

# AIRD & BERLIS LLP

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January 29, 2015

## BY COURIER, EMAIL AND RESS

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319, 27<sup>th</sup> Floor  
2300 Yonge Street  
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Rainy River Resources Ltd.  
Request for Order to Extend time for Termination of the Authorization for  
Leave to Construct a Transmission Line and Associated Facilities  
Board File No.: EB-2014-0014**

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We are counsel to New Gold Inc. ("NG") in reference to the Rainy River Project ("RRP").

We write with respect to the Decision and Order dated June 26, 2014 granting NG leave to construct certain transmission facilities in the territorial District of Rainy River, in Northwestern Ontario (the "**Project**") subject to Conditions for Approval found at Appendix A to the Decision and Order (the "**Conditions**" attached at schedule "A"). Section 1.2 of the Conditions stipulates that:

Unless otherwise ordered by the Board, authorization for leave to construct shall terminate on June 26, 2015 unless construction of the Project has commenced prior to that date.

Our client, NG, respectfully requests an order extending the time for the termination of the authorization for leave to construct from June 26, 2015 to October 1, 2015.

NG is in the process of receiving various environmental approvals and permits for the Project. The reason for the requested extension is to enable NG to comply with requirements under the overall benefit permit issued by the Ministry of Natural Resources on November 26, 2014 pursuant to section 17(2)(c) of the *Endangered Species Act, 2007*, SO 2007, c 6 (the "**Overall Benefit Permit**" attached at schedule "B"). The Overall Benefit Permit requires that NG refrain from undertaking any activities within the Project site, including commencing construction, which would disturb the habitat of the Eastern Whip-poor-will and Bobolink, two regulated bird Species at Risk, during their respective breeding seasons. The breeding seasons span from May 1 to August 15. As such, our client anticipates starting construction immediately after the close of the breeding seasons.

January 29, 2015

Page 2

The Board will recall that neither Intervenor took issue with the Project. Furthermore, NG will keep the Independent Electricity System Operator informed of the progress of the Project. As such, we would ask the Board to dispose of this matter without a hearing pursuant to section 21(4)(b) of the of the *Ontario Energy Board Act, 1998*, SO 1998, c 15, Sch B on the basis no person will be adversely impacted by the requested extension.

If there are any questions please contact the undersigned.

Yours very truly,

**AIRD & BERLIS LLP**



Scott Stoll  
SS/ZT

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**SCHEDULE A – CONDITIONS**



Ontario Energy  
Board

Commission de l'Énergie  
de l'Ontario



**EB-2014-0014**

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*,  
S.O. 1998, c.15, Schedule B;

**AND IN THE MATTER OF** an application by Rainy River  
Resources Ltd. for an order or orders pursuant to section 92,  
96, 97 and 101 of the Ontario Energy Board Act, 1998  
granting leave to construct transmission facilities in the  
Territorial District of Rainy River, in Northwestern Ontario.

**BEFORE:** Emad Elsayed  
Presiding Member

Christine Long  
Member

**DECISION AND ORDER**

**June 26, 2014**

## DECISION

The Board approves the application by Rainy River Resources Ltd. for an Order granting leave to construct the transmission line and associated facilities as described in the initial January 13, 2014 application and subsequent update filed on April 28, 2014. This approval is subject to the Conditions of Approval attached to this Decision.

## SUMMARY OF APPLICATION

Rainy River Resources Ltd. (the "Applicant" or "RRR") filed an application with the Ontario Energy Board (the "Board"), dated January 13, 2014 under sections 92, 96, 97 and 101 of the *Ontario Energy Board Act, 1998* ("the Act").

The Applicant applied, pursuant to section 92 of the Act, for an order or orders of the Board granting leave to construct approximately 17 km of 230 kiloVolts ("kV") electricity transmission line and associated facilities (the "Transmission Project"). The Transmission Project would connect the Applicant's Rainy River Mine in the Township of Chaplet in the Territorial District of Rainy River in northwestern Ontario to the provincial power grid.

The Applicant also applied, pursuant to section 97 of the Act, for approval of the form of easement agreement offered to landowners and, pursuant to section 101 of the Act, for authority to cross Highway 71.

On April 28, 2014, the Applicant filed a letter advising that the outlet voltage for the transformer to be located at the mine will be 13.8 kV instead of the 27.6 kV previously indicated.

The Board assigned file number EB-2014-0014 to the application.

## SUMMARY OF PROCEEDING

- The Board issued its Notice of Application and Written Hearing on February 7, 2014. The Notice was published and served by the Applicant as directed by the Board.
- The following parties applied for and were granted intervenor status:
  - The Independent Electricity System Operator ("IESO");
  - Hydro One Networks Inc. ("Hydro One")

- Procedural Order No.1 was issued on March 10, 2014.
- Hydro One and Board Staff filed written interrogatories on March 25, 2014 and March 26, 2014 respectively, in accordance with Procedural Order No. 1.
- The Applicant filed responses to the interrogatories on April 7, 2014.
- On April 16, 2014, the Applicant filed its Argument-in-Chief.
- On April 23, 2014, Board staff filed its submission.
- On April 28, 2014, the Applicant filed its reply submission.
- On June 10 and June 18, 2014, respectively, the Applicant filed verifications from the IESO and Hydro One regarding the impact of the proposed transformer outlet voltage on the System Impact Assessment and Customer Impact Assessment.

## THE BOARD'S JURISDICTION

The Board's power to grant an applicant leave to construct transmission facilities arises from subsection 92(1) of the Act which states:

92. (1) No person shall construct, expand or reinforce an electricity transmission line or an electricity distribution line or make an interconnection without first obtaining from the Board an order granting leave to construct, expand or reinforce such line or interconnection.

In discharging its duties in this proceeding, the Board is also bound by the provisions of section 96 of the Act which states:

96. (1) If, after considering an application under section 90, 91 or 92 the Board is of the opinion that the construction expansion or reinforcement of the proposed work is in the public interest, it shall make an order granting leave to carry out the work.

(2) In an application under section 92, the Board shall only consider the following when, under subsection 1, it considers whether the construction, expansion or reinforcement of the electricity transmission line or electricity distribution line or the making of the interconnection, is in the public interest:

1. The interests of consumers with respect to prices and the reliability and quality of electricity service.
2. Where applicable and in a manner consistent with the policies of the government of Ontario the promotion of the use of renewable energy resources.

In addition, section 97 of the Act states:

97. In an application under section 90, 91 or 92, leave to construct shall not be granted until the applicant satisfies the Board that it has offered or will offer to each owner of land affected by the approved route or location an agreement in a form approved by the Board.

Section 101 of the Act provides that “... if after the hearing the Board is of the opinion that the construction of the work upon, under or over a highway, utility line or ditch is in the public interest, it may make an order authorizing the construction upon such conditions as it considers appropriate.”

## **INTERESTS OF CONSUMERS WITH RESPECT TO RELIABILITY AND QUALITY OF ELECTRICITY SERVICE**

The Applicant filed a System Impact Assessment by the IESO and a Customer Impact Assessment by Hydro One.

### System Impact Assessment

The System Impact Assessment (“SIA”) assesses whether the proposed connection to the electricity grid will have an adverse impact on the quality and reliability of the electricity grid operation.

The Applicant filed a SIA Report issued by the IESO on December 17, 2013.

The SIA concluded that the proposed connection of the project, operating up to 57 MW and subject to the requirements specified in the SIA report, is expected to have no material adverse impact on the reliability of the integrated power system.

The Applicant confirmed that it plans to implement all of the IESO's connection requirements contained in the SIA and any further updates to the SIA.

The Applicant also confirmed its understanding that Hydro One intends to fully implement the requirements as stated in the SIA.

As noted above in the "Summary of Application", on April 28, 2014, the Applicant filed a letter advising that the outlet voltage for the transformer to be located at the mine will be 13.8 kV instead of the 27.6 kV previously indicated. On June 10, 2014, the Applicant filed a letter which provided verification from the IESO, that the proposed voltage change will not impact the findings or conclusions of the SIA report previously issued by the IESO.

#### Customer Impact Assessment

The Customer Impact Assessment ("CIA") assesses the impact of the proposed connection on Hydro One customers in the area.

The Applicant filed a CIA Report issued by Hydro One on March 4, 2014.

The Applicant submitted that there are no specific Applicant or transmitter requirements in the CIA.

On June 18, 2014, the Applicant provided verification from Hydro One, that the proposed outlet voltage change for the transformer to be located at the mine will have no material impact on the 230 kV connection to the Hydro One transmission line, and that a revised CIA is not required.

#### **Board Finding**

Based on the conclusions of the SIA and the CIA, the Board is satisfied that the proposed connection will not adversely impact the interests of consumers with respect to reliability or quality of electricity service if the conditions in the SIA and CIA are met.

#### **INTERESTS OF CONSUMERS WITH RESPECT TO PRICES**

The Applicant submitted that it is not a rate regulated utility and intends to finance, construct, own and operate the proposed transmission facilities. It has also confirmed that it is responsible for any Hydro One costs needed to accommodate the proposed facilities, calculated in accordance with the requirements of the Transmission System Code and Hydro One's Capital Cost Recovery Agreement (CCRA) as approved by the Board.

## Board Finding

The Board finds that the construction and connection of the proposed Transmission Facilities will not have an impact on the price of electricity paid by Ontario consumers.

## LAND-RELATED MATTERS AND OTHER APPROVALS

Section 97 of the Act requires that the Board be satisfied that the Applicant has offered, or will offer, to each landowner affected by the approved route or location an agreement in a form approved by the Board.

The Applicant submitted that it will require temporary and permanent easements in respect of the proposed transmission facilities from landowners listed in Exh. B, Tab 6, Sch. 4, page 2 of its application, and provided the following status:

- Agreements of Purchase and Sale were finalized on two parcels in January 2014;
- One parcel of property currently under Agreement of Purchase and Sale with final closing proceeding;
- Option Agreements continue to be in place for two parcels.

In its pre-filed evidence, the Applicant filed the form of easement agreement (Exhibit B, Tab 6, Schedule 5) it had offered or will offer to landowners where it requires easement rights to complete the Transmission Project.

In responses to Board staff interrogatories, the Applicant submitted that all owners have been presented with their respective Agreements in accordance with their land package.

The Applicant also submitted that it holds eleven Unpatented Mining Claims that are proceeding through the Lease Application process with the Ministry of Northern Development and Mines.

## Board Findings

The Board notes the Applicant's evidence that all the affected landowners have been presented with their respective Agreements in accordance with their land package. The Applicant further submitted that it has not received any comment indicating any opposition to the Transmission Project or refusal from the landowners.

The Board approves the form of agreement offered to the landowners but notes that approval in this context does not necessarily imply that the Board would, or would not, approve this form of agreement in any future proceedings.

### **Section 101 of the Act**

RRR has applied , under section 101 of the Act, for authority for the proposed transmission line to cross Highway 71.

A letter from the Ontario Ministry of Transportation (“MTO”) dated March 13, 2014, states that authority to cross Highway 71 is granted by the MTO upon application for an Encroachment Permit. The Applicant submitted that it had contacted the MTO and will proceed with the application per normal MTO procedures.

### **Board Findings**

Based on the above, the Board grants the Applicant approval under section 101, for the transmission line to cross Highway 71, conditional on the Applicant following appropriate MTO procedures and obtaining necessary approvals for such crossings.

### **BOARD DECISION**

The Board finds that it would be in the public interest to grant RRR leave to construct the facilities (Transmission Project) pursuant to section 92 of the Act, and that it would also be in the public interest to grant an Order to RRR approving the construction of the proposed facilities upon, under or over a highway, utility line, or ditch under section 101 of the Act. The Board’s decision is subject to conditions, which are fully set out in the Order below.

The Board notes that RRR is responsible for obtaining all necessary approvals, permits, licences, certificates and easement rights required to construct, operate and maintain the proposed Transmission Facilities.

### **THE BOARD ORDERS THAT:**

1. Pursuant to section 92 of the *Ontario Energy Board Act, 1998*, Rainy River Resources Ltd. is granted leave to construct an electricity transmission line and related facilities to connect a mining facility to the Ontario transmission system, subject to the Conditions of Approval attached as Appendix A to this Order.

**ISSUED** at Toronto, June 26, 2014

**ONTARIO ENERGY BOARD**

*Original Signed By*

Kirsten Walli  
Board Secretary

**APPENDIX A**  
**TO DECISION AND ORDER**  
**BOARD FILE NO. EB-2014-0014**  
**DATED JUNE 26, 2014**

**CONDITIONS OF APPROVAL**

**Conditions of Approval for  
Rainy River Resources Ltd.  
Leave to Construct a Transmission Line  
and Associated Facilities  
EB-2014-0014**

**Note:**

The Conditions of Approval attached to the Board's Decision and Order include references to permits and approvals by other organizations, Crown corporations, or Government Ministries that are prerequisites for the successful completion of the facilities that are the subject of this application. Notwithstanding any such references in these Conditions of Approval, the Board is not responsible for ensuring the implementation or operationalization of any of the requirements enumerated in such permits or approvals or the reports associated therewith even where such permits, approvals or associated reports are required, for any reason, to be filed with the Board.

