

New York State Department of Environmental Conservation
Division of Materials Management / Region 5 / Bureau of Pesticides Management
232 Golf Course Road, Warrensburg, NY 12885
(518) 623-1200

ORIGINAL

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-5-22-1

PERMITTEE: Lake George Park Commission (Dave Wick, Executive Director)

ADDRESS OF PERMITTEE: P.O. Box 749, 75 Fort George Road, Lake George, NY 12845

WATER TO BE TREATED: Lake George (Blairs Bay)

TOWN: Hague

COUNTY: Warren

TARGET SPECIES TO BE CONTROLLED: Eurasian Watermilfoil (*Myriophyllum spicatum*)

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 17, 2022 – June 30, 2022**
2. AUTHORIZED CHEMICAL (Product & EPA Reg. No.): **ProcellaCOR EC (EPA Reg. No. 67690-80, SLN NY-190001)**
3. % OR WEIGHT OF ACTIVE INGREDIENT (A.I.): **Florpyrauxifen-benzyl, 2.7%**
4. MAXIMUM AMOUNT OF CHEMICAL AUTHORIZED: **4.2 Gallons**
5. MAXIMUM NUMBER OF ACRES TO BE TREATED: **4 Acres**
6. NOT TO EXCEED PERMISSIBLE DOSAGE: **12.68 fl. oz. ProcellaCOR EC per acre foot**
7. METHOD OF APPLICATION: **Subsurface injection**
8. AREAS TO BE TREATED ARE ONLY THOSE DESIGNATED ON MAPS PROVIDED AS PART OF THE PERMIT APPLICATION.
9. NAME OF REGISTERED BUSINESS/AGENCY: **Solitude Lake Management, LLC**
10. BUSINESS/AGENCY REGISTRATION NO.: **17886**
11. NAME OF CERTIFIED APPLICATOR: **Glenn Sullivan**
12. CERTIFIED APPLICATOR ID NO.: **C0680740**
13. THIS PERMIT IS VALID FOR ONLY ONE TREATMENT.

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

1. Do not allow others to enter the treatment area until the application is complete.
2. Do not use treated water to: water livestock; irrigate agricultural crops, greenhouses or nurseries; or for hydroponic irrigation until the concentration of active ingredient is less than 1 part per billion (ppb).

III. SAMPLING REQUIREMENTS:

1. Water sampling and analysis for Florpyrauxifen-benzyl concentrations are required so the water use restrictions can be lifted. The water use restrictions cannot be lifted until the Florpyrauxifen-benzyl concentration is less than 1 part per billion (ppb), as proven/determined by laboratory analysis. Water sampling using laboratory analysis must be conducted in accordance with the attached sampling plan. Results of the water sample analysis must be provided to the DEC Pesticide Control Specialist, identified in Section IV. #4 of this permit, immediately upon receipt. Water use restrictions must not be lifted without prior written consent from the DEC.

IV. 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 boat launch sites on Lake George within 7 miles of the treatment site must be posted with warning signs. One sign must be posted on each side of the boat launch ramp, each sign must be greater than 6" x 8" in size, and each sign must be posted at a minimum height of thirty inches (30") above the ground to the top of the sign. The signs must be yellow in color with black lettering and constructed of weather-resistant material. Warning signs must be posted immediately prior to the application and must remain posted for the duration of the water use restrictions. All warning signs must be removed no later than 5 days after the water use restrictions have expired as determined by sample results (when required) and agreed upon in writing by the DEC. Information on the warning signs and posting locations may only be modified when agreed upon in writing by the Pesticide Control Specialist identified in Section IV. #4 of this permit.
3. **The signs placed prior to the treatment must include the following information:**

NOTICE

APPROXIMATELY FOUR ACRES IN BLAIRS BAY OF LAKE GEORGE IS BEING / HAS BEEN TREATED WITH THE AQUATIC HERBICIDE PROCELLACOR EC TO CONTROL AQUATIC VEGETATION.

DO NOT ENTER THE TREATMENT AREA IN BLAIRS BAY UNTIL THE APPLICATION IS COMPLETE. WATER FROM BLAIRS BAY MAY NOT BE USED FOR LIVESTOCK WATERING OR IRRIGATION UNTIL THE CONCENTRATION OF FLORPYRAUXIFEN-BENZYL IS LESS THAN 1 PART PER BILLION (PPB).

