

Certified Wetland Determination

Field Office: Hayti Field Office
 Certified By: Nathan Blankers
 Legal Desc: 28-115-53

Agency: USDA-NRCS
 Certified Date: 5/18/16
 Tract: 1872



Legend

- Certified Wetland Determination Boundary
- Wetlands
- Wetlands Ditch
- Tile



W Wetland
 FW Farmed Wetland Drained or modified & cropped prior to 12-23-1985, but still meets wetland criteria
 PC Prior Converted
 NW Non Wetland
 See NRCS CPA-O26E for definitions and additional info.





5/18/16

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Terry Strofus
18095 447 ave
Hazel, SD 57242

Dear Terry,

As a result of your request for an evaluation of proposed wetland activity via form AD-1026 the Natural Resources Conservation Service (NRCS) is issuing a preliminary certified wetland determination.

The regulations for the Wetland Conservation (WC) compliance provisions of the 1985 Food Security Act, as amended, are found at Title 7 Code of Federal Regulations (7 CFR) §12. The purposes of the provisions are to remove certain incentives for persons to produce agricultural commodities on converted wetlands.

The regulations describe several exemptions (7 CFR §12.5 (b)) from ineligibility and outline the NRCS involvement in implementing the WC compliance provisions. This determination was conducted in accordance with the current federal wetland delineation procedures as found in the most current versions of the National Food Security Act Manual (NFSAM), the 1987 United States Army Corps of Engineers (USACE) Wetland Delineation Manual, Technical Report Y-87-1, the USACE Regional Supplements, and/or State Offsite Methods/Mapping Conventions.

With this letter the NRCS is issuing a **preliminary technical determination**, in accordance with the WC compliance provisions. This preliminary technical determination was conducted by the NRCS on 5/18/16. The attached NRCS-CPA-026E, Highly Erodible Land and Wetland Conservation Determination, and map depict the wetland exemptions, referred to as "labels". The area identified other than Non-Wetland is wetland for the following reasons:

Presence of Hydrophytic Vegetation:

Hydrophytic vegetation means plants growing in water or in a substrate that is at least periodically deficient in oxygen during a growing season as a result of excessive water content (16 U.S.C. §3801(a)(12)).

Presence of Hydric Soils:

Hydric soil means soil that, in its undrained condition, is saturated, flooded, or ponded long enough during a growing season to develop an anaerobic condition that supports the growth and regeneration of hydrophytic vegetation (16 U.S.C. §3801(a)(13)).

Presence of Wetland Hydrology:

Wetland hydrology means inundation or saturation of the site by surface or groundwater during the growing season at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation. (7 CFR §12.2).

The wetland area(s) were evaluated for applicable exemptions and labeled accordingly.

You may appeal this preliminary technical determination in accordance with the laws and federal regulations set forth at 7 CFR §614, the NRCS Appeals Procedures, 7 CFR §780, the Food Security Act Appeals Procedures, and 7 CFR §11, the National Appeals Division (NAD) Rules of Procedure, as follows:

- **You may request a field review and reconsideration** by the NRCS in accordance with 7 CFR 614.7(b). Any request for field review and reconsideration will be conducted with you or your authorized representative present where you will be able to present evidence that NRCS may not have previously considered. The NRCS will consider all new information.
- To request a field review and reconsideration, you must contact the NRCS, in writing, **no later than 30 days** from the date that you receive this notification at:

NRCS
PO Box 165
Hayti, SD 57241
605-783-3642

- **If you do not request a field review, you may request mediation** of the preliminary technical determination in accordance with 7 CFR 614.7(a)(2). Mediation is completed in good faith. Parties mediating a dispute are not free to make their own law or policy and mediation is not a means to obtain a result not otherwise permissible under statute, regulations, or generally applicable agency policy and program procedures. Within these parameters, mediation of disputes can produce benefits when the mediation reveals additional relevant facts and new insights.

To request mediation you must contact Kelly Olsen in writing **no later than 30 days** from the date that you receive this notification at:

Assistant State Conservationist-Compliance
Natural Resources Conservation Service
200 Fourth Street SW
Huron, South Dakota 57350-2475
Phone: (605) 350-2211

- **You may request a waiver of your rights** to this preliminary review and reconsideration or mediation in accordance with 7 CFR §614.7(d) if you want an immediately final wetland technical determination by writing to the state conservationist at:

Jeffrey J. Zimprich
Natural Resources Conservation Service
200 Fourth Street SW
Huron, South Dakota 57350-2475
Phone: (605) 352-1234

Fax: (605) 352-1261

If you do not select any of your preliminary appeal rights, this preliminary technical determination will become both a final technical determination in accordance with 7 CFR §614.8(a)(1) and a certified wetland determination in accordance with 7 CFR §12.30(c). A technical determination becomes a final USDA decision when the time to request appeal expires without appealing the decision. A final technical determination becomes appealable 30 days after receipt of the preliminary technical decision.

