

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

COUNTY OF UMATILLA

In the Matter of a Proposed Change) ORDER
In Place of Use of Water Within an) APPROVING A DISTRICT
Irrigation District — TRANSFER 9686) TEMPORARY TRANSFER

FINDINGS OF FACT

1. Pursuant to ORS 540.570, WESTLAND IRRIGATION DISTRICT, PO Box 944, Hermiston, OR, 97838, petitioned the Oregon Water Resources Department to temporarily change the place of use of water within the boundaries of the irrigation district. The petition was originally received on April 1, 2004, and included the required fees.
2. The Department assigned the petition transfer application number T-9686.
3. The Department published notice of receipt of the petition in the Department's Weekly Notice dated April 20, 2004. The petition was noticed as a temporary transfer within irrigation district boundaries.
4. No comments or timely protests were received in response to the published notice.
5. The following rights are proposed to be modified:
 - a) IRRIGATION (IR)
Certificate 76050: issued in the name of Teel Irrigation District
Priority Date: April 22, 1955
Rate & Duty: 1/40 cfs and 4.5 AF per acre irrigated
Source: Umatilla River, tributary to the Columbia River
Point of Diversion: SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 21, T 3 N, R 29 E, W.M.; WESTLAND CANAL - North 76 Degrees 45 Minutes 56 Seconds East, 2913.19 Feet from the West $\frac{1}{4}$ Corner of Section 21.

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 183.484. Any petition for judicial review must filed within the 60 day time period specified by ORS 183.484(2).

Pursuant to ORS 536.075 and OAR 137-004-080 and OAR 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

b) SUPPLEMENTAL IRRIGATION (IR(S))

Certificate 75129: issued in the name of Chester & Rosalie Prior

Priority Date: March 26, 1974

Rate & Duty: 1/80 cfs and 3.0 AF per acre irrigated

Source: Prior Wells 2, 3, 5 & 6

Point of Appropriation: Prior Well # 2 - NW¼ NE¼, Section 36, T 3 N, R 28 E, W.M.; 750 feet South and 2620 feet West from the NE Corner of Section 36.

Prior Well # 3 - NW¼ SE¼, Section 36, T 3 N, R 28 E, W.M.; 1780 feet North and 2600 feet West from the SE Corner of Section 36.

Prior Well # 5 - NW¼ NE¼, Section 35, T 3 N, R 28 E, W.M.; 770 feet South and 2640 feet East from the NW Corner of Section 35.

Prior Well # 6 - NE¼ SW¼, Section 35, T 3 N, R 28 E, W.M.; 1940 feet North and 2540 feet East from the SW Corner of Section 35.

Permit 48450: issued in the name of Chester J. Prior

Priority Date: August 3, 1981

Rate & Duty: 1/40 cfs and 1.5 acre-feet during the period November 15 to end of February, not to exceed 4.5 acre-feet in any one year

Source: Umatilla River

Point of Diversion: SW¼ NE¼, Section 21, T 3 N, R 29 E, W.M.; South 55 Degrees 48 Minutes West, 3237.3 Feet from the NE Corner of Section 21.

6. Westland Irrigation District petitioned to temporarily change the place of use from the locations identified in Table 1 to the locations listed in Table 2.

TABLE 1 - "FROM" LANDS							
					ACRES		
					IR	IR(S)	
TWP	RNG	SEC	¼¼	Tax Lot	Certificate 76050	Certificate 75129	Permit 48450
3N	28E	35	NW NE	7400	9.00	9.00	9.00
3N	28E	35	SW NE	7400	5.80	5.80	5.80
3N	28E	35	SE NW	7400	2.40	2.40	2.40
3N	28E	35	NE SW	7400	6.00	6.00	6.00
3N	28E	35	NE SE	7400	29.00	29.00	29.00
3N	28E	35	NW SE	7400	37.60	37.60	37.60
3N	28E	35	SW SE	7400	33.80	33.80	33.80
3N	28E	35	SE SE	7400	11.20	11.20	11.20
3N	28E	36	NE NE	7402	30.30	30.30	30.30
3N	28E	36	NW NE	7402	39.30	39.30	39.30
3N	28E	36	SW NE	7402	31.80	31.80	31.80
3N	28E	36	SE NE	7402	31.20	31.20	31.20
3N	28E	36	NE NW	7402	40.00	40.00	40.00
3N	28E	36	NW NW	7402	29.20	29.20	29.20
3N	28E	36	SW NW	7402	31.60	31.60	31.60
3N	28E	36	SE NW	7402	31.50	31.50	31.50

