



# 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 Seika Robinson (in-training) Austin Jepsky (in-training)	Time In	10:20 AM	Start Date	August 26, 2022
		Time Out	12:19 PM	End Date	August 26, 2022

Inspector's Organization	U.S. EPA Region 2
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Organization Requesting Inspection (if different)	
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Inspection Type	CWA Section 404 Inspection	Inspection Status	Original
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Site Name	Dick's Concrete
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Site Address*	1053 County Road 37 (Pellets Island Road) and 1326 Co Route 12
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City*	New Hampton, Wawayanda	County*	Orange	State*	NY	Zip Code*	10958
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Latitude/Longitude*	41.3812, -74.4191	Estimated Size of Site (acres)	85.8 ac (12.4 + 73.4 ac)
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Is there a home on the site?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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Inspector Signature	<i>Stephanie Andreescu</i> Digitally signed by Andreescu, Stephanie Date: 2022.11.03 14:35:17 -04'00'	Date	11/3/22
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Supervisor Signature	<b>MARCO FINOCCHIARO</b> Digitally signed by MARCO FINOCCHIARO Date: 2022.11.07 08:47:32 -05'00'	Date	11/7/22
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Site Name	Dick's Concrete	Start Date	August 26, 2022
		End Date	August 26, 2022
Inspection Purpose	Initial site visit		
<b>Opening Conference</b>			
<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 Richard Penaluna of Dick's Concrete.			
<input checked="" type="checkbox"/> Opening Conference			
Name of person authorizing access if applicable			
I spoke with Renee, a representative of Dick's Concrete Co. Inc. over the phone to arrange the inspection. Richard Penaluna met us for the inspection.			
Notes from Opening Conference			
EPA explained the reason for the inspection and exchanged contact information with Mr. Penaluna.			
<input type="checkbox"/> Access Issues if Any			
Describe			
N/A			
<b>Inspection Observations and Sample Collection</b>			
Site Owner* (Name, title and contact information)			
Dick's Concrete Co Inc. (17-1-36.1) and Pena Farm, LLC (17-1-105)			
Additional Persons Present at Inspection			
Richard Penaluna, Dick's Concrete Co., Inc.			
General Site Characteristics (layout of property, etc.)			
<p>The site is comprised of two parcels: 17-1-36.1 (12.4 acres), which is owned by Dick's Concrete Co Inc. and 17-1-105 (73.4 acres), which is owned by Pena Farm, LLC. Both companies are run by Barbara Penaluna.</p> <p>The Dick's Concrete Co Inc. property has frontage along County Road 37 on the north side of the property. It is bordered on the east by three small parcels and on the south and west by the Pena Farm, LLC parcel. An agricultural ditch, a historically-straightened perennial stream (see Site Overview section, below), flows east along the southern boundary to its confluence with the Wallkill River, approximately 700 linear feet downstream. The property is the site of a business that supplies ready-mix concrete and aggregate. Most of the property is developed and includes, but is not limited to, an access driveway, parking lot, offices, processing areas, and storage areas.</p> <p>The Pena Farm, LLC property has frontage along County Road 37 and County Route 12. It is bordered on the west by County Route 12, on the east by Onion Avenue, on the north by the County Road 37 and the Dick's Concrete Co Inc. parcel, and on the south by other parcels. Most of the property is undeveloped and leased for farming. Agricultural ditches cross much of the property. There are also some scrub-shrub/forested areas on the parcel. One such area, located south of the Dick's Concrete Co Inc. property, has recently been disturbed from filling for the expansion of the supply business.</p>			



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Site Name	Dick's Concrete	Start Date	August 26, 2022
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Site Overview (Past inspections, site description, permits, etc.)			
<p>While the U.S. Army Corps of Engineers (Corps) has not issued a jurisdictional determination (JD) on either parcel, in 2004, the Corps did issue a JD on a neighboring property to the west. The JD covered wetlands associated with streams that form the upstream portion of the agricultural ditch that runs along the southern boundary of the Dick's Concrete expansion. The Corps verified that wetlands on the neighboring property were jurisdictional and drained to an unnamed perennial tributary that flowed to the Wallkill River. The unnamed perennial tributary enters and then flows through the Pena Farms parcel as a channelized watercourse/agricultural ditch.</p> <p>EPA's Wetland Protection Section had not visited the site prior to this inspection.</p>			
Scope of Inspection (Areas inspected or not inspected)			
<p>EPA's inspection was mostly limited to the area on the Pena Farms parcel where the Dick's Concrete concrete and aggregate supply business had expanded operations south.</p>			
Environmental Conditions (e.g., wind, rain, smoke, dust, temperature, snow)			
<p>low 80's, partly cloudy, below-normal precipitation</p>			



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**Field Work Conducted**

Data recorded during the inspection included GPS data, photographs, handwritten notes, and two soil samples.

