



FEDERAL FISH AND WILDLIFE PERMIT

1. PERMITTEE

LONG POINT HOMEOWNERS ASSOCIATION, LLC
70 WEST OLENTANGY STREET
POWELL, OH 43065
U.S.A.

2. AUTHORITY-STATUTES
16 USC 1533(d)

REGULATIONS (Attached)
50 CFR 17.32

50 CFR 13

3. NUMBER
TE072436-0

4. RENEWABLE
 YES
 NO

5. MAY COPY
 YES
 NO

6. EFFECTIVE
06/04/2003

7. EXPIRES
12/31/2018

8. NAME AND TITLE OF PRINCIPAL OFFICER (If #1 is a business)
KEVIN KNIGHT
MANAGING PARTNER

9. TYPE OF PERMIT
THREATENED SPECIES

10. LOCATION WHERE AUTHORIZED ACTIVITY MAY BE CONDUCTED

The Long Point LLC property encompasses approximately 15 acres on Long Point, Kelleys Island, Erie County, Ohio.

11. CONDITIONS AND AUTHORIZATIONS:

- A. GENERAL CONDITIONS SET OUT IN SUBPART D OF 50 CFR 13, AND SPECIFIC CONDITIONS CONTAINED IN FEDERAL REGULATIONS CITED IN BLOCK #2 ABOVE, ARE HEREBY MADE A PART OF THIS PERMIT. ALL ACTIVITIES AUTHORIZED HEREIN MUST BE CARRIED OUT IN ACCORD WITH AND FOR THE PURPOSES DESCRIBED IN THE APPLICATION SUBMITTED. CONTINUED VALIDITY, OR RENEWAL, OF THIS PERMIT IS SUBJECT TO COMPLETE AND TIMELY COMPLIANCE WITH ALL APPLICABLE CONDITIONS, INCLUDING THE FILING OF ALL REQUIRED INFORMATION AND REPORTS.
- B. THE VALIDITY OF THIS PERMIT IS ALSO CONDITIONED UPON STRICT OBSERVANCE OF ALL APPLICABLE FOREIGN, STATE, LOCAL OR OTHER FEDERAL LAW.
- C. VALID FOR USE BY PERMITTEE NAMED ABOVE.
- D. ACCEPTANCE OF THIS PERMIT SERVES AS EVIDENCE THE PERMITTEE AND ITS AUTHORIZED AGENTS UNDERSTAND AND AGREE TO ABIDE BY THE TERMS OF THIS PERMIT AND ALL SECTIONS OF TITLE 50 CFR, PARTS 13 AND 17, PERTINENT TO ISSUED PERMITS. SECTION 11 OF THE ENDANGERED SPECIES ACT OF 1973, AS AMENDED, PROVIDES FOR CIVIL AND CRIMINAL PENALTIES FOR FAILURE TO COMPLY WITH PERMIT CONDITIONS.
- E. This Permit authorizes take of the Lake Erie water snake (*Nerodia sipedon insularum*) incidental to otherwise lawful land use planning and management in Erie County, Ohio as described in the HCP. Conditions in this Permit, and measures in the HCP and associated agreements, will be employed by the Permittees to ensure incidental take of the Lake Erie water snake is minimized and mitigated to the maximum extent practicable. This Permit does not authorize intentional take (i.e., capture, mark, collect) unless specifically authorized by the Service to enhance the survival of the species in the wild.
- F. The Long Point Homeowner's Association LLC Property (Property) is a ± 15 acre tract on Long Point, Kellys Island, Erie County, Ohio which is Lake Erie water snake habitat. This permit authorizes the incidental taking of Lake Erie water snake on the Property associated with residential construction and occupation activities. Since no construction can occur within 125 feet of the ordinary high water mark, except for the construction of boardwalks, decks, and deck posts, this high use habitat is not being directly impacted by residential construction. Incidental take as described below is authorized for construction activities and subsequent human habitation of the Property for a period of 15 years, subject to the continued validity of the permit through compliance with all permit

ADDITIONAL CONDITIONS AND AUTHORIZATIONS ALSO APPLY

12. REPORTING REQUIREMENTS

ANNUAL REPORT DUE: 1/31

ISSUED BY

Rolyn Thorson

TITLE

REGIONAL DIRECTOR

DATE

06/04/2003

conditions. Take means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or attempt to engage in any such conduct. The Service anticipates 15 adult Lake Erie water snakes and additional immature snakes may be taken during the duration of the 15-year ITP as the result of the proposed project and the Service's issuance of the 10(a)(1)(B) permit. It is likely that direct take of animals would happen as a result of loss of hibernation sites, roadkills, and lawn mowing. It is also expected that impacts will more likely occur to immature snakes, which, due to their small size, are not easily seen and avoided. It is expected that take in the form of harm and harassment is likely to occur from loss and modification of summer and hibernation habitat due to construction of residences and associated developments, human habitation of the Property, and the activities associated with use and maintenance of outdoor portions of the Property. The loss of habitat and the take of individual animals are, however, expected to be minimized and offset such that the adverse effects of the take are only minor.