TABLE 1 - "FROM" LANDS							
TWP					ACRES		
					IR	IR(S)	
					Certificate 76050	Certificate 75129	Permit 48450
RNG	SEC	¼¼	Tax Lot				
3N	28E	36	NE SW	7402	31.10	31.10	31.10
3N	28E	36	NW SW	7402	28.80	28.80	28.80
3N	28E	36	SW SW	7402	28.60	28.60	28.60
3N	28E	36	SE SW	7402	31.20	31.20	31.20
TOTAL					519.40	519.40	519.40

TABLE 2 - "TO" LANDS							
TWP					ACRES		
					IR	IR(S)	
					Certificate 76050	Certificate 75129	Permit 48450
RNG	SEC	¼¼	Tax Lot				
3N	28E	15	NE NW	4501	30.80	30.80	30.80
3N	28E	15	SE NW	4501	5.50	5.50	5.50
3N	28E	15	NE SW	4501	31.20	31.20	31.20
3N	28E	15	NW SW	4501	32.40	32.40	32.40
3N	28E	15	SW SW	4501	30.60	30.60	30.60
3N	28E	15	SE SW	4501	14.20	14.20	14.20
3N	28E	21	NE NE	6800	30.60	30.60	30.60
3N	28E	21	NW NE	6800	30.30	30.30	30.30
3N	28E	21	SW NE	6900	31.90	31.90	31.90
3N	28E	21	SE NE	6800	31.10	31.10	31.10
3N	28E	21	NE NW	6800	31.40	31.40	31.40
3N	28E	21	NW NW	6800	31.50	31.50	31.50
3N	28E	21	SW NW	6800	32.60	32.60	32.60
3N	28E	21	SE NW	6800	31.40	31.40	31.40
3N	28E	21	NE SW	6900	31.20	31.20	31.20
3N	28E	21	NW SW	6800	30.70	30.70	30.70
3N	28E	21	SW SW	6800	31.00	31.00	31.00
3N	28E	21	SE SW	6900	31.00	31.00	31.00
TOTAL					519.40	519.40	519.40

7. The District also proposes to modify the following rights:

a) IRRIGATION (IR)

Certificate 76050: issued in the name of Teel Irrigation District

Priority Date: April 22, 1955

Rate & Duty: 1/40 cfs and 4.5 AF per acre irrigated

Source: Umatilla River

Point of Diversion: SW¼ NE¼, Section 21, T 3 N, R 29 E, W.M.; WESTLAND

CANAL - North 76 Degrees 45 Minutes 56 Seconds East, 2913.19 Feet from the West ¼ Corner of Section 21.

b) SUPPLEMENTAL IRRIGATION (IR(S))

Certificate 75127: issued in the name of Chester & Rosalie Prior

Use: Irrigation (Supplemental)

Priority Date: September 5, 1974

Rate & Duty: 1/80 cfs and 3.0 AF per acre irrigated

Source: Prior Wells 4, 7 & 8

Point of Appropriation: Prior Well # 4 - SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 1, T 2 N, R 28 E, W.M.; 2640 feet South and 630 feet West from the N $\frac{1}{4}$ Corner of Section 1.

Prior Well # 7 - SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 2, T 2 N, R 28 E, W.M.; 2500 feet South and 2580 feet East from the NW Corner of Section 2.

Prior Well # 8 - NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 2, T 2 N, R 28 E, W.M.; 2800 feet South and 500 feet West from the NE Corner of Section 2.

Permit 48450: issued in the name of Chester J. Prior

Priority Date: August 3, 1981

Rate & Duty: 1/40 cfs and 1.5 acre-feet during the period November 15 to end of February, not to exceed 4.5 acre-feet in any one year

Source: Umatilla River

Point of Diversion: SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 21, T 3 N, R 29 E, W.M.; South 55 Degrees 48 Minutes West, 3237.3 Feet from the NE Corner of Section 21.

