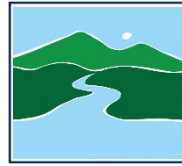


# Draft Aquatic Nuisance Control Individual Permit

Under 10 V.S.A. § 1455



VERMONT DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
**WATERSHED MANAGEMENT DIVISION**  
 LAKES & PONDS PROGRAM

<p><b>Permittee:</b> Town of Groton &amp; Lake Groton Association</p> <p><b>Control Activity:</b> Powered Mechanical Devices (Mechanical harvester)</p>	<p><b>Permit Number:</b> 2015-H08</p> <p><b>Waterbodies:</b> Lake Groton</p>
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Based upon the Findings contained in this permit, the Secretary of the Agency of Natural Resources has determined that the proposed aquatic nuisance control activities will comply with 10 V.S.A. § 1455, and is hereby approved under the following conditions and specifications.

**a. Specific Conditions**

1. Powered Mechanical Devices. All mechanical harvest activity shall only occur with equipment as identified in the Approved Application or as explicitly approved by the Secretary.
2. Locations. All mechanical harvest activity shall only occur in locations identified on the Approved Application and in accordance with the following location conditions:
  - A. Mechanical harvesting shall not take place in any location outside of the approved area without first obtaining approval from the Secretary.
  - B. Mechanical harvesting shall not occur in areas where water depth is less than 2 feet.
  - C. As determined by the pre-harvesting aquatic plant assessment as required under condition a.11., a 15-foot radius no-harvesting area shall be established around an area where a rare, threatened, or endangered aquatic plant species has been identified, excluding the target species.
3. Dates. Harvest activity shall only occur between June 15<sup>th</sup> and September 30<sup>th</sup> of any calendar year during the effective period of this permit, unless otherwise authorized by the Secretary.
4. Target Species. The Permittee shall only target purple bladderwort (*Utricularia purpurea*) for harvesting. Harvesting shall not extirpate this species from the approved harvesting locations or from Lake Groton.
5. Cessation of Harvesting. Harvesting shall halt immediately if the target species population is at risk of being extirpated from Lake Groton. Shall the Secretary deem this to be necessary based on the discussion of the pre-harvesting assessment results that will occur during the annual meeting as described in a.11., harvesting shall not recommence until the Permittee has received explicit approval from the Secretary.
5. Operation & Maintenance. Individuals not involved with project implementation shall not be within a harvesting area during operation. All powered mechanical devices shall be properly maintained.
6. Daily Recording. All harvest activity shall be recorded daily on a Powered Mechanical Device Report Form (Report Form), or on an equivalent approved by the Secretary.
7. Reporting. An annual harvest activity report shall be submitted to the Secretary by December 31<sup>st</sup> of the calendar year in which harvesting occurred and shall include at a minimum the following information:
  - A. Date(s) harvesting activity occurred;
  - B. Approximate volume of harvested material removed per area as identified on the site plan map;
  - C. Disposal method(s) and location(s); and,
  - D. A summary of harvesting activity.
8. Nontarget Impact Mitigation. All powered mechanical device use shall occur in accordance with the following condition to mitigate non-target impacts:
  - A. All operators of the mechanical harvester shall be able to identify the rare state species: low water-milfoil (S1S2) (*Myriophyllum humile*). Harvesting locations shall be identified as described under a.2.
  - B. All turtles found shall be safely and immediately returned to the water outside of the immediate activity area.
  - C. Any encounters with any other rare, threatened, or endangered aquatic species, excluding the target species, shall be reported to the Secretary immediately.

9. Disposal. All harvested vegetation shall be disposed at upland, non-wetland locations where it cannot return to any waterbody, except for transport authorized separately under 10 V.S.A. § 1454(b).
10. Transport. Any vehicles transporting harvest spoils (e.g. vegetation, mud, etc.) to a disposal location shall be covered and shall not lose any material during transport.
11. Pre-harvesting Aquatic Plant Assessment & Meeting. The Permittee shall conduct a lake-wide aquatic plant assessment per the proceeding requirements prior to harvesting between May 15<sup>th</sup> and June 15<sup>th</sup> in a year in which harvesting may occur. The assessment shall determine purple bladderwort (*Utricularia purpurea*) locations and approximate population density per area it is found (scattered: <25%; moderate: 25-50%; dense: >50-100%) and to note adjacent non-target plant species including the presence of rare, threatened, or endangered species. The Permittee shall discuss with the Secretary the results of the aquatic plant assessment prior to conducting harvesting activities to ensure a.4. and a.5. are met.
12. Approved Application. The project shall be completed as shown on the application, plans, and support documents as submitted by the Permittee, and approved by this permit.

