

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Lands and Forests

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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 § 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, *Bretziella 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 of Environmental Conservation ("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 for the first time in New York State 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 consulted with US Forest Service oak wilt experts to develop and implement a comprehensive oak wilt response and eradication plan for the infested area. This plan was developed with the involvement of the affected homeowners and community;
- In September 2016, Department and New York State Department of Agriculture and Markets ("AGM") staff confirmed that oak wilt disease had infected oak trees in the Town of Canandaigua, Ontario County, New York. Commissioner Seggos issued an order directing staff to develop an eradication plan with public involvement and to notify affected landowners; that order further established a protective zone;
- In August 2018, the Department confirmed that oak wilt disease had infected oak trees in the Town of South Bristol, Ontario County, New York;
- In August 2022, the Department was conducting surveys for oak wilt and identified symptomatic trees in the Town of Bristol, Ontario County, New York. Samples were collected and confirmed to have oak wilt by the Cornell Plant Disease Diagnostic Clinic;
- The Environmental Conservation Law ("ECL") § 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 § 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 within the Towns of South Bristol and Bristol in Ontario County, New York, as described on Schedule A, which shall be known hereinafter as the "Quarantine District and Protective Zone"; and
- ECL § 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 § 9-1303 and based upon the above:

1. I **HEREBY FIND** that Oak Wilt Disease has infected oak trees in the Town of Bristol, Ontario 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 or firewood that has been treated in a kiln certified by AGM reaching a core temperature of seventy one (71) degrees Celsius (one hundred sixty (160) degrees Fahrenheit) for seventy five (75) minutes (refer to CRR-NY 192.5);

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 AGM, Division of Plant Industry, specifically authorizing such movement, and only if the shipping nursery is under a

compliance agreement with the AGM, 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 AGM;

- 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, 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 control 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 control plan;
4. I **FURTHER ORDER** that the infected area, as delineated on Schedule A and the attached map of boundaries, is designated as the Quarantine District and Protective Zone for the purposes of carrying out this order;
5. I **FURTHER ORDER** that the areas where any oak species is removed by the Department shall remain free of intentionally planted oak of any species by humans, except as authorized by the Department in writing, including any appropriate preventive measures;
6. I **FURTHER ORDER** that the Quarantine District and Protective Zone

established in this Order supersedes the Protective Zone previously established in Bristol and South Bristol by the Order dated January 7, 2019.