**1. General Requirements**

- 1.1** The Applicant shall construct the transmission line and associated transmission facilities as defined in the Decision and Order (the "Project") in accordance with its the leave to construct application, evidence and undertakings, except as modified by the Board's Decision and Order and by these Conditions of Approval and in accordance with applicable laws, codes and standards.
- 1.2** Unless otherwise ordered by the Board, authorization for leave to construct shall terminate on June 26, 2015 unless construction of the Project has commenced prior to that date.

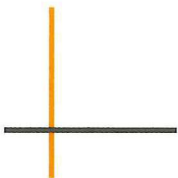
- 1.3 The Applicant shall comply with the requirements of all applicable Federal and Provincial Environmental Assessments.
- 1.4 The Applicant shall satisfy the requirements of the IESO as reflected in the System Impact Assessment, Addendum and any further updates to it.
- 1.5 The Applicant shall satisfy the requirements of Hydro One as reflected in the Customer Impact Assessment Report and any further updates to the report.
- 1.6 The Applicant shall advise the Board's designated representative of any *proposed material change in the Project, including but not limited to material changes in the proposed route, construction techniques, construction schedule, restoration procedures, or any other material impacts of construction.* The Applicant shall not make a material change without prior approval of the Board or its designated representative. In the event of an emergency, the Board shall be informed immediately after the fact.
- 1.7 The Applicant shall obtain and comply with all necessary approvals, permits, licences, certificates and easement rights required to construct, operate and maintain the Project, and shall provide copies of all such written approvals, permits, licences and certificates upon the Board's request.
- 1.8 The Applicant shall obtain all necessary easements and other instruments relating to individual parcels of land before commencing construction of the Project upon those lands.
- 1.9 The Applicant shall comply with the laws of Ontario (including the laws of Canada applicable in Ontario).

## **2. Project and Communications Requirements**

- 2.1 The Board's designated representative for the purpose of these Conditions of Approval shall be the Manager, Facilities and Infrastructure.

- 2.2** The Applicant shall designate a person as Project Manager and shall provide the name of the individual to the Board's designated representative. The Project Manager will be responsible for the fulfillment of the Conditions of Approval on the construction site. The Applicant shall provide a copy of the Order and Conditions of Approval to the Project Manager, within ten (10) days of the Board's Order being issued.
- 2.3** The Applicant shall furnish the Board's designated representative with all reasonable assistance needed to ascertain whether the work is being or has been performed in accordance with the Board's Order.
- 2.4** The Applicant shall, in conjunction with Hydro One and the IESO, and other parties as required, develop an outage plan for the construction period which shall detail how proposed outages will be managed.
- 2.5** The Applicant shall furnish the Board's designated representative with two (2) copies of written confirmation of the completion of Project construction. This written confirmation shall be provided within one month of the completion of construction.

**SCHEDULE B – OVERALL BENEFIT PERMIT**



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

Permit Number: **FF-C-001-14**

**Issued to:** New Gold Inc. (the "Permit Holder")

**Location:** within the Township of Chapple, District of Rainy River, Ontario as indicated on the site plan in Appendix B (the "Project Site").

**Project Description:** The construction, operation, rehabilitation, decommissioning and closure of the Permit Holder's gold mining project as described in Section 4 of the "Final Environmental Assessment Report (Environmental Impact Statement) Volume 2 – January 2014", which includes an open pit and underground gold mine, ore processing plant, explosives facility, stockpile and overburden storage areas, tailings ponds, water management, buildings, roads, aggregate pits, Highway 600 re-alignment and watercourse diversions, constructed wetland, and establishment of transmission corridor; together with the infrastructure associated with a core shack and temporary operation and rehabilitation of a quarry (collectively, the "Project").

**Term:** This permit,

(a) comes into force on the later of the date it is issued and the date approval to proceed with the Project is given under Part II of the *Environmental Assessment Act* (the "Effective Date"); and

(b) expires in accordance with Condition 9 of Appendix A.

- 1. Authority.** This permit is issued to the Permit Holder under clause 17(2)(c) of the Endangered Species Act, 2007 (the "ESA, 2007").
- 2. Application to Species.** This permit applies to Eastern Whip-poor-will (*Caprimulgus vociferous*), and Bobolink (*Dolichonyx oryzivorus*), listed as threatened on the Species at Risk in Ontario List in Ontario Regulation 230/08.

Appendix G: Eastern Whip-poor-will Project Site and Overall Benefit Area  
Monitoring Schedule

Appendix H: Bobolink Habitat Impact

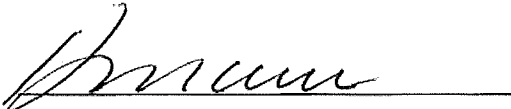
Appendix I: Bobolink Overall Benefit Area Maps 1 to 22

Appendix J: Bobolink Project Site and Overall Benefit Area Monitoring Plan

Appendix K: Species Encounter Form

Failure to comply with conditions in this permit may result in a contravention of the Endangered Species Act, 2007.

Pursuant to clause 17(2)(c) of the Endangered Species Act, 2007, I hereby issue this permit authorizing the activities described above, subject to the conditions set out herein.



Bill Mauro

Minister of Natural Resources and Forestry

Nov. 7 '14

Date of issuance:

**“Eastern Whip-poor-will Breeding Season”** means, in respect to Eastern Whip-poor-will, from May 1 to August 15 when individuals of the species are most likely to be searching for appropriate locations for nesting, establishing nest or nest sites, through to the end of egg incubation and fledging;

**“Eastern Whip-poor-will Overall Benefit Area”** means the area of land identified in Appendix F that is to be managed for Eastern Whip-poor-will habitat as required by Condition 5.1;

**“Eastern Whip-poor-will Receptor Habitats”** means the locations of known areas of Eastern Whip-poor-will habitats peripheral to the Project Site as indicated in Appendix D;

**“Encounter”** means an encounter of or with an individual member of the Species, including a sighting or an occurrence;

**“ESR Plan”** has the meaning set out in Condition 8.1(b);

**“50 dBA”** means 50 decibel A-Weighted sound level averaged over one hour (50 dBA,  $L_{Aeq}$  1hr), as determined through standard Ministry of the Environment and Climate Change-NPC 103 monitoring procedures, and excluding blast noise;

**“Management Plan”** has the meaning set out in Condition 5.1;

**“MNRF”** means the Fort Frances District Office of the Ministry of Natural Resources and Forestry;

**“Occupied”** means, when referring to an area occupied by Eastern Whip-poor-will, an area or location in which an Eastern Whip-poor-will calls repeatedly during the Eastern Whip-poor-will Breeding Season;

**“Operation Activities”** means activities to operate the day-to-day aspects of the Project at the Project Site following the Construction Activities;

## **2. General**

- 2.1. A copy of this permit shall be maintained on the Project Site at all times when activities authorized by this permit are being conducted.

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

### **3. Qualified Professionals**

- 3.1. The Permit Holder shall retain Qualified Professionals to carry out the activities specified in Conditions 4.1, 4.2, 5.1, 5.3, 6.2, 6.4, 7.2, 7.5, 8.1 and 8.2.

### **4. Mitigation: Construction and Operations**

#### **4.1. Construction**

- (a) The Construction Activities shall not be carried out or initiated within the areas identified in Appendix C as Eastern Whip-poor-will habitat or Appendix H as Bobolink habitat during the relevant Breeding Seasons unless:
- i. habitat is cleared, altered or otherwise been made unsuitable for the Species to inhabit in advance of the relevant Breeding Season;
  - or
  - ii. otherwise authorized in writing by MNRF.
- (b) Eastern Whip-poor-will habitat shall only be destroyed in accordance with the removal schedule set out in Appendix E, unless otherwise authorized in writing by MNRF.
- (c) The Permit Holder shall ensure that in advance of any persons entering the Project Site to perform the Construction Activities where there is a reasonable potential to encounter a Species, such persons are provided with information and given education and awareness training about the Species, and an overview of the permit requirements, in accordance with Condition 4.3.
- (d) During the Eastern Whip-poor-will Breeding Season, blasting shall only be carried out at the Project Site from half an hour after sunrise to half an hour before sunset.
- (e) The Permit Holder shall ensure that the responsible person directing the on-the-ground Construction Activities within areas identified in Appendix C as Eastern Whip-poor-will habitat or Appendix H as

- (i) To the extent reasonably possible, lighting associated with the Project will be constructed to concentrate illumination downwards, and within, the Project Site in order to avoid illumination of the perimeter.
- (j) During the Eastern Whip-poor-will Breeding Season, the Permit Holder shall take reasonable measures to suppress releases of dust in order to avoid excessive deposition on the Eastern Whip-poor-will Receptor Habitats.

#### 4.2. Operations

- (a) If at any time an Eastern Whip-poor-will or Bobolink nest is identified anywhere within the Project Site, any Operation Activities in the area shall cease and the Permit Holder shall notify MNRF within one business day. Activities in the area shall not resume until such time as a Qualified Professional has determined that it is unlikely that the nest would be damaged or destroyed or that a Species would be harmed or harassed on the basis of an assessment submitted to MNRF which shall include the following:
  - i. A map location of the nest(s);
  - ii. A description of the activity in the area; and
  - iii. A summary of the science and rationale from which the determination is based.

Where it has been determined by the Qualified Professional that it is likely that the nest would be damaged or destroyed or that a Species would be harmed or harassed, the activity shall not resume or be initiated until the Permit Holder is advised by MNRF in writing that it may do so.

- (b) In the first week of May and again during June of each year during the Operation Activities, the Permit Holder shall retain a Qualified Professional to conduct an Acoustic Audit of the sound levels produced by the Operation Activities at two different Eastern Whip-poor-will Receptor Habitats with the highest predicted sound levels. This shall be conducted at two-year intervals as set out in Appendix G. If the Acoustic Audit determines that the sound levels from the Operation Activities exceed the Sound Level Threshold, the Permit Holder shall: (i) notify MNRF; and (ii) implement immediate mitigation measures. If the Sound Level Threshold is exceeded by the Operation Activities at the Eastern Whip-poor-will Receptor Habitats after such measures are implemented, the Permit Holder shall: (i) notify MNRF; and (ii) within one year of such notification prepare and implement a contingency plan, in consultation with MNRF, to address the sound levels from the Operation Activities that includes some or all of the following mitigation measures: (i) avoidance-disturbance

likely to compromise the Species' breeding success within this area are abated.

- (b) The Permit Holder shall develop and submit to MNRF a detailed Management Plan for the Eastern Whip-poor-will Overall Benefit Area in accordance with the following:
  - i. the Management Plan shall be prepared by a Qualified Professional using the best available science including information obtained through the requirements of this permit related to monitoring and research;
  - ii. the Management Plan shall be completed and submitted to MNRF for approval no later than the fourth anniversary of the Effective Date;
  - iii. the Management Plan shall be directed at enhancing, within the Eastern Whip-poor-will Overall Benefit Area, habitat for Eastern Whip-poor-will consisting of a mixture of forested and open areas, sufficient to sustain a long-term increase in Eastern Whip-poor-will occupancy, and shall describe:
    - A. how forested and open areas in the Eastern Whip-poor-will Overall Benefit Area will be created and managed to enhance or maintain habitat over the term of this permit;
    - B. a program of sequential forest retention and harvesting directed at maximizing habitat functionality for Eastern Whip-poor-will; and
    - C. prescriptions for all landscape-scale activities and restrict those activities to periods outside the Eastern Whip-poor-will Breeding Season;
  - iv. the habitat enhancement and management actions described in the Management Plan shall be supported by accompanying rationale taking into account the information described in (i) above;
  - v. the Permit Holder shall obtain MNRF's approval of the Management Plan as satisfying the requirements of sub-conditions (iii) A-C no later than the fifth anniversary of the Effective Date.
- (c) The Permit Holder shall comply with the approved Management Plan, and shall commence implementation of the plan immediately upon approval, having regard to suitability of seasonal weather conditions.
- (d) The Permit Holder shall support and implement the following scientific based studies to enhance knowledge of Eastern Whip-poor-will:
  - i. The research program ("Research Program") described in AMEC Environment and Infrastructure's memorandum dated October

Qualified Professional so recommends, a Bobolink Overall Benefit Area may be renewed by ploughing and then replanted to achieve again the conditions specified in Condition 5.2(b) ("Renewal"), and the area shall thereafter be maintained in accordance with Condition 5.2(c);

- (e) The Renewal described in Condition 5.2(d) shall be completed within one year of the date the area is ploughed.

5.4. On or before January 30, 2015, the Permit Holder shall acquire the Additional Bobolink Habitat Area indicated in Appendix I in accordance with the following:

- (a) If the Permit Holder is unable to acquire the ABHA, it shall obtain the written approval of MNRF of another equivalent parcel, which shall be acquired on or before April 30, 2015;
- (b) The Permit Holder shall provide MNRF with documentation satisfactory to MNRF proving that it is the owner of the ABHA or equivalent parcel; and
- (c) The ABHA or equivalent parcel acquired shall be maintained and enhanced as Bobolink habitat as part of the Bobolink Overall Benefit Area in accordance with Condition 5.3.

