PERMIT
Under the Environmental Conservation Law (ECL)

GENERAL PERMIT GP-0-19-002
Utility Rights-of Way (ROWs) - Vegetation Management

Permittee and Facility Information

Permit Issued To:
_____
_____
_____
_____

Facility:
_____
_____
_____
_____

Applicable DEC Region(s): **ALL**
General Permit Authorized Activity: Vegetation management of existing utility right-of ways (ROWs)***** located within state regulated freshwater wetlands, regulated adjacent areas, and tidal wetlands, for the purposes of maintaining integrity of service, reliability and safety of electrical and natural gas systems.
Authorized activities include:

1) the selective pruning, trimming, mowing, cutting and other approved removal methods of trees and vegetation, and
2) the application of NYSDEC and USEPA registered pesticides****** and approved surfactants, subject to the following setback requirements:
   - greater than 5 linear feet from streams or standing water for stump treatment,
   - greater than 15 linear feet from streams or standing water for backpack treatment.

NOTE: This General Permit is not applicable within the boundaries of the Adirondack Park, where the Adirondack Park Agency (APA) implements the Freshwater Wetlands Act (ECL Article 24).

* Utility ROWs including bulk transmission and distribution lines for electric (wire, border zones, and danger tree rights) and natural gas are included in this authorization.

** A pesticide is defined in 6 NYCRR 325.1(aw) (1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, weeds, or other forms of plant or animal life or viruses on or in living humans/or other animals, which the department shall declare to be a pest; and (2) any substance or mixture of substances intended as a plant regulator, defoliant or desiccant.

NYSDEC retains the right to exclude a proposed activity from authorization under this General Permit, and to require the permittee to obtain an individual permit.

Permit Authorizations

Freshwater Wetlands - Under Article 24
Effective Date: _____ Expiration Date: _____
Tidal Wetlands - Under Article 25
Effective Date: _____ Expiration Date: _____
Water Quality Certification - Under Section 401 - Clean Water Act
Effective Date: _____ Expiration Date: _____

NYSDEC Approval

By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, and all conditions included as part of this permit.

General Permit Authorized by
Permit Administrator: MICHAEL T HIGGINS , Deputy Chief Permit Administrator
Address: NYSDEC Headquarters
625 Broadway
Albany, NY 12233

Authorized Signature: _____ Date: ___/___/___

Permit Components

NATURAL RESOURCE PERMIT CONDITIONS

WATER QUALITY CERTIFICATION SPECIFIC CONDITION

GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

NATURAL RESOURCE PERMIT CONDITIONS - Apply to the Following Permits: WATER QUALITY CERTIFICATION; TIDAL WETLANDS; FRESHWATER WETLANDS

AREA RESTRICTIONS

1. **Not Applicable in Adirondack Park** This General Permit is not applicable within the boundaries of the Adirondack Park, where the Adirondack Park Agency implements the Freshwater Wetland Act (ECL Article 24). An individual permit must be obtained from the appropriate regional office.

SUBMISSION, APPROVALS, AND NOTIFICATIONS

2. **Submittal of Annual Vegetation Management Proposal and Schedule (AVMP)** Each year vegetation management, including pesticide treatments, is proposed within state regulated wetlands, regulated adjacent areas, and/or tidal wetlands, a proposal and schedule of the proposed vegetation management activities shall be submitted to the Department a minimum of 45 days prior to the planned date of commencement of work/treatment.

The AVMP shall identify:

a. the ROWs and specific sections of those ROWs that will be treated;
b. the time frame/schedule for treating each area;
c. the identification of the wetlands and natural heritage species within or adjacent to ROWs to be managed including a map of those locations;
d. the management or treatment/application method(s);
e. the pesticides/herbicides and surfactants to be used (if applicable);
f. the equipment to be used; including proposed vehicles;
g. the means of access to each site, and
h. when each area was last treated.

3. **Department Review and Approval of AVMP** During the review of the AVMP, the Department will notify the permittee regarding any concerns with the AVMP. Additional information, precautions, and/or protections to protect state or federal listed plants/animals, special habitats, and/or invasive species may be required. Such additional information shall be incorporated into the AVMP or the AVMP will be considerd not approved. The AVMP shall be deemed approved and work can commence if notification is not received from the Department within 45 days after submittal of the most recent/updated plan.

4. **Modifications to Plans** Any change to the approved plans including the pesticides and/or surfactants, planned for use, or their mix proportions, additives or method of application, must be reviewed and approved by the Department in the AVMP.

5. **Annual Post Treatment Reports** By no later than March 31st of each year, the permittee shall provide to the Department an annual report that identifies the acreage managed, the dates which treatment occurred, and the types of treatment (pesticide, cutting, etc.) and the quantities of pesticides and surfactants applied, as previously described in the approved AVMP.

OPERATIONS

6. **Conformance With Plans** All activities authorized by this permit must be in strict conformance with the approved plans submitted by the applicant or applicant's agent as part of the permit application. Such approved plans were prepared by the respective utility company.

