



STATE OF NEW YORK  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
ALBANY, NEW YORK 12233-1010

**STATE OF NEW YORK:  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

---

In the Matter of an Emergency Order for  
the establishment of  
Protective Zones to Prevent the Spread  
of Oak Wilt disease pursuant  
to ECL Sections 9-1303

---

**EMERGENCY ORDER**

WHEREAS:

- The Environmental Conservation Law (ECL) Section 9-1303 empowers the New York State Department of Environmental Conservation (Department) to establish protective zones for the purpose of preventing the spread of forest tree diseases;
- ECL Section 9-1303 also authorizes the Department by order to prohibit the movement of materials which may be harboring forest tree diseases;
- In September 2008 Department staff confirmed that Oak Wilt disease had infected oak trees in the Glen Oaks neighborhood in the town of Glenville, Schenectady County, New York;
- On October 16, 2008, Commissioner Grannis issued a emergency order directing staff to develop an eradication plan with public involvement and to notify affected landowners; that order further established a protective zone and ordered that no person shall remove any oak tree or portion thereof from such protective zone;
- In October, 2008 department staff developed and implemented an oak wilt eradication plan for the infested area, with public involvement;
- Oak Wilt is a serious tree disease that was first detected in the Great Lakes Region of the United States in 1944. Since that time it has spread killing

thousands of oak trees each year. Oak Wilt is caused by a fungus, *Ceratocystis fagacearum*, which causes blockage of the water conducting vessels (xylem) of host trees slowing the movement of water within the tree whereby the leaves wilt and drop off. Infected red oak trees typically die within a few weeks of infection. The disease is spread through underground root systems and by beetles that colonize within infected trees. In addition, the spread of oak wilt disease is associated with the movement of firewood and other wood products. Thus, immediate action by the Department is necessary to eliminate this infestation and prevent the spread of this fungus to protect oak trees in the surrounding area and the entire state;

- In early October, 2013, the Department was notified by USDA APHIS and NYSDAM that samples from a symptomatic oak tree, protected and retained in the infested Glenville neighborhood as part of the eradication effort in 2008, had been submitted by homeowner Terry Phillips, and tested positive for oak wilt, by the Cornell Plant Disease Diagnostic Clinic, confirmed by DNA testing at Iowa State University.
- Department forestry staff has consulted with US Forest Service oak wilt experts and are developing a new response and eradication plan, which will be discussed with the affected homeowners and community.
- Department staff have again delineated the area infected with oak wilt disease as described on Schedule A and on the attached map, which shall be known hereinafter as the "Protective Zone";
- ECL Section 9-1303 provides that in establishing protective zones, the Department shall have the authority to enter onto private lands to make such modification in the composition of forest growth as it may deem necessary for the purpose of preventing the spread of forest tree diseases including spraying, cutting, destroying or otherwise treating trees or other vegetation located in the Protective Zone;
- Accordingly, I direct Department staff to continue to develop and implement the Department's eradication plan with public involvement including: (1) the removal of infected and potentially infected host trees, (2) proper disposal of infected

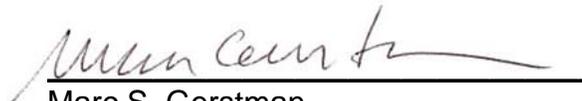
material, and (3) any other action necessary to prevent the spread of oak wilt disease.

- Department staff shall continue to take reasonable steps and exercise due diligence to notify, work cooperatively with and entering into agreements with affected landowners as appropriate to implement the Department's eradication plan.

