


**THIS IS A TWO-SIDED DOCUMENT**

 <b>Adirondack Park Agency</b>  P.O. Box 99, 1133 NYS Route 86 Ray Brook, New York 12977 Tel: (518) 891-4050 www.apa.ny.gov	<b>APA Permit 2020-0044</b>
	Date Issued: May 15, 2020
In the Matter of the Application of  <b>TOWN OF MINERVA Permittee</b>  for a permit pursuant to 9 NYCRR Part 578	This permit does not have to be recorded in the County Clerk's Office.

**SUMMARY AND AUTHORIZATION**

This permit authorizes a one-time application of a pesticide in Minerva Lake, in the Town of Minerva, Essex County.

The project shall not be undertaken or continued unless the project authorized herein is in existence by June 30, 2021. 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 a 41-acre portion of Minerva Lake, in the Town of Minerva, Essex County, as depicted on the Project Site Map referenced below. The lake is a portion of Town of Minerva Tax Map Section 154.4, Block 4, Parcel 25.

The entire project site is vegetated aquatic bed that has a value rating of "1" per 9 NYCRR Section 578. Additional wetlands subject to Agency jurisdiction exist within and adjacent to Minerva Lake.

## **PROJECT DESCRIPTION**

The project as conditionally approved herein involves the application of up to 8.73-gallons of the aquatic pesticide ProcellaCOR EC (EPA Registration Number 67690-80; New York Special Local Needs Label Registration #SLN NY-19001) by Solitude Lake Management, over a 41-acre portion of Minerva Lake for purposes of controlling Eurasian watermilfoil (*Myriophyllum spicatum*). The partial lake treatment of the 79-acre waterbody will have an application rate of 1 to 2 Prescription Dose Units (PDU = 3.17 ounces - when treating one acre-foot of water one PDU results in a concentration of 1.91 parts per billion). The liquid pesticide will be mixed with water on the application vessel before being injected below the water surface. A survey of aquatic plants will be completed following the treatment; as authorized below, this survey will be similar to a survey undertaken in 2019 and described in a report entitled "Minerva Lake, 2019 Submersed Aquatic Macrophyte Report," prepared by Solitude Lake Management.

Upon completion of the project, the Town of Minerva will continue to manage Eurasian watermilfoil, both inside and outside the treatment area, using Diver Assisted Suction Harvesting and/or benthic barrier installation techniques as currently permitted by Agency Permit 2016-0067.

The project is shown on the following plans:

- A map entitled "2020 Herbicide Application Plan Option-2," prepared by Solitude Lake Management, and received by the Agency on March 20, 2020 (the Project Site Map).
- A map entitled "2020 Herbicide Residue Sampling" (the Sampling Map) received by the Agency on March 30, 2020.

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

## **AGENCY JURISDICTION**

The project consists of the addition of a pesticide to a lake containing 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. Any change to any aspect of the project, including but not limited to the treatment location or concentration, authorized representative (contractor), or post-treatment herbicide residue or plant community monitoring, shall require prior written Agency authorization.
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. Application of the pesticide shall be done by air boat and not by jet or propeller driven vessel. Watercraft should be operated in a manner such that re-suspension of soft sediments in shallow water areas are minimized to the greatest extent practicable.
4. Prior to being brought on site all equipment (including but not limited to boats, trailers, anchors, ropes/lines, and internal and external pesticide pumps, hoses, and storage or mixing tanks) that will be placed in or on the water shall meet the Clean Drain Dry standard as set forth on the New York State Department of Environmental Conservation's (NYSDEC) 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 NYSDEC website.
5. Post-treatment herbicide residue monitoring shall occur in the locations shown and with the frequency described on the Sampling Map. Monitoring results for each sampling event shall be submitted to the Agency within 48 hours of receipt of the results.
6. A post-treatment status report shall be provided to the Agency by December 1<sup>st</sup> of the year of treatment. The report shall be provided as a full color, high resolution (i.e., 300dpi) document in PDF format, and shall include:
  - a. A detailed narrative describing the treatment and demonstrating compliance with the terms and conditions of this permit.
  - b. A post-treatment herbicide concentration report, including an assessment and discussion of all monitoring results for each sampling event in relation to pre-treatment prediction models.
  - c. A post-treatment aquatic plant survey shall be completed following treatment and between August 15 and September 21 of the same year. The survey shall repeat the process described in the 2019 Aquatic Plant Survey Report, except as modified to include the following information:
    1. Identify the project site treatment area on all maps;
    2. Update the aquatic macrophyte library to include any plant that was not found in the 2019 survey;
    3. Include a table that identifies the GPS coordinates of each sample site;
    4. Record observed impacts to all target and non-target species as observed during the initial post-treatment qualitative assessment, or as observed during routine post-treatment herbicide residue sampling;
    5. Provide a map and table identifying the GPS location of any Eurasian watermilfoil that was not lethally controlled by the treatment when observed outside any formal survey site. Eurasian watermilfoil observed at or adjacent to any formal post-treatment survey site that is not captured by the rake toss shall be included as being present in the post treatment survey site data. This item is not requiring a separate exhaustive survey, rather it is intended to compile observational information that can be readily obtained during routine post-treatment monitoring;

6. Provide a detailed assessment of the overall plant community health as compared to the pre-treatment survey. Describe in detail any individual species that appears to have been impacted and discuss whether the impact is temporary (defined as less than 1 complete growing season), or if the impacts appear to be longer/long term in nature; and
7. Provide a daily description of the weather beginning no less than 5 days prior to treatment and extending no less than 5 days after the day of treatment. Information must include approximate maximum and minimum temperatures, qualitative precipitation amounts, and cloud cover (e.g., 6/1/20, Min Temp. 38F, Max Temp. 62F, light rain in morning otherwise partly sunny).

All narrative discussions for the report need to only assess the plant community in terms of the overall health and effects of treatment on the plant community of Minerva Lake. Herbicide impacts to Eurasian watermilfoil outside the defined treatment area must also be discussed. Pre-treatment narratives do not need to be repeated unless they are relevant to the post-treatment discussion.

### **CONCLUSIONS OF LAW**

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

- a. will secure the natural benefits of wetlands associated with the project, consistent with the general welfare and beneficial economic, social, and agricultural development of the state; and
- b. will be compatible with preservation of the entire wetland and will not result in degradation or loss of any part of the wetland or its associated values.

PERMIT issued this **15th** day  
of **May**, 2020.

ADIRONDACK PARK AGENCY

BY: /s/ Robert J. Lore  
Robert J. Lore  
Deputy Director Regulatory Programs

STATE OF NEW YORK  
COUNTY OF ESSEX

On the **15th** day of **May** in the year 2020, before me, the undersigned, a Notary Public in and for said State, personally appeared Robert J. Lore, 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.

/s/ Stephanie L. Petith  
Notary Public

