


THIS IS A TWO-SIDED DOCUMENT

 <p>NEW YORK STATE OF OPPORTUNITY.</p> <p>Adirondack Park Agency</p> <p>P.O. Box 99, 1133 NYS Route 86 Ray Brook, New York 12977 Tel: (518) 891-4050 www.apa.ny.gov</p>	<p>APA Permit 2023-0058</p>
<p>In the Matter of the Application of</p> <p>THE NYS DEPARTMENT OF TRANSPORTATION Permittee</p> <p>for a permit pursuant to 9 NYCRR Part 578</p>	<p>Date Issued: July 13, 2023</p> <p>To the County Clerk: Please index this permit in the grantor index under the following name: 1. NYS Department of Transportation</p>

SUMMARY AND AUTHORIZATION

This amended permit authorizes the continued vegetation management program involving wetlands within the right-of-way of the Remsen-Lake Placid Travel Corridor in the town of Forestport, Oneida County; the town of Webb, Herkimer County; the town of Long Lake, Hamilton County; the towns of Colton and Piercefield, St. Lawrence County; and the town of Tupper Lake, Franklin County.

This authorization shall expire unless recorded in the County Clerk's Offices of Oneida County, Herkimer County, Hamilton County, St. Lawrence County, and Franklin County within 60 days of issuance of a signed and notarized permit. The signed and notarized permit shall be recorded in the name listed above. The Agency will consider the project in existence when the permit has been recorded in all county clerk's offices listed above.

The project shall be undertaken in compliance with all conditions stated herein. Failure to comply with this permit is a violation and may subject the permittee, successors, and assigns to civil penalties and other legal proceedings.

This permit does not convey any right to trespass upon the lands or interfere with the riparian rights of others in order to undertake the authorized project, nor does it authorize the impairment of any easement, right, title or interest in real or personal property.

Nothing contained in this permit shall be construed to satisfy any legal obligations of the permittee to comply with all applicable laws and regulations or to obtain any governmental approval or permit from any entity other than the Agency, whether federal, State, regional, or local.

PROJECT SITE

The project site is within the right-of-way of the Remsen-Lake Placid Railroad Corridor between Milepost 29, Town of Forestport and Milepost 114.2, Town of Tupper Lake.

The project site is improved by an existing railroad line, constructed in 1892. The railroad corridor was purchased by New York State in 1974 and is subject to the 1996 Remsen-Lake Placid Travel Corridor Unit Management Plan (UMP) and subsequent amendments.

There are surface waters and associated wetlands, and other wetlands on and adjacent to (within 100 feet) the right-of-way of the railroad. The wetlands on or adjacent to the right-of-way include diverse cover types and have value ratings of "1", "2", "3", and "4" pursuant to 9 NYCRR Part 578. Accordingly, the Agency reviewed this project pursuant to its value "1" standards. A list of culverts and bridges by milepost is found in Appendix 6 of the Remsen-Lake Placid Corridor Unit Management Plan (UMP). A list of ponded waters within one-quarter mile of the corridor is found in Appendix 10 of the UMP. A list of the designated scenic and recreational rivers in the New York State Wild, Scenic and Recreational River System which are on or near the right-of-way is in Appendix 11 of the UMP. The navigable streams crossing the corridor are listed in Appendix 12.

PROJECT DESCRIPTION

Agency Permit 2008-18 and amended Permits 2008-18A and 2008-0018C authorized the New York State Department of Transportation (NYSDOT) to manage vegetation within the right-of-way of the Remsen-Lake Placid Travel corridor including the use of herbicides within 100 feet of wetlands. Vegetation management strategies are separated into three zones with different management goals, herbicide applications, and setbacks to wetlands:

Zone 1 is the 12 to 16-foot-wide strip (6 to 8 feet off the railroad centerline) that includes the infrastructure – the rails, ties, switches, ballast section, and associated walkways. Zone 1 is managed to keep all vegetation clear of the track and ties.

