



CERTIFIED – RETURN RECEIPT REQUESTED

11/7/2019

Matthew Gagner
152 Freeman Road
Charlton, MA 01507

RE: Preliminary Wetland Determination, Farm# 4039, Tract# 3962, Fields# 2, 3, 5, 6

Dear Mr. Gagner:

This is to notify you that a **Preliminary Technical Determination** for wetlands on Farm# 4039, Tract# 3962, Fields# 2, 3, 5, and 6 has been made in accordance with Title 7 Code of Federal Regulations, Part 12. Enclosed please find the NRCS-CPA-026e, Highly Erodible Land and Wetland Conservation Determination fact sheet, Farm Bill Determination Appeals Process, and wetland determination map.

In response to your answers on questions 7 and 9 on the AD-1026 form "Highly Erodible Land Conservation and Wetland Conservation Certification received by NRCS on 10/25/2019, an off-site determination was conducted on 11/7/2019 by Maggie Payne, NRCS Resource Soil Scientist.

Fields 2, 3, 5, and 6 were evaluated.

- **All fields (12.64 acres) are mapped non-wetland (NW) and do not contain a wetland. There are no restrictions under the Food Security Act of 1985 on areas marked "NW".**

See the enclosed NRCS-CPA-026e "*Highly Erodible Land and Wetland Conservation Determination*" form for definitions and acres by field along with the wetland determination map for location(s).

This wetland determination does not cover the entire farm and/or tract. If, at a later date, you plan to carry out activities beyond existing fields which are considered under the wetland conservation provisions of the National Food Security Act to "make production of a commodity crop possible", please contact your local Farm Services Agency office to update your AD-1026 so that a follow up visit can be made if necessary. These activities include, but are not limited to, land clearing with stump removal, dredging, drainage maintenance, ditching, filling, leveling, or tiling.

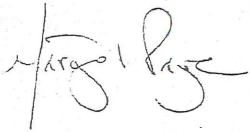
This certified wetland determination/delineation has been conducted for the purpose of implementing the wetland conservation provisions of the Food Security Act of 1985. This determination/delineation may not be valid for identifying the extent of the Corps of Engineers' (COE's) Clean Water Act jurisdiction 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 should request a jurisdictional determination from the local office of the COE prior to starting the work. Likewise, this determination may not be valid for identifying the extent of wetlands protected under the Massachusetts Wetlands Protection Act. Contact your town Conservation Commission and/or Massachusetts Department of Environmental Protection (DEP) regarding the need for permits.

2014 Farm Bill Update: 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.

This preliminary technical determination will become final 30 days after receipt of this letter unless you request an appeal. Your appeal rights are listed in the attached document titled *Farm Bill Wetland Determination Appeals Process*. Please note that you first have a set of Preliminary Technical Determination appeal rights then, after 30 days, these are followed by a set of Final Technical Determination appeal rights.

If you have any questions about this procedure or determination, please do not hesitate to contact me at maggie.payne@usda.gov or 774-678-7231. Also, if anyone else is associated with this farm (tenant, landlord, and/or partner), I encourage you to discuss this determination with them.

Sincerely,



Maggie Payne
Resource Soil Scientist
USDA-NRCS

Enclosures:

Wetland Determination Map

Farm Bill Wetland Determination Appeals Process

NRCS CPA 026e - Highly Erodible Land and Wetland Conservation Determination

Highly Erodible Land and Wetland Conservation Compliance Fact Sheet – Don't Lose Your USDA Benefits

Cc: William Graham Jr., County Executive Director, USDA-FSA, Holden, MA
Heidi Ramsey, District Conservationist, USDA-NRCS, Holden, MA

FARM BILL WETLAND DETERMINATION APPEALS PROCESS

The preliminary (new) technical determinations will become final within 30 days unless you request one of the following appeal options:

1. Request an Informal Review

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, write to your NRCS District Conservationist **no later than 30 days** from the date that you receive this notification, and explain why you believe this determination is erroneous.

Franklin/Hampshire/Hampden/
Berkshire Counties
Rita Thibodeau
195 Russell St, Ste B6
Hadley, MA 01035

Worcester/Middlesex/Essex/
Suffolk Counties
Heidi Ramsey
52 Boyden Rd. Ste 100
Holden, MA 01520

Norfolk
/Bristol/Plymouth/Barnstable/
Dukes/Nantucket Counties
Mia Halter
8 Thatcher Lane
Wareham, MA 02571

or

2. Request Mediation

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 a process in which a trained, impartial person assists the parties to discuss issues, resolve concerns and come to their own mutually agreed upon resolution. Please note that you may have to pay all or part of the cost of mediation. To request mediation, contact the Agricultural Mediation Service in writing **no later than 30 days** from the date that you receive this notification at:

MA Office of Dispute and Resolution and Public Collaboration
UMASS Boston
100 Morrissey Blvd. M-1-627
Boston, MA 02125
Phone: (617) 287-4040 Fax: (617) 287-4049

or

3. Request Expedited Final Determination

You may request a **waiver of your rights** to this preliminary review and reconsideration or mediation in accordance with 7 CFR § 614.7(d). Selection of this option waves your rights for review of the preliminary technical determination and provides you a final technical determination within 10 days (instead of the normal 30 days) of receipt of your letter by NRCS. Please contact your local USDA-NRCS office to request an expedited Final Determination.

