

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RIGHT-OF-WAY GRANT
Serial Number: IDI-37804

RECEIVED
SEP 26 2014
Department of Water Resources
Eastern Region

1. A right-of-way is hereby granted pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

2. **Nature of Interest:**

- a. By this instrument, the holder:

Monteview Irrigation Company
648 E 2600 N
Monteview, Idaho 83435

receives a right to construct, operate, maintain, and terminate an irrigation well & access road right-of-way (ROW) on public land and is described as follows:

Boise Meridian, Idaho,

Jefferson County

T. 8 N., R. 34 E.,
sec. 28, NWNE.

- b. The right-of-way area granted herein for an area containing 0.73 acres, more or less (100 x100 sq ft for well and 87ft x 25ft more or less for road).
- c. This instrument shall terminate on December 31, 2044, approximately 30 years from its effective date unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.
- d. At the discretion of the authorized officer this instrument may be renewed. If renewed, the right-of-way shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.
- e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

3. **Rental:**

For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer

unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.

4. Terms and Conditions:

- a. This grant is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2800.
- b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within 90 days, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the authorized officer.
- c. Each grant issued pursuant to the authority of paragraph (1)(a) for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way granted herein may be reviewed at any time deemed necessary by the authorized officer.
- d. The maps (Exhibits A, A-1), dated August 20, 2014 attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
- e. Failure of the holder to comply with applicable law or any provision of this right-of-way grant shall constitute grounds for suspension or termination thereof.
- f. Holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.

Construction

- g. The holder shall contact the authorized officer at least [10] days prior to the anticipated start of construction and/or any surface disturbing activities outside of normal maintenance. The authorized officer may require and schedule a preconstruction conference with the holder prior to the holder's commencing construction and/or surface disturbing activities on the right-of-way. The holder and/or his representative shall attend this conference. The holder's contractor, or agents involved with construction and/or any surface disturbing activities associated with the right-of-way, shall also attend this conference to review the stipulations of the grant including the plans(s) of development. The holder shall notify the authorized officer within 10 days after any emergency activities outside of normal maintenance have been conducted.
- h. The holder shall designate a representative(s) who shall have the authority to act upon and to implement instructions from the authorized officer. The holder's representative shall be available for communication with the authorized officer within a reasonable time when construction or other surface disturbing activities are underway.
- i. The authorized officer may suspend or terminate in whole, or in part, any notice to proceed which has been issued when, in his judgment, unforeseen conditions arise which result in the approved terms and conditions being inadequate to protect the public health and safety or to protect the environment.

- j. Holder shall disturb and remove only the minimum amount of soils and vegetation necessary for the construction of structures and facilities. Topsoil shall be conserved during excavation and reused as cover on disturbed areas to facilitate regrowth of vegetation.
- k. The holder shall conduct all activities associated with the construction, operation, and termination of the right-of-way within the authorized limits of the right-of-way.

Operation and Maintenance

- l. Authorized drilling and decommission of wells shall be conducted outside the migratory bird nesting season (April 1- June 30) unless authorized by the authorized officer.
- m. Holder shall remove only the minimum amount of vegetation necessary for the use and maintenance of the existing road.
- n. The holder shall conduct all activities associated with the construction, operation, and termination of the right-of-way within the authorized limits of the right-of-way. Access will be limited to the authorized new spur road and other existing authorized routes only.
- o. No routine maintenance activities shall be performed during periods when the soil is too wet to adequately support construction equipment. If such equipment creates ruts in excess of 3 inches deep, the soil shall be deemed too wet to adequately support construction equipment.
- p. Right-of-way shall be maintained in a sanitary condition at all times; waste materials at those sites shall be disposed of promptly at an appropriate waste disposal site. 'Waste' means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment.
- q. There is reserved to the Authorized Officer, the right to grant additional rights-of-way or permits for compatible use on, over, under, or adjacent to the land involved in this grant.
- r. Ninety (90) days prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a joint inspection of the right-of-way. This inspection will be held to agree to an acceptable termination (and rehabilitation) plan. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, or seeding. The authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.
- m. Wells and their associated power sources may be maintained, upgraded or removed. If these activities will result in ground disturbance, notification to BLM will be made prior to such activities. Wells are not authorized to be relocated and will require an amendment to the authorization.
- n. If the holder does not use the right-of-way for a continuous five year period for the purpose for which it was granted, the right-of-way will be presumed abandoned (43 CFR 2807.17(c)). If the abandoned structures or improvements are not removed within a reasonable length of time, as determined by the Authorized Officer, they will become the property of the United States. The holder will be liable for any expense in removing the structures and restoration of the site (43 CFR 2807.19(c)).

