the above statements, my application will be considered incomplete.

*John Stabel*  
Signature of Affiant

3-29-2022  
Date



Subscribed and sworn to (or affirmed) before me this 29<sup>th</sup> day of March, 20 22

*Susan Adams*  
Notary Public for Oregon, Georgia

My Commission Expires: December 17, 2022

Supporting Documents	Examples
<input type="checkbox"/> Copy of a water right certificate that has been issued within the last five years. (not a remaining right certificate)	Copy of <b>confirming</b> water right certificate that shows issue date
<input type="checkbox"/> Copies of receipts from sales of irrigated crops or for expenditures related to use of water	<ul style="list-style-type: none"> <li>• Power usage records for pumps associated with irrigation use</li> <li>• Fertilizer or seed bills related to irrigated crops</li> <li>• Farmers Co-op sales receipt</li> </ul>
<input type="checkbox"/> Records such as FSA crop reports, irrigation district records, NRCS farm management plan, or records of other water suppliers	<ul style="list-style-type: none"> <li>• District assessment records for water delivered</li> <li>• Crop reports submitted under a federal loan agreement</li> <li>• Beneficial use reports from district</li> <li>• IRS Farm Usage Deduction Report</li> <li>• Agricultural Stabilization Plan</li> <li>• CREP Report</li> </ul>
<input type="checkbox"/> Aerial photos containing sufficient detail to establish location and date of photograph	<p>Multiple photos can be submitted to resolve different areas of a water right.</p> <p>If the photograph does not print with a "date stamp" or without the source being identified, the date of the photograph and source should be added.</p> <p>Sources for aerial photos:                      OSU – <a href="http://www.oregonexplorer.info/imagery">www.oregonexplorer.info/imagery</a>                      OWRD – <a href="http://www.wrd.state.or.us">www.wrd.state.or.us</a>                      Google Earth – <a href="http://earth.google.com">earth.google.com</a>                      TerraServer – <a href="http://www.terra-server.com">www.terra-server.com</a></p>
<input checked="" type="checkbox"/> Approved Lease establishing beneficial use within the last 5 years	Copy of instream lease or lease number ( <b>IL-1782</b> )

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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](mailto: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.

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**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.

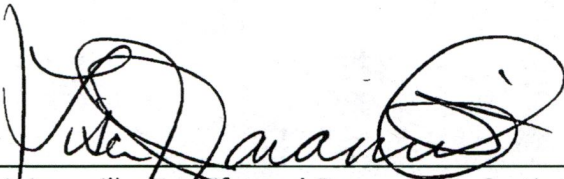
**Conclusions of Law**

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

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Mailing date: APR 14 2020

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



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## **Attachment D**

Purchase and Sale Agreement

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Application for a Permanent Water Right Transfer - WestRock Northwest, LLC

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## AGREEMENT OF SALE

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THIS AGREEMENT OF SALE is made and entered by and between Commercial Development Company, Inc., a Missouri corporation, or its assignee ("Purchaser"), and WestRock Northwest, LLC, a Delaware limited liability company ("Seller"), as of the 17<sup>th</sup> day of December 2019 (the "Effective Date").

W I T N E S S E T H:

Seller hereby agrees to sell and convey to Purchaser, and Purchaser hereby agrees to purchase from Seller, the Property, as hereinafter defined, subject to the Permitted Exceptions, for the Purchase Price and upon and subject to the terms, provisions, and conditions hereinafter set forth. This Agreement of Sale does not include any sale of Water Rights, as hereinafter defined, all of which are retained by Seller.

## ARTICLE I.

Definitions; Purchase Price

Section 1.1 Definitions. As used in this Agreement, the terms listed below, when they appear with their initial letters capitalized, shall have the following meanings unless the context in which they occur requires otherwise:

(a) "Agreement" means, and the words "herein," "hereof," "hereunder," and words of similar import, shall refer to, this Agreement of Sale.

(b) "Closing" means the consummation of the purchase of the Property by Purchaser from Seller in accordance with the terms and provisions of Article III, which Closing shall occur "New York style" through the Title Company on the Closing Date.

(c) "Closing Date" means no later than fifteen (15) days following the completion of the "Due Diligence Period."

(d) Omitted.

(e) "Due Diligence Period" means the sixty-five (65) day period commencing on the Effective Date.

(f) "Effective Date" means the date set forth in the first paragraph hereinabove and on which a copy of this Agreement is fully executed by both parties hereto and delivered to Purchaser.

