

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA, EASTERN DIVISION

<p>CTM HOLDINGS, LLC, an Iowa limited liability company,</p> <p style="text-align:center"><i>Plaintiff,</i></p> <p>vs.</p> <p>THE UNITED STATES DEPARTMENT OF AGRICULTURE; THOMAS J. VILSACK, in his official capacity as the Secretary of the United States Department of Agriculture; THE NATURAL RESOURCES CONSERVATION SERVICE; TERRY COSBY, in his official capacity as Chief of the Natural Resources Conservation Service; and JON HUBBERT, in his official capacity as Iowa State Conservationist,</p> <p style="text-align:center"><i>Defendants.</i></p>	<p style="text-align:right">CIVIL NO. 6:24-cv-02016</p> <p><b>PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AND REQUEST FOR ORAL ARGUMENTS</b></p>
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**PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT  
AND REQUEST FOR ORAL ARGUMENTS**

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, Plaintiff CTM Holdings, LLC (“CTM”) brings this motion for summary judgment on all five of Plaintiff’s claims in its Complaint.

Plaintiff requests that this court: (1) declare that Swampbuster’s (16 U.S.C. §§ 3801, 3821-3824) provisions are in excess of Congress’s commerce power; (2) declare that Swampbuster’s (16 U.S.C. §§ 3801, 3821-3824) provisions demanding a perpetual conservation easement of “wetlands” as a condition of USDA benefits is an unconstitutional condition under the Commerce Clause and the Takings Clause; (3) declare that 7 C.F.R. §§ 12.2(a) and 12.30(c)(6)

are in violation of 5 U.S.C. § 706; (4) issue a judgment holding unlawful and setting aside the provision of 7 C.F.R. §§ 12.2(a) and 12.30(c)(6) in violation of 5 U.S.C. § 706; and (5) issue a judgment holding unlawful and setting aside Defendants' January 23, 2023 and April 16, 2010 wetlands determinations.

This motion is brought pursuant to Rule 56 of the Federal Rules of Civil Procedure and is based on the record and files herein, and any evidence adduced during the hearing on this motion. Plaintiff requests oral arguments on this motion.

Respectfully submitted this 27<sup>th</sup> day of January, 2025.

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**MEMORANDUM IN SUPPORT OF PLAINTIFF’S**  
**MOTION FOR SUMMARY JUDGMENT**

TABLE OF CONTENTS

TABLE OF CONTENTS..... ii

TABLE OF AUTHORITIES..... iii

INTRODUCTION..... 1

MATERIAL FACTS ..... 1

LEGAL STANDARD..... 4

ARGUMENT..... 5

**I. This Court can Reach the Merits of the Case..... 5**

        A. CTM Holdings has Standing..... 5

        B. There is Final Agency Action and CTM Holdings Exhausted All Available Remedies. 6

**II. Swampbuster unconstitutionally conditions the receipt of benefits on farmers waiving their rights under the Takings Clause of the Constitution..... 7**

        C. Swampbuster in effect requires farmers to transfer a conservation easement to the federal government. .... 7

        D. Swampbuster imposes an unconstitutional condition on Plaintiff. .... 8

**III. Swampbuster violates the Commerce Clause.....11**

**IV. The Swampbuster Rule restricting a request for redetermination exceeds the statutory definition..... 15**

**V. The Swampbuster Rule defining converted wetlands exceeds the statutory definition. .... 18**

CONCLUSION ..... 19

**TABLE OF AUTHORITIES**

**Cases**

*Atchison, Topeka & Santa Fe Railway v. ICC*, 607 F.2d 1199 (7th Cir. 1979)..... 19

*B & D Land & Livestock Co. v. Veneman*, 332 F. Supp. 2d 1200 (N.D. Iowa. 2004)

*Batterton v. Francis*, 432 U.S. 416 (1977)..... 17

*Bond v. United States*, 564 U.S. 211, 222 (2011)

*Branstad v. Veneman*, 212 F. Supp. 2d 976 (N.D. Iowa 2002);

*Caminetti v. United States*, 242 U.S. 470 (1917) ..... 6

*Cedar Point Nursery v. Hassid*, 141 S. Ct. 2063 (2021)..... 8, 9, 10, 13

*Dolan v. City of Tigard*, 512 U.S. 374 (1994).....9, 11, 13

*Global Van Lines, Inc. v. Interstate Commerce Com.*, 714 F.2d 1290 (5th Cir. 1983)..... 19

*Heart of Atlanta Motel, Inc. v. United States*, 379 U.S. 241 (1964) ..... 5

*Houston, E. & W. Tex. Ry. Co. v. United States*, 234 U.S. 342 (1914)..... 6

*Kaiser Aetna v. United States*, 444 U.S. 164 (1979)..... 9

*Katzenbach v. McClung*, 379 U.S. 294 (1964)..... 7

*Koontz v. St. Johns River Water Mgmt. Dist.*, 570 U.S. 595 (2013) ..... 10, 12, 13, 14

*Lion Oil Co., Inc. v. Tosco Corp.*, 90 F.3d 268, 270 (8th Cir. 1996)..... 4

*Loper Bright v. Raimondo*, 144 S. Ct. 2244 (2024) ..... 16, 17

*Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419 (1982)..... 9

*Maple Drive Farms L.P. v. Vilsack*, 781 F.3d 837 (6th Cir. 2015) ..... 15

*Michigan v. EPA*, 576 U.S. 743 (2015) ..... 17

*Nat’l Fed’n of Indep. Bus. v. DOL, OSHA*, 595 U.S. 109 (2022)..... 18

*Nollan v. California Coastal Comm’n*, 483 U.S. 825 (1987) ..... 9

*Sackett v. EPA*, 598 U.S. 651 (2023)..... 4

*Solid Waste Ag. of N. Cook Cty v. United States Army Corps of Engineers*, 531 U.S. 159 (2001) 4,  
5

*United States v. Darby*, 312 U.S. 100 (1941)..... 5, 7

*United States v. Lopez*, 514 U.S. 549 (1995). ..... 5, 7

*Von Eye v. United States*, 887 F. Supp. 1287 (D. S. D. May 25, 1995) ..... 3

*Wayman v. Southard*, 23 U.S. 1 (1825)..... 17

*Wickard v. Filburn*, 317 U.S. 111 (1942) ..... 7

**Statutes**

16 U.S.C. § 3801..... 2  
16 U.S.C. § 3801(a)(27)..... 4, 6  
16 U.S.C. § 3801(a)(7)(A)..... 11, 19  
16 U.S.C. § 3821..... 10, 11  
16 U.S.C. § 3822(a)(4)..... 16  
16 U.S.C. §§ 3801-3871f..... 2  
16 U.S.C. §§ 3821-3824 ..... 2, 14  
16 U.S.C. 3846(a) ..... 17  
*Horn Farms, Inc. v. Johanns*, 397 F.3d 472 (7th Cir. 2005) ..... 14  
Iowa Code Ann. § 457A.1..... 9  
Iowa Code Ann. § 457A.2..... 9

**Rules**

Fed. R. Civ. P. 12(c) ..... 3

**Regulations**

7 C.F.R. § 12.30(c)(6) ..... 16  
7 C.F.R. § 12.4(c)..... 15  
7 C.F.R. 12.2(a)..... 19

**Constitutional Provisions**

U.S. Const. amend. V. .... 8  
U.S. Const. art. I, § 8, cl. 3..... 5

## **INTRODUCTION**

For too long, the federal government has unconstitutionally taken farmers' land for wetland conservation without paying them just compensation. It forces the conservation by withholding, or threatening to withhold, U.S. Department of Agriculture ("USDA") benefits. The law, nicknamed Swampbuster, egregiously places the burden of preserving wetlands for the benefit of the entire nation on the backs of farmers and their private farmland. This law flies in the face of the Fifth Amendment and exceeds the federal government's authority.

Swampbuster is unconstitutional and unlawful in several ways. One, it violates the commerce clause. Swampbuster improperly regulates private intrastate property. Two, it unconstitutionally conditions the receipt of USDA benefits on the existence of a perpetual conservation easement of wetlands on a farmer's private property, such as Plaintiff's. And three, the administrative rules defining a redetermination request and a converted wetland are not in accordance with the statute and exceed the agency's authority. Therefore, this Court should grant Plaintiff's motion for summary judgment and declare that: (1) Swampbuster violates the commerce clause; (2) Swampbuster unconstitutionally conditions USDA benefits on relinquishment of rights under the Takings Clause and Commerce Clause; and (3) Swampbuster's rules defining a converted wetland and a redetermination request are not in accordance with the statute and exceed the agency's authority.

## **MATERIAL FACTS**

### **The Property**

On September 30, 2022, Plaintiff purchased three contiguous parcels (Nos. 480-403300, 480-403400, and 480-403410) consisting of 71.85 acres of farmland located at the Corner of 217th Street and 1st Street in Delaware County, Iowa. Statement of Material Fact ("SOMF") 1,

Appendix 2-3; Doc. 17, at ¶ 2. Of the 71.85 acres, approximately 39.83 acres were tilled and being used for agriculture; 10.4 acres were designated as erodible land and in the Conservation Reserve Program (“CRP”) by the prior owner; and 21.62 acres were forested, of which the USDA has previously deemed to contain 9 acres of “wetland”. SOMF 2, App. 5, 73-74, 81; Doc. 17, at ¶ 2. The USDA made the wetland determination in 2010. SOMF 3, App. 11; Doc. 35-3, at 1, 3. The previous owner of the Property enrolled 10.4 acres of the parcel in the CRP. SOMF 4, App. 17-18, 33; Doc. 17, ¶ 37-38. The USDA made contract payments for the conservation of the 10.4 acres until the contract expired on September 30, 2024. SOMF 5, App. 37-38; Doc. 17, at ¶ 37-38.

### **2023 Wetlands Determination**

Before purchasing the Property, Plaintiff contacted the USDA and requested their assistance with the process of seeking a redetermination of the wetlands. SOMF 6, App. 49-52. The USDA recommended that he submit the AD-1026 form. SOMF 7, App. 40-42. Plaintiff submitted the AD-1026 form on October 12, 2022 for the Property. SOMF 8, App. 40, 67-68; Doc. 17, at ¶ 44. Plaintiff submitted the AD-1026 form the purposes of putting the Property in the FSA program, making it eligible for USDA benefits, and requesting a wetlands redetermination. SOMF 9, App. 6, 40-42. On January 23, 2023, the Natural Resources Conservation Service (“NRCS”) field office issued a letter to Plaintiff providing a “Wetland Preliminary Technical Determination” for the Property. SOMF 10, App. 70-78; Doc. 17, at ¶ 45. On that same day, the NRCS sent Plaintiff a letter denying its request for a new certified wetlands determination, informed Plaintiff that the “Certified Wetland Determination” was completed on April 16, 2010, and as such Plaintiff could not appeal the 2010 determination. SOMF 11, App. 6-7, 79-88; Doc. 17, at ¶ 45. Defendants



confirmed that 9 acres of the Property are designated as wetlands. SOMF 12, App. 7, 81; Doc. 17, at ¶ 2.

### **The Plaintiff**

Plaintiff, CTM Holdings, LLC (“CTM Holdings”) is an Iowa limited liability company. SOMF 13, App. 7. CTM Holdings, LLC is a manager managed LLC, of which there are only two members. SOMF 14, App. 7. The managing member of CTM Holdings is James F. Conlan. SOMF 15, App. 7. The affiliated entity referenced in the complaint is B&C, LLC of which James F. Conlan is the sole-member. SOMF 16, App. 7; Doc. 7. Between CTM Holdings and B&C, LLC they own over 1,000 acres of farmland that is all under the USDA program and are leased to tenants who farm the land. SOMF 17, App. 7, 98-99. CTM Holdings and B&C, LLC maintain USDA program eligibility for their tenants to receive all benefits and subsidies. SOMF 18, App. 7. Plaintiff participates in a number of USDA benefits programs. SOMF 19, App. 98-99; Doc. 17, at ¶ 50.

### **CRP Program Participation**

Plaintiff leases the Property to its Tenants Cory Pfab. SOMF 20, App. 7-8, 90-96. The Property was under a Conservation Reserve Program (“CRP”) Contract with the USDA from May 1, 2010 to September 10, 2024. SOMF 21, App. 8, 17, 37. As the purchaser of the Property CTM Holdings took over the remainder of the existing CRP contract. SOMF 22, App. 8, 42. CTM assigned its rights to the CRP payments to its Tenant, Cory Pfab. SOMF 23, App. 8, 37, 42, 96.

### **Loss of Uses**

Plaintiff cannot use the 9 acres of wetland in an economically beneficial or productive manner without violating swampbuster. SOMF 24, App. 8. Nothing can be built on the 9 acres

without violating Swampbuster. SOMF 25, App. 8. The marketability and sales price for the Property are diminished by the existence of the wetlands determination. SOMF 26, App. 8-9, 101-102. Removal of the stumps from Plaintiff's wetlands would result in a wetland violation. SOMF 27, App. 9, 44-45, 115. If CTM uses the 9 acres then it could lose its USDA benefits, including the benefits for land owned by B&C, LLC and all the tenants on those properties. SOMF 28, App. 9. USDA informed CTM that "A wetland violation would jeopardize all financial benefits associated to the farm, including those of any tenants associated to the farm, and possibly their other farming interests." SOMF 29, App. 9, 116. This Property's tenant, Cory Pfab, is also the operator for 18 other farms totaling over 2,000 acres of farmland. SOMF 30, App. 98-99. Plaintiff does not receive compensation from the USDA for its compliance with wetland conservation. SOMF 31, App. 9.

### **The "Wetlands"**

The 9 acres of "wetland" are indistinguishable from the rest of the 12.62 acres of forested nonwetlands. SOMF 32, App. 9, 122-130. The 9 acres of "wetland" do not contain any standing water, are not visibly wet, are not connected to any water body, and are not permanently or seasonally saturated or inundated by water at any time of the year. SOMF 33, App. 10, 122-130. The Property contains a small seasonal stream that runs through one portion of the nonwetlands, and the stream is not designated as "wetlands". SOMF 34, App. 10, 132. All the "wetlands" units on the Property are a significant distance away from the small seasonal stream and are not connected to any water body. SOMF 35, App. 10, 122-130. The soil rating of the 9 acres of wetland is indistinguishable from the rest of the Property, which is a crop high quality suitability rating of 84/85. SOMF 36, App. 10.

### **LEGAL STANDARD**

“The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). “When the moving party has carried its burden under Rule 56(c), its opponent must do more than simply show that there is some metaphysical doubt as to the material facts . . . . Where the record taken as a whole could not lead a rational trier of fact to find for the nonmoving party, there is no ‘genuine issue for trial.’” *Matsushita Elec. Industrial Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586-587 (1986) (footnote omitted). “[T]he mere existence of some alleged factual dispute between the parties will not defeat an otherwise properly supported motion for summary judgment; the requirement is that there be no genuine issue of material fact.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247-248 (1986).

## ARGUMENT

### I. This Court can Reach the Merits of the Case.

#### A. CTM Holdings has Standing.

Where “the legality of government action or inaction” is being challenged “there is ordinarily little question” of standing for the “object of the action (or forgone action).” *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 561–62 (1992). Here, CTM Holdings is the object of Swampbuster and Defendants’ regulations.

Defendants’ regulations apply to the land owned by CTM. SOMF 1, App. 2-3; 16 U.S.C. § 3822(a)(1) (certifications delineate “all wetlands located on subject land on a farm”). And while CTM Holdings generally leases farmland that it owns, SOMF 17-19, App. 7, 98-99, a violation by a tenant on farmland can affect a landlord’s eligibility for USDA programs with respect to that farm. *See* 7 C.F.R. § 12.9(a)(1)(i). Additionally, a tenant’s violation can result in the reduction of the landlord’s federal crop insurance. *id.* at § 12.9(a)(1)(ii).

Furthermore, CTM Holdings is injured by Swampbuster because it reduces the value of the farmland and reduces potential rental income on the farmland. SOMF 24-26, App. 8-9, 101-102. A decrease in market value is a “sufficiently concrete injury for Article III purposes”. *Weyerhaeuser Co. v. U.S. Fish & Wildlife Serv.*, 586 U.S. 9, 19 n.1 (2018).

**B. There is Final Agency Action and CTM Holdings Exhausted All Available Remedies.**

Defendants’ refusal to review the current wetland delineation is final agency action. *See Foster v. U.S.D.A.*, 609 F. Supp. 3d 769, 787 (D.S.D. 2022). The refusal is agency action because the “APA defines” “agency action...as including even a ‘failure to act.’” *Sackett v. EPA*, 566 U.S. 120, 126 (2012). And the refusal is final because that decision determines CTM Holding’s rights or obligations. Specifically, Defendants’ decision has left the previous wetlands delineation in place and thus “ensured that the enforcement provisions of the Swampbuster Act remain in place[.]” *Foster*, 609 F. Supp. 3d 769, 787 (D.S.D. 2022).

CTM Holdings has also exhausted all administrative remedies. In denying CTM Holdings’ review requests, Defendants specifically stated that its decision was not appealable. SOMF 10-11, App. 6-7, 70-78, 79-88. But even if the decision were appealable, this Court should still reach the merits of the case. A court may excuse a party from exhausting administrative remedies “if the complaint involves a legitimate constitutional claim... or if the issues to be decided are primarily legal rather than factual.” *Ace Prop. & Cas. Ins. Co. v. Fed. Crop Ins. Corp.*, 440 F.3d 992, 1000 (8th Cir. 2006). Here, CTM Holding’s challenges Defendants actions and regulations solely on the basis that they are unconstitutional or otherwise not in accordance with the law. Doc. 1. Resolution of these issues “requires no special agency expertise, but rather, involves interpretation of a regulation which is a matter better suited for the courts.” *State of Mo. v. Bowen*, 813 F.2d 864, 871 (8th Cir. 1987).

**II. Swampbuster unconstitutionally conditions the receipt of benefits on farmers waiving their rights under the Takings Clause of the Constitution.**

**C. Swampbuster in effect requires farmers to transfer a conservation easement to the federal government.**

“No person shall . . . be deprived of life liberty, or property without due process of law; nor shall private property be taken for public use, without just compensation.” U.S. Const. amend. V. “When the government physically acquires private property for a public use, the Takings Clause imposes a clear and categorical obligation to provide the owner with just compensation.” *Cedar Point Nursery v. Hassid*, 141 S. Ct. 2063, 2071 (2021) (citation omitted). “The government commits a physical taking when it uses its power of eminent domain to formally condemn property[,]” “takes possession of property without acquiring title to it[,]” or “occupies property – say, by recurring flooding as a result of building a dam.” *Id.* (citations omitted).

Appropriation of an easement can effect a taking. *Id.* at 2073 (citing *Kaiser Aetna v. United States*, 444 U.S. 164 (1979)). “[A] permanent physical occupation constitutes a *per se* taking regardless whether it results in only a trivial economic loss.” *Id.* (citing *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419, 425 (1982)). Compelled dedication of an easement for public use constitutes a taking. *Id.* at 2073-74 (citing *Dolan v. City of Tigard*, 512 U.S. 374 (1994); *Nollan v. California Coastal Comm’n*, 483 U.S. 825 (1987)).

Swampbuster, in effect, requires farmers to transfer a conservation easement to the government that limits farmers’ use of wetlands. In Iowa, a conservation easement is “an easement in, servitude upon, restriction upon the use of, or other interest in land owned by another, created for any of the purposes set forth in section 457A.1” Iowa Code Ann. § 457A.2. One of the purposes listed in section 457A.1 is “to preserve . . . riparian lands[ and] wetlands[.]” Iowa Code Ann. § 457A.1. And, under Iowa law, conservation easements can be temporary. *Id.* § 457A.2.

Swampbuster thus places a restriction upon the use of wetlands, much like a conservation easement in Iowa. That Swampbuster does not require farmers to record a literal conservation easement is irrelevant. A government cannot “absolve itself of takings liability by appropriating [a property right] in a form that is a slight mismatch from state easement law.” *Cedar Point Nursery*, 594 U.S. at 155.

**D. Swampbuster imposes an unconstitutional condition on Plaintiff.**

“[T]he unconstitutional conditions doctrine forbids burdening the Constitution’s enumerated rights by coercively withholding benefits from those who exercise them.” *Koontz v. St. Johns River Water Mgmt. Dist.*, 570 U.S. 595, 606 (2013). The unconstitutional condition doctrine has been applied to various government benefits.<sup>1</sup> “[R]egardless of whether the government ultimately succeeds in pressuring someone into forfeiting a constitutional right, the unconstitutional conditions doctrine forbids burdening the Constitution’s enumerated rights by coercively withholding benefits from those who exercise them.” *Koontz*, 570 U.S. at 606 (2013). Here, Swampbuster conditions the receipt of USDA benefits on the willingness of a farmer to waive the right to just compensation for a taking of property, including the Plaintiff.

Under Swampbuster, farmers who convert wetlands are precluded from receiving federally authorized agricultural benefits programs and premium subsidies for federally authorized crop insurance programs. 16 U.S.C. § 3821(a); § 3821(d)(1). Any person who “converts a wetland by draining, dredging, filling, leveling, or any other means for the purpose, or to have the effect, of making the production of an agricultural commodity possible on such converted wetland . . . for

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<sup>1</sup> “Virtually all of our unconstitutional conditions cases involve a gratuitous governmental benefit of some kind.” *Koontz v. St. Johns River Water Mgmt. Dist.*, 570 U.S. 595, 608 (2013); see e.g., *Regan v. Taxation with Representation*, 461 U.S. 540 (1983) (tax benefits); *Mem’l Hosp. v. Maricopa Cty.*, 415 U.S. 250 (1974) (healthcare); *Perry v. Sindermann*, 408 U.S. 593 (1972) (public employment); *United States v. Butler*, 297 U.S. 1 (1936) (crop payments); *Frost & Frost Trucking Co. v. R.R. Com. of Cal.*, 271 U.S. 583 (1926) (business license).

that crop year and all subsequent crop years.” 16 U.S.C. § 3821(c). Any person who “produces an agricultural commodity on converted wetland,” is also ineligible for USDA backed benefits such as crop insurance, price supports, and government-sponsored loans. 16 U.S.C. § 3821(a). A converted wetland is one “that has been drained, dredged, filled, leveled, or otherwise manipulated (including any activity that results in impairing or reducing the flow, circulation, or reach of water)” so that agricultural production is possible. 16 U.S.C. § 3801(a)(7)(A).

Thus, as stated above, Swampbuster requires a farmer to transfer a conservation easement to NRCS as a condition of receiving benefits. NRCS could not take a conservation easement from a farmer without paying just compensation. Accordingly, the agency cannot acquire a conservation easement by conditioning the receipt of benefit on transferring a conservation easement. *Dolan*, 512 U.S. at 384 (“[w]ithout question, had the city simply required petitioner to dedicate a strip of land . . . rather than conditioning the grant of her permit to redevelop her property on such a dedication, a taking would have occurred.”)

Moreover, whether CTM Holdings has actually transferred any property is irrelevant. As the Court said in *Koontz*, no transfer of property must occur for there to be an unconstitutional condition. 570 U.S. at 607. “Extortionate demands for property in the land-use permitting context run afoul of the Takings Clause not because they take property but because they impermissibly burden the right not to have property taken without just compensation.” *Id.* In short, “the impermissible denial of a governmental benefit is a constitutionally cognizable injury.” *Id.*

Likewise, that Congress could refuse to grant benefits to farmers does not matter. The Court has “repeatedly rejected the argument that if the government need not confer a benefit at all, it can withhold the benefit because someone refuses to give up constitutional rights.” *Id.* at 608.

And “the unconstitutional conditions doctrine applies even when the government threatens to withhold a gratuitous benefit.” *Id.* at 596. Because Congress could not directly require farmers to transfer conservation easements over CTM’s wetlands, it cannot condition the receipt of federal benefits on creating a conservation over the same wetlands.

In the land use permitting context, *Nollan* and *Dolan* “involve a special application of this doctrine that protects the Fifth Amendment right to just compensation for property the government takes when owners apply for land-use permits.” *Id.* at 604 (quotations omitted). In order for a permit condition to be constitutional, the government must demonstrate that there is an essential nexus and rough proportionality between the condition and the costs of the individual applicant's proposal. See *Koontz*, 570 U.S. at 605–06.

The *Nollan* and *Dolan*’s nexus and proportionality test does not apply here, however, because CTM Holdings is not requesting a land use permit from NRCS. CTM Holdings already has the right to farm on its land, and does not need a permit from the federal government to do so. Thus, Swampbuster is an outright demand for the transfer of a property interest. And because “[w]hen a regulation results in a physical appropriation of property,” such as a transfer of an easement “a *per se* taking has occurred” *Cedar Point*, 594 U.S. at 149, the federal government cannot withhold benefits on the condition that CTM Holdings agree to an uncompensated taking of its property, *see Dolan*, 512 U.S. at 384.

But even under the nexus and proportionality test, Swampbuster would be an unconstitutional condition. Under the test, for a permit condition to be constitutional, the government must demonstrate that there is an essential nexus and rough proportionality between the condition and the costs of the individual applicant's proposal. See *Koontz*, 570 U.S. at 605–06. Here, there is no proportionality between a farmer’s impact on wetlands and what the farmer



is required to give to the federal government. Swampbuster is an all or nothing condition: a farmer must effectively transfer a conservation easement for all alleged wetlands on all properties a farmer owns. And if a farmer decides that it wants or needs to farm on just one small wetland on one property, he or she will lose access to USDA programs for all his or her properties.

This disproportionality is demonstrated by the history of Swampbuster. “The initial version of this statute, 16 U.S.C. §§3821-24, enacted in 1985 and dubbed ‘Swampbuster,’ made the loss proportional to the amount of wetland converted.” *Horn Farms, Inc. v. Johanns*, 397 F.3d 472, 474 (7th Cir. 2005). However, “[a]n amendment in 1990 provided that converting *any* wetland would cause the farmer to lose *all* agricultural use.” *Id.* (emphasis in original). “Under USDA regulations, a person who converts a wetland ‘shall be ineligible for all *or a portion* of the USDA program benefits’ subject to the wetland-conservation provisions.” *Maple Drive Farms L.P. v. Vilsack*, 781 F.3d 837, 852-53 (6th Cir. 2015) (quoting 7 C.F.R. § 12.4(c) (emphasis in original). “By its terms, the regulation allows a farmer to face partial – as well as total – exclusion from USDA programs.” *Id.* at 853.

