

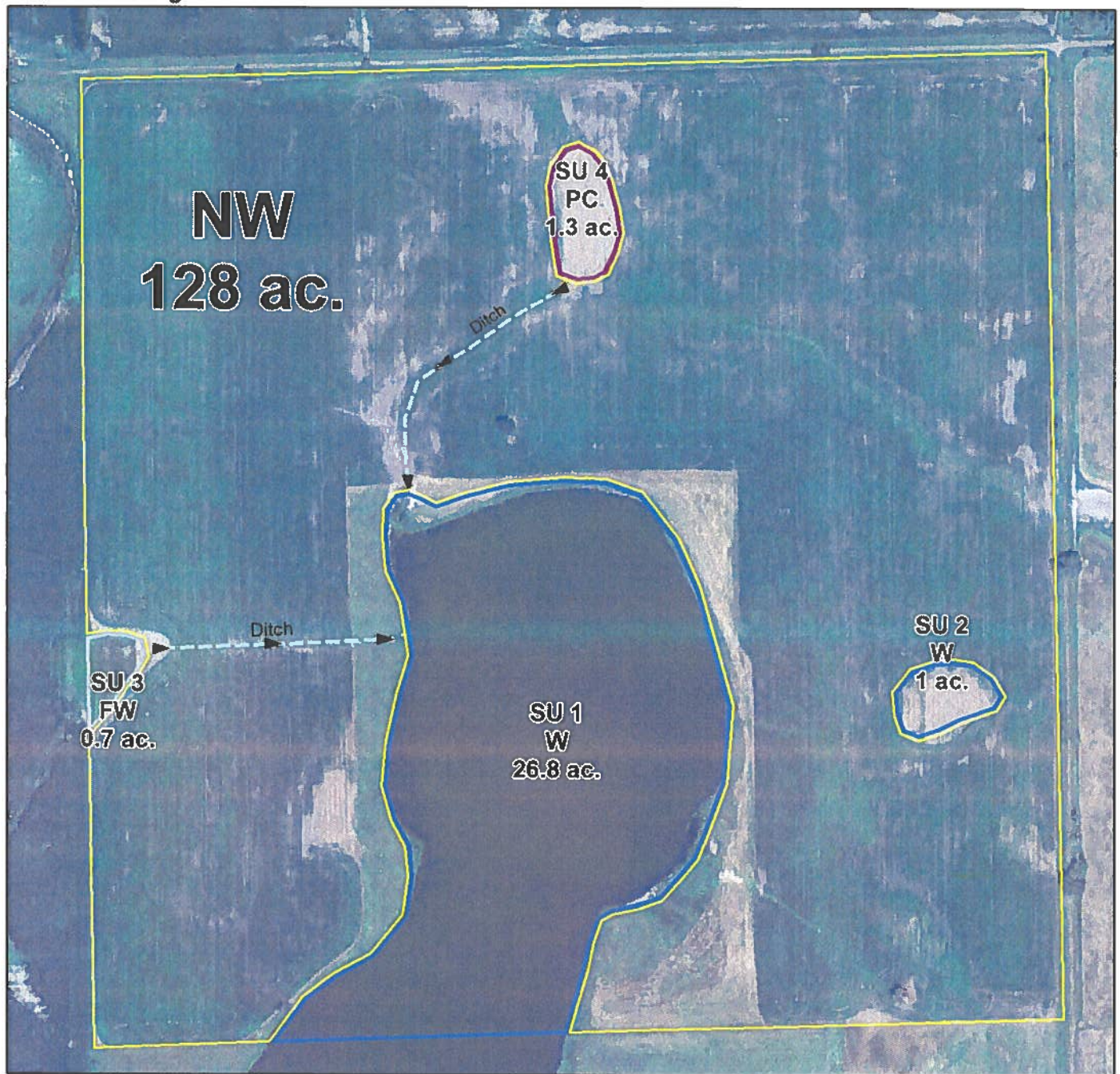


Certified Wetland Determination

Easement

Field Office: Mitchell FO
Certified by: S Groepper
Legal Descr: NE4 25-104-57

Agency: USDA-NRCS
Certified date: 3/16/20
Tract: 4014

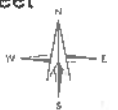


0 320 640 1,280 1,920 2,560 Feet

Legend



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--026E for definitions and additional info



This form is available electronically.

AD-1026
(10-30-14)

Wetland Easement

(See Page 2 for Privacy Act and Paperwork Reduction Act Statements)

U.S. DEPARTMENT OF AGRICULTURE
Farm Service Agency

**HIGHLY ERODIBLE LAND CONSERVATION (HELC) AND
WETLAND CONSERVATION (WC) CERTIFICATION**

Read attached AD-1026 Appendix before completing form.

