

United States Department of Agriculture



Helping People Help the Land
Natural Resources Conservation Service

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Preliminary Technical Determination for Highly Erodible Land and Wetland Conservation

June 12, 2012

Shady Lodge Farm LLC
6255 W Clark Rd
Lansing, Michigan 48906-9314

RE: Farm 6611, Tract 1096

Dear Shady Lodge Farm LLC:

The 1985 Food Security Act, as amended, requires program participants who receive USDA benefits to be notified whether there is Highly Erodible Land (HEL) or Wetlands (WC) on tracts they report to the Farm Service Agency (FSA). The Natural Resources Conservation Service (NRCS) completes HEL and WC technical determinations at the request of the participant and provides them to FSA and USDA program participants. The USDA program participant is responsible to be in compliance with the HEL and WC provisions. The HEL provision requires that participants maintain a conservation system that controls soil erosion on HEL. The WC provision requires that participants not convert wetlands without approved exemptions.

Enclosed are the results of the Preliminary Technical Determination for **Farm 6611, Tract 1096**. The Preliminary Technical Determination is documented on the enclosed Form NRCS-CPA-026-E-H for Highly Erodible Land and Form NRCS-CPA-026-E-W for Wetland Conservation. There are also aerial photos showing the field locations and the HEL and WC labels.

If you believe this determination is in error, according to 7 C.F.R. § 614.7, you have the following three appeal options. You may choose only one appeal option at a time.

1. **Within 30 days from the receipt date of this letter**, request **reconsideration** in writing to the NRCS Field Office below. Please identify the tract number(s), field number(s), and HEL and/or wetland label(s) you want reconsidered. An Area Office employee will conduct an on site investigation within 60 calendar days, unless there is an authorized weather delay or workload delay.

Edwin Martinez
District Conservationist
2343 N US-27
St. Johns, Michigan 48879-9622

2. **Or, within 30 calendar days from the receipt date of this letter**, request **mediation** as described in the enclosed brochure "Michigan Agricultural Mediation Program."

The Natural Resources Conservation Service provides leadership in a partnership effort to help people conserve, maintain, and improve our natural resources and environment.

An Equal Opportunity Provider and Employer

3. **Or, before 30 days expire from the receipt date of this letter**, request in writing a **waiver** from the NRCS State Conservationist of the above appeal rights. If accepted, the request will then be a Final Technical Determination. Send requests for waivers to:

USDA-NRCS
State Conservationist
3001 Coolidge Road, Suite 250
East Lansing, Michigan 48823-6321

After 30 calendar days from the receipt date of this letter, unless appealed using one of the three options above, the Preliminary Technical Determination appeal rights expire and it becomes a Final Technical Determination with different appeal rights.

According to 7 C.F.R. § 614.8, Final Technical Determinations have appeal rights for another 30 calendar days to either the Farm Service Agency County Committee, pursuant to 7 C.F.R. § 780, **or** the National Appeals Division, pursuant to 7 C.F.R. § 11, but not both.

The Wetland Preliminary Technical Determination/Delineation has been conducted for the purpose of implementing the wetland conservation provisions of the Food Security Act of 1985, as amended. This Determination/Delineation may not be valid for identifying the extent of the Corps of Engineers' (COE) Clean Water Act (CWA) jurisdiction or state or local regulations for this site.

If you have any questions or concerns regarding information in this letter, please call the District Conservationist at (989) 224-3720.

Sincerely,



Lynn Sampson
HELWC Specialist

Enclosures: NRCS-CPA-026-E-H and NRCS-CPA-026-E-W
Aerial Photograph(s)
Michigan Agricultural Mediation Program Brochure

cc:

Edwin Martinez, District Conservationist, NRCS, St. Johns, MI
FSA County Committee, Clinton County, MI

Michael O'Neil Trust
10003 Parkland Drive
Wexford, PA 15090-9695



United States Department
of Agriculture

Natural Resources
Conservation Service

MI-NRCS-CPA-026E-H
12/2011

HIGHLY ERODIBLE LAND CONSERVATION DETERMINATION

Name Address:	Shady Lodge Farm LLC 6255 W Clark Rd Lansing, Michigan 48906-9314	Request Date:	5/14/12	Administering County:	CLINTON
Agency or Person Requesting Determination:	FSA	Tract No:	1096	FSA Farm No.:	6611

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 tract?	Yes

Fields in this section have undergone a determination of whether they are highly erodible land (HEL) or not; fields for which an HEL Determination has not been completed are not listed. In order to be eligible for USDA benefits, a person must be using an approved conservation system on all HEL.

