

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

**IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. 89468)
IN THE NAME OF CAROLYN R CAIN)
AND DONALD W CAIN SR)**

**PRELIMINARY ORDER
REJECTING APPLICATION**

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 November 25, 2024, Carolyn R. Cain and Donald W. Cain, Sr. (“Cains”) filed Application for Transfer 89468 with the Department proposing to change the point of diversion and place of use for water right 34-14317.

2. The Department published notice of the changes proposed in Transfer 89468 in The Arco Advertiser on December 5 and December 12, 2024. No protests to the transfer were filed.

3. Trudy I. and Dennis L. Braswell (“Braswells”) are the current owners of record for water right 34-14317. The Braswells were identified as the owners of the right when the district court filed its partial decree for water right 34-908 on January 15, 1998, in the Snake River Basin Adjudication. Right 34-908 was renumbered to right 34-14317 due to an ownership split processed by the Department on January 4, 2012.

4. According to tax lot records from Butte County, Billie Jo Norton owns the authorized place of use for water right 34-14317.

5. The Cains submitted 3 deeds as evidence of ownership of water right 34-14317: Braswell to Norton, Norton to J&M Lawrence Enterprises, and J&M Lawrence Enterprises to Cain. The first deed was a personal representative’s deed, adequate to convey water right 34-14317 to Billie Jo Norton. The second deed, a warranty deed from Norton to J&M Lawrence Enterprises, was for the wrong parcel (a 2.3-acre parcel located just west of the 11-acre parcel where water right 34-14317 is currently authorized). The third deed, a quitclaim deed from J&M Lawrence Enterprises to Cain, was unrecorded.

6. On multiple occasions the Department asked the Cains to provide evidence that they had the authority to propose changes to water right 34-14317. On September 12, 2025, the Department sent a letter to the Cains asking them to provide evidence of the authority to propose changes to water right 34-14317 within 30 days, or the transfer would be rejected. The Cains have 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 and signed by the valid owner of the right. *See* Idaho Code §§ 55-101 and 9-505.

The Department's request for the Cains to provide evidence of the authority to make changes to water right 34-14317 was a reasonable request and is consistent with the requirements of Idaho Code § 42-222(1). In the absence of evidence that the Cains have the authority to propose changes to water right 34-14317, the Department cannot process Application 89468 and must reject the application as incomplete.

CONCLUSIONS OF LAW

The Cains have not provided documents or other evidence showing that they have the authority to make changes to water right 34-14317 as described in Application 89468. Therefore, Application 89468 should be rejected.

ORDER

IT IS HEREBY ORDERED that Application for Transfer 89468 in the name of Carolyn R. Cain and Donald W. Cain, Sr. is REJECTED.

Dated this 15th day of December, 2025.



James Cefalo
Regional Manager

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of December 2025, 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 (89468)

**CAROLYN R CAIN & DONALD W CAIN SR
3230 N US HWY 93
MOORE ID 83255**



Christina Henman
Administrative Assistant