



**US Army Corps  
of Engineers**

Omaha District

# PUBLIC NOTICE

Application No: 2002-90-091

Applicant: Baxter Meadows Development, LP

Waterways: Spring Ditch, Baxter-Border Ditch and Wetlands

Issue Date: April 23, 2002

Expiration Date: May 14, 2002

21 DAY NOTICE

---

Helena Regulatory Office

10 West 15<sup>th</sup> Street, Suite 2200

Helena, Montana 59626

---

**JOINT PUBLIC NOTICE  
FOR PERMIT APPLICATION SUBMITTED TO  
U.S. ARMY CORPS OF ENGINEERS  
AND  
MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY**

The application of Baxter Meadows Development, LP, requesting approval of plans and issuance of a permit under authority of the Secretary of the Army is being considered by the District Engineer, U.S. Army Corps of Engineers, Omaha, Nebraska. **The project described herein is not being proposed by the Corps, but by the applicant; the Corps will evaluate the proposed work to determine if it is permissible under current laws and regulations.**

**Description of Proposed Project:** The applicant requests permission to place fill material in streams and wetlands associated with the construction of a 460 acre mixed use development. The project will be built in five phases, the first phase scheduled for construction in 2002. Full build-out is expected to take 10 years. Drawings showing the location and extent of the project are attached to this notice.

**Location:** The property is located in the NE 1/4 of Section 3, Township 2 South, Range 5 East, and most of the S 1/2 of Section 34, Township 1 South, Range 5 East, Gallatin County, Montana. See attached map.

**Purpose:** For purposes of definition under Section 404, the basic project purpose is determined to be to construct a commercial and residential development. The overall project purpose is to provide affordable housing and commercial services in close proximity to city resources.

**Background:** The project was first brought before the Corps in June of 2000. Wetlands were delineated according to the 1987 Wetland Delineation Manual and Corps staff verified the delineation. The project has undergone review at the local level and received preliminary plat approval and annexation into the City on November 19, 2001. The application for wetland/stream impacts was submitted to the Corps in March of 2002.

**Description of Impacts to Wetlands and Waters of the U.S.:** The project (all phases) will impact a total of 3.2 acres of wetlands and other waters. The expected impacts for phase 1 will be approximately 1.75 acres. The majority of the impacts to aquatic areas will result from the improvements of Davis and Baxter Lanes and the new construction of Deadman's Gulch. The utility lines will be placed in the road bed and will not cause additional wetland impacts. The impacts associated with the relocation of the Shaplow irrigation diversion and the construction of the associated waterline are exempt from regulation under Section 404, pursuant to regulations found at 33 CFR 323.4(a)3, which reads:

"(3) Construction or maintenance of farm or stock ponds or irrigation ditches, or the maintenance (but not construction) of drainage ditches. Discharges associated with siphons,

pumps, headgates, wingwalls, weirs, diversion structures and such other facilities as are appurtenant and functionally related to irrigation ditches are included in this exemption."

**Mitigation Including Avoidance and Minimization of Impacts:** The applicant proposes to offset the unavoidable impacts by the establishment (creation) of 3.74 acres of wetlands, as well as the enhancement of 1.32 acres (5936 linear feet on Spring Ditch and 170 feet on Baxter-Border ditch.) Please refer to Table 3.0 (attached) for a complete description of wetland impacts and mitigation.

The applicant has stated that impacts to aquatic areas have been avoided and minimized to the maximum extent practicable. Examples of avoidance and minimization include:

1. Two proposed culverts on the northwest quarter of the property along Baxter-Border Ditch have been replaced by proposed bridges that will span the existing channel.
2. Proposed housing once located in the spring head area (W-3) was moved and the spring and conveyance channel are slated for enhancement.
3. A road crossing on the Spring Ditch north of proposed impact #5 on Exhibit A-3, was eliminated;
4. A planned road was relocated to avoid .13 acre of wetland (see proposed impacts #22 and 23 on Exhibit A-3)
5. The road west of the Spring Ditch in the northeast quarter of the property was moved further west to accommodate Bozeman's waterway setback rules (35 feet).

**401 Water Quality Certification:** The Montana Department of Environmental Quality, 1520 East 6th Avenue, PO Box 200901, Helena, Montana 59620-0901, will review the proposed project with the intent to certify in accordance with the provisions of Section 401 of the Clean Water Act. The certification, if issued, will express the State's opinion that the operations undertaken by the applicant will not result in a violation of applicable water quality standards. The Montana Department of Environmental Quality hereby incorporates this public notice as its own public notice and procedures by reference thereto.

