

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Office of General Counsel, Deputy Counsel

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FEB 06 2018

James Staudt, Esq.
McCullough, Goldberger & Staudt, LLP
Counsel for Village of Croton-on-Hudson
1311 Mamaroneck Ave., Suite 340
White Plains, NY 10605

Re: Croton River Hydrilla Control Project

Dear Mr. Staudt:

Hydrilla remains one of New York's most aggressive aquatic invasive species. The Croton River Hydrilla Control Project was very successful in 2017 in large part due to the contributions and cooperation of Village staff.

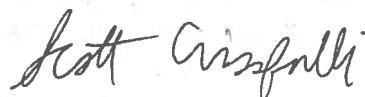
During a recent meeting at the Village of Croton-on-Hudson, Village Manager Janine King asked staff from the Department of Environmental Conservation (DEC) if DEC intends to apply to the Village of Croton-on-Hudson for a Wetlands permit for hydrilla control efforts in 2018. I am writing to respond to that inquiry.

DEC will not be applying to the Village of Croton-on-Hudson for a Wetlands permit due to state preemption. The Village's Wetland Code includes provisions that relate to pesticide application and use. Section 33-0303(1) of the Environmental Conservation Law (ECL) states that "Jurisdiction in all matters pertaining to the distribution, sale, use and transportation of pesticides, is by this article vested exclusively in the commissioner." DEC has consistently interpreted the language in ECL 33-0303(1) as being broad enough to preempt any local law that pertains to the "distribution, sale, use and transportation of pesticides."

The Hydrilla Control Project in 2018 will include detailed surveys of aquatic vegetation, intensive monitoring of river and drinking water, posting of all project documents on the DEC webpage, education and outreach initiatives and biannual public meetings. We look forward to working with the Village of Croton-on-Hudson to ensure that the public remains informed of all aspects of this project.

If you have any questions, please feel free to contact Tim Eidle at (518) 402-6364 or at tim.eidle@dec.ny.gov.

Sincerely,



Scott Crisafulli
Deputy Counsel



Department of
Environmental
Conservation