



Permit Number: **AY-C-008-17**

PERMIT UNDER clause 17(2)(c) of THE ENDANGERED SPECIES ACT, 2007

Issued to: 1646322 Ontario Limited (the "Corporation").

Location: Part Lots 8, 9, 10, Concession 1 Western Division, south of County Road 20 in Kingsville, in the Town of Kingsville, Essex County, as shown in Appendix B as the Subject Lands (the "Property").

Term: This permit comes into force on the date it is issued and shall expire on **February 1, 2025**.

- 1. Authority.** This permit is issued to the Corporation under clause 17(2)(c) of the *Endangered Species Act, 2007* (the "ESA").
- 2. Application to Species.** This permit applies to Eastern Foxsnake – Carolinian population (*Pantherophis gloydi*), a species listed as Endangered on the Species at Risk in Ontario (SARO) List in Ontario Regulation 230/08.
- 3. Authorization.** This permit authorizes the Corporation for the following activities:
 - (a) to destroy up to 1.5 hectares of habitat for Eastern Foxsnake for the purpose of constructing a multi-unit residential subdivision on the Property (the "Project"); and,
 - (b) to kill, harm and harass Eastern Foxsnake despite measures implemented to avoid killing, harming and harassingas necessary to carry out the Project and fulfill the conditions of this permit.
- 4. Application of Authorization.** The authorization applies to the Corporation only as is necessary to:
 - (a) carry out the Project on the Property; and,
 - (b) fulfill the conditions of this permit.
- 5. Conditions.** The activities authorized by this permit are subject to all the conditions specified herein.
- 6. Appendices.** The following appendices form part of this permit:

Appendix A – Conditions

Appendix B – Proposed Draft Plan Revision Overlay

Appendix C – Proposed Draft Plan Revision, Proposed Habitat Creation Area
and Key Habitat Features

Appendix D – Meadow Creation Plan

Appendix E – Notification / Contact Schedule

Failure to comply with conditions in this permit may result in a contravention of the ESA.

Pursuant to clause 17(2)(c) of the ESA, I hereby issue this permit authorizing the activities described above, subject to the conditions set out herein.



Rod Phillips
Minister of Environment Conservation and Parks

Dec 10/18
Date:

APPENDIX A: CONDITIONS

Part A: Definitions

1. Definitions

1.1. In this permit, the following words shall have the following meanings:

"Construction Activities" means vegetation removal, excavation, grading, road improvements, and construction work related to the Project;

"Eastern Foxsnake" means Eastern Foxsnake (Carolinian population) (*Pantherophis gloydi*) listed as Endangered on the SARO List;

"Effective Date" means the date this permit comes into effect;

"Habitat Creation Area" means the area of the Property shown in Appendix C as the Total Proposed Habitat Creation Area, where meadow habitat and Key Habitat Features will be created;

"Incidental Encounter" means any encounter with an Eastern Foxsnake on the Property that does not occur as in the course of monitoring;

"Key Habitat Features" means brush piles, rock piles, nesting cribs, and hibernacula suitable for Eastern Foxsnake;

"Meadow Creation Plan" means the document in Appendix D that outlines the process to be followed for creating habitat suitable for Eastern Foxsnake in the Habitat Creation Area;

"The Ministry" means the office of the Ontario government indicated on the "Notification/Contact Schedule";

"Notification / Contact Schedule" means the document in Appendix E that outlines the protocol to be followed to communicate with the ministry, which may be amended from time to time;

"permit" means this permit #AY-C-008-17;

"Qualified Biologist" means a professional with training and professional expertise in the biology, handling, and monitoring of Eastern Foxsnake;

"Species" means Eastern Foxsnake; and,

"Wildlife Custodian" means a person who holds a valid wildlife custodian authorization under the *Fish and Wildlife Conservation Act, 1997*.