EPA started the inspection at the Dick's Concrete parking lot off of Pellets Island Road/County Road 37. EPA observed basins surrounded by wetland vegetation along the western border of the property.

EPA walked south to the Pena Farm, LLC parcel where fill material consisting of dirt and rock had been spread on the property to expand facility operations. The area was undeveloped and flat with the exception of piles of dirt, rock, and concrete. A berm measuring 15+ feet high surrounded the southwestern portion of the expansion area, separating it from agricultural channels to the south and west. Early successional plants had colonized portions of the area. Mr. Penaluna explained that the prior owner had constructed a berm several feet high to prevent runoff from entering the surrounding channels and that Dick's Concrete had added material to the top of the berm in some areas. EPA observed upland trees on and near the berm including, but not limited to, black walnut and staghorn sumac. Phragmites, an herbaceous wetland plant, was also observed between the berm and the agricultural channels.

EPA took two soil samples. The first soil sample, located in a scrub-shrub/herbaceous area east of the expansion, was found to not be in a wetland due to a lack of hydrological indicators. The second soil sample, located between the berm and an agricultural channel south of the expansion area was also found to not be in a wetland.

EPA observed water in the agricultural channel south of the expansion area. The channel flows east to the Wallkill River.

**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 to wetlands on the Pena Farm, LLC property.

**Attachments\***

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

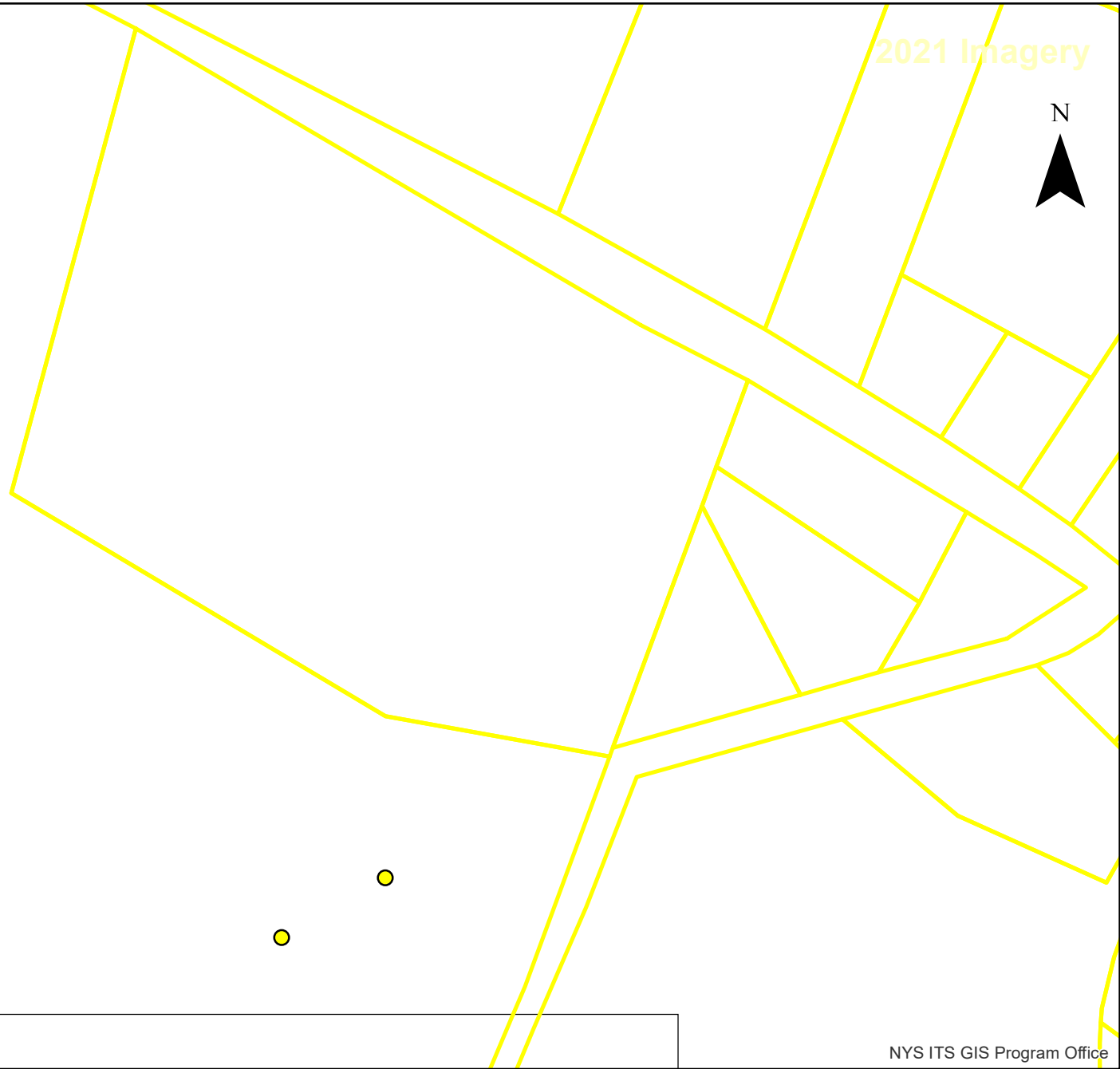


# Clean Water Act Section 404: Site Visit/Case Development

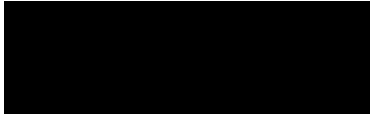
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		End Date	August 26, 2022
<b>Additional Notes</b>			



2021 Imagery



NYS ITS GIS Program Office



Dick's Concrete Co. Inc. and Pena Farm LLC Properties  
1053 Co Road 37, New Hampton, Orange County, NY

-  EPA 8/26/2022 GPS Point
-  Parcel Boundary

CWA 404 Inspection Photolog  
Dick's Concrete  
1053 Co Rd 37 and 1326 Co Rt 12  
Orange County, NY

August 26, 2022



