

 <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>APA Permit 2023-0038 DRAFT</p>
<p>In the Matter of the Application of</p> <p>HORSEHOE POND / DEER RIVER FLOW ASSOCIATION Permittee</p> <p>for a permit pursuant to 9 NYCRR Part 578</p>	<p>Date Issued:</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 Horseshoe Pond, in the Town of Duane, Franklin County.

The project shall not be undertaken or continued unless the project authorized herein is in existence by June 30, 2025. 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 24.8 acres of deep-water and emergent marsh wetland with a value rating of “1”, within 4 treatment areas in Horseshoe Pond, in the Town of Duane, Franklin 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 Horseshoe Pond for purposes of controlling Eurasian watermilfoil (*Myriophyllum spicatum*). In total, the permittee will apply up to 7.05 gallons of ProcellaCOR EC within four treatment areas totaling approximately 24.8 acres in Horseshoe Pond; a permit is required from the Agency for application within the jurisdictional wetland areas.

An application to the NYS Department of Environmental Conservation Bureau of Pesticides Management is pending.

Following the treatment, the Horseshoe Pond/Deer River Flow Association will continue to manage Eurasian watermilfoil in Horseshoe Pond, using hand harvesting/diver assisted suction harvesting and/or benthic barrier installation techniques as currently permitted by Agency Permit 2016-0084.

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

- A map titled “2023 Eurasian Watermilfoil Control Plan,” prepared by Solitude Lake Management, dated March 13, 2024, and received by the Agency on April 7, 2023 (the Project Map);
- A plan titled “Horseshoe Pond ProcellaCOR EC Sampling Plan,” prepared by Solitude Lake Management, and received by the Agency on March 1, 2023, supplemented by a letter from Glenn Sullivan to Aaron Ziemann, dated March 22, 2024, Re: Horseshoe Pond ProcellaCOR EC Permit application (together, the Sampling Plan);
- A report titled “2022 Horseshoe Pond AIS Survey,” prepared by Adirondack Research, dated December 2022, and received by the Agency on March 1, 2023 (the 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 2024 or 2025, within wetlands, in the locations shown on the Project Map and as described in any issued Department of Environmental Conservation Permit. 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 1 and September 15 of the treatment year. The survey shall repeat the methodology used in the Plant Survey.

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 Horseshoe Pond.

- 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 as authorized herein will be consistent with the land use and development plan;
- 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;
- 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 , 2024.

ADIRONDACK PARK AGENCY

BY: _____
NAME
TITLE

STATE OF NEW YORK
COUNTY OF ESSEX

On the day of in the year 2024, before me, the undersigned, a Notary Public in and for said State, personally appeared **NAME**, 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