

**THIS IS A TWO-SIDED DOCUMENT**

 <p><b>NEW YORK</b> STATE OF OPPORTUNITY.</p> <p><b>Adirondack Park Agency</b></p> <p>P.O. Box 99, 1133 NYS Route 86 Ray Brook, New York 12977 Tel: (518) 891-4050 Fax: (518) 891-3938 www.apa.ny.gov</p>	<p>APA Project Permit <b>2018-0021</b></p>
	<p>Date Issued: July 17, 2018</p>
<p>In the Matter of the Application of</p> <p><b>HERKIMER COUNTY OFFICE OF EMERGENCY SERVICES and TOWN OF WEBB</b></p> <p><b>Permittees</b></p> <p>for a permit pursuant to § 809 of the Adirondack Park Agency Act</p>	<p>To the County Clerk: This permit must be recorded on or before September 17, 2018. Please index this permit in the grantor index under the following names:</p> <ol style="list-style-type: none"><li><b>1. Herkimer County Office of Emergency Services</b></li><li><b>2. Town of Webb</b></li></ol>

**SUMMARY AND AUTHORIZATION**

This permit authorizes the construction of an emergency communications tower 90 feet in height, and associated infrastructure in an area classified Rural Use by the Official Adirondack Park Land Use and Development Plan Map in the Town of Webb, Herkimer County.

This permit shall expire unless recorded in the Herkimer County Clerk's Office on or before September 17, 2018, in the names of all persons listed above and in the names of all owners of record of any portion of the project site on the recordation date.

The project shall not be undertaken or continued unless the project authorized herein is in existence within four years from the date the permit is recorded. The Agency will consider the project in existence when the tower has been constructed.

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 located east of Bisby Road and on both sides of McCauley Road in the Town of Webb, Herkimer County, in an area classified Rural Use on the Adirondack Park Land Use and Development Plan Map. The project site is the approximately 694-acre Rural Use portion of two contiguous tax parcels in the Town of Webb, identified as Section 41, Block 1, Parcels 59.1 (1,006± acres) and 59.2 (92.5± acres) and including the summits of McCauley Mountain and Little Moose Mountain. The portion of these tax parcels classified Low Intensity Use is not part of the project site.

## **PROJECT DESCRIPTION**

The project as conditionally approved herein involves construction of a new 90-foot-tall (above existing ground level - AGL) self-supporting lattice tower at 2,330± feet base elevation as part of Herkimer County's public safety radio system. Four antennas, for emergency communications, will be mounted to the tower: three 21.25-foot-tall 1-port omni exposed dipole antennas at 40-foot and 68.75-foot tower elevations and one 6.23-foot-diameter microwave dish antenna with radome mounted at the 40-foot tower elevation. The tower will be a self-supporting lattice tower constructed of galvanized steel, gray in color, and measuring 9 feet wide on each of its three faces at its base and 5 feet in width at its top. The base of the tower will be surrounded by a 6-foot-tall chain link security fence. An 8-foot x 8-foot equipment shed, 9 feet tall, with light gray siding-will be constructed at the tower's base along with a backup generator. An existing ski mountain maintenance work road will be used to access the tower site, which will be extended by a new 10-foot-wide 250-foot-long gravel access road. Electric service for the tower currently exists along the existing work road. Underground utilities will be extended to the tower along the new gravel access road. Seven trees will be removed within 200 feet of the tower to accommodate construction of the road, tower, and equipment shed.

The project is shown on the following eight sheets of plans titled "Herkimer County EMS/911 Radio Tower – APA Permit Application," prepared by The LA Group and C&S Engineers, Inc., dated as noted below ("Project Plans"):

- Cover Sheet (February 6, 2018);
- C-1, Existing Conditions (December 27, 2017);
- C-2, Site Prep Plan (December 27, 2017);
- C-3, Layout and Grading Plan (August 31, 2017);
- C-3A, Tree Inventory Plan (December 27, 2017);
- C-4, Site Details (December 27, 2017);
- C-5, Tower Elevations (April 2018); and
- C-6, Preliminary Tower and Foundation Notes (August 2017).

The project is also detailed in a report titled "Visual Impact Assessment for Herkimer County Office of Emergency Services Radio Tower," prepared by The LA Group and dated November 2017 ("Visual Assessment Report").

