



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 • Web Site: [www.idwr.idaho.gov](http://www.idwr.idaho.gov)

August 12, 2009

C. L. "BUTCH" OTTER  
Governor

GARY SPACKMAN  
Interim Director

DIAMOND BENCHVIEW WATER CORP.  
PO BOX 2006  
PRIEST RIVER ID 83856

RE: Change in Ownership Water Right 97-7091

Dear Diamond Benchview Water Corporation:

The Department of Water Resources acknowledges receipt of a Correction Quitclaim Deed received in March 2009 from Paine Hamblen attorneys on behalf of Diamond Benchview Water Corporation in response to our letters of 6/23/08 and 1/8/09. Paine Hamblen noted in their letter that the document was a draft. If signed, the corrected quitclaim would indicate a direct line of conveyance of the land associated with the point of distribution, but not the place of use of the water right.

Water right 97-7091 was issued to cover domestic water use for 60 homes in the NWNE, SWNE, NENW, NWNW, and NWSE of Section 19 of Township 56N Range 5W. The deeds you have submitted describe the point of distribution (i.e. well location), but they do not show ownership of the property on which the houses are located. Water rights are associated with the land on which the water is used not from where the water is distributed. In this case, the owner of each house likely owns a portion of the original water right assuming their deeds conveyed appurtenances (water rights) with the land, and each should have filed an ownership change to split 97-7091. If however, the home owners were conveyed the properties without appurtenances or water rights, Mr. Anselmo could have specifically conveyed the interest in the water right to Diamond Benchview Water Corporation. Your deeds do not reflect that. So if the water rights were indeed conveyed to the lot owners, then each owner would need to convey their interest in the water right to Diamond Benchview Water Corp. in order for the Corporation to gain ownership. Note, that the department does not require that a water corporation own the water right for the water that it distributes.

Please feel free to our office if you have any questions regarding this matter.

Sincerely,

Dayna M. Ball  
Technical Reviewer  
Water Allocations Bureau

Enclosures quitclaim, corrected quitclaim, copy water right license  
CC Paine Hamblen Attorneys  
PO Box 789  
Priest River ID 83856

**AFTER RECORDING RETURN TO:**  
**DIAMOND BENCHVIEW WATER ASSOCIATION**  
**P.O. Box 2006**  
**PRIEST RIVER, ID 83856**

### **QUITCLAIM DEED**

**This Quitclaim Deed**, executed this 19<sup>th</sup> day of July, 2004, by Kaniksu Enterprises, Incorporated, an Idaho corporation, as Grantor, to the Diamond Benchview Water Corporation, whose address is P.O. Box 2006, Priest River, ID 83856.

**Witnesseth**, that the said first party does hereby remise, release and quitclaim unto the said second party forever, all the right, title, interest and claim which the said first party has in and to the following described parcel of land, and improvements and appurtenances thereto, in the County of Bonner, State of Idaho, to wit:

That portion of the Northeast Quarter of the Southwest Quarter of Section 19, Township 56 North, Range 5 West, B.M., Bonner County, Idaho more particularly described as follows:

BEGINNING at the intersection of the west line of said Northeast Quarter of the Southwest Quarter and the northerly right-of-way line of U.S. Highway 2;

thence N. 0°46'55"E. along the west line of said Northeast Quarter of the Southwest Quarter, a distance of 150.00 feet;

thence S. 89°13'05"E., 170.00 feet;

thence S. 0°46'55"W, 194.42 feet to said northerly right-of-way line;

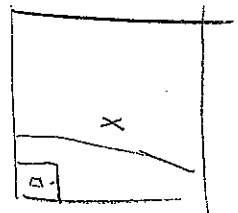
thence N. 74°34'29"W. along said northerly right-of-way line, a distance of 175.71 feet to the POINT OF BEGINNING.

EXCEPT the west 20.00 feet thereof, which includes an easement over existing road.

Contains 0.60 acres, more or less.

**THIS TRANSFER IS IN EXCHANGE FOR THREE WATER CONNECTIONS, WITH PRE-PAID HOOKUP FEES, TO THE DIAMOND BENCHVIEW WATER SYSTEM, TO SERVE THE PROPERTY CONTAINED IN TAX PARCEL #RP56N05W198225A.**

= page 1 of 2 =



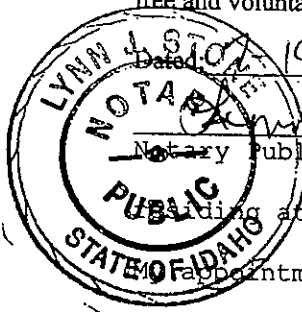
QCD 7/19/04, Kaniksu/Diamond Benchview, cont'd.

