

Sergio and Julie Arroyo  
874 EAST Road  
Jerome, Idaho, 83338  
208-404-2416

April 15, 2019

Idaho Department of Water Resources  
Gary Spackman, Director  
322 E. Front St., Ste 648  
Boise, Idaho, 83702-7371

Idaho Department of Water Resources  
Southern Regional Office  
650 Addison Ave. W., Ste 500  
Twin Falls, Idaho 83301-5858

RE: Transfer No. 83001 – Water Right No. 36-14604

Dear Director Spackman:

This letter from Sergio and Julie Arroyo is in response to a letter written to Director Spackman of Idaho Department of Water Resources by Kimberly L. Williams attorney at Law. On March 27, 2019, Ms. Williams, with Williams, Meservy, and Larsen LLP, wrote a letter to Idaho Department of Water Resources on behalf of her clients Jim and Diane Meeks, regarding transfer #83001- Water Rights No. 36-14604. In this letter to Director Spackman Ms. Williams made numerous unverified, derogatory, and slanderous statements. (please see attachment A)

***“2002 my clients sold their interest in Water Right #36-14604”***

Jim and Diane Meeks sold a home with domestic well and real property to Daniel Borders in April 2002. (please see attachment B) It is this domestic well that gave rise to this matter. At the time of sale the home address was 875 EAST Road, Jerome, Idaho, which Jerome County corrected to 874 EAST Road in 2018.

***“As part of the sale transaction Meeks and Borders entered into an agreement for use of water and Easement”...***

The sale transaction between Jim and Diane Meeks and Daniel Borders occurred in **April 2002**, the “agreement for use of water” (that Ms. Williams refers to in her letter) are documents formed between Meeks Family Limited Partnership (which has been inactive since 2011) and Daniel Borders after the real property, 875 EAST Road, was sold to Bill and Christine Schmahl and publicly recorded with Jerome County **November 2003**. Meeks Family Limited Partnership did not own the real property which Daniel Borders sold to the Schmahls. Meeks Family Limited Partnership had no authority to draw up agreements pertaining to real property that Daniel Borders had just sold to Bill and Christine Schmahl. (please see attachment C)

RECEIVED

APR 15 2019

DEPT OF WATER RESOURCES  
SOUTHERN REGION

***"Source of water for cattle on the parcels retained by Meeks existing place of use, purpose of use, historic use..."***

Meeks claims existing and historic place of use for cattle water, but in fact the acreage that gave rise to this issue is owned by (Cook, Clyde and Carolyn Family Trust). Recently Meeks was asked by the Cooks Family Trust to remove personal items and cattle from their property, and informed he would no longer have use of it. Meeks was actively trespassing their land to water his cattle on it from Arroyo's domestic well. (Mark Jones represents Cook Family Trust 208-733-0404)

***"The Arroyo's have refused to honor the Agreements and commenced a pattern of interfering with and denying my clients use and delivery of the well water."***

This "interfering with and denying" claim is a false and slanderous statement against the Arroyos. The "delivery" point Meeks wants to use is on acreage belonging to Cook Family Trust, Arroyos became aware that the land was pending sale and that Meeks was told to vacate it.

***"Without any notice to my clients on Feb 8<sup>th</sup>, 2019 the Arroyo's filed an Application for Transfer of Water Right # 36-14604 seeking to effectively nullify the two Agreements by transferring the point of diversion..."***

This statement suggests wrong doing on the part of the Arroyos who had no obligation to notice Meeks prior to managing their interests.

***"Changing the place of use to no longer include the Meeks property where the cattle have historically been watered."***

The domestic well in question is within the legal property of Arroyos, Meeks had been renting land from Cooks Family Trust but no longer has access to it and cannot trespass to 'water cattle' on it, which is the point of Meek's argument. The spigot that Meeks is seeking to use would require him to trespass the Cooks Family Trust land. (Mark Jones represents Cook Family Trust 208-733-0404).

***"No notice of Application for Transfer was given to Meeks, published or otherwise"***

The Arroyos have no obligation to notice Meeks when managing their interests.