A reduced-scale copy of Drawing Nos. C-3 (Layout and Grading) and C-5 (Tower Elevations) of the Project Plans is attached as a part of this permit for easy reference. The original, full-scale maps and plans described in this paragraph are the official plans for the project, with copies available upon request from Adirondack Park Agency headquarters in Ray Brook, New York.

### **AGENCY JURISDICTION**

The project requires an Agency permit pursuant to §§ 809(2)(a), 810(1)(d)(5), and 810(1)(d)(18) of the Adirondack Park Agency Act [Executive Law, Article 27], because it consists of a structure in excess of 40 feet in height and a major public utility use on Rural Use lands.

### **CONDITIONS**

#### **BASED UPON THE FINDINGS BELOW, THE PROJECT IS APPROVED WITH THE FOLLOWING CONDITIONS:**

1. The project shall not be undertaken until this permit has been recorded in the Herkimer County Clerk's Office.
2. This permit is binding on the permittee, all present and future owners or lessees of the project site, and all persons undertaking all or a portion of the project, for as long as the authorized tower remains on the site. Copies of this permit, the Project Plans, and the Visual Assessment Report shall be furnished by the permittee to all subsequent owners or lessees of the project site prior to sale or lease, and by the permittee and/or any subsequent owner or lessee to all persons undertaking any development 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, and the Adirondack Park Agency's implementing regulations [9 NYCRR §§ 570-588].
4. All deeds conveying all or a portion of the lands subject to this permit shall contain references to this permit as follows: "The lands conveyed are subject to Adirondack Park Agency Permit 2018-0021, issued July 17, 2018, the conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."

### **Development**

#### **Construction Location and Size**

5. Subject to the conditions stated herein, this permit authorizes the construction of the 90-foot-tall self-supporting lattice tower, the installation of four antennas on the tower, and the equipment shed in the location shown and as depicted on the

Project Plans and Visual Assessment Report. Any change to the location, dimensions, or other aspect of the tower, including the addition of any new antennas, parabolic dishes, utilities, telephone lines, fiber optic lines, or other equipment, shall require a new or amended permit. Maintenance and/or replacement of the tower, antennas, and other supporting structures and equipment, as authorized by this permit, may occur pursuant to the conditions herein without a new or amended permit.

6. Any existing Herkimer County antennas on the existing National Grid tower on the project site shall be removed within one year of the construction of the new Herkimer County tower authorized herein.

### **Tower and Antenna Height**

7. The tower shall not exceed 90 feet in height above ground level (AGL). The antennas shall be located as depicted on the Project Plans. The top of the antennas shall not exceed 90 feet in height AGL.

### **Structure Color**

8. The lattice tower shall have a neutral galvanized steel finish (resulting in a neutral matte gray color) or be painted dark charcoal gray or black with a non-reflective flat or matte finish. The exterior colors of the equipment shed, including roof and siding, shall be a dark shade of green, gray, or brown.

### **Outdoor Lighting**

9. There shall be no exterior lights installed as part of this project, either on the tower or on the equipment shed, and no lights shall illuminate the tower.

### **Tree Cutting/Vegetation Removal**

10. Within 200 feet of the tower authorized herein, no trees shall be cut, culled, trimmed, pruned or otherwise removed without prior written Agency authorization, except for (a) those trees within the "limit of disturbance" shown on the Project Plans, including seven trees greater than 8 inches dbh, and (b) the removal of dead or diseased vegetation, rotten or damaged trees, or any other vegetation that presents a safety or health hazard.
11. If a natural cause such as blow-down, ice storm, fire, disease or another event beyond the control of the operator of the tower and/or the antennas authorized herein results in the complete or partial loss of the vegetation within 200 feet of the tower that provides the screening and/or backdrop for the tower, its antennas, and equipment shelter, then Herkimer County, or its successors and assigns, shall within six months, present a plan for Agency approval intended to achieve compliance with the Agency's "Policy on Agency Review of Proposals for New Telecommunications Towers and Other Tall Structures in the Adirondack Park." The plan shall describe a program of re-vegetation and/or re-design intended to

achieve compliance within 10 years, or re-location to an alternate compliant site within two years. Approval of the plan may be in the form of a letter of permit compliance, or a new or amended permit.

### **Silt Fence**

12. Prior to undertaking any earthwork related to installation of the tower, its foundation, or the access road, silt fence shall be properly installed in the location shown and in accordance with the details and notes included on the Project Plans.

