



Lakeridge Citizens for Clean Water  
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November 30, 2013

The City of Burlington  
Burlington, Ontario

To the Committee Members,

I am writing to you on behalf of Lakeridge Citizens for Clean Water in the Township of Scugog. For the past three years, we have been heavily involved with the issue of the dumping of soil at aerodromes. Last year we retained the services of Ian Blue of Gardiner Roberts to write an opinion regarding municipal powers over aerodromes and enforcement of site-alteration by-laws. We have provided this opinion freely to various municipalities in the GTA.

We would like to take this opportunity to commend The City of Burlington for their leadership and dedication to justice with regards to the fantastic work it has done in the Burlington Executive Airpark situation. Your next hurdle may be a fill permit and fill agreement and we would like to offer the benefit of our experiences.

In 2012 the Township of Scugog entered into a legal agreement with Greenbank Airways that allowed significant quantities of fill to be imported to the site of an operating airport. While we believe there are some serious inadequacies and omissions in the Greenbank Agreement, there are some requirements that are quite satisfactory. It is important to note that the agreement was a “negotiated” agreement. As per the words of one councillor in Scugog, “We can’t ask for too much or they will walk away from the table and we can’t go to court.”

We believe that the agreement with the Township of Scugog favours the proponent but perhaps the November 2013 decision regarding the Burlington Executive Airpark will help our Township to develop and enforce a more conservative and comprehensive permit agreement when it comes up for renewal in the spring of 2014.

Although it is our desire to provide a more detailed report and to perhaps be given the opportunity to meet with the City of Burlington staff on this matter, we would like to provide some brief recommendations regarding any future permit agreement for the Burlington Executive Airpark. It is hoped these recommendations would be considered for any large fill site application in the City of Burlington. We would appreciate the opportunity to address council in the near future regarding our recommendations when it is appropriate to do so.

You do have experience in regulating for such issues as sediment runoff, dust, noise and truck traffic. The attached recommendations concentrate on having the City reviewing the proponent's plans for monitoring soil quality and doing independent checking of the soil quality, using hired consultants as necessary. We have seen many cases at soil dump sites in the area around Toronto where independent testing of the dumped soil revealed much higher levels of contamination than the initial paperwork indicated and MOE had to order under the Environmental Protection Act that soil be removed to prevent adverse effects. We are concerned that contaminants such as arsenic, lead, cadmium, and cyanide will make their way into the plants, surface water, and groundwater and affect the health and property values of local residents.



Sincerely,  
Carmela Marshall  
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### **Recommendations for a fill permit/agreement:**

- require the proponents host an on-line website that lists all sources of fill providing the address of source sites and the soil reports that were relied upon to approve the fill as well as the results of any audit tests that were taken.
- require a phase 1 and phase 2 Environmental Site Assessment (ESA) if necessary for all source site as well as a soil management plan from each source site that is current and relevant and signed by a “qualified person”.
- retain your own qualified consultant at the proponent’s cost to review and approve all incoming soil reports and phase 1 and phase 2 ESA and soil management plans from the source sites
- retain your own qualified person to take frequent independent audit samples of the incoming fill with the cost of the lab analysis borne by the proponent and specify the minimum number of samples that will be taken per day. The Ministry of the Environment’s requirements for testing of fill being brought to an RSC property should at least be the minimum standard, i.e. 1 test for every 160 cubic metres for imported fill
- for the incoming soil quality follow the CCME guidelines that the MOE Tables are “clean down to tables, not pollute up to tables”. For Greenfield sites, this will most likely result in the acceptance of Table 1 soils only. (Refer to the MOE Fact Sheet, “Bringing Soil to an RSC Property, April 2011” for applied usage of Tables.
- limit the hours of operation for fill importation to City hours so that city staff will be available to inspect operations and respond to complaints when they occur
- ensure the proponent has a fill quality protocol in place that forms part of the agreement and send out inspectors daily, with the costs borne by the proponent, to ensure compliance with the fill quality protocol
- ensure that audit tests reported by the laboratories to the proponent are copied to the City at the same time
- ensure that the city and proponent has a plan in place for when audit tests find unacceptable soil
- The Operational Guideline by Terraprobe that forms part of the Town of East Gwillimbury’s site-alteration by-law is recommended for reference. This guideline provides some very good recommendations regarding what to include before and after a fill permit is approved. It can be found on our website at the following link:

<http://lakeridgecitizens.ca/lccw/wp-content/uploads/2013/06/EG-approved-operational-guideline.pdf>

- request detailed environmental assessments and hydrogeological assessments of proposed fill dump sites before permits are issued and ensure they are peer reviewed by your consultants

- agreements should be reviewable every 6 months to allow for amendments when necessary as issues arise
- require that proponents establish a complaints protocol that is fair, responsive and accountable
- require securities appropriate to the amount of work being done and considering the potential cost and impact if bad fill is brought in
- be aware of the compliance issues occurring at other large fill sites in the GTA regarding such issues such as overfilling and the importation of contaminated fill and develop a conservative and comprehensive agreement so as to address these potential issues - the LCCW website ([www.lakeridgecitizens.ca](http://www.lakeridgecitizens.ca)) provides several case studies that document these non-compliance issues
- request that the owner complete a RSC (Record of Site Condition) for the property when the project is completed. The application and timing of this requirement may warrant further discussion with the MOE in order to be addressed appropriately
- allow for respectful public consultation as you would for a minor variance or zoning by-law amendments, for example
- have the proponent host a Public Liaison Committee meeting every few months to report on activities and plans and hear complaints