**Cultural Resources:** The Corps of Engineers, Omaha District will comply with the National Historic Preservation Act of 1966, as amended. We have checked the National Register of Historic Places and its current supplements, and there are no known National Register sites in the vicinity; however, we will evaluate input by the State Historic Preservation Office and the public in response to this public notice. The applicant has made arrangements to have the project area surveyed for the presence of cultural resources.

**Threatened / Endangered Species:** In compliance with the Endangered Species Act, a preliminary determination has been made that the described work will not affect species designated as threatened or endangered, or adversely affect critical habitat. In order to complete our evaluation of this activity, comments are solicited from the U.S. Fish and Wildlife Service and other interested agencies and individuals.

**Evaluation Factors:** The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposed activity must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. In addition, the evaluation of the impact of work on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act (40 C.F.R.; Part 230).

**Comments:** The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the

impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. All public notice comments will be considered public information and will be subject to review by the applicant.

Any person may request, in writing and within the comment period specified in this notice, that a public hearing be held for the purpose of gathering additional information. Requests for public hearings must be identified as such and shall state specifically the reasons for holding a public hearing and what additional information would be obtained. The request must be submitted to the U.S. Army Corps of Engineers, 10 West 15th Street, Suite 2200, Helena, Montana 59626. If it is decided that additional information is required and that a public hearing should be held, interested parties will be notified of the date, time and location.

Any interested party (particularly officials of any town, city, county, state, or Federal agency; Indian tribe; or local association whose interests may be affected by the work) is invited to submit to this office written facts, arguments, or objections on or before the expiration date listed on the front of this notice. Any agency or individual having an objection to the work should specifically identify it as an objection with clear and specific reasons. Comments, both favorable and unfavorable, will be accepted, made a part of the record and will receive full consideration in subsequent actions on this application. All replies to the public notice should be addressed to the **U.S. Army Corps of Engineers, 10 West 15th Street, Suite 2200, Helena, Montana 59626. Please reference the Application Number found on the first page of this notice in any correspondence.** Jean Ramer (project manager), telephone number (406) 441-1378, may be contacted for additional information. You may also fax your comments to (406) 441-1380, or email to: **Jean.L.Ramer@usace.army.mil**

Comments postmarked after the expiration date of this public notice will not be considered.

