

CLERKS OFFICE U.S. DIST. COURT
AT CHARLOTTESVILLE, VA
FILED
April 15, 2025LAURA A. AUSTIN, CLERK
BY: s/ D. AUDIA
DEPUTY CLERK

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION**

UNITED STATES OF AMERICA and
COMMONWEALTH OF VIRGINIA

Plaintiffs,

v.

FRAZIER T. BOYD III and BOYD
FARM LLC,

Defendants.

Civil Action No. 3:25cv00021

COMPLAINT

The United States of America, through its undersigned attorneys, by the authority of the Attorney General, and at the request of the Administrator of the United States Environmental Protection Agency (“EPA”), and the Commonwealth of Virginia, through its undersigned attorneys and at the request of the Virginia Department of Environmental Quality (“VADEQ”), (collectively “Plaintiffs”) file this Complaint and allege as follows:

NATURE OF THE ACTION

1. This is a civil action brought under section 309(b) and (d) of the Clean Water Act (“CWA”), 33 U.S.C. § 1319(b) and (d), and Virginia’s State Water Control Law (“SWCL”), Va. Code §§ 62.1-44.5(A)(2)-(4), 62.1-44.23, and 62.1-44.32. The United States and the Commonwealth of Virginia seek injunctive relief and civil penalties against Frazier T. Boyd III and Boyd Farm LLC (collectively “Defendants”) for the discharge of pollutants to waters of the United States and waters of the State in Louisa and Goochland Counties, Virginia, without

authorization by the United States Department of the Army, in violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a), and in violation of the SWCL, Va. Code § 62.1-44.5(A)(2)-(4).

2. The properties that are the subject of this Complaint (“the Sites”) are located at (1) Hadensville Fife Road, Sandy Hook, Goochland County, Virginia (“Hadensville Fife Site”); (2) 3810 Tabscott Road, Columbia, Goochland County, Virginia 23038 (“Tabscott Road Site”); and (3) Shannon Hill Road and Ambler Roads, Louisa, Louisa County, Virginia 23093 (“Shannon Hill Site”).

3. In this action, Plaintiffs seek to: (1) enjoin the unpermitted discharge of pollutants to waters of the United States at the Sites, in violation of CWA Section 301(a), 33 U.S.C. § 1311(a); (2) enjoin unpermitted discharges, excavation, and detrimental alterations to State waters, in violation of Va. Code § 62.1-44.5, at the Sites; (3) require Defendants, at their own expense and at EPA’s and VADEQ’s direction, to restore and/or mitigate the damages caused by their unlawful activities at the Shannon Hill Site; and (4) require Defendants to pay civil penalties as provided in CWA Section 309(d), 33 U.S.C. § 1319(d), and Va. Code § 62.1-44.32.

JURISDICTION AND VENUE

4. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331, 1345, and 1355, and CWA Section 309(b), 33 U.S.C. § 1319(b).

5. This Court has supplemental jurisdiction over the Commonwealth of Virginia’s state law claims in this action pursuant to 28 U.S.C. § 1367(a) because those claims are so related to the federal claims as to form part of the same case or controversy.

6. Venue is proper in the Western District of Virginia under CWA Section 309(b), 33 U.S.C. § 1319(b), and under 28 U.S.C. § 1391(b) and (c), because the Shannon Hill Site is in this District, the cause of action alleged herein arose in this District, and Defendants transacted

business in this District.

7. Because the Commonwealth of Virginia is a party to this Complaint, it has notice of the commencement of this action as required by CWA Section 309(b), 33 U.S.C. § 1319(b).

THE PARTIES

8. The United States Department of Justice is vested with the authority to bring this action on behalf of Plaintiff the United States of America acting at the request of EPA, under 28 U.S.C. §§ 516 and 519, and 33 U.S.C. § 1366.

9. The Virginia Office of the Attorney General is vested with the authority to bring this action on behalf of Plaintiff the Commonwealth of Virginia under Va. Code § 2.2-507.

10. Defendant Boyd Farm LLC is a limited liability company incorporated in the Commonwealth of Virginia on June 21, 2010. Upon information and belief, Boyd Farm's principal place of business is 3009 River Road, West Goochland, Virginia 23063. Defendant Boyd Farm LLC conducts business in the Western District of Virginia. The sole member of Boyd Farm LLC is Defendant Frazier T. Boyd III.

