NRCS
Natural Resources Conservation Service
451 E Deere St.
West Point, NE 68788
Phone: 402-372-2451(Ext. 3)
http://www.ne.nrcs.usda.gov

August 24, 2017

Scott Groth
PO BOX 5
WEST POINT, NE 68788

Dudley Persson
1072 23RD RD
OAKLAND, NE 68045

Dear Producers:

Enclosed is form NRCS-CPA-026E, "highly erodible land and wetland conservation determination" for **Tract 3152 in Cuming county.** This form may or may not have the highly erodible determination for this tract or information from a past wetland determination. Contact this office for the status of that information. This preliminary certified wetland determination may have been completed on a field-by field basis and a past determination may exist for other fields in the same tract. Refer to Section II of form NRCS-CPA-026E for field, wetland label, and certification date.

We have made a preliminary technical determination for field(s) 1, 2, 3, and 4, and the following wetlands have been identified: PC, FWP, and NW. See the attached Wetland Labels and Uses document for information regarding criteria for determination, authorized cropping, and authorized maintenance.

If you do not agree with this preliminary technical determination, please follow the procedures outlined in the enclosed Appeal Process Worksheet. Your request must include the following information:

- A copy of this notification and decision.
- The reason why the NRCS decision is incorrect. (Note: You must indicate why the NRCS decision is erroneous to you, individually, as a matter of law and regulation).
- You must provide a copy of any request for appeal or mediation to this office at:

  Natural Resources Conservation Service
  Attn: Ms. Robin Sutherland
  715 11th St.
  P.O. Box 167
  Stanton, Nebraska 68779-0167

If you agree with this preliminary technical determination, you may disregard the enclosed Appeal Process Worksheet.

If you choose to do nothing, this preliminary technical determination becomes final 30 days from the date you received this notification, no further notifications will be sent and the Farm Service Agency will be notified.

If manipulation or alteration of any wetlands occurs, this information will be used in determining your eligibility for USDA program benefits such as cost-share programs, disaster programs, production programs, farm loans, and other existing or potential USDA programs. If other individuals are associated with this farm, we encourage you to discuss this information with them.

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 U.S. 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 should request a jurisdictional determination from the local office of the COE prior to starting the work. Please contact the COE directly regarding other jurisdiction:

U.S. Army Corps of Engineers
8901 South 154th Street, Suite 1
Omaha, Nebraska 68138-3621
Phone: 402-896-0896

A certified wetland determination is not a county drainage permit. You are responsible for complying with other federal, state, local regulations and easements as they apply to wetlands on the property you own or operate. Contact Nebraska Department of Environmental Quality for complying with Title 117 of Nebraska's Surface Water Quality Standards for activities potentially impacting any "waters of the state":

Nebraska Department of Environmental Quality
Water Quality Division - Planning Unit
PO Box 98922
Lincoln NE 68509-8922

Before doing any activities in or near a wetland or wet area:
If you plan to do any work in a wetland/wet area or to any land nearby a wetland/wet area that could alter the wetlands/wet area you should notify your local NRCS office well in advance of starting the alteration. In this way, your plans can be reviewed so you have full knowledge of its potential effect on your USDA program eligibility and benefits. Examples of wetland alterations that are restricted include maintaining, improving, or installing drainage systems, removing trees or shrubs, dredging, leveling, and placing fill material in wetlands, or any other activities that impair wetland functions and values.

Tile is allowed in fields 3 and 4 as planned on the AD-1026 filed with FSA, (i.e., one line, perpendicular to creek) provided solid tile is used to outlet through pasture (field 6), starting at fence line.

If you have any questions concerning this preliminary technical determination, please contact me at **402-372-2451 (Ext. 3)**.

Sincerely,

Resource Conservationist

Enclosures:
- Appeal Process Worksheet
- NRCS-CPA-026E
- Determination Map
- Wetland labels and uses

cc: Robin Sutherland, DC, NRCS, Stanton
Sarah Beck, CED, FSA, West Point

United States Department of Agriculture

Natural Resources Conservation Service

NRCS-CPA-026e
8/2013

HIGHLY ERODIBLE LAND AND WETLAND CONSERVATION DETERMINATION

Name Address:	Scott Groth PO BOX 5 WEST POINT, NE 68788 Dudley Persson 1072 23RD RD OAKLAND, NE 68045	Request Date: 04/19/2017	County: Cuming
Agency or Person Requesting Determination:	FSA/Dudley Persson	Tract No: 3152	FSA Farm No.: 6963

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
A highly erodible land (HEL) determination was not completed as part of this review. Please refer to other documentation for HEL information.				

