

✓

**New York State Department of Environmental Conservation
Division of Materials Management / Region 3 / Bureau of Pest Management
21 South Putt Corners Rd., New Paltz, NY 12561
(845) 256-3097**

**TITLE 6 NEW YORK CODE OF RULES AND REGULATIONS PART 327
PERMIT TO USE A PESTICIDE FOR THE CONTROL OR ELIMINATION OF
AQUATIC VEGETATION**

PERMIT NUMBER: AV-3-18-653

PERMITTEE: NYC DEP

ADDRESS OF PERMITTEE: 71 SMITH AVE , KINGSTON, NY 12401

WATERBODY: NEW CROTON RESERVOIR

TARGET SPECIES: Hydrilla

TOWN: CORTLAND, YORKTOWN, SOMERS, BEDFORD, NEW CASTLE

COUNTY: WESTCHESTER

Pursuant to the Rules and Regulations governing the use of pesticides for controlling or eliminating aquatic vegetation adopted by the New York State Department of Environmental Conservation, permission is granted to the permittee or his/her agent(s) pursuant to the provisions of Article 15 of the Environmental Conservation Law to apply the listed pesticide(s) to the waters identified above located in the town and county identified above in conformance with all statements and agreements set forth in the application.

I. THIS AQUATIC PESTICIDE PERMIT IS ISSUED SUBJECT TO THE FOLLOWING CONDITIONS:

1. DATE(S) OF TREATMENT: May through OCTOBER, 2018.
2. AUTHORIZED CHEMICAL (Product & EPA Reg. No.): SONAR H4C 67690-61 (NYS SPECIFIC LANGUAGE, SLN NY-180008)
3. % OR WEIGHT OF ACTIVE INGREDIENT: 2.7
4. MAXIMUM AMOUNT OF CHEMICAL AUTHORIZED: 2,955 LBS
5. MAXIMUM NUMBER OF ACRES TO BE TREATED: 19.7
6. DOSAGE: A TARGETED SUSTAINED RANGE WITHIN THE TREATMENT AREA OF 1-5 PPB.
7. METHOD OF APPLICATION: Distributed via spreader off of a boat
8. AREAS TO BE TREATED WILL BE ONLY THOSE DESIGNATED ON MAPS PROVIDED AS PART OF THE APPLICATION.
9. NAME OF REGISTERED BUSINESS/AGENCY: SOLITUDE LAKE MGMT LLC
10. BUSINESS/AGENCY REGISTRATION NO.: 16506
11. NAME OF CERTIFIED APPLICATOR (if applicable): ROBERT SCHINDLER
12. CERTIFIED APPLICATOR ID NO. (if applicable): C0839043

II. USE OF THE TREATED WATERS AND THOSE WATERS AFFECTED BY THE TREATMENT WILL BE PROHIBITED OR RESTRICTED AS FOLLOWS:

1. Applicant and Applicator must ensure that all applicable water use restrictions as stated on the EPA and/or SLN label, in 6 NYCRR 327.6, and the NYS Department of Health Water Quality Standards (specified or unspecified MCL's) be adhered to.
2. Do not swim or bathe until day after treatment.

III. NOTIFICATION AND POSTING REQUIREMENTS:

1. **Riparian Owner and User Notification:** Prior notice of the actual date(s) of treatment and water use restrictions must be given to any party likely to be adversely affected.
2. **Posting of Warning Signs Prior to Treatment:** All public access sites, including public boat launch sites, within and adjoining the treatment area shall be posted with warnings at a distance of no more than 100 feet per sign; shall be posted at a minimum height of thirty inches (30") above the ground to the top of the sign; and shall be $\geq 6'' \times 8''$ in size with a minimum of 2 signs per site. These signs shall be approved by the Department and must be posted as described herein. The signs must list all water use restrictions and be posted prior to treatment and remain posted for the duration of water use restrictions following the treatment.
3. **This sign shall also include:** "WARNING" This waterbody has been treated with a pesticide (Name of pesticide shall be included here) for aquatic weed control. Do not bathe or swim in treated water until day after treatment. Do not enter treatment area during pesticide application.

DATE AND TIME OF TREATMENT: _____

For more information contact: _____ Phone: _____

4. **Agency Notifications:** The following must be notified in writing seven to fourteen (7-14) days before the time of the pesticide treatment, and within twenty-four (24) hours after treatment:

-NYS DEC Bureau of Pest Management, 21 South Putt Corners Rd., New Paltz, NY 12561-1620.

-Department of Health in county of treatment.

-D.E.P. if waterbody is within NYC Watershed.

- a) Representatives of the NYSDEC (Pesticide Control Specialist) maintain the right to be present before, during, and after all pesticide treatments.
- b) In the event of a postponement, then a new 7 – 14 (seven to fourteen) day written notice is required. If the postponement is weather related, this requirement may be waived. Notification will be required of rescheduled date and must indicate what the specific reason was in each instance that forced the postponement.
- c) Any waiver must be explicitly granted by the Department in writing and may not be implied by the absence of the communication with Department's representative. Any waiver granted by the Department shall only be effective for the specific application and treatment date/time for which it was granted.
- d) If no treatment is made, and the permit is not used, the following must be notified: Catherine Ahlers, Pesticide Control Specialist 2, NYS DEC, 21 South Putt Corners Rd., New Paltz, NY 12561.