11. Defendant Frazier T. Boyd III is a private individual who resides in the Commonwealth of Virginia and who owns real property and conducts business in the Western District of Virginia.

12. Each Defendant is a "person" within the meaning of CWA section 502(5), 33 U.S.C. § 1362(5) and within the meaning of the SWCL, Va. Code. § 62.1-44.3.

13. At all times relevant to the Complaint, Defendants owned, leased, and/or otherwise controlled the Sites and/or otherwise controlled the activities that occurred on such property.

STATUTORY AND REGULATORY BACKGROUND

A. The Clean Water Act

14. The CWA’s objective is “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” 33 U.S.C. § 1251(a).

15. CWA Section 301(a), 33 U.S.C. § 1311(a), prohibits the discharge of pollutants to navigable waters except in compliance with, *inter alia*, a permit issued under CWA Section 404, 33 U.S.C. § 1344, or by other CWA provisions not applicable here. Strict liability applies under the CWA.

16. CWA Section 404(a), 33 U.S.C. § 1344(a), authorizes the Secretary of the Army, acting through the U.S. Army Corps of Engineers (“Corps”), to issue permits for the discharge of dredged and/or fill material to navigable waters at specified disposal sites, after notice and opportunity for public comment.

17. CWA Section 502(12), 33 U.S.C. § 1362(12), defines “discharge of a pollutant” to include “any addition of any pollutant to navigable waters from any point source.”

18. CWA Section 502(6), 33 U.S.C. § 1362(6), defines “pollutant” to include, *inter alia*, dredged spoil, rock, sand, and cellar dirt.

19. “Fill material” is material that replaces portions of the waters of the United States with dry land or that changes the bottom elevation of a water body for that purpose. 40 C.F.R. § 232.2.

20. CWA Section 502(7), 33 U.S.C. § 1362(7), defines “navigable waters” as “the waters of the United States, including the territorial seas.”

21. 33 C.F.R. § 328.3(b) and 40 C.F.R. §§ 122.2 and 232.2 define “wetlands” as “those areas that are inundated or saturated by surface or ground water at a frequency and

duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.”

22. CWA Section 502(14), 33 U.S.C. § 1362(14), defines “point source” to include “any discernible, confined and discrete conveyance . . . from which pollutants are or may be discharged.”

23. CWA Section 502(5), 33 U.S.C. § 1362(5), defines “person” to include “an individual [or] corporation.”

24. No person may discharge fill material to waters of the United States without a permit—typically issued by the Corps—under Section 404(a) of the CWA, 33 U.S.C. § 1344(a).

25. CWA Section 309(b), 33 U.S.C. § 1319(b), authorizes the commencement of a civil action for appropriate relief, including a permanent or temporary injunction, against any person who violates CWA Section 301(a), 33 U.S.C. § 1311(a).

26. CWA Section 309(d), 33 U.S.C. § 1319(d), directs district courts to impose civil penalties upon any person who violates CWA Section 301(a), 33 U.S.C. § 1311(a).

B. State Water Control Law

27. The purpose of Virginia’s SWCL is to, among other things, “protect existing high quality state waters and restore all other state waters to such condition of quality that any such waters will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, which might reasonably be expected to inhabit them” Va. Code § 62.1-44.2.

28. SWCL, Va. Code § 62.1-44.5(A)(2)-(3), prohibits the excavation of a wetland and otherwise altering “the physical, chemical or biological properties of state waters and mak[ing] them detrimental to the public health, or to animal or aquatic life, or to the uses of such waters

for domestic or industrial consumption, or for recreation, or for other uses,” except where any of those activities are in compliance with a certificate or permit issued by the State Water Control Board or other entity authorized by the Board to issue such a certificate or permit.

29. SWCL, Va. Code § 62.1-44.5(A)(4), also prohibits the following activities in a wetland: (a) new activities to cause draining that significantly alters or degrades existing wetland acreage or functions; (b) filling or dumping; (c) permanent flooding or impounding; or (d) new activities that cause significant alteration or degradation of existing wetland acreage or functions, except where any of those actions are in compliance with a certificate or permit issued by the State Water Control Board or other entity authorized by the Board to issue such a certificate or permit.

30. SWCL, Va. Code. § 62.1-44.3, defines “state waters” to include “all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.”