USDA could not require a farmer to transfer a conservation easement to the federal government without paying just compensation. And the federal government does not have the power to regulate intrastate wetlands that are not the channels, instrumentalities, or have a substantial effect on interstate commerce. Thus, the federal government cannot condition the receipt of USDA benefits on a farmer’s willingness to adhere to an uncompensated taking of his or her property.

### **III. Swampbuster violates the Commerce Clause.**

Swampbuster by its plain language regulates private property, specifically wetlands. 16 U.S.C. § 3801(a)(27) (“The term ‘wetland’ . . . means land[.]”). Generally, the federal government does not have the authority to regulate private property, including water use: “Regulation of land and water use lies at the core of traditional state authority.” *Sackett v. EPA*, 598 U.S. 651, 679 (2023) (citations omitted).

Swampbuster applies to all farmland for which the owner has applied or is receiving USDA benefits. And unlike “wetlands” under the Clean Water Act, “wetlands” under Swampbuster are not required to be adjacent or connected to navigable waters. *See id.* Rather, Swampbuster reaches features that are purely intrastate. *Cf. Solid Waste Ag. of N. Cook Cty v. United States Army Corps of Engineers*, 531 U.S. 159, 174 (2001) (“SWANCC”) (allowing the Corps to regulate intrastate, isolated ponds in the Clean Water Act would raise “significant constitutional and federalism questions[.]”). Thus, Swampbuster exceeds Congress’s power under the Commerce Clause.

The Constitution grants Congress the power “[t]o regulate Commerce with foreign Nations, and among the several States, and with Indian Tribes.” U.S. Const. art. I, § 8, cl. 3. But this power is not without limits. *SWANCC*, 531 U.S. at 173–74 (2001); *United States v. Lopez*, 514 U.S. 549 (1995). The Supreme Court has established that Congress’s Commerce Clause power is limited to regulating: (1) the channels of interstate commerce; (2) the instrumentalities of interstate commerce and goods in interstate commerce; and (3) intrastate activity that has a substantial effect on interstate commerce. *Lopez*, 514 U.S. at 558–59. Swampbuster’s regulation of wetlands does not fall into any of the above categories.

First, wetlands under Swampbuster are not channels of interstate commerce. Traditionally, channels of interstate commerce are highways and waterways that cross state lines. *See, e.g.,*

*United States v. Darby*, 312 U.S. 100, 114 (1941) (regulation of wages of lumber manufactures and ships lumber between states); *Heart of Atlanta Motel, Inc. v. United States*, 379 U.S. 241 (1964) (application of the Civil Rights Act to a hotel’s discrimination of patrons). Conversely, Swampbuster’s reach is not limited to farms that cross state lines, farms with wetlands that connect to navigable waterways, or farms that sell their products across state lines. Instead, Swampbuster regulates all wetlands, regardless of how isolated they are from navigable waterways, regardless of where the farm sells their goods, and regardless of the farm’s location within a single state. 16 U.S.C. § 3801(a)(27).

Second, wetlands under Swampbuster are not instrumentalities of interstate commerce. Instrumentalities of interstate commerce are generally things that transport goods in interstate commerce. *See, e.g., Houston, E. & W. Tex. Ry. Co. v. United States*, 234 U.S. 342 (1914) (railcars); *Caminetti v. United States*, 242 U.S. 470, 491 (1917) (railcars). Wetlands under Swampbuster are not like railcars; they are not used to transport goods across state lines because they generally are not connected to navigable water. Therefore, they are not instrumentalities of interstate commerce.

Finally, wetlands under Swampbuster have no substantial effect on interstate commerce. In fact, the compelled conservation provisions of Swampbuster require that the areas designated as a wetland are taken *out* of the stream of commerce because the land is rendered useless for agriculture and any other commercial purpose. Congress can only regulate intrastate activities if those activities “substantially affect” interstate commerce. *Lopez*, 514 U.S. at 559; *Darby*, 312 U.S. at 119–20; *Wickard v. Filburn*, 317 U.S. 111, 125 (1942); *Katzenbach v. McClung*, 379 U.S. 294, 299–300 (1964).

In *Lopez*, the Court held that the Gun-free School Zone Act was beyond Congress’s authority under the Commerce Clause because it regulated activity that did not substantially affect interstate commerce. 514 U.S. at 551. The Court rejected the government’s claim that possession of a gun in the general vicinity of a school negatively impacts productivity, and therefore interstate commerce. *Id.* at 563. The Court held that to find a substantial effect would require the Court to “pile inference upon inference in a manner that would bid fair to convert congressional authority under the Commerce Clause to a general police power of the sort retained by the States.” *Id.* at 567.

Swampbuster presents the same problem as in *Lopez*. Because the wetlands reachable under Swampbuster do not need to have a connection to any other property or water body, this Court would have to “pile inference upon inference” to find that an isolated wetland, like that alleged to exist on the Plaintiff’s farm, which has been taken *out* of the stream of commerce, has any, let alone a “substantial,” effect on interstate commerce. Therefore, Swampbuster violates the commerce clause.

Defendants cannot defend the constitutionality of Swampbuster by appealing to the Spending Clause. *See United States v. Butler*, 297 U.S. 1, 71 (1936); *see also Koontz*, 570 U.S. at 608 (citing *Butler*). In *Butler*, the Court struck down the Agricultural Adjustment Act of 1933—rejecting the government’s argument that the statute was constitutional under the Spending Clause—because “appropriations and expenditures under contracts for proper governmental purposes cannot justify contracts which are not within federal power” and “contracts for the reduction of acreage and the control of production are outside the range of that power.” 297 U.S. at 72–73.

Finally, like with CTM's Takings Clause argument, it does not matter if Swampbuster can be construed as granting farmers a "benefit." *See* Section II, *supra*. The government cannot force someone to give up a constitutional right to receive a benefit. *Koontz*, 570 U.S. at 606. And the Commerce Clause protects an individual right as much as those rights enumerated in the Bill of rights. *Bond v. United States*, 564 U.S. 211, 222 (2011). "The limitations that federalism entails are not ... a matter of rights belonging only to the States." *Id.* "Federalism also protects the liberty of all persons within a State by ensuring that laws enacted in excess of delegated governmental power cannot direct or control their actions." *Id.* Swampbuster unconstitutionally conditions the receipt of benefits on producers' waiver of the constitutional protections provided by the Commerce Clause and, thus, is an unconstitutional exercise of Congressional power.

#### **IV. The Swampbuster Rule restricting a request for redetermination exceeds the statutory definition.**

The Swampbuster statute allows a person affected by a final certification to request a redetermination: "A final certification made under paragraph (3) shall remain valid and in effect as long as the area is devoted to an agricultural use or until such time as the person affected by the certification requests review of the certification by the Secretary." 16 U.S.C. § 3822(a)(4).

However, the administrative rule only allow a request for review of a prior certification when a natural event changes the land or if the NRCS believes there is an error. "A person may request review of a certification only if a natural event alters the topography or hydrology of the subject land to the extent that the final certification is no longer a reliable indication of site conditions, or if NRCS concurs with an affected person that an error exists in the current wetland determination." 7 C.F.R. § 12.30(c)(6). The administrative rule limiting review of a final certification, to only circumstances where a natural event occurs or the NRCS agrees that an

error has occurred in their own prior determination, conflicts with the statute that broadly allows review when simply requested by an affected person.

Recently, the U.S. Supreme Court overruled the longstanding *Chevron* doctrine providing deference to the agency's interpretation of a statute. *Loper Bright v. Raimondo*, 144 S. Ct. 2244 (2024). The Court clarified that the Administrative Procedures Act ("APA") "incorporates the traditional understanding of the judicial function, under which courts must exercise independent judgment in determining the meaning of statutory provisions." *Id.* at 2262. The first question is whether there is a delegation of duty to the agency in the statute authorizing rule making. "[S]ome statutes expressly delegate to an agency the authority to give meaning to a particular statutory term." *Id.* at 2263 (citing *Batterton v. Francis*, 432 U.S. 416, 425 (1977)) (quotations omitted). "Others empower an agency to prescribe rules to fill up the details of a statutory scheme." *Id.* (citing *Wayman v. Southard*, 23 U.S. 1 (1825)). Or an agency will be authorized to "regulate subject to the limits imposed by a term or phrase that 'leaves agencies with flexibility,' such as 'appropriate' or 'reasonable.'" *Id.* (quoting *Michigan v. EPA*, 576 U.S. 743, 752 (2015)).

This specific administrative rule, 7 C.F.R. § 12.30(c)(6), has not been analyzed under *Loper Bright*. This administrative rule has not been analyzed by the Supreme Court, nor is there precedent in the Eighth Circuit.<sup>2</sup>

Under Chapter 58, the "Secretary shall promulgate such regulations as are necessary to implement programs under this title, including such regulations as the Secretary determines to be necessary to ensure a fair and reasonable application of the limitations established under section

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<sup>2</sup> *Foster v. USDA*, was vacated and remanded by the Supreme Court. *Foster v. United States Dep't of Agric.*, 68 F.4th 372 (8th Cir. 2023) (vacated and remanded by *Foster v. Dep't of Agric.*, 144 S. Ct. 2707 (2024)). The Eighth Circuit's Opinion of May 12, 2023 has been vacated and the case has now been remanded back down to the District Court for consideration in light of the Supreme Court's decision in *Loper Bright v. Raimondo*, 144 S. Ct. 2244 (2024). *Foster v. United States Dep't of Agric.*, No. 22-2729, 2024 U.S. App. LEXIS 28536 (8th Cir. Nov. 7, 2024).

1244(f) [16 USCS § 3844(f)].” 16 U.S.C. 3846(a). This general grant of authority is for rules that are necessary to implement the various programs under Chapter 58, which includes Swampbuster. Chapter 58 does not expressly delegate the authority to give meaning to the duration of a final certification or the requirements for requesting a redetermination.

“Administrative agencies are creatures of statute. They accordingly possess only the authority that Congress provided.” *Nat’l Fed’n of Indep. Bus. v. DOL, OSHA*, 595 U.S. 109, 117 (2022). The statute allows the certification to remain valid as long as the land is used for agricultural or until an affected person requests review of the certification. Whereas, the rule does not allow an affected person to review the certification unless there is an act of God changing the hydrology or topography of the land or the agency decides that it made a mistake. There is no express grant of authority authorizing the agency to add conditions or give meaning to statute. Therefore, the rule is not in accordance with the law and the agency’s action exceeded its authority.

Indeed, this Court has already interpreted the Review Provision and held that it allows a farmer to request a review at any time. *Branstad v. Veneman*, 212 F. Supp. 2d 976 (N.D. Iowa 2002); *B & D Land & Livestock Co. v. Veneman*, 332 F. Supp. 2d 1200 (N.D. Iowa. 2004). In *Branstad*, this Court addressed a situation almost identical to the one here—a farmer who bought property that had already been certified requested a new certification. *Branstad*, 212 F.Supp.2d at 979. This Court held that “Nothing about the language of subsection (a)(4) suggests that the “person affected by the determination” must be the person who owned the property *at the time of the determination.*” *Id.* at 997. Instead, this Court correctly concluded that “in light of the plain language of the statute, the statute must be read to mean that *any person subsequently affected* by an *existing* wetland determination may invalidate the existing certification by requesting review

of the certification by the Secretary. “ *Id.* This Court should follow its previous ruling and hold that CTM Holding is entitled to a review of the wetlands certification on its property.

**V. The Swampbuster Rule defining converted wetlands exceeds the statutory definition.**

The administrative rule defining “converted wetlands” under Swampbuster exceeds the USDA’s statutory authority by adding language not in the statute. The Swampbuster statute defines converted wetland as one “that has been drained, dredged, filled, leveled, or otherwise manipulated (including any activity that results in impairing or reducing the flow, circulation, or reach of water) . . . .” 16 U.S.C. § 3801(a)(7)(A). The agency’s rule, however, defines a converted wetland as one “that has been drained, dredged, filled, leveled, or otherwise manipulated (including *the removal of woody vegetation* or any activity that results in impairing or reducing the flow and circulation of water) . . . .” 7 C.F.R. §12.2(a) (emphasis added). The agency added the phrase “the removal of woody vegetation” to the administrative rule. This administrative rule has not been analyzed under *Loper Bright*.<sup>3</sup>

As discussed *supra* in the preceding section, Congress did not give the agency express authority to give meaning to the statutory definition of converted wetland. It is a well-recognized rule that “an administrative agency cannot exceed the specific statutory authority granted it by Congress and that the agency’s regulations may not exceed a statute or modify its provisions.” *Global Van Lines, Inc. v. Interstate Commerce Com.*, 714 F.2d 1290, 1296 (5th Cir. 1983) (quoting *Atchison, Topeka & Santa Fe Railway v. ICC*, 607 F.2d 1199, 1203 (7th Cir. 1979)).

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<sup>3</sup> The Eighth Circuit previously interpreted 7 C.F.R. § 12.2(a), but was analyzed with deference to the agency’s interpretation, which is no longer the standard. *Ballanger v. Johanns*, 495 F.3d 866 (8th Cir. 2007).



Without the express authority to add language or meaning to the statutory definition the agency exceeded its authority and the rule is not in accordance with the law.

### CONCLUSION

Plaintiff requests that this court: (1) declare that Swampbuster's (16 U.S.C. §§ 3801, 3821-3824) provisions are in excess of Congress's commerce power; (2) declare that Swampbuster's (16 U.S.C. §§ 3801, 3821-3824) provisions demanding a perpetual conservation easement of "wetlands" as a condition of USDA benefits is an unconstitutional condition under the Commerce Clause and the Takings Clause; (3) declare that 7 C.F.R. §§ 12.2(a) and 12.30(c)(6) are in violation of 5 U.S.C. § 706; (4) issue a judgment holding unlawful and setting aside the provision of 7 C.F.R. §§ 12.2(a) and 12.30(c)(6) in violation of 5 U.S.C. § 706; and (5) issue a judgment holding unlawful and setting aside Defendants' January 23, 2023 and April 16, 2010 wetlands determinations.

Respectfully submitted this 27<sup>th</sup> day of January 2025.

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*\* Admitted Pro Hac Vice*

**CERTIFICATE OF SERVICE**

I hereby certify that on January 27, 2025, that I submitted the foregoing Plaintiff's Motion for Summary Judgment to the Clerk of Court via the District Court's CM/ECF system.

Respectfully submitted this 27<sup>th</sup> day of January, 2025.

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA, EASTERN DIVISION

<p>CTM HOLDINGS, LLC, an Iowa limited liability company,</p> <p style="text-align: center;"><i>Plaintiff,</i></p> <p>vs.</p> <p>THE UNITED STATES DEPARTMENT OF AGRICULTURE; THOMAS J. VILSACK, in his official capacity as the Secretary of the United States Department of Agriculture; THE NATURAL RESOURCES CONSERVATION SERVICE; TERRY COSBY, in his official capacity as Chief of the Natural Resources Conservation Service; and JON HUBBERT, in his official capacity as Iowa State Conservationist,</p> <p style="text-align: center;"><i>Defendants.</i></p>	<p>CIVIL NO. 6:24-cv-02016</p> <p><b>PLAINTIFF'S STATEMENT OF MATERIAL FACTS IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT</b></p>
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**PLAINTIFF'S STATEMENT OF MATERIAL FACTS IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

**The Property**

1. On September 30, 2022, CTM closed on the purchase of three contiguous parcels (Nos. 480-403300, 480-403400, and 480-403410) consisting of 71.85 acres of farmland located at Corner of 217th Street and 1st Street in Delaware County, Iowa (“Property”). Exhibit “1”, App. 2-3; Doc. 17, at ¶ 2.
2. Of the 71.85 acres, approximately 39.83 acres were tilled and being used for agriculture; 10.4 acres were designated as erodible land and in the Conservation Reserve Program (“CRP”) by the prior owner; and 21.62 acres were forested, of which the USDA had

previously designated 9 acres as “wetland”. Exhibits “2” and “8”, App. 5, 73-74, 81; Doc. 17, at ¶ 2.

3. The USDA made the wetland determination in 2010. Exhibit “3”, App. 11; Doc. 35-3, at 1, 3.
4. The 10.4 acres were entered into the CRP program by the prior owner in 2010 and expired on September 30, 2024. Exhibit “4”, App. 17-18, 33, and 35; Doc. 17, at ¶ 37-38.
5. The USDA made contract payments for the conservation of the 10.4 acres until the contract expired on September 30, 2024. Exhibit “5”, App. 37-38; Doc. 17, at ¶ 37-38.

### **2023 Wetlands Determination**

6. Before purchasing the Property, Plaintiff contacted the USDA and requested their assistance with the process of seeking a redetermination of the wetlands. Exhibit “6”, App. 49-52.
7. The USDA recommended that he submit the AD-1026 form. Exhibit “6”, App. 40-42.
8. Plaintiff submitted the AD-1026 form on October 12, 2022 for the Property. Exhibits “6” and “7”, App. 40 and 67-68; Doc. 17, at ¶ 44.
9. Plaintiff submitted the AD-1026 form for the purposes of putting the Property in the FSA program, making it eligible for USDA benefits, and requesting a wetlands redetermination. Exhibits “2” and “6”, App. 6, and 40-42
10. On January 23, 2023, the Natural Resources Conservation Service (“NRCS”) field office issued a letter to Plaintiff providing a “Wetland Preliminary Technical Determination” for the Property. Exhibits “2” and “8”, App. 6-7, and 70-78; Doc. 17, at ¶ 45.
11. On that same day, the NRCS sent Plaintiff a letter denying its request for a new certified wetlands determination, informed Plaintiff that the “Certified Wetland Determination”

was completed on April 16, 2010, and as such Plaintiff could not appeal the 2010 determination. Exhibits “2” and “8”, App. 6-7, 79-88; Doc. 17, at ¶ 45.

12. Defendants confirmed that 9 acres of the Property are designated as wetlands. Exhibits “2” and “8”, App. 7 and 81; Doc. 17, at ¶ 2.

### **The Plaintiff**

13. Plaintiff, CTM Holdings, LLC (“CTM Holdings”) is an Iowa limited liability company. Exhibit “2”, App. 7.

14. CTM Holdings, LLC is a manager managed LLC, of which there are only two members. Exhibit “2”, App. 7.

15. The managing member of CTM Holdings is James F. Conlan. Exhibit “2”, App. 7.

16. The affiliated entity referenced in the complaint is B&C, LLC of which James F. Conlan is the sole-member. Exhibit “2”, App. 7; Doc. 7.

17. Between CTM Holdings and B&C, LLC they own over 1,000 acres of Iowa farmland that is all under the USDA program and are leased to tenants who farm the land. Exhibits “2” and “10”, App. 7, and 98-99.

18. CTM Holdings and B&C, LLC maintain USDA program eligibility for their tenants to receive all benefits and subsidies. Exhibit “2”, App. 7.

19. Plaintiff participates in a number of USDA benefits programs. Exhibit “10”, App. 98-99; Doc. 17, at ¶ 50.

### **CRP Program Participation**

20. Plaintiff leases the Property to its Tenants Cory Pfab. Exhibits “2” and “9”, App. 7-8, and 90-96.

21. The Property was under a Conservation Reserve Program (“CRP”) Contract with the USDA from May 1, 2010 to September 10, 2024. Exhibits “2”, “4”, and “5”, App. 8, 17, and 37.
22. As the purchaser of the Property CTM Holdings took over the remainder of the existing CRP contract. Exhibits “2” and “6”, App. 8, 42.
23. CTM assigned its rights to the CRP payments to its Tenant, Cory Pfab. Exhibits “2”, “5”, “6”, and “9”, App. 8, 37, 42, and 96.

### **Loss of Uses**

24. Plaintiff cannot use the 9 acres of wetland in an economically beneficial or productive manner without violating Swampbuster. Exhibit “2”, App. 8.
25. Nothing can be built on the 9 acres without violating Swampbuster. Exhibit “2”, App. 8.
26. The marketability and sales price for the Property are diminished by the existence of the wetlands determination. Exhibits “2” and “11”, App. 8-9, and 101-102.
27. Removal of the stumps from Plaintiff’s wetlands would result in a wetland violation. Exhibit “2”, “6”, and “12”, App. 9, 44-45, and 115.
28. If CTM uses the 9 acres then it could lose its USDA benefits, including the benefits for land owned by B&C, LLC and all the tenants on those properties. Exhibit “2”, App. 9.
29. USDA informed CTM that “A wetland violation would jeopardize all financial benefits associated to the farm, including those of any tenants associated to the farm, and possibly their other farming interests.” Exhibits “2” and “12”, App. 9 and 116.
30. This Property’s tenant, Cory Pfab, is also the operator for 18 other farms totaling over 2,000 acres of farmland. Exhibit “10”, App. 98-99.

31. Plaintiff does not receive compensation for the 9 acres of wetland from the USDA for its compliance with wetland conservation. Exhibit “2”, App. 9.

### **The “Wetlands”**

32. The 9 acres of “wetland” are indistinguishable from the rest of the 12.62 acres of forested nonwetlands. Exhibits “2” and “13”. App. 9 and 122-130.

33. The 9 acres of “wetland” do not contain any standing water, are not visibly wet, are not connected to any water body, and are not permanently or seasonally saturated or inundated by water at any time of the year. Exhibits “2” and “13”, App. 10, and 122-130.

34. The Property contains a small seasonal stream that runs through one portion of the nonwetlands, and the stream is not designated as “wetlands”. Exhibit “2” and “14”, App. 10 and 132.

35. All the “wetlands” units on the Property are a significant away from the small seasonal stream and are not connected to any water body. Exhibits “2” and “13”, App. 10, and 122-130.

36. The soil rating of the 9 acres of wetland is indistinguishable from the rest of the Property, which is a crop high quality suitability rating of 84/85. Exhibit “2”, App. 10.

Respectfully submitted this 27<sup>th</sup> day of January, 2025.

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**APPENDIX IN SUPPORT OF PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT**

Exhibit	Title	Page
1	Deed to CTM Holdings, CTM Holdings 0003-4	1-3
2	Declaration of Jim Conlan	4-10
3	2010 Wetland Determination, CTM Holdings 0016-19	11-15
4	2010 CRP Contract with Prior Owner, USDA 000049-67	16-35
5	2022 CRP Contract with Plaintiff and Operator/Tenant, USDA 000047-48	36-38
6	Conlan and USDA/NRCS Email Chain, USDA 000021-46	39-65
7	Plaintiff’s AD-1026 Form, USDA 000001-2	66-68
8	January 23, 2023 USDA Wetland Determination Letters, CTM Holdings 0005-23	69-88
9	CTM Lease with Tenant, CTM Holdings 0096-102	89-96
10	2022 USDA Producer Farm Data Report, USDA 000004-5	97-99
11	USDA/NRCS Email Chain with Seller’s Realtor, USDA 000173-177	100-105
12	Conlan and USDA/NRCS Email Chain, CTM Holdings 0082-95	106-120
13	Pictures of the Property, CTM Holdings 0024-32	121-130

Respectfully submitted this 27<sup>th</sup> day of January, 2025.

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# EXHIBIT 1

Recorded: 9/30/2022 at 12:47:53.0 PM  
County Recording Fee: \$22.00  
Iowa E-Filing Fee: \$3.00  
Combined Fee: \$25.00  
Revenue Tax: \$1,119.20  
Delaware County, Iowa  
Daneen Schindler RECORDER  
BK: 2022 PG: 2937

**Return To:** CTM Holdings, LLC, [REDACTED]  
**Taxpayer:** CTM Holdings, LLC, [REDACTED]  
**Preparer:** Todd J. Locher, 202 2nd Avenue NW, PO Box 7, Farley, IA 52046, Phone: 563-744-3359



**WARRANTY DEED**  
(CORPORATE/BUSINESS ENTITY GRANTOR)

For the consideration of Ten Dollar(s) and other valuable consideration, Lucasland, LLC, a limited liability company organized and existing under the laws of Iowa, does hereby Convey to CTM Holdings, LLC, a limited liability company organized and existing under the laws of Iowa, the following described real estate in Delaware County, Iowa:

The Southeast Quarter (SE $\frac{1}{4}$ ) of the Southeast Quarter (SE $\frac{1}{4}$ ), and the East one-fourth (E $\frac{1}{4}$ ) of the Southwest Quarter (SW $\frac{1}{4}$ ) of the Southeast Quarter (SE $\frac{1}{4}$ ) of Section Thirty Two (32), and the Southwest Quarter (SW $\frac{1}{4}$ ) of the Southwest Quarter (SW $\frac{1}{4}$ ) of Section Thirty Three (33), Township Eighty Nine (89) North, Range Four (4), West of the Fifth P.M., except that part condemned by the Iowa State Highway Commission in Condemnation Proceedings recorded in Book J Misc., Pages 544 to 553, and also except that part condemned by the City of Delaware, Iowa, Condemnation Proceedings recorded in Book S Misc., Page 170.

There is no known private burial site, well, solid waste disposal site, underground storage tank, hazardous waste, or private sewage disposal system on the property as described in Iowa Code Section 558.69, and therefore the transaction is exempt from the requirement to submit a groundwater hazard statement.

The grantor hereby covenants with grantees, and successors in interest, that it holds the real estate by title in fee simple; that it has good and lawful authority to sell and convey the real estate; that the real estate is free and clear of all liens and encumbrances, except as may be above stated; and it covenants to Warrant and Defend the real estate against the lawful claims of all persons, except as may be above stated.

Words and phrases herein, including acknowledgment hereof, shall be construed as in the singular or plural number, according to the context.

Dated: September 30, 2022.

Lucasland, LLC, an Iowa limited liability  
company

By Ruth L. Schlotfeldt  
Ruth L. Schlotfeldt, Manager

STATE OF IOWA, COUNTY OF DUBUQUE

This record was acknowledged before me on September 30, 2022, by Ruth L. Schlotfeldt,  
as Manager, of Lucasland, LLC, an Iowa limited liability company.



[Signature]  
Signature of Notary Public

# EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA, EASTERN DIVISION

<p>CTM HOLDINGS, LLC, an Iowa limited liability company,</p> <p style="text-align: center;"><i>Plaintiff,</i></p> <p>vs.</p> <p>THE UNITED STATES DEPARTMENT OF AGRICULTURE; THOMAS J. VILSACK, in his official capacity as the Secretary of the United States Department of Agriculture; THE NATURAL RESOURCES CONSERVATION SERVICE; TERRY COSBY, in his official capacity as Chief of the Natural Resources Conservation Service; and JON HUBBERT, in his official capacity as Iowa State Conservationist,</p> <p style="text-align: center;"><i>Defendants.</i></p>	<p style="text-align: right;">CIVIL NO. 6:24-cv-02016</p> <p style="text-align: center;"><b>DECLARATION OF JAMES F. CONLAN</b></p>
--	--

**DECLARATION OF JAMES F. CONLAN**

Pursuant to 28 U.S.C. § 1746, I, James F. Conlan, declare the following:

1. I am over the age of eighteen and competent to make this declaration. I make this declaration based on personal knowledge. If called as a witness I could competently testify about what is written in this declaration.
2. I am the founder and managing member of CTM Holdings, LLC (“CTM Holdings”), the Plaintiff in this matter.

