

LCA Environmental Consultants

December 13, 2022

Bryan Boles CPA, CA, MBA, Director of Corporate Services/Treasurer
City of Port Colborne – Vale Health & Wellness Centre
550 Elizabeth Street
Port Colborne ON L3K 2C3

Dear Mr. Boles

**Re: Violation Notice 1-1VTUJB; Response to MECP Correspondence
Nickel Beach, Port Colborne**

Further to the correspondence provided on September 9, 2022 and October 20, 2022 on behalf of the City of Port Colborne and following the discussions with MECP, we herein provide the requested information detailed in an email dated November 7, 2022 from Kelly Tonellato (MECP) specifying the following information be provided.

As discussed and agreed upon, the City of Port Colborne will submit for ministry review and comment the following;

1) By December 15, 2022, the City of Port Colborne will submit to Kelly Tonellato via email at Kelly.Tonellato@ontario.ca, a response to the violation notice in regards to habitat destruction from the activity of on-beach parking at Nickel Beach,

Response:

The City of Port Colborne met with City Council on December 12, 2022 and having been communicating with Vale Canada Inc. with regards to use of an existing parking area that could accommodate a portion of the vehicles based on the historical use and public demand. Additional lot locations are also being considered but given the extraneous considerations such as public safety and transportation, acquisition of additional lands for parking will be a multi-year endeavor.

2) By December 15, 2022, the City of Port Colborne will submit to Kelly.Tonellato@ontario.ca, a brief plan including timing, methods and mitigation measures (if applicable), to complete restoration of Fowler's Toad Habitat that existed in the location of the gravel parking lot prior to the creation of the gravel parking lot,

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Response: Restoration of the Gravel Area

As previously discussed at meeting of November 3, 2022, MECP requires that the gravel area created without a permit be restored to preconstruction condition to address the destruction to Fowler's Toad habitat. As the existing topsoil from the area was kept onsite and pushed to create a berm along the west end of the gravel area, it will be relatively easy to complete basic restoration of this area. The restoration should include the following steps:

- i) Scrape to remove the gravel and stockpile offsite (outside of the entrance gates or at a City yard) for future use as needed;
- ii) Spread the bermed materials (originally from that location) back across the site to emulate the pre-construction condition;
- iii) A rope fence along the entrance road at the western limit will protect so that no one disturbs the area or inadvertently parks there in the future.

Equipment needed will include an excavator and one dump truck to remove the gravel and a small dozer to spread the native topsoil across the area.

There are opportunities to further enhance the area through plantings to create shade once it can be determined if the existing wind patterns naturally deposit additional sand or fine particles across this area. It is not recommended that any sand from the beach be added to this area as the beach area is also Fowler's Toad habitat and it is not suitable to bring in any non-native sand to this area. Visual monitoring of the substrate changes in this area in the coming year will aid in determining whether the planting of beach grasses and other native species is suitable to enhance the habitat.

The timing of these remedial works is recommended through the winter months between January 1, 2023 and March 15, 2023 to ensure that the works are completed prior to any Fowler Toad movement in the spring. As the area is currently compacted and not suitable for Fowler Toad hibernation, there are no concerns with completion of the works through the winter months. The berm, as well, is not suitable for hibernation as there is not suitable depth (below frost line) for hibernation of the toad. The spreading of the native topsoil will also disperse the seeds and roots of the vegetation that existed in the area pre-construction which the vegetation is dormant. Any non-native organic debris should be removed from the area at the time of the works to minimize the rooting and growth of non-native species in this area.

The restoration of this area provides an opportunity for the placement of suitable information signage along the roped off area to better educate the pedestrians that will be walking past this area.

An Information Gathering Form (IGF) was submitted to MECP on November 22, 2022 to create an amenity area in the same general location as the proposed restoration area; however, the City is now considering other potential locations for the proposed amenities such that the submitted IGF is now void and can be disregarded.

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Figure One provides the georeferenced locations of the gravel area to be restored and the location of fencing around the western end of the beach along the western limit of the beach area. It was noted during the field site visit in November that there is a very large fill pile on the western side of the fencing within the treed area s indicated in the figure below. Site photographic records are presented in Appendix A to further document the existing site conditions around the gravel area and across the access road to the east.

