

**BINGHAM COUNTY PLANNING AND ZONING COMMISSION  
PUBLIC HEARING DATE: July 10, 2024**

**STAFF REPORT**

**APPLICATION OF:** Limited Public Hearing regarding a Conditional Use Permit and Variance Request for an existing monopole tower/wireless communication facility

**OWNER:** Darrell Marcus Oler

**APPLICANT:** Vision Wifi, Inc. (c/o Josh and Audrey Preston)

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**REQUESTED ACTION:** Vision WiFi Inc. (owned and operated by Josh and Audrey Preston), on behalf of property owner Darrell Marcus Oler, submitted a Conditional Use Permit Application to allow the placement of an existing 98-foot-tall monopole tower/wireless communication facility to remain on Mr. Oler’s property in a Residential/Agriculture Zoning District and a Variance Application to sections of the Specific Use Performance Standards of Bingham County Code Section 10-7-35.

The Applications were heard by the Planning and Zoning Commission on March 13, 2024 but the Commission tabled action to a subsequent meeting in order to allow the applicable canal company to meet and discuss the placement of the erected tower in relation to its water source. The Reason and Decision as well as the Minutes from the March 13, 2024 Public Hearing are included herein for reference.

On May 20, 2024, a letter from the Blackfoot Slough Manager was received indicating the tower’s location is acceptable. Therefore the Conditional Use Permit and Variance Applications are timely for further consideration with testimony limited to the canal company’s position.

**PARCEL INFORMATION:**

Approx. Parcel Location:	75A E Rich Lane, Blackfoot, ID
Parcel Information:	RP0447613
Township, Range & Section	Township 3 South, Range 36 East, Section 6
Total Acreage:	3.20 acres
Current Land Use:	Pasture with a manufactured home and other outbuildings
Flood Plain:	No
City Impact Area:	No
High Nitrate Priority Area:	No
Fire District:	Blackfoot/Snake River District



**NOTICE OF PUBLIC HEARING:** In compliance with Idaho Code Title 67 Chapter 65 and Bingham County Code Section 10-3-6 and 10-7-35(G):

1. Notice was sent to Government Agencies, property owners within 300' of the property, and those who testified at the Planning and Zoning Commissions March 13, 2024 Public Hearing on June 14, 2024.
2. Notice was also published in the Idaho State Journal and Post Register newspapers on June 14, 2024.
3. Notice was posted on-site on June 18, 2024 and photographs of the site were taken on February 22, 2024.

**TESTIMONY RECEIVED PRIOR TO THE PLANNING & ZONING COMMISSION'S PUBLIC HEARING:**

(T-10) Spencer Larsen, Blackfoot Slough Manager, stated as requested by Justin Oleson on behalf of Vision WiFi, the board of the Blackfoot Slough considered the location of the internet and communications tower near the Blackfoot Slough on the Oler property South of Rich Lane and East of Blackfoot. The tower is approximately 43 feet from the water with a guy wire approximately 38 feet from the water. This should give us sufficient room to access the canal with equipment if necessary for maintenance and operations. The board of the Blackfoot Slough does not object to the location of the tower so far as our easement is concerned.

(T-11) Bingham County Surveyor had no comments or concerns.

(T-12) Bingham County Public Works had no comments.

(T-13) Idaho Department of Environmental Quality provided general recommendations for land development projects. *Staff clarified with DEQ that the inclusion of Best Management Practices for gravel/mining was inadvertent and do not apply to this Application.*

**COMMISSION DISCUSSION:** Commission discussion shall include review of Bingham County Code Section 10-8-3: *Review of Application*, 10-8-7 *Action by Commission*, 10-8-8 *Supplementary Conditions and Safeguards*, and Section 10-7-35 *Special Use Performance Standards for towers, broadcast, cell and telecommunication.*

**COMMISSION DECISION:** The Commission shall approve, conditionally approve or disapprove the Application as presented.

If more information is needed for a determination to grant a Conditional Use Permit, the Commission may request information from the Planning Staff or Public Agencies concerning social, economic, fiscal and environmental effects of the proposed conditional use. If the Application is approved or approved with modifications, the Commission shall direct the Administrator to issue a Conditional Use Permit listing the conditions specified for approval. The Decision may be appealed to the Board of County Commissioners in writing within 10 days from the date of the Reason and Decision.

**Sample Motion for Approval with Conditions:** Based on the record, I move to approve the request by Darrell Marcus Oler and Vision Wifi, Inc. for a Conditional Use Permit to allow a 98' monopole/wireless communication facility located on his property at approx. 75A E Rich Lane, Blackfoot, ID, in a Residential/Agricultural Zoning District subject to the following condition:

1. to grant a variance for all regulations under 10-7-35 due to undue hardship for the reason of the previous construction of this tower with a special regulation that they apply for and obtain a Building Permit.

**Sample Motion for Denial:** I move to deny the request by Darrell Marcus Oler and Vision Wifi, Inc. for a Conditional Use Permit to allow a 98' monopole/wireless communication facility located on his property at approx. 75A E Rich Lane, Blackfoot, ID, in a Residential/Agricultural Zoning District based on the following section of Bingham County Code or Idaho Code (must specifically state which section and basis for denial)

**ATTACHMENTS**

**EXHIBIT #**

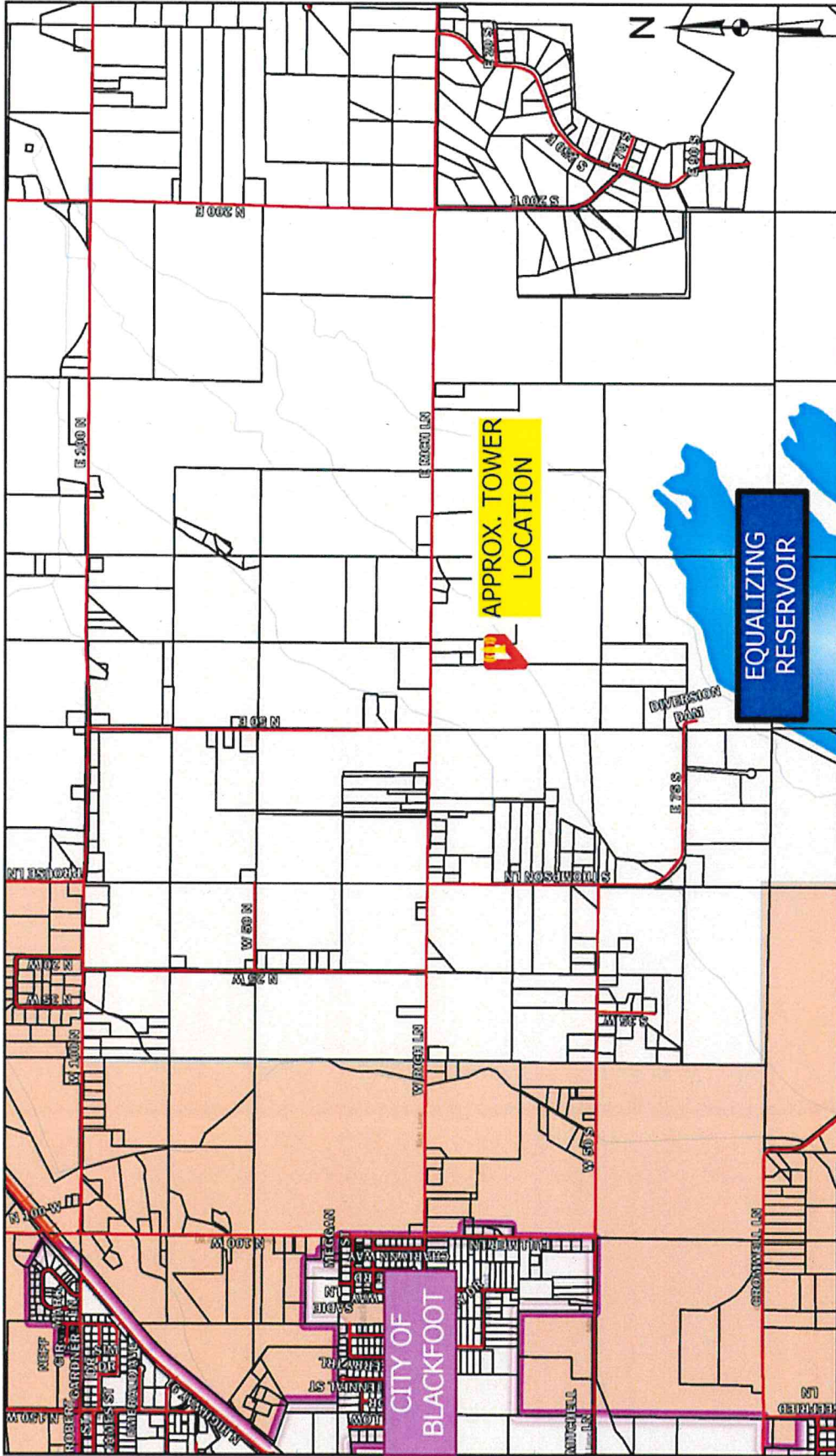
Maps	S2 – S8
Verification of compliance with notice requirements and photographs of the subject parcel	S-9A, S-10, S-11A, S-12A, and S-13A
Reason and Decision and Minutes from March 13, 2024 Planning and Zoning Commission Public Hearing	S-16 and S-17
Testimony received prior to this Planning and Zoning Commissions Public Hearing	T10 - T13







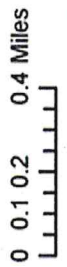
**VISION WIFI MONOPOLE : OLER CUP - COMPREHENSIVE PLAN MAP**



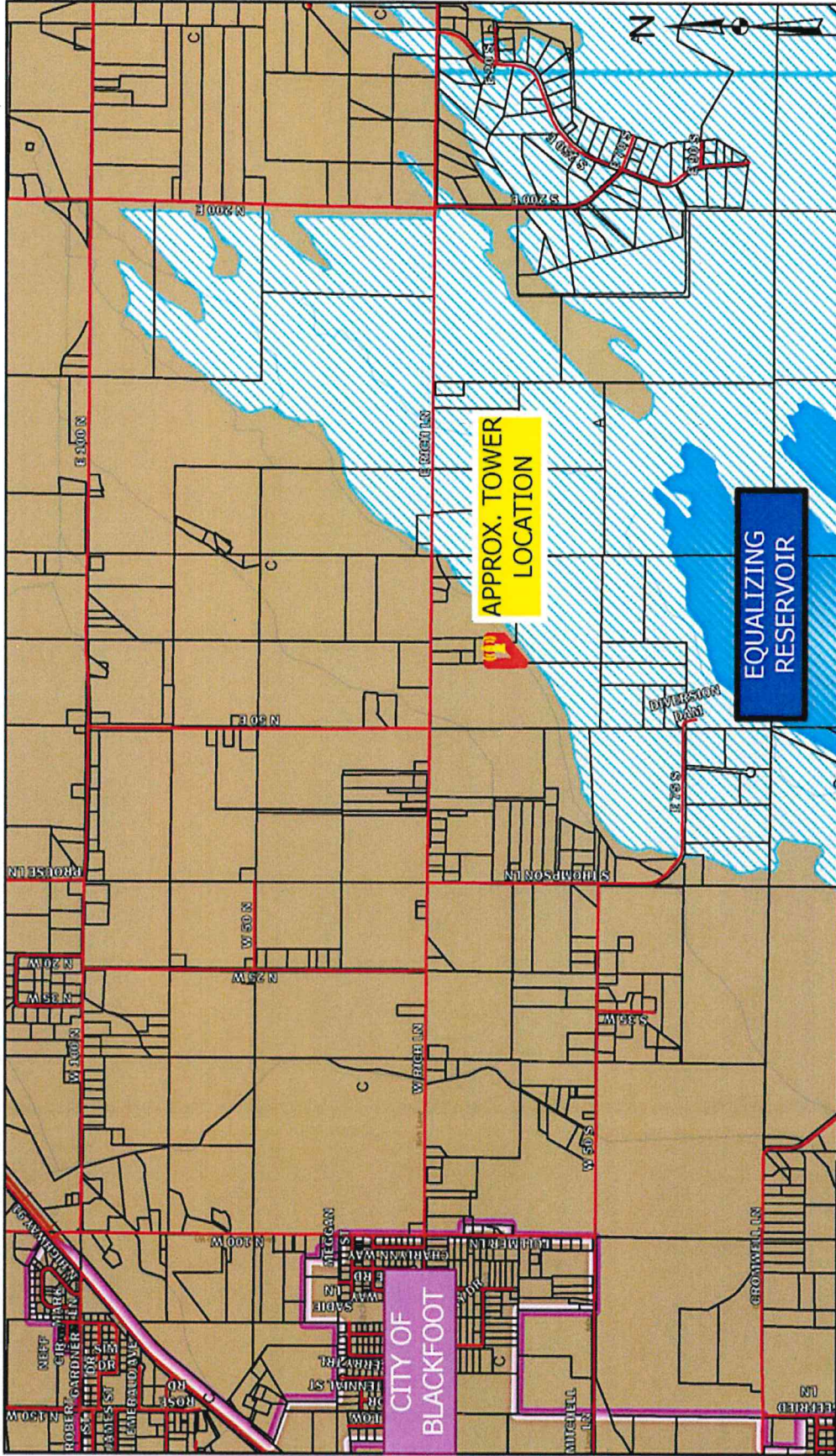
**LEGEND**

- Vision WiFi : Oler CUP
- Approx. Tower Location
- Parcels
- Roads
- City Boundary
- Industrial/Commercial
- Multi\_Use
- Natural Resource Area/Agriculture
- Residential/Residential Agriculture
- Equalizing Reservoir