Part B: Measures to Minimize Adverse Effects and Achieve Overall Benefit

2. Qualified Biologists

2.1. The Corporation shall retain a Qualified Biologist(s) to carry out the following activities:

(a) create ESA education and awareness training materials, and provide education and awareness training in accordance with condition 4.1;

(b) create an ESA educational pamphlet in accordance with condition 4.4;

- (c) guide and oversee the design, installation, and repair of the temporary snake barrier fencing in accordance with condition 5;
- (d) guide and oversee vegetation removal activities in accordance with condition 6;
- (e) respond to Incidental Encounters in accordance with condition 7;
- (f) conduct the Meadow Creation Plan in accordance with condition 8.1;
- (g) guide and oversee the creation of Key Habitat Features, including determining the locations of the Key Habitat Features, in accordance with conditions 8.4 and 8.7;
- (h) conduct monitoring and reporting in accordance with condition 10; and,
- (i) assist in determining the need for corrective actions and adaptive management in accordance with condition 11.

3. General

- 3.1. A copy of this permit shall be maintained on the Property at all times when conducting activities under the authority of this permit.
- 3.2. A copy of this permit shall be carried by any person who transports an Eastern Foxsnake under the authority of this permit for the purposes of providing custodial or veterinary care.
- 3.3. The Corporation shall not intentionally kill or harm a member of the Species, and shall act with due diligence to avoid killing or harming the Species and to minimize impacts to members of the Species, while carrying out the Project and fulfilling the conditions of this permit.
- 3.4. All construction machinery and equipment that is left idle for one (1) hour or longer, or is parked overnight, on the Property between April 1st and November 30th of any year the permit is in force shall be visually surveyed for the presence of Eastern Foxsnake before (re)ignition. This visual examination shall include all lower components of the machinery, including operational extensions and running gear.
- 3.5. In order to avoid attracting members of the Species, the Property shall be kept clean and free of debris while conducting Construction Activities and activities in the Habitat Creation Area between April 1st and November 30th of any year the permit is in force. Materials such as excavated soils shall only be stored in areas that have previously been mowed to a height of 7 centimetres or shorter. Excavated soil shall not be stored on the Property for extended periods of time. Any material stockpiles created on the property shall be visually examined for Eastern Foxsnake prior to disturbance between April 1st and November 30th of any year the permit is in force.
- 3.6. The Corporation shall contact the ministry immediately if it is unable to satisfy any condition of this permit.
- 3.7. The Corporation shall notify the Ministry immediately where the Corporation
 - (a) is adjudged bankrupt, makes a general assignment for the benefit of its creditors, or a receiver is appointed on account of the Corporation insolvency,
 - (b) takes a step toward dissolution, or is amalgamated, or

- (c) undergoes a change in control which adversely affects the Corporation ability to satisfy some or all of the conditions of this permit.
- 3.8. Contact with, or notifications to the Ministry shall be provided in accordance with the Notification / Contact Schedule in Appendix E.

4. ESA Awareness: Personnel Training and Landowner Education

- 4.1. The Corporation shall ensure that any personnel entering the Property to perform Construction Activities or activities in the Habitat Creation Area are provided with Species information and are given education and awareness training by a Qualified Biologist about Eastern Foxsnake in a manner that addresses:
 - (a) the existence of Eastern Foxsnake habitat on the Property, the permit, and the requirements of the permit;
 - (b) protection afforded to Eastern Foxsnake and its habitat under the ESA;
 - (c) identification of Eastern Foxsnake and its habitat;
 - (d) appropriate action to take if an Incidental Encounter with an Eastern Foxsnake occurs, including how to record and report Incidental Encounters to the Ministry; and,
 - (e) methods to limit site disturbance when undertaking work on the Property, in order to prevent unnecessary damage or destruction of Eastern Foxsnake habitat as well as actions that might kill, harm or harass Eastern Foxsnake.
- 4.2. Personnel who must be trained in accordance with condition 4.1 shall be given the training prior to the first time they begin Construction Activities or activities in the Habitat Creation Area on the Property.
- 4.3. The Corporation shall keep a record of training conducted under condition 4.1 and submit it to the Ministry as part of the monitoring and reporting described in condition 10. The record shall include:
 - (a) the date(s) of training;
 - (b) the names of the Qualified Biologist(s) who gave the training;
 - (c) the names of the personnel trained; and,
 - (d) copies of the training material.
- 4.4. The Corporation shall retain a Qualified Biologist to create an educational pamphlet related to Eastern Foxsnake that addresses the following topics at a minimum:
 - (a) the existence of Eastern Foxsnake habitat on the Property and the surrounding area;
 - (b) protection afforded to Eastern Foxsnake and its habitat under the ESA;
 - (c) identification of Eastern Foxsnake and its habitat;
 - (d) appropriate action to take if an Incidental Encounter with an Eastern Foxsnake occurs, including how to record and report Incidental Encounters to the Ministry; and.

