



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 Tougas Ray Putnam	Time In	9:30AM	Start Date	August 18, 2021
		Time Out	11:50AM	End Date	August 18, 2021
Inspector's Organization	USEPA				
Organization Requesting Inspection (if different)					
Inspection Type	Evaluation	Inspection Status	Original		
Site Name	Silenex Associates LLC				
Site Address*	186 Cherry Lane				
City*	Durham	County*	Middlesex	State*	CT
				Zip Code*	06422
Mailing Address*	186 Cherry Lane				
City*	30 Old Indian Trail	County*	Middlesex	State*	CT
				Zip Code*	06455
Latitude*	41°27'51.71"N		Longitude*	72°40'23.92"W	
Estimated Size of Site (acres)	56	Is there a home on the site?	☒ Yes ☐ No		
Inspector Signature	Tougas, Stephanie Digitally signed by Tougas, Stephanie Date: 2021.08.25 14:03:00 -04'00'			Date	
Supervisor Signature	DENNY DART Digitally signed by DENNY DART Date: 2021.08.30 14:11:51 -04'00'			Date	



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Site Name	Silenex Associates LLC	Start Date	August 18, 2021
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Inspection Purpose	Initial site visit		
Opening Conference			
☒ Presentation of Inspector Credentials			
Name and Title (Use N/A if owner/operator not available to join the inspection)			
Nick Xenelis (manager of Silenex Associates LLC)			
☒ Opening Conference			
Name of person authorizing access if applicable			
Nick Xenelis			
Notes from Opening Conference			
I explained that EPA has been referred this case from the Corps and we were here to evaluate compliance with CWA section 404. EPA explained that they are aware that CTDEEP and Army Corps had issued an NOV already for the work that had been done on the property in the streams. We explained that depending on what EPA finds in the field, we may take an action. Mr. Golembiewski (CTDEEP) explained that significant alterations (channelization, trenching, armoring) had been made to Fowley Brook and its tributaries that run through the property. Mr. Nick Xenelis explained that he had thought he had a local permit to do some of the work, but it had expired. Mr. Xenelis explained that he thought he had the right to do some of the clear cutting. CTDEEP explained that there is a right for certain maintenance but that right is not self executing. I said that we will walk the site and requested permission to take photos, which they granted.			
☐ Access Issues if Any			
Describe			
Inspection Observations and Sample Collection			
Site Owner/Site Operator/Responsible Party (Name, title and contact information)			
Silenex Associates LLC - site owner Nick Xenelis - principal manger Silenex Associates LLC			
Additional Persons Present at Inspection			
David Xenelis - Son of Nick Dwayne Xenelis - Son of Nick Erin Xenelis - Daughter in Law of Nick Brian Golembiewski - CTDEEP Joe Carta - wetlands enforcement officer - Town of Durham ("the Town") Michael Ott - engineer (working with Nick) Jim Sipperly - soil scientist (working with Nick) Tim Reyher - neighbor/ abutter at 76 Higganum St Ray Putnam - EPA			



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Site Name	Silenex Associates LLC	Start Date	August 18, 2021
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General Site Characteristics (layout of property, etc.)			
The site is located north of Hellgate Rd, south of Higganum Rd, and east of Cherry Lane (official site address is 186 Cherry Lane) on a parcel of property that is approximately 56 acres. The parcel is mixed residential and farm – parts of the property are used for hay production. The site slopes north and west, with a high elevation of 255 feet above sea level. There exists a pond on the site in the northwest area. According to a drainage analysis on StreamStats, the drainage area is approximately 0.87 square miles. The site has multiple flowing tributaries that confluence with the likely perennial waterway Fowley Brook, which flows north under Higganum Rd. Fowley Brook flows north and then east, where it connects with Allyn Brook. Allyn Brook flows west and then north into the Coginchaug River.			
Purpose and Need for Discharge of Dredged and/or Fill Material			
Mr. Xenelis claimed it was for maintenance.			
Site Overview (Past inspections, site description, permits, etc.)			
None by EPA, inspection conducted by CTDEEP on May 7, 2021.			
Scope of Inspection (Areas inspected or not inspected)			
Inspected areas where wetlands and streams were recently impacted on the Site.			

