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February 8, 2013

VIA E-MAIL AND MAIL

Leilani Ulrich, Chairwoman
Adirondack Park Agency
PO Box 99
1133 NYS Route 86
Ray Brook, NY 12977

Re: Proposed General Permit 2012G-3

Dear Chairwoman Ulrich:

This firm represents Protect the Adirondacks! Inc. ("PROTECT") whose mission includes, among other things, advocacy for the protection, stewardship and sustainability of the private forests in the Adirondack Park.

The Adirondack Park Agency ("APA") should rescind the negative declaration that it issued for the proposed General Permit for clearcutting, and should conduct a new environmental assessment of this action. After doing so, APA should issue a positive declaration, and prepare an Environmental Impact Statement ("EIS") because the proposed General Permit for clearcutting has the potential to have at least one significant adverse impact on the environment. See 6 NYCRR § 617.7.

We have identified the following significant errors in the November 2012 Environmental Assessment Form ("EAF") for this action:

- The total project acreage is listed as ">25 acres". In reality, the action will affect over a million acres of private timberlands in the Park.
- No attempt was made to identify the affected soil types or slopes.

- The action will affect much land that is adjacent to the Forest Preserve. The Forest Preserve is listed on the National Register of Historic Places. Inexplicably, the EAF says that contiguity to listed historic sites and districts is "N/A".
- The EAF states that the existence of hunting and fishing opportunities is "N/A", yet industrial forest lands are regularly used for hunting and fishing.

There are numerous similar omissions in the EAF. The EAF is clearly deficient in that it segments the review of the action and fails to assess the park-wide impacts of the action on a generic basis. See 6 NYCRR § 617.3(g), § 617.10. Clearly, APA has not taken a hard look at this action, as required by SEQR.

The EAF also claims that there would be no impacts to land, water, air, plants and animals, aesthetic resources, open space and recreation, critical environmental areas, fuel or energy supplies, and that there would be no public controversy related to this action.

APA's failure to identify even a single adverse environmental impact from this clearcutting General Permit, or to acknowledge that there was public controversy related to the action¹, signals that APA did not take a hard look at the environmental impacts of the proposed General Permit for clearcutting, and that it did not provide a reasoned elaboration for the negative declaration. See Matter of Troy Sand & Gravel Co., Inc. v. Town of Nassau, 82 A.D.3d 1377, 1378-139 (3d Dept. 2011); State of New York v. Town of Horicon, 46 A.D.3d 1287, 1290 (3d Dept. 2007).

The proposed General Permit would result in the loss of firm clearcutting regulations on over a million acres of forest land in the Adirondack Park. It is beyond cavil that unregulated clearcutting would have significant adverse impacts on forest resources. While APA's proposed General Permit may be delegating oversight of the clearcutting to third parties, this is not sufficient regulation to ensure adequate protection of the forest resources of the Adirondack Park.

¹ We understand that APA received over 200 letters from parties interested in the proposed General Permit.

PROTECT recognizes that the forest products industry's timber management practices are evolving, and may be able to result in healthy, sustainable working forests in certain areas. However, as APA Executive Director Terry Martino stated in her letter to PROTECT Executive Director Peter Bauer dated September 20, 2012, the Adirondack "forest systems, the physical landscape in which they are embedded and the management techniques that are appropriate here are very distinct from those" in other parts of the country.

Therefore, since the Adirondack Park is unique (APA Act § 801), and requires distinct management techniques, APA should not rely on third party certification organizations that apply generic, international standards to the forest lands that they might certify in the Adirondack Park. Moreover, these international, third-party standards are subject to change without APA approval.

Even if Executive Director Martino would not qualify the clearcuts taking place in the Adirondack Park as "large" when compared to the size of clearcuts in the West, the clearcuts here in the Adirondack Park can be just as devastating to the health of the forest as any alleged "true clearcuts" out West.²

Enclosed are aerial photographs of recent clearcuts in the Adirondack Park. These photographs demonstrate the systematic nature in which the forest products industry is taking advantage of the current clearcutting regulations to blindly implement the business models of the Timber Investment Management Organizations, which are the predominate owners of the private forest in the Adirondack Park. If the General Permit is issued, this pattern of poor management will become even worse, as the size of the clearcuts expands.

These photographs also demonstrate the potential for significant adverse impacts to the land, water, air, plants and animals, aesthetic resources, open space and recreation, critical environmental areas, and fuel or energy supplies, of the Adirondack Park. These new photographs, and the other arguments discussed in this letter (which appear not to have been previously considered by APA), provide APA with a sound basis to rescind the prior negative declaration. See 6 NYCRR § 617.7(f).

² Quotes from Executive Director Terry Martino's letter to PROTECT Executive Director Peter Bauer dated September 20, 2012.

Furthermore, under APA's regulations, the proposed General Permit constitutes a Type I action under the State Environmental Quality Review Act ("SEQR"). See 9 NYCRR § 572.23(d). The SEQR regulations state that Type I actions are "likely to require the preparation of an EIS." 6 NYCRR § 617.4(a). Therefore, APA should prepare an EIS for this Type I action.

As such, we reiterate that APA should rescind the negative declaration, and issue a positive declaration for this action so that an EIS will be prepared in accordance with the letter and spirit of SEQR.

Sincerely,



Claudia K. Braymer
Cbraymer@caffrylawoffice.com

CKB/JWC

enc.

cc: Peter Bauer

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The ENB SEQRA Notice Publication Form - *Please check all that apply.*

Deadline: Notices must be received by 6 p.m. Wednesday to appear in the following Wednesday's ENB.

