

New York State Department of Environmental Conservation
Division of Materials Management / Region 7 / Bureau of Pesticides Management
1285 Fisher Avenue, Cortland, NY 13045-1090
(607) 753-3095 Ext. 232

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-7-23-09 TARGET SPECIES TO BE CONTROLLED: Water Lily (*Nymphaea odorata*)
PERMITTEE: Crooked Lake Homeowners Association WATER TO BE TREATED: Crooked Lake
TOWN: Tully COUNTY: Onondaga
ADDRESS OF PERMITTEE: Seth Aldrich, 316 Long Road, Tully, NY 13159

ORIGINAL

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: **July 15 – September 15, 2023**
2. AUTHORIZED CHEMICAL (Product & EPA Reg. No.): **Clearcast (EPA Reg. #241-437-67690)**
3. % OR WEIGHT OF ACTIVE INGREDIENT: **12.1% Ammonium salt of imazamox 2-[4, 5-dihydro-4-methyl-4(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-5-(methoxymethyl)-3-pyridinecarboxylic acid**
4. MAXIMUM AMOUNT OF CHEMICAL AUTHORIZED: **3 Gallons**
5. MAXIMUM NUMBER OF ACRES TO BE TREATED: **6**
6. NOT TO EXCEED PERMISSIBLE DOSAGE: **One/half (.5) gallon/acre**
7. METHOD OF APPLICATION: **Foliar spray**
8. AREAS TO BE TREATED WILL BE 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.: **16505**
11. NAME OF CERTIFIED APPLICATOR (if applicable): **Stradder Caves**
12. CERTIFIED APPLICATOR ID NO. (if applicable): **C7888641**
13. This permit for the use of the specified chemical 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. **Potable water consumption is prohibited until concentration is at or below 50 ppb. as determined by sample results.**
2. Do not swim or bathe until after treatment.
3. **DO NOT** use treated water to irrigate greenhouses, nurseries, or hydroponics until the imazamox concentration has been determined by an acceptable method to be less than or equal to 1.0 part per billion (ppb).
4. Within ¼ mile of potable water intake Clearcast applications may not exceed 50ppb.
5. Do not use Clearcast treated water resulting in a concentration > 50ppb for irrigation until residue levels are ≤50ppb
6. **DO NOT** plant sugar beets, onions, potatoes or non-CLEARFIELD canola in soils that have been previously irrigated with Clearcast – treated water until a soil bioassay successfully demonstrates acceptable levels of crop tolerance.

7. Warning signs approved by the Department must be posted as described in the attached conditions. Signs must be posted until all restrictions are removed as determined by sample results and agreed upon by the Department.

III. SAMPLING REQUIREMENTS:

1. All required sampling results shall be reported immediately to the NYSDEC Bureau of Pesticides Management in Region 7 when received by applicant.

IV. NOTIFICATION AND POSTING REQUIREMENTS:

1. **Riparian Owner and User Notification:** Prior notice of the actual date(s) of treatment and water use restrictions 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 or adjoining the treatment area shall be posted with warnings at a distance of no more than 50 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; made of suitable weather-resistant material with a background color of yellow and black lettering. These signs shall be approved by the Department and must be posted as described in the requirements. Signs must be removed no later than 5 days after the water use restrictions have been lifted.
3. **This sign shall include the following information in an acceptable format to the Department:** "NOTICE. This waterbody has been treated with a pesticide for aquatic weed control. (Name of pesticide shall be included) Do not use treated water to irrigate greenhouses, nurseries, or hydroponics until the imazamox concentration has been determined by an acceptable method to be less than or equal to 1.0 part per billion (ppb). Do not use Clearcast treated water resulting in a concentration > 50 ppb for irrigation until residue levels are ≤ 50 ppb. Do not use treated water for potable purposes until concentrations are < 50 ppb.

DATE AND TIME OF TREATMENT: _____

For more information contact: _____ Phone: _____

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

Jerry Kimmel, Pesticide Control Specialist 2, NYSDEC Bureau of Pesticides Management, 1285 Fisher Ave., Cortland, NY 13045-1090, by phone @ (607) 753-3095 Ext. 232 and by email @ R7Pesticides@dec.ny.gov.

Lisa Letteney, Onondaga County Health Department, 421 Montgomery Street, 12th Floor, Syracuse, NY 13202, (315) 435-6623, shall be notified at least 72 hours prior to the application.

- a.) Representative(s) of the DEC (Pesticide Control Specialist) maintain the right to be present during all pesticide treatments.
- b.) In the event conditions necessitate rescheduling of the treatment, the Department must be notified 24 hours prior to the date the rescheduled treatment will occur. If treatments are rescheduled, the permittee must make a new request to the Department if a waiver is desired.
- c.) Any waiver must be explicitly granted by the Department in writing and may not be implied by the absence of the Department's representative. Any waiver granted by the Department shall be effective only for the specific application and treatment date/time for which it was granted.
- d.) 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: Jerry Kimmel, Pesticide Control Specialist 2, NYSDEC, 1285 Fisher Ave., Cortland, NY 13045, by phone @ (607) 753-3095 Ext. 232 and by email @ R7Pesticides@dec.ny.gov.
- e.) If no treatment is made, and the permit is not used, the following must be notified: Jerry Kimmel, Pesticide Control Specialist 2, NYSDEC, 1285 Fisher Ave., Cortland, NY 13045, (607) 753-3095 Ext. 232.

V. REPORTING

1. **Final Report Required:** The permittee shall submit a Final Report to the Department no later than December 1, 2023. 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 Jerry Kimmel, Pesticide Control Specialist 2, NYSDEC, 1285 Fisher Ave., Cortland, NY 13045. 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.

DITIONAL CONDITIONS OR RESTRICTIONS:

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.

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.

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.

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.

Special Authorization Required for Multiple Treatment This permit is valid for only one treatment, or a split treatment, during the calendar year and the treatment may not be repeated without special authorization from the Department.

6. **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.
7. **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.
8. **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: NYSDEC, Bureau of Pesticides Management, 1285 Fisher Ave., Cortland, NY 13045, (607) 753-3095 ext. 232.
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, 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

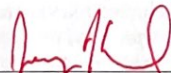
The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this permit.

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: _____


Jerry Kimmel

Pesticide Control Specialist 2

Issue Date: April 11, 2023

Expiration Date: December 1, 2023

Distribution: Certified Applicator, Stradder Caves
County Health Department
NYSDEC Law Enforcement
Permit Administrator, Elizabeth Tracy
Permittee, Seth Aldrich
Pesticide Control Specialist 1, Hayden Premore

ORIGINAL