If the final technical determination is a result of the expiration of the 30-day period following receipt of this preliminary technical determination, it may be appealed, **within 30 days**, to either of the following:

- Appeal to the **Hamlin County Farm Service Agency County Committee**

OR

- Appeal to the NAD at the following address:

National Appeals Division, Western Regional Office
755 Parfet Street, Suite 494
Lakewood, Colorado 80215-5506
Phone: (800) 541-0483 or (303) 236-2862
TTY: (800) 497-0253
Fax: (303) 236-2820

It is your responsibility to ensure that your actions do not impact wetlands protected by the United States Fish and Wildlife Service (FWS) or any other conservation easement. For any questions regarding FWS conservation easements on the tract or adjacent land, please contact the wetland management district office located in **Madison NWR, 605-256-2974**. For any other easements, please contact the local NRCS office.

This preliminary technical determination has been conducted for the purpose of implementing the WC compliance provisions of the 1985 Food Security Act, as amended. This determination may not be valid for the Clean Water Act. If you intend to conduct any activity that constitutes a discharge of dredged or fill material into wetlands or Other Waters, you should request a jurisdictional determination by contacting the USACE at **(605) 224-8531**, Pierre, SD, before starting the work.

There may be opportunities to utilize mitigation if you have an interest in converting the labeled wetlands (Ws), farmed wetlands (FWs), and farmed wetland pasture (FWP), found in this determination. Mitigation is the compensation of lost wetlands through wetland restoration, enhancement, or the creation of new wetlands. Mitigation cannot occur at the expense of the federal government. Mitigated wetlands must be in the same local watershed as the wetlands you wish to convert. The landowner must grant an easement that remains in effect as long as the original wetland remains converted and the easement will be recorded on public land records for the mitigated wetlands. All of the above activities, as well as, a mitigation plan, must be completed before any wetland conversions could occur.

If you are the owner of this tract of land and have a tenant, I urge you to discuss this letter and accompanying NRCS-CPA-026E with your tenant. Likewise, if you are the tenant of this tract of land, I urge you to discuss this letter with your landlord.

The 2014 Farm Bill connected producer eligibility for federal crop insurance premium subsidy to compliance with the wetland conservation provisions. Eligibility for most USDA programs is lost for any wetland conversions that have occurred after December 23, 1985. However, only wetland conversions that occur after February 7, 2014, result in ineligibility for federal crop insurance premium subsidy.

Sincerely,



Nathan Blankers
Wetland Specialist
Attachments

cc:

Damon Stormo, CED, FSA, Hayti, SD
Jim Dylla, DC, NRCS, Watertown/Hayti, SD



HIGHLY ERODIBLE LAND AND WETLAND CONSERVATION DETERMINATION

Name Address:	Terry Strofus 18095 447 Ave Hazel, SD 57242	Request Date:	6/12/15	County:	Hamlin
Agency or Person Requesting Determination:	Farm Service Agency	Tract No:	1872	FSA Farm No.:	3049

Section I - Highly Erodible Land (Y/N)

Is a soil survey now available for making a highly erodible land determination?	
Are there highly erodible soil map units on this farm?	

Fields in this section have undergone a determination of whether they are highly erodible land (HEL) or not; fields for which an HEL Determination has not been completed are not listed. In order to be eligible for USDA benefits, a person must be using an approved conservation system on all HEL.

Field(s)	HEL(Y/N)	Sodbust(Y/N)	Acres	Determination Date

The Highly Erodible Land determination was completed in the _____

Section II - Wetlands

Fields in this section have had wetland determinations completed. See the Definition of Wetland Label Codes for additional information regarding allowable activities under the wetland conservation provisions of the Food Security Act and/or when wetland determinations are necessary to determine USDA program eligibility.

Field(s)	Wetland Label*	Occurrence Year (CW)	Acres	Determination Date	Certification Date
All	NW		154.7	3/1/16	5/18/16
All	PC		2.9	3/1/16	5/18/16

The wetland determination was completed in the Office It was mailed to the person on 5/18/2016

Remarks: _____

I certify that the above determinations are correct and were conducted in accordance with policies and procedures contained in the National Food Security Act Manual.

Signature	Designated Conservationist	Date
<i>Nath Bhh...</i>		5/18/2016

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD). To file a complaint of discrimination, write USDA, Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, DC 20250-9410, or call toll-free at (866) 632-9992 (English) or (800) 877-8339 (TDD) or (866) 377-8642 (English Federal-relay) or (800) 845-6136 (Spanish Federal-relay). USDA is an equal opportunity provider and employer.

***DEFINITIONS OF WETLAND LABEL CODES**