(g) "Environmental Condition" means any physical condition or condition with respect to the environment which arose in the past and is continuing, now exists or may hereafter be found to exist in, on, under, or about the Property, its improvements or the area surrounding the Property or off-site, whether or not yet discovered, and includes, but is not limited to, contamination of the environment (including, without limitation, ambient air, surface or subsurface

soil or strata, air, water (whether surface water or ground water) or sediments) by Hazardous Substances; the presence of Hazardous Substances, including chemicals, process materials, and hazardous or other wastes, which are located or stored upon the Property or migrated from the Property; and impacts to or natural resource damages arising from conditions in, on or under the Property.

(h) "Environmental Laws" means any and all laws, statutes, ordinances, rules, regulations, judgments, orders, decrees, permits, licenses, or other governmental restrictions or requirements relating to pollution or protection of human health, natural resources, and the environment, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. §9601 *et seq.*), the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. §6901 *et seq.*), the Clean Air Act, as amended (42 U.S.C. §7401, *et seq.*), the Clean Water Act, as amended (33 U.S.C. §1251, *et seq.*), the Occupational Safety and Health Act of 1970, as amended, (29 U.S.C. § 651, *et seq.*), and the implementing regulations adopted pursuant thereto, as well as all state and local counterparts.

(i) "Environmental or Property Liability" means all debts, actions, causes of action, lawsuits, claims, demands, judgments, fines, penalties and other liabilities and obligations of every kind and nature, whether past, present or future, known or unknown, fixed or contingent, arising from or relating to the Property, including without limitation, any Environmental Condition. The term "Environmental or Property Liability" shall include fines, penalties, bodily injuries, property damage, investigation, monitoring, removal actions, remediation (active or passive), risk assessment, containment and/or natural resource damages, arising from or relating to: (i) past, present and future industrial activities on the Property; (ii) CERCLA, RCRA or any other Environmental Law; and (iii) Hazardous Substances, including, without limitation, process chemicals, asbestos-containing materials and/or lead-based paint, stored or present on the Property.

(j) "Escrow Deposit" means, initially, the sum of FIFTY THOUSAND DOLLARS (\$50,000.00) in immediately available federal funds which shall be delivered by Purchaser to the Escrow Holder by certified check or wire transfer within two (2) business days after the Effective Date. On the expiration date of the Due Diligence Period, Purchaser shall deposit an additional ONE FIFTY THOUSAND DOLLARS (\$150,000.00) in immediately available federal funds with the Escrow Holder, at which time "Escrow Deposit" shall mean the entire TWO HUNDRED THOUSAND DOLLARS (\$200,000.00) then being held by the Escrow Holder.

(k) "Escrow Holder" means the Title Company.

(l) "Excluded Matters" shall have the meaning described in Section 2.5(a).

(m) "Governmental Regulations" means any and all laws, ordinances, rules, regulations, statutes, building codes, zoning ordinances, restrictions, judgments, orders or decrees and other matters of all governmental authorities or courts of competent jurisdiction having jurisdiction over the Property.

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(n) "Hazardous Substances" means any "hazardous substance", "hazardous waste" "hazardous chemical", "hazardous material", "toxic substance", "pollutant" or "contaminant" as those terms are defined by Environmental Laws, including, without limitation, asbestos, oil, petroleum, lead-based paint, mold and polychlorinated biphenyls ("PCBs").

(o) "Improvements" means all (i) buildings and/or improvements heretofore constructed upon the Land and (ii) omitted; excluding, however, the Retained Fixtures and Equipment and/or any To Be Recycled Fixtures and Equipment.

(m) "Land" means that approximately **207.5 acres less City transfers, see Exhibit A and A-1** of real property located at 1301 Wynooski Road, Newberg, Oregon 97132 comprised of tracts or parcels listed on Exhibit A attached hereto and made a part hereof for all purposes, together with all and singular the rights, easements, and appurtenances pertaining thereto, including any right, title, and interest of Seller in and to adjacent streets, alleys, or rights-of-way, to the extent that such rights, titles, and interests pertain to the real property described on said exhibit.

(n) "Miscellaneous Contracts" means all of Seller's interest in any service contracts, maintenance arrangements, or other agreements affecting the operation of the Land and/or Improvements assumed by Purchaser at Closing.