**Statutory Authorities:** A permit, if issued, will be under the provisions of Section 404 of the Clean Water Act.

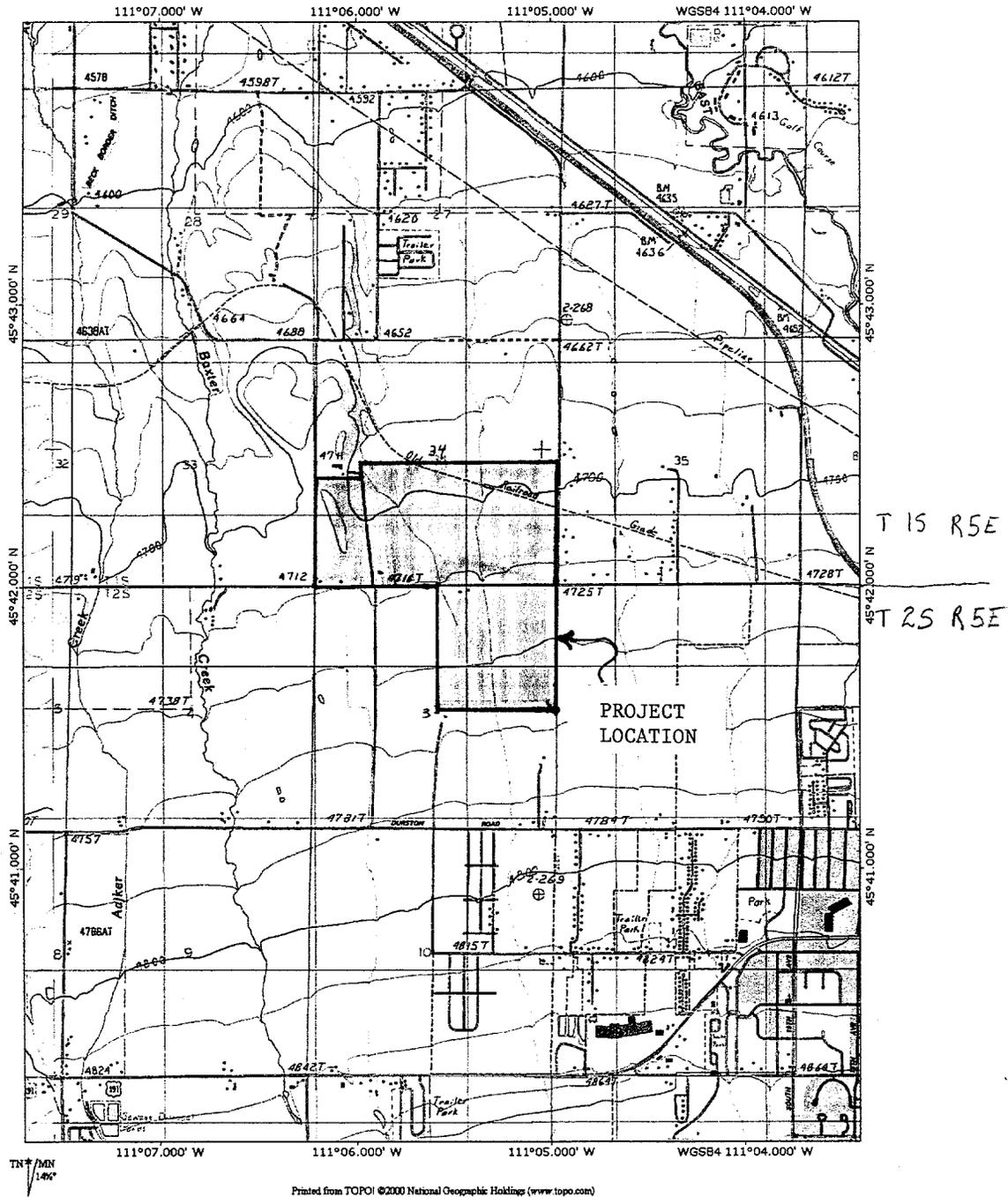


Figure 1. Baxter Meadows site location, Bozeman, MT



**LEGEND**

-  WETLAND TYPE JURISDICTIONAL
-  WETLAND TYPE NON-JURISDICTIONAL
-  MITIGATION WETLANDS
-  BRIDGE (PROPOSED)
-  IRRIGATION RIGHT PIPE
-  OUTFLOW FROM LAKES
-  PHASE 1 BOUNDARY
-  HEAD GATE

**WETLAND IMPACT AREA**

IN ASSOCIATION WITH:



**BAXTER MEADOWS  
EXHIBIT A - 1  
WETLANDS  
IMPACT MAP**



**PAGE 1 OF 6  
APRIL 2002**



IN ASSOCIATION WITH:



**BAXTER MEADOWS  
EXHIBIT A - 2  
WETLANDS  
IMPACT MAP**

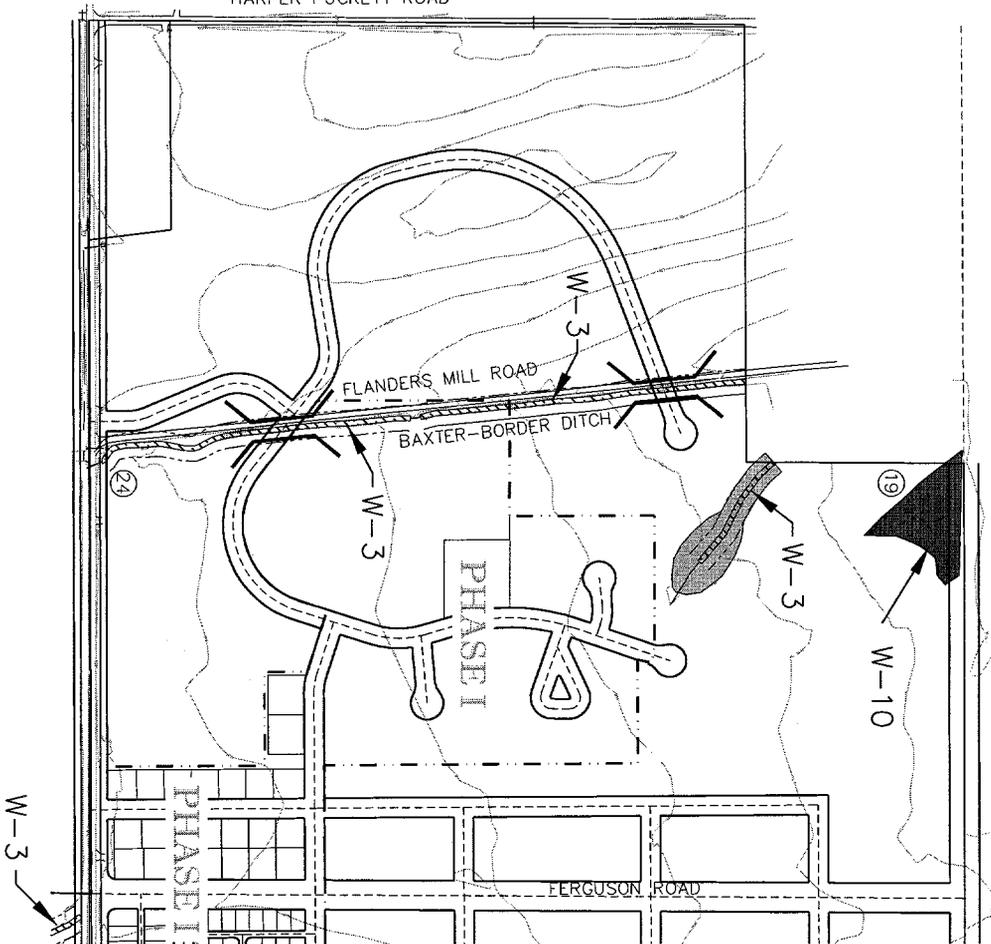


(SCALE IN FEET)



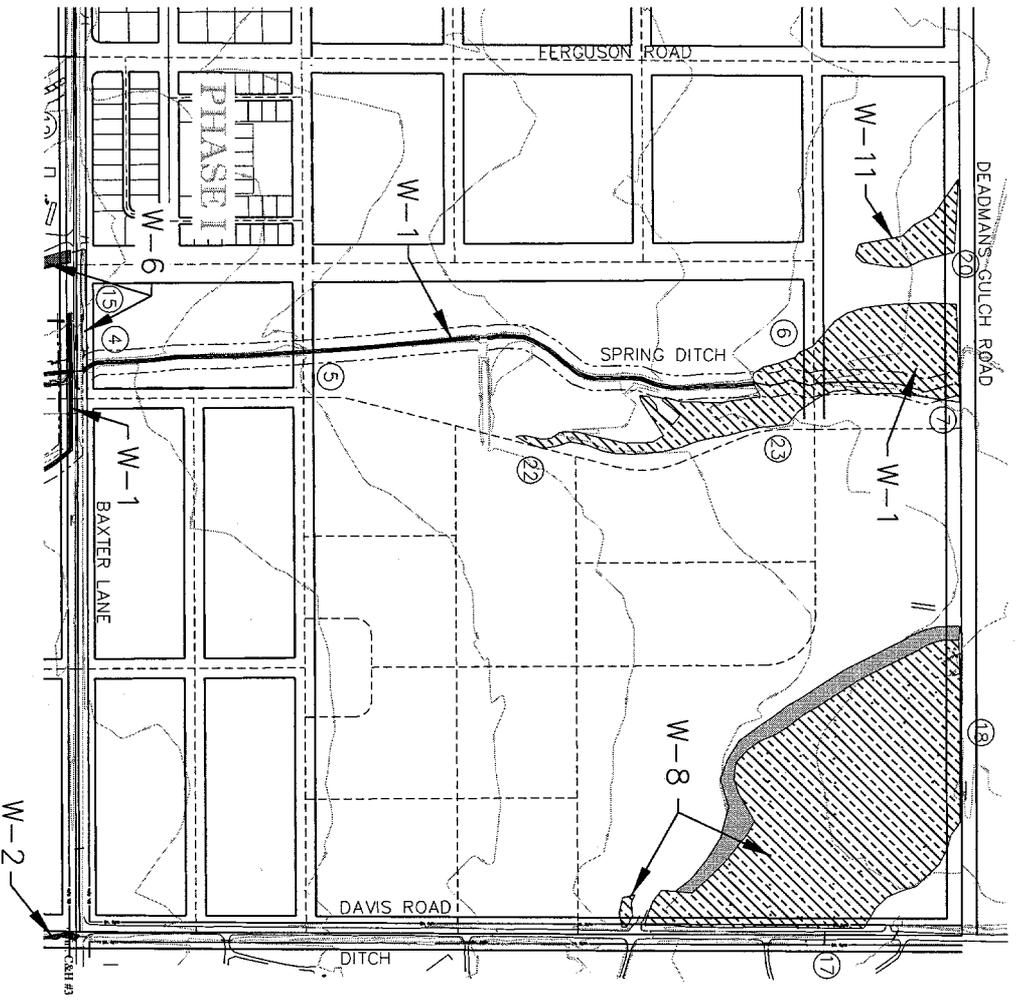
**APR 02 2002**

HARPER PUCKETT ROAD



**LEGEND**

- WETLAND TYPE JURISDICTIONAL
- WETLAND TYPE NON-JURISDICTIONAL
- MITIGATION WETLANDS
- BRIDGE (PROPOSED)
- IRRIGATION RIGHT PIPE
- OUTFLOW FROM LAKES
- PHASE I BOUNDARY
- HEAD GATE



