



ENVIRONMENT

Judge halts Lake George herbicide plan

By Zachary Matson

June 13, 2022

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A view of Lake George from Buck Mountain looking across at Bolton Landing. Photo by Gwendolyn Craig

Order will block plan until suit brought by Lake George Association resolved

By Zachary Matson

The Lake George Park Commission will have to wait to carry out its planned use of a chemical herbicide on Lake George after a Warren County judge on Monday halted the plan.

Judge Robert Muller of state Supreme Court in Warren County granted a preliminary injunction preventing the state agency from **carrying out its plan to use ProcellaCOR EC against invasive Eurasian watermilfoil** until the court can resolve a lawsuit filed last month by the Lake George Association and others.

The injunction will stop the state agency from using the herbicide this year under an Adirondack Park Agency permit that required the plan be carried out by the end of June. The APA approved the plan at its **April meeting on a split vote.**



INDEX NO. EF2022-70178

NYSCEF DOC. NO. 76

RECEIVED NYSCEF: 06/13/2022

STATE OF NEW YORK
SUPREME COURT COUNTY OF WARREN

In the Matter of the Application of

THE LAKE GEORGE ASSOCIATION, THE
LAKE GEORGE WATERKEEPER, THE
TOWN OF HAGUE, AND HELENA G. RICE,

Petitioners,

v.

THE NYS ADIRONDACK PARK AGENCY,
THE LAKE GEORGE PARK COMMISSION,
AND THE NYS DEPARTMENT OF
ENVIRONMENTAL CONSERVATION,

Respondents,

for Judgment Pursuant to Article 78 of the New York
Civil Practice Law and Rules and Injunctive Relief.

Fitzgerald Morris Baker Firth P.C., Glens Falls (*Michael Crowe and Thomas A. Ulasewicz* of
counsel, for petitioners.

Letitia James, Attorney General, Albany (*Joshua M. Tallent and Susan E. Taylor* of counsel), for

DECISION AND ORDER

Index No. EF2022-70178

RJI No. 56-1-2022-0168

[EF2022 70178 The Lake George Associ v The Lake George Associ](#) [Download](#)

The lake association, Lake George Waterkeeper Chris Navitsky, the Town of Hague and a lakeshore property owner [sued to stop use of the herbicide](#), alleging procedural errors by state officials and calling for more analysis of how the herbicide would impact Lake George.

Muller ruled that state officials [did not present an argument to support an urgent need to apply the herbicide this summer](#) and concluded the case should move forward while the plan is shelved.

“While the court is not entirely convinced that the application of ProcellaCOR will result in injury to Lake George, petitioners have succeeded in raising questions in this regard – and it is indisputable that if ProcellaCOR does result in injury, that injury will be irreparable,” Muller wrote.

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Zachary Matson

Zachary Matson has been an environmental reporter for the Explorer since October 2021. He is focused on the many issues impacting water and the people, plants and wildlife that rely on it in the Adirondack Park. Zach worked at daily newspapers in Missouri, Arizona and New York for nearly a decade, most recently as the education reporter at the Daily Gazette in Schenectady.

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David Gibson says

June 14, 2022 at 11:35 am

Judge Muller has shown on more than one occasion that he listens and weighs legal issues carefully. Rushing forward when all the facts and impacts are not yet explored can be irreparably damaging to the environment. In granting a preliminary injunction in this case, he grants time for additional information to come before his court. Of course, if the APA had ordered an adjudicatory public hearing, this matter need not have come before a NYS court of law, and could have been fully explored before the APA as an administrative matter with all

sides able to cross examine each other. APA is at fault for not ordering such a hearing in over a decade. It used to be that APA ordered hearings like this on a regular, annual basis to resolve issues and render careful decisions.

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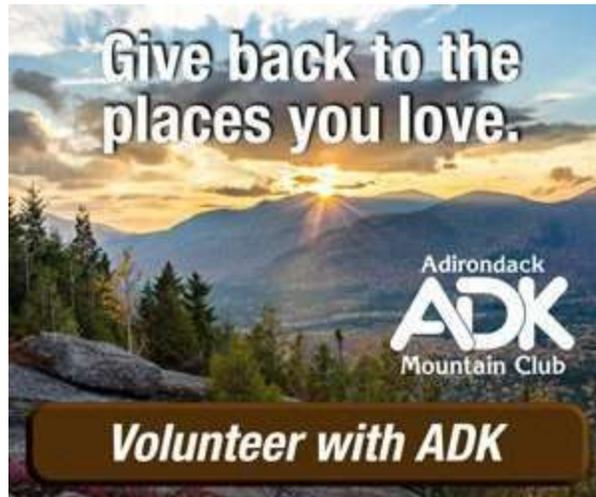
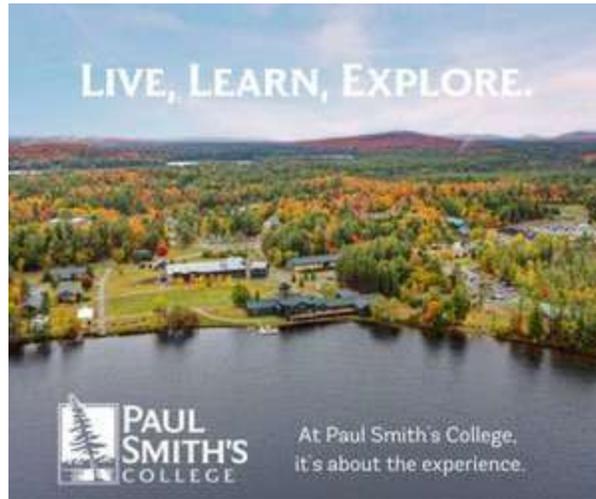
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