


THIS IS A TWO-SIDED DOCUMENT - DRAFT

 <p>NEW YORK STATE OF OPPORTUNITY.</p> <p>Adirondack Park Agency</p> <p>P.O. Box 99, 1133 NYS Route 86 Ray Brook, New York 12977 Tel: (518) 891-4050 www.apa.ny.gov</p>	<p>DRAFT APA Permit 2023-0045</p>
<p>In the Matter of the Application of</p> <p>TOWN OF LAKE LUZERNE Permittee</p> <p>for a permit pursuant to 9 NYCRR Part 578</p>	<p>Date Issued: XXXX</p> <p>This permit does not have to be recorded in the County Clerk's Office.</p>

SUMMARY AND AUTHORIZATION

This permit authorizes a one-time application of an herbicide in Lake Luzerne, in the Town of Lake Luzerne, Warren County

The project shall not be undertaken or continued unless the project authorized herein is in existence by **XXXX**. The Agency will consider the project in existence upon commencement of the herbicide application.

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 approximately 23 acres of deep water marsh wetland with a maximum value rating of "1", distributed through seven proposed treatment areas within Lake Luzerne (Lake) in the Town of Lake Luzerne, Warren County.

PROJECT DESCRIPTION

The project as conditionally approved herein involves the application of the aquatic herbicide ProcellaCOR EC (EPA Registration Number 67690-80; New York Special Local Needs Label Registration #SLN NY-19001) in Lake Luzerne for purposes of controlling Eurasian watermilfoil (*Myriophyllum spicatum*). In total, the permittee will apply up to 10.4 gallons of ProcellaCOR EC within 7 treatment areas totaling approximately 32 acres in Lake Luzerne; a permit is required from the Agency for application only within the 23±-acre wetland area.

On April 20, 2023, the New York State Department of Environmental Conservation (DEC) issued Permit AV-5-23-10 authorizing the application of ProcellaCOR EC in Lake Luzerne as described herein.

The Town of Lake Luzerne will continue to manage Eurasian watermilfoil in Lake Luzerne, using hand harvesting/diver assisted suction harvesting and/or benthic barrier installation techniques as currently permitted by Agency Permit 2016-0079.

The project is shown on the following maps, plans, and reports:

- A map titled “2023 Eurasian Watermilfoil Treatment Areas,” prepared by Solitude Lake Management, dated March 13, 2023, and received by the Agency on March 20, 2023 (the Project Map);
- A document titled “New York State Department of Environmental Conservation (DEC) Division of Materials Management – Bureau of Pesticides Management Application for a Permit to Use a Pesticide for the Control of an Aquatic Pest – Title 6 NYCRR Part 327/328/329,” completed by the Town of Lake Luzerne, dated February 21, 2023, and received by the Agency on March 10, 2023 (the Pesticide Use Application);
- A plan titled “Lake Luzerne 2023 ProcellaCor EC Sampling Plan,” received by the Agency on March 10, 2023 (the Sampling Plan);
- A report titled “Aquatic Vegetation of Lake Luzerne, NY,” prepared by Lawrence Eichler, dated October 22, 2021, and received by the Agency on March 10, 2023 (the 2021 Plant Survey); and
- A report titled “2022 Annual Aquatic Vegetation Survey Report of Lake Luzerne,” prepared by Solitude Lake Management, dated September 16, 2022, and received by the Agency on March 10, 2023 (the 2022 Plant Survey).

A copy of the Project Map is attached as a part of this permit for easy reference.

AGENCY JURISDICTION

The project consists of the application of an herbicide within wetlands and requires an Agency permit pursuant to 9 NYCRR Sections 578.2 and 578.3(n)(2)(i).

CONDITIONS

THE PROJECT IS APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. 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.

Copies of this permit shall be furnished by the permittee and/or any subsequent owner or lessee to all persons undertaking the activities authorized herein.

2. 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].
3. This permit authorizes a one-time application of the aquatic herbicide ProcellaCOR EC, between May 15 and June 30 of 2023 or 2024, at a rate of no more than 3.86 parts per billion (2 Prescription Dose Units), within wetlands, in the locations shown on the Project Map and described in the Pesticide Use Application. The liquid herbicide shall be mixed with water on the application vessel before being injected below the water surface.
4. Prior to being brought on site, all equipment (including but not limited to boats, trailers, anchors, ropes/lines, and internal and external pumps, hoses, and storage or mixing tanks) that will be placed in or over the water shall meet the Clean Drain Dry standard as set forth on the DEC website. Disinfection, if necessary, shall also be done prior to being brought on site and shall be done in accordance with procedures outlined on the DEC website.
5. Post-treatment herbicide residue monitoring shall occur at the five locations shown and with the frequency described in the Sampling Plan. A post-treatment herbicide monitoring report shall be provided to the Agency by December 1 of the treatment year and shall include an assessment and discussion of all monitoring results for each sampling event.
6. A post-treatment aquatic plant survey shall be completed between August 5 and September 15 of the treatment year. The survey shall repeat the methodology used in the original application materials.

The post-treatment status report shall be provided to the Agency by December 1 of the treatment year. The report shall include the results of the post-treatment aquatic plant survey, including any Eurasian watermilfoil not lethally controlled by the treatment observed at or adjacent to any post-treatment survey site but not captured by rake toss; a table identifying the GPS coordinates of each sample site; and a map and table identifying the GPS coordinates of any Eurasian watermilfoil not lethally controlled by the treatment observed outside any post-treatment survey site. The report shall also include a narrative assessment of the overall health and effects of treatment on the plant community of Lake Luzerne.

7. Any change to any aspect of the project, including but not limited to the treatment locations, application rate, or concentration, or to the post-treatment monitoring, shall require prior written Agency authorization.

CONCLUSIONS OF LAW

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

- a. that the project authorized as conditioned herein will be consistent with the Adirondack Park land use and development plan; and
- b. that the project authorized as conditioned herein will not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the Park, taking into account the economic and social or other benefits to be derived from the activity; and
- c. the economic, social and other benefits to be derived from the activity proposed and as conditioned herein compel a departure from the guidelines of 9 NYCRR Part 578.10(a)(1), in order to secure the natural benefits of wetlands associated with the project, consistent with the general welfare and beneficial economic, social, and agricultural development of the state.

PERMIT issued this day
of , 2023.

ADIRONDACK PARK AGENCY

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

STATE OF NEW YORK
COUNTY OF ESSEX

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

Notary Public