- | | |
|---|--|
| <input checked="" type="checkbox"/> Negative Declaration - Type I | <input type="checkbox"/> Draft EIS |
| <input type="checkbox"/> Conditioned Negative Declaration | <input type="checkbox"/> with Public Hearing |
| <input type="checkbox"/> Draft Negative Declaration | <input type="checkbox"/> Generic |
| <input type="checkbox"/> Positive Declaration | <input type="checkbox"/> Supplemental |
| <input type="checkbox"/> with Public Scoping Session | <input type="checkbox"/> Final EIS |
| <input type="checkbox"/> Exempt | <input type="checkbox"/> Generic |
| <input type="checkbox"/> Excluded | <input type="checkbox"/> Supplemental |
| | <input type="checkbox"/> Type II |

General Permit 2012G-3 Silvicultural Treatments that Meet Jurisdictional Clearcutting Thresholds

DEC Regions #5 and #6

Lead Agency: **Adirondack Park Agency**

Counties: **All or portions of the following within the Adirondack Park: St. Lawrence, Essex, Oneida, Lewis, Clinton, Franklin, Herkimer, Hamilton, Warren, Washington, Saratoga and Fulton**

☒ Within the Adirondack Park

Project Title/Sponsor: General Permit 2012G-3 Silvicultural Treatments that Meet Jurisdictional Clearcutting Thresholds/Adirondack Park Agency

Brief Project Description: The Adirondack Park Agency recognizes that 9 NYCRR §573.7 strictly defines clearcutting in relation to the remaining basal area amount of thirty square feet per acre. Correspondingly, other legitimate silvicultural cutting prescriptions, such as shelterwood removal cuts, can also be defined as clearcuts because they lower the residual basal area below the threshold referenced in the Agency regulation. The strict definition of all silvicultural prescriptions as clearcuts based solely on a basal area threshold provides no incentive to complete other legitimate silvicultural prescriptions, including shelterwood cuts. The disincentive leads to "high grading", dominance by undesirable species, reduction in biodiversity and unhealthy forest conditions. This proposed General Permit pursuant to the Adirondack Park Agency Act (Executive Law Article 27) and 9 NYCRR Part 573 would authorize a simplified Agency approval process for implementing silvicultural treatments that meet jurisdictional clearcutting thresholds as part of a forest management plan.

Land Use Classification: All private land use areas throughout the Adirondack Park

Comment Period ends: **December 28, 2012**

APA Contact Person:

Richard E. Weber
P.O. Box 99, Route 86
Ray Brook, New York 12977
518-891-4050

617.20
Appendix A
State Environmental Quality Review
FULL ENVIRONMENTAL ASSESSMENT FORM

Purpose: The full EAF is designed to help applicants and agencies determine, in an orderly manner, whether a project or action may be significant. The question of whether an action may be significant is not always easy to answer. Frequently, there are aspects of a project that are subjective or unmeasurable. It is also understood that those who determine significance may have little or no formal knowledge of the environment or may not be technically expert in environmental analysis. In addition, many who have knowledge in one particular area may not be aware of the broader concerns affecting the question of significance.

The full EAF is intended to provide a method whereby applicants and agencies can be assured that the determination process has been orderly, comprehensive in nature, yet flexible enough to allow introduction of information to fit a project or action.

Full EAF Components: The full EAF is comprised of three parts:

- Part 1:** Provides objective data and information about a given project and its site. By identifying basic project data, it assists a reviewer in the analysis that takes place in Parts 2 and 3.
- Part 2:** Focuses on identifying the range of possible impacts that may occur from a project or action. It provides guidance as to whether an impact is likely to be considered small to moderate or whether it is a potentially-large impact. The form also identifies whether an impact can be mitigated or reduced.
- Part 3:** If any impact in Part 2 is identified as potentially-large, then Part 3 is used to evaluate whether or not the impact is actually important.

THIS AREA FOR LEAD AGENCY USE ONLY

DETERMINATION OF SIGNIFICANCE -- Type 1 and Unlisted Actions

Identify the Portions of EAF completed for this project : ☒ Part 1 ☒ Part 2 ☐ Part 3
Upon review of the information recorded on this EAF (Parts 1 and 2 and any other supporting information, and considering both the magnitude and importance of each impact, it is reasonably determined by the lead agency that:

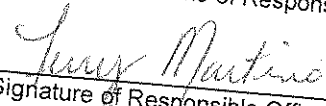
- ☒ A. The project will not result in any large and important impact(s) and, therefore, is one which will not have a significant impact on the environment, therefore a **negative declaration will be prepared.**
- ☐ B. Although the project could have a significant effect on the environment, there will not be a significant effect for this Unlisted Action because the mitigation measures described in PART 3 have been required, therefore a **CONDITIONED negative declaration will be prepared.***
- ☐ C. The project may result in one or more large and important impacts that may have a significant impact on the environment, therefore a **positive declaration will be prepared.**

*A Conditioned Negative Declaration is only valid for Unlisted Actions
General Permit for Silvicultural Treatments That Meet Jurisdictional Clearcutting Thresholds

New York State Adirondack Park Agency _____ Name of Action

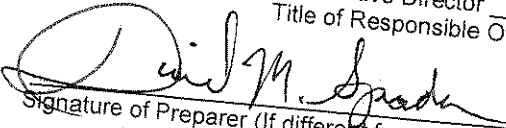
Name of Lead Agency

Terry Martino
Print or Type Name of Responsible Officer in Lead Agency



Signature of Responsible Officer in Lead Agency
website Date

Executive Director
Title of Responsible Officer



Signature of Preparer (If different from responsible officer)

PART 1--PROJECT INFORMATION
Prepared by Project Sponsor

NOTICE: This document is designed to assist in determining whether the action proposed may have a significant effect on the environment. Please complete the entire form, Parts A through E. Answers to these questions will be considered as part of the application for approval and may be subject to further verification and public review. Provide any additional information you believe will be needed to complete Parts 2 and 3.

It is expected that completion of the full EAF will be dependent on information currently available and will not involve new studies, research or investigation. If information requiring such additional work is unavailable, so indicate and specify each instance.

Name of Action General Permit for Silvicultural Treatments That Meet Jurisdictional Clearcutting Thresholds

Location of Action (include Street Address, Municipality and County) All of the counties or portions thereof within the boundary of the Adirondack Park.

Name of Applicant/Sponsor Various private landowners will have the opportunity to be applicants eligible to use this GP.

Address _____

City/PO _____ State _____ Zip Code _____

Business Telephone _____

Name of Owner (if different) _____

Address _____

City / PO _____ State _____ Zip Code _____

Business Telephone _____

Description of Action:

The action is the issuance of a general permit for silvicultural treatments that trigger the Agency's clearcutting jurisdictional thresholds.

