



United States Department of Agriculture

Natural Resources Conservation Service
Muncie Field Office
3641 N Briarwood Lane
Muncie, IN 47340
Phone: 765-747-5531 x 3

VIA CERTIFIED MAIL: RETURN RECEIPT REQUESTED

12/19/14

Patricia Love
c/o Chris Peacock
1221 E 100 S
Winchester, IN 47394

Dear Patricia Love c/o Chris Peacock:

This is to notify you that as of the date of this letter, a preliminary technical determination for Farm # 2579 Tract# 2401 has been made. Field(s) shown in Section II of the attached NRCS-CPA-026E, "Highly Erodible Land and Wetland Conservation Determination," form contains the following HEL/WETLAND determinations along with the labels/certifications as indicated.

I have enclosed a Preliminary Technical Determination on NRCS-CPA-026E along with aerial photo(s) that includes your HEL and/or certified wetlands determinations. This latest determination requested by you was performed by Adam Jones on 12/19/14. This determination supersedes all previous USDA determinations and is valid as long as the land use remains in agriculture.

This HEL/Wetland determination has been conducted for the purpose of implementing the conservation provisions of the Food Security Act of 1985 as amended. This determination is not valid for identifying the extent of the Army Corps of Engineers (COE) Clean Water Act jurisdiction for this site. If you intend to conduct any activity that constitutes a discharge of dredged or fill material into wetlands or other waters, you must request a jurisdictional determination from the local office of the COE prior to starting the work.

Other agencies may also have jurisdiction that require permits and NRCS recommends that you contact the Indiana Department of Environmental Management and the Indiana Department of Natural Resources, Division of Water before beginning any work.

This technical determination may affect USDA program benefits. In order to maintain your USDA program eligibility with the Food Security Act and comply with the Clean Water Act, contact the Farm Service Agency and complete a new AD-1026 prior to performing the following activities:

- Land clearing
- Drainage (tile or open ditching)
- Filling, leveling, or dredging
- Land use changes

Helping People Help the Land.



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This preliminary technical determination will become a *Final Technical Determination* 30 days after receipt of this letter unless you request one of the following three options:

1. Request reconsideration with a field visit. You along with the local district conservationist must meet on the subject site to gather additional information, discuss the facts, and for you to provide any additional pertinent information concerning this preliminary technical determination. Or:
2. Request mediation in an attempt to settle your concerns with the preliminary technical determination. Or:
3. Waiver of the 30 day appeal period for the preliminary technical determination so that this determination becomes final immediately. This must be requested in writing to the State Conservationist.

The **Application for Voluntary Mediation Form** and procedures may be obtained from your local NRCS office.

In addition, you have the right to review the records concerning this determination in our office.

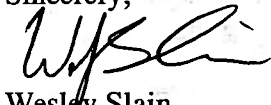
Once this decision becomes final you may appeal to either the Farm Service Agency County Committee (COC) or to the National Appeals Division (NAD). You must file your request in writing within 30 days of this technical determination becoming a final. You may appeal to only one of the following:

Delaware/Blackford County FSA County Committee
3641 N Briarwood Lane
Muncie, IN 47304
OR
Eastern Regional Office
National Appeals Division
P.O. Box 68806
Indianapolis, Indiana 46268-0806

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

If you have any questions or would like to discuss any concerns you might have, please call me at (765) 747-5531, Extension 3.

Sincerely,



Wesley Slain
District Conservationist

Attachments



HIGHLY ERODIBLE LAND AND WETLAND CONSERVATION DETERMINATION

Name	Patricia Love c/o Chris Peacock	Request Date:	10/23/14	County:	Delaware
Address:	1221 E 100 S, Winchester, IN 47394				
Agency or Person Requesting Determination:	FSA	Tract No:	2401	FSA Farm No.:	2579

Section I - Highly Erodible Land

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

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
1	No	No	31.6	11/17/14
2	No	Yes	0.9	11/17/14
3	No	Yes	0.6	11/17/14
4	No	Yes	8.3	11/17/14

The Highly Erodible Land determination was completed in the Office

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
2, 3	W		1.4	12/18/2014	
4	NW		8.3	12/18/2014	
1	PC/NW		31.6	11/17/14	

The wetland determination was completed in the Field It was Mailed to the person on 12/19/14

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
	12/19/14

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.