PART A - BASIC INFORMATION

1. Name of Producer <u>Dan R. Benhoist</u>	2. Tax Identification Number (Last 4 digits)	3. Crop Year <u>2020</u>
4. Names of affiliated persons with farming interests. Enter "None," if applicable. <u>None</u>		

Affiliated persons with farming interests must also file an AD-1026. See Item 7 in the Appendix for a definition of an affiliated person.

5. Check one of these boxes if the statement applies; otherwise continue to Part B.

A. ☐ The producer in Part A does not have interest in land devoted to agriculture. Examples include bee keepers who place their hives on another person's land, producers of crops grown in greenhouses, and producers of aquaculture AND these producers do not own/lease any agricultural land themselves. Note: Do not check this box if the producer shares in a crop.

B. ☐ The producer in Part A meets all three of the following:

- does not participate in any USDA program that is subject to HELC and WC compliance except Federal Crop Insurance.
- only has interest in land devoted to agriculture which is exclusively used for perennial crops, except sugarcane, and
- has not converted a wetland after February 7, 2014.

Perennial crops include, but are not limited to, tree fruit, tree nuts, grapes, olives, native pasture and perennial forage. A producer that produces alfalfa should contact the Natural Resources Conservation Service at the nearest USDA Service Center to determine whether such production qualifies as production of a perennial crop.

Note: If either box is checked, and the producer in Part A does not participate in Farm Service Agency (FSA) or Natural Resources Conservation Service (NRCS) programs, the full tax identification number of the producer must be provided, but establishment of detailed farm records with FSA is not required. Go to Part D and sign and date.

PART B - HELC/WC COMPLIANCE QUESTIONS

Indicate YES or NO to each question. If you are unsure of whether a HEL determination, wetland determination, or NRCS evaluation has been completed, contact your local USDA Service Center.	YES	NO
6. During the crop year entered in Part A or the term of a requested USDA loan, did or will the producer in Part A plant or produce an agricultural commodity (including sugarcane) on land for which an HEL determination has not been made?		X
7. Has anyone performed (since December 23, 1985), or will anyone perform any activities to:		
A. Create new drainage systems, conduct land leveling, filling, dredging, land clearing, or excavation that has NOT been evaluated by NRCS? If "YES", indicate the year(s):	X	
B. Improve or modify an existing drainage system that has NOT been evaluated by NRCS? If "YES", indicate the year(s):		X
C. Maintain an existing drainage system that has NOT been evaluated by NRCS? If "YES", indicate the year(s): Note: Maintenance is the repair, rehabilitation, or replacement of the capacity of existing drainage systems to allow for the continued use of wetlands currently in agricultural production and the continued management of other areas as they were used before December 23, 1985. This allows a person to reconstruct or maintain the capacity of the original system or install a replacement system that is more durable or will realize lower maintenance or costs.		X
Note: If "YES" is checked for Item 7A or 7B, then Part C must be completed to authorize NRCS to make an HELC/WC and/or certified wetland determination on the identified land. If "YES" is checked for Item 7C, NRCS does not have to conduct a certified wetland determination.		
8. Check one or both boxes, if applicable; otherwise, continue to Part C or D.		
A. <input type="checkbox"/> Check this box only if the producer in Part A has FCIC reinsured crop insurance and filing this form represents the first time the producer in Part A, including any affiliated person, has been subject to HELC and WC provisions.		
B. <input type="checkbox"/> Check this box if either of the following applies to the producer and crop year entered in Part A: <ul style="list-style-type: none">• is a tenant on a farm that is/will not be in compliance with HELC and WC provisions because the landlord refuses to allow compliance, but all other farms not associated with that landlord are in compliance. (AD-1026B, Tenant Exemption Request, must be completed).• is a landlord of a farm that is/will not be in compliance with HELC and WC provisions because of a violation by the tenant on that farm, but all other farms not associated with that tenant are in compliance. (AD-1026C, Landlord or Landowner Exemption Request, must be completed).		

PART C - ADDITIONAL INFORMATION

9. If "YES" was checked in Item 6 or 7, provide the following information for the land to which the answer applies:

A. Farm and/or tract/field number: 6328 T 4014
If unknown, contact the Farm Service Agency at the nearest USDA Service Center.

