

To whom it may concern,

My name is Carmela Marshall. My concerns are mostly with Policy, A.R. 6.00.03 [Importation of Inert Fill for Purpose of Rehabilitation](#), although some more general issues will be expressed as well. I understand that perhaps before **policy** changes are made, changes may also have to be considered for the Act itself in order for the policies to be effective and upheld.

I am a member of a citizen's group in Scugog, Lakeridge Citizens for Clean Water. Our spokesperson already submitted a comment for the Review back in May of this year. This submission is in addition to that comment; however the concerns regarding the issue of aggregate sites being used as dumping grounds for Brownfield waste is still the concern.

Specifically, I would like to request that policy makers review the following points:

- 1) **Concerns regarding allowing elevated SAR and EC for subsurface soils when considering imported fill standards.** In my correspondence with the MNR (email attached at the end of this report), I note that it appears only plant growth was considered when this policy was decided. I have not yet received confirmation that impacts to groundwater were also considered when these parameters were allowed to be elevated beyond Table 1. I am requesting that the MNR provide a scientifically based rationale that specifically indicates that there will be no impacts to groundwater by allowing elevated SAR and EC for subsurface soils with regards to imported fill for any pit (new or old) in question.
- 2) **Concerns regarding the inadequate number of officers dealing with large numbers of licenses.** For example, the Midhurst officer has one technician and 150 pits to oversee. The lack of officers necessitates pit operators to self-police and self monitor without regular audits. While that may work in some regard, our group has found that self-monitoring does not work when it comes to "commercial fill dump sites". One operator in New Tecumseth has made the decision to place a "Clean Fill Dump Site" sign at the entrance to his licensed pit. I am sure policy makers are well aware that the term "Clean Fill" can be interpreted in many different ways. It is understood that the MNR only allows Table 1 soils for rehabilitation purposes. However, I note that while MNR officers can request to see records of the imported fill at any time, the tremendous number of sites for which they are responsible may not allow the type of scrutiny that is required for these types of filling operations.
- 3) **Concerns regarding inadequate records of imported fill.** I am unsure if the MNR **requires** sites to **list all the sources of the fill** or merely keep records of soil analyses that demonstrate imported fill meets Table 1 standards. LCCW notes that for all of the commercial fill dump sites for which we have researched, despite "qualified people" reviewing "source site reports" for suitability, inappropriate material was still deposited on site. This happens because many soil analysis reports **may not necessarily reconcile** with what was transported from any one site. The

amount of testing done at the source may not be adequate in terms of quantity received from that site. The parameters tested may also not be comprehensive. As well, there is ***bias*** at every step of the process when soil is tested. As well, much of the soil may come from ***Brownfield sites***, and under REG. 153, no testing of excavated material from Brownfields (that is never to return to the site) is required. Therefore, any soil reports the Aggregate site owners are given, may not necessarily reflect what has been dug out at the source and received at their sites. LCCW has many MOE Orders and consultant reports to verify the facts mentioned above. Therefore, we advise that when it comes to self-monitoring for imported fill material, a much more comprehensive and conservative auditing system must be put in place. The MNR needs to do their own audit testing of the site-the cost of this can be put back on the proponent. There needs to be clear requirements for the types of records and statements that need to exist. The resources currently available to MNR officers do not permit this type of necessary scrutiny.

- 4) **Concerns regarding license surrender.** Some sites are being severed or licenses surrendered before rehabilitation under the Act. Instead, ***“agreements”*** are being struck up between municipalities and pit owners in order to use the pits for commercial fill operations. There is no incentive for pit owners to rehabilitate as per the Act or their site plan when MNR allows them to surrender if they see they have an agreement with the municipality. Some agreements may very well be for a legitimate end, however, **due to the incredibly lucrative fill industry**, where millions of dollars can be made in just a few months, it is feared many pits will become dumping grounds for commercial fill. The effects of these operations on high aquifer vulnerability areas and significant groundwater recharge areas has not been assessed, nor has the continued use of the MOE Tables outside of their prescribed use (i.e. for Reg. 153/04, as amended).

- 5) **Concerns regarding Surrendered License pits being used as commercial fill dump sites.** LCCW appreciates that once a license is surrendered, the MNR is no longer involved. However, we are seeing pits, having been rehabilitated for agriculture, for example, whose owners say they can't farm because of the topography and need to bring in **millions** of cubic metres of fill. We know of such sites in East Gwillimbury, City of Kawartha Lakes and Scugog to name a few. There needs to be clear rules to ensure the future land use can be achieved after the site is rehabilitated with the overburden on site. There also needs to be much stronger penalties for those who over extract, thereby leaving no alternative but to bring in fill to achieve slope requirements.

In terms of ensuring safe, clean and abundant groundwater, we feel that careful consideration of the above concerns is critical in this time of review. Your attention is most appreciated.

Sincerely,

Carmela Marshall

LCCW

Emails regarding elevated SAR and potential groundwater impacts

From: "VandenHeuvel, Maria (MNR)" <maria.vandenheuvel@ontario.ca>
To: Carmela Marshall <natureways@rogers.com>
Sent: Tuesday, March 27, 2012 4:07:15 PM
Subject: RE: SAR

Hi Carmela,

Thanks for giving me the opportunity to clarify. My reply was intended to let you know that the ministry takes questions from members of the public quite seriously, and that the two ministries are going to evaluate whether or not the existing policy provides adequate protection in today's policy framework.