DATE AND TIME OF TREATMENT: _____

For more information contact: _____ Phone: _____

4. **Agency Notifications:** The following must be notified at least (7) seven days before the time of the pesticide treatment:

Brian Primeau, Pesticide Control Specialist 2, NYS DEC Bureau of Pesticides Management, 232 Golf Course Road, Warrensburg, NY 12885, (518) 623-1267. Email: brian.primeau@dec.ny.gov

 - a.) In the event conditions necessitate rescheduling the pesticide treatment, the following must be notified 24 hours prior to the date the rescheduled treatment will occur: Brian Primeau, Pesticide Control Specialist 2, NYS DEC, 232 Golf Course Road, Warrensburg, NY 12885, (518) 623-1267, Email: brian.primeau@dec.ny.gov
 - b.) If no treatment is made, and the permit is not used, the following must be notified: Brian Primeau, Pesticide Control Specialist 2, NYS DEC, 232 Golf Course Road, Warrensburg, NY 12885, (518) 623-1267, Email: brian.primeau@dec.ny.gov

V. REPORTING

1. **Final Report Required:** The permittee must submit a Final Report to the Department no later than December 1, 2022. The Final Report must 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; application rate; target organism; and date of application(s). The Final Report must be submitted to Brian Primeau, Pesticide Control Specialist 2, NYS DEC, 232 Golf Course Road, Warrensburg, NY 12885, (518) 623-1267, Email: brian.primeau@dec.ny.gov.

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.

VI. 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, if contracted to complete the treatment, must possess valid registration as a Pesticide Application Business with the Bureau of Pesticides 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.

VII. 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 Renewals, Modifications or Transfers** The permittee must submit a separate written application to the Department for permit renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing. Submission of applications for permit renewal, modification or transfer is to be submitted to: NYS DEC, Bureau of Pesticides Management, 232 Golf Course Road, Warrensburg, NY 12885, (518) 623-1200.
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;
 - 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.
5. **Permit Transfer** Permits are transferrable unless specifically prohibited by statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.

VIII. 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, suits, 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:



Brian A. Primeau
Pesticide Control Specialist 2

Issue Date: **March 10, 2022**Expiration Date: **December 31, 2022**

Distribution: Glenn Sullivan, Solitude Lake Management, LLC
Dave Wick, LGPC

Blairs Bay Sampling Plan

Sample sites

The location and coordinates of the sample sites are shown on the attached map.

Collection schedule

After application, samples will be collected at each site on the following schedule:

1-3 hours

10-12 hours

24 hours

3 days

7 days

Samples at each site will continue to be collected every 7-14 days until lab analysis confirms that the ProcellaCOR EC concentration is below 1 ppb in all of the samples collected during a single sampling event. If results from all samples collected 3 days after application are below 1ppb, sampling will not be conducted 7 days after application.

Should samples BB3 - BB5 return results >1ppb, additional sample sites will be added ~300 ft further into the lake from the associated site at the next sampling date.

Sampling protocol

The following manufacturer sampling protocol will be followed: For ProcellaCOR FastEST use the clear glass vial to collect the sample. Submerge the bottle upside down until elbow deep. Cap the clear glass vial underwater. The contents of the clear vial should be transferred to the amber glass vial until completely filled to preserve the sample. Place the amber vial in bubble wrap sleeve to protect the glass vial during shipping, and overnight all samples to SePRO's SRTC lab in Whitakers, NC. If samples are collected on a Friday, store samples in a refrigerated area, and ship samples on Monday.

Cross-contamination prevention

Each sample collected contains two bottles - one unpreserved bottle for collection and one preserved bottle for transfer and shipping. Once used, collection bottles are moved to a "spent bottle" container and not reused for other sample sites.

Sample sites BB1, BB2 & BB4 are only reachable by boat, and BB3 & BB5 may also be collected by boat for efficiency. There is no method to prevent contamination of the boat hull when moving from site to site, and given the low herbicide concentration range, the possibility of boat contamination leading to a sample result of >1ppb can't be dismissed. To minimize this possibility, samples will be collected from the outer edge of the dilution zone (samples BB3-BB5) before collecting samples from BB1 & BB2.