<u>Field(s)</u>	<u>HEL(Y/N)</u>	<u>Sodbust Violation?</u>	<u>Approximate Acres</u>	<u>Preliminary Determination Date</u>	<u>Final Determination Date (Unless Appealed)</u>
1	N	-	31.3	*	*
2	N	-	11.0	*	*
3	Y	N	48.6	6/12/12	7/12/12
4	N	-	11.1	*	*
5	Y	N	7.5	06/12/2012	07/12/2012
6	Y	N	1.5	06/12/2012	07/12/2012
7	N	N	36.4	06/12/2012	07/12/2012
8	N	N	0.4	06/12/2012	07/12/2012
9	N	N	0.6	06/12/2012	07/12/2012

The Highly Erodible Land determination was completed in the Office

Remarks: Field 3 changed to HEL

*Previous Determination Exists - Unchanged

I certify that the above determinations are correct and were conducted in accordance with policies and procedures contained in 7CFR Part 12 and the National Food Security Act Manual.

Signature Designated Conservationist	Date
/s/Lynn Sampson	06/12/12

NRCS-MI Acreage Report

Tract	Land Unit	mihel	Acres	% of Land Unit	% of Total
1096	1	NHEL	22.1	70.6%	14.9%
1096	1	HFL	9.1	29.1%	6.1%
1096	1		31.3 ac.	100%	21.1%
1096	2	NHEL	8.0	72.7%	5.4%
1096	2	HEL	3.0	27.3%	2.0%
1096	2		11.0 ac.	100%	7.4%
1096	3	NHEL	31.3	64.4%	21.1%
1096	3	HEL	17.2	35.4%	11.6%
1096	3		48.6 ac.	100%	32.7%
1096	4	NHEL	10.7	96.4%	7.2%
1096	4	HEL	0.5	4.5%	0.3%
1096	4		11.1 ac.	100%	7.5%
1096	5	NHEL	4.2	56.0%	2.8%
1096	5	HEL	3.3	44.0%	2.2%
1096	5		7.5 ac.	100%	5.1%
1096	6	NHEL	0.8	53.3%	0.5%
1096	6	HEL	0.7	46.7%	0.5%
1096	6		1.5 ac.	100%	1.0%
1096	7	NHEL	26.3	72.3%	17.7%
1096	7	HEL	10.2	28.0%	6.9%
1096	7		36.4 ac.	100%	24.5%
1096	8	NHEL	0.3	75.0%	0.2%
1096	8	HEL	0.08	20.0%	0.05%
1096	8		0.40 ac.	100%	0.27%
1096	9	NHEL	0.4	66.7%	0.3%
1096	9	HEL	0.1	16.7%	0.1%
1096	9		0.6 ac.	100%	0.4%
Total			148.4 ac.		100%

* Values may vary slightly due to rounding. "0.00" indicates values of less than 1/100th.

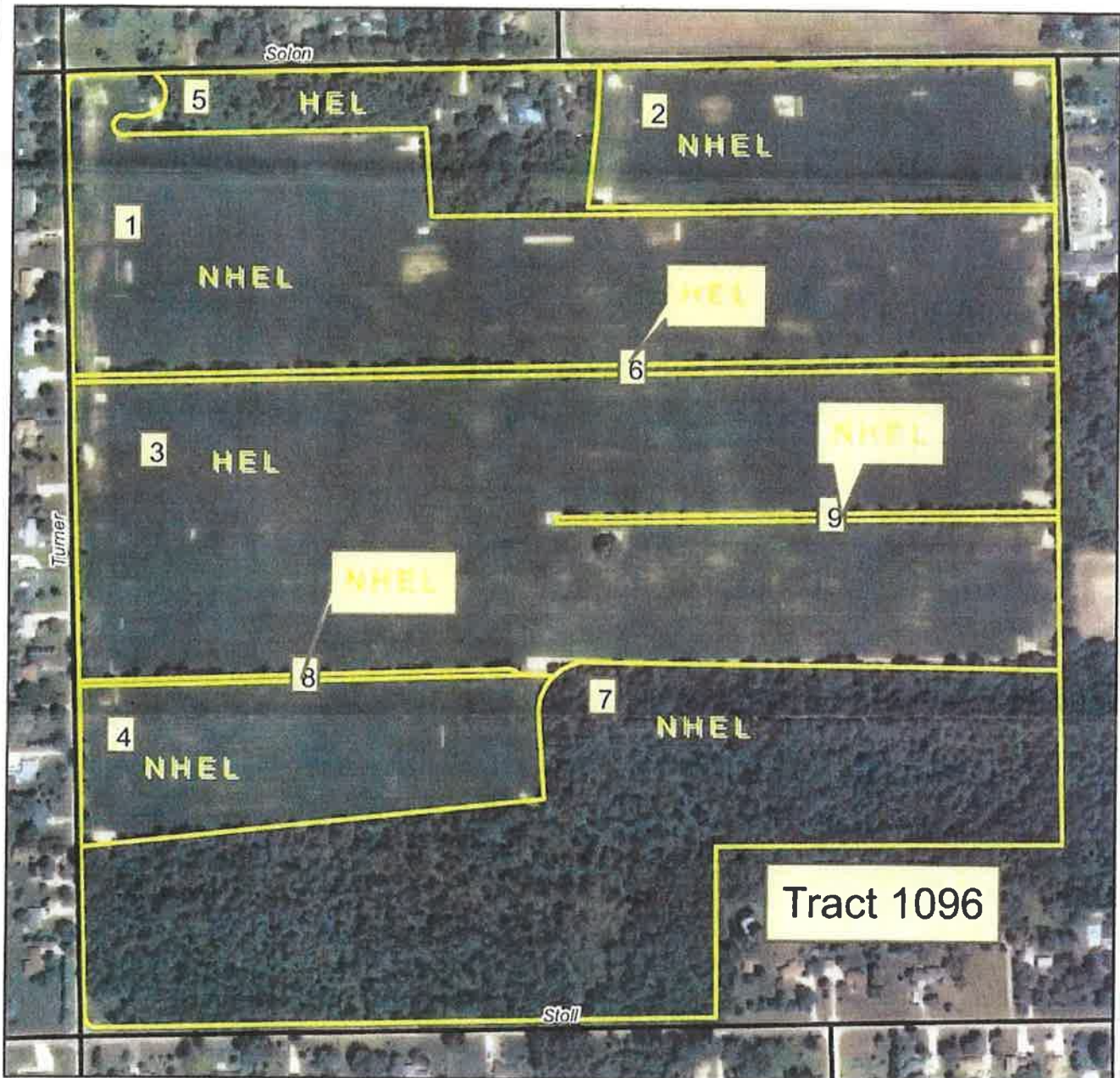
CLINTON CLU DATA - Updated 6/4/2012 7:12:14 AM

Highly Erodible Land Conservation Determination

Date: 06/12/2012

Customer(s): Shady Lodge Farm LLC
County and State: Clinton County, MI
Location: Dewitt Township, 05N02W, Section(s) 21

Agency: USDA NRCS
Assisted By: Lynn Sampson
Approx. Acres: 148.4
Land Units: Clinton - Tract 1096, Farm 6611



Legend



— Roads

□ T1096 CLU

Image: NAIP 2010

250 0 250 500 750 1,000
Feet





United States Department
of Agriculture

Natural Resources
Conservation Service

MI-NRCS-CPA-026E-W
12/2011

WETLAND CONSERVATION DETERMINATION

Name Address:	Shady Lodge Farm LLC 6255 W Clark Rd Lansing, Michigan 48906-9314	Request Date:	5/14/12	Administering County:	CLINTON
Agency or Person Requesting Determination:	FSA	Tract No:	1096	FSA Farm No.:	6611

Wetlands

Are there hydric soils on this tract?	Yes
---------------------------------------	-----

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

<u>Field(s)</u>	<u>Wetland Label</u>	<u>Year (if CW+year)</u>	<u>Approximate Acres</u>	<u>Preliminary Determination Date</u>	<u>Certified Final Determination Date (Unless Appealed)</u>
1	NW		13.0	06/12/2012	07/12/2012
1	PC		17.8	06/12/2012	07/12/2012
1	FW		0.5	06/12/2012	07/12/2012
2	PC		3.3	06/12/2012	07/12/2012
2	NW		7.4	06/12/2012	07/12/2012
2	FW		0.4	06/12/2012	07/12/2012
3	PC		13.9	06/12/2012	07/12/2012
3	NW		34.6	06/12/2012	07/12/2012
4	PC		6.4	06/12/2012	07/12/2012
4	NW		3.2	06/12/2012	07/12/2012
4	NW		1.6	06/12/2012	07/12/2012
5	W		2.4	06/12/2012	07/12/2012
5	W		2.8	06/12/2012	07/12/2012
5	NW		2.3	06/12/2012	07/12/2012
6	PC		1.5	06/12/2012	07/12/2012
7	W		22.5	06/12/2012	07/12/2012
7	NW		13.9	06/12/2012	07/12/2012
8	NW		0.4	06/12/2012	07/12/2012
9	NW		0.6	06/12/2012	07/12/2012

The wetland determination was completed in the Office It was mailed to the person on 6/13/12.

Remarks:

This certified wetland determination/delineation has been conducted for the purpose of implementing the wetland conservation provisions of the Food Security Act of 1985. This determination/delineation may not be valid for identifying the extent of the Corps of Engineers' (COE) Clean Water Act (CWA) jurisdiction or state or local regulations for this site. If you intend to conduct any activity that constitutes a discharge of dredged or fill material into wetlands or other waters, you should request a jurisdictional determination from the local office of the COE prior to starting the work.

I certify that the above determinations are correct and were conducted in accordance with policies and procedures contained in 7CFR Part 12 and the National Food Security Act Manual.

Signature Designated Conservationist	Date
--------------------------------------	------

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

DEFINITIONS OF WETLAND LABELS

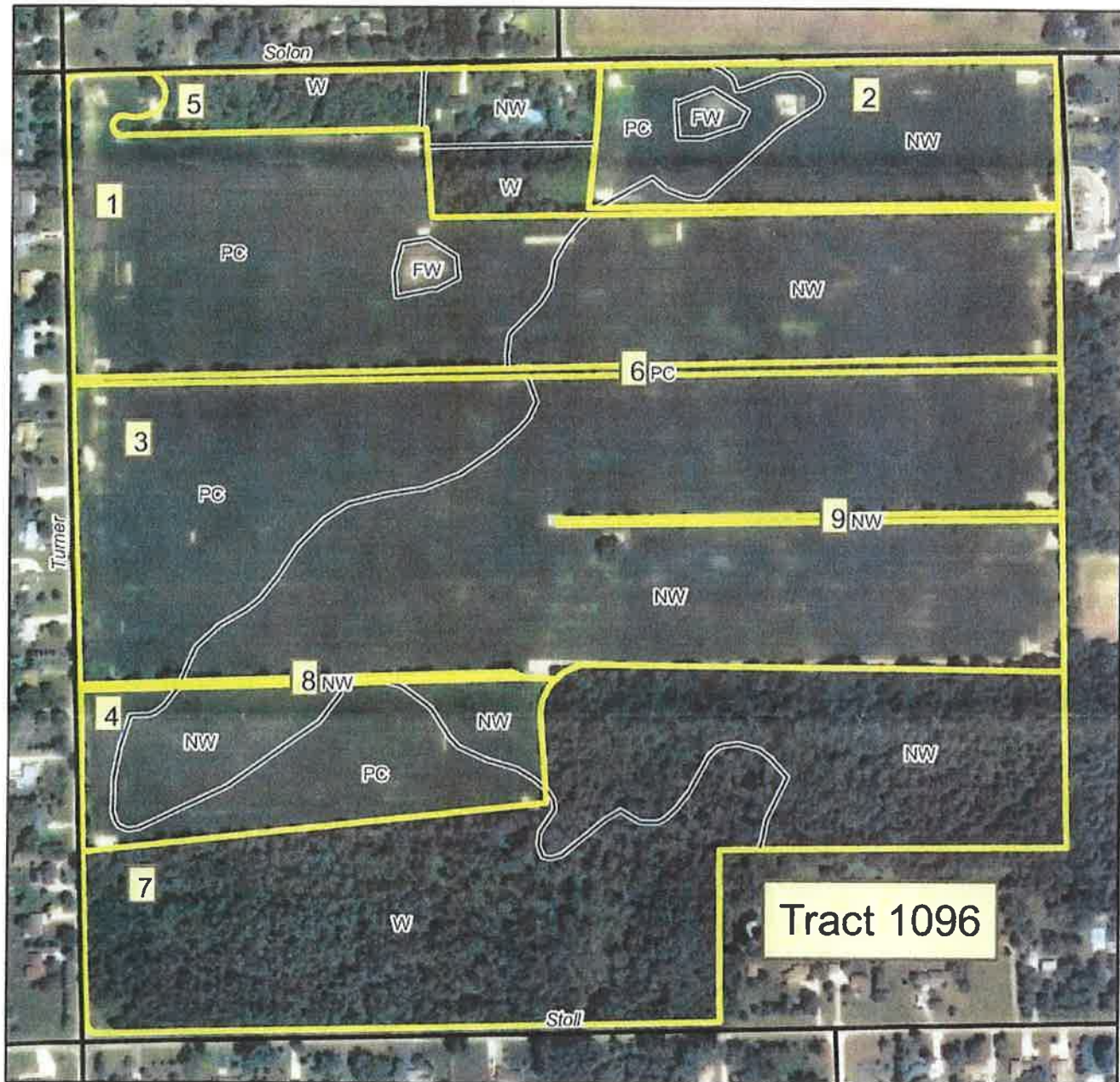
AW	<u>Artificial Wetland</u> : An area that was formerly a non-wetland area under natural conditions but now exhibit wetland characteristics because of the influence of human activities. These areas are exempt from the Food Security Act of 1985, as amended. This label includes irrigation induced wetlands.
CC	<u>Commenced Conversion</u> : A wetland, farmed wetland, farmed wetland pasture, or converted wetland on which the conversion began but was not completed before December 23, 1985, was approved by FSA to continue, and the conversion was completed by January 1, 1995.
CPD	<u>COE Permit with Mitigation</u> : A converted wetland authorized by a permit issued under Section 404 of the Clean Water Act. Production of agricultural commodities is allowed subject to conditions of the permit.
CW	<u>Converted Wetland</u> : A wetland converted between December 23, 1985 and November 28, 1990. Production of an agricultural commodity or additional manipulation of these areas will yield USDA benefit ineligibility. Also, these areas are wetlands converted after December 23, 1985 by a county, drainage district or similar entity. For these instances, production of an agricultural commodity or forage for mechanical harvest or additional manipulation will cause ineligibility for USDA program benefits.
CW+year	<u>Converted Wetland +(year the conversion occurred)</u> : A wetland converted after November 28, 1990 where the USDA program participant is ineligible for benefits until the wetland is restored or mitigated unless an exemption applies.
CWTE	<u>Converted Wetland Technical Error</u> : A wetland converted or commenced after December 23, 1985 based on an incorrect NRCS determination. This label does not apply to obvious wetlands as defined in the National Food Security Act Manual. CWTE can only be approved by the NRCS State Conservationist.
FW	<u>Farmed Wetland</u> : A wetland that is farmed under natural conditions was manipulated and planted before December 23, 1985 but still meets wetland criteria, and addresses either of the pothole, playa or pocosin criterions. These areas may be farmed and maintained as documented before December 23, 1985 as long as they are not abandoned (i.e., management or maintenance for commodity production ceased for five consecutive years).
FWP	<u>Farmed Wetland Pasture or Hayland</u> : A wetland that is used for pasture or haying under natural conditions, was manipulated and planted before December 23, 1985, meets the inundation or saturation criteria, but still meets wetland criteria. These areas may be farmed and maintained as documented before December 23, 1985 as long as they are not abandoned (i.e., management or maintenance for commodity production ceased for five consecutive years).
MIW	<u>Mitigation Exemption</u> : 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.
MW	<u>Minimal Effect Exemption</u> : 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. In Michigan, there are two types of MW: 1) non-perforated tile through a wetland; 2) wheel ramps for irrigation system.
MWM	<u>Mitigation Site</u> : The site of wetland restoration, enhancement, or creation serving as mitigation for the mitigation exemption (MIW) site.
NW	<u>Non-Wetland</u> : An area that does not contain a wetland. Also includes wetlands converted before December 23, 1985, but a commodity crop was not produced and the area does not meet wetland criteria.
PC	<u>Prior Converted Cropland</u> : A wetland converted to cropland before December 23, 1985, and as of December 23, 1985 was capable of being cropped and did not meet farmed wetland hydrology criteria. These areas are not subject to the wetland conservation provisions of the Food Security Act of 1985, as amended, unless further drainage manipulation affects adjacent wetlands.
TP	<u>Third Party Exemption</u> : 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, drainage districts, or other local government entities. FSA COC makes determinations.
W	<u>Wetland</u> : An area meeting wetland criteria that was not converted after December 23, 1985. These areas include farmed wetlands and farmed wetland pasture that have been abandoned. If a participant plans to clear, drain, fill, level these areas, contact NRCS and MDI/Q prior to any such activity.
WX	<u>Manipulated Wetlands</u> : A wetland manipulated after December 23, 1985, but the manipulation was not for the purpose of making production possible and production was not made possible. These areas include wetlands manipulated by drainage maintenance agreements.

Wetland Conservation Determination

Date: 06/12/2012

Customer(s): Shady Lodge Farms
County and State: Clinton County, MI
Location: Dewitt Township, 05N02W, Section(s) 21

Agency: USDA NRCS
Assisted By: Lynn Sampson
Approx. Acres: 148.4
Land Units: Clinton - Tract 1096, Farm 6611



Legend

— Roads

□ T1096 CLU

□ T1096 Wetland Determinations

Image: NAIP 2010

