



United States
Department of
Agriculture

Farm and
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Services

Farm
Service
Agency

Arkansas
State Office

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Federal Building
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Avenue
Little Rock, AR
72201-3225

June 5, 2013

Martha Miller
State Historical Preservation Officer
Arkansas Historic Preservation Program
323 Center Street
Suite 1500
Little Rock, Arkansas 72201

Subject: Newton County - General, Section 106 Review - FSA, C & H Hog Farms, Inc.
Newton County, Arkansas, AHPP Tracking Number 82772

Dear Ms. Miller:

Thank you for your letter of May 22, 2013, regarding C & H Hog Farms, Inc. operation in Newton County, Arkansas. My staff and I have reviewed your comments and recommendations and I can assure you that we share in your fervor for the protection of historically significant sites, structures and objects in Arkansas.

Your administration has determined that the manure spreading area of 622.5 acres is part of the Area of Potential Effect (APE) for the project. However, FSA has determined (per 36 CFR § 800.3(a)(1) that the action of spreading manure (fertilizing) is a management type of action that is an undertaking that does not have the potential to cause effects to historic properties. FSA thus believes that this 622.5 acres does not fall under the obligations of review under Section 106 of the National Historic Preservation Act. However, even if these acres were part of the APE, your concerns would be addressed by the following:

The two prehistoric Native American sites identified by the State Historical Preservation Officer ("SHPO") (Sites 3NW231 and 3NW232) were discussed with Mr. George McCluskey of the SHPO Office and determined by SHPO to be further South of the application fields and completely outside the area of potential effects (APE). The two sites are thus avoided and protected from application and will not be impacted by the C & H Hog Farm operation.

Sexton Cemetery is located South of Field 7 and approximately 255 feet from where application will take place in Field 7 and there are woods and a road located between the cemetery and Field 7, *see, Map 1.* Sexton Cemetery is therefore separate from the C & H Hog Farm operation and will be avoided and protected from spreading in Field 7. Sexton Cemetery is West-Northwest of Field 8. There is a road, house, and two barn(s) located to the East of the cemetery, which are North of Field 8. In accordance with the CAFO Permit issued by ADEQ, the buffer requirements are fifty (50) feet from property lines and five hundred (500) feet from neighboring occupied buildings. The 500-foot buffer zone provided for the house and barns, which are located to the East of the Cemetery and North of Field 8, will take the cemetery well outside the area effected by application in Field 8, which is some 293 feet to the South, *see Maps 1 and 2, attached.* The Sexton Cemetery is thus be avoided and protected.



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The 19th Century Arkansas Vernacular Structure identified by the SHPO is located in the Northwest corner of Application Field 5, *see, Map 2*. In accordance with the CAFO Permit issued by ADEQ, the buffer requirements are fifty (50) feet from property lines and five hundred (500) feet from neighboring occupied buildings. Therefore, no spreading is to take place near the 19th Century Structure and the structure will not be impacted. Additionally, it is not part of the C & H Hog Farm plan to disturb this structure and, to the best of our knowledge, there are no plans to remove or demolish the structure. The 19th Century Arkansas Vernacular Structure is thus avoided and protected.

The 20th Century Craftsman Style House identified by SHPO is located in some woods on the Northwest corner of Field 7, *see Map 2*. In accordance with the CAFO Permit issued by ADEQ, the buffer requirements are fifty (50) feet from property lines and five hundred (500) feet from neighboring occupied buildings. Therefore, no spreading is to take place near the 20th Century Craftsman Style House, even though SHPO has determined that "No protection is needed for the Craftsman style home which is ineligible for the NRHP." (*See May 22, 2013 SHPO Letter*) The 20th Century Craftsman House will thus, not be impacted by the C & H Hog Farm operation and will be avoided and protected.

I want to point out that ultimate responsibility for compliance with the Nutrient Management Plan and protection of the identified historical sites and objects resides with the owner/ operator(s) of C & H Hog Farms, Inc. FSA agrees with the avoidance and protective measures needed for the properties concerned, however, as outlined in your letter and will provide notice of same to the Lender (Farm Credit of Western Arkansas) and its borrower (C & H Hog Farms, Inc.) by copy of this letter and your letter of May 22, 2013.