## **6. Monitoring**

6.1. With respect to Eastern Whip-poor-will, the Permit Holder shall, in accordance with Condition 6.2, undertake a three phase monitoring program consisting of the following:

- (a) Phase 1. Monitor to determine whether, during and after the Construction Activities and the Operation Activities, areas within and peripheral to the Project Site are Occupied by Eastern Whip-poor-will. Phase 1 monitoring shall also include an assessment of sound levels, during the Breeding Season in the Eastern Whip-poor-will Receptor Habitats.
- (b) Phase 2. Monitor the Eastern Whip-poor-will Overall Benefit Area to determine which areas are Occupied by Eastern-Whip-poor-will, and assess the distribution of the areas relative to management actions implemented as set out in the Management Plan.
- (c) Phase 3. After implementation of the ESR Plan in accordance with Condition 8.1, the Permit Holder shall monitor the Project Site to assess:
  - i. which areas are Occupied by Eastern Whip-poor-will;
  - ii. the effectiveness of actions taken to implement the ESR Plan; and

- (b) Phase 2. Monitor the Bobolink Overall Benefit Areas to determine:
  - i. whether and by how many Bobolink they are occupied; and
  - ii. the level of recruitment by Bobolink to the areas.
- (c) Phase 3. Upon rehabilitation of the Project Site in accordance with Condition 8.2, the Permit Holder shall monitor:
  - i. the response, and recruitment success, of Bobolink as a result of the actions taken under the BSR Plan; and
  - ii. whether the Project Site is occupied by Bobolink at levels equal to or greater than levels prior to the Effective Date.

6.4. Bobolink monitoring shall be conducted as follows:

- (a) The Permit Holder shall use a Qualified Professional to undertake the monitoring of all phases.
- (b) The frequency of Phase 1 and Phase 2 monitoring shall be conducted as set out in Appendix J.
- (c) Phase 3 monitoring shall be conducted for at least one three-year period following rehabilitation of the Project Site, and shall be repeated at intervals for three-year periods until sufficient information is obtained to make the assessments specified in Condition 9.2(a).
- (d) All surveys shall be conducted during the Bobolink Breeding Season and will include a minimum of two site visits as is necessary to determine the timing of territorial establishment, nest period, fledgling dates and date of haying for each Bobolink Overall Benefit Area identified in Appendix I.
- (e) Each site visit will include the collection of the following information:
  - i. date of survey and survey conditions;
  - ii. location of point counts, the distance and direction of each Bobolink heard or observed;
  - iii. the locations of any Bobolink nest sites observed incidentally, and estimated locations of their respective territories;
  - iv. any other observations involving Bobolink;
  - v. representative photographs depicting the site conditions of the Bobolink Overall Benefit Area; and
  - vi. a determination of territorial establishment, nesting and fledging for each Bobolink Overall Benefit Area identified in Appendix I.
- (f) Upon request, the Permit Holder will provide MNRF with an update on its monitoring progress and key findings.

- i. a summary of Bobolink Overall Benefit Area occupancy, nesting periods and fledgling dates through the survey sequence, contrasted with past sequences; and
  - ii. a summary of recommendations received, and technical data on field productivity and state of management used to support decisions on Renewal.
- (h) the criteria by which the Permit Holder assessed the success of the habitat creation and/or management measures, and statement on the effectiveness.
- (i) an assessment of impacts of succession, or management of vegetation communities;
- (j) within an appendix of the report, a summary regarding training provided to staff as described under Condition 4.3;
- (k) within an appendix, a summary of any mortality events occurring either at the Project Site or the Species Overall Benefit Areas and where applicable the AEWHAs, and adaptive management considerations that may minimize future mortality events;
- (l) for all species listed on the Species at Risk in Ontario List observed within the Project Site, the Permit Holder shall submit a Species Encounter Reporting Form (Appendix K), within 30 days of the encounter or observance.

7.4 Before destroying Bobolink habitat that is within the Project Site but is not indicated in Appendix H with red hatching and labelled "Destroyed", the Permit Holder shall provide a report to MNRF. The report shall contain a summary of the activity that will result in the destruction, a map of the location and a calculation of the amount of additional Bobolink habitat destroyed up to the total of 20 hectares allowed by this permit.

7.5 Research undertaken under Condition 5.1(d) shall be reported as follows:

- (a) A science design shall be provided to MNRF for review prior to the studies being undertaken. The design shall include a detailed account of the methods and approach.
- (b) Within two years following the completion of field data collection, the Permit Holder shall submit a technical report to MNRF that includes:
  - i. an abstract describing key results;
  - ii. an introduction that incorporates key background information;
  - iii. a detailed description of the methodology;
  - iv. result and analysis;
  - v. discussion and conclusion; and

- (c) The ESR Plan shall be prepared by a Qualified Professional.
- (d) The Permit Holder shall comply with the approved ESR Plan in a manner that is reasonably likely to result in the re-creation of pre-construction vegetative conditions in the vicinity of the mine within the Project Site, specifically restoration of forest cover adequate to meet the requirements of 13 territorial male Eastern Whip-poor-will.
- (e) The ESR Plan may be amended to increase the likelihood of successful rehabilitation as required by this permit, subject to MNRF written approval.

## **8.2. Site Rehabilitation with respect to Bobolink**

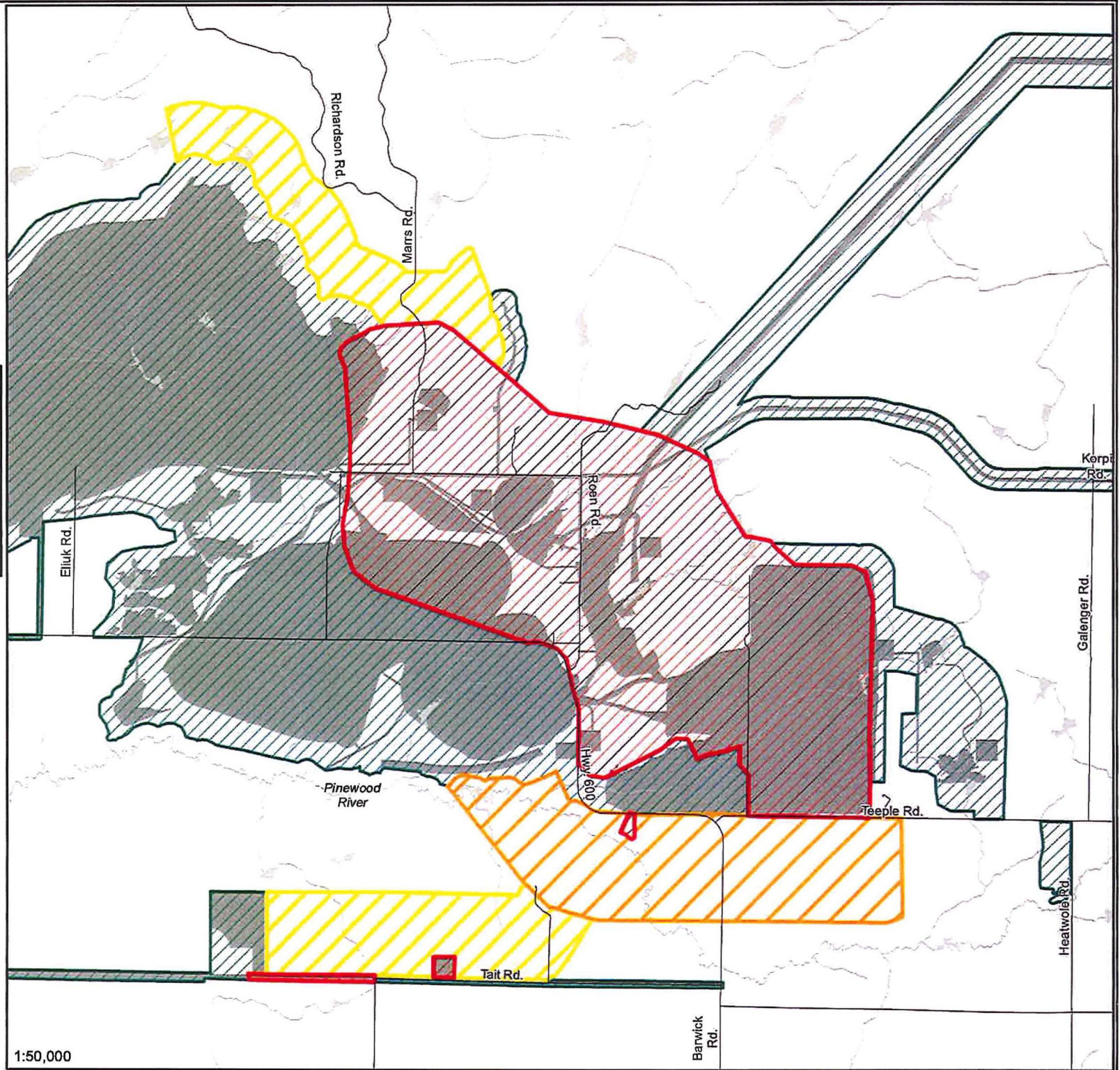
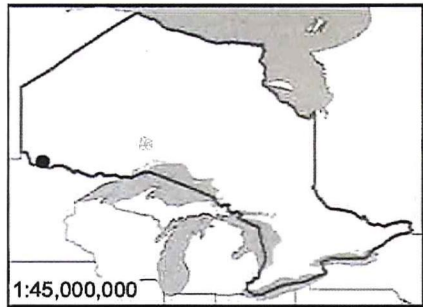
- (a) Within six months of initiating Closure, the Permit Holder shall develop, and submit to MNRF for approval, a Bobolink site rehabilitation plan (the "BSR Plan").
- (b) The BSR Plan shall, when implemented, result in an amount of suitable Bobolink habitat existing on the Project Site which is equal to, or greater than, the number of hectares of Bobolink habitat that was damaged or destroyed.
- (c) The BSR Plan shall include the following:
  - i. description and illustration(s) of the Project Site's current condition;
  - ii. summary of the results of the monitoring completed through all previous monitoring sequences as set out in Appendix J and a description of the implications of monitoring results on the development of the BSR Plan objectives and strategies;
  - iii. discussion and rationalization of how information and science has been incorporated into the development of the BSR Plan;
  - iv. description and illustration of the projected landscape and site conditions and the efforts that will be taken to create suitable habitat in the form of open grassed fields;
  - v. detailed description of the methods and approach to be employed to undertake necessary landscape conversions;
  - vi. detailed maps and explanation related to site rehabilitation measures; and
  - vii. appendix of timelines for carrying out the prescribed measures.
- (d) The BSR Plan shall be prepared by a Qualified Professional.
- (e) The Permit Holder shall comply with the approved BSR Plan in a manner that is reasonably likely to result in the re-creation of pre-construction vegetative conditions at the Project Site, specifically the restoration of hayfields equivalent in area to those that were destroyed.

- 11.1. If a regulated Species at Risk other than the Species covered by this permit is encountered on the Project Site, the Permit Holder shall immediately:
- (a) cease any activity that may adversely impact the species;
  - (b) contact MNRF immediately to discuss how and when activities shall resume; and
  - (c) provide a Species Encounter Report to MNRF that meets the criteria set out in Appendix K within 30 days of the encounter.
- 11.2. If a regulated Species at Risk, including Species covered by this permit is injured on the Project Site, the Permit Holder shall;
- (a) ensure that the individual is protected from further harm;
  - (b) seek veterinary advice/care for the individual;
  - (c) contact MNRF by the next business day; and,
  - (d) submit a Species Encounter Report to MNRF that meets the criteria set out in Appendix K within 30 days of the encounter.
- 11.3. If a regulated Species at Risk including Species covered by this Permit is found dead within the Project Site, the Permit Holder shall:
- (a) collect the individual and store it in a safe and cool place;
  - (b) contact MNRF within one business day;
  - (c) comply with any instructions provided by MNRF regarding the handling of the dead individual; and
  - (d) submit a Species Encounter Report to MNRF that meets the criteria set out in section Appendix K within 30 days of the encounter.