### **Access Road**

13. The access road shall be installed in the location shown and in accordance with the details shown on the Project Plans. Any changes to these plans shall require prior Agency review and approval in the form of a new or amended permit.

### **Project Operations**

#### **Documentation of Construction**

14. The Agency shall be provided with color photographs (both in print and digital form) showing the completed tower, antennas, and equipment shed within 30 days of project completion. Photographs shall be taken at the tower site and from Photo Location 11 (Town Park/Beach), Photo Location 15 (overlooking First Lake), and from Photo Location NL7 (North Basin of Nick's Lake). At the tower site, photographs showing the entire completed project shall be provided. From all Photo Locations, film equivalent 55mm and 85mm lenses shall be employed. All photographs must clearly identify the date the picture was taken, the location of the photograph, and the lens size employed. Compliance photographs shall be taken on a clear day with little cloud cover.

Within 30 days of receipt of the photos, the Agency shall provide written determination of permit compliance.

#### **Invasive Species Control/Sanitizing Equipment**

15. When brought from off-site, all equipment, including but not limited to all-terrain vehicles, excavators, tractors, etc., and hand excavation tools such as shovels, rakes, and picks, to be used for this project 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.

#### **Reports**

16. At the request of the Agency, the permittee or the permittee's successor shall report in writing the status of the project, including details of compliance with any terms and conditions of this permit.

### **Governmental Emergency Communications**

17. The tower and associated infrastructure shall only be used for governmental emergency communications. Other co-locations on the tower shall be prohibited.

#### **Discontinuance of Use**

18. The tower and associated infrastructure authorized herein shall be removed within one year following complete discontinuance of the tower's use for a full year. Any authorized antenna shall be removed within six months following any discontinuance of its use for six months. Replacement of the tower or any antennas removed as required by this condition shall require a new or amended Agency permit.

### **FINDINGS OF FACT**

#### **Background/Prior History**

##### **Landowner/Applicant**

1. The project site is described in two deeds: one deed dated January 6, 1939 from Gray Lake Inc. to the Town of Webb, and recorded at the Herkimer County Clerk's Office on February 14, 1939 in Liber 331 of Deeds at page 297; and a second deed dated February 29, 1960 from Douglas N. Rice, Sr. as trustee for Douglas N. Rice, Jr., Fred Williams, and A. Richard Cohen as Trustee for Sarah Cohen and Linda Cohen to the Town of Webb and recorded at the Herkimer County Clerk's Office on March 11, 1960 in Liber 539 of Deeds at Page 430.
2. An Inter-Municipal Agreement dated March 6, 2018 between the Town of Webb and the County of Herkimer (recorded April 5, 2018 in the Herkimer County Clerk's Office as Instrument No. 2018-1518) grants the County "the right and easement for the purposes of constructing, operating, inspecting, maintaining, repairing, replacing, substituting and removing a Herkimer County Radio EMS/911 Tower" on Town of Webb property located at the McCauley Mountain Ski Resort.

##### **Communications System**

3. Herkimer County has existing emergency communications antennas on the existing National Grid tower on McCauley Mountain, but the coverage provided from available locations on that tower is inadequate. Recent upgrades to cellular service on the National Grid tower have increased interference with signals to and from Herkimer County's antennas on the same tower. The presence of cellular antennas - which are always on and transmitting - located in close proximity to Herkimer County's antennas raises the "noise floor" at the site, making the Herkimer County equipment "deaf" to weak radio signals.
4. Herkimer County's towers can function independently as repeaters for local first responders, but they rely on other towers within Herkimer County's Emergency Services Radio Network in order to connect to the County 911 Communications Center in Herkimer, NY. The Herkimer County equipment on the existing National

Grid tower connects via microwave link to the Oneida County 911 tower in Steuben, then to the Dairy Hill Tower, and ultimately to the Herkimer County 911 Center in Herkimer. The Herkimer County equipment on the new Herkimer County tower will have the same system functionality. Herkimer County hopes to link with Hamilton County in the future, from McCauley Mountain to Blue Mountain.

5. The new tower authorized herein will provide improved emergency communication coverage to Raquette Lake, Inlet, Big Moose, Beaver River, and Stillwater.