***"No copies of existing Agreements were filed along with the Application for Transfer, which stated under section 5c. "No adverse effect as a result of this transfer. POU changes describes entire parcel."***

Meeks real property has water on it, a couple different collection points which have been available to his cattle the whole time in question. There is no adverse effect as a result of this transfer, Meek's claims are false and misleading.

***"IDWR Memorandum dated February 12th, 2019, from Benny Walker further alludes to the deliberate misinformation provided by the Arroyos to the IDWR, as it states, "Application purposes to correctly identify the place of use and point of diversion of the ground water right..."***

This derogatory statement to a state agency slanders the Arroyos with a false claim that misinformation was provided deliberately to IDWR. Corrections were necessary and made accordingly. A Memorandum by Benny Walker in no way encapsulates all the work that was done to isolate the water right and pin point locations.

***"The existing POU and POD for the water right were in no way incorrect at the time of the filing of the Application for Transfer."***

Ms. Williams does not seem familiar with the issue, the number of cattle Meeks runs without a CFO/LFO, or that the water right in question limited users to no more than 50 head. (please see attachment D)

***"The Arroyos quietly waited until the time for requesting a hearing or filing a petition for reconsideration of the Preliminary Order issued February 21<sup>st</sup>, 2019 had expired, and then without explanation to the Meeks shut off the well on Friday, March 22, 2019"***

Arroyos became aware that the Cooks Family Trust land was pending sale and did not want to give the impression that the access to water would be sold with the land, this was communicated to Mark Jones in addition to other real estate details. Mr. Meeks was asked to vacate Cooks Family Trust land, then Arroyos turned their spigot off.

***The resulting Approval of Transfer #83001 has not merely inconvenienced by clients, but it has caused and continues to cause them great expense and hardship.***

No adverse effect as a result has occurred, Meeks unpermitted cattle operation is now confined on his property because he no longer can trespass the Cooks Family Trust land. There is water on Meeks land, which his cattle had immediate access to on the very day they were confined to his land. Attorney Mark Guerry, on behalf of the Arroyos, notified Kimberly Williams on March 22, 2019, that Arroyos had an adjacent spigot turned on that would allow Meeks use of their domestic well while this issue was resolved. Meeks has not used that spigot (as of April 15, 2019) because he has no need and there was no adverse effect or expense.

***"My clients respectfully request you Void the Preliminary Order issued by IDWR..On the grounds that the Arroyos deliberately submitted false and misleading information on the application and supporting documents.."***

Mr. Meeks was informed that the domestic well did not produce enough to water for his cattle and provide for the Arroyo's domestic use. Mr. Meeks was also informed that the existing domestic well would be capped once the Arroyos were able to drill a new one (which is the understanding that Arroyos had at the time).

We hope this letter answered any questions you might have had about this issue, please feel free to call for further clarification.

Sincerely,

Sergio and Julie Arroyo

A handwritten signature in cursive script, appearing to read "Julie DeWolfe Arroyo".

cc: Mark Guerry, attorney at Law

Kimberly L. Williams, attorney at Law

*Williams, Meservy & Larsen, LLP*  
*Attorneys at Law*

Attachment A

153 East Main  
Post Office Box 168  
Jerome, Idaho 83338-0168

COPY



JAMES C. MESERVY  
BRIAN J. WILLIAMS  
THEODORE R. LARSEN  
KIMBERLY L. WILLIAMS - ASSOCIATE  
BRANDON J. HESS - ASSOCIATE  
ROBERT E. WILLIAMS - OF COUNSEL

TELEPHONE: (208) 324-2303  
TELECOPIER: (208) 324-3135  
E-MAIL: [klwilliams@wmlattys.com](mailto:klwilliams@wmlattys.com)

EUGENE D. FREDERICKSEN - RETIRED

March 27, 2019

RECEIVED  
APR 15 2019  
DEPT OF WATER RESOURCES  
SOUTHERN REGION

Idaho Department of Water Resources  
Gary Spackman, Director  
322 E. Front St., Ste. 648  
Boise, Idaho 83702-7371  
[gary.spackman@idwr.idaho.gov](mailto:gary.spackman@idwr.idaho.gov)