# Appendix C: Eastern Whip- poor-will Impact



NAD 83 UTM Zone 15N



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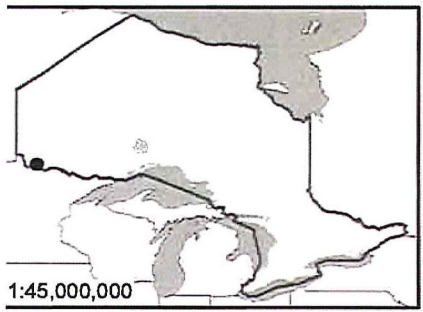


Ontario

# Appendix D: Eastern Whip-poor-will Receptor Habitat



NAD 83 UTM Zone 15N



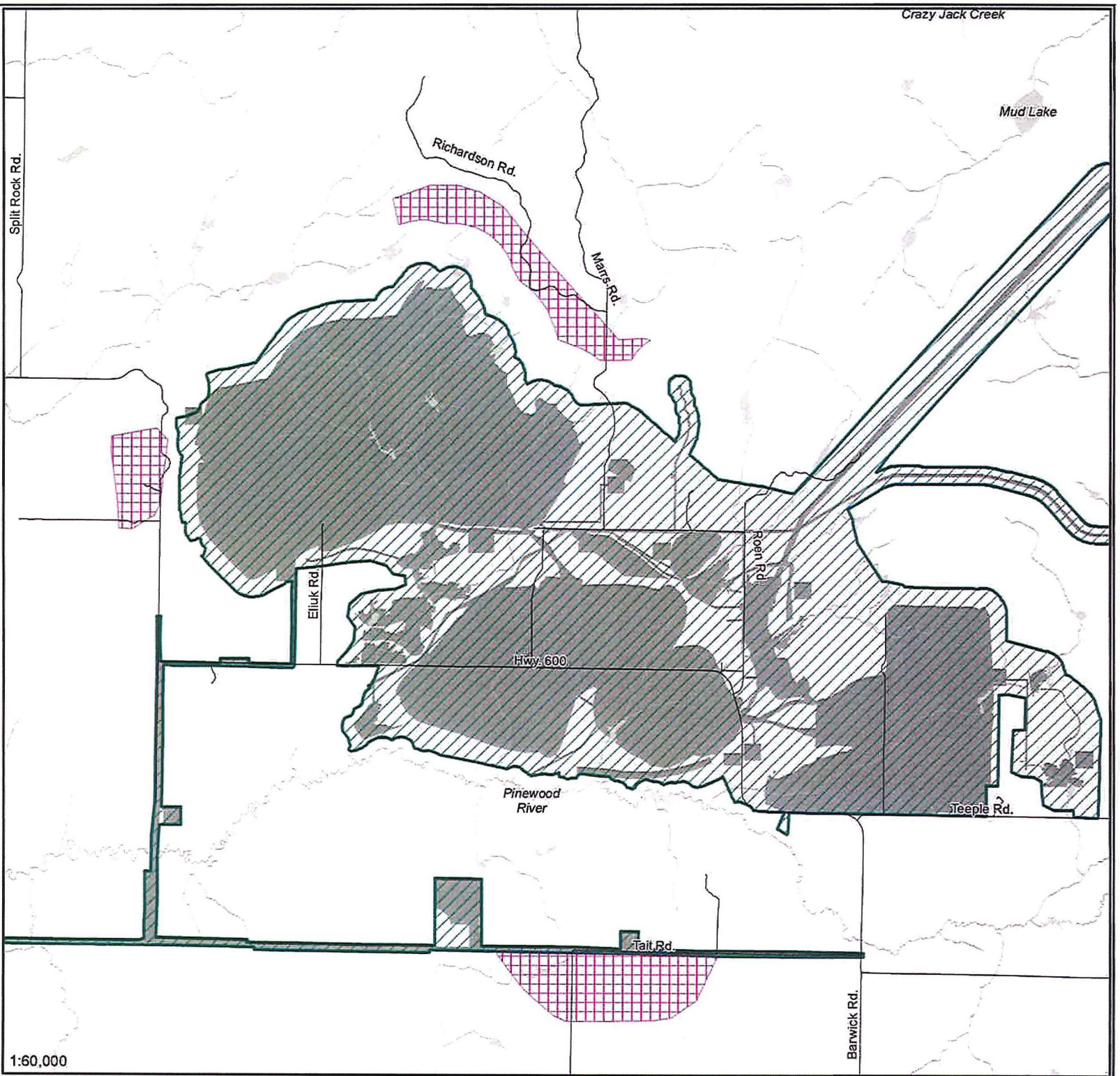
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- Hydro Line
- Road
- Receptor Habitat
- Project Site Boundary
- Water
- Stream
- Mine - Polygon

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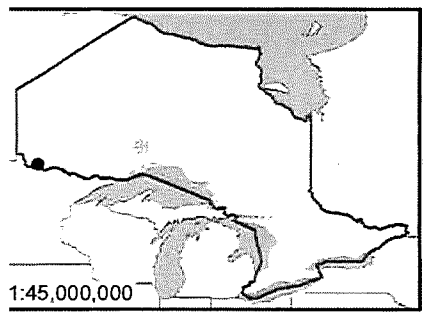


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# Appendix E: Eastern Whip- poor-will Habitat Removal Schedule



NAD 83 UTM Zone 15N



Hydro Line  
Road  
WPW Habitat Destroyed

**Clearing Schedule**

January 1, 2015 - April 30, 2015  
August 16, 2015 - April 30, 2016

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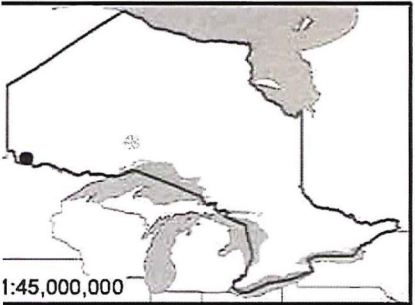


# Appendix F: Eastern Whip- poor-will Overall Benefit Area

(1 of 2)



NAD 83 UTM Zone 15N



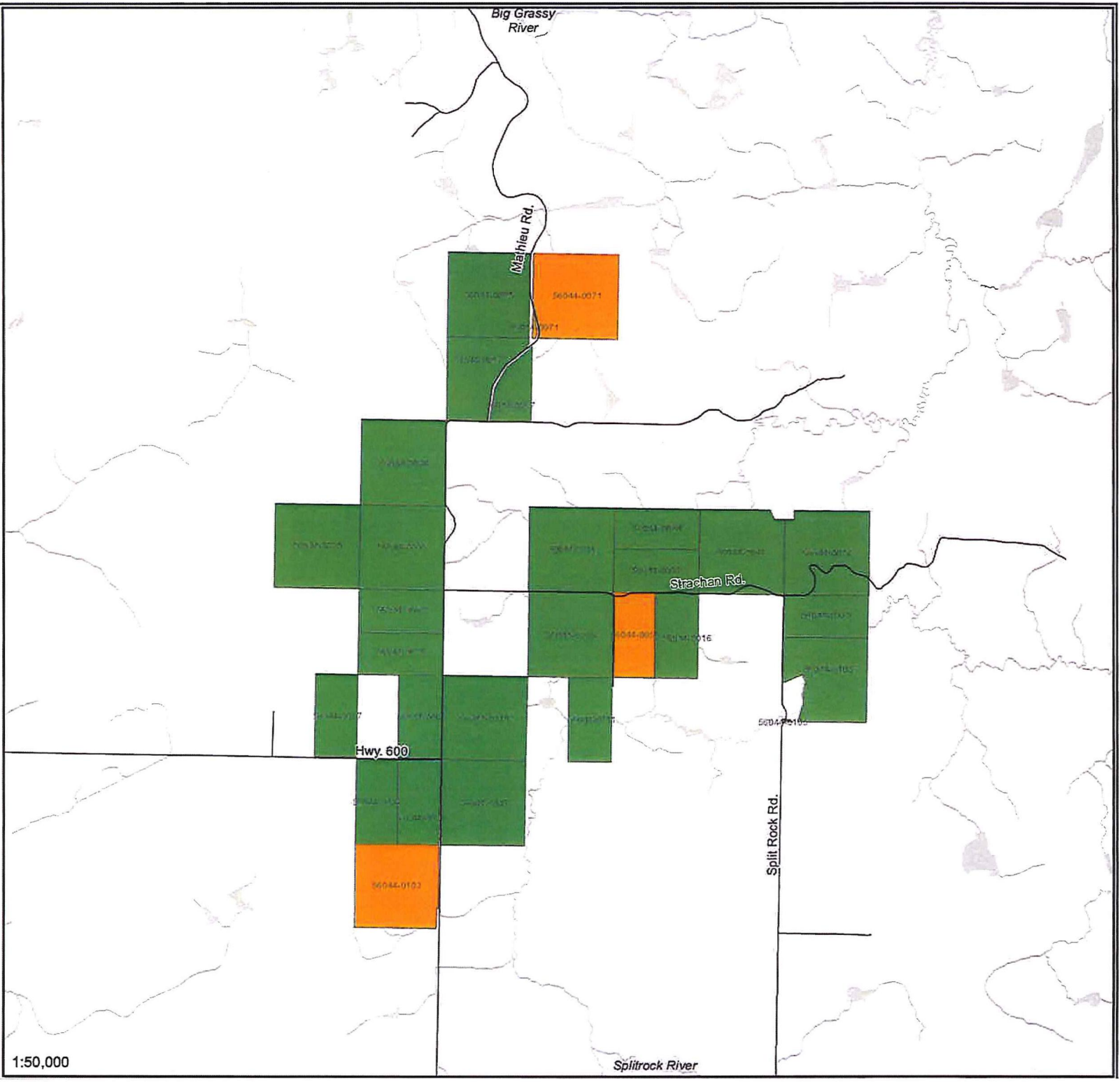
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Hydro Line  
 Road  
 Overall Benefit Area  
 Additional Eastern Whip-poor-will Habitat Area  
 Water  
 Stream

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Splitrock River

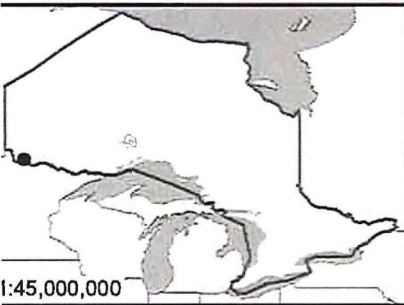


# Appendix F: Eastern Whip-poor-will Overall Benefit Area

(2 of 2)



NAD 83 UTM Zone 15N



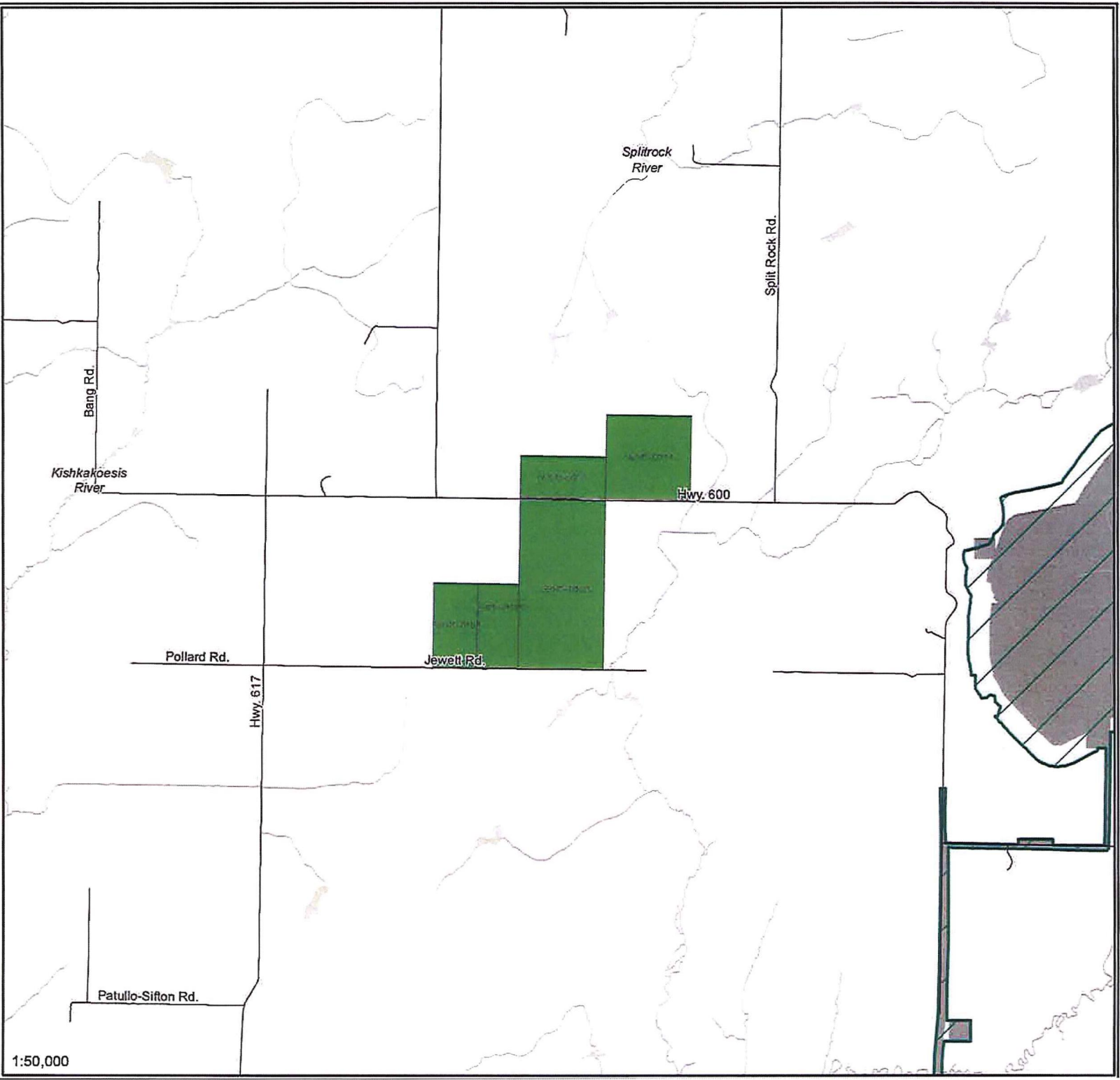
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- Hydro Line
- Road
- Overall Benefit Area
- Additional Eastern Whip-poor-will Habitat Area
- Project Site Boundary
- Water
- Stream
- Mine - Polygon

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Source of Information - Ontario Ministry of Natural Resources District Files - compiled from field survey data, historical records, landowner information, reports from the public, and data from other ministries.