**Date:** 8/26/2022  
**Time:** 10:26 AM  
**Photographer:** SSA  
**Photo ID:** 1 – P8260369

**Description:**

Parking and entrance to Dick's  
Concrete facility



**Date:** 8/26/2022  
**Time:** 10:29 AM  
**Photographer:** SSA  
**Photo ID:** 2 – P8260370

**Description:**

Man-made pond/basin on western edge of Dick's Concrete property



**Date:** 8/26/2022  
**Time:** 10:33 AM  
**Photographer:** SSA  
**Photo ID:** 3 – P8260371

**Description:**

Facility expansion area, disposal area for returned concrete



**Date:** 8/26/2022  
**Time:** 10:33 AM  
**Photographer:** SSA  
**Photo ID:** 4 – P8260372

**Description:**

Facility expansion area, disposal area for returned concrete



**Date:** 8/26/2022  
**Time:** 10:35 AM  
**Photographer:** SSA  
**Photo ID:** 5 – P8260373

**Description:**

Southern border of expansion area; berm in background



**Date:** 8/26/2022  
**Time:** 10:35 AM  
**Photographer:** SSA  
**Photo ID:** 6 – P8260374

**Description:**

Southern border of expansion area; berm in background



**Date:** 8/26/2022  
**Time:** 10:37 AM  
**Photographer:** SSA  
**Photo ID:** 7 – P8260375

**Description:**  
Border of facility expansion area



**Date:** 8/26/2022  
**Time:** 10:37 AM  
**Photographer:** SSA  
**Photo ID:** 8 – P8260376

**Description:**

Border of facility expansion area; berm in background



**Date:** 8/26/2022  
**Time:** 10:37 AM  
**Photographer:** SSA  
**Photo ID:** 9 – P8260377

**Description:**

Border of facility expansion  
area; berm in background



**Date:** 8/26/2022  
**Time:** 10:41 AM  
**Photographer:** SSA  
**Photo ID:** 10 – P8260378

**Description:**

Area adjacent to facility expansion area; area not impacted by expansion



**Date:** 8/26/2022  
**Time:** 10:41 AM  
**Photographer:** SSA  
**Photo ID:** 11 – P8260379

**Description:**

Photo taken from top of berm facing facility



**Date:** 8/26/2022  
**Time:** 10:41 AM  
**Photographer:** SSA  
**Photo ID:** 12 – P8260380

**Description:**  
Photo taken from top of berm



**Date:** 8/26/2022  
**Time:** 10:44 AM  
**Photographer:** SSA  
**Photo ID:** 13 – P8260381

**Description:**

Channel that runs along southern border of expansion area on other side of berm



**Date:** 8/26/2022  
**Time:** 10:46 AM  
**Photographer:** SSA  
**Photo ID:** 14 – P8260382

**Description:**

Channel that runs along southern border of expansion area; surface water in channel



