



Winter 2016

In this issue:

Pages 1-4

Excess soil seminar provides early look at province's plans for soil, as well as an opportunity to share concerns.

Page 2

Mark these upcoming events in your calendar.

Page 5

ONEIA's advocacy committees respond to recent government initiatives on climate change, waste, excess soils and water.

Page 6

Climate Change Task Force submits recommendations on Ontario's cap-and-trade proposal.

Page 6

Ontario posts significant new policies on EBR Registry.

Page 7

ONEIA Member Profile:
Englobe Corp.

Page 8

Meet ONEIA's newest members.

ONEIA's Excess Soil Seminar: Province drafts framework to ensure "soils get to where they should go"

According to its recently released draft framework for excess soils, Ontario will impose greater responsibility on developers and other source sites, create new regulatory "linkages" to improve administrative consistency, and place greater attention on local soil re-use options.

Future regulations will require large source sites to prepare and implement excess soil management plans under the direction of a Qualified Person (QP). The province will also provide guidance on fill quality standards, develop protocols for small and "less risky" sites, and amend the current definition of "inert fill" in its waste regulation.

The draft framework was posted to the Environmental Registry on January 26, 2016, with a deadline for public comment of March 26. The Ministry of the Environment and Climate Change (MOECC) will also establish a multi-stakeholder and multi-ministry working group to provide input and advice on the implementation of the framework.

The basics of the policy framework were discussed with attendees at ONEIA's **Meeting the Soil Management Challenge**.

Although the event was held November 26, 2015 — two months before the framework was finalized — much of the eventual content had already been completed and was only waiting final government approval.

As well as an early look at the MOECC's hotly anticipated excess soil management framework, attendees were brought up to date on recent research on soils movement and an expert panel debated how far we've come since the Ministry released its Best Management Practices (BMPs) two years ago. Finally, luncheon speaker **Dr. Krista Barfoot** of CH2M

discussed some of the successes, challenges and lessons learned in excess soil management.

"The high turnout reflects the consistent interest in the excess soils issue," said **Grant Walsom**, a Partner with XCG Consultants and co-chair of ONEIA's Excess Soils Management

"Approaches should consider, and integrate with, existing business practices ... and should support development of industry-led programs for sustainable re-use of excess soil."

– Chris Lompart,
Acting Manager, Land
Use Policy Division,
MOECC



More than 100 industry and municipal representatives gather for a half-day of detailed discussions and networking.

Upcoming ONEIA Events

Tuesday, Feb. 23, 2016 Meet the Commissioner

Join us for the first annual address to ONEIA by Ontario's new Environmental Commissioner Dianne Saxe. Registration opens at 4:00 PM, with her presentation at 4:30 PM, followed by a cocktail reception. To be held in the Whiskey Room of Norton Rose Fulbright Canada LLP, Suite 3800, 200 Bay Street, Toronto.

Tuesday, March 8, 2016 Break the Ice on the Ice: Guelph Bonspiel

Our second curling bonspiel of 2016 will be held at the Guelph Curling Club (816 Woolwich St., Guelph). We kick things off with a pizza lunch at 2:00 PM, followed by a short curling clinic and a three-game bonspiel (two ends each) from 3:00-5:00, and end with food, drinks and networking in the club lounge till 6:30 PM.

Tuesday, May 17, 2016 The Ontario Environment and Cleantech Business and Policy Forum

Stay tuned for updates on these and other upcoming ONEIA meetings and special events. For details, contact **Marjan Lahuis** at the ONEIA office at 416-531-7884 or by e-mail at mlahuis@oneia.ca

Working Group. "There was also a tremendous buzz about the event on social media." Even before lunch was served, a flurry of tags and tweets had shared the morning's discussions with more than 17,000 on-line followers across Canada and 67,000 worldwide.

"While the Ministry was not quite ready to reveal all the details of its new policy framework," said Walsom, "the commitment to 'do it right' is certainly there. And they are continuing to consult to ensure everybody's point of view is heard."

Ministry believes it is on "the right track"

In response to a formal request filed under the *Environmental Bill of Rights* (EBR), the MOECC announced in April 2014 that it would review the need for a new, province-wide policy to address compromised soil and "to ensure that fill being dumped onto sites is safe."

"We are now at a point where we are ready to move on from that multi-ministry EBR review," said **Chris Lompert**, Acting Manager of the MOECC's Land Use Policy Division.

The Ministry undertook extensive consultations in the fall of 2014 and through 2015, including 13 "listening sessions" to verify

"Strong regulations are most needed to clarify source site responsibilities, to drive the hunt for suitable sites for soil, to help match sources with receiving sites, and to ensure that appropriate tracking and record keeping are implemented."

– Chris Lompert,
Acting Manager, Land Use
Policy Division, MOECC

needs and identify gaps. It also looked at approaches used in other jurisdictions. "We believe we are on the right track," said Lompert.

Source sites to be given more responsibility

The current policy concentrates on receiving sites, with less attention paid to the sources of excess soils. "These are largely unregulated," said Lompert. "We think that the generators of excess soil should be responsible for the appropriate management of that soil."

A focus on source sites would improve re-use planning, characterization and testing requirements, tracking shipments, and matching soils with appropriate receiving sites

The Ministry is considering a number of "linked tools" to increase formal oversight and ensure greater source site responsibility, said Lompert. For example, soil management linkages could be added to Building Code permits and applicable *Planning Act* approvals, while the soil-related provisions in the waste management, brownfield and aggregate resource regulations

Expert panel discussion featured (left to right) **Alan Durand** (SOiIL), **J.P. Marini** (Terra Nova Environmental Services), **Chris Lompert** (MOECC), **Janet Bobecko** (Norton Rose Fulbright) and moderator **Cecile Willert** (Pinchin Limited).





Breakfast was hosted by **Walker Environmental** and a full lunch by **AGAT Laboratories**. Other major sponsors included **Pinchin Limited** and **Environmental Risk Information Services (ERIS)**. ONEIA also appreciated the support of **KG Services**.

should be clarified. There are a multitude of different policies, guidelines and standards that relate to excess soils," Lompart said.

"More thought should be given to what can be done with excess soil earlier in the development process," said Lompart. However, the final requirements for the excess soil management plans, which large source sites will have to prepare, "won't vary too drastically" from what was set out in the Best Management Practices (BMPs) the Ministry released in January 2014.

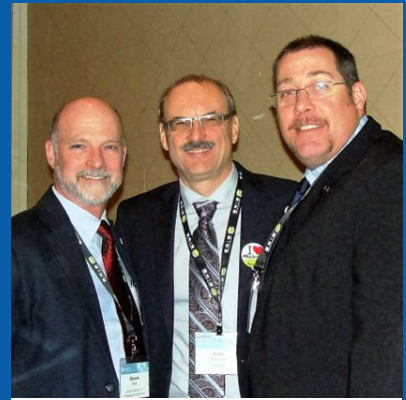
Interim sites to support soil re-use locally

Stakeholders can also expect more consistent requirements across the various types of receiving sites, some basic tracking and verification provisions, and a greater reliance on interim storage sites.

"We don't want soil to be moved great distances if it can be used locally,"

Study reveals project savings can be achieved through soil reuse

A joint study on soil movement, prepared by the Ontario Society of Professional Engineers (OSPE) and the Residential and Civil Construction Alliance of Ontario (RCCAO), provides a snapshot of current practices in the Greater Toronto Area. The study tracked 29 major projects, including water and sewer mains, roads, bridges, low and high rise buildings, and other projects, which generated excess soil requiring off-site re-use or disposal. The preliminary results were shared at ONEIA's excess soil seminar by OSPE's **Steven Rose** and RCCAO's **Andy Manahan**.



Steven Rose (OSPE) and Andy Manahan (RCCAO) with Grant Walsom (XCG Consultants).

The survey found that soil removal costs, including sampling and testing, could account for up to 20 per cent of total project management costs. Typically, soil was hauled about 70 kilometres (one way) for disposal and almost all projects involved more than 100 loads. "When you include the shipments of incoming clean soil, you could reach 800,000 to 900,000 kilometres," said Manahan. "That's a stunning amount of truck travel."

Many project managers are not currently taking advantage of interim storage or treatment facility options. "Lots of projects are sending everything to landfill," said Manahan. Only about 25 per cent of projects were implementing the province's 2014 Best Management Practices for excess soil, but three-quarters of those sent less than 10 per cent of their soil to landfill.

Avoiding landfill fees could save money, with 45 per cent of projects cutting soil management costs by 10 to 20 per cent. One large \$50-million project was able to save \$1.2 million on soil disposal costs through re-use options. "While the up-front costs can be higher, the savings come at the back end," said Manahan.

Industry panel outlines problems with current excess soil policies

An expert panel of government and industry representatives provided attendees at ONEIA's excess soils seminar with an overview of "what we've accomplished so far and where we are going next," said the panel's chair **Cecile Willert** (Pinchin Limited).

Until the MOECC works out all the details of its framework, "we won't have much clarity on the definition of what is an excess soil and what is a waste," said **Janet Bobechko** (Norton Rose Fulbright). "We also need additional clarity along the liability chain to determine what it is and where it goes." Currently, the decision comes down to the professional judgement of a Qualified Person (QP), "because we don't have a clear regulated standard of care," she said.

The MOECC's Best Management Practices (BMPs) should be incorporated into the procurement process, "but it will take time to get everybody on board and ensure the necessary paperwork is all in place," said **J. P. Marini** (Terra Nova Environmental Services). "If we can implement the BMPs — with some flexibility — we will have the info needed to make the system work."

However, the BMPs are designed for large projects that generate hundreds of truckloads of excess soil. "There has to be something more flexible and less onerous for projects that only generate a truckload or two," Marini said. It's clear that a 'business as usual' approach won't work any longer. "It's going to be more complicated and certainly more expensive to manage excess soil," he said.

Receiving sites sometimes get a "bad rep" because of inconsistencies in municipal policies on excess soil, said Bobechko. "There can be different standards and requirements in neighbouring regimes, sometimes based on faulty or outdated information," she said.

Municipal politicians are also under great pressure to reduce truck traffic, dust and noise-related complaints. In response, many "are implementing strict by-laws to control and eliminate these problems," said **Al Durand** (SOiIL Inc.).

Municipalities need a model by-law to help them create consistent excess soil policies, said Durand. There is also a need for better education, training and certification of QPs.

Lompart said. "Interim sites can play a part in that."

Municipalities will be encouraged to identify appropriate areas for excess soil storage and processing, and to develop soil re-use strategies as part of their growth planning. "Excess soil should be considered as a resource, not a waste," Lompart said.

The Ministry will likely boost enforcement efforts to eliminate illegal dumping. "We have to make sure soil is getting to where it's supposed to go," said Lompart. "And if it doesn't, track it back to where it came from."

Municipalities and conservation authorities could also be given greater powers under the *Municipal Act* and *Conservation Authorities Act* — both of which are currently under review — to better manage excess soils.

No model by-law expected

A number of commenters have urged the province to develop a "model by-law" to govern excess soil, similar to the current model sewer or noise by-laws that many municipalities have adopted. Instead, the Ministry will issue "technical directions to provide consistency across departments, while incorporating some flexibility to accommodate local conditions."

"We heard from municipalities that they don't want us to regulate 'on top of them,' but to provide additional information and tools to help them," Lompart said. Technical directions would:

- set standards for the re-use of excess soils;
- provide clear rules for testing and sampling;
- protect sensitive sites;
- permit use of background conditions in certain circumstances; and
- allow for the use of generic or specific risk-based approaches, depending on conditions.