Zone 2 is the strip of land from 6 to 8 feet off the railroad centerline (beginning at the outer edge of Zone 1) to approximately 18 to 25 feet out from the railroad centerline. This is the undulating edge of the existing forest line. Zone 2 is managed to maintain an area free of trees and large shrubs.

Zone 3 is the remainder of the corridor right-of-way, beginning at the outer edge of Zone 2 (18 to 25 feet out from the railroad centerline, depending on the location of the existing forest edge) to 50 feet from the railroad centerline, which is generally the outer extent of the Corridor right-of-way. Zone 3 is managed to eliminate any trees that pose a safety risk to the operation of the railroad.

The four herbicides authorized for use are Roundup Pro Concentrate (EPA #524-529), Krenite S (EPA #42750-247), Oust Extra (EPA #432-1557), and Escort XP (EPA #352-439).

The amended permit as conditionally approved herein continues the on-going vegetation management program involving wetlands in the portion of the Remsen-Lake Placid Railroad Corridor between Milepost 29, Town of Forestport and Milepost 114.2, Town of Tupper Lake. It also allows for the use of the product Arsenal Powerline (EPA #241-431).

The project is further described in the Vegetation Management Plan adopted as an amendment to the Travel Corridor Unit Management Plan for the Remsen-Lake Placid Travel Corridor on June 13, 2008.

AGENCY JURISDICTION

The project is a regulated activity involving the application of herbicides within 100 feet of wetlands and requires an Agency permit pursuant to 9 NYCRR Sections 578.2 and 578.3(n)(2)(i). This Permit amends and supersedes Agency Permits 2008-18, 2008-18A, and 2008-0018C.

CONDITIONS

THE PROJECT IS APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. The project shall not be undertaken until this permit has been recorded in the county clerk's offices of Oneida County, Herkimer County, Hamilton County, St. Lawrence County, and Franklin County.
2. This permit is binding on the NYSDOT and all contractors and government personnel undertaking all or a portion of the project authorized herein. Copies of this permit and Vegetation Management Plan shall be furnished by the permittee to all contractors and government personnel prior to undertaking the activities authorized herein.
3. In addition to complying with all terms and conditions of this permit, all future activities on the project site shall be undertaken in compliance with the requirements of New York State's Adirondack Park Agency Act, Freshwater Wetlands Act, Wild, Scenic and Recreational Rivers System Act, and the Adirondack Park Agency's implementing regulations [9 NYCRR §§ 570-588].
4. This permit amends and supersedes Agency Permits 2008-18, 2008-18A, and 2008-0018C. The terms and conditions of Agency Permits 2008-18, 2008-18A, and 2008-0018C shall no longer apply to the project site.
5. This permit authorizes the use of Roundup Pro Concentrate (EPA #524-529), Krenite S (EPA #42750-247), Oust Extra (EPA #432-1557), Escort XP (EPA #352-439) and Arsenal Powerline (EPA #241-431) within the 100-foot adjacent area to wetlands as described in the Vegetation Management Plan and herein. The use of additional herbicide products or any other change to the operational aspects of the Vegetation Management Plan shall require prior written Agency authorization.