Idaho Department of Water Resources  
Southern Regional Office  
650 Addison Ave. W., Ste. 500  
Twin Falls, ID 83301-5858

*RE: Transfer No. 83001 - Water Right No. 36-14604/Sergio Arroyo, Jr. and Julie DeWolfe Arroyo*

Dear Director Spackman:

I represent James and Diane Meeks, predecessors in interest to Sergio and Julie Arroyo to Water Right No. 36-14604 and the real property to which it was appurtenant prior to approval of Transfer No. 83001.

In 2002 my clients sold their interest in Water Right No. 36-1460 and a portion of the land to which it was then appurtenant to Daniel Browne Borders and Elizabeth McKenzie Borders. The point of diversion for Water Right No. 36-1460 was a well located on the parcel acquired by Mr. and Mrs. Borders in the NENWNE quarter of Township 8 South, Range 18 East Boise Meridian, Section 21.

As part of the sale transaction the Meeks and Borders entered into an Agreement for Use of Water and Easement Agreement and Domestic Well Agreement memorializing their agreement that the well on the parcel acquired by Borders would continue to be the source of water for cattle on the parcels retained by the Meeks in conformance with the then existing place of use, purpose of use, and historic use. A Grant of Easement was also given by Borders to Meeks over and across the purchased parcels to ensure that Meeks would continue to have access to maintain their irrigation improvements. It was the intention of the parties that these agreements would be binding upon the successors in interest and would run with the land, as is clearly stated in the two agreements and the Grant of Easement which were recorded in the records of the Jerome County, Idaho

Recorder. I have enclosed copies of the Agreement for Use of Water and Easement Agreement, Domestic Well Agreement, and Grant of Easement for your reference.

The terms of the two Agreements continued to be honored by the successors in interest to Mr. Borders without interruption, until the Arroyos purchased the real property subject to the Agreements in 2018. In June of 2018 the Arroyos retained attorney Mark J. Guerry of Twin Falls, and the Meeks continued to try to clarify and resolve the matter via an exchange of correspondence with Mr. Guerry, including providing him with additional information and copies of the Agreements on June 25<sup>th</sup>, 2018. A copy of that correspondence is also enclosed for your information. The Arroyos have refused to honor the Agreements and commenced a pattern of interfering with and denying my clients use and delivery of the well water.

Without any notice to my clients, on February 8<sup>th</sup>, 2019, the Arroyos filed an Application for Transfer of Water Right No. 36-14604 seeking to effectively nullify the two Agreements by transferring the point of diversion for existing water right to a new well they had drilled on their residential parcel on July 30<sup>th</sup>, 2018, and changing the place of use to no longer include the Meeks property where the cattle have historically been watered.

No notice of the Application for Transfer was given to Meeks, published or otherwise, thus they were not afforded the opportunity to object as a clearly affected party. No copies of the existing Agreements were filed along with the Application for Transfer, which stated under section 5.c "No Adverse effect as a result of this transfer. POU changes describes entire parcel." The Idaho Department of Water Resources Memorandum dated February 12<sup>th</sup>, 2019, from Benny Walker further alludes to the deliberate misinformation provided by the Arroyos to the IDWR, as it states "Application proposes to correctly identify the place of use and point of diversion of the ground water right..." The existing POU and POD for the water right were in no way incorrect at the time of the filing of the Application for Transfer. (*See also* Memorandum of Benny Walker dated February 11<sup>th</sup>, 2019 "Re: Legal Notice Not Required".)

The Arroyos quietly waited until the time for requesting a hearing or filing a petition for reconsideration of the Preliminary Order issued February 21<sup>st</sup>, 2019 had expired, and then without explanation to the Meeks shut off the well on Friday, March 22<sup>nd</sup> 2019. When my clients attempted to discuss the matter with the Arroyos they were told to contact the Arroyos' attorney, Mr. Guerry, who ultimately advised my clients of the newly approved Transfer.

