



Montana Department of Transportation

2701 Prospect Avenue
PO Box 201001
Helena MT 59620-1001

Jim Lynch, Director
Brian Schweitzer, Governor

February 14, 2006

Janice W. Brown, Division Administrator
Federal Highway Administration (FHWA)
2880 Skyway Drive
Helena, MT 59602

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FHWA
MONTANA DIVISION

LEGISLATIVE ENVIRONMENTAL
POLICY OFFICE

Subject: STPX-NH 32(42)
Amon Ranch Wetland Mitigation
UPN 5227

This is to request approval of this proposed project as a Categorical Exclusion (CE) under the provisions of 23 CFR 771.117(d), and the Programmatic Agreement as signed by the MONTANA DEPARTMENT OF TRANSPORTATION (MDT) and the FHWA on April 12, 2001. Copies of its Preliminary Field Review Report (dated September 12, 2004), and Project Location Map are attached. This proposed action also qualifies as a CE under ARM 18.2.261 (Sections 75-1-103 and 75-1-201, MCA).

The following form provides the documentation required to demonstrate that all of the conditions are satisfied to qualify for a Programmatic Categorical Exclusion Approval (PCE) as initially agreed by the (former) MONTANA DEPARTMENT OF HIGHWAYS (MDOH) and the FHWA on December 6, 1989. (Note: An "X" in the "N/A" column is "Not Applicable" to, while one in the "UNK" column is "Unknown" at the present time for this proposed project.)

NOTE: A response in a box will require additional documentation for a Categorical Exclusion request in accordance with 23 CFR 771.117(d).

Table with 4 columns: YES, NO, N/A, UNK. Contains 3 main items and 2 sub-items with checkboxes and handwritten 'X' marks.

Environmental Services
Phone: (406) 444-7228
Fax: (406) 444-7245

Web Page: www.mdt.state.mt.us
Road Report: (800) 226-7623
TTY: (800) 335-7592

YES NO N/A UNK

3. There is a high rate of commercial growth in this proposed project's area.

___ X ___ ___

4. Work would be on and/or within approximately 1.6 kilometers (1± mile) of an Indian Reservation.

___ X ___

5. There are parks, recreational, or other properties acquired/improved under *Section 6(f)* of the 1965 *National Land & Water Conservation Fund Act (16 U.S.C. 460L, et seq.)* on or adjacent to proposed the project area.

___ X ___

The use of such *Section 6(f)* sites would be documented and compensated with the appropriate agencies. (e.g.: MDFW&P, local entities, etc.).

___ X ___

6. Are there any sites either on, or eligible for the National Register of Historic Places with concurrence in determination of eligibility or effect under *Section 106* of the *National Historic Preservation Act (16 U.S.C. 470, et seq.)* by the State Historic Preservation Office (SHPO), which would be affected by this proposed project.

___ X ___

7. There are parks, recreation sites, schoolgrounds, wild-life refuges, historic sites, historic bridges, or irrigation that might be considered under *Section 4(f)* of the 1966 U.S. DEPARTMENT OF TRANSPORTATION Act (**49 U.S.C. 303**) on or adjacent to the project area.

X ___

a. "Nationwide" Programmatic *Section 4(f)* Evaluation forms for these sites are attached.

___ X ___

b. This proposed project requires a full (i.e.: DRAFT & FINAL) *Section 4(f)* Evaluation.

___ X ___

B. The activity would involve work in a streambed, wetland, and/or other waterbody(ies) considered as "waters of the United States" or similar (e.g.: "state waters").

X ___

1. Conditions set forth in *Section 10* of the *Rivers and Harbors Act (33 U.S.C. 403)* and/or *Section 404* under 33 CFR Parts 320-330 of the *Clean Water Act (33 U.S.C. 1251-1376)* would be met.

X ___

2. Impacts in wetlands, including but not limited to those referenced under Executive Order (E.O.) #11990, and their proposed mitigation would be coordinated with the Montana Inter-Agency Wetland Group.

X ___

YES NO N/A UNK

D. There would be substantial changes in access control involved with this proposed project.

___ X

If yes, would they result-in extensive economic and/or social impacts on the affected locations?