Signed this 19<sup>th</sup> day of July, 2004.

Charles E. Anselmo  
CHARLES E. ANSELMO  
PRESIDENT, KANIKSU ENTERPRISES, INC.

STATE OF IDAHO, )  
County of Boundary :ss  
~~Bonner~~ )

I hereby certify that I know or have satisfactory evidence that Charles E. Anselmo is the person who appeared before me, and said person has signed this instrument and acknowledged it to be free and voluntary act for the uses and purposes mentioned in this instrument.



Dated: 19-07  
Lynn A. Stone  
Notary Public for the State of Idaho,  
residing at Bonniers Ferry  
My appointment expires 11-04-04

Signed this 8 day of September 2004.

Cindi Pettit

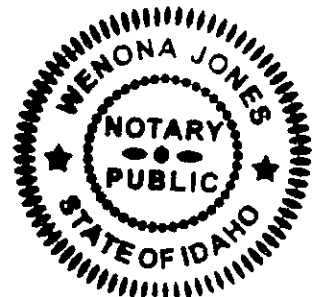
DIAMOND BENCHVIEW WATER ASSOCIATION

STATE OF IDAHO, )  
County of Bonner. ) :ss

I hereby certify that I know or have satisfactory evidence that Cindi Pettit is the person who appeared before me, and said person has signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in this instrument.

Dated: 9-8-04

Wenona Jones  
Notary Public for the State of Idaho,  
residing at Priest River  
My appointment expires 01/31/06



Recorded at the Request of  
(when recorded return to):

FONDA L. JOVICK  
PAINE HAMBLIN LLP  
Attorneys at Law  
102 9th Street  
P.O. Box 789  
Priest River, ID 83856

### **CORRECTION QUITCLAIM DEED**

**FOR VALUE RECEIVED**, the Estate of Frank H. Anselmo, Jr., does hereby convey, release, remise and forever quitclaim unto DIAMOND BENCHVIEW WATER CORPORATION, whose address is P.O. Box 2006, Priest River, Idaho, 83856, the following described premises located in Bonner County, Idaho, to wit:

That portion of the Northeast Quarter of the Southwest Quarter of Section 19, Township 56 North, Range 5 West, Boise Meridian, Idaho more particularly described as follows:

BEGINNING at the intersection of the west line of said Northeast Quarter of the Southwest Quarter and the northerly right-of-way line of U.S. Highway 2;

thence N 0°46'55" E along the west line of said Northeast Quarter of the Southwest Quarter, a distance of 150.00 feet;

thence S 89°13'05" E, 170.00 feet;

thence S 0°46'55" W, 194.42 feet to said northerly right-of-way line;

thence N 74°34'29" W along said northerly right-of-way line, a distance of 175.71 feet to the POINT OF BEGINNING.

EXCEPT the west 20.00 feet thereof, which includes an easement over existing road.

Contains 0.60 acres, more or less.

together with their appurtenances.

Notary Public for \_\_\_\_\_  
Residing at \_\_\_\_\_  
Commission Expires: \_\_\_\_\_

PAINE  HAMBLEN<sup>TM</sup>  
ATTORNEYS

WA  
RECEIVED

MAR 02 2009

DEPARTMENT OF  
WATER RESOURCES

Fonda Jovick  
Attorney at Law  
*fonda.jovick@paineamblen.com*

February 26, 2009

State of Idaho  
Department of Water Resources  
PO Box 83720  
Boise, ID 83720-0098  
Attn: Dayna M. Ball

Re: Diamond Benchview Water Corp 97-7091

Dear Ms. Ball:

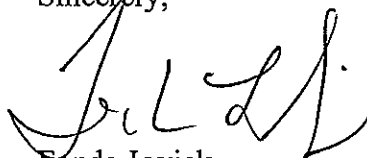
Please be advised, I have been retained by Diamond Benchview Water Corporation to assist them with the chain of title in regards to water right 97-7091.

On June 23, 2008, the water board received a letter from you stating that the chain of title was not clear due to the fact that the current water right owner is Frank H. Anselmo, Jr..

I have enclosed a drafted quit claim deed for your review, in efforts to clear title for the water board. Please advise if this documents will comply with your request to clear title for the water board.

Thank you for your time and assistance in this matter. Should you have any questions, please do not hesitate to contact my office. I look forward to hearing from you.