(o) "Permitted Exceptions" means those exceptions or conditions to title to the Property approved by Purchaser pursuant to Section 2.1 hereof.

(p) "Personal Property" means the personal property of Seller listed on Exhibit B attached hereto and made a part hereof for all purposes which will be sold to Purchaser as part of the transaction contemplated herein.

(q) "Property" means the Land, the Personal Property, the Improvements and Seller's interest in the Miscellaneous Contracts, excluding, however, any and all Water Rights.

(r) "Purchase Price" means \$10,250,000.00.

(s) "Retained Fixtures and Equipment" means those fixtures and equipment set forth on Exhibit C attached hereto and made a part hereof for all purposes which will be removed and retained by Seller prior to Closing.

(t) "Survey" means any current plat of survey of the Land and Improvements, prepared by a Registered Public Surveyor or a Registered Professional Engineer duly and currently licensed by the State within which the Land and Improvements are located.

(u) "Title Binder" means the Commitment for Owner's Title Insurance Policy issued by the Title Company.

(v) "Title Company" means First American Title Insurance Company.

(w) "Title Policy" means the Title Insurance Policy issued by the Title Company.

(x) "To Be Recycled Fixtures and Equipment" means those fixtures and equipment set forth on Exhibit D attached hereto and made a part hereof for all purposes which will be dismantled, removed, and properly recycled by Purchaser as set forth in Section 3.6 below.

(y) "Water Rights" means the right to use or withdraw water from any water source, including, without limitation, any and all water rights now or formerly associated with the Land, the Personal Property, the Improvements, and Seller's prior activities at the Land, including but not limited to those water rights identified in State of Oregon Certificates of Water Rights # 37977 (for 19.7 cubic feet per second) and # 90014 (for 8.0 cubic feet per second).

(z) "Warranties" means all warranties and guaranties, if any, relating to the Personal Property, or any part thereof.

Section 1.2 Payment of Purchase Price. The Purchase Price, subject to adjustments for pro-rations as hereinafter provided for, shall be paid in full in cash at Closing by wire transfer of immediately available federal funds to a bank account of the Title Company.

## ARTICLE II.

### Title and Survey; Approval of Documents; Inspections; Conditions

Section 2.1 Review of Survey and Title Binder by Purchaser. Within thirty (30) days after the Effective Date, Seller shall deliver to Purchaser the Title Binder and copies of all exceptions to title set forth therein. Within twenty-five (25) days after the aforesaid delivery, Purchaser shall deliver to Seller a copy of the Survey along with such objections as Purchaser may have, in its sole discretion, to anything contained in or set forth on the Title Binder and/or the Survey. Any exceptions to title shown in the Title Binder and on the Survey to which Purchaser does not so object shall be deemed to be the Permitted Exceptions.

Section 2.2 Seller's Right to Cure Purchaser's Objections. If Purchaser delivers objections to exceptions contained in the Title Binder or the Survey to Seller in accordance with Section 2.1 hereof, then Seller may, in its sole discretion, prior to the expiration of the Due Diligence Period, satisfy such objections at no cost to Purchaser; provided that Seller shall not (except as set forth in the immediately following sentence) be obligated to expend any funds to cure any such exceptions to title. Notwithstanding the foregoing, on or before Closing, Seller shall, at Seller's sole cost and expense, eliminate all liens securing financial obligations encumbering the Property, including, without limitation, tax liens, judgment liens and mechanic's and materialmen's liens. In the event Seller delivers written notice to Purchaser before the expiration of the Due Diligence Period that Seller is unable or unwilling to satisfy such objections, other than the monetary objections required to be cured by Seller as contemplated in the preceding sentence, Purchaser may either waive such objections and proceed to close the transaction contemplated hereby or terminate this Agreement by notice delivered to Seller prior to Closing in which event the Escrow Deposit shall be returned to Purchaser and the parties shall have no further obligations to the other except for those set forth herein that expressly survive the termination of this Agreement. The failure of Seller to deliver the notice to

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**EIGHTH AMENDMENT TO**  
**PROPERTY TRANSFER AGREEMENT**

**THIS EIGHTH AMENDMENT TO PROPERTY TRANSFER AGREEMENT** (this "Amendment") is made as of the Effective Date (defined below), between **WESTROCK NORTHWEST, LLC**, a Delaware limited liability company (the "Seller"), and **COMMERCIAL DEVELOPMENT COMPANY, INC.**, a Missouri corporation ("Purchaser").