- (e) best management practices for living in naturalized areas where species at risk are known to occur (e.g. impacts of free-ranging domestic animals, depositing of yard waste, encouragement of planting native species).
- 4.5. The educational pamphlet shall be provided to the Ministry a minimum of thirty (30) days prior to the anticipated date of printing, and shall be endorsed by the Ministry prior to printing and distribution.
- 4.6. The educational pamphlets shall be distributed (i.e. in a package for new home owners) to all purchasers of residences within the Property, and distribution shall occur within one (1) month of the closing date of sale for each new purchaser.
- 4.7. A summary of the pamphlet creation and distribution completed shall be included in the monitoring and reporting to the Ministry in accordance with condition 10.

5. Snake Barrier Fencing

- 5.1. Prior to any Construction Activities, the Corporation shall install temporary snake barrier fencing around the perimeter of the Property to prevent the movement of Eastern Foxsnake into the Property.
- 5.2. The temporary snake barrier fencing shall be installed in accordance with specifications outlined in *OMNF 2013 "Best Practices Technical Note: Reptile and Amphibian Exclusion Fencing Version 1.1"* (available online at: http://files.ontario.ca/environment-and-energy/species-at-risk/mnr_sar_tx_rptl_amp_fnc_en.pdf), or as otherwise endorsed by the Ministry and shall be:
 - (a) installed between November 1st and March 15th; and
 - (b) secure so that Eastern Foxsnake may not pass under the fencing or between any openings.
- 5.3. The temporary snake barrier fencing shall be maintained and inspected daily between March 15th and November 1st of each year until Construction Activities have been completed.
- 5.4. Any damage to the fencing (e.g. sagging or rips) shall be repaired immediately, and a Qualified Biologist shall inspect the repairs within twenty-four (24) hours.
- 5.5. The Corporation shall keep a record of the temporary snake barrier fencing activities to be reported to the Ministry in accordance with condition 10. The record shall include the following information at a minimum:
 - (a) mapping of the location of the temporary snake barrier fencing;
 - (b) summary of the fencing materials, design, and dimensions used;
 - (c) summary of monitoring of the fencing, including digital photographs; and,
 - (d) summary of all circumstances when damage to the fencing was observed, and actions taken.
- 5.6. Following the completion of the Construction Activities and activities in the Habitat Creation Area, the Corporation shall install permanent barrier fencing in locations on the Property as shown in Appendix C. Permanent barrier fencing shall be installed in accordance with specifications outlined in *OMNF 2013 "Best Practices Technical Note: Reptile and Amphibian Exclusion Fencing Version 1.1"*

6. Vegetation Removal

- 6.1. Vegetation removal shall begin after the temporary snake barrier fencing is installed, and in accordance with the following:
- (a) between November 1st and March 14th, or as endorsed by the Ministry;
 - (b) understory vegetation shall be trimmed with handheld trimming equipment and removed prior to any additional vegetation removal with heavy machinery;
 - (c) fallen logs, brush piles, and other woody debris shall be removed under the supervision of a Qualified Biologist; and,
 - (d) woody material cleared from the Property shall be salvaged for creation of Key Habitat Features described in condition 8.4.