**Appendix G:**

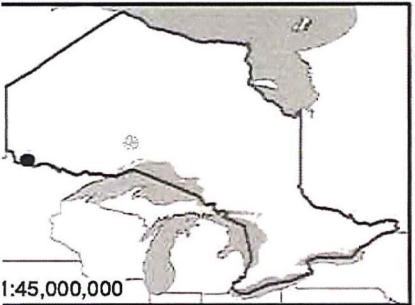
**Eastern Whip-poor-will Project Site and Overall Benefit Area Monitoring Schedule**

YEAR	Project Area – Appendix C	Peripheral Area- Appendix D	Over-all Benefit Area- Appendix F
2015	Construction – Q1		
2016	Phase 1 Monitoring – Sequence 1	Phase 1 Monitoring Sequence	Phase 2 Monitoring – Sequence 1
2017			
2018			
2019			(Implementation of Management
2020		Phase 1 Monitoring Sequence	
2021			
2022	Phase 1 Monitoring – Sequence 2	Phase 1 Monitoring Sequence	
2023			
2024		Phase 1 Monitoring Sequence	
2025			
2026			Phase 2 Monitoring – Sequence 2
2027			
2028			
2029			
2030			
2031			
2032	(Mine closure)		
2033	Phase 3 Monitoring – over three year periods recurring as necessary in accordance with condition 6.4(c).		
2034			
2035			
2036			
2037			
2038			
Etc.			Continue until Permit expires Sequence (3 concurrent years followed by 7 years of no monitoring

# Appendix H: Bobolink Habitat Impact



NAD 83 UTM Zone 15N



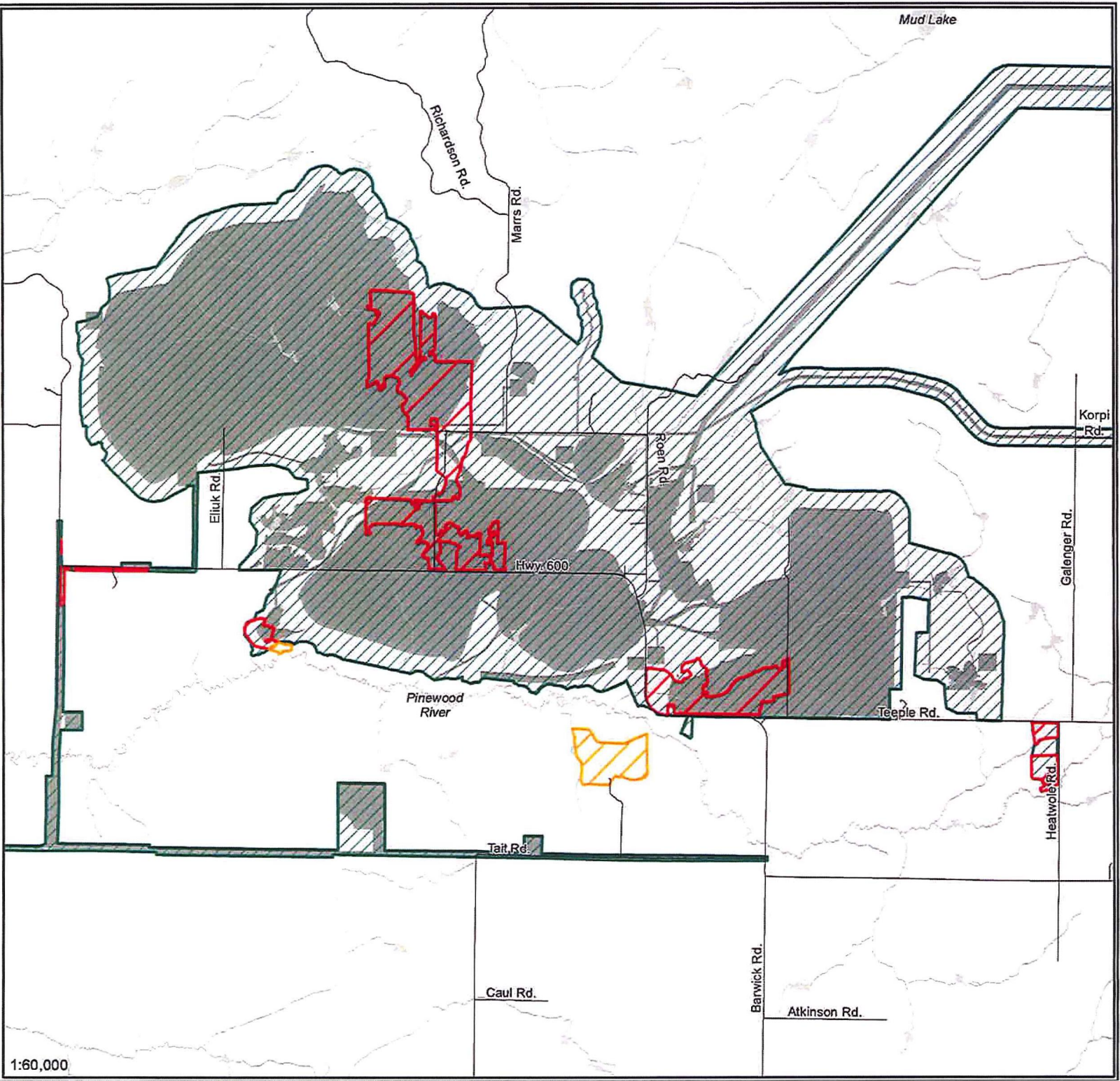
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- Hydro Line
- Road
- Project Site Boundary
- Destroyed
- Damaged
- Water
- Stream
- Mine - Polygon

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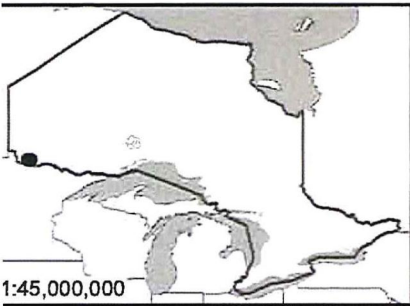
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# Appendix I: Bobolink Overall Benefit Area

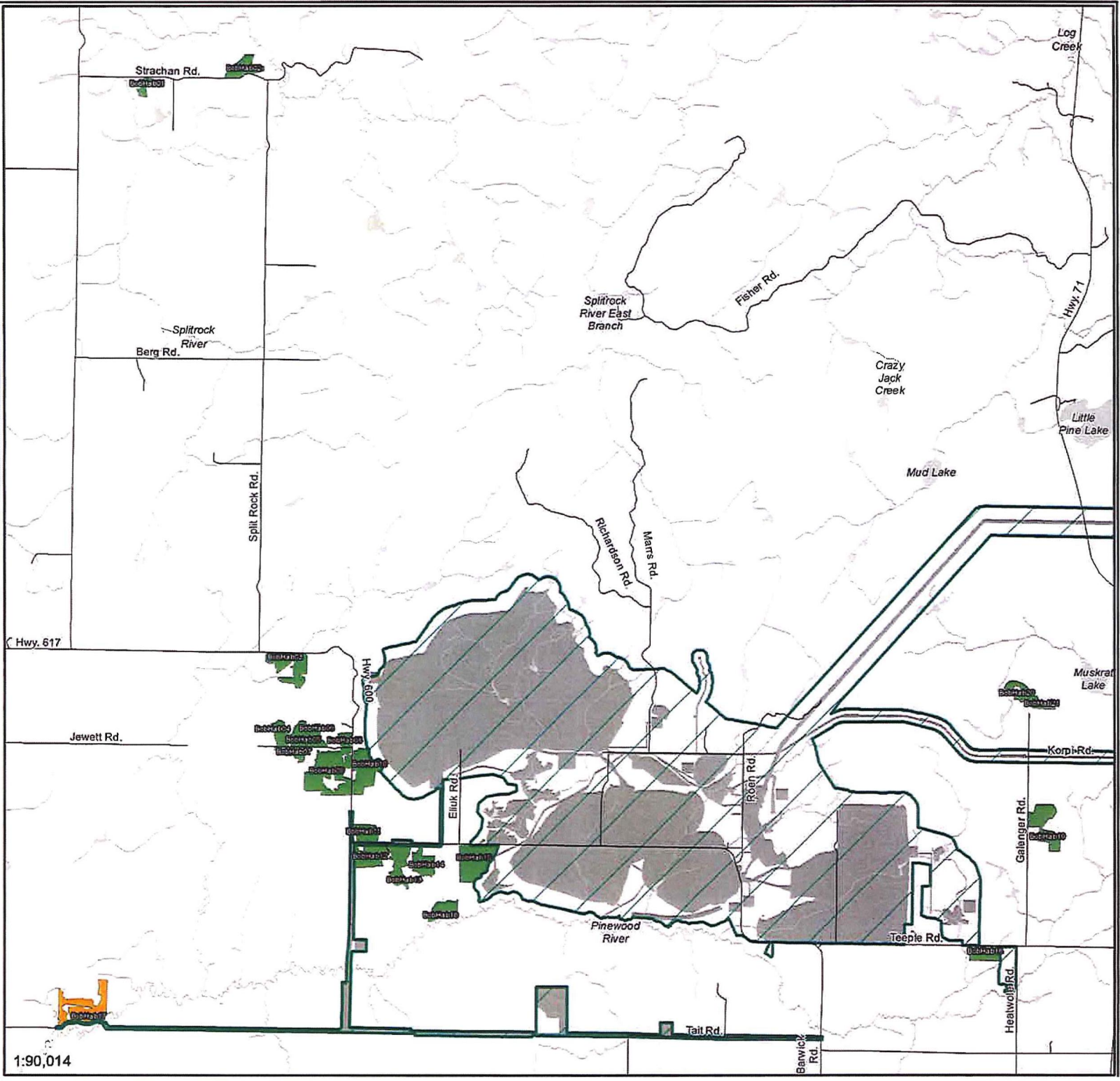


NAD 83 UTM Zone 15N



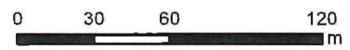
- Hydro Line
- Road
- Project Site Boundary
- Overall Benefit Area
- Additional Bobolink Habitat Area
- Water
- Stream
- Mine - Polygon

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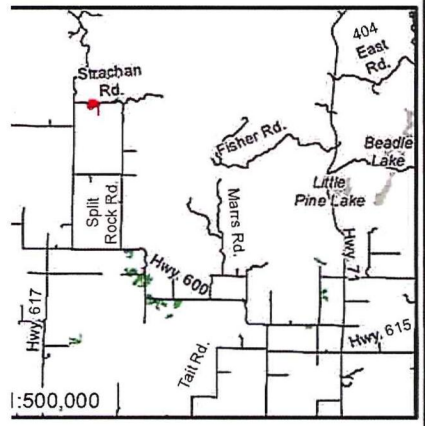