8. Westland Irrigation District petitioned to temporarily change the place of use from the locations identified in Table 3 to the locations listed in Table 4.

TABLE 3 - "FROM" LANDS							
					ACRES		
					IR	IR(S)	
TWP	RNG	SEC	$\frac{1}{4}$ / $\frac{1}{4}$	Tax Lot	Certificate 76050	Certificate 75127	Permit 48450
2N	28E	1	NE NW	200	32.20	32.20	32.20
2N	28E	1	NW NW	200	31.60	31.60	31.60
2N	28E	1	SW NW	200	29.60	29.60	29.60
2N	28E	1	NE SW	200	36.50	36.50	36.50
2N	28E	1	NW SW	200	31.00	31.00	31.00
2N	28E	1	SW SW	200	28.80	28.80	28.80
2N	28E	1	SE SW	200	31.20	31.20	31.20
2N	28E	2	NE NE	300	8.20	8.20	8.20
2N	28E	2	NW NE	300	36.70	36.70	36.70
2N	28E	2	SW NE	300	38.20	38.20	38.20
2N	28E	2	SE NE	300	29.20	29.20	29.20
2N	28E	2	NE NW	300	33.30	33.30	33.30
2N	28E	2	NW NW	300	32.20	32.20	32.20
2N	28E	2	SW NW	300	27.80	27.80	27.80
2N	28E	2	SE NW	300	30.00	30.00	30.00
2N	28E	2	NE SE	500	19.10	19.10	19.10
2N	28E	2	NW SE	500	30.00	30.00	30.00

TABLE 3 - "FROM" LANDS							
					ACRES		
					IR	IR(S)	
TWP	RNG	SEC	¼¼	Tax Lot	Certificate 76050	Certificate 75127	Permit 48450
2N	28E	2	SW SE	600	35.20	35.20	35.20
2N	28E	2	SE SE	600	22.80	22.80	22.80
TOTAL					563.60	563.60	563.60

TABLE 4 - "TO" LANDS							
					ACRES		
					IR	IR(S)	
TWP	RNG	SEC	¼¼	Tax Lot	Certificate 76050	Certificate 75127	Permit 48450
3N	28E	9	NE NW	2900	30.70	30.70	30.70
3N	28E	9	NW NW	2900	33.80	33.80	33.80
3N	28E	9	SW NW	2900	35.90	35.90	35.90
3N	28E	9	SE NW	3000	31.10	31.10	31.10
3N	28E	10	NE NW	2900	28.30	28.30	28.30
3N	28E	10	NW NW	2900	33.90	33.90	33.90
3N	28E	10	SW NW	2900	34.40	34.40	34.40
3N	28E	10	SE NW	2900	28.80	28.80	28.80
3N	28E	15	NW NN	4501	33.30	33.30	33.30
3N	28E	15	SW NW	4501	19.40	19.40	19.40
3N	28E	16	NE NE	2903	31.00	31.00	31.00
3N	28E	16	NW NE	2903	30.30	30.30	30.30
3N	28E	16	SW NE	2903	32.70	32.70	32.70
3N	28E	16	SE NE	2903	30.10	30.10	30.10
3N	28E	20	NE NE	6700	31.80	31.80	31.80
3N	28E	20	NW NE	6700	31.40	31.40	31.40
3N	28E	20	SW NE	6700	33.90	33.90	33.90
3N	28E	20	SE NE	6700	32.80	32.80	32.80
TOTAL					563.60	563.60	563.60

9. The District also proposes to modify the following rights:

a) IRRIGATION (IR)

Certificate 76050: issued in the name of Teel Irrigation District

Priority Date: April 22, 1955

Rate & Duty: 1/40 cfs and 4.5 AF per acre irrigated

Source: Umatilla River

Point of Diversion: SW¼ NE¼, Section 21, T 3 N, R 29 E, W.M.; WESTLAND CANAL - North 76 Degrees 45 Minutes 56 Seconds East, 2913.19 Feet from the West ¼ Corner of Section 21.

b) SUPPLEMENTAL IRRIGATION (IR(S))

Certificate 79439: issued in the name Bureau of Reclamation

Priority Date: July 1, 1924

Rate & Duty: 1/80 cfs and 3.0 AF per acre irrigated

Source: McKay Reservoir

Point of Appropriation: NW¼ SE¼, Section 34, T 2 N, R 32 E, W.M..