 ___ X

E. The use of a temporary road, detour, or ramp closure having the following conditions when the action(s) associated with such facilities:

1. Provisions would be made for access by local traffic, and be posted for-same.

___ X

2. Adverse effects to through-traffic dependant businesses would be avoided or minimized.

___ X

3. Interference to local events(e.g.: festivals) would be minimized to all possible extent.

___ X

4. Substantial controversy associated with this pending action would be avoided.

___ X

F. Hazardous wastes /substances, as defined by the U.S. Environmental Protection Agency (EPA) and/or the Montana Department of Environmental Quality (MDEQ), and/or (a) listed "Superfund" (under CERCLA or CECRA) site(s) are currently on and/or adjacent to this proposed project.

___ X

All reasonable measures would be taken to avoid and/or minimize substantial impacts from same.

___ X

G. The Montana Pollutant Discharge Elimination System's conditions (ARM 16.20.1314), including temporary erosion control features for construction would be met.

X ___

H. Permanent desirable vegetation with an approved seeding mixture would be established on exposed areas.

X ___ ___

I. Documentation of an "invasive species" review to comply with both E.O.#13112 and the County Noxious Weed Control Act (7-22-21, M.C.A.), including directions as specified by the county(ies) wherein its intended work would be done.

X ___

YES NO N/A UNK

- J. There are "Prime" or "Prime if Irrigated" Farmlands designated by the Natural Resources Conservation Service on or adjacent to the proposed project area.

X ___

If the proposed work would affect Important Farmlands, then an AD-1006 Farmland Conversion Impact Rating form would be completed in accordance with the *Farmland Protection Policy Act (7 U.S.C. 4201, et seq.)*.

___ X

- K. Features for the *Americans with Disabilities Act (P.L. 101-336)* compliance would be included.

___ X

- L. A written Public Involvement Plan, would be completed in accordance with MDT's Public Involvement Handbook.

X

4. This proposed project complies with the *Clean Air Act's Section 176(c) (42 U.S.C. 7521(a)*, as amended) under the provisions of 40 CFR 81.327 as it's either in a Montana air quality:

- A. "Unclassifiable"/attainment area. This proposed project is not covered under the EPA's September 15, 1997 Final Rule on air quality conformity.

X ___

and/or

- B. "Nonattainment" area. However, this type of proposed project is either exempted from the conformity determination requirements (under EPA's September 15, 1997 Final Rule), or a conformity determination would be documented in coordination with the responsible agencies: (Metropolitan Planning Organizations, MDEQ's Air Quality Division, etc.).

___ X

- C. Is this proposed project in a "Class I Air Shed" (Indian Reservations) under 40 CFR 52.1382(c)(3)?

___ X

5. Federally listed Threatened or Endangered (T/E) Species:

- A. There are recorded occurrences, and/or critical habitat in this proposed project's vicinity.

X ___

YES NO N/A UNK

B. Would this proposed project result in a "jeopardy" opinion (under 50 CFR 402) from the Fish & Wildlife Service on any Federally listed T/E Species?

 X

The proposed project would not induce significant land-use changes, nor promote unplanned growth. There would be no significant effects on access to adjacent property, nor to present traffic patterns.

This proposed project would not create disproportionately high and/or adverse impacts on the health or environment of minority and/or low-income populations (E.O.#12898). It also complies with the provisions of *Title VI* of the *Civil Rights Act* of 1964 (42 U.S.C. 2000d) under the FHWA's regulations (23 CFR 200).

In accordance with the provisions of 23 CFR 771.117(a), this pending action would not cause any significant individual, secondary, or cumulative environmental impacts. Therefore, the FHWA's concurrence is requested that this proposed project is properly classified as a Categorical Exclusion.



Thomas L. Hansen, P.E.
Engineering Section Supervisor
MDT Environmental Services Bureau

Concur  , Date: 2/23/06
Federal Highway Administration

Attachments

"ALTERNATIVE ACCESSIBLE FORMATS OF THIS DOCUMENT WILL BE PROVIDED ON REQUEST."

