

**Proposal for the Implementation of the MiddFoil®
Process of Eurasian Watermilfoil Control
For Hicks Lake**



Prepared for:

Hicks Lake

Prepared by:

**EnviroScience, Inc.
3781 Darrow Rd.
Stow, OH 44224-4035**

Project Number: 1186-3051

June 26, 2009

Project Description

Hicks Lake has been undergoing a rapid expansion of EWM in the past several years. Milfoil has expanded tremendously in recent years and heavy infestations have affected most shallow areas of the lake. Because of this, EWM poses a considerable long-term threat to the recreational potential and ecological health of the lake. MiddFoil[®] utilizes the Eurasian watermilfoil (EWM) weevil, *E. lecontei*, to provide long-term control of the growth and spread of EWM. This process is environmentally safe and the weevils do not damage native plants or animals.

At the request of Hicks Lake, EnviroScience has prepared the following cost proposal. Currently, two options are available for implementing a MiddFoil[®] program. The first option involves establishing baseline conditions and charting the progress of the project using detailed field surveys and laboratory analysis.

The second option, preferred by Hicks Lake, dispenses with most survey activities and limits field activities to the stocking of the weevils by EnviroScience personnel.

The 'no survey' option includes weevil stocking and mapping, with no baseline or follow-up surveys. However, a map is not included in this price but the GPS coordinates of the stocking location will be given to the client. This option permits the client to maximize the number of weevils being stocked, by allowing the client to designate more funds to the purchase of weevils without the additional expense of surveys and reports. This option is particularly well suited to smaller projects and those having a high degree of public support and where efforts have been made to manage public expectations regarding short-term results.

One task is performed each year that weevils are stocked.

Task 1: Weevil stocking

Beds of aquatic vegetation, which are dominated by EWM, are stocked with *E. lecontei* and marked using Global Positioning System (GPS) technology. Project sites are selected in part by input from the client and in part by the presence of conditions in and around the site that would contribute to a successful propagation and overwintering of the weevil population. Three to eight units of weevils are stocked per site.



Pricing for Hicks Lake- No Survey Option

Project Expenses 2009

<u>Task 1: Weevil Stocking</u>	
Labor	\$315.00
Other Direct Cost (travel and per diem)	\$85.00
Weevils (4 units)	\$4,600.00
Total Cost of Task 1	\$400.00
Total Cost	
	\$5,000.00

Terms and Agreement

EnviroScience, Inc. will provide services and organisms for application of the MiddFoil® process to Hicks Lake as outlined in the attached proposal.

Payment for each year's costs is due in full at the time of the initial stocking or survey each year. A deposit of 20% of the first year's project cost is due at the time the signed contract is submitted. Please note: Stocking priority is determined by the date we receive a signed contract and deposit. The price in this proposal is valid for 120 days from the date of issuance.

Submitted by:



Nancy L. Cushing
Aquatic Biologist

Accepted and Authorized to Proceed:

Signature

Date



Standard Terms and Conditions

1. General

The following Standard Terms and Conditions, together with the attached Proposal and Fee Schedule constitute the Agreement between EnviroScience, Inc. ("ES") and the entity or person to whom the proposal is addressed ("Client") for the performance of professional services outlined in the proposal. The Standard Fee Schedule may be omitted for Lump Sum type Agreements.

2. Performance of Services

ES's services will be performed in accordance with generally accepted practices of engineers and/or scientists providing similar services at the same time, in the same locale, and under like circumstances. No warranty, express or implied, except as specified in Section 9 below, is included or intended by this Agreement.

3. Invoices, Payments

ES will submit Invoices to Client monthly for work completed during the previous month and a final invoice upon completion of services. Payment will be due within thirty (30) days from invoice date. Client agrees to pay a service charge of one and one-half (1½) percent per month (18% per annum) on past due payments. If an invoice remains unpaid for a period in excess of sixty (60) days, ES reserves the right to pursue all appropriate remedies including stopping work and retaining all drawings and information without recourse. In the event ES must engage counsel to enforce overdue payments, Client will reimburse ES for all reasonable attorney's fees and court costs.

4. Insurance

ES is protected by Workers' Compensation Insurance, Commercial General Liability Insurance, Professional Liability and Automobile Liability Insurance coverages. ES will furnish certificates of insurance upon Client's request. Client agrees that ES will not be liable or responsible for any loss or damage beyond the amounts, limits, exclusions, and conditions of such insurance.

5. Disclosure of Hazards

ES will take reasonable precautions for the health and safety of ES's employees while at the Client's Site with consideration for the available information regarding existing hazards. Client will furnish to ES at the time of the Client's authorization to proceed, all information known to the Client, Client's Counsel, or Site Owner concerning physical hazards, oil, hazardous, toxic, radioactive or asbestos material in, on or near the site. If hazards are known to exist and the Client fails to advise ES of such substance or condition, and during the course of the work they are discovered, and such discovery in ES's opinion results or may result in injury or a health risk to persons, whether ES's employees or others, Client agrees to assume full responsibility and liability and shall hold ES harmless for any and all claims, demands, suits, or liabilities for personal injury including disease, medical expenses, including but not limited to, continued health monitoring, and/or

death, or property damage, and for economic loss, including consequential damages.