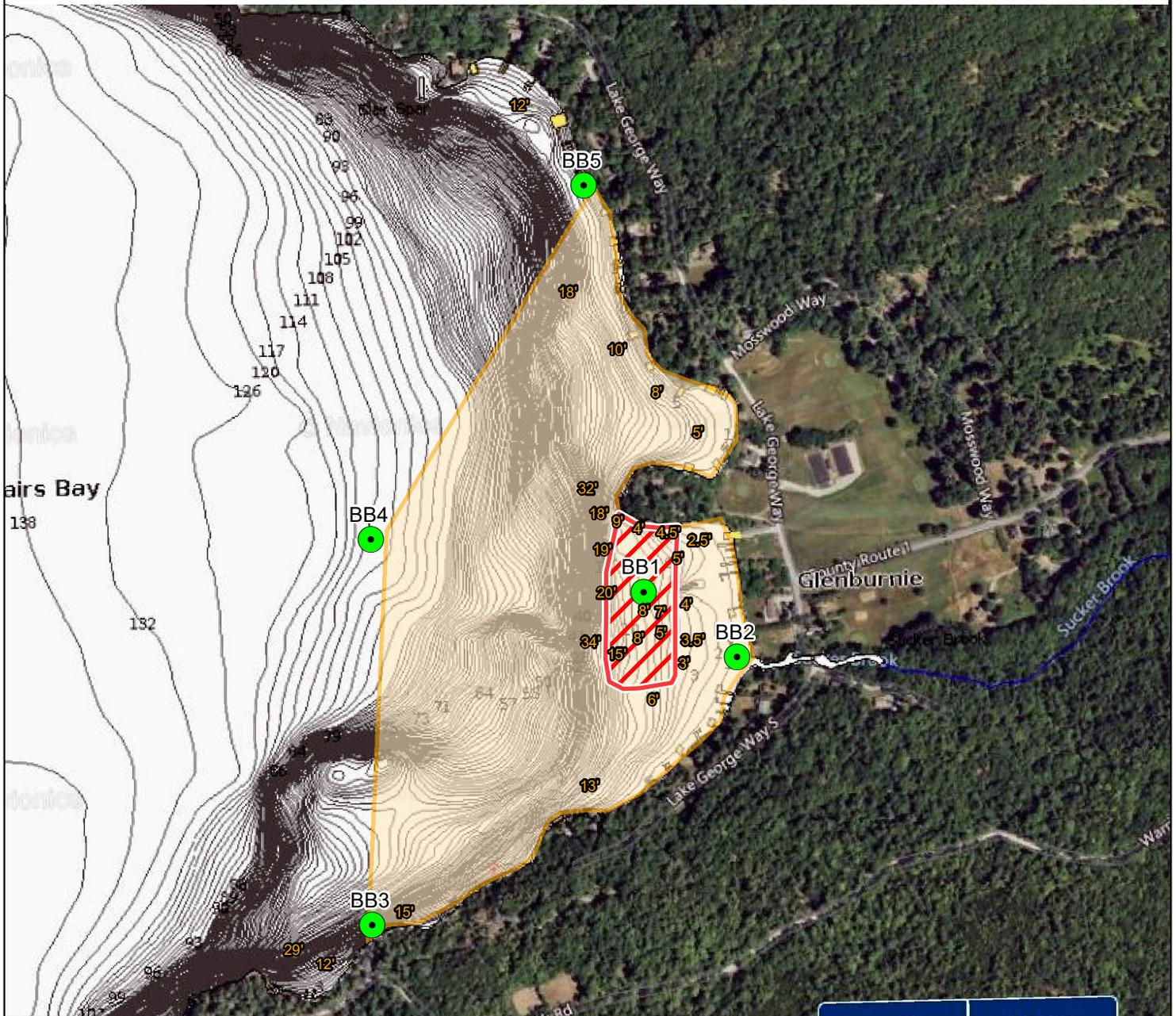
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BLAIR'S BAY 2022 HERBICIDE SAMPLING PLAN MAP

-  EWM Treatment Area: 4.0 acres, 10.6 ft AD
-  Herbicide Dilution Zone: 60 acres
- 14'** Water depth in feet at point (source: WCSWCD)
- 14** Bathymetry contour in feet (source: Navionics)

 Herbicide Residue Sampling Stations

Station	Latitude	Longitude
BB1	43.763229°	-73.458842°
BB2	43.762507°	-73.457457°
BB3	43.75967°	-73.46299°
BB4	43.76386°	-73.4629°
BB5	43.76765°	-73.45962°



Blair's Bay
Lake George
Warren County, New York
43.651930°, -73.497042°



**BLAIR'S BAY
LAKE GEORGE**

0 415 830 Feet



Date: 2/2/2022
File: George_BB_HerbSmpPlan_2022
Prepared by: KM
Office: Washington, NJ