# BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application	)	FINAL ORDER
T-9589, Baker County, Oregon	)	
	)	

ORS 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of diversion, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

### **Applicant**

RONALD & BRENDA PAUL 889 ELM STREET BAKER CITY, OR 97814

## **Findings of Fact**

- 1. Ronald & Brenda Paul filed an application to transfer the point of diversion, under Certificate 4391. The Department assigned the application number T-9589.
- The portion of the right to be transferred is as follows:

Certificate:

4391 in the name of C.L. Palmer

Use:

Irrigation

Priority Date: December 1, 1899

**Quantity:** 

0.11 cfs

Acres:

4.2

Source:

Powder River; tributary to the Snake River

### **Authorized Point of Diversion:**

Bamberger Ditch

### **Authorized Place of Use:**

Township		Range		Meridian	Sec	1/4 1/4		Acres
9	S	40	Е	W.M.	21 NW SW		4.2	

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

3. Application T-9589 proposes to move the authorized point of diversion approximately 2 miles downstream in the source to:

Town	nship	Rai	nge	Meridian	Sec	1/4	1/4	Location
9	S	40	Е	W.M.	21	NW SW 180 feet south and 110 feet 6 west ½ corner, Section 21		180 feet south and 110 feet east of the west ½ corner, Section 21

4. On March 19, 2004, the applicants submitted an affidavit of voluntary cancellation for a portion of the right. The portion of the right to be cancelled allows the use of up to 0.1 cfs for irrigation of the following lands:

Township		Range		Meridian	Sec	1/4 1/4		Acres	
9	S	40	Е	W.M.	21	NW	SW	0.6	

- 5. Notice of the application for transfer was published pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notices.
- 6. 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.
- 7. A pump and delivery system sufficient to use the full amount of water allowed under the existing right are present.
- 8. The proposed change would not result in enlargement of the right.
- 9. The proposed change would not result in injury to other water rights.

#### Conclustions of Law

The proposed change in point of diversion in application T-9589 is consistent with the requirements of ORS Chapter 540 and OAR 690-380-5000 and the portion of the right voluntarily abandoned pursuant to ORS 540.621 should be cancelled.

### Now, therefore, it is ORDERED:

- 1. The change in point of diversion proposed in application T-9589 is approved.
- 2. Water right certificate 4391 us cancelled. A new certificate will be issued to confirm that portion of the right not involved in this transfer or voluntarily cancelled.
- 3. The right to the use of the water is restricted to beneficial use at the place of use described and is subject to all other conditions and limitations contained in Certificate 4391 and any related decree.
- 4. The proposed change shall be completed on or before October 1, 2005.

- 5. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department by October 1, 2006.
- 6. The quantity of water diverted at the new point of diversion shall not exceed the quantity of water lawfully available at the original point of diversion.
- 7. The water to be diverted is for natural flow only. Stored water is not to be diverted. Water from natural flow is not to be diverted if it is not available for the December 1, 1899 priority date.
- 8. When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 9th day of August, 2004.

Phillip C. Ward
Acting Director

Mailing date: AUG 1 3 2004