7. Incidental Encounters

- 7.1. In the case of an Incidental Encounter of Eastern Foxsnake on the Property, the Corporation shall:
- (a) cease all activities within 30 metres of the individual and notify a Qualified Biologist;
 - (b) monitor the location of the individual until it has left on its own accord from any area where Construction Activities are taking place;
 - (c) receive confirmation from a Qualified Biologist as to when the ceased activities may begin again; and,
 - (d) contact the Ministry immediately if the individual has not fled the area within 24 hours of the observation, otherwise contact the Ministry the next business day or within 48 hours to report the observation.
- 7.2. If an Eastern Foxsnake is found injured on the Property, the Corporation shall:
- (a) ensure that the individual is collected by a Qualified Biologist and protected from further harm;
 - (b) obtain veterinary advice and/or care for the individual from a member of the College of Veterinarians of Ontario with appropriate reptile experience;
 - (c) after obtaining appropriate veterinary care or advice in accordance with condition 7.2(c), the Corporation shall transfer the Eastern Foxsnake to an authorized Wildlife Custodian experienced in handling snake species; and,
 - (d) report the incident to the Ministry the next business day, or within 48 hours, providing required information in accordance with condition 7.4 as well as the circumstances under which the individual was found injured.
- 7.3. Despite the measures put in place to avoid killing Eastern Foxsnake, should an Eastern Foxsnake be accidentally killed or found dead on the Property, the Corporation shall:
- (a) collect the individual and store it in a safe and refrigerated place;
 - (b) report the incident to the Ministry the next business day or within 48 hours, providing required information in accordance with condition 7.4 as well as the circumstances under which the individual was killed or found dead; and,

- (c) comply with any instructions provided by the Ministry regarding the handling and transfer of the deceased individual.
- 7.4. The Corporation shall keep a record of all Incidental Encounters under conditions 7.1 to 7.3 to be reported to the Ministry in accordance with condition 10. The record shall include the following information at a minimum:
 - (a) name and contact information of observer;
 - (b) date and time of observation;
 - (c) location of the observation, including UTM coordinates;
 - (d) digital photograph of the Species, if possible; and,
 - (e) summary of action taken.

8. Habitat Creation and Key Habitat Features

- 8.1. The Corporation shall create on the Property a minimum of 3.3 hectares of meadow habitat suitable for Eastern Foxsnake and in accordance with the following:
 - (a) the Meadow Creation Plan included as Appendix D shall be implemented within the Habitat Creation Area; and,
 - (b) the Meadow Creation Plan shall be conducted by a Qualified Biologist.
- 8.2. Despite condition 8.1, the Corporation may alter the Meadow Creation Plan to a method that is approved by a Qualified Biologist and is determined to result in equal or greater benefit to Eastern Foxsnake.
- 8.3. Activities within the Habitat Creation Area shall be monitored and documented using digital photographs and GPS for five (5) consecutive years between 2020 and 2024, or as endorsed by the Ministry. The summary of findings shall be included in the Annual Reports in accordance with condition 10.3.
- 8.4. The Corporation shall create Key Habitat Features within the Habitat Creation Area under the direction of a Qualified Biologist and in accordance with the following:
 - (a) creation and placement of a minimum of twelve (12) brush piles with the minimum dimensions of 3 metres in diameter and 1 metre in height, or as endorsed by a Qualified Biologist;
 - (b) creation and placement of a minimum of six (6) rock piles with the minimum dimensions of 1.5 metres in diameter and 0.5 metres in height, constructed of large round or flat stones (minimum of 0.3 metres in diameter), or as endorsed by a Qualified Biologist;
 - (c) creation and placement of a minimum of six (6) nesting cribs with the minimum dimensions of 1.5 metres in width and 1.5 metres in height, constructed using a mix of mulch, woodchips, and organic material, or as endorsed by a Qualified Biologist;
 - (d) construction of two (2) hibernacula, using the design published from the Toronto Zoo or as endorsed by a Qualified Biologist and,
 - (e) the locations of the Key Habitat Features within the Habitat Creation Area shall be determined by a Qualified Biologist based on suitability for use by Eastern Foxsnake.

- 8.5. The creation and placement of the brush piles, rock piles, and nesting cribs shall be completed by March 31, 2020, or as endorsed by a Qualified Biologist.
- 8.6. The construction of the hibernacula shall be completed by July 31, 2020, or as endorsed by a Qualified Biologist.
- 8.7. The Key Habitat Features shall be monitored and documented using digital photographs and GPS for five (5) consecutive years between 2020 and 2024, or as endorsed by the Ministry. The summary of findings including timing for the creation of the features shall be included in the Annual Reports in accordance with condition 10.3.