**WITNESSETH:**

**WHEREAS**, Seller and Purchaser are parties to that certain Agreement of Sale dated December 17, 2019 as amended on February 19, 2020, March 23, 2020, May 18, 2020, May 27, 2020, June 1, 2020, June 12, 2020, and June 22, 2020 (collectively the "Sale Agreement"), relating to the purchase and sale of certain real property more particularly described therein and containing approximately 207.5 acres in Newberg, Oregon; and

**WHEREAS**, the parties desire to amend the Sale Agreement as hereinafter provided.

**NOW, THEREFORE**, in consideration of the mutual benefits accruing hereunder, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. All capitalized terms used in this Amendment that are not defined herein shall have the meanings ascribed to them in the Sale Agreement.
2. Closing Date. The Closing Date defined in Section 1.1(c) of the Sale Agreement is hereby amended to mean "fifteen (15) days after the end of the Survey Period."
3. Due Diligence. The Due Diligence Period defined in Section 1.1(e) of the Sale Agreement shall expire on the earlier of: (i) full execution and delivery of this Amendment, or (ii) June 30, 2020 at 5:00 P.M. Eastern Time. Notwithstanding the preceding, Purchaser retains its rights set forth in Section 2.1 and 2.2 of the Sale Agreement relative to the Survey. Purchaser has an additional fifty (50) days from the date of this Amendment to obtain the Survey and assert objections thereto, if any (the "Survey Period"). Purchaser shall continue to have the right to access the Property for inspection and investigation purposes for Purchaser's intended future use, subject to the requirements for such access in Section 2.4 of the Sale Agreement.
4. Purchase Price. The Purchase Price defined in Section 1.1(r) of the Sale Agreement is hereby amended to be \$4,500,000.00.
5. Insurance Policy. The parties agree the insurance policies identified in and attached as Exhibit A, with an election for \$100,000.00 in deductible for both for Purchaser's and Seller's policies, and otherwise containing the terms set forth in Section 2.5(f) of the Sale Agreement (as amended by the Second Amendment to Property Transfer Agreement), are acceptable to each party, approved by the Seller, and will together constitute the "Insurance Policy" as defined in the

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Sale Agreement. In addition to the binder already required under Section 3.3(vi) of the Sale Agreement, within thirty (30) days of the Closing Purchaser shall deliver to Seller fully executed versions of the Insurance Policy. Further, notwithstanding anything to the contrary in Section 2.5(f) of the Sale Agreement (as amended by the Second Amendment to Property Transfer Agreement), as to premiums payable for the Insurance Policy, Purchaser shall be solely responsible for the first \$500,000.00 in premiums, with the cost for any additional premiums above \$500,000.00 ("Excess Premiums") for the Insurance Policy split and paid equally in a timely manner by the parties, and with each party to provide the other written evidence of its payment of its portion of any such Excess Premiums on request by the other.

6. Exhibit D of the Sale Agreement is deleted and replaced with the Exhibit D attached to this Amendment.

7. Water Rights - Right of First Refusal. Seller agrees to grant to Purchaser, effective as of the Closing and only if the transaction contemplated by the Sale Agreement closes, a right of first refusal to purchase a portion of the Certificated Rights (the "ROFR"), subject to the terms and conditions set forth in this Section. As used in this Section, the term "Certificated Rights" refers to State of Oregon Certificates of Water Right Nos. 37977 and 90014, which together authorize the use of 27.7 cubic feet per second of water.

a. ROFR. The ROFR shall apply only to 7.74 cubic feet per second of the total rate authorized to be used under the Certificated Rights (the "Burdened Rights"), and Seller shall retain all right to sell, transfer, exchange, grant an option to purchase, or otherwise dispose of any other portion of the Certificated Rights (the "Remaining Rights") without regard to the right of first refusal granted under this Section, including the right to sell, transfer, exchange, grant an option to purchase, or otherwise dispose of the Remaining Rights *before* taking any such action with respect to the Burdened Rights. The following terms and conditions shall apply to the ROFR:

i. Seller agrees not to sell, transfer, exchange, grant an option to purchase, or otherwise dispose of the Burdened Rights without first offering the Burdened Rights to Purchaser on the terms and conditions set forth in this Section.

A. When Seller receives from a third party (the "Third-Party Offeror") a bona fide offer to purchase the Burdened Rights, or a part of or an interest in the Burdened Rights, that Seller desires to accept, Seller must give Purchaser written notice (the "ROFR Notice") of the price, terms, and conditions of the offer and deliver a copy of the offer (the "Offer") to Purchaser.