Please Complete Each Question--Indicate N.A. if not applicable

A. SITE DESCRIPTION

B.

Physical setting of overall project, both developed and undeveloped areas.

1. Present Land Use: ☐ Urban ☐ Industrial ☐ Commercial ☐ Residential (suburban) ☒ Rural (non-farm)
☒ Forest ☐ Agriculture ☐ Other _____

2. Total acreage of project area: ≥25 acres.

APPROXIMATE ACREAGE

	PRESENTLY	AFTER COMPLETION
Meadow or Brushland (Non-agricultural)	_____ acres	_____ acres
Forested	_____ acres	_____ acres
Agricultural (Includes orchards, cropland, pasture, etc.)	_____ acres	_____ acres
Wetland (Freshwater or tidal as per Articles 24,25 of ECL)	_____ acres	_____ acres
Water Surface Area	_____ acres	_____ acres
Unvegetated (Rock, earth or fill)	_____ acres	_____ acres
Roads, buildings and other paved surfaces	_____ acres	_____ acres
Other (Indicate type)	_____ acres	_____ acres

3. What is predominant soil type(s) on project site? **Varied, but generally not in poorly drained or very poorly drained or wetland soils.**

a. Soil drainage: _____ Well drained % of site _____ Moderately well drained % of site.
 _____ Poorly drained % of site

b. If any agricultural land is involved, how many acres of soil are classified within soil group 1 through 4 of the NYS Land Classification System? _____ acres (see 1 NYCRR 370).

4. Are there bedrock outcroppings on project site? ☐ Yes ☐ No **N/A**

a. What is depth to bedrock _____ (in feet)

5. Approximate percentage of proposed project site with slopes: **Varies, but is limited by forest management feasibility.**
 _____ 0-10% _____ % 10- 15% _____ % 15% or greater %

6. Is project substantially contiguous to, or contain a building, site, or district, listed on the State or National Registers of Historic Places? ☐ Yes ☐ No **N/A**

7. Is project substantially contiguous to a site listed on the Register of National Natural Landmarks? Yes No **N/A**

8. What is the depth of the water table? (in feet) **N/A**

9. Is site located over a primary, principal, or sole source aquifer? ☐ Yes ☐ No **N/A**

10. Do hunting, fishing or shell fishing opportunities presently exist in the project area? ☐ Yes ☐ No **N/A**

11. Does project site contain any species of plant or animal life that is identified as threatened or endangered? _____ Yes
_____ No **N/A**
According to:

Identify each species:

12. Are there any unique or unusual land forms on the project site? (i.e., cliffs, dunes, other geological formations?)
_____ Yes _____ No **N/A**

Describe:

13. Is the project site presently used by the community or neighborhood as an open space or recreation area?
_____ Yes _____ No **N/A**
If yes, explain:

14. Does the present site include scenic views known to be important to the community? _____ Yes _____ No **N/A**

15. Streams within or contiguous to project area: **N/A**

a. Name of Stream and name of River to which it is tributary

16. Lakes, ponds, wetland areas within or contiguous to project area: **N/A**

b. Size (in acres):

17. Is the site served by existing public utilities? _____ Yes _____ No **N/A**

a. If **YES**, does sufficient capacity exist to allow connection? _____ Yes _____ No

b. If **YES**, will improvements be necessary to allow connection? _____ Yes _____ No

18. Is the site located in an agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? _____ Yes _____ No **N/A**

19. Is the site located in or substantially contiguous to a Critical Environmental Area designated pursuant to Article 8 of the ECL, and 6 NYCRR 617? _____ Yes _____ No **N/A**

20. Has the site ever been used for the disposal of solid or hazardous wastes? _____ Yes _____ No **N/A**

B. Project Description

1. Physical dimensions and scale of project (fill in dimensions as appropriate). **N/A**

a. Total contiguous acreage owned or controlled by project sponsor: _____ acres.

b. Project acreage to be developed: acres initially; _____ acres ultimately.

c. Project acreage to remain undeveloped: _____ acres.

d. Length of project, in miles: _____ (if appropriate)

e. If the project is an expansion, indicate percent of expansion proposed. _____ %

f. Number of off-street parking spaces existing: _____ proposed _____

g. Maximum vehicular trips generated per hour: _____ (upon completion of project)?

h. If residential: Number and type of housing units:

	One Family	Two Family	Multiple Family	Condominium
Initially	_____	_____	_____	_____
Ultimately	_____	_____	_____	_____

i. Dimensions (in feet) of largest proposed structure: _____ height; _____ width; _____ length.

j. Linear feet of frontage along a public thoroughfare project will occupy is? _____ ft.

2. How much natural material (i.e. rock, earth, etc.) will be removed from the site? _____ N/A _____ tons/cubic yards.

3. Will disturbed areas be reclaimed _____ Yes _____ No _____ X _____ N/A

a. If yes, for what intended purpose is the site being reclaimed?

b. Will topsoil be stockpiled for reclamation? _____ Yes _____ No

c. Will upper subsoil be stockpiled for reclamation? _____ Yes _____ No

4. How many acres of vegetation (trees, shrubs, ground covers) will be removed from site? _____ ≥25 _____ acres.

5. Will any mature forest (over 100 years old) or other locally-important vegetation be removed by this project?
_____ Yes _____ No **It is possible that trees over 100 years in age will be harvested.**

6. If single phase project: Anticipated period of construction: _____ months, (including demolition) N/A

7. If multi-phased: N/A

a. Total number of phases anticipated _____ (number)

b. Anticipated date of commencement phase 1: _____ month _____ year, (including demolition)

c. Approximate completion date of final phase: _____ month _____ year.

d. Is phase 1 functionally dependent on subsequent phases? _____ Yes _____ No

8. Will blasting occur during construction? _____ Yes _____ No N/A

9. Number of jobs generated: during construction; _____ after project is complete N/A

10. Number of jobs eliminated by this project _____ N/A

11. Will project require relocation of any projects or facilities? _____ Yes _____ No N/A

If yes, explain:

12. Is surface liquid waste disposal involved? _____ Yes _____ No N/A

a. If yes, indicate type of waste (sewage, industrial, etc) and amount _____

b. Name of water body into which effluent will be discharged _____
13. Is subsurface liquid waste disposal involved? _____ Yes _____ No Type _____ N/A _____

14. Will surface area of an existing water body increase or decrease by proposal? _____ Yes _____ No N/A

If yes, explain:

15. Is project or any portion of project located in a 100 year flood plain? _____ Yes _____ No N/A

16. Will the project generate solid waste? _____ Yes _____ No N/A

a. If yes, what is the amount per month? _____ tons

b. If yes, will an existing solid waste facility be used? _____ Yes _____ No

c. If yes, give name _____ location _____

d. Will any wastes not go into a sewage disposal system or into a sanitary landfill? _____ Yes _____ No

e. If yes, explain:

17. Will the project involve the disposal of solid waste? _____ Yes _____ No N/A

a. If yes, what is the anticipated rate of disposal? _____ tons/month.

b. If yes, what is the anticipated site life? _____ years.