Wetland Conservation Definitions and Restrictions

(National Food Security Act Manual 514.60 - <http://directives.sc.egov.usda.gov/viewerFS.aspx?id=3701>)

Name and Label	Criteria For Determination	Authorized Uses	Authorized Maintenance
(AW) Artificial Wetland	Created wetlands on areas that were previously non-wetland.	No restrictions.	No restrictions.
(CC) Commenced Conversion	Conversion began before December 23, 1985, and was approved by FSA; conversion activity was completed by January 1, 1995.	No restrictions provided activities were completed per conditions.	As stipulated in the agreement.
(CPD) COE Permit w/ Mitigation	Converted wetland is exempt because the activity is authorized by a COE permit and satisfies the mitigation requirements of the Act.	Per COE permit conditions.	Per COE permit conditions.
(CW) Converted Wetland	Converted after December 23, 1985 and prior to before November 28, 1990.	Production of agricultural commodities or additional manipulation will cause ineligibility.	Maintenance allowed to scope and effect of original manipulation
(CW) Wetland Converted by county, drainage district, or similar entity.	Converted after December 23, 1985, by drainage district or other entity and beyond a person's direct control, but not considered third party (TP).	Production of agricultural commodities or forage for mechanical harvest or additional manipulation will cause ineligibility.	Maintenance allowed to original scope and effect of system before conversion.
(CW + year) Converted wetland	Converted after November 28, 1990.	Conversion causes ineligibility, regardless of whether production of agricultural commodity occurred.	Not applicable.
(CWNA)	Converted wetland for non-agricultural purposes.	Production of agricultural commodities will cause ineligibility.	No restrictions.
(CWTE) Converted Wetland Technical Error	An area converted after December 23, 1985, where the conversion or production of an agricultural commodity was a consequence of an incorrect NRCS determination.	May be used for production of agricultural commodities or forage provided no manipulation is done beyond what existed as of the date of the CWTE determination.	May be maintained to the extent that existed on date of the CWTE determination.
(FW) Farmed Wetland	Manipulated and used for the production of an agricultural commodity as of December 23, 1985. If the area is not a pothole, playa, or pocosin, it is inundated for at least 15 consecutive days during the growing season or 10 percent of the growing season, whichever is less, in most years. If the area is a pothole, playa, or pocosin, it is inundated for at least 7 consecutive days or saturated for at least 14 consecutive days during the growing season in most years. Not abandoned.	May be used for production of agricultural commodities or forage.	May be maintained to the extent that existed before December 23, 1985, if "as built" records exist. May be maintained to the extent that existed on December 23, 1985, if no "as built" records exist.

Wetland Conservation Definitions and Restrictions

(National Food Security Act Manual 514.60 - <http://directives.sc.egov.usda.gov/viewerFS.aspx?id=3701>)