Sincerely,



Fonda Jovick

Enclosures  
cc: client

State of Idaho  
Department of Water Resources

WATER RIGHT LICENSE

License of Water Right No. 97-7091 Priority February 2, 1977 Amount 0.32 cfs

THIS IS TO CERTIFY, that Frank H. Anselmo Jr.  
of Priest River, Idaho, has complied with the terms and conditions of Permit  
No. 97-7091 issued pursuant to Application for Permit dated February 2, 1977,  
and has submitted proof to the Department of Water Resources on February 22, 1982,  
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a  
capacity for the diversion of 0.32 cfs of water from a groundwater source,  
tributary to \_\_\_\_\_, and that the permit holder has applied to a beneficial use and  
established a right to use water as follows:

| Beneficial Use                       | Period of Use                               | Rate of Diversion      | Annual Volume         |
|--------------------------------------|---------------------------------------------|------------------------|-----------------------|
| <u>Domestic</u><br><u>(60 units)</u> | from <u>January 1</u> to <u>December 31</u> | at <u>0.32</u> cfs and | <u>72.0</u> acre feet |
|                                      | from _____ to _____                         | at _____ cfs and       | _____                 |
|                                      | from _____ to _____                         | at _____ cfs and       | _____                 |

(both dates inclusive)

Subject, however, to the condition that no more than 0.32 cfs of water be diverted at any one time, and  
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose  
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed  
72.0 acre feet per year, said waters to be diverted within the (2 points) NE $\frac{1}{4}$ SW $\frac{1}{4}$ , Section  
19, Twp. 56N, Rge. 5W in the County of Bonner

Description and location of place of use:

| Twp. | Range | Sec. | NE $\frac{1}{4}$ |                  |                  |                  | NW $\frac{1}{4}$ |                  |                  |                  | SW $\frac{1}{4}$ |                  |                  |                  | SE $\frac{1}{4}$ |                  |                  |                  | Totals |
|------|-------|------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|--------|
|      |       |      | NE $\frac{1}{4}$ | NW $\frac{1}{4}$ | SW $\frac{1}{4}$ | SE $\frac{1}{4}$ | NE $\frac{1}{4}$ | NW $\frac{1}{4}$ | SW $\frac{1}{4}$ | SE $\frac{1}{4}$ | NE $\frac{1}{4}$ | NW $\frac{1}{4}$ | SW $\frac{1}{4}$ | SE $\frac{1}{4}$ | NE $\frac{1}{4}$ | NW $\frac{1}{4}$ | SW $\frac{1}{4}$ | SE $\frac{1}{4}$ |        |
| 56N  | 5W    | 19   |                  | X                | X                |                  | X                | X                |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |        |
|      |       |      |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |        |
|      |       |      |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |        |
|      |       |      |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |        |
|      |       |      |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |                  |        |

Total number of acres irrigated \_\_\_\_\_

NOTE: Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands or place of use herein described, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 31 day of  
August, 19 82.

SCANNED

MAY 04 2006

Director

**STATE OF IDAHO**  
**DEPARTMENT OF WATER RESOURCES**  
**NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP**

DE✓  
**RECEIVED**

**MAR 07 2008**

**DEPARTMENT OF  
 WATER RESOURCES**

*Please print or type. Attach pages with additional information. Instructions are included at the end of this form. Incomplete forms will be returned.*

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case IDWR will produce new water right number(s) for the split(s).

| Water<br>Right No(s) | Adjudication<br>Claim No(s) | Split(s) | Water<br>Right No(s) | Adjudication<br>Claim No(s) | Split(s) |
|----------------------|-----------------------------|----------|----------------------|-----------------------------|----------|
| 97-7091              | N/A                         | N/A      |                      |                             |          |
|                      |                             |          |                      |                             |          |
|                      |                             |          |                      |                             |          |
|                      |                             |          |                      |                             |          |
|                      |                             |          |                      |                             |          |
|                      |                             |          |                      |                             |          |

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):  
**PLAT OF PROPERTY** or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are on file with the county Planning and Zoning or Recorder's Office).

**OR**

- D. If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency or equivalent **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s)

*Frank H. Anselmo, Jr. (deceased)*  
*Priest River Idaho*

4. New Owner/Claimant(s)

*(Charles E. Anselmo - son of Frank)*  
*Diamond Benchview Water Corp.*

Name Connector (Check one): ☐ and, ☐ or, ☐ and/or

New Mailing Address

*P.O. Box 2006*

City, State and ZIP Code

*Priest River Idaho 83856*

New Telephone Number

*(208) 448-4748*

Email: *mycor2@conceptcable.com*

*Carol*

*or - Jerry Shoop, Chairman Diamond Benchview*  
*208.437.2086*

5. Date you acquired the property

Sept 8<sup>th</sup> 2004

6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in line 1, then skip this line and go to line 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (you may copy this page, if necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