7. **Identification of Sensitive Resources** Prior to commencement of treatments, sensitive areas described in the approved AVMP, including rare, threatened, endangered and special concern species and their habitat, shall be clearly identified in the field and avoided to prevent adverse impacts to these resources.

8. **Prohibited Activities** The following activities are prohibited: Ground disturbance including soil movement, grubbing, grading, excavation, dredging, placement of fill or construction debris, removal of tree stumps, removal of tree roots along stream banks, the clearing or scalping of vegetation from the surface that completely denudes the soil surface or the chipping of trees or vegetation into wetlands, wetland adjacent areas or surface waters.

9. **Vegetation Management Limits** Vegetation management within ROW(s) must be limited to activities necessary to maintain ROW width and can include removal of tree(s) outside the right of way that pose a danger to components of the transmission facility (i.e., danger trees) or that may interfere with transmission lines, poles and pipeline facilities.

10. **Invasive Species Best Management Practices** The Permittee shall follow the Environmental Energy Alliance of New York's (EEANY) "Best Management Practices (BMP's) to prevent the transportation of Invasive Species Plan", dated April 26, 2012 to prevent the introduction, spread and transport of invasive species**.** Such BMP's shall ensure compliance with most recent list of invasive species found at: http://www.dec.ny.gov/docs/lands_forests_pdf/islist.pdf.

11. **Minimize Adverse Impacts to Wetlands, Wildlife, Vegetation and Water** All work must be performed in a manner that prevents impacts to wetlands, wildlife, non-target vegetation, water quality and natural resources, including but not limited to no discharge of sediment or other contaminants into any wetland or water way.

12. **Precautions against Contamination of Waters** The permittee shall ensure that work authorized under this permit does not discharge sediment or other contaminant into any wetland or water way.

13. **Equipment Operation and Access** Equipment operation in and access to work areas must be conducted in a manner that prevents rutting, compaction, erosion, and sedimentation in wetlands. Where practicable, existing roads must be used for access to work areas.

14. **Work Areas** All staging, laydown, temporary equipment storage and vehicle parking areas must be located a minimum of 100 feet from any State regulated freshwater or tidal wetland boundary and a minimum of 50 feet from other waterbodies/waterways.

15. **Tree, Brush and Vegetation Requirements and Phohibitions** The felling of trees or the placement of logs along stream banks or into or across any stream or watercourse is prohibited. All vegetaion must be disposed of in areas that are above mean high water elevations where it will not impede the flow of water or result in changes in hydrology of wetlands or streams. Cut trees and brush can be removed or left in place but shall not be piled.

16. **Log Skidding** Skidding of logs across stream beds is prohibited.

17. **Precautions Against Contamination of Waters** All necessary precautions shall be taken to preclude contamination of any wetland or waterway by suspended solids, sediments, fuels, solvents, lubricants, epoxy coatings, paints, concrete, leachate or any other environmentally deleterious materials associated with the project.

18. Disposal of Tree Debris If any tree debris within a federal or state designated invasive insect or disease quarantine, including, but not limited to, Oak Wilt (OW) and Asian Longhorned Beetles (ALB), is removed from the site it shall be disposed of by chipping to less than 1 inch in any two dimensions, then used as mulch, erosion control, building agent, or fuel. Wood may only be moved out of designated quarantines under a permit from the Department, USDA Animal Plant Health Inspection Service or NYS Department of Agriculture and Markets.

19. Maintain Wetland Grasses, Forbs and Brush Dense root systems of wetland grasses, forbs and brush shall not be disturbed and shall remain in place.

20. Valid Pesticide Registration All pesticides used must have valid registrations with both USEPA and NYSDEC or be exempt under the Federal Insecticide, Fungicide, and Rodenticide Act (40 CFR 152.25(f).

21. Applicator Qualifications The application of pesticides shall be made by a certified applicator or technician/apprentice under the direct supervision of a NYS Certified Applicator who either owns or is employed by a business or agency registered with NYSDEC for the purpose of pesticide application. All applicators shall be familiar with and understand the provisions of this permit and shall ensure compliance with best management practices for targeting species and for proper application of authorized pesticides.

22. Pesticide Restrictions Pesticides shall not be applied:

- within 5 linear feet of streams or standing water during stump treatments,
- within 15 linear feet of streams or standing water during back pack treatments, or
- within or on any standing or surface waters, including flooded wetlands or wetlands where standing water exist.

23. Pesticide Use Application of pesticides must conform to all label instructions and all applicable state and federal laws and regulations.

24. Authorized Surfactants The following surfactants are authorized for use with pesticide applications:

Agri-Dex
LI-700
Spreader-Sticker
Passage
Liqua-Wet
Cygnet Plus
Surflex AQ-80
Arborchem Clean Cut

Use of surfactants not identified above is prohobited, unless written approval from the Department is received.

25. **Application and Treatment Methods** Pesticides shall be applied by low volume foliar spray from a backpack sprayer, cut stem and/or stump treatment, basal bark treatment or other approved treatment method and shall be conducted in a manner that prevents drift of pesticides into waterbodies or standing water.

26. **Storage, Mixing and Clean-up Procedures** The storage, mixing or loading of chemicals, pesticides, surfactants or petroleum products, or the refueling or maintenance of equipment within 100 linear feet of any waterbody or wetland is prohibited.