Name and Label	Criteria For Determination	Authorized Uses	Authorized Maintenance
(FWP) Farmed Wetland Pasture and Hayland	Manipulated and used for pasture or hay as of December 23, 1985. Is inundated for at least 7 consecutive days or saturated for 14 days during the growing season. Not abandoned.	May be used for production of agricultural commodities or forage.	May be maintained to the extent that existed before December 23, 1985, if "as built" records exist. May be maintained to the extent that existed on December 23, 1985, if no "as built" records exist.
(MIW) Mitigation Exemption	Converted wetland is exempt because mitigation has occurred according to an NRCS-approved plan.	As stipulated in the mitigation agreement.	As stipulated in the mitigation agreement.
(MW) Minimal Effect Exemption	Converted wetland is exempt because conversion is determined to have a minimal effect, individually and cumulatively, on the wetland functions in the watershed.	As stipulated in the minimal effect agreement, if applicable.	Only those activities stipulated in the minimal effect agreement, if applicable.
(MWM) Mitigation Site	Site of wetland restoration, enhancement, or creation serving as mitigation for MIW site.	As stipulated in Mitigation Plan/Agreement.	As stipulated in Mitigation Plan/Agreement
(NI) Not Inventoried	Used when a wetland determination is not conducted.	Can determine only after a certified wetland determination is completed for the area labeled NI.	Can determine only after a certified wetland determination is completed for the area labeled NI.
(NW) Nonwetland	Does not meet wetland criteria. Also includes wetlands converted before December 23, 1985, but a commodity crop was not produced and the area does not meet wetland criteria. The area has not been abandoned.	No restrictions.	No restrictions unless manipulation would convert adjacent wetlands.
(PC) Prior Converted Cropland	Wetland converted to cropland before December 23, 1985, and as of December 23, 1985, was capable of being cropped and did not meet farmed wetland hydrology criteria.	No restrictions.	No restrictions unless manipulation would convert adjacent wetlands.
(TP) Third Party Exemption	A wetland converted after December 23, 1985, by a third party who is not associated with the participant, and without the participant's collusion, fraud, scheme or device. A third party does not include predecessors in interest on the tract or drainage districts or other local government entities.	May be used for production of agricultural commodities or forage.	Further drainage improvement will cause ineligibility.
(W) Wetland	Meets wetland criteria. Not converted after December 23, 1985. Also, includes areas previously identified as FW or FWP, which have been abandoned.	May be farmed under natural conditions without removal of woody vegetation.	At level needed to maintain original system on FW, FWP, and PC. Must not convert additional wetlands or exceed original scope and effect of drainage system.
(WX) Wetlands that have been manipulated	Wetlands that have been manipulated but not for the purpose of or making possible production of an agricultural commodity.	Would cause ineligibility if production was later made possible.	No restrictions as long as production not made possible including on an adjacent wetland.

Highly Erodible Land Conservation Requirements

(National Food Security Act Manual 512.01e - <http://policy.nrcs.usda.gov/viewerFS.aspx?id=1515>)

IF the field...	THEN a substantial reduction...
<p>Was used to produce crops prior to December 23, 1985, and the conservation system or plan has been approved, applied, and maintained prior to July 3, 1996,</p>	<p>Has already been met, providing the plan or system is continued to be applied and maintained, and—</p> <ul style="list-style-type: none"> <input type="checkbox"/> The same person continues to use the original conservation system, or revises the system to provide an equal or greater level of erosion protection. or <input type="checkbox"/> The new owner and/or operator accepts the approved conservation system or plan and continues to apply and maintain the conservation system or an equivalent conservation system.
<p>Was used to produce crops prior to December 23, 1985, and has a conservation system or plan that has been approved after July 3, 1996,</p>	<p>Is a 75 percent reduction of the potential erodibility, not to exceed two (2) times the soil loss tolerance level for the predominant highly erodible soil map unit in the highly erodible field.</p>
<p>Has no history of crop production prior to July 3, 1996,</p>	<p>Does not apply. Furthermore, in no case will the soil erosion level for sodbusted land exceed the soil loss tolerance. (See NFSAM, paragraph <u>512.01(f).</u>)</p>

Disturbance Activities May Lead To Wetland Violations = Loss of USDA Program Benefits

Maintain wetlands in natural conditions to remain eligible for USDA benefits. Avoid activities shown below in the middle graph. To avoid wetland conversions and violations do not carry out any land disturbing activities. Leave the area as a natural wetland letting natural processes occur.

**Not Converted
 (Not a violation)**

Wetland Uses

Use wetlands for:

- Recreation
- Hunting
- Selective timber harvesting
- Maintaining drainage in place before 12/23/85 if it is still functioning and drains other fields

Maintain the area in:

- Natural vegetation
- Woody vegetation (trees and shrubs)
- Allow natural plant regeneration

**Path of Wetland Conversion
 (May lead to wetland violations)**

Land Disturbing Activities

That May Progress to Wetland Violations

- Mowing
- Stumps rotting away
- Restoring a failed drainage system
- Brush Removal
- Spraying
- Grazing
- Burning
- New drainage in or around the wetland
- Deep-ripping to break up restricting layers
- Filling in low spots
- Discing

Any activity can develop into a conversion if the production of an agricultural commodity becomes possible.

**End of Path = Wetland Violation
 (CW+Year Label)**

Violations are called CW+Year and result in the partial or total loss of USDA benefits covering all acres/fields (not just the area of the violation).