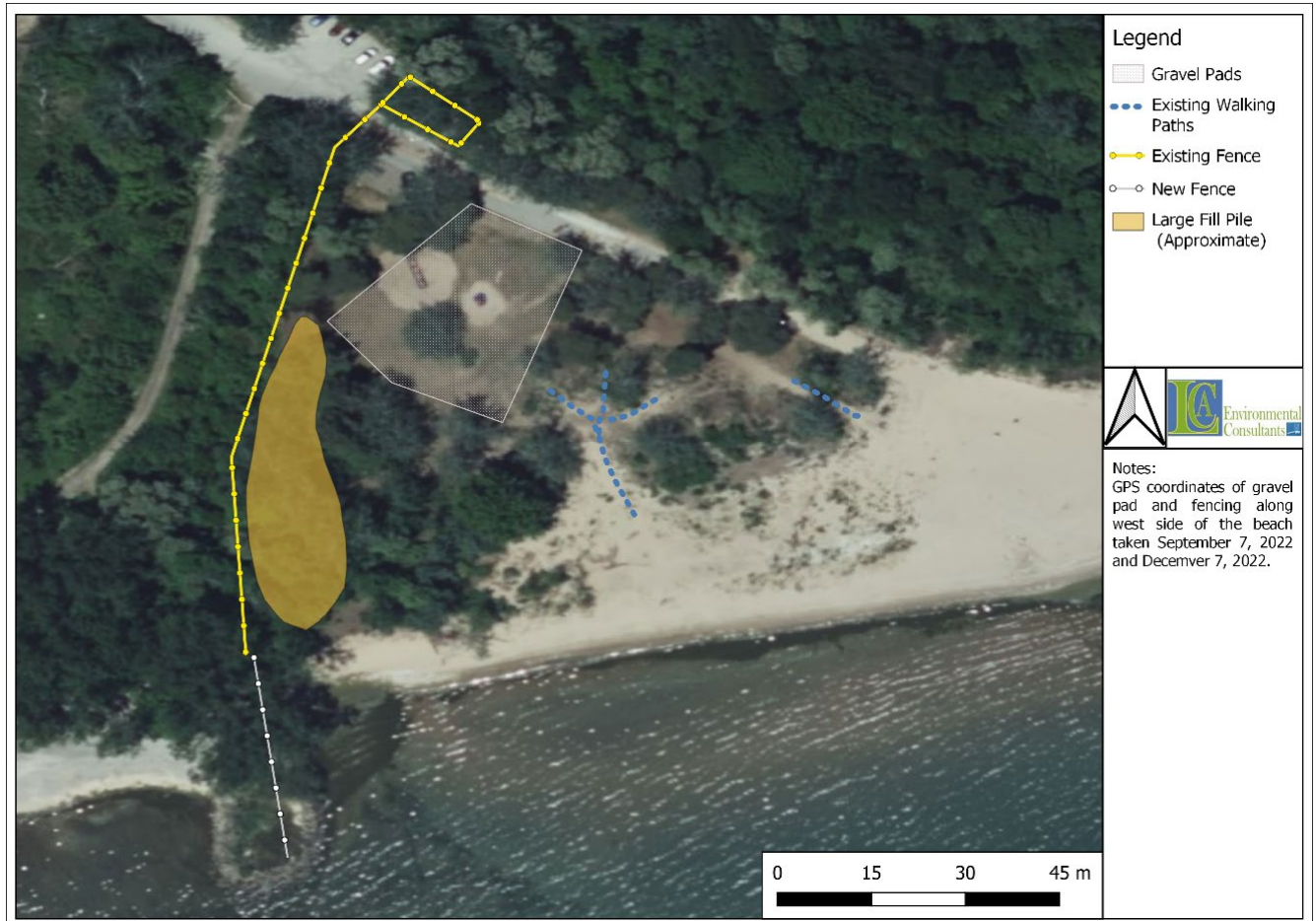


Figure One: Georeferenced locations of the gravel area and existing site fencing

3) By December 15, 2022, the City of Port Colborne will submit to Kelly.Tonellato@ontario.ca additional details of the western fence (e.g. map of location, reason for the fence, consideration of alternatives (i.e., location and style of fencing)).