Weed Control

- o. The holder shall be responsible for weed control on disturbed areas within the limits of the right-of-way. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods (within limits imposed in the grant stipulations).
- p. Use of all pesticides (including fungicides, herbicides, insecticides, etc.) shall comply with the applicable Federal and State laws. Pesticides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides, the holder shall obtain from the authorized officer written approval of a plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the authorized officer. Emergency use of pesticides shall be approved in writing by the authorized officer prior to such use.
- q. During surface disturbing construction and maintenance activities, the holder shall ensure that all construction equipment and vehicles are cleaned of all vegetation (stems, leaves, seeds, and all other vegetative parts) prior to entering public lands in order to minimize the transport and spread of noxious weeds. During surface disturbing construction and maintenance activities, the holder shall ensure that all construction equipment and vehicles are cleaned of all vegetation (stems, leaves, seeds, and all other vegetative parts) prior to leaving public lands in areas that are known by the authorized officer of the BLM to be infested with noxious weeds.

Cadastral

- r. The holder shall protect all survey monuments found within the right-of-way. Survey monuments include, but are not limited to, General Land Office and Bureau of Land Management Cadastral Survey Corners, reference corners, witness points, U.S. Coastal and Geodetic benchmarks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. In the event of obliteration or disturbance of any of the above, the holder shall immediately report the incident, in writing, to the authorized officer and the respective installing authority if known. Where General Land Office or Bureau of Land Management right-of-way monuments or references are obliterated during operations, the holder shall secure the services of a registered land surveyor or a Bureau cadastral surveyor to restore the disturbed monuments and references using surveying procedures found in the Manual of Surveying Instructions for the Survey of the Public Lands in the United States, latest edition. The holder shall record such survey in the appropriate county and send a copy to the authorized officer. If the Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monument, the holder shall be responsible for the survey cost.

Cultural

- s. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of

evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.

- t. Pursuant to 43 CFR 10.4(g), the holder of this authorization must immediately notify the authorized officer by telephone, with written confirmation, upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4(c) and (d), the holder must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer. The BLM Authorized Officer will determine avoidance, protection or mitigation measures in consultation with the Holder, Idaho SHPO, and affected Tribes. Costs associated with the discovery, evaluation, protection or mitigation of the discovery shall be the responsibility of the holder.
- u. The holder shall notify the Authorized Officer at least 90 days prior to any non-emergency activities that would cause surface disturbance in the right-of-way. The Authorized Officer will determine if a cultural resource inventory, treatment or mitigation is required for the activity. The holder will be responsible for the cost of inventory, avoidance, treatment or mitigation; including any maintenance-caused damage. The Authorized Officer will determine avoidance, treatment and mitigation measures that are necessary after consulting with the holder and under Section 106 of the National Historic Preservation Act.

Environmental Protection

- v. The holder agrees to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et seq. or the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 et seq.) on the right-of-way (unless the release or threatened release is wholly unrelated to the right-of-way holder's activity on the right-of-way.) This agreement applies without regard to whether a release is caused by the holder, its agent, or unrelated third parties.
- w. The holder(s) shall comply with all applicable Federal, State and local laws and regulations, existing or hereafter enacted or promulgated, with regard to any HazMat, as defined in this paragraph, that will be used, produced, transported or stored on or within the ROW or any of the ROW facilities, or used in the construction, operation, maintenance or termination of the ROW or any of its facilities. "Hazardous material" means any substance, pollutant or contaminant that is listed as hazardous under the CERCLA of 1980, as amended, 42 U.S.C. 9601 et seq., and its regulations. The definition of hazardous substances under CERCLA includes any "hazardous waste" as defined in the RCRA of 1976, as amended, 42 U.S.C. 6901 et seq. and its regulations. The term hazardous materials also includes any nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 42 U. S. C. 2011 et seq. The term does not include petroleum, including crude oil or any fraction thereof that is not otherwise specifically listed or designated as a hazardous substance under CERCLA section 101(14), 42 U.S.C. 9601(14), nor does the term include natural gas.

Avian

- a. Unless otherwise agreed to by the authorized officer in writing, power lines shall be constructed in accordance to standards outlined by U.S. Fish and Wildlife Service (Service) and the Avian Power Line Interaction Committee (APLIC), 2012. Reducing Avian Collisions with Power Lines: State of the Art in 2012. Edison Electric Institute,

APLIC,. Washington, D.C. (including future revisions or amendments, and current BLM policy). The holder shall assume the burden and expense of proving that pole designs not shown in the above publication are 'eagle safe.' Such proof shall be provided by a raptor expert approved by the authorized officer. The BLM reserves the right to require modifications or additions to all power line structures placed on this right-of-way, should they be necessary to ensure the safety of large perching birds. Such modifications and/or additions shall be made by the holder without liability or expense to the United States. If the lines need to be modified to meet the above requirements, the modifications will be conducted outside the migratory bird nesting season (April 1- June 30).