18. Will project use herbicides or pesticides? _____ Yes _____ No N/A

19. Will project routinely produce odors (more than one hour per day)? _____ Yes _____ No N/A

20. Will project produce operating noise exceeding the local ambient noise levels? _____ Yes _____ No N/A

21. Will project result in an increase in energy use? _____ Yes _____ No N/A

If yes, indicate type(s)

22. If water supply is from wells, indicate pumping capacity _____ gallons/minute. N/A

23. Total anticipated water usage per day _____ gallons/day. N/A

24. Does project involve Local, State or Federal funding? _____ Yes _____ No N/A

If yes, explain:

25. Approvals Required:

	Type	Submittal Date
City, Town, Village Board _____ Yes ___X___ No	_____	_____
City, Town, Village Planning Board _____ Yes ___X___ No	_____	_____
City, Town Zoning Board _____ Yes ___X___ No	_____	_____
City, County Health Department _____ Yes ___X___ No	_____	_____
Other Local Agencies _____ Yes ___X___ No	_____	_____
Other Regional Agencies _____ Yes _____ No	_____	_____
State Agencies _____ Yes _____ No	_____	_____

Federal Agencies ____ Yes ____ No

C. Zoning and Planning Information

1. Does proposed action involve a planning or zoning decision? ____ Yes ____ X ____ No
If Yes, indicate decision required:

____ Zoning amendment ____ Zoning variance ____ New/revision of master plan ____ Subdivision
____ Site plan ____ Special use permit ____ Resource management plan ____ Other

2. What is the zoning classification(s) of the site? N/A

3. What is the maximum potential development of the site if developed as permitted by the present zoning? N/A

4. What is the proposed zoning of the site? N/A

5. What is the maximum potential development of the site if developed as permitted by the proposed zoning? N/A

6. Is the proposed action consistent with the recommended uses in adopted local land use plans? ____ Yes ____ No N/A

7. What are the predominant land use(s) and zoning classifications within a ¼ mile radius of proposed action? N/A

8. Is the proposed action compatible with adjoining/surrounding land uses with a ¼ mile? ____ Yes ____ No N/A

9. If the proposed action is the subdivision of land, how many lots are proposed? ____ N/A ____
a. What is the minimum lot size proposed? _____

10. Will proposed action require any authorization(s) for the formation of sewer or water districts? ____ Yes ____ No
N/A

11. Will the proposed action create a demand for any community provided services (recreation, education, police, fire protection)? _____ Yes _____ No N/A

a. If yes, is existing capacity sufficient to handle projected demand? _____ Yes _____ No

12. Will the proposed action result in the generation of traffic significantly above present levels? _____ Yes _____ No N/A

a. If yes, is the existing road network adequate to handle the additional traffic. _____ Yes _____ No

D. Informational Details

Attach any additional information as may be needed to clarify your project. If there are or may be any adverse impacts associated with your proposal, please discuss such impacts and the measures which you propose to mitigate or avoid them.

The action is the issuance of a general permit for silvicultural treatments that trigger the Agency's clearcutting jurisdictional thresholds. The permit would be issued for any such action within the boundaries of the Adirondack Park for any clearcuts greater than 25 acres in size. Forest managers whose lands are third-party certified will be eligible for this permit and bound by its conditions. Third-party certification requires strict adherence to best management practices that seek to protect wildlife, biodiversity, water quality, aesthetics and historical resources.

Strict compliance with the third-party certification standards through the method of independent audits and the conditions in the permit will serve to eliminate the potential for significant effect on the environment.

E. Verification

I certify that the information provided above is true to the best of my knowledge.

Applicant/Sponsor Name Date Daniel M. Spada

Signature _____

Title Supervisor, Resource Analysis and Scientific Services, NYS Adirondack Park Agency

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment.

PART 2 - PROJECT IMPACTS AND THEIR MAGNITUDE

Responsibility of Lead Agency

General Information (Read Carefully)

- In completing the form the reviewer should be guided by the question: Have my responses and determinations been **reasonable**? The reviewer is not expected to be an expert environmental analyst.
- The **Examples** provided are to assist the reviewer by showing types of impacts and wherever possible the threshold of magnitude that would trigger a response in column 2. The examples are generally applicable throughout the State and for most situations. But, for any specific project or site other examples and/or lower thresholds may be appropriate for a Potential Large Impact response, thus requiring evaluation in Part 3.
- The impacts of each project, on each site, in each locality, will vary. Therefore, the examples are illustrative and have been offered as guidance. They do not constitute an exhaustive list of impacts and thresholds to answer each question.
- The number of examples per question does not indicate the importance of each question.
- In identifying impacts, consider long term, short term and cumulative effects.

Instructions (Read carefully)

- Answer each of the 20 questions in PART 2. Answer **Yes** if there will be **any** impact.
- Maybe** answers should be considered as **Yes** answers.
- If answering **Yes** to a question then check the appropriate box (column 1 or 2) to indicate the potential size of the impact. If impact threshold equals or exceeds any example provided, check column 2. If impact will occur but threshold is lower than example, check column 1.
- Identifying that an impact will be potentially large (column 2) does not mean that it is also necessarily **significant**. Any large impact must be evaluated in PART 3 to determine significance. Identifying an impact in column 2 simply asks that it be looked at further.
- If reviewer has doubt about size of the impact then consider the impact as potentially large and proceed to PART 3.
- If a potentially large impact checked in column 2 can be mitigated by change(s) in the project to a small to moderate impact, also check the **Yes** box in column 3. A **No** response indicates that such a reduction is not possible. This must be explained in Part 3.