Violation of Swampbuster Provisions of the Food Security Act of 1985 occur when a wetland is converted by:

Removal of woody vegetation and/or hydrology manipulation:

- for the purpose of or
- to have the effect of making production possible

= LOSS OF USDA BENEFITS

A Person shall be ineligible for USDA benefits if "the person converts a wetland by draining, dredging, filling, leveling, removing woody vegetation or other means for the purpose, or to have the effect, of making production of an agricultural commodity possible. 7CFR12 (Code of Federal Regulations, Title 7, Part 12)

If you have questions, please contact your local USDA Service Center

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Wetland Compliance Factsheet

What Can I Do With My Wetland?



What can I do with my Wetland (W)?

The Food Security Act of 1985, as amended, states that "a person shall be ineligible for all or a portion of USDA program benefits...if...the person produces an agricultural commodity on wetland that was converted after December 23, 1985; or after November 28, 1990, the person converts a wetland by draining, dredging, filling, leveling, removing woody vegetation, or other means for the purpose, or to have the effect, of making the production of an agricultural commodity possible." (US Code of Federal Regulations; Title 7 – Agriculture; Subtitle A – Office of the Secretary of Agriculture; Part 12 – Highly Erodible Land and Wetland Compliance; Subpart A – General Provisions; Section 12.4 (b) & (c)).

PLEASE NOTE: these provisions only apply to the Food Security Act of 1985, as amended. They may not protect farmers from the requirements of the Clean Water Act (US Army Corps of Engineers authority); the Endangered Species Act requirements (US Fish & Wildlife Service authority); Indiana Wetland Laws (Indiana Department of Environmental Management authority); and others.

Can USDA give me assistance, advice, and/or permission on what I can or can't do to keep me in compliance?

USDA will only give advice and assistance that will ensure farmers remain in compliance with the Food Security Act of 1985, as amended, and other USDA policies. USDA does not issue permits, give permission, nor grant approval to take actions that could result in the future conversion of a wetland. USDA will not give advice nor analyze activities that may potentially violate other laws such as those mentioned previously, or other federal policies such as Executive Order 11990 signed by former President James Carter on May 24, 1977, that requires each federal agency to take action to minimize the destruction, loss, or degradation of wetlands in any financial and technical assistance activity.

The only safe advice available is to manage wetlands in their existing condition in a manner that retains the vegetation, hydrology/water regime, and soils as they exist. Such activities as recreation, sound forest management, and other passive uses are safe.

Any other activities may lead, sooner or later, to non-compliance if the wetland responds by changing. Remember, the activity must not be for the purpose, or to have the effect, of making the production of an agricultural commodity possible.

Who makes the decision of whether my actions "make the production of an agricultural commodity possible"?

Local USDA representatives make this determination, and will determine the appropriate wetland label using USDA wetland determination procedures.

What if I don't do anything to my wetland and it was never converted, can I farm it under natural conditions?

The Food Security Act of 1985, as amended, does not consider farming a wetland under natural conditions a violation. It is critical, however, to not do anything to convert the wetland, simply because it is dry enough to allow the activity to occur.

What can I do with my Farmed Wetland (FW)?

The Food Security Act of 1985, as amended, does not consider farming, nor the maintenance, restoration, or repair of drainage to its 1985 capacities a violation, as long as the FW is not considered abandoned.

Abandoned FW sites have either grown up in woody vegetation or have regained a water regime due to the abandonment or dysfunction of the drainage that existed in 1985. Such sites are then considered Wetland (W).

continued on page 2

**Find more information about wetlands
on the Indiana NRCS website at:**

www.in.nrcs.usda.gov





Can I cut trees in my wetland?

The Food Security Act of 1985, as amended, does not consider the removal of trees a violation. However, the action must not have the effect of making the production of an agricultural commodity possible, now and into the future.

Since USDA cannot provide a guarantee that an action today will not become a violation in the future (whether from further actions of the farmer, natural conditions, etc.), it is the farmer's decision and responsibility to ensure the site does not become capable of making the production of an agricultural commodity possible.

