



February 24, 2012

The Honourable Jim Bradley
Minister of the Environment
Ferguson Block, 11th Floor
77 Wellesley St. W.
Toronto, Ontario M7A 2T5

RE: OSPE Issue - Excess Construction Soils Management

Dear Minister Bradley,

As the voice of Ontario's engineers, the Ontario Society of Professional Engineers (OSPE) keeps abreast of issues affecting the engineering profession. We work closely with many industry sectors and associations. Many of our members work in the construction industry and OSPE participates in consultations with the Residential and Civil Construction Alliance of Ontario (RCCAO), Consulting Engineers Ontario (CEO), and the Construction and Design Alliance of Ontario (CDAO), to name a few. Recently, several of our professional members have expressed concern over the lack of regulations concerning excess construction soil management, a concern which has also been raised to you by RCCAO.

The root of the issue resides in a lack of clarity about which regulations govern the management of excess construction soils. Under the Environmental Protection Act (EPA), it is Ontario's municipalities that regulate the placement of excess soil through their site alteration by-laws. There are no clear provincial guidelines or regulations for management of these soils, so the most stringent soils management criteria are the de facto standards used - which were enacted based on the remediation of brownfield sites. This adds significantly to the Contractor's costs of management of excess construction soils, which in turn directly impacts provincial and municipal infrastructure costs.

Specifically, there are no standardized criteria to govern the movement of excess soils, save for that provided in O.Reg. 153/04, which is designed to provide guidance for contaminated sites. In the absence of any other rules, most municipalities that specify criteria revert to the most stringent background – Table 1 of the Regulation - to be on the 'safe side', even under situations where Table 2 or Table 3 are appropriate criteria to use (O. Reg. 153/04 Part IX: Site Condition Standards and Risk Assessments). Applying Table 1 criteria significantly adds to the analysis of soils and directly contributes to costs and delays of soil movement and an increase in disposing of soil at landfills.

What is lacking is a set of guidance documents that facilitate beneficial re-use of excess soils – *where appropriate*. In order to do so, the guidance must speak to the appropriate level of material testing



and the duties and responsibilities of both the shipper and receiver so as to mitigate the potential for shuffling contaminated soils from one site to another.

All of this needs to be developed in a fashion that reduces the amount of soil destined for disposal in landfills, and re-use of soils where the soil chemistry would have no adverse impact on human users or the receiving environment. To benefit the civil works industry as a whole, the guidance rules must allow for a cost-benefit method of diverting soils away from landfills.

OSPE recognizes that a resolution of this issue involves both increasing the awareness and consistency of the approach for excess soil management and the pertinent sections of O. Reg. 153/04, especially the applicable soil quality criteria tables that should be used in municipal by-laws.

We also recommend a revision to the regulations to clarify and codify the proper protocols for the handling of soils, based on stakeholder input.

Sincerely,

A handwritten signature in black ink, appearing to read 'Alourdes Sully', written in a cursive style.

Alourdes Sully, ing., M.Eng. Mgmt., P.Eng.
President and Chair

cc:

Minister Dwight Duncan, Ministry of Finance
Minister Bob Chiarelli, Ministry of Infrastructure
Minister Chris Bentley, Ministry of Energy
Minister Kathleen Wynne, Ministry of Municipal Affairs and Housing
Andy Manahan, Executive Director, RCCAO

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