

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**TRANSFER OF WATER RIGHT
TRANSFER NO. 89247**

This is to certify that: GWENNA R PRESCOTT AND
WADE L PRESCOTT
1361 E 4400 N
BUHL, ID 83316-5220

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Changes

<u>Water Right</u>	<u>Origin/Basis</u>	<u>Priority Date</u>	<u>Diversion Rate</u>	<u>Diversion Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
47-17413	WR/DECREED	10/11/1915	0.570 cfs	N/A	N/A	28.3	UNNAMED STREAM

Purpose of Transfer (Changes Proposed)

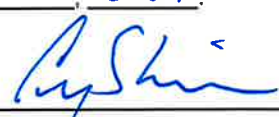
<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
47-17413	NO	YES	NO	NO	NO	NO

Summary Of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (Changed Portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
47-17413	47-17413	0.570 cfs	N/A	N/A	28.3	N/A	N/A	N/A	N/A	N/A
COMBINED TOTALS		0.570 cfs	N/A	N/A	28.3		N/A	N/A	N/A	N/A

This water right(s) is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources. Detailed Water Right Description(s) attached.

Dated this 14th day of August, 2024.



Southern Region Manager

WATER RIGHT NO. 47-17413
As Modified by Transfer No. 89247

In accordance with the approval of Transfer No. 89247, Water Right No. 47-17413 is now described as follows:

Right Holder: WADE L PRESCOTT AND
 GWENNA R PRESCOTT
 1361 E 4400 N
 BUHL, ID 83316-5220

Priority Date: 10/11/1915

Source: UNNAMED STREAM

Tributary: MUD CREEK

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>
IRRIGATION	03/15	to 11/15	0.570 cfs 0.570 cfs

LOCATION OF POINT(S) OF DIVERSION

UNNAMED STREAM NENW Sec 24 Twp 09S Rge 14E TWIN FALLS County

PLACE OF USE: IRRIGATION

			NE				NW				SW				SE				Totals
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09S	14E	14															2.3		2.3
09S	14E	23		26.0															26.0

