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OF COUNSEL

George A. Boehling
Neil B. Checkman

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§ Admitted in N.J.

July 12, 1994

William R. and Ruby Allen
35 Mill Road
Rhinebeck, New York 12572

Re: Executive Meeting
Milfoil Infestation
Legal Action

Dear Mr. Allen:

At the request of some members of the Executive Committee and by copy of this letter to all members of the Executive Committee, I am requesting a resolution and approval of the following course of action:

1. Retention of the firm of Kral, Clerkin, Redmond, Ryan, Perry & Girvan as counsel to the Eagle Lake Home Owners Association to pursue permit application for the use of SONAR in Eagle Lake and if said applications are in any way interfered with then I am authorized to bring an action against various governmental agencies to compel permits or other legal means to have the use of SONAR to treat Eurasian Water Milfoil in Eagle Lake. This is to occur under the following conditions:

- a. Legal Fee: None
- b. Disbursements: reimbursed to the firm within 60 days from payment by the firm (approximated to be \$2,000 gross, but these expenses will include all Court fees, court reporter fees, extraordinary duplication costs, postage, transportation and other out of pocket expenses incurred in the prosecution of this case regardless of the actual expenditure involved.)

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- c. Obtain permits for the treatment of Eagle Lake with SONAR from whatever governmental agencies may legally require such permits.
- d. Pursue lawsuit or Article 78 proceeding against any governmental agency that attempts to block the use of SONAR on Eagle Lake.
- e. In short, only the legal expertise is being donated, real expenses will be paid by the Eagle Lake Home Owners Association.

2. Authority to write DEC for permit of the use of SONAR in District 5 (see attached draft letter);

3. Letter to Membership informing them of your intended action and asking for objections (see attached draft);

4. Letter to Dr. Pullman requesting demo site and assessment of need and written estimate of expenses to be incurred (see attached draft);

5. Formation of a "Eurasian Water Milfoil Sub-Committee" consisting of 1 or 3 or 5 members, fully authorized on behalf of the entire Home Owners Association, who will direct the action of legal counsel.

6. The newly formed committee is to begin to fill out the application for a permit (attached) for the DEC in draft, for further review at a later date.

After the committee has acted upon and approved the above, I will pursue the course of action as outlined. However, I must insist that this pro bono action on my part to assist the Eagle Lake Home Owners Association must be approved by the Committee immediately. If the intent of the Committee is to in any way await action by the various bureaucracies involved, I will not be a party to same and this offer of free legal representation will be revoked. If the Committee is willing to get the job done then I am willing to put in the necessary effort. However, if there is any reluctance to get the "job done now," I don't have the time to get involved.

Very truly yours,

KRAL, CLERKIN, REDMOND, RYAN,
PERRY & GIRVAN

By

WILLIAM G. KRAL

WGK:jc

Encl.

cc: Executive Committee

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Draft Letter # 2

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July 12, 1994

New York State Department
of Environmental Conservation
Bureau of Pesticides Management
P.O. Box 220
Hudson St. Ext.
Warrensburg, New York 12885-0220

Attention: William A. Sutfin
Pesticide Control Specialist II

Re: Eagle Lake Region 5
SONAR/SePro
Eurasian Water Milfoil

Dear Mr. Sutfin:

On behalf of my client, the Eagle Lake Homeowners Association, I am requesting the necessary forms with instructions to obtain a permit to begin the treatment of Eurasian Water Milfoil in Eagle Lake with SePro's product, SONAR.

We wish to state that in our opinion the Adirondack Park Agency (APA) does not have jurisdiction over deep water lakes, such as Eagle Lake, and contrary to former procedures, we will not seek a permit from APA for this chemical treatment. We believe you have taken a similar position with respect to your fish restocking activities. The APA's assertion of authority over the newly termed "Deep Water Marsh" designation, will not be honored in our DEC application and if necessary, we will litigate this jurisdictional issue in Court. In short, we merely wish to obtain a permit to use SONAR in Eagle Lake from the DEC and if the APA interferes, we will sue them.

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Please note that the County of Essex and Town of Ticonderoga have already passed resolutions in favor of the use of SONAR in Eagle Lake. The tenant's association wants and needs the treatment. The DEC has accepted the Generic Environmental Impact Statement and has approved SONAR's use in New York State. The only remaining action is that which we herewith request, the receipt of the necessary permit applications from DEC so that final arrangements can be made for its use on Eagle Lake.

We thank you for your courtesy and kind attention to this matter and remain

Very truly yours,

KRAL, CLERKIN, REDMOND, RYAN,
PERRY & GIRVAN

By _____
WILLIAM G. KRAL

WGK:jc

cc: Charles Lockrow
N.Y.S. Dept. of Environmental Conservation

N.Y. State Legislator
Hon.

APA

July 12, 1994
Page 3

bcc: Douglas Pullman
William R. Allen

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OF COUNSEL

George A. Boehling †
Neil B. Checkman †

Draft Letter #3

July 12, 1994

Re: Retention of Legal Counsel
Milfoil Eradication

Dear Eagle Lake Homeowner:

My office has been retained by the Executive Committee of the Eagle Lake Association to pursue permit application for the use of SONAR to eradicate the Eurasian Water Milfoil infestation on Eagle Lake. If any attempts to stop such action is made by any government organization, I am also retained to explore the feasibility of bringing a legal proceeding against the various Governmental State agencies that may block the treatment. This letter is to inform you of this fact and to solicit from you any formal objections to such potential actions.

Attached to this letter are relevant portions of the May 94 Eagle Lake Newsletter which outlines the problem of milfoil infestation on the Lake. I have been asked to underscore for you the following:

1. 25% of the lake is now infested and the problem appears to be "growing" steadily in spite of the recent limited growth caused by the recent severe winter of 93-94.

2. Studies and examination of the problem have been undertaken and experts have determined that treatment of the milfoil by the use of the chemical SONAR is now the only practical solution to the problem.

3. The New York State Department of Environmental Conservation has agreed to allow SONAR to be used in New York State with some restrictions and pending permit application.

4. When and if the New York State Department of Environmental Conservation (NYSDEC) approves the use of SONAR on Eagle Lake then the New York State Department of Health (DOH), the New York Office of General Services (OGS), the Adirondack Park Agency (APA) and the New York State Department of State (DOS) will have the potential claim to review and control the use of SONAR on Eagle Lake. If an attempt is made by any of the above to stop SONAR's use, I have been authorized to litigate the issue.

5. The manufacturer of the milfoil herbicide SONAR, SePro/Dow Elanco, have expressed the desire to use their product on Eagle Lake as a demonstration site for SONAR at a reduced cost. (Treatment is anticipated to cost approximately \$75,000 to \$100,000. Specific costs of such treatment will be obtained.)

6. The Executive Committee has voted to explore the potential of an affirmative course of action rather than await the decisions of the various governmental bureaucracies. It is the opinion of the experts consulted that Eagle Lake will be choked by milfoil within the not too distant future and the cost and effectiveness of treatment at that time might be unproductive. It is the opinion of the committee to act and get the job done.

I have been retained to apply and obtain permits for SONAR use and if the agencies involved refuse to cooperate, I am authorized to litigate against same. If you object to the courses of action, please write to Mr. Bill Allen no later than August 1, 1994.

Very truly yours,

KRAL, CLERKIN, REDMOND, RYAN,
PERRY & GIRVAN

By _____
WILLIAM G. KRAL

WGK:jc

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July 12, 1994

Draft Letter #4

A Quest Corporation
5212 Beineda Drive
Flent, Michigan 48506

Attention: G. Douglas Phillman, Ph.D.

Dear Dr. Douglas:

I have been retained by the Eagle Lake Association to pursue permits from the New York State Department of Environmental Conservation (DEC) for the use of SONAR (in their District 5 Zone Adirondack Park area) for use in Eagle Lake. This letter is to inform you of our intended action and to request from you, your assistance in

1. Preparing the necessary permits for DEC;
2. Obtaining an estimate of the cost of SONAR treatment of Eagle Lake (we do not understand the cost of \$200 per pint);
3. Obtaining agreement by SePro (Dow Elanco) to use SONAR on Eagle Lake as a demonstration site;
4. Your opinion on the efficacy and necessity of the use of SONAR in the Eagle Lake operation.

Please understand that I have been fully authorized by my clients to begin litigation against any governmental authority that attempts to block the use of SONAR in the treatment of Eagle Lake. My office has agreed to pursue the permit application route with DEC. However, action against the APA or any other agency will be brought if they, in any way, interfere with the use of SONAR.

I need not remind you that there are over 100 lakes in New York State threatened by Eurasian Water Milfoil. Unless a quick and effective resolution of this problem is pursued, New York

July 12, 1994
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State "Sweet Water Lakes" will be a mere memory. The APA and other New York State agencies can no longer "stand-by" while these lakes are being destroyed because of their inaction and bureaucracy.

We ask for your assistance and that of SePro to accomplish our task. I am at your disposal for further discussions regarding the above and remain.

Very truly yours,

KRAL, CLERKIN, REDMOND, RYAN,
PERRY & GIRVAN

By _____
WILLIAM G. KRAL

WGK:jc
cc: SePro Corp.
Attn:

Eagle Lake Homeowners Association
Attn: William Allen