Further, any service or advice USDA provides must adhere to other laws such as the Endangered Species Act. Cave-dwelling bats are in serious decline across the nation, and the Indiana Bat is a federally-listed endangered species that occurs throughout Indiana. USDA is not authorized to provide assistance to any tree removal practice that may result in the "take" of a federally-listed species without first consulting with the US Fish and Wildlife Service; further, USDA will not consult with the US Fish and Wildlife Service on behalf of farmers for Food Security Act of 1985, as amended, purposes. Therefore, neither assistance nor advice, directly or indirectly, that could potentially result in the "take" of protected species will be provided.

Can I fix or replace existing tile or surface drains in my wetland?

The Food Security Act of 1985, as amended, does not consider the maintenance of existing and functioning drainage features that serve non-regulated sites, to the extent they existed in 1985, a violation. However, the action must not have the effect of making the production of an agricultural commodity possible on wetlands, now and into the future.

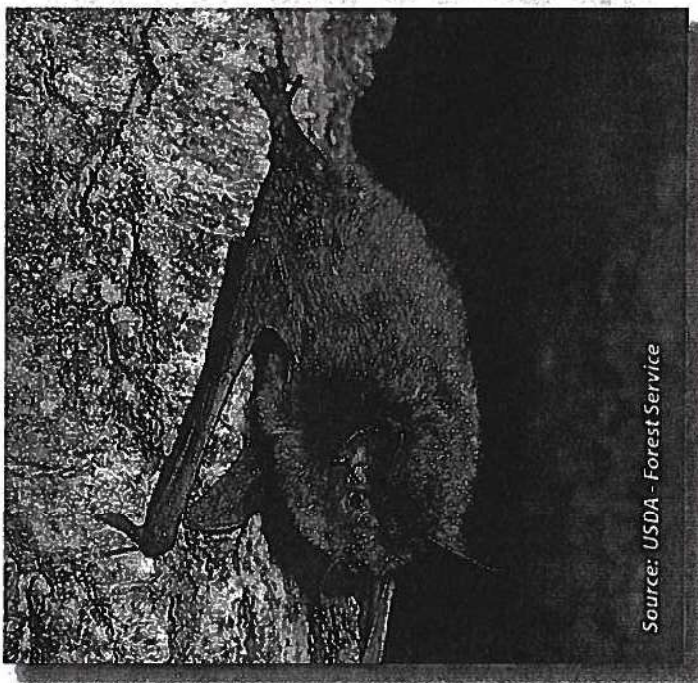
How will USDA verify that I am in compliance?

The operator of record annually self-certifies with the Farm Service Agency on the form AD-1026 that they are in compliance with the Food Security Act of 1985, as amended.

USDA will also evaluate farmer actions to verify compliance as a result of annual Compliance Status Reviews activities; at the farmer's request and based on USDA priority workload; and/or as the result of a "Report of HELC and WC Compliance" (Whistleblower) request from the public.

For more information:

If you would like more information about what you can do with your wetlands, please contact your local USDA Service Center (<http://www.nrcs.usda.gov/wps/portal/nrcs/main/in/contact/local/>).



Source: USDA - Forest Service

The Indiana Brown Bat is a federally listed endangered species and is located throughout Indiana.



Wetland Determination Map

Date: 12/18/2014

Customer(s): PATRICIA LOVE

District: DELAWARE COUNTY SOIL & WATER CONSERVATION DISTRICT

Field Office: MUNCIE SERVICE CENTER

Agency: USDA-NRCS

Assisted By: Ed Sprunger

Legal Description: Tract 2401



Legend

Resource Inventory (Polygon)

LABEL, ACRES

Field 2, 0.9

Field 3, 0.5

Field 4, 8.3

Consplan

Area Errors

Must Not Overlap

Delaware Roads (IDHS)



HEL Determination Map

Date: 12/18/2014

Customer(s): PATRICIA LOVE

District: DELAWARE COUNTY SOIL & WATER CONSERVATION DISTRICT

Field Office: MUNCIE SERVICE CENTER

Agency: USDA-NRCS

Assisted By: Ed Sprunger

Legal Description: Tract 2401



Legend



-  Consplan
-  Delaware Roads (IDHS)