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
1	NW		5.39	4/28/2017	4/28/2017
2	FWP		0.43	4/28/2017	4/28/2017
2	NW		5.3	4/28/2017	4/28/2017
3	PC		0.91	4/28/2017	4/28/2017
3	NW		6.74	4/28/2017	4/28/2017

The wetland determination was completed in the field. It was mailed to the person on 8/24/17

Remarks: Tile is allowed in fields 3 and 4 as planned on the AD-1026 filed with FSA, (i.e., one line, perpendicular to creek) provided solid tile is used to outlet through pasture (field 6), starting at fence line. See previous 026e dated 4/25/2006 for remaining fields.

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
[signature]	8/24/17

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.

CPA-026e Supplemental Worksheet

Section II - Wetlands

Field(s)	Wetland Label	Occurrence Year (CW)	Acres	Determination Date	Certification Date
4	PC		0.03	4/28/2017	4/28/2017
4	NW		41.76	4/28/2017	4/28/2017
See previous 026e					
dated 4/25/2006					

Remarks:

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 and Uses (revised 9-2012)

Portions taken from National Food Security Act Manual, 5th edition Part 514.60 and NRCS-CPA-026e 9/2012

Name & Label	Criteria for Determination	Authorized Uses	Authorized Maintenance	NFSAM Citation
(AW) Artificial Wetland	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.	No restrictions.	No restrictions.	Part 514.12
(CPD) COE Permit with Mitigation	A converted wetland authorized by a permit issued under Section 404 of the Clean Water Act.	Per COE permit conditions. Production of agricultural commodities is only allowed subject to conditions of the permit.	Per COE permit conditions.	Part 515.20
(CW) Converted Wetland	A wetland converted between December 23, 1985, and November 28, 1990. Also, these areas are For these instances,	Production of agricultural commodities or additional manipulation will cause ineligibility.	Maintenance allowed to scope and effect of original manipulation.	Part 514.40
(CW) Wetland Converted by county, drainage district, or similar entity.	Wetlands converted after December 23, 1985, by a county, drainage district, or similar entity but not considered third party (TP).	Production of an agricultural commodity or forage for mechanical harvest or additional manipulation will cause ineligibility for USDA program benefits.	Maintenance allowed to original scope and effect of system before conversion.	Part 514.40
(CW+year) Converted wetland	A wetland converted after November 28, 1990.	USDA program participant is ineligible for benefits (regardless of whether production of agricultural commodity occurred) until the wetland is restored or mitigated unless an exemption.	Not applicable	Part 514.40
(CWTE) Converted Wetland Technical Error	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.	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.	Part 514.41
(FW) Farmed Wetland	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). 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.	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.	Part 514.31.
(FWP) Farmed Wetland Pasture and Hayland	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. Is inundated for at least 7 consecutive days or saturated for 14 days during the growing season.	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).	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.	Part 514.32
(MIW) Mitigation Exemption	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 (wetland to be manipulated).	As stipulated in the mitigation agreement.	As stipulated in the mitigation agreement.	Part 515.10

Name & Label	Criteria for Determination	Authorized Uses	Authorized Maintenance	NFSAM Citation
(MW) Minimal Effect Exemption	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.	As stipulated in the minimal effect agreement, if applicable.	Only those activities stipulated in the minimal effect agreement, if applicable.	Part 515.0
(MWM) Mitigation Site	The site of wetland restoration, enhancement, or creation serving as mitigation for the mitigation exemption (MIW) site.	As stipulated in Mitigation Plan/Agreement.	As stipulated in Mitigation Plan/Agreement	Part 515.10
(NW) Nonwetland	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).	No restrictions.	No restrictions unless manipulation would convert adjacent wetlands.	Part 514.20
(PC) Prior Converted Cropland	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.	No restrictions.	No restrictions unless manipulation would convert Adjacent wetlands.	Part 514.30
(TP) Third Party Exemption	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.	May be used for production of agricultural commodities or forage.	Further drainage improvement will cause ineligibility.	Part 514.42
(W) Wetland	An area meeting wetland criteria that was not converted after December 23, 1985. These areas include FW and FWP that 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.	Part 514.10
(WX) Wetlands that have been manipulated	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.	Would cause ineligibility if production was later made possible.	No restrictions as long as production not made possible including on an adjacent wetland.	Part 514.11

Current Labels: The above are the ONLY labels that are authorized for use when making a certified wetland determination in accordance with the National Food Security Act Manual, 4th edition.