### **Towers Policy**

6. On February 15, 2002, the Agency adopted a policy titled "Policy on Agency Review of Proposals for New Telecommunications Towers and Other Tall Structures in the Adirondack Park" (Towers Policy). This Agency's Towers Policy is intended to protect aesthetic, open space and other resources, while providing for telecommunications systems consistent with federal law.
7. The 2002 Towers Policy updated a 1978 policy and recognized that "governmental emergency communications are being converted to digital technology, which will require new facilities to provide services to meet the needs for public health, safety, and welfare." Section III-D of the 2002 Towers Policy "recognizes that such factors should be taken into consideration along with other policy guidelines."
8. Section III-B of the Towers Policy provides that preferred methods to reduce tower visibility include "minimizing structure height and bulk" and "using color to blend with surroundings."

### **Project Site**

#### **Existing Development**

9. National Grid owns an existing 90-foot-tall guyed lattice tower on the project site. Agency Permit 2005-0318, issued August 17, 2006, authorized the extension of an existing 70-foot-tall tower (itself a replacement of a pre-existing tower) to the current height of 90 feet. The National Grid tower is located 300 feet north of and 30 feet lower in base elevation than the Herkimer County tower authorized herein. There are whip, yagi, panel, and dish antennas on the National Grid tower, which are owned by National Grid (f/k/a Niagara Mohawk Power Corporation), Upstate Cellular Network (d/b/a Verizon Wireless), Nextel Partners, New Cingular Wireless PCS, LLC (d/b/a AT&T Mobility), Herkimer County, and the Town of Webb. After Herkimer County installs and makes operational its antennas on the new tower authorized herein, it will remove its antennas from the National Grid tower. The National Grid tower will remain.

#### **Water Resources and Wetlands**

10. There are several freshwater wetland areas and streams on the site, but none within 200 feet of the tower or access road extension.

### **Vegetation**

11. The site is mostly forested with a variety of deciduous and coniferous trees except for the cleared areas along lift lines and ski trails and an open area around the former Town landfill.

### **Soils**

12. Soils on the site are designated by the Herkimer County Meso Soils map as in the Colton, Potsdam-Crary, Pillsbury-Lyme and Rock Outcrop-Lyman Associations.

### **Slopes**

13. The tower and related infrastructure will be located on the summit of McCauley Mountain where existing slopes are approximately 8 percent or less. The land drops steeply off the west and east sides of the summit, where existing slopes exceed 15 and 25 percent and are as steep as 40 percent. The 250-foot-long extension of the access road traverses existing slopes of 14-18 percent and will be graded to finished slopes of 12-15 percent.

### **Visual**

14. A visual analysis of the tower and antennas was submitted with the application for this permit, titled "Visual Impact Assessment for Herkimer County Office of Emergency Services Radio Tower," prepared by The LA Group and dated November 2017. This analysis included: computerized mapping showing areas of potential visibility within five miles of the tower site based on topography and vegetation; two site visits to identify the tower location, height, and actual areas of visibility (November 2016 and April 2017); photographs; and simulations of the proposed tower.
15. Based on the visual analysis and Agency staff's site visits, the tower and antennas will primarily be visible from the following locations within five miles of the tower site: viewpoints in the Hamlet of Old Forge (1.3± to 2.1± miles north of the tower), shoreline and lake views from portions of First, Second, and Third Lake (1.6± to 4.3± miles northeast of the tower), lake views from Nicks Lake Campground Intensive Use Area (1.5± to 2.0± miles southwest of the tower). There will be other views of short duration from Hollywood Road, Route 28, and the TOBIE Trail. The tower will not be visible from directions south or southeast of the tower and is not expected to be visible from any Recreational or Scenic River.
16. The Herkimer County tower authorized herein will be visible along with the existing National Grid tower. The two towers will appear close to one another and in the context of visible ski trails when seen from the north (hamlet of Old Forge). The two towers will appear more distant from one another and without the context of ski trails when seen from the east (Nicks Lake) and the west (First Lake and Third Lake). The lower portion of the tower/antennas and the equipment shed will be concealed by trees, leaving 50 feet to 70 feet of the tower/antennas visible,

depending on the viewpoint. More of the tower is visible when viewed from the north/hamlet because there are no trees on the ski slopes to screen it.

17. The existing 90-foot-tall National Grid guyed lattice tower is 3.4 feet wide (no taper) with 87 diagonal braces per face. The 90-foot-tall Herkimer County self-supporting lattice tower will be 5 feet wide from 40-90 feet (no taper) and 7-9 feet wide from 0-40 feet with 34 diagonal braces per face.