- cc: Dwane Kailey, P. E. - MDT Missoula District Administrator
Paul R. Ferry, P.E. - MDT Highways Engineer
John H. Horton, Jr. - MDT Right-of-Way Bureau Chief
Suzy Althof, - MDT Contract Plans Section Supervisor
David W. Jensen, Supervisor - MDT Fiscal Programming Section
Susan Kilcrease - MDT Environmental Services
Environmental Quality Council
TIM CONWAY, P.E. - CONSULTANT DESIGN

Montana Department of Transportation
Helena, Montana 59620-1001

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Memorandum

To: Carl S. Peil, P.E.
Preconstruction Engineer

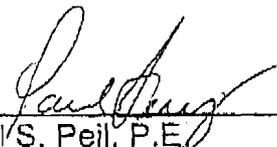
From: Bonnie Steg, Resources Section Supervisor
Environmental Services

Date: January 12, 2004

Subject: STPX-NH 32(42)
Amon Ranch - Wetland
Control No. 5227
Work Type - 510 - Wetland Mitigation

We request that you approve the Preliminary Field Review Report for the subject project.

Approved


Carl S. Peil, P.E.
Preconstruction Engineer

Date Jan 16, 2004

We are requesting comments from those on the distribution list. We will assume their concurrence if no comments are received within **two weeks** of the Project Management release date: _____

Distribution: (all with attachments)

L. Frazier	S. Straehl	T. Martin
C. S. Peil	B. A. Larsen	G. Kalberg
R. E. Williams	J. M. Marshik	D. Hill
M. Goodman	W. F. Scott	B. Steg
M. Wissinger	B. F. Juvan	J. J. Moran
K. M. Barnes	P. A. Jomini	J. A. Walther
D. J. Blacker	D. Kailey	FHWA(HOP-MT)
J. Horton	D. Williams	

cc: D. W. Jensen, w/attachment
L. Urban, w/attachment
Environmental File, w/attachment
Preconstruction File, w/attachment

Preliminary Field Review Report

A field review of the subject project was held October 23, 2003, with the following individuals in attendance.

Lawrence Urban – MDT Environmental Services, Mitigation Specialist
Shane Stack – Missoula District Engineering Design Manager
Tim Conway – MDT Consultant Design
Pat Basting - MDT Environmental Services, Missoula District Biologist
Steve Platt – MDT Environmental Services, Archaeologist
Dan Smith – MDT Environmental Services
David Cunningham – MDT Geotechnical

Proposed Scope of Work/Design

The goal for this project is to restore a section of Kennedy Creek to its historic location, and return the hydrology to the area to create and restore wetlands and its associated riparian corridor for Army Corps of Engineers approved wetland mitigation credits. Kennedy Creek was formerly a tributary to Nine Mile Creek and was historically a spawning tributary for westslope cutthroat and bull trout in the drainage. The stream and wetlands will be situated within an approximately 45-acre area that will be perpetually protected by an MDT Wetland Conservation Easement.

It is MDT's intent to hire a consultant to prepare a wetland design and determine the amount of wetland credits that could be provided to MDT. The proposed project will serve as both mitigation for several MDT projects (including Bull Lake South) and as a reserve for future projects in the northern portion of Watershed #3 – Lower Clark Fork River Basin.

The site is currently owned by Rick and Laura Amon of Missoula, Montana, and is leased to a rancher in the Nine Mile Valley for grazing/haying. The Amon property is approximately 190 acres. We anticipate the project, and Conservation Easement, will consist of about 45 acres within a portion of the lower hay meadow/pasture on the east side of the property along the Nine Mile Road. The area has been drained by a series of ditches across the field. Kennedy Creek has been channelized and now connects with an irrigation ditch that crosses the property before being returned to Nine Mile Creek at the south end of the property. The natural channel has been graded and backfilled to promote hay production. The site has approximately 18 acres of existing degraded wetlands

The created and restored wetlands and stream channel will consist of a flow through system with the water coming from Kennedy Creek, meandering across the property in the vicinity of the historic channel, and returning to Nine Mile Creek at the South end of the property.

Project Location and Limits

This project is located in Watershed #3 – Lower Clark Fork River Basin in the SW ¼ of the NE ¼, the S ½ of the SE ¼, and the NW ¼ of the SE ¼ of Section 27, and the W ½ of the NE ¼ of Section 34; Township 16 North, Range 23 West, Missoula County, Montana. This site is approximately 6 miles West of the town of Huson, in the Nine Mile Valley, across the road and south of the Nine Mile Community Center as shown on the attached Project Location Map.

Construction

This project will be let to bid through the MDT bidding process. It is anticipated that construction will take place some time in 2005.