**b. Standard Conditions**

1. Reporting & Correspondence. All aforementioned, requisite correspondence directed to the Secretary pertaining to this permit, including notifications, surveys and reports, shall be (preferably) submitted via email to [ANR.WSMDSshoreland@vermont.gov](mailto:ANR.WSMDSshoreland@vermont.gov) or mailed to the following address:
 

Lake & Shoreland Permitting  
Watershed Management Division  
1 National Life Drive, Main 2  
Montpelier, VT 05620-3522
2. Aquatic Invasive Species Spread Prevention. Prior to any control activity occurring, all equipment, including but not limited to boats, trailers, vehicle, and gear, that has been in or on any other waterbody, shall be decontaminated in accordance with the [Voluntary Guidelines to Prevent the Spread of Aquatic Invasive Species through Recreational Activities](#), Aquatic Nuisance Species Task Force, November 2013, or its replacement.
3. Decision-makers & Operators as Permittees. A Permittee is defined to mean any person associated with aquatic nuisance control activities (activity) (1) who performs the activity or who has day-to-day control of the activity; or, (2) any person with control over the decision to perform the activity including the ability to modify those decisions. Permittees identified as (1) are referred to in this permit as Operators while Permittees identified as (2) are referred to in this permit as Decision-makers. More than one Operator may be responsible for complying with this permit. Permittees are defined as a Decision-maker, as an Operator, or as both. When a Permittee is both a Decision-maker and an Operator, the Permittee must comply with all applicable requirements.
4. Authorization Modification or Amendment. This permit may be modified or amended upon request by the Permittee or by the Secretary. Any modification under this condition shall be performed in accordance with the [Public Review and Comment Procedures for Aquatic Nuisance Control Permit Applications and General Permits](#), January 30, 2003, or its replacement.
5. Rare, Threatened, or Endangered Species. If determined necessary by the Secretary, an Endangered & Threatened Species Taking Permit, per 10 V.S.A. § 5408, shall be obtained prior to commencement or continuance of activity.
6. Compliance with Other Regulations. This permit does not relieve the Permittee from obtaining all other approvals and permits prior to commencement of activity, or the responsibility to comply with any other applicable federal, state, and local laws or regulations.
7. Access to Property. By acceptance of this permit, the Permittee agrees to allow representatives of the state of Vermont access to the property covered by the permit, at reasonable times, for the purpose of ascertaining compliance with Vermont's statutes, regulations, and permit conditions.
8. Legal Responsibilities for Damages. The Secretary, by issuing this individual permit, accepts no legal responsibility for any damage direct or indirect of whatever nature and by whoever suffered arising out of the approved activity.

9. Rights & Privileges. This permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.
10. Duty to Comply & Enforcement. The Permittee shall comply with all terms and conditions of this permit. Any permit noncompliance shall constitute a violation of 10 V.S.A. § 1455 and may be cause for any enforcement action and revocation, modification, or suspension of the permit. It shall not be a defense for the Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity to maintain compliance with the conditions of this permit.
11. Duty to Reapply. If the authorized activity is anticipated to continue after the expiration date of this permit, the Permittee shall reapply for coverage under a new permit sixty (60) days prior to the expiration date of this permit.
12. Twenty-four Hour Non-compliance Reporting. Unless provided otherwise by this permit, the Permittee shall report any noncompliance which may endanger public health or the environment. Any such information shall be provided within 24 hours from the time the Permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the Permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance, its cause; the period of noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; as well as steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
13. Official Duties. This permit shall not restrict law enforcement of emergency operations or the performance of official duties by a government agency.
14. Public Access Area. In accordance with Fish and Wildlife Board Rule 641, pursuant to 10 V.S.A. § 4145(a), Vermont Department of Fish & Wildlife Access Areas shall not be used for this activity without proper authorization from the Secretary.
15. Reopener. If after granting this permit the Secretary determines, at his or her discretion, that there is evidence indicating that an authorized activity does not comply with the requirements of 10 V.S.A. Chapter 50, the Secretary may reopen and modify this permit to include different limitations and requirements.
16. Appeals. Pursuant to 10 V.S.A. Chapter 220, any appeal of this decision must be filed with the clerk of the Environmental Division of the Superior Court within 30 days of the date of the decision. The Notice of Appeal must specify the parties taking the appeal and the statutory provision under which each party claims party status; must designate the act or decision appealed from; must name the Environmental Division; and must be signed by the appellant or the appellant's attorney. The appeal must give the address or location and description of the property, project, or facility with which the appeal is concerned and the name of the applicant or any permit involved in the appeal. The appellant must also serve a copy of the Notice of Appeal in accordance with Vermont Rules for Environmental Court Proceedings. For further information, see the Vermont Rules for Environmental Court Proceedings available at [www.vermontjudiciary.org](http://www.vermontjudiciary.org). The address for the Environmental Division is: 32 Cherry Street; 2nd Floor, Suite 303; Burlington, VT 05401 Telephone: 802-951-1740.