Thank you for the opportunity to address your concerns and to assist you in protection of the historical sites and objects of Arkansas. If you have any questions, please do not hesitate to contact me at 501-301-3000.

Sincerely yours,



Linda Newkirk

State Executive Director

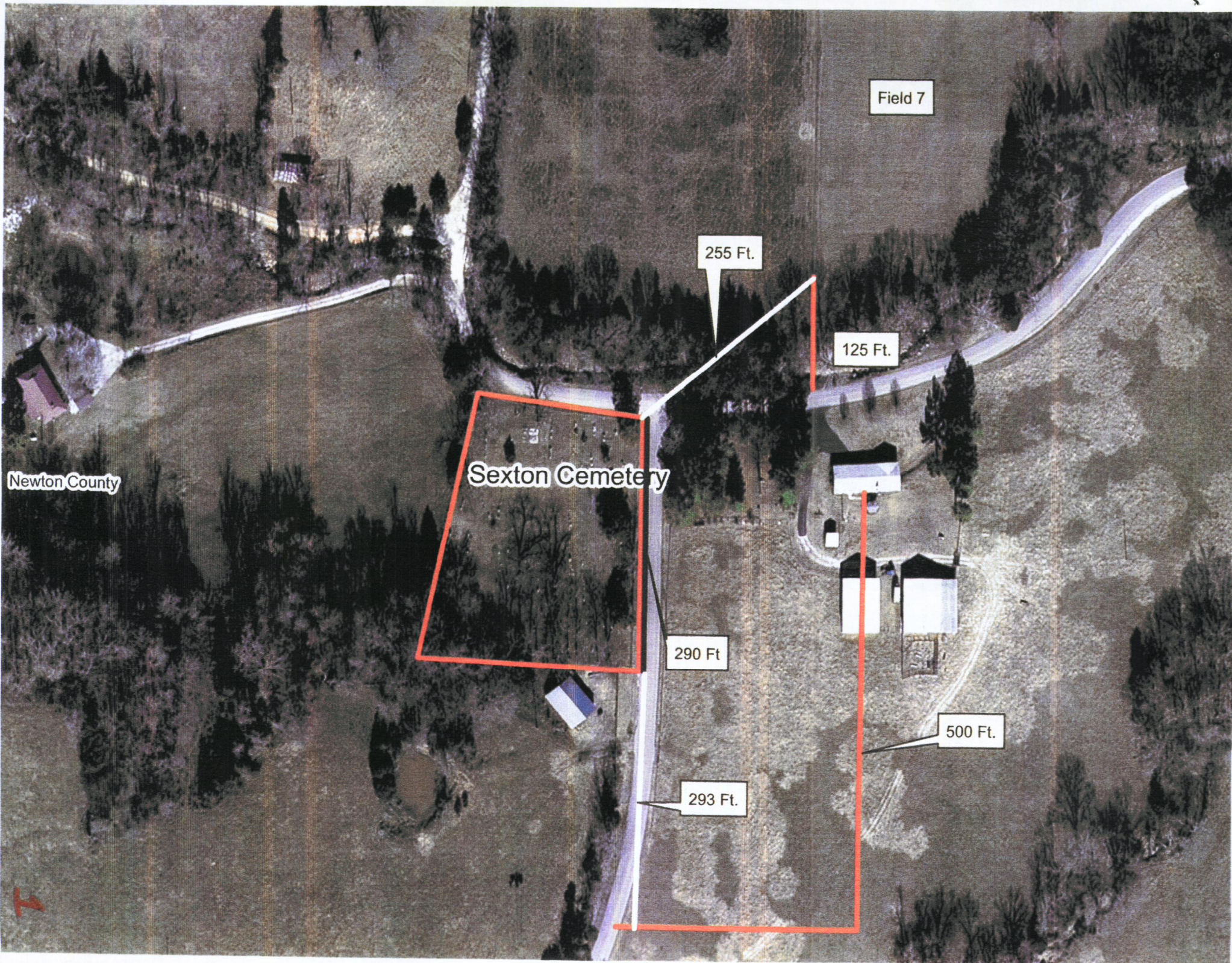
Arkansas State Farm Service Agency



Attachments (Maps 1 and 2)