**Exhibit S-4**



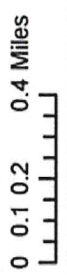
# VISION WIFI MONOPOLE : OLER CUP - FLOOD PLAIN MAP



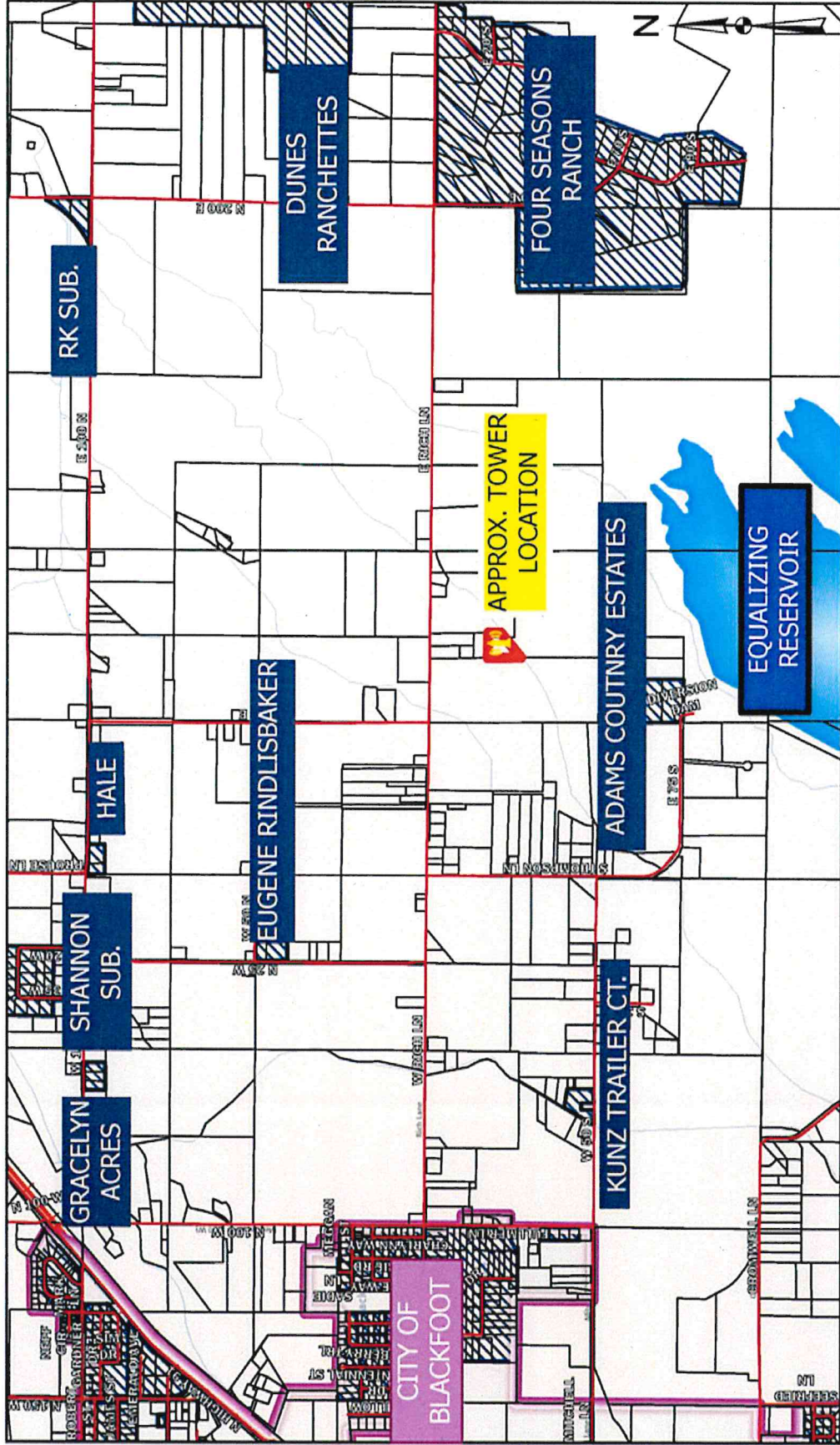
## LEGEND

-  Vision WiFi : Oler CUP
-  Approx. Tower Location
-  Parcels
-  Roads
-  A; AE; AH; AO - In
-  X - Out
-  City Boundary
-  Equalizing Reservoir

**Exhibit S-5**



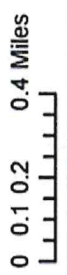
**VISION WIFI MONOPOLE : OLER CUP - SUBDIVISION MAP**



**LEGEND**

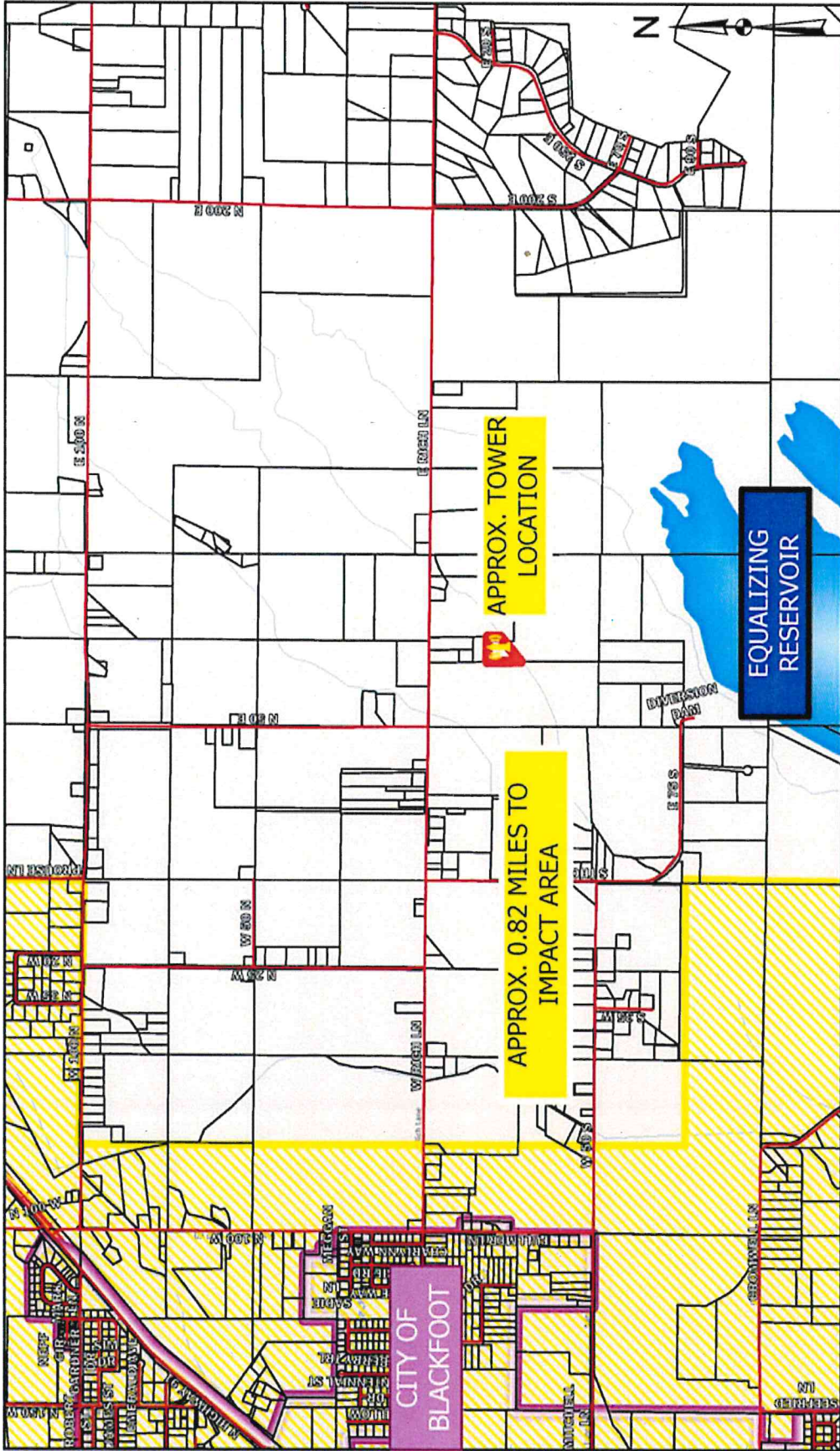
-  Vision WiFi : Oler CUP
-  Approx. Tower Location
-  Parcels
-  Roads
-  Subdivisions
-  City Boundary
-  Equalizing Reservoir

**Exhibit S-6**





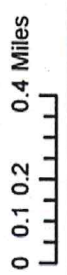
**VISION WIFI MONOPOLE : OLER CUP - AREA OF IMPACT MAP**



**LEGEND**

-  Vision WiFi : Oler CUP
-  Approx. Tower Location
-  Parcels
-  Roads
-  Subdivisions
-  City Boundary
-  Equalizing Reservoir