The Arroyos have intentionally misled and deceived the Idaho Department of Water Resources, and have violated the terms of the two Agreements pertaining to the provision of water to my clients. The resulting Approval of Transfer No. 83001 has not merely inconvenienced my clients, but it has caused and continues to cause them great expense and hardship. At the time the water was shut off there were pregnant and calving cattle located at the site of the real property owned by Meeks entitled to water under the Agreements. Denying water to those cattle has put the health of the cattle and calves at risk, and poses risk of a significant economic loss to the Meeks.

My clients respectfully request you Void the Preliminary Order issued by the Idaho Department of Water Resources February 21<sup>st</sup>, 2019, for Transfer No. 83001, Water Right No. 36-14604, pursuant to IDAPA 37.03.08.050.08, on the grounds that the Arroyos deliberately submitted false and misleading information on the application and supporting documents, and reinstate all attributes of Water Right No. 36-14604 as they previously existed.

Please feel free to contact me if you have any questions or wish to discuss this matter in further detail.

Very truly yours,

WILLIAMS MESERVY & LARSEN, LLP

A handwritten signature in black ink, appearing to read "K. Williams", with a stylized flourish at the end.

KIMBERLY L. WILLIAMS

KLW/mmb

Encl.

C: Client

Mark Guerry

H:\KLW\Clients\M-P\Meeks, James & Diane\Arroyo\IDWR 2019.03.27.docx

# WARRANTY DEED

Attachment B  
#J-30973

Instrument # 2021602

JEROME COUNTY, JEROME, IDAHO  
2002-04-02 04:10:30 No. of Pages 3  
Recorded for LAND TITLE & ESCROW  
CHERYL WATTS Fee: 9.00  
Ex-Officio Recorder Deputy *CBench*

For Value Received

JAMES D. MEEKS and DIANE SAWYER MEEKS, husband and wife

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto

*DBB DV 1-1*  
DANIEL BROWNE BORDERS, a single man an unmarried man  
Address: P O Box 434, Jerome, ID 83338

Hereinafter called the Grantee, the following described premises situated in Jerome County, Idaho, to-wit:

SEE ATTACHED EXHIBIT "A"

## SUBJECT TO:

All reservations in patents or deeds in the chain of title.

2002 taxes and subsequent years, taxes are an accruing lien, not yet due or payable.

Assessments of the North Side Canal Company and the rights and powers of said Company as by law provided.

Right of way for roads, canals, laterals and waste ditches as contained in an Agreement by and between the State of Idaho and the Twin Falls North Side Land and Water Company, dated August 21, 1907, recorded in Book 15 Page 589, Jerome County records.

Power Line Easement given by William Wilcox, a single man, to Idaho Power Company, a corporation, dated October 30, 1957, recorded May 8, 1958 in Book 2 Page 581 as Instrument Number 135719, Jerome County records, affecting W $\frac{1}{2}$ SE $\frac{1}{4}$  and S $\frac{1}{2}$ NE $\frac{1}{4}$  of Section 16, Township 8 South, Range 18, East Boise Meridian.

Easement for transmission line purposes as South Idaho Telephone Company may have under Act March 4, 1911 (36 Stat. 1253) as amended, notice of which is contained in Patent from the United States of America, to William Wilcox, dated March 16, 1955, recorded February 3, 1969 in Book 182 Page 1181 as Instrument Number 179433, Jerome County records.

Power Line Easement given by William R. Bradley and Tessa M. Bradley, husband and wife to Idaho Power Company, a corporation, dated December 9, 1969, recorded March 19, 1970 in Book 184 Page 340 as Instrument Number 184132, Jerome County records, affecting the SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 16, Township 8 South, Range 18, East Boise Meridian.

Power Line Easement given by to Idaho Power Company, a corporation, dated F. Roy Dobson and Sharon K. Dobson, his wife, recorded October 5, 1982 as Instrument Number 268116, Jerome County records, affecting the SW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 16, Township 8 South, Range 18 East. Boise Meridian, Jerome County, Idaho.

