


THIS IS A TWO-SIDED DOCUMENT

 <p><b>NEW YORK</b> STATE OF OPPORTUNITY.</p> <p><b>Adirondack Park Agency</b></p> <p>P.O. Box 99, 1133 NYS Route 86 Ray Brook, New York 12977 Tel: (518) 891-4050 www.apa.ny.gov</p>	<p>APA Permit <b>2002-0181E</b></p>
<p>In the Matter of the Application of</p> <p><b>NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION (NYSDEC) AND THE NEW YORK STATE OFFICE OF GENERAL SERVICES (NYSOGS)</b></p> <p><b>Permittees</b></p> <p>for a permit pursuant to 9 NYCRR Part 578</p>	<p>Date Issued: April 12, 2023</p> <p>To the County Clerk: Please index this permit in the grantor index under the following names:</p> <ol style="list-style-type: none"><li><b>1. NYSDEC</b></li><li><b>2. NYSOGS</b></li></ol>

**SUMMARY AND AUTHORIZATION**

This amended permit authorizes the continued application of lampricides in six (6) rivers and four (4) river deltas involving lands under water in the Towns of Peru and AuSable located in Clinton County, the Towns of Chesterfield, Willsboro, Westport, and Crown Point located in Essex County, and the Towns of Fort Ann and Dresden located in Washington County.

This authorization shall expire unless recorded in the County Clerk's Offices of Clinton, Essex, and Washington Counties within 60 days of issuance of a signed and notarized permit. The signed and notarized permit shall be recorded in the names of all persons listed above.

The Agency will consider the project in existence when the permit has been recorded in all County Clerk's Offices listed above.

The project shall be undertaken in compliance with all conditions stated herein. Failure to comply with this permit is a violation and may subject the permittee, successors, and assigns to civil penalties and other legal proceedings.

This permit does not convey any right to trespass upon the lands or interfere with the riparian rights of others in order to undertake the authorized project, nor does it authorize the impairment of any easement, right, title or interest in real or personal property.

Nothing contained in this permit shall be construed to satisfy any legal obligations of the permittee to comply with all applicable laws and regulations or to obtain any governmental approval or permit from any entity other than the Agency, whether federal, State, regional, or local.

## **PROJECT SITE**

The project site includes the AuSable, Little AuSable, and Boquet Rivers, Beaver and Mount Hope Brooks, and Putnam Creek, as well as the Salmon, Little AuSable, AuSable, and Boquet River deltas. River and stream reaches and limits of delta treatments that constitute the project site are found in Appendix 1 and 2 of the Sea Lamprey Control Plan described below.

The wetlands that will be affected by the project are separated into: (1) wetlands associated with Lake Champlain that are directly influenced by water levels in the lake (lake wetlands), and (2) riparian wetlands along the rivers and streams to be treated. The lake wetlands are generally situated at the mouth of the associated river or stream or within delta areas of the associated rivers or streams (i.e. below an elevation of 102 feet msl and within the mean high water mark of the lake). Riparian wetlands may be directly associated with the river/stream channel or may be located above the stream channel and only have a direct interchange of water with the river/stream at certain flood elevations.

The wetlands associated with the identified river systems have multiple cover types and range in value rating from "1" to "3". Several of the wetlands at the mouth of these river systems with Lake Champlain are of a value "1" rating, and include multiple wetland cover types such as deepwater marshes, emergent wetlands, scrub-shrub wetlands and forested wetlands associated with open water. Some of these wetlands provide resident habitat for threatened and endangered species and contain endangered plant species, which requires a value rating of "1". Accordingly, the Agency reviewed this project pursuant to its value "1" wetland standards.

## **PROJECT DESCRIPTION**

The project as originally authorized under Agency Permit 2002-0181 is part of a long-term comprehensive sea lamprey control program (lampricide application program) for Lake Champlain. The overall project is a cooperative effort of the New York State Department of Environmental Conservation (NYSDEC), the Vermont Fish and Wildlife Department (VTFWD) and the U.S. Fish and Wildlife Service (USFWS) involving twenty-four (24) tributaries to Lake Champlain. The purpose of the project is to achieve and maintain reductions of the sea lamprey populations in Lake Champlain, thereby reducing the wounding rates to lake trout, landlocked Atlantic salmon and walleye populations in Lake Champlain.