10. Westland Irrigation District petitioned to temporarily change the place of use from the locations identified in Table 5 to the locations listed in Table 6.

TABLE 5 - "FROM" LANDS						
					ACRES	
					IR	IR(S)
TWP	RNG	SEC	¼¼	Tax Lot	Certificate 76050	Certificate 79439
3N	28E	9	NE NW	2900	30.70	30.70
3N	28E	9	NW NW	2900	33.80	33.80
3N	28E	9	SW NW	2900	35.90	35.90
3N	28E	9	SE NW	3000	31.10	31.10
3N	28E	10	NE NW	2900	28.30	28.30
3N	28E	10	NW NW	2900	33.90	33.90
3N	28E	10	SW NW	2900	34.40	34.40
3N	28E	10	SE NW	2900	28.80	28.80
3N	28E	15	NE NW	4501	30.80	30.80
3N	28E	15	NW NW	4501	33.30	33.30
3N	28E	15	SW NW	4501	19.40	19.40
3N	28E	15	SE NW	4501	5.50	5.50
3N	28E	16	NE NE	2903	31.00	31.00
3N	28E	16	NW NE	2903	30.30	30.30
3N	28E	16	SW NE	2903	32.70	32.70
3N	28E	16	SE NE	2903	30.10	30.10
3N	28E	21	NE NE	6800	30.60	30.60
3N	28E	21	NW NE	6800	30.30	30.30
3N	28E	21	SW NE	6900	31.90	31.90
3N	28E	21	SE NE	6800	31.10	31.10
3N	28E	21	NE NW	6800	31.40	31.40
3N	28E	21	NW NW	6800	31.50	31.50
3N	28E	21	SW NW	6800	32.60	32.60
3N	28E	21	SE NW	6800	31.40	31.40
3N	28E	21	NE SW	6900	31.20	31.20
3N	28E	21	NW SW	6800	30.70	30.70

TABLE 5 - "FROM" LANDS						
					ACRES	
					IR	IR(S)
TWP	RNG	SEC	¼ ¼	Tax Lot	Certificate 76050	Certificate 79439
3N	28E	21	SW SW	6800	31.00	31.00
3N	28E	21	SE SW	6900	31.00	31.00
TOTAL					844.70	844.70

TABLE 6 - "TO" LANDS						
					ACRES	
					IR	IR(S)
TWP	RNG	SEC	¼ ¼	Tax Lot	Certificate 76050	Certificate 79439
3N	28E	35	NE SE	7400	29.00	29.00
3N	28E	35	NW SE	7400	37.60	37.60
3N	28E	36	NE NE	7402	30.30	30.30
3N	28E	36	NW NE	7402	39.30	39.30
3N	28E	36	SW NE	7402	31.80	31.80
3N	28E	36	SE NE	7402	31.20	31.20
3N	28E	36	NE NW	7402	40.00	40.00
3N	28E	36	NW NW	7402	29.20	29.20
3N	28E	36	SW NW	7402	31.60	31.60
3N	28E	36	SE NW	7402	31.50	31.50
3N	28E	36	NE SW	7402	31.10	31.10
3N	28E	36	NW SW	7402	28.80	28.80
3N	28E	36	SW SW	7402	28.60	28.60
3N	28E	36	SE SW	7402	31.20	31.20
2N	28E	1	NE NW	200	32.20	32.20
2N	28E	1	NW NW	200	31.60	31.60
2N	28E	1	SW NW	200	29.60	29.60
2N	28E	2	NE NE	300	8.20	8.20
2N	28E	2	NW NE	300	36.70	36.70
2N	28E	2	SW NE	300	38.20	38.20
2N	28E	2	SE NE	300	29.20	29.20
2N	28E	2	NE NW	300	33.30	33.30
2N	28E	2	NW NW	300	32.20	32.20
2N	28E	2	SW NW	300	27.80	27.80
2N	28E	2	SE NW	300	30.00	30.00
2N	28E	2	NE SE	500	1.80	1.80
2N	28E	2	NW SE	500	4.70	4.70
2N	28E	2	SW SE	600	35.20	35.20
2N	28E	2	SE SE	600	22.80	22.80
TOTAL					844.70	844.70