**The Property**



3. On September 30, 2022, CTM Holdings closed on the purchase of three contiguous parcels (Nos. 480-403300, 480-403400, and 480-403410) consisting of 71.85 acres of farmland located at Corner of 217th Street and 1st Street in Delaware County, Iowa (“Property”).
4. Identified as Exhibit “1”, produced to the other parties with the bate-stamp CTM Holdings 0003-4, and provided in Plaintiff’s Appendix in Support of Plaintiff’s Motion for Summary Judgment is a true and correct copy of the recorded Deed from my purchase of the Property.
5. When I purchased the Property, of the 71.85 acres, approximately 39.83 acres were tilled and being used for agriculture; 10.4 acres were designated as erodible land and in the Conservation Reserve Program (“CRP”) by the prior owner; and 21.62 acres were forested, of which the USDA had previously designated 9 acres as “wetland”.
6. Identified as Exhibit “3”, produced to the other parties with the bate-stamp CTM Holdings 0016-19, and provided in Plaintiff’s Appendix in Support of Plaintiff’s Motion for Summary Judgment is a true and correct copy of the 2010 Wetlands Determination that I received from Defendants on, or after, January 23, 2023.

#### **2023 Wetlands Determination**

7. I submitted the AD-1026 form on October 14, 2022 for the Property.
8. The purpose of submitting the AD-1026 form was to put the Property in the FSA program, make it eligible for USDA benefits, and to request a wetlands redetermination.
9. I later received a letter dated January 23, 2023, from the Natural Resources Conservation Service (“NRCS”) field office providing a “Wetland Preliminary Technical Determination” for the Property. Included with that letter was another letter from NRCS

denying my request for a new certified wetlands determination, and instead informed me that because the “Certified Wetland Determination” was completed on April 16, 2010 that I could not appeal the 2010 determination. These letters also confirmed that 9 acres of the Property are designated as wetlands.

10. Identified as Exhibit “8”, produced to the other parties with the bate-stamp CTM Holdings 0005-23, and provided in Plaintiff’s Appendix in Support of Plaintiff’s Motion for Summary Judgment is a true and correct copy of the January 23, 2023 Wetland Determination Letters.

### **The Plaintiff**

11. CTM Holdings, LLC is an Iowa limited liability company that I founded.
12. CTM Holdings, LLC is a manager managed LLC, of which there are only two members.
13. The managing member of CTM Holdings is me, James F. Conlan.
14. The affiliated entity referenced in the complaint is B&C, LLC of which I, James F. Conlan, is the sole-member.
15. Between CTM Holdings and B&C, LLC my two entities own over 1,000 acres of Iowa farmland that is all under the USDA program and are leased to tenants who farm the land.
16. CTM Holdings and B&C, LLC maintain USDA program eligibility for their tenants to receive all benefits and subsidies.

### **CRP Program Participation**

17. CTM Holdings leases the Property to its Tenants Cory Pfab.
18. Identified as Exhibit “9”, produced to the other parties with the bate-stamp CTM Holdings 0096-102, and provided in Plaintiff’s Appendix in Support of Plaintiff’s Motion

for Summary Judgment is a true and correct copy of the current Lease with Operator/Tenant Cory Pfab effective until March 1, 2025.

19. When I purchased the Property it was under a Conservation Reserve Program (“CRP”) Contract by the prior owner with the USDA from May 1, 2010 to September 10, 2024.
20. As the purchaser of the Property, CTM Holdings took over the remainder of the existing CRP contract.
21. I assigned CTM Holding’s rights to the CRP payments to its Tenant, Cory Pfab.

### **Loss of Uses**

22. It is my understanding, from both a reading of the law and conversations with USDA/NRCS representatives, that I cannot use the 9 acres of wetland in an economically beneficial or productive manner without violating Swampbuster.
23. It is my understanding, from both a reading of the law and conversations with USDA/NRCS representatives, that I cannot build any structure on the wetlands because in order to build I would have to remove tree stumps, grade and level the land to prepare for construction, which would be a wetland violation because that is considered having the effect of making the production of agriculture possible, and it goes against the purpose of Swampbuster, which is to leave the land in its natural state.
24. It is my understanding, from both a reading of the law and conversations with USDA/NRCS representatives, that nothing can be built on the 9 acres without violating Swampbuster
25. The 9 acres cannot be leased as farmland because they cannot be farmed. Because the 9 acres cannot be farmed and cannot be used for any other purpose but to remain in its

natural state, the 9 acres greatly decrease the value of the Property for both farm leases and sales price.

26. The marketability and sales price for the Property are diminished by the existence of the wetlands determination.

27. It is my understanding, from both a reading of the law and conversations with USDA/NRCS representatives, that removal of the stumps from the wetlands would result in a wetland violation.

28. It is my understanding, from both a reading of the law and conversations with USDA/NRCS representatives, that if CTM Holdings uses the 9 acres then it could lose its USDA benefits, including the benefits for land owned by B&C, LLC and all the tenants on those properties.

29. USDA informed me that “A wetland violation would jeopardize all financial benefits associated to the farm, including those of any tenants associated to the farm, and possibly their other farming interests.”

30. Identified as Exhibit “12”, produced to the other parties with the bate-stamp CTM Holdings 0082-95, and provided in Plaintiff’s Appendix in Support of Plaintiff’s Motion for Summary Judgment is a true and correct copy of an email chain between me and the USDA/NRCS.

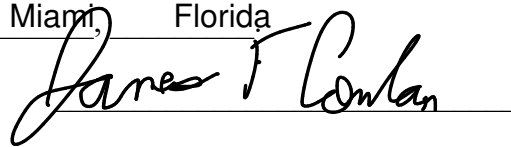
31. I do not receive compensation for the 9 acres of wetland from the USDA for my compliance with wetland conservation.

### **The “Wetlands”**

32. The 9 acres of “wetland” are indistinguishable from the rest of the 12.62 acres of forested nonwetlands.

33. The 9 acres of “wetland” do not contain any standing water, are not visibly wet, are not connected to any water body, and are not permanently or seasonally saturated or inundated by water at any time of the year.
34. Identified as Exhibit “13”, produced to the other parties with the bate-stamp CTM Holdings 0024-32, and provided in Plaintiff’s Appendix in Support of Plaintiff’s Motion for Summary Judgment are true and correct copies, and are an accurate depiction, of the Property.
35. The Property contains a small seasonal stream that runs through one portion of the nonwetlands, and the stream is not designated as “wetlands”.
36. All the “wetlands” units on the Property are a significant distance away from the small seasonal stream and none of the “wetlands” are connected to any water body.
37. The soil rating of the 9 acres of wetland is indistinguishable from the rest of the Property, which is a crop high quality suitability rating of 84/85.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on January 27, 2025, in           Miami          ,           Florida          

A handwritten signature in black ink that reads "James F. Conlan". The signature is written in a cursive style and is positioned above a horizontal line.

James F. Conlan

# **EXHIBIT 3**



HIGHLY ERODIBLE LAND AND WETLAND CONSERVATION DETERMINATION

Name: Dorothy Lucas, Address: [redacted], Request Date: 3/10/10, County: Delaware, Agency or Person Requesting Determination: FSA, Tract No: 360, FSA Farm No.: 4771

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? No

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.

Table with 5 columns: Field(s), HEL(Y/N), Sodbust(Y/N), Acres, Determination Date. Contains 5 rows of data.

The Highly Erodible Land determination was completed in the office.

Section II - Wetlands

Are there hydric soils on this farm? Y

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.

Table with 6 columns: Field(s), Wetland Label\*, Occurrence Year (CW)\*\*, Acres, Determination Date, Certification Date. Contains 10 rows of data.

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

Remarks: Wetland determination completed for areas being considered for CRP.

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: 4-16-10

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.

# Wetland Labels and Uses (revised 3/19/08)

Portions taken from National Food Security Act Manual, 4<sup>th</sup> edition Part 514.60

Name & Label	Criteria for Determination	Authorized Uses	Authorized Maintenance	NFSAM Citation
<b>(AW)</b> Artificial Wetland	Created wetlands on areas that were previously non-wetland.	No restrictions.	No restrictions.	Part 514.12
<b>(CPD)</b> 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.	Part 515.10
<b>(CW)</b> 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.	Part 514.40
<b>(CW)</b> 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.	Part 514.40
<b>(CW+year)</b> Converted wetland	Converted after November 28, 1990.	Conversion causes ineligibility, regardless of whether production of agricultural commodity occurred.	Not applicable	Part 514.40
<b>(CWTE)</b> 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.	Part 514.41
<b>(FW)</b> Farmed Wetland	<p>Manipulated and used for the production of an agricultural commodity as of December 23, 1985.</p> <p>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.</p> <p>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.</p> <p>Not abandoned.</p>	May be used for production of agricultural commodities or forage.	<p>May be maintained to the extent that existed before December 23, 1985, if "as built" records exist.</p> <p>May be maintained to the extent that existed on December 23, 1985, if no "as built" records exist.</p>	Part 514.31
<b>(FWP)</b> Farmed Wetland Pasture and Hayland	<p>Manipulated and used for pasture or hay as of December 23, 1985.</p> <p>Is inundated for at least 7 consecutive days or saturated for 14 days during the growing season.</p> <p>Not abandoned.</p>	May be used for production of agricultural commodities or forage.	<p>May be maintained to the extent that existed before December 23, 1985, if "as built" records exist.</p> <p>May be maintained to the extent that existed on December 23, 1985, if no "as built" records exist.</p>	Part 514.32
<b>(MIW)</b> Mitigation Exemption	Converted wetland is exempt because mitigation has occurred according to an NRCS-approved plan. Wetland where a mitigation exemption is granted (wetland to be manipulated).	As stipulated in the mitigation agreement.	As stipulated in the mitigation agreement.	Part 515.10
<b>(MW)</b> 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.	Part 515.0



Name & Label	Criteria for Determination	Authorized Uses	Authorized Maintenance	NFSAM Citation
(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	Part 515.10
(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.	Part 514.20
(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.	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 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.	Part 514.42
(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.	Part 514.10
(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.	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, 4<sup>th</sup> 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:** Conversion began before December 23, 1985, and was approved by FSA; conversion activity was completed by January 1, 1995. Authorized Uses: No restrictions provided activities were completed per conditions. Authorized Maintenance: As stipulated in the agreement.

**(CMW) Categorical Minimal Effect:** Activity or practice is conducted per the approved list identified in the Federal Register. Authorized Uses: Per conditions of the approved state specific list. Authorized Maintenance: Per conditions of the approved list.

**(CWNA) Converted Wetland for Nonagricultural Purposes:** Authorized Uses: Production of agricultural commodities will cause ineligibility. Authorized Maintenance: No restrictions.

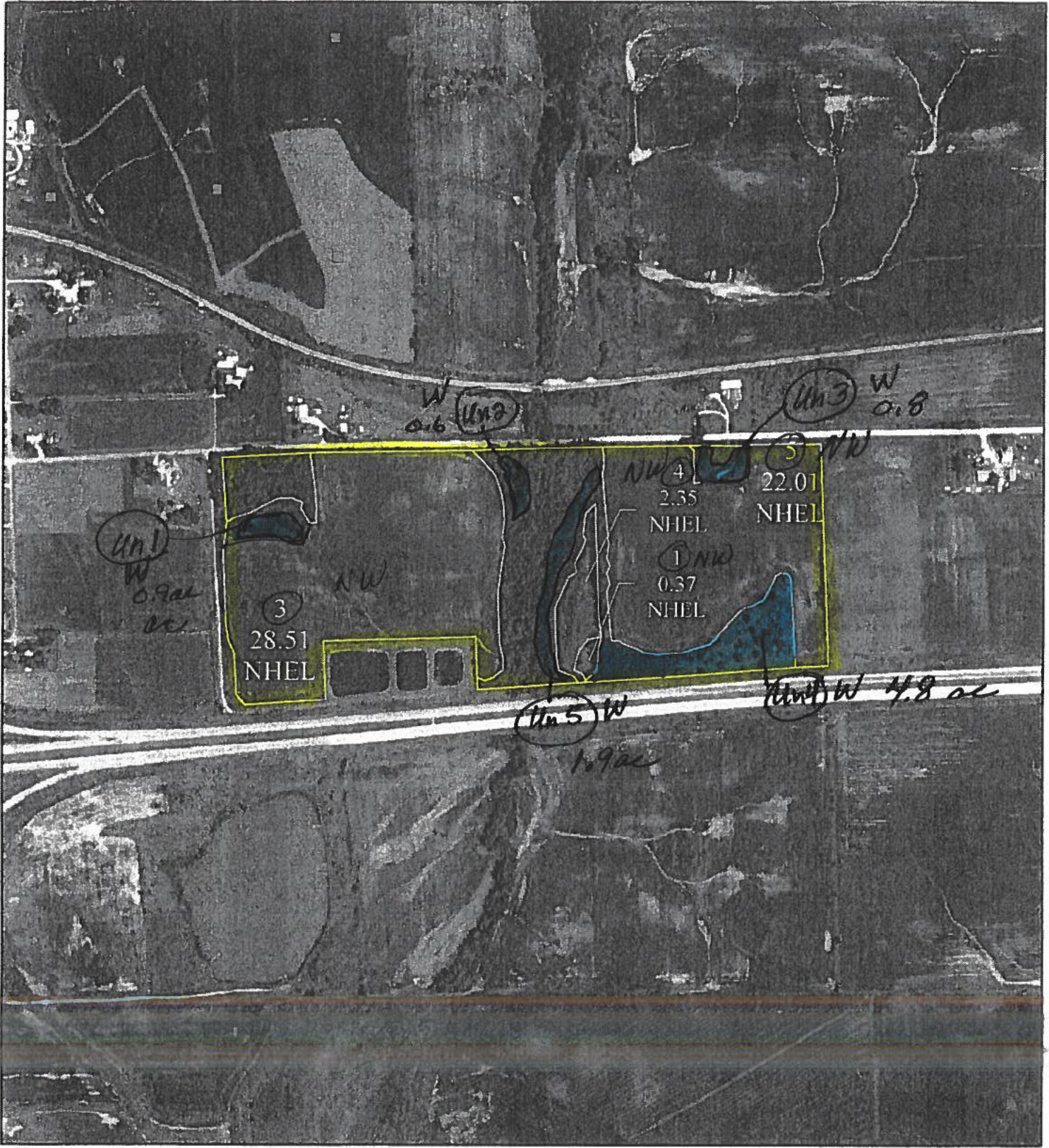
**Easement site + label:** Area that has been created, restored, or enhanced under an agreement to allow conversion and cropping of another wetland. Authorized Uses: As specified in agreement. Authorized Maintenance: As specified in agreement.

**(NI) Not Inventoried:** Used when a wetland determination is not conducted. Authorized Uses: Can determine only after a certified wetland determination is completed for the area labeled NI. Authorized Maintenance: Can determine only after a certified wetland determination is completed for the area labeled NI.

**(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.

**Obvious Wetlands (514.41C.):** 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.

*Hand delivered and reviewed with Dorothy on 4/20/10. KK.*



**Legend**

- Field Boundary
- Wetland Determination**
- Wetland Determination Identifiers**
- Restricted Use
- ▽ Limited Restrictions
- Exempt from Conservation Compliance Provisions

Prepared by Delaware Co FSA  
 Date Printed: March 18, 2009

# **EXHIBIT 4**

CRP-1  
(03-26-04)

U.S. DEPARTMENT OF AGRICULTURE  
Commodity Credit Corporation

**CONSERVATION RESERVE PROGRAM CONTRACT**

NOTE: The authority for collecting the following information is Pub. L. 107-171. This authority allows for the collection of information without prior OMB approval mandated by the Paperwork Reduction Act of 1995. The time required to complete this information collection estimated to average 4 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

7. COUNTY OFFICE ADDRESS (Include Zip Code):

DELAWARE COUNTY FARM SERVICE AGENCY  
200 S 12TH ST  
MANCHESTER, IA 52057-2306

TELEPHONE NUMBER (Include Area Code): (563)927-4250

1. ST. & CO. CODE & ADMIN. LOCATION 19055	2. SIGN-UP NUMBER 38
3. CONTRACT NUMBER 2109	4. ACRES FOR ENROLLMENT 10.4
5. FARM NUMBER 0004771	6. TRACT NUMBER(S) 0000360
8. OFFER (Select one) GENERAL <input type="checkbox"/> ENVIRONMENTAL PRIORITY <input checked="" type="checkbox"/>	FROM: (MM-DD-YYYY) 05-01-10 TO: (MM-DD-YYYY) 09-30-2024

THIS CONTRACT is entered into between the Commodity Credit Corporation (referred to as "CCC") and the undersigned owners, operators, or tenants (who may be referred to as "the Participant"). The Participant agrees to place the designated acreage into the Conservation Reserve Program ("CRP") or other use set by CCC for the stipulated contract period from the date the contract is executed by the CCC. The Participant also agrees to implement on such designated acreage the Conservation Plan developed for such acreage and approved by the CCC and the Participant. Additionally, the Participant and CCC agree to comply with terms and conditions contained in this Contract, including the Appendix to this Contract, entitled Appendix to CRP-1, Conservation Reserve Program Contract (referred to as "Appendix"). By signing below, the Participant acknowledges that a copy of the Appendix for the applicable sign-up period has been provided to such person. Such person also agrees to pay such liquidated damages in an amount specified in the Appendix if the Participant withdraws prior to CCC acceptance or rejection. The terms and conditions of this contract are contained in this Form CRP-1 and in the CRP-1 Appendix and any addendum thereto. BY SIGNING THIS CONTRACT PRODUCERS ACKNOWLEDGE RECEIPT OF THE FOLLOWING FORMS: CRP-1, CRP-1 Appendix and any addendum thereto, CRP-2 or CRP-2C, if applicable; and, if applicable, CRP-15.

10A. Rental Rate Per Acre <i>470-10</i> \$265.68	11. Identification of CRP Land (See Page 2 for additional space)				
B. Annual Contract Payment \$2763	A. Tract No.	B. Field No.	C. Practice No.	D. Acres	E. Total Estimated Cost-Share
C. First Year Payment \$1158.00	0000360	0006	CP21	1.2	\$167.00
(Item 10C applicable only to continuous signup when the first year payment is prorated.)	0000360	0007	CP21	2.5	\$348.00
	0000360	0008	CP21	1.7	\$236.00

12. PARTICIPANTS

A(1). PARTICIPANTS NAME AND ADDRESS (Zip Code): DORTHY C LUCAS [Redacted]	(2) SHARE 100.00%	(3) SOCIAL SECURITY NUMBER: [Redacted]	(4) SIGNATURE <i>Dorthy C Lucas</i> (MM-DD-YYYY) 04/20/2010
B(1). PARTICIPANTS NAME AND ADDRESS (Zip Code): DANIEL L LUCAS [Redacted]	(2) SHARE 0.00%	(3) SOCIAL SECURITY NUMBER: [Redacted]	(4) SIGNATURE [Redacted] (MM-DD-YYYY)
C(1). PARTICIPANTS NAME AND ADDRESS (Zip Code): RUTH L SCHLOTTFELDT [Redacted]	(2) SHARE 0.00%	(3) SOCIAL SECURITY NUMBER: [Redacted]	(4) SIGNATURE <i>Ruth L Schlotfeldt</i> (MM-DD-YYYY) 04-22-2010
13. CCC USE ONLY - Payments according to the shares are approved	A. SIGNATURE OF CCC REPRESENTATIVE <i>[Signature]</i>		(MM-DD-YYYY) 4/27/10

NOTE: The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a) and the Paperwork Reduction Act of 1995, as amended. The authority for requesting the following information is the Food Security Act of 1985, (Pub. L. 99-198), as amended and the Farm Security and Rural Investment Act of 2002 (Pub. L. 107-171) and regulations promulgated at 7 CFR Part 1410 and the Internal Revenue code (26 USC 6109). The information requested is necessary for CCC to consider and process the offer to enter into a Conservation Reserve Program contract, to assist in determining eligibility and to determine the correct parties to the contract. Furnishing the requested information is voluntary. Failure to furnish the requested information will result in determination of ineligibility for certain program benefits and other financial assistance administered by USDA agency. This information may be provided to other agencies, IRS, Department of Justice, or other State and Federal Law Enforcement agencies, and in response to a court magistrate or administrative tribunal. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 641, 651, 1001; 15 USC 714m; and 31 USC 3729, may be applicable to the information provided.

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 and 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, audio tapes 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 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.

Original - County Office Copy       Owner's Copy       Operator's Copy

RECEIVED  
APR 26 2010

### Continuation of Item 11 - Identification of CRP Land

A. TRACT NO.	B. FIELD NO.	C. PRACTICE NO.	D. ACRES	E. TOTAL ESTIMATED C/S	F.		G.
					FROM	TO	
0000360	0009	CP21	1.3	\$181.00	05-01-2010	09-30-2024	
0000360	0010	CP21	1.2	\$167.00	05-01-2010	09-30-2024	
0000360	0011	CP22	2.5	\$750.00	05-01-2010	09-30-2024	

4-20-10

Original - County Office Copy       Owner's Copy       Operator's Copy

This form is available electronically.

<b>CRP-1</b> (03-26-04) <b>U.S. DEPARTMENT OF AGRICULTURE</b> Commodity Credit Corporation <b>CONSERVATION RESERVE PROGRAM CONTRACT</b>	1. ST. & CO. CODE & ADMIN. LOCATION 19055	2. SIGN-UP NUMBER 38
	3. CONTRACT NUMBER 2109	4. ACRES FOR ENROLLMENT 10.4
7. COUNTY OFFICE ADDRESS (Include Zip Code): DELAWARE COUNTY FARM SERVICE AGENCY 200 S 12TH ST MANCHESTER, IA 52057-2306	5. FARM NUMBER 0004771	6. TRACT NUMBER(S) 0000360
TELEPHONE NUMBER (Include Area Code): (563)927-4250	8. OFFER (Select one) GENERAL <input type="checkbox"/> ENVIRONMENTAL PRIORITY <input checked="" type="checkbox"/>	FROM: (MM-DD-YYYY) 05-01-10 TO: (MM-DD-YYYY) 09-30-2024

THIS CONTRACT is entered into between the Commodity Credit Corporation (referred to as "CCC") and the undersigned owners, operators, or tenants (who may be referred to as "the Participant"). The Participant agrees to place the designated acreage into the Conservation Reserve Program ("CRP") or other use set by CCC for the stipulated contract period from the date the contract is executed by the CCC. The Participant also agrees to implement on such designated acreage the Conservation Plan developed for such acreage and approved by the CCC and the Participant. Additionally, the Participant and CCC agree to comply with terms and conditions contained in this Contract, including the Appendix to this Contract, entitled Appendix to CRP-1, Conservation Reserve Program Contract (referred to as "Appendix"). By signing below, the Participant acknowledges that a copy of the Appendix for the applicable sign-up period has been provided to such person. Such person also agrees to pay such liquidated damages in an amount specified in the Appendix if the Participant withdraws prior to CCC acceptance or rejection. The terms and conditions of this contract are contained in this Form CRP-1 and in the CRP-1 Appendix and any addendum thereto. BY SIGNING THIS CONTRACT PRODUCERS ACKNOWLEDGE RECEIPT OF THE FOLLOWING FORMS: CRP-1, CRP-1 Appendix and any addendum thereto, CRP-2 or CRP-2C, if applicable; and, if applicable, CRP-15.

10A. Rental Rate Per Acre <input checked="" type="checkbox"/> 4-20-10 \$265.68	11. Identification of CRP Land (See Page 2 for additional space)				
B. Annual Contract Payment \$2763	A. Tract No.	B. Field No.	C. Practice No.	D. Acres	E. Total Estimated Cost-Share
C. First Year Payment \$1158.00	0000360	0006	CP21	1.2	\$167.00
(Item 10C applicable only to continuous signup when the first year payment is prorated.)	0000360	0007	CP21	2.5	\$348.00
	0000360	0008	CP21	1.7	\$236.00

<b>12. PARTICIPANTS</b>		
A(1). PARTICIPANTS NAME AND ADDRESS (Zip Code): DORTHY C LUCAS [Redacted] 4-20-10	(2) SHARE 100.00%	(3) SOCIAL SECURITY NUMBER: [Redacted] (4) SIGNATURE: <i>Dorthy C. Lucas</i> (MM-DD-YYYY) 04/20/2010 <i>(If more than three individuals are signing, continue on attachment.)</i>
B(1). PARTICIPANTS NAME AND ADDRESS (Zip Code): DANIEL L LUCAS [Redacted]	(2) SHARE 0.00%	(3) SOCIAL SECURITY NUMBER: [Redacted] (4) SIGNATURE: [Redacted] (MM-DD-YYYY) <i>(If more than three individuals are signing, continue on attachment.)</i>
C(1). PARTICIPANTS NAME AND ADDRESS (Zip Code): RUTH L SCHLOTFELDT [Redacted]	(2) SHARE 0.00%	(3) SOCIAL SECURITY NUMBER: [Redacted] (4) SIGNATURE: [Redacted] (MM-DD-YYYY) <i>(If more than three individuals are signing, continue on attachment.)</i>
13. CCC USE ONLY - Payments according to the shares are approved		
A. SIGNATURE OF CCC REPRESENTATIVE <i>Trent A. [Redacted]</i>		(MM-DD-YYYY) 4/27/10

NOTE: The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a) and the Paperwork Reduction Act of 1995, as amended. The authority for requesting the following information is the Food Security Act of 1985, (Pub. L.99-198), as amended and the Farm Security and Rural Investment Act of 2002 (Pub. L. 107-171) and regulations promulgated at 7 CFR Part 1410 and the Internal Revenue code (26 USC 6109). The information requested is necessary for CCC to consider and process the offer to enter into a Conservation Reserve Program contract, to assist in determining eligibility and to determine the correct parties to the contract. Furnishing the requested information is voluntary. Failure to furnish the requested information will result in determination of ineligibility for certain program benefits and other financial assistance administered by USDA agency. This information may be provided to other agencies, IRS, Department of Justice, or other State and Federal Law Enforcement agencies, and in response to a court magistrate or administrative tribunal. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 641, 651, 1001; 15 USC 714m; and 31 USC 3729, may be applicable to the information provided.

