

Faribault County  
AgCenter  
Phone: (507) 526-2400 x3  
FAX: (507) 526-2152

411 S. Grove St Suite 1  
PO Box 185  
Blue Earth MN 56013-2460  
deanna.pomije@mn.usda.gov  
www.mn.nrcs.usda.gov

November 8, 2011

MN Harvest Reserve  
PO BOX 882  
LAKE CRYSTAL MN 56055

RE: Preliminary Wetland Technical Determination Tract 11394

MN Harvest Reserve

You recently provided NRCS a signed CPA-038 Request for a Certified Wetland Determination. As a result of that request NRCS is issuing a Certified Wetland Determination.

The Food Security Act of 1985 and as amended in subsequent Farm Bill legislation established the wetland conservation provisions. These regulations, found at 7 CFR, Part 12, provide the terms of USDA program ineligibility; describe several exemptions from ineligibility; and outline the Natural Resources Conservation Service involvement in implementing the provisions.

With this letter NRCS is issuing a **preliminary technical determination**, in accordance with the wetland conservation provisions. This preliminary technical determination was conducted by the local NRCS field office on 11/8/11.

The attached CPA-026 and map depict the wetland labels for the area(s) where the requested wetland determination took place. These wetland labels have been determined for the following reasons:

Presence of Hydrophytic Vegetation:

Under normal circumstances this site does support a prevalence of plants that grow in water or in a substrate that is at least periodically deficient in oxygen during the growing season as a result of excessive water content. The dominant vegetation consists of barnyard grass and smartweed.

Presence of Hydric Soils:

In an un-drained condition, this soil 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. The soil type consists of Okoboji, silty clay loam (134), listed as a hydric soil type of Faribault County.

Presence of Wetland Hydrology:

Is inundated for 15 consecutive days, or more, during the growing season or 10 percent of the growing season, whichever is less, in most years; OR if a pothole, playa, or pocosion, is ponded for 7 or more consecutive days during the growing season in most years, or is saturated for 14 or more consecutive days during the growing season in most years. The site meets the primary indicator for sparsely vegetated concave surface and the secondary indicators for stunted / stressed plants and geomorphic position. The slide review of the site showed 58% wet signatures on 7 of 12 normal rainfall years observed.

Further, the area indicated is a Wetland (W) because it does not qualify for any of the following exemptions to the wetland conservation provisions:

- Prior-converted cropland (7 CFR 12.5(b)(1)(i-ii) – This area was not converted prior to December 23, 1985 or November 28, 1990, nor was an agricultural commodity produced prior to those dates.
- A wetland created through a voluntary restoration. (7 CFR 12.5(b)(1)(iii))
- Conversion not for the purposes of making possible the production of an agricultural commodity. (7 CFR 12.5(b)(1)(iv))
- A conversion completed by the actions of a third party. (7 CFR 12.5(b)(1)(v))
- A conversion completed under a permit issued by the U.S. Army Corps of Engineers. (7 CFR 12.5(b)(1)(vi))
- An Artificial wetland. (AW) (7 CFR 12.5(b)(1)(vii))

This **preliminary wetland determination** meets the regulatory definition for an adverse decision (7 CFR 11.1) and is appealable as follows:

- **You may request a field review and reconsideration** by the local NRCS office personnel 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 and facts that NRCS may not have previously considered. NRCS will consider all new information, and if the technical determination remains adverse to you as a USDA participant, the preliminary determination and the entire case record will be forwarded to the State Conservationist for review to ensure that the wetland determination has been completed in accordance with the findings and the regulation. Following that review, the State Conservationist will issue a Final Technical Wetland Determination.

To request a field review and reconsideration, you must contact the local NRCS office, in writing, no later than 30 days from the date that you receive this notification at:

NRCS Faribault County  
PO Box 185  
411 S Grove St Suite 1  
Blue Earth MN 56013

- **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 the following mediation service provided in writing no later than 30 days from the date that you receive this notification at:

Mary Neil Preisler  
Farm Credit Mediation Program  
1526 170<sup>th</sup> Avenue  
Bejou, MN 56516  
Phone: 218-935-5785

- **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:

Mr. Donald Baloun  
State Conservationist  
USDA NRCS  
375 Jackson Street, Suite 600  
St. Paul, MN 55101-1854

**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.

Your final appeal rights begin December 8, 2011 and end January 8, 2012.