31. SWCL, Va. Code. § 62.1-44.3, defines “wetlands” to include “those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions;” this “generally include[s] swamps, marshes, bogs and similar areas.”

32. SWCL, Va. Code. § 62.1-44.3, defines “person” to include “an individual, corporation, partnership, association, governmental body, municipal corporation, or any other legal entity.”

33. SWCL, Va. Code § 62.1-44.23, authorizes the Commonwealth to commence a civil action for appropriate relief, including a permanent or temporary injunction, against any person who violates Va. Code § 62.1-44.5(A).

34. SWCL, Va. Code § 62.1-44.32(a), likewise authorizes the Commonwealth to commence a civil action for civil penalties against any person who violates Va. Code § 62.1-44.5(A).

FACTUAL BACKGROUND

A. General Allegations

35. Defendants conducted earthmoving activities, including but not limited to land-clearing, grubbing, sidecasting, and creating debris piles made up of woody and earthen materials to convert the Sites for commercial agricultural use.

36. The earthmoving activities described in the preceding Paragraph resulted in the unauthorized discharges of “pollutants” as that term is defined in Section 502(6) of the CWA, 33 U.S.C. §1362(6), including “dredged” and/or “fill material” as those terms are defined in 40 C.F.R. § 232.2, to tributaries and/or wetlands at the Sites.

37. The earthmoving activities described in Paragraph 35 included excavation in a wetland; alteration of the physical, chemical, or biological properties of state waters to make them detrimental to the public health, or to animal or aquatic life; draining that significantly alters or degrades existing wetland acreage or functions; filling or dumping; and permanent flooding or impounding.

B. Shannon Hill Site

38. The real property that is the subject of this Complaint includes the Shannon Hill Site located at Shannon Hill Road and Ambler Road, Louisa County, Virginia, 37.920091°N,

77.951946°W, County Parcel IDs: 70-57,70-56,71-91 and 80-52 (hereinafter “Shannon Hill Site”).

39. Defendant Frazier T. Boyd III purchased the Shannon Hill Site in March 2016.

40. The Shannon Hill Site is approximately 1,600 acres.

41. Prior to 2016, the Shannon Hill Site was an undeveloped property that was primarily forested.

42. Upon information and belief, at all times relevant to this Complaint, Defendants owned, controlled, and/or operated the Shannon Hill Site.

43. Beginning in April 2018, one or more of the Defendants and/or persons acting on their behalf began conducting earthmoving activities at the Site, including but not limited to land-clearing, grubbing, sidecasting, and creating debris piles made up of woody and earthen materials.

44. VADEQ first inspected portions of the Shannon Hill Site on November 20, 2019, and determined that Defendants had impacted tributaries and wetlands in violation of the State Water Control Law. VADEQ issued a Notice of Violation to Defendants dated December 19, 2019, and sent a copy of the Notice to EPA and the Corps.

45. EPA first inspected the Shannon Hill Site on February 20, 2020. During that inspection and subsequent inspections, EPA staff observed impacts to 14 tributaries on the Site. EPA also observed impacts to approximately 8.35 acres of wetlands.

46. On September 22, 2020, Defendant Frazier T. Boyd III entered into an Administrative Order on Consent with EPA that required the submission of an EPA approved restoration plan and performance of restoration work at the Site (Docket No. CWA-03-2020-0109DW). Defendant Frazier T. Boyd III failed to perform restoration at the Shannon Hill Site.

47. Tributaries on the Site flow to the South Anna River.

48. The South Anna River flows to the Pamunkey River.

49. The Pamunkey River is subject to the ebb and flow of the tide and is considered Navigable-in-Fact for its entirety, based on a list of Rivers and Harbors Act Section 10 waters maintained by the U.S. Army Corps of Engineers, Norfolk District.

C. Hadensville Fife Site

50. The real property that is subject of this Complaint includes the Hadensville Fife Site located at Hadensville Fife Road, Sandy Hook, Goochland County, Virginia, latitude 37.801052°N, longitude – 78.026172°W (hereinafter “Hadensville Fife Site”).

51. Defendant Frazier T. Boyd III purchased the Hadensville Fife Site in 2013.

52. Prior to 2018, the Hadensville Fife Site was an undeveloped parcel that was primarily forested, with a selective silviculture operation prior to 2013.

53. Upon information and belief, at all times relevant to this Complaint, Defendants owned, controlled, and/or operated the Hadensville Fife Site.