**Exhibit S-7**



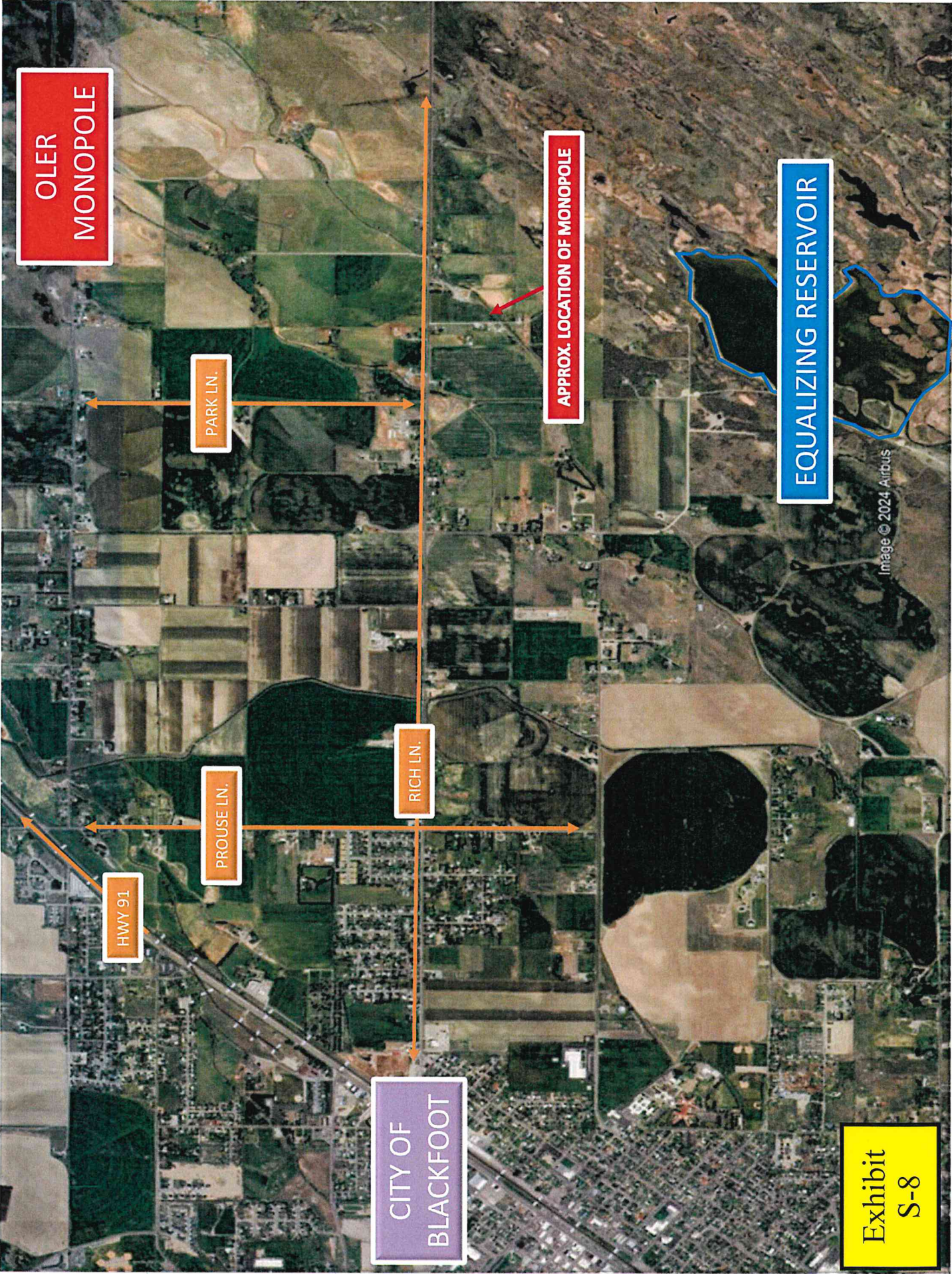


Exhibit S-8



  
**BINGHAM COUNTY**  
**PLANNING & DEVELOPMENT SERVICES**

**NOTICE OF POSTING**

I hereby certify that on June 18, 2024, I personally posted the Bingham County, Planning & Development Department Notice for File No. 3201 at the following location(s):

**Approx. Location: 75 A Rich Lane, Blackfoot, Idaho, Parcel No. RP0447613, Township 3S, Range 36E, Section 06, consisting of approx. 3.20 Acres**



*Addie Jo Harris*

Addie Jo Harris  
Assistant Director & Lead Planner

**Exhibit  
S-9A**

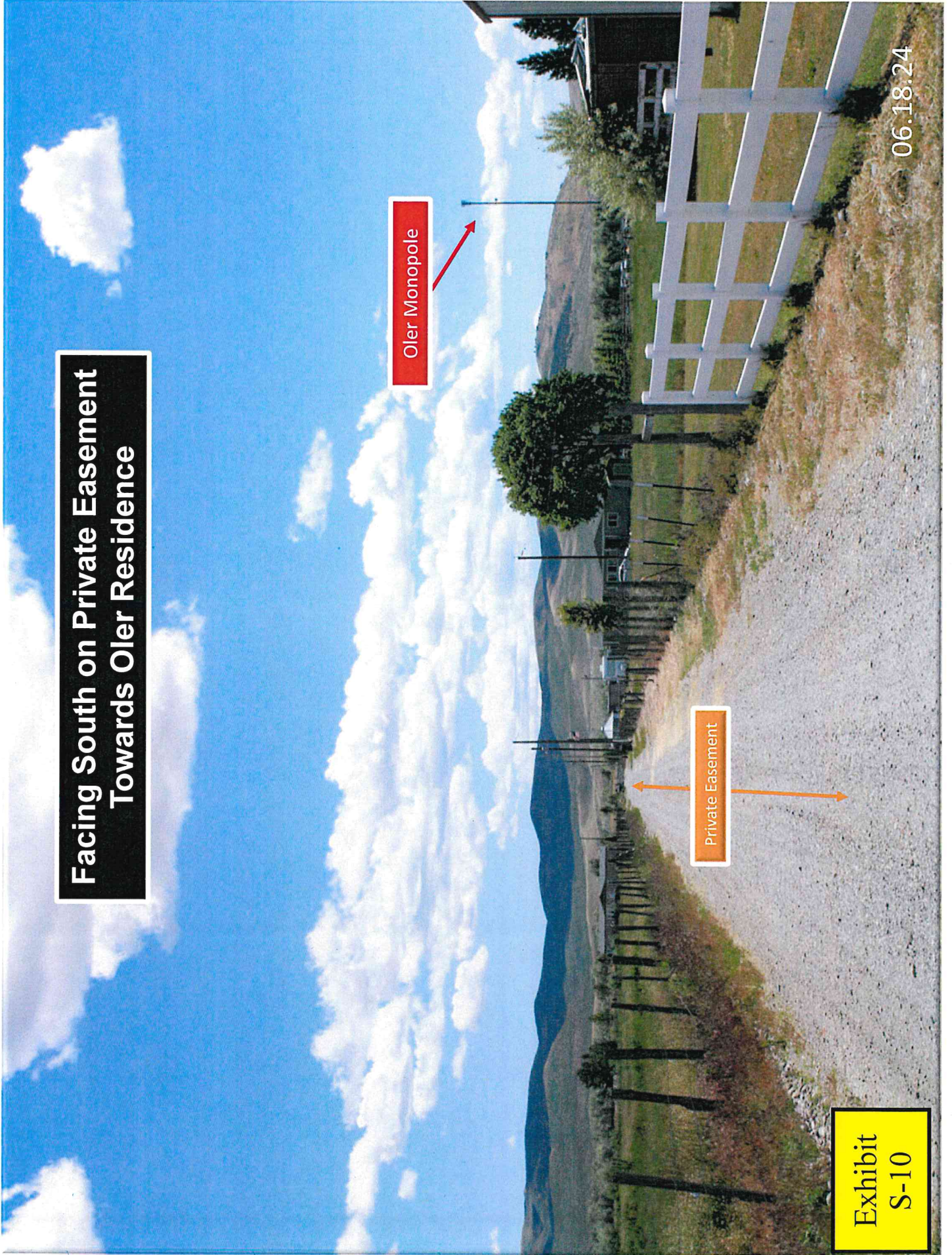
**Facing South on Private Easement  
Towards Oler Residence**

Oler Monopole

Private Easement

**Exhibit  
S-10**

06.18.24



**Facing Southwest Towards 75A E Rich Lane  
From Private Easement**

Oler Monopole

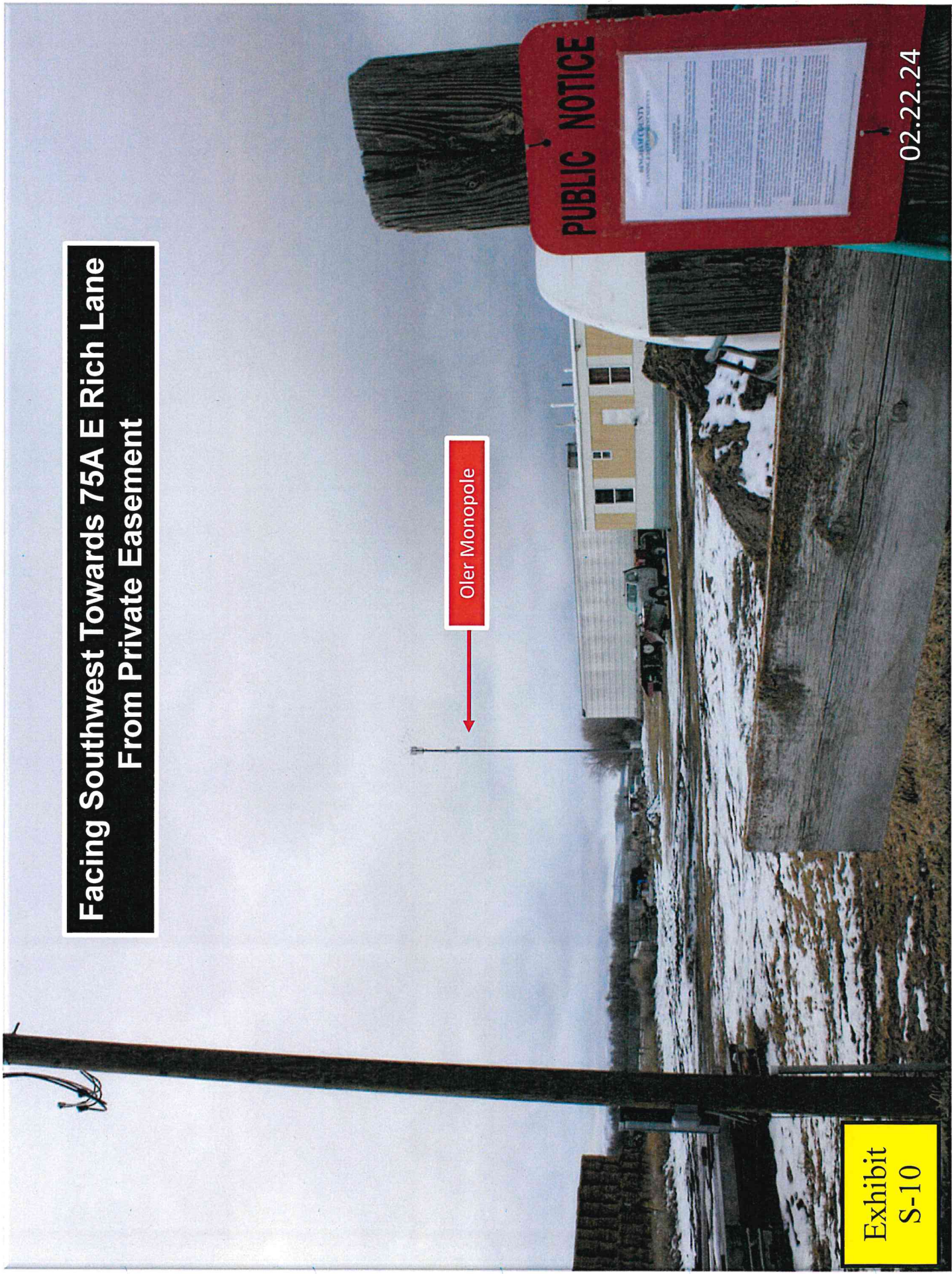


**PUBLIC NOTICE**

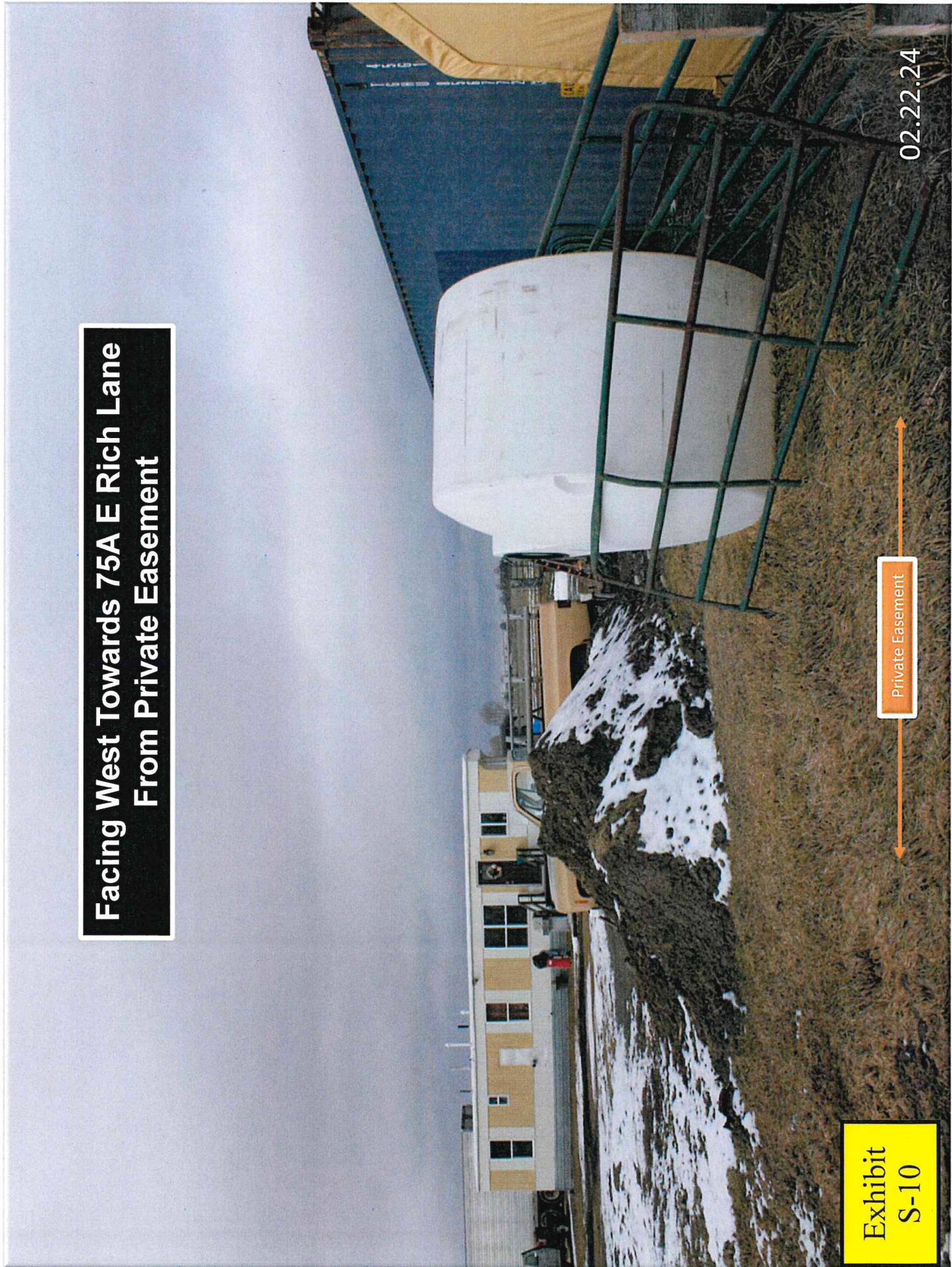
MINNEAPOLIS CITY PLANNING & DEVELOPMENT DEPARTMENT