B. Activity: tile drainage

C. Current land use (specify crops): beans 2020

D. County: Harrison

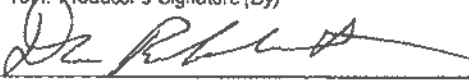
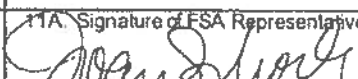
PART D – CERTIFICATION OF COMPLIANCE

I have received and read the AD-1026 Appendix and understand and agree to the terms and conditions therein on all land in which I (or the producer in Part A if different) and any affiliated person have or will have an interest. I understand that eligibility for certain USDA program benefits is contingent upon this certification of compliance with HELC and WC provisions and I am responsible for any non-compliance. I understand and agree that this certification of compliance is considered continuous and will remain in effect unless revoked or a violation is determined. I further understand and agree that:

- all applicable payments must be refunded if a determination of ineligibility is made for a violation of HELC or WC provisions
- NRCS may verify whether a HELC violation or WC has occurred.
- a revised Form AD-1026 must be filed if there are any operation changes or activities that may affect compliance with the HELC and WC provisions. I understand that failure to revise Form AD-1026 for such changes may result in ineligibility for certain USDA program benefits or other consequences.
- affiliated persons are also subject to compliance with HELC and WC provisions and their failure to comply or file Form AD-1026 will result in loss of eligibility for applicable benefits to any individuals or entities with whom they are considered affiliated.

Producer's Certification:

I hereby certify that the information on this form is true and correct to the best of my knowledge.

10A. Producer's Signature (By) 	10B. Title/Relationship (If Signing in Representative Capacity)	10C. Date (MM-DD-YYYY) 2-25-20
FOR FSA USE ONLY (for referral to NRCS) Sign and date if NRCS determination is needed.	11A. Signature of FSA Representative 	11B. Date (MM-DD-YYYY)

IMPORTANT: If you are unsure about the applicability of HELC and WC provisions to your land, contact your local USDA Service Center for details concerning the location of any highly erodible land or wetland and any restrictions applying to your land according to NRCS determinations before planting an agricultural commodity or performing any drainage or manipulation. Failure to certify and properly revise your compliance certification when applicable may: (1) affect your eligibility for USDA program benefits, including whether you qualify for reinstatement of benefits through the Good Faith process; and (2) result in other consequences.

43379 250A SE
Salem, 6. Pat. 57058
605 421-1479 cell

NOTE: The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a - as amended). The authority for requesting the information identified on this form is 7 CFR Part 12, the Food Security Act of 1985 (Pub. L. 99-198), and the Agricultural Act of 2014 (Pub. L. 113-79). The information will be used to certify compliance with HELC and WC provisions and to determine producer eligibility to participate in and receive benefits under programs administered by USDA agencies. The information collected on this form may be disclosed to other Federal, State, Local government agencies, Tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in applicable Routine Uses identified in the System of Records Notice for USDA/FSA-2, Farm Records File (Automated) and USDA/FSA-14, Applicant/Borrower. Providing the requested information is voluntary. However, failure to furnish the requested information will result in a determination of producer ineligibility to participate in and receive benefits under programs administered by USDA agencies.

This information collection is exempted from the Paperwork Reduction Act as specified in the Agricultural Act of 2014 (Pub. L. 113-79, Title II, Subtitle G, Funding and Administration). The provisions of appropriate criminal and civil fraud, privacy, and other statutes may be applicable to the information provided. RETURN

THIS COMPLETED FORM AD-1026 TO YOUR COUNTY FARM SERVICE AGENCY (FSA) OFFICE.