1 small to moderate impact

2 potential Large Impact

3 can impact be mitigated by project change

Impact on Land

1. Will the Proposed Action result in a physical change to the project site? X no _____ yes

Examples that would apply to column 2

- Any construction on slopes of 15% or greater, (15 foot rise per 100 foot of length), or where the general slopes in the project area exceed 10%.

- Construction on land where the depth to the water table is less than 3 feet.

- Construction of paved parking area for 1,000 or more vehicles.

1 small to moderate impact 2 potential large impact

3 can impact be mitigated by project change

- Construction on land where bedrock is exposed or generally within 3 feet of existing ground surface.

- Construction that will continue for more than 1 year or involve more than one phase or stage.

- Excavation for mining purposes that would remove more than 1,000 tons of natural material (i.e., rock or soil) per year.

- Construction or expansion of a sanitary landfill.

- Construction in a designated floodway.

- Other impacts:

2. Will there be an effect to any unique or unusual land forms found on the site? (i.e., cliffs, dunes, geological formations, etc.) X NO YES

- Specific land forms:

Impact on Water

3. Will Proposed Action affect any water body designated as protected?

(Under Articles 15, 24, 25 of the Environmental Conservation Law, ECL) X NO YES

Examples that would apply to column 2

- Developable area of site contains a protected water body.

- Dredging more than 100 cubic yards of material from channel of a protected stream.

- Extension of utility distribution facilities through a protected water body.

- Construction in a designated freshwater or tidal wetland.

- Other impacts:

4. Will Proposed Action affect any non-protected existing or new body of

water? ☒ NO ☐ YES

Examples that would apply to column 2

- A 10% increase or decrease in the surface area of any body of water or more than a 10 acre increase or decrease. _____ yes ___no
- Construction of a body of water that exceeds 10 acres of surface area. _____ yes ___no
- Other impacts: _____

5. Will Proposed Action affect surface or groundwater quality or quantity? ☒ NO ☐ YES

Examples that would apply to column 2

- Proposed Action will require a discharge permit. _____ yes ___no
- Proposed Action requires use of a source of water that does not have approval to serve proposed (project) action. _____ yes ___no
- Proposed Action requires water supply from wells with greater than 45 gallons per minute pumping capacity. _____ yes ___no
- Construction or operation causing any contamination of a water supply system. _____ yes ___no
- Proposed Action will adversely affect groundwater. _____ yes ___no
- Liquid effluent will be conveyed off the site to facilities which presently do not exist or have inadequate capacity. _____ yes ___no
- Proposed Action would use water in excess of 20,000 gallons per day. _____ yes ___no
- Proposed Action will likely cause siltation or other discharge into an existing body of water to the extent that there will be an obvious visual contrast to natural conditions. _____ yes ___no
- Proposed Action will require the storage of petroleum or chemical products greater than 1,100 gallons. _____ yes ___no
- Proposed Action will allow residential uses in areas without water and/or sewer services. _____ yes ___no
- Proposed Action locates commercial and/or industrial uses which may require new or expansion of existing waste treatment and/or storage facilities. _____ yes ___no
- Other impacts: The project will use best management practices to reduce or eliminate surface water impacts from erosion. _____

6. Will Proposed Action alter drainage flow or patterns, or surface water runoff? ☒ NO ☐ YES

Examples that would apply to column 2

- Proposed Action would change flood water flows. _____ yes ___no
- Proposed Action may cause substantial erosion. _____ yes ___no
- Proposed Action is incompatible with existing drainage patterns. _____ yes ___no
- Proposed Action will allow development in a designated _____

floodway.

- Other impacts:

IMPACT ON AIR

7. Will Proposed Action affect air quality? ☒ NO ☐ YES

Examples that would apply to column 2

- Proposed Action will induce 1,000 or more vehicle trips in any given hour.

- Proposed Action will result in the incineration of more than 1 ton of refuse per hour.

- Emission rate of total contaminants will exceed 5 lbs. per hour or a heat source producing more than 10 million BTU's per hour.

- Proposed Action will allow an increase in the amount of land committed to industrial use.

- Proposed Action will allow an increase in the density of industrial development within existing industrial areas.

- Other impacts:

IMPACT ON PLANTS AND ANIMALS

8. Will Proposed Action affect any threatened or endangered species? ☒ NO ☐ YES

Examples that would apply to column 2

- Reduction of one or more species listed on the New York or Federal list, using the site, over or near the site, or found on the site.

- Removal of any portion of a critical or significant wildlife habitat.
- Application of pesticide or herbicide more than twice a year, other than for agricultural purposes.

- Other impacts:

9. Will Proposed Action substantially affect non-threatened or nonendangered species? ☒ NO ☐ YES

Examples that would apply to column 2

- Proposed Action would substantially interfere with any resident or migratory fish, shellfish or wildlife species.

- Proposed Action requires the removal of more than 10 acres of mature forest (over 100 years of age) or other locally important vegetation.

- Other impacts:

IMPACT ON AGRICULTURAL LAND RESOURCES

10. Will Proposed Action affect agricultural land resources? ☒ NO ☐ YES

Examples that would apply to column 2

- The Proposed Action would sever, cross or limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc.)

- Construction activity would excavate or compact the soil profile of agricultural land.

• The Proposed Action would irreversibly convert more than 10 acres of agricultural land or, if located in an Agricultural District, more than 2.5 acres of agricultural land.

• The Proposed Action would disrupt or prevent installation of agricultural land management systems (e.g., subsurface drain lines, outlet ditches, strip cropping); or create a need for such measures (e.g. cause a farm field to drain poorly due to increased runoff).

_____ yes ____no

_____ yes ____no

• Other impacts:

1 small to moderate impact 2 potential large impact 3 can impact be mitigated by project change

IMPACT ON AESTHETIC RESOURCES

11. Will Proposed Action affect aesthetic resources? (If necessary, use the Visual EAF Addendum in Section 617.20, Appendix B.) X NO _____ YES

Examples that would apply to column 2

• Proposed land uses, or project components obviously different from or in sharp contrast to current surrounding land use patterns, whether man-made or natural.

