



United States Department of Agriculture



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Drainage Workshop

USDA Wetland Determination Process

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USDA Farm Bill Program

Rules: FSA & NRCS



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Food Security Act of 1985 Farm Bill Directed USDA-NRCS to complete certified wetland determinations for USDA Participants.

How does a USDA Participant get a certified wetland determination from NRCS?

- Contact the local USDA-Farm Service Agency(FSA) to start the process
- Be as detailed as possible on where the existing systems are, size, scope, layout, outlets, year installed on the tract map



How does a USDA Participant get a certified wetland determination from NRCS?

- **Complete AD-1026(USDA's request for a wetland determination) with Farm Service Agency as the starting point for all determinations.**





AD-1026 Form

This form is available electronically.

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

AD-1026
(10-30-14)U.S. DEPARTMENT OF AGRICULTURE
Farm Service AgencyHIGHLY ERODIBLE LAND CONSERVATION (HELIC) AND
WETLAND CONSERVATION (WC) CERTIFICATION

Read attached AD-1026 Appendix before completing form.

PART A - BASIC INFORMATION

1. Name of Producer John Smith	2. Tax Identification Number (Last 4 digits) 4321	3. Crop Year 2018
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4. Names of affiliated persons with farming interests. Enter "None," if applicable.

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

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

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

- does not participate in any USDA program that is subject to HELIC 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 - HELIC/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?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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): _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
B. Improve or modify an existing drainage system that has NOT been evaluated by NRCS? If "YES", indicate the year(s): _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Note: If "YES" is checked for item 7A or 7B, then Part C must be completed to authorize NRCS to make an HELIC/WC and/or certified wetland determination on the identified land. If "YES" is checked for item 7C, NRCS does not have to conduct a certified wetland determination.		
8. Check one or both boxes, if applicable, otherwise, continue to Part C or D.		
A. <input type="checkbox"/> Check this box only if the producer in Part A has FCIC reinsured crop insurance and filing this form represents the <u>first time</u> the producer in Part A, including any affiliated person, has been subject to HELIC and WC provisions.		
B. <input type="checkbox"/> Check this box if either of the following applies to the producer and crop year entered in Part A: • is a tenant on a farm that is/will not be in compliance with HELIC 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 HELIC 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: 9999 T12
If unknown, contact the Farm Service Agency at the nearest USDA Service Center.

B. Activity: Add new tile to field 4

C. Current land use (specify crops): _____

D. County: Grant

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A person that applies for USDA benefits is responsible for obtaining wetland determinations, exemptions, and scope and effect evaluations before—

- **Altering any wetland area**
- **Improving an existing drainage system**
- **Maintaining an existing drainage system**

To assist in scope and effect evaluations, the USDA participant is responsible for:

- **Providing records and plans for any past hydrologic manipulations.**
- **Furnishing plans for any proposed manipulations, including the drainage capacity of existing and planned drainage systems.**
- **The participant is also responsible for complying with all Federal, State, or local regulations, permits, etc., administered by other agencies**



Check the Appropriate Request



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): _____

☒
☐

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.

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Detailing Existing and Proposed Drainage Systems

Proposed Date of Drainage Work to Begin: _____

Phone Number: _____

Existing Drainage and Proposed Drainage Installation
Wisconsin Job Sheet 823

Natural Resources Conservation Service (NRCS) Wisconsin

Name: _____ FSA Tract No.: _____

Address: _____ Field No.: _____

County: SHEBOYGAN T. R. S. 14 S. 14 1/4 S.

 Date(s) of existing drainage installation: _____

Existing Subsurface Drainage Tile	Proposed Subsurface Drainage Tile
Average Depth (ft.): _____	Average Depth (ft.): _____
Lateral Size (in.): _____	Lateral Size (in.): _____
Main Size (in.): _____	Main Size (in.): _____
Spacing (ft.): _____	Spacing: _____
Type of Tile (concrete, clay, PVC, etc.): _____	Type of Tile (concrete, clay, PVC, etc.): _____
Surface Inlets? <input type="checkbox"/> Yes <input type="checkbox"/> No	Surface Inlets? <input type="checkbox"/> Yes <input type="checkbox"/> No

Existing Ditches	Proposed Ditches																
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Average Depth</th> <th>Year of Last Cleanout</th> </tr> </thead> <tbody> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> </tbody> </table>	Average Depth	Year of Last Cleanout							<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Average Depth</th> <th>Year of Last Cleanout</th> </tr> </thead> <tbody> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> </tbody> </table>	Average Depth	Year of Last Cleanout						
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Average Depth	Year of Last Cleanout																

Pumps

Existing: ☐ Permanent ☐ Portable

Proposed: ☐ Permanent ☐ Portable

Other Drainage Work (shaping, filling, maintenance, repairs, etc.) _____

Describe how the proposed drainage will connect to the existing drainage. _____

I hereby certify that the above information is true and correct to the best of my knowledge and belief.