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  Owner's Copy     
  Operator's Copy

Date Printed : 04-19-10

Continuation of Item 11 - Identification of CRP Land

A. TRACT NO.	B. FIELD NO.	C. PRACTICE NO.	D. ACRES	E. TOTAL ESTIMATED C/S		
					F. FROM	G. TO
0000360	0009	CP21	1.3	\$181.00	05-01-2010	09-30-2024
0000360	0010	CP21	1.2	\$167.00	05-01-2010	09-30-2024
0000360	0011	CP22	2.5	\$750.00	05-01-2010	09-30-2024

*R*  
*4-20-10*

Original - County Office Copy
  Owner's Copy
  Operator's Copy

This form is available electronically.

CRP-1  
(03-26-04)

U.S. DEPARTMENT OF AGRICULTURE  
Commodity Credit Corporation

CONSERVATION RESERVE PROGRAM CONTRACT

NOTE: The authority for collecting the following information is Pub. L. 107-171. This authority allows for the collection of information without prior OMB approval mandated by the Paperwork Reduction Act of 1995. The time required to complete this information collection estimated to average 4 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

1. ST. & CO. CODE & ADMIN. LOCATION 19055	2. SIGN-UP NUMBER 38
3. CONTRACT NUMBER 2109	4. ACRES FOR ENROLLMENT 10.4
5. FARM NUMBER 0004771	6. TRACT NUMBER(S) 0000360
8. OFFER (Select one) GENERAL <input type="checkbox"/> ENVIRONMENTAL PRIORITY <input checked="" type="checkbox"/>	FROM: (MM-DD-YYYY) 05-01-10 TO: (MM-DD-YYYY) 09-30-2024

7. COUNTY OFFICE ADDRESS (Include Zip Code):  
DELAWARE COUNTY FARM SERVICE AGENCY  
200 S 12TH ST  
MANCHESTER, IA 52057-2306

TELEPHONE NUMBER (Include Area Code): (563)927-4250

THIS CONTRACT is entered into between the Commodity Credit Corporation (referred to as "CCC") and the undersigned owners, operators, or tenants (who may be referred to as "the Participant"). The Participant agrees to place the designated acreage into the Conservation Reserve Program ("CRP") or other use set by CCC for the stipulated contract period from the date the contract is executed by the CCC. The Participant also agrees to implement on such designated acreage the Conservation Plan developed for such acreage and approved by the CCC and the Participant. Additionally, the Participant and CCC agree to comply with terms and conditions contained in this Contract, including the Appendix to this Contract, entitled Appendix to CRP-1, Conservation Reserve Program Contract (referred to as "Appendix"). By signing below, the Participant acknowledges that a copy of the Appendix for the applicable sign-up period has been provided to such person. Such person also agrees to pay such liquidated damages in an amount specified in the Appendix if the Participant withdraws prior to CCC acceptance or rejection. The terms and conditions of this contract are contained in this Form CRP-1 and in the CRP-1 Appendix and any addendum thereto. BY SIGNING THIS CONTRACT PRODUCERS ACKNOWLEDGE RECEIPT OF THE FOLLOWING FORMS: CRP-1, CRP-1 Appendix and any addendum thereto, CRP-2 or CRP-2C, if applicable; and, if applicable, CRP-15.

10A. Rental Rate Per Acre <input checked="" type="checkbox"/> <sup>1-20-10</sup> \$265.68	11. Identification of CRP Land (See Page 2 for additional space)				
B. Annual Contract Payment \$2763	A. Tract No.	B. Field No.	C. Practice No.	D. Acres	E. Total Estimated Cost-Share
C. First Year Payment \$1158.00	0000360	0006	CP21	1.2	\$167.00
(Item 10C applicable only to continuous signup when the first year payment is prorated.)	0000360	0007	CP21	2.5	\$348.00
	0000360	0008	CP21	1.7	\$236.00

12. PARTICIPANTS

A(1). PARTICIPANTS NAME AND ADDRESS (Zip Code): DORTHY C LUCAS [Redacted]	(2) SHARE 100.00%	(3) SOCIAL SECURITY NUMBER: [Redacted]	(4) SIGNATURE <i>Dorthy C. Lucas</i> (If more than three individuals are signing, continue on attachment.)	(MM-DD-YYYY) 04/20/2010
B(1). PARTICIPANTS NAME AND ADDRESS (Zip Code): DANIEL L LUCAS [Redacted]	(2) SHARE 0.00%	(3) SOCIAL SECURITY NUMBER: [Redacted]	(4) SIGNATURE <i>Daniel Lucas</i> (If more than three individuals are signing, continue on attachment.)	(MM-DD-YYYY) X04-21-2010
C(1). PARTICIPANTS NAME AND ADDRESS (Zip Code): RUTH L SCHLOTFELDT [Redacted]	(2) SHARE 0.00%	(3) SOCIAL SECURITY NUMBER: [Redacted]	(4) SIGNATURE [Redacted]	(MM-DD-YYYY) [Redacted]

(If more than three individuals are signing, continue on attachment.)

13. CCC USE ONLY - Payments according to the shares are approved

A. SIGNATURE OF CCC REPRESENTATIVE <i>Trent A. [Redacted]</i>	(MM-DD-YYYY) 4/27/10
--	-------------------------

NOTE: The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a) and the Paperwork Reduction Act of 1995, as amended. The authority for requesting the following information is the Food Security Act of 1985, (Pub. L. 99-198), as amended and the Farm Security and Rural Investment Act of 2002 (Pub. L. 107-171) and regulations promulgated at 7 CFR Part 1410 and the Internal Revenue code (26 USC 6109). The information requested is necessary for CCC to consider and process the offer to enter into a Conservation Reserve Program contract, to assist in determining eligibility and to determine the correct parties to the contract. Furnishing the requested information is voluntary. Failure to furnish the requested information will result in determination of ineligibility for certain program benefits and other financial assistance administered by USDA agency. This information may be provided to other agencies, IRS, Department of Justice, or other State and Federal Law Enforcement agencies, and in response to a court magistrate or administrative tribunal. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 641, 651, 1001; 15 USC 714m; and 31 USC 3729, may be applicable to the information provided.

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Delaware Co. FSA

Date Printed : 04-19-10



Continuation of Item 11 - Identification of CRP Land

A. TRACT NO.	B. FIELD NO.	C. PRACTICE NO.	D. ACRES	E. TOTAL ESTIMATED C/S	F.	G.
					FROM	TO
0000360	0009	CP21	1.3	\$ 181.00	05-01-2010	09-30-2024
0000360	0010	CP21	1.2	\$ 167.00	05-01-2010	09-30-2024
0000360	0011	CP22	2.5	\$ 750.00	05-01-2010	09-30-2024

4-20-10

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 Owner's Copy     
 Operator's Copy

Continuation of Item 12 - PARTICIPANTS

D(1). ROBERT W LUCAS [REDACTED]	(2) SHARE	[REDACTED]	[REDACTED]
	0.00%	X <i>Robert Lucas</i>	X (MM/DD/YYYY) <i>04/23/2010</i>
E(1).	(2) SHARE		
	%		(MM/DD/YYYY)
F(1).	(2) SHARE		
	%		(MM/DD/YYYY)

RECEIVED  
APR 27 2010  
Delaware Co. FSA



<b>CRP-2C</b> (03-26-04) <b>U.S. DEPARTMENT OF AGRICULTURE</b> Farm Service Agency <b>CONSERVATION RESERVE PROGRAM WORKSHEET</b> (For Continuous Signup) <small>NOTE: The authority for collecting the following information is Pub. L. 107-171. This authority allows for the collection of information without prior OMB approval mandated by the Paperwork Reduction Act of 1995. The time required to complete this information collection estimated to average 5 minutes per response, including the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.</small>		1. TRACT NUMBER 0000360	2. PROGRAM YEAR 2010			
		3A. SIGN UP NUMBER 38	3B. EFFECTIVE DATE (MM-DD-YYYY) 05-01-2010			
4A. FARM NUMBER 0004771	4B. NAME AND ADDRESS OF PRODUCER (Zip Code): DORTHY C LUCAS [REDACTED]	5A. STATE & COUNTY CODE ADMIN. LOCATION 19055	5B. STATE & COUNTY CODE PHYSICAL LOCATION 19055			
4C. COUNTY FSA OFFICE ADDRESS (Zip Code): DELAWARE COUNTY FARM SERVICE AGENCY 200 S 12TH ST MANCHESTER, IA 52057-2306		4D. COUNTY FSA OFFICE TELEPHONE NO. (Include Area Code): (563)927-4250	6. CONTRACT NUMBER			
		8. IS COST-SHARE REQUESTED? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	7. ACRES FOR ENROLLMENT 10.40			
		10. SIGNUP TYPE CONTINUOUS <input checked="" type="checkbox"/> CREP <input type="checkbox"/> FWP <input type="checkbox"/>	9. RENTAL RATE PER ACRE OFFERED \$265.68 <i>D 04-20-10</i>			
11. PRACTICES		12. HUC Number: 07060006				
A. (Field No) PRACTICES	B. ACRES	C. ESTIMATED TOTAL C/S	D. LENGTH			
(0006) CP21	1.2	167.00	15			
(0007) CP21	2.5	348.00	15			
(0008) CP21	1.7	236.00	15			
(0009) CP21	1.3	181.00	15			
(0010) CP21	1.2	167.00	<i>D</i> 15			
		13. LAND ELIGIBILITY CATEGORY BY ACRES: (Enter the amount eligible for each criteria)				
		Marginal Pasture Land	0.0			
		Wellhead Protection Acres	0.0			
		Infeasible to Farm	0.0			
		Other Cropland	10.4			
14. Soil Map Data Maximum Payment Rate Calculations:						
	A. Physical Location	B. Soil Survey ID No.	C. Map Unit Symbol	D. Acres	E. Soil Rental Rate	F. Total Rent
(1)Primary	19055	IA055	585	3.50 X	\$223.00	= \$780.50
(2)Secondary	19055	IA055	391B	3.40 X	\$218.00	= \$741.20
(3)Tertiary	19055	IA055	83B	1.60 X	\$223.00	= \$356.80
<b>TOTALS</b>				<b>8.50</b>		<b>\$1878.50</b>
15. Weighted Average Soil Rental Rate (Col. 14F total divided by Col. 14D total) <b>\$221.00</b>			16. Total Incentive (if applicable) (Item 15 times 14D times applicable incentive percentage) <b>\$375.70</b>			
17. Soil Map Data and Maximum Payment Rate Calculations. For Infeasible to farm Acreage:						
	A. Physical Location	B. Soil Survey ID No.	C. Map Unit Symbol	D. Acres	E. Soil Rental Rate	F. Total Rent
(1)Primary				0.00	0.00	0.00
(2)Secondary				0.00	0.00	0.00
(3)Tertiary				0.00	0.00	0.00
<b>TOTALS</b>				<b>0.00</b>		<b>\$0.00</b>
18. Weighted Average Soil Rental Rate Plus Total Incentive. (14F + 16 + 17F) divided by (14D + 17D) <b>\$265.20</b>			19. Weighted Average Maintenance Rate for Contract: <b>\$0.48</b>		20. Maximum Payment Rate (Item 18 + Item 19) <b>\$265.68</b>	

ORIGINAL-COUNTY FSA OFFICE COPY

FSA PENDING COPY

21. Tract No.	22. Current Field No.	23. Current Crop or Land Use	A.	B.	C.	D.	E.	F.	G.	H.	I.
			Offered Acres	Crop History Eligible Acres	1996	1997	1998	1999	2000	2001	
0000360	0006	CORN	1.2	1.2	NoCrop	CORN	CORN	CORN	CORN	CORN	
0000360	0007	CORN	2.5	2.5	NoCrop	CORN	CORN	CORN	CORN	CORN	
0000360	0008	CORN	1.7	1.7	NoCrop	CORN	CORN	CORN	CORN	CORN	
0000360	0009	CORN	1.3	1.3	NoCrop	CORN	CORN	CORN	CORN	CORN	
0000360	0010	CORN	1.2	1.2	NoCrop	CORN	CORN	BARLY	CORN	CORN	
<b>25. TOTALS ==&gt;</b>			7.9	7.9							

**26. PRODUCER'S CERTIFICATION:**

By Signing below I certify to all of the following: (1) I have been informed of the estimated cost of establishing the cover offered. (2) I have been informed that declining cost share assistance to establish the cover offered and/or offering a per acre rental payment less than the calculated annual maximum payment rate may enhance the acceptability of the offer. (3) I have been informed that if I decline cost share assistance I will be ineligible for cost share assistance. (4) I have been informed that I may be required to pay for a measurement service on the acreage offered before such acreage may be enrolled in the CRP. (5) to the best of my knowledge and belief the acreage of crops and land listed herein, if applicable, are true and correct and (6) the signing of this form gives USDA representatives authorization to enter and inspect crops and land uses and for other purposes on the above identified land.

*These areas are eligible for CRP.  
With Krause  
4-19-10*

I understand that an inaccurate certification could result in a payment reduction or loss of program benefits.

27A. PRODUCER'S SIGNATURE	27B. DATE (MM-DD-YYYY)
<i>Garth C. Lucas</i>	<i>04/20/2010</i>

**NOTE:** The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a) and the Paperwork Reduction Act of 1995, as amended. The authority for requesting the following information is the Food Security Act of 1985, (Pub. L.99-198), as amended and the Farm Security and Rural Investment Act of 2002 (Pub. L. 107-171) and regulations promulgated at 7 CFR Part 1410 and the Internal Revenue code (26 USC 6109). The information requested is necessary for CCC to consider and process the offer to enter into a Conservation Reserve Program contract, to assist in determining eligibility and to determine the correct parties to the contract. Furnishing the requested information is voluntary. Failure to furnish the requested information will result in determination of ineligibility for certain program benefits and other financial assistance administered by USDA agency. This information may be provided to other agencies, IRS, Department of Justice, or other State and Federal Law Enforcement Agencies, and in response to a court magistrate or administrative tribunal. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 641, 651, 1001; 15 USC 714m; and 31 USC 3729, may be applicable to the information provided.  
**RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.**

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Continuation of Item 11 - Practices

A. (Field No)	PRACTICES	B. ACRES	C. ESTIMATED TOTAL C/S	D. LENGTH
(0011)	CP22	2.50	750.00	15

All on file  
for:  
Dorothy ✓ 4/20/10  
Daniel 4/23/10  
Ruth 4/24/10  
Robert ✓ 4/27/10  
Plc 4/27/10 to Dorothy to  
let know all here

(03-26-04) (Page 4) **Continuation of Item 25 - Crop Land Use Summary**

23. Current Field No.	24. Current Crop or Land Use	25. Crop Land Use Summary								
		A. Offered Acres	B. Crop History Eligible Acres	C. 1996	D. 1997	E. 1998	F. 1999	G. 2000	H. 2001	I.
0011	CORN	2.5	2.5	NoCrop	CORN	CORN	CORN	CORN	CORN	
<b>26. TOTALS ==&gt;</b>		10.4	10.4							

21. Tract No.	22. Current Field No.	23. Current Crop or Land Use	A. Offered Acres	B. Crop History Eligible Acres	C. 1996	D. 1997	E. 1998	F. 1999	G. 2000	H. 2001
0000360	0006	CORN	1.2	1.2	NoCrop	CORN	CORN	CORN	CORN	CORN
0000360	0007	CORN	2.5	2.5	NoCrop	CORN	CORN	CORN	CORN	CORN
0000360	0008	CORN	1.7	1.7	NoCrop	CORN	CORN	CORN	CORN	CORN
0000360	0009	CORN	1.3	1.3	NoCrop	CORN	CORN	CORN	CORN	CORN
0000360	0010	CORN	1.2	1.2	NoCrop	CORN	CORN	BARLY	CORN	CORN
<b>25. TOTALS ==&gt;</b>			7.9	7.9						

**26. PRODUCER'S CERTIFICATION:**

By Signing below I certify to all of the following: (1) I have been informed of the estimated cost of establishing the cover offered. (2) I have been informed that declining cost share assistance to establish the cover offered and/or offering a per acre rental payment less than the calculated annual maximum payment rate may enhance the acceptability of the offer. (3) I have been informed that if I decline cost share assistance I will be ineligible for cost share assistance. (4) I have been informed that I may be required to pay for a measurement service on the acreage offered before such acreage may be enrolled in the CRP. (5) to the best of my knowledge and belief the acreage of crops and land listed herein, if applicable, are true and correct and (6) the signing of this form gives USDA representatives authorization to enter and inspect crops and land uses and for other purposes on the above identified land.

*These areas are eligible for CRP.  
Keith Krause  
4-19-10*

I understand that an inaccurate certification could result in a payment reduction or loss of program benefits.

27A. PRODUCER'S SIGNATURE	27B. DATE (MM-DD-YYYY)
<i>Keith C. Lucas</i>	<i>04/20/2010</i>
<i>X Daniel H. Lucas</i>	<i>X 04-21-2010</i>

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**APR 23 2010**

**Delaware Co. FSA**





21. Tract No.	22. Current Field No.	23. Current Crop or Land Use	A. Offered Acres	B. Crop History Eligible Acres	C. 1996	D. 1997	E. 1998	F. 1999	G. 2000	H. 2001
0000360	0006	CORN	1.2	1.2	NoCrop	CORN	CORN	CORN	CORN	CORN
0000360	0007	CORN	2.5	2.5	NoCrop	CORN	CORN	CORN	CORN	CORN
0000360	0008	CORN	1.7	1.7	NoCrop	CORN	CORN	CORN	CORN	CORN
0000360	0009	CORN	1.3	1.3	NoCrop	CORN	CORN	CORN	CORN	CORN
0000360	0010	CORN	1.2	1.2	NoCrop	CORN	CORN	BARLY	CORN	CORN
<b>25. TOTALS ==&gt;</b>			7.9	7.9						

**26. PRODUCER'S CERTIFICATION:**

By Signing below I certify to all of the following: (1) I have been informed of the estimated cost of establishing the cover offered. (2) I have been informed that declining cost share assistance to establish the cover offered and/or offering a per acre rental payment less than the calculated annual maximum payment rate may enhance the acceptability of the offer. (3) I have been informed that if I decline cost share assistance I will be ineligible for cost share assistance. (4) I have been informed that I may be required to pay for a measurement service on the acreage offered before such acreage may be enrolled in the CRP. (5) to the best of my knowledge and belief the acreage of crops and land listed herein, if applicable, are true and correct and (6) the signing of this form gives USDA representatives authorization to enter and inspect crops and land uses and for other purposes on the above identified land.

*These areas are eligible for CRP.  
Keith Krause  
4-19-10*

I understand that an inaccurate certification could result in a payment reduction or loss of program benefits.

27A. PRODUCER'S SIGNATURE	27B. DATE (MM-DD-YYYY)
<i>Keith C. Lucas</i>	<i>04/20/2010</i>
<i>X Ruth L. Schlötfeldt</i>	<i>X 4-22-2010</i>

**NOTE:** The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a) and the Paperwork Reduction Act of 1995, as amended. The authority for requesting the following information is the Food Security Act of 1985, (Pub. L.99-198), as amended and the Farm Security and Rural Investment Act of 2002 (Pub. L. 107-171) and regulations promulgated at 7 CFR Part 1410 and the Internal Revenue code (26 USC 6109). The information requested is necessary for CCC to consider and process the offer to enter into a Conservation Reserve Program contract, to assist in determining eligibility and to determine the correct parties to the contract. Furnishing the requested information is voluntary. Failure to furnish the requested information will result in determination of ineligibility for certain program benefits and other financial assistance administered by USDA agency. This information may be provided to other agencies, IRS, Department of Justice, or other State and Federal Law Enforcement Agencies, and in response to a court magistrate or administrative tribunal. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 641, 651, 1001; 15 USC 714m; and 31 USC 3729, may be applicable to the information provided.  
**RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.**

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21. Tract No.	22. Current Field No.	23. Current Crop or Land Use	A. Offered Acres	B. Crop History Eligible Acres	C. 1996	D. 1997	E. 1998	F. 1999	G. 2000	H. 2001
0000360	0006	CORN	1.2	1.2	NoCrop	CORN	CORN	CORN	CORN	CORN
0000360	0007	CORN	2.5	2.5	NoCrop	CORN	CORN	CORN	CORN	CORN
0000360	0008	CORN	1.7	1.7	NoCrop	CORN	CORN	CORN	CORN	CORN
0000360	0009	CORN	1.3	1.3	NoCrop	CORN	CORN	CORN	CORN	CORN
0000360	0010	CORN	1.2	1.2	NoCrop	CORN	CORN	BARLY	CORN	CORN
<b>25. TOTALS ==&gt;</b>			7.9	7.9						

**26. PRODUCER'S CERTIFICATION:**

By Signing below I certify to all of the following: (1) I have been informed of the estimated cost of establishing the cover offered. (2) I have been informed that declining cost share assistance to establish the cover offered and/or offering a per acre rental payment less than the calculated annual maximum payment rate may enhance the acceptability of the offer. (3) I have been informed that if I decline cost share assistance I will be ineligible for cost share assistance. (4) I have been informed that I may be required to pay for a measurement service on the acreage offered before such acreage may be enrolled in the CRP. (5) to the best of my knowledge and belief the acreage of crops and land listed herein, if applicable, are true and correct and (6) the signing of this form gives USDA representatives authorization to enter and inspect crops and land uses and for other purposes on the above identified land.

*These areas are eligible for CRP.  
With Krause  
4-19-10*

I understand that an inaccurate certification could result in a payment reduction or loss of program benefits.

27A. PRODUCER'S SIGNATURE

27B. DATE (MM-DD-YYYY)

*Charles C. Lucas*

*04/20/2010*

*Robert Lucas*

*04-22-2010*

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Scenario Map

**Continuous Signup 38 Regular Continuous**

Scenario Name: **Dorothy\_Lucas (2)**

Tract: **360**

Oneida Twp. Sec 32



6. 1.2  
7. 2.5  
8. 1.7  
9. 1.3  
10. 1.2  
7.9 = CP-21  
11 2.5 = CP-21  
Total: 10.4 ac  
15 year contract



#: Scenario ID  
###: Scenario Acres  
#: CLU Number  
ABC: Soil MYSYM

- Scenario\_Polygon
- Cropland
- Not Cropland

# EXHIBIT 5

<b>CRP-1</b> U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation  <b>CONSERVATION RESERVE PROGRAM CONTRACT</b>	1. ST. & CO. CODE & ADMIN. LOCATION 19 055	2. SIGN-UP NUMBER 38
	3. CONTRACT NUMBER 2109B	4. ACRES FOR ENROLLMENT 10.55
5A. COUNTY FSA OFFICE ADDRESS (Include Zip Code) DELAWARE COUNTY FARM SERVICE AGENCY 200 SOUTH 12TH ST MANCHESTER, IA52057-2306	6. TRACT NUMBER 360	7. CONTRACT PERIOD FROM: (MM-DD-YYYY) 05-01-2010 TO: (MM-DD-YYYY) 09-30-2024 C.P.
5B. COUNTY FSA OFFICE PHONE NUMBER (Include Area Code): (563) 927-4250	8. SIGNUP TYPE: Continuous	

**THIS CONTRACT is entered into between the Commodity Credit Corporation (referred to as "CCC") and the undersigned owners, operators, or tenants (referred to as "the Participant".) The Participant agrees to place the designated acreage into the Conservation Reserve Program ("CRP") or other use set by CCC for the stipulated contract period from the date the Contract is executed by the CCC. The Participant also agrees to implement on such designated acreage the Conservation Plan developed for such acreage and approved by the CCC and the Participant. Additionally, the Participant and CCC agree to comply with the terms and conditions contained in this Contract, including the Appendix to this Contract, entitled Appendix to CRP-1, Conservation Reserve Program Contract (referred to as "Appendix"). By signing below, the Participant acknowledges receipt of a copy of the Appendix/Appendices for the applicable contract period. The terms and conditions of this contract are contained in this Form CRP-1 and in the CRP-1 Appendix and any addendum thereto. BY SIGNING THIS CONTRACT PARTICIPANTS ACKNOWLEDGE RECEIPT OF THE FOLLOWING FORMS: CRP-1; CRP-1 Appendix and any addendum thereto; and, CRP-2, CRP-2C, CRP-2G, or CRP-2C30, as applicable.**

9A. Rental Rate Per Acre	\$ 265.68	C.P.	10. Identification of CRP Land (See Page 2 for additional space)			
9B. Annual Contract Payment	\$ 2,803.00	A. Tract No.	B. Field No.	C. Practice No.	D. Acres	E. Total Estimated Cost-Share
9C. First Year Payment	\$	360	6	CP21	1.19	\$ 134.00
(Item 9C is applicable only when the first year payment is prorated.)		360	7	CP21	2.52	\$ 285.00
		360	8	CP21	1.72	\$ 194.00

**11. PARTICIPANTS (If more than three individuals are signing, see Page 3.)**

A(1) PARTICIPANT'S NAME AND ADDRESS (Include Zip Code)	(2) SHARE	(3) SIGNATURE (By)	(4) TITLE/RELATIONSHIP OF THE INDIVIDUAL SIGNING IN THE REPRESENTATIVE CAPACITY	(5) DATE (MM-DD-YYYY)
CORY J PFAB [Redacted]	100.00 %	 Signed by Cory Pfab For, if applicable: On 10-11-22		10-11-22
CTM HOLDINGS LLC [Redacted]	0.00 %	 Signed by James Conlan For, if applicable: On 10-13-22	Manager	10-13-22
C(1) PARTICIPANT'S NAME AND ADDRESS (Include Zip Code)	(2) SHARE	(3) SIGNATURE (By)	(4) TITLE/RELATIONSHIP OF THE INDIVIDUAL SIGNING IN THE REPRESENTATIVE CAPACITY	(5) DATE (MM-DD-YYYY)

<b>12. CCC USE ONLY</b>	A. SIGNATURE OF CCC REPRESENTATIVE  acting CEO	B. DATE (MM-DD-YYYY) 10-19-2022
-------------------------	--	------------------------------------

**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 the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), the Food Security Act of 1985 (16 U.S.C. 3801 et seq.), the Agricultural Act of 2014 (16 U.S.C. 3831 et seq.), the Agricultural Improvement Act of 2018 (Pub. L. 115-334) and 7 CFR Part 1410. The information will be used to determine eligibility to participate in and receive benefits under the Conservation Reserve Program. 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). Providing the requested information is voluntary. However, failure to furnish the requested information will result in a determination of ineligibility to participate in and receive benefits under the Conservation Reserve Program.