| DESCRIPTION OF YOUR PORTION OF WATER RIGHT<br>(If the right will not be split, skip this area and proceed to line 7) |                                                                            |                                                              |
|----------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|--------------------------------------------------------------|
| Water Use                                                                                                            | Diversion Rate or Volume<br>(cubic feet per second or acre-feet per annum) | Description<br>(acres, number and type of stock, homes, etc) |
| <b>Water Right and/or Adjudication Claim Number</b>                                                                  |                                                                            |                                                              |
| Irrigation                                                                                                           |                                                                            |                                                              |
| Stock                                                                                                                |                                                                            |                                                              |
| Domestic                                                                                                             |                                                                            |                                                              |
| Other                                                                                                                |                                                                            |                                                              |
| Totals                                                                                                               |                                                                            |                                                              |
| <b>Water Right and/or Adjudication Claim Number</b>                                                                  |                                                                            |                                                              |
| Irrigation                                                                                                           |                                                                            |                                                              |
| Stock                                                                                                                |                                                                            |                                                              |
| Domestic                                                                                                             |                                                                            |                                                              |
| Other                                                                                                                |                                                                            |                                                              |
| Totals                                                                                                               |                                                                            |                                                              |
| <b>Water Right and/or Adjudication Claim Number</b>                                                                  |                                                                            |                                                              |
| Irrigation                                                                                                           |                                                                            |                                                              |
| Stock                                                                                                                |                                                                            |                                                              |
| Domestic                                                                                                             |                                                                            |                                                              |
| Other                                                                                                                |                                                                            |                                                              |
| Totals                                                                                                               |                                                                            |                                                              |

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

7. Signature(s) of New Owner(s) or Claimant(s)

*[Signature]* *Chairman*  
 (title if applicable)  
*Treasurer*  
 (title if applicable)

IT IS IMPORTANT TO FILE THIS COMPLETED FORM AT THE APPROPRIATE IDWR OFFICE, WITH PAYMENT OF THE FILING FEE AND THE OWNERSHIP DOCUMENT(S), AS REFERRED TO IN LINE 2.

## For IDWR Office Use Only:

Received by *AM*  
 Received by                       
 Processed by                      AJ

Date                       
 Date 3/10/09  
 Date                     

Receipt Amt. \$25.00  
 Receipt No. 0000204  
 WR                      Date

**AFTER RECORDING RETURN TO:  
DIAMOND BENCHVIEW WATER ASSOCIATION  
P.O. Box 2006  
PRIEST RIVER, ID 83856**

### **QUITCLAIM DEED**

**This Quitclaim Deed**, executed this 19<sup>th</sup> day of July, 2004, by Kaniksu Enterprises, Incorporated, an Idaho corporation, as Grantor, to the Diamond Benchview Water Corporation, whose address is P.O. Box 2006, Priest River, ID 83856.

**Witnesseth**, that the said first party does hereby remise, release and quitclaim unto the said second party forever, all the right, title, interest and claim which the said first party has in and to the following described parcel of land, and improvements and appurtenances thereto, in the County of Bonner, State of Idaho, to wit:

That portion of the Northeast Quarter of the Southwest Quarter of Section 19, Township 56 North, Range 5 West, B.M., Bonner County, Idaho more particularly described as follows:

BEGINNING at the intersection of the west line of said Northeast Quarter of the Southwest Quarter and the northerly right-of-way line of U.S. Highway 2;

thence N. 0°46'55"E. along the west line of said Northeast Quarter of the Southwest Quarter, a distance of 150.00 feet;

thence S. 89°13'05"E., 170.00 feet;

thence S. 0°46'55"W, 194.42 feet to said northerly right-of-way line;

thence N. 74°34'29"W. along said northerly right-of-way line, a distance of 175.71 feet to the POINT OF BEGINNING.

EXCEPT the west 20.00 feet thereof, which includes an easement over existing road.

Contains 0.60 acres, more or less.

**THIS TRANSFER IS IN EXCHANGE FOR THREE WATER CONNECTIONS, WITH PRE-PAID HOOKUP FEES, TO THE DIAMOND BENCHVIEW WATER SYSTEM, TO SERVE THE PROPERTY CONTAINED IN TAX PARCEL #RP56N05W198225A.**

QCD 7/19/04, Kaniksu/Diamond Benchview, cont'd.

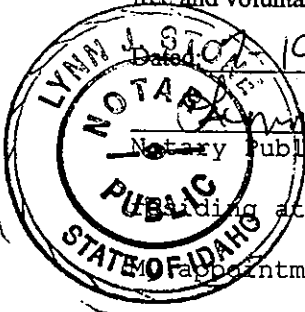
Signed this 19<sup>th</sup> day of July, 2004.

