



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

In The Matter of:

Paul Goodwin,

Respondent

Property Located At:

Near Dixie Winds Lane
Bremo Bluff, Virginia 23022
37.739458°N, -78.234262°W

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

ADMINISTRATIVE ORDER ON
CONSENT

Docket. No. CWA-03-2022-0039DW

I. STATUTORY AUTHORITY

1. This Administrative Order on Consent ("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. FINDINGS OF FACT and CONCLUSIONS OF LAW

2. Paul Goodwin ("Respondent") 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 coordinates 37.739458°N, -78.234262°W, Fluvanna County, Virginia parcel identification number 60-A-26, near Dixie Winds Lane, Bremo Bluff, Virginia 23022 ("the Site"), depicted in Exhibit A.
4. The Site contains South Creek, three unnamed tributaries to South Creek, and wetlands abutting South Creek and these tributaries. The Site drains to South Creek. South Creek is a tributary of the James River, a Traditional Navigable Water. Therefore, South Creek, its tributaries and their abutting wetlands on the Site are "waters of the United States" within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).
5. Since approximately 2020, Respondent, or persons acting on behalf of Respondent, has, on an ongoing basis, operated equipment which discharged dredged and/or fill material to

waters of the United States at the Site, without authorization from the U.S. Army Corps of Engineers ("Corps"). Respondent's unauthorized discharge of fill material at the Site associated with the attempted construction of an impoundment impacted approximately 1,350 linear feet of stream and 3 acres of abutting wetlands and associated secondary impacts (e.g. downcutting and increased sediment load in South Creek and Unnamed Tributary 1). These streams are South Creek and unnamed tributaries to South Creek as shown in Exhibit B, which Respondent will further delineate in accordance with the requirements of this Order.

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 Corps as required by Section 404 of the Act, 33 U.S.C. § 1344.
10. Respondent has violated Section 301(a) of the Act, 33 U.S.C. § 1311(a), by discharging dredged and/or fill material to the "waters of the United States" without authorization.

III. ORDER FOR COMPLIANCE

Therefore, the Respondent is hereby ORDERED, pursuant to Section 309(a) of the CWA, 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, including filling, clearing, and grading except in compliance with a CWA Section 404 or 402 permit or in accordance with the plans submitted and approved pursuant to this Order.
12. Within seven (7) calendar days of the effective date of this Order, Respondent shall submit to EPA, for review and approval, a Temporary Stabilization Plan which addresses all unstabilized areas on the Site and proposes measures to prevent the migration/erosion of soil or sediment-laden water into all receiving waters. EPA will review this Plan in

consultation with the Virginia Department of Environmental Quality ("VADEQ").

13. Within thirty (30) calendar days of EPA's approval of Respondent's Temporary Stabilization Plan, referenced in Paragraph 12 above, Respondent shall complete implementation of the temporary stabilization measures on Site to prevent ongoing discharges of sediment and sediment-laden water into waters of the United States.
14. Within sixty (60) calendar days of the effective date of this Order, Respondent shall submit a detailed Restoration and Mitigation Plan to EPA for review and approval. The Plan must describe the actions to be taken to remove the material from the regulated waters, to stabilize the Site, and to return the streams and wetlands to pre-disturbance grade and conditions.
15. After review of the Restoration and Mitigation Plan, EPA will: a) approve the Plan, in whole or in part; b) approve the Plan upon specified conditions; c) modify the Plan to correct any deficiencies; d) disapprove the Plan, in whole or in part, or e) any combination of the above.
16. If EPA disapproves all or part of the Restoration and Mitigation Plan, Respondent shall, within thirty (30) calendar days of receipt of EPA's disapproval, correct the deficiencies and resubmit the Plan for approval. If the Plan is not approved as provided in this Order, EPA retains the right to order restoration in accordance with a plan to be developed by EPA.
17. Following EPA's approval of the Restoration and Mitigation Plan (either with or without conditions or modifications by EPA), Respondent shall implement the Plan as approved or modified by EPA, as provided below. All restoration work shall be completed within ninety (90) calendar days of EPA's approval of the Plan.
18. No later than twenty (20) calendar days after completion of the restoration activities, Respondent shall submit a certification to EPA as set forth in Paragraph 23, including the language set forth in Paragraph 24, certifying that the work described in the approved restoration plan has been completed.
19. Respondent shall monitor the restored area at the Site for a period of no less than five (5) years to ensure the objective of restoring impacted aquatic resources. Respondent shall monitor the Site twice per year and submit to EPA a monitoring report at the address listed in Paragraph 23. Each monitoring report shall be certified consistent with Paragraph 24 and will contain the following information:
 - a. A description of the vegetation at the Site, including whether or not the planting undertaken pursuant to the Restoration and Mitigation Plan required by Paragraph 14 appears to be successful and an estimate of the percent of the Site surface that is covered with vegetation;
 - b. Description of the streams at the Site and any areas of exposed or eroded bank;