02.22.24

**Exhibit  
S-10**



**Facing West Towards 75A E Rich Lane  
From Private Easement**



**Exhibit  
S-10**

Private Easement

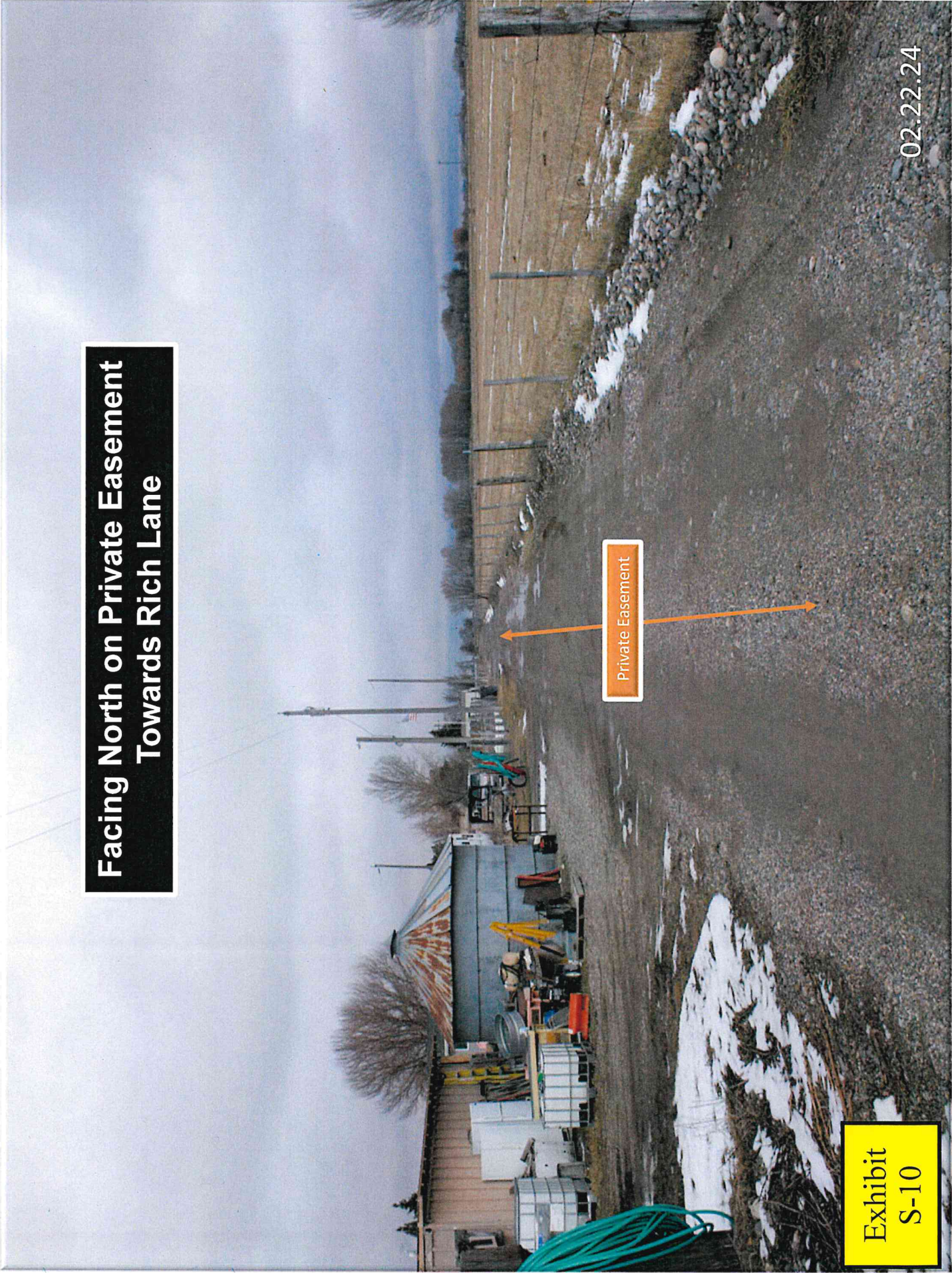
02.22.24

**Facing North on Private Easement  
Towards Rich Lane**

Private Easement

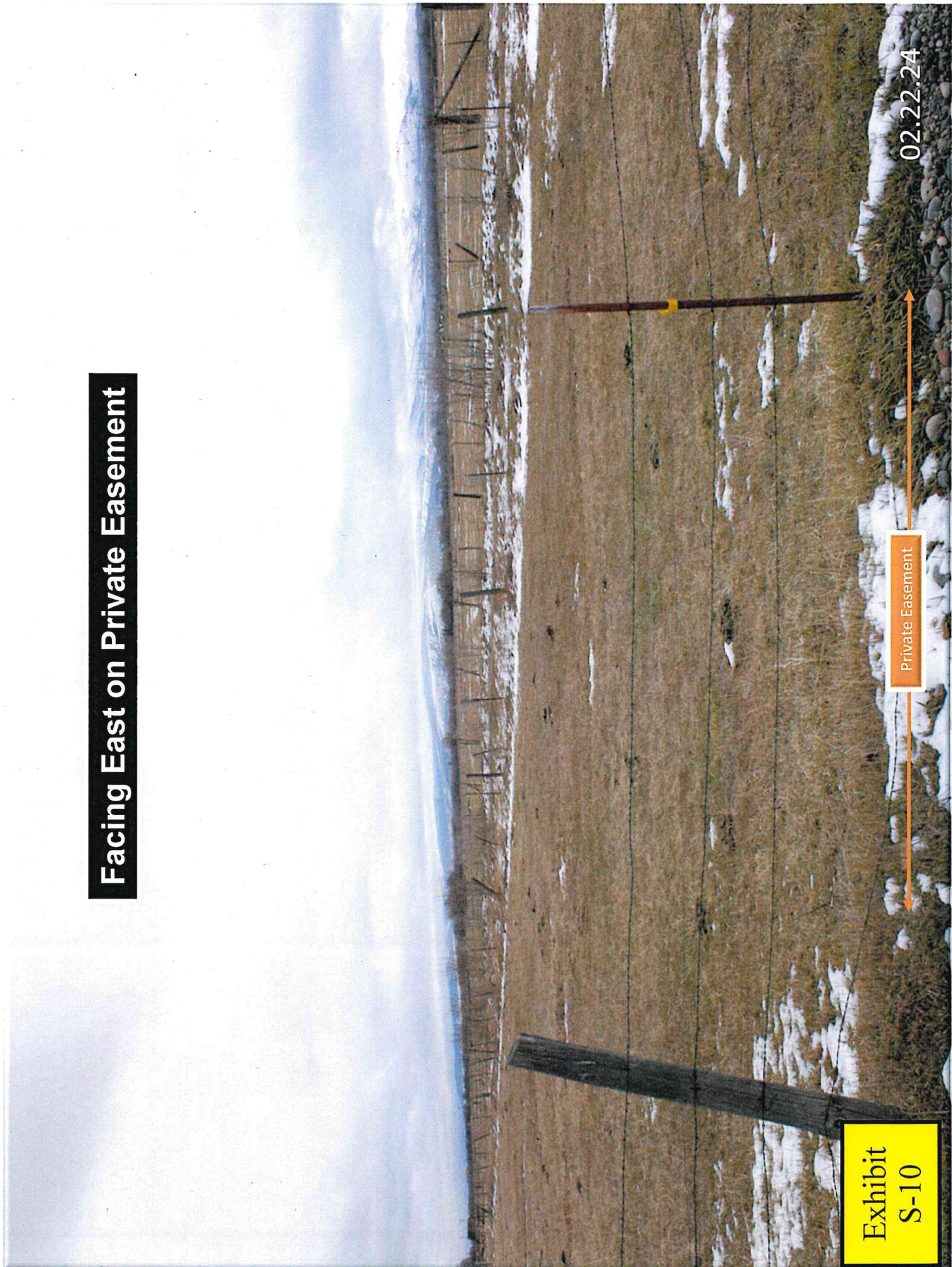
**Exhibit  
S-10**

02.22.24





**Facing East on Private Easement**



**Exhibit  
S-10**

Private Easement

02.22.24

**Facing South on Rich Lane**



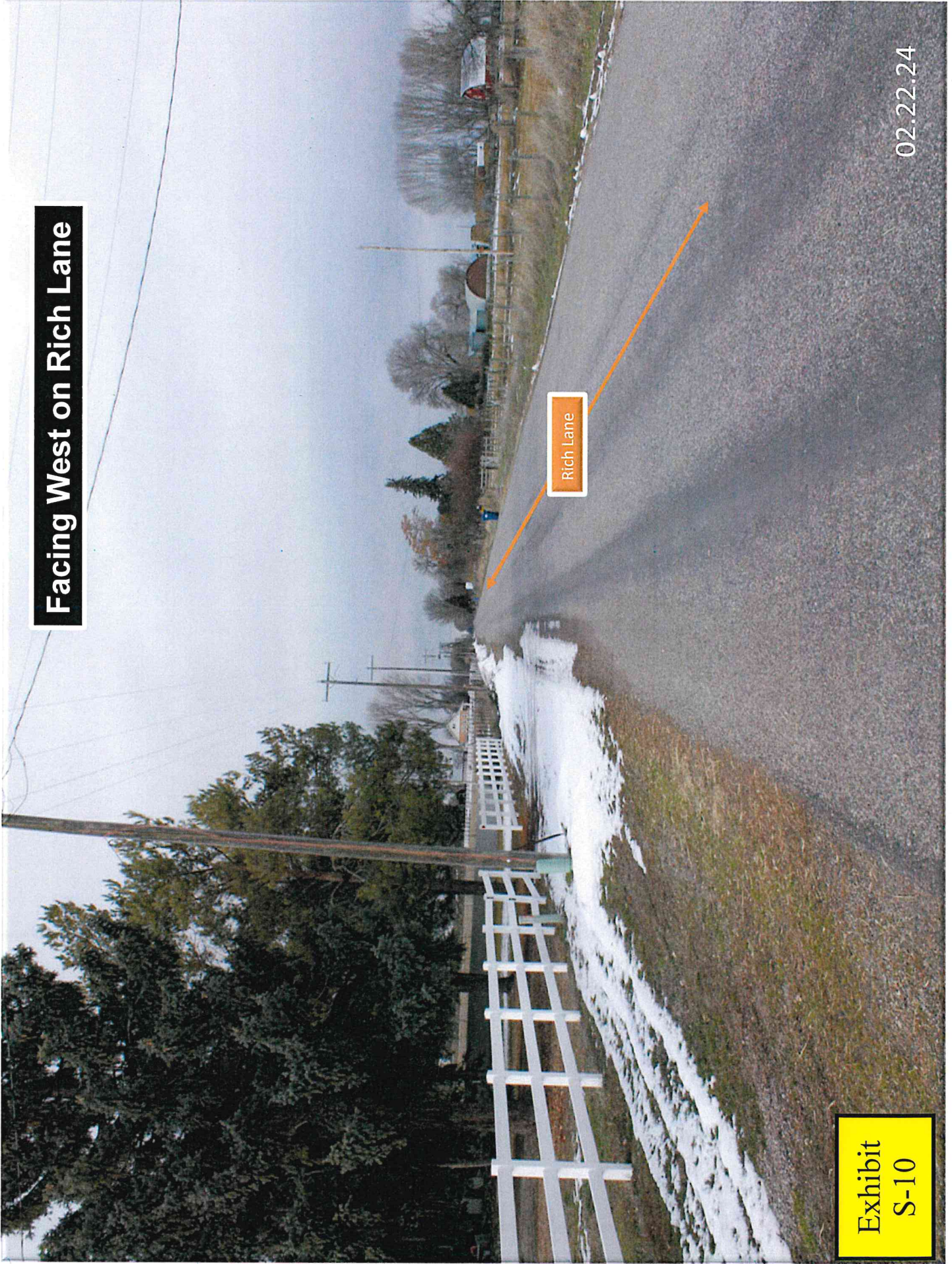
Private Easement

Rich Lane

Exhibit  
S-10

02.22.24

Facing West on Rich Lane

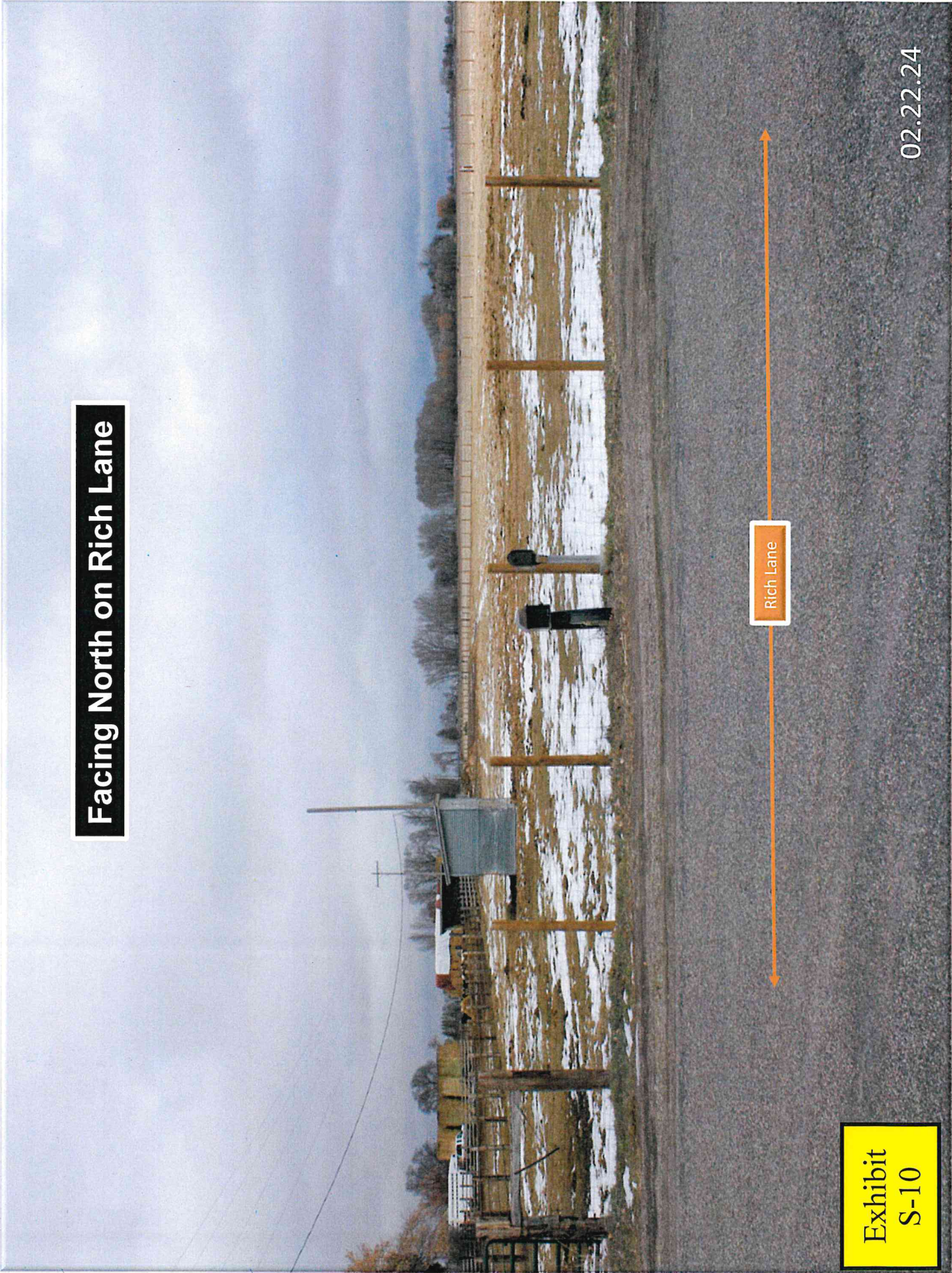


Rich Lane

Exhibit  
S-10

02.22.24

**Facing North on Rich Lane**



**Exhibit  
S-10**

02.22.24

**Facing East on Rich Lane**



Rich Lane

Direction of Oler  
Monopole

Exhibit  
S-10

02.22.24

**Facing Southwest on Rich Lane**

Oler Monopole

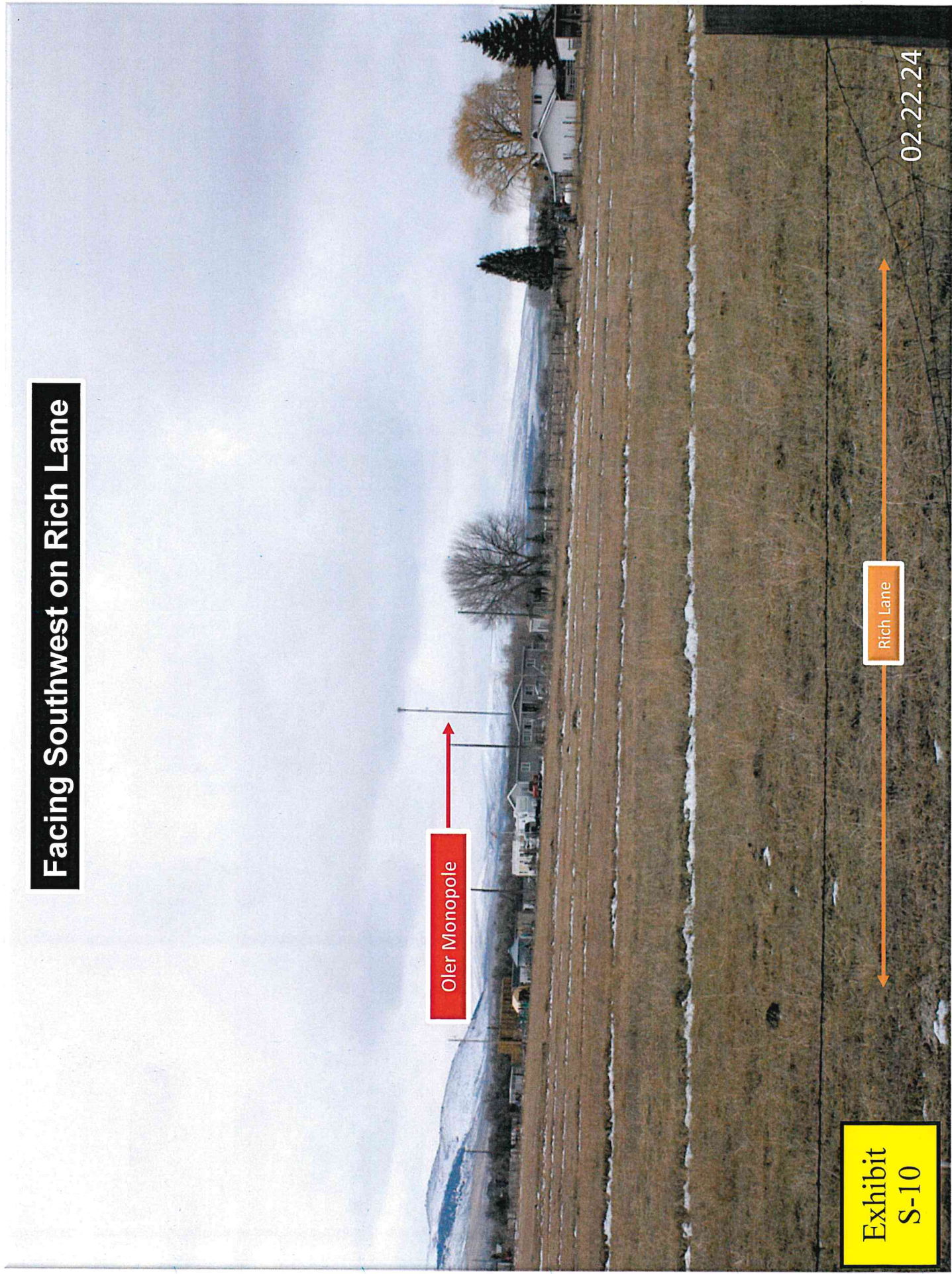


**Exhibit S-10**

Rich Lane



02.22.24





# PROOF OF PUBLICATION Idaho State Journal and Post Register

State of Idaho  
County of Bingham

I, Collins Crapo first being duly sworn, depose and say: That I am the Processing Clerk employed by Adams Publishing Group of the Rockies LLC, publishers of The Idaho State Journal and Post Register, a newspaper of general circulation, published 4 days, Tuesday, Wednesday, Friday and Saturday, at Pocatello and Idaho Falls, Idaho.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said Idaho State Journal and Post Register and on IdahoPublicNotices.com for 1 day(s), first publication having been made on 06/15/2024 last publication having been made on 06/15/2024, and that the said notice was published in the regular and entire issue of said papers on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.

*Collins Crapo*

Subscribed and sworn to before me, on this 17th day of June, 2024

*Beth Crossley*

Notary Public  
My commission expires:

\_\_\_\_\_ attached jurat \_\_\_\_\_

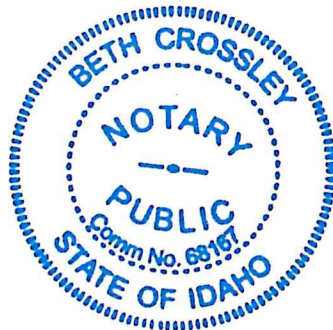
STATE OF IDAHO

ss.