Equipment wash water, excess chemicals, pesticides, surfactants or other liquids shall not enter any surface waters, waterbodies or wetland or wetland adjacent areas. Empty containers shall be disposed of in accordance with applicable pesticide regulations.

GENERAL REQUIREMENTS

27. **Endangered and Threatened Species/Incidental Take Permit** When impacts to threatened and endangered animals are unavoidable and activities require an Incidental Taking Permit under 6 NYCRR Part 182, the applicant/permittee must obtain an individual Article 24 Freshwater Wetlands Permit.

28. **SPDES Aquatic Pesticide General Permit** A State Pollutant Discharge Elimination (SPDES) Aquatic Pesticide General Permit (GP), issued under the authority of Article 17 ECL may be required. It is the permittee's responsibility to obtain this GP if it is required. Additional information can be found at: http://www.dec.ny.gov/chemical/70489.html.

29. **Aquatic Pesticide Permit Requirement** The application of an aquatic pesticide in any water body in the State of New York is prohibited unless a individual permit pursuant to Environmental Conservation Law (ECL) Article 15 0313-(4) is issued by the Department for each respective water body.

30. **Temporary Revocable Permit Requirement** A Temporary Revocable Permit (TRP) from the Department’s Division of Lands and Forests must be obtained for activities occurring on state lands under the Department’s jurisdiction.

31. **State Not Liable for Damage** The State of New York shall in no case be liable for any damage or injury to the structure or work herein authorized which may be caused by or result from future operations undertaken by the State for the conservation or improvement of navigation, or for other purposes, and no claim or right to compensation shall accrue from any such damage.

32. **State May Require Site Restoration** If upon the expiration or revocation of this permit, the project hereby authorized has not been completed, the applicant shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may lawfully require, remove all or any portion of the uncompleted structure or fill and restore the site to its former condition. No claim shall be made against the State of New York on account of any such removal or alteration.

33. **State May Order Removal or Alteration of Work** If future operations by the State of New York require an alteration in the position of the structure or work herein authorized, or if, in the opinion of the Department of Environmental Conservation it shall cause unreasonable obstruction to the free navigation of said waters or flood flows or endanger the health, safety or welfare of the people of the State, or cause loss or destruction of the natural resources of the State, the owner may be ordered by the Department to remove or alter the structural work, obstructions, or hazards caused thereby without expense to the State, and if, upon the expiration or revocation of this permit, the structure, fill, excavation, or other modification of the watercourse hereby authorized shall not be completed, the owners, shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may require, remove all or any portion of the uncompleted structure or fill and restore to its former condition the navigable and flood capacity of the watercourse. No claim shall be made against the State of New York on account of any such removal or alteration.

WATER QUALITY CERTIFICATION SPECIFIC CONDITIONS

1. **Water Quality Certification** The authorized project, as conditioned pursuant to the Certificate, complies with Section 301, 302, 303, 306, and 307 of the Federal Water Pollution Control Act, as amended and as implemented by the limitations, standards, and criteria of state statutory and regulatory requirements set forth in 6 NYCRR Section 608.9(a). The authorized project, as conditioned, will also comply with applicable New York State water quality standards, including but not limited to effluent limitations, best usages and thermal discharge criteria, as applicable, as set forth in 6 NYCRR Parts 701, 702, 703, and 704.

GENERAL CONDITIONS - Apply to ALL Authorized Permits:

1. **Facility Inspection by The Department** The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71- 0301 and SAPA 401(3).

The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when requested by the Department.

A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site or facility. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.

2. **Relationship of this Permit to Other Department Orders and Determinations** Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

3. **Applications For Permit Renewals, Modifications or Transfers** The permittee must submit a

separate written application to the Department for permit renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing. Submission of applications for permit renewal, modification or transfer are to be submitted to:

Regional Permit Administrator
_____
_____
_____
_____

4. Submission of Renewal Application The permittee must submit a renewal application at least 30 days before permit expiration for the following permit authorizations: Freshwater Wetlands, Tidal Wetlands, Water Quality Certification.

5. Permit Modifications, Suspensions and Revocations by the Department The Department reserves the right to exercise all available authority to modify, suspend or revoke this permit. The grounds for modification, suspension or revocation include:

a. materially false or inaccurate statements in the permit application or supporting papers;

b. failure by the permittee to comply with any terms or conditions of the permit;

c. exceeding the scope of the project as described in the permit application;

d. newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;

e. noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

6. Permit Transfer Permits are transferrable unless specifically prohibited by statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification
The permittee, excepting state or federal agencies, expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under Article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

Item B: Permittee's Contractors to Comply with Permit
The permittee is responsible for informing its independent contractors, employees, agents and assigns of their responsibility to comply with this permit, including all special conditions while acting as the permittee's agent with respect to the permitted activities, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law as those prescribed for the permittee.

Item C: Permittee Responsible for Obtaining Other Required Permits
The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this permit.

Item D: No Right to Trespass or Interfere with Riparian Rights
This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.