ADDITIONAL INFORMATION

PAST LABELS: Previous editions of the National Food Security Act Manual contained labels that will not be used for certified determinations completed after the effective date of this manual (January 2008). These labels may be shown for previous determinations and maintained in the Customer Service Toolkit.

(CC)Commenced Conversion: 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 conversion was completed by January 1, 1995.
(CMW) Categorical Minimal Effect: 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.
(CWNA) Converted Wetland for Nonagricultural Purposes: A wetland converted after November 28, 1990, to a use other than agricultural commodity production.
Easement site + label: Area that has been created, restored, or enhanced under an agreement to allow conversion and cropping of another wetland. Authorized Uses: As specified in agreement. Authorized Maintenance: As specified in agreement.
(NI) Not Inventoried: An area where no wetland determination has been conducted.
(OW) other waters of the United States: Areas that the COE have taken jurisdiction of under the Clean Water Act. Only use with COE decision/guidance. Authorized Uses: As per COE permit. Authorized Maintenance: As per COE permit.
(PC/NW) Prior Converted Cropland/Non-Wetland: An area that contains both PC and NW.

Obvious Wetlands (NFSAM 514.41B.): CWTE does not apply to obvious wetlands. An obvious wetland is an area that is continuously inundated or saturated for long periods of time during the growing season to such an extent that access by foot to make a determination of predominance of hydric soils or prevalence of hydrophytic vegetation is not feasible. [7 CFR 12.6 (c)(8)] Additionally, wetland sites that are cropped or have had forage harvested by mechanical means less than 5 out of 10 years because of ponding, flooding, or saturation are obvious wetlands.

Appeal Process Worksheet

Preliminary Technical Determinations

If you disagree with the preliminary technical determination and wish to appeal it then follow the guidance below. If you do nothing within 30 calendar days from the date you received the notification letter then the determination listed becomes final.

Step 1:

The U.S. Department of Agriculture appeal process, outlined below, implements the appeal authorities that were set forth by regulation at 7 CFR 11. Under the appeals and mediation process, the "preliminary" technical determination becomes "final" after 30 days unless you (A), request a field review and reconsideration **OR** (B), request mediation **OR** (C), or waive your initial appeal rights.

A. **Request a field review and reconsideration** (Appeal) to the District Conservationist at the Stanton NRCS to discuss the basis for the preliminary determination. You may submit additional information that NRCS may not have been aware of during the preliminary determination process. If after this review, the determination remains adverse to you, we will transmit this determination and any new information you provided during the field review, the field review findings to the State Conservationist or their designee for final review and/or reconsideration and to issue the final technical determination.
You can request a field review by writing (include the basis for your request):

Robin Sutherland, District Conservationist
Natural Resources Conservation Service
715 11th St.
Stanton, NE 68779-0167
Phone: 402-439-2166 Ext. 3

OR

B. **Request mediation**, a process in which a trained, impartial person (a neutral mediator) helps look at mutual concerns; identify and consider options; and determine if both parties can agree on a solution. Unlike an appeal, mediation is private; confidential; and informal. The mediator will help both parties work together to evaluate the information in your case and to identify alternatives that will assist both parties in resolving the dispute. The mediator has no decision-making authority. Unlike the appeal process, a mediator cannot decide what is "right" or "make" anyone do anything. Any agreement reached during, or as a result of, the mediation process must conform to the statutory, regulatory, and policy provisions governing the program. Requesting mediation will cause the 30 calendar day time clock that determines a timely appeal to be paused. If mediation is unsuccessful, the 30 calendar day time clock will resume with the remaining balance of the 30 calendar days in which you may request another option. You may have to pay all or part of the cost of mediation. Requests for mediation must be in writing to:

Negotiations Program
Nebraska State Department of Agriculture
PO Box 94947
Lincoln, Nebraska 68509-4947

For More information regarding mediation call 1-800-446-4071 or visit www.negotiations.nebraska.gov.
If you request mediation AND a mutual agreement has not been resolved, a "final" technical determination will be issued 30 days after the beginning of mediation. After a "final" technical determination is issued you may continue with Step 2 below (Once a technical determination becomes final).