COUNTY OF BINGHAM

On this 17th day of June, 2024 before me, the undersigned, a Notary public for said state, personally appeared Collins Crapo, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he/she/they executed the same,

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



*Beth Crossley*  
Notary Public for APG of the Rockies  
Residing: Idaho Falls, Idaho  
Commission expires: 7/28/28

**BINGHAM COUNTY  
NOTICE OF PUBLIC HEARING**

**NOTICE IS HEREBY GIVEN** that the Bingham County Planning & Zoning Commission will hold Public Hearings on **July 10, 2024** in Courtroom #1, Bingham County Courthouse, 501 N. Maple, Blackfoot, Idaho. The meeting will start at 6:00 pm or as soon as it may be heard. For more information on the Applications please refer to <https://www.binghamid.gov/departments/planninganddevelopment/PublicHearings>

- A. The following Public Hearing Applications will be heard:
  1. **VARIANCE FROM THE SETBACK REQUIREMENT TO A WATERWAY FOR A STRUCTURE (ACTION ITEM: DECISION)** Property Owner: Jason Stevens. Approx. Location: 1288 N 590 E, Shelley, ID. Parcel No. RP8270460. T1N, R36E, Sec36, approx. 1.22 acres
  2. **VARIANCE FROM THE SETBACK REQUIREMENT FROM AN EASEMENT TO A STRUCTURE (ACTION ITEM: DECISION)** Property Owner: Trent Armstrong. Approx. Location: 907 E 1230 N, Shelley, ID. Parcel No. RP8247700. T1N, R37E, Sec 34, approx. 0.91 acres
  3. **LIMITED PUBLIC HEARING RE: CONDITIONAL USE PERMIT AND VARIANCE REQUEST FOR AN EXISTING MONOPOLE TOWER BY APPLICANT, VISION WIFI, INC.: (ACTION ITEM: DECISION)** Property owner Darrell M. Oler. Approx. Location: 75A E Rich Lane, Blackfoot, ID. Parcel No. RP0447613, T3S, R36E, Sec 6, approx. 3.2 acres
  4. **1st AMENDED ESTELLA ROSE SUBDIVISION (ACTION ITEM: RECOMMENDATION) AND IF RECOMMENDED FOR APPROVAL, A VARIANCE FROM THE SETBACK REQUIREMENT FROM AN EASEMENT TO A STRUCTURE (ACTION ITEM: DECISION)** Property Owners Terry and Penny Fowler. Approx. Location: 134B N 150 W, Blackfoot, ID. Parcel No. RP8267490, T2S, R35E, Sec 26, approx. 3.79 acres
  5. **FREEDOM ESTATES SUBDIVISION (ACTION ITEM: RECOMMENDATION) AND IF RECOMMENDED FOR APPROVAL, A VARIANCE FROM THE SETBACK REQUIREMENT FROM AN EASEMENT TO A STRUCTURE (ACTION ITEM: DECISION)** Property Owners: Jason and Rebecca Young. Approx. Location: 755 W 25 S, Blackfoot, ID. Parcel No. RP0229109, T3S, R34E, Sec 2, approx. 7.25 acres
  6. **SOUTH THOMPSON LANE SUBDIVISION (ACTION ITEM: RECOMMENDATION)** Property Owners: Lynn Coe Leavitt, Linnea Chidester, & Jenny Orgill. Approx. Location: South of 81 S 35 E, Blackfoot, ID. Parcel No. RP0447203, T3S, R36E, Sec 6, approx. 11.69 acres
  7. **VARIANCE FROM THE SETBACK REQUIREMENT FROM A RIGHT OF WAY TO A STRUCTURE (ACTION ITEM: DECISION)** Property Owners: Randy and Lana Line. Approx. Location: Parcel No. RP0454802, East of 597 E 1500 N, Shelley, ID. T1N, R37E, Sec 19, approx. 1.77 acres & Parcel No. RP0373303, South of 597 E 1500 N, Shelley, ID, T1N, R36E, Sec 24, approx. 1.26 acres. for a total of approx. 3.03 acres

All persons interested or persons who are affected are invited to attend said Public Hearings to show cause, if any, if the requested Applications meet Bingham County Code and may give testimony in favor, neutral, or in opposition of said requests. According to Bingham County Code Section 10-3-6(7) no more than two pages of written testimony will be accepted less than eight calendar days before a hearing. Written testimony can be provided via mail at 490 N. Maple, Suite A, Blackfoot, ID 83221 or by email at [planningtestimony@binghamid.gov](mailto:planningtestimony@binghamid.gov) Individuals who need accessible communications or other accommodations in order to participate are invited to make their needs known to the Bingham County Clerk, 3 to 5 days in advance. ADA/504 Compliance.

Dated this 11th day of June, 2024.

*/s/ Tiffany G. Olsen*  
Tiffany G. Olsen

Planning & Development Director  
Bingham County, Idaho

Published: June 15th, 2024 (PR/ISJ26092-524725)





## Blackfoot/Snake River Government Agency Notice

Company Name	Attention	Address	City	St	Zip
Bingham County Appraisal		Service by Email			
Bingham County Assessor		Service by Email			
Bingham County Public Works		Service by Email			
Bingham County Sheriff		Service by Email			
Bingham County Surveyor		Service by Email			
Bingham County Treasurer		Service by Email			
Aberdeen/Springfield Canal Co.		P.O. Box 857	Aberdeen	ID	83210
Blackfoot Fire District	Verl Jarvie	225 N. Ash	Blackfoot	ID	83221
Blackfoot Irrigation Co		108 E 200 N	Blackfoot	ID	83222
Blackfoot Post Office	Postmaster	165 W Pacific	Blackfoot	ID	83221
Blackfoot School District	Superintendent	270 E. Bridge	Blackfoot	ID	83221
Bureau of Land Management	Land & Realty	4350 S. Cliffs Dr.	Pocatello	ID	83204
Bureau of Land Management	Land & Realty	1405 Hollipark Dr.	Idaho Falls	ID	83401
Bureau of Reclamation	Laura Crandall	470 22nd Street	Heyburn	ID	83336
City of Blackfoot	Mayor/City Council	157 N. Broadway	Blackfoot	ID	83221
Corbett Slough Ditch Company		78 N 100 W	Blackfoot	ID	83222
Department of Environmental Quality	Allan Johnson	444 Hospital Way #300	Pocatello	ID	83201
Department of Water Resources		900 N. Skyline Dr. #A	Idaho Falls	ID	83402
Eastern Idaho Water Company		279 N 400 E	Blackfoot	ID	83221
Fort Hall Business Council		PO Box 306	Fort Hall	ID	83203
Groveland Water & Sewer	Marc Pange	144 N 400 W	Blackfoot	ID	83221
Idaho Department of Lands	Pat Brown	3563 Ririe Highway	Idaho Falls	ID	83401
Idaho Department of Transportation	Eric Staats	5151 S. 5th Ave	Pocatello	ID	83204
Idaho Fish & Game	Becky Johnson	1345 Barton Road	Pocatello	ID	83204
Idaho Irrigation District		496 E. 14th Street	Idaho Falls	ID	83404
Idaho Power	Design Leader	301 E Benton Street	Pocatello	ID	83201
Idaho Public Health Department	Ken Keller	1901 Alvin Ricken Dr.	Pocatello	ID	83201
Intermountain Gas Co	Pocatello Marketing	12584 N Tyhee Rd.	Pocatello	ID	83202
Moreland Water & Sewer District		PO Box G	Moreland	ID	83256
New Lavaside Canal	Von Cornelison	66 E. River Road	Blackfoot	ID	83221
Parson's Ditch Co		638 W 100 S	Blackfoot	ID	83222
People's Canal & Irrigation Co		1050 W. Highway 39	Blackfoot	ID	83221
Qwest Engineering	Jon Davidson	930 W. Cedar Street	Pocatello	ID	83201
Riverside Canal Co		379 W 150 N	Blackfoot	ID	83221
Shoshone Bannock Tribal Land Use Policy Commission		PO Box 306	Fort Hall	ID	83203
Smith-Maxwell Ditch Co		839 W Riverton Rd.	Blackfoot	ID	83220
Snake River School District	Superintendent	103 S. 900 W.	Blackfoot	ID	83221
Snake River Valley Irrigation		P.O. BOX 70	Basalt	ID	83218

**Exhibit  
S-12A**

## Blackfoot/Snake River Government Agency Notice

United Canal Company		762 W Hwy 39	Blackfoot	ID	83221
United Canal Company	Spencer Larsen	864 W 650 N	Blackfoot	ID	83221
Watson Canal Co	Karl Williams	237 S 900 W	Blackfoot	ID	83221
Wearyrick Ditch Co		66 S 700 W	Blackfoot	ID	83221

### 42 Government Agencies

### NOTICE OF MAILING

I hereby certify on June 14, 2024, I, Ashley Taylor, personally mailed notice of the proposed request to the above named Government Agencies.

*Ashley Taylor*

Ashley Taylor  
Planner



**BINGHAM COUNTY**  
**PLANNING & DEVELOPMENT SERVICES**

**NOTICE TO PROPERTY OWNERS WITHIN 300 FEET**  
**NOTICE TO GOVERNMENT AGENCIES**  
**PER BINGHAM COUNTY CODE SECTION 10-3-6 and 10-7-35(G)**

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**BINGHAM COUNTY**  
**NOTICE OF PUBLIC HEARING**

**NOTICE IS HEREBY GIVEN** that the Bingham County Planning & Zoning Commission will hold a Public Hearing **July 10, 2024** in Courtroom #1, Bingham County Courthouse, 501 N. Maple, Blackfoot, Idaho. The meeting will start at 7:00 pm or as soon as it may be heard. Please refer to our website <https://www.binghamid.gov/planning-zoning-commission> to see the order of the meeting and for more information on the Application.

The following Applications will be heard:

**LIMITED PUBLIC HEARING RE: CONDITIONAL USE PERMIT AND VARIANCE REQUEST FOR AN EXISTING MONOPOLE TOWER/WIRELESS COMMUNICATION FACILITY: (ACTION ITEM: DECISION)** Vision WiFi Inc. (owned and operated by Josh and Audrey Preston), on behalf of property owner Darrell Marcus Oler, submitted a Conditional Use Permit to allow the placement of an existing 98-foot-tall monopole tower/wireless communication facility on Mr. Oler's property in a Residential/Agriculture Zoning District and a Variance Application to sections of the Specific Use Performance Standards of Bingham County Code Section 10-7-35. The Applications were heard by the Planning and Zoning Commission on March 13, 2024 but the Commission tabled action to a subsequent meeting in order to allow the applicable canal company to meet and discuss the placement of the previously erected tower in relation to its water source. A letter from the Blackfoot Slough Manager has been provided indicating the tower's location is acceptable and the Applications will be presented for further consideration with testimony limited to the canal company's letter.

**Approx. Location: 75A E Rich Lane, Blackfoot, ID. Parcel No. RP0447613, T3S R36E Sec 6, consisting of approx. 3.2 acres**

All persons interested or persons who are affected are invited to attend said Public Hearing to show cause, if any, if the requested Application meets Bingham County Code and may give testimony in favor, neutral or in opposition of said request. According to Bingham County Code Section 10-3-6(7), no more than two pages of written testimony will be accepted less than eight calendar days before a hearing. You may mail at 490 N. Maple, Suite A, Blackfoot, ID 83221 or by email at [planningtestimony@binghamid.gov](mailto:planningtestimony@binghamid.gov) Individuals who need accessible communications or other accommodations in order to participate are invited to make their needs known to the Bingham County Clerk, 3 to 5 days in advance. ADA/504 Compliance.

Dated this 14<sup>th</sup> day of June, 2024.

Tiffany G. Olsen  
Planning & Development Director

**PROPERTY OWNERS LIST**  
**OLER/VISION WIRELESS : OLER MONOPOLE/WIRELESS**  
**COMMUNICATION FACILITY CUP AND VARIANCE**

OWNER	ADDRESS	CITY   STATE   ZIP
ARLIE & TRACI HEBDON	91 E RICH LN	BLACKFOOT ID 83221-0398
BRENDA MACFARLANE	PO BOX 398	BLACKFOOT ID 83221-0398
CINDY OLER	75 E RICH LN	BLACKFOOT ID 83221-0398
CRAIG & JULIE STEPHENSON	77 E RICH LN	BLACKFOOT ID 83221-0398
DARRELL OLER	75A E RICH LN	BLACKFOOT ID 83221-0000
DEVON WOODLAND	53 E RICH LN	BLACKFOOT ID 83221-0000
KRISTA & PATRICK ROBINSON	69 E RICH LN	BLACKFOOT ID 83221-0000

**7 PROPERTY OWNERS**

**NOTICE OF MAILING**

I hereby certify on June 14, 2024 I, Ashley Taylor, personally mailed notice of the proposed request to the above named property owners who are within 300 feet of the property in

*Ashley Taylor*

Ashley Taylor  
 Planner

**INDIVIDUALS WHO TESTIFIED AT THE MARCH 13, 2024 PLANNING  
 & ZONING COMMISSION PUBLIC HEARING**

OWNER	ADDRESS	CITY   STATE   ZIP
JOSH PRESTON	977 W 100 N	BLACKFOOT ID 83221
JUSTIN OLESON	PO BOX 1047	BLACKFOOT ID 83221
VERL ALLEN JENSEN	139 N 365 W #B	BLACKFOOT ID 83221
CRAIG STEPHENSON	77 E RICH LANE	BLACKFOOT ID 83221
DAVID R. HATCH	70 E RICH LANE	BLACKFOOT ID 83221

**NOTICE OF MAILING**

I hereby certify on June 14, 2024 I, Addie Jo Jackman, personally mailed notice of the proposed request to the above named individuals.