**c. Findings**

1. Jurisdiction - 10 V.S.A. § 1455(a). Within waters of the state, no person may use pesticides, chemicals other than pesticides, biological controls, bottom barriers, structural barriers, structural controls, or powered mechanical devices to control nuisance aquatic plants, insects, or other aquatic nuisances, including lamprey, unless that person has been issued a permit by the secretary. The project, as described in Permit Application #2015-H08, involves the use of a powered mechanical devices within Lake Groton in Groton. Therefore, the Department has jurisdiction under 10 V.S.A. Chapter 50.
2. Application Receipt & Review. A permit application submitted by the Town of Groton was received on November 15, 2015, for an Aquatic Nuisance Control Permit for the use of a powered mechanical device, and was reviewed in accordance with the Department of Environmental Conservation's *Permit Application Review Procedure*, adopted May 22, 1996.
3. Background; Aquatic Nuisance Control Permit History. None

4. Project Purpose. The purpose of the project is to remove nuisance growth populations of the aquatic plant, purple bladderwort (*Utricularia purpurea*), in open water areas to improve public recreational uses, such as boating and swimming.
5. 10 V.S.A. § 1455(f)(1) – Nontarget Environment. The mechanical harvester will be designed to collect the plant material of the target species as described on the Approved Application. The greatest risk to the nontarget environment from mechanical harvesting is habitat alteration resulting from the direct removal of the target species. Most aquatic animals should be able to move to alternate locations away from the harvester, so it is not anticipated that large numbers of animals will be affected.  
 In 2002, a report of low watermilfoil (*Myriophyllum humile*) was identified as growing in the southern extremities of Lake Groton. The approved harvesting locations avoid this area of the lake. As a precaution, if populations of low watermilfoil, or any other rare, threatened, or endangered aquatic plant species, excluding the target species, are discovered elsewhere in the lake, these populations will be reported to the Secretary immediately and a 15-foot radius no-harvesting area will be established around a population. To mitigate risks to rare, threatened or endangered species, operators of the mechanical harvester are required to be capable of identifying low watermilfoil (*Myriophyllum humile*).  
 The injuring or killing of any turtles is prohibited by permit condition.  
 Harvesting activity is to adhere to the conditioned timeframe in order to minimize disturbance to fish spawning.  
 To mitigate the risk of introduction or transport of non-native, aquatic invasive species proper spread prevention measures must be taken. Thus, prior to any harvesting activity occurring, all equipment (such as a boat, trailer, vehicle, and gear) that has been in or on any other waterbody, will be decontaminated in accordance with the Voluntary Guidelines to Prevent the Spread of Aquatic Invasive Species through Recreational Activities, Aquatic Nuisance Species Task Force, November 2013, or its replacement.  
 The Secretary has determined that there is acceptable risk to the nontarget environment.
6. 10 V.S.A. § 1455(f)(2) – Public Health. The control activity should result in negligible risk to public health as long as proper precautions are taken to ensure that individuals not involved with project implementation are not within the harvesting area during operation and all equipment is properly maintained.  
 The Secretary has determined that there is negligible risk to public health.
7. 10 V.S.A. § 1455(f)(3) – Public Good. Based upon findings c.5. & c.6., the Secretary has determined that there is no undue adverse effect upon the public good from the use of a powered mechanical device when operated in accordance with this permit and the Approved Application.
8. 10 V.S.A. § 1455(h) – Public Notification. An opportunity for the public to review and comment on this application was provided in accordance with the Department of Environmental Conservation's [Public Review and Comment Procedures for Aquatic Nuisance Control Permit Applications and General Permits](#), adopted per 3 V.S.A. Chapter 25, on January 30, 2003.

**d. Authorization**

By delegation from the Secretary, the Vermont Department of Environmental Conservation has made a determination that the above activity qualifies for an individual aquatic nuisance control permit. The Permittees are authorized per 10 V.S.A. § 1455(i) subject to the conditions herein specified.

This permit shall be effective on the day of signing, and expire ten years thereafter.

Alyssa B. Schuren, Commissioner  
 Department of Environmental Conservation

By: \_\_\_\_\_

Perry Thomas, Manager  
 Lakes & Ponds Management and Protection Program  
 Watershed Management Division