**LEGEND**

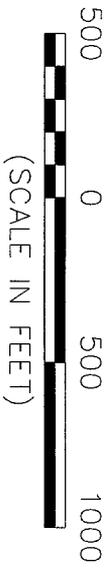
-  WETLAND TYPE JURISDICTIONAL
-  WETLAND TYPE NON-JURISDICTIONAL
-  MITIGATION WETLANDS
-  BRIDGE (PROPOSED)
-  IRRIGATION RIGHT PIPE
-  OUTFLOW FROM LAKES
-  PHASE I BOUNDARY
-  HEAD GATE



IN ASSOCIATION WITH:

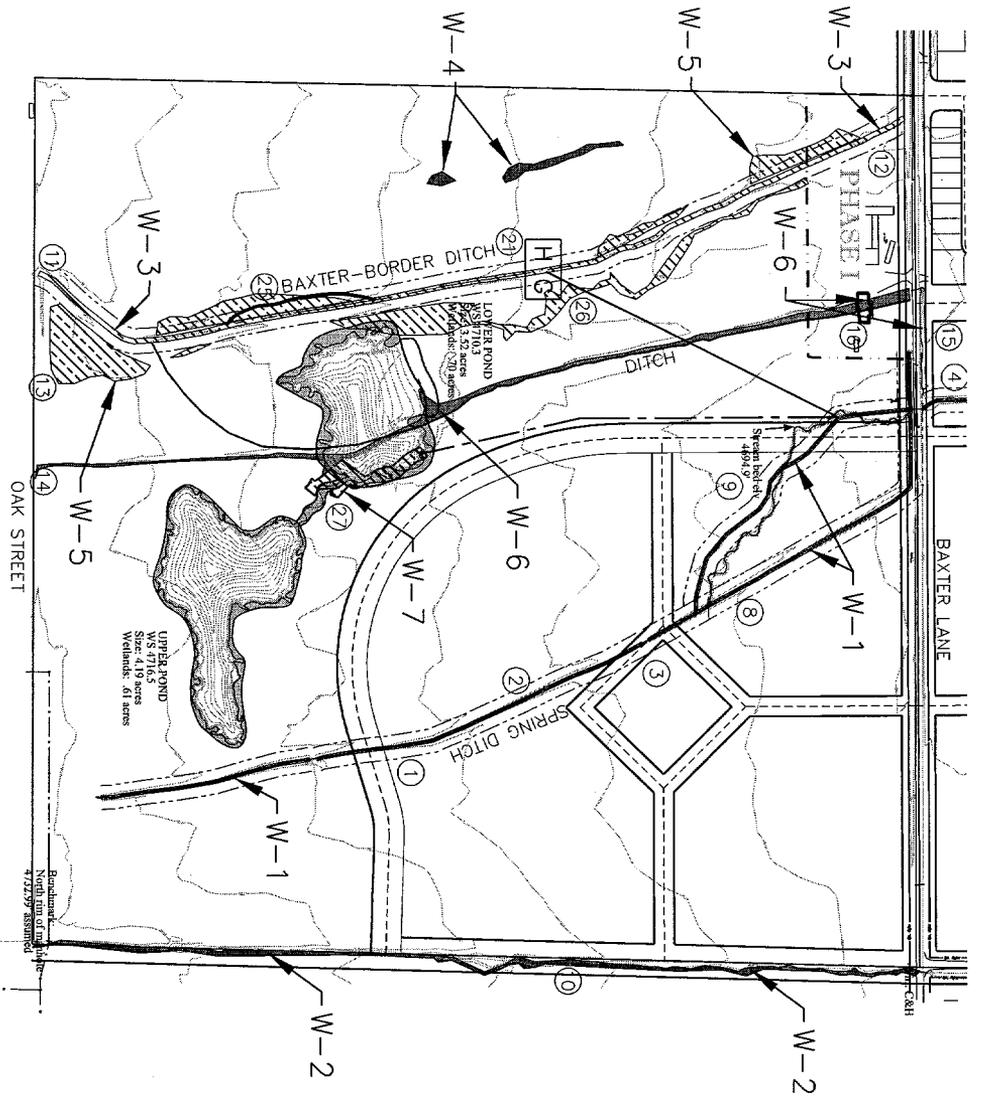


**BAXTER MEADOWS  
EXHIBIT A - 3  
WETLANDS  
IMPACT MAP**



**PAGE 3 OF 6  
APRIL 2002**

**APR 02 2002**

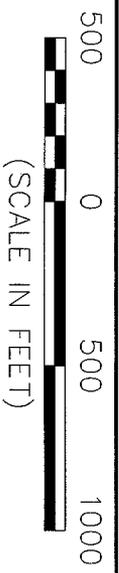


**LEGEND**

-  WETLAND TYPE JURISDICTIONAL
-  WETLAND TYPE NON-JURISDICTIONAL
-  MITIGATION WETLANDS
-  BRIDGE (PROPOSED)
-  IRRIGATION RIGHT PIPE
-  OUTFLOW FROM LAKES
-  PHASE I BOUNDARY
-  HEAD GATE



