

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

In the Matter of an Emergency Order for
the Establishment of a Quarantine District and
Protective Zone to Prevent the Spread
of Oak Wilt Disease Pursuant
to ECL Sections 9-1303

ORDER

WHEREAS:

- 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 August 2008 Oak Wilt was confirmed on a number of red oak trees on two properties in the community of Glen Oaks within the town of Glenville, Schenectady County, New York.
- On October 16, 2008, Commissioner Grannis issued an 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;
- 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 consulted with US Forest Service oak wilt experts and implemented a new response and eradication plan, with involvement of the affected homeowners and community;
- In August of 2017, two new sites were detected in the Town of Glenville and samples were confirmed positive for oak wilt by the Cornell Plant Diagnostic Clinic bringing the total number of sites in the Town of Glenville to three. The first site being in Sanders Town Preserve and the second being on St. Jude Lane in East Glenville;
- The Environmental Conservation Law (ECL) section 9-1303(5) authorizes the Department by order to establish a Quarantine District to prohibit the movement of materials which may be harboring forest tree diseases;
- ECL section 9-1303(7) empowers the Department to establish protective zones for the purpose of preventing the spread of forest tree diseases;
- Department staff has delineated the area infected with oak wilt disease as all of the Town of Glenville and all of the Village of Scotia in Schenectady County, New York and further described on Schedule A and on the attached map, which shall be known hereinafter as the "Quarantine District and Protective Zone"; and
- ECL Section 9-1303(7) 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.

NOW, THEREFORE, pursuant to ECL Section 9-1303 and based upon the above:

1. **I HEREBY FIND** that Oak Wilt disease has infected oak trees in the Town of Glenville, Schenectady County, New York and that, in order to protect the forests of New York State, the Department must take immediate action to eradicate this infestation and prevent its spread;
 - 1A.** Except as authorized by the Department by permit, 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) outside of the Quarantine District and Protective Zone unless it has been chipped to less than one (1) inch in two (2) dimensions.
 - 1B.** Oak nursery stock grown for a period exceeding two years within the Quarantine District and Protective Zone may be moved out of the Quarantine District and Protective Zone only pursuant to a permit issued by the New York State Department of Agriculture and Markets, Division of Plant Industry, specifically authorizing such movement, and only if the shipping nursery is under a compliance agreement with the New York State Department of Agriculture and Markets, Division of Plant Industry. This compliance agreement will require Oak Wilt surveys in nurseries and specify production practices to minimize the risk of spreading Oak Wilt through nursery stock movement. It will also require nursery growers handling regulated articles to compile, maintain and make available for inspection for a period of two years, records of inventory and sales of regulated articles on a form or forms prescribed by the Commissioner of the New York State Department of Agriculture and Markets.
 - 1C.** Living or dead oak trees or any portion thereof and firewood (of any species) may be moved outside of the Quarantine District and Protective Zone under a Department of Environmental Conservation, Division of Lands and Forests limited transportation permit, providing the materials are from sources apparently free of Oak Wilt disease; transportation of

such materials shall only occur from August 1st through March 31st;
materials shall be shipped with a copy of the permit and proper shipping
documents.

2. **I HEREBY ORDER** Department staff to continue to develop and implement, with public involvement, an eradication plan including: (1) the removal of infected and potentially infected host trees, (2) proper disposal of infected material, and (3) any other action reasonably necessary to prevent the spread of Oak Wilt disease.
3. **I FURTHER ORDER** Department staff to continue to take reasonable steps and exercise due diligence to notify, work cooperatively with and enter into agreements with affected landowners as appropriate to implement the Department's eradication plan;
4. **I FURTHER ORDER** that all of the Town of Glenville and all of the Village of Scotia, further delineated on Schedule A and the attached map, is designated as the Quarantine District and Protective Zone for the purposes of carrying out this order;
5. **I FURTHER ORDER** that the Quarantine District and Protective Zone established in this Order replaces the Protective Zone previously established in 2013 for the Glen Oaks neighborhood;
6. **I FURTHER ORDER** that the areas where oak is removed by the Department shall remain oak free as long as the Order is effective, except as authorized by the Department, in writing, including any appropriate preventive measures;
7. **I FURTHER ORDER** that a copy of this order be immediately filed in the Office of the Clerk of Schenectady County; and