9. Long-term Protection

- 9.1. For the purpose of assisting with the long-term protection and securement of habitat for Eastern Foxsnake on the Property, the Corporation shall complete the following:
 - (a) grant a conservation easement to a conservation body or organization under the Conservation Land Act, R.S.O. 1990, c. C. 28, with respect to the Habitat Creation Area, and the easement shall be registered against the property on which the Habitat Creation Area is located; or,
 - (b) convey the Habitat Creation Area to the Town of Kingsville, or a conservation organization, on terms that provide for the protection of the Habitat Creation Area; or,
- 9.2. The Corporation shall comply with condition 9.1 by December 31, 2020 and confirmation of compliance shall be submitted to the Ministry by February 1, 2021.

10. Monitoring and Reporting

- 10.1. The Corporation shall work with a Qualified Biologist to submit a Construction Report to the Ministry by December 31st, 2019, summarizing the following information, as applicable:
 - (a) training conducted in accordance with condition 4.3;
 - (b) educational pamphlet creation and distribution conducted in accordance with condition 4.7;
 - (c) temporary barrier fencing conducted in accordance with condition 5.5;
 - (d) vegetation removal timing and methodology conducted in accordance with condition 6.1; and,
- 10.2. Incidental Encounters responded to in accordance with condition 7.4. The Corporation shall retain a Qualified Biologist to complete five (5) consecutive years of monitoring of the Habitat Creation Area and Key Habitat Features.
 - (a) Monitoring shall begin once Key Habitat Features have been created and placed (i.e. 2020 and 2024 inclusive);
 - (b) Monitoring shall involve assessing the implementation of the Meadow Creation Plan, establishment and health of the created meadow habitat, as well as the creation and use of the Key Habitat Features;