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:

1. Appeal to the Farm Service Agency (FSA) County Committee (COC)

You may appeal this program decision to the FSA COC by filing a written request no later than 30 calendar days after you receive a Final Technical Determination notice or when a Preliminary Determination becomes a Final Technical Determination pursuant to the FSA appeal procedures found at 7 CFR Part 780. If you appeal to the COC, you will have an informal hearing that you or your representative may attend either personally or by telephone. If the COC believes that the challenge to the NRCS determination is not frivolous, the COC will refer the case to the NRCS State Conservationist (STC) to review the determination. The COC decision must incorporate and be based upon the results of the NRCS STC review and subsequent determination. If you appeal this determination to the COC, you may later appeal an adverse determination of the COC to the NAD. To appeal, write to the COC, include a copy of the adverse decision notification letter, and explain why you believe this decision is erroneous to one of the following Farm Service Agency Committees below based on your county.

Plymouth/Barnstable Counties:

8 THATCHER LANE
WAREHAM, MA 02571
(508) 295-5151 ext. 1

Worcester County:

52 BOYDEN RD
HOLDEN, MA 01520-2592
(508) 829-4477 ext. 2

Bristol/Norfolk/Suffolk Counties:

104 DEAN ST
TAUNTON, MA 02780
(508) 880-0185

Franklin County:

55 FEDERAL ST
GREENFIELD, MA 01301-2546
(413) 772-0384 ext. 2

Middlesex/Essex Counties:

319 LITTLETON RD STE 205
WESTFORD, MA 01886-4133
(978) 303-8286

Hampshire/Hampden Counties:

195 RUSSELL ST
HADLEY, MA 01035-9521
(413) 585-1000 ext. 2

Berkshire County:

FEDERAL BLDG 78 CENTER ST
PITTSFIELD, MA 01201-6171
(413) 443-1776 ext. 2

or

2. Appeal to the National Appeals Division (NAD)

The appeal must be filed with a written request no later than 30 calendar days after you receive a Final Technical Determination notice or when a Preliminary Determination becomes a Final Technical Determination and include the reasons why you disagree with this decision. If you appeal to NAD, you will have a hearing that you or your representative may attend in person or by telephone. You may, rather, choose to request that a NAD hearing officer review the documents in your file, without a personal appearance, to see if the agency decision was correct. Once a hearing with NAD begins, you waive any rights you might have to reconsideration, appeal to FSA, and mediation. To appeal directly to NAD, mail your request to the following address:

USDA National Appeals Division
Eastern Regional Office
Post Office Box 68806
Indianapolis, IN 46268-0806
www.nad.usda.gov