**Paperwork Reduction Act (PRA) Statement:** The information collection is exempted from PRA as specified in 16 U.S.C. 3846(b)(1). The provisions of appropriate criminal and civil fraud, privacy, and other statutes may be applicable to the information provided. **RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.**

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Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Avenue, SW Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov). USDA is an equal opportunity provider, employer, and lender.





# EXHIBIT 6

**From:** [Wolf, Russ - FPAC-NRCS, IA](#)  
**To:** [Mcmichael, Julie - FPAC-NRCS, IA](#)  
**Cc:** [Thomas, Teresa - FPAC-NRCS, IA](#)  
**Subject:** CTM Holdings Communication  
**Date:** Friday, April 19, 2024 10:57:23 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)  
[image006.png](#)  
[image007.png](#)  
[image009.png](#)  
[image010.png](#)  
[image011.png](#)  
[image012.png](#)  
[image013.png](#)  
[image014.png](#)

---

Here is the only other communication I have received on that property it was just a conversation back and forth about flagging the wetland areas and recommending a 1026 be filed for the NI areas.

Please let me know if there is anything more that I can assist with.

Thank you,

**Russ Wolf**  
**Biologist – Wetland Specialist**  
USDA-NRCS  
210 Bierman Rd  
Epworth, IA 52045  
563-876-3328 ext. 3  
563-777-0454

---

**From:** Mack, David - NRCS, Manchester, IA <david.mack@usda.gov>  
**Sent:** Wednesday, October 12, 2022 10:08 AM  
**To:** Wolf, Russ - NRCS, Epworth, IA <russ.wolf@usda.gov>  
**Subject:** RE: [External Email]FSA Farm #4771 Tract #360

Sounds good. I'm thinking in the next few weeks. Sounds like he is working on a 1026 now too fyi

---

**From:** Wolf, Russ - NRCS, Epworth, IA <[russ.wolf@usda.gov](mailto:russ.wolf@usda.gov)>  
**Sent:** Wednesday, October 12, 2022 10:06 AM  
**To:** Mack, David - NRCS, Manchester, IA <[david.mack@usda.gov](mailto:david.mack@usda.gov)>  
**Subject:** RE: [External Email]FSA Farm #4771 Tract #360

Sounds good Dave, when are you heading out there to flag that CRP? I can try to get the shapefile to you by then possibly if that works then there would only need to be one trip out there.

Thanks,

**Russ Wolf**  
**Biologist – Wetland Specialist**

USDA-NRCS  
210 Bierman Rd  
Epworth, IA 52045  
563-876-3328 ext. 3  
563-777-0454

---

**From:** Mack, David - NRCS, Manchester, IA <[david.mack@usda.gov](mailto:david.mack@usda.gov)>

**Sent:** Wednesday, October 12, 2022 10:05 AM

**To:** Wolf, Russ - NRCS, Epworth, IA <[russ.wolf@usda.gov](mailto:russ.wolf@usda.gov)>

**Subject:** RE: [External Email]FSA Farm #4771 Tract #360

Sounds good Russ. We are planning to flag the CRP for him. If we could get a shape file of the wetlands we could try flagging them too while out there.

---

**From:** Wolf, Russ - NRCS, Epworth, IA <[russ.wolf@usda.gov](mailto:russ.wolf@usda.gov)>

**Sent:** Wednesday, October 12, 2022 9:02 AM

**To:** Mack, David - NRCS, Manchester, IA <[david.mack@usda.gov](mailto:david.mack@usda.gov)>

**Subject:** RE: [External Email]FSA Farm #4771 Tract #360

Hey Dave,

First off yes I would highly recommend that he fill out a 1026 for any not inventoried areas on the tract prior to clearing the trees. As for flagging the area out, I can try to do that but not sure how well the GPS equipment will work within the tree canopy as you know I am also not sure exactly when I will be able to get there and complete this. I am in training next week and have quite a few people ahead of him on the list of things to get completed. I will have to georeference the map you provided as this is before the shapefiles were saved within the computer.

Please let me know if there are any questions or concerns and I will try to get you an answer as soon as possible. Also if someone else decides to flag it out let me know so that I take it off my to-do list.

Thank you,

**Russ Wolf**  
**Biologist – Wetland Specialist**

USDA-NRCS  
210 Bierman Rd  
Epworth, IA 52045  
563-876-3328 ext. 3  
563-777-0454

---

**From:** Mack, David - NRCS, Manchester, IA <[david.mack@usda.gov](mailto:david.mack@usda.gov)>

**Sent:** Tuesday, October 11, 2022 10:17 AM  
**To:** Wolf, Russ - NRCS, Epworth, IA <[russ.wolf@usda.gov](mailto:russ.wolf@usda.gov)>  
**Subject:** FW: [External Email]FSA Farm #4771 Tract #360

Good morning Russ! We had visited about this farm a few months ago and things are moving along. Would you be able to delineate/mark the wetlands on this piece please? I'm also planning on responding to Jim to let him know he should file a 1026 for the NI areas unless you think that's not necessary?

---

**From:** James F Conlan [REDACTED]  
**Sent:** Friday, October 7, 2022 4:49 PM  
**To:** Rahe, Katherine - FSA, Manchester, IA <[kathy.rahe@usda.gov](mailto:kathy.rahe@usda.gov)>  
**Cc:** Mack, David - NRCS, Manchester, IA <[david.mack@usda.gov](mailto:david.mack@usda.gov)>; Salow, Dylan - FPAC-FSA, Manchester, IA <[Dylan.Salow@usda.gov](mailto:Dylan.Salow@usda.gov)>; Tobin Matt [REDACTED]  
**Subject:** Re: [External Email]FSA Farm #4771 Tract #360 Lucas

Hi Kathy. Cory Pfab is the tenant and will be assignee of the CRP contact -- receiving the payment shares in lieu of CTM Holdings LLC.

Sent from my iPhone

On Oct 7, 2022, at 10:28 PM, Rahe, Katherine - FSA, Manchester, IA <[kathy.rahe@usda.gov](mailto:kathy.rahe@usda.gov)> wrote:

Hi Jim,

Thank you for notifying us of the change. I have retrieved a copy of the Warranty Deed conveying ownership from the Iowa Land Records website. I will initiate the process of updating ownership in our Farm Records database.

I will need to initiate a CRP contract revision due to the change in ownership. When visiting the office earlier this summer we did have a brief discussion on this topic, you indicated you may have a tenant that you would want to also be on the CRP contract receiving the payment shares in lieu of CTM Holdings LLC. Please advise how you would like to proceed with that scenario. If you will be in the area we can schedule a time for you to visit the office to sign documents, or they may be completed via email or electronic signature.

Both Dave and Dylan are out of the office today, and our offices will be closed on Monday October 10, 2022 in observance of Columbus Day, a Federal holiday. I would anticipate one or both of them responding to you next week regarding your request to mark the wetland and CRP areas.

Please let me know any questions you have.  
Thank you!

**Kathy Rahe**

Key Program Technician  
USDA – Farm Service Agency  
Delaware County, Iowa  
(563)927-4250  
Fax (855)208-8590  
[kathy.rahe@usda.gov](mailto:kathy.rahe@usda.gov)

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---

**From:** James F Conlan [REDACTED]  
**Sent:** Friday, October 7, 2022 3:16 AM  
**To:** Mack, David - NRCS, Manchester, IA <[david.mack@usda.gov](mailto:david.mack@usda.gov)>  
**Cc:** Rahe, Katherine - FSA, Manchester, IA <[kathy.rahe@usda.gov](mailto:kathy.rahe@usda.gov)>; Salow, Dylan - FPAC-FSA, Manchester, IA <[Dylan.Salow@usda.gov](mailto:Dylan.Salow@usda.gov)>; Tobin Matt [REDACTED]  
**Subject:** Re: [External Email]FSA Farm #4771 Tract #360 Lucas

Hi All. I did close on the purchase of the Lucas Farm on Sept 30, 2022. CTM Holdings, LLC is now the owner.

1. I do plan to remove the trees, but not the stumps, from the determined wetlands.
2. I will not disturb the crp in any way, including the tree crp.
3. I do plan to remove the trees and the stumps from, and ready for farming, the land that is neither determined wetland nor crp.

I would be grateful if we could arrange to mark the determined wetlands area and the crp areas so the loggers stay off the crp and so we do not remove stumps from the determined wetlands.

Sent from my iPhone

On Aug 10, 2022, at 8:29 PM, Mack, David - NRCS, Manchester, IA <[david.mack@usda.gov](mailto:david.mack@usda.gov)> wrote:

Hi Jim,

Thanks for keeping us in the loop regarding your plans for this property. I wanted to clarify the USDA Farm Bill Wetland provisions that you, Dylan, and I discussed during our visit in the office.

Normal logging/timber harvest without stump removal and new trees are planted or encouraged to grow is generally not considered a wetland violation. If you plan to clear the site and remove stumps after logging that could be considered making agricultural production possible which could/would result in a wetland violation.

The areas that have not had a wetland determination are considered "not inventoried" meaning a wetland deamination has not been completed on the areas. We encourage you to request a determination on these areas prior to any clearing, filling, draining activities.

I've attached a handout that covers USDA wetland information in more detail that I hope you find useful.

Dave

---

**From:** James F Conlan [REDACTED]  
**Sent:** Tuesday, August 9, 2022 5:17 AM  
**To:** Rahe, Katherine - FSA, Manchester, IA <[kathy.rahe@usda.gov](mailto:kathy.rahe@usda.gov)>  
**Cc:** Salow, Dylan - FPAC-FSA, Manchester, IA <[Dylan.Salow@usda.gov](mailto:Dylan.Salow@usda.gov)>; Mack, David - NRCS, Manchester, IA <[david.mack@usda.gov](mailto:david.mack@usda.gov)>  
**Subject:** Re: [External Email]FSA Farm #4771 Tract #360 Lucas

Kathy, thank you. I should have been clear that I do not intend to log trees off CRP. While I knew Field 11 was CRP, i did not know it was tree planting crp. I will make sure the loggers have clear markers to avoid CRP areas of all kinds.

I intend to log all the trees off the areas that are not CRP. I also intend to log all the trees off areas that are determined wetlands and areas that have not been determined to be wetlands (and are not CRP).

As I read the statutes, logging trees off wetland is not a wetland violation, and there is no requirement to seek additional wetland determination before removing trees from non crp land that has not been determined a

wetland. If i'm missing something in the statutes, and the rules interpreting them, please let me know.

Kathy, I appreciate your knowledge and help.

Sent from my iPhone

On Aug 3, 2022, at 11:19 AM, Rahe, Katherine - FSA,  
Manchester, IA <[kathy.rahe@usda.gov](mailto:kathy.rahe@usda.gov)> wrote:

Good Morning Jim,  
Glad we could help!

I have attached the tract map for reference. Field number 11 is part of the CRP contract and is a tree planting practice, so the trees within that field do need to remain through the end of the CRP contract (scheduled to expire 09-30-2024). I could not recall if we had specifically discussed that field the day you were in the office.

To my knowledge, the current owners have not submitted any additional request for wetland determinations on the farm. At this time, any logging or widespread tree removal could potentially create a wetland violation situation. A wetland violation would jeopardize all financial benefits associated to the farm, including those of any tenants associated to the farm, and possibly their other farming interests. Not sure the extent of what you are referencing below, but please keep in mind once a wetland determination request is filed, it may take a few months to receive the determination back.

Let me know if you have additional questions.  
Thanks for checking in!

**Kathy Rahe**

Key Program Technician  
USDA – Farm Service Agency  
Delaware County, Iowa  
(563)927-4250  
Fax (855)208-8590  
[kathy.rahe@usda.gov](mailto:kathy.rahe@usda.gov)



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---

**From:** James F Conlan [REDACTED]  
**Sent:** Wednesday, August 3, 2022 5:45 AM  
**To:** Salow, Dylan - FPAC-FSA, Manchester, IA  
<[Dylan.Salow@usda.gov](mailto:Dylan.Salow@usda.gov)>  
**Cc:** Rahe, Katherine - FSA, Manchester, IA  
<[kathy.rahe@usda.gov](mailto:kathy.rahe@usda.gov)>  
**Subject:** Re: [External Email]FSA Farm #4771 Tract #360  
Lucas

Thanks again for taking the time to talk about the farm next to the town of Delaware -- very helpful.

As a heads up, in the Autumn, I intend to have the trees logged off the farm - they are mostly soft maple (not very valuable wood and mostly used for pallets). There are, of course, no trees on the crp acres.

Sent from my iPhone

On Jul 19, 2022, at 8:18 AM, Salow, Dylan -  
FPAC-FSA, Manchester, IA  
<[Dylan.Salow@usda.gov](mailto:Dylan.Salow@usda.gov)> wrote:

Jim,

Just following up with you before stopping in tomorrow. In order to view/discuss information relating to the Lucasland property, we will need you to provide a signed purchase agreement or have a written statement from the owner that it is ok to discuss this information pertaining to property owned by them in Delaware County. You can bring this with tomorrow or send me an email with the attached information. Let me know if you have any further questions.

Thanks

**Dylan Salow**

Program Technician

USDA – Iowa – Delaware County Farm Service Agency

200 S 12<sup>th</sup> St

Manchester, IA 52057

Phone (563) 927-4250

Fax (855) 208-8590

[dylan.salow@usda.gov](mailto:dylan.salow@usda.gov)

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**From:** James F Conlan  
[REDACTED]

**Sent:** Monday, July 18, 2022 8:34 AM

**To:** Nickol, Heidi - FSA, Urbandale, IA

<[heidi.nickol@usda.gov](mailto:heidi.nickol@usda.gov)>

**Cc:** Portz, Joseph - FSA, Epworth, IA

<[joseph.portz@usda.gov](mailto:joseph.portz@usda.gov)>; Rahe, Katherine -

FSA, Manchester, IA <[kathy.rahe@usda.gov](mailto:kathy.rahe@usda.gov)>;

Salow, Dylan - FPAC-FSA, Manchester, IA

<[Dylan.Salow@usda.gov](mailto:Dylan.Salow@usda.gov)>

**Subject:** Re: [External Email]FSA Farm #4771  
Tract #360 Lucas

Thanks very much, Heidi. Hi Joseph, Katherine, and Dylan. I'm in Eastern Iowa this Wednesday afternoon and Thursday if that is a convenient time to meet.

Sent from my iPhone

On Jul 18, 2022, at 9:28 AM,  
Nickol, Heidi - FSA, Urbandale, IA  
<[heidi.nickol@usda.gov](mailto:heidi.nickol@usda.gov)> wrote:

Hi Jim,

I took a new position with FSA and am no longer the CED in Delaware County. I have CC'd the Acting CED and two employees at the Delaware office on this email to assist you as your questions cross a few different areas of program

eligibility. I am certain they can answer your questions. Have a great day!

Heidi J Nickol  
Agricultural Program Specialist  
Iowa State Office - Farm Service  
Agency  
United States Department of  
Agriculture  
10500 Buena Vista Ct  
Des Moines, IA 50322-3782

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---

**From:** James F Conlan  
[REDACTED]

**Sent:** Saturday, July 16, 2022  
10:18 PM

**To:** Nickol, Heidi - FSA, Urbandale,  
IA <[heidi.nickol@usda.gov](mailto:heidi.nickol@usda.gov)>

**Subject:** [External Email]FSA Farm  
#4771 Tract #360 Lucas

[External Email]

If this message comes from an unexpected sender or references a vague/unexpected topic; Use caution before clicking links or opening attachments. Please send any concerns or suspicious messages to: [Spam.Abuse@usda.gov](mailto:Spam.Abuse@usda.gov)

Hi Heidi. I look forward to meeting you and talking about the following.

I recently signed an agreement to purchase the above referenced farm. We close on or before

October 1, 2022.

10.4 acres of the farm are enrolled in the CRP, expiring after the 2024 crop year. 9 acres of the farm appear to have been designated wetlands in 2010, but not the 10.4 acres that were thereafter enrolled in the CRP. The wetland designation forms and maps from 2010 are attached.

I would like your help with the process of seeking a determination (a redetermination) that some or all of the 9 acres are not wetlands. Before any such redetermination, I would also be grateful for any guidance you may provide on the removal of trees from the farm. Specifically, there are 21 acres of trees on the farm and I would also like to know if anything from FSA is necessary for me to:

1. remove the 11/12 acres of trees from the farm that are not on the 10.4 acres of CRP and are not on the 9 acres currently designated as wetlands; and
2. remove trees that are part of the currently designated 9 acres of wetlands.

Heidi, my review of the applicable law, rules, and regulations leads me to the following conclusions:

- a. without losing eligibility to participate in USDA programs, I may remove the trees on the 11/12 acres that are not currently

designated wetlands and are not in the CRP, and I may farm those 11/12 acres; and

b. without losing eligibility to participate in USDA programs, I may remove the trees on the 9 acres of designated wetlands provided I do not thereafter use the 9 acres for crops (ie the trees are not removed for the purpose, or to have the effect, of making the production of an agricultural commodity possible ... on the currently designated wetlands). 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).

Again, I look forward to discussing the above with you and wanted to provide you some context for our discussion. My contact details follow:

Jim Conlan

[REDACTED]

Mobile [REDACTED]

Through two legal entities (B&C, LLC and CTM Holdings LLC), I own and lease to farmers land in Delaware, Linn, Jackson, and Dubuque counties. I grew up in Bernard, Iowa, went to Wahlert High School and the University of Iowa.

Thanks very much for your time.

Sent from my iPhone

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# EXHIBIT 7

HIGHLY ERODIBLE LAND CONSERVATION (HEL) AND  
WETLAND CONSERVATION (WC) CERTIFICATION

Delaware Co. FSA

Read attached AD-1026 Appendix before completing form.

PART A - BASIC INFORMATION

1. Name of Producer CTM Holdings LLC	2. Tax Identification Number (Last 4 digits) [REDACTED]	3. Crop Year 2023
---	--	----------------------

4. Names of affiliated persons with farming interests. Enter "None," if applicable.  
None

*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.

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OCT 14 2022  
NRCS

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?	✓	
---	---	--

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): <u>Fall '22</u>	✓	

B. Improve or modify an existing drainage system that has NOT been evaluated by NRCS? If "YES", indicate the year(s): \_\_\_\_\_

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.

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.  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.  Check this box if either of the following applies to the producer and crop year entered in Part A:  
• 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: Farm #4771 Tract #360  
If unknown, contact the Farm Service Agency at the nearest USDA Service Center.

B. Activity: New land into production, Land clearing

C. Current land use (specify crops): Trees/Grass

D. County: Delaware

**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)  e-Signed by James Conlan For, if applicable On 10-12-22	10B. Title/Relationship (If Signing in Representative Capacity)  <b>Manager</b>	10C. Date (MM-DD-YYYY)  <b>10-12-22</b>
<b>FOR FSA USE ONLY (for referral to NRCS)</b> Sign and date if NRCS determination is needed.	11A. Signature of FSA Representative 	11B. Date (MM-DD-YYYY)  <b>10-13-22</b>

**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.

**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.**

The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the basis of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited basis will apply to all programs and/or employment activities.) Persons with disabilities, who wish to file a program complaint, write to the address below or if you require alternative means of communication for program information (e.g., Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). Individuals who are deaf, hard of hearing, or have speech disabilities and wish to file either an EEO or program complaint, please contact USDA through the Federal Relay Service at (800) 877-8339 or (800) 845-6136 (in Spanish).

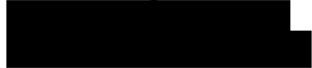
If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at [http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), or at any USDA office, or call (866) 632-9992 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](mailto:program.intake@usda.gov). USDA is an equal opportunity provider and employer.

# EXHIBIT 8



Monday, January 23, 2023

NRCS Field Office  
200 S 12TH ST  
Manchester, IA 52057-2306  
Phone: (563) 927-4250  
Fax: (855) 208-8590

CTM Holdings LLC  


SUBJECT: Wetland Preliminary Technical Determination

TRACT: 360  
Administrative County: Delaware, Iowa

This is to notify you the Natural Resources Conservation Service (NRCS) has made a certified wetland determination on the tract listed above. This preliminary technical determination (PTD) is made in accordance with the wetland conservation provisions of the Food Security Act of 1985, as amended, and was made in response to the completion of form AD-1026 dated on October 14, 2022.

In order to maintain USDA program eligibility, program participants must not produce an agricultural commodity on wetlands converted after December 23, 1985 and must not convert a wetland after November 28, 1990 for the purpose or to have the effect of making the production of an agricultural commodity possible.

The results of the PTD are shown on the enclosed NRCS-CPA-026-WC "Certified Wetland Determination" form. The determination was conducted in accordance with the National Food Security Act Manual, 1987 US Army Corps of Engineers (USACE) Wetland Delineation Manual, corresponding USACE Regional Supplements, and/or State Offsite Methods for Wetland Identification.

Wetlands are identified through the confirmation of three factors:

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 (7 CFR § 12.31(b)).

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 (7 CFR § 12.31(a)).

Presence of Wetland Hydrology:

Wetland hydrology means inundation or saturation by surface or groundwater during a growing season at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation (7 CFR § 12.31(c)).

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 the Federal crop insurance premium subsidy.

**If you agree** with this PTD, it will become final 30 calendar days after you receive this notification, and no further action is required.

**If you do not agree** with this PTD, you may request a reconsideration field visit OR mediation within thirty days of receipt of this letter. Your request should be made in writing to the above office address and Designated Conservationist and should state clearly what you are appealing and why you believe the determination is in error. For further information on the appeals process, please see the attached Appeals Information sheet. If no reconsideration field visit or mediation is requested within thirty days of receipt of this letter, this PTD will become a final technical determination (FTD) with further appeal rights as described in the attached Appeals Information sheet.

This certified wetland determination has been conducted for the purpose of implementing the Wetland Conservation Provisions of the Food Security Act of 1985, as amended. This determination may not be valid for identifying the extent of 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 contact the local district office of the U.S. Army Corps of Engineers prior to starting work.

If you are the owner of this tract of land and have a tenant, I urge you to discuss this preliminary determination with your tenant. Likewise, if you are the tenant of this tract of land, you are urged to discuss this letter with your landlord.


If you have any questions, please contact me at:

Russ Wolf

Designated Conservationist

200 S 12TH ST  
Manchester, IA 52057-2306  
Phone: (563) 927-4250

Sincerely,



Russ Wolf - Wetland Specialist

Enclosures:  
NRCS-CPA-026-WC  
Wetland Determination Map  
Appeals Information

Cc: Natural Resources Conservation Service  
Farm Service Agency  
Cory Pfab, 6333 Olde Davenport Rd, La Motte, IA 52054

## Appeals Information

This preliminary technical determination (PTD) will become final 30 days after your receipt of this letter, unless you request either of the following options:

1. You may request a reconsideration field visit for NRCS to review the basis for the PTD with you and gather additional information concerning the certified determination. This request must be in writing and addressed to the Designated Conservationist who made this determination.

OR

2. Mediation may be used to assist you and NRCS in trying to reach a mutually agreeable resolution or settlement regarding this PTD. Through mediation, the parties have the opportunity to work together with the assistance of the mediator to improve communications, understand the relevant issues, develop and explore alternatives, and reach a mutually satisfactory resolution. In order to request mediation, the request must be in writing and addressed to the Designated Conservationist who made this determination and the Iowa Mediation Service at the address below. Mediation may be used in an attempt to settle your concerns with the preliminary wetland technical determination.

Iowa Mediation Service  
1025 Ashworth Road, Suite 504  
West Des Moines, IA 50265  
(515) 331-8081

If you choose to use mediation, the NRCS will pay up to one-half of the costs that are appropriate and reasonable which are associated with securing the services of a trained mediator when the services are provided on other than a voluntary basis. The NRCS will have final discretion over what is considered appropriate and reasonable.

If you choose a reconsideration field visit or mediation, a final technical determination (FTD) will be issued at the conclusion of either process. If reconsideration or mediation is not requested, this certified determination becomes an FTD 30 days after your receipt of this letter, at which time you may exercise appeal rights to the Farm Service Agency County Committee or the National Appeals Division.

To appeal an FTD, write to the Farm Service Agency County Committee or the National Appeals Division within 30 days at the appropriate address below.

Delaware FSA County Committee  
200 S 12TH ST  
Manchester , IA 52057-2306

Telephone: (563) 927-4250  
Fax: (855) 208-8590

Or

National Appeals Division  
Box 68806  
Indianapolis , Indiana 46268-0806

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

A request for any of the above appeal options must be in writing and should state clearly what you are appealing and why you believe the determination is erroneous.