B. When Purchaser receives the ROFR Notice and a copy of the Offer, Purchaser will have the prior and preferential right to purchase all Certificated Rights to be sold (including both any Burdened Rights and any other Certificated Rights to be sold) (the "Offered Rights") as described in the Offer at the same price and on the same terms and conditions as are contained in the Offer. Purchaser shall have no right to elect to purchase only a portion of Certificated Rights described in the Offer.

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C. Purchaser will have 20 calendar days from the date that Purchaser receives the ROFR Notice and a copy of the Offer to notify Seller whether Purchaser elects to purchase under the terms of the Offer. If Purchaser elects to exercise its right to purchase, then in addition to giving Seller written notice of its election within the 20-day period, Purchaser also must tender an amount equal to 25 percent of the purchase price reflected in the Offer as an earnest-money deposit (the "ROFR Deposit") to be held and used in accordance with the terms of the Offer. The amount of the ROFR Deposit will be calculated based on the maximum purchase price that would be paid to Purchaser under the Offer, without considering any purchase price adjustments contained in the Offer.

D. If Purchaser fails to timely exercise its right to purchase under the terms of this Section, then Seller will be entitled to sell the Offered Rights (including the part of or interest in the Burdened Rights covered by the Offer) according to the terms of the Offer to the Third-Party Offeror, subject to the terms of the following paragraph. If the sale contemplated by the Offer closes, the ROFR will terminate and be of no further force or effect as to the part of or interest in the Burdened Rights sold pursuant to the Offer.

E. If Purchaser fails to timely exercise its right to purchase under the terms of this Section, and for any reason Seller does not sell or convey the Offered Rights to the Third-Party Offeror on materially the same terms contained in the Offer, then Seller must resubmit the Offer or any other offer to Purchaser before selling the Burdened Rights (or the part of or interest in the Burdened Rights), and such offers will be subject to the ROFR.

b. Term. The term of the ROFR commences on the Closing Date and, unless earlier terminated pursuant to this Section 7, terminates five (5) years after the Closing Date. Purchaser will cooperate in providing Seller with any instruments that Seller reasonably may require for the purpose of removing from the public record any cloud on title to the Burdened Rights attributable in any manner to the grant or existence of the ROFR, as provided under subsection d. of this Section below.

c. No Assignment. Except to a limited liability company having substantially similar ownership and management as Purchaser, Purchaser shall not have the right to assign the ROFR without the prior written consent of Seller, which consent shall not be unreasonably withheld.

d. Recording. On request of Purchaser, Seller agrees to join in executing a memorandum of the ROFR, to be filed for record in the official records of Yamhill County, Oregon, to give notice to the public of the rights of Purchaser regarding the ROFR. Purchaser will pay the cost of recording the memorandum. The memorandum must note the date that the ROFR expires, and Purchaser will join in executing a termination



agreement when the ROFR has expired or terminated, failing which, Seller may execute the termination agreement on behalf of Purchaser.

e. Warranty. Seller represents and warrants that it is the sole owner of the Burdened Rights but provides no other representation or warranty regarding the Burdened Rights.

f. "AS-IS, WHERE-IS" SALE. Purchaser acknowledges that any purchase of the Burdened Rights (or any other Certificated Rights) will be on an "AS-IS, WHERE-IS" basis, with all faults. Except as expressly set forth in this Section, Purchaser acknowledges that neither Seller nor any agents of Seller have made any representations or warranties to Purchaser, express or implied, and will not be liable for any representations and warranties of any nature. Purchaser acknowledges that Purchaser, as of the Closing Date, will have had adequate opportunity to investigate the Burdened Rights (or any other Certificated Rights) to Purchaser's satisfaction, either independently or through agents of Purchaser's choosing, and that in purchasing the Burdened Rights (or any other Certificated Rights) Purchaser will not rely on Seller or its agents as to the condition of the Burdened Rights (or any other Certificated Rights) or any other matter pertaining to the Burdened Rights (or any other Certificated Rights). Purchaser shall bear all costs and risks associated with any government or third-party approvals required to put the Burdened Rights (or any other Certificated Rights) to the use intended by Purchaser.

g. Consents. Seller and Purchaser agree to act in good faith and with fair dealing with one another in the execution, performance, and implementation of the terms and conditions of the ROFR. Whenever the consent, approval, or other action of a party is required under any provision of this Section, such consent, approval, or other action will not be unreasonably withheld, delayed, or conditioned by the party unless the provision in question expressly authorizes the party to withhold or deny consent or approval or to decline to take action in accordance with a different standard, in which case the consent or approval or the decision to not take action may be withheld, delayed, or conditioned in accordance with the different standard. Any provision indicating that consent is not to be unreasonably withheld will be interpreted to mean that consent will not be unreasonably withheld, delayed, or conditioned.