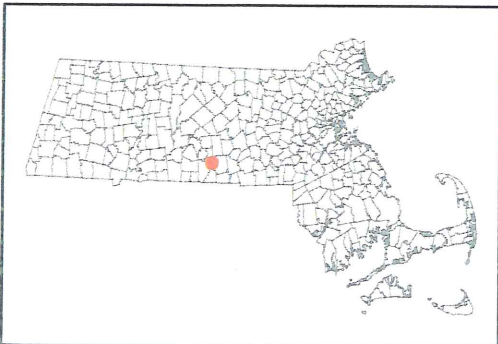
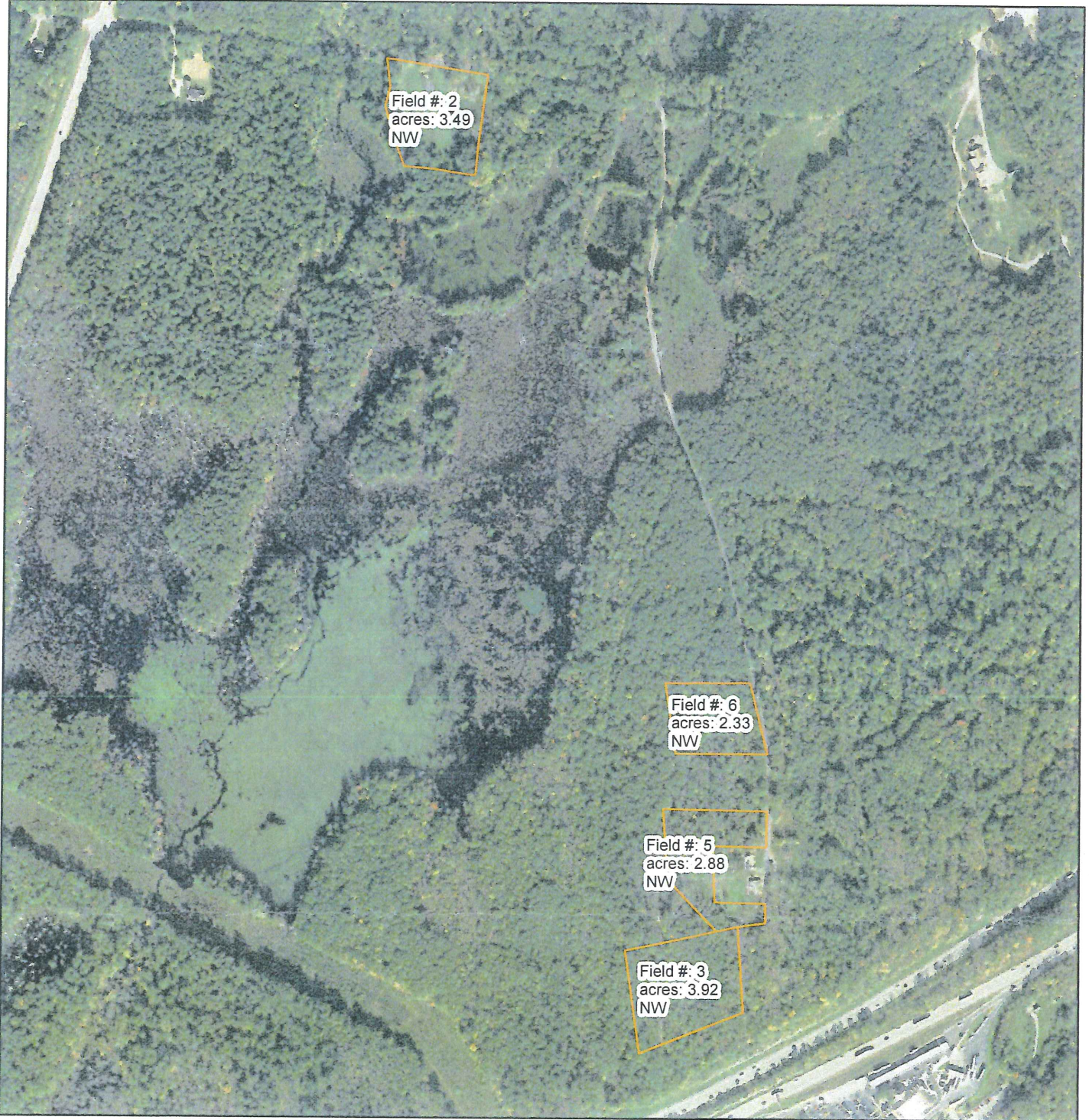
Phone: 1-800-541-0457 TTY: 1-800-791-3222 Fax: (317) 875-9674

You must send your written appeal to NAD and include a copy of the adverse decision notification letter. In addition, please provide NRCS State Conservationist with a copy of your appeal request at the following address:

Daniel Wright
State Conservationist (STC)
451 West Street, Ste. 1
Amherst, MA 01002



Matthew Gagner; Farm 4039, Tract 3962
Sturbridge, Worcester County, MA



Wetland Label

-  W
-  NW

Wetland Determination Map

This wetland determination is valid for USDA Food Security Act purposes only. Please refer to attached CPA-026e for explanation of wetland labels.



2018 Aerial Photo

Date: 11/7/2019



HIGHLY ERODIBLE LAND AND WETLAND CONSERVATION DETERMINATION

Name Address:	Matthew Gagner 152 Freeman Road, Charlton, MA	Request Date:	10/25/2019	County:	Worcester
Agency or Person Requesting Determination:	FSA	Tract No:	3962	FSA Farm No.:	4039

Section I - Highly Erodible Land

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
2	NW		3.49	11/7/2019	
3	NW		3.92	11/7/2019	
5	NW		2.88	11/7/2019	
6	NW		2.33	11/7/2019	

The wetland determination was completed in the Office _____ It was Mailed _____ to the person on 11/8/2019

Remarks:
Unless appealed, this will become a certified final determination 30 days after receipt.