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant.

For Montevieu Canal Company:

Don Parker

President 9/26/14
Title Date

Clayton L. Lamm

9/26/14 Director
Date Title

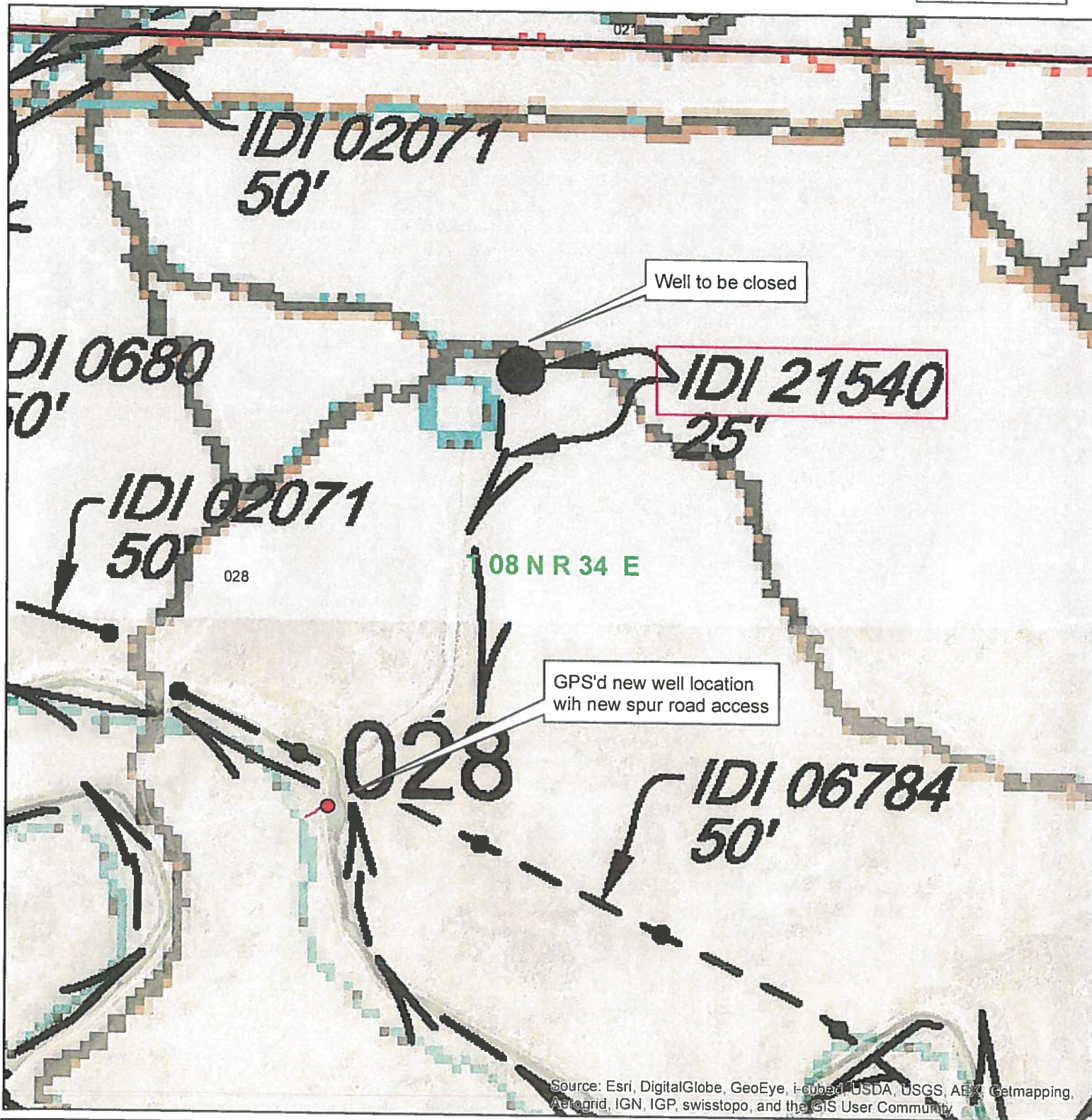
For BUREAU OF LAND MANAGEMENT:

Jeremy Casterson
Jeremy Casterson

Field Manager 9/26/14
Title Date

Montevieu Canal New Well #12 T.8 N., R 34 E.

