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Contact: Nancy Hawley, (518) 920-2985 or nhawley@lakegeorgeassociation.org

Decision requiring APA adjudicatory hearing for ProcellaCOR use reversed by Appellate Court

Lake George Association asks why state agencies are unwilling to subject their scientific evidence to rigorous, independent review

LAKE GEORGE, NY – The Lake George Association (LGA) respectfully disagrees with the decision the Appellate Division issued yesterday and is disappointed that the judges simply deferred to the judgment of the New York State agencies that are advocating for the first-ever use of a pesticide in Lake George. The LGA will be requesting leave to appeal to the New York Court of Appeals.

Although this decision affects the 2022 permit applications, it does not affect the new applications that are pending before the agencies, and the LGA respectfully encourages the agencies to review the important new information that has been brought to light before any permits are issued to apply ProcellaCOR in Lake George.

While state and federal agencies have concluded that the use of the pesticide ProcellaCOR is safe generally, they have never conducted a thorough, rigorous examination of whether this chemical is safe specifically when applied to the unique ecological conditions and water movement of Lake George. Nor have the agencies been willing to subject their science to independent review through an adjudicatory hearing.

Lake George is a drinking water supply and a Class AA-special water body, one of the cleanest and most pristine waterways in the nation, and any proposal to introduce chemicals to Lake George warrants the strictest scrutiny of the potential long-term risks. The question is not whether ProcellaCOR is safe or effective; the question is whether this is safe for use in Lake George. Since the 2022 permit application process, extensive new information is available to show that ProcellaCOR will adversely impact Lake George. These issues should be explored fully in an adjudicatory hearing before new permits are issued.

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“Our simple request to New York State is to make a truly informed and careful decision, based on the best data from Lake George itself and on peer-reviewed science that has been subjected to independent scrutiny,” said LGA Board Chair and Interim Executive Director Peter Menzies. “This is not a battle over who is right, but rather what is right for Lake George. The LGA is dedicated to keeping potentially harmful substances out of the Lake.”

Our major science-backed concerns around the use of ProcellaCOR in Lake George are:

There is no milfoil crisis in Lake George warranting the use of chemicals. The Lake George Park Commission and LGA have partnered for decades on physical methods of management, including hand harvesting that selectively and successfully manages Eurasian watermilfoil. This practice should be enhanced and expanded.

Lake George is a dynamic waterbody with rapid water movement. New information is available to show that ProcellaCOR will spread well beyond the applicant’s stated area and likely impact outside the intended treatment areas and dilution zone.

Low concentrations of the hormone will actually exacerbate growth of aquatic plants. As a growth hormone, ProcellaCOR at elevated concentrations will grow Eurasian watermilfoil to death. However, at lower concentrations caused by dilution and water currents, ProcellaCOR remains a growth hormone, potentially leading to increased growth of aquatic plants, including milfoil. ([Howell 2022](#)).

ProcellaCOR will disrupt Lake George’s healthy ecosystem. Aquatic plants are imperative as the base of the food web in healthy lake ecosystems. Even the ProcellaCOR label indicates that a wide variety of plants can be harmed or killed. EPA’s own Environmental Fate and Risk Assessment states:

“Based on available toxicity data and mode of action, risks to vascular aquatic plants, and to a lesser extent non-vascular aquatic plants, from the proposed uses of florpyrauxifen-benzyl (and its degradation products) are expected. Where these effects occur, they would be expected to also have indirect effects on organisms that occupy higher trophic levels, especially aquatic invertebrates, fish and herbivorous, insectivorous and piscivorous birds and mammals.” (U.S. EPA Environmental Fate and Risk Assessment, pg 115)

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Achieving intended efficacy of ProcellaCOR is difficult in a real-lake situation. Recent research by the Army Corps of Engineers has shown significant challenges in achieving the expected performance and control of Eurasian watermilfoil because of rapid water exchange issues.

“Although small scale research trials have provided beneficial data concerning general efficacy and selectivity, few trials have documented how to effectively use this technology (ProcellaCOR) in the field.” (Sartain 2023)

The LGA strongly supports the safe and effective eradication of Eurasian milfoil. We, and many local governments and property owners, remain unpersuaded, however, that ProcellaCOR is safe for Lake George. Since 1885, the LGA has faithfully advocated for the protection of Lake George and the interests of our members, many of whom have legitimate concerns given the unknown risks that ProcellaCOR may present. After all, they and their children and grandchildren drink the water of Lake George, and fish, swim, garden, farm, and lease properties here.

Lake George, known as the Queen of American Lakes, is a global travel destination, providing a high quality of life that fuels a \$2 billion annual economy. The Lake boasts multiple organizations dedicated to its protection, including NY State’s Lake George Park Commission and the Lake George Association with the Lake George Waterkeeper. Through partnerships with other organizations, including RPI's Darrin Freshwater Institute, the LGA has supported informed protection using leading-edge technology and science, making this waterbody the World’s Smartest Lake.

The Lake George Association is a leading Lake-protection organization for Lake George, the Queen of American Lakes. Our work includes technical and financial assistance to property owners; world-class research and direct protection programs through The Jefferson Project, the Lake George Waterkeeper, and an array of public-private partnerships; public education programs; and public policy advocacy, all with the goal of protecting the Lake’s water quality today and for the future.