Design Considerations

We are proposing that a consultant be hired to conduct a feasibility study of the site and prepare a conceptual design report that would eventually lead to a Scope of Work and final design for this project. In addition to the stream channel restoration, it is anticipated that several areas may be excavated to various depths to intercept the ground water. These design depths will vary to allow several different types of wetland vegetative communities to develop, with a wide range of wetland vegetative species and limited open water components. It is the intent of this project to develop several different kinds of wetland habitat to replace those types of wetlands impacted by transportation projects in the watershed.

Right of Way

There will be Right-of-Way involvement with the negotiations and acquisition of the conservation easement from the Amon's, and filing of the Conservation Easement with the Missoula County Clerk. A registered land surveyor will be hired to perform a land survey and complete a Certificate of Survey for the easement area. The easement area will be determined in cooperation with the landowner based on a conceptual design that will maximize wetland credit development. A small section of the proposed mitigation site will be on Lolo National Forest property (see attached map). The Forest Service is aware of the proposed project and will be included in all negotiations and easement boundary decisions. A separate easement may need to be obtained for the Forest Service property.

Survey

A topographic survey with 0.25-meter contour intervals will be completed along with a Certificate of Survey to establish the easement boundaries. The boundary will be determined in cooperation with the landowner, based on the conceptual design. It is requested that the topographic survey be in State Plane Coordinates and in a MDT useable format.

Hydraulics

Monitoring wells will be installed and monitored by the consultant selected for the project on a monthly basis. The groundwater depth and gradient will be determined and a water budget for the site completed. The consultant will determine the hydrology for Kennedy Creek through the 100-year flood and determine the bank-full discharge. Sieve analyses will be performed for the soils at several locations along the new channel location. The consultant will conduct a critical shear stress analysis to determine if bank protection would be required.

The site shall be researched to determine if any drain tiles were installed in addition to the drain ditches that currently exist. If drain tiles exist, their removal shall be addressed in the design. Water rights will be investigated for the purpose of securing hydrology for both the restored creek and its associated wetlands. Land and Water Consulting has conducted much of this work already as part of their application for water rights on behalf of the Amon's in 1998.

Water Rights

The Army Corps of Engineers require that the hydrology for a proposed wetland area be protected by securing water rights if possible. The Amon's currently have water rights from Kennedy Creek for irrigation and stock water on this site. Their permit, #76M 105105 00, is for 211.86 acre-feet. It is probable, based on the conceptual design, that a change of use application will be filed for a portion of the irrigation water right that currently exists for the hay fields, changing the use to conservation for wildlife, waterfowl, and wetlands.

Geotechnical

Geotechnical involvement is anticipated for the review of the installation of monitoring wells and core logs developed on the site by the consultant selected for this project. Geotechnical personnel will also be consulted in regard to the Nine Mile Community Center well that is located within the mitigation site. This well is not in the channel-restoration/construction area and no effect on the well is anticipated, as the ground water in this area should increase after construction of the mitigation project.

Fencing

A new fence will be constructed and installed around the perimeter of the Conservation Easement area upon completion of the restoration project as described by the Certificate of Survey that will be established. There is currently a fence along a portion of the east boundary between the proposed site and Nine Mile road. It is possible that this portion of fence may be utilized if it is in suitable condition.

Environmental

No significant environmental effects or issues have been identified. An appropriate environmental evaluation and NEPA/MEPA document will be prepared for this project and it is anticipated that this will be a categorical exclusion. The project should have no negative long-term effect on the habitat of any threatened or endangered species and in fact should provide a greater natural stream-bottom wetland complex for the use and protection of area wildlife. Presently the general vicinity of the project is used by both grizzly bears and gray wolves, established in the nine-mile valley. The proposed project will improve spawning habitat for westslope cutthroat and bull trout. The proposed project may also improve riparian habitat that could provide security and cover for species such as the gray wolf or grizzly bear as well as other general wildlife species in the area. It is anticipated that the project will not affect any hazardous waste sites. A cultural resource evaluation of the project area will be completed to determine if any archaeological resources are located within the proposed restoration area. The cultural resource survey will be conducted by a consultant. MDT cultural resource staff will be available to assist in the selection of a qualified/reputable cultural resource firm.