54. Beginning in December 2018, one or more Defendants and/or persons acting on their behalf conducted land-disturbing activities, including but not limited to land-clearing, grubbing, and large-scale grading and earthmoving, and used heavy equipment to create large debris piles of woody and earthen materials.

55. VADEQ inspected the Hadensville Fife Site on January 11, 2019, and determined that Defendants had impacted streams and wetlands in violation of the State Water Control Law. VADEQ identified impacts to three wetlands areas.

56. EPA attended inspections at the Hadensville Fife Site on April 23, 2019, and October 29, 2019, and observed the same areas evaluated during VADEQ’s inspection.

57. On April 21, 2020, Defendant Boyd Farm LLC entered into an Administrative Order on Consent with EPA, Docket No. CWA-03-2020-0088DW, that required submission of a Corrective Action Plan (“CAP”) and completion of restoration work upon approval of the CAP. The Hadensville Fife CAP was submitted and approved, the restoration work has been performed, and the restoration work is being monitored in accordance with the CAP. The Administrative Order on Consent did not seek civil penalties for Defendants’ violations at the Hadensville Fife Site.

58. The Hadensville Fife Site contains tributaries that flow to Little Byrd Creek. Little Byrd Creek flows to Byrd Creek, which flows to the James River.

59. The James River is considered Navigable-in-Fact for its entirety based on a list of Rivers and Harbors Act Section 10 waters maintained by the U.S. Army Corps of Engineers, Norfolk District.

Tabscott Road Site

60. The real property that is subject of this Complaint includes the Tabscott Road Site located at 3810 Tabscott Road, Columbia, Goochland County, Virginia, latitude 37.814294°N, longitude 78.065531°W (hereinafter “Tabscott Road Site”).

61. Defendant Frazier T. Boyd III purchased the Tabscott Road Site on August 20, 2013.

62. Prior to September 2018, the Tabscott Road Site was an undeveloped property that was primarily forested with periodic timbering.

63. Upon information and belief, at all times relevant to this Complaint, Defendants owned, controlled, and/or operated the Tabscott Road Site.

64. Beginning in September 2018, one or more Defendants and/or persons acting on

their behalf conducted land-disturbing activities at the Tabscott Road Site, including but not limited to land-clearing, grubbing, and large-scale grading and earthmoving, and used heavy equipment to create large debris piles of woody and earthen materials.

65. VADEQ inspected the Tabscott Road Site on January 11, 2019, and identified an area of approximately 23 acres that had been grubbed with stumps placed in windrows. VADEQ documented clearing, grubbing, and earthmoving activity in areas with surface waters and wetlands in and around an unnamed tributary that connects to Ransome Creek.

66. EPA attended inspections on April 23, 2019, and October 29, 2019, to observe the same area VADEQ evaluated during its inspection. EPA inspectors observed clearing, grubbing, and earthmoving activities impacting multiple acres of forested wetlands at the Tabscott Road Site.

67. On April 21, 2020, Defendant Frazier T. Boyd III entered into an Administrative Order on Consent with EPA, Docket No. CWA-03-2020-0089DW, that required submission of a CAP and completion of restoration work upon approval of the CAP. The Tabscott Road CAP has been submitted and approved, the restoration work has been performed, and the restoration work is being monitored in accordance with the CAP. The Administrative Order on Consent did not seek civil penalty for Defendants' violations at the Tabscott Road Site.

68. The Tabscott Road Site contains an unnamed tributary that flows to Ransome Creek. Ransome Creek flows to Little Byrd Creek, which flows to Byrd Creek and then to the James River.

69. The James River is considered Navigable-in-Fact for its entirety based on a list of Rivers and Harbors Act Section 10 waters maintained by the U.S. Army Corps of Engineers, Norfolk District.

DEFENDANTS' HISTORY OF CWA AND SWCL VIOLATIONS

70. In November 2015, EPA and VADEQ issued administrative orders to Defendants under the CWA and SWCL for unauthorized impacts to eight acres of wetlands and 10,000 linear feet of stream at a property located on Whitehall Road in Goochland County, Virginia.

71. On June 27, 2024, the District Court for the Eastern District of Virginia sentenced Defendant Boyd Farm LLC and Defendant Frazier T. Boyd III for criminal violations of the CWA at the Sites.