cc: Anthony G. Lopez, Advisory Counsel on Historic Preservation
Bennett Horter, Farm Service Agency
Dan Benton, Farm Credit Services of Western Arkansas
Dr. Richard Allen, Cherokee Nation of Oklahoma
Lisa LaRue-Baker, United Keetoowah Band of Cherokee Indians
Dr. Andrea Hunter, Osage Nation
Kevin Cheri, Superintendent, National Park Service, Buffalo National River
Chris Colclasure, Arkansas Heritage Commission
Teresa Marks, Arkansas Department of Environmental Quality
Dr. Ann M. Early, Arkansas Archeological Survey
C & H Hog Farms, Inc.





Field 7

255 Ft.

125 Ft.

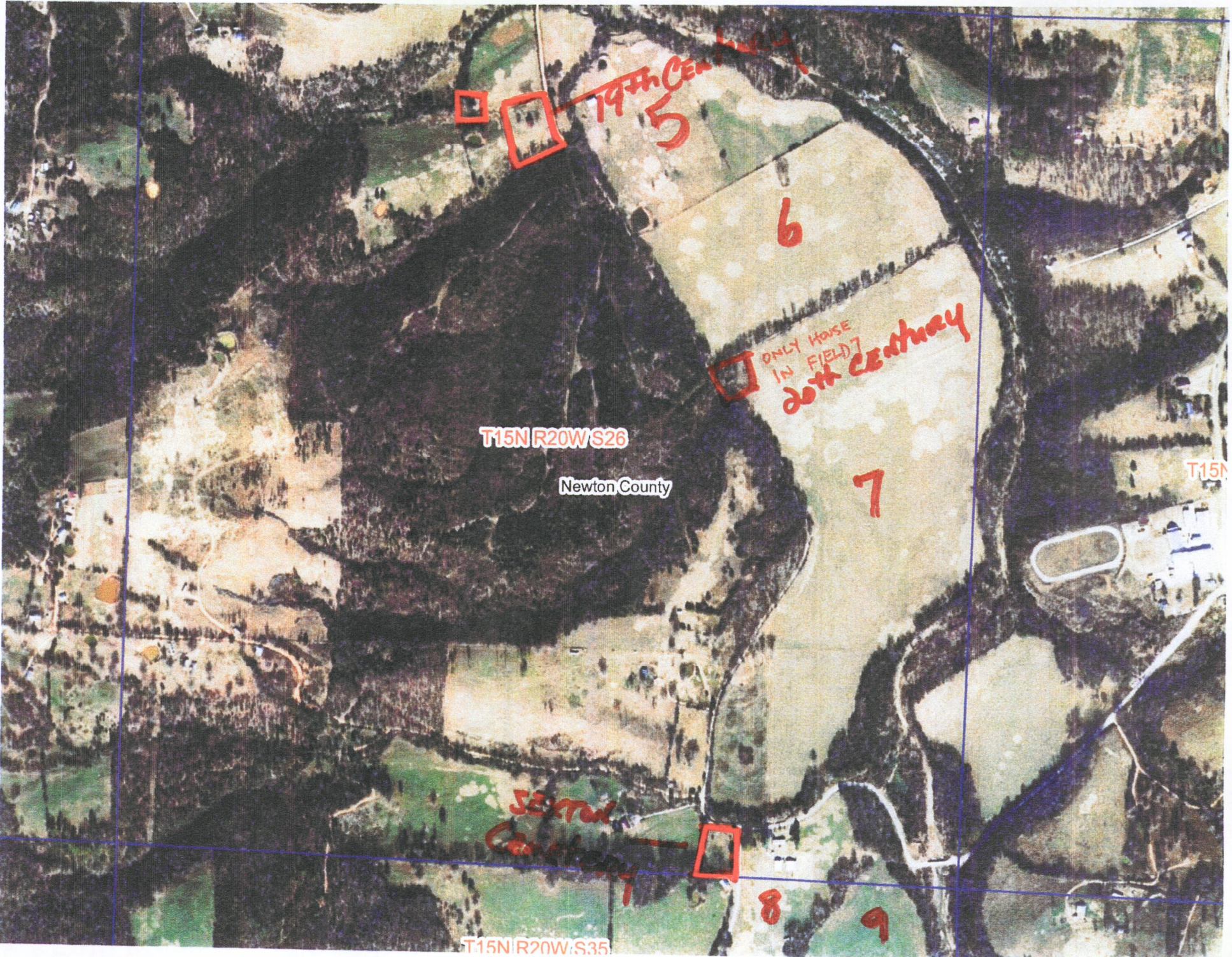
Newton County

Sexton Cemetery

290 Ft

500 Ft.

293 Ft.



19th Century

5

6

ONLY HOUSE
IN FIELD 7
20th Century

7

T15N R20W S26

Newton County

T15N

SIXTH
Century

8

8

9

T15N R20W S35

2



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May 22, 2013

Ms. Linda Newkirk
State Executive Director
Farm Service Agency
U.S. Department of Agriculture
Federal Building, Room 3416
700 West Capitol Avenue
Little Rock, Arkansas 72201

RE: Newton County – General
Section 106 Review – FSA
C&H Hog Farms, Inc. Project in
Newton County, Arkansas
AHPP Tracking Number 82772

Dear Ms. Newkirk:

Thank you for the additional information provided with your May 16, 2013 letter regarding the C&H Hog Farms, Inc. project in Newton County, Arkansas. We have reviewed the materials submitted and offer the following comments and recommendations for your consideration.

1. The area of potential effects (APE) on this undertaking should be the 630.7 acres of land which includes the construction area and the areas for the disposal of hog waste. The reason is that the disposal areas could have an adverse effect on National Register eligible properties (i.e., historic properties). As you know in our July 17, 2012 review, we only examined the 23 acre project area as submitted by Farm Credit of Western Arkansas.
2. We have researched the project vicinity and have determined that three archeological sites and two standing structures are located in or adjacent to the larger APE. These include the Sexton Cemetery, archeological sites 3NW231 and 3NW232 (prehistoric Native American sites), a 19th century Arkansas vernacular structure, and an early 20th century Craftsman style home. In evaluating these properties, we have determined that the Sexton Cemetery and the 19th century structure are eligible for inclusion in the National Register of Historic Places (NRHP), the two Native American sites are potentially eligible (archeological testing would be necessary to make a determination), and the Craftsman style home is ineligible.