Legal

MDT's legal department will review all Agreements and the wetland conservation easement document pertaining to this project.

Public Involvement

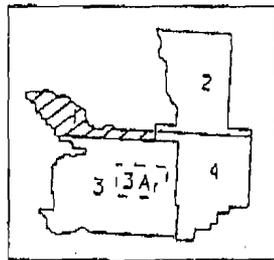
A news release for the proposed project will be distributed to the appropriate newspapers and if warranted a public meeting will be held as plans are developed in accordance with FHWA guidance. No adverse comments are anticipated.

Estimated Cost for PE and Construction

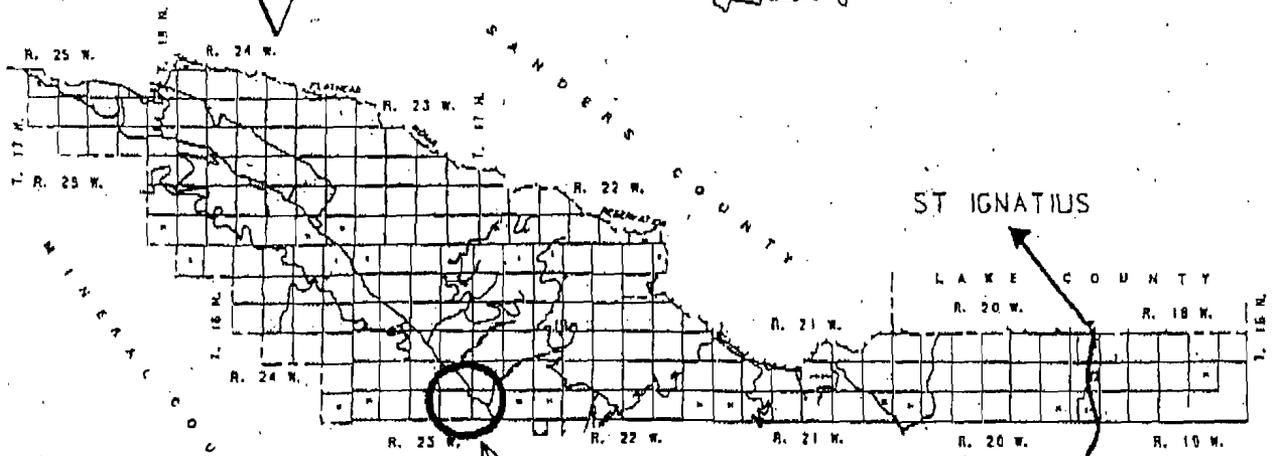
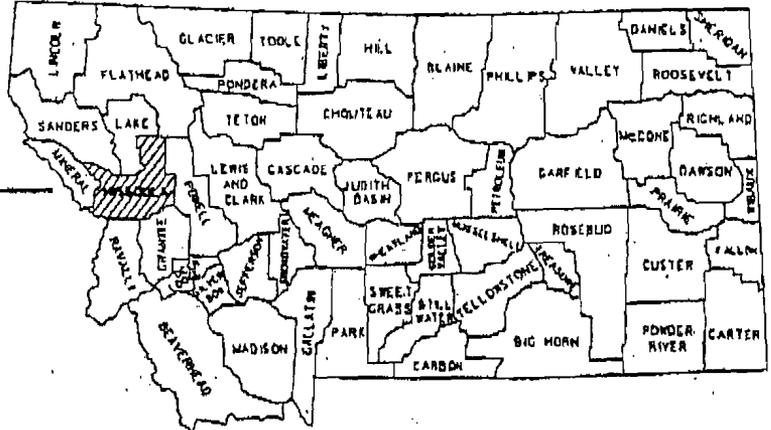
Preliminary Engineering \$ 140,000, Construction Engineering \$ 28,000, Right-of-Way \$ 225,000, Construction \$ 350,000 – Total Estimated Cost \$ 743,000.

