

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

In the Matter of Transfer Application ) FINAL ORDER APPROVING AN  
T-9915, Umatilla County, Oregon ) EMERGENCY DROUGHT  
 ) TEMPORARY SUBSTITUTION

ORS 536.750 establishes the process in which the holder of both a primary surface water right and a supplemental ground water right may substitute the use of the supplemental water right for the primary water right. OAR Chapter 690, Division 019 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

**Applicant**

Stephen and Laidee Ann Wolfe  
69405 Baker Road  
Wallowa, Oregon 97885

**Findings of Fact**

1. Stephen and Laidee Ann Wolfe filed an application to temporarily substitute the use of a supplemental ground water right (Permit G-15796) for primary surface water rights (T-5773, T-5774 and T-5794) for a period of one year or the term of the Governor's declared drought, whichever is shorter. The Department assigned the application number T-9915.

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

**Permit:** G-15796 in the name of Stephen and Laidee Ann Wolfe

**Use:** Supplemental Irrigation of 60.58 acres

**Priority Date:** April 8, 2004

**Quantity:** 0.76 cubic foot per second (cfs)

**Rate/Duty:** 1/80 cfs per acre, not to exceed 3.0 acre-feet per acre

**Source:** Well 1 in the Umatilla River Basin

**Authorized Point of Appropriation:**

Township		Range		Meridian	Sec	¼ ¼	Location
2	N	31	E	W.M.	16	NW SE	910 Feet South and 450 Feet East from C¼ Corner, Section 16

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:**

Township		Range		Meridian	Sec	¼ ¼		Acres
2	N	31	E	W.M.	15	NW	SW	11.0
2	N	31	E	W.M.	15	SW	SW	7.10
2	N	31	E	W.M.	16	NE	SE	23.78
2	N	31	E	W.M.	16	NW	SE	16.90
2	N	31	E	W.M.	16	SW	SE	0.20
2	N	31	E	W.M.	16	SE	SE	1.60

3. The second right to be transferred is as follows:

**Transfer:** 5773 in the name of Lewis Livestock Company  
**Use:** Primary Irrigation of 36.0 acres  
**Priority Date:** December 26, 1904  
**Quantity:** 0.45 cfs  
**Rate/Duty:** 1/80 cfs per acre, subject to the provisions of paragraph 33 of the Umatilla River Decree, Volume 3, Page 127, and all other conditions and limitations contained in said decree  
**Source:** Umatilla River, tributary to the Columbia River  
**Authorized Point of Diversion:**

Township		Range		Meridian	Sec	¼ ¼		Location
2	N	31	E	W.M.	15	NW	SW	1000 Feet South and 690 Feet East from the W¼ Corner of Section 15

**Authorized Place of Use:**

Township		Range		Meridian	Sec	¼ ¼		Acres
2	N	31	E	W.M.	15	NW	SW	11.0
2	N	31	E	W.M.	15	SW	SW	7.1
2	N	31	E	W.M.	16	NE	SE	16.3
2	N	31	E	W.M.	16	SE	SE	1.6

4. The third right to be transferred is as follows:

**Transfer:** 5774 in the name of Lewis Livestock Company  
**Use:** Primary Irrigation of 17.48 acres  
**Priority Date:** June 18, 1951  
**Quantity:** 0.437 cfs  
**Rate/Duty:** 1/40 cfs per acre, subject to the provisions of paragraph 33 of the Umatilla River Decree, Volume 3, Page 127, and all other conditions and limitations contained in said decree  
**Source:** Umatilla River, tributary to the Columbia River

**Authorized Point of Diversion:**

Township		Range		Meridian	Sec	¼ ¼	Location
2	N	31	E	W.M.	16	NW SE	680 Feet South and 470 Feet East from the Center of Section 16

**Authorized Place of Use:**

Township		Range		Meridian	Sec	¼ ¼	Acres
2	N	31	E	W.M.	16	NE SE	7.48
2	N	31	E	W.M.	16	NW SE	10.00

5. The fourth right to be transferred is as follows:

**Transfer:** 5794 in the name of Lewis Livestock Company

**Use:** Primary Irrigation of 7.1 acres

**Priority Date:** May 25, 1953

**Quantity:** 0.09 cfs

**Rate/Duty:** 1/80 cfs per acre, subject to the provisions of paragraph 33 of the Umatilla River Decree, Volume 3, Page 127, and all other conditions and limitations contained in said decree

**Source:** Umatilla River, tributary to the Columbia River

**Authorized Point of Diversion:**

Township		Range		Meridian	Sec	¼ ¼	Location
2	N	31	E	W.M.	16	NW SE	680 Feet South and 470 Feet East from the Center of Section 16

**Authorized Place of Use:**

Township		Range		Meridian	Sec	¼ ¼	Acres
2	N	31	E	W.M.	16	NW SE	6.9
2	N	31	E	W.M.	16	SW SE	0.2

6. Notice of the application for temporary transfer was published pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
7. Water has been used within the last five years according to the terms and conditions of the right and no evidence is available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
8. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
9. The proposed change would not result in enlargement of the right.
10. The proposed change would not result in injury to other water rights. This finding is made through an abbreviated review recognizing that the transfer may be revoked under ORS

540.523(6) if the Department later finds that the transfer is causing injury to any existing water right.

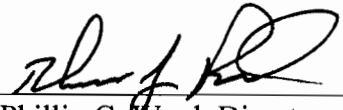
### **Conclusions of Law**

The temporary substitution proposed in application T-9915 is consistent with the requirements of ORS 536.750 and OAR 690-019-0059.

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

1. The temporary substitution proposed in application T-9915 is approved.
2. The proposed use shall revert to the authorized use at the end of the 2005 irrigation season or the end of the Governor's declared drought, whichever occurs first.
3. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
4. Issuance of this temporary drought transfer order may not protect the person receiving the transfer from liability for improper use of the water under the transfer.
5. A subsequent application for permanent transfer of Permit G-15796, T-5773, T-5774 and T-5794 shall be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Division 380. Approval of this temporary transfer does not establish a precedent for approval of a subsequent application filed for a permanent transfer.
6. The temporary use of water authorized by this transfer shall be in accordance with the terms and conditions of Permit G-15796, T-5773, T-5774 and T-5794.
7. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
8. **Prior** to diverting of water at the new point of diversion, the water user **shall** install an in-line flow meter or other suitable device for measuring and recording the quantity of water used. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
9. The use of the remaining water right described by Permit G-15796, T-5773, T-5774 and T-5794 shall continue to be in accordance with the terms and conditions of Permit G-15796, T-5773, T-5774 and T-5794.

Dated at Salem, Oregon this 25<sup>th</sup> day of May, 2005.

  
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for Phillip C. Ward, Director

Mailing date: MAY 31 2005