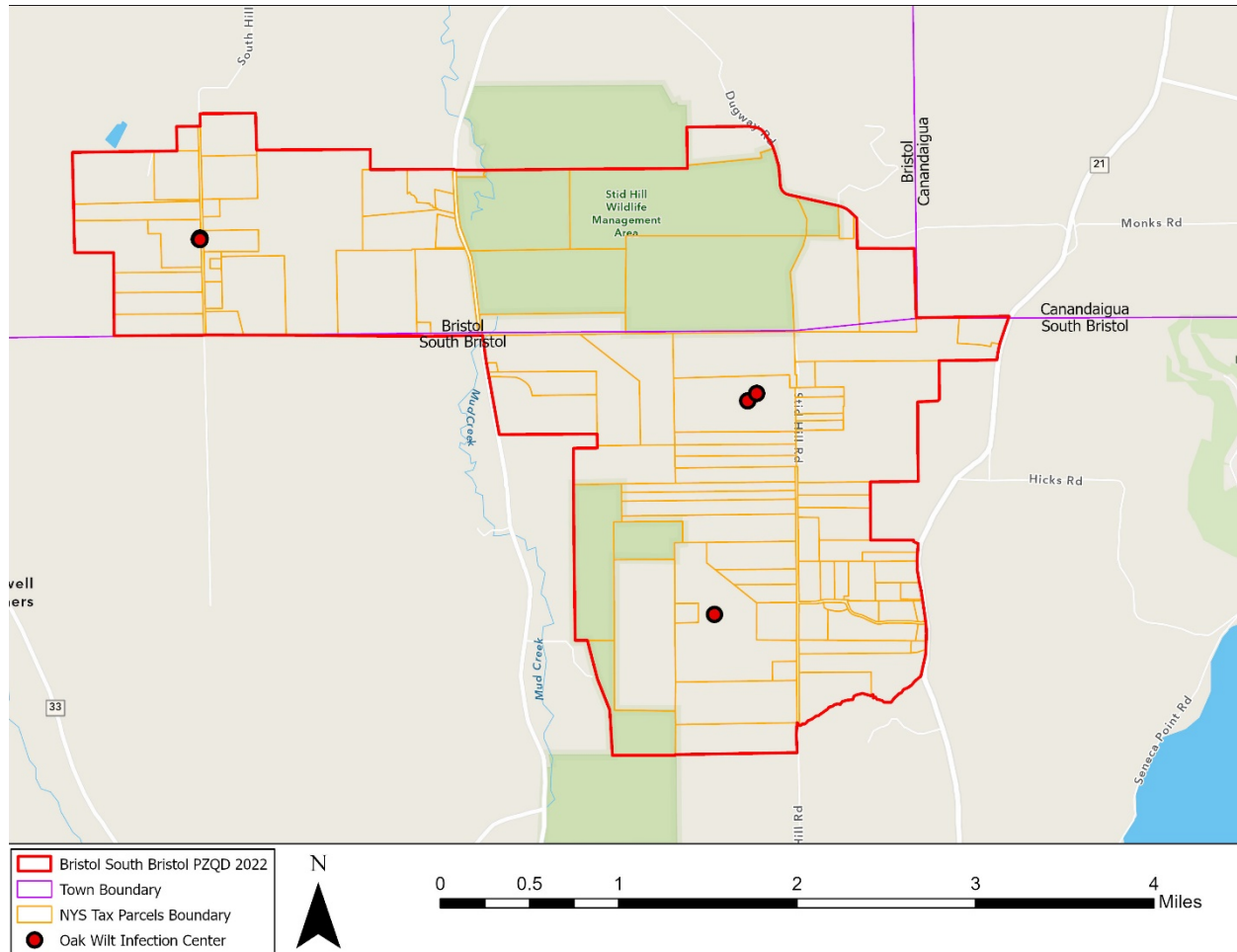
7. I **FURTHER ORDER** that a copy of this order be immediately filed in the Office of the Clerk of Ontario County; and
8. **THIS ORDER SHALL BE EFFECTIVE** ten days from the filling thereof with such Office and shall remain effective until oak wilt disease has been declared controlled from within the Quarantine District and Protective Zone.

Dated: 6/6/2023



Fiona Watt
Director
Division of Lands and Forests
NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

Schedule A



General Description of Bristol South Bristol Protective Zone and Quarantine District (PZQD)

Starting at the Canandaigua, Bristol, and South Bristol town boundary intersection, the PZQD goes east until it intersects Route 21 and turns south along Route 21. Approximately 0.3 miles north of the Route 21 and Eagles Nest Drive intersection, the PZQD turns southwest traveling along tax parcel boundaries until reaching Stid Hill Road. From Stid Hill Road, the boundary moves along a tax parcel boundary until reaching the west side of New York State DEC property where it continues north along the western boundary of the state property for approximately 1.3 miles. At that property corner, the PZQD cuts west to Route 64 and goes north along Route 64 to the Bristol South Bristol border. Once at the town border, the PZQD continues west crossing South Hill Road and continuing to the rear of the properties touching South Hill Road. At the rear property corner, the PZQD goes north for approx. 1 mile, following tax parcel boundaries. The PZQD then goes east along tax parcel boundaries crossing South Hill Road reaching Stid Hill MUA on Route 64. The PZQD boundary continues through Stid Hill MUA until reaching Dugway Rd. The PZQD follows Dugway Rd. southeast then cuts away from the road to meet the town intersection of Canandaigua, Bristol, and South Bristol. The PZQD never cuts through a tax parcel, it will include all or none of a parcel. Included parcels are listed in the table below.