- G. The following measures will be employed by the Permittee to ensure Lake Erie water snake take is minimized and fully mitigated.
- G.1. In accordance to the Interim Lake Erie Water Snake Guidelines (USFWS 2000, HCP Appendix C), all ground-disturbing activities shall occur only between May 1 and November 1 when both air and ground temperatures have been above 65°F for five consecutive days prior to excavation/construction, and burning associated with these activities. On the day of excavation and/or burning associated with these activities, the air and ground temperatures must be above 65°F.
 - G.2. Driveways are limited to a 12-foot width maximum and shall be constructed by placing gravel, or geotechnical construction fabric, directly on the ground surface. No culverts or ditches shall be constructed. Disturbed areas shall be seeded. Light colored gravel shall cover the driveways and brick pavers may be used in auto court areas.
 - G.3. Construction of each residential structures on the seven parcels shall have a maximum footprint of 3500 ft². Residences shall be constructed with concrete-floored crawlspaces with foundation walls constructed in a manner to exclude snake use. An attached or detached garage on each lot shall be no larger than 1500 ft² footprint. Decks/patios not exceeding a total of 2500 ft² may be erected on each lot. Buildings shall not occur within management Zones A and B.
 - G.4. Boardwalk and/or trail construction within Zones A and B shall be limited to a single path per lot no wider than 6 feet and in manner that does not include ground coverings impervious to LEWS. The paths may terminate in platforms no larger than 600 ft², which may be within Zones A and B. The platform shall be constructed as a deck or rock crib platform. The crib shall be filled with Size A (18 inch to 30 inch) and/or Size B (12 inch to 24 inch) rock, and constructed in a manner similar to the cribs commonly frequented by LEWS elsewhere on the island. The rock crib shall not include the usage of mesh, wiring, or paneling of any kind that would make the interior of the structure inaccessible to the LEWS. The rock shall not be collected from the shoreline area of Kelleys Island or from other areas that may provide winter or summer habitat. Rock crib platforms may be capped with concrete.
 - G.5. Vegetative clearing, thinning, and maintenance shall occur with the following requirements:
 - No more than 1.0 acre within Zone C of each lot shall be cleared of forest cover to accommodate temporary construction needs; at least 0.25 acres shall be allowed to revert to natural conditions post construction.
 - Fire pits will be limited to one per lot in a permanent location in Zone B or C. Fire pits will be a maximum of 10 ft² each and will not be filled with materials (e.g. brush, leaves, branches, logs) until the time of burning.
 - Outside the footprint of structures, trees shall be cut near the ground surface. Stumps with a diameter 6 inches or greater at the ground surface shall be left in place. Stumps with a diameter less than 6 inches at the ground surface may be removed if no base cavities are present. Stumps less than 6 inches diameter with base cavities shall not be removed. Existing stumps may not be removed but may be trimmed to ground level.
 - Zones A and B may be periodically mowed in accordance with management guidelines specified in Table 2-1 of the HCP. No areas within Zones A and B shall be converted to turf grass.

- A maximum of 0.75 acre of each lot may be converted to homes, garages, associated buildings, turf-grass lawns, landscaped areas, or other maintained areas. Use of lawn care/gardening products (e.g., herbicides, pesticides, fertilizers, mulch) would be limited to use in Zone C and spot treatment of poison ivy property wide. All such materials would be applied in strict compliance with label directions.
- Spot treatment of poison ivy, or other noxious plants, may be conducted anywhere on the lots. Only herbicides for the removal of poison ivy may be applied in Zones A and B. Application shall follow the standards identified in Section 2.3.8. of the Environmental Assessment.
- Access routes shall be maintained from the water towards the center of the peninsula along property lines and shall be dominated by vegetation types currently on the site. Corridors shall be a minimum of 5 feet wide on both sides of property lines (total of 10 ft wide).

G.6. Domestic cats shall remain indoors at all times. No livestock (e.g., pigs, goats, horses) are to be kept on Property. Dogs shall be under control of the owner or owner's designee in accordance with Ohio Revised Code § 955.22.

G.7. Conveyance of the seven lots from LPLLC to the LP Homeowner's Association LLC included a deed restriction requiring that present and future owners comply with HCP/ITP for the duration of the permit. It shall be the Permittee's responsibility to inform all visitors, renters, lessees, contractors, and any employees of the protective measures and restrictions within this permit and to provide them information on the need, intent, and purpose of the permit. The Permittee is required to provide a copy of the permit to each Owner at or before closing the sale of each lot. In addition, each Owner shall maintain a copy of the permit in the residence for use by lessees or others who hold under the Owner.