**BAXTER MEADOWS  
EXHIBIT A - 4  
WETLANDS  
IMPACT MAP**



APR 02 2002

# TABLE 1.0 - WETLAND SUMMARY TABLE

WETLAND TYPE	WETLAND IDENTIFICATION	JURISDICTIONAL STATUS	WETLAND ACRES	IMPACT ACRES	ESTABLISHED WATER ACRES	OPEN MITIGATION ACRES
RIVERINE	W-1	Y	6.64	1.07		1.59
RIVERINE	W-3	Y	2.32	0.23 (1)		1.25
DEPRESSIONAL	W-4	N	0.66	N/A		
DEPRESSIONAL	W-5	Y	2.61	0.07 (1)		
DEPRESSIONAL	W-7	Y	0.41	0.41	- EXCAVATION	
DEPRESSIONAL	W-8	Y	10.95	1.15		1.80
DEPRESSIONAL	W-10	N	1.23	N/A		
DEPRESSIONAL	W-11	Y	0.74	0.27		
ARTIFICIAL	W-2	N	0.75	N/A		
ARTIFICIAL	W-6	N	1.94	N/A		
CREATED LACUSTRINE (LAKES)				0	6.40	1.30 (LACUSTRINE FRINGE) 0.13 (RIVERINE)
TOTAL			28.25	3.20 (1)	6.40	6.07 (2)

NOTE: N/A = NOT APPLICABLE (NON-JURISDICTIONAL)

- (1) IMPACT ACRES HAVE BEEN DECREASED FOR EXEMPT ACTIVITIES: W-3 IRRIGATION HEADGATE, W-5 IRRIGATION PIPE: AND INCLUDE W-7 EXCAVATION ACTIVITIES.
- (2) PLEASE REFER TO WETLAND MITIGATION SUMMARY TABLE (TABLE 3.0) FOR NET GAIN AREAS.

IN ASSOCIATION WITH:



**BAXTER MEADOWS**  
**TABLE 1**  
**WETLANDS**  
**IMPACT MAP**



**PAGE 5 OF 6**  
**APRIL 2002**

APR 02 2002

# TABLE 2.0 - WETLAND DISTURBANCE AREAS

**W-1**

- ① ROAD, WATER = 1411 SF
- ② ROAD, WATER = 1618 SF
- ③ ROAD, WATER = 1482 SF
- ④ ROAD, WATER = 1370 SF
- ⑤ ROAD = 2093 SF
- ⑥ ROAD = 13571 SF
- ⑦ ROAD, SEWER, WATER = 13845 SF
- ⑧ FILL = 9869 SF
- ⑨ ROAD = 1560 SF
- ⑫ ROAD = 2630 SF: MOVED ROAD-AVOIDANCE
- ⑬ ROAD = 3047 SF: MOVED ROAD-AVOIDANCE

**TOTAL IMPACT = 46819 SF (1.07 ACRES)**

**W-3**

- ⑪ ROAD = 1438 SF
- ⑫ ROAD, WATER = 957 SF
- ⑮ HEADGATE FOR IRR. RIGHT = 45 SF: EXEMPT
- ⑯ ROAD, WATER = 957 SF
- ⑰ STREAM BED FILL AND SEAL = 6534 SF

**TOTAL IMPACT = 9,886 SF (0.23 ACRES)**

**W-5**

- ⑬ ROAD = 3143 SF
- ⑰ PIPE BEDDING = 1,440 SF: EXEMPT

**TOTAL IMPACT = 3,143 SF (0.07 ACRES)**

**W-7**

- ⑳ EXCAVATION = 17860 SF

**TOTAL IMPACT = 17,860 SF (0.41 ACRES)**

**W-8**

- ⑰ ROAD, SEWER, WATER = 26473 SF
- ⑱ ROAD, SEWER, WATER = 23828 SF

**TOTAL IMPACT = 50,301 SF (1.15 ACRES)**

**W-11**

- ⑳ ROAD, SEWER, WATER = 11946 SF

**TOTAL IMPACT = 11,946 SF (0.27 ACRES)**

IN ASSOCIATION WITH:



AND



**BAXTER MEADOWS  
TABLE 2  
WETLANDS  
IMPACT MAP**



**PAGE 6 OF 6  
APRIL 2002**

APR 02 2002

Table 3.0 Wetland Mitigation Summary Table for Baxter Meadows-April 1, 2002 VERSION

Wetland Type (Co-ordinating)	Wetland #	Jurisdictional Wetland Acres	Jurisdictional Impact Acres <sup>1</sup>	Mitigation Acres (for All Mitigation Types)	Mitigation Type	Net Gain Acres	Jurisdictional Wetland Acres Post-Construction (by WL Type)	Pre-Construction Functional Units/% Category	Post-Construction Functional Units/% Category (Improvements are in BOLD)
Rivetime	W-1, W-3	8.96	1.30 <sup>2</sup>	0.39	Establishment (W-1: Spring Ditch Realignment) Enhancement (W-1: Enhance In-Place Entire Spring Ditch)	0.24 (1.2 <sup>5</sup> )	8.95	45.69/42.5% III	72.82/68% II
				1.1	Enhancement/Establishment (W-3: Enlarge Baxter-Border Spring Head Area)	(0.12 <sup>5</sup> )/0.98			
				0.15	Establishment (W-3: Baxter-Border Ditch Realignment)	0.04			
	Created Lacustrine (No Wetland ID#)			0.13	Establishment (Stream Connecting the Created Lakes)	0.13			
<b>TOTAL</b>		<b>8.96</b>	<b>1.30<sup>2</sup></b>	<b>2.97</b>		<b>1.39</b>	<b>8.95</b>		
Depressional (Shrub/Scrub)	W-8	10.95	1.15	1.8	Establishment (Enlarge Wetland Area)	1.8 -0.37	11.6	51.70/56% III	68.44/66% II
Depressional (Non Shrub/Scrub)	W-5, 7, 11	3.76	0.75 <sup>2,3</sup>	-		-0.41: W-7 excavation <sup>6</sup>	2.98	10.53/31% III	8.34/31% III
<b>TOTAL</b>		<b>14.71</b>	<b>1.90<sup>2,3</sup></b>	<b>1.8</b>		<b>1.02<sup>6</sup></b>	<b>13.57</b>		
Lacustrine Fringe	NA	(6.4 Acres Open Water)	NA	1.3+	Establishment	1.3	7.7		69.44/74% <sup>7</sup> II
<b>TOTAL</b>		<b>(6.4)</b>	<b>NA</b>	<b>1.3+</b>		<b>1.3</b>	<b>7.7</b>	<b>NA</b>	
<b>GRAND TOTAL</b>		<b>23.67<sup>1</sup></b>	<b>3.20<sup>2,3</sup></b>	<b>6.07</b>		<b>3.74<sup>6</sup></b>	<b>30.22<sup>7</sup></b>	<b>107.92</b>	<b>219.04</b>

<sup>1</sup> The Grand Total does not include the Lacustrine open-water component (6.4 acres) or the Non-Jurisdictional wetland acreage.

<sup>2</sup> Acreage for impacted areas have been adjusted for Exempt Activities: W-3: Irrigation Headgate; W-5: Irrigation Pipe.

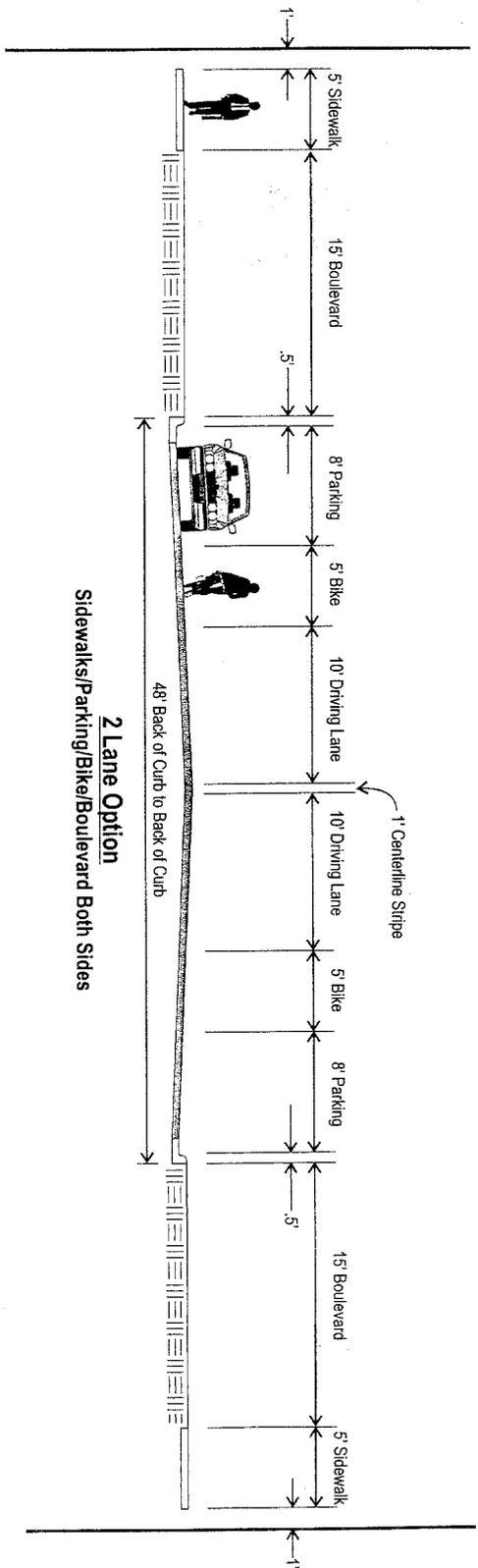
<sup>3</sup> W-7, 0.41 acres, will be excavated, a secondary impact (no fill placement) and incorporated in the northern lake.