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Environmental Conditions (e.g., wind, rain, smoke, dust, temperature, snow)			
Partially sunny, humid, 80 degrees.			
Field Work Conducted			
We began the site walk near the pond. Mr. Xenelis explained that the pond is ground fed. We first walked to the area where the bridge at Higganum Rd. is located. The bridge had work done on it in 2019 by the town of Durham. We observed that material has been accumulating under the bridge. CTDEEP explained that they had recommended that Mr. Xenelis begin removing the silt that had been migrating downstream. We began walking along Fowley Brook, upstream, observing that much of the stream had been channelized and armored with stones. CTDEEP explained that the stream had gone from previously narrow and deep to shallower and wider after the impacts. Much of the riparian area along the stream had been denuded of trees. Mr. Xenelis said that he would plant more trees and shrubs along the channel. I observed multiple groups of fish as we walked the stream, and CTDEEP mentioned that this stream connects two native brook trout populations. As we walked up Fowley Brook, I observed adjacent to the tributary potential wetland areas (based on vegetation present) that appeared to have sidecast material and other types of fill in them (mulch, stumps and brush). I asked Mr. Carta what the potential wetland area historically looked like before the recent impacts, to which he responded he thought it was a mix of forest and scrub/shrub. We proceeded to walk up Fowley Brook and then along a tributary flowing into Fowley Brook from the east. I observed some more armoring in the channel, as well as some additional areas where fill comprised of sidecast material appeared to be placed. We came across a stream crossing, which Mr. Nick Xenelis said had been there since the 1980's. We then walked south along the eastern edge of the property towards Hellgate Rd. Walking west along Hellgate Rd., we observed an area where fill seemingly made from construction aggregate was located in what appeared to be a wetland area adjacent to a tributary to Fowley Brook. CTDEEP observed that the fill appeared to be recent based on the vegetation growing. We asked Mr. Xenelis when this fill was put there, to which he responded sometime after August 14, 2020. We then walked to where Fowley Brook crosses under Hellgate Rd. Mr. Xenelis and Mr. Carta explained that a permit by the Town had been recently granted to Mr. Xenelis do some work 600 feet off Hellgate Rd. We continued to walk downstream along Fowley Brook. I observed areas of channel incision. We then reached the general area where we began the inspection by the pond and concluded the site tour.			
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			
As we walked the site, EPA, the Town and CTDEEP informed the Xenelis family and their associates where we observed fill in potential wetland areas as well as areas where the stream appeared to be channelized and the impacts the channelization and			



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removal of trees in the riparian area was having on the stream, such as erosion, incision, shallower water, siltation.			
Actions Taken by Owner/Operator During the Inspection (If any)			
N/A			
Potential Issues of Concern Including Regulatory Citations			
At the conclusion of the site tour, CTDEEP explained their jurisdiction over water diversion, and the types of restoration that they hoped to see accomplished with restoring the stream and the riparian areas. I explained that EPA could not make a definite determination in the field, but that we believed there to be federally jurisdictional wetlands present on site that also appeared to have been filled. I explained that we want to work with Mr. Xenelis and his family to resolve the matter, and that EPA will likely open a case where EPA will seek to access the site again to conduct field work that consists of wetland delineation with an EPA contracted soil scientist and also determine where the impacts to wetlands have occurred. I also explained that a penalty may be assessed. I said that we will be following up with an inspection report and an information request letter, which will have some similar questions to the information request the Corps had sent to them. I explained that we would be consulting with the Town and CTDEEP on how to proceed.			
Attachments*			
☐ Maps and Sketches			
☒ Photographs (including location) and Photo Log			
☐ Other (SSIP, Wetlands Delineation Forms, etc.)			
Additional Notes			
Mr. Xenelis expressed interest in resolving the matter and willingness to work with CTDEEP to get going on the stream restoration soon.			