

UNITED SOILS MANAGEMENT LTD

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February 21, 2022

Cathy Curlew
MNDMNRF – RPDPB
Resources Development Section
300 Water Street
Second Floor, South Tower
Peterborough, ON K9J 3C7

Dear Cathy Curlew:

**Subject: Comments on the Proposed Regulatory Changes for the Beneficial
Reuse of Excess Soil at Pits and Quarries in Ontario
Environmental Registry of Ontario Notice 019-4801**

United Soils recognizes that increasing the number of beneficial reuse sites accepting excess soil will support urban development and projected provincial growth. We are concerned that the regulation will not adequately consider commercial challenges with establishing and operating a fill site and that poorly operated sites will look to balance inefficiencies through poor environmental protection measures, including accepting contaminated soil. Placing contaminated soil in pits and quarries will affect neighbouring properties and the wider natural environment. These effects cannot easily be reversed and it is critical that changes in the regulation include measures for the effective permitting and oversight of beneficial reuse sites.

This letter outlines our concerns regarding the regulation based on experience at the United Soils reuse site in Whitchurch-Stouffville. Numbering is for ease of reference, not in order of importance.

1. Proposed changes to Ontario Regulation 244/97 under the Aggregate Resources Act include allowing the import of soil meeting Table 1 site condition standards, as established under Ontario Regulation 153/04, to bring ground elevations above the water table. This presents a risk that soil with concentrations higher than natural levels is placed below the water table. For example, the concentration of lead in much native soil is low (less than 15 µg/g), yet Table 1 site condition standards for lead can be as high as 120 µg/g. It would be better to use existing site soil for areas below the water table, before importing soil for placement above this elevation.

2. Review of site-specific concentrations should only be completed by ministry staff with experience in establishing risk-based acceptable contaminant standards. This would mean that requests to apply site-specific standards, such as those developed through the BRAT tool, would be reviewed by MECP.
3. The proposal suggests that the requirement for oversight by a Qualified Person would only be required for larger sites, those accepting more than 10,000 m³ of soil. Smaller sites have less investment in the operation and therefore may be at greater risk to circumvent environmental protections. We suggest that there should be a minimum requirement to retain a Qualified Person for oversight of fill management protocols and potential source sites. The cost of the Qualified Person services can be incorporated into the operating costs for beneficial reuse sites of any size.
4. The costs associated with establishing and operating a beneficial reuse site can be substantial. It is important that site planning adequately accommodate these costs. Insufficient operating finances may lead to relaxing environmental protections and possibly accepting unsuitable soil. The regulation should require financial assurance and minimum environmental insurance policies be obtained by site operators.
5. There are several aspects of the operation of a beneficial reuse site that will be within municipal areas of concern. It is important that it be mandatory under the regulation for the reuse site operator to obtain approvals from authorities having jurisdiction for items including, but not limited to:
 - a. Traffic routes, specifically because many pits or quarries are on rural roads that are inadequate for heavy truck traffic. The upgrades of truck routes must be part of any beneficial reuse approval.
 - b. Environmental controls against erosion and sedimentation, dust emissions, and noise.
 - c. Site monitoring including regular (two to three times annually) monitoring of groundwater quality and physical characteristics.
 - d. Consideration of municipals plans in the stated end use. A return to agricultural use should be mandatory, unless the municipality grants a different use.
 - e. Site alteration in a flood prone area.
6. Because of the potential for reuse sites to result in adverse effects if environmental controls are not adhered to, it is critical that implementation of the regulation include physical inspections of sites during hours of operation. This could be achieved through municipal by-law enforcement officers or provincial environmental officers. Any change in the regulation must be accompanied by appropriate allocation of resources.
7. To protect against violations and infractions of operating conditions, reuse sites should be required to renew permits annually. In addition, the regulation should include a mechanism

whereby the province can terminate the operation of a beneficial reuse site if there are documented infractions of environmental best practices.

8. If pits and quarries that are potential beneficial reuse sites are located in a municipality that doesn't have an existing site alteration by-law, they should be provided with provincial assistance to establish appropriate regulation. Fees generated through municipal charges can provide revenue neutral options, but guidance may be required to establish appropriate regulation and oversight.

When properly operated, beneficial reuse sites will provide sustainable options in the management of excess soil from urban development. However, the potential for extensive environmental degradation from poorly operated sites will require extensive oversight from multiple levels of government. Changes to regulations affecting importation of excess soil to former pits and quarries need to ensure that the appropriate level of oversight is achieved.

We look forward to regulation wording that takes these concerns into account.

Sincerely,

UNITED SOILS MANAGEMENT LTD.

A handwritten signature in blue ink, appearing to read 'Carolyn Adams', is written over a faint, light blue circular stamp.

Carolyn Adams, P.Eng.
Environmental Director

cc. Alec Cloke