<sup>4</sup> Establishment mitigation is the result of creating a wetland in an area of non-wetland or enlarging the acreage of an established wetland.

<sup>5</sup> Parenthetical values are the acres of Enhanced wetland and it is not included in the Net Gain Acreage.

<sup>6</sup> Wetland 7, 0.41 acreage was excavated and incorporated into the northern-most lake; no fill was placed in any portion of this wetland. Wetland sod will be preserved.

<sup>7</sup> Includes open water component of created lakes.



*Typical Cross Section of Roads within Project Area*

**2 Lane Option**  
Sidewalks/Parking/Bike/Boulevard Both Sides



Photo 1: Riverine wetland (W-1); Spring ditch. View is to the south. The prior converted (PC) agricultural field is in the right center of the photograph.

Above: Existing condition of Spring Ditch.

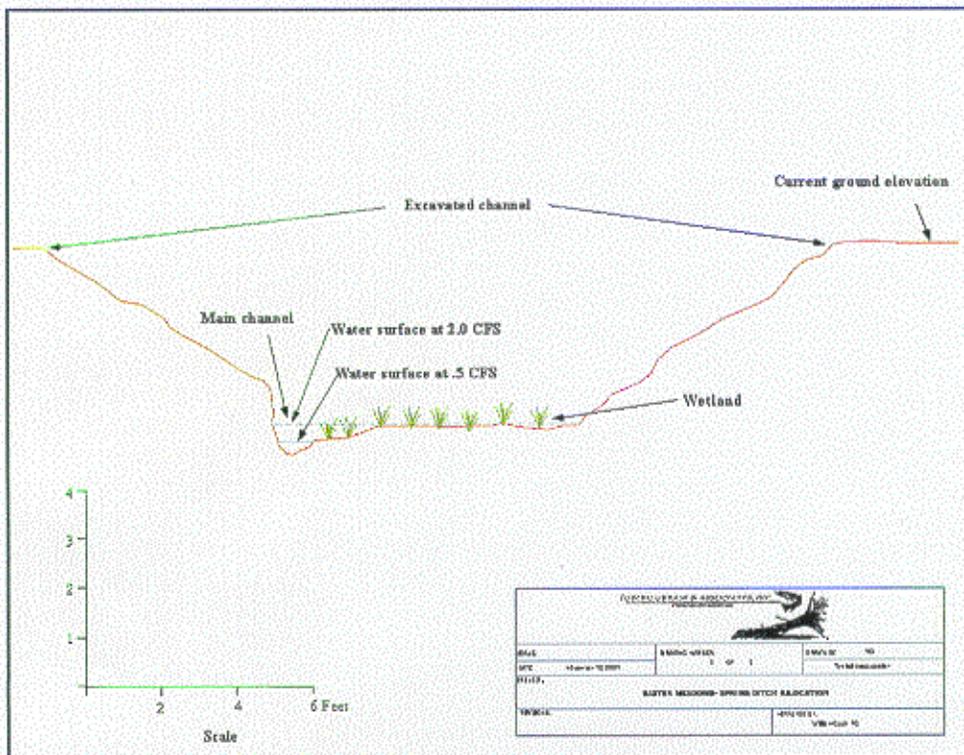


Figure 2. Typical cross section of reconstructed Spring Ditch channel. Calculations of channel dimensions were based on a hydraulic computer model prepared by Urbani and Assoc. Output results are available on request at the Helena Regulatory Office.