POU Total Acres: 28.3

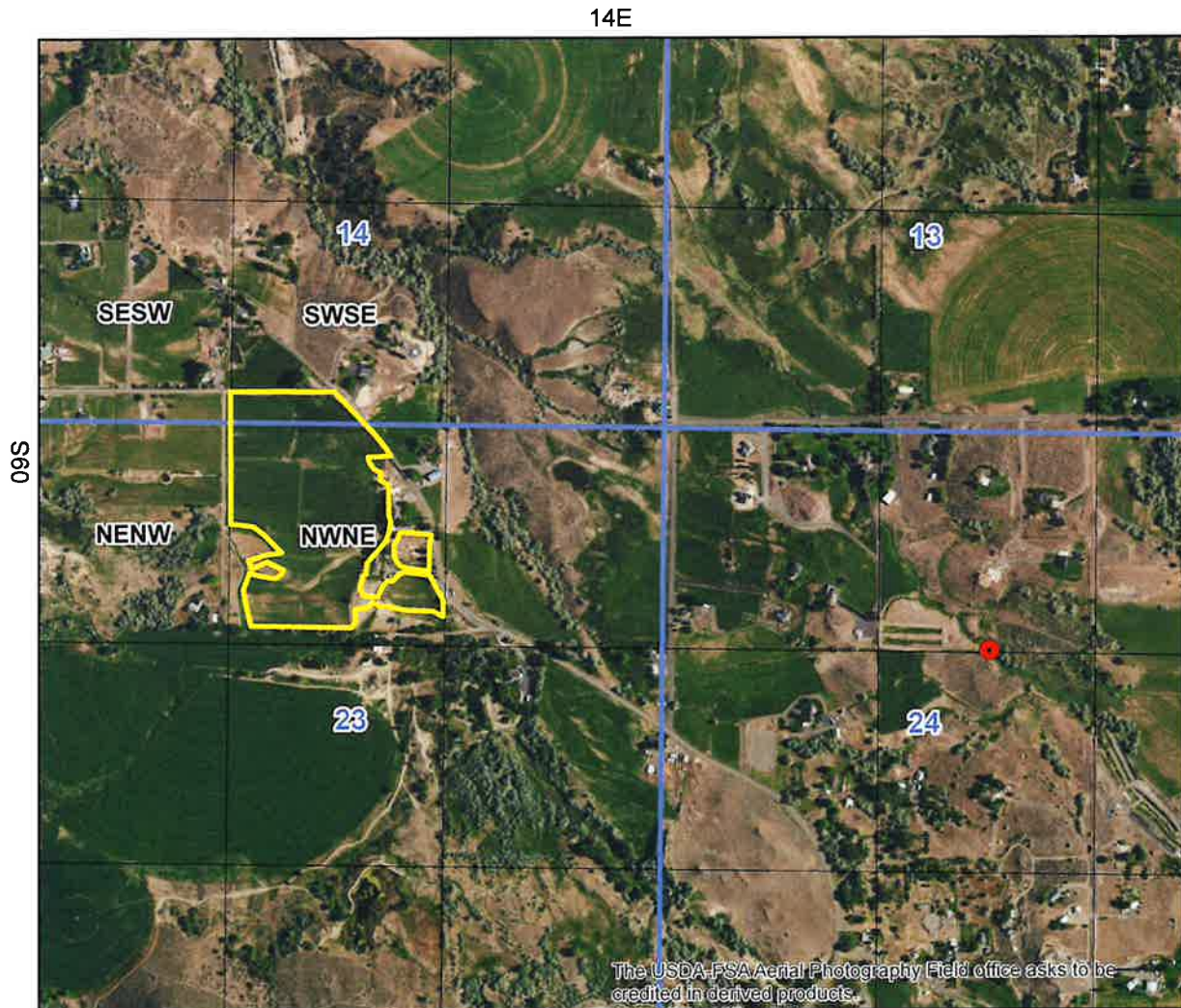
CONDITIONS OF APPROVAL

1. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to use power records to determine the amount of water diverted and shall annually report the information to the Department.
2. This right does not grant any right-of-way or easement across the land of another.
3. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
4. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
5. Pursuant to Idaho Code § 42-1412(6), this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as determined by the Snake River Basin Adjudication court in the final unified decree entered 08/26/2014.

Transfer No. 89247

State of Idaho
Department of Water Resources
Attachment to Transfer # 89247
47-17413

This map depicts the IRRIGATION place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



0 0.125 0.25 0.5 Miles

-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections
-  Quarter Quarters



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT – POINT(S) OF DIVERSION

This form may be used to apply to change and/or add points of diversion for existing water rights and to report an ownership change for a water right(s) in connection with the proposed point of diversion change(s). Do not use this form to apply for changes to other elements of a water right. See the [Application for Transfer Instructions](#) for help completing this form and for mailing addresses of Department offices where your application can be submitted.

Check all that apply:

- ☒ Change diversion point(s) ☐ Add diversion point(s) ☐ Ownership change ☐ Ownership split
- ☒ Transfer is for changes pursuant to Idaho Code § 42-221.O.8. Attach an explanation and any supporting documentation.

1. APPLICANT(S) Wade L. Prescott & Juenna R. Prescott Phone 208-316-5391
2. MAILING ADDRESS 1361 E 4400 N City Buhl
State ID Zip 83316 Email wadeprescott@ymail.com

- ☐ If the applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign for the applicant.
- ☐ If the applicant is not the current water right(s) owner, attach documentation of authority to file the application.
- ☐ If the application includes a change in ownership of water right(s), attach a copy of the conveyance document, such as a warranty deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property conveyed or description of the water right if no land is conveyed. Additional fee(s) are required for water right ownership changes; see Item 9 for the [fee schedule](#).

If the ownership change resulted in the water right(s) being split, how did the division occur? Mark one:

- ☐ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
- ☐ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.
- ☐ If the application is not signed by the applicant, attach a Power of Attorney or other documentation providing authority to sign for the applicant.

3. LIST WATER RIGHT NUMBER(S) 47-17413

- ☒ Attach a copy of the water right(s) as recorded, available at idwr.idaho.gov, *Water Right Transfers, Step 1*, or by contacting any Department office.

4. **TOTAL AMOUNT OF WATER** transferred is 0.57 cubic feet per second and/or _____ acre-feet per annum.
(diversion rate) (storage volume)

5. **POINT OF DIVERSION** – Describe all the point(s) of diversion to be included on the water right(s) after the proposed change.

- ☐ Attach Eastern Snake Plain Aquifer (ESPA) analysis if this transfer proposes to change a point of diversion affecting the ESPA. ESPA analysis information is available at idwr.idaho.gov, *Water Rights, Water Right Transfers, Modeling Resources*.