G.8. A minimum of 14 artificial hibernacula shall be constructed from rock and dispersed throughout the Property. The rock may be excavated during construction activities, or collected/purchased from areas not providing LEWS habitat (e.g. a quarry). The rock shall not be collected from the shoreline area of Kelleys Island or from other areas that might provide winter or summer habitat. Hibernacula shall be constructed within Zone C as near as possible to disturbed natural hibernacula. Hibernacula will not be constructed within 20 ft of septic mounds. Each hibernacula shall have at least 12 ft² of frost-free area and constructed in a similar manner as those constructed for, and utilized by, other species of snakes (Zappalorti and Reinert 1994). Excess topsoil from construction activities in Zone C may be used to cap the hibernacula.

G.9. Reporting and monitoring is required annually for the first five years, year 7, year 10, and year 15 (i.e., years 1, 2, 3, 4, 5, 7, 10, and 15). Constructed LEWS hibernacula will be monitored at a rate of 6 hibernacula-years over the duration of the ITP (one hibernacula-year = monitoring of one artificial hibernacula during one Spring emergence period).

G.10. The authorization granted by this permit is subject to full and complete compliance with, and implementation of, the Lake Erie water snake HCP for the Long Point Homeowner's Association and the Implementing Agreement executed between Long Point Homeowner's Association and the Service.

H. The Permittee shall permit the Service, or other properly permitted and qualified persons designated by the Service to enter the Project boundaries for purposes specified in Title 50 CFR § 13.21(e)(2) and in Goal 4 of the HCP.

I. Any dead Lake Erie water snakes located within the action area during construction, mitigation, or monitoring activities shall be reported immediately to the Service Field Office in Condition M.2. and subsequently transported on ice to that office. No one, with the exception of researchers contracted to conduct monitoring activities, shall handle any live Lake Erie water snake, regardless of its condition. The Permittee shall contact the Service when finding Lake Erie water snakes that appear to be sick or injured. The information on the disposition of dead Lake Erie water snakes shall be incorporated into instructions provided to project personnel and included in the Construction Specifications.

J. The Permittee and the Service acknowledge even with the above detailed provisions for minimizing and/or mitigating impacts to the Lake Erie water snake, circumstances could arise which were not fully anticipated by this Permit and are considered unforeseen. Such circumstances may become apparent either to the Permittee, agents, or Service. For purposes of implementing this condition, unforeseen circumstances are defined as any significant, unanticipated adverse change in the status of the species; any significant, unanticipated adverse change in impacts of the project or in other factors upon which the HCP and Permit are based; or any other

significant new information relevant to the Permit and Property unforeseen by the Permittee and the Service that could give rise to the need to review the Permittee's conservation program. If there are unforeseen or changed circumstances related to Lake Erie water snake breeding or other critical activities, the Service may suggest and the Permittees may consider changes in the operating conservation program in the future, provided such changes are consistent with the HCP, agreed to by the Permittees, and consistent with the February 23, 1998 "No Surprises" rule (63 FR 8859). The Service and the Permittees have mutually agreed to meet and confer within 20 working days after appropriate discovery is provided.

K. For each year the permit is in effect, the Permittee shall submit an annual report to the Service by January 31. The annual report shall outline and describe implementation and success of minimization measures. The Permittee shall identify non-compliance and measures employed to remediate non-compliance. The annual report shall address the following:

K.1. Population status of Lake Erie water snakes on the Property, including all occurrences with a description of sampling methods and efforts, potential predators, and interspecific competitors.

K.2. Lake Erie water snake minimization and mitigation measures implemented and success of control.

K.3. Report of any corrective measures or other changes that may be necessary to improve permit efficiency.

K.4. Report of any take.

L. For purposes of this monitoring compliance of the terms and conditions of this permit, including unforeseen circumstances, the Service contact is:

U.S. Fish and Wildlife Service
Reynoldsburg Field Office
6950-H Americana Parkway
Reynoldsburg, Ohio 43068-4132
(614/469-6923; fax 614/469-6919)

M. Copies of annual reports and any other documentation submitted in response to the operation and management of this permit shall be provided to Service identified in Condition L. and to the following:

M.1. Regional Permits Coordinator
U.S. Fish and Wildlife Service
Bishop Henry Whipple Federal Building
1 Federal Drive
Fort Snelling, MN 55111-4056
(612/713-5343; fax 612/713-5292)

M.2. Endangered Species Coordinator
U.S. Fish and Wildlife Service
Reynoldsburg Field Office
6950-H Americana Parkway
Reynoldsburg, Ohio 43068-4132
(614/469-6923; fax 614/469-6919)

cc: FWS/ESFO OH (Attn: Endangered Species Coordinator)
DNR - OH (Attn: Endangered Species Coordinator)

END