Farm: 5822

Tract: 360

Geographic County: Delaware

Administrative County: Delaware

Customer: CTM Holdings LLC

# Wetland Determination



Map Creation Date: 1/23/2023

Location: T89N, R4W, Sec 32  
5th Meridian

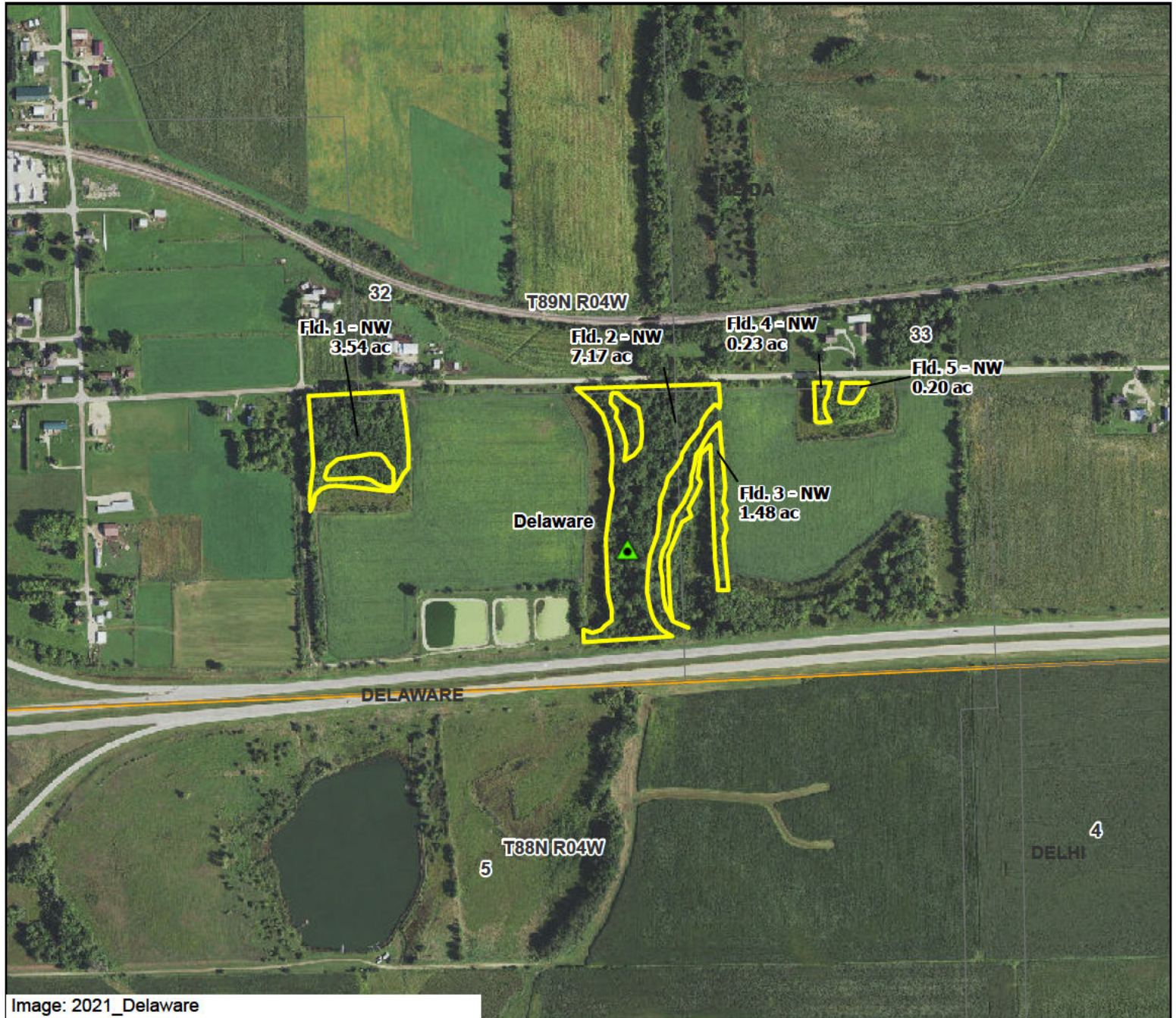


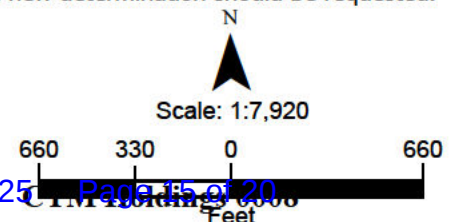
Image: 2021\_Delaware

Potential Jurisdictional Waters

Site\_CWD

Wetland Label	Statewide Layers
NW	Iowa - Counties
	Iowa - Section Lines
	Iowa - Civil Townships
	Iowa - PLSS Townships

This certified wetland determination has been conducted for the purpose of implementing the wetland conservation provisions of the Food Security Act of 1985, as amended. No determination is made or implied in the unlabeled portions of the map. If land manipulations are planned in unlabeled areas which do not have previous determinations, a new determination should be requested.



**CERTIFIED WETLAND DETERMINATION**

1. Name:	CTM Holdings LLC	2. Location County:	Delaware
3. Address:	[REDACTED]	4. Admin. County:	Delaware
5. Request Form:	AD-1026	6. Farm Number:	5822
7. Request Date:	10/14/2022	8. Tract Number:	360


This certified wetland determination identifies areas subject to the wetland conservation provisions of the 1985 Food Security Act, as amended. See the attached **Definitions of Wetland Labels and Uses** for additional information and currently authorized activities under the Act.

Field	Label	Occurrence year (CW+YEAR)	Acreage
1	NW		3.54
2	NW		7.17
3	NW		1.48
4	NW		0.23
5	NW		0.20

**9. Remarks**

Areas identified as Potential Jurisdictional Waters (PJW) are not subject to the Food Security Act but are potentially subject to the Clean Water Act. You should contact the U.S. Army Corps of Engineers local district office prior to performing work in areas which may be subject to the Clean Water Act. Areas identified as PJW are for informational purposes only and are not appealable to USDA. Additional areas, not identified by NRCS, might also be subject to the Clean Water Act.

I certify that the above determinations are sufficient for the purpose of making a determination of eligibility for program benefits and were conducted in accordance with policies and procedures contained in the National Food Security Act Manual.

10. Signature Designated Conservationist:	Date:
 Russ Wolf - Wetland Specialist	01/23/2023

<b>Definitions of Wetland Labels and Uses</b>			
<b>Label/Name</b>	<b>Criteria for Determination</b>	<b>Authorized Uses</b>	<b>Authorized Maintenance</b>
<b>AW</b> (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.
<b>CPD</b> (Corps of Engineers (USACE) Permit with Mitigation)	A converted wetland authorized by a permit issued under Section 404 of the Clean Water Act by USACE.	Per USACE permit conditions.	Per USACE permit conditions
<b>CW</b> (Converted Wetland)	A wetland converted between December 23, 1985, and November 28, 1990.	Planting of agricultural commodities or additional manipulation will cause ineligibility.	Maintenance allowed to scope and effect of original manipulation.
<b>CW</b> (Wetland converted by county, drainage district, or similar entity)	Wetlands converted after December 23, 1985, by a county, drainage district, or similar entity and beyond a person's direct control, 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.
<b>CW+Year</b> (Converted Wetland)	A wetland converted after November 28, 1990. "Year" indicates the year the wetland was converted, and ineligibility begins.	USDA program participant and their affiliated persons are ineligible for benefits (regardless of whether ag commodity planting occurred) until the wetland is restored or mitigated. Planting of agricultural commodities is also prohibited.	Not applicable
<b>CWTE</b> (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 on the date of the CWTE determination.	May be maintained to the extent that existed on date of the CWTE determination.
<b>FWP</b> (Farmed Wetland Pasture and Hayland)	Manipulated and used for pasture or hay before December 23, 1985 and in most years, is inundated for at least 7 consecutive days or saturated for 14 days during the growing season.	Area may be farmed and maintained as existed before December 23, 1985, as long as area is not abandoned (cessation for five consecutive years of management or maintenance operations related to the use of a farmed wetland).	May be maintained to the extent that existed before December 23, 1985.
<b>FW</b> (Farmed Wetland)	A wetland that was manipulated and planted before December 23, 1985, but still meets inundation or saturation criteria, noted below. 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.	Area may be farmed and maintained as existed before December 23, 1985, as long as area is not abandoned (cessation for five consecutive years of management or maintenance operations related to the use of a farmed wetland).	May be maintained to the extent that existed before December 23, 1985.

<b>Definitions of Wetland Labels and Uses</b>			
<b>Label/Name</b>	<b>Criteria for Determination</b>	<b>Authorized Uses</b>	<b>Authorized Maintenance</b>
<b>MIW</b> (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.	As stipulated in the mitigation plan/agreement.	As stipulated in the mitigation plan/agreement.
<b>MW</b> (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 on the wetlands in the area.	As stipulated in the minimal effect agreement, if applicable.	Only those activities stipulated in the minimal effect agreement, if applicable.
<b>MWM</b> (Mitigation Site)	The site of wetland restoration, enhancement, or creation serving as mitigation for a converted wetland receiving a mitigation exemption.	As stipulated in the mitigation plan/agreement.	As stipulated in the mitigation plan/agreement.
<b>NW</b> (Nonwetland)	An area that does not contain a wetland.	No restrictions.	No restrictions unless manipulation would convert adjacent wetlands.
<b>PC</b> (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 inundation or saturation criteria.	No restrictions.	No restrictions unless manipulation would convert adjacent wetlands.
<b>TP</b> (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.	May be used for production of agricultural commodities or forage.	Further drainage improvement will cause ineligibility.
<b>W</b> (Wetland)	An area that meets the criteria for hydric soils, hydrophytic vegetation, and wetland hydrology. Site typically has not been manipulated by altering hydrology and/or removing woody vegetation, including stumps. These areas include FW and FWP that have been abandoned.	May be farmed under natural conditions without drainage or removal of woody vegetation.	Not applicable, as typically wetlands (W) are not manipulated. See NRCS for information if a W is used as a drainage outlet for another wetland.
<b>WX</b> (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 agricultural commodity crop production was not made possible.	Would cause ineligibility if production was later made possible.	No restrictions as long as production not made possible including on an adjacent wetland.



## Non-Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.


Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at [How to File a Program Discrimination Complaint](#) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov).

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**CERTIFIED MAIL--RETURN RECEIPT REQUESTED**

1/23/2023

CTM Holdings LLC  


Dear CTM Holdings LLC:

The Natural Resources Conservation Service (NRCS) has received your request for a new Certified Wetland Determination. This letter is to notify you that a Certified Wetland Determination has previously been completed for your Farm #4771, Tract #360, located in Delaware County, Iowa.

The previously Certified Wetland Determination was completed in accordance with the National Food Security Act Manual (NFSAM) Wetland Identification procedures Title 7, Part 12 and Title 7, Part 12, Sections 12.5(b) and 12.2 of the Code of Federal Regulations (CFR). A copy of the previously completed Certified Wetland Determination has been enclosed for your review. The Certified Wetland Determination was completed for the same area as your Current Wetland Determination request. Therefore, your current request for a wetland determination will not be completed by the NRCS.

If you agree with the enclosed Certified Wetland Determination, no further action is required on your part. The enclosed Certified Wetland Determination may be relied upon when making decisions involving current and future drainage projects. If additional information is needed, please contact your local NRCS office.

If you disagree with the enclosed Certified Wetland Determination, you may request a review of the determination if one of the following applies:

- 1) If a natural event has altered the topography or hydrology of the subject land to the extent that the final certification is no longer a reliable indication of site conditions, or
- 2) The NRCS concurs that an error exists in the current wetland determination.

A request for review of the enclosed Certified Wetland Determination must be in writing and include what natural event occurred that changed the hydrology or topography or what error exists in the current wetland determination. Failure to include this information will result in your request for a review being denied.

You have not been offered appeal rights as the appropriate time-period to request an appeal of the 4/16/2010 determination has expired.

If you feel that NRCS's decision to deny appeal rights is in error, you may request a review of this decision from the Director of the National Appeals Division (NAD). Your request must be in writing and state the reason that the decision to deny appeal rights is in error. You may contact the NAD Director at the following address:

Director

USDA, National Appeals Division  
1320 Braddock Place, 4<sup>th</sup> Floor  
Alexandria, VA 22314

You have 30 days from receipt of this letter in which to make an appeal to the NAD Director.

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 certified wetland determination has been conducted for the purpose of implementing the Wetland Conservation Provisions of the Food Security Act of 1985, as amended. This determination may not be valid for identifying the extent of 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 contact the U.S. Army Corps of Engineers district office prior to starting work.

In order to maintain your eligibility for USDA program benefits, contact your local NRCS office prior to performing any land altering activities (tiling, land clearing, ditching, drainage maintenance, filling, leveling, removal of woody vegetation, or dredging) in or adjacent to the identified Wetland (W), Farmed Wetland (FW), Farmed Wetland Pasture or Hayland (FWP), or Not Inventoried area(s).

If you need further assistance or have questions about this matter, please contact me at russ.wolf@usda.gov or by telephone at (563) 777-0454.

Sincerely,



Russ Wolf - Wetland Specialist

Enclosures: NRCS-CPA-026E dated 4/16/2010 & Map

cc: David Mack, District Conservationist, NRCS, Manchester, IA  
County Executive Director, FSA, Manchester, IA  
Cory Pfab, [REDACTED]



HIGHLY ERODIBLE LAND AND WETLAND CONSERVATION DETERMINATION

Name: Dorothy Lucas, Address: [redacted], Request Date: 3/10/10, County: Delaware, Agency or Person Requesting Determination: FSA, Tract No: 360, FSA Farm No.: 4771

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? No

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.

Table with 5 columns: Field(s), HEL(Y/N), Sodbust(Y/N), Acres, Determination Date

The Highly Erodible Land determination was completed in the office .

Section II - Wetlands

Are there hydric soils on this farm? Y

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.

Table with 6 columns: Field(s), Wetland Label\*, Occurrence Year (CW)\*\*, Acres, Determination Date, Certification Date

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

Remarks: Wetland determination completed for areas being considered for CRP.

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: 4-16-10

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.

# Wetland Labels and Uses (revised 3/19/08)

Portions taken from National Food Security Act Manual, 4<sup>th</sup> edition Part 514.60

Name & Label	Criteria for Determination	Authorized Uses	Authorized Maintenance	NFSAM Citation
<b>(AW)</b> Artificial Wetland	Created wetlands on areas that were previously non-wetland.	No restrictions.	No restrictions.	Part 514.12
<b>(CPD)</b> 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.	Part 515.10
<b>(CW)</b> 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.	Part 514.40
<b>(CW)</b> 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.	Part 514.40
<b>(CW+year)</b> Converted wetland	Converted after November 28, 1990.	Conversion causes ineligibility, regardless of whether production of agricultural commodity occurred.	Not applicable	Part 514.40
<b>(CWTE)</b> 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.	Part 514.41
<b>(FW)</b> Farmed Wetland	<p>Manipulated and used for the production of an agricultural commodity as of December 23, 1985.</p> <p>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.</p> <p>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.</p> <p>Not abandoned.</p>	May be used for production of agricultural commodities or forage.	<p>May be maintained to the extent that existed before December 23, 1985, if "as built" records exist.</p> <p>May be maintained to the extent that existed on December 23, 1985, if no "as built" records exist.</p>	Part 514.31
<b>(FWP)</b> Farmed Wetland Pasture and Hayland	<p>Manipulated and used for pasture or hay as of December 23, 1985.</p> <p>Is inundated for at least 7 consecutive days or saturated for 14 days during the growing season.</p> <p>Not abandoned.</p>	May be used for production of agricultural commodities or forage.	<p>May be maintained to the extent that existed before December 23, 1985, if "as built" records exist.</p> <p>May be maintained to the extent that existed on December 23, 1985, if no "as built" records exist.</p>	Part 514.32
<b>(MIW)</b> Mitigation Exemption	Converted wetland is exempt because mitigation has occurred according to an NRCS-approved plan. Wetland where a mitigation exemption is granted (wetland to be manipulated).	As stipulated in the mitigation agreement.	As stipulated in the mitigation agreement.	Part 515.10
<b>(MW)</b> 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.	Part 515.0

Name & Label	Criteria for Determination	Authorized Uses	Authorized Maintenance	NFSAM Citation
(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	Part 515.10
(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.	Part 514.20
(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.	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 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.	Part 514.42
(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.	Part 514.10
(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.	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, 4<sup>th</sup> 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:** Conversion began before December 23, 1985, and was approved by FSA; conversion activity was completed by January 1, 1995. Authorized Uses: No restrictions provided activities were completed per conditions. Authorized Maintenance: As stipulated in the agreement.

**(CMW) Categorical Minimal Effect:** Activity or practice is conducted per the approved list identified in the Federal Register. Authorized Uses: Per conditions of the approved state specific list. Authorized Maintenance: Per conditions of the approved list.

**(CWNA) Converted Wetland for Nonagricultural Purposes:** Authorized Uses: Production of agricultural commodities will cause ineligibility. Authorized Maintenance: No restrictions.

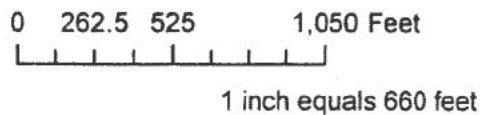
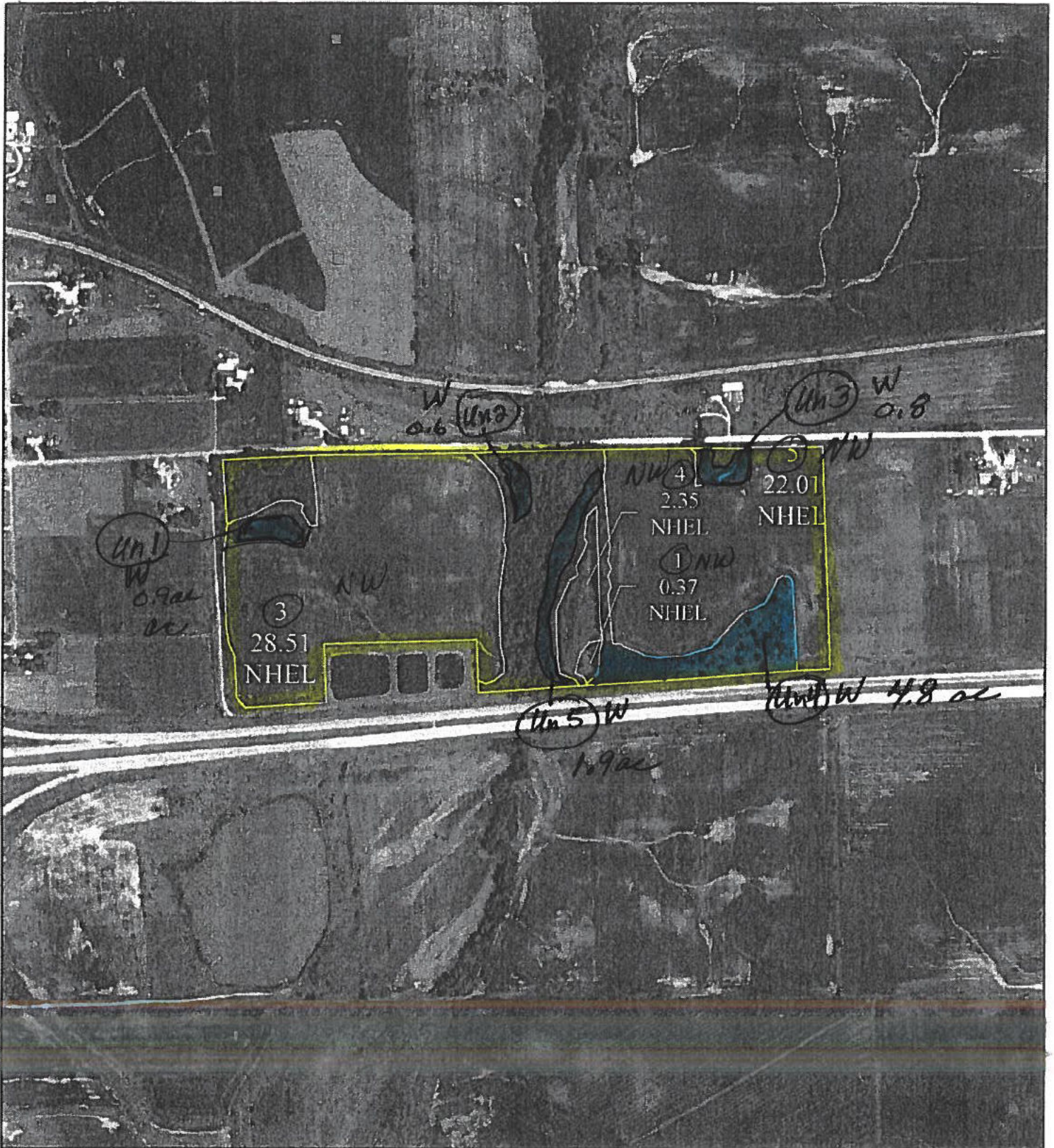
**Easement site + label:** Area that has been created, restored, or enhanced under an agreement to allow conversion and cropping of another wetland. Authorized Uses: As specified in agreement. Authorized Maintenance: As specified in agreement.

**(NI) Not Inventoried:** Used when a wetland determination is not conducted. Authorized Uses: Can determine only after a certified wetland determination is completed for the area labeled NI. Authorized Maintenance: Can determine only after a certified wetland determination is completed for the area labeled NI.

**(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.

**Obvious Wetlands (514.41C.):** 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.

*Hand delivered and reviewed with Dorothy on 4/20/10. KK.*



**Legend**

Field Boundary

**Wetland Determination  
 Wetland Determination Identifiers**

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

Prepared by Delaware Co FSA

Date Printed: March 18, 2009



Monday, January 23, 2023

Natural Resources Conservation Service  
200 S 12TH ST,  
MANCHESTER, IA 52057-2306  
Telephone: (563)927-4250  
Fax: (855)208-8590

CTM Holdings LLC  
[REDACTED]  
[REDACTED]

**SUBJECT: Highly Erodible Land (HEL) Determination**

**Tract: 360**

Dear Participant,

We received the HEL determination request due to your completion of an AD-1026 form through the Farm Service Agency (FSA). This letter notifies you of the preliminary Highly Erodible Land (HEL) technical determination and describes the federal HEL Conservation Compliance requirements.

NRCS conducted an HEL determination for your field due to your AD-1026 request. After completing the request, the preliminary technical determination indicates the field(s) shown in the attached "NRCS-CPA-026-HELDC" is considered Non-Highly Erodible Land (NHEL) with the label indicated. As such, the areas indicated on the attached form and map are exempt from HEL compliance provisions of the Food Security Act of 1985, as amended, and provisions in USDA regulations found in the Code of Federal Register (7 CFR Part 12).

USDA 7 CFR Part 12 §12.21 specifies how HEL Determinations are made and the requirements for development of a conservation system. Non-Highly Erodible Land (NHEL) has no restrictions concerning farming systems according to the Food Security Act of 1985, as amended, in the 2014 Farm Bill, so long as no adjacent HEL soil map units are joined to this field.

This certified HEL determination is not adverse, by definition, in 7 CFR 614.2 and is not appealable because producer eligibility for program benefits is not in question. Likewise, this determination does not constitute an adverse decision under the National Appeals Division rules of procedure 7 CFR 11.3a.

If you have questions about this determination or would like to discuss your options in greater detail, please call Russ Wolf, phone: (563)-777-0454 or by e-mail at russ.wolf@usda.gov

Sincerely,

Russ Wolf  
Designated Conservationist

Attachments: "NRCS-CPA-026-HELDC Determination" form and HEL Determination Map

cc: Dave Mack, District Conservationist, NRCS, Manchester, IA  
Joseph Portz, County Executive Director, FSA, Manchester, IA  
Cory Pfab, [REDACTED]





# HEL Determination

1/23/2023

Farm: 5822

Tract: 360

Customer(s): CTM Holdings LLC

County: Delaware, IA

Location: See Map

Assisted by: Russ Wolf

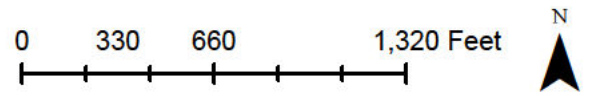
USDA-NRCS

Service Center: Manchester



Field Determination

Prepared with assistance from USDA-Natural Resources Conservation Service



An Equal Opportunity Provider, Employer, and Lender

### HIGHLY ERODIBLE LAND (HEL) DETERMINATION

1. Name:	CTM Holdings LLC		3. Location County:	Delaware, IA
2. Address:	[REDACTED]		4. Admin County:	Delaware, IA
5. Request Form:	AD-1026		7. Farm Number:	<b>5822</b>
6. Request Date:	10/14/2022		8. Tract Number:	<b>360</b>
9. Are there HEL soil map units on this Tract? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
If a field is not listed, no determination was made at this time. Contact the Farm Service Agency for previously determined HEL status of fields not listed below. In order to be eligible for most USDA program benefits, a person must be implementing a conservation plan or using an approved conservation system on all HEL fields. Fields that are not highly erodible (NHEL) do not require implementation of an approved conservation system.				
	<b>Field(s)</b>	<b>HEL/NHEL</b>	<b>Sodbust (Y/N)</b>	<b>Field Acreage</b>
	14	NHEL		3.91
	12	NHEL		4.25
	13	NHEL		1.12
	15	NHEL		11.14
10. The HEL determination was completed in: <input checked="" type="checkbox"/> Office <input type="checkbox"/> Field				
11. Remarks:	This Highly Erodible Land determination was conducted offsite using the soil survey. If PHEL soil map units were present, they may have been evaluated using elevation data.			
The above HEL determination is correct and conducted in accordance with policies and procedures contained in the National Food Security Act Manual.				
12. Signature Designated Conservationist			13. Date	
Russ Wolf			Monday, January 23, 2023	

## HIGHLY ERODIBLE LAND (HEL) DETERMINATION

### Non- Discrimination Statement

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In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotope, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202)720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at How to File a Program Discrimination Complaint and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

- (1) mail: U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410;
- (2) fax: (202) 690-7442; or
- (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov).

USDA is an equal opportunity provider, employer, and lender.

# EXHIBIT 9



## FARM LEASE - CASH OR CROP SHARES

THIS LEASE ("Lease") is made between CTM Holdings, LLC ("Landlord"), whose address for the purpose of this Lease is [REDACTED] and Cory Pfab and Susan Pfab ("Tenant"), whose address for the purpose of this Lease is [REDACTED].

### THE PARTIES AGREE AS FOLLOWS:

1. **PREMISES AND TERM.** Landlord leases to Tenant the following real estate situated in Delaware County, Iowa (the "Real Estate"):

Tax Parcel Numbers: 480000403300, 480000403400 and 480000403410 legally described as:

Southeast Quarter (SE  $\frac{1}{4}$ ) of Southeast Quarter (SE  $\frac{1}{4}$ ) and the East one Fourth (E  $\frac{1}{4}$ ) of Southwest Quarter (SW  $\frac{1}{4}$ ) of Southeast Quarter (SE  $\frac{1}{4}$ ) of Section Thirty-Two (32); the Southwest Quarter (SW  $\frac{1}{4}$ ) of Southwest Quarter (SW  $\frac{1}{4}$ ) of Section Thirty Three (33); all in Township Eighty Nine (89), North, Range Four (4), West of the Fifth P.M., all subject to easements and existing roadways of record;

The exact legal description is subject to verification by review of the abstract of title,

and currently containing 41 tillable acres per county FSA records (41 crop acres and 10.4 acres of CRP land), more or less, with possession by Tenant for a term of two (2) years to commence on March 1, 2023, and end on March 1, 2025. The Tenant has had or been offered an opportunity to make an independent investigation as to the acres and boundaries of the premises. In the event that possession cannot be delivered within fifteen (15) days after commencement of this Lease, Tenant may terminate this Lease by giving the Landlord notice in writing.

2. **RENT.** Tenant shall pay to Landlord as rent for the Real Estate (the "Rent"): Total annual cash rent of \$23,100.00 (41 acres x \$500 = \$20,500 + 10.4 acres x \$250 = \$2,600) payable, unless otherwise agreed, as follows: \$11,550.00 on March 1, 2023, \$11,550.00 on September 1, 2023, \$11,550.00 on March 1, 2024 and \$11,550.00 on September 1, 2024.