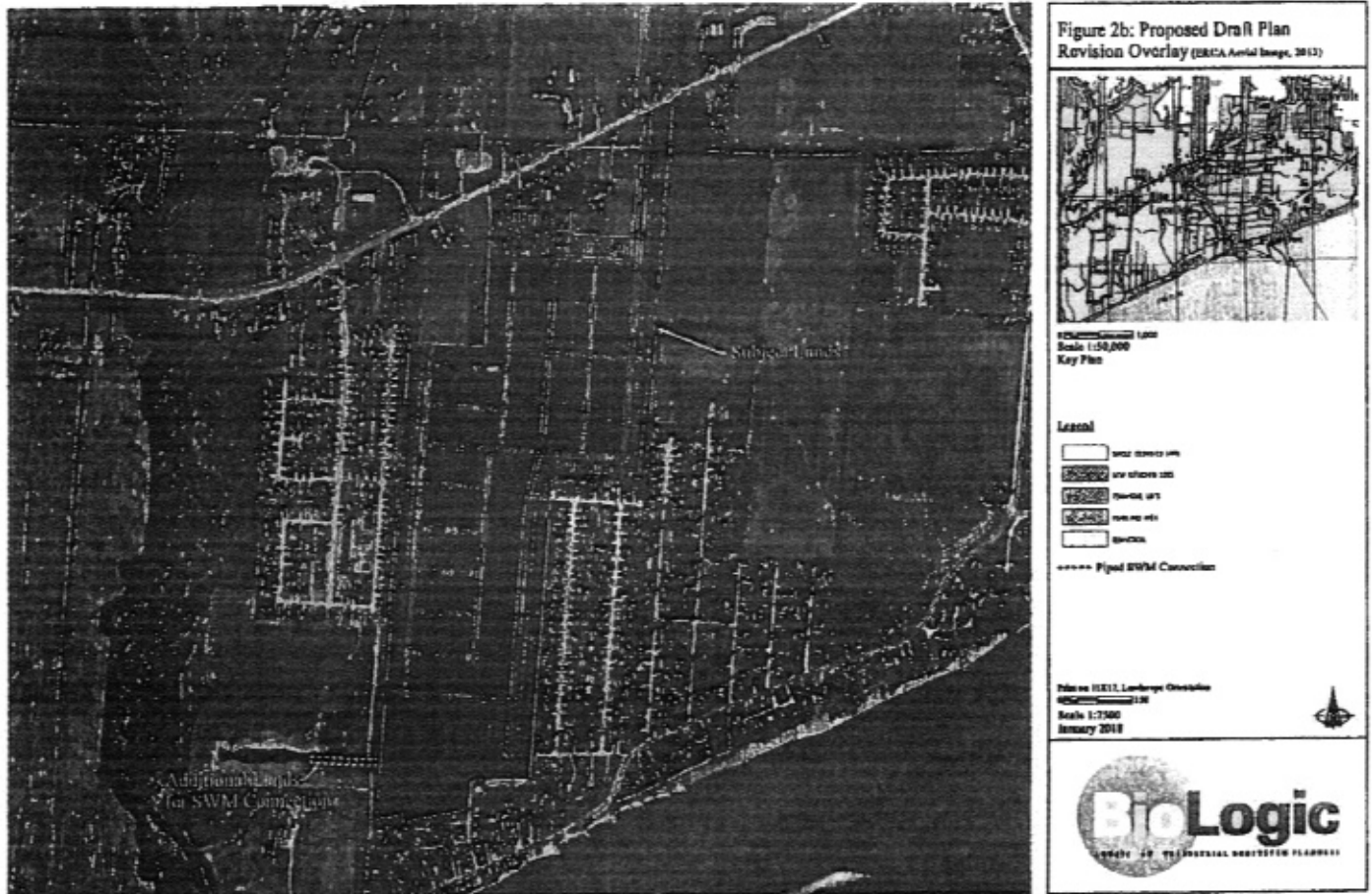
- (c) Digital photographs of the Habitat Creation Area and each of the Key Habitat Features shall be documented annually to be included in the Annual Reports in accordance with condition 10.3.
- 10.3. The Corporation shall work with a Qualified Biologist to submit an Annual Report to the Ministry by December 31st of each year between 2020 and 2024 inclusive, summarizing the following information at a minimum (as applicable):
- (a) training conducted in accordance with condition 4.3;
 - (b) educational pamphlet creation and distribution conducted in accordance with condition 4.7;
 - (c) temporary barrier fencing conducted in accordance with condition 5.5;
 - (d) permanent barrier fencing conducted in accordance with condition 5.6;
 - (e) Incidental Encounters responded to in accordance with condition 7.4;
 - (f) habitat creation and the Meadow Creation Plan conducted in accordance with condition 8.3;
 - (g) Key Habitat Features conducted in accordance with condition 8.7; and,
 - (h) corrective actions and adaptive management in accordance with condition 11.

- 11.1. In the event any of the above conditions are determined to be ineffective toward the protection of Eastern Foxsnake habitat, the Corporation shall contact a Qualified Biologist immediately for additional guidance.
- 11.2. The Corporation shall complete additional or alternative activities as may be required to provide more effective protection and/or beneficial actions for Eastern Foxsnake habitat in consultation with a Qualified Biologist.

