

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

IN THE MATTER OF PERMIT NO. 87-10888)
IN THE NAME OF)
BRENNAN PROPERTIES NORTH COURT LLC)
_____)

**PRELIMINARY ORDER
REINSTATING A PERMIT**

This matter having come before the Idaho Department of Water Resources (“Department”), the Department finds, concludes and orders as follows:

FINDINGS OF FACT

1. On December 24, 2019, the Department issued Permit No. 87-10888 (“Permit”) in the name of Brennan Properties North Court LLC (“Permit Holder”) authorizing the diversion of 0.17 cubic feet per second of ground water for irrigation and domestic uses in the Government Lot 4 (NW¼NW¼) of Section 5 of Township 39 North, Range 05 West, B.M., Latah County. A condition of permit approval required the Permit Holder to submit proof of beneficial use of water to the Department on or before January 1, 2021.
2. On October 30, 2020, the Department notified the Permit Holder by certified mail that proof of beneficial use was due and instructed the Permit Holder of the steps to be taken to submit a *Statement of Completion for Submitting Proof of Beneficial Use* (“Proof”) or a *Request for Extension of Time* (“Extension Request”).
3. On January 1, 2021, the Permit lapsed because the Department had not received an acceptable Proof or Extension Request.
4. On January 8, 2021, the Department notified the Permit Holder the Permit lapsed because no Proof or Extension Request had been received.
5. On January 11, 2021, the Permit Holder filed an acceptable Proof.

CONCLUSIONS OF LAW

Idaho Code § 42-218a(1) states, in pertinent part:

A permit upon which the proof of beneficial use..., has not been submitted, or a request for extension of time has not been received on or before the date set for such proof, shall lapse and be of no further force nor effect... . Notice of said lapsing shall be sent by the department to the permit holder at the address of record by regular mail

. . . .

Idaho Code § 42-218a(2) states, in pertinent part:

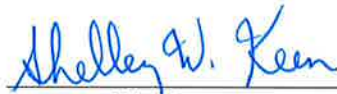
Within sixty (60) days after such notice of lapsing the department may, upon a showing of reasonable cause, reinstate the permit with the priority date advanced a time equal to the number of days that said showing is subsequent to the date set for proof.

By submitting an acceptable Proof, the Permit Holder has shown reasonable cause why this Permit should be reinstated. The Permit should be reinstated based upon the January 11, 2021 filing date.

ORDER

IT IS HEREBY ORDERED that Permit No. 87-10888 is **REINSTATED** and the Permit's priority date is advanced to June 21, 2019.

DATED this 23rd day of January, 2021.



Shelley W. Keen, Chief
Water Allocation Bureau



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Website: www.idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

January 26, 2021

BRENNAN PROPERTIES NORTH COURT LLC
PO BOX 9221
MOSCOW ID 83843-1721

PROOF ACKNOWLEDGEMENT LETTER

RE: Permit No. 87-10888

Dear Permit Holder:

The Department acknowledges receipt of the Proof of Beneficial Use form ("proof") and license examination fee for the above-referenced water right permit. Enclosed is an order that reinstates this permit since proof and the license examination fee were submitted after the proof deadline. Please note that the priority date for this permit has been advanced to **June 21, 2019**, pursuant to Idaho Code § 42-218a(2).

The next step in the process of developing a water right is for the Department to conduct a field examination to determine and confirm the use being made of the water according to the conditions of the permit.

Please be advised that Idaho Code § 42-248, requires you or the owner of this water right to maintain current ownership and address records on file with the Department. Forms to file a change of ownership of a water right and/or a change in the address of the water right owner are available from any Department office or at the Department's website at www.idwr.idaho.gov.

If you have any questions concerning the field examination, please contact the Northern Region Office of the Department located in Coeur d'Alene at (208) 762-2800.

Sincerely,

Debbi Judd
Technical Records Specialist

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on **January 26, 2021** I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (**PRELIMINARY ORDER REINSTATING A PERMIT**) to the person listed below:

RE: Preliminary Order in the Matter of Permit No. **87-10888**

**BRENNAN PROPERTIES NORTH COURT LLC
PO BOX 9221
MOSCOW ID 83843-1721**



Debbi Judd
Technical Records Specialist

RECEIVED

JAN 11 2021

DEPARTMENT OF
WATER RESOURCESSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
STATEMENT OF COMPLETION
FOR SUBMITTING PROOF OF BENEFICIAL USE

FOR OFFICE USE ONLY

Amt. of Fee \$ 50
Receipt No. C109794
Received By Ku
Date Received 1.11.21

The Idaho Department of Water Resources considers this form a statement by the permit holder(s) that development of a water right has been **completed** and that water has been applied to beneficial use to the extent described below. **This form must be accompanied by an examination fee, when necessary, or by a completed Beneficial Use Field Report prepared by a certified water right examiner.** Please refer to the instructions and fee schedule for this form. If ownership of the permit has changed, contact any Department office or visit the Department's website at idwr.idaho.gov for an *Assignment of Permit* form. If you wish to relinquish your permit because you have not established the authorized use of the water and are not applying for an extension, please notify the Department in writing.

- Permit No. 87-10888 Telephone No. 208 596-1711
- Name of Permit Holder(s) Brennan Properties North Court, LLC
- Mailing Address P.O. Box 9221 City Moscow
State ID Zip 83843 Email brent@cheetahelectric.com
- Source of Water ground water If **GROUND WATER** (well), Date Drilled mo. ____ / yr. ____
Well Driller Don Town (I believe drilled in 70's or 80's) Drilling Permit Number _____
- Extent of use(s) completed **as authorized by the water right permit:**
Domestic (No. of households) 15 Stockwater (No. and type of stock) _____
Irrigation (No. of acres) 4 Other _____
- Total rate of diversion or storage volume for which proof is submitted _____ cfs **OR** _____ acre-feet.
- Compliance with a measuring device requirement, lockable controlling device requirement, and/or other conditions of permit:
Refer to the approval conditions on your permit and respond accordingly.
The Department will not issue a license if permit conditions are not met.

Measuring Device	Is a measuring device required?	Yes ☐	No ☒
	If yes, has the measuring device been installed?	Yes ☐	No ☒
Lockable Controlling Device	Is a lockable device required to control the diversion?	Yes ☐	No ☒
	If yes, has the lockable device been installed?	Yes ☐	No ☒
Fish Screen	Is a fish screen required?	Yes ☐	No ☒
	If yes, has the fish screen been installed?	Yes ☐	No ☒

Other Conditions of Permit

Do the approval conditions on your permit require you to submit additional information in connection with your proof of beneficial use? If yes, list the conditions below and attach documents with the required information.

Completed? Yes ☐ No ☒

- Fee Enclosed \$ 50.00 or not applicable ☐. See fee schedule on page 2 of the instructions.
Proof statements filed without an appropriate fee, will be considered incomplete.
- Person to contact to accompany the Department representative during field examination of the water system.
Name Brent Loney Telephone Number 208 596-1711
Mailing Address P.O. Box 9221 City Moscow
State Id Zip 83843 Email brent@cheetahelectric.com

The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted and applied to a beneficial use. I understand that any undeveloped portion of the permit is relinquished to the State of Idaho.

Signature of Permit Holder Brent Loney General Manager Date 1-7-2021
(Include your title, if on behalf of company or organization)

Mail to: Idaho Department of Water Resources, PO Box 83720, Boise, ID 83720-0098