### **Historic Sites or Structures**

18. On January 2, 2018, the Office of Parks, Recreation and Historic Preservation concurred with a filing by Hartgen Archeological Associates, Inc. that there are no historic properties in the Area of Potential Effects for direct or visual effects.

### **Co-Location**

19. The sole purpose of the tower is for 911 emergency services and is grant funded as such.

### **Nearby Land Uses**

20. The project site is the Rural Use portion of two adjacent parcels owned by the Town of Webb. The project site contains the summits of both McCauley Mountain (2,300± feet above mean sea level) and Little Moose Mountain (2,400± feet above mean sea level). McCauley Mountain is developed with the McCauley Mountain Ski Center, including ski slopes, a chair lift, ski lodge, barn, garage, shed, and the National Grid tower. The tower site for the new Herkimer County tower is 1± mile from the Hamlet of Old Forge.
21. The area within 1 mile of the tower site includes the McCauley Mountain Ski Center, Gray Lake, Bisby Road, and McCauley Road. The area within 3 miles of the tower site includes the hamlets of Old Forge and Thendera, the water bodies of Twin Pond, First Lake, Second Lake, Nick's Lake, Little Moose Lake, and Panther Lake, portions of the Middle Branch and North Branch of the Moose River (a designated Recreational River), and the Nick's Lake NYSDEC Campground. The area within 5 miles of the tower site includes the South Branch of the Moose River (a designated Scenic River), a portion of the Ha-de-ron-dah Wilderness, a portion of the Black River Wild Forest, Third Lake, and the Okara Lakes (Esaka and Tekeni).

### **Alternatives**

22. *Co-Location on Existing Tower:* Herkimer County's antennas are currently on the National Grid tower on McCauley Mountain, but the available elevations - given other equipment on the tower - yield poor coverage. In order to use the existing National Grid tower at McCauley Mountain and improve coverage, the tower would have to be extended to 140 feet (instead of the existing 90 feet) in order to provide enough space to eliminate the interference from cellular and other uses. An April

- 24, 2018 letter from National Grid's Lead Telecommunications Engineer states that the existing tower cannot be extended due to structural and loading factors and that National Grid will not allow any more equipment to be added to the tower.
23. *Alternative Off-Site Location:* Herkimer County considered and ultimately rejected four possible alternative off-site locations for this tower.
- a) A tower on Rondaxe (Bald) Mountain on Forest Preserve lands, adjacent to the existing NYS DEC fire tower, would have to be a minimum of 260 feet AGL in order to have a microwave link back to the Oneida County 911 tower in Steuben, NY. This height is required because McCauley Mountain would be in the signal path of the microwave. The tower would have to be lit continuously with aircraft warning lights and would require significant related development (i.e., tree clearing and electricity).
  - b) A tower on Stillwater Mountain on lands of Lyme Adirondack Timberlands, adjacent to the existing NYS DEC fire tower, would have to be a minimum of 180 feet AGL in order to have a microwave link back to the Oneida County 911 tower in Steuben, NY. Construction would require extensive tree clearing and grading to create access and bring electric power to the site. Furthermore, a tower at this site would not provide adequate coverage for the hamlet of Old Forge and areas to the south.
  - c) A tower on Highland Terrace East on the summit, past the last camp on a private road, would have to be a minimum of 260 feet AGL in order to have a microwave link back to the Oneida County 911 tower in Steuben, NY. This height is required because McCauley Mountain would be in the signal path of the microwave. The tower would have to be lit continuously with aircraft warning lights and would require significant related development (i.e., tree clearing and electricity). The tower would be visible from the lower Fulton Chain Lakes.
  - d) A tower at the Enchanted Forest Water Safari in Old Forge (the tallest existing structures nearby) would not be feasible at even the highest point, as it would have to be well over 600 feet tall.
24. *Alternative On-Site Location:* Constructing the Herkimer County tower in closer proximity to the existing National Grid tower could better consolidate visual intrusions when viewed from the east and west. However, there is no available on-site location that can safely achieve this objective, as any such location has buildings or ski trails in its fall zone.
25. *Lower Height:* A tower at the alternative lower heights of 70 feet or 50 feet would not remedy coverage inadequacies for Raquette Lake, Inlet, Big Moose, Beaver River, and Stillwater. These inadequacies will be remedied by a 90-foot-tall tower.