OR

C. **Waive your initial appeal rights** of a field review and reconsideration (A) or mediation (B) by notifying the NRCS office listed above in writing. Waiving your initial appeal rights in writing will expedite the issuance of the final technical determination to you in less than 30 days. If you choose to waive your initial appeal rights you must inform the NRCS office listed above in writing, within 30 days of receipt of this notice.

If you waive your initial appeal rights a "final" technical determination will be issued. Once a technical determination becomes final you may continue with Step 2 below if you wish.

If you choose to do nothing, this preliminary technical determination becomes "final" 30 days from the date you received this notification, no further notifications will be sent to you. Once a technical determination becomes final you may continue with Step 2 below if you wish.

Step 2 (only if applicable): Once a technical determinations becomes "final"

If you still feel the "final" determination is incorrect your appeal rights continue with the following options of appeal to the (D) Farm Service Agency County Committee or appeal to the (E) National Appeals Division:

D. The "final" technical determination may be appealed to the Farm Service Agency County Committee at the address below. If you choose to appeal, a written request must be made within 30 days after the preliminary technical determination becomes final. Please include the basis for your appeal. If you appeal, NRCS will forward their administrative record to the County Committee for their use in considering your appeal. The County Committee cannot change a technical determination made by NRCS. They can however offer the possibility of good faith relief.

Cuming County Committee
Farm Service Agency
451 E Deere St
West Point, NE 68788

Or

E. The "final" technical determination may also be appealed to the National Appeals Division (NAD). Requests for an appeal by NAD must be received in writing to the Regional Office no later than 30 calendar days after the participant first received the final determination. Further information can be found at the NAD website: http://www.nad.usda.gov/. Mail the appeal to:

National Appeals Division
Western Regional Office
755 Parfet Street Suite 494
Lakewood, Colorado 80215-5506

Certified Wetland Determination

Date: 7/31/2017

Customer(s): SCOTT GROTH

District: LOWER ELKHORN NATURAL RESOURCES DISTRICT

Legal Description: NE4 32-22-7E

Field Office: WEST POINT SERVICE CENTER

Agency: NRCS

Assisted By: BRITTANY SMITH

Prepared with assistance from USDA-Natural Resources Conservation Service

210 0 210 420 630 840 Feet

Legend

- T3152
- Section/Township/Range

Wetland Label

- FWP
- NW
- PC

See previous determination dated 4/25/2006

USDA

N

[redacted] Conservation Service

HIGHLY ERODIBLE ND AND WETLAND CONSERVA ON DETERMINATION

Name Address:	Dudley Persson 1072 23rd Rd Oakland, NE 68045		Request Date: 3/07/06	County:	Cuming
Agency or Person Requesting Determination:	NRCS		Tract No: 3152	FSA Farm No.:	5368

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
	-	-		
	-	-		
	-	-		
	-	-		
	-	-		
	-	-		
	-	-		

The Highly Erodible Land determination was completed in the- .

Section II - Wetlands

Are there hydric soils on this farm?	Yes

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
1	NI		5.3	4/25/06	4/25/06
2	NI		5.7	4/25/06	4/25/06
3	NI		7.7	4/25/06	4/25/06
4	NI		41.8	4/25/06	4/25/06
5	FWP		0.1	4/25/06	4/25/06
5	PC/NW		2.4	4/25/06	4/25/06
P1	FWP		0.4	4/25/06	4/25/06
P1	FWP		0.7	4/25/06	4/25/06
P1	FWP		0.4	4/25/06	4/25/06
P1	NW		12.6	4/25/06	4/25/06

The wetland determination was completed in the -Field It was -mailed to the person on .

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
Patrick T. Conzet	4/25/06

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, Director, Office of Civil Rights, Room 326W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.

Wetland Map

Date: 3/21/2006

Customer(s): SCOTT GROTH

District: WEST POINT SOIL & WATER CONSERVATION DISTRICT

Field Office: WEST POINT SERVICE CENTER

Agency: NRCS

Assisted By: Bryce D Bauer

Legal Description: NE 1/4 32-22-7

Legend

- FWP
- FWP1
- FWP
- T3152

Image: ortho_1-1_1n_s_ne039_2003_1.sid

380 0 380 760 1,140 1,520 Feet

N