I will be sure update you on our progress as soon as possible. In the interim, if you have concerns about a particular site that is regulated under the Aggregate Resources Act and importing fill under the conditions outlined in policy 6.00.03, please let us know.

Thanks,

Maria

Maria VandenHeuvel

(705) 755-1375

From: Carmela Marshall [mailto:natureways@rogers.com]
Sent: Wednesday, March 21, 2012 12:35 AM
To: VandenHeuvel, Maria (MNR)
Subject: SAR

Hi there. Thank you for your reply. I am very familiar with the use of the tables and MOE Reg. 153/04 as amended. I have certainly come to know the regulation over the past 2 years with concerns raised in our community re: the dumping of brownfield dirt. It's been educational to say the least.-)

It was indicated to me that the direction came from MOE on this particular point-
re: SAR I am just wondering if MOE considered impacts to groundwater when
they advised MNR to allow higher SAR ratios below 1.5 metres? What I am
understanding from your email is that neither the MOE nor the MNR considered
impacts to groundwater when this policy was developed-would this be because
someone, somewhere knows elevated SAR could never be a problem for
groundwater due to some scientific reason or was it that no one thought of it. It
must be one of the two I would think? Maybe I am misunderstanding? Is there a
contact you have in the MOE who would be the "go to" person to get more
clarity? May I ask who that contact would be?

regards,

carmela:-)

From: "VandenHeuvel, Maria (MNR)" <maria.vandenheuvel@ontario.ca>
To: Carmela Marshall <natureways@rogers.com>
Sent: Tuesday, March 20, 2012 5:03:47 PM
Subject: RE: appropriate contact

Hi Carmela,

Thank you for your email.

MNR's Policy A.R. 6.00.03: Importation of Inert Fill for the Purpose of Rehabilitation
(<http://www.mnr.gov.on.ca/stdprodconsume/groups/lr/@mnr/@aggregates/documents/document/269650.pdf>) was developed to address the practice of bringing material or fill into an aggregate operation for rehabilitation purposes, and to clarify what is meant by the term 'inert' in that context. At the time of development, it was determined that the "Soil, Ground Water and Sediment Standards for Use under Part XV.1 of the Environment Protection Act" provided an existing set of parameters for the testing of fill, and that if the fill material met these parameters, it would be considered inert.

The Soil, Ground Water and Sediment Standards for Use under Part XV.1 of the Environment Protection Act were developed to address the clean-up at existing contaminate sites, and the parameters for sodium adsorption ratio and electrical conductivity within those tables were intended to address adequate plant growth. After the first version of Policy 6.00.03 was issued, the Ministry of Natural Resources (MNR) was asked to consider whether the policy could be amended to exclude those two parameters. The MNR consulted with Ministry of the Environment (MOE) and determined that, as these criteria were for the purposes of ensuring adequate plant growth and plant growth is affected by the conditions of the surface soil, it was not necessary to meet these two parameters for imported fill being deposited more than 1.5 m below the surface.

We are working with MOE to determine whether our existing policy adequately addresses any potential concerns for groundwater.

Please let me know if you have any further questions.

Thanks,

Maria

Maria VandenHeuvel

(705) 755-1375

From: Carmela Marshall [mailto:natureways@rogers.com]

Sent: Wednesday, February 29, 2012 3:18 PM

To: VandenHeuvel, Maria (MNR)

Subject: Re: appropriate contact

Much appreciated. I look forward to your reply.

carmela:-)

From: "VandenHeuvel, Maria (MNR)" <maria.vandenheuvel@ontario.ca>

To: natureways@rogers.com

Cc: "Douglas, Cathy (MNR)" <cathy.douglas@ontario.ca>
Sent: Wednesday, February 29, 2012 2:59:19 PM
Subject: RE: appropriate contact

Hi Carmela,

I apologize for the delay in responding to your email. I am in the process of looking into your question and will get back to you as soon as possible.

Thanks,

Maria

Maria VandenHeuvel

Policy Advisor, Aggregates

Lands and Non-Renewable Resources Section

300 Water Street, 5th Floor, South Tower

Peterborough, ON K9J 8M5

Ph. (705) 755-1375

Fx. (705) 755-1206

From: Douglas, Cathy (MNR)
Sent: Friday, February 10, 2012 8:53 AM
To: VandenHeuvel, Maria (MNR)
Subject: FW: appropriate contact

As discussed attached is e-mail from Carmella Marshall re Table 1 fill policy & SAR

Thanks

CDD

Catherine D. Douglas
Aggregate Resources Officer
Ministry of Natural Resources

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From: Carmela Marshall [mailto:natureways@rogers.com]
Sent: February 8, 2012 11:28 PM
To: Douglas, Cathy (MNR)
Subject: appropriate contact

Hi there. It's been a while:-) I was hoping you could give me a contact to speak to regarding the following:

I have been trying to figure out if policy (or guideline writers) of the Aggregate Act took into consideration groundwater impact when they indicated that imported fill for rehab purposes has to be consistent with table 1 standards except for SAR -if not in the top 1.5 metres of soil. I understand salt's impact on growing plants and therefore you don't want salt impacted soils on the top layer. I just want to understand why salt impacted soil would be acceptable lower down-closer to the water where it could have an impact on groundwater, especially in volume. Would you know who I could talk to about that. I called MNR in Peterborough but they gave me your number. Sorry to bother you with this. Can you help?

regards,

carmela

