



Clean Water Act Section 404: Site Visit/Case Development

For inspections authorized pursuant to Clean Water Act sections 308 and 404 (33 U.S.C. §§ 1318 and 1344)

This report includes only factual information gained by documentation, onsite observations, and/or onsite interviews.

Inspector Name(s)	Stephanie Andreescu Austin Jepsky (in-training)	Time In	2:05 PM	Start Date	September 9, 2022		
		Time Out	3:50 PM	End Date	September 9, 2022		
Inspector's Organization	U.S. EPA Region 2						
Organization Requesting Inspection (if different)							
Inspection Type	CWA Section 404 Inspection	Inspection Status	Original				
Site Name	James Marquis Property						
Site Address*	26 Evy Lane						
City*	Milton	County*	Ulster	State*	NY	Zip Code*	12547
Latitude/Longitude*	41.6395, -73.9695		Estimated Size of Site (acres)	4.24			
Is there a home on the site?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No						
Inspector Signature				Date	10/4/22		
Supervisor Signature				Date	10/4/22		



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Site Name	James Marquis Property	Start Date	September 9, 2022
		End Date	September 9, 2022
Inspection Purpose	Initial site visit		
Opening Conference			
<input checked="" type="checkbox"/> Presentation of Inspector Credentials			
Name and Title (Use N/A if owner/operator not available to join the inspection)			
Credentials were presented to Mr. James Marquis (property owner)			
<input checked="" type="checkbox"/> Opening Conference			
Name of person authorizing access if applicable			
I corresponded with the property owner over e-mail to arrange the inspection.			
Notes from Opening Conference			
EPA discussed the area that it was looking to inspect. Mr. Marquis explained the history of the property to EPA. Mr. Marquis followed EPA during most of the inspection.			
<input type="checkbox"/> Access Issues if Any			
Describe			
N/A			
Inspection Observations and Sample Collection			
Site Owner* (Name, title and contact information)			
Mr. and Mrs. James and Robin Marquis			
Additional Persons Present at Inspection			
Mr. James Marquis			
General Site Characteristics (layout of property, etc.)			
<p>The property is an 4.24-acre, residential parcel bounded by Thomas Court on the west and southwest, Evy Lane on the southeast, and Paula Drive on the east. Parcel information from the county lists the property as 3.24 acres.</p> <p>Two residential structures are located on the northwestern corner of the property. A shared driveway/street leads from these structures to Evy Lane.</p> <p>A 40 foot wide drainage easement maintained by the local municipality is located along the eastern edge of the property along Paula Drive. A Central Hudson Gas and Electric easement formerly ran north-south through the property but is no longer active or maintained.</p> <p>The southern half of the property is undeveloped with forested, scrub-shrub, and emergent wetland areas. A water line associated with construction of one of the residences cuts through the southern half of the property.</p>			
Site Overview (Past inspections, site description, permits, etc.)			
On September 11, 2009, the NY Corps District received an Approved Jurisdictional Determination (AJD) request for the parcel.			



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		End Date	September 9, 2022
<p>The Corps visited the site on September 14, 2009 and made changes to the delineation, which was resubmitted by the applicant's consultant to the Corps on June 29, 2010. On November 16, 2010, the Corps issued the AJD for the property. The associated letter stated that there is a 3.08-acre continuous wetland area on the project site that was "either adjacent or part of a tributary system". The AJD also noted that two wetland areas, totaling approximately 0.11 acre, had been previously filled as part of the proposed project.</p> <p>EPA's Wetland Protection Section had not visited the site prior to this inspection.</p>			
<p>Scope of Inspection (Areas inspected or not inspected)</p> <p>The inspection was generally limited to the southeastern corner of the property where there had been recent mowing, clearing, and filling activities.</p>			
<p>Environmental Conditions (e.g., wind, rain, smoke, dust, temperature, snow)</p> <p>Sunny, 80 degrees, dry conditions, below-normal precipitation</p>			



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Field Work Conducted

Data recorded during the inspection included GPS data, photographs, handwritten notes, and a soil sample.

Mr. Marquis showed EPA an area in the backyard where a pile of dirt and shale had been removed to create flat land. According to Mr. Marquis, these materials were moved a month ago to the southeastern corner of the parcel along with a fallen tree and associated mulch. The materials were separated into piles and placed in an area designated by the Corps during its September 14, 2009 site visit as wetland. Mr. Marquis stated that the pile of slate was being temporarily stockpiled at that location and that he planned to use the shale pile for the construction of a driveway at another one of his properties.

GPS points were recorded around the recent piles of fill material and at a soil sampling location adjacent to the shale piles. Vegetation, soils, and hydrology data confirmed that the location of the sampling location was in a wetland. The wetland area had been recently mowed but vegetation was growing back. Returning vegetation was dominated by common reed (*Phragmites australis*) and purple loosestrife (*Lythrum salicaria*).