_____ yes ____no

• Proposed land uses, or project components visible to users of aesthetic resources which will eliminate or significantly reduce their enjoyment of the aesthetic qualities of that resource.

_____ yes ____no

• Project components that will result in the elimination or significant screening of scenic views known to be important to the area.

_____ yes ____no

• Other impacts:

IMPACT ON HISTORIC AND ARCHAEOLOGICAL RESOURCES

12. Will Proposed Action impact any site or structure of historic, prehistoric or paleontological importance? X NO _____ YES

Examples that would apply to column 2

• Proposed Action occurring wholly or partially within or substantially contiguous to any facility or site listed on the State or National Register of historic places.

_____ yes ____no

• Any impact to an archaeological site or fossil bed located within the project site.

_____ yes ____no

• Proposed Action will occur in an area designated as sensitive for archaeological sites on the NYS Site Inventory. _____ Yes _____ No

• Other impacts:

IMPACT ON OPEN SPACE AND RECREATION

13. Will proposed Action affect the quantity or quality of existing or future open spaces or recreational opportunities? X NO _____ YES

Examples that would apply to column 2

- The permanent foreclosure of a future recreational opportunity.
- A major reduction of an open space important to the community.
- Other impacts:

IMPACT ON CRITICAL ENVIRONMENTAL AREAS

14. Will Proposed Action impact the exceptional or unique characteristics of a critical environmental area (CEA) established pursuant to subdivision 6NYCRR 617.14(g)? ☒ X ☐ NO ☐ YES
List the environmental characteristics that caused the designation of the CEA.

Examples that would apply to column 2

- Proposed Action to locate within the CEA? _____ yes ___no
- Proposed Action will result in a reduction in the quantity of the resource? _____ yes ___no
- Proposed Action will result in a reduction in the quality of the resource? _____ yes ___no
- Proposed Action will impact the use, function or enjoyment of the resource? _____ yes ___no
- Other impacts: _____ yes ___no

IMPACT ON TRANSPORTATION

15. Will there be an effect to existing transportation systems? ☒ X ☐ NO ☐ YES

Examples that would apply to column 2

- Alteration of present patterns of movement of people and/or goods. _____ yes ___no
- Proposed Action will result in major traffic problems. _____ yes ___no
- Other impacts: _____ yes ___no

IMPACT ON ENERGY

16. Will Proposed Action affect the community's sources of fuel or energy supply? ☒ X ☐ NO ☐ YES

Examples that would apply to column 2

- Proposed Action will cause a greater than 5% increase in the use of any form of energy in the municipality. _____ yes ___no
- Proposed Action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two family residences or to serve a major commercial or industrial use. _____ yes ___no
- Other impacts: _____ yes ___no

NOISE AND ODOR IMPACT

17. Will there be objectionable odors, noise, or vibration as a result of the Proposed Action? ☒ X ☐ NO ☐ YES

Examples that would apply to column 2

- Blasting within 1,500 feet of a hospital, school or other sensitive facility. _____ yes ___no
- Odors will occur routinely (more than one hour per day). _____ yes ___no
- Proposed Action will produce operating noise exceeding the local ambient noise levels for noise outside of structures. _____ yes ___no
- Proposed Action will remove natural barriers that would act as a noise screen. _____ yes ___no
- Other impacts: _____ yes ___no

IMPACT ON PUBLIC HEALTH

18. Will Proposed Action affect public health and safety? ☒ NO ☐ YES

• Proposed Action may cause a risk of explosion or release of hazardous substances (i.e. oil, pesticides, chemicals, radiation, etc.) in the event of accident or upset conditions, or there may be a chronic low level discharge or emission.

_____ yes _____ no

• Proposed Action may result in the burial of "hazardous wastes" in any form (i.e. toxic, poisonous, highly reactive, radioactive, irritating, infectious, etc.)

_____ yes _____ no

• Storage facilities for one million or more gallons of liquefied natural gas or other flammable liquids.

_____ yes _____ no

• Proposed Action may result in the excavation or other disturbance within 2,000 feet of a site used for the disposal of solid or hazardous waste.

_____ yes _____ no

• Other impacts:

IMPACT ON GROWTH AND CHARACTER OF COMMUNITY OR NEIGHBORHOOD

19. Will Proposed Action affect the character of the existing community? ☒ NO ☐ YES

Examples that would apply to column 2

• The permanent population of the city, town or village in which the project is located is likely to grow by more than 5%.

_____ yes _____ no

• The municipal budget for capital expenditures or operating services will increase by more than 5% per year as a result of this project.

_____ yes _____ no

• Proposed Action will conflict with officially adopted plans or goals.

_____ yes _____ no

• Proposed Action will cause a change in the density of land use.

_____ yes _____ no

• Proposed Action will replace or eliminate existing facilities, structures or areas of historic importance to the community.

_____ yes _____ no

• Development will create a demand for additional community services (e.g. schools, police and fire, etc.)

_____ yes _____ no

• Proposed Action will set an important precedent for future projects.

_____ yes _____ no

• Proposed Action will create or eliminate employment.

_____ yes _____ no

• Other impacts:

20. Is there, or is there likely to be, public controversy related to potential adverse environment impacts? ☒ NO ☐ YES

If Any Action in Part 2 Is Identified as a Potential Large Impact or If you Cannot Determine the Magnitude of

Impact, Proceed to Part 3

Part 3 - EVALUATION OF THE IMPORTANCE OF IMPACTS

Responsibility of Lead Agency

Part 3 must be prepared if one or more impact(s) is considered to be potentially large, even if the impact(s) may be mitigated.

Instructions (If you need more space, attach additional sheets)

THIS IS A TWO SIDED DOCUMENT
STAFF DRAFT NOT APPROVED BY AGENCY



P.O. Box 99 • Ray Brook, New York 12977 • (518) 891-4050

APA Order
2012G-1

Date Issued:

In the Matter of the Issuance of a General Permit for the
**SILVICULTURAL TREATMENTS THAT
MEET JURISDICTIONAL CLEARCUTTING
THRESHOLDS**

Pursuant to Section 809.13(e) of the
Adirondack Park Agency Act, ECL Article 24 and
9 NYCRR 572.23

INTRODUCTION

This document constitutes the Findings and Order for General Permit 2012G-1, Silvicultural Treatments that Meet Jurisdictional Clearcutting Thresholds.