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
MARGOT PAYNE <small>Digitally signed by MARGOT PAYNE Date: 2019.11.07 09:56:53 -05'00'</small>	11/7/2019

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 LABELS

AW	<u>Artificial Wetland</u> : An area that was formerly a non-wetland area under natural conditions but now exhibits wetland characteristics because of the influence of human activities. These areas are exempt from the Food Security Act of 1985, as amended. This label includes irrigation induced wetlands.
CC	<u>Commenced Conversion</u> : A wetland, farmed wetland, farmed wetland pasture, or converted wetland on which the conversion began but was not completed before December 23, 1985, was approved by FSA to continue, and the conversion was completed by January 1, 1995.
CPD	<u>COE Permit with Mitigation</u> : A converted wetland authorized by a permit issued under Section 404 of the Clean Water Act. Production of agricultural commodities is allowed subject to conditions of the permit.
CMW	<u>Categorical Minimal Effect</u> : A wetland that meets specific categories of conversion activities that have been determined by NRCS to have minimal effect, individually and cumulatively, on the functions and values of the wetland and the wetlands in the watershed.
CW	<u>Converted Wetland</u> : A wetland converted between December 23, 1985, and November 28, 1990. Production of an agricultural commodity or additional manipulation of these areas will yield USDA benefit ineligibility. Also, these areas are wetlands converted after December 23, 1985, by a county, drainage district, or similar entity. For these instances, production of an agricultural commodity or forage for mechanical harvest or additional manipulation will cause ineligibility for USDA program benefits.
CW+year	<u>Converted Wetland + (year the conversion occurred)</u> : A wetland converted after November 28, 1990, where the USDA program participant is ineligible for benefits until the wetland is restored or mitigated unless an exemption applies.
CWNA	<u>Converted Wetland Non-Agricultural Use</u> : A wetland converted after November 28, 1990, to a use other than agricultural commodity production. Label not used for certified wetland determinations completed after 2/2008.
CWTE	<u>Converted Wetland Technical Error</u> : A wetland converted or commenced after December 23, 1985, based on an incorrect NRCS determination. This label does not apply to obvious wetlands as defined in the National Food Security Act Manual.
FW	<u>Farmed Wetland</u> : A wetland that was manipulated and planted before December 23, 1985, but still meets inundation or saturation criteria. These areas may be farmed and maintained as documented before December 23, 1985, as long as they are not abandoned (i.e., management or maintenance for commodity production ceased for 5 consecutive years).
FWP	<u>Farmed Wetland Pasture or Hayland</u> : A wetland that is used for pasture or haying, was manipulated and planted before December 23, 1985, but still meets the inundation or saturation criteria. These areas may be farmed and maintained as documented before December 23, 1985, as long as they are not abandoned (i.e., management or maintenance for commodity production ceased for 5 consecutive years).
MIW	<u>Mitigation Exemption</u> : A converted wetland, farmed wetland or farmed wetland pasture of which the acreage, functions and values lost have been compensated for through an NRCS-approved mitigation plan.
MW	<u>Minimal Effect Exemption</u> : A converted wetland that is exempt from the wetland conservation provisions of the Food Security Act of 1985, as amended, based on an NRCS determination that the conversion has or will have a minimal effect, individually and cumulatively, on the functions and values of the wetland and the wetlands in the watershed.
MWM	<u>Mitigation Site</u> : The site of wetland restoration, enhancement, or creation serving as mitigation for the mitigation exemption (MIW) site.
NI	<u>Not Inventoried</u> : An area where no wetland determination has been conducted. Label not used for certified wetland determinations completed after 2/2008.
NW	<u>Non-Wetland</u> : An area that does not contain a wetland. Also includes wetlands converted before December 23, 1985, but a commodity crop was not produced and the area does not meet wetland criteria (not been abandoned).
PC	<u>Prior-Converted Cropland</u> : A 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. These areas are not subject to the wetland conservation provisions of the Food Security Act of 1985, as amended, unless further drainage manipulation affects adjacent wetlands.
PC/NW	<u>Prior Converted Cropland/Non-Wetland</u> : An area that contains both PC and NW.
TP	<u>Third-Party Exemption</u> : A wetland converted after December 23, 1985, by a third party who is not associated with the participant, and the conversion is not a result of a scheme or device. A third party does not include predecessors in interest on the tract, drainage districts, or other local government entities.
W	<u>Wetland</u> : An area meeting wetland criteria that was not converted after December 23, 1985. These areas include farmed wetlands and farmed wetland pasture that have been abandoned.
WX	<u>Manipulated Wetlands</u> : A wetland manipulated after December 23, 1985, but the manipulation was not for the purpose of making production possible and production was not made possible. These areas include wetlands manipulated by drainage maintenance agreements.

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