6. There shall be no herbicide applications within 100 feet of wetlands or water bodies after December 31, 2028 without prior written Agency authorization.
7. All authorized herbicides shall be applied in strict compliance with all the measures described in the Vegetation Management Plan, the EPA and DEC approved product labels, standard application practices according to DEC licensed pesticide applicator training in category 6A, and all other New York State and federal regulations. Any substitution of equivalent herbicide products shall require prior written Agency authorization.
8. All herbicide applications authorized herein shall be performed by or under direct supervision of pesticide applicators certified by the NYS Department of Environmental Conservation pursuant to NYCRR Title 6 § 325.7.
9. The DEC certified Commercial Pesticide Applicator shall be accompanied by DOT environmental personnel knowledgeable of wetland boundaries, stream and surface water locations, and the minimum 5 and 100-foot no-herbicide treatment buffers. DOT environmental staff shall inspect the application area ahead of the treatment vehicle in order to identify the boundaries of wetlands, streams and watercourses, and communicate the location of setback areas to the spray truck prior to application.
10. All application buffer requirements described in the Vegetation Management Plan shall be strictly observed. A minimum 100-foot no-herbicide spray buffer shall be maintained to all streams, wetlands or water bodies, except in Zone 1 where a minimum 5-foot buffer is allowed. Hand application of Roundup PRO is permitted immediately adjacent to bridge abutments in Zone 1 as described in the Vegetation Management Plan. There shall be no application of herbicides within 5 feet of any bridge or culvert crossing that presents a risk for direct application or drift/runoff to enter wetlands due to unusual design or functional elements of the structures.
11. No herbicide shall be applied in any zone where the particular circumstances present a risk for direct application or drift/runoff to streams, wetlands, water bodies, or water supplies. If at any time the permittee or its contractors or assigns suspect herbicide material is entering any wetlands, stream or waterbody, treatment shall cease immediately. Treatment shall not recommence unless and until the treatment problem is identified, the treatment method amended to correct the problem, and it is determined by DOT environmental staff that the amended treatment method will not cause herbicide material to enter such wetland, stream, waterbody, or water supply.
12. Materials for containment and absorbing any spills shall be available on the treatment vehicle at all times. Any spills shall be reported immediately to the DEC Spill Hotline (800-457-7362).
13. An annual report shall be provided to the Agency by February 1 of each year. This report shall include:
 - Post-treatment monitoring for the efficacy of treatment;

- Observed non-target adverse impacts including an evaluation of the actions which caused the non-target impacts, the nature and degree of the impact, and measures to be implemented to correct or avoid re-occurrence;
 - The investigation of any public complaints;
 - An update of research on alternative methods of vegetation control to reduce the total herbicides used;
 - Further research on the impacts of inerts and surfactants used in the products;
 - A copy of the report to DEC regarding dates of treatments, locations, herbicide quantity and dosages used; and
 - Identification by milepost of areas of treatment by broadcast and spot treatment methods.
14. Any rail, tie, ballast or soil disturbance within 100 feet of wetlands shall require prior written Agency authorization.
15. When brought from off-site, all equipment, including but not limited to trucks, excavators, tractors, etc., and hand excavation tools such as shovels, rakes, and picks, to be used on the project site shall be clean and free of soil, mud, or other similar material. If washed on the project site, equipment shall be washed in one location to prevent the distribution of propagules among different wash sites. All construction equipment and vehicles operating in areas that may contain existing invasive species shall be thoroughly cleaned prior to moving to other areas.


CONCLUSIONS OF LAW

The Agency has considered all statutory and regulatory criteria for project approval set forth in the Freshwater Wetlands Act and 9 NYCRR Part 578. The Agency hereby finds that the project authorized as conditioned herein:

- a. will be consistent with the land use and development plan and the State Land Master Plan;
- b. will not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the Park, taking into account the economic and social or other benefits to be derived from the activity;
- c. will secure the natural benefits of wetlands associated with the project, consistent with the general welfare and beneficial economic, social, and agricultural development of the state; and
- d. will be compatible with preservation of the entire wetland and will not result in degradation or loss of any part of the wetland or its associated values.

PERMIT issued this 13th day
of July, 2023.

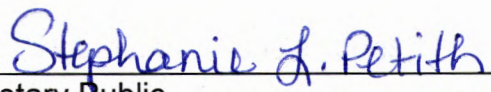
ADIRONDACK PARK AGENCY

BY: 
David J. Plante, AICP CEP
Deputy Director, Regulatory Programs

STATE OF NEW YORK
COUNTY OF ESSEX

On the 13th day of July in the year 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared David J. Plante, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their capacity, and that by their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Stephanie L. Petith
Notary Public, State of New York
Reg. No 01PE6279890
Qualified in Franklin County
Commission Expires April 15, 2025


Notary Public