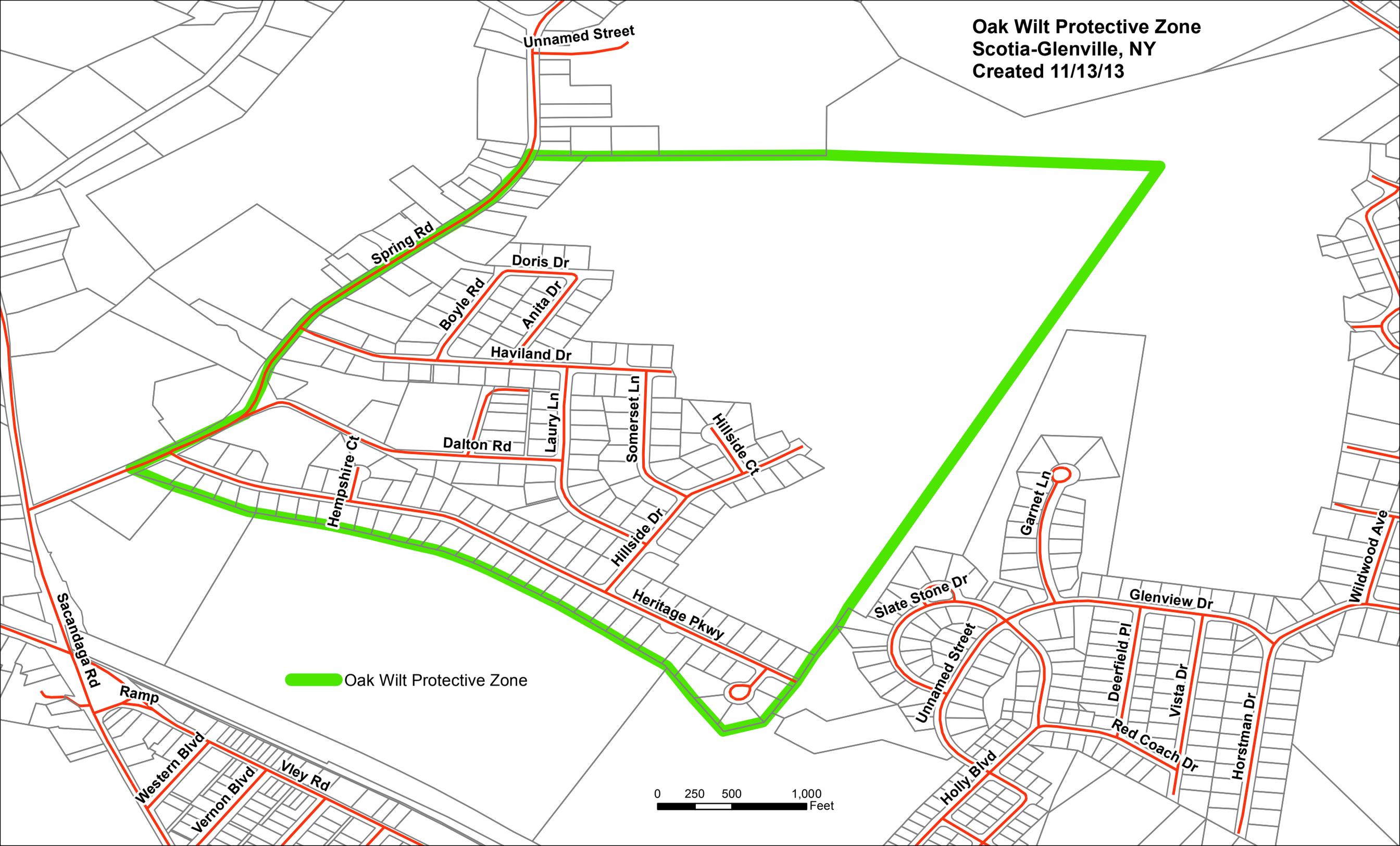
**NOW, THEREFORE**, pursuant to (ECL) Sections 9-1303 and based upon the above findings:

1. **I HEREBY REAFFIRM** that an emergency exists due to the infestation of oak wilt disease on oak trees in the Glen Oaks neighborhood in the town of Glenville, Schenectady County, New York;
2. **I HEREBY ORDER** that the infected area as delineated on Schedule A and the attached maps, of boundaries are designated as the Protective Zone for the purposes of carrying out this order;
3. **I HEREBY ORDER** that Department staff carryout and implement the Department's eradication plan in cooperation with affected landowners; and
4. **I FURTHER ORDER** that except as permitted by the Department, no person shall move any living, dead, standing, cut or fallen oak trees or any portion thereof, including branches, logs, stumps or roots, green oak lumber and firewood (of any species) unless it has been chipped to less than one (1) inch in two (2) dimensions outside of the Protective Zone.
5. **THIS ORDER SHALL BE EFFECTIVE IMMEDIATELY.**

DATED: 11/21/13

  
\_\_\_\_\_  
Marc S. Gerstman  
Executive Deputy Commissioner  
NEW YORK STATE DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION

**Oak Wilt Protective Zone  
Scotia-Glenville, NY  
Created 11/13/13**



 Oak Wilt Protective Zone

0 250 500 1,000 Feet

## Schedule A

Those parts of Schenectady County lying within a continuous line beginning at the intersection of Spring Road and Dalton Road; thence southwesterly along the centerline of Spring Road approximately 800 feet; thence southeasterly approximately 3000 feet along a line that corresponds to the back boundary of lots located on the south side of Heritage Parkway; thence southeasterly approximately 500 feet along a line that corresponds to the back boundary of lots located on the south side of Yorkshire Court; thence northeasterly approximately 210 feet along a line that corresponds to the back boundary of lots located on the south side of Yorkshire Court; thence northeasterly approximately 4200 feet along a line that corresponds to the east boundary of lots located on the east end of Heritage Parkway; thence westerly approximately 2900 feet to the centerline of Spring Road; thence southwesterly along the centerline of Spring Road approximately 2200 feet to the point of beginning.