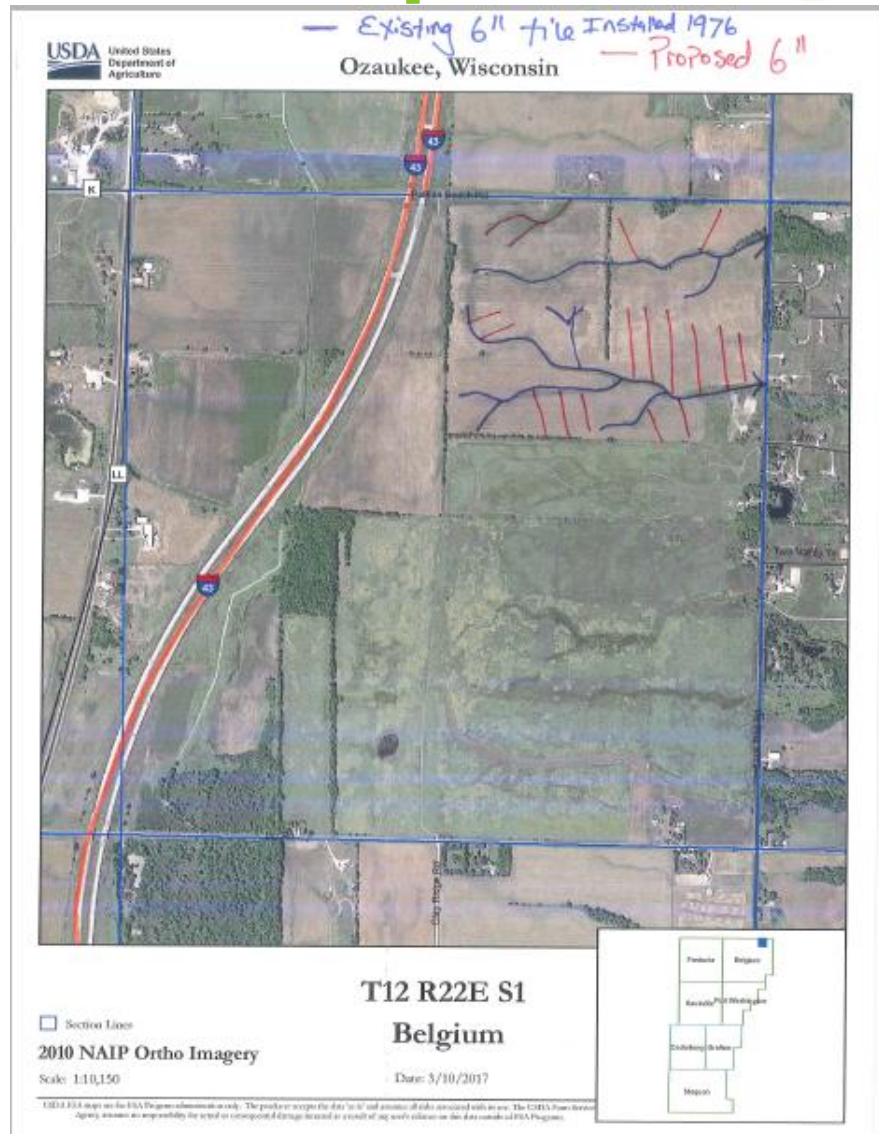
Signature

Date

Show all existing and proposed drainage work according to the reverse-side legend on an aerial photo copy and attach it to this form or sketch it on the back of this form.



Detailed Tile Map Needed With Request



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NRCS Wetland determination Roles:

- When wetland determination form is completed with FSA(AD-1026) they will send it to our office to complete the determination.
- We will complete the determination out of the Juneau Area Office using a number of historical air photo's prior to 1985, soils maps, and if needed will make an appointment with the producer to do a field visit.
- NRCS provides you with a certified wetland determination to identify for producers where wetlands are located on the tract of land that they own or operate.
- Provide technical assistance when requested in writing: How close can I tile to the wetland boundary? Can NRCS flag my wetland boundary?



Wetland Determinations

- Identifies the field, label, acreage and date of determinations
- Matches the attached Map for locations and boundaries

Section II - Wetlands

Fields in this section have had wetland determinations completed. See the Definition of Wetland Label Codes for additional information regarding allowable activities under the wetland conservation provisions of the Food Security Act and/or when wetland determinations are necessary to determine USDA program eligibility.

Field(s)	Wetland Label*	Occurrence Year (CW)	Acres	Determination Date	Certification Date
54	FWP		10.2	2/2/2018	3/2/2018
37	W		0.6	2/2/2018	3/2/2018
37	AW		0.1	2/2/2018	3/2/2018
33	FWP		2.2	2/2/2018	3/2/2018
1-7, 15-24	NW				

The wetland determination was completed in the office. It was mailed to the person on 2/2/2018



Wetland Determination Boundaries



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Wetland Definitions & Restrictions

Name and Label	Criteria For Determination	Authorized Uses	Authorized Maintenance	Paragraph Reference
(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

[M.180.514.G Fourth Edition, Amendment 4 - January 2008]

Name and Label	Criteria For Determination	Authorized Uses	Authorized Maintenance	Paragraph Reference
(CW+year) Converted wetland	Converted after November 28, 1990.	Conversion causes ineligibility, regardless of whether production of agricultural commodity occurred.	Not applicable.	Part 514.40
(CWNA)	Converted wetland for non-agricultural purposes.	Production of agricultural commodities will cause ineligibility.	No restrictions.	Part 514.52
(CWTE) 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
(FW) Farmed Wetland	Manipulated and used for the production of an agricultural commodity as of December 23, 1985. 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. Not abandoned.	May be used for production of agricultural commodities or forage.	May be maintained to the extent that existed before December 23, 1985, if "as built" records exist. May be maintained to the extent that existed on December 23, 1985, if no "as built" records exist.	Part 514.31



Understanding your Determination



- Review the Map boundaries/Labels and AD-026E for acreages, and reference the last pages of the determination for the restrictions associated with it.
- “In general”
 - Any areas labeled as Wetlands(W) you need to avoid any drainage in, and adjacent to the wetland boundary
 - Any areas labeled as Farmed Wetland(FW) – Only maintenance, no additional drainage, or surface inlets
 - Prior Converted(PC) & Non-Wetland(NW) – No USDA restrictions apply for drainage, or filling.
- **The AD-1026 from is NOT a permission slip! NRCS does not issue any type of wetland permits.**



What if you Disagree with your Determination?

- If you disagree with your determination you have 30 days to request in writing that you would like to appeal the determination and have a reconsideration.
- If you do appeal the determination its helpful if you have any new information that you may have found since you completed the determination request such as digging and finding old tile lines, or a tile map.
- We will complete the reconsideration based on any new information such as finding old tile or any other drainage features that may have been missed in the original evaluation.



Wetland Determination Labels/Definitions

- **Prior Converted(PC)** - A wetland converted and cropped at least once prior to December 23, 1985, and as of December 23, 1985, the site did not support woody vegetation, *was physically capable of being cropped*, did not meet farmed wetland hydrology criteria, and remained in Agricultural Use.



For USDA Programs – “Once Prior Converted, Always Prior Converted

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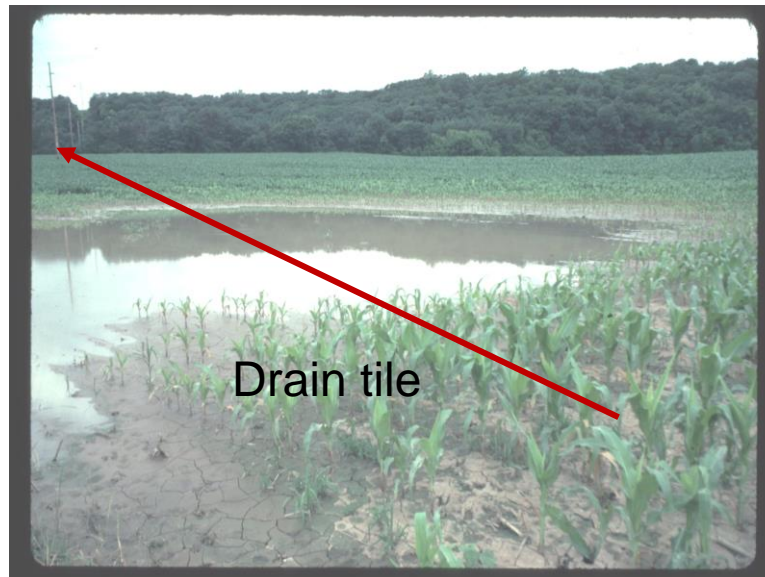


Farmed Wetland

Farmed Wetlands (FW)

Wetlands that were drained, dredged, filled, leveled, or otherwise manipulated before December 23, 1985, for the purpose of, or to have the effect of, making the production of an agricultural commodity possible, *and continue to meet specific wetland hydrology criteria. Typically depressional in nature of about 1 foot deep.*

**Drainage can be fix/maintained but can't be improved. No additional tile lines.*



Converted Wetland (CW) & (CW+ Year)

A wetland 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, circulation, or reach of water) for the purpose of, or to have the effect of, making possible the production of an agricultural commodity.

When the Act was signed in 1985, it stated that persons shall be ineligible for USDA benefits if an agricultural commodity is planted on wetland that was *converted after December 23, 1985.*



CW & CW+ year

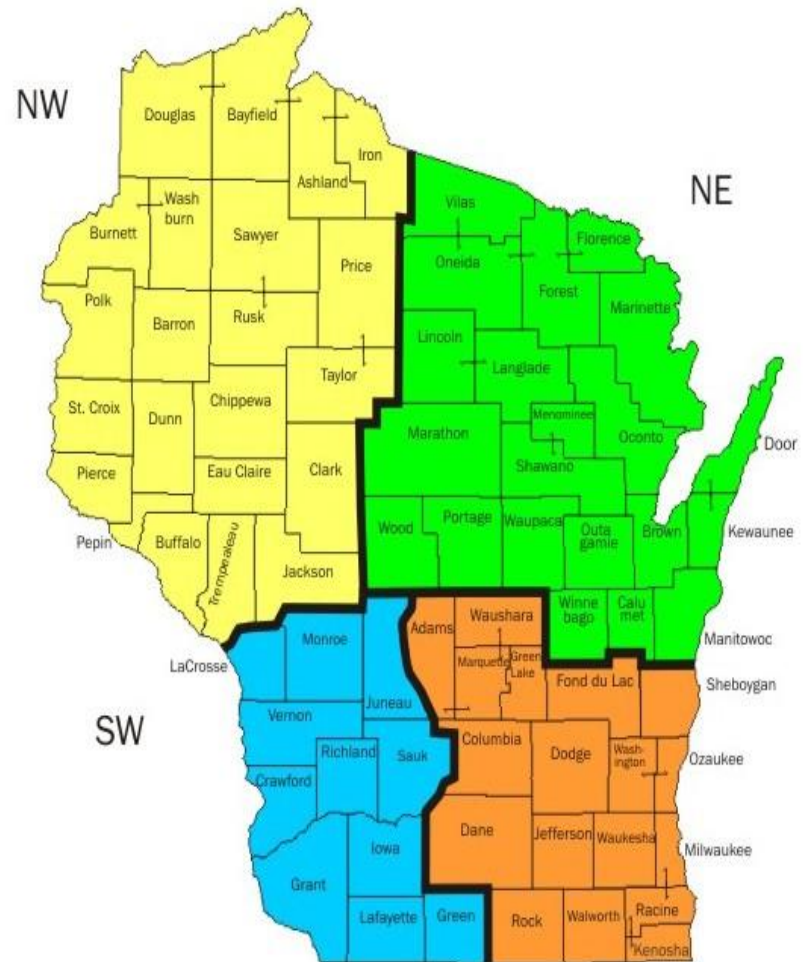


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Wisconsin Wetland Determination Workload 2015

Southeast: 952 requests
Southwest: 193 requests
Northeast: 756 requests
Northwest: 903 requests
Total : 2804 requests
(4th highest number in the Nation)



Closing Thoughts

- Request a determination 1 season prior to planned work, but in general it takes 4 weeks.
- Request a copy of an existing determination prior to doing any drainage work and make sure you know where you'll be tiling and if it will impact any restricted wetland areas.
- Maintenance such as fixing a tile blow out, repairing the 20 feet of an outlet, or cleaning out an existing drainage ditch to the same depth, width is allowed by the Farm Bill in general without a wetland determination request..."in general".
- It never hurts to request a determination even if you know there are no wetland to ensure your program benefits are not jeopardized.





USDA Contacts:



Farm Service Agency:

West Bend:

- Katie Ziemer: 262-335-4860 Ext.2 katie.zimer@wi.usda.gov

Sheboygan Falls

- Cheryl Schleis: 920-467-9917 Ext.2 Cheryl.Schleis@wi.usda.gov

Natural Resources Conservation Service:

Michael Patin – 920-304-6726 Michael.patin@wi.usda.gov



Questions?



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