# Appendix I: Bobolink Overall Benefit Area

BobHab01

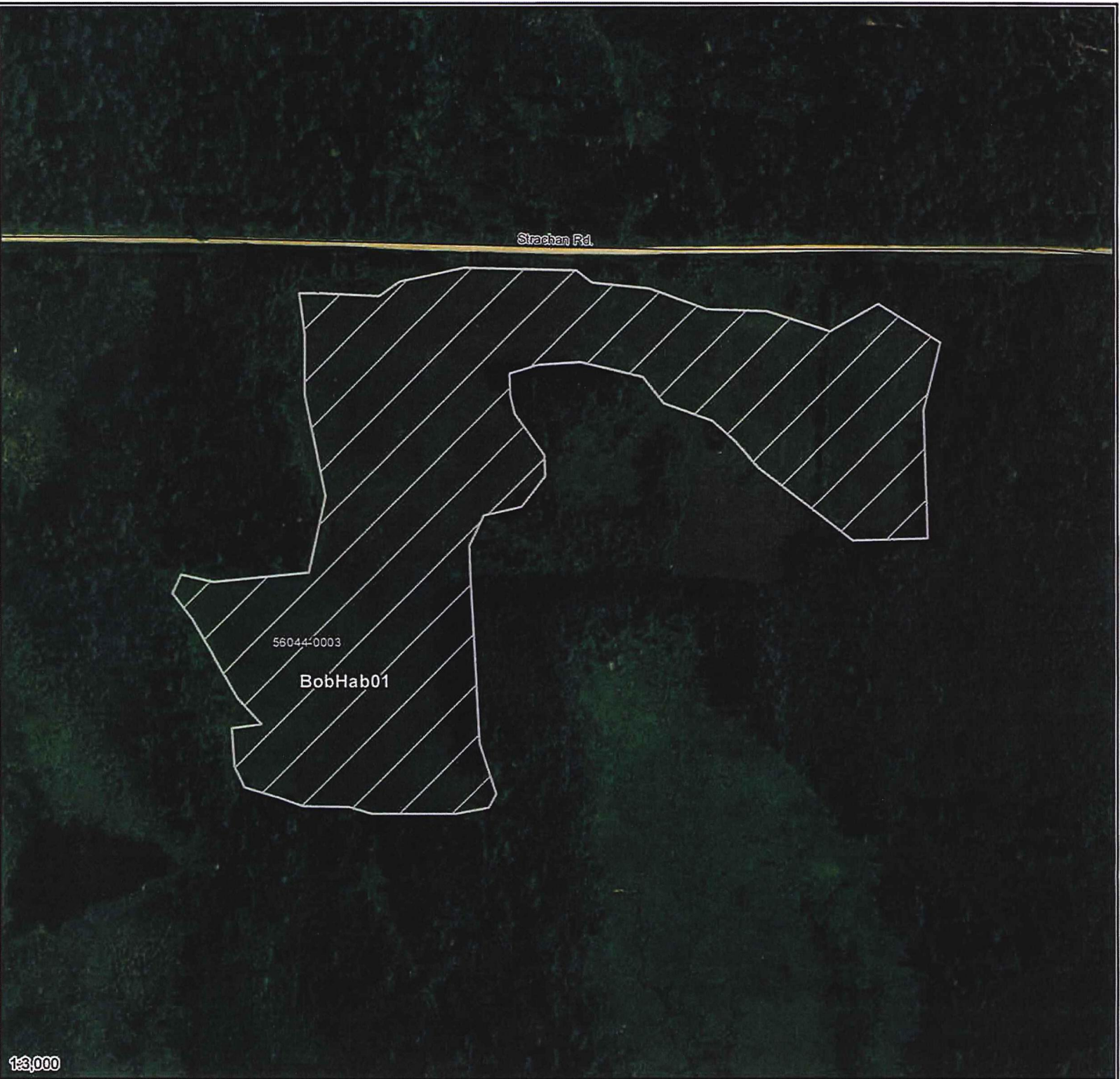


NAD 83 UTM Zone 15N



-  Hydro Line
-  Road
-  Bobolink Overall Benefit Area
-  Mine - Polygon

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 navigation.  
 Source of Information - Ontario Ministry of  
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 public, and data from other ministries.



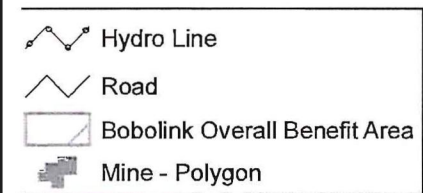
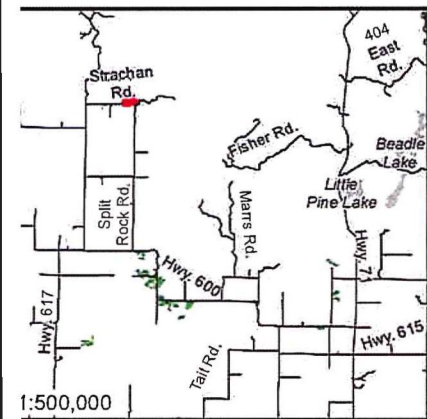
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# Appendix I: Bobolink Overall Benefit Area

BobHab02



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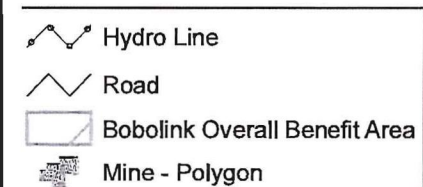
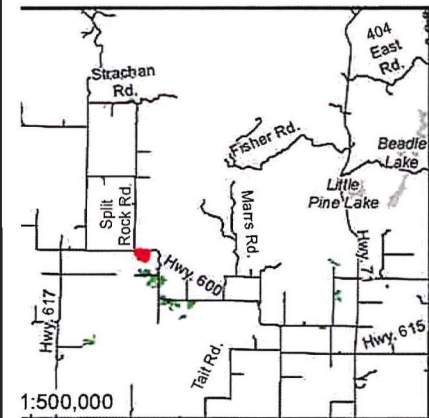


# Appendix I: Bobolink Overall Benefit Area

## BobHab03



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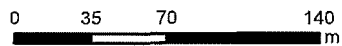
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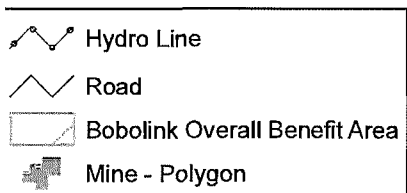
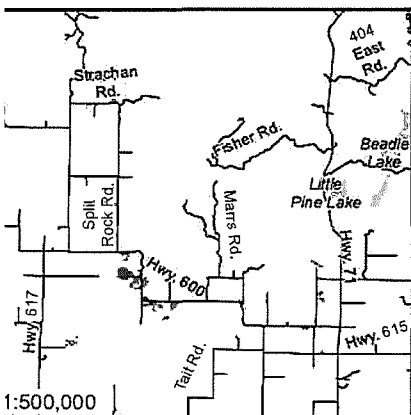
Source of Information - Ontario Ministry of Natural Resources District Files - compiled from field survey data, historical records, stakeholder information, reports from the public, and data from other ministries

# Appendix I: Bobolink Overall Benefit Area

## BobHab04



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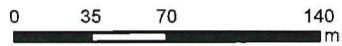
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Source of Information - Ontario Ministry of Natural Resources District Files - compiled from field survey data, historical records, stakeholder information, reports from the public, and data from other ministries

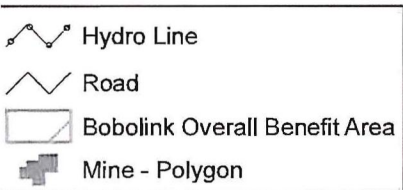
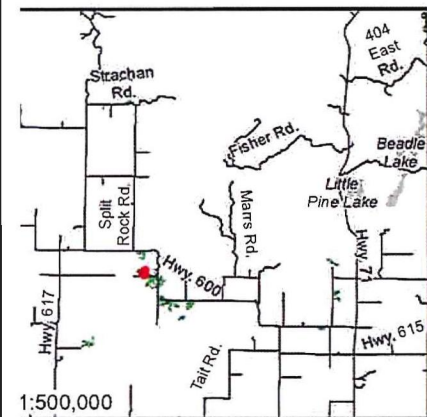


# Appendix I: Bobolink Overall Benefit Area

## BobHab05



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BobHab09

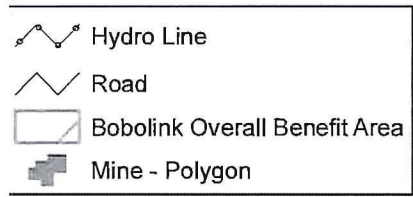
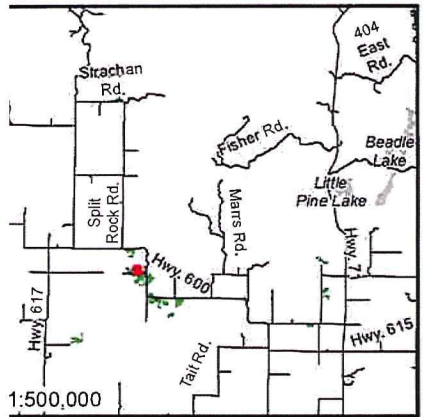
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# Appendix I: Bobolink Overall Benefit Area

BobHab06



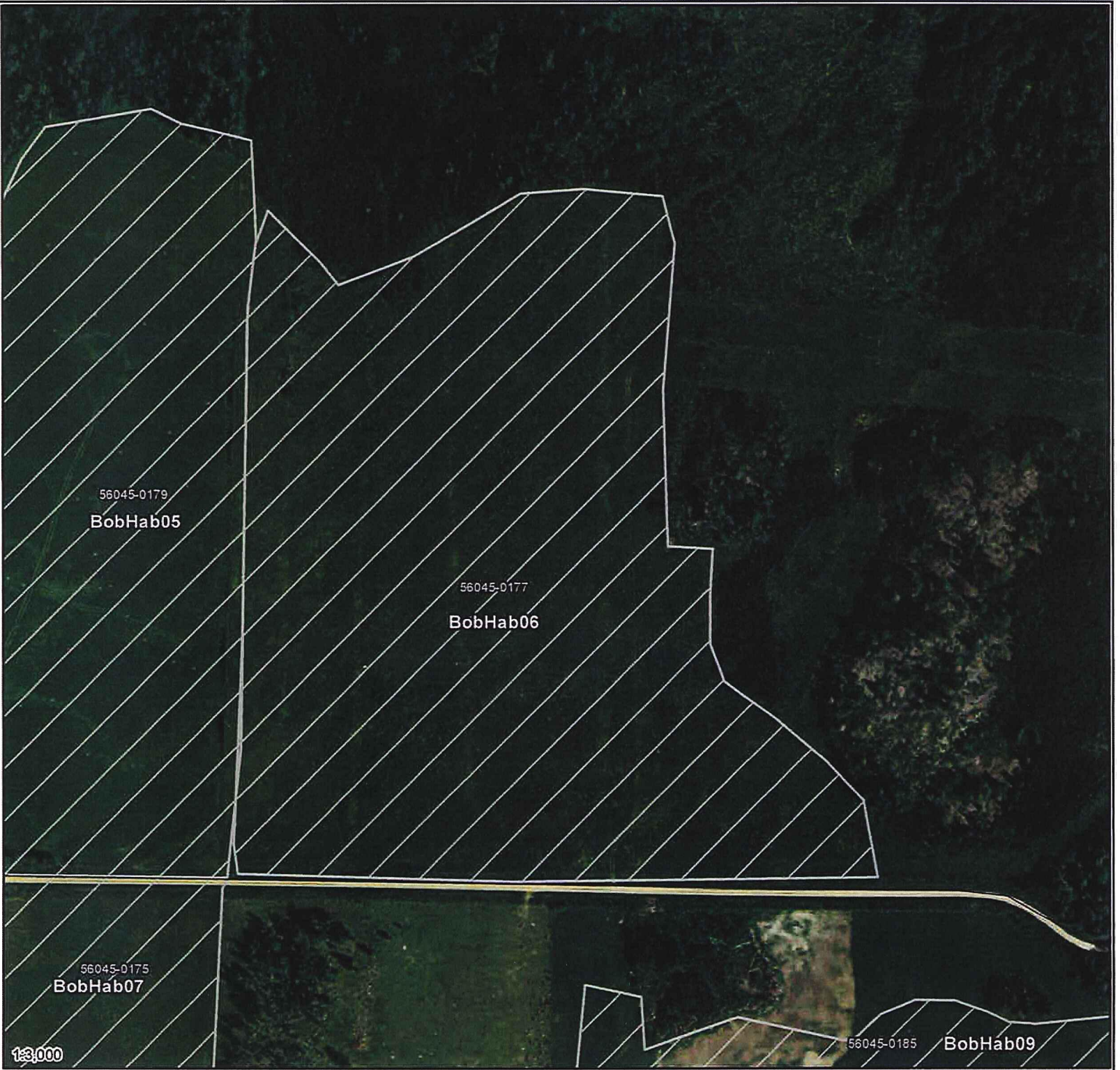
NAD 83 UTM Zone 15N



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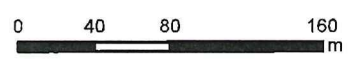
This map is illustrative only. Do not rely on it as being a precise indicator of routes, locations of features, nor as a guide to navigation.

Source of Information - Ontario Ministry of Natural Resources District Files - compiled from field survey data, historical records, stakeholder information, reports from the public, and data from other ministries.

