

## Deputation Report Regarding the Leslie Street Pit Fill Application

Submitted by: The Ontario Soil Regulation Task Force (OSRTF) and Lakeridge Citizens for Clean Water (LCCW)

Date March 30<sup>th</sup>, 2015

LCCW and the OSRTF are pleased to submit the following comments regarding the Leslie Street Pit Application.

If you would like to discuss further, please do not hesitate to contact us. [info@lakeridgecitizens.ca](mailto:info@lakeridgecitizens.ca) or [carmela@lakeridgecitizens.ca](mailto:carmela@lakeridgecitizens.ca)

While we have concerns about the Leslie Street Pit Project, we recognize the Town zoning allows for such land use. Therefore, we are respectfully submitting our Model Agreement and Model Fill Management Plan (both attached) for the Town to use at its discretion understanding they were developed with the best interests of the community and the environment in mind. We have also included a few specific observations listed below.

It is assumed that the Town of east Gwillimbury may create a similar Agreement for the Leslie Street Pit as it did for the Mount Albert Pit (MAP). Upon review of the MAP Agreement, we have observed a few areas of concern and recommend the following for any future Agreement with the Leslie Street Pit:

- For a security deposit, we recommend \$1.00 for every cubic metre proposed to be imported to any large scale fill site of this magnitude. We note the 250,000 dollar security deposit (letter of credit) listed in the MAP agreement and believe it is not sufficient as rationalized in our Model Agreement.

- Table 2 is not appropriate for this site according the Ministry of the Environment and Climate Change Best Management Practices for Excess Soils – **“Soil placement should not degrade the existing conditions at a Receiving Site; for example, a new contaminant should not be introduced to the Receiving Site and the concentration of an existing contaminant should not be increased at the Receiving Site.”**

A preassessment of the quality of soils should have been done for the Leslie Street Pit. It is extremely doubtful that the natural ambient soils would exceed Table 1 standards. Most parameters will most likely be at non-detect levels.

- The MAP Fill Management Plan indicates 1 audit test for each source site per month or 1 in 1000 trucks from each source site. Based on the reality of the fill industry to date, this should

be increased to at least 1 test per source site per day. As well, the Town should, at a minimum, be conducting their own weekly or daily audit tests. It should also be very clear that the proponent must pay for the all costs the Town incurs in such monitoring. Any New Agreements and Fill Management Plans for large scale fill sites should require frequent audits of the fill quality especially if they are in High Aquifer Vulnerability Areas, such as the Leslie Street Pit.

- Fill volumes should be reconciled quarterly and should not wait until the end of operations.
- A comprehensive and conservative Agreement and Fill Management Plan are absolutely critical. As indicated earlier, we have provided Models of these documents for you. We also wish to state that these agreements are only as good as they are enforced. Compliance audits by the Town need to be frequent and diverse.

**We would also like to add the following:**

- OSRTF does not support a large scale fill operation in a High Aquifer Vulnerability Area. There are too many incidences where large fill sites have turned up with contamination issues. The precautionary principle should be applied. The risks are too great to allow such an operation in a sensitive groundwater area.
- As well, we do not support a large scale fill operation in such close proximity to small community. The noise and traffic alone will be quite devastating despite any possible mitigation measures in this regard. This has proved true for every other large fill site we have encountered, without exception, where 100 or more trucks were permitted per day.
- We also do not support zoning extraction areas for commercial fill sites. We believe it has the potential to undermine good and healthy rehabilitation practices. Indeed, we have already seen many instances where rehabilitated pits, having been turned into large fill receiving sites, have become wastelands- overfilled, unstabilized, unvegetated and in some instances contaminated.

**Some important events related to the excess soils issue over the past two years.**

- 1) Release of finalized **MOE BMP Ministry of the Environment's, Management of Excess Soils- A Guide for Best Management Practices January 2014** – although not legislation, this should inform minimum requirements for any large scale fill permits issued or agreements signed by the Town of East Gwillimbury.
- 2) The Ministry of the Environment received an **EBR review application on November 25, 2013** requesting the province assess the need to establish a *“new comprehensive, province-wide policy to address the problem of compromised soil and to ensure that fill being dumped on to sites is safe”*.
- 3) **Strengthening of several municipal Site-Alteration By-Laws and Conservation Authority Large Scale Fill Policies.**
- 4) Various **investigations** and **court challenges** in various municipalities regarding issues with large scale fill sites. A sample listed is here:
  - Investigation into dumping of contaminated fill at rehabilitated gravel pit in the City of Kawartha Lakes
  - Charges and **convictions** for dumping contaminated fill at a sheep farm in Peterborough County
  - Stop work orders and court cases in Whitchurch Stouffville for overfilling
  - Ontario Superior Court Ruling in Amaranth and a Normal Farm Practices Protection Board ruling for Halton both assuring approval authority jurisdiction with regards to filling and farmland
- 5) Provincial and Municipal jurisdiction at aerodromes well established:
  - Significant Amendments to the Aeronautics Act through passing of Bill C-43 in December 2014 (see below) that no longer allows indiscriminate location and expansion of aerodromes. This impacts those applications for fill at aerodromes-i.e. Baldwin Airport.
  - **2 court cases** in Burlington that declare municipal jurisdiction over fill operations at aerodromes, November 13, 2013 and June 11, 2014
  - Release of **Advisory Circular from Transport Canada**, December 2013 reiterating other provincial and municipal controls at aerodromes.
- 6) **Launch of “Project Clean Dirt” by OSRTF. Further research by LCCW and OSRTF of breaches and issues at various large fill sites resulting in the drafting of a “Model Agreement” and a “Model Fill Management Plan” as part of “Project Clean Dirt.”**  
**We have attached a Project Summary for reference, originally prepared for the OGRA/ROMA conference. The “Models” listed above are also attached.**