

New York State Department of Environmental Conservation

Division of Environmental Permits, Region 5

1115 NYS Route 86, PO Box 296, Ray Brook, New York 12977

Phone: (518) 897-1234 • FAX: (518) 897-1394

Website: www.dec.ny.gov



Alexander B. Grannis
Commissioner

April 15, 2010

Mr. Eugene Merlino, Supervisor
Town of Lake Luzerne
PO Box 370
Lake Luzerne, NY 12846

**RE: DEC Permit #5-5232-00139/00001
Renovate OTF Employment
Lake Luzerne (T), Warren County**

Dear Mr. Merlino:

Enclosed is your Aquatic Pesticide Permit which was issued in accordance with the applicable provisions of the Environmental Conservation Law. Questions regarding the terms of the permit should be directed to me @ (518) 623-1285. Should your plans change, please contact this office to determine whether modifications of the permit are required.

Please note that it is the responsibility of the permittee and his agents to read and comply with all permit conditions. The permit is valid only for the activity expressly authorized, and therefore work beyond the scope of the permit shall be considered as work without a permit. Any failure to comply with these terms may be treated as a violation of the Environmental Conservation Law. Work done under this permit is subject to inspection by Environmental Conservation Officers.

THIS PERMIT DOES NOT ELIMINATE THE NEED TO OBTAIN APPROVALS FROM OTHER LOCAL AGENCIES OR STATE AGENCIES SUCH AS THE APA OR THE U.S. ARMY CORPS OF ENGINEERS (US-COE).

Sincerely,

Michael J. McMurray
Regional Permit Administrator

MJM:ppm

cc: Marc Bellaud / Aquatic Control Technology, Inc.
John Bennett / DS&HM
Emily Zollweg / Fisheries



PERMIT
Under the Environmental Conservation Law (ECL)

Permittee and Facility Information

Permit Issued To:
LAKE LUZERNE - T
BOX 370
LAKE LUZERNE, NY 12846-0370
(518) 696-2711

Facility:
LAKE LUZERNE
LAKE TOUR RD
LAKE LUZERNE, NY 12846

Facility Location: in LAKE LUZERNE in WARREN COUNTY

Facility Principal Reference Point: NYTM-E: 594.519 NYTM-N: 4797.496
Latitude: 43°19'27.7" Longitude: 74°50'03.2"

Authorized Activity: Apply the aquatic herbicide Renovate OTF (active ingredient: triclopyr-14%) to the south cove of Lake Luzerne, involving approximately 11 acres from the bathing beaches south, to control Eurasian Watermilfoil (*Myriophyllum spicatum* - EWM).

Permit Authorizations

Aquatic Pesticides - Under Article 15, Title 3

Permit ID 5-5232-00139/00001

New Permit

Effective Date: 4/15/2010

Expiration Date: 9/30/2010

NYSDEC Approval

By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, and all conditions included as part of this permit.

Permit Administrator: MICHAEL J MCMURRAY, Regional Permit Administrator

Address: NYSDEC REGION 5 HEADQUARTERS
1115 NYS ROUTE 86
PO BOX 296
RAY BROOK, NY 12977 -0296

Authorized Signature:

Date 4/15/10



Permit Components

NATURAL RESOURCE PERMIT CONDITIONS

GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

NATURAL RESOURCE PERMIT CONDITIONS - Apply to the Following Permits: AQUATIC PESTICIDES

1. Conformance With Plans All activities authorized by this permit must be in strict conformance with the approved plans submitted by the applicant or applicant's agent as part of the permit application. Such approved plans were prepared by the Town of Lake Luzerne, and received by the Department on October 15, 2009.

2. Pesticide Control Specialist When used in this permit, the Pesticide Control Specialist is:

Pesticide Control Specialist
REGION 5 WARRENSBURG SUB-OFFICE
232 GOLF COURSE RD
WARRENSBURG, NY12885 -0220

John W. Bennett @ (518) 623-1200

3. Riparian Owner and User Notification The permittee must provide prior actual notice of the date(s) of treatment and of the water use restrictions to any affected riparian owner, riparian user and known users.

4. Notification Requirements THE FOLLOWING MUST BE NOTIFIED AT LEAST SEVEN DAYS BEFORE THE TIME OF THE PESTICIDE TREATMENT:

PESTICIDE CONTROL SPECIALIST:	John W. Bennett
ADDRESS:	NYSDEC Bureau of Pesticides Management 232 Golf Course Rd. Warrensburg, New York 12885-0220
PHONE:	(518) 623-1200
EMAIL:	jwbennett@gw.dec.state.ny.us

Failure to provide this notice will be used as a basis for a permit denial in subsequent years and is in violation of the Environmental Conservation Law and the permittee is subject to prosecution under these Laws.



5. Rescheduling Notification

- a. In the event that pesticide treatment must be rescheduled, the permittee/applicator must contact the Pesticide Control Specialist a minimum of 24 hours prior to the date of the original treatment date.
- b. In the event that no treatment is made, and the permit is not used, the permittee/applicator must notify the Pesticide Control Specialist no more than 7 days after the expiration date of the permit.