EPA also observed that outside of the shale and mulch piles, a thin layer of older fill material (dirt and small rock) had been spread across a portion of the parcel adjacent to/under the dirt and shale piles. This occurred in an area also designated by the Corps as wetland.

Closing Conference

Documents Received and/or Requested During the Inspection

N/A

Compliance Assistance Provided (If any)

N/A

Observations Relayed to Site Owner/Operator

N/A

Actions Taken by Owner/Operator During the Inspection (If any)

N/A

Potential Issues of Concern Including Regulatory Citations

Fill material has been potentially discharged into wetland areas.

Attachments*

- Maps and Sketches
 - Photographs (including location) and Photo Log
 - Other
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Additional Notes			

2021 Imagery



NYS ITS GIS Program Office

-  Site Boundary
-  9/9/22 GPS Line - Shale Piles
-  9/9/22 GPS Point - Soil Sample

James Marquis Property
 Evy Lane, Milton, NY



CWA 404 Inspection
James Marquis Property
26 Evy Lane
Milton, Marlborough, NY

September 9, 2022



Date: 9/9/2022
Time: 2:26 PM
Photographer: SSA
Photo ID: 1 – P9090488

Description:

Former location of hill of shale
in the backyard of residence



Date: 9/9/2022
Time: 3:10 PM
Photographer: SSA
Photo ID: 2 – P9090489

Description:
SS1 Soil Profile



Date: 9/9/2022
Time: 3:40 PM
Photographer: SSA
Photo ID: 3 – P9090490

Description:

Area surrounding SS1 had been recently mowed



Date: 9/9/2022
Time: 3:40 PM
Photographer: SSA
Photo ID: 4 – P9090491

Description:
Area surrounding SS1 had been recently mowed



Date: 9/9/2022
Time: 3:41 PM
Photographer: SSA
Photo ID: 5 – P9090492

Description:

Two piles of fill – dirt and shale pieces (left) and shale (right); unmowed vegetation and trees located behind fill piles



Date: 9/9/2022
Time: 3:43 PM
Photographer: SSA
Photo ID: 6 – P9090493

Description:
Unmowed vegetation and trees
located next to fill piles
Phragmites australis and
Lythrum salicaria



Date: 9/9/2022
Time: 3:44 PM
Photographer: SSA
Photo ID: 7 – P9090494

Description:

Pile of shale from removed backyard hill



Date: 9/9/2022
Time: 3:44 PM
Photographer: SSA
Photo ID: 8 – P9090495

Description:
Pile of dirt and shale from removed backyard hill



Date: 9/9/2022
Time: 3:45 PM
Photographer: SSA
Photo ID: 9 – P9090496

Description:
Pre-existing pile of concrete



Date: 9/9/2022
Time: 3:46 PM
Photographer: SSA
Photo ID: 10 – P9090497

Description:

Mulch fill from tree that had fallen near residence

Project/Site: James Marquis Property City/County: Marlborough Sampling Date: 9/9/2022
 Applicant/Owner: James Marquis State: NY Sampling Point: SS1
 Investigator(s): S. Andreescu, A Jepsky Section, Township, Range: _____
 Landform (hillside, terrace, etc.): _____ Local relief (concave, convex, none): Slight depression Slope %: _____
 Subregion (LRR or MLRA): LRR R Lat: 41.6395 Long: -73.9695 Datum: _____
 Soil Map Unit Name: VoA - Volusia gravelly silt loam, 0 to 3 percent slopes (non-hydric with hydric inclusions) NWI classification: N/A
 Are climatic / hydrologic conditions on the site typical for this time of year? Yes _____ No X (If no, explain in Remarks.)
 Are Vegetation X, Soil _____, or Hydrology _____ significantly disturbed? Are "Normal Circumstances" present? Yes X No _____
 Are Vegetation _____, Soil _____, or Hydrology _____ naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present? Yes <u>X</u> No _____ Hydric Soil Present? Yes <u>X</u> No _____ Wetland Hydrology Present? Yes <u>X</u> No _____	Is the Sampled Area within a Wetland? Yes <u>X</u> No _____ If yes, optional Wetland Site ID: <u>See Remarks</u>
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Remarks: (Explain alternative procedures here or in a separate report.)
 The Corps issued an AJD for the property on November 16, 2010. The associated letter stated there is a 3.08-acre continuous wetland area on the site which part of the tributary system. The sampled area is in a location mapped as "WETLANDS AS PER BRIAN ORZEL, 9/14/09"