**The final appeal rights are as follows:**

- **You may request an informal appeal, in conformance with the regulation at 7 CFR 614.8(b)(1) from either the County FSA Committee or the NRCS State Conservationist, but not both,** by providing a written request no later than 30 days from the date noted above, to the applicable address:
  - To request an informal appeal from the County FSA Committee<sup>1/</sup>, your written request for appeal (including a copy of this notice and the reasons that you feel the determination is incorrect) to the following address:

Faribault County FSA Committee  
PO Box 185  
411 S Grove St Suite 1  
Blue Earth MN 56013

<sup>1/</sup> Informal appeals to the County FSA Committee are completed in accordance with 7 CFR 614.10 and 7 CFR 780.11 which requires the County FSA Committee, on a finding of merit in the appeal request, to request a review of the determination under appeal by the NRCS State Conservationist. It further is a requirement that when rendering a decision on the appeal, the review issued by the State Conservationist

must form the basis of, and be incorporated into any decision issued on appeal by the County or State FSA Committee.

- To request an informal appeal from the NRCS State Conservationist, your written request for appeal (including a copy of this notice and the reasons that you feel the determination is incorrect) to the following address:

Mr. Donald Baloun  
State Conservationist  
USDA NRCS  
375 Jackson Street, Suite 600  
St. Paul, MN 55101-1854

- **If you do not choose to appeal to either NRCS or FSA, you may request a formal appeal from the National Appeals Division (NAD),** in conformance with the regulation at 7 CFR 614.8(b)(2)e, by providing a written request, which includes this notice, and the reason you feel that this determination is incorrect. Appeal requests to NAD must be after the determination becomes final; see Final Appeal dates listed above. You may appeal the final determination by sending a request to the following NAD Regional Office:

NAD Eastern Regional Office  
8909 Purdue Road  
Suite 240  
Indianapolis, Indiana 46268

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

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. Other federal, state or local permits or restrictions may apply to activities impacting wetlands. Contact the Local Governmental Unit (LGU) for State Wetland Conservation Act permits, and Minnesota Department of Natural Resources for protected water permits prior to initiating wetland activities. The producer can contact these agencies using the "Minnesota Joint Project Notification Form" available from the LGU.

If you have any questions on this information or require additional assistance please contact me at (507) 526-2400 x3. A copy of this response will be provided to the Faribault County Farm Services Agency (FSA).

Sincerely   
Deanna Pomije  
District Conservationist

cc: FSA Faribault County  
Frontier Family Farms



Natural Resources Conservation Service  
411 S Grove St Suite 1 PO Box 185  
Blue Earth MN 56013  
<http://www.mn.nrcs.usda.gov/>

*Helping People  
Help the Land*

Phone: (507) 526-2400 x3  
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November 8, 2011

MN Harvest Reserve  
PO BOX 882  
LAKE CRYSTAL MN 56055

Subject: Wetland Determination Tract: 11394

MN Harvest Reserve

You have indicated your intention to create a new or modify an existing drainage system or conduct land clearing that has not been previously evaluated by NRCS by checking yes on USDA form AD-1026 to either question 10a or question 10b.

Based on the existing certified wetland determination we have on file and on your intended actions that are documented on maps, plans or drainage worksheets you submitted, I have concluded that the activity being proposed will convert a wetland and could cause a potential wetland compliance violation. **Tree clearing is allowed in the Non-Wetland areas. Spoil / debris cannot be placed in any wetland areas. No trees are present in the 1E wetland area.**

I have attached a map of the existing certified wetland determination. The area(s) where potential wetland conversion could occur have been highlighted on the map. It may be possible to avoid a potential conversion by limiting the extent of the proposed drainage or using non-perforated tile in or near the identified wetland areas. A setback distance required to avoid conversion of the wetland is enclosed. A wetland delineation can be requested for NRCS to provide in-the-field staking of setback limits for certified wetland determinations.

It is your responsibility to document and retain records of all drainage activities. This information can be documented on the Drainage Worksheets available at your USDA Service Center. It is your responsibility to restrict all drainage activity to only that allowable under the wetland compliance provisions.