Agency Permit 2002-0181 authorized the application of the chemicals TFM and TFM/Niclosamide (collectively referred to as lampricide in this permit) in six (6) rivers and four (4) river deltas, as described above.

The application of lampricides to Hoisington Brook (a.k.a. Hammond Brook) as well as the Hoisington Brook delta is authorized separately under Agency Permit 2019-0132.

The amended permit as conditionally approved herein continues the on-going lampricide application program, including spring lampricide applications when fall treatments are unable to be undertaken or determined by NYSDEC to be unsuccessful.

Treatments are to occur every four years as described in the following schedule, with treatments occurring primarily in the fall:

<b>Tributary</b>	<b>Treatment Cycle</b>
Little AuSable River	2022 and 2026
AuSable River	2022 and 2026
Boquet River	2022 and 2026
Beaver Brook	2019, 2023 and 2027
Putnam Creek	2019, 2023 and 2027
Mount Hope Brook	2019, 2023 and 2027
<b>Deltas</b>	<b>Treatment Cycle</b>
Salmon	2022 and 2026
Little AuSable	2022 and 2026
AuSable	2022 and 2026
Boquet	2022 and 2026

*\*Sea Lamprey Control Plan includes past treatments authorized by Agency Permit 2002-0181D.*

The project is described in the following plans and reports [Project Plans]:

- A report titled “Request for Amendment to Permit 2002-0181 to continue Long-term Sea Lamprey Control Program”, prepared by Stephen Smith (U.S. Fish and Wildlife Service) and received by the Agency on April 3, 2023 [Sea Lamprey Control Plan];
- A report titled “Prior Notification, Posting, and Water Supply Plan for Lake Champlain Lampricide Applications”, prepared by Stephen Smith (U.S. Fish and Wildlife Service), and dated February 2023 [Notification Plan]; and
- A report titled “Contingency Plan for Accidental Spillage of Lampricides During Lake Champlain Sea Lamprey Control Operations”, prepared by Stephen Smith (U.S. Fish and Wildlife Service), and last updated February 2023 [Spillage Plan].

A reduced-scale copy of the map found in Appendix 1 of the Sea Lamprey Control Plan is attached as a part of this permit for reference.

**AGENCY JURISDICTION**

The project consists of the application of a pesticide within wetlands and requires an Agency permit pursuant to 9 NYCRR Sections 578.2 and 578.3(n)(2)(i). This Permit amends and supersedes Agency Permits 2002-0181, 2002-0181A, 2002-0181B, 2002-0181C, and 2002-0181D. The terms and conditions of these permits shall no longer apply to the project site.

**CONDITIONS**

**THE PROJECT IS APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. The project shall not be undertaken until this permit has been recorded in the County Clerk's Offices of Clinton, Essex, and Washington Counties.