Attachments: Location Map
Aerial Photo

AMON RANCH NINE MILE VALLEY MISSOULA COUNTY



SHEET # 1



THIS PROJECT



MONTANA DEPARTMENT
OF TRANSPORTATION

WETLAND
MITIGATION

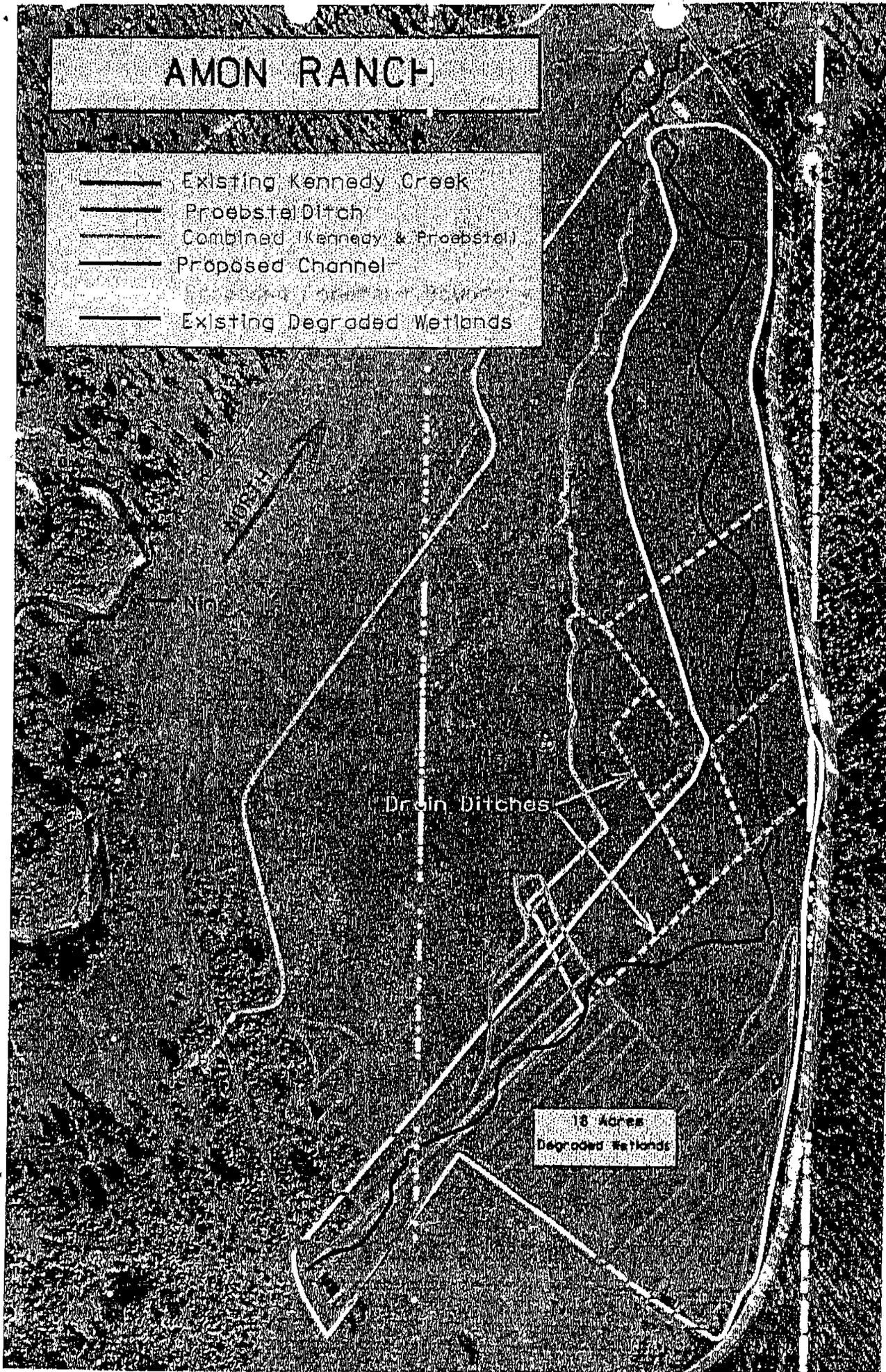
OWNER: RICK & LAURA AMON
 LEGAL: SEC 27, 34 T.16N, R23W

AMON RANCH

- Existing Kennedy Creek
- Proebstel Ditch
- Combined (Kennedy & Proebstel)
- Proposed Channel
- Existing Degraded Wetlands