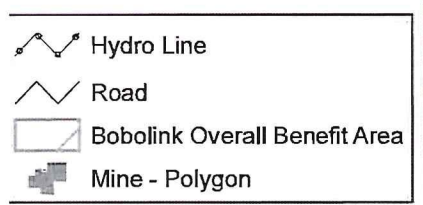
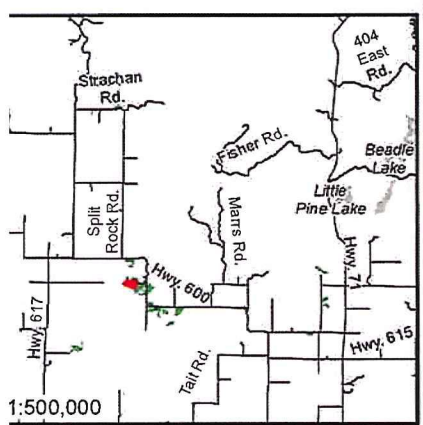


# Appendix I: Bobolink Overall Benefit Area

**BobHab07**



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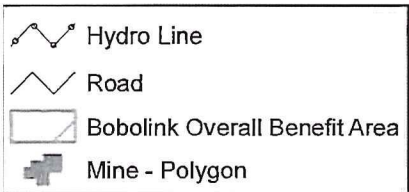
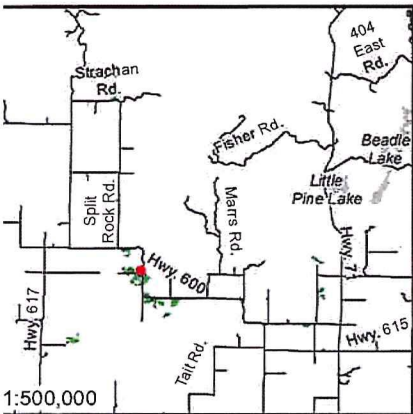
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# Appendix I: Bobolink Overall Benefit Area

BobHab08



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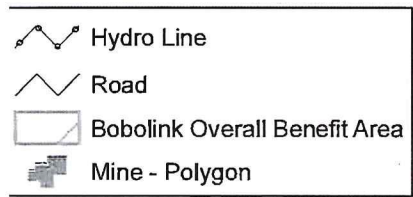
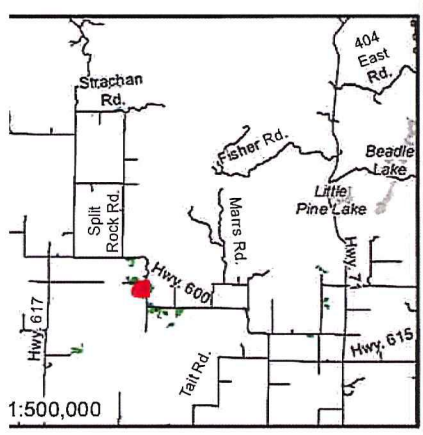


# Appendix I: Bobolink Overall Benefit Area

BobHab09



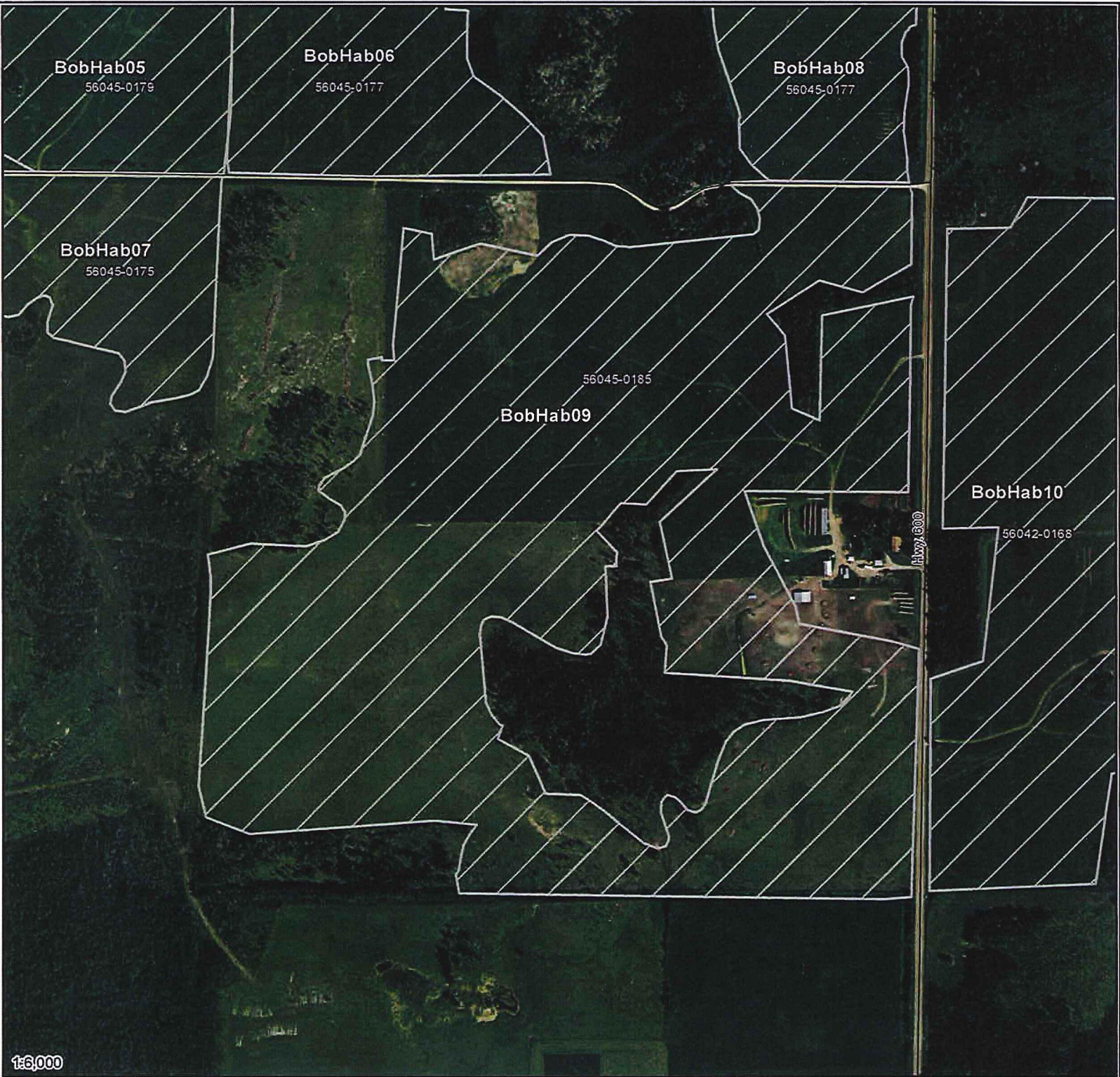
NAD 83 UTM Zone 15N



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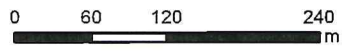
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Source of Information - Ontario Ministry of Natural Resources District Files - compiled from field survey data, historical records, stakeholder information, reports from the public, and data from other ministries.

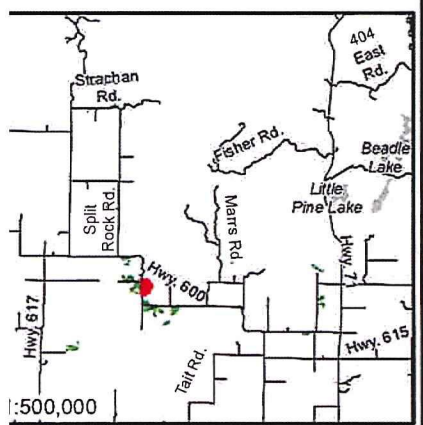


# Appendix I: Bobolink Overall Benefit Area

BobHab10



NAD 83 UTM Zone 15N



- Hydro Line
- Road
- Bobolink Overall Benefit Area
- Mine - Polygon

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Source of Information - Ontario Ministry of Natural Resources District Files - compiled from field survey data, historical records, stakeholder information, reports from the public, and data from other ministries.



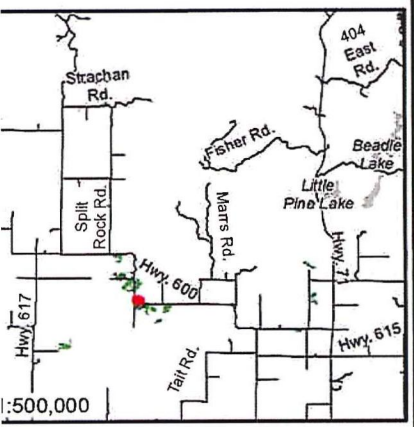
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# Appendix I: Bobolink Overall Benefit Area

BobHab11



NAD 83 UTM Zone 15N



- Hydro Line
- Road
- Bobolink Overall Benefit Area
- Mine - Polygon

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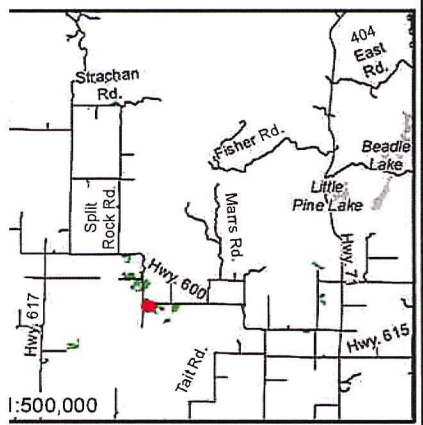


# Appendix I: Bobolink Overall Benefit Area

## BobHab12



NAD 83 UTM Zone 15N



- Hydro Line
- Road
- Bobolink Overall Benefit Area
- Mine - Polygon

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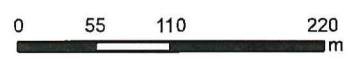
Source of Information - Ontario Ministry of Natural Resources District Files - compiled from field survey data, historical records, stakeholder information, reports from the public, and data from other ministries.



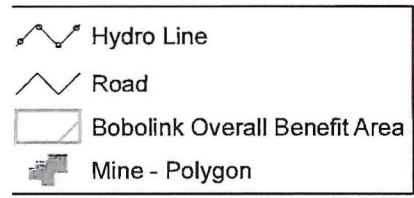
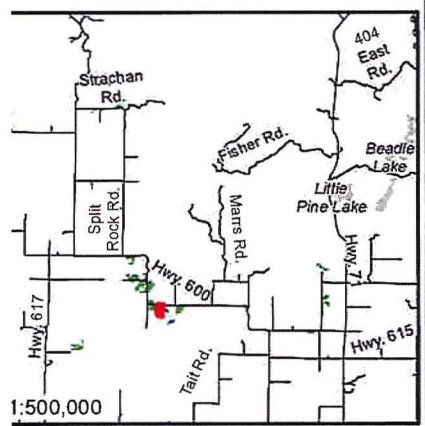
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# Appendix I: Bobolink Overall Benefit Area

**BobHab13**



NAD 83 UTM Zone 15N



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This map is illustrative only. Do not rely on it as being a precise indicator of routes, locations of features, nor as a guide to navigation.

Source of Information - Ontario Ministry of Natural Resources District Files - compiled from field survey data, historical records, stakeholder information, reports from the public, and data from other ministries.



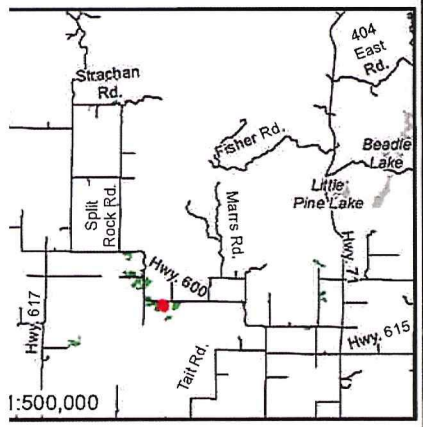
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# Appendix I: Bobolink Overall Benefit Area

BobHab14



NAD 83 UTM Zone 15N



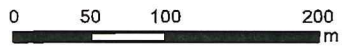
- Hydro Line
- Road
- Bobolink Overall Benefit Area
- Mine - Polygon

2013 Queen's Printer for Ontario  
Printed in Ontario, Canada  
Notes:  
This map is illustrative only. Do not rely on it as being a precise indicator of routes, locations of features, nor as a guide to navigation.  
Source of Information - Ontario Ministry of Natural Resources District Files - compiled from field survey data, historical records, stakeholder information, reports from the public, and data from other ministries.

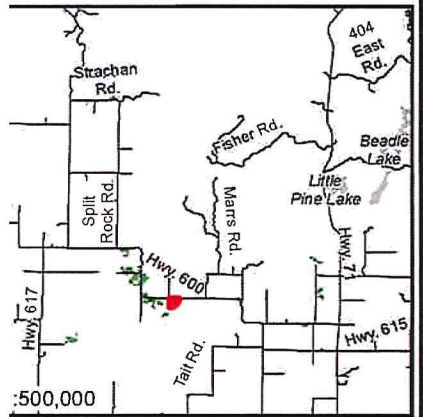


# Appendix I: Bobolink Overall Benefit Area

BobHab15



NAD 83 UTM Zone 15N



- Hydro Line
- Road
- Bobolink Overall Benefit Area
- Mine - Polygon

2013 Queen's Printer for Ontario  
 Printed in Ontario, Canada  
 Notes:  
 This map is illustrative only. Do not rely on  
 this map as a precise indicator of routes,  
 locations of features, or as a guide to  
 navigation.  
 Source of Information - Ontario Ministry of  
 Natural Resources District Files - compiled  
 from field survey data, historical records,  
 titleholder information, reports from the  
 public, and data from other ministries.