*Addie Jo Jackman*

Addie Jo Jackman  
 Assistant Director/Lead Planner

**Exhibit  
 S-13A**



# BINGHAM COUNTY

## PLANNING & DEVELOPMENT SERVICES

### NOTICE TO PROPERTY OWNERS WITHIN 300 FEET NOTICE TO GOVERNMENT AGENCIES PER BINGHAM COUNTY CODE SECTION 10-3-6 and 10-7-35(G)

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#### BINGHAM COUNTY NOTICE OF PUBLIC HEARING

**NOTICE IS HEREBY GIVEN** that the Bingham County Planning & Zoning Commission will hold a Public Hearing **July 10, 2024** in Courtroom #1, Bingham County Courthouse, 501 N. Maple, Blackfoot, Idaho. The meeting will start at 7:00 pm or as soon as it may be heard. Please refer to our website <https://www.binghamid.gov/planning-zoning-commission> to see the order of the meeting and for more information on the Application.

The following Applications will be heard:

**LIMITED PUBLIC HEARING RE: CONDITIONAL USE PERMIT AND VARIANCE REQUEST FOR AN EXISTING MONOPOLE TOWER/WIRELESS COMMUNICATION FACILITY: (ACTION ITEM: DECISION)** Vision WiFi Inc. (owned and operated by Josh and Audrey Preston), on behalf of property owner Darrell Marcus Oler, submitted a Conditional Use Permit to allow the placement of an existing 98-foot-tall monopole tower/wireless communication facility on Mr. Oler's property in a Residential/Agriculture Zoning District and a Variance Application to sections of the Specific Use Performance Standards of Bingham County Code Section 10-7-35. The Applications were heard by the Planning and Zoning Commission on March 13, 2024 but the Commission tabled action to a subsequent meeting in order to allow the applicable canal company to meet and discuss the placement of the previously erected tower in relation to its water source. A letter from the Blackfoot Slough Manager has been provided indicating the tower's location is acceptable and the Applications will be presented for further consideration with testimony limited to the canal company's letter.

**Approx. Location: 75A E Rich Lane, Blackfoot, ID. Parcel No. RP0447613, T3S R36E Sec 6, consisting of approx. 3.2 acres**

All persons interested or persons who are affected are invited to attend said Public Hearing to show cause, if any, if the requested Application meets Bingham County Code and may give testimony in favor, neutral or in opposition of said request. According to Bingham County Code Section 10-3-6(7), no more than two pages of written testimony will be accepted less than eight calendar days before a hearing. You may mail at 490 N. Maple, Suite A, Blackfoot, ID 83221 or by email at [planningtestimony@binghamid.gov](mailto:planningtestimony@binghamid.gov) Individuals who need accessible communications or other accommodations in order to participate are invited to make their needs known to the Bingham County Clerk, 3 to 5 days in advance. ADA/504 Compliance.

Dated this 14<sup>th</sup> day of June, 2024.

Tiffany G. Olsen  
Planning & Development Director

**Bingham County Planning & Zoning Commission Meeting**  
**March 13, 2024 (Part 2 of 2)**

opposition provided on the Belnap Tower Application which was in that the tower is already placed and he didn't think anything additional needed to be done to allow it to remain. The motion carried.

**8. CONDITIONAL USE PERMIT AND VARIANCE REQUEST FOR EXISTING MONOPOLE TOWER/WIRELESS COMMUNICATION FACILITY IDENTIFIED AS THE OLER MONOPOLE: (ACTION ITEM: DECISION)** Property owner, Darrell Marcus Oler, represented by Vision Wifi, Inc. (owned and operated by Josh and Audrey Preston), requested a Conditional Use Permit to allow the placement of an existing 98-foot-tall monopole tower/wireless communication facility on his property erected on August 14, 2023. Approx. Location: 75A E Rich Lane, Blackfoot, Idaho. Parcel No. RP0447613, Township 3S, Range 36E, Section 6, consisting of approx. 3.2 acres in a Residential/ Agricultural Zoning District.

Testimony received prior to the Public Hearing included:

(T-1) Bingham County Surveyor had no comments or concerns but did amend her testimony with (T-1A) where she provided notice that the FAA Notice Criteria latitude/longitude given falls approximately 300 feet southwesterly of the given site plan location. The Surveyor advised setback distances should be checked in the field.

(T-2) Idaho Department of Environmental Quality provided general land development recommendations.

(T-3) Bingham County Public Works who commented due to all towers being outside of the public right of way, their department has no comment.

(T-4) Bingham County Building Official who provided standards the engineering documents either fail to reference or will be required to satisfy the International Building Code and/or Bingham County Code regulations for monopole tower structures.

This monopole tower/wireless communication facility was erected after notice was provided to Vision Wifi, Inc. Building and Zoning Permits would be required for the structures. This tower was configured ready to serve with service provided to the property owners and one additional customer at the time of the hearing.

Testimony presented at the Public Hearing included: (T-5) Applicant Josh Preston, 977 W 100 N, Blackfoot, ID, requested his testimony from the Belnap Tower Application be entered into the record for this item as previously presented. Commissioner Bingham moved to include Mr. Preston's previous testimony. Commissioner Butler seconded the motion. Commissioners Bingham, Butler, Adams, Carroll, Jensen, Johns and Jolley voted in favor and the motion carried. Mr. Preston's testimony from the Jeffrey Belnap Conditional Use Permit consisted of Mr. Preston addressing the Commissions questions regarding site selection, tower sustainability in high winds, and tower base construction.

Testimony presented in favor of the Application included: (T-6) Justin Oleson, P.O. Box 1047, Blackfoot, ID, requested his testimony from the Belnap Tower Application be entered into the

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record for this item as previously presented. Commissioner Jensen moved to accept Mr. Oleson's previous testimony. Commissioner Johns seconded the motion. Commissioners Jensen, Johns, Adams, Bingham, Butler, Carroll and Jolley voted in favor and the motion carried. Mr. Oleson's testimony from the Jeffrey Belnap Conditional Use Permit Application consisted of application support and responded to questions asked by the Commission. Mr. Oleson added that if the tower is located within the canal company's easement and they are not happy with the placement, they can run them off.

(T-7) Verl Allen Jensen, 139 N 365 W, Unit B, Blackfoot, ID, requested his testimony from the Belnap Tower Application be entered into the record for this item as previously presented. Commissioner Jensen moved to accept Mr. Jensen's previous testimony. Commissioner Bingham seconded the motion. Commissioners Jensen, Bingham, Adams, Butler, Carroll, Johns and Jolley voted in favor and the motion carried. Mr. Jensen's testimony from the Jeffrey Belnap Conditional Use Permit Application consisted of his response to questions asked by the Commission including questions as to when Mr. Jensen served as the former Bingham County Planning Administrator and Building Official.

No testimony was received in a neutral position on this Application. Testimony presented in opposition of the Application included: (T-8) Craig Stephenson, 77 E Rich Lane, Blackfoot, ID, stated you should be able to do what you want with your property unless it infringes upon your neighbors. He explained that this tower is much larger than a power pole and he believes it can tip over. Mr. Stephenson stated he is not necessarily opposed to the tower but is opposed to the placement and its proximity to his property. He expressed that the fencing requirement is necessary for liability insurance and safety purposes and thinks that the tower has an impact on neighboring property values due to visual impact.

(T-9) David Brent Hatch, 70 E Rich Lane, Blackfoot, ID, stated he is on the Board of Directors for the Blackfoot Slough and the tower is just on the edge of the canal bank which does not comply with the required setback of 50 feet (50') from the highwater mark. He understands that the community needs internet service but wanted to remind everyone that Vision Wifi is making money by providing this service. He was irritated that they erected several towers without proper permitting and were now asking for forgiveness after the fact. He explained that the canal board needs to assign a new President so this particular tower has not been discussed. Commissioner Jensen asked if he could foresee the board being opposed to the location of the tower or if they might be content to use the other side of the canal for maintenance. Mr. Hatch stated they can clean the canal from the other side, but it seems like discrimination. He fears that if they allow this to be placed in their right-of-way, what's to say someone else along the canal can't also place a structure within their right-of-way. He thinks that everybody should be treated the same.

The Applicant's rebuttal included Mr. Josh Preston who stated the tower measures twenty-five feet (25') from the property fence and there is plenty of room on the other side for canal maintenance but he didn't foresee there being a problem with cleaning out the canal on either side. He explained that he has worked with several canal companies and has towers that provide service to head gates.

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Chairman Aullman asked if he would be opposed to fencing this tower. Mr. Preston explained that there is a property fence and anyone, besides the property owner, would be trespassing to get to the tower so he didn't see a need to do that. Commissioner Butler asked if the towers have guy wires to which Mr. Preston responded yes 1/4" cables with turn buckles. He explained that they are not structural but rather for support in oscillation to reduce flex of the tower and are not required.

After rebuttal was provided, the Public Hearing for this Application was closed.

COMMISSIONERS DISCUSSION: Commissioner Adams was curious to know what the canal company's opinion would be on the placement of the tower. Commissioner Butler agreed and stated that would also give the Applicant the opportunity to provide clarification as to the distance from the tower to the highwater mark rather than the distance to the fence.

COMMISSIONERS DECISION: Commissioner Carroll moved to table the application for forty (40) days in order to allow the canal company to meet and discuss this matter. Commissioner Adams seconded the motion. Commissioners Carroll, Adams, Bingham, Butler, Jensen, Johns and Jolley voted in favor and the motion carried.

**CONDITIONAL USE PERMIT AND VARIANCE REQUEST FOR EXISTING MONOPOLE TOWER/WIRELESS COMMUNICATION FACILITY IDENTIFIED AS THE DESERT MONOPOLE: (ACTION ITEM: DECISION)** Property owners, Shawn and Jennifer Ellis, represented by Vision Wifi, Inc. (owned and operated by Josh and Audrey Preston), requested a Conditional Use Permit to allow the placement of an existing 98-foot-tall monopole tower/wireless communication facility on their property erected on August 14, 2023. Approx. Location: corner of 1400 W & Highway 26, Blackfoot, Idaho. Parcel No. RPOI 12311, Township 1S, Range 33E, Section 23, consisting of approx. 35.57 acres in an Agricultural Zoning District.

Testimony received prior to the Public Hearing included:

(T-1) Bingham County Surveyor had no comments or concerns.

(T-2) Idaho Department of Environmental Quality provided general land development recommendations.

(T-3) Bingham County Public Works who commented due to all towers being outside of the public right of way, their department has no comment.

(T-4) Bingham County Building Official who provided standards the engineering documents either fail to reference or will be required to satisfy the International Building Code and/or Bingham County Code regulations for monopole tower structures.

This monopole tower/wireless communication facility was erected after notice was provided to Vision Wifi, Inc. that Building and Zoning Permits would be required for the structures and was brought to the attention of Planning and Development by County Staff. A letter was sent to Mr.



May 20, 2024

To all concerned:

As requested by Justin Oleson on behalf of Vision Wi-Fi, the board of the Blackfoot Slough considered the location of the internet and communications tower near the Blackfoot slough on the Oler property south of Rich Lane and east of Blackfoot. The tower is approximately 43 feet from the water with a guy wire approximately 38 feet from the water. This should give us sufficient room to access the canal with equipment if necessary for maintenance and operations. The board of the Blackfoot Slough does not object to the location of the tower so far as our easement is concerned.

Spencer Larsen

A handwritten signature in black ink, appearing to read 'SL', is written over the typed name.

Blackfoot Slough  
Manager

Exhibit  
T-10

**From:** [Gwen Inskeep](#)  
**To:** [PlanningTestimony](#)  
**Subject:** July Hearing Notices  
**Date:** Tuesday, June 18, 2024 3:55:23 PM

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South Thompson Lane Subdivision:

1. Please show a 1 mile radius on vicinity map
2. Please refer to the US Fish and Wildlife Services mapping system and show approximate location of Freshwater Pond, Freshwater Emergent Wetlands and Rivine (currently being shown as a ditch)
3. Verify BFE is correct. Case No. given shows a different elevation
4. Please show all existing easements of record as indicated in redlines
5. Please monument irrigation where necessary
6. It appears that the allowable 4 buildable parcels from a private easement will be exceeded (10-6-8:Easement Regulations). Is there a separate/alternate easement planned for one or more of the existing parcels?

1<sup>st</sup> Amended Estella Rose Estates:

1. Please add curve data to boundary. Does not close as is.
2. Please show distance from proposed access easement to existing structure west of existing house. Will a variance be needed for this as well?
3. Please indicate a proposed road name
4. Transformer and proposed pump are encroaching into access easement.
5. Please add note indicating subdivision is subject to an existing pole line easement as described in Misc. Book I Page 321.