3. No known historic properties are located in the 23 acre construction area that we reviewed in 2012. However, since we don't know the exact boundaries of the hog waste disposal areas, some of the sites and structures described may be in the APE. The 19th century structure is located in Field 5, the Craftsman house is located in Field 7, the Sexton Cemetery is located west but close to the hog farm construction area, and archeological sites 3NW231 and 3NW232 are located to the east of Big Creek. However, the Native American sites appear to be outside of the APE and will not be impacted.
4. Our recommendations are that the 19th century Arkansas vernacular structure not be removed or demolished, and that the Sexton Cemetery and Native American sites be avoided and protected. We are particularly concerned about the Sexton Cemetery due to its close proximity to the hog farm construction area. The disposal of hog waste on this historic property would be an adverse effect. It would also be considered desecration and a violation of the Arkansas burial law (Act 753 of 1991, as amended). No protection is needed for the Craftsman style home which is ineligible for the NRHP. If the FSA agrees with these avoidance and protective measures, we can concur that this undertaking will have no adverse effect on historic properties.

Thank you for the opportunity to comment on this undertaking. If you have any questions, please contact George McCluskey of my staff at (501) 324-9880.

Sincerely,



Martha Miller
State Historic Preservation Officer

cc: Mr. Anthony G. Lopez, Advisory Council on Historic Preservation
Mr. Bennett Hortner, Farm Service Agency
Mr. Dan Benton, Farm Credit of Western Arkansas
Dr. Richard Allen, Cherokee Nation of Oklahoma
Ms. Larue Baker, United Keetoowah Band of Cherokee Indians
Dr. Andrea Hunter, Osage Nation
Mr. Kevin Cherri, Buffalo National River
Mr. Chris Colcasure, Arkansas Natural Heritage Commission
Ms. Theresa Marks, Arkansas Department of Environmental Quality
Dr. Ann M. Early, Arkansas Archeological Survey

United States Department of Agriculture

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