[illegible]

6. GENERAL INFORMATION

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future:

Concrete controlling works- pipe To farm. Can install a measuring device when required

- b. Who owns the property at the point(s) of diversion? Goff
If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

- c. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

- ☐ ☒ undergone a period of five or more consecutive years of non-use,
☐ ☒ currently used in a mitigation plan limiting the use of water under the right(s), or
☐ ☒ currently enrolled in a Federal set-aside program limiting the use of water under the right(s)?

If yes, describe:

- d. Is any portion of the water right(s) proposed to be changed currently leased to the Water Supply Bank? ☐ Yes ☒ No

- ☐ If yes and there are multiple owners, attach a Lessor Designation form.
☐ If yes, the individual owner or designated lessor must complete, sign and attach an IRS Form W-9.
(Disregard if these items are on file and ownership has not changed.)

7. **MAP** – ☒ Attach a map of the diversion, measurement, control and distribution system. Include the place of use if a split of the water right occurred. Clearly label the map with township, range, section and $\frac{1}{4}$ $\frac{1}{4}$ of section information. You may create a map at idwr.idaho.gov, Water Rights, Water Right Transfers, File a Transfer Application, Step 2C.

8. **SIGNATURE** – The information in this application is true to the best of my knowledge. I understand any willful misrepresentations in this application may result in rejection of the application or cancellation of an approval.

Wade L Prescott
Signature of applicant or authorized agent

Wade L Prescott H owner
Print name and title if applicable

7/24/2024
Date

Gwenna Prescott
Signature of applicant or authorized agent

Gwenna Prescott owner
Print name and title if applicable

8-5-2024
Date

9. **FEE** – ☒ The application filing fee provided in Idaho Code § 42-221.O, must be submitted with the application for transfer. Applications for changes pursuant to Idaho Code § 42-221.O.8. require a filing fee of \$50 per water right. All other application fees are based on the total amount of water proposed for transfer in Item 4: the larger fee for either cubic feet per second (diversion rate) or acre-feet per annum (storage volume). The Fee Schedule is available at www.idwr.idaho.gov, Water Right Transfers, Step 4 and in the Application for Transfer Instructions.

FOR DEPARTMENT USE ONLY

Transfer includes _____ pages of attachments.

Received by SG

Date 8/12/2024

Fee paid \$50 Date 8/12/2024

Received by SG

Receipt # 5040321

Preliminary review by _____

Date _____

Active in the Water Supply Bank? Yes ☐ No ☐

W-9 received? Yes ☐ No ☐

Name on W-9 _____

W-9 forwarded to fiscal? Yes ☐ No ☐

(Do NOT scan the W-9 – confidential information is held by fiscal only)

Page _____ of _____

IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2A

Current Water Right No.: 47-17413

Current Owner: WADE L PRESCOTT
 GWENNA R PRESCOTT

Priority Date: 10/11/1915

Origin: Water Right

Status: Active

Basis: Decreed

Source

UNNAMED STREAM

Tributary

MUD CREEK

Beneficial Use

IRRIGATION

From To

03/15 to 11/15

Diversion Rate

0.57 CFS

Annual Volume**Total Diversion**

0.57 CFS

Location of Point(s) of Diversion

UNNAMED STREAM

SW1/4NE1/4NW1/4

Sec. 24, Twp 09S, Rge 14E B.M.

TWIN FALLS County

Place of Use**IRRIGATION Within TWIN FALLS County**

T09S R14E S14

SWSE

2.30

T09S R14E S23

NWNE

26.00

Total Acres: 28.3

Conditions of Approval:

1. B01 Source is also known as the Mendini Tunnel.
2. This right is a split from former right 47-2102 .
3. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

Decreed Date: 9/10/2008





IDAHO DEPARTMENT OF
WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, ID 83301-5858

Phone: 208-736-3033 • Fax: 208-736-3037 • Email: southerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Mathew Weaver

August 19, 2024

WADE L PRESCOTT
GWENNA R PRESCOTT
1361 E 4400 N
BUHL ID 83316-5220

Re: Transfer No: 89247
Water Right No(s): 47-17413

Transfer Approval Notice

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's home page on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at (208) 736-3033.

Sincerely,

A handwritten signature in blue ink, appearing to read "Corey Skinner". The signature is fluid and cursive, with the first name "Corey" being more prominent than the last name "Skinner".