Subject to county road easement running through said property as disclosed by inspection.

TOGETHER WITH all water and water rights, ditches and ditch rights used thereon or appurtenant thereto including but not limited to 5.0 shares of capital stock in North Side Canal Company, Ltd.

TO HAVE AND TO HOLD, the said premises, with their appurtenances unto the said Grantee and to the successors heirs and assigns of the Grantee forever. The Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that they are free from all incumbrances except as above described and that Grantor will warrant and defend the same from all lawful claims whatsoever.

Dated: April 1, 2002

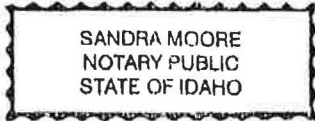
*James D. Meeks*  
JAMES D. MEEKS

*Diane Sawyer Meeks*  
DIANE SAWYER MEEKS

STATE OF IDAHO )

COUNTY OF JEROME ) ss.

On this 12 day of April, 2002, before me, the undersigned, a Notary Public in and for said State, personally appeared JAMES D. MEEKS and DIANE SAWYER MEEKS, known or identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.



*Sandra Moore*  
Notary Public  
Residing at: Idaho  
My Commission expires: 02-15-06

Attachment C

TF36441

WARRANTY DEED

For Value Received **Daniel B. Borders**, also shown of record as Daniel Borders, a married man

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto

**Bill Schmahl and Christine Schmahl, husband and wife**

whose address is: *875 East Road, Jerome ID 83338*

Hereinafter called the Grantee, the following described premises situated in Jerome County, , to-wit:

See Legal description attached hereto and made a part of

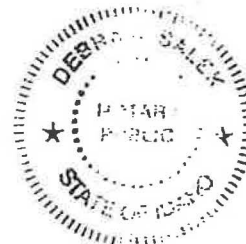
Together with 4 Shares of Northside Canal Company Water Stock

SUBJECT TO all easements, right of ways, covenants, restrictions, reservations, applicable building and zoning ordinances and use regulations and restrictions of record, and payment of accruing present year taxes and assessments as agreed to by parties above.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee and to the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U. S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

Dated: November 18, 2003

*Daniel B. Borders*  
Daniel B. Borders, also shown of record as Daniel Borders



STATE OF Idaho  
COUNTY OF Canyon

On this 20th day of November, 2003, before me, the undersigned, personally appeared Daniel B. Borders, also shown of record as Daniel Borders, known or identified to me (or proved to me on the oath of), to be the person(s) whose name(s) is subscribed to the within instrument, and acknowledged to me that he executed the same.

*Debra G. Salch*  
Notary Public of State of Idaho  
Residing at: Nampa  
Commission Expires: 11-27-08

"BORDERS"

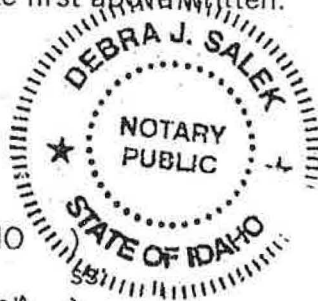
Daniel B. Borders  
DANIEL B. BORDERS

Elizabeth McKenzie Borders  
ELIZABETH MCKENZIE BORDERS

STATE OF IDAHO )  
County of Canyon )  
SS:

On this 19<sup>th</sup> day of November, 2003, before me, the undersigned, a Notary Public in and for said County and State, personally appeared DANIEL BROWNE BORDERS, known to me to be the person whose name is subscribed to the within and foregoing instrument, and who acknowledged to me that he executed same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal, the day and year in this certificate first above written.



STATE OF IDAHO )  
County of Canyon )

Debra J. Salek  
NOTARY PUBLIC for Idaho  
Residing at: Wampa  
Commission Expires: 11-27-08

On this 19<sup>th</sup> day of November, 2003, before me, the undersigned, a Notary Public in and for said County and State, personally appeared ELIZABETH MCKENZIE BORDERS, known to me to be the person whose name is subscribed to the within and foregoing instrument, and who acknowledged to me that she executed same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal, the day and year in this certificate first above written.