Exhibit A
8/20/2014 HS



Source: Esri, DigitalGlobe, GeoEye, i-cubed, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

Legend

- spur rd access
- Surface Management Agency
 - Bureau of Land Management
 - Private
 - State of Idaho
 - US Forest Service

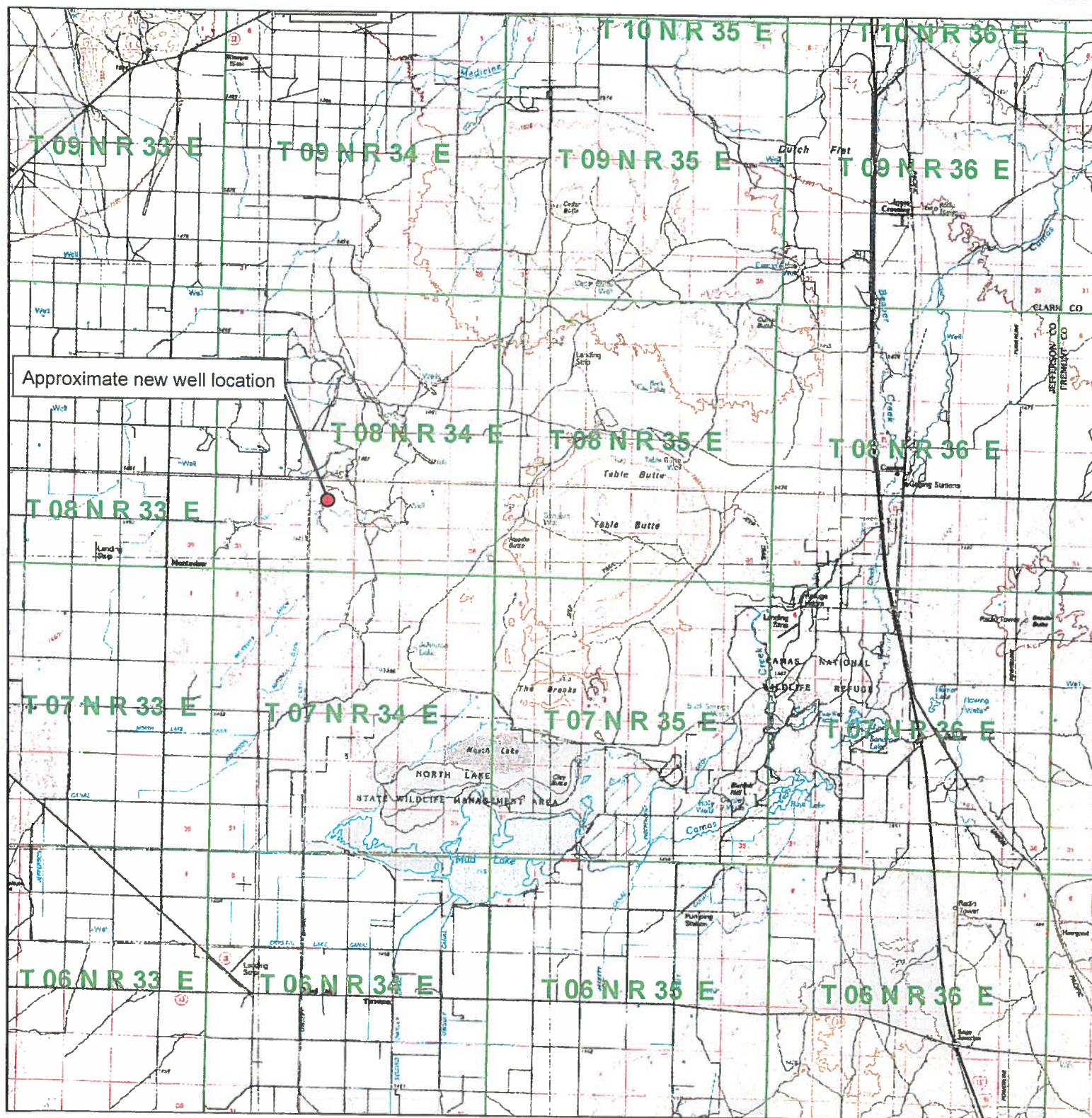


0 0.05 0.1 0.2 0.3 0.4 Miles



Monteview Canal New Well #12 T.8 N., R 34 E.

Exhibit A-1
8/20/2014 HS



Legend

Surface Management Agency

- Bureau of Land Management
- Private
- State of Idaho
- US Forest Service

0 1.25 2.5 5 7.5 10 Miles