- c. A minimum of sixteen color photographs taken of the Site. This should include two photos of each of the streams (one looking upstream and one looking downstream) and a photo from the north, northeast, east, southeast, south, southwest, west, and northwest sides of the restored area; and
 - d. A photograph of any area within the Site where it appears vegetation is covering less than 50% of the area.
20. EPA will review each monitoring report to determine whether the restoration efforts undertaken by Respondent pursuant to Paragraph 14 have been successful. Responsibility to complete the required restoration as set forth in the approved Restoration and Mitigation Plan will not be considered fulfilled until you have demonstrated project success and have received written verification of that success from EPA. Once all conditions in the approved Restoration and Mitigation Plan have been met and written verification has been provided, EPA will terminate the Order.
21. Respondent shall not discharge any dredged or fill material into any waters of the United States except in compliance with a permit issued pursuant to Section 404 of the CWA, or in accordance with the plans submitted and approved pursuant to this Order.
22. Respondent's failure to complete the work in a manner consistent with this Order and the approved Restoration and Mitigation Plan shall be deemed a violation of this Order.
23. All correspondence related to this Order shall be sent electronically to:

Katelyn Almeter
Enforcement and Compliance Assurance Division
United States Environmental Protection Agency, Region III
almeter.katelyn@epa.gov

IV. GENERAL PROVISIONS

24. The following certification must accompany each submission by Respondent pursuant to this Order 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.

Signed:



Title:

land owner

Date:

Dec 13, 2021

25. Respondent's compliance with the terms of this Order shall not relieve Respondent of its obligation to comply with all applicable provisions of the CWA 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.
26. Respondent waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this AOC, including any right of judicial review pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
27. EPA reserves all existing inspection authority otherwise available to EPA pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, or pursuant to any other statute or law.
28. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 162-21(b)(2), performance of the activities in Section III (Order for Compliance), Paragraphs 11 - 23 is restitution, remediation, or required to come into compliance with the law.

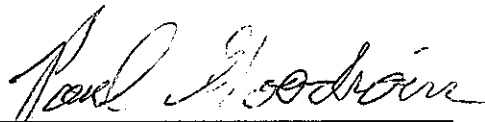
V. EFFECTIVE DATE

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

ON BEHALF OF RESPONDENT.

Date:

Dec 13, 2021



Name: Paul Goodwin

Title: Landowner/ Respondent

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

Date: _____

Karen Melvin, Director
Enforcement and Compliance Assurance Division
U.S. EPA, Region III

