



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029
April 21, 2020

DELIVERED BY UPS
SIGNATURE REQUIRED

Frazier T. Boyd, III and
Boyd Farm, LLC
3009 River Road West
Goochland, VA 23063

Re: EPA Docket No. CWA-03-2020-0089DW (Tabscott Rd.)
EPA Docket. No. CWA-03-2020-0088DW (Hadensville Fife Rd.)
ORDERS FOR COMPLIANCE ON CONSENT

Dear Mr. Boyd:

Attached you will find the executed Administrative Order for Compliance on Consent that requires you to mitigate for the unauthorized work on and around the properties you own or control at located at Tabscott Road and Hadensville Fife Road both in Goochland County, Virginia.

The AOCs require the owners, Frazier T. Boyd, III, and Boyd Farm, LLC, (“Respondents”), to restore the approximately 4.26 acres of forested wetlands at the Hadensville Fife Site and another 4.82 acres of forested wetlands at the Tabscott Road site, all of which were impacted as a result of clearing and grubbing activities on the Sites which resulted in unauthorized discharges to waters of the United States, including dredge or fill material, without a permit from the U.S. Army Corps of Engineers (“Corps”) in violation of Section 404 of the CWA, 33 U.S.C. § 1344. The wetlands on the Sites are waters of the United States.

Please note that the effective date of this Order is today, the date of your receipt of this Order. Under the Order, you must cease and desist all discharges without a permit and restore the Site.

If you have any questions regarding the Order please contact Ms. Katelyn Almeter at (215) 814-2797, or at almeter.katelyn@epa.gov, or your counsel may contact Pamela J. Lazos, the attorney assigned to this matter, at (215) 814-2658, or at lazos.pamela@epa.gov. Thank you for your attention to this matter.

Sincerely,

KAREN
MELVIN

Digitally signed by
KAREN MELVIN
Date: 2020.04.21
12:03:24 -04'00'

Karen Melvin, Director
Enforcement and Compliance Assurance Division

Enclosures

cc: Channing Martin – Williams Mullen
David Knepper – U.S. Army Corps of Engineers, Norfolk District
Cara Witte – Virginia Department of Environmental Quality
Lee Crowell – Virginia Department of Environmental Quality

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

In the Matter of:

Frazier T. Boyd, III
3009 River Road West
Goochland, VA 23063

Respondent.

Property Located At:
3810 Tabscott Road
Goochland County
Columbia, Virginia 23038
37.814294°N, -78.065531°W

Proceeding Under Section 309(a) of the Clean
Water Act, 33 U.S.C. §§ 1318(a), 1319(a)

Docket. No. CWA-03-2020-0089DW

ORDER FOR COMPLIANCE

I. STATUTORY AUTHORITY

1. This Order for Compliance (“Order”) is issued under the authority vested in the United States Environmental Protection Agency (“EPA”) by Section 309(a) of the Clean Water Act, 33 U.S.C. § 1319(a) (“CWA” or “Act”). The Administrator has delegated this authority to the Regional Administrator of EPA Region III who in turn has re-delegated it to the Director of the Enforcement and Compliance Assurance Division.

**II. EPA’s FINDINGS OF FACT, JURISDICTIONAL ALLEGATIONS
AND CONCLUSIONS OF LAW**

2. Respondent, Frazier T. Boyd, III, is a “person” within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5).
3. Respondent is the owner and operator of the property located at 3810 Tabscott Road, Goochland County, Virginia, latitude 37.814294°N, longitude -78.065531°W, (hereinafter “Site”), as further identified on the map attached as Exhibit “A”.
4. The Site contains wetlands abutting an unnamed tributary to Ransome Creek. Ransome Creek is a tributary of Little Byrd Creek. Little Byrd Creek flows to Byrd Creek, a tributary of the James River. The James River is navigable-in-fact in its entirety.

Therefore, the wetlands on the Site abutting the unnamed tributary to Ransome Creek are “waters of the United States” within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7); 40 C.F.R. § 232.2; 40 C.F.R. § 122.2.

5. Commencing on or about September 5, 2018, Respondent, or persons acting on behalf of Respondent, operated equipment which discharged dredged and/or fill material to waters of the United States at the Site, as described in Paragraph 3, above, without authorization from the U.S. Army Corps of Engineers (“Corps”). Respondent's unauthorized discharge of fill material at the Site as a result of clearing and grubbing activities has resulted in impacts to approximately 4.82 acres of forested wetlands.
6. The term “fill material” within the meaning of 40 C.F.R. § 232.2 includes any pollutant which replaces portions of “waters of the United States” with dry land or which changes the bottom elevation of a water body for any purpose. The term “discharge of fill material” includes “placement of fill that is necessary for the construction of any structure or infrastructure in a water of the United States.”
7. The equipment referenced in Paragraph 5 above, from which the dredged and/or fill material was discharged to “waters of the United States,” constitutes a “point source” within the meaning of Section 502(14) of the Act, 33 U.S.C. § 1362(14).
8. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits any person from discharging dredged and/or fill material from a point source to “waters of the United States” except in compliance with a permit issued by the Corps under Section 404 of the Act, 33 U.S.C. § 1344.
9. At no time during the discharge of dredged and/or fill material into waters of the United States at the Site did the Respondent have a permit from the Secretary of the Army as required by Section 404 of the Act, 33 U.S.C. § 1344.
10. Respondent, by discharging dredged and/or fill material to the “waters of the United States” without authorization, has violated Section 301(a) of the Act, 33 U.S.C. § 1311(a).

