

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ALBANY

CHAUTAUQUA LAKE PROPERTY OWNERS
ASSOCIATION, INC.; et al.,

Petitioners-Plaintiffs,

-against-

**AFFIDAVIT OF LISA M.
CZECHOWICZ**

Index No. 903982-25

THE STATE OF NEW YORK, et al.,

Respondents-Defendants.

In the Matter of the Application of

BUSINESS COUNCIL OF NEW YORK STATE, INC.,
et al.,

Petitioners-Plaintiffs,

-against-

Index No. 904423-25

NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION, et al.,

Respondents-Defendants.

In the Matter of the Application of

VILLAGE OF KIRYAS JOEL, et al.,

Petitioners-Plaintiffs,

-against-

Index No. 904424-25

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL
CONSERVATION, et al.,

Respondents-Defendants.

CHAUTAUQUA LAKE PARTNERSHIP, INC., et al.,

Petitioners-Plaintiffs,

-against-

Index No. 905313-25

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL
CONSERVATION, et al.,

Respondents-Defendants.

STATE OF NEW YORK)

ss.:

COUNTY OF ERIE)

Lisa M. Czechowicz, being duly sworn, deposes and says:

1. I am currently employed by the New York State Department of Environmental Conservation (DEC or Department) as the Regional Permit Administrator in the Division of Environmental Permits Region 9 Office in Buffalo, New York. I have worked at DEC for 22.5 years. I have held my current position for 15 months. Region 9 covers Allegany, Cattaraugus, Chautauqua, Erie, Niagara, and Wyoming counties.

2. I have a Bachelor of Science Degree in Biology from SUNY Geneseo, a Masters of Professional Studies in Environmental Science from SUNY College of Environmental Science and Forestry at Syracuse University, and a Masters of Public Administration from Syracuse University. I am responsible for, among other things, matters in Region 9 pertaining to project management and permit applications.

3. I have personal knowledge of the facts and circumstances of this matter through the exercise of my official duties, review of DEC files, and discussions with other DEC staff. I reviewed and analyzed the ECL article 24 freshwater wetland permit applications from the Towns of Ellery, Ellicott, and Busti for the application of aquatic pesticides to control invasive Eurasian watermilfoil (*Myriophyllum spicatum*) and curly-leaf pondweed (*Potamogeton crispus*) in certain sections of Chautauqua Lake. I also reviewed and processed an

ECL article 24 freshwater wetland application from Chautauqua Lake Association for aquatic vegetation harvesting in certain sections of Chautauqua Lake to manage nuisance aquatic vegetation to improve navigation in the lake.

4. I submit this affidavit in opposition to the petitions in the above-captioned proceedings. As I will discuss below, portions of Chautauqua Lake have always been regulated under the Freshwater Wetlands Act and its regulations, and compliance with the new wetland regulations did not unnecessarily delay processing of the applications or prohibit petitioners from timely managing invasive species in Chautauqua Lake.

Chautauqua Lake Under Former and Current Regulations

5. Chautauqua Lake is a large, relatively shallow lake located in central Chautauqua County. It is divided into two basins at Bemus Point. Chautauqua Lake has a surface area of approximately 13,000 acres with approximately 42 miles of shoreline across five towns and four villages. The majority of the shoreline is privately owned. Chautauqua Lake is a Class A waterbody and serves as a drinking water source for residents and visitors to the lake and surrounding area.

6. Due to a variety of factors, including its relatively shallow depth, Chautauqua Lake has historically struggled with invasive plant species, including Eurasian watermilfoil and curly-leaf pondweed. These species can impact recreational use and public enjoyment. Since at least 1986 (with breaks between 1995 and 2001 and again from 2003 to 2016), DEC has issued permits under ECL article 15 for management of these invasive species to multiple municipalities. The

use of aquatic pesticides has always been regulated under ECL article 15, which requires submission of a permit application and information regarding the pesticides to be used.

7. Under the previous 6 NYCRR part 664 freshwater wetlands maps and classification regulations, there were several areas around Chautauqua Lake that were mapped as regulated freshwater wetlands and ECL article 24 freshwater wetland permits have long been required for regulated activities in these areas, as well as the regulated 100-foot adjacent area around the mapped wetland. The regulated 100-foot adjacent area has historically included underwater lands in the lake.

8. Aquatic vegetation harvesting and herbicide application were regulated activities under the previous wetland regulations. Therefore, an ECL article 24 freshwater wetlands permit has always been required for these activities in wetland areas. The amended regulations have only expanded the regulated area and modified wetland classification criteria, not the scope of regulated activities. The amended regulations are more protective of the lake because they allow DEC to limit harvesting in known fish habitat zones to one single lane no wider than 25 feet to improve navigability and also maintain viable fish populations in the lake.

9. Under the amended 6 NYCRR part 664 regulations, additional portions of Chautauqua Lake are now regulated as freshwater wetland due to the presence of submerged aquatic vegetation, which provides habitat for fish and other aquatic animals. Accordingly, certain regulated activities, including herbicide

applications and aquatic vegetation harvesting, now require ECL article 24 wetland permit applications in more areas of the lake than in previous years.