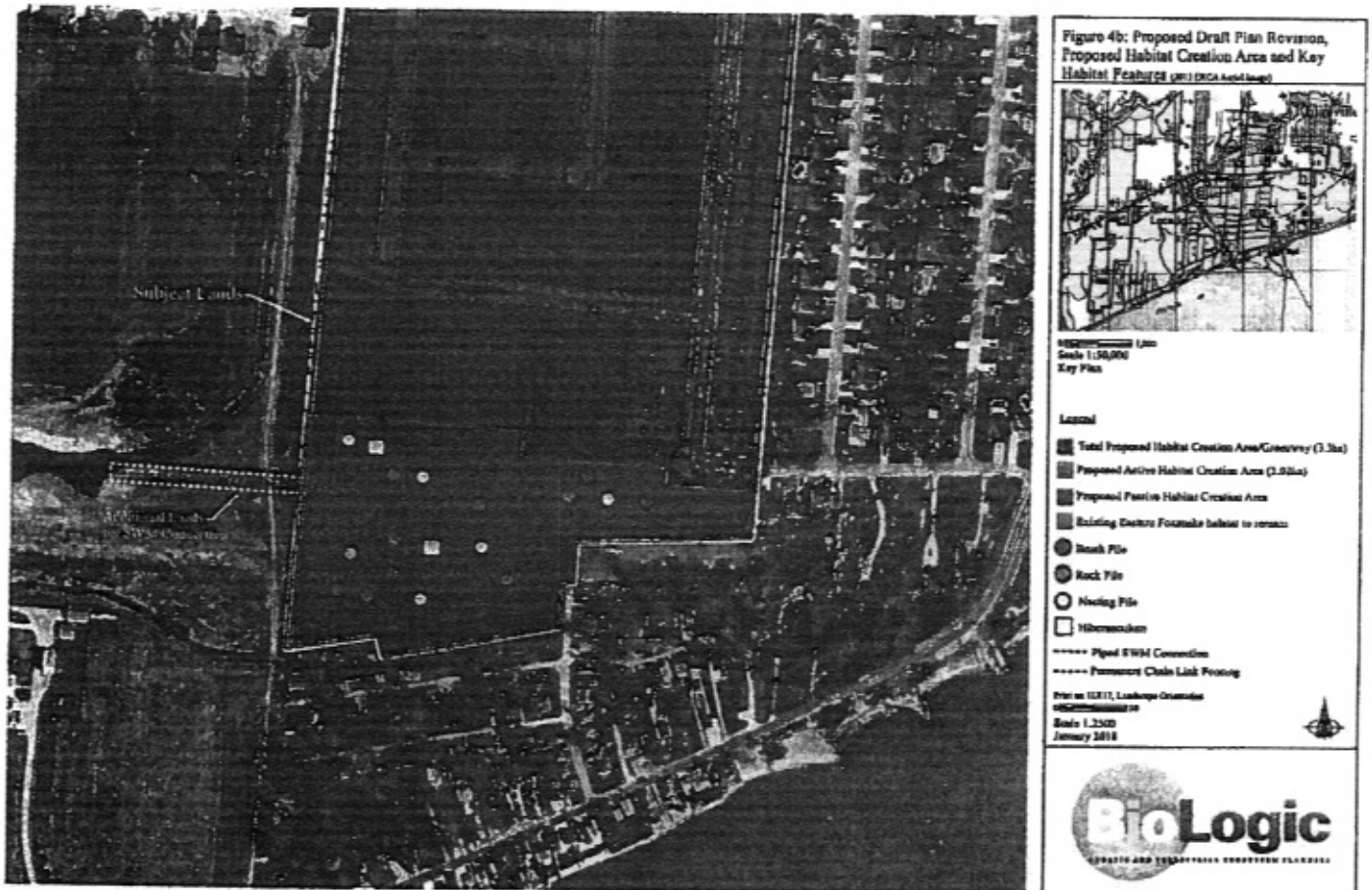
- 12.1. On reasonable notice, the Corporation shall undertake reasonable steps to obtain permission for the Ministry staff to enter the Property for the purpose of observing the Construction Activities, snake barrier fencing, Habitat Creation Area, and Key Habitat Features.



APPENDIX B – PROPOSED DRAFT PLAN REVISION OVERLAY



APPENDIX C – PROPOSED DRAFT PLAN REVISION, PROPOSED HABITAT CREATION AREA AND KEY HABITAT FEATURES



APPENDIX D: MEADOW CREATION PLAN

Meadow Creation Plan

1. The Corporation (hereafter in Appendix D referred to as the "proponent") shall delineate the Habitat Creation Area on the ground a minimum of two weeks prior to the commencement of any meadow creation activity using high visibility marking methods, which may include flagging tape, marking paint, or other methods as endorsed by a Qualified Biologist. Markers shall be in place for the duration of any herbicide application, site preparation, seeding, mowing, prescribed burning, or Key Habitat Feature creation.

2. The proponent shall conduct soil testing within the Habitat Creation Area to determine the soil texture, including percent silt, sand, clay, or loam to assess which plant species are most suited to the site conditions. Generally, the soils within the Habitat Creation Area are expected to be Calstor Clay (ERCA Online Mapping, 2015).

3. The proponent shall undertake site preparation within the Habitat Creation Area under the following conditions and measures:

(a) Competing vegetation shall be removed by applying glyphosate [if required].