Corey Skinner
Southern Regional Manager

Enclosure

CERTIFICATE OF SERVICE

I hereby certify that on August 19, 2024 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Transfer) to the person(s) listed below:

Re: Transfer No.: 89247
Water Right No(s): 47-17413

WADE L PRESCOTT
GWENNA R PRESCOTT
1361 E 4400 N
BUHL ID 83316-5220



Denise Maline
Administrative Assistant

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

MEMORANDUM

Date: August 13, 2024
To: Transfer 89247
From: James Bitzenburg
Re: Legal Notice Not Required

Legal Notice Not Required
8/13/2024

Pursuant to Section 42-222, Idaho Code, the Department has discretion to provide public notice as deemed appropriate. The water right changes proposed through this transfer application do not appear to change the effect on the original or hydraulically connected water source or affect other water rights. Therefore, staff review of the transfer application found no cause to require public notice. This application will continue processing without advertisement and be forwarded for approval consideration.

The change in the transfer is a correction to the legal description (paper change) and no physical change of the POD has occurred.

MEMORANDUM

Date: August 13, 2024
To: Wade and Gwenna Prescott, Transfer #89247 File
From: Jim Bitzenburg
Re: Evaluation of Sufficiency of Information Submitted

Application for transfer proposes to correct the point of diversion (POD) description for irrigation water right 47-17413 (0.57 cfs, 28.3 acres), which is diverted from an unnamed stream. The correct POD is located approximately 2.7 miles north and 0.6 mile west of the intersection of Clear Lakes Road and Broadway Avenue in Buhl.

This is a paper correction of the POD; no physical changes have occurred, so advertising is not necessary. The transfer qualifies for the \$50.00/right fee under Idaho Code §42-221, O., (8) because it is a paper change only and no physical change in the location has occurred. A site visit in the spring of 2023 revealed that the POD was decreed in the wrong QQQ, at a point not located at the actual POD on the unnamed stream.

The POD is not located within a Water District, so water master comments were not sought.

- **Authority to File:**
The Department's database indicates that water right 47-17413 is owned by the applicants, Wade and Gwenna Prescott. The application was signed by the Prescotts.
- **Water Right Validity:**
The water right was decreed in 2008, and aerial imagery seems to indicate adequate recent irrigation, so forfeiture does not appear likely.
- **Injury to Other Water Rights:**
None anticipated or foreseen. This is a paper correction only.
- **Enlargement of Use:**
None anticipated.
- **Local Public Interest:**
No issues anticipated. Because the change to the POD is a paper change only, the transfer was not advertised.
- **Beneficial Use/Conservation of Water Resources:**
Proposed use is recognized as a beneficial use of water.
- **Effect on the Economy of the Local Area:**
None Anticipated
- **Effect of the Agricultural Base of the Area:**
None Anticipated

Review of the application finds there is no clear inconsistency with criteria set forth in Section 42-222 Idaho Code preventing processing of this application.

TRANSFER SYNOPSIS

Date: August 12, 2024
To: Wade and Gwenna Prescott, Transfer #89247 File
From: Jim Bitzenburg
Re: Summary of transfer

Application for transfer proposes to correct the point of diversion (POD) description for irrigation water right 47-17413 (0.57 cfs, 28.3 acres), which is diverted from an unnamed stream. The correct POD is located approximately 2.7 miles north and 0.6 mile west of the intersection of Clear Lakes Road and Broadway Avenue in Buhl.

This is a paper correction of the POD; no physical changes have occurred, so advertising is not necessary. The transfer qualifies for the \$50.00/right fee under Idaho Code §42-221, O., (8) because it is a paper change only and no physical change in the location has occurred. A site visit in the spring of 2023 revealed that the POD was decreed in the wrong QQQ, at a point not located at the actual POD on the unnamed stream.

The POD is not located within a Water District, so water master comments will not be sought.

FEE MEMORANDUM

Date: August 12, 2024
To: Wade and Gwenna Prescott Transfer #89247 File
From: Jim Bitzenburg
Re: Receipting/disposition of fees paid

This transfer was filed on August 12, 2024, and its purpose is to correct the point of diversion (POD) description of water right 47-17413. The transfer qualifies for the \$50.00 fee under Idaho Code §42-221, O., (8) because it is a paper change only and no physical change in the location has occurred. A site visit in the spring of 2023 revealed that the POD was decreed in the wrong QQQ, at a point not located on the actual POD on the unnamed stream. The fee total is \$50.00 and was paid by Wade/Gwenna Prescott with check #3102. The IDWR receipt number is S040321.