Debra J. Salek  
NOTARY PUBLIC for Idaho  
Residing at: Wampa  
Commission Expires: 11-27-08

EASEMENT AGREEMENT #4  
E:\DATA\MEES\BORDERS - EASEMENT 2 11 12 03.WPD

FF 30.441

### QUITCLAIM DEED

For Value Received Elizabeth McKenzie Borders, a married woman  
do hereby convey, release, remise and forever quit claim unto

**Bill Schmahl and Christine Schmahl, husband and wife**

whose address is: *875 East Road, Jerome ID 83338*

Hereinafter called the Grantee, the following described premises situated in Jerome County, to-wit:

**See legal description attached hereto and made a part hereof**

**Together with 4 shares of Northside Canal Company Water Stock**

together with their appurtenances.

Dated: November 18, 2003

*Elizabeth McKenzie Borders*  
Elizabeth McKenzie Borders

STATE OF Idaho )  
COUNTY OF Canyon ) ss.



On this 14<sup>th</sup> day of November, in the year of 2003 before me, the undersigned, personally appeared Elizabeth McKenzie Borders, known or identified to me (or proved to me on the oath of ), to be the person(s) whose name(s) is subscribed to the within instrument, and acknowledged to me that she executed the same.

*Debra J. Salek*  
Notary Public of State of Idaho  
Residing at: Idaho  
Commission Expires: 11-27-08

Township 8 South, Range 18, East of the Boise Meridian, Jerome County, Idaho

Section 16: A parcel of land located in the SE¼ and being more particularly described as follows:

COMMENCING at the Southeast corner of said Section 16, from which the South one-quarter corner of said Section 16 bears North 90°00'00" West, 2630.82 feet;  
Thence North 90°00'00" West along the South boundary of the SE¼ of said Section 16 for a distance of 830.99 feet to the TRUE POINT OF BEGINNING;  
Thence continuing North 90°00'00" West along the South boundary of the SE¼ of said Section 16 for a distance of 944.00 feet;  
Thence North 04°33'02" East for a distance of 849.21 feet;  
Thence South 31°39'19" East for a distance of 431.80 feet;  
Thence South 31°49'09" East for a distance of 122.99 feet;  
Thence South 45°17'18" East for a distance of 55.72 feet;  
Thence South 60°22'22" East for a distance of 627.63 feet to a point on the North easement boundary of the county road;  
Thence South 00°00'00" East for a distance of 25.00 feet to the TRUE POINT OF BEGINNING.

SUBJECT TO: A 25.0 foot wide county road easement along the South boundary of the before described parcel.

**APPLICATION FOR TRANSFER OF WATER FRIGHTS**  
**PART 2A**

**Current Water Right No. 36-14604**

Current Water Right Owner

**MEEKS FAMILY LTD  
PARTNERSHIP  
6 SOUTH 800 EAST  
JEROME, ID 83338**

Priority Date: 12/1/1928

**Origin: Water Right**

**Basis: Decreed**

**Status:** Active

**Source:** GROUND WATER

| <u>Beneficial Use</u> | <u>From</u> | <u>To</u> | <u>Diversion Rate</u> | <u>Subuse Code</u> |
|-----------------------|-------------|-----------|-----------------------|--------------------|
| DOMESTIC              | 1/01        | 12/31     | 0.040 CFS             |                    |
| STOCKWATER            | 1/01        | 12/31     | 0.020 CFS             |                    |
| Total Diversion       |             |           | 0.040 CFS             |                    |

**Source and Point(s) of Diversion:**

## GROUND WATER

NENWNE

Sec. 21 Twp 08S Rge 18E JEROME County

Describe the proposed diversion system

WELL, PUMP

**Place of Use:** DOMESTIC

[illegible]

**Place of Use:** STOCKWATER

[illegible]

**Conditions/Remarks:**

1. THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000 GALLONS PER DAY.
2. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.0 afa per acre for irrigation of the lands above.
3. THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
4. PARCEL NO. RL08S18E161201 STOCKWATER/50 BEEF CATTLE