

February 24, 2022

Cathy Curlew
NDMRNF – RPDPB
Resource Development Section
300 Water Street
2nd Floor, South Tower
Peterborough, ON
K9J 3C7

(sent via email to aggregates@ontario.ca)

Re: CBM Aggregates comments on Proposed regulatory changes for the beneficial reuse of excess soil at pits and quarries in Ontario (019-4801)

CBM Aggregates (CBM), a division of St. Marys Cement Inc. (Canada), appreciates the opportunity to comment on the Ministry of Northern Development, Mines, Natural Resources and Forestry's (NDMNRF) proposed regulatory changes for the beneficial reuse of excess soil at pits and quarries in Ontario (ERO 019-4801).

CBM is a leading supplier of stone, sand and gravel used to support new construction, modernization and infrastructure development and improvements vital to the economic health, well-being and growth of Ontario. CBM safely operates nearly 60 pits and quarries in Ontario. As part of St. Marys Cement Inc. (Canada), founded in 1912, CBM has a long history of working closely with communities to minimize the influence of our operations, manage environmental effects and maximize our positive contribution to the communities in which we operate. CBM also supplies ready-mixed concrete for major project and award-winning structures, including the CN tower.

CBM appreciates the Ministry's attempts to align with O.Reg 406/19 (On-Site and Excess Soil Management) under the *Environmental Protection Act* (EPA), however it is crucial that any regulatory/policy changes by the NDMNRF reference or follow O.Reg 406/19, without overlap, red tape, restrictions of contradictions.

CBM has a number of significant concerns with the proposed regulatory changes, which are aligned with the Ontario Stone, Sand and Gravel Associations (OSSGAs) submission under separate cover. These concerns are outlined briefly below.

General Comments on Proposed Regulatory Changes

Consider the following points:

- 1) An estimated 25 million cubic metres of excess soil is generated in Ontario every year.
- 2) New infrastructure projects – necessary to support our growing province – will continue to generate excess soil that will need to be diverted from landfills, otherwise landfills will be filled unnecessarily with this material.
- 3) Pits and quarries operating under an approved ARA instrument offer an opportunity to not only receive excess soil but more importantly, use it for beneficial reuse (rehabilitation).
- 4) The availability and importation of high-quality excess soil presents an opportunity for aggregate producers to conduct final site rehabilitation without leaving behind valuable aggregate material.
- 5) Restrictive rehabilitation policies often limit extraction by requiring certain final landforms be created on site. This may necessitate leaving behind reserve in order to achieve those landforms (i.e., 3:1 slopes on sites where there is insufficient overburden material to achieve this result).
- 6) With a surplus of excess soil being generated by Ontario's construction industry, and the four billion tonnes of aggregate that will be needed over the next 25 years in order to meet those construction needs, maximizing extraction of aggregate at each site, and maximizing the beneficial reuse and disposal of excess soil at pits and quarries to achieve rehabilitation requirements is a win-win for the province of Ontario.

Unfortunately, the Ministry's proposed regulatory changes will not help us achieve this important public policy objective, but rather creates an additional layer of 'red tape' for the industry unnecessarily.

Proposed Changes for Existing Licence Holders

CBM supports proposed changes for existing licence holders authorized to import fill looking to change to a different soil quality or removing conditions related to sampling/reporting through self-filing. This is an important change that will allow licence holders to make changes to their site plans without the need for Ministry approval.

Soil Quality Standards and Additional Requirements for Pits and Quarries

With O.Reg 406/19 in effect under the Ministry of Environment, Conservation and Parks (MECP), the proposed introduction of additional rules/requirements by NDMNRF to support the oversight of importation of excess soil under the ARA is unnecessary and creates additional uncertainties and barriers to conducting rehabilitation. Compliance and oversight should be left to the MECP, as is currently the case with a PTTW or ECA.

We provide several examples, outlined below, where NDMNRF is creating duplication of requirements or introducing additional restrictions for aggregate operators through this proposed policy.

- 1) Under the proposed policy, NDMNRF is restricting soil placed below the water table to Table 1 which, due to the limited availability of Table 1, severely restricts rehabilitation. It is not appropriate for NDMNRF to be determining acceptable soil quality parameters if this has to be specifically determined by a QP in accordance with O.Reg 406/19 based on site-specific conditions. If the quality of soil below the water table is a concern, it would be helpful to understand the nature of the Ministry's concern as the Beneficial Reuse Assessment Tool (BRAT) allows users to modify certain site conditions to develop site specific standards based on science. The use of this tool should be available for aggregate sites looking to place soil below the water table. If a QP determines that it is safe to bring in material other than Table 1, this should be permitted. We are also concerned about the Ministry's proposal that the use of the BRAT tool would be subject to authorization from the NDMNRF. This is an unnecessary duplication of oversight as it falls under the MECP's jurisdiction.
- 2) Additionally, the Ministry is proposing that aggregate sites keep written records available on request and retain a QP if placing large quantities of excess soil (>10,000 m³) or placing soil below the water table. According to the Ministry, the rationale for these additional requirements is to ensure additional safeguards are in place when large volumes of excess soil cover large areas (i.e. multiple hectares). If a licensee satisfies MECP conditions and requirements for excess fill, the size of the site should be irrelevant. Pits and quarries are already subject to registration (vis the excess soil registry) and tracking requirements under O.Reg 406.19 and this data is accessible by NDMNRF. Additional requirements imposed by NDMNRF add additional costs, red tape and delays to rehabilitation.

Policy 6.00.03

The importation of excess soil can and should be undertaken to minimize the losses of agricultural land and decrease the amount of excess soil ending up in landfills. Currently, rehabilitation is limited to minimum sloping requirements and any changes to contours and/or grades trigger a major site plan amendment. As NDMNRF looks to revise this policy, there are opportunities to encourage agricultural rehabilitation for above water operations, by allowing more flexibility for the beneficial reuse of excess soil by, for instance, increasing sloping on site to a point where the slopes are farmable (i.e., >5:1), without the onerous requirement to undertake a full circulation and review required as part of a major site plan amendment.

Conclusion

While we appreciate the Ministry's attempts to align with O.Reg 406/19, we believe that the current proposed approach creates barriers to rehabilitation, adds additional red tape and costs for aggregate

producers and further complicates producers responsibilities with respect to excess soil rules and responsibilities.

CBM's recommendation is that the Ministry remove any reference to additional requirements and restrictions for pits and quarries related to excess soil. Pits and quarries should only be required to follow MECP's rules for soil management and excess soil quality standards since these rules already achieve the desired protection NDMNRF is after with these proposed changes.

Furthermore, CBM recommends that Section 62 of the Site Plan Standards be amended to remove any reference to details of type, volume, testing, tracking and record-keeping on the site plan to allow for flexibility for soil importation in accordance with MECP requirements. A statement indicating whether any soil, topsoil or fill material will be imported to the site for rehabilitation purposes is sufficient.

Thank you again for the consideration of our comments. We look forward to continuing the discussions with the Ministry on the beneficial reuse of excess soil at pits and quarries. Should you have any questions or concerns, please do not hesitate to contact the undersigned at (705) 930-6180 or via email at David.Hanratty@vcimentos.com.

Sincerely,



David Hanratty, P.Ge.
Director of Land and Resources, North America