FINDINGS

1. A silvicultural treatment that involves a clearcut of more than 25 acres of a single unit of land is a Class A regional project requiring an Agency permit pursuant to Executive Law Sections 809(2)(a) and 810(1). The term "clearcut" is defined in Executive Law Section 802 as "any cutting of all or substantially all trees over six inches in diameter at breast height over any ten-year cutting cycle," and is further defined in 9 NYCRR Section 573.7.
2. 9 NYCRR Section 573.7 strictly defines clearcutting in relation to the remaining basal area amount of thirty square feet per acre. Correspondingly, other legitimate silvicultural cutting prescriptions, such as shelterwood removal cuts, can also be defined as clearcuts because they lower the residual basal area below the threshold referenced in the Agency regulation. The

strict definition of all silvicultural prescriptions as clearcuts based solely on a basal area threshold provides is no incentive to complete other legitimate silvicultural prescriptions, including shelterwood cuts. The disincentive leads to "high grading", dominance by undesirable species, reduction in biodiversity and unhealthy forest conditions.

3. The Agency recognizes that compliance with accepted forest management certification programs and forest management plans requires land owners to meet strict standards for forest management that include economic, social and environmental resource considerations, and that these considerations are comparable to the findings the Agency must make in accordance with Executive Law Section 809 to be able to issue a permit.
4. Section 809.13(e) of the Adirondack Park Agency Act states that the Agency shall have specific authority in connection with its project review jurisdiction "to issue a general permit for any class of projects concerning which the agency determines it may make the requisite statutory findings on a general basis."
6. Section 572.23(b) of the Agency regulations states that the Agency may authorize the proposal of a general permit, and a draft General Permit 2012G-1 (Silvicultural Treatments that Meet Jurisdictional Clearcutting Thresholds) was presented to the Agency at the November 15, 2012 meeting, and the Agency authorized staff to proceed to public notice for draft General Permit 2012G-1 at that meeting.
8. Pursuant to Section 572.23(c) of the Agency regulations public notice of the draft general permit was given in the Environmental Notice Bulletin, the Watertown Daily Times, the Glens Falls Post Star, the Press Republican and the Rome Sentinel.
9. The following public comment has been received pursuant to the above public notices:
10. Pursuant to Section 572.23(d) of the Agency regulations the issuance of a general permit by the Agency shall constitute a type I action for purposes of SEQRA, and a Negative Declaration has been prepared by the Agency.

CONCLUSIONS OF LAW

The Agency, having considered the findings set forth above, the text of attached 2012G-1 (Silvicultural Treatments that Meet Jurisdictional Clearcutting Thresholds) and the statutory and regulatory criteria for

Now, therefore, upon the foregoing, it is ORDERED:
The Deputy Director, Regulatory, publish and record
Jurisdiction

upon the foregoing, it is ORDERED:
The Deputy Director, Regulatory Programs, is authorized to execute,
publish and record 2012G-1, Silvicultural Treatments that Meet
Jurisdictional Clearcutting Thresholds, attached hereto.
FINDINGS and ORDER issued this _____ day
of _____, 2013


ADIRONDACK PARK AGENCY.

BY: Richard E. Weber, III
Deputy Director (Regulatory Programs)

STATE OF NEW YORK)
COUNTY OF ESSEX) ss.:

On the _____ day of _____ in the year 2013, before me, the undersigned, a Notary Public in and for said State, personally appeared Richard E. Weber, III 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 he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

 Adirondack Park Agency P.O. Box 99 • Ray Brook, New York 12977 (518) 891-4050	General Permit 2012 G-1	Effective Date: _____, 2012
	In the Matter of the Issuance of a General Permit for: Silvicultural Treatments That Meet Jurisdictional Clearcutting Thresholds	

SUMMARY AND AUTHORIZATION

Adirondack Park Agency regulations at 9 NYCRR §573.7 define the term clearcut as cutting that results in a residual basal area of less than thirty square feet per acre. Legitimate silvicultural cutting prescriptions, such as shelterwood removal cuts, can constitute clearcuts under APA law if they lower the residual basal area below this threshold. Under the APA Act, any clearcut of greater than 25 acres requires a permit. Accordingly, a landowner may choose to cut the high value wood from a stand, leaving behind at least thirty square feet per acre of undesirable species and leading to a reduction in biodiversity and unhealthy forest conditions, rather than undertake a legitimate silvicultural prescription that requires an Agency permit as a clearcut.

This General Permit is issued pursuant to the Adirondack Park Agency Act (Executive Law Article 27) and 9 NYCRR Part 573 authorizing a simplified Agency approval process for implementing silvicultural treatments that meet jurisdictional clearcutting thresholds as part of a forest management plan.

The projects authorized by this General Permit shall be undertaken and completed only as described in the forest management plan and in accordance with the terms and conditions of this General Permit and a separate General Permit Certificate to be obtained for each project from the Agency.

This General Permit shall be recorded by the Agency in the Office of the County Clerk for the counties of Clinton, Essex, Franklin, Fulton, Hamilton, Herkimer, Lewis, Oneida, St. Lawrence, Saratoga, Warren, and Washington.

This General Permit applies throughout the Adirondack Park and shall be effective unless otherwise revoked or modified by the Agency.

ADIRONDACK PARK AGENCY JURISDICTION

A silvicultural treatment that involves a clearcut of more than 25 acres of a single unit of land is a Class A regional project requiring an Agency permit pursuant to Executive Law §§ 809(2)(a) and 810(1). The term "clearcut" is defined in Executive Law § 802 as "any cutting of all or substantially all trees over six inches in diameter at breast height over any ten-year cutting cycle," and is further defined in 9 NYCRR §573.7.

ELIGIBILITY FOR APPLICATION

In order to be eligible for a Certification issued pursuant to this General Permit, all of the following must apply.