11. The District also proposes to modify the following right:

IRRIGATION (IR)

Certificate 75127: issued in the name of Chester and Rosalie Prior

Priority Date: September 5, 1974

Rate & Duty: 1/80 cfs and 3.0 AF per acre irrigated

Source: Wells 4, 7 & 8, within the Umatilla River Basin

Points of Appropriation:

Well #4 - SE¼ NW¼, Section 1, T 2 N, R 28 E, W.M.; 2640 Feet South and 630 Feet West from the N¼ of Section 1;

Well #7 - SE¼ NW¼, Section 2, T 2 N, R 28 E, W.M.; 2500 Feet South and 2580 Feet East from the NW Corner of Section 2;

Well #8 - NE¼ SE¼, Section 2, T 2 N, R 28 E, W.M.; 2800 Feet South and 500 Feet West from the NE Corner of Section 2.

12. Westland Irrigation District petitioned to temporarily change the place of use and character of use (from primary irrigation to supplemental irrigation) from the locations identified in Table 7 to the locations listed in Table 8.

TABLE 7 - "FROM" LANDS					Certificate 75127
TWP	RNG	SEC	¼¼	Tax Lot	IR ACRES
2N	28E	1	SE NW	200	34.60
TOTAL					34.60

TABLE 8 - "TO" LANDS					Certificate 75127
TWP	RNG	SEC	¼¼	Tax Lot	IR(S) ACRES
3N	28E	15	SW NW	4501	11.30
3N	28E	15	SE NW	4501	23.30
TOTAL					34.60

13. The District also proposes to modify the following right:

a) **PRIMARY IRRIGATION (IR)**

Certificate 76050: issued in the name of Teel Irrigation District

Priority Date: April 22, 1955

Rate & Duty: 1/40 cfs and 4.5 AF per acre irrigated

Source: Umatilla River

Point of Diversion: SW¼ NE¼, Section 21, T 3 N, R 29 E, W.M.; WESTLAND CANAL - North 76 Degrees 45 Minutes 56 Seconds East, 2913.19 Feet from the West ¼ Corner of Section 21.

b) **SUPPLEMENTAL IRRIGATION (IR(S))**

Certificate 75129: issued in the name of Chester & Rosalie Prior

Priority Date: March 26, 1974

Rate & Duty: 1/80 cfs and 3.0 AF per acre irrigated

Source: Prior Wells 2, 3, 5 & 6

Points of Appropriation:

Prior Well # 2 - NW¼ NE¼, Section 36, T 3 N, R 28 E, W.M.; 750 feet South and 2620 feet West from the NE Corner of Section 36.

Prior Well # 3 - NW¼ SE¼, Section 36, T 3 N, R 28 E, W.M.; 1780 feet North and 2600 feet West from the SE Corner of Section 36.

Prior Well # 5 - NW¼ NE¼, Section 35, T 3 N, R 28 E, W.M.; 770 feet South and 2640 feet East from the NW Corner of Section 35.

Prior Well # 6 - NE¼ SW¼, Section 35, T 3 N, R 28 E, W.M.; 1940 feet North and 2540 feet East from the SW Corner of Section 35.

14. Westland Irrigation District petitioned to temporarily change the place of use from the locations identified in Table 9 to the locations listed in Table 10.

TABLE 9 - "FROM" LANDS						
					ACRES	
					IR	IR(S)
TWP	RNG	SEC	¼¼	Tax Lot	Certificate 76050	Certificate 75129
3N	28E	25	SE SW	7402	8.90	8.90
3N	28E	25	SW SE	7402	8.10	8.10
TOTAL					17.00	17.00

TABLE 10 - "TO" LANDS						
					ACRES	
					IR	IR(S)
TWP	RNG	SEC	¼¼	Tax Lot	Certificate 76050	Certificate 75129
3N	28E	15	SE SW	4501	17.00	17.00
TOTAL					17.00	17.00

The right to use water for the above purposes is restricted to beneficial use on the lands or place of use described and is subject to all other conditions and limitations described by permit or certificate. The use also shall conform to any reasonable rotation system ordered by the proper state officer.