This information applies to the 1985 Food Security Act (FSA) as amended. Other federal, state or local permits or restrictions may apply to activities impacting wetlands. It is the responsibility of the participant to obtain other necessary permits. Contact the Army Corps of Engineers for Clean Water Act permits, the Local Government Unit (LGU) for State Wetland Conservation Act permits, and the Minnesota Department of Natural Resources for protected water permits prior to initiating wetland activities. You can contact these agencies using the "Minnesota Combined Project Application Form" available from the LGU.

*Helping People Help the Land*

An Equal Opportunity Provider and Employer

If you have any questions on this information or require additional assistance please contact me at (507) 526-2400 x3. A copy of this response will be provided to the Faribault County Farm Services Agency (FSA).

Sincerely

A handwritten signature in cursive script that reads "Deanna Pomije".

Deanna Pomije  
District Conservationist

cc: Faribault County FSA  
Frontier Family Farms



**HIGHLY ERODIBLE LAND AND WETLAND CONSERVATION DETERMINATION**

Name	MN Harvest Reserve	Request Date:	4/15/2011	County:	Faribault
Address	PO Box 882 Lake Crystal MN 56055				
Agency or Person Requesting Determination:	Landowner	Tract No:	11394	Farm No:	9208

**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
<b>Refer to the Previous HEL determination available on file from your FSA office</b>				

**Section II - Wetlands**

Are there hydric soils on this farm?	Yes
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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	Acres	Determination Date	Certification Date
1 E	W		0.1	11/8/2011	12/8/2011
2	NW		1.7	11/8/2011	12/8/2011
3	NW		6.1	11/8/2011	12/8/2011

The wetland determination was completed in the Field It was delivered by: Mail On: 11/8/2011

Remarks:	Please contact the NRCS office for set back distances if drainage is planned near any of the wetland areas. Spoil / debris can not be placed in any wetland area.
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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.

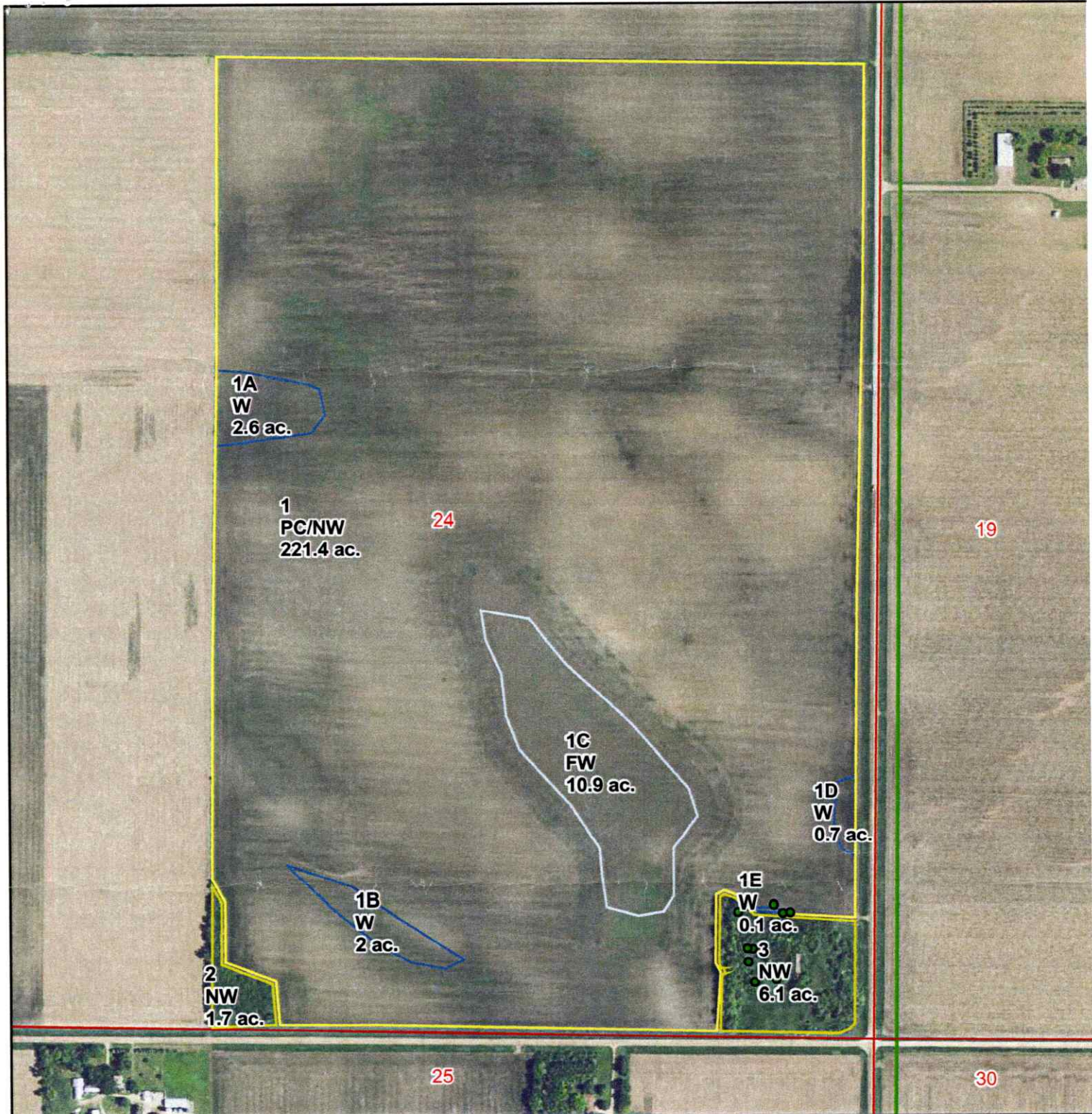
Signature Designated Conservationist	Date
Deanna Pomije	11/8/2011