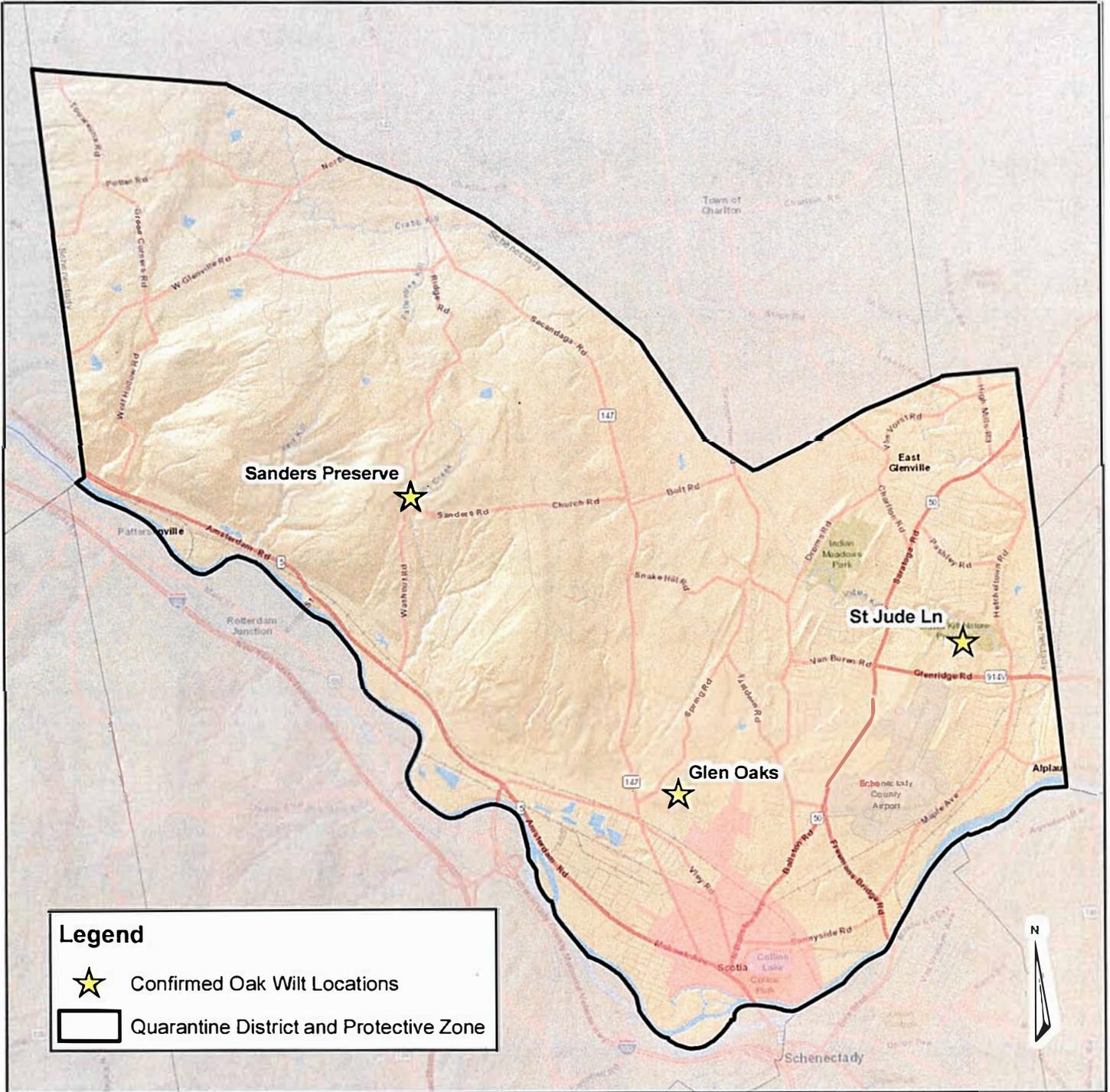
8. **THIS ORDER SHALL BE EFFECTIVE** ten days from the filing thereof with such Office and shall remain effective until Oak Wilt disease has been declared eradicated from within the Quarantine District and Protective Zone.

DATED: 3/8/18



Basil Seggos
Commissioner
**NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION**

Schedule A



Including Town of Glenville and Village of Scotia in Schenectady County, NY.