**Date:** 8/26/2022  
**Time:** 10:58 AM  
**Photographer:** SSA  
**Photo ID:** 15 – P8260383

**Description:**  
Area around Soil Pit #1 (SS1)



**Date:** 8/26/2022  
**Time:** 11:00 AM  
**Photographer:** SSA  
**Photo ID:** 16 – P8260384

**Description:**  
Area around Soil Pit #1 (SS1)



**Date:** 8/26/2022  
**Time:** 11:00 AM  
**Photographer:** SSA  
**Photo ID:** 17 – P8260385

**Description:**  
Area around Soil Pit #1 (SS1)



**Date:** 8/26/2022  
**Time:** 11:00 AM  
**Photographer:** SSA  
**Photo ID:** 18 – P8260386

**Description:**  
Area around Soil Pit #1 (SS1)



**Date:** 8/26/2022  
**Time:** 11:00 AM  
**Photographer:** SSA  
**Photo ID:** 19 – P8260387

**Description:**  
Area around Soil Pit #1 (SS1)



**Date:** 8/26/2022  
**Time:** 11:00 AM  
**Photographer:** SSA  
**Photo ID:** 20 – P8260388

**Description:**  
Area around Soil Pit #1 (SS1)



**Date:** 8/26/2022  
**Time:** 11:04 AM  
**Photographer:** SSA  
**Photo ID:** 21 – P8260389

**Description:**  
Soil Pit #1 (SS1) soil profile



**Date:** 8/26/2022  
**Time:** 11:04 AM  
**Photographer:** SSA  
**Photo ID:** 22 – P8260390

**Description:**  
Soil Pit #1 (SS1) soil profile



**Date:** 8/26/2022  
**Time:** 11:04 AM  
**Photographer:** SSA  
**Photo ID:** 23 – P8260391

**Description:**

Soil Pit #1 (SS1) soil profile



**Date:** 8/26/2022  
**Time:** 11:04 AM  
**Photographer:** SSA  
**Photo ID:** 24 – P8260392

**Description:**  
Soil Pit #1 (SS1) soil profile



**Date:** 8/26/2022  
**Time:** 11:31 AM  
**Photographer:** SSA  
**Photo ID:** 25 – P8260393

**Description:**  
Area around Soil Pit #2 (SS2)



**Date:** 8/26/2022  
**Time:** 11:31 AM  
**Photographer:** SSA  
**Photo ID:** 26 – P8260394

**Description:**  
Area around Soil Pit #2 (SS2)



**Date:** 8/26/2022  
**Time:** 11:31 AM  
**Photographer:** SSA  
**Photo ID:** 27 – P8260395

**Description:**  
Area around Soil Pit #2 (SS2)



**Date:** 8/26/2022  
**Time:** 11:31 AM  
**Photographer:** SSA  
**Photo ID:** 28 – P8260396

**Description:**  
Area around Soil Pit #2 (SS2)



**Date:** 8/26/2022  
**Time:** 11:31 AM  
**Photographer:** SSA  
**Photo ID:** 29 – P8260397

**Description:**  
Area around Soil Pit #2 (SS2)



**Date:** 8/26/2022  
**Time:** 11:31 AM  
**Photographer:** SSA  
**Photo ID:** 30 – P8260398

**Description:**  
Area around Soil Pit #2 (SS2)



**Date:** 8/26/2022  
**Time:** 11:37 AM  
**Photographer:** SSA  
**Photo ID:** 31 – P8260399

**Description:**  
Soil Pit #2 (SS2) soil profile



**Date:** 8/26/2022  
**Time:** 11:37 AM  
**Photographer:** SSA  
**Photo ID:** 32 – P8260400

**Description:**

Soil Pit #2 (SS2) soil profile



**Date:** 8/26/2022  
**Time:** 11:37 AM  
**Photographer:** SSA  
**Photo ID:** 33 – P8260401

**Description:**  
Soil Pit #2 (SS2) soil profile



**Date:** 8/26/2022  
**Time:** 11:55 AM  
**Photographer:** SSA  
**Photo ID:** 34 – P8260402

**Description:**  
Area near berm



**Date:** 8/26/2022  
**Time:** 11:59 AM  
**Photographer:** SSA  
**Photo ID:** 35 – P8260403

**Description:**

SW corner of expansion area;  
area on top of berm



**Date:** 8/26/2022  
**Time:** 12:00 PM  
**Photographer:** SSA  
**Photo ID:** 36 – P8260404

**Description:**

SW corner of expansion area;  
area on top of berm



**Date:** 8/26/2022  
**Time:** 12:00 PM  
**Photographer:** SSA  
**Photo ID:** 37 – P8260405

**Description:**

SW corner of expansion area;  
area on top of berm