All Rent is to be paid to Landlord at the address above or at such other place as Landlord may direct in writing. Rent must be in Landlord's possession on or before the due date. Participation of this farm in any offered program by the U.S. Department of Agriculture or any state for crop production control or soil conservation, the observance of the terms and conditions of this program, and the division of farm program payments, requires Landlord's consent. Payments from participation in these programs shall be divided 0% Landlord 100% Tenant. Governmental cost-sharing payments for permanent soil conservation structures shall be divided 100% Landlord 0% Tenant. Crop disaster

payments shall be divided 0% Landlord 100% Tenant.

3. **LANDLORD'S LIEN AND SECURITY INTEREST.** As security for all sums due or which will become due from Tenant to Landlord, Tenant hereby grants to Landlord, in addition to any statutory liens, a security interest as provided in the Iowa Uniform Commercial Code and a contractual lien in all crops produced on the premises and the proceeds and products thereof, all contract rights concerning such crops, proceeds and/or products, all proceeds of insurance collected on account of destruction of such crops, all contract rights and U.S. government and/or state agricultural farm program payments in connection with the above described premises whether such contract rights be payable in cash or in kind, including the proceeds from such rights, and any and all other personal property kept or used on the real estate that is not exempt from execution. Tenant shall also sign any additional forms required to validate the security interest in government program payments.

Tenant shall not sell such crops unless Landlord agrees otherwise. Tenant shall notify Landlord of Tenant's intention to sell crop at least three (3) business days prior to sale of the crop (with business days being described as Monday through Friday, except any Iowa or federal holidays). Tenant shall pay the full rent for the crop year in which the crop is produced, whether due or not, at the time of sale pursuant to Landlord's consent to release Landlord's security interests. Upon payment in full Landlord shall release Landlord's lien on the crop produced in that crop year on the premises. The parties agree that by the Landlord releasing the lien as to the crop in one year, the Landlord in no way releases the lien or agrees to release the lien in any prior or subsequent year.

Tenant shall sign and deliver to Landlord a list of potential buyers of the crops upon which Landlord has been granted a security interest in this lease. Unless Landlord otherwise consents, Tenant will not sell these crops to a buyer who is not on the potential list of buyers unless Tenant pays the full rent due for the crop year to the Landlord at or prior to the date of sale. Landlord may give notice to the potential buyers of the existence of this security interest.

Landlord is further granted the power, coupled with an interest, to sign on behalf of Tenant as attorney-in-fact and to file one or more financing statements under the Iowa Uniform Commercial Code naming Tenant as Debtor and Landlord as Secured Party and describing the collateral herein specified. Tenant consents to the financing statement being filed immediately after execution of this Lease.

4. **INPUT COSTS AND EXPENSES.** Tenant shall prepare the Real Estate and plant such crops in a timely fashion as may be directed by Tenant. Tenant shall only be entitled to pasture or till those portions of the Real Estate designated by Landlord. All necessary machinery and equipment, as well as labor, necessary to carry out the terms of this lease shall be furnished by and at the expense of the Tenant. The following materials, in the amounts required by good husbandry, shall be acquired by Tenant and paid for by the parties as follows:

	% Landlord	% Tenant
(1) Fertilizer	0%	100%
(2) Lime and Trace Minerals	0%	100%

(3) Herbicide	0%	100%
(4) Insecticides	0%	100%
(5) Seeds	0%	100%
(6) Seed Cleaning	0%	100%
(7) Harvesting and/or Shelling Expense	0%	100%
(8) Grain Drying	0%	100%
(9) Grain Storage	0%	100%
(10) Other Expenses	0%	100%

5. **PROPER HUSBANDRY; HARVESTING OF CROPS; CARE OF SOIL, TREES, SHRUBS AND GRASS.** Tenant shall farm the Real Estate in a manner consistent with good husbandry, seek to obtain the best crop production that the soil and crop season will permit, properly care for all growing crops in a manner consistent with good husbandry, and harvest all crops on a timely basis. In the event Tenant fails to do so, Landlord reserves the right, personally or by designated agents, to enter upon the Real Estate and properly care for and harvest all growing crops, charging the cost of the care and harvest to the Tenant, as part of the Rent. Tenant shall timely control all weeds, including noxious weeds, weeds in the fence rows, along driveways and around buildings throughout the premises. Tenant shall comply with all terms of the conservation plan and any other required environmental plans for the leased premises. Tenant shall do what is reasonably necessary to control soil erosion including, but not limited to, the maintenance of existing watercourses, waterways, ditches, drainage areas, terraces and tile drains, and abstain from any practice which will cause damage to the Real Estate.

Upon request from the Landlord, Tenant shall by August 15 of each lease year provide to the Landlord a written listing showing all crops planted, including the acres of each crop planted, fertilizers, herbicides and insecticides applied showing the place of application, the name and address of the applicator, the type of application and the quantity of such items applied on the lease premises during such year.

Tenant shall distribute upon the poorest tillable soil on the Real Estate, unless directed otherwise by Landlord, all of the manure and compost from the farming operation suitable to be used. Tenant shall not remove from the Real Estate, nor burn, any straw, stalks, stubble, or similar plant materials, all of which are recognized as the property of Landlord. Tenant may use these materials, however, upon the Real Estate for the farming operations. Tenant shall protect all trees, vines and shrubbery upon the Real Estate from injury by Tenant's cropping operation or livestock.

Tenant shall maintain accurate yield records for the real estate, and upon request, during or after lease term, shall disclose to Landlord, all yield base information required for participation in government program

6. **DELIVERY OF GRAIN.** Intentionally omitted.

7. **LANDLORD'S STORAGE SPACE.** Intentionally omitted.

8. **ENVIRONMENTAL.**

a. Landlord. To the best of Landlord's knowledge to date:

- i. Neither Landlord nor, Landlord's former or present tenants, are subject to any investigation concerning the premises by any governmental authority under any applicable federal, state, or local codes, rules, and regulations pertaining to air and water quality, the handling, transportation, storage, treatment, usage, or disposal of toxic or hazardous substances, air emissions, other environmental matters, and all zoning and other land use matters.
- ii. Any handling, transportation, storage, treatment, or use of toxic or hazardous substances that has occurred on the premises has been in compliance with all applicable federal, state, and local codes, rules, and regulations.
- iii. No leak, spill release, discharge, emission, or disposal of toxic or hazardous substances has occurred on the premises.
- iv. The soil, groundwater, and soil vapor on or under the premises is free of toxic or hazardous substances except for chemicals (including without limitation fertilizer, herbicides, insecticides) applied in conformance with good farming methods, applicable rules and regulations and the label directions of each chemical.

Landlord shall hold Tenant harmless against liability for removing solid waste disposal sites existing at the execution of this Lease, with the exception that Tenant shall be liable for removal of solid waste disposal sites to the extent that the Tenant created or contributed to the solid waste disposal site at any time.

Landlord shall assume liability and shall indemnify and hold Tenant harmless against any liability or expense arising from any condition which existed, whether known or unknown, at the time of execution of the lease which is not a result of actions of the Tenant or which arises after date of execution but which is not a result of actions of the Tenant.

Landlord shall disclose in writing to Tenant the existence of any known wells, underground storage tanks, hazardous waste sites, and solid waste disposal sites. Disclosure may be provided by a properly completed groundwater hazard statement to be supplemented if changes occur.

b. Tenant. Tenant shall comply with all applicable environmental laws concerning application, storage and handling of chemicals (including, without limitation, herbicides and insecticides) and fertilizers. Tenant shall apply any chemicals used for weed or insect control at levels not to exceed the manufacturer's recommendation for the soil types involved. Farm chemicals may (not) be stored on the premises for more than one year. Farm chemicals for use on other properties may (not) be stored on this property. Chemicals stored on the premises shall be stored in clearly marked, tightly closed containers. No chemicals or chemical containers will be disposed of on the premises. Application of chemicals for agricultural purposes per manufacturer's recommendation shall not be construed to constitute disposal.

Tenant shall employ all means appropriate to insure that well or ground water contamination does not occur, and shall be responsible to follow all applicator's licensing requirements. Tenant shall install and maintain safety check valves for injection of any chemicals and/or fertilizers into an irrigation system (injection valve only, not main well check valve). Tenant shall properly post all fields (when posting is required) whenever chemicals are applied by ground or air. Tenant shall haul and



spread all manure on appropriate fields at times and in quantities consistent with environmental protection requirements. Tenant shall not dispose of waste oil, tires, batteries, paint, other chemicals or containers anywhere on the premises. Solid waste may (not) be disposed of on the premises. Dead livestock may (not) be buried on the premises. If disposal of solid waste or burial of dead animals is permitted as stated in the previous two sentences, the disposal or burial shall be in compliance with all applicable environmental laws. Tenant shall not use waste oil as a means to suppress dust on any roads on or near the premises. No underground storage tanks, except human waste septic systems that meet current codes, rules, and regulations, shall be maintained on the premises.

Tenant shall immediately notify Landlord of any chemical discharge, leak, or spill which occurs on premises. Tenant shall assume liability and shall indemnify and hold Landlord harmless for any claim or violation of standards which results from Tenant's use of the premises. Tenant shall assume defense of all claims, except claims resulting from Landlord's negligence, in which case each party shall be responsible for that party's defense of any claim. After termination, Tenant shall remain liable for violations which occurred during the term of this Lease.

**In the absence of selection of an alternative where choices are provided in this paragraph 8b, the choice of the word "may" shall be presumed unless that presumption is contrary to applicable environmental laws and regulations.**

9. **TERMINATION OF LEASE.** This Lease shall automatically renew upon expiration from year-to-year, upon the same terms and conditions unless either party gives due and timely written notice to the other of an election not to renew this Lease. If renewed, the tenancy shall terminate on March 1 of the year following, provided that the tenancy shall not continue because of an absence of notice in the event there is a default in the performance of this Lease. All notices of termination of this Lease shall be as provided by law.
10. **POSSESSION AND CONDITION AT END OF TERM.** At the termination of this Lease, Tenant will relinquish possession of the Real Estate to the Landlord. If Tenant fails to do so Tenant agrees to pay Landlord \$500.00 per day, as liquidated damages until possession is delivered to Landlord. At the time of delivery of the Real Estate to Landlord, Tenant shall assure that the Real Estate is in good order and condition, and substantially the same as it was when received by Tenant at the commencement of this Lease, excusable or insurable loss by fire, unavoidable accidents and ordinary wear, excepted.
11. **LANDLORD'S RIGHT OF ENTRY AND INSPECTION.** In the event notice of termination of this Lease has been properly served, Landlord may enter upon the Real Estate or authorize someone else to enter upon the Real Estate to conduct any normal tillage or fertilizer operation after Tenant has completed the harvesting of crops even if this is prior to the date of termination of the lease. Landlord may enter upon the Real Estate at any reasonable time for the purpose of viewing or seeding or making repairs, or for other reasonable purposes.
12. **VIOLATION OF TERMS OF LEASE.** If Tenant or Landlord violates the terms of this Lease, the other may pursue the legal and equitable remedies to which each is entitled. Tenant's failure to pay any Rent when due shall cause all unpaid Rent to become immediately due and payable, without any notice to or demand upon Tenant.

13. **REPAIRS.** Tenant shall maintain the fences on the leased premises in good and proper repair. Landlord shall furnish necessary materials for repairs that Landlord deems necessary within a reasonable time after being notified of the need for repairs. Tenant shall haul the materials to the repair site without charge to Landlord.
14. **NEW IMPROVEMENTS.** All buildings, fences and improvements of every kind and nature that may be erected or established upon the Real Estate during the term of the Lease by the Tenant shall constitute additional rent and shall inure to the Real Estate, becoming the property of Landlord unless the Landlord has agreed in writing prior to the erection that the Tenant may remove the improvement at the end of the lease.
15. **WELL, WINDMILL, WATER AND SEPTIC SYSTEMS.** Intentionally omitted.
16. **EXPENSES INCURRED WITHOUT CONSENT OF LANDLORD.** No expense shall be incurred for or on account of the Landlord without first obtaining Landlord's written authorization. Tenant shall take no actions that might cause a mechanic's lien to be imposed upon the Real Estate.
17. **NO AGENCY.** Tenant is not an agent of the Landlord.
18. **TELEVISION AND RADIO.** Intentionally omitted.
19. **ACCOUNTING.** Intentionally omitted.
20. **ATTORNEY FEES AND COURT COSTS.** If either party files suit to enforce any of the terms of this Lease, the prevailing party shall be entitled to recover court costs and reasonable attorneys' fees.
21. **CHANGE IN LEASE TERMS.** The conduct of either party, by act or omission, shall not be construed as a material alteration of this Lease until such provision is reduced to writing and executed by both parties as addendum to this Lease.
22. **CONSTRUCTION.** Words and phrases herein, including the acknowledgment, are construed as in the singular or plural and as the appropriate gender, according to the context.
23. **NOTICES.** The notices contemplated in this Lease shall be made in writing and shall either be delivered in person, or be mailed in the U.S. mail, certified mail to the recipient's last known mailing address, except for the notice of termination set forth in Section 9, which shall be governed by the Code of Iowa.
24. **ASSIGNMENT.** Tenant shall not assign this Lease or sublet the Real Estate or any portion thereof without prior written authorization of Landlord.
25. **CERTIFICATION.** Tenant certifies that it is not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person" or any other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and it is not engaged in this transaction, directly or indirectly on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity or nation. Tenant hereby agrees to defend, indemnify and hold harmless Landlord from and against any and all claims, damages, losses, risks, liabilities and expenses (including attorney's fees and costs) arising from or related to any breach of the foregoing certification.
26. **ADDITIONAL PROVISIONS.**
  - A. Tenant agrees that no animals or manure will be placed on the property.

B. Tenant agrees that the existing waterways will not be tilled and that cornstalks or bean stubble will not be removed from the fields.

C. TENANT'S RENT OPTION. Tenant shall have the option to lease the Real Estate for one (1) additional one (1) year term beginning March 1, 2025, and ending February 28, 2026, for rental rate of \$25,700.00, on the same terms and conditions set forth in this Lease. The additional one (1) year term will be for 51.4 tillable acres at a rate of \$500.00 per acre. Tenant shall give Landlord written notice of his intent to exercise this option no later than August 1, 2024. In the event that Tenant fails to give Landlord written notice to exercise Tenant's option to rent the Real Estate for the 2025 crop year, then Landlord may terminate Tenant's tenancy in accordance with Iowa Code Chapter 562. If the lease is terminated, possession ends after crops are removed from the fields.

D. Tenant agrees that Landlord has the ability to sell or develop all or any part of the Real Estate at any time, and in the event that Landlord sells or develops all or part of the Real Estate, Tenant agrees that Tenant's lease on the sold or developed portion of the Real Estate is immediately and automatically terminated without regard to Tenant's rights under Iowa Code Chapter 562. However, if Landlord sells or develops any portion of the Real Estate during the term of this lease (including any renewal terms), the Landlord shall credit Tenant for the direct cost of any destroyed current year crop (fertilizer, seed, spray, fuel, but not labor or machinery use) and that this shall be Tenant's sole remedy for damages.

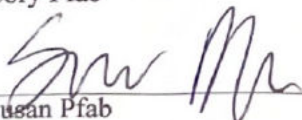
E. CRP Payment. There are an additional 10.4 acres (as of 2022) in CRP. Landlord shall assign the CRP contract and the accompanying CRP payment to Tenant. The Tenant will also lease these 10.4 acres of CRP at a rate of \$250.00 per acre (total \$2,600.00) Tenant will maintain the CRP acres. The 10.4 acres in CRP will no longer be in CRP as of October 2024.

F. COUNTERPARTS. This agreement may be executed in counterparts, each of which when executed and delivered shall constitute an original of this agreement. No counterpart shall be effective until each party has executed at least one counterpart. In addition, a facsimile, photocopy, scanned copy or digital signature shall have the same force and effect as an original signature.

DATED: 9-22, 2022.

TENANTS:

  
Cory Pfab

  
Susan Pfab

LANDLORD:  
CTM HOLDINGS, LLC

  
By: James F. Conlan, Member

# EXHIBIT 10

**Producer Farm Data Report**

Date: 10/13/22 11:16 AM

Crop Year: 2023

Page: 1

**DISCLAIMER:** This is data extracted from the web farm database. Because of potential messaging failures in MIDAS, this data is not guaranteed to be an accurate and complete representation of data contained the MIDAS system, which is the system of record for Farm Records.

Producer Name and Address

Recording County Office Name

PFAB, CORY JON

Dubuque, Iowa

Telephone: [REDACTED]

Number of Farms	Number of Tracts	Farmland	Cropland	DCP Cropland	CRP Cropland	Eff DCP Cropland												
18	23	2195.95	1855.49	1860.86	28.08	1832.78	State & County	Farm	Tract	Relationship to Farm Tract	Producer	Farmland	Cropland	DCP Cropland	CRP Cropland	Eff DCP Cropland	HEL Code	Wetland Code
							Delaware, IA	4771	360	Operator	KINTZLE, MARK DAVID							
										Owner	CTM HOLDINGS LLC	72.47	51.21	51.21	10.55	40.66	N	DNC
										Other Tenant	PFAB, CORY JON							
							Delaware, IA	5755	6176	Operator	PFAB, CORY JON	130.27	129.69	129.69	0.0	129.69	SA	DNC
										Owner	CTM HOLDINGS LLC							
							Dubuque, IA	1023	1075	Operator	PFAB, CORY JON	87.13	35.9	35.9	17.53	18.37	SA	N
										Owner	KEMP, KATHY J							
										Owner	KEMP, JAMES PETER							
							Dubuque, IA	1038	1076	Operator	PFAB, CORY JON	73.81	52.89	52.89	0.0	52.89	SA	DNC
										Owner	SOUTHERN HILLS TWO INC							
							Dubuque, IA	1470	909	Owner/Operator	PFAB, CORY JON	141.81	139.03	139.03	0.0	139.03	SA	DNC
							Dubuque, IA	3991	973	Operator	PFAB, CORY JON	203.57	195.39	195.39	0.0	195.39	SA	DNC
										Owner	KOOS, DONALD							
							Dubuque, IA	5841	152	Operator	PFAB, CORY JON	126.77	117.08	117.08	0.0	117.08	SA	DNC
										Owner	DECKER, LYNN MARIE							
										Operator	PFAB, CORY JON	194.45	109.26	114.63	0.0	114.63	SA	DNC
										Owner	DECKER, LYNN MARIE							
							Dubuque, IA	5890	11566	Operator	PFAB, CORY JON	18.73	18.04	18.04	0.0	18.04	SA	DNC
										Owner	AZBELL, KERRY B							
										Owner	AZBELL, MARCIA							
							Dubuque, IA	6559	977	Operator	PFAB, CORY JON	161.33	156.27	156.27	0.0	156.27	DNC	DNC
										Owner	PFABCO LLC							

<b>HEL Codes</b>	SA = HEL: Sys Applied SNA = HEL: Sys Not Applied	SNR = HEL: Sys Not Required 2YR = HEL: 2-yr Implement	DNC = Determination Not Complete N = Not HEL	<b>Wetland Codes</b>	WL = Wetland N = No Wetland	DNC = Determination Not Complete
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**Producer Farm Data Report**

Date: 10/13/22 11:16 AM

Crop Year: 2023

Page: 2

DISCLAIMER: This is data extracted from the web farm database. Because of potential messaging failures in MIDAS, this data is not guaranteed to be an accurate and complete representation of data contained the MIDAS system, which is the system of record for Farm Records.

State & County	Farm	Tract	Relationship to Farm Tract	Producer	Farmland	Cropland	DCP Cropland	CRP Cropland	Eff DCP Cropland	HEL Code	Wetland Code	
Dubuque, IA	6559	13030	Operator	PFAB, CORY JON	37.14	16.6	16.6	0.0	16.6	DNC	DNC	
			Owner	MUEHLENKAMP, JUSTIN D								
			13031	Operator	PFAB, CORY JON	117.86	94.57	94.57	0.0	94.57	DNC	DNC
				Owner	PFABCO LLC							
Dubuque, IA	6955	877	Operator	PFAB, CORY JON	71.94	70.28	70.28	0.0	70.28	SA	DNC	
			Owner	CALLAHAN CONSTRUCTION INC								
			12596	Operator	PFAB, CORY JON	40.68	34.76	34.76	0.0	34.76	SA	DNC
				Owner	B & C LLC							
Dubuque, IA	7501	13200	Operator	PFAB, CORY JON	4.83	4.83	4.83	0.0	4.83	SA	DNC	
			Owner	PFABCO LLC								
Dubuque, IA	7558	13236	Operator	PFAB, CORY JON	72.51	63.38	63.38	0.0	63.38	SA	DNC	
			Owner	PFABCO LLC								
Jackson, IA	194	615	Operator	PFAB, CORY JON	111.73	95.17	95.17	0.0	95.17	SA	DNC	
			Owner	B & C LLC								
Jackson, IA	198	569	Operator	ENGLISH FAMILY FARM, INC.								
			Owner	ENGLISH FAMILY FARM, INC.	189.52	177.51	177.51	0.0	177.51	SA	DNC	
			Other Tenant	PFAB, CORY JON								
Jackson, IA	909	665	Operator	PFAB, CORY JON	137.86	92.09	92.09	0.0	92.09	SA	DNC	
			Owner	BECHEN, DENNIS J								
Jackson, IA	6248	4836	Operator	PFAB, CORY JON	25.88	25.88	25.88	0.0	25.88	SA	DNC	
			Owner	PFABCO LLC								
			7116	Operator	PFAB, CORY JON	31.01	31.01	31.01	0.0	31.01	SA	DNC
				Owner	PFABCO LLC							
Jackson, IA	6371	6552	Operator	PFAB, CORY JON	108.49	108.49	108.49	0.0	108.49	N	DNC	
			Owner	REISS, ANTHONY J								
			Owner	REISS, KATHLEEN R								
Linn, IA	2364	442	Operator	PFAB, CORY JON	36.16	36.16	36.16	0.0	36.16	N	DNC	
			Owner	B & C LLC								

<b>HEL Codes</b>	SA = HEL: Sys Applied SNA = HEL: Sys Not Applied	SNR = HEL: Sys Not Required 2YR = HEL: 2-yr Implement	DNC = Determination Not Complete N = Not HEL	<b>Wetland Codes</b>	WL = Wetland N = No Wetland	DNC = Determination Not Complete
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# EXHIBIT 11

**To:** Mack, David - NRCS, Manchester, IA <david.mack@usda.gov>

**Subject:** Re: [External Email]Lucasland LLC - Wetland Information

Just for clarification, Dave, I'm not sure I asked this question. There appears to be a portion of wetland in the central wooded area of the Lucas farm which is currently not enrolled in CRP. Could this area be farmed providing there was no drainage improvement?

On Fri, Jul 8, 2022 at 11:43 AM Mack, David - NRCS, Manchester, IA <[david.mack@usda.gov](mailto:david.mack@usda.gov)> wrote:

Hello Gary,

Nice talking with you over the phone earlier. If any more information is needed please feel free to reach out to me.

Dave

Dave Mack

District Conservationist

USDA NRCS

200 S. 12<sup>th</sup> St.

Manchester, IA 52057

Office 563-927-4590 X 305

Cell [REDACTED]

**From:** Wegmann Gary [REDACTED]

**Sent:** Friday, July 8, 2022 11:05 AM

**To:** Rahe, Katherine - FSA, Manchester, IA <[kathy.rahe@usda.gov](mailto:kathy.rahe@usda.gov)>; Mack, David - NRCS, Manchester, IA <[david.mack@usda.gov](mailto:david.mack@usda.gov)>

**Cc:** Lucas, Dan [REDACTED] Ruth Schlotfeldt [REDACTED]

**Subject:** [External Email]Lucasland LLC - Wetland Information



**External Email**

If this message comes from an **unexpected sender** or references a **vague/unexpected topic**;  
Use caution before clicking links or opening attachments.  
Please send any concerns or suspicious messages to: [Spam.Abuse@usda.gov](mailto:Spam.Abuse@usda.gov)

Good Morning Kathy & Dave,

Regarding the 72+- acres Lucasland LLC farm near Delaware, yesterday, Dave Mack with NRCS forwarded Dan Lucas the attached Wetland Determination which dates back to April of 2010. Also attached is the USDA 156 EZ Form along with the aerial map. As you already know, I'll be handling the sale of the farm for the Lucas family. The farm will be going on the market early next week.

It appears that 9 acres of the farm, including some of the land currently enrolled in CRP was designated as "wetland" in the spring of 2010.

I did an appraisal on the subject property for the Lucas family in December of 2021. At that time, Dan Lucas forwarded me the 156 EZ form which indicates the "wetlands determinations not complete". I see this on a lot of 156 EZ forms, however, if there was in fact a wetland determination already made on this property, I would have thought the 156 EZ form would have reflected that fact. Considering I was unaware of the wetland determination, my appraisal of the property in December of 2021 did not take into consideration the fact that there are 9 acres of wetlands scattered around in 5 different areas of the farm. The existence of designated wetlands on a farm this size, especially considering they're spread out over 5 different areas, will very likely impact the market value of the property. It seems a little unusual to me that the wetland acres are spread out over various areas of the farm, several of which are in small fractional acreages.

The farm will be going on the market early next week and the wetland designation I received yesterday comes as a complete surprise to me. Potential buyers will no doubt have questions regarding the CRP & Wetland Acres. Hopefully, you can shed some light on what if any options the new landowner might have regarding the CRP and particularly the wetland acres.

*1) On the wetland acres currently enrolled in the CRP, can the wetland area be farmed when the CRP contract expires?*

*2) On the wetland acres currently NOT enrolled in CRP, can the wetland area be farmed if the landowner wishes to do so?*

3) *On the wetland acres already enrolled in the CRP, is there a possibility the CRP contract could be extended when the current contract expires on 9/30/2024?*

4) *Can the landowner request a new wetland determination on those acres already designated?*

5) *Is it possible to build on wetland acres?*

Lucas family members Dan Lucas and his sister Ruth Schlotfeldt have been copied on this email.

Thank you in advance for any information you can provide.

