# UTAH – INTERIM EXPEDITED MINIMAL EFFECT EVALUATION PROCEDURE WORKSHEET

Landowner: Date: Operator: County: Tract #: Legal Description:

Hydrology Observations: Vegetation: Soils: Current Land Use/Management \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Proposed activity: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

# If there are any questions to the extent of the wetlands, please consult with your area wetland specialist or the state biologist.

**Step 1: Food Security Act Purposes: Did the producer check “Yes” for Boxes 7A or 7B on the HEL/WC AD-1026 Form.**

YES – The producer checked “Yes” for Box 7A, 7B or both on the AD-1026 Form.

* A certified wetland determination **is needed** before proceeding to Step 2. Once certified wetland determination is completed, attach certified wetland determination CPA-026 with map indicating wetland to be affected and proceed to Step 2.

NO – The producer did not check “Yes” for Box 7A or 7B.

* A certified wetland determination is **not needed** for the Food Security Act. Proceed to Step 2.

**Step 2: Has the wetland been evaluated for the Wetland Protection Policy?**

YES – The wetland has been evaluated and documented on the Environmental Evaluation worksheet (CPA-52). Proceed to Step 3.

NO – The wetland has not been evaluated and documented on the Environmental Evaluation Form. The wetland must be evaluated and documented on the Environmental Evaluation worksheet (CPA-52) before proceeding to Step 3.

**Step 3: Wetland evaluation for bogs, fens, threatened and endangered species, hazard waste, easements, well heads, natural areas, and historic places or areas.**

Does the converted wetland or wetland being proposed for conversion meet any of the following?

1. 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.
2. 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.
3. Is a hazardous waste site identified by Comprehensive Environmental Compensation and Liability Act (CERCLA) or Resource Conservation and Recovery Act (RCRA).
4. Created or restored as required by Federal, State, or local mitigation requirements.
5. Under easement with restrictive covenants or deeds unless the agency or organization controlling the easement concurs in the minimal effect or mitigation proposal.

YES – A minimal effect exemption cannot be granted. NO – Review for the following parameters.

Does the converted wetland or wetland being proposed for conversion meet any of the following?

1. Provides habitat for a State Species of Concern. Consultation with NRCS State Biologist is required.
2. Located within designated wellhead protection area. Consultation with NRCS Environmental Compliance Specialist is required.
3. Listed or has the potential to be listed on the State or National Register of Historic

Places. Consultation with NRCS State Cultural Resource Specialist is required.

YES – Proceed to Step 4, after addressing and documenting the above parameters. If the above parameters cannot be addressed, a minimal effect exemption cannot be granted.

NO – Proceed to Step 4.

**Step 4: Does the wetland fall under the Clean Water Act, Section 404 Jurisdiction?**

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

MAYBE – If NRCS personnel are not sure of current USACE jurisdiction, the producer will obtain a “Letter of No Permit Needed” from the USACE. When proper documentation is received from the USACE, Proceed to Step 5.

NO – If the wetland to be impacted is clearly non-jurisdictional under the Clean Water Act, i.e., isolated and not directly adjacent to a Water of the U.S. (traditionally navigable waters, lakes, ponds, streams, impoundments, marshes, and wetlands with a continuous surface connection to a relatively permanent water). Proceed to Step 5.

**Step 5:** Does the activity qualify for a Utah Expedited Minimal Effect exception?

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

* + - No materials removed will be placed in the wetland or adjacent waterways.
    - Materials removed will be placed in upland areas.
    - No hydrologic manipulation is allowed.

YES – A Utah Expedited Minimal Effect Exception is granted subject to conditions specified above in Step 5 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. A functional assessment is not needed.

NO – If the conditions specified above in Step 5 cannot be met, a functional assessment and further analysis is required.

Expedited Minimal Effect (check one) Approved Denied

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. A person will not be determined to be ineligible for program benefits as the result of the production of a agricultural commodity on the converted wetland if this determination of minimal effect Approved (7 CFR § 12.4(b)(1)(v).

NRCS Evaluator Date

Landowner/Operator Date

**SAMPLE MINIMAL EFFECT AGREEMENT**

**Legal Description: Farm: Tract:**

**Owner: Operator:**

**Wetland(s): #1 Wetlands Evaluated:**

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 the loss of the minimal effect determination and 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 and personnel to assure the terms and the conditions are being carried out and maintained.

**TERMS and CONDITIONS:**

Wetland(s) evaluated and documented on the attached map will not be more than minimally affected by the removal of non-native, invasive trees and shrubs from the field that addresses a resource concern.

1. ***This expedited minimal effect agreement is the removal of non-native, invasive trees from wetland located in the West 1/2 of section 32 –T10N-R10E.***
2. ***No materials removed will be placed in the wetland or adjacent waterways.***
3. ***Materials removed will be placed in upland areas.***
4. ***No hydrologic manipulation will take place.***
5. ***This Expedited Minimal Effect Agreement will terminate when work is complete and certified.***
6. ***Any subsequent work will need a new Minimal Effect Agreement defining the terms of agreement.***

Owner/Operator/Date Natural Resources Conservation Service/Date Complete Date

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