2. This permit is binding on the NYSDEC and all contractors and government personnel undertaking all or a portion of the project authorized herein. Copies of this permit and Project Plans shall be furnished by the permittee to all applicable contractors and government personnel prior to undertaking the lampricide application program.
3. In addition to complying with all terms and conditions of this permit, all future activities on the project site shall be undertaken in compliance with the requirements of the Freshwater Wetlands Act.
4. This permit amends and supersedes Agency Permits 2002-0181, 2002-0181A, 2002-0181B, 2002-0181C, and 2002-0181D. The terms and conditions of these permits shall no longer apply.
5. This permit authorizes a lampricide application program as described in the Sea Lamprey Control Plan. Any change to the treatment locations, schedule, or other aspect of the lampricide application program shall require prior written Agency authorization.
6. There shall be no additional lampricide applications beyond December 31, 2028 without prior written Agency authorization.
7. Lampricide applications may only be made between and including the day after Labor Day and November 30th of the treatment year or between April 15<sup>th</sup> and June 15<sup>th</sup> of the following spring, excluding Memorial Day weekend. Spring treatments shall be permitted if a fall treatment is unable to be undertaken or determined by NYSDEC to be unsuccessful due to lake level, stream flow parameters, and/or ineffective target concentrations and may only occur in the spring following the missed or unsuccessful Fall Treatment. Confirmation of lamprey presence will be accomplished via electro-fishing prior to treatment according to product label directions.
8. The NYSDEC shall notify the Agency of the schedule for every lampricide application prior to any treatment.
9. All lampricide applications authorized herein must conform with all pesticide label requirements and all New York State and federal regulations.
10. All lampricide applications authorized herein must be performed by or under the direct supervision of pesticide applicators certified by the NYS Department of Environmental Conservation pursuant to NYCRR Title 6 § 325.7. and/or by the US Fish and Wildlife Service.
11. Lampricide treatments shall only be undertaken when tributary flow conditions and Lake Champlain water levels are less than or equal to the levels described in the Sea Lamprey Control Plan. Flows and lake level shall be determined no more than 24 hours before a treatment is initiated.

12. Wetland intrusion barriers shall be installed as depicted and described in the Sea Lamprey Control Plan prior to lampricide applications on the Little AuSable River, AuSable River, or Putnam Creek, if lake level and tributary discharges exceed those listed in the Plan.
13. Lampricides shall be transported, stored, and dispensed as described in the Spillage plan.
14. A copy of the Spillage Plan and the materials necessary to prevent or contain spills must accompany every crew or individual who is applying the lampricides. In the event of a spill or other accident, the procedures outlined in the Spillage Plan shall immediately be implemented.
15. Public notification of lampricide applications shall be implemented as described in the Notification Plan.
16. Non-target mortality shall be monitored during treatments. If any unexpected level of non-target mortality occurs, the cause of the non-target mortality shall be investigated and corrective action taken immediately. If the cause and remedial action are not readily apparent, depending on the location of the non-target mortality, either the entire application or the boost application shall be discontinued. Once a treatment is discontinued due to an unusual non-target mortality incident, the application may not be resumed until the cause has been determined and appropriate steps taken to avoid a recurrence of the problem.
17. The permittee shall submit a report for the Sea Lamprey Control Program to the Agency following every four year treatment cycle. The report shall summarize non-target species mortality in the treatment waters authorized herein, as well as pre-treatment and post-treatment estimates of the American brook lamprey population in the AuSable River, in accordance with the procedures described in the Sea Lamprey Control Plan.

### **CONCLUSIONS OF LAW**

The Agency has considered all statutory and regulatory criteria for project approval set forth in the Freshwater Wetlands Act and 9 NYCRR Part 578. The Agency hereby finds that the project authorized as conditioned herein:

- a. will be consistent with the Adirondack Park land use and development plan; and
- b. will not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the Park, taking into account the economic and social or other benefits to be derived from the activity; and
- c. will, although economic, social and other benefits to be derived from the activity proposed compel a departure from the guidelines of 9 NYCRR Part 578.10(a)(1), secure the natural benefits of wetlands associated with the project, consistent with the general welfare and beneficial economic, social, and agricultural development of the state.

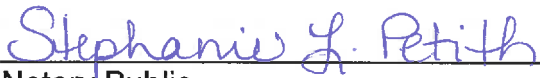
PERMIT issued this 12<sup>th</sup> day  
of April, 2023.

ADIRONDACK PARK AGENCY

BY:   
Barbara A. Rice, Executive Director

STATE OF NEW YORK  
COUNTY OF ESSEX

On the 12<sup>th</sup> day of April in the year 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared Barbara A. Rice, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their capacity, and that by their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
Notary Public

Stephanie L. Petith  
Notary Public, State of New York  
Reg. No. 01PE6279890  
Qualified in Franklin County  
Commission Expires April 15, 2025

# Lake Champlain Sea Lamprey Population Distribution and Control Methods