(b) All persons applying herbicide will be licensed under the Pesticides Act, 2009.

(c) The proponent shall comply with section 33 of O. Reg. 63/09 under the Pesticides Act, 2009. Upon request from the Ministry, the proponent shall produce proof of its receipt of the opinion as required under O. Reg. 63/09.

(d) Glyphosate application shall be repeated a minimum of two (2) times, with the final application at least four (4) months after the first to ensure that competing vegetation is treated adequately.

4. When site preparation has been completed, the proponent shall seed the Habitat Creation Area according to the following conditions:

(a) Seed shall be of genetic stock that is local to Essex County.

(b) Seed mix shall consist of a mixture of 60 to 70 percent grass by weight, and 30 to 40 percent forbs by weight.

(c) Seed shall be "ready to germinate" (eg. cold-moist stratified if required).

(d) Seed mix shall contain a minimum of 20 species. Species shall be suited to the soil type identified according to condition previously. Preference shall be given to species identified as core prairie species. The assessment of suitability and core prairie indicator status shall be determined by a Qualified Biologist. Seed shall be applied by no-till drilling, hand

broadcasting, or machine broadcasting. Seed shall be applied at a rate prescribed in Delaney et al. for each technique that is used. Seed shall be applied between March 1 and May 15, or as otherwise endorsed by a Qualified Biologist. No-till drilling is preferred.

(e) A thin cover of weed-free mulch will be applied immediately following seeding, either by hydroseeding or other method. Mulch should be applied in a manner so that seed germination and growth is not suppressed. Mulch will serve to retain moisture, reduce the potential for soil and seed removal by wind, and to create a site surface that inhibits the germination of typical weed seeds.

APPENDIX D CONTINUED: MEADOW CREATION PLAN

5. The proponent shall retain a Qualified Ecological Professional to monitor the success of the seeding according to guidelines provided by the Ministry in this permit. In each of the first three (3) growing seasons, perennial invasive species shall be controlled by hand pulling, or applying glyphosate to individual stems of invasive species. If herbicide is used, application shall be conducted in accordance with the Pesticides Act and applied to weeds prior to production of seedheads as possible. Annual invasive and non-target native species (eg. Canada goldenrod) shall be controlled by removing seedheads prior to seed ripening and dispersal if the Qualified Ecological Professional deems that their persistence in the landscape threatens the continued success of the habitat.

6. Following successful meadow establishment, the proponent shall maintain open habitat conditions by halting succession of woody vegetation, and preventing spread of invasive species in accordance with the following conditions:

- (a) The proponent shall retain a Qualified Ecological Professional to determine whether exotic invasive species are present, and if those species represent a threat to the continued persistence of the meadow habitat. If the species present are deemed to be a threat, they shall be controlled via herbicide or manual removal;
- (b) The proponent shall halt succession of woody vegetation through prescribed burning, mowing, or as endorsed by a Qualified Biologist;
- (c) If a prescribed burn will be used, it shall be conducted in a manner endorsed by the Ministry prescribed in this permit;
- (d) Mowing shall be conducted only after November 1 and before April 1 of any year;
- (e) Plant material shall be removed following mowing;
- (f) The proponent may act to halt or regress successional change by any other method that is endorsed by the Ministry if it results in equal or greater benefit to Eastern Foxsnake.

7. The proponent shall report on the progress of habitat management as part of an annual report for the duration of this permit.

Email:

Primary Contact:
Management Biologist
ESA.Aylmer@ontario.ca

Secondary Contact:
District Planner
MNRF.Ayl.Planners@ontario.ca

All phoned or faxed notification / reporting / inquiries relating to this permit should be directed to:

Phone #: 519-773-9241
FAX #: 519-773-9014

All mailed notification / reporting / inquiries relating to this permit should be directed to:

The Ministry of Natural Resources and Forestry
Aylmer District
615 John Street North
Aylmer, ON N5H 2S8

1. The preferred method of contact with the Ministry is by email, and all communications should reference the permit #: AY-C-008-17.
2. This Schedule may be updated or replaced from time to time by the Ministry. Any updates or replacements shall be attached to and form part of the permit.