8. The Sale Agreement, as modified by this Amendment, shall continue in full force and effect.

9. This Amendment may be executed in counterparts, each of which shall be deemed an original document, but all of which shall together constitute a single agreement. The signature of any party to any counterpart shall be deemed a signature to and may be appended to any other counterpart. Facsimile and/or electronically transmitted signatures via pdf shall be deemed valid as originals.

[Signatures appear on the following page.]

IN WITNESS WHEREOF, this Amendment has been executed by the parties effective as of the last of the dates written below (the "Effective Date").

**SELLER:**

**WESTROCK NORTHWEST, LLC,**  
a Delaware limited liability company

By: <sup>DocuSigned by:</sup> John Stakel  
95A501CABF244B8...

Print Name: John Stake1

Title: Senior Vice President & Treasurer

Date: 6/30/2020

DS  
MR

**PURCHASER:**

**COMMERCIAL DEVELOPMENT COMPANY, INC.,**  
a Missouri corporation

By: <sup>DocuSigned by:</sup> Michael Roberts  
DE298F2FD71A499...

Print Name: Michael Roberts

Title: Vice president

Date: 6/30/2020

DS  
El

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MAR 31 2022  
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**EXHIBIT A**  
INSURANCE POLICY QUOTATION  
[to be attached]

RECEIVED

MAR 31 2022

OWRD

March 22, 2022

Kelly Starnes  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301

RE: Application for a Water Right Transfer - Certificate 90014

Dear Mr. Starnes:

Please find enclosed an Application for a Permanent Water Right Transfer, which requests to transfer water right Certificate 90014. Also enclosed please find the required application fee of \$6,410.

Certificate 90014 is held by WestRock Northwest, LLC (WestRock), but the transfer is being pursued for the benefit of the City of Newberg (City). Please note that WestRock is no longer the owner of the authorized place of use of Certificate 90014, but, as further documented in this application, WestRock retained ownership of Certificate 90014 during the recent land sale transaction.

The enclosed transfer application proposes to make multiple changes to Certificate 90014 including changing the character of use from industrial to municipal use, adding a point of diversion, and changing the place of use to the City's Service Area.

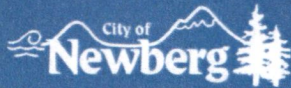
Due to the extent of the permitting, financing and infrastructure improvements required to complete construction and to put the full 8.0 cfs to beneficial use, we request that OWRD allow 30 years to complete this transfer. Please see the attached letter from City of Newberg for additional information about the need for this time to complete development under the transfer.

If you have any questions or concerns, please contact Kim Grigsby with GSI Water Solutions, Inc. Kim's phone number is 541-257-9004.

Sincerely,



John Stakel  
Senior Vice President



RECEIVED

MAR 31 2022

OWRD

March 18, 2022

Kelly Starnes  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301

RE: Water Right Transfer Application for the Benefit of City of Newberg – Certificate 90014

Dear Mr. Starnes:

The City of Newberg (City) has entered into an agreement with WestRock Northwest, LLC to acquire water right Certificate 90014 following approval of this transfer application. The transfer proposes multiple changes to Certificate 90014: changing the character of use and place of use, and adding a point of diversion. Once OWRD approves the transfer application, the City will be responsible for completing the requested changes. For the reasons described below, we are requesting that OWRD allow 30 years to complete this transfer.

Completion of the requested transfer for Certificate 90014 will require the City to obtain the necessary financing, conduct extensive planning, obtain required state and federal permits, develop engineering plans, as well as to construct the necessary infrastructure. Delivery of water for municipal use within the City's Service Area will also require significant planning, construction and financing. For these reasons, allowing 30 years to complete the proposed transfer is justified.

Please contact me if you need additional information. My telephone number is 503-537-1223.

Sincerely,

Kaaren Hofmann, PE  
City Engineer