Charles E. Anselmo

CHARLES E. ANSELMO  
PRESIDENT, KANIKSU ENTERPRISES, INC.

STATE OF IDAHO, )  
County of Boundary :ss  
~~Bonner~~ )

I hereby certify that I know or have satisfactory evidence that Charles E. Anselmo is the person who appeared before me, and said person has signed this instrument and acknowledged it to be free and voluntary act for the uses and purposes mentioned in this instrument.



Signed this 8 day of September 2004.

Cindi Pettit

DIAMOND BENCHVIEW WATER ASSOCIATION

STATE OF IDAHO, )  
County of Bonner :ss  
)

I hereby certify that I know or have satisfactory evidence that Cindi Pettit is the person who appeared before me, and said person has signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in this instrument.

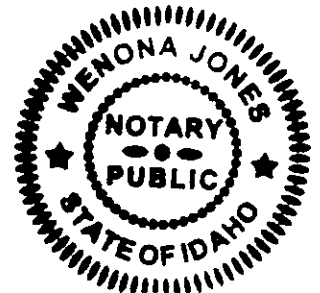
Dated: 9-8-04

Wenona Jones

Notary Public for the State of Idaho,

residing at Priest River

My appointment expires 01/31/06



COPY

**Kaniksu Enterprises, Inc.**  
**P.O. Box 1298**  
**Bonnors Ferry, ID 83805**  
**(208)267-9391 (Voice)**  
**(208)267-8381 (Fax)**  
20 July 2004

Diamond Benchview Water Association  
ATTN: Cindi Pettit or Association Officer  
P.O. Box 2006  
Priest River, ID 83856

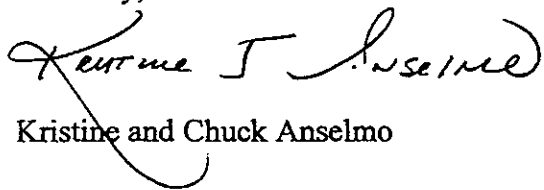
Dear Diamond Benchview Water Association:

Enclosed is the original signed and notarized deed for the Diamond Heights water system well lot. Please note a few items on the deed. Due to an earlier oversight by Mr. Clark, the previous owner, a 20' easement as a portion of the road across the west side was never properly transferred. We have included that 20 feet as part of this deed. We have also included the reference to the three paid water hookups. Please note that the size of the transferred property should meet the well setback requirements that you wanted.

Please review the deed, and if all is agreeable, please have an officer of the association sign it before a notary. It can then be recorded at the Bonner County Courthouse. If you do this, we would appreciate having a copy of the original sent to us for our records. If it is difficult for you to get to Sandpoint for recording, you can send the original back to us, and we will get it recorded and have it returned directly to you.

The property which the well lot currently occupies is about to be sold, so time is of the essence in this. Please contact us to let us know how you wish to proceed.

Sincerely,



Kristine and Chuck Anselmo

## WATER RIGHT LICENSE

THIS IS TO CERTIFY, that Frank H. Anselmo Jr.

| Beneficial Use      | Period of Use                 | Rate of Diversion | Annual Volume  |
|---------------------|-------------------------------|-------------------|----------------|
| Domestic (60 units) | from January 1 to December 31 | 0.32 cfs and      | 72.0 acre feet |
|                     | from _____ to _____           | cfs and           |                |
|                     | from _____ to _____           | cfs and           |                |
|                     | (both dates inclusive)        |                   |                |

**Description and location of place of use:**

[illegible]

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 31 day of August 19 82

## Director

Recorded at the Request of  
(when recorded return to):

FONDA L. JOVICK  
PAINE HAMBLIN LLP  
Attorneys at Law  
102 9th Street  
P.O. Box 789  
Priest River, ID 83856

### **CORRECTION QUITCLAIM DEED**

**FOR VALUE RECEIVED**, the Estate of Frank H. Anselmo, Jr., does hereby convey, release, remise and forever quitclaim unto DIAMOND BENCHVIEW WATER CORPORATION, whose address is P.O. Box 2006, Priest River, Idaho, 83856, the following described premises located in Bonner County, Idaho, to wit:

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thence N 0°46'55" E along the west line of said Northeast Quarter of the Southwest Quarter, a distance of 150.00 feet;

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thence S 0°46'55" W, 194.42 feet to said northerly right-of-way line;

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together with their appurtenances.

Notary Public for \_\_\_\_\_  
Residing at \_\_\_\_\_  
Commission Expires: \_\_\_\_\_