

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

IN THE MATTER OF	)	
APPLICATION FOR TRANSFER	)	PRELIMINARY ORDER
NO. 87298 IN THE NAME OF	)	REJECTING APPLICATION
<u>DANIELS HOLDING COMPANY LLC</u>	)	

This matter having come before the Idaho Department of Water Resources (“Department”) as a result of an application for transfer, the Department finds, concludes, and orders as follows:

FINDINGS OF FACT

1. On December 2, 2022, Daniels Holding Company LLC (“DHC”) filed Application for Transfer 87298 with the Department proposing to change the point of diversion and place of use for water right 15-7368.

2. Richard Jason Van Bebber (“Van Bebber”) is the current owner of record for water right 15-7368. The Department updated the ownership records for water right 15-7368 in 2019, identifying Van Bebber as the current owner of the right based on a Warranty Deed for the authorized place of use from the previous owners of the right to Van Bebber.

3. According to tax lot records from Oneida County, Van Bebber still owns the authorized irrigation place of use for water right 15-7368.

4. Application 87298 was signed only by TJ Daniels, an owner and manager for DHC. The application was not signed by Van Bebber. The application did not include any document confirming that Van Bebber consents to the proposed changes.

5. On multiple occasions the Department asked DHC to provide evidence that the company has the authority to propose changes to water right 15-7368. On February 22, 2024, the Department sent an email to DHC asking the company to provide evidence of the authority to propose changes to water right 15-7368 on or before March 25, 2024, or the transfer would be rejected. DHC has not provided the requested evidence.

EVALUATION CRITERIA / ANALYSIS

Idaho Code § 42-222(1) states in pertinent part:

Any person, entitled to the use of water whether represented by license issued by the department of water resources, by claims to water rights by reason of diversion and application to a beneficial use as filed under the provisions of this chapter, or by decree of the court, who shall desire to change the point of

diversion, place of use, period of use or nature of use of all or part of the water, under the right shall first make application to the department of water resources for approval of such change. Such application shall be upon forms furnished by the department and shall describe the right licensed, claimed or decreed which is to be changed and the changes which are proposed, and shall be accompanied by the statutory filing fee as in this chapter provided.

Idaho Code § 42-222(1) establishes a threshold requirement that a transfer application can only be filed by a person "entitled to the use of water" under a valid water right. This entitlement or authority to use a water right can be reflected in a purchase and sale agreement, a lease agreement, a water right deed, or any other written document signed by the current owner of record for the water right. In Idaho, conveyances of water rights must be in writing, signed by the owner of the right. See Idaho Code §§ 55-101 and 9-505.

The Department's request for DHC to provide evidence of the authority to make changes to water right 15-7368 was a reasonable request and is consistent with the requirements of Idaho Code § 42-222(1). In the absence of evidence that DHC has the authority to propose changes to water right 15-7368, the Department cannot process Application 87298 and must reject the application as incomplete.

CONCLUSIONS OF LAW

DHC has not provided documents or other evidence that the company has the authority to propose changes to water right 15-7368 as described in Application 87298. Therefore, Application 87298 should be rejected.

ORDER

IT IS HEREBY ORDERED that Application for Transfer 87298 in the name of Daniels Holding Company LLC is REJECTED.

Dated this 4th day of April, 2024.



James Cefalo
Regional Manager

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of April 2024, a true and correct copy of the document described below was served by placing a copy of the same with the United States Postal Service, certified with return receipt requested, postage prepaid and properly addressed to the following:

Document Served: Preliminary Order Rejecting Application (87298)

**DANIELS HOLDING COMPANY LLC
PO BOX 267
MALAD CITY, ID 83252**

**RICHARD JASON VAN BEBBER
3740 S OLD HWY 191
MALAD CITY, ID 83252**



Christina Henman
Administrative Assistant