15. Pursuant to ORS 540.574 and ORS 540.570, in reviewing the petition submitted by Westland Irrigation District, the Department has determined the following:
- a) The petition contains the information required under ORS 540.574(3).
 - b) The petition meets the requirements of ORS 540.570.
 - c) The petition contains maps which are satisfactory to the Department and which the District certified as being accurate.
 - d) The petition includes the required statement from the District that it has on file, and available for review, written authorization from each landowner affected by the transfer.
 - e) The rate, duty, and total number of acres proposed for transfer do not exceed that of the water right subject to transfer.
 - f) The use authorized by the water right subject to transfer will not change; and
 - g) The proposed change in place of use will not result in injury to other water rights.

16. The applicant has made the statement that certain rights will not be used during the 2004 Irrigation season to make way for the place of use changes described above, both the "FROM" and "TO" lands. They are described as follows:

- ▶ Permit 48450 will not be used on Circles E1 and E23
- ▶ Certificate 76717 and 79439 on Circle E18 within the NE¼
- ▶ Certificates 76799, 76723, 76717, 76715 and 79439 for Circle E15

17. The applicant has secured a Limited License under the Bureau of Reclamations Temporary Service Contract (LL# 812) for the use of McKay Reservoir supplemental water on the lands described in this transfer and will finish the irrigation season with groundwater authorized in the order for supplemental irrigation.

CONCLUSIONS OF LAW

1. The petition submitted by Westland Irrigation District proposing temporary changes in place of use within district boundaries includes the information, and satisfies the criteria, required by ORS 540.574(3).
2. The proposed transfer complies with the requirements of ORS 540.570.
3. The petition satisfies the criteria and requirements of ORS 540.574(3) and ORS 540.570 resulting in no injury to other water rights.

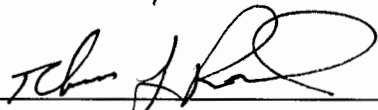
ORDER

It is hereby ORDERED :

1. The proposed temporary changes to the water rights evidenced by Water Right Certificates 76050, 75129, 61534, 75128, and 79439 may be made for the 2003 irrigation season provided the following conditions are met by the water user:
 - a) The FROM lands shall receive no water under the rights involved with this transfer for the 2004 irrigation season.
 - b) The use of water under the rights involved with this transfer on both the TO and FROM lands during the 2004 irrigation season or calendar year is prohibited and may subject both the district and landowner to civil penalties.
 - c) The applicant has made the statement that certain rights will not be used during the 2004 Irrigation season to make way for the place of use changes described above, both on the "FROM" and "TO" lands. They are described as follows:
 - ▶ Permit 48450 will not be used on Circles E1 and E23
 - ▶ Certificate 76717 and 79439 on Circle E18 within the NE¼
 - ▶ Certificates 76799, 76723, 76717, 76715 and 79439 for Circle E15

- d) The applicant has secured a Limited License under the Bureau of Reclamation's Temporary Service Contract (LL# 812) for the use of McKay Reservoir supplemental water on the lands described in this transfer and will finish the irrigation season with groundwater authorized in the order for supplemental irrigation.
 - e) All restrictions and limitations contained in the subject rights shall apply to the TO lands.
 - f) Pursuant to 540.570 (5), the Department may further condition or revoke this temporary transfer, to the extent necessary to avoid injury, at any time the department finds the transfer is causing injury to an existing water right.
 - g) The Department requires the water user to install and maintain an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water discharged into Westland Canal. 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.
2. Pursuant to 540.570(6), upon expiration of the 2004 irrigation season, all uses of water for which a temporary transfer is allowed under this section shall revert automatically to the terms and conditions of the original water right permit, certificate or adjudication proceeding under ORS chapter 539 as evidenced by a court decree.

WITNESS the signature of the Water Resources Director affixed July 21, 2004.



For Phillip C. Ward, Acting Director