8.

mailed Recd 11/23/2011  
c.m. 11/18/2011



# Certified Wetland Determination



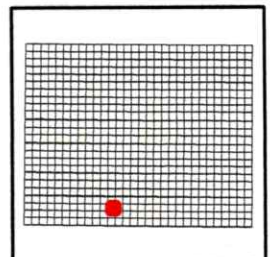
● Points	FW	CWTE
Missing Label	FWP	NW
PC/NW	AW	PC
W	CW	WX
	Sections - Faribault	
	Civil Townships - Faribault	



1:6,600

36020

Feet





Property: 19345  
County: Faribault, MN

Farmers National Company  
Lee Williams



**SOIL INFORMATION**

Date Printed: November 3, 2010



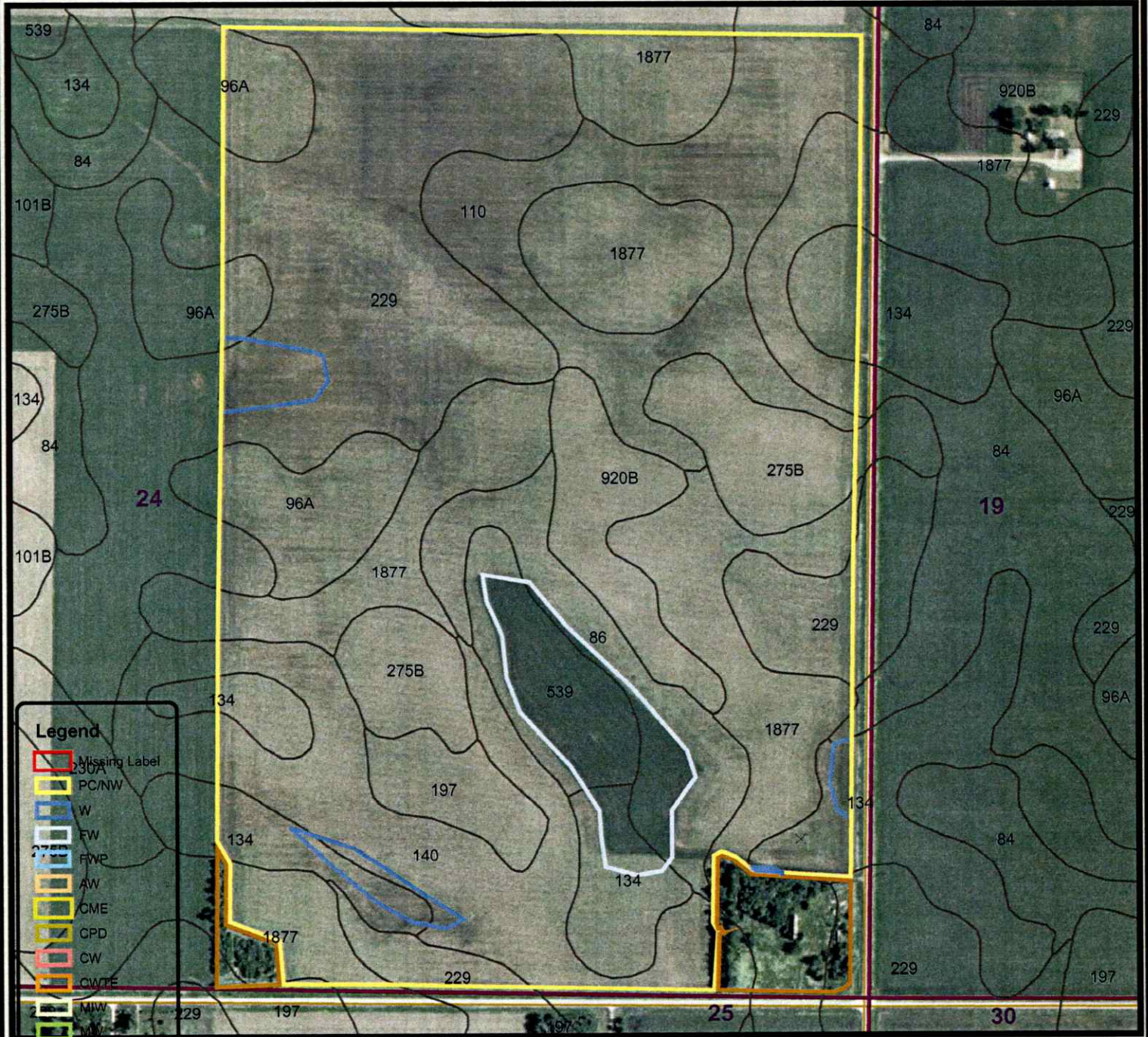
MAP SYMBOL	SOIL NAME	LCC	Productivity Index	Corn Yield Bu/Ac	Bean Yield Bu/Ac	ACRES
110	Marna silty clay loam	Ilw	87	187	52	25.5
134	Okoboji silty clay loam	Illw	86	185	52	18.7
140	Spicer silt loam	Ilw	91	196	55	22.5
1877	Fostoria loam	I	100	215	60	52.0
197	Kingston silt loam	I	100	215	60	6.0
229	Waldorf silty clay loam	Ilw	85	183	51	52.0
275B	Ocheyedan loam, 2 to 6 percent slopes	Ile	93	200	56	13.5
539	Klossner muck	Illw	77	166	46	8.8
84	Brownston silty clay loam	Ilw	81	174	49	6.9
86	Canisteo clay loam	Ilw	93	200	56	12.7
920B	Clarion-Estherville complex, 2 to 6 percent slopes	Ils	76	163	46	8.7
96A	Collinwood silty clay loam, 0 to 3 percent slopes	Ilw	86	185	52	12.8
SUMMARY			89.7	192.9	53.9	240.0

Data Source: USDA and Natural Resource Conservation Service. All acreages are approximate

# Faribault County Minnesota

Elmore 24

1/4/12



**Legend**

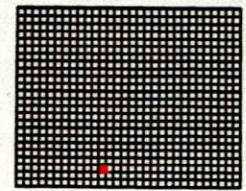
- Missing Label
- PC/NW
- W
- FW
- FWP
- AW
- CME
- CPD
- CW
- CW/TE
- MW
- MW
- MWM
- NW
- NW/NAD
- PC
- TP
- WX
- Soils
- Section
- County
- Highways
- Roads



Projection: UTM NAD83 Zone 15



Location Map



Maps are for graphical purposes only. They do not represent a legal survey. While every effort has been made to ensure that these data are accurate and reliable within the limits of the current state of the art, NRCS cannot assume liability for any damages caused by any errors or omissions in the data, nor as a result of the failure of the data to function on a particular system. NRCS makes no warranty, expressed or implied, nor does the fact of distribution constitute such a warranty.