PRINT_KEY	PRIMARY_OWNER	LOC_ST_NBR	LOC_STREET	CITYTOWN_NAME
151.00-1-36.000	Coates, Bruce W	5260	South Hill Rd	Bristol
151.00-1-74.111	Tones Jason R	<Null>	South Hill Rd	Bristol
151.00-1-37.000	Cohen, Nicholas	7289	Ludlow Dr	Bristol
151.00-1-38.111	Tones Living Trust	5280	South Hill Rd	Bristol
151.00-1-35.211	Smith, Warren L	5261	South Hill Rd	Bristol
151.00-1-35.311	Kohlenberg, Terri L	5277	South Hill Rd	Bristol
151.00-1-38.221	Niagara Mohawk	5311	South Hill Rd	Bristol
151.00-1-38.210	Davenport, Michael	<Null>	South Hill Rd	Bristol
151.00-1-40.000	Davenport, Michael	5329	South Hill Rd	Bristol
151.00-1-74.211	Blakesley, Eric	5340	South Hill Rd	Bristol
151.00-1-38.130	Tones, Jason R	5344	South Hill Rd	Bristol
151.00-1-42.111	Tones Jason R	<Null>	South Hill Rd	Bristol
151.00-1-42.112	Tones, Jason	5360	South Hill Rd	Bristol
151.00-1-42.200	Hass, Glenn M	5357	South Hill Rd	Bristol
151.00-1-42.121	Roeland, Steven C	5375	South Hill Rd	Bristol
151.00-1-41.111	Davenport, Michael	5343	South Hill Rd	Bristol
151.00-1-34.220	Padro, Lizzie M	5215	South Hill Rd	Bristol
151.00-1-30.111	Ivers, Lisa A	7210	Ludlow Dr	Bristol
152.00-1-38.120	Spychalski, Dean R	6441	Dugway Rd	Bristol
152.00-1-38.110	Thomas Main LLC	6423	Dugway Rd	Bristol
152.00-1-38.130	Thomas Main LLC	<Null>	Dugway Rd	Bristol
152.00-1-36.100	Wass, Ernest A	6371	Dugway Rd	Bristol
152.00-1-37.000	New York State of DEC	<Null>	Dugway Rd	Bristol
152.00-1-65.110	Notebaert, Chad A	<Null>	St Rt 64	Bristol
152.00-1-67.200	Glaser, Michael	<Null>	St Rt 64	Bristol
152.00-1-67.100	Riefer, Theresa A	5260	St Rt 64	Bristol
152.00-1-65.200	Notebaert, Chad A	5276	St Rt 64	Bristol
152.00-1-64.111	Simmons, Christopher	<Null>	South Hill Rd	Bristol
152.00-1-66.100	Simmons Christopher	<Null>	St Rt 64	Bristol
152.00-1-63.000	Calcagno, Fred	5316	St Rt 64	Bristol
152.00-1-61.100	New York State of DEC	<Null>	St Rt 64	Bristol
152.00-1-60.000	New York State of DEC	<Null>	St Rt 64	Bristol
152.00-1-61.200	Wihlen, Todd W	5387	St Rt 64	Bristol
152.00-1-62.100	Simmons, Don	<Null>	St Rt 64	Bristol
152.00-1-62.200	Leach, Larry L	<Null>	St Rt 64	Bristol
152.00-1-36.200	Wass, Ernest A	<Null>	Dugway Rd	Bristol
152.00-1-35.000	Shaw, Dale A	<Null>	Dugway Rd	Bristol
167.00-1-53.200	Bell John P	<Null>	St Rt 64	South Bristol
167.00-1-53.100	Bell John P	<Null>	St Rt 64	South Bristol
167.00-1-47.000	Rochester Gas & Electric	5433	St Rt 64	South Bristol