Exhibit A

CWA-03-2021-0108DW

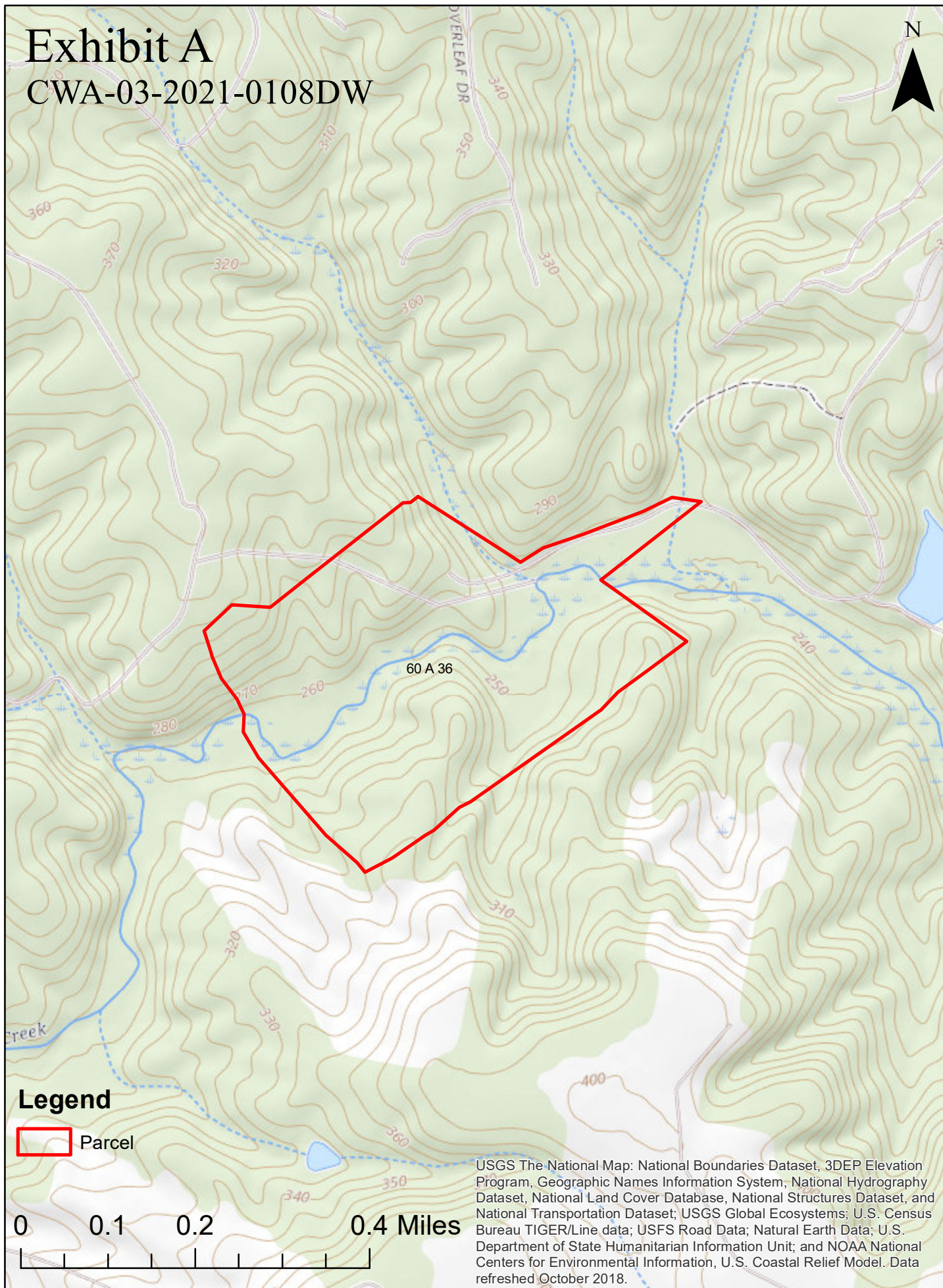
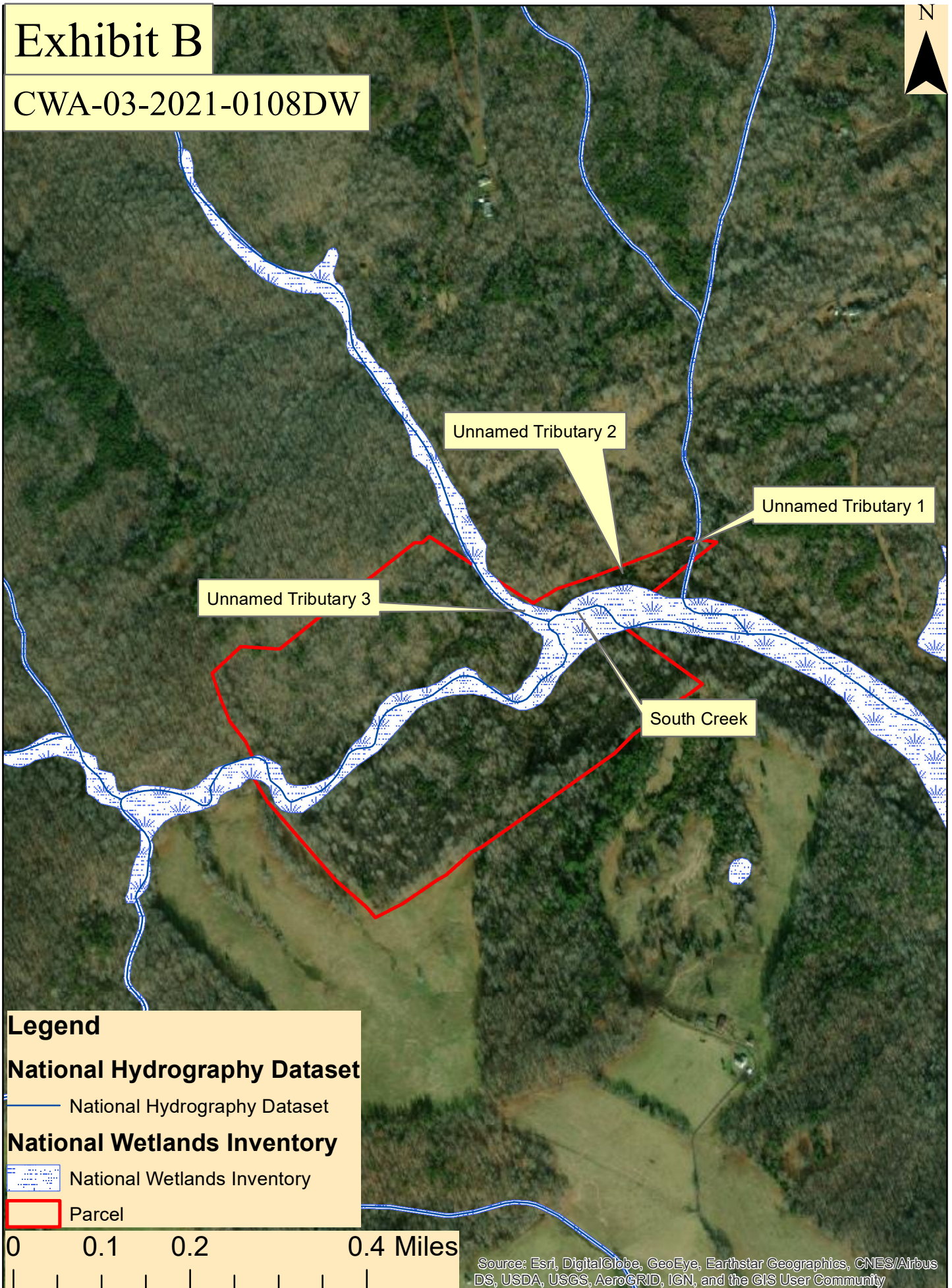


Exhibit B

CWA-03-2021-0108DW



Legend

National Hydrography Dataset

— National Hydrography Dataset

National Wetlands Inventory

 National Wetlands Inventory

 Parcel

0 0.1 0.2 0.4 Miles

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community