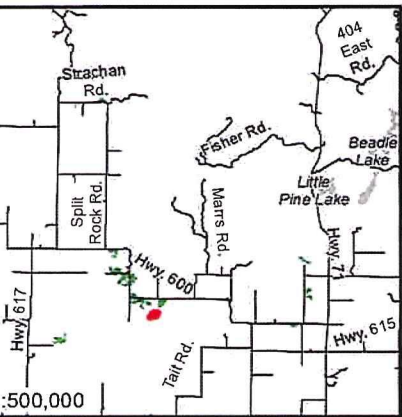
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# Appendix I: Bobolink Overall Benefit Area

BobHab16



NAD 83 UTM Zone 15N



- Hydro Line
- Road
- Bobolink Overall Benefit Area
- Mine - Polygon

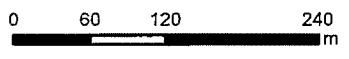
2013 Queen's Printer for Ontario  
Printed in Ontario, Canada  
Resources:  
This map is illustrative only. Do not rely on  
this map as a precise indicator of routes,  
boundaries of features, nor as a guide to  
navigation.  
Source of Information - Ontario Ministry of  
Natural Resources District Files - compiled  
from field survey data, historical records,  
landholder information, reports from the  
field, and data from other ministries.



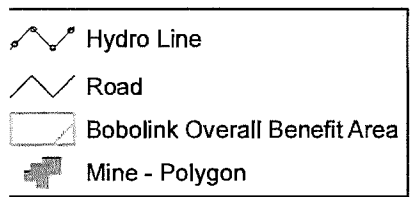
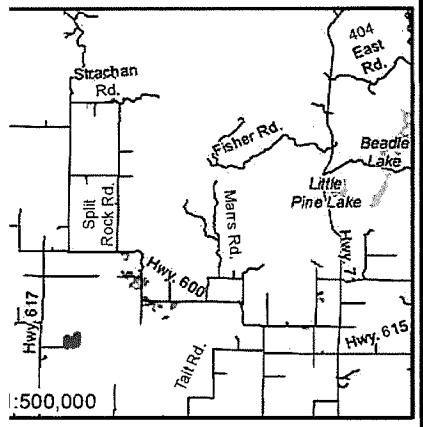
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# Appendix I: Bobolink Overall Benefit Area

BobHab17



NAD 83 UTM Zone 15N



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 Printed in Ontario, Canada

Notes:

This map is illustrative only. Do not rely on it as being a precise indicator of routes, locations of features, nor as a guide to navigation.

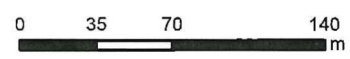
Source of Information - Ontario Ministry of Natural Resources District Files - compiled from field survey data, historical records, stakeholder information, reports from the public, and data from other ministries.



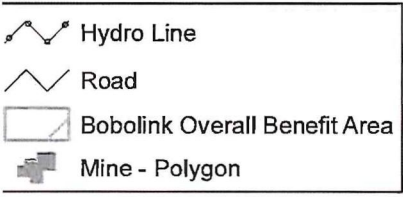
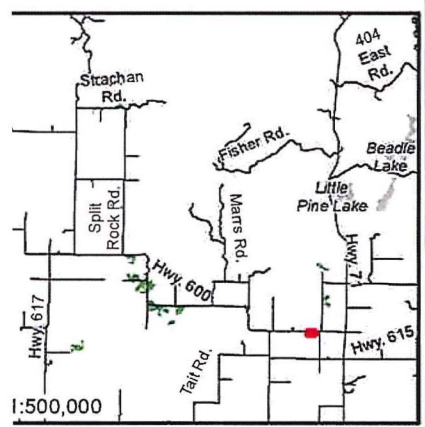
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# Appendix I: Bobolink Overall Benefit Area

## BobHab18



NAD 83 UTM Zone 15N



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Printed in Ontario, Canada

This map is illustrative only. Do not rely on this map as a precise indicator of routes, locations of features, nor as a guide to navigation.

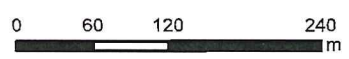
Source of Information - Ontario Ministry of Natural Resources District Files - compiled from field survey data, historical records, stakeholder information, reports from the public, and data from other ministries.



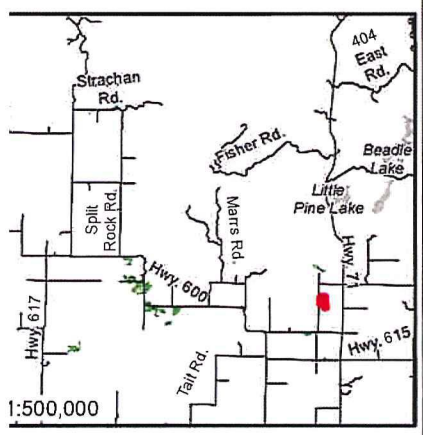
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# Appendix I: Bobolink Overall Benefit Area

## BobHab19



NAD 83 UTM Zone 15N



- Hydro Line
- Road
- Bobolink Overall Benefit Area
- Mine - Polygon

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Printed in Ontario, Canada

This map is illustrative only. Do not rely on it as being a precise indicator or routes, locations of features, nor as a guide to navigation.

Source of Information - Ontario Ministry of Natural Resources District Files - compiled from field survey data, historical records, stakeholder information, reports from the public, and data from other ministries.

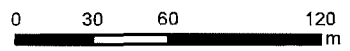


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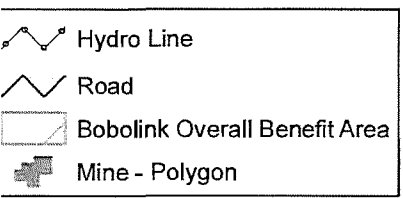
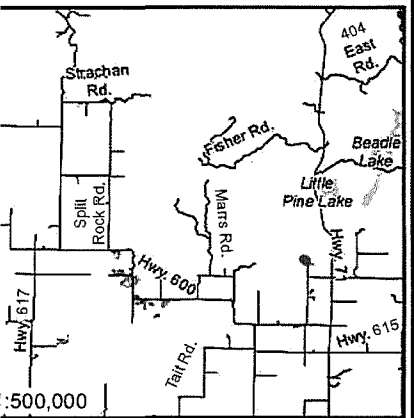


# Appendix I: Bobolink Overall Benefit Area

BobHab20



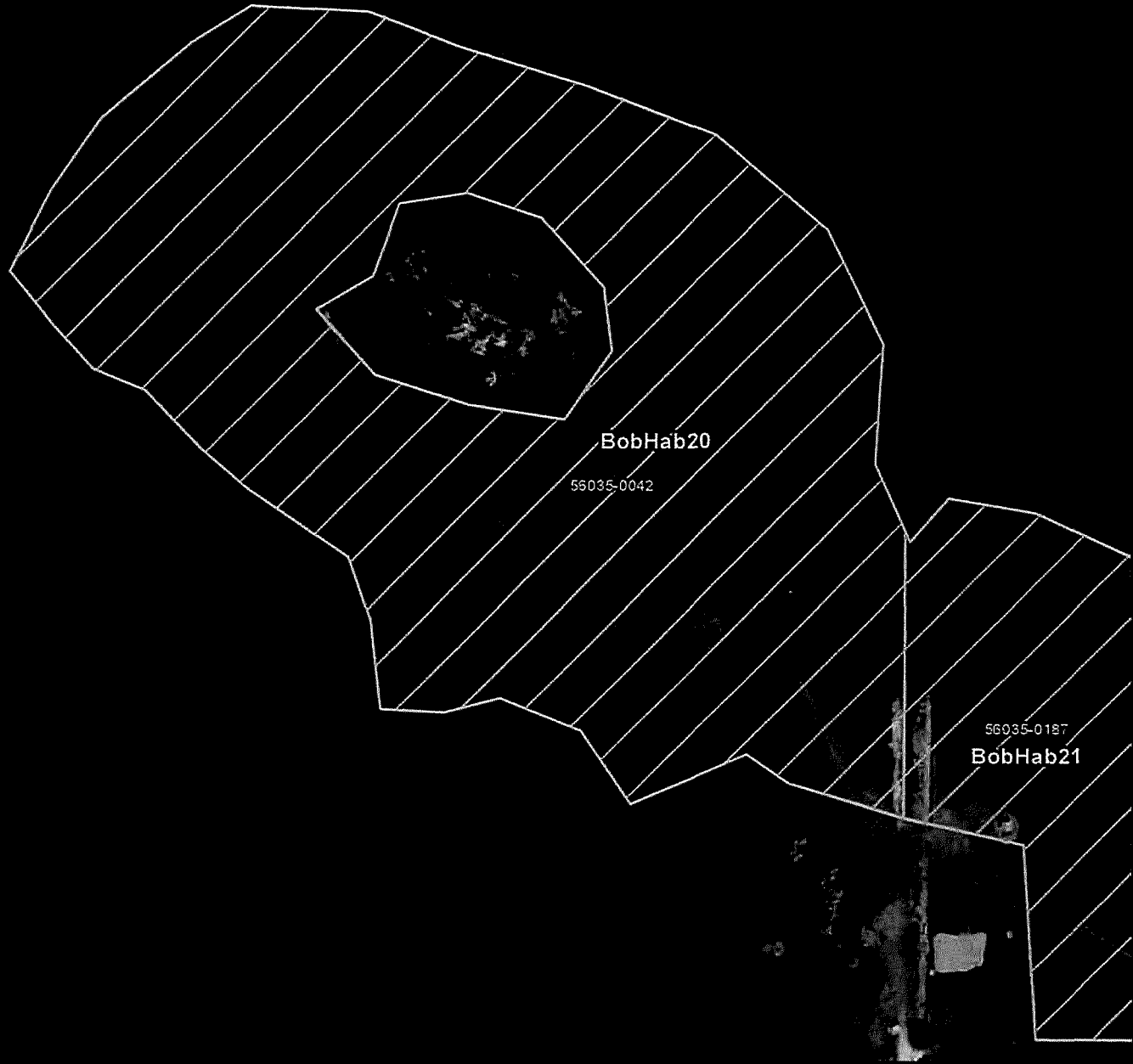
NAD 83 UTM Zone 15N



2013 Queen's Printer for Ontario  
 Printed in Ontario, Canada  
 This map is illustrative only. Do not rely on this map as a precise indicator of routes, locations of features, nor as a guide to navigation.  
 Source of Information - Ontario Ministry of Natural Resources District Files - compiled from field survey data, historical records, stakeholder information, reports from the public, and data from other ministries

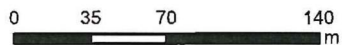


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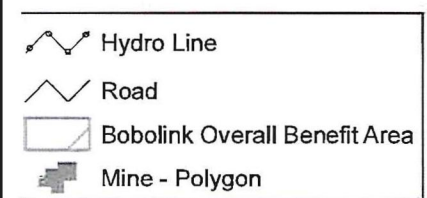
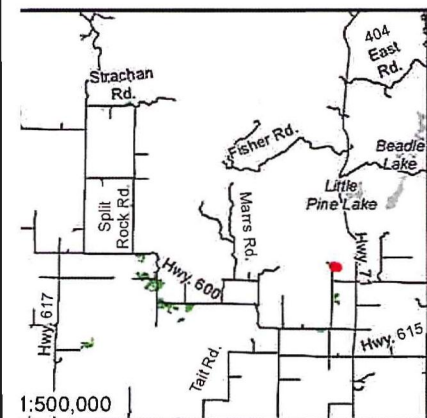


# Appendix I: Bobolink Overall Benefit Area

BobHab21



NAD 83 UTM Zone 15N



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Printed in Ontario, Canada

This map is illustrative only. Do not rely on it as being a precise indicator of routes, locations of features, nor as a guide to navigation.

Source of Information - Ontario Ministry of Natural Resources District Files - compiled from field survey data, historical records, stakeholder information, reports from the public, and data from other ministries.



1:3,500

**Appendix: J**

**Bobolink Project Site and Overall Benefit Area Monitoring Schedule**

YEAR	Project Site Monitoring Schedule	Overall Benefit Area Monitoring
2015	Phase 1 Monitoring	
2016		Phase 2 Monitoring
2017		
2018		
2019		
2020		
2021		
2022		
2023		
2024		
2025		
2026		Phase 2 Monitoring
2027		
2028		
2029		
2030		
2031		
2032	(Mine Closure)	
2033	Phase 3 Monitoring – over three year periods recurring as necessary in accordance with condition 6.4(c).	
2034		
2035		
2036		Continue survey Sequence terminated until Permit expires
2037		
2038		
Etc.		

**Appendix K:**

Species Encounter Reporting Form

Name and position of Observer Phone Number	
Species Observed	
Date and time (EST) of Observation	
Location of Observation (UTM coordinates & description)	
General description of Observation (eg. nest, individual, behaviour)	
Actions taken to minimize/mitigate adverse impacts (if required)	