Freedom Estates:

1. Please review Grant Avenue deed and exception in vesting deed. Appears to be an encroachment into proposed boundary.
2. Please show missing lot distances and proposed road name.
3. Please ensure proposed irrigation covers pump location.
4. Determined boundary falls within an existing approach (physical boundary) along the east side. Will an easement be granted to the Wheelers to continue to use said existing approach?
5. Intermountain gas shows a possible existing gas line near the west line of Lot 1 and is believed to be serving the existing house. Please have this line located and provide an easement if necessary.
6. Please show correct irrigation company in owners Dedication and disclose that shares will be held by a Homeowners Association (per letter provided by Wearyrick Ditch Co)
7. There will be a small triangular piece southeast of the proposed private road disconnected from the rest of Lot 5. Recommend incorporating this small piece into Lot 3 if possible.

Vision Wifi CIP:

No comments or concerns

Line Variance:

Please ensure the required 50' setback from the canal can be met. (ord. 10-6-5: Setback

Exhibit  
T-11

from Waterways)

Armstrong Variance:

No comments or concerns.

Stevens Variance:

If structure is measured to be 50-60 feet from ordinary high water it will be encroaching upon a platted irrigation easement per Inst. No. 727168. Property pins are shown to have been set as part of the platting process and should be used to verify, if possible.

Gwen Inskip, PLS

Bingham County Surveyor

501 N. Maple St.

Blackfoot ID 83221

208-782-3172

*My email address has recently changed to [-ginskeep@binghamid.gov](mailto:ginskeep@binghamid.gov)*

**Ashley Taylor**

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**From:** Rebecca Fangsrud  
**Sent:** Thursday, June 20, 2024 4:53 PM  
**To:** PlanningTestimony  
**Cc:** Boyd Jensen  
**Subject:** July 10, 2024 Hearing

**South Thompson Lane Subdivision**

The division of block 1 seems to allow more than 4 houses on a private road. (35 E Pintail Ln) Therefore, there would be 1 unbuildable lot other than the lane.

**Vision Wifi - Oler**

Due to Olers tower being out of the right of way, Bingham County Public Works has no comment.

**Stevens Variance**

Bingham County Public Works has reviewed this request and there are no objections or concerns at this time.

**Freedom Estates Subdivision and Variance**

25 S Grant Avenue is a local dead-end road and is posted at 25 mph. Therefore, required spacing between driveway approaches is 20 ft.

**Amended Estella Rose Estates Subdivision and Variance**

The existing subdivision approach must remain the only access point off of Rose Road.

**Line Variance**

Bingham County Public Works has reviewed this request and there are no objections or concerns at this time.

**Armstrong Variance**

Bingham County Public Works has reviewed this request and there are no objections or concerns at this time.

Thanks,

*Rebecca Fangsrud, Administrative Assistant*

Bingham County Public Works  
245 N 690 W  
Blackfoot, ID 83221

208 782-3173  
[rfangsrud@binghamid.gov](mailto:rfangsrud@binghamid.gov)

444 Hospital Way #300  
Pocatello, ID 83201 • (208) 236-6160



Brad Little, Governor  
Jess Byrne, Director

June 24, 2024

Ms. Addie Jo Harris, Planner  
[planningtestimony@co.bingham.id.us](mailto:planningtestimony@co.bingham.id.us)  
Bingham County Planning & Zoning  
501 N. Maple #203  
Blackfoot, ID 83221

Subject: Conditional Use Permit and Variance – Existing Monopole Tower/Wireless  
Communication Facility – Vision WiFi. Inc.

Dear Ms. Harris:

The Idaho Department of Environmental Quality (DEQ) has reviewed the subject document and would like to offer our general recommendations for land development projects (attached).

If you have questions or comments, please contact me at (208) 236-6160 or via email at [Allan.Johnson@deq.idaho.gov](mailto:Allan.Johnson@deq.idaho.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Allan Johnson".

Allan Johnson, P.E.  
Regional Engineering Manager  
DEQ Pocatello Regional Office

EDMS# 2024AGD4339

Attachments: DEQ General Recommendations for Land Development Projects.

c: Katy Bergholm, Regional Administrator, DEQ Pocatello Regional Office  
Tiffany Olsen, Bingham County Planning & Development Director

Exhibit  
T-13

## **Best Management Practices for Ground Water Protection at Gravel Mining Sites**

The Ground Water Quality Rule, IDAPA 58.01.11, is administered by the Department of Environmental Quality (DEQ). Section 301.02 of the rule requires that DEQ ensure activities with the potential to degrade General Resource aquifers shall be managed in a manner which maintains or improves existing ground water quality through the use of best management practices and best practical methods to the maximum extent practical. Section 150.04 of the rule directs DEQ to coordinate with other agencies when necessary to protect ground water. The Rules Governing Exploration and Surface Mining In Idaho, IDAPA 20.03.02, are administered by the Idaho Department of Lands (IDL). Section 001.03 of these rules requires all operators to comply with all applicable rules and regulations and laws of the state of Idaho.

DEQ and IDL have worked together to address the potential for ground water contamination from gravel sources and developed a list of best management practices (BMPs). It is the responsibility of gravel mine owner/operator to adopt BMPs, as appropriate, to ensure protection of the ground water. The following are key issues that need to be addressed:

### **Reclamation**

- Meet with IDL and DEQ prior to development of the final reclamation plan to discuss the details of the plan. The plan should address final grading of slopes, details regarding topsoil or suitable growth medium to be spread across the walls and floor for reclamation, and revegetation. The type and quantities of seed, fertilizer, and mulch to be applied to all disturbed areas should be specified and any plans for a seasonal wetland to be created on the pit floor should be described.
- The plan should describe how mining activities will be conducted concurrently with reclamation in order to maintain a minimal area of exposed gravels at any given time. The plan should include methods of replacing topsoil on all disturbed lands during reclamation, including land covered by water.
- The plan should specify that final reclamation activities will be completed within six (6) months after termination of mining activities.
- Following final reclamation, it will be necessary for the owner/operator to cooperate with DEQ and IDL in a joint inspection of the mining site. If the reclamation meets specifications, IDL/DEQ will provide documentation of final approval.

### **Operations**

- Vehicular access to the site should be controlled by means of fences, gates, or other types of barriers as appropriate. Signs should be posted to emphasize restricted access. Periodic inspection and maintenance of access control structures will be needed to ensure effectiveness.
- Access by heavy equipment should be limited to only those times when active mining and reclamation activities are underway.
- Crushers, asphalt batch plants, and concrete plants should be operated only in areas well away from exposed gravels and ground water. "Baghouse" dust collection systems are preferred for use with mixing plants. However, if "wet" or pond scrub systems are to be utilized, they must be in lined areas well away from exposed gravels and ground water.
- Berms, ditches, etc. must be constructed as appropriate to divert surface water run-on/run-off around the mining area.
- Fueling and equipment service/maintenance/storage should be staged in areas well away from exposed gravels and ground water.

- Fuel storage facilities should be placed in bermed areas with HDPE liners well away from exposed gravels and ground water.
- A spill prevention control and countermeasure (SPCC) plan should be implemented on each occasion that mining or reclamation activities are conducted. The plan should specify the maximum response time for spill clean up.
- Portable toilet facilities should be located well away from exposed gravels and ground water.

#### **Environmental Monitoring**

Under certain circumstances, such as mining below the ground water table, monitoring of surface water and ground water may be necessary.

## **General Recommendations**

The following comments are generally applicable to land development projects or other land use activities with the potential to cause impacts to ground water, air quality or surface water. DEQ provides this guidance in lieu of more site-specific comments when information regarding the land use proposal is limited.

### **Engineering**

DEQ recommends consolidation of drinking water and/or wastewater services wherever feasible especially in areas where ground water used for public drinking water supplies is potentially impacted. DEQ considers the following alternatives generally more protective of ground water resources than using individual well and septic systems for each lot, and we recommend that the county require the developer to investigate the following options:

- Provide either a centralized, community drinking water or centralized community wastewater system or both, or
- Connect each lot to an existing community drinking water system or to an existing community wastewater system or both.

In accordance with Idaho Code 39-118, construction plans & specifications prepared by a professional engineer are required for DEQ review and approval prior to construction if the proposed development is to be served by either a community drinking water or sewer system. DEQ requires that a water system serving 10 or more connections is constructed and operated in compliance with IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems."

### **Air Quality**

New emission sources are generally required to follow applicable regulations for permitting or exempting new sources. These are outlined in the Rules for the control of Air Pollution in Idaho.

Of particular concern is IDAPA 58.01.01.200-228 which establishes uniform procedures and requirements for the issuance of "Permits to Construct".

Sections 58.01.01.220-223 specifically may be used by owners or operators to exempt certain sources from the requirements to obtain a permit to construct.

Land development projects are generally required to follow applicable regulations outlined in the Rules for the control of Air Pollution in Idaho. Of particular concern is IDAPA 58.01.01.650 and 651 Rules for Control of Fugitive Dust.

Section 650 states, "The purpose of sections 650 through 651 is to require that all reasonable precautions be taken to prevent the generation of fugitive dust."

Section 651 states "All reasonable precautions shall be taken to prevent particulate matter from becoming airborne. In determining what is reasonable, consideration will be given to factors such as the proximity of dust emitting operations to human habitations and/or activities and atmospheric



conditions which might affect the movement of particulate matter. Some of the reasonable precautions may include, but are not limited to, the following:

01. Use of Water or Chemicals. Use, where practical, of water or chemicals for control of dust in the demolition of existing building or structures, construction operations, the grading of roads, or the clearing of land.
02. Application of Dust Suppressants. Application, where practical of asphalt, oil, water, or suitable chemicals to, or covering of dirt roads, materials stockpiles, and other surfaces which can create dust.
03. Use of Control Equipment. Installation and use, where practical, of hoods, fans and fabric filters or equivalent systems to enclose and vent the handling of dusty materials. Adequate containment methods should be employed during sandblasting or other operations.
04. Covering of Trucks. Covering, when practical, open bodied trucks transporting materials likely to give rise to airborne dusts.
05. Paving. Paving of roadways and their maintenance in a clean condition, where practical.
06. Removal of Materials. Prompt removal of earth or other stored materials from streets, where practical.”

#### **Surface Water Quality**

Land disturbance activities associated with development (i.e. - road building, stream crossings, land clearing) have the potential to impact water quality and riparian habitat.

If this project will ultimately disturb one or more acres and there is a possibility of discharging stormwater or site dewatering water to Surface Waters of the United States, the operator may need to submit a Notice of Intent (NOI) for coverage under the Idaho Pollutant Discharge Elimination System (IPDES) 2022 Construction General Permit (CGP). NOIs can be submitted via the IPDES E-Permitting System (<https://www2.deq.idaho.gov/water/IPDES/>). The 2022 IPDES CGP requires a Storm Water Pollution Prevention Plan (SWPPP), implementation of Best Management Practices (BMPs) to reduce the sediment and other pollutants discharged and requires regular site inspections by persons trained and knowledgeable about erosion, sediment control, and pollution prevention.

Site contractors should remove equipment and machinery from the vicinity of the waterway to an upland location prior to any refueling, repair, or maintenance. After construction is completed, disturbed riparian areas should be re-vegetated.

#### **Waste Management - Hazardous Material - Petroleum Storage**

With the increasing population in southeast Idaho, to ensure sufficient solid waste capacity and service availability. It is recommended that subdivision developers be instructed to contact the appropriate solid waste collection provider and landfill for solid waste disposal coordination.

Accidental surface spills of hazardous material products and petroleum hydrocarbon products (i.e., fuel, oil, and other chemicals) are most associated with the transportation and delivery to work sites or

facilities. The following Idaho, storage, release, reporting and corrective action regulations may be applicable:

- Hazardous and Deleterious Material Storage IDAPA 58.01.02.800
- Hazardous Material Spills, IDAPA 58.01.02.850
- Rules and Standards for Hazardous Waste IDAPA 58.01.05
- Petroleum Release Reporting, Investigation and Confirmation IDAPA 58.01.02 .851
- Petroleum Release Response and Corrective Action IDAPA 58.01.02.852

Please note, The Idaho Release, Reporting and Corrective Action Regulations, IDAPA 58.01.02.851; require notification within 24 hours of any spill of petroleum product greater than 25 gallons and notification for the release of lesser amounts if they cannot be cleaned up within twenty-four (24) hours. The cleanup requirements for petroleum are also contained in these regulations.

For reporting requirements of hazardous substances please see Idaho Statute Title 39 Chapter 7, Hazardous Substance Emergency Response Act including section 39-7108 Notification of Release is Required.