IV. REPORTING

1. **Final Report Required:** The permittee shall submit a Final Report to the Department no later than December 1, 2018. The Final Report shall contain the following information for each application site: product name; active ingredient; EPA registration number; the total quantity of each pesticide used; number of acres or acre feet treated; targeted concentration; dosage rate; target organism; and date of application(s). The Final Report shall be submitted to Catherine Ahlers, Pesticide Control Specialist 2, NYS DEC, 21 South Putt Corners Rd., New Paltz, NY 12561.

This permit requirement does not preclude the statutory obligation of the permittee, or other pesticide applicator registered agency or registered business to comply with Annual Reporting requirements expressed at Section 33-1205 of the ECL.

V. ADDITIONAL CONDITIONS OR RESTRICTIONS:

1. **No Right to Treat Lands and Waters under Department Control** This permit grants no right to treatment of lands under control of the Department nor relieves the permittee of the responsibility to obtain permission from the Department for any treatment of waters lying under their control, unless a specific signed authorization appears on this permit.
2. **No Right to Treat Non-Target Areas** Issuance of the permit does not authorize the treatment or the drift of pesticides to non-target water or water lying on or passing through the property of others without their consent, nor relieve the permittee/applicator of any legal necessity to obtain such consent before treatment, nor relieve them of responsibility for damages to riparian owners or others.
3. **Follow Product Label Directions** The applicator must follow all product label directions. A copy of the product labeling, including any applicable Special Local Need (SLN) or supplemental labeling, must be on site during all treatments. The applicator, and all others handling the product, must wear appropriate personal protective clothing as required by label directions.
4. **Possession of a Valid Commercial Pesticide Applicator Certification** The applicator must possess valid Commercial Pesticide Applicator Certification in Category 5A with the permit issuing agency. The certified applicator must be on site during all treatments. The use of individuals now referred to as "Pesticide Technician" and/or "Pesticide Apprentice" in current regulation, is permitted as described in Title 6 NYCRR Part 325.7. In addition, the applicator must possess valid registration as a Pesticide Application Business with the Bureau of Pest Management.
5. **State Not Liable for Damage** The State of New York shall in no case be liable for any damage or injury to the structure or work herein authorized which may be caused by or result from future operations undertaken by the State for the conservation or improvement of navigation, or for other purposes, and no claim or right to compensation shall accrue from any such damage.
6. **Precautions Against Contamination of Waters** All necessary precautions shall be taken to preclude contamination of any wetland or waterway by suspended solids, sediments, fuels, solvents, lubricants, epoxy coatings, paints, concrete, leachate or any other environmentally deleterious materials associated with the project. Spill recovery materials shall be maintained at the temporary pesticide storage area.
7. **No Interference with Navigation** There shall be no unreasonable interference with navigation by the work herein authorized.

VI. GENERAL CONDITIONS – APPLY TO ALL AUTHORIZED PERMITS:

1. **Facility Inspection by the Department** The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71-0301 and SAPA 401(3).

The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when requested by the Department.

A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site or facility. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.

2. **Relationship of this Permit to Other Department Orders and Determinations** Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.
3. **Applications for Permit Modifications** The permittee must submit a separate written application to the Department for permit modification. Such application must include any forms or supplemental information the Department requires.
4. **Permit Modifications, Suspensions and Revocation by the Department** The Department reserves the right to modify, suspend or revoke this permit. The grounds for modification, suspension or revocation include:
 - a) materially false or inaccurate statements in the permit application or supporting papers;
 - b) failure by the permittee to comply with any terms or conditions of the permit;
 - c) exceeding the scope of the project as described in the permit application;
 - d) newly discovered material information or a material change in environmental conditions relevant technology or applicable law or regulations since the issuance of the existing permit; and
 - e) noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

VII. NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification

The permittee expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suites, or actions naming the DEC and arising under Article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

Item B: Permittee's Contractors to Comply with Permit

The permittee is responsible for informing its independent contractors, employees, agents and assigns of their responsibility to comply with this permit, including all special conditions while acting as the permittee's agent with respect to the permitted activities, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law as those prescribed for the permittee.

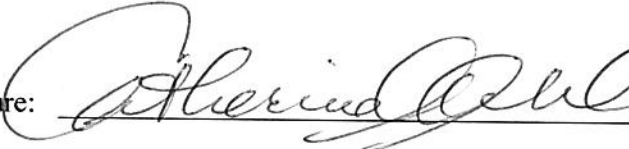
Item C: Permittee Responsible for Obtaining Other Required Permits

The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this permit.

Item D: No Right to Trespass or Interfere with Riparian Rights

This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.

By acceptance of this permit, the permittee agrees that failure to comply with the permit terms and all New York State Department of Environmental Laws, Rules and Regulations subjects the permittee to prosecution under these laws, and will be deemed sufficient reason for denial of future permit applications.

Issuing Officer's Signature:  Issue Date: 6/21/18

Catherine Ahlers, PCS 2
Bureau of Pest Management
NYSDEC, Region 3