Regards,,

*Gary Wegmann*

*Gary J. Wegmann*

*Wegmann Real Estate*

*Licensed Broker & Certified General Appraiser*

*Tel. 563-923-7107*

*Cell* [REDACTED]

[www.wegmannreal.com](http://www.wegmannreal.com)

**Subject:**Wetland Information

**Date:**2022-07-07 2:44 pm

**From:**"Mack, David - NRCS, Manchester, IA" <[david.mack@usda.gov](mailto:david.mack@usda.gov)>

**To:**"[REDACTED]" <[REDACTED]>

**Cc:**"Rahe, Katherine - FSA, Manchester, IA" <[kathy.rahe@usda.gov](mailto:kathy.rahe@usda.gov)>

Hi Dan,

Attached is the wetland determination information that you requested. Please feel free to reach out to our office if we can be of further assistance.

Dave Mack  
District Conservationist  
USDA NRCS  
200 S. 12th St.  
Manchester, IA 52057  
Office 563-927-4590 X 305  
Cell [REDACTED]

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**Gary J. Wegmann**  
**Wegmann Real Estate**  
**Licensed Broker & Certified General Appraiser**  
**Tel. 563-923-7107**  
**Cell [REDACTED]**  
[www.wegmannreal.com](http://www.wegmannreal.com)

# EXHIBIT 12

**From:** James F Conlan [REDACTED]  
**Date:** November 7, 2022 at 12:56:18 PM CST  
**To:** "Salow, Dylan - FPAC-FSA, Manchester, IA" <[Dylan.Salow@usda.gov](mailto:Dylan.Salow@usda.gov)>  
**Subject:** Re: [External Email]FSA Farm #4771 Tract #360 Lucas



Sent from my iPhone

On Nov 7, 2022, at 1:50 PM, Salow, Dylan - FPAC-FSA, Manchester, IA <[Dylan.Salow@usda.gov](mailto:Dylan.Salow@usda.gov)> wrote:

Glad we got it straightened out. Sounds like everything is on the right track.

## Dylan Salow

Program Technician  
USDA – Iowa – Delaware County Farm Service Agency  
200 S 12<sup>th</sup> St  
Manchester, IA 52057  
Phone (563) 927-4250  
Fax (855) 208-8590  
[dylan.salow@usda.gov](mailto:dylan.salow@usda.gov)

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**From:** James F Conlan [REDACTED]  
**Sent:** Monday, November 7, 2022 12:30 PM  
**To:** James F Conlan [REDACTED]  
**Cc:** Salow, Dylan - FPAC-FSA, Manchester, IA <[Dylan.Salow@usda.gov](mailto:Dylan.Salow@usda.gov)>  
**Subject:** Re: [External Email]FSA Farm #4771 Tract #360 Lucas

Dylan, Larry Boeckenstedt confirmed with Russ Wolf from your office that there is no problem removing trees from designated wetland "provided" the stump is not removed. The stumps will not be removed from the designated wetland.

Sent from my iPhone

On Nov 7, 2022, at 1:21 PM, James F Conlan [REDACTED] wrote:

Dylan, i agree stump clearing is an issue but not harvesting the from the stump up. Below you say Tree & Stump clearing. I think the regs say that only stump removal -- not removal of the stump up.

Do you disagree? The tree broker also checked with the FSA office.

Sent from my iPhone

On Nov 7, 2022, at 12:19 PM, Salow, Dylan - FPAC-FSA, Manchester, IA <[Dylan.Salow@usda.gov](mailto:Dylan.Salow@usda.gov)> wrote:

Jim,

Any tree & stump clearing on undetermined areas is considered making the production of an agricultural commodity more possible, even if it will not be brought into production right away. See attached appendix.

I guess I was referring to your email from October 12<sup>th</sup> that said you planned to do that on areas outside the wetlands and CRP tree planting (scroll down below).

Once again we would advise to get it done so you know what you are able to do with the property within our programs without putting you and your tenant in possible eligibility violation status down the road.

Let me know if you have any further questions.

## **Dylan Salow**

Program Technician

USDA – Iowa – Delaware County Farm Service Agency

200 S 12<sup>th</sup> St

Manchester, IA 52057

Phone (563) 927-4250

Fax (855) 208-8590

[dylan.salow@usda.gov](mailto:dylan.salow@usda.gov)

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<image004.png>  
<image005.png>  
<image006.png>

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**From:** James F Conlan [REDACTED]  
**Sent:** Monday, November 7, 2022 10:44 AM  
**To:** Salow, Dylan - FPAC-FSA, Manchester, IA <[Dylan.Salow@usda.gov](mailto:Dylan.Salow@usda.gov)>  
**Subject:** Re: [External Email]FSA Farm #4771 Tract #360 Lucas

Dylan, thanks. My understanding is that i do not need a further wetland determination until i seek to remove stumps from determined wetland or until I intend to bring into production land that has been cleared.

Sent from my iPhone

On Nov 7, 2022, at 10:55 AM, Salow, Dylan - FPAC-FSA, Manchester, IA <[Dylan.Salow@usda.gov](mailto:Dylan.Salow@usda.gov)> wrote:

Thanks for the heads up Jim. I did send the AD-1026 form that you filled out earlier to NRCS for a determination back on October 13th. It does take a little time to get these back as they work on them in the order they are received. I believe there are a few others in front of this one. Would you like a call if our wetland specialist plans to visit the farm to help make the determination? Right now we are in the waiting phase.

Thanks

## Dylan Salow

Program Technician  
USDA – Iowa – Delaware County Farm Service Agency  
200 S 12<sup>th</sup> St  
Manchester, IA 52057  
Phone (563) 927-4250  
Fax (855) 208-8590  
[dylan.salow@usda.gov](mailto:dylan.salow@usda.gov)

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**From:** James F Conlan [REDACTED]  
**Sent:** Saturday, November 5, 2022 11:57 AM  
**To:** James F Conlan [REDACTED]  
**Cc:** Salow, Dylan - FPAC-FSA, Manchester, IA <[Dylan.Salow@usda.gov](mailto:Dylan.Salow@usda.gov)>  
**Subject:** Re: [External Email]FSA Farm #4771 Tract #360 Lucas



Dylan, I also appreciate that before stumps are removed from non wetland, I will need a determination from you as part of the sod buster prohibitions that there are no new additional wetlands.

I'm pretty sure I understand all the prohibitions and regulations. I definitely understand where the CRP is and where the existing wetlands are.

Sent from my iPhone

On Nov 4, 2022, at 6:22 PM, James F Conlan [REDACTED] wrote:

Hi Dylan. Tree harvesting company will remove everything but the stumps from the trees on the wetland. CRP will not be touched.

Eventually, i will cause the stumps to be removed from the non wetland.

Once the CRP has expired, I will remove the trees from the CRP.

Just wanted to give you a heads up

Sent from my iPhone

On Oct 12, 2022, at 11:05 AM, James F Conlan [REDACTED] wrote:

Dylan, my graphics ability is poor (at best). Do you have the ability to lay the map that shows the existing wetland determined areas (1-5) over the map that shows the CRP areas? I can take a shot at it but it will be crude.

Sent from my iPhone

On Oct 12, 2022, at 9:42 AM, James F Conlan [REDACTED] wrote:

Dylan, thank you. I would be grateful if you could pre fill and send to me.

My intention is to:

- not touch the CRP
- remove the tree (but not the stumps) from existing determined wetland (ie no dirt disturbance).
- remove the trees and stumps from the balance of the land that has trees on it and ready it for farming. I don't intend to tile, or otherwise alter the hydrology.

Sent from my iPhone

On Oct 12, 2022, at 9:14 AM, Salow, Dylan - FPAC-FSA, Manchester, IA <[Dylan.Salow@usda.gov](mailto:Dylan.Salow@usda.gov)> wrote:

Hi Jim,

Thanks for touching base with us. Looking back through the file it looks like certain areas have erodibility determinations (NHEL, HEL) done (highlighted). Some areas do not. If anything that is not highlighted on the attached map will be cropped, we will need to get those determined. Please indicate that if you know at this time and mark the boundaries on the map if possible. For this we will check "yes" in 6A.

As far as the additional wetland determinations on areas not determined already, we will have to get that done if there are any new activities related to land leveling, clearing, filling, dredging, or excavation. You will see that outlined in our **AD-1026 Highly Erodible Land Conservation and Wetland Conservation Certification form Part B**. Since you are planning on taking the trees and stumps out on the undetermined areas this will initiate us to have you file this form and check "yes" in 7A. We will check "no" for the remaining 7B and 7C.

I can prefill this form out for you and send it for electronic signature if that works for you. If you would rather send it by email that is fine also, just let me know. The only other thing I would like to have is a map marked with areas that are going to be cropped in the future so we know where to do the HEL/NHEL determinations.

## Dylan Salow

Program Technician

USDA – Iowa – Delaware County Farm Service Agency

200 S 12<sup>th</sup> St

Manchester, IA 52057

Phone (563) 927-4250

Fax (855) 208-8590

[dylan.salow@usda.gov](mailto:dylan.salow@usda.gov)

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**From:** James F Conlan [REDACTED]

**Sent:** Wednesday, October 12, 2022 9:02 AM

**To:** Mack, David - NRCS, Manchester, IA <[david.mack@usda.gov](mailto:david.mack@usda.gov)>

**Cc:** Rahe, Katherine - FSA, Manchester, IA <[kathy.rahe@usda.gov](mailto:kathy.rahe@usda.gov)>; Salow, Dylan - FPAC-FSA, Manchester, IA <[Dylan.Salow@usda.gov](mailto:Dylan.Salow@usda.gov)>; Tobin Matt <[matt@highpointlandcompany.com](mailto:matt@highpointlandcompany.com)>

**Subject:** Re: [External Email]FSA Farm #4771 Tract #360 Lucas

OK. I looked at the 1026 form. David, I would appreciate your help in filling out the form.

Sent from my iPhone

On Oct 12, 2022, at 8:58 AM, Mack, David - NRCS, Manchester, IA <[david.mack@usda.gov](mailto:david.mack@usda.gov)> wrote:

Thanks for the additional information Jim. Any areas that have not had an HEL and/or wetland determination completed on them that you plan to bring into crop production need to have a determination done on them. Filling out form 1026 will get that started for you. We will get the existing wetlands and CRP flagged for you this fall.

Dave

**From:** James F Conlan [REDACTED]  
**Sent:** Tuesday, October 11, 2022 6:03 PM  
**To:** James F Conlan [REDACTED]  
**Cc:** Mack, David - NRCS, Manchester, IA <[david.mack@usda.gov](mailto:david.mack@usda.gov)>; Rahe, Katherine - FSA, Manchester, IA <[kathy.rahe@usda.gov](mailto:kathy.rahe@usda.gov)>; Salow, Dylan - FPAC-FSA, Manchester, IA <[Dylan.Salow@usda.gov](mailto:Dylan.Salow@usda.gov)>; Tobin Matt <[matt@highpointlandcompany.com](mailto:matt@highpointlandcompany.com)>  
**Subject:** Re: [External Email]FSA Farm #4771 Tract #360 Lucas

Hi David, I should have been clearer --

I would like CRP areas, and the areas that have been determined to be wetlands in the past, flagged.

Thanks

Sent from my iPhone

On Oct 11, 2022, at 5:48 PM, James F Conlan [REDACTED] wrote:

Hi David.

1. I would like the areas that have been determined to be wetlands in the past flagged;
2. Not sure when we will start work but could be as early as November, 2022 -- when the current crop is out, and should be finished before the 2023 crop goes in;
3. I do not wish to have any further or additional determination on wetlands. If I need an HEL determination (separate and apart from a wetland determination) before bringing land into production that is not currently cropped, not currently in crp, and not currently a determined wet land, please let me know.

Sent from my iPhone

On Oct 11, 2022, at 4:28 PM, Mack, David - NRCS, Manchester, IA <[david.mack@usda.gov](mailto:david.mack@usda.gov)> wrote:

Hi Jim, Congrats on your purchase and thanks for keeping us in the loop! We can get those areas marked with wire flags. When do you plan to start the work? Also, some areas of the farm have not had a wetland determination and Highly Erodible Land (HEL) determination. Please work with FSA to submit form 1026 to get that determination process started for the new areas you plan to bring into crop production.

Dave

Dave Mack  
District Conservationist  
USDA NRCS  
200 S. 12<sup>th</sup> St.  
Manchester, IA 52057  
Office 563-927-4590 X 305  
Cell 641-208-2757

**From:** James F Conlan [REDACTED]  
**Sent:** Friday, October 7, 2022 4:49 PM  
**To:** Rahe, Katherine - FSA, Manchester, IA <[kathy.rahe@usda.gov](mailto:kathy.rahe@usda.gov)>  
**Cc:** Mack, David - NRCS, Manchester, IA <[david.mack@usda.gov](mailto:david.mack@usda.gov)>; Salow, Dylan - FPAC-FSA, Manchester, IA <[Dylan.Salow@usda.gov](mailto:Dylan.Salow@usda.gov)>; Tobin Matt <[matt@highpointlandcompany.com](mailto:matt@highpointlandcompany.com)>  
**Subject:** Re: [External Email]FSA Farm #4771 Tract #360 Lucas

Hi Kathy. Cory Pfab is the tenant and will be assignee of the CRP contact -- receiving the payment shares in lieu of CTM Holdings LLC.

Sent from my iPhone

On Oct 7, 2022, at 10:28 PM, Rahe, Katherine - FSA, Manchester, IA <[kathy.rahe@usda.gov](mailto:kathy.rahe@usda.gov)> wrote:

Hi Jim,

Thank you for notifying us of the change. I have retrieved a copy of the Warranty Deed conveying ownership from the Iowa Land Records website. I will initiate the process of updating ownership in our Farm Records database.

I will need to initiate a CRP contract revision due to the change in ownership. When visiting the office earlier this summer we did have a brief discussion on this topic, you indicated you may have a tenant that you would want to also be on the CRP contract receiving the payment shares in lieu of CTM Holdings LLC. Please advise how you would like to proceed with that scenario. If you will be in the area we can schedule a time for you to visit the office to sign documents, or they may be completed via email or electronic signature.

Both Dave and Dylan are out of the office today, and our offices will be closed on Monday October 10, 2022 in observance of Columbus Day, a Federal holiday. I would anticipate one or both of them responding to you next week regarding your request to mark the wetland and CRP areas. Please let me know any questions you have. Thank you!

**Kathy Rahe**

Key Program Technician  
USDA – Farm Service Agency  
Delaware County, Iowa  
(563)927-4250  
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[kathy.rahe@usda.gov](mailto:kathy.rahe@usda.gov)

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**From:** James F Conlan [REDACTED]  
**Sent:** Friday, October 7, 2022 3:16 AM  
**To:** Mack, David - NRCS, Manchester, IA <[david.mack@usda.gov](mailto:david.mack@usda.gov)>  
**Cc:** Rahe, Katherine - FSA, Manchester, IA <[kathy.rahe@usda.gov](mailto:kathy.rahe@usda.gov)>; Salow, Dylan - FPAC-FSA, Manchester, IA <[Dylan.Salow@usda.gov](mailto:Dylan.Salow@usda.gov)>; Tobin Matt <[matt@highpointlandcompany.com](mailto:matt@highpointlandcompany.com)>  
**Subject:** Re: [External Email]FSA Farm #4771 Tract #360 Lucas

Hi All. I did close on the purchase of the Lucas Farm on Sept 30, 2022. CTM Holdings, LLC is now the owner.

1. I do plan to remove the trees, but not the stumps, from the determined wetlands.

2. I will not disturb the crp in any way, including the tree crp.

3. I do plan to remove the trees and the stumps from, and ready for farming, the land that is neither determined wetland nor crp.

I would be grateful if we could arrange to mark the determined wetlands area and the crp areas so the loggers stay off the crp and so we do not remove stumps from the determined wetlands.

Sent from my iPhone

On Aug 10, 2022, at 8:29 PM, Mack, David - NRCS, Manchester, IA <[david.mack@usda.gov](mailto:david.mack@usda.gov)> wrote:

Hi Jim,

Thanks for keeping us in the loop regarding your plans for this property. I wanted to clarify the USDA Farm Bill Wetland provisions that you, Dylan, and I discussed during our visit in the office.

Normal logging/timber harvest without stump removal and new trees are planted or encouraged to grow is generally not considered a wetland violation. If you plan to clear the site and remove stumps after logging that could be considered making agricultural production possible which could/would result in a wetland violation.

The areas that have not had a wetland determination are considered "not inventoried" meaning a wetland deamination has not been completed on the areas. We encourage you to request a determination on these areas prior to any clearing, filling, draining activities.

I've attached a handout that covers USDA wetland information in more detail that I hope you find useful.

Dave

**From:** James F Conlan [REDACTED]

**Sent:** Tuesday, August 9, 2022 5:17 AM

**To:** Rahe, Katherine - FSA, Manchester, IA <[kathy.rahe@usda.gov](mailto:kathy.rahe@usda.gov)>

**Cc:** Salow, Dylan - FPAC-FSA, Manchester, IA <[Dylan.Salow@usda.gov](mailto:Dylan.Salow@usda.gov)>; Mack, David - NRCS, Manchester, IA <[david.mack@usda.gov](mailto:david.mack@usda.gov)>

**Subject:** Re: [External Email]FSA Farm #4771 Tract #360 Lucas

Kathy, thank you. I should have been clear that I do not intend to log trees off CRP. While I knew Field 11 was CRP, i did not know it was tree planting crp. I will make sure the loggers have clear markers to avoid CRP areas of all kinds.

I intend to log all the trees off the areas that are not CRP. I also intend to log all the trees off areas that are determined wetlands and areas that have not been determined to be wetlands (and are not CRP).

As I read the statutes, logging trees off wetland is not a wetland violation, and there is no requirement to seek additional wetland determination before removing trees from non crp land that has not been determined a wetland. If i'm missing something in the statutes, and the rules interpreting them, please let me know.

Kathy, I appreciate your knowledge and help.

Sent from my iPhone

On Aug 3, 2022, at 11:19 AM, Rahe, Katherine - FSA, Manchester, IA <[kathy.rahe@usda.gov](mailto:kathy.rahe@usda.gov)> wrote:

Good Morning Jim,  
Glad we could help!

I have attached the tract map for reference. Field number 11 is part of the CRP contract and is a tree planting practice, so the trees within that field do need to remain through the end of the CRP contract (scheduled to expire 09-30-2024). I could not recall if we had specifically discussed that field the day you were in the office.

To my knowledge, the current owners have not submitted any additional request for wetland determinations on the farm. At this time, any logging or widespread tree removal could potentially create a wetland violation situation. A wetland violation would jeopardize all financial benefits associated to the farm, including those of any tenants associated to the farm, and possibly their other farming interests. Not sure the extent of what you are referencing below, but please keep in mind once a wetland determination request is filed, it may take a few months to receive the determination back. Let me know if you have additional questions.

Thanks for checking in!

**Kathy Rahe**

Key Program Technician  
USDA – Farm Service Agency  
Delaware County, Iowa  
(563)927-4250  
Fax (855)208-8590  
[kathy.rahe@usda.gov](mailto:kathy.rahe@usda.gov)

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**From:** James F Conlan [REDACTED]  
**Sent:** Wednesday, August 3, 2022 5:45 AM  
**To:** Salow, Dylan - FPAC-FSA, Manchester, IA <[Dylan.Salow@usda.gov](mailto:Dylan.Salow@usda.gov)>  
**Cc:** Rahe, Katherine - FSA, Manchester, IA <[kathy.rahe@usda.gov](mailto:kathy.rahe@usda.gov)>  
**Subject:** Re: [External Email]FSA Farm #4771 Tract #360 Lucas

Thanks again for taking the time to talk about the farm next to the town of Delaware -- very helpful.

As a heads up, in the Autumn, I intend to have the trees logged off the farm - they are mostly soft maple (not very valuable wood and mostly used for pallets). There are, of course, no trees on the crp acres.

Sent from my iPhone

On Jul 19, 2022, at 8:18 AM, Salow, Dylan - FPAC-FSA, Manchester, IA <[Dylan.Salow@usda.gov](mailto:Dylan.Salow@usda.gov)> wrote:

Jim,

Just following up with you before stopping in tomorrow. In order to view/discuss information relating to the Lucasland property, we will need you to provide a signed purchase agreement or have a written statement from the owner that it is ok to discuss this information pertaining to property owned by them in Delaware County. You can bring this with tomorrow or send me an email with the attached information. Let me know if you have any further questions.

Thanks

**Dylan Salow**  
Program Technician  
USDA – Iowa – Delaware County Farm Service Agency  
200 S 12<sup>th</sup> St  
Manchester, IA 52057  
Phone (563) 927-4250  
Fax (855) 208-8590  
[dylan.salow@usda.gov](mailto:dylan.salow@usda.gov)

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**From:** James F Conlan [REDACTED]  
**Sent:** Monday, July 18, 2022 8:34 AM  
**To:** Nickol, Heidi - FSA, Urbandale, IA <[heidi.nickol@usda.gov](mailto:heidi.nickol@usda.gov)>  
**Cc:** Portz, Joseph - FSA, Epworth, IA <[joseph.portz@usda.gov](mailto:joseph.portz@usda.gov)>; Rahe, Katherine - FSA, Manchester, IA <[kathy.rahe@usda.gov](mailto:kathy.rahe@usda.gov)>; Salow, Dylan - FPAC-FSA, Manchester, IA <[Dylan.Salow@usda.gov](mailto:Dylan.Salow@usda.gov)>  
**Subject:** Re: [External Email]FSA Farm #4771 Tract #360 Lucas

Thanks very much, Heidi. Hi Joseph, Katherine, and Dylan. I'm in Eastern Iowa this Wednesday afternoon and Thursday if that is a convenient time to meet.



Sent from my iPhone

On Jul 18, 2022, at 9:28 AM, Nickol, Heidi - FSA, Urbandale, IA <[heidi.nickol@usda.gov](mailto:heidi.nickol@usda.gov)> wrote:

Hi Jim,

I took a new position with FSA and am no longer the CED in Delaware County. I have CC'd the Acting CED and two employees at the Delaware office on this email to assist you as your questions cross a few different areas of program eligibility. I am certain they can answer your questions. Have a great day!

Heidi J Nickol  
Agricultural Program Specialist  
Iowa State Office - Farm Service Agency  
United States Department of Agriculture  
10500 Buena Vista Ct  
Des Moines, IA 50322-3782

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**From:** James F Conlan [REDACTED]  
**Sent:** Saturday, July 16, 2022 10:18 PM  
**To:** Nickol, Heidi - FSA, Urbandale, IA <[heidi.nickol@usda.gov](mailto:heidi.nickol@usda.gov)>  
**Subject:** [External Email]FSA Farm #4771 Tract #360 Lucas

[External Email]

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Hi Heidi. I look forward to meeting you and talking about the following.

I recently signed an agreement to purchase the above referenced farm. We close on or before October 1, 2022.

10.4 acres of the farm are enrolled in the CRP, expiring after the 2024 crop year. 9 acres of the farm appear to have been designated wetlands in 2010, but not the 10.4 acres that were thereafter enrolled in the CRP. The wetland designation forms and maps from 2010 are attached.

I would like your help with the process of seeking a determination (a redetermination) that some or all of the 9 acres are not wetlands. Before any such redetermination, I would also be grateful for any guidance you may provide on the removal of trees from the farm. Specifically, there are 21 acres of trees on the farm and I would also like to know if anything from FSA is necessary for me to:

1. remove the 11/12 acres of trees from the farm that are not on the 10.4 acres of CRP and are not on the 9 acres currently designated as wetlands; and

2. remove trees that are part of the currently designated 9 acres of wetlands.

Heidi, my review of the applicable law, rules, and regulations leads me to the following conclusions:

a. without losing eligibility to participate in USDA programs, I may remove the trees on the 11/12 acres that are not currently designated wetlands and are not in the CRP, and I may farm those 11/12 acres; and

b. without losing eligibility to participate in USDA programs, I may remove the trees on the 9 acres of designated wetlands provided I do not thereafter use the 9 acres for crops (ie the trees are not removed for the purpose, or to have the effect, of making the production of an agricultural commodity possible ... on the currently designated wetlands). 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).

Again, I look forward to discussing the above with you and wanted to provide you some context for our discussion. My contact details follow:

Jim Conlan

[REDACTED]

Mobile [REDACTED]

Through two legal entities (B&C, LLC and CTM Holdings LLC), I own and lease to farmers land in Delaware, Linn, Jackson, and Dubuque counties. I grew up in Bernard, Iowa, went to Wahlert High School and the University of Iowa.

Thanks very much for your time.

Sent from my iPhone

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# EXHIBIT 13





















# EXHIBIT 14

Wetland & CRP MAP FOR JIN'S DAD 5/8/23







3. Identified as Exhibit “5”, produced by Defendants with the bate-stamp USDA 000047-48, and provided in Plaintiff’s Appendix in Support of Plaintiff’s Motion for Summary Judgment is a true and correct copy of the 2022 CRP Contract between the USDA and CTM Holdings.
4. Identified as Exhibit “6”, produced by Defendants with the bate-stamp USDA 000021-46, and provided in Plaintiff’s Appendix in Support of Plaintiff’s Motion for Summary Judgment is a true and correct copy of an email chain between USDA/NRCS and Plaintiff’s managing-member, James F. Conlan.
5. Identified as Exhibit “7”, produced by Defendants with the bate-stamp USDA 000001-2, and provided in Plaintiff’s Appendix in Support of Plaintiff’s Motion for Summary Judgment is a true and correct copy of the AD-1026 Form submitted by Plaintiff to the USDA in 2022.
6. Identified as Exhibit “10”, produced by Defendants with the bate-stamp USDA 000004-5, and provided in Plaintiff’s Appendix in Support of Plaintiff’s Motion for Summary Judgment is a true and correct copy of a 2022 USDA Producer Farm Data Report.
7. Identified as Exhibit “11”, produced by Defendants with the bate-stamp USDA 000173-177, and provided in Plaintiff’s Appendix in Support of Plaintiff’s Motion for Summary Judgment is a true and correct copy of a 2022 email chain between USDA/NRCS and the prior owner’s realtor.
8. Identified as Exhibit “14”, produced by Defendants with the bate-stamp USDA 000144, and provided in Plaintiff’s Appendix in Support of Plaintiff’s Motion for Summary Judgment is a true and correct copy of a 2023 wetlands map of the Property, with the notation that it was provided to James F. Conlan’s father.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on January 27, 2025.

/s/ Loren Seehase  
Loren A. Seehase\*  
Hawaii Bar No. 10414  
[lseehase@libertyjusticecenter.org](mailto:lseehase@libertyjusticecenter.org)  
LIBERTY JUSTICE CENTER  
7500 Rialto Blvd., Suite 1-250  
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(512) 481-4400