

**Ministry of the Environment,  
Conservation and Parks**

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**Ministère de l'Environnement de la Protection de  
la nature et des Parcs**

Division de la conformité en matière d'eau potable  
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September 28, 2022

City of Port Colborne  
via Bryan Boles, Director of Corporate Services/Treasurer  
[Bryan.Boles@portcolborne.ca](mailto:Bryan.Boles@portcolborne.ca)

Vale Canada Limited  
via Gary Remington, Superintendent Environment [Gary.Remington@vale.com](mailto:Gary.Remington@vale.com)  
via Lisa Lanteigne, Environment Manager [Lisa.Lanteigne@vale.com](mailto:Lisa.Lanteigne@vale.com)

Dear Mr. Boles, Mr. Remington and Ms. Lanteigne:

**Re:** Report dated September 9, 2022 prepared by LCA Environmental Consultants responding to Violation Notice, Destruction of Fowler's Toad Habitat at Nickel Beach, City of Port Colborne

The Ministry has reviewed the above report. The report does not satisfy the requirements of the violation notice. There are no steps proposed to restore the habitat, mitigate the harm and/or provide alternative habitat for the mentioned habitat destruction at Nickel Beach (creation of the gravel parking lot, installation of the chain link fence on the western end of the beach and on-beach parking).

Nickel Beach, Port Colborne is within Lots 25 and 26 Concession 1 Humberstone Township and meets the definition of Fowler's Toad habitat within [O.Reg. 832/21](#) made under the ESA. This was also communicated to the City of Port Colborne in a letter dated September 17, 2020 from the Ministry's Species at Risk Branch which identified municipal beaches along the north shore of Lake Erie as known Fowler's Toad habitat. The [Fowler's Toad Habitat Protection Summary](#) states the habitat regulation for Fowler's Toad protects suitable habitat up to a distance of 150 meters up and down the shoreline from known occurrences of Fowler's Toad and up to 300 meters inland from the shoreline. Based on aerial imagery, the parking lot and fence were created on suitable habitat which includes open, shrub, or treed sand or pebble beaches, sand dunes and sand barrens. Furthermore, the parking lot and fence directly overlap multiple known occurrences of Fowler's Toad.

The map included in the September 25, 2017 letter from the Ministry of Natural Resources to the City of Port Colborne delineates areas where no work was to occur. There is no information in the letter to support the assumption that the hatched area also delineates the extent of the regulated Fowler's Toad Habitat.

1km grids containing Fowler's Toad location data are available online through the Natural Heritage Information Centre 'make-a-map' tool. The recovery strategy is also available online and specifically identifies a population of Fowler's Toad located at Nickel Beach. It remains the proponent's responsibility to identify and confirm the presence of species at risk and /or their habitats. This may include, but is not limited to hiring local environmental consulting companies with relevant expertise on the species.

When habitat has been harmed or destroyed, it is appropriate for the person(s) responsible to retain a qualified consultant/biologist to consider possible steps to restore the habitat, mitigate the harm and/or provide alternative habitat. If this qualified person has questions regarding the potential steps for the specific site, they may contact the Species at Risk Branch at SAROntario@Ontario.ca with a copy to me at [kelly.tonellato@ontario.ca](mailto:kelly.tonellato@ontario.ca).

By October 12, 2022 please email [kelly.tonellato@ontario.ca](mailto:kelly.tonellato@ontario.ca) the plan prepared by the qualified consultant/biologist to prevent the continued damage or destruction caused by activities in and around Nickel Beach to Fowler's Toad habitat and/or to Fowler's Toad, rehabilitate habitat damaged or destroyed by the activities, mitigate the harm and/or provide alternative habitat including implementation timing and plan to obtain applicable ESA authorizations.

If you have any questions regarding this letter please contact me by phone or at [kelly.tonellato@ontario.ca](mailto:kelly.tonellato@ontario.ca) or [Environment.Niagara@ontario.ca](mailto:Environment.Niagara@ontario.ca) .



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