DEC Invasive Species Management Permits for the 2025 Season

10. On February 17, 2025, the Towns of Ellery and Ellicott submitted ECL article 15 permit applications to apply the aquatic herbicide Clearcast, EPA registration number 241-437-67690, to control curly-leaf pondweed within certain areas along the Towns' shorelines. On February 20, 2025, the Town of Busti submitted an ECL article 15 permit application to apply Clearcast, EPA registration number 241-437-67690, to control curly-leaf pondweed within certain areas along the Town's shoreline. By letters dated March 14, 2025, DEC advised the Towns that ECL article 24 freshwater wetland permits would be required in addition to the ECL article 15 permits due to the enactment of the newly adopted freshwater wetlands regulations. The letters also explained that DEC had made a positive jurisdictional determination regarding the proposed treatment areas. A true and accurate copy of the letters are attached as **Exhibit A**.

11. The positive jurisdictional determination was based on the presence of submergent aquatic vegetation beds within Chautauqua Lake, a Class A waterbody, which renders submergent aquatic vegetation beds to be classified as wetlands of unusual importance.

12. On March 21, 2025, the Towns of Ellery and Ellicott submitted ECL article 24 freshwater wetland permit applications to DEC for the application of aquatic pesticides to control invasive species in certain sections of Chautauqua

Lake. The Town of Busti submitted an ECL article 24 freshwater wetland permit application for the application of aquatic pesticides to control invasive species on March 26, 2025. These permit applications were for the use of aquatic pesticides Clearcast and ProcettaCOR EC for the control of invasive curly-leaf pondweed and Eurasian watermilfoil in areas along the shoreline in each town which were identified on treatment maps submitted with the permit applications. DEC technical staff reviewed the applications and determined they were administratively complete on March 28, 2025. DEC received no public comments on any of the applications and, on April 22, 2025, DEC issued all three ECL article 24 freshwater wetland permits.

13. The applicants' consultant notified DEC that the permitted treatments were scheduled to begin on April 28, 2025, which is within the treatment window for these invasive plants. Thus, the additional approvals required by the amended wetland regulations did not adversely impact the treatment of invasive aquatic vegetation in Chautauqua Lake. The amended wetland regulations simply require submission of a second permit application with a similar level of detail as the ECL article 15 application. Therefore, the amended wetland regulations did not create an impediment to the management of invasive aquatic vegetation in Chautauqua Lake.

14. On June 2, 2025, the Towns of Busti and Ellicott submitted applications to modify their ECL article 24 permits to include additional treatment areas for Eurasian watermilfoil by use of ProcettaCOR EC. DEC technical staff reviewed the applications and they were determined to be administratively

complete on July 1, 2025. The comment period for these applications will conclude on or about July 24, 2025.

15. On April 30, 2025, Chautauqua Lake Association submitted to DEC an application for an ECL article 24 freshwater wetlands permit for aquatic harvesting activities to control submerged aquatic vegetation in sections of Chautauqua Lake. DEC staff reviewed the application and published notices in the Jamestown Post Journal and the Environmental Notice Bulletin on May 14 and 15, 2025, respectively. During the public comment period on this application, which ended on May 29, 2025, DEC received one public comment letter, most of which was not substantive. DEC staff prepared a response to the comment letter and issued this ECL article 24 permit on June 5, 2025.

Continued Regulatory Streamlining and Educational Outreach

16. Although none of the petitioners experienced any delay in being able to conduct invasive species management on Chautauqua Lake, DEC is nonetheless developing tools to streamline the ECL article 24 permit application process. For example, there are several general permits being developed to ease the processing of ECL article 24 freshwater wetlands permits under the amended regulations, two of which will be particularly useful to municipalities and property owners around Chautauqua Lake.

17. As relevant here, there is a Lakes and Shorelines General Permit being developed to authorize various activities commonly undertaken by property owners such as shoreline erosion protections, repair and replacement of existing

functional shoreline protection, in kind replacement or repair of boat or access ramps, installation of new single lane boat/access ramps, repair and replacement of existing functional boat houses, docks, platforms, or similar over water structures, installation of new residential docks, new navigational dredging, installation of dry fire hydrants, water intake lines, or beach wells.

18. DEC is also developing modifications to the existing general permit for management of invasive species under consideration to authorize the management of invasive and nuisance species by various methods such as hand harvesting, suction harvesting, aquatic pesticides, benthic barriers, and mechanical harvesting and cutting.

19. Additionally, Region 9 has provided and continues to provide extensive outreach and education about the new regulations. Since the amended wetland regulations have gone into effect, Region 9 Bureau of Ecosystem Health staff have given several presentations to local municipalities and planning groups, including Southern Tier West Regional Planning & Development Board which is the regional planning agency for Allegany, Cattaraugus, and Chautauqua Counties.

20. Finally, after reviewing DEC's files, it appears that none of the individual petitioners in these proceedings have sought freshwater wetlands jurisdictional determinations from DEC, so it is unclear whether and to what extent they are affected by the new regulations found at 6 NYCRR part 664.

Lisa M. Czechowicz
LISA M. CZECHOWICZ

Sworn to before me this
21 day of July, 2025.



Notary Public

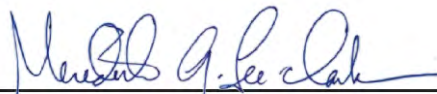
TERESA J. MUCHA
Notary Public State of New York
Qualified in Erie County
My Commission Expires 7/29/26

**CERTIFICATE OF COMPLIANCE WITH
WORD COUNT LIMIT**

The undersigned attorney hereby certifies:

This document complies with the word count limitations pursuant to Rule 202.8-b (c) of the Uniform Civil Rules for the Supreme Court and the County Court as amended by the Administrative Order 270-20, effective February 1, 2021. According to the word processing system used in this office, this document, exclusive of the sections excluded by Rule 202.8-b (b), contains 1,647 words.

Dated: July 22, 2025



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