- (1) There can be no other active basis of Agency jurisdiction on the project site, including location within a designated Wild, Scenic, or Recreational River area, or undertaking of a regulated activity under the Freshwater Wetlands Act (except construction of a woods road involving class 3 or 4 wetlands). In addition there can be no current (active) jurisdictional subdivision on the project site.
- (2) The lands proposed for treatment that meet jurisdictional clearcutting thresholds must have forest management certification under the Forest Stewardship Council or the Sustainable Forestry Initiative certification programs as demonstrated by the certification certificate or Article 49 Conservation Easements that includes language for stewardship requirements equivalent to FSC or SFI certification. Lands subject to American Tree Farm System certification or other conservation easements or that are enrolled in the RPTL 480a program may meet eligibility criteria if their management plans are part of a broader management scheme that includes principles, objectives, criteria, and performance measures equivalent to accepted third party certification systems. The proposed treatment shall be in compliance with the terms of the certification.
- (3) The Project Sponsor must submit a complete application.
- (4) The application must contain all of the required attachments including a narrative and graphic description of timber harvesting on the project site, including size of the site, harvest history, integration with previous forest management actions, maps, and photos, as well as documentation that the proposed clearcut is prescribed for regeneration within the approved forest management plan and a detailed implementation schedule of project components.
- (5) If Agency staff determines that the project has to be referred to OPRHP, the Agency must receive documentation from OPRHP that the project will not have an impact on historic or archeological resources or their recommendations for studies or surveys to be done and their recommendations for mitigation of any impacts to historic or archeological resources must be provided.

PROCEDURES

- (1) To commence Agency review of a proposed project pursuant to this General Permit, a project sponsor must complete the application and submit the application and all required attachments to:

Adirondack Park Agency
Deputy Director, Regulatory Programs
P.O. Box 99

- (2) Upon receipt of an application and within 30 working days, Agency staff will confirm jurisdiction, determine whether the proposed project meets the eligibility criteria, and

review the application for completeness. Agency staff will contact the applicant to arrange a meeting at the project site, if necessary. If the application is incomplete, Agency staff will inform the project sponsor by mail indicating what information is missing at which time the 30 working day clock will be suspended. A new 30 work day clock will start upon receipt of the requested information.

- (3) Based on analysis and possible field review by Agency staff, the Agency's Deputy Director, Regulatory Programs, will determine whether the project as proposed conforms to the eligibility criteria cited herein. Where an application is determined to be ineligible for processing under this General Permit, the Agency will send a letter explaining why the project is ineligible and stating that the activity will be reviewed again upon receipt of a major project permit application.
- (4) Within ten working days that the application is deemed complete and a determination by the Agency's Deputy Director, Regulatory Programs, that the proposal is eligible for authorization under General Permit 2012G-1 the Agency will issue a signed Certification approving the project which will remain effective so long as eligibility criteria are maintained and there is no change to the proposed treatment.
- (5) The review time periods established in Executive Law § 809 shall not apply to Agency review of an application pursuant to the General Permit, except that if the Agency does not issue a certification within ten days of determining that a proposed project is eligible for authorization under General Permit 2012G-1 the procedures established in Executive Law § 809(6)(a) shall apply.
- (6) By signing the application, a Project Sponsor:
 - a. confirms that the information contained in the application is true, accurate and complete;
 - b. agrees to undertake and complete the project in full compliance with the terms and conditions of a General Permit Certification issued by the Agency; and
 - c. agrees to allow Agency staff, on reasonable notice, to access the project site in order to review the proposed project.

GENERAL CONDITIONS

- (1) The Certification shall be applicable to the project sponsor, his or her successors and assigns, and to any subsequent owner of or contractor working on all or a portion of the project site.
- (2) The project shall be undertaken and completed only as shown on the approved project site plans and in compliance with the conditions in the Certification issued, including any site specific conditions.
- (3) The project sponsor and his or her successors and assigns shall provide all current and subsequent owners of the lot subject to the Certification with a copy of the Certification, and shall advise all subsequent owners in writing that the project may only be undertaken within the parameters of the Certification; and
- (4) The project sponsor and his or her successors and assigns, or the current or subsequent owner(s) of the lot subject to the Certification, shall seek an amendment for any failure to

comply with the forest management certification program as indicated by annual audit or for any proposed alteration to the forest management plan approved in the conservation easement.

FINDINGS OF FACT

- (1) The Agency recognizes that compliance with the accepted forest management certification programs and forest management plans requires land owners to meet strict standards for forest management that include economic, social and environmental resource considerations, and that these considerations are comparable to the findings the Agency must make in accordance with Executive Law §809 to be able to issue a permit. Accordingly, for a treatment to be determined eligible for a Certification under this General Permit, the property upon which the treatment will take place must be enrolled in and in compliance with an accepted forest management certification program, as demonstrated by a valid and up to date certificate of certification.
- (2) 9 NYCRR §573.7 strictly defines clearcutting in relation to the remaining basal area amount of thirty square feet per acre. Correspondingly, other legitimate silvicultural cutting prescriptions, such as shelterwood removal cuts, can also be defined as clearcuts because they lower the residual basal area below the threshold referenced in the Agency regulation. The strict definition of all silvicultural prescriptions as clearcuts based solely on a basal area threshold provides no incentive to complete other legitimate silvicultural prescriptions, including shelterwood cuts. The disincentive leads to "high grading", dominance by undesirable species, reduction in biodiversity and unhealthy forest conditions.
- (3) The projects subject to this general permit will not cause any change in the quality of "registered," "eligible," or "inventoried" property as those terms are defined in 9 NYCRR 426.2 for the purposes of implementing §14.09 of the New York State Historic Preservation Act of 1980.

CONCLUSIONS OF LAW

The Agency has considered all the statutory and regulatory criteria for project approval as set forth in Section 809 of the Adirondack Park Agency Act (Executive Law, Article 27) and 9 NYCRR Parts 573 and 574. The Agency hereby finds that clearcutting described herein is approvable provided it is undertaken in compliance with the approved permit certification and attachments and the terms and conditions therein.

Issued this day of , 2012

ADIRONDACK PARK AGENCY

Richard E. Weber, III
Deputy Director (Regulatory Programs)

STATE OF NEW YORK)
COUNTY OF ESSEX) ss.:

