



The Corporation of The Town of Amherstburg

April 9, 2022

Laura Blease
Land Use Policy, Environmental Policy Branch
40 St. Clair Ave West, 10th floor
Toronto, ON
M4V 1M2

Attention: Laura Blease, Land Use Policy, Environmental Policy Branch

Subject: Comments for Excess Soils Management Regulation
Implementation of Proposed Pause of Excess Soil Requirements

File No.: E09-2021-006

Dear Ms. Blease:

On March 14, 2022, Ontario Government posted on the Environmental Registry regarding the proposed “pause” to certain requirements of the Excess Soil Management Regulations and to obtain feedback and discussions on the proposal.

The Town of Amherstburg is in favour of the proposed “pause” to sections of the Excess Soil Management Regulations.

At the March 23rd, 2022 presentation by the MECP to the Excess Soil Engagement Group, a number of reasons were provided to justify the temporary pause on the provisions of O.Reg.406/19. The slideshow from this presentation indicates that the proposed pause would provide more time for:

- *Gradual implementation*
- *Better understanding of the regulation*
- *For MECP to consult on refinements to these provisions, if necessary, to ensure they are clear, effective, practical, and focussed on circumstances most necessary to support sustainable soil management.*

While each of these points are valid in their justification for a pause on the January 1, 2022 requirements set forth by O.Reg.406/19, it is the need for “clear, effective, practical and focussed on circumstances most necessary to support sustainable soil management” that most affects our industry. MECP suggests that consultation is needed in order for this to take place. The Town of Amherstburg feels that consultation with the MECP must involve the DSAO, OMAFRA, LICO, and the Land Drainage Committee. The Town of Amherstburg also wishes to consider suggesting that a subcommittee be constructed that involves members from each of these groups to ensure that our message and concerns are being directly presented to the MECP.

In order to further our position that works under the Drainage Act should garner special distinction and/or exemption within O.Reg406/19, and in response to the MECP's request for comments on their proposal to "pause" the January 1, 2022 requirements, Town of Amherstburg wishes to draw attention to the following points listed on the Ministry's "*Handling excess soil*" website under the heading "*what is excess soil and why is it important*":

- *significantly reducing greenhouse gas emissions from transporting soil*
- *reducing illegal dumping and inappropriate relocation*
- *decreasing road damage*
- *decreasing amount of reusable soil going to landfill*
- *cost savings associated with decreases in transportation and landfilling of excess soil*

The Town of Amherstburg believes that works completed under the Drainage Act meets or exceeds the benefits being achieved from the Excess Soils Management Regulations. Under the Drainage Act, the engineer's report and municipal bylaw provides the direction for handling of the soils from drainage projects to be spread on the lands adjoining the project. This has been the practice for over a 100 years of drainage projects under the Drainage Act. The reason for the spreading of material on adjoining lands in drainage projects is to reduce the cost of the overall project. Under the Drainage Act, lands and roads are assessed for the construction, engineering and environmental cost of the drainage project. The ability to cast and spread onto the adjoining lands have saved landowners, municipalities and the province unquantifiable dollars in project cost and provincial grants. Additionally, management of soils from drainage projects directly within the project area achieves each of the goals that motivates the Excess Soils Regulation by the MECP.

Furthermore, it is understood that Section 14 of O.Reg.406/19 outlines those soils removed from agricultural lands are exempt from preparation of documentation through this legislation. It shall be noted that the vast majority of the lands in Ontario contributing to these municipal drains, are primarily agricultural lands. Hence, the sedimentation extracted from these municipal drains, through the maintenance process, primarily original from these agricultural lands. Based on the exemption already set in place within the legislation related to agricultural lands, together with the inherent provisions for handling soils within Municipal Drainage By-Laws, further supports a special provision and/or exemptions for works completed under the Drainage Act.

In conclusion, The Town of Amherstburg is in favour of the proposal to "pause" the January 1, 2022 requirements of the Excess Soils Management Regulations until January 1, 2023. In addition, the Town of Amherstburg would recommend that the MECP representatives reach out to DSAO Executive to schedule a meeting in order to consult on refinements to these provisions of the Excess Soils Management as it relates to the projects under the Drainage Act. Further consideration should also be made towards creating a subcommittee made up of representatives of MECP, DSAO, OMAFRA, LICO and Land Drainage Committee to review drainage works under the Drainage and the Excess Soils Management Regulations.

The Town of Amherstburg would like to thank you for providing the opportunity to provide comments on this important issue. If you have any questions, or wish to speak directly, please do not hesitate to contact myself at (519) 736-3664 ext. 2318.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Shane McVitty', with a stylized flourish at the end.

Shane McVitty, P.Eng.
Drainage Superintendent and Engineering Coordinator

SM