Drain Ditches

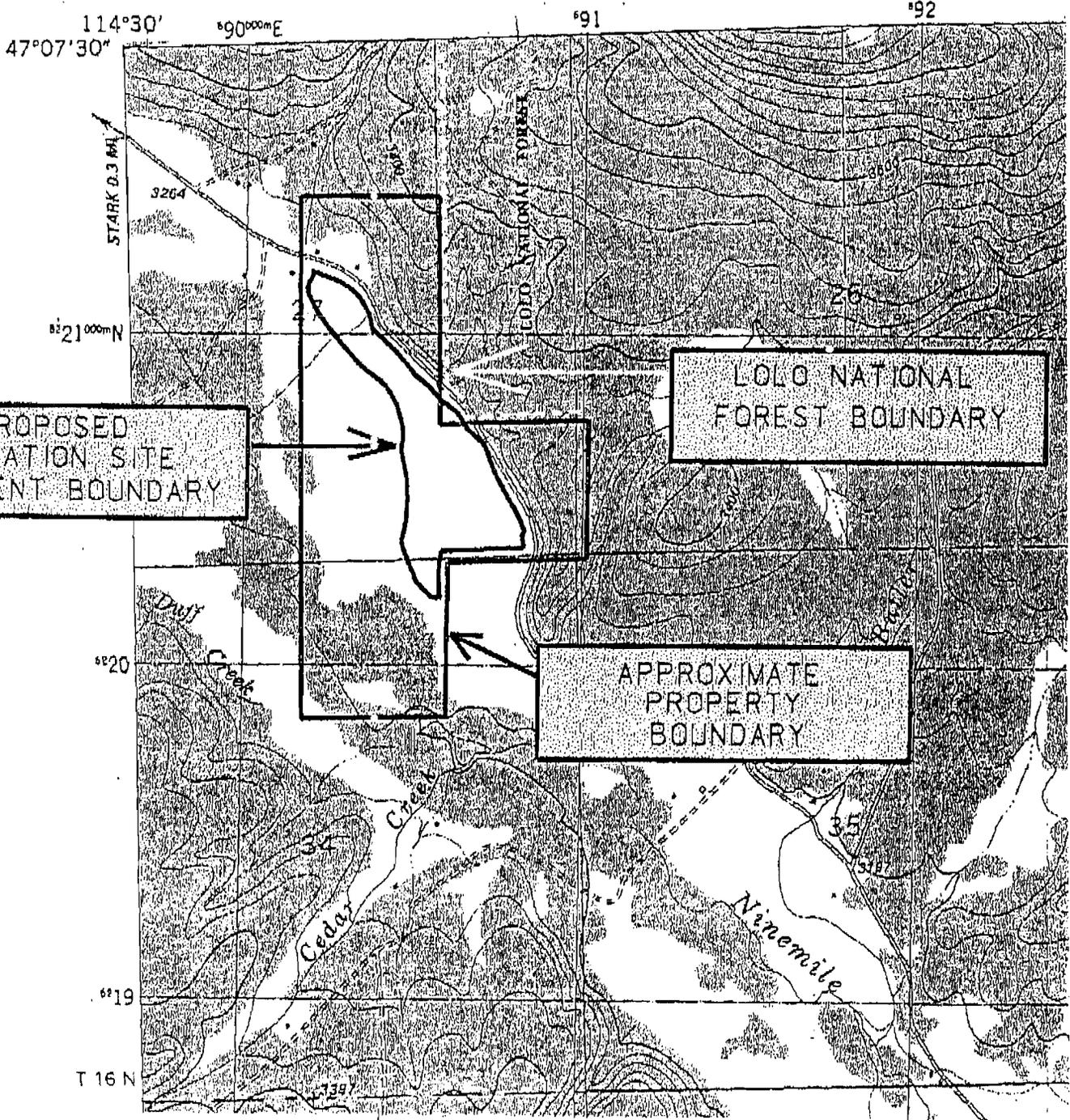
18 Acres
Degraded Wetlands



AMON RANCH

Township 16 North, Range 23 West
SW1/4 NE1/4, S1/2 SE1/4, NW1/4 SE1/4
Sec 27; W1/2 NE1/4 Sec 34

2028 II NE
(STARK NORTH)



PROPOSED
MITIGATION SITE
EASEMENT BOUNDARY

LOLO NATIONAL
FOREST BOUNDARY

APPROXIMATE
PROPERTY
BOUNDARY