CLAIM FOR RELIEF

72. Plaintiffs re-allege Paragraphs 1 through 74 and incorporate those allegations by reference.

73. Each of the Defendants is a “person” within the meaning of CWA Section 502(5), 33 U.S.C. § 1362(5) and SWCL, Va. Code. § 62.1-44.3.

74. Through the activities described above, Defendants and/or persons acting on their behalf discharged dredged or fill material to “waters of the United States” and “state waters,” as those waters are respectively defined in 33 U.S.C. § 1362(7) and Va. Code. § 62.1-44.3, at each of the Sites.

75. The dredged or fill material that Defendants discharged includes, *inter alia*, dredged spoil, rock, sand, and/or cellar dirt, all of which are “pollutants” within the meaning of CWA Section 502(6), 33 U.S.C. § 1362(6), and are “other wastes” within the meaning of Va. Code. § 62.1-44.3.

76. Defendants and/or persons acting on their behalf used mechanized land-clearing and earthmoving equipment to cause the discharges. These types of equipment are “point source[s]” within the meaning of CWA Section 502(14), 33 U.S.C. § 1362(14).

77. Defendants did not obtain a permit from the Corps for the discharges of dredged and/or fill material to waters of the United States, as required by CWA Sections 301(a) and 404, 33 U.S.C. §§ 1311(a), 1344.

78. Defendants did not obtain a permit from the State Water Control Board—or any or other entity authorized by the Board to issue such a certificate or permit—for the activities affecting state waters at the Sites, as required by Va. Code § 62.1-44.5(A).

79. Defendants owned and/or otherwise controlled the Sites at which each unauthorized discharge of dredged and/or fill material to the waters of the United States and State waters occurred.

80. Defendants planned, conducted, directed, contracted for, supervised, and/or otherwise controlled and/or participated in the unauthorized activities at the Sites.

81. By engaging in unauthorized discharges of dredged and/or fill material to waters of the United States and state waters at the Sites, Defendants violated the CWA and the SWCL, and at the Shannon Hill Site continue to violate CWA Section 301(a), 33 U.S.C. § 1311(a), and Va. Code § 62.1-44.5(A).

82. Each day that unauthorized dredged and/or fill material remains in place at the Shannon Hill Site constitutes a separate violation of CWA Section 301(a), 33 U.S.C. § 1311(a), and Va. Code § 62.1-44.5(A).

83. Under CWA Sections 309(b) and (d), 33 U.S.C. §§ 1319(b) & (d), and Va. Code §§ 62.1-44.23 and 62.1-44.32, Defendants are subject to injunctive relief and civil penalties for violating CWA Section 301(a), 33 U.S.C. § 1311(a), and Va. Code § 62.1-44.5(A), respectively.

84. Unless enjoined, Defendants are likely to continue to allow dredged and/or fill material to remain in waters of the United States and waters of the State at the Shannon Hill Site

in violation of CWA Section 301, 33 U.S.C. § 1311, and Va. Code § 62.1-44.5(A).

PRAYER FOR RELIEF

Plaintiffs respectfully request that this Court order the following relief:

1. That Defendants be permanently enjoined from discharging or causing the discharge of dredged or fill material or other pollutants to any waters of the United States or State waters except in compliance with the CWA and SWCL;
2. That Defendants be enjoined to undertake measures, at their own expense and at the direction of EPA and VADEQ, to restore and/or conduct mitigation for irreversible environmental damage and/or temporal loss of aquatic resources at the Shannon Hill Site;
3. That Defendants be enjoined from any further violations of the CWA's and the SWCL's requirements and the CWA's implementing regulations in the future;
4. That Defendants be assessed a civil penalty under CWA Section 309(d), 33 U.S.C. § 1319(d), and Va. Code § 62.1-44.32, for each day that Defendants have been in violation of CWA section 301(a), 33 U.S.C. § 1311(a), and Va. Code § 62.1-44.5, at the Shannon Hill Site, Hadensville Fife Site, and Tabscott Site;
5. That the United States and the Commonwealth of Virginia be awarded costs and disbursements, including expert witness fees, incurred in this action; and
6. That this Court grant the United States and the Commonwealth of Virginia such other relief as the Court may deem just and proper.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing was electronically filed with the Clerk of the Court on April 14, 2025, using the Court's electronic filing system, which will send notification of said filing to the attorneys of record that have, as required, registered with the Court's system.

/s/ Laura J. Brown
LAURA J. BROWN