Response: Replacement Fence Details

As previously documented in correspondence dated September 9, 2022 and October 20, 2022, the City confirmed that the length of fence at the western end of the beach atop the earthen berm replaced an existing fence that had been in place to delineate the beach lands from the adjacent

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private lands and uses as per the current lease agreement between Vale Canada Inc. and the City of Port Colborne. The earthen berm and rocks at the base indicate that the historical placement of these materials was for separation from the adjacent industrial uses. The fence serves both to delineate the property limits, as well as, providing a safety measure for beach patrons and to limit trespassers from entering the beach after hours.

LCA Environmental assessed and mapped the fence as indicated in Figure One. The fence in question is located at the extreme west end of the active beach area and the limit of the beach in this area is defined by large rocks and boulders at the base of an earthen berm that has existed for decades based on aerial imagery. The berm is approximately three to four feet above beach grade and provides the structural stability to support the fence posts. This location also delineates the limits of the City leased lands and serves to restrict the public using the beach from entering the private property further west.

The replacement fence indicated on Figure One is constructed of 1.8 m chain link that meets and exceeds the standard safety requirements for ensure public safety and provides a visual deterrent for those using the beach. There are no alternate fencing types that provide equivalent protective measures and visibility. There are existing gaps under replacement fence such that there is no impediment to the movement of small wildlife. Representative photographic records are provided in Appendix A of this report and were also included in the correspondence dated September 9, 2022 and October 20, 2022.

Field surveys confirmed that there are other areas along the property limits where the older fence (as shown in Figure One) has been compromised by fallen trees and, in one instance, has been cut but this area is highly wooded and the fence opening is somewhat concealed. Photo records are presented in Appendix A.

4) As soon as possible, the City of Port Colborne will submit to Kelly.Tonellato@ontario the draft staff training manual,

Response:

The operational manual and staff training manual are underway and will be circulated to MECP for review once the draft documents are complete.

5) As soon as possible, the City of Port Colborne will submit to Kelly.Tonellato@ontario and SAROntario@ontario.ca a completed [Information Gathering Form](#) for proposed public parking lot(s),

Response:

The IGF for alternate off-beach public parking areas will be submitted once the areas have been confirmed with the City and Vale Canada Inc.

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6) As soon as possible, the City of Port Colborne will submit to Kelly.Tonellato@ontario and SAROntario@ontario.ca a completed [Information Gathering Form](#) for on-beach public parking,

Response:

The IGF for on-beach parking will be submitted once the alternate options have been discussed, evaluated and approved by all interested parties.

Additional Considerations

As indicated in the correspondence dated October 20, 2022, the City has indicated a desire to enhance the dune area south of the proposed restoration area (gravel lot) by extending the rope barrier fencing around the active dunes on the western end of beach to deter patrons from entering the dunes in this location as was evident in 2022. This provides another opportunity for education and signage as well as preserving and enhancing the integrity of this dune area.

Relocating the amenities and controlling the foot traffic of patrons, using appropriate rope barriers, beach mats and signage will greatly assist in keeping the public away from the more sensitive areas.

Should you have any questions regarding the information provided in this report, please contact our office through email or I can be reached at 905-687-4400.

Sincerely,



Lisa Price, M.Sc.
Director

APPENDIX A
Site Photographic Records



Photograph 1: Large fill pile taken from south side of the pile from inside new fencing.



Photograph 2: Photo of fill pile adjacent to existing fencing. Fence seen in centre of photo. Image capture from west of the pile.



Photograph 3: Rocks and berm at the foundation of the replaced western fence.



Photo 4: Extent of earthen berm that delineates the western limit of the leased beach area.



Photograph 5: Gravel area west of entrance access road to be restored with the native bermed material at the western lot perimeter.



Photograph 6: Existing conditions along the east side of existing access road.