

Excess Soil Update

Industry promotes risk-based approach to managing excess construction materials

Stakeholders in the civil construction industry are cautiously optimistic that some clarity and common sense may soon be applied to current provincial policies concerning the management of excess construction materials. That is, while environmental stewardship remains everyone's first priority, at issue is whether tens of millions of tonnes of excavated material must be treated as contaminated waste and hauled to landfills every year – a practice that carries huge costs and negative environmental impacts.

The Ministry of Environment's (MOE) stance on excess soil began to change in 2009 when it started classifying the soils excavated from road building projects. Before that, the MOE had no issue with the dirt from road projects. Therefore, it wasn't uncommon for contractors to use the material as infill in depleted aggregate quarries.

Things changed when MOE studied the composition of the dirt from civil construction projects and determined that since it didn't meet the requirements of Table 1 of its materials classification system, it would therefore be classified as a waste. In particular, one of the MOE's biggest concerns with soils from civil construction projects (unless from a uniquely contaminated site) is the

presence of salt, which is typically present at measurable levels on existing roads due to Ontario's winter maintenance practices. As such, under this new waste classification, the MOE ruled it could no longer be dumped in a convenient field or used to backfill a section of a quarry, and that the only alternative is to pay the tipping fees and haul it to landfill.

The industry reacted quickly to the MOE's changing practices in managing excess construction soils, with ORBA taking the lead under Karen Renkema, Director of Government Relations. Discussions began with the environment ministry and MTO, and the civil contracting industry also took the issue to provincial politicians, representing one of the only voices warning of the consequences of the policy shift at that time.

The Residential and Civil Construction Alliance of Ontario (RCCAO), which has led a proactive campaign to find solutions to what it calls a regulatory gap, puts the cost of Ontario's current policies for disposing of excess soils from road building and sewer and watermain projects at between five per cent and 21 per cent of the capital costs. The regulatory gap reference reflects RCCAO's concern that typical excess soils from civil construction projects are being

considered under the same regulatory framework as brownfields' soils and there is no recognition of the difference. Further, in an advertisement that was slated to run this November, RCCAO explains: "Millions of dollars are being needlessly wasted because the current regulatory regime is unable to effectively introduce programs encouraging reuse of construction soil."

RCCAO and ORBA, along with a number of industry associations and municipal representatives, have been working as a coalition with the Ministry of Environment to find appropriate ways to deal with excess construction soils. Their efforts have included the development of a best management practices document entitled, *Best Management Practices for Handling Excess Construction Soils in Ontario*. And while it's clear there will never be return to the traditional "dig and dump" method of disposing of the soils from road projects wherever it is convenient, the industry is nevertheless hoping there will soon be clear and practical alternatives to simply trucking dirt to landfills.

Currently, the preferred alternative that has been promoted by ORBA and the coalition has been the re-use of excavated soils within the right-of-way of the project, because when that is

accomplished, MOE classifications of the soils are irrelevant. The Ministry of Transportation has worked actively with ORBA to establish design and construction practices that will result in excess materials being designed back into project to the maximum extent possible and ORBA is promoting the same practices for municipal civil work.

While the industry awaits the MOE's best management practices for excess materials, the RCCAO is being a bit more proactive in pushing the process along with the release of its own commissioned, independent best management practices document in early November. It relies heavily on the British-based CL:AIRE model (Contaminated Lands: Applications in Real Environments), which sets the main objective as the responsible identification of excess soils that are non-waste at the source site and handles them based on beneficial reuse either within the project or at other acceptable receiving locations. The approach is risk-based and consistent with regulatory requirements of producing no adverse effects to the environment.

The authors of the RCCAO report describe the proposed best management practice as being based on a "transparent process that produces a Materials Management Plan (MMP) for the handling of non-waste excess soils tied to the remediation and/or development plans for the site involved." The BMP includes a formal excess soils tracking system, a Verification Plan (VP) and any required contingency plan components. An independent Qualified Person (QP) reviews the MMP and, if satisfied, signs a declaration confirming excess soils are not waste based. This approach encourages the beneficial reuse of excess clean soils and facilitates the further development of Soil Recycling Centres (SRCs), soil matching capability at excess soil donor/receiver sites, and other progressive environmental initiatives in Ontario.

In an October 10 letter to Hon. Jim Bradley, Minister of Environment, and Hon. Bob Chiarelli, Minister of Transportation and Infrastructure, RCCAO Executive Director Andy Manahan said the CL:AIRE model was introduced and discussed at a stakeholder workshop September 21, and it was "clearly demonstrated to workshop participants that a practical, risk-based approach results in far less excess construction soil being deemed a 'waste' than is currently

the outcome under Ontario's regulatory regime."

"We need a responsible, workable solution, implemented on a province-wide basis," said Marlene Yakabuski, chair of ORBA's environment committee, adding, "The Best Management Practices proposal developed through the industry Steering Committee is a proactive and responsible response to an increasingly significant issue." ■

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