File Number: A00 03 ERO 019-2462

November 17, 2020

BY EMAIL

Laura Blease
Ministry of the Environment, Conservation and Parks
Environmental Policy Branch
40 St. Clair Avenue West, Floor 10
Toronto, ON M4V 1M2
Email: Laura.Blease@ontario.ca

RE: CITY OF OTTAWA COMMENTS – ERO POSTING 019-2462
EXTENDING GRANDFATHERING FOR INFRASTRUCTURE PROJECTS AND PROVIDING ADDITIONAL FLEXIBILITY FOR EXCESS SOIL REUSE
OCTOBER 2020

Dear Ms. Blease:

Please find below the City of Ottawa (the City) comments regarding the proposed amendments to Ontario Regulation 406/19.

Proposed Change: Extending Grandfathering

This proposed change has created confusion among the City's project managers while providing little impact from an implementation standpoint as it relates to the January 1, 2022, registry aspect only. When the registry and tracking systems are in place the impact of such grandfathering clause in terms of the required efforts is almost negligible. The City had previously suggested a four-year transition period for the implementation portion of this regulation. The City requests that the first stage of this regulation be further postponed to January 1, 2022, and portions of the regulation involving the registry to January 1, 2024.

Proposed Change: Reuse of Rock Mechanically Broken Down

The City of Ottawa is of the opinion that this proposed change will pose an unnecessary cost and time burden on municipal construction projects, will reduce the beneficial reuse of the materials and thus the City requests withdrawing the proposed change.

Extensive amounts of "mechanically broken down" rock particles are either generated, used, or managed in various municipal infrastructure projects. These mainly include:

- Removal of rock particles generated during the construction activities, such as excavation of shallow bedrock or tunneling activities.
- Aggregates imported for the purpose of excavation backfilling or pavement base and/or subbase material; and
- Pavement base/subbase material that needs to be exported off-site as excess material.

Also, it should be noted that recycled aggregates are widely used in construction projects in Ontario. As crushed Portland concrete and asphalt pavement are the main components of recycled aggregates, elevated concentrations of various parameters such as pH, petroleum hydrocarbons, polycyclic aromatic hydrocarbons and metals are expected within this material beyond the excess soil standard levels. Applying the excess soil standards to these materials would likely result in the need to dispose them as waste rather than beneficial reuse in construction projects.

Many parts of the Ottawa region have shallow bedrock with mineral components known to contain naturally occurring chemical parameters at concentrations above the new proposed Excess Soil Standards. Examples include naturally elevated trace metals such as barium, chromium, molybdenum, uranium and vanadium; petroleum parameters in shale; and pH level in limestone. If locally sourced bedrock from the Ottawa region is mechanically broken down to sizes similar to soil particles, it is expected that naturally occurring parameters would exceed the proposed standards. If these materials are treated as soil they would likely be managed as waste rather than being beneficially reused as aggregate.

Furthermore, mechanically broken-down rock particles are generally considered as “low risk” from an environmental contamination standpoint due to their low absorption and/or adsorption capacities in withholding anthropogenic contaminants. Additionally, aggregates are generally either capped by pavement or used in concrete which eliminate the contaminants exposure pathways.

Proposed Change: Registry Delivery

The City understands that fees will be involved for excess soil management registration using a third-party platform. However, it is not clear how such fees will be calculated. Municipal projects must be exempted from such fees. The City also suggests that the fees be assessed as a fixed fee per project rather than per load or shipment so that costs can be budgeted at the start of the project and will not increase significantly if the number of loads increases. Further, to minimize the required administrative efforts, the City of Ottawa recommends integration of the registry platform with other relevant administration systems.

We appreciate the continued opportunity to comment on the excess soil management proposal and would welcome further discussion on the impacts of the proposal to the City of Ottawa.

If you have any additional questions or concerns, please feel free to contact me directly at Stephen.Willis@ottawa.ca.

Sincerely,

Stephen Willis, MCIP, RPP
General Manager
Planning, Infrastructure and Economic Development (PIED)
City of Ottawa

Cc: Derrick Moodie, Director - Corporate Real Estate Office – PIED (City of Ottawa)
Carina Duclos, Acting Director - Infrastructure Services – PIED (City of Ottawa)