6. Confidentiality

ES will hold confidential all business and technical information obtained or generated in performance of services under this Agreement. ES will not disclose such information without Client's written and/or verbal consent except to the extent required for: 1) performance of services under this Agreement; 2) compliance with professional standards of conduct for the preservation of public safety, health, and welfare; 3) compliance with any court order, statute or law, or governmental directive; and/or 4) protection of ES against claims or liabilities arising from the performance of services under this Agreement. ES's obligations hereunder shall not apply to information in the public domain or lawfully obtained on a non-confidential basis from others.

7. Ownership of Documents and Processes

All documents (including drawings, specifications, estimates, field notes, and other data) and all processes (including scientific, technological, software, and other concepts, whether or not patentable), created, prepared or furnished under this Agreement by ES or ES's independent contractors and consultants pursuant to this Agreement, are instruments of service in respect of the project and shall remain the property of ES whether or not the Project is completed. ES shall retain ownership of all documents, drawings, specifications, estimates, field notes, other data, and developed technology or processes and any copyright or right to patent thereto. Client may make and retain copies thereof as is necessary; however, such documents are not intended or represented to be suitable for additions, extension, alterations, or completion of the project by others, or use in any other project. Any reuse without written verification or adaptation by ES for the specific purpose intended is at Client's sole risk without liability or legal exposure to ES or its independent contractors or consultants. Client shall indemnify, defend, and hold harmless ES and its independent contractors, and consultants from all claims, damages, losses, and expenses, including attorney's fees arising out of or resulting therefrom. Any such verification or adaptation will entitle ES to further compensation.

8. Trade Secrets and Proprietary Information

Client acknowledges that ES has developed a number of protocols, techniques, and procedures, as well as specialized equipment for performing and ensuring the quality of laboratory and field services that it provides. Further, the Client acknowledges that ES regards this technical information as being its trade secrets. Client agrees not to use or disclose, directly or indirectly, any such trade secret to any person or organization, unless expressly authorized by ES.

9. MiddFoil® Process-specific Terms, Conditions and Warranty

a). Any written or verbal information, other than published scientific studies or written ES sales literature, transferred by ES to the Client concerning the methodology used to rear and stock organisms used in the MiddFoil® process are considered

proprietary by ES, and are specifically considered to be trade secrets. In addition to the conditions set forth in Section 8, to protect these trade secrets and comply with state and federal regulations, the Client agrees not to remove, transfer, culture, or otherwise use MiddFoil® organisms supplied by ES in any other location or for any other purpose.

b). Client hereby agrees to allow ES access to the waterbody for a period ten years from the date of this contract for the purposes of continued research. Client also authorizes ES to collect limited numbers of adult MiddFoil® organisms from the waterbody for culturing purposes. In the event that ES collects organisms for this purpose, ES agrees to provide a written report detailing its activities, and furthermore agrees to restock within the same season two times the number of organisms removed.

10. References

Client agrees that ES has authority to utilize Client's name and general descriptions of the project work or service performed as references to other clients.

11. Limitation of Liability/Dispute

To the fullest extent permitted by law, the total liability of ES to Client, and anyone claiming by, through, or under Client, for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way related to ES's services, from any cause or causes whatsoever, including, but not limited to, negligence, errors, omissions, strict liability, breach of contract, or breach of warranty, shall be limited to an amount of \$50,000 or ES's fee, whichever is greater.

If Client prefers not to limit ES's liability to this sum, ES may increase this limitation upon Client's written request.

12. Dispute Resolution

All claims, disputes or controversies arising out of or in relation to the interpretation, application or enforcement of this Agreement shall be first submitted to non-binding mediation pursuant to the Rules for Commercial Mediation of the American Arbitration Association.

13. Legal Action

All legal actions by either party against the other for any cause or causes, including but not limited to breach of this Agreement, negligence, misrepresentation, breach of warranty or failure to perform in accordance with the standard of care, however denominated, shall be barred five (5) years from the day after completion of ES's services or the time that the party knew or should have known of this claim, whichever is sooner. In the event that Client institutes a suit against ES, and if such suit is not successfully prosecuted, or if it is dismissed, or if a verdict is rendered for ES, Client agrees to pay ES any and all costs of defenses, including attorney's fees, expert witnesses' fees, and court costs and any and all other expenses of defense which may be reasonably necessary, immediately following dismissal of the case or immediately upon judgment being rendered in favor of ES.

14. Precedence

These Terms and Conditions shall take precedence over any inconsistent or contradictory provisions contained in any proposal, contract, purchase order, requisition, notice to proceed, or like document.

15. Severability

If any of the Terms and Conditions are finally determined to be invalid or unenforceable in whole or part, the remaining provision shall remain in full force and effect and be binding upon the parties. The parties agree to reform these Terms and Conditions to replace any such invalid or unenforceable provision with a valid and enforceable provision that comes as close as possible to the intention of the stricken provision.

16. Survival

These conditions shall survive the completion of ES's services on this project and the termination of services for any cause.

17. Governing Law

This Agreement shall be governed and construed in accordance with the laws of the state of Ohio.