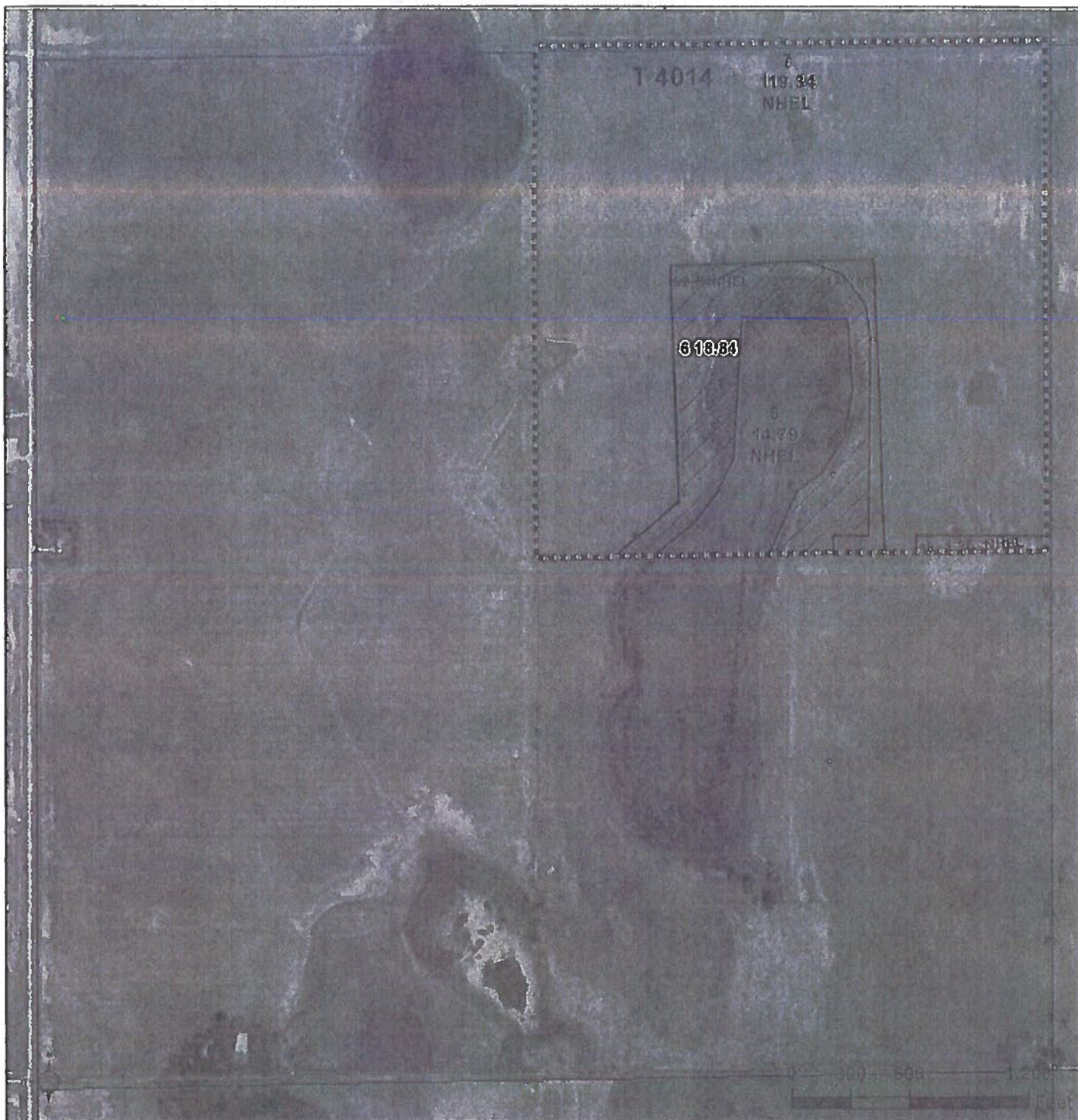
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If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter by mail to U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov. USDA is an equal opportunity provider and employer.



United States
Department of
Agriculture

McCook County, South Dakota



Common Land Unit

	Tract Boundary
	PLSS
	Non-Cropland
	Cropland

Wetland Determination Identifiers

- Restricted Use
- ▽ Limited Restrictions
- Exempt from Conservation Compliance Provisions

2019 Program Year

Map Created June 03, 2019

Farm 6328

25 -104N -57W

United States Department of Agriculture (USDA) Farm Service Agency (FSA) maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership, rather it depicts the information provided directly from the producer and/or National Agricultural Imagery Program (NAIP) imagery. The producer accepts the data 'as is' and assumes all risks associated with its use. USDA-FSA assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside FSA Programs. Wetland Identifiers do not represent the size, shape, or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact boundaries and determinations or contact USDA Natural Resources Conservation Service (NRCS).



3/16/2020

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

**Dan Rabenhorst
43379 250th St
Salem, SD 57058**

Dear **Dan**:

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 highly erodible land or converted wetland.

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 3/16/20. 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:

National Resource Conservation Service
1820 N Kimball St
Mitchell, SD 57301

- **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 in writing **no later than 30 days** from the date that you receive this notification the office of:

Asst State Conservationist for Compliance
Natural Resources Conservation Service
200 Fourth Street SW
Huron, South Dakota 57350-2475
Phone: (605) 352-1287
Fax: (855) 256-2565

- **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) 352-1200
Fax: (855) 256-2565

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 **Davison/Hanson** 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

Our records indicate that an easement exists on this tract. It is your responsibility to ensure that your actions do not impact wetlands protected by a 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 **Lake Andes, SD at (605) 487-7063**. 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 United States Army Corps of Engineers (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 (W's), farmed wetlands (FW's), 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 can not 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,



Scott Groepper
Compliance Specialist

cc:

Owen Anderson, CED, FSA, Mitchell FO
Ryan Allen, Acting DC, NRCS, Mitchell FO



**Natural Resources
Conservation Service**

NRCS-CPA-26E
9/2012

HIGHLY ERODIBLE LAND AND WETLAND CONSERVATION DETERMINATION

Name:	Dan Rabinovich	Request Date:	2/25/20	County:	Hanson
Address:	43379 250th St Salem, Sd 57058				
Agency or Person Requesting Determination:	Farm Service Agency	Tract No:	4014	FSA Farm No:	6328

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.	

[illegible]

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.

[illegible]

The wetland determination was completed in the		It was mailed to the person on	3/17/2020
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Remarks:	EASEMENT
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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
		3/16/2020

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) 652-9992 (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.