While the uppermost antenna on the tower will be mounted at the 68.75-foot tower elevation, the 90-foot tower height is necessary for the attachment of an upper sway brace between this antenna and the top of the tower. Use of the upper sway brace (“side mounting”), as compared to top mounting, will allow for a 20-25+% higher wind loading capacity and lower probability of a lightning strike.

26. *Alternative Design:* A guyed tower or a monopole tower would be no less visible than the proposed self-supporting lattice tower, and might appear more solid and therefore be more easily discernable.
27. *Concealment:* A simulated tree tower would look out of place and draw attention to the location of the tower, since the average dominant tree height within 200 feet of the tower is 50 feet and the average co-dominant tree height is 35 feet. In addition, the simulated branching would have more mass than the open-faced lattice structure.

#### **Access**

28. Existing access to the project site is from McCauley Road, off of Bisby Road. An existing ski mountain maintenance work road will be used to access the tower site, which will be extended by a new 10-foot-wide 250-foot-long gravel access road.

#### **Public Notice and Comment**

29. The Agency notified all adjoining landowners and those parties as statutorily required by § 809 of the Adirondack Park Agency Act and published a Notice of Complete Permit Application in the Environmental Notice Bulletin. Forty-five written comments have been received, with 44 in support of the tower and the emergency communications that it will provide and many citing current inadequacies in coverage. One letter emphasizes the importance of adhering to the Towers Policy, but does not object to this tower as long as construction of the new tower in such close proximity to a pre-existing tower of similar height is the only way to ensure that the need for public safety is met.

#### **Other Regulatory Permits and Approvals**

30. The Town of Webb Planning Board held a public hearing and approved the project on October 17, 2017.
31. The tower does not require registration with the Federal Aviation Administration.
32. By letter dated September 6, 2017, the New York Air National Guard determined that the tower will have no adverse effect to any current or proposed Military Training Routes (MTR) or Military Operations Areas (MOA) and therefore the USAF will not contest the application.
33. Herkimer County’s antennas are licensed by the Federal Communications Commission (FCC).

## **PROJECT IMPACTS**

### **Visual**

34. The authorized tower and antennas will be visible and skylit from a portion of the area within 5 miles of the tower. However, the tower and antennas will be consistent with the Agency's Towers Policy taking into account the public safety purpose of the tower and its antennas for emergency communications as part of a governmental emergency communications facility; the availability of existing utilities and access; the absence of viable or less visible alternatives; the minimized height of the tower; the location, size, and shape of the antennas; the neutral gray color of the tower, which will limit visual contrast with the existing forest and sky; and the retention of existing trees within 200 feet of the tower, which will screen the lower portion of the tower and antennas, as well as the entire equipment shed. The Herkimer County tower will be viewed in the context of a developed ski area with an existing tower of similar height as opposed to an undeveloped mountain setting.
35. Prohibiting exterior lights from the tower area, including any on or directed toward the tower, will ensure that the tower is not visible at nighttime and will reduce nighttime light pollution (glare, light trespass and sky glow).

### **Soils/Surface Waters/Groundwater**

36. The project uses an existing McCauley Mountain work road for the majority of the access route to the tower site, and the balance of planned access consists of a 10-foot-wide 250-foot-long new access road to the site, thereby limiting new disturbance.
37. Electric service for the tower currently exists along the existing work road, thereby reducing the need for clearing and disturbance related from routing of electric utilities to the site.

### **Invasive Species**

38. Requiring inspection and cleaning of construction vehicles and tools prior to use on the lease parcel or access area or after use in an area with invasive plant species will reduce the likelihood of spreading invasive plants to the project site and adjoining properties.

### **Historic Sites or Structures**

39. The project 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 statutory and regulatory criteria for project approval set forth in the Adirondack Park Agency Act and 9 NYCRR Part 574. The Agency hereby finds that the project authorized as conditioned herein:

- a. will be consistent with the land use and development plan;
- b. will be compatible with the character description and purposes, policies, and objectives of the Rural Use land use area;
- c. will be consistent with the overall intensity guidelines for the Rural Use land use area;
- d. will comply with the shoreline restrictions of § 806 of the Adirondack Park Agency Act; and
- e. will not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the Park or upon the ability of the public to provide supporting facilities and services made necessary by the project.

PERMIT issued this        day  
of                               , 2018.

ADIRONDACK PARK AGENCY

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

STATE OF NEW YORK  
COUNTY OF ESSEX

On the        day of                                in the year 2018, 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 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.

\_\_\_\_\_  
Notary Public

REW:ADL:slp