6. Pesticide Employment Dates The Renovate OTF treatments must occur prior to May 31, 2010.

7. Posting Of Signs Prior To Treatment The shoreline, and all public access sites including public boat launch sites, shall be posted with suitable signs bearing the water use restrictions prior to treatment and for the required number of days thereafter depending upon the assay results. These signs shall state:

NOTICE

THIS PORTION OF LAKE LUZERNE WILL BE / HAS BEEN TREATED WITH A HERBICIDE FOR AQUATIC VEGETATION CONTROL ON THE FOLLOWING DAYS:

- **DO NOT SWIM** IN TREATED AREAS UNTIL:
- **DO NOT USE LAKE WATER** FOR DRINKING OR FOR WATERING FLOWERS, GARDENS OR CROPS UNTIL THESE SIGNS HAVE BEEN REMOVED BY THE TOWN OF LAKE LUZERNE

FOR FURTHER INFORMATION CONTACT:

Robert Sherman at (518) 696-2030
Town of Lake Luzerne Aquatic Conservation Task Force

OR

Aquatic Control Technology, Inc.
11 John Road
Sutton, MA 01590
(508) 865-1000

8. Restricted Use of the Waters Affected by Treatment with Renovate OTF Irrigation to established tree crops, row crops and other broad-leaf plants is prohibited for 120 days after each treatment or until laboratory analysis results reveal that triclopyr concentrations are 1 part per billion (ppb) or less. Drinking and use of potable water intakes is prohibited until laboratory analysis reveals triclopyr concentrations are 50 ppb or less. Swimming is prohibited for 3 hours after each treatment.

9. Certified Pesticide Applicator ("Applicator") and Identification Number This permit authorizes the following applicator(s): Marc Bellaud, Certified Applicator ID # CO806081: Aquatic Control Technology, Inc. - Business Registration # 07865

The applicator must possess a valid Commercial Pesticide Applicator Certification identification card in Category 5A issued by the Department, and must have the card with him/her at the time of treatment. The certified applicator must be on site during all treatments. However, "Pesticide Technicians" and/or "Pesticide Apprentices," may apply the pesticides under this permit to the extent allowed by 6 NYCRR Part 325.7.



10. Authorized Pesticides Authorized Pesticide	EPA Registration Number	Name, % or Weight of Active Ingredient	Total Amount of Pesticide Authorized	Not To Exceed Dosage Rate	Shall Be Applied Not Later Than
Renovate OTF	67690-42	Triclopyr 14%	1560#	2.5ppm	May 31, 2010

11. Authorized Area To Be Treated The following areas are authorized to be treated: south cove section of Lake Luzerne of approximately 11 acres.

12. Target Species This permit authorizes treatment for: Eurasian Water Milfoil (*Myriophyllum spicatum*).

13. Follow Product Label Directions The applicator must follow all pesticide label directions. Where label and labeling directions, permit conditions and regulations address the same point, the more prohibitive requirements must be complied with. A copy of the product labeling, including any applicable Special Local Need (SLN) 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.

14. No Right to Treat Non-Target Waters This permit does not authorize the treatment of pesticides to non-target water or water lying on or passing through the property of others without their consent. The permittee or applicator must obtain landowner consent before treatment. The permittee and applicator are responsible for damages suffered by riparian owners or others as a result of their activities conducted under this permit.

15. Final Report Required The permittee/applicator shall submit a Final Report to the Pesticide Control Specialist no later than December 1 of each year. The Final Report shall identify all pesticides used to control aquatic vegetation by product name, active ingredient and EPA Registration Number, the total quantity of each pesticide used during the season, the areas of treatment and any additional information, which has been made a part of this permit, as determined by the Department.

This permit requirement does not relieve the permittee, pesticide applicator, registered agency, or registered pesticide business of the statutory obligation to comply with annual reporting requirements set forth in Article 33, Section 1205 of the Environmental Conservation Law.

16. Aquatic Plant Management and Monitoring Plan The permittee must develop and submit an Aquatic Plant Management and Monitoring Plan following the outline in Appendix A of A Primer on Aquatic Plant Management in New York State (April 2005), which includes an Aquatic Vegetation Monitoring Plan based upon Tier 3 protocols as described in 2006 Aquatic Plant Monitoring Guidelines. An annual report using the Summary of Methodology and Data Tables is due by December 1 of each treatment year.

Please refer to: http://www.dec.ny.gov/docs/water_pdf/aquatic06.pdf for more information, or contact the Regional Pesticide Specialist.



17. 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.

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 are to be submitted to:

Regional Permit Administrator
REGION 5 WARRENSBURG SUB-OFFICE
232 GOLF COURSE RD
WARRENSBURG, NY12885 -0220

4. Submission of Renewal Application The permittee must submit a renewal application at least 30 days before permit expiration for the following permit authorizations: Aquatic Pesticides.

5. Permit Modifications, Suspensions and Revocations 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.

6. 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.

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification

The permittee, excepting state or federal agencies, 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.