HYDROLOGY

Wetland Hydrology Indicators: Primary Indicators (minimum of one is required; check all that apply) _____ ___ Surface Water (A1) ___ Water-Stained Leaves (B9) ___ High Water Table (A2) ___ Aquatic Fauna (B13) ___ Saturation (A3) ___ Marl Deposits (B15) ___ Water Marks (B1) ___ Hydrogen Sulfide Odor (C1) ___ Sediment Deposits (B2) <u>X</u> Oxidized Rhizospheres on Living Roots (C3) ___ Drift Deposits (B3) ___ Presence of Reduced Iron (C4) ___ Algal Mat or Crust (B4) ___ Recent Iron Reduction in Tilled Soils (C6) ___ Iron Deposits (B5) ___ Thin Muck Surface (C7) ___ Inundation Visible on Aerial Imagery (B7) ___ Other (Explain in Remarks) ___ Sparsely Vegetated Concave Surface (B8)	Secondary Indicators (minimum of two required) ___ Surface Soil Cracks (B6) ___ Drainage Patterns (B10) ___ Moss Trim Lines (B16) ___ Dry-Season Water Table (C2) ___ Crayfish Burrows (C8) ___ Saturation Visible on Aerial Imagery (C9) ___ Stunted or Stressed Plants (D1) ___ Geomorphic Position (D2) ___ Shallow Aquitard (D3) ___ Microtopographic Relief (D4) <u>X</u> FAC-Neutral Test (D5)
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Field Observations: Surface Water Present? Yes _____ No <u>X</u> Depth (inches): _____ Water Table Present? Yes _____ No <u>X</u> Depth (inches): _____ Saturation Present? Yes _____ No <u>X</u> Depth (inches): _____ (includes capillary fringe)	Wetland Hydrology Present? Yes <u>X</u> No _____
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Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:
 Conditions were dry at the time of the inspection due to below normal precipitation

VEGETATION – Use scientific names of plants.

Sampling Point: SS1

Tree Stratum (Plot size: _____)	Absolute % Cover	Dominant Species?	Indicator Status
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____
7. _____	_____	_____	_____
	=Total Cover		
Sapling/Shrub Stratum (Plot size: _____)			
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____
7. _____	_____	_____	_____
	=Total Cover		
Herb Stratum (Plot size: <u>5</u>)			
1. <u>Phragmites australis</u>	<u>20</u>	<u>Yes</u>	<u>FACW</u>
2. <u>Lythrum salicaria</u>	<u>25</u>	<u>Yes</u>	<u>OBL</u>
3. <u>Decodon verticillatus</u>	<u>5</u>	<u>No</u>	<u>OBL</u>
4. <u>Onoclea sensibilis</u>	<u>1</u>	<u>No</u>	<u>FACW</u>
5. _____	_____	_____	_____
6. _____	_____	_____	_____
7. _____	_____	_____	_____
8. _____	_____	_____	_____
9. _____	_____	_____	_____
10. _____	_____	_____	_____
11. _____	_____	_____	_____
12. _____	_____	_____	_____
	<u>51</u> =Total Cover		
Woody Vine Stratum (Plot size: _____)			
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
	=Total Cover		

Dominance Test worksheet:

Number of Dominant Species That Are OBL, FACW, or FAC: 2 (A)

Total Number of Dominant Species Across All Strata: 2 (B)

Percent of Dominant Species That Are OBL, FACW, or FAC: 100.0% (A/B)

Prevalence Index worksheet:

Total % Cover of:	Multiply by:
OBL species <u>30</u>	x 1 = <u>30</u>
FACW species <u>21</u>	x 2 = <u>42</u>
FAC species <u>0</u>	x 3 = <u>0</u>
FACU species <u>0</u>	x 4 = <u>0</u>
UPL species <u>0</u>	x 5 = <u>0</u>
Column Totals: <u>51</u> (A)	<u>72</u> (B)
Prevalence Index = B/A = <u>1.41</u>	

Hydrophytic Vegetation Indicators:

 1 - Rapid Test for Hydrophytic Vegetation

X 2 - Dominance Test is >50%

X 3 - Prevalence Index is ≤3.0¹

 4 - Morphological Adaptations¹ (Provide supporting data in Remarks or on a separate sheet)

 Problematic Hydrophytic Vegetation¹ (Explain)

¹Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Definitions of Vegetation Strata:

Tree – Woody plants 3 in. (7.6 cm) or more in diameter at breast height (DBH), regardless of height.

Sapling/shrub – Woody plants less than 3 in. DBH and greater than or equal to 3.28 ft (1 m) tall.

Herb – All herbaceous (non-woody) plants, regardless of size, and woody plants less than 3.28 ft tall.

Woody vines – All woody vines greater than 3.28 ft in height.

Hydrophytic Vegetation Present? Yes X No

Remarks: (Include photo numbers here or on a separate sheet.)
Vegetation had been recently mowed