PRINT_KEY	PRIMARY_OWNER	LOC_ST_NBR	LOC_STREET	CITYTOWN_NAME
	Co			
177.00-1-5.000	New York, State of	<Null>	St Rt 64	South Bristol
177.00-1-7.200	SBA Towers LLC	5776	Stid Hill Rd	South Bristol
177.00-1-6.000	Makowski, Mitchell A	<Null>	Stid Hill Rd	South Bristol
177.00-1-73.200	Makowski, Mitchell A	5774	Stid Hill Rd	South Bristol
167.00-1-25.100	New York, State of	<Null>	St Rt 64	South Bristol
167.00-1-24.000	New York, State of	<Null>	St Rt 64	South Bristol
167.00-1-7.110	Bell John P	<Null>	St Rt 64	South Bristol
167.00-1-7.210	Wihlen, Todd W	<Null>	St Rt 64	South Bristol
167.00-1-6.100	Bills, Patrick L	<Null>	St Rt 64	South Bristol
167.00-1-9.110	DeVries, Gary	5500	Stid Hill Rd	South Bristol
167.00-1-8.110	Titus, William	5444	Stid Hill Rd	South Bristol
168.00-1-88.120	Lipp, Isaiah	5471	Stid Hill Rd	South Bristol
168.00-1-85.112	Sauerhafer, David C	5453	Stid Hill Rd	South Bristol
168.00-1-85.210	Sauerhafer, David	5467	Stid Hill Rd	South Bristol
168.00-1-86.200	Sauerhafer, David	<Null>	Stid Hill Rd	South Bristol
167.00-1-10.100	Walter, Henry C	5550	Stid Hill Rd	South Bristol
168.00-1-88.200	Lipp, Aaron	5489	Stid Hill Rd	South Bristol
167.00-1-11.110	Walter, Henry C	<Null>	Stid Hill Rd	South Bristol
167.00-1-11.120	Holtz, Alexander C	<Null>	Stid Hill Rd	South Bristol
167.00-1-55.110	Arsenault, Christine	<Null>	Stid Hill Rd	South Bristol
167.00-1-12.120	Logan, Alexandra	5588	Stid Hill Rd	South Bristol
167.00-1-12.110	Dubois Properties LLC	5580	Stid Hill Rd	South Bristol
167.00-1-11.130	Michaud, Mark M	5568	Stid Hill Rd	South Bristol
167.00-1-55.210	Brahm, James E	<Null>	Stid Hill Rd	South Bristol
167.00-1-19.100	Slayton, Chad A	5672	St Rt 21	South Bristol
167.00-1-55.310	Brahm, Katharine H	<Null>	Stid Hill Rd	South Bristol
167.00-1-20.240	McGuire John C	6440	Bills Rd	South Bristol
167.00-1-20.250	Santiago, Dawn A	6460	Bills Rd	South Bristol
167.00-1-20.260	Mull, James P	6480	Bills Rd	South Bristol
167.00-1-23.200	McCabe, John	5655	Stid Hill Rd	South Bristol
167.00-1-23.110	Logan, Alexandra	5594	Stid Hill Rd	South Bristol
177.00-1-74.100	Walmsley, Mark H	5670	Stid Hill Rd	South Bristol
167.00-1-23.120	Godette, Phyllis A	5600	Stid Hill Rd	South Bristol
177.00-1-76.000	Garnsey, Brian	5694	Stid Hill Rd	South Bristol
177.00-1-8.000	Spillane, James A	5740	Stid Hill Rd	South Bristol
177.00-1-77.000	Erhardt, James Herbert	5710	Stid Hill Rd	South Bristol
167.00-1-21.000	Allen, Todd G	<Null>	Stid Hill Rd	South Bristol
178.00-1-64.200	Bales, Nancy M	5725	Stid Hill Rd	South Bristol
178.00-1-64.100	Mason Steven C	<Null>	Bills Rd	South Bristol
178.00-1-1.112	Mason Steven C	<Null>	Bills Rd	South Bristol
177.00-1-73.100	Szkapi, Richard W	5792	Stid Hill Rd	South Bristol

PRINT_KEY	PRIMARY_OWNER	LOC_ST_NBR	LOC_STREET	CITYTOWN_NAME
178.00-1-4.130	Spillane, James A	<Null>	Stid Hill Rd	South Bristol
178.00-1-3.100	Duel, Lawrence W	5774	St Rt 21	South Bristol
178.00-1-4.110	Hoffman, Roland E	5776	St Rt 21	South Bristol
178.00-1-2.000	Hubley, Ann	5752	St Rt 21	South Bristol
178.00-1-4.120	Duel, Lawreen E	<Null>	Stid Hill Rd	South Bristol
178.00-1-1.120	D and E Enterprises LLC	6400	Bills Rd	South Bristol
167.00-1-19.200	Slayton, Chad A	5674	St Rt 21	South Bristol
167.00-1-20.210	Trumbower, Scott B	5680	St Rt 21	South Bristol
167.00-1-20.220	McCollum, Ryanlynn	5712	St Rt 21	South Bristol
178.00-1-1.200	Pfeiffer Family Irrev Trust	6350	Bills Rd	South Bristol
168.00-1-60.120	Bills, Daniel F	5720	St Rt 21	South Bristol
167.00-1-20.230	Fahy, James T Jr	5714	St Rt 21	South Bristol
168.00-1-2.210	Shaw, Dale Aimee	5406	St Rt 21	South Bristol
168.00-1-2.110	Shaw, Dale A	5430	St Rt 21	South Bristol
168.00-1-88.110	Jones, Jack D	5557	Stid Hill Rd	South Bristol
177.00-1-10.100	Mitchell Makowski Inc	5824	Stid Hill Rd	South Bristol
177.00-1-11.120	Brooks Daniel A	5914	Stid Hill Rd	South Bristol