

**UTAH – MINIMAL EFFECT EVALUATION
PROCEDURE WORKSHEET AND AGREEMENT**

Landowner: _____ Date: _____

Operator: _____ County: _____

Tract #: _____ Legal Description: _____

Wetland Label: _____ HGM Wetland Class: _____

(Depressional, Mineral Flat, Slope,
Riverine, Lacustrine Fringe)

Hydrology Observations: _____

Vegetation: _____

Soils: _____

Land Use: Current _____ Planned _____

**COMPLETE THE FOLLOWING STEPS TO DETERMINE IF PROPOSED ACTIVITY
WILL HAVE A MINIMAL EFFECT TO THE FUNCTION OF THE WETLAND**

STEP 1: Red flag and yellow flag evaluation.

Red Flag Evaluation: Does the converted wetland or wetland being proposed for conversion meet any of the following?

- a) Is a bog or fen. Bogs are wetlands that accumulate appreciable peat deposits, depend primarily on precipitation for their water source, and are usually acidic and rich in plant residue with a conspicuous mat of living green moss. Fens also accumulate peat deposits, but are less acidic than bogs, deriving most of their water from groundwater rich in calcium and magnesium.
- b) Provides habitat for federally listed or candidate threatened or endangered species or State Conservation Agreement species and would be adversely impacted by the proposed activity.
- c) Is a hazardous waste site identified by Comprehensive Environmental Compensation and Liability Act (CERCLA) or Resource Conservation and Recovery Act (RCRA).

YES – A minimal effect exemption cannot be granted.

NO – Review for yellow flags.

Yellow Flag Evaluation: Does the converted wetland or wetland being proposed for conversion meet any of the following?

- a) Created or restored as required by Federal, State, or local mitigation requirements.
- b) Provides habitat for a State Species of Concern.

- c) Located within designated wellhead protection area.
- d) Listed or has the potential to be listed on the State or National Register of Historic Places or areas protected under the American Indian Religious Freedom Act. Contact the Tribal Chairman and the Tribal Historic Preservation Officer or Tribal Cultural Preservation Officer.
- e) Under easement with restrictive covenants or deeds unless the agency or organization controlling the easement concurs in the minimal effect or mitigation proposal.
- f) Located within a landowner-designated natural area.

- YES – Proceed to Step 2, after addressing and documenting yellow flags. If yellow flags cannot be addressed, a minimal effect exemption cannot be granted.
- NO – Proceed to Step 2.

Step 2: Does the activity qualify for a Utah Expedited Minimal Effect exception?

1. Removal of Non-native, Invasive Trees and Shrubs, including stumps

- No materials removed will be placed in the wetland or adjacent waterways, except dead material as part of an erosion control practice.

2. Native Tree/Shrub Removal

- Wetland cannot exceed 5 acres.
- Wetland must have a cropping history prior to tree growth.
- No more than 1 acre of woody vegetation, alive or dead, can be removed.
- Replacement planting - Native trees and/or shrubs are planted on the same FSA Farm number from which they were removed. The acreage, species, and mature vertical structure of removed native trees and shrubs shall be maintained in the replacement planting. Replacement planting must occur within one year of removal.
- No hydrological manipulation is allowed.
- No materials removed will be placed in the wetland or adjacent waterways.

3. Spring Development

- All necessary local, State, and Federal permits and water rights are obtained prior to construction.
- Wetland functions have been reduced by previous development, excavation, and/or livestock trampling and destruction of vegetation.
- Design and construction will follow UT NRCS practice standard Spring Development (574).
- Purpose is for livestock water or wildlife use.
- Surrounding land use is in permanent vegetation.
- Operation and maintenance of the Spring Development will be according to NRCS guidelines.
- Maximum loss of wetlands (construction, inundation, and downstream effects) does not exceed 0.1 acre.

- Maximum area excavated and amount of fill placed in the wetland do not exceed 25 cubic yards.
- Participant has submitted a Pre-Construction Notification (PCN) to the Corps of Engineers for Nationwide Permit 18 – Minor Discharge, and either is notified in writing by the district engineer that the spring development may proceed or 45 calendar days have passed from the district engineer’s receipt of the complete PCN.

YES – A minimal effect is granted subject to conditions specified above and on the attached Agreement (if necessary.) Obtain signatures from landowner, operator if different, and NRCS. NRCS and producer signatures on this document and the attached Agreement (when needed) fulfill the documentation requirements.

NO – Proceed to Step 3.

Step 3: Does the wetland fall under Clean Water Act, Section 404 jurisdiction?

YES – Participant must have a Clean Water Act 404 permit from the Army Corps of Engineers (COE). A COE Permit Decision (CPD) exemption will be granted. Reference NFSAM 515.20.

NO – Proceed with Step 4. A “Letter of No Permit Needed” should be obtained from the Army Corps of Engineers if NRCS personnel are not sure of current COE jurisdiction.

Step 4: Complete the Utah Interim Wetland Functional Assessment procedure using the appropriate functional assessment form.

Minimal Effect Determination: A decrease of 10 percent or more functional capacity units for one or more functions exceeds the threshold for a minimal effect. Mitigation that replaces the acres and all functions diminished by the proposed action is required.

Minimal Effect (check one) Approved Denied

Attach certified wetland determination CPA-026e with map indicating wetland to be affected.

This Minimal Effect determination applies only for Food Security Act and NRCS General Manual Title 190, Part 410.26 purposes. Any wetland manipulations or activities remain subject to Federal, State, or local restrictions, existing easements of record, or permit restrictions on the property and activity in question.

NRCS Evaluator _____ Date _____

Landowner/Operator _____ Date _____

SAMPLE MINIMAL EFFECT AGREEMENT

Legal Description: Farm: Tract:
Owner: Operator:
Wetland(s) # 1 Wetland Determination: W (Certified)

This agreement stipulates conditions which must be met by the person in order to receive a determination of minimal effect.

I hereby agree to the terms set forth below and understand that any willful action on my part that is not consistent with the stipulated terms will diminish the value of the wetland(s) and will result in a loss of the minimal effect determination and the area will be considered a converted wetland.

I agree that the following terms must be installed and maintained in a condition that is to the satisfaction of the Natural Resources Conservation Service (NRCS) and agree to provide the right of access to wetlands involved in the minimal effect determination to USDA personnel to assure the terms of the agreement are being carried out and maintained.

TERMS and CONDITIONS:

Wetland(s) numbered 1 and indicated on the attached map will not be more than minimally affected by the removal of native trees from the field to facilitate operation of a center pivot irrigation system.

- 1. This Minimal Effect Agreement is for the removal of native trees from wetland # 1 in the west 1/2 of section 32-T10N-R10E. Trees removed will be buried or otherwise disposed of in a non wetland area.**
- 2. Approximately 1 acre of native trees will be planted in the spring of 2009 in the SW 1/4 of Section 29 adjacent to the farmstead to mitigate the loss of trees and wildlife habitat from around wetland 1.**
- 3. This Minimal Effect Agreement will terminate when work is complete and trees are considered established. Any subsequent work will need a new Minimal Effect Agreement defining the terms of agreement.**

Owner/Operator/Date

Natural Resources Conservation Service/Date

Completed Date _____

Attachments – new NRCS-CPA-026 and wetland determination map showing location of wetland labeled MW