III. ORDER FOR COMPLIANCE

Therefore, on this 21 day of April, 2020, the Respondent is hereby ORDERED, pursuant to Section 309(a) of the Clean Water Act, 33 U.S.C. § 1319(a), to do the following:

11. Cease and desist all discharges to waters of the United States at the Site without a permit, including filling, clearing, and grading.
12. Complete the following restoration activities:

- a. Upon approval by EPA of the Corrective Action Plan (“CAP”) submitted by Respondent dated January 2020, Respondent shall complete all restoration work in accordance with its terms and conditions, including planting and seeding, within ninety (90) days. If EPA disapproves all or part of the CAP, Respondent shall, within thirty (30) days of receipt of EPA’s disapproval, correct the deficiencies and resubmit the CAP for approval.
- b. Upon completion of the restoration activities, Respondent shall submit an As-Built Report and monitoring plan for EPA's approval. Respondent shall monitor the restored area for a period of no less than five years, with monitoring in years 1, 2, 3, and 5, to ensure survivability and maturity of the plantings and CAP objective of restoring impacted wetlands. Details regarding the full monitoring period shall be governed by the CAP.
- c. Respondent shall not discharge any dredged or fill material into any waters of the United States except in compliance with a CWA Section 404 permit or in accordance with the plans submitted and approved pursuant to this Order.

13. All correspondence related to this Order shall be sent to:

Katelyn Almeter
Enforcement and Compliance Assurance Division
United States Environmental Protection Agency, Region III
1650 Arch Street (Mailcode: 3ED31)
Philadelphia, PA 19103-2029
215-814-2797

IV. GENERAL PROVISIONS

14. The following certification must accompany each submission by Respondent pursuant to this Information Requirement and must be signed by a Representative of Respondent authorized to sign on behalf of Respondent:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based upon my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. “

15. Respondent's compliance with the terms of this Order shall not relieve Respondent of its obligation to comply with all applicable provisions of the Clean Water Act or any other Federal, State or local law or regulation. Issuance of this Order is not an election by EPA to forego any civil or criminal action otherwise authorized by the Clean Water Act. EPA

reserves the right to seek any remedy available under the law that it deems appropriate to the violations described herein. Compliance with this Order shall not be a defense to any action commenced pursuant to such authorities.

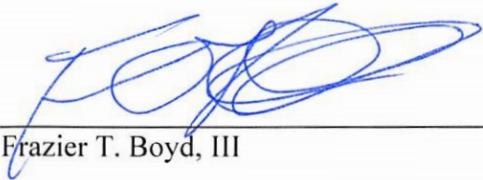
16. Violation of the terms of this Order may result in further EPA enforcement action including, but not limited to, imposition of administrative penalties, pursuant to 33 U.S.C. § 1319(g) as modified by the Debt Collection Procedures Act of 1996 and the subsequent Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, and/or initiation of judicial proceedings that allow for civil penalties of up to \$53,484 per day for each day of violation that occurs, and/or for the criminal sanctions of imprisonment and fines of up to \$25,000 per day, 33 U.S.C. § 1319(c).
17. Respondent neither admits nor denies the findings of fact contained in this Order. The execution of this Order by Respondent, and the actions taken by Respondent to comply with and implement this Order, shall not be deemed an admission of liability.

V. EFFECTIVE DATE

The effective date of this Order shall be the date of receipt of the executed document.

ON BEHALF OF RESPONDENT, FRAZIER T. BOYD, III

Date: April 14, 2020



Frazier T. Boyd, III

ON BEHALF OF THE COMPLAINANT, U.S. ENVIRONMENTAL PROTECTION
AGENCY:

Date: April 21, 2020

KAREN
MELVIN

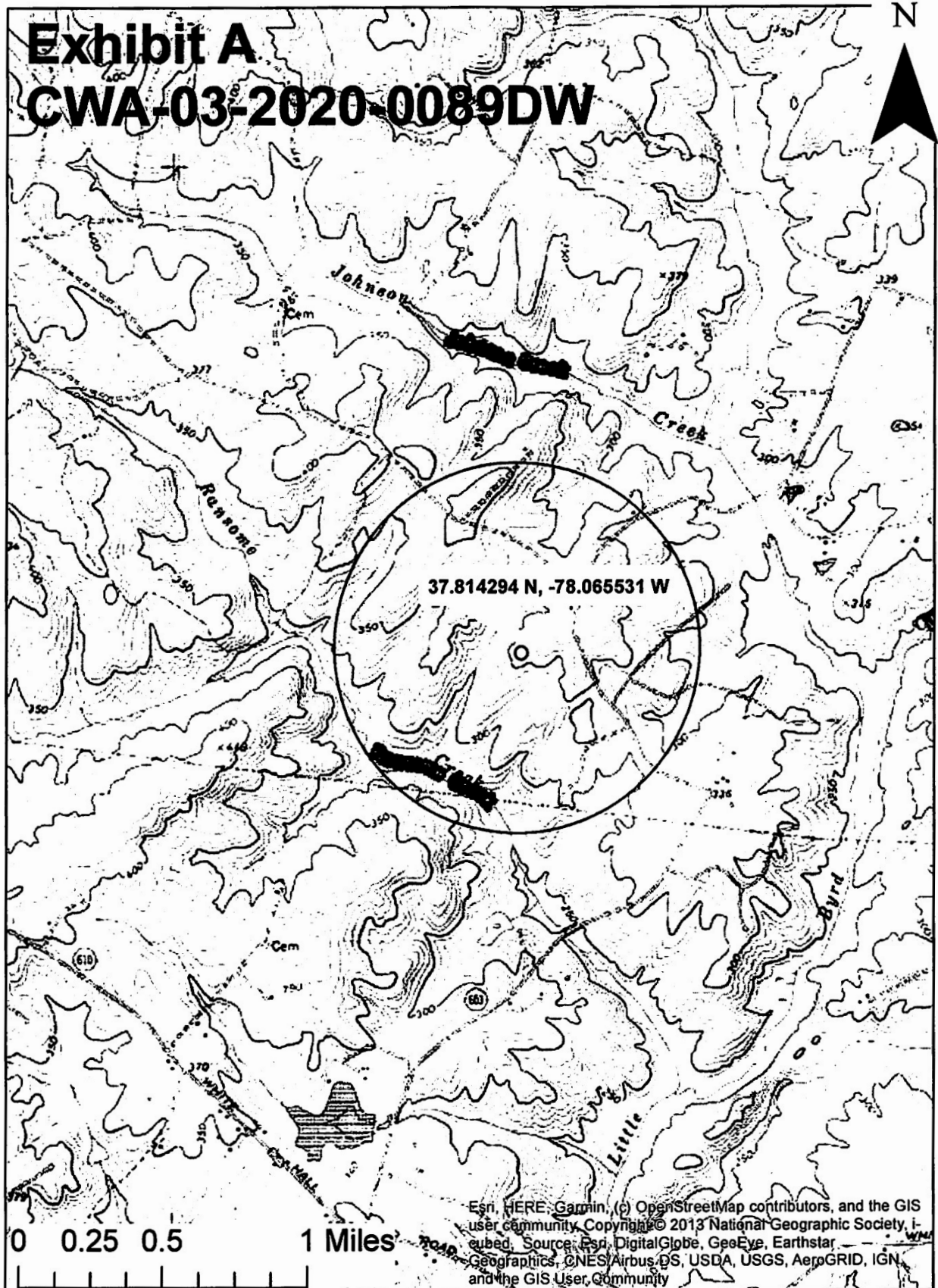
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KAREN MELVIN
Date: 2020.04.21
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Karen Melvin, Director
Enforcement and Compliance Assurance Division
U.S. EPA, Region III

Exhibit A

CWA-03-2020-0089DW

N



37.814294 N, -78.065531 W

0 0.25 0.5 1 Miles

Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community, Copyright © 2013 National Geographic Society, Imagery © 2013, Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

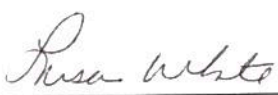
CERTIFICATE OF SERVICE

I certify that on 4/22/2020, the original and one (1) copy of the foregoing ***Administrative Order For Compliance on Consent***, Docket No. CWA-03-2020-0089DW (Tabscott Rd.), and Docket. No. CWA-03-2020-0088DW (Hadensville Fife Rd.), that on this date, I served a true and correct copy of the foregoing to the following persons, in the manner specified below, at the following addresses:

Copy served via **UPS, Signature Required, Postage Prepaid**, to:

Frazier T. Boyd, III and
Boyd Farm, LLC
3009 River Road West
Goochland, VA 23063

Dated: 4/22/2020



Lisa White
U.S. Environmental Protection Agency, Region III

I certify that on April 21, 2020, one (1) copy of the foregoing ***Administrative Order For Compliance on Consent***, Docket No. CWA-03-2020-0089DW (Tabscott Rd.), and Docket. No. CWA-03-2020-0088DW (Hadensville Fife Rd.), were filed with the EPA Region III Regional Hearing Clerk.

Dated: April 21, 2020

KATELYN
ALMETER

Digitally signed by
KATELYN ALMETER
Date: 2020.04